

**UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
FINANCIAL CRIMES ENFORCEMENT NETWORK**

IN THE MATTER OF:)
)
)
) **Number 2017-04**
Lone Star National Bank)
Pharr, Texas)

ASSESSMENT OF CIVIL MONEY PENALTY

I. INTRODUCTION

The Financial Crimes Enforcement Network (FinCEN) has determined that grounds exist to assess a civil money penalty against Lone Star National Bank (Lone Star or the Bank), pursuant to the Bank Secrecy Act (BSA) and regulations issued pursuant to that Act.¹

Lone Star admits to the facts set forth below and that its conduct violated the BSA. Lone Star consents to this assessment of a civil money penalty and entered into the CONSENT TO THE ASSESSMENT OF CIVIL MONEY PENALTY (CONSENT) with FinCEN.

The CONSENT is incorporated into this ASSESSMENT OF CIVIL MONEY PENALTY (ASSESSMENT) by reference.

FinCEN has the authority to impose civil money penalties on financial institutions that violate the BSA. Rules implementing the BSA state that “[o]verall authority for enforcement and compliance, including coordination and direction of procedures and activities of all other agencies exercising delegated authority under this chapter” has been delegated by the Secretary

¹ The Bank Secrecy Act is codified at 12 U.S.C. §§ 1829b, 1951-1959 and 31 U.S.C. §§ 5311-5314, 5316-5332. Regulations implementing the Bank Secrecy Act appear at 31 C.F.R. Chapter X.

of the Treasury to FinCEN.² Lone Star was a “financial institution” and a “bank” within the meaning of the BSA and its implementing regulations during the time relevant to this action.³

Lone Star is a community bank located in Pharr, Texas that provides business and personal banking services. As of June 30, 2017, Lone Star had over \$2.2 billion in assets, 28 branches, and over 655 employees. The Bank is a subsidiary of Lone Star National Bancshares, Texas, Inc., a bank holding company. The shares of the holding company are privately held.

II. DETERMINATIONS

Lone Star willfully violated the BSA’s program and reporting requirements from 2010 to 2014.⁴ As described below, Lone Star failed to (a) establish and implement an adequate anti-money laundering (AML) program; (b) conduct required due diligence on a foreign correspondent account; and (c) report suspicious activity. Lone Star’s failures in these areas allowed a single foreign financial institution to move hundreds of millions of U.S. dollars in suspicious bulk cash shipments through the U.S. financial system in less than two years. This activity began just three months before the Mexican government imposed regulations restricting Mexican bank transactions in U.S. currency and dramatically increased after the regulations became effective. Without sufficient internal controls or experienced BSA staff, the Bank engaged in high-risk foreign correspondent banking services without conducting appropriate due diligence, and without adequately monitoring and reporting suspicious activity.

² 31 C.F.R. § 1010.810(a).

³ 31 U.S.C. § 5312(a)(2)(A); 31 C.F.R. §§ 1010.100(d)(1), 1010.100(t)(1).

⁴ In civil enforcement of the BSA under 31 U.S.C. § 5321(a)(1), to establish that a financial institution or individual acted willfully, the government need only show that the financial institution or individual acted with either reckless disregard or willful blindness. The government need not show that the entity or individual had knowledge that the conduct violated the BSA, or that the entity or individual otherwise acted with an improper motive or bad purpose. Lone Star admits to “willfulness” only as the term is used in civil enforcement of the BSA under 31 U.S.C. § 5321(a)(1).

A. Violations of the Requirement to Develop and Implement an Anti-Money

Laundering Program

Lone Star failed to establish and implement an adequate AML program as required by the BSA and its implementing regulations.⁵ The Office of the Comptroller of the Currency (OCC) requires each bank under its supervision to develop and provide for the continued administration of a program reasonably designed to assure and monitor compliance with the BSA's recordkeeping and reporting requirements.⁶ At a minimum, a bank's AML compliance program must (a) provide for a system of internal controls to assure ongoing compliance; (b) provide for independent testing for compliance to be conducted by bank personnel or by an outside party; (c) designate an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and (d) provide for training of appropriate personnel.⁷

At times previous to 2010 and continuing from 2010 through 2014, Lone Star had repeated deficiencies and failures in implementing adequate risk-based procedures for conducting customer due diligence. Lone Star consistently failed to collect and analyze information necessary to assess each customer's risk and to develop and implement specific customer risk profiles. Lone Star failed to identify the intended purpose of the customer's account, the anticipated activity within the account, the nature of the customer's business, the types of bank products and services used by the customer, and geographic indicators of risk. As a result, Lone Star failed to risk rate appropriately certain of its customers during the account opening process, which was necessary for proper monitoring of transactions conducted through

⁵ 31 U.S.C §§ 5318(a)(2), 5218(h); 31 C.F.R. §1020.210.

