

HOW YOU CAN STAY OUT OF PRISON!

Presented May 11-13, 2006 at the:

IARFC Financial Advisors Forum

The Global Event - By Leaders, For Leaders



Presented by:

Harold F. Chorney, ^土 TIA, RFC
16 Spring Drive
Johnson, R.I. 02919 - USA

Phone: 401 934-0536

e-Mail: hfchorney@earthlink.net

Web Site: National Center for Bankruptcy Accountability

www.nc4ba.org

Manchester Inn and Conference Center
Middletown, Ohio

BIOGRAPHY:

Harold F. Chorney, also known as “Hal”, was the founder and president of C.I.C., Cumberland Investment Corporation, an international tangible investment firm, which was in its third decade of operation, when both he and his company fell under attack from government agencies. Part of this attack included press releases to impugn Mr. Chorney’s character and integrity. Mr. Chorney was held in contempt of court for allegedly concealing and destroying records, overstating the value of the company’s inventory and “the identity of clients was “wrongfully withheld on the baseless ground of “confidentiality” even after disclosure was ordered by the Court.” Subsequently, “Hal” was convicted of a false statement to a financial institution and sentenced to prison. **Mr. Chorney believes that the motivation behind targeting him to develop evidence of a financial crime was to gain information about his clients and to neutralize his efforts, in government and the private sector, concerning proposing legislation that may impact a citizen’s right to financial privacy.**

Mr. Chorney at one time was considered to be an industry innovator, using his lobbying efforts to better protect the consumer investor. According to Public Document/Official Business #44076, on May 19, 1989, the flag of the United States was flown over the United States Capitol at the formal request of Wyche Fowler, Jr. United States Senator in honor of Mr. Harold F. Chorney’s “National efforts to bring about: Improved laws to better protect the best interest of the American Consumer investor...To strengthen regulatory efforts to safeguard the American consumer investor...and, to cause the financial products and services industry to be more accountable to the American consumer investor.” Mr. Chorney’s efforts earned him, his company and his retirement programs the endorsement and praise of prominent Americans including the late Congressman Eugene J. Keogh, who is considered the Father of Retirement Planning in America as author of H.R. 10, the Keogh Plan, and Loren Dunton, originator of the financial planning movement in the United States and founder of the Financial Planning College in Colorado, and the National Center for Financial Education.

Today, Harold F. Chorney, TIA, RFC is a highly booked speaker for the financial products and services industry. Mr. Chorney often has said that, “Your clients entrust you with their private personal and family information as well as with all of their financial assets. When government agencies request this confidential material how do you respect the privacy rights of our clients—and avoid being imprisoned as I was. His talk, “HOW YOU CAN STAY OUT OF PRISON” concerning the Feds targeting financial professionals and their clients will be featured at the **2006 IARFC Forum Convention.**

Hal Chorney is the author of **Pie-rats**, a book concerning our own institutions, selling out to special interest groups, thus denying American citizens their fundamental birthrights and the opportunity to achieve the American Dream. Hal is also a frequent writer, published in **Barron’s Financial Weekly, Wealth Magazine, Life Insurance Selling,**

Financial Profiles, Financial Services Advisor Magazine, The Inspirator International, the IARFC Register, The Financial Planning Encyclopedia, and other publications.
HOW YOU CAN STAY OUT OF PRISON

INTRODUCTION TO NARRATIVE

Hi, my name is Harold Chorney, most of my friends call me “Hal”

This narrative is a more complete presentation than the 50 plus slide Presentation which is being delivered at the I.A.R.F.C. FINANCIAL ADVISORS FORUM, May 11-13, 2006. The slides themselves and more information on this subject and other related topics are accessible on line at www.nc4ba.org , the website for the National Center for Bankruptcy Accountability.

PRESENTATION OVERVIEW:

1. How I got to prison
2. How going to prison helped me reflect on the past and focus on the future
3. My thoughts as to why you are here today
4. Why I am here
5. What materials I have to help you survive
6. Why people go to prison
7. Government is spying on its own citizens through
 Voluntary compliance
 Involuntary compliance
8. What are your chances of going to prison
9. Conclusion
10. Help me to help you

I encourage you to question the veracity or the logic of anything that I say or write. I want you to ask your legal people about the strategies introduced.

In addition, why don't you question why the banks and other cartels are the benefactors of certain laws and not you. Some of these laws are contrary to our fundamental birth rights. These laws, robbing us of our freedoms, are written by Congress, enforced by the Supreme Court of

the United States, apparently with the blessing of the Executive branch of Government. Ask yourself, “Why?” Thank you.

I. HOW I GOT TO PRISON

I was the C.E.O. and majority shareholder of a Canadian Public Company, Wescap Enterprises Limited as well as the President of its wholly-owned United States subsidiary, Cumberland Investment Corporation. Due to the maturity of management, Wescap was an exempt company on the Vancouver Stock Exchange, meaning that press releases and other releases, which normally needed the pre-approval of the Vancouver Stock Exchange was waived. In addition, Cumberland Investment Corporation was audited by Thorne, Ernst & Whinney, at that time, in the mid-1980's, one of the Big Eight Accountant Firms. Dun and Bradstreet had evaluated Cumberland as having a 4-A1 rating, meaning that the company paid its bills on time and had financial strength. For instance, General Motors has a 5-A1 rating.

