

NEWS

Former BSA Officer Alleges He Was Fired for Trying to File a SAR

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By [Brian Monroe](#)



Claiming that he was fired for trying to file a suspicious activity report on a customer and two employees, a former compliance officer for an East Brunswick, New Jersey-based bank has filed a lawsuit seeking an unspecified amount of lost pay, attorney's fees and punitive damages.

Richard Boywitt, who worked as the Bank Secrecy Act (BSA) compliance officer at Brunswick Bank and Trust for nearly six months in 2007, has alleged the bank violated employee protection laws in a complaint filed May 1 in New Jersey Superior Court.

Compliance professionals say the case is a rarity, but that if Boywitt's allegations are found to have merit by the court, would illustrate the struggle some compliance officers go through trying to meet regulatory requirements and please their superiors.

They add that regulators have historically come down harshly on financial institutions that don't give compliance officers the independence to monitor and report suspicious transactions.

The case is one that will be widely watched because getting terminated for "doing your job is a compliance officer's worst nightmare," said Kenneth Bryant, the managing director of Bryant & Associates, a Hayesville, North Carolina-based AML consultancy. "They think about this every day."

Brunswick Bank and Trust officials didn't return calls or emails seeking comment.

Brunswick Bank and Trust, which has five branches and \$113.7 million in assets according to a Dec. 2007 annual report, has already been the subject of a regulatory sanction.

In March 1996 the U.S. Treasury's Financial Crimes Enforcement Network penalized the bank \$150,000 for failing to file customer transaction reports on 15 cash deposits that exceeded \$10,000.

Boywitt has a bachelor's degree in business and a masters in finance and was "well qualified for the job," having worked in finance for more than 15 years, according to the eight-page complaint. The complaint further states that after being promoted from internal auditor to BSA officer after six months on the job – Boywitt's pay rose from \$40,000 to \$47,000 – friction started with other departments at the bank when he requested BSA-related information.

The complaint alleges that Roman Gumina, the bank's president, chairman and chief executive, asked Boywitt to "overlook activity" that could lead to a SAR, telling him to "be careful what you write, we don't want anyone to get fired."

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Boywitt claims tension with bank management increased in April 2007 when he inquired about one customer, Frank Santisi. Court documents state Gumina told Boywitt that Santisi's brother was a prior president of the bank who had been arrested for loan fraud and that Santisi should not have an account at the bank.

Boywitt later talked to two tellers who stated that Santisi had come into the bank and was asking to exchange old cash for new. The cash "smelled old" and Santisi explained that his mother had passed away and he had found the money in her house, the tellers said.

Boywitt told the tellers to write down the dates and amounts of cash Santisi had brought in. When Boywitt checked back with them a few weeks later, they said Santisi had not come in again.

But when Boywitt talked to a third teller, she stated Santisi had come in over the weekend and exchanged \$8,000 in old cash with one of the tellers he had told to monitor any transactions tied to Santisi, according to the court filing.

On April 27, 2007, Boywitt left a message for Gumina that he was going to file SARs on the two tellers and Santisi.

On May 1, 2007, according to the complaint, Gumina called Boywitt and said "how could you file a SAR on a customer whose mother died? You would file a SAR against employees? Are you out of your [expletive] mind?"

A compliance officer presented with suspicious activity "must file the SAR. The laws haven't changed," said Ed Bjelke, an AML consultant in Valley Stream, N.Y., and former supervisory examiner with the Federal Reserve.

And the independence of the compliance officer is essential to his being able to function effectively.

"The compliance officer should report only to the board of directors" when it comes to filing a SAR," Bjelke said. Senior executives should only ensure the documents are filled out correctly, not edit for content or block them, he added.

Steven Siegler, Boywitt's attorney, said the case is "scary for people in that field. It's their job to blow the whistle and pick up on things others wouldn't notice."

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