⁶ 12 C.F.R. § 21.21.

⁷ Id.

the accounts. Significantly, the Bank did not correctly identify or monitor new and existing high-risk accounts that posed an elevated risk for money laundering at the Bank. Lone Star had knowledge of these deficiencies but failed to correct them for several years.

For example, in October 2014, Lone Star maintained a significant number of high-risk accounts with missing customer due diligence information. Lone Star's management failed to identify the missing information. An external auditor noted that information was missing or incorrect for 37 out of 50 accounts reviewed in a testing sample. Among the missing or incorrect information were indicators that actual activity in the accounts differed substantially from what was predicted. These failures impeded Lone Star's ability to monitor transactions for suspicious activity. The Bank had an inadequate process for reviewing and escalating its AML alerts and investigations. Lone Star's policies and procedures failed to provide adequate guidelines for reviewing and escalating alerts. During the period from January 2014 through November 2014, Lone Star had 4,888 outstanding alerts, 627 cases, and 213 internal referrals. The Bank's failure to implement an adequate due diligence and customer risk rating process severely limited the effectiveness of Lone Star's AML program.

B. Violations of Due Diligence Requirements for Correspondent Accounts for Foreign Financial Institutions

Correspondent accounts are gateways to the U.S. financial system. Section 312 of the USA PATRIOT Act⁸ amended the BSA by imposing due diligence requirements on financial institutions that establish, maintain, administer, or manage correspondent accounts in the United States for foreign financial institutions. Financial institutions must establish appropriate,

⁸ Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act, Pub. L. 107-56 (H.R. 3162), 115 Stat. 272, 107th Cong., 1st Sess. (Oct. 26, 2001).

specific, risk-based and, where necessary, enhanced policies, procedures, and controls that are reasonably designed to enable them to detect and report, on an ongoing basis, known or suspected money laundering activity conducted through or involving the accounts.⁹ Such policies, procedures, and controls must include (a) determining whether a correspondent account is subject to enhanced due diligence; (b) assessing the money laundering risk presented by the correspondent account; and (c) the application of risk-based procedures and controls reasonably designed to detect and report known or suspected money laundering activity, including a periodic review of activity sufficient to determine consistency with information obtained about type, purpose, and anticipated activity.¹⁰

From May 2010 to November 2011, Lone Star provided U.S. currency bulk cash deposit and another correspondent banking service to a large financial institution headquartered in Mexico (the Foreign Bank). In less than two years, Lone Star allowed approximately \$260 million to flow through the Foreign Bank's account without sufficient controls in place to detect and report suspicious activity.

1. Assessment of Money Laundering Risk

Lone Star failed to implement risk-based procedures sufficient to properly collect, identify, and document the type, purpose, and anticipated activity of the Foreign Bank's correspondent relationship as required by the BSA.¹¹ Lone Star established a correspondent banking relationship with the Foreign Bank, which included processing bulk deposits of U.S. currency¹² without adequately assessing the potential money laundering risk. Lone Star failed to

⁹ 31 U.S.C. § 5318(i)(1); 31 C.F.R. § 1010.610(a).

¹⁰ 31 C.F.R. §§ 1010.610(a)(1) – (3).

¹¹ 31 C.F.R. § 1010.610(a)(2)(ii).

¹² The deposits of U.S. currency were made to Lone Star's account at the Federal Reserve Bank of Dallas.

collect and analyze information, including publicly available information regarding the Foreign Bank and its business and banking practices.

During account opening, Lone Star failed to identify well known and public information about the principal owner of the Foreign Bank. Specifically, public source material revealed that the President and principal owner of the Foreign Bank agreed to pay civil penalties to the U.S. Securities and Exchange Commission in resolving allegations of securities fraud. Lone Star should have collected and analyzed this information prior to account opening.

Lone Star failed to verify the accuracy of assertions from the Foreign Bank regarding source of funds, purpose, and expected activity. Initially, the Foreign Bank indicated that the source of the U.S. bulk currency was from extensive foreign exchange (“FX”) operations from United States/Mexico border regions. However, after the account had been operating for several months, the Foreign Bank stated that, at that time, it was actually selling more U.S. dollars than it was buying at these border regions, and the U.S. bulk cash deposited at Lone Star had always been coming from Mexico City. Lone Star never requested further explanation to validate the accuracy of inconsistent statements concerning the source of funds. In another example, Lone Star’s BSA Officer indicated that the cash shipments to Lone Star were attributable to remittances from the United States sent (via money transmitters) to family members residing in Mexico, who then used funds to repay consumer microloans. Money transmitters in Mexico, especially those operating in rural areas, rarely provide their customers with U.S. dollars. And there was no indication from the Foreign Bank that the microloans that it offered to consumers were payable in U.S. dollars. Lone Star did not sufficiently manage the money laundering risks inherent in foreign correspondent banking services by failing to properly collect, identify, and

document the source of funds and the type, purpose, and anticipated activity of the Foreign Bank relationship.

