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S. Hrg. 107–84

ROLE OF U.S. CORRESPONDENT BANKING IN INTERNATIONAL MONEY LAUNDERING

HEARINGS

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

FIRST SESSION

MARCH 1, 2, AND 6, 2001

VOLUME 1 OF 5

Printed for the use of the Committee on Governmental Affairs

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ROLE OF U.S. CORRESPONDENT BANKING IN INTERNATIONAL MONEY LAUNDERING

THURSDAY, MARCH 1, 2001

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:34 a.m., in room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Subcommittee, presiding.

Present: Senators Collins, Levin, and Carnahan.

Staff Present: Christopher A. Ford, Chief Counsel and Staff Director; Mary D. Robertson, Chief Clerk; Rena Johnson, Deputy Chief Counsel; Frank Fountain, Senior Counsel; Eileen Fisher, Investigator; Claire Barnard, Detailee/HHS; Linda Gustitus, Democratic Staff Director and Chief Counsel; Elise Bean, Democratic Deputy Chief Counsel; Bob Roach, Democratic Counsel; Laura Stuber, Democratic Counsel; Ken Saccoccia, Congressional Fellow; Anne Fisher and Judy White (Senator Cochran); Kathleen Long (Senator Levin); Marianne Upton and Karla Mitchell (Senator Durbin); and Sandy Fried (Senator Carnahan).

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. The Subcommittee will come to order. Good morning.

During the next few days, the Permanent Subcommittee on Investigations will examine the complex world of correspondent banking and the extent to which the international correspondent banking system can involve U.S. banks in money laundering, allowing criminals to exploit our financial system. These hearings, initiated by the Subcommittee's Ranking Minority Member Senator Levin, are the culmination of a lengthy investigation into correspondent banking by his staff and represent the second phase of the Subcommittee's examination of money laundering and its effect on our financial system.

Correspondent banking is the means by which one bank, the correspondent bank, provides financial services to another bank, often referred to as the respondent bank. Typically, the respondent bank has no physical presence in the jurisdiction in which it maintains a correspondent account. Correspondent banking thus enables the respondent bank to provide services to its customers that otherwise would be unavailable because of geographic limitations.

Correspondent banking is an integral part of the domestic and international banking systems. Without correspondent banking, in

fact, it would often be impossible for banks to provide comprehensive nationwide and international banking services—among them, the vital capacity to transfer money by wire with amazing speed and accuracy across international boundaries. U.S. banks maintain thousands of correspondent relationships, through which billions of dollars move every day.

American banks provide some correspondent clients with fee-based products only, such as currency exchange services, interest-bearing and demand-deposit accounts, and wire transfers to investment services. For other clients, U.S. banks also offer credit-related products, such as loans, credit extensions, and lines of credit. This distinction between the provision of fee-based products and service-based products is significant because the Minority investigation has shown that some U.S. banks conducted more due diligence when evaluating potential correspondent banking clients for credit relationships—in other words, when their own finances were at stake—than when only fee-based services were at issue.

Not surprisingly, money launderers have capitalized on this relative lack of scrutiny for non-credit relationships. They too often can fly under the radar of the U.S. banks. In other words, money launderers gamble that the banks will not notice—or perhaps not scrutinize—the source of funds flowing through their correspondent accounts.

The Subcommittee investigation has shown that, in some instances, the gamble has paid off. Through such accounts, the perpetrators of criminal schemes have succeeded in moving their ill-gotten gains around the world ahead of law enforcement officials, in many cases ultimately returning these funds to the United States in a laundered form that they can enjoy with impunity.

Regrettably, the source of these monies was often fraudulent schemes perpetrated by Americans against Americans. For example, Melvin Ford of Maryland was the central figure in the Forum, which appears to be a Ponzi-type investment scheme. Ford targeted low- and middle-income African Americans who attended his seminars and rallies, promising them extraordinarily high returns for their investment. The Forum established a relationship with American International Bank in 1993 and accounted for perhaps as many as 6,000 of American International Bank's 8,000 customers. By 1997, in fact, more than half of American International Bank's $110 million in assets were attributable to the Forum and its investors.

The Subcommittee's investigation has established that three types of foreign banks are particularly high risk, that is, prime candidates to harbor the funds of money launderers. They are: First, "shell" banks; second, offshore banks; and, third, banks in jurisdictions with strong bank secrecy and weak anti-money laundering laws. "Shell" banks do not maintain a physical presence anywhere, which makes it very difficult for the licensing jurisdiction to regulate them.

Offshore banks are not able to conduct business with the residents of their licensing jurisdiction. Because they have no effect upon local citizens, and because they are often lucrative profit centers for the licensing jurisdiction, local government regulators often have very little incentive to engage in serious oversight.

The third category of high-risk foreign banks consists of banks in jurisdictions that simply have weak anti-money laundering laws. The lax regulatory environment obviously attracts those who wish to launder money. U.S. banks that rely upon local regulators in such cases to police respondent banks hang their hopes only upon a shadow.

The investigation revealed troubling gaps in U.S. banks' oversight of their correspondent relationships with these three types of banks. Moreover, labyrinthine banking relationships can also make due diligence more difficult. In several cases, U.S. banks were actually surprised to learn that they were conducting transactions for foreign banks with whom they had no direct correspondent account. These foreign banks had established correspondent accounts at other foreign banks, which in turn maintained correspondent accounts at the U.S. institutions.

Given the intricate nature of the schemes that criminals use to launder money, there are obviously some practical limitations upon the intensity of scrutiny that U.S. banks can give to the customers of their correspondent banking clients, or to any particular link in the chain of "nested" correspondent accounts. A requirement that U.S. banks thoroughly investigate the business dealings of each and every customer of a correspondent banking client—in other words, their customers' customers—might well provide burdensome and impractical, doing more harm to the financial industry than good in preventing money laundering.

Nevertheless, the investigation's case studies make it equally apparent that U.S. banks must do a better job, first, of initially screening correspondent banking clients and then of monitoring these clients' accounts once they are opened. For example, some U.S. banks neglected to verify that their correspondent banking customers had effective anti-money laundering procedures in place at the time that they opened correspondent accounts. Moreover, U.S. banks have sometimes been far too slow to react to information they receive from government officials and from the media about suspicious activity by their correspondent banking customers. There is clearly much room for improvement here.

I see the goals of these hearings as twofold: First, a careful examination of the case studies of those who have successfully manipulated the correspondent banking system to launder money should shed some light on how these schemes have worked and point out some weaknesses in current anti-money laundering procedures and protections. These disclosures should make it possible for U.S. banks to better understand and act upon the warning signs of money laundering in correspondent banking, helping to prevent such abuses in the future.

Second, we must consider whether both banks and regulators have the tools they need to prevent money laundering through correspondent banking. I want to emphasize that the banking industry has made great strides in its efforts to stem money laundering. For example, the Office of the Comptroller of the Currency has noted that banks have generally complied successfully with their obligations under the Bank Secrecy Act to implement good currency transaction reporting programs. Nevertheless, gaps in oversight clearly still occur, and they are serious ones. One way of pre-

venting such gaps is for the banking community to work more closely with the regulators and law enforcement officials to exchange information.

I look forward to hearing the testimony of our witnesses today and in the subsequent 2 days of hearings.

At this time I would like to recognize the distinguished Ranking Minority Member of the Subcommittee, Senator Levin, for his opening statement, but before I do so, I first want to thank him and his staff for their extraordinary and extensive work on this very complex investigation.

Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you very much, Madam Chairman, for calling these hearings, for convening them, and for your very kind remarks.

Today we are going to be taking an insider's look at how U.S. banks are being used by rogue and high-risk foreign banks and their criminal clients to launder the proceeds of crimes such as drug trafficking, financial fraud, Internet gambling, and tax evasion.

Now, what does it mean to launder money? It means that you take the dirty money that you get from selling drugs or accepting a bribe or defrauding someone and you move it through bank accounts or businesses in order to lose any link between the money and its source. And then you can spend that money without anyone asking any questions. One way you can do that is to move the money through correspondent bank accounts at U.S. banks.

The U.S. banking system is one of the premier banking systems in the world. It is also one of the safest and soundest. Our strong regulatory environment helps to ensure that. And our dollar is the strongest currency in the world, which is one of the reasons why U.S. banks are so attractive.

So if criminals can move their money through U.S. banks, they can not only disguise their money but they can also acquire the prestige of the U.S banking system and the services that banking system provides.

Here is a rather simple chart that shows how the proceeds from criminal activity and corruption can make its way into U.S. banks.[1] Ordinarily, the dirty money from criminal activity cannot get into a U.S. bank directly. It cannot go directly down to a U.S. bank, as shown on the right-hand side of that chart. That is because U.S. banks have to report cash transactions over $10,000, and they keep watch on the activities of their individual banking clients. But that same money can get into the same U.S. bank, by using an offshore bank that has a correspondent account at the U.S. bank. In other words, instead of going directly into the bank, which it is frustrated from doing by our regulatory apparatus, if it can move to an offshore bank and then use that offshore bank's account at the U.S. bank, it can accomplish very simply what it cannot do directly. That is what has happened over and over and over again in the high-risk foreign banks investigated by my staff.

[1] See Exhibit No. 44 that appears in the Appendix on page 814.

For most Americans, a bank conjures up positive images of respectability and sound fiscal management. We picture a well-maintained building, a trained staff, a prudent bank president, all operating under regulations that ensure the bank's safe, sound and lawful operation. But not all banks fit that image. Some banks in the world are quite the opposite. They operate without controls, without regulatory oversight, and even without physical offices or trained staff. Some of these high-risk foreign banks are themselves engaged in criminal behavior, such as financial frauds; some have clients who are engaged in criminal behavior, such as drug trafficking and political corruption; and some have such poor anti-money laundering controls that they don't know—and some don't care—whether or not their clients are engaged in criminal behavior.

One might suppose that those kinds of foreign banks would be unable to open accounts at U.S. banks, that U.S. banks would recognize them as posing such high money laundering risks that they would not give them entry into the U.S. financial system. But you would be wrong.

A year-long investigation by my Subcommittee staff has found that high-risk foreign banks have been able to open accounts at U.S. banks, and some of these U.S. accounts have become conduits for criminal proceeds. When one bank opens an account for and provides banking services to another bank, it is called correspondent banking. The bank that provides the banking services is called the correspondent bank. The client that uses the services is called the respondent bank. Correspondent banking is essential to the movement of money around the world for international trade and commerce. But because many U.S. banks have failed to adequately screen and monitor foreign banks which open accounts, correspondent banking has also become a gateway to the U.S. financial system for criminals and money launderers.

Based on its work over the past year, the staff investigation identified three categories of foreign banks that pose high money laundering risks, as outlined by the Chairman: Shell banks, offshore banks, and banks in foreign jurisdictions that do not cooperate with international anti-money laundering efforts.

"Shell bank," as we use that term, means a bank that does not have a fixed physical presence in any country. It is a bank that does not have a physical office where customers go to conduct banking transactions or where regulators can go to inspect records and observe bank operations. Instead, these shell banks enjoy a shadowy existence, operating out of the offices of a related company, or from an undisclosed location that may be hinted at but never named. We found one shell bank that was operated out of the owner's home.

Due to their lack of visibility and presence, these shell banks have largely evaded the public spotlight, and U.S. banks opening accounts for them appear too often not to care how they operate.

The staff conducted an in-depth investigation of four shell banks: Caribbean American Bank, Federal Bank, Hanover Bank, and M.A. Bank. In all four cases, the investigation found the shell bank to be operating far outside the parameters of normal banking practice, without basic administrative controls, and without anti-money

laundering safeguards. The investigation found that the banks had avoided regulatory oversight both in their licensing jurisdiction and in the countries where they conducted transactions. All four shell banks used accounts at U.S. banks to move millions of dollars in suspect funds across international lines, funds associated with drug trafficking, financial fraud, bribe money, or other misconduct.

Offshore banks are banks whose licenses bar them from transacting banking activities with the citizens of their own home jurisdiction, but empower them to transact business "offshore" with the citizens of other countries. In other words, the countries that create these banks protect their own citizens from them, but unleash them on the rest of the international community. One might ask why any U.S. bank would want to do business with a bank which is not allowed to transact business in its home jurisdiction, but they do. Major U.S. banks have opened accounts for hundreds, if not thousands, of offshore banks.

About 4,000 offshore banks now hold licenses from about 60 countries around the world and control almost $5 trillion in assets. About half of these offshore banks are thought to be located in the Caribbean and Latin America, with the rest in Europe, Asia, Africa, and the Middle East. The offshore banking sector continues to grow, even as the international outcry over their association with crime and corruption is also increasing.

One reason that offshore banks pose high money laundering risks is that the country licensing the bank has less incentive to police it, since that bank is barred from doing business with the country's own citizenry. Another reason is that offshore banking is a money-making enterprise for the governments of small countries which license them, and the less demands made by the government on bank owners, the more attractive the country becomes as a licensing locale. Offshore banks often rely on these disincentives to minimize regulatory oversight of their operations, increasing the risk that some will become vehicles for money laundering, tax evasion, or other crimes.

The third category of high-risk foreign banks are banks that are licensed by jurisdictions that do not cooperate with international anti-money laundering efforts. In June of 2000, the Financial Action Task Force on Money Laundering, which is the leading international body fighting money laundering, issued a list of 15 countries determined to be non-cooperative with international anti-money laundering efforts. Together, these 15 jurisdictions have licensed hundreds and perhaps thousands of banks, all of which introduce money laundering risks into international correspondent banking. In July of 2000, U.S. banking regulators issued advisories warning U.S. banks against doing business with banks in the listed jurisdictions. But if you thought that these advisories caused U.S. banks to stop doing business with those banks, think again.

Now, why do U.S. banks open correspondent accounts for these high-risk banks? For some banks, correspondent accounts are easy money. When a U.S. bank isn't extending credit, correspondent accounts carry no monetary risk to the U.S. bank, they provide income through the fees charged for the services rendered, and the attitude has been that "a bank is a bank is a bank." We know, though, that that is not true. Some U.S. banks are apparently un-

aware of the money laundering involved; others seem to assume their systems will catch specific problems. But too often U.S. banks have failed to conduct the initial and ongoing due diligence which is needed to get a clear picture of the foreign banks using their services. And when negative press reports or information regarding suspicious activity did come to the attention of U.S. banks, in too many cases the information did not result in a serious review of the foreign banks involved or in concrete actions to prevent money laundering.

The result is that U.S. banks, through their correspondent account services, become aiders and abetters, unwittingly—but aiders and abetters, nonetheless—of laundering the proceeds of drug trafficking or financial fraud or tax evasion or Internet gambling or other illegal acts. We cannot spend billions of taxpayer dollars to interdict drugs and eradicate coca farms and at the same time let drug lords deposit illegal drug profits in foreign banks with U.S. correspondent accounts. We cannot be consistent and are not consistent if we condemn corruption in foreign business practices and make illegal the payment of bribes by our businesses to foreign government officials, and then let bribe money be deposited in U.S. bank accounts earning interest.

We cannot fight for human rights in all parts of the globe and then let corrupt public officials from other countries steal from their own people and place corrupt funds in U.S. bank accounts to enjoy the safety and soundness of the U.S. banking system. Money laundering not only finances crime, it pollutes international banking systems, it impedes the international fight against corruption, it distorts economies, and it undermines honest government.

The Subcommittee is devoting 3 days of hearings to the money laundering problems posed by high-risk foreign banks' opening correspondent accounts at U.S. banks. Again, I want to thank our Subcommittee Chairman, Senator Collins, for her support of this investigation and for allocating these 3 days of hearings to this subject.

Today we are going to look at how high-risk banks work and how U.S. banks respond to them. Tomorrow's hearing will focus on the special problems posed by foreign offshore shell banks. And the third day of hearings, next Tuesday, will focus on what can and should be done to strengthen anti-money laundering safeguards in U.S. correspondent banking. Based on the testimony and recommendations received, I will be introducing legislation in the near future to try to strengthen U.S. law in this area in order to close the net around criminals using accounts of high-risk foreign banks in U.S. banks to launder money.

Today we are going to hear first from a U.S. citizen, John Mathewson, who used to own and manage an offshore bank in the Caribbean called Guardian Bank and Trust. After 10 years at the bank, Mr. Mathewson was arrested in the United States for tax evasion and money laundering. He pled guilty to charges and agreed to cooperate with U.S. law enforcement. One action which he took, which was the first and so far the only time that I know of in U.S. law enforcement history that it has happened, Mr. Mathewson turned over a year's worth of offshore banking records for inspection and review. These records not only provided invalu-

able information about how an offshore bank operates, but has also enabled U.S. law enforcement to initiate prosecutions of numerous of his bank's clients for tax evasion and other misconduct. Mr. Mathewson has since provided valuable testimony in many of these prosecutions, and today he will provide testimony about how an offshore bank and its clients have used U.S. bank accounts to launder funds. He will also explain how dependent offshore banks are on other banks to conduct their operations and how U.S. banks hold tremendous power in their hands to decide which offshore banks will gain access to the U.S. banking system.

We will then hear from two U.S. banks, Bank of America and Chase Manhattan Bank, that opened correspondent accounts for offshore banks. One case involves American International Bank, an offshore bank that was able to open accounts at these as well as other U.S. banks, despite having a bad local reputation, its own correspondent accounts for rogue banks, and increasing evidence that the bank's accounts held suspect funds related to major financial frauds. Another offshore bank, Swiss American Bank, opened accounts at both banks as well. It maintained these accounts for years, despite mounting evidence that the Swiss American Bank's accounts were repositories for funds associated with financial frauds or Internet gambling or other illicit activities. In the face of repeated evidence of questionable activities, our U.S. banks kept open the Swiss American Bank accounts, and today we are going to find out how that could happen.

Last year, U.S. taxpayers spent $600 million in the fight against money laundering. U.S. banks are required by law to join in this fight by operating anti-money laundering programs designed to detect and stop criminals from washing their dirty money through U.S. banks. We cannot condemn jurisdictions with weak anti-money laundering controls, weak banking oversight, and unregulated offshore sectors, and then tolerate U.S. banks doing business with the very banks that those jurisdictions license and unleash on the world.

Since the report was issued last month, we have already seen some results. With respect to the high-risk foreign banks that were the subject of the case histories, the governments of Antigua-Barbuda, the Bahamas, and Dominica have revoked or suspended the license of four of the banks. The Cayman Islands also announced that by the end of this year, all of its offshore banks that are not branches or units of other banks, of which there are 62, will have to enhance their physical presence on the island by opening an office with bank records and a resident manager. In the United States, the New York Clearing House Association, which is composed of a dozen of the largest correspondent banks in the United States, has announced its intention to develop a code of best practices for the industry. And we have also been told by banks like Chase Manhattan that they have begun top-to-bottom reviews of their correspondent accounts. These are encouraging signs, although obviously much more must be done.

Our banks, our U.S. banks, are the gatekeepers through which foreign banks and their clients have to pass to get access to U.S. dollars; U.S. banking services such as wire transfers, investments, and credit; and the U.S. banking system, which is surely one of the

best in the world. When it comes to high-risk foreign banks, U.S. banks have too often not lived up to that gatekeeping role. They need to do a better job in screening and monitoring the high-risk foreign banks that want access to our banking system. Only then will we end the money laundering activities and help to ensure that crime doesn't pay.

Thank you.

Senator COLLINS. Senator Carnahan, I want to welcome you as a new Member of the Subcommittee, and I would call upon you for any opening comments that you might have.

OPENING STATEMENT OF SENATOR CARNAHAN

Senator CARNAHAN. Thank you, Senator Collins. I commend you for calling this hearing, and I look forward to working with you in the days ahead on future investigative hearings.

Senator Levin, I would like to thank you for your leadership on this investigation and in developing this very valuable report.

I am greatly concerned about this issue. I think the average American would be shocked to learn how easy it is for drug dealers and scam artists to launder money or evade taxes. And as a result, we are spending a tremendous amount of money dealing with the consequences of this illicit activity. I am pleased that Senator Levin and the Subcommittee have exposed this problem and made recommendations on how to prevent this fraud and abuse on American consumers.

Thank you.

Senator COLLINS. Thank you.

We will be using our timing system today. Each witness will be asked to limit their oral testimony to 10 minutes. Your entire written testimony will be submitted in the record. There is a timing system that we use. When the red light comes on, you have about 1 minute to conclude your comments. We will also be doing rounds of questioning that will be 10 minutes in length also.

Without objection, I am going to make all of the exhibits that are used today part of the hearing record.

I would now like to introduce our first witness this morning. He is John Mathewson, who formerly owned Guardian Bank in the Cayman Islands. Mr. Mathewson's testimony will provide insider knowledge regarding how an offshore bank can use the products and services available through its correspondent accounts to conceal the proceeds of crime. Mr. Mathewson will be accompanied this morning by his attorney, Oscar Gonzalez.

Pursuant to Rule VI, all witnesses who testify before the Subcommittee are required to be sworn. At this time I would ask that the witness please stand and raise his right hand. Do you swear that the testimony you are about to give to the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. MATHEWSON. I do.

Senator COLLINS. Mr. Mathewson, you may proceed with your statement.

TESTIMONY OF JOHN M. MATHEWSON,[1] FORMER OWNER OF GUARDIAN BANK AND TRUST (CAYMAN) LTD., ACCOMPANIED BY OSCAR C. GONZALEZ, ESQ.

Mr. MATHEWSON. First, I would like to express my appreciation and surprise at the amount of knowledge both Senator Collins and Senator Levin have elicited in their opening statements. And, also, I should address Senator Collins, Senator Levin, Senator Carnahan, distinguished persons. Having spent more than 10 years in the offshore industry, it is surprising to hear a couple of Americans who have accumulated the knowledge that the two of you have accumulated for purposes of protecting the United States from offshore banking.

I prepared a written statement, sent it to Elise Bean, asked her what portion of it I should read to the Committee, and she told me none of it because if I read it, everyone's eyes would begin to glaze over. And I said, "Well, all right. What should I do?" And she said, "Well, wing it." So I'm winging it.

I'm 72 years old. I'm an ex-Marine. I served in China. I'm one of the few survivors of that era. I'm rather proud of having been in the Marine Corps. I appreciate the United States. I thank God I was born in this country, especially after seeing other countries and what goes on in them.

I have been asked, Why have you cooperated to the extent that you have with the U.S. Government? And the reasons are twofold: One, my appreciation for being able to live and also for having been born in the United States; and, two, individuals in New Jersey who dealt with me. One was William Waldie of the FBI. He would erase any thoughts that one might have about the recent FBI individual who had done work for the Russians. Waldie is a man of his word. He is very honorable. And also John Carney, who is the Assistant U.S. Attorney in New Jersey, who lived up to his word, is honorable. And without those two, I would not have cooperated to the extent that I have cooperated.

In addition, there is Judge Lechner in New Jersey, who, after he had sentenced me to probation, asked me very pointedly, will you continue your cooperation with the U.S. authorities? My answer was yes. I have continued it.

Now, I could tell many stories about offshore banking. I could tell one of my own where I was a successful businessman in the Chicago area. I learned to fly. I did not learn to fly in the Marine Corps. I learned as a civilian. Over the years, I had three aircraft. With an aircraft at your disposal, there is always a temptation to fly almost anyplace, whether it is necessary or not. I had read about the Cayman Islands, had read about the tax advantages pertaining to the Cayman Islands, and 1 day decided it was time that I go down there and find out about them.

So I flew my aircraft to the Cayman Islands. En route, over Cuba, in what is called the Hiron Corridor, I had three MiGs come up, one on either side of the aircraft and one in front. I was on course with Havana Center. I asked them what was going on, and they said, Senor, we are identifying your aircraft. With that, the MiGs peeled off, and I didn't see them again. They were so close

[1] The prepared statement of Mr. Mathewson appears in the Appendix on page 139.

to my aircraft that I could make out the features of the pilots. I continued to the Cayman Islands, landed. It was late on a Friday afternoon, got a phone book, looked up banks, saw the Swiss Bank Corporation, and thought, well, I've heard of them before, I guess they're legitimate, and I called them.

I spoke to the managing director, Rodney Bond, and he said they were closing the bank shortly. I had told him I wanted to start an account. He said, I'll wait for you. So I took a cab over there and opened an account with the Swiss Bank Corporation. That was my first introduction to offshore banking. I didn't know anything about it before that time.

I continued to go down to the Cayman Islands. I enjoyed the weather. I enjoyed the beach. I enjoyed the people. And over the years I got tired of the business I was in in the Chicago area and decided I would go into semi-retirement. I bought a home in the Cayman Islands, went down there to live. Two weeks after I was there, two individuals in the financial community, Keith High and Rex Rankin, who are still active, propositioned me to buy 60 percent of the shares of a bank. I thought it over and thought, well, it's a good idea.

I was then told that I would have to go in to see the inspector of banks of the Cayman Islands. I did this. He informed me I would have to undergo a check by the FBI and also Scotland Yard. I told him to go ahead. Two weeks later, I received a phone call I had been approved as a 60-percent shareholder of a bank in the Cayman Islands.

I worked very hard with the bank, giving it American expertise in advertising and so forth. And after a 10-year period—or I should say at the end of the 10-year period, our earnings for the latest year, before the bank was taken over, were $5 million. I was going from zero to $5 million. We had applied for an additional bank license in the Bahamas. We were told that bank license would be approved, all they needed was a letter from the Cayman Island financial authorities stating that we were an active business, an active bank in the Cayman Islands.

That letter was never obtained, and on January 18, the Cayman Island Government came into Guardian Bank with an order stating that the bank was not being operated in a manner that was beneficial to the Cayman Islands and that Ernst and Young, the accounting firm, was to take over the bank and run it for a period of 90 days and then report to the governor and council.

We left the bank realizing that there would be no bank after a 90-day period of a bunch of accountants running it, and contacted Coopers and Lybrand and put the bank into liquidation.

After a 10-year period, we had $150 million in footings in the bank. We had about 2,000 clients. I became a member of the Cayman Island Rotary Club. In fact, I was president of the club in 1993. In this club was a nucleus of managing directors and other employees associated with the financial business in the Cayman Islands. Everything I ever needed to know about banking I learned from them in our gab fests after the Rotary meetings. All of the things that Guardian did was learned from other banks. I have never had an original thought in my life, but I have been able to take what other people do and sometimes do a better job with it.

But Guardian was just a run-of-the-mill bank in the Cayman Islands doing its thing, the same as all of the others.

The one thing I learned very quickly, after having a bank in the islands, was that clients opening an offshore account were doing so for tax evasion; otherwise, they never would have paid the fees that were charged to them for offshore banking. There would be no point in it.

Also, considering that all of these services that we provided offshore were free from U.S. banks in the United States, it didn't make sense.

Now, the Cayman Islands very proudly claims that they have US$600 billion on deposit, and they have 600 banks registered and doing business in the Cayman Islands. My thought is: How much of the $600 billion in the Cayman Islands is there for tax evasion?

I will tell one story and then I will cut this off. I knew Don Stewart of the Royal Bank of Canada reasonably well. He also was a Rotarian. And he would tell stories about before I came on the island when things were very wide open, about planes coming in with boxes of $100 bills and how it would take all night to count the money. Now, he never said where the money came from, but this was something that continued for days. Also, a Rudy Evans, who was the equivalent of a chief of police in the Cayman Islands, tells about the money he earned by guarding all of this money when it was being counted at the Royal Bank of Canada. This was a very common practice.

The firm of attorneys that I used to go over the paperwork to go into the banking business was a firm called Meyers and Alberca. They, as far as I know, are still in business. When I went in with the various papers for them to look over, Daryl Meyers brought me into his office and apparently thinking that, well, now I am a member of the financial community, why cover anything up, he had two suitcases sitting in his office, open, full with $100 bills. I know a little something about currency, and I would guess there was at least US$10 million in those two suitcases. I didn't say anything. He didn't say anything. Apparently, he had just received this money, and I would assume it was going into one of the banks on the island.

I believe that is my opening statement.

Senator COLLINS. Thank you, Mr. Mathewson.

Mr. Mathewson, would you please describe what the assets and client base were of Guardian Bank at its peak?

Mr. MATHEWSON. I heard "the assets." What was——

Senator COLLINS. The client—how many clients and what were the assets of the bank at its peak?

Mr. MATHEWSON. Yes, ma'am. The assets of the bank were approximately $150 million, and there were around 2,000 accounts.

Senator COLLINS. And since Guardian was an offshore bank, as I understand it, that means that none of its depositors were citizens of the Cayman Islands. Is that correct?

Mr. MATHEWSON. That's correct.

Senator COLLINS. In your testimony, you estimated that approximately 95 percent of Guardian's clients were, in fact, citizens of the United States. Is that accurate?

Mr. MATHEWSON. That was a guess. However, William Waldie of the FBI made it a point to check that out, and he verified that it was 95 percent. So it was a pretty good guess.

Senator COLLINS. And as I understand it, in your judgment, virtually all of Guardian's clients were engaged in tax evasion. Is that an accurate statement?

Mr. MATHEWSON. That's an accurate statement. However, one thing I might point out, most of its clients were legitimate business people and professionals in the United States.

Senator COLLINS. Legitimate, but engaging in tax evasion?

Mr. MATHEWSON. Exactly, yes.

Senator COLLINS. Well, some of us would quarrel with the word "legitimate."

Mr. MATHEWSON. All right. I understand.

Senator COLLINS. What leads you to conclude that the clients of Guardian Bank were overwhelmingly engaged in tax evasion?

Mr. MATHEWSON. Every once in a while I would have a prospective client ask if Guardian Bank sent out 1099's for earnings.

Senator COLLINS. And did it?

Mr. MATHEWSON. No, it did not. And my reply usually was, well, if you would like one sent, please advise us.

Senator COLLINS. Did anyone ever take you up on that offer?

Mr. MATHEWSON. No one ever took me up on it.

Senator COLLINS. It is not illegal for an American citizen to maintain offshore accounts, but obviously any income from that account is supposed to be reported to the IRS. According to one government estimate, at least $70 billion a year in personal income tax revenue is lost to tax havens such as the Cayman Islands.

In your judgment, are there any legitimate reasons why an American citizen would use the services of an offshore bank?

Mr. MATHEWSON. Some of the other reasons that an offshore bank would be used by a U.S. person would be to hide money from a spouse; in the event of a bankruptcy, to secrete funds offshore out of the bankruptcy; but this all would be tax evasion, anyway. No, I don't think so. I think it is almost ridiculous to think that anyone would establish an offshore account without the thought of being able to make money with it by evading taxes.

Senator COLLINS. Mr. Mathewson, without the correspondent banking accounts in the United States, would Guardian have been able to conduct its business and provide the services that its clients wanted?

Mr. MATHEWSON. Senator, you have hit on the Achilles heel of the entire offshore banking industry. Without correspondent banks to accept U.S.-dollar checks and wire transfers, the banks would be out of business in the Cayman Islands.

Senator COLLINS. Did Guardian's U.S. correspondent banks take any steps to determine the sources of Guardian's deposits? Was there scrutiny given to the accounts or the sources of money?

Mr. MATHEWSON. None that I know of.

Senator COLLINS. And why do you feel that was the case? Why wasn't there more scrutiny?

Mr. MATHEWSON. I'm not certain they really cared, as long as they were receiving substantial funds. And, remember, there were millions and millions of dollars involved.

Senator COLLINS. In fee income to the correspondent banks in the United States?

Mr. MATHEWSON. Well, for instance, with the Bank of New York, we kept very substantial accounts there, and they paid interest on those accounts.

I think they just didn't really wish to rock the boat, and they were very happy with the deposits that were going into their bank and would have liked even more.

Senator COLLINS. Was it expensive for your American clients to maintain accounts with Guardian?

Mr. MATHEWSON. Yes.

Senator COLLINS. Could you give us some idea of the charges that were imposed and also explain the idea of corporate accounts that were used to shield the identities and how much you charged for those accounts?

Mr. MATHEWSON. Most of our clients did have Cayman Island corporations. The cost of establishing a corporation for them was $5,000. In addition to that, there was a $3,000 annual management fee payable in advance. So the total cost initially was $8,000.

There were other charges. For instance, if they wanted a wire transfer, we charged either $100 or $150. I've forgotten the exact amount. If there was an incoming wire transfer, we charged approximately $100 for that.

Anything that we did, there was a charge. If they called, the cost of the telephone was put onto their account. It was quite costly, and considering that all of those services could be provided in the United States for no charge, it made no sense unless there was tax evasion as the ultimate goal.

Senator COLLINS. Thank you, Mr. Mathewson.

Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

If a U.S. citizen came to the bank and wanted to open up an account, what would you have advised them on how to do that? And tell us about the creation of these corporations as well that you have made reference to.

Mr. MATHEWSON. All right. Would you repeat the first part?

Senator LEVIN. Yes. If a U.S. citizen came to your bank and said he wanted to open a bank account, what would you advise?

Mr. MATHEWSON. Normally, when they would come in, they would come in either as a result of some advertising or our audio-visual presentation at one of the hotels or it was a recommendation. After a number of years in business, 75 percent of our clientele was coming in from recommendations of other clients.

When they would come in, for the most part it had been explained to them what could be done offshore. The Cayman Islands has a confidentiality law whereby it is a crime to divulge account information. Therefore, they should be provided with complete anonymity relative to the account that they would establish.

You can take it a step further by having a corporation, and we provided directors for that corporation so that the individual account-holder never had to sign anything or have his name visible to anyone. And the only one who was aware that this U.S. citizen, in most cases, was the beneficial owner of a corporation was in the Guardian Bank. It was no place else.

Senator LEVIN. So by setting up a corporation, there was another layer of secrecy in effect that would be added to that account. Is that correct?

Mr. MATHEWSON. Yes, sir.

Senator LEVIN. When you indicated before that somebody was paying $5,000 to set up that corporation and then a $3,000-per-year management fee, that is $8,000 up front and then an ongoing $3,000 per year. That is what people were paying for additional secrecy? Is that fair to say?

Mr. MATHEWSON. Precisely.

Senator LEVIN. Isn't that really what this is all about, is that people are paying here to hide assets from usually the U.S. Government to which they would owe taxes on that money if the government knew about it?

Mr. MATHEWSON. Yes.

Senator LEVIN. Did any of your clients open accounts in their own names?

Mr. MATHEWSON. We had very few, possibly a handful, that had accounts in their name only.

Senator LEVIN. In their own name.

Mr. MATHEWSON. Yes. However——

Senator LEVIN. You said in their name only, or in their own name?

Mr. MATHEWSON. Well, in their name only, which was also in their name. However, with those few clients that had an individual account, we referred to it only by the account number. We did not use the individual's name in any paperwork pertaining to it.

Senator LEVIN. All right. The purpose of that being, again, to keep that client's identity secret. Is that correct?

Mr. MATHEWSON. Yes, sir. By the way, I knew very well a Sir Vassal Johnson, who is Caymanian, and he was knighted by Queen Elizabeth on the island for having established the confidentiality laws and the financial secrecy of the island and being responsible for the success of the financial community.

Senator LEVIN. That secrecy is one of the things that attracts people who are trying to evade taxes. Is that fair to say?

Mr. MATHEWSON. Without that secrecy, the Cayman Islands would be a fishing community again.

Senator LEVIN. Am I correct that the Guardian Bank issued credit cards also to its clients?

Mr. MATHEWSON. Yes, sir.

Senator LEVIN. And isn't that the way clients frequently got access to those funds, is through that credit card?

Mr. MATHEWSON. It was another means where they could take funds or earnings out of their account and spend those funds either in the U.S. or worldwide.

Senator LEVIN. And they also did that through wire transfers?

Mr. MATHEWSON. Well, they could do it through wire transfers. However, the card probably was the safest way of accomplishing it.

Senator LEVIN. Now, did you send monthly bank statements to your clients in the United States?

Mr. MATHEWSON. We did not.

Senator LEVIN. Again, that was to keep any records out of the United States. Is that correct?

Mr. MATHEWSON. That's correct.

Senator LEVIN. How did the clients generally deposit their money in that bank?

Mr. MATHEWSON. Several ways: Cash occasionally, checks that they brought in with them when they established the account, and then ongoing, sending checks by regular U.S. mail to the bank. We instructed the clients to make those checks out to G.B., which would stand for Guardian Bank, G.B.&T., Guardian Bank and Trust, or we gave them options to make them out to Sentinel Limited, Fulcrum Limited, and there was one other, and I don't recollect that one. It was Tower Limited.

Senator LEVIN. And then how did the checks get into the correspondent account?

Mr. MATHEWSON. We received a number of checks every day. After we processed them and credited the individual client account, we batched them, sent them by courier to whoever our correspondent bank was at the time, whether it would be the Bank of New York, First Union, or any of the others.

Senator LEVIN. Now, you have indicated what some of the services were that the U.S. banks, your correspondent banks, did for your clients: Clearing checks, receiving and sending wire transfers, and so forth. And those were services that you performed as well, and I believe you said that the U.S. banks were critical to each of those transactions that you performed.

What would have happened if the Guardian Bank had been unable to open a U.S.-dollar correspondent account at a U.S. bank? Could you have handled U.S. clients unless you were able to open those correspondent accounts at U.S. banks?

Mr. MATHEWSON. Remember, there's always a flanking movement, Senator. If we were unable to open a U.S. correspondent banking relationship, we probably would have gone to another bank that had a correspondent relationship and pay them a fee for clearing our checks.

Senator LEVIN. And then would have had an account with them?

Mr. MATHEWSON. Yes, sir.

Senator LEVIN. So that if for any reason you couldn't have opened a correspondent account at a U.S. bank, you then would have done it indirectly through opening an account with a bank that did have a correspondent account at a U.S. bank. Is that fair to say?

Mr. MATHEWSON. That's correct.

Senator LEVIN. But unless you could either open up your own correspondent account with a U.S. bank or establish an account with a bank that did have a correspondent account with a U.S. bank, is it not fair to say that you simply could not have handled U.S. clients?

Mr. MATHEWSON. That's exactly right.

Senator LEVIN. You said in your statement and again this morning that small offshore banks are fully dependent upon the more established banks to give them access to banking services such as wire transfers, check clearing, credit cards, and investment accounts, and that they couldn't stay in business without having this access. My question now then is this: Since these offshore banks are so totally dependent, as you have just testified, upon having ac-

cess to those services through that U.S. bank, either directly by establishing a correspondent account or establishing an account with another bank that does have a correspondent account, is it fair to say that U.S. banks can demand any information and cooperation from a foreign bank that they need in order to decide to open or maintain an account for that bank? In other words, they are the ones that are needed. It is our U.S. banks that are performing the services and that they can demand information that they want or else simply say we are not going to open the account. They have that power, do they not?

Mr. MATHEWSON. Yes, they do.

Senator LEVIN. Thank you. My time is up.

Senator COLLINS. Senator Carnahan.

Senator CARNAHAN. Thank you.

Mr. Mathewson, thank you for being here today. Your testimony is certainly quite eye-opening.

In your former bank, Guardian Bank and Trust Limited, citizens deposited money into your accounts in an attempt to evade paying U.S. taxes. In your estimation, how widespread is this activity?

Mr. MATHEWSON. I can only speak from my own experience. We had many people come to the Cayman Islands, came into Guardian Bank very interested in finding a way to secrete funds in some fashion or another. Taking the Cayman Islands' own publication of $600 billion U.S. dollars on deposit, I have to think it's rather widespread.

Senator CARNAHAN. The Subcommittee's investigation has also uncovered instances where scam artists convinced average citizens to invest money in correspondent accounts for high returns. The banks then refused to return the money to the defrauded investor. While this situation may not be a part of your direct experiences, I would like to know if you have any suggestions on how consumers could protect themselves from these types of scams.

Mr. MATHEWSON. I suppose there will always be con artists out there peddling something that purportedly is going to make them a great deal of money for very little effort. And there's a certain intrigue pertaining to the offshore industry that people are attracted to.

I don't know any way to protect the individual who doesn't detect the con being perpetrated against himself except that, for instance, with the publicity that has been and will be emanating from these hearings, attorneys in the United States and also worldwide are going to warn their clients to stay away from the offshore accounts. If someone is affluent and goes into his attorney and says, hey, I got a million bucks and I'd like to secrete it someplace, the attorney is probably going to say, well, don't do anything, the offshore industry is probably over when it comes to secreting money.

But, again, going back to your question, I have no way of suggesting a way to eliminate this fraud perpetrated on people.

Senator CARNAHAN. Thank you very much.

Thank you, Madam Chairman.

Senator COLLINS. Thank you, Senator.

Mr. Mathewson, in your opening statement, you described Guardian as a run-of-the-mill bank. By that I assume you mean that the kinds of services provided, the reason that people had de-

posits in Guardian Bank, are similar to those of other banks in the Cayman Islands. Is that correct? That the kinds of services you were providing for people who were essentially hiding assets was commonplace?

Mr. MATHEWSON. Yes.

Senator COLLINS. You also stated that you could think of no legitimate reason why an American citizen would use an offshore account, particularly since the charges were so high compared to what an American bank would charge. Is that correct as well?

Mr. MATHEWSON. That's very correct, yes.

Senator COLLINS. And yet there is an estimated $600 billion of American assets on deposit at these banks in the Cayman Islands?

Mr. MATHEWSON. That's what the Cayman Island Government claims.

Senator COLLINS. Given those facts, shouldn't any correspondent account request from a Cayman Island bank to an American bank raise a red flag?

Mr. MATHEWSON. It should certainly set off the alarm bells, yes.

Senator COLLINS. And yet, in your experience, you found it very easy to open correspondent accounts with American banks, with virtually no questions asked. Is that correct?

Mr. MATHEWSON. That's correct. Practically no questions. We also opened accounts with, for instance, Prudential Bache of New York and gave them millions of dollars of offshore funds for investment in everything from shares of Microsoft to U.S. Treasury bills.

Senator COLLINS. And yet, in your judgment, every one of your 2,000 clients at the peak of Guardian Bank's existence, every one of those individuals was hiding assets. Is that correct?

Mr. MATHEWSON. Yes.

Senator COLLINS. Either from the American Government or from a bankruptcy court or a divorced spouse or someone else who was entitled potentially to a share of those assets?

Mr. MATHEWSON. I agree with that.

Senator COLLINS. Thank you.

Senator Levin, do you have any further questions?

Senator LEVIN. Just a few.

In using your correspondent account at American banks, you didn't then have to be particularly clever or in any way deceptive—you could just very readily deposit that money, as the Chairman says, with no questions asked.

Mr. MATHEWSON. Yes. That's correct. There were no questions. We sent checks to them. They cleared them and put them into the Guardian account.

Senator LEVIN. Did they ever press you for information about your operations? Did you have a "know your customer" person come to you every year and say, hey, we want to see what is going on here, whether this money is tax evasion money, whether this is being hidden from creditors in bankruptcy court? Did you have that kind of scrutiny on a regular basis from banks?

Mr. MATHEWSON. Senator Levin, I never had any bank officer from the United States, from a correspondent bank that we were using, come in to talk to me, nor have I ever met anyone.

Senator LEVIN. I just want to comment on one reference you made to the legitimacy of people who were depositing money in

their accounts in your bank. Tax evasion, as you pointed out, is not legitimate, but some of the other reasons that you mentioned as being the reason that legitimate people had for depositing money are not legitimate either, including trying to hide assets from creditors in bankruptcy court. I won't get involved in divorce proceedings because you cannot in a divorce proceeding either hide assets from your spouse and deceive a court as to what assets you have. So with that one qualification relative to your testimony this morning, I think your testimony has been extraordinarily accurate, powerful, and right on target. I would just take exception with that one reference you made relative to the legitimacy of some of the people who try to evade taxes or try to use your accounts for other purposes.

I can't think offhand—now, there may be legitimate reasons, but I haven't heard any this morning, for hiding money.

Mr. MATHEWSON. Senator, I hear you loud and clear. When I said that these people or some of them were quite legitimate, I'm referring to their businesses, they're paying taxes in the United States. However, once they crossed the line and started an account offshore, they were then evading taxes for one reason or another.

Senator LEVIN. When the checks came in to you, did you or your clients put the account numbers on those checks?

Mr. MATHEWSON. We did not. And occasionally we would have a client who was so used to putting account numbers on things in the United States, and they would put their Cayman Island account number on the check. In some instances, we'd send the check back to them and tell them to rewrite it and leave the account number off.

Senator LEVIN. And put the account number on a separate piece of paper?

Mr. MATHEWSON. Correct.

Senator LEVIN. I have a great deal of difficulty with U.S. banks doing business with shell banks, period. It seems to me that all of the problems that those banks create that you have outlined here this morning are such that there should not be that kind of acceptance of an account from a shell bank—at least I can't see offhand the reason why we should allow our banks to do business with a shell bank.

Now, relative to offshore banks, do you think that the same kind of restriction should apply to offshore banks? Should we allow our banks to do business with offshore banks with whom they have no affiliation?

Mr. MATHEWSON. I don't think you have to prohibit our banks from doing business with offshore banks, but I think you can make it so that the individual client who is planning to evade taxes just isn't going to take money offshore.

For instance, we'll say—I'll pick on the Bank of New York since they've been picked on quite a bit recently, anyway. If the Bank of New York had an officer who would go over all of the checks received from offshore banks and all of the wire transfers to see if there was anything in those checks and wire transfers that would smack of fraud, it would cut way down on the use of offshore accounts by Americans, because this publicity would get out.

Senator LEVIN. How about requiring that the account numbers be on those checks?

Mr. MATHEWSON. Yes, right. Well, something on the check. But I think, with thinking it through, that it would be possible to cut down on offshore banking considerably.

Senator LEVIN. The Cayman Islands has strengthened some of its rules since 1995 when you ended your operation in the Caymans, and I think we just want to make note of this, that apparently they have made a number of improvements in the way that they regulate offshore banks. Just this week—and I am sure that these hearings have something to do with it, and our investigation has a lot to do with it—they have made an announcement that any bank that is in possession of an offshore license must maintain an office with a manager and keep its records in the Caymans. That I think would be an improvement, but the practices that you have described do flourish in other banks in other jurisdictions, and we will hope that the Caymans' tightening up will produce some results in the Cayman Islands themselves. But do you have any comment on that recent action by the Caymans?

Mr. MATHEWSON. I am sure that they are attempting to cover their flanks and to keep their financial business going. When you're dealing with a Third World country—and no matter whether they like it or not, the Cayman Islands is Third World—you're always subject to payoffs and activities that are outside of the law.

For instance, about 6 months before Guardian was taken over, I had a political figure come in to see me and ask for $250,000 in cash and a percentage of the bank's shares. I told him to shove off, I wasn't interested. He warned me that I would regret doing this.

Well, hindsight is always great. I would assume it's possible that if I had gone along with his wishes that Guardian Bank might very well still be in existence.

That individual is still a member of the legislative assembly of the Cayman Islands. He is still one who is trying to wiggle around U.S. rules, and I just thought I'd point this out, that they are trying to go around any rules or regulations that are made to impede their financial progress.

Senator LEVIN. Tax evasion is not a crime in the Caymans. But it is here, and what you just described, I hope, is a crime in the Caymans. In any event, if you haven't already reported that to our FBI so that they can send that information to the Cayman Government, I would ask that you do that.

Thank you.

Senator COLLINS. Thank you, Senator Levin.

Senator Carnahan, do you have any further questions?

Senator CARNAHAN. No further questions.

Senator COLLINS. Thank you.

Mr. Mathewson, I would like to thank you for your testimony today. It was extraordinarily helpful to the Subcommittee, and I appreciate your cooperation.

Mr. MATHEWSON. Thank you, Senator Collins. I was asked to bring in one of the Guardian Bank credit cards by Ms. Bean. Would you like to see that?

Senator LEVIN. Yes, could you show us the credit card? Would that be all right, Madam Chair?

Senator COLLINS. Sure.

Senator LEVIN. Would you show us that credit card? And do we have a copy of it? [1]

Mr. MATHEWSON. Now, that was my personal credit card.

Senator COLLINS. What is very interesting about this credit card is it is made out to Guardian Bank. It does not have your name on it or any client's name on it. Is that typical of how the credit card——

Mr. MATHEWSON. It could have been ABC Corporation also, backed by a U.S. citizen. And if you look on the back of the card, you'll see my signature, which is illegible. No one ever questioned that card, and I made a number of charges on it over a period of time, as did many of our clients.

Senator COLLINS. We are putting it on the audio-visual system so that it can be seen.

Senator Levin.

Senator LEVIN. Yes. The fact that your signature is illegible I don't think distinguishes this card from any other credit card. [Laughter.]

Mr. MATHEWSON. No.

Senator LEVIN. In more significant ways, it is very distinctive. It does not have your name on it.

Mr. MATHEWSON. Right.

Senator LEVIN. And what you are saying is that when your bank issued these credit cards, frequently they would be issued to a corporation which had been set up in the Caymans to protect the identity of people so that there would be total secrecy, but that a person who had set up that corporation in the Cayman Islands and who had used your bank to hide their money could walk into a bank here or to an ATM machine and use that credit card, with only a corporate name on it, not their own name on it, and have access to their account at your bank. Is that right?

Mr. MATHEWSON. Exactly, Senator. And if you recollect, early on I mentioned that I have never had an original thought in my life. When I introduced the use of credit cards at Guardian Bank, I did so because I had learned that Barclay's and some of the other major banks were also using credit cards, and I thought, why not, it sounds like a good idea.

Senator LEVIN. It sure makes hiding money and evading taxes mighty simple, and that is exactly what is going on in these kinds of offshore banks. You have come forward, which has been very helpful, and hopefully after these hearings and after we tighten up the law, it is going to be a lot more difficult to hide money that should not be hidden and to evade taxes which should be paid, like other citizens pay their taxes. And hopefully the other kind of money laundering activities which go on at too many of these respondent banks will be reduced significantly. That will come because of a lot of reasons, but in part because of your coming forward here and making this testimony available to us and to other agencies of our Federal Government.

Thank you.

Mr. MATHEWSON. Thank you.

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[1] See Exhibit No. 46 that appears in the Appendix on page 823.

Senator COLLINS. Thank you, Mr. Mathewson. You may be excused.

Mr. Mathewson, we will get your credit card back to you in the hall.

Mr. MATHEWSON. OK.

Senator COLLINS. Although it looks like any of us could use it with impunity. Thank you.

I would now like to call forward our second panel of witnesses this morning. They are representatives of Bank of America and J.P. Morgan Chase.

I would first like to introduce James Christie, who is Senior Vice President, Global Treasury Risk Management of Bank of America. Also testifying this morning is David Weisbrod, the Senior Vice President of Treasury Services Division of the Chase Manhattan Bank or J.P. Morgan Chase, I guess it is more properly called now.

Pursuant to Rule VI, all witnesses who testify before the Subcommittee are required to be sworn, so at this time I would ask you both to please stand and raise your right hands. Do you swear that the testimony you are about to give to the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. CHRISTIE. Yes, I do.

Mr. WEISBROD. Yes, I do.

Senator COLLINS. Mr. Christie, you may proceed.

TESTIMONY OF JAMES C. CHRISTIE,[1] SENIOR VICE PRESIDENT, GLOBAL TREASURY RISK MANAGEMENT, BANK OF AMERICA, OAKLAND, CALIFORNIA

Mr. CHRISTIE. Thank you. Good morning, Chairman Collins, Senator Levin, and members of the Subcommittee. I am Jim Christie, a senior officer at Bank of America, and I am pleased to appear before the Permanent Subcommittee on Investigations to discuss Bank of America's anti-money laundering efforts.

We appreciate the opportunity to meet with you today to discuss some of the cooperative efforts we have taken in working with the U.S. Government to detect and deter fraud and money laundering and also, of course, to answer your questions.

Senator Levin, your staff spent a considerable amount of time with us to learn about correspondent banking and how it works. Senator Collins, we were one of the first banks to volunteer to assist your staff and Senator Levin's staff in this learning process. And, of course, you know we also submitted a detailed response to the survey distributed by the Subcommittee staff members last year.

As we mentioned in our earlier discussions with your staff members and in our response to the survey, correspondent banking is indeed vital to the financial industry. The notion of correspondent banking has been in existence since the creation of banking. Without correspondent banking, the global markets could not function. Correspondent banking is the basis for the settlement of payments and the movement of funds on a worldwide basis.

[1] The prepared statement of Mr. Christie appears in the Appendix on page 143.

According to outside sources, each day, through the use of two major wire transfer systems—that is, Fedwire and CHIPS—trillions of dollars of settlements are made. Bank of America settles approximately 500 billion on a daily basis. However, the same attributes that make correspondent banking work fast and efficient for commerce also make it vulnerable to money laundering.

We take very seriously our role in assisting the United States and other governmental agencies in the fight against money laundering. For many years, law enforcement authorities worldwide have recognized Bank of America as a cooperative institution in assisting law enforcement in its efforts to combat money laundering. An example of our willingness to cooperate, our bank agreed to establish undercover accounts for the benefit of U.S. law enforcement in its Operation Casablanca, a controversial operation that has left the Bank of America brand exposed to adverse media attention. In the past, we also received an award from the Internal Revenue Service recognizing our cooperative efforts with that agency.

We believe that our bank has a solid program in place, including adequate internal controls and practices, to detect and report suspicious activities related to money laundering. In the United States, for example, Bank of America is one of the top filers of currency transaction reports—also known as CTRs—and also suspicious activity reports—known as SARs. These reports are useful to law enforcement in investigating financial crimes and money laundering activities.

In the year 2000, for example, we filed over 1.5 million CTRs and nearly 12 percent of all the CTRs filed with the U.S. Government. In addition, we filed nearly 19,000 of the reported 140,000 SARs filed in the United States, or 14 percent of the total filings.

Our ability to recognize and file reportable activities does not come without a sizable investment in technology and human resources. Bank of America has invested heavily in monitoring systems over the years to capture and report cash and other activities potentially related to money laundering. The bank's internally built wire-monitoring systems, for example, have been reviewed and assessed by numerous regulatory and law enforcement authorities. Several of these agencies, including the U.S. Financial Crimes Enforcement Network—or FinCEN, as it is commonly known—have given our systems high praise. Still, we have not been complacent in our monitoring efforts. In fact, we have recently made a further investment into new technology to enhance our wire monitoring, and we continue to research other available solutions.

Obviously, at the heart of any monitoring system is the person who is reviewing the activity and making judgments about what is suspicious. Here, too, we have increased our staff and upgraded a number of those positions.

Now, let me speak to the business of correspondent banking and how it works within Bank of America.

Our correspondent banking function is organized geographically in four divisions, that is, the United States and Canada Division, Asia Division, Europe, Middle East, and Africa Division, and Latin America Division. Each division has the authority to organize its functional responsibilities in a way they believe best serves our correspondent bank customers while still maintaining the use of our

corporate policies and anti-money laundering controls and procedures. Each of the division managers reports up to the head of our Global Corporate and Investment Banking Group.

As mentioned in our response to your survey, we offer the same correspondent banking services and products that other banks in the industry offer, and you've already listed and named those in your opening remarks.

There is a great deal of separation of responsibilities and controls that assures safety and soundness in how we operate. This functional separation requires a number of staff members to become familiar with our corresponding bank relationships. Overall, we believe this type of organization approach provides outstanding service to our clients and instills proper checks and balances to guard against fraud. It also fosters an environment that encourages our associates to truly know our correspondent customers.

Today we maintain approximately 1,900 foreign correspondent bank deposit accounts in the United States. As a matter of policy and practice, we do not maintain accounts for foreign shell banks. Certainly in the United States, we maintain 1,200 relationships with foreign institutions, including 125 relationships for foreign banks located in the 15 jurisdictions named by the Financial Action Task Force on Money Laundering. The relationships are with branches of institutions that maintain a home base office in one country and have established a physical presence in the Financial Action Task Force-listed country or with banks that are licensed by the local jurisdiction and maintain a physical presence in that country.

Before Bank of America would open a relationship today with a foreign bank in a high-risk country, or, for that matter, anywhere else in the world, a rigorous, risk-based due diligence process would take place. The level of due diligence would depend upon several factors, including, but not limited to, whether the bank is a branch of a reputable bank based somewhere else in the world; whether the bank already maintains a relationship with Bank of America; who the principals are and their experiences in operating a bank; whether a letter of introduction is available from a reputable banking organization; and other such relevant factors.

As part of our correspondent banking policy and standards, an account would not be established for any institution that does not maintain a physical presence in the high-risk country in which the bank is licensed. As mentioned earlier, we do not currently maintain, to the best of our knowledge, any correspondent accounts for foreign shell banks.

Minimum due diligence that typically would be required to open a correspondent bank account will include a copy of the bank's incorporation documents and bylaws, the institution's latest financial statements, a copy of the resolution of the board of directors authorizing them to proceed with establishing the relationship, and dealing with those who are authorized to do so, plus certified copies of the passports of the principals, a search of the company registry, or equivalent, or an undertaking from a law firm as to what documents are held on the registry and any other relevant documents.

A visit to the institution's physical operation and, where applicable, to the primary place of business is also required. We will also

want to know what "know your customer" standards the applicant bank has in place; what type of client base the applicant maintains; whether the correspondent bank will offer services to other foreign correspondent banks, including any located in high-risk countries; whether the bank has monitoring systems in place to detect and investigate unusual or suspicious activities related to money laundering; and the typical amounts and volumes of activity the bank anticipates having with us and whether these volumes seem appropriate.

We might also ask for the results of audits and regulatory examinations. However, there is no certainty that this information would be provided to us.

We will also look to other due diligence information such as search of publicly available data on the applicant or its principals. Also, we generally have an understanding of most regulatory environments, especially if Bank of America has a physical presence in the jurisdiction. If not, we would assess the regulatory environment as well. In fact, several units within our bank meet on a constant basis with regulatory authorities. We would also check the applicant and its principals against Office of Foreign Asset Control—i.e., the OFAC list—to see if there were any matches.

It should be noted that our wire-monitoring systems are used to monitor transactions, not the normal or expected activities of the foreign bank customers themselves. We look at certain types of information contained in the wire transaction fields to determine whether or not the transaction is suspicious. If we find an issue with a transaction, we refer the transaction back to the relationship manager and foreign correspondent bank for further resolution with its own customer. If the transaction were deemed reportable under U.S. regulations, we would also file the required suspicious activity report in the United States.

If the transaction involves a foreign bank customer who also maintains an account with Bank of America in the United States, the transaction may have already been identified by the monitoring systems.

We assess several factors in making the decision to close out a relationship with a high-risk foreign bank. The factors might include a change in our business strategy, a downturn in the foreign country's economy, a credit decision, turnover in the correspondent bank's management, a loss of confidence in the principals of the foreign office, or a lack of comfort in the type of customers that the foreign bank maintains.

As I said before, we send $500 billion through the system each day; therefore, Bank of America certainly recognizes its corporate duty to be the leader in trying to fight against money laundering. In addition to our policies and procedures and the monitoring systems I mentioned earlier, we have undertaken many steps to combat money laundering. This includes especially training of our associates on the importance of recognizing and reporting unusual and suspicious activity. Bank of America has been favorably recognized by the law enforcement community, as I mentioned earlier.

Senators Collins and Levin, you have asked us to discuss our relationship with Swiss American Bank and American International Bank. It is generally not our policy to discuss, particularly in an

open forum, our relationship with bank customers or information about customers. Certainly both of you can appreciate this.

However, under the circumstances, we shall provide you with the history of the accounts, and I am prepared to discuss these relationships with you today to the best of my ability.

I see the red light. I better hurry up.

Senator COLLINS. Why don't you take a couple more moments and finish up?

Mr. CHRISTIE. OK. Thank you.

I think we'll probably get into the details of American International Bank and Swiss Bank, so I don't need to refer to those at the moment. It would be the opening and closing of those accounts.

Regarding the recommendations, you have asked us to comment on what more can be done beyond our own continued efforts to combat money laundering. As I noted earlier, we take seriously the problem of money laundering. One recommendation we have is to strengthen communication efforts between the government and the banking industry. Given our discussions with your staff and dealings with regulatory and law enforcement staffs throughout the world, we are aware that many governments have been able to identify, through their own investigative efforts, the names of individuals, companies, banks, other organizations, and countries that continue to facilitate or tolerate other money laundering activities. In fact, your staff has done a great job—I have to compliment them—in uncovering a lot of information about our ex-customers, AIB and Swiss American Bank, including some of their customers that I am not sure we, in the banking industry, could have uncovered on our own.

It would be extremely beneficial for the U.S. Government and foreign governments to provide these names to the banking industry, these suspicious names. U.S. banks, including Bank of America, are already required to maintain a system to interdict funds transfer activity for OFAC. By providing us with the names of the entities that are engaged in fraud and other related activities, we could add this information to our monitoring systems and identify for law enforcement the activities of these entities. This information would in turn potentially allow us to identify the accounts of or relationships with the named entities.

In the past, the U.S. Government has provided us the names of countries and high-risk areas for drug trafficking and money laundering, such as the report FinCEN released on Antigua a couple of years ago. It would be even more beneficial to provide us with the names of the entities that the U.S. Government "knows" are promoting illegal activities.

In conclusion, I wish to thank the Chairman and Senator Levin and other Members of the Subcommittee for the opportunity to voice Bank of America's position on this topic and assure you that we will continue our efforts worldwide to assist in the fight against money laundering. Also, again, I wish to thank the staff members for their investigative efforts. The resulting report helped to shed light on the need to change and enhance many of our policies and procedures at Bank of America.

I personally have learned from this exercise, and as a result, we have already expanded our wire-monitoring process, established

more stringent and formal procedures for both opening and closing accounts, and we have put processes and procedures in place to better coordinate suspicious information with relationship managers, senior managers, and including my own risk management staff.

Again, thank you for this time on today's agenda, and I look forward to answering your questions.

Senator COLLINS. Thank you, Mr. Christie.

Mr. Weisbrod, would you proceed, please?

TESTIMONY OF DAVID A. WEISBROD,[1] SENIOR VICE PRESIDENT, TREASURY SERVICES DIVISION, THE CHASE MANHATTAN BANK, NEW YORK, NEW YORK

Mr. WEISBROD. Thank you, Madam Chairwoman. My name is David Weisbrod, and I am a Senior Vice President of the Chase Manhattan Bank in our Treasury Services Division. In such capacity, I have oversight responsibility for the division's credit and operating risk management policies, procedures, and practices attendant to the bank's relationships with approximately 3,500 correspondents. The Chase Manhattan Bank, headquartered in New York City, is the largest bank of J.P. Morgan Chase and Company, a multi-bank holding company with assets in excess of $700 billion. I appreciate the opportunity to make this statement on the very important topic before the Subcommittee today, international correspondent banking and money laundering.

Correspondents maintaining accounts with Chase in New York sometimes have credit relationships with us, but almost always require U.S.-dollar funds transfer clearing services. To place the size, scope, and importance of the clearing business in perspective, on an average day Chase processes over 220,000 wire payments with a value in excess of $1.2 trillion. On January 16 of this year, we experienced a record volume day when 363,000 wire payments for $1.8 trillion were processed. This translates to $21 million processed nearly every second, with an average transaction size just under $5 million.

Over 93 percent of these transactions are processed straight through, which means that the transactions are done entirely by our automated systems, without any manual intervention. While we are proud of our funds transfer prowess and its importance to worldwide commercial interchange and the global capital markets, we also understand our special responsibility to guard against the laundering of money and other criminal abuses in the system.

By way of background, our primary focus in the creation of a global funds transfer system and the resulting processes surrounding correspondent bank risk management has been upon safety and soundness issues, that is, upon the credit risk and operating problems that might lead to large credit exposures that could otherwise disrupt the smooth functioning of the payment system. These are very important public concerns that must remain in the forefront of an effective risk management program. In the last 2 years, however, we have witnessed revelations as to how the Bank of New York was used in connection with money laundering

[1] The prepared statement of Mr. Weisbrod appears in the Appendix on page 156.

schemes orchestrated through several Russian banks. In the wake of that incident, heightened attention has been given to the need to expand anti-money laundering programs to protect banks from being exposed to such illicit funds transfer activities. We, at Chase, have taken a series of steps to expand our anti-money laundering initiatives.

First, Chase has significantly enhanced its new account-opening procedures and "know your customer" due diligence. We are currently conducting, as Senator Levin referred to, a review of our entire correspondent bank base using these enhancements. As part of that review, all existing and new Chase customers will be documented utilizing a new "know your customer" checklist. The checklist covers such items as the customer's history of doing business with Chase, a detailed understanding of the customer's ownership structure, whether it is a publicly owned entity or privately held, understanding of the customer's cash flows and Chase products to be used. The checklist also requires responses as to whether the customer has sustained negative media coverage and the source of referral for the relationship. In addition, the customer is requested to provide its most recent audited financial statements, preferably for the last 3 years. And a first priority for this review has been placed upon the FATF countries, Antigua and Barbuda, and the Seychelles. If after this review we are uncomfortable with the continued maintenance of any account, we intend to close it.

Second, all Treasury Services' customers will be subject to periodic reviews in order to assure that the circumstances have not changed that would significantly affect the manner in which their accounts are utilized or in such a way as to present an unacceptable risk of illegal activity. The periodic review cycle will vary based upon the perceived risk of doing business with a particular set of clients or jurisdictions.

Third, Chase has enhanced its anti-money laundering transaction monitoring efforts in several ways. Last year, we established a Funds Transfer Monitoring Committee, co-chaired by myself and our chief compliance officer, which meets monthly to review questionable funds transfers. As part of this process, we have launched a Web-based monitoring system designed to review U.S.-dollar funds transfers on an after-the-fact basis. The system utilizes patterning or watchlist methodologies to flag potentially suspicious transactions. The transactions are then evaluated by a dedicated staff set up for this purpose. All of the FATF countries are included on the watchlist. Chase has had for some time a monitoring committee that meets periodically to review questionable strings of money orders or traveler's checks.

Finally, Chase has intensified its effort to provide anti-money laundering training to even more of its employees, recently introducing a new Web-based training and testing program for employees having desktop Internet access. All 4,400 Treasury Services employees will be required—mandatory—to take this training and to pass an online test. Not only do they have to do the training, but they have to pass a test as well. Chase has always been in the forefront in providing anti-money laundering training, having trained, through 1999, over 27,000 employees in domestic locations and over 16,000 employees in foreign locations.

Our Bank Secrecy Act compliance program is specially focused upon high-risk banks and high-risk products. I have just mentioned the high-risk countries which have been our focus. In such countries, and elsewhere, it has been our practice not to open accounts for shell banks. With offshore banks, we intend to maintain a heightened sense of vigilance, for we now better understand some of the ways in which offshore banks in high-risk jurisdictions can be exploited for money laundering or other dubious purposes. While these risks are recognized in its 1999 Working Paper on Offshore Banking, the International Monetary Fund has identified offshore financial centers, or OFCs, as "an important and growing intermediation channel for emerging economies." Moreover, the IMF has reported that "a number of legitimate factors continue to attract financial institutions and investors to OFCs." As the Minority staff's February 5th report points out, there are over 4,000 offshore banks. An important future challenge facing us will be to determine how we can develop procedures which will enhance our ability to separate the good banks from the bad banks, the vigilant from the less vigilant.

In addition to high-risk banks, we well understand the risks associated with the high-risk products identified in the Minority staff's report, that is, wire transfers, payable through accounts and pouch/cash letter activity. I have already mentioned our automated systems for monitoring wire transfer activity and monetary instruments. In the case of payable through accounts, of which we only have two, we follow judiciously the guidelines of the Federal banking regulators. Moreover, we have a corporate-wide policy which requires that any such account be approved by a senior officer and notified in writing to the bank's chief compliance officer.

Combating money laundering and other illegalities within the international correspondent banking system is no easy task. The Minority staff's own report on page 41 recognizes that due diligence information is often difficult to obtain from foreign jurisdictions, and that which is obtained may be limited or difficult to evaluate; that language barriers may impose additional difficulties; that travel to foreign jurisdictions by U.S. correspondent bankers is costly and may not produce immediate or accurate information; and generally that due diligence, both at account opening and continuing after the account is opened, is not easy in international correspondent banking. And we could not agree more.

We recognize that the need to hone our Bank Secrecy Act compliance program is ongoing, but we do not purport to have all the answers. For example, the whole notion of "nesting," as it is referred to in the Minority staff's report, is a very, very difficult problem. It is typical for small banks to maintain accounts with slightly larger banks, who maintain accounts with more and larger banks and so forth and so on. These relationships are necessary and appropriate, in fact, essential to the conduct of global, commercial, and capital markets activities. Unfortunately, these tiered relationships can also hide and make difficult to detect illicit activities.

We need to bring the expertise and experience of the financial services industry to address these and other difficult issues, and we need to do it now. An example of how effective such an effort can be was demonstrated by the recent Wolfsberg Principles on private

banking. In a similar vein, Chase has enthusiastically joined with its fellow members of the New York Clearing House in creating a task force to develop best practice principles for correspondent banking.

We welcome the opportunity to work closely with our State and Federal banking regulators in areas such as this, although we do not expect our regulators either to have all the answers. As cited in the Minority staff's report, for example, it was not until September of 2000, just a few months ago, that the Comptroller of the Currency identified international correspondent banking as a high-risk area. Money laundering attendant to international correspondent banking is, in fact, an international problem. We thus support the efforts of the Financial Action Task Force, the Basel Committee on Banking Supervision of the Bank for International Settlements, and other national and international organizations worldwide which are focused upon this problem. While we believe it to be impossible to have complete assurance that no bad actors are slipping through the system, with a renewed vigor on the part of the private sector, with help from our domestic banking regulators, and with the cooperation of foreign governments and international agencies, we all can do better in the future.

Senator COLLINS. Thank you.

Senator Levin, why don't you lead off questioning this round?

Senator LEVIN. Thank you very much, Madam Chairman.

First, let me thank our witnesses and the banks that they represent for the cooperation which they have shown in this investigation, and their filling in of the questionnaires. That is very helpful. We are going to be looking through these questions into some of the past actions of these banks. But as far as this investigation is concerned, you have been very cooperative and your willingness to help us sort through some of these issues is essential.

First, on the question of shell banks, I think that you testified just a moment ago, Mr. Weisbrod, that you do not open a correspondent account with a shell bank. Is that correct?

Mr. WEISBROD. Yes, sir.

Senator LEVIN. OK. I believe you have also indicated that for the Bank of America, Mr. Christie?

Mr. CHRISTIE. That's true.

Senator LEVIN. Is there any reason why we should not just flat out prohibit U.S. banks from opening correspondent accounts with shell banks?

Mr. CHRISTIE. Personally, I think it would be just fine, but some lawyers would tell you that there might be unique situations for legitimate transactions. But I don't know what they would be.

Senator LEVIN. Mr. Weisbrod.

Mr. WEISBROD. I haven't thought of the need for legislation in this area. I think that the banks themselves that are attentive to the issue will unilaterally make the same decisions that Bank of America and Chase have.

Senator LEVIN. What about the banks that aren't attentive to the issue?

Mr. WEISBROD. That is a good question.

Senator LEVIN. Is there any reason, though, that you can see why we should not either through regulation or through law just simply prohibit the opening up of an account with a shell bank?

Mr. WEISBROD. I can think of no reason offhand why.

Senator LEVIN. First, Bank of America. You established a correspondent relationship with Swiss American National Bank in 1987, and then in 1990 and 1991, the relationship manager raised concerns about the management and operations of the bank. In June 1991, Swiss American National Bank, which was an onshore domestic Antiguan bank, wrote to the Bank of America, canceled its account, and instructed the Bank of America to open an account for its offshore affiliate, Swiss American Bank. The relationship manager for the Bank of America at that time told our staff that it looked like the account was opened without anyone at the Bank of America making a determination if they wanted the Swiss American Bank to open an account—in other words, no vetting, no due diligence by the Bank of America in that one. The relationship manager said that the Swiss American National Bank and the Swiss American Bank were both the same institution.

A similar thing happened with Chase. Swiss American National Bank had an account with Chase since 1981. In 1995, Swiss American Bank—that is the offshore bank—opened an account. The account-opening documentation contained little more than an annual report, and here is what the sales representative wrote: "Given that there is a demand deposit account already opened in our books in the name of Swiss American National Bank of Antigua, no further account justification comments are included."

But the two banks were different in significant ways. The National Bank was a domestic commercial bank, which was regulated by the Eastern Caribbean Central Bank; whereas, the Swiss American Bank was an offshore bank, catering to international clients and regulated by a jurisdiction that had little or no regulation at the time, and that was Antigua at that time. But the only thing that the two banks had in common was the management, and Bank of America had concerns about that.

So I would like to ask both of you: Shouldn't there have been more due diligence to explore the primary focus of Swiss American Bank's business and the nature of its clientele to better understand what Swiss American Bank was going to do before accepting its account?

Mr. CHRISTIE. All right. I'd like to answer this way: I think if we can look back in history a little bit, a long time ago, probably when I first started with the Bank of America, correspondent banking was not deemed to be a risky business. In fact, it was sort of a boring business for anybody who wanted to get ahead in a bank. And so not enough attention was paid to it, and there was no risk, there were no losses, there was no harm. And this was before we learned about money laundering related to narcotic drugs and so forth moving through the banks.

So the account officers grew up in an environment that said all banks are good, and the more banks we can have in our portfolio, the better, and this is a good business because we already have the machinery and mechanisms for clearing checks and wire transfers and so forth. So if you can think of that as the environment and

for some of the account officers that grew up in that environment, it was more of a knife-and-fork kind of business. You went out and you had lunch or dinner with them, learned what they were doing, and perhaps played golf and came back and looked at the balances.

Well, obviously, in this case, in 1987, when the account was opened, that was certainly true with regard to the account officer at that point in time. That's when we first started the relationship with the Swiss American National Bank. In fact, that person happened to be in Antigua and thought he knew everybody in Antigua and thought he knew the regulations there and thought that he could do no harm.

But in 1991, the environment was still somewhat the same except by this time we knew that banks could fail, so we had greatly enhanced and heightened our concerns and awareness about the credit quality of banks and any kind of credit risk we might take with a bank.

So if it was going to be a bank or a transaction that was going to require credit, a different attitude was present, plus more sets of eyes would have looked at the bank or the transaction. But in this case, it was not a credit transaction. It was not a credit opportunity. It was simply in the account officer's mind, this existing customer of ours who's been with us for a number of years now, gee, they're simply rearranging their banking relationship. I mean, I saw some of the memos that your staff saw, and, in fact, there's one statement in there that says, oh, well, they're just opening another account. And so you're right. No one stopped at that point in time and took a deep breath and said, what is this new bank that we're opening the account for?

Had we stopped and done that and had we had the benefit of all the knowledge we have today, after all of the investigations and reporting that we now see from your staff, obviously we should have done something different. But the environment didn't call for it then.

Also, in that time frame, an account, as long as there was no credit, could be opened by the authority or the authorization of the account officer, him- or herself. So I'm afraid that the environment was different at that point in time, and that's how the accounts got opened.

Senator LEVIN. Do you have any comment on that?

Mr. WEISBROD. I would answer your question with one word, and that is, yes, there should have been more due diligence. And we have an enhanced program which we're implementing now to avoid a repetition.

Senator LEVIN. OK. Mr. Christie, now relative to American International Bank. The Bank of America established an account for American International Bank in 1993.

Mr. CHRISTIE. Correct.

Senator LEVIN. The relation manager heavily relied on the fact that he knew the owner of the bank, Mr. Cooper, from when Mr. Cooper had been affiliated with other Antiguan banks. American International Bank was a new bank. It had no operational history. There was little probing by the relationship manager into the nature of the bank or its clientele.

The material which was supplied to your bank by the American International Bank, however, raised some questions. First, it indicated that although the American International Bank was formed in 1990, it did not hold its first organizational meeting until December 1992 and did not begin operations until mid-1993. Should that have raised a red flag?

Mr. CHRISTIE. It seemed strange to me when I saw the facts, yes.

Senator LEVIN. All right. Now, we also have portions of a brochure of the American International Bank, which was included in the account-opening documents. So when they opened the account with you, this was a brochure which was given to you. It stressed confidentiality, called it a competitive advantage, stressed that the host country has criminal penalties against disclosure of client information, except by the order of a court. It notes that there are no tax treaties or information exchange treaties between Antigua and foreign countries, other than England. It touts the advantages of forming an international business corporation in Antigua, and no reporting requirements on offshore activities. The books of the corporation may be kept in any part of the world. Wherever those books are, if you can figure out where they are, you can try to get them, but you will never know where they are because they can be anywhere. They are allowed to be kept anywhere. They don't have to be kept in Antigua.

Shares of the corporation may be issued in bearer share form, which means that the owner of the company is whoever has physical possession of the shares of the corporation. So you never know who the ownership of your account is when you have these bearer shares.

Shouldn't this brochure emphasizing those ways to keep secret this money, shouldn't that have raised some red flags? Shouldn't that have set off some alarm bells?

Mr. CHRISTIE. Absolutely. I can't deny that.

Senator LEVIN. My final question, and my time on this round is up, I am just curious about this. Do you know whether or not it is still the law in Antigua that the books of the corporation may be kept in any part of the world and that share certificates can be issued and registered in bearer form?

Mr. CHRISTIE. I don't know.

Senator LEVIN. Do you happen to know, Mr. Weisbrod?

Mr. WEISBROD. I don't.

Senator LEVIN. Thank you. My time on this round is up. Thank you.

Senator COLLINS. Thank you, Senator Levin.

I mentioned in my opening statement that one of the aspects of this investigation that has troubled me is that American banks seem to do much more due diligence when they are extending credit to correspondent accounts than when they are just providing fee-based services. And there are numerous examples of that. I would like to ask you, Mr. Christie, about one. I realize it goes back many years ago, but I think it amply demonstrates the difference in due diligence that is applied when a bank has its own funds on the

line, and it is Exhibit 14[1] in the book that I am going to be referring to.

In 1993, 2 years after opening a correspondent account for Swiss American Bank, the relationship manager sought approval to establish a line of credit on behalf of Swiss American Bank's private banking clients. And the request was denied by Bank of America's credit manager because, in his opinion, the risk potential was too great for the bank. And he noted that, "We know little about the parentage of this bank" and "its structure appears designed to isolate the real owners and to take advantage of tax and regulatory havens."

He further goes on to say in the exhibit, "The potential for being blindsided is quite pronounced, and I'm not in favor of the presentation. If we knew more about the parentage, respectability, and integrity of the bank, I would be willing to consider trade finance, but I would continue to believe that we should not extend credit to service their private banking clients."

This is a pretty serious indictment of this whole account, isn't it? Here the credit manager is saying that we just don't know enough about the parentage, respectability, and integrity of the bank. I don't understand why that finding by the credit manager didn't trigger a review of the entire relationship that Bank of America had with Swiss American Bank. If those kinds of findings were made when Bank of America was considering extending credit to Swiss American Bank's customers, why didn't that trigger a review of whether this correspondent bank account should even exist, whether you should be providing any services?

Mr. CHRISTIE. Excellent question. Obviously being a credit and risk manager type person, this fellow did a good job. I would say that. But the problem then was—and I will tell you it's not the same today. But the problem then was that too much of this was somewhat compartmentalized, and also because we didn't give credit to this bank, the full, if you will, control of what we did with that relationship was left within the hands of that relationship manager. And so the relationship manager in this case went to the credit department and said can we have credit, and the credit department said no; he walks away and says, well, it's not worth fighting—I believe that's also in your documentation—but the credit department in those days had no further obligation to report this up or to report it across the organization. That probably should not have been that way at that time. You wouldn't have had this question, and we probably wouldn't have had the account.

Today, as my friend next to me was saying, today we wouldn't open the account without someone on my staff, which is risk management, reviewing the documentation and the due diligence and making sure we would be comfortable in having this relationship in our portfolio, and not that we're necessarily going to give them credit on day one, but if this sort of request came up, how would we react to it in the future?

So what you're citing historically is absolutely correct, and I think it was not well managed at that time. I think today we've taken steps to correct that.

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[1] See Exhibit No. 14 that appears in the Appendix on page 718.

Senator COLLINS. Mr. Weisbrod, I want to give you an example that is more recent, and that is in some ways more troubling. In the fall of 1999—and I am going to be referring to Exhibit 41,[1] if you want to follow along. In the fall of 1999, Swiss American Bank asked Chase to open foreign currency accounts for Swiss American Bank and Swiss American National Bank in London. Now, presumably because these accounts, again, posed a greater risk to Chase than those institutions' existing accounts, Chase's credit manager conducted another review of the two banks, and the review included some pretty strong language.

The Chase credit manager wrote, "My own unscientific grading of certain geographic locations includes the presumption (biased obviously) that anything from Antigua is probably diseased and contagious and should be avoided like mosquitoes in Queens."

He then goes on to say, "Meanwhile, my head is going back into the sand on this one," which is a troubling statement.

I find this remarkable in many ways. If, in fact, a credit manager felt that anything from Antigua should be avoided—and I think some of the testimony we heard from Mr. Mathewson about tax havens suggests there may be good reason for that—why did—well, let me ask, first of all, did Chase go on to open the foreign currency accounts in London in this case?

Mr. WEISBROD. No, Senator Collins, we did not open the multicurrency accounts, and just one minor point of correction. The document that is referenced is really written by a client manager. This would not be written by a credit officer. But that's——

Senator COLLINS. Well, it is still an employee of Chase who is raising concerns about doing business with this bank.

Mr. WEISBROD. Yes.

Senator COLLINS. Is that correct?

Mr. WEISBROD. Yes, which is why I said it's a minor correction, because the fundamental point of your question is still germane.

I believe what was referenced in this message is an account being opened elsewhere in the organization. What the client manager was attempting to say is that this is an area of the world that is, as Mr. Mathewson described this morning, an emerging market, one where the standards are not as high—he does put it in very graphic terms in the message here—not as high as we're used to in this country; and that anyone who would be opening accounts or dealing with businesses in that part of the world should be mindful of that. He was really referring to another area of the bank that was going to be opening this particular account and hoping that they were as mindful of the "know your customer" principle as he was. And, yes, it's written in very colorful language.

Senator COLLINS. But, in fact, Chase continued to do business with Swiss American Bank for some time. Is that correct?

Mr. WEISBROD. Yes.

Senator COLLINS. And it is my understanding that actually Chase closed its accounts only in October of last year. Is that accurate?

Mr. WEISBROD. Well, we initiated the closing of the account in April, and the account was finally closed in October of last year.

[1] See Exhibit No. 41 that appears in the Appendix on page 812.

Senator COLLINS. One of the things that troubles me—and our investigation has documented this—is it seems to take an extraordinarily long time between when information is conveyed to the bank that there may be suspicious activity, even if that information comes from a law enforcement official, and when an account is actually closed, and I would like to have you both comment on why that is. Mr. Christie, we will start with you.

Mr. CHRISTIE. Well, certainly there are good and bad examples, and, unfortunately, you are seeing a couple bad examples from us. But part of it is that we are dealing with what we believe is suspicious information and activity about a bank's customers. And so if you believe—until someone is proven guilty, our lawyers have trained us over the years, many, many years, that you have to be careful in how you handle your relationship with your customer, either when you deny them loans or when you close their accounts. Because if you in some way damage their business or their reputation, they could come back to you in U.S. courts of law and sue us for that damage.

Especially with a bank, if you were to put them in a position where they have to—they are scrambling around looking for other accounts and the word gets out that, well, gee, Bank of America is closing them out, I wonder what's wrong, and all of a sudden it gets to their customers and the customers could come flooding in and draining their deposits out of the accounts—I mean, that is "sky is falling," I understand, but that's the worry and concern that we do have on our minds that we don't do something untoward. But that doesn't excuse us for some of the long terms that it takes while they are trying to find another correspondent bank account. And, typically, in my humble opinion—it depends on your account agreement with the customer and what it legally says in the account agreement. It could bind you to 30 days. It could bind you to 60 days. I've seen some that bind you to 90 days after giving notice. Ninety to 120 days should be sufficient. And as I say, in our new process and procedures, we will be tightening that up, and it will have oversight by people like my risk management staff, whereas before, as I said earlier, this was allowed to happen because the relationship manager, with other things on his or her mind, and the account administration folks with other things on their mind, once they close down the cash management products, which they thought was the risk, i.e., the wire transfer services, cash letter and so forth, letting the account slowly drain down to nothing was sort of a non-event in their mind, and, yeah, we'll close it when it gets down to zero.

Senator COLLINS. Mr. Weisbrod.

Mr. WEISBROD. Senator Collins, there is one remark that you made which I would like to make sure we are clear about, and that is that if a—I think you referred to a law enforcement officer. I don't believe a law enforcement officer contacted us during the Swiss American incident, certainly not directly with anything adverse about the bank.

I certainly endorse everything that my colleague to the right has just expressed, but I would emphasize, very strongly emphasize that if we do get communication from a law enforcement officer about suspicious activities regarding a bank customer, then we

would take action—in fact, I think that is what happened in the instance of AIB. We were more forthcoming in terms of closing.

Senator COLLINS. Thank you.

Senator Levin.

Senator LEVIN. I want to go back to the American International Bank for a moment and ask you, Mr. Weisbrod, about your entering into a relationship with the American International Bank.

First of all, the Chase sales representative talked to the American International Bank and described in a memo what the primary function of that American International Bank was. And the last line, or second from the last line in that memo—and this is Exhibit 40 [1]—says, and I am going to paraphrase part of it, basically that taking in deposits from U.S. nationals is not a transgression. It becomes a transgression if and when these nationals end up not reporting the investment. In other words, that is the transgression of American law; that is the income tax evasion.

But then this is what your sales representative was told, that that is of no legal concern to the offshore depository institution. That is of no legal concern to American International. Well, it may not be of legal concern to them, technically, but it surely ought to be of concern to you in terms of your knowing your customer—that you were told or your sales agent was told by this potential customer that is of no concern to them that their depositors are engaged in income tax evasion in the United States.

So while maybe technically the person at American International is correct, it seems to me that is where "know your customer" should be triggered. That is where you folks should say to yourselves, well, wait a minute, if that is the view that this potential customer takes, we have got to be very cautious before we accept that customer as a depositor if he doesn't care whether that money is dirty money.

Do you agree with that, looking back at that statement of your account sales representative?

Mr. WEISBROD. The American International account was opened about 5 years ago. I don't think this account would be opened today, based upon several factors: Our enhanced due diligence policy which we are very proud of and implementing very forcefully, but, moreover, because this account was opened 3 years before the FinCEN advisory alert on Antigua, and years before the FATF alert on troubled countries, as well as before the OCC came up with its handbook.

So the issue—as I think Mr. Christie pointed out, the sensitivity regarding this issue was not as great then as it is now. So I would give assurance to the Subcommittee that such an account would not be opened today by us. At the time, I would say that our sales officer had no evidence of tax evasion, although—reading between the lines, and as Mr. Mathewson testified this morning, you could infer it.

Senator LEVIN. It is not just that you can infer. It is that when that depositor says it is of no legal concern to us that this money is dirty back in 1996—should that not have set an alarm bell about who that customer is?

[1] See Exhibit No. 40 that appears in the Appendix on page 810.

Mr. WEISBROD. No question, it should——

Senator LEVIN. I am talking about 1996. Shouldn't that have triggered an alarm?

Mr. WEISBROD. I don't think that the bank was saying the money was dirty. I think they were saying that they had no obligation under the law of Antigua.

Senator LEVIN. They have no problem accepting dirty money under Antiguan law, but you have a responsibility as an American bank to know your customer and not to accept as a customer somebody who does accept dirty money.

Mr. WEISBROD. We have a responsibility to know our customer, yes, sir.

Senator LEVIN. And to accept as a customer, hopefully, a bank that accepts legal money. Is that not what "know your customer" is all about? If they don't care whether the money is illegal or not and they have no "know your customer" requirements whatsoever at that potential customer bank of yours, shouldn't that have been a concern of your bank at that time, even? I know it is a concern now, but even then should that not have been a concern?

Mr. Christie is shaking his head "yes," so maybe you have different answers to that question.

Mr. CHRISTIE. I am sorry. I don't want to put my colleague on the spot.

Senator LEVIN. OK.

Mr. WEISBROD. The only confusion that may be here is that there is no—I think Mr. Mathewson testified this morning that there is no law preventing Americans from depositing with that bank, and that the bank in Antigua has no obligation under its law to report that income.

Senator LEVIN. But you are missing my point, I think, which is your obligation relative to your customer. I hope that would include that you not accept as a customer a bank which says we don't care whether that money is dirty, we have no obligation under our law to do anything about it.

Mr. WEISBROD. I accept the point, Senator. As I said at the beginning, this is not an account—I emphasize—not an account we would open today. I accept the point totally.

Senator LEVIN. I will finish this particular offshore bank, the American International Bank, questions with just this last question, and thank you for extending my time, Madam Chairman.

Bank of America terminated its relationship in April 1996 with American International, and this is what a Bank of America relationship manager who had handled that account wrote in July 1996,[1] that "exiting that relationship . . . also seems to have been prudent, since although no proof is, of course, available, the reputation in the local market is abysmal." Their reputation in the local market is abysmal. That is what Bank of America said their reputation was.

"Rumors include money laundering, Russian mafia, etc., while management of that bank also now includes the former manager of SAB, again not a reassuring situation." So, that is what their

[1] See Exhibit No. 4 that appears in the Appendix on page 698.

folks found in terms of that reputation. They were glad they were out of it and talked about the reputation and said it was abysmal.

Now, Chase obviously had a different view at that time because while Bank of America was glad it was out of it because of the local reputation of that customer, you were opening an account, presumably because you had a different view of that customer or else you never would have opened it.

How is it possible that two banks on the same customer had such divergent views of their reputation?

Mr. WEISBROD. We didn't know that its reputation was abysmal. Had we known that at the time, we would not have opened the account. We did make some effort to find out. We had, I believe, two references from reputable banks before we opened the account, and had made some exploration about the management; I believe even obtained a copy of its "know your customer" policy and reviewed that policy with the management. But had we known that the reputation was abysmal, we would not have opened the account at the time.

Senator LEVIN. Thank you.

Senator COLLINS. Thank you, Senator Levin.

Mr. Christie, you mentioned in your opening statement the number of changes that Bank of America made in order to improve its safeguards against money laundering, and you said that the new organizational approach fosters an environment that encourages our associates to, "truly know our correspondent bank customers."

You also said that your bank has made a decision, which I commend you for, to not open correspondent accounts for shell banks.

Mr. CHRISTIE. Right.

Senator COLLINS. I am trying to reconcile these two statements because we know that what some shell banks do is open accounts with other foreign banks, which in turn open accounts with U.S. banks. As part of your process of opening up new accounts so that you, "truly know our correspondent bank customers," do you ask whether the foreign bank is doing business, or whether you, in effect, will third-hand be doing business with a shell bank?

Mr. CHRISTIE. First of all, again, the investigative staff did a fantastic job of ferreting all this convolution out for us, and we appreciate that very much.

Honestly, until a year ago, should you logically have understood that that might have happened? Sure, you should have. Did the correspondent bank account officers think about that at that point in time? Probably not. In fact, I don't think so. Again, they thought "I am doing my due diligence on this bank that I am going to do business with and, gee, I don't see them doing anything illegal. And, gee, I have looked at their 'know your customer' policies which, they could write overnight on the back of a napkin if they wanted to. So I am OK with this bank."

But I don't think they stopped to think and connect the dots backwards, as the Senate investigative report has helped us do now, into this "nesting" concept. So as I said in my opening comments, and I think it is in my testimony, that one of the new procedures that we have adopted, is to drill deeper into what that bank does, who its customers are, what its customer base is.

And one of the questions is, will they be doing business with other correspondent banks? Who are going to be those correspondent banks? What is the legitimacy of that? So we have changed all that dramatically now. Did we do it in the past? No.

Senator COLLINS. Is that just going forward or are you taking a look at the correspondent accounts that you have now, because I suspect you may well discover you are doing business indirectly with a shell bank that is in the nesting situation that we have described?

Mr. CHRISTIE. No. You are absolutely right. That is a very good possibility. And, yes, just like Chase and many other large banks today, we are doing a thorough review of our correspondent bank portfolio, and we have a new checklist, just as they do. We have all these questions we are going to be reviewing with these correspondent banks and hopefully ferreting out those issues.

I can tell you that in the last year or two, I don't think we have opened any new correspondent bank accounts, and I can tell you we have closed a number of them. So, yes, we are on the warpath to try and get this cleaned up. I assure you of that.

Senator COLLINS. Thank you.

Mr. Weisbrod, in your statement you have an astounding fact. You say that on an average day, Chase processes over 220,000 wire payments with a value in excess of $1.2 trillion. The magnitude of that, multiplied by other banks, is really extraordinary and shows how much money is being moved around the world every single second.

Senator LEVIN. We estimated, by the way, $21 million a minute.

Senator COLLINS. That is extraordinary, so if this hearing goes much longer——

Mr. CHRISTIE. Is that in a workday or is that in a 24-hour day? [Laughter.]

Senator COLLINS. My point is that the magnitude of money being wired all around this world makes it so much more important that your initial procedures for opening accounts be really thorough and sound, because there is no way, as you have essentially pointed out by giving us that statistic, that Chase or any other large money center bank is going to be able to review every single wire transfer that occurs.

I mean, I am sure you have procedures for triggering a human review if certain criteria are met, but obviously the magnitude is incredible. Doesn't that mean that if you don't do a good job up front in verifying who your customers are and being very careful with whom you do business when it comes to correspondent bank accounts that inevitably you are going to be inadvertently fostering an environment where money laundering is expedited by the services you provide?

Mr. WEISBROD. I wish we had this question on videotape because I would use it in our anti-money laundering training program. I could not agree more with that statement. It is at the very heart of the program of anti-money laundering that a bank has to deliver. It is the key.

But I would go further, too, to say not only the opening of the account needs to be scrutinized and we need to do better than we have, but then the ongoing review, which is something quite frank-

ly we had not been doing in the past but which we are doing as part of our enhanced policy, needs also to be done.

So I think the statement is accurate. I would love to capture it and use it in our training programs.

Senator COLLINS. Thank you.

Senator Levin.

Senator LEVIN. I am sure we would be happy to make that available to you.

I want to go back to Swiss American Bank and take a look at Exhibit 38.[1] These are some of the ongoing concerns that, first, Bank of America had. I want to pull up their comments from their records.

A privately-owned bank with obvious operating problems. That was back in August 1990.

Then in May 1995, you decided to ask Swiss American to find another correspondent bank, but since you asked them the month before, they appeared, if anything, to be worse than they were the month before; poor management; constantly preyed upon by con artists. Now, that is May 1995.

Then in July 1996, according to your records, "It has been a year since we requested Swiss American to find another correspondent. . . . We agreed to 90 days for them to notify remitters and close the account. . . ." You talked about how they admitted to problems at audits, including misclassification and hidden loans. Now, that is July 1996.

In March 1998, the account is still not closed. "I had long ago required Swiss American to discontinue their clearing and wire transfer activities with us, as some transactions appeared suspect. . . . We now have the January 1998 issue of Money Laundering Alert describing a possible precedent settling civil lawsuit by U.S. authorities against Swiss American Bank . . . involving the Antiguan Government and accusing collaboration with money launderers." Then it says that you asked them that day to close their account. That is March 1998, but it was not until June or July of a year later that that account was closed.

I would just emphasize that not only must you take much greater precaution in opening up these accounts, but when you have information that is sufficient to close an account and you decide to close an account, surely it ought to be done decisively at that point. I mean, I have got a lot of problems with the length of time it takes banks to decide to close these accounts. But here is a case where you decided to close the account, and year after year after year that account stayed open.

Would you agree, looking back, that that is not the way this anti-money laundering effort should be carried out?

Mr. CHRISTIE. I absolutely agree.

Senator LEVIN. Relative to the Chase Bank, if we can put up their records relative to the same Swiss American Bank.[38]

Back in June 1997, Chase received a subpoena for account documents. Then in August 1998, records show that Swiss American had been suspected of money laundering. "Can you tell me whether this is an account that Chase will continue to maintain?"

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[1] See Exhibit No. 38 that appears in the Appendix on page 807.

Then in November 1998, "Inquiry revealed that the captioned bank has come to official attention as a suspected repository of proceeds of con games." Further on in that comment, it says—and this is what I want to focus on—"Considering the difficulties in determining actual ownership of the bank, its location, the operating environment of these offshore banks, and the questions raised above, recommend that we exercise special caution in dealing with this entity, if a decision is made to continue our relationship at all."

Now those are actually the problems with many offshore banks, are they not?

Mr. WEISBROD. Yes.

Senator LEVIN. It is difficult to determine actual ownership. We have seen it with Antigua, all the efforts that are made to make sure no one can determine actual ownership. That is true with other jurisdictions as well.

"Considering the difficulties in determining actual ownership of the bank, its location, the operating environment of these offshore banks, and the questions raised above, recommend that we exercise special caution."

Then a year later, that bank—and this is the last quote on that exhibit—"Swiss American Bank is getting too much bad press. It is even used as a case study in our money laundering training."

My gosh, you folks were using Swiss American Bank as a case study in your money laundering training. A case study for what, for why it ought to stay open or why it ought to be closed?

Mr. WEISBROD. The case study referred to our belief at the time that this was a conduit, an unwilling, unknowing conduit for money laundering. In other words, it had been caught in the middle between the two parties, and we were using it—our compliance area was using it as a case study to show this could happen to us. That was really the intent of that.

Senator LEVIN. That what could happen to you?

Mr. WEISBROD. That, in other words, we ourselves could be an unwilling conduit between two parties to a money laundering transaction.

Senator LEVIN. All right, so that even though in August 1998 you had some evidence that there was suspicion of money laundering, in November 1998 you had in your records that they were a suspected repository of the proceeds of con games—considering that you can't determine ownership, location, operating environment, you were required yourselves to exercise special caution. You still treated them as though they were being just an unwitting victim of some other folks. Is that it, despite all your own evidence in your own file that they should have known and perhaps did know what they were being used for? That is what the case study was?

Mr. WEISBROD. I believe the case study was to show how a bank could be caught in the middle, yes, but——

Senator LEVIN. You concluded that they were caught in the middle, that they were somehow or other an innocent victim of someone else?

Mr. WEISBROD. Senator, to the best of my knowledge, we had no knowledge that they were a money laundering institution. They were not charged, per se, with that. I am not here to debate because I totally agree with the premise that this is not an account

that we should have done business with. The reputation issue here was sufficient to not have this account on our books.

Senator LEVIN. You did not officially terminate that account until you got a subpoena from this Subcommittee, is that correct, in October of the year 2000?

Mr. WEISBROD. Correct.

Senator LEVIN. Let me just go to the question of offshore banking because I think this is going to get to the meat of some potential legislation.

I think it is pretty clear that shell banks should not be able to open accounts at our banks. I am going to say it is clear to me, and your two banks do not accept accounts from shell banks.

The question, though, is, for the reason given in your own documents, whether there has got to be a heightened sense of inspection of offshore banks because of the very reasons that are in that document.

You can't tell who owns them, you don't know where they are located, you don't know what the operating environment is.

You surely, in my judgment, did not exercise special caution in that case. That is my own conclusion about one case. But whether that is accurate or not, we surely as an industry—you surely, and I think we as a government—have got to require that there be special caution if we allow correspondent banking with offshore banks to continue.

I would like to know whether you agree with that and under what circumstances should we allow offshore banks. These are banks that are not allowed to deal with the people in the jurisdiction which licenses them. The jurisdiction says, we are not going to let that offshore bank deal with our people, but we will inflict them on the rest of the world.

Under what circumstances is it legitimate for you folks, legitimate banks, to open an account with an offshore bank? And if there are such circumstances, in your judgment, what should be the heightened requirements for "know your customer" in the cases where you do open accounts with an offshore bank?

Mr. Christie, do you want to start?

Mr. CHRISTIE. Sure. There are a few legitimate reasons for an offshore bank, but in my mind that has to do with an offshore bank for a large, sophisticated, worldwide bank that has a legitimate business to have—it doesn't have a branch there, it doesn't want to go through the process of opening a branch, it doesn't want to deal with the local regulators that much.

Also, you cast it as if the regulators in that country are saying, we don't want you to deal with our customers. In my mind, that is not the way I interpret that. I mean, in their way of doing business, they have got three ways of doing business in our country, if you want to. Here is one way, here is a second way, and here is a third way.

Senator LEVIN. But the first way, if you want to do business, requires very careful regulation to make sure that you follow certain rules, right?

Mr. CHRISTIE. Right.

Senator LEVIN. And that is to protect their own constituents?

Mr. CHRISTIE. I don't know that.

Senator LEVIN. Isn't that the purpose of regulation?

Mr. CHRISTIE. I don't think they think that way.

Senator LEVIN. Well, that is what should be the purpose of regulation.

Mr. CHRISTIE. Sure.

Senator LEVIN. Keep going.

Mr. CHRISTIE. All right, well, Chase is not a good example because they have a presence everyplace. But a good correspondent bank customer of ours might have a reason to have an offshore bank in that country, and for them, if we have got a presence or if they want us to act as their correspondent bank, I would see that as a legitimate thing to do.

What legitimate businesses might come through that—I know this is only an example, but, for example, they could have a customer who has a travel business. And, of course, in the Caribbean a lot of people travel to the Caribbean and there are a lot of dollars that flow in through traveling. So it could be that there is a need to clear and exchange either the traveler's checks or the currency or whatever may come into that bank.

Senator LEVIN. Why shouldn't that be done onshore instead of offshore?

Mr. CHRISTIE. Well, because the business is in that island. So the physical presence of those documents, either the checks or cash or whatever, is in that island.

Senator LEVIN. They are offshore?

Mr. CHRISTIE. Yes, offshore.

Senator LEVIN. What percentage of offshore banks would you say would meet that narrow standard?

Mr. CHRISTIE. I said that is only one example and I don't have all the examples.

Senator LEVIN. No, but give me an estimate. Would it be the minority or majority of offshore banks.

Mr. CHRISTIE. Of offshore banks?

Senator LEVIN. Yes.

Mr. CHRISTIE. Oh, it is probably the minority. I know where you are going and I agree with your point.

Senator LEVIN. Would you agree, then, that the majority of offshore banks—you are guessing, I know, but—the majority of offshore banks now would not meet that standard which you feel should be met before they are allowed to have correspondent accounts?

Mr. CHRISTIE. I think you are right, yes.

Senator LEVIN. Mr. Weisbrod.

Mr. WEISBROD. I think the issue of the offshore banks is a complex issue. It is one of the areas that is being addressed by the New York Clearing House in its best practices paper, and we are endorsing that and working with the New York Clearing House.

We recognize special obligations in terms of understanding the offshore banks, and in evaluating their practices with regard to the banks that they may be doing business with.

Senator LEVIN. Do you want to outline first what those special practices should be? What are the additional safeguards which should be put in place to make sure that offshore banks are not laundering money? What are those safeguards?

Mr. WEISBROD. I would say first that with regard to the FATF jurisdictions, we are particularly looking at whatever offshore banking arrangements may exist. As Mr. Christie said, there are major banks that use offshore centers for funding in capital markets or legitimate regulatory purposes that the Fed and others are well aware of.

And our practice is only to do business with offshore banks that are affiliated with such institutions. If there were other offshore banks that were in other arrangements, we are not going to want to do business with those. We are taking a very, very hard look at those, and I don't want to make a blanket statement because the business is large, but that is our general approach.

Senator LEVIN. Finally on this subject, do you think, then, that for banks unlike yours which are willing to do business with those offshore banks, the ones you are not willing to do business with—should we prohibit them from doing so?

Mr. WEISBROD. I think that the right solution is to work internationally to take their license away because——

Senator LEVIN. If we can't get that done, should we prohibit it by regulation or by law?

Mr. WEISBROD. That is a matter for the Congress to decide.

Senator LEVIN. Thank you.

This is just one final area I want to go into, and that has to do with Internet gambling. It is illegal to place bets over the Internet in the United States, and the courts have upheld that interpretation. Apparently, one person was convicted of it and others have worked out plea agreements with the government.

Antigua has been a center for Internet gambling, and at least until recently the Swiss American Bank serviced the accounts of Internet gambling companies, including accepting transfers from and making payments to individuals in the United States. And this was no secret. Some of the Web sites, which maybe we can put up, are in Exhibit 13 [1] that is before you as well.

Bettors on Internet gambling are instructed to wire transfer their funds to the Swiss American Bank account at Chase Manhattan. That was Merlin's Magic Castle. Then the next one is Gold Nugget. Bettors are instructed to use Swiss American Bank's correspondent account at Chase. There are literally hundreds of sites like this, so that Chase became a big vehicle for the flow of these funds.

If you take a look at a chart, Exhibit 13, of the Swiss American Bank account at Chase for some months during 1998 and 1999 that we sampled, we can see that a significant percentage of the deposits for that month were clearly identified as Internet gambling enterprises, and there were a lot of other clear instances of what was going on.

For instance, in late 1998 the sales representatives were advised that Swiss American Bank was servicing Internet gambling entities and their bettors, but that they didn't report it to anybody because they thought it was legal. So your sales reps thought that what was going on there was legal.

Did they ask for a legal opinion from your law department?

[1] See Exhibit No. 13 that appears in the Appendix on page 710.

Mr. WEISBROD. No, sir.

Senator LEVIN. They just thought it was legal or assumed it was legal and kept going.

Then your fraud department took a look into payments that were made through the Swiss American Bank account which identified Internet gambling activity at the Swiss American Bank in 1999. Then in 1999, Chase was advised that Swiss American Bank's monthly use of checks would expand significantly due to Internet gambling-related payments.

But the part that I want to focus on occurred in March 1998, when the U.S. Attorney for the Southern District of New York indicted 21 owners, managers and employees of 11 Internet sports betting firms for collecting wagers from U.S. citizens over the Internet. Your records were subpoenaed for the trial of the owners of one of the firms, and a Chase employee provided testimony at the trial about check and wire transfer activity at the Swiss American Bank account at Chase that involved that firm.

My question is, since there was a criminal charge against somebody which was based on Internet gambling being illegal in the United States, at that point was there an opinion requested from your law department as to whether or not Internet gambling was legal, and if so, what was that opinion at that time?

Mr. WEISBROD. The date of that, sir, was?

Senator LEVIN. April 1998.

Mr. WEISBROD. No, there was no legal opinion obtained.

Senator LEVIN. Or March 1998.

I am curious about that because now you have an employee testifying in a trial where essential to that charge was an allegation that there was a criminal activity going on in the United States. Wouldn't normally some alarm bells go off at an institution when that happens to say, hey, wait a minute, if this is illegal and we have somebody testifying in that case, shouldn't we stop accepting clearly identified proceeds of an illegal activity?

Mr. WEISBROD. There is no question but that at the time, in 1998, our employees were not aware of the fact that Internet gambling was illegal. And I think, with some fairness, looking back, there was some ambiguity, and I think even this Subcommittee's report references the ambiguity under the law.

For example, last year I believe there was an Internet Gambling Prohibition Act that was reviewed in Congress, and in that there was reference to the fact that there was ambiguity. So the fact is that at that time the whole area of Internet and e-commerce and the ways it can be used in money laundering was not well understood, it is an area of growing importance and emerging concern.

Our major focus in the money laundering area had been in cash coming into the bank, and we clamped down on that pretty well, and on drugs. The area of Internet gambling did not have the same sensitivity that it certainly has now as a result of the experience that we have had here.

Senator LEVIN. I guess my point, though, is not whether or not there was ambiguity, but whether or not there wasn't some consideration in your law department as to whether or not you might be then accepting the proceeds of an illegal operation. Shouldn't that

have been at least assessed or analyzed by your law department at that point?

Mr. WEISBROD. It was not. It was not referred to the law department at that time.

Senator LEVIN. On Internet gambling, what is your position on it, or what has it been at the Bank of America?

Mr. CHRISTIE. To be honest with you, until last year, at least in my mind, it didn't dawn on me that Internet gambling was truly illegal. I mean, I thought if it had been——

Senator LEVIN. Distinguished, you mean, from illegal?

Mr. CHRISTIE. Sorry?

Senator LEVIN. That is OK. Go on.

Mr. CHRISTIE. Good one.

Anyway, I didn't realize it was illegal, and I think many of my associates around me didn't really fully understand that it was illegal. I mean, we have had the creation of so many gambling establishments throughout the United States over the last few years, you would wonder what was legal or illegal.

But having read what I have now on the subject and consulting with my crack attorneys at the bank, I fully do understand the fact that it is illegal. And, again, it would be another one of our checkpoints in our due diligence work that we would be doing on banks. So, yes, it was a revelation to me last year.

Senator LEVIN. I think Exhibit 6[1] has the Bank of America on those same Web sites, so we can show this as not at all limited to one bank. But I would hope that all of our banks would promptly seek some legal guidance from their counsel and close down Web sites. Even if there was ambiguity about it, you would think that you would have a legal opinion saying, hey, wait a minute, we have got to err on the side of caution; if this is reasonably, arguably illegal, we cannot be accepting that kind of money.

Mr. CHRISTIE. Even if it was legal, I wouldn't want our name associated with them on the Web site.

Senator LEVIN. Good.

Mr. WEISBROD. And I would add, if I could, Senator, that the moment we did become aware that our name was being used on these Web sites without our permission, we took swift action to issue a cease and desist to have that stopped. We put it on our OFAC filter, as well, to screen all the payments that were coming in to make sure there were no illegalities.

Senator LEVIN. Let me get to the question of nesting correspondent banks. Going back now to American International Bank, American International Bank had an account with your banks. It also was serving as a correspondent bank for other banks.