Cumberland Investment Corporation, (C.I.C.) operated from its main office at the State Street Bank Building, 225 Franklin Street in Boston's financial district, where the company leased a ground floor space of 5,000 square feet. C.I.C. performed an array of financial services for banks and trust companies. In addition, C.I.C. supplied tangible investments such as gold, silver, rare coins and other collectibles to financial professionals and their clients. For the most part, these tangible investments were and still are considered to be "unregistered" investments, much like holding ownership of a "Bearer" bond or some other "Bearer" item. Cumberland always advised their clients to take physical possession of the commodity versus holding the item in a bearer certificate form at some financial institution or elsewhere.

Through the years, my firm had been approached by different federal agencies seeking information about the clients of Cumberland, namely financial professionals and their clients. Each federal agency seemed to want me to belong under their jurisdiction. I remember in 1983 how the S.E.C. insisted that my firm and I were under their jurisdiction. My attorneys and I did not think that we were since we did not sell securities nor belonged to the N.A.S.D. When I questioned the S.E.C.'s jurisdiction, they stated that they had the jurisdiction to determine if they had jurisdiction. But that battle, which ended with a decree stating that I neither admit nor deny

any wrongdoing, cost me hundreds of thousands of dollars. When other agencies, including the I.R.S. had asked me for information on my clients' "unregistered" investments, more specifically information on financial professionals, who were vendors of our products, and their clients, the legal stance of the company was, "What law requires the firm to disclose this information? "Why ask us, why don't you ask them?" C.I.C. respected the financial privacy of their clients, but in time I learned that some of our clients own financial professional did not respect their privacy, perhaps because their planners were under the jurisdiction of S.E.C. and N.A.S.D. or different agencies than my firm was.

These tangible investments were legally and lawfully under the umbrella of Financial Privacy and there was no law on the books requiring disclosure of these "unregistered" investments. Cumberland chose not to disclose this "non-public" information. Sure there were certain parameters such as laws involving cash transactions and the reporting of transactions over \$10,000 stemming back to the Bank Secrecy Act of 1970, requiring banks to notify the IRS of these cash transactions. In 1986 the ballgame changed when Congress passed the Money Laundering Control Act. **Banks were no longer concerned with the release of information as violating their clients' financial privacy.** By law, the banks had to release the \$10,000 transaction, but the 1986 law stated that a financial institution could not be held liable for releasing suspicious transactions to law enforcement. I.R.S. form 8300 was then introduced, requiring businessmen to report cash transactions in excess of \$10,000 and the banks were issuing S.A.R.'s, Suspicious Activity Reports, involving an aggregate of \$5,000 in cash as well as the mandatory \$10,000 in cash transaction. With the Patriot Act, all sorts of red flagging and reporting are taking place—about 400,000 S.A.R.'s filed in 2004 and 14,000,000 transaction over \$10,000 in cash. Source I.R.S. Currency Reporting.

Back in the 1980's, when critics, like myself, spoke out against the lack of financial privacy, they were labeled as aiding drug dealers to launder and hide illicit monies, today a critic of the lack of financial privacy often is labeled as being soft on terrorism.

In 1989, Eastland Bank had called in all the notes that Cumberland Investment Corporation had and eventually the company was forced into bankruptcy. The bankruptcy, currently in its 17th year, was quite contentious. On June 1992, as principal of C.I.C., I was fined \$200,000 and

held in contempt of court, by the bankruptcy court for allegedly concealing and destroying records, overstating the value of the company's inventory and "the identity of clients was "wrongfully withheld on the baseless grounds of "confidentiality"" even after disclosure was ordered by the court.

Shortly afterwards, I was indicted on 18 counts of mail fraud, bank fraud and conspiracy to perform bank fraud. After an eight-week trial, with over 75 witnesses, the jury came in with a mixed verdict. I was found guilty of not cheating my clients, or conspiring to defraud anyone, but I was found guilty of making a false statement to an F.D.I.C. Institution, a false loan application. An the false statement itself, was made by another person, but then on appeal, the justices of the First Circuit Court of Appeals stated that I had "engineered" this false statement. After appealing the court decisions to the Supreme Court of the United States, on Feb. 1996, I began to serve my sentence of 27 months. My sentence also ordered paying restitution of some \$600,000 to the bank. I felt that my whole world had come to a halt—I was wrong.

II. GOING TO PRISON HELPED ME REFLECT ON THE PAST AND FOCUS ON THE FUTURE

I had spent most of my adulthood making and accumulating wealth and now I was incarcerated and began to re-evaluate my life. I reflected on my childhood and upbringing. I was the son of immigrant parents, who had escaped from the tyranny of Eastern Europe to come to this country to experience the American Dream. Being proud of this heritage, I thought about all of my energies formerly being selfishly directed to accumulated wealth. Certainly at this stage of the game, if accumulating wealth was all there was to "success", I was quite a failure.

I remember seeing It's a Wonderful Life, on Christmas eve of 1996, while at Allenwood Federal Prison Camp. I always enjoyed watching this movie. Must have seen it twenty times before. But this time, I identified with the character of George Bailey, played by James Stuart, thinking he was a failure. The line in the movie that struck me the most was made by George's guardian angel, Clarence, who said, "You see George, you really did have a wonderful life.....**Remember no man is a failure who has friends.**"

Most people in prison feel that they have been abandoned by family and friends and did not have much to look forward to in being released. I did not feel that way at all. In fact, with few exceptions, I had the support of my family and friends. I was quite optimistic about the future and four days after seeing It's a Wonderful Life, things got worse. I sustained a head injury on December 28, 1996. Since this type of injury could have killed me, I thanked God for the opportunity to do the right thing. Much of the way I feel is contained in the lyrics of an Abba tune, I Have a Dream.

