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Dramatic Increase in Financial Institution Fraud Cases Tops the FBI's List of White-collar Crimes

Fraud at financial institutions is placing a larger burden on the time and resources at the Federal Bureau of Investigation. The dramatic increase in cases has developed over the last few years. Nearly one-half of the 2,200 agents investigating white-collar crime are delving into fraud cases involving banks, savings associations and credit unions.

FDIC Fraud Alert spoke with Thomas T. Kubic, chief of the FBI's white-collar crimes section, and Ronald L. Dick, unit chief for financial institutions fraud. Kubic began the session with a description of the bureau's activities.

KUBIC: White collar crime is just one of the criminal investigative programs that we have within the FBI. It joins our drug program, organized crime, violent crime program as one of the top priorities. We have approximately 2,200 agents who are working within the white collar crime program.

The white collar crime program is further divided into four subprograms that deal with political corruption, financial institution fraud, economic crimes, and government fraud. The top priority within the white collar crime program is the financial institutions fraud subprogram and that is the one that has been getting the majority of our investigative attention over the past few years.

Fraud Alert: Several months ago, several FBI agents in Boston talked extensively to the press about the scope of financial fraud investigations in New England and what they saw as the extent of it. Does this candor with the press represent a change in the way the FBI is doing business these days?

KUBIC: Well, not really. Let me talk in terms of pending investigations versus assessments of criminal problems. For 84 years, the FBI has not commented on pending cases. So the discussion that you are talking about related to their assessment of the crime problem. We have been talking about crime problems in our communities for some time. So, in that context, I don't think that is all that unusual.

Fraud Alert: The agents were talking more in terms of what they see as the scope of the financial fraud problem in

New England and the volume of money lost to fraud. It sounded like a kind of warning to the banking industry?

DICK: Maybe it was informative to the public. It may not have anything to do with the banking industry itself, but rather trying to tell the public exactly what the FBI is doing to protect their tax dollars and the dollars they have in the various financial institutions in the area. So, I don't know that warning to bankers is the right phrase, but maybe information to bankers that we're there to do a job and if they can be of assistance we would like that.

Fraud Alert: Has the FBI increased the number of agents working on financial institution fraud in the last year or two?

KUBIC: Yes, we have had increases in '91 and '92.

Fraud Alert: How many agents are now working on financial fraud cases?

DICK: Approximately 900 on just financial institutions fraud. In fiscal '93, I am not sure what the final number is going to be, but I think it is an additional 35 agents.

KUBIC: Basically we have just under half of the total agents in the staffing level for white collar crime devoted to financial institution fraud investigations: 900 out of about 2200. During FY 1992, there have been, field-wide, about 200 agents who have been diverted from other programs to work on white collar crime cases.

Fraud Alert: I assume that the caseload in financial institution fraud is increasing rather than declining?

DICK: Yes, at the end of the 1991 fiscal year we had 8,678 cases. As of the end of August we had 9,746 investigations ongoing. At the end of fiscal year '91 we had 733 bank failure investigations pending; as of the end of August we had 756 bank failures pending. So we have had an increase of around 23 as far as bank failure cases. We define major cases not only as bank failures, but any investigation wherein the loss is \$100,000 or more. Our major cases have gone from 4,336 in fiscal year 1991 to 5,027 as of the end of August. So, we have

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had a dramatic increase in not only the sheer numbers of cases, but in the number of major investigations which would include financial institution failures.

Fraud Alert: And as you were saying, they are not necessarily bank cases that have been growing out of bank failures, they are cases that are also coming out of open and operating banks?

DICK: Right.

Fraud Alert: Does this include the S&L failures as well?

DICK: This includes banks, savings and loans and credit unions.

Fraud Alert: With this growth in your caseload, are there new trends evolving in the kind of fraud that you are seeing?

KUBIC: I haven't seen any. In the heartland of America, it's just your basic schemes that have been ongoing and which led to some of the original problems. Interlocking directors, composed of buddies who readily agree to loans, had been prevalent.

DICK: You also have the land flips. But as far as any new trends or new schemes, I am not aware of any. There are variations on all of them, but they still come back to the same basic criminal enterprises.

Fraud Alert: What does the FBI recommend that the bankers do when they suspect that there is fraud in their own institution?

KUBIC: Well, I'd recommend that they call us. That is a start. There are a couple of general principles. One is to know your customer. They should know or take the time to know and understand who they are dealing with.

