



Do You Or Your Clients Still Have Financial Privacy?

Hal Chorney, **士虎** TIA, RFC

Personal Information Relating to Residents of Taiwan is Covertly Being Disclosed by SWIFT, the Society for Worldwide Interbank Financial Telecommunications, Without Regard to Legal Process Under Taiwan Data Protection Provisions.

FINANCIAL PROFESSIONALS SHOULD STOP PRETENDING AND FACE REALITY, NATIONAL AND INTERNATIONAL FINANCIAL PRIVACY NO LONGER EXISTS

We can pretend that our personal and private financial records are not being disclosed to governmental agencies. We can pretend that there are no organizations gathering financial information on us. But, what we do not know can hurt not only us but our clients also. Did you know that there is a Society for Worldwide Interbank Financial Telecommunications, SWIFT. According to the SWIFT Annual Report for 2005, in that year alone there were over 12,735,000 messages sent over the SWIFTNET Fin Service from 36 banks and 81 institutions in Taiwan. Because SWIFT is based in Belgium and has offices in the United States, it is governed by both United States and European law. According to a letter, dated July 6, 2006, from Privacy International, a London, England based firm to Mr. Lo Chien Hsin, Prosecutor for the Bureau of Legal Affairs at the Ministry of Justice, Taiwan, R.O.C., personal information related to Taiwan citizens is being disclosed by SWIFT without regard to legal process under Taiwan Data protection provisions, the Computer-Processed Personal Data Protection Law, enacted in 1995. The Act governs the collection and use of personally identifiable information by government agencies and many areas of the

private sector. It requires that “the collection or utilization of personal data shall respect the rights and interests of the principal and such personal data shall be handled in accordance with the principles of honesty and credibility so as not to exceed the scope of the specific purpose.”

The records from SWIFT are being disclosed to U.S. agencies seeking broad access to millions of records through administrative subpoenas versus obtaining a judicial order for anti-terrorism purposes. Disclosure of information is said to be “ongoing”. Concerns of this letter include the possibility that the gathering of information may be used for purposes other than anti-terrorism including taxation monitoring and even espionage. There has been no information concerning which international governmental agencies, if any, will have or already have been given access to the information gathered from SWIFT.

Background information to the Privacy International complaint indicates that SWIFT is a financial industry owned cooperative that supplies secure, standardizing messaging services and interface software to 7,863 financial institutions in 204 countries and territories. SWIFT’s worldwide partnerships includes banks, broker/dealers and investment managers involving about 2 billion transactions amounting to about 2,000 trillion U.S. dollars. Articles in both the New York Times and the Los Angeles Times on June 23, 2006, published details of the arrangement between SWIFT and the United States Government. According to the Washington Post, “Current and former counter-terrorism officials said the program works in parallel with the previously reported surveillance of international telephone calls, faxes and e-mails by the National Security Agency, which has eavesdropped without warrants on more than 5,000 Americans suspected of terrorist links. Together with a hundred fold expansion of the FBI’s (Federal Bureau of Investigation) use of ‘national security letters’ to obtain communications and banking records, the secret NSA (National Security Agency) and Treasury programs have built unprecedented governmental data bases of private transactions, most of them involving people, who prove irrelevant to terrorism investigators.”

When the U.S. Government targeted an intermediary agency like SWIFT, the responsibility of financial institutions to their customers’ legal safeguards, similar to the protections of the Fourth Amendment to the United States Constitution, or the Taiwan privacy laws may have been circumvented. The main argument to protect the financial privacy of

customers of these financial institutions being that citizens should not lose privacy protections simply because financial institutions “shared their information with a third party to complete a transaction.”

Many Questions are Raised by the Information Above. Since the website of the National Center for Bankruptcy Accountability is Not Currently Available in Chinese, Mr. Chorney Has Agreed to Grant Mr. Cato, Executive Editor of the Advisor Magazine an Exclusive Interview Following the Article, ITS TIME TO STOP PRETENDING AND FACE REALITY.

Some of the questions raised by the article above are: Was any notification given to governmental agencies of Taiwan concerning the disclosure of information concerning residents of Taiwan? Did both the Taiwan Government and the U.S. Government know that national and international privacy safeguards have been abused and/or violated? Did other governments know that the private and personal financial information was being disclosed to agencies gathering international financial information? Do our governments have another agenda besides security of our nations from international terrorists in gathering our financial information? Does national and international financial privacy no longer exist? Have our governments sold out to special interest groups like banking? Some of the answers to these questions may be revealed in, ITS TIME TO STOP PRETENDING AND FACE REALITY.

CHARLES “TREMENDOUS” JONES calls Hal a “Man of courage, who stood up for his clients against the massive federal government.”

The following article, IT’S TIME TO STOP PRETENDING AND FACE REALITY, is about Hal Chorney, a father, grandfather, retired soldier & captain, teacher, leader in consumer and investor protection, and tireless fighter for financial privacy and the fundamental rights of U.S. citizens.

Before reading this article it is important to know how easy it is for any government or other powerful groups to distort reality by creating and defining your image, especially if you have failed to create your own image. For instance, an image of Hal could have stated the following:

Harold Chorney, also known as Hal Chorney, spent 10 years in the ninth grade. His parents, when they were young, could neither speak, read, write, or understand the King's English as taught in every American school. He conspired to kill and maim other human beings and destroy their property. He has been accused of, and pleaded guilty to, imposing both his authority and will upon impressionable young people. He voluntarily committed himself for 4 years to one institution and then was forcefully committed to another for 27 months. Hal Chorney was indicted by his entire country, the UNITED STATES OF AMERICA. The charges listed 18 counts of mail fraud, bank fraud, and conspiracy to perform bank fraud. He was accused of cheating his clients.