Some of the lyrics sum up my philosophical approach to my mission, despite the odds against me. My mission may only be a dream, a fantasy. My dream is to do the right, thing in order to help solve some of the problems of what is happening in our country. For some skeptics, my book, entitled Pie-rats, may appear to be only a fairytale. But the lyrics give me hope that I will be helped by angels because the time is right for the majority of American people to know what is happening within their institutions. Here are some of the lyrics that inspire my dream, the American Dream:

I have a dream for some to see, to help me cope with anything.

If you see the wonder of the fairytale, you can take the future even if you fail.

I believe in angels, something good in everything I see. I believe in angels, when I know the time is right for me.

I cross the stream, I have a dream. I have a dream a fantasy, to help me through reality, and my destination makes it worth the while.

III. WHY ARE YOU HERE??

Financial Professionals, like you, attend conferences like this for a variety of reasons. Listed below are some of those reasons:

1. You like to be entertained by the Ed Morrows, the "Tremendous" Jones's, the George Flacks and the Wally Cato's.
2. You like belonging to an association like the I.A.R.F.C., where you can learn about cutting edge technology and methods used in the industry.
3. You want to be heard, and in this association, you are encouraged to give your opinion on just about everything from what you observed at

the conference to where would you like the conference to be next time.

4. You want to be part of and join in the big dream, the American Dream.

There may be *Unintended Consequences*. (1.) You may question whether you are performing your fiduciary responsibility for your clients. (2.) You may decide to take collective action. (3.) You may learn to **survive**.

IV. WHY I AM HERE: DESIRED LEARNING OUTCOME

This is what I want to do for you:

1. To make you aware of current trends in the Financial Services Industry.
2. To assure you that you are being targeted, why and by whom.
3. To help you survive the attack
4. To have you tell your friends & colleagues of this presentation

I hope that there is a little bit of Hal Chorney in each of you here today. Like me, I hope that you do not like what is happening today in our country and that you are willing to “cross the stream”, just like in the Abba lyrics, get involved and do some thing about it.

The handwriting is on the wall. Many years ago, in the 1970’s, a friend of mine told me that the government was spying on its own citizens. Maybe he knew about the expanded plans for the Bank Secrecy Act of 1970, or something else entirely. Regardless, I did not believe him. I looked upon him as if he had two heads. Today, I believe him after going to trial and obtaining 85,000 pages of information on myself and my clients through Freedom of Information Act requests and trial discovery.

I’m going to show you what the current trends appear to be for the financial industry. These trends certainly represent my own viewpoint and I am going to present arguments to substantiate my points of view. Basically I will show you that both the courts and Congress have been bought by special interest groups—for lack of a better word, let’s call them cartels. Cartels by definition want to limit competition or to eliminate competition all together. One of the groups, the banking cartel is in competition with you and supplying a full array of financial services. It is very well possible that the

“brain trust” of this cartel wants to eliminate the independent financial professional like you.

Administrations favoring the banking cartels in recent years are the Clinton presidency from 1993-2001, and the present George W. Bush presidency from 2001 to present. The greatest court decisions ever in the financial arena, which are in favor of banking, have occurred during the last ten years. Here are some of the Supreme Court Decisions that favor banking and not you. Some of these laws favor National Banks and not States rights.

1. In 1995, the Valic decision opened the flood-gates for banks. Banks operate under the COMPTROLLER OF THE CURRENCY, as THE ADMINISTRATOR OF THE NATIONAL BANKS. Banks, as a result of the Valic decision, can now perform duties “incidental” to banking, such as the sale of annuities and title abstracting services and
2. In 1996, the Barnett Bank decision, prevents the states from interfering with banks wishing to solicit, sell and cross-market insurance nationwide. This decision limits States Rights.
3. In 2006, the Wachovia National Bank decision, prevents national banks from lawsuits other than those heard in Federal Courts in the state in which the bank is headquartered. The case involves tax advice and financial services. This decision limits States Rights.
4. On Feb. 24, 2006, Buckeye Check Cashing decision, prevents consumers from lawsuits against loan companies with unenforceable contracts and forces consumers to take disputes into arbitration. This decision also overturns state rulings and limits States Rights in favor of banking. Bloomberg noted that this ruling, “especially benefits financial services companies.....”

Here is some of the Congressional legislation favoring the banking cartels and not you.

1. In 1999, the Gramm-Leach-Bliley Act, takes the Barnett Bank decision to new heights by allowing banks, insurance companies and securities firms to affiliate and sell each other’s products, thus sharing personal non-public client information.
2. In 2001, the U.S. House of Representatives Banking Committee now becomes the **Financial Services Committee**. I believe that many banking lobbyist groups have convinced Congress that the

wave of the future for financial services will be exclusively through banking institutions. Should this occur, financial privacy and the independent financial professional, as we know them today will only be a parlor game for our children—things seem to be moving in this direction.

3. In 2005, Congress passed the Bankruptcy Abuse Prevention and Consumer Protection Act—basically making the courts a collecting agency for the banks and credit card industry. In addition the bankruptcy court process will be shown to be one of the biggest dangers to you and to our industry.

