

Summary Points

- **The PacNet Services Group of Companies (“PacNet”) was an Internationally Respected Payment Processor and Money Services Business**

From its inception in 1994 until September 2016, PacNet operated a leading international payment processing and money services business, with headquarters in the downtown business district of Vancouver, British Columbia, and approximately 125 employees in Canada, Ireland, and the United Kingdom. PacNet offered merchants around the world payment solutions involving credit card, electronic payment, direct debit, currency exchange, and check processing services. The Group also offered multi-currency payout services such as refunds, rebates, and commission payments.

- **1,000+ Diverse, Respected Clients in Multiple Industries and Charities**

By 2016, PacNet had provided financial services to approximately 1,000 clients around the globe in a transparent, regulated, audited, and lawful manner. Those clients included well-respected companies and organizations such as Bloomberg Business Week, MasterCard Payment Gateway Services Client Finance, the Catholic Archdiocese of Durban, Dementia Research UK, Animals Asia Foundation Limited, Special Olympics British Columbia Society, and iATS Payments LLC (through which PacNet processed payments for dozens of charities and community institutions).

- **PacNet Provided Outstanding Services at a Reasonable Price and Made Positive Contributions to the Community**

Clients trusted and relied upon PacNet to receive, process, and distribute accurately and efficiently the proceeds of checks and payments daily. Evidence of PacNet’s rigorous compliance methodology and reasonable pricing comes from multiple former clients and customers. One such former client is represented by Archbishop Wilfrid Napier, a Cardinal in the Roman Catholic Church and formerly Archbishop of Durban, South Africa. PacNet provided payment processing services to the Durban Archdiocese from 2010 until the U.S. Government closed PacNet in 2016. Cardinal Napier has described PacNet’s compliance process and professional services in the following manner:

“Each of the charities went through a rigorous and thorough compliance process handled by PacNet’s Vancouver office. Mrs. Rosanne Day ... authorized and effected arrangements for our North American donors and introduced us to trusted suppliers ... We were unreservedly satisfied with PacNet’s performance and had implicit trust in the honesty of their operation as we had duplicate, independently collated data on our database that corresponded to their records ... Since September 2016 we have tried without success to find a similar supplier who could deliver the same quality of service or come anywhere close on price. This has in turn brought hardship to many people in our country ...” [Letter of Cardinal Wilfrid Napier.]

PacNet and its personnel were highly visible, contributing members of the international financial services community. They spoke publicly at regional, national and international conferences and seminars such as SIBOS, the annual conference of banks and financial institutions using the

SWIFT network, and London's annual *Technology for Marketing* conference; they assisted in the organization and launching of the Vancouver Chapter of the Association of Certified Anti-Money Laundering Specialists (ACAMS) including hosting inaugural meetings at PacNet's office; they published in print and online the widely respected World Payments Guide as well as other business articles; they participated as a company group and as individuals in numerous charitable efforts and organizations. Further proof of the respect given to PacNet by other businesses in the financial services industry can be seen by the use of PacNet in those other firms' advertisements, such as by Barclays Bank, Act-On Software and Bottomline Technologies which relied on testimonials from PacNet.¹

An independent online reviewer supported this assessment of PacNet, observing that before the U.S. Government acted to close PacNet the company "maintain[ed] an "A+" rating with the BBB" or Better Business Bureau even though PacNet had "not paid to become a member of the BBB's accreditation program." Furthermore, the reviewer noted that the one complaint lodged against PacNet and reflected in the company's BBB profile indicated that PacNet had acted to answer the complaint which the complainant acknowledged to be a "satisfactory result." The reviewer concluded that "[i]n light of this outcome, we agree with the BBB's rating of "A+."²

- **PacNet Operated as a Group of Licensed Businesses within the Highly Regulated and Inspected Financial Services Industry**

PacNet companies were registered and licensed by all appropriate regulators in Canada, the United States, and the United Kingdom, including the Financial Transactions and Reports Analysis Centre of Canada ("FINTRAC"), the U.S. Financial Crimes Enforcement Network ("FinCEN"), the U.K. Financial Conduct Authority, and other governmental agencies.

The baseless and unfair nature of OFAC's September 2016 designation of PacNet was highlighted by the reaction of the U.K. Government's Financial Conduct Authority (FCA). On October 7, 2016, two weeks after the designation, the FCA issued an international public announcement which recognized the widespread negative impact of the designation on numerous lawful businesses and charitable entities. The FCA—unlike OFAC—had previously examined on its own accord PacNet and affiliated companies and found them worthy of authorization as payment institutions. As a result, the FCA in October 2016 publicly separated itself from OFAC's action and made it clear that the FCA was "not involved in the Department of Treasury's action against PacNet." [Our expectations of firms using PacNet \(fca.org.uk\)](http://fca.org.uk)

- **PacNet Established and Maintained a Rigorous Compliance Program**

¹ For Act-On Software, see [case-study-at-a-glance-pacnet-services.pdf \(actonsoftware.com\)](http://actonsoftware.com) (including testimonial by Renee Frappier, Director of Marketing for PacNet); for MyECheck, Inc., see [MyECheck Partners With PacNet, Begins Processing \(globenewswire.com\)](http://globenewswire.com) (September 9, 2015).

