



**EIGHTEENTH STATEWIDE GRAND JURY**  
**Case No. SC 07-1128**

**SECOND INTERIM REPORT**  
**OF THE STATEWIDE GRAND JURY**

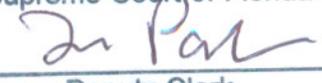
**CHECK CASHERS: A CALL FOR ENFORCEMENT**

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## INTRODUCTION

We, the members of the Eighteenth Statewide Grand Jury have been called upon to examine, among other matters, allegations of money laundering and fraud within the money transmitter industry, in particular among check cashers. We have also reviewed the response of state officials charged with the duty of regulating this rapidly expanding industry. As a result of what we have learned, we make certain findings and recommendations.

As part of our investigation into these matters we have received testimony from investigators from the Florida Division of Insurance Fraud, the Florida Medicaid Fraud Control Unit, and state regulators that oversee licensed check cashing stores. We even heard from some of the individual check cashers and their customers accused or suspected of money laundering and fraud hoping to gain some insight into the activities we were being told about from their perspective. In addition, we had access to documents and reports from various state and federal agencies.

What we found, unfortunately, was that not much has changed for the better since the Statewide Grand Jury last studied this issue in 1994. Then the Grand Jury found that check cashers "...differ from traditional banking institutions in one significant way: they operate essentially free of meaningful federal and state regulation, oversight and enforcement. This key difference between banks and non-bank financial institutions has attracted con artists, money launderers and other criminals as customers for these check cashing businesses." The Grand Jury went on to say, "Thus, we saw clear examples of how check cashing stores can enable criminals to 'take the money and

run' without creating a paper trail, thereby making it extremely difficult for law enforcement to identify and apprehend those responsible for the fraud.”

While the laws have changed since 1994, lax enforcement has meant that the reality has not. Many of the same issues dealt with by that Grand Jury still exist today.

At the time the Eleventh Statewide Grand Jury issued its report the industry was viewed as providing a benefit to those who were not able to acquire or maintain a bank account and found it difficult to cash their paychecks. The Grand Jury noted, “...check cashing businesses serve a widely recognized social and economic purpose for a significant number of people, many of whom are economically disadvantaged and cannot or do not maintain accounts with traditional financial institutions.”

That is undoubtedly true for many check cashers who are running a legitimate business, but we have serious doubts whether a significant portion of the industry today exists to fulfill the function of serving the economically disadvantaged customers alluded to in the previous Grand Jury report in 1994. While many in the industry are reputable check cashers who have responsible internal controls that limit their loss exposure while serving to thwart money laundering, a seemingly large portion are involved in illicit activity.

What started as a way for individuals without access to traditional banking services to cash their payroll checks has been perverted by criminals into a shadow banking industry all too willing to turn a blind eye to the obvious laundering of money gained from criminal activity. In fact, in far too many cases, the check cashers themselves are not only involved in the

money laundering itself, but also becoming partners in the underlying criminal activity. We find it difficult to reconcile providing services to people who are unable to maintain bank accounts with cashing millions of dollars in corporate to corporate checks.

We have through lax enforcement inadvertently created a shadow banking industry, essentially free from most of the regulatory oversight that banks must comply with. Illegitimate check cashers today operate largely without fear of examination or oversight, let alone disciplinary action. We believe this lax enforcement has fueled the boom in the number of licensed check cashers in Florida which has doubled in the last five years to over 1400; *more than any other state*.

Money laundering in check cashing stores is an enormous problem in Florida and involves hundreds of millions of dollars in illicit profits being laundered annually. This laundering facilitates hundreds of millions of dollars in Medicaid and Medicare fraud, workers' compensation fraud, and many other types of criminal activity.

This fraud costs the government and the insurance industry millions, but also falls on the backs of honest businessmen, who can't keep up with competitors cheating on workers' compensation insurance; laborers who go without adequate insurance coverage; and finally on the poor and infirm in our society, struggling to maintain their grip on their healthcare while facing potential cuts in funding for government medical benefits as a result of fraudulent payouts.

The potential for illicit profit is enormous and has inevitably drawn an army of thieves and con men to these schemes, just as the Eleventh

Statewide Grand Jury found in 1994.

One of the biggest problems facing law enforcement in investigating these cases is their inability to identify who is cashing these checks at the check cashing stores.

Some of the blame lies with the weakness of the regulatory statutes themselves, and we agree with state regulators that legislation is needed in several areas to allow regulators the authority and flexibility to respond to the increasing criminal activity by some check cashers. The laws, however, are not wholly without teeth and we find that the regulators could do much, much more with the tools already at hand, as well as a change in strategy and point of view.

## **FINDINGS**

### **History of Regulation**

In 1994, partly in response to the Eleventh Statewide Grand Jury's report on check cashing stores ("Check Cashing Stores: A Call for Regulation"), the legislature created Chapter 560 to regulate the money transmitter industry. Prior to 1994 there was no regulation of check cashers at all.

Check cashers are defined as money transmitters under Florida law if they cash checks for compensation (s.560.103), and as such are required to register with the state unless their check cashing activities are incidental to the retail sales of goods and services and their compensation for check cashing does not exceed 5% of their gross income from sales (s. 560.303,304).

Pursuant to the Federal Bank Secrecy Act (BSA), check cashers also have to register with the federal government through the Financial Crimes Enforcement Network (FinCen) if they conduct more than \$1,000 in business with one person in one or more transactions on the same day.

Check cashers are regulated by the Bureau of Money Transmitter Regulation (referred to as the Money Transmitter Regulatory Unit or "MTRU"), a part of the Office of Financial Regulation ("OFR"). OFR is under the Division of Finance which in turn is part of the Financial Services Commission overseen by the Florida Cabinet. While MTRU is charged with regulating and examining check cashers, the function of registering check cashers falls to the Bureau of Regulatory Review, a separate entity under the Division of Finance. Also within OFR is the Bureau of Financial Investigations(BFI). Though BFI sometimes works with, or shares information with MTRU, their role regarding check cashers is primarily the investigation of unlicensed activity.

MTRU was created in October of 2004 and took over the regulation of check cashers and other money transmitters from the Division of Banking and Finance.

MTRU currently has 15 full time employees. There are a total of nine examiner positions, three in Miami, two in Fort Lauderdale, two in Orlando, and one each in Tampa and Tallahassee. Currently only eight examiner positions are filled. The eight examiners report to one of two area offices in Miami and Orlando, each headed by an Area Financial Manager (AFM).

## **Size and Scope of the Problem**

According to the DEA, Florida is a prime area for drug trafficking and money laundering groups. South Florida in particular has been designated as one of seven High Risk Money Laundering and Related Financial Crimes Area in the United States by FinCen. According to the Florida Senate Interim Project Report 2008-101, "Regulation of Money Services Businesses," FBI field offices consistently identify Money Services businesses, including check cashers, as the third most prevalent conduit for money laundering in the United States.

We also heard from criminal investigators from the Florida Division of Insurance Fraud (DIF) and the Florida Medicaid Fraud Control Unit (MFCU) that check cashing stores were the number one choice of criminals committing workers compensation premium fraud and Medicaid and Medicare fraud. According to these investigators many check cashers exist solely to provide money laundering services, and many are actively taking part in the underlying crimes.

## **Criminal Conduct**

While corrupt check cashing stores are the money launderers of choice for many criminals, two categories of criminals in particular have been brought to our attention as relying heavily on check cashing stores to enable their criminal activity.