V. MATERIALS TO HELP YOU SURVIVE HAVE BEEN POSTED ON THE WEBSITE FOR THE NATIONAL CENTER FOR BANKRUPTCY ACCOUNTABILITY.

Informational articles, Constitutional Amendments, Request forms for Freedom of Information Act and Privacy Act, (See Appendix I.) Right to Public Access Requests (See Appendix J.), Relevant Court decisions, Legislative updates and much more are available on www.nc4ba.org .

VI. WHY PEOPLE GO TO PRISON

There are a lot of reasons why people go to prison and I'm sure that the following list is not all inclusive:

1. Wrong placed and wrong time
2. A brainwave gone astray
3. A bit of greed
4. Refusal to **timely** invoke counsel
5. You are under contract to a clearing service such as Pershing.net or are under the jurisdiction of an agency like S.E.C. or N.A.S.D.
6. You are targeted because you are either outspoken or perceived to have client information
7. You are targeted by an agency, such as S.E.C. or N.A.S.D., which are developing evidence of a crime, a “tailor made” crime.

Items numbered 4, 5, 6. and possibly #7 above are directed towards financial professionals. As a financial professional, you have access to information on your clients, information that government agencies may want to get from you. There is nothing wrong in being prepared for this eventuality. Should

a government agency request non-public information from you, many of you will feel intimidated and just give the agency the information that they are requesting without questioning the reasons for the information. In doing so, you may be acting in a manner contrary to acting in the best interest of your client. Since I am not an attorney, I can only give you my opinion as to what you should do should you be approached for non-public client information— disclosure of this information to an agency may make you subject to client litigation, government harassment or jail.

1. Give the agency your attorney's card and say something to the affect that, "My attorney gets very angry with me if I talk to people without him being present." Now at this point in time, the agency should back off and allow you to have your attorney present.
2. Cease communicating directly with the agency. Seventy percent of all information about you and your clients will come from you—so zip the lip.
3. Your attorney should request whether you are the target of an investigation, and you should ask your attorney to do so if he or she has not already asked the question.
4. You, not your attorney, should initiate some Freedom of Information and Privacy Act Requests. More information on this can be obtained on www.nc4ba.org .

PLEASE NOTE: INNVCATION OF COUNSEL CANNOT BE USED AGAINST YOU SHOULD YOU GO TO TRIAL

Your refusal to talk substance in the absence of counsel cannot be used against you should you ultimately go to trial. The case law precedent is U.S. v. McDonald, 620 F. 2d 559, 5th Cir. 1980. In fact, the refusal to talk substance will force an agency or U.S. Attorney to decide whether the information you have is important enough to justify a grand jury subpoena for your testimony.

VII. GOVERNMENT IS SPYING ON ITS OWN CITIZENS

Most people in the United States are so busy with their daily routines that they have lost sight of the fact and the extent of government abuse. The truth of the matter is that our own government is spying on us. Have you ever asked yourself the question, "Why?"

1. The F.B.I. last year, 2005, issued some 30,000 National Security Letters. These letters basically are demands for information. Some people call these letters pocket subpoenas, where the agency, without a court order is acting as if they already have this court order. Now most people are very intimidated over being handed a document demanding information and documents about you and your clients and being told that you cannot tell anyone about this and so one. Now, most people are so frightened that they just give the agency what they want. Another possibility is that you “invocate counsel”. The strategy to invocate counsel is your call..
2. There is another situation that is occurring. The N.S.A., the National Security Agency is eavesdropping on U.S. citizens. They have collected a “mountain of data” using both mechanical and human interception of emails, fax and telephone communications in and out of the U.S. Some people estimate that there have been over 500 intercepts per day for the last four years and that the total number of intercepts exceeds 750,000. I do not know if these figures are correct or not, but this entire trend is quite troublesome to me. Unfortunately, if a person objects to government abuse, they tend to be attacked by government as being a terrorist sympathizer, when in fact those who criticize may be true patriots trying to protect our constitutional birthrights.
3. The most routinely used spying in the U.S. is done by our own banking system. Records are routinely shared with government agencies—as described on pages 2-3, How I Got To Prison.

Please remember when an individual questions WHY, that individual is classified as being unpatriotic or subversive. But the banking laws of 1970, 1986 and 1996 were five or more years prior to 9-1-1.

Even though our “Free Press” has chosen not to report on the partnership of banking and government agencies, they have been a check on wiretapping and the outsourcing of surveillance to the private sector and of torture abroad through their reporting. Thank God for the free press doing what our system is designed to do, but has not been doing—basically having a balance through a separation of powers between the branches of government giving its citizens those checks and balances designed to protect us from government itself.

I'm outraged at what has been happening and the current trend. I feel that most financial professionals are not paying attention to what is happening to us.

“VOLUNTARY COMPLIANCE AIDS S.E.C. AND N.A.S.D., A PRIVATE SECTOR REGULATOR IN INFORMATION GATHERING

Did you know that when you sign a contract with Pershing.net, that you automatically allow regulatory agencies to look at emails between you and your clients? In addition, it appears as if regulatory enforcement is getting tighter and tighter. For instance, the “know your client” and “investment suitability” rules have been around for decades. However, these rules are now being enforced in order to give the government more and more information about you and your clients. The banks must comply with the regulatory agencies. On February 14, 2006, Morgan-Stanley was fined \$15 million for failure to retain client emails. Shouldn’t your clients know that there is basically no financial privacy in their emails to you or your firm and shouldn’t the industry you have the fiduciary responsibility to inform them?

