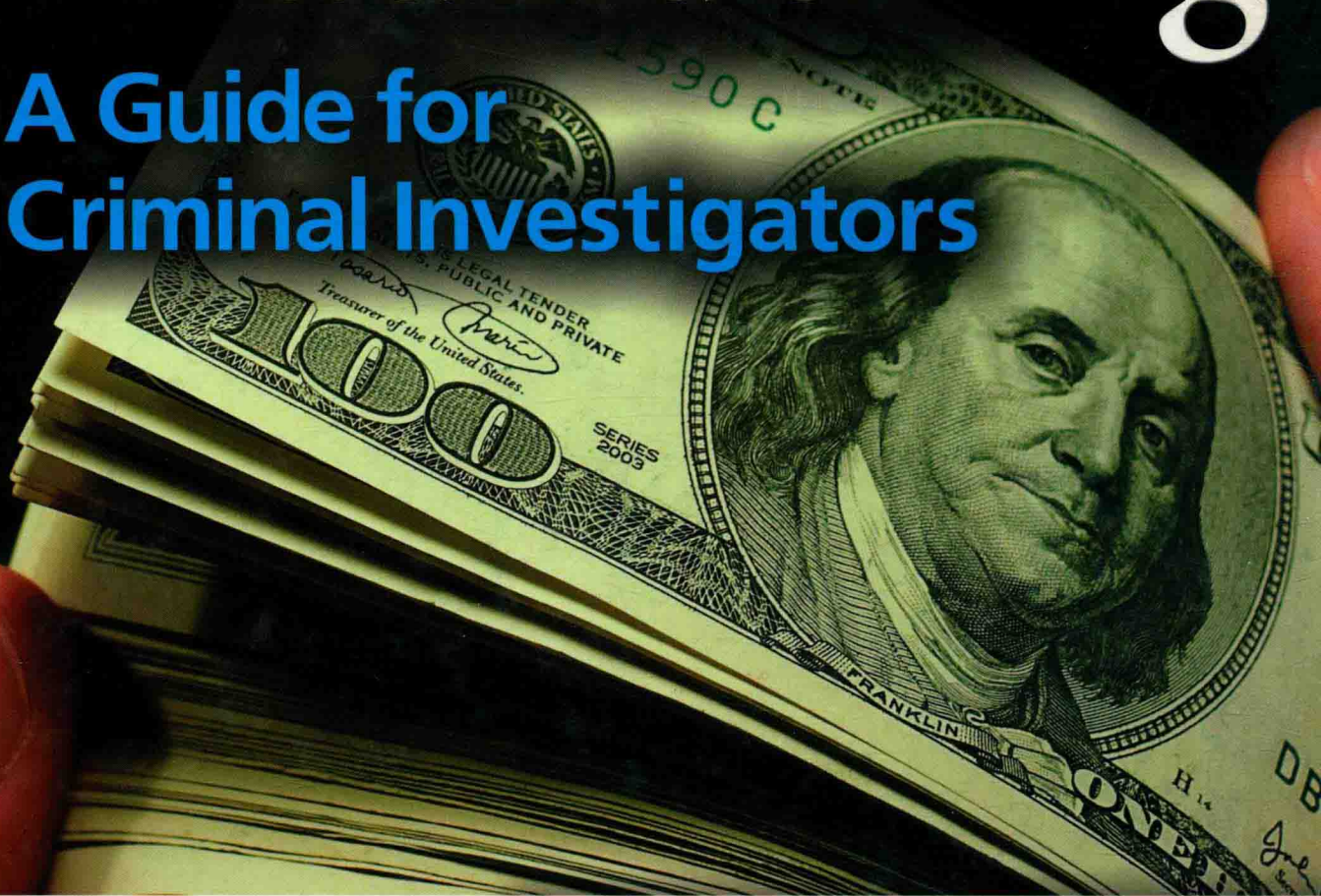


Second Edition

Money Laundering

A Guide for
Criminal Investigators



John Madinger



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PREFACE

The world changed forever on September 11, 2001. In a few short minutes — the time it took for two towers to fall — thousands of lives and billions of dollars were lost. Destroyed also were illusions that had been sustained for much too long: We believed that terrorists would not strike America in its homeland, that threats made by people like Osama bin Laden were idle, that our institutions were strong enough to prevent catastrophe.