We find drug diverters defrauding Medicaid and employers cheating on their workers compensation coverage are two of the big customers of check cashers.

## **Laundering of Drug Diversion Money**

Health care fraud in Florida is a multi-billion dollar a year problem. According to a recent federal report by the Inspector General of the Department of Health and Human Services, South Florida leads the nation in health care fraud, particularly in the area of drugs diverted from, and fraudulent billings directed to, government health care programs. For example, the report found that in 2005 Medicare providers in Miami-Dade, Broward and Palm Beach Counties billed Medicare \$2.2 billion for infusion drugs for HIV/AIDS patients. The rest of the country, combined, billed just \$100 million for the same drugs. Over \$600 million was actually paid out to South Florida providers. The trend continued in the last half of 2006 when the Inspector General's Office found that these 3 South Florida counties accounted for 79% of the amount submitted to Medicare nationally for drugs involving HIV/AIDS patients despite the fact that only 8% of the HIV/AIDS patients covered by Medicare lived in those counties.

Florida's Medicaid program is budgeted at over \$16 billion per year and is targeted by many of the same con men that target Medicare. While there is a wide range of scams plaguing Medicaid, one of the more profitable ones is drug diversion.

Drug diversion is the practice of diverting pharmaceutical drugs from legitimate sources and reselling them on the black market. This practice was the subject of a report of the Seventeenth Statewide Grand Jury in 2003. There the Grand Jury found drug wholesalers in Florida, some licensed, some not, buying and selling diverted drugs, a large amount of which were paid for by Florida's Medicaid program. These drug wholesalers were paying Medicaid recipients, mostly HIV or AIDS patients, pennies on the dollar to

sell their expensive medications which were paid for by Medicaid. The drugs were then consolidated with those of many other Medicaid recipients and sold and resold numerous times in the secondary drug market with either no paperwork, or forged paperwork to hide the true source of the drugs, before finding their way back into the legitimate stream of commerce. Then, as now, the Grand Jury could not determine the exact amount of money this fraud was costing the program and thus the Florida taxpayers, who were footing the bill. The Grand Jury did, however, note that in 2002, the Florida Medicaid program paid \$1.8 billion for pharmaceuticals--a figure sure to have grown steadily over the last few years. That is a large and tempting pot of money for criminals. If the staggering numbers in the recent federal report on Medicare fraud is any indication, a significant part of that \$1.8 billion spent is likely to be a result of fraud. However measured or calculated, it is beyond doubt that hundreds of millions of dollars are pouring into Florida's underground economy from this pharmaceutical scam alone, and all of it has to be laundered. Increasingly, investigators pursuing this type of fraud find themselves led to the check casher's door as the Medicaid (and Medicare) scammers often cash these large reimbursement checks rather than depositing them into a corporate bank account.

All too often what investigators find there is a dead end. Customer files maintained by specific check cashers favored by these criminals contain minimal paperwork and what little paperwork they do contain is usually fraudulent. The drivers' licenses of the corporate owners or representatives are either phony or are in the name of an identity theft victim, the corporations are merely shells, and the corporate addresses turn out to be either non-existent or come back to other unrelated businesses or

residences. There are no references or any other information in the files that would provide leads to the investigators trying to identify the principals of the companies cashing checks.

### **The Workers Compensation Fraud Scheme**

When it comes to workers compensation premium fraud, check cashers are not content with passively laundering others' profits. They instead opt to be a part of the fraudulent scheme itself.

Workers compensation premium fraud has been a problem in Florida for many years. Unfortunately, many employers find it easier and more profitable to cheat than compete fairly. Most of the fraud occurs in the construction trades where the premiums are highest. DIF has been fighting against this fraud in all its various forms for years. Over the last few years these insurance cheats have concocted a new scheme with the help of check cashers to avoid paying their fair share of insurance premiums.

Chapter 440 of the Florida Statutes requires most employers and virtually all construction companies to provide workers compensation insurance for their employees. Premiums are calculated by a formula that takes into account the amount of payroll paid by the employer and the classification of employees on that payroll. The more dangerous the job the higher the rate for that classification. Thus, insurance rates for roofers are much higher than those for clerical workers. The calculation is also influenced somewhat by the employer's safety record, referred to as the modifier. Once these numbers are put into the formula, the estimated premium for the year is calculated by the insurer. In the construction industry, the amount of payroll will fluctuate during the year depending on the number

of projects undertaken, so the actual premium owed at the end of the year may differ from the original estimate. Some insurers require monthly updates from their insured; most, however, rely on year-end audits to determine whether more premium is owed or a refund is due.

The primary way for a contractor to cheat is to simply under-report the amount of payroll. The simplest way to do this is to buy a bare minimum insurance policy claiming almost no payroll and then claim that all the workers on the job site are actually employees of a subcontractor. In reality, there is no subcontractor, and the workers are, in fact, the cheating contractor's own employees.

This poses two problems for the contractor. In order to get contracts and pass site inspections by DIF, the contractor must have a certificate of insurance showing that the employees are covered by the mythical subcontractor's insurance. Secondly, the contractor must still be able to pay his labor force without creating a paper trail leading back to him and revealing that the "subcontractor's" employees are really his own.

This is where some check cashers join in the fraud. First a "shell" company is formed in the name of a nominee owner, often a temporary resident of the U.S. This company has no real operations or employees. This shell company will then buy a bare minimum insurance policy so as to procure the all important certificate of insurance that the contractor needs to show. Certificates of Insurance do not show the amount of coverage so a certificate covering \$10,000,000 of payroll looks the same as a certificate covering \$10,000 of payroll. The contractor then writes checks to this shell company playing the part of the phony subcontractor. One recently indicted Miami check casher went so far as to create mobile check cashing units that

would come straight to the contractor's construction site. In reality, the contractor is actually cashing the check he's just written to the phony company and taking the cash back to pay his employees under the table. On paper, however, it appears he's paying another company for their work on the project. The only people aware of the scheme are the contractor and the check casher. These checks are almost always over the \$10,000 limit and must be reported on a Currency Transaction Report (CTR) to the federal government. Here again the check casher does his part by either falsifying the CTR, claiming to have paid the money out to the phony subcontractor, or, in some cases, dispensing with the CTR altogether. Both of these actions are 3<sup>rd</sup> degree felonies. For their trouble and risk the check cashers will get 7% of the value of the check or more for cashing the checks, over the legal limit check cashers are allowed to charge and closer to what traditional money launderers receive for their services.

The contractor has now hidden his payroll and procured the necessary certificate of insurance without purchasing any insurance for his workers. At the end of the year the insurance company will attempt to audit the shell company only to learn it has closed its doors and the nominee owner is nowhere to be found, having usually gone back to his home country. While it appears that the insurance company is left holding the bag, in fact, the insurance rates simply go up to offset the fraud and contractors who don't cheat pay ever higher rates for their coverage.

When investigators move in and try to identify the people behind these workers compensation schemes, they run into the same problems as other investigators: skimpy customer files, fraudulent paperwork, and a dead end.

Some check cashers are not content with passively waiting for

contractors to figure out this scheme and come to them. They take a more proactive approach by creating these shell companies themselves, securing the certificates of insurance and aggressively seeking out contractors for their business. We have seen examples of this aggressive approach by corrupt check cashers in Southeast and Southwest Florida.