If you were in the financial services industry and did not know about Hal's true character or his image in the financial planning industry or lived anywhere near Hal, especially in the Northern part of the United States in the early 1990's, and read the newspapers and watched television, those previous statements would seem very believable because most of us tend to believe what we see and read from so called "reliable" sources.

The facts of the matter, taken in a different light, are glaringly different. Hal spent 10 years in the ninth grade as a math teacher, well liked and respected by both his students and peers. His parents were Romanian and Ukrainian immigrants learning English in America. The conspiracy to kill and maim also involved thousands of other soldiers in Vietnam. You see, Hal was a captain in the U.S. Air Force during that time, retiring honorably at that rank. He had been accused of imposing his authority and will many times by *both* his children. Hal is a father of two and a grandfather to four and those accusations come with the territory. The institution that he voluntarily committed himself to was Brown University where he graduated in the class of 1961. By the way, Hal was, and is, very good with numbers, had a photographic memory, and loved coins and collectibles. His gifts, loves, and ambition helped him turn a small coin store into Cumberland Investment Corporation, a firm based in Boston, Massachusetts, a state in the New England section of the U.S.A., that each year bought and sold multi-millions of dollars in gold, silver, and other tangible assets, helping his clients attain their financial goals.

An indictment by the U.S. federal government against Harold Chorney actually read, UNITED STATES OF AMERICA vs. HAROLD

CHORNEY, as if the entire country was indicting Mr. Chorney.

Remember the now infamous line, "...it depends what the word "is" *is*"? Hal *is* the first former convict to ever speak at an IARFC convention or to be featured on the cover of the **Advisor**. He *is* a former federal prisoner, who served 27 months in the same prison where Chuck Colson, the chief counsel for President Nixon from 1969 to 1973, served time. He *is* a felon. Hal *was* indicted on 18 counts of mail fraud, bank fraud, and conspiracy to perform bank fraud. Was he convicted on any of those counts? Was he convicted of murder, theft, embezzling, or defrauding his clients? No and No! The records show, in great detail, that Hal was found "guilty of a false statement", a charge Hal believes resulted when he refused to reveal the private financial information of his clients. Hal had assured and always promised his clients that he would not divulge their confidential financial data and would protect their financial privacy.

Do you know what? Hal still is a retired Air Force captain, he is a father and grandfather, a son of immigrants, a Brown University graduate and Hal is still a teacher. Not in the public school system, but in public and private forums. He authored a precious metals column in **Barron's**, a source for American and world business and financial leaders, and was a frequent writer in magazines like **Life Insurance Selling, Financial Services Advisor, Wealth, New England Appraisers, The International Inspirator** and others. Hal was a frequent keynote speaker at national and international "hard money" conferences. He hosted **The Money School of Boston** on radio. He operated **The Money School of Boston** that seated 200 people. This is where **Loren Dunton**, founder of the financial planning movement, frequently lectured. In 1981, Hal's friend **Loren Dunton** appointed Hal to serve on the board of Loren's **National Center for Financial Education (NCFE)**. One of his fellow board members was **Ed Morrow**.

Before Hal made his stand against the federal government and subsequently was forced to pay a massive price, he had worked closely with the late **Congressman Eugene J. Keogh** helping to create the Keogh Plan that allowed tangibles in retirement accounts. The United States Senate honored Hal's efforts to better protect the American consumer investor. **Senator Wyche Fowler** called Hal, "a leader in consumer investor protection" and requested that the flag be flown over the U.S. Capitol in Hal's honor.

Preface by Laurent Ducharme, business associate of Mr. Chorney

Now, **IT'S TIME TO STOP PRETENDING AND FACE REALITY,**

By, Hal Chorney, TIA, RFC

In the early 1950's, before the days of owning a TV, my brothers and I used to sit around the radio on a Saturday morning and listen to a program called "Let's Pretend". This wonderful show was the life work of a lady by the name of Nila Mack from Kansas, a mid-western state in the U.S.A. She felt that the best way to tell a children's story was for the children to tell it. Nila Mack trained and directed generations of child actors, who played the parts of characters their own age up to 80, 90, or even 100-years old. Being a child actor is a well-respected profession in American culture today as it was back in the early 1950's.

As children, we identified with these characters' voices and used our imaginations to view in our mind's eye the story that was portrayed. In these stories, there was often a central theme involving a struggle of good and evil. Though evil would often be winning at the beginning of the story, by the time the story would end, characters of goodness, who were compassionate, intelligent and willing to sacrifice, but not seekers of revenge, always triumphed.

Back in the 1950's, things were very different. For example, my family never locked the doors to our home when leaving. Gasoline was only twelve cents a gallon. Other things seemed affordable. Even a young couple could put a down payment on a new home. No one in my family liked to owe anyone any money. We had no credit cards, so we never bought anything on credit. Some families looked up to their rich relatives, like my uncle Louie, as being the intelligent people because certain people had made a lot of money in printing or some other business. Our family did not have a formal financial advisor because we had no money to invest -- *we were just trying to stay afloat.*

**Mister Snyder Was
Our "Insurance Man."**

When it came to questions about savings and insurance, my mother use to talk with Mr. Snyder, our "insurance man," who came to our house every week or two to collect money. He marked the payments for our endowment policies in his little books. Irving Snyder was the closest thing we had to a

"financial advisor". There were no formal groups of financial professionals to seek advice from with the exception of an attorney or a local banker. Imagine if something went wrong with one of their recommendations, would we be suing our own local banker, attorney or uncle Louie? Absolutely not!