Now, Exhibit 3[2] here is an exhibit that lists three of the half dozen or more banks for which American International Bank served as a correspondent, and this is really quite a notorious list. As described in the Minority staff report, these three banks were all heavily involved with financial fraud.

Two of them, Caribbean American Bank and Hanover Bank, were shell banks; they didn't exist anywhere. The Caribbean Amer-

[1] See Exhibit No. 6 that appears in the Appendix on page 700.
[2] See Exhibit No. 3 that appears in the Appendix on page 697.

ican Bank, was nothing but a front for a criminal enterprise. It was owned by individuals committing a financial fraud, and all of the accounts at that bank are being investigated for money laundering.

The relationship manager at Bank of America told our staff that he never knew that American International Bank was serving as a correspondent for other banks. One of the salespeople at Chase didn't know that American International Bank was serving as a correspondent. The other sales representative knew that American International Bank was serving as a correspondent and thought there was no problem with it. But as we can see from this list, there are some bad actors that are nesting within the American International Bank and using that bank's relationship with your banks to access our U.S. financial system.

Mr. Weisbrod, in your statement you note that the issue of nesting creates some problems because there are legitimate reasons for small banks to open relationships with larger banks, and I think you maybe both have made reference to that this morning.

However, in the case that we have here, there is a high-risk bank from a high-risk jurisdiction—two things, high-risk bank, high-risk jurisdiction—serving as a correspondent for other higher-risk banks, two of which were shell banks also from a high-risk jurisdiction.

So I have two questions for both of you. Shouldn't a correspondent bank at least know if its clients are serving as correspondents for other banks, and if so, who those other banks are? That is question one.

Do you want to start off?

Mr. CHRISTIE. Yes, I believe we should know that and we should know who they are.

Senator LEVIN. Mr. Weisbrod.

Mr. WEISBROD. I think in the instance of AIB, we certainly made a mistake in letting that bank have a relationship with us, and we did terminate the relationship within about a year.

I think to make a blanket statement that we need to know the names of all of the correspondent banks of all of our correspondents does present some problem. For example, if we are dealing with Deutsche Bank, obviously a reputable bank, and they have correspondent relationships with a series of Landesbanks throughout Germany, I don't think that is the sort of thing this Subcommittee is interested in.

Certainly, in the instance of high-risk jurisdictions or in the instance of offshore banks, we do need to understand whether they have correspondent relationships, especially if they have them with shell or offshore banks.

Mr. CHRISTIE. If I could amend what I said, I assumed when you asked the question you were talking about high-risk countries and high-risk banks, and in that context, absolutely. But as David has said, if it was Chase Manhattan, I wouldn't ask them for their correspondent bank list.

Senator LEVIN. Would you agree with Mr. Christie that when we talk about high-risk banks in high-risk countries that you should know the names of any banks that your correspondent bank has accounts for?

Mr. WEISBROD. One of the high-risk countries is Russia. Russia is a country with 2,000 banks. We do have correspondent relations with Russian banks. But I am not sure that it would be where you draw the line. It is something that is being reviewed by the New York Clearing House. It is a thorny question and it is being reviewed by the Clearing House as part of their best practices paper.

Senator LEVIN. There is an ironic conclusion to this matter of nested banking that underscores what we are talking about. Both of your banks terminated their relationship with American International Bank because you felt that you were just no longer comfortable doing business with that bank. We will start with that. We have gone through that. It may have taken too long, but ultimately at the end you terminated your relationship with American International Bank.

Based on the information that you have provided us, both of your banks served as correspondents to another Antiguan bank called Antigua Overseas Bank. I don't know if you are aware of that, but I will lay that out before you anyway. Just assume that.

What I want to let you both know is that a client of Antigua Overseas Bank was American International Bank. So you finally terminate your relationship with American International Bank. You don't want to do business with them, but you are doing business with them because Antigua Overseas Bank is a correspondent bank for American International Bank. Therefore, by using the Antigua Overseas Bank account with you, you are serving almost the same function as you previously did for American International Bank.

Now, were either of you aware of that?

Mr. CHRISTIE. No, but we will find out more about it tomorrow, I guarantee you.

Mr. WEISBROD. I am not aware of that, Senator.

Senator LEVIN. All right. Can you check into that? And if it is true as I have set forth, and we are comfortable that it is, let us know what the solution to that problem is. I mean, it took you long enough to terminate a relationship with a bank, but now it ends up that that bank, because it is indeed a respondent bank with the Antigua Overseas Bank—you are, in effect, because it is a customer of your customer, being used in the same way essentially.

Mr. WEISBROD. Let me see if I understand. Are you saying that the Antigua Overseas Bank is a correspondent of ours?

Senator LEVIN. Right.

Mr. WEISBROD. I have done considerable due diligence before coming here today and I did not note that that was one of our correspondents currently, but I will certainly——

Senator LEVIN. You were a correspondent bank for them——

Mr. WEISBROD. Oh, I see, sir.

Senator LEVIN [continuing]. After you terminated your relationship with the American International Bank. I don't know if that relationship still continues or not, but you did have a relationship with the Antigua Overseas Bank after you terminated your relationship with the American International Bank. And all I am saying is that that relationship continued, just indirectly. Again, I don't know that you still have that relationship. The important

point is you had that relationship with them after you terminated the relationship with American International Bank.

That is the end of my questions. Thank you.

Senator COLLINS. Thank you, Senator Levin.

I want to thank our witnesses for appearing today. I do want to make clear that I believe that both Bank of America and Chase have undertaken considerable efforts to tighten up their procedures to guard against doing business with foreign banks that are facilitating money laundering activities, and I do commend you for those efforts.

I hope you will continue to be diligent, and I believe that the investigation done by Senator Levin and his staff has shown that there are still many problems and troubling gaps in the oversight that American banks give in their correspondent banking relationships.

I would like to thank all of our witnesses this morning for their testimony and cooperation. It has been very helpful and illuminating.

Tomorrow morning, the Subcommittee will hear further testimony from a panel of expert witnesses knowledgeable about international efforts to fight money laundering, and from another bank, Citibank, which unfortunately has also experienced its share of problems with questionable correspondent banking customers.

The hearing tomorrow will be in room 106, Dirksen Senate Office Building. That is a change, so I want to make sure everyone who is interested in coming tomorrow is aware of the room change.

Our current witnesses are now excused, and the Subcommittee will stand in recess until tomorrow morning at 9:30.

[Whereupon, at 12:36 p.m., the Subcommittee was adjourned, to reconvene at 9:30 a.m., Friday, March 2, 2001.]

ROLE OF U.S. CORRESPONDENT BANKING IN INTERNATIONAL MONEY LAUNDERING

FRIDAY, MARCH 2, 2001

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:37 a.m., in room SD–106, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Subcommittee, presiding.

Present: Senators Collins and Levin.

Staff Present: Christopher A. Ford, Chief Counsel and Staff Director; Mary D. Robertson, Chief Clerk; Rena Johnson, Deputy Chief Counsel; Eileen Fisher, Investigator; Claire Barnard, Detailee/HHS; Linda Gustitus, Democratic Staff Director and Chief Counsel; Elise Bean, Democratic Deputy Chief Counsel; Bob Roach, Democratic Counsel; Laura Stuber, Democratic Counsel; Ken Saccoccia, Congressional Fellow; Susan Price, Intern; Ann Fisher and Judy White (Senator Cochran); Marianne Upton (Senator Durbin); Bob Westbrooks (Senator Akaka); and George Schaubhut (Senator Levin).

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Good morning. The Subcommittee will come to order.

This morning, the Subcommittee continues its examination of the complex world of correspondent banking and the extent to which correspondent accounts with foreign banks can expose the U.S. banking system to money laundering.

As we heard yesterday, correspondent banking is the method by which a bank provides services and products to another bank. Without a doubt, correspondent banking is an essential component of the international financial system. The Office of the Comptroller of the Currency, however, has identified international correspondent banking customers as high-risk accounts requiring more critical evaluation before the accounts are opened, and requiring continuing monitoring for money laundering activity thereafter.

The Subcommittee thus has focused its attention on the correspondent relationships that some U.S. banks have formed with high-risk international banking customers, such as shell banks, offshore banks, and banks in jurisdictions with weak anti-money laundering laws. The investigation found that although increased due diligence is warranted in dealing with such institutions, U.S.

banks have often faltered in this regard, particularly when they are not extending credit and their own funds are not at stake.

The testimony that the Subcommittee heard yesterday illustrates the reasons for our concern. We first heard from John Mathewson, the former President of Guardian Bank and Trust, a now defunct Cayman Islands offshore bank. Mr. Mathewson, who pleaded guilty to charges of attempted money laundering and conspiracy to commit international money laundering, provided an insider's perspective regarding the relative ease with which offshore banks can manipulate the products and services that U.S. banks routinely offer, such as wire transfers, to move their customers' funds through the U.S. financial system in a manner that makes them exceedingly difficult to trace.

Mr. Mathewson opined that the vast majority of Guardian's clients were U.S. citizens seeking to avoid paying income taxes or to hide assets from their creditors or former spouses. His testimony made clear that Guardian Bank would not have been able to offer these clients easy access to their funds while maintaining the secrecy of their identities without its correspondent accounts in U.S. banks. Moreover, and very troubling, he described Guardian Bank as a "run of the mill" offshore bank.

The Subcommittee heard additional troubling testimony from representatives of two major U.S. banks, Bank of America and J.P. Morgan Chase. Their testimony made clear that banks were not performing adequate due diligence when opening and monitoring accounts for international correspondent banking customers.

I want to emphasize that both Bank of America and Chase have acknowledged weaknesses in their correspondent relationships with international correspondent banking clients. To be sure, it would be unfair to hold these banks accountable for not knowing, when they opened and maintained correspondent accounts for shady institutions such as American International Bank and Swiss American Bank, everything that has subsequently come to light about these financial institutions.

Nevertheless, both Bank of America and Chase did have some information prior to opening these correspondent accounts that should have raised red flags. For example, it appears that Chase decided to accept American International Bank as a correspondent banking client despite its awareness that AIB may well have been sheltering the funds of American tax evaders. This is precisely the type of lax oversight that criminals who wish to launder their dirty money are quite literally banking on.

Today, we will begin by hearing from three authorities on money laundering who will discuss the ways in which correspondent accounts can be used to launder the proceeds of crime, the difficulties that law enforcement officials encounter in tracking down funds that have passed through multiple jurisdictions, and measures that U.S. banks might be able to take to reduce the abuse of their correspondent banking systems by money launderers without drowning the banks in unnecessary paperwork or crippling the industry.

We will then hear from Citibank about its own handling of correspondent accounts with three high-risk clients—M.A. Bank, Federal Bank, and European Bank. Given some of the questionable dealings in which each of these three banks were engaged, I look

forward to hearing from our Citibank witnesses regarding their management of these banks' accounts.

The controversy engendered by one of the Citibank examples recounted in the Minority's Report, the Federal Bank case, deserves further comment. A great deal of attention has been paid to this Subcommittee investigation in the foreign press, particularly in Argentina.

I want to make clear this morning that the Subcommittee's investigation has not been an investigation into money laundering in any foreign government. It is unfortunate that this Subcommittee's work has acquired such apparent significance in another country's domestic political disputes, because the investigation's findings are not aimed at supporting any charges of high-level money laundering by specific foreign officials.

Moreover, the amount of laundered money identified in the Minority Report that relates to Argentina consists of $7.7 million in drug trafficking proceeds passing through M.A. Bank, and $1 million in bribe money passing through Federal Bank from an IBM kickback scandal that has been publicly known for some time. Argentine press reports that this Subcommittee has identified billions of dollars in dirty money involving these banks are simply inaccurate.

At any rate, I look forward to hearing the testimony of our witnesses today. Abuse of the U.S. correspondent banking system by money launderers and other criminals is a very serious topic and deserves our full attention.

At this time, I would like to recognize the distinguished Ranking Minority Member, Senator Levin, who initiated and conducted this investigation, for his opening comments.

Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Madam Chairman, thank you again for scheduling these hearings and for your strong support of this investigation. I also want to thank you for your clarifying statements relative to the purpose of this investigation, that we are looking at U.S. banks and we are not carrying on an investigation of any domestic activities inside Argentina by specified officials. I think it is important that we point that out.

Some of the reports that have been printed in Argentina purporting to quote, as a matter of fact, members of my staff are made out of whole cloth, literally. Some of those reported quotations were never made or anything close to it. I emphasize "some" because I don't want to label the entire media in Argentina in that way, but I would say clearly that some of the comments attributed to my staff were just simply never made, or anything close to them made.

At yesterday's hearing, we heard from a former offshore bank owner and from two leading U.S. banks regarding how high-risk foreign banks are able to open correspondent accounts at U.S. banks and how those accounts can then be used by rogue foreign banks and their criminal clients to launder the proceeds of illegal drugs, financial fraud, Internet gambling, tax evasion, and other criminal conduct.

Today, we want to shine the spotlight on the decision by U.S. banks to open accounts for one particular kind of high-risk foreign bank, offshore shell banks. Some offshore banks have physical facilities either in the jurisdiction in which they are licensed or some other country. An offshore shell bank, however, is a bank that has no fixed physical presence in the country in which it is licensed or in any other country, and it is not a branch or a subsidiary of a bank that does have a physical presence somewhere. Those shell banks, instead, are banks that have no physical office anywhere where customers could go to conduct banking transactions or where regulators could go to inspect records and observe bank operations.

The signature features of a shell bank are its inaccessibility and its secrecy. These banks are generally not examined by regulators, and virtually no one but the shell bank owner really knows where the bank is, how it operates, or who its customers are. One shell bank owner told us that his bank existed wherever he was at the moment. These banks do not fit the profile of the financial institution that most Americans imagine when they think of a bank. Instead, they exist on the bottom rung of the banking world.

The low status of these banks is on display in the Internet advertisements explaining how and where to buy a shell bank license. These ads stress how quickly a bank can be purchased, and highlight a jurisdiction's lax due diligence and regulatory requirements as key selling points.

One government cited in the advertisements, for instance, is Nauru, a remote island in the South Pacific. Nauru is said to have issued 400 licenses for shell banks which, if true, would apparently constitute the largest number of shell banks established by any one jurisdiction. Nauru is also one of the 15 countries that has been identified by the Financial Action Task Force in June 2000 for noncooperation with international anti-money laundering efforts.

Another oft-mentioned government is Vanuatu, another South Pacific island, which confirmed to us that it has licensed more than 50 offshore shell banks. Caribbean governments are also listed, including Anguilla, which allegedly charges an annual bank licensing fee of $3,800 for an offshore bank with a physical presence on the island, and $7,600 for an offshore bank without one.

Let's take a closer look at Montenegro, in Europe. This is an excerpt here on the screen from Exhibit 35 in our exhibits.[1] This is one of many Internet advertisements for opening an offshore shell bank in Montenegro. The bank costs—you can buy it for $9,999, and the advertisement says that it comes with a correspondent bank account included "in the package."

As we will see on the succeeding pages of this Internet advertisement, that means that you buy access with that bank license to an already existing correspondent account at a U.S. bank. So for $10,000, minus a dollar, anyone can buy access to the U.S. banking system in a way which is secret. And the purposes of those kinds of bank accounts will again be explored today, as they were yesterday, but substantial sums of money move through these bank accounts.

[1] See Exhibit No. 35 that appears in the Appendix on page 789.

Now, the ad also promises "no intrusive background checks," a "European jurisdiction," and "fast set-up time." The correspondent account which is advertised is in the name of the Bank of Montenegro, which in turn allows the new bank—which they are selling the license for—to use the Bank of Montenegro's existing correspondent network, which includes Citibank, Commerzbank, and the Union Bank of Switzerland. Those are the representations which are made. That is what you are buying access to, in a way which will be kept totally secret.

Exactly how many Montenegro shell banks are operating today under this arrangement is not known to me.

The bottom line is that hundreds, if not thousands, of offshore shell banks are in existence at this moment, and all of them need to get into the international banking system to do business.

Of the four shell banks investigated by the Minority staff, all four were found to be operating far outside the parameters of normal banking practice, without basic administrative controls, without anti-money laundering safeguards, and in most cases without paid staff. All four also escaped regulatory oversight. They used U.S. bank accounts to transact business and to move millions of dollars in suspect funds associated with drug trafficking, financial fraud, bribe money, or other misconduct.

Today, we are going to first hear from a panel of experts with many years of experience in dealing with high-risk foreign banks. Jack Blum, among other accomplishments, is a U.N. consultant on offshore banking and has more than once crossed swords with shell banks.

Anne Vitale was the Managing Director of Republic National Bank of New York, and spent years designing systems and procedures to help that bank decide which foreign banks ought to be given U.S. bank accounts.

Robb Evans is a longtime banker and a former head of the California Bankers Association, and in recent years has begun assisting Federal and State agencies in recovering funds taken from fraud victims, becoming in the process all too familiar with shell banks.

On the second panel will be officials from Citibank, and they will focus on Citibank's decision to open and maintain U.S. correspondent accounts for two shell banks—M.A. Bank which is licensed in the Cayman Islands, and Federal Bank which was licensed in the Bahamas. As the Chairman has indicated, a third bank is also covered in some detail in our report. Federal Bank, by the way, had its license revoked by the Bahamas just 2 weeks ago, presumably in response to this investigation.

Far from using the heightened scrutiny that is recommended by U.S. bank regulators for offshore banks and is supposed to be required in its own internal policies, Citibank seems to have done just the opposite. It seems to have relaxed its due diligence and monitoring requirements for those accounts because of the confidence and the personal regard that Citibank officials said that they had for the owners of those offshore shell banks.

This relaxed scrutiny continued for one of these banks, M.A. Bank, even after Citibank was served with a seizure warrant for $7.7 million in alleged drug proceeds that were deposited into the M.A. Bank account in New York as part of the Casablanca under-

cover money laundering sting. Citibank not only apparently failed for over a year to recognize that the seizure warrant involved illegal drug proceeds, but it also allowed M.A. Bank to move an additional $300 million through that Citibank account.

Citibank also engaged in troubling conduct when it provided the Central Bank of Argentina with false information about the ownership of Federal Bank. Citibank knew that the owner of Federal Bank was Grupo Moneta, a large conglomerate of companies in Argentina. Yet, when the Central Bank of Argentina directly asked Citibank for "all information" that it had regarding Federal Bank, "especially the identity of its shareholders," the President of Citibank Argentina, Carlos Fedrigotti, represented to the Central Bank of Argentina that the records of Citibank Argentina "contain no information that would enable us to determine the identity of the shareholders of the referenced bank." Again, he gave this response even though Citibank Argentina was then in possession of numerous documents related to Federal Bank, including specific documents that named Grupo Moneta as the owner of Federal Bank.

There are reports that Grupo Moneta is denying ownership of Federal Bank to this day. That denial, on top of Citibank's misleading response to the Central Bank of Argentina, makes this matter a very troubling one. It is one of many reasons that this matter is a very troubling one, and we hope to get to the bottom of that this morning as well.

The questions that we hope to address today include not only Citibank's specific decisions regarding these two shell banks, but also Citibank's overall policy on shell banks. In response to our correspondent banking survey, Citibank initially said that its policy was not to open accounts for shell banks, but that it would make an exception for "an existing customer bank's offshore subsidiaries or affiliates."

When asked how that exception applied to M.A. Bank and Federal Bank, whose parent owners are not banks, Citibank submitted a modified statement of its policy and broadened the exception, saying a correspondent account could also be opened for offshore subsidiaries or affiliates of existing customer "financial institutions." While Citibank did not define that term, Citibank presumably meant to encompass not only banks within that phrase "financial institutions," but also security firms like Mercado Abierto, S.A., and commercial operations like Grupo Moneta, so that M.A. Bank and Federal Bank would be considered by Citibank as permissible accounts. Now, one concern that I have with expanding the permissible affiliation to financial institutions is that financial institutions are not subject to the same regulatory regime as banks.

Yesterday, we talked about the legal duty of U.S. banks to act as a gatekeeper and to take reasonable measures to keep out of the U.S. banking system foreign banks that pose unacceptably high money laundering risks. Offshore shell banks pose the highest money laundering risks in the international correspondent banking industry today.

Both the Bank of America and Chase Manhattan yesterday told us that it is their policy not to do business with offshore shell banks, and that was welcome news. If shell banks were unable to

open correspondent accounts with established banks, shell banks would have to close. The hearing today, I believe, will show why these shell banks don't deserve a place in the U.S. banking system, and why U.S. banks should not extend the lifeline, which is the correspondent bank account, that keeps those shell banks in business.

Again, I want to thank you, Madam Chairman, for your support and your calling of these hearings.

Senator COLLINS. Thank you, Senator Levin.

As Senator Levin mentioned, our first witnesses today are experts in money laundering regulations and laws. Since Senator Levin has already given the background of the three witnesses, I am just going to welcome Jack Blum, Anne Vitale, and Robb Evans, and ask that they stand, since pursuant to Rule VI all witnesses are required to be sworn.

Would you please raise your right hands?

Do you swear that the testimony you are about to give to the Subcommittee will be the truth, the whole truth and nothing but the truth, so help you, God?

Mr. BLUM. I do.

Ms. VITALE. I do.

Mr. EVANS. I do.

Senator COLLINS. We will be using a timing system today. Please be aware that when you see the yellow light come on, you will have one minute to sum up your remarks. You will be given 10 minutes and your full statement will be included in the hearing record.

Mr. Blum, I would ask that you begin.

TESTIMONY OF JACK A. BLUM,[1] PARTNER, LOBEL, NOVINS AND LAMONT, WASHINGTON, DC

Mr. BLUM. Thank you, Madam Chairman. Thank you, Senator Levin, for inviting me here this morning.

I think I should get right to the heart of the matter. Offshore shell banks have no place at all in the world banking system, unless it is to be used for tax evasion or other criminal activity.

The shell banking business is a business in which the promoters and crooks offer these banks for sale, frequently at medical conventions and at meetings of professionals, and sell them to the professionals as a vehicle for tax evasion. They say, look, if you have a shell bank, you can have this marvelous checking account that isn't reported to the Federal Government, whose proceeds won't be known by anybody but you which is not subject to seizure. And here, by the way, is an elaborate structure of trusts through which you can move your money to hide it.

Probably the most notorious of these salesmen is a fellow named Jerome Schneider, who has been at it for more than 15 or 20 years, selling shell banks in places ranging from Vanuatu to Montserrat. Each time he is caught someplace, he moves on to the next place, but he continues to advertise seminars around the world offering these banks for sale.

Two years ago, ABC News sent some undercover people to one of his seminars and they got the full pitch: Hide your money; you

[1] The prepared statement of Mr. Blum appears in the Appendix on page 162.

will have this checking account, in effect, at a Canadian bank that would be the correspondent account, and nobody will be able to find out whose it is. He saw that and was taken aback momentarily, but in a very short space of time was back advertising in the *Wall Street Journal,* with the tag line "as seen on ABC TV." This is the kind of thing that is done with shell banks.

Now, there are other uses for shell banks, not just buy the bank to have a privileged checking account, but have the shell account so that you can hide the proceeds of criminal money or get the criminal money in the account. So there are various kinds of frauds—advanced fee for loan fraud, securities frauds of different kinds, and prime bank instrument fraud. All of these really rely on some kind of paper from what looks like a bank saying that we will guarantee or we will give you some kind of assurance that a bank is involved; if you send us your money, we will put it in some kind of high-yield trading program that will give you tremendous returns.

Invariably, what happens is the money goes to this shell bank in that kind of scheme, the money disappears, and the bank either evaporates or the bank says, well, we sent the money on for the further credit of some offshore corporation somewhere else.

The bank is an essential part of the fraud because it is what gives the investor the confidence that he is sending the money to someplace that is real. And typically the instructions will be to send the money to the correspondent account, send it to our correspondent account at the Bank of New York. That kind of thing builds the confidence of the mark in the legitimacy of the fraud that is going on. I have been involved in any number of cases where there has been this kind of transmission of money to an illegitimate institution through a correspondent account of a legitimate institution.

Then there is the problem of how do you stop the money. Under the banking rules, if there is a correspondent banking account for a foreign bank, when fraud money or proceeds of crime hit that bank account and they are commingled, it becomes an incredibly difficult matter to stop the money. At that point the money is considered the property of the offshore bank, and unless you can prove the whole thing is a fraud and all the money in the account is proceeds of crime, for all practical purposes the money is outside the United States and there is not much that can be done.

I ran into that in a case where we were chasing Nigerian con men and they wanted to have money wired to a bank in Beirut, not a shell, but an offshore bank in Beirut, for the further credit of some corporation, but wired to the correspondent account in New York City. And we were trying to figure out how to get the money wired to New York, but held there with enough time to arrest the Nigerian con men, and it just wasn't possible to organize it. The money, as soon as it would have hit the correspondent account, would have for all practical purposes been out of the country.

I have seen enough of the jurisdictions that regulate these banks to be able to tell you conclusively that there is no way a jurisdiction like Nauru or Vanuatu or St. Vincent or Grenada can possibly regulate a stable of offshore banks.

If you will, just consider the case of a bank in Grenada that was capitalized with the appraisal of a ruby. Mind you, the Grenadian bank officials never saw the ruby. They got a document that said this ruby is worth $30 million. The man who got the bank license, a Mr. Van Brink, had been traveling under a different name before he came to Grenada and, after his fraud with the offshore bank was complete, moved on to Uganda, where he is known by yet another name.

I was in Grenada not long ago and talked to the chief regulator of the offshore banking sector, and the conversation went something like this: What did you do before you took over as bank regulator? He replaced the prior regulator who had chartered this ruby-based bank. He said, I sold real estate. Do you have any experience in banking? No, but I am trying to learn about banks. And what do you do to vet people who apply for a bank license? He said, well, we have something of a problem with that. For a while we thought about hiring Kroll and Associates, a large private detective firm, but we called them and they wanted too much money and we couldn't really charge the people involving that kind of money for the investigation.

I said, well, you should bill it to them. If they want to open a bank, they ought to be able to pay for their own approval process. He said, well, we thought that that would cut back on the number of applicants we had. Then I said, how about using the Internet? How about doing some simple checks on Lexis/Nexis to see if the applicants have been convicted? He said, well, we have trouble with our Internet connections.

I submit that this jurisdiction has no business in the offshore banking business. And anybody who tells you, yes, we are training, there is no way that all the training in the world is going to get a jurisdiction like this to the point where its "banks"—and I use that term in quotes—are going to be meaningfully regulated. And the same story is true in a half dozen other places.

I want to stress to you that some of the people involved in this are people of enormous goodwill. The woman who regulates the Cook Islands Financial Center is a wonderful person, a very nice person, and she is regulating not only the banking sector, the offshore banking sector, but their walking trusts—these are trusts which disappear if the police come—their various other financial entities, and she is trying to attend all the difference conferences and she is trying to learn how bank regulation ought to be conducted. It is not possible, it is flat not possible.

It ought to be obvious to everyone involved, the purpose of these "financial institutions" is to provide a black hole and a window to the American financial markets through correspondent accounts.

Having said that, I think it is important to add some things to the discussion as it goes forward. We have been talking about banks and the vulnerability of correspondent relationships that come when banks have correspondent accounts, but there are a wide array of offshore financial businesses, much like the kind that Senator Levin mentioned in the opening statement, that are not regulated at all, like trust companies and certain kinds of financial advisory firms that simply sign on the dotted line and go into business. And these guys are also using various windows into the fi-

nancial system particularly through brokerage accounts to get their business done.

In the United States, we can crack down on banks and say, look, you are regulated, here's the rules, due diligence, know your customer. In the brokerage business, due diligence consists of finding out whether the investments you propose to sell to a particular customer are suitable for that customer. The due diligence doesn't always include the same level of due diligence required in the banking industry. And in this world that we are in today, banking and brokerage are so close to each other, it is really very, very difficult to distinguish between the two. I think it is essential to look at these different windows into the U.S. financial system, and essential to cut them off.

I see my time is up. I will be happy to answer questions later.

Senator COLLINS. Thank you, Mr. Blum.

Ms. Vitale.

TESTIMONY OF ANNE VITALE,[1] FORMER MANAGING DIRECTOR AND DEPUTY GENERAL COUNSEL, REPUBLIC NATIONAL BANK OF NEW YORK, AND CURRENT SPECIAL LITIGATION COUNSEL, HSBC USA, INC., NEW YORK, NEW YORK

Ms. VITALE. Good morning, Chairman Collins, Ranking Member Senator Levin. Thank you for inviting me to testify here today.

Having served as an Assistant United States Attorney in the Southern District of New York, where I prosecuted money laundering, narcotics and organized crime cases for 7 years, and then having been Managing Director and Deputy General Counsel at Republic National Bank of New York for 9 years, where I headed the global anti-money laundering policy and procedures for the global corporate network, I have seen money laundering issues from both the government's perspective and private industry's perspective.

And in my mind, those two perspectives should not conflict with each other. No financial institution wants to be in a position where they have dirty money going through that institution. So, therefore, I think it is in every financial institution's interest to cooperate with law enforcement efforts to prevent money laundering through U.S. banks.

I would like to commend you both for these hearings, also for the report that the Minority staff prepared. I found it to be comprehensive, diligent, and fair. I think they were quite on target in identifying the three areas of vulnerability through correspondent banking.

As a preliminary matter, I want to stress what Senator Collins remarked in her opening statement. Correspondent banking is a legitimate and indispensable component of the global financial network. The report realized this. In my experience, all but a small fraction of the payments represent legitimate business activity. However, because a small fraction of the transactions are meaningful in terms of quantity of U.S. dollars, it is incumbent upon banks to establish anti-money laundering programs specifically in the correspondent banking area.

[1] The prepared statement of Ms. Vitale appears in the Appendix on page 168.

This was not always the case, or the realization of this was not always the case. It wasn't until late 1997 that wire transfer monitoring through correspondent banking activity first began to be acknowledged as a high-risk area. I don't think the OCC or any other Federal regulator had identified this area, so we are in a relatively recent development.

However, that said, in 1998 and 1999, with the publicity of specifically the Bank of New York case, this has been the area that banks should be concentrating on, and there is much a bank can do to prevent money laundering through correspondent banking accounts.

Two basic things: one is at the account-opening process, and the second is at the monitoring of transactions process. You can't be successful if you have one without the other; you need both. At the account-opening stage, it is important for a correspondent bank to obtain information from its respondent bank, and the information should be the location of the bank; the license and the regulator of the bank that is applying for an account; the number of employees, branches, and their locations.

Why is this important? Why is number of employees, branches and locations important? Quite frankly, I submit to you that if a bank doesn't have many employees, if a bank doesn't have operations, that bank does not have any wherewithal to monitor transactions and to open accounts. So you need to know the numbers, or else whatever that bank tells you about its money laundering policy is not going to be objective reality.

You also need to know the identities of the owners and managers, the asset size and the financial reports, the financial products being sought by the client, other correspondent relationships that bank has, the nature of the client's business and customers, the due diligence the client performs on its customers, whether the client is acting as a correspondent bank for its clients, the country's reputation for anti-money laundering measures, and a statement from the relationship manager as to why he or she recommends that the account should be opened.

And I think that statement cannot rely on this bank is generally well-known or the management is generally well-known. You need objective reality. You need to know who audits the bank, who audits the sub. You need to know the number of employees, who is doing the monitoring, and where they are doing it. Those are some of the factors to consider at an account-opening stage.

As far as monitoring is concerned, you must look at the flow of funds. Now, you can't do this in real-time; you can't look at every single wire transfer that passes through your institution. So you have to use a triage system and identify what I think is the most effective way, which is patterns of activity. Set a threshold level and identify what transactions you are going to look for.

At Republic National Bank, we had the average threshold level of $500,000 in 1 month passing through a bank if it was from the same originator to the same beneficiary, or from the same originator to ten or more beneficiaries, or from ten or more originators to one beneficiary. There are different parameters that can be utilized. And you need systems for this, but once a system identifies the transactions that may be suspicious, you need to have a staff

that is trained to look at the transactions and to see if they can find, as Jack Blum said, from databases or from other public information whether there is any information that will say that these transactions represent normal business activity. The question is: Is this legitimate business activity?

Thereafter, if there is no information found or if the information that is found raises a question, the transactions that have been identified must be funneled up to a senior officer, not in the business area but in the anti-money laundering area, for that person to make a decision on what to do with the account, what to do with the transactions.

If there is a suspicious activity—and suspicious activity means that there is no legitimate business reason that is obvious in the transaction—if that can't be determined, you must file an SAR, a suspicious activity report. That decision is best made by anti-money laundering or legal, or some combination of both.

Thereafter, the senior officer in anti-money laundering must talk to a senior business manager as to what to do with the correspondent account. Do you just block transfers of certain originators and beneficiaries from that account, or is the pattern so pervasive through that account that you close the account? These are some of the things you must consider throughout.

The other factor that I want to stress is the role of training and the role of audit and the role of the commitment of senior management. I think it is imperative that training be ongoing through all areas of the bank, but specifically since the area of correspondent banking is both new in terms of the focus, there has to be ongoing training for correspondent bankers, as well as for analysts and those who are monitoring. Correspondent banking and the anti-money laundering program should be evaluated by audit to see whether the controls are in place.

And finally, and what I think is most important, there has to be direction from the CEO and the board of directors that sends a message that anti-money laundering may be as important, if not more important, than profits. And this is something that I learned from the former Chairman of Republic.

Thank you.

Senator COLLINS. Thank you very much, Ms. Vitale. Your testimony was extremely helpful.

Mr. Evans, would you proceed?

TESTIMONY OF ROBB EVANS,[1] MANAGING PARTNER, ROBB EVANS AND ASSOCIATES, SUN VALLEY, CALIFORNIA

Mr. EVANS. Thank you. I really do appreciate the invitation to appear today. I would like to associate myself with the remarks of my colleagues on the panel, with not quite everything they have said, but I think they have got almost everything bang on.

I have looked at this issue from a different perspective in recent years. Up until 10 years ago, I had been a commercial banker on both sides of the correspondent banking fence, if you will, both managing correspondent banks and being the correspondent bank

[1] The prepared statement of Mr. Evans appears in the Appendix on page 172.

from an offshore location. My view in the past decade has changed dramatically.

Ten years ago, I was asked to manage the liquidation of BCCI in the United States, first by the California Superintendent of Banks, and later by the Department of Justice. And so I got deeply involved in that for a number of years, and as a consequence got involved in a number of other unrelated cases where I was brought into them by the Securities and Exchange Commission or the Federal Trade Commission or the Department of Justice to recover funds that had been stolen or the subject of fraud. That was an eye-opening experience.

In the Minority report, you have talked about one case, European Bank in Vanuatu. I am the Federal Receiver in that case, and so that is one I know a great deal about. I learned a good deal more just reading your report that I did not know before. The case illustrates a number of points.

First of all, the recommendation regarding the offshore banks that you focused on in your report, that they should be driven out of the U.S. banking system, is correct. The shell banks issue is an absolute a no-brainer. The other offshore banks, I believe, also should either be barred from the U.S. correspondent banking system or, if allowed to remain, only with very stringent requirements. There is simply no benefit for anyone other than their proprietors, but they are only one link in a long chain of illegality.

The case that you cite in your report is of a gentleman by the name of Kenneth Taves, who is now incarcerated and has pled guilty just in the last few weeks to money laundering, fraud and other charges, where the flow of the money is quite important in understanding the fraud. The offshore banks play a critical role in the movement of stolen funds—they are only a link in the chain. Breaking that link is very important.

In this case, the Taves-European Bank case, what happened is this chap was able to open merchant banking accounts for credit card processing with two small banks in the United States, banks that specialized in processing credit cards.

Now, the credit card business can be very high volume. By hook or by crook, this chap was able to get a number of credit card numbers, and over a 24-month period, managed to steal $40 million at $19.95 at a clip, processing them through these two banks. The money was transferred regularly, trying to keep it in not massive amounts, from those two small merchant banks in the United States, one in California and one in Missouri, to a major U.S. bank in Nevada, where the funds were concentrated.

From that bank in Nevada, it was transferred to a bank called Euro Bank in the Cayman Islands. And from that bank, it was then transferred all around the world, including right back to the United States, where it bought real estate, had big accounts with brokerage houses, and so on and so forth. None of this was cash, by the way; it was all electronic.

In January 1999, the Federal Trade Commission, responding to a number of consumer complaints, was able to get a freeze order on the company and I was appointed the receiver of the company. We walked in unannounced and were able to seize the company. They put up a vigorous defense. The funds were frozen; they were

under a Federal court injunction not to move any money and to turn over all records, wherever located.

There were literally no records on the premises and almost no records anyplace at all. So my colleagues and I spent a number of weeks basically dumpster-diving to try and figure out where the money went. But we were able to trace the money, one way or another, to the Cayman Islands, to Euro Bank.

We went to the Cayman Islands with the documentation of the theft and the money laundering. The Cayman Islands authorities promptly closed Euro Bank, which was a major break for us in that case because by placing Euro Bank into receivership, we were able to, through court action, get access to the records of the bank. From there, we were able to find out where the money went from Euro Bank, which was to many locations, from Liechtenstein to Vanuatu. And we started the task of tracing it from one location to another, from one bank to another, item by item.

We were able to perfect our claims to a large amount of money in the Cayman Islands, and we are confident that the funds will be returned to us for repayment to victims. It is a slow process because the bank there is in liquidation, and so we have to stand in line with all the other depositors to get the stolen money back. But we will get the money back, and we have had good cooperation there.

But tracing the money onward between the offshore banks was challenging. Ultimately, what we found happened is that after the freeze order was imposed by the courts and the crook knew he was caught, he told the bank in the Cayman Islands to open a new account for him in Vanuatu, which Euro Bank had told him was a neat place to do business, with secrecy, all the other good stuff.

The bank in the Cayman Islands had a working relationship with the bank in Vanuatu; they had referred business before. They faxed European Bank in Vanuatu and told them to open up an account in a corporate name. A trust company affiliated to European Bank in Vanuatu opened a corporate account by incorporating a new Vanuatu corporation called Benford Ltd., which is referred to in your report.

The only information they had to open that account was a name which they assigned it, the name of an alleged beneficial owner, which was an acquaintance of the villain, and a copy of a British passport and a London address. They asked no questions. The business of the company just said "business," nothing else, nothing beyond that. The bank in the Cayman Islands transferred $100,000 to European Bank's account in New York to get the ball rolling. That money was used to open an account with European Bank in Vanuatu for Benford Ltd. Within in a matter of weeks, over $7 million flowed into that account.

When we found out about these transfers, the bank in the Cayman Islands was in the hands of liquidators. So with their cooperation, we and the liquidators in the Cayman Islands immediately informed European Bank in Vanuatu that this was stolen money and they were, in fact, holding it in trust for the victims and they should return it.

Then commenced a war which goes on to this day to try and recover those funds. One must remember in a small country like

Vanuatu, $7 million is a very large amount of money. This was far and away the largest customer of the bank. The victims of this crime had more money in that bank than the owners of the bank or any other deposits.

The opportunity for these offshore banks and the incentive for offshore banks to deal with villains is immense. If you stop to think about it, if you are going to steal money, who is the best person to steal it from? Obviously, a thief. If villains open accounts with offshore banks, which they do with regularity, the offshore banks hope the bad guys get caught because guess who gets the money then if it is not properly traced? So it is a tremendous incentive.

In this case, in Vanuatu, I honestly don't know what was driving motivations for the offshore bank to try and hang on to this stolen money. I sent people to Vanuatu without luck. I went there personally, accompanied by the FBI, with all kinds of documentation. The bottom line is they just wanted to keep that money. In a small country like Vanuatu, $7 million is a lot of money. If they could confiscate the money, keep it, if the bank could keep it, even freeze it, paying no interest on it, it would do tremendous things for both the country and the bank. But the bottom line is it is other people's money.

My point, and I see my time is up, is that I would like to make a plea to this Subcommittee. First of all, you are on the right track in terms of banning these accounts. Additionally, in my view, I think that much better tools can be given to people like myself whose mission it is to recover stolen funds from offshore banks. We need better legal standing. That can be achieved, and I would urge this Subcommittee to consider those issues to help us recover stolen funds from abroad. I discuss this point in greater detail in my prepared remarks. I urge the Subcommittee's consideration.

Thank you very much.

Senator COLLINS. Thank you, Mr. Evans.

There appears to be widespread agreement that U.S. banks should not be opening correspondent accounts for shell banks. I would like to pursue with each of you in further depth the issue of whether they should be providing services to offshore banks.

Yesterday, a former owner of an offshore bank in the Cayman Islands explained to us that at his bank, which he described as a typical run-of-the-mill Cayman Island bank, 95 percent of the customers were Americans, and he opined that there was no legitimate reason for an American citizen to have an account in an offshore bank, particularly given the very high fees that the bank assessed for its services and products.

I first want to ask whether you would agree with that assessment that there is generally no legitimate reason for an American citizen to have an account in an offshore bank, and then I want to ask you about the implications if you do agree.

Mr. Blum.

Mr. BLUM. I would say there is no legitimate reason. If you want an account offshore and, for example, you have a vacation home or you are living in another country, you can do business with the banks of that country. Remember that the offshore bank is an institution that only deals with foreigners.

Now, I visited Mr. Mathewson in 1994 in his bank. I had a hidden camera and tape recorder from Public Broadcasting. The show was on "Frontline," and he made a very persuasive pitch about how it was possible to hide my money and all the things he would do to keep it out of sight for me. His due diligence consisted of "you are not a drug dealer, are you?" And I said no and the conversation continued, and that tape is available.

Senator COLLINS. Ms. Vitale.

Ms. VITALE. I am hesitant to say there is no legitimate reason. I can tell you I don't know of one, but I am always willing to listen to see if someone can come up with one. That is for American citizens to have accounts at offshore banks.

I think my answer is different to the second question. There are legitimate reasons to have offshore banks. I know Republic had banks in offshore jurisdictions. Offshore jurisdictions may be high-risk jurisdictions, but that doesn't mean that legitimate activity can't be conducted there.

I think when you do have an offshore bank either as a customer or even as your own—part of a sub or an affiliate of your own bank, you have to have monitoring procedures in place and use a belt-and-suspender approach to make sure that those transactions are legitimate transactions.

Senator COLLINS. Mr. Evans.

Mr. EVANS. Well, as far as offshore banks, I think for these purposes we should define them as not including the offshore subsidiaries of regulated institutions.

Senator COLLINS. Correct. I am talking about offshore banks.

Mr. EVANS. OK. With that clarity, I can say there are lots of good reasons for people to be operating offshore in the regulated world. In the unregulated world, I can't think of a reason that is proper for an individual American. I can think of reasons for citizens of other countries, but not for an American.

The problem is that the vast majority of Americans who want to open offshore accounts are doing so for tax evasion. Tax evasion is not a crime in many countries. The problem exists that those of us that are trying to recover money of universally accepted crimes, such as theft, are put in the same category as those that are trying to recover tax evasion or divorce settlement or other kind of civil actions. That is part of the problem.

Senator COLLINS. To me, a bank in a country that does not allow its own citizens to deal with that bank or to do business with that bank is inherently suspect, but I want to make sure that as we attempt to go forward and devise solutions to this problem that we do not overreact and, in fact, inhibit legitimate commerce. I think it is a difficult balance to strike, but certainly offshore banks appear by their very nature to be questionable when defined as you and I have discussed.

Ms. Vitale, I want to go back to an issue that you raised in your statement. You said, and I think it is a critically important point, that to be effective, anti-money laundering procedures must have the support and the commitment of a bank's senior management.

The testimony that we heard yesterday was very interesting on that point. I think it was Mr. Christie, of Bank of America, who testified that correspondent banking used to be a part of the bank

where you knew you weren't going to get ahead if you were assigned to correspondent banking, that it was considered a very routine part of the business and not a way to advance your career.

That implies to me that it didn't receive years ago, at least, the kind of scrutiny and priority that you suggest is needed. I think that has changed, to be fair. I think it has clearly changed in the banks that we have talked about, including Citibank that we are going to be discussing later today.

But do you think that was typical, what Mr. Christie told us, that it just was not an area of the bank that received much attention from top management, and thus was more vulnerable to money laundering?

Ms. VITALE. I think it received attention from top management in terms of profitability in the early 1990's. But quite frankly, in the early 1990's when I first got to Republic, I didn't pay much attention to correspondent banking, the wire transfers through correspondent banking, and that was because the amount of wire transfers through correspondent banking is so vast, you can't monitor every one.

It was only in 1997 when two things happened. One was an account officer came to me, and he was one of the only account officers who reviewed statements of his accounts, and he said, Anne, take a look at this. And I looked at the activity and I said is this common? And then we started, by hand, manually, looking at different account statements, and I went to the Chairman, Walter Weiner, and I said we have got a problem, we can't have this. And then he said, design a system, and I got the funds and I worked with our systems people and we identified high-risk.

At the same time, the OCC came to me and they had received a tip about a certain Russian bank, and we took a look at the activity in those banks and accelerated our systems development. And once we developed a system where we could monitor large transactions or high-risk transactions, we were then able to make a dent in the correspondent banking area. But it has been a gradual process. But I think today it should get the attention of every CEO.

Senator COLLINS. Thank you.

Mr. Evans, you told us a very interesting case study involving European Bank, in which you had been very involved in investigating, and you recounted that when it opened an account for Benford, which, I think was incorporated as Benford Ltd., European Bank knew very, very little about its clients. Indeed, the occupation listed was simply "business."

Given the nearly complete lack of information about the beneficial owner of Benford, is the only reason that European Bank opened this account was that it was profitable? I mean, is it simply a matter of money being the motivation here?

Mr. EVANS. I can't imagine what else it could have been, and I also can't imagine a reason why a bank sitting in Vanuatu could think that there would be a legitimate reason for that to happen. I mean, we have an individual who is supposed to be—lady who is supposed to be living in London. Why would they open an account in Vanuatu, other than to hide the money?

And maybe there are legitimate reasons to hide money, at least legitimate in the laws of that country, from a spouse, from a cred-

itor, from whatever. But the mere act of wanting to open an account and providing absolutely no information to a bank who asked absolutely no questions—there can be no conclusion that I can figure out, other than everybody knew it was crooked money and there was a good way to make money off of that.

Senator COLLINS. Do you have any recommendations on how we could encourage countries with lax controls to either tighten their laws or otherwise cooperate with international efforts to combat money laundering?

Mr. EVANS. Well, there are some good precedents I have heard of in the drug control issue where there has been good international cooperation. I would like to see that cooperation extended into not only money laundering, but the recovery of money laundering. If we have stronger tools to recover money, it will make it much less profitable for marginal banks to deal with villains.

You have got to keep in mind that the criminal process works very slowly, and that is never going to change, in my view. You have procedures, you have processes to go through that make getting criminal convictions a slow and tedious process.

Most recovery of stolen money from abroad is done through a civil process. It is by actions brought civilly by the Securities and Exchange Commission or the Federal Trade Commission or another regulatory agency. We need better tools to move civilly. I believe those can be negotiated so we have reciprocal rights with other countries for the return of money to victims that can enhance that and allow those of us trying to recover funds to move with much greater speed than we can now. The money moves too fast. In a heartbeat, the money is gone. We need to be able to move faster.

Senator COLLINS. Mr. Blum.

Mr. BLUM. I would like to chime in on that. I agree that we need the tools. At the moment, U.S. citizens who try to take a U.S. judgment to a foreign court are in a terrible position because we don't sign on to the international conventions about enforceability of judgments. Our posture in the international law setting is really a 19th century posture and we have got to change that, and change it quickly.

Senator COLLINS. Ms. Vitale.

Ms. VITALE. I think one of the areas that needs some help is the ability to freeze certain funds within a correspondent account. And I am not advocating seizing the entire account, but if you identify funds within the account that there is probable cause to believe are the proceeds of a crime, those funds should be susceptible to seizure.

Senator COLLINS. Thank you.

Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

You have all agreed that you see no legitimate purpose for shell banks, and I couldn't agree with you more. In our investigation, we have been unable to find a legitimate purpose for a shell bank either, but your experience is a lot vaster than ours and that testimony is extremely helpful. I would think if we did nothing else, and we hope to do a lot more, but ban shell banks, or at least correspondent accounts with shell banks, we would be doing a real service.

We hope to go beyond that, but would you agree if we could just end the accounts with shell banks that they have with U.S. banks that we would be performing a service? Do you agree with that?

Mr. BLUM. Absolutely.

Ms. VITALE. Yes, sir.

Mr. EVANS. Oh, yes. If that is all you do, you should be ashamed of yourself.

Senator LEVIN. I agree with that, too, but it is a good starting point.

Mr. EVANS. Absolutely.

Senator LEVIN. Now, one of the arguments against it that we are going to face is that, well, they will just open accounts in other countries, banks in other countries. What is the answer to that?

Mr. BLUM. The answer is they have to use the U.S. wire transfer system. They have to have access to U.S. markets. The second answer is we have to work with the other major countries that have large banks and are in the bank regulatory system. I think right now the countries of Europe, the OECD countries, would agree. And this is an issue which our Treasury should be tabling in the context of the G–7 and say that, look, these are what the rules have to be.

Ms. VITALE. I think it is harder to find, but you can find it, and I am talking about nested correspondents and when the foreign bank has as one of its correspondents a shell bank. You can't find that when you open an account for your legitimate correspondent bank. However, you can see that at least in some occasions when you do wire transfer monitoring.

I know at Republic I remember quite clearly several instances, what really is standing out in my mind is where we had a correspondent bank that had a shell bank in Nauru and that was the originator of many wire transfers. First, we tried to do some due diligence to find out what this bank and who this bank was. We found nothing on the bank. We even contacted the bank, our correspondent, who couldn't tell us very much. And then what we did, we used the OFAC filter to block all wire transfers from the shell bank. So we didn't close the legitimate correspondent bank, but we blocked all transfers from then on of the offshore bank.

Senator LEVIN. Do any of our banks say that we will not accept an account from a foreign bank if it accepts deposits from shell banks? Is there any reason why we couldn't just tell our banks you may not allow this kind of nesting in your depositors? Why not do it that way?

Ms. VITALE. How do you enforce that?

Senator LEVIN. It may be tough to enforce.

Ms. VITALE. OK.

Senator LEVIN. But at least when you are accepting the deposit, you would be telling the depositor that if they do that, that is the grounds for ending the account, and indeed money could be seized if it were illegal money coming through that, just the way you described just a few moments ago, if we allow for the seizure of a portion of an account as you recommend.

But is there any reason why, as part of a reform, we should not tell U.S. banks you must not accept a deposit from a bank that you

have not informed may not, in turn, accept a deposit from a shell bank?

Mr. BLUM. I think that works.

Mr. EVANS. I think you are on the right track there, Senator. I think the way to do it is probably have some kind of certification by the correspondent bank that they, in turn, will not maintain nested accounts that do not meet the standard. And then they would be subject during routine bank examination to finding out whether the certifications were done properly.

Senator LEVIN. Should we not require that U.S. banks that accept correspondent accounts require any bank that wants to open a correspondent account to provide a list of the banks that they, in turn, have as correspondents? With computers, it is a fairly quick thing, I think, to do that. Now, if it is cumbersome and bureaucratic, it may not be doable, but what do you think, Mr. Blum?

Mr. BLUM. I think it is quite feasible and not very difficult to do.

Ms. VITALE. There is a problem with updating the lists, and also with what do you do when you have this list, then? I mean, do you just have a list of all the names or do you then have more due diligence that you have to do about all these banks that may be very small? I think that might be asking too much, unless it appears, of course, on your monitoring transactions as suspicious activity. Then you have the obligation to do more.

Senator LEVIN. If it is combined with that required certification that they do not accept depositors from shell banks, then they would be worried because they have to disclose who their bank depositors are, in turn, and if they have to certify that they don't accept any deposits from shell banks, they would be easily caught. Our U.S. bank would then have the certification from the correspondent bank; we do not accept deposits from shell banks. They would have the list from the depositor as to what banks they accept deposits from. And I think any depositor would be very worried, then, that those two pieces of paper could be easily put together and see whether or not the certification is accurate or not.

Mr. Evans, do you have a comment on that?

Mr. EVANS. No. I just think that you have got to be so careful on how that is crafted because we could have unintended consequences if we don't do it right. The burden should be on the foreign bank. If it is a major foreign bank that is maintaining nested accounts, the burden should be on them. They are subject to examination. The burden should not be on the U.S. correspondent, other than to require the certification.

Senator LEVIN. All right. It would be very helpful if you would give us any further thoughts on that subject for the record so that we could consider that as I am drafting legislation. I would like to have all the help we can get.

Now, what about banks that are licensed in jurisdictions that are known for poor anti-money laundering controls? Should we treat them differently automatically? Maybe we do already tell our U.S. banks you may not accept any deposits from banks which are in the countries that are on that international list. Are our banks allowed to accept deposits from those countries' banks?

Mr. BLUM. Yes, we do accept those deposits. I think we have to do business with some banks in these countries. For example, some

of the Caribbean Islands and the Pacific Islands legitimately need banking connections.

But the way I would put it would be this: If you picked a small town in Michigan or Maine—let's say South Haven, Michigan, and suddenly they decided they wanted to be home for 35 banks, you would probably say wait a minute, there is something wrong here. And even if the law said we are going to do everything in the world to stop money laundering, you would know that in a small town you simply don't have the resources to monitor and do everything that needs to be done.

So I would say that any jurisdiction that obviously hasn't got the resources to do the job, no matter what laws they pass, should be put on notice that if they go into any form of offshore banking center business, we are not going to deal with them and make them toe the mark. And I think there are a variety of things underway at the moment. The OECD has begun an exercise in looking at harmful tax practices. The FATF has developed a list which is focused on who is and who is not obeying the ground rules of the game.

I think we have to really consolidate the way we look at the problems. We should say, wait a minute, this just isn't going to work no matter what rules we put in place. Let's be realistic and say we are not going to let you play if this is the business you choose to be in.

Senator LEVIN. Let me go back to the question again of shell banks. This was a letter that we got from the legal counsel of Citibank.[1] It says, "We have been reflecting on the concerns stated by you and your staff about establishing relationships with offshore banks that have no physical presence in the offshore jurisdiction. We remain uncertain about whether attaching significance to physical presence is meaningful when one considers the nature of offshore banks. . . . Offshore affiliates typically service the existing customers of the parent institution." So the affiliates we are not worried about, but then they go on to say this: "Their function is to serve as registries or booking vehicles for transactions arranged and managed from onshore jurisdictions."

Is there a compelling business justification for shell banks, for example, as registries or booking vehicles?

Mr. BLUM. The whole idea of a booking vehicle leads you to the heart of this problem. When you go offshore, you are evading some rule, some tax, or some requirement of a regulatory agent or a government somewhere else. The principle of international law that has been on the table for many years is one government won't help enforce the governmental interests of another government. That principle evolved in the 19th century, the early 20th century, and it is a principle which I think needs very careful reexamination as we integrate the world economy in the 21st century.

This idea of being able to book a transaction outside the reach of the regulators somewhere else, of the tax authorities somewhere else, is at the heart of the matter, and it is the thing that we really have to debate in a coherent way. It is not just the issue of money

[1] See Exhibit No. 21 that appears in the Appendix on page 734.

laundering. When they say book somewhere else, they are talking about reserve requirements and the cost of money.

In the United States, if you are a bank, you have to keep reserves for liquidity, reserves against various risks. If you move the money offshore, there are no reserve requirements. You are on a net/net basis. The cost of money goes down, but they are evading the basic reserve requirement regulation.

So what we have to do is begin to focus on how this works internationally and where regulation should be permitted to be changed so that everything is, in fact, onshore and done in a straightforward way.

Senator LEVIN. Ms. Vitale, I think you have testified that having a physical presence and employees is both meaningful and important.

Ms. VITALE. Yes.

Senator LEVIN. So we have that testimony, I think, in response already to my question. Is there anything further that you want to add to that?

Ms. VITALE. I think when you have no physical presence anywhere, you are not a bank. You may be a wire transmitter of some sort, but you are not a bank.

Mr. BLUM. You are a checking account, is what you are.

Senator LEVIN. Mr. Evans.

Mr. EVANS. Well, Senator, I do have to diverge a little bit here from my colleagues. I think there are very legitimate reasons to have these offshore booking and registration centers. Now, maybe that is the vagaries of international law now, but there is no major international insurance company that is not operating in that fashion largely through Bermuda. The same way with ship registries. That is the way the world is.

Now, it shouldn't be that way, mind you, but it is legal, it is proper, and if you are going to be in that arena, that is what you have to do to compete. We shouldn't mix that up with this, in my view. That is a very legitimate business under today's rules of the game and we shouldn't screw around with it. I mean, if we want to screw around with it, that is a different issue than money laundering. Don't cross the two.

Senator LEVIN. I have further questions, but my time is up.

Senator COLLINS. Why don't you proceed?

Senator LEVIN. Thank you.

On the question of seizing suspect funds, Ms. Vitale, I believe, has already addressed that issue and I don't know if our other two witnesses have. But the question here is whether or not we should make it easier for U.S. law enforcement to seize suspect funds which are deposited in a U.S. correspondent account belonging to a foreign bank.

Right now, to seize those funds, the U.S. has to show, or our prosecutors or law enforcement have to show that a foreign bank was somehow part of the wrongdoing. It is not enough to show that those assets are there. You have got to show that somehow or other the bank is part of the wrongdoing, they are a wrongdoer, and that is not a requirement which applies to seizures from other types of U.S. bank accounts. So it is just the correspondent account that we have a very tough standard to meet, and I don't see that it is a

particularly logical way to approach it any more than it would be with our onshore accounts.

Now, I think we have had the story from you, Mr. Evans, about the Taves credit card fraud, but let me ask you briefly, all of you, if you can, would you agree—I guess, Ms. Vitale, you have already addressed it—that we ought to allow for the seizure of funds in a correspondent account in the same way we would in a regular bank account?

Mr. BLUM. I agree. In my prepared statement and in my remarks, I mentioned the case of Nigerian fraud with the money that we wanted to try to stop in a New York correspondent account before it went off to Beirut and couldn't do it. I think it is ridiculous that a correspondent account from a shell bank should have privileged status in the sense that it is in a better position than the account of an ordinary American bank.

Senator LEVIN. Thank you. Do you have anything more to add?

Mr. EVANS. No. I agree with you.

Senator LEVIN. Thank you.

I want you to take a look at a description which was contained in a Citibank document relative to the purpose of an offshore bank, and this is Exhibit 37.[1] This memo refers to Federal Bank, which was an offshore bank licensed in the Bahamas with no physical location. Citibank calls it a booking vehicle.

The memo refers to Banco Republica, which is an offshore bank located in Argentina, and Federal Bank is supposed to be its offshore arm for Banco Republica's private banking customers. I will read this to you. I don't know if you have the exhibits in front of you. Do you have those exhibits in front of you?

Mr. BLUM. Yes.

Senator LEVIN. Good. Here is what the memo says about the purpose or the function of the Federal Bank: "The existence of this vehicle is justified in the group's strategy because of the purpose it serves . . . to channel the private banking customers of Banco Republica to which they provide back-to-backs and a vehicle outside Argentina where they can channel their savings, which are then replaced in Banco Republica by Federal Bank." So what the memo says is the depositors in Banco Republica send their money to Federal Bank and then Federal Bank deposits that money back in Banco Republica.

Can any of you see the purpose of that?

Mr. BLUM. Well, back-to-back transactions are frequently used by money launderers. A deposit is made in one place. The money then becomes collateral for a loan and goes back into the hands of the person who sent the money originally, and that is a great way of concealing or making it look like the money came legitimately from a foreign source.

Senator LEVIN. Are there other purposes that might be legitimate purposes for that? Can you offhand see what a legitimate purpose would be for that? We will give Citibank obviously an opportunity to testify on that. But just looking at it with your experience, would that raise an alarm bell if you saw those kinds of transfers back and forth?

[1] See Exhibit No. 37 that appears in the Appendix on page 805.

Ms. VITALE. It is probably—if it is legitimate, it is tax evasion.

Mr. EVANS. Yes. I can't think of a reason. It would have to be a local Argentine thing in which I have no experience, but that would be the first question I would ask.

Senator LEVIN. Finally, let's take a look at Exhibit 23,[1] and I want to just get your reaction to a series of transactions that occurred among three entities with a common owner and a correspondent account in Citibank, in New York.

These three entities now have the same owner, and the movement of money among three Citibank New York correspondent accounts are the three entities owned by Grupo Moneta—Banco Republica, which is the actual bank located onshore in Argentina, and then American Exchange which is a Panamanian company apparently operating out of Uruguay, and Federal Bank which is the offshore bank which is one of the banks that we are looking at, also owned by that same group, Grupo Moneta.

Now, as you can see, there are numerous same-day transfers of significant amounts of money from Banco Republica to American Exchange, to Federal Bank. These are all owned by the same group. Can you see any particular reason, from your experience, why money would move like that? Is that movement—same day, three entities owned by the same group—a normal business practice from your experience?

Ms. VITALE. I can't answer the question, if it is a normal business practice, but it raises questions. And I think if you see a pattern such as this, you should ask some questions and get answers that will explain it. But the rule is sort of the mathematical rule, the shortest distance between two points is a straight line. Here, you have it going a round-robin sort of transaction, which is an indicia of high-risk activity that may be suspicious. So I would definitely ask some questions about a pattern like this.

Senator LEVIN. Do either of the other witnesses want to respond?

Mr. EVANS. Ask the questions, for sure. I can think of reasons why that would be quite proper in foreign exchange markets and the like where you deal in those kind of numbers and you deal with them on a same-day basis. But the questions deserve to be asked.

Senator LEVIN. Among entities which are owned by the same group?

Mr. EVANS. It could be.

Senator LEVIN. OK.

Mr. EVANS. I honestly don't know. I don't know enough about it, but the questions—it is a legitimate question.

Senator LEVIN. One other fact. I am informed they are all U.S. dollar accounts.

Mr. EVANS. I could think of reasons why it could be.

Senator LEVIN. OK, fair enough.

Mr. BLUM. I come to the same conclusion. You have to ask questions, and the question is why. Always, where offshore banking is involved, there is the question of why have you gone to this added extra expense. Why are you going through multiple transfers when you can do it straightforwardly and simply?

Senator LEVIN. Thank you all. You have been a great help.

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[1] See Exhibit No. 23 that appears in the Appendix on page 742.

Senator COLLINS. Ms. Vitale, just one final question for you, since you have helped banks set up anti-money laundering procedures. You said in looking at the transfers that Senator Levin just brought to your attention that you can't conclude anything without asking questions, but that, in fact, they raise questions.

Would the kinds of money laundering systems that you would advise a bank to have in place trigger a review of a pattern that is similar to this?

Ms. VITALE. Yes.

Senator COLLINS. Thank you. I want to thank all of you for your testimony today. It was extremely helpful, and we look forward to continuing to work with you. Thank you.

Mr. BLUM. Thank you.

Mr. EVANS. Thank you.

Senator COLLINS. Our second panel of witnesses this morning consists of three individuals representing Citibank: Jorge Bermudez, Executive Vice President and Head of e-Business for Citibank; Carlos Fedrigotti—you can see my Spanish is not very good here—President and Country Corporate Officer for Citibank Argentina and Latin American South Region Executive; and Martin Lopez, who was formerly with Citibank Argentina and is currently a Vice President and Corporate Bank Head for Citibank in South Africa.

I appreciate all of these witnesses being here today. At least I hope they are here. I am a little concerned that they haven't appeared at the table. I would ask the Chief Clerk to locate the witnesses and bring them forward.

[Pause.]

Senator COLLINS. Gentlemen, would you remain standing so that I can swear you in?

Would you please raise your right hand? Do you swear that the testimony you are about to give to the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. BERMUDEZ. I do.

Mr. FEDRIGOTTI. I do.

Mr. LOPEZ. I do.

Senator COLLINS. First, I want to express my appreciation for our witnesses being here today. I know two of you have traveled a considerable distance to be here.

We will be using a timing system today. You will be given 10 minutes to make your opening statements, but your complete written statements will be included in the hearing record.

We are going to start with Mr. Bermudez. Please move the mike close to you so that we can hear you well. Thank you.

TESTIMONY OF JORGE A. BERMUDEZ,[1] EXECUTIVE VICE PRESIDENT AND HEAD OF E-BUSINESS, CITIBANK, N.A., NEW YORK, NEW YORK

Mr. BERMUDEZ. Good morning, Madam Chairman and Senator Levin and Members of the Permanent Subcommittee on Investiga-

[1] The prepared statement of Mr. Bermudez with attachments appears in the Appendix on page 180.

tions. My name is Jorge Bermudez. I am an Executive Vice President of Citibank and Head of e-Business, a business unit of Citigroup's Global Corporate Investment Bank. E-Business is the organization responsible for delivering Internet-based solutions to the corporate marketplace and for providing cash management and trade services to our global, regional and local customers.

I am pleased to testify before you this morning and share with you what Citibank is doing to fight the risk of money laundering in the markets in which we operate, including our correspondent banking funds transfer services which are so crucial to the international payment systems. This is an extremely important topic.

Citibank is a truly global institution providing a broad range of products and services to corporate and financial institution customers in more than 100 countries around the world. We are keenly aware, however, that with this global presence comes the tremendous responsibility of setting and following high standards to fight money laundering in each of the countries in which we operate.

As a leader in the financial services industry, we have taken, and will continue to take, a prominent role in the fight against money laundering. That fight is far from over. While we are constantly working to improve our anti-money laundering controls, the reality is that it is difficult for the industry, as well as law enforcement, to keep up with the latest schemes employed by money launderers.

Citibank welcomes the effort of this Subcommittee to assist the financial services industry in identifying areas of vulnerability and developing strategies to avoid the unwitting facilitation of money laundering. Thanks, in part, to the Subcommittee's work, the financial services industry has been able to identify areas of risk that had not been fully appreciated, which has in turn provoked an industry-wide reassessment of the adequacy of anti-money laundering controls for correspondent banking.

As you know, the New York Clearing House Association, of which Citibank is a member, is undertaking to develop a code of best practices that will help the industry respond to the weaknesses identified by your staff. The Federal Reserve has acknowledged the challenges involved in balancing the importance of anti-money laundering controls with the importance of maintaining an effective and efficient international payment system. The Federal Reserve has indicated its willingness to consult with the Clearing House in its effort to develop a code of best practices.

In addition, the Wolfsberg Group, of which Citigroup is also a participating member, is taking up the issue of money laundering in correspondent banking. Like the Wolfsberg Anti-Money Laundering Guidelines for Private Banking issued last year, the Group intends to develop another set of guidelines that reflect the Group's recognition that money laundering in international banking cannot be solved by one institution or by any one country.

In a 1995 report, the Office of Technology Assessment found that hundreds of thousands of wire transfers move trillions of dollars on a daily basis. Citibank, for example, executes approximately 145,00 wire transfers that permit customers and third parties to make $700 billion in payments everyday. Any monitoring program would have to be carefully designed to avoid impairing the smooth func-

tioning of the national and global economy, particularly in view of the fact that less than one-tenth of 1 percent of the total volume of wire transfers is estimated to involve money laundering.

Citibank's response to this complicated problem has been to strive continuously to improve an anti-money laundering program that couples thorough and ongoing due diligence on its own financial institution customers with the latest technologies for monitoring transactions between financial intermediaries.

Citibank has always conducted due diligence on its financial institution customers. Recently, however, we have implemented an enhanced "know your customer" due diligence procedure applicable to relationships with financial institutions in the emerging markets. Once an account is opened for a financial institution, the activity in the account is monitored in several ways which I have described in my written statement.

In addition, the investigative analysts in our Tampa Anti-Money Laundering Unit employ various methods to monitor U.S. dollar fund transfers for suspicious activity on an ongoing basis, and we have established a specialized compliance unit to coordinate and improve communication between the Tampa Anti-Money Laundering Unit, the country compliance officers, and the business relationship managers.

As criminals have become increasingly more sophisticated at laundering money, and as the volume of fund transfers has continued to grow, we have made efforts to improve our monitoring techniques. Over the past year, we have also significantly increased the amount of training resources dedicated to anti-money laundering education.

Furthermore, we work with local governments and banking leaders to raise compliance standards and protect against money laundering risks. To that end, we have led almost monthly anti-money laundering seminars for foreign bankers and banking regulators.

Although the pattern monitoring that our Tampa Anti-Money Laundering Unit undertakes is important to identify unusual patterns of activity, it is only a limited line of defense. As the Chief of FinCEN's Systems Development Division has said, sifting through the volume of wire transfers for suspicious activity is like looking for a needle in a stack of other needles.

In our experience, the most effective monitoring comes from the use of law enforcement tips, press reports, or other specific information that identifies names of institutions or possible customers of financial institutions that have come under suspicion of money laundering. Citibank is developing a formalized system to gather such information. We feel it would be particularly useful if U.S. Government agencies could devise methods of sharing with the banking industry and foreign regulatory agencies information about institutions that have been suspected of money laundering.

We also have implemented a centralized system for tracking all subpoenas and seizure orders Citibank receives on financial institution accounts. If a subpoena or seizure order relates to money laundering or similar issues, the matter is referred to our Tampa analysts for follow-up.

The Minority staff has suggested a number of measures to assist banks that offer correspondent banking services in guarding

against money laundering, including the identification of certain types of relationships that warrant greater care when deciding whether to accept a financial institution as a correspondent banking customer. Citibank has been studying these recommendations with great care, and we will be working with the New York Clearing House Association in the coming months to formulate an industry code of best practices to respond to the issues involved.

As one of the world's largest global institutions, Citibank knows that it plays a unique and important role in the fight against money laundering. We are dedicated to the fight against money laundering and to using our global presence to increase international awareness of the problem. Thanks, in part, to the Subcommittee's important work, U.S. financial institutions are now more aware than ever of the vulnerabilities they face when they establish correspondent relationships with smaller, less well-known financial institutions that want to participate in the global economy.

Thank you for the opportunity to testify before you today. I am pleased to answer any questions you have.

Senator COLLINS. Thank you.

Mr. Fedrigotti.

TESTIMONY OF CARLOS FEDRIGOTTI,[1] PRESIDENT AND COUNTRY CORPORATE OFFICER, CITIBANK ARGENTINA, BUENOS AIRES, ARGENTINA

Mr. FEDRIGOTTI. Good morning, Madam Chairman. I have submitted a written statement for the record that I would like to summarize here.

Madam Chairman, Senator Levin, and Members of the Permanent Subcommittee on Investigations, my name is Carlos Fedrigotti. I am the President of Citibank Argentina. I have held that position since April 1996. I have been an employee of Citibank since I graduated from Columbia University in 1977. As the President and Country Corporate Officer for Citibank Argentina, I am the institutional representative for Citibank in the country. I am responsible for Citibank's corporate banking operations in Argentina.

Since 1914, Citibank has been an active and important member of the Argentine business community. In 1999, the U.S. State Department commended the branch for its outstanding corporate citizenship, its innovation, and its exemplary international business practices. Last year, the Argentine Minister of the Economy praised the constructive role that the branch played in connection with the passage of anti-money laundering legislation in Argentina. Citibank has had a long and distinguished history in Argentina. I am proud to lead this institution.

Citibank Argentina has long been aware of the need to scrutinize closely the financial institutions with which it does business. First, in terms of credit risk, Citibank must have a complete picture of the financial soundness and stability of its financial institutions customers. Second, the branch must perform thorough due diligence to ensure that its customers have the utmost integrity, and

[1] The prepared statement of Mr. Fedrigotti appears in the Appendix on page 223.

that these customers fully appreciate their responsibility to prevent and detect money laundering and other illegal activity.

Citibank has strived to limit its target market to the most reputable and financially robust institutions. For this reason, Citibank avoids doing business with offshore banks that are not affiliated with well-established onshore parent financial institutions.

In January of last year, Citibank Argentina further limited its target market. We closed correspondent accounts that we had maintained for offshore institutions that, although affiliated with Argentine onshore parents, were not reported to the Central Bank on the parent institutions' consolidated financial statements. None of the accounts for these non-consolidated offshore affiliates was closed because suspicious activity was detected.

Among the accounts that were closed was a correspondent account for Federal Bank, which the Minority Staff's Report has criticized Citibank for opening and which would not have been opened under the redefined target market criteria.

In 1992, Citibank Argentina's Financial Institutions Unit, or the FI Unit, as we call it internally, requested that a correspondent account be opened in New York for Federal Bank Ltd. It was the understanding of the FI Unit that the Moneta Group—a group of financial institutions and investment companies owned by Raul Moneta, his uncle Jaime Lucini, and their families, owned Federal Bank—and that Federal Bank was the offshore affiliate of the Group's flagship bank in Argentina, Banco Republica.

The members of the FI Unit in Argentina who requested the opening of a correspondent account for Federal Bank felt comfortable doing so because the branch in Argentina had had a long banking relationship with its sister institution, Banco Republica, and its owners which dated to the late 1970's.

In addition to this banking relationship, Citibank and the Moneta Group were also co-investors in an investment holding company called CEI, created in the early 1990's to hold equity in Argentine companies acquired through the Argentine Government's debt-for-equity swap program.

Although the Buenos Aires branch had no legal documentation in its files proving as a matter of law that Federal Bank was owned by the Moneta Group, the FI Unit considered it to be an affiliate of Banco Republica and treated it as such. As you have seen from the FI Unit's records, members of the FI Unit regularly discussed Federal Bank with Banco Republica's management and analyzed Federal Bank as part of their overall credit analysis of Banco Republica and its affiliates.

In April 1999, I received a letter from the Central Bank of Argentina requesting information regarding Federal Bank, particularly information about the identity of Federal Bank's shareholders. The Central Bank's request was based on the fact that Federal Bank maintained a New York account with Citibank. I passed the request on to my deputy and asked him to prepare a response in consultation with the bank's general counsel.

Because the files in Buenos Aires contained no records from which Federal Bank's ownership could be determined as a matter of law, my deputy and my general counsel prepared a letter for my signature informing the Central Bank that such information was

not available in the files in Buenos Aires. The letter also directed the Central Bank to New York, where documentation for Federal Bank's New York-based account would be maintained, and offered the branch's assistance in helping the Central Bank to obtain information in New York.

I later revisited the branch's response to the Central Bank's inquiry regarding Federal Bank when the Subcommittee subpoenaed information regarding Banco Republica. In July 2000, when I was made fully aware that the working materials in the branch's files for Banco Republica contained informal, internally-generated information about Federal Bank, I determined that the Buenos Aires branch should offer that information to the Central Bank of Argentina. On July 27, I sent a letter to the Central Bank making this offer, and in September, at the request of the Central Bank, the branch provided this material.

While the branch's initial response to the Central Bank was legally correct under Argentine law, Citigroup's policy is to do more than comply with the legal requirements of the jurisdictions in which we operate. It is Citigroup's policy to cooperate fully with regulators in all circumstances, which means going beyond our basic legal obligations. Although the branch's initial response to the Central Bank was correct under Argentine law, we should have done more and supplied the additional information which, in fact, we did last year.

This matter has been taken very seriously by me and Citigroup's management, and I have in turn reemphasized to the employees under my supervision that full cooperation with regulators is mandatory in all circumstances, and that full cooperation may require them to go beyond what is strictly or legally sufficient to fulfill their obligations.

I can personally assure you that as the senior executive in the country, I have reinforced the awareness of Citibank Argentina regarding the policy of having a fully collaborative relationship with the Central Bank in all respects.

Thank you for the opportunity to testify today. I would be pleased to answer any questions you might have.

Senator COLLINS. Thank you.

Mr. Lopez.

TESTIMONY OF MARTIN LOPEZ,[1] VICE PRESIDENT AND CITIBANK CORPORATE BANK HEAD FOR CITIBANK, REPUBLIC OF SOUTH AFRICA

Mr. LOPEZ. Chairman Collins, Senators Levin, and Members of the Permanent Subcommittee, good morning. My name is Martin Lopez and I have worked for Citibank since 1985. In 1985, I became a Relationship Manager in the Financial Institutions Unit in Buenos Aires, and in 1997 I became the Head of the Unit. I left Buenos Aires in June 2000, and after a brief assignment in Malaysia, I have been in charge of the Citibank Corporate Bank in South Africa since November of last year.

[1] The prepared statement of Mr. Lopez appears in the Appendix on page 233.

As an employee of Citibank, I want to assure you that I am committed to doing whatever I can to help Citibank make its correspondent banking services less vulnerable to money laundering.

Among the ten cases the Minority staff has examined over the past year, two cases center on correspondent relationships with offshore banks that are affiliated with Argentine financial institutions. I would like to say a few words about each.

Citibank's decision to open correspondent banking accounts for Mercado Abierto and its affiliates was based primarily on our experience with the parent institution, Mercado Abierto. Although I was never the relationship manager responsible for this relationship, I can tell you that Mercado Abierto was one of the largest and most important brokers on the Buenos Aires Stock Exchange.

The Minority staff has focused most of its attention on M.A. Bank. M.A. Bank is the Mercado Abierto Group's offshore affiliate. M.A. Bank provides sophisticated Argentine investors with access to international financial markets.

The Minority Staff Report refers to M.A. Bank as a shell bank, but M.A. Bank was affiliated with the Mercado Abierto Group, which maintained a physical presence in Argentina and was regulated by the Comision Nacional de Valores, the Argentine version of the Securities and Exchange Commission in the United States.

In 1999, I learned that the U.S. Customs Service had launched an undercover investigation that implicated Mr. Ducler, one of the owners of Mercado Abierto, and two of Mercado Abierto's vehicles, M.A. Bank and M.A. Casa de Cambio, in the laundering of narcotics proceeds.

After I learned of the grounds of the seizure, Citibank blocked these accounts in December 1999 and formally ended its relationship with the entire Mercado Abierto Group in February 2000. I have since learned that the U.S. Customs Service settled its claim against Mercado Abierto, and that neither Mercado Abierto nor its principals has been found guilty of any wrongdoing.

The Minority Staff Report concludes that Citibank should have more promptly realized that the seizure warrant it received for the Mercado Abierto accounts was related to money laundering. Unfortunately, this is a well-deserved criticism. Citibank now has procedures in place to ensure that warrants like the one Citibank received for Mercado Abierto are properly handled.

The Minority Staff Report asserts that Citibank permitted M.A. Bank to engage in highly suspicious activities for more than 1½ years after assets in its account were seized for illegal activity. That is simply not true. What the Minority staff observed was a significant level of activity among the various Mercado Abierto vehicles which is, in fact, consistent with the various securities markets in which the Mercado Abierto Group traded and the Group's purchase and sale of securities within and outside Argentina.

I would now like to say a few words about Citibank's relationship with Banco Republica and Federal Bank. Citibank's relationship with Banco Republica dates back to 1978, when its owners, Raul Moneta and his uncle Benito Lucini, established a financial company that later became Banco Republica, a wholesale bank located in Buenos Aires. I understand that in 1992, Mr. Moneta and Mr. Lucini incorporated Federal Bank, an offshore affiliate of Banco

Republica. That same year, Citibank established a New York-based correspondent banking account for Federal Bank.

The relationship between Banco Republica and Federal Bank was, I believe, well known in the Argentine financial community, particularly among those banks that loaned money to Republica Holdings, the Moneta family's offshore holding company.

The Subcommittee has noted that $4.5 billion moved through Federal Bank's correspondent account at Citibank. In my experience, $4.5 billion in credits, which averages to approximately $50 million per month, or $2.5 million per day, over 7½ years, is consistent with Federal Bank's purposes and would not be unusual for a bank of this size.

Much of the interest in Banco Republica and Federal Bank appears to stem from confidential and secret examination reports for Banco Republica by the Central Bank of Argentina. When the Minority staff made these reports available to me, I found two things that concerned me.

First, the reports pointed out that Banco Republica did not have written anti-money laundering procedures, as required by the Argentine Central Bank. Given the length of Banco Republica's relationship with Citibank, the relationship managers, myself included, relied on oral assurances that Banco Republica maintained written anti-money laundering procedures as required by the Argentine Central Bank.

I was therefore surprised to learn that Banco Republica failed to comply with this requirement. But under Citibank's enhanced due diligence procedures for U.S. accounts, relationship managers will be required to assess the anti-money laundering controls that Citibank's clients have in place. I understand that Citibank Argentina is now reviewing the anti-money laundering practices of all of its financial institution customers.

Second, I was surprised to learn that Pablo Lucini denied that Federal Bank was affiliated with Banco Republica. As you can see from our files, although we cannot legally prove that Federal Bank was affiliated with Banco Republica, we certainly believe that it was.

In April 1999, the Central Bank of Argentina sent a letter requesting information about Federal Bank, particularly about its owners, to the Buenos Aires branch of Citibank. Because I believed that Federal Bank's affiliation with Banco Republica was known in the Argentine financial community and I knew that the Central Bank's examiners had a great deal of expertise in this market, I thought that they already had grounds to believe that these entities were affiliated.

I therefore concluded that the Central Bank must have been looking for legal proof, undeniable evidence that the Moneta Group owned Federal Bank. And while our files contained a lot of internally-generated documents that reflected our understanding of the relationship, we did not have the legal proof that I thought the Central Bank was looking for.

I was also concerned when I reviewed the Central Bank's letter that we were being drawn into the middle of a matter between the Central Bank and one of our customers. When I was interviewed by the Minority staff, I used an imprecise expression to describe

this situation. When I said that I believed the Central Bank was playing "some kind of game," I merely meant to express my concern that we were being put in this uncomfortable position. I did not intend in any way to suggest disrespect to the Central Bank, which has done an excellent job supervising the Argentine financial system, and I fully appreciate that it is Citibank's policy to cooperate fully with requests from regulators.

I thank you for the attention that you are giving to correspondent banking and its vulnerability to money laundering, and for giving me the opportunity to testify before you, and I am willing to respond to any questions that you have.

Senator COLLINS. Thank you, Mr. Lopez.

Senator Levin, would you like to lead off the questions?

Senator LEVIN. Madam Chairman, thank you.

We are going to focus today on two shell offshore banks that Citibank New York has had a correspondent relationship with, and those are the M.A. Bank and the Federal Bank. Both of those offshore shell banks were licensed in the Caribbean, but their customers were in Argentina. They didn't have offices in the Caribbean countries; all they had was a registered agent.

They were licensed as offshore banks, so they were not allowed to do business with anyone residing in the jurisdictions in which they were licensed. Both of these banks were affiliated with larger commercial entities known to Citibank. In the case of M.A. Bank, it was owned by Mercado Abierto, a large securities company in Argentina, and in the case of Federal Bank, it was owned by Grupo Moneta, which is a large conglomerate or holding company in Argentina.

As far as we can determine, neither of those banks had a physical location in any country, no brick-and-mortar location that a customer of those banks could go to to make deposits or withdrawals. Neither of those banks were licensed to do business in Argentina. That means that the bank isn't supposed to take deposits or allow for withdrawals. But for the association with larger commercial entities, those banks were offshore shell banks.

Now, both of those banks kept all of their money exclusively, as far as we can determine, in correspondent accounts; in other words, accounts in other banks. So, basically, these accounts are nothing more than their correspondent accounts at Citibank New York. I believe it is a fact—and, Mr. Fedrigotti, you can correct me if I am wrong—that these banks have never been examined by an independent bank examiner. And if that is not correct, to your knowledge, you can just interrupt me at any time.

If those two banks were affiliated with a bank in Argentina and if the Central Bank of Argentina were well aware of that fact, the Central Bank would bring the affiliate bank within their purview and examination. So if these two banks were affiliated with a bank in Argentina and if your Central Bank, your regulatory body, were aware of that fact, then the Central Bank would bring the affiliate bank within their purview and examination.

First, is that true, Mr. Fedrigotti, and, second, it didn't happen in this case, did it?

Mr. FEDRIGOTTI. Senator, at some point in time, during the last few years, the Central Bank requested all Argentine banks which

had affiliated entities to consolidate them in their reporting, and thus the consolidated entity would fall under the regulatory environment in Argentina. Neither of these affiliated entities were ever consolidated in that sense, and therefore they did not fall within the regulatory environment of Argentina.

Senator LEVIN. If the Central Bank of Argentina knew when you wrote them the letter saying you had nothing in your files relating to the Federal Bank what they knew later, would they have then brought that bank within their purview?

Mr. FEDRIGOTTI. What happened when the regulations changed was that Argentine banks proceeded to start the process of consolidation, and whenever there was awareness that these entities were still not being consolidated, there was an action plan as to by when, by a certain time, this would have taken place.

In the case of Banco Republica, like with many others, I take it that there was a plan, an action plan, in place and there were interactions between people in Banco Republica and members of the FI Unit staff that addressed that concern and were working jointly towards that goal. It is also my understanding that at some point Banco Republica or one of its entities approached the Central Bank in connection with this procedure. That is what I have gathered from reading notes in the files. So at the end of the day, that consolidation never took place.

Senator LEVIN. Did the Central Bank of Argentina know at the time that we are discussing that the Federal Bank was connected through common ownership to Banco Republica?

Mr. FEDRIGOTTI. It would have taken steps to——

Senator LEVIN. No. Did it know?

Mr. FEDRIGOTTI. I don't know, Senator.

Senator LEVIN. Well, it asked you, didn't it?

Mr. FEDRIGOTTI. It asked Citibank for evidence of ownership, correct.

Senator LEVIN. And you told them that you had none in your files?

Mr. FEDRIGOTTI. We told them that we did not have evidence of ownership in our files.

Senator LEVIN. And so presumably they didn't know or wanted to know when they wrote you that letter. But, in fact, Federal Bank did share common ownership with Banco Republica because they had common ownership, is that not correct?

Mr. FEDRIGOTTI. Senator, we had our own internal understanding of the relationship between the principals and the relationship between these entities. When that first letter was sent, we should have done more and we should have supplied the additional information that we had in our files reflecting that understanding that we had of that relationship.

Then we noticed that while the letter was legally correct and accurate, it was incomplete from an internal policy standpoint, and that we should have supplied that information originally. When I became aware of that when I revisited the issue and I was made aware of the type of information and the nature of the working papers that we were dealing with, I made the decision to then supply that information.

Senator LEVIN. You say that your letter was accurate but not complete, and I want to look at that request to you and your response to it. The request is Exhibit 32b.[1] This is the way it reads, and this is from the Central Bank, which is the regulatory body.

"This is in reference to a proceeding to determine if there is any sort of economic link between financial entities subject to the control of this Superintendence and Federal Bank Limited, a company established on March 1992, under the laws of the Commonwealth of the Bahamas. . . ."

"By means of transfers from and to Federal Bank Limited, the Argentine financial entities receive and pay deposits of residents abroad. The transfers are made with debits and credits to the account of Federal Bank Limited in Citibank New York. . . ."

"In light of the importance of the aforementioned transfers," they are requesting "all information that Branch may have about Federal Bank Limited, especially the identity of its shareholders." The superintending bank there is requesting all information that you may have about Federal Bank Limited, especially the identity of its shareholders. "Likewise, we also request your intercession with the house in New York so your headquarters will provide the requested information."

Your response to them, which you said was accurate—and that is Exhibit 32d.[2]—says that, "Pursuant to the request in your letter of April 20, 1999, this is to advise that our records contain no information that would enable us to determine the identity of the shareholders of the referenced bank."

Now, in fact, your records contained a lot of information showing common ownership, did it not?

Mr. FEDRIGOTTI. Yes, they did, sir.

Senator LEVIN. So how can you say it is accurate to tell your regulatory body that your records contain "no information" that would enable you to determine the identity when you had so much information in your files very clearly showing the identity of the owners and showing that the identity was exactly the same as Banco Republica? How can you say that is accurate?

Mr. FEDRIGOTTI. Senator, the whole information in the files should have been provided at the original request. As I have been able to reconstruct events and discuss with the people who participated in the preparation of that response, they focused on the fact that we could not legally prove ownership, and therefore that was the nature of the response that was prepared.

And in addition to that, they were then directing the Central Bank to New York where the account was, in fact, domiciled. The information for an account domiciled in New York would rest in the files pertaining to that account, so the Central Bank was directed to that location.

Nevertheless, while that was the interpretation of those who worked in preparing that response, upon the second instance when I was fully involved and understood the nature, then looked back at the original request, understood the nature of the informal internal information, it was my decision that that information should be

[1] See page 2 of Exhibit No. 32 that appears in the Appendix on page 760.
[2] See page 4 of Exhibit No. 32 that appears in the Appendix on page 760.

provided to the Central Bank in that form so that then they could themselves reach their own conclusions as to the relationship between these entities.

Senator LEVIN. Now, the money laundering case that we were looking at related to a deposit of bribe money in Federal Bank, which is an offshore bank which is licensed by one of the Caribbean islands, is that correct?

Mr. FEDRIGOTTI. Senator——

Senator LEVIN. Have you read our report?

Mr. FEDRIGOTTI. Yes, I have.

Senator LEVIN. OK, and you are aware of the fact, then, that the specific money laundering issue that we were looking at relative to the offshore bank called Federal Bank, which was owned by the same folks that owned Banco Republica, was some money which we believe was identified indeed as bribe money that was deposited in Federal Bank. Is that correct?

Mr. FEDRIGOTTI. I am aware of that.

Senator LEVIN. All right.

Mr. FEDRIGOTTI. Senator, you did say that that money was identified as bribe money. I am not aware of that, but I am aware of the concern or the investigation surrounding that.

Senator LEVIN. All right, and the allegation——

Mr. FEDRIGOTTI. Exactly.

Senator LEVIN [continuing]. Which I believe was acknowledged, as a matter of fact, at some point. But without getting into that, nonetheless you were aware of the fact that that, at least in your eyes, was suspected?

Mr. FEDRIGOTTI. There is controversy around that, correct.

Senator LEVIN. OK. Now, I just want to go back again to see if I can understand really what the motivation is here now because your bank is a partner, is it not, with the same people who own Banco Republica and Federal Bank? Is that correct?

Mr. FEDRIGOTTI. Senator, the way we work internally in the bank is that in the branch, in Citibank Argentina, we manage the relationship with Banco Republica and the bank affiliates. There is a separate unit in the bank that manages the relationship with the Grupo Moneta in connection with the investment in CEI, where indeed the Grupo Moneta is co-investors with Citibank in that group.

Senator LEVIN. My question is that Citibank in Argentina is a partner with Grupo Moneta in another entity, is that correct?

Mr. FEDRIGOTTI. In CEI.

Senator LEVIN. In CEI?

Mr. FEDRIGOTTI. Correct.

Senator LEVIN. And that partner of yours, Grupo Moneta, owns both Banco Republica and Federal Bank, is that correct?

Mr. FEDRIGOTTI. They are part of the same economic group.

Senator LEVIN. And that information was in your files when it was requested by your regulatory body that there was common ownership of Banco Republica and Federal Bank by Grupo Moneta. Is that correct?

Mr. FEDRIGOTTI. They asked for evidence of ownership between these entities.

Senator LEVIN. And you had it in your file?

Mr. FEDRIGOTTI. I already described the nature of the information.

Senator LEVIN. Let me show you the exhibits which were in your file so that we just cut right to the chase. If we could look at Exhibit 25[1] which was in your file at the time, if you look at the owner's name, it says "owner"—literally, in your file you have a document that says "owner name." Raul Moneta, 33 percent; Benito Lucini, 33 percent; Monfina, 33 percent; and another gentleman, 1 percent. In your file that is the way it is described, and then it shows that Grupo Republica, which is the same as Grupo Moneta, owns Banco Republica and Federal Bank.

If you look at the furthest box on the left—it is the box under Grupo Republica or Grupo Moneta—it says "Federal Bank Offshore." So in your file, you have a document showing the owners and showing that they, in fact, own what amounts to Grupo Moneta, renamed, and that that group owns common ownership of Banco Republica and Federal Bank Offshore.

Now, I am trying to figure out why, when asked—and maybe we can find out from one of the other gentlemen here—why, when asked by your regulator—now, this is our bank; this is a U.S. bank. I want everyone to be real clear about this. We are looking at a U.S. bank.

Why a U.S. bank, when asked by a regulator if there is anything in their file which might be information relative to the owners of a group, because they are looking to see—and you know it—whether or not there are any links between Banco Republica and Federal Bank—you then write a letter which is false. Your bank wrote a letter which is false.

You can say here that it was accurate. It is not accurate. There is no way that any fair reading of your letter, which says "This is to advise that our records contain no information that would enable us to determine the identity of the shareholders of the referenced bank"—there is no way that that can be described as anything other than false. The word "owner" is right in your files, "owner name."

I am trying to determine—and I think maybe we will have to just let this go for the moment—but as to why an American bank would write a regulator a letter like that, and as to whether or not it has any relationship to the fact that our bank, our U.S. bank, was a partner with Grupo Moneta in that CEI holding company.

Now, I don't understand why that would provide a motivation, but I am trying to figure out how it is possible that anybody could actually look at that document and say to themselves that is not legal proof. They didn't ask for legal proof. They said is there anything in your file, anything which shows economic links, and they tell you they are interested. It is a proceeding to determine if there is any sort of economic link between financial entities. They are looking for that link.

This superintendent, your regulator, requests "all information" that you may have—all information; it doesn't say legally provable beyond a reasonable doubt. It says all information that you may have about that entity and about its owners. And you consciously

[1] See page 2 of Exhibit No. 25 that appears in the Appendix on page 749.

reach a conclusion—you look at those documents, apparently, and decide that that didn't constitute legal proof. Somebody actually looked at those documents, then, and said that is not legal proof, that is not what they are after.

I can't buy it. I don't buy it. I am sorry. I don't know what the motive is. I don't know that yet. We may never know it. Maybe down in Argentina it could be determined, but I just can't buy it.

I don't know if you are aware of the fact that Mr. Moneta to this day denies ownership of Federal Bank, to this day, at least according to press reports.

Now, why would he be denying? Do you have any idea why would Mr. Moneta be denying ownership of that bank? Can you help us on that? And I will give you a chance to respond to my comments, also, and then my turn is up here for the time being.

Mr. FEDRIGOTTI. Senator, I do not know why Mr. Moneta would be denying that ownership. I have no way. In connection with your comments and, yes, the nature of the documents that you are pointing out which are working papers which reflect the work that was being done in analyzing the group as a whole as part of the routine work that is done in the bank, it was the interpretation of general counsel who prepared that letter that that was the appropriate response and that it is legally correct and it did not violate Argentine laws or regulations, but——

Senator LEVIN. Excuse me for interrupting. The question here is whether or not our U.S. bank responded the way we expect our banks to respond, which is honestly, to a request of a regulator. Now, this isn't a legal question. This is a question of whether our bank has responded honestly to a regulator, and there is no way that I think I can figure out any interpretation which would say that that is an honest response to a regulatory body.

So I interrupted you, but keep going.

Mr. FEDRIGOTTI. Senator, we should have done more. We should have provided that information in the first instance. When I reviewed this matter when I became involved, when I realized that there was an inconsistency with our policy of full openness and cooperation with the regulatory body, I took the decision to provide this information to the Central Bank.

Senator LEVIN. Let me ask you and Mr. Lopez a final question on this element, if I can ask the indulgence of our Chair.

Mr. Lopez, do you know, or, Mr. Fedrigotti, do you know whether or not there was any contact between Mr. Moneta and Citibank relative to the response, or Grupo Moneta or their agents, with Citibank relative to how that letter would be responded to? Can you tell us?

Mr. LOPEZ. Not to me.

Senator LEVIN. You don't know of any contact with Grupo Moneta?

Mr. LOPEZ. No.

Senator LEVIN. Mr. Fedrigotti?

Mr. FEDRIGOTTI. I was never contacted by anyone in this respect.

Senator LEVIN. Thank you.

Senator COLLINS. Mr. Bermudez, you mentioned in your testimony the importance of banks and law enforcement officials working together to prevent money laundering. You also said that you

welcomed leads from not only the media but law enforcement officials about any suspicious activity.

In view of that statement, I want to talk to you about seizure warrants which Citibank received in May 1998 for $7.7 million in M.A. Bank's correspondent account and $3.9 million in another M.A. account. These seizure warrants made very clear references to the United States anti-money laundering laws, and so it seems to me that was a clear lead from law enforcement that there was suspicious activity involving M.A. Bank.

Could you explain to the Subcommittee why Citibank waited a year-and-a-half after receiving these seizure warrants before launching a full-scale investigation of Citibank's relationship with M.A. Bank?

Mr. BERMUDEZ. Senator Collins, one of the issues that we have with this particular example is that there was a breakdown in our communications internally. It is an embarrassment, it is something that we have since corrected. But the reality is that when the warrant came into the bank, it was reviewed, it was analyzed. We took the action of submitting the funds to the U.S. Customs, as I was directed.

But, unfortunately, there was a breakdown in the communication between our New York unit that received the warrant and our business unit in Argentina which should have taken further action at the time. We have since, however, corrected our internal processes so that this kind of situation does not occur again.

We have created a centralized unit in New York that receives all seizure warrants, all subpoenas that come in, so that they can be logged into a centralized database. Those that are of a suspicious nature are then sent to our Anti-Money Laundering Unit in Tampa for further processing. It is that Unit's responsibility then to submit those to the compliance officers, anti-money laundering compliance officers that we have in-country, and the relationship manager or business manager in that country for further action.

We feel that given what happened to us and the lesson that we have learned out of that particular situation, we have now created a process that is extremely robust and should allow us to not have a repeat of that embarrassing situation, but it was an embarrassment.

Senator COLLINS. So you would certainly agree that those seizure warrants should have triggered a full review of Citibank's relationship with M.A. Bank, and you have now changed your procedures so that kind of review would automatically be triggered. Is that fair?

Mr. BERMUDEZ. That is correct. That is exactly what has happened at this point.

Senator COLLINS. Mr. Lopez, I am puzzled how M.A. Bank came to be a correspondent customer of Citibank. Could you please describe for us the "know your customer" efforts that you made before you recommended opening M.A. Bank's correspondent accounts?

Mr. LOPEZ. Well, this account was opened many years ago, and at that time Mercado Abierto was, and thereafter was, a very important security and brokerage house in Argentina. So the people that took the decision to open that account—I never managed that account personally—measured that account against our target mar-

ket and measured that relationship against our target market to try to operate with the top people in the country.

They also made a review of who are the owners. The owners are people who have a reputation in Argentina. And they didn't open the account with M.A. Bank immediately. This account was—or this relationship started years ago and they opened the correspondent banking account when the customer was dealing with other products in the bank and knew very well the customers. It was not the first day that the customer arrived to the bank.

Senator COLLINS. Let me ask you a very specific question.

Mr. LOPEZ. Yes.

Senator COLLINS. Did you yourself, or did you direct another Citibank employee to review M.A. Bank's written anti-money laundering procedures before opening the account?

Mr. LOPEZ. The account was opened in the early 1990's, and I think at that time we were not so strict in looking for that. Thereafter we looked at those procedures and it seems to be in line with——

Senator COLLINS. But at the time, did anyone from Citibank review M.A. Bank's anti——

Mr. LOPEZ. I was not there. I was not the one opening it, so I cannot—but during my management of the unit, yes, they reviewed it.

Senator COLLINS. I am sorry. Would you repeat the last——

Mr. LOPEZ. During my management of the unit that started in 1987, I think that, yes, they reviewed all the policies. They talked about the policy with the customer, and it seems to be correct.

Senator COLLINS. That was many years after the account was opened?

Mr. LOPEZ. Yes. I don't have information before my——

Senator COLLINS. Mr. Fedrigotti, could I have you turn your attention to Exhibit 19? [1] I want you to take a look at this. It appears to be a withdrawal form that is used by M.A. Bank. Have you found it in the exhibit book?

Mr. FEDRIGOTTI. I am looking at it.

Senator COLLINS. I have to say this isn't like any withdrawal form that I have ever seen—or actually I think it is a deposit form because it says that "We have received today." There is no letterhead stating the name and the address of the bank.

You have been in banking for a very long time, for some 24 years. Does this appear to be the kind of form that a bank should be using for deposits?

Mr. FEDRIGOTTI. Is this a deposit form? [Laughter.]

Senator COLLINS. It is. I think your question answers my question. Does it trouble you that one of Citibank's correspondent banks was using a form that had this little information on it?

Mr. FEDRIGOTTI. Senator, if this is all there is—I don't know what other information they would gather. On the basis of simply this form, I have to agree with your inference.

Senator COLLINS. When you stepped in as President of Citibank Argentina, did you conduct a review or see that a review was conducted of existing correspondent accounts to make sure that you

[1] See Exhibit No. 19 that appears in the Appendix on page 731.

were dealing with banks and clients that Citibank would want to be dealing with?

Mr. FEDRIGOTTI. Yes, Senator. This area of activity has always been the focus of attention both from a credit standpoint as well as from the fact that there might be risks related to money laundering that we would not be willing to accept or to take.

So the unit constantly focused on trimming down, narrowing the target market, and working only with those people who the unit deemed to be of impeccable track record and a good reputation. That is the essence of understanding who you are dealing with and feeling comfortable with the fact that they have policies and procedures that enable them to manage their own bank the way we manage ours.

Senator COLLINS. Mr. Bermudez, Citibank has maintained that it now has corrected a lot of the problems that clearly have been embarrassing for the bank and have been difficult for the bank to deal with. I want to show you an E-mail that is from Citibank Argentina's relationship manager for M.A. Bank, and it is Exhibit 20[1] and it is the latter part of that exhibit.

What troubles me about this E-mail is that it was sent just a little over a year ago. In this E-mail, Citibank Argentina's relationship manager for M.A. Bank inquired about how Citibank's anti-money laundering procedures were being implemented, and in part she says, "What procedures does Citibank New York have for control of AML? Are these controls being implemented? Is the AML Unit in Tampa in charge of doing it, or each division in New York?"

I am troubled by this because if Citibank is doing a good job on training its employees to be sensitive to money laundering, shouldn't the relationship manager for M.A. Bank have known the answers to these questions?

Mr. BERMUDEZ. I would agree with you, Senator Collins, that the relationship manager at the time should been aware of what that Anti-Money Laundering Unit in Tampa does and performs. It is a unit that was in place at the time and it is a unit that is staffed with over 50 people, 14 of which are just assigned to the volume through our funds transfer networks. And they have the analysts necessary to conduct the type of reviews of the flows that should highlight any kind of suspicious or incorrect type of volumes that go through it.

There was a confusion here. The relationship manager should have understood that that took place in Tampa because at that time we already did have the unit operating. I don't know the exact situation; I don't know the individual who sent this. We do spend an incredible amount of time and effort in educating all of our business managers, all of our relationship managers, in the anti-money laundering process. This is an ongoing review that we have, ongoing seminars that we have at local, regional, and on a global basis.

And why this particular individual might have been confused, I don't know the reason, but I can assure you that the education that we bring to our relationship managers is very real and it is constant. It is not just a one time introduction when they enter the bank; it is actually refreshed on an annual basis in every country.

[1] See Exhibit No. 20 that appears in the Appendix on page 732.

Senator COLLINS. I have no doubt that Citibank has made a genuine effort to beef up its compliance units, as well as its training and education. But that E-mail from a key person suggests to me that there is still considerable work to be done because it is so recent; it is the end of 1999.

Mr. BERMUDEZ. If I may—and this is a conjecture in some ways, but what may have happened here is a confusion that we do have and did have at the time a servicing unit for correspondent banking in New York. And there may have been confusion whether that service unit in New York was also conducting AML practices as part of the services that they did. They do not. They refer everything to Tampa, and I am just assuming, reading this, that that may have been the confusion that this relationship manager may have had.

Senator COLLINS. Let me ask you one final question, and I want to refer to Exhibit 23.[1] This is an exhibit that Senator Levin referred to with our previous panel and it is a pattern of wire transfers. Each of the experts on our previous panel said that while you couldn't conclude necessarily that these wire transfers were indicative of money laundering that they certainly were suspicious, that the pattern is such that it would warrant a thorough review.

Under the current procedures that Citibank has in place, would this pattern of wire transfers trigger an in-depth review?

Mr. BERMUDEZ. Looking at this, I would say that—and given the type of bank and the size of bank that Banco Republica was, this would not necessarily trigger a review for suspicious action. And the reason for that is that, again, many institutions, many banks, I believe, in Argentina and other locations use offshores as a means of managing their liquidity, and this could be very valid liquidity management between a treasurer of a bank onshore with its offshore vehicle, transferring liquidity back and forth. And that doesn't necessarily trigger a suspicious action, but the one thing that——

Senator COLLINS. But you don't know that.

Mr. BERMUDEZ. No, I know that, but the one thing——

Senator COLLINS. So why wouldn't it trigger you to ask questions? There may be a legitimate explanation, but there is also a very real possibility that this suggests money laundering. So I am troubled by your answer.

Mr. BERMUDEZ. Absolutely, and the one thing that I was going to mention that causes me in reviewing this to maybe alert us that we should look into it is the fact that they are going through an intermediary here.

Senator COLLINS. Exactly. They are not directly transferring the funds.

Mr. BERMUDEZ. Exactly, which is why it may very well trigger that, but I was trying to highlight to you that the flows are not the ones that may necessarily trigger the analysis of this, but it is the fact that it does appear to go through an intermediary which would be the one that would highlight some action on this.

I haven't been clear?

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[1] See Exhibit No. 23 that appears in the Appendix on page 742.

Senator COLLINS. Well, the problem is that your first answer was, no, that it wouldn't trigger a review, and then after we——

Mr. BERMUDEZ. Based on simply the flows.

Senator COLLINS. But I have shown you very specific wire transfers that are large amounts of money over a 6-week period where in each case the bank is going through an intermediary rather than transferring the money directly, and it seems to me that should be a red flag. There may be a reasonable, legitimate explanation, but if this isn't an automatic red flag, I don't know what is.

Mr. BERMUDEZ. I am sorry. In my response, I was referring initially to the flows and I then added on that the one thing that would raise a flag here is the fact that it is going through an intermediary. If these are credits that are going through this particular intermediary, then that should be a reason for review.

Senator COLLINS. Senator Levin.

Senator LEVIN. Just on that last point, you said three different things—"not necessarily," "maybe"' and "would" because of the intermediary. And we are talking here about triggering a review or not. I just want to ask you a simple question, which I hope is a simple question.

Shouldn't it trigger a review, given the intermediary?

Mr. BERMUDEZ. Given the intermediary, yes.

Senator LEVIN. Does your mechanism at your bank trigger a review?

Mr. BERMUDEZ. It should.

Senator LEVIN. Does it?

Mr. BERMUDEZ. I would hope so. I mean, you are asking me a question that I would like——

Senator LEVIN. You are familiar with your bank mechanisms, aren't you?

Mr. BERMUDEZ. Absolutely.

Senator LEVIN. Does it or doesn't it trigger a review? If you don't know, you can just say you don't know.

Mr. BERMUDEZ. I have to assume that it does, but it would be up to the analysts looking at this particular situation.

Senator LEVIN. They wouldn't even see it, would they, unless it was triggered automatically?

Mr. BERMUDEZ. Oh, no. They would see this.

Senator LEVIN. So it would be pulled out?

Mr. BERMUDEZ. Yes, it would.

Senator LEVIN. All right, so at least you know that this flow would trigger an analysis by somebody under your methodology, is that correct?

Mr. BERMUDEZ. It should, yes.

Senator LEVIN. Did it?

Mr. BERMUDEZ. Not at this time.

Senator LEVIN. All right.

Mr. BERMUDEZ. This is back in, as I see here, 1996.

Senator LEVIN. Correct.

Back to the Federal Bank. Mr. Lopez, I want to ask you one question about that. You told our staff that when you heard about the request from the Central Bank for information on the ownership of the Federal Bank, you thought that the Central Bank of Argentina was "playing games." What did you mean by that? Why

would the Central Bank, the regulatory body down there, be playing games?

Mr. LOPEZ. Senator Levin, in my opening statement I wanted to clarify that that was a bad expression that I——

Senator LEVIN. That was a what?

Mr. LOPEZ. It was a bad expression. It was not an expression that I should have used in that interview. What I meant there was that in my understanding there were a lot of—Banco Republica had an action plan to change Federal Bank and to open a new vehicle, called Republica Bank in the Caymans, and also that the people that were working with Banco Republica were people that have experience in the market. So my understanding was that the Central Bank had the knowledge of the relationship, and what they were looking for was legal proof.

Senator LEVIN. Let me ask you a question, Mr. Fedrigotti, that follows on the request that I made of you about whether there was any conversation between Citibank and Grupo Moneta relative to the response to the request from the Central Bank for information in your files, and you said that there was no conversation.

Was there any conversation between you or your bank with anyone at Citibank New York about that response?

Mr. FEDRIGOTTI. Senator, not that I can recall, but could you be precise as to the point in time you are asking, between the time——

Senator LEVIN. Before you responded.

Mr. FEDRIGOTTI. No conversations with New York on this subject, not personally.

Senator LEVIN. Can we agree, Mr. Lopez, that, in fact, the Federal Bank and Banco Republica had no anti-money laundering program that you said in your records that they did have?

Mr. LOPEZ. We checked with them and they said they were complying with the rules of Central Bank in that respect. What happened there is that then I realized when I saw the confidential report from the Central Bank during the interview with your staff that that was not true.

Senator LEVIN. You agree that they lied to you?

Mr. LOPEZ. Yes.

Senator LEVIN. If we could put Exhibit 37[1] up there, this is a memo, Mr. Lopez, where you describe the purpose of Federal Bank and you say here that the purpose is to channel the private banking customers of Banco Republica, to which they provide back-to-backs and the vehicle outside Argentina, where they can channel their savings which are then re-placed in Banco Republica by the Federal Bank, which then constitutes one of the bank's most stable sources of funding.