The impact of this workers compensation fraud scheme is not just felt by insurers. This scheme works by hiding payroll and paying workers cash off the books. That means no federal taxes paid, no money going into the social security fund, no money to Medicare, and no money into the unemployment fund. This scheme also impacts legitimate businesses that don't cheat. An honest businessman can't win bids on contracts against contractors who are saving hundreds of thousands of dollars on taxes and insurance by cheating. Worse, even as they lose contracts, honest businessmen will be paying higher premiums to make up the shortfall caused by the cheaters; and injured workers that aren't insured will still wind up at county hospitals, their bills being footed by the taxpayers.

The problem is bigger than many people think and frankly much larger than we had imagined. In one single investigation by DIF, ten construction companies funneled one billion dollars through check cashing stores in the last 3 years. We don't believe there is any legitimate excuse for all that money being cashed at check stores. We believe, based on all the evidence we've heard, that this billion dollars represents money flowing into the underground economy and, unfortunately, probably represents only a part of what's being lost to society.

An indepth inquiry of illicit practices in the construction industry in Florida is beyond the scope of this grand jury, but we have heard enough

evidence to raise questions that might be answered by a future grand jury. In the short term, it may be prudent for the legislature to inquire of the industry, when considering this Grand Jury's recommendations, why they have apparently decided over the last few years to move increasingly to an all cash payroll.

We have heard enough to know that paying workers in cash certainly facilitates not only the hiring of undocumented workers, but also the evasion of insurance and payroll taxes.

### **Criminal Investigations**

The conduct described above has been discovered through long and diligent investigations by South Florida law enforcement. Unfortunately, their investigations into the individuals behind much of the fraud and money laundering are hampered by the complicity of many check cashers in the money laundering. This complicity most often takes the form of poor record keeping in order to shield the identities of the criminal clientele of the check cashers.

The most critical part of the record keeping is the Currency Transaction Report or CTR. CTRs are required by both state and federal law. A CTR must be filled out and filed by a financial institution for every transaction that exceeds \$10,000 in cash. CTRs are then filed with FinCen and such records are available to law enforcement around the country. Failure to fill out and file a CTR when required is a felony under state and federal law.

Financial institutions, including check cashers, are required to make necessary inquiry to make sure of the identity of their customer. Verification of customer identification is a critical component of the required Anti-Money

Laundering Program. Legitimate check cashers generally require appropriate documentation from their commercial customers; some even demand more than what the law may require of them, including references and site visits. Unfortunately for them they wind up at a competitive disadvantage with the many check cashers at the other end of the spectrum who entirely disregard due diligence. What law enforcement routinely finds at these corrupt check cashing operations are customer files with little or no identifying information, phony driver licenses and phony corporate paperwork. One investigator told of finding what purported to be an official corporate document from the Florida Division of Corporations with the title "Articles of Incorporation" misspelled on the document; another file contained a drivers license that was an obvious forgery.

Often investigators find multiple documents in the same file bearing the same customer name but with all the signatures different from one another.

All corporate documents bear a unique Federal Employer Identification Number (FEIN). A quick check of these documents in check cashers' customer files show them to be routinely fraudulent or belonging to other unrelated corporations.

Some corporate customers of check cashing stores were found to be cashing checks months before the documents on file showed them to be incorporated, others months after the corporation was dissolved. Many corporate addresses of companies, cashing millions of dollars, were actually single family homes or even apartments.

Some CTRs were made out to an individual whose name was nowhere in the customer file as cashing corporate checks.

In some instances check cashers made CTRs out in the name of an

individual who was documented to be out of the country at the time of the transactions.

It is obvious to us that these illegitimate check cashers don't want to know their customers too well. They know if they inquire too closely they will lose the customer and the fat profits that come with cashing millions of dollars worth of checks.

Not all of these failings would be readily apparent, but most were, even to an untrained eye. If we as Statewide Grand Jurors from various backgrounds can quickly and easily spot these obvious examples of fraud so can the check cashers, and so can MTRU. Yet none of these licensed check cashers had been shut down or otherwise disciplined. We find it highly suspicious, at the least, that some check cashers are allowing millions of dollars to leave their stores with as little security as is provided by the flimsy paperwork we find in their customer files, most of which turns out to be phony under even cursory examination. Logic and reason dictate that these check cashers must know a lot more about who they are dealing with than they are willing to document in the customer file.

Our belief is that these check cashers know exactly who their customers are and that they know the customers are hiding behind phony documents, straw men placed on the paperwork, and runners paid to bring in and cash the checks. The only ones kept in the dark about the true identity of these customers are regulators and law enforcement. By not requiring stringent ID checks, these check cashers believe they have plausible deniability when they claim they were hoodwinked by the runners presenting phony identification and thereby frustrating law enforcement's ability to detect and prosecute money launderers. Of course we don't find

these excuses to be plausible and we don't understand why MTRU does. Any exam that reveals hundreds of thousands or even millions going to individuals with little or no legitimate paperwork on file should be ample grounds for revoking the check casher's license.

Some illegitimate check cashers' behavior stood out more than others. For example, we have heard testimony from criminal investigators that at one check casher, an individual cashed over \$16 million worth of checks under six company names in a three year period. Based on the CTR filings those checks averaged out to over \$92,000 each. The corporate addresses all came back to single family homes or duplexes in an economically depressed area of Miami. The evidence showed the companies were all shells and had no activity or assets, yet the individual's activity was never questioned by the check casher.

Another person cashed over \$7 million in checks during the same period of time, much of it after he was indicted *and convicted* by the federal government for his part in a drug diversion scheme.

A third customer using a phony drivers license cashed almost \$5 million during the same period under two company names, despite the fact that one of the companies on file had a phony FEIN. This customer was later indicted in July of 2003 for his role in an organized scheme to defraud involving pharmaceutical drugs.

It's easy to understand why this check casher might want to turn a blind eye to all these red flags. The top ten customers of this check casher, all identified by law enforcement as companies engaged in some sort of fraud, generated just under \$2 million in fees in a three year period.

Though the violations of the code were ample and obvious, MTRU has

yet to take action against this licensee, a situation that underscores the need for both a legislative change and a more aggressive stance by MTRU.

First, it was readily apparent to the examiners that this entity had committed major violations of the code over an extended period of time and was continuing to do so unabated. MTRU, however, has no emergency authority to immediately suspend the license on the spot. MTRU's only recourse at that time, had they wanted to, would have been to begin a months long administrative process to suspend or revoke the license.

Secondly, even without such emergency authority, MTRU has had since the middle of 2005 to begin proceedings against this entity and has failed to do so to this day. While the reasons we were given for this failure to act were several and varied, we did not find any of them to be credible. Unfortunately, this is not an isolated incident. We took testimony from another witness, now cooperating with law enforcement, who testified how his check cashing store was still licensed despite an examination by MTRU in April of 2007 that found numerous violations, and despite his subsequent arrest on May 31<sup>st</sup> on charges of racketeering. As of February 2008, MTRU had still not closed out the exam and still had not taken any action against this licensee.

### **Lack of Statutory Authority**

While the creation of Chapter 560 was a huge leap forward in the regulation of check cashers and other money transmitters, not all of the recommendations of the Eleventh Statewide Grand Jury made it into law. Some of the key provisions recommended but not enacted by the legislature were: the retention of records by licensees for a minimum of 5 years (current

law requires only 3 years); authority to conduct unannounced site inspections (currently MTRU can only do so when it suspects the registrant may be engaged in criminal conduct or engaged in unsafe or unsound practices); and, perhaps most importantly, the requirement that check cashers file suspicious activity reports (SARs), as banks are required to do, when they believe their customers are engaging in suspicious behavior.