How times have changed! My late friend Loren Dunton would be astounded at the growth of the financial planning practice that he founded. Today, the financial professional industry is huge, and the designations of its members are numerous. There are still insurance agents, but there are also NASD Registered Representatives; Registered Financial Consultants (RFC) Certified Financial Planners (CFP); Registered Investment Advisors (RIA); Chartered Life Underwriters (CLU); Chartered Financial Consultants (ChFC); Certified Public Accountants (CPA) as well as others who are involved in our financial lives.

Many of these professions seem to be involved in our lives because of tax preparation or for some tax related incentive or consequence. The long and short of it all is that litigation is rampant here in the United States and the same trust and respect we once had for the Mr. Snyders in our life no longer exists! This lack of trust and respect is a trend that is not just limited to our financial world. Experience teaches us when we, or our neighbors, fail to lock our doors that bad things tend to happen. The same trust and respect we once had for the leaders of our government and its institutions also have eroded. In your "real" world, not the world of "pretend", the James Baldwin statement in No Name in the Street is quite true.

"If one really wishes to know how justice is administered in a country, one does not question the policeman, the lawyers, or the judges. One goes to the unprotected—those precisely, who need the law's protection most, and one listens to their testimony."

**James Baldwin,
the noted Black American author**

Although my name is Hal Chorney, my peers and friends often call me "The Chorn." For the decades of the 70's through the 90's, I was a financial professional, who employed many of the different financial professional

designations listed above. One factor that many of us tend to not pay enough attention to is the fact that banks, credit bureaus, and especially government agencies are constantly gathering and seeking more and more information, much of it financial, on their citizens. In addition, the government is seeking more and more information not only about the financial professional, but also on the financial professionals' clients. In our "over regulated" society, I suppose that some of this information may be required. For instance if one of your clients has a so called "registered investment" like stocks, bonds, T-Bills, and even real estate, then certain information on the buyer and seller must be disclosed. However, there is another group of investments, which are aptly named "unregistered investments" where the buyer and the seller are seeking financial privacy, often owning this investment in a "Bearer" form. Now the words "financial privacy" are not dirty words and the right to privacy is a legal right in the United States. Taiwan also has privacy laws to protect the privacy of their citizens.

**One Lesson of History
Is to have Portable, Private
Wealth to Survive No Matter
Where in the World You Live**

My clients sought to own these "unregistered" investments because one lesson of history is to have portable private wealth to survive no matter where in this world you live. Another reason my clients sought these investments was that modern surveillance and seizure methods have placed people and their assets in a precarious position. Because of the information age we live in, our assets and those of our clients are identified easily and targeted for lawsuits. Going back to the late 1960's, I had promised my clients that those so-called "unregistered" investments would remain private, and that I would not disclose this client information unless the law changed. All company paperwork for these "unregistered" investments existed legally and lawfully in a "Bearer" form.

**Since Governments Do Not Like
Portable Private Wealth or Those,
Who Promote This Concept, I was
Targeted for Prosecution**

The law did not change, but I was asked, and then ordered, by the courts, to disclose private information about my clients. Since Governments do not like portable private wealth, or those who promote this concept, I was targeted for prosecution and then fined hundreds of thousand of dollars for not disclosing this information. Eventually I went to prison, not for cheating or for stealing from my clients, not for swindling or defrauding, but on the charge of "making a false statement to a FDIC insured institution." Banks in the United States are insured by a quasi-governmental agency know as FDIC, the Federal Deposit Insurance Corporation. The alleged "false statement" was actually made by an appraiser hired by my company. The alleged "false statement" was not even made by me, it was a statement made by an appraiser hired by my company. However, I was convicted of "engineering this false appraisal" even though the person who made the appraisal and I were found innocent of conspiring to make this false appraisal. My attorney and others have stated that the verdict was at best, "inconsistent."

In the **Advisor** Magazine, I am telling Asia's leading financial professionals about my story because most non U.S. financial professionals are unaware of changes in U.S. law and the scrutiny of financial dealings, which are under the jurisdiction of U.S. governmental agencies, or the trends that are currently in progress in the United States of America's financial scene and also in the international financial arena. This article is somewhat of a warning to others, who pretend that no one in government is looking at their financial records and that making money is all that matters. What happened to me, I feel is going to happen to more and more financial professionals in the U.S. and elsewhere because the probability of people in the financial profession going to prison is certainly increasing because it is more difficult to act in the best interest of our clients and to preserve their financial privacy. So instead of things getting better, things seem to be getting worse.

<p>Legislation Results in Special Interest Being Protected, Not You Or Your Clients!</p>

There are more and more requirements by agencies in the United States and Taiwan to disclose information. In July 2002, a group consisting of non-governmental organizations, The Alliance for Personal Data Protection, was formed in Taiwan to protest several government schemes that require citizens to submit sensitive personal data. Many countries' accountant, banking and securities laws are intertwined and mirrored to those of the

U.S., especially in these days when governments are cooperating with each other in search of money funding international terrorism. So like in the U.S., I feel that more and more laws are being passed by various governments, in the name of security and acting in the best interest of their citizens.