Now, wasn't Banco Republica at that time under a restriction by your Central Bank as to both what it could own and what it could lend to certain groups?

Mr. LOPEZ. I was not aware of that restriction.

Senator LEVIN. All right. The purpose, then, according to your memo here is to say that liquid assets that Banco Republica wanted went from Banco Republica to Federal Bank offshore and then

[1] See Exhibit No. 37 that appears in the Appendix on page 805.

came right back to Banco Republica. And I don't understand what the legitimate business rationale is for that movement of money.

Can you explain that to us?

Mr. LOPEZ. The customers of Federal Bank deposit their money in Federal Bank, and the risk of that customer is in Federal Bank's balance sheet and there is no Argentine risk because Federal Bank is outside the borders of Argentina. Then what Federal Bank does with the money, they deposit in Banco Republica, is nothing that the customer decides to do in that. It is Federal Bank that is deciding, and Federal Bank must respond with their own net worth to the customer in that case.

Senator LEVIN. I am trying to figure out what legitimate business purpose there would be for Banco Republica to take its deposits, send them to Federal Bank and then have them immediately come right back to Banco Republica.

You say in your analysis of the bank that that is one of its purposes. "The existence of this vehicle is justified in the group's strategy because of the purpose it serves." Can you give me a legitimate business purpose for that strategy?

Mr. LOPEZ. Yes. The explanation is that some customers of Banco Republica want to have their deposits outside Argentina.

Senator LEVIN. But it comes right back to Banco Republica.

Mr. LOPEZ. OK, but Federal Bank deposits the money, not the customers, and even if——

Senator LEVIN. It is their money.

Mr. LOPEZ. OK, but——

Senator LEVIN. You don't say it is Federal Bank. The depositor in Banco Republica—that money immediately goes to Federal Bank and immediately comes right back to Banco Republica. What is the legitimate purpose in that?

Mr. LOPEZ. I am talking about Federal Bank depositing their own money.

Senator LEVIN. No. I am talking about your words, "to channel the private banking customers of Banco Republica, to which they provide back-to-backs and a vehicle outside Argentina where they can channel their savings"—that is the depositors—"which are then re-placed in Banco Republica." So the depositors' money ends up in Banco Republica. It goes outside and then comes back in almost instantaneously.

Can you give us the legitimate business purpose for that?

Mr. LOPEZ. I am saying that Federal Bank placed money in Banco Republica. Then even if some of the depositors have a diversified portfolio of investment in Federal Bank and want to place some of this in Banco Republica, I see nothing strange in that.

Senator LEVIN. I do, but let me go to Mr. Bermudez quickly on a letter that we received from your counsel, Jane Sherburne, who describes the benefits and operations of offshore shell banks, and this is Exhibit 21.[1] "Offshore entities that are primarily booking entities requiring minimal personnel or physical operations often are managed from a location that is closer to the jurisdiction of the parent institution than the offshore jurisdiction. Your staff have indicated skepticism about the legitimacy of such 'back offices' and

[1] See page 3 of Exhibit No. 21 that appears in the Appendix on page 734.

inquired about the kinds of activity in which one might expect them to engage. Indeed, there seems to be some sense that a test of legitimacy might be whether a back office has the capacity to print and mail statements. The need to print and mail statements will depend on the customer base of the off-shore and the nature of the business, and may defeat the purposes of offshore banking—confidentiality and tax planning."

And this is the line I am intrigued by: "Mailing statements for activity in the private bank account of a customer, for example, risks breaches in the confidentiality as well as triggering a taxable event." Now, I am really surprised by that sentence, that mailing a statement would trigger a taxable event.

Mr. Bermudez, this is to you. How does the presence or absence of a bank statement trigger a taxable event? Don't you owe the tax even though you conceal it?

Mr. BERMUDEZ. I think that would depend on where the source of the revenue, the income was coming from for that particular investment and the tax laws of a given country.

Senator LEVIN. So that you might not owe the tax, and having a statement about an account might subject you to a tax you don't owe?

Mr. BERMUDEZ. The statement itself should not trigger a taxable event.

Senator LEVIN. That is just what I said. It is the opposite of what your counsel says. Your counsel writes this Subcommittee that the statement may trigger a taxable event.

Mr. FEDRIGOTTI. Senator, may I give it my own try, attempt, at interpreting this. I believe that if someone were to provide a service such as mailing statements, that would be a business activity that would generate—should generate revenues and thus a taxable event. That is my interpretation of this line.

Senator LEVIN. We are going to have to ask the counsel to explain that statement because other counsel that we have talked to says there is absolutely no basis for that statement whatsoever. So we will give her an opportunity—she is not here, I don't believe—to respond to that.

On the M.A. Bank issue—and this goes to the seizure of the account at Citibank, and the Chairman has referred to this—in your testimony, Mr. Lopez, you stated to us that the Minority staff report asserts that Citibank permitted M.A. Bank to engage in highly suspicious activity for more than a year-and-a-half after assets in its account were seized for illegal activity, and that is simply not true. This morning, you have modified that, is that correct?

Mr. LOPEZ. Yes.

Senator LEVIN. You agree that that should have triggered——

Mr. LOPEZ. It should trigger, yes.

Senator LEVIN. Now, these are some of the other things that happened. In addition to the seizure of that asset that should have triggered an investigation by Citibank, these are some of the other events that occurred that didn't trigger anything.

Exhibit 22a.[1] This is a memo from an investigator at Citibank's Anti-Money Laundering Unit in Tampa. "According to an article

[1] See page 1 of Exhibit No. 22 that appears in the Appendix on page 740.

taken from the Miami Herald dated March 1, 2000, Alejandro Ducler, a former vice minister of finance for Argentina, allegedly transferred $1.8 million in drug cartel proceeds. Ducler is one of the owners of the Argentine financial holding group known as Mercado Abierto, which owns M.A. Casa de Cambio. . . . All four held accounts with Citibank. The FTN Team of the AML Unit has reviewed the transfers. . . . After reviewing the funds transfer activity . . . from April 1997 through March 2000, a total of $84 million were transferred to the entities mentioned below. The consecutive whole dollar amounts transferred and the nature of the business contributed to the rise in suspicion and ongoing monitoring."

So you got that memo. They had identified, the anti-money laundering unit, $84 million in suspicious transactions that moved through the accounts of the four M.A.-related entities. When we looked at the records associated with that investigation, over $22 million of those suspicious funds involved transactions that went through the M.A. Bank, and they occurred in 1999, after the seizure warrant had been issued.

We also have learned that Citibank did file a suspicious activity report on the entire $84 million worth of transactions. Is that correct? Anyone can answer.

Mr. BERMUDEZ. That is correct. But, Senator, if I may just add something, the Tampa investigator has told the staff that this figure was not correct.

Senator LEVIN. The $22 million?

Mr. BERMUDEZ. The $84 million.

Senator LEVIN. All right, but it is correct that $22 million came after the seizure of those assets. Is that correct?

Mr. BERMUDEZ. Could you——

Senator LEVIN. That the $22 million came after the seizure of the assets.

Mr. BERMUDEZ. I am not aware. I am sorry.

Senator LEVIN. All right.

Mr. BERMUDEZ. That information I don't have.

Senator LEVIN. By the way, would you ask your Tampa investigator to, for the record, let this Subcommittee know why it is incorrect, if it is, because he or she never told us that it was incorrect?

Mr. BERMUDEZ. Yes.

Senator LEVIN. A lot of signals, and I want to go into those signals, after the seizure, between May 1998 and March 1999, which should have revealed the fact that the seizure was related to money laundering and drug trafficking. As you have acknowledged to our Chairman, that should have been known just by the seizure warrent itself. It cited a number of statutes that the assets were being seized under, and two of those statutes were money laundering statutes.

Here are some additional red flags: The press gave widespread attention to the indictments and warrants that were served on numerous U.S. and foreign banks as a result of Operation Casablanca, which was the drug laundering undercover effort. Citibank was identified as a recipient of some warrants, so Citibank didn't follow up on that.

In June 1998, M.A. Bank wrote to Citibank and asked that Citibank "furnish us a report on the origin, cause, and authority

acting on the attachment order received." So you got from your customer a request, what is the authority for that attachment order, and asked you to provide them with a copy of documentary evidence attesting to the existence of such judicial order and of the transfers or other actions taken by you as a consequence.

You can find no communication that even responded to M.A. Bank's inquiry. The preparation of a response to that bank would likely have informed Citibank that the seizure warrant was related to money laundering. Nothing there, silence, blank.

The Customs Service subpoenaed records of another M.A. account for the same drug money laundering matter, and Citibank prepared a chronology of the incident that shows that Citibank officials in Argentina met with or communicated with M.A. Bank officials at least six times about this matter between May 1998 and March 1999. M.A. Bank told you they were hiring a lawyer in the United States. They told you Customs would likely subpoena the records of the M.A. Bank account. They told you they were going to meet with the Customs Service in Argentina.

You instructed, according to the conversation with our staff, that your relationship manager should find out from M.A. Bank what the situation was about, but M.A. Bank never told her what was going on. Another red flag. M.A. Bank did not tell your own relationship manager. So then it became clear that the Customs Service was investigating the matter, and still no request or demand to your client to tell you what this was all about.

So we have all of these red flags, in addition to the seizure of the funds, and it seems to me that this is a lot more negligent, at best, than just simply failing to respond to a seizure order. I mean, you have public notices, you have meetings with your client demanding explanations, you have conversations with Customs officials. There are all kinds of bells going off in the public press and with your staff, and yet nothing in terms of your anti-money laundering efforts with this client.

So I would hope as you go through your anti-money laundering efforts and procedures that you would not only look at the failure to respond, to even know what is in a seizure order that is served upon you, but that you instruct or require your staff folks who have all this information to transmit it to your anti-money laundering efforts. I mean, this is one failure after another. It is just not a failure; it is one failure after another relative to those funds of M.A. Bank.

So I will leave it at that. I know we have reached a time when the hearing is supposed to end. I do have a short closing statement that I would like to make, if that is all right, Madam Chairman.

Senator COLLINS. Why don't you proceed with your closing statement, Senator Levin? We do need to adjourn very shortly, however.

Senator LEVIN. These 2 days of hearings have confirmed what the Subcommittee's investigation revealed, that U.S. correspondent banking provides a significant gateway for rogue foreign banks and their criminal clients to carry on money laundering and other criminal activity in the United States and to benefit from the protections afforded by the safety and soundness of the U.S. banking industry.

This investigation's findings have been confirmed in these hearings that shell banks, offshore banks, and banks in jurisdictions with weak anti-money laundering controls carry high money laundering risks, and they use their correspondent banking accounts to conduct their banking operations.

Next, U.S. banks have routinely established correspondent relationships with these high-risk foreign banks because many U.S. banks don't have adequate anti-money laundering safeguards in place to screen and monitor such banks. This problem is longstanding, widespread and ongoing.

Next, U.S. banks are often unaware of legal actions related to money laundering, fraud, and drug trafficking that involve their current or prospective respondent banks.

Next, U.S. banks have particularly inadequate anti-money laundering safeguards when a correspondent relationship does not involve credit-related services.

Next, high-risk foreign banks that may be denied their own correspondent accounts at U.S. banks can obtain the same access to the U.S. financial system by opening correspondent accounts at foreign banks that already have a U.S. bank account. U.S. banks have largely ignored or failed to address the money laundering risks associated with nested correspondent banking.

In the last 2 years some banks in the U.S. have begun to show concern about the vulnerability of their correspondent banking to money laundering and are taking steps to reduce the money laundering risks. But the steps are slow, incomplete, and they are not industry-wide.

If U.S. correspondent banks were to close their doors to rogue foreign banks and to adequately screen and monitor high-risk foreign banks, the United States would reap significant benefits. By eliminating a major money laundering mechanism which frustrates ongoing efforts to look into criminal activity, we would reduce illicit income that fuels offshore banking and we would deny criminals the ability to deposit illicit proceeds in U.S. banks with impunity and profit from the safety, soundness and investments that are made possible and available to them in the U.S. banking and financial system.

Next Tuesday, we are going to discuss with the Department of Justice and the Department of the Treasury ways to close the door to these money laundering opportunities.

I again want to thank our Chairman for having these hearings. I think they have been extremely helpful. I want to thank our witnesses today, and look forward to their supplying us with additional information, as they have committed to do.

Senator COLLINS. Thank you, Senator Levin.

Our current witnesses are now excused. I want to thank all of our witnesses for their participation today.

The Subcommittee stands in recess until Tuesday, March 6, at 9:30 a.m., when we will reconvene in room 342 of the Dirksen Senate Office Building.

[Whereupon, at 12:38 p.m., the Subcommittee was adjourned.]

ROLE OF U.S CORRESPONDENT BANKING IN INTERNATIONAL MONEY LAUNDERING

TUESDAY, MARCH 6, 2001

U.S. SENATE,
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS,
OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 10:04 a.m., in Room SD–342, Dirksen Senate Office Building, Hon. Susan M. Collins, Chairman of the Subcommittee, presiding.

Present: Senators Collins and Levin.

Staff Present: Christopher A. Ford, Chief Counsel and Staff Director; Mary D. Robertson, Chief Clerk; Rena Johnson, Deputy Chief Counsel; Eileen Fisher, Investigator; Claire Barnard, Detailee/HHS; Elise Bean, Democratic Deputy Chief Counsel; Bob Roach, Democratic Counsel; Laura Stuber, Democratic Counsel; Jamie Burnett (Senator Gregg); and Bob Westbrooks (Senator Akaka).

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. The Subcommittee will come to order.

This morning, the Subcommittee concludes its examination of the vulnerabilities of correspondent banking to international money laundering activities. As we have seen, correspondent accounts allow banks to have a presence in jurisdictions in which they do not have a branch or other physical presence, as well as to offer services that they themselves may have too few resources to provide. For these reasons, foreign banks that have correspondent accounts with U.S. banks possess a powerful means of attracting customers.

Last week, the Subcommittee heard troubling testimony from a convicted criminal who has seen the role of correspondent banking in money laundering "from the inside." He testified about the crucial importance of correspondent banking relationships to shady offshore money laundering institutions, such as the one he ran for a number of years in the Cayman Islands.

We also heard testimony from three U.S. banks whose correspondent accounts appear to have been used at various points by unscrupulous individuals to launder the proceeds of questionable, and sometimes outright criminal, activity. Their testimony showed that lapses in due diligence on the part of some U.S. banks may have unwittingly helped criminals launder their ill-gotten gains by passing them largely undetected through correspondent accounts.

To make matters worse, jurisdictions in which several of the foreign banks were located not only made due diligence efforts more difficult for the U.S. banks, but also actually hampered efforts by law enforcement and regulators to track down the crooks and to find and recover their illicit funds.

Additionally, the Subcommittee received testimony from three witnesses who have extensive knowledge of the complexity of money laundering. They helped outline the scope of the international money laundering problem, as well as the types of steps that correspondent banks might be able to take in order to better vet prospective clients and to monitor and detect suspicious activity by respondent banks after relationships have begun.

One expert also described the difficulties of tracking down—and recovering for victims—the proceeds of fraudulent schemes that are laundered through correspondent accounts in U.S. banks. These experts' testimony also highlighted how important it is for the United States to help lead international efforts to detect and facilitate the recovery of stolen and laundered funds.

Today, in our final day of hearings on correspondent banking, the Subcommittee will hear testimony from Arthur Jacques, who will describe the operations of British Trade and Commerce Bank, an offshore bank licensed in Dominica through which the Minority staff's investigation indicated that millions of dollars in fraud proceeds have been funneled. Given BTCB's lack of cooperation with authorities in making restitution to the victims of these frauds, I was interested to read in the *Miami Herald* not long ago that the Government of Dominica has finally revoked BTCB's license.

To finish up our hearings on money laundering and correspondent banking, we will also hear testimony from representatives of the U.S. Department of Justice and the Department of the Treasury. They will discuss the Bush Administration's commitment to fighting international money laundering and outline the efforts that have been made by their respective agencies to combat foreign banks' use of U.S. correspondent accounts to aid and abet money launderers.

I look forward to hearing the testimony of all of our witnesses this morning, and at this time I would like to recognize the Subcommittee's distinguished Ranking Minority Member, Senator Levin, who led and initiated this investigation, for his opening statement.

Senator Levin.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Thank you very much, Madam Chairman. As you have pointed out, through the Minority staff's year-long investigation, and its 450-page report, that report's very close look at 10 high-risk foreign banks, its survey of 20 major U.S. correspondent banks, and through this Subcommittee's hearings last week with experts and correspondent banking participants, we are getting a good understanding of the role of U.S. correspondent banking in money laundering.

Drug traffickers, defrauders, bribe-takers, and other perpetrators of crimes can do indirectly through a foreign bank's correspondent account with a U.S. bank what they can't readily do directly, which

is to have access to a U.S. bank account. The stability of the U.S. dollar, the services our banks perform, and the safety and soundness of our banking system make access to a U.S. bank account an extremely attractive objective for money launderers. It is up to us—the Congress, the regulators, the banks—to try to stop money launderers from reaping the benefits of the prestigious banking system and stable economy that we have worked so hard to achieve.

It boils down to the quality of the regulatory scheme under which a foreign bank operates. To achieve entree into the U.S. banking system, a foreign bank should be subject to the same quality of regulation and periodic examination as U.S. banks. Whether banks are subject to such regulation seems to be a defining factor in whether their due diligence and anti-money laundering controls are adequate.

I know that you, Madam Chairman, have been a leader in food safety issues. The situation with correspondent banking has some similarities to the problem this country faces in importing food. The United States has developed a highly effective food safety system, and as our Chairman has effectively argued, we don't want contaminated food from abroad slipping into our food supply. So, for example, when it comes to meat, we accept only that meat from countries which have inspection systems that meet our standards, and that is how we protect ourselves. Why not apply a similar standard to foreign banks? We don't want contaminated food and we shouldn't accept contaminated banks.

That is why all the experts that we have heard and several officers of our Nation's largest banks have said that shell banks should be banned from U.S. correspondent accounts, period. Shell banks are banks with no physical presence, oftentimes no staff and no real regulation. If such a prohibition were in place, all 400 of Nauru's shell banks would lose their access to U.S. dollar accounts. So would the more than 50 Vanuatu shell banks, so would the many shell banks licensed in the Caribbean and operating in Latin America, so would the Montenegro shell banks using the Bank of Montenegro's correspondent accounts, so would all the shell banks being sold on the Internet. That alone would be a significant accomplishment.

Offshore banks and banks in jurisdictions that don't cooperate with anti-money laundering efforts are two more categories of banks that raise contamination concerns. The hearings showed that these types of high-risk foreign banks were able to open correspondent accounts at major U.S. banks, including Bank of America, Chase Manhattan Bank, and Citibank.

Each of these U.S. banks opened and kept open accounts for these foreign banks, despite high money laundering risks and even after being confronted with disturbing evidence of misconduct or suspicious transactions. They also acknowledged that they should have done a better job in screening and monitoring the correspondent accounts that they opened for high-risk foreign banks.

When we looked at Citibank's relationship with Federal Bank and M.A. Bank last week, we heard Citibank say that they knew the parent entities of those banks extremely well. In fact, with respect to Federal Bank, Citibank was a major business partner with

its parent in a holding company called CEI. Yet, in both of those cases, the offshore banks were not subject to examination and each bank had serious problems with anti-money laundering controls.

Citibank said it was surprised when it heard that one of the banks, Federal Bank, had no anti-money laundering controls. The relationship manager for Citibank said that Federal Bank lied to him. Citibank had claimed, in their words, "profound knowledge" of how the offshore bank operated. But the absence of a strong regulatory hand with regular or periodic examination of Federal Bank puts everything in doubt.

Today, I will explore with witnesses whether we should ban or much more strictly control correspondent accounts of offshore banks not affiliated with U.S. banks and of offshore banks not subject to examination in the jurisdiction in which they are licensed.

Another matter that merits legislative attention is the ability of injured parties and governments to seize illicit funds in correspondent accounts. Unlike a regular bank account where law enforcement authorities and plaintiffs in civil suits can freeze or seize the funds at issue, in a correspondent account, because the owner of the account is the respondent bank and not the clients of the respondent bank, persons trying to seize or freeze funds unlawfully obtained by a client of the respondent bank are required to chase the bank abroad. That is not only a tough job, that can be an impossible job.

Showing that the illegal funds are in a correspondent bank account is not enough. The consequence of this situation is that the depositors in foreign banks with accounts in U.S. banks have greater protection than U.S. depositors in U.S. banks. And where U.S. citizens are victims of illegal activity, they may be denied recovery even though the money sits in a U.S. bank. That anomaly should be fixed.

These issues are not an academic concern that only banking circles need to examine. Money laundering finances crime. It provides the funds needed to conduct illegal drug operations, financial scams, and Internet gambling. It provides the means for corrupt public officials to enjoy their ill-gotten gains. It safeguards the profits that reward criminals and organized crime.

Stopping money laundering takes the profit out of crime. It helps in the fights against criminal enterprise, corrupt politicians, and the local con man who steals a person's savings. Shell banks, offshore banks, and banks in non-cooperative jurisdictions are major money laundering mechanisms, and there is much that can and should be done to dismantle them.

Today, we will hear from a representative of one group that has not yet spoken at these hearings and that is the victims of the money laundering that goes on through correspondent accounts. Sometimes the victim is a specific individual taken in by a financial fraud, someone whose savings have disappeared into an offshore bank never to be recovered. Sometimes the victim is a class of individuals subject to the same wrongdoing, such as the 700,000 credit card holders who collectively got socked with $40 million in illegal credit card charges by a criminal who sent the stolen funds to offshore banks with U.S. correspondent accounts.

Today, we will also discuss with the Treasury Department and the Department of Justice their experience with the various problems involved in correspondent banking, their reaction to our proposed reforms, and any proposed fixes that they may have in mind. The prior administration placed a high priority on stopping money laundering and it made some progress. Hopefully, the current administration will maintain that priority and continue the battle.

I look forward to the testimony and again want to thank our Chairman for her efforts in this matter, for calling today's hearings and last week's hearings, and for supporting this investigation.

Thank you.

Senator COLLINS. Thank you, Senator Levin.

I am pleased to welcome our first witness this morning. He is Arthur Jacques, of Jacques Little in Toronto, Canada. Mr. Jacques went to great difficulty to get here to these hearings. His flights were canceled yesterday and he has interrupted a very busy schedule to be here, so we very much appreciate his efforts. He will discuss the case of British Trade and Commerce Bank, yet another case study of how correspondent accounts in legitimate banks can be used by questionable financial institutions and their customers to launder the proceeds of fraudulent activities.

Pursuant to Rule VI, all witnesses are required to be sworn, so I would ask, Mr. Jacques, that you stand so I can swear you in.

Do you swear that the testimony that you are about to give to the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. JACQUES. I so swear.

Senator COLLINS. Thank you.

Mr. Jacques, we are going to be using a timing system today. You will see in front of you a device with three lights. You will have 10 minutes to give your oral presentation. Your complete written statement will be included in its entirety in the record. When you see the yellow light come on, you have about a minute to wrap up your comments.

So if you would please proceed.

TESTIMONY OF ARTHUR O. JACQUES, ESQUIRE,[1] JACQUES LITTLE BARRISTERS AND SOLICITORS, TORONTO, ONTARIO, CANADA

Mr. JACQUES. Thank you, Madam Chairman. I will try to be as brief and non-technical as possible to assist you in your deliberations.

By way of background, I would like to emphasize that the client that I represent or the group of clients that I represent was an unwilling victim in terms of issues that they had no control over, and at all material times until the actual event occurred they were completely unaware of British Trade and Commerce Bank being the asset protection bank domiciled in Dominica, as well as any role that First Union National Bank, its correspondent bank in Florida, portrayed.

[1] The prepared statement of Mr. Jacques with attachments appears in the Appendix on page 241.

By way of background—and I will be very, very brief in terms of the structure—my clients in Canada attempted to borrow significant funds based in U.S. dollar denominations, and they tried to borrow $15 to $25 million to exploit a certain kind of technology. It was a very high-risk technology and Canadian banks had no enthusiasm for this form of venture capital.

Through an intermediary in Toronto, Canada, our client was introduced to a party by the name of Chatterpaul, who is referred to in the Minority report, who indicated that he could provide the funding. Letters of intent were executed. A contract was executed in the fall of 1999 to borrow US$15 million, and my client as a condition precedent of that borrowing agreement put forward a deposit of $3 million.

The $3 million was then placed in a segregated trust account, in a lawyer's trust account in a Canadian bank. A condition of the loan—i.e., the draw-down of the $15 million—was the deposit would remain—the $3 million would remain in the attorney's segregated account until the full loan was advanced. The loan was never advanced. The request was made for the return of the money. It is at this point that I am introduced to the problem.

A demand is made on the attorney for the return of the $3 million and it is not forthcoming. Legal proceedings are implemented in Ontario. The law firm is placed into a very restricted kind of receivership. Other parties are added, and then we find out the existence of British Trade and Commerce Bank being this asset protection bank in Dominica.

And we find out that the flow of funds went from Toronto, $3 million, into a correspondent bank in South Florida, being First Union National Bank. We find that because of American bank secrecy laws and Dominican bank secrecy laws that when we make demands on the respective entities, we are told "we can't speak to you."

We are compelled at this point—we have implemented receivership and we have all kinds of technical restraining orders in Canada, and we are then compelled to retain attorneys in Florida. We retain a reputable law firm, Steel, Hector and Davis, and letters of request are issued by the Ontario court to the Floridian court. And we then find out that this $3 million goes from Toronto to Florida, and then on the advice of British Trade and Commerce Bank, who is the named account in Florida, the funds are then transferred all over the world.

I provided a few days ago a chart to your secretariat and I don't know if you have that chart available to you. The long and the short of that chart is simply that the funds flow from Florida into Idaho, into China, into India, possibly into the United Kingdom, into Oklahoma, back to Dominica.

We attempt upon issuing subpoenas in Florida through our attorneys, and there are stumbling blocks on a procedural and a substantive basis in finding the answers, but as we sit here today my client is out approximately $6.5 million. Consequential damages are growing on a daily basis and we estimate at a point in time that our damages will be approximately $10 million-plus.

Senator COLLINS. Mr. Jacques, excuse me for interrupting, but could you take a little extra time and take us through the chart that you have referred to?

Mr. JACQUES. Do you want me to address the chart from here?

Senator COLLINS. Yes.

Senator LEVIN. If I could just interrupt for a second, this is our staff's redo of your chart to, we thought, make it a little simpler, but I am not sure we have. We took your 5 pages and tried to put it on one page, is what we did.[1]

Mr. JACQUES. The flow of funds is really from the law firm to the Bank of Montreal in Toronto, which is simply the domiciled account for the law firm, a segregated trust account. A $3 million wire transfer then goes to First Union National Bank and stops, and then within a period of "x" number of days goes to Idaho, back into Ontario; New Delhi, India; Florida; Abu Dhabi; Dominica; Hong Kong; Switzerland; Colorado, Nassau, Nevis, California, and it goes all over.

We attempted—and I want to emphasize one thing that my client is of commercial means but doesn't have unlimited means, and every time we are making an application in a foreign jurisdiction to compel—emphasis added—to compel the penetration of bank secrecy laws, it costs us US$25,000 to $40,000 to do it. At a point in time, financial resources are completely exhausted, and you make an assessment—you will pardon the metaphor—is the game worth the candle. How far do you get involved in litigation which is defensive, mechanical?

We concentrated our efforts in Florida for a whole host of reasons and we were relatively successful, with high degrees of information coming back in terms of the routing of the funds. As we now speak, as of this day, I can tell you the following in terms of the status of the return of the monies.

Aggressive litigation has been commenced in Ontario and the trial started on Monday. It is adjourned today and it resumes when I return tomorrow. As a result of your February 5 report, I believe an inordinate amount of pressure, productive pressure, positive pressure was exerted on British Trade and Commerce Bank by the regulatory agency in that island.

The Ministry of Finance of Dominica purported to cancel the license of British Trade and Commerce Bank, and as we speak the bank there—and I use "bank" in parens—finds itself in a form of receivership. That receivership is being appealed. There is a receiver in sort of a quasi-stay in terms of its status, and the receiver, if its status is maintained by the appellate jurisdiction, will then proceed to attempt to discover assets wherever it may find them, either in Dominica or elsewhere in the world. It is conjecture whether there will be any return for anyone with respect to British Trade and Commerce Bank.

And that is the story.

Senator COLLINS. Thank you very much, Mr. Jacques.

Senator Levin.

Senator LEVIN. Originally, we were going to call as a witness this morning two individuals who were associated with the offshore

[1] See Exhibit No. 47 that appears in the Appendix on page 824.

bank that you have referred to, British Trade and Commerce Bank, and that bank, as you have pointed out, is described in detail in our Minority staff's report.[2]

The report describes numerous instances of money laundering and suspicious activity associated with the bank, including $4 million that a self-confessed money launderer, Bill Koop, admitted moving through the bank in connection with financial frauds, another $4 million associated with Ben Cook, who is currently being prosecuted in Arizona for fraud and money laundering, as well as millions of dollars associated with illegal Internet gambling and other questionable activities. Two weeks ago, on February 15, the Dominican Government finally revoked the bank's license and seized its records.

The Subcommittee issued two subpoenas to obtain documents and sworn testimony from two persons involved with this bank. The first subpoena was to Rodolfo Requena, the long-time president and part owner of BTCB. We sent the subpoena to the U.S. Marshal Service in Miami to serve on Mr. Requena, a Venezuelan citizen who lives in a suburb of Miami, owns a house there, and has a Florida driver's license. Mr. Requena took steps to avoid service of the Subcommittee's subpoena rather than answer questions about this bank.

The second subpoena was served by the U.S. Marshal in Oklahoma on John Long, who helped form the bank and we believe was its majority shareholder. Mr. Long did accept service, but at his deposition in response to questions about his involvement with BTCB, Mr. Long invoked his Fifth Amendment privilege 15 times and declined to answer the questions posed to him about the bank. Based upon his statement that he would invoke his Fifth Amendment privilege at this hearing, we decided it was pointless to call him as a witness this morning.

From the evidence we were able to gather, BTCB appeared to be a bank that was owned by an American, run by Americans, and used to launder money associated with frauds committed against Americans and others. It was highly dependent upon U.S. banks to conduct its business, and its business was replete with examples of suspicious transactions.

So in place of those two people, we have asked you to come this morning, Mr. Jacques, and we very much appreciate your being here representing a victim, one of the many of this bank. This was a victim, as we understand your testimony, of a classic advance fee for loan fraud who had the $3 million you referred to disappear into the jaws of this offshore bank, and who has so far, despite your best efforts, not been able to pry that money loose, despite over a year of legal action.

Now, after you took over the representation of your client, I assume you contacted BTCB first and got no assistance from them. Did you then contact the Government of Dominica, and what was their response? Were they helpful?

Mr. JACQUES. No. They were indifferent. We attempted to communicate with them.

Senator LEVIN. They were indifferent?

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[2] See Exhibit No. 45 that appears in the Appendix on page 816.

Mr. JACQUES. Right. We attempted to communicate by telephone. For a whole host of reasons, we never put our requests in writing. We were moving very, very quickly. We had a great deal of difficulty with the levels of sophistication there. It is a tiny island, and I don't mean in the pejorative sense. It is a banana republic. It is primarily agricultural and its mean income is relatively low.

We got the sense from a whole host of indirect sources that BTCB was a very effective lobby in Dominica. It had exerted commercial relationships, professional relationships, and people were extremely reserved in attempting to talk to us when we tried to make inquiries about them. And when we indicated that we had difficulties there, they said, well, why don't you solve your difficulties in Canada? I said, well, we will probably do that.

The only communication that I have had directly with BTCB is when we first got involved. Because of immediate access in terms of telephone and Internet, we communicated with BTCB and I personally on at least three occasions have spoken with George Betts. Mr. Betts is a defendant—emphasis added—a defendant in a Canadian action as a codefendant with BTCB.

We sued BTCB and Mr. Betts. I am modestly pleased to tell you that yesterday we obtained judgment in Canada against BTCB and Mr. Betts. Now, it is simply conjecture whether that judgment will have any value. Mr. Betts, by his own admission in terms of the BTCB Website, is a member of the accounting community, a former member of an international accounting firm, and he seems to, by the way he operates, to be very sophisticated in certain issues in terms of regulatory aspects of banking, both domestic and international.

Senator LEVIN. Did you try to find out from Dominica who owned BTCB?

Mr. JACQUES. No. We made inquiries there, but the quality of the recordkeeping in terms of intermediaries who had access to it did not respond in any positive sense. We sensed—and I want to emphasize one thing that in a very simplistic fashion an ordinate amount of information which may in the first instance sound as though it is hearsay was gleaned from the Internet, the Internet sites of BTCB.

We used a variety of search engines and we found an inordinate amount of information about BTCB and associated and affiliated entities, one being First Equity Corporation of Florida. And through the various search devices we used, we pieced together what we thought was a matrix of shareholdings, and we had a sense, albeit inaccurate, that possibly Mr. Long was a shareholder either directly or indirectly in terms of either a beneficial interest or a legal interest. I personally have never spoken to Mr. Long, though.

Senator LEVIN. Is Dominica a bank secrecy jurisdiction, do you know?

Mr. JACQUES. Yes, it is.

Senator LEVIN. And that means that they do not disclose bank ownership, is that correct?

Mr. JACQUES. That is correct, and Mr. Requena in his testimony exhibited some kind of card with respect to Dominican bank secrecy laws and refused to disclose the kind of information that we

wanted. And we always had the sense he was using that as a shield, a complete shield.

Senator LEVIN. Dominica itself will not, as I understand it, disclose the ownership of banks because of its own laws, so that if you wrote Dominica asking for the owners of that bank, it is my understanding, and correct me if I am wrong, that you could not receive a list.

Mr. JACQUES. That is correct, and we had informal advice from local barristers in Dominica that if we were to attempt to bring proceedings in Dominica, it would be a complete waste of time.

Senator LEVIN. And that is a major problem because here you are trying to find out the owners of a bank, presumably so you can bring suit against them if they commit a wrongdoing.

Mr. JACQUES. That is correct.

Senator LEVIN. But you can't find out from the licensing jurisdiction who those owners are. Is that correct?

Mr. JACQUES. That is correct.

Senator LEVIN. We are going to put Exhibit 34c.[1] on the screen, and I think those exhibits are in front of you in a book. This is a purported list of shareholders of BTCB. Now, we were able to obtain this from the U.S. bank where they opened their account. That is where we obtained this as part of our investigation.

This exhibit says, on BTCB stationery, that the beneficial interest of 15,000 shares, which is half of the authorized shares, are held by Mr. John Long, and 3,000 by Mr. Rodolfo Requena.

Did you ever see a document like that? Were you ever able to get possession of this kind of a document?

Mr. JACQUES. No, sir. I know this information. We have pieced it together, but I have never been given this from British Trade and Commerce Bank. I would—

Senator LEVIN. Now, as I indicated—go on. I interrupted you.

Mr. JACQUES. I would have to ask my friend and colleague, Mr. Lindsay, when he deposed Mr. Requena whether he had this information given to him.

Senator LEVIN. All right.

Mr. JACQUES. There are outstanding stipulations of the Florida court with respect to information obtained on depositions, but I know this information.

Senator LEVIN. Now, assuming then that one way or another you identified a Mr. John Long as being an owner or alleged owner of the bank, my last question—my time is up for this round—is did you bring suit against him, and if not why not?

Mr. JACQUES. To date, we haven't brought suit against him, for the very simplistic reason that how long is a piece of string? I mean, we can commence litigation on an indefinite basis, and quite candidly my client doesn't have infinite resources to do that.

We were shocked when we found out in terms of the flow of funds that it appeared when we obtained information from First Union National Bank, we saw information indicating that some of our funds went to Mr. Long for his own—he received it. What he did with it I don't know.

Senator LEVIN. Thank you. My time is up.

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[1] See page 3 of Exhibit 34 that appears in the Appendix on page 784.

Senator COLLINS. Mr. Jacques, I want to go back to some of the basic facts of this case just to make sure that they are on the record.

It is my understanding that your clients wished to borrow and agreed to borrow money from TriGlobe International Funding, Inc., is that correct?

Mr. JACQUES. That is correct.

Senator COLLINS. And was the amount that they intended to borrow about $12 million?

Mr. JACQUES. Ultimately, it was reduced to $12 million.

Senator COLLINS. And as part of the agreement for borrowing this $12 million, it is my understanding that your clients had to post 25 percent of the loan amount as a cash collateral account. Is that correct?

Mr. JACQUES. That is correct.

Senator COLLINS. So that is where the $3 million that we are talking about comes from?

Mr. JACQUES. That is right, that is correct.

Senator COLLINS. Your clients later learned that the $3 million had been wired to the BTCB account at First Union Bank, is that correct?

Mr. JACQUES. That is correct. We discovered that in April of 2000.

Senator COLLINS. Did your clients ever directly engage in business with BTCB?

Mr. JACQUES. Up until the receipt of information that the money had gone to the BTCB account in Florida, my client did not know of the existence of BTCB, other than when we became extremely aggressive in terms of our demands. We were told that the money went to an offshore bank in the Caribbean.

Senator COLLINS. It is my understanding that in September of last year, BTCB's president filed an affidavit with the Canadian court in which he admitted that BTCB had possession of your client's $3 million. Is that accurate?

Mr. JACQUES. That is relatively accurate. The allegations asserted by BTCB was that the money, however received by them, went into a managed account.

Senator COLLINS. And this was an investment that was scheduled to mature in December of last year. Is that accurate?

Mr. JACQUES. That is correct, and just as a footnote to your question, when we became aggressive in terms of our litigation, in October, at the end of October, in Ontario, British Trade and Commerce Bank deposited its own letter of credit for US$3 million to the credit of our action with a maturity date of December 15, 2000. On December 15, 2000, we sat anxiously in court to be notified that the funds had cleared. The funds did not clear and the bank defaulted on its own letter of credit.

Senator COLLINS. So BTCB defaulted on the letter of credit, and I assume that your client still has not received any money. Is that accurate?

Mr. JACQUES. That is correct.

Senator COLLINS. And it is my understanding that BTCB now claims not to have the $3 million. Have you been able to ascertain where the money is now?

Mr. JACQUES. I can only speculate that—and I am not being facetious—it is someplace in the world, but I don't think it is recoverable.

Senator COLLINS. And it has most likely been divided up and wired all over the world, based on the Minority's exhibit?

Mr. JACQUES. Well, if I refer to the chart there, $3 million was disbursed to multiple payees and, in essence, this is a Ponzi scheme.

Senator COLLINS. And it greatly complicates your ability to recover the money for your clients?

Mr. JACQUES. Almost impossible.

Senator COLLINS. Your clients obviously were in need of borrowing funds. They still have ongoing obligations. Do you know how much additional money they have lost just as a result of the monthly interest charges while the dispute continues?

Mr. JACQUES. This is part of the court record in Ontario. Interest accrues—the $3 million that was given to BTCB was borrowed from the Toronto Dominion Bank in Toronto at a prime plus 1 percent over commercial rate. Interest accrues floating on a basis of, say, $35,000 to $40,000 a month, so in excess of $500,000, plus, has accrued on that U.S.-dollar loan. There are administrative charges, there are obvious legal fees, there are disbursements.

We have maintained litigation in three jurisdictions—Ontario, Florida, and Idaho. We had the same difficulty in Idaho in terms of when we attempted to—I think it was a major American bank resisted, and we issued letters of request and we then got involved in mechanistic delays and adjournments. And simply, we ran out of gas and, we are not going to spend more money chasing our tail.

Senator COLLINS. Thank you.

Senator Levin.

Senator LEVIN. Thank you.

The letter of credit that you made reference to and the Chairman made reference to is Exhibit 34e,[1] I believe. Could you just take a look at that in your exhibit book?

Mr. JACQUES. I know it all by heart, Mr. Senator.

Senator LEVIN. It is etched.

This, I take it, is a letter of credit that this rogue bank wrote on itself. Is that basically it?

Mr. JACQUES. That is correct, and we took no position when they offered the letter of credit because, quite candidly, it was a joke. And the letter of credit is in standard international banking terms. There is nothing unusual about this document. It is used hundreds of times a day in international banking.

Basically, it is a clean letter of credit issued under international documentary terms, nothing untoward about it. When you examine the letter of credit, however, though, you ascertain a couple of things. One, it is not confirmed by a bank other than BTCB. They issued their own letter of credit. So, in essence, this is a promissory note; "I will pay on demand on December 15th."

When this letter of credit was tendered to us, I was obviously jaundiced with respect to its ultimate success in terms of cashing. But I went through the ritual of attempting to have a Canadian

[1] See page 5 of Exhibit 34 that appears in the Appendix on page 784.

bank either confirm it or discount it, and I was asked if I was a fool.

Senator LEVIN. You were asked what?

Mr. JACQUES. If I was a fool.

Senator LEVIN. In other words, they were familiar with what was going on here?

Mr. JACQUES. That is correct.

Senator LEVIN. The legitimate banks?

Mr. JACQUES. That is correct.

Senator LEVIN. So we have got a rogue bank issuing a letter of credit on itself which is worthless.

Then in Exhibit 33,[1] let's take a look at some of the other things that this bank did, British Trade and Commerce Bank. This is an advertisement for certificate of deposit investments. The return rates are from 16 percent for $25,000, all the way up to a 79-percent return rate if you will give them $3,500,000. That is an annual return rate of 79 percent.

Mr. JACQUES. Well, these are urban tales, Senator.

Senator LEVIN. These are what?

Mr. JACQUES. Urban tales. These are fictions. These return rates are impossible, in a realistic banking community, in a legitimate banking community, to obtain.

Senator LEVIN. Of course.

Mr. JACQUES. No one has these rates.

Senator LEVIN. But this is the tout, this is the come-on, this is the promise that a rogue bank makes. You give us money, you will get this kind of return. But apparently some people must have been taken in. There are a lot of other victims here beside your client, but anyway this is the representation of this bank, up to a 79-percent return rate for a $3.5 million certificate of deposit.

Mr. JACQUES. That is correct. In this kind of marketing or enticement, there are victims both in the United States and Canada and the United Kingdom. There are institutions, charitable institutions; the Boy Scouts of the United States was defrauded. There was a charitable institution in Chicago many years ago. And these come-ons are basically an enticement to go into a high-yield investment program, and these high-yield investment programs are myths. They do not exist in the legitimate investment and/or banking communities worldwide.

Senator LEVIN. Then if we could turn to Exhibit 34d.[2] This is a letter which apparently the president of the bank issued to creditors and it was reprinted in an offshore business newsletter.

Have you ever seen this letter before?

Mr. JACQUES. Yes, Senator, I have.

Senator LEVIN. Okay. This is one of the things that this letter says that, "The bank is unable to meet its obligations with its depositors and creditors. As President of the bank, it is my responsibility to bring this matter to your attention and outline to you the causes and the measures that management is implementing to recapitalize the bank, rebuild its liquidity, and meet its obligations with its depositors and creditors."

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[1] See Exhibit 33 that appears in the Appendix on page 782.

[2] See page 4 of Exhibit 34 that appears in the Appendix on page 784.

And then point 1 states: "In May of this year, the major shareholder of the bank retired from the organization due to severe health problems. The retirement resulted in a large withdrawal of deposits from the bank due to the close relationship of the depositor with the shareholder," the close relationship presumably being the same person. Is that the way you would read that?

Mr. JACQUES. That is correct.

Senator LEVIN. That is a fairly close relationship indeed.

Mr. JACQUES. And I believe the inference there ultimately is that is Mr. Long.

Senator LEVIN. That is Mr. Long, so that they are actually stating here—this is a hint as to where these monies went. If, in fact, it is Mr. Long, what they are actually saying is a large withdrawal of deposits went to Long.

Mr. JACQUES. That is correct.

Senator LEVIN. Yet, you are still dubious that he is a potential source of recovery?

Mr. JACQUES. All I can say is that in terms of the kind of strategies that are underway, we recognize he has been there, but we just haven't dealt with that issue.

Senator LEVIN. Do you think it is possible the word "depositor" there, is a shell company owned by Mr. Long rather than he himself? Would that be at least a possibility there?

Mr. JACQUES. I have no specific knowledge, but if I were speculating, I would agree with you.

But it is paragraph 2 which I found in that letter of November 9th to be the most disturbing when Requena indicates that, referring to our action in Ontario, and he states, "The bank was never involved in or aware of those actions. . . . The lawyers for the plaintiffs"—that is my client—"convinced the Canadian Court that BTCB was part of the action." That is correct.

"The lawyers for the plaintiffs spread all kinds of erroneous information and allegations against the bank." That is incorrect. They circulated private and confidential information—for example, you can buy this letter on the Internet for $10. This is within the public domain.

The irony of this letter, which is dated November 9th, is that at the end of October they came to the Ontario court and deposited their letter of credit.

Senator LEVIN. Their worthless letter of credit?

Mr. JACQUES. That is correct. Nine days later, they issue this statement here which is basically a declaration that they are incapable of paying their liabilities as they normally fall due.

Senator LEVIN. So that it is lie followed by lie, followed by misrepresentation, followed by another tout for certificates of deposit, followed by more lies, and it just goes on and on, basically. Is that a fair summary of this bank?

Mr. JACQUES. You are being very polite, sir.

Senator LEVIN. Unintentionally.

The goal of Congress and of our regulators has got to be that our legitimate banks, our U.S. banks, not in any way, directly or indirectly, aid and abet this kind of an enterprise. And in order to do that, we are going to have to have tighter money laundering laws to look at these accounts that come from these banks, these foreign

banks, so that our banks are not misused as part of either a fraudulent bank or by a money launderer. That is our goal, and your testimony is very helpful in our achieving that goal here today.

I just would close by asking whether you have any advice for people who are potential victims or who are the actual victims of this bank. You have now been through it. You have seen your client lose money both in the original deposit with that law firm and then also in trying to seek recovery.

What advice would you have both for current victims seeking to recover money and for potential victims of this kind of a bank?

Mr. JACQUES. Well, I think if I may dissect your question into a couple of components, the historical victims of the frauds fit into at least two categories: Those that are totally innocent and who are simply being aggressive with respect to the return or the promised return, and these people come forward time and time again.

One of the goals of an asset protection bank—and I am talking generically as opposed to a specific bank, i.e. BTCB, but one of its mandates is an attempt on an offshore jurisdiction to shelter assets, to make those assets judgment-proof in the home jurisdiction. If I have a judgment against Mr. Brown, I can't get his assets in the United States. He has basically placed all his assets beyond the reach of the United States; he has placed them offshore. And there are certain functional advantages in terms of asset protection banks.

The other component of an asset protection bank is simply a return is being made and it is being sheltered, and it is probably not being disclosed in any jurisdiction in terms of income. That kind of situation I am now talking to. There are hundreds and hundreds of victims throughout North America, probably thousands, and it goes throughout the rest of the world.

For example, there is an agency in the United Kingdom called the International Chamber of Commerce which I believe you are familiar with. They have a tracking system where they are tracking this on a worldwide basis, and they have hundreds of instances that are occurring on a daily basis.

Does education work? Probably not. Does notoriety work? Probably, yes. Do lawsuits work? Yes, but they are highly individualistic. I would believe that probably the best attempt—and emphasis on the word "attempt"—would be to have effective legislation whereby these entities can't operate effectively but for the media of correspondent banking. If they don't have a transportation system under which to move the funds into any jurisdiction, they are shut down. Look at the example of your report on February 5 and then 10 days later an inordinate amount of pressure is obviously exerted domestically in Dominica and the license is canceled. That is very effective.

Senator LEVIN. I do have one additional question, and that is are you familiar with the Canadian banking laws and regulations relative to correspondent accounts in your legitimate banks? Are you more strict than our banks? Are you familiar with that area of law and regulation?

Mr. JACQUES. I am more than a student, but I am not an expert. I can only tell you—and I took the liberty of bringing down a statute which I will give to your Subcommittee, which is an attempt

by the Canadian Government. It is called the Proceeds of Crime Money Laundering Act, and this statute came into effect in October of 2000.

We have the same problem. Obviously, our economy is a tenth the size of the United States, so you use that factor. But I would assume that, yes, money laundering does take place in Canada. I know that. I shouldn't say "assume"; I know it takes place. Are we any better than you are? Probably not in terms of how we effectively police it.

Toronto would probably be a magnet for it by virtue of its position in the Canadian economy in terms of what goes on there. But banks in Canada are very, very vigilant. I have a commercial practice, a commercial corporate practice, and occasionally I am asked by clients to transfer funds directly or indirectly to other jurisdictions. I can say to you that on a number of occasions when these funds are leaving my firm's trust account, I am confronted by a bank officer asking us the personality of the funds. Then I get into these issues of solicitor-client relationships and I have that issue with the bank. But I can tell you the banks in my country are observant, vigilant, and they are attempting to enforce it.

Senator LEVIN. Thank you. Thank you, Madam Chairman.

Senator COLLINS. Thank you very much, Mr. Jacques. I very much appreciate your assisting the Subcommittee with this important investigation.

Mr. JACQUES. Thank you.

Senator COLLINS. I wish you a good and safe and easier trip back home.

Our next panel of witnesses for this hearing will be representatives of the Departments of Treasury and Justice. At this time, I would like to ask Joseph Myers from the Treasury Department and Mary Lee Warren from the Criminal Division of the Department of Justice to come forward.

These two civil servants will highlight for the Subcommittee the current status of U.S. anti-money laundering efforts with regard to correspondent banking, and will describe for us the two Departments' commitment to protecting the American banking system from abuse by money launderers and other criminals.

I would note that I had the opportunity yesterday morning to discuss these hearings with Secretary O'Neill and I was very impressed with his knowledge of our hearings and his commitment to helping stem the tide of money laundering that these hearings have disclosed.

I am going to ask both witnesses to stand, since pursuant to Rule VI all witnesses who testify are required to be sworn.

Do you swear that the testimony you are about to give to the Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. MYERS. I do.

Ms. WARREN. I do.

Senator COLLINS. Mr. Myers, we are going to start with you, if you will proceed, please.

TESTIMONY OF JOSEPH M. MYERS,[1] ACTING DEPUTY ASSISTANT SECRETARY (ENFORCEMENT POLICY), U.S. DEPARTMENT OF THE TREASURY, WASHINGTON, DC

Mr. MYERS. Madam Chairperson, Senator Levin, I am pleased to appear before you today to discuss the issues raised in your Minority staff's February 5 report "Correspondent Banking: A Gateway to Money Laundering."

I would like to submit my full written testimony for the record and highlight a few points, if I may, orally.

Senator COLLINS. Both of your written statements will be included in the record in their entirety.

Mr. MYERS. Thank you.

I would like to begin by congratulating the Subcommittee and the Minority staff for its impressive work on this report and in gathering a factual record for this hearing. In our view, the report and the hearing raise serious issues. We are studying them very closely. It is a complex area and a difficult one.

I think the work that you have done here has already had real consequences, and I congratulate you for that. We have seen rogue banks closed. We have seen changed policies in the Bahamas and the Cayman Islands with respect to shell banks, and I think you have done an impressive job of drawing the attention of the domestic banks and the public to this important area.

As you know, the Treasury and Justice Departments have jointly issued two national money laundering strategies to meet our obligations under the Money Laundering and Financial Crimes Strategy Act of 1998. In last year's National Money Laundering Strategy, we acknowledged that correspondent banking accounts and other international financial mechanisms, such as payable through accounts, private banking, and wire transfers, all are important features of the international banking system, and yet they are potential vehicles for money laundering. The strategy thus recognized the need for further examination of these mechanisms and to find ways of addressing potential abuses without disrupting legitimate economic activity.

The interagency community has substantially accomplished the goals articulated in last year's strategy in this area. In September 2000, the Office of the Comptroller of the Currency of the Treasury Department issued the Bank Secrecy Act Anti-Money Laundering Examination Handbook. This handbook identifies high-risk products and services, including international correspondent banking relationships, special use accounts, and private banking, and establishes examination procedures to address these subjects, including specialized procedures for foreign correspondent banking.

In addition, the OCC has initiated a program to identify banks that may be vulnerable to money laundering and examined those banks using agency experts and specialized procedures. Some of those examinations have already focused on foreign correspondent banking.

We have also made a great deal of progress in addressing the risks involved in international correspondent banking through our

[1] The prepared statement of Mr. Myers appears in the Appendix on page 250.

active support of the Financial Action Task Force's project to identify non-cooperative countries and territories.

Of the eight foreign jurisdictions involved in the case studies highlighted in the Minority staff's report, six of them are on the FATF list of 15 non-cooperative countries and territories, and seven of them are the subject of formal advisories from the Treasury's Financial Crimes Enforcement Network, or FinCEN. The FinCEN advisories alert U.S. financial institutions of specific deficiencies identified by the FATF review and confirmed by our own analysis, and they encourage our institutions to apply enhanced scrutiny to transactions involving those jurisdictions. Twenty-three of the 29 FATF member countries have issued similar warnings to their domestic financial institutions.

As a result of the FinCEN advisories, the OCC implemented a program to review the anti-money laundering programs in all banks with significant exposure to one or more of the non-cooperative countries and territories. The OCC is currently in the process of evaluating these banks to determine whether their systems and processes are adequate to control the anti-money laundering risks associated with the non-cooperative countries and territories.

We have also been working with our allies and with officials from these jurisdictions to correct deficiencies in law, regulation, and practice that aggravate the risk associated with international correspondent banking business.

In response to these efforts, 7 of the 15 countries listed—the Bahamas, the Cayman Islands, the Cook Islands, Israel, Liechtenstein, and Panama—have already enacted most, if not all, of the legislative or regulatory changes necessary to bring their systems into line with international standards. These jurisdictions are now developing and discussing with the FATF and with the U.S. bilaterally specific plans to implement these changes, and we are working on a timetable that will allow those that take appropriate remedial measures to be de-listed at the earliest possible time.

I want to highlight that not only has the list and the FinCEN advisories prompted movement within these jurisdictions; they have also increased the quantity and quality of suspicious activity reports filed by U.S. financial institutions.

The Financial Crimes Enforcement Network has begun to analyze the SAR filings related to the 15 NCCTs. The findings from their work will be incorporated fully into the second review of SAR filings that the interagency community expects to publish jointly with the American Bankers' Association in April. This report will show, among other things, that since the issuance of the advisories last July through November 2000, U.S. financial institutions, including foreign banks operating in the U.S., roughly doubled the rate of filings of suspicious activity reports for most non-cooperative countries and territories.

A preliminary analysis of December 2000 data confirms this trend, and the majority of these findings describe wire transfer activity either to or from the country in question. Dollar amounts involving wire transfer activity tend to be high, frequently in the millions of dollars.

The remaining suspicious activity reports described for the most part structuring of cash and monetary instrument transactions in-

volving money orders, traveler's checks, and cashier's checks. In most instances, financial institutions in the United States are a link in the chain of international transactions, as opposed to the originating or end point in the movement of suspicious funds.

Although further FinCEN analysis is needed with respect to these suspicious activity reports, it is apparent that international correspondent account activity of the type discussed in the Minority staff's report has been and continues to be noted. Such correspondent account activity was also identified in a separate study of domestic U.S. shell company activity that was summarized last fall in the initial issue of the SAR activity review.

The challenge we now face is to make effective use of this information, both in investigations and in providing feedback to the financial services community. I want to emphasize that the FATF project and our support for it are works in progress. There is a second round of review currently underway and we expect to be in a position to put additional jurisdictions on the list in June.

As I have indicated, we are also actively involved in helping jurisdictions respond to the concerns. Unfortunately, some of them have shown very little progress. The FATF indicated its special concern about the relative lack of progress in the Russian Federation, Lebanon, the Philippines, and Nauru. Each has its own particular obstacles to address, but the international community is expecting a positive response to the concerns identified. The FATF is planning in June to reach a decision with respect to countermeasures for those jurisdictions which have not made adequate progress. Secretary O'Neill attended his first meeting with his G–7 counterparts in Palermo 2 weeks ago, where the Ministers confirmed their support for countermeasures as necessary.

By statute, the National Money Laundering Strategy is due to the Congress each year on February 1. This year, with the new administration in office, we have asked for an extension of the deadline until April 1. As we work to meet that deadline, we look forward to a continuing cooperative effort in pursuit of our common goal to prevent criminals from realizing the profits of their crimes.

The Minority staff's report raises a number of important issues. We are carefully considering them. As we consider what additional measures may be necessary to reduce the risk of abuse in this area, it will be important to ensure that such measures do not interfere with legitimate commerce and international trade finance, or put our institutions at a competitive disadvantage in the global marketplace.

The Treasury is committed to working with the Congress to ensure that we have all the necessary tools to combat money laundering. We will carefully evaluate the various legislative proposals that have been and may be put forward in this area. In so doing, we will consult with the interagency community and financial institutions, and seek to balance the legitimate interests of law enforcement with the equally legitimate concerns about privacy and regulatory burden.

Meanwhile, we will continue to pursue the FATF work. We will be prepared to implement countermeasures as necessary, and we will take the findings of this hearing into consideration in the context of our review of the FATF 40 recommendations.

Thank you again for the opportunity to appear today. I will be happy to answer any questions you may have.

Senator COLLINS. Thank you, Mr. Myers.

Ms. Warren.

TESTIMONY OF MARY LEE WARREN,[1] DEPUTY ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, WASHINGTON, DC

Ms. WARREN. Thank you, Madam Chairman and Ranking Minority Senator Levin. I appreciate the invitation to appear today to offer the Department of Justice's views regarding the use and abuse of correspondent banking relationships in the United States.

The Criminal Division has been pleased to provide the Subcommittee with information concerning law enforcement's concerns and our insights on the obstacles and hindrances presented by correspondent banking to investigations and prosecutions. We look forward to continuing this cooperative arrangement.

Today, I would like to focus on three main areas identified in the report of the Minority staff: The extent to which money laundering through U.S. correspondent bank accounts is a significant law enforcement concern, some of the legal and practical challenges in seizing alleged illicit funds and identifying beneficial owners of and depositors into such accounts, and our general views on the recommendation for amending the U.S. forfeiture law and enhancing law enforcement-industry communications with regard to correspondent bank accounts.

The international movement of illicit proceeds through correspondent bank accounts servicing foreign institutions is often difficult for law enforcement to detect. Even when detected, law enforcement may encounter significant hurdles in tracing, seizing, and forfeiting such funds, made once again all the more difficult when it is hard to discern the true beneficial owner of the funds being transferred.

Most often, as the Minority staff's report concludes, this occurs when U.S. financial institutions offer banking relations to foreign shell banks, offshore banks, and to banks in those jurisdictions with unduly broad bank secrecy protections and those that have little or no effective anti-money laundering regimes. Typically, such banks fail to make and maintain proper account and transaction records as well.

From a prosecutor's perspective, in order to attack the abuse of correspondent banking by money launderers, the U.S. financial institutions must be vigilant and the U.S. Government must work to ensure that our laws provide the necessary tools to prosecute individuals who knowingly facilitate the transfer of illicit funds, and to identify, seize, freeze, and forfeit criminal proceeds transacted through such accounts. We need that help as well.

Let me hasten to add that with all these frustrations and difficulties, the Departments of Justice and Treasury, in our coordinated fight against international financial crime, have scored some significant successes.

[1] The prepared statement of Ms. Warren appears in the Appendix on page 256.

In my full written statement, I have outlined Operation Skymaster and Operation Juno, in which our investigators and prosecutors were able to penetrate the use of the Black Market Peso Exchange scheme and to identify the traffickers and those who facilitated trafficking through money laundering.

These successful cases also revealed and highlighted some problems facing law enforcement in tracing and forfeiting criminal proceeds in foreign countries and in instances when correspondent banking is used. Our money laundering laws, dating to 1986, addressed primarily a domestic problem in the beginning and unfortunately have not always kept pace with the developments in technology and international commerce.

Three major areas of problems emerge. First, when offshore banks in one jurisdiction have their representatives in another, it can be difficult for U.S. law enforcement to determine the actual location of the funds and in which jurisdiction we should focus our forfeiture efforts. Once U.S. law enforcement pinpoints the correct foreign jurisdiction, our ability to forfeit these funds is dependent upon the level of cooperation offered by that jurisdiction and by the strength of that jurisdiction's forfeiture laws.

The second major problem area is the complexities that can arise from our own forfeiture law with respect to jurisdiction and venue in forfeiture cases in the United States. This is particularly true in cases when U.S. law enforcement does not know initially the final destination or beneficiary of the funds sent through a correspondent account and only determines that fact much later on.

Third, the relevant U.S. statute of limitations requires the government to bring forfeiture actions against fungible property, such as funds in a bank account, within 1 year from the date of a money laundering offense. If the government does not file within that deadline period, we are required to make a strict one-for-one tracing review of the funds or prove that the foreign bank itself was involved in the wrongdoing. These requirements are often difficult to satisfy, particularly in cases involving correspondent bank accounts.

Some of these problems were best exemplified in the forfeiture cases resulting from Operation Casablanca. Criminal Division prosecutors in Washington filed civil forfeiture complaints in the District of Columbia against the funds wire-transferred to other foreign accounts. We used the statutory authority granted in Title 18, United States Code, Section 981(a) and 984, as well as 28 U.S.C. Section 1355(b).

In one instance in Operation Casablanca, funds had been wire-transferred to a bank account in one jurisdiction, a foreign location. After filing our civil forfeiture complaint, the Department requested assistance from that foreign government. It was learned by our foreign counterparts, however, that the bank, as well as the account into which the funds had been transferred, were actually located in the second jurisdiction.

In the second country, the Department advised authorities that we had information concerning the transfer of drug proceeds to bank accounts within its jurisdiction. That country's officials then filed a criminal forfeiture action, the only forfeiture available in

that particular country. They based their criminal case on our request for assistance. That jurisdiction froze the accounts.

But then because the defendants were not before the court, it was uncertain whether they could indeed be forfeited criminally. In addition, the bank did not appear to have any actual buildings or branches within the court's jurisdictions, and the assets securing the bank's obligations were not located in the country.

Finally, having come almost full circle, it was determined that the assets we were pursuing were likely located in the foreign bank's correspondent account back here in the United States, at a U.S. bank in New York City. This was a tortuous, time-consuming chase.

The prospects for success in our U.S. civil forfeiture action in that particular instance remain uncertain. There is a potential claim that the assets in question were actually located in the foreign bank's correspondent account in New York City. Jurisdiction, venue, and the 1-year statute of limitations then may become grounds for challenge. Now, I need to note this was an instance when we had enormous cooperation from the foreign jurisdictions and we still had all these obstacles.

Let me shift very briefly to the recommendations in the Minority staff's report.

The first four recommendations, I think, are better treated by regulators and supervisors. The final two recommendations, however, deal with law enforcement issues. They suggest better U.S. communication with the industry and assistance to the bank in identifying and evaluating high-risk foreign banks. The final recommendation was forfeiture protections in the United States perhaps should be amended to enhance our ability to seize and forfeit illicit funds.

These are valuable recommendations, and we concur that they warrant further study and review. We would be pleased to work with the Subcommittee and members of the staff toward these goals.

With respect to improving communication channels between the U.S. Government and U.S. banks, Mr. Myers has already noted several of the ways we are working bilaterally, multilaterally and with the industry itself. Law enforcement intends to continue to enhance these working relationships, all, of course, within the constraints that we cannot reveal ongoing criminal investigations and the sensitive information in those investigations.

With respect to the final recommendation amending our asset forfeit laws, we believe that such a provision would be beneficial in terms of pursuing and prosecuting forfeiture cases and, as I stated, is well-deserving of further study and review. We strongly believe that illicit proceeds, wherever located in the world, should not be hidden from detection or immune from forfeiture when money launderers take advantage of some weak link somewhere in the world in the international money laundering campaign.

There should be no safe haven for money that is the proceeds of crime. We understand at the same time, of course, that the prosecutor's concerns would need to be carefully balanced against other needs in the U.S. financial system and legitimate commerce.

Once again, I commend the Subcommittee and staff for focusing attention on this important issue. We look forward to continuing our work with the staff and the Members to find solutions to the problems you have highlighted.

I look forward to your questions.

Senator COLLINS. Thank you very much, Ms. Warren, for your testimony.

Mr. Myers, you mentioned in your statement that Treasury and Justice have jointly issued two national money laundering strategies, and that in both correspondent banking relationships, in particular international correspondent banking relationships, were found to be vulnerable to abuse by criminals seeking to launder funds.

You go on to say that the advisories issued by the Financial Crimes Enforcement Network—FinCEN, I believe, is the acronym—do not discourage banks from maintaining relationships with non-cooperative countries. Instead, in your written testimony you indicate that they are intended to encourage banks to exercise caution in such relationships, but not actually to discourage them.

I am curious why not. Why wouldn't you discourage banks from maintaining relationships with foreign banks in countries that have been non-cooperating and aren't showing the kind of progress that the countries that you have listed that have moved on anti-money laundering laws have shown?

Mr. MYERS. Thank you, Senator. We essentially view the advisories as a warning. Our best analogy is to a sign on a highway bridge, for example, that would say "slippery when wet." We are not telling a driver not to cross the bridge, but we are telling the driver to be very careful and to take into account the circumstances of the road, the weather conditions, the type of car he or she is driving, the speed at which he or she is traveling.

In this way, when we look at a complex array of factors that may influence a decision to do business in a particular jurisdiction, we recognize that our banks are in very different circumstances. Across the United States, we have large money center banks with very sophisticated compliance systems. We have small independent banks without a lot of international connections.

Similarly, in particular jurisdictions that we have named on our list, take Israel, for example, they don't have a money laundering law. On the other hand, they have a fairly mature and well-functioning bank regulatory system. So we wouldn't want in that case to tell banks not to deal with Israel or advise them that it is—

Senator COLLINS. Well, you used Israel as an example of a country that has taken steps. I am talking about those countries that are non-cooperating and haven't taken any steps.

Mr. MYERS. I guess my point, Senator, is simply to try to clarify. The countries that made it on to this infamous list made it on to that list for various reasons, and the world presents itself to us in shades of gray. We thought it best in the first instance for the first year around to issue warnings and to tell our banks specifically about our concerns and to make those concerns public. We have seen that that has provoked a lot of movement in the jurisdictions, and also we think a lot more caution in our banking community.

As I have indicated, however, if the jurisdictions are not willing to change their practices, if we find that it is not working, we are prepared to consider further countermeasures and all options are on the table as far as we are concerned. But we are only—we are 9 months into this public process, and I remind you we have consensus across 29 jurisdictions to take these steps. We certainly weren't in a position to build a consensus around cutting off 15 countries from the world's financial systems without some kind of fair notice and opportunity for them to amend their ways.

Senator COLLINS. One of our banking representatives last week—I believe it was the witness from Bank of America—emphasized that U.S. banks would welcome more guidance from FinCEN about which banks the American Government believes are promoting illegal activities or closing their eyes to illegal activities. These banks seem to be asking for more guidance from FinCEN on where they should do business, and are essentially telling us that they would welcome more red flags.

Could you comment on that?

Mr. MYERS. Yes, thank you. I would agree with you that the banks have made it very clear to us that they welcome as much guidance as we can give them. I note that the OCC, Treasury's main regulator, has historically issued alerts to the banking industry and other regulators about offshore shell banks and other institutions that hold themselves out as banks but lack licenses from recognized authorities or otherwise are not suitable to be engaged in the banking business. These advisories have come out regularly and so we try to meet this obligation.

Beyond that, I would just echo the comments made by my colleague from the Justice Department that we are very interested in trying to provide this kind of information where we can, but it obviously raises, as does the process through which we identify drug kingpins and others with respect to whom we cut out of the U.S. financial system under OFAC sanctions—this raises a host of concerns about disclosure of sensitive information, both from the law enforcement community and also the intelligence community.

Senator COLLINS. You mentioned shell banks and doing business with shell banks. Senator Levin and other experts on money laundering have raised the question of prohibiting U.S. banks from opening correspondent accounts for foreign shell banks because they have no physical location, and are not affiliated with any other regulated financial institutions.

I would like to ask both of you for your opinion on whether steps should be taken to prohibit U.S. banks from having correspondent accounts with shell banks.

Mr. MYERS. Yes, thank you. We are carefully studying this recommendation, and I want to congratulate the Subcommittee and the staff for focusing as you have. I note that the report defines very narrowly, and you have been defining in the hearing very narrowly the term "shell bank," and I think that is very productive.

We recognize that these institutions, as you have defined them, pose a significant risk and that they are often used to perpetuate all types of fraud and are the subject, as I indicated in my previous answer, of a series of Office of the Comptroller of the Currency alerts. We also welcome the news that jurisdictions such as the

Cayman Islands and the Bahamas have taken steps to eliminate such institutions.

We are still struggling around the margins on this issue before we can give a ringing endorsement of the recommendation, and let me try to explain. We understand, for example—and we are still studying this with relevant regulatory authorities—that entities may be subsidiaries of, for example, securities companies or insurance companies. They may be set up in a way that might meet your definition of shell bank, or shell financial institution if I can broaden it out a little bit, and there may be legitimate purposes occasionally for institutions like that. We also can imagine an example of an Internet bank that doesn't really exist anywhere but may be legitimate and sufficiently supervised.

So with those caveats and with those concerns that we have that we are trying to work through, we do think there may be scope for work in this area. We welcome what I understand to be a new initiative on behalf of the New York Clearing House banks to develop best practices in this area, and we think we should work with the private sector and with the Congress on any specific proposals in this area.

Senator COLLINS. Ms. Warren, what is your judgment on this issue?

Ms. WARREN. I need to first caveat that our view is from a prosecutorial perspective or an investigator's perspective, and in many ways it is the view from the medical examiner's office or the pathologist. We see where it really goes wrong, and there have been enormous harms visited on those who have been the victims of fraud or have allowed drug trafficking to proceed.

So from our very limited perspective, we would certainly applaud the recommendation. But we also understand that ours is only one part of a much larger view of what needs to be looked at in terms of regulating and controlling this kind of banking, and we would look to work together to provide our insights from our medical pathologist office with those who have a different piece of the puzzle to provide.

Senator COLLINS. Ms. Warren, does the Justice Department have concerns that if it alerts banks to problems with a specific jurisdiction's bank that you may compromise an ongoing investigation?

I am trying to figure out why the government doesn't more readily share information with U.S. banks that would prevent them from doing business with people who may, in fact, be facilitating the laundering of criminal proceeds.

Ms. WARREN. I can foresee some instances where the information about not dealing with a bank, of such identifiable particularity, would alert others to our ongoing investigation. And we would need to weigh, and ask that others weigh, the importance of our proceeding with our investigation against immediately shutting down such a bank by providing information of such a peculiar nature that it would lead to a conclusion that this one bank was the target, or its customers the targets of our investigation. There might be such instances.

If it is information of an ongoing investigation, there may be some ways that we can provide more generic advice. But we don't want to jeopardize our investigation, and more than that, we don't

want to jeopardize any of our undercover officers who are often right in the middle of such an investigation. Their lives could be on the line.

Senator COLLINS. I am just going to raise quickly one more issue with you before turning to Senator Levin for his questions.

In your written testimony, you indicated that the United States must bring a civil forfeiture action against criminal proceeds in a bank account within 1 year of the date of the money laundering offense, and that is in order to take advantage, as I understand it, of the relaxed tracing requirements in the current law. Is that accurate?

Ms. WARREN. That is correct.

Senator COLLINS. Are there any similar time limitations under the criminal forfeiture statutes?

Ms. WARREN. In the criminal context, we don't have the advantage of the fungible property provision of that 1-year statute of limitations in Title 18 for civil actions. So we don't have that at all in a criminal forfeiture proceeding today. We would have to do strict tracing of the assets in a criminal forfeiture action.

Senator COLLINS. If you have any recommendations to the Subcommittee on changing these laws, I would very much welcome hearing them today or having you submit them in writing.

Ms. WARREN. Understood.

Senator COLLINS. Thank you.

Senator Levin.

Senator LEVIN. Thank you, Madam Chairman.

On the question of shell banks and the purpose they serve, we had two U.S. banks in front of us who testified that they don't open correspondent accounts for shell banks and they could not see any reason not to prohibit correspondent accounts for shell banks, as we define that term.

Are you familiar with their testimony? Were you or someone else present for that testimony?

Mr. MYERS. Yes, sir, I am familiar. Thank you.

Senator LEVIN. You are looking, I think, at the edges, you said, as to what conceivable legitimate purpose there would be to open up a correspondent account with a shell bank. I think that is well and good, but I think we also have got to look at the problem that is created and try to address that problem.

If U.S. legitimate banks can't see any reason, or at least the ones who were in front of us can't see a reason for opening up a correspondent account with a shell bank, I would hope that you would take their thoughts into consideration and move on with it.

You know, the M.A. Bank was affiliated with a financial institution. That was the excuse that was used there. First of all, even if the regulatory process for a financial institution is good, as we hope it is in the United States, it is a very different regulatory process than the one for a bank. So I don't think that that part of the fringe that you are looking at will provide adequate assurance that the bank regulator effort—the regulations that the bank inspectors and bank regulators enforce—are being enforced by securities investigators. It is a different form of regulation.

So I don't see offhand how saying, well, there could be a shell bank that is associated with a financial institution or an insurance

company—I don't see how that provides any answer in terms of bank regulation.

Mr. MYERS. Thank you, Senator. I am not sure that we disagree at all. I hope you will appreciate that we have a new administration, and I certainly don't want to be in a position of having committed my Secretary to something on which he hasn't been fully briefed.

Senator LEVIN. Well, we can appreciate that, but if you could give yourselves a reasonable time line to reach a conclusion on it and let us know what that conclusion is, I think we would appreciate that. Is that all right?

Mr. MYERS. Yes, sir. In fact, we very much look forward to continued discussion and we think you have raised a very important issue. We are looking very carefully at it.

Senator LEVIN. Do you think that you give us your opinion within a couple of months? Does that sound fair?

Mr. MYERS. Yes, it sounds fair to me, sir.

Senator LEVIN. Now, on the question of offshore banks that aren't shell banks but are offshore banks that are not allowed to do business with the people who live in the jurisdiction granting the license, we had testimony here from a former offshore bank owner named John Mathewson. He testified that 95 percent of his bank's 1,500 clients were Americans, and he thought that all of them were engaged in tax evasion.

He has spent the last 5 years cooperating with the Justice Department identifying people who had, in fact, evaded our tax laws, some of his former clients. He said that his bank is not unique; it was a "run of the mill" bank in the Cayman Islands. He thinks, in other words, that most of these offshore banks are engaged mostly in that, hiding the assets of Americans who are evading taxes.

The question is how do we try to get at that issue, as well. It seems to me that the shell bank issue, frankly, is a relatively easy one. I don't think that should take us a whole lot of time, although you want to make sure there are not any unintended consequences. One of our witnesses called it a no-brainer—I think that is what he said, and it seems to me it is pretty close to a no-brainer. I don't want to imply that your brains won't be at work for the next 60 days, but I will put it that way. To me, at least, it is pretty close to a no-brainer.

Now, let's talk about offshore banks. We have pretty good evidence, and Mr. Mathewson in his cooperating role has provided an extraordinary amount of it, as to what so many of these offshore banks—again, we are talking banks that are not affiliated with our regulated institutions—but what these offshore banks are mainly about, or many of them are about or most of them are about.

Now, how do we get at it? How do we take a look at these unaffiliated offshore banks opening up accounts in American banks and then using all the services of our banks to hide assets and to really get involved in tax evasion for their clients? What do you suggest? It is going on, it is rampant.

Ms. Warren, why don't you start?

Ms. WARREN. This is a much harder puzzle. Again, there may be legitimate commercial reasons for these offshore entities that are not affiliated with regulated institutions to continue. That is not

what we see from the Justice Department's viewpoint because of our particular perspective. We see where they are abused and abuse our citizens.

I believe we need to hear—and this set of hearings has tried to bring out—all the available information from the other pieces in the puzzle, from the bankers themselves, from the industry, from the regulators, and from those who have to look at the much larger picture to try and see how best to do this. Again, I can only speak from the prosecutor-investigator point of view, and that is when these banks, these institutions are clearly abused.

Senator LEVIN. How do we get at the abuses? They are out there.

Mr. MYERS. Thank you, Senator. Let me start by agreeing with your estimation that this is a much more thorny problem. As I am sure you are well aware, the historical antecedents for offshore finance are deep and long, and we have much of U.S. business and securities trading, insurance, takes place taking advantage of offshore markets through subsidiaries and complex arrangements.

Our basic view on this is that—

Senator LEVIN. Again, we are only talking unaffiliated.

Mr. MYERS. Yes, I understand, I understand.

Senator LEVIN. When you say subsidiaries, you are not addressing my question. I am talking about unaffiliated offshore banks.

Mr. MYERS. Right. Given a global economy where we have this historical basis and then we have, I think, the emergence in sophisticated offshore markets like the Cayman Islands and the Channel Islands of banks and other firms that would like to compete with the subsidiaries of U.S. firms or of London firms or of Dutch firms or German firms, I don't know that we can draw a line around subsidiaries of U.S. firms in a way that would protect our firms' competitiveness with their foreign counterparts from England, Germany, other major centers.

That said, we do think there are things that can be done. We are working actively in a couple of areas. One, through the FATF and other international standard-setting bodies, we believe—and we assert this repeatedly and often—that it shouldn't matter to a regulatory regime whether they are regulating offshore or onshore entities.

For purposes of money laundering control, tax evasion, cooperation on tax matters, it shouldn't matter whether a firm is offshore or onshore, and we push that point of view in all of our foreign relations and through all of the international bodies in which we participate. The FATF is active in that respect, as is the OECD tax initiative which, as I understand it, is going forward on the view that there really again is no excuse for not cooperating in tax matters and offering up a transparent regime. Put aside the question of tax rates. Competition on tax rates is another issue, and that is one where there is a lot more heated debate.

Senator LEVIN. You used the analogy of a traffic sign that says "slippery when wet." I would suggest that that is not what we are dealing with here. These banks, most of them, are slippery under any weather conditions.

This isn't a case of a few bad apples ruining a barrel. This is a case of a few good apples somewhere in the barrel.

I really think that unless your assessment of the use of these unaffiliated—I emphasize that—offshore banks is different from that staff report, that is the way you should go at it. We have got to try to protect the relatively few good by insisting on, first, regulation of these banks. And if they are not regulated by a jurisdiction that has good regulation, we should tell our banks forget it. We don't have to regulate them, but we want a good jurisdiction that does have regulatory capability to do the regulating.

Second, it seems to me we should be able to know who the beneficial owners are of these banks. We don't know that now. We just heard the example this morning of a victim who was victimized by a bank that had a fancy name on it, but which is a rogue bank that is stealing money, and you can't find out who the owners of that bank are. They have bank secrecy laws in the jurisdiction that licenses it.

It seems to me that as a condition of accepting a correspondent account with an offshore bank, or opening an account for an offshore bank, our banks ought to be told "you must get the list of beneficial owners of that bank; you must have that in your possession and require that bank to notify you of any changes, at a minimum" so our law enforcement officials aren't faced with some secrecy laws down in wherever the island is or wherever the country is, and where people who have been victimized by that bank can, through a subpoena process, get access to the beneficial owners of that bank and go after them in the case of this bank we have heard about this morning.

We also have to do, it seems to me, much more in terms of seizure of assets, and I will get back into that in my next round. I am over already. Thank you.

Shall I go ahead?

Senator COLLINS. Yes.

Senator LEVIN. Thank you.

We have a handbook which is issued by the Office of the Comptroller of the Currency for bank examiners which says that a bank—and this is the September 2000 version of it—it says a bank must exercise caution and due diligence in determining the level of risk associated with each of its correspondent accounts. That caution and due diligence is set forth in some detail on page 22, which really sounds pretty good.

My question is going to be how is this enforced, but here is the way it reads: "A bank must exercise caution and due diligence in determining the level of risk associated with each of its correspondent accounts. Information should be gathered to understand fully the nature of the correspondent's business. Factors to consider include the purpose of the account; whether the correspondent bank is located in a bank secrecy or money laundering haven; if so, the nature of the bank license, i.e. shell or offshore bank, fully licensed bank, or an affiliate subsidiary of a major financial institution; the level of the correspondent's money laundering prevention and detection efforts; and the condition of bank regulation and supervision in the correspondent's country."

That gets at a whole bunch of issues we have been talking about for 3 days. My question: In your judgment, how many of the cor-

respondent accounts at U.S. banks are subjected to that degree of scrutiny right now? Can you give us a guess?

Mr. MYERS. I am sorry, Senator. I am sitting here today not able to give you that number. I would be happy to get it for you as soon as I can. I would need to call my friends at the OCC. I do know that they have begun, as I think I indicated in my testimony—if I didn't say it, it is in the written part—they have begun doing targeted examinations on the basis of that handbook from which you just quoted. So I will endeavor to get you an answer.

Senator LEVIN. On the question of seizure of assets, where there is credible evidence that dirty money is in a correspondent account, assume the same standard, whatever the standard is for seizure of assets in a domestic account. And I am not sure of the exact standard, but let's say it is credible evidence that there is illegal money in a U.S. bank account.

The Justice Department, as I understand it—and I want you to comment on this because I may be wrong, but the Justice Department, I believe, has greater capability to seize the asset in a regular domestic account than it does in a correspondent account. Is that correct?

Ms. WARREN. Yes, that is. Checking with my experts, yes.

Senator LEVIN. So we have a bizarre situation where a foreign bank's bank account at a U.S. bank is given greater protection than a U.S. citizen's account in a domestic bank. Is that correct?

Ms. WARREN. Correct.

Senator LEVIN. Now, I think it is pretty clear that we ought to be changing that, and again I think it is as clear as it is that we ought to be changing some of the shell bank regulation. The offshore bank that isn't a shell bank is a little more complicated, as we have talked about.

Nonetheless, this one, it seems to me, is fairly clear. We should not be giving greater protection to a foreign bank's bank account than we are to a domestic person's bank account at our U.S. banks.

I am wondering if the Justice Department could give us, first, a reaction to the proposal which is in the staff report and, second, give us any suggested changes in that approach and give us actual language that you might recommend. And then we would ask the Treasury Department to—why don't you do this jointly, if you can, or give us separate recommendations either way? But can you do that within a 30-day period?

Ms. WARREN. Agreed.

Senator LEVIN. Are you able to do that?

Mr. MYERS. Yes, sir.

Senator LEVIN. What about the confirmation of beneficial ownership of the foreign offshore bank? I made reference to that a few moments ago, but I didn't get a reaction from you. Do you think it is reasonable to require that our banks in opening correspondent accounts for offshore banks have in their files a representation as to who the beneficial owners of that bank are? Is that a reasonable requirement, do you believe?

Ms. WARREN. It certainly sounds reasonable for the initial opening. Unfortunately, the problems are not just in the initial opening of the account, though. How do you monitor that as the account

proceeds, particularly as we learn about nested accounts and those kinds of transfers? Peeling back that onion is a lot more difficult.

Senator LEVIN. We could require, however, that the respondent bank who has that account at the U.S. bank notify the bank of any changes. I mean, if they violate that, then what the remedy is might be difficult. Nonetheless, we could require that right up front the beneficial owners be listed, and that the bank tell its customer that if there are changes, you must notify us.

Is there any problem in doing that? I know there is a problem in what happens if they lie and don't follow through, but nonetheless there is some deterrence in just that requirement. Is there any problem in going that far that you can see offhand, Ms. Warren?

Ms. WARREN. There are no problems that I foresee or that I would foresee in my own very small business relationships. I would like to know that. I would think—and this is just a prosecutor's view—that a bank, for instance, if it were extending credit, would certainly want to know that if it is providing these other kinds of services. It seems appropriate, again, from this limited perspective, to ask the same questions.

Senator LEVIN. Mr. Myers.

Mr. MYERS. Yes, Senator, I tend to agree with my colleague. I think where we are today is that your report has shown a lot of light on what has been viewed as a complicated problem. I don't think it has been fully understood, and as Ms. Warren pointed out, the history here is that banks have been very careful when they extend credit and they have been a little less careful when they simply provide services. I think there are some lessons learned—

Senator LEVIN. A little less careful? I think you are being a little too cautious.

Mr. MYERS. They have been less careful, and I think that is changing. It does seem to me perfectly reasonable for any bank to know the owners of another bank they are doing business with.

Senator LEVIN. I want to go back to the question of a moment ago relative to the beneficial owners being made known to our U.S. bank when they open up a correspondent bank account.

Isn't the knowledge of ownership of a customer, in this case a respondent bank, really something that banks should be doing under the "know your customer" requirement anyway? I guess I should look first to Mr. Myers on this one.

Mr. MYERS. If the question is knowing who owns the bank with whom they are doing business—

Senator LEVIN. Yes.

Mr. MYERS. Yes, sir, absolutely.

Senator LEVIN. Since we have "know your customer" requirements, ongoing requirements, that would address the question that Ms. Warren raised about what happens if they don't tell you if there is a change in beneficial ownership. The answer is that then our "know your customer" effort would have been thwarted and frustrated. But at least we do have a requirement that our banks put in place a "know your customer" regime, and presumably that effort would at least be aimed at knowing if there is a change in the beneficial ownership of a correspondent bank customer.

Is that accurate, would you say?

Mr. MYERS. I think that is accurate. If I might just offer—this issue does become, as Ms. Warren suggested, a question of peeling the onion. Our regulators have taken a view that our banks need to make a risk-based assessment and then make decisions about how many layers of the onion to peel.

We find in our international discussion there is really no agreed standard here. We use the term "know your customer" to mean customer identification at the outset of the account-opening. There are really no agreed standards about what steps should be taken on an ongoing relationship. I fully agree with you that our regulators expect our banks to be careful and to keep apprised of who they are doing business with.

Senator LEVIN. I would like to pursue a question that the Chairman was getting into relative to the exchange of information. When there is negative information that is forthcoming about what we call a high-risk foreign bank—that is either a shell bank or an offshore bank or a bank from a jurisdiction that doesn't have a good regulatory process—we call those a problem bank or a high-risk foreign bank.

So when negative information is received about a high-risk foreign bank, for instance that a bank has been indicted or that a bank is under investigation by an investigatory wing of a government, I know that the regulators issue advisories. But is the kind of information that I just talked about part of that advisory, where a bank is under investigation or only where there has been an indictment?

Mr. MYERS. As I understand it, Senator, that kind of information may very well—almost certainly will inform a decision whether to issue an advisory and it may be a part of an advisory. I think typically the problem that our banks have expressed through this hearing and to us directly is that they think sometimes the warnings are too little, too late, because the investigation is already concluded. We have to work that out on a case-by-case basis with our agencies and the Justice Department that are conducting the investigation.

Senator LEVIN. I want to raise the case of the American International Bank, where before there was any indictment or conviction there were a lot of subpoenas which were issued. So I want to talk about information short of indictment or conviction.

Law enforcement agencies examining the American International Bank had issued numerous subpoenas to the bank's correspondents for records of the bank and its clients. When the American International Bank tried to open a new correspondent account with a different U.S. bank, that new correspondent bank had no idea of the subpoenas and the questionable activity that led to them. Had the new correspondent bank known, it might have refused to open an account for the American International Bank.

So I wonder whether or not there are any steps that can be taken to let U.S. banks know about that kind of a situation without jeopardizing the investigation. Here, I would include both Ms. Warren and you, Mr. Myers, in this question because we don't want to jeopardize investigations. But at that level where subpoenas have been issued, can an advisory be issued to alert potential new cor-

respondent banks of at least what the current problems are or are alleged to be?

Ms. Warren, can we start with you on that?

Ms. WARREN. I think it would be a greater problem to alert about subpoenas. For example, if there are grand jury subpoenas, we would not be able to share that information. There are often, however, very public indicia that the bank is in trouble. I mean, in some of the cases cited in the report, there had been forfeitures already effected or freeze orders in place, and those are public information and that information should be shared, in my view, as swiftly as possible because in the end it just means there will be more victims over time.

Senator LEVIN. Could you go through some of the records—not today but perhaps for the record, could you go through some of the files and experiences of the Justice Department and give us examples of where there were public indicia or other indicia that you think could legitimately and should legitimately be on that advisory which are currently not now part of, or assumed to be part of that advisory?

This is a question which our Chairman was getting into in terms of exchanging of information. Even if the subpoena particularly to a grand jury can't be referred to, for reasons that you have given, there could be, it seems to me, additional items which are expected to be on an advisory which historically have not or have been overlooked. If perhaps both of you could look through your files and give us examples of those and how you think that problem could be addressed so we could get the better of information that was referred to, that would be very helpful.

Ms. WARREN. We will undertake that, and I think maybe in our review of that information we might also come up with, I would hope, some further suggestions about how law enforcement could be more forward-leaning in terms of providing information that is available.

We recognize that part of law enforcement is making public announcements, providing that information either to the target community or to the citizenry at large to protect victims. Clearly, we can always do a better job at that.

Senator LEVIN. When we started to investigate the offshore bank which we heard about this morning, the British Trade and Commerce Bank, staff came across a number of criminal investigations and prosecutions that dealt with specific incidents at the bank, but not the bank itself. The bank itself is a major problem. This is truly a rogue bank, and that may be generous.

Here are some of the incidents: One Federal prosecutor in New Jersey went after William Koop, a U.S. citizen who had defrauded his victims and laundered about $12 million through three offshore banks, including the British Trade and Commerce Bank. The prosecution obtained a guilty plea from Mr. Koop, but no action was taken relative to the bank.

A second prosecution is underway in Arizona against Benjamin Cook, a U.S. citizen who is alleged to have defrauded other U.S. citizens out of $40 million, and who then laundered the money through a number of banks, including the British Trade and Com-

merce Bank. Again, the prosecution is focusing on the person who committed the fraud, but not the offshore banks that he used.

Other criminal and SEC investigations are going on in California, Texas, Washington State, and Florida. All are looking at the possible frauds, but none at the offshore bank or banks that facilitated the frauds by accepting the fraud proceeds with little or no due diligence.

It seems to me that the prosecutors here—and I am not being critical of them at all, believe me, because I know the problems that they go through. But the prosecutors are each sort of touching a different part of the elephant without anyone taking aim at the elephant itself.

I am wondering if there is any strategy at the Justice Department to go after the offshore banks that are operating in the United States through these U.S. bank accounts and acting as repositories in multiple instances of laundered funds. That is the specific question.

Ms. WARREN. There is certainly a general strategy that we look for banks as corporations, as entities, as defendants themselves if it appears that they are guilty of wrongdoing. We have prosecuted—and we have a chart that goes on for many pages of numbers of financial institutions that we have proceeded against directly and not just against any particular offender within that bank.

What you suggest as certainly the collection now of so many instances of wrongdoing from one relatively small bank may suggest, or more than suggest some rottenness at the very core here. Those are the kinds of instances that we need to analyze to see if we can meet our standards for corporate liability proof in a criminal case against the entity itself. We have found that proceeding in that way has had an enormously deterrent effect in the banking community, not just in the United States but our efforts against foreign banks as well, and could have a salutary effect here.

Senator LEVIN. Is there a place where the information is put together that the same offshore bank is being mentioned in numerous criminal investigations or prosecutions, even though it is not the target of the investigation itself? Is there one place where the banks that are named in those investigations are accumulated so that you can see whether or not the bank itself should become a target?

Ms. WARREN. Between the Treasury Department's entities and the Justice Department's entities, there are several databases that help us even down to particular accounts in terms of collecting instances where they are misused. We are just learning some facility with that information and how to use it in a more active way. I predict that we will get much better in time.

If I just might add a postscript on the instance you raise about a rogue bank in a series of violations, in order to prove our case we are going to still need the documentary evidence from that entity or from that jurisdiction, and sometimes that can be very difficult. If we have a mutual legal assistance treaty with the overseeing jurisdiction, we ought to be able to obtain that readily.

If we have other agreements for financial information production, then we can secure it. But without the documentary corroboration,

our cases can be very difficult to prove. So there remain some obstacles and we just have to keep working at it.

Senator LEVIN. Should we not allow correspondent accounts from banks that are licensed by jurisdictions with whom we have no such treaties or agreements?

Ms. WARREN. Perhaps there are other ways to look at it. That is one way. Another might be in terms of your "know your customer" rules, an extension of that is to also have an entry on that who is your representative for service of process here in the United States so that if, in fact, they are doing business through their correspondent account, they are present for purposes of service of our process as well to retrieve that information. I think there are many ways that we could look at this and see what might best help us.

Senator LEVIN. We would welcome all the suggestions from both of you and your agencies in this effort.

Thank you.

Senator COLLINS. Thank you, Senator Levin.

I want to thank our witnesses of this panel, and I want to second Senator Levin's request and urge your assistance in helping us to strike the right balance as we seek to prevent money laundering, but to do so in such a way that we don't needlessly hamper the legitimate operations of the international banking system. I would encourage you to work very closely with us as we proceed to help us find that right balance.

I want to thank you both for your testimony this morning. The two witnesses are excused.

Ms. WARREN. Thank you.

Mr. MYERS. Thank you.

Senator COLLINS. The 3 days of hearings that we have held during the past week on the role of correspondent banking in international money laundering have truly been an eye-opening experience.

Most Americans give little thought to the world of offshore banking at all. If and when they do so, I suspect that they assume, as I did, that it is a shady world of wealthy criminals and tax evaders that exists entirely separate and apart from the normal world of reputable banking institutions in the domestic arena with familiar and prestigious names that we all know. Such thoughts would only be half right.

The offshore banking and shell bank world certainly contains more than its fair share of shady characters and outright criminals. But these hearings have made very clear that prestigious and reputable American banks with excellent reputations have far too often failed to escape being indirectly tied to institutions that either knowingly or with their eyes deliberately shut are facilitating money laundering.

As we have seen, the offshore shell banks and other poorly regulated institutions can often insinuate themselves into the reputable world of the premiere banks by means of correspondent banking accounts. The Minority's investigation has provided an important service in pointing out the vulnerability of our correspondent banking system to abuse by money launderers, and in making clear how lax due diligence and sloppy oversight by otherwise distinguished American banks can play right into the hands of criminals.

I am pleased to hear that American banks are making important strides in improving their due diligence and account-opening and monitoring procedures. I hope, however, that the case studies that the Minority's investigation has undertaken will spur them to do much more to strengthen their procedures. I also believe that we need an even greater effort by the Federal Government working with other countries to crack down on international money laundering.

All in all, I hope and believe that the Subcommittee has been able to contribute in important ways to the goal of ensuring that our banking industry is made far less vulnerable to abuse by money launderers and other criminals.

I want to thank all of the witnesses who have participated in the Subcommittee's investigation. They have made important contributions to the work of this Subcommittee.

I also would again like to commend Senator Levin and his staff for their very hard and diligent work on a complex and fascinating topic, and for all of their efforts in undertaking and leading this complicated investigation.

Finally, I would like to thank the members of my own Subcommittee staff who also worked very hard on these hearings, especially Eileen Fisher, Claire Barnard, Rena Johnson, Chris Ford, and Mary Robertson. Their hard work and attention to detail has also been indispensable in bringing these hearings to fruition.

Senator Levin.

Senator LEVIN. Madam Chairman, first let me thank you for your invaluable support, both yourself personally and your staff, of this investigation.

We have already achieved some significant results, including the delicensing and closure of some rogue banks that should have been closed a long time ago. We have heightened the awareness in a number of jurisdictions that do not do an adequate job, to put it mildly, of controlling their own banks.

But we have a responsibility of controlling our banks and to make sure that our banks do not unwittingly aid and abet money laundering through the correspondent accounts that they maintain with foreign banks. That has been the goal of this investigation. It is a 450-page report which really is the book now, as far as I can tell, on the way in which correspondent accounts are being used to facilitate improper activities by foreign banks.

I can't say enough about my own staff and their year-long-plus effort to put this book together. It is an extraordinary contribution to a very complicated area about which there has been too much mystery. We have got to rip away that mystique and we have got to make sure that our banks, our legitimate banks, are not misused by foreign banks who either are shell banks with no physical presence anywhere or offshore banks which are not allowed to do business with the people who live in the jurisdiction that licenses the banks or banks that come from jurisdictions that have no strong regulatory process. We just don't want them to misuse anymore their accounts with American banks to take full use of the services of those banks, including earning interest, including separating ownership from money, hiding ownership, investing that dirty money, and so forth.

That is our responsibility as a people. We give a lot of very strongly-held lectures and sermons to other countries about trying to end corruption. We cannot allow the product of that corruption to flow through our banks. We prohibit our own corporations from giving bribes. It is a crime for an American corporation to give a bribe. We cannot allow that money to flow through and be cleansed by American banks.

We feel very strongly about the impact of drugs on this society. We spend billions of dollars trying to stop the flow of drugs into this country and then dealing with the impact of those drugs when they do reach our shores. We cannot accept our banks, knowingly or unwittingly, being the depository of dirty drug money.

There have been some steps taken, and as a result of this investigation there have been some additional steps taken, but we have a long way to go regulatory-wise and in terms of our laws. We will be working very hard on trying to close the loopholes in our laws, trying to strengthen our laws, trying to, in my judgment at least, end correspondent accounts for shell banks, trying to tighten up on the use of correspondent accounts for offshore banks and for banks that are licensed in jurisdictions which have no effective regulation.

We have to try to be sure that the beneficial owners of these accounts are made known to our banks so that we have access through subpoenas and through lawsuits to people who do perpetrate fraud and then try to cleanse their money through our banks, or who do take bribe money and try to cleanse the money, or who make drug money and then try to cleanse it through our banks, and so forth.

That is our responsibility. It is a heavy responsibility. Our Chairman very properly points out that we are going to attempt to do that in way which does not impact on the legitimate operations of legitimate banks, but that is surely our goal. No one should mistake either our intention to get after the misuse of our correspondent accounts or our determination that in getting after the misuse that we are not going to be doing damage to the legitimate use of correspondent accounts. Both of those goals are in mind.

Again, I want to thank our Chairman for her support of this investigation. We could not have gotten here without your full support or get to where we are going without it, and I again thank you and your staff for that support.

Senator COLLINS. Thank you, Senator Levin.

The Subcommittee hearings are now adjourned.

[Whereupon, at 12:18 p.m., the Subcommittee was adjourned.]

APPENDIX

JOHN M. MATHEWSON

February 27, 2001

United States Senate
Permanent Subcommittee on Investigations-Minority Office
Committee on Governmental Affairs
193 Russell Senate Office Building
Washington, D.C. 20510

Attn: Ms. Elise Bean

Susan M. Collins, Chairman
Carl Levin, Ranking Minority Member

OPENING STATEMENT

No U.S. citizen would go through the time required and the expense involved in opening an offshore account or accounts unless there was a motive behind this expenditure of time and expense. The motive behind opening an offshore account almost always involves tax evasion. It also involves the attempt to hide money from a spouse, creditors or in the case of an individual who has filed for bankruptcy in the U.S. to keep funds out of the bankruptcy proceedings. In some cases, it is also an attempt to pass on major assets without a tax upon death.

Using Guardian as an example, the cost of opening a corporate account was $8,000.00 U.S.. There was an annual management fee of $3,000.00 U.S. or more. If an individual wanted to have an aged corporation, this could cost between $12,000.00-$16,000.00 U.S..

Additionally, the cost of flying to the Cayman Islands, staying in one of the expensive hotels such as the Hyatt, and eating on the island all involved considerable expense. Without the knowledge that they would be able to evade taxes and hide or shelter funds from the inquisitive, there would be absolutely no point in establishing an offshore account; since almost all of the services offered by offshore banks could be obtained from domestic U.S. banks ***for no charge***.

From time to time, I had clients ask if Guardian sent out 1099's. My answer was always no and somewhat facetiously I would tell them that if they wished to have one sent out, we would be pleased to do so. No one of the hundreds and hundreds of Guardian clients ever requested a 1099.

Why would any U.S. citizen wish to go through the time and expense required to establish an offshore account unless it was for the evasion of taxes or the hiding of funds?

Even when an offshore account looks innocent in the eyes of the U.S. authorities, it very probably has a hidden agenda with a U.S. citizen as the real beneficial owner.

Perhaps it is known that I assisted the U.S. Government in decrypting the bank tapes that I had obtained from Guardian Bank & Trust (Cayman) Ltd. and had given to the authorities in the U.S.. These tapes contained all of the account information for all of the Guardian clients for an approximate 16-18 month period before the takeover time of the bank and this information was invaluable to the U.S. authorities. Without my assistance, these tapes probably would not have been decrypted. It was approximately one year from the time that I gave these tapes to the authorities before I was asked to assist and approximately 30-60 days later I had the tapes decrypted.

The following are most of the correspondent accounts that Guardian established over the years: Credit Suisse (Guernsey) Ltd.; Cayman National Bank; Sun Bank-Miami; Royal Bank of Canada; Prudential Securities-Miami; Bank of Bermuda (Cayman) Ltd.; Wheat First Securities; Smith Barney Shearson; The Toronto Dominion Bank; Bank of Butterfield International (Cayman) Ltd.; Popular Bank of Florida; Capital Bank-Miami; First Union National Bank-Miami; Credit Suisse (Toronto); Cannaccord Capital Corp.-Canada; Charles Schwab; EuroBank-Miami; First Union National Bank, Bank of New York; Moss, Lawson & Co. Ltd. and Richardson Greenshields.

Pursuant to the letter sent to my attorney Oscar Gonzalez on February 12, 2001, in which I was asked to address the subcommittee on certain issues. As follows:

1. How Guardian Bank used its U.S. bank accounts to launder funds and facilitate tax evasion and other crimes in the United States.

   Answer: Checks received from U.S. clients written on U.S. banks, were deposited in the correspondent banks used by Guardian in the U.S. These checks were cleared and then the amounts were put into a Guardian account.

   Wire Transfers in U.S. dollars were also directed into these banks for credit to the Guardian bank account. After the checks had been cleared and the amount deposited in the Guardian bank account, the amounts of the various checks were reflected in the Guardian accounts in the Cayman Islands for the various clients. Theoretically, once the checks had been deposited and cleared or the wire transfers received, these funds would then earn offshore without a taxable consequence since the Cayman Islands has no income tax.

2. To what extent Guardian Bank was or other offshore banks may be reliant on correspondent accounts to conduct their banking operations and transact business.

   Answer: Since 95% of Guardian's clients were U.S. citizens, it was absolutely imperative that Guardian have U.S. correspondent banks. Without U.S. correspondent banks, it would be impossible to conduct business for U.S. clients and therefore, the bank would be out of business. Since the other banks in the

Cayman Islands had about the same percentage of U.S. citizens as clients as did Guardian, they too would have a serious problem.

3. To what extent other offshore banks may be engaging in similar misuses of their U.S. correspondent accounts?

Answer: All offshore banks used their U.S. correspondent banks to clear checks and wire transfers from U.S. citizens.

4. Any recommendations you may have for U.S. banks or U.S. bank regulators to strengthen anti-money laundering controls in the correspondent banking field.

Answer: Regardless of what bankers in the Cayman Islands would say, 95% or more of their clients are from the U.S. Without correspondent banks to clear checks and accept wire transfers, they would not be able to accept U.S. clients.

Since it would probably be impossible, if not inadvisable, to tell U.S. banks that they cannot accept offshore banks as clients, I would suggest the following:

a. Any U.S. bank acting as a correspondent bank for an offshore bank, would have to keep a permanent record (copies) of all checks and all wire transfers with the amount of the wire transfer, from each of their offshore correspondent accounts for at least a five year period. Also, a responsible officer should be appointed to monitor all of these checks and wire transfers.

b. Banks such as Barclay's or the Royal Bank of Canada that have branches in the United States, would also have to keep copies of the checks and wire transfers received from any offshore bank including their own banks domiciled offshore. Considering that the banks located offshore would know that there was a permanent record of all checks and wire transfers in the United States, this would be a considerable deterrent to clearing U.S. funds through U.S. banks.

In addition, foreign trust companies could establish accounts with major banks offshore and as a for instance, could call the account "Trust-Paris France #3". This account could be used for clearing U.S. checks or wire transfers and the only record showing that a U.S. citizen owned this trust would be in the trust offices offshore.

The same could be done through a foreign attorney's office where the attorney would establish an account called "Spanish Olives, Ltd." With a branch of the Bank of America in the U.K., only the attorney's office would be aware that the beneficial owner was a U.S. citizen since the attorney's could act as directors of the corporation.

There are many other avenues that could be used by the sophisticated U.S. citizen for tax evasion.

If there is any answer to the above, it goes back to requiring any U.S. bank or any foreign bank located in the U.S. clearing U.S. checks and U.S. wire transfers from offshore, to make copies of same.

I hope the above will provide some additional assistance.

Sincerely,

John M. Mathewson

John M. Mathewson

U.S. Senate Permanent Subcommittee on Investigations

Testimony of James Christie
Senior Vice President
Bank of America

The use of U.S. correspondent bank accounts with foreign banks to launder money

March 1, 2001

Chairman Collins, Senator Levin, Members of the Subcommittee, I am pleased to appear before the Permanent Subcommittee on Investigations to discuss Bank of America's anti-money laundering efforts in our correspondent banking activities.

You have asked Bank of America to address several matters related to the above subject: 1) the overall operation of correspondent banking at Bank of America including the number of correspondent accounts Bank of America maintains in the U.S. for foreign shell banks, offshore banks and banks in the 15 jurisdictions named by the Financial Action Task Force on Money Laundering in June 2000 as non-cooperative with anti-money laundering efforts; 2) Bank of America's policies and practices on opening, managing, monitoring and closing correspondent accounts for high risk foreign banks; 3) the extent to which correspondent banking is a high risk area for money laundering, and the actions being taken by Bank of America to combat this money laundering; 4) Bank of America's experiences in handling correspondent accounts for Swiss American Bank and American International Bank; and, 5) any recommendations we may have for strengthening anti-money laundering controls in the correspondent banking field.

Background regarding Correspondent Banking

I would like to begin by letting you know that Bank of America takes very seriously its role in assisting U.S. and other governmental agencies in the fight against money laundering. For many years, law enforcement authorities worldwide have recognized Bank of America as a cooperative institution in assisting law enforcement in its efforts to combat money laundering. As an example of our willingness to cooperate, our bank agreed to establish undercover accounts for the benefit of U.S. law enforcement in its "Operation Casablanca", a controversial operation that has left the Bank of America brand exposed to adverse media attention. In the past, we also received an award from the Internal Revenue Service recognizing our cooperative efforts with that agency. Later, I will also provide other examples of our cooperative efforts with regulatory and law enforcement agencies.

We have an extensive program in place, including comprehensive internal controls and practices, to detect and report suspicious activities related to money laundering. In the U.S., for instance, Bank of America is one of the top filers of Currency Transaction Reports ("CTRs") and Suspicious Activity Reports ("SARs"). These reports are useful to law enforcement in investigating financial crimes and money laundering activities. In 2000, for example, we filed over one and a half million CTRs, or nearly 12% of all the CTRs filed with the U.S. government. In addition, we filed nearly 19,000 of the reported 140,000 SARs filed in the U.S. in 2000, or 14% of the total filings. Certainly, when looking at the numbers, Bank of America is a leader in recognizing its corporate responsibility to assist law enforcement in its fight against money laundering.

Our ability to recognize and file reportable activities does not come without a sizeable investment in technology and human resources. Bank of America has invested heavily in monitoring systems over the years to capture and report cash and other activities potentially related to money laundering. The bank's internally built wire monitoring systems, for example, have been reviewed and assessed by numerous regulatory and law enforcement authorities. Several of these agencies, including the U.S.'s Financial Crimes Enforcement Network, have given our systems high praise. Still, we have not been complacent in our monitoring efforts -- we recently made a further investment into new technology to enhance our wire monitoring and we continue to research other available solutions.

We provide CTRs and SARs to the government in a manner that avoids violating the trust and confidentiality of our customer base. We are keenly aware of our need to assist law enforcement; however, we must constantly weigh this responsibility against the need to protect our customers' privacy.

Correspondent Banking at Bank of America

Bank of America's efforts to monitor accounts and report suspicious activity applies to correspondent bank relationships. Senator Levin, your staff spent a considerable amount of time with us to learn about correspondent banking, how it works and how accounts are monitored. We were one of the first banks to volunteer to assist the Committee staff in this learning endeavor. We also submitted a detailed response to the survey distributed by Committee staff members last year. We produced numerous documents, answered numerous questions and met with staff on a number of occasions.

Throughout our conversations with the staff members (and in our response to the survey), we noted that correspondent banking is, indeed vital, to the financial industry. The notion of correspondent banking has been in existence since the creation of banking. Without correspondent banking, the global markets could not function. Correspondent banking is the basis for the settlement of payments and the movement of funds on a worldwide basis.

At Bank of America, our correspondent banking service function is organized by geographic divisions (i.e., U.S. and Canada Division, Asia Division, Europe, Middle East and Africa Division and Latin America Division). Each division has the authority to organize its functional responsibilities in a way they believe best serves their correspondent bank customers, while maintaining the use of our corporate policies on anti-money laundering controls. The regional division managers report to the head of our Global Corporate and Investment Banking group.

The typical menu of products and services we offer to our correspondent bank customers includes cash management services, credit facilities, wire transfers, wire transfer clearing, check clearing, foreign exchange, trade-related services, bank notes, investment services and settlement services. These are traditional bank products and services.