Some long-held assumptions also collapsed that day, notably the belief that terrorism could be dealt with strictly as a law enforcement problem. In previous incidents of terrorism, law enforcement responded to the scene; even before the smoke cleared, FBI evidence technicians and ATF bomb experts were meticulously combing the wreckage for clues as criminal investigators began following leads to the perpetrators. Prosecutors waited for the evidence that would lead to indictments, trials, and, hopefully, long stretches in a federal penitentiary for those responsible.

After September 11, most folks were ready to say goodbye to all that, or at least goodbye to the concept that we could afford to wait around until the next bomb blast or aircraft hijacking before taking some preemptive action. Just about everybody agreed that much more effective proactive measures were going to be needed if we were going to prevent something like the September 11 attacks (or something even worse) from happening again.

We also recognized pretty quickly that we were dealing with an enemy who was highly motivated, well trained, organized, disciplined, and, perhaps most significant, well funded. The funding aspect is so important because all the motivation, training, and discipline in the world won't get you onto an airplane unless you have the price of an airline ticket. The September 11

hijackers, of course, required a great deal more money than that, but they had all they needed. The plotters' costs, though not enormous, were substantial and included international travel, communications, flying lessons, and living expenses for two dozen or more people, probably totaling between \$400,000 and \$1 million.

The investigators swarming over the records after September 11 quickly followed the trail of this money to Europe and the Middle East, discovering that not only did the terrorists have enough money, they also had some left over. The investigators also discovered that many of the techniques used by the terrorists and their financial backers to move their cash were very similar, if not identical, to those used by money launderers for decades. In addition to cash, the terror networks utilized banks, wire transfers, informal banking networks, business fronts, and the financial systems of countries where secrecy is the rule. Most drug trafficking and organized crime groups would be comfortable with all of these methods of laundering money; indeed, as we shall see, they developed and perfected them.

So, although the world changed, some things did not and one of these was the need for criminal investigators to develop and perfect the techniques necessary to combat those who violate society's laws. We are trying to keep up with the criminals and, if they are playing in the financial arena, we need to be able to understand the rules of that game.

This book is, as its subtitle states, a guide for criminal investigators. It was originally written to help train task force officers and others who might be working on complex narcotics or other cases in which there was a financial component. Since the book was first written, the need for this information has only grown. Today, the Drug Enforcement Administration (DEA) and the Organized Crime Drug Enforcement Task

Force program (OCDETF) both require that the financial aspects of every case be at least addressed, if not fully investigated. DEA and other federal agencies are actively seeking investigators who can conduct financial investigations and most major cases now have some financial component.

No book can do everything for everyone, so it's a good idea to say right up front what this one is and is not. It provides a *basic* grounding in the law and theory of money laundering. It is not a "how to" guide on laundering money, although at the end the reader will know more about how launderers operate. It also is not a detailed examination of advanced or highly complex money laundering schemes. Some of these

are so convoluted that even the people who designed them don't know what they're doing. If a law enforcement officer encounters one of these schemes, the advice of experts will be essential and this book will help the officer understand what the experts are talking about.

Finally, this book is a reminder that the vast majority of crimes are all about money. Some are motivated by greed for money, while in others, like the terrorist attacks of September 11, 2001, money fuels the criminals in their illegal activity. Finding the money, tracing it, linking it to the criminal, and taking it away are all essential parts of our jobs now and this book provides information to help us do those jobs. Because it is so important, I wish you the best of luck.

AUTHOR

John Madinger is a senior special agent with the Criminal Investigation Division of the Internal Revenue Service. In his 30-year law enforcement career, he has also served as narcotics agent, supervisor, and administrator. He holds a bachelor's degree in criminal justice from Indiana University and was the honor graduate in the Treasury Criminal Investigation Training Program. He is the recipient of numerous awards

and citations from the Internal Revenue Service, the Drug Enforcement Administration and Organized Crime Drug Enforcement Task Forces. He has extensive experience in money laundering, forfeiture, and financial investigations; has developed training programs in these areas for the Treasury and Justice Departments; and has presented money laundering training in the United States, Europe, Asia, and the Caribbean.

