

FRAUD SECTION

ACTIVITIES REPORT

Fiscal Year 2008

(October 1, 2007, through September 30, 2008)



Fraud Section: <http://www.usdoj.gov/criminal/fraud/>

For the specific fraud areas below, place the following endings after criminal/fraud:

Foreign Corrupt Practices Act: /fcpa/

Identity Theft: /websites/idtheft.html

Internet Fraud: /internet/

Telemarketing Fraud: /telemarket/

Securities and Commodities Fraud Working Group: /scfwgdir.pdf

MESSAGE FROM THE CHIEF

During this past year, the Fraud Section continued to lead the Department of Justice's efforts to combat economic crime, spearheading significant prosecutions and innovative and comprehensive enforcement initiatives in numerous areas, including corporate fraud and abuse, foreign bribery, health care fraud, procurement fraud, securities and commodities fraud, mortgage fraud and mass-marketing fraud.

The Fraud Section is charged with responsibility for leading the federal law enforcement effort against various types of economic crime. The Section's challenging portfolio of responsibilities encompasses cutting-edge litigation, large-scale international and multidistrict case coordination and prosecution, and the formulation and analysis of policy and legislation. Fraud Section attorneys prosecute complex and sensitive cases throughout the United States. The Section leads and participates in a broad range of enforcement initiatives, identifies new fraud trends and issues, and helps develop Department policy for attacking financial fraud. It has continued its leadership of the Department's financial crime initiatives this past year, bringing and successfully resolving more cases than in each of the past five years. The Fraud Section routinely is called upon to address and develop strategies to curb the growth of corporate fraud, foreign bribery, health care fraud, procurement fraud, identity theft, energy fraud, and international consumer scams. Fraud Section attorneys also provide critical interagency coordination for priority enforcement programs and participate in developing and teaching economic crime training courses.

The Fraud Section's attorneys, paralegals, and support personnel, all dedicated public servants, can take special pride in their contributions to the Section's accomplishments, which I am pleased to share with you.

*Steven A. Tyrrell
Chief*

SIGNIFICANT STATISTICS Fiscal Year (FY) 2008

New Investigations Opened	93
Complaints/Indictments/Informations Filed	80
Deferred or Non-Prosecution Agreements	11
Defendants Charged	160
Defendants Convicted	156
Trials	18

MAJOR FRAUD CASES

The Fraud Section prosecutes cases as part of initiatives undertaken by the Department, Criminal Division, or Section; when the law requires it; when the national interest rises above that of any particular U.S. Attorney's Office (USAO); when a USAO is recused; upon request from a USAO for assistance in the form of expertise or trial support; or upon request by a USAO to handle a particular prosecution.

Corporate/Securities Fraud: In the investigation of the collapse of the Enron Corporation, as of the end of FY 08, 21 defendants have been convicted, including a former chief executive officer (CEO) who was sentenced to 24+ years in prison. Seven defendants await retrial in FY 09.

In a joint case in the District of Connecticut, a jury returned a verdict of guilty on all charges against four former executives of General Re Corporation (Gen Re) and one former executive of American International Group, Inc. (AIG). The charges of conspiracy, securities fraud, causing false statements to the Securities and Exchange Commission (SEC), making false statements to the SEC, and mail fraud stemmed from a fraudulent scheme to manipulate AIG's financial statements. At trial, the evidence showed that the defendants engaged in a scheme to artificially inflate AIG's reported loss reserves, a key indicator of financial health to insurance industry analysts and investors. This fraud was effectuated through the use of two \$250 million sham reinsurance transactions between subsidiaries of AIG and Gen Re in response to analysts' criticism of a \$59 million decrease in AIG's loss reserves for the third quarter of 2000.

In a joint case in the Southern District of Ohio, five former executives of National Century Financial Enterprises (NCFE), one of the largest health care finance companies in the United States until it filed for bankruptcy in November 2002, were found guilty on all counts of a superseding indictment charging them with conspiracy and various counts of securities fraud, wire fraud, and money laundering resulting in more than \$2 billion in losses. Two co-defendants, the former NCFE CEO and a former vice president, are being tried separately in FY 09. Also, a jury convicted the former NCFE CEO and another person in March 2008 on witness tampering and obstruction charges.

Foreign Bribery: During FY 08, the Section successfully concluded 16 enforcement actions against individuals and

companies—the most in any one year since passage of the Foreign Corrupt Practices Act (FCPA) in 1977. This included major dispositions against ten companies and/or their subsidiaries, involving total payment of more than \$50 million in penalties.