Since that time circumstances have shown the need for additional authority or clarification of existing authority. For example, MTRU currently has no authority to immediately suspend the license of a check casher that has either no records or is missing some records needed to conduct an examination. Many check cashers have records in paper format kept in boxes. MTRU believes it does not have the authority to require check cashers to gather and report information in electronic format no matter what their volume of business is. Failure to maintain records on a searchable database not only greatly slows down the examination process, it makes it almost impossible for any medium-to-large size check casher to detect structuring of transactions by customers trying to avoid state and federal reporting requirements.

**LACK OF ENFORCEMENT**  
**Lack of resources and manpower**

MTRU has only nine examiner positions, one of which is currently vacant. These examiners have to cover the entire state. While Florida ranks fourth in population, its total of over 1400 check cashers ranks first in the

nation, and while examining check cashers consumes the bulk of the resources of MTRU, it is also responsible for regulating money transmitters, pay day lenders, and currency exchangers. Each examiner can conduct approximately 25-30 exams per year. Simple math tells us that licensees will go years without being examined by which time untold economic damage could have occurred. As an example, one licensee was examined pursuant to a complaint approximately 18 months after being registered and about 17 ½ months after ceasing operations. Yet in the brief time it was open the check casher had facilitated the laundering of over one million dollars, most of it stolen from Medicare. According to MTRU, it is not unusual for check cashers to not have their initial, routine exam for 5, 6 or even 7 years after they are first licensed.

Excessive time between examinations is not the only problem resulting from lack of resources. We were surprised to learn that OFR does not require an applicant to be examined before registering. Furthermore, a key requirement imposed on check cashers, that they have an effective, written anti-money laundering program, also mandated by the federal Bank Secrecy Act, is not required until at least 60 days after the check casher begins operations. MTRU's position is that the statute doesn't clearly say it's required before operating. As a result, the decision was made within MTRU to follow the federal requirement so as to avoid costs to the industry by having to comply with different time frames.

Part of the problem may lie in the fact that one part of OFR (MTRU) is responsible for examinations while another one is responsible for registration in the first place (Bureau of Finance Regulation). However this situation came about, we find it to be mind boggling. Given the reality that exams are

not conducted for months, perhaps years, after licensing, there is no way of knowing whether many of our licensed check cashers have an anti-money laundering program in place or, if they do, whether it's effective. OFR is apparently seeking a statutory change this year to require an AML program in place and reviewed before a license is issued. While we prefer that OFR not wait, and instead make this change by rule, in the alternative we strongly support the concept of requiring check cashers to have an AML program in place before starting operations.

Clearly the staffing is far short of where it needs to be. Moreover, we also learned that MTRU was, at least for some period of time, out of travel money during this fiscal year, meaning its examiners were not allowed to travel more than 50 miles from their office. Given the large amount of territory examiners are required to cover, large areas of the state were essentially abandoned for part of the fiscal year.

Some states allow the licensing or regulatory agency to bill the licensee (or registrant in Florida) for the actual costs of exams. This idea was endorsed and recommended by the Florida Comptrollers Money Transmitter Task Force back in 1994. We have learned that other Florida state agencies either have or have had similar authority. Such a plan would go a long way to ensure that the industry pays its own way for the costs associated with regulating it.

We have heard from MTRU examiners that some registrants maintain much better records than others, easing the work load for examiners and ensuring a speedy and efficient examination. In fact, we were surprised to learn that many multi-million dollar check cashing businesses still had no computer records of their operations.

If Florida were to adopt other states' practice of charging by the hour, that would go a long way to encourage registrants to keep their books and records in order. The benefits to the registrant is less time (and cost) being examined while the state would benefit from being able to conduct more exams with the same amount of resources. Charging by the hour would also ensure that smaller entities with fewer transactions would not have to pay the same amount as bigger businesses with far more transactions to examine.

### **Poor Use of Existing Resources**

While MTRU has not been given sufficient resources to do its job properly, we believe it has not made the best use of available resources. For example, the examiners' manual lists a number of items that examiners must download from a variety of databases to have before they even begin their exam. It appears to us that much of that information has already been collected by MTRU in Tallahassee and should have been made available to examiners when they were assigned their licensees to examine. Some of the items, such as quarterly reports, would have necessarily been in the hands of management in Tallahassee in order to determine the exam schedule in the first place. The rest is work that logically should be done by clerks or other support staff.

Here we have to mention that we were surprised to learn that MTRU employs no support staff whatsoever. All typing, filing, collating, tabbing, indexing, copying and all other support functions have to be done by examiners and supervisors. It appears to us to be penny wise and pound foolish to have examiners earning between \$33,000 and \$50,000 a year doing what can be done more quickly and efficiently by a support staff earning far less. Examiners should be spending time in the field doing what

they were hired to do and leaving the rest to clerks and typists.

We also learned that examiners are not the only ones wasting time and money below their pay grade. We understand that Area Financial Managers, who supervise the examiners, spend a good deal of their time checking virtually every single document turned in or created by the examiners. This appears to be an extremely wasteful duplication of effort for which we did not receive a satisfactory answer, especially as our inquiry showed that the examiners appeared as a whole to be well educated, well trained and experienced.

Micro-management aside, this practice may explain why it takes months for supervisors to approve the exams they receive. Delays of 6 months or more between the time a report is submitted and the time a decision is made by an AFM is common, and we have seen delays as long as 18 months. We note that the "Performance Contract With the Financial Services Commission" promulgated by OFR sets a goal of 45 days from the end of on-site examinations to send the examination reports to banks, and 30 days to send examination reports to credit unions. There are no such goals set for MTRU examination reports to be completed.

One way MTRU could maximize its resources is to concentrate its exams on licensees meriting the most scrutiny. Pursuant to a recommendation by the Auditor General's Office in January of 2007, MTRU decided to determine its examination schedule by utilizing a risk based assessment. Though MTRU believes it will take until 2009 to fully implement this new program, it has, since March of 2007, used a limited version to create a list of licensees from highest risk to lowest risk based on a point system. Some of the factors used in determining the points include the

length of time since the last exam, percentage of change in dollar volume, and average size of check. We agree such a risk based assessment is a positive step. We were dismayed, however, that after spending so much time and effort in collecting data and creating an ordered list of licensees, MTRU does not require its AFMs to actually follow the list when setting its examination schedule for the upcoming fiscal year. AFMs are given carte blanche to pick and choose from this list without regard to where licensees appear on the list. Furthermore there does not appear to be a written policy in place to guide AFMs in choosing licensees from the list. A review of the examination schedule for 2007-2008 left us wondering just what criteria was used to set the schedule.

For example, in the first quarter of 2007 MTRU set 59 licensees for examination. The ninth licensee on the list scored only 18 points on his risk rating. MTRU's "risk weight report" showed that 1,035 licensees had more points than this licensee. The highest points for a licensee was 68, that licensee was 38<sup>th</sup> on the examination list. We saw numerous licensees scoring between 15-20 points set for examination in the first quarter, while at the same time many licensees scoring at the other end of the scale were set for examination in the fourth quarter of fiscal 2007-2008. One of those licensees scored 44 points, which put it at 63<sup>rd</sup> on the "risk weight report."