GOVERNMENT IS GATHERING INFORMATION THROUGH SEARCH ENGINE PROVIDERS

More voluntary compliance is occurring between government and Search Engine Providers as A.O.L, Yahoo and Microsoft. These providers have entered into “voluntary compliance” with the government. This term “voluntary compliance” is true Orwellian “double-speak”. How can you voluntarily do what you “must” do? Google has resisted the government’s coercion to turn over private client information, thus limiting the outsourcing of surveillance to the private sector—Hooray for them!

“NON VOLUNTARY” COMPLIANCE IS THE PROBLEM AREA FOR FINANCIAL PROFESSIONALS

What happens when the government is seeking “non public” information about your clients—information that is in contradiction to acting in the best interest of your client? This is quite a dilemma for some and non-disclosure of requested information can result in harassment and litigation for those of us who do not automatically give the government what they want. If the government cannot legally and lawfully get the information they want from you, do not be surprised if somehow you or your company are petitioned

into a bankruptcy. While in this bankruptcy system, you may lose control of your company and the information on your clients belong to the company and not to you and becomes the property of the trustee in bankruptcy and confidential “non-public” information gets disclosed to the agency requesting the information. In addition, you may end up being “punished” for bucking the system resulting in the loss of some of your basic privacy and property rights through the bankruptcy arena.

GOING INTO BANKRUPTCY IS A CLEAR AND PRESENT DANGER FOR THE FINANCIAL PROFESSIONAL

Checking the trend for personal bankruptcies in the United States, it appears as if by the year 2010 about one in every 50 households will be in this bankruptcy arena. I do believe that the trend will exceed this number for the financial professional industry because you will be targeted. While in prison I saw different groups get targeted for financial crime. For instance, the Justice Department would target the accountant industry for fraud, and all of a sudden a bunch of accountants and C.F.O.’s would begin to trickle into the institution where I was incarcerated.

VIII. WHAT ARE YOUR CHANCES OF GOING TO PRISON FOR FINANCIAL CRIME??

According to the U.S. Department of Labor, 2005, there are some 145 million people working in the United States today. Out of these some 5.3 percent, or roughly 8 million are involved in the financial industry. This figure includes all banking and insurance company employees. Excluding these employees, the figure is closer to 1,600,000 people working in the financial services industry. You are one of these 1,600,000 people.

For the last few years, Federal Judges have averaged sending 40,000 people to Federal Prisons each year. About 16,000 of the 40,000 are/were convicted of financial crime. So statistically 1 out of every 100 financial professionals have gone to prison or will go to prison each and every year. I personally feel that this number will escalate as the thirst for more and more information by the government on its citizens increases. Statistically, the B.O.P., Federal Bureau of Prisons, shows about 70,000 of the 182,000 federal prisoners currently serving time are there for financial crime.

ARE YOU A MALE, COLLEGE GRADUATE IN MANAGEMENT??

According to C.F.O. Magazine, November 30, 2005, the Profile of the Financial Crime Offender is as follows:

1. 79 percent are male
2. 21 percent are female
3. 37 years old is the medium age
4. most are college graduates
5. probably involved in management

The types of Financial Crime include fraud; bribery; extortion, embezzlement; bank & insurance crime and continuous criminal enterprises. According to Bureau of Prison statistics, with sentences of cases terminated in U.S. District Courts, the Mean incarceration period for financial crime is 22.5 months, and the mean probation period following prison is 40.7 months.

TYPES OF FEDERAL PRISONS

There are a variety of types of Federal Prisons. Most people convicted of Financial Crime will go to an F.P.C., a Federal Prison Camp. These are what the B.O.P. calls “Minimum” Security Facilities. There are no walls or barbwire going around these institutions, but do not let the term camp fool you. While there the government will be playing a game with you that I call, “mind screw” including such techniques as encouraging inmates to sign documents without fully reading them.

Other security levels after minimum security and in ascending order of more restrictive confinement are low security, medium security and lastly high security institutions. Once again, most convicted of financial crime will go to a minimum security level institution.

PRESENTENCE REPORT

Once indicted and then convicted a Pre-sentence Report is completed by the probation department. It recommends which type of facility the “offender” is going to attend. The sentence itself is based upon a Federal Sentencing Guideline. On November 1, 1987, this system came into affect, where Federal Judges no longer had the latitude in sentencing, there were standard sentencing requirements, depending upon a point system. Under this

system, the “offender” has to serve a minimum of 85 percent of the “sentencing” time and the computations of the point system of the sentence itself is highly dependent upon the alleged loss to the alleged victim of the offender’s crime. There are 16 different categories of amount of loss—ranging from no loss or zero loss to a loss in excess of \$400,000,000. Each of the 16 categories adds points on to the computation of the offender’s sentence. The sentences range from probation and not serving any time to a maximum of a 20 year sentence, with the median sentence being for 18 months. But one factor that most people are not aware of is that if an offender receives a fine or restitution as part of a sentence, this financial punishment can turn into a lifetime sentence if the offender is incapable of paying the amount of restitution or the fine. For example, the mean fine and restitution for financial fraud is \$627,326.00. The aggregate for fines and restitution for financial crime exceeds \$4 trillion dollars. The government has twenty years to try and collect the fine or restitution according to law. The law even allows the government to seek part of an offender’s Social Security to pay the fine or restitution. Since the government does not want an offender to ever get on his feet, and be a thorn in their side, I feel that the fines and restitutions are designed to keep their opponents under check or down forever.