In three divisions (U.S. and Canada; Asia and Europe; Middle East and Africa), relationship managers report into a client relationship management team. The credit officers report into a credit product management team. Because the size of our Latin America portfolio is smaller than in the portfolios in the other three divisions, client relationships and credit functions are combined so that the relationship manager oversees the entire client relationship. For credit

application approvals in all divisions, the credit requests are prepared by the responsible officer and presented to the risk management group for approval.

A central operations unit provides operational support across all the divisions, including daily account administration support for correspondent bank clients. The wire transfer service staff is located within the central operating unit. The wire transfer staff operates as a general utility function, serving both the correspondent bank clients as well as any other customer of the bank.

All of these functions are separately reviewed by the compliance and the credit risk groups, and audited by the bank's corporate audit group. In addition, those functions are externally reviewed by our outside auditors and regulatory examiners.

There is a great deal of separation of responsibilities and controls that ensures the safety and soundness of our operations. This functional separation requires a number of staff members to become very familiar with our correspondent bank relationships. Overall, we believe this type of organizational approach provides outstanding service to our clients while ensuring the proper checks and balances to guard against fraud. In addition, this organizational approach fosters an environment that encourages our associates to truly know our correspondent bank customers.

In the United States, the majority of our foreign correspondent bank accounts are maintained and administered in our New York office, with additional accounts similarly controlled in Miami, Florida and Concord, California. Today, we maintain approximately 1,900 foreign correspondent bank accounts in the U.S. Bank of America processes an average of 25,000 transfers a day,

with an average volume of $100 billion per day, for these foreign correspondent banks.

As a matter of policy and practice, we do not maintain accounts for foreign shell banks as defined in the February 5, 2001 Senate Minority Staff Report on money laundering and correspondent banking. In the U.S., we maintain approximately 1200 foreign correspondent banking relationships, including 125 relationships for foreign banks located in the 15 jurisdictions named by the Financial Action Task Force on Money Laundering. All the foreign bank relationships are either with branches of institutions that maintain a home base office in one country and have established a physical presence in the Financial Action Task Force-listed country, or with banks that are licensed by the local jurisdiction and maintain a physical presence in that country.

Policies and Procedures for Opening and Maintaining Accounts

Before Bank of America opens a relationship today with a foreign bank in a high-risk country, as defined by the Financial Action Task Force or, for that matter, anywhere else in the world, a rigorous, risk-based due diligence process would take place. The level of due diligence depends on several factors including, but not limited to, whether the bank is a branch of a reputable bank based somewhere else in the world, whether the bank already maintains a relationship with Bank of America, who the principals are and their experiences in operating a bank, whether a letter of introduction is available from a reputable banking organization, and other such relevant factors.

As part of our correspondent banking policy standards, an account would not be established for any institution that does not maintain a physical presence in the high-risk country in which the bank is licensed unless there were

extraordinary (and valid) business reasons for doing so. As mentioned earlier, we do not currently maintain, to our knowledge, any correspondent accounts for any foreign shell banks.

Prior to the establishment of an account, minimum due diligence documentation criteria must also be met. Information that typically would be obtained includes a copy of the bank's incorporation documents and bylaws, the institution's latest financial statements (audited where possible), a copy of the resolution of the board of directors authorizing them to proceed with establishing the relationship and detailing the individuals authorized to establish the relationship, certified copies of the passports of the principals, a search of the company registry (or equivalent) by, or an undertaking from, a law firm as to what documents are held on the registry and any other relevant documents. If any of the documents were not in English then translations would be required.

A visit to the institution's physical operation and, where applicable, to the primary place of business, is also required. We will also want to know what "know your customer" standards the applicant bank has in place; what type of client base the applicant maintains, including accounts with any foreign public officials; whether the correspondent bank will offer services to other correspondent banks, including any located in high risk countries; whether the bank has monitoring systems in place to detect and investigate unusual or suspicious activities related to money laundering; the results of audits and regulatory examinations; and the typical amounts and volumes of activity the bank anticipates having with us and whether these volumes seem appropriate.

We will also look to other due diligence information such as a search of publicly available data on the applicant or its principals. Also, we generally have an understanding of most regulatory environments, especially if Bank of America has a physical presence in the jurisdiction. If not, we would assess the regulatory environment as well. Several units within our bank meet on a constant basis with regulatory authorities. We would also check the applicant and its principals against our Office of Foreign Assets Control ("OFAC") list to ensure there are no matches.

As mentioned earlier, Bank of America is one of the top filers of Suspicious Activity Reports in the U.S. This activity includes numerous filings on foreign banks. Presently, we maintain an internally built monitoring system that captures certain types of U.S. dollar wire transfer activity. On a typical day, we monitor 8,000 transfers and review these for suspicious activity. In addition, we have expanded our internally built system to monitor all activity related to the 15 non-cooperative jurisdictions. Since becoming fully operational in November 2000, we have reviewed over 12,000 transfers involving the 15 jurisdictions and filed suspicious activity reports as appropriate. We have recently purchased and are currently testing a system to monitor wire activities for all of our foreign bank accounts, including those from non-cooperative jurisdictions. This will give us some added capabilities not presently available on our internally built systems including the monitoring of activities in foreign currencies.

It should be noted that these wire monitoring systems are used to monitor "transactions" and not the normal and expected activities of the foreign banks' "customers." We look at certain types of information contained in the wire transaction fields to determine whether the transaction is suspicious. If we find

an issue with a transaction, we refer the transaction back to the foreign correspondent bank for further resolution with its own customer. If the transaction were deemed reportable under U.S. regulations, we would file the required Suspicious Activity Report in the U.S.

If the transaction involves a foreign bank's customer who also maintains an account with Bank of America in the U.S., the transaction may have already been identified by other monitoring systems. In the U.S., for example, we maintain monitoring systems for fraud detection, cash reporting, and for checking compliance with OFAC procedures. Other tools may be available for our associates to monitor activity including manual reports and direct knowledge of the customer.

We assess several factors in making the decision to close out a relationship with a high-risk foreign bank. The factors might include a change in our business strategy, a downturn in the foreign country's economy, a credit decision, turnover in the correspondent bank's management, a loss of confidence in the principals of the foreign correspondent bank, or a "lack of comfort" in the type of customers that the foreign bank maintains.

Correspondent Banking and Money Laundering

Earlier in our testimony, I mentioned that correspondent banking is vital to the settlement of payments and the movements of funds on a global basis. Some of the world's major wire transfer systems, Fedwire and the Clearing House Interbank Payment Systems ("CHIPS"), move trillions of dollars through their systems each day. Bank of America moves nearly a trillion dollars of wire transfers through our internal wire systems each day as well, making us comparable to Fedwire and CHIPS. The movement of these funds is at the core

of correspondent banking -- without correspondent banks, the settlements of these wires would not work. It has been mentioned in past hearings that money laundering is nearly a $500 billion per year issue. While no one can accurately determine the exact amount, it can be safely assumed that a good deal of the money laundering taking place in today's global market is through the use of wire transfers. Nevertheless, the estimated "annual" volume as a portion of the "daily" volume of transfers through the existing wire transfer systems of correspondent banks is relatively small.

In 1995, the Subcommittee commissioned the Office of Technology Assessment (OTA) to assess the ability of artificial intelligence techniques to monitor wire transfers and detect suspicious activity. The OTA concluded that "continuing, real time monitoring of wire transfer traffic, using artificial intelligence techniques is not feasible" and that "most criminal (wire) transfers are on their face indistinguishable from legitimate transactions. The Chief of FinCEN's Systems Development Division likened the problem of monitoring for criminal transactions not like "looking for a needle in a haystack," but rather like "looking for a needle in a stack of other needles."

Even so, Bank of America recognizes its corporate duty to be a leader in the fight against money laundering. In addition to the policies and procedures and the monitoring systems I mentioned earlier, we have undertaken many other steps to combat money laundering. These include training our associates on the importance of recognizing and reporting unusual or suspicious transactions related to money laundering, constantly reviewing our anti-money laundering policies to determine their adequacy, and reporting suspicious activities in the U.S. and in other applicable countries.

Also, Bank of America associates have participated in numerous government training programs, assisting in the training of hundreds of regulatory and law enforcement personnel worldwide on the interworkings of the banking system and how banks detect and report suspicious activities.

Bank of America has been favorably recognized by law enforcement in the fight against money laundering not only for training law enforcement personnel, but also for providing assistance in law enforcement efforts to detect and arrest money launderers. Despite any negative publicity, we continue to be proactive in working with governments in the fight against money laundering. In short, we believe we are taking the right approach in balancing our efforts to fight money laundering while constantly weighing the privacy and confidentiality expectations of our customers who have entrusted us with their private information.

Swiss American Bank and American International Bank

Senators Collins and Levin, you have asked us to discuss our relationship with Swiss American Bank and American International Bank. It is generally not our policy to discuss, particularly in an open forum, our relationship with Bank customers. Certainly, both of you can appreciate this. However, under the circumstances, we shall provide you with the history of the accounts and will be prepared to discuss the relationships during the hearings.

American International Bank

American International Bank maintained accounts at two of our predecessor organizations, the former Bank of America, from June 1993 through March 1996, and with Barnett Bank for a five-month period in 1997. Bank of America offered cash letters, investment services, and automated wire transfer capabilities to American International Bank. Total volumes that went through

this account were approximately $123 million for the three-year period with Bank of America and $63 million for the seven-month period with Barnett Bank.

Swiss American Bank

Swiss American National Bank established accounts with the former Bank of America in April 1987. After receiving notice from Swiss American National Bank in 1991 that it wanted to open a new relationship for Swiss American Bank, Ltd., the process to disengage the original account of Swiss American National Bank occurred and a new account was opened for Swiss American Bank, Ltd. in June 1991. The Swiss American National Bank account closed in July 1992. Citizens and Southern International Bank, which later became NationsBank, also had a relationship with Swiss America National Bank starting in September 1986. The accounts with NationsBank and the former Bank of America were consolidated after the two entities merged in 1998.

Bank of America offered various cash collateralized credits, automated wires transfer capabilities, investment services and cash letter processing to Swiss American Bank. These services were discontinued in April 1996, however the account remained open until July 1999 with minimal activity.

Recommendations

You have asked us to comment on what more can be done beyond our own continued efforts to combat money laundering. As I noted earlier, we take seriously the problem of money laundering and have dedicated significant resources to fighting the problem. One recommendation we have is to strengthen communication efforts between the government and the banking industry. Given our discussions with your staff and our dealings with

regulatory and law enforcement staffs throughout the world, we are aware that many governments have been able to identify, through their own investigative efforts, the names of individuals, companies, banks, other organizations and countries that continue to facilitate or tolerate fraud and other money laundering activities. It would be extremely beneficial for these governments to provide these names to the banking industry. U.S. banks, including Bank of America, are already required to maintain a system to interdict funds transfer activity for OFAC. By providing us with the names of the entities that are engaged in fraud and other related activities, we could add this information to our OFAC filtering systems and interdict the activities of these entities. This information would, in turn, potentially allow us to identify the accounts of or relationships with the named entities. In the past, the U.S. government has provided us the names of countries and high-risk areas for drug trafficking and money laundering. It would be even more beneficial to provide us with the names of the entities that the U.S. government "knows" are promoting illegal activities.

Senator Collins and Senator Levin, the question has been raised during our discussions with Committee staff as to why we cannot monitor our foreign correspondent banks' customer's activities. In other words, why is it that we cannot monitor our customer's customers? As I have already testified, Bank of America employs an industry-leading monitoring system that can identify transactions that are potentially suspicious by the nature of the transaction itself, but in relation to the normal trends and patterns of our foreign correspondent bank's customers. To accomplish the latter, we would need to "profile" our correspondent bank customer's customer accounts. This would require detailed information that would raise numerous privacy concerns under the laws of foreign jurisdictions. Unless the U.S. and the various foreign governments reach a written multilateral agreement, such an effort is impossible.

Conclusion

In conclusion, I would wish to thank the Chairman, Senator Levin and the other Members for the opportunity to voice Bank of America's position on this topic. We will continue in our efforts worldwide to assist in the fight against money laundering.

March 1, 2001

STATEMENT OF DAVID A. WEISBROD OF THE CHASE MANHATTAN BANK
BEFORE U.S. SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. Chairman, my name is David Weisbrod and I am a Senior Vice President of The Chase Manhattan Bank, in our Treasury Services division. In such capacity, I have oversight responsibility for the division's credit and operating risk management policies, procedures and practices attendant to the Bank's relationships with approximately 3,500 correspondents. The Chase Manhattan Bank, headquartered in New York City, is the largest bank of J.P. Morgan Chase & Co., a multi-bank holding company with assets in excess of $700 billion. I appreciate the opportunity to make this statement on the very important topic before the Subcommittee today, international correspondent banking and money laundering.

Correspondents maintaining accounts with Chase in New York sometimes have credit relationships with us but almost always require U.S. dollar funds transfer clearing services. To place the size, scope and importance of the clearing business in perspective, on an average day Chase processes over 220,000 wire payments with a value in excess of $1.235 trillion. On January 16 of this year, we experienced a record volume day when 363,000 wire payments for $1.8 trillion were processed. This translates to $21 million processed nearly every second, with an average transaction size just under $5 million. Over 93% of these transactions are processed "straight through", which means that the transactions are done entirely by our automated systems, without any manual intervention. While we are proud of our funds transfer prowess, and its importance to worldwide commercial interchange and the global capital markets, we also understand

our special responsibility to guard against the laundering of money and other criminal abuses in the system.

By way of background, our primary focus in the creation of a global funds transfer system, and the resulting processes surrounding correspondent bank risk management, has been upon safety and soundness issues, that is, upon credit risk and operating problems that might lead to large credit exposures or that could otherwise disrupt the smooth functioning of the payments system. These are important public concerns, that must remain in the forefront of an effective risk management program. In the last two years, however, we have witnessed revelations as to how the Bank of New York was used in connection with money laundering schemes orchestrated through several Russian banks. In the wake of that incident, heightened attention has been given to the need to expand anti money laundering programs to protect banks from being exposed to such illicit funds transfer activities. We at Chase have taken a series of steps to expand our anti money laundering initiatives.

First, Chase has significantly enhanced its new account opening procedures and Know Your Customer due diligence. We are currently conducting a review of our entire correspondent base using these enhancements. As part of that review, all existing and new Chase customers will be documented utilizing a new Know Your Customer checklist. The checklist covers such items as the customer's history of doing business with Chase, a detailed understanding of the customer's ownership structure (publicly traded or privately held), understanding of the customer's cash flows and Chase products to be used. The checklist also requires responses to whether the customer has sustained negative media coverage and the source of referral for the relationship. In addition, the

customer is requested to provide its most recent audited financial statements, preferably for the last three years. A first priority of this review process has been placed upon the FATF 15 countries, Antigua and Barbuda and Seychelles. If after our review we are uncomfortable with the continued maintenance of any account, we intend to close it.

Second, all Treasury Services' customers will be subject to periodic reviews in order to assure that the circumstances have not changed that would significantly affect the manner in which their accounts are utilized or in such a way as to present an unacceptable risk of illegal activity. The periodic review cycle will vary based upon the perceived risk of doing business with a particular set of clients or jurisdictions.

Third, Chase has enhanced its anti-money laundering transaction monitoring efforts in several ways. Last year, Chase established a Funds Transfer Monitoring Committee, co-chaired by myself and by Chase's Chief Compliance Officer, which meets monthly to review questionable funds transfers. As part of this process we have launched a web based monitoring system designed to review US dollar funds transfers on an after the fact basis. The system utilizes patterning or watchlist methodologies to flag potentially suspicious transactions. The transactions are then evaluated by a dedicated staff set up for this purpose. All of the FATF countries are included on the watchlist. Chase has had for some time a monitoring committee that meets periodically to review questionable strings of money orders or travelers checks.

Finally, Chase has intensified its efforts to provide anti-money laundering training to even more of its employees, recently introducing a new web based training and testing program for employees having desk top internet access. All 4400 Treasury Services employees will be required to take this training and to pass an on line test. Chase had

always been in the forefront in providing anti-money laundering training, having trained, through 1999, over 27,000 employees in domestic locations and over 16,000 employees in foreign locations.

Our Bank Secrecy Act compliance program is specially focused upon high risk banks and high risk products. I have just mentioned the high risk countries which have been our focus. In such countries, and elsewhere, it has been our practice not to open accounts for shell banks. With offshore banks, we intend to maintain a heightened sense of vigilance, for we now better understand some of the ways in which offshore banks in high risk jurisdictions can be exploited for money laundering and other dubious purposes. While these risks are recognized in its 1999 Working Paper on Offshore Banking, the International Monetary Fund has identified offshore financial centers or OFCs as "an important and growing intermediation channel for emerging economies". Moreover, the IMF has reported that "a number of legitimate factors continue to attract financial institutions and investors to OFCs." As the Minority Staff's February 5 Report points out, there are over 4,000 offshore banks. An important future challenge facing us will be to determine how we can develop procedures which will enhance our ability to separate the good banks from the bad banks, the vigilant from the less vigilant.

In addition to high risk banks, we well understand the risks associated with the high risk products identified in the Minority Staff's Report, that is, wire transfers, payable through accounts and pouch/cash letter activity. I have already mentioned our automated systems used for monitoring wire transfer activity and monetary instruments. In the case of payable through accounts, of which we maintain only two, we follow judiciously the guidelines of the federal banking regulators. Moreover, we have a corporate-wide policy

which requires that any such account be approved by a senior officer and notified in writing to the Bank's Chief Compliance Officer.

Combating money laundering and other illegalities within the international correspondent banking system is no easy task. The Minority Staff's own Report (at page 41) recognizes that due diligence information is often difficult to obtain from foreign jurisdictions, and that which is obtained may be limited or difficult to evaluate; that language barriers may impose additional difficulties; that travel to foreign jurisdictions by U.S. correspondent bankers is costly and may not produce immediate or accurate information; and generally that due diligence, both at account opening and continuing after the account is opened, is not easy in international correspondent banking. We could not agree more.

We recognize that the need to hone our Bank Secrecy Act compliance program is on-going, but we do not purport to have all the answers. For example, the whole notion of "nesting", as its referred to in the Minority Staff's Report, is a very, very difficult problem. It is typical for small banks to maintain accounts with slightly larger banks, who maintain accounts with more and larger banks and so forth and so on. These relationships are necessary and appropriate, in fact essential, to the conduct of global, commercial and capital markets activities. Unfortunately, these tiered relationships can also hide, and make difficult to detect, illicit activities.

We need to bring the expertise and experience of the financial services industry to address these and other difficult issues, and we need to do it now. An example of how effective such an effort can be was demonstrated by the recent Wolfsberg Principles on private banking. In a similar vein, Chase has enthusiastically joined with its fellow

members of The New York Clearing House in creating a task force to develop best practice principles for correspondent banking.

We welcome the opportunity to work closely with our state and federal banking regulators in areas such as this, although we do not expect our regulators to have all the answers either. As cited in the Minority Staff's Report, for example, it was not until September 2000, just a few months ago, that the Comptroller of the Currency identified international correspondent banking as a high risk area. Money laundering attendant to international correspondent banking is in fact an international problem. We thus support the efforts of the Financial Action Task Force, the Basel Committee on Banking Supervision of the Bank for International Settlements and other national and international organizations worldwide which are focused upon this problem. While we believe it to be impossible to have complete assurance that no bad actors are slipping through the system, with a renewed vigor on the part of the private sector, with help from our domestic banking regulators and with the cooperation of foreign governments and international agencies, we all can do better in the future.

Testimony of
Jack A. Blum, Esq.
on
Correspondent Banking for Offshore Banks
before the
Subcommittee on Permanent Investigations
of the
Committee on Governmental Affairs
United States Senate
March 2, 2001

My name is Jack A. Blum. I am a partner in the Washington D.C. law firm of Lobel, Novins & Lamont. For the past thirty years, both as a Senate investigator and as a private practitioner I have been dealing with issues of financial fraud, tax evasion, and money laundering. Over the last ten years I have represented victims of complex financial fraud, consulted with government agencies and the United Nations on offshore banking and bank secrecy issues, and participated in anti money laundering training programs around the world.

An offshore bank is a financial institution licensed to do business only outside of the country that licensed it. Its business is limited to foreigners. Offshore banks are at the heart of the "offshore center" concept. If an offshore bank is the subsidiary of a fully supervised bank in a major jurisdiction and if auditors from the home country are permitted to review the offshore subsidiary's books on site, the risk of criminal activity at the offshore bank should be minimal.

However, stand alone offshore banks are a serious problem. The licensing country does not have to worry about the bank failing because its citizens are not affected. The customers are all foreigners. If damage is done it will be done elsewhere. The licensing country will benefit from the employment the bank provides, the fees it pays, and the money it brings to the local economy. The risks created by criminal activity at a stand alone offshore bank are risks for other countries – countries that are the source of the customers, countries which handle the funds, and countries which are victimized by criminals using the bank.

The countries of the Eastern Caribbean and the Pacific Islands which have gone into the offshore business have created risks for the United States by granting licenses to unregulated offshore banks. The issue the Congress must confront is how to deal with the risk. Should we permit offshore banks to establish financial relationships in the United States?

The United States government learned about some of the risks of offshore banks the hard way in the BCCI case. BCCI was a Cayman bank in the United States as an Edge Act Bank – limited to offshore business. The regulation in Grand Cayman was minimal. Because of its status as "offshore" the U.S. regulators did not look at it very carefully. It took a money laundering sting to show that the bank was a criminal enterprise and that it was actively committing crimes

in the United States. Today, in the wake of BCCI, U.S. regulators inspect every foreign institution which has offices in the United States to make sure its business conforms to U.S. law. But how can U.S. regulators deal with banks that limit their presence in the country to accounts at U.S. licensed institutions? If the answer is that regulation here is impossible because they are foreign, and regulation at home is inadequate, the accounts should not be permitted.

A strong case can be made for doing away with all offshore banks, even those with a physical place of business. John Mathewson's Guardian Bank and Trust of Cayman is a perfect case study. The bank's business activity was all offshore. It could not do business with Caymanians. Most of its customers were Americans who wanted to evade taxes or were committing frauds. It was a service enterprise for people who wanted to break the law and use the world financial markets to the fullest. I know because I visited the bank in 1994 for PBS and made an undercover recording of Mr. Mathewson's sale pitch.

As bad as an offshore bank with a real office might be, an offshore shell bank is much worse.

Offshore shell banks – banks with no physical presence and no bank operations in the licensing country – are an especially useful tool for tax evaders, con men, drug dealers and criminals of all nationalities. They add a layer of secrecy to international transactions and provide a way around the existing legislative and regulatory barriers to money laundering. And they do it at minimal cost.

Because these "banks" have access to the world's money transfer facilities through their correspondent relationships, and because they can open securities brokerage accounts without being questioned, they provide criminals with a wide open door to the world financial system. Criminals who use shell banks can do their banking without answering embarrassing questions and without having their activities subject to subpoena by law enforcement authorities. The shell banks make their money by giving criminals bank "proxy" accounts at institutions which would refuse to do business with them in a normal way because they could not pass a due diligence review.

The simplest way to understand the problem is to think of the offshore shell bank as a privileged checking account at a mainline American institution. For all practical purposes the checking account is the shell bank. As with a checking account which has internet access, the physical operations of the bank can be run from any computer that is connected to the web or a telephone. The "bank" records can be a computer disk in the owner's briefcase.

Here is why I call the correspondent account privileged:

1. The correspondent account of an offshore shell bank is not subject to tax reporting or taxation.

2. Funds in the correspondent account may not be seized unless the entire account can be shown to have been proceeds of specific criminal activity. The funds which reach the account are considered to be foreign the minute they hit.

3. Transactions in the account on behalf of the shell bank's customers are protected by the secrecy laws of the licensing jurisdiction. All the correspondent account records are subject to U.S. subpoena, but the bank cannot be forced to reveal the identity of its client.

4. Because the account is that of a bank, transactions which would be suspicious and subject to reporting in a private account will be considered as "normal" for a bank.

5. Opening the account is simple. All the "bank" need do is show that it is licensed. The license provides a presumption of legitimacy.

A number of the jurisdictions which have created "offshore centers" and which have licensed shell banks do not have the capacity to supervise them even if they had the will. Moreover, they are unlikely to ever develop serious regulatory capacity. I met with the key regulators in the offshore industry in St. Vincent and in Grenada within the last few months as part of an anti money laundering training program. These regulators have no formal training in bank supervision as we understand it.

The head of the offshore center in Grenada was a real estate agent until last summer. He is a decent man and I will give him the benefit of the doubt. But lacking supervisory experience and the budget to hire proper assistance, there is no way he can regulate one offshore bank much less the dozens they have licensed.

Grenada has been unable to sort out the affairs of one failed offshore bank run by a crook who was traveling under the name of Van Brink. The bank had been capitalized with the **appraisal** for a 50 carat ruby. No one in Grenada saw the ruby itself. Now Mr. Van Brink is reported to be in Uganda under another name. The money from the bank's fraud victims, some $200 million, is missing. Grenada is totally unable to investigate the case, bring Mr. Van Brink to justice or recover the money. St. Vincent is in even worse condition. They do not have the people, the experience or the money to do a proper regulatory job.

The situation is equally distressing in the Pacific. A shack which lacks a proper door is home to several hundred "banks" in Nauru. Most of the Nauru banks are owned by Russian mobsters. Niue and Palau do not even have a pretense of regulation.

Even in the better regulated offshore jurisdictions, such as the Cayman Islands, there are shell banks whose only contact with the regulators comes once a year when the registered agent for the bank delivers the auditors statement to the Cayman Monetary Authority. I tried to get information on one Cayman bank for a client, and in the process learned that the bank had no transactional records on the Island, that the bank that acted as its registered agent in Cayman was

not its correspondent, had not carried out transactions for it, and did not know where the bank's records were located.

The regulators were embarrassed by the situation but they said that since the bank had been grandfathered there was nothing they could do. Thirty five similar offshore banks have been grandfathered on Cayman. "Of course," I was assured, "we would not grant a new license for this type of bank."

Many of the U.S. regulated banks that provide correspondent services offer access to correspondent accounts through specialized software that allows the shell bank's transactions to be processed without being touched by human hands. It was this automated service which allowed the Russian owned Nauru shell banks to use the bank of New York to move billions of dollars out of the former Soviet Union.

Here are some examples of shell bank abuse that I have encountered:

1. **Buy this bank**

I am regularly called by wealthy individuals who want my advice on the purchase of an offshore bank. They have been given a sales pitch by a promoter who is trying to sell them an offshore bank license at an outrageously inflated price. The pitches are made at "conferences" on offshore finance which are advertised in airline magazines and promoted through direct mail and at meetings held in conjunction with medical and dental conventions.

The pitch consists of advancing a theory under which the bank owner – a U.S. person for tax purposes – will not have tax liability on income the bank earns even though the owner is the bank's only customer and only shareholder. Some promoters offer elaborate charts showing ways which purport to avoid taxation of U.S. income. These schemes involve "rabbi trusts" and offshore shell companies which are linked to the operation of the shell bank. All of the schemes are bogus. None of them can withstand IRS scrutiny.

The banks which my clients are offered have been in Nauru, Vanuatu, Niue and various islands in the Caribbean. The most aggressive promoter of these schemes, Jerome Schneider, asks his customers for a minimum of $50,000 for a shell bank. He then offers to "manage" the shell for an annual fee. The management consists of opening a correspondent account at a Canadian bank which he tell the customer "can be used like your regular checking account, but is not reported to the U.S. government."

Three years ago, ABC television did an undercover taping of a Schneider sales pitch. The pitch counseled tax evasion and told the customer that the risk of being caught was minimal. The television program was nothing more than a brief embarrassment for Schneider who was back in business in a matter of months running ads in the Wall Street Journal which carried the tag line "As seen on ABC TV."

Dozens of these banks have been sold to aspiring tax cheats.

2. **The banks as havens for fraud**

For the last several years there has been a global epidemic of advance fee for loan and prime bank instrument fraud. In the advance fee for loan fraud the con man asks the mark for an up front fee to arrange a substantial loan. The mark puts up anywhere from $50,000 to $500,000 to arrange a loan for millions. The money is supposedly "held in escrow" and the mark is made to believe that the deal is legitimate because the money goes to the account of a "bank" at a reputable U.S. bank institution. Needless to say the escrowed money disappears and the loan never materializes. Even if funds remain in the correspondent account in the United States they cannot be seized unless it can be shown that all of the funds in the account are the proceeds of a criminal transaction.

Prime bank instrument fraud involves the con telling the mark that he can make extraordinary returns on his money through a secret trading program in the debt instruments of major banks. The con tells the mark that the trading is a sure profit maker and that in any event his money will be held in a bank escrow account and will be absolutely secure. The con produces stacks of complicated documents which sound very official and use official sounding but meaningless terms. The documents talk about bank to bank transactions and suggest that a bank will protect the mark in the event anything goes wrong. Again, the con needs a cooperating bank. The offshore shell with a prestigious correspondent is ideal.

Two years ago I represented a German businessman who was the target of a Nigerian scam. Working with the Secret Service, we arranged a meeting with the con men in Washington. The Secret Service was poised to make the arrest. The Nigerians told us the meeting was contingent on their receipt of assurances that the funds had been received by the Bank of New York for the further credit of a shell bank in Beirut. The Secret Service attempted to arrange a transfer which would be convincing to the con men but which would result in the proceeds being frozen. They were advised that it could not be done. Under Federal Reserve rules the moment the money went to the correspondent account it was out of reach of the law enforcement agencies. It was clear that the Nigerians knew more about the correspondent banking rules than the Secret Service.

3. **Criminal Money Laundering**

Last year I worked with the Department of Justice on a fraud case involving a con man who was a British national living in New York. His specialty was advance fee for loan fraud and his victims came from all over the world. He used a shell bank in the Bahamas to receive the funds from his victims and to move money from his account in New York to his wife's account without leaving a paper trail. When I reviewed the bank records which had been subpoenaed by the grand jury it was clear that the money had never left New York. It simply flowed through the correspondent account.

Each one of the transactions with the shell bank cost the con man $65. The high fees were in my view, excellent evidence of criminal intent. An honest man could have moved the money through regular accounts in New York for a fraction of the cost.

This committee has expressed concern about the failure of major banks to monitor correspondent accounts and close them when they are misused. You have focused on the relationship of Citibank to the M.A. bank of Cayman which was caught up in a drug money laundering case but which was allowed to keep its correspondent account open for another two years. In my opinion the most likely reason for this otherwise inexplicable behavior will be found in an examination of the related accounts at Citibank. My guess is that the owners of M.A. Bank and their business colleagues had substantial additional business relationships with Citibank. I surmise the officers making the decision did not want to turn away all the related business.

It is very difficult for bank officers who are under extreme pressure to meet profit objectives to terminate customers who have broad and deep connections with their institution. I am sure M.A. Bank by itself would have been closed out in a very short space of time if it were not connected to people and businesses with Citibank relationships that were highly profitable for the bank.

A client of mine in a fraud case, a French company, was victimized by a con man who had an account at the Citibank Private Bank in Geneva. Through criminal proceedings in Switzerland we learned that Citibank did not close the con man's account for two years after he told the branch manager he was in the "prime bank instrument" business. At the time the of the fraud and of his admission to the Geneva branch manager the con man was working for a company that managed billions of dollars for wealthy middle easterners. We are morally certain it was this highly profitable connection which kept the account open.

In my view, if a bank is not allowed to do business in its home country, and it is not the supervised subsidiary or branch of a regulated onshore institution it should not be allowed to open any financial account in the United States. There is no case to be made for these "banks." They serve no legitimate business purpose. They are all threat and risk and hold no promise. They market fraud and tax evasion and serve as a money laundering tool. It is time to end their access to the United States.

STATEMENT
OF
ANNE VITALE
BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARINGS ON
THE ROLE OF U. S. CORRESPONDENT BANKING
IN INTERNATIONAL MONEY LAUNDERING
March 2, 2001

Chairman Collins, Ranking Minority Member Levin, Members of the Committee,

Thank you for inviting me to testify on the use of the U.S. correspondent accounts to launder money. Having served as an Assistant United States Attorney for the Southern District of New York for seven years, where I prosecuted money laundering, narcotics and organized crime cases, and also having been a Managing Director and Deputy General Counsel of Republic National Bank of New York for nine years, where I was responsible for the corporation's global anti-money laundering policy, I have been involved in money laundering issues both in the government and the private sectors. In the course my experience with money laundering issues, I have become familiar with how correspondent bank accounts are used to launder money.

Indeed, in July of 1998, when I first met with Minority Staff to discuss money laundering issues as they related to international private banking, I discussed the patterns of activity that were suspicious of money laundering in correspondent banking. Since that early meeting, Minority Staff has diligently investigated money laundering through correspondent banking and in its report issued on February 5, 2001 has identified areas in which correspondent banking is at high risk to money laundering.

Minority Staff is to be commended for their thorough and fair presentation of the money laundering vulnerabilities inherent in correspondent banking. The Committee also is to be commended for holding these important hearings. As a result of both the Report and these hearings, I believe that financial institutions will strengthen their anti-money laundering measures in the correspondent area.

As a preliminary matter, I would like to stress that correspondent banking is a legitimate and indispensable component of the global financial network. As the Report recognizes, in today's global network, the U. S. dollar is the currency of choice for savings, trade and investment and consequently, the international payment systems transfer in excess of one trillion of dollars daily. In my experience, all but a small fraction of these payments represent legitimate business activity. However, the small fraction of transactions that may represent suspicious activity is meaningful in terms of the amount of dollars being transferred and the use to which these dollars may be employed—namely, to further

international criminal activities. Because of this, anti-money laundering programs specifically designed for correspondent banking are essential.

I believe that the Report has correctly identified three areas in which correspondent banking is vulnerable to money laundering transactions, namely, shell banks, offshore banks and banks in non-cooperating jurisdictions. Through its ten case histories, the Report sets forth the dangers that dealing with such banks pose.

U.S. banks have been and are developing and implementing anti-money laundering measures for correspondent bank accounts. As a preliminary matter, the anti-money laundering program of any financial institution must have the commitment of the CEO and the Board of Directors and sufficient resources and expertise to implement an effective program. Unless senior management is committed to the highest standards, which includes being proactive in the field, the best anti-money laundering policy will not be successful. A comprehensive anti-money laundering policy must include standards for opening accounts and monitoring ongoing activity. Reporting of suspicious activity and the closing of accounts on a timely basis are critical. Ongoing training of employees is essential. Audits of each business unit including how well each unit implements the anti-money laundering policy is important. Cooperation with regulators, law enforcement agencies and government bodies is crucial.

Against this general background, an effective anti-money laundering policy specifically for correspondent banking should include both account opening and monitoring procedures. Information should be obtained about the location, license and regulator of the customer, the number of employees, branches and their locations, the identities of the owners and managers, the asset size and financial reports, the financial products being sought by the client, other correspondent relationships of the client, the nature of the client's business and customers, the due diligence the client performs on its customers, whether the client is acting as a correspondent bank for its clients, the country's reputation for anti-money laundering measures and a statement from the relationship manager as to why he or she recommends that the account should be opened. Additionally, a client should be visited, anti-money laundering concerns addressed and the visit should be documented.

If as a result of obtaining the account opening information, it is determined that a client falls within a high risk category, a determination should be made as to the nature of the risk and the measures that should be undertaken to minimize the perceived risk. A decision must be made as to whether the enhanced due diligence required of a high-risk entity will minimize the risk or whether the account should be rejected or closed. If such an account is opened, strict controls must be in place to monitor activity on an ongoing basis.

Given the volume of transactions through correspondent bank accounts, monitoring transactions is a complex and costly process. Every transaction cannot be monitored and transactions cannot, for the most part, be monitored on a real time basis. Rather I believe

that the most effective monitoring of correspondent bank accounts is a review of patterns of activity in excess of established thresholds. Although my remarks describe monitoring third party wire transfers, these are not the only transactions, which should be monitored. In particular, cash letters and check clearing deserve scrutiny.

There are basically two types of wire transfers through correspondent accounts. The first type is a bank to bank transfer in which a foreign bank is making or receiving a payment for its own account, for example to settle a foreign exchange contract with its correspondent bank. Examination of such bank-to-bank transfers has not, in my experience, resulted in uncovering any significant pattern of activity that was suggestive of suspicious activity.

The second and more critical type of wire transfer is a third-party transaction in which the foreign bank is making or receiving a payment for the benefit of one of its customers. Commonly, the role of the bank in the United States is an intermediary one. A customer of a foreign bank, Company A, has an account at Foreign Bank Z. Foreign Bank Z has an account at USA Bank. Company A wants to send a wire transfer in the amount of $1,000,000 to Company B, which has an account at a Foreign Bank Y, which also has an account at the USA Bank. In this scenario, you have five entities in the flow of funds:

Originator:	Company A
Originator's Bank:	Foreign Bank Z
Intermediary Bank:	USA Bank
Beneficiary's Bank:	Foreign Bank Y
Beneficiary:	Company B

In this example, USA Bank, the correspondent bank, does not have the account of either the Originator, Company A, or the Beneficiary, Company B, but rather serves as an intermediary bank. Nonetheless, when the flow of funds between Company A and Company B is significant in terms of number of transfers and dollar amounts, USA Bank should seek to capture the data and examine the activity.

In order to produce a report that was manageable size and quantity of information, thresholds for the type of activity that is to be captured should be set. An example of the type of data that a monitoring system can capture includes the following:

- Same Originator to Same Beneficiary 3 times a month with Dollar amount greater than or equal to $500,000

- Same Originator to Different Beneficiaries 10 times a month with Dollar amount greater than or equal to $500,000

- Different Originators to Same Beneficiary 10 times a month with Dollar amount greater than or equal to $500,000

It should be noted that there is nothing magical about the number of occurrences or the dollar threshold. Different thresholds should be set for correspondent banks in different locations and periodically, thresholds should be lowered to test whether other meaningful patterns are escaping detection.

Once a pattern is identified, public databases are checked to see if there is public information available about the Originator or Beneficiary that would support the legitimacy of the amounts and pattern of the wire transfers. For example, information that established that an Originator was a publicly traded company having business activities consistent with the amounts and geography of the transfer would require no further action.

If, however, nothing was discovered about the Originator or Beneficiary that would seem to justify the activity and volume, an inquiry should be made to the Originator's or Beneficiary's bank to ascertain the purpose of the transfer. Additionally, information should be obtained about the business in which the parties to the transfer are engaged. Once the correspondent bank provides the information, the explanation should be evaluated in order to determine whether it sufficiently explained the pattern. When the intermediary bank, USA Bank, is also the beneficiary bank, it should also review the beneficiary account.

An examination of the patterns of wire transfers reveals the geographic pattern of the wire as well. It is the geographic pattern which indicates whether an off shore entity, a shell bank or corporation, a nested correspondent, or a non-cooperative jurisdiction is being used, each of which may be a sign of a high-risk transaction.

Once patterns of transactions for which no indicia of legitimate business activity have been identified, it is incumbent upon a bank to file a suspicious activity report, cease processing transactions to the parties involved in the suspicious transaction and, in some cases, close the correspondent bank account.

In monitoring wire transfers, systems are essential but not sufficient in and of themselves. The reports that systems generate must be reviewed by trained analysts, who can investigate public data bases and media reports, review account opening information and the correspondent bank's file, communicate with relationship managers and correspondent banks in order to determine whether there is a legitimate business reason for the transactions. Additionally, they should determine whether any legal serving has been received concerning the correspondent account. When patterns are identified which may be suspicious, including those for which no legitimate business reason was provided, Suspicious Activity Reports should be filed. The business unit and senior anti-money laundering officers should consult to fashion the appropriate action in dealing with the correspondent bank.

The parameters that I have outlined are by no means infallible but they represent a reasoned effort to detect, report and prevent suspicious patterns of activity through correspondent bank accounts.

Banks have the responsibility of detecting and reporting suspicious transactions and are working to improve their anti-money laundering programs. These Hearings highlighted the need for improvement in correspondent banking but it is important to realize that non-bank financial institutions also deal with the high-risk entities identified in the Report. There needs to be a level playing field in order to craft a global solution to the problem of money laundering.

I will be happy to answer your questions.

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Testimony
By
Robb Evans
Managing Partner
Robb Evans & Associates
Before the
U.S. Senate Permanent Subcommittee
On Investigations

March 2, 2001

It is privilege to be invited to testify before this committee on the subject of money laundering and correspondent banking.

I have been a banker for most of my adult life. I have managed international correspondent bank accounts in the United States. I have been chief executive officer of several banks in this country and abroad. I have been an officer of banks ranging from the largest, at the time, American bank to small independent banks. I have been President of the California Bankers Association. I have served on the Government Relations Council and the Leadership Council of the American Bankers Association. I tell you this so that you will understand that I view this topic from the perspective of a banker who has dealt with the issues that this committee has before it for a very long time. However, my testimony is based, not on my experience as a banker, but on what I have observed over the past several years where, as an officer of either the Federal Court or an official of a State regulatory agency I have had the opportunity of looking at this subject from a perspective that eluded me when I was a banker. Ten years ago, I was immersed in the BCCI scandal as a specially appointed California Deputy Superintendent of Banks. Until last year I served as Federal Court Trustee charged with responsibility for the BCCI matter. I have concurrently served as Federal Trustee or Receiver for a number of criminal and civil cases brought by the United States Department of Justice, the Securities and Exchange Commission or the Federal Trade Commission. I am the Receiver referred to in your Report on Correspondent Banking attempting to recover stolen funds from Vanuatu. I am also a California Special Deputy Commissioner of Financial Institutions charged with unwinding the U.S. affairs of a defunct Indonesian bank. My testimony today, however, is strictly personal and not the views of any of the organizations I have just mentioned. My comments are reflective of my experience over this past decade in recovering the misappropriated funds for the benefit of millions of victims of fraud.

This is a very broad subject. The Committee report raises a number of issues. Although there is a good deal we could discuss regarding the evolving professional standards that American banks apply to their correspondent relationships and money laundering, I want

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to make just two points that, while not earthshaking, I feel have been overlooked and deserve congressional attention.

First, I think this country can and should take steps to help drive out of the global dollar clearing system accounts of "brass plate" banks, banks that are substantially unregulated and not eligible to accept deposits from citizens of the country licensing them.

Second, drawing on the subject matter of your report, I would like to make a plea for enhanced U. S. legislation and American leadership on a multinational basis to facilitate the international recovery of stolen and laundered money.

Let me address the later point first.

All too often victims get the short end of the stick. They are overlooked in the criminal process because the objective of the criminal investigators and the prosecutors is to prove a criminal offense and obtain evidence to support a conviction. The regulatory agencies often suspend a civil case pending the criminal proceedings. It may be too late to recover assets by the time the civil case moves forward.

It is very distressing to me to see American law enforcement and regulatory attitudes reflect the popular misconception that ill-gotten funds once spirited out of the country to some overseas haven are beyond reach and not worthy of recovery effort. This is terribly wrong. There are significant frustrations to international recovery efforts, which I would like to address. But abandoning the effort at the water's edge is irresponsible and wrong-headed.

Difficulty in Returning Fraud Proceeds to the Victims

The Committee's Report emphasizes a number of problems in investigating money laundering through offshore banks. Tracing the proceeds can be extremely time-consuming due to the use of shell companies, nominee owners, and bank accounts in multiple jurisdictions. I will discuss some specific case examples below. However, what I see as the most important issue and where I would like to see better procedures and increased international cooperation, is the return of stolen money to the victims of a fraud. The case cited by the Committee involving the Benford Ltd. account at European Bank of Vanuatu [Report, pp 240-243] is a prime example. I am the Court-Appointed Receiver in that case. As such, I am directed by the Court to "collect, marshal, take custody and control" of all the assets of the defendants, Kenneth and Teresa Callei Taves, and their companies. Although accused by Mr. Bayer, the President of European Bank, of trying "every trick in the book" to force the monies to be sent back to the United States, I have had to resort to protracted and expensive litigation in numerous countries simply because the Vanuatu government and European Bank used the ruse of refusing to recognize my Federal Court appointment as Receiver to keep obviously stolen money in their possession as long as possible and avoid returning it to the rightful owners.

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My first approach was simply to request the return of the funds. However, as indicated in the Committee's report, European Bank of Vanuatu refused to comply with the sworn affidavit of the named beneficial owner of the account requesting the transfer of the funds to the Receiver for restitution to the victims. I might add that that request was refused even though the named beneficial owner voluntarily agreed to assist both the FBI and myself and traveled to Vanuatu to make this request in person before the Vanuatu Court. In contrast, as reported by this Committee the bank had no difficulty acting on a telefax from a Cayman Islands banker to open the account, with no background information about the account holder and without a face-to-face meeting, or even a telephone call with the account holder.

As I have indicated in my reports to the US District Court in Los Angeles, my efforts were further complicated when both European Bank and the Vanuatu government obtained separate restraining orders for the funds. I also sought and obtained a restraining order in connection with my application for repatriation of the funds. Vanuatu law provides for confiscation of funds that are the proceeds of an offense only upon conviction. To date there has been no prosecution or conviction of anyone in Vanuatu. Nonetheless, the Vanuatu court refused to rule on my application once the Attorney General's case was filed.

When I learned the funds were held on deposit with Citibank Ltd. in Sydney, I instructed counsel to seek a restraining order there. That matter is pending. In the meantime, the FBI and the U.S. Attorney's Office for the Central District of California have issued a seizure warrant and filed a complaint for forfeiture against those funds based on evidence that the Sydney certificate of deposit for Benford Ltd. was actually held in a U.S. dollar account in the United States. This does not mean that European Bank will not try to demand a return of its deposit in Sydney, notwithstanding the US proceedings. That is why I am recommending enhanced legislation clarifying the ability to seize funds held in correspondent accounts in the United States. Assuming the U.S. action is successful, U.S. forfeiture law does provide that the Attorney General may restore forfeited property to victims of an offense. [18 U.S.C. Sec. 981(e)(6)] In this case I intend to submit a petition in the U.S. proceedings asking that any forfeited funds be made available for restitution to victims. This was the procedure that was used, to great success, in the BCCI case. In that case, more than $1.2 billion in forfeited funds were transferred to the Worldwide Victims Fund.

I am also still awaiting the return of funds transferred to the Cayman Islands. The Cayman Islands Court recently issued an order acknowledging my appointment as Receiver over Kenneth Taves and his companies. When evidence of the fraud was received by the Cayman Islands authorities, the Cayman Islands Monetary Authority promptly shut down Euro Bank, through which most of the funds had been laundered, and obtained criminal restraint orders. Early in the case, I obtained restraining orders against the Cayman Islands banks holding the funds. I have requested that the Attorneys General of both Vanuatu and

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the Cayman Islands amend their restraining orders to allow the return of the funds for restitution as ordered by the United States District Court for the Central District of California. We are getting excellent cooperation from the authorities in the Cayman Islands, where the bank liquidation process has delayed return of all bank deposits, including those we have claimed. However, we are confident that the funds will, in due course, be returned to victims.

Possible Solutions

While I commend the governments of Vanuatu and, particularly, the Cayman Islands for their efforts to prosecute money-laundering offenses occurring in their jurisdictions, the Taves case clearly demonstrates the difficulty in recovering stolen money on behalf of victims. One possible solution would be to amend the mutual legal assistance treaties to provide that where assistance is granted in the restraint and confiscation or forfeiture of fraud proceeds, the parties agree that the proceeds shall be returned to the requesting country for victim restitution. Another possible solution is to enact legislation clarifying the powers of a Court-Appointed Fiduciary to recover proceeds of fraud, wherever located. As it now stands, the language of the court order appointing the Receiver generally sets out the powers and duties of the Receiver, and the power to appoint a Receiver is derived from the "inherent power of a court of equity to fashion effective relief." (See, *Securities & Exch. Comm'n v.* Wencke, 622 F.2d 1363, 1369 (9th Cir. 1980)). My counsel has just been required to submit affidavits on this issue in proceedings in Sydney because European Bank has disingenuously refused to recognize the validity of my U.S. court appointment. A third solution, which I will discuss below, is to enact legislation making it easier to seize and forfeit fraud proceeds held in US dollar accounts in correspondent banks in the United States so that the need to bring actions in foreign jurisdictions is minimized.

Large Wire Transfers and Layered Transactions

I would also like to brief the Committee on the use of large wire transfers and shell companies to conceal and transfer fraud proceeds, making it more difficult to recover the money. In another case where I act as a Court-Appointed Receiver at the request of the SEC, several major US banks were used to transfer and conceal the diversion of several tens of millions in investor funds. That case is *SEC vs. TLC Investments, et al.* The average age of the investors in this case is 67. Many are in their eighties and most invested their life savings in what they thought was a conservative real estate program involving tax-lien certificates. As I have set out in my report to the US District Court, members of my staff have examined bank records showing that $20 million was transferred to an individual operating an alleged "Prime Bank Trading Scheme." (Courts have held that such schemes do not exist and the SEC and the Federal Reserve have issued notices to consumers about such schemes.) The TLC funds were commingled with other investor funds and then transferred into an escrow account at Union Bank held by an escrow company in San Diego. From there, the funds went to an account at Bank of America held by a Wyoming corporation under the control of the promoter. Shortly thereafter, thirty

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million was sent back to the escrow company from the Bank of America account and within a few days $25 million was transferred to an account at US Bank in Milwaukee held by a Wisconsin corporation. Most of the money was very quickly transferred to another account in the name of an offshore corporation at Bank One in Dallas. From there, it went to another account at Bank One and was transferred out in numerous large wire transfers.

In the TLC case, we are not talking about the use of offshore banks to launder the funds, although some money did eventually go to offshore accounts. These transactions took place right here in the United States. I do not mean to cast aspersions against these banks by citing this example. I do not know what due diligence and what suspicious transaction reports may have been filed by the banks in connection with these transactions. I do know that most American banks have recently implemented much heightened "know your customer" practices that, I believe, are working. I simply want to point out the ease at which millions of dollars in fraud proceeds can be transferred through our banking system. Many of the accounts were opened only to accept the large transfers of funds, and several accounts were opened by an individual with numerous judgments against him and no identifiable business.

The use of multiple banks and nominee corporate accounts also shows just how difficult the tracing and recovery can be. Meanwhile, I am faced with the painful task of reporting to the investors, many of whom need the money for medical care and daily living expenses, that it will take some time before they get their money back, and the prospects for a full 100% recovery are unlikely.

It is also very easy to run a fraudulent investment program and simply have the investors wire transfer the money directly to your offshore bank account. That is what happened in *United States vs. Larry Wilcoxson*, a case in Sacramento where I am appointed as a Trustee to recover forfeited assets. As in the TLC case, we are dealing with more than 1000 investors. In this case, the defendant simply set up a bank account as Suisse Security Bank and Trust in the Bahamas and investor funds were deposited directly into that account. From there, the defendant could, and did, wire transfer millions of dollars back to his US bank accounts, where it was invested in real estate, a speculative mining company, and other business ventures. Some of the money simply disappeared—there were checks written to cash for $2 and $3 million--and my staff are still examining bank records and other documents to trace the funds. Some of it was invested in a "Prime Bank Trading Scheme" similar to the one described in the TLC Investments case. One lesson learned in the Wilcoxson case is that it is prudent for banks to examine the source of funds when millions of dollars are wired **into** the United States from foreign bank accounts on an ongoing basis with no apparent business rationale. Since the heightened sensitivity to this issue by American banks recently, a number of software programs and other monitoring techniques have been put in place to make it better possible for the banks to protect themselves from becoming unwitting accomplices of fraudsters. Again, it is my view that real progress has been made by the industry. Additional legislation applicable to domestic accounts at this time would, in my view, be counterproductive.

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Enhanced International Cooperation in Regulatory Civil Actions

In all of these cases, the need to gain access to foreign bank records is paramount. It is usually necessary to bring civil actions in the foreign jurisdictions to get production orders for bank records. Sometimes this is the quickest and most effective option. However, if the foreign bank challenges the Receiver's appointment or refuses to honor repatriation orders, litigation can be very time-consuming and expensive. The litigation costs must be paid out of assets of the estate that would otherwise be used for restitution. One possible solution is to allow Court-Appointed Receivers to work directly with the Department of Justice to submit mutual legal assistance treaty requests where the case involves allegations of potential criminal conduct. While the treaty language does not necessarily prevent this, the treaties do contain limitations on use provisions that could hamper the Receiver's ability to use any documents produced to bring actions in other jurisdictions. The SEC also has international agreements for securities fraud investigations, which have been very successful, but they do not apply to all cases and the foreign jurisdictions or defendants may question whether disgorgement of profits is going to result in restitution, or is simply a fine.

A more comprehensive and global solution would be to follow the lead taken by the United Nations with the 1988 Vienna Drugs Convention and enact a multilateral mutual legal assistance treaty for the recovery of proceeds of fraud and other white-collar crime, such as counterfeiting and cybercrime. The 1993, Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds From Crime is an excellent step in that direction. This multilateral treaty provides that the parties shall cooperate in the identification and tracing of the proceeds of crime. However, it does not provide for restitution or assistance to victims; the disposition of confiscated property is governed by the domestic law of the country where the property is confiscated.

It is not just small investors who are at risk; major companies lose millions of dollars a year to counterfeiters, hackers, and those engaging in industrial espionage. There is no current mechanism to provide for a uniform approach and global assistance in recovery of fraud proceeds. Individuals and companies suffering a loss must resort to multiple actions in different jurisdictions. This only helps the criminal. The European Commission has just announced a three-year Action Plan to crack down on payment card fraud and counterfeiting. The Plan's objectives include cooperation and exchange of information and evidence to investigate and prosecute fraud cases, but assisting in the recovery of fraud proceeds is not one of the stated objectives. More should be done to ensure that law enforcement authorities work with those assisting victims so that restitution, as well as prosecution, will occur.

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"Brass Plate" Banks

The other point I would like to make concerns the role of these "brass plate" banks that so often play a laundering role on behalf of the bad guys. I am not talking about subsidiaries of banks that are properly regulated in their home countries. I am talking about banks that are not part of any banking organization that is soundly regulated. I am talking about banks, such as several cited in your report, which are not allowed to take deposits within the country of their charter and may have little or no physical presence in their home country beyond a "brass plate" on the wall of some registry or law office in some balmy island.

My recommendation is that the United States adopt legislation that would prohibit banks operating in the United States from maintaining, directly or indirectly, correspondent accounts from banks that are not allowed to accept local deposits in their country of chartering unless they are a subsidiary of a bank subject to comprehensive supervision in its home country. Additionally, I would recommend that any bank that maintains any account with a bank in the United States be required to certify that they will not maintain sub correspondent accounts for any bank that fails to meet this test.

Conclusion

In conclusion, I offer the following proposals:

Proposal: Make it easier for Receiver to be recognized in foreign jurisdictions by amending the money laundering statute or the forfeiture statute to provide that the court, the prosecutor, or the victims of a fraud could apply to the court for appointment of a Receiver to "collect, marshal and take custody and control" of the assets representing proceeds of the alleged offense, wherever located. This would enable the Receiver to bring actions in foreign jurisdictions to freeze bank accounts at the early stages of the case, prior to trial or conviction, upon the proper legal showing in the foreign jurisdiction. (For example, the UK criminal confiscation law, specifically provides, in Section 77(8) of the Criminal Justice Act 1988, as amended by the Criminal Justice Act 1993 and the Proceeds of Crime Act 1995, that where the court has made a restraint order, a receiver may be appointed at any time to take possession of any realizable property and to manage or otherwise deal with property as directed by the court. Realizable property means any property that may be the subject of a confiscation order, wherever located, and the court may require any person holding realizable property to give it to the receiver.) Although the US Marshals Service has vast experience in managing and selling assets once they are forfeited to the government, in my experience I have not seen many cases where the Marshals Service and the US government take control of, and maximize the value of, assets pre-forfeiture. A Receiver, appointed by the court, could do so and could preserve the assets pending a final judgment. Assets would then be readily available for restitution.

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Proposal: Amend the forfeiture laws to provide that any foreign bank account maintained in U.S. dollars be subject to forfeiture in the United States through the U.S. correspondent bank account maintained by the foreign bank upon proof, based on a preponderance of the evidence, that proceeds of an offense have been deposited with said correspondent bank.

Proposal: Amend the Sentencing Guidelines to provide for an upward departure of 10 levels if the court finds, based on a preponderance of the evidence, that the defendant has failed to repatriate criminal proceeds from foreign bank accounts under his control prior to the date of imposition of sentence.

I would like to commend the Committee staff for its work in this field. This is another step in the increasing professionalism and diligence by American banks in minimizing money laundering and the flight of capital beyond law enforcement or judicial reach. While banking and regulatory standards are rapidly improving, so is the technology that villains use to keep stolen money hidden. I can tell you with personal knowledge and absolute certainty derived from my role as the Federal Court Trustee in the BCCI affair, that had the correspondent banking standards of today been fully applied in the several years before the seizure of BCCI a decade ago, the losses to innocent victims around the world would have been billions and billions of dollars less.

Some of my friends and colleagues in the banking world may tell you that self policing and self interest is all that is required to clean up the international correspondent banking world and keep it that way. I disagree. It is my view that absent continuing regulatory and legislative pressure, those banks that go the extra mile to run clean shops will be at a competitive disadvantage in the market place and the villains will just move from inhospitable banks to more hospitable banks. Good clean correspondent business that is put through stringent hoops at one bank but not another will seek out the most efficient or less stringent. Only evenhanded regulatory and legislative pressure will prevent the good international correspondent banks from being at a competitive disadvantage to those of lower standards.

Again, my thanks for the opportunity of appearing before you today.

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PREPARED REMARKS OF JORGE A. BERMUDEZ
Delivered to the United States Senate
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
March 2, 2001

Good morning, Madam Chairman, Senator Levin, and Members of the Permanent Subcommittee on Investigations.

My name is Jorge Bermudez. I am an Executive Vice President of Citibank, N.A., and head of e-Business, a business unit of Citigroup's Global Corporate and Investment Bank. E-Business is the Citigroup organization responsible for delivering internet-based solutions to the corporate marketplace and for providing cash management and trade services to our global, regional, and local customers.

I am pleased to testify before you this morning and share with you what Citibank is doing to fight the risk of money laundering in the markets in which we operate, including our correspondent banking funds transfer services, which are so crucial to the international payment system. This is an extremely important topic. Citibank is a truly global institution, providing a broad range of products and services to corporate and financial institutions customers in more than 100 countries around the world. We are proud of our continued growth and support of the financial needs of individuals and institutions around the world. We are keenly aware, however, that with this global presence comes the tremendous responsibility of setting and following high standards to fight money laundering in each of the countries in which we operate. As a leader in the

financial services industry, we have taken and will continue to take a prominent role in the fight against money laundering.

That fight is far from over. While we are constantly working to improve our anti-money laundering controls, the reality is that it is difficult for the industry, as well as law enforcement, to keep up with the latest schemes employed by money launderers. Citibank welcomes the efforts of this Subcommittee to assist the financial services industry in identifying areas of vulnerability and developing strategies to avoid the unwitting facilitation of money laundering. Thanks in part to the Subcommittee's work, the financial services industry has been able to identify areas of risk that had not been fully appreciated, which has in turn provoked an industry-wide reassessment of the adequacy of anti-money laundering controls for correspondent banking. As you know, The New York Clearing House Association, of which Citibank is a member, is undertaking to develop a code of best practices that will help the industry respond to the weaknesses identified by your Staff. (A letter from the New York Clearing House describing this effort is attached as Exhibit A.)

In addition, the Wolfsberg Group, of which Citigroup is a participating member, is taking up the issue of money laundering in correspondent banking. Like the Wolfsberg Anti-Money Laundering Guidelines for Private Banking issued last year, the Group intends to develop another set of guidelines that reflect the group's recognition that money laundering in international banking cannot be solved by one institution or one country.

In addition to inspiring the Clearing House and Wolfsberg Group efforts, the Subcommittee's focus on poorly regulated offshore jurisdictions with weak anti-money laundering controls has brought those jurisdictions into the international spotlight and caused them to make efforts to improve their regulatory oversight. While industry efforts can make strides in combating money laundering, stronger regulatory controls on banks in lax jurisdictions resulting from international pressure by government and international organizations are a critical element in restricting opportunities for money launderers.

Correspondent Banking and the International Financial System. Correspondent banking is the system through which banks throughout the world have relationships with each other and can make payments to and through each other using wire transfer technology. The Global Corporate and Investment Bank, or GCIB, is the Citigroup business responsible for developing and maintaining customer relationships with corporations and financial institutions world-wide. The GCIB currently maintains approximately 5,000 U.S. Dollar accounts for foreign and domestic financial institutions, representing approximately 2,000 customers located in over 100 countries around the world.

As the Clearing House pointed out in its recent letter to this Subcommittee, correspondent banking relationships lie at the very heart of the international payment system that has been developed and nurtured over the past 30 years by the world's leading banks. Correspondent relationships and the international payment

system permit individual consumers and businesses to transact business throughout the world quickly and efficiently, facilitating global commerce and contributing to global economic prosperity. So as we proceed to develop solutions, we need to consider the effect of any proposal on the ability of the payment system to continue to move funds safely and quickly throughout the world. In a letter to the Clearing House, the Federal Reserve has acknowledged these particular challenges, stating:

> Like you, we recognize that there are challenges associated with striking the appropriate balance between maintaining an effective and efficient international payments system and establishing a strong control environment over correspondent banking relationships on a world wide basis.

The Federal Reserve has indicated its willingness to consult with the Clearing House in its effort to develop a code of best practices. (The letter from the Board of Governors of the Federal Reserve to the Clearing House is attached as Exhibit B.)

As some of the case studies in the Subcommittee's investigation show, the international payment system presents risks because the correspondent banking relationships on which that system is built often involve the use of a large bank's resources by smaller, lesser known financial institutions whose services are in turn being used by those institutions' own customers. And, as the Clearing House points out, the very speed that is so crucial to the efficient functioning of that system, coupled with the exponential growth in the international use of the payment system, makes it technologically impossible to monitor each of the millions of transactions as they take place.

In 1995, recognizing the dependence of the international payments system on the use of wire transfers, this Subcommittee asked the Office of Technology Assessment to examine how wire transfers could be monitored for money laundering. The OTA Report found that hundreds of thousands of wire transfers move trillions of dollars on a daily basis. Citibank, for example, executes approximately 145,000 wire transfers that permit customers, other banks, and third parties to make $700 billion in payments every day. The OTA recognized that any monitoring program would have to be carefully designed to avoid impairing the smooth functioning of the national and global economy, particularly in view of the fact that less than one-tenth of one percent of the total volume of wire transfers is estimated to involve money laundering.

The question faced by all financial institutions that offer correspondent banking services, therefore, is how best to prevent those services from being exploited to launder dirty money, while at the same time protecting the irreplaceable role that correspondent banking has come to play in today's global economy. Citibank's response to this complicated problem has been to strive continuously to improve an anti-money laundering program that couples thorough and ongoing due diligence on its own financial institutions customers with the latest technologies for monitoring transactions between financial intermediaries.

Recent Developments in Citibank's Anti-Money Laundering Program. Citibank has always conducted due diligence on its financial institution customers. Recently, we have implemented an enhanced know-your-customer/due diligence procedure applicable

to relationships with financial institutions in the emerging markets.[1] These enhanced procedures, together with the existing due diligence procedures in effect in Japan, Europe, and North America, make us comfortable that we are obtaining information adequate to know our customers' businesses and to assess the customers' money laundering risk. The new procedure requires Citibank relationship managers who are opening a U.S. dollar account for a foreign financial institution in an emerging market to gather and document extensive information about that institution and its business, client base, anticipated account activity, money-laundering risk, and anti-money laundering policies and procedures. The new procedure will also require separate documentation for each correspondent bank account holder, even if the account holder is an affiliate in a larger financial institution group. Although the primary responsibility for conducting due diligence and knowing the customer always lies with the relationship managers in the field, the Citibank Compliance Department in New York serves as a check on the adequacy of the enhanced due diligence documentation. Until the Compliance Department is satisfied that the necessary information has been obtained for a potential financial institution customer, the account will not be opened.

Once the enhanced due diligence procedure has been completed and an account is opened for a financial institution, the activity in the account is monitored in several ways. First, it is always the responsibility of the relationship managers in the field to keep abreast of changes and developments in the management or business of the customer. To back up the relationship managers' efforts to know their customers and to prevent money

[1] The process applies to all financial institutions customers in the emerging markets and their affiliates and some, usually smaller, financial institutions customers in Japan and Europe and their affiliates.

laundering, we have 300 designated Anti-Money Laundering Compliance Officers around the world who vigilantly seek to ensure compliance with all applicable anti-money laundering laws and regulations. These in-country compliance officers work with the relationship managers to stay alert to and recognize possible signs of unusual or unlawful activity on the part of financial institutions customers.

In addition, the investigative analysts in our Tampa Anti-Money Laundering Unit employ various methods to monitor U.S. dollar funds transfers for suspicious activity on an ongoing basis. Citibank has been a pioneer when it comes to monitoring correspondent banking products for suspicious activity. We were among the first in the industry to recognize the risks involved in cash management and wholesale banking products, and in 1993 began systematically to address these risks by monitoring the international cash letter product. Since 1996, Citibank's Anti-Money Laundering Unit, located in Tampa, Florida, has had investigative analysts dedicated to monitoring wire transfer activity. If information is obtained from law enforcement tips or Tampa monitoring that calls into question the activity in a particular account, the Tampa analysts confer with compliance officers in New York and compliance officers and relationship managers in the field to analyze the activity and to conduct a review of the account.

In addition, we are also exploring more effective ways to ensure that the relationship managers in the various countries, who have the fullest understanding of the businesses of our financial institutions customers, work more closely with the investigative analysts in the Tampa Anti-Money Laundering Unit to identify suspicious

activity flowing through customers' accounts. We have established a specialized compliance unit to coordinate and improve communication between the Tampa Anti-Money Laundering Unit and the country compliance officers.

As criminals have become increasingly more sophisticated at laundering money, and as the volume of funds transfers has continued to grow, we have made efforts to improve our monitoring techniques. For example, we are in the process of incorporating several new technologies and additional staff that will enhance the account-monitoring capabilities of the Anti-Money Laundering Unit.

Over the past year, we have also significantly increased the amount of training resources dedicated to anti-money laundering education. For example, we have coordinated a number of full-day regional anti-money laundering workshops for compliance officers from each of our emerging market countries, and have arranged for regional compliance staff to visit our Tampa anti-money laundering facility. Furthermore, we fully recognize that if we choose to do business in developing economies where the risk of facilitating money laundering may be greater, then we have a responsibility to work with local governments and banking leaders to raise compliance standards and protect against that risk. To that end, in addition to providing enhanced anti-money laundering training to our own regional compliance staff, we have hosted and led numerous anti-money laundering seminars for foreign bankers and banking regulators. In the past seven months alone we have participated in four such training sessions in Mexico, Uruguay, Argentina and Haiti.

The Minority Staff's Suggestions and Citibank's Policies. The Minority Staff has suggested a number of measures to assist banks that offer correspondent banking services in guarding against money laundering, including the identification of certain types of relationships that warrant greater care when deciding whether to accept a financial institution as a correspondent banking customer. Citibank has been studying these recommendations with great care, and will be working with the New York Clearing House association in the coming months to formulate an industry code of best practices to respond to the issues involved. Recognizing that the issues raised and recommendations made in the Staff Report are complex and require extensive review and evaluation, the observations I am able to offer on these recommendations are necessarily preliminary.

(1) U.S. banks should be barred from opening correspondent accounts with foreign banks that are shell operations with no physical presence in any country.

Citibank agrees that unless an offshore bank is affiliated with a reputable onshore financial institution, its lack of physical presence should raise a concern. If an offshore bank is affiliated with an onshore financial institution with a physical presence, however, Citibank can conduct comprehensive and enhanced due diligence on the parent and assess the parent's oversight of its offshore bank. Because the management and reputation of the parent institution is the most important indicator of the legitimacy of an offshore bank, whether the offshore itself maintains a physical presence is less significant in deciding whether to open a correspondent account for the offshore bank. However, the degree of oversight by financial institution regulators is relevant to the decision to open an account, whether for offshore or onshore financial institutions. As some of the

Subcommittee's case studies demonstrate, due diligence is particularly important where an affiliate is in a secrecy jurisdiction with lax regulatory oversight.

(2) U.S. banks should be required to use enhanced due diligence and heightened anti-money laundering safeguards as specified in guidance or regulations issued by the U.S. Treasury Department before opening correspondent accounts with foreign banks that have offshore licenses or are licensed in jurisdictions identified by the United States as non-cooperative with international anti-money laundering efforts.

Citibank agrees with the Staff that special attention should be paid to correspondent relationships in jurisdictions identified by the United States as non-cooperative with anti-money laundering efforts. Citigroup's Global Anti-Money Laundering Policy (attached as Exhibit C) already considers the issue of a customer's location to be an important factor in assessing money laundering risks. In addition, as I discussed, Citibank has recently developed and implemented new know-your customer/enhanced due diligence procedures for its relationships with foreign financial institutions in emerging markets which includes, and in fact has a reach that is broader than all of the jurisdictions identified as non-cooperative by the U.S. government and the Financial Institutions Task Force on Money Laundering. These new procedures require relationship managers who are opening relationships with or conducting annual reviews on foreign financial institutions in emerging markets to document extensive information about the potential customer. This documentation must be reviewed and approved by our New York Compliance Department.

The new enhanced due diligence procedures are intended to ensure that the relationship managers responsible for relationships with foreign banks have performed the necessary due diligence on their financial institutions clients and that they truly know who their customers are.

(3) U.S. banks should conduct a systematic review of their correspondent accounts with foreign banks to identify high-risk banks and close accounts with problem banks. They should also strengthen their anti-money laundering oversight, including by providing regular reviews of wire transfer activity and providing training to correspondent bankers to recognize misconduct by foreign banks.

Citibank agrees that identification of high-risk accounts and ongoing monitoring of wire transfer activity are important elements of a comprehensive anti-money laundering program. Accounts for foreign financial institutions in emerging markets are subject to the enhanced due diligence procedures that I described above. In addition, over the coming year we will undertake a project to complete the enhanced due diligence procedure for existing U.S. dollar accounts for financial institutions in emerging markets.

As I explained, Citibank's Tampa Anti-Money Laundering Unit has primary responsibility for monitoring funds transfers and other wholesale banking products for suspicious activity. Using various limiting criteria, the Unit monitors funds transfers through customer accounts in order to isolate particular transactions that may warrant further investigation. Given the incredibly high volume of funds transfers that take place every day, monitoring these transfers consumes considerable resources. This year, we have increased to 14 the number of staff assigned to this important function.

Although even the most sophisticated monitoring technology is not a panacea for money laundering, we are currently working to implement several significant technology projects to enhance the Tampa Anti-Money Laundering Unit's ability to monitor activity in correspondent accounts. These new technologies include a data warehouse program that will allow us to store and access large volumes of data centrally from several database sources, a software program that will search the transactional database and isolate unusual patterns of transaction activity for further analysis, and a program that will help identify linkages between different sets of transactions and within a particular set of transactions.

Although the pattern monitoring that our Tampa Anti-Money Laundering Unit undertakes is important to identify unusual patterns of activity, in some sense, given the incredible volume of funds transfer activity, it is only a limited line of defense. As the Chief of FinCEN's Systems Development Division was quoted as saying in the OTA's study of the feasibility of wire transfer monitoring, sifting through the volume of wire transfers for suspicious activity is more like "looking for a needle in a stack of other needles" than even a needle in a haystack. In our experience the most effective monitoring comes from the use of law enforcement tips, press reports, or other specific information that identifies names of institutions or possible customers of financial institutions that have come under suspicion of money laundering. With this experience in mind, Citibank is developing a formalized system to gather such focused information from outside sources, such as law enforcement tips and court documents. We also have implemented a new system for tracking in a centralized database all subpoenas and

seizure orders Citibank receives on financial institutions accounts. Under the new system, if a subpoena or seizure order relates to money laundering or similar issues, the matter is referred to a Tampa analyst for follow-up. The new monitoring technology that I described above will permit us to make effective use of this information to combat the unlawful use of our funds transfer systems.

Finally, to address the need to better educate our compliance officers and relationship managers in the various countries who deal directly with our financial institutions customers to better recognize money laundering risks, we have stepped up our anti-money laundering training efforts including, as I mentioned, providing anti-money laundering training seminars for regional and country compliance officers.

(4) U.S. banks should be required to identify a respondent bank's correspondent banking clients, and refuse to open accounts for respondent banks that would allow shell foreign banks or bearer share corporations to use their U.S. Accounts.

Although Citibank agrees that the "nesting" phenomenon described in the staff Report raises an issue of serious concern, the matter is quite complex and warrants a careful evaluation. As the Clearing House has noted, any response must take into account the true nature of funds transfers in the international payment system. A single funds transfer in the international payment system frequently involves not one or two, but many, intermediary banks. The originator of a transfer may be an individual or institution many times removed from Citibank's own customer. With this reality in

mind, we expect to be working with the Clearing House in the coming weeks to consider possible responses to this serious problem raised by the Minority Staff.

(5) U.S. bank regulators and law enforcement officials should offer improved assistance to U.S. banks in identifying and evaluating high-risk foreign banks.

Citibank welcomes whatever guidance and assistance bank regulators and law enforcement officials can provide in this area. As some of the Minority Staff's case studies demonstrate, law enforcement is an indispensable partner to U.S. financial institutions in detecting suspicious activity and possible money laundering. Working with law enforcement has long been part of Citibank's formal anti-money laundering policies. With their greater investigative resources and their exclusive focus on detecting crime, law enforcement agencies can provide specific leads to help financial institutions pinpoint those transactions that are truly suspicious among the millions of funds transfers that are legitimate. Ongoing communication with U.S. law enforcement to inform and to focus Citibank's monitoring of the huge volumes of wire transfer activity consistently yields meaningful results. In addition to providing leads for targeting potentially suspicious activity, law enforcement can help inform Citibank personnel about money laundering schemes and trends so it can stay ahead of would-be criminals and adapt its policies and procedures accordingly. Citibank will continue its close working relationship with law enforcement.

We feel it would be particularly useful if U.S. government agencies could devise methods of sharing with the banking industry and foreign regulatory agencies

information about institutions that have been suspected of money laundering. Banks currently do not have access to the suspicious activity reports filed by other banks, nor do they get routine feedback on the results of their own filings. Although there is a good reason for keeping this information confidential, it would be extremely useful in conducting our own due diligence to know whether an institution has repeatedly come under suspicion.

Distinguishing those few transfers that are suspicious from the millions that are legitimate is difficult and we always welcome the guidance and insight that law enforcement and U.S. banking regulators can offer.

(6) The forfeiture protections in U.S. law should be amended to allow U.S. law enforcement officials to seize and extinguish claims to laundered funds in a foreign bank's U.S. correspondent account on the same basis as funds seized from other U.S. accounts.

Citibank agrees that the government's ability to seize funds derived from criminal activity is an important weapon in the fight against money laundering. The issue of how best to structure the forfeiture laws to enable the government to seize dirty money while at the same time protecting the integrity of the international payment system again is very complicated. Any resolution to this problem needs to take into consideration the fact that often many banks are involved in carrying out a single funds transfer, and any law that makes it easier to seize funds from a bank simply because it served as one link in a long chain of financial intermediaries raises the risk that an innocent actor will suffer a

considerable loss. This issue will be on the agenda of the Clearing House best practices undertaking.

Conclusion. As one of the world's largest global institutions, Citibank knows that it plays a unique and important role in the fight against money laundering. We are dedicated to the fight against money-laundering and to using our global presence to increase international awareness of the problem. Thanks in part to the Subcommittee's important work, U.S. financial institutions are now more aware than ever of the vulnerabilities they face when they establish correspondent relationships with smaller, less well-known financial institutions that want to participate in the global economy.

We commend this Subcommittee for its important work in the area of correspondent banking and for highlighting the industry's susceptibility to money laundering, particularly in its correspondent relationships in poorly regulated offshore jurisdictions. We have taken your recommendations seriously, and as I have discussed, we are working to implement enhanced policies and procedures that reflect our awareness of each of the important issues raised in the Staff Report. U.S. banks, Congress, banking regulators, and law enforcement must all work together effectively to reduce the ability of criminals to launder the proceeds of their crimes.

Thank you for the opportunity to testify before you today. I am pleased to answer any questions that you have.

NEW YORK CLEARING HOUSE

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February 24, 2001

The Honorable Carl Levin
U.S. Senate Permanent Subcommittee
on Investigations
SR-459 Russell Senate Office Building
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Re: Correspondent Banking

Dear Senator Levin:

The member banks of The New York Clearing House Association L.L.C. (the "Clearing House")* have read with interest and concern the "Report on Correspondent Banking: A Gateway to Money Laundering" issued by the Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations. We commend the Staff for its extensive review of the difficult issues involved. Our member banks are among the leading correspondent banks in the world, and the Clearing House operates the world's leading private sector payment system. Accordingly, as the Subcommittee continues its review, we thought that it might be helpful to provide you with certain of our general observations, and to describe a course of action that we propose – a code of best practices – to help deal with the issues involved.

* The member banks of the Clearing House are: Bank of America, National Association; The Bank of New York; Bank One, National Association; Bankers Trust Company; The Chase Manhattan Bank; Citibank, N.A.; European American Bank; First Union National Bank; Fleet National Bank; HSBC Bank USA; Morgan Guaranty Trust Company of New York; and Wells Fargo Bank, National Association.

During the last 30 years, the world's leading banks have developed an international payment system that has fostered economic prosperity throughout the world. Financial and trade transactions can be processed with confidence, speed, and efficiency through this system. At the heart of the international payment system is correspondent banking, whereby banks throughout the world can make payments to and through each other.* As Federal Reserve Board Chairman Greenspan testified before Congress, the international payment system is "crucial to the integrity and stability not only of our financial markets and economy, but also those of the world." 83 Fed. Res. Bull. 373 (1997).

The effective functioning of the international payment system is dependent upon three principal attributes: speed, accuracy, and geographic reach.** Speed is essential because the underlying transactions require the certainty that payment has been made, because so many payments are dependent upon one another, and because a complex global economy requires constant liquidity. Accuracy is essential in order to create confidence in the payment system. Geographic reach is required in a global economy because any system that omits certain potential users makes that system less valuable, and potentially less viable for

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* As set forth in the 1995 report by the U.S. Congress Office of Technology Assessment on "Information Technologies for Control of Money Laundering" (the "OTA Report"), U.S. banks principally use two wire transfer systems to carry out payments between banks, (1) Fedwire, which is operated by the Federal Reserve Banks, and (2) the Clearing House Interbank Payments System ("CHIPS"), which is operated by The Clearing House Interbank Payments Company L.L.C., an affiliate of the Clearing House. Additionally, banks use the Society for Worldwide Interbank Financial Telecommunication ("S.W.I.F.T.") for wire transfers between correspondent banks.

** "The Board of Governors of the Federal Reserve System has described the payment system as "quick, sure and efficient." 70 Fed. Res. Bull. 707 (1984).

all users. Moreover, the prominence of the U.S. dollar as the world's settlement currency of choice is dependent in large part upon its universality – a facet driven significantly by the broad geographic reach of the payment system.

These very attributes, however, which are so instrumental to the successful functioning of the payment system, also create some vulnerability to money laundering. As the OTA Report, which was commissioned by this Subcommittee, concluded:

> As commerce and trade have become increasingly international and increasingly dependent on advanced communications, so too has organized crime.

OTA Report at 120.

The volume of payments, the speed at which payments must move, and the indistinguishability of payments combine to preclude effective intervention, including real-time monitoring, and severely limit even ex post facto monitoring. The OTA Report concluded, "continuing real time monitoring of wire transfer traffic, using [even] artificial intelligence techniques – is not feasible," and "[m]ost criminal [wire] transfers are on their face indistinguishable from legitimate transactions." OTA Report at 12, 19. Once a person is able to inject funds that are the product of a criminal act into the payment system, it is highly difficult, and in many cases impossible, to identify those funds as they move from bank to bank. The OTA Report quotes the Chief of FinCEN's Systems Development Division for the proposition that the problem is not like "looking for a needle in a haystack," but rather "looking for a needle in a stack of other needles." OTA Report at 73, n.39. Similarly, the scope necessary for an effective payment system requires broad availability and thereby greatly limits the feasibility of blanket exclusions based on geography or origin.

Although the requirements of an effective international payment system inherently impose restraints on the ability to identify, interdict and prevent payments that involve money laundering, the Clearing House members fully recognize their responsibility to develop anti-money laundering programs that are both feasible and effective. Our member banks, and we believe the vast majority of all major banks, are deeply committed to preventing money laundering, whether through correspondent banking or other means. We have spent millions of dollars and thousands of man hours in fulfillment of this commitment. We recognize this responsibility notwithstanding the fact that the volume of payments involving money laundering are estimated to represent less than one-tenth of one percent of the total volume of all payments.

As is the case with law enforcement authorities, private sector initiatives to combat money laundering must evolve over time as new problems are recognized and new technologies and techniques become available. In order to expand and enforce their anti-money laundering programs, the Clearing House members will be seeking, over the next several months, to develop a code of best practices for the banking industry in the area of correspondent banking.

We believe that this private sector initiative can best balance the dual needs for an effective international payment system and an effective anti-money laundering program. As the OTA Report notes:

> At the same time [as implementing improved anti-money laundering programs], the efficiency of wire transfers for the conduct of American and world financial transactions must be maintained.

OTA Report at 122.

Based on our preliminary study, we believe that a number of the recommendations made in the Staff Report will be integral to our best practices code. These include special arrangements for so-called "booking" (or "shell") facilities and offshore licensed banks. We agree, for example, that unless a bank is affiliated with a substantial "onshore" financial institution, its lack of physical presence in any jurisdiction should raise concern. We also strongly endorse, and are prepared to cooperate fully in implementing, the Staff Report's recommendation that U.S. bank regulators and law enforcement authorities should offer improved assistance to U.S. banks. The governmental sector has access to information regarding illicit activities that would not normally be available to any bank, much less the banking community as a whole. The experience with the Office of Foreign Asset Control has demonstrated the essential role that the Government can play in identifying institutions and persons that should be excluded from the world's payment system.

The Staff Report has identified an important issue with what it calls "nested" banks, but any response must be carefully developed to take into account the nature of funds transfers in the international payment system. We believe that the proposed recommendation will not accomplish the Subcommittee's goals because it fails to recognize that a single funds transfer in an international payment system will often involve a number of intermediary banks. The originator of a payment may not be a customer of the bank for which the respondent bank maintains a correspondent account (the "sub-respondent bank"), or even a customer of a respondent bank of the sub-respondent bank, but a customer of a bank that is several steps further away in the intermediary bank chain. The only way smaller financial institutions, including credit unions and thrift institutions in the United States, can offer a full range of payment and other services to their customers is through the use of correspondent

banks.* This is a very difficult and complex issue, and will be a focus of our best practices study.

In the context of our proposed approach, we feel compelled to express our view that the Staff Report is in error when it generally attributes money laundering situations to a failure of care or lack of commitment by the banking industry. As mentioned, our member banks do care deeply about this issue. Money laundering not only harms the public as a whole, but it seriously taints the banking industry and, as a result, it is in the banking industry's best interests to take all feasible action to prevent it. What must be recognized, however, is that there is often substantial lead time between the identification of a problem and the development of solutions and that, as mentioned, certain of these problems are embedded in the system. Despite our best intentions and efforts, it is virtually inevitable that some insignificant fraction of the millions of payments involve money laundering.

In conclusion, the Staff Report has provided a useful service to the banking community and our nation as a whole. The Clearing House member banks are committed to utilizing the findings in the Report to enhance their anti-money laundering efforts by developing a code of best practices.

Please feel free to call me (212-612-9203) or our General Counsel, Norman Nelson (212-612-9205), with any questions.

Very truly yours,

cc: The Honorable Susan Collins

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* Because the vast majority of correspondent banks are legitimate business counterparties, we believe that the description of this issue in terms of "nested" banks is both legally and ornithologically incorrect.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D.C. 20551

DIVISION OF BANKING
SUPERVISION AND REGULATION

February 27, 2001

By Facsimile

Mr. Jeffrey Neubert
President
New York Clearing House
New York, NY

Dear Mr. Neubert:

Thank you for your February 27 letter regarding the actions contemplated by the New York Clearing House in response to recent concerns about potential money laundering activity through the use of correspondent banking relationships.

Board supervision staff is encouraged that members of the New York Clearing House are undertaking the task of developing industry best practices for preventing money laundering through the use of correspondent banking relationships. Like you, we recognize that there are challenges associated with striking the appropriate balance between maintaining an effective and efficient international payments system and establishing a strong control environment over correspondent banking relationships on a world wide basis. In addressing these challenges, we would be pleased to have you consult with our supervision staff during the course of the development of the sound practices guidelines. We would also be pleased to review your proposed recommendations once they are prepared.

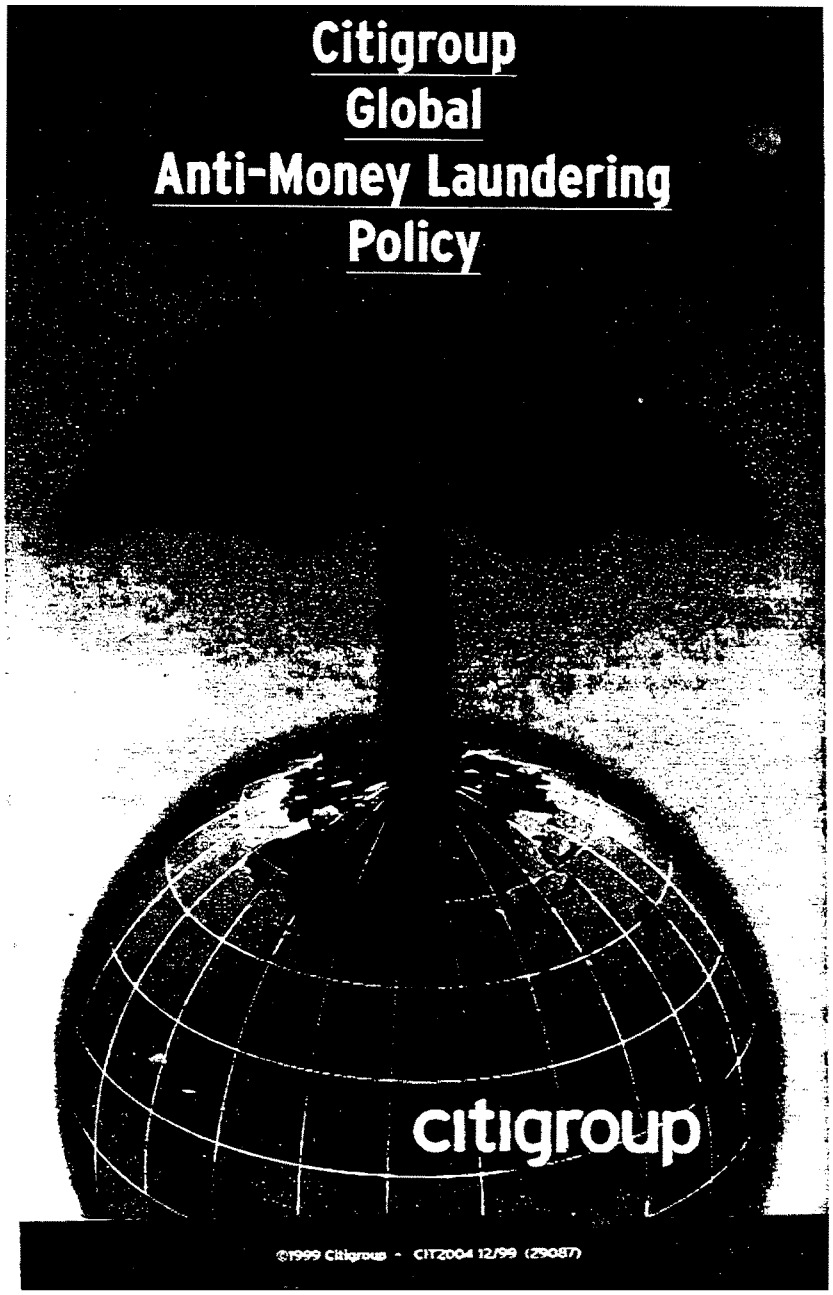
Please contact Richard A. Small, Deputy Associate Director, of my staff with regard to this matter. Mr. Small can be contacted at (202) 452-5235.

Sincerely,

Richard Spillenkothen
Director

cc: Mr. Richard Small

Citigroup Global Anti-Money Laundering Policy



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Citigroup Inc.
153 East 53rd Street
New York, NY 10043

Dear Colleague:

Citigroup is committed to fighting money laundering and complying fully with the letter and spirit of money laundering laws in all parts of the world. We are providing you with a revised Citigroup Global Anti-Money Laundering Policy which clarifies Citigroup's high standards of accountability.

As an international financial services firm, Citigroup recognizes that it has important responsibilities to help fight the global battle against money laundering. No customer relationship is worth compromising our commitment to combating money laundering.

All employees must accept accountability and responsibility for following our Global Anti-Money Laundering Policy. We must all work together to protect our company from being used for money laundering.

Sincerely,

John Reed

Sanford I. Weill

1.0 CITIGROUP GLOBAL ANTI-MONEY LAUNDERING POLICY

1.1 RATIONALE

In the global marketplace, the attempted use of financial institutions to launder money is a significant problem that has caused great alarm in the international community and has resulted in the passage of stricter laws and increased penalties for money laundering in Europe, Argentina, Australia, Canada, Colombia, Pakistan, Taiwan, the United States, and many other countries. It has also spurred the formation of the Financial Action Task Force on Money Laundering, an inter-governmental body comprised of 26 nations and two regional organizations established to coordinate the global battle against money laundering.

This Policy establishes governing principles and standards to protect Citigroup and its businesses from being used to launder money. All Citigroup employees, wherever located, must be vigilant in the fight against money laundering and must not allow Citigroup to be used for money laundering activities. We cannot permit ourselves to become participants in a violation of law.

1.2 SCOPE

This Policy is applicable to Citigroup, its subsidiaries, and its managed affiliates worldwide.

1.3 POLICY

Citigroup businesses must:

- protect Citigroup from being used for money laundering;
- adhere to the Know Your Customer policies and procedures of their businesses;
- take appropriate action, once suspicious activity is detected, and make reports to government authorities in accordance with applicable law; and
- comply with applicable money laundering laws, as well as the recommendations of the Financial Action Task Force on Money Laundering as incorporated into this Policy.

1.4 WHAT IS MONEY LAUNDERING?

Money laundering is not just the attempt to disguise money derived from the sale of drugs. Rather, money laundering is involvement in any transaction or series of transactions that seeks to conceal or disguise the nature or source of proceeds derived from illegal activities, including drug trafficking, terrorism, organized crime, fraud, and many other crimes.

Generally, the money laundering process involves three stages:

- **Placement**
  Physically disposing of cash derived from illegal activity. One way to accomplish this is by placing criminal proceeds into traditional financial institutions or non-traditional financial institutions such as currency exchanges, casinos, or check-cashing services.

- **Layering**
  Separating the proceeds of criminal activity from their source through the use of layers of financial transactions. These layers are designed to hamper the audit trail, disguise the origin of funds, and provide anonymity. Some examples of services that may be used during this phase are the early surrender of an annuity without regard to penalties, fraudulent letter of credit transactions, and the illicit use of bearer shares to create layers of anonymity for the ultimate beneficial owner of the assets.

- **Integration**
  Placing the laundered proceeds back into the economy in such a way that they re-enter the financial system as apparently legitimate funds.

The degree of sophistication and complexity in a money laundering scheme is virtually infinite and is limited only by the creative imagination and expertise of criminals.

A financial institution may be used at any point in the money laundering process. Citigroup businesses must protect themselves from being used by criminals engaged in placement, layering, or integration of illegally derived proceeds.

1.5 THE IMPORTANCE OF THIS POLICY TO THE INDIVIDUAL EMPLOYEE AND TO CITIGROUP AND ITS BUSINESSES

In adhering to this Policy, as with every aspect of its business, Citigroup expects that its employees will conduct themselves in accordance with the highest ethical standards. Citigroup also expects its employees to conduct business in accordance with applicable money laundering laws. Citigroup employees shall not knowingly provide advice or other assistance to individuals who attempt to violate or avoid money laundering laws or this Policy.

Money laundering laws apply not only to criminals who try to launder their ill-gotten gains, but also to financial institutions and their employees who participate in those transactions, if the employees know that the property is criminally derived. "Knowledge" includes the concepts of "willful blindness" and "conscious avoidance of knowledge." Thus, employees of a financial institution whose suspicions are aroused, but who then deliberately fail to make further inquiries, wishing to remain ignorant, may be considered under the law to have the requisite "knowledge." Citigroup employees who suspect money laundering activities should refer the matter to appropriate personnel as directed by their businesses' policies and procedures.

Failure to adhere to this Policy may subject Citigroup employees to disciplinary action up to and including termination of employment. Violations of money laundering laws also may subject Citigroup employees to imprisonment and, together with Citigroup, to fines, forfeiture of assets, and other serious punishment.

2.0 STANDARDS

This Policy establishes the minimum standards to which Citigroup businesses must adhere. In any case where the requirements of applicable local money laundering laws establish a higher standard, Citigroup businesses must adhere to those laws. If any applicable local laws appear to conflict with the standards of this Policy, the particular Citigroup business must consult with its local and regional legal and compliance officers who must in turn consult with Citigroup Global Anti-Money Laundering Compliance on the possible conflict.

Anti-Money Laundering Programs

2.1 Each Citigroup business unit shall be covered by an anti-money laundering program that provides for policies, procedures, and internal controls to effect compliance with applicable law and to implement the standards set forth in this Policy. Anti-money laundering programs shall include:

- a written anti-money laundering policy that sets forth a business's Know Your Customer policies and procedures as well as the other basic elements of its anti-money laundering program;
- the designation of Anti-Money Laundering Compliance Officers or other appropriate personnel responsible for coordinating and monitoring day-to-day compliance with this Policy;
- recordkeeping and reporting practices in accordance with applicable law;
- appropriate methods of monitoring so that suspicious customer activity can be detected and appropriate action can be taken;
- reporting of suspicious activity to government authorities in accordance with applicable law;
- anti-money laundering training; and
- assessments by a business of its adherence to the anti-money laundering policies and procedures that it has established.

2.1.1 In developing their anti-money laundering programs, Citigroup businesses shall assess the money laundering risks they face, taking into account the following factors:

- the different categories of customers, including whether the Citigroup customers conduct financial transactions for their own customers (Examples of such customers include banks, brokers or dealers in securities, mutual funds, investment managers, money transmitters, currency exchanges, foreign exchange businesses, check cashers, issuers and sellers of money orders and traveler's checks, attorney escrow accounts, and hotels with casinos.);

- the nature of the Citigroup products and services that are provided;
- the customers' expected use of the Citigroup products and services; and
- the localities of the Citigroup businesses and their customers.

2.1.1.1 One category of customers, namely, "public figures and related individuals," can pose unique reputational and other risks.

2.1.1.2 For purposes of this Policy, a "public figure" is any individual who occupies, has recently occupied, is actively seeking, or is being considered for a senior position in a government (or political party) of a country, state, or municipality or any department (including the military), agency, or instrumentality (e.g., a government-owned corporation) thereof.

2.1.1.3 For purposes of this Policy, a "related individual" is any person who is a member of the immediate family of a public figure, e.g., a spouse, parent, sibling, or child; or a senior advisor closely associated with a public figure.

2.1.1.4 In developing their anti-money laundering programs, all Citigroup businesses must assess any reputational or other risks posed to their businesses through association with public figures and related individuals. Any such risks may be compounded by other factors, for example, where the account that is to be opened or maintained is not located in the home country of the public figure or related individual.

2.1.1.5 Commensurate with the assessment of those risks, Citigroup businesses shall have policies and procedures for opening or continuing to maintain a relationship for an individual who is known through reasonable measures to be a public figure or related individual (including a customer who was not a public figure or a related individual when a relationship was established and who subsequently became a public figure or related individual) and for a legal entity which is known through reasonable measures to be substantially owned or controlled by a public figure or related individual. Such policies and procedures shall provide for:

- Referral of any questions as to whether an individual is a public figure or a related individual to an Anti-Money Laundering Compliance Officer or other appropriate personnel designated by a business;
- Inquiry as to the reputation of the public figure or related individual which should include:
  - consultation with the Country Corporate Officer or senior business manager in the home country of the public figure or related individual;
  - consultation with appropriate legal and compliance officers; and
  - review of generally available public information regarding the public figure or related individual, such as news articles from reputable sources;
- Documentation of any significant information obtained as a result of such inquiry;
- Approval to open accounts for public figures or related individuals and approval to continue to maintain such existing accounts by a senior business manager in the country where the relationship is to be opened or maintained or that officer's designee;
- Authorization by the public figure or related individual, including waiver of any rights under local laws (e.g., secrecy laws), to ensure that any account information or any other relevant information may be disclosed to any business, legal, or compliance personnel in order to conduct the inquiry and approval process referred to above; and
- Appropriate methods of monitoring on an ongoing and regular basis the accounts of any public figure or related individual.

2.1.2 A business's assessment of the various factors relating to the money laundering risks it faces should be reflected in an anti-money laundering program that is practical and effective. A business's anti-money laundering program should provide for policies, procedures, and internal controls that establish reasonable measures to be taken by a Citigroup business to minimize the risk that it will be used for illicit activities, taking into account the products and services it provides and the types of customers it serves as well as the legal requirements and good practices in the locality where the business is located.

Know Your Customer

2.2 Citigroup businesses shall have Know Your Customer policies, procedures, and internal controls reasonably designed to:

- determine and document the true identity of customers who establish relationships, open accounts, or conduct significant transactions and obtain basic background information on customers;
- obtain and document any additional customer information, commensurate with the assessment of the money laundering risks posed by the customers' expected use of products and services; and
- protect Citigroup businesses from the risks of doing business with any individuals or entities whose identities cannot be determined, who refuse to provide required information, or who have provided information that contains significant inconsistencies that cannot be resolved after further investigation.

Customer Identification

2.2.1 Citigroup businesses shall have policies and procedures to obtain sufficient reliable identifying information to determine the identity of all individual customers.

2.2.2 Citigroup businesses shall have policies and procedures to obtain sufficient reliable identifying information to determine the identity of all corporations and other legal entities.

2.2.3 No special name account (i.e., an account using a pseudonym or number rather than the actual name of the customer) shall be established unless the Citigroup business determines that the customer has a legitimate reason for having such an account and the business maintains records containing the actual name and other identifying information regarding the beneficial owner of the account in the country where the account is maintained and, if applicable, in any country where the account is managed. Approval by the appropriate senior level of management for the business must be obtained before such accounts are established.

2.2.4 The authority of any person authorizing financial transactions on behalf of the customer shall be established by documentation, reference to local law, or other reliable means. Citigroup businesses shall have policies and procedures for determining that person's identity and relationship to the customer.

2.2.5 Reasonable measures shall be taken to obtain information about the true identity of the person on whose behalf a relationship is established or an account is opened or a significant transaction conducted (i.e., beneficial owners) if there are any doubts as to whether the customer is acting on its own behalf.

Other Customer Information

2.2.6 Citigroup businesses shall have policies and procedures to determine and document at the time of the establishment of a relationship or at the opening of an account, commensurate with the assessment of the money laundering risks posed by the customer's expected use of products and services:

- the customer's source of funds;
- the customer's source of income and assets; and
- the nature and extent of the customer's expected use of its products and services (i.e., a transaction profile) or the customer's investment objectives.

2.2.7 The information about a customer obtained at the time of the establishment of a relationship or the opening of an account constitutes a "customer profile." Citigroup businesses shall have policies and procedures for updating customer profiles and for confirming information provided by customers, commensurate with the assessment of the money laundering risks.

Information Requirements for Customers with Relationships with Another Citigroup Business

2.2.8 Citigroup businesses shall have policies and procedures to establish the conditions under which they may rely upon another Citigroup business for the identification of a customer who has a relationship with that business and seeks to establish a relationship with another Citigroup business. At a minimum, to rely upon another Citigroup business for the identification of a customer, a Citigroup business must:

- document that the other Citigroup business has a relationship with the customer;
- determine that its identification requirements are reasonably satisfied by the other Citigroup business's Know Your Customer policies and procedures; and
- be able to obtain on request from the other Citigroup business the information and documentation that was obtained and relied upon to determine the true identity of the customer.

2.2.9 Citigroup businesses that rely upon another Citigroup business for the identification of a customer shall obtain any additional customer information required at the establishment of a relationship or at the opening of an account, commensurate with the assessment of the money laundering risks, in accordance with Section 2.2.6.

2.2.10 Citigroup businesses that provide products and services for a customer of another Citigroup business shall have sufficient information to enable them to detect suspicious customer activity. If the Citigroup business that manages the customer relationship has the required information, it shall provide it to Citigroup businesses that provide products and services. If the Citigroup business that manages

the customer relationship does not have the required information. Citigroup businesses that provide products and services may obtain the information directly from the customer.

Anti-Money Laundering Compliance Officers

2.3 Citigroup businesses shall be served by Anti-Money Laundering Compliance Officers or other designated personnel responsible for coordinating and monitoring day-to-day compliance with applicable money laundering laws, this Policy, and the anti-money laundering policy applicable to the particular business. Anti-Money Laundering Compliance Officers or other designated personnel may serve other functions and may serve multiple business units.

Recordkeeping and Reporting Requirements

2.4 Citigroup businesses shall have policies and procedures in order to comply with applicable recordkeeping and reporting requirements established by law.

Cash Transactions

2.4.1 Citigroup businesses shall have policies and procedures for recording and/or reporting cash transactions as required by applicable law and in accordance with this Policy and for developing and implementing methods of monitoring cash transactions in order to comply with applicable recordkeeping and/or reporting requirements and this Policy.

2.4.1.1 Citigroup businesses that effect transactions involving currency, including deposits, withdrawals, exchanges, check cashing, and purchases of instruments, shall record all such transactions in excess of U.S. $10,000 or its local currency equivalent, subject to Section 2.4.2.1 below. Citigroup businesses shall comply with any applicable law that sets a lower recording or reporting threshold.

2.4.2 Citigroup businesses shall develop and implement appropriate methods of monitoring customer transactions to detect cash transactions that are to be recorded and/or reported as well as actual

or attempted structuring. Structuring occurs when a customer breaks down transactions below certain dollar or other currency amounts for the purpose of evading a reporting requirement (in the U.S., $10,000) or avoiding detection. In the U.S., structuring is itself a crime, even if the funds are legitimately derived, and structuring wherever it occurs is a sign of possible money laundering.

2.4.2.1 Non-U.S. Citigroup businesses may adopt a threshold amount higher than U.S. $10,000 or its local currency equivalent for recording, reporting, and/or monitoring after taking into account local law, the cash nature of the local economy, and the money laundering risks inherent in such transactions in their country. Citigroup businesses seeking to adopt a threshold amount higher than U.S. $10,000 or its local currency equivalent, however, must have the approval of their Legal and Compliance officer who, before giving their approval, should consult with Citigroup Global Anti-Money Laundering Compliance.

Funds Transfers

2.4.3 Citigroup businesses shall have policies and procedures in order to comply with applicable law pertaining to funds transfers. U.S. law requires financial institutions within the U.S. and its territories and possessions, with respect to certain funds transfers equal to or greater than U.S. $3,000, to record, maintain, and pass on certain information, including information about the originator and the beneficiary.

Record Retention

2.4.4 Citigroup businesses shall maintain the following documents for at least five years unless local law or the particular Citigroup business's policy on document retention specifies a longer period:

- customer profiles;
- reports made to government authorities concerning suspicious customer activity relating to possible money laundering or other criminal conduct together with supporting documentation;

- records of all formal anti-money laundering training conducted which include the names and business units of attendees and dates and locations of the training; and
- any other documents required to be retained under applicable money laundering laws.

Monitoring for Suspicious Activity

2.5 Citigroup businesses shall develop and implement appropriate methods of monitoring so that throughout the customer relationship suspicious customer activity can be detected, appropriate action can be taken, and reports can be made to government authorities in accordance with applicable law.

2.5.1 In developing appropriate methods of monitoring, Citigroup businesses shall consider:

- whether monitoring should be done on an individual account basis or at a product activity level using generic parameters; and
- whether computerized or manual monitoring is suitable and practical, taking into account the size and nature of its operations and available technology.

Reports and Referrals Regarding Suspicious Activity Involving Possible Money Laundering

2.6 Citigroup businesses must satisfy any legal obligation to report suspicious activity involving possible money laundering.

2.6.1 Given the differences in local law regarding the reporting of suspicious activity and in some cases the absence of such law, this Policy hereby establishes a uniform standard by which Citigroup businesses, wherever located, are to determine whether activity is suspicious for purposes of internal referrals to appropriate personnel as directed by their businesses' policies and procedures so that appropriate action is taken. Consistent with U.S. law and the recommendations of the Financial Action Task Force, under the Citigroup standard, suspicious activity involving possible money laundering is any transaction conducted or attempted by, at, or

through a Citigroup business involving or aggregating U.S. $5,000 or more in funds or other assets or its local currency equivalent that the Citigroup business knows, suspects, or has reason to suspect:

- involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities (including, without limitation, the ownership, nature, source, location, or control of such funds or assets) as part of a plan to violate or evade any law or regulation or to avoid any money laundering regulation;
- is designed to evade a money laundering regulation, for example, a cash reporting regulation; or
- has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage and the Citigroup business knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

2.6.1.1 The above-referenced U.S. $5,000 threshold is for purposes of internal referrals and does not establish a threshold for transaction monitoring.

2.6.2 Citigroup businesses shall have policies and procedures to provide for the prompt examination of customer activity that is questionable to determine and document the reason for the activity and whether the activity is suspicious under the Citigroup standard set forth in Section 2.6.1 of this Policy as well as under any standard established by applicable local law.

2.6.3 Citigroup businesses shall have policies and procedures to provide for the prompt referral of customer activity that is determined to be suspicious under the Citigroup standard set forth in Section 2.6.1 of this Policy or under any standard established by applicable local law to appropriate personnel as directed by their businesses' policies and procedures so that appropriate action is taken, including the timely filing of suspicious activity reports in accordance with applicable local law.

Citigroup Businesses Within the United States and Its Territories and Possessions

2.6.4 U.S. regulations require each Citigroup business within the United States and its territories and possessions to send suspicious activity reports ("SARs") to the Department of Treasury's Financial Crimes Enforcement Network ("FinCEN") with respect to any suspicious transaction involving possible money laundering conducted or attempted by, at, or through the Citigroup business and involving or aggregating U.S. $5,000 or more in funds or assets. The U.S. $5,000 threshold does not apply where a Citigroup business was used to facilitate a violation of U.S. money laundering laws and the Citigroup business has a substantial basis for identifying one of its directors, officers, employees, agents or affiliated persons as having committed or aided in the commission of the money laundering offense. Under those circumstances, a SAR must be filed with FinCEN, regardless of the amount involved in the transaction.

2.6.4.1 Citigroup businesses within the United States and its territories and possessions shall send to Citigroup Corporate Security & Investigative Services, Fraud Management Unit, copies of all SARs, when filed, relating to possible money laundering involving a director, officer, employee, or agent of a Citigroup business or a person affiliated with a Citigroup business, and an agreed upon summary on a monthly basis of all SARs that have been filed with FinCEN. In accordance with regulatory requirements, the Fraud Management Unit has the responsibility for notifying the Board of Directors of Citigroup or a Committee thereof of all SARs that are filed, including SARs concerning other suspicious activity unrelated to possible money laundering. Copies of SARs pertaining to suspicious activity involving possible money laundering that are filed should also be sent on a timely basis to the particular Citigroup business's Anti-Money Laundering Compliance Officer or other appropriate legal and compliance personnel.

Citigroup Businesses Outside the United States and Its Territories and Possessions

2.6.5 Citigroup businesses outside the United States and its territories and possessions are subject to local law that may require or permit suspicious activity reporting to local authorities. Whether or not local law requires suspicious activity reporting, Citigroup businesses outside the United States must refer transactions that are suspicious under the Citigroup standard set forth in Section 2.6.1 to their appropriate compliance, legal, or business personnel as directed by their businesses' policies and procedures.

2.6.5.1 Copies of suspicious activity reports filed by a business outside the United States with local authorities and any internal referrals regarding suspicious activity should be sent on a timely basis to the appropriate legal and compliance personnel as directed by the business's polices and procedures.

Terminating Customer Relationships

2.6.6 Citigroup businesses within the United States and its territories and possessions shall have policies and procedures concerning appropriate action to be taken before a customer relationship is terminated because of suspicious activity and before the customer is notified of the decision to terminate. Those policies and procedures concerning pre-termination and pre-customer notification action to be taken shall be reasonably designed to provide for:

- the prompt referral of the matter to a business's Anti-Money Laundering Compliance Officer or other appropriate legal and compliance personnel and
- communication of the decision to terminate and the anticipated date for notifying the customer of that decision in a SAR to be filed or as a supplement to any SARs that have previously been filed or, where appropriate, by a telephone call from a business's Anti-Money Laundering Compliance Officer or other appropriate legal and compliance personnel to a U.S. Attorney's Office or other appropriate government authority.

