



**U.S. Department of Justice**

Office of Legislative Affairs

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*Office of the Assistant Attorney General*

*Washington, D.C. 20530*

SEP 21 2010

The Honorable Patrick J. Leahy  
Chairman, Committee on the Judiciary  
United States Senate  
Washington, DC 20510

Dear Mr. Chairman:

The Fraud Enforcement and Recovery Act of 2009 (FERA), Pub. L. No. 111-21, 123 Stat. 1617 (effective May 20, 2009), included, at subsection 2(g)(1), a “Sense of Congress” provision that stated that certain money laundering prosecutions should be approved by an official of the Department of Justice if the conduct to be charged as money laundering was so closely connected with the conduct to be charged as the underlying “specified unlawful activity” that there was no clear delineation between the two offenses.<sup>1</sup>

FERA also provided, at subsection 2(g)(2), that the Department would submit annual reports to the House and Senate Committees on the Judiciary for the first five years after the date of FERA’s enactment. Specifically, the Department was asked to report (i) the number of prosecutions that were undertaken during the previous year after approval by an appropriate official, (ii) the number of prosecutions that were undertaken during the previous year without prior approval, and (iii) the number of times during the previous year in which the Department denied approval for a prosecution. This letter constitutes the Department’s first such report. An identical letter has been sent to the leadership of the House Judiciary Committee.

On January 6, 2010, Assistant Attorney General Lanny A. Breuer sent a memorandum to all federal prosecutors captioned “New Approval and Reporting Requirements for Certain Money Laundering Prosecutions.” That memorandum addressed the “Sense of Congress” provisions of FERA, described the procedures that should be followed to ensure that the Department adheres to those provisions, and outlined the new approval and reporting requirements associated with the filing of certain money laundering charges. The requirements and procedures set forth in that

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<sup>1</sup> FERA specified that one of the following Department officials should approve any such prosecutions: the Attorney General, the Deputy Attorney General, the Assistant Attorney General for the Criminal Division, a Deputy Assistant Attorney General for the Criminal Division, or the relevant United States Attorney.

memorandum have since been incorporated into the United States Attorneys Manual (USAM), at section 9-105.330.

The USAM now requires federal prosecutors to consult the Department's Asset Forfeiture and Money Laundering Section, Criminal Division (AFMLS), prior to filing an indictment or complaint that includes a money laundering offense of the type described in FERA. The USAM provides that before bringing such charges, Assistant U.S. Attorneys must obtain approval from their respective U.S. Attorneys, and Criminal Division trial attorneys and other Department components must obtain approval from a Deputy Assistant Attorney General of the Criminal Division by means of a request submitted through AFMLS.

Because the reporting requirement was effective as of May 20, 2009, every U.S. Attorney's Office and Department component was directed to notify AFMLS of any cases indicted or charged after the date FERA was enacted, but before the date of the January 6, 2010 memorandum setting forth the approval requirements.

Based on information reported to the Criminal Division, six prosecutions described in paragraph 2(g)(1) of FERA were undertaken between May 20, 2009 and May 20, 2010, after prior approval by an official described in that paragraph. The following is a summary of those prosecutions, classified by the type of offense and the approving official:

<b>District or Component</b>	<b>Case</b>	<b>Type of Offense</b>	<b>Approving Official</b>
Arkansas, Western District	United States v. Flores, et al., 5:10-cr-50005 (filed 2/3/2010)	21 U.S.C. § 841(a)(1) [distribution of controlled substance]; 21 U.S.C. § 846 [distribution of controlled substance attempt or conspiracy]; 18 U.S.C. § 1956(a)(1)(A)(i) [promotion money laundering]; 18 U.S.C. § 1956(a)(1)(B)(i) [concealment money laundering]; 18 U.S.C. § 1956(h) [money laundering conspiracy]	Debbie Groom, U.S. Attorney
Iowa, Southern District	United States v. Richardson, et al., 4:10-cr-00004 (filed 1/25/2010)	18 U.S.C. § 371 [conspiracy]; 18 U.S.C. § 1341 [mail fraud]; 18 U.S.C. § 1956(h) [money laundering conspiracy]	Nicholas A. Klinefeldt, U.S. Attorney

<b>District or Component</b>	<b>Case</b>	<b>Type of Offense</b>	<b>Approving Official</b>
Missouri, Eastern District	United States v. Duncan, 4:09-cr-00516 (filed 8/13/2009)	18 U.S.C. § 1341 [mail fraud]; 18 U.S.C. § 1343 [wire fraud]; 18 U.S.C. § 1957 [money laundering]	Michael W. Reap, Acting U.S. Attorney
North Carolina, Western District	United States v. Bennett, 3:10-cr-00024 (filed 1/20/2010)	18 U.S.C. § 1341 [mail fraud]; 18 U.S.C. § 1343 [wire fraud]; 18 U.S.C. § 1349 [fraud conspiracy]; 18 U.S.C. § 1956(a) [money laundering]; 18 U.S.C. § 1956(h) [money laundering conspiracy]	Edward R. Ryan, U.S. Attorney
Ohio, Northern District	United States v. Hazelwood, et al., 1:10-cr-00150 (filed 4/7/2010)	21 U.S.C. § 841(a)(1) [distribution of controlled substance]; 21 U.S.C. § 846 [distribution of controlled substance attempt or conspiracy]; 21 U.S.C. § 848 [engaging in continuing criminal enterprise]; 18 U.S.C. § 1956(h) [money laundering conspiracy]; 18 U.S.C. § 1957 [money laundering]	Steven M. Dettelbach, U.S. Attorney
South Dakota	United States v. Jones, et al., 5:10-cr-50015 (filed 2/18/2010)	18 U.S.C. § 371 [conspiracy]; 18 U.S.C. § 1341 [mail fraud]; 18 U.S.C. § 1343 [wire fraud]; 18 U.S.C. § 1956(a)(1)(A)(i) [promotion money laundering]; 18 U.S.C. § 1956(h) [money laundering conspiracy]; 18 U.S.C. § 1957 [money laundering]	Brendan V. Johnson, U.S. Attorney

