Using Evidence of Unlawful or Unexplained Financial Transactions In Prosecuting Public Corruption Offenses

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Successful U.S. Anti-corruption Prosecution Teams

• Use every investigative technique available to address the conduct

• Use every statute available to prosecute the conduct not limited to bribery laws

• Use plea bargaining, immunity, and sentencing benefits to obtain cooperation and evidence

US corruption investigations rarely start with:

• Information that the crime is still on-going

• A cooperating witness who has inside information and access to the participants
Targets of Investigation

• Jack Abramoff
• 48 years old
• 1980s – College Republicans
• 1994 – Conservative Republicans elected to Congress
• 1995 – Abramoff began lobbying

Targets of Investigation (Continued)

• Michael Scanlon
• 37 years old
• Late 1990s – Press Secretary to U.S. Congressman Tom DeLay
• March 2000 – joined Abramoff at Abramoff’s lobbying firm
• 2001 – Left lobbying firm to start grass roots firm
• Native American Tribal Clients
• Law allows Native American Tribes to operate casinos
• Clients wanted to open their own casinos or prevent competitor casinos from opening

Results from almost entirely historical investigation

• 21 defendants convicted
  – 18 through guilty pleas with cooperation provisions
  – 3 at trials (including two retrials)
Convicted Defendants Include:

- A US Congressman
- Senior staff to US Congressman and Senators
- Deputy Secretary of the U.S. Interior Department and an employee of DOI
- Chief of staff to the Chief Procurement officer for the US government
- Lobbyists (including lobbyists who were senior congressional staff)

Allegations

- Lobbyists defrauded lobbying clients who were Native Americans
- Lobbyists provided things of value to public officials, including trips, tickets, meals and drinks
- In exchange, officials used their official positions to assist clients, including Tigua, Foxcom, and Suncruz
Investigative Plan - To gain cooperation of Abramoff and his business partner to get the corruption evidence:

- Investigated allegations in newspapers that they defrauded Native American clients in lobbying contracts
- Investigated how much money each received from their clients and what they told them they were doing for the money
- how much they secretly paid each other
- how much they reported to IRS and paid in taxes

Investigative Team
The Investigation
usual Proactive Opportunities

- **Wire Taps**
  - Phones being used
  - Ongoing criminal activity

- **Consensual Recordings**
  - Cooperating Witnesses

- **Search Warrants**
  - Probable cause that evidence of a crime is in a particular place

The Investigation
Historical **Techniques**: Subpoenas for **Emails**

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**From:** Abramoff, Jack
**Sent:** Wednesday, February 06, 2002 9:02 PM
**To:** Mike Scanlon
**Subject:** RE: I'm on the phone with Tigua!

Yawzah!

--- Original Message ---
From: Mike Scanlon [mailto:mike@]
Sent: Wednesday, February 06, 2002 11:40 AM
To: Abramoff;
Subject: RE: I'm on the phone with Tigua!

I want all their MONEY!!!

--- Original Message ---
From: abramoff;
Sent: Wednesday, February 06, 2002 10:54 AM
To: Mike Scanlon;
Subject: I'm on the phone with Tigua!

Fire up the jet baby, we're going to El Paso!!!
The Investigation
Historical Techniques (continued)

- Subpoenas for **Bank and Financial Records**
- Subpoenas for **Phone Records**
- **Coordination required**
  - agents and attorneys coordinate on content and service of subpoenas
  - attorneys work with agents to determine promising areas of investigation (fraud, tax fraud, etc.)

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The Investigation
Proactive Techniques v. Historical Techniques

- **Witness Interviews**
- **Proffer Agreements / Use Immunity**
  - Pros: Low cost to the government
  - Cons: Not a lot of protection and many witnesses want more
  - Example: Lobbyists who received only their salary
  - Coordination required: attorneys negotiate the proffer agreement and agents conduct the interview
• Non-Prosecution Agreements
  – Pros:
    • Can require witness to cooperate proactively; agreement lapses if witness stops cooperating
  – Cons:
    • Have to agree not to prosecute someone who is guilty; juries do not like cooperators
    • Example: a lobbyist who worked for Abramoff but did not make decisions
  – Coordination required
    • Attorneys negotiate agreement and agents conduct interview
    • Agents develop proactive scenarios and attorneys analyze whether proactive scenario will present obstacles later
• Use Immunity

