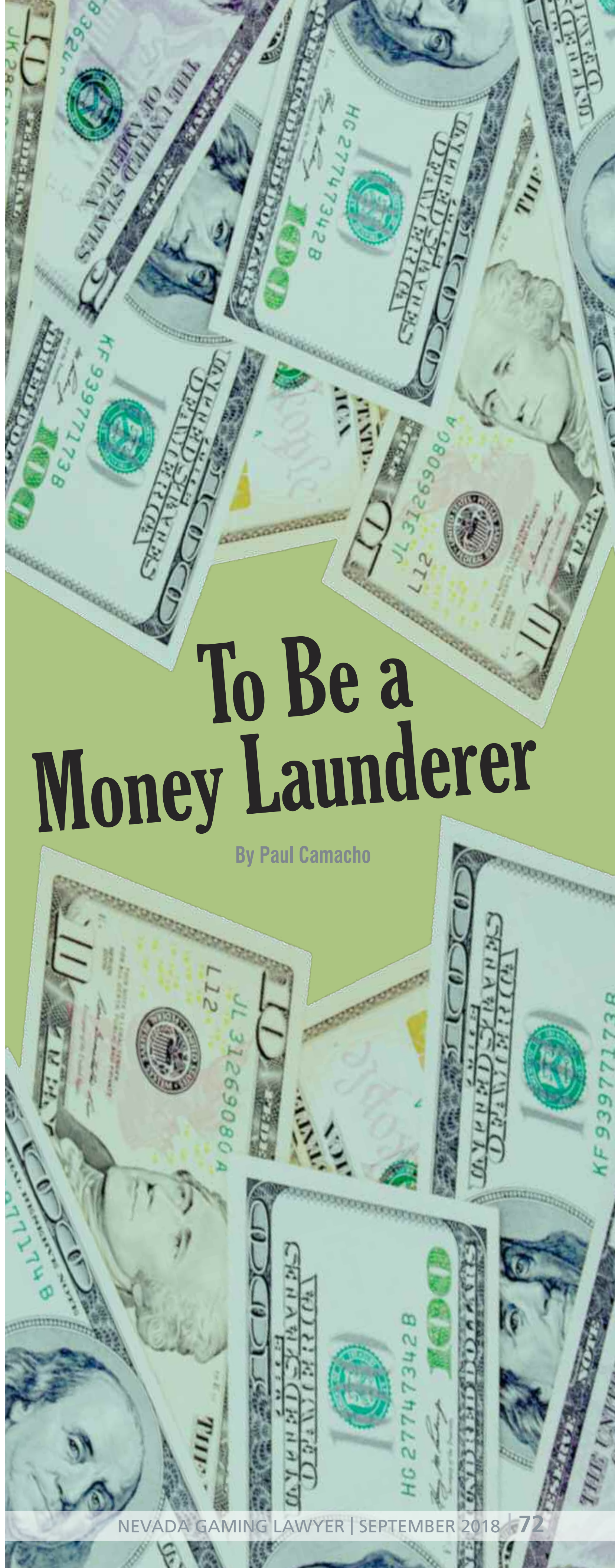
To Be a Money Launderer

By Paul Camacho



As the term connotes, most people would probably think that money laundering is the process of making illicit funds appear legitimate or, more simply put, clean dirty money. In the quintessential money laundering-themed TV show, Breaking Bad, a car wash business was used to clean dirty money earned by the main character, Walter White, from his meth cooking operation. The dirty money was commingled with the car wash business receipts so it could be deposited in the bank without raising suspicion on its origin. And Walter—a high school chemistry teacher—would be able to explain the incongruity of a person living beyond the means of an educator's salary. In the parlance of money laundering, Walter's car wash is known as a *front company*.

Money laundering, though, is not always about cleaning dirty money. The term covers a broad range of schemes to keep criminals a going concern. Many times, to be a money launderer is not about trying to give the illusion illicit funds originated from a legitimate source; rather, it's more about hiding and moving it.

The most common use for money laundering is to evade taxes. This is according to the Financial Action Task Force (FATF) - an inter-governmental body that sets international standards for anti-money laundering regimes. And in the vast majority of tax evasion situations, the underlying unreported income is derived from legitimate sources. To be a tax dodging money launderer is not to clean money that is already legitimate, but rather make sure the taxman finds no discernible money trails to the unreported income.

Hollywood often portrays that money laundering is about drug dealers and their briefcases of cash. But in the real world, to be a money launderer means more often dealing with income generated from fraud, embezzlement, identity theft, hacking, Ponzi scheme, internet scams, Medicare shenanigans, and filing bogus tax refunds. Instead of briefcases of cash, these crimes generate illegal proceeds in the form of checks, bank credits, money orders, bank wires, and funds placed on prepaid debit cards. Criminals engaged in non-currency-based crimes don't have the currency money laundering burdens such as a drug dealer having to deal with large quantities of $5, $10 and $20 bills. But non-currency payments create a hazardous money trail to the crook that needs to be laundered away.