2.6.6.1 Situations may arise where a decision to terminate a relationship involves a customer who has used an account in a Citigroup business outside the United States to conduct suspicious transactions through a Citigroup business in the United States. Under those circumstances, the Anti-Money Laundering Compliance Officers for the respective businesses in and outside the United States must communicate and coordinate with each other so appropriate precautions are taken before the decision to terminate is communicated to the customer in question.

Prohibition Against Disclosing Suspicious Activity Reports

2.6.7 Where Citigroup businesses have filed suspicious activity reports or otherwise reported suspected or known criminal violations or suspicious activities to law enforcement authorities, Citigroup employees must not notify any person outside of Citigroup who may be involved in the transaction or any person who is the subject of a suspicious activity report or other report of suspicious activity that the transaction has been reported.

Training

2.7 Citigroup businesses shall provide anti-money laundering training on a periodic basis.

2.7.1 The training shall review applicable money laundering laws and recent trends in money laundering activity as well as the particular Citigroup businesses' policies and procedures to combat money laundering, including how to recognize and report suspicious transactions.

2.7.2 Citigroup businesses or appropriate legal and compliance personnel shall determine the frequency of training and which personnel must be trained commensurate with their money laundering risk assessment.

2.7.3 Records shall be kept of all formal training conducted. These records should include the names and business units of attendees and dates and locations of the training.

2.7.4 If Citigroup representatives are asked to speak on the topic of money laundering or Know Your Customer policies and procedures at an external conference, consistent with the Citigroup Statement of Business Practices, they should notify Citigroup Global Anti-Money Laundering Compliance before making a commitment to speak.

Assessments by Businesses

2.8 Citigroup businesses shall conduct assessments of their anti-money laundering policies and procedures on a periodic basis to provide reasonable assurance that their compliance programs continue to function effectively. The assessment process should include testing and analysis.

3.0 CITIGROUP GLOBAL ANTI-MONEY LAUNDERING COMPLIANCE

Citigroup Global Anti-Money Laundering Compliance has responsibility for coordinating the anti-money laundering compliance programs of Citigroup businesses worldwide. The Director of Citigroup Anti-Money Laundering Compliance shall report directly to the Citigroup General Counsel.

4.0 AUDIT AND RISK REVIEW

Citigroup's Audit and Risk Review is another important means to protect Citigroup and its businesses from being used by money launderers. Audit and Risk Review will evaluate Citigroup businesses' compliance with this Policy, their own anti-money laundering policies, and applicable money laundering laws.

5.0 POLICY OWNER

The owner of this Policy is Citigroup Global Anti-Money Laundering Compliance. Any deviation from the standards set forth in this Policy requires the approval of the Policy owner. Requests for deviations should not be made of Citigroup Global Anti-Money Laundering Compliance unless the appropriate level of management for the business has approved the request.

6.0 CONCLUSION

Adherence to this Policy is absolutely critical so that all Citigroup businesses, wherever located, comply with applicable money laundering laws. Citigroup businesses must be proactive in the implementation of this Policy. Citigroup employees must be vigilant for suspicious activity and promptly refer such activity to appropriate personnel as directed by their businesses' policies and procedures so that all reporting and other requirements are met. Only through constant vigilance can Citigroup employees protect Citigroup products and services from being used to launder money.

Issued: October 28, 1999
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PREPARED REMARKS OF CARLOS FEDRIGOTTI
Delivered to the United States Senate
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
March 2, 2001

Good morning Madam Chairman, Senator Levin, and Members of the Permanent Subcommittee on Investigations.

My name is Carlos Fedrigotti. I am the President of Citibank Argentina. I have held that position since April 1996. From January 1995 until April 1996, I was the Corporate Bank Head in Buenos Aires. Before that, I was in charge of the Citibank franchise in Uruguay for five years. I have been an employee of Citibank since I graduated from Columbia University in 1977, when I was hired by Citibank New York, and I have also worked for Citibank in Madrid and Paris.

As the President and Country Corporate Officer for Citibank Argentina, I am the institutional representative of Citibank in the country. I am responsible for Citibank's corporate banking operations in Argentina. Since February of last year, I have also served as the Region Head for Citibank's corporate operations in Uruguay and Paraguay.

Citibank's Operations in Argentina

Citibank's operations in Argentina are headquartered in Buenos Aires. In addition to Citibank's main office in Buenos Aires, Citibank also has 88 branch offices throughout Argentina and currently employs over 6,000 people there. Its customers include individual

consumers, large multinational and local corporations, small and medium-sized local corporations, financial institutions, and governmental entities.

Citibank opened its branch office in Buenos Aires in 1914, which makes the Buenos Aires branch the first one established by any American bank outside the United States. Since opening its doors for business in Buenos Aires, Citibank has been an active and important member of the Argentine business community, maintaining a continuous presence in Argentina even as the economy has gone through good and bad times. In the late 1950s, Citibank began opening branches throughout Argentina, first in the city of Rosario and then in the major urban centers. During the early 1980s and the 1990s, Citibank chaired the Bank Advisory Committee for Argentina, which helped the country weather an economic crisis by lending new money and helping to restructure Argentina's external debt. In the mid-1980s, Citibank created an Investment Bank to carry out project financing and to assist companies in funding their expansion plans and giving them access to capital markets. Beginning in 1989, Citibank participated actively in the privatization of state-owned companies that resulted from governmental policies aimed at liberalizing the economy and encouraging free markets. In the early 1990s, Citibank participated in the renegotiation of Argentina's external debt.

In 1999, the U.S. State Department commended the branch for its outstanding corporate citizenship, its innovation, and its exemplary international business practices. Last year, the Argentine Minister of the Economy praised the constructive role that the branch played in connection with the passage of anti-money laundering legislation in Argentina. Citibank has had a long and distinguished history in Argentina. I am proud to lead this institution.

The Citibank Argentina Financial Institutions Unit

The Citibank Argentina Financial Institutions Unit provides products and services to Argentine banks, securities firms, insurance and pension management companies, and other financial services companies. The department consists of a Unit Head, four Relationship Managers, and two Financial Analysts. The Unit Head reports to the Corporate Bank Head, who in turn reports to me as Country Corporate Officer.

The Unit provides a wide range of products and services to Argentine financial institutions, such as trade and treasury services, complex derivatives, securities, and investment products. It also plays a role in approving the opening of correspondent banking accounts at Citibank branches in other countries. Argentine financial institutions and their offshore affiliates use these correspondent accounts to transfer funds, clear checks, or exchange currency on their own behalf or for their customers. In addition to Citibank, many other large U.S. and European banks also provide correspondent banking services to Argentine financial institutions.

Because correspondent accounts for Argentine financial institutions and their affiliates are maintained outside the country, the Financial Institutions Unit at Citibank in Buenos Aires does not itself open or service these correspondent accounts. Rather, Citibank Buenos Aires acts as the "control unit" for these accounts. As the control unit, the Citibank Financial Institutions Unit in Argentina performs Know Your Customer ("KYC") and enhanced due diligence reviews for all of Citibank's financial institutions customers who are located in Argentina and their affiliates, without regard to whether the products and services used by these customers are

provided by the branch in Buenos Aires or the United States. Through a service agreement that the Buenos Aires branch has with the New York office, the branch makes its KYC information available to the New York office and forwards account opening documentation and certain basic information regarding the customer to New York in order for the New York office to open U.S.-based correspondent accounts.

All sectors of the banking business have their own set of risks, and correspondent banking is no exception. Citibank Argentina has long been aware of the need, for several reasons, to scrutinize closely the financial institutions with which it does business. First, in terms of credit risk, Citibank must have a complete picture of the financial soundness and stability of its financial institutions customers. Accordingly, Citibank limits its target market to the strongest and most viable financial institutions. The Citibank branch in Argentina learned this lesson first hand. Like other banks with heavy exposure in Latin America, the branch was hit hard by the so-called "Tequila Crisis" in December 1994, when the Mexican government devalued its currency, which sent the Latin American economy into a downturn and caused the failure not only of financial institutions in Mexico and Argentina but also of their offshore affiliates as well. Second and no less important, because the branch in Argentina provides its financial institutions customers with access to the international payment system through Citibank's network of correspondent accounts, the branch must perform thorough due diligence to ensure that its customers have the utmost integrity and that these customers fully appreciate their responsibility to prevent and detect money laundering and other illegal activity.

Citibank has strived to limit its target market to the most reputable and financially robust institutions. For this reason, Citibank avoids doing business with offshore banks that are not affiliated with well-established onshore parent financial institutions. In January of last year, the Financial Institutions Unit in Buenos Aires further limited its target market and closed correspondent accounts that it had maintained for offshore institutions that, although affiliated with Argentine onshore parents, were not reported to the Central Bank on the parent institution's consolidated financial statements. Consolidated reporting ensures that the regulator of the onshore parent is aware of that institution's offshore vehicles and can assess the safety and soundness of the parent institution against that knowledge, as well as evaluate the parent institution's control over the offshore entity. None of the accounts for these non-consolidated offshore affiliates was closed because suspicious activity was detected. Instead, the Financial Institutions Unit determined that narrowing its target market was a better means of managing credit risk. As a result, since January 2000 the Financial Institutions Unit has closed the correspondent accounts that were once maintained for several offshore vehicles affiliated with Argentine financial institutions. Among the accounts that were closed was the correspondent account for Federal Bank, which the Minority Staff's Report has criticized Citibank for opening, and which would not have been opened under the Financial Institutions Unit's redefined target market criteria.

The Federal Bank Account

In 1992, the Financial Institutions Unit in Buenos Aires requested that a correspondent account be opened in New York for Federal Bank Ltd., a bank incorporated in the Bahamas. It was the understanding of the Financial Institutions Unit that the Moneta Group — a group of

financial institutions and investment companies owned by Raul Moneta, his uncle Jaime Lucini, and their families — owned Federal Bank and that Federal Bank was the offshore affiliate of the Group's flagship bank in Argentina, Banco República.

Virtually every major financial institution in the world has offshore affiliates. Nearly all Argentine banks do as well. Today, Argentine banks must have offshore affiliates if they are to compete with international banks for sophisticated Argentine customers. A large number of wealthy Argentine individuals and companies have historically kept part of their assets offshore for a variety of reasons. For example, in the late 1980s Argentina experienced extreme economic instability and political uncertainty. Inflation soared — at times beyond 400% per month. Profits in the Argentine private sector steadily decreased and there was little new foreign investment in the country. Unemployment and underemployment remained high and there was significant uncertainty and volatility in the foreign exchange market. The results of the May 1989 elections led many Argentines to fear a difficult and lengthy transition to new economic and political initiatives and the possibly disruptive effect of those initiatives on the economy. Because of the lack of confidence in the Argentine peso by both foreign and local investors, the fear of new taxes on assets held in Argentina, the risk of devaluation, and erratic exchange control policies adopted by different governments, Argentines commonly protected part of their assets by placing them offshore.

The members of the Financial Institutions Unit in Argentina who requested the opening of a correspondent account for Federal Bank in 1992 felt comfortable doing so because the branch in Argentina had had a long banking relationship with its sister institution, Banco

República, and its owners, the Moneta Group, which dated to the late 1970s. In addition to the banking relationship that the Buenos Aires branch had with Banco República, Citibank and the Moneta Group, through its holding company, United Finance Company, were also co-investors in an investment holding company called CEI, which was created in the early 1990s to hold equity in Argentine companies acquired through the Argentine government's debt-for-equity swap program.

Although the Buenos Aires branch had no legal documentation in its files proving as a matter of law that Federal Bank was owned by the Moneta Group, the Financial Institutions Unit considered it to be an affiliate of Banco República and treated it as such. As you have seen from the Financial Institutions Unit's records, members of the Financial Institutions Unit regularly discussed Federal Bank with Banco República's management and analyzed Federal Bank as part of their overall credit analysis of Banco República and its affiliates.

In April 1999, I received a letter from the Central Bank of Argentina requesting information regarding Federal Bank, particularly information about the identity of Federal Bank's shareholders. The Central Bank's request was based on the fact that Federal Bank maintained a New York account with Citibank. I passed the request on to my deputy, and asked him to prepare a response in consultation with the bank's general counsel. I have since learned that the branch employees who worked on preparing the answer to this request believed that the Moneta Group's ownership of Federal Bank was widely known in Argentine banking circles. Accordingly, these employees, my deputy, and my general counsel interpreted the letter from the Central Bank as a request for legal proof of Federal Bank's ownership.

Because the files in Buenos Aires contained no records from which Federal Bank's ownership could be determined as a matter of law, my deputy and my general counsel prepared a letter for my signature, informing the Central Bank that such information was not available in the files in Buenos Aires. The letter also directed the Central Bank to New York, where documentation for Federal Bank's New York-based account would be maintained and offered the branch's assistance in helping the Central Bank to obtain information from New York.

I later revisited the branch's response to the Central Bank's inquiry regarding Federal Bank when the Subcommittee subpoenaed information regarding Banco República. In July 2000, when I was made fully aware that the working materials in the branch's files for Banco República contained informal, internally generated information about Federal Bank, I determined in consultation with Citigroup management that the Buenos Aires branch should offer that information to the Central Bank of Argentina. On July 27, I sent a letter to the Central Bank making this offer, and in September, at the request of the Central Bank, the branch provided this material.

While the branch's initial response to the Central Bank was legally correct under Argentine law, Citigroup's policy is to do more than comply with the legal requirements of the jurisdictions in which we operate. It is Citigroup's policy to cooperate fully with regulators in all circumstances, which means going beyond our basic legal obligations. After reviewing the facts personally, I believe that although the branch's initial response to the Central Bank was correct

under Argentine law, we should have done more and supplied the additional information, which in fact we did last year.

This matter has been taken very seriously by me and Citigroup's management and I have, in turn, reemphasized to the employees under my supervision that full cooperation with regulators is mandatory in all circumstances and that full cooperation may require them to go beyond what is strictly or legally sufficient to fulfill their obligations. I can personally assure you that as the senior executive in the country, I have reinforced the awareness of Citibank Argentina regarding the policy of having a fully collaborative relationship with the Central Bank in all respects.

Due Diligence on Banco República

The Minority Staff's Report has also criticized certain aspects of the due diligence that the Financial Institutions Unit performed on Federal Bank's parent, Banco República. The personnel in the Financial Institutions Unit understand the importance of thorough due diligence on each of our customers. Such due diligence is a key component of their jobs and their performance in this area is regularly evaluated through audits and performance reviews. Our employees take this aspect of their job seriously, understanding that they are the first line of defense against improper use of Citibank's resources.

As part of their responsibilities and in keeping with Citibank's standard due diligence procedures, the members of the Financial Institutions Unit who were responsible for the Moneta Group relationship asked Banco República's management whether Banco República maintained

anti-money laundering policies. Given the length of Banco República's relationship with Citibank, the relationship managers relied on oral assurances that Banco República maintained an AML manual as required by the Argentine Central Bank. Citibank recently learned from the Minority Staff Report that a confidential and secret examination report of the Central Bank of Argentina — a report to which no Citibank employee had ever had access — criticized Banco República for its failure to maintain a written AML manual.

Citibank agrees that assessing the AML programs of our financial institutions customers is an essential component of knowing our customers. In fact, Citibank's enhanced due diligence procedures for opening New York-based accounts for financial institutions — to which Citibank Argentina adheres — now includes such an assessment. Citibank is currently testing new methods for gathering meaningful information about the AML controls of its financial institutions customers. These enhanced due diligence procedures will require detailed reports by relationship managers about the character and integrity of a financial institution's management, detailed descriptions of a financial institution's AML procedures, and candid assessments of those procedures. As these procedures are being implemented and refined, Citibank Argentina has undertaken a thorough review of the AML practices of all its financial institutions customers.

Thank you for the opportunity to testify today. I would be pleased to answer any questions you might have.

PREPARED REMARKS OF MARTÍN LÓPEZ

Delivered to the United States Senate
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
March 2, 2001

Chairman Collins, Senator Levin, and Members of the Permanent Subcommittee, good morning.

My name is Martín López, and I have worked for Citibank since 1985. I am currently the Head of the Citibank Corporate Bank in the Republic of South Africa. Before that, I worked for Citibank in Buenos Aires, Argentina. In 1988, I became a Relationship Manager in the Financial Institutions Unit in Buenos Aires, where I was responsible for managing Citibank's relationships with various Argentine banks, insurance companies, pension funds, mutual funds, brokerages and asset management companies. In 1997, I became the Head of the Financial Institutions Unit in Buenos Aires, which consisted of four relationship managers who serviced Citibank's relationships with nearly 70 financial institutions in Argentina. I left Buenos Aires in June 2000, and after a brief assignment in Malaysia, I have been in charge of the Citibank Corporate Bank in South Africa since November of last year.

The purpose of these hearings is to explore the extent to which banks that provide correspondent banking services may be vulnerable to money laundering and to find ways to minimize that risk. As an employee of Citibank, I want to assure you that I am

committed to doing whatever I can to help Citibank make its correspondent banking services less vulnerable to money laundering.

Among the ten cases that the Minority Staff has examined over the past year, two cases center on correspondent relationship with offshore banks that are affiliated with Argentine financial institutions. These cases are Citibank's correspondent banking relationship with Mercado Abierto and its offshore affiliate, M.A. Bank, and Citibank's correspondent banking relationship with Banco República and its offshore affiliate, Federal Bank. I would like to say a few words about each.

Citibank's Relationship with Mercado Abierto.

Citibank's decision to open correspondent banking accounts for Mercado Abierto and its affiliates, was based primarily on our experience with the parent institution, Mercado Abierto. Although I was never the relationship manager responsible for this relationship, I can tell you that since 1983 the Mercado Abierto Group has provided asset management, brokerage, and investment services to Argentine investors. Mercado Abierto has been one of the largest and most important brokers in the Buenos Aires stock exchange. In April 2000, Mercado Abierto ranked seventh among brokers trading in the Buenos Aires stock exchange and it managed an investment portfolio worth approximately $400 million.

The Minority Staff has focused most of its attention on M.A. Bank. M.A. Bank is the Mercado Abierto Group's offshore affiliate, incorporated in the Cayman Islands.

M.A. Bank provides sophisticated Argentine investors with access to international financial markets. M.A. Bank trades both Argentine and non-Argentine securities and manages investment portfolios on behalf of Mercado Abierto's more-sophisticated investors as well as for Mercado Abierto's own accounts.

The Minority Staff report refers to M.A. Bank as a "shell bank," which it defines as a bank that has no physical presence in any jurisdiction and that also has no affiliation with a bank that maintains offices in other locations. But during the course of Citibank's relationship with Mercado Abierto, M.A. Bank was affiliated with the Group, which was an important brokerage and asset management company in Argentina. Not surprisingly, the Group maintained a physical presence in Argentina. It was regulated by the Comisión Nacional de Valores (the Argentine version of the Securities and Exchange Commission in the United States).

In 1999, I learned that the U.S. Customs service had launched an undercover investigation that implicated Mr. Ducler, one of the owners of Mercado Abierto, and two of Mercado Abierto's vehicles, M.A. Bank and M.A. Casa de Cambio, in the laundering of narcotics proceeds. Although I had been aware that funds had been seized from the New York accounts of these entities in 1998, it was not until 1999 — when Mercado Abierto's principals handed me the affidavit that the U.S. Customs Service had filed in a United States court — that I realized that the seizure had been based on allegations of money laundering. After I learned of the grounds for the seizure, Citibank blocked these accounts in December 1999 and formally ended its relationship with the entire Mercado

Abierto group in February 2000. I have since learned that the U.S. Customs Service settled its claim against Mercado Abierto and that neither Mercado Abierto nor its principals has been found guilty of any wrongdoing.

The Minority Staff report concludes that Citibank should have more promptly realized that the seizure warrant it received for the Mercado Abierto accounts was related to money laundering. Unfortunately, that is a well-deserved criticism. Citibank now has procedures in place to ensure that warrants like the one Citibank received for Mercado Abierto are properly handled.

But the Minority Staff report also asserts that Citibank permitted M.A. Bank to "engage in highly suspicious activity for more than one and one-half years after assets in its account were seized for illegal activity." And that is simply not true. There is no evidence that suggests that any of the activity that the Minority Staff describes as "highly suspicious" is connected to any sort of illegal activity. What the Minority Staff observed was a significant level of activity among the various Mercado Abierto vehicles is in fact consistent with the various securities markets in which the Mercado Abierto Group traded and the Group's purchase and sale of securities within and outside Argentina. To understand completely the nature of these transfers, one would have to examine not only the Group's correspondent banking accounts in the United States, one would also have to examine the custodial accounts in Argentina and abroad in which securities were held for the Group and its customers, the Group's peso-denominated accounts in Argentina, and the correspondent accounts that the Group maintained at other banks. Although Citibank

does not have access to this information and therefore cannot confirm precisely what purpose these transfers served, these transfers are consistent with the short-term investment strategy described in M.A. Bank's annual financial statements. There is nothing "highly suspicious" about these transfers at all.

I would now like to say a few words about Citibank's relationship with Banco República and Federal Bank.

Citibank's Relationship with Banco República and Federal Bank.

Citibank's relationship with Banco República dates back to 1978, when its owners, Raúl Moneta and his uncle Benito Lucini, established a financial company that later became Banco República, a wholesale bank located in Buenos Aires. I understand that in 1992, Mr. Moneta and Mr. Lucini incorporated Federal Bank, an offshore affiliate of Banco República. That same year, Citibank established a New York-based correspondent banking account for Federal Bank. From mid-1995 until I became head of the Financial Institutions Unit in 1997, I was the Relationship Manager responsible for Citibank's relationship with Banco República and Federal Bank. After I became Financial Institutions Unit Head, I stopped managing the relationship, but supervised those who did.

The relationship between Banco República and Federal Bank was, I believe, well known in the Argentine financial community, particularly among those banks that loaned money to República Holdings, the Moneta family's offshore holding company. My

understanding of the relationship between these entities, as evidenced by the documents that have been provided to the Minority Staff, is that Federal Bank served several purposes: it provided private banking services to Banco República's wealthiest individual customers; it provided Banco República with access to liquidity; it bought and sold securities; and, from time to time, it helped finance República Holdings' participation in various Argentine companies — including CEI, Telefónica, and Telecom — through various securities transactions in which shares of those companies were swapped or pledged as collateral in order to raise capital to buy additional shares. The Subcommittee has noted that $4.5 billion moved through Federal Bank's correspondent account at Citibank. In my experience, $4.5 billion in credits (which averages to approximately $50 million per month or approximately $2.5 million per day) over seven-and-a-half years is consistent with these purposes and would not be unusual for a bank of this size. In December 1996, Federal Bank had $667 million in assets, of which $444 originated from the purchase or sale of securities; in December 1995, Federal Bank had $533 million of assets, of which $362 originated from the purchase or sale of securities. Given these assets as well as Federal Bank's significant involvement in securities trading, the average movement of $2.5 million dollars a day through Federal Bank's account is not surprising.

Much of the interest in Banco República and Federal Bank appears to stem from confidential and secret examination reports for Banco República by the Central Bank of Argentina. When the Minority Staff made these confidential and secret examination reports available to me, I found two things that concerned me. First, the reports pointed

out that Banco República did not have written anti-money laundering procedures, as required by the Argentine Central Bank. Given the length of Banco República's relationship with Citibank, the relationship managers — myself included — relied on oral assurances that Banco República maintained written anti-money laundering procedures as required by the Argentine Central Bank. I was therefore surprised to learn that Banco República failed to comply with this requirement. But under Citibank's enhanced due diligence procedures for U.S. accounts, relationship managers will be required to assess the AML controls that Citibank's clients have in place. I understand that Citibank Argentina is now reviewing the AML practices of all its financial institution customers.

Second, I was surprised to learn that Pablo Lucini had denied that Federal Bank was affiliated with Banco República. As I have said, it was common knowledge in the financial community that Federal Bank was the offshore affiliate of Banco República. As you can see from our files, although we could not legally prove that Federal Bank was affiliated with Banco República, we certainly believed that it was. I understand that Mr. Moneta has denied that he has any interest in Federal Bank.

In April 1999, the Central Bank of Argentina sent a letter requesting information about Federal Bank — particularly about its owners — to the Buenos Aires branch of Citibank. Because I believed that Federal Bank's affiliation with Banco República was known in the Argentine financial community and I knew that the Central Bank's examiners had a great deal of expertise in the market, I thought that they already had grounds to believe that these entities were affiliated. I therefore concluded that the

Central Bank must have been looking for legal proof — irrebuttable, undeniable evidence — that the Moneta Group owned Federal Bank. And while our files contained a lot of internally generated documents that reflected our understanding of the relationship, we did not have the legal proof that I thought the Central Bank was looking for.

I was also concerned when I reviewed the Central Bank's letter that we were being put in an awkward position — we were being drawn into the middle of a matter between the Central Bank and one of our customers. When I was interviewed by the Minority Staff, I used an imprecise expression to describe this situation. When I said that I believed the Central Bank was playing "some kind of game," I merely meant to express my concern that we were being put in this uncomfortable position. I did not intend in any way to suggest disrespect to the Central Bank, which has done an excellent job supervising the Argentine financial system, and I fully appreciate that it is Citibank's policy to cooperate fully with requests from regulators.

The branch's original response to the Central Bank was based upon the technical analysis that we did not have legal proof in our files. This analysis was legally correct; but Citibank's policy is to go beyond the minimum that is technically or legally required when it comes to cooperating with regulators.

I thank you for the attention that you are giving to correspondent banking and its vulnerability to money laundering, and for giving me the opportunity to testify before you today.

U.S. SENATE PERMANENT SUB-COMMITTEE ON INVESTIGATIONS

TESTIMONY GIVEN BEFORE THE COMMITTEE AT A HEARING HELD ON

MARCH 6, 2001

Arthur O. Jacques
Jacques Little, Barristers & Solicitors
Toronto, Ontario, Canada

EXECUTIVE SUMMARY[1]

1. By way of background, I am a Canadian Barrister and Solicitor and member of the Ontario Bar. The bulk of my professional expertise and experience relates to financial restructuring, insolvency and receivership, and cross-border corporate enterprises. Since my call to the bar in 1971 in Canada, I have had some exposure to financial defaults and distressed organizations in the U.S.

2. In April of 2000, my firm was retained to deal with an issue that had previously impacted on a new group of clients referred to as Gold Chance Int'l Limited Group ("Gold Chance"). Gold Chance had previously attempted to take advantage of an opportunity to exploit a certain petrochemical technology in Canada. Gold Chance had obtained, inter alia, the North American exploitation rights for the technology. Significant capital was expended internally to procure the rights and substantial capital was thereafter required and sought after to develop the rights in Canada and elsewhere. As a result, the sum of $12,000,000 (U.S.) was required to further the advancement of the technology.

   Gold Chance through arms-length intermediaries attempted to access the funding requirements for its development.

3. In the late fall of 1999, a binding financial arrangement was entered into under which certain off shore entities were to provide in Canada the appropriate funding. As a condition precedent the Lending Agreement, an advance sum of $3,000,000 was placed into the Lender's lawyer's trust account in Ontario. Thereafter, it was expressly stipulated in the Lending Agreement that the funds represented by the deposit were to remain in a segregated trust account in Ontario until all of the principal sums under the lending agreement were advanced to Gold Chance.

4. It turned out that the funds under the Lending Agreement were never advanced and Gold Chance demanded the return of the funds held in trust. When the funds were ultimately not returned, my law firm, Jacques Little, then proceeded to represent Gold Chance for the first time. Due to the complexity of the proceedings, co-counsel were retained in Ontario, Mr. David Wires of McCague, Wires.

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[1] My voluntary appearance here today is at the request of the United States Senate Permanent Sub-committee on Investigations with particular reference to correspondent banking and money laundering in terms of existing controls and access to the U.S. financial system. My appearance is not intended to be any waiver of attorney client privilege.

5. Civil proceedings were implemented in the spring of 2000 for the return of the trust funds in the Superior Court of Justice for the Province of Ontario [Ontario Court File No. 00-CV-188866].

The salient facts for the purpose of my appearance are as follows:

(a) The sum of $3,000,000 (U.S.) was given to the Ontario law firm on December 3, 1999 by way of bank draft drawn on a Canadian Schedule One bank payable to "Daigle & Hancock, Barristers & Solicitors, In Trust." Thereafter the aforesaid amount was immediately deposited in the law firm's trust account in Toronto.

(b) On December 10, 1999 the law firm's bankers were instructed, in writing, to wire transfer the $3,000,000 (U.S.) to:

Beneficiary:	Free Trade Bureau S.A.
Bank of Beneficiary:	British Trade & Commerce Bank
Beneficiary's Account Number:	100-011381-6
Via U.S. Correspondent Bank:	First Union National Bank
ABA Number:	063-000-021
Swift BIC:	PNBPUS33CHA
Credit to the Correspondent Account No.	9983871373

6. It was subsequently ascertained that the Gold Chance Trust funds without any knowledge on behalf of our client were dispensed on instruction from British Trade & Commerce Bank ("BTCB") in Dominica/Florida from the First Union Account in Jacksonville, Florida to selected bank accounts all over the world from December 1999 to February 2000, including transfers within the U.S., (most particular into the State of Idaho) as well as additional transfers to Switzerland, Nevis, Hong Kong, India, United Arab Emirates, Dominica and Canada. [See Page 275 of the Sub-committee's *Report on Correspondent Banking: A Gateway to Money Laundering*.]

7. It is noteworthy that prior to the Gold Chance demand for the return of funds and commencement of civil proceedings in Ontario, Gold Chance had no knowledge of the existence of (a) First Union National Bank and their receipt of funds in December 1999 or (b) the existence and role of BTCB with respect to any management, control or use of the funds.

8. On March 13, 2000 our client requested to "have its collateral security held by [the law firm] as our fiduciary immediately returned to us." As of the date hereof (March 6, 2001), no funds held in trust and controlled by BTCB have been returned, notwithstanding repeated demands and the commencement of civil proceedings in Ontario. It is not disputed in any fashion whatsoever that Gold Chance is entitled to the return of the funds.

9. The proceedings in Ontario, although complex in nature, were successful in that interim relief was granted in the form of a Mareva Injunction as well as an Anton Pillar Order against stipulated Defendants in Ontario. Additional ancillary relief was being requested against the non-resident Defendant BTCB and its senior officer and director, Mr. George E. Betts C.P.A., a citizen of the United States and a sometime resident of Boise, Idaho.

10. When it was factually discovered that the funds had been forwarded to First Union National bank in Florida, a legal procedure was adopted in Ontario to have Letters of Request addressed to the appropriate Court in Florida requesting certain relief in the form of subpoena and examination against appropriate parties in control of information at First Union National Bank. In the first instance, prior to the implementation of the Letters of Request, and recognition of comity by the Florida Court, First Union National Bank refused to acquiesce to the request for information. Ultimately, significant information was obtained through the direction and supervision of the Florida Court with the able assistance of our Florida Counsel, Mr. Alvin Lindsay III of Steel Hector & Davis in Miami.

11. The information obtained was startling and revealing with respect to the displacement of our client's trust funds. [See Page 275 and following of the Sub-committee's *Report on Correspondent Banking: A Gateway to Money Laundering*.]

Role of the First Union National Bank:

12. The December 15, 1999 transfer of the Gold Chance $3,000,000 (U.S.) trust funds from the Bank of Montreal Canadian lawyer's trust account was effected through a "cap" account at First Union National Bank in Jacksonville, Florida (Account No. 9983871223) held by British Trade & Commerce Bank ("BTCB") of Dominica. Gold Chance learned that the BTCB account was opened on December 28, 1998, and included the instruction that correspondence was to be sent by First Union to BTCB through an entity know as FEC Financial Holdings Inc. located at 444 Brickle Avenue, Miami, Florida. Apparently, First Union had knowledge that BTCB used this "cap", or money-market account, as a "correspondent account."

13. As shown on the annexed chart, within 45 days after being placed in the First Union account, agents for BTCB transferred the entire $3,000,000 to other accounts around the world through numerous transfers ranging from $7,000 to $1,000,000. Bank records also indicate that approximately $45,000 of the Gold Chance $3,000,000 was transferred from the First Union account directly to FEC Financial Holdings Inc. in Miami. Gold Chance believes that FEC Financial Holdings Inc. owns First Equity Corporation of Florida, an investment bank prominently located at the same 444 Brickle Avenue, Miami, Florida address. BTCB, of Dominica, it appears, purchased First Equity Corporation of Florida in 1998. Subsequently, it transferred First Equity Corporation to FEC Holdings Inc., a United States publicly held corporation, which Gold Chance believes is still owned and controlled by the principals of BTCB.

Role of British Trade & Commerce Bank:

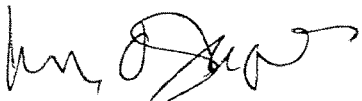
14. During the course of the on-going litigation commence in the Province of Ontario BTCB in the month of October 2000 submitted its own Letter of Credit in clean an

unqualified fashion for the sum of $3M with a maturity date of December 15, 2000. The BTCB Letter of Credit was deposited to the credit of the Accountant of the Superior Court of Ontario with reference of the outstanding action. Gold Chance expressly took no position with respect to the Letter of Credit. BTCB was unable to obtain a confirming bank in Canada with respect to the Letter of Credit. Prior to the maturity date of the Letter of Credit, all conditions precedent were appropriately implemented by the Accountant of the Superior Court of Ontario with respect to a "Call" on the Letter of Credit in reference to the maturity date of December 15, 2000. BTCB has now defaulted in the payment of the clean and unqualified terms of the Letter of Credit that had been previously issued in accordance with international banking practice.

15. Approximately ten days ago, the Ministry of Finance for the Republic of Dominica cancelled the offshore banking license of BTCB. We understand, that subject to an outstanding appeal, that PriceWaterhouseCoopers (WI) has been appointed as Interim Receiver to assist the examination and review of the financial affairs and undertaking of BTCB. We understand that investigatory agencies and other law enforcement agencies in the Untied States are currently reviewing the affairs of BTCB.

16. The litigation is proceeding in Ontario and elsewhere.

Respectfully submitted,



Arthur O. Jacques

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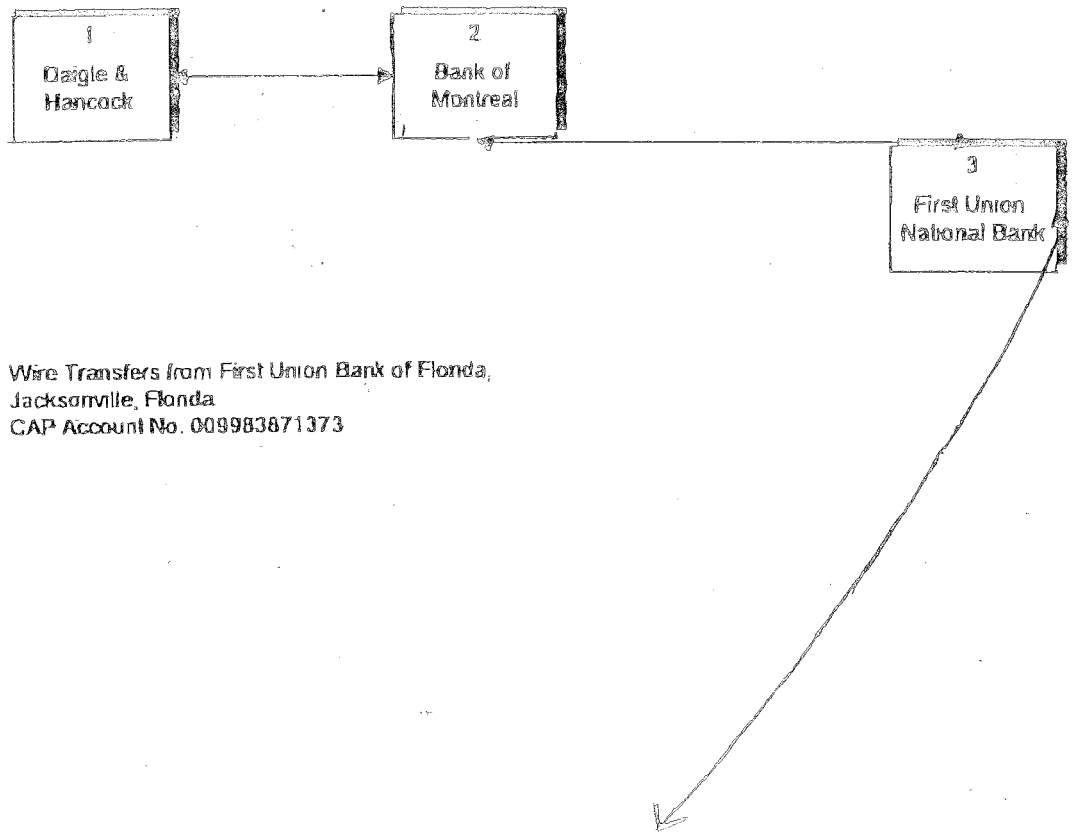

Wire Transfers from First Union Bank of Florida,
Jacksonville, Florida
CAP Account No. 009983871373

4

Idaho

Date 01/03/2000
Recipient Orphan Advocates LLC
Bank Recipient Bank of America Boise
Amount $1,000,000.00

5

Niagara Falls, Ontario

Date 12/23/1999
Recipient: Paul Shemakov
Bank Recipient: Bank of Montreal Niagara Falls
Amount $14,625.00

6

New Delhi, India

Date 12/23/1999
Recipient Indian Forwarding Company Ltd
Bank Recipient Grindlay Bank new Delhi
Amount $10,000.00

7

Florida, U.S.A

Date: 12/23/1999
Recipient: Gertrude Lawrence
Bank Recipient: Nations Bank of Florida NA
Amount: $10,000.00

8

Abu Dabbai

Date 12/23/1999
Recipient: Ashok Kumar
Bank Recipient: Abu Dabbai Commercial Bank
Amount $20,000.00

9

New Delhi, India

Date: 12/23/1999
Recipient: Ragiv Ahuja
Bank Recipient ANZ Grindlay New Delhi
Amount $25,000.00

10

Miami, Florida U.S.A

Date: 12/23/1999
Recipient: Rodolfo Requena
Bank Recipient: Union Planters Bank Miami
Amount: $40,000.00

11

Dominica

Date 12/23/1999
Recipient: British Trade Commerce Bank
Bank Recipient National Commercial Bank Dom
Amount: $50,000.00

12

Dubai

Date 12/23/1999
Recipient Greyhound Ferrel
Bank Recipient Mashreqbank Dubai
Amount $50,000.00

13
New Delhi, India

Date 12/23/1999
Recipient: Asset Management India
Bank Recipient: Omdaya New Delhi
Amount: $140,000.00

14
Hong Kong

Date: 12/23/1999
Recipient: Wanwipt Chaualong
Bank Recipient: Hong Kong Shanghai Bank Corporation
Amount: $200,000 00

15
Miami Florida

Date: 12/21/1999
Recipient: British Trade Commerce Bank
Bank Recipient Pacific National Bank Miami
Amount: $55,000 00

16
Dubai

Date: 12/21/1999
Recipient Graham Farrell
Bank Recipient: Mashreq Bank Dubai via NY
Amount: $200,000.00

17

Date 12/21/1999
Amount: $205,000.00

18
Switzerland

Date: 12/21/1999
Recipient: Laurent Finance and Switzerland
Bank Recipient Banque Cantonale de Geneve
Amount: $612,000.00

19
Dominica

Date: 12/20/1999
Recipient Insal Corn Limited
Bank Recipient National Commercial Bank Dominica
Amount $10,000 00

20
Denver, Colorado

Date: 12/20/1999
Recipient John Hasbaick
Bank Recipient: Northwest Bank Denver
Amount: $10,000 00

21
Dominica

Date 12/20/1999
Recipient British Trade Commerce Bank
Bank Recipient: National Commercial Bank Dominica
Amount. $50,000.00

22
Miami Florida

Date: 12/21/1999
Recipient: M. Manfardo
Bank Recipient: Executive Miami Bank
Amount: $13,000.00

23
Miami Florida

Date: 12/10/1999
Recipient: British Trade
Bank Recipient: Pacific National Bank
Amount: $30,000.00

24
Dominica

Date: 12/10/1999
Recipient: Brown Brothers Harman Inv. Bankers
Bank Recipient: National Commercial Bank of Dominica

25
Miami

Date: 12/13/1999
Recipient: British Trade
Bank Recipient: Pacific national Bank Miami
Amount: $50,000.00

26
Dominica

Date: 12/14/1999
Recipient: British Trade
Bank Recipient: National Commercial Bank of Dominica
Amount: $20,000.00

27
Florida

Date: 12/14/1999
Recipient: FEC Holding Inc
Amount: $45,000.00

28
Oklahoma

Date: 12/16/1999
Recipient: Republics Product
Bank Recipient: First National Anglers Oklahoma
Amount: $15,339.95

29
Chicago

Date: 12/16/1999
Recipient: Arensoa Office Furnishing
Bank Recipient: Lasalle National Bank Chicago
Amount: $29,037.25

30
Dominica

Date: 12/17/1999
Recipient: Caribean Building Agency Ltd
Bank Recipient: National Commercial Bank fo Dominica
Amount: $50,000.00

31
San Francisco

Date: 12/15/1999
Recipient: Roeters Van Lennep
Bank Recipient: Wells Fargo SF
Amount: $10,000.00

32
Nevis

Date: 12/16/1999
Recipient: Universal Marketing Consultants
Bank Recipient: Bank of Nevis International Charlestown Nevis
Amount: $93,000.00

33
Nassau

Date: 12/17/1999
Recipient: Barclays Bank PLC for further credit
Bank Recipient: BSI Corp Nassau
Amount: $240,000.00

34

The December 15, 1999 transfer of the Gold Chance $3,000,000 (U.S.) from the Bank of Montreal attorney trust account was effected through a "cap" account at First Union National Bank in Jacksonville, Florida (Account No. 9983871223) held by British Trade & Commerce Bank ("BTCB") of Dominica. Gold Chance learned that the BTCB account was opened on December 28, 1998, and included the instruction that correspondence was to be sent by First Union to BTCB through an entity know as FEC Financial Holdings Inc. located at 444 Brickle Avenue, Miami, Florida. Apparently, First Union had knowledge that BTCB used this "cap", or money-market account, as a "correspondent account."

As shown above, within 45 days after being placed in the First Union account, agents for BTCB transferred the entire $3,000,000 to other accounts around the world through numerous transfers ranging from $7,000 to $1,000,000. Bank records also indicate that approximately $45,000 of the Gold Chance $3,000,000 was transferred from the First Union account directly to FEC Financial Holdings Inc. in Miami. Gold Chance believes that FEC Financial Holdings Inc. owns First Equity Corporation of Florida, an investment bank prominently located at the same 444 Brickle Avenue, Miami, Florida address. BTCB, of Dominica, it appears, purchased First Equity Corporation of Florida in 1998. Subsequently, it transferred First Equity Corporation to FEC Holdings Inc., a United States publicly held corporation, which Gold Chance believes is still owned and controlled by the principals of BTCB.

Testimony of Joseph M. Myers
Acting Deputy Assistant Secretary (Enforcement Policy)
U.S. Department of the Treasury
March 6, 2001

Before the Senate Permanent Subcommittee on Investigations
of the
Committee on Governmental Affairs
United States Senate

Introduction

Madame Chairperson, Senator Levin, and members of the Subcommittee, I am pleased to appear before you today to discuss the issues raised in your Minority Staff's February 5, 2001 report, "Correspondent Banking: A Gateway to Money Laundering" (the "Minority Staff Report"). We at the Department of the Treasury appreciate the efforts you have made to focus attention on this important topic.

In my testimony today, I would like to describe some of the steps we have taken at the Treasury to address the threat of international money laundering, to report on the concrete results of some of those steps and on some of the current efforts that are underway.

I hope you will understand that we are still formulating our positions on a number of issues raised by this hearing and the report that underlies it. Accordingly, I am not in a position today to address the majority of the specific recommendations from the Minority Staff Report. I can assure you, however, that we are taking a hard look at them, and are reviewing the factual record included in the report and amassed during the hearing as part of our deliberations. We also have asked the minority staff for the complete results of the survey they conducted of banks in the correspondent banking business, and we look forward to reviewing those results in detail.

The National Money Laundering Strategy

As you know, the Treasury and Justice Departments have jointly issued two National Money Laundering Strategies to meet our obligations under the Money Laundering and Financial Crimes Strategy Act of 1998, Pub. L. 105-310 (October 30, 1998 (the "1998 Strategy Act"). In both Strategies, we have identified a broad range of activities intended to improve our ability to combat money laundering at home and abroad. These measures involve the investigation and prosecution of violations of our laws, regulation of financial services providers, cooperation with state and local officials, and the pursuit of policies to ensure effective international cooperation.

In this broad context, both Strategies have identified correspondent banking relationships – and in particular international correspondent banking relationships – as vulnerable to abuse by criminals seeking to disguise the proceeds of crime. At the same time, we have recognized that international correspondent banking is critically important to international business and finance, and to the continuing predominance of the dollar as the preferred currency for financing international trade.

Last year's Strategy acknowledged that correspondent banking accounts and other international financial mechanisms such as payable through accounts, private banking, and wire transfers – important features of the international banking system – are potential vehicles for money laundering. The Strategy thus recognized the need for further examination of these mechanisms, and to find ways of addressing potential abuses without disrupting legitimate economic activity.[1] The Strategy also outlined steps to be taken in the regulatory area, including the development of guidance for enhanced scrutiny and reporting of suspicious transactions, and the implementation of revised bank examination procedures. Each of these items anticipated incorporating the results of the review of correspondent banking activity.[2] Finally, the 2000 National Money Laundering Strategy called for continued support of a range of international efforts to combat "financial abuse", including in particular the Financial Action Task Force's ("FATF's") project to identify jurisdictions that are not sufficiently cooperating in the international fight against money laundering.

The interagency community has substantially accomplished the goals articulated in last year's Strategy in this area. In September, 2000, the Office of the Comptroller of the Currency (OCC) issued the Bank Secrecy Act/Anti-Money Laundering Examination Handbook. This handbook establishes examination procedures for evaluating a bank's system to detect and report suspicious activity, and identifies common money laundering schemes (e.g., structuring, the Black Market Peso Exchange, Mexican Bank Drafts, and factored third party checks). The handbook also identifies high risk products and services, including international correspondent banking relationships, special use accounts, and private banking, and establishes examination procedures to address these subjects, including specialized procedures for foreign correspondent banking.

In addition, the OCC has initiated a program to identify banks that may be vulnerable to money laundering and examine those banks using agency experts and specialized procedures. Some of those examinations have focused on foreign correspondent banking. Banks are selected for such examinations based on, among other things, their location in high-intensity drug trafficking or money laundering areas, law enforcement leads, excessive currency flows, significant private banking activities, suspicious activity reporting and large currency transaction reporting patterns, and funds transfers or account relationships with drug source or stringent bank secrecy countries.

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[1] See 2000 National Money Laundering Strategy, Action Item 4.7.3 (at p. 81).

[2] Id., at Action Items 2.1.1 and 2.1.2 (pp. 34 – 36).

We have also made a great deal of progress in addressing the risks involved in international correspondent banking through our active support of the Financial Action Task Force's project to identify non-cooperative countries and territories ("NCCTs"). Meetings last spring with U.S. financial services providers to discuss international correspondent banking – especially those with the New York money center banks – convinced us of several important things:

- First, that world trade depends upon the rapid and reliable clearing of dollar accounts held at U.S. financial institutions by respondent banks across the globe;

- Second, that billions, if not trillions, of dollars are cleared through U.S. money center bank accounts each and every day (so that any regulatory solution to the problem of abuse in this area would have to be extremely carefully targeted to avoid interfering with this trade);

- Third, that although anecdotal information exists, no serious systemic study has yet been done to document the scope and nature of abuses of international correspondent banking relationships; and,

- Fourth, that the banking community wants more assistance from the government in terms of identifying high risk areas of their correspondent banking business, and that they want us to do so in a way that does not undermine their competitive position in the global economy.

At around the same time we were meeting with the banks, the Treasury Department became aware of the Subcommittee Staff's survey of a number of banks and the investigation that ultimately led to this hearing. The Treasury Department has focused its efforts on identifying NCCTs, and warning our domestic financial institutions about them.

Of the eight foreign jurisdictions involved in the case studies outlined in the Minority Staff Report, six of them are on the FATF list of 15 NCCTs, and seven of them are the subject of the formal advisories from Treasury's Financial Crime Enforcement Network ("FinCEN"). The FinCEN advisories alert U.S. financial institutions of specific deficiencies identified by the FATF review and confirmed by our own analysis, and encourage our institutions to apply enhanced scrutiny to transactions involving those jurisdictions. However, the advisories do not discourage banks from maintaining these relationships. 23 of the 29 FATF members have issued similar warnings to their domestic financial institutions.

On August 9, 2000, the OCC issued Advisory Letter 2000-8, "U.S. Department of the Treasury FinCEN Advisories 13 through 17." The OCC transmitted to financial institutions under its supervision, FinCEN Advisories advising banks of the serious

deficiencies in the counter-money-laundering systems in the 15 jurisdictons identified in the FATF NCCT process. In addition, the OCC emphasized the need for banks to pay particular attention to the possibility of suspicious transactions in high-risk areas, including foreign correspondent banking. As a result of the FinCEN advisories, the OCC implemented a program to review the anti-money laundering programs in all banks with significant exposure to one or more of the NCCTs. The OCC is in the process of evaluating these banks to determine whether their systems and processes are adequate to control the anti-money laundering risks associated with the NCCTs.

We have also been working with our allies and with officials from NCCTs themselves to correct deficiencies in law, regulation, and practice that aggravate the risk associated with the international correspondent banking business. In response to these efforts, seven of the 15 NCCTs – the Bahamas, the Cayman Islands, the Cook Islands, Israel, Liechtenstein, and Panama -- have already enacted most, if not all, of the legislative or regulatory changes necessary to bring their systems into line with international standards. These jurisdictions are now developing and discussing with the FATF specific plans to implement these changes, and we are working on a timetable that will allow jurisdictions that have taken appropriate remedial measures to be de-listed at the earliest possible time.

Not only has the NCCT list and the FinCEN advisories prompted movement within the NCCTs; they have also increased the quantity and quality of suspicious activity reports ("SARs") filed by U. S. financial institutions. The Financial Crimes Enforcement Network has embarked upon an analysis of the SAR filings related to the 15 NCCTs. The findings from their work will be incorporated into the second Review of SAR filings that the interagency community expects to publish jointly with the American Bankers' Association in April. The report will show, among other things, that since the issuance of the advisories last July through November 2000, U.S. financial institutions (including foreign banks operating in the U.S.) roughly doubled the rate of filing of SARs for most NCCTs. Preliminary analysis of December 2000 SARs confirms this trend. The majority of these filings describe wire transfer activity either to or from the country in question. Dollar amounts involving wire transfer activity tend to be high – frequently in the millions of dollars. The remaining SARs describe, for the most part, structuring of cash and monetary instrument transactions involving money orders, travelers checks and cashiers checks. In most instances, financial institutions in the U.S. are a link in a chain of international transactions as opposed to the originating or end point in the movement of suspicious funds. Although further FinCEN analysis is needed with respect to the NCCT SARs, it is apparent that international correspondent account activity of the type discussed in the PSI Report has been and continues to be noted. Such correspondent account activity was also identified in a separate study of domestic U.S. shell company activity that was summarized last fall in the initial issue of the *SAR Activity Review – Trends, Tips and Issues*. The challenge we now face is to make effective use of this SAR information both in investigations and in providing feedback to the financial services community.

I want to emphasize that the FATF NCCT project, and our domestic support for it, are works in progress. The FATF has embarked upon a second round of review, and should be in a position to list additional jurisdictions in June. As I have indicated, we are also actively involved in helping listed jurisdictions respond to the concerns identified by the FATF, and many are working effectively to do so. But some, unfortunately, have shown little progress. The FATF has indicated its special concern about the relative lack of progress in the Russian Federation, Lebanon, the Philippines, and Nauru. Each has its own particular obstacles to address, but the international community is expecting a positive response to the concerns identified. The FATF is planning in June to reach a decision with respect to countermeasures for those jurisdictions, identified as non-cooperative in June 2000, which have not made adequate progress. Secretary O'Neill attended his first meeting with his G-7 counterparts in Palermo two weeks ago, where the ministers confirmed their support for countermeasures, as appropriate.

Finally, it is important to recognize that the FATF work on NCCTs is taking place in a broad context of initiatives to protect against abuse of the international financial system. The OECD is working to ensure transparency and information sharing on fiscal matters, and the Financial Stability Forum has identified the need for improved supervision in a number of offshore centers. We are working within the G-7 to ensure that the true originators are identified on all funds transfer payment orders, and we have also seen progress toward a consensus that financial institutions should apply enhanced due diligence in private banking relationships with foreign officials.

Next Steps

By statute, the National Money Laundering Strategy is due to the Congress each year on February 1. This year, we have asked for an extension of the deadline until April 1. As we work to meet that deadline, we look forward to continuing a cooperative effort in pursuit of our common goal – preventing criminals from realizing the proceeds of their crimes.

The Minority Staff Report raises a number of important issues that deserve careful consideration. As we consider what, if any, additional measures may be necessary to reduce the risk of abuse in this area, it will be important to ensure that such measures do not interfere with legitimate commerce and international trade finance, or put our institutions at a competitive disadvantage in the global marketplace. The Treasury Department is committed to work with the Congress to ensure that we have all the necessary tools to combat money laundering. We will carefully evaluate the various legislative proposals that have been put forward in this area. In doing so, we will consult with the interagency community and financial institutions, and seek to balance the legitimate interests of law enforcement with the equally legitimate concerns about privacy and regulatory burdens.

Meanwhile, we will continue to pursue the productive path of the FATF NCCT

project, to identify and then work with countries to correct serious, systemic deficiencies in anti-money laundering regimes. And we will be prepared, as necessary, to implement countermeasures with respect to countries that make inadequate progress to address the concerns identified by the international community.

We will also take the work of the Subcommittee into consideration in the context of the review of the FATF 40 recommendations, specifically in the context of the effort to elaborate best practices for customer identification.

Conclusion

In closing, I again would like to thank the Subcommittee and its staff for its work in this area. The Minority Staff Report explores an important area. Law enforcement is all too accustomed to encountering obstacles to international investigations. It is troubling for all of us to encounter case histories where foreign financial institutions are actively facilitating financial crimes.

At the same time, it is clear that international correspondent banking is the underpinning of the global financial system, and U.S. banks are already subject to extensive obligations and regulatory oversight to protect against money laundering. As we prepare the 2001 National Money Laundering Strategy, we will take into serious consideration the results of this hearing, with a particular focus on ways that we can improve our oversight and enforcement of existing laws and regulations.

Thank you again for the opportunity to appear before you today. I will be happy to answer any questions you might have.

Testimony of Mary Lee Warren
Deputy Assistant Attorney General, Criminal Division
United States Department of Justice
on March 6, 2001

Before the Permanent Subcommittee on Investigations
of the
Committee on Governmental Affairs
United States Senate

Chairman Collins, Senator Levin, and Members of the Subcommittee, I am pleased to appear before the Permanent Subcommittee on Investigations to offer the Department of Justice's views regarding the use and abuse of correspondent banking relationships in the United States. I serve as Deputy Assistant Attorney General, overseeing money laundering and asset forfeiture issues for the Criminal Division. Prior to this position, I was Chief of the Narcotic and Dangerous Drug Section. Before that, I was an Assistant U.S. Attorney in the Southern District of New York for 11 years, prosecuting drugs, money laundering and other cases.

The Criminal Division has been pleased to provide the Subcommittee with information concerning U.S. law enforcement activities related to our anti-money laundering efforts and correspondent bank relationships, and to share our views and insights on the prosecutive and investigative obstacles and hindrances presented by correspondent bank accounts. Further, we look forward to continuing our cooperative efforts with the Subcommittee to work towards the best possible statutory and

regulatory framework to support our anti-money laundering enforcement efforts.

Today, you have asked the Department of Justice to focus its remarks in three main areas identified in the Subcommittee's Minority Staff Report: (1) the extent to which money laundering through U.S. correspondent bank accounts is a significant law enforcement concern; (2) the legal and practical challenges in seizing putative illicit funds and identifying beneficial owners of and depositors into such accounts; and (3) our views on recommended amendments of forfeiture law related to correspondent bank accounts and other Subcommittee recommendations.

Subcommittee Minority Staff Report on Correspondent Banking

At the outset, the Department would like to commend the Subcommittee for its fine efforts in carefully researching and producing the report on correspondent banking. As the Subcommittee members and your staff know, money laundering is an increasingly international phenomenon, involving trillions of legitimate dollars masking hundreds of millions of dollars of illicit proceeds flowing through the same international and domestic clearinghouses every day.

Access to the U.S. financial system through dollar-currency clearinghouses is fundamental to the world's legitimate financial markets, and correspondent banking is an essential service that

financial institutions provide to legitimate customers around the globe. Unfortunately, permitting legitimate account-holders to have access to these financial services also necessarily exposes the same financial system to access by international money launderers and other criminals. Your report has correctly identified and highlighted this significant vulnerability of our financial system that has been and continues to be exploited by money launderers and other financial criminals worldwide. Infiltration of the global financial markets by substantial sums of illicit proceeds erodes the integrity of the entire system, as well as erodes the tax base of the affected countries. The Subcommittee's report on correspondent banking, as well as the previous one on private banking, make clear that without the proper monitoring and supervision, the legitimate and necessary financial mechanisms can and undoubtedly will become corrupted.

Impact of Correspondent Banking on Law Enforcement

The international movement of illicit proceeds through correspondent bank accounts servicing foreign institutions is often difficult to detect. Further, even when detected, law enforcement may encounter significant hurdles in tracing, seizing, and forfeiting such funds.

Typically, correspondent bank accounts are used in the "layering" or "integration" stages of money laundering, in which

the criminal financiers attempt to mask the origin and nature of the underlying funds, after the proceeds have already been "placed" into the financial system. Determining the true beneficial owner of funds being transferred through a correspondent account can be a very difficult challenge for investigators in these second and third stages of money laundering.

Again and again, law enforcement investigations - despite best efforts by dedicated professionals - continue to be frustrated by the movements of criminally-derived funds into and through certain jurisdictions where our ability to identify the true beneficial owner is impaired or prevented. Most often, this frustration occurs, as noted in your report, when U.S. financial institutions offer banking relations to foreign "shell" banks, "offshore" banks, and other banks located in countries that provide broad bank secrecy protections for customers and that have little or no effective anti-money laundering or forfeiture laws or regulations.

In addition, in many cases, a foreign bank may claim ownership of the entire amount in a correspondent account, thus protecting and shielding the actual identity of the underlying owner of the funds and allowing the owner to be shielded by the facade of the bank. Some foreign governments also impose legal restrictions and obstacles making it more difficult - if not

impossible - to determine the true identity of the owner of the funds. In short, overly broad bank secrecy, ineffective licensing and regulatory oversight, and lack of effective anti-money laundering controls combine to make such cases a sometimes insurmountable challenge to financial crime investigators and regulators.

In foreign jurisdictions where "shell" banks or "offshore" banks operate with impunity, banks must be required to keep and maintain proper account and transaction records - particularly, as they relate to the true beneficial owners of funds or property - as banks are required to do in the U.S. It is important to keep such records to protect the bank against any liabilities assumed from questionable customers and to facilitate responses to the legitimate inquiries of effective law enforcement. The U.S. Government regularly works with a number of foreign governments to help establish anti-money laundering controls over their financial institutions.

Understanding that there are locations where foreign banks are not required to maintain banking records, U.S. institutions must then take all reasonable steps to ensure the bona fides of the foreign bank account-holder. U.S. institutions must understand the scope and rigor, if any, of the anti-money laundering and forfeiture regime under which the foreign institution operates - as well as the risks and consequences

resulting from doing business with such entities. In addition, U.S. institutions should monitor their correspondent banking relationships on an ongoing basis, including the transaction activity and the legitimacy of the underlying account-holder(s). Further, law enforcement must be permitted to pierce bank secrecy laws, where appropriate, in order to obtain important financial records.

In sum, U.S. financial institutions must be vigilant, and the U.S. Government must ensure that our laws provide the necessary tools to prosecute individuals who knowingly facilitate the transfer of illicit funds through correspondent bank accounts, and to identify, seize, freeze, and forfeit criminal proceeds transacted through such accounts.

Successes in the Fight Against International Money Laundering

In the context of to the Subcommittee's focus today on correspondent bank accounts and their potential threat to the integrity of the international financial system and legitimate needs of law enforcement, I would be remiss if I did not outline the general facts of a few major successes at the Departments of Justice and the Treasury in our coordinated fight against international financial crime. As the Subcommittee is aware, the two Departments have worked hard together and scored important recent successes in the fight against money laundering.

"Operation Skymaster" was a highly successful undercover operation attacking money laundering that was taking place through the Black Market Peso Exchange (BMPE). From March 1997 through May 1999, Operation Skymaster undercover agents and informants managed to gain the trust of Colombian peso brokers working for Colombian narcotics traffickers. The BMPE system relies on peso brokers in Colombia who convert drug dollars collected and held in the United States into pesos for the Colombian drug suppliers in Colombia through the use of U.S. consumer goods imported into Colombia for Colombian businesses and paid for in U.S. drug dollars.

In this case, the peso brokers directed the undercover agents to pick up the proceeds from drug sales at particular locations and at particular times. The undercover agents then deposited the drug cash into government-controlled bank accounts and wire transferred such funds to bank accounts designated by the peso brokers. Using the Colombian BMPE system, the peso brokers, in turn, wire transferred the dollars to U.S. exporters as payment for goods received by the Colombian importers. Continuing the laundering cycle, the importers received confirmation that the wire transfers were sent and paid the peso brokers the equivalent amount in pesos in Colombia. Thereafter, the peso brokers delivered the pesos to the Colombian drug trafficking groups to complete the cycle.

Operation Skymaster combined the strengths of the U.S. Customs Service, U.S. Attorney's Office in Mobile, Alabama, and Department of Justice's Criminal Division, and has already resulted in 12 convictions on money laundering and drug conspiracy charges.

Similarly, in December 1999, five defendants were indicted in Atlanta, as part of the Organized Crime Drug Enforcement Task Force (OCDETF) anti-money laundering investigation entitled "Operation Juno," which involved a multi-million dollar money laundering scheme. Undercover agents participating in Operation Juno picked up drug proceeds at the direction of the money launderers usually ranging between $100,000 and $500,000 in U.S. currency in Dallas, Houston, New York, Newark, Providence, and Chicago, as well as Madrid and Rome. These funds were subsequently wire-transferred from the originating (collection) city to an undercover bank account in Atlanta and then distributed to various accounts in the U.S. and around the world. As in Operation Skymaster, the drug proceeds in Operation Juno were laundered through the Colombian Black Market Peso Exchange, as peso brokers "exchanged" the dollars on deposit in the undercover bank accounts for Colombian pesos obtained from Colombian importers of U.S. goods. Operation Juno combined the investigative and prosecutive efforts of the Drug Enforcement Administration (DEA), Internal Revenue Service-Criminal

Investigation Division (IRS-CID) and U.S. Attorney's Office in Atlanta.

While these cases provide examples of successful investigations in terms of indictments, convictions, and forfeiture of assets, they also have revealed and highlighted some problems facing law enforcement in tracing and forfeiting criminal proceeds in foreign countries. Our money laundering laws, first enacted in 1986 to address a primarily domestic problem, have not kept pace with the developments in technology and international commerce since that time. The forfeiture cases spawned by Operations Skymaster and Juno investigations underscore the difficulties in forfeiting illegal proceeds transferred through correspondent bank accounts.

The problems encountered fall into three categories. First, due to the existence of offshore banks with representative offices in other foreign countries, it is difficult for U.S. law enforcement to determine the actual location of the funds and in which jurisdiction we should focus our forfeiture efforts. Even where U.S. law enforcement requests the assistance of the correct foreign jurisdiction, our ability to forfeit these funds depends upon the strength of the forfeiture laws in that jurisdiction, which, if available, are frequently incompatible with ours, and upon the cooperation of the foreign government.

The second category of problems arises from the limitations of domestic U.S. forfeiture law that can open to complex, time-consuming legal issues with respect to jurisdiction and venue for the forfeiture case. This is particularly true in cases when U.S. law enforcement does not know initially the final destination or beneficiary of the funds sent through a correspondent account and only determines this fact at a later point in time.

Finally, these problems are exacerbated by the statutory limitations that require the Government to bring forfeiture actions against "fungible property" - such as funds in a bank account - within one year from the date of a money laundering offense (Title 18 U.S.C. Section 984(b)). If the Government does not file its forfeiture action within that time, the Government is required to meet strict tracing requirements that can rarely be satisfied in cases involving correspondent bank accounts. Depending upon who claims a property interest in the funds seized from correspondent bank accounts, the Government may be required to prove that the respondent-bank itself was involved in the money laundering offense (18 U.S.C. Section 984(c)(1)) - often, a very difficult, if not impossible, task.

Problems presented by correspondent bank accounts in forfeiture cases have arisen not only in Operations Skymaster and Juno, but in other cases as well. For example, in Operation

Casablanca, a money laundering prosecution based in Los Angeles involving foreign banks and their correspondent accounts, Criminal Division prosecutors in Washington, D.C. filed civil forfeiture complaints in the District of Columbia against the funds wire transferred to foreign accounts, pursuant to the authority granted in Title 18, U.S. Code, Sections 981(a) and 984, and Title 28 U.S. Code, Section 1355(b). Our efforts to have these funds frozen and forfeited met with a variety of results, depending upon the jurisdiction to which they were transmitted. In some cases, we received cooperation from our foreign counterparts and in others, we did not. In some cases where there was cooperation, challenges and questions were raised as to the appropriate venue and jurisdiction for the action, as well as to the actual location of the funds.

In Operation Casablanca, funds had been wire transferred to a bank account in a foreign location. After filing a civil forfeiture complaint, the Department requested assistance from the foreign government in freezing these funds, pursuant to the 1988 U.N. Vienna Convention. As a result, our foreign counterparts interviewed employees of the bank and determined that the bank, as well as the account to which the funds had been transferred, were actually located in another jurisdiction.

Pursuant to a mutual legal assistance treaty with the second country, the Department advised authorities that we had

information concerning the transfer of drug proceeds to bank accounts within its jurisdiction. Because the laws of this second country only recognized criminal forfeiture and did not allow for assistance to the United States in a civil forfeiture action, the government of the second country opened its own investigation based on the information we provided, and subsequently froze the accounts. However, because the defendants were not then before that court, it was unclear whether the funds could be forfeited criminally. In addition, the bank did not appear to have any actual buildings or branches within the court's jurisdiction, and the assets securing the bank's obligations were not located in the country. Finally, having come almost full circle, it was determined that the assets we were pursuing were likely located in the foreign bank's correspondent account in a U.S. bank in New York City.

Indeed, there remains a great deal of uncertainty today as to the prospects for success in the U.S. civil forfeiture action, because there is a potential claim that the assets in question were actually "located" in the foreign bank's correspondent account in New York. This fact draws into question whether the District of Columbia is the appropriate jurisdiction for purposes of the underlying civil forfeiture action. Unfortunately, however, the Government is now precluded from filing a complaint

in New York because of the one-year limitation under Section 984, discussed previously.

This scenario is one of many examples which illustrates the difficulties we face in tracing, seizing, and forfeiting assets held in correspondent accounts of foreign banks. One should further note that the above example described a situation where the foreign governments were cooperative with the U.S. requests. In many cases, such cooperation cannot be obtained, and the difficulties are further exacerbated if we are dealing with a non-cooperative bank secrecy jurisdiction.

Report Recommendations

Having described these cases, I would now like to shift my remarks to some of the recommendations in the Subcommittee's Minority Staff Report and other suggested solutions. The Minority Staff Report includes six recommendations "to reduce the use of U.S. correspondent banks for money laundering [purposes]." We believe that the first four of these recommendations are primarily regulatory in nature and are therefore best addressed by the bank regulators and supervisors. The final two recommendations, however, deal with law enforcement issues; they suggest that: (1) the U.S. Government "should offer improved assistance to U.S. banks in identifying and evaluating high[-]risk foreign banks," and (2) "forfeiture protections

[provisions] in U.S. law [should] be amended" to enhance our ability to seize and forfeit illicit funds flowing through correspondent bank accounts. These are valuable recommendations, and we agree that they warrant further study and review. We would be pleased to work with the Subcommittee members and staff in revising forfeiture legislation to accomplish these worthy goals.

With respect to the part of the recommendation relating to improving communication channels between the U.S. Government and U.S. banks, it is important to note that U.S. law enforcement currently participates with banks and other representatives from the financial community in an effort to disseminate anti-money laundering and financial crime-related information. The Departments of Justice and the Treasury are actively engaged with bank regulators and the banking community. For example, the Department participates in: (1) the Bank Secrecy Act Advisory Group with representatives from the banking and securities industry and money service businesses; (2) the Suspicious Activities Review group that recently produced the "SAR Activity Review," a series of anti-money laundering publications; and (3) outreach groups concerning the operation of the Black Market Peso Exchange system.

As to the portion of the recommendation regarding advising banks of specific high-risk activities, the Departments of

Justice, the Treasury, and State have been active participants in the Financial Action Task Force's (FATF's) initiative on "Non-Cooperative Countries and Territories." In an effort to encourage other countries to strengthen their anti-money laundering regime, the Department of Justice's Criminal Division works multilaterally to bolster coordinated worldwide enforcement efforts against financial crimes. This program endeavors to identify publicly the locations of the most prevalent money laundering activities in the world and the jurisdictions with the weakest anti-money laundering legal and regulatory framework. Indeed the FATF has identified 15 jurisdictions recently-named by the FATF as being "noncooperative" in money laundering matters. As well, the Department worked well with the Treasury Department and other federal regulators on FinCEN Advisory warnings explaining the shortcomings relating to these 15 jurisdictions.

This multilateral effort has proven to be successful in focusing the world's attention on countries that do not have adequate standards in anti-money laundering enforcement and inspiring named countries to address their shortcomings in this area. The Criminal Division also works extensively to provide assistance to countries that seek to improve their money laundering and asset forfeiture laws and enhance their enforcement programs.

While many jurisdictions do not have the proper anti-money laundering statutes and regulations in place, the U.S. Government, on its own, cannot compel the necessary changes. We need the cooperation of our foreign counterparts to disrupt the flow of criminal proceeds around the globe and deprive criminal organizations of their ill-gotten gains. We must continue to work, in concert, with our international partners to break down the obstacles and barriers that insulate, protect, and disguise the ill-gotten gains from detection in those jurisdictions where adequate anti-money laundering controls are lacking.

With respect to the last recommendation amending our asset forfeiture laws as you suggest, we believe that such a provision could be beneficial in terms of pursuing and prosecuting forfeiture cases and would, as noted previously, be worthy of further study and review. A provision of this kind could eliminate the need to depend upon the enactment of foreign forfeiture law and the willingness of foreign authorities to cooperate. In addition, such a provision could disrupt criminals' attempting to shield their ill-gotten gains behind bank secrecy laws of uncooperative jurisdictions. We strongly believe, as mentioned previously, that illicit proceeds - wherever located in the world - should not be hidden from detection or immune from prosecution based upon weak anti-money laundering enforcement. There should, in our view, be "no safe

haven" for money that is the proceeds of crime. Of course, any such provision would have to be carefully balanced to take into account not just the needs of law enforcement but also concerns about the competitiveness of the U.S. financial system.

Conclusion

Once again, I commend the Subcommittee and your staff for focusing attention on this important issue and preparing this report. We look forward to working with you on solutions to the problems highlighted in your report. I will be happy to respond to any questions you might have.

CORRESPONDENT BANKING: A GATEWAY FOR MONEY LAUNDERING

A REPORT BY THE MINORITY STAFF OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

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MINORITY STAFF OF THE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS REPORT ON CORRESPONDENT BANKING: A GATEWAY FOR MONEY LAUNDERING

February 5, 2001

U.S. banks, through the correspondent accounts they provide to foreign banks, have become conduits for dirty money flowing into the American financial system and have, as a result, facilitated illicit enterprises, including drug trafficking and financial frauds. Correspondent banking occurs when one bank provides services to another bank to move funds, exchange currencies, or carry out other financial transactions. Correspondent accounts in U.S. banks give the owners and clients of poorly regulated, poorly managed, sometimes corrupt, foreign banks with weak or no anti-money laundering controls direct access to the U.S. financial system and the freedom to move money within the United States and around the world.

This report summarizes a year-long investigation by the Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations, under the leadership of Ranking Democrat Senator Carl Levin, into correspondent banking and its use as a tool for laundering money. It is the second of two reports compiled by the Minority Staff at Senator Levin's direction on the U.S. banking system's vulnerabilities to money laundering. The first report, released in November 1999, resulted in Subcommittee hearings on the money laundering vulnerabilities in the private banking activities of U.S. banks.[1]

I. Executive Summary

Many banks in the United States have established correspondent relationships with high risk foreign banks. These foreign banks are: (a) shell banks with no physical presence in any country for conducting business with their clients; (b) offshore banks with licenses limited to transacting business with persons outside the licensing jurisdiction; or (c) banks licensed and regulated by jurisdictions with weak anti-money laundering controls that invite banking abuses and criminal misconduct. Some of these foreign banks are engaged in criminal behavior, some have clients who are engaged in criminal behavior, and some have such poor anti-money laundering controls that they do not know whether or not their clients are engaged in criminal behavior.

[1] See "Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities," S. Hrg. 106–428 (November 9 and 10, 1999), Minority Staff report at 872.

These high risk foreign banks typically have limited resources and staff and use their correspondent bank accounts to conduct operations, provide client services, and move funds. Many deposit all of their funds in, and complete virtually all transactions through, their correspondent accounts, making correspondent banking integral to their operations. Once a correspondent account is open in a U.S. bank, not only the foreign bank but its clients can transact business through the U.S. bank. The result is that the U.S. correspondent banking system has provided a significant gateway into the U.S. financial system for criminals and money launderers.

The industry norm today is for U.S. banks[2] to have dozens, hundreds, or even thousands of correspondent relationships, including a number of relationships with high risk foreign banks. Virtually every U.S. bank examined by the Minority Staff investigation had accounts with offshore banks,[3] and some had relationships with shell banks with no physical presence in any jurisdiction.

High risk foreign banks have been able to open correspondent accounts at U.S. banks and conduct their operations through their U.S. accounts, because, in many cases, U.S. banks fail to adequately screen and monitor foreign banks as clients.

The prevailing principle among U.S. banks has been that any bank holding a valid license issued by a foreign jurisdiction qualifies for a correspondent account, because U.S. banks should be able to rely on the foreign banking license as proof of the foreign bank's good standing. U.S. banks have too often failed to conduct careful due diligence reviews of their foreign bank clients, including obtaining information on the foreign bank's management, finances, reputation, regulatory environment, and anti-money laundering efforts. The frequency of U.S. correspondent relationships with high risk banks, as well as a host of troubling case histories uncovered by the Minority Staff investigation, belie banking industry assertions that existing policies and practices are sufficient to prevent money laundering in the correspondent banking field.

For example, several U.S. banks were unaware that they were servicing respondent banks[4] which had no office in any location, were operating in a jurisdiction where the bank had no license to operate, had never undergone a bank examination by a regulator, or were using U.S. correspondent accounts to facilitate crimes such as drug trafficking, financial fraud or Internet gambling. In other cases, U.S. banks did not know that their respondent banks lacked basic fiscal controls and procedures and would, for example, open accounts without any account opening documentation, accept deposits directed to persons unknown to the bank, or operate without written anti-money laundering procedures. There are other cases in which U.S. banks lacked information about the extent to which re-

[2] The term "U.S. bank" refers in this report to any bank authorized to conduct banking activities in the United States, whether or not the bank or its parent corporation is domiciled in the United States.

[3] The term "offshore bank" is used in this report to refer to banks whose licenses bar them from transacting business with the citizens of their own licensing jurisdiction or bar them from transacting business using the local currency of the licensing jurisdiction. See also the *International Narcotics Control Strategy Report* issued by the U.S. Department of State (March 2000)(hereinafter "INCSR 2000"), "Offshore Financial Centers" at 565–77.

[4] The term "respondent bank" is used in this report to refer to the client of the bank offering correspondent services. The bank offering the services is referred to as the "correspondent bank." All of the respondent banks examined in this investigation are foreign banks.

spondent banks had been named in criminal or civil proceedings involving money laundering or other wrongdoing. In several instances, after being informed by Minority Staff investigators about a foreign bank's history or operations, U.S. banks terminated the foreign bank's correspondent relationship.

U.S. banks' ongoing anti-money laundering oversight of their correspondent accounts is often weak or ineffective. A few large banks have developed automated monitoring systems that detect and report suspicious account patterns and wire transfer activity, but they appear to be the exception rather than the rule. Most U.S. banks appear to rely on manual reviews of account activity and to conduct limited oversight of their correspondent accounts. One problem is the failure of some banks to conduct systematic anti-money laundering reviews of wire transfer activity, even though the majority of correspondent bank transactions consist of incoming and outgoing wire transfers. And, even when suspicious transactions or negative press reports about a respondent bank come to the attention of a U.S. correspondent bank, in too many cases the information does not result in a serious review of the relationship or concrete actions to prevent money laundering.

Two due diligence failures by U.S. banks are particularly noteworthy. The first is the failure of U.S. banks to ask the extent to which their foreign bank clients are allowing other foreign banks to use their U.S. accounts. On numerous occasions, high risk foreign banks gained access to the U.S. financial system, not by opening their own U.S. correspondent accounts, but by operating through U.S. correspondent accounts belonging to other foreign banks. U.S. banks rarely ask their client banks about their correspondent practices and, in almost all cases, remain unaware of their respondent bank's own correspondent accounts. In several instances, U.S. banks were surprised to learn from Minority Staff investigators that they were providing wire transfer services or handling Internet gambling deposits for foreign banks they had never heard of and with whom they had no direct relationship. In one instance, an offshore bank was allowing at least a half dozen offshore shell banks to use its U.S. accounts. In another, a U.S. bank had discovered by chance that a high risk foreign bank it would not have accepted as a client was using a correspondent account the U.S. bank had opened for another foreign bank.

The second failure is the distinction U.S. banks make in their due diligence practices between foreign banks that have few assets and no credit relationship, and foreign banks that seek or obtain credit from the U.S. bank. If a U.S. bank extends credit to a foreign bank, it usually will evaluate the foreign bank's management, finances, business activities, reputation, regulatory environment and operating procedures. The same evaluation usually does not occur where there are only fee-based services, such as wire transfers or check clearing. Since U.S. banks usually provide cash management services[5] on a fee-for-service basis to high risk foreign banks and infrequently extend credit, U.S. banks have routinely opened and maintained correspondent accounts for these banks based on inad-

[5] Cash management services are non-credit related banking services such as providing interest-bearing or demand deposit accounts in one or more currencies, international wire transfers of funds, check clearing, check writing, or foreign exchange services.

equate due diligence reviews. Yet these are the very banks that should be carefully scrutinized. Under current practice in the United States, high risk foreign banks in non-credit relationships seem to fly under the radar screen of most U.S. banks' anti-money laundering programs.

The failure of U.S. banks to take adequate steps to prevent money laundering through their correspondent bank accounts is not a new or isolated problem. It is longstanding, widespread and ongoing.

The result of these due diligence failures has made the U.S. correspondent banking system a conduit for criminal proceeds and money laundering for both high risk foreign banks and their criminal clients. Of the ten case histories investigated by the Minority Staff, numerous instances of money laundering through foreign banks' U.S. bank accounts have been documented, including:

—laundering illicit proceeds and facilitating crime by accepting deposits or processing wire transfers involving funds that the high risk foreign bank knew or should have known were associated with drug trafficking, financial fraud or other wrongdoing;

—conducting high yield investment scams by convincing investors to wire transfer funds to the correspondent account to earn high returns and then refusing to return any monies to the defrauded investors;

—conducting advance-fee-for-loan scams by requiring loan applicants to wire transfer large fees to the correspondent account, retaining the fees, and then failing to issue the loans;

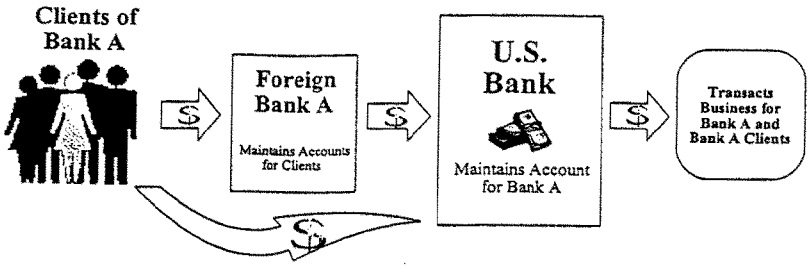
—facilitating tax evasion by accepting client deposits, commingling them with other funds in the foreign bank's correspondent account, and encouraging clients to rely on bank and corporate secrecy laws in the foreign bank's home jurisdiction to shield the funds from U.S. tax authorities; and

—facilitating Internet gambling, illegal under U.S. law, by using the correspondent account to accept and transfer gambling proceeds.

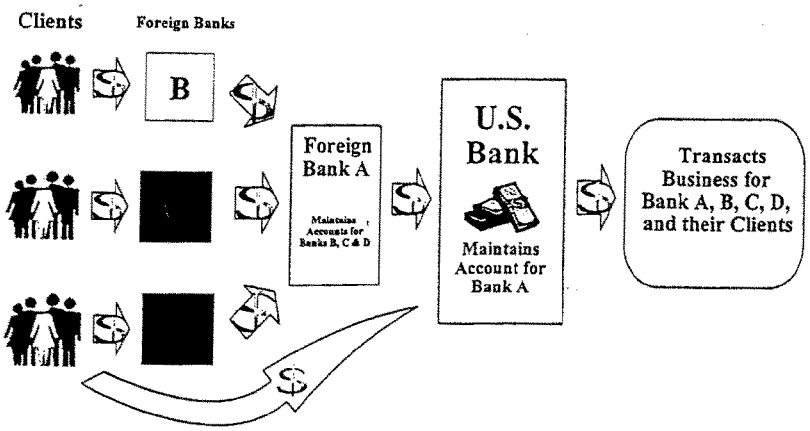
While some U.S. banks have moved to conduct a systematic review of their correspondent banking practices and terminate questionable correspondent relationships, this effort is usually relatively recent and is not industry-wide.

Allowing high risk foreign banks and their criminal clients access to U.S. correspondent bank accounts facilitates crime, undermines the U.S. financial system, burdens U.S. taxpayers and consumers, and fills U.S. court dockets with criminal prosecutions and civil litigation by wronged parties. It is time for U.S. banks to shut the door to high risk foreign banks and eliminate other abuses of the U.S. correspondent banking system.

CORRESPONDENT BANKING



NESTED CORRESPONDENT BANKING



HIGH RISK FOREIGN BANKS
EXAMINED BY PSI MINORITY STAFF INVESTIGATION

NAME OF BANK	CURRENT STATUS	LICENSE AND OPERATION	U.S. CORRESPONDENTS EXAMINED	MONEY LAUNDERING CONCERNS
American International Bank (AIB) 1992–1998	In Receivership	• Licensed in Antigua/Barbuda • Offshore • Physical presence in Antigua	BAC of Florida Bank of America Barnett Bank Chase Manhattan Bank Toronto Dominion Union Bank of Jamaica	• Financial fraud money • Nested correspondents • Internet gambling
British Bank of Latin America (BBLA) 1981–2000	Closed	• Licensed by Bahamas • Offshore • Physical presence in Bahamas and Columbia • Wholly owned subsidiary of Lloyds TSB Bank	Bank of New York	• Drug money from Black Market Peso Exchange
British Trade and Commerce Bank (BTCB) 1997–present	Open	• Licensed by Dominica • Offshore • Physical presence in Dominica	Banco Industrial de Venezuela (Miami) First Union National Bank Security Bank N.A.	• Financial fraud money • High yield investments • Nested correspondents • Internet gambling
Caribbean American Bank (CAB) 1994–1997	In Liquidation	• Licensed by Antigua/Barbuda • Offshore • No physical presence	U.S. correspondents of AIB	• Financial fraud money • Nested correspondents • Shell bank
European Bank 1972–present	Open	• Licensed by Vantuatu • Onshore • Physical presence in Vantuatu	ANZ Bank (New York) Citibank	• Credit card fraud money
Federal Bank 1992–present	Open	• Licensed by Bahamas • Offshore • No physical presence	Citibank	• Bribe money • Shell bank

HIGH RISK FOREIGN BANKS
EXAMINED BY PSI MINORITY STAFF INVESTIGATION—Continued

NAME OF BANK	CURRENT STATUS	LICENSE AND OPERATION	U.S. CORRESPONDENTS EXAMINED	MONEY LAUNDERING CONCERNS
Guardian Bank and Trust (Cayman) Ltd. 1984–1995	Closed	• Licensed by Cayman Islands • Offshore • Physical presence in Cayman Islands	Bank of New York	• Financial fraud money • Tax evasion
Hanover Bank 1992–present	Open	• Licensed by Antigua/Barbuda • Offshore • No physical presence	Standard Bank (Jersey) Ltd.'s U.S. correspondent, Harris Bank International (New York)	• Financial fraud money • Nested correspondents • Shell bank
M.A. Bank 1991–present	Open	• Licensed by Cayman Islands • Offshore • No physical presence	Citibank Union Bank of Switzerland (New York)	• Drug money • Shell bank
Overseas Development Bank and Trust (ODBT) 1996–present	Open	• Licensed by Dominica • Offshore • Physical presence in Dominica (formerly in Antigua)	U.S. correspondents of AIB AmTrade International (Florida) Bank One	• Financial fraud money • Nested correspondents
Swiss American Bank (SAB) 1983–present	Open	• Licensed by Antigua/Barbuda • Offshore • Physical presence in Antigua	Bank of America Chase Manhattan Bank	• Financial fraud money • Internet gambling • Drug and illegal arms sales money
Swiss American National Bank (SANB) 1981–present	Open	• Licensed by Antigua/Barbuda • Onshore • Physical presence in Antigua	Bank of New York Chase Manhattan Bank	• Financial fraud money • Drug and illegal arms sales money

Prepared by Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations, January 2001.

II. Minority Staff Investigation Into Correspondent Banking

To examine the vulnerability of correspondent banking to money laundering, the Minority Staff investigation interviewed experts; reviewed relevant banking laws, regulations and examination manuals; surveyed U.S. banks about their correspondent banking practices; reviewed court proceedings and media reports on cases of money laundering and correspondent banking; and developed ten detailed case histories of money laundering misconduct involving U.S. correspondent accounts. The 1-year investigation included hundreds of interviews and the collection and review of over 25 boxes of documentation, including subpoenaed materials from 19 U.S. banks.

The Minority Staff began its investigation by interviewing a variety of anti-money laundering and correspondent banking experts. Included were officials from the U.S. Federal Reserve, U.S. Department of Treasury, Internal Revenue Service, Office of the Comptroller of the Currency, Financial Crimes Enforcement Network ("FinCEN"), U.S. Secret Service, U.S. State Department, and U.S. Department of Justice. Minority Staff investigators also met with bankers from the American Bankers Association, Florida International Bankers Association, and banking groups in the Bahamas and Cayman Islands, and interviewed at length a number of U.S. bankers experienced in monitoring correspondent accounts for suspicious activity. Extensive assistance was also sought from and provided by government and law enforcement officials in Antigua and Barbuda, Argentina, Australia, Bahamas, Cayman Islands, Dominica, Jersey, Ireland, the United Kingdom, and Vanuatu.

Due to a paucity of information about correspondent banking practices in the United States, the Minority Staff conducted a survey of 20 banks with active correspondent banking portfolios. The 18-question survey sought information about the U.S. banks' correspondent banking clients, procedures, and anti-money laundering safeguards. The survey results are described in Chapter IV.

To develop specific information on how correspondent banking is used in the United States to launder illicit funds, Minority Staff investigators identified U.S. criminal and civil money laundering indictments and pleadings which included references to U.S. correspondent accounts. Using these public court pleadings as a starting point, the Minority Staff identified the foreign banks and U.S. banks involved in the facts of the case, and the circumstances associated with how the foreign banks' U.S. correspondent accounts became conduits for laundered funds. The investigation obtained relevant court proceedings, exhibits and related documents, subpoenaed U.S. bank documents, interviewed U.S. correspondent bankers and, when possible, interviewed foreign bank officials and government personnel. From this material, the investigation examined how foreign banks opened and used their U.S. correspondent accounts and how the U.S. banks monitored or failed to monitor the foreign banks and their account activity.

The investigation included an interview of a U.S. citizen who formerly owned a bank in the Cayman Islands, has pleaded guilty to money laundering, and was willing to explain the mechanics of how his bank laundered millions of dollars for U.S. citizens through U.S. correspondent accounts. Another interview was with a U.S.

citizen who has pleaded guilty to conspiracy to commit money laundering and was willing to explain how he used three offshore banks to launder illicit funds from a financial investment scheme that defrauded hundreds of U.S. citizens. Other interviews were with foreign bank owners who explained how their bank operated, how they used correspondent accounts to transact business, and how their bank became a conduit for laundered funds. Numerous interviews were conducted with U.S. bank officials.

Because the investigation began with criminal money laundering indictments in the United States, attention was directed to foreign banks and jurisdictions known to U.S. criminals. The case histories featured in this report are not meant to be interpreted as identifying the most problematic banks or jurisdictions. To the contrary, a number of the jurisdictions identified in this report have taken significant strides in strengthening their banking and anti-money laundering controls. The evidence indicates that equivalent correspondent banking abuses may be found throughout the international banking community,[6] and that measures need to be taken in major financial centers throughout the world to address the types of money laundering risks identified in this report.

III. Anti-Money Laundering Obligations

Two laws lay out the basic anti-money laundering obligations of all United States banks. First is the Bank Secrecy Act which, in section 5318(h) of Title 31 in the U.S. Code, requires all U.S. banks to have anti-money laundering programs. It states:

> In order to guard against money laundering through financial institutions, the Secretary [of the Treasury] may require financial institutions to carry out anti-money laundering programs, including at a minimum—(A) the development of internal policies, procedures, and controls, (B) the designation of a compliance officer, (C) an ongoing employee training program, and (D) an independent audit function to test programs.

The Bank Secrecy Act also authorizes the U.S. Department of the Treasury to require financial institutions to file reports on currency transactions and suspicious activities, again as part of U.S. efforts to combat money laundering. The Treasury Department has accordingly issued regulations and guidance requiring U.S. banks to establish anti-money laundering programs and file certain currency transaction reports ("CTRs") and suspicious activity reports ("SARs").[7]

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[6] See, for example, "German Officials Investigate Possible Money Laundering," *Wall Street Journal* (1/16/01)(Germany); "Prosecutors set to focus on Estrada bank records," *Business World* (1/15/01)(Philippines); Canada's Exchange Bank & Trust Offers Look at 'Brass-Plate' Banks," *Wall Street Journal* (12/29/00)(Canada, Nauru, St. Kitts-Nevis); "Peru's Montesinos hires lawyer in Switzerland to keep bank accounts secret," *Agence France Presse* (12/11/00)(Peru, Switzerland); "The Billion Dollar Shack," *New York Times Magazine* (12/10/00) (Nauru, Russia); "Launderers put UK banks in a spin," *Financial Times* (London)(United Kingdom, Luxembourg, Switzerland, Nigeria); "Croats Find Treasury Plundered," *Washington Post* (6/13/00)(Croatia); "Arrests and millions missing in troubled offshore bank," *Associated Press* (9/11/00)(Grenada); "Judgement Daze," *Sunday Times* (London) (10/18/98)(Ireland); "That's Laird To You, Mister," *New York Times* (2/27/00)(multiple countries).

[7] See, for example, 31 C.F.R. §§ 103.11 and 103.21 et seq. CTRs identify cash transactions above a specified threshold; SARs identify possibly illegal transactions observed by bank personnel.

The second key law is the Money Laundering Control Act of 1986, which was enacted partly in response to hearings held by the Permanent Subcommittee on Investigations in 1985. This law was the first in the world to make money laundering an independent crime. It prohibits any person from knowingly engaging in a financial transaction which involves the proceeds of a "specified unlawful activity." The law provides a list of specified unlawful activities, including drug trafficking, fraud, theft and bribery.

The aim of these two statutes is to enlist U.S. banks in the fight against money laundering. Together they require banks to refuse to engage in financial transactions involving criminal proceeds, to monitor transactions and report suspicious activity, and to operate active anti-money laundering programs. Both statutes have been upheld by the Supreme Court.

Recently, U.S. bank regulators have provided additional guidance to U.S. banks about the anti-money laundering risks in correspondent banking and the elements of an effective anti-money laundering program. In the September 2000 "Bank Secrecy Act/Anti-Money Laundering Handbook," the Office of the Comptroller of the Currency (OCC) deemed international correspondent banking a "high-risk area" for money laundering that warrants "heightened scrutiny." The OCC Handbook provides the following anti-money laundering considerations that a U.S. bank should take into account in the correspondent banking field:

> A bank must exercise caution and due diligence in determining the level of risk associated with each of its correspondent accounts. Information should be gathered to understand fully the nature of the correspondent's business. Factors to consider include the purpose of the account, whether the correspondent bank is located in a bank secrecy or money laundering haven (if so, the nature of the bank license, i.e., shell/offshore bank, fully licensed bank, or an affiliate/subsidiary of a major financial institution), the level of the correspondent's money laundering prevention and detection efforts, and the condition of bank regulation and supervision in the correspondent's country.[8]

The OCC Handbook singles out three activities in correspondent accounts that warrant heightened anti-money laundering scrutiny and analysis:

> Three of the more common types of activity found in international correspondent bank accounts that should receive heightened scrutiny are funds (wire) transfer[s], correspondent accounts used as "payable through accounts" and "pouch/cash letter activity." This heightened risk underscores the need for effective and comprehensive systems and controls particular to these types of accounts.[9]

With respect to wire transfers, the OCC Handbook provides the following additional guidance:

> Although money launderers use wire systems in many ways, most money launderers aggregate funds from different sources

[8] "Bank Secrecy Act/Anti-Money Laundering Handbook" (September 2000), at 22.
[9] *Id.*

and move them through accounts at different banks until their origin cannot be traced. Most often they are moved out of the country through a bank account in a country where laws are designed to facilitate secrecy, and possibly back into the United States. . . . Unlike cash transactions that are monitored closely, . . . [wire transfer systems and] a bank's wire room are designed to process approved transactions quickly. Wire room personnel usually have no knowledge of the customer or the purpose of the transaction. Therefore, other bank personnel must know the identity and business of the customer on whose behalf they approve the funds transfer to prevent money launderers from using the wire system with little or no scrutiny. Also, review or monitoring procedures should be in place to identify unusual funds transfer activity.[10]

IV. Correspondent Banking Industry in the United States

Correspondent banking is the provision of banking services by one bank to another bank. It is a lucrative and important segment of the banking industry. It enables banks to conduct business and provide services for their customers in jurisdictions where the banks have no physical presence. For example, a bank that is licensed in a foreign country and has no office in the United States may want to provide certain services in the United States for its customers in order to attract or retain the business of important clients with U.S. business activities. Instead of bearing the costs of licensing, staffing and operating its own offices in the United States, the bank might open a correspondent account with an existing U.S. bank. By establishing such a relationship, the foreign bank, called a respondent, and through it, its customers, can receive many or all of the services offered by the U.S. bank, called the correspondent.[11]

Today, banks establish multiple correspondent relationships throughout the world so they may engage in international financial transactions for themselves and their clients in places where they do not have a physical presence. Many of the largest international banks located in the major financial centers of the world serve as correspondents for thousands of other banks. Due to U.S. prominence in international trade and the high demand for U.S. dollars due to their overall stability, most foreign banks that wish to provide international services to their customers have accounts in the United States capable of transacting business in U.S. dollars. Those that lack a physical presence in the United States will do so through correspondent accounts, creating a large market for those services.[12]

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[10] *Id.* at 23.

[11] Similar correspondent banking relationships are also often established between domestic banks, such as when a local domestic bank opens an account at a larger domestic bank located in the country's financial center.

[12] International correspondent banking is a major banking activity in the United States in part due to the popularity of the U.S. dollar. U.S. dollars are one of a handful of major currencies accepted throughout the world. They are also viewed as a stable currency, less likely to lose value over time and, thus, a preferred vehicle for savings, trade and investment. Since U.S. dollars are also the preferred currency of U.S. residents, foreign companies and individuals seeking to do business in the United States may feel compelled to use U.S. dollars.

In the money laundering world, U.S. dollars are popular for many of the same reasons. In addition, U.S. residents targeted by financial frauds often deal only in U.S. dollars, and any per-

Continued

Large correspondent banks in the U.S. manage thousands of correspondent relationships with banks in the United States and around the world. Banks that specialize in international funds transfers and process large numbers and dollar volumes of wire transfers daily are sometimes referred to as money center banks. Some money center banks process as much as $1 trillion in wire transfers each day. As of mid-1999, the top five correspondent bank holding companies in the United States held correspondent account balances exceeding $17 billion; the total correspondent account balances of the 75 largest U.S. correspondent banks was $34.9 billion.[13]

A. Correspondent Banking Products and Services

Correspondent banks often provide their respondent banks with an array of cash management services, such as interest-bearing or demand deposit accounts in one or more currencies, international wire transfers of funds, check clearing, payable through accounts,[14] and foreign exchange services. Correspondent banks also often provide an array of investment services, such as providing their respondent banks with access to money market accounts, overnight investment accounts, certificates of deposit, securities trading accounts, or other accounts bearing higher rates of interest than are paid to non-bank clients. Along with these services, some correspondent banks offer computer software programs that enable their respondent banks to complete various transactions, initiate wire transfers, and gain instant updates on their account balances through their own computer terminals.

With smaller, less well-known banks, a correspondent bank may limit its relationship with the respondent bank to non-credit, cash management services. With respondent banks that are judged to be secure credit risks, the correspondent bank may also afford access to a number of credit-related products. These services include loans, daylight or overnight extensions of credit for account transactions, lines of credit, letters of credit, merchant accounts to process credit card transactions, international escrow accounts, and other trade and finance-related services.

An important feature of most correspondent relationships is providing access to international funds transfer systems.[15] These systems facilitate the rapid transfer of funds across international lines and within countries. These transfers are accomplished through a series of electronic communications that trigger a series of debit/

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petrator of a fraud planning to take their money must be able to process U.S. dollar checks and wire transfers. The investigation found that foreign offshore banks often believe wire transfers between U.S. banks receive less money laundering scrutiny than wire transfers involving an offshore jurisdiction and, in order to take advantage of the lesser scrutiny afforded U.S. bank interactions, prefer to keep their funds in a U.S. correspondent account and transact business through their U.S. bank. In fact, all of the foreign banks examined in the Minority Staff investigation characterized U.S. dollars as their preferred currency, all sought to open U.S. dollar accounts, and all used their U.S. dollar accounts much more often than their other currency accounts.

[13] "Top 75 Correspondent Bank Holding Companies," *The American Banker* (12/8/99) at 14.

[14] "Payable through accounts" allow a respondent bank's clients to write checks that draw directly on the respondent bank's correspondent account. See Advisory Letter 95–3, issued by the Office of the Comptroller of the Currency identifying them as high risk accounts for money laundering. Relatively few banks offer these accounts at the present time.

[15] "These funds transfer systems include the Society for Worldwide Interbank Financial Telecommunications ("SWIFT"), the Clearing House Interbank Payments System ("CHIPS"), and the United States Federal Wire System ("Fedwire").

credit transactions in the ledgers of the financial institutions that link the originators and beneficiaries of the payments. Unless the parties to a funds transfer use the same financial institution, multiple banks will be involved in the payment transfer. Correspondent relationships between banks provide the electronic pathway for funds moving from one jurisdiction to another.

For the types of foreign banks investigated by the Minority Staff, in particular shell banks with no office or staff and offshore banks transacting business with non-residents in non-local currencies, correspondent banking services are critical to their existence and operations. These banks keep virtually all funds in their correspondent accounts. They conduct virtually all transactions external to the bank—including deposits, withdrawals, check clearings, certificates of deposit, and wire transfers—through their correspondent accounts. Some use software provided by their correspondents to operate their ledgers, track account balances, and complete wire transfers. Others use their monthly correspondent account statements to identify client deposits and withdrawals, and assess client fees. Others rely on their correspondents for credit lines and overnight investment accounts. Some foreign banks use their correspondents to provide sophisticated investment services to their clients, such as high-interest bearing money market accounts and securities trading. While the foreign banks examined in the investigation lacked the resources, expertise and infrastructure needed to provide such services in-house, they could all afford the fees charged by their correspondents to provide these services and used the services to attract clients and earn revenue.

Every foreign bank interviewed by the investigation indicated that it was completely dependent upon correspondent banking for its access to international wire transfer systems and the infrastructure required to complete most banking transactions today, including handling multiple currencies, clearing checks, paying interest on client deposits, issuing credit cards, making investments, and moving funds. Given their limited resources and staff, all of the foreign banks interviewed by the investigation indicated that, if their access to correspondent banks were cut off, they would be unable to function. Correspondent banking is their lifeblood.

B. Three Categories of High Risk Banks

Three categories of banks present particularly high money laundering risks for U.S. correspondent banks: (1) shell banks that have no physical presence in any jurisdiction; (2) offshore banks that are barred from transacting business with the citizens of their own licensing jurisdictions; and (3) banks licensed by jurisdictions that do not cooperate with international anti-money laundering efforts.

Shell Banks. Shell banks are high risk banks principally because they are so difficult to monitor and operate with great secrecy. As used in this report, the term "shell bank" is intended to have a narrow reach and refer only to banks that have no physical presence in any jurisdiction. The term is not intended to encompass a bank that is a branch or subsidiary of another bank with a physical presence in another jurisdiction. For example, in the Cayman Islands, of the approximately 570 licensed banks, most do not maintain a Cayman office, but are affiliated with banks that main-

tain offices in other locations. As used in this report, "shell bank" is not intended to apply to these affiliated banks—for example, the Cayman branch of a large bank in the United States. About 75 of the 570 Cayman-licensed banks are not branches or subsidiaries of other banks, and an even smaller number operate without a physical presence anywhere. It is these shell banks that are of concern in this report. In the Bahamas, out of a total of about 400 licensed banks, about 65 are unaffiliated with any other bank, and a smaller subset are shell banks. Some jurisdictions, including the Cayman Islands, Bahamas and Jersey, told the Minority Staff investigation that they no longer issue bank licenses to unaffiliated shell banks, but other jurisdictions, including Nauru, Vanuatu and Montenegro, continue to do so. The total number of shell banks operating in the world today is unknown, but banking experts believe it comprises a very small percentage of all licensed banks.

The Minority Staff investigation was able to examine several shell banks in detail. Hanover Bank, for example, is an Antiguan licensed bank that has operated primarily out of its owner's home in Ireland. M.A. Bank is a Cayman licensed bank which claims to have an administrative office in Uruguay, but actually operated in Argentina using the offices of related companies. Federal Bank is a Bahamian licensed bank which serviced Argentinian clients but appears to have operated from an office or residence in Uruguay. Caribbean American Bank, now closed, was an Antiguan-licensed bank that operated out of the offices of an Antiguan firm that supplied administrative services to banks.

None of these four shell banks had an official business office where it conducted banking activities; none had a regular paid staff. The absence of a physical office with regular employees helped these shell banks avoid oversight by making it more difficult for bank regulators and others to monitor bank activities, inspect records and question bank personnel. Irish banking authorities, for example, were unaware that Hanover Bank had any connection with Ireland, and Antiguan banking regulators did not visit Ireland to examine the bank on-site. Argentine authorities were unaware of M.A. Bank's presence in their country and so never conducted any review of its activities. Cayman bank regulators did not travel to Argentina or Uruguay for an on-site examination of M.A. Bank; and regulators from the Bahamas did not travel to Argentina or Uruguay to examine Federal Bank.

The Minority Staff was able to gather information about these shell banks by conducting interviews, obtaining court pleadings and reviewing subpoenaed material from U.S. correspondent banks. The evidence shows that these banks had poor to nonexistent administrative and anti-money laundering controls, yet handled millions of dollars in suspect funds, and compiled a record of dubious activities associated with drug trafficking, financial fraud and other misconduct.

Offshore Banks. The second category of high risk banks in correspondent banking are offshore banks. Offshore banks have licenses which bar them from transacting banking activities with the citizens of their own licensing jurisdiction or bar them from transacting business using the local currency of the licensing juris-

diction. Nearly all of the foreign banks investigated by the Minority Staff held offshore licenses.

The latest estimates are that nearly 60 offshore jurisdictions around the globe[16] have, by the end of 1998, licensed about 4,000 offshore banks.[17] About 44% of these offshore banks are thought to be located in the Caribbean and Latin America, 29% in Europe, 19% in Asia and the Pacific, and 10% in Africa and the Middle East.[18] These banks are estimated to control nearly $5 trillion in assets.[19] Since, by design, offshore banks operate in the international arena, outside their licensing jurisdiction, they have attracted the attention of the international financial community. Over the past few years, as the number, assets and activities of offshore banks have expanded, the international financial community has expressed increasing concerns about their detrimental impact on international anti-money laundering efforts.[20]

Offshore banks pose high money laundering risks in the correspondent banking field for a variety of reasons. One is that a foreign country has significantly less incentive to oversee and regulate banks that do not do business within the country's boundaries than for banks that do.[21] Another is that offshore banking is largely a money-making enterprise for the governments of small countries, and the less demands made by the government on bank owners, the more attractive the country becomes as a licensing locale. Offshore banks often rely on these reverse incentives to minimize oversight of their operations, and become vehicles for money laundering, tax evasion, and suspect funds.

One U.S. correspondent banker told the Minority Staff that he is learning that a large percentage of clients of offshore banks are Americans and, if so, there is a "good chance tax evasion is going on." He said there is "no reason" for offshore banking to exist if not for "evasion, crime, or whatever." There is no reason for Americans to bank offshore, he said, noting that if an offshore bank has primarily U.S. clients, it must "be up to no good" which raises a question why a U.S. bank would take on the offshore bank as a client. A former offshore bank owner told the investigation that he thought 100% of his clients had been engaged in tax evasion which was why they sought bank secrecy and were willing to pay costly offshore fees that no U.S. bank would charge.

Another longtime U.S. correspondent banker was asked his opinion of a former offshore banker's comment that to "take-in" deposits from U.S. nationals was not a transgression and that not reporting offshore investments "is no legal concern of the offshore depository institution." The correspondent banker said that the comment showed that the offshore banker "knew his craft." He said that the whole essence of offshore banking is "accounts in the name of corporations with bearer shares, directors that are lawyers that sit in

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[16] See INCSR 2000 at 565. Offshore jurisdictions are countries which have enacted laws allowing the formation of offshore banks or other offshore entities.

[17] INCSR 2000 at 566 and footnote 3, citing "The UN Offshore Forum," *Working Paper of the United Nations Office for Drug Control and Crime Prevention* (January 2000) at 6.

[18] *Id.*

[19] INCSR 2000 at 566 and footnote 1, citing "Offshore Banking: An Analysis of Micro- and Macro-Prudential Issues," *Working Paper of the International Monetary Fund* (1999), by Luca Errico and Alberto Musalem, at 10.

[20] See, for example, INCSR 2000 discussion of "Offshore Financial Centers," at 565–77.

[21] See also discussion in Chapter V, subsections (D), (E) and (F).

their tax havens that make up minutes of board meetings." When asked if part of the correspondent banker's job was to make sure the client bank did not "go over the line," the correspondent banker responded if that was the case, then the bank should not be dealing with some of the bank clients it had and should not be doing business in some of the countries where it was doing business.

Because offshore banks use non-local currencies and transact business primarily with non-resident clients, they are particularly dependent upon having correspondent accounts in other countries to transact business. One former offshore banker commented in an interview that if the American government wanted to get offshore banks "off their back," it would prohibit U.S. banks from having correspondent relationships with offshore banks. This banker noted that without correspondent relationships, the offshore banks "would die." He said "they need an established bank that can offer U.S. dollars."

How offshore banks use correspondent accounts to launder funds is discussed in Chapter VI of this report as well as in a number of the Case histories. The offshore banks investigated by the Minority Staff were, like the shell banks, associated with millions of dollars in suspect funds, drug trafficking, financial fraud and other misconduct.

Banks in Non-Cooperating Jurisdictions. The third category of high risk banks in correspondent banking are foreign banks licensed by jurisdictions that do not cooperate with international anti-money laundering efforts. International anti-money laundering efforts have been led by the Financial Action Task Force on Money Laundering ("FATF"), an inter-governmental organization comprised of representatives from the financial, regulatory and law enforcement communities from over two dozen countries. In 1996, FATF developed a set of 40 recommendations that now serve as international benchmarks for evaluating a country's anti-money laundering efforts. FATF has also encouraged the establishment of international organizations whose members engage in self and mutual evaluations to promote regional compliance with the 40 recommendations.

In June 2000, for the first time, FATF formally identified 15 countries and territories whose anti-money laundering laws and procedures have "serious systemic problems" resulting in their being found "non-cooperative" with international anti-money laundering efforts. The 15 are: The Bahamas, Cayman Islands, Cook Islands, Dominica, Israel, Lebanon, Liechtenstein, Marshall Islands, Nauru, Niue, Panama, Philippines, Russia, St. Kitts and Nevis, and St. Vincent and the Grenadines.[22] Additional countries are expected to be identified in later evaluations.

