Federal Deposit Insurance Corporation

FRAUD Alert

Autumn, 1994 Volume 4, Number 2

Hi-tech Gang Hits U.S. Banks with Bogus Checks

A Vietnamese gang that federal investigators say is moving around the country cashing counterfeit corporate checks provides a dramatic example of how easily technology can be used to defraud financial institutions.

This highly-organized crime group located in Southern California is responsible for more than $15 million in losses at depository institutions around the country.

Federal investigators describe the gang's operation this way. First, a bank employee sidetracks a corporate check as it moves through the clearing process. Second, the employee photocopies the check, which is usually a major corporation's, and then reviews the company's accounts to determine which ones have large balances.

Third, the photocopy of the check is then given to a member of the gang for reproduction using technology and supplies that are readily available at computer and stationary stores.

The availability of this equipment has led to an explosion in the volume of counterfeit checks that are showing up in financial institutions and at retailers.

Cartridges for laser printers that will produce the magnetic encoding on the face of the check are available at office supply stores as is the paper on which checks are printed. For less than $5,000 the counterfeiter can purchase the computer, desktop publishing software and the scanner needed to reproduce the checks.

The scanner, which is passed over the surface of the check, transfers the paper document into an electronic image on the computer screen. Once in the computer, the check can be easily manipulated to change account information, the bank name and logo, or anything printed on it.

Experts in the field say that some of the bogus checks are so well done, they are better than the originals. Sometimes this is because they are printed on better quality paper.

In the case of the Vietnamese gang, the checks may be altered to appear to be corporate payroll checks. Armed with a goodly number of the counterfeit checks, "cells" from the gang are dispatched to cash them.

Each cell is directed by a leader. The cell contains several drivers or controllers, who are members of the gang. The driver directs the activities of the people who have been recruited to cash the bogus checks. These are the "mules" or "face men" who go into the banks to cash the checks, law enforcement officials say. These mules are of all races and both sexes. They generally have arrest records for petty offenses and are lured in by the promise of making $1,000 a week.

Once the cell reaches its destination, which can be anywhere in the country, it swings into action. The face men are taken to get state identification cards, generally using California driver's licenses and their real names. The gang members then create phony company identification cards, complete with photo, and fill out the checks that are to be passed.

The handlers then drive the mules to branches of the bank on which the checks are drawn, because it won't be necessary to have an

*see **Hi-Tech**, page 2*

Hi-tech Gang Hits U.S. Banks with Bogus Checks

continued from page 1

account there to cash a payroll check. The check passer enters the bank and presents the check along with the IDs and cashes the check, which is usually $800 to $1,000. The controller waits nearby in the rental car, but will drive away and abandon the mule if police are seen entering the bank.

If successful, the driver and check passer will move on to other branches of the same bank. At the same time, other cells of the gang may be operating in the same city, doing the same thing, say law enforcement officials.

These cells travel with several sets of commercial checks and will attempt to cash a new series each day. The cells also may have more checks shipped to them overnight from California. In some cases, if a check is rejected, the gang will switch to a different check drawn on a different bank.

The *Fraud Alert* is published quarterly by the Federal Deposit Insurance Corporation,
550 17th Street, N.W.
Washington, DC 20429
This newsletter is produced by the Office of Corporate Communications, FDIC.
Ricki R. Tigert,
Chairman
Alan J. Whitney,
Director
Office of Corporate Communications
Frank Gresock, Editor
T. W. Ballard, Graphic Designer

Investigators say the gang members will stay in one hotel at night, while the check-passers are put up in an inexpensive hotel nearby. The cells may stay in one place for four or five days passing the checks or until they fear they may be caught.

In North Carolina, 32 people involved in the gang were indicted and all but two were arrested. The arrests began after check-sorting machines in Charlotte at NationsBank, Wachovia, and First Union began rejecting hundreds of checks. The gang hit at 28 branches of NationsBank in a day and a half, said Bob Hansen, a fraud investigator and assistant vice president of NationsBank.

But banks in Charlotte have teamed up with with federal and local law enforcement agencies to create an anti-fraud network. The network sprang into action, via fax, and law enforcement officials and other banks were warned, said Hansen. Even photos from bank security cameras were swapped.

