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NO. 68531-7-I

IN THE COURT OF APPEALS OF THE STATE OF  
WASHINGTON, DIVISION I

JOHN NORTON AND KRISTINE NORTON, individually, and  
derivatively on behalf of LARCO-BOLIVAR INVESTMENTS,  
LLC and SHELL LA PAZ, LLC; NORTHLAND CAPITAL, LLC,  
individually, and derivatively on behalf of NDG-BRYCON, LLC;  
and P.R.E. ACQUISITIONS, LLC,  
Plaintiffs/Respondents,

v.

U.S. BANK NATIONAL ASSOCIATION,  
Defendant/Appellant,

and

JOSE NINO DE GUZMAN and  
NDG INVESTMENT GROUP, LLC,  
Defendants

**RESPONDENTS' BRIEF**

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**ORIGINAL**



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## I. INTRODUCTION

John and Kristine Norton, together with their affiliated companies, were investors in a series of Peruvian real estate offerings. After learning that their investments had been part of a Ponzi scheme, they sued U.S. Bank (“U.S. Bank” or “Appellant”).<sup>1</sup> Jose Nino de Guzman (“Nino de Guzman”), the front man for the investment scheme, was a former employee of U.S. Bank and used dozens of accounts at U.S. Bank to funnel money back and forth from Peru, with the assistance of current and former employees of U.S. Bank. As a result of this scheme, Plaintiffs lost over ten million dollars.<sup>2</sup>

This appeal arises from a discovery dispute. Plaintiffs sought documents and information related to any internal monitoring, “red flags,” internal investigations, and any other documents demonstrating U.S. Bank’s methods of detecting fraud, as well as information regarding bank employees involved in any such

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<sup>1</sup> The plaintiffs in the trial court are John and Kristine Norton, individually and derivatively for Larco-Bolivar Investments, LLC and Shell La Paz, LLC; Northland Capital, LLC, on its own behalf and derivatively on behalf of NDG-Brycon, LLC; and P.R.E. Acquisitions, LLC. Together, these individuals and entities are referred to as “Plaintiffs”.

<sup>2</sup> Nino de Guzman is now in federal custody at Sea-Tac, awaiting trial.

monitoring or investigations of Nino de Guzman. U.S. Bank objected pursuant to the Bank Secrecy Act (“BSA”) and related federal regulations, as well as common law interpreting the BSA.

The BSA requires that financial institutions report suspicious financial activities to the proper federal authority through a Suspicious Activity Report (“SAR”). Under the BSA, specifically 31 U.S.C. § 5318(g) and the Office of the Comptroller of the Currency’s (the “OCC”) implementing regulation at 12 C.F.R. § 21.11(k)(1)(i), SARs and documents that either reveal the existence of a SAR or reveal that a SAR was not filed are privileged in the context of civil litigation. This is well-settled, and no party is in disagreement regarding this principle.

The language of both the trial court’s discovery order, and the discovery requests themselves, respect this principle. A quick comparison of (1) the regulation; (2) the trial court’s order; and (3) the Plaintiffs’ discovery requests, reveals no requirement that U.S. Bank violate the privilege it claims.<sup>3</sup>

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<sup>3</sup> Citations to the Clerk’s Papers will be abbreviated as “CP” and citations to the Appendix to Respondents’ Opposition to Petitioners’ Motion for Discretionary Review will be abbreviated as “Resp.App.”

(1) **The Regulation.** The OCC, an agency under the Department of Treasury, has promulgated 12 C.F.R. Part 21, which limits disclosures of SARs as follows:

No national bank, and no director, officer, employee, or agent of a national bank, shall disclose a SAR or any information that would reveal the existence of a SAR.

12 C.F.R. § 21.11(k)(1)(i)<sup>4</sup> (emphasis added).

(2) **The Amended Discovery Order** (“Discovery Order”) in this case contains the following limiting language:

Notwithstanding anything in this Order, U.S. Bank shall not produce a SAR, if any exist, or any information that would reveal the existence of a SAR.

CP 359-360 (emphasis added).

(3) **The Plaintiffs’ discovery requests.** Each discovery request in the Second Request for Production of Documents governed by the Discovery Order contains the following language:

This request for production does not seek any information regarding U.S. Bank’s decision to file or not to file a SAR or any information that would reveal the existence or contents of a SAR. It does not seek any information regarding communications between U.S. Bank and any law enforcement authority. For the purposes of this request for production, the documents sought are limited to documents generated or received

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<sup>4</sup> See also CP 322-325.

by U.S. Bank in the course of any internal investigation conducted by U.S. Bank into the activity that forms the basis of this lawsuit.

Resp.App. 6-7, 16-20 (emphasis added).<sup>5</sup>

U.S. Bank appeals the Discovery Order despite the exact correlation between the limits the trial court placed on discovery, and the limits which the very language of the regulation imposes. U.S. Bank is attempting to shield all of its internal investigations, even those that do not disclose the existence of a SAR, from discovery. Moreover, the types of information which U.S. Bank seeks to protect are routinely produced in cases where banks are alleged to have turned a blind eye to fraud. Anyone with a PACER account can access federal filings showing the types of “alerts”

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<sup>5</sup> In the case of interrogatories, “This interrogatory does not seek any information regarding U.S. Bank’s decision to file or not to file a S.A.R or any information that would reveal the existence or contents of a S.A.R. It does not seek any information regarding communications between U.S. Bank and any law enforcement authority. This interrogatory seeks only information generated or received by U.S. Bank in the course of any internal investigation conducted by U.S. Bank into the activity that forms the basis of this lawsuit.” Resp.App. 29-34.

Plaintiffs’ Second Requests for Production of Documents and Second Set of Interrogatories also contained Instructions that are substantially similar to the language contained in each request for production and interrogatory. Plaintiffs attached complete copies of the Second Requests for Production of Documents and the Second Set of Interrogatories to the Appendix to Respondents’ Opposition to Petitioners’ Motion for Discretionary Review. The Clerk’s Papers only contain U.S. Bank’s responses and do not contain the original set sent by Plaintiffs (and, thus, do not contain the additional Instructions). The Instructions for Plaintiffs’ Second Requests for Production of Documents can be found at Resp.App. 6-7, and the Instruction to the Interrogatories can be located at Resp.App. 25.

which U.S. Bank insists it is barred by law from even producing in camera.

U.S. Bank's effort to extend the protection and privilege afforded to SARs should not be afforded recognition in the courts of Washington. As set forth below, the trial court correctly denied the relief sought by U.S. Bank, and in ordering U.S. Bank to comply with Plaintiffs' discovery requests the trial court properly limited such discovery in accordance with the BSA.

## **II. ISSUES PRESENTED<sup>6</sup>**

Whether the Bank Secrecy Act, and related federal statutes and regulations, prohibit U.S. Bank from responding to Plaintiffs' discovery (1) related to U.S. Bank's methods and policies for monitoring suspicious activity and (2) related to U.S. Bank's monitoring and investigation, if any, into the banking activity of Nino de Guzman and NDG.

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<sup>6</sup> Please note Plaintiffs disagree with the wording of U.S. Bank's Assignment of Error. Commissioner Neel stated that discretionary review was "granted only as to the discovery issue based on the alleged violation of the Bank Secrecy Act." Thus, the issue is whether the discovery ordered in the trial court violates the Bank Secrecy Act.

### III. STATEMENT OF THE CASE

Through a Ponzi scheme facilitated by U.S. Bank and its employees, Plaintiffs lost over \$10 million. CP 3-7. When former U.S. Bank employee Nino de Guzman left U.S. Bank, he described to his U.S. Bank supervisor the Peruvian real estate investments he intended to pursue. CP 3-4. Over a two-year period, Nino de Guzman opened over thirty bank accounts at U.S. Bank, through which he circulated investor money to Peru and back to his U.S. Bank accounts. CP 4; CP 260. He opened these accounts with the assistance of U.S. Bank employees to whom he was paying commissions, even while they were employed by U.S. Bank. CP 4-5.

The documents produced so far by U.S. Bank demonstrate questionable activity, including international wires, transfers and checks written to U.S. Bank's employees, and chronic overdrafts, in the accounts of Nino de Guzman, NDG Investment Group, LLC ("NDG") and related entities, that almost certainly alerted the bank to wrongful conduct by Nino de Guzman and the bank's employees. CP 260. Plaintiffs have alleged that U.S. Bank knew or should have

known of Nino de Guzman's and NDG's fraudulent and unlawful conduct. CP 8-16.

In addition, Plaintiffs allege that U.S. Bank employees aided and abetted Nino de Guzman's conduct. CP 14. Thus, all information about the bank's monitoring of such parties' accounts, and whether the bank ever investigated such accounts, is most certainly calculated to lead to the discovery of admissible evidence. Plaintiffs propounded requests for production and interrogatories seeking such information. Resp.App. 6-7, 16-20; 25, 29-34.

On February 8, 2012, U.S. Bank filed its Motion for Protective Order with the trial court concerning the above-referenced discovery requests. CP 36-49. On March 7, 2012, the trial court entered the Discovery Order denying U.S. Bank's motion and ordered it to provide documents and complete interrogatory responses to Plaintiffs' requests. CP 352-353.

On March 23, 2012, U.S. Bank filed its Notice of Appeal, and, after extensive briefing, Commissioner Neel heard argument and granted discretionary review of the trial court's discovery order. CP 354-360.

## IV. ARGUMENT

### A. Summary of Argument.

As noted, there is a narrow prohibition under federal law preventing banks from disclosing the contents or existence of SARs filed with federal authorities. SARs are reports that financial institutions are required to file with law enforcement authorities when they become aware of suspicious activities related to customer accounts. Plaintiffs agree that these documents are absolutely prohibited from being produced or disclosed in any way by federal law, and the Discovery Order (CP 352-353) excludes such documents, as did Plaintiffs' discovery requests. Resp.App. 6-7, 16-20; Resp.App. 25, 29-34.

However, as explained in the supporting declaration of Matthew Schriener, filed in the trial court with Plaintiffs' Response (CP 326-333), and in the authorities cited herein, U.S. Bank is improperly expanding the protection afforded to actual SARs to any and all internal monitoring or investigation conducted by the bank. U.S. Bank itself has been ordered to respond to discovery requests

into such matters in at least one other case,<sup>7</sup> notwithstanding its current argument that such production is “absolutely prohibited.”

Here, Plaintiffs carefully crafted interrogatories and requests for production to exclude the narrow class of information protected from disclosure by federal law, but U.S. Bank refuses to produce responsive, non-privileged documents, impeding Plaintiffs’ ability to conduct discovery in this matter.

The record demonstrates that the trial court took the necessary steps as required by federal authority to balance the interests of the parties in crafting sufficient protections while allowing discovery to proceed. Notably, in the Discovery Order (CP 352-353), the trial court ordered that no documents that reveal the existence of a SAR or the lack thereof shall be produced. This order reflects what the Plaintiffs have claimed all along (and what the trial court understood, as well) – that actual SARs or documents that reveal the existence of a SAR filing (or decision not to file a SAR) are privileged, but that the documents sought by Plaintiffs are discoverable.

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<sup>7</sup> See *infra* pp. 33-36, for a discussion of *Casey v. U.S. Bank*.

**B. Standard of review.**

As we noted in our response to U.S. Bank's Motion for Discretionary Review and in our Opposition to U.S. Bank's Motion to Stay Order of Trial Court, a reviewing court will generally review the trial court's determination to permit or deny discovery for abuse of discretion. *Barry v. USAA*, 98 Wash. App. 199, 204, 989 P.2d 1172, 1175 (1999) (discussing review of the statutory attorney-client privilege codified at RCW 5.60.060). A court's determination on a motion to grant a protective order is reviewed for manifest abuse of discretion. *Demelash v. Ross Stores, Inc.*, 105 Wash. App. 508, 519, 20 P.3d 447, 453 (2001).

However, pursuant to Commissioner Neel's ruling, this Court will review whether the disclosure prohibitions of the BSA, specifically, 31 U.S.C. § 5318 and 12 C.F.R. Part 21, are applicable to the discovery requested. Commissioner Neel stated that "[d]iscretionary review is granted only as to the issue based on the alleged violation of the Bank Secrecy Act. To the extent the Bank also argues error based on its relevancy objections, review is denied." Notation ruling, p. 2 (emphasis added).

As this case turns on statutory interpretation, this Court should review the Discovery Order de novo. *Cedell v. Farmers Ins. Co.*, 157 Wash. App. 267, 272, 237 P.3d 309 (2010), *rev. granted*, 171 Wn.2d 1005 (2011) (applying de novo review to “trial court’s interpretation of the privilege statute”).

**C. General background of Bank Secrecy Act and the relevant statutes.**

In 1970, Congress enacted the Bank Secrecy Act, which requires banks to maintain records of purchases of negotiable instruments and report certain financial transactions to the federal government. 31 U.S.C. § 1051 *et seq.* (subsequently recodified at 31 U.S.C. § 5311-23). The purpose of the Act was to aid law enforcement in its criminal investigations of potential money-laundering and other crimes. *See id.*

In 1992, Congress passed the Annunzio-Wylie Anti-Money Laundering Act, which amended the Bank Secrecy Act, and authorized the Secretary of the Treasury to require financial institutions to report suspicious activity of their customers to law enforcement authorities. 31 U.S.C. §§ 5311-5330. It also required financial institutions to “establish anti-money laundering programs”

which included establishing internal policies and procedures, designate a compliance officer, require continued training of its employees, and to establish an independent audit function. 31 U.S.C. § 5318(h).<sup>8</sup>

The Department of Treasury designated the Financial Crimes Enforcement Network (“FinCEN”) to administer the BSA and it is with this agency that financial institutions file SARs. 31 U.S.C. § 5318(n)(1); *see also* 12 C.F.R. § 21.11(c).

When a financial institution suspects a customer of money laundering, federal law requires it to report the suspected activity to FinCEN using a SAR. *Id.* § 5318(g). These reports are confidential and a financial institution cannot disclose the existence of such a document. *Id.* § 5318(g)(1), (2).

The BSA also empowered the Secretary of the Treasury (a) to require financial institutions to “guard against money laundering” and (b) to delegate rulemaking authority to appropriate federal agencies. As such, the OCC,<sup>9</sup> which regulates national banks such

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<sup>8</sup> A copy of this statute is located at CP 312-321.

<sup>9</sup> As U.S. Bank is a national bank it is governed by the OCC. Plaintiffs will thus focus on the regulations and interpretations the OCC has promulgated accordingly to effectuate the BSA.

as U.S. Bank, promulgated 12 C.F.R. § 21.11(k)(1)(i), which limits disclosures of SARs as follows:

No national bank, and no director, officer, employee, or agent of a national bank, shall disclose a SAR or any information that would reveal the existence of a SAR.

12 C.F.R. § 21.11(k)(1)(i) (emphasis added); CP 322-325. It then continues that this rule “shall not be construed as prohibiting [t]he disclosure by a national bank, or any director, officer, employee or agent of a national bank of [t]he underlying facts, transactions, and documents upon which a SAR is based, . . . .” 12 C.F.R. § 21.11(k)(1)(ii)(A)(2) (emphasis added).

Washington courts have long utilized the canon of statutory construction expression *unius est exclusio alterius* (“to express one thing in a statute implies the exclusion of the other”). *Landmark Dev., Inc. v. City of Roy*, 138 Wash.2d 561, 571, 980 P.2d 1234, 1239 (1999). Thus, if something is not expressed or it is omitted, then it is deemed to be excluded. *Id.* U.S. Bank’s attempt to expand the SAR privilege would require this court to ignore *unius est exclusio alterius*.

**D. U.S. Bank overstates the holdings of authority it cites.**

In addition to overstating the scope the applicable federal regulation, U.S. Bank's Opening Brief ("Opening Brief") also misstates case law when it argues that "[c]ourts have repeatedly held that documents and information generated in connection with fulfillment of a bank's obligation under the Bank Secrecy Act to monitor and report suspicious activity are absolutely prohibited from disclosure, regardless of whether such documents would reveal the existence of a SAR." Opening Brief at 13. This is simply not the case. There is no conflict between the authority cited by U.S. Bank and the discovery sought by Plaintiffs.