The Investigation
Plea Bargaining – Jack Abramoff

• Corruption Charges: Bribery (15 years) or Honest Services Fraud (20 years)
  – Stream of things of value in return for official action by Members of Congress and Staff
  – Trips to Scotland to play golf; free meals and drinks at upscale restaurant; free tickets to sporting events
• Fraud Charges: Mail or Wire Fraud (20 years)
  – As a lobbyist, had duty to give clients impartial advice
  – Told them to hire Scanlon without telling them that he received kickbacks equal to 50% of Scanlon’s profits
  – $25,000,000
The Investigation
Plea Bargaining – Jack Abramoff
(potential charges continued)

• False Statements (5 years)
  – Lobbying Disclosure Act Statements
  – Aiding and Abetting Public Officials’ False Financial Disclosure Forms

• Tax Charges
  – False Tax Returns (5 years)
  – Tax Evasion (3 years)
  – $1,700,000 tax loss

• Conspiracy (5 years)

• Conflict of Interest Charges
  – Aiding and abetting one-year ban violations (5 years)

The Investigation
Plea Bargaining – Jack Abramoff
(continued)

• Actual Charges

UNITED STATES OF AMERICA

v.

JACK A. ABRAMOFF,
Defendant.

Criminal Number:

VIOLATIONS:

Count One:
18 U.S.C. § 371
(Conspiracy)

Count Two:
18 U.S.C. §§ 1341, 1346 and 2
(Honest Services Mail Fraud)

Count Three:
26 U.S.C. § 7201
(Tax Evasion)
The Investigation
Plea Bargaining – Jack Abramoff
(continued)

• **Pros for the Government:**
  – quick resolution without a trial;
  – Abramoff must cooperate;
  – Abramoff must pay restitution to victims

• **Pros for Abramoff:**
  – avoid costly defense;
  – lower sentence through cooperation

• **Coordination required**
  – Attorneys evaluate whether the government has enough evidence to pursue plea agreement
  – Agents work to firm up weak areas of proof to ensure that government can pursue plea agreement
  – Attorneys negotiate agreement and Agents debrief Abramoff
BUILDING THE CASE

PUBLIC SOURCE DOCUMENTS

- Financial Disclosure Forms (www.opensecrets.org)
- Travel Disclosure Forms (from the Clerk of the House and Senate)
- Lobbying Disclosure Act Forms
- Conflict of Interest Forms
- Public Budget Expenditure Journals (published quarterly by House and on a semi annual period by Senate)
- Financial Disclosure Forms
Travel Disclosure Forms

NAME OF MEMBER OR OFFICER (PRINT OR TYPE): [Redacted]
NAME OF ACCOMPANYING FAMILY MEMBER (IF ANY): [Redacted]
RELATIONSHIP TO MEMBER OR OFFICER (IF ANY): [Redacted]
DATES OF TRAVEL: [Redacted]
DAYS AT PERSONAL EXPENSE: [Redacted]
MINIBUS: [Redacted]
SPONSOR WHO PAID FOR THE TRIP: [Redacted]
PURPOSE OF TRIP: [Redacted]
TOTAL TRANSPORTATION EXPENSE:
  For Member or Officer: $500.00
  For accompanying spouse or child: [Redacted]
TOTAL LODGING EXPENSE:
  For Member or Officer: 1/20.00
  For accompanying spouse or child: [Redacted]
TOTAL MEAL EXPENSE:
  For Member or Officer: [Redacted]
  For accompanying spouse or child: [Redacted]
OTHER EXPENSES (specify):
  For Member or Officer: [Redacted]
  For accompanying spouse or child: [Redacted]

I have determined that all of the expenses listed above were necessary and that the travel was in connection with my duties as a Member or Officer of the U.S. House of Representatives and would not create the appearance that I am using public office for private gain.

SIGNATURE OF MEMBER OR OFFICE: [Redacted]

Version as of 2015
Lobbying Disclosure Act Forms

LOBBYING REGISTRATION
Lobbying Disclosure Act of 1995 (Section 4)

Check if this is an amended registration ☐

1. Entity or Class of Registrant

2. House Business Number
State Identification Number

REGISTRANT
3. Registrant Name
Greenberg Traurig, LLP

4. Principal place of business of different from line 2
City

5. Telephone number and area code
Contact
Email address

6. General description of registrant's business or activities

LAW FIRM
7. Client Name

8. Client Address

9. Client City

10. Name of each individual who has acted or is expected to act as a lobbyist for the client identified in line 1. If any person listed in the previous line has served as a "covered legislative branch official" or "covered legislative branch official" within two years of entering into a lobbyist for the client, then the client or covered legislative branch official within which the person served
Name