As part of its ongoing investigation of companies that participated in the United Nations Oil for Food Program, the Section entered into deferred prosecution agreements (DPAs) with AB Volvo and two of its subsidiaries, Flowserv Corporation and a subsidiary, Ingersoll-Rand Company Limited and two of its subsidiaries, and York International Corporation. The Section also entered into a nonprosecution agreement (NPA) with a third company, Akzo-Nobel, NV. These agreements resulted in payment of a total of \$23.5 million in penalties.

The Section also entered into DPAs in FCPA cases involving Willbros Group, Inc., and its international subsidiary, and AGA Medical Corporation, resulting in payment of another \$24 million in penalties. In the Southern District of Texas, the Section charged Willbros, a publicly traded company that provides construction, engineering and other services in the oil and gas industry, and its international subsidiary with one count of conspiring to make more than \$6.3 million in bribe payments to Nigerian and Ecuadoran officials, two counts of violating the FCPA in connection with the authorization of specific corrupt payments to officials in those countries, and three counts of violating the FCPA by falsifying books and records relating to the corrupt payments and a tax fraud scheme. In the AGA case, the Section charged the medical device manufacturer with conspiring to bribe and bribing doctors employed by state-owned hospitals in China in order to induce the purchase of AGA's products and other officials to induce the approval of pending patent applications. The Section also entered into NPAs in FCPA matters with Westinghouse Air Brake Technologies Corporation, Lucent Technologies Inc., and Faro Technologies, Inc., resulting in payment of a total of \$2.4 million in penalties.

In the Southern District of Texas, a former chairman and CEO of Kellogg, Brown, and Root (KBR) pleaded guilty to a two-count criminal information charging him with one count of conspiracy to violate the FCPA in a decade-long scheme to bribe Nigerian government officials in order to obtain \$6 billion in engineering, procurement and construction (EPC) contracts to build liquified natural gas (LNG) facilities on Bonny Island, Nigeria, and one count of

conspiracy to commit mail and wire fraud by receiving approximately \$10.8 million in kickbacks from a consultant whom he caused KBR and its predecessor company to hire in connection with LNG projects around the world. The former CEO admitted that he authorized the joint venture to hire two agents to pay bribes to a range of Nigerian government officials in order to assist the joint venture in obtaining the EPC contracts, and that the two agents were paid more than \$180 million over the course of the bribery scheme with the intent that the agents' fees would be used, in part, for bribes to Nigerian government officials, including three successive former holders of a top-level office in the executive branch of the government of Nigeria.

Health Care Fraud: The Medicare Fraud Strike Force (MFSF), a multiagency team that includes federal, state and local investigators, was conceived and implemented by the Section to combat Medicare fraud through aggressive use of "real time" law enforcement techniques. Phase One of the MFSF began in FY 07 in the Southern District of Florida. Phase Two began in March 2008 in the Central District of California. In FY 08, in the S.D. Florida, 7 defendants were convicted at trial and 65 pleaded guilty. In FY 08, in the C.D. California, 35 defendants were charged in 20 cases, one defendant was convicted at trial and two defendants pleaded guilty. Sentences imposed in MFSF cases averaged nearly 43 months, including one of 151 months, and included restitution, forfeiture and fines of more than \$240 million.

In September 2008, in the S.D. Florida, a physician's assistant at HIV infusion clinics owned and operated by three brothers, pleaded guilty to one count of conspiracy to commit health care fraud and one count of submitting false claims contained in a May 2008 indictment stemming from a \$119 million HIV infusion fraud scheme. The three brothers were indicted with the physician's assistant in June 2008 for their role in the scheme. The indictment alleges that the three fugitive brothers were the masterminds of a massive HIV infusion fraud operation throughout South Florida, involving at least 11 clinics, and that they laundered the proceeds of their crimes.

In the S.D. Florida, three defendants were convicted in March 2008, following a five-week jury trial, on all counts of an eight-count superseding indictment stemming from a scheme in which the defendants, through their companies, collected more than \$14 million from Medicare for unnecessary medicine, durable medical equipment (DME) and home health care services. Each was convicted of conspiracy to defraud the United States, to cause the

submission of false claims, and to receive health care kickbacks; conspiracy to commit health care fraud; and receiving kickbacks involving a federal health care program. In April 2008, a jury found a co-defendant, a dermatologist, guilty of the two conspiracies.