For example, in *Whitney Nat'l Bank v. Karam*, the court held that the moving party could not obtain communications with law enforcement regarding a SAR filing before or after its filing. *Whitney Nat'l Bank v. Karam*, 306 F. Supp.2d 678, 682-683 (S.D. Tex. 2004) ("all communications between the [Bank] and law enforcement or government agencies relating to the defendants or their transactions or activities at [the Bank.]") In this case, Plaintiffs' second discovery requests carefully excluded all

communications with law enforcement officials. Resp.App. 6-7, 16-20; 25, 29-34. Thus, the communications which the *Whitney* court held were privileged are outside what U.S. Bank would be required to produce by the Discovery Order. Moreover, the court in *Whitney* held that any documents that do not reveal or disclose whether a SAR was or was not filed should be produced. *see Whitney*, 306 F.Supp.2d at 682-83 (emphasis added).

At page 13 of its Opening Brief, U.S. Bank cites *Whitney* improperly for the proposition that the BSA protects from disclosure “all communications preceding the filing of a SAR and preparatory or preliminary to it ... or oral communications of suspected or possible violations that did not culminate in the filing of a SAR.” (citing *Whitney*, 306 F.Supp. 2d at 682-683. Such language from *Whitney*, however, refers to communications with law enforcement or other government agencies, not internal bank communications.

U.S. Bank further relies on *Lee v. Bankers Trust Co.*, 166 F.3d 540, 543-44 (2d. Cir. 1999), *Int’l Bank of Miami v. Shinitzky*, 849 So.2d 1188, 1192-93 (Fl. App. Ct. 2003), and *Cotton v.*

*PrivateBank and Trust Co.*, 235 F.Supp.2d 809, 815 (N.D.Ill.2002)

to supports its tenuous position; however, U.S. Bank is wrong.

Simply put, these cases are factually inapplicable to this matter because they dealt with the question of whether actual SARs could be produced. Plaintiffs are not requesting the same kinds of documents as requested in those cases. *See Lee*, 166 F.3d at 543-44 (lawsuit for defamation for filing a SAR); *Int'l Bank of Miami*, 849 So.2d at 1192-93 (plaintiff requested the actual SAR); *Cotton*, 235 F.Supp.2d at 809 (another request for the actual SAR). There is no question that the requests for the SARs in these cases were wholly improper. These cases are not on point in this matter because they do not address the kinds of documents that Plaintiffs are requesting in this matter. Moreover, these cases are all over a decade old, and do not reflect the current position of the OCC regarding civil discovery of internal bank investigations, nor the current reality of discovery taking place in trial courts around the country.

U.S. Bank cites *Union Bank of California* to support its attempt to conceal all of its internal investigations of Nino de Guzman's transactions (and other requested documents) under the

“SAR privilege.” In *Union Bank of California v. The Superior Court of Alameda County (Grafton Partners)*, the court noted that

[f]inancial institutions may have risk management procedures in place for detecting suspicious activity wholly apart from their procedures for complying with federal reporting obligations. A bank may not cloak its internal reports and memoranda with a veil of confidentiality simply by claiming they concern suspicious activity or concern a transaction that resulted in the filing of a SAR.

130 Cal. App.4th 378, 392 (Cal. App. – 1st Dist. Jun 17, 2005)

(emphasis added). As another state appellate court noted, there is a tendency for a “bank’s view of the scope of SAR confidentiality [to be] overbroad and subject to misapplication.” *See, e.g., Regions Bank v. Allen*, 33 So.3d 72, 77 (Fla. 5th DCA 2010). This Court should thus view with skepticism U.S. Bank’s stance and the authorities it cites.

The day-to-day monitoring of accounts by institutions such as U.S. Bank is not merely to comply with the Bank Secrecy Act, but also, in large part, to avoid such debacles as happened in this case, or in *Casey* or in *Coquina Investments v. TD Bank*, described below. U.S. Bank has already disclosed that it utilizes a system of alerts to track its customers’ banking activity, and such system is part of its

ordinary course of business. Thus, despite the bank statements and checks already produced, there is a mountain of documents that U.S. Bank has withheld.

**E. Plaintiffs' discovery requests do not seek protected information**

Notwithstanding the specific limiting language of Plaintiffs' requests, and of the Discovery Order, protecting all information legitimately subject to 12 C.F.R. § 21.11(k)(1)(i), U.S. Bank has delayed legitimate discovery by insisting that it is prohibited by federal law from complying.

As explained in the Introduction to this brief, Plaintiffs' second set of discovery requests contained limiting language excluding protected information, i.e., any information regarding U.S. Bank's decision to file or not to file a SAR, any information that would reveal the existence or contents of a SAR, or any information regarding communications between U.S. Bank and any law enforcement authority. Resp.App. 6-7, 16-20; 25, 29-34.

Below is a list detailing the specific discovery requests to which U.S. Bank was ordered to respond and the types of information sought therein. No responsive documents or

information would reveal the existence of a SAR, and if to any extent improper information were contained in responsive documents, it could be redacted:

**Plaintiffs' First Request for Production of Documents to US Bank**  
(CP 62-74)

<b>RFP No.</b>	<b>Summary Document Requested</b>	<b>Description of Document</b>	<b>Reveal existence of SAR?</b>
11	Any documents that evidence, relate to or refer in any way to due diligence, investigation, and/or inquiry by US Bank into background of Guzman	This includes operational documentation from the AML investigative group, fraud function, or other review function.	No. If SAR is discussed or revealed on documentation, redact.
12	Any documents that evidence, relate to or refer in any way to due diligence, investigation, and/or inquiry by US Bank into background of Nortons or entities	Operational documentation from the AML investigative group, fraud function or other review function.	No
13	US Bank's policies, programs, and practices that relate to monitoring of customer accounts to detect possible fraud, etc, including the Banker Alert system.	AML investigative manuals, training materials, and policy and procedures not	No

<b>RFP No.</b>	<b>Summary Document Requested</b>	<b>Description of Document</b>	<b>Reveal existence of SAR?</b>
		specific to any account.	
14	Enforcement of the policies described in the RFP 13 that relate to implementation or enforcement b/t Guzman, Nortons, Prater, and entities	Documentation of action taken as it relates to the RFP 13.	No. If SAR is discussed or revealed on documentation, redact.

**Plaintiffs' First Set of Interrogatories to U.S. Bank**  
(CP 76-90)

<b>Int. No.</b>	<b>Summary of Information Requested</b>	<b>Description</b>	<b>Is a SAR identified in it?</b>
4	Any individuals who were involved with opening, maintenance, administration, monitoring, investigation, sponsoring, and/or closing bank account at US Bank or any other bank. Description of individual's employment, involvement with accounts, and locations said individual was employed.	List of names.	No
7	Efforts made by US Bank to	Similar to	No

<b>Int. No.</b>	<b>Summary of Information Requested</b>	<b>Description</b>	<b>Is a SAR identified in it?</b>
	comply with BSA or Patriot Act including monitoring customer accounts for the purpose of detecting possible fraud.	number 13 of first request of production of documents	
8	US Bank's policies, programs, internal controls, and practices relating to monitoring of customer accounts to detect fraud. This includes all software and person responsible for managing those policies.	Fraud detection policies, procedures, and controls.	No
9	Describe due diligence, investigation, and/or inquiry conducted by or on behalf of US Bank regarding the background and/or conduct of Guzman. Identify the individual and describe any action taken as part by this individual.	Description of effort.	No
10	Describe due diligence, investigation, and/or inquiry conducted by or on behalf of US Bank regarding the background and/or conduct of Plaintiffs. Identify the individual and describe any action taken as part by this individual.	Same as 9	No
14	Any person with US Bank who has contacted or been in contact with Jose regarding	List of names	No

<b>Int. No.</b>	<b>Summary of Information Requested</b>	<b>Description</b>	<b>Is a SAR identified in it?</b>
	possible money laundering.		

**Plaintiffs' Second Request for Production of Documents to U.S. Bank**

(Resp.App. 6-7, 16-20; *see also* CP 92-115)

<b>Second RFP No.</b>	<b>Summary of Document Requested</b>	<b>Description of Document</b>	<b>Reveal existence of SAR?</b>
19	All documents, records, and/or communications created as a result of any investigation	Similar to 12 from the first request.	No
20	Documents related to Interrogatory Number 9	See above.	No. If SAR is discussed or revealed on documentation, redact.
21	All documents related to Interrogatory Number 3	See above.	No. If SAR is discussed or revealed on documentation, redact.
22	All documents related to Interrogatory Number 7	See above.	No. If SAR is discussed or revealed on documentation, redact.
25	Documents related to Interrogatory Number 8	See above.	No. If SAR is discussed or revealed on documentation, redact.

Second RFP No.	Summary of Document Requested	Description of Document	Reveal existence of SAR?
28	<p>AML-related monitoring technology alerts on Guzman's or NDG accounts. The date of the alert, the specific rule or rules of the AML-related monitoring technology, management information system report on the transactions, and all other contents of the case management system related to such alert.</p>	<p>US Bank, like most banks, have a technology tool that creates alerts to identify abnormal transactions. Seeks the actual alerts that occurred on the relevant accounts, what caused the alert, and the internal work documents on the alert.</p>	<p>No. If a SAR is referenced in the work documents, redact that information.</p>
29	<p>All documents related to the investigation conducted due to the alerts identified in 28.</p>	<p>See above.</p>	<p>No. If SAR is discussed or revealed on documentation, redact.</p>

**Plaintiff's Second Set of Interrogatories**  
 (Resp.App. 25, 29-34; *see also* CP 117-138)

<b>Int. No.</b>	<b>Summary of Information Requested</b>	<b>Description of Document</b>	<b>Is a SAR identified in it</b>
1	Each U.S. Bank employee that discussed with any NDG employee the activities that formed the basis of this suit and a description of that discussion.	List of names.	No. If SAR is discussed or revealed on documentation, redact.
2	The highest ranking U.S. Bank officer that has learned of this activity. This includes the circumstances of how he or she learned of this activity, who was present when he or she learned of this activity.	Single name	No. If SAR is discussed or revealed on documentation, redact.
3	The person in charge of any investigation of the activity by NDG and/or US Bank employees	List of names	No
4	The date when the investigation began. The employee that first learned of the activity and to whom such person reported the activity.	Dates	No
5	The investigation process that was conducted after the employee in Number 4. This includes the internal procedures that the	Similar to 12 above	No. If SAR is discussed or revealed on documentation, redact.

<b>Int. No.</b>	<b>Summary of Information Requested</b>	<b>Description of Document</b>	<b>Is a SAR identified in it</b>
	AML/BSA division took in conducting any investigation. Name of each person and a description of that persons knowledge that was involved with the investigation.		
6	Each U.S. Bank employee that has discussed with former U.S. Bank employees the activity that forms the basis of the suit. This also includes the content of the discussion.	List of names and contents of discussion	No. If SAR is discussed or revealed on documentation, redact.
7	Anyone, including anyone in the AML division, that has discussed with any U.S. Bank Officer any activity that forms the basis of this suit and description of the	List of names and contents of discussion	No. If SAR is discussed or revealed on documentation, redact.
8	Any person who possesses any document which refers to instruction or authority to initiate the internal investigation.	List of names	No
9	U.S. Bank employees who have or had personal knowledge of any investigation into any activity committed by Guzman	List of names and summary of knowledge	No. If SAR is discussed or revealed on documentation, redact.
10	Any changes in U.S. Bank policies, by-laws, training manuals that were established as a result of	Policy and procedure manuals	No

Int. No.	Summary of Information Requested	Description of Document	Is a SAR identified in it
	this.		

**F. Recent case law allows for a narrower interpretation of the SAR privilege than U.S. Bank suggests.**

Despite U.S. Bank’s argument that it is absolutely forbidden to respond to Plaintiffs’ discovery requests, recent trial court decisions speak to the availability of the exact type of documents Plaintiffs seek herein, and demonstrate that they are all discoverable. In *Freedman & Gersten v. Bank of America*,<sup>10</sup> the court addressed discovery requests very similar to those propounded by Plaintiffs. *Freedman & Gersten v. Bank of America*, No. 09-5351, 2010 WL 5139874 (D.N.J. Dec. 8, 2010). There, a law firm plaintiff had received a fraudulent check from a client. *Id.* at \*1. The law firm deposited the check into its IOLTA account, and after the bank credited the funds in plaintiff’s account, the plaintiff issued several wires to third-parties for its client. *Id.* When the bank discovered that the check was fraudulent, the bank returned the check unpaid – causing the IOLTA account to be overdrawn by six-figures. *Id.*

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<sup>10</sup> A copy of *Freedman & Gersten v. Bank of America* can be located at CP 284-290.

The law firm brought suit against Bank of America, and sought discovery concerning the “the internal investigation surrounding its transactions with BOA.” *Id.* The documents requested included internal investigations, employee personnel files, and intra-bank correspondence. *Id.* at \*2-4. In addition, plaintiff sought discovery of the “BOA’s general policies and procedures concerning the handling of suspicious activity, and more specifically, all documents contained in the bank’s Corporate Security File regarding the investigation of the activity at issue.” *Id.* at \*2.

The court in *Freedman* rejected Bank of America’s argument that the documents in question were “prepared in anticipation of filing a SAR” by holding that the bank should produce documents “pertaining to the suspicious activity at issue in this matter, which were created in the ordinary course of business.” *Id.* at \*3. The court granted plaintiff’s request “for any memoranda or documents drafted in response to the suspicious activity at issue in this case.” *Id.* It stated that “[a]lthough BOA may have undertaken an internal investigation in anticipation of filing a SAR, it is also a standard

business practice for banks to investigate suspicious activity and BOA does not cite any binding precedent on this Court which bars the production of this relevant documentation.” *Id.* (emphasis added).

In December of 2011, another federal case relied upon *Freedman* for the same proposition. See *In re Whitley*, No. 10-10426C-7G, 2011 WL 6202895, at \*3-4 (Bkrtcy.M.D.N.C Dec. 13, 2011).<sup>11</sup> In *Whitley*, a bankruptcy trustee filed an application to obtain internal investigations performed by the debtor’s bank. *Id.* at \*1. The trustee alleged in the application that “he is investigating allegations that prior to the commencement of the case, the Debtor was engaged in a Ponzi scheme . . . [and] the Debtor maintained a checking account at First Citizens for approximately one year.” *Id.*

Among other requests, the trustee requested “all documents relating to any investigation or inquiry by the bank or its agents of any account of the Debtor.” *Id.* at \*1. The court in *Whitley* stated that the privilege afforded to financial institutions under 31 U.S.C. § 5318(g)(2)(A)(i) operates “by shielding any SAR filed by a bank

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<sup>11</sup> A copy of *In re Whitley* is included in the Clerk’s Papers at CP 291-295.

as well as any document that refers to a SAR having been filed or refers to information as being part of a SAR or otherwise reveals the preparation of filing a SAR. Other bank documents covered by a document request such as the one involved in this case are not shielded by the SAR privilege.” *Id.* at \*4 (emphasis added).

Another example is *U.S. v. Holihan*, wherein the federal government charged Terri Holihan with eleven separate counts of embezzlement by a bank employee. *U.S. v. Holihan*, 248 F.Supp.2d 179, 181 (W.D.N.Y. 2003). In that matter, Holihan served a subpoena duces tecum on HSBC Bank USA (“HSBC”) that requested documents related to employee files of HSBC Bank employees. *Id.* at 184-86. Holihan believed that the files indicated other employees had been investigated for embezzlement previous to her arrest. *Id.*

HSBC objected to the subpoena duces tecum on the grounds that the BSA prevented such disclosure. *Id.* at 185. The Court noted “[d]espite the prohibition against a bank’s disclosure of the existence or contents of an SAR, any supporting documentation remains discoverable.” *Id.* at 187 (citing *Gregory v. Bank One Corp., Inc.*,

200 F.Supp.2d 1000, 1002 (S.D. Ind. 2002)). It continued by stating

that

any supporting documentation which would not reveal either the fact that an SAR was filed or its contents cannot be shielded from otherwise appropriate discovery based solely on its connection to an SAR.

*Id.* (citations omitted). Ultimately, the Court in *Holihan* held that HSBC must produce any supporting documentation in relation to a SAR existing in the personnel file of any of the Bank employees, with the caveat that the documents do not disclose the existence or contents of a SAR. *Id.* (emphasis added); *see also Weil v. Long Island Sav. Bank*, 195 F. Supp.2d 383, 389 (E.D.N.Y. 2001) (“In most cases, however, the disclosure of supporting documentation would not reveal the filing of an SAR, and such documentation cannot be shielded from otherwise appropriate discovery simply because it has some connection to an SAR. This is especially true in a situation such as this one, where everyone apparently already knows that an SAR was filed.”). In addition to recent case law, OCC’s stance supports Plaintiffs’ position.

