

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

**IN THE MATTER OF:** )  
 )  
 )  
 ) **Number 2014-04**  
**Mian, Inc. d/b/a Tower Package Store** )  
**Doraville, GA** )

**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 Mian, Inc. d/b/a Tower Package Store (“Mian” or “the MSB”), pursuant to the Bank Secrecy Act and regulations issued pursuant to that Act.<sup>1</sup>

Mian admits to the facts set forth below and that its conduct violated the Bank Secrecy Act. Mian consents to the assessment of a civil money penalty and enters 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 authority to investigate money services businesses (“MSBs”) for compliance with and violation of the Bank Secrecy Act pursuant to 31 C.F.R. § 1010.810, which grants FinCEN “[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.”

Mian was a “financial institution” and a “money services business” within the meaning of the Bank

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<sup>1</sup> 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.

Secrecy Act and its implementing regulations during the relevant time. 31 U.S.C. § 5312(a)(2) and 31 C.F.R. § 1010.100(t). The Internal Revenue Service, through the Small Business/Self-Employed Division (“IRS SB/SE”), examines MSBs for compliance with the Bank Secrecy Act under authority delegated from FinCEN. IRS SB/SE conducted an examination of Mian that identified several violations of the Bank Secrecy Act by Mian.

## **II. DETERMINATIONS**

FinCEN conducted an investigation and determined that, from December 2010 through September 2013, Mian willfully violated the Bank Secrecy Act’s program and reporting requirements.<sup>2</sup>

### **A. Failure to Register as a Money Services Business**

The Bank Secrecy Act and its implementing regulations require certain MSBs to register with FinCEN by filing a Registration of Money Services Business (“RMSB”) and renewing the registration every two years. 31 U.S.C. § 5330 and 31 C.F.R. § 1022.380. Mian was required to register as a money service business because it conducted business as a check casher. 31 C.F.R. §§ 1010.100(ff)(2) and 1022.380(a).

Mian filed its initial RMSB on December 26, 2001 and should have renewed its initial registration before December 31, 2003, and every two calendar years thereafter. FinCEN records indicate that Mian late-filed its renewals for the renewal periods ending on the last calendar days of 2007 and 2009, respectively. Because it failed to meet these renewal deadlines, within the six-year

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<sup>2</sup> In civil enforcement of the Bank Secrecy Act 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 Bank Secrecy Act, or that the entity or individual otherwise acted with an improper motive or bad purpose. Mian admits to “willfulness” only as the term is used in civil enforcement of the Bank Secrecy Act under 31 U.S.C. § 5321(a)(1).

statute of limitations period, Mian conducted business as a money services business without continuous registration with FinCEN for a period of 384 days.

**B. Violations of the Requirement to Establish and Implement an Effective Written Anti-Money Laundering Program**

The Bank Secrecy Act and its implementing regulations require MSBs to develop, implement and maintain an effective written anti-money laundering (“AML”) program that is reasonably designed to prevent the MSB from being used to facilitate money laundering and the financing of terrorist activities. 31 U.S.C. §§ 5318(a)(2) and 5318(h); 31 C.F.R. § 1022.210. Mian was required to implement a written AML program that, at a minimum: (a) incorporates policies, procedures and internal controls reasonably designed to assure ongoing compliance; (b) designates an individual responsible for assuring day to day compliance with the program and Bank Secrecy Act requirements; (c) provides training for appropriate personnel including training in the detection of suspicious transactions; and (d) provides for independent review to monitor and maintain an adequate program. 31 C.F.R. §§ 1022.210(c) and (d).

From December 2010, through September 2013, Mian failed to develop, maintain, and implement an effective written AML program that adequately addresses three of the minimum requirements. Mian’s procedures, policies and internal controls were not reasonably designed and implemented to ensure compliance with its Bank Secrecy Act obligations, in particular the requirements to report and maintain records on currency transactions involving its check cashing activities. Mian failed to adequately implement AML procedures to ensure the timely and accurate filing of currency transaction reports (“CTRs”). In addition, Mian’s written AML program did not provide in detail the duties and responsibilities of the Bank Secrecy Act compliance officer. The Bank Secrecy Act compliance officer did not review currency transactions for timely filing and

accuracy. Mian also failed to conduct an independent test of the MSB. In summary, Mian wholly failed to implement an effective AML program.

### **C. Violations of the Requirements to File CTRs**

The Bank Secrecy Act imposes an obligation on MSBs, among other financial institutions, to file a CTR of each deposit, withdrawal, exchange of currency or other payment or transfer which involves a transaction in currency of more than \$10,000. 31 C.F.R. § 1010.311. MSBs must report currency transactions exceeding \$10,000, and must do so within 15 calendar days after the transaction occurs. 31 C.F.R. § 1010.306(a)(1). Multiple transactions must be treated as a single transaction if the financial institution has knowledge that (1) they are by or on behalf of the same person, and (2) they result in currency received (cash in) or currency disbursed (cash out) by the financial institution totaling more than \$10,000 during any one business day. 31 C.F.R. § 1010.313(b).

For several years, Mian has failed to file CTRs, late-filed CTRs, and inaccurately filed CTRs. From December 2010 through November 2011, Mian failed to file CTRs on approximately 40 percent of its transactions that required CTR filing. During this time period, the CTRs that Mian actually filed were late and had inaccuracies. Mian's failure to comply with its CTR obligations persisted even after it was notified by IRS SB/SE of its CTR deficiencies. From December 2011 through November 2013, Mian failed to file timely CTRs on 275 transactions that required CTR filing. This represents a failure rate of 91 percent.

### **III. CIVIL MONEY PENALTY**

FinCEN has determined that grounds exist to assess a civil money penalty for violations of the Bank Secrecy Act and its implementing regulations, as described in the CONSENT. 31 U.S.C. § 5321 and 31 C.F.R. § 1010.820.

FinCEN has determined that the penalty in this matter will be \$45,000.

#### **IV. CONSENT TO ASSESSMENT**

To resolve this matter, and only for that purpose, Mian consents to the assessment of a civil money penalty in the sum of \$45,000 and admits that it violated the Bank Secrecy Act's program and reporting requirements.

Mian 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 Mian to enter into the CONSENT, except for those specified in the CONSENT.

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

#### **V. RELEASE**

Execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, settles all claims that FinCEN may have against Mian for the conduct described in Section II of this ASSESSMENT. Execution of the CONSENT, and compliance with the terms of this ASSESSMENT and the CONSENT, does not release any claim that FinCEN may have for conduct by Mian other than the conduct described in Section II of this ASSESSMENT, or any claim that FinCEN may have against any party other than Mian, such parties to include, without limitation, any director, officer, employee, or agent of Mian. Upon request, Mian shall truthfully disclose to FinCEN all factual information not protected by a valid claim of attorney-client privilege or work

product doctrine with respect to the participation of its current or former directors, officers, employees, or agents in the conduct described in Section II of this ASSESSMENT.

By:

/S/

July 15, 2014

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Jennifer Shasky Calvery

Date

Director

FINANCIAL CRIMES ENFORCEMENT NETWORK

U.S. Department of the Treasury