Energy Commodities Fraud: In the Northern District of Illinois, BP America Inc. was charged in a criminal information with one count of conspiring to violate the Commodity Exchange Act and to commit mail and wire fraud stemming from the manipulation of the TET propane market in February 2004, resulting in a loss to other market participants of more than \$53 million. BP America and the government entered into a 3-year DPA in which the company agreed to pay a \$100 million penalty, a \$25 million payment to the U.S. Postal Inspection Service Consumer Fraud Fund, a \$53 million payment to a restitution fund, and a civil penalty of \$125 million to the Commodity Futures Trading Commission. BP and named subsidiaries also agreed to cooperate with an independent monitor and with ongoing investigations of others involved in the propane manipulation scheme.

International Mass-Marketing Fraud: In a series of cases stemming from Operation Global Con, 12 defendants pleaded guilty, 3 were found guilty in jury trials, and another 10 defendants await trial in connection with a massive, Costa Rica-based telemarketing fraud scheme that targeted thousands of elderly U.S. residents and resulted in losses of more than \$10 million. The scheme defrauded victims by suggesting that they had won large monetary "sweepstakes contest" prizes, but had to pay a fee in advance.

Procurement Fraud: In the District of Columbia, U.S. Protection and Investigations, LLC (USPI) and four of its executives, including USPI's CEO and its sole owner, were charged with conspiracy, major fraud against the United States, and wire fraud stemming from a scheme to defraud the government by obtaining reimbursement for inflated expenses supposedly incurred by USPI for rental vehicles, fuel and security personnel. As charged, USPI committed the fraud in connection with a \$60 million subcontract it had received from the U.S. government to provide a broad range of assistance to the people of Afghanistan, including building roads between major cities in Afghanistan, and building schools and health facilities.

ENFORCEMENT LEADERSHIP

The Fraud Section leads or partners in a number of white-collar crime enforcement programs:

Corporate Fraud: The Fraud Section is a “front line” litigating component that leads high-profile, complex corporate fraud cases across the country and participates in the Corporate Fraud Task Force. The Fraud Section leads the investigation and prosecution of all ongoing criminal matters relating to the financial collapse of the Enron Corporation, has played a leadership role in the investigation and prosecution of abuses in the finite reinsurance industry, and currently has a leading role in the investigation of possible subprime securitization fraud by financial services firms. The Section also serves as the Department’s primary source of legal and legislative advice on corporate fraud issues, as well as implementation of the Department’s Corporate Prosecution Principles and its consultation requirements.

Securities, Commodities, and Investment Frauds: The Fraud Section has been a focal point for the Department’s securities, commodities and investment fraud enforcement programs. The Section devotes substantial resources to prosecution of these types of fraud cases, including insider trading, market manipulation, and prime-bank/high-yield frauds, and serves as the Department’s primary source of legal and legislative advice on related issues.

Foreign Bribery: The Fraud Section is responsible for all investigations and prosecutions under the Foreign Corrupt Practices Act (FCPA), which prohibits the payment of bribes to foreign government officials in international business transactions. The Section also has policy responsibility with respect to criminal enforcement of the FCPA and administers the Department’s FCPA Opinion Procedure on behalf of the Assistant Attorney General, Criminal Division. It also represents the United States in international fora addressing bribery and corruption in business, including at the Organization for Economic Cooperation and Development’s (OECD) quarterly Working Group on Bribery meetings.

Mortgage/Financial Institution Fraud: The Fraud Section plays a leading role in the Department’s financial institution fraud enforcement program, targeting mortgage fraud and other crimes against the nation’s federally insured financial institutions and promoting effective coordination

among relevant agencies in the law enforcement and bank regulatory communities. In addition to maintaining an active inventory of bank fraud cases, including mortgage fraud prosecutions, the Section chairs two national, coordinating bodies: the International Bank Fraud Enforcement Working Group, known as the Bank Fraud Working Group (BFWG), and the recently formed Mortgage Fraud Working Group (MFWG).

Health Care Fraud: Approximately one-fifth of all criminal health care fraud cases brought in federal court in the past year were handled by the Fraud Section, many of them through its Medicare Fraud Strike Force. The Section prosecutes health care fraud cases across the country and has focused its attention on leading the Department’s proactive effort to assist in strengthening the integrity of our health care system. The Section coordinates with the FBI, the Department of Health and Human Services, and the Centers for Medicare & Medicaid Services to develop innovative enforcement solutions, assists in evaluating and developing policies and strategies for program integrity safeguards, and educates federal agents and attorneys on legal developments in the areas of fraud and abuse enforcement. The Section also plays a vital role in evaluating and commenting on legislation, and participating in interagency committees and working groups.