INTRODUCTION

"Where large sums of money are concerned, it is advisable to trust nobody."
Agatha Christie, *Endless Night*

"Whoever profits by crime is guilty of it."
French proverb

"AS GOOD PYRATES AT LAND...": THE LEGEND OF HENRY EVERY'S SECOND BIG MISTAKE

It's been a while since Henry Every made his *second* big mistake. He should never have turned to crime to begin with, which was the first. Not that Henry and his associates were unsuccessful criminals. On the contrary, they were daring and resourceful, and they overcame tremendous hardships to further a pirate career that spanned five years and half the globe (see Figure I.1).

And what a career it was. In their last seizure alone, Every and his crew took the Portuguese ship *Gung-i-Suwaie* and its treasure valued at £325,000. As the new owner of what would be \$400 million in today's money, Every is alleged to have offered to retire the British national debt in exchange for a pardon. Three hundred years later, leaders of a drug cartel would make similar offers to their government, and these, like Every's, would be refused.

No, the problem was not that Every and his men were poor criminals. Their problem was that they were *so* successful: Prosperity would lead directly to Every's second big mistake. Having accumulated a vast treasure, Every and his crew of pirates decided to divide the spoils and leave the high seas forever. Somewhat surprisingly, they chose Jolly Olde England for their retirement home.

Europe represented a civilized place to spend the loot, and there were sentimental ties, but England (and the other European countries, for that matter) had a less-than-jolly attitude toward



Figure I.1 Arch-Pirate Henry Every, from a contemporary image. Every had a successful career as a pirate in the Atlantic and Indian oceans, but legend has it that he came undone when he tried to launder his share of the treasure. (Source: National Archives)

piracy. Here, the discovery of their pirate past would result in a short ride to the end of a long rope. Every and his shipmates had radically different ideas about how to avoid that ride. Neither approach would be very successful.

Novelist Daniel Defoe (*Robinson Crusoe*) chronicled the story some years later in an

account probably more fiction than fact. According to Defoe, Every's crew landed in Scotland and split up, each carrying his share of the treasure. Many of the crew members immediately drew attention to themselves by spending money freely ("Like a drunken sailor" is the phrase that comes most immediately to mind). Curious townspeople began to ask difficult questions about the background of the men and their money. This caused the crew to panic, with members offering extravagant sums for transportation out of town. Arrests ensued, followed by prompt, well-deserved hangings. One mystery remained: None of the condemned men were able to shed any light on the whereabouts of their leader, who had evidently taken a more refined approach to his financial affairs.

In Defoe's legend, Every moved quietly into the small Devonshire town of Bideford, a place with a strong maritime tradition. Up to the moment Every turned over his treasure to the Bideford merchants, his criminal career had been almost letter-perfect. Although he was the most wanted man in all of England, his travels throughout the world had kept his face from becoming well known in his home country. Those same travels had provided him with more wealth than was possessed by the entire populations of some English towns. Every had had to do some fairly unpleasant things to amass his fortune, but he was now confident that his riches would enable him to live out his days in quiet retirement. In short, he thought he was home free. The Bideford merchants had other ideas.

Every wanted to sell some diamonds, a straightforward enough request, and not unusual in Devon, the home to a large seafaring population, many of whom acquired precious stones in their travels throughout the world. What made Every stand out was the size of the sale. The retired sailor who gave his name as "Henry Bridgeman" had literally a king's ransom in diamonds, worth several thousand pounds. In a time when the average seaman might see 500 pounds over a lifetime, Every's hoard was, quite literally, a fortune.



Figure 1.2 *Henry Every's Big Mistake.* Henry Every, arch-pirate, anxiously awaits the verdict of the Bideford merchant who is about to cheat him out of a king's ransom. The story of Every's failed career as a money launderer comes to us from Daniel Defoe, author of *Robinson Crusoe*. (Source: Author's collection)

The Bideford merchants put two and two together, getting exactly four. They made Every a generous offer, paid a small deposit, took all of the diamonds, and refused to give him another shilling. When Every complained, the merchants suggested he contact the local sheriff — perhaps that good man would be interested to learn of the large number of jewels brought to his quiet town. (See Figure 1.2.)