The primary goal of money laundering for a person generating illegal income is to avoid having their money trails tip off law enforcement and serve as evidence for a prosecution. This not only includes a conviction on the underlying crime but also the

tangential charges of money laundering and tax evasion. Indeed, many big criminals have met their demise from a conviction of tax evasion, even though law enforcement could not establish beyond a reasonable doubt the underlying criminal activity that generated the income.

Another goal of money laundering is to not have your criminally-derived assets seized by law enforcement. The government can do this through a civil forfeiture proceeding where the burden of proof is merely a preponderance of evidence. In accordance with this civil process, the government seizes the assets first and the owner has to prove it was not purchased through illicit activity. To be a money launderer sometimes means walking away from seized assets rather than taking the chance of exposing incriminating evidence trying to get your expensive toys back.

Criminals need to deploy money laundering strategies tailored to their felonious circumstances. In the words of Goldilocks, it has to be "just right." In the case of Walter White, his money laundering sort of broke bad. The car wash was too small to launder the pallets of cash he earned. Walter eventually gave up and packed his cash in barrels then buried them in the ground … the age old money laundering technique of pirates and train robbers.

In the sea of criminal activity, there are essentially three sizes of criminal fish. They are the flounder, the shark, and the whale. To be a money launderer, each of these criminal fish needs to apply a money laundering strategy molded to the size and nature of their criminal operation.

The Flounder

Flounders are secretive by nature and well camouflaged. They are bottom feeders and rarely spotted by predators. Flounders are the street-level criminals who usually blow most of their earnings on living expenses, entertainment, and vices. They are not rolling in significant excess legal cash. Street-level criminals are the most common crooks, probably well over 90% of all the criminal fish.

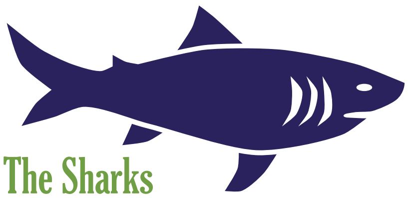
To be secretive, flounders avoid linking any financial transaction with their true identity. Top of the "to-do list" is to deal as much as possible in currency. Flounders engage in non-currency based crimes that will convert their proceeds into currency to cut off the money trail. Often, they do this through check-cashing businesses, selling debit or gift cards for cash, or with withdrawing it from banks. Flounders are well aware of the hazards of the currency transaction reports (CTR) and suspicious activity report (SAR) that banks religiously file even on subtle suspicious activity. They become quite adroit at avoiding CTRs without raising too much suspicion.

To be financially camouflaged, a flounder spreads their currency around town and avoids spending too much at any one establishment. This way, they blend in with other customers. As bottom feeders, they lay low in their financial dealings and avoid places where someone might question their activities. To this end, flounders stay away from banks as much as possible. They will use bank accounts in the name of a relative or friend if need be.

Living life without a bank account to pay personal expenses is not a big deal for a flounder. If a flounder needs to buy something on the internet, they use prepaid debit cards or gift cards bought at grocery or chain stores. And plenty of landlords are willing to take currency over a check that might bounce. Flounders know to lease a car rather than buy it to avoid seizure by law enforcement, and of course they put the lease in another person's name.

The more tech-savvy flounders avail themselves of cryptocurrencies, such as Bitcoin, to fund personal expenses. Bitcoin can be purchased through currency loaded debit or gift cards. Or, they just give currency to friends and have them purchase it. An increasing number of vendors and entertainment establishments accept Bitcoin, so technology is trending in a flounder's favor.

Because flounders have no discernible money trails, they are generally not worth the effort to build criminal tax case given their income usually does not meet federal prosecution guidelines. And because flounders don't see other fish of their size going to jail on tax evasion, they blow off filing tax returns which makes them more financially secretive.



The Sharks

A shark is much larger than a flounder, but considering their size, they are efficiently stealth. Many beachgoers have enjoyed the calming sea without realizing a shark was in their midst. Sharks will travel thousands of miles to find hospitable waters to feed.

Criminal sharks are the mid-size criminals that earn multiples more than flounders. They will secretly spend currency like flounders but still have plenty of income left over to purchase major assets. Like a real shark stocking prey, they do not draw attention to themselves when enjoying their ill-gotten gains or moving money into real property or investments. Sharks are amazing storytellers and can spin a plausible alibi in a moment's notice to give the illusion they are more like a friendly dolphin.