The internal controls that work for the most part tend to break down if you've got an insider situation, no matter what kind of controls. If you have an insider, you are going to lose the money, especially when that person is a ranking individual. So, it is really two categories, the outsiders versus the insiders. Outsiders submit inflated statements for their loans or provide false information to induce the bank to approve a loan request or a line of credit. But the inside guys are responsible for the most damage. I don't know if there is a surefire way to address the insider problem because of the levels to which some of the fraudulent and corrupt activity rise. If the institution is being used solely for the benefit of the insiders then you have major problems.

DICK: From an insider standpoint the only way you are going to be able to protect against these things, no matter what level, is through internal controls that highlight separation of duties. A number of cases that have been highlighted in the media recently involve what might be called off-book loans and the only way you are going to detect that is to build your internal controls such that things get approved in different places by different individuals. If you have complete conspiracy between the people involved in the transaction you still are not going to be able to prevent it. However, the more people you have involved, the less likely that big a conspiracy will go undetected.

Fraud Alert: The FBI is part of financial fraud task forces around the country, for example in Dallas and Boston. Will there be more of these task forces around the country?

KUBIC: I know that San Diego is being considered as a possibility for some additional task force type efforts. The Dallas model had been highlighted as the way to go in a number of areas.

Fraud Alert: Your work load doesn't really increase until after the banks fail?

KUBIC: We would anticipate an increase, yes, based on some of the expected reportings. In our discussions with other regulatory agencies we anticipated more bank closings than actually occurred in 1992. But until there is the closure and referral it is really difficult. We can say "This is what it looks like and this is what we anticipate," but until it happens....

Fraud Alert: What can bankers do to make life easier for the FBI if they suspect fraud in their institutions?

KUBIC: Well, I think if they would at least sit down and arrange an interview with the bureau early on, that is the best situation. With the outsider it is entirely possible that we have existing cases on some of these subjects who are now walking into another financial institution. The sooner we get the referral and we get a chance to talk about it, the better are the chances for success.

Fraud Alert: So bankers shouldn't try to play detective?

KUBIC: That's correct, they should not start the investigation.

DICK: The key thing is the preservation of the evidence, whether it is oral testimony or whether it is documentation that the banks have. Our main priority is getting into the bank early. Another issue bankers should be concerned with is getting back the assets of the bank from the people that have taken them. I am sure bankers are well aware there have been tremendous statutory improvements in seizure and forfeiture provisions associated with financial institution fraud.

The FBI has had a dramatic increase in its ability to assist banks in getting back the stolen assets of customers. For example, in fiscal year 1991 we had seizures of approximately \$11 million and as of the first 11 months of fiscal year 1992, we had seizures of \$423 million. I think that highlights that we are trying to respond to the concerns of bankers.

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RTC Finds Fraud in 64 percent of Failed S&Ls

At the end of August suspected criminal conduct had been found in 451, or 64 percent, of the 704 thrifts for which RTC investigators had completed Preliminary Findings Reports. Fraud and potentially criminal conduct contributed to the failure of 238, or 34 percent, of the RTC's thrifts. As of the end of August, 2,254 criminal referrals had been filed with the Department of Justice, 832 of which were filed by the RTC. In RTC-controlled thrifts, 651 defendants were indicted; 460 were convicted. Restitution totaling \$91.6 million has been ordered by the courts, with approximately \$6.8 million collected.

In recent court actions, judges handed down these convictions, sentences and restitution orders:

Amerifirst FSB of Miami, Fla. Baltimore Federal Financial of Baltimore, Md., Security First FS&LA, Daytona Beach, Fla. - Ellis E. Neder, Jr., was sentenced in September, on 70 charges that included fraud, making false statements, filing false income tax returns and two RICO counts. Neder was sentenced to 12 years and three months in prison and five years probation. Restitution of \$25,045,996 was ordered, with \$7,178,419 payable to the RTC. In addition, Neder, an attorney, was barred from participating in future real estate development activities.

First FS&LA of Raleigh, N.C. - Louis Mancuso and his wife, Susan, were each convicted on 10 counts of bank fraud and one count of conspiracy to commit bank fraud in connection with a \$236,000 loan from First Federal. A third defendant, R. Philip Hartman, was convicted of conspiring with the Mancusos to commit fraud. Hartman also was convicted on 10 counts of bank fraud based on the Mancusos' failure to pay the loan.

General Savings Association of Henderson, Tex. - General's former controlling owner, Billy Ray Wilder, was sentenced to a maximum of 10 years in prison and ordered to pay \$4 million to the court.

El Paso Savings Association of El Paso, Texas - The RTC received \$11,924.38 in criminal restitution from the thrift's former director Rollo Gurss, who had entered a plea agreement with the U.S. Attorney's office for the Western District of Texas.