There are 13 major banks in the Charlotte area and many of the bank security officers are retired from law enforcement agencies, so they know the importance of speed and speak the same language.

Some of the mules were arrested as they left bank branches, a U.S. Secret Service agent said. Others were arrested in California and around the country.

Despite the arrests in Charlotte, the gang continues to operate. *(Advice on combatting this gang is on page 3.)* A few weeks ago the counterfeit checks turned up again in at least one California bank.

In the Charlotte case, the Secret Service gave credit for the arrests to the bank network, which alerted the law enforcement agencies, and provided an open channel of communication among bank security officers. At the same time the U.S. Attorney was convinced that the gang members should be kept in jail without bond, which led to the high number of court sentencings on the indictments. ^

Vernon Savings' Dixon Ordered to pay $4.8 million to FDIC

Don R. Dixon, former head of the failed Vernon Savings Association in Dallas, who was indicted twice for different crimes, has been ordered to pay the FDIC an additional $4.8 million in restitution. The first indictment containing 38 counts was handed up in 1990. Dixon was convicted on bank fraud charges and sentenced in 1991 to five years in prison, five years probation and ordered to pay $611,200. restitution to the FDIC as receiver for Vernon.

Dixon was indicted again, on Feb 26, 1992, along with Tommy F.

continued on page 3

Combatting the Payroll Check-Cashing Gang

Financial institution regulators and federal investigators offer the following advice to combat the Vietnamese gang cashing counterfeit payroll checks:

—Tellers should be alert to persons using state identification cards issued only days before they try to cash a payroll check. If the person has a valid driver's license from another state, it should raise the question of why he or she has a state ID instead of an in-state driver's license.

—Tellers should also be aware of unfamiliar customers who do not have an account with the bank but are attempting to cash a payroll check.

—Consider asking corporations with large payroll accounts to issue payroll identification cards to their employees. The phony company IDs produced by the gang would only be recognized by a teller who knew the real thing.

—Consider creating a network in your city like the alert system that Charlotte banks and law enforcement agencies have set up to swap information on potentially fraudulent activity in their area. The Charlotte system worked so well that some of the check-passers were arrested at the bank.

Finally, if you encounter this counterfeit check-cashing scheme at work in your bank, contact law enforcement agencies and your primary federal regulator immediately. Remember, this gang moves from branch to branch and may operate in one city for three or four days. Δ

continued from page 2

Stone, on an eight-count indictment for diverting funds to pay for Vernon jet airplanes and creating a dummy corporation to deceive regulators about the ownership of the jets.

Dixon pleaded guilty to three of the eight counts and was sentenced on April 1, 1993, to an additional five years in prison. The FDIC had requested restitution of $4.8 million. However, U. S. District Judge Robert Maloney, postponed his decision on restitution. In July of this year, Judge Maloney reduced Dixon's sentence to four years because of Dixon's cooperation with federal prosecutors in other S&L cases, but the judge also imposed the restitution asked by the FDIC.

There also were these sentences handed down in cases growing out of other failed Texas institutions:

San Angelo Savings Assoc.

H. J. "Mickey" Sallee and Thomas J. Sullivan were found guilty of fraud, bribery and making false bookkeeping entries, which led to losses at the failed San Angelo Savings Association of San Angelo, Tex.

Both men were sentenced recently to five years in prison and ordered to pay the FDIC, as receiver for San Angelo Savings Association, the $11.3 million requested by the FDIC.

Sallee was convicted earlier on a 1991 indictment of two counts of federal income tax evasion and is serving five years in prison on those charges.

Lone Star National Bank

Former Lone Star Bank Chairman Joseph Bailey Stedman and Gary Gordon, the former president of the failed Dallas bank, were sentenced to about five years in prison. They were also ordered to pay restitution of more than $5.7 million. The two men were convicted on all six counts of bank fraud and were sentenced in August. Δ

Former San Jacinto Savings Executive Sentenced

Joseph Grosz, a former loan officer and senior vice president of San Jacinto Savings of Houston, Texas, was sentenced in September on four counts of conspiracy and bank fraud.

He had been convicted by a jury in April for his role in a 1985 plan to skim $1.6 million in loan proceeds from San Jacinto and People's Heritage Savings of Topeka, Kan. Both S&Ls later failed.