2. Periodic Review of Activity

Lone Star failed to adequately investigate increasing cash deposits of U.S. dollars and unusual wire activity. The transactions raised serious red flags given the Mexican Ministry of Finance's (Secretaría de Hacienda y Crédito Público de México) June 2010 announcement of AML regulations designed to restrict the amounts of physical cash (banknotes and coins) denominated in U.S. dollars that Mexican banks may receive. FinCEN has provided ample guidance on bulk cash repatriation. In 2006, FinCEN issued an advisory on the repatriation of currency smuggled into Mexico from the United States.¹³

Actual activity differed substantially from anticipated activity. The Foreign Bank stated at account opening that monthly deposits of U.S. currency would be in amounts from \$8 million to \$9 million, of which \$3 million to \$4 million were expected to be kept in the account at Lone Star. However, U.S. dollar deposits at Lone Star ended up being two to three times greater than the anticipated amount. Lone Star noted the difference but conducted no investigation into the cause.

The Foreign Bank anticipated holding \$3 million to \$4 million at Lone Star each month. The remaining balance would be wired to U.S. financial institutions for the stated purpose of enabling the Foreign Bank to "*liquidate [its] FX operations.*" However, the Foreign Bank followed each bulk cash deposit with an immediate request for an outgoing wire transfer to an account in the Foreign Bank's name at other U.S. financial institutions. The Foreign Bank would

¹³ See Guidance to Financial Institutions on the Repatriation of Currency Smuggled into Mexico from the United States (April 28, 2006), available at http://www.fincen.gov/statutes_regs/guidance/pdf/advis04282006.pdf

replenish the account by conducting additional deposits with further immediate outgoing wire transfers to accounts held by the Foreign Bank at other U.S. financial institutions.

Moreover, a substantial number of wire transfers requested by the Foreign Bank embedded the date the transaction was conducted in the dollar amount of the wire transfer itself. For example, a wire transfer conducted on the 3rd of June reflected that date in the final digits of its total amount of \$1,000,003.06. Lone Star did not identify the issue in monitoring and could provide no explanation for what appeared to be a suspicious pattern embedded in each outgoing wire transfer to match the date it was sent. Lone Star's failure to implement an adequate monitoring system prevented the Bank from noticing and fully reviewing this suspicious pattern in its wire transfer activity.

The Foreign Bank transported large and unexpected amounts of U.S. currency, deposited the currency at Lone Star and immediately sent outgoing wire transfers to accounts held by the Foreign Bank at other U.S. financial institutions. In 18 months of transaction activity, the Foreign Bank conducted a total of 63 bulk cash deposits of U.S. currency, followed by a total of 73 outgoing wire transfers. The Foreign Bank deposited at Lone Star approximately \$260 million during 18 months of transaction activity, \$100 million over the anticipated amount. Lone Star terminated its banking relationship with the Foreign Bank and closed its account in 2011, after the OCC raised serious concerns with the relationship.

C. Violations of the Requirement to Report Suspicious Transactions

The BSA requires banks to report transactions that involve or aggregate to at least \$5,000, that are conducted “by, at, or through” the bank, and that the bank “knows, suspects, or has reason to suspect” are suspicious.¹⁴ A transaction is “suspicious” if the transaction: (a)

¹⁴ 31 U.S.C. § 5318(g); 31 C.F.R. § 1020.320.

involves funds derived from illegal activities, or is conducted to disguise funds derived from illegal activities; (b) is designed to evade the reporting or recordkeeping requirements of the BSA or regulations under the Act; or (c) has no business or apparent lawful purpose or is not the sort which the customer normally would be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.¹⁵

Lone Star failed to implement an effective suspicious activity monitoring and reporting process as required by the BSA, and as a result failed to file 173 SARs. From May 2010 through November 2014, Lone Star failed to adequately monitor its transactions to detect and report suspicious activity for its domestic and foreign accounts. An initial sample review conducted in 2011 indicated that Lone Star failed to file five suspicious activity reports (SARs).

The OCC directed Lone Star to perform a comprehensive suspicious activity look-back review of all foreign correspondent accounts, bulk cash shipper accounts, and offshore accounts for the period from May 30, 2011 through September 30, 2012.¹⁶ The Bank was required to file seven SARs in response to the look-back review.

The OCC also required a separate look-back review to identify cash structuring, wire activity, checks issued, and automated clearing house (ACH) activity. A total of 1,827 customer relationships were reviewed for the period from June 1, 2011 through May 31, 2013. Lone Star was required to file an additional 161 SARs, of which 69 related directly to cash structuring and 92 related to other types of suspicious activity. These 161 SARs represented approximately \$131 million in previously unreported suspicious activity.