² [PacNet Ltd. Review | Expert & User Reviews \(cardpaymentoptions.com\)](http://cardpaymentoptions.com)

PacNet maintained a dedicated compliance department led and staffed by trained and accredited professionals. PacNet, through its compliance department, established an anti-money laundering (“AML”) and anti-terrorist financing (“ATF”) compliance program, which, as described further below, was regularly inspected and audited by FINTRAC, Deloitte Canada, MasterCard, and other AML/ATF experts and independent auditors. PacNet’s compliance program was led and operated by an experienced ACAMS-certified professional and staffed by trained personnel, including a former FINTRAC employee. After the closure of PacNet, many of its former staff continued into careers in AML compliance with respected financial institutions.

PacNet required direct mail clients to furnish copies of the promotions for which the company would process payments. PacNet often also required clients to provide legal opinions concerning the legality of direct mail promotions submitted to PacNet. PacNet had a reputation in the direct mail industry for an honest and effective due diligence process. In fact, the U.S. Government, in criminal and civil enforcement actions against direct mailers, has relied upon that effective compliance program, PacNet’s good reputation in the community, and direct mailers’ actions to deceive PacNet as evidence of the direct mailers’ wrongdoing and fraudulent intent. *See, e.g., United States v. Pisoni*, No. 15-cr-20339 (SD Fla); *United States v. Chalavoutis*, No. 18-cr-0349 (ED NY); *Federal Trade Commission v. Burke*, No. 16-15859 (9th Cir.).

- **PacNet Acted to Prevent Fraud and NOT With an Intent to Further Fraud.**

As part of its compliance program, PacNet submitted to FINTRAC hundreds of Suspicious Transaction Reports (“STRs”). PacNet affirmatively and regularly alerted Canadian and U.S. law enforcement to possible wrongdoing before either Canadian or U.S. law enforcement offices became aware of the possible matter. As experienced compliance professionals, PacNet and its compliance officials knew that FINTRAC shared information daily, if not hourly, with Canadian and U.S. law enforcement offices.³

Yet, OFAC officials knew of none of those reports to Canadian and U.S. law enforcement by PacNet before OFAC designated the Group as a significant transnational criminal organization in September 2016. In short, it appears that the U.S. Postal Inspection Service deliberately misled OFAC to conclude that PacNet hid the identity of its clients from bankers and government investigations. In fact, the opposite was true.

PacNet affirmatively notified law enforcement of suspicious conduct before the Canadian and U.S. Governments knew of such activities. That is hardly the stuff of conspiracy and aiding and abetting mail fraud. A conspiracy to commit a fraud and aiding and abetting or facilitation of a fraud, as the U.S. Supreme Court recently made clear, requires “the provision of assistance to a wrongdoer with the intent to further an offence’s commission.”⁴ PacNet acted affirmatively to

³ FINTRAC shares financial intelligence with U.S. law enforcement through the U.S. Treasury Department’s FinCEN, both directly and through a multinational organization known as the Egmont Group. The Egmont Group consists of the Financial Intelligence Units of Canada, the United States, and other sovereign nations. [See About - Egmont Group](#)

⁴ *United States v. Hansen*, 599 U.S. 762, 771 (2023).

ALERT Canadian and U.S. law enforcement to possible wrongdoing by certain direct mailers and to EXPOSE that possible wrongdoing.

- **Government Agencies, Financial Institutions, Independent Auditors, and Others Reviewed and Audited PacNet.**

On a regular basis, PacNet was audited and reviewed by government regulators from FINTRAC and other government agencies, independent auditors, and financial institutions. Between 2008 and 2016, PacNet in Vancouver welcomed more than 35 on-site compliance visits and audits by FINTRAC and other governmental regulators, banks, acquirers, and Deloitte and other independent examiners and auditors. Those on-site visits were in addition to numerous remote and desktop reviews and audits..

For example, FINTRAC—the Canadian government’s agency charged with AML regulation and supervision—examined PacNet’s AML compliance program, records, and reporting in 2012, 2014, and 2016. In addition, the internationally respected auditing and compliance firm Deloitte audited PacNet’s AML compliance program in 2008, 2010, 2012, 2014 and 2016. Those reviews and audits confirmed the transparent and lawful nature of PacNet operations and PacNet’s ready willingness to disclose all of its business records and operations, including a full accounting of its clients within various direct mail businesses.