A shell company is an important money laundering device for sharks to enable them to own assets and hide income streams. As the name applies, a shell company has no business substance and exists primarily in name only. Sharks will use multiple tiered shell entities to obfuscate the ownership of assets, a process known as layering. This way, it is rather challenging for investigators to determine the true beneficial owner. Creating a limited liability company is rather easy to do. There are many businesses that provide this service, even via the internet.

If no loan is involved, it's not that difficult to buy real estate or even a business in the name of a shell company. For eight metropolitan areas of the country, though, Treasury enacted in 2017 a temporary order requiring title companies to identify the real person behind the purchase by shell companies of certain luxury properties. As of May 2018, opening a bank account in the name of a shell company got trickier too because all banks now must comply with the new Customer Due Diligence rules which require them, in general, to identify the real persons owning or controlling 25% or more of the legal entity holding the account. All these new requirements mean sharks need to significantly ramp up their money laundering sophistication to swim around the rules.

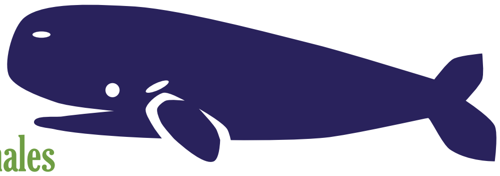
Sharks will sometimes utilize front companies to clean their dirty cash. But the key to a shark's survival is moderation. A front company cannot appear out of the blue. It must be matured into a successful business. A shark is careful not to pump too much dirty money in a short period of time into front companies so they seem to mature within the norms of the local economy. This also helps fend off attempts by law enforcement to seize the business as a tool and instrumentality for money laundering.

Doing a front company right means making it appear to be a going concern. This can be a pricy endeavor if you need to hire employees, advertise for customers, and pay for all the ancillary expense of a real business. This includes paying federal and state taxes, which criminals generally distaste. Given the costs and hassle, sharks may just bypass the use of a front company and have illegal proceeds deposited into shell company bank accounts.

Tax evading sharks will only report the income they know the IRS can ultimately track down. Criminal sharks report enough income that squares with their outward and confirmable life style. Too much unexplained income on a tax return could spell trouble if federal law enforcement obtains their returns via a federal court order.

For decades, the gold standard for hiding money has been an offshore bank account located in countries with lightbank secrecy laws, commonly referred to as tax havens. Funds sitting in domestic shell companies are wired to these offshore bank accounts. Recently, big cracks have formed in the secrecy laws of popular tax havens, such as Switzerland when Congress passed the Foreign Account Tax Compliance Act (FATCA). This law strongly cajoles foreign banks to report to the IRS any U.S citizen that has a current foreign account. Foreign banks not complying could quickly lose unfettered access to the U.S banking system. Consequently, there is increasing compliance with FATCA causing the offshore financial waters to become riskier for sharks.

The more tech-savvy sharks have been gravitating to cryptocurrencies, not only to store wealth, but also as means to conduct illegal commerce. For instance, by using online drug bazaars on the Dark Web, sharks can wholesale significant contraband to flounders that pay the shark in Bitcoin. Everything is done anonymously so the money laundering is baked into the technology. It is interesting that the price of Bitcoin significantly increased when the FATCA laws came into effect.



The Whales

Whales are the largest creatures in the sea, but the least populous. Whales are so massive they are simply not designed to be nimble and stealth like a shark. Even the most novice whale watcher knows when a whale enters a harbor. Their spouts and enormous fins cresting out of the water are dead giveaways. A whale's best defense is to stay far out to sea where it's impractical for whale hunters to travel. Fearing extinction, many governments have enacted laws to protect them.

As criminal sharks grow in size and become multinational, they turned into large criminal enterprises. Think of the Fortune 500 of bad guys that need a phalanx of sharks and flounders to keep their felonious machines humming. Cartels and transnational organized crime bosses and their top lieutenants are examples of criminal whales. Whales are major asset hoarders and like to live large.

To avoid existential threats, whales live in nations more hospitable to their line of business. This hospitable environment is generated mostly through the payment of graft. When you line the pockets of police, judges, and elected officials, you become rather untouchable. If bribery does not work, there is the threat of violence. Of course, the criminal whales can't be too blatant in their association to the underlying crimes. They need an air of legitimacy to give the illusion they are not killer whales, but rather more like benign blue whales. Front and shell companies help them do this.

Whales need to ensure graft payments are sufficiently concealed. This could be as easy as confederates making discrete payments in currency to corrupt officials. For larger payments and to avoid of the use of currency, offshore bank accounts controlled by a corrupt official's family member or associates can be utilized. A common trick is to pay the corrupt official's expenses, in particular, foreign travel and entertainment.