Title

Date

Form LD-1 (Rev 09/18)

Prepared Name and Title

Nett Volt - Director of Government Affairs

Page 2 of 2
• Newspaper Stories and Press Statements
  – WestClip and Google Alerts
  – Recordings of press statements

“Let me also say, however, that I, like these Indian tribes and other Members of Congress, was duped by Jack Abramoff. In April, 2002, I was approached by Mr. Abramoff, who I believed to be a respected member of the community, and asked to go on a trip to Scotland which Mr. Abramoff said would help support a charitable organization, that he founded, through meetings he organized with Scottish Parliament officials. I want to be absolutely clear that not at any point, ever, was I made even remotely aware that any Indian tribe played any role in this trip. This is supported by the testimony today in which tribal officials stated that Mr. Abramoff told them that they were not to mention this trip to me in my meeting with them. It is now obvious why that is – because I had no idea of their involvement.

• Ethical Rules of Institution
  ($50 per occasion, $100 per year)

• Legislation
  (http://thomas.loc.gov/)

• Federal Election Commission (FEC) Documents
  (www.fec.gov)
NON-PUBLIC DOCUMENTS

- Emails
  - Lobbyist’s Employer
  - Member’s Office
  - Institution for Exchange Servers
  - Internet Service Providers

From: Ney, Bob
Sent: 05/24/2002
To: Heaton, William
Cc: 
Bcc: 
Subject: Re: Fw: Re:

Ok let's talk sunday- you will be much caaaalmer sunday

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-----Original Message-----
From: Heaton, William
To: Ney, Bob
Sent: Fri May 24 17:55:51 2002
Subject: Fw: Re:

Tony says there will be some golf on the scotland trip but also a lot drinking and cigars. They need to know by early next week. I say we do it...I can't golf either and we can be drunk by hole 5.

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-----Original Message-----
From: rudyt@glaw.com
To: Heaton, William
Sent: Fri May 24 17:41:55 2002
Subject: Re:

Yes, drinking and smoking cubans
Tony Rudy

-----Original Message-----
From: Heaton, William
To: 'rudyt@glaw.com'
Sent: Fri May 24 17:39:55 2002
Subject: Re:

Will do. Will there be a lot of golf involved being that this is scotland

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NON-PUBLIC DOCUMENTS
(continued)

- Private calendars (agendas/schedules)
- Lobbyist billing records – retainer vs. hourly
  - Lobbyist expense reports
- Restaurant Point of Sale System
- Airline and Frequent Flyer Records
  - Customs Declarations
- Trip pictures and souvenir videos
  - Phone Records
  - Congressional Phone Records
Charging Options

- Mail and wire fraud schemes
- Honest services fraud for business crimes
- Income tax fraud
- Bribery
- Violations of one-year lobbying ban
  - By highly compensated official
- Obstruction offenses
  - False statements to criminal investigators
  - False statements to Senate officials
  - False customs declarations forms
TOPIC 2: LINKS BETWEEN CORRUPTION AND MONEY LAUNDERING

The following presentations were made by:

- *A complex corruption and money-laundering investigation: Experience in Italy*, Cap. Francesco De Lellis, Special Operational Group, the Carabinieri Force, Italy
- *Investigating and prosecuting corruption and money-laundering cases in Estonia*, Mr. Kalmer Kask, Special Prosecutor of Corruption Cases, Viru District Prosecutor’s Office, Estonia
- *How an FIU can help to successfully investigate and prosecute corruption*, Mr. Oleksiy Feshchenko, First Deputy Head, the State Financial Monitoring Service, Ukraine
- *Typical patterns of links between corruption and money-laundering*, Mr. Igor Voluevich, Macroanalysis and Typologies Department, Federal Financial Monitoring Service, the Russian Federation
- *Role of Financial Investigation Units and co-operation with law enforcement authorities - experience in Poland*, Ms. Elżbieta Franków-Jaskiewicz, Head of International Cooperation Unit, Department of Financial Information, Ministry of Finance, Poland
A complex corruption and money-laundering investigation: Experience in Italy ("Broker – Phuncard Operation")

Cap. Francesco De Lellis
Special Operational Group
The Carabinieri Force
Italy

Specialised Operation Division

INTERNATIONAL CONSPIRACY FOR MONEY LAUNDERING

PREDICATE CRIME: CAROUSEL FRAUDS

PHUNCARD

VIRTUAL TELEPHONE TRANSIT SERVICE
THE MOST CHALLENGING ASPECTS OF INVESTIGATIONS ON SPECIAL CAROUSEL FRAUD:

