

Alert

DOJ and OFAC Take Enforcement Action Against Canadian Payment Processor

September 23, 2016

On Sept. 22, 2016, the Department of Justice (“DOJ”) and the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) announced simultaneous actions against PacNet Services Ltd. (“PacNet”) — an international payments processor and U.S.-regulated money services business based in Vancouver, Canada — for allegedly facilitating fraudulent mass-mailing solicitations.¹ Most notably, OFAC designated the PacNet Group as a “transnational criminal organization,” or “TCO,” naming 12 of its executives and directors and 24 PacNet-affiliated companies worldwide as Specially Designated Nationals or “SDNs.” This designation has the effect of prohibiting U.S. persons² from engaging in transactions with PacNet and effectively eliminates PacNet’s access to the U.S. financial system. In addition, the government obtained a seizure warrant in the U.S. District Court for the Eastern District of New York for the funds in a PacNet U.S. bank account that is used to process payments received through allegedly fraudulent mailings.

PacNet — a payment processor with operations in Canada, Ireland and the United Kingdom, and subsidiaries or affiliates in 15 other countries — is alleged to have knowingly processed payments for an international network of scam artists engaged in fraudulent mail solicitations targeting the elderly and other vulnerable victims. According to the government, PacNet has processed payments for the perpetrators of more than 100 different mail-fraud campaigns involving, in total, tens of millions of dollars. These include several mass-mailing operations that are the subject of separate criminal and civil law enforcement actions also announced yesterday.

OFAC designated PacNet as a TCO pursuant to Executive Order (“E.O.”) 13581, “Blocking Property of Transnational Criminal Organizations.” As a result, all of PacNet’s property and interests in property that are in or come within the United States or come within the possession or control of any United States person, including any overseas branch, are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in. President Obama issued E.O. 13581 in 2011 as a tool to break the economic power of transnational organized crime and protect financial markets, and to assist the Administration’s efforts to disrupt, dismantle and defeat the TCOs that pose a significant threat to U.S. national security, foreign policy or the economy. The designation of an international payments

¹ PacNet Services Ltd. is registered as a foreign-located money services business with the U.S. Department of the Treasury’s Financial Crimes Enforcement Network.

² The term U.S. person means any U.S. citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including non-U.S. offices or branches), or any person in the United States (including U.S. offices and subsidiaries of non-U.S. banks). See 31 C.F.R. § 590.314.

processor as a TCO is an unprecedented application of E.O. 13581, which previously has been used to impose sanctions on more conventional organized crime syndicates. In fact, PacNet is only the seventh TCO targeted under E.O. 13581. According to OFAC Acting Director John E. Smith, “Treasury will continue to use its authorities to respond to the evolving nature of transnational organized crime.”

If you have any questions concerning this *Alert*, please contact your attorney at Schulte Roth & Zabel or one of the following attorneys: [Donald J. Mosher](#), [Betty Santangelo](#), [Gary Stein](#), [Joseph P. Vitale](#), Seetha Ramachandran, Michael P. Court, [Melissa G.R. Goldstein](#) or Matthew J. Moses.

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