FATF had previously established 25 criteria to assist it in the identification of non-cooperative countries or territories.[23] The published criteria included, for example, "inadequate regulation and supervision of financial institutions"; "inadequate rules for the licensing and creation of financial institutions, including assessing the backgrounds of their managers and beneficial owners"; "inad-

[22] See FATF's "Review to Identify Non-Cooperative Countries or Territories: Increasing the Worldwide Effectiveness of Anti-Money Laundering Measures" (6/22/00), at paragraph (64).

[23] See FATF's 1999–2000 Annual Report, Annex A.

equate customer identification requirements for financial institutions"; "excessive secrecy provisions regarding financial institutions"; "obstacles to international co-operation" by administrative and judicial authorities; and "failure to criminalize laundering of the proceeds from serious crimes." FATF explained that, "detrimental rules and practices which obstruct international co-operation against money laundering . . . naturally affect domestic prevention or detection of money laundering, government supervision and the success of investigations into money laundering." FATF recommended that, until the named jurisdictions remedied identified deficiencies, financial institutions around the world should exercise heightened scrutiny of transactions involving those jurisdictions and, if improvements were not made, that FATF members "consider the adoption of counter-measures."[24]

Jurisdictions with weak anti-money laundering laws and weak cooperation with international anti-money laundering efforts are more likely to attract persons interested in laundering illicit proceeds. The 15 named jurisdictions have together licensed hundreds and perhaps thousands of banks, all of which introduce money laundering risks into international correspondent banking.

C. Survey on Correspondent Banking

In February 2000, Senator Levin, Ranking Minority Member of the Permanent Subcommittee on Investigations, distributed a survey on correspondent banking to 20 banks providing correspondent services from locations in the United States. Ten of the banks were domiciled in the United States; ten were foreign banks doing business in the United States. Their correspondent banking portfolios varied in size, and in the nature of customers and services involved. The survey of 18 questions was sent to:

ABN AMRO Bank of Chicago, Illinois
Bank of America, Charlotte, North Carolina
The Bank of New York, New York, New York
Bank of Tokyo Mitsubishi Ltd., New York, New York
Bank One Corporation, Chicago, Illinois
Barclays Bank PLC—Miami Agency, Miami, Florida
Chase Manhattan Bank, New York, New York
Citigroup, Inc., New York, New York
Deutsche Bank A.G./Bankers Trust, New York, New York
Dresdner Bank, New York, New York
First Union Bank, Charlotte, North Carolina
FleetBoston Bank, Boston, Massachusetts
HSBC Bank, New York, New York
Israel Discount Bank, New York, New York
MTB Bank, New York, New York
Riggs Bank, Washington, D.C.
Royal Bank of Canada, Montreal, Quebec, Canada
The Bank of Nova Scotia (also called ScotiaBank), New York, New York
Union Bank of Switzerland AG, New York, New York
Wells Fargo Bank, San Francisco, California

[24] FATF 6/22/00 review at paragraph (67).

All 20 banks responded to the survey, and the Minority Staff compiled and reviewed the responses. One Canadian bank did not respond to the questions directed at its correspondent banking practices, because it said it did not conduct any correspondent banking activities in the United States.

The larger banks in the survey each have, worldwide, over a half trillion dollars in assets, at least 90,000 employees, a physical presence in over 35 countries, and thousands of branches. The smallest bank in the survey operates only in the United States, has less than $300 million in assets, 132 employees and 2 branches. Three fourths of the banks surveyed have over one-thousand correspondent banking relationships and many have even more correspondent banking accounts. Two foreign banks doing business in the United States had the most correspondent accounts worldwide (12,000 and 7,500, respectively). The U.S. domiciled bank with the most correspondent accounts reported over 3,800 correspondent accounts worldwide.

The survey showed an enormous movement of money through wire transfers by the biggest banks. The largest number of wire transfers processed worldwide by a U.S. domiciled bank averaged almost a million wire transfers processed daily. The largest amount of money processed by a U.S. domiciled bank is over $1 trillion daily. Eleven of the banks surveyed move over $50 billion each in wire transfers in the United States each day; 7 move over $100 billion each day. The smallest bank surveyed moves daily wire transfers in the United States totaling $114 million.

The banks varied widely on the number of correspondent banking relationship managers employed in comparison to the number of correspondent banking relationships maintained.[25] One U.S. domiciled bank, for example, reported it had 31 managers worldwide for 2,975 relationships, or a ratio of 96 to 1. Another bank reported it had 46 relationship managers worldwide handling 1,070 correspondent relationships, or a ratio of 27 to 1. One bank had a ratio of less than 7 to 1, but that was clearly the exception. The average ratio is approximately 40 or 50 correspondent relationships to each relationship manager for U.S. domiciled banks and approximately 95 to 1 for foreign banks.

In response to a survey question asking about the growth of their correspondent banking business since 1995, three banks reported substantial growth, six banks reported moderate growth, two banks reported a substantial decrease in correspondent banking, one bank reported a moderate decrease, and seven banks reported that their correspondent banking business had remained about the same. Several banks reporting changes indicated the change was due to a merger, acquisition or sale of a bank or correspondent banking unit.

The banks varied somewhat on the types of services offered to correspondent banking customers, but almost every bank offered deposit accounts, wire transfers, check clearing, foreign exchange, trade-related services, investment services, and settlement services. Only six banks offered the controversial "payable through ac-

[25] "Relationship manager" is a common term used to describe the correspondent bank employees responsible for initiating and overseeing the bank's correspondent relationships.

counts" that allow a respondent bank's clients to write checks that draw directly on the respondent bank's correspondent account.

While all banks reported having anti-money laundering and due diligence policies and written guidelines, most of the banks do not have such policies or guidelines specifically tailored to correspondent banking; they rely instead on general provisions in the bank-wide policy for correspondent banking guidance and procedures. One notable exception is the "Know Your Customer Policy Statement" adopted by the former Republic National Bank of New York, now HSBC USA, for its International Banking Group, that specifically addressed new correspondent banking relationships. Effective December 31, 1998, the former Republic National Bank established internal requirements for a thorough, written analysis of any bank applying for a correspondent relationship, including, among other elements, an evaluation of the applicant bank's management and due diligence policies.

In response to survey questions about opening new correspondent banking relationships, few banks said that their due diligence procedures were mandatory; instead, the majority said they were discretionary depending upon the circumstances of the applicant bank. All banks indicated that they followed three specified procedures, but varied with respect to others. Survey results with respect to 12 specified account opening procedures were as follows:

All banks said they:

—Obtain financial statements;
—Evaluate credit worthiness; and
—Determine an applicant's primary lines of business.

All but two banks said they:

—Verify an applicant's bank license; and
—Determine whether an applicant has a fixed, operating office in the licensing jurisdiction.

All but three banks said they:

—Evaluate the overall adequacy of banking supervision in the jurisdiction of the respondent bank; and
—Review media reports for information on an applicant.

All but four banks said they visit an applicant's primary office in the licensing jurisdiction; all but five banks said they determine if the bank's license restricts the applicant to operating outside the licensing jurisdiction, making it an offshore bank. A majority of the surveyed banks said they inquire about the applicant with the jurisdiction's bank regulators. Only six banks said they inquire about an applicant with U.S. bank regulators.

A majority of banks listed several other actions they take to assess a correspondent bank applicant, including:

—Checking with the local branch bank, if there is one;
—Checking with bank rating agencies;
—Obtaining bank references; and
—Completing a customer profile.

The survey asked the banks whether or not, as a policy matter, they would establish a correspondent bank account with a bank that does not have a physical presence in any location or whose only license requires it to operate outside the licensing jurisdiction, meaning it holds only an offshore banking license. Only 18 of the 20 banks responded to these questions. Twelve banks said they would not open a correspondent account with a bank that does not have a physical presence; nine banks said they would not open a correspondent account with an offshore bank. Six banks said there are times, depending upon certain circumstances, under which they would open an account with a bank that does not have a physical presence in any country; eight banks said there are times when they would open an account with an offshore bank. The circumstances include a bank that is part of a known financial group or a subsidiary or affiliate of a well-known, internationally reputable bank. Only one of the surveyed banks said it would, without qualification, open a correspondent account for an offshore bank.

Surveyed banks were asked to identify the number of correspondent accounts they have had in certain specified countries,[26] in 1995 and currently. As expected, several banks have had a large number of correspondent accounts with banks in China. For example, one bank reported 218 relationships, another reported 103 relationships, and four others reported 45, 43, 39 and 27 relationships, respectively. Seven banks reported more than 30 relationships with banks in Switzerland, with the largest numbering 95 relationships. Five banks reported having between 14 and 49 relationships each with banks in Colombia.

The U.S. State Department's March 2000 International Narcotics Control Strategy Report and the Financial Action Task Force's June 2000 list of 15 jurisdictions with inadequate anti-money laundering efforts have raised serious concerns about banking practices in a number of countries, and the survey showed that in some of those countries, U.S. banks have longstanding or numerous correspondent relationships. For example, five banks reported having between 40 and 84 relationships each with banks in Russia, down from seven banks reporting relationships that numbered between 52 and 282 each in 1995.[27] Five banks reported having between 13 and 44 relationships each with banks in Panama. One bank has a correspondent relationship with a bank in Nauru, and two banks have one correspondent relationship each with a bank in Vanuatu. Three banks have correspondent accounts with one or two banks in the Seychelle Islands and one or two banks in Burma.

There are several countries where only one or two of the surveyed banks has a particularly large number of correspondent relationships. These are Antigua, where most banks have no relationships but one bank has 12; the Channel Islands, where most banks have no relationships but two banks have 29 and 27 relationships, respectively; Nigeria, where most banks have few to no relation-

[26] The survey asked about correspondent relationships with banks in Antigua, Austria, Bahamas, Burma, Cayman Islands, Channel Islands, China, Colombia, Cyprus, Indonesia, Latvia, Lebanon, Lichtenstein, Luxembourg, Malta, Nauru, Nigeria, Palau, Panama, Paraguay, Seychelle Islands, Singapore, Switzerland, Thailand, United Arab Emirates, Uruguay, Vanuatu, and other Caribbean and South Pacific island nations.

[27] The survey found that the number of U.S. correspondent relationships with Russian banks dropped significantly after the Bank of New York scandal of 1999, as described in the appendix.

ships but two banks have 34 and 31 relationships, respectively; and Uruguay, where one bank has 28 correspondent relationships and the majority of other banks have ten or less. One bank reported having 67 correspondent relationships with banks in the Bahamas; only two other banks have more than 10 correspondent relationships there. That same bank has 146 correspondent relationships in the Cayman Islands; only two banks have more than 12 such relationships, and the majority of banks have 2 or less.

The survey asked the banks to explain how they monitor their correspondent accounts. The responses varied widely. Some banks use the same monitoring systems that they use with all other accounts—relying on their compliance departments and computer software for reviews. Others place responsibility for monitoring the correspondent banking accounts in the relationship manager, requiring the manager to know what his or her correspondent client is doing on a regular basis. Nine banks reported that they placed the monitoring responsibility with the relationship manager, requiring that the manager perform monthly monitoring of the accounts under his or her responsibility. Others reported relying on a separate compliance office in the bank or an anti-money laundering unit to identify suspicious activity. Monitoring can also be done with other tools. For example, one bank said it added news articles mentioning companies and banks into an information database available to bank employees.

Several banks reported special restrictions they have imposed on correspondent banking relationships in addition to the procedures identified in the survey. One bank reported, for example, that it prohibits correspondent accounts in certain South Pacific locations and monitors all transactions involving Antigua and Barbuda, Belize and Seychelles. Another bank said it requires its relationship managers to certify that a respondent bank does not initiate transfers to high risk geographic areas, and if a bank is located in a high risk geographic area, it requires a separate certification. One bank said its policy is to have a correspondent relationship with a bank in a foreign country only if the U.S. bank has a physical presence in the country as well. Similarly, another bank said it does not accept transfers from or to Antigua, Nauru, Palau, the Seychelles, or Vanuatu. One bank reported that it takes relationship managers off-line, that is, away from their responsibility for their correspondent banks, for 10 days at a time to allow someone else to handle the correspondent accounts as a double-check on the activity. The Minority Staff did not attempt to examine how these stated policies are actually put into practice in the banks.

The surveyed banks were asked how many times between 1995 and 1999 they became aware of possible money laundering activities involving a correspondent bank client. Of the 17 banks that said they could answer the question, seven said there were no instances in which they identified such suspicious activity. Ten banks identified at least one instance of suspicious activity. One bank identified 564 SARs filed due to "sequential strings of travelers checks and money orders." The next largest number was 60 SARs which the surveyed bank said involved "correspondent banking and possible money laundering." Another bank said it filed 52 SARs in

the identified time period. Two banks identified only one instance; the remaining banks each referred to a handful of instances.

There were a number of anomalies in the survey results. For example, one large bank which indicated in an interview that it does not market correspondent accounts in secrecy havens, reported in the survey having 146 correspondent relationships with Cayman Island banks and 67 relationships with banks in the Bahamas, both of which have strict bank secrecy laws. Another bank said in a preliminary interview that it would "never" open a correspondent account with a bank in Vanuatu disclosed in the survey that it, in fact, had a longstanding correspondent relationship in Vanuatu. Another bank stated in its survey response it would not open an account with an offshore bank, yet also reported in the survey that its policy was not to ask bank applicants whether they were restricted to offshore licenses. Two other banks reported in the survey that they would not, as a policy matter, open correspondent accounts with offshore or shell banks, but when confronted with information showing they had correspondent relationships with these types of banks, both revised their survey responses to describe a different correspondent banking policy. These and other anomalies suggest that U.S. banks may not have accurate information or a complete understanding of their correspondent banking portfolios and practices in the field.

D. Internet Gambling

One issue that unexpectedly arose during the investigation was the practice of foreign banks using their U.S. correspondent accounts to handle funds related to Internet gambling. As a result, the U.S. correspondent banks facilitated Internet gambling, an activity recognized as a growing industry providing new avenues and opportunities for money laundering.

Two recent national studies address the subject: "The Report of the National Gambling Impact Study Commission," and a report issued by the Financial Crimes Enforcement Network ("FinCEN") entitled, "A Survey of Electronic Cash, Electronic Banking, and Internet Gaming."[28] Together, these reports describe the growth of Internet gambling and related legal issues. They report that Internet gambling websites include casino-type games such as virtual blackjack, poker and slot machines; sports event betting; lotteries; and even horse race wagers using real-time audio and video to broadcast live races. Websites also typically require players to fill out registration forms and either purchase "chips" or set up accounts with a minimum amount of funds. The conventional ways of sending money to the gambling website are: (1) providing a credit card number from which a cash advance is taken; (2) sending a check or money order; or (3) sending a wire transfer or other remittance of funds.

An important marketing tool for the Internet gambling industry is the ability to transfer money quickly, inexpensively and se-

[28] The National Gambling Impact Study Commission ("NGISC") was created in 1996 to conduct a comprehensive legal and factual study of the social and economic impacts of gambling in the United States. The NGISC report, published in June 1999, contains a variety of information and recommendations related to Internet gambling. The FinCEN report, published in September 2000, examines money laundering issues related to Internet gambling.

curely.[29] These money transfers together with the off-shore locations of most Internet gambling operations and their lack of regulation provide prime opportunities for money laundering.[30] As technology progresses, the speed and anonymity of the transactions may prove to be even more attractive to money launderers.

One researcher estimates that in 1997, there were as many as 6.9 million potential Internet gamblers and Internet gambling revenues of $300 million. By 1998, these estimates had doubled, to an estimated 14.5 million potential Internet gamblers and Internet gambling revenues of $651 million. The River City Group, an industry consultant, forecasts that U.S. Internet betting will rise from $1.1 billion in 1999, to $3 billion in 2002.

Current Federal and State laws. In the United States, gambling regulation is primarily a matter of State law, reinforced by Federal law where the presence of interstate or foreign elements might otherwise frustrate the enforcement policies of State law.[31] According to a recent Congressional Research Service report, Internet gambling implicates at least six Federal criminal statutes, which make it a Federal crime to: (1) conduct an illegal gambling business, 18 U.S.C. § 1955 (illegal gambling business); (2) use the telephone or telecommunications to conduct an illegal gambling business, 18 U.S.C. § 1084 (Interstate Wire Act); (3) use the facilities of interstate commerce to conduct an illegal gambling business, 18 U.S.C. § 1952 (Travel Act); (4) conduct the activities of an illegal gambling business involving either the collection of an unlawful debt or a pattern of gambling offenses, 18 U.S.C. § 1962 (RICO); (5) launder the proceeds from an illegal gambling business or to plow them back into the business, 18 U.S.C. § 1956 (money laundering); or (6) spend more than $10,000 of the proceeds from an illegal gambling operation at any one time and place, 18 U.S.C. § 1957 (money laundering).[32]

The NGISC reports that the laws governing gambling in cyberspace are not as clear as they should be, pointing out, for example, that the Interstate Wire Act was written before the Internet was invented. The ability of the Internet to facilitate quick and easy interactions across geographic boundaries makes it difficult to apply traditional notions of State and Federal jurisdictions and, some argue, demonstrates the need for additional clarifying legislation.

Yet, there have been a number of successful prosecutions involving Internet gambling. For example, in March 1998, the U.S. Attorney for the Southern District of New York indicted 21 individuals for conspiracy to transmit wagers on sporting events via the Inter-

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[29] More than a dozen companies develop and sell turnkey software for Internet gambling operations. Some of these companies provide full service packages, which include the processing of financial transactions and maintenance of offshore hardware, while the "owner" of the gambling website simply provides advertising and Internet access to gambling customers. These turnkey services make it very easy for website owners to open new gambling sites.

[30] See, for example, the FinCEN report, which states at page 41: "Opposition in the United States to legalized Internet gaming is based on several factors. First, there is the fear that Internet gaming . . . offer[s] unique opportunities for money laundering, fraud, and other crimes. Government officials have also expressed concerns about underage gaming and addictive gambling, which some claim will increase with the spread of Internet gaming. Others point to the fact that specific types of Internet gaming may already be illegal under State laws."

[31] "Internet Gambling: Overview of Federal Criminal Law," Congressional Research Service, CRS Report No. 97–619A (3/17/00), Summary.

[32] *Id.*

net, in violation of the Interstate Wire Act of 1961. At that time, U.S. Attorney General Janet Reno stated, "The Internet is not an electronic sanctuary for illegal betting. To Internet betting operators everywhere, we have a simple message, 'You can't hide online and you can't hide offshore.'" Eleven defendants pled guilty and one, Jay Cohen, was found guilty after a jury trial. He was sentenced to 21 months in prison, a 2-year supervised release, and a $5,000 fine.

In 1997, the Attorney General of Minnesota successfully prosecuted Granite Gate Resorts, a Nevada corporation with a Belize-based Internet sports betting operation. The lawsuit alleged that Granite Gate and its president, Kerry Rogers, engaged in deceptive trade practices, false advertising, and consumer fraud by offering Minnesotans access to sports betting, since such betting is illegal under State laws. In 1999, the Minnesota Supreme Court upheld the prosecution. Missouri, New York, and Wisconsin have also successfully prosecuted cases involving Internet gaming.

Given the traditional responsibility of the States regarding gambling, many have been in the forefront of efforts to regulate or prohibit Internet gambling, Several States including Louisiana, Texas, Illinois, and Nevada have introduced or passed legislation specifically prohibiting Internet gambling. Florida has taken an active role, including cooperative efforts with Western Union, to stop money-transfer services for 40 offshore sports books.[33] In 1998, Indiana's Attorney General stated as a policy that a person placing a bet from Indiana with an offshore gaming establishment was engaged in in-state gambling just as if the person engaged in conventional gambling. A number of State attorneys general have initiated court actions against Internet gambling owners and operators, and several have won permanent injunctions.

Legislation and recommendations. Several States have concluded that only the Federal Government has the potential to effectively regulate or prohibit Internet gambling. The National Association of Attorneys General has called for an expansion in the language of the Federal anti-wagering statute to prohibit Internet gambling and for Federal-State cooperation on this issue. A number of Internet gambling bills have been introduced in Congress.

The National Gambling Impact Study Commission report made several recommendations pertaining to Internet gambling, one of which was to encourage foreign governments to reject Internet gambling organizations that prey on U.S. citizens.

The Minority Staff investigation found evidence of a number of foreign banks using their U.S. correspondent accounts to move proceeds related to Internet gambling, including wagers or payments made in connection with Internet gambling websites, deposits made by companies managing Internet gambling operations, and deposits made by companies active in the Internet gambling field in such areas as software development or electronic cash transfer systems. One U.S. bank, Chase Manhattan Bank, was fully aware of Internet gambling proceeds being moved through its cor-

[33] In December 1997, the Attorney General of Florida and Western Union signed an agreement that Western Union would cease providing Quick Pay money transfer services from Florida residents to known offshore gaming establishments. Quick Pay is a reduced-fee system normally used to expedite collection of debts or payment for goods.

respondent accounts; other U.S. banks were not. Internet gambling issues are addressed in the case histories involving American International Bank, British Trade and Commerce Bank, and Swiss American Bank.

V. Why Correspondent Banking is Vulnerable to Money Laundering

Until the Bank of New York scandal erupted in 1999,[34] international correspondent banking had received little attention as a high-risk area for money laundering. In the United States, the general assumption had been that a foreign bank with a valid bank license operated under the watchful eye of its licensing jurisdiction and a U.S. bank had no obligation to conduct its own due diligence. The lesson brought home by the Bank of New York scandal, however, was that some foreign banks carry higher money laundering risks than others, since some countries are seriously deficient in their bank licensing and supervision, and some foreign banks are seriously deficient in their anti-money laundering efforts.

The reality is that U.S. correspondent banking is highly vulnerable to money laundering for a host of reasons. The reasons include: (A) a culture of lax due diligence at U.S. correspondent banks; (B) the role of correspondent bankers or relationship managers; (C) nested correspondents, in which U.S. correspondent accounts are used by a foreign bank's client banks, often without the express knowledge or consent of the U.S. bank; (D) foreign jurisdictions with weak banking or accounting standards; (E) bank secrecy laws; (F) cross border difficulties; and (G) U.S. legal barriers to seizing illicit funds in U.S. correspondent accounts.

A. Culture of Lax Due Diligence

The U.S. correspondent banks examined during the investigation operated, for the most part, in an atmosphere of complacency, with lax due diligence, weak controls, and inadequate responses to troubling information.

In initial meetings in January 2000, U.S. banks told the investigation there is little evidence of money laundering through correspondent accounts. Chase Manhattan Bank, which has one of the largest correspondent banking portfolios in the United States, claimed that U.S. banks do not even open accounts for small foreign banks in remote jurisdictions. These representations, which proved to be inaccurate, illustrate what the investigation found to be a common attitude among correspondent bankers—that money laundering risks are low and anti-money laundering efforts are unnecessary or inconsequential in the correspondent banking field.

Due in part to the industry's poor recognition of the money laundering risks, there is substantial evidence of weak due diligence practices by U.S. banks providing correspondent accounts to foreign banks. U.S. correspondent bankers were found to be poorly informed about the banks they were servicing, particularly small foreign banks licensed in jurisdictions known for bank secrecy or weak banking and anti-money laundering controls. Account documentation was often outdated and incomplete, lacking key informa-

[34] For a description of the Bank of New York scandal, see the appendix.

tion about a foreign bank's management, major business activities, reputation, regulatory history, or anti-money laundering procedures. Monitoring procedures were also weak. For example, it was often unclear who, if anyone, was supposed to be reviewing the monthly account statements for correspondent accounts. At larger banks, coordination was often weak or absent between the correspondent bankers dealing directly with foreign bank clients and other bank personnel administering the accounts, reviewing wire transfer activity, or conducting anti-money laundering oversight. Even though wire transfers were frequently the key activity engaged in by foreign banks, many U.S. banks conducted either no monitoring of wire transfer activity or relied on manual reviews of the wire transfer information to identify suspicious activity. Subpoenas directed at foreign banks or their clients were not always brought to the attention of the correspondent banker in charge of the foreign bank relationship.

Specific examples of weak due diligence practices and inadequate anti-money laundering controls at U.S. correspondent banks included the following:

—Security Bank N.A., a U.S. bank in Miami, disclosed that, for almost 2 years, it never reviewed for suspicious activity numerous wire transfers totaling $50 million that went into and out of the correspondent account of a high risk offshore bank called British Trade and Commerce Bank (BTCB), even after questions arose about the bank. These funds included millions of dollars associated with money laundering, financial fraud and Internet gambling. A Security Bank representative also disclosed that, despite an ongoing dialogue with BTCB's president, he did not understand and could not explain BTCB's major business activities, including a high yield investment program promising extravagant returns.

—The Bank of New York disclosed that it had not known that one of its respondent banks, British Bank of Latin America (BBLA), a small offshore bank operating in Colombia and the Bahamas, which moved $2.7 million in drug money through its correspondent account, had never been examined by any bank regulator. The Bank of New York disclosed further that: (a) despite being a longtime correspondent for banks operating in Colombia, (b) despite 1999 and 2000 U.S. National Money Laundering Strategies' naming the Colombian black market peso exchange as the largest money laundering system in the Western Hemisphere and a top priority for U.S. law enforcement, and (c) despite having twice received seizure orders for the BBLA correspondent account alleging millions of dollars in drug proceeds laundered through the Colombian black market peso exchange, the Bank of New York had not instituted any special anti-money laundering controls to detect this type of money laundering through its correspondent accounts.

—Several U.S. banks, including Bank of America and Amtrade Bank in Miami, were unaware that their correspondent accounts with American International Bank (AIB), a small offshore bank in Antigua that moved millions of dollars in financial frauds and Internet gambling through its correspondent

accounts, were handling transactions for shell foreign banks that were AIB clients. The U.S. correspondent bankers apparently had failed to determine that one of AIB's major lines of business was to act as a correspondent for other foreign banks, one of which, Caribbean American Bank, was used exclusively for moving the proceeds of a massive advance-fee-for-loan fraud. Most of the U.S. banks had also failed to determine that the majority of AIB's client accounts and deposits were generated by the Forum, an investment organization that has been the subject of U.S. criminal and securities investigations.

—Bank of America disclosed that it did not know, until tipped off by Minority Staff investigators, that the correspondent account it provided to St. Kitts-Nevis-Anguilla National Bank, a small bank in the Caribbean, was being used to move hundreds of millions of dollars in Internet gambling proceeds. Bank of America had not taken a close look at the source of funds in this account even though this small respondent bank was moving as much as $115 million in a month and many of the companies named in its wire transfer instructions were well known for their involvement in Internet gambling.

—Citibank correspondent bankers in Argentina indicated that while they opened a U.S. correspondent account for M.A. Bank, an offshore shell bank licensed in the Cayman Islands and operating in Argentina that later was used to launder drug money, and handled the bank's day-to-day matters, they did not, as a rule, see any monthly statements or monthly activity reports for the bank's accounts. The Argentine correspondent bankers indicated that they assumed Citibank personnel in New York, who handled administrative matters for the accounts, or Citibank personnel in Florida, who run the bank's anti-money laundering unit, reviewed the accounts for suspicious activity. Citibank's Argentine correspondent bankers indicated, however, that they could not identify specific individuals who reviewed Argentine correspondent accounts for possible money laundering. They also disclosed that they did not have regular contact with Citibank personnel conducting anti-money laundering oversight of Argentine correspondent accounts, nor did they coordinate any anti-money laundering duties with them.

—When U.S. law enforcement filed a 1998 seizure warrant alleging money laundering violations and freezing millions of dollars in a Citibank correspondent account belonging to M.A. Bank and also filed in court an affidavit describing the frozen funds as drug proceeds from a money laundering sting, Citibank never looked into the reasons for the seizure warrant and never learned, until informed by Minority Staff investigators in 1999, that the frozen funds were drug proceeds.

—Citibank had a 10-year correspondent relationship with Banco Republica, licensed and doing business in Argentina, and its offshore affiliate, Federal Bank, which is licensed in the Bahamas. Citibank's relationship manager for these two banks told the investigation that it was "disturbing" and "shocking" to

learn that the Central Bank of Argentina had reported in audit reports of 1996 and 1998 that Banco Republica did not have an anti-money laundering program. When the Minority Staff asked the relationship manager what he had done to determine whether or not there was such a program in place at Banco Republica, he said he was told by Banco Republica management during his annual reviews that the bank had an anti-money laundering program, but he did not confirm that with documentation. The same situation applied to Federal Bank.

—A June 2000 due diligence report prepared by a First Union correspondent banker responsible for an account with a high risk foreign bank called Banque Francaise Commerciale (BFC) in Dominica, contained inadequate and misleading information. For example, only 50% of the BFC documentation required by First Union had been collected, and neither BFC's anti-money laundering procedures, bank charter, nor 1999 financial statement was in the client file. No explanation for the missing documentation was provided, despite instructions requiring it. The report described BFC as engaged principally in "domestic" banking, even though BFC's monthly account statements indicated that most of its transactions involved international money transfers. The report also failed to mention Dominica's weak banking and anti-money laundering controls.

—A number of U.S. banks failed to meet their internal requirements for on-site visits to foreign banks. Internal directives typically require a correspondent banker to visit a foreign bank's offices prior to opening an account for the bank and to pay annual visits thereafter. Such visits are intended, among other purposes, to ensure the foreign bank has a physical presence, to learn more about the bank's management and business activities, and to sell new services. However, in many cases, the required on-site visits were waived, postponed or conducted with insufficient attention to important facts. For example, a Chase Manhattan correspondent banker responsible for 140 accounts said she visited the 25 to 30 banks with the larger accounts each year and visited the rest only occasionally or never. First Union National Bank disclosed that no correspondent banker had visited BFC in Dominica for 3 years. Security Bank N.A. disclosed that it had not made any visits to BTCB in Dominica, because Security Bank had only one account on the island and it was not "cost effective" to travel there. In still another instance, Citibank opened a correspondent account for M.A. Bank, without traveling to either the Cayman Islands where the bank was licensed or Uruguay where the bank claimed to have an "administrative office." Instead, Citibank traveled to Argentina and visited offices belonging to several firms in the same financial group as M.A. Bank, apparently deeming that trip equivalent to visiting M.A. Bank's offices. Citibank even installed wire transfer software for M.A. Bank at the Argentine site, although M.A. Bank has no license to conduct banking activities in Argentina and no office there. Despite repeated requests, Citibank has indicated that it remains unable to inform the investigation whether or

not M.A. Bank has an office in Uruguay. The investigation has concluded that M.A. Bank is, in fact, a shell bank with no physical presence in any jurisdiction.

—Harris Bank International, a New York bank specializing in correspondent banking and international wire transfers, told the investigation that it had no electronic means for monitoring the hundreds of millions of dollars in wire transfers it processes each day. Its correspondent bankers instead have to conduct manual reviews of account activity to identify suspicious activity. The bank said that it had recently allocated funding to purchase its first electronic monitoring software capable of analyzing wire transfer activity for patterns of possible money laundering.

Additional Inadequacies with Non-Credit Relationships. In addition to the lax due diligence and monitoring controls for correspondent accounts in general, U.S. banks performed particularly poor due diligence reviews of high risk foreign banks where no credit was provided by the U.S. bank. Although often inadequate, U.S. banks obtain more information and pay more attention to correspondent relationships involving the extension of credit where the U.S. bank's assets are at risk than when the U.S. bank is providing only cash management services on a fee basis.[35] U.S. banks concentrate their due diligence efforts on their larger correspondent accounts and credit relationships and pay significantly less attention to smaller accounts involving foreign banks and where only cash management services are provided.

Money launderers are primarily interested in services that facilitate the swift and anonymous movement of funds across international lines. These services do not require credit relationships, but can be provided by foreign banks with access to wire transfers, checks and credit cards. Money launderers may even prefer small banks in non-credit correspondent relationships since they attract less scrutiny from their U.S. correspondents. Foreign banks intending to launder funds may choose to limit their correspondent relationships to non-credit services to avoid scrutiny and move money quickly, with few questions asked.

Under current practice in the United States, high-risk foreign banks in non-credit correspondent relationships seem to fly under the radar screen of U.S. banks conducting due diligence reviews. Yet from an anti-money laundering perspective, these are precisely the banks which—if they hold an offshore license, conduct a shell operation, move large sums of money across international lines, or demonstrate other high risk factors—warrant heightened scrutiny.

Specific examples of the different treatment that U.S. banks afforded to foreign banks in non-credit relationships included the following:

[35] A correspondent bank's analysis of credit risk does not necessarily include the risk of money laundering; rather it is focused on the risk of monetary loss to the correspondent bank, and the two considerations can be very different. For example, one correspondent bank examined in the investigation clearly rejected a credit relationship with a respondent bank due to doubts about its investment activities, but did not hesitate to continue providing it with cash management services such as wire transfers.

—One Chase Manhattan correspondent banker said that she did not review the annual audited financial statement of a foreign bank in a non-credit relationship. Another Chase Manhattan representative described Chase's attitude towards non-credit correspondent relationships as "essentially reactive" and said there was no requirement to make an annual visit to bank clients in non-credit relationships.

—Bank of America representatives said that most small correspondent bank relationships were non-credit in nature, Bank of America "has lots" of these, it views them as "low risk," and such relationships do not require an annual review of the respondent bank's financial statements.

—One bank that maintained a non-credit correspondent relationship for a year with American International Bank (AIB), an offshore bank which used its correspondent accounts to move millions of dollars connected to financial frauds and Internet gambling, sought significantly more due diligence information when AIB requested a non-secured line of credit. To evaluate the credit request, the correspondent bank asked AIB to provide such information as a list of its services; a description of its marketing efforts; the total number of its depositors and "a breakdown of deposits according to maturities"; a description of AIB management's experience "in view of the fact that your institution has been operating for only 1 year"; a profile of the regulatory environment in Antigua"; the latest financial statement of AIB's parent company, and information about certain loan transactions between AIB and its parent. Apparently none of this information was provided a year earlier when the bank first established a non-credit correspondent relationship with AIB.

—A Security Bank representative reported that when he encountered troubling information about British Trade and Commerce Bank, a bank that used its correspondent accounts to move millions of dollars connected with financial frauds, he decided against extending credit to the bank, but continued providing it with cash management services such as wire transfers, because he believed a non-credit relationship did not threaten Security Bank with any monetary loss.

Inadequate Responses to Troubling Information. While some U.S. banks never learned of questionable activities by their foreign bank clients, when troubling information did reach a U.S correspondent banker, in too many cases, the U.S. bank took little or no action in response. For example:

—Citibank left open a correspondent account belonging to M.A. Bank and allowed hundreds of millions of dollars to flow through it, even after receiving a seizure order from U.S. law enforcement alleging drug money laundering violations and freezing $7.7 million deposited into the account. Citibank also failed to inquire into the circumstances surrounding the seizure warrant and, until informed by Minority Staff investigators, failed to learn that the funds were drug proceeds from a money laundering sting.

—Chase Manhattan Bank left open a correspondent account with Swiss American Bank (SAB), an offshore bank licensed in Antigua and Barbuda, even after SAB projected that it would need 10,000 checks per month and began generating monthly bank statements exceeding 200 pages in length to process millions of dollars in Internet gambling proceeds.

—First Union National Bank left open a money market account with British Trade and Commerce Bank (BTCB) for almost 18 months after receiving negative information about the bank. When millions of dollars suddenly moved through the account 8 months after it was opened, First Union telephoned BTCB and asked it to voluntarily close the account. When BTCB refused, First Union waited another 9 months, replete with troubling incidents and additional millions of dollars moving through the account, before it unilaterally closed the account.

—When Citibank was asked by the Central Bank of Argentina for information about the owners of Federal Bank, an offshore bank licensed in the Bahamas with which Citibank had a 10-year correspondent relationship, Citibank responded that its "records contain no information that would enable us to determine the identity of the shareholders of the referenced bank." Citibank gave this response to the Central Bank despite clear information in its own records identifying Federal Bank's owners. When the Minority Staff asked the relationship manager to explain Citibank's response, the relationship manager said he had the impression that the Central Bank "was trying to play some kind of game," that it was "trying to get some legal proof of ownership." After further discussion, the relationship manager said that he now knows Citibank should have answered the letter "in a different way" and that Citibank "should have done more."

The investigation saw a number of instances in which U.S. banks were slow to close correspondent accounts, even after receiving ample evidence of misconduct. When asked why it took so long to close an account for Swiss American Bank after receiving troubling information about the bank, Chase Manhattan Bank representatives explained that Chase had solicited Swiss American as a client and felt "it wasn't ethical to say we've changed." Chase personnel told the investigation, we "couldn't leave them." Bank of America explained its delay in closing a correspondent account as due to fear of a lawsuit by the foreign bank seeking damages for hurting its business if the account were closed too quickly. A First Union correspondent banker expressed a similar concern, indicating that it first asked BTCB to close its account voluntarily so that First Union could represent that the decision had been made by the customer and minimize its exposure to litigation. The Minority Staff found this was not an uncommon practice, even though the investigation did not encounter any instance of a foreign bank's filing such a suit.

B. Role of Correspondent Bankers

Correspondent bankers, also called relationship managers, should serve as the first line of defense against money laundering

in the correspondent banking field, but many appear to be inadequately trained and insufficiently sensitive to the risk of money laundering taking place through the accounts they manage. These deficiencies are attributable, in part, to the industry's overall poor recognition of money laundering problems in correspondent banking.

The primary mission of most correspondent bankers is to expand business—to open new accounts, increase deposits and sell additional services to existing accounts. But many are also expected to execute key anti-money laundering duties, such as evaluating prospective bank clients and reporting suspicious activity. Those correspondent bankers are, in effect, being asked to fill contradictory roles—to add new foreign banks as clients, while maintaining a skeptical stance toward those same banks and monitoring them for suspicious activity. The investigation found that some banks compensate their correspondent bankers by the number of new accounts they open or the amount of money their correspondent accounts bring into the bank. The investigation found few rewards, however, for closing suspect accounts or filing suspicious activity reports. In fact, the financial incentive is just the opposite; closing correspondent accounts reduces a bank's income and can reduce a correspondent banker's compensation. The result was that a correspondent banker's anti-money laundering duties were often a low priority.

For example, the Bank of America told the Minority Staff investigation that their relationship managers used to be seen as sales officers, routinely seeking new accounts, maintaining a "positive sales approach," and signing up as many correspondent banks as possible. Bank of America's attitude in the early and middle 1990s, it said, was that "banks are banks" and "you can trust them." The bank said it has since changed its approach and is no longer "beating the bushes" for new correspondent relationships.

Even if correspondent bankers were motivated to watch for signs of money laundering in their accounts, the investigation found that most did not have the tools needed for effective oversight. Large correspondent banks in the United States operate two or three thousand correspondent accounts at a time and process billions of dollars of wire transactions each day. Yet until very recently, most U.S. banks did not invest in the software, personnel or training needed to identify and manage money laundering risks in correspondent banking. For example, U.S. correspondent bankers reported receiving limited anti-money laundering training and seemed to have little awareness of the money laundering methods, financial frauds and other wrongdoing that rogue foreign banks or their clients perpetrate through correspondent accounts.[36] Standard due diligence forms were sometimes absent or provided insufficient guidance on the initial and ongoing due diligence information that correspondent bankers should obtain. Coordination between correspondent bankers and anti-money laundering bank personnel

[36] The case histories in this report provide specific examples of how rogue foreign banks or their clients are using U.S. correspondent account to launder funds or facilitate crime, including from drug trafficking, prime bank guarantees, high yield investment scams, advanced-fee-for-loan scams, stock fraud, Internet gambling and tax evasion. Correspondent bankers appear to receive little or no training in recognizing and reporting suspicious activity related to such correspondent banking abuses.

was often lacking. Automated systems for reviewing wire transfer activity were usually not available. Few banks had pro-active anti-money laundering programs in place to detect and report suspect activity in correspondent accounts. The absence of effective anti-money laundering tools is further evidence of the low priority assigned to this issue in the correspondent banking field.

Examples of correspondent bankers insufficiently trained and equipped to identify and report suspicious activity included the following:

—A Bank of New York relationship manager told the investigation that there had been little anti-money laundering training for correspondent banking, but it is "in the developmental stages now." The head of Bank of New York's Latin American correspondent banking division disclosed that she had received minimal information about the black market peso exchange and was unaware of its importance to U.S. law enforcement. She also said the bank had not instituted any means for detecting this type of money laundering, nor had it instructed its respondent banks to watch for this problem and refuse wire transfers from money changers involved in the black market.

—A Chase Manhattan Bank relationship manager who handled 140 correspondent accounts told the investigation that she had received no anti-money laundering training during her employment at Chase Manhattan or her prior job at Chemical Bank; she was not trained in due diligence analysis; the bank had no standard due diligence forms; and she received no notice of countries in the Caribbean to which she should pay close attention when opening or monitoring a correspondent banking relationship.

—A Bank of America official said that anti-money laundering training had received little attention for several years as the bank underwent a series of mergers. The bank said it is now improving its efforts in this area.

—A relationship manager at the Miami office of Banco Industrial de Venezuela told the investigation that she had received no training in recognizing possible financial frauds being committed through foreign bank correspondent accounts and never suspected fraudulent activity might be a problem. She indicated that, even after several suspicious incidents involving a multi-million-dollar letter of credit, a proof of funds letter discussing a prime bank guarantee, repeated large cash withdrawals by the respondent bank's employees, and expressions of concern by her superiors, no one at the bank explained the money laundering risks to her or instructed her to watch the relationship.

A few banks have developed new and innovative anti-money laundering controls in their correspondent banking units, including wire transfer monitoring software and pro-active reviews of correspondent bank activity. A number of the banks surveyed or interviewed by the Minority Staff expressed new interest in developing stronger due diligence and monitoring procedures for correspondent accounts. But most of the U.S. banks contacted during the inves-

tigation had not devoted significant resources to help their correspondent bankers detect and report possible money laundering.

C. Nested Correspondents

Another practice in U.S. correspondent banking which increases money laundering risks in the field is the practice of foreign banks operating through the U.S. correspondent accounts of other foreign banks. The investigation uncovered numerous instances of foreign banks gaining access to U.S. banks—not by directly opening a U.S. correspondent account—but by opening an account at another foreign bank which, in turn, has an account at a U.S. bank, In some cases, the U.S. bank was unaware that a foreign bank was "nested" in the correspondent account the U.S. bank had opened for another foreign bank; in other cases, the U.S. bank not only knew but approved of the practice. In a few instances, U.S. banks were surprised to learn that a single correspondent account was serving as a gateway for multiple foreign banks to gain access to U.S. dollar accounts, U.S. wire transfer systems and other services available in the United States.

Examples uncovered during the investigation included the following:

—In 1999, First Union National Bank specifically rejected a request by a Dominican bank, British Trade and Commerce Bank (BTCB), to open a U.S. correspondent account. First Union was unaware, until informed by Minority Staff investigators, that it had already been providing wire transfer services to BTCB for 2 years, through BTCB's use of a First Union correspondent account belonging to Banque Francaise Commerciale (BFC). BFC is a Dominican bank which had BTCB as a client.

—A Chase Manhattan Bank correspondent banker said that she was well aware that American International Bank (AIB) was allowing other foreign banks to utilize its Chase account. She said that she had no problem with the other banks using AIB's correspondent account, since she believed they would otherwise have no way to gain entry into the U.S. financial system. She added that she did not pay any attention to the other foreign banks doing business with AIB and using its U.S. account. One of the banks using AIB's U.S. account was Caribbean American Bank, a bank used exclusively for moving the proceeds of a massive advance-fee-for-loan fraud.

—The president of Swiss American Bank in Antigua said that no U.S. bank had ever asked SAB about its client banks, and SAB had, in fact, allowed at least two other offshore banks to use SAB's U.S. accounts.

—Harris Bank International in New York said that its policy was not to ask its respondent banks about their bank clients. Harris Bank indicated, for example, that it had a longstanding correspondent relationship with Standard Bank Jersey Ltd., but no information on Standard Bank's own correspondent practices. Harris Bank disclosed that it had been unaware that, in providing correspondent services to Standard Bank, it had also

been providing correspondent services to Hanover Bank, a shell bank which, in 1998 alone, handled millions of dollars associated with financial frauds. Hanover Bank apparently would not have met Harris Bank's standards for opening an account directly, yet it was able to use Harris Bank's services through Standard Bank. Harris Bank indicated that it still has no information on what foreign banks may be utilizing Standard Bank's U.S. correspondent account, and it has no immediate plans to find out.

Case histories on American International Bank, Hanover Bank, and British Trade and Commerce Bank demonstrate how millions of dollars can be and have been transferred through U.S correspondent accounts having no direct links to the foreign banks moving the funds. Despite the money laundering risks involved, no U.S. bank contacted during the investigation had a policy or procedure in place requiring its respondent banks to identify the banks that would be using its correspondent account, although Harris Bank International said it planned to institute that policy for its new bank clients and, during a Minority Staff interview, Bank of America's correspondent banking head stated "it would make sense to know a correspondent bank's correspondent bank customers."

D. Foreign Jurisdictions with Weak Banking or Accounting Practices

International correspondent accounts require U.S. banks to transact business with foreign banks. U.S. correspondent banks are inherently reliant, in part, on foreign banking and accounting practices to safeguard them from money laundering risks in foreign jurisdictions. Weak banking or accounting practices in a foreign jurisdiction increase the money laundering risks for U.S. correspondent banks dealing with foreign banks in that jurisdiction.

Weak Foreign Bank Licensing or Supervision. The international banking system is built upon a hodge podge of differing bank licensing and supervisory approaches in the hundreds of countries that currently participate in international funds transfer systems. It is clear that some financial institutions operate under substantially less stringent requirements and supervision than others. It is also clear that jurisdictions with weak bank licensing and supervision offer more attractive venues for money launderers seeking banks to launder illicit proceeds and move funds into bank accounts in other countries.[37]

Licensing requirements for new banks vary widely. While some countries require startup capital of millions of dollars in cash reserves deposited with a central bank and public disclosure of a bank's prospective owners, other countries allow startup capital to be kept outside the country, impose no reserve requirements, and conceal bank ownership. Regulatory requirements for existing banks also differ. For example, while some countries use government employees to conduct on-site bank examinations, collect annual fees from banks to finance oversight, and require banks to operate anti-money laundering programs, other countries conduct no bank examinations and collect no fees for oversight, instead relying

[37] See, for example, discussion of "Offshore Financial Centers," INCSR 2000, at 565–77.

on self-policing by the country's banking industry and voluntary systems for reporting possible money laundering activities.

Offshore banking has further increased banking disparities. Competition among jurisdictions seeking to expand their offshore banking sectors has generated pressure for an international "race to the bottom" in offshore bank licensing, fees and regulation. Domestic bank regulators appear willing to enact less stringent rules for their offshore banks, not only to respond to the competitive pressure, but also because they may perceive offshore banking rules as having little direct impact on their own citizenry since offshore banks are barred from doing business with the country's citizens. Domestic bank regulators may also have less incentive to exercise careful oversight of their offshore banks, since they are supposed to deal exclusively with foreign citizens and foreign currencies. A number of countries, including in the East Caribbean and South Pacific, have developed separate regulatory regimes for their onshore and offshore banks, with less stringent requirements applicable to the offshore institutions.

The increased money laundering risks for correspondent banking are apparent, for example, in a web site sponsored by a private firm urging viewers to open a new bank in the Republic of Montenegro. The web site trumpets not only the jurisdiction's minimal bank licensing requirements, but also its arrangements for giving new banks immediate access to international correspondent accounts.

> "If you're looking to open a **FULLY LICENSED BANK** which is authorized to carry on all banking business worldwide, the MOST ATTRACTIVE JURISDICTION is currently the REPUBLIC OF MONTENEGRO. . . . JUST USD$9,999 for a full functioning bank (plus USD$4,000 annual fees). . . . No large capital requirements—just USD$10,000 capital gets your Banking License (and which you get IMMEDIATELY BACK after the Bank is . . . set-up)[.] . . . [N]o intrusive background checks! . . . The basic package includes opening a CORRESPONDENT BANK [ACCOUNT] at the Bank of Montenegro. This allows the new bank to use their existing correspondent network which includes Citibank, Commerzbank, Union Bank of Switzerland etc[.] for sending and receiving payments. For additional fee we can arrange direct CORRESPONDENT ACCOUNTS with banks in other countries."[38] [Emphasis and capitalization in original text.]

A similar web site offers to provide new banks licensed in Montenegro with a correspondent account not only at the "State Bank of Montenegro," but also at a "Northern European Bank."[39] When contacted, Citibank's legal counsel indicated no awareness of the web sites or of how many banks may be transacting business through its Bank of Montenegro correspondent account.

Weak Foreign Accounting Practices. Working in tandem with banking requirements are accounting standards which also vary across international lines. Accountants are often key partici-

[38] See global-money.com/offshore/europe-montenegro-bank.html. See also web.offshore.by.net/unitrust/enmontenegro-bank.html and www.permanenttourist.com/offshore-montenegro-bank.html.

[39] www.permanenttoursit.com/offshore-montenegro-bank.html.

pants in bank regulatory regimes by certifying the financial statements of particular banks as in line with generally accepted accounting principles. Government regulators and U.S. banks, among others, rely on these audited financial statements to depict a bank's earnings, operations and solvency. Accountants may also perform bank examinations or special audits at the request of government regulators. They may also be appointed as receivers or liquidators of banks that have been accused of money laundering or other misconduct.

The investigation encountered a number of instances in which accountants in foreign countries refused to provide information about a bank's financial statements they had audited or about reports they had prepared in the role of a bank receiver or liquidator. Many foreign accountants contacted during the investigation were uncooperative or even hostile when asked for information.

—The Dominican auditing firm of Moreau Winston & Company, for example, refused to provide any information about the 1998 financial statement of British Trade and Commerce Bank, even though the financial statement was a publicly available document published in the country's official gazette, the firm had certified the statement as accurate, and the statement contained unusual entries that could not be understood without further explanation.

—A PriceWaterhouseCoopers auditor in Antigua serving as a government-appointed liquidator for Caribbean American Bank (CAB) refused to provide copies of its reports on CAB's liquidation proceedings, even though the reports were filed in court, they were supposed to be publicly available, and the Antiguan government had asked the auditor to provide the information to the investigation.[40]

—Another Antiguan accounting firm, Pannell Kerr Foster, issued an audited financial statement for Overseas Development Bank and Trust in which the auditor said certain items could not be confirmed because the appropriate information was not available from another bank, American International Bank. Yet Pannell Kerr Foster was also the auditor of American International Bank, with complete access to that bank's financial records.

The investigation also came across disturbing evidence of possible conflicts of interest involving accountants and the banks they audited, and of incompetent or dishonest accounting practices. In one instance, an accounting firm verified a $300 million item in a balance sheet for British Trade and Commerce Bank that, when challenged by Dominican government officials, has yet to be substantiated. In another instance, an accounting firm approved an offshore bank's financial statements which appear to have concealed indications of insolvency, insider dealing and questionable transactions. In still another instance raising conflict of interest concerns, an accountant responsible for auditing three offshore banks involving the same bank official provided that bank official

[40] "See correspondence on CAB between the Minority Staff, the PriceWaterhouseCoopers auditor and the auditor's legal counsel in the case study on American International Bank.

with a letter of reference, which the official then used to help one of the banks open a U.S. correspondent account.

U.S. correspondent bankers repeatedly stated that they attached great importance to a foreign bank's audited financial statements in helping them analyze the foreign bank's operations and solvency. Weak foreign accounting practices damage U.S. correspondent banking by enabling rogue foreign banks to use inaccurate and misleading financial statements to win access to U.S. correspondent accounts.

International banking and accounting organizations, such as the International Monetary Fund, Basle Committee for Banking Supervision, and International Accounting Standards Committee, have initiated efforts to standardize and strengthen banking and accounting standards across international lines. A variety of published materials seek to improve fiscal transparency, bank licensing and supervision, and financial statements, among other measures. For the foreseeable future, however, international banking and accounting variations are expected to continue, and banks will continue to be licensed by jurisdictions with weak banking and accounting practices. The result is that foreign banks operating without adequate capital, without accurate financial statements, without anti-money laundering programs, or without government oversight will be knocking at the door of U.S. correspondent banks.

U.S. correspondent banks varied widely in the extent to which they took into account a foreign country's banking and anti-money laundering controls in deciding whether to open an account for a foreign bank. Some U.S. banks did not perform any country analysis when deciding whether to open a foreign bank account. Several U.S. correspondent bankers admitted opening accounts for banks in countries about which they had little information. Other U.S. banks performed country evaluations that took into account a country's stability and credit risk, but not its reputation for banking or anti-money laundering controls. Still other U.S. banks performed extensive country evaluations that were used only when opening accounts for foreign banks requesting credit. On the other hand, a few banks, such as Republic National Bank of New York, explicitly required their correspondent bankers to provide information about a country's reputation for banking supervision and anti-money laundering controls on the account opening documentation, and routinely considered that information in deciding whether to open an account for a foreign bank.

E. Bank Secrecy

Bank secrecy laws further increase money laundering risks in international correspondent banking. Strict bank secrecy laws are a staple of many countries, including those with offshore banking sectors. Some jurisdictions refuse to disclose bank ownership. Some refuse to disclose the results of bank examinations or special investigations. Other jurisdictions prohibit disclosure of information about particular bank clients or transactions, sometimes refusing to provide that information to correspondent banks and foreign bank regulators.

The Minority Staff identified several areas where bank secrecy impedes anti-money laundering efforts. One area involves secrecy

surrounding bank ownership. In a case involving Dominica, for example, government authorities were legally prohibited from confirming a Dominican bank's statements to a U.S. bank concerning the identity of the Dominican bank's owners. In a case involving the South Pacific island of Vanuatu, bank ownership secrecy impeded local oversight of offshore banks. A local bank owner, who also served as chairman of Vanuatu's key commission regulating offshore banks, was interviewed by Minority Staff investigators. He indicated that Vanuatu law prohibited government officials from disclosing bank ownership information to non-government personnel so that, even though he chaired a key offshore bank oversight body, he was not informed about who owned the 60 banks he oversaw. When asked who he thought might own the offshore banks, he speculated that the owners were wealthy individuals, small financial groups or, in a few cases, foreign banks, but stressed he had no specific information to confirm his speculation.

Another area involves secrecy surrounding bank examinations, audits and special investigations. In several cases, government authorities said they were prohibited by law or custom from revealing the results of bank examinations, even for banks undergoing liquidation or criminal investigations. Bank regulators in Jersey, for example, declined to provide a special report that resulted in the censure of Standard Bank Jersey Ltd. for opening a correspondent account for Hanover Bank, because the Jersey government did not routinely disclose findings of fact or documents accumulated through investigations. The United Kingdom refused a request to describe the results of a 1993 inquiry into a 20 million scandal involving Hanover Bank and a major British insurance company, even though the inquiry had gone on for years, resulted in official findings and recommendations, and involved a closed matter. U.S. Government authorities were also at times uncooperative, declining, for example, to disclose information related to Operation Risky Business, a Customs undercover operation that exposed a $60 million fraud perpetrated through two foreign banks and multiple U.S. correspondent accounts. Bank examinations, audits and investigations that cannot be released or explained in specific terms hinder international efforts to gather accurate information about suspect financial institutions, companies and individuals.

A third area involves secrecy of information related to specific bank clients and transactions. When Minority Staff investigators sought to trace transactions and bank accounts related to individuals or entities either convicted of or under investigation for wrongdoing in the United States, foreign banks often declined to answer specific questions about their accounts and clients, citing their country's bank secrecy laws. When asked whether particular accounts involved Internet gambling, the same answer was given. When asked about whether funds distributed to respondent bank officials represented insider dealing, the same answer was given.

Bank secrecy laws contribute to money laundering by blocking the free flow of information needed to identify rogue foreign banks and individual wrongdoers seeking to misuse the correspondent banking system to launder illicit funds. Bank secrecy laws slow law enforcement and regulatory efforts. Bank secrecy laws also make it difficult for U.S. banks considering correspondent bank applications

to make informed decisions about opening accounts or restricting certain depositors or lines of business. Money launderers thrive in bank secrecy jurisdictions that hinder disclosure of their accounts and activities, even when transacting business through U.S. correspondent accounts.

F. Cross Border Difficulties

Due diligence reviews of foreign banks, if performed correctly, require U.S. correspondent banks to obtain detailed information from foreign jurisdictions. This information is often difficult to obtain. For example, some governments are constrained by bank secrecy laws from providing even basic information about the banks operating in the country. Jurisdictions with weak banking oversight and anti-money laundering regimes may have little useful information to offer in response to an inquiry by a U.S. based bank. Jurisdictions reliant on offshore businesses for local jobs or government fees may be reluctant to disclose negative information. Other sources of information may be limited or difficult to evaluate. Many foreign jurisdictions have few or no public databases about their banks. Court records may not be computerized or easily accessible. Credit agencies may not operate within the jurisdiction. Media databases may be limited or nonexistent. Language barriers may impose additional difficulties. Travel to foreign jurisdictions by U.S. correspondent bankers to gather first-hand information is costly and may not produce immediate or accurate information, especially if a visit is short or to an unfamiliar place. The bottom line is that due diligence is not easy in international correspondent banking.

The difficulty continues after a correspondent account with a foreign bank is opened. Correspondent banking with foreign banks, by necessity, involves transactions across international lines. The most common correspondent banking transaction is a wire transfer of funds from one country to another. Foreign exchange transactions, including clearing foreign checks or credit card transactions, and international trade transactions are also common. All require tracing transactions from one financial institution to another, usually across international borders, and involve two or more jurisdictions, each with its own administrative and statutory regimes. These cross border financial transactions inevitably raise questions as to which jurisdiction's laws prevail, who is responsible for conducting banking and anti-money laundering oversight, and what information may be shared to what extent with whom. Cross border complexities increase the vulnerability of correspondent banking to money laundering by rendering due diligence more difficult, impeding investigations of questionable transactions, and slowing bank oversight.

G. U.S. Legal Barriers to Seizing Funds in U.S. Correspondent Accounts

Another contributor to money laundering in correspondent banking are U.S. legal barriers to the seizure of laundered funds from a U.S. correspondent bank account.

Under current law in the United States, funds deposited into a correspondent bank account belong to the respondent bank that opened and has signatory authority over the account; the funds do

not belong to the respondent bank's individual depositors.[41] Federal civil forfeiture law, under 18 U.S.C. 984, generally prohibits the United States from seizing suspect funds from a respondent bank's correspondent account based upon the wrongdoing of an individual depositor at the respondent bank. The one exception, under 18 U.S.C. 984(d), is if the United States demonstrates that the bank holding the correspondent account "knowingly engaged" in the laundering of the funds or in other criminal misconduct justifying seizure of the bank's own funds.

Few cases describe the level of bank misconduct that would permit a seizure of funds from a U.S. correspondent account under Section 984(d). One U.S. district court has said that the United States must demonstrate the respondent bank's "knowing involvement" or "willful blindness" to the criminal misconduct giving rise to the seizure action.[42] That court upheld a forfeiture complaint alleging that the respondent bank had written a letter of reference for the wrongdoer, handled funds used to pay ransom to kidnappers, and appeared to be helping its clients avoid taxes, customs duties and transaction reporting requirements. The court found that, "under the totality of the circumstances . . . the complaint sufficiently allege[d] [the respondent bank's] knowing involvement in the scheme."

Absent such a showing by the United States, a respondent bank may claim status as an "innocent bank" and no funds may be seized from its U.S. correspondent account. If a foreign bank successfully asserts an innocent bank defense, the United States' only alternative is to take legal action in the foreign jurisdiction where the suspect funds were deposited. Foreign litigation is, of course, more difficult and expensive than seizure actions under U.S. law and may require a greater threshold of wrongdoing before it will be undertaken by the U.S. Government.

In some instances, money launderers may be deliberately using correspondent accounts to hinder seizures by U.S. law enforcement, and some foreign banks may be taking advantage of the innocent bank doctrine to shield themselves from the consequences of lax anti-money laundering oversight. For example, there are numerous criminal investigations in the United States of frauds committed by Nigerian nationals and their accomplices involving suspect funds deposited into U.S. correspondent accounts in the name of Nigerian banks.

Nigerian financial fraud cases are a well known, widespread problem which consumes significant U.S. law enforcement and banking resources. The INCSR 2000 report states:

> "Nigeria continues to be the money laundering and financial fraud hub of West Africa, and may be assuming that role for the entire continent. Nigerian money launderers operate sophisticated global networks to repatriate illicit proceeds. . . . Nigerian Advance Fee Fraud has arguably become the most lucrative financial crime committed by Nigerian criminals world-

[41] See, for example, *United States v. Proceeds of Drug Trafficking Transferred to Certain Foreign Bank Accounts* (Civil Action No. 98–434(NHJ), U.S. District Court for the District of Columbia 2000), court order dated 4/11/00.

[42] *United States v. $15,270,885.69* (2000 U.S. Dist. LEXIS 12602, 2000 WL 1234593 SDNY 2000).

wide, with conservative estimates indicating hundred of millions of dollars in illicit profits generated annually. This type of fraud is referred to internationally as 'Four-One-Nine' (419), referring to the Nigerian criminal statute for fraud, and has affected a large number of American citizens and businesses."[43]

U.S. prosecutors seeking to recover Nigerian 4-1-9 fraud proceeds face serious legal hurdles if the funds have been deposited into a Nigerian bank's U.S. correspondent account. Section 984(d) precludes seizure of the funds from the correspondent account unless the United States demonstrates that the Nigerian bank was knowingly engaged in misconduct. Demonstrating Nigerian bank misconduct is not an easy task; Nigerian bank information is not readily available and prosecutors would likely have to travel to Nigeria to obtain documents or interview bank personnel. Law enforcement advised that these legal and investigatory complications make U.S. prosecutors reluctant to pursue 4-1-9 cases, that Nigerian wrongdoers are well aware of this reluctance, and that some Nigerians appear to be deliberately using U.S. correspondent accounts to help shield their ill-gotten gains from seizure by U.S. authorities.

The survey conducted by the investigation discovered that at least two U.S. banks have numerous correspondent relationships with Nigerian banks, one listing 34 such correspondent relationships and the other listing 31. The investigation also determined that many of these Nigerian banks were newly established, there was little information readily available about them, and the only method to obtain first hand information about them was to travel to Nigeria. These U.S. correspondent accounts increase money laundering risks in U.S. correspondent banking, not only because of Nigeria's poor anti-money laundering and banking controls, but also because of U.S. legal protections that shield these accounts from seizures of suspect funds.

The special forfeiture protections in U.S. law for deposits into correspondent accounts are not available for deposits into any other type of account at U.S. banks. Additional examples of U.S. legal barriers impeding forfeiture of illicit proceeds from U.S. correspondent accounts are discussed in the case histories involving European Bank, British Bank of Latin America, and British Trade and Commerce Bank.

VI. How an Offshore Bank Launders Money Through a U.S. Correspondent Account: The Lessons of Guardian Bank

In March 2000, the Minority Staff conducted an in-depth interview of a former offshore bank owner who had pled guilty to money laundering in the United States and was willing to provide an insider's account of how his bank used U.S. correspondent accounts to launder funds and facilitate crime in the United States.

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[43] INCSR 2000 at 713. The INCSR 2000 report also expresses concern about Nigeria's weak anti-money laundering efforts, which was echoed by international banking experts interviewed by Minority Staff investigators. The Federal Deposit Insurance Corporation recently issued a special alert urging U.S. financial institutions to scrutinize transactions to avoid funds associated with Nigerian frauds. FDIC Financial Institution Letter No. FIL–64–2000 (9/19/00). See also, for example, "Letters from Lagos promise false riches for the gullible," *The Times* (London) (8/20/99); "Nigerian Con Artists Netting Millions in Advance-Fee Schemes," *Los Angeles Times* (1/24/98).

Guardian Bank and Trust (Cayman) Ltd. was an offshore bank licensed by the Cayman Islands which opened its doors in 1984 and operated for about 10 years before being closed by the Cayman Government. At its peak, Guardian Bank had a physical office in the Cayman Islands' capital city, over 20 employees, over 1,000 clients, and about $150 million in assets. The bank operated until early 1995, when it was abruptly closed by Cayman authorities and eventually turned over to a government-appointed liquidator due to "serious irregularities" identified in the conduct of the Offshore Bank's business.[44]

The majority owner and chief executive of Guardian Bank for most of its existence was John Mathewson, a U.S. citizen who was then a resident of the Cayman Islands. In 1996, while in the United States, Mathewson was arrested and charged with multiple counts of money laundering, tax evasion and fraud, and later pleaded guilty.[45] As part of his efforts to cooperate with Federal law enforcement, Mathewson voluntarily provided the United States with an electronic ledger and rolodex providing detailed records for a 1-year period of all Guardian Bank customers, accounts and transactions.

The encrypted computer tapes provided by Mathewson represent the first and only time U.S. law enforcement officials have gained access to the computerized records of an offshore bank in a bank secrecy haven.[46] Mathewson not only helped decode the tapes, but also explained the workings of his bank, and provided extensive and continuing assistance to Federal prosecutors in securing criminal convictions of his former clients for tax evasion, money laundering and other crimes.[47]

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[44] *Johnson v. United States,* 971 F. Supp. 862, 863 (U.S. District Court for the District of New Jersey 1997).

[45] In 1997, Mathewson pleaded guilty to charges in three Federal prosecutions. The U.S. District of New Jersey had indicted him on three counts of money laundering, *United States v. Mathewson* (Criminal Case No. 96–353–AJL); the Eastern District of New York had charged him with four counts of aiding and abetting the evasion of income tax, *United States v. Mathewson* (Criminal Case No. 97–00189–001–ALJ); and the Southern District of Florida had charged him with one count of conspiracy to commit wire fraud, *United States v. Mathewson* (Criminal Case No. 97–0188–Marcus). He was also subject to a 1993 civil tax judgment for over $11.3 million from *United States v. Mathewson* (U.S. District Court for the Southern District of Florida Civil Case No. 92–1054–Davis).

[46] The government-appointed liquidator of Guardian Bank sued unsuccessfully to recover the computer tapes from the U.S. Government, arguing that they had been improperly obtained and disclosure of the bank information would violate Cayman confidentiality laws and damage the reputation of the Cayman banking industry. *Johnson v. United States,* 971 F. Supp. 862 (U.S. District Court for the District of New Jersey 1997). The Cayman Government also refused U.S. requests for assistance in decoding the information on the computer tapes.

[47] Some of the former clients for whom Mathewson has provided assistance in obtaining a criminal conviction include: (1) Mark A. Vicini of New Jersey, who had deposited $9 million into a Guardian account and pleaded guilty to evading $2.2 million in taxes (U.S. District Court for the Eastern District of New York Case No. CR–97–684); (2) members of the Abboud family of Omaha, Nebraska, who have been indicted for money laundering and fraud in connection with $27 million in cable piracy proceeds transferred to Guardian Bank (U.S. District Court for the District of Nebraska Case No. 8:99CR–80); (3) Frederick Gipp, a Long Island golf pro who had deposited $150,000 into a Guardian account and pleaded guilty to tax evasion (U.S. District Court for the Eastern District of New York Case No. CR–98–147–ERK); (4) Dr. Jeffrey E. LaVigne, a New York proctologist who deposited $560,000 into a Guardian account and who pleaded guilty to evading $160,000 in taxes (U.S. District Court for the Eastern District of New York Case No. 94–1060–CR–ARR); (5) Dr. Bartholomew D'Ascoli, a New Jersey orthopedic surgeon, who had deposited $395,000 into a Guardian account and pleaded guilty to evading $118,000 in taxes (U.S. District Court for the Eastern District of New York Criminal Case No. 98–739–RJD); (6) Michael and Terrence Hogan of Ohio, who had deposited $750,000 of undeclared income into a Guardian account and pleaded guilty to tax evasion (U.S. District Court for the Southern District of Ohio Criminal Case No. CR–1–98–045); (7) David L. Bamford of New Jersey, who had diverted corporate income into a Guardian account and pleaded guilty

Continued

Mathewson stated at his sentencing hearing, "I have no excuse for what I did in aiding U.S. Citizens to evade taxes, and the fact that every other bank in the Caymans was doing it is no excuse. . . . But I have cooperated." His cooperation has reportedly resulted in the collection of more than $50 million in unpaid taxes and penalties, with additional recoveries possible.[48] One prosecutor has characterized Mathewson's assistance as "the most important cooperation for the government in the history of tax haven prosecution."[49]

Pursuant to his plea agreement to provide assistance to government officials investigating matters related to Guardian Bank, Mathewson provided the Minority Staff investigation with a lengthy interview and answers to written questions on how Guardian Bank laundered funds through its U.S. correspondent accounts.

Bank Secrecy. Mathewson first explained why bank secrecy plays a central role in the offshore banking industry. He said that Cayman laws strictly limit government and bank disclosure of bank records and personal information associated with depositors. He said that, in his experience, Cayman bank clients relied on those secrecy laws and believed no one would be able to trace a Cayman bank account or corporation back to them. Mathewson asserted that this secrecy was and still is the basis of the Cayman financial industry, and is protected by Cayman authorities. He indicated that, without this secrecy, he thought there would be no reason for U.S. citizens to establish offshore bank accounts, trusts or corporations in the Cayman Islands and pay the costly fees associated with them.

Mathewson stated at another point that he thought 100% of his clients had been engaged in tax evasion, which was one reason they sought bank secrecy. He pointed out that tax evasion is not a crime in the Cayman Islands; Guardian Bank could legally accept the proceeds of tax evasion without violating any Cayman criminal or money laundering prohibitions; and Cayman law placed no legal obligation on its banks to avoid accepting such deposits.[50] His analysis of the bank's clients is echoed in statements made on behalf of the Guardian Bank liquidator in a letter warning of the consequences of Guardian computer tapes remaining in U.S. custody:

> "[I]t is quite obvious that the consequences of the seizure of these records by the Federal authorities are potentially very damaging to those of the [Offshore] Bank's clients liable for taxation in the U.S. In the likely event that the Federal authorities share the information . . . with the Internal Revenue Service, we would anticipate widespread investigation and possibly prosecution of the [Offshore] Bank's clients."[51]

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to tax evasion (U.S. District Court for the District of New Jersey Case Number 2:98–CR–0712); and (8) Marcello Schiller of Florida who had deposited funds in a Guardian account, pleaded guilty to Medicare fraud, and was ordered to pay restitution exceeding $14 million (U.S. District Court for the Southern District of Florida Criminal Case No. 1:98–CR–0397).

[48] *The Record (Bergen County, N.J.)* (8/3/97).

[49] *New York Times* (8/3/99).

[50] Mathewson drew a sharp contrast between the proceeds of tax evasion, which his bank had accepted, and the proceeds of drug trafficking, which his bank had not. He stated that Guardian Bank had refused to accept suspected drug proceeds, and multiple reviews of its accounts by law enforcement had found no evidence of any drug proceeds in the bank.

[51] *Johnson v. United States,* 971 F. Supp. at 865.

Subsequent U.S. tax prosecutions against Guardian clients have demonstrated the accuracy of this prediction, establishing that numerous depositors had, in fact, failed to pay U.S. tax on the funds in their offshore accounts.

Guardian Procedures Maximizing Secrecy. Mathewson said that Guardian Bank had complied with Cayman secrecy requirements, and he had designed Guardian Bank policies and procedures to maximize secrecy protections for its clients. He stated, for example, that he had begun by changing the name of the bank from Argosy Bank to Guardian Bank. He indicated that he had selected the name Guardian Bank in part after determining that at least 11 other banks around the world used the word Guardian in their title. Mathewson indicated that he had thought the commonness of the name would help secure Guardian's anonymity or at least make it more difficult to trace transactions related to the bank. He indicated that this was a key concern, because offshore banks in small jurisdictions by necessity conduct most of their transactions through international payment systems and so need to find ways to minimize detection and disclosure of client information.

Mathewson advised that a second set of Guardian procedures designed to maximize client secrecy involved the bank's opening client accounts in the name of shell corporations whose true ownership was not reported in public records. He said that almost all Guardian clients had chosen to open their accounts in the name of a corporation established by the bank. Mathewson explained that Guardian Bank had typically set up several corporations at a time and left them "on the shelf" for ready use when a client requested one.

Mathewson said that Guardian Bank had typically charged $5,000 to supply a "shelf corporation" to a client and $3,000 to cover the corporation's first-year management fee, for a total initial charge of $8,000. He said that clients were then required to pay an annual management fee of $3,000 for each corporation they owned. He said that these fees represented mostly revenue for Guardian Bank, since, at the time, the only major expense per corporation was about $500 charged by the Cayman authorities each year for taxes and other fees. He said that many Cayman banks offered the same service, and $8,000 was the going rate at the time.

According to Mathewson, for an additional fee, Guardian clients could obtain an "aged" shelf corporation. He explained that an aged shelf corporation was one which had been in existence for several years and which either had never been sold to a client or had been sold and returned by a client after a period of time. Mathewson indicated that some clients wanted aged shelf corporations in order to back-date invoices or create other fictitious records to suggest past years of operation. He said that this type of corporation helped Guardian clients with preexisting tax problems to fabricate proof of corporate existence and business activity. Mathewson stated that he and other Cayman bankers would customize these aged shelf corporation to suit a client's specific needs.

In addition to providing a shelf corporation to serve as a client's accountholder, Mathewson stated that Guardian Bank usually provided each client with nominee shareholders and directors to fur-

ther shield their ownership of the corporation from public records. He explained that Cayman law allowed Cayman corporations to issue a single share which could then be held by a single corporate shareholder. He said that a Guardian subsidiary, such as Fulcrum Ltd., was typically named as the shelf corporation's single shareholder. He said that Fulcrum Ltd. would then be the only shareholder listed on the incorporation papers.

Mathewson said that Guardian also usually supplied nominee directors for the shelf corporation. He explained that Cayman law required only one director to appear on the incorporation papers, allowed that director to be a corporation, and allowed companies to conduct business in most cases with only one director's signature. He said that a Guardian subsidiary called Guardian Directors Ltd. was typically used to provide nominee directors for clients and to manage their shelf corporations. He said that the only director's name that would appear on a shelf corporation's incorporation papers was "Guardian Directors Ltd.," and that only one signature from the subsidiary was then needed to conduct business on the shelf corporation's behalf. That meant, Mathewson advised, that a client's name need never appear on the shelf corporation's incorporation papers or on any other document requiring a corporate signature; signatures were instead provided by a person from Guardian Directors Ltd. In this way, Mathewson indicated, a client's corporation "could do business worldwide and the U.S. client (beneficial owner) could be confident that his name would never appear and, in fact, he or she would have complete anonymity."

Mathewson explained that, to establish a client's ownership of a particular shelf corporation, Guardian Bank typically used a separate "assignment" document which assigned the corporation's single share from the Guardian subsidiary to the client. He said this assignment document was typically the only documentary evidence of the client's ownership of the shelf corporation. He indicated that the assignment document could then be kept by Guardian Bank in the Cayman Islands, under Cayman banking and corporate secrecy laws, to further ensure nondisclosure of the client's ownership interest.

Mathewson said Guardian Bank usually kept clients' bank account statements in the Cayman Islands as well, again to preserve client secrecy. His written materials state, "No bank statements were ever sent to the client in the United States." Instead, he indicated, a client visiting the Cayman Islands would give the bank a few days notice, and Guardian Bank would produce an account statement for an appropriate period of time, for the client's in-person review and signature during their visit to the bank.

Guardian Use of Correspondent Accounts. Mathewson said Guardian Bank utilized correspondent bank accounts to facilitate client transactions, while minimizing disclosure of client information and maximizing Guardian revenues.

Mathewson noted that, because Guardian Bank was an offshore bank, all of its depositors were required to be non-Cayman citizens. He said that 95% of the bank's clientele came from the United States, with the other 5% from Canada, South America and Europe, which he said was a typical mix of clients for Cayman banks. In order to function, he said, Guardian had to be able to handle for-

eign currency transactions, particularly U.S. dollar transactions, including clearing U.S. dollar checks and wires. He said that, as a non-U.S. bank, Guardian Bank had no capability to clear a U.S. dollar check by itself and no direct access to the check and wire clearing capabilities of Fedwire or CHIPS. But Guardian Bank had easily resolved this problem, he said, by opening correspondent accounts at U.S. banks.

Mathewson said that, over time, Guardian Bank had opened about 15 correspondent accounts and conducted 100% of its transactions through them. He said, "Without them, Guardian would not have been able to do business." He said that, at various times, Guardian had accounts at seven banks in the United States, including Bank of New York; Capital Bank in Miami; Eurobank Miami; First Union in Miami; Popular Bank of Florida; Sun Bank; and United Bank in Miami. He said Guardian also had accounts at non-U.S. banks, including Bank of Butterfield in the Cayman Islands; Bank of Bermuda in the Cayman Islands; Barclay's Grand Cayman; Credit Suisse in Guernsey; Credit Suisse in Toronto; Royal Bank of Canada in the Cayman Islands; and Toronto Dominion Bank.

Mathewson indicated that Guardian Bank's major correspondents were Bank of New York, First Union in Miami, and Credit Suisse in Guernsey, with $1–$5 million on deposit at each bank at any given time. He said that when Guardian Bank was closed in early 1995, it had a total of about $150 million in its correspondent accounts. He estimated that, over 10 years of operation, about $300–$500 million had passed through Guardian Bank's correspondent accounts.

Mathewson said that Guardian Bank had used the services provided by its correspondent banks to provide its clients with a wide array of financial services, including checking accounts, credit cards, wire transfer services, loans and investments. He wrote, "The bank offered almost any service that a U.S. bank would offer, i.e., wire transfers, current accounts, certificates of deposit, the purchase of shares on any share market in the world, purchase of U.S. treasury bills, bonds, credit cards (Visa), and almost any investment that the client might wish." He explained that, while Guardian Bank itself lacked the resources, expertise and infrastructure needed to provide such services in-house, it easily afforded the fees charged by correspondent banks to provide these services for its clients.

Mathewson said that to ensure these correspondent services did not undermine Cayman secrecy protections, Guardian Bank had also developed a series of policies and procedures to minimize disclosure of client information.

Client Deposits. Mathewson said that one set of policies and procedures were designed to minimize documentation linking particular deposits to particular clients or accounts and to impede the tracing of individual client transactions. He said that Guardian Bank provided its clients with instructions on how to make deposits with either checks or wire transfers.

Client Deposits Through Checks. If a client wanted to use a check to make a deposit, Mathewson said, the client was advised to make the check payable to Guardian Bank; one of Guardian's

subsidiaries—Fulcrum Ltd., Sentinel Ltd., or Tower Ltd.; or the client's own shelf corporation. He said the client was then instructed to wrap the check in a sheet of plain paper, and write their Guardian account number on the sheet of paper. He said that the client account number was written on the plain sheet of paper rather than on the check, so that the account number would not be directly associated with the check instrument used to make the deposit.

Mathewson said that Guardian Bank provided its clients with several options for check payees to make a pattern harder to detect at their own bank. He said that if a check was made out to the client's shelf corporation, the client was advised not to endorse it on the back and Guardian Bank would ensure payment anyway. He said that Guardian would then stamp each check on the back with: "For deposit at [name of correspondent bank] for credit to Guardian Bank" and provide Guardian's account number at the correspondent bank. He noted that this endorsement included no reference to the Cayman Islands which meant, since there were multiple Guardian Banks around the world, the transaction would be harder to trace.

Mathewson said that after Guardian Bank accumulated a number of U.S. dollar checks sent by its clients to the bank in the Cayman Islands, it batched them into groups of 50 to 100 checks and delivered them by international courier to one of its U.S. correspondent banks for deposit into a Guardian account. He said that the U.S. bank would then clear the client checks using its own U.S. bank stamp, which meant the client's U.S. bank records would show only a U.S. bank, and not a Cayman bank, as the payor. He said the correspondent bank would then credit the check funds to Guardian's account, leaving it to Guardian Bank itself to apportion the funds among its client accounts.

Mathewson explained that Guardian Bank never actually transferred client funds out of Guardian's correspondent accounts to the bank in the Cayman Islands, nor did it create subaccounts within its U.S. correspondent accounts for each client. He said that Guardian Bank purposely left all client funds in its correspondent accounts in order to earn the relatively higher interest rates paid on large deposits, thereby generating revenue for the bank. For example, Mathewson said, a Guardian correspondent account might generate 6% interest, a higher rate of return based on the large amount of funds on deposit, and Guardian Bank would then pay its clients 5%, keeping the 1% differential for itself. He said that Guardian might also transfer some funds to an investment account in its own name to generate still larger revenues for the bank. He said that Guardian Bank had opened investment accounts at 10 or more securities firms, including Prudential Bache in New York, Prudential Securities in Miami, Smith Barney Shearson, and Charles Schwab.

He explained that Guardian did not create client subaccounts or otherwise ask its correspondent banks keep track of Guardian client transactions, since to do so would have risked disclosing specific client information. Instead, he said, transactions involving individual Guardian accounts were recorded in only one place, Guardian Bank's ledgers. He said that Guardian Bank's ledgers

were kept electronically, using encrypted banking software that was capable of tracking multiple clients, accounts, transactions and currencies and that ran on computers physically located in the Cayman Islands, protected by Cayman bank secrecy laws.

Client Deposits Through Wire Transfers. Mathewson also described the arrangements for client deposits made through wire transfers. He said that clients were provided the names of banks where they could direct wire transfers for depositing funds into a Guardian correspondent account. He said the wire instructions typically told clients to transfer their funds to the named bank "for further credit to Guardian Bank," and provided Guardian's correspondent account number.

Mathewson said that Guardian Bank had preferred its clients to send wire deposits to a non-U.S. bank, such as Credit Suisse in Guernsey, or the Bank of Butterfield in the Caymans, to minimize documentation in the United States. He said the clients were given Guardian's account number at each of the banks and were instructed to direct the funds to be deposited into Guardian's account, but not to provide any other identifying information on the wire documentation. He said clients were then instructed to telephone Guardian Bank to alert it to the incoming amount and the account to which it should be credited. He said that Guardian Bank commingled the deposit with other funds in its correspondent account, recording the individual client transaction only in its Cayman records.

Mathewson stated that, although discouraged from doing so, some clients did wire transfer funds to a Guardian correspondent account at a U.S. bank. He said that Guardian had also, on occasion, permitted clients to make cash deposits into a Guardian correspondent account at a U.S. bank. In both cases, however, he indicated that the clients were warned against providing documentation directly linking the funds to themselves or their Guardian account numbers. He said that after making a deposit at a U.S. bank, clients were supposed to telephone Guardian Bank to alert it to the deposit and to indicate which Guardian account was supposed to be credited. He indicated that, as a precaution in such cases, Guardian Bank would sometimes wire the funds to another Guardian correspondent account at a bank in a secrecy jurisdiction, such as Credit Suisse in Guernsey, before sending it to the next destination, to protect client funds from being traced.

Mathewson said that, whether a client used a check or wire transfer to deposit funds, if the client followed Guardian's instructions, the documentation at the correspondent bank ought to have contained no information directly linking the incoming funds to a named client or to a specific account at Guardian Bank in the Cayman Islands.

Client Withdrawals. Mathewson next explained how Guardian Bank used its U.S. correspondent accounts to provide its clients with easy, yet difficult-to-trace access to their offshore funds. He described three options for client withdrawals involving credit cards, checks or wire transfers.

Client Withdrawals Through Credit Cards. Mathewson said that Guardian Bank had recommended that its clients access their account funds through use of a credit card issued by the bank,

which he described as the easiest and safest way for them to access their offshore funds. He explained that Guardian Bank had set up a program to assign its U.S. clients a corporate Visa Gold Card issued in the name of their shelf corporation. He said that the only identifier appearing on the face of the card was the name of the shelf corporation, imprinted with raised type. He said that the clients were then told to sign the back of the card, using a signature that was reproducible but hard to read. He said that, while some clients had expressed concern about merchants accepting the credit card, Guardian had never experienced any problems.

Mathewson said that Guardian Bank had charged its clients an annual fee of $100 for use of a Visa card. Mathewson explained that the cards were issued and managed on a day-to-day basis by a Miami firm called Credomatic. To obtain a card for a particular client, Mathewson explained that Guardian Bank had typically sent a letter of credit on behalf of the client's shelf corporation to Credomatic. He said the amount of the letter of credit would equal the credit limit for the particular card. He said that, to ensure payment by the client, Guardian Bank would simultaneously establish a separate account within Guardian Bank containing funds from the client in an amount equal to twice the client's credit card limit. He said these client funds then served as a security deposit for the credit card. He said, for example, if a client had a $50,000 credit card limit, the security deposit would contain $100,000 in client funds. He said that, while most of their cardholders had $5,000 credit limits, some went as high as $50,000.

Mathewson stated that Credomatic had not required nor conducted background checks on Guardian's cardholders, because Guardian Bank had guaranteed payment of their credit card balances through the letters of credit, which meant Credomatic had little or no risk of nonpayment. Mathewson stated that Guardian Bank had instructed Credomatic never to carry a credit card balance over to a new month, but to ensure payment in full each month using client funds on deposit at Guardian Bank. In that way, he said, the client funds in the security deposit eliminated any nonpayment risk to Guardian Bank. According to Mathewson, the arrangement was the equivalent of a monthly loan by the bank to its clients, backed by cash, through a device which gave its U.S. banking clients ready access to their offshore funds.

Mathewson observed that Guardian Bank had earned money from the Visa card arrangement, not only through the $100 annual fee, but also through commissions on the card activity. He explained that once a credit card was issued, Credomatic managed the credit relationship, compiling the monthly charges for each card and forwarding the balances to Guardian Bank which immediately paid the total in full and then debited each client. In return, he said, Credomatic received from merchants the standard Visa commission of approximately 3% of the sales drafts and, because Guardian Bank had guaranteed payment of the monthly credit card balances, forwarded 1% to the bank. He said it was a popular service with clients and profitable for Guardian Bank. In response to questions, he said that, as far as he knew, Credomatic had never questioned Guardian Bank's operations or clients and

was "delighted" to have the business. Credomatic is still in operation in Miami.

Client Withdrawals Through Correspondent Checks. Mathewson said that a second method Guardian Bank sometimes used to provide U.S. clients with access to their offshore funds was to make payments on behalf of its clients using checks drawn on Guardian's U.S. correspondent accounts.

Mathewson explained that each correspondent bank had typically provided Guardian Bank with a checkbook that the bank could use to withdraw funds from its correspondent account. He said that the Bank of New York, which provided correspondent services to Guardian Bank from 1992 until 1996, had actually provided two checkbooks. He said the first checkbook from the Bank of New York had provided checks in which the only identifier at the top of the check was "Guardian Bank"—without any address, telephone number or other information linking the bank to the Cayman Islands—and the only account number at the bottom was Guardian's correspondent account number at the Bank of New York in New York City. He said the second checkbook provided even less information—the checks had no identifier at the top at all and at the bottom referenced only the Bank of New York and an account number that, upon further investigation, would have identified the Guardian account. He explained that checks without any identifying information on them were common in Europe, Asia and offshore jurisdictions, and that Guardian Bank had experienced no trouble in using them.

He said that Guardian Bank sometimes used these checks to transact business on behalf of a client—such as sending a check to a third party like a U.S. car dealership. He said that if the amount owed was over $10,000, such as a $40,000 payment for a car, the client would authorize the withdrawal of the total amount of funds from their Cayman account, and Guardian Bank would send multiple checks to the car dealership, perhaps five or six, each in an amount less than $10,000, to avoid generating any currency report. He noted that, once deposited, each check would be cleared as a payment from a U.S. bank, rather than from a Cayman bank. He said that if the check used did not have an identifier on top, the payee would not even be aware of Guardian Bank's involvement in the transaction. If traced, he noted that the funds would lead only to the correspondent account held by Guardian Bank, rather than to a specific Guardian client. He said that Cayman secrecy laws would then prohibit Guardian Bank from providing any specific client information, so that the trail would end at the correspondent account in the United States.

Mathewson said that correspondent checks, like the VISA credit cards, gave Guardian clients ready access to their offshore funds in ways that did not raise red flags and would not have been possible without Guardian Bank's correspondent relationships.

Client Withdrawals Through Wire Transfers. A third option for clients to access their offshore funds involved the use of wire transfers. Mathewson explained that Guardian clients had no authority to wire transfer funds directly from Guardian Bank's correspondent accounts, since only the bank itself had signatory authority over those accounts. He said that the clients would instead

send wire transfer instructions to Guardian Bank, which Guardian Bank would then forward to the appropriate correspondent bank. He said that Guardian Bank would order the transfer of funds to the third party account specified by the client, without any client identifier on the wire documentation itself, requiring the client to take responsibility for informing the third party that the incoming funds had originated from the client.

Mathewson observed that its correspondent accounts not only enabled its clients readily to deposit and withdraw their offshore funds and hide their association with Guardian Bank, but also generated ongoing revenues for Guardian Bank, such as the higher interest paid on aggregated client deposits, credit card commissions, and wire transfer fees.

Two Other Client Services. In addition to routine client services, Mathewson described two other services that Guardian Bank had extended to some U.S. clients, each of which made use of Guardian Bank's correspondent accounts. Both of these services enabled Guardian clients to evade U.S. taxes, with the active assistance of the bank.

Invoicing. Mathewson first described a service he called invoicing, which he said was provided in connection with sales transactions between two corporations controlled by the same Guardian client. He said that a typical transaction was one in which the client's Cayman corporation purchased a product from abroad and then sold it to the client's U.S. corporation at a higher price, perhaps with a 30% markup, using an invoice provided by Guardian Bank. He said that this transaction benefited the client in two ways: (1) the client's Cayman corporation could deposit the price differential into the client's account at Guardian Bank tax free (since the Cayman Islands imposes no corporate taxes) and, if the client chose, avoid mention of the income on the client's U.S. taxes; and (2) the client's U.S. corporation could claim higher costs and less revenue on its U.S. tax return, resulting in a lower U.S. tax liability.

Mathewson said that the Guardian Bank service had included supplying any type of invoice the client requested, with any specified price or other information. He said Guardian Bank had also made its correspondent accounts available to transfer the funds needed by the client's Cayman corporation for the initial product purchase, and to accept the sales price later "paid" by the client's U.S. corporation. In return for its services, he said, Guardian Bank had charged the client in one of three ways: (1) a fee based upon the time expended, such as $1,000 for 4 hours of work; (2) a flat fee for the service provided, such as $25,000 per year; or (3) a fee based on a percentage of the shipment cost of the product invoiced. Mathewson observed that, at the time, he did not consider this activity to be illegal since, unlike the United States, the Cayman Islands collected no corporate taxes and did not consider tax evasion a crime. However, Cayman authorities told Minority Staff investigators that Guardian Bank's invoicing services were both unusual in Cayman banking circles and a clearly fraudulent practice.

Dutch Corporations. Mathewson advised that Guardian Bank had also assisted a few U.S. clients in obtaining Dutch corporations to effect a scheme involving fake loans and lucrative U.S. tax de-

ductions. He explained that Guardian Bank had begun offering this service after hiring a new vice president who had set up Dutch corporations in his prior employment. Mathewson said, for a $30,000 fee, Guardian Bank would establish a Dutch corporation whose shares would be wholly owned by the client's Cayman corporation. Mathewson said that Guardian Bank used a Dutch trust company to incorporate and manage the Dutch corporations, paying the trust company about $3,000–$4,000 per year per corporation. He said that Guardian Bank was able to charge ten times that amount to its clients, because the few clients who wanted a Dutch corporation were willing to pay.

Once established, Mathewson said, the Dutch corporation would issue a "loan" to the U.S. client, using the client's own funds on deposit with Guardian Bank. He said the U.S. client would then repay the "loan" with "interest," by sending payments to the Dutch corporation's bank account, opened by the Dutch trust company at ANB AMRO Bank in Rotterdam. He said that the Dutch corporation would then forward the "loan payments" to the client's Guardian account, using one of Guardian Bank's correspondent accounts.

In essence, he said, the U.S. client was using Guardian Bank's correspondent accounts to transfer and receive the client's own funds in a closed loop. He said the benefits to the client were fourfold: (1) the client secretly utilized his or her offshore funds; (2) the client obtained seeming legitimate loan proceeds which could be used for any purpose in the United States; (3) the client repaid not only the loan amount, but additional "interest" to the Dutch corporation, which in turn sent these funds to the client's growing account at Guardian Bank; and (4) if the client characterized the loan as a "mortgage," the client could deduct the "interest" payments from his or her U.S. taxes, under a U.S.-Netherlands tax treaty loophole which has since been eliminated.

Due Diligence Efforts of U.S. Banks. When asked about the due diligence efforts of the U.S. banks that had provided correspondent services to Guardian Bank, Mathewson said that he thought the U.S. banks had required little information to open a correspondent account, had requested no information about Guardian Bank's clients, and had conducted little or no monitoring of the account activity.

Mathewson said the account opening process was "not difficult." He said that, during the 10 years of Guardian Bank's operation from 1984 to 1994, U.S. banks wanted the large deposits of offshore banks like Guardian Bank and were "delighted" to get the business. He said it was his understanding that they would open a correspondent relationship almost immediately upon request and completion of a simple form. He said the account was opened within "a matter of days" and apparently with little verification, documentation, or research by the correspondent bank. He could not recall any U.S. based bank turning down Guardian Bank's request for an account, nor could he recall any U.S. correspondent bank officer visiting Guardian Bank prior to initiating a correspondent relationship.

Mathewson also could not remember any effort by a U.S. based bank to monitor Guardian Bank's correspondent account activity. He said, "I don't think any of them ever attempted to monitor the

account." He stated that, to his knowledge, Guardian Bank's correspondent banks also had no information related to Guardian's individual clients, since Guardian Bank had designed its procedures to minimize information about its clients in the United States.

An Insider's View. Guardian Bank was in operation for 10 years. It had over 1,000 clients and $150 million in its correspondent accounts when it was closed by the Cayman Government in early 1995. Since then, Mathewson has pled guilty to money laundering, tax evasion and fraud, and has helped convict numerous former bank clients of similar misconduct. He has also provided the most detailed account yet of the operations of an offshore bank.

Mathewson informed Minority Staff investigators that correspondent banks are fundamental to the operations of offshore banks, because they enable offshore banks to transact business in the United States, while cloaking the activities of bank clients.

When asked whether he thought Guardian Bank's experience was unusual, Mathewson said that, to his knowledge, he was "the first and last U.S. citizen" allowed to attain a position of authority at a Cayman bank. He said he thought he was both the first and last, because Cayman authorities had been wary of allowing a U.S. citizen to become a senior bank official due to their vulnerability to U.S. subpoenas, and because he had met their fears of a worst case scenario—he was, in fact, subpoenaed and, in response, had turned over the records of all his bank clients to criminal and tax authorities in the United States. However, in terms of Guardian Bank's operations, Mathewson said that Guardian Bank "was not unusual, it was typical of the banks in the Cayman Islands and this type of activity continues to this day." He maintained that he had learned everything he knew from other Cayman bankers, and Guardian Bank had broken no new ground, but had simply followed the footsteps made by others in the offshore banking community.

The Mathewson account of Guardian Bank provides vivid details about an offshore bank's use of U.S. correspondent accounts to move client funds, cloak client transactions, and maximize bank revenues. One hundred percent of Guardian Bank's transactions took place through its correspondent accounts, including all of the criminal transactions being prosecuted in the United States. A number of the following case histories demonstrate that Guardian Bank was not a unique case, and that the deliberate misuse of the U.S. correspondent banking system by rogue foreign banks to launder illicit funds is longstanding, widespread and ongoing.

VII. Conclusions and Recommendations

The year-long Minority Staff investigation into the use of international correspondent banking for money laundering led to several conclusions and recommendations by the Minority Staff.

Based upon the survey results, case histories and other evidence collected during the investigation, the Minority Staff has concluded that:

(1) U.S. correspondent banking provides a significant gateway for rogue foreign banks and their criminal clients to carry on money laundering and other criminal activity in the United

States and to benefit from the protections afforded by the safety and soundness of the U.S. banking industry.

(2) Shell banks, offshore banks, and banks in jurisdictions with weak anti-money laundering controls carry high money laundering risks. Because these high risk foreign banks typically have limited resources and staff and operate in the international arena outside their licensing jurisdiction, they use their correspondent banking accounts to conduct their banking operations.

(3) U.S. banks have routinely established correspondent relationships with foreign banks that carry high money laundering risks. Most U.S. banks do not have adequate anti-money laundering safeguards in place to screen and monitor such banks, and this problem is longstanding, widespread and ongoing.

(4) U.S. banks are often unaware of legal actions related to money laundering, fraud and drug trafficking that involve their current or prospective respondent banks.

(5) U.S. banks have particularly inadequate anti-money laundering safeguards when a correspondent relationship does not involve credit-related services.

(6) High risk foreign banks that may be denied their own correspondent accounts at U.S. banks can obtain the same access to the U.S. financial system by opening correspondent accounts at foreign banks that already have a U.S. bank account. U.S. banks have largely ignored or failed to address the money laundering risks associated with "nested" correspondent banking.

(7) In the last 2 years, some U.S. banks have begun to show concern about the vulnerability of their correspondent banking to money laundering and are taking steps to reduce the money laundering risks, but the steps are slow, incomplete, and not industry-wide.

(8) Foreign banks with U.S. correspondent accounts have special forfeiture protections in U.S. law which are not available to other U.S. bank accounts and which present additional legal barriers to efforts by U.S. law enforcement to seize illicit funds. In some instances, money launderers appear to be deliberately using correspondent accounts to hinder seizures by law enforcement, while foreign banks may be using the "innocent bank" doctrine to shield themselves from the consequences of lax anti-money laundering oversight.

(9) If U.S. correspondent banks were to close their doors to rogue foreign banks and to adequately screen and monitor high risk foreign banks, the United States would reap significant benefits by eliminating a major money laundering mechanism, frustrating ongoing criminal activity, reducing illicit income fueling offshore banking, and denying criminals the ability to deposit illicit proceeds in U.S. banks with impunity and profit from the safety and soundness of the U.S. financial system.

Based upon its investigation, the Minority Staff makes the following recommendations to reduce the use of U.S. correspondent banks for money laundering:

(1) U.S. banks should be barred from opening correspondent accounts with foreign banks that are shell operations with no physical presence in any country.

(2) U.S. banks should be required to use enhanced due diligence and heightened anti-money laundering safeguards as specified in guidance or regulations issued by the U.S. Treasury Department before opening correspondent accounts with foreign banks that have offshore licenses or are licensed in jurisdictions identified by the United States as non-cooperative with international anti-money laundering efforts.

(3) U.S. banks should conduct a systematic review of their correspondent accounts with foreign banks to identify high risk banks and close accounts with problem banks. They should also strengthen their anti-money laundering oversight, including by providing regular reviews of wire transfer activity and providing training to correspondent bankers to recognize misconduct by foreign banks.

(4) U.S. banks should be required to identify a respondent bank's correspondent banking clients, and refuse to open accounts for respondent banks that would allow shell foreign banks or bearer share corporations to use their U.S. accounts.

(5) U.S. bank regulators and law enforcement officials should offer improved assistance to U.S. banks in identifying and evaluating high risk foreign banks.

(6) The forfeiture protections in U.S. law should be amended to allow U.S. law enforcement officials to seize and extinguish claims to laundered funds in a foreign bank's U.S. correspondent account on the same basis as funds seized from other U.S. accounts.

Banking and anti-money laundering experts repeatedly advised the Minority Staff throughout the course of the investigation that U.S. banks should terminate their correspondent relationships with certain high risk foreign banks, in particular shell banks. They also advised that offshore banks and banks in countries with poor bank supervision, weak anti-money laundering controls and strict bank secrecy laws should be carefully scrutinized. The Minority Staff believes that if U.S. banks terminate relationships with the small percentage of high risk foreign banks that cause the greatest problems and tighten their anti-money laundering controls in the correspondent banking area, they can eliminate the bulk of the correspondent banking problem at minimal cost.

VIII. Ten Case Histories

The investigation developed the following ten case histories of high risk foreign banks with U.S. correspondent accounts.

Case Histories

No. 1: AMERICAN INTERNATIONAL BANK

No. 2: CARIBBEAN AMERICAN BANK

No. 3: OVERSEAS DEVELOPMENT BANK AND TRUST COMPANY

American International Bank (AIB) is a small offshore bank that was licensed in Antigua and Barbuda and is now in liquidation. This case history shows how, for 5 years, AIB facilitated and profited from financial frauds in the United States, laundering millions of dollars through a succession of U.S. correspondent accounts, before collapsing from insufficient capital, insider abuse, and the sudden withdrawal of deposits. The case history examines how, along the way, AIB enabled other offshore shell banks to gain access to the U.S. banking system through AIB's own U.S. correspondent accounts, including Carribean American Bank, a notorious shell bank set up by convicted U.S. felons. Finally, the case history shows that AIB's questionable financial condition went unnoticed due, in part, to years of late and inaccurate financial statements by AIB's outside auditor.

The following information was obtained from documents provided by the Government of Antigua and Barbuda, the Government of Dominica, Bank of America, Toronto Dominion Bank (New York), Chase Manhattan Bank, Popular Bank of Florida (now BAC Florida Bank), First National Bank of Commerce (now Bank One Corporation), Jamaica Citizens Bank Ltd. (now Union Bank of Jamaica, Miami Agency), AmTrade International Bank; court pleadings; interviews of government officials and other persons in Antigua and Barbuda, the United Kingdom, Dominica, and the United States, and other materials. Key sources of information were interviews with William Cooper, owner and Chairman of American International Bank, conducted on October 12, 2000; John Greaves, President of American International Bank, owner of American International Management Services (later called Overseas Management Services), and formerly owner and Director of Overseas Development Bank and Trust of Dominica and Overseas Development Bank (in Antigua and Barbuda), conducted on July 24 and 25, 2000; Malcolm West, owner of Overseas Development Bank and Trust of Dominica and Overseas Development Bank (in Antigua and Barbuda), conducted on October 13, 2000; relationship managers and other officials from Bank of America (conducted July 10, 11 and 31 and October 24, 2000), Chase Manhattan Bank (conducted August 2, 3, and 4, 2000), Popular Bank of Florida (now BAC Florida Bank) (conducted July 31 and December 12, 2000), Barnett Bank (conducted October 26, 2000) and AmTrade International Bank (conducted October 26, 2000); Eddie St. Clair Smith, receiver of American International Bank, conducted October 12, 2000; and Wilbur Harrigan, partner for Pannell Keff and Forster,

conducted October 10, 2000. The investigation greatly benefited from the cooperation and assistance provided by a number of officials of the Government of Antigua and Barbuda, particularly the Executive Director of the International Financial Sector Regulatory Authority and the Director of the Office of Drugs and Narcotics Control Policy; and officials from the Government of Dominica.

A. THE FACTS

(1) American International Bank Ownership and Management

American International Bank ("AIB") was incorporated as an offshore bank in Antigua and Barbuda on April 18, 1990, one day after applying for its license. Antigua Management and Trust Ltd., (hereafter called "AMT Trust") an Antiguan trust company owned by William Cooper and his wife, formed AIB, served as its agent and one of the three directors of the bank, and was to manage the bank for the shareholder, Shirley Zeigler-Feinberg of Boca Raton, Florida.[52] However, according to Cooper, the Feinbergs' plans for the bank never materialized, and in September 1992, Cooper and his wife purchased the 1 million capital shares of AIB using a British Virgin Islands (BVI) corporation that they owned, called AMT Management Ltd. (hereafter called "AMT Management"). Cooper then became President of AIB.[53]

(2) Financial Information and Primary Activities

AIB was part of a group of companies owned by Cooper and his wife collectively known as the American International Banking Group. The companies offered banking, trust, company formation and management and ship registry services to clients.[54]

AIB's brochures indicated that its primary banking business was focused on private banking and investment banking services. The bank grew quite rapidly from when it began operations in mid-1993 and became one of the largest offshore banks in Antigua and Barbuda. According to the bank's audited financial statements, its asset base grew from $1.2 million from the end of 1993 to $57 million at the end of 1996. According to Cooper, after 2½ years of operation the bank had $3.5 million in accumulated earnings. No financial statement was produced in 1997, but Cooper indicated that the assets of the bank had grown to about $100 million by the end of 1997. AIB's receiver put AIB's assets as high as $110 million.

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[52] Although the owner of the bank at the time of formation was listed as Shirley Zeigler-Feinberg, the true owner of the bank, according to Cooper, was her son who didn't want to be identified as the owner of the bank.

[53] At that time, Antiguan law required a bank to be capitalized with $1 million. In the case of AIB, the capital shares of the bank were acquired through a "book entry transaction," according to the bank's current receiver. AMT Management borrowed $1 million from AIB to pay for the purchase of the bank's stock, and it secured that loan with the very stock AMT Management was purchasing. The initial financial audit of the bank shows that upon opening, the bank had $1.1 million in outstanding loans; it doesn't show that at least $1 million was to finance the purchase of the bank itself. This transaction set a pattern for future lending activity at the bank that ultimately contributed to a liquidity crisis leading to its collapse.

[54] The companies that comprised American International Banking Group were: American International Bank, AMT Management, AMT Trust, and Ship Registry Services, Ltd., a ship registry company. All four companies in the group were owned by Cooper and his wife. In June 1996 Cooper formed and licensed another offshore bank, American International Bank and Trust. It was one of the first banks licensed under Dominica's offshore banking law which had been enacted in early 1996. However, the bank had very little activity and ceased operations 1997.

By the end of 1997, AIB had approximately 8,000 clients and the same number of accounts. According to Cooper, about 50% of AIB's client base was from the United States; 10% was from Canada; 40% was from Europe and the Middle East. Almost all clients had established International Business Corporations ("IBCs")[55] in whose names the accounts were opened. Cooper said the main reason why Americans established accounts at AIB was for "confidentiality" reasons.

The AIB Banking Group created and operated offshore banks for individuals with no staff of their own or any physical presence in Antigua and Barbuda. AIB generated revenue by serving as a correspondent bank to a number of these and other offshore banks. According to Cooper and John Greaves, former President and Board Member of AIB, six banks formed by AMT Trust established correspondent relationships with AIB. At least two of these banks were the centers for financial frauds and money laundering activity.

Cooper told the Minority Staff that through AMT Trust, he helped form and obtain Antiguan offshore banking licenses for approximately 15 other offshore banks.[56] Antiguan law requires that the board of each offshore bank include an Antiguan citizen with banking experience. Since only a small number of Antiguans could qualify for that position and Cooper was one of them, he often became the local director for the banks that he formed through AMT Trust. In a number of instances he would also serve as an officer of the bank.[57]

In 1995 Greaves formed American International Management Services (AIMS).[58] Greaves had over 30 years of banking experience at the time, having just served as the General Manager of the Swiss American Bank Operation—comprised of an Antiguan bank, an offshore bank licensed in Antigua and Barbuda, and a management and trust company (Antigua International Trust). AIMS was created to provide back office, or administrative, operations for offshore banks. After its formation in 1995, AIMS became closely

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[55] International Business Corporations ("IBCs") are corporations that are established in offshore jurisdictions and are generally licensed to conduct business only outside the country of incorporation. Often, jurisdictions with IBC statutes will also offer little or no taxation and regulation of the IBCs and will have corporate secrecy laws that prohibit the release of information about the ownership of the IBC. In some jurisdictions, IBCs are not required to keep books and records. A report for the United Nations Global Programme Against Money Laundering, *Financial Havens, Banking Secrecy and Money Laundering,* stated: "International Business Corporations ("IBCs") are at the heart of the money laundering problem . . . virtually all money laundering schemes use these entities as part of the scheme to hide the ownership of assets."

[56] The Minority Staff identified 30 banks with Antiguan offshore banking licenses that identified AMT Trust as their agent. This could mean that Cooper underestimated the number of banks he and his company formed and licensed, or that AMT Trust became the agent for some of the banks after another company had formed and licensed the bank.

[57] The value of the legal requirement of a local board member is questionable, however. As Cooper informed the Minority Staff, he never followed the activities of the banks on whose boards he served. He said he was sitting on the board only to fulfill the legal requirement for a local director and, in fact, required each of his client banks to sign liability waivers and indemnity provisions to protect him from any liability that might accrue as a result of his position on the board.

[58] The ownership of AIMS is uncertain. Greaves informed the Minority Staff that he and Cooper each owned half of AIMS. Cooper told the Minority Staff he had nothing to do with AIMS. The company's incorporation papers list only Greaves as the owner. However, the bank management services contract used by AIMS lists both Greaves and Cooper as signing on behalf of AIMS. Additionally, brochures on the AIB group include AIMS as a member of the group.

linked to the AIB Banking Group operations.[59] AIMs assumed back office operations for a number of AIB respondent banks, including Caribbean American Bank, Hanover Bank and Overseas Development Bank and Trust. AIMS also serviced some other banks that were not clients of AIB. Because of his long experience in banking, Greaves often served as the local director for offshore banks that were formed by AMT and/or operated by AIMS. In September 1995, Greaves became Senior Vice President and a Director of AIB. In November 1996, he was appointed President of AIB, with Cooper assuming the position of Chairman of the Board. Throughout this association with AIB, Greaves retained his ownership of AIMS.