Defoe says that Every, the retired arch pirate who lost his treasure to the merchants of Bideford in 1697, lived on in poverty for a number of years. He occasionally received a small sum from the merchants, whom he died cursing as being "as good Pyrates at Land as he was at Sea." (They were much better money launderers, too.)

A couple lessons from this short and unhappy career in money laundering are still valid today. First, criminals should be aware that no matter how successful they are at the crime itself, there may still be problems disposing of the loot. Every paid dearly for this wisdom. Second, the mere existence of wealth may result in exposure to the criminal. In fact, the failure to adequately explain the source of the wealth may even be

fatal, as Every's crew discovered. Finally, those of us who enforce the law might take note of the fact that although the British government spent huge sums in a futile attempt to catch Every and his crew while they were pirating, it was the spending of the loot, not some fierce sea battle, that ended the pirates' careers.

Business Week magazine called money laundering "the crime of the 1990s," but it's older, of course. Certainly those who commit crimes for financial gain have gotten more sophisticated in the concealment of their wealth, but as the Every case shows, the need to dispose of the wages of sin is ancient indeed. Law enforcement today has more resources than ever to address this difficult problem, but the criminals strive to stay at least one step ahead. It is, after all, their necks (and their money) that are on the line.

Several factors have combined to make money laundering more important than ever before. Advances in communications and transportation have made the world a smaller place. Concealment of the proceeds of crime is a much easier proposition today than in Every's time. Criminals have the ability to move themselves and their stolen property between countries within hours. Funds can be wired from one world financial center to another in seconds. With centers located in different time zones, one will always be open and ready for business.

A second factor involves the internationalization of crime. Organized crime, in its various forms and assorted ethnic faces, has become a problem in countries around the globe. The home-grown syndicate has given way to a new breed of criminal, at home in many cities, able to move quickly from place to place, capable of using contacts and facilities in foreign countries. These criminals, be they members of Japan's *Boryokudan*, Sicily's *Mafia*, or Colombia's drug cartels, represent a serious challenge for law enforcement. It is no longer possible for a police officer to "know his beat" and all of those people on it. Today, a jewel thief can meet with a fence in New York on the same business day as the theft in France, get paid, and have her money in a Hong Kong bank the day before!

Drug trafficking between nations and across international borders has contributed greatly to the globalization of crime. Since the source countries for drugs such as cocaine and heroin are generally not those where the drugs are consumed, transport of the commodity is required. Customs officers worldwide are all too familiar with the almost infinite variety of methods by which drugs are smuggled. The constant testing and probing of Customs' resources by smugglers has led to an intimate familiarity with the ways and means of international travel.

Drug trafficking organizations move their product by land, sea, and air, using commercial or private facilities. Recent cases on the United States-Mexico border have led to the discovery of tunnels leading between the two countries. Smuggling by private aircraft is a common means of moving quantities of drugs quickly between nations or couriers may be employed to carry the drugs aboard commercial airliners. The sheer volume of traffic at airports and at border crossings makes detection of these efforts most difficult.

In addition to travel for the purpose of smuggling, international criminals have discovered that movement between countries is an excellent way to avoid detection by local authorities. Sensitive meetings can be scheduled for a foreign country with little anticipation that local police will follow or that those at the meeting site will be alerted or interested in the activity.

A good example is the planning session for the terrorist attacks that took place in New York on September 11, 2001. Members of the Al Qaeda terrorist organization, which was then headquartered in Afghanistan, traveled from Europe and North America to Indonesia to finalize their plans, far away from their bases and from their targets in the United States.

Finally, international organizations have learned the value of currency movement and are now as skilled and experienced at moving money from nation to nation as any financial expert in the world. Criminals have traditionally taken advantage of the confidentiality afforded by some countries' banking laws. The banks of

Switzerland have long been a haven for foreign capital, some of which stems from questionable sources. Other nations have imitated the Swiss example, creating havens for foreigners seeking to conceal wealth or income from their home governments. These offshore havens are often “dead ends” for investigators attempting to follow the money’s trail. More than one investigator has seen a case go into a black hole in Switzerland, the Cayman Islands, the Bahamas, or Hong Kong never to emerge again.