Whales generally have more currency-based income streams, so the bulk of their money laundering efforts focus on moving copious volumes of currency to their country of origin. One way is to pack cars with currency then drive them over the border to be deposited in Latin American banks, a process known as *bulk cash smuggling*. Another method is to have many minions structure into U.S banks small cash deposits (under $1,000) over the course of a few weeks, a process known as *micro-structuring*. Before the bank identifies the suspicious behavior, the balances are swiftly withdrawn in branches located near the U.S border or wire to foreign banks. These "burn out" accounts are known as *funnel accounts*.

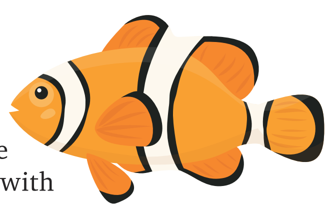
An ingenious scheme deployed by whales is known as *trade base money laundering*. The method involves using the dirty currency to purchase consumer goods that can be easily sold in bulk in their country of origin such as lumber, used cars and machinery, food commodities, cattle, and clothing. The goods are then shipped to foreign importers serving as front companies for the whales. These imported goods, in turn, are sold in the stream of commerce in the foreign country and the profits are remitted to parent shell entities. To keep up the illusion, the importers remit payments for the cost of goods to shell entities controlled by the whales.

Another scheme is to enlist the services of money brokers. These money brokers will match up the whale with a third party and the whale will pay the third party's expenses in the United States. The third party could be legitimate foreign importers, such as from Mexico or Pakistan who need dollars to buy U.S. goods. Once the third party receives the products, they pay the local money broker in the fiat currency and the money broker, in turn, gives the funds less their commission to associates of the whale.

Lately, Asian organized crime has gotten into the money broker business to take advantage of the Chinese government capital flight laws that limit the annual amount of funds that a citizen can take out of the country. These money brokers match up the whales with Chinese citizens in the U.S. that want to spend more than the annual limit. The Chinese citizens then have goods in China shipped to the whale's front companies in the country of origin. It's a twist on the trade base money laundering scheme.

Another breed of whales is purveyors of massive Ponzi schemes. Their entire operation is pretty much a shell company in that they pitch the virtues of an underlying investment that does not exist. Ponzi whales can conjure up spellbinding alibis and their primary tool for survival is the use of lull payments to quell individual investor concerns. Any transaction that serves to promote a criminal activity is a violation of the federal money laundering laws. Consequently, the lull payments are money laundering transactions.

A whale could also be a criminal hailing from Wall Street operating a sophisticated investment scheme. The ultra-complexity of the scheme itself - involving myriad transactions bouncing back and forth between institutions and entities -serves as their money laundering shield. It takes a platoon of highly-skilled investigators and attorneys just to figure it out.



Final Thoughts

Often, criminals who engage in felonious activities do so with no serious money laundering forethought or effort. They are known as clownfish. Some are clueless to the anti-money laundering regulations and conduct financial transactions without a care in the world like children splashing in a shallow wading pool. Novice criminals may do a little bit of research on the internet, but their hubris makes them think they can easily outsmart law enforcement. This drives stupid money laundering such as structuring currency into banks at increments of $9,900 - money laundering is so bold it makes Captain Obvious blush.

Unless you bury all your ill-gotten gains on a deserted island and don't touch it for decades (the pirate strategy), money laundering is not a low-risk endeavor. Many diligent money launderers have been taken down by IRS Criminal Investigation, the master financial sleuths. To be a money launderer is living with constant risk. Adhering to a strategy reduces the risk but does not eliminate it.

And to adequately apply a money laundering strategy takes strong discipline. This can be rather financial constraining for a criminal who wants to vigorously enjoy their ill-gotten gains and live large. What is often the centrifugal force that spirals criminals into law enforcement nets is greed. Greed can turn a flounder, shark, or whale into a clownfish.

The Romans have a saying:

Greed is like sea water, the more you drink the thirstier you get.

It's greed that makes criminals careless with money laundering. It is greed that makes them enjoy their ill-gotten gains a bit too much in law enforcement's face. And it's greed that gets them fed up with paying income taxes.

To be a money launderer is often like living a Greek tragedy. Insatiable greed transforms people into hardened criminals, but that same greed sets in motion their demise. To be or not to be a money launderer, that is the question.

Paul Camacho is the Vice President of Anti-Money Laundering Compliance for Station Casinos and the former Special Agent in Charge for the Las Vegas IRS Criminal Investigation field office. He is a regular contributor to ACAMSTODAY, a leading anti-money laundering trade journal. Paul also serves on the Board of Directors for the Mob Museum. Over his 27 years career at IRS, Paul has overseen investigations involving drug trade organizations, large-scale fraud schemes, money laundering, public corruption, tax evasion, identity theft, government contracting fraud, casinos, and terrorist financing. He has consulted the FBI, Department of Homeland Security, IRS Criminal, California Gaming Control Board, and the American Gaming Association on money laundering matters.