(3) AIB Correspondents

In order to service its clients who wanted to conduct financial activity in the major economies of the world, AIB established correspondent relationships with banks in a number of countries. As will be discussed in more detail below, AIB had numerous correspondent accounts with U.S. banks. They included: Jamaica Citizens Bank Ltd. (now Union Bank of Jamaica, Miami Agency), the New York Branch of Toronto Dominion Bank, Bank of America, Popular Bank of Florida (now BAC Florida Bank), Chase Manhattan Bank, Norwest Bank in Minnesota, and Barnett Bank. According to Cooper and AIB documents, AIB correspondents in other jurisdictions included Privat Kredit Bank in Switzerland, Toronto Dominion Bank in Canada, Midland Bank in England, a German bank (whose name could not be recalled by Cooper)[60] and Antigua Overseas Bank.

Antigua Overseas Bank, an offshore bank licensed by the Government of Antigua and Barbuda, became particularly useful to AIB when AIB was no longer able to obtain correspondent accounts at U.S. banks. Antigua Overseas Bank had a number of correspondent accounts at U.S. banks, including Bank of America, Chase Manhattan Bank and Bank of New York. AIB, through its relationship with Antigua Overseas Bank, exploited Antigua Overseas Bank's correspondent relationships with U.S. banks to maintain its (AIB's) access to the U.S. banking system.

(4) AIB Operations and Anti-Money Laundering Controls

Cooper described AIB's due diligence and anti-money laundering controls to the Minority Staff. According to Cooper, AIB had many requests to establish accounts for IBCs without identifying the beneficial owner but AIB never granted the request. The bank did not establish pseudonym accounts or numbered accounts. AIB required the identification of the owner and shareholder of all accounts and that it be able to contact all account holders. AIB required passports, a bank reference letter, a professional letter of reference and the full address, and phone number for all account holders. Daily reports on all transactions of $5,000 or more were produced and reviewed by Cooper. According to Cooper AIB's correspondent banks

[59] One of the back office services listed in the AIMS bank management contract was "the establishment of a correspondent banking relationship with American International Bank to effect wire transfers and issue multi-currency drafts."

[60] Account opening documentation supplied by AIB to one of its U.S. correspondents identified Berenberg Bank in Germany as a correspondent bank.

always inquired about its due diligence policies and requested a copy of AIB's operation manual. An AIB brochure that contained a description of its operating procedures stated:

> Each new client is screened by the account officer of American International Bank Ltd. before being accepted. In each individual case, the origin of the funds have to be known. No cash deposits are accepted. Any and all deposits with the bank are to be done through wire transfer or by check.

However, in a number of AIB relationships discussed in this case study, it is apparent that these policies were not implemented.

(5) Regulatory Oversight

During its operation between 1993 and 1998, AIB was never subjected to a bank examination by its sole regulator, the Government of Antigua and Barbuda. Regulators did not conduct examinations of any licensed offshore banks until 1999, relying on audited financial statements and other filings prepared by the banks as a means of monitoring their activity. The government made an effort in the 1997–1998 period to collect information on the ownership and activities of all licensed offshore banks in Antigua and Barbuda. However, there was no follow up on the information that was collected. In 1999, Antigua and Barbuda initiated a new program for government bank examinations of licensed offshore banks.

(6) Money Laundering and Fraud Involving AIB

After operating for 4½ years, AIB eventually failed as a result of bad loans and loss of deposits. Despite several attempts to sell the bank, AIB was formally placed in receivership in July 1998, where it remains today.

During its period of operation, AIB had correspondent relationships with over seven U.S. banks. These correspondent accounts were essential to AIB's operations and provided AIB's clients with access to U.S. banks as well. AIB's growth centered around three activities, some of which evidence a high probability of money laundering, and which ultimately contributed to the collapse of the bank in 1998:

- servicing accounts associated with a highly questionable investment scheme;
- providing correspondent banking to other questionable banks; and
- highly questionable and unsound lending practices.

(a) The Forum Investment Scheme

As many as 3,000 to 6,000 of AIB's 8,000 accounts were related to investors in a highly questionable investment scheme called the Forum.[61] The Forum established a relationship with AIB shortly after the bank was opened in 1993. The Forum is an Antiguan corporation that promotes investment schemes and provides administrative services to individuals who invest in those schemes. It has a staff that serves as a point of contact between investors and the

[61] Cooper estimated that 30% to 40% of AIB's accounts were related to Forum investors. Greaves estimated that as many as 60% of the accounts were related to Forum investors. The AIB receiver concurs with the latter figure.

offshore banks and accounting firms handling their accounts. The Forum appears to be a Ponzi-type investment scheme, apparently targeted at low and middle income individuals, offering investors extraordinarily high returns. It appears that the investment returns investors received actually came from funds paid by new investors. The Forum also employed a multi-level marketing plan to bring in new investors. That is, partners (existing investors) who brought in new investors would receive a portion of the initial payments made by those new investors and also would receive descending percentages of the initial payments made by subsequent members recruited by the new investors. According to AIB's receiver, at the end of 1997, when AIB's assets were $110 million, approximately $60 million were attributable to accounts by the Forum and its investors.

A central figure in the Forum is Melvin Ford of Bowie, Maryland.[62] Ford has a history of developing questionable investment programs.[63] Using financial empowerment messages at seminars and rallies, Ford told attendees they could become wealthy through a series of high yield and speculative investment schemes.[64]

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[62] Ford did not assume a formal position of leadership in the organization. This may be the result of a former civil action brought against him by the SEC in the early 1990's. (See next footnote.) However, there are clear indications that he played a leading role in the activities of the Forum. A 1996 story in *The Washington Post* on the Forum reported:

> Last week Ford requested and was granted a meeting with Prime Minister [Lester] Bird [of the Government of Antigua and Barbuda]. According to Bird, Ford represented himself as the leader of the Forum and explained that his group's operation was legal and aboveboard.

Many times, Ford was the featured speaker at Forum gatherings. Forum members and leaders referred to him as "Chief" or "chief consultant." One insider described Ford as the leader of the organization and identified Ford as the originator of many of the Forum investment schemes. He and an associate, Gwendolyn Ford Moody, were the ones who directly dealt with Cooper regarding the account that held the funds received from the IBCs and the fund used for the dispersal of those funds. In interviews with the Minority Staff, both Cooper and Greaves spoke of Ford as the leader of the Forum and its investment activities.

[63] Prior to his involvement with the Forum, Ford was the founder and president of an organization called the International Loan Network ("ILN"), which he described as "a financial distribution network whose members believe that through the control of money and through the control of real estate you can accumulate wealth and become financially independent." The organization included, among other things, a multi-level marketing program where ILN members shared in the fees paid by individuals they recruited into the program, as well as descending percentages of fees for additional members recruited by the new members they had brought in (i.e., "downline recruitments"). ILN also ran a series of property acquisition programs in which ILN investors would receive their choice of either rights to property or cash pay outs equivalent to five to ten times their initial investment within 3 to 6 months. One version of the program also offered a refund (with 50% interest). The SEC alleged that over $11 million in refunds were requested and only $2 million had been paid. It was estimated that participants paid over $100 million into the ILN during its operation. In May 1991 the SEC commenced an action against Ford and one of his partners for the fraudulent sale of unregistered securities. The U.S. District Court for the District of Columbia subsequently issued a Temporary Restraining Order and then a Preliminary Injunction against ILN and Ford and his partner and froze the assets of ILN. In its decision, the court concluded:

> . . . the evidence is clear that ILN is nothing more than a glorified chain letter, destined to collapse of its own weight. Despite the inevitably of this outcome, potential investors were, until the issuance of the temporary restraining order in this case, continuing to be promised great wealth through their participation in the ILN. The pyramid nature of the organization was never fully revealed to them.

In 1992, the SEC and Ford reached a settlement in which Ford agreed to pay an $863,000 fine, and a trustee was appointed to recover funds for the investors. After paying approximately $5,000 of the fine, Ford declared bankruptcy. To date, the trustee has been able to recover only a small percentage of the investors' funds.

[64] International Debt Recovery ("IDR"), an Irish corporation that seeks to recover funds lost by victims of frauds, representing over 1,600 Forum-related IBCs that have invested in Forum-related ventures provided details of some of the investment schemes. They included a commercial fishing venture in Gambia called Pelican Foods, which has been directed by Chester Moody, a close associate of Ford. The company has been unable to obtain a fishing license from the government because of non-payment of port duties. Only one of four fishing boats owned by the

Investors were required to establish International Business Corporations (IBCs) and accounts for the IBCs at overseas banks. The accounts were structured so power of attorney to withdraw funds from the account was transferred to other accounting and management entities. According to one individual familiar with the organization, the transfer of funds was really controlled by associates of Ford. When investors deposited funds to their IBCs, the funds were transferred to a holding account. Disbursements were made from a second account ("disbursement account"). Authority to order disbursements from the disbursement account was vested in Gwendolyn Ford Moody, a close associate of Ford. The funds in the holding account were apparently used as collateral for expenditures from the disbursement account.

The funds were used to support highly speculative investments—many of which were controlled by Ford and his associates—and lavish lifestyles for Ford and his associates. International Debt Recovery ("IDR"), an Irish corporation that seeks to recover funds lost by victims of frauds and now represents over 1,600 Forum-related IBCs that have invested in Forum-related ventures, discovered one scheme in which Ford and his associate, Gwendolyn Ford Moody, held AIB-issued Visa Cards with very high limits. The disbursement account was used to pay the debts accumulated on the cards. Although the funds supporting the disbursement account represented deposits that were for investments, they were used to fund operations, staff salaries and personal expenses of Ford and Moody. Millions of dollars of investors' funds were expended in this way.

Cooper told investigators that significant sums obtained through Ford's schemes were transferred from AIB to The Marc Harris Organization ("The Harris Organization") in Panama. The Harris Organization, which is the owner of a number of investment and trust companies licensed in different offshore jurisdictions, is owned by Marc M. Harris. Harris and the companies he controls have been found to be behind a number of international bank and investment frauds, including banks that have been shut down by the British banking authorities for conducting illegal and fraudulent activities. More recently, his organization is alleged to have co-mingled and misapplied client funds and engaged in securities fraud.[65] In addi-

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company is seaworthy. Workers had been unpaid for nearly 8 months and the company has many large unpaid bills due.

Another recipient of Forum-related investors is the A.A. Mining Company, which has a joint venture with the De Beers diamond company. A Forum-related management committee recently wrote to investors "that the Mining company has entered into a letter of intent to joint venture on a project which could be worth over 500 million dollars. In addition, with proper funding this venture could start to send money back to the Trustees within 180 days." However, according to De Beers officials and publications, De Beers has put up the bulk of the funds in the operation, and results at the site which is the subject of the venture "are so far disappointing," and the prospects for discovery of diamond-containing minerals is "moderate to low."

A November 1999 article in *The Washington Post* identified two other Forum-related investments: purchases of locked boxes from Sierra Leone that reportedly contained $10 million worth of gold, but only contained rocks and dirt, and the Diamond Club International, a venture that sold mail order diamonds and has been sued by creditors for over $500,000 in unpaid bills.

[65] In 1998 Harris filed a claim against an investigative journalist named David Marchant for reporting these facts. *Marc M. Harris v. David E. Marchant* (United States District Court for the Southern District of Florida, Miami Division, Case No. 98–761–CIV–MOORE), Final Judgment (August 10, 1999). The court's opinion listed some of the allegations:

". . . 12. Marchant learned from Shockey [John Shockey, former investigator for the U.S. Office of the Comptroller of the Currency] that Marc M. Harris ("Harris"), the founder and de facto

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tion, Harris and his organizations are allegedly closely associated with organizations that advocate offshore mechanisms for evading taxes and avoiding other legal judgments.[66] Recently some clients of Harris have been indicted in the United States for money laundering and tax evasion through offshore vehicles set up and established by The Harris Organization.[67]

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head of the Harris Organization, had operated several offshore shell banks in Montserrat in the 1980's. These banks were subsequently closed down in 1988 by British banking authorities for conducting "illegal and fraudulent activities." According to Shockey, these banks exhibited numerous financial and fiduciary improprieties. One of the banks, the Fidelity Overseas Bank, took fees from clients even though it never performed any services for them. Another bank, the First City Bank, doctored its financial statements. Finally, a third bank, the Allied Reserve Bank, was issued cease-and-desist orders for operating in the United States without authorization. . . .

". . . 33. On March 31, 1998, Marchant published an article in *Offshore Alert* titled "We Expose The Harris Organization's Multi-Million Dollar Ponzi Scheme.

"34. This article made a number for factual allegations, which substantively accused The Harris Organization of defrauding its clients and misappropriating clients' funds. These allegations specifically at issue are:

a. That The Harris Organization operates as a "Ponzi" scheme.

b. That The Harris Organization was insolvent by $25 million.

c. That Harris used clients funds to invest in the Infra-fit [a Chilean bicycle manufacturer] venture.

d. That The Harris Organization inflated the land value of the LARE [Latin American Real Estate Fund, a Harris-affiliate entity] investment in their financial statements. . . .

g. That The Harris Organization might be laundering the proceeds of crime.

h. That The Harris Organization had issued $20 million of worthless preference shares."

In its conclusion in support of Marchant, the court found:

". . . 8. From the time he published the initial article to the present, Marchant had evidence which provided persuasive support for the truth of each of the allegations at issue. He spoke with numerous inside sources, including Dilley (a consultant who served in a position equivalent to the CEO of The Harris Organization), and outside sources such as Shockey, who appeared credible and knowledgeable about Harris, The Harris Organization, and the financial situation within The Organization. Marchant was privy to internal financial and management documentation which supported the information learned from his sources."

A 1998 *Business Week* article on Marc Harris ("Tax Haven Whiz or Rogue Banker?" *Business Week,* June 1, 1998, p. 136) reported that the Florida Professional Regulation Department suspended Harris' Certified Public Accountant license in 1990 for various "accounting violations." One violation cited in the order was that Harris "issued an accounting compilation, similar to an audit, for MMH Equity Fund Inc. The compilation did not disclose that Harris was an officer and director of the fund."

The article also notes that: ". . . Harris is now flouting U.S. law that prohibits U.S. citizens from making investments in Cuba." His Cuba Web site offers Americans just that . . . if Americans take his advice and form offshore corporations to invest in Cuba, that's "entirely their decision," he says. Yet a senior Treasury Dept. official says such moves are illegal: "Even if you interpose a third-country company, it's the same as going to Cuba directly."

In October 2000, La Commission Nacional de Valores, the Panamanian Securities Commission, suspended the operations of The Harris Organization.

[66] "28. The Harris Organization maintained substantial links, either directly or indirectly, with persons and entities known variously as 'PT Shamrock,' 'Peter Trevellian,' and 'Adam Starchild,' that advocated in print and on the Internet offshore mechanisms for evading the payment of taxes, judgments, and other debts in the United States . . . in essence, tax evasion and fraudulent conveyance of funds to offshore locations." *(Marc M. Harris v. David E. Marchant,* Case No. 98–761–CIV–MOORE, United States District Court for The Southern District of Florida Miami Division).

[67] "Anthony Vigna and his son Joseph were arrested on November 9, 2000 in Panama . . . 22 months after they were criminally indicted at the U.S. District Court for the Southern District of Florida on multiple counts of money laundering and conspiracy to defraud the IRS," according to *Offshore Alert* ("Two more Harris clients deported to the US", *Offshore Alert,* November 30, 2000, Issue 46, p. 5).

The 1998 *Business Week* article provided a description of the structure used by Harris:

Harris insists he is not trying to help folks illegally evade taxes. But an attendee of two Harris seminars, Jay Adkisson, an Oklahoma City tax lawyer, says Harris explicitly promoted tax evasion. He says Harris "starts with the premise: We're going to evade taxes. No. 2, we're going to make this so smooth that while we're evading taxes, we don't get caught." Adkisson sets up offshore trusts to protect clients from the future creditors, not the IRS.

Harris' scheme, says Adkisson, is for clients to move assets offshore to avoid taxes yet still retain control over those assets. Harris recommends setting up what he refers to as "the octopus," says Adkisson. Its head is a Panamanian foundation, an amorphous legal entity where neither the owner of the assets nor his beneficiaries' names need be disclosed. The foundation creates a tangle of companies—banks, leasing companies, insurance firms—in other offshore havens that appear to be unrelated. They then bill the client for various expenses. The client pays the invoices to offshore entities, then deducts the payments as business expenses on his tax re-

Documents show that by 1996, Ford had established four accounts in his name at The Harris Organization: Fundacion Greenwich, Greenwich Trading Company, S.A., Melvin J. Ford Trust, and Onan Enterprises, Inc. (incorporated in Nevada). His associates, Chester Moody and Gwendolyn Ford Moody, had established six accounts: Chester and Goldie Moody Trust, Jackson Management. Inc., Sancar International, S.A., Argyll Trading Corporation, Steel Management Corporation, and the Chester and Goldie Moody Trust (business). Cooper estimated that for a period of time Ford and his associates were transferring up to $800,000 per week from investors' accounts to The Harris Organization and that during a period of 6 to 8 months during 1997–1998, between $5 million and $10 million were moved to The Harris Organization. Antiguan officials confirmed extensive transfers from the Forum-related accounts at AIB to The Harris Organization. Antiguan officials estimate that the amounts transferred are likely as high as tens of millions of dollars.[68] In a letter to Senator Levin, IDR estimates that during an 18-month period starting in 1997, approximately $100 million from Forum-related investors flowed through AIB to The Harris Organization.

Thousands of individuals were drawn into Ford's investment schemes. One individual close to the operation estimated that as many as 30,000 people invested in Forum-related ventures. IDR represents over 1,600 IBC's whose owners (estimated to number approximately 16,000 individuals) lost investments through Forum-related ventures. IDR told the Subcommittee that its clients had provided documentation of a total of $52 million that they had lost to those ventures. In the 1998–1999 time period, Federal IRS agents executed search warrants on the homes of Melvin Ford and Gwendolyn Ford Moody, and the Federal investigation into this investment scheme is still continuing.

Ford and his associates used a series of offshore corporations, banks, accounting firms and trusts that were established in offshore banking and corporate secrecy jurisdictions such as the Bahamas, Antigua and Barbuda, Nevis, Panama, St. Vincent and the Grenadines.[69] Administration of investor IBC accounts was, over time, shifted among at least two different accounting firms.[70] IBC

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turn. To the IRS, it appears that the client has been billed by many unrelated third parties, says Adkisson. Under offshore secrecy laws, the IRS can't determine whether the entities the octopus controls are really controlled by the same person.

The article reports that Harris said "that 80% of his 'several thousand' clients are Americans or Canadians."

[68] The AIB receiver concurred with the estimates of Cooper and the Antiguan officials. He told the Minority Staff that during 1997, large transfers on the order of $300,000 were made from Forum-related accounts two to three times each week. He stated that most, if not all, of the transfers went to The Harris Organization in Panama.

[69] For example, investment programs funded by Forum-related IBCs have been operated or administered by a company in the Bahamas and a company in Dominica (which apparently later moved to St. Vincent and the Grenadines), and an investment company in Nevis. In the past few years documents indicate that Forum-related investment programs have been placed under the control of The Wilshire Trust, which granted the shares to the WT Trust, which then appointed a company called Financial and Corporate Services as the trustee. All of those entities are located in Nevis.

[70] Two accounting firms—LMB Accounting Services Ltd. ("LMBASL") in the Bahamas and Corporate Accounting Services Ltd. ("CASL") in Antigua and Barbuda (now re-located to Dominica)—were utilized to administer investor IBC accounts (which included forwarding investments to the IBC accounts at the offshore banks). Each investor in an IBC was charged an annual fee of $100 for this service. LMBASL had an account at BTCB—another bank profiled in this report. One of BTCB's U.S. correspondent banks questioned the LMBASL deposits into

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formation and renewal were handled by at least three different firms.[71] Investor relations with AIB, the bank that managed their accounts, was handled through the Forum. All of this had the effect of generating more fees, obscuring the flow of funds, obscuring the involvement of Ford and his associates, confusing the investors and making it more difficult for U.S. regulators and law enforcement officials to regulate and investigate their activities. A major base of operation for the Forum was the nation of Antigua and Barbuda, where Ford held regular meetings and seminars, drawing many prospective U.S. investors.

AIB became the base through which Ford ran his investment scheme[72] and millions of dollars flowed through the bank. Cooper, the owner and Chairman of the Board of AIB, was directly involved in servicing the Forum program. He attended Forum seminars, spoke about offshore corporations and passed out material on offshore corporation formation and AIB. With the assistance and encouragement of Forum personnel, investors would apply for the creation of an IBC and an account at AIB. AMT Trust, Cooper's company, would form IBCs for Forum investors. (Often as many as five, ten or more individuals would jointly invest through one IBC.)[73] One of the entities established to manage some of the Forum-related investments, Equity Management Services, Ltd. at one point used the offices of AMT Trust as its mailing address. Cooper told the Minority Staff that most of the profits that the AIB Banking group made from Forum-related operations resulted from the formation of the IBCs.

Ford and his associates used AIB's correspondent accounts with U.S. banks to hide the trail of the funds. For example, by piecing

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BTCB's account. LMBASL's response provided an explanation of its operations and relationships:

> LMBASL is a domestic Bahamian company which was incorporated on April 2, 1996, to provide accounting services for International Business Companies (IBC's).
>
> The source of LMBASL customers are Trust Companies in various Caribbean jurisdictions. These companies are primarily engaged in company formation and off-shore financial services. LMBASL provides accounting services for companies formed by Antigua and Barbuda Management and Trust in Antigua and Barbuda; Antigua Barbuda International Trust in Antigua and Barbuda; International Management & Trust in Dominica and upon referral other Trust companies.
>
> The number of IBC's formed by these companies number in the hundreds. Also each IBC could have three or more members. It is not unusual for some IBC's to have five to ten members. LMBASL charges each IBC member a $100.00 annual fee for computer services. This fee compensates LMBASL for accounting services involving processing transactions which relate to individual IBC members.
>
> Also IBC members send larger deposits for the account of the IBC. LMBASL has satisfied itself that the sources of these IBC funds are from savings accounts or other banks, or investment accounts of the IBC members and are not derived from any questionable sources. LMBASL has also taken steps to personally meet many of these IBC members and feel comfortable that they are solid citizens.

[71] AMT Trust initially formed most of the IBCs. After AIB collapsed, Forum-investors were told to have their IBCs renewed through LMBASL or CASL, rather than AMT Trust, Cooper's firm. The investors were told that their investments would no longer be accepted if their IBCs were still managed through AMT Trust.

[72] Other Antiguan banks were also used to hold Forum-related investments. Before the Forum operations began to use AIB, investor funds were deposited into Swiss American Bank. Another Antiguan bank, Worldwide International Bank (whose President, Joan DeNully, had previously been an official at AIB), was also used by the Forum and its investors, as was Antigua Overseas Bank.

[73] Normally, AMT Trust charged a fee of $1,225 for the formation of an IBC, but in the case of the Forum-related IBCs, AMT Trust charged clients $1,500. AMT Trust kept $1,225 and the additional $275 was put into accounts controlled by Ford and associates at the Forum. This business alone was very lucrative for Cooper and his company, since it is estimated that there were approximately 3,000 to 6,000 IBC accounts at AIB. In addition, each account was charged an annual administrative fee of $100 and an annual IBC renewal fee of approximately $800.

together documents made available to the Minority Staff and the Government of Antigua and Barbuda, it can be seen that a number of transfers from Forum accounts utilized AIB's correspondent relationship with Chase Manhattan Bank. From there, the funds were transferred to Banco de Brazil in New York. Banco de Brazil then transferred the funds to its branch in Panama, which transferred the funds to The Harris Organization in Panama. Funds were also transferred from AIB to Gwendolyn Ford Moody's account at a Maryland branch of NationsBank.

The Forum is still an operating organization. Meetings and seminars are still held in the U.S.[74] and elsewhere to continue to attract investors. Offshoot organizations, controlled by Ford associates, are still promoting investments.[75]

(b) Nested Correspondent Banking at AIB

AIB provided correspondent banking services to a number of other offshore banks licensed in Antigua and Barbuda. By establishing correspondent accounts at AIB, those banks (and their clients), like Russian Matryoshka dolls, nested within AIB and gained access to the same U.S. dollar accounts at U.S. banks that AIB enjoyed through its correspondent accounts at those U.S. banks. The U.S. banks performed no due diligence review of AIB's correspondent accounts. Instead, they relied on AIB to review and clear its client banks, even though the U.S. correspondent banks were the vehicles for their access into the U.S. financial system. In a number of instances, AIB's client banks utilized their accounts with AIB to launder funds and take advantage of AIB's correspondent accounts with U.S. banks to work the illicit funds into the U.S. financial system. The most notorious example is Caribbean American Bank.

Caribbean American Bank. Caribbean American Bank emerged as the focal point of a major advance-fee-for-loan fraud that originated in the United States and defrauded victims across the world of over $60 million over 8 years. Between 1991 and 1997, members of the organization posed as representatives of a group of venture capital investors willing to provide funding to business projects. Individuals and businesses seeking capital were required to pay advanced fees or retainers which, ostensibly, were to be used for processing loans and syndicating the investors. Applicants were instructed to wire the retainers to an attorney or bank escrow account, often located at an offshore bank. However, the terms of the funding agreements were almost impossible for the applicants to

[74] One such meeting, at which Ford spoke, was held at the Raleigh Sheraton in Raleigh, North Carolina on November 7, 1999. Presentations on IBC formation and investment are still being held. One victim of the Forum-related investments recently received a notice of "private workshops" that are scheduled for 2001 and will involve the W.T. Trust, the Nevis company that serves as trustee for many of the Forum-related investments.

[75] For example, an organization called the Offshore Business Managers Association (formerly called the Offshore Business Managers Forum) was established to: "provide a vehicle to bring together parties that share an interest in wealth accumulation through international trade and international financial activities. The common theme among all members is the use of the International Business Company (IBC) as a trading and financial entity and the belief that confidentiality and the right to financial privacy is a right that the government should respect and not hinder." (See the organization's Web site at *www.osbma.com.*) In the early stages of the organization, the Executive Committee included such close Ford associates as Gwendolyn Ford Moody and Chester Moody. More recently, the Chairman was Earl Coley, a frequent speaker at the Forum meetings and reportedly a relative of Moody. According to the organization's mailings, the point of contact for the organization was the Forum offices in Antigua and Barbuda.

fulfill. For example, applicants were required to produce fully collateralized bank payment guarantees or letters of credit equivalent to 20% of the loan amount requested. Usually, the guarantee had to be produced within 5 to 7 days. Members of the organization targeted applicants who had little financial resources and were, therefore, unlikely to secure such a guarantee within the 5 to 7 day time period. Sometimes, for an additional fee, the organization would supply the applicants with a facilitator who pretended to assist the applicants in their efforts to obtain a guarantee from a financial institution. When the applicants were unable to meet this or other terms of the agreement, the members of the organization notified the applicants that they had violated the terms of the agreement, that no loans would be made and that their retainers were forfeited. If any of the funds still remained in the escrow accounts, they were quickly moved to other accounts controlled by accomplices of the organization.[76]

A document seized during the execution of a search warrant issued for the residence of one of the leaders of the organization provided a description of the fraud. It was marked "Confidential" and addresses payments made by the loan applicants under the terms of the contract. It makes clear that members of the fraud should not expect to collect loan fees other than the initial retainer from the applicant because the loan will never be provided. The only fees that the organization focused on were the fees that the client paid in advance of receipt of the loan:

> You have to make the client think you are really working to get to the second payment and the third payment. This draws his attention away from the first payment—which is the only payment you will see but he doesn't know that.
>
> . . . FOR YOUR INFORMATION the 2nd and 3rd payments will never come. You are in it for the first payment. However, you act like you are after all 3 payments.
>
> . . . What all the clients refuse to see, just plain do not understand is that in Section 3 the Syndication Agreement demands that the Payment Guarantee be COLLATERALIZED. That means it must be cash backed or no bank will issue it. It is the clients responsibility to do that. However, you do not call any attention to that UNTIL you have been paid. Period. No exceptions.

Perpetrators of the fraud also required their applicants to establish Antiguan IBCs, with the idea that all transactions would take

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[76] U.S. Customs Service press release "U.S. Customs and FBI Crack Huge Money Laundering Scam," May 7, 1998.

USA v. Donald Ray Gamble a/k/a Donald Jake Gamble (U.S. District Court for the Middle District of Tennessee, Northeastern Division, Criminal Case No. 2:97–00002), Information and Accompanying Statement of Facts, February 10, 1997.

USA v. Arthur Householder, et. al. (U.S. District Court for the Northern District of Florida, Gainesville Division, Criminal Case No. 1:98CR19), Testimony of Lawrence Sangaree, June 19, 2000.

USA v. Lawrence Sanizaree, Terri Sangaree, Maxine Barnum and Peter Barnum (U.S. District Court for the Northern District of Florida, Gainesville Division, Criminal Case No. 1:97CR MMP), Statement of Facts in Support of Guilty Plea of Peter and Maine Barnum, 11/25/97, and Statement of Facts in Support of Guilty Plea of Lawrence Sangaree, December 8, 1997.

USA v. William Cooper, et. al. (U.S. District Court for the Northern District of Florida, Gainesville Division, Criminal Case No. 1:98CR19 MMP), Superseding Indictment, April 27, 1999.

place between Antiguan entities. This was an effort to ensure that if applicants initiated legal action against the organization, the dispute would be subject to Antiguan, rather than U.S. jurisdiction since both parties would be Antiguan entities. A document seized from one of the organization's representatives, entitled Business Development Syndications Program Description, stated:

> You must be an Antiguan offshore business corporation to enter our programs. To guarantee this is done before a DBA [sic] (Business Development Agreement-Equity Purchase) is entered into such incorporation will be handled for you by your syndicator. We will not accept any other method of incorporation. Neither your syndicator nor the investors wish to become familiar with any laws, corporate or otherwise, other than those of Antigua and Barbuda. All transactions will be done between chartered Antiguan corporations only. No exceptions.

Between 1994 and 1998 the U.S. FBI and the U.S. Customs Service conducted an investigation (called "Operation Risky Business") of the fraud operation. The Customs Service described the operation as the largest non-drug related undercover operation that it ever conducted. The government estimates that as many as 300 to 400 firms or individuals in 10 different countries have been victimized by the fraud. It is estimated that as much as $60 million dollars were stolen through this operation. Twenty-two individuals have been indicted or charged as a result of their participation in this operation; 14 have pleaded guilty; and 4 have been found guilty at trial. Investigations and prosecutions are continuing.

AIB, AMT Trust and AIMS played key roles in the formation and operation of Caribbean American Bank.[77] In August 1994, William Cooper (through AMT Trust) established two IBCs–BSS Capital and RHARTE. The beneficial owners of those corporations were, respectively, Jake Gamble and Larry Sangaree, two organizers of the fee-for-loan scam. Cooper then formed Caribbean American Bank. The bank license application identifies BSS Capital and RHARTE as the shareholders/owners of the bank. Cooper was listed as the President of both BSS Capital and RHARTE. Cooper and Gamble were listed as the Directors of the bank.[78] In September 1994, Car-

[77] In 1993, fairly early in the history of this fraud operation, members of the organization flew to Antigua and Barbuda to establish a bank that would serve as the repository for the retainer payments and facilitate the laundering of the illicit proceeds of the operations. According to court records, they met with Vere Bird, Jr., son of the former Prime Minister of Antigua and Barbuda. The introduction was arranged by Julien Giraud, a senior member of the Democrat Labor Party in Dominica who knew Frank Dzwonkowski, a member of the organization who had been convicted of distribution of methaqualone in the U.S. and had contacts in Antigua and Barbua. In 1994, members of the organization again flew to Antigua and Barbuda and met with William Cooper, owner of AIB. The members of the organization who made the trip were Jake Gamble, a Tennessee attorney who served as the agent for the escrow accounts that received the retainer payments and posed as an underwriter with access to the venture capital (backed by a fraudulent Japanese Yen bond); Larry Sangaree, who had been convicted of murder and served as the organization's field operations manager; and Dzwonkowski. Dzwonkowski maintained an account at another Antiguan offshore bank, Swiss American Bank, which members of the organization had been using to launder funds stolen in the fraud. Sangaree testified that the group decided to establish a bank in Antigua and Barbuda because of the favorable secrecy laws ("you could effectively hide funds down there from the government"); the connections enjoyed by Giraud; and the desire to mirror the operations of another group within the organization that was claiming to use a bank in the Cayman Islands. Cooper agreed to assist in the formation and operation of the bank.

[78] According to one U.S. bank that provided correspondent services to AIB, Cooper informed the bank that the offshore bank licensing process in Antigua and Barbuda required detailed in-

Continued

ibbean American Bank was granted an offshore banking license by the Government of Antigua and Barbuda. AMT Trust initially managed the CAB account at AIB for a fee of $5,000 per month. The administration of CAB was taken over by AIMS after it was formed and took over management of the correspondent accounts at AIB.

A number of other accomplices in the organization also established IBCs in Antigua and Barbuda, many of them with the assistance of Cooper and his company, AMT Trust. Those IBCs in turn established accounts at Caribbean American Bank. The Department of Justice informed the Minority Staff that it identified 79 IBC accounts established at CAB that were controlled by members of the fee-for-loan fraud organization. According to DOJ, all of those IBCs were formed by Cooper or his company AMT Trust. Many were bearer share corporations, meaning that ownership was vested in whoever had physical possession of the corporate shares. Such an arrangement makes it virtually impossible for a bank to really know who the ultimate account holder is and what the purpose of the organization is. Retainer fees wired into the organization's escrow account by the fraud victims would be dispersed into the IBC accounts controlled by accomplices of the scheme. From there, the accomplices transferred the funds to other accounts they maintained at other banks, using the correspondent accounts of AIB.

AIB also issued credit cards to CAB clients. This provided a perfect avenue for money laundering. The card holder would use a credit card to charge purchases and other transactions. The outstanding balance on the cards could be paid out of the illicit proceeds the clients had on deposit in their CAB accounts. This enabled the card holders to utilize their funds without even engaging

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formation about all shareholders and directors, verified with background checks, bank and professional references. The applicant, whether it is a corporation or an individual, must submit financial information for review by the Director of International Business Corporations. Biographical information for each proposed director, officer and subscriber of 5% or more of the bank stock must be submitted.

It appears as if AMT Trust did not comply with these requirements. The Minority Staff asked Cooper what due diligence he performed on the owners of the bank before he submitted the application to the Antiguan licensing authority, and if he was aware of Sangaree's conviction. Cooper stated that he had asked the Finance Minister Keith Hurst about obtaining information on those individuals and Hurst informed him that it would not be possible to obtain information from the United States and, based on Hurst's statement, Cooper did not try to obtain any information on Sangaree. One part of the application asks "Have any of the proposed directors, officers or proposed stockholders of five percent or more of the IBC's stock ever been charged with or convicted of any criminal offense? If so, give details, including status of case." The answer on the form is "No." However, Sangaree was convicted of first degree murder in Florida in 1970 and sentenced to life imprisonment. He was released from prison in the late 1980's. He was subsequently arrested for aggravated assault in 1987 and arrested for grand theft in 1990.

To receive an offshore banking license in Antigua and Barbuda at that time, applicants were required to demonstrate that they had $1 million in capital. A report of CAB's liquidators filed in the High Court of Justice of Antigua and Barbuda offers the following description of CAB's capitalization funds:

> There are two shareholder loans of record, both of which are for $500,00. The loans appear to have been generated by the Bank to enable the shareholders to finance the capitalization of the Bank. The funds were never deposited in the bank. The two shareholders are holding companies, which have issued bearer shares, and we do not know who is in possession of the shares. Collectibility of these loans is unlikely and the amounts have been written-off in the books of the Bank.

Lawrence Sangaree, the owner of one of the bearer share corporations that owned CAB, testified at the trial of one of his accomplices earlier this year. He said that to comply with the $1 million capitalization requirement, perpetrators of the fraud used funds that had been wired into the bank by one of the victims. The funds were placed in AIB in August of 1994. After an auditing firm confirmed the presence of the $1 million in AIB, it was distributed among the members of the organization.

in additional wire transfers that might raise questions about the origins of the funds.

Documentation shows that in 1994, AIB attempted to use its correspondent relationship with Bank of America to confirm letters of credit issued to the fraudulent venture capital companies, American European Venture Capital and Bond Street Commercial Corporation, operated by the perpetrators of the advance-fee-for-loan fraud. The confirmed letters of credit would then be used by the criminals to convince victims that venture capital was available once the advance payments were made by the victims.[79]

In October 1996, one of the loan applicants sent a facsimile to Caribbean American Bank, instructing it to return $62,500 his company had wired into a CAB escrow account. A copy of the facsimile was supplied to the FBI. The funds were never returned.

In early 1997, a due diligence report performed by an Antiguan law firm for a Russian bank that was considering doing business with the organization wrote the following about Caribbean American Bank:

> Caribbean American Bank has two shareholders both of which are non-banking offshore companies and were incorporated by William Cooper, one of Caribbean American Bank's two Directors, who is known to be an active figure in Antigua and Barbuda's offshore banking industry. Non-banking offshore companies are not required to disclose details of their shareholders or show financial statements.
>
> The company files disclosed that inquiries similar to yours have been addressed to the Director of International Banking & Trust Corporations in respect of Caribbean American Bank involving foreign investors who have been required to deposit funds into escrow accounts to be held by Caribbean American Bank. In one such instance Barclays Bank of Antigua made inquiries of the Director of International Banking & Trust Corporations and in light of the information received about Caribbean American Bank advised their customers not to proceed with the transaction.
>
> Further it may be of interest to you to learn that the share issue of Caribbean American Bank apparently consists of bearer shares only and Caribbean American Bank's filed annual returns disclose No Activity, in terms of movement of funds, whatsoever.

As noted above, the report of CAB's liquidator confirmed that the listed owners of the bank were bearer share corporations. The current receiver of AIB informed the Minority Staff that the CAB account at AIB had multiple sub accounts. According to the receiver, tens of millions of dollars moved quickly through the CAB account, with the funds being wired to many different locations. In addition,

[79] In April 1994, AIB requested that Bank of America confirm letters of credit for two entities. Although AIB did not have a credit relationship with BOA, the communications AIB forwarded to one of the targeted victims of the fraud suggest that AIB had developed a financing plan with Bank of America. Communications sent by AIB to Bank of America 2 months later in June 1994 indicate AIB was still pursuing the confirmation of two letters of credit. Since CAB was not licensed until September 1994, it suggests that Cooper and AIB were providing assistance to the entities involved in the fraud even before CAB was opened and those entities became account holders at CAB.

monthly statements of AIB's correspondent accounts at U.S. banks clearly show movements of funds through the IBC accounts at CAB. The Minority Staff could not gain access to the CAB "filed annual returns" referenced above. However, the information contained in AIB's monthly statements and the AIB receiver's comments about the flow of funds suggest that either the due diligence report on the filed financial statements was inaccurate or the financial statements filed by CAB's manager (AIMS) were false.

Key perpetrators of the fraud were arrested and convicted in 1997.[80] Greaves and Cooper told the Minority Staff that despite their role in forming and managing CAB and forming many of the IBCs used by the perpetrators of the fraud, they were unaware of the fraud being perpetrated through Caribbean American Bank and AIB. Greaves told the Minority Staff that in the March/April 1997 time frame his staff began to develop concerns about the CAB account because of customer complaints and the transactions being conducted. Greaves said he contacted the Antiguan Supervisor of International Banks and Trust Corporations[81] about his concerns, and then unilaterally froze the CAB account. However, events in the U.S. suggest that Greaves may have been acting in response to actions taken by U.S. law enforcement agencies.[82] In addition, CAB internal documents show that the bank continued to disburse funds at the instruction of one of the perpetrators at least until early May. In August 1997, the Antiguan Supervisor of International Banks and Trust Corporations appointed Price Waterhouse as the Receiver/Manager of CAB. On November 19, 1997, the High Court of Antigua and Barbuda ordered the Receiver/Manager to liquidate CAB.

At a hearing in a U.S. Federal District Court, a U.S. Customs Service agent testified that U.S. law enforcement agencies investigating the fraud had identified no legitimate purpose for the existence of Caribbean American Bank. That conclusion was supported by the report of the CAB liquidator which reported that: "The shareholders of the Bank are under investigation for money laundering" and that "(a)ll depositors of the Bank are under investigation for money laundering."

An FBI agent's affidavit contained a description of how IBCs and AIB's correspondent accounts were used to perpetrate the fraud and launder the funds that were illicitly obtained:

> The violators also make extensive use of offshore corporations, principally in Antigua, W.I., to shield themselves from inves-

[80] In February 1997, Gamble was indicted, provided information to government officials and pleaded guilty to money laundering in early May 1997. On February 16, 1997, a U.S. District Court Judge issued a warrant for the search of Sangaree's property for information and materials related to the advance-fee-for-loan fraud. Sangaree was subsequently arrested and charged on a parole violation related to weapons possession in February 1997. Information on his role in the fraud was brought out during a subsequent bail hearing. In August 1997, Sangaree and several other members of the organization were indicted for money laundering and fraud. Sangaree pleaded guilty in December 1997.

[81] This is the predecessor to the International Financial Sector Regulatory Authority, which is the Government of Antigua and Barbuda authority that regulates offshore banks.

[82] The U.S. Government served a subpoena on one of the perpetrators of the fraud, Judith Giglio, in January or early February of 1997. Lawrence Sangaree, one of the leaders of the fraud, testified at the trial of one of the perpetrators that: "A copy of that subpoena was circulated by Giglio to everybody in this operation. They all knew that the U.S. Government was targeting AIB, CAB and people associated with that operation." Also, see footnote 29, above, for additional actions taken against the perpetrators before the March/April 1997 time period.

tigation and lend credibility to their assertion that they have access to funds from unidentified offshore investors. Additionally, fees received from victims are, at the direction of the violators, transferred offshore through American International Bank accounts in Canada, Switzerland, Germany, and elsewhere, ultimately ending up in the Caribbean American Bank in St. Johns, Antigua. As indicated in previous paragraphs, funds have already been traced from victims to American International Bank correspondent accounts in the U.S. and Caribbean American bank accounts in Antigua, W.I. These funds have also been traced as they are returned to the violators to purchase a variety of assets.

These fund transfers were accomplished by exploiting the correspondent banking network. Since CAB had a correspondent account with AIB, CAB and its account holders could transact business through the correspondent accounts that AIB had established with other banks, including U.S. banks. AIB accounts at Bank of America, Chase Manhattan Bank, Toronto Dominion Bank were used to receive wire transfers from fraud victims and/or to disburse the illicit funds to accounts controlled by the criminals. Funds would be transferred from AIB's accounts in the United States to accounts controlled by the criminals in other U.S. banks and securities firms.[83] The banks that served as AIB's correspondents were either unaware that AIB itself had correspondent accounts, or they relied on AIB to review and monitor its own clients, including the banks that had accounts at AIB. Thus, by nesting within AIB, CAB and the criminals who were its owners and account holders gained entry into the U.S. banking system with no review or due diligence by the host U.S. banks.

In April 1999, Cooper was also indicted in the United States for money laundering related to the illicit funds associated with the advance-fee-for-loan fraud.

Other Correspondent Accounts at AIB. Other banks that established correspondent accounts at AIB include Hanover Bank,[84] Overseas Development Bank and Trust Company,[85] Washington Commercial Bank, and Bank Kometa.

(c) Internet Gambling/Sports Betting

Another portion of AIB's account base was comprised of sports gambling entities. The legal and money laundering issues related to this type of activity are addressed in another section of this report. Many U.S. banks have been unwilling to accept these types of accounts or enter into correspondent relationships with banks engaged in this activity primarily because of the reputational risk that they pose. Moreover, recent court cases in the United States have held that the wire transfer of funds for gambling is illegal,

[83] At the trial of one of the perpetrators of the fraud, the government produced a list of wire codes obtained through the execution of a search warrant. The seven page document identifies over 35 accounts at over 20 U.S. and foreign banks that the perpetrators used for the movement of these funds.

[84] For more information about Hanover Bank, see the case history in this report.

[85] Overseas Development Bank and Trust Company Ltd., a bank licensed in 1995 in Dominica, was a correspondent of AIB from mid-1996 until late 1997. This bank is discussed later in this case history.

raising serious legal questions for banks that facilitate the transfer of such funds.

From the earliest days of its activity, AIB serviced sports betting accounts. In the period 1994–95, AIB had the accounts of a number of sports betting firms that advertised widely and directed clients to wire transfer funds through the correspondent accounts AIB had established at U.S. correspondent banks. AIB maintained. these types of accounts at least through 1997, despite its representation to its correspondents that it did not want that type of business.[86] Clients associated with gambling/sports betting included Top Turf, English Sports Betting, Caribe International Sheridan Investment Trust and World Wide Tele-Sports ("WWTS"). WWTS, an Antiguan sports betting firm, was one of 11 sports betting firms indicted by the U.S. Government in March 1998 for illegally accepting wagers on sports events over the phone or Internet. In December 1997, an article in the *Atlanta Constitution* described WWTS as "the island's largest sports book, tak[ing] 35,000 wagers a week, with a Monday-to-Sunday handle [the amount of money wagered before the payment of prizes] ranging from $5 million to $10 million." The article noted that the winnings are tax free. "If the gamblers want to declare their profits to the Internal Revenue Service, fine. But [the director of the operation in Antigua and Barbuda]'s not forwarding any information. . . . He points to a paper shredder in the accounting office. 'That's what I do for the U.S. Government,' he says, laughing as he guides a piece of paper into the machine. 'We have clients with sensitive information.'" Through AIB and its correspondent account, WWTS was able to use U.S. banks for processing customer gambling deposits and possibly disbursements.

(d) Loans/Self Dealing

In marketing brochures that it shared with prospective correspondent banks, AIB reported its loan philosophy as follows:

> The bank engages in lending only under certain conditions. Loans must be either cash collateralized or properly backed up by valuables or other guarantees to the satisfaction of and under control of the bank. Loans are given only to the best of clients. A credit analysis is made, and the sources of for payback must be clearly identifiable. A reserve for loan losses will be established, if required, but the bank will not take significant commercial lending risks.
>
> Every loan is approved by at least two officers, and every loan agreement is signed by at least two directors of the bank. Every loan is reviewed at least on an annual basis.

However, within its first year of existence, the AIB loan portfolio swelled from $1.1 million to $25 million. It receded slightly in 1994 and 1995. By the end of 1996, AIB's loan portfolio reached $41.2

[86] In October 1994 Bank of America ("BOA"), a correspondent bank of AIBs, learned that a client of AIBs was a sports betting company and that gambling proceeds were being moved through the BOA account. In an October 1994 fax memo to BOA, Cooper wrote that, "It is clearly not our policy to deal with such companies and we are pursuing as quickly as possible to terminate the entire relationship." In May of 1997, the relationship manager who handled the AIB account for Popular Bank (now BAC Florida Bank) asked AIB about some of AIB's customers, including Caribe International and Sheridan Investment Trust. AIB identified those two entities as sports betting establishments.

million. A significant portion of those loans (estimated by the receiver to be roughly 40%) were loans that AIB made to Cooper (AIBs owner), his family members and business interests. According to the receiver, this included a $6 million dollar loan to Woods Estate Holdings Ltd., which was half owned by Cooper and his wife.[87] Other loans were a loan to Julien Giraud, a well-known political figure in Dominica, who introduced some of the criminals involved in the Caribbean American Bank fraud to Vere Bird, Jr., and one to a broker who handled the AIB trading account at a U.S. securities firm.

By the time AIB encountered serious financial trouble in late 1997, non-performing loans represented a substantial problem to the institution and contributed to its closure. When AIB was placed under the control of a receiver in July 1998, the receiver discovered that most of the outstanding loans were non-performing. In a November 1998 letter to the bank's clients, the receiver wrote:

> I have since conducted a more thorough examination of the records and received a draft report of the Bank's activities for the year ended December 31, 1997. Of particular concern to me, has been the quality of the Bank's assets, particularly, its loan portfolio. In many instances, I have been forced to refer these accounts to legal counsel for collection and where necessary, to utilize the Courts, in this exercise.

The receiver informed the Minority Staff that there were numerous non-performing loans. In some instances, provisions weren't made for non-performance. No security was provided for a number of loans. According to the receiver, there were instances where loans were issued with the expectation that security would be provided after the issuance of the loan, but no security was provided for the loan. The receiver stated that there were also a number of instances in which AIB had circumvented regulations that prohibit offshore banks from making loans to local residents and businesses by making loans to Cooper's BVI Company, AMT Management, which would then make loans to the local businesses. In those cases, the collateral was assigned to AMT Management, and not the bank. This has impeded the receiver's efforts to collect on non-performing loans.

Presently, the receiver estimates that there are approximately $18 million in outstanding loans and $10 million in overdrafts on the bank's books. The receiver estimates that approximately 50% of those are loans to Cooper or individuals or entities associated with Cooper. The receiver has retained legal counsel to recover about $13 million of the outstanding loans.[88]

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[87] Brochures of the AIB Group show that AMT Management, the BVI company wholly owned by Cooper and his wife, owned 50% of Woods Estate Holdings Ltd. Greaves told the Subcommittee that the amount of the loan was $6 million, and that Cooper owned half of the venture. The AIB receiver confirmed the size of the loan and Cooper's ownership.

[88] In late 1997, when AIB was encountering severe financial problems, Overseas Development Bank and Trust ("ODBT"), a Dominican bank, attempted to purchase AIB. The effort lasted about 4 months before it was abandoned by ODBT. When it abandoned its effort to acquire AIB, ODBT accepted approximately $4.5 million worth of AIB loans as settlement, for the funds it had on account at AIB and for the funds it expended while it had tried to take over AIB. Many of those loans are not being repaid. Malcolm West, owner of ODBT, informed the Minority Staff that ODBT was planning to go to court to attempt to collect on many of those loans.

According to the receiver, the AIB annual Audited financial statements prepared by Pannel Kerr Forster did not accurately portray the status or nature of the loans made by AIB. Review by the Minority Staff of the annual audits shows that the auditors never identified any problems with the loan portfolio. The audits did not reflect any concern about a lack of provisions for bad loans,[89] nor did they reflect that a high portion of the loans were made to individuals or interests associated with the owner or officers of the bank. For example, the audited financials for 1993 through 1996 report that 8%, 23.9%, 18.4% and 11.9%, respectively, of AIB's loans were issued to owners, staff or interests associated with owners. This sharply contrasts with the estimates made by the receiver and Greaves.

Greaves agreed that the percentage of loans to related individuals or entities was much higher than reflected in the audited financial statements. The AIB marketing brochure states, "All reports that are made available to sources outside the bank are checked, approved and signed by two directors." When the Minority Staff asked Greaves why he signed off on the auditor's report if he realized that it understated the amount of loans to related entities, he stated that he had written a letter to the auditor advising him that the information in the report was not correct, yet the numbers in the report were not changed.

The auditor for Pannell Kerr Foster noted that initially, in 1993, AIB did not make provisions for bad debts because the bank was new and the loans were new. He stated that when AIB officials conducted subsequent reviews of the loan portfolio, and as loans went bad, they required provisions for bad loans. He did state that AIB became a "little bit loose" with its loans. He disagreed with the receiver that many of the loans were uncollectible and that AIB was insolvent. He told the staff that he had conducted a review of the loan portfolio and concluded the loans were good and AIB was not insolvent. He noted that he had contacted Cooper and told Cooper that the loans associated with Cooper had to be "regularized" and that Cooper agreed to fulfill the loans that he was responsible for and to his knowledge Cooper had not "shirked" any of his responsibilities to those loans.

The auditor also disagreed that a high percentage of the bank's loans were to individuals and entities associated with Cooper and AIB staff. He pointed out that in December of 1997, AIB had $66 million in outstanding loans, $40 million of which were associated with a fully collateralized loan associated with the Forum. He did not address prior years. According to the auditor, in June 1998, after the Forum-related loan was repaid, $13 million of the $26

[89] The 1993 audited financial statement contains the following language under Note 4 ("Loans") of the statement: "There were no loans requiring provision for bad debts during the period under review." The financial statements for 1993 through 1996 all contained the following language: "The provision for loan losses is based on a monthly evaluation of the loan portfolio by management. In this evaluation management considers numerous factors including, but not necessarily limited to, general economic conditions, loan portfolio composition, prior loan loss experience and management's estimation of future potential losses." This seems to conflict with the brochure distributed by AIB to potential correspondents, which stated: "Loans must be either cash collateralized or properly backed up by valuables or other guarantees to the satisfaction of and under control of the bank. Loans are given only to the best of clients. A credit analysis is made, and the sources of for payback must be clearly identifiable."

million in outstanding loans were associated with entities or individuals associated with Cooper or AIB staff.

The auditor also told the Minority Staff that he did not receive a letter from Greaves reporting that the information regarding the amount of associated loans on the financial statement was incorrect.[90]

(7) Correspondent Accounts at U.S. Banks

Over its short life, June 1993-July 1998, AIB established correspondent accounts with a number of U.S. banks. They included: Jamaica Citizens Bank Ltd. (now Union Bank of Jamaica, Miami Agency), the New York Branch of Toronto Dominion Bank, Bank of America, Popular Bank of Florida (now BAC Florida Bank), Chase Manhattan Bank, Norwest Bank in Minnesota, and Barnett Bank. With many of the banks, the pattern of the relationship was similar. AIB would apply for a correspondent account at a U.S. bank; due diligence reviews would not identify any problems with AIB; the U.S. bank would establish a correspondent account for AIB; then, account activity over time would generate concerns that would lead to the termination of the account. The termination would then often be delayed at AIB's request to allow it to first associate with another correspondent bank.

(a) Bank of America

AIB maintained a correspondent account at Bank of America ("BOA") from June 1993 through April 1996. During that period, $128 million moved through its account. AIB approached BOA about a correspondent relationship in June 1993, shortly after it began to function as a bank. The BOA relationship manager had known Cooper from the time that Cooper had been manager of another offshore institution, Antigua Barbuda Investment Bank, that was a customer of BOA. BOA employees said that before 1997, there was a great reliance on the relationship manager's decision about a client, and this appears to be the case with AIB.

At that time BOA was one of the more active U.S. banks in the Caribbean area. A senior BOA official said that at that time the relationship managers were primarily sales officers and the primary objective of the relationship managers was on expanding the business. BOA readily established correspondent relationships with offshore banks that wanted demand deposit accounts or cash management services in the United States. Because no credit was involved, BOA said relationship managers placed less emphasis on those accounts and did not follow those kind of accounts as closely as accounts with more potential for additional business. There was an expectation that documentation on a bank client would be obtained and available, but depending on the relationship, sometimes it would not be required. To the extent there was concern about risk, the focus was placed on a client bank's credit risk, not the money laundering risk it posed.

The BOA relationship manager for AIB said he typically did not establish relationships with offshore banks. He generally estab-

[90] Cooper told the Minority Staff that all loans to his family members either had been repaid or are in the process of being repaid.

lished relationships only with commercial, indigenous banks (banks that were licensed to operate and serve residents in the jurisdiction that granted the license). The only exceptions to that practice were AIB and Swiss American Bank (addressed in a later section). According to the relationship manager, although he had heard that the regulatory program in Antigua and Barbuda was weak at the time, BOA representatives relied more upon the individual owning the bank than the regulatory apparatus. The relationship manager said the key to doing business in the Caribbean was to know your customer. He told the Minority Staff that he knew Cooper personally, spoke to people in the community about him and that he thought Cooper had a good reputation.

Account opening documentation for AIB that was provided to the Subcommittee showed that BOA obtained the following: a background description of America International Banking Group; a copy of the articles of incorporation of AIB; minutes of the organizational meeting of the board; and a copy of the bank license and certificate of good standing. Financial statements for the bank were not yet available because the bank only started operation in June 1993 and the first audited financial statement was not issued until March 1994. There were no written references.

In June 1993 the relationship manager wrote a memo to the credit manager seeking a decision on whether to open the AIB account. He described AIB as a commercial bank in the process of formation. He said he knew the directors and major stockholders, having worked with them in their previous banks. Since AIB was a new bank, there was not much of an operational history from which to assess its performance. However, BOA did little probing into the nature of the bank or its clientele. Material provided to BOA indicated that although AIB was formed in 1990, it did not hold its first organizational meeting until December 1992. A senior BOA official acknowledged this was not typical operating procedure for a bank and that it should have raised questions about the regulatory authority when it allowed such a thing to happen. However, there is no indication in the account opening materials supplied by BOA that this issue was a factor in BOA's decision to open a correspondent account for AIB.

An AIB brochure identified the commercial activities and objectives of the bank: to provide offshore financial services in a tax free environment, primarily but not exclusively to private banking and corporate customers. It stated, "The ability to provide this complete service in a confidential manner is seen as a competitive advantage which will enable the bank to expand its client base on a worldwide basis." The issue of confidentiality did not raise concerns with BOA. As one senior official noted, while it is an issue today, it was not so in the early 1990's. It was viewed as standard wording for offshore banks and the relationship manager was comfortable with the relationship.

A senior BOA official observed that more should have been done before the account was accepted, although he said it is difficult to say exactly what should have been done. The relationship manager made a trip to AIB in 1993 and saw AIB's premises and an organizational chart. In May 1994 he made another site visit and saw the AIB offices, employees, and customers. According to the relation-

ship manager, everything BOA heard about Cooper at that time was positive. The senior official suggested that there should be a more careful analysis by the bank of why it wants to do business with a particular client, and whether the regulatory authority can be relied upon.

Ongoing monitoring of the bank was the responsibility of the account administrator, who handled the day to day operations of the correspondent account. The relationship manager was liaison with 80 banks that had relationships with BOA; the account administrator had more accounts to handle than the relationship manager. In addition, as noted above, because the AIB account was a cash management account and not classified as a full relationship involving credit, it received less attention from the relationship manager. BOA officials told the Minority Staff that the account administrator monitored account activity, but if the activity did not reach a certain level it would likely not be noticed. The relationship manager would see summaries of balances and the checks issued by the client to get an idea of the business being conducted, but there was no anticipated account activity profile established and there did not appear to be any tracking to make sure the activity in the account was in line with account purposes. In addition, because the AIB account was a non-credit relationship, annual audited financials were not required. No audited financial statements were issued by AIB between March 1994 and June 1996.

In May 1994, the relationship manager wrote a description, of his site visit:

> Formed just a year ago by a former general manager of Antigua Barbuda Bank, American Int'l. is already profitable . . . nice quarters and a very slick operation. The group includes the bank (offshore/private), a management and trust co. (offshore records and registration), asset management and even a ship registry Co. While probably never a user of any volume corbank services, this is already a nice relationship. . . . Cooper is also a big supporter of BofA as the result of his experiences at Antigua Barbuda, and provided a new lead during the visit.

According to BOA officials, they did not see any indications of problems with the AIB account until 1995. However, in April and June 1994 AIB asked BOA to confirm letters of credit for two entities—American European Venture Capital and Bond Street Commercial Corporation. These requests raised a number of questions. Although AIB did not have a credit relationship with BOA, the communications AIB forwarded to BOA suggest that AIB had developed a financing plan with BOA. Communications sent to BOA 2 months later indicate AIB was still pursuing the confirmation of the same letters of credit. However, these requests did not lead to further investigation or review by BOA. The relationship manager explained that the communications did not make him suspicious, because it appeared to him that Cooper had designed a scheme to make a deposit and convert it into a loan to accommodate a private banking customer. However these entities were two of the venture capital corporations that were used to perpetrate the advance-fee-

for-loan fraud that eventually operated through CAB, an offshore bank that had a correspondent account at AIB.

In October 1994, BOA learned that a client of AIBs was a sports betting company. Gambling proceeds were being moved through the BOA account, and the AIB client was telling its customers to wire money through the AIB account at BOA. BOA notified AIB. AIB told BOA that the account was being terminated and wrote to BOA that "It is clearly not our policy to deal with such companies and we are pursuing as quickly as possible to terminate the entire relationship."[91]

However, AIB maintained other accounts related to sports betting and gambling throughout its existence.

On October 10, 1995, an internal BOA memo from the Vice President of International Deposit Services to the Vice President of Account Administration notes that the AIB account "has recently seen a number of returned items for large dollar amounts." The returns were for forged checks. After providing details of the parties involved, the memo states:

> It would seem to me that our customer is dealing with clients on their side that are unknown to them. The area in which they are located, St. John's Antigua W.I. is already well known to us and has caused us substantial problems in the past. Therefore, based on our limited knowledge of customers practices I would suggest the following:
>
> 1. Contact Tom Wulff and request a background check on this account.
>
> 2. Increase the availability given to this customer from 5 business days to 10 in order to avoid a potential overdraft situation that will not be covered.
>
> 3. Upon review of the background make a logical decision as to why we should **NOT** disengage from this customer. [Emphasis in original.]

On October 18, the relationship manager reported to the Vice President for International Deposit services that he contacted Cooper, President of AIB and informed him that BOA wanted to terminate the correspondent relationship with AIB within 60 days. As a reason he "reiterated the several transactions below which has [sic] recently passed through his account and which we considered unacceptable." He later notes some of the unacceptable transactions included: 10/94—apparent gambling proceeds, advertising leaflets; 4/95—clearing high volumes of small money orders, apparent gambling or money laundering; 10/95—clearing large denomination forged checks. Cash letter activity was terminated 60 days later, and the account was completely closed in April 1996. The relationship manager said this arrangement was reached in order to give AIB time to find a new bank and establish a correspondent relationship while still reducing AIB's ability to move more funds through the account.

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[91] Fax memo from William Cooper, President, AIB, to Lee Roy King, a BOA relationship manager, October 1994. Although Wulff was the relationship manager for the AIB account, he worked closely with King, who had worked in the Caribbean region for BOA for a long time. According to Wulff, sometimes Cooper would communicate with King.

In July 1996, the relationship manager wrote a memo about a visit he made to another Antiguan bank. As part of that memo he included the following:

> On a related subject, and although I did not call on American International Bank for obvious reasons, exiting that relationship (the account is now totally closed) also seems to have been prudent since although no proof is of course available, their reputation in the local market is abysmal. Rumors include money laundering, Russian Mafia, etc., while management of that bank also now includes the former manager of SAB, again not a reassuring situation.

The relationship manager told staff that the situation with Cooper's reputation changed suddenly and he "became the poster boy for bad banking." He stated that he brought the AIB account in as an exception and he shouldn't have. It should be noted that no one else in the BOA system objected to opening the account. He also told the Minority Staff when informed that other U.S. banks serviced AIB after BOA closed the account, that it was hard to believe that other banks would accept AIB as a client as late as 1997, noting that they should have known better by that time.

(b) Toronto Dominion Bank (New York Branch)

AIB maintained a correspondent account at the New York Branch of Toronto Dominion Bank from January 1996 to January 1997. During that period, $16 million moved through its account. AIB had previously established a correspondent account with Toronto Dominion Bank in Canada and on January 8, 1996, requested that the Canadian branch establish a U.S. dollar account at the New York office, which the New York office did on January 10, 1996.

Information on due diligence and account opening activities in the Canadian branch were not made available to the Subcommittee. The New York branch did not perform any due diligence on AIB before establishing an account, apparently relying on the due diligence performed by the Toronto office when AIB first became a customer of the bank. The individual who handled the AIB account in New York has left the bank, and a box of records related to the account cannot be located.

Monthly statements which are available show a high level of activity in the account. On November 1, 1996, the account manager in New York sent the following email to the Toronto office:

> To accommodate your request, we opened the above account last January. However, this is a heavy volume account and we are not set up for this accommodation. We have therefore, decided to close the account. Since they made their opening arrangements through Corresponding Banking in Toronto, we now request that you notify the customer.

On the same day, the Toronto office sent a letter to AIB informing the bank that the New York correspondent account was going to be closed. The letter stated:

> As you are aware, this account was opened to accommodate your request to have a US dollar account in the United States.

> Because of the high volume activity on this account (approx. 2000 per month), special arrangements had to be made with our Toronto Office to have regular transfers made to the subject account to cover any overdrafts. This account has since had to be monitored on a daily basis to ensure coverage of funds.
>
> Clearly this has become a high cost account for us and it is no longer economically feasible for us to retain this or any other such accounts.

Toronto Dominion Bank informed AIB that the account would remain open until November 30. The closing date was subsequently moved. The account was frozen in mid-December and was closed as of January 9, 1997. In December the Toronto Dominion head office in Canada also informed AIB that it would no longer provide cash letter services for U.S. dollar items drawn on U.S. locations; it would continue to accept cash letters for Canadian dollar and U.S. dollar items drawn on Canadian locations. In January 1997, the New York branch transferred the remaining account balance to the head office in Toronto.

The Vice President and Director for the New York office where the AIB account had been located informed the Minority Staff that the bank had not seen any suspicious activity associated with the account. According to the counsel, the basis for the closure of the account was what was noted in the letter to AIB—given the volume of activity, it was too costly for the Toronto Dominion branch in New York to service the account.

In addition to the activity in AIB's account in Toronto Dominion's New York branch, records of AIB's other U.S. correspondent accounts suggest that the Toronto Dominion account in Canada was a major conduit for AIB funds into the U.S. banking system. For example, between June 1996 and January 1997, $20.9 million was wired to the AIB correspondent account at Chase Manhattan Bank from the AIB account at Toronto Dominion Bank in Canada.

From the records available to the Subcommittee, it appears as if the Toronto Dominion office in Canada maintained AIB's correspondent account until at least mid-1997.

(c) Chase Manhattan Bank

AIB maintained a correspondent account at Chase Manhattan Bank (Chase) from April 1996 through June 1997. During that period, $116 million moved through its account. The initial contact was made through a "cold" or unsolicited call to AIB from a Chase representative. At the time, AIB had been notified by BOA that its correspondent relationship would be terminated.

In the mid 1990's Chase was not promoting credit relationships with banks in many nations in the Caribbean and South America. However, it was making a concerted effort to promote service products that would generate fees without exposing the bank to credit risk. A major product was electronic banking—taking advantage of the bank's sophisticated computer equipment and hardware to provide U.S. bank accounts and non-credit related services to offshore banks. As a result of this focus, Chase's contact with banks in those areas was conducted primarily through sales representatives

rather than a relationship manager that would have a wider range of responsibilities and functions. The sales team was overseen by a credit risk manager. At the time, Chase sales representatives working in the area handled a large number of bank clients. One representative had more than 75 banks. The salary of the Chase representatives was tied to revenues and fees generated by the accounts they handled. One representative reported that it could be a large part of one's salary.

At the time of Chase's association with AIB, the account opening procedures required the sales representative to obtain a letter from the client requesting to open an account, bank reference letters, bank financials and a background/justification memo. In addition, the individual who served as the credit risk manager at the time stated that the representatives were required to know the nature of the bank's business through an on-site visit and have a reasonable understanding of the transactions the bank would initiate.

The initial contact memo for AIB was written on January 23, 1996. The memo states that AIB will provide the copies of audited figures for the 3 years that AIB had been in existence. Neither the Chase sales representative nor the risk manager could remember if the financials were provided. A subsequent memo indicates that financial statements were received and reviewed during February or March. However, at that time the only audited financial statement available was the 1993 statement. Financial statements for 1994 and 1995 were not published until June 1996. Although Antiguan regulations require that audited financial statements be produced within 4 or 5 months of the end of the year, Chase did not question the absence or lateness of the financial audit for 1994. The memo also describes a primary function of AIB:

> As I understand it, his [Greaves'] typical pitch is to "incorporate" individuals into offshore citizenship which then makes them eligible for a host of products voided to domestic (U.S.) Nationals. Such set-up typically costs $1,250 and is efficient for someone with as little as $20M [thousand]–$25M [thousand] to invest. John elaborated to the effect that to "take-in" deposits from US nationals is not a transgression. It becomes a transgression if and when these nationals end up not reporting the investment, which is no legal concern of the offshore depository institution.

When asked by staff if these comments by Greaves had caused any concern, the sales representative who is still involved in correspondent banking for Chase replied that they showed that Greaves knew his craft—that he set up mechanisms to ensure compliance with the law. The representative noted that the whole essence of offshore banking is non-resident accounts, accounts in the name of corporations with bearer shares, and directors that are lawyers "that sit in these tax havens that make up minutes of board meetings." He noted that the comments in the memo were intended to be informational and not questioning whether Chase should be in the field. When asked if part of the sales representative's job was to make sure the client bank did not go over the line, the representative responded if that was the case, then the bank should not be dealing with some of the clients it had and shouldn't

be doing business in some of the countries where it was doing business. He added, however, that in the case of AIB, it did not seem that AIB was doing anything illicit, rather it was in the business of offshore banking and that is the type of thing AIB needed to do to attract clients.

In March 1996, the Chase sales representative and the credit risk manager participated in a conference call with Greaves. The purpose was to clarify three specific points before establishing a relationship with AIB: the ownership of AIB, AIB's due diligence and KYC policies, and Chase's expectations regarding cash management letters. Both Chase officials admitted that it was rather unusual for the credit risk manager to participate in such a call before approving an account. The credit manager could not remember if there was something in the AIB material that caused the call. However, he noted that he generally had developed a heightened concern about small "boutique" banks and because of the ongoing Chase-Chemical Bank merger, he was concerned that if his department were eliminated he did not want to admit a bank that might later create problems for whoever inherited the account. The risk manager wrote a memo on the phone conversation, and in the section regarding AIB's due diligence and KYC programs, he included the sales representative's characterization that: "Greaves stated that AIB exceeds the U.S. Treasury's guidelines in this area. AIB takes this issue so seriously that Greaves himself was unable to 'free up' any time to see [the Chase sales representative] in Miami last month while attending a local Treasury-sponsored Anti Money Laundering Seminar." A Chase representative noted that this characterization of AIB's commitment to anti-money laundering was perhaps an "embellishment."

Regarding AIB's Due Diligence/Know Your Customer policies, the memo reported that: A 12-page instructional document is sent to, and acknowledged by all AIB staffers who handle accounts." However, neither the credit manager nor the sales representative can recall if they ever saw the document. After the March 26 teleconference, the AIB correspondent account was approved and established.

As noted above, Chase representatives were required to know the nature of the bank's business through an on-site visit and have a reasonable understanding of the transactions they would initiate. The sales representative stated that he believed that AIB's businesses included offering products to personal corporations, forming trusts and a ship registry. He told staff that although he was not told so by AIB, on the basis of his experience, he understood that since AIB was an offshore bank, its clientele was largely private banking type clients, individuals with enough discretionary wealth to form trusts and other products. Neither the sales representative nor the credit manager was aware of the Forum or the large presence that Forum-related accounts had at AIB.

In addition neither the sales representative or the credit risk manager were aware that AIB served as a correspondent bank for a number of other offshore banks such as Caribbean American Bank, Hanover Bank or Overseas Development and Trust Company. The manager noted that at that time Chase representatives were not required to ask a client bank if it served as a cor-

respondent for other banks. He said the issue never came up, but if it were a regular service offered by AIB it should have been raised to him. He noted that there was no Chase policy against establishing a correspondent relationship with a bank that served as a correspondent to other banks, but noted that if he had been aware that AIB served as a correspondent to other banks, he would have asked additional questions about that situation.

Chase's ongoing monitoring efforts were admittedly less rigorous for non-credit correspondent relationships than the ongoing monitoring for credit relationships. The credit risk manager described the effort as "reactive," responding to any suspicious activity or any other reports that might come to the attention of the bank. According to the credit risk manager, while the general policy was to keep alert in all areas where Chase conducted business, there was no annual review of non-credit relationships such as AIB's and clients were not required to supply updated financials. Sales representatives did not review monthly statements; they would review billing statement analyses to get an idea of the activity of the account. Although a key aspect of ongoing monitoring was maintenance of direct contact with the client through site visits, smaller revenue clients were not visited on a regular basis, if at all.

In May 1996, a new sales representative assumed responsibility for the account. The new representative visited the AIB offices in September 1996. The report of the meeting indicates that AIB officials advised the representative that BOA had previously handled AIB's accounts and that AIB had been unhappy with the support received from BOA. There was no mention that BOA, not AIB, had terminated the relationship. The new representative stated that since she had taken over the account after it was opened up, she didn't inquire about the BOA relationship because she assumed that the matter had been addressed during the opening of the account. The new representative stated there was no information in the file about the customer base and she had inquired about the nature of AIB's clientele. The site visit representative noted that AIB managed "three to four thousand offshore customers (trust private banking) and they are not allowed to operate locally in Antigua." The representative was not aware of the large base of Forum-related IBCs that were part of AIB's clientele. She noted that while she obtained an overview of the clientele, she felt that the bank would not provide information on what the offshore client base was. The report also noted:

> A subsidiary, American International Management Services (AIMS) provides head office services for other banks. They manage twelve banks, have dedicated systems, preparing statements (outsourcing) that have physical presence in Venezuela, Canada, Australia, St. Petersburg, Brazil, England, Antigua due to offshore nature. They are purely international and wholesale in nature . . . involved in project financing, non discretionary funds only (have branches in Dominica, St. Kitts).

This apparently did not raise concerns with the new representative. She told the Minority Staff that she did not pay attention to AIB's respondent banks. When asked by the Minority Staff if she made further inquiries about the banks serviced by AIB, she noted

that AIB had told her that the banks it serviced were much smaller banks and that no money center banks would do business with them. She noted it was a judgment call as to whether the client would tell the representative what its customers were doing.

In March 1997, the sales representative was instructed by the Chase fraud department to terminate the relationship with AIB. According to the sales representative, the instruction was delivered shortly after AIB received a sizable stolen check and had recently completed a questionable wire transfer. On March 12, 1997, Chase informed AIB that it would close the account in 30 days (April 12). After two letters of complaint from AIB about the decision and the difficulty of establishing a new relationship within 30 days, Chase informed AIB that it would extend the closing date to May 17, 1997, and agreed to accept cash letters until May 2.

On April 7, AIB reiterated a request for an additional 3,000 checks. On May 21, 1997, AIB requested that its remaining balance be forwarded to Popular Bank in Florida. A June 2 Chase memo addressed the account:

> [W]e concluded that it should be closed, we can't wait any more. . . . I tried to get a list of outstanding checks from Syracuse but the list was not only very long but also included pending items from June/96. I do not think the list is accurate. We have given them over two weeks more from the date the account was supposed to be closed which was May 16/97. You can go ahead and do what is necessary to close it. . . .

On June 17, 1997, the account was officially closed. After its correspondent account with Chase was terminated, AIB informed its clients of the closure in the following way:

> Due to certain operational considerations, we have decided to close our account with Chase Manhattan Bank in New York by May 15, 1997.

(d) Popular Bank of Florida (now BAC Florida Bank)

AIB maintained a correspondent account at Popular Bank from April 1997 through July 1997. During that period, $18 million moved through its account. Popular Bank had approached AIB about a correspondent account in early 1997.

Since April 1995, AIB maintained a Visa Credit Card settlement account at Popular Bank, backed by a $100,000 Certificate of Deposit. Credomatic, a credit card payment processing company, was owned by the same individuals who owned Popular Bank. Some of the financial institutions that utilized Credomatic's services established their escrow accounts at Popular Bank. Popular Bank used that escrow account list to market its correspondent banking services.

In early March the relationship manager for Popular Bank wrote a letter to AIB describing the correspondent services Popular Bank could provide and requested the following from AIB: financial statements for the past 3 years, background on the bank and the nature of its business, identity of the major shareholders and other business interests they had, and a list of senior officers. A site visit was not made before the account was opened. The account manager was planning a visit to Antigua and Barbuda in the near future

and planned to make a site visit at that time. In a later communication, the relationship manager requested a list of some of the correspondent banks used by AIB.

In a letter responding to the request, Greaves pointed out that AIB operated in Antigua, Barbuda and Dominica. The letter noted that AMT Trust was a part of the American International Banking Group, formed and managed corporations, and had over 5,000 corporations on its books that could be incorporated in Antigua and Barbuda, St. Kitts or Dominica. Greaves also pointed out that American International Management Services Ltd. provided full back office services for offshore banks and corporations. The letter also states that "the bank does very little lending and is mainly used as an investment vehicle for our clients." At the same time, AIB's balance sheet showed that as of December 1996, AIB had over $40 million in loans and advances out of a total asset base of $57 million. The list of correspondent banks provided by AIB named Toronto Dominion Bank in Canada, Privat Kredit Bank in Switzerland and Berenberg Bank in Germany. The list did not include any of AIB's U.S. correspondents.

As part of the due diligence process, the relationship manager made inquiries about AIB with a European bank with a branch in Antigua and Barbuda. He was cautioned to be careful about doing business in Antigua and Barbuda, although no negative information about AIB or its officers was transmitted.

The account became operational on April 1, 1997. Although the account was quiet during the first month, activity increased dramatically in the month of May. During that month, $7.5 million was deposited and $2.7 million was withdrawn from the account (including $1.6 million withdrawn through 488 checks). Also in May, the relationship manager made an inquiry of AIB about some of AIB's customers and, at the end of May, learned that AIB serviced the accounts of sports betting companies. In June, Popular Bank received a request from a Russian bank to transmit the text of two loan guarantees ($10 million and $20 million) to AIB, for further transmittal to Overseas Development Bank and Trust. Popular Bank refused to transmit the guarantees, because it would have put Popular Bank in the position of guaranteeing the loans for the Russian banks, which were not clients of Popular Bank.

In early June, the relationship manager visited Antigua and Barbuda. During the trip, he visited the AIB offices and acquired some AIB brochures that highlighted some services of the group that raised questions about its vulnerability to money laundering and the nature of the clientele it was trying to attract. One document described the various entities that made up the American International Banking Group and the bank formation and management services offered by the group, including the fact that AIMS provided back office services for some of the offshore banks that had accounts with AIB. The description of the management services offered by the American International Management Services Ltd. ("AIMS") contained the following:

> It has become increasingly important for overseas tax authorities to see that the "mind and management" of a bank is in the country of origin. Therefore, we are now providing management services for a number of our clients. American Inter-

> national Management Services Ltd. can provide offshore management services for an offshore bank.
>
> . . . In addition to the administrative responsibilities mentioned above, we will also provide full back office services. These services will include but not be limited to: **establishing an account with American International Bank** to make wire transfers and the issuance of multi-currency drafts; the operation of a computerized banking and accounting system; issuance of certificates of deposit and account statements; administrative/clerical functions relating to the purchase and sale of securities and foreign exchange and the filing of all correspondence/documentation and all other ancillary functions of an administrative nature. . . . [emphasis added]

Another document describing the corporate and trust services of the American International Banking Group identified a number of advantages of incorporating in Antigua and Barbuda, some of which stressed how, under Antiguan law, it was easy to hide information about account activity and ownership:

—Antigua and Barbuda only has an Exchange of Information Treaty with the U.S.A and this is only for criminal matters.

—There are no requirements to file any corporate reports with the government regarding any offshore activities.

—The books of the corporation may be kept in any part of the world.

—Share [stock] certificates can be issued in registered or bearer share form.

The manager informed the Minority Staff that he also visited with governmental officials and became concerned when he learned that although the government was in the process of collecting a great deal of information about its offshore banks, it lacked the resources to review and analyze the information it had collected.

On June 13, he filed a report on his visit to AIB. The memo reviewed the various entities that made up the American International Banking group. After noting that one of the entities in the group provided back office services that included establishing accounts at AIB, he commented: "The back up services provided by the group offer a high risk as we do not know either the entities nor the people behind those banks receiving the service."

The memo also noted that information obtained from the Antiguan banking community about Greaves "leaves me uncomfortable." The memo concluded with the following recommendation:

> **I recommend that we do cut our banking relationship with American International Bank** for the following reasons:
>
> Antigua has no regulations nor the capacity to enforce them for offshore banks.
>
> American International Bank offers management services to offshore banks incorporated in Antigua. We do not know who are behind those banks. Therefore, the risk of any of those

> banks being involved in unlawful activities (as per US regulations) results extremely high.
>
> John Greaves has not the best prestige among bankers in Antigua. [emphasis in original]

On June 16, the relationship manager sent a facsimile to AIB, stating the following:

> Please be advised that we will be unable to continue servicing your operating account effective Monday June 23, 1997. Please do not send any more items for deposit after today June 16, 1997.
>
> We thank you for your business but we must be guided by U.S. banking regulations which require a disclosure of comprehensive information about our clients and parties involved in our transactions.

The bank refused to grant an extension to AIB. Two days later, Popular Bank also terminated AIB's credit card settlement account, which had been at the bank since 1995. In the month of June, $7.8 million was deposited into AIB's account at Popular Bank and $11.6 million was withdrawn (including $3.4 million through 962 checks). All account activity was ceased at the end of June and the account was closed in early July.

(e) Barnett Bank

AIB maintained a correspondent account at Barnett Bank from May 1997 through November 1997. During that period, $63 million moved through its account. AIB President John Greaves contacted the relationship manager for Barnett's Caribbean division and said that AIB was looking for a correspondent bank to provide cash management activities for the bank in the United States.

Barnett Bank had a small correspondent banking department. It consisted of four correspondent bankers who covered four geographic regions. They were assisted by one administrative assistant. The bankers reported to the head of International Banking. The work on correspondent accounts was shared with the Treasury Management Services Department, which handled the cash management services of the account. The correspondent banker, also called the relationship manager, would handle both credit and cash management relationships. The Caribbean Region office in Barnett had about 25 clients and did a lot of cash letter and wire transfer business. While financial incentives were not offered to relationship managers for attracting new accounts, they were related to fee income and loan balances.

To open a correspondent account, a bank was required to supply financial statements, management organizational charts and bank references. Barnett Bank said it would not deal with shell banks that didn't have a physical presence in the jurisdiction in which they were licensed. According to the relationship manager of the AIB account, all of Barnett Bank's clients had a physical presence. In fact Barnett Bank said it had only one or two offshore banks as clients and had no client banks that held bearer share accounts. The relationship manager did not know if any client banks were providing correspondent services to other banks, because that was

not an inquiry made of prospective client banks. One of the offshore banks that was a correspondent of AIB had a number of bearer share IBC accounts that had been formed by Cooper's company, AMT Trust.

The relationship manager said that as part of her due diligence review, she would check with the bank regulator of the jurisdiction in which the client was located. The regulatory authority of the bank's home jurisdiction was assessed as part of a country risk evaluation. However those assessments were performed for credit relationships; they were not done for cash management, non-credit relationships. Similarly, although reports of agencies that rated the creditworthiness of banks were reviewed, the reports didn't include Caribbean banks. Bankers were not required to perform an initial site visit or write a call memo before the relationship was established. An initial site visit was not made to AIB, because the relationship manager had just returned from a trip to Antigua and Barbuda when AIB made its request to open an account. The manager made a site visit during the next scheduled trip to Antigua and Barbuda in August 1997.

Treasury Management would review the account opening documentation for completeness and establish the account. The relationship manager had the authority to approve the opening of a non-credit relationship. Credit relationships had to be reviewed and approved by a credit committee.

When Greaves initially contacted the relationship manager, he explained that the bank serviced private banking clients and trusts. Information materials supplied to Barnett by AIB indicated that the bank serviced wealthy individuals. The manager was unaware of Melvin Ford or the Forum and had not heard of Caribbean American Bank and the relationship those entities had with AIB. The relationship manager was not aware that AIB served as a correspondent to a number of offshore banks. The relationship manager was unaware that AIB had licensed a bank in Dominica in June 1996. The fact that there were other companies in the American International Banking Group that formed IBCs was not viewed as relevant to the bank. Barnett did not obtain any information that provided details of AIB's client base. Because AIB had a cash management relationship, its loan profile and loan philosophy were not reviewed.

The relationship manager noted that the staff always tried to perform substantial due diligence but Barnett did not have a presence in the local market and had to rely on the opinions of people in the market and the regulatory agencies. However, the manager noted that those entities are reluctant to provide information and don't want to say anything negative about another party. Barnett said that their reluctance to provide information made it difficult for Barnett to assess the entire situation.

With respect to ongoing monitoring, the relationship manager would make annual on-site visits to banks that had cash management relationships with Barnett and more frequent visits to clients with credit relationships. The relationship manager would review some recent monthly statements and check with Treasury Management on the status of the account before making site visits. Treasury Management would notify the manager if any unusual activity

was noticed, and Barnett said it had an Anti-Money Laundering unit that monitored accounts.

The AIB account at Barnett Bank operated for 5 months. During that period, the account experienced substantial wire and checking activity. In June and July, there was a large number of transfers out of the account valued between 1 and 10 thousand dollars. In July, there were over 500 checks issued for a total value of $3.2 million. The relationship manager noted that the volume of checks was unusual and it was also unusual to issue checks in the denomination of 75 to 100 thousand dollars, as AIB was doing. In August, there were $5 million worth of checks written against the account.

The relationship manager was informed by Treasury Management personnel in about July that there was a large volume of wire transfer activity in the account and it was difficult to keep up with the volume. When an inquiry was made to AIB, the bank explained that the activity was related to many payments to trust accounts. This response didn't raise the suspicions of the manager.

In late July or early August, prior to a trip to Antigua and Barbuda, the relationship manager noted an incoming wire transfer for $13 million. It attracted the manager's attention because it was unusually large. She was unable to reach Greaves, and she received an unsatisfactory explanation about the wire from AIB's operations manager. The following week the relationship manager traveled to Antigua and Barbuda and met with AIB officials. She was still unable to receive a satisfactory explanation for the $13 million transfer. After returning to Miami, she spoke with the head of the International Banking Department and the Compliance Department and the decision was made to close the account. Initially, Barnett informed AIB that the account would be closed at the beginning of October. AIB requested additional time, and Barnett agreed to hold the account open until November. AIB was able to use wire transfer services throughout that period. The account was closed in November.

(8) AIB's Relationship with Overseas Development Bank and Trust Company

In late 1997 AIB was suffering severe liquidity problems largely because of non-performing loans and the attempt by certain investors to withdraw their funds. As the growing liquidity problem threatened the solvency of the bank, the owners of Overseas Development Bank and Trust Company Ltd. ("ODBT"), an offshore bank licensed in Dominica, attempted to take over AIB. ODBT was licensed in 1995 in Dominica; it was one of the first offshore banks licensed in Dominica after Dominica passed its law allowing offshore banks in June 1996.[92] ODBT's formation was handled by AMT Management, the British Virgin Islands corporation owned by William Cooper and his wife. ODBT's initial shareholders were Cooper, his wife and John Greaves. The Coopers disposed of their

[92] The other offshore bank initially licensed was American International Bank and Trust Company Ltd., owned by Cooper and his wife. According to the manager of the Dominica International Business Unit (the governmental body that regulates offshore banks), American International and ODBT were closely aligned. The banks' applications were submitted at the same time, they shared the same agent (AMT Management) and they shared the same office space.

shares and the owners of ODBT, each with an equal share, became John Greaves, Arthur Reynolds and Malcolm West.

On December 30, 1997, AIB and ODBT signed an agreement for the sale of all of AIB's assets and liabilities to ODBT. At the same time, officers of both AIB and ODBT wrote to a former U.S. correspondent bank of AIB and informed it that ODBT was taking over the assets of AIB.[93] In January 1998, the counsel for ODBT issued an opinion certifying that he had examined the documents associated with the purchase (purchase agreement, deed of assignment, absolute bill of sale, assumption of liabilities) and that the documents were "duly executed and legally binding and enforceable." On January 6, 1998, the Board of Directors of ODBT published a public notice stating that the bank had purchased the assets and liabilities of AIB, that it had applied to the Government of Antigua and Barbuda for a banking license and that if the license was granted it hoped to employ 50 people in its bank in Antigua and Barbuda. However over the next 4 months, the financial problems of AIB did not abate and by April, after ODBT had invested nearly $4.5 million in AIB, the purchase agreement was dissolved. The owners of ODBT subsequently worked out an arrangement with the receiver of AIB to assume $4.5 million worth of loans payable to AIB as repayment for the funds it had invested into AIB.[94] In the second half of 1999, Greaves and Reynolds sold

[93] In order to comply with Antiguan regulations that prohibit a bank from using the word "trust" in its name, the owners of ODBT applied for, and received, a temporary bank license for a new Antiguan bank in the name of Overseas Development Bank ("ODB"). In a December 1997 letter to the counsel in Antigua and Barbuda who was handling the incorporation and licensing for ODBT, John Greaves supplied "a full name of all shareholders in various companies that own the Overseas Development Bank & Trust Company Ltd." According to Greaves' letter, ODBT was owned 100% by Overseas Development Corporation, an Antiguan Corporation, which was owned by three companies—Financial Services Group, International Management Services, Inc., and Overseas Development & Trust Company. The owners of the Financial Services group were listed John Greaves, Arthur Reynolds and Derek Pinard (General Manager of ODBT). Greaves was listed as the owner of International Management Services, Inc. The owner of Overseas Development Trust Company was listed as the Honorable Ivan Buchanan (a director of ODBT). Malcolm West was not listed.

[94] The owners of ODBT subsequently characterized the relationship with AIB in different ways. In one instance, the investment in AIB was a "loan" rather than expenditures associated with the purchase of the bank. In another communication, Greaves stated that "in order to offer final assistance to American International Bank and their clients aimed more at perhaps assisting the image of the offshore banking industry than the individual bank, we purchased loans from the Receiver to the sum of US$4.5 million. All of these loans are active and in good standing although some of them are longer than we would prefer." The receiver of AIB informed the Minority Staff that many of the loans assumed by ODBT were non-performing and the current owner of ODBT concurred, stating that the bank was planning to initiate legal proceeding to recover the funds. ODBT officials estimated that approximately one half of the $4.5 million in loans were related to interest associated with the former owner of AIB, Cooper.

In December 1999, the Supervisor of International Banks of the Antiguan International Financial Sector Authority (the immediate predecessor to the International Financial Sector Regulatory Authority, the current regulator of offshore banks in Antigua and Barbuda) wrote to ODB and informed the bank that its tentative license was to be revoked on January 14, 2000, due to lack of activity and assets.

After ODBT abandoned its takeover of AIB, a second takeover effort was mounted. In May, another Antiguan bank, called Overseas Development Bank, Antigua was formed. The bank was granted a license in 1 day. According to filings that accompanied the license application, that leadership of the bank was closely connected to the Forum operations. The major shareholder (owning 3 million of 5 million shares of the capital stock) was Wilshire Trust Limited, which was one of the trusts that controlled many of the Forum-related investments. Some board members of the new Overseas Development Bank, Antigua, also had ties with the Forum. David Jarvis had run the Forum office in Antigua and Barbuda. Earl Coley of Clinton, Maryland, was a frequent speaker at Forum meetings and is reported to be a relative of Gwendolyn Ford Moody, who handled much of the financial activity for Melvin Ford and the Forum. A number of individuals familiar with the formation of Overseas Development Bank, Antigua told the Minority Staff that backers of the new bank were two Antiguan banks, Antigua Overseas Bank and World Wide International Bank. Both of those banks serviced accounts of Forum-related investors. However, the staff saw no written record of their involvement. Within a month or two,

their shares to West, who told the Minority Staff that he is currently the sole shareholder of ODBT.

Like AIB, ODBT was one of a group of companies within an umbrella group; ODBT's umbrella group was called Overseas Development Banking Group. In addition to ODBT, the group contained companies for corporate and trust formation and bank management.

ODBT shared a number of common elements with AIB. Although licensed in Dominica, the bank was operated out of Antigua and Barbuda by AIMS, the bank management service owned by Greaves and closely tied with AIB.[95] A number of officers and employees of AIB and the management service became employees of ODBT and were authorized signators for the correspondent accounts established for ODBT.[96] From the time that ODBT commenced operations as an offshore bank through the end of 1997, it used AIB as its correspondent bank to access the U.S. financial system. ODBT also issued Visa cards to its clients through AIB.

Promotional literature of ODBT touted the secrecy and anonymity the bank used to attract clients:

> Numbered accounts—are available and are particularly useful; not only in providing anonymity but, as further security against unauthorized access to accounts. . . . Bank secrecy regulations do not permit the release of any information without specific written permission from the account holder. . . . Annual bank audits required by government do not reflect individual accounts. . . . Account information is otherwise only available by order from the high Court. . . . Formation of "International Business 'offshore' companies" can be arranged in a variety of Caribbean jurisdictions. Such companies can be comprised of Registered, or Bearer shares, or a combination of both, at the discretion of the client. . . . In the case of Bearer Share companies, where the client is concerned about anonymity, our trust company can function as the Sole Director.

Another brochure on the Overseas Development Banking Group offered clients economic citizenship in other jurisdictions.[97]

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after investing a few million dollars, Overseas Development Bank, Antigua abandoned its efforts to takeover AIB. The Minority Staff has acquired records that show that at the same time that Overseas Development Bank, Antigua was formed, Corporate and Accounting Services Ltd., one of the accounting firms that administered accounts of the Forum-related IBCs, sent out a letter to IBC members offering them the opportunity to buy shares of Overseas Development Bank, Antigua.

In August 2000, the Antiguan International Financial Sector Regulatory Authority informed the Minority Staff that Overseas Development Bank, Antigua had not been in operation since August 1998 and the bank had been put on notice that its license was to be revoked.

[95] AIMS changed its name to Overseas Management Services ("OMS") before closing in August 1999. Greaves also informed the Minority Staff that AIMS was also known as International Management Services ("IMS") before its name was changed to Overseas Management Services ("OMS").

[96] They included: Pat Randall Diedrick, Assistant Manager, ODBT (Corporate Secretary and Director, AIB), Danley Philip, Assistant Manager, ODBT (Assistant Manager/Accountant, AIB) Sharon Weeks, Accounts Manager, ODBT (AIMS employee), Anne Marie Athill, Office Manager, ODBT (AIMS employee).

[97] Economic citizenship is conferred when an individual makes the investment of a certain amount of money in, and/or pays a fee to, a country and in return receives a citizenship in that country. The required level of investment and/or fee is set by the country offering the citizenship. As with IBCs, economic citizenship is generally offered by jurisdictions that also have little or no taxation and bank secrecy and corporate secrecy statutes. Individuals who obtain the economic citizenship can then enjoy the economic benefits of those policies and obtain second passports.

As a result of these policies, ODBT had numerous accounts where the true owners were unknown to the bank. In an interview with the Minority Staff, ODBT officials said that because of the wide use of bearer share accounts in the bank, they could not determine the beneficial owners of almost half of ODBT's accounts. So, for example, when asked how many of their clients were from the United States, they were unable to answer. Bank personnel knew who the signators on the accounts were, but they had no way of identifying the beneficial owner of the accounts. The bank personnel told the Minority Staff that when ownership of ODBT was shifted to West in July 1999, the bank had roughly 3,000 accounts and nearly 45% of those accounts did not contain sufficient information to establish ownership and were closed. West told the Minority Staff that the bank currently had approximately 100 accounts.

At the same time, ODBT's due diligence policy told a different story. In an August 1996 publication, which was sent to one of its U.S. correspondent banks, ODBT stated that its policy for International Business Corporation (IBC) accounts was to require its employees to obtain, among other things: "Full details of beneficial owner, including address, work and home telephone number and relationships with employer and social security number of U.S. citizen," a copy of the beneficial owner's passport; and a banker's reference. For individual accounts, the policy directed that "personal identification must be taken and retained on file, i.e. a copy of the front page of the passport with photographs, drivers license, etc.," and that employees should "obtain a home address and telephone number and verify that by calling after the interview if there is no acceptable supporting information."

Of those clients who were actually identifiable, several raise serious concerns.

(a) The Koop Fraud

ODBT was a key offshore vehicle used in the Koop fraud.[98] William H. Koop, a U.S. citizen from New Jersey, was the central figure in a financial fraud which, in 2 years from 1997 to 1998, bilked hundreds of U.S. investors out of millions of dollars through a fraudulent high yield investment program. Koop carried out this fraud in part by using three offshore banks, ODBT, Hanover Bank, and British Trade and Commerce Bank (BTCB). In February 2000, Koop pleaded guilty to conspiracy to commit money laundering. As part of his plea agreement to cooperate with government investigations into his crimes, Koop provided the Minority Staff investigation with a lengthy interview as well as documents related to his use of offshore banks.

ODBT was the first offshore bank Koop used in his fraud and seemed to set a pattern for how he used the other two. First, ODBT established Koop's initial offshore corporation, International Financial Solutions, Ltd., a Dominican company that would become one of Koop's primary corporate vehicles for the fraud. Second, over time, ODBT opened five accounts for Koop and allowed him to move millions of dollars in illicit proceeds through them. Third,

[98] For more information, see the explanation of the Koop fraud in the appendix.

ODBT itself began to feature in the fraud after Koop offered, for a fee, to open an offshore account for any investor wishing to keep funds offshore. Documentation suggests that Koop opened at least 60 ODBT accounts for fraud victims, before ODBT liquidity problems caused Koop to switch his operations to Hanover Bank and BTCB.

The documentation indicates that Koop had accounts at ODBT for almost 2 years, from August 1997 until April 1999, which was also the key time period for his fraudulent activity.[99] ODBT documentation indicates that the bank established at least five Dominican corporations for Koop and opened bank accounts in their names.[100]

The statements for one of the accounts established by Koop include four entries showing that Koop paid $300 per account to open 60 additional accounts at ODBT, apparently for fraud victims who wished to open their own offshore accounts.[101] When asked, West indicated during his interview that he had been unaware of the 60 accounts opened by Koop for third parties. He said that, in 1999, ODBT had closed numerous accounts with small balances due to a lack of information about the beneficial owners of the funds, and guessed that the 60 accounts were among the closed accounts. While he promised to research the 60 accounts, he did not provide any additional information about them.

Koop directed his co-conspirators and fraud victims to send funds to his ODBT accounts through various U.S. correspondent accounts. For example, account statements for Jamaica Citizens Bank Ltd. (now Union Bank of Jamaica, Miami Agency) show numerous Koop-related transactions from October 1997 into early 1998. Wire transfer documentation shows repeated transfers through Barnett Bank in Jacksonville. In both cases, the funds went through a U.S. account belonging to AIB, and from there were credited to ODBT and then to Koop. In January 1998, Koop also issued wire transfer instructions directing funds to be sent to Bank of America in New York, for credit to Antigua Overseas Bank, for further credit to Overseas Development Bank, and then to one of his five accounts at ODBT.

Given the millions of dollars that went through his ODBT accounts, it is likely that Koop was one of ODBT's larger clients. The documentation indicates that Koop was in frequent contact with West and ODBT administrative personnel at AIMS, in part due to his establishment of new corporations and frequent wire transfers. West said that he recognized the name but professed not to remember Koop. There is also no documentation indicating that ODBT expressed any concerns about the nature of Koop's business, the deposits made to his account from so many sources, the source of the funds, or their rapid turnover.

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[99] ODBT also appears to have kept the Koop-related accounts after it terminated its association with AIB in the spring of 1998, possibly because Koop was one of the few AIB depositors with substantial assets.

[100] See the appendix for more details on the corporations and accounts.

[101] These account entries were:

—$7,500 on 11/7/97 for 25 accounts;
—$4,500 on 11/12/97 for 15 accounts;
—$4,500 on 1/16/98 for 15 accounts; and
—$1,800 on 2/13/98 for 6 accounts.

Koop might have remained at ODBT, except that in the spring of 1998, ODBT began experiencing liquidity problems due to its efforts to prop up the solvency of AIB, and it began failing to complete Koop's wire transfer requests. Koop materials from this time period state:

> We are currently transacting our banking business with the Overseas Development Bank and Trust Company, which is domiciled in the island of Dominic[a] in the West Indies. We have witnessed a slowness in doing business with this bank as far as deposit transfers and wire transfers are concerned. Because of these delays, we have made arrangements with the Hanover Bank to open accounts for each of our clients that are currently with ODB, without any charge to you. If you are interested in doing so, please send a duplicate copy of your bank reference letter . . . passport picture . . . [and] drivers license. . . . IFS [one of Koop's companies] will then open an account for you in the Hanover Bank, in the name of your trust.

By April 1998, Koop began directing his co-conspirators and fraud victims to deposit funds in U.S. correspondent accounts being used by Hanover Bank or British Trade and Commerce Bank, and generally stopped using his ODBT accounts.[102]

(b) Financial Statements

The audited financial statements of ODBT also raised some issues. The 1996 audit, due in the spring of 1997, was not produced until July 1997. In the 1998 audit, produced in July 1999, the auditor noted:

> [W]e were unable to verify the accuracy and collectability of the amount of $1,365,089 due from American International Bank (In Receivership) since we have not yet received a third party confirmation and there were no practical alternative audit procedures to enable us to substantiate the collectability of the amount. No provision has been made in the Financial Statements in the event of any uncollectable amounts.

The same report also noted that:

> Our examination of the US Dollar bank reconciliation revealed that there were numerous reconciling items totaling $2,198,181.72 for which management was unable to obtain the supporting information from American International Bank to substantiate their entries on the bank statement. Management is of the view that although the balance is in its favor, it arose as a result of errors on the path of American International Bank.

In January 1999 three default judgments totaling $1.2 million had been entered against ODBT in Dominica. Two of the judgments (one for $487,000 and another for $350,000) involved unauthorized use of client funds and failure to return client funds. The third judgment was for $400,000 and involved a complaint by Western Union that ODBT failed to repay Western Union for wires sent through and paid by Western Union.

[102] Both of these banks are the subject of case studies in this report.

(c) ODBT's Correspondent Relationships

First National Bank of Commerce (now Bank One International Corporation). ODBT maintained a correspondent account at First National Bank of Commerce ("FNBC") from January 1998 through October 1998. One of the owners of ODBT contacted an attorney associated with FNBC about opening a correspondent account with the bank.

In late 1997, shortly after ODBT and AIB reached an agreement on the sale of AIB to ODBT, Arthur Reynolds, one of the owners and Board members of ODBT, wrote a letter to a New Orleans attorney, Joseph Kavanaugh, asking for assistance in setting up a correspondent account. Reynolds noted that ODBT was acquiring AIB and that ODBT had previously utilized AIB's correspondent banking network and Visa card services. However, he said, those services had been withdrawn from AIB, and ODBT would not be able to use those services "pending a complete new due diligence and reviewing an audited statement on the expanded ODBT operation." Reynolds also noted that one U.S. bank that had been processing over 1,000 checks per week for AIB and ODBT was expected to terminate the relationship because it could not handle the volume. Reynolds concluded the letter by noting that "time is of the essence in this situation."

Reynolds forwarded his business card, a copy of ODBT's banking license, a one page consolidated balance sheet covering the period up to December 11, 1998, and resumes and reference letters for himself and Greaves. Kavanaugh then sent this material to a correspondent banker at FNBC on January 2, 1998. By January 29, 1998, FNBC had established a correspondent account for ODBT. None of the documents related to the ODBT account that were supplied by FNBC in response to a Subcommittee subpoena indicate what, if any, additional information was collected or due diligence was performed.

Over the course of the relationship, two additional accounts at FNBC were opened for ODBT, one in March 1998 and another in May 1998. Other than communications regarding the updating of signatures on signature cards and the return of a few checks, there are no records to indicate there was any contact between the relationship manager at FNBC and ODBT between the time the accounts were opened and late August 1998.

There were two communications which raise questions about how well FNBC representatives understood the operations of their client, ODBT. On July 27, 1998, the FNBC relationship manager wrote a letter to Eddie St. Clair Smith, the receiver of AIB in Antigua and Barbuda, enclosing the signature cards and resolutions for the three ODBT accounts at FNBC and asking Smith to sign and return them. On August 31, the FNBC Regional Manager for Latin America also wrote to Smith to inform him that Bank One had acquired FNBC ("your correspondent in New Orleans"). The regional manager informed Smith that he would try to contact Smith within the next day or so and looked forward "to, continuing and developing the correspondent banking relationship that your institution has maintained with First National Bank of Commerce."

Smith was, and continues to be, the receiver for AIB. As far as the Minority Staff can tell, Smith had no affiliation with ODBT

other than as receiver for AIB negotiating the settlement of accounts and money owed with respect to ODBT's former dealings with AIB. ODBT wasn't in receivership, and if it had been, that should have raised questions for FNBC. Yet, FNBC communicated with an individual identified as such, and there is nothing in the FNBC records to indicate that FNBC had any concerns or made any inquiry about the fact that its correspondent appeared to be in receivership, even though it was the wrong bank.

On September 22, 1998, nearly 9 months after FNBC established a correspondent relationship with ODBT, the FNBC Latin America Regional Manager wrote the following to Greaves of ODBT:

> . . . the following information is required in order to document and evaluate the correspondent banking relationship with Overseas Development Bank & Trust Company, Ltd.:
>
> Annual reports for the last 3 years including the auditor's statement of opinion.
>
> The most recent 1998 interim financial statement.
>
> A brief explanation of significant changes in the balance sheet and income statement over the last 3 years.
>
> Number of years in business.
>
> Management discussion of the bank's activities such as overall strategy, targeted business segments, resources to carry out the strategy, and strategy accomplishments that need to be consistent with the financial information provided.
>
> Bank's market share in terms of total assets, deposit, capitalization, number of branches (include locations if outside Antigua) and number of deposit accounts.
>
> Peer comparison in terms of capitalization, asset quality, earnings, and liquidity/funding. Also list of main competitors.
>
> Information on the main stockholders/investors and resumes of the banks's executive management.
>
> At least three bank references from existing correspondents outside Antigua.

The following day, Greaves responded with a letter that answered some of the questions posed by the manager and included some of the requested documents. He promised to supply the rest of the requested materials and wrote, "The Certificate of Good Standing will be included but will, of course, come from the Dominican banking regulators." On August 9, 2000, the manager of the International Business Unit for Dominica informed the Subcommittee that a Certificate of Good Standing had never been issued to ODBT.

On October 2, 1998, the FNBC relationship manager received a letter from the President of a U.S. company requesting FNBC to confirm that a large quantity of oil was available for sale by a client of ODBT's and asking FNBC to issue a 2% performance bond as guarantee of delivery.

On October 5, 1998, the bank informed ODBT that the correspondent relationship would be terminated on October 15, 1998.

The reason given for terminating the relationship was lack of "strategic fit" between FNBC and ODBT. It was subsequently agreed that FNBC would move the closure date back to November 2, 1998, and ODBT would discontinue sending cash letters for processing on October 28, 1998. Two of the three ODBT accounts were closed on November 2, 1998. A third account remained open solely for the payment of pending drafts. That account was closed on December 16, 1998.

AmTrade International Bank. ODBT maintained a correspondent account at AmTrade International Bank from June 1999 through August 2000. ODBT reached out to AmTrade through an ODBT Board member who had an acquaintance with the majority owner of AmTrade International who also served on AmTrade's advisory board. ODBT had already been using AmTrade's services indirectly. Antigua Overseas Bank, with whom ODBT had a correspondent relationship, had a correspondent account at AmTrade. Therefore, by nesting within AOB, ODBT was able to utilize the correspondent relationship that AOB had with AmTrade to gain access to the U.S. financial system.

At the time, according to the Senior Vice President for correspondent banking, AmTrade had a very small correspondent banking business, with a focus on Latin/South America and the Caribbean. The staff consisted of a Senior Vice President, who reported to the President of the bank, another correspondent banker and some assistants. The Senior Vice President handled credit relationships and the other banker was responsible for depository, or cash management, relationships. The bank had about 40–45 credit relationships and 20 depository relationships on the Caribbean/Latin American area. The Senior Vice President and the compliance officer were responsible for approving new accounts. According to the Senior Vice President, in principle the bank had a policy of visiting correspondent clients once a year at the client's bank site, but he added that bank representatives also met with clients at meetings outside the bank's jurisdiction, such as banking conferences.

In March 1999 Malcolm West, a shareholder of ODBT, met with AmTrade officials and discussed establishing a correspondent relationship. Later in March, the President of AmTrade Bank, Herbert Espinosa, asked the Senior Vice President to meet with West to discuss the opening of a correspondent account. According to the Senior Vice President, ODBT was referred to AmTrade by its majority owner, Lord Sandberg, who had an acquaintance with a board member of ODBT, Lord Razzle. Espinosa asked the Senior Vice President to be the account manager and have the primary relationship with West because of the Sandberg/Razzle connection. The Senior Vice President had little connection with the day to day operation of the account, which was assigned to another account manager.

The Senior Vice President understood that ODBT did a fair amount of private banking and served businesses and individuals in the area. It was expected that the bank would require cash management services such as wire transfers, possibly check clearances and a pass though checking account. No site visit was made before opening the account. The Senior Vice President said he understood

that the President was traveling and would meet with the client on site during his trip (sometime between April and August). There is no site visit or call report in the client file. However, the Vice President stated that he met with West four or five times between March and August, when he left the bank.

Significant details of ODBT's ownership, its background, practices and current status, which may have affected the decision to open the account were unknown to AmTrade. The government investigation and prosecution of the fee-for-loan fraud that was operated through Caribbean American Bank and American International Bank occurred in Florida. Significant national and local publicity had been focused on the case as indictments and prosecutions were initiated from mid-1997 and continued through the time that AmTrade was conducting its due diligence review of ODBT. The Senior Vice President was not aware of the role of AIB, where Greaves served as President, in the fraud, but said he would have raised it as an issue had he known.

Although AmTrade did not have a policy against accepting banks that offered bearer share account, the Senior Vice President said he typically did not like to deal with them because of the problems they present. However, he was not aware that a significant portion of ODBT's accounts were bearer share accounts.

AmTrade received ODBT's internal financials for 1998 and was aware that ODBT resources had been committed to the takeover of AIB and resulted in the assumption of loans from AIB. The Vice President was not sure if AmTrade had received the audited financial statements for previous years and was not aware of the issues raised in the audited financial statements for FY97, such as the auditor's finding that ODBT management could not find supporting information to substantiate over $2 million worth of entries into its balance sheet. He stated that the issue would have raised concerns with respect of the adequacy of assets and questions as to the strength of the balance sheets. The auditor's finding that it could not verify the accuracy and collectibility of $1.3 million due from AIB, and that ODBT had made no provision to address uncollectible amounts, raised issues as to the quality of the asset base and the impact on the balance sheet and the capital base.