Given MTRU's lack of resources, it would seem prudent that the 246 examinations MTRU scheduled for fiscal year 2007-2008 would be the top 246 licensees on the "risk weight report" (passing over licensees that have been recently examined of course,) especially since it has put so much time and effort to create the list in the first place. It makes no sense to us to delay scheduling licensees with higher risk ratings in favor of scheduling

licensees ranking in the bottom third. MTRU's failure to follow its own policy for setting examinations is another example of its poor use of resources.

### **Failure to Consider Alternative Resources**

While we agree with MTRU that it is woefully understaffed for the task it has been charged with, we also believe it has done a poor job of utilizing the tools it has available to it to lessen the burden.

### **Failure to Recover costs**

First and foremost MTRU has failed to avail itself of the authority granted to the OFR in s. 560.109(5) to recover part of the costs of investigations. These costs may be assessed against licensees when they are found to be operating in violation of the code. The testimony we heard was that virtually every check casher examined was found to be in violation of the code, yet costs have rarely been imposed on licensees. (We draw a distinction between fines, which are designed to penalize and deter violations, and recovering costs. Both should be imposed when appropriate). Probably the worst example is of licensees that don't bother to have complete records (or in some cases, no records) ready for examiners despite its requirement under the code and the 15 day advance notice provided by MTRU. This failure causes MTRU to expend additional time and resources and disrupts an already strained examination schedule. Failure to have these records is a violation of the code, yet according to MTRU, they have only collected costs in "1-2" cases over the last 3 years.

### **Use of 3<sup>rd</sup> party examiners**

MTRU could also dramatically increase the number of exams completed every year and allow MTRU to reach, and hopefully surpass, its goal of examining every registrant at least once every 3-4 years by relying on its statutory authority under s. 560.118(1)(c) to have examinations done by an approved independent 3<sup>rd</sup> party. Under the statute, the costs of such examinations are borne 100% by the licensee. We believe this would be an efficient way to increase the number of yearly exams and decrease the time between exams to a reasonable period without cost to the state.

Unfortunately, MTRU has never arranged for a 3<sup>rd</sup> party exam. It believes that the statute is flawed and may be challenged, a belief supported by only, as far as we can tell, alleged threats of court action by the check cashing industry.

MTRU also believes it would need additional authority from the legislature above and beyond the plain language of current law to do so, yet it has never asked for such authority.

Finally, MTRU believes it can do these exams more cheaply than 3<sup>rd</sup> party contractors, but by that it means more cheaply for the industry. We of course are more interested in what would be cheaper for taxpayers, as well as what would create an opportunity for a more realistic exam schedule.

We see no good reason why MTRU cannot avail itself of the authority granted to it by the legislature years ago. We do not believe it wise to hold to a process that leaves check cashers to operate for years without any meaningful oversight and passes up an opportunity to improve services while reducing the burden on taxpayers.

As we stated before, we believe check cashers should be examined

before they are allowed to register and operate. Frankly, that appears to us to be just plain common sense. That examination should include inspection of facilities, review of the anti-money laundering program, and background checks of the purported registrants and any others that are actually controlling the operation of the check cashers. Examinations should occur at least once a year afterwards. We believe that by taking advantage of 3rd party examiners these minimal goals can be easily met

### **Lack of Disciplinary Action**

While it seems to us that the examinations that are conducted are by and large done so professionally and as efficiently as possible under the circumstances, we find there are virtually no meaningful consequences to check cashers who either cannot or will not comply with the law. An examination where there is no consequence for failure is an exercise in futility. We wonder why we bother with the examinations at all as it appears to us, as presently structured, to be a waste of taxpayer's money. It would probably be more efficient to move to an honor system and hope for the best rather than to continue with this charade of enforcement.

The better alternative it seems to us is to continue with the examinations and regulatory scheme in place and use the enforcement tools at the disposal of the department.

### **Failure to Impose Significant Penalties**

Since fiscal year 2004-2005 MTRU has conducted 275 examinations of FT3 licensees (which include check cashers). During that time there were 118 final orders and 125 guidance letters issued. Only two examinations

were closed without a finding of a violation. Seven examinations were closed as a result of licenses being voluntarily surrendered. Additionally, we received testimony that within the 118 final orders there were 3-4 license revocations. Unfortunately, license revocations are not independently tracked by MTRU, so we must rely on the MTRU's best estimate of that figure.

If we have understood the figures correctly, 268 of 275 examinations over the last 3 years showed one or more violations of the code, but less than half of the licensees found in violation were disciplined at all, and only 11-12 lost their licenses.

### **Fines**

Of the examinations that did result in a measure of discipline imposed, the discipline consisted of fines that were negotiated with the licensee. Part of the justification given for such negotiation was to come up with a fine that was affordable to the licensee.

We did not have the time or resources to review all of the examinations conducted by MTRU and compare the examiner's findings to the discipline imposed. What we were able to review we found to be disturbing. A great deal of these examinations found licensees had failed to fill out and remit CTRs, sometimes dozens, even hundreds, as required by law. We note, as MTRU should have, that in addition to being violations of the code, these failures to file CTRs if willful, are felonies in and of themselves, aside from what they show about the licensees' likely involvement in money laundering. Instead of revoking their license and referring the matter for further investigation by law enforcement as might have been done, these cases

generally resulted in the impositions of fines, often trivial ones at that. In some instances MTRU was accommodating enough to allow the licensee to pay the fines on installment despite their authority under s.560.114(1)(s) to revoke the license of any entity that fails to pay any fee, fine, or charge in a timely fashion.

Overall, fines imposed have plummeted since MTRU began regulation of check cashers in 2004. According to the statistics provided to us by MTRU, in fiscal year 2002-2003 there were over \$500,000 in fines on check cashers. In fiscal year 2004-2005 fines decreased to \$128,000 imposed as a result of 53 final orders, an average fine of \$2415.

Last fiscal year, the numbers seemed to improve somewhat, but of the \$174,000 in fines imposed, \$100,000 was imposed on a single licensee. Adjusting for that fine, the remaining licensees were fined a nominal \$1655 each. We saw no evidence that compliance increased during this time to explain the drop in fines, nor do we believe that these types of fines are likely to prod licensees into compliance.

### **Guidance Letters**

In over half of the examinations where a violation was documented in the last three years MTRU's response was to send out what it refers to as a Guidance Letter. Neither the term nor the concept is found in Chapter 560. There is no written policy for the issuance of Guidance letters; they are left to the discretion of AFMs. MTRU's legal basis for issuing these Guidance Letters is the fact that it is not required under Chapter 560 to take any action at all when it finds a violation. The Guidance Letter is in fact an

acknowledgement that MTRU has found a violation but has chosen not to take any action. The letter then reminds the licensee to comply with the law. We are bothered not only by the concept of the guidance letter itself but by the meek language employed.

It is our belief that any licensee receiving such a letter would not only dismiss it out of hand but would conclude that the violations noted were trivial or inconsequential. MTRU believes such letters will foster higher rates of compliance, and if it doesn't, then the letters will serve as documentation of a prior violation at some potential future examination or hearing. We believe the opposite is more likely to occur. Sending out Guidance Letters will only serve to undermine respect for the law and actually drive down compliance rates. Furthermore given MTRU's own admission that its exam schedule currently calls for exams to occur every eight to ten years, and our findings that follow-up examinations rarely if ever occur, and the fact that both licensee and OFR are only required to maintain records for 3 years, we believe these letters will have little relevance at any future hearing.

