

LANNY BREUER COVERS UP MATERIAL SUPPORT FOR TERRORISM

I noted last week how prosecutors were claiming they were being extra tough on HSBC for all its money laundering because of the seriousness of the charge they were going to defer: money laundering. Yesterday, with great fanfare, DOJ rolled out their deferred prosecution for money laundering, as if it were a good thing to ratchet up the charges you excuse.

But I was struck even more by how DOJ treated HSBC's crimes they chose not to indict. Here's how Assistant Attorney General Lanny Breuer described HSBC's crimes:

HSBC is being held accountable for stunning failures of oversight – and worse – that led the bank to permit narcotics traffickers and others to launder hundreds of millions of dollars through HSBC subsidiaries, and to facilitate hundreds of millions more in transactions with sanctioned countries.

From 2006 to 2010, the Sinaloa Cartel in Mexico, the Norte del Valle Cartel in Colombia, and other drug traffickers laundered at least \$881 million in illegal narcotics trafficking proceeds through HSBC Bank USA. These traffickers didn't have to try very hard. They would sometimes deposit hundreds of thousands of dollars in cash, in a single day, into a single account, using boxes designed to fit the precise dimensions of the teller windows in HSBC Mexico's branches.

In total, HSBC Bank USA failed to monitor over \$670 billion in wire transfers from HSBC Mexico between 2006 and 2009, and failed to monitor over \$9.4 billion in purchases of physical

U.S. dollars from HSBC Mexico over that same period.

In addition to this egregious lack of oversight, from the mid-1990s through at least September 2006, HSBC knowingly allowed hundreds of millions of dollars to move through the U.S. financial system on behalf of banks located in countries subject to U.S. sanctions, including Cuba, Iran and Sudan. On at least one occasion, HSBC instructed a bank in Iran on how to format payment messages so that the transactions would not be blocked or rejected by the United States.

That is, Breuer says HSBC 1) helped Mexican drug cartels launder money and 2) helped Cuban, Iranian, and Sudanese banks avoid US sanctions.

But that's not all, according to the Permanent Subcommittee on Investigations, that HSBC did. The four main sections of the PSI report on HSBC's Bank Secrecy Act and money laundering violations pertain to:

1. Money laundering for Mexican cartels
2. Helping banks evade sanctions
3. Processing masses of travelers checks from Hokoriku bank in Japan which had suspicious ties to Russian "businessmen"
4. Maintaining correspondent accounts with banks that had ties to terrorism, most notably the Al Rajhi bank

One of the things, according to Carl Levin, that HSBC did was help banks involved in terrorist financing get US dollars (that section takes up

53 pages of a 340 page report). And yet, Breuer's speech did not once mention the word terrorism. The US Attorney's release used the word "terror" once, though not in conjunction with HSBC. And the Statement of Facts mentions terrorism in conjunction with a description of the laws HSBC violated and in this one paragraph.

In addition to the cooperative steps listed above, HSBC Bank USA has assisted the Government in investigations of certain individuals suspected of money laundering and terrorist financing.

In short, Lanny Breuer and his prosecutors did not mention that this bank they were letting off without prosecution provided a terrorist-connected bank with US dollars for years.

Rather than prosecute HSBC for helping a bank with ties to al Qaeda get US dollars that might be more easily used in terrorist attacks, Lanny Breuer is slapping them on the wrist and pretending the terrorist financing aspect of HSBC's violations doesn't even exist.

HSBC, the US-dollar cow for a terrorist-linked Saudi bank

Here's part of the PSI executive summary of HSBC's ties to banks suspected of terrorist finance.

After the 9-11 terrorist attack in 2001, evidence began to emerge that Al Rajhi Bank and some of its owners had links to financing organizations associated with terrorism, including evidence that the bank's key founder was an early financial benefactor of al Qaeda. In 2005, HSBC announced internally that its affiliates should sever ties with Al Rajhi Bank, but then reversed itself four months later, leaving the decision up to each affiliate. HSBC Middle East, among other HSBC affiliates, continued to do business with the bank.

Due to terrorist financing concerns, HBUS closed the correspondent banking and banknotes accounts it had provided to Al Rajhi Bank. For nearly two years, HBUS Compliance personnel resisted pressure from HSBC personnel in the Middle East and United States to resume business ties with Al Rajhi Bank. In December 2006, however, after Al Rajhi Bank threatened to pull all of its business from HSBC unless it regained access to HBUS' U.S. banknotes program, HBUS agreed to resume supplying Al Rajhi Bank with shipments of U.S. dollars. Despite ongoing troubling information, HBUS provided nearly \$1 billion in U.S. dollars to Al Rajhi Bank until 2010, when HSBC decided, on a global basis, to exit the U.S. banknotes business. HBUS also supplied U.S. dollars to two other banks, Islami Bank Bangladesh Ltd. and Social Islami Bank, despite evidence of links to terrorist financing. Each of these specific cases shows how a global bank can pressure its U.S. affiliate to provide banks in countries at high risk of terrorist financing with access to U.S. dollars and the U.S. financial system. [my emphasis]

What this summary doesn't say, but which gets mentioned in the detailed section, is that HSBC briefly stopped doing business with Al Rajhi because its US regulator, OCC, was about to do an AML review of its banknotes business; HSBC stopped because it anticipated its notoriously lax US regulator might not approve. But then Al Rajhi threatened to withdraw all its business unless HSBC continued to feed it dollars, and so HSBC resumed the practice, though it waited until OCC's review was complete, suggesting the halt to this business was entirely a ploy to hide it from its regulator.