**G. The Office of the Comptroller of the Currency does not support U.S. Bank's position**

The OCC issued a final rule and amendment of 12 C.F.R. Part 21 in December 2010. Importantly, it stated that

While a financial institution is prohibited from producing documents in discovery that evidence the existence of a SAR, factual documents created in the ordinary course of business (for example, business records and account information, upon which a SAR is based) may be discoverable in civil litigation under the Federal Rules of Civil Procedure.

*See Confidentiality of Suspicious Activity Reports*, 75 Fed. Reg. 75,576, 75,580 (Dec. 3, 2010).<sup>12</sup> The OCC further clarified whether such bank statements, wire transactions, deposit slips, etc. were the only information subject to disclosure (as U.S. Bank suggests). It stated:

The OCC did not intend for these examples to be exhaustive and does not believe the text, as proposed, implies that the examples are exhaustive. . . . [T]he OCC is revising the final rule's language at § 21.11(k)(2) to read '\* \* \* [t]he underlying facts, transactions, and documents upon which a SAR is based, including but not limited to, disclosures expressly listed as illustrative examples in the rule.

75 Fed. Reg. at 75,581. The OCC continued:

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<sup>12</sup> A copy of this document is at CP 276-283.

Accordingly, with respect to the SAR confidentiality provision only, national banks may disclose underlying facts, transactions, and documents for any purpose, provided that no person involved in the transaction is notified that the transaction has been reported and none of the underlying information reveals the existence of a SAR.

*Id.* Thus, even the OCC acknowledges that factual documents created in the ordinary course of business encompass much more than just the underlying bank statements, wire forms, and copies of checks. Everything short of the bank's deliberations regarding the filing of a SAR are discoverable. This Court should grant OCC's interpretation of its own regulations considerable legal deference. *Cf. Auer v. Robbins*, 519 U.S. 452, 461 (1997); *Udall v. Tallman*, 380 U.S. 1, 16-17 (1965).

Even more recently, the OCC clarified the availability of the type of information Plaintiffs seek, such as records of alerts generated by a bank's anti-money laundering or fraud alert system. The defendant bank in *Coquina Investments v. TD Bank* was specifically ordered to seek a letter opinion, after it produced such alerts, but only with so many redactions that the documents were meaningless. *Coquina Investments v. TD Bank*, No. 0:10-cv-60789-

MGC, Document 641 (S.D. Fla. November 18, 2011). As explained below, the OCC's clarifying letters support Plaintiff's position. *See infra*, pp. 38-39.

**H. *Casey v. U.S. Bank and Coquina Investments v. TD Bank***

**1. *Casey v. U.S. Bank***

In 2002, Thomas Casey, the Chapter 7 Bankruptcy Trustee of DJF Italia, sued U.S. Bank and two other banks for the roles that these institutions played in another Ponzi scheme. *See Casey v. U.S. Bank National Assoc'n, et. al.*, 127 Cal. App. 4th 1138 (Cal. App. Ct. 2005).

During the discovery phase, Casey requested, as have Plaintiffs in this matter, documents that demonstrated U.S. Bank's knowledge of the improper activity committed by DFJ representatives. Motion to Compel Documents, No. 02-CC-06597, 2006 WL 5410323, at \*3-4 (Cal. Superior Court 2006); *see generally* Reply Brief in Support of Motion to Compel, No. 02-CC-065597, 2007 WL 4940240, at \*1-4 (Cal. Superior Court 2006).<sup>13</sup>

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<sup>13</sup> Copies of these documents are at Resp.App. 91-99 and Resp.App. 100-104, respectively.

U.S. Bank refused, and Casey moved to compel production of the responsive documents, as well as responses to interrogatories regarding U.S. Bank's knowledge of suspicious banking activity by DFJ representatives. *See* Motion to Compel Interrogatories, No. 02-CC-06597, 2006 WL 5410324, at \*3-4 (Cal. Superior Court 2006); *see generally* Reply Brief in Support of Motion to Compel, No. 02-CC-065597, 2006 WL 5410328, at \*1-5 (Cal. Superior Court 2006).<sup>14</sup>

U.S. Bank relied in that matter, as it does now, extensively, and almost exclusively, on *Union Bank*. In *Casey*, however, U.S. Bank claimed that only documents that were "SAR related" or fell within the "SAR context" were privileged. *See* Defendant U.S. Bank's Opposition to Plaintiff's Motion to Compel Documents, 2006 WL 5410326, at \*2-3.<sup>15</sup> Indeed, in its Reply Brief to the Motion to Compel it stated

For clarification, U.S. Bank is defining "SAR-related" as any document that expressly mentions SAR. As to interrogatories asking for suspicions, U.S. Bank is

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<sup>14</sup> Copies of these documents are located at Resp.App. 105-112 and Resp.App. 113-188, respectively.

<sup>15</sup> A copy of U.S. Bank's opposition to the motion to compel in the *Casey* matter is located at Resp.App. 127-134.

defining “SAR-related” as any internal communications which pertained to duties under SAR.

*Id.* Of course, U.S. Bank now claims that all investigations into the activities of Nino de Guzman’s accounts are privileged, regardless of whether they reveal or do not reveal the existence of a SAR and that all of its monitoring is conducted pursuant to the BSA. *See* Opening Brief at 12-13, 17-18, 21, 23-26.

In the *Casey* litigation, U.S. Bank, even with this narrower interpretation of the SAR privilege, wished to withhold information which another defendant bank was not only disclosing, but relying on:

[U.S. Bank] would have this Court believe that the federal regulations concerning SARs provide a blanket prohibition against the disclosure of any information concerning the investigation or reporting of suspicious activity. Notably, co-defendant City National Bank (“CNB”) has taken a different approach. In support of its own motion for summary judgment, CNB actually disclosed its own internal Suspicious Activity Reporting Form dated June 4, 1999 (“SAR Form”).

. . . . CNB argued [that] internal forms do not fall within the context of the federal regulations that prohibit the disclosure of SARs, or the *Union Bank* court’s interpretation of those regulations. Indeed, CNB expressed its disagreement with [U.S. Bank] when it stated that, “Counsel for the other defendants have argued for a formalistic and expansive reading of

the *Union Bank* decision. CNB has taken a different interpretation... (.)”

Motion to Compel Interrogatories, at \*7 (emphasis added).

Thus, U.S. Bank’s current position is tenuous, at best. *Union Bank* stands for the proposition for which it is cited above: that not all reports of suspicious activity are protected by the SAR privilege and “[a] bank may not cloak its internal reports and memoranda with a veil of confidentiality simply by claiming they concern suspicious activity or concern a transaction that resulted in the filing a SAR.” *See supra* at 18, *Union Bank of California*, 130 Cal. App.4th at 392 (emphasis added).

## **2. *Coquina Investments v. TD Bank***

Another recent example of a trial court requiring production of bank investigative records is in *Coquina Investments v. TD Bank*. Toronto Dominion Bank (“TD Bank”) is regulated by the OCC. Coquina Investments (“Coquina”) sued TD Bank for its role in a Ponzi scheme orchestrated by Scott Rothstein, a Florida attorney. Coquina alleged that TD Bank, through its regional vice president and other employees, assisted with Rothstein’s fraud. Trial in the case began in November 2011 and lasted until January 2012.

As part of its document requests, Coquina requested all internal and external audit reports, all internal and external compliance audits, and all fraud detection and/or fraud alert reports. *See Coquina Investments v. TD Bank*, No. 0:10-cv-60789-MGC, Document 95-1 (S.D. Fla. Feb. 7, 2011). In order to obtain the documents it requested, Coquina filed five motions to compel production of documents. *Id.*, Document 599 (S.D. Fla. Nov. 7, 2011).

On the verge of trial, TD Bank produced some of the very documents that U.S. Bank argues are “absolutely privileged.” That is, TD Bank produced the “money laundering alerts” that Plaintiffs are requesting in their discovery requests. *Id.*, Document 599-6 (S.D. Fla. Nov. 7, 2011), attached as Exhibit “A”.

Samples of TD Bank’s alerts – documents that U.S. Bank claims are “absolutely privileged” – are available to anyone who has access to Case Management/Electronic Case Files (CM/ECF), which is the Federal Judiciary’s comprehensive case management system. *See id.* These alerts detailed the activity that triggered the alert, what

TD Bank employee handled the investigation, and contained comments from the assigned investigator. *Id.*

However, the “alerts,” as produced by TD Bank, contained many redactions. The issue of the redactions was brought to the trial court’s attention during trial, and the trial court ordered TD Bank’s counsel to seek a letter from the OCC stating its position regarding the redactions on these alerts. *Id.*, Document 641 (S.D. Fla. Nov. 18, 2011).

In response to the trial court’s order, TD Bank filed correspondence that it had received from the OCC addressing the issue of the disclosure of non-public information and the use of SARs in private litigation. *Id.*, Document 644-1 (S.D. Fla. Nov. 22, 2011), attached as Exhibit “B”. Horace Sneed, the Director of the Litigation Division of the OCC, addressed this and clarified its stance regarding the production of these documents. Mr. Sneed noted that the SAR privilege

does not prevent litigants from discovering all of the factual information underlying the transactions that are at issue. **Bank records concerning those transactions are not covered by prohibition so long as they do not themselves refer to the filings of a SAR, or**

**otherwise indicate that a SAR has or has not been filed in connection with a specific transaction.**

*Id.*, pg. 4 (emphasis added).

Several days later the OCC, at the request of both Coquina and TD Bank, sent another letter which further clarified its position regarding TD Bank's redaction of the alerts it had produced to plaintiff. *Id.*, 666-1 (S.D. Fla. Dec. 2, 2011), attached as Exhibit "C". Daniel P. Stipano, Deputy Chief Counsel for the OCC, responded that "allowing TD Bank to unredact certain additional information would not violate the requirements of federal law so long as the redactions do not disclose that a SAR was or was not filed." *Id.*, pg. 2 (emphasis added). Mr. Stipano continued,

Notwithstanding the requirement to keep confidential information that would disclose whether or not a SAR has been filed, the OCC will authorize TD bank to **un-redact those portions of the document at issue that do not explicitly reveal that a SAR was or was not filed. This means that TD Bank may un-redact statement indicating that a transaction was or was not suspicious, but may not un-redact any text or code showing that the TD Bank did, or did not, file a SAR in connection with particular transactions or events.**

*Id.*, Document 666-1, p. 2 (emphasis added). Thus, not only did the OCC fail to find fault with TD Bank for producing the alerts (which

U.S. Bank claims would be a violation of federal law); instead, the OCC authorized more information on the alerts to be unredacted, as long as TD Bank did not reveal whether a SAR was filed.

Accordingly, all of U.S. Bank's records relating to these transactions, including the investigation of these transactions are subject to discovery in civil litigation, so long as they do not refer to or disclose whether a SAR has been filed. *Id.* This Court should defer to the OCC's reasonable interpretation of its statutes. *Cf. Bank of America v. City and County of San Francisco*, 309 F.3d 551 (9th Cir. 2002) (citing *NationsBank v. Variable Annuity Life Ins. Co.*, 513 U.S. 251 (1995)); *see also Auer*, 519 U.S. at 461 (1997); *Udall*, 380 U.S. at 16-17.

**I. The trial court did not err.**

Review of this discovery dispute was granted because no Washington court has previously addressed the scope of the Bank Secrecy Act as applied to civil discovery. U.S. Bank, in urging this Court to follow *Union Bank*, *Cotton* and *Whitney*, states that the interpretation of the BSA by "all reported case authority, prohibits the discovery sought by Plaintiff." Opening Brief at p.22. U.S.

Bank makes this distinction in an effort to differentiate these appellate opinions from the many trial court opinions which reflect the reality of the OCC's enforcement and interpretation of the BSA.

As set forth above, even the cases cited by U.S. Bank do not prohibit the discovery sought by Plaintiffs. Between the two types of documents which U.S. Bank describes, that is, the "underlying" bank statements and wires, and the "SAR-related" documents which would disclose the existence of a SAR, lie all of U.S. Bank's policies and procedures, software, personnel lists, alerts, reports, and internal communications regarding the activity in the Nino de Guzman and NDG accounts. These documents and information are now routinely part of bank litigation, whether the issue reaches appellate courts for explicit interpretation or not.

Moreover, the statutory interpretation at issue here is unlike that of a statute whose interpretation may affect the substantive rights of the parties. U.S. Bank is arguing, not that it is permitted to make the decision to withhold the information sought, but that it is required by law to resist this discovery, and that it is "absolutely prohibited" to respond to Plaintiffs' discovery requests. Even

though most of the cases cited herein are not appellate opinions, or “reported authority,” they nevertheless give lie to U.S. Bank’s position that it these disclosures are prohibited under federal law. Obviously other banks are not only producing such information, evidently without being sanctioned by the OCC, but are themselves relying upon these supposedly secret documents.

For example, in the *Coquina Investments* case, TD Bank’s own expert testified regarding alerts generated by a customer’s accounts, including overdraft warnings, anti-money laundering warnings, and check fraud warnings. CP 334-335. These are the types of alerts, Plaintiffs have sought in this case, and which U.S. Bank incorrectly claims to be “legally prohibited from disclosing.” The expert in that case further testified that he had looked at “how staff handled the alerts and arrived at conclusions that there was ‘nothing suspicious’ about them.” *Id.*

These trial court decisions do not have to be accepted as authority by this Court in order to demonstrate that U.S. Bank’s interpretation is incorrect. The fact that these trial court decisions are not appealed, and the fact that other banks, with OCC approval,

disclose their internal documents regarding suspicious activity, provides proof that neither the BSA nor the OCC's interpretation thereof, forbids Plaintiffs' discovery. The record which was before the trial court fully supported the Discovery Order.

**J. The BSA does not prevent the trial court from conducting an in camera review of the documents U.S. Bank claims are privileged.**

As noted, courts have recognized that there are instances when a "Bank's view of the scope of SAR confidentiality is overbroad and subject to misapplication." *See, e.g., Regions Bank v. Allen*, 33 So. 3d 72, 77 (Fla. 5th DCA 2010). Courts will conduct an in camera review to prevent the abuse of this privilege. *Id.* ("Rather, it will be necessary for the trial court to examine *in camera* any documents that may fall into a grey area of disclosure."); *see also Freedman*, 2010 WL 5139874 at \*5 (Court required Bank of America to submit all documents claimed to be privileged under the Act).

All parties agree that the Bank Secrecy Act prevents U.S. Bank from producing anything that would reveal the existence (or lack thereof) of a SAR. However, when parties disagree as to the application of a certain privilege to evidence, a court will routinely

inspect the documents to see if the asserted privilege is applicable to the documents in question.

This is a common practice in Washington. In *Snedigar v. Hoddersen*, for example, the Supreme Court of Washington noted that “courts have similarly upheld in camera review as ‘a generally acknowledged device for determining whether a privilege is to be honored.’” *Snedigar v. Hoddersen*, 114 Wash. 2d 153, 167, 786 P.2d 781, 787 (1990). It continued to note that “[t]here is thus no support in the current case law for the contention that a litigant alone can decide that certain materials are privileged and not subject to disclosure.” *Id.* Simply put, U.S. Bank cannot simply dictate what documents are and what documents are not subject to discovery in this matter.

All U.S. Bank has to do is ensure that no SAR or anything that would reveal the existence of a SAR is given to the court, and the court will then determine whether those documents are protected by the BSA. It simply defies all credulity and common sense for U.S. Bank to suggest that *every single piece of paper* it has outside of the underlying transactional documents (bank statements, etc.) is

protected by the Bank Secrecy Act. This principle is not supported – even in the case law the bank cites.

This Court, at a minimum, should order U.S. Bank to submit its documents for an in camera inspection. The Plaintiffs, however, are unable to inform the court of the scope of the in camera review because U.S. Bank has refused to provide even a privilege log of the documents that it claims fall within the “SAR privilege.” This is true for even those documents that do not reveal the existence, or nonexistence, of a SAR filing.