If the use of Guidance Letters were limited to the most minor of violations, we might not be so concerned. We learned, however, that there are no violations that automatically rule out the use of such Guidance Letters. In fact, as we stated above, over half of the licensees determined to be in violation over the last three years received Guidance Letters. We discovered that in the last year, of the 70 Guidance Letters issued, 10 involved operating in an unsafe and unsound manner, usually due to an ineffective anti-money laundering program, 11 involved failure to file CTRs, and 35 involved failure to produce complete records. These are major infractions! Most of the

Guidance Letters concerned multiple violations.

This flies in the face of MTRU's stated policy that these letters are reserved for minor violations or where violations are few in number or for first offenses. It is hard to take the last one seriously as all of these offenses are first offenses given that MTRU has only examined about half of the licensees and will take several more years to examine the other half. At this rate it may take 8-10 years for a licensee to be caught with a second offense and face appropriate sanctions.

The explanation we have from MTRU is that some of the conduct documented in the examination reports is inadvertent and is the result of a lack of experience, training or knowledge on the part of the licensee. We don't buy that, at least not where licensees have failed to file proper CTRs. Even if it were true, we believe that any licensee that is so incompetent as to commit dozens or hundreds of felonies without even trying, has no business being licensed in Florida.

### **License Revocations**

In the last 3 years MTRU reports it has only sought to revoke 3-4 licenses out of 268 licensees found to be in violation. None of those license revocations were challenged by the licensee. MTRU believes it needs "overwhelming proof" in order to prevail at an administrative hearing to revoke a license, though we have not been apprised of any such standard under the law. MTRU is also concerned that failure to prevail could leave the agency on the hook for millions of dollars in legal fees. We heard no evidence that would justify such unfounded fears. Failure to prevail is always

a possibility whenever action is taken, but that is not an excuse to take no action. Finally MTRU believes its overriding mandate is to bring licensees into compliance not to revoke licenses, but it fails to appreciate how appropriate disciplinary measures can help to bring about compliance.

The authority granted to OFR by the legislature to suspend or revoke licenses for violations of the code is not mere filler material. The power was granted for a reason, to protect the public from entities unfit to hold a license. MTRU needs to use this valuable tool when appropriate. So that we are not misunderstood, we want to make it clear that we are not advocating a scorched earth policy, or demanding zero tolerance of small businessmen trying to do things right. We are asking that MTRU's management open its eyes and see what the criminal investigators see, what their own examiners see, and what we as lay people see, and take strict and swift action against those that are engaged in open and obvious misconduct--including revocation of licenses.

We noted during our inquiry that examiners do not have any input into what, if any, penalties should be imposed on licensees as a result of the examiner's findings. While they are not forbidden to do so there is no formal mechanism in place for providing input, nor is input asked for or encouraged by management. We believe it may benefit managers, as they decide what penalty to impose, to have the benefit of input from the examiners that had direct contact with the licensee.

## **Lack of Referrals**

Whatever the rationale for lack of enforcement we see no reason why MTRU could not at least make criminal referrals to the appropriate law enforcement agencies. The numbers given by MTRU (5 referrals in the last four fiscal years) are both in dispute and unclear, in large measure because MTRU does not make these referrals in writing. By our count we believe there was only one referral over that period of time. But even if we accept the numbers given by MTRU, they are woefully short of where it appears they should be.

Since fiscal year 2004-2005 MTRU has conducted 275 examinations of check cashers. The examinations closed during that time resulted in 118 Final Orders and 125 Guidance Letters issued. In all those instances there was a finding that the check casher was in violation of at least one provision of Chapter 560. From our review of the records it appears that in many of those cases there was evidence of felonious criminal conduct. By failing to make an appropriate referral, MTRU has, in essence, turned a blind eye to criminal conduct. No state agency should fail to turn over information they have that tends to show a crime was committed.

Though ultimately it may be that the evidence is lacking, or that the violation is minor, or that for whatever reason investigators or prosecutors may decline to pursue the case, that is a call to be made by the those charged with the enforcement of the criminal laws.

Recently, apparently in response to inquiry by Senate staff members, MTRU has claimed to have changed its policy on referrals. In a memo dated February 5<sup>th</sup>, 2008, MTRU states it will make routine referrals of suspicious

activities relating to potential workers compensation fraud to DIF. We hope MTRU will follow this up by deciding to refer all suspicious activity to appropriate investigative agencies.

### **Check Cashier Store Security**

In reviewing the activity of check cashing stores we became aware of another issue separate and apart from any fraud or money laundering occurring within the check cashing stores and that is their increasing attraction to armed robbers. The spike in robberies of check cashing stores speaks not only to the volume of money handled by these storefronts but also to their lack of security.

Because of the very nature of their business, check cashiers usually have large amounts of currency on hand. Many of these check cashiers are physically located within neighborhood grocery stores or small walk-up storefronts. Few have the physical security of a bank or even a convenience store. During one search warrant of a check cashier in February of 2006, for example, there was found on hand in a small warehouse, with no physical security, nearly \$1 million in cash.

It hasn't taken criminals long to figure out that these are lucrative targets for robberies. Since last year a group of investigators in South Florida has been investigating as many as 80 armed robberies of check cashiers. These robberies occurred between March of 2007 to the present. Other federal and state investigators are looking into other similar patterns of robberies of check cashiers.

Very few check cashiers bother to have even basic security like video

surveillance cameras. We suspect that failure to do so has little to do with cost and everything to do with keeping their check cashing transactions under wraps.

This lack of security, particularly video surveillance, has seriously hampered law enforcement's ability to identify and apprehend robbers.

In the early 1990s Florida was faced with a spate of armed robberies of convenience stores. These stores were vulnerable because they lacked meaningful security, were open to the public and usually had enough cash on hand to attract armed robbers. Armed robberies are inherently dangerous and pose grave threats to the intended victims, law enforcement, and innocent bystanders alike. Recognizing this, the legislature enacted the Convenience Store Security Act in 1992, mandating minimum security measures for all convenience stores. Among these measures were drop safes, limits in the amount of cash on hand, lighting requirements, and, most notably, "A security camera system capable of recording and retrieving an image to assist in offender identification and apprehension," s. 812.173(1)(a).

Today check cashing stores stand in the same position as convenience stores did in the past, with one critical difference--they have far more cash than any convenience store ever did. With as much as, or more money than banks, and virtually no security, it's no surprise to see the increasing numbers of robberies at these stores, a trend we can expect to continue unless changes are made.

We believe the legislature should consider extending the requirements of this act to check cashers.

## **CONCLUSIONS**

Money laundering by illicit check cashers is a significant and growing problem in Florida. Numerous studies have shown what state and local law enforcement has known for years: Florida is awash in dirty money generated from a multitude of criminal activity. This money, totaling hundreds of millions if not billions per year, must be washed somehow. As state and federal regulators have increased their demands on banks and other financial institutions to scrutinize their customers and transactions more closely, criminals have gravitated to check cashers due to less stringent identity verification and regulation in that industry. Some criminals have gone so far as to open their own check cashing stores to launder for themselves as well as others.

Two of the significant areas of criminality that have made increased use of check cashers are government healthcare fraud, particularly drug diversion, and workers' compensation fraud. Some check cashers have facilitated the fraud by deliberately failing to follow statutes and regulations concerning documentation of customers and transactions. These frauds are costing Florida taxpayers hundreds of millions, directly as when paying out dollars in Medicaid, or indirectly in the loss of tax revenue. Legitimate businesses and Medicaid recipients also pay the price in the form of lost business revenue, increased insurance and tax payments and potentially decreased coverage in Medicaid.

