

U.S. blacklists Mexican businesses tied to drug smuggling

by *Chris Hawley* - Apr. 11, 2010 12:00 AM
Republic Mexico City Bureau

CULIACAN, Mexico - Bustling with toddlers and parents, the Happy Child Daycare Center doesn't look like the lair of one of the most vicious drug cartels in Mexico.

Located on a leafy street facing an office of the Sinaloa state prosecutor, the building is painted a cheery yellow with pictures of children playing with toys. The Mexican government pays Happy Child \$40,000 a month to care for the children of working parents.

But the U.S. Treasury Department says Happy Child is a front for Ismael "El Mayo" Zambada, an alleged leader of the ruthless Sinaloa Cartel that moves tons of drugs to the United States and, along with other gangs, is fighting a bloody crime war that threatens to destabilize Mexico.

The day care is among a growing number of Mexican businesses that the United States has accused of being financed, owned or otherwise related to drug trafficking. Some of the businesses have been investigated by Mexican authorities and apparently given a clean bill of health, but are struggling to get the United States to lift sanctions it has imposed on them.

"It's been devastating for us; we don't have access to credit or anything else," said María Teresa Zambada Niebla, a part owner of Happy Child. Zambada Niebla is El Mayo's daughter but says she is estranged from her father.

The U.S. Treasury Department, which maintains and enforces a blacklist of these companies, does not have to tell foreign companies why they are accused or reveal any of the evidence against them, lawyers say. The number of Mexican businesses on the list has nearly doubled since the Mexican government began a crackdown on the drug cartels in 2006, from 121 to 220 as of Saturday.

"A lot of legitimate, innocent people and businesses have been and will be caught up in it," said David Kaloyanides, a U.S. lawyer representing Lomedic S.A. de C.V., a Mexican pharmaceutical distributor.

The U.S. Treasury Department would not provide an official for an interview about the blacklist, and said it could not comment on specific cases.

As far back as 1812, the department has been freezing assets of people, companies, groups and countries it accuses of wrongdoing, including human-rights violations and trafficking. It publishes the names on the list, called the Specially Designated Nationals list.

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Americans caught doing business with anyone on the list can be punished with up to 30 years in prison and a \$5 million fine. Banks and other financial companies constantly scan transactions for any names on the list.

In 1999, then-President Bill Clinton signed the Foreign Narcotics Kingpin Act, allowing the Treasury Department to add suspected drug traffickers to the list. The department issues detailed flowcharts and strongly worded statements from top U.S. law-enforcement officials every time it adds a new name to the list.

TheRepublic could locate telephone numbers for only 30 of the Mexican companies on the list, of which 19 were still in operation.

Some of the companies are directly accused of drug trafficking or laundering money; others are listed as alternate addresses for suspected traffickers.

While the Mexican president has used the military to attack drug cartels, the International Monetary Fund says Mexican prosecutors have shown little progress in dismantling the cartels' vast financial networks or crack down on businesses that act as fronts to launder profits. Between January and June 2009, only seven people in Mexico were convicted of money laundering.

"Given the level and sophistication of organized criminal activity in Mexico, these results reflect a disappointing lack of effectiveness in implementation of the (money laundering) offense," the IMF said in a report last year.

Some experts, however, say Mexico is not to blame. The U.S. Treasury Department

sometimes blacklists Mexican companies based on evidence that would not stand up in a Mexican court, said Salvador Mejía, a Mexican lawyer and expert on money laundering.

Baby-sitter blues

Happy Child is an example of the apparent disconnect between the two countries, with the United States accusing the company of being crooked while the Mexican government continues to do business with it.

The day care's part owner, María Teresa Zambada Niebla, comes from one of Mexico's most notorious crime families. Her father, "El Mayo," is a fugitive wanted in both the United States and Mexico. Her brother, Jesús Vicente Zambada Niebla, was extradited to the United States in February to face smuggling charges.

On May 17, 2007, the U.S. Treasury Department named María Teresa Zambada Niebla, six of her relatives and six family businesses to the Specially Designated Nationals list.

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Happy Child and the other Zambada family businesses are "not legitimate businesses, but illegal cash cows that fuel the drug trade, its violence and corruption," former Drug Enforcement Administration Chief Karen P. Tandy said in a written statement announcing their addition to the list.

But even as the United States accused the day care, Happy Child had a contract with the Mexican Social Security Institute to care for 209 children of working parents.

Prompted by the U.S. action, Mexico's Attorney General's Office said it had opened an investigation into María Teresa Zambada Niebla's businesses. Zambada Niebla said Mexican agents questioned her and looked over the books in 2007.

But nearly three years later, Mexico prosecutors have filed no charges, the Attorney General's Office said. And on Jan. 18, the Social Security Institute signed a new three-year, \$1.4 million contract with Happy Child, institute documents show.