#### **V. CONCLUSION**

Plaintiffs respectfully request that this Court uphold the trial court’s March 7, 2012 Discovery Order and, furthermore, order U.S. Bank to produce all documents responsive to the requests for production of documents and to respond fully to the written interrogatories.

RESPECTFULLY SUBMITTED this 24<sup>th</sup> day of September, 2012.

CAIRNCROSS & HEMPELMANN, P.S.

A handwritten signature in black ink, appearing to read "S. VanDerhoef", written over a horizontal line.

Stephen P. VanDerhoef, WSBA No. 20088

Frank Hill (admitted pro hac vice),

Texas State Bar # 09632000

*Attorneys for Respondent*

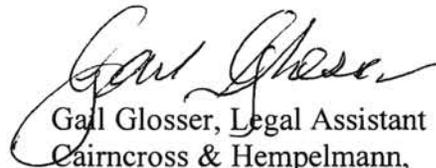
**Certificate of Service**

I, Gail Glosser, certify under penalty of perjury of the laws of the State of Washington that on September 24, 2012, I caused a copy of the document to which this is attached to be served on the following individual(s) by email and hand delivered:

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Attorneys for Defendant U.S. Bank National Association d/b/a  
U.S. Bank

DATED this 24<sup>th</sup> day of September, 2012 at Seattle, Washington.



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AMS

# EXHIBIT A



AML - Monthly Alert Summary

Score 234.51 Altered Month Feb09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 03/07/2009  
 Assigned To Jennifer Berenato  
 Account Number [Redacted] Branch 1360719  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [Redacted]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
03/07/2009	Created	Open	FRAMEWORK	
03/16/2009	Reassigned	Open	spenceal	
03/26/2009	State Changed	[Redacted]	berenajx	
03/26/2009	Commented		berenajx	Account # [Redacted] was reviewed from 02/01/09-02/28/09 and alerted for wires and checks during this period. This account functions as an IOTA account. Funds for the account derive from wires drawn on [Redacted]
03/26/2009	Commented		berenajx	Account. Source of funds were used towards checks payable to [Redacted], Clerk of Court, and wires payable to [Redacted]
03/26/2009	Commented		berenajx	Account #6860291258 was reviewed from 02/01/09-02/28/09 and alerted for wires and transfer credits during this period. This account functions as an IOTA account. Funds for the account derive from transfers drawn on account #6860420923 and wires drawn on Banyon Funding LLC. Source of funds were used towards transfers to account #'s 6860420923, 6860699146, and wires payable to Rothstein Rosenfeldt Adler.
03/26/2009	Commented		berenajx	

Date	Action	State	Performed By	Comments
03/26/2009	Commented		berenajx	Account #6860420923 was reviewed from 02/01/09-02/28/09 and alerted for wires and transfers during this period. This account functions as an IOLTA account. Funds for the account derive from transfers drawn on account #6860291258 and wires drawn on [Redacted]
03/26/2009	Commented		berenajx	[Redacted] Rothstein Rosenfeldt Adler, and Banyon Resources LLC. Source of funds were used towards transfers to account #'s 6860755104, 6860291258, 6860423489, and wires payable to Banyon Investment Collection.
03/26/2009	Commented		berenajx	Account # [Redacted] was reviewed from 02/01/09-02/28/09 and alerted for wires and checks during this period. This account functions as an IOLTA account. Funds for the account derive from wires drawn on [Redacted]
03/26/2009	Commented		berenajx	[Redacted], and checks drawn on various business related entities. Source of funds were used towards checks payable to various business related entities and wires payable to [Redacted]
03/26/2009	Commented		berenajx	Account #6860699146 was reviewed from 02/01/09-02/28/09 and alerted for wires and transfers during this period. This account functions as an IOLTA account. Funds for the account derive from transfers drawn on account #'s 6860420923, 6860755369, 6860755344, and wires drawn on Banyon 1030-32 LLC. Source of funds were used towards transfers to account #'s 6860291258, 6860755104, and wires payable to Banyon 1030-32 LLC.
03/26/2009	Commented		berenajx	Account #6860755369 was reviewed from 02/01/09-02/28/09 and alerted for wires and transfer debits during this period. This account functions as an IOLTA account. Funds for the account derive from wires drawn on Banyon 1030-32 LLC, [Redacted]
03/26/2009	Commented		berenajx	and a check drawn on [Redacted] Source of funds were used towards transfers to account #'s 6860291258, 6860699146, and a wire payable to [Redacted].
03/26/2009	State Changed	Closed [Redacted]	berenajx	
03/26/2009	Commented		berenajx	[Redacted] [Redacted]

Resources: SIP.



AML - Monthly Alert Summary

**Score** 211.86 **Alerted Month** Mar09  
**Customer Name** IOTA MASTER ACCOUNT FL **Date Raised** 04/11/2009  
**Assigned To** Jennifer Berenato  
**Account Number** [REDACTED] **Branch** 1360715  
**Source** Account Security Blanket  
**Address** MUST CHANGE ADDR ON CKCHAL **Employer**  
X234-3377 L PRESTON REGULATORY **Occupation**  
SUPPORT **SSN** [REDACTED]  
DO NOT CHANGE THIS FILE - CIF OR RSS !! **TIN Type** F  
**Zip Code** 08054 **Date of Birth**  
**Customer Since** 11/22/2005 **Driver's License No.**  
**Business Phone** 0000008887519000  
**Home Phone** 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
04/11/2009	Created	Open	FRAMEWORK	
04/24/2009	Reassigned	Open	spenceal	
05/06/2009	State Changed	Redacted	berenajx	
05/06/2009	Commented		berenajx	Account # [REDACTED] was reviewed from 03/01/09-03/31/09 and alerted for wires and checks during this period. This account functions as an Iota Account. Funds for the account derive from an Official Check drawn on TD Bank, checks drawn on [REDACTED], and wires drawn on various individuals, [REDACTED]. [REDACTED] Source of funds were used towards checks payable to [REDACTED].
05/06/2009	Commented		berenajx	[REDACTED] and wires payable to [REDACTED].
05/06/2009	Commented		berenajx	[REDACTED] and wires payable to [REDACTED].
05/06/2009	Commented		berenajx	Account #8860291258 was reviewed from 03/01/09-03/31/09 and alerted for wires and transfers during this period. Funds for the account derive from transfers drawn on account #'s 6860699146, 6860755104, 6860420923, and wires drawn on Banyon Funding LLC.

Date	Action	State	Performed By	Comments
05/06/2009	Commented		berenajx	Source of funds were used towards wires payable to Banyon Funding LLC, Rothstein Rosenfeldt Adler, and transfers to account #6860755104 and 6860420923. Account # [Redacted] was reviewed from 03/01/09-03/31/09 and alerted for checks
05/06/2009	Commented		berenajx	during this period. Funds from the account derive from checks drawn on various businesses and individuals and wires drawn on [Redacted] [Redacted]. Source of funds were used towards checks payable to [Redacted],
05/06/2009	Commented		berenajx	[Redacted] and wires payable to [Redacted]
05/06/2009	Commented		berenajx	Account #6860420923 was reviewed from 03/01/09-03/31/09 and alerted for wires and transfers during this period. Funds for the account derive from transfers drawn on account #'s 6860755369, 6860699146, and wires drawn on Banyon Investments LLC and [Redacted]. Source of funds were used towards wires payable to Banyon Investment Collection and transfers to account #'s 6860291258 and 6860755104.
05/06/2009	Commented		berenajx	Account #6860699146 was reviewed from 03/01/09-03/31/09 and alerted for wires and transfers during this period. Funds for the account derive from transfers drawn on account #'s 6860420923, 6860755112, and wires drawn on Banyon 1030-32 LLC. Source of
05/06/2009	State Changed	Closed [Redacted]	berenajx	
05/06/2009	Commented		berenajx	funds were used towards wires payable to Banyon 1030-32 LLC and transfers to account #'s 6860420923 and 6860291258. [Redacted] Resources: SIP.



AML - Monthly Alert Summary

Score 243.46 Altered Month Apr09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 05/09/2009  
 Assigned To Greg McNamee  
 Account Number [REDACTED] Branch 1360719  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
05/09/2009	Created	Open	FRAMEWORK	
05/18/2009	Reassigned	Open	spenceal	
05/18/2009	State Changed	[REDACTED]	mcnamegx	
05/18/2009	Commented		mcnamegx	IOLTA account [REDACTED] alerted for wires, debits, and credits. [REDACTED] Redacted
05/18/2009	Commented		mcnamegx	Activity is consistent with prior alerts. The account is funded by official checks payable to the law firm of [REDACTED] and wire transfers from individuals, Real Estate firms, and Mortgage Companies. Funds are withdrawn
05/18/2009	Commented		mcnamegx	In the form of checks to mortgage companies ([REDACTED] and wire transfers to individuals and investment firms such as [REDACTED]. Account activity is entirely consistent with the operation of an IOLTA account.
05/18/2009	Commented		mcnamegx	IOLTA account 6860291258 (Rothstein Rosenfeldt Adler PA) alerted for wires, debits, and credits. [REDACTED] This account is

Date	Action	State	Performed By	Comments
05/18/2009	Commented		mcmamegx	funded by transfers from other TD Bank IOLTA accounts (such as ROTHSTEIN ROSENFELDT ADLER PA). Funds are withdrawn primarily in the form of wire transfers to the Gibraltar Private Bank account of Rothstein Rosenfeldt Adler PA and
05/18/2009	Commented		mcmamegx	transfers to Banyon Funding's account at TD Bank (66860291027). Account activity is entirely consistent with the operation of an IOLTA account.
05/18/2009	Commented		mcmamegx	IOLTA account 6860420923 alerted for wires, debits, and credits. [REDACTED]
05/18/2009	Commented		mcmamegx	This account is funded primarily by wire transfers from the TD Bank account of Banyon Income Fund (6861076914). Funds are withdrawn in the form of transfers to other TD Bank accounts, including 6860291258. Account activity is entirely consistent with the operation of an IOLTA account.
05/18/2009	Commented		mcmamegx	IOLTA account 6860699146 alerted for wires, debits, and credits. [REDACTED]
05/18/2009	Commented		mcmamegx	This account is funded primarily by transfers from the TD Bank account of BANYON 1030-32 LLC. Funds are withdrawn in the form of wire transfers to the TD Bank account of Banyon 1030-32 LLC (6860699427). Account activity is entirely consistent with the operation of an IOLTA account.
05/18/2009	State Changed	Closed [REDACTED]	mcmamegx	
05/18/2009	Commented		mcmamegx	Resources - SIP



AML - Monthly Alert Summary

Score 237.32 Altered Month May09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 06/08/2009  
 Assigned To Gilda Petrane  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
06/08/2009	Created	Open	FRAMEWORK	
06/15/2009	Reassigned	Open	spenceal	
06/19/2009	State Changed	[REDACTED]	petranga	
06/19/2009	Commented		petranga	Account [REDACTED], Iolta [REDACTED] Altered for incoming and outgoing wires, checks at teller and on us checks. Incoming wires aggregated \$25,296,334.62. Originating banks Ohio Savings, ING Bank & Toronto
06/19/2009	Commented		petranga	Dominion. Originators [REDACTED]. Check deposits from [REDACTED] aggregated \$2,835,089.82. Source of funds for outgoing wires which aggregated \$26,802,249.90.
06/19/2009	Commented		petranga	Recipient banks Wells Fargo, Wachovia & National City Bank of FL. Recipients [REDACTED]
06/19/2009	Commented		petranga	[REDACTED] Activity is consistent with type of account [REDACTED] Redacted. No further action. Researched SIP.
				Account 6860420923. Altered for incoming & outgoing wires, checks at teller, electronic debit transfer & on us checks. Iolta Account. Rothstein, Rosenfeldt & Adler PA.

TDBANK 000007

Date	Action	State	Performed By	Comments
06/19/2009	Commented		petranga	Incoming wires aggregated \$48,965,500.00. Originating banks Bank of America Sydney, JPMorgan Chase & Banque Nationale Du Canada. Originators [Redacted] Banyon Income Fund & [Redacted]
06/19/2009	Commented		petranga	[Redacted] Outgoing wires aggregated \$8,207,727.18. Recipient banks Palm Beach County Bank, Northern Trust Bank of FL & Gibraltar Bank, FSB. Recipients Banyon Investment Collections, [Redacted] Rothstein, Rosenfeldt & Adler. Check deposits from [Redacted]
06/19/2009	Commented		petranga	[Redacted] Checks payable to Fla. Dept of State, US Customs and Border Protection [Redacted]
06/19/2009	Commented		petranga	[Redacted] Researched SIP. Account [Redacted], Iolta [Redacted] Alerted for incoming wires, checks at teller and on us checks. Incoming wires aggregated \$456,022.74. Originating banks Bank of America Sydney, Wachovia & Bank of Nova Scotia. Originators [Redacted]
06/19/2009	Commented		petranga	[Redacted] Check deposits from [Redacted] aggregated \$263,815.17. Checks payable to [Redacted]
06/19/2009	Commented		petranga	Clerk of the Court. [Redacted] Researched SIP. Account 6860755369- Iolta Rothstein, Rosenfeldt & Adler PA. Alerted for outgoing wires,
06/19/2009	Commented		petranga	electronic credit & debit transfers and checks at teller. Outgoing wires aggregated \$18,556,619.04. Recipient banks Palm Beach & Commerce Bank, recipients Banyon Funding [Redacted]. Electronic credit transfers from 6861076906 aggregated \$16,900,000.00.
06/19/2009	Commented		petranga	Electric debit transfers to 6861076906 aggregated \$2,443,000.00. Check deposits were from [Redacted]
06/19/2009	Commented		petranga	[Redacted] Researched SIP. Account 6861076906. Iolta Rothstein, Rosenfeldt & Adler PA. Alerted for electronic credit transfers and outgoing wires. Electric credit transfers from 6860755369, 6860420923, 6860755112, 6860291258 & 6860755344 aggregated \$6,681,000.00.
06/19/2009	Commented		petranga	Outgoing wires aggregated \$6,606,190.47. Recipient banks Bank of America, Citi Bank and American Bank. Recipients [Redacted] [Redacted] [Redacted]
06/19/2009	Commented		petranga	[Redacted] Activity is consistent with an Iolta account. [Redacted] [Redacted]
06/19/2009	Commented		petranga	[Redacted] Researched SIP.
06/19/2009	State Changed	Closed [Redacted]	petranga	
06/19/2009	Commented		petranga	Closed - [Redacted]

TDBANK 000008



AML - Monthly Alert Summary

Score 262.27 Altered Month Jun09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 07/05/2009  
 Assigned To Gilda Petrane  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
07/05/2009	Created	Open	FRAMEWORK	
07/20/2009	Reassigned	Open	spenceal	
08/07/2009	State Changed	[REDACTED]	petranga	
08/07/2009	Commented		petranga	From 6/1/09 to 6/30/09. [REDACTED] Altered for incoming wires, outgoing wires and on us checks. Incoming wires aggregated \$26,256,498.18. Originating banks UBS, Citi [REDACTED] Originators
08/07/2009	Commented		petranga	[REDACTED] Outgoing wires aggregated \$27,423,456.56. Recipient banks Bank of America, Citi Bank N/A & Escrow Bank USA. [REDACTED] Checks
08/07/2009	Commented		petranga	payable to [REDACTED] Activity is consistent with type of account [REDACTED] Researched SIP.
08/07/2009	Commented		petranga	Account [REDACTED]. From 6/1/09 to 6/30/09. Iolta [REDACTED] Altered for incoming wires, check deposits & on us checks. Incoming wires aggregated \$105,869.08. Originating banks Bank of America, City National & Wachovia. Originators