The resulting audit and review reports recognized that the companies of the PacNet Group were professionally organized and operated companies which conducted their business lawfully, transparently, and in compliance with law and industry standards. For instance, following an on-site review by the MasterCard Global Risk Management Program (GRMP) team, MasterCard on June 25, 2015, issued a detailed written report noting that it “was impressed with the level of expertise and professionalism conveyed by PacNet representatives throughout the course of the GRMP review” and “that many of the processes reviewed not only met but exceeded MasterCard Standards.” [GRMP Report at Section 1.4, page 5].

- **A Small Portion of PacNet’ Business Involved Direct Mail Promoting Astrology and Sweepstakes Reports**

In the last full years of operation, approximately 15% or less of PacNet’s business related to payment processing for direct mail businesses which promoted astrology and sweepstakes reports.

Within this small segment of its business, PacNet instituted compliance measures to safeguard compulsive buyers from themselves. PacNet’s measures went beyond any compliance measures instituted by the local banks of those compulsive buyers which were in a far better position to know those buyers and to know their personal buying habits and desires. For instance, PacNet established an automated program to deter and prevent compulsive buyers from acting upon an apparent inability to stop themselves from responding to direct mail solicitations. PacNet implemented a “multi-buyer” measure which screened for and rejected excessive payments from a single buyer, which were (i) drawn on a single bank account, (ii) within a set period of time, (iii) in connection with any PacNet’s clients. Local bankers—who held those customers’ bank

accounts and thus were in a much better position to know these people directly—allowed such transactions to be made. Yet, as a result of its self-imposed compliance measures, PacNet refused to process tens of thousands of check transactions worth millions of dollars, which certain compulsive buyers conducted through the mail with the acceptance of those buyers’ own bankers.

By the end of Spring 2016, however, PacNet had determined to exit entirely this small portion of their business and began to so advise direct mail clients. In August 2016, without any notice or hint of OFAC’s impending designation, PacNet formally notified each of its direct mail clients who promoted astrology and sweepstakes reports that it was terminating its payment processing for those business sectors. [August 2016 Letter/Email]. The fact that PacNet acted to exit that industry demonstrates the falsity of the claims by the U.S. Government that PacNet was a criminal operation and a knowing participant in fraud.

• PacNet Has Been Vindicated in Court and Has Been Found NOT to Have Committed Money Laundering.

Following a four-day evidentiary hearing in December 2020 and January 2021 in the United Kingdom, in which the British government presented testimony and evidence with the U.S. Government’s assistance and cooperation, the British Court rejected a forfeiture application entirely, entered a judgment in favour of PacNet, and awarded PacNet attorney fees and costs.

In rejecting the British Government’s forfeiture application, the U.K. Court found that the forfeiture action was (1) based on unsupported assertions of fraud and (2) driven by “the actions and suspicions of the American authorities.” The Court stated the following in its written opinion and judgment:

“The NCA’s case is that PNUK [PacNet U.K.] processed payments obtained through fraud and then laundered the money. The NCA alleges that most of the payments made through PNUK were fraudulent. The NCA adopts the description of PNUK from Prosecutors in America, ‘PacNet was the payment processor of choice for fraudulent mass mailers in the United States and around the world...’” Judgment at 2 (emphasis added).

...

“It appears to me that one of the significant drivers in proceedings being brought by the NCA are the views expressed by the American authorities. The suspicions of the American authorities without the disclosure of the material they are relying on, does not assist me in reaching a decision.” Judgment at 4.

...

“The NCA’s application is driven either wholly or in part because of the actions and suspicions of the American authorities. The NCA has a theory in relation to PNUK’s activities and rather than carrying out a review of all the evidence and reaching an objective view, they have gone looking for evidence to support that theory.

The evidence to support the theory is not present in this case." Exh. 1, Judgment at 10 (emphasis added).

Based on the evidence presented by the British government, including the information provided to it by the U.S. Justice Department and the evidence presented by PacNet, the U.K. Court found emphatically that PNUK had not engaged in fraud or money laundering:

"It is inconceivable that if mass frauds were being carried out in the way envisaged by the NCA that there would not be some evidence to support that. There is no real evidence in this case of fraud being committed on any scale other than perhaps the ordinary amount one would expect within the volume of transactions handle[d] by PNUK.

I have given consideration looking across the 8 companies whether there is sufficient evidence cumulatively to conclude that the monies in the 4344 account are recoverable property or that PNUK was engaged in money laundering. There is insufficient evidence to reach either conclusion.

...

Having made the finding that I have, I must conclude that PNUK was not engaged in money laundering.

I therefore order the return of the funds." Exh. 1, Judgment at 11.

In Conclusion

The PacNet Services Group of Companies ("PacNet") was an internationally respected payment processor that met or exceeded the operational and compliance requirements of governmental agencies, banking partners, and regulators within the financial services industry. PacNet did not knowingly process payments for any fraudulent direct mail solicitation and stands by its rigorous compliance program.