



Conflict Searching for Terrorists

Accepting fees from persons suspected of aiding terrorists can lead to fines and prison.

by Jim Hammond, president, RainMaker Software, Inc.

www.rainmakerlegal.com

Are any of these companies or people clients of your firm, what do they all have in common?

Advanced Electronics Development, Ltd

Falcon Systems

I.P.C. International Limited

Investacast Precision Castings, Ltd.

Matrix Churchill Corporation

International Cobalt Co. Inc.

Lazaro R. Chao - Executive Director, Havana International Bank

Dr. Ayman Al Zawahiri, - Operational and Military Leader of JIHAD Group

All of those listed above are shown on the February 15, 2005 SDN List published by the US Treasury Department's Office of Foreign Asset Control (OFAC). OFAC prohibits attorneys from accepting fees from any individual or organization shown on the SDN list (Specifically Designated Nationals). Failure to comply with OFAC regulations can result in a \$1 million fine if unintentional and up to \$10 million along with 10 – 30 years in prison if intentional. According to a recent ABA publication "If the client is listed, the attorney may collect fees from the client only if and when OFAC grants a specific license. ... OFAC has already initiated actions against attorneys and law firms for failing to comply with the regulations". The SDN list includes persons suspected of aiding terrorists, as well as narcotic traffickers and countries subject to U.S. embargoes. Major insurance carriers have indicated that law firms need to implement training for their attorneys and set OFAC searching procedures in place as a condition maintaining their professional liability insurance.

Searching for Terrorists may not quite be as easy as it seems. Various ethnic names may naturally raise some suspicions, however the majority of these names represent people who are not on the SDN list. Other names that appear to be common company names appear on the list. The natural tool to use for searching may be your existing conflict of interest system. Unfortunately most of today's systems lack the proper search tools to conduct such searches. Furthermore compounding the problem is that most of today's systems also lack the ability to automatically import the OFAC provided SDN List.

The major issue regarding conflict searches revolves around the speed and accuracy of the internal search engine performing the search. Many systems today rely strictly on a database search engine to hunt for the data it stored in the first place, similar to looking up a client's name. Seems simple enough, right? However, this type of search may not be fast enough nor provide what you need. For example, a user might search for ("Jim" or "James") and "Hammond". In this case the software might generate a SQL query to select from a table name and a field name where "Jim" might occur. The system would then look through dozens of tables in the database for which there might be a million or more records, only to find a single occurrence of "Jim," then the system would have to perform the same process for "James," and another pass through for "Hammond." The system would then compare the three record sets and return to the user one or more hits. Not a very efficient process even for a simple search of one name. As powerful as

today's databases are, they are inefficient in performing complex searches in an ad-hoc fashion. Looking for something like "Jim" within five words of "Hammond?" Forget it.

The "best of breed" Conflict systems incorporate a full-text search engine that is designed to find and compare results in an instant. A Conflicts systems that utilized, for example dtSearch™ perform all searches from an "index". Think of the index as the back of an encyclopedia. Instead of searching through each page of the entire book, you would simply go to the index, look down the list in alphabetical order for the word "Swahili," and see that it shows that there are references to "Swahili" on various pages. This is exactly how a full-text search engine works. It continually builds an index of all the words in your database and searches on the index to find conflict hits, rather than searching directly in the database. Full-text search engine find search results in a split-second.

The proper Conflicts system allows the firm to download new SDN lists from the Treasury Department's web site and automatically import it into a special designed OFAC database tables. The dtSearch indexer automatically updates the index and searches can be immediately performed on the newest SDN List. Since the SDN List is periodically updated, OFAC allows a firm to subscribe to a notification service that alerts the firm when a new list is available for downloading. Routine changes to the SDN list include both additions and deletions.

All firms should be aware of their requirements under OFAC. A best of breed Conflict search engine with its phonetic and fuzzy logic search capabilities will assist the firm in finding names that may be shown on the SDN List. Firms requiring additional information about OFAC and the SDN List should contact OFAC and their professional liability insurance carrier directly.