Procurement Fraud: The Section prosecutes procurement fraud cases and serves as a clearinghouse of information, expertise and guidance on procurement fraud issues handled by a diverse group of federal agencies, including USAOs and Department of Defense components involved in procurement and law enforcement. The Section plays a central role in coordinating government anti-fraud activities, including new initiatives; proposing and commenting on legislation; and participating in interagency committees and working groups. A Deputy Chief in the Fraud Section currently serves as Director of the National Procurement Fraud Task Force. The Section also has been the Department’s focal point on matters involving contractor disclosures.

Internet Fraud: The Fraud Section leads the Department’s Internet Fraud Initiative to define the scope of the problem, develop litigation expertise, coordinate the federal response, train prosecutors and investigators, develop investigative and analytical resources, and conduct public education and prevention programs.

INTERAGENCY COORDINATION

Hurricane Katrina Fraud Task Force: The Fraud Section spearheads strategic enforcement initiatives to combat fraud stemming from disasters and related relief efforts. In FY 06, the Section led the establishment and operation of the Hurricane Katrina Task Force Command Center, which coordinates and supports multiagency efforts to collect information, reports, and complaints and to generate referrals concerning disaster-related fraud, including charity fraud, identity theft, emergency-benefit fraud, procurement fraud, and public corruption. The Section also spearheads interagency coordination with the Inspector General community, investigative agencies, and the Federal Emergency Management Agency on critical enforcement issues.

Identity Theft Task Force: In FY 06, President Bush established the Identity Theft Task Force, which subsumed the identity (ID) theft group chaired by the Fraud Section. Since 1999, when that initial ID theft group was formed, the Section has led the Department's interagency cooperation and communication efforts in ID theft enforcement. The Section also provides leadership and expertise in the Task Force's Criminal Law Enforcement Subgroup.

National Procurement Fraud Task Force: In FY 06, the Fraud Section led the establishment and operation of the multiagency National Procurement Fraud Task Force, which was formed to intensify the government's detection efforts and to enhance prosecution of fraud involving corrupt contractors. The Task Force includes representatives of 30 agencies and was designed to leverage the resources of the federal law enforcement community by utilizing the Inspectors General, including the Special Inspector General for Iraq Reconstruction, in addition to traditional law enforcement partners. Since the Task Force was created, more than 400 procurement fraud cases have been brought.

Securities and Commodities Fraud Working Group: This group, chaired by the Fraud Section, provides a forum for the enforcement community to exchange information on developing trends, new laws and regulations, and law enforcement issues and techniques. Participants include representatives from U.S. and foreign law enforcement agencies; securities and commodities regulatory agencies, including the Securities and Exchange Commission and the Commodity Futures Trading Commission; securities and commodities exchange self-regulatory organizations; and the Public Company Accounting Oversight Board.

Interagency Bank Fraud Enforcement Working Group: The BFWG is chaired by the Fraud Section. It was formed in 1984 and continues to promote enhanced coordination and communication between the federal law enforcement and regulatory communities.

Mortgage Fraud Working Group: The Mortgage Fraud Working Group, a subgroup of the BFWG created in 2007, is chaired by the Fraud Section. It acts as a coordinating body that explores important issues regarding mortgage and subprime lending fraud and, as appropriate, refers issues to the BFWG for further consideration.

Mass-Marketing Fraud Working Group: This national, multiagency working group, chaired by the Fraud Section, provides a forum for fostering interagency coordination and exchanging information and ideas on telemarketing and Internet fraud law enforcement. Telemarketing fraud is estimated to cost U.S. consumers billions of dollars per year. Concentrated in U.S. urban areas and in foreign countries, fraudulent telemarketers contact prospective victims throughout the United States. Many operations target senior citizens, often causing victims to lose their life savings and to suffer financial ruin. Internet fraud schemes often operate from outside the United States, requiring the Section to play a key role in facilitating international law enforcement initiatives and cooperation.

Consumer Protection Initiatives Committee: The Fraud Section co-chairs an interagency committee which develops and coordinates consumer protection initiatives focusing on enforcement, deterrence, and public awareness. The committee also seeks to facilitate referrals of potential criminal cases to the Department and USAOs for prosecution. It works closely with state and local law enforcement and nongovernmental groups.

EDUCATION AND TRAINING

The Section is a full participant, through its development of courses and provision of faculty, in the Department's training of federal financial crime prosecutors and investigators. The Section also assists other agencies, both foreign and domestic, in their fraud enforcement seminars, conferences and training programs and partners with other federal agencies in conducting identity theft enforcement training for state and local law enforcement offices.