Bi-products of some of these new governmental laws, like the new bankruptcy legislation in the United States, has resulted in special interest groups being protected, as our privacy and that of our clients seems to be eroding. (The concept of bankruptcy is a Western concept. The purpose of bankruptcy in the United States is two fold. First it is a system to have the bankrupt person, named a debtor, pay his or her creditors. The priority of payments where the banks, the secured creditor, is paid first is determined by the new bankruptcy legislation.

Secondly, it is a system to give individuals in financial difficulty a fresh start when all the proceedings are done.) Legislation protecting the special interest groups, especially banking, at the expense of the consumer, will also be mirrored more and more in international financial marketplaces. The net result of this legislation is the availability of personal and private information as public record in the bankruptcy arena.

In addition to legislation protecting special interest groups, like banking, the financial profession is in fact the number one target for litigation in the United States. If something is not done about the current litigation problem, the financial planning and financial services industry as we know it in the U.S. will be extinct. Should that happen in the U.S. as well as in other jurisdictions in Asia, Europe, Australia and elsewhere, the consumer will suffer because then only those institutions, banks and brokerage firms, overtly gathering more and more information at their government's behest and processing this information through international cooperatives like SWIFT, will be the only financial professionals left for the public to turn to for financial planning advice.

We can pretend that any government in the world is as interested in protecting their own financial professional industry as they are in protecting special interest groups, including banking. We can pretend that we as financial professionals will not be targeted for litigation and that things will turn out OK as they did in the old radio children's program *Let's Pretend*.

I can attest to the fact that in the real world, some bad things often happen at the end. So what are some of your choices and what can we do to protect ourselves? One choice is to ignore the problems and do nothing, eventually being legislated or sued out of existence and going the way of the dinosaur. Another choice is to become 'associated' with a bank or brokerage firm and hope that they will protect us when push comes to shove and then pray that they will 'allow' us to exist. I would not rely on this set of circumstances.

There are other alternatives that are both feasible and affordable here in the U.S. A. This alternative is also practical and realistic. This alternative can give you longevity, prestige in membership, and an industry voice through strength in numbers. The alternative is to join a legal association comprised of members, just like you and me, to protect us from unreasonable and frivolous litigation, and to look out for the best interest of its financial advisor members. I am talking about FA Legal.

You need to know about FA Legal if you are a U.S. based financial planner. It is also in your client's best interest that he or she be serviced by a member of a legal association versus taking the risk of enduring extra expense and inconvenience by having a non-association financial professional being put out of business by another client's frivolous lawsuit.

U.S. studies show that the question isn't if litigation will strike you – the financial planner or insurance agent! Unfortunately, it's when! And the average cost to defend yourself or your firm in the United States against a claim now exceeds \$42,000.00 in U.S. dollars.

Back in 1980's there were various changes in the tangibles marketplace. Some of my clients and their heirs held me responsible for these marketplace changes and initiated litigation against my company, which lead to it being petitioned into bankruptcy. Had Financial Advisors Legal Association, also known as FA Legal, existed back then, there is a good chance that much of the harm done to myself, my family, my company, my financial associates and eventually to my clients could have been prevented. When I asked many of my financial associates and former clients, who were basically unprotected, with exception of my promise of confidentiality to them, "If there were an association, like FA Legal, back then to protect your interests and mine would you want me to join?" In sum, most of them said, "If FA Legal existed back in the 80's, we would have insisted that you and your firm belonged to it for our own protection." The management of FA Legal

has indicated to me that certain select services may be beneficial to financial professionals practicing in the Pacific Rim. Their website is www.falegal.com.

FINANCIAL PROFESSIONALS SHOULD STOP PRETENDING AND FACE REALITY, PART II

“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?”

It was 1978, a day prior to New Year’s eve and three days after my fortieth birthday. My ex wife and I were attending a financial convention in sunny Florida, the most southern state on the east coast of the U.S.A. We decided to escape the New England cold weather and relax a bit by getting to a warm place several days in advance. We were having breakfast, when a gentleman and his wife joined us. At that time he appeared to be quite pushy and not exactly my ‘cup of tea’. Little did I know then what a great influence he would have on my life. We somehow started discussing the trend of what was going on in the United States. I remember how Bob said, “Hal, if you don’t know what your rights are, you don’t have any.” I listened to him thinking, “Does he think I’m stupid, or what.” I considered myself to be open-minded, and thought that Bob had an attitude to some extent. What could make him think that I did not know what my rights were in this land of opportunity? But, in retrospect, he was right and I was wrong. I guess I only pretended to know what my rights were.

When Bob told me that the U.S. government was gathering information on me and my clients, to tell you the truth, even if I believed him, which I did not at that time, I was too busy trying to make money in the ‘rat race’ of the business world. It wasn’t until years later, indicted in 1992 and then going to trial in 1993, when I put in an F.O.I.A request and discovered that the government had over 80,000 pages of information concerning me and my clients. Although most of the records were my company’s banking records, I felt violated and it made me very angry that this type of thing was happening here in the United States of America.

FREEDOM OF INFORMATION ACT REQUEST (F.O.I.A.)

Years earlier while visiting Florida, I did not even know what F.O.I.A stood for. When Bob first mentioned putting in a Freedom of Information Act/Privacy Act request to different federal agencies, I did not realize that this information could be sought without the help of an attorney and that there was, at least in theory, a presumption that records of agencies and departments of the executive branch of the U.S. Government were accessible to the people.