It's unclear why the two countries apparently disagree over Happy Child. The Mexican Attorney General's Office said it could not discuss individual cases.

Still at work

Like Happy Child, many businesses across Mexico are still operating despite being on the U.S. blacklist. They range from a dairy to an electronics store, a gymnasium and a mining company.

One of the largest companies is Collins Pharmaceutical Products, a medicine maker in the Guadalajara suburb of Zapopan. The company employs 900 people, according to

its Web site.

In October 2008 the Treasury Department accused Collins, Lomedic and other companies of helping divert pseudoephedrine, a key ingredient in methamphetamine, to the Amezcua Contreras Organization, a drug-trafficking gang. On Sept. 3, 2009, the Treasury Department named two more companies to the list for allegedly helping Collins evade the U.S. sanctions.

Officials at Collins did not return calls for comment last week, but its owner has denied the charges, according to the *Mural* newspaper. Lomedic also says it is innocent, but it has been crippled by the U.S. charges, Kolyanides said.

Mexican banks temporarily closed Lomedic's accounts and cut off credit lines, and the United States froze \$2 million that the company had in U.S. banks. The company can no longer buy U.S. medicines. Kolyanides had to get a special Treasury Department license just to represent the company, and his legal fees are frequently blocked on their way from Mexico, he said.

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Mexican authorities investigated Lomedic but have taken no action against it, and the company still has large contracts to supply Mexican government hospitals, Kolyanides said. The company's own audits have turned up no missing pseudoephedrine, he said.

The company has had an appeal pending before the U.S. Treasury Department since last summer. The U.S. government does not have to reveal its evidence because the list is focused on foreign nationals, and there is no criminal indictment against them.

"Unlike a normal criminal case, you don't get to know what the information they're relying on is," Kolyanides said.

Other blacklisted businesses that are still operating include a restaurant in Mexico City and a clothing accessories store in the nearby city of Toluca.

On Wednesday, a man who identified himself as the restaurant's owner said the business had changed hands more than a year ago. He complained that news reports about the U.S. designation had hurt his business. He refused to give his name.

The manager of the accessories store said she was unaware of the U.S. sanctions. She said that she did not have any contact information for the store's owner but that the parent company named on the U.S. list is no longer the registered owner.

Scant information

Part of the reason the Mexican government has not taken action against many of these companies is because the U.S. Treasury Department sometimes gets its facts wrong, said Jose Luis Rojas, an expert on money

laundering at Salles, Sáinz-Grant Thornton, an accounting firm in Mexico.

People are sometimes listed with four or five possible dates of birth or two places of birth. Sometimes companies are listed with four or five variations of the same name or several similar-sounding addresses.

"The list has a lot of errors and one big defect, which is names that sound the same," Rojas said. "The United States didn't check it with any country or ask them, 'Is this all right if we make this list?'"

Legal differences also get in the way of prosecution.

Under Mexican law, prosecutors can file criminal charges only against individuals, not companies, said Ricardo Celso Nájera, a spokesman for the Mexican Attorney General's Office.

And until August, Mexico had no federal forfeiture law, meaning it could not seize the assets of kingpins.

"There's a major gap between the U.S. and Mexican sides," said Mejía, the lawyer.

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The United States is trying to help Mexico improve its ability to go after traffickers' money as part of the \$1.4 billion Merida Initiative anti-drug aid package. The U.S. is buying tracking software for the Mexican Treasury Department's Financial Intelligence unit, organizing courses on how to investigate money laundering, and studying the flow of money between the two countries.

Sins of the fathers

Another problem with the list is that it tends to lump honest people in with their crooked relatives, Rojas said. That's partly because U.S. racketeering laws give authorities more power to go after entire families and partly because the United States has few investigators in Mexico to figure out who's involved and who isn't, he said.

Zambada Niebla says her fugitive father gave her no money to start her businesses and receives none of the profits. She says she inherited investments and the building where the day care is located from her grandmother.

Her mother divorced El Mayo when she was a teenager, and Zambada Niebla, now 40, says she hasn't seen her father in "a very long time."

Furthermore, the day care's contract with the government bars it from accepting any other clients, making it impossible to launder drug money through the business, said Fernando Gaxiola, her lawyer.

"So unless it's laundering (Mexican President) Felipe Calderón's money, it's not a money-laundering operation at all," Gaxiola

said.

However, Mexican banks, wary of jeopardizing their own dealings with the United States or running afoul of the Financial Action Task Force, an international body, won't give the day care a bank account, lend it money or give Zambada Niebla a credit card, she said.

Zambada Niebla appealed to the Treasury Department two years ago. Gaxiola said he has met with officials from the department's Office of Foreign Assets Control and the Drug Enforcement Administration to ask that they inspect Zambada Niebla's businesses and lift the sanctions.

So far, no agents have come by, Gaxiola said.

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