Despite his tearful plea to the judge that he was guilty only of poor judgment, not criminal intent, Grosz was sentenced to five years in prison and ordered to pay restitution of the full $1.6 million.

Grosz conspired with former real estate developer James P. McClain and others to obtain $40 million in inflated loans. The loans were not repaid and the two thrifts lost approximately $30 million. Some of the funds, $1.6 million, passed through Mr. Grosz's company. Ironically, he intended to use the money to purchase a controlling interest in an Illinois savings and loan.

McClain, who had pled guilty in a related case and who is now serving his five year prison term, testified against Grosz, as did Ed McBirney, another notorious S&L figure.

San Jacinto was the lending arm of Southmark Corporation during the 1980s and failed in 1990 at an estimated cost to taxpayers of $1.42 billion.

There also were these convictions involving the following institutions:

Germania Bank

Edward L. Morris, former bank chairman and chief executive of Germania Bank, St. Louis, Mo., and publisher of the *Regulatory Watchdog* newsletter, was sentenced to 46 months in prison in July. Receiving the same sentence was former Missouri state representative Steven Gardner, who had served as Germania's president.

The two had been convicted on two counts of mail fraud and one count of wire fraud in connection with their role in the sale of junk bonds to Germania customers.

Caprock Savings and Loan Association of Texas

A series of convictions was recently handed down by Texas courts arising from fraudulent real estate and sham loan transactions at Caprock Savings and Loan Association of Texas, Lubbock, Tex.

In September, the convictions of Mary Lou Garcia, a real estate attorney, Chris Escobedo, her architect husband, and Rudy Sanchez, an accountant, were upheld by the Fifth U.S. Circuit Court of Appeals. The threesome had been convicted in February 1993 of bank fraud with Ms. Garcia also convicted on a money-laundering count. Garcia was sentenced to 70 months in prison and Escobedo to 27 months. The couple was also ordered to pay restitution of $2.3 million. Sanchez received a sentence of five years' probation, a fine, and was ordered to pay restitution of $471,783.

In September, Wayne Pickering, a Dallas real estate broker, was convicted on one count of conspiracy and two counts of bank fraud. He acted as an officer of shell corporation in order to obtain approximately $10 million in loans from Caprock. The proceeds were then shared among several parties.

Also in September, Donald A. Sloan pled guilty to two counts of bank fraud, and the J.S. Mitchell Company, Inc., and Terra Note Equities, Inc., each pled guilty to conspiring to commit bank fraud. The two companies owned by John S. Mitchell were used to arrange sham loans from Caprock in 1988 and 1989. The ruse was needed to conceal from regulators that Caprock was lending additional money to Sloan when his existing loans were delinquent. Sloan had been chairman of First Richardson Bancshares Inc., the holding company of First National Bank of Richardson in Richardson, Tex. Δ

Key Players Sentenced in Vermont's Biggest Banking Scandal

Roger Lussier, a key figure in Vermont's biggest bank failure since the Great Depression, has been sentenced to 46 months in prison. Lussier also was ordered to pay a $100,000 fine and to make restitution of $426,000 to the Lyndonville Savings Bank, which he headed.

Lussier was at the center of the illegal activities that brought down the Independent Bank Group and its three banks— The Bradford National Bank, The Caledonia National Bank and The First National Bank of Vermont— and their takeover by the FDIC in January 1993.

The banking scandal, which was spread over seven years and revolved around insider loans, has led to the convictions of more than a dozen men.

Before he was found guilty in June, Lussier's main offense, the *Wall Street Journal* said in an editorial, "appears to have been a failure to observe Washington's rococo conflict-of-interest fetishes."

The *Journal* acknowledged that "maybe something truly scurrilous is lurking in the closet," but didn't really seem to think so. The editorial went on to say: "Mr. Lussier's bank made money because he could sniff out reliable characters among potential borrowers. But in the FDIC's myopia, loans should be made the big-bank way, with your nose buried in the rule book."

The jury, however, concluded the rules existed for good reason and found Lussier guilty of bank fraud, bank bribery, false record entries, money laundering and making false statements to bank examiners.

The case against Lussier, the *Burlington Free Press* reported, centered on a series of loans from his bank to Vermont farmers and business people that investigators said he arranged in secret and profited from personally.