I did not know that a U.S. citizen had a right to know the information that these Agencies and Departments have gathered that refer to any U.S. citizen or his or her company. Unfortunately, if you don't ask, you will never find out. If I had it all to do over again, I would have asked for this information much earlier than I did. There was nothing to lose, and all to gain.

There was so much I did not know. I did not realize that in requesting information about my corporation, I had to supply a Corporate Resolution stating that at a meeting of the Board of Directors of the company, that I was authorized and empowered to execute any and all documents concerning the Freedom of Information and Privacy Act Requests on behalf of the Corporation.

It did not take long to find out that the agency has a right not to disclose certain information and was suppose to tell me under which of the different exemptions they were withholding the requested information. Any reasonable segregable portion of the record 'supposedly' must be released after appropriate application of the exemptions, but that is not the way things are always done when the government is 'hiding' information.

THE FUNDAMENTAL RIGHTS OF A U.S. CITIZEN

As time went on, my studies became one big civics lesson. I began to learn more and more about the founding of the U.S. government and the Fundamental Rights of it's citizens, 'We the People'. The fundamental rights of individuals are listed in the Bill or Rights, the first ten amendments to the U.S. Constitution. I discovered that some of our fundamental rights are enumerated, for example the first eight amendments list those rights that belong to the individual citizen. Most U.S. citizens have some familiarity with their basic freedoms, such as the First Amendment right to speak or not to speak. The right to worship where we wish to, and the Second Amendment right to bear arms and the Third Amendment right not to have

domestic armed troops housed in our homes and the Fourth Amendment right to freedom from ‘unreasonable’ search and seizure, and the Fifth Amendment right to due process of law and the right not to be a witness against ourselves, and the Sixth Amendment right to counsel in a criminal prosecution and the right to witnesses in your own defense and the Seventh Amendment right to a trial by jury if the amount in dispute exceeds twenty dollars, and the Eight Amendment right to not be exposed to cruel and unusual punishment. Then I discovered that there were two other amendments, important enough to be listed as the last two amendments in the Bill of Rights, these being the so-called ‘unenumerated rights’.

**One of the Unenumerated rights
is the right to Privacy**

One of these Amendments, the Ninth Amendment states that there are other rights that belong to “We the People” that are not enumerated in the previous eight Amendments. One of these unenumerated rights is the right to privacy, which includes of course, the right to financial privacy. The Tenth Amendment, is another one that the government has no pluses in promoting. The Tenth Amendment states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people.”

Now I want to tell you right now, that virtually every one of my fundamental rights was violated by administrative courts of the United States, which may not be bound by the United States Constitution, but rather by their own administrative law based upon Admiralty law. You read that correctly. Many of our courts, especially federal bankruptcy courts in the United States, do not have to grant an American citizen the fundamental protections of the Bill of Rights.

**FINANCIAL PROFESSIONALS SHOULD STOP PRETENDING
AND FACE REALITY III**

In summary, reality shows us that national and international privacy no longer exists. In FACE REALITY I the stage was set concerning litigation against the financial professional from his clients. FACE REALITY II set the stage concerning potential violation of the rights of the financial professional by the Federal Government and its regulatory agencies.

**THESE AGENCIES HAVE AN INSATIABLE DEMAND
TO FIND OUT MORE AND MORE ABOUT THE
FINANCIAL PROFESSIONAL AND HIS CLIENTS.**

Hopefully financial professionals everywhere will see that the handwriting is on the wall concerning governmental agencies. These agencies have an insatiable demand to find out more and more about the financial professional and his clients. The difference today from the days of Mr. Snyder in the 1950's is that the technology of today allows for the storage and sorting of this information.

I'm no different than most financial professionals, but being a Vietnam veteran caused me to be a critic and to question authority, and to ask why "We the People", the American citizen, were kept uninformed of our rights. I feel the reasons for the 'dummying of America' are so simple. Because American citizens are uninformed, those 'ruling' us can do it more easily, while protecting special interest groups, which destroy our environment, outsource jobs where wages are lower, and take our tax money to fund pet projects and wars or to pay for their failed investments. I believe that governments everywhere tend to keep their populace uninformed for their own reasons.

I remember receiving a telephone call back in the 1980's from a business associate of mine. I could hear the fear in his voice as he said, "Hal, I'm scared out of my wits. The I.R.S. are here and they want copies of my records." (The I.R.S. stands for the Internal Revenue Service, which is responsible to collect federal taxes, including income and business taxes. This government agency is feared by most of the American citizens because they tend to intimidate citizens because of their power or abuse of power.) I said Mike, "Calm down, take a deep breath. Don't make it easy for them, they may not be entitled to what they are asking for. Do you have anyone to help you with this legally?" I forgot exactly what he said next. That was the last conversation I had with Mike concerning his clients' financial records. At that time I did not know if there was a subpoena seeking financial records about a specific client. Years later Mike came by my exhibition booth. He looked somewhat frail and nervous as he said, "Hal, I should have listened to you." Everyone that Mike and I knew rolled over and gave the I.R.S. the information they had asked for and even more. Mike told me that the I.R.S. bullied him and had virtually living in his offices, using his own copy machines to make copies of everything and anything they could locate.

