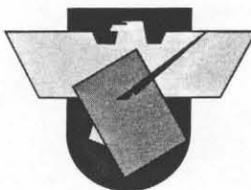


ASOCIACION DE NOTARIOS
DE PUERTO RICO



June 9, 2003

FinCEN
P. O. Box 39
Vienna, VA 22183-0039

Re: ATTN: Section 352 - Real
Estate Settlements

Gentlemen:

I am the President of the Puerto Rico Notarial Association. This is an organization representing over 1,500 attorney-notaries in the Commonwealth of Puerto Rico. To provide you with an accurate perception of real estate closings in Puerto Rico and pursuant to FinCEN's request, we hereby express our comments and offer our assistance in determining how to implement the requirements of section 352 with respect to persons involved in real estate closings and settlements.

1. The process of real estate closings is different in Puerto Rico from in some other jurisdictions of the United States. We do not apply the New York, the Western nor the escrow closing styles. To the contrary, here an attorney-notary handles real estate closings.

2. After the Treaty of Paris of 1898, the ensuing governments of Puerto Rico kept the Spain's Overseas Mortgage Law of 1893 as the rule of law for our real estate system. In 1979, this law was revoked and substituted with the existing Mortgage and Registry Property Act of 1979. This legislation is based on the Spanish real estate system. Furthermore, Puerto Rico retained the Spanish requirement of using the notary public in real estate transactions.

"EL NOTARIADO, PROFESION DE TRADICION Y DE FUTURO"

P. O. Box 363613, San Juan, PR 00936-3613
TEL: (787) 758-2773 • FAX: (787) 759-6703 • 1-800-981-4559
asociacion@notariospr.org

3. As previously stated our notarial law system is based on the Spanish notarial system, which in turn has its roots in the Latin notary tradition. The institution of the Puerto Rican notary follows the model of the Spanish system, thus, it is part of our judicial heritage.

4. The essential distinction between the Latin notary public and other types of notaries is the vital function that the Latin notary provides for the society in general. The Latin notary public, and for that matter the Puerto Rican notary, provides essential functions to the validity of legal transactions. The Puerto Rican notary is an integral and essential requirement of our legal system: first as a legal professional and second as a practitioner of the public function. During his function as a notary public, the Puerto Rico notary public is not an attorney for the executing parties. By law, the notary public does not have clients. The notary public provides the public faith of the Commonwealth of Puerto Rico and the law for all the parties in the transaction. The principal quality that distinguishes the Puerto Rico notary public is his/her impartiality, avoiding thus any potential conflict of interest between the contractual parties.

5. In Puerto Rico, a notary public must be an attorney admitted to practice law. He must be a member of the Puerto Rico Bar Association and is authorized to practice the notarial profession by the Supreme Court of Puerto Rico. Any attorney admitted to the practice, may become a notary public. Our notary public may practice throughout the jurisdiction of the Commonwealth of Puerto Rico, and their number is unlimited.

6. In Puerto Rico, the notary public's responsibilities go beyond that of the Anglo-Saxon notary public. We not mere observers of the juridical business performed before him and our participation is not limited to ascertain the identity of the parties and the authenticity of the signatures of the parties. The notary public as principal instrument of the public faith has the duty/obligation to provide and to ascertain the state of informed conscience in the parties by supplying the explanations, clarifications, and warnings in every case in which they are needed to attain their informed consent of to the notarial action. The notarial function presupposes the creation of a level of understanding and communication between the parties, which allows the formation of a rational conscience of the act to be performed. In the Puerto Rican society, the notary public guarantees the certainty and purity of the acts and contracts before him. Our government provides our notaries with this duty.

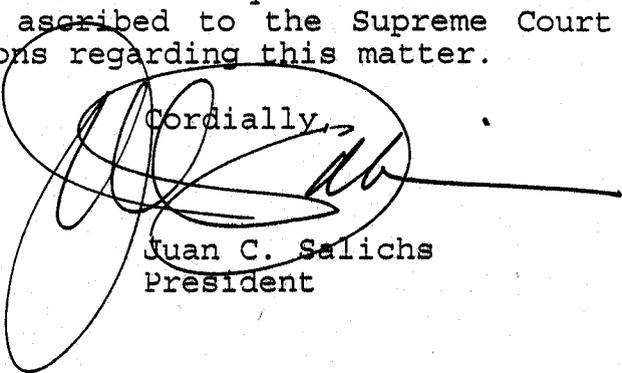
7. The most common way to transfer title in Puerto Rico is through a deed of purchase and sale. The buyer and seller must be present at the time of the execution of the deed of conveyance. All parties to the transaction must sign the deed of purchase and sale before a notary public. Unless otherwise agreed, the seller pays the notarial tariff and the original deed stamp tax on the conveyance deed. The buyer pays the certified copy of the deed tax and the registry recording tax on the

conveyance deed. Traditionally, the purchaser chooses the notary public before which the parties execute the conveyance deed. However, the parties may agree to other arrangements.

These comments are presented to provide you, FinCEN, with the necessary information to exclude the Puerto Rico notary public from the definition of "persons involved in real estate closings and settlements". As explained above, the Puerto Rico notary public does not have or represents a particular client. It carries out the instructions of the parties and makes sure that the law is adhered in the formation of the contract. The notary public represents the public faith of the Commonwealth of Puerto Rico. The execution of a deed before a notary public assures the Puerto Rican society that the transaction is valid and binding in conformity with the applicable law. Since our notary function is not private, but public, any regulation that holds the Puerto Rico notary public to be a person whose services in connection with a real estate closing or settlement may be abused by money launderers could destroy the basis of our notarial system and the vital function that the notary provides to Puerto Rican society.

If you have any questions or desire additional information concerning the items discussed in this letter, please feel free to contact me at your convenience. If you so desire, your legal staff may request a formal memorandum from counsel in the Commonwealth of Puerto Rico or request that the Office of the Inspector of Notaries ascribed to the Supreme Court of Puerto Rico make its expressions regarding this matter.

Cordially,



Juan C. Salichs
President