IMPROVEMENTS IN LAW AND LAW ENFORCEMENT

Law enforcement has made some advances of its own. We see this progress not only in the form of new statutes enacted to deal with modern criminal activity but also in the methods used to investigate sophisticated international financial crimes.

Thirty years ago, the drug laws of the United States were relatively simple and most could easily fit on one page of the statute book. Drug offenders were charged with distribution or possession of the illegal substance and occasionally with conspiracy to possess or distribute. Today, such provisions as the Continuing Criminal Enterprise statute and much enhanced conspiracy provisions greatly improve the ability of investigators to penetrate a large organization and reach its upper echelons.

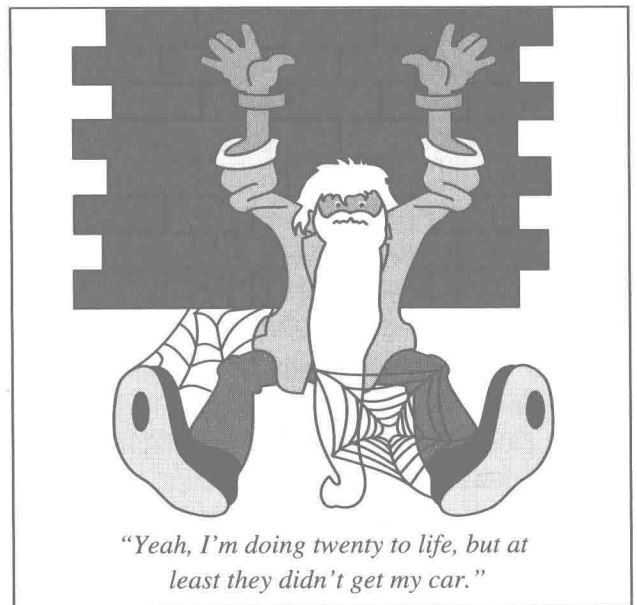
Laws directed at organized crime such as the Racketeer Influenced and Corrupt Organizations Act (RICO), “travel” or Interstate Travel in Aid of Racketeering (ITAR) Act, and similar laws have taken direct aim at the ability of criminals to combine or conspire for some nefarious purpose. Some of these statutes such as the RICO law also provide for the seizure of assets acquired by the criminal, making them even more potent weapons against crime.

In some countries, laws directed at organized crime include antimembership provisions, the banning of certain organizations, and prohibitions against association with certain groups. These laws can have a major impact on the

criminal’s ability to associate and they make the conduct of an illegal business more difficult and expensive.

Finally, and perhaps most significantly, the expanding use of forfeiture around the world has made life most uncomfortable for the criminal. The prospect that a government might take away all of one’s ill-gotten gains, even those earned in another country, must be extremely disheartening for the mobster, drug trafficker, or syndicate hoodlum. Law enforcement has become an enthusiastic supporter of the forfeiture laws. Governments worldwide are becoming much more creative in using these provisions against all sorts of criminal activity.

All of these factors are well known to the law violator who is offered on one hand a world of much broader opportunities and, on the other, one with much greater risk. Smart criminals respond by finding ways to conceal their interest in illegal operations. In our day and age, even as in Henry Every’s, this most definitely includes hiding any financial interest.



MODERN LAW ENFORCEMENT METHODS

Just as the Information Age has increased opportunity for the criminal, so has it provided new benefits for the law enforcement officer. Agencies on the national and international level have

recognized the need to adjust to and take advantage of new technology, laws, and techniques.

INTERPOL, the International Criminal Police organization, based in France, has established links to police departments and investigative agencies throughout the world. Communications via INTERPOL and other channels have steadily improved, aided by the stationing of law enforcement personnel in overseas postings. Today, representatives of at least six federal law enforcement agencies are posted in American embassies or consulates on every continent. The primary function of this foreign presence is to establish an effective liaison with law enforcement counterparts in the host nation. Many of those nations also station their law enforcement personnel in the United States, although not in such large numbers.