In retrospect, I soon became the target of these Federal Agencies because I did not fully bend over to cooperate with them when they were seeking information concerning my clients, myself, my companies and others. No one likes to think that they are the target of their own government. Some financial professionals like Mike pretend that they are “small potatoes” and that no one would be interested in them. He was like the ostrich with his head in the ground pretending that there was no danger around. But the true moral to the ostrich story is that when your head is in the ground, your butt is sticking high in the air. Eventually, Mike too became a target. I do not want to mislead anyone into thinking that ‘cooperating’ with Federal Agencies in the United States will make a person less of a target. In Mike’s case that was not true. Nor do I want anyone to believe that all the information sought and gathered by Federal Agencies is being done in a legal and lawful manner. However, I do believe that when a financial professional knows what his or her rights are, it becomes more difficult to threaten and coerce the professional into revealing information that is private and it allows the planner to truly act in his clients best interest by informing the client for instance, that someone may be looking at the emails between the professional and client. On the other hand, people who know what their rights are tend to be more of a vocal critic than those who don’t know what their rights are and consequently the informed are targeted more than those who are silent in their criticism.

LAW WITHOUT FREEDOM LEADS TO TYRANNY

The United States of America is a nation based upon law. The founding fathers knew that a nation based on freedom without law would lead to anarchy, but that a nation of law without freedom, would surely lead to tyranny. The Bill of Rights, ratified in 1791, granted each and every citizen a list of ten amendments to the Constitution, ratified just four years earlier. The Bill of Rights was written *not* to protect its citizens from invading armies, or from people crossing its borders, or even from the terrorist of that day, the pirates ravaging the east coast of the United State, these ten laws were there to protect its citizens against government itself.

**The Fundamental Rights Guaranteed in the Bill
of Rights are No Longer in Affect**

The situation is prearranged by agents of the government even further against the financial professional in the United States. Many financial professionals, once targeted, become the product of unfavorable press, are forced into bankruptcy for various reasons including litigation, medical problems and divorce. But did you know that when you enter the bankruptcy court system in the United States, the fundamental rights guaranteed in the Bill of Rights are no longer in effect? You are now under Admiralty Court Law. You read that correctly, once the financial professional enters the jurisdiction of the federal bankruptcy system, the protections of his fundamental rights are waived as the government may seek to backdoor the rights of its citizens, in order to obtain the information on the bankrupt, the financial professional, who is now called a debtor in a similar manner to the government obtaining information from SWIFT and circumventing the privacy protections of the Fourth Amendment to the U.S Constitution and the Taiwan Computer-Processed Person Data Protection Law of 1995.

The Debtor is now asked to supply information on his clients, which could not be obtained while the financial professional's constitutional rights were in tact. Imagine that all this is being done to the financial professional while he is at jeopardy of loosing his home and other worldly possessions and perhaps even his freedom.

FINANCIAL PROFESSIONALS SHOULD STOP PRETENDING AND FACE REALITY, PART IV

One question that I am hardly ever asked by American financial professionals is, "What are my chances statistically of going into bankruptcy?" But this is a question that they should be asking considering their financial vulnerabilities. Let us assume, although we know differently, that the number one target for litigation in the United States, the financial professional, is no more vulnerable to file for bankruptcy protection because of financial adversity than that of the general population.

<p>CHECK THE TREND FOR <u>PERSONAL BANKRUPTCIES</u>: By the year 2010, one out of every 50 households in the United States will be in bankruptcy and under the jurisdiction of the federal bankruptcy court system.</p>
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Source for the 1980, 1993 and 2003 statistics, the Administrative Office of U.S. Courts and the U.S. Bureau of the Census.

Year 1980	3 of 1000 households	1 of 336 households
Year 1993	8 of 1000 households	1 of 114 households
Year 2003	13 of 1000 households	1 of 73 households
Year 2010	20 of 1000 households Trend prior to Katrina	1 of 50 households

In reality, the current trend appears to be worse, but due to the short-term statistics following the new bankruptcy law of October 17, 2005, time will tell if the trend worsens or not. **As a result of natural disasters due to the 2005 hurricanes, Katrina and Rita, which hit the city of New Orleans and other coastal regions, there was a rise in the price of commodities, particularly oil related products. Furthermore, as the result of the failure of large pension funds and other economic factors, it appears as if 1 out of every 50 households will be in bankruptcy before the next 4 years. The “Chorn” sees the trend of the percentages of households going into bankruptcy intensifying with the introduction of a new tax code, placing higher burdens on the U.S. homeowners due to a decrease in the amount of mortgage interest deductions. Regardless, let’s conclude that the chances of the financial professional going into bankruptcy exceed the statistics of one out of fifty as listed in the chart above.**

<p>ONCE IN BANKRUPTCY, YOUR WHOLE WORLD WILL BE TURNED UPSIDE DOWN</p>

Although it is not true in every case, many financial professionals are small businessmen, who have at times pledged their home and other assets to obtain funding from banks and others to finance their businesses. Once you petition yourself or your company into a “voluntary” bankruptcy or are involuntarily petitioned by your creditors into a bankruptcy, your whole world will be turned upside down. And if things could not seem worse, they really are because on October 17, 2005, a more onerous bankruptcy law, the Bankruptcy Protection Act and Consumer Protection Act, went into affect.

Regardless of how the financial professional ended up within the jurisdiction of the federal bankruptcy court system, once there, the books and records of the debtor fall under the scrutiny of parties in the bankruptcy. The new law has stiffer requirements for what records must be produced by the debtor. Privacy is now gone. The personal and private finances of the financial professional, now become public record and subsequently many records relating to the financial professionals clients are, now as prior to the new law, made privy to a whole bunch of people including: the U.S. Trustee, who is an adjunct to the U.S. Justice Department; a court appointed Examiner or Trustee in bankruptcy, if the financial professional is not a Debtor in Possession running his or her former business; attorneys for the financial professional's clients and unsecured creditors as well as attorneys for the banks, the financial professional's secured creditors.