His brother, Noel Lussier, the former head of Caledonia National Bank, was sentenced to five years and ordered to pay $1.4 million in restitution to the FDIC.

In addition, Paul Gallerani, former president of Bradford National Bank, was given a 37-month sentence and ordered to pay restitution of $300,000. Herbert Gray, a director of the Interbank group, was sentenced to two years in prison and a $50,000 fine.

Federal prosecutors said that the cooperation of a former auto dealer, Carl "Charlie" Kelton, was key to developing the cases against the bankers.

Kelton, who ran a check kite through Lussier's Lyndonville bank that grew to $4.5 million a day, was sentenced to only six months in jail because of his help in the prosecution of the bankers. Kelton was ordered to pay $2.3 million in restitution to various banks.

Kelton pled guilty to bank fraud and submitting false loan applications.

At his sentencing in July, the *Caledonian-Record* reported, Kelton told the court: "I apologize to my family... to my employees... to my customers... and to the taxpayers of the U.S."

While Kelton told the court he has no desire to appeal, Roger Lussier will be represented in his appeal by F. Lee Bailey. Δ

FDIC Scores Major Win in Restitution Case

In an important ruling for the FDIC, a federal appeals court has decided that restitution orders may be imposed based on the future earning potential of a defendant, even though he may claim to be penniless at his sentencing.

Former officers and directors of failed institutions often claim they have no assets when they are charged in criminal cases.

The ruling by the Fifth Circuit Court of Appeals in New Orleans upheld the 1993 conviction and restitution order of Franklin Danny Roemer for loan fraud that figured in $13.7 million in losses to the defunct Liberty Federal Savings and Loan Association of Leesville, La.

The appeals panel rejected Roemer's claim that he should not have to pay the $2.4 million in restitution ordered by the trial court because he was purportedly indigent at the time of sentencing.

After a 10-day trial, Roemer was sentenced to two years in prison, which he began serving a year ago, and was fined $20,000, along with the order to pay restitution.

Appeals judge Edith H. Jones noted that the Roemer's restitution order was imposed because the FDIC demonstrated that he had significant earning capacity and an "exceptional educational and business background."

This ruling is a major departure from the reasoning adopted by the Ninth Circuit Court of Appeals in San Francisco in its 1993 ruling in *U. S. vs Ramilo*. The decision by the ninth circuit is widely interpreted to mean that: Unless prosecutors can show the defendent will have net worth when the restitution must be paid, the courts should not order it.

The FDIC succeeded in showing the trial court Roemer's ability to pay, which is one of the considerations for ordering restitution under the Victim and Witness Protection Act.

There were also the following convictions growing out of failed institutions in the Southwest.

The National Bank of Carmel

Robert Boynton was sentenced to five years in prison after pleading guilty to two counts of misapplying funds. Federal District Judge James Ware imposed the sentence in July. Boynton was cashier and executive vice-president of The National Bank of Carmel (NBC) and president and CEO of Carmel Bancorporation. The California bank was declared insolvent by the Office of the Comptroller of the Currency in May 1984.

Boynton and NBC's senior lending officer engaged in a series of loan transactions to Leonard Levy which violated the bank's lending policies and federal regulations on loans to one borrower. Boynton approved a series of loans to Levy for the purchase of stock in a New York business called Information Displays, Inc. (IDI). The loans were made over 10 months to fund a series of 12 partnerships created by the borrower. The partnerships were set up to purchase stock in IDI on behalf of the borrower and the bank. Boynton approved the funding for these loans of $500,000 each, which was used to cover wire transfers for the purchase of stock and overdrafts. This ultimately resulted in a loss to NBC in excess of $6 million.

Mt. Whitney Savings and Loan Association

Herman Kong was sentenced to one year in prison, ordered to pay a $10,000 fine and $50,000 in restitution to the FDIC by Federal District Judge Robert Coyle in July. Kong pled guilty to making false statements to the Federal Home Loan Bank Board to obtain control of the California S&L. In the application filed with the FSLIC, Kong falsely stated that the purpose of the acquisition of Mt. Whitney was to transform it into a financial institution which concentrated on serving the Asian community in the Central Valley of California. This representation was made in order to mislead the regulators and conceal Kong's true intention in the acquisition, which was to fund troubled investments in which he and oth-

continued on page 7

continued from page 6
ers had personal financial interests.