The effort to hide this business in particular from its US regulator—among all the

other problems HSBC had with AML compliance—should by itself be an indication of its understanding of what it was engaging in: providing a bank that laundered money for terrorists with the cash dollars it used to accomplish that act.

In the four years during which it resumed this business, HSBC sent out net \$990 million in US dollars that disappeared in a bank suspected of financing al Qaeda (that doesn't account for the dollars it provided Al Rajhi before 2005, including the period when it had ties to financing 9/11).

The Muslim being prosecuted for the HSBC/Al Rajhi laundering process, but not the banks

Only, not all the dollars HSBC sent Al Rajhi over the years disappeared. The government claims to know specifically what happened to \$130,000 of dollars sent during the earlier 25+ years when HSBC was feeding this terrorist-linked bank US dollars (in addition, it generally says that Al Rajhi was involved in the network that funded the 9/11 attack). The US government claims—in a case still being litigated—that Muslim charity al-Haramain (yup! the one the government was illegally wiretapping during this period) laundered travelers checks into dollars via Al Rajhi so it could fund violent Chechens.

In 2005, the United States indicted the Foundation and two of its senior officials, Pirouz Sedaghaty and Soliman Al-Buthe who was later designated by the United States as a terrorist financier.¹¹⁶⁴ Since both men were out of the country when the indictment was filed, the case was dormant for two years.¹¹⁶⁵ In 2007, Mr. Sedaghaty returned to the United States and was arrested at an airport.¹¹⁶⁶ In 2010, he stood trial, was convicted of two felonies, and sentenced to nearly three years in prison.¹¹⁶⁷ In the incident that led to his conviction, he and Mr.

Al-Buthe used funds from an Egyptian donor to purchase \$130,000 in U.S. travelers cheques from a bank in Oregon; Mr. Al-Buthe then traveled to Saudi Arabia and, in 2000, cashed the travelers cheques at Al Rajhi Bank; the money was then smuggled to violent extremists in Chechnya.

Now, PSI doesn't mention it, but Sedaghaty (who goes by Pete Seda) appealed his conviction and had a hearing before the 9th Circuit on December 3, just as this settlement was being finalized.

There are a ton of reasons Seda is appealing his conviction, most importantly that a key FBI witness and her husband—the only affirmative tie presented at trial between the payment and Chechen terrorists, as opposed to Chechen humanitarian causes—were paid \$14,500 and promised \$7,500 after trial.

But a small part of his appeal argues that the government didn't examine what happened to the money allegedly laundered through Al Rajhi Bank, and in particular didn't examine an account dedicated to Chechen relief, which is what Seda claimed the money funded.

At least since 2004, the case agents were in possession of a list of AHIF-S bank accounts at the Al Rajhi Bank in Saudi Arabia which included an account for Chechen relief – the #9889 account. ER-Vol.9@2365. At least since 2005, the government was also in possession of copies of Mr. al-Buthe's receipts of the deposit showing the same Al Rajhi Bank account number. ER-Vol.9@2366-68,2395-98. The government did not, however, seek to obtain records from the same Al Rajhi Bank for any AHIF-S accounts. ER-Vol.9@2368. In addition, the government resisted all but one of Mr. Seda's efforts to obtain evidence from overseas.

And here's the nutty part. Just before HSBC dropped this business, Al Rajhi refused to cooperate with the government in that case.

In January 2010, after the United States served an administrative subpoena on Al Rajhi Bank to obtain authenticated bank documents for use in the al-Haramain Foundation criminal trial, the bank refused to produce them and filed a motion in court to quash the subpoena,¹¹⁷² leading to media reports that it was refusing to cooperate with a terrorist financing prosecution.¹¹⁷³

So the reason, presumably, why DOJ didn't do the investigation they should have to see whether Seda was really sending funds for Chechen relief, as he claims, or for terrorism is because this bank HSBC was still sending cash dollars to wouldn't cooperate with a terrorist investigation.

Now, I don't know whether Seda is guilty or not (I think the evidence is stronger against Al-Buthe, but then he has not presented a defense). I think DOJ's case against Seda has been far too tainted to determine whether they just framed him in an effort to justify the illegal wiretapping they did against al-Haramain and to get a conviction.

But one thing is clear. Pete Seda is currently in prison in Colorado (he was denied bail, even in spite of DOJ's tampering with its witnesses), serving time for allegedly laundering \$130,000 through the Al Rajhi bank to get cash to send to Chechen terrorists.

Cash that HSBC was providing to Al Rajhi.

And whereas Seda was only ever accused of sending \$130,000 total, HSBC provided this terrorist linked bank almost \$1 billion after the time they deliberately hid this business from OCC.

And yet, while Seda sits in prison for his

alleged crime, Lanny Breuer (and DOJ's Statement of Facts) didn't even mention HSBC's alleged role in terrorist finance.

And so while NYT and Glenn Greenwald and Matt Stoller and Howie Klein are all right that this HSBC non-indictment is an example of gross miscarriage justice (Glenn does mention HSBC engaged in money laundering for terrorism), they've just touched on a fraction of the problem.

HSBC had ties to a crime that DOJ currently has someone sitting in prison for, and is still pursuing at the appellate level. Yet not only didn't DOJ indict HSBC for that crime, but they don't even think HSBC's role in it is worth a mention.