While a financial professional is in bankruptcy, his or her books and records are under scrutiny by the parties listed above. Consequently if the professional and his or her business records are not "squeaky clean" he or she may fall under attack from other U.S. government agencies like the Internal Revenue Service, the I.R.S, the Securities and Exchange Commission, the S.E.C., (the S.E.C. is a U.S. government agency charged with overseeing and enforcing laws related to any offering which is defined as a security.) or a self regulating agency the National Association of Securities Dealers, the N.A.S.D. (The N.A.S.D. is not a government agency, although some consider it quasi-government. This agency is comprised of the largest securities dealers in the United States. Firms and individuals, who trade in securities are under the jurisdiction of both N.A.S.D. and S.E.C.) In addition, financial professionals may be accused by parties in the bankruptcy court proceedings that he or she is concealing records and other information about his own assets or the assets of anyone of his clients, who becomes targeted by one or more of these federal agencies.

If a financial professional does not want to reveal information on his client while in the bankruptcy arena, he is labeled as a troublemaker and is accused by the court as obstructing the process. I was fined \$200,000 in U.S. dollars for obstructing the bankruptcy court process in the Cumberland Investment Corporation case. I was accused of not producing records, concerning clients holding assets in a bearer form. The court stated that the records were wrongfully withheld on the "baseless ground of confidentiality". Delving into the financial records of the financial professional and his clients can also lead to criminal charges as well as to civil charges. When the

Department of Justice wants to target a vocal critic like the “Chorn”, agencies are routinely sent a directive that states five little words, “Develop information of a crime.” Even if no crime exists, a “crime” will be tailor made to fit you.

**WHAT EVER HAPPENED TO THE RIGHT
TO PRIVACY AND OTHER FUNDAMENTAL
RIGHTS OF THE DEBTOR?**

Before answering that question, we must think about the status of our clients. Who do these clients belong to? Do they belong to you, the financial professional, who has serviced them, who has advised them to protect their assets, who has gathered information about their family and finances or does all the information concerning your clients belong to some corporate group or entity, perhaps an entity, containing your own name. While we are at it asking these types of questions, ask yourself, who owns the mail delivered to your office/home, whether the mail is addressed to the financial professional as C.E.O, C.F.O. or President of the corporation or some other corporate or company designation. And who owns the telephone numbers and all the calls and messages left for your clients to hear when you are not there to talk to them?

In many cases, like my case, the company and not the financial professional are petitioned into bankruptcy. The clients in my case belonged to the company, Cumberland Investment Corporation and not to me, the financial professional. What all this meant to my clients was that eventually, the parties in the bankruptcy process claimed that all the books, records and computer discs concerning my clients belonged to the company; that all the private information concerning my clients belonged to the company; that all the mail directed to me from the client, belonged to the company; that all the telephone calls belonged to the company. And because everything belonged to the company and not to me, the information was disclosed to those involved in the civil process of bankruptcy and eventually to those involved in the criminal process. In order to insure that my clients were not informed of what was really happening, for a two-year period subsequent to me being indicted, I was enjoined by an order of the bankruptcy court from even contacting my clients, while the government was contacting these same people.

**NOW, AS PROMISED IS AN EXCLUSIVE
INTERVIEW BETWEEN MR. CATO, EXECUTIVE
EDITOR OF THE ADVISOR, AND HAL CHORNEY**

Mr. Cato: Mr. Chorney, I've been reading financial privacy articles written by you since the 1980's. Do people have financial privacy today?

Mr. Chorney: For the most part, particularly for financial professionals and their clients, the answer is, "No".

Cato: Why are financial professionals being targeted in particular?

Chorney: Because financial professionals have themselves gathered information on their clients to better facilitate the particular needs of their clients. For the financial professional, everyone has your number. Banks, credit bureaus, government agencies and countless other entities methodically are gathering information on the lives of most citizens, but the financial professional is under a microscope. All of the information gatherers are seeking the information held by the financial professional.

Mr. Cato: Mr. Chorney, you seem to separate information gathering sources. Are there any laws related to government agencies interacting with the banking industry.

Mr. Chorney: Yes there are. The laws of many countries require banking institutions to reveal information to the government where the bank is located. However, information gathered by banking has transcended national boundaries. Governments often gather information from the banking industry, but the disclosure of what happened with information from SWIFT is a completely new revelation. You and I now know about the recent widespread dissemination of information internationally by SWIFT, and it is upsetting a lot of people from countries, which have laws to protect a citizen's privacy.

Mr. Cato: Mr. Chorney, do you think that any laws were violated when notification was or was not given to the governmental agencies of Taiwan concerning the disclosure of information by SWIFT concerning residents of Taiwan?

Mr. Chorney: I would only be speculating to honestly answer this question. In addition, I do not want to seem evasive, but the subject of necessary actions by governments because of anti-terrorism policies is so sensitive that this type of information exchange would only be revealed if the parties wanted us all to know about it. It appears as if the details have been intentionally kept quite secretive.

Mr. Cato: Mr. Chorney, do you think that both the Taiwan Government and the U.S. Governments are aware that both national and international privacy safeguards have been abused and/or violated?