Law enforcement agencies all over the world have come to recognize the value of financial information in the detection and prosecution of criminal activity and many countries have established Financial Intelligence Units (FIUs) to track large and suspicious currency transactions. Not only do law enforcement officers within that country have access to this valuable resource, but the FIUs have the ability to communicate with each other about transactions having international ramifications.

By sharing ideas in all of these situations, law enforcement makes the job of the criminal more difficult. This is an especially important factor in the complex financial crimes that span international boundaries. As we draw nearer to a cashless society, the ability to track assets and unravel complicated financial schemes will challenge law enforcement personnel to be ever more sophisticated and aware. Law enforcement's response to this challenge will determine the success or failure of efforts against not just financial crimes but organized crime in general.

LAW ENFORCEMENT RESPONSE TO MONEY LAUNDERING AND ORGANIZED CRIME

The law enforcement response to money laundering and organized crime takes two forms. The

first is an organizational response, in which agencies or entire governments react as a matter of policy. Perhaps the easiest response is to adopt a "business as usual" approach, one that assumes that the tried and true methods that worked in the past can be applied successfully to any new problem. Unfortunately, this response ignores the sophistication of today's criminals, as well as the rapidly changing environment in which they operate. Law enforcement officers tend to be basically conservative, slow to change, and reluctant to accept new ideas. These same attitudes and characteristics can also suffuse their organizations, bureaucracies that are naturally inclined toward doing "business as usual."

In fact, law enforcement has already made many adjustments to its changed environment. Recognition of the importance of financial investigative techniques has been emphasized by the use of forfeiture laws, first against drug traffickers and later against all manner of criminal activity. The ability of law enforcement agencies to take a flexible, integrated approach toward complex financial crimes such as money laundering will bear immediate fruit. By integrating financial investigative techniques into the law enforcement arsenal, we have the opportunity to become as flexible as the criminals we are now compelled to pursue. Law enforcement also becomes able to make better use of forfeiture statutes, to use financial information in drug or other criminal cases, and to obtain and understand financial intelligence that can be useful in future cases.

The second response is individual. Each law enforcement officer whose career will extend into the 21st century must make an honest appraisal of his or her own ability to compete on this global playing field. One of the most important messages of this book is that money laundering and complex financial crimes are going to be a part of our future. For the individual detective, investigator, or agent to properly address these crimes, he or she will need the right attitude, the right training, and administrative support.

The ability to investigate money laundering is not difficult to acquire. Most investigators already possess the necessary skills. It is not, for example, necessary to be an accountant, but a basic knowledge of financial systems, including accounting techniques, is essential. Many already have some of this knowledge through contact with banks, financial crimes, or similar job-related intercourse. (You can actually learn quite a bit about banking operations and accounting just by balancing your own check-book. Many of the accounting functions needed to do financial investigations are no more complicated than this simple process.)

Another important individual response is the development of sources of financial information. Whether this is a reorientation of an informant to seek information about financial transactions or the development of sources within the business community, financial information is critical to the development of money laundering cases. As we will see (and without giving away too much at the beginning), there are essentially two approaches to a money laundering investigation. In option one, you can look for the crime that underlies the money laundering violation, drug trafficking for example, and then try to find out

what happened to the money generated by that crime. In option two, you can look for the money and then trace it back to the crime that generated it. A surprising number of cases, many of which are going to be cited in this book, have been resolved in exactly this way.

It is definitely not the intent of this book to sell one option over the other. Both work and both work well. Rather, it is hoped that the conscientious investigator will see the merits of each approach, understand the value of financial investigative techniques in each, and use the information in this book effectively in either approach. In any case, the development of financial information, either from traditional sources (i.e. informants) or financial sources, is an important key to success.

Summing up, this text has three principal goals. First, I want to provide an understanding of how money laundering works and how it fits into the world of modern criminal activity. Second, I hope to increase the investigator's ability to conduct money laundering and financial investigations. Finally, it is hoped that the reader will recognize how valuable this knowledge will be in the investigation of organized criminal activity and be convinced to employ it in future cases.