Additionally, nine prosecutions described in paragraph 2(g)(1) were undertaken between May 20, 2009 and May 20, 2010, without prior approval by an official described in that paragraph. In each instance, the U.S. Attorney's Office or Department component reported that the case was brought prior to issuance of the January 6, 2010 memorandum, or that the Office

was unaware of the approval and reporting requirements at the time the prosecutions were brought. The following is a summary of those prosecutions, classified by the type of offense:

<b>District or Component</b>	<b>Case</b>	<b>Type of Offense</b>
Antitrust Division with Georgia, Northern District	United States v. Evans, 1:09-cr-449 (filed 10/13/2009)	18 U.S.C. § 1349 [fraud conspiracy]; 18 U.S.C. § 1956(h) [money laundering conspiracy]; 18 U.S.C. § 1957 [money laundering]
California, Northern District	United States v. Barraza-Sandoval, et al., 4:09-cr-01122 (filed 11/19/2009)	21 U.S.C. § 841(a)(1) [distribution of controlled substance]; 21 U.S.C. § 846 [distribution of controlled substance attempt or conspiracy]; 18 U.S.C. § 1956(a)(1)(A)(i) [promotion money laundering]
Iowa, Northern District	United States v. Pickhinke, 5:09-cr-04031 (filed 6/11/2009)	18 U.S.C. § 1005 [bank entries]; 18 U.S.C. § 1028 [fraud with identification documents]; 18 U.S.C. § 1343 [wire fraud]; 18 U.S.C. § 1956(a)(1)(A)(i) [promotion money laundering]; 18 U.S.C. § 1956(a)(1)(B)(i) [concealment money laundering]
Mississippi, Northern District	United States v. Green, 1:10-cr-00017 (filed 1/25/2010)	18 U.S.C. § 1341 [mail fraud]; 18 U.S.C. § 1344 [bank fraud]; 18 U.S.C. § 1956(a)(1)(A)(i) [promotion money laundering]
New York, Northern District	United States v. Sahabir, et al., 1:09-cr-00507 (filed 9/23/2009)	18 U.S.C. § 1344 [bank fraud]; 18 U.S.C. § 1956(a)(1)(B)(i) [concealment money laundering]; 18 U.S.C. § 1956(h) [money laundering conspiracy]
New York, Northern District	United States v. Queri, 5:09-cr-00418 (filed 8/5/2009)	18 U.S.C. § 371 [conspiracy]; 18 U.S.C. § 1341 [mail fraud]; 18 U.S.C. § 1343 [wire fraud]; 18 U.S.C. § 1956(a)(1)(B)(i) [concealment money laundering]; 18 U.S.C. § 1956(h) [money laundering conspiracy]; 18 U.S.C. § 1957 [money laundering]

<b>District or Component</b>	<b>Case</b>	<b>Type of Offense</b>
New York, Northern District	United States v. Bialek, et al., 5:10-cr-00248 (filed 5/6/2010)	21 U.S.C. § 841(a)(1) [distribution of controlled substance]; 21 U.S.C. § 846 [distribution of controlled substance attempt or conspiracy]; 18 U.S.C. § 1956(a)(1)(A)(i) [promotion money laundering]; 18 U.S.C. § 1956(a)(1)(B)(i) [concealment money laundering]
Texas, Northern District	United States v. Williams, et al., 3:09-cr-00145 (filed 6/2/2009)	18 U.S.C. § 371 [conspiracy]; 18 U.S.C. § 2421 [transportation for prostitution]; 18 U.S.C. § 1591 [sex trafficking by force]; 18 U.S.C. § 1594 [attempted sex trafficking by force]; 18 U.S.C. § 1956(a)(1)(A)(i) [promotion money laundering]
Texas, Northern District	United States v. Doze, et al., 3:10-cr-00119 (filed 5/5/2010)	21 U.S.C. § 841(a)(1) [distribution of controlled substance]; 21 U.S.C. § 846 [distribution of controlled substance attempt or conspiracy]; 18 U.S.C. § 1956(h) [money laundering conspiracy]

There were no instances where a request to prosecute money laundering offenses described in paragraph 2(g)(1) was denied between May 20, 2009 and May 20, 2010. We note, however, that in dozens of cases, federal prosecutors decided not to pursue such charges after their initial consultation with AFMLS, and therefore did not seek approval from a Department official.

We trust this information is helpful. Please do not hesitate to contact this office if we may be of assistance with this, or any other matter.

Sincerely,



Ronald Weich  
Assistant Attorney General

cc: The Honorable Jeff Sessions III  
Ranking Minority Member