GOING TO PRISON FOR “NON-CRIMES” FALLS INTO THIS CRUEL TYRANNY CATEGORY

Charles-Louis De Secondat, in THE SPIRIT OF THE LAWS, 1748, stated that, “There is no crueler tyranny than that which is perpetrated under the shield of law and in the name of Justice.”

While analyzing the crimes that financial professionals are convicted of, I have concluded that some crimes are “tailor” made to fit the offender’s set of circumstances. These “tailor” made crimes are not specifically listed by statute, in Title 18, the Federal Rules of Criminal Procedure. I feel that in order for an individual to be targeted for a “non-crime” that the individual has been deemed by someone in the power structure of government to either be singled out for punishment, or to be perceived as a danger to those in power, those who are running the system itself.

WAS JUSTICE SERVED WITH THE MARTHA STEWART CASE??

Some people feel that Martha Stewart was singled out for punishment. The S.E.C. prosecuted her on 5 counts—one count of conspiracy, two counts of

making false statements, one count of obstructing justice and the original count of securities fraud for the insider trading.

The irony of it all, is that Martha Stewart was found innocent of the original crime, yet convicted of the other four counts. The reason—she was targeted for “punishment” and she could not keep her mouth shut, even in the presence of her lawyers.

Now let's face it, many people make “false” statements but are never convicted of any crime. But unfortunately, we all do not know the rules of the game. By making so called “contradictory” statements to federal agents, Martha Stewart, a member of the New York Stock Exchange, and consequently under the jurisdiction of the S.E.C., put herself at jeopardy by talking to government agents, bent on convicting her on virtually anything—and they did.

LESSONS LEARNED:

So some of the lessons that you can learn from the Martha Stewart case are the following:

1. A financial professional is no worse off by not cooperating with an agency in their investigation. In fact statistically, most attorneys will tell their clients that you are better off not talking directly to the agency at all.
2. Invocation of counsel becomes critical to the financial profession, seeking to survive an attack and not go to prison.
3. Apparently, once targeted by government, it does not make any difference how much money you have to defend yourself. Certainly, having money allows you to more adequately defend yourself, but look at and study the Martha Stewart case.
4. Licenses and membership agreements with N.A.S.D. and S.E.C. give these enforcement bodies jurisdiction over you.

Strictly in my opinion, there is one very important **WARNING** I have for you,

“When a financial professional retires, you may still be subject to prosecution and certain litigation strictly because you, the financial professional, has decided to retain your licenses. I am no attorney, check

with them. Ask them and yourself this question, “Would you be better off by voluntarily returning your licenses back to the issuing agency?

Returning your license may limit you and your firm from future litigation for lack of jurisdiction over you. I have no conflict of interest in saying to you that I see no minuses in returning the licenses to the issuing agency.

IX. CONCLUSION:

In conclusion, you and I and a whole bunch of other people are in jeopardy today because of our country's leadership. I feel that there is an historical and mystical attachment to our country's exceptional character and that our present leadership in all branches of government has failed the people by promoting reforms inconsistent with the distinctive customs of the people. Politicians should be more worried about what their forefathers would have said about domestic and foreign policies than their bankers and other special interest groups. Might their forefathers not have tried them all for treason?

IX. HELP ME TO HELP YOU

If you like having access to the information above; if you share with me the feelings that you do not like the way things are going in our country, if you don't know what your rights are, if you feel your livelihood and liberties are at jeopardy, I respectfully suggest the following to:

1. Support the current progressive leadership of the I.A.R.F.C.
2. Get legal protection—join the Financial Advisors Legal Association, or obtain some other legal protection
3. Support the National Center for Bankruptcy Accountability

The National Center for Bankruptcy Accountability, is a 501(c)(3) Corporation, formed February 7, 2005, under the umbrella of the National Heritage Foundation. The National Center for Bankruptcy Accountability is a foundation formed to place the bankruptcy system back on course through increased accountability and to provide services to qualified parties involved in the bankruptcy system.

Your support will help fund this organization giving you information, similar to the information in this presentation, which I believe is critical to the survival of the independent financial professional in the financial services industry. Your donation is much appreciated and is fully tax

deductible. For more information go to the National Center For Bankruptcy Accountability website at www.nc4ba.org .

Thank you for all your support and well wishes

**Copyright (C) 2006 by Harold F. Chorney. All rights reserved.
Unauthorized use prohibited.**

The copy contained herein is designed to provide accurate and authoritative information in regard to the subject matter covered. This is original and exclusive as presented at the **2006 IARFC Forum Convention** held at the Manchester Inn & Convention Center in Middletown, OH (May 11-13, 2006). This platform presentation/writing is presented with the understanding that the speaker/writer is not engaged in rendering legal, accounting, or other professional service, or services. If legal advice or other professional counsel, including financial, is required, the services of a competent professional person should be sought. For permission request regarding reuse, please write to the author/speaker regarding any/all desired photocopying, recording, duplication, excerpts, or other usage, by any information storage and/or retrieval, or duplication system. Please send your request in writing to the speaker/author at the following e-mail address hfchorney@earthlink.net or by the United States Postal Service to **Harold F. Chorney, 16 Spring Street, Johnston, RI 02919 USA**. Web Site: www.nc4ba.org

FOIA/PA OVERVIEW AND APPENDIX H, I & J

You have a right to know the information that these Agencies and Departments have that refer to you or your company. If you don't ask, you will never get what you are looking for. Don't be bashful, ask very specifically for the information that you want. The earlier you do apply to get information, the better off you will be. You have nothing to lose, and all to gain. APPENDIX I contains sample blank FOIA Request forms. All you have to do is fill in the blanks, ask for the information you want, and wait for the agency to respond to you.