CONTENTS

Chapter 1	Basic Concepts.....	1
	Money, Money, Money.....	1
	The Evolution of Money	2
	Money Laundering	6
	The Money Laundering Cycle	10
	<i>Rex v. William Kidd, et al.</i> : A Case of Piracy	11
	Money Laundering Facts.....	14
	Key Points to Consider	14
Chapter 2	The Historical Context.....	15
	Analysis of the Watergate Money Laundering Scheme.....	24
	More Money Laundering Schemes	26
	American Airlines.....	26
	Braniff Airlines	28
	George Steinbrenner and American Shipbuilding	28
Chapter 3	Federal Money Laundering Statutes.....	31
	The Money Laundering Control Act.....	34
	Title 18 U.S.C. §1956 (a) (1).....	35
	The Money Was Proceeds of an SUA	36
	The Defendant Knew That the Money Was Proceeds of an SUA.....	37
	The Defendant Conducted or Attempted to Conduct a Financial Transaction.....	38
	The Defendant Acted with Intent.....	40
	Title 18 United States Code §1956 (a) (2): The International Transportation Offense.....	42
	Title 18 U.S.C. 1956 (a) (3): The “Sting” Provision	44
	Title 18 U.S.C. 1957	45
	Title 18 U.S.C. 1956 (h): Conspiracy	47
	Other Issues	47
	Venue and Statute of Limitations.....	47
	Sentencing.....	49
	Specified Unlawful Activity — Title 18 U.S.C. Sections 1956 and 1957 (Money Laundering Control Act of 1986).....	49
	Frequently Asked Questions About SUAs	53
Chapter 4	The USA Patriot Act.....	55
	Criminal Sanctions	57

Bulk Cash Smuggling	58
Forfeiture	58
Regulatory Action.....	60
Prohibition on U.S. Correspondent Accounts with Shell Banks (31 U.S.C. 5318 (j); Act Section 313).....	60
Availability of Bank Records.....	60
Due Diligence for Private Banking and Correspondent Accounts (31 U.S.C. 5318 (i); Act Section 312).....	61
“Special Measures” for Certain Jurisdictions, Financial Institutions, International Transactions, and Accounts (31 U.S.C. 5318A; Act Section 311)	61
Standards for Verification of Customer Identification (31 U.S.C. 5318(l); Act Section 326).....	61
Suspicious Activity Reporting (31 U.S.C. 5331, Act Section 365)	61
Forfeiture of Funds in U.S. Interbank Accounts (18 U.S.C. 981(k); Act Section 319)	62
Anti-Money Laundering Program Requirement (31 U.S.C. 5318(g); Act Section 352).....	62
Filing of SARs by Securities Brokers and Dealers (Act Section 356).....	62
Filing of SARs by Businesses (31 U.S.C. 5331; Act Section 365).....	62
Penalties (31 U.S.C. 5321, 5322, 5324; Act Sections 353 and 363).....	62
Sunset Provisions.....	62
Effects of the USA Patriot Act	62

Chapter 5 Money Laundering Forfeiture.....	65
Money Laundering Forfeiture	67
Civil Forfeiture	70
What Can Be Seized?.....	70
Title 18 U.S.C. §981 (Civil Money Laundering Forfeiture)	70
Title 18 U.S.C. §984 (Civil Forfeiture of Fungible Property).....	70
Procedures for Civil Seizures Under §981 (b)	70
Seizure Incident to Lawful Arrest or Search	70
Seizures Made with Seizure Warrant.....	71
Administrative Forfeiture Proceedings	71
§982 Criminal Forfeiture.....	72
Criminal Forfeiture Statute: 18 U.S.C. §982	72
What Property Is Subject to Criminal Money Laundering Forfeiture?	72
The Criminal Forfeiture Process.....	72
Substitution of Assets.....	73
Special Forfeiture Issues	74
Preseizure Planning	74
Grand Jury Information in Forfeiture Cases.....	75
Non-Grand Jury Information.....	75
Seizure of Real Property	76
Equitable Sharing	77