Mr. Chorney: Probably yes. However, governments are charged with the duty of protecting their citizens and the security of their borders above all other functions. Under these sets of circumstances, it would be no surprise to me that both governments were aware of their actions being contrary to some of the other laws, but security is the first priority.

Mr. Cato: Did other governments know that the private and personal financial information was being disclosed to agencies gathering international financial information?

Mr. Chorney: I would have to assume that governments would in particular notify their international allies before the fact. Since there have not been complaints by governments concerning this release of international financial information, it is possible that some unwritten pact concerning this disclosure may have been in place.

Mr. Cato: Do our governments have another agenda besides security of our nations from international terrorists in gathering our financial information?

Mr. Chorney: This is the toughest question you have asked of me. In theory the information is being gathered to fight international terrorism, but to me governments are like businesses. They will probably use the information for other purposes, including tax collecting enforcement.

Mr. Cato: Does that mean that financial privacy no longer exists?

Mr. Chorney: For thousands of years, prudent individuals have sought to own wealth in a private portable form called tangibles. These tangible investments include gold, silver, rare coins and other collectibles. There is more privacy involved with wealth ownership in this tangible form versus the ownership of wealth in an intangible form such as stocks, bonds, Treasury Bills and Certificates of Deposit. People owning tangible wealth will have more financial privacy than those dealing in intangible wealth. When people deal primarily in intangible assets, there is no privacy, since virtually everyone knows your business in our computer age.

Mr. Cato: Have our governments sold out to special interest groups like banking?

Mr. Chorney: Yes, governments throughout the world have sold out to banking. International banking is comprised of the most powerful group of individuals on earth. Their influence transcends international boundaries. I believe they are the largest of what is called “cartels”. Cartels by definition want to limit or eliminate competition. Throughout the ages, the groups controlling our money have influenced those who rule. Without a doubt, on the one hand some legislation, for example the new bankruptcy act in the United States, approved by the U.S. government favor these financial institutions apparently at the expense of the public at large. On the other hand, I cannot conceive of International Banking, especially the G-10, not cooperating with governments worldwide concerning the release of information used for anti-terrorism to protect the public at large.

Mr. Cato: You mention G-10. What exactly do you mean?

Mr. Chorney: The central banks of a Group of Ten Countries is called the G-10. These powerful banks provide an oversight for SWIFT. So besides the National Bank of Belgium, the G-10 which oversees SWIFT are the following: Bank of Canada, Deutsche Bundesbank, European Central Bank, Banque de France, Banca d'Italia, Bank of Japan, De Nederlandsche Bank, Sveriges Riksbank, Swiss National Bank, Bank of England the Federal Reserve System in the U.S.A. More information on this subject is available on www.SWIFT.com .

Cato: In your article you talk of privacy complaints being filed against the release of information by SWIFT. Can you elaborate on this.

Chorney: Sure. Besides a complaint filed with Taiwan, R.O.C., Privacy International has filed complaints with 32 other countries, stating that the privacy laws of these countries has been violated by the release of information by SWIFT.

Cato: Were any of these countries related in the Pacific Rim?

Chorney: Yes. Complaints have been made against SWIFT, which has subsidiaries in Australia, Hong Kong, Japan, and Singapore.

Cato: Let us get back to investment vehicles, which increase financial privacy.

Chorney: OK. I want to talk about financial privacy in another light. Financial privacy really is just another form of financial insurance that rightfully could stand alongside other forms of insurance.

Cato: What do you mean by that?

Chorney: There are different ways of looking at things. One way is to think that gaining financial privacy ahead of time, like buying risk insurance before the injury, means that future problems can be eliminated or mitigated.

Cato: Not too much in the financial arena is for free....

Chorney: That is correct. Of course, the insured must pay for financial privacy, just like he pays for any other insurance. However, financial privacy has no peer in some risk areas for which conventional insurance may not be available.

Cato: Please explain that to our readership.

Chorney: Sure! Modern surveillance and seizure methods have placed people and their assets in a precarious position. People and their assets are identified easily and targeted for lawsuits, seizure, harassment and theft. Having been stripped of your privacy, there is a real threat then to strip people of their wealth.

Cato: I personally know agents, who have been stripped of their wealth and that this is a real threat.

Chorney: Me too. Education of people in the need for financial privacy is lacking. Unfortunately, many people think about protecting their wealth after it is too late and after they already are in a panic situation. Many think, “It will not happen to me. It will happen to some other person!”

Cato: I have noticed that you have the designation of T.I.A. after your name. What does that mean?

Chorney: T.I.A. means Tangible Investment Advisor. As a Tangible Investment Advisor, I work closely with many financial planners and insurance professionals, who help people to choose and obtain tangible assets as an insurance against the risks which exist in our world today and for the overall protection of their clients and their families.

Cato: Are there any caveats involving financial privacy techniques?

Chorney: Surely! For most people, financial privacy equals freedom. I do not recommend that anyone use financial privacy for illegal purposes.

Mr. Cato: Thank you Mr. Chorney for enlightening the Advisor readers about financial privacy and some financial privacy techniques. Your comments and insight have been quite informative.

To learn more about the Cumberland Investment Corporation Bankruptcy case, and to see how the “Chorn’s” constitutional rights were violated while in bankruptcy, and to learn more about current trends in United States legislation and Supreme Court decisions, as well as some strategies available to financial professionals, go to www.nc4ba.org and click on Info for Professionals.

Hal Chorney is author of the soon to be published book Pie-rats, which covers in detail many of the issues in this article above.

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