TDBANK 000009

Date	Action	State	Performed By	Comments
08/07/2009	Commented		petranga	[Redacted] Check deposits from [Redacted] Source of funds for checks payable to Baoward Co. Clerk of Court, [Redacted] Activity [Redacted]
08/07/2009	Commented		petranga	is consistent with type of account. [Redacted] [Redacted] Researched SIP.
08/07/2009	Commented		petranga	Account 6860420923. From 6/1/09 to 6/30/09. Iolita Rothstein, Rosenfeldt, Adler PA Attorney Trust. Alerted for incoming wires, outgoing wires and electronic debit transfers. Incoming wires aggregated \$29,650,000.00. Originating banks Bank of America, Commerce & JPMorgan Chase. Originators Banyon Income Fund, Coquina Investments [Redacted]. Outgoing wires aggregated \$10,826,162.00. Recipient banks Gibraltar, The Bankers Bank & Bank of America. Recipients [Redacted]
08/07/2009	Commented		petranga	[Redacted] Check deposits from [Redacted] [Redacted] debit transfers aggregated \$3,656,190.48 to 6860420923 & 6861076922. Activity is consistent with type of account [Redacted] Researched SIP.
08/07/2009	Commented		petranga	Account 6860755369. From 6/1/09 to 6/30/09. Rothstein, Rosenfeldt & Adler PA Attorney Trust. Alerted for electronic credit transfers, check deposits, electronic debit transfers & outgoing wires. Electronic credit transfers aggregated \$15,075,000.00 from 6860410923 & 6861076922. Check deposits from individuals, county and attorneys aggregated \$5,885,000.00. Source of funds for outgoing wires aggregating \$20,441,619.04. Recipient banks Palm Beach County, JPMorgan Chase [Redacted]
08/07/2009	Commented		petranga	[Redacted] Electronic debit transfers aggregated \$3,656,190.48 to 6860420923 & 6861076922. Activity is consistent with this type of account. [Redacted] Researched SIP.
08/07/2009	Commented		petranga	Account 6861076906. From 6/1/09 to 6/30/09. Rothstein, Rosenfeldt & Adler PA Attorney Trust. Alerted for electronic credit & debit transfers & outgoing wires. Electronic credit transfer for \$5,901,190.48 to account 6861076922. Electronic debit transfer aggregated \$300,000.00 from 6860420923, 6861076922 & 6860755369. Outgoing wires aggregated \$6,849,523.81. Recipient banks Bank of America, Citi Bank & American Bank. Recipients [Redacted]
08/07/2009	Commented		petranga	[Redacted] Activity is consistent with type of account [Redacted] Researched SIP.
08/07/2009	State Changed	Closed [Redacted]	petranga	Closed [Redacted]
08/07/2009	Commented		petranga	Closed [Redacted]

TDBANK 000010



AML - Monthly Alert Summary

Score 233.94 Altered Month Jul09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 08/11/2009  
 Assigned To James McWilliams  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
08/11/2009	Created	Open	FRAMEWORK	
08/31/2009	Reassigned	Open	spenceal	
09/10/2009	State Changed	Investigate	mcwilljx	
09/10/2009	Commented		mcwilljx	Act# [REDACTED]
09/10/2009	Commented		mcwilljx	[REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in July 2009, and was reviewed from July 1, 2009 to July 31, 2009.
09/10/2009	Commented		mcwilljx	This account is operated by [REDACTED] The account was funded with in-coming wires drawn on the customer's Bank of America account and [REDACTED] Redacted
09/10/2009	Commented		mcwilljx	The funds were additionally funded with multiple check deposits drawn on various clients. The funds were primarily used in the form of business check payments ([REDACTED])
09/10/2009	Commented		mcwilljx	[REDACTED] Redacted

TDBANK 000011

Date	Action	State	Performed By	Comments
09/10/2009	Commented		mcwilljx	Act# [REDACTED] [REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in July 2009, and was reviewed from July 1, 2009 to July 31, 2009.
09/10/2009	Commented		mcwilljx	This account is operated by [REDACTED] The account was funded with in-coming wires drawn on
09/10/2009	Commented		mcwilljx	such entities as [REDACTED] [REDACTED] The account was additionally funded with
09/10/2009	Commented		mcwilljx	business check deposits ([REDACTED] [REDACTED]. The funds were primarily used in the form of out-going wires to such entities as
09/10/2009	Commented		mcwilljx	[REDACTED] The funds were additionally usec
09/10/2009	Commented		mcwilljx	in the form of business check payments [REDACTED] [REDACTED]
09/10/2009	Commented		mcwilljx	[REDACTED]
09/10/2009	Commented		mcwilljx	Act# [REDACTED] [REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in July 2009, and was reviewed from July 1, 2009 to July 31, 2009.
09/10/2009	Commented		mcwilljx	This account is operated by [REDACTED] The account was funded with in-coming wires drawn on such entities as [REDACTED]
09/10/2009	Commented		mcwilljx	[REDACTED] The account was additionally funded with business check deposits ([REDACTED] [REDACTED]
09/10/2009	Commented		mcwilljx	[REDACTED] Redacted
09/10/2009	Commented		mcwilljx	Act#6860420923 [REDACTED] it was determined the alert generated because of an increase in account credits and account debits.

Date	Action	State	Performed By	Comments
09/10/2009	Commented		mcwilljx	This alert generated in July 2009, and was reviewed from July 1, 2009 to July 31, 2009. This account is operated by Rothstein Rosenfeldt Adler PA.
09/10/2009	Commented		mcwilljx	The account was funded with in-coming wires drawn on such entities as Coquina Investments, [REDACTED]
09/10/2009	Commented		mcwilljx	The funds were primarily used in the form of out-going wires to such entities as [REDACTED] Redacted
09/10/2009	Commented		mcwilljx	[REDACTED] Redacted
09/10/2009	Commented		mcwilljx	Redacted Act#6860699146
09/10/2009	Commented		mcwilljx	[REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in July 2009, and was reviewed from July 1, 2009 to July 31, 2009. This account is operated by Rothstein Rosenfeldt Adler PA. The account was funded with transfers drawn on the customer's TD Bank business account 6860420923.
09/10/2009	Commented		mcwilljx	The funds were primarily used in the form of out-going wires to such entities as Bayon 1030-32 LLC. [REDACTED] Redacted
09/10/2009	Commented		mcwilljx	Redacted Act#6860755369
09/10/2009	Commented		mcwilljx	[REDACTED] and it was determined the alert generated because of an increase in account credits and account debits. This alert generated in July 2009, and was reviewed from July 1, 2009 to July 31, 2009. This account is operated by Rothstein Rosenfeldt Adler PA. The account was funded with transfers drawn on the customer's TD Bank business account 6860420923.
09/10/2009	Commented		mcwilljx	The account was additionally funded with check deposits drawn on individual clients. The funds were primarily used in the form of out-going wires to such entities as Banyon Investments Collection
09/10/2009	Commented		mcwilljx	[REDACTED] Redacted
09/10/2009	Commented		mcwilljx	Redacted Act#6861076906
				[REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in July 2009, and was reviewed from July 1, 2009 to July 31, 2009.

Date	Action	State	Performed By	Comments
09/10/2009	Commented		mcwilljx	This account is operated by Rothstein Rosenfeldt Adler PA. The account was funded with transfers drawn on the customer's TD Bank business account 6860420923.
09/10/2009	Commented		mcwilljx	The account was additionally funded with in-coming wires drawn on [REDACTED]. The funds were primarily used in the form of out-going wires to such entities as [REDACTED].
09/10/2009	Commented		mcwilljx	Coquna Investments, [REDACTED] Redacted
09/10/2009	Commented		mcwilljx	Redacted
09/10/2009	Commented		mcwilljx	The alert was closed in "Lo" status because the activity is consistent with lolta account.
09/10/2009	State Changed	Closed [REDACTED]	mcwilljx	Resources: SIP
09/10/2009	Commented		mcwilljx	Closed [REDACTED] Redacted

TDBANK 000014



AML - Monthly Alert Summary

Score 219.15 Altered Month Aug09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 09/06/2009  
 Assigned To James McWilliams  
 Account Number [Redacted] Branch 1360719  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR.ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [Redacted]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
09/06/2009	Created	Open	FRAMEWORK	
09/28/2009	Reassigned	Open	spenceal	
10/07/2009	State Changed	[Redacted]	mcwilljx	
10/07/2009	Commented		mcwilljx	Act# [Redacted]
10/07/2009	Commented		mcwilljx	[Redacted] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in August 2009, and was reviewed from August 1, 2009 to August 31, 2009.
10/07/2009	Commented		mcwilljx	This account is operated by [Redacted]. The account was funded with in-coming wires drawn on such entities as [Redacted] and individuals for house purchases. The account was additionally funded with check deposits drawn on individuals for the purchase of homes. The funds were primarily used in the form of out-going wires (i.e. [Redacted] etc.) and [Redacted]
10/07/2009	Commented		mcwilljx	[Redacted]

Date	Action	State	Performed By	Comments
10/07/2009	Commented		mcwilljx	business check payments [REDACTED] [REDACTED] Redacted
10/07/2009	Commented		mcwilljx	Act#6860420923 [REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in August 2009, and was reviewed from August 1, 2009 to August 31, 2009.
10/07/2009	Commented		mcwilljx	This account is operated by Rothstein Rosenfeldt Adler PA. The account was funded with in-coming wires (i [REDACTED]
10/07/2009	Commented		mcwilljx	[REDACTED] Coquina Investments, etc.) and transfers drawn on the customer's TD Bank account 6861076922.
10/07/2009	Commented		mcwilljx	The funds were primarily used in the form of out-going wires [REDACTED]
10/07/2009	Commented		mcwilljx	[REDACTED] and fund disbursement transfers. Redacted
10/07/2009	Commented		mcwilljx	Act#6860755369 [REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in August 2009, and was reviewed from August 1, 2009 to August 31, 2009.
10/07/2009	Commented		mcwilljx	This account is operated by Rothstein Rosenfeldt Adler PA. The account was funded with transfers drawn on the customer's TD Bank business checking account 6860420923 and 6861076922.
10/07/2009	Commented		mcwilljx	The account was additionally funded with check deposits drawn on individuals for services. The funds were primarily used in the form of out-going wires (i.e. Banyon Funding and [REDACTED]
10/07/2009	Commented		mcwilljx	[REDACTED] Redacted
10/07/2009	Commented		mcwilljx	Act#6861076906 [REDACTED] it was determined the alert generated because of an increase in account credits and account debits. This alert generated in August 2009, and was reviewed from August 1, 2009 to August 31, 2009.
10/07/2009	Commented		mcwilljx	This account is maintained by Rothstein Rosenfeldt Adler PA. The account was funded with transfers drawn on the customer's TD Bank business account 6861076922 and 6860420923.

Date	Action	State	Performed By	Comments
10/07/2009	Commented		mcwilljx	The funds were primarily used in the form of out-going wires (i.e. [Redacted], Coquna Investments etc.). [Redacted]
10/07/2009	Commented		mcwilljx	[Redacted] The alert was closed in "Lo" status because the activity is consistent with IOLTA account activity. Resources: SIP
10/07/2009	State Changed	Closed [Redacted]	mcwilljx	
10/07/2009	Commented		mcwilljx	Closed - Alert generated [Redacted]





AML - Monthly Alert Summary

Score 210.10 Altered Month Sep09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 10/19/2009  
 Assigned To Amanda Spencer  
 Account Number [REDACTED] Branch 1360719  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
10/19/2009	Created	Open	FRAMEWORK	
10/20/2009	Reassigned	Open	spenceal	
10/24/2009	Reassigned	Open	spenceal	
10/27/2009	State Changed	[REDACTED]	spenceal	
10/27/2009	Commented		spenceal	IOTA ACCOUNTS. September 2009, Review Period: 09/01/09-09/30/09. Account No. [REDACTED]. This account functions as an IOTA for [REDACTED]. They specialize in real estate. The account is funded by wire transfers from clients for the purchase of real estate or for the establishment of trust accounts. The debits to the account consist of payments to Mortgage companies or the revenue to clients for the sale of property. The account activity is consistent with the business. [REDACTED]
10/27/2009	Commented		spenceal	[REDACTED]
10/27/2009	Commented		spenceal	[REDACTED]
10/27/2009	Commented		spenceal	Account No. [REDACTED]. This account functions as an IOTA for [REDACTED]. The alert was generated as result of increased debit/credit activity. The account is funded by 3 cash deposits totaling \$14,200. In addition the account was

Date	Action	State	Performed By	Comments
10/27/2009	Commented		spenceal	additionally funded by check and wires from clients for legal services rendered. The debit activity consists of payments to other law firms and clients as payouts. The account activity is consistent with the business. [Redacted]
10/27/2009	Commented		spenceal	[Redacted]
10/27/2009	Commented		spenceal	Account No. 6860420923. This account functions as an IOTA account for Rothstein, Rosenfeldt & Adler PC. The law firm handles a multitude of cases including labor law, corporate, international, etc. The account is funded by checks drawn on clients as as payment for services rendered and for the establishment of trust accounts. The debits are to opposing counsel for settlement, payouts to clients and other related expenses. [Redacted]
10/27/2009	Commented		spenceal	Account No. 6860755369: This account functions as an IOTA account for Rothstein, Rosenfeldt & Adler PC. The law firm handles a multitude of cases including labor law, corporate, international, etc. The account is funded by checks drawn on clients as payment for services rendered and for the establishment of trust accounts. The debits are to opposing counsel for settlement, payouts to clients and other related expenses. [Redacted]
10/27/2009	Commented		spenceal	[Redacted]
10/27/2009	Commented		spenceal	Account No. 6861076906: This account functions as an IOTA account for Rothstein, Rosenfeldt & Adler PC. The law firm handles a multitude of cases including labor law, corporate, international, etc. The account is funded by checks drawn on clients as payment for services rendered and for the establishment of trust accounts. The debits are to opposing counsel for settlement, payouts to clients and other related expenses. [Redacted]
10/27/2009	State Changed	Closed [Redacted]	spenceal	
10/27/2009	Commented		spenceal	Resources: SIP



AML - Monthly Alert Summary

Score 200.39 Altered Month Apr08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 05/13/2008  
 Assigned To James McWilliams  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY SUPPORT Occupation  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! SSN [REDACTED]  
 TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
05/13/2008	Created	Open	FRAMEWORK	
05/16/2008	Reassigned	Open	spenceal	
05/19/2008	State Changed	[REDACTED]	mcwilljx	
05/19/2008	Commented		mcwilljx	[REDACTED]
05/19/2008	Commented		mcwilljx	[REDACTED] It was determined the alert generated because of an increase in account credits and debits. The review period for this alert period is March 1, 2008 to May 19, 2008. This account functions as an Iota trust account for the law offices of [REDACTED]
05/19/2008	Commented		mcwilljx	The increase in account credits was due to in-coming wires drawn on such entities as [REDACTED]
05/19/2008	Commented		mcwilljx	[REDACTED] The funds were primarily used in the form of check payments (i.e. [REDACTED] etc.).
05/19/2008	Commented		mcwilljx	[REDACTED]

Date	Action	State	Performed By	Comments
05/19/2008	Commented		mcwilljx	[REDACTED]
05/19/2008	Commented		mcwilljx	[REDACTED] it was determined the alert generated because of an increase in account credits and debits. The review period for this alert period is March 1, 2008 to May 19, 2008. This account functions as an Iota trust account for [REDACTED]
05/19/2008	Commented		mcwilljx	The increase in account credits was due to in-coming wires drawn on such entities as [REDACTED] etc.
05/19/2008	Commented		mcwilljx	The funds were primarily used in the form of check payments (i.e. [REDACTED] etc.). The funds were
05/19/2008	Commented		mcwilljx	additionally used in the form of out-going wire to such entities as [REDACTED]
05/19/2008	Commented		mcwilljx	[REDACTED]
05/19/2008	Commented		mcwilljx	6860291258
05/19/2008	Commented		mcwilljx	[REDACTED] it was determined the alert generated because of an increase in account credits and debits. The review period for this alert period is March 1, 2008 to May 19, 2008. This account functions as an Iota trust account for Rothstein Rosenfeld & Adler. The increase in account credits was due to in-coming wires drawn on BANYON FUNDING.
05/19/2008	Commented		mcwilljx	The funds were primarily used in the form of a \$950,000.00 and \$933,106.40 check payment to the customer's Gibraltar Private Bank and Trust ("Deposit Only" written on checks). The funds were
05/19/2008	Commented		mcwilljx	additionally used in the form of out-going wire to such entities as [REDACTED] Banyon Funding and the customer's Gibraltar Bank account. [REDACTED]
05/19/2008	Commented		mcwilljx	[REDACTED] This alert was closed in "Lo" status because the activity is consistent with the customers' business type.
05/19/2008	State Changed	Closed [REDACTED]	mcwilljx	Resources: SIP
05/19/2008	Commented		mcwilljx	Closed - Alert generated [REDACTED] Redacted [REDACTED]

TDBANK 000021



AML - Monthly Alert Summary

Score 236.60 Altered Month May08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 06/08/2008  
 Assigned To Jennifer Berenato  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
06/08/2008	Created	Open	FRAMEWORK	
06/13/2008	Reassigned	Open	spenceal	
06/16/2008	State Changed	[REDACTED]	berenajx	
06/16/2008	Commented		berenajx	Account # [REDACTED] was reviewed for May 2008 and alerted for wire credits/debits and check credits/debits during this period. This account functions as an Iota trust account for [REDACTED]
06/16/2008	Commented		berenajx	[REDACTED] Funds derived from wires drawn on [REDACTED] Bank of St. Petersburg, Citi Mortgage, and Official Checks drawn on Citibank and Bank of America, among other business related check credits. Source of funds were used towards wires payable to [REDACTED]
06/16/2008	Commented		berenajx	[REDACTED] and checks payable to [REDACTED]
06/16/2008	Commented		berenajx	Account #6860291258 was reviewed for May 2008 and alerted for wire credits and debits. This account functions as an Iota account for Rothstein Rosenfeldt Adler. Credits and debits to this account consisted of wires drawn on/received by ..
06/16/2008	Commented		berenajx	Rothstein Rosenfeldt Adler and Banyon Funding LLC.