Law enforcement's ability to track these criminals is stymied by the lack of documentation by corrupt check cashers, despite the findings and recommendations of the 1994 Statewide Grand Jury to regulate check

cashers with an eye on identification of check cashers' customers. This failure to require sufficient proof of identity is the key element in the spread of money laundering among criminally corrupt check cashers.

We conclude that the agency most responsible for insuring compliance by check cashers has failed to aggressively root out fraud and money laundering from the check cashing industry. MTRU has itself stated it cannot deter money laundering and its actions and their results seem to back that up, at least with their current effort.

The lack of meaningful disciplinary action, including failure to revoke licenses, has allowed money laundering within the check cashing industry to flourish while hampering criminal investigator's ability to pursue those responsible for the money laundering and the underlying frauds. MTRU's almost total failure to refer suspicions of criminal activity to law enforcement, and its failure to document and track referrals when they do occur, has only served to worsen the problem.

We find MTRU to have bogged itself down by unnecessary paperwork and routine, to be burdened by self-imposed standards of proof, and to act far too solicitously toward the industry. As a result, we conclude that Chapter 560 as written and envisioned by the legislature is not being enforced.

Many check cashers fail to file CTRs properly or at all, fail to take necessary steps to identify their commercial customers, often fail to have effective anti-money laundering programs as required by law, and routinely fail to have complete records for examinations. Despite these widespread failings in the industry, MTRU has neglected to take aggressive and effective action against violators. Its overuse of so called guidance letters we feel

serves only to trivialize violations and undercut efforts to secure compliance. By not taking more aggressive action against the corrupt element within the check cashing industry, MTRU also negatively impacts the honest and legitimate check cashers who are forced to compete with licensees that don't do due diligence, don't keep good records, and don't invest time, money, or effort into detecting and avoiding suspicious transactions and customers.

Though MTRU claims its examinations and examiners cannot effectively detect money laundering, it has failed to seek out training opportunities for its examiners to equip them with the skills necessary to do so. Neither has it created rules to require more due diligence by check cashers in regards to their commercial customers, or bothered to amend the examiners manual to require review of customer files, one of the most obvious places to look for evidence of money laundering.

While we agree with MTRU that it is in fact understaffed for its task and that some legislative changes are in order, not all the blame can be placed on lack of resources, particularly when MTRU has steadfastly refused to consider alternative resources such as recovering costs from licensees, taking advantage of training opportunities offered by law enforcement agencies, or using 3<sup>rd</sup> party examiners to reduce the backlog of exams.

We also believe MTRU can do a better job of using its existing resources, such as reducing the duplication of effort by its managers which unnecessarily slows down the approval process, and reducing unnecessary paperwork and routine by its examiners. Also, we believe it would be more cost effective to hire some support staff and free up examiners to do more field work and less clerical work.

We do not share MTRU's assessment that it is on the right track, and we most certainly reject the notion put forth by MTRU that we should wait 5-6 more years before passing judgement on whether its policies and procedures are working. Based on all we have found, we determine they are not.

We also conclude that some licensees keep much better records than others. Failure to keep complete records and have them ready for examination leads to return trips by MTRU, delays, disrupted schedules and added costs. Moving to a fee system for exams based on the amount of hours needed will save money for licensees that maintain complete, well-organized records while passing the costs on to those that do not.

Given the enormous potential for abuse in the check cashing industry regarding money laundering and fraud, we believe the legislature should either limit check cashers to cashing checks made out to individuals; or cap the dollar amount of commercial transactions at a reasonable level. We find the justification offered by check cashers that some contractors need to cash checks immediately to meet payroll is a stretch at best. We believe our report reveals the real reasons for the construction industry's sudden infatuation with check cashers. Other businesses, particularly those receiving government reimbursement checks, such as Medicaid and Medicare checks, have even less justification to use check cashers.

We also conclude that certificates of insurance, which play such a key role in worker's compensation insurance, should be required to state the amount of payroll covered so that regulators and contractors can verify the validity of the certificates on the spot.

Finally, we conclude that the proliferation of check cashers in Florida,

which has doubled in the last 5 years, and the enormous amounts of money they handle has created a significant public danger. Many check cashers invest little in the way of security and those that are engaged in criminal activity avoid the even basic security of taping transactions to deter robberies. We believe the danger to be as great as that facing Florida in the past when the legislature took the step of passing the Convenience Store Security Act in 1992.

## **RECOMMENDATIONS**

### **To the Florida Legislature**

1. Authorize new examiner positions or support personnel or both for MTRU
2. Grant MTRU whatever additional authority it requires to utilize 3rd party examiners under 560.118(c)
3. Authorize MTRU to utilize existing trust funds for increased training for examiners, particularly for forensic training and detection of criminal activity
4. Cap commercial transactions at a reasonable level
5. Require photographs of customer, identification and check at time of transaction for all transactions over \$5,000
6. Prohibit in any case the cashing of Medicaid or Medicare checks payable to providers
7. Require check cashers to establish bank account dedicated solely for check cashing functions so as to ease audit process
8. Require all checks cashed by check cashers to be deposited into their

own bank account

9. Require licensees to submit Suspicious Activity Reports (SARs)
10. Require licensees to pay actual costs for MTRU exams
11. Require records to be retained by both MTRU and licensees for 5 years
12. Amend Chapter 560 to grant MTRU authority to immediately suspend any licensee that fails to have sufficient records at the time of the exam until that licensee provides such records to MTRU
13. Require registrations to be renewed yearly
14. Require MTRU to refer possible or suspected criminal activity to appropriate law enforcement agencies **in writing**
15. Make such criminal referrals confidential and exempt from the public records law
16. Require MTRU examiners to independently report suspicious activity directly to law enforcement in writing
17. Require appropriate security measures for check cashers akin to those found in Florida's Convenience Store Security Act including, at a minimum, security cameras to deter and help solve robberies
18. Direct DHSMV to undertake a feasibility study of creating an online system for verifying validity of Florida's drivers licenses as is done with credit cards

## To MTRU

1. Enforce the provisions Chapter 560 fully
2. Require licensees to implement approved software programs for check cashing functions to streamline and standardize audit process
3. Require licensees with multiple locations to network their databases to detect attempts at structuring by their customers and to facilitate MTRU exams
4. Solicit input from examiners on potential resolutions/penalties including amending exam report to have a section for such input
5. Utilize 3rd party contractors for examinations as provided for in 560.118(c)
6. Hire clerical support to free up examiners to do more field examinations.
7. Provide funds for continuing examiner education especially for forensic examinations and the detection of criminal activity. For the latter, take advantage of training opportunities provided by other state agencies such as Division of Insurance Fraud, Medicaid Fraud Control and Department of Law Enforcement
8. Promulgate rules detailing additional due diligence required by check cashers to verify identities of their corporate customers commensurate with their check cashing volume including:
  - Copies of articles of incorporation
  - Verifying incorporation online and updating quarterly
  - Verifying FEIN
  - Requiring at least two forms of ID, including one government

issued photo ID

Business or banking references

Site visit or some other verification of customers corporate existence

9. Create a standard table of fines for all violations of code
10. Require check cashers to establish bank account dedicated solely for check cashing functions
11. Require check cashers to deposit checks in their bank account within 1 business day
12. Require applicants to have an Anti-Money Laundering program and Bank Secrecy Act manual in place and approved by the agency before issuing a license
13. Examine all new licensees between 3-6 months after issuance of license
14. Send 15 day advance notice of exam by certified mail. If the legislature grants authority, include warning that failure to have complete records may result in immediate suspension of license
15. Schedule follow-up exams for specified infractions of the code between 3 to 6 months after initial examination
16. Guidance letters should not be issued without a written policy in place. That policy should emphasize that Guidance Letters should only be issued for the most minor violations and should never be used where violations concerning CTRs, failure to maintain adequate records, or failure to have an effective AML program in place is found
17. Examinations should be completed **and approved** in a more timely

fashion

18. Reduce the amount of time AFMs spend duplicating examiners efforts and require AFMs to approve examination reports in a more timely fashion
19. Examinations should be tracked from beginning to end and goals for completion should be set for both examiners and Area Financial Managers
20. Make criminal referrals **in writing**, and track such referrals for annual reporting