Constitution FSA, Tustin, Cal. - Granville M. Alley III was sentenced recently to 30 months in prison to be served concurrently with his sentence in Alabama. He was also sentenced to five years' probation, ordered to pay \$240,491 in restitution, and fined \$150. Alley pleaded guilty to bank fraud charges centering on efforts to obtain money from Constitution through false and fraudulent pretenses, representations and promises. He gained a \$250,000 line of credit using false financial statements and false income tax returns. Approximately \$180,000 went to a real estate partnership investment.

Great Atlantic Savings Bank, FSB of Manteo, N.C. - Three borrowers were sentenced in September in connection with

loan fraud.

Mark Parker, the former owner and head of Great Atlantic, was sentenced last summer on three counts of bank fraud, conspiracy and making false statements. He was sentenced to 12 years in prison and ordered to pay fines.

Lannie D. Belangia received a two-year suspended sentence, three years' probation, 250 hours of community service and a \$50,000 restitution order.

Terry J. Dixon was sentenced to three years in prison, with all but four months suspended, three years probation and \$50,000 in restitution. Jerry S. Wright, Jr., was sentenced to two years prison with all but three months suspended, three years probation and was ordered to pay \$75,000 in restitution.

Constitution FSA, Tustin, Cal. - Robert A. Peisner was charged with two counts of bank fraud. The charges allege Peisner used false tax returns to obtain a \$175,000 line of credit from Constitution and used \$81,400 to invest in a real estate partnership.

In addition, the Department of Justice in August seized a \$1.5 million escrow account which represented the proceeds of false statements, bank fraud and wire fraud violations perpetrated against Continental Savings, Bellaire, Tex., and other institutions by William M. Adkinson and his associates. Adkinson was convicted of bank fraud against VisionBanc Savings in Kingsville, Tex., by a Florida federal jury in June.

Finally, United States District Judge Kimba Wood reduced Michael Milken's 10-year prison sentence. He will be eligible for release in March 1993 after serving two years. The judge reduced Milken's sentence after his testimony on behalf of the prosecution in other securities cases.

Uniform Criminal Referral Form Approved

Federal bank and thrift regulators have developed a common form for financial institutions to use to report suspected criminal activities.

The new form will require bankers to report essentially the same information as in the past, but it will replace a variety of forms now used by various regulators.

The form will not only standardize criminal referral data, but also will facilitate its automation. The information on the forms, along with the agencies' computer systems, will serve as the data base for a new computer system to be managed by the Treasury Department's Financial Crimes Enforcement Network (FinCEN).

This system will enhance the regulatory agencies' ability to track information on referrals made to law enforcement agencies and the administrative actions taken by regulators.

Theft of Credit Card Accounts is Growing

Credit card issuers are seeing an increase in the number of fraudulent applications for duplicate cards.

The scams vary, but they are generically referred to as "account-takeover fraud." *The New York Times* recently reported that "an increasing number of consumers are either denied credit or asked to pay for unauthorized charges because someone else has obtained enough personal information about them to get credit cards in their names.

"By the time the victims are aware that a fraudulent card exists, many charges may have been made and the thief is no longer at the address used to deceive the lender. In practice, however, most banks do not hold consumers responsible for fraudulent charges," the Times reported.

Experts say that account-takeover fraud is spreading rapidly because credit card criminals are becoming better organized and efforts to combat the use of lost or stolen cards are increasingly successful. Overall, the American Bankers Association said, there were more than 500,000 cases of bank-card fraud in 1991, with losses of more than \$500 million.

Some consumers discover they are victims when their cards are rejected because they are delinquent in paying off the charge. They later find out that the thief had persuaded the issuer to provide them with another card on the victim's account, while changing the address. In some cases the intended victim finds out about an intended theft of identity when the issuer sends a letter asking the consumer to confirm that he has changed his address. In some cases temporary

change of address forms have been filed with the Post Office to get at victims' credit card information.

"Thieves get information that theoretically only the true card holder should know," said James T. Huskey, president of the International Association of Credit Card Investigators. A lot of the new addresses, he told the newspaper, are mail drops.

"This is a two-man war game," said Philip Verdi, an executive vice president of Mastercard told the Times. "We do something, the thieves catch up with us; we do something else, they catch up with us again."

Before sending a card to a new address, or a person claiming a relationship to the card holder, the issuer will usually check the holder's name, address and Social Security number.

The more thorough security systems require personal information such as the the holder's driver's license number or mother's maiden name.

Would-be thieves have plenty of sources of personal information. It can come from copies of sales contracts or resumes. Hackers have been able to tap into credit bureau files or make information requests of the reporting agencies under false pretenses.

The scam can also be pulled off by using information from the pre-approved credit applications that banks mail to millions of people annually.

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