

# Laundering Money in Plain Sight

*By Wendy Domenack\**

Alejandro Jara landed in Chile's Arturo Merino Benítez International Airport after a short trip from his native Peru, and it was just his luck that customs authorities chose him for a detailed luggage check. They found a package the size of a brick containing €500 bills worth €652,980 (US\$894,000).

He said "I come from (the corporation) Amasban Internacional, and I'm going to (the corporation) Costa Brava." He was not detained (at the time Chilean law wouldn't allow it), but by the time he left the airport he was already being watched by investigators.

Just like he told authorities, he proceeded to deliver the money to currency exchanger Turismo Costa Brava. It was August 2004, and that was the start of an international operation that would involve Peruvian authorities and lead to the arrest of 11 Peruvians, 13 Colombians and two Chileans four years later.

Known as the Velit Case after Amasban owner Percy Velit, the affair became one of the most infamous in South America involving operations that used front businesses to hide money laundering activity. The case is centered on a network of currency exchangers involved in the transfer of illicit money (in Euros) made from drug sales from Spain to Colombia. The money was later converted into Colombian pesos and sent to Peru. From there, the money was changed into Peruvian soles and transferred to Chile, where it was converted into American dollars headed to the U.S.

Maybe the most emblematic example of laundering drug trafficking money is the Fontanella case. After more than a year and half of investigations, the prosecutor in charge of the case, Jorge Chávez, determined that Sergio Fontanella and Daniel Yabbur had been using 30 shipping companies to launder drug trafficking money since 1997.

These companies reported millions of dollars in earnings in sectors such as river transportation, logging, car sales and commercial lubricants. The extent of the scheme was such that the Public Prosecutor's Office's investigation continues even though four years have passed since the complaint was first filed.

According to Chávez, the most common way that illicit money is made legal in Peru is through businesses that act as "fronts," such as gas stations, currency exchangers, and hostels. These companies' true business is to move money in cash.

Over the last seven years, this method of “cleaning” illegally gained money has been reported in almost 100 financial intelligence reports, and it is estimated that more than US\$1 billion has illegally entered the Peruvian market from 2003 to 2010, according to statistics from the Financial Intelligence Unit (UIF — *Unidad de Inteligencia Financiera*) of the Banking, Securities and Pensions Commission (SIBS — *Super Intendencia de Banca y Seguros*), the entity that was created by legislative decree in 2002 to report suspicious financial operations occurring in the country.

Approximately US\$4.4 billion was illegally laundered in Peru between 2003 and 2010. Nearly a quarter of this amount (23 percent) was “cleansed” through legitimate-appearing businesses, according to UIF official calculations. These estimates are the Public Prosecutor’s Office’s primary source of official information. Collecting this information is the first step when the prosecutors initiate a criminal investigation of this type.

### The Many Ways to Launder Money

Other common methods of laundering assets in Peru are the use of false identities, documents, or figureheads. These methods have been documented in 30 reports, with amounts involved totaling US\$827 million. “Smurfing,” where people are recruited to carry out financial operations on request, constitutes another well-known method that moves approximately US\$368 million.

It is important to note that among the various methods of asset laundering, as have been identified by the Peruvian UIF, the most reported method involves the possession and investment of financial products. These reports list a total of 133 suspicious operations involving US\$340 million.

Official sources report that 82 percent of illegally obtained money comes from drug trafficking, a total of US\$3.626 billion. An additional US\$136 million comes from scams and fraud, US\$128 million from tax fraud, US\$103 million from corruption by state officials and US\$87 million from illegal arms trafficking, according to the most recent report from the SIBS specialized unit.

Considering that the UIF has existed for less than 10 years, and about 80 percent of its cases have resulted in criminal charges, prosecutor Chávez says there’s “great progress”.

However, Segismundo León, specialized judge of the fourth supra-provincial court, says these are just estimates. “We do not have a centralized system for the information given in formal complaints that are filed in each of the country’s 31 district courts, nor do we have organized information about the number of sentences given for asset laundering,” he explains. Judge Velasco is responsible

for investigating complaints of asset laundering related to organized crime at the national level.

This absence of information persists largely because a new procedural penal code has been implemented since 2008. This code has decentralized the responsibilities of the supra-provincial courts to allow them to function independently. There are currently 16 district courts functioning independently, and it is estimated that by 2013, all 31 district courts will handle all the cases within their jurisdiction.

“I suppose that the problem of cross-checking of information about convictions for money laundering will be resolved when the implementation of the new penal code is finished,” explains Judge León.

It is worth mentioning that there has been only one case of a defendant being sentenced for asset laundering in Peru. This took place in June 2004, when the First Criminal Division sentenced Fernando Zevallos, founder of Aero Continente, formerly the largest airline in Peru, to 20 years in prison for illicit drug trafficking, receiving money from narcotics trafficking and asset laundering. Zevallos’s trial involved his relationship with the narcotics trafficking ring known as “Los Norteños.” The trial found that his commercial aviation business had received US\$1.5 million to acquire an aircraft that was to be used to ship drugs abroad.

### A Brief History of the Campaign Against Money Laundering

Asset laundering is a crime that achieved notoriety during the 1990s due to the revelation of numerous cases of corruption by state officials. The officials ultimately remained unpunished due to the lack of information and solid evidence required by the Peruvian legal system.