Chapter 6	Related Federal Statutes	79
	Bank Secrecy Act	80
	Reports Required by the BSA.....	83
	Currency Transaction Report	83
	Report of International Transportation of Currency or Monetary Instruments	84
	Currency Transaction Report by Casinos	84
	Foreign Bank Account Report.....	85
	Suspicious Activity Report.....	85
	Report of Cash Payments over \$10,000 Received in a Trade or Business.....	87
	Business Registration	88
	Penalties under Title 31.....	89
	Investigations under Title 31	91
	Racketeer Influenced and Corrupt Organizations Act	92
	Illegal Money Transmitter Businesses	93
	Investment of Illicit Drug Profits	94
	False Statements	95
Chapter 7	International Money Laundering Control	97
	International Organizations	99
	INTERPOL	99
	United Nations.....	99
	British Commonwealth.....	99
	Financial Action Task Force.....	100
	Organization of American States	101
	The Egmont Group.....	102
	Other Initiatives	102
	Impact on Law Enforcement.....	102
	Obtaining Information from Abroad.....	103
Chapter 8	Introduction to Financial Investigation.....	107
	Case Study: Treason.....	108
	The Importance of Context	111
	A “How To” Guide to Financial Investigation	112
	Looking Ahead	114
Chapter 9	Introduction to Books and Records	115
	The Capone Organization.....	117
	Accounting Principles	135
	The Dreaded Debits and Credits.....	136
	Analyzing the Balance Sheet	139
	Analyzing the Income Statement	140
	Using Books and Records in a Financial Case	143
	Conclusion	144

Chapter 10 Indirect Methods of Proving Income	145
Indirect Methods.....	146
Net Worth	146
Defenses to Net Worth	150
Conclusion	151
Source and Application of Funds.....	151
Bank Deposits.....	152
Unit and Volume.....	153
Application in Money Laundering Cases.....	154
Crime of the Century — Laundering the Hottest Money in America.....	154
Chapter 11 Business Operations.....	161
Proprietorships	161
Partnerships.....	162
General Record Information	165
Terms Used in Connection with Partnerships.....	165
Corporations	165
Corporate Advantages and Disadvantages	166
For the Investigator.....	168
Corporate Criminal Liability.....	168
Other Business Entities	169
Summing Up.....	172
Chapter 12 Domestic Banking	173
Money and Banking	173
Borrowing and Lending	177
Bank Regulation and Control.....	178
Bank Management and Operation	179
Bank Functions.....	180
Making Loans.....	180
Receiving Deposits	181
Hold and Administer Property for Others.....	182
Not All Banks Are Created Alike	183
Resources on Banking.....	185
Chapter 13 Banking Operations	187
Making Loans.....	188
Consumer Loan Types.....	188
Mortgage Loans.....	188
Secured Property Loans	188
Secured Cash Loans	189
Credit Card Loans	189
Personal Lines of Credit.....	189
Overdraft Protection	189
Student Loans	189

Home Equity Loans.....	190
Miscellaneous Loans	190
The Loan Process	190
Receiving Deposits	191
Paying Checks	195
Check 21 — Big Changes for Banks (Almost) Everywhere	199
Monthly Account Statements	199
Transferring Funds	200
Cashier's Checks	201
Bank Money Orders	202
Bank Drafts.....	202
Traveler's Checks	202
Certified Checks	202
Exchange Instruments	202
Holding and Administering Property for Others	203
Collecting and Processing Financial Instruments.....	204
Other Services	204
Currency Exchange	205
Services for Business	205
Trust Department Services	205
Bank Record-keeping and Reporting.....	206
Chapter 14 International Banking	209
International Transactions	210
Cash in Advance.....	210
Documentary Letters of Credit	211
Documentary Collection.....	211
Open Account.....	211
Basic Documents Used in International Trade	211
Letters of Credit	212
A Money Laundering Scheme Involving a Letter of Credit.....	213
Documentary Collections	214
Document Collection Process	215
Banker's Acceptance	215
Foreign Exchange.....	216
International Banking	218
International Banking Services Offered by U.S. Banks.....	220
Foreign Bank Accounts	221
Types of Accounts	222
Opening a Swiss Account	222
Account Identification	223
Documents Available from Foreign Banks	223
Chapter 15 Money Transfers.....	225
Starting Small: Licensed Money Transmitters	227
Operation	228