TDBANK 000022

Date	Action	State	Performed By	Comments
06/16/2008	Commented		berenajx	Account # [REDACTED] was reviewed for May 2008 and alerted for check credits/debits during this period. This account functions as an Iota account for [REDACTED]. Funds for the account derive from wires drawn on [REDACTED].
06/16/2008	Commented		berenajx	[REDACTED] General Operating Account. Source of funds were used towards checks payable to [REDACTED].
06/16/2008	State Changed	Closed [REDACTED]	berenajx	
06/16/2008	Commented		berenajx	[REDACTED]

Resources: SIP.



AML - Monthly Alert Summary

Score 245.76 Altered Month Jun08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 07/06/2008  
 Assigned To Kathy Wong  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
07/06/2008	Created	Open	FRAMEWORK	
07/23/2008	Reassigned	Open	spenceal	
07/30/2008	State Changed	Investigate	wongxxkx	
07/30/2008	Commented		wongxxkx	Account Redacted [REDACTED] The account [REDACTED] was alerted in June 2008 for domestic wire debit and credit value. This is an attorney trust account of [REDACTED]
07/30/2008	Commented		wongxxkx	During the time period specified, there was one wire credited to the account for \$3,560,450.40 from Provident Bank originated by [REDACTED] referenced [REDACTED]
07/30/2008	Commented		wongxxkx	There was one wire debited from the account for the same amount #3,560,450.40 and was sent to Colonial Bank for IOTA/[REDACTED] The account was funded by checks from their own account drawn on different banks (Enterprise National Bank, Colonial Bank) in addition to checks from various clients. Deposited funds were debited from the account for business related expenses. [REDACTED]
07/30/2008	Commented		wongxxkx	[REDACTED]

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Date	Action	State	Performed By	Comments
07/30/2008	Commented		wongxxlx	Account [Redacted] [Redacted] was alerted in June 2008 for domestic wire debit and credit value and volume in addition to check on us debits volume. This is an attorney
07/30/2008	Commented		wongxxlx	of [Redacted] During the time period specified, there were 16 wires ranged from \$11354.33 - \$399,403.19 from various loan funding entities, title companies and mortgage companies. There were 15 outgoing wires debited from the account and
07/30/2008	Commented		wongxxlx	and credited to various mortgage funding groups for real estate transactions. It appeared their business focus was real estate transactions. The account was primarily funded by wire transfers. The deposited funds were debited from the account for
07/30/2008	Commented		wongxxlx	business related expenses. [Redacted]
07/30/2008	Commented		wongxxlx	Account # [Redacted] - T [Redacted] was alerted in June 2008 for domestic wire debit and credit value. This is an attorney trust account of [Redacted] During the
07/30/2008	Commented		wongxxlx	period specified, there was one wire for \$413,040 from Wachovia Bank of Virginia originated by [Redacted] The same amount was wired out to Fifth Third Bank and credited to IOTA account of [Redacted] The account was also funded by checks
07/30/2008	Commented		wongxxlx	from various clients. The deposited funds were debited from the account for business related expenses. [Redacted]
07/30/2008	Commented		wongxxlx	Account # [Redacted] - [Redacted] was alerted in June 2008 for domestic wire debit and credit value and volume in addition to check on us debits volume. This is an attorney
07/30/2008	Commented		wongxxlx	account of [Redacted] During the time period specified, there were 41 wires ranged from \$5,058 - \$8,200,000 and aggregated to \$30,655,167.22 from various loan funding entities, title companies, mortgage companies and
07/30/2008	Commented		wongxxlx	and individuals. The \$8,200,000 was sent by [Redacted] through Bank of America. There were 37 outgoing wires ranged from \$1,950 - \$3,726,372.59 and aggregated to \$22,094,834.46 debited from the account and credited to various mortgage funding
07/30/2008	Commented		wongxxlx	groups for real estate transactions in addition to various law firms and businesses. It appeared their business focus was real estate transactions and business acquisitions. The account was primarily funded by wire transfers. The deposited funds were

TDBANK 000025

Date	Action	State	Performed By	Comments
07/30/2008	Commented		wongxxkx	debited from the account for business related expenses. [REDACTED]
07/30/2008	Commented		wongxxkx	Account #6860291258 – [REDACTED] The account #6860291258 was alerted in June 2008 for domestic wire debit and credit value and volume. This is an attorney trust account of Rothstein Rosenfeldt Adler
07/30/2008	Commented		wongxxkx	During the time period specified, there were 7 wires credits ranged from \$348,611 - \$5,850.299 and aggregated to \$10,322,715.50 from the customer's own account at Gibraltar Bank. There were 9 outgoing wires were sent to customer's own account at Palm
07/30/2008	Commented		wongxxkx	Beach County Bank. The account was primarily funded and disbursed through wire transfers in addition to a few internal transfers to customer's other Commerce account #6860423489. [REDACTED]
07/30/2008	Commented		wongxxkx	[REDACTED]
07/30/2008	Commented		wongxxkx	Account [REDACTED] – [REDACTED] The account [REDACTED] was alerted in June 2008 for domestic wire debit and credit volume in addition to check on us debits volume. This is an attorney trust
07/30/2008	Commented		wongxxkx	account of [REDACTED]. During the time period specified, there were 13 wire credits ranged from \$50 - \$123,630 from the customer's own account at Bank of America, Regions Bank and Gibraltar Bank in addition to wires sent by various attorney
07/30/2008	Commented		wongxxkx	trust accounts for trust funds transfers. There were outgoing domestic wires were sent to their own accounts at Eagle Nation Bank of Miami in addition to various business entities. One international wire was sent to Credit Suisse First Boston Aust.
07/30/2008	Commented		wongxxkx	Ltd/Switzerland for [REDACTED]. The account was primarily funded and disbursed through wire transfers, in addition to a few checks from various clients. The deposited funds were debited from the account for business related expenses. [REDACTED]
07/30/2008	Commented		wongxxkx	[REDACTED]
07/30/2008	Commented		wongxxkx	Account #6860423489 – [REDACTED] The account #6860423489 was alerted in June 2008 for domestic wire debit and credit value and volume. This is an attorney trust account of Rothstein Rosenfeldt Adler
07/30/2008	Commented		wongxxkx	During the time period specified, there were 3 wires credits ranged from \$141,666.66 - \$3,135,255 from the [REDACTED] (through HSBC Canada) and Bonyon Capital LLC. There were 5 outgoing wires were sent to customer's own account and Bonyon Capital LLC

TDBANK 000026

Date	Action	State	Performed By	Comments
07/30/2008	Commented		wongxxlx	at Palm Beach County Bank. The account was primarily funded and disbursed through wire transfers. [REDACTED]
07/30/2008	Commented		wongxxlx	Total of 7 accounts were raised in this alert.
07/30/2008	State Changed	Closed [REDACTED]	wongxxlx	
07/30/2008	Commented		wongxxlx	Closed - Alert generated [REDACTED] Resources: SIP

TDBANK 000027



AML - Monthly Alert Summary

Score 199.52 Altered Month Aug08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 09/13/2008  
 Assigned To Gilda Petrane  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
09/13/2008	Created	Open	FRAMEWORK	
09/23/2008	Reassigned	Open	spenceal	
09/29/2008	State Changed	Redacted	petranga	
09/29/2008	Commented		petranga	From 8/1/08 to 8/31/08. Accounts [REDACTED] Redacted [REDACTED], 6860420923. These are IOLTA accounts used to remit interest earned on trust accounts to the state of Florida. The accounts alerted for incoming & outgoing wires & check credits & debits. Activity is consistent with account type which included transactions to and from [REDACTED] Redacted [REDACTED] Researched SIP.
09/29/2008	Commented		petranga	
09/29/2008	State Changed	Closed [REDACTED]	petranga	
09/29/2008	Commented		petranga	Closed - Alert generated [REDACTED] Redacted [REDACTED]





AML - Monthly Alert Summary

Score 167.16 Altered Month Sep08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 10/11/2008  
 Assigned To Jennifer Wirtz  
 Account Number [Redacted] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY SUPPORT Occupation  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
10/11/2008	Created	Open	FRAMEWORK	
10/27/2008	Reassigned	Open	spenceal	
10/29/2008	State Changed	Redacted	wirtzxjx	
10/30/2008	Commented		wirtzxjx	Acct. [Redacted] is an Iota acct. that alerted for check at teller & wire credits & on us check & wire debits for the month of September. Wires were sent to & from the accts. from related entities such as [Redacted]
10/30/2008	Commented		wirtzxjx	[Redacted] Checks deposited into the acct. were drawn on individuals & businesses to be held in trust. Checks were made payable to entities such as [Redacted]
10/30/2008	Commented		wirtzxjx	[Redacted] This activity is consistent with the acct. type [Redacted]
				Acct. 6860291258 is an Iota acct. that alerted for non-ACH transfer, wire & interest credits & wire & interest debits for the month of September. The acct. was

Date	Action	State	Performed By	Comments
10/30/2008	Commented		wirtzxjx	funded by wire transfer from Banyon Funding LLC; non-ACH transfers from checking acct. 6860420923 & \$7,857.90 in interest. The acct. was debited via wire transfers from Banyon Funding LLC & \$7,857.90 interest payment to checking acct. 6860012506.
10/30/2008	Commented		wirtzxjx	This activity is consistent with the acct. type [Redacted]. Acct. [Redacted] is an Iota acct. that alerted for check at teller & wire credits & on us check debits for the month of September. Wires were received
10/30/2008	Commented		wirtzxjx	from related entities such as [Redacted]. Checks deposited into the acct. were drawn on individuals & businesses to be held in trust. Checks were made payable to entities such as
10/30/2008	Commented		wirtzxjx	[Redacted]. This activity is consistent with the acct. type [Redacted].
10/30/2008	Commented		wirtzxjx	Acct. [Redacted] is an Iota acct. that alerted for wire & interest credits & non-ACH transfer, wire & interest debits for the month of September. Wires were sent to & from the acct. from related entities such as Banyon Investments Collection
10/30/2008	Commented		wirtzxjx	The acct. was additionally funded via \$24,047.64 in interest. The acct. was additionally debited via non-ACH transfers to checking accts. 6860291258, 6860423489 & 6860291274 & \$24,047.64 interest payment to checking acct. [Redacted]
10/30/2008	Commented		wirtzxjx	This activity is consistent with the acct. type [Redacted].
10/30/2008	State Changed	Closed [Redacted]	wirtzxjx	Resources: SIP
10/30/2008	Commented		wirtzxjx	Closed - Alert generated [Redacted]



AML - Monthly Alert Summary

Score 207.21 Altered Month Oct08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 11/08/2008  
 Assigned To James McWilliams  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY SUPPORT Occupation  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! SSN [REDACTED]  
 TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
11/08/2008	Created	Open	FRAMEWORK	
11/18/2008	Reassigned	Open	spenceal	
11/24/2008	State Changed	Redacted	mcwilljx	
11/24/2008	Commented		mcwilljx	AC# [REDACTED]
11/24/2008	Commented		mcwilljx	[REDACTED] it was determined the alert generated because of an increase in wire activity. This alert generated in October 2008, and was reviewed from October 1, 2008 to October 31, 2008. This account is operated by [REDACTED] is a [REDACTED] law firm consisting of attorneys collectively admitted in the states of [REDACTED]
11/24/2008	Commented		mcwilljx	[REDACTED] They offer legal services in the areas of real estate, civil and criminal litigation, securities, corporate, family law, bankruptcy and business law.
11/24/2008	Commented		mcwilljx	The increase in activity was due to in-coming wires drawn on such entities as [REDACTED] etc.

TDBANK 000031

Date	Action	State	Performed By	Comments
11/24/2008	Commented		mcwilljx	The account was additionally funded with check deposits drawn on various clients. The funds were primarily used in the form of multiple out-going wires to such entities as [Redacted]
11/24/2008	Commented		mcwilljx	[Redacted], etc. The funds were additionally used in the form of multiple business check payments (i.e. [Redacted], Clerk of Court,
11/24/2008	Commented		mcwilljx	[Redacted], Broward County Revenue Collector, [Redacted] [Redacted]). [Redacted] [Redacted] The activity is consistent with the customer's business.
11/24/2008	Commented		mcwilljx	Act#6860291258
11/24/2008	Commented		mcwilljx	[Redacted] it was determined the alert generated because of an increase in account credits and debits. This alert generated in October 2008, and was reviewed from October 1, 2008 to October 31, 2008. This account is operated by the attorneys Rothstein Rosenfeldt & Adler. The law firm covers labor and employment law,
11/24/2008	Commented		mcwilljx	intellectual property, technology and internet law, general and commercial litigation, corporate law, mergers and acquisitions, automotive law, dispositions and reorganizations, real estate, land use and environmental law, health care,
11/24/2008	Commented		mcwilljx	criminal defense, administrative law, bankruptcy, tort litigation, and personal injury defense. The account was funded with multiple transfers drawn on the customer's TD Bank (TDCB) account 6860420923.
11/24/2008	Commented		mcwilljx	The customer also received a \$13,395,000.00 in-coming wire drawn on Banyon Funding LLC. The funds were used in the form of out-going wires to Banyon Funding, LLC "Collection".
11/24/2008	Commented		mcwilljx	[Redacted] [Redacted] The activity is consistent with the customer's business.
11/24/2008	Commented		mcwilljx	Act# [Redacted]
11/24/2008	Commented		mcwilljx	[Redacted] and it was determined the alert generated because of an increase in account credits and debits. This alert generated in October 2008, and was reviewed from October 1, 2008 to October 31, 2008. This account is operated by [Redacted] [Redacted] which is a commercial law firm with more than one hundred twenty

TDBANK 000032

Date	Action	State	Performed By	Comments
11/24/2008	Commented		mcwilljx	five attorneys practicing in [Redacted] Redacted [Redacted] Redacted The Firm is a member of two international law firm networks that enable our attorneys to assistance to clients nationally and worldwide. The account was funded with in-coming wires drawn on the customer's Bank of America Account, [Redacted] Redacted The account was additionally funded with multiple business check deposits (i.e. [Redacted] Redacted [Redacted], etc.). The funds were primarily used in the form of multiple business check payments (i.e. [Redacted] Redacted [Redacted] Redacted Clerk of Courts, [Redacted] Redacted [Redacted] Redacted, etc.). [Redacted] Redacted The activity is consistent with the customer's business.
11/24/2008	Commented		mcwilljx	Act#6860420923 [Redacted] Redacted and it was determined the alert generated because of an increase in account credits and debits. This alert generated in October 2008, and was reviewed from October 1, 2008 to October 31, 2008. This account is operated by the attorneys Rothstein Rosenfeldt & Adler. The account was funded with transfers drawn on the customer's TD Bank accounts (TDCB) 6860291258 and 6860699146. The funds were primarily used in the form of out-going wires to Banyon Investments Collection. [Redacted] Redacted [Redacted] Redacted
11/24/2008	Commented		mcwilljx	The activity is consistent with the customer's business.
11/24/2008	Commented		mcwilljx	Act#6860699146 [Redacted] Redacted It was determined the alert generated because of an increase in wire activity. This alert generated in October 2008, and was reviewed from October 1, 2008 to October 31, 2008. This account is operated by the attorneys Rothstein Rosenfeldt & Adler. The account was funded with in-coming wires drawn on Banyon 1030-32 LLC. The funds were primarily used in the form of out-going wires to Banyon 1030-32 LLC. [Redacted] Redacted [Redacted] Redacted
11/24/2008	Commented		mcwilljx	