In response to this controversy, the UIF was created in April 2002 to receive, analyze, process, evaluate and transmit information regarding both asset laundering and the financing of terrorism. It is worth mentioning that, along with the creation of this entity, came the introduction of the legal term “precedent crime,” a term that is intended to refer to asset laundering. Previously, asset laundering itself was only considered a crime when it involved money illegally gained specifically from drug trafficking.

“This new rule extends the range of preceding crimes that can be prosecuted. From this moment on, we can investigate the laundering of suspicious or ill-gotten assets that come from other type of illegal activities, such as official corruption, extortion, human trafficking, trafficking of minors, arms trafficking, and illegal earnings, among other crimes,” explained Chávez.

The UIF began its investigations in 2003. As of November 2010, it has uncovered a total of 453 cases of suspicious financial operations. All of these cases have been reported to the country's four specialized attorneys and examined accordingly by accounting experts.

However, Chávez continues, the vast majority of asset laundering investigations in the country are still being processed, because the procedures to access and check information are still slow, both at the national and international level.

Furthermore, the national police do not have the necessary logistical resources to investigate these cases, and there simply are not enough accounting or financial experts available. Banks can take up to two years to organize and provide information.

“That is why we are proposing, in various forums, that all banks have a special area that is specifically dedicated to attending to the provision of secret banking information, as ordered by the Attorney General and judges, when they are informed of an alleged act of asset laundering,” said prosecutor Chávez.

Thus, certain aspects, such as access to secret banking information, the tax reserve, and confidential information regarding public officials, are still waiting to be introduced into law so that Peru's UIF can begin work soon. As of now, the unit can only access this information for the specific purpose of supervision. Without this information, the reports that are passed on to the Public Prosecutor's Office are incomplete.

## The New Proposed Laws

UIF Assistant Superintendent Sergio Espinoza points out that two proposed laws dealing with this problem have been presented since 2009 for discussion in the Congress' Commission of Economy. However, to date, these laws have not advanced.

These issues were made clear in the development of the National Plan against Asset Laundering and the Financing of Terrorism, a law that was introduced last July by Peruvian President Alan García. The design and implementation of the working team in charge of converting this effort into a state policy will depend on the SIBS and the Ministry of Economy and Finance, both of which are united in a strategic alliance against the eradication of laundering.

If the National Plan against Asset Laundering has not yet been implemented, how has it been possible to proceed in recent years? The UIF was incorporated into the SIBS in 2007 as a parallel commission, and, as the law states, there are entities that are legally required to report any unusual financial operation.

Among these businesses are those in the finance and insurance system, savings and credit cooperatives, stock market agent associations, and others.

As a result, the majority of information that the UIF needs to follow the trail of illicit money comes principally from the suspicious operations reports sent by fund transfer businesses (39 percent), by banks (31 percent), and by businesses that administer collective funds (15 percent).

The particularities of the Peruvian economy, such as its widespread informality, the predominant use of cash, the fast growth of the micro-business sector, and dollarization facilitate the crime of asset laundering. However, it is important to acknowledge the existence of enormous quantities of money involved in drug trafficking, one of the country's main problems.

“For a country such as Peru, the only thing that really matters is drug trafficking, and more recently, corruption. So as long as the focus on asset laundering serves to combat these problems, I think that it is the best for our country's particular situation,” explains ex-State Attorney, José Ugaz, who was responsible for investigating the illicit money derived from corruption in the Montesinos Case (Vladimiro Montesinos is a former advisor to the ex-President Alberto Fujimori, and he's currently in jail for trafficking weapons and other related crimes).

It is evident that there's much to investigate, taking into account that Peru currently holds the unesteemed honor of being the largest producer of coca leaf in the world. According to several estimates, there are over 60,000 hectares of illegal coca in the country. In addition, as reported in a 2010 study led by sociologist and drug trafficking expert Jaime Antezana, Peru exports 200 tons of cocaine and moves approximately US\$18 billion annually.

Even so, Ugaz thinks the Peruvian experience is one of the most successful ones in the world because while the Philippines, Nigeria, and Indonesia have taken up to 20 years to begin recovering illicit money, in just a few years the government's efforts against asset laundering have regained around US\$250 million.

“Nonetheless, the subject is very complex and there is still much to do,” Ugaz readily admits.

## Drugs and Politics

Ultimately, the Peruvian legal system seems to be awakening, but it has yet to directly confront the root of the problem: drug trafficking mafias. They are the principal source of illicit money and for that authorities need more tools. Not just legal tools, but also financial, technical, and political support to combat corruption at

the highest levels, levels that the world's mafias and their unlimited resources seem to have no trouble infiltrating.

In early 2011, President Alan García, two leading presidential candidates and senior members of a third candidate's party were linked by police and local media reports to suspected drug traffickers or coca growers.

Front-runner presidential candidate Alejandro Toledo and left-wing rival Ollanta Humala denied the allegations and dismissed the reports, García (who cannot be reelected in 2011), admitted that he had unwittingly received cash for his last campaign from individuals named in police investigations. Keiko Fujimori, another presidential hopeful, said she once took campaign money from people who had been investigated, but she insists they are innocent.

The reports increase fears that traffickers and planters, used to help the campaigns of mayors in rural coca-growing towns, are moving on to national politics.

"I think there's no longer any doubt that drug trafficking has penetrated politics, and not just in the VRAE and Huallaga (coca-growing towns)," Fernando Rospigliosi, a former interior minister, told La Radio del Sur.

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