#### **To Division of Insurance Fraud**

1. Require Certificates of Insurance to be issued by insurance companies only, not agents
2. Require certificates of insurance to indicate on its face in some manner the amount of coverage purchased
3. Require contractors relying on certificates of insurance provided by subcontractors to verify validity and coverage amounts with the carrier

## CERTIFICATION OF REPORT

THIS REPORT IS RESPECTFULLY SUBMITTED to the Honorable Kathleen J. Kroll,  
Presiding Judge of the Eighteenth Statewide Grand Jury, this 10 day of March, 2008.



Foreperson, Juror #110  
Eighteenth Statewide Grand Jury of Florida

I, OSCAR GELPI, Special Counsel and Assistant Legal Advisor, Eighteenth  
Statewide Grand Jury of Florida, hereby certify that I, as authorized and required by law,  
have advised the Grand Jury which returned this report on this 12 day of March, 2008.



Oscar Gelpi  
Special Counsel  
Assistant Legal Advisor  
Eighteenth Statewide Grand Jury of Florida

THE FOREGOING Interim Report was returned before me this 12 day of March,  
2008, and is hereby sealed until further order of this Court, upon proper motion of the  
Statewide Prosecutor.



Honorable Kathleen J. Kroll  
Presiding Judge  
Eighteenth Statewide Grand Jury of Florida



OFFICE OF FINANCIAL REGULATION

FINANCIAL SERVICES  
COMMISSION

CHARLIE CRIST  
GOVERNOR

BILL MCCOLLUM  
ATTORNEY GENERAL

ALEX SINK  
CHIEF FINANCIAL OFFICER

CHARLES BRONSON  
COMMISSIONER OF  
AGRICULTURE

DON B. SAXON  
COMMISSIONER

Letter of Guidance

Date

Contact Name

Company

Address

City, State, Zip

Exam Number:

Dear Mr/Ms.:

We have conducted an examination of your company's business records pursuant to Chapter 560 Florida Statutes. The examination was conducted on DATE and contained findings in violation of Chapter 560 Florida Statutes, and the Administrative Rules contained therein.

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This Office is now issuing you a **letter of guidance** to remind you to comply with the aforementioned requirements of Chapter 560 Florida Statutes and Administrative Rules.

At this time this Office is closing your examination with no further action. As you are aware this Office may conduct a follow-up examination to determine whether you are in compliance with this and other statutory requirements. If you have questions, please contact ?????, AFM of this Office at (XXX) XXX-XXXX.

Thank you for the cooperation extended to our examiner(s) during this examination.

Sincerely,

AFM Name  
Area Financial Manager  
Money Transmitter Regulatory Unit

Office of Financial Regulation  
Chapter 560, F.S. - Money Transmitters  
Statistics for Fiscal Years 2002-2007

Number of Licensed Check Cashers and Money Transmitters:						
	2002-03	2003-04	2004-05	2005-06	2006-07	
Firms	690	825	1,007	1,220	1,435	
Branches	1,307	1,643	1,427	1,660	2,131	
Vendors	27,071	26,929	30,449	32,190	34,488	
<b>Total</b>	<b>29,068</b>	<b>29,397</b>	<b>32,883</b>	<b>35,070</b>	<b>38,054</b>	

Number of MTRU Examinations by License Type:						
	2002-03	2003-04	2004-05	2005-06	2006-07	
FT2	25	55	11	10	2	
FT3	45	124	51	89	135	
<b>Total</b>	<b>70</b>	<b>179</b>	<b>62</b>	<b>99</b>	<b>137</b>	

Disposition of Examinations Conducted by Money Transmitter Regulatory Unit						
	2002-03	2003-04	2004-05	2005-06	2006-07	
<b>FT2</b>						
Closed Final Order	1	6	15	10	5	
Closed Guidance Letter	13	3	18	13		
Closed No Action	5	0	3	3	2	
Closed No Violation	5	9	1	1		
Closed No Business	0	4		1	1	
Closed License Terminated	1	1		1		
Closed	0	0		1		
<b>Total</b>	<b>25</b>	<b>23</b>	<b>37</b>	<b>30</b>	<b>8</b>	
<b>FT3</b>						
Closed Final Order	4	11	53	20	45	
Closed Guidance Letter	29	19	59	19	47	
Closed No Action	3	4	2	10	6	
Closed No Violation	5	7		2		
Closed No Business	2	5		4	2	
Closed License Terminated	0	1	1	2	4	
Closed	2	5		1	2	
<b>Total</b>	<b>45</b>	<b>52</b>	<b>115</b>	<b>58</b>	<b>106</b>	

Bureau of Financial Investigations		2002-03	2003-04	2004-05	2005-06	2006-07
<b>Investigations Completed</b>						
<b>FT2</b>	Investigations Closed With Action	6	3	2	3	1
	Investigations Closed No Action Required	17	15	17	4	3
<b>FT3</b>	Investigations Closed With Action	3	13	7	9	6
	Investigations Closed No Action Required	21	21	20	19	23
	<b>Total</b>	<b>47</b>	<b>52</b>	<b>46</b>	<b>35</b>	<b>33</b>

<b>Enforcement Action Resulting From Investigations</b>						
<b>FT2</b>	Administrative Action	4	2	2	2	1
	Criminal Action		1		1	
<b>FT3</b>	Administrative Action	6	11	6	10	6
	Civil & Administrative Action		2			
	Criminal & Administrative Action				1	
	<b>Total</b>	<b>10</b>	<b>16</b>	<b>8</b>	<b>14</b>	<b>7</b>

Fines Collected from Money Transmitters Entities		2002-03	2003-04	2004-05	2005-06	2006-07
<b>Fines Collected (MTRU)</b>						
<b>FT2</b>						\$ 113,500
<b>FT3</b>						\$ 174,500
	<b>Total</b>	<b>\$ 505,350</b>	<b>\$ 228,950</b>	<b>\$ 128,000</b>	<b>\$ 157,050</b>	<b>\$ 288,000</b>
<b>Fines, Cost &amp; Restitution (Investigations)</b>						
<b>FT2</b>						\$ 5,000
<b>FT3</b>						\$ 63,000
	<b>Total</b>	<b>\$ 88,500</b>	<b>\$ 62,234</b>	<b>\$ 26,600</b>	<b>\$ 92,200</b>	<b>\$ 68,000</b>

FT2	Funds Transmitter and/or Payment Instrument Issuer
FT3	Check Cashier and/or Foreign Currency Exchanger