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Date	Action	State	Performed By	Comments
11/24/2008	Commented		mcwilljx	<p>Redacted The activity is consistent with the customer's business.</p> <p>The alert was closed in "Lo" status.</p> <p>Resources: SIP</p>
11/24/2008	State Changed	Closed Redacted	mcwilljx	
11/24/2008	Commented		mcwilljx	<p>Closed - Alert generated Redacted</p>



AML - Monthly Alert Summary

Score 227.30 Altered Month Dec08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 01/11/2009  
 Assigned To Gilda Petrane  
 Account Number [Redacted] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY SUPPORT Occupation  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! SSN [Redacted]  
 TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
01/11/2009	Created	Open	FRAMEWORK	
01/26/2009	Reassigned	Open	spenceal	
02/03/2009	State Changed	[Redacted]	petranga	
02/03/2009	Commented		petranga	From 12/01/08 to 12/31/08. [Redacted] . Alereted for incoming & outgoing wires, check deposits & on us checks. Incoming wires aggregated \$12,906,231.03. Originating banks Citi, ING & Goldman Sachs. Originators Escrow [Redacted]
02/03/2009	Commented		petranga	[Redacted] . Outgoing wires aggregated \$12,044,575.22. Recipient banks City Nat., Wachovia & Bk. of Am. Recipients [Redacted] [Redacted] Check deposits from [Redacted] . Checks paid
02/03/2009	Commented		petranga	to Boward Co. Revenue Collector, Bd. of County Commissions & [Redacted] . Activity is consistent with type of account. [Redacted] [Redacted] . Researched SIP.
02/03/2009	State Changed	Closed [Redacted]	petranga	
02/03/2009	Commented		petranga	Closed [Redacted]
02/03/2009	State Changed	[Redacted]	petranga	

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Date	Action	State	Performed By	Comments
02/03/2009	Commented		petranga	From 12/01/08 to 12/31/08 Account [Redacted] Attorney Trust. Alerted for electronic credit transfers & outgoing wires. Electronic credit transfers from 6860699146 & 6860420923 aggregated \$19,800,000.00. Source of funds for outgoing wires
02/03/2009	Commented		petranga	aggregating \$30,265,556.80. Recipient banks Palm Beach Co. Bank, Bk. of Am. & Gibraltar. Recipients Banyon Funding [Redacted] Activity is consistent with type of account [Redacted] [Redacted] Researched SIP.
02/03/2009	State Changed	Closed [Redacted]	petranga	
02/03/2009	Commented		petranga	Closed [Redacted]
02/03/2009	State Changed	[Redacted]	petranga	
02/03/2009	Commented		petranga	From 12/01/08 to 12/31/08. Account 6860420923. Attorney Trust. Alerted for electronic credit transfers, electronic debit transfers & outgoing wires. Electronic credit transfers aggregated \$11,700,000.00 from 6860699146 & 6860755104. Electronic debit transfers aggregated \$20,546,600.00 to 6860291274, 6860423489 & 6860291258. Outgoing wires aggregated \$34,963,079.72. Recipient banks Palm Beach & Gibraltar, recipient Banyon investments. Activity is consistent with type of account. [Redacted] [Redacted] Researched SIP.
02/03/2009	Commented		petranga	
02/03/2009	State Changed	Closed [Redacted]	petranga	
02/03/2009	Commented		petranga	Closed [Redacted]
02/03/2009	State Changed	[Redacted]	petranga	
02/03/2009	Commented		petranga	From 12/01/08 to 12/31/08. Account 6860699146-Attorney Trust. Alerted for incoming wires, outgoing wires & electronic debit transfers. Incoming wires aggregated \$28,200,000.00. Originating bank Commerce, originator Banyon Funding. Outgoing wires aggregated \$10,914,185.89. Recipient banks Palm Beach & City National. Recipients Banyon [Redacted]. Electronic debit transfers aggregated \$20,600,00.00 to 6860291258, [Redacted] & 6860291274. Activity is consistent with type of account. [Redacted] Researched SIP.
02/03/2009	Commented		petranga	
02/03/2009	State Changed	Closed [Redacted]	petranga	
02/03/2009	Commented		petranga	Closed [Redacted]

TDBANK 000036



AML - Monthly Alert Summary

Score 136.00 Altered Month Jan09  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 02/08/2009  
 Assigned To Jennifer Wirtz  
 Account Number [Redacted] Branch 1360719  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [Redacted]  
 DO NOT CHANGE THIS FILE - CIF OR RSS II TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 0000008887519000  
 Home Phone 0000008887519000

Alert History

Date	Action	State	Performed By	Comments
02/08/2009	Created	Open	FRAMEWORK	
02/23/2009	Reassigned	Open	spenceal	
02/27/2009	State Changed	[Redacted]	wirtzjx	
03/03/2009	Commented		wirtzjx	Acct. [Redacted] is an Iota acct. that alerted for wire credits & check debits & credits for the month of January. Wires were sent to the acct. from related entities such as [Redacted]
03/03/2009	Commented		wirtzjx	[Redacted] Checks deposited into the accts. were drawn on individuals & businesses to be held in trust. Checks were made payable to entities such as [Redacted]
03/03/2009	Commented		wirtzjx	[Redacted] This activity is consistent with the acct. type [Redacted]
03/03/2009	Commented		wirtzjx	Acct. 6860291258 is an Iota acct. that alerted for wire debits & credits & non-ACH transfer debits & credits for the month of January. Wires were sent to & from the acct. from related entities such as Banyon Funding LLC, Rothstein Rosenfeldt Adler & Banyon 1030-32 LLC. Non-ACH transfer credits aggregated to \$15,500,000 & non-ACH transfer debits aggregated to \$3,000,000. This

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Date	Action	State	Performed By	Comments
03/03/2009	Commented		wirtzxjx	activity is consistent with the acct. type [Redacted] [Redacted]. Acct. [Redacted] is an lota acct. that alerted for wire credits & check debits & credits for the month of January. Wires were sent to the acct. from related
03/03/2009	Commented		wirtzxjx	entities such as [Redacted] [Redacted] Checks deposited into the accts. were drawn on individuals & businesses to be held in trust. Checks were made
03/03/2009	Commented		wirtzxjx	payable to entities such as [Redacted] [Redacted]. This activity is consistent with
03/03/2009	Commented		wirtzxjx	the acct. type [Redacted] [Redacted]. Acct. 6860420923 is an lota acct. that alerted for wire debits & credits & non-ACH transfer & interest debits & credits for the month of January. Wires were sent to & from the acct. from related entities
03/03/2009	Commented		wirtzxjx	such as Rothstein Rosenfeldt Adler, Banyon 1030-32 LLC, [Redacted] & Banyon Investments LLC. Non-ACH transfer credits aggregated to \$16,300,000 & non-ACH transfer debits aggregated to \$37,185,000. Interest credits & debits aggregated to \$9,240.36. This activity is consistent with
03/03/2009	Commented		wirtzxjx	the acct. type [Redacted] [Redacted]. Acct. 6860699146 is an lota acct. that alerted for wire debits & credits & non-ACH transfer debits & credits for the month of January. Wires were sent to & from the acct. from
03/03/2009	Commented		wirtzxjx	Banyon 1030-32 LLC. Non-ACH transfer credits aggregated to \$4,850,000 & non-ACH transfer debits aggregated to \$3,800,000. This activity is consistent with the acct. type [Redacted] [Redacted]
03/03/2009	Commented		wirtzxjx	Acct. 6860755344 is an lota acct. that alerted for wire debits & credits; non-ACH transfer debits & credits & check at teller debits for the month of January. Wires were sent to & from the acct. from related entities such as [Redacted] [Redacted]
03/03/2009	Commented		wirtzxjx	[Redacted] Non-ACH transfer credits aggregated to \$13,500,000 & non-ACH transfer debits aggregated to \$8,750,000. Check at teller debit transfers to business analysis checking acct. 6860699427 (Banyon 1030-32 LLC) aggregated to \$12,300,000. This activity is consistent with the acct. type [Redacted] [Redacted]
03/03/2009	State Changed	Closed [Redacted]	wirtzxjx	
03/03/2009	Commented		wirtzxjx	Closed - Alert generated, [Redacted] [Redacted]

Resources: SIP

TDBANK 000038

Bryon Funding 3/24/09

~~Stat~~  
Exempt from  
Statutory violations only

Discounts as little as 10%

\$600MM in receivable

Avg 12 month  
Avg maturity 9 months

If lenders are currently providing fund  
\$150MM Platinum  
\$50MM Centurian  
\$50MM Level III  
\$50MM Gibraltar

Purchased Price \$1.8MM  
Settlements Avg \$3MM

Equity Participations → From the hedge funds

✓ Premium is the confidentiality

✓

✓ EEOC → typical claim is \$250,000 normally

✓ Media sensitive cases → get more

✓ Want

✓ 10-30 cases per month of settlements

10 days is the outside

3 page ~~request~~ Advance Request

Advance

Assignment of

2 purchase and sale agreements

Findre letter from

Redacted Documents -

They use

Onyx Management  
Michael Steffanski

Reviews all the pending

300-400

Doing about 60MM/month

About \$70MM/month in collection

**BANYON 1030-32, LLC AND AFFILIATES  
 CONSOLIDATED STATEMENTS OF CASH FLOWS  
 FOR THE SIX MONTHS ENDED JUNE 30, 2008 AND FOR THE  
 PERIOD FROM INCEPTION (DECEMBER 22, 2006) TO DECEMBER 31, 2007**

	2008 <u>(Reviewed)</u>	2007 <u>(Audited)</u>
<b>Cash Flows from Operating Activities:</b>		
Net income	\$ 35,023,694	\$ 7,807,637
Adjustment to reconcile net income to net cash provided by operating activities:		
Accretion of unearned income	(37,699,302)	(7,956,654)
Depreciation expense	8,864	-
Change in operating assets:		
Due from related parties	(2,960,684)	-
Other assets	(165,997)	-
Change in operating liabilities:		
Accounts payable and accrued expenses	140,542	150,724
Claims payable	6,767,985	1,608,000
Security deposits	31,016	-
Net cash provided by operating activities	<u>1,146,048</u>	<u>1,809,707</u>
<b>Cash Flows from Investing Activities:</b>		
Purchase of property and equipment	(2,292,204)	-
Finance receivable collections	78,158,553	12,725,382
Finance receivable purchases, including acquisition costs	<u>(108,043,329)</u>	<u>(32,378,165)</u>
Net cash used in investing activities	<u>(34,176,980)</u>	<u>(19,652,783)</u>
<b>Cash Flows from Financing Activities:</b>		
Proceeds from notes payable	74,682,011	4,821,643
Principal payments on notes payable	(15,531,916)	(293,025)
Member capital contributions	2,459,131	17,631,100
Distributions to members	<u>(4,568,255)</u>	<u>(4,116,562)</u>
Net cash provided by financing activities	<u>57,040,971</u>	<u>18,043,156</u>
Net increase in cash	24,010,039	80
Cash, Beginning of Period	<u>80</u>	<u>-</u>
Cash, End of Period	<u>\$ 24,010,119</u>	<u>\$ 80</u>
<b>Supplemental disclosure of cash flow information:</b>		
Interest paid	<u>\$ 2,444,790</u>	<u>\$ 145,787</u>
<b>Supplemental disclosure of non-cash investing and financing activities:</b>		
Reclassification of deferred revenue to due to investors	<u>\$ 2,147,215</u>	<u>\$ -</u>
Debt incurred in acquisition of property	<u>\$ 1,850,000</u>	<u>\$ -</u>

*Non cash*

*what's this*

*Non cash*

See accompanying notes to the consolidated financial statements.

BANYON 1030-32, LLC  
 STATEMENT OF CASH FLOWS  
 FOR THE PERIOD FROM INCEPTION (DECEMBER 22, 2006) TO DECEMBER 31, 2007

<b>Cash Flows from Operating Activities:</b>	
Net Income	\$ 7,807,637
Adjustment to reconcile net income to net cash provided by operating activities:	
Accretion of unearned income	(7,956,654)
Change in operating liabilities:	
Accounts payable and accrued expenses	150,724
Claims payable	1,608,000
Net cash provided by operating activities	<u>1,609,707</u>
<b>Cash Flows from Investing Activities:</b>	
Finance receivable collections	12,725,382
Finance receivable purchases, including acquisition costs	<u>(32,378,165)</u>
Net cash used in investing activities	<u>(19,652,783)</u>
<b>Cash Flows from Financing Activities:</b>	
Borrowings under notes payable	4,628,618
Member capital contributions	17,631,100
Distributions to members	<u>(4,116,562)</u>
Net cash provided by financing activities	<u>18,043,156</u>
Net increase in cash	80
Cash, Beginning of Period	<u>-</u>
Cash, End of Period	<u>\$ 80</u>
<b>Supplemental disclosure of cash flow information:</b>	
Interest paid	<u>\$ 145,767</u>

*h/heads  
Ans*

**Supplemental disclosure of non-cash investing and financing activities:**  
 During the period from inception (December 22, 2006) to December 31, 2007, the Company did not enter into any non-cash transactions.

See accompanying notes to the financial statements.

# FINAL BOSTON-RRR

BOSTON 1	5/1/2008	6/1/2008	7/1/2008	8/1/2008	9/1/2008	10/1/2008	11/1/2008	12/1/2008	1/1/2009	2/1/2009	3/1/2009	4/1/2009	5/1/2009	6/1/2009	7/1/2009
Tranche 1	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000	12,000,000					
RELEASE		-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000
Monthly Total	12,000,000	4,500,000	4,500,000	4,500,000	4,500,000	4,500,000	4,500,000	4,500,000	4,500,000	4,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000
Cumulative	12,000,000	16,500,000	21,000,000	25,500,000	30,000,000	34,500,000	39,000,000	43,500,000	48,000,000	52,500,000	45,000,000	37,500,000	30,000,000	22,500,000	15,000,000

Loan Account	12,000,000	16,500,000	21,000,000	25,500,000	30,000,000	34,500,000	39,000,000	43,500,000	48,000,000	52,500,000	45,000,000	37,500,000	30,000,000	22,500,000	15,000,000
Banyon Trust A	180,000,000	172,500,000	185,000,000	157,500,000	150,000,000	142,500,000	135,000,000	127,500,000	120,000,000	112,500,000	105,000,000	97,500,000	90,000,000	82,500,000	75,000,000

*180m F/W*  
*120m PP*  
*60m Discont*  
*24 month*

8/1/2009	9/1/2009	10/1/2009	11/1/2009	12/1/2009	1/1/2010	2/1/2010	3/1/2010	4/1/2010	5/1/2010	Tanche Total
										120,000,000
-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-180,000,000
-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-7,500,000	-60,000,000
7,500,000	0	-7,500,000	-15,000,000	-22,500,000	-30,000,000	-37,500,000	-45,000,000	-52,500,000	-60,000,000	-60,000,000

-105,000,000

7,500,000										
87,500,000	60,000,000	52,500,000	45,000,000	37,500,000	30,000,000	22,500,000	15,000,000	7,500,000		





AML - Monthly Alert Summary

Score 191.41 Altered Month Nov08  
 Customer Name IOTA MASTER ACCOUNT FL Date Raised 12/06/2008  
 Assigned To Jennifer Wirtz  
 Account Number [REDACTED] Branch 1360715  
 Source Account Security Blanket  
 Address MUST CHANGE ADDR ON CKCHAL Employer  
 X234-3377 L PRESTON REGULATORY Occupation  
 SUPPORT SSN [REDACTED]  
 DO NOT CHANGE THIS FILE - CIF OR RSS !! TIN Type F  
 Zip Code 08054 Date of Birth  
 Customer Since 11/22/2005 Driver's License No.  
 Business Phone 000008887519000  
 Home Phone 000008887519000