Victor Federal Savings and Loan Association

Denzel Robbins, the major shareholder in the failed Victor Federal Savings and Loan Association, Muskogee, Okla., was sentenced to eight years in prison for his conviction on 12 criminal counts.

They included bank fraud, false statements, misapplication of bank funds, and conspiracy. His convictions involved five fraudulent transactions which resulted in the thrift making more than $22.7 million in bad loans and losing at least $19.2 million.

Robbins also caused losses to other institutions that were eventually taken over by federal regulators. He defaulted on a $350,000 loan from Heritage National Bank of Dallas to purchase stock in Victor. Robbins also defaulted on a $1 million loan from Twin City Savings Bank— some of which was used to buy Victor stock— and resulted in a loss of $1 million to the FSLIC. Finally, Robbins received $400,000 from Town and Country Bank as part of a reciprocal loan arrangement, but he repaid nothing.

Also sentenced was former Victor Federal president Terry Fischer, who received one year in prison and three years probation for his convictions on 11 counts stemming from the same transactions. Fischer held the president's job for only three months before he was forced out by the Federal Home Loan Bank Board.

The conduct of Robbins and Fischer is said to have caused more than $21 million in losses at Victor Federal.

Finally, former loan broker Grant R. Curtis was sentenced to five years' probation, and ordered to pay the FDIC restitution of $413,112, after pleading guilty to a scheme to defraud Dallas-area banks with 37 fraudulent letters of credit. Federal Judge Jorge Solis imposed the sentence in June.

Curtis had become involved with Sam Thomas III, the former CEO of Commerce Bank, Plano, Texas, who pled guilty to bank fraud charges in 1991. Thomas received a one-year prison term after admitting that he gave Curtis a bogus $113,000 letter of credit.

Curtis was acting as a loan broker, approaching the presidents of small banks and offering assistance with problem loans. He would move loans from one institution to another and then help friends to obtain loans at these same institutions. Δ

Remember: Don't Discuss Criminal Subpoenas

Despite warnings, federal prosecutors report that some bankers still are discussing subpoenas issued in criminal investigations, which is a violation of 18 U.S.C. § 1510(b).

This provision of the criminal code applies specifically to bank officers and directors who are served with subpoenas in criminal investigations. It provides for fines and up to five years in prison for disclosure under certain circumstances.

Under 18 U.S.C. § 1510(b), if any officer of a financial institution "with the intent to obstruct a judicial proceeding, directly or indirectly" tells anyone about a subpoena or its contents which requests the records of a financial institution, or which records have been provided to a grand jury because of a subpoena, is subject to fines or imprisonment or both.

In addition, if an officer of a financial institution "directly or indirectly" notifies a customer that his records have been requested by a grand jury, or if a banker tells anyone else named in the subpoena about it, they have committed a crime.

So remember, if you are served with a subpoena in a criminal investigation, keep its contents confidential. Δ

Peat Marwick Settles FDIC and RTC Claims for $186.5 million

KPMG Peat Marwick, the nation's fourth largest accounting firm, has agreed to pay $128 million to the Resolution Trust Corp. and $58.5 million to the FDIC to settle claims based on alleged accounting and auditing failures at financial institutions it audited.

The payment to the FDIC consisted of $23.5 million in cash and a $35 million two-year note.

The accounting firm also agreed to an Office of Thrift Supervision cease-and-desist order to improve its auditing practices.

The OTS order requires specific changes in accounting policies for future audits of federally insured depository institutions during the next five years.

The global settlement of all claims and charges brought by regulators was reached in August. It resolved five pending suits brought by the RTC, two suits brought by the FDIC, and settled all claims for profesional work Peat Marwick did for financial institutions that failed on or before April 4. 1994.

The RTC and the FDIC charged Peat Marwick with accounting malpractice.

Peat Marwick had denied the claims made by the FDIC and RTC and stipulated in its offer of settlement to the OTS order that it neither admitted nor denied the OTS charges. Δ

Attn: Chief Executive Officer

FDIC
Federal Deposit Insurance Corporation
Washington, D.C. 20429-9990

OFFICIAL BUSINESS
Penalty for Private Use, $300

BULK RATE
MAIL
Postage &
Fees Paid
FDIC
Permit No. G36