If you are requesting information about a corporation that you are associated with, you may have to supply a Corporate Resolution. Some resolutions state something like, that at a meeting of the Board of Directors of your company, that you were authorized and empowered to execute any and all documents concerning the Freedom of Information and Privacy Act Requests on behalf of the Corporation.

The agency has a right not to disclose certain information and has to tell you under which of the different *exemptions* they are withholding the requested information. (1.)

(1.) Should an agency decide not to disclose certain information, the following case law information may be useful to you. "Agency records which do not fall within one of the exemptions are improperly withheld." See FAA v Robertson, 422 US 255, 262 (1975). "Any reasonable segregable portion of the record must be release after appropriate application of its nine exemptions." This is according to statute, 5 USC Section 552(b) as cited in Vaughn v. Rosen, 484 F2d 820, 1973 D.C. A Requestor dissatisfied with the agency's response that no records have been found may challenge the adequacy of the agency's search by filing a lawsuit in the district court after exhausting any administrative remedies. See USC Section 552(a)(6)(A)(i) & (C), Oglesby I, 920 F2d at 6. Should you not like the federal district court arena in which you would have to file this "Vaughn" motion, you may decide to do nothing and you will probably be stonewalled for years. An example of this in the Cumberland Investment Corporation case is contained on the adjacent page. This February 7, 2005 letter from the Co-Director of the Justice Department refers to an FOIA, filed on 1998 with the Executive Office of U.S. Attorneys. The FOIA was denied and appealed on 2000. This 2/7/05 letter was written some 5 years after the appeal. Just read between the lines referring to "certain

internal administrative difficulties in processing your appeal, this office has yet to reach an appeal determination.....” What is the agency hiding? This is the real question.

If you send requests to different agencies, you will soon discover that some agencies respond to you right away. For instance if you requested information from the U.S. Marshals, they would respond relatively quickly to an FOIA request. FOIA Requests to the FBI are processed much slower than FOIA Requests to other agencies. The agencies have a backlog of requests and try to use a first in first out basis. You will receive an FOIA number from the agency that you will be referring to in future correspondence with the agency. Be pleasantly persistent and you may obtain some great information about your (bankruptcy or other type of) case that you have not been able to obtain through any other source including your attorney, the court, the Trustee, the Creditors’ Committee. Remember, you are dealing with bureaucrats that tend to keep records of all sorts of things.

I highly recommend that you purchase the Citizen’s Guide on Using the Freedom of Information Act and Privacy Act of 1974 to Request Government Records. Other helpful references at www.nc4ba.org .

PRIVACY ACT [PA]

The Privacy Act, applies mostly to information about you, personal information, that agencies in the executive branch of government maintain. The same form contained in APPENDIX I, applies to both FOIA and Privacy Act requests. When requesting information, just request it as an FOIA/PA Request, and let the agency figure out which of the two you are referring to.

STATE AND LOCAL GOVERNMENT REQUESTS

If you seek information from a State or local government agency, you will have to use a form similar to the one contained in APPENDIX J. Basically, APPENDIX J is an application for information subject to the Public Access Act. The form in APPENDIX J is a sample form for the State of Rhode Island. If you are from another state, you need to locate the § (Section) and/or §§ (Subsection) of your state’s General Laws, which allows the Access to Public Act and permits you to seek the information you desire.

All you have to do to request information from your state or municipal government, is to replace the “Rhode Island General Laws” section and or subsection with information from the General Laws of your state and fill in the blanks in this form.

APPENDIX H

FOIA/AP MAILING ADDRESSES—TO OBTAIN INFORMATION FROM FEDERAL AGENCIES

1. Executive Office of United States Attorneys
FOIA/PA Unit
600 E. Street, N.W., Rom 7100
Washington, D.C. 20530
2. Executive Office of U.S. Trustees
FOIA/PA Office
901 E. Street N.W., Suite 780
Washington, D.C. 20530
3. Federal Bureau of Investigation
Freedom of Information/Privacy Act Section
935 Pennsylvania Avenue, N.W.
Washington, D.C. 20535-0001
4. Federal Deposit Insurance Corporation
FOIA/PA Officer
550 17th St. N.W.
Room 4040
Washington, D.C. 20429
5. Disclosure Officer
Internal Revenue Service
Your local community where
I.R.S. Office is located
6. General Counsel
U.S. Postal Service
Washington, D.C. 20260-1100
7. U.S. Marshals
Freedom of Information/Privacy Act Office
600 Army Navy Drive
Arlington, Virginia 22202
8. Securities & Exchange Commission

FOIA/PA Officer
Operations Center
6432 General Green Way, Mail Stop 0-5
Alexandria, VA 22312-2413

**APPENDIX I, SAMPLE FOIA/PA REQUEST TO FEDERAL
AGENCY FOR INFORMATION**

REQUEST FOR FILE FROM GOVERNMENT AGENCY
PURSUANT TO THE PRIVACY ACT & FREEDOM OF
INFORMATION ACT

REQUESTOR'S NAME AND ADDRESS

GOVERNMENT AGENCY REQUESTED

DATE

Gentlemen:

This is a request for agency records under the provisions of both the Privacy Act and the Freedom of Information Act as amended. This request is being made under both acts .