Alert History

Date	Action	State	Performed By	Comments
12/06/2008	Created	Open	FRAMEWORK	
12/19/2008	Reassigned	Open	spenceal	
01/05/2009	State Changed	[REDACTED]	wirtzxjx	
01/05/2009	Commented		wirtzxjx	Acct. [REDACTED] is an IOTA acct. that alerted for wire credits & debits & on us check debits for the month of November. Wires were sent to & from the acct. from related entities such as [REDACTED]
01/05/2009	Commented		wirtzxjx	[REDACTED] Checks deposited into the accts. were drawn on individuals & businesses to be held in trust. Checks were made payable to entities such as [REDACTED], Tax Collector Palm Beach County [REDACTED].
01/05/2009	Commented		wirtzxjx	Acct. [REDACTED] is an IOTA acct. that alerted for wire & check at teller credits & wire, check at teller & on us check debits for the month of November. Wires were sent to & from the acct. from related entities such as [REDACTED]
01/05/2009	Commented		wirtzxjx	[REDACTED] Checks deposited into the acct. were drawn on individuals & businesses to be held in trust. Check at teller withdrawals were made to purchase official checks payable to [REDACTED]

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Date	Action	State	Performed By	Comments
01/05/2009	Commented		wirtzxjx	<p>██████████ (\$258,749.74) &amp; Palm Beach County Tax Collector (\$4,825.68).            Acct. 6860291258 is an Iota acct. that alerted for wire, non-ACH transfer &amp; interest credits &amp; debits for the month of November. Wires were sent to &amp; from the acct.</p>
01/05/2009	Commented		wirtzxjx	<p>from related entities such as Banyon Funding LLC, Banyon Funding LLC "Collection" &amp; Banyon 1030-32. Non-ACH transfer credits &amp; debits were from checking accts. 6860420923 (Rothstein Rosenfeldt Adler PA-Attorney Trust Acct. 3), 6860291274 (Rothstein Rosenfeldt Adler PA-Operating Acct.) &amp; 6860699146 (Rothstein Rosenfeldt Adler PA-Attorney Trust Acct.). The acct. also accrued \$6,243.39 in interest.</p>
01/05/2009	Commented		wirtzxjx	<p>Acct. 6860420923 is an Iota acct. that alerted for wire, non-ACH transfer &amp; interest credits &amp; debits for the month of November. Wires were sent to &amp; from the acct. from related entities such as Banyon Resources LLC, Banyon Investments LLC &amp; Banyon Investments Collection. Non-ACH transfer credits &amp; debits were from checking accts. 6860291274 (Rothstein Rosenfeldt Adler PA-Operating Acct.), 6860291258 (Rothstein Rosenfeldt Adler PA-Attorney Trust Acct.) &amp; 6860423489 (Rothstein Rosenfeldt Adler PA-Attorney Trust Acct. 2). The acct. also accrued \$30,252.75 in interest.</p>
01/05/2009	Commented		wirtzxjx	<p>Acct. 6860699146 is an Iota acct. that alerted for wire, non-ACH transfer &amp; interest credits &amp; debits for the month of November. Wires were sent to &amp; from the acct. from related entities such as Banyon 1030-32 LLC &amp; Rothstein Rosenfeldt Adler. Non-ACH transfer credits &amp; debits were from checking accts. 6860291274 (Rothstein Rosenfeldt Adler PA-Operating Acct.), 6860291258 (Rothstein Rosenfeldt Adler PA-Attorney Trust Acct.) &amp; 6860420923 (Rothstein Rosenfeldt Adler PA-Attorney Trust Acct. 3). The acct. also accrued \$5,283.29 in interest.</p>
01/05/2009	Commented		wirtzxjx	<p>Acct. 6860755104 is an Iota acct. that alerted for wire &amp; non-ACH transfer credits &amp; wire debits for the month of November. Wires were sent to &amp; from the acct. from related entities such as Banyon Resources LLC. Non-ACH transfer credits into the acct. were from checking accts. 6860291274 (Rothstein Rosenfeldt Adler PA-Operating Acct.) &amp; 6860420923 (Rothstein Rosenfeldt Adler PA-Attorney Trust Acct. 3).            This activity is consistent with the acct. type ██████████</p>
01/05/2009	State Changed	Closed ██████████	wirtzxjx	<p>Resources: SIP</p>

TDBank 000047

Date	Action	State	Performed By	Comments
01/05/2009	Commented		wifzjx	Closed - Alert generated, [REDACTED]

TDBank 000048



# EXHIBIT B



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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

VIA ELECTRONIC MAIL

November 22, 2011

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Subject: *Coquina Investments v. Scott W. Rothstein, et al.*,  
No. 0:10-cv-60786-Cooke/Bandstra (S.D. Fla.)

Dear Ms. Evans and Mr. Fornaris:

This concerns your November 21, 2011 telephone call to me and March 28, 2011 written notification to the Office of the Comptroller of the Currency (the "OCC") pursuant to 12 C.F.R. 21.11(k) concerning requests by plaintiff in the above-named case that implicate federal law prohibiting the disclosure of Suspicious Activity Reports ("SARs"). You represent defendant TD Bank, N.A., a national bank that is supervised by the OCC. You contacted me by telephone yesterday to advise the OCC of an order issued by United States District Court Judge Marcia G. Cooke seeking, among other things, a response from the OCC regarding the availability of SARs for use in private civil litigation. As explained below, in the context of private civil litigation, the Bank Secrecy Act, 31 U.S.C. § 5318(g) and the OCC's regulations prohibit the OCC from disclosing or authorizing national banks to disclose any SAR or information that would reveal whether a SAR has or has not been filed in connection with any suspicious activity.

Discussion

Under the OCC's regulations a SAR and any information that would reveal the existence of a SAR are confidential non-public OCC information. 12 C.F.R. § 4.32(b)(1)(vii). Generally, no person in lawful possession of non-public OCC information may disclose that information unless

they have complied with the requirements of 12 C.F.R. §§ 4.31-4.40, which also provides the mechanism for any litigant who wants to use non-public OCC information in litigation to seek authorization from the OCC for access to that information. Under these procedures, it is the litigant that wants to use the non-public OCC information that is required to file the request with the OCC. It is that litigant's obligation to respond to the regulatory requests set forth in 12 C.F.R. § 4.33 in order to demonstrate the litigant's need to use non-public OCC information. While the regulation sets forth the information a requester must supply the OCC, there is no specific form to be filed. Accordingly, to the extent that the plaintiff seeks to use non-public OCC information in this action, it is the plaintiff's obligation to file a request with the OCC; and to the extent that TD Bank wants to use non-public OCC information, it is TD Bank's obligation to file the request with the OCC.

In addition to the general restrictions on disclosure of non-public OCC information, SARs are subject to further statutory and regulatory prohibitions on their disclosure. The Bank Secrecy Act, 31 U.S.C. § 5318(g)(2), and implementing OCC regulations, 12 C.F.R. § 21.11(k), forbid the disclosure of a SAR except for the law enforcement purposes underlying the Bank Secrecy Act. The Bank Secrecy Act provides:

- Notification prohibited. (A) In general. If a financial institution or any director, officer, employee or agent of any financial institution, voluntarily or pursuant to this section or any other authority, reports a suspicious transaction to a government agency—
- (i) The financial institution, director, officer, employee, or agent may not notify any person involved in the transaction that the transaction has been reported; and
  - (ii) No officer or employee of the Federal Government or of any State, local, tribal, or territorial government within the United States, who has any knowledge that such report was made may disclose to any person involved in the transaction that the transaction has been reported, other than as necessary to fulfill the official duties of such officer or employee.

31 U.S.C. § 5318(g)(2).

The OCC has issued regulations to implement the Bank Secrecy Act, including its prohibition on disclosures that would interfere, directly or indirectly, with the effectiveness of this Congressionally-mandated law enforcement mechanism. As recently amended, 12 C.F.R. § 21(k) provides:

*Confidentiality of SARs.* A SAR, and any information that would reveal the existence of a SAR, are confidential, and shall not be disclosed except as authorized in this paragraph (k).

75 Fed. Reg. 75576, 75583 (Dec. 3, 2010). Because of the recognized importance of SARs to law enforcement and the importance of confidentiality of the filing of SARs, more than a dozen state and federal courts have refused to permit discovery of SARs from a bank in private civil litigation. *See, e.g., Union Bank of California, N.A. v. Super. Ct. of Alameda County*, 29 Cal. Rptr. 3d 894, 901 (Cal. Ct. App. 2005). *See also Lee v. Bankers Trust Co.*, 166 F.3d 540, 544 (2d Cir. 1999) (“[E]ven in a suit for damages based on disclosures allegedly made in an SAR, a financial institution cannot reveal what disclosures it made in an SAR, or even whether it filed an SAR at all.”). Courts have also held that the privilege accorded a SAR is unqualified and cannot be waived. *Whitney Nat’l Bank v. Karam*, 306 F. Supp. 2d 678, 682 (S.D. Tex. 2004); *Gregory v. Bank One Indiana, N.A.*, 200 F. Supp. 2d 1000, 1002-1003 (S.D. Ind. 2002). *See also FDIC v. Flagship Auto Center, Inc.*, 2005 WL 1140678 at \*5 (N.D. Ohio May 13, 2005) (“The Magistrate cannot compel the production of the SARs and Plaintiff is prohibited from providing any information that a SAR has been prepared or filed”); *Wuliger v. OCC*, 394 F. Supp. 2d 1009, 1016 (N.D. Ohio 2005) (surveying cases prohibiting discovery of SARs in civil litigation).

The OCC recently amended its regulations to reflect the OCC’s obligations under the Bank Secrecy Act. In accordance with the statutory language, the amended regulation prohibits the OCC and its officers and employees from disclosing a SAR “or any information that would reveal the existence of a SAR, except as necessary to fulfill official duties consistent with Title II of the Bank Secrecy Act.” The amended regulation goes on to explain that “official duties”

shall not include the disclosure of a SAR, or any information that would reveal the existence of a SAR, in response to a request for use in a private legal proceeding or in response to a request for disclosure of non-public OCC information under 12 CFR 4.33.

12 C.F.R. § 21.11(k)(2), as amended, 75 Fed. Reg. 75583 (Dec. 3, 2010).

The confidentiality of SARs, or any information that would reveal the existence of a SAR, must be maintained for a number of compelling reasons. The OCC believes that disclosure of SARs could chill the willingness of a national bank to file SARs and to provide the degree of detail and completeness in describing suspicious activity in SARs that will be of use to law enforcement in combating terrorism, terrorist financing, money laundering and other financial crimes. *See Confidentiality of SARs*, 75 Fed. Reg. 75576, 75578 (Dec. 3, 2010). Even occasional disclosure of a SAR for purposes unrelated to the statutory reasons for collection of the information may adversely affect timely, appropriate and candid reporting by institutions. If institutions believe that information in a SAR can be used for purposes unrelated to law enforcement purposes, they will have an incentive to adjust the nature of their reporting to respond to the risks they perceive from the other uses of the SARs. For example, an institution may delay or forego filing a SAR if it believes that private litigants will be able to use the SAR to prove that the institution suspected fraudulent conduct by a customer but negligently failed to take action to stop the customer’s conduct before the private litigants were injured. Similarly, if an institution believes that it may be held liable in civil litigation for failing to file a SAR, it may attempt to reduce its risk of liability by establishing an unreasonably low threshold for filing SARs, essentially flooding the

system with information that could obscure more serious activities. Moreover, institutions may be reluctant to file reports, or may delay filing reports, out of fear that the SAR's disclosure would interfere with the institution's relationship with a customer. These reasons for the confidentiality of SARs are not eliminated when the criminal prosecution has concluded, or if no action is ever taken with respect to a SAR. They are ongoing and make confidentiality of SARs an essential component to the successful operation of the statute's suspicious activity reporting requirement.

Under the OCC's regulations, TD Bank is prohibited from disclosing any SAR or revealing whether a SAR has been filed in connection with any suspicious activity. 31 U.S.C. § 5318(g)(2) and 12 C.F.R. § 21.21(k). The OCC's regulation provides guidance to national banks when responding to requests for the disclosure of a SAR or any information that would disclose that a SAR has been prepared or filed. Under that regulation, a national bank that receives a request for SARs or information that may disclose whether a SAR has been prepared or filed is required to "decline to produce the SAR or such information, citing [12 C.F.R. § 21.21(k)] and 31 U.S.C. 5318(g)(2)(A)(i), and [to] notify the \* \* \* Director, Litigation Division, Office of the Comptroller of the Currency \* \* \* ." 12 C.F.R. § 21.21(k)(1). As required by the OCC's regulation, your March 28, 2011 letter to me notified the OCC that TD Bank had been served with requests for production of documents that sought, among other things, all "Suspicious Activity Reports ("SAR") pertaining to Rothstein and/or RRA and any account owned by Rothstein and/or RRA." Your response to the request notified plaintiff of the relevant OCC regulations. I am unaware of any request from plaintiff's counsel seeking access to any non-public OCC information or SARs, if any exist.

The prohibition on the disclosure of SARs or information that would reveal whether a SAR has or has not been filed in connection with a suspicious activity does not prevent litigants from discovering all of the factual information underlying the transactions that are at issue. Bank records concerning those transactions are not covered by prohibition so long as they do not themselves refer to the filing of a SAR, or otherwise indicate that a SAR has or has not been filed in connection with a specific transaction.

I trust this explains the OCC's position with respect to the availability of SARs for use in private civil litigation.

Sincerely,



Horace G. Sheed  
Director  
Litigation Division

# EXHIBIT C



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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

VIA ELECTRONIC MAIL

December 2, 2011

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Subject: *Coquina Investments v. TD Bank, N.A.*, No. 10-60786-Civ-Cooke (S.D. Fla.)

Dear Counsel:

This is in response to the November 26, 2011 from David S. Mandel, attorney for plaintiffs and November 30, 2011 letter from Carl A. Fornaris in which the parties seek an expedited decision from the Office of the Office of the Comptroller of the Currency (the "OCC") concerning the permissibility of disclosing certain materials that had been redacted in a 42 page document that defendant TD Bank, N.A., had provided to plaintiffs' counsel. At issue is whether the disclosure of the redacted information could be authorized by the OCC consistent with the requirements of the Bank Secrecy Act and OCC regulations that prohibit the disclosure of suspicious activities reports ("SARs") and information indicating that a SAR had or had not been filed in connection with particular transactions.

As explained in a November 22, 2011 letter from Horace G. Sneed to counsel for TD Bank, OCC regulations provide that a SAR and any information that would reveal that a SAR has been filed are confidential non-public OCC information. 12 C.F.R. § 4.32(b)(1)(vii). The Bank Secrecy Act, 31 U.S.C. § 5318(g)(2), and implementing OCC regulations, 12 C.F.R. § 21.11(k), forbid the disclosure of a SAR and information indicating whether or not a SAR has been filed except for the law enforcement purposes underlying the Bank Secrecy Act. Thus, neither TD Bank, nor the OCC, may disclose whether a SAR has been filed except to fulfill the law enforcement purposes of the Bank Secrecy Act. *See* 12 C.F.R. § 21.11(k), as amended, 75 Fed. Reg. 75583 (Dec. 3, 2010).

Based on a review of the redacted information, I conclude that the redactions were appropriate to prevent disclosure of whether or not a SAR had been filed in connection with specific transactions. However, I also conclude that allowing TD Bank to un-redact certain additional information would not violate the requirements of federal law so long as the redactions do not disclose that a SAR was or was not filed. As the OCC explained in the preamble to the regulation governing confidentiality of SARs:

Any document or other information that affirmatively states that a SAR has been filed constitutes information that would reveal the existence of a SAR and must be kept confidential. By extension, a national bank also must afford confidentiality to any document stating that a SAR has not been filed. Were the OCC to allow disclosure of information when a SAR is not filed, institutions would implicitly reveal the existence of a SAR any time they were unable to produce records because a SAR was filed.

75 Fed. Reg. 75579

Notwithstanding the requirement to keep confidential information that would disclose whether or not a SAR has been filed, the OCC will authorize TD Bank to un-redact those portions of the document at issue that do not explicitly reveal that a SAR was or was not filed. This means that TD Bank may un-redact statements indicating that a transaction was or was not suspicious, but may not un-redact any text or code showing that the TD Bank did, or did not, file a SAR in connection with particular transactions or events.

If you have any additional questions regarding this matter, please contact Horace G. Sneed at (202) 874-5280.

Sincerely,



Daniel P. Stipano  
Deputy Chief Counsel