¹⁵ 31 C.F.R. §§ 1020.320(a)(2)(i) – (iii).

In summary, Lone Star failed to timely file a total of 173 SARs, which included 69 SARs for cash structuring.

III. RESOLUTION WITH THE OFFICE OF THE COMPTROLLER OF THE CURRENCY

The OCC is Lone Star's federal functional regulator and is responsible for conducting examinations of Lone Star for compliance with the BSA and its implementing regulations and similar rules under Title 12 of the United States Code. The OCC identified BSA/AML deficiencies with the Bank's internal controls, independent audit, suspicious activity reporting, and foreign correspondent banking program that resulted in the issuance of a Consent Order for a Civil Money Penalty against Lone Star on March 31, 2015, in the amount of \$1 million. As a result of subsequent remedial measures taken by Lone Star to improve its BSA program, the OCC terminated the Consent Order on July 27, 2017.

IV. FACTORS CONSIDERED IN ASSESSMENT

Lone Star has addressed the BSA/AML deficiencies identified by FinCEN through significant measures as recommended by the OCC and other independent parties. The Bank expended additional resources to enhance its independent testing, implement sound customer due diligence programs, and update its AML program. Lone Star's updated AML policies include extensive due diligence measures and negative news searches, as a component of routine account opening procedures. The Bank closed its account with the Foreign Bank and has modified its customers and services to mitigate the money laundering risks of certain accounts, including a limitation of overall foreign deposits. The Bank established multiple senior management and board level committees empowered with sufficient independence and authority to ensure the Bank implemented, and maintains, an appropriate BSA compliance program. Lone Star expanded its overall BSA compliance staff and established new training initiatives to reduce

compliance deficiencies. The Bank also late-filed SARs as required by extensive look-backs conducted by outside consultants. FinCEN also considered Lone Star's cooperation with FinCEN throughout the investigative process.

V. CIVIL MONEY PENALTY

FinCEN has determined that Lone Star willfully violated the program and reporting requirements of the BSA and its implementing regulations as described in the CONSENT, and that grounds exist to assess a civil money penalty for these violations.¹⁷

FinCEN has determined that the penalty in this matter will be \$2 million. The penalty is partially satisfied by the \$1 million penalty already imposed by the OCC on March 31, 2015. The remaining amount of FinCEN's penalty will be deemed satisfied by an immediate payment of \$1 million to the U.S. Department of the Treasury.

VI. CONSENT TO ASSESSMENT

To resolve this matter, and only for that purpose, Lone Star consents to this assessment of a civil money penalty in the sum of \$2 million and admits that it willfully violated the BSA's program and reporting requirements.

Lone Star recognizes and states that it enters into the CONSENT freely and voluntarily and that no offers, promises, or inducements of any nature whatsoever have been made by FinCEN or any employee, agent, or representative of FinCEN to induce Lone Star to enter into the CONSENT, except for those specified in the CONSENT.

Lone Star understands and agrees that the CONSENT embodies the entire agreement between Lone Star and FinCEN relating to this enforcement matter only, as described in Section II above. Lone Star further understands and agrees that there are no express or implied promises,

¹⁷ 31 U.S.C. § 5321; 31 C.F.R. § 1010.820. *See* footnote 4 above.

representations, or agreements between Lone Star and FinCEN other than those expressly set forth or referred to in this document and that nothing in the CONSENT or in this ASSESSMENT is binding on any other agency of government, whether Federal, State or local.

VII. PUBLIC STATEMENTS

Lone Star expressly agrees that it shall not, nor shall its attorneys, agents, partners, directors, officers, employees, affiliates, or any other person authorized to speak on its behalf, make any public statement contradicting either its acceptance of responsibility set forth in the CONSENT or any fact in the DETERMINATIONS section of the CONSENT. FinCEN has sole discretion to determine whether a statement is contradictory and violates the terms of the CONSENT. If Lone Star, or anyone claiming to speak on behalf of Lone Star, makes such a contradictory statement, Lone Star may avoid a breach of the agreement by repudiating such statement within 48 hours of notification by FinCEN. If FinCEN determines that Lone Star did not satisfactorily repudiate such statement(s) within 48 hours of notification, FinCEN may void, in its sole discretion, the releases contained in the CONSENT and reinstitute enforcement proceedings against Lone Star. Lone Star expressly agrees to waive any statute of limitations defense to the reinstated enforcement proceedings and further agrees not to contest any admission or other findings made in the CONSENT. This paragraph does not apply to any statement made by any present or former officer, director, employee, or agent of Lone Star in the course of any criminal, regulatory, or civil case initiated against such individual, unless Lone Star later ratifies such claims, directly or indirectly. Lone Star further agrees that, upon notification by FinCEN, it will repudiate such statement to the extent it contradicts either its acceptance of responsibility or any fact in the CONSENT.