- KIND OF GOODS: IMMATERIAL SERVICE
- MONEY FLOW CIRCLE
- PARTICIPATION OF LISTED COMPANIES

DIFFICULT TO DISCOVER
EXPONENTIAL MONEY CREATION
CREDIBILITY OF TRADE

OTHER OFFENCES COMMITTED BY CRIMINAL ORGANIZATION TO ACHIEVE CRIMINAL OBJECTIVES

- FRAUDULENT INCREASE AND DECREASE OF PRICES ON STOCK EXCHANGE
- FALSE CORPORATE COMMUNICATIONS
- OBSTRUCTION TO FUNCTIONS OF SURVEILLANCE AUTHORITY ON EQUITY MARKET
- REINVESTMENT OF ILLICIT PROCEEDS
- CORRUPTION

Specialised Operation Division
CASE REQUIREMENTS

TARGET

DISMANTLING OF THE TRANSNATIONAL CRIMINAL SYSTEM AND CONFISCATING THE ILLEGAL PROCEEDS

JUDICIAL AND POLICE COOPERATION

EUROPOL

MLATs

INTERPOL

FIUs

BANK STATEMENTS AND BENEFICIAL OWNER

JUDICIAL COOPERATION

MLA REQUIREMENTS

FIRST PHASE: CAROUSEL FRAUD

AUSTRIA – UNITED KINGDOM

TELEPHONE SUBSCRIBERS
ECONOMIC RESULTS OF THE CAROUSEL FRAUD

- LOSSES OF 365 MILLION EUROS FOR ITALIAN AND EUROPEAN UNION TREASURY
- PROFITS AND VAT TURNOVER FOR LISTED COMPANIES OF 95 MILLION EURO AND 2 BILLION EURO
- ACHIEVEMENT OF MANAGEMENT BUSINESS TARGET
- ILLEGAL EARNINGS OF 270 MILLION EURO FOR INTERNATIONAL CONSPIRACY

SPECILISED OPERATIONAL DIVISION

- FIU'S COOPERATION
- INFORMATION FLOW: CY, HK, SEY, SG, PA
- FINANCIAL FLOWS (INWARD - OUTWARD)
- BENEFICIAL OWNERS
- APPOINTMENTS OF THE PERSONNEL OF THE COMPANIES
SPECIALISED OPERATIONAL DIVISION

POLICE COOPERATION REQUIREMENTS (UK, FR, LUX, HK, CH, RO)

CROSS BORDER SURVEILLANCE

INFO - EXCHANGE

JUDICIAL COOPERATION MLA REQUIREMENTS

SECOND PHASE: LAUNDERING PROCESS AND REINVESTMENT OF ILLEGAL PROCEEDS -CH, CY, LUX, FR, HK, SG, SM AND KZ-

BANK STATEMENTS

TELEPHONE SUBSCRIBERS

CONFISCATION ORDER

WITNESS EXAMINATION
CAROUSEL FRAUD FEATURES

ITALIAN TELEPHONE COMPANIES
FAKE COMPANIES: ITA, CH, UK, PA, FI,
FICTITIOUS OPERATIONS ON BANK ACCOUNTS :
ITALY AND AUSTRIA
LAUNDERING PROCESS:
FAKE COMPANIES (BVI, PA, HK, SG, CY, CH)
LAUNDERING PROCESS:
BANK ACCOUNTS IN UK, CH, SG, CY, EAU, SEY, HK, PA, BHA
DIAMONDS, ASSETS, BOATS,
LUXURY CARS
CASH COURIERS (UK, CH, SM), SAFETY BOXES, WATCHES

SPECIALISED OPERATIONAL DIVISION
ELEMENTS LEADING TO SUCCESS
OPEN SOURCE
NETWORKING
MEETINGS WITH FOREIGN JUDICIAL AND POLICE AUTHORITIES (INSTITUTION OF AUTONOMOUS AND LINKED PROCEEDINGS; USE OF THE EVIDENCE COLLECTED IN EACH COUNTRY INVOLVED IN THE ML TO PURSUE THE ORGANIZATION)
CROSS ANALYSIS OF ALL THE INFORMATION
INVESTIGATIVE EXPERIENCE HAS SHOWN THE FOLLOWING CRITICAL ASPECTS:

- HETEROGENEOUS LEGAL SYSTEMS
- NO ANSWER OR LATE ANSWER FROM FIUs
- WRONG ANSWER FROM FIUs