I request a copy of any and all records referencing me that are maintained at the _____ including but not limited to documents, reports, memoranda, letters, Emergency Meetings documents

including minutes of said meetings, electronic files, database references; “DO NOT FILE” files, “O & C” files, “P & C” files, photographs, audio-tapes & video-tapes, electronic (ELSUR) or photographic surveillance, “June MAIL”, mail covers, trash covers and other miscellaneous files; and any index citations relating to me or referencing me (“see also”) in other files. Please check all indexes, and interpret this request very broadly.

My full name is: _____

My date of birth is: _____

My place of birth is: _____

My Social Security Number is: _____

I have lived in these places: _____

Other names I have used; or places, events, or organizations or company names under which you may find applicable records:

Other names I have used are: _____

Company names: _____

Places and events: _____

FOIA/PA regulations provide that even if some requested material is properly exempt from mandatory disclosure, that all segregable portions must be released. If the requested material is released with deletions, I ask

that each deletion be marked to indicate the exemption(s) being claimed to authorize each particular withholding. In addition, I ask that your agency exercise its discretion to release records which may be technically exempt, but where withholding serves no important public interest.

I hereby agree to pay reasonable costs associate with this request up to a maximum of \$30 (thirty dollars) without my additional approval. However, I strongly request and believe that I am entitled to a fee waiver.

This letter and my signature have been certified by a notary public as marked below.

Sincerely,

REQUESTOR'S SIGNATURE

Appearing before me this _____ day of _____, 200_ is the originator of this document and attesting to its factual basis.

NOTARY PUBLIC SIGNATURE

DATE

APPENDIX J, SAMPLE RIGHT TO PUBLIC ACCESS REQUEST

REQUEST FOR FILE FROM STATE OR MUNICIPAL

GOVERNMENT AGENCY PURSUANT TO THE PUBLIC

ACCESS ACT OF (YOUR STATE'S) GENERAL LAWS

REQUESTOR'S NAME AND ADDRESS

MUNICIPAL OR STATE AGENCY REQUESTED

DATE

Gentlemen:

This is a request for municipal and/or state records under the provisions of the Access to Public Act under Rhode Island General Laws §§38-2.1-38.2-15.

I request a copy of any and all records referencing me that are maintained at the _____

_____ including but not limited to documents, reports, memoranda, letters, Emergency Meetings documents including minutes of said meetings, electronic files, database references; “DO NOT FILE” files, “O & C” files, “P & C” files, photographs, audio-

tapes & video-tapes, electronic (ELSUR) or photographic surveillance, “June MAIL”, mail covers, trash covers and other miscellaneous files; and any index citations relating to me or referencing me (“see also”) in other files. Please check all indexes, and interpret this request very broadly.

My full name is: _____

My date of birth is: _____

My place of birth is: _____

My Social Security Number is: _____

I have lived in these places: _____

Other names I have used; or places, events, or organizations or company names under which you may find applicable records:

Other names I have used are: _____

Places and events: _____

R.I. General Laws §§38-2.7 provide that even if some requested material is properly exempt from mandatory disclosure, that requestor be given specific reasons for the denial within ten business days of the request. I request that all segregable portions be released. If the requested material is released with deletions, I ask that each deletion be marked to indicate the exemption(s)

being claimed to authorize each particular withholding. In addition, I ask that your agency exercise its discretion to release records which may be technically exempt, but where withholding serves no important public interest.

I hereby agree to pay reasonable costs associate with this request up to a maximum of \$30 (thirty dollars) without my additional approval. However, I strongly request and believe that I am entitled to a fee waiver.

This letter and my signature have been certified by a notary public as marked below.

Sincerely,

REQUESTOR'S SIGNATURE

Appearing before me this _____ day of _____, 200_ is the originator of this document and attesting to its factual basis.

NOTARY PUBLIC SIGNATURE

DATE

**Copyright (C) 2006 by Harold F. Chorney. All rights reserved.
Unauthorized use prohibited.**

The copy contained herein is designed to provide accurate and authoritative information in regard to the subject matter covered. This is original and exclusive as presented at the **2006 IARFC Forum Convention** held at the Manchester Inn & Convention Center in Middletown, OH (May 11-13, 2006). This platform presentation/writing is presented with the understanding that the speaker/writer is not engaged in rendering legal, accounting, or other professional service, or services. If legal advice or other professional counsel, including financial, is required, the services of a competent professional person should be sought. For permission request regarding reuse, please write to the author/speaker regarding any/all desired photocopying, recording, duplication, excerpts, or other usage, by any information storage and/or retrieval, or duplication system. Please send your request in writing to the speaker/author at the following e-mail address hfchorney@earthlink.net or by the United States Postal Service to **Harold F. Chorney, 16 Spring Drive, Johnston, RI 02919 USA**. Web Site: www.nc4ba.org