The official was unaware that in early 1999 three judgments totaling $1.2 million had been entered against ODBT in Dominica. He mentioned that it would have been an issue that needed to be resolved. Similarly, he was unaware that in April 1999, shortly before the due diligence review on ODBT was initiated, the President of the bank received a subpoena for OBDT records from a governmental enforcement agency investigating financial crimes. The Senior Vice President stated that he was never informed of the subpoena and thought it was strange that he was not informed. He stated that had he known about the subpoena he would have held up opening the account until he knew how the investigation was resolved.

The Senior Vice President left AmTrade in August 1999. There are no documents in the records supplied to the Subcommittee that indicate that there was any additional contact or interaction between AmTrade representatives and ODBT after that period (other

than monthly statements) until AmTrade sent a letter to ODBT terminating the relationship on August 8, 2000.

The Senior Vice President observed that some additional oversight probably should have been performed and AmTrade could have done more with respect to the background check on the bank itself He also noted it would have been helpful if he or the other account manager had visited the site earlier.

B. THE ISSUES

AIB was a troubled bank from the beginning. It was licensed and operated in a jurisdiction, Antigua and Barbuda, which did not effectively regulate its banks during the time that the bank existed. There were a number of warning signs that certain policies and practices of AIB posed serious money laundering vulnerabilities: the servicing of correspondent accounts, Internet gambling, and bearer share accounts, and AIB's related business activities such as arranging economic citizenship and promoting IBCs.

Relationship managers of a number of banks acknowledged that some of these practices would have raised concerns or caused them to ask additional questions, but they were not aware of, or had not inquired about, them during the account opening/due diligence process.

Moreover, even as troubles for AIB mounted, activities of its clients came under law enforcement attention and its reputation diminished in the local banking community, U.S. correspondents did not seem to pick up on those developments. As a Bank of America representative wrote of AIB in 1996, "their reputation in the local market is abysmal." Yet, even after that assessment, a number of new correspondent accounts for AIB was established. No one appeared to question why AIB moved from bank to bank. As one manager noted it was difficult to receive candid appraisals from other banks who serviced the account. This enabled AIB to continue opening new correspondent banking accounts and maintain its access into the U.S. financial system.

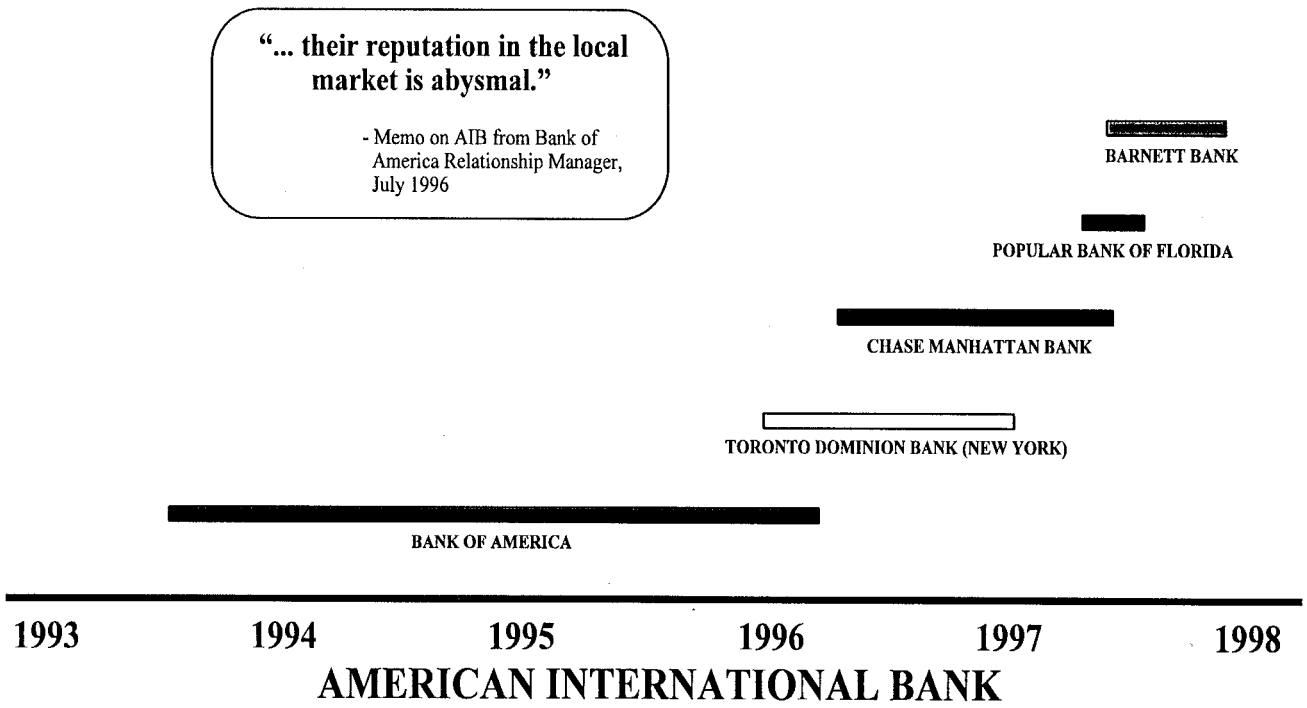
The nature of the correspondent relationship that most banks had with AIB also resulted in a weakened degree of scrutiny. Noncredit, cash management relationships were viewed as opportunities to generate fees without putting the correspondent bank at risk. Since the basic investment in the cash management systems had already been made and the incremental costs of handling additional accounts were generally nominal, the cash management accounts provided a risk-free, solid rate of return. Because of the low level of risk, the banks that established relationships with AIB performed a lower level of scrutiny during both the account opening and monitoring stages than if they had established a credit relationship where their own funds were at risk. Most of the banks interviewed by staff noted that certain reviews or assessments were only applied to banks that were attempting to establish credit relationships and therefore would put the correspondents' funds at risk. In the case of ODBT, fundamental due diligence questions were never asked until almost 9 months after the correspondent relationship was established.

The fact that a certain type of correspondent relationship poses a lower level of financial risk to the correspondent bank does not

mean that it poses a lower risk of money laundering. In fact, it could be quite the opposite. The lower level of scrutiny applied to non-credit relationships plays into the hands of money launderers who require only a system to move funds back into the U.S. financial system. The less scrutiny that system receives, the greater the money laundering opportunities and greater the chances for success.

Although some of the banks reviewed in this section reacted quickly after problems and issues surfaced during the operation of the AIB account, initial due diligence was often lacking. This enabled AIB to move from one correspondent relationship to another, opening a new account at one bank while an existing account at another bank was being terminated, even as its problems accumulated and its reputation diminished. Then, as its access to U.S. correspondents began to diminish, AIB was able to utilize the services of U.S. banks through a correspondent account it established at Antigua Overseas Bank, which itself had correspondent relationships with U.S. banks. Through its relationship with Antigua Overseas Bank, AIB received banking services from some of the same banks that had said they no longer wanted to provide those services to AIB. All of these factors allowed AIB and the clients it served to maintain their gateway into the U.S. banking system.

AIB'S CORRESPONDENT ACCOUNT HISTORY



AIB MONTHLY ACTIVITY AT BANK OF AMERICA INTERNATIONAL

June 1993–March 1996

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
June 1993	$0	$20,000	$0	$20,000
July 1993	$20,000	$73,153	$11,367	$81,786
August 1993	$81,786	$136,586	$96,940	$121,431
September 1993	$121,431	$346,127	$287,884	$179,674
October 1993	$179,674	$4,695,780	$1,774,703	$3,100,751
November 1993	$3,100,751	$3,098,838	$6,057,870	$141,719
December 1993	$141,719	$1,073,867	$1,024,258	$191,329
January 1994	$191,329	$1,237,299	$1,401,875	$26,753
February 1994	$26,753	$1,433,432	$1,255,310	$204,875
March 1994	$204,875	$2,422,740	$2,018,959	$608,656
April 1994	$608,656	$3,594,492	$2,975,453	$1,227,695
May 1994	$1,227,695	$3,080,657	$4,298,991	$9,361
June 1994	$9,361	$2,779,597	$1,861,106	$927,851
July 1994	$927,851	$2,847,385	$3,694,989	$80,247
August 1994	$80,247	$6,687,074	$6,546,953	$220,369
September 1994	$220,369	$2,494,651	$2,401,337	$313,683
October 1994	$313,683	$2,404,374	$2,128,733	$589,324
November 1994	$589,324	$2,181,186	$2,714,179	$56,331
December 1994	$56,331	$3,221,380	$3,181,498	$96,213
January 1995	$96,213	$6,624,614	$5,586,309	$134,519
February 1995	$134,519	$5,649,710	$5,803,829	$130,400
March 1995	$130,400	$5,443,313	$5,316,281	$109,708
April 1995	$109,708	$3,589,229	$3,934,975	$13,962
May 1995	$13,962	$3,932,691	$3,806,137	$140,516
June 1995	$140,516	$2,788,443	$3,014,974	$63,986
July 1995	$63,986	$5,067,879	$5,191,144	$90,721
August 1995	$90,721	$14,574,482	$12,588,704	$126,499
September 1995	$126,499	$7,002,374	$8,363,786	$115,087
October 1995	$115,087	$9,088,930	$9,961,814	$105,202
November 1995	$105,202	$8,932,140	$10,682,259	$85,083

AIB MONTHLY ACTIVITY AT BANK OF AMERICA INTERNATIONAL—Continued

June 1993–March 1996

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
December 1995	$85,083	$5,097,470	$4,690,992	$141,560
January 1996	$141,560	$4,742,504	$4,470,813	$113,251
February 1996	$113,251	$540,586	$409,628	$144,129
March 1996	$144,129	$456,529	$941,711	$8,947
TOTALS		**$127,359,432**	**$128,498,761**	

Prepared by the U.S. Senate Permanent Subcommittee of Investigations, Minority Staff, December 2000.

AIB MONTHLY ACTIVITY AT TORONTO-DOMINION BANK (New York Branch)

January 1996–January 1997

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1996	$0	$0	$0	$0
February 1996	$0	$200,000	$105,121	$94,878
March 1996	$94,878	$1,250,000	$1,394,805	-$49,928
April 1996	-$49,928	$2,000,000	$1,948,056	$2,013
May 1996	$2,013	$2,599,454	$2,601,308	$156
June 1996	$156	$2,000,000	$1,986,688	$13,467
July 1996	$13,467	$3,552,100	$3,542,127	$23,437
August 1996	$23,437	$2,300,000	$2,405,157	-$81,722
September 1996	-$81,722	$1,850,000	$1,721,878	$46,396
October 1996	$46,396	$300,000	$328,420	$17,975
November 1996	$17,975	$50,000	$22,231	$45,743
December 1996	$45,743	$0	$6,069	$39,674
January 1997	$39,674	$0	$39,674	$0
TOTAL		**$16,101,554**	**$16,101,534**	

Prepared by the U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, December 2000.

AIB-CHASE ACCOUNT
TORONTO-DOMINION BANK TRANSACTIONS
April 1996–June 1997

DATE	DEBIT	CREDIT	ORDER PARTY
June 26, 1996		$300,000	AIB
July 11, 1996		$300,000	AIB
August 2, 1996		$400,000	AIB
August 15, 1996	$500		???
Sept. 10, 1996		$500,000	AIB
Sept. 13, 1996		$400,000	AIB
Sept. 18, 1996		$700,000	AIB
Sept. 23, 1996		$700,000	AIB
Sept. 25, 1996		$650,000	AIB
Sept. 26, 1996		$500,000	Stanford Intl Bank Ltd.
Oct. 1, 1996		$450,000	AIB
Oct. 3, 1996		$400,000	AIB
Oct. 7, 1996		$400,000	AIB
Oct. 9, 1996		$100,000	AIB
Oct. 10, 1996		$400,000	B/O Toronto-Dominion Bank
Oct. 16, 1996		$500,000	B/O AIB
Oct. 17, 1996	$25,000		????
Oct. 18, 1996		$800,000	B/O AIB
Oct. 21, 1996		$500,000	AIB
Oct. 22, 1996		$500,000	AIB
Oct. 24, 1996		$600,000	B/O AIB
Oct. 25, 1996		$500,000	AIB
Oct. 29, 1996		$700,000	AIB
Oct. 31, 1996		$500,000	AIB
Nov. 4, 1996		$800,000	B/O AIB
Nov. 5, 1996		$500,000	AIB
Nov. 12, 1996		$500,000	AIB
Nov. 12, 1996		$500,000	B/O AIB
Nov. 19, 1996		$500,000	AIB
Nov. 26, 1996		$1,000,000	AIB
Dec. 2, 1996		$700,000	AIB

AIB-CHASE ACCOUNT—Continued
TORONTO-DOMINION BANK TRANSACTIONS
April 1996–June 1997

DATE	DEBIT	CREDIT	ORDER PARTY
Dec. 5, 1996		$900,000	AIB
Dec. 6, 1996		$700,000	AIB
Dec. 9, 1996		$1,000,000	AIB
Dec. 12, 1996		$300,000	AIB
Jan. 15, 1997		$1,000,000	AIB
Jan. 17, 1997		$100,000	AIB
Jan. 21, 1997		$100,000	B/O AIB
Jan. 22, 1997		$400,000	AIB
Jan. 23, 1997		$95,000	B/O AIB
Jan. 24, 1997		$60,000	AIB
Jan. 28, 1997		$700,000	AIB
Jan. 30, 1997		$250,000	AIB
May 2, 1997	$15,000		????
TOTAL	**$40,500**	**$20,905,000**	

Prepared by the U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, December 2000.

AIB MONTHLY ACTIVITY AT CHASE

May 1996–June 1997

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS			CLOSING BALANCE
			OTHER	CHECKS		
				AMOUNT	No.	
May 1996	$0	$2,025,000	$1,500,000	$0	0	$525,000
June 1996	$525,000	$327,355	$754,678	$0	0	$99,723
July 1996	$99,723	$814,535	$570,730	$0	0	$343,704
August 1996	$343,704	$9,069,808	$8,746,338	$0	0	$667,600
September 1996	$667,600	$5,241,279	$5,234,400	$454,276	110	$222,162
October 1996	$222,162	$11,320,529	$10,327,642	$1,163,742	331	$51,666
November 1996	$51,666	$12,059,520	$11,649,928	$88,875	15	$372,355
December 1996	$372,355	$11,667,993	$10,676,801	$873,885	112	$490,501
January 1997	$490,501	$13,209,330	$10,907,526	$1,159,973	327	$1,632,906
February 1997	$1,632,906	$9,821,060	$9,613,906	$1,313,950	273	$526,632
March 1997	$526,632	$14,434,982	$8,311,270	$2,983,634	861	$3,667,529
April 1997	$3,667,529	$18,626,782	$14,703,004	$3,082,215	686	$4,511,912
May 1997	$4,511,912	$7,062,740	$11,249,950	$205,579	50	$151,315
June 1997	$151,315	$482,088	$692,823	$9,902	10	$0
TOTAL		**$116,162,830**	**$104,938,996**	**$11,336,031**		
			$116,275,027			

Prepared by the U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, December 2000.

AIB MONTHLY ACTIVITY AT POPULAR BANK

April 1997–June 1997

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS			CLOSING BALANCE
			OTHER	CHECKS		
				AMOUNT	NUMBER	
April	$0	$2,446,265	$0	$79,760	8	$2,368,099
May	$2,368,099	$7,514,083	$1,129,247	$1,634,090	488	$7,135,558
June	$7,135,558	$7,854,094	$11,603,700	$3,488,219	962	-$88,291
July	$0	$122,906	$289	$121,620	17	$0
TOTALS		**$17,937,348**	**$12,733,236**	**$5,323,689**		
			$18,056,925			

Prepared by the U.S. Senate Permanent Subcommittee of Investigations, Minority Staff, December 2000.

AIB MONTHLY ACTIVITY AT BARNETT BANK

May 1997–November 1997

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS			CLOSING BALANCE
			OTHER	CHECKS		
				AMOUNT	NUMBER	
May	$0	$220,000	$0	$0	0	$.66
June	$.66	$2,419,588	$1,877,551	$26,457	12	$7,243
July	$7,243	$18,783,934	$14,027,641	$3,200,766	858	$37,390
August	$37,390	$21,310,634	$18,525,032	$5,625,795	1001	$70,959
September	$70,959	$16,406,311	$13,899,129	$2,974,534	863	$.79
October	$.79	$3,625,040	$3,320,245	$396,434	89	$50,473
November	$50,473	$0	$50,473	$0	0	$0
TOTALS		**$62,765,507**	**$51,700,071**	**$12,223,986**		
			$63,924,057			

Prepared by the U.S. Senate Permanent Subcommittee of Investigations, Minority Staff, December 2000.

Case History No. 4

BRITISH TRADE AND COMMERCE BANK

British Trade and Commerce Bank (BTCB) is a small offshore bank licensed in Dominica, a Caribbean island nation that has been identified as non-cooperative with international anti-money laundering efforts.[103] This case history examines the failure of U.S. banks to exercise adequate anti-money laundering oversight in their correspondent relationships with this offshore bank, which is managed by persons with dubious credentials, abusive of its U.S. correspondent relationships, and surrounded by mounting evidence of deceptive practices and financial fraud. Although each of the U.S. banks examined in this case history ended its relationship with BTCB in less than 2 years, the end result was that BTCB succeeded in using U.S. bank accounts to engage in numerous questionable transactions and move millions of dollars in suspect funds.

BTCB was among the least cooperative of the foreign banks contacted during the Minority Staff investigation. The bank declined to be interviewed, took 4 months to answer a letter requesting basic information, and refused to disclose or discuss important aspects of its operations and activities. The following information was obtained from BTCB's written submission to the Subcommittee dated September 18, 2000; BTCB's website and other websites; documents subpoenaed from U.S. banks; court pleadings; interviews in Dominica, Antigua, Canada and the United States; and documents provided by persons who transacted business with the bank. The investigation also benefited from assistance provided by the Governments of Dominica and the Bahamas.

A. THE FACTS

(1) BTCB Ownership and Management

Although BTCB refused to identify its owners and Dominican bank secrecy laws prohibit government disclosure of bank ownership, evidence obtained by the Minority Staff investigation indicates that this offshore bank was formed and directed for much of its existence by a U.S. citizen, John G. Long IV of Oklahoma. The bank's other owners and senior management have ties to Dominica, Venezuela, the United States and Canada. BTCB is very active within the United States, through its affiliation with a U.S. securities firm, solicitation of U.S. clients, and preference for transacting business in U.S. dollars.

BTCB's Formation. BTCB was established as a Dominican corporation on February 26, 1997, and received its offshore banking license 1 month later, on March 27, 1997. BTCB's banking license was issued about 6 months after enactment of Dominica's 1996 Offshore Banking Act, the country's first offshore banking law. BTCB is one of the first offshore banks approved by the government and,

[103] Dominica is one of 15 countries named in the Financial Action Task Force's "Review to Identify Non-Cooperative Countries or Territories" (6/22/00), at paragraph (64). See also Chapter IV(B) of this report.

to date, is one of only a handful of offshore banks actually operating in Dominica.[104]

BTCB's 1998 financial statement indicates that BTCB began actual banking operations in October 1997, about 7 months after receiving its license. If accurate, BTCB has been in operation for a little more than 3 years. BTCB has one office in Roseau, the capital city of Dominica. It refused to disclose the total number of its employees, but appears to employ less than ten people. The bank refused to disclose the total number of its clients and accounts. The bank's 1998 financial statement claimed total assets of approximately $370 million, but the evidence suggests the bank is, in fact, suffering severe liquidity problems.

BTCB Ownership. BTCB refused a request by the Minority Staff investigation to identify its owners. However, when applying for correspondent relationships at U.S. banks, BTCB provided the following specific ownership information.

In 1997, when applying for its first U.S. correspondent relationship at the Miami office of Banco Industrial de Venezuela, BTCB stated in a September 17, 1997 letter that it had two owners, Rodolfo Requena Perez and Clarence A. Butler.[105] Requena, a citizen of Venezuela, has been associated with BTCB from its inception and serves as BTCB's chairman of the board and president. BTCB materials state that he has extensive banking experience, including past positions with major financial institutions in Venezuela. Requena, spends considerable time in Florida, maintaining a Florida office, residence and drivers license. Butler is a citizen of Dominica and, according to BTCB materials, his credentials include heading the Dominican Chamber of Commerce and Tourism, and helping to form and operate The Ross Medical University in Dominica. He does not appear to be involved with the daily management of the bank.

In 1998, when applying for correspondent relationships at two other U.S. banks, Security Bank N.A. and First Union National Bank BTCB provided new ownership information indicating that it had seven shareholders, with the largest shareholder controlling 50% of its stock. BTCB provided both banks with the same one-page "confidential" document listing the following "Shareholders of British Trade & Commerce Bank":

> British Trade & Commerce Bank Bancorp Trust represented by Rodolfo Requena, Trustee, beneficial interests are held by John Long—15,000 [shares]
>
> Rodolfo Requena—3,000 [shares]

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[104] A Dominican Ministry of Finance official told the investigation that, as of September 6, 2000, the government had issued licenses to seven offshore banks, of which three were actually operating. The official said the three operating banks were BTCB, Overseas Development Bank and Trust, and Banc Caribe. The official listed four other banks which held licenses but were not yet operating because they were still raising required capital: Euro Bank, First International Bank, Global Fidelity Bank and Griffon Bank. The official said that one bank, American International Bank and Trust, had its offshore license revoked in 1999. The official noted that Dominica also had two onshore banks: National Commercial Bank of Dominica and Dominica Agricultural Industrial and Development Bank. One bank that was not mentioned by the official but also operates in Dominica is Banque Francaise Commerciale, which is a branch of a wholly owned subsidiary of a French bank, Credit Agricole-Indosuez.

[105] Documentation indicates that Requena and Butler were the original "subscribers" to the "Memorandum of Association" that established "British Trade and Commerce Ltd.," before it received its banking license.

Baillet[t] International Ltd.[,] beneficial interests held by Dr. Dana Bailey and Scott Brett [106]—3,000 [shares]

Bayfront Investment Trust[,] beneficial owner Pablo Urbano [107]—750 [shares]

Diran Sarkissian [108]—750 [shares]

Herry Royer [109]—750 [shares]

Clarence Butler—750 [shares]

Treasury shares held for officer and employee profit sharing [110]—6,000 [shares]

Total shares authorized and outstanding—30,000[.]

This BTCB shareholder list indicates that BTCB's controlling shareholder is a trust beneficially owned by John Long. Other BTCB materials describe Long as chairman of the bank's "advisory committee," a two-person committee that apparently consisted of himself and Brett." [111] John G. Long IV is a U.S. citizen residing in Antlers, Oklahoma. In a telephone conversation on July 11, 2000, initiated by a Minority Staff investigator, Long stated that he had helped form BTCB and assisted it in purchasing a securities firm in Florida. However, Long vigorously denied being a

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[106] Baillett International Ltd. was apparently a Bahamian corporation. Bahamian Government officials informed the investigation that its records show this company was incorporated in the Bahamas on 1/17/95, but "struck" on 10/31/97, and is no longer a recognized corporation in the jurisdiction. BTCB materials provided by the Dominican Government to the investigation describe Dana Bailey as a medical doctor and "the Canadian representative for Bail[l]ett International Ltd., a consulting firm specializ[ing] in Trust and Fund Management activities." Evidence obtained by the investigation indicates that Scott Brett is a U.S. citizen who has resided in Texas, transacted business with John Long and BTCB, and served on BTCB's advisory committee.

[107] The BTCB shareholder list and other information indicate that the beneficial owner of Bayfront Investment Trust, Pablo Urbano Torres, is a Venezuelan citizen. The trust is described in BTCB documentation as a "Dominica corporation," and U.S. bank records reference what appears to be a related company, "Bayfront Ltd."

[108] BTCB documents indicate that Diran Sarkissian Ramos is a citizen of Venezuela.

[109] Herry Calvin Royer, a citizen of Dominica, serves as BTCB's corporate secretary. Documentation and interviews indicate he is involved with BTCB's activities on a daily basis. According to BTCB's Subcommittee submission, Royer is also a director of International Corporate Services, Ltd., a wholly owned BTCB subsidiary.

[110] BTCB's 1998 balance sheet indicates that, sometime during the bank's first 15 months of operation, it paid $1.1 million for "Treasury stock." It is unclear whether the Treasury stock referenced in the balance sheet is the 6,000 shares referenced in the BTCB shareholder list. It is also unclear who, if anyone, was the original owner of this stock and why BTCB expended over $1 million to repurchase its stock at such an early stage of its existence.

[111] BTCB materials include various descriptions of Long's background. For example, BTCB materials provided by the Dominican Government state the following:

> **"John G[.] Long, Chairman of the [BTCB] Advisory Committee.** JD, MBA, CPA (USA), with extensive experience in banking originating with his family which has been in banking for over 100 years. His family was the founders of the Farmers Exchange Bank in Oklahoma and co-owners of the First State Bank McKinney in Dallas[,] Texas. . . . He has also served as Senior Financial Analyst for projects in Central America for US AID (United States Agency for International Development); Special Attache of the United States Justice Department based in Geneva, with contacts with all major Western European Banks. Serves as consultant to financial projects and to managing trust operations in the Bahamas."

Minority Staff investigators were unable to confirm much of this biographical information. Sources in Antlers, Oklahoma confirmed that the Long family had been in banking for decades and once owned the two listed banks, but denied that Long had acquired extensive banking experience through the family businesses. Antlers sources also denied that Long held a law degree or accounting certification. The U.S. Justice Department and U.S. Agency for International Development each sent letters denying any record of Long's employment with them over the past 25 and 30 years respectively. Since Long and BTCB declined to be interviewed, neither was available to provide additional information or answer questions about Long's credentials, past experience or current employment.

shareholder, insisting, "I have never owned one share of stock in the bank."[112]

Besides his own admission of involvement with the bank, the investigation found considerable evidence of Long's continuing association with BTCB. The evidence includes monthly account statements at U.S. banks showing BTCB transactions involving Long, his companies Republic Products Corporation and Templier Caisse S.A., and companies such as Nelson Brothers Construction involved with building a new house in Oklahoma for the Long family. One U.S. correspondent banker described meeting Long, and sources in Antlers spoke of Long's association with a Dominican bank. The investigation also has reason to believe that Long and his son attended a BTCB board meeting in the spring of 2000 in Dominica. Dominican Government officials, when asked whether BTCB was correct in telling U.S. banks that Long was the bank's majority owner, indicated that, while they could not disclose BTCB's ownership, they were "not unfamiliar" with Long's name.

The evidence suggests that Long formed and has been actively involved in the bank's affairs, but chose to conceal from the investigation his majority ownership of the bank.

BTCB Management. In its September submission to the Subcommittee, BTCB asserted that a list of its "Officers, Consultants, and Directors . . . shows the breadth, depth and integrity of the [bank's] senior management. . . . Unlike some 'offshore' banks, this is no haven for misfits; rather BTCB is composed of officers whose backgrounds compare to those at high levels in the United States."

BTCB lists four directors in its September 2000 submission: Royer, Butler, Urbano, and Oscar Rodriguez Gondelles.[113] However, a list of BTCB directors provided by the Dominican Government in August 2000, identifies seven directors. The government-supplied BTCB director list names three persons mentioned in BTCB's submission—Royer, Butler and Urbano—as well as Requena, Sarkissian, Bailey, and George E. Betts. The discrepancies between the two director lists has not been explained.

BTCB's chief executive officer is Requena. Documentation and interviews indicate that Requena is actively involved in the day-to-day business of BTCB, including its correspondent relationships. Requena is also president of BTC Financial Services, a U.S. holding company whose primary subsidiary is First Equity Corporation of Florida ("FECF"), an SEC-regulated broker-dealer. He is also the president of FECF. When Minority Staff attempted to reach Requena by telephone in Dominica, BTCB personnel suggested calling him at BTC Financial Services in Miami, where he maintains another office. Requena, did not, however, return calls placed to him and never spoke with any Minority Staff.

George Elwood Betts, who like Requena has been associated with BTCB from its inception, is listed in BTCB's submission to the Subcommittee as a key management official. His job title is Executive

[112] Long's characterization of his ownership interest, while misleading, could be seen as consistent with BTCB's shareholder list if, in fact, Long has held his BTCB shares through a trust or corporation. There is also some evidence that the trust's official beneficiaries may be Long's two minor children.

[113] BTCB's submission describes Rodriguez as having 20 years of experience "in Venezuelan banking and credit card institutions."

Vice President and Chief Financial Officer of BTCB. Documentation and interviews indicate that he is actively involved in the day-to-day operations of the bank. Betts has also served as the treasurer of BTC Financial Services.

The background provided by BTCB for Betts highlights his accounting degree and experience with Deloitte & Touche in Asia, which Minority Staff investigators were able to confirm. Further investigation indicates that Betts is a U.S. citizen who formerly resided in Idaho and whose wife apparently still resides there. In November 1997, after beginning work at BTCB, Betts pleaded guilty in U.S. criminal proceedings[114] to one count of illegally transporting hazardous waste materials from a wood laminating company, Lam Pine, Inc., which he owned and operated in Oregon, to the site of another company he owned in Idaho, North Point Milling Company. In 1998, in connection with his guilty plea, Betts served 2 weeks in Federal prison and agreed to pay a $163,000 fine. He was also placed on criminal probation for 5 years ending in 2003. Dominican Government officials told the investigation that they were unaware of this criminal conviction and that BTCB should have but did not report it to the Dominican Government.

A third key BTCB management official listed in BTCB's submission is Charles L. ("Chuck") Brazie, Vice President of Managed Accounts. Documentation and interviews indicate Brazie is actively involved with BTCB clients and investment activities. Brazie is a U.S. citizen who has resided in various U.S. States, including Florida, Missouri, Nebraska and Virginia. Minority Staff investigators located documentation supporting some of his past employment and education credentials. Information was also located regarding a key credential listed in the BTCB submission to the Subcommittee, Brazie's service as a "Special Consultant to the Executive Office of the President." Brazie discussed this experience in a sworn deposition he provided to the Securities and Exchange Commission (SEC) on November 7, 1994, in connection with *SEC v. Fulcrum Holding Co.* (Civil Case No. 1:94:CV02352, DDC) and *United States v. Andrews* (Criminal Case No. 96–139 (RCL), DDC). These cases involved fraud investigations which were examining, in part, Brazie's work for Fulcrum Holding Company. In his deposition, Brazie indicated that his association with the Executive Office of the President occurred in 1973, more than 25 years ago, when as part of his work for a "think tank," he was "assigned to a project in the White House and spent a year and a half-plus on a temporary assignment at a remote location."[115] Brazie also disclosed during his deposition that, in 1992, he declared bankruptcy in St. Louis, Missouri.[116] His deposition presents additional disturbing information about his conduct at Fulcrum Holding Co. and involvement with individuals such as Arthur Andrews, later convicted of securities fraud.

BTCB's submission to the Subcommittee was noticeably silent with respect to Long. It also failed to mention Ralph Glen Hines, a U.S. citizen who resides in Florida and North Carolina, has han-

[114] See *United States v. Betts,* (Criminal Case No. 97–011–S–BLW, U.S. District Court for the District of Idaho), plea agreement dated 11/13/97, and judgment dated 5/29/98.

[115] Deposition of Brazie at 13.

[116] Deposition of Brazie at 11.

dled some of BTCB's administrative and computer operations, and served as the contact person for BTCB's account at First Union National Bank. Hines has a criminal record which includes serving more than a year in prison for obtaining goods and property under false pretenses, more than 6 months in prison for unauthorized use of state equipment, and 60 days of probation for misappropriation of an insurance refund check. The BTCB submission also stated that BTCB has "no managing agents" in other countries, despite U.S. bank records showing 3 years of regular transactions with Stuart K. Moss, a London resident identified in some interviews as working for BTCB. The management list provided by BTCB to the Subcommittee is marred by these omissions, the discrepancies over BTCB's directors, the questionable credentials of some BTCB officials which include past criminal convictions, a bankruptcy and an SEC fraud investigation, and BTCB's refusal to answer questions about its staff.

(2) BTCB Financial Information

Dominican law requires its offshore banks to submit annual audited financial statements which are then published in the country's official gazette. These audited financial statements are intended to provide the public with reliable information regarding the solvency and business activities of Dominica's offshore banks.

BTCB's 1999 audited financial statement was required to be submitted in April 2000, but as of October 2000, had not been filed. BTCB has filed only one, publicly available audited financial statement. This financial statement covers a 15-month period, from October 1, 1997 until December 31, 1998, which BTCB presents as covering the first 15 months of its operations. Although the 1998 audited financial statement is a public document, BTCB declined to provide a copy. The Dominican Government, however, did provide it.

BTCB's 1998 financial statement was audited by Moreau, Winston & Co., an accounting firm located in Dominica.[117] On August 22, 2000, after speaking by telephone with Austin Winston who requested all inquiries to be placed in writing, Minority Staff investigators sent a letter requesting the firm's assistance in understanding BTCB's 1998 financial statement. The firm's legal counsel responded the next day with a letter stating that the auditors would be unable to provide any information. The legal counsel wrote:

> [BTCB] is a private bank chartered under the Offshore Banking Act of the Commonwealth of Dominica. Our clients are constrained by the provisions of the governing statute. All information might better be provided by [BTCB] itself or as otherwise allowed under the said statute.

[117] Moreau, Winston & Co. stated in a covering letter:

"These financial statements are the responsibility of management of British Trade and Commerce Bank Limited; our responsibility is to express an opinion on the financial statements based on our audit. We conducted our audit . . . in accordance with generally accepted auditing standards . . . to obtain reasonable assurance as to whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. . . . In our opinion, these financial statements present fairly, in all material respects, the financial position of the Bank as at December 31, 1998."

On September 22, 2000, the Minority Staff asked BTCB to authorize its auditors to answer questions about the 1998 financial statement, but BTCB never responded. Accordingly, neither the bank nor its auditors have provided any information about the 1998 audited statement.

In the absence of obtaining first hand information from the bank or its auditors, inquiries were directed to Dominican Government officials and U.S. bankers for their analysis of BTCB's 1998 financial statement. Without exception, those reviewing BTCB's 1998 financial statement said it contained questionable entries. The questionable entries included the following:

—**$300 Million Assets.** The two largest entries on BTCBs 1998 balance sheet cite over $300 million in "[s]ecurities held for investment and financing" and a $300 million "reserve for project financing." Dominican Government officials informed the investigation that, when they asked BTCB about these entries during the summer of 2000, BTCB refused to provide any concrete information or support for them, claiming they involved "secret" transactions which the U.S. and U.K. Governments prohibited them from disclosing. The Dominican officials indicated that they considered this explanation unsubstantiated and insufficient. The Minority Staff investigation obtained an earlier version of the 1998 financial statement, which BTCB had given to First Union National Bank when applying for a correspondent account. That version reported BTCB's finances as of June 30, 1998, and cited over $400 million in "securities held for investment and financing." This figure is $100 million, or 25% larger than the comparable entry in the financial statement dated just 6 months later. Note 4 in the June 1998 statement provides a breakdown of the $400 million figure into four constituent elements: $130 million in "Government of Grenada Guarantees"; over $76 million in "Bolivian Municipal Bonds"; $140 million in "Russian Government Guarantees" and $55 million attributed to "Other." When asked about these items, the First Union correspondent banker who analyzed BTCB's financial statement said they were "not credible," and were part of the reason First Union had rejected a correspondent relationship with BTCB. A Dominican Government official stated that Grenadian Government officials, when asked about the alleged $130 million in "Government of Grenada Guarantees," had refused to confirm their existence.

—**$51 Million in Receivables.** The next largest entry in BTCB's balance sheet is $51 million in "[l]oans, debentures and other receivables," which Note 5 in the audited statement attributes primarily to $49.4 million in "fees receivable." Both Dominican Government officials and U.S. bankers expressed skepticism about a new bank's generating $50 million in fees in the first 15 months of operation. When asked, neither could offer a banking scenario which would explain the nature of the fees or who would be expected to pay them.

—**$16 Million in Investment Fees.** Another BTCB balance sheet entry reports that, as of the end of 1998, BTCB had over $27 million in "customers' deposits." Note 10 states that, as of December 31, 1998, BTCB "held $27,100,000 of such funds and had earned an investment transaction fee of $16,330,000 from the management of those funds and execution of such transactions during the year." Both Dominican Government officials and U.S. bankers expressed doubt that any bank could have earned $16 million in fees on $27 million in deposits, especially in a 15-month period.

—**$1.1 Million For Treasury Stock.** Under stockholders' equity, the BTCB balance sheet records a $1.1 million reduction due to "Treasury stock." Both Dominican Government officials and U.S. bankers questioned why a new bank, in operation for only 15 months, would have re-purchased its stock and paid such a substantial price for it. It is also unclear from the financial statement whether the stock repurchase was paid in cash.

The Minority Staff investigation was unable to obtain any BTCB financial statements for 1999 or 2000. Evidence obtained through documents and interviews indicates, however, that BTCB experienced severe liquidity problems throughout the latter half of 2000, including nonpayment of bills and a failure to honor a $3 million letter of credit posted with a Canadian bank.[118] On November 30, 2000, a publication that tracks offshore business developments carried an article entitled, "British Trade & Commerce Bank: Financial troubles deepen."[119] It published the text of a November 9, 2000 letter allegedly sent by BTCB to its clients in which the bank essentially admitted that it was temporarily insolvent. The letter, by BTCB president Rodolfo Requena, begins:

> You may be aware our bank has been suffering from a temporary liquidity situation. This situation has continued to the point that the bank is unable to meet its obligations with its depositors and creditors.

The letter provides several explanations for the bank's liquidity problems, including citing "a large withdrawal of deposits from the bank" after the retirement of the bank's "major shareholder" in May 2000. It also described steps the bank was taking "to re-capitalize the bank, rebuild its liquidity, and meet its obligations with its depositors and creditors," including "holding conversations with three different investor groups . . . to bring fresh capital to the bank."

The letter asked the bank's clients to consider converting their existing accounts to "a one-year Certificate of Deposit earning interest at a 15% per annum" or to purchase "convertible preferred stock of the bank" with one share for "every $500 of bank deposit you have." The letter stated, "Customers requesting withdrawals from their accounts must wait for new investors or wait until the

[118] See *Gold Chance International Ltd. v. Daigle & Hancock* (Ontario Superior Court of Justice, Case No. 00–CV–188866). BTCB's role in this litigation is discussed in the appendix.

[119] *OffshoreAlert* newsletter (11/30/00) at 9. See also "British Trade & Commerce Bank answers questions about its liquidity," *OffshoreAlert* newsletter (7/31/00) at 8. Both are available at www.offshorebusiness.com.

bank works its way out of the liquidity problem," an arrangement characterized by the newsletter as equivalent to an admission by the bank "to running a Ponzi scheme."

(3) BTCB Correspondents

When asked about its correspondent banks, BTCB indicated that it kept 100% of its funds in correspondent accounts. BTCB stated the following in its September 2000 submission to the Subcommittee:

> It is very important to note that all of BTCB's deposits are held in the bank's regulated accounts, inside the United States. . . . Moreover, with rare exceptions, all our transactions are denominated in United States dollars and . . . all transfers to BTCB's accounts flow through the United States Federal Wire System or the SWIFT (Society for Worldwide Interbank Financial Telecommunications). . . . BTCB is very protective of its U.S. correspondent banking relations, since this is our only way to transfer and move funds.

BTCB stated that it had no "formal correspondent relationships with any other banks," but had maintained "customary commercial banking accounts with a few reputable institutions as needed." BTCB specified accounts at three U.S. banks: (1) First Union National Bank; (2) Security Bank N.A. of Miami; and (3) Banco International de Costa Rica (Miami).

The list provided by BTCB is incomplete, omitting BTCB accounts at the Miami office of Banco Industrial de Venezuela, the Miami office of Pacific National Bank,[120] U.S. Bank, and the New York office of Bank of Nova Scotia. In addition, the Minority Staff investigation uncovered three U.S. correspondent accounts belonging to other foreign banks through which BTCB transacted business on a regular basis: a Citibank correspondent account for Suisse Security Bank and Trust; a First Union correspondent account for Banque Francaise Commercial; and a Bank of America correspondent account for St. Kitts-Nevis-Anguilla National Bank. The evidence indicates that BTCB also had correspondent accounts at several banks located outside the United States.[121]

(4) BTCB Anti-Money Laundering Controls

BTCB provided one page of information in response to a request to describe its anti-money laundering efforts. Without providing a copy of any written anti-money laundering policies or procedures, BTCB's September 2000 submission to the Subcommittee provided the following description of its anti-money laundering efforts:

> It is very important to note that all of BTCB's deposits are held in the bank's regulated accounts inside the United States. . . . [I]ndeed, all transfers to BTCB's accounts flow through the United States Federal Wire System or the SWIFT (Society for Worldwide Interbank Financial Telecommunications). As you are aware, any transaction approved and flowing through the U.S. Fed Wire System via SWIFT is already deemed or ap-

[120] Pacific National Bank is a subsidiary of Banco del Pacifico of Ecuador.
[121] These non-U.S. banks include National Commercial Bank of Dominica and Banco Cypress.

> proved to be "good, clean, legitimately earned funds of non-criminal origin." Thus BTCB's Know Your Customer Policies are the same as all U.S. banks' policies, since we must satisfy the regulated U.S. banks with respect to any deposit BTCB receives in our corporate banking account at their institution.

BTCB also stated:

> Our bank's Know Your Customer Policies require, among other things, that a senior bank officer conduct an interview with each new customer. This interview covers such things as the nature of the customer's business, how their profits are earned and where those profits are earned. In many cases, we require audited financial statements . . . or in the case of individuals, we require bank reference letters. . . . We require copies of their passports, and if warranted, BTCB will have a security check conducted in their home country.

BTCB stated further that it "employs a full-time staff person who monitors for suspicious activity in customer accounts, and reports weekly to the Chief Financial Officer." It also stated that "BTCB has a special compliance consultant who had a long and distinguished career with the Florida Department of Banking Regulation and advises on our regulatory policies and compliance issues."

BTCB's description of its anti-money laundering efforts suggests a fundamental misunderstanding of U.S. banking law. BTCB seems to suggest that as long as it uses U.S. correspondent accounts and U.S. wire transfer systems, its funds automatically qualify as "good, clean, legitimately earned funds of non-criminal origin." BTCB also seems to suggest that if a U.S. bank accepts its funds, the U.S. bank has reached a judgment about the funds' legitimacy and BTCB has met the U.S. bank's due diligence standards. In fact, the opposite is true. U.S. correspondent banks rely in large part upon their respondent banks to ensure the legitimacy of funds transferred into their U.S. correspondent accounts. U.S. law does not require and U.S. banks do not routinely undertake to examine a foreign bank's individual clients or the source of funds involved individual client transactions. Nor do U.S. banks certify the legitimacy of a foreign bank's funds simply by accepting them.

Because BTCB did not agree to an interview, the Minority Staff investigation was unable to clarify its policies or obtain additional information about its anti-money laundering efforts. It is still unclear, for example, whether BTCB has written anti-money laundering procedures. None of the U.S. banks with BTCB accounts requested or received materials documenting BTCB's anti-money laundering efforts. Minority Staff investigators were unable to learn which BTCB employee is assigned to monitoring client accounts for suspicious activity. The compliance consultant BTCB mentioned appears to be Dr. Wilbert O. Bascom, who is also listed in BTCB's description of its senior management team as the bank's "Consultant on Compliance Issues." When a Minority Staff investigator contacted Bascom at the suggestion of Long, however, Bascom said that he works for BTC Financial Services, has "no direct connection" to BTCB, "did not get involved with the bank's ac-

tivities," and could not provide any information or assistance regarding the bank.[122]

It is also important to note that, despite more than three years of operation, BTCB has never been the subject of an on-site examination by any bank regulator. In July 2000, the United States issued a bank advisory warning U.S. banks that offshore banks licensed by Dominica "are subject to no effective supervision." In June 2000, Dominica was named by the Financial Action Task Force as non-cooperative with international anti-money laundering efforts. Dominica is attempting to strengthen its anti-money laundering oversight by, for example, authorizing the East Caribbean Central Bank (ECCB), a respected regional financial institution, to audit its offshore banks, but the ECCB has never actually audited BTCB.

(5) BTCB Affiliates

BTCB was asked to identify its subsidiaries and affiliates. In its September 2000 submission to the Subcommittee, BTCB stated that, while it had no affiliations with other banks, it did have affiliations with a number of companies. These affiliations depict the bank's participation in a network of inter-related companies in Dominica, as well as BTCB's increasing business activities in the United States.

(1) Dominican Affiliates—BTCB identified four Dominican companies as affiliates. One was International Corporate Services, Ltd. ("ICS") which plays an active role in BTCB's operations, primarily by forming the Dominican trusts and corporations that serve as BTCB's accountholders.[123] Two of the affiliates, InSatCom Ltd.[124] and Dominica Unit Trust Corporation,[125] are active in the Dominican telecommunications and investment industries, while the fourth, Generale International Assurance,[126] is currently dormant.

(2) U.S. Affiliates—BTCB also acknowledged a relationship with two U.S. corporations, First Equity Corporation of Florida (FECF) and BTC Financial Services, but attempted to hide its ongoing, close association with them. BTCB stated in its September 2000 submission to the Subcommittee that, "in-mid 1998, BTCB acquired the stock of First Equity Corporation, a licensed broker-dealer in Miami, Florida" and "legally held First Equity's stock for approximately 8 months, when the stock was transferred into a U.S. publicly traded company" called BTC Financial Services (Inc.). BTCB stated that, cur-

[122] Memorandum of telephone conversation with Bascom on 8/22/00.

[123] In its September 2000 submission to the Subcommittee, BTCB described ICS as a "separate, corporate services company affiliated with BTCB to incorporate [international business corporations] in Dominica and provide routine nominee, director, and shareholder services to various [corporations] in Dominica." BTCB stated that Herry Royer was a director of both ICS and BTCB, and in another document BTCB indicated that it owned 100% of ICS.

[124] BTCB stated in its September 2000 submission that it owns 55% of InSatCom Ltd., a telecommunications company which holds a Dominican license "to provide data transmission services to customers and web hosting services" and which operates a satellite earth station "in conjunction with Cable & Wireless of Dominica." InSatCom also provides services to companies involved with Internet gambling. Requena is the president of InSatCom.

[125] BTCB stated that it held a 20% ownership interest in Dominica Unit Trust Corporation, an investment company that is also partly owned by "Dominican Government entities."

[126] BTCB described Generale International Assurance as an "inactive" Dominican corporation that it may someday use to offer insurance products.

rently, it "has no ownership, management, nor any other affiliation with [FECF] except for a routine corporate account, line of credit and loan as would be the case for any other corporate client."

This description does not accurately depict the ongoing, close relationships among BTCB, FECF, BTC Financial, and related affiliates.[127] Long, Requena and Brett are major shareholders of both BTCB and BTC Financial. Requena is the president of BTCB, BTC Financial and FECF. BTCB's website prominently lists FECF as an affiliated company. FECF used to be owned by FEC Financial Holdings, Inc., a U.S. holding company which BTCB acquired when it took control of FECF and with which it still does business. BTC Financial, FECF, FEC Financial Holdings and other affiliates operate out of the same Miami address, 444 Brickell Avenue. They also share personnel.[128] Bank records reflect ongoing transactions and the regular movement of funds among the various companies. One U.S. bank, First Union, mailed BTCB's monthly account statements to 444 Brickell, "c/o FEC Financial Holdings." In short, BTCB is closely intertwined with the BTC Financial and FECF group of companies, it regularly uses FECF to transact business in the United States, and its declaration that it has no FECF affiliation beyond "any other corporate client" is both inaccurate and misleading.

(3) Website Affiliates—BTCB's September 2000 submission also addressed its apparent affiliation with three entities listed in BTCB's websites. BTCB stated that "[t]o avoid confusion" it wanted to make clear that certain names appearing on its websites, "WorldWideAsset Protection," "IBC Now, Limited" and "EZ WebHosting," were "merely websites" and not companies or subsidiaries of the bank. This clarification by BTCB was helpful, because the websites do imply the existence of companies separate from the bank. For example, a WorldWide Assets Protection website lists six "corporate members" who have "joined" its organization, including BTCB. The WorldWide website contains no indication that WorldWide itself is simply a BTCB-operated website with no independent corporate existence. The IBC Now website[129] encourages individuals to consider becoming a paid representative of a variety of companies offering "Internet banking, brokerage, web hosting, confidential e-mail, and on-line casino's." IBC Now lists BTCB as one option, again, without ever indicating that IBC Now is itself a BTCB creation with no independent corporate existence.

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[127] BTC Financial owns FECF, which has a number of subsidiaries and affiliates. See, for example, affiliates listed in FECF's website, *www.lsteguity.com/directory.html* including a "Ft. Lauderdale Affiliate," First Equity Properties, Inc. and Swiss Atlantic Mortgage Corp. Another possible FECF affiliate, listed in the SEC Edgar database, is First Equity Group, Inc.

[128] For example, Betts is the financial controller of BTCB and the treasurer of BTC Financial. Wilbert Bascom is described as a consultant to both BTCB and BTC Financial. Ralph Hines has performed work for BTCB, BTC Financial, FECF and FEC Financial Holdings. Robert Garner, an attorney, is listed on FECF's website as its general counsel and has also signed letters as general counsel to BTCB. Long was also, until recently, the chairman of BTC Financial and the chairman of BTCB's advisory committee.

[129] See www.ibcnow.com/service.html.

More disturbing is BTCB's failure to provide clarification with respect to other entities that may be its subsidiaries or affiliates. BTCB's 1998 audited financial statement, for example, records over $4 million in "[i]nvestments and advances to subsidiaries," which Note 8 states represented "the cost of acquisition and advances to First Equity Corporation of Florida, International Corporate Services S.A., Generale International Assurance Inc., InSatCom Ltd., Global Investment Fund S.A., FEC Holdings Inc. and Swiss Atlantic Inc." The latter three "subsidiaries" are not mentioned in BTCB's September 2000 submission to the Subcommittee. Yet Global Investment Fund appears repeatedly in BTCB documentation and U.S. bank records; in 1998, it was the recipient of millions of dollars transferred from BTCB accounts. A September 15, 1998 letter by Brazie describes Global Investment Fund as "wholly owned by ICS/BTCB." FEC Holdings Inc. is listed on BTCB's website as an affiliated company. It is unclear whether it is a separate company from FEC Financial Holdings Inc., which BTCB purchased in 1998. Swiss Atlantic Inc. is presumably the same company as Swiss Atlantic Corporation, which is also listed on BTCB's website as an affiliated company and cites 444 Brickell as its address. It may also be related to Swiss Atlantic Mortgage Company, a Florida corporation which is an FECF affiliate, lists 444 Brickell as its principal address, and lists Robert Garner as its registered agent. The Minority Staff investigation uncovered evidence of other possible BTCB affiliates as well.[130]

BTCB's subsidiaries and affiliates bespeak a bank that is fluent in international corporate structures; functions through a complex network of related companies and contractual relationships; and is willing to use website names to suggest nonexistent corporate structures. Together, BTCB's subsidiaries and affiliates depict a sophisticated corporate operation, active in both Dominica and the United States.

(6) BTCB Major Lines of Business

In its September 2000 submission to the Subcommittee, BTCB provided the following description of its major lines of business:

> BTCB is a full service bank that provides standard services in the areas of private banking, investment banking, and securities trading. Our private banking services include money management services and financial planning, as well as investment accounts of securities for long-term appreciation, global investment funds, and Certificates of Deposit (CD's) with competitive interest rates. . . . Our investment banking activities include:

[130] For example, Lugano Synergy Global Services, S.A. has used as its address the same postal box as BTCB, Box 2042 in Roseau, Dominica. This company is associated with the Lugano Synergy Investment Group, Ltd., a company which claims in its website to have a contract with BTCB to provide financial services. See http:lsynergy.com/investmentbanking/high—yield—investment.html. U.S. bank records show a number of transactions between BTCB and the Lugano Synergy companies. Another possible affiliate is Global Medical Technologies, Inc., a Florida corporation which changed its name in 1999, to Vector Medical Technologies, Inc. BTCB held the right to over 1 million unissued shares in the company and provided it with substantial funding, as described in the appendix. A third possible affiliate is British Trade and Commerce Securities, Ltd. (Bahamas), which was listed in a BTCB document supplied by the Dominican Government. When asked about this company, the Bahamas Government indicated that it found no record of its existence; however, corporate licensing records did show a company called British Trade and Securities Ltd., which was incorporated on 9/15/97, and "struck off the record" on 1/1/00.

> debt financing for both private and public companies in the form of senior, mezzanine, subordinated or convertible debt; bridge loans for leveraged and management buyouts; and recapitalization transactions. BTCB assists in the establishment and administration of trusts, international business corporations, limited liability companies, and bank accounts. Finally, the securities trading services include foreign securities trading on behalf of our clients. . . . BTCB offers credit card services as a principal MasterCard Member.

This description of BTCB's major activities, while consistent with evidence collected during the investigation, is incomplete and fails to address two of BTCB's major activities: high yield investments and Internet gambling.

High Yield Investments. BTCB is known for offering high yield investments. Dominican Government officials, U.S. and Dominican bankers, and BTCB clients all confirmed this activity by the bank. Numerous documents obtained by the Minority Staff provide vivid details regarding BTCB's efforts in this area.

BTCB's statement to the Subcommittee that it offers CDs with "competitive interest rates" does not begin to provide meaningful disclosure about the investment returns promised to clients. Two documents on BTCB letterhead, for example, offer to pay annual rates of return on BTCB certificates of deposit in amounts as high as 46% and 79%. Higher yields are promised for "amounts exceeding US$5,000,000." When asked about these rates of return, Dominican Government officials indicated that they did not understand how any bank could produce them. Every U.S. banker contacted by the Minority Staff investigation expressed the opinion that such large returns were impossible for a bank to achieve, either for itself or its clients. Several described the offers as fraudulent.

Civil suits have been commenced in the United States and Canada over BTCB's high yield investment program.[131] Documents associated with these cases, as well as other evidence collected by the investigation, indicate that the key personnel administering BTCB's high yield investment program are Brazie and Betts. Brazie advises potential investors on how to set up an investment structure, enter into agreements with BTCB and related companies to invest funds, and use BTCB bank accounts to make investments and obtain promised profits. A two-page document on BTCB letterhead, signed by Brazie and provided to investors in the high yield program, includes the following advice:

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[131] A civil suit filed in New York, for example, involves a BTCB certificate of deposit for $10 million whose funds would allegedly be invested and produce returns in excess of $50 million. See *Correspondent Services Corp. v. J.V.W. Investment Ltd.* (U.S. District Court for the Southern District of New York Civil Case No. 99–CIV–8934 (RWS))(9/23/98 letter from Waggoner to his investment advisor, Kelleher, referencing $50 million return; 4/13/99 letter from Kelleher to BTCB referencing $58 million return). A civil suit before a Canadian court complains that a BTCB investor wrongly took possession of the plaintiffs' $3 million and placed it in the BTCB high yield program, after which BTCB wrongly refused to refund the funds. *Gold Chance International Ltd. v. Daigle & Hancock* (Ontario Superior Court of Justice, Case No. 00–CV–188866)(hereinafter *"Gold Chance"*). A civil suit in New Jersey includes sworn deposition testimony from a U.S. citizen regarding an alleged $1.3 million payment into BTCB's high yield program that has yet to produce any return. See *Schmidt v. Koop* (U.S. District Court for the District of New Jersey Civil Case No. 98–4305)(Koop deposition (3/2/99) at 433). Each of these suits is discussed in more detail in the appendix.

> In order to protect assets properly, whether in BTCB or elsewhere you should consider setting-up a specific structure to assure privacy and avoid unnecessary reporting and taxation issues. . . . (1) Immediately, establish an [International Business Corporation or IBC] in Dominica (if necessary, in the same name as the one in which you have contractual identity. . . . This will allow an orderly and mostly invisible transition. This IBC should have an Account at BTCB in order to receive the proceeds of Programs and to disburse them as instructed. This IBC should be 100% owned by bearer shares to be held by the Business Trust. . . . (2) Simultaneously, you could establish a Business Trust . . . in Dominica. This trust would not hold . . . any assets except the bearer shares of [the] IBC. . . . (3) You should select an "Organizer" of the IBC and Business Trust, and could designate International Corporate Services Ltd. (an IBC owned 100% by BTCB) as the Director-Designee for the IBC and BTCB as Trustee of the Business Trust. . . . (4) The IBC's Accounts should be set-up with dual signatures required, including an officer of ICS Ltd. and an officer of BTCB (usually myself as Vice President over all managed accounts). . . . (7) The IBC held under the Business Trust would be the entity that would enter into subsequent Trading Programs on a 50/50 cooperative venture with BTCB and would receive all resulting "Investor" earnings. . . . Such IBC Account would operate under a Cooperative Venture Agreement. . . . (10) The choice of structure is of course yours, however any client entity that is not domiciled in Dominica is prohibited by our Board from participating in our High Yield Income Programs, so that we may protect the bank and its clients against "cross-jurisdiction" exposure/penetration.

Brazie closed the document by providing telephone, fax and cellular numbers to contact him, including cellular numbers in Dominica and Virginia.

The Brazie proposals involve BTCB in every aspect of a client's investment program, from establishing the client's IBC and trust, to providing dual signatory authority over the IBC's account at BTCB, to joining the IBC in a "cooperative venture agreement." In fact, by encouraging clients to name BTCB as the trustee of their trust and giving the trust full ownership of the client's IBC, Brazie was, in effect, encouraging BTCB clients to cede control over their entire investment structure to the bank. The Brazie document also states that only Dominican entities are allowed to participate in BTCB's high yield programs and urges clients to use the bank's wholly-owned subsidiary, ICS, to establish them.[132] Numerous documents collected by the investigation establish that the suggested structure was, in fact, used by BTCB clients.[133] One key feature of

[132] Similar advice has appeared in a BTCB-related website, under a subsection called "The Wall Structure." The website states, "This structure was submitted by the Managed Account Division for British Trade and Commerce Bank—for further information, please contact them." See www.worldwideassets.org/structure2.html.

[133] See, for example, in the *Gold Chance* case, a 9/7/00 affidavit by BTCB president Requena, with copies of the "standard form agreements" used by BTCB in its "Managed Accounts" program, including a standard "Cooperative Venture Agreement, a Management Account Custody Agreement, a Specific Transaction Instructions Agreement and a Residual Distribution Instructions Agreement." The Requena affidavit also provides copies of completed forms signed by a

the standard investment contract used by BTCB in its high yield program is its insistence on secrecy. BTCB's standard cooperative venture agreement[134] essentially prohibits participants in its high yield investment program from disclosing any information related to their dealings with BTCB. A section entitled, "Confidentiality," states in paragraph 4.1:

> The **Parties** agree: that any and all information disclosed, or to be disclosed, by any other party hereto, or by legal counsel or other associate; and, that any and all documents and procedures transmitted to each other for and in execution of this **AGREEMENT** are privileged and confidential and are to be accorded the highest secrecy. . . . [T]he **Parties** specifically: A) . . . undertake . . . not to disclose to any third party, directly or indirectly, or to use any such information for any purpose other than for accomplishment of the objectives of the business undertaken herein without the express written prior consent of the party supplying that . . . information[; and] B) [a]cknowledge that any unauthorized . . . disclosures . . . shall constitute a breach of confidence and shall form the basis of an action for damages by the injured party. . . . [Emphasis in original text.]

A later paragraph 5.7 states:

> No unauthorized communications by either party with any bank outside of these procedures is allowed without the prior written consent of the other party. Failure to observe this consideration will immediately cause this **AGREEMENT** to be deemed to have been breached. [Emphasis in original text.]

Together, documentation and interviews demonstrate that BTCB aggressively marketed its high yield investment program, induced its clients to establish investment structures under similar agreements including secrecy requirements, promised extravagant rates of return, and obtained millions of dollars. The evidence also demonstrates that BTCB repeatedly failed to return invested funds or pay promised profits and is the subject of client complaints and law suits.[135]

Internet Gambling. BTCB's September 2000 submission to the Subcommittee omits a second major activity of the bank—its involvement in multiple aspects of Internet gambling.

Internet gambling is legal in Dominica, which began issuing Internet gambling licenses to offshore companies as early as 1996. Documentation establishes that BTCB has opened a number of accounts for companies providing Internet gambling services, handled millions of dollars in Internet gambling proceeds, and in the case of Vegas Book, Ltd., assumed an integral role in the day-to-day operations of an Internet gambling enterprise.

One of the first signs of BTCB's involvement in Internet gambling occurred in May 2000, when one of its U.S. correspondents, Security Bank N.A. in Miami, discovered that ten Internet gam-

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particular BTCB client, Free Trade Bureau S.A. Similar forms appear in other civil proceedings, as explained in the appendix.

[134] See *Gold Chance,* Requena affidavit (9/7/00), Exhibit H.

[135] For more information on the many complaints associated with the BTCB high yield investment program, see the appendix.

bling websites were directing gamblers to transfer their funds to Security Bank, for further credit to BTCB.[136] Security Bank sent a May 16, 2000 letter to BTCB demanding removal of its name from the websites and announcing its intention to close the BTCB account. BTCB responded in a May 17th letter that it had been unaware of and had not authorized Online Commerce, Inc.—a South African corporation that BTCB described as the "owner" of the offending Internet gambling sites—to use Security Bank's name. BTCB apologized and provided a copy of its letter to Online Commerce, at a Dominican address, requesting removal of the wire transfer information from the Internet gambling websites. U.S. bank records at Security Bank indicate that, from 1998 into 2000, hundreds of thousands of dollars in the BTCB correspondent account were transferred to persons and entities associated with Online Commerce.

U.S. bank records show numerous other BTCB transactions involving persons or entities associated with Internet gambling. For example, $525,000 in deposits into BTCB's account over 5 months in 1999 and 2000, were directed to Cyberbetz, Inc., a known Internet gambling company that is a Dominican subsidiary of another Internet gambling enterprise, Global Intertainment Inc.[137] In December 1999, Security Bank records show over $100,000 was deposited into the BTCB account for International Gaming Ltd.

BTCB's involvement with Internet gambling did not stop with opening accounts and handling gambling related proceeds. In the case of Vegas Book, Ltd., BTCB appears to have gone farther and become a direct participant in the day-to-day operations of an Internet gambling enterprise. Vegas Book is the only Internet gambling website that is directly referenced in BTCB websites and to which BTCB-related websites have provided a direct electronic link.[138] The Vegas Book website trumpets as a key selling point its "unique" arrangement with a bank, identified elsewhere as BTCB, which enables its gamblers to deposit their funds into a bank account (instead of a casino account); to gain instant access to their funds through a bank-issued credit card; and to place their bets through a Dominican international business corporation to circumvent U.S. prohibitions on Internet gambling.[139] The Vegas

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[136] The websites were www.astrobet.com; www.atlantisstar.com; www.aztecgoldcasino.com; www.bingotops.com; www.fairplaycasino.com; www.magic-carpetcasino.com; www.casinooldglory.com; www.casinoorientexpress.com; www.casinoiceberg.com; and www.flyingdragoncasino.com.

[137] See Survey of Electronic Cash, Electronic Banking and Internet Gaming, Financial Crimes Enforcement Network (FinCEN), U.S. Department of Treasury (2000) at 76, 88.

[138] BTCB's website, www.btcb.com/group.html, on a screen entitled, "Worldwide Group," lists "independent subsidiaries" that provide "related financial services" to BTCB clients. Included are "WorldWide Asset Protection" and "IBCNOW.com," which BTCB has disclosed to the Subcommittee are simply BTCB-controlled websites. Both provide direct electronic links to "Vegas Book." See www.worldwideassets.com/membership.html; www.ibcnow.com/link.html and www.ibcnow.com/service.html.

[139] The website, www.vegasbook.com/sportsbook/index2.html, explains:

> "Dominica-based Vegas Book, a state-of-the-art Las Vegas-style sports book takes action via toll-free phones and the Internet, and trumps every other shop in the industry with its unique method of payment. . . . Proceeds from every winning wager are credited to your betting account within three minutes of the conclusion of the event. . . . Your account at Vegas Book is totally secure from all outside enquiries due to [Dominica's] Off Shore Privacy Act of 1996. This statute sets sever[e] penalties for any release of information including identity, revenues and profits. . . . All Vegas Book members are given, or purchase . . . an International Business Corporation bank account. Acting on your wishes, the IBC wagers directly with Vegas Book, thus avoiding conflict with U.S. anti-gaming laws. Funds in the account . . . are available to the account holder 24 hours a day. Simply take the money

Book website helpfully points out that Vegas Book customers can use their Dominican bank "account for asset protection" as well as for gambling, directing them to BTCB's WorldWide Asset Protection website.[140]

The Vegas Book website provides a detailed form for opening a Vegas Book account. This form identifies BTCB as the bank opening the accounts for Vegas Book clients. The form also provides wire transfer instructions for Vegas Book gamblers wishing to deposit funds into their BTCB account. The instructions direct funds to be sent to the Bank of America, for further credit to St. Kitts-Nevis-Anguilla National Bank ("SKNANB"), for further credit to BTCB.[141] Bank of America informed the investigation that it had been unaware that BTCB was using the SKNANB correspondent account and unaware that the SKNANB account was handling Internet gambling proceeds. A review of the SKNANB account records indicates that, during 2000, millions of dollars moving through the account each month were related to Internet gambling, including over $115 million in August 2000 alone.[142]

According to its website, Vegas Book, Ltd. is "a partnership between Virtual Gaming Enterprises, Casino del Sol, Ltd. and Chinnok West, Ltd.,"[143] and apparently operates under a 5/6/99 Dominican gaming license issued to Casino del Sol.[144] BTCB and U.S. bank records suggest the existence of additional ties among BTCB, Casino del Sol and Virtual Gaming Enterprises. For example, in addition to directing Internet gamblers to the Vegas Book website, BTCB-related websites encourage individuals to consider opening their own Internet gambling website using Casino del Sol software.[145] U.S. bank records also show over a million dollars in transactions involving Virtual Gaming Enterprises since 1999.

Virtual Gaming Enterprises is a publicly traded Nevada corporation that was incorporated in June 1998, and is the subject of an ongoing SEC investigation into possible stock fraud.[146] Brenda Williams and her husband Virgil Williams are the company's control-

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out of the account at any ATM, or use secured card wherever credit cards are accepted. Your money is protected because it remains in your control, escrowed in your account at the Bank—not at Vegas Book."

[140] See www.vegasbook.com/sportsbook/help.html, answer to "Can I use my IBC to protect my house and car?"

[141] The Vegas Book website also allows clients to send certified checks to deposit funds in their account. The checks are directed to be sent to BTCB. See "Sending Funds," rule (1) at www.vegasbook.com/sportsbook/rule.html.

[142] SKNANB's monthly account statements do not indicate what percentage of the Internet gambling funds are attributable to SKNANB clients and what percentage to BTCB clients.

[143] See www.vegasbook.com/sportsbook/help.html, answer to "Who are we?"

[144] The Vegas Book website reproduces a copy of the license at www.vegasbook.com/sportsbook/lisc.html.

[145] The following pitch appears in the IBC Now website's "representative marketing program":

> "Casino del Sol offers the savvy marketer the opportunity to open an Internet business with worldwide appeal. Daily, millions of dollars are wagered by gamblers hoping that lady luck will grant them a fortune. With our casino program you eliminate chance by becoming the house. It is easy . . . we host your custom designed site from a high speed, state of the art secure server in the Commonwealth of Dominica with proprietary casino software proven as the industry's best. After designing the look for your casino, choose your games including Black Jack, Slots, Poker or Lil Baccarat. Each time one of your members logs in and plays, we track his/her winnings and losses and deposit the difference in your BTCB bank account." See www.ibcnow.com/service.html.

[146] See Virtual Gaming Enterprises, Inc. 10–KSB report to the SEC (9/14/00), Item 3 on "Legal Proceedings"; *SEC v. Virtual Gaming Enterprises, Inc.* (USDC SDCA Civil Case No. 99–MC–336); "Gaming firm faces long odds in shaking shady ties," *San Diego Union-Tribune* (9/19/99); "For Virtual Gaming, life is like a house of cards," *San Diego Union-Tribune* (5/5/00).

ling stockholders and senior management.[147] In 1995, Virgil Williams was found liable for securities fraud and ordered to pay a $27 million judgment. In 1997, he and Mrs. Williams filed for bankruptcy. The company's latest SEC filing states that Virtual Gaming Enterprises was "formed to purchase, manage, develop, market, and resell casino style Internet games that will allow players to wager," and operates out of Dominica.[148] The filings describe the company's involvement in several Internet gambling efforts, including holding a 20% interest in Vegas Book. Virtual Gaming Enterprises is apparently soliciting funds from small investors across the United States to buy its shares.[149] Security Bank records show a total of about $1.2 million deposited into BTCB's account over a 6-month period, from August 1999 until March 2000, for "Brenda J. Williams DBA-Virtual Gambling Enterprises." When contacted, SEC staff indicated that they had been unaware that Virtual Gambling Enterprises had a BTCB account and was making these deposits.

Internet gambling, as explained earlier in this report,[150] is illegal in the United States. Evidence suggests that BTCB has attempted to conceal its role in Internet gambling, not only from the Minority Staff investigation, but also from its U.S. correspondent banks. For example, BTCB moved hundreds of thousands of dollars in Internet gambling related proceeds through its Security Bank account without informing the bank of this activity. After Security Bank found out, BTCB's president Requena wrote in a May 17, 2000 letter, "We are aware of the position that U.S. Banks maintain on this regards, and we do not encourage at all the use of your good bank for [these] matters." Betts sent a May 19, 2000 fax stating, "I have made arrangements with another of our correspondent banks to take their wire transfers. . . . The customer did not consult with us before using Security Bank's name. We certainly would not have allowed them to use it." It is unclear what correspondent bank BTCB turned to next and whether it informed that bank of its Internet gambling activities; Bank of America states that it never knew it was handling BTCB funds related to Internet gambling.

(7) Money Laundering and Fraud Involving BTCB

The Minority Staff investigation found evidence indicating the BTCB was involved in a number of financial frauds and suspicious transactions moving millions of dollars through its U.S. accounts. In each instance, the bank's U.S. correspondent relationships played a critical role in enabling BTCB to conduct its activities. BTCB's refusal to be interviewed prevented the Minority Staff from obtaining any clarification or explanation that the bank might have provided with respect to the following matters, which are summarized below and described in more detail in the appendix to this report.

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[147] See Virtual Gaining Enterprises, Inc. 10–KSB report to the SEC (9/14/00), Item 9.
[148] *Id.,* Item 1.
[149] See, for example, www.penyprofits.com/profiles/vgain.shtml.
[150] See Chapter IV(D) of this report.

(a) Koop Fraud

William H. Koop, a U.S. citizen from New Jersey, pleaded guilty in February 2000 to conspiracy to commit money laundering in violation of 18 U.S.C. 1957.[151] Using BTCB, two other offshore banks,[152] and their U.S. correspondent accounts, Koop bilked hundreds of U.S. investors out of millions of dollars over a 2-year period by falsely promising high yield investment opportunities. In just 6 months during 1998, Koop moved almost $4 million from his self-confessed frauds through BTCB's U.S. correspondent accounts.

In 1997, Koop began promoting "prime bank notes," which he admitted are fictitious financial instruments, as well as other fraudulent investments, promising rates of return as high as 489%. Koop falsely promoted the investments as secure and touted the fact that the investment profits would be reported to no one. Over 200 U.S. investors placed their funds with him; with few exceptions, none recovered either their principal or any profit.

Koop began his relationship with BTCB in mid-1998 after a chance meeting with Brazie who told him about BTCB's own high yield investment program and other services. Koop used BTCB to establish Dominican corporations and bank accounts for use in his fraudulent activities. Koop instructed his co-conspirators and some of the investors in his program to send funds to him at BTCB's U.S. accounts. He then laundered the funds by instructing BTCB to wire them to other bank accounts around the world or by using them for other purposes such as purchasing a house in New Jersey. Koop's largest single investor, for example, wire transferred $2.5 million to BTCB's correspondent account at the Miami office of Banco Industrial de Venezuela for further credit to Koop's company. Koop used the money to pay his co-conspirators, open new accounts at BTCB, and advance his fraud. When the investor sued to recover the $2.5 million, BTCB at first denied having any accounts for Koop or his company. It was only after Koop pleaded guilty, began cooperating with prosecutors, and directed BTCB in writing to disclose information about his accounts, that BTCB acknowledged having five Koop-related accounts.

The evidence reviewed by the Minority Staff indicates that BTCB did more than establish corporations, open bank accounts and transfer funds for Koop; it also convinced Koop to place $1.3 million in fraud proceeds into BTCB's own high yield investment program. Koop indicated that BTCB repeatedly solicited him to place funds in various investments offered by the bank. Koop said he finally provided $1.3 million to BTCB's subsidiary, Global Investment Fund. In an ironic twist, Global had promised to pay Koop a 100% return on the funds each week for 40 weeks. After 2 years, Koop said he had yet to receive a single payment or the return of his principal. If true, BTCB retains possession of over $1 million in illicit proceeds taken from Koop's defrauded investors.

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[151] For more information, see the description of the Koop fraud in the appendix.

[152] Koop's activities at the other two banks, Hanover Bank and Overseas Development Bank and Trust, are discussed in the case histories on those banks.

(b) Cook Fraud

Benjamin Franklin Cook III, a U.S. citizen from Arizona, was named in March 1999 pleadings filed by the Securities and Exchange Commission (SEC) as the central figure in a fraudulent high yield investment program which, in the course of less than one year, bilked over 300 investors out of more than $40 million.[153] In August 2000, a criminal indictment in Arizona charged Cook with 37 counts of racketeering, fraud and theft. U.S. bank records indicate that at least $4 million associated with this fraud passed through U.S. correspondent accounts belonging to BTCB, and BTCB was directly involved in investment activities undertaken by persons and companies associated with the Cook fraud.

An analysis of BTCB's U.S. correspondent bank records by Minority Staff investigators uncovered documentary evidence linking 100 wire transfers to defrauded investors or entities associated with the Cook fraud. These transactions, which made up a substantial portion of BTCB's account activity at the time, moved over $4 million through the bank in a 2-year period, from 1998 to 2000, demonstrating that BTCB was an active conduit for illicit proceeds from the Cook fraud.

As in the Koop fraud, documentation and interviews indicate that BTCB did not stop at providing deposit accounts and wire transfers to persons and companies associated with the Cook fraud; the bank also worked with them to invest funds in its own high yield investment program. One Canadian investor told the Minority Staff that he invested $30,000 in the BTCB high yield program on the advice of a friend associated with several companies involved in the Cook fraud. He also convinced other persons to invest their funds. He indicated that the funds were wire transferred to BTCB's U.S. correspondent account at Security Bank in several installments. He stated that, despite repeated inquiries, neither he nor his associates have recovered any of their investments, much less any of the promised returns. The documentation suggests that BTCB may still have possession of substantial funds taken from Cook's defrauded investors.

(c) Gold Chance Fraud

In April 2000, two brothers who are Canadian citizens filed suit in Ontario alleging that their company, Gold Chance International Ltd. ("Gold Chance") was the victim of a loan fraud involving $3 million.[154] They alleged that Gold Chance had been fraudulently induced to deposit $3 million as supposed loan collateral into an attorney trust account in Canada, waited months for a loan that never materialized, and then learned that the company's funds had been secretly transferred to an offshore account at BTCB.

An Ontario court granted them immediate emergency relief, including appointing a receiver to take control of the attorney trust account and ordering BTCB and others to cooperate with discovery requests. Although the court proceedings have yet to reach a conclusion, a preliminary court decision, pleadings in the case, bank records and other information indicate that the $3 million was de-

[153] For more information, see the description of the Cook fraud in the appendix.
[154] For more information, see the description of the Gold Chance fraud in the appendix.

posited into BTCB's U.S. account at First Union on December 15, 1999, and within a week, the funds were divided up and wired to multiple bank accounts around the world. On the day the funds were deposited, BTCBs account balance at First Union was only about $14,000. During December 1999, the $3 million in Gold Chance funds were the primary source of funds in the BTCB account and were used to make payments to the bank's creditors, clients, and other correspondent accounts.

BTCB maintained in court pleadings that the $3 million had been sent to the bank by a longtime bank client for immediate placement in its high yield investment program. The bank said that the money had been locked into a year-long program on December 15, 1999, and could not be removed before December 15, 2000. In a June 12, 2000 order, the Ontario court expressed skepticism regarding BTCB's claim that the $3 million was still safely on deposit with the bank. The court wrote, "The prepared statement of [BTCB] that the funds are in BTCB is not to be believed, against either the tracing evidence or [BTCB's] failure to deliver the funds." BTCB later posted with the court a $3 million letter of credit which matured on December 15, 2000. When that date came, BTCB failed to pay the court the required $3 million. Gold Chance is still seeking recovery of its funds.

Other Troubling Incidents. The investigation obtained additional evidence of other suspicious transactions and questionable conduct at BTCB, most of which involved BTCB's high yield investment program. Discussed in more detail in the appendix, they include the following:

—A dispute over the ownership of a $10 million certificate of deposit ("CD") issued by BTCB in bearer form resulted in extensive litigation in a New York court. In August 2000, the U.S. district court resolved the CD's ownership in favor of a wealthy Texan, while disclosing troubling information about BTCB's operations. The legal dispute and other information disclosed, for example, inconsistent and ambiguous documentation regarding the disputed CD and a Dominican corporation established at BTCB's direction; BTCB's questionable dealings with a small Bahamian bank having a poor reputation and limited assets, including BTCB's use of the Bahamian bank's correspondent account at Citibank without Citibank's knowledge; and BTCB's apparent representations that its high yield investment program could quickly turn a $10 million investment into a $50 million return. U.S. bank records also show that, as with the Gold Chance funds, BTCB may have used $6 million of the CD funds to pay creditors and clients, rather than make investments as promised.

—An investor from Malaysia has complained to Dominican, U.K. and U.S. authorities about his continuing inability to recover a $1 million investment which he wired to BTCB's U.S. account at Security Bank in September 1998, for placement in its high yield program. The investor claims he was induced to send the money by KPJ Trust, a BTCB client. Documents supplied by the investor contain repeated broken

promises by BTCB to return the funds. U.S. bank records show his incoming deposit to BTCB as well as several outgoing payments to persons associated with the KPJ Trust.

—Investors in Texas, California and Canada have made similar complaints about funds they invested in BTCB's high yield program allegedly at the direction of Scott Brett, a part owner of BTCB through his company Baillett International Ltd. U.S. bank records show incoming wire transfers to BTCB's U.S. accounts from these investors, as well as outgoing wires to companies associated with Brett. A criminal investigation of these complaints may be underway in the United States.

—U.S. bank records and other documents demonstrate BTCB's involvement with a company headed by an individual suspected of past securities fraud, including a BTCB payment of $500,000 to the company followed over the next year by $1 million in payments from the company. The company explained the $1 million payment by saying it was repaying a BTCB "loan" and obtaining a release of BTCB's right to over 1 million in "unissued shares" in the company. Documents indicate that, during 1999 and 2000, the company obtained over $16 million from hundreds of small investors across the United States. Civil and criminal investigations into the company's possible involvement in securities fraud may be underway.

BTCB has been in operation for only about 3 years. In that time, it has become entangled in three multi-million dollar financial fraud investigations in the United States and Canada, as well as numerous client complaints in multiple jurisdictions. The emergent picture is of a bank surrounded by mounting evidence of questionable transactions, deceptive practices and suspect funds related to Internet gambling, fraudulent investments, and criminal activity.

(8) Correspondent Accounts at U.S. Banks

BTCB stated in its September 2000 submission to the Subcommittee that virtually all of its deposits and fund transfers go through U.S. banks, and it is "very protective of its U.S. correspondent banking relations, since this is our only way to transfer and move funds."

The Minority Staff investigation subpoenaed documents and interviewed personnel at three U.S. banks that operated accounts for BTCB. The banks are: (1) the Miami office of Banco Industrial de Venezuela which operated a correspondent account for BTCB from October 1997 until June 1998; (2) Security Bank N.A. which operated a correspondent account for BTCB from June 1998 until July 2000; and (3) First Union National Bank, whose securities affiliate operated a money market account for BTCB from September 1998 until February 2000. While none of the banks was fully aware of BTCB's activities or the financial frauds that moved funds through BTCB accounts, all three indicated that BTCB had, at times, engaged in unusual or suspicious activity, had made unauthorized use of the U.S. bank's name in questionable transactions,

and had abused its relationship with the U.S. bank. All three initiated the closing of BTCB's accounts.

(a) Banco Industrial de Venezuela (Miami Office)

Banco Industrial de Venezuela (BIV) is a large, government-owned bank in Venezuela. BIV has two offices in the United States, one in New York and one in Miami, each with about 20 employees. The Miami office has about $85 million in assets. BIV's Miami office opened BTCB's first U.S. correspondent account, one of only three correspondent bank accounts at that office. BIV closed the BTCB account 7 months later due to evidence of suspicious transactions that, in the words of the bank, involved possible "money laundering" and "self-dealing."

Interviews were conducted with BIV employees involved in the opening, administration and closing of the BTCB account and in BIV's anti-money laundering program. Some BIV personnel who made key decisions with respect to the BTCB account were not interviewed, because they are no longer with the bank. Documentation in BIV files, account statements, and other materials and information were collected and reviewed.

Due Diligence Prior to Opening the Account. Prior to opening an account for BTCB, BIV conducted a due diligence inquiry into the bank's ownership and operations. BIV documentation and interviews suggest, however, that because BTCB was newly licensed and not yet in operation, BIV relaxed some of its documentation requirements and collected only limited information about the bank.

According to the BIV account officer who helped open and administer the account, BTCB was referred to BIV by a former BIV client. It is possible that BTCB selected BIV because BTCB's president, Requena, was from Venezuela and was familiar with this Venezuelan bank's operations. Requena apparently telephoned BIV in 1997, and spoke with BIV's credit manager, Pierre Loubeau, who was then responsible for correspondent banking. BTCB followed with a letter dated July 28, 1997, providing initial information about the bank and requesting "a correspondent relationship." On September 15, 1997, BTCB provided another letter, signed by Requena, answering inquiries about the bank's ownership and main sources of income. The BTCB letter stated that the bank "was formed and is owned by Clarence Butler of Dominica, and Rodolfa Requena of Venezuela." The letter said that the bank's "main income" derived from "Trust related activities" and "investments in Financial instruments," and that it was developing "a Program for Insured Credit Cards." The letter also stated that, "as soon as we have a positive answer from your [fine] bank we are ready to transfer up to US $40 million to open the account."

Because the BIV personnel currently at the bank did not have first hand information about the credit manager's due diligence efforts, the investigation was unable to determine whether he made inquiries in Venezuela about Requena or in Dominica about BTCB. The BIV account officer noted that BIV's comptroller at the time, Louis Robinson, was originally from Dominica, knew Dominican government officials, and was a distant relative of one of the BTCB owners, Clarence Butler, and may have made inquiries in the coun-

try at the time. There was no documentation recording such inquires in the BIV file for BTCB. The BIV account officer stated that she personally checked the U.S. Office of Foreign Asset Control list of designated persons, and determined at the time that neither Requena nor Butler was designated as a person barred from holding assets in U.S. financial institutions. She also indicated that, because the bank was so new, she thought BIV had been unable to acquire much information about BTCBs reputation or past performance.

The BIV account officer said that the preliminary decision to open the BTCB account was made by two of her superiors, Loubeau, the credit manager, and Esperanza de Saad, the head of BIV's Miami office, neither of whom are still with BIV. She said their decision was made dependent upon BTCB's successfully submitting required account opening forms and documentation, which she requested in a letter dated September 19, 1997. The BIV account officer said that she was then responsible for collecting the required information for BTCB's client file.

Despite language in the BIV account opening application stating that the "following documents **MUST** be submitted" and a "new account **shall not** be opened without the receipt of these documents," the BIV account officer said that accounts were sometimes opened before all of the required documentation was obtained. She indicated that several exceptions had apparently been made for BTCB. For example, she said that BTCB was allowed to submit an unaudited financial statement in place of the required audited statement. She indicated that she thought BTCB had been allowed to submit an unaudited statement because it was still too new a bank to have undergone an audit. The BTCB financial statement on file at BIV indicated that, as of June 30, 1997, total BTCB assets were about $7.2 million. The BIV account officer said that BTCB was also apparently allowed to submit one, instead of the required two, bank references. Although she could not recall whether someone had specifically waived the requirement for a second bank reference, she speculated that, because BTCB was so new, it may have had only one bank account at the time. She noted that the bank reference provided was for an account that had been opened only 2 months earlier at another Dominican bank, Banque Francaise Commerciale.

BIV's account opening documentation did not require and the BIV file did not contain a copy of any written anti-money laundering policies or procedures in place at BTCB. Nor was the issue of BTCB's anti-money laundering efforts discussed in any BIV documentation. There was also no documentation indicating the extent to which BIV may have inquired into Dominica's reputation for banking regulation or anti-money laundering controls.

In response to a question about a site visit.[155] the BIV account officer said that no visit was made to BTCB prior to opening the account, but one was made in the first few months after the account was opened. She indicated that BIV's comptroller, Louis Robinson, who was from Dominica, had traveled to the island on vaca-

[155] BIV's Customer Service Handbook in place at the time, in Chapter 6, required "[p]hysical inspections" of a client's domicile within a year of an account opening and issuance of a "written visitation report to be kept in Agency's customer file."

tion and, during his vacation, had visited the BTCB office, which was not yet open to the public. She said that he met with Butler and brought back additional information about the bank. While no report on his visit was in the client file as required by BIV procedures, the file did contain key due diligence information about the bank that was apparently obtained during this site visit.

BIV's account opening form, entitled "New Customer and Account Input Information Sheet," shows that BIV's senior official, Ms. de Saad, approved opening the BTCB account on September 29, 1997. Other documentation indicates that the official opening date for the BTCB account was October 1st. The three account signatories were Requena, Betts and Royer.

Monitoring the Account Activity. The evidence indicates that, once the BTCB account was opened, BIV failed adequately to monitor the account activity or inquire about unusual transactions, despite repeated signs of suspicious activity.

BIV provided primarily three services to BTCB: A deposit account, an overnight sweep account which increased the interest paid on BTCB deposits, and use of BIV's wire transfer services. BIV did not provide BTCB with any loans or extensions of credit.

BTCB's initial deposit was a wire transfer on October 20, 1997, for approximately $1 million. On October 21, 1997, according to a BIV call report, the BIV account officer contacted BTCB to confirm the transfer. She was told that BTCB was holding its official "inauguration" on November 15, 1997, and BTCB would be transferring another $25 million to the BIV account during the week.

The BIV account officer indicated that she did not recall inquiring into or being told the source of the initial $1 million deposit. She said that she would have asked about the source of a $25 million or $40 million deposit by BTCB, but no such deposit was ever made. In fact, BIV account statements show that, after the initial deposit, the BTCB account experienced little activity for 4 months, with few deposits and a steady withdrawal of funds until the end of January 1998, when the closing account balance was about $45,000.

The next 3 months, however, reversed course, and each month showed increased account activity.[156] The bulk of the funds in the final three months appear to have come from three sources: The Koop fraud, the Cook fraud, and BTCB itself.[157] Overall, about $17

[156] For example, in February 1998, multiple deposits totaling in excess of $1 million and multiple withdrawals totaling about $650,000, led to a closing balance of about $350,000. March saw more deposits and withdrawals, including a single deposit on 3/30/98 of about $2 million and a closing account balance of about $2.5 million. April account activity increased still further, with multiple transactions throughout the month including deposits of $2.5 million, $634,982, $500,000 and $406,000 that, together, increased the account balance to $6.5 million. May witnessed similar account activity, including deposits of $1 million; $450,000; $220,000; $200,000; $199,980; $150,000; $101,850; and $100,000, followed by a $5 million withdrawal on 5/27/98 to a BTCB securities account at PaineWebber's clearing firm, Correspondent Services Corporation. Even after the $5 million withdrawal, the account held almost $3.5 million. On June 5, 1998, BIV closed the account.

[157] Koop received deposits totaling about $3.1 million during this period, including a $2.5 million deposit from a defrauded investor. International Business Consultants, Ltd., named by the SEC as a key participant in the Cook fraud, received 34 deposits totaling about $1.4 million. One deposit for $2 million was made by "Inter Trade and Commerce Ltd.," a company otherwise unidentified. Transactions traceable to persons associated with BTCB provided two deposits totaling $113,000, and numerous withdrawals totaling about $700,000.

million moved through the account, most of it in the last 3 months the account was open.

When asked about the increased account activity in the spring of 1998, the BIV account officer indicated that she did not recall noticing it at the time but thought, if she had, she would have attributed it to the normal growth of a new bank. She also did not recall asking or being told about the source of funds for the three largest deposits of $1 million, $2 million and $2.5 million. She indicated that she had assumed a correspondent bank account would include large transactions. However, another BIV employee told Minority Staff investigators that, when he reviewed the BTCB account in May, he immediately noticed and had concerns about the increased account activity, large transactions, and BTCB-related transactions, all of which contributed to BIV's decision in May to close the BTCB account.

By the spring of 1998, BTCB's account had become one of the largest accounts at the BIV Miami office. The BIV account officer indicated that she began to spend considerable time working with BTCB personnel on matters related to the account. She indicated that she spoke with the bank several times per week, usually dealing with BTCB's chief financial officer, Betts, and sent the bank weekly account statements, a service BIV provided upon request to large accounts.

The BIV account officer recalled three activities in particular that occupied her time on the BTCB account, involving letters, wire transfers and SWIFT telexes. She said that BTCB had made several requests for letters providing either a bank reference or confirmation of funds on deposit. She said these letters were intended for other financial institutions or for investors considering placing money with BTCB. BIV files contained four letters written on behalf of BTCB. The first was a letter of reference which BIV provided in March 1998, but which is undated, addressed "TO WHOM IT MAY CONCERN," and signed by the Miami office head, Esperanza de Saad. The BIV account officer said that similar reference letters had been prepared for other customers. BIV indicated that it had no knowledge of how BTCB had used this reference letter.

The BIV account officer recalled BTCB's engaging in lengthy negotiations over the wording of another letter requested in April 1998. She said that BTCB had asked BIV to provide a "proof of funds" letter, addressed to BTCB itself, confirming a certain amount of funds in the BTCB account. BTCB wanted the letter to confirm the "non-criminal origin" of the funds, and to state that BIV was prepared to block these funds . . . or to place these funds" upon BTCB's instruction. When asked what she thought of the requested wording, the BIV account officer said that she did not understand what BTCB wanted, but the requested language had made her superiors uncomfortable. She said that BIV had refused to provide the wording, despite BTCB's insistence. When asked why, she indicated that her superiors had made the final decision and she could not recall their reasoning. She indicated that she had no familiarity with fraud schemes using prime bank guarantees or U.S. bank confirmations, and had never thought that BTCB might be engaging in suspicious conduct. She said the letter finally

provided on May 5, 1998, did not contain any of the contested language.

The BIV account officer said that, on a number of occasions, BTCB's president, Requena, had instructed the BIV Miami office to wire transfer funds to a BIV branch in Caracas, Venezuela, which he would then pick up in cash. The BIV account officer explained that this arrangement, which BIV no longer allows, was used because Requena did not have a personal bank account at BIV to which the funds could be sent, so he was instead allowed to pick up the funds in cash. She said that the amount was typically $6,000, which Requena had described as his salary payment. She said that, on one occasion in December 1998, Betts had telephoned from BTCB and indicated that Requena had not received the $6,000 wired to him in Venezuela, and she had made inquiries about the funds transfer. She said that Requena later confirmed receipt of the funds "on 12/18/97 and Jan. 6/98." [158] The BIV account officer stated that similar cash payments may have been made to BTCB personnel other than Requena, although she was unable to state with certainty that they were. BIV account statements show numerous transactions with BTCB employees and other persons associated with the bank.[159] Some of these transactions may have involved cash; others were wire transfers to accounts. Together, they and the Requena transactions involved more than $800,000 in deposits and withdrawals over a 7-month period.

The BIV account officer said that a third BTCB account activity requiring her attention had been the re-transmission of SWIFT telexes to and from BTCB. She explained that BTCB's staff had been unable to operate BTCB's telex equipment, and had instead routinely faxed telexes to BIV and asked BIV to re-transmit them.

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[158] BIV bank records show 11 occasions in 7 months on which funds were wire transferred to Requena and may have been paid to him in cash. These payments included:

—12/15/97 wire transfer for $16,849.57;
—12/16/97 wire transfer for $6,000;
—12/19/97 wire transfer for $6,000;
—2/17/98 wire transfer for $6,000;
—2/20/98 wire transfer for $826;
—3/25/98 wire transfer for $6,000;
—4/3/98 wire transfer for $7,384;
—4/27/98 wire transfer for $6,000;
—4/28/98 wire transfer for $6,000; and
—5/11/98 wire transfer for $6,000.

In addition, $10,000 was wire transferred to Requena on 5/26/98, to a U.S. office of Banco Venezuela, an unrelated bank. When shown these 11 transactions totaling $77,000, the BIV account officer could not recall whether all of them resulted in cash payments to Requena, or just the ones involving $6,000. She also could not recall the purpose of the wire transfers in amounts other than $6,000, or why Requena occasionally received two "salary" payments in the same month. She was also unable to explain her handwritten notation that Requena had received funds on 1/6/98, a date not included in the BIV account statements. She therefore was unable to say whether other payments had also been made to Requena.

[159] These transactions included:

—$470,000 in payments to John Long, his companies Republic Products Corporation and Templier Caisse S.A., and companies involved with constructing a new residence for the Long family in Antlers, Oklahoma, such as Nelson Brothers Construction;
—$113,000 in payments to Mavis Betts, the wife of BTCB's chief financial officer George Betts, or to Lavern Erspan, a woman associated with Mrs. Betts;
—$100,000 deposit to the credit of Bayfront Ltd., a company apparently associated with Pablo Urbano Torres who was a BTCB director, and $16,800 in payments directed to him; and
—$25,000 in payments to Mary Brazie, the wife of Charles Brazie, the BTCB vice president in charge of managed accounts.

The BIV account officer indicated that the only BTCB officials she knew at the time were Requena, Betts and Butler; and she was not aware that so many of the bank's transactions had involved persons affiliated with BTCB.

She said they had also directed their clients to send telexes to BIV for re-transmission to BTCB. The BIV account officer said the SWIFT traffic for BTCB had increased so rapidly that BIV's operations department had begun complaining about the additional work.

The BIV account officer described events related to one particular April 1998 telex involving a Mexican credit union called "Union de Credito de Fornento Integral de Naucalpan SA." This telex had been sent to BIV, and the credit union had asked BIV to re-transmit the message to BTCB in Dominica. The text of the message, addressed to BTCB, stated that the credit union was going to send a telex to Metropolitan Bank and Trust Co. in Chicago confirming ten "letters of guarantee" at $10 million apiece for a total of $100 million, and promising to honor these letters of guarantee "irrevocably and unconditionally." The BIV officer said that, in this instance, BIV had refused to re-transmit the message. When asked why, the BIV account officer said her superiors had made that decision and she was unsure of the reason. She indicated that she was unfamiliar with "letters of guarantee" or their use in financial frauds, and it had never occurred to her that BTCB might have been attempting to include BIV's name on the telex to lend credibility to what may have been a fraudulent transaction. She could not provide any other information about the transaction. She said that, with hindsight, it was surprising that such a new bank, with only $7 million in assets, would have been engaged in a $100 million transaction.

BIV's anti-money laundering officer while the BTCB account was open was Louis Robinson, the comptroller who originated from Dominica. The investigation did not interview him since he had left the bank, so his efforts in reviewing the BTCB account while it was open are unclear. The BIV account officer recalled informing him on several occasions of troubling incidents involving BTCB, including the contested proof of funds letter and the $100 million telex. She said that Mr. Robinson was one of her supervisors who had refused to go along with BTCB's requests. At the same time, he apparently never warned her about the account or instructed her to pay special attention to it. BIV's anti-money laundering procedures at the time, a copy of which were provided to the investigation, explicitly called for heightened scrutiny of accounts opened by foreign corporations domiciled in "an 'Offshore' Tax haven," stating that the corporation's "beneficial owner(s) must be identified and their source of wealth verified." While the section did not reference foreign banks or bank secrecy jurisdictions, the analogy could have been made to apply the heightened scrutiny standard to BTCB. There is no evidence, however, that Mr. Robinson or other BIV employees exercised heightened scrutiny of the BTCB account.

Closing the BTCB Account. The BIV account officer told Minority Staff investigators that she never suspected BTCB of wrongdoing and never recommended closing the account. The investigation learned that the closure decision was a consequence, instead, of the sudden arrest of the head of the Miami office, Esperanza de Saad, on May 15, 1998, for alleged misconduct in connection with a U.S. Customs money laundering sting known as Operation Casa-

blanca.[160] After de Saad's arrest, a team of senior bank officials flew in from BIV's New York office to assume control of the Miami office and review all accounts. The BTCB account was one of more than a dozen accounts closed during the review process.

The Minority Staff investigation interviewed the key BIV employee from New York involved in closing the BTCB account. He explained that, after de Saad's arrest, as a precautionary measure, BIV had placed the remaining three senior officers in the Miami office on leave, although none were accused of wrongdoing. He said that the New York BIV team then began reviewing all of the Miami accounts, looking for suspicious activity. He said that the New York team purposely conducted this review without consulting the Miami staff, due to uncertainty over the extent of the problems in the Miami office. He said that, due to the de Saad arrest, U.S. bank regulators and law enforcement personnel were also reviewing BIV records.

The BIV employee said that the BTCB account was one of the largest in the Miami office. He said that when he reviewed it, he immediately became concerned about wire transfers making payments to BTCB officers, which he considered signs of "self-dealing." He indicated that when he reviewed the BTCB file, he also became concerned about missing documentation, including the absence of an audited financial statement. He said his immediate reaction was, "I didn't like what I saw."

On May 28, 1998, BIV sent a letter to BTCB requesting additional due diligence documentation including picture identifications, reference letters, the bank's articles of incorporation, and a current financial statement. BIV sent another letter the next day requesting the name of BTCB's accountant and law firm. BTCB responded on the same day, May 29, 1998, providing most of the requested information.

After reviewing this information and additional account transactions, the decision was made by the New York BIV team, in consultation with legal counsel, to close the account. In interviews, BIV personnel indicated that the decision to close the account was made due to a number of concerns about the account, including the increased account activity, rapid turnover of funds, large transactions, transactions involving the same payer and payee, and the transactions involving BTCB officers and employees. A memorandum dated May 29, 1998 instructed BIV operational staff to close the BTCB account "[e]ffective immediately."[161]

The BIV employee said that at the time the closure decision was made, BTCB's president Rodolfo Requena was in Miami. He stated that, on June 1, 1998, BTCB had sent BIV a letter requesting that BIV prepare letters of reference for BTCB to be given to four U.S.

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[160] *United States v. de Saad* (U.S. District Court for the Central District of California Criminal Case No. 98–504(B)). De Saad was convicted by a jury on ten counts of laundering narcotics proceeds, but a district court judge overturned the jury verdict and acquitted her on all counts. *See* "Opinion and Order Granting Defendant Esperanza de Saad's Motion for Judgment of Acquittal" by Judge Friedman (7/13/00). The United States is appealing the judge's decision.

[161] BIV personnel indicated, when asked, that the bank had not been aware of the Koop fraud at the time the BTCB account was open, although bank documents were later requested in connection with a related civil lawsuit, *Schmidt v. Koop.* BIV was also unaware, until informed by Minority Staff, that a company frequently named in BTCB wire transfer documentation, International Business Consultants Ltd., had been named in SEC pleadings related to the Cook fraud.

banks, and that Requena would pick up the letters in person. The BIV employee said that none of these letters was prepared. Instead, he said, a meeting was held in the conference room of the BIV Miami office in which BIV discussed with Requena the bank's decision to close the BTCB account. He said that the reasons BIV gave for closing the account were the restructuring of the Miami office and the need to reduce the customer service portfolio, because BIV had no proof of misconduct, such as a criminal indictment against BTCB. He said that Requena became angry, claimed to know the president of BIV in Venezuela, and threatened to have him fired for improperly closing the BTCB account.

The following week, a two-page internal BIV memorandum, dated June 11, 1998, was sent by the BIV Miami office to BIV headquarters in Venezuela with information about the closing of the BTCB account. It is unclear whether this memorandum was prepared in response to a complaint by BTCB. One part of the memorandum described the surge in account activity in April, noting that it had increased the account balance to $6 million, included wire transfers in large amounts, and included wire transfers in which the payer and payee were the same individual or corporation, such as International Business Consultants. In other documents, BIV described the transactions as indicative of "money laundering" and "self-dealing," and stated that BTCB appeared to have been using the account to provide "payment orders to its own officers" and "trying to use our institution as a pass through (window to USA) account."

On June 5, 1998, BIV formally closed the account and sent BTCB a check for about $3.5 million. On June 8, 1998, BTCB opened a new account at Security Bank N.A. in Miami.

(b) Security Bank N.A.

Security Bank N.A. is a small Florida bank with several offices across the State and about $90 million in assets. Its Miami office is located in the lobby of 444 Brickell, the same building occupied by First Equity Corporation of Florida (FECF), BTC Financial and related companies. Security Bank operated a correspondent account for BTCB for about 2 years, from June 1998 until July 2000. It closed the BTCB account after discovering that BTCB was handling Internet gambling proceeds and Security Bank was being referenced in Internet gambling websites.

Interviews were conducted with Security Bank employees involved in the opening, administration and closing of the BTCB account and in Security Bank's anti-money laundering program. Documentation in Security Bank files, account statements, and other materials and information were collected and reviewed.

Due Diligence Prior to Opening the Account. The evidence indicates that Security Bank opened a correspondent account for BTCB prior to conducting any due diligence on the bank, but on the understanding that the account would be closed if negative information surfaced. Security Bank followed the account opening with a due diligence effort that failed to uncover any problems with BTCB, which by then had been in operation for about 6 months.

According to Security Bank interviews and a June 10, 1998 memorandum describing the opening of the account, shortly after

FECF first moved into 444 Brickell Avenue, Security Bank approached FECF about opening an account, given the convenience of the bank's office in the lobby of the building. FECFs then owner, Steven Weil, introduced BTCB president Requena to Security Bank personnel, indicating that BTCB was then in the process of purchasing FECF. Requena expressed interest in opening an account at Security Bank for BTCB. Requena indicated that BTCB was then closing its "main account" at BIV's Miami office due to, in the words of the Security Bank memorandum, "bad publicity that [BIV] was receiving . . . as a result of laundering money charges against one of its principal officers." Security Bank agreed to open an account for BTCB immediately, on the understanding that it would conduct subsequent inquiries into the bank. The account was opened on June 8th, with a BIV cashiers check for $3.5 million, which Security Bank personnel considered a very large deposit.[162]

The head of Security Bank's international department, who assisted in the opening, administration and closing of the BTCB account, said that at the time the account was opened Security Bank had 25 to 30 foreign bank clients, primarily from Latin America. He said that it was not uncommon for Security Bank to open an account for a bank subject to later due diligence research. He said we "usually open and then investigate," due to the time required to obtain due diligence information and documentation.

The international department head described a number of steps that the bank took to investigate BTCB. First, BTCB supplied requested information about the bank's ownership, lines of business and financial status. Bank files included copies of BTCB's banking license, articles of incorporation, website information, a BTCB shareholder list, an unaudited financial statement, and other documentation about the bank. The international department head stated that, because Security Bank was not familiar with Dominica, it had decided not to initiate a credit relationship with BTCB and to provide only limited correspondent banking services such as a deposit account and wire transfer services. For that reason, he said, no financial analysis was performed of BTCB, nor did he or his staff take a detailed look at BTCB's major lines of business. He said that he did not recall even seeing BTCB's financial statement at the time and thought no one had examined it.

The international department head said that Security Bank undertook several efforts to check BTCB's reputation. He said the bank required BTCB to provide two written, personal references for each account signatory, copies of which were in the file. In addition, he said, inquiries were directed to banking personnel in Venezuela about Requena, who received favorable reports. He said another due diligence factor in BTCB's favor was its purchase of FECF, which was completed within a month of opening the account. He said the purchase had given Security Bank "comfort" because they knew the SEC investigated potential securities firm owners, and BTCB had apparently received SEC approval.

He said that Security Bank had also obtained two written bank references for BTCB, one from Banque Francaise Commerciale and

[162] According to Security Bank, it was because this deposit was so large that it prepared a memorandum documenting the circumstances related to the opening of the account. It said that it did not normally prepare an account opening memorandum.

one from BIV's Miami office. Security Bank provided a copy of the BIV reference letter, which was undated and signed by Esperanza de Saad. The international department head indicated that the letter had been provided in July 1998. When told that, in July 1998, de Saad was in jail awaiting trial on money laundering charges and the BIV account officer who handled the BTCB account was absent from the bank on maternity leave, the Security Bank employee indicated he had been unaware of those facts. When told that it was actually BIV that had closed the BTCB account, he said that he had also been unaware, until informed by Minority Staff investigators, that BIV had initiated the closing of the BTCB account. He expressed surprise and concern at that information. When asked how the letter of reference was delivered to Security Bank, and shown the BTCB fax line at the top of the letter, he indicated that he could not recall whether the letter had come directly from BIV or whether it had been supplied by BTCB. When shown the BTCB reference letter prepared by de Saad in March 1998, he agreed that it looked like the same letter given to Security Bank in July 1998.

When asked about a site visit, the international department head said that, while Security Bank normally did visit its foreign bank clients, no on-site visit was made to BTCB. He said that BTCB was less than a year old when the account was opened and Dominica was unfamiliar territory, which meant that an on-site evaluation was unlikely to provide meaningful information. He said that he had met with BTCB senior personnel in Miami, including John Long, and was comfortable with the bank's leadership. He noted that BTCB had a limited correspondent relationship that imposed no credit risk to the bank. He said that, because BTCB was their only client on Dominica, he had made the decision that it was not "cost effective" to fly there.

The international department head said that he was unaware, in 1998, that Dominica had a reputation for weak banking regulation and anti-money laundering controls. He indicated that he had recently read press reports about Dominica's anti-money laundering deficiencies.[163] The documentation suggests that no inquiry was made into BTCBs anti-money laundering efforts either. The Security Bank file for BTCB did not contain copies of written anti-money laundering policies or procedures in place at BTCB nor is the issue of BTCB's anti-money laundering efforts ever mentioned or analyzed.

Security Bank's internal account opening documentation indicates that the BTCB account was opened in June 1998, with three account signatories, Requena, Betts and Royer. Over the next 2 years, Security Bank provided primarily three services to BTCB: a checking account, a "supernow account" which functioned as a savings account and increased the interest paid on BTCB deposits, and access to Security Bank's wire transfer services.

Monitoring the Account Activity. The evidence indicates that, once the BTCB account was opened, Security Bank failed ade-

[163] In June 2000, Dominica was named by the Financial Action Task Force on Money Laundering, the leading international anti-money laundering organization, as one of 15 countries that failed to cooperate with international anti-money laundering efforts.

quately to monitor the account activity and failed to provide effective responses to repeated signs of suspicious activity.

The international department head said that BTCB was "a very big account" for Security Bank, and BTCB was its largest foreign bank client. An analysis of the BTCB account transactions shows that, over the course of 2 years, more than $50 million moved through its Security Bank account. The initial deposit of $3.5 million was followed 2 days later by a wire transfer of $3.6 million from BTCB's account at PaineWebber's clearing firm, Correspondent Services Corporation. Over the next two years, the account saw 16 transactions involving $1 million or more, with the largest involving $6.5 million. Many of the transactions appear associated with matters under civil or criminal investigation or otherwise open to question.[164] In addition, Security Bank account statements and wire transfer documentation show numerous transactions over two years involving persons or companies closely associated with BTCB and collectively involving more than $3.5 million.[165] Although BIV personnel considered similar transactions signs of possible "self-dealing," Security Bank personnel indicated that they had felt no concern nor asked any questions about BTCB transactions involving affiliated parties.

When asked about BTCB's account activity, Security Bank personnel told Minority Staff investigators that they had never witnessed evidence of actual illegal activity in the account and had not been concerned about particular transactions. One Security Bank employee said that they had expected a correspondent account to show large movements of funds, particularly when, in the case of BTCB, the bank also owned a securities firm.

Security Bank personnel also described a number of troubling incidents over the 2 years the account was open, involving law enforcement inquiries, BTCB attempts to include Security Bank's

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[164] These transactions included the following:

—$3.8 million in deposits and $3 million in withdrawals involving the Koop fraud (see explanation of Koop fraud in the appendix);
—$2.3 million in deposits and $2 million in withdrawals involving companies or persons associated with the Cook fraud (see explanation of Cook fraud in the appendix);
—$770,000 in deposits and $10,000 in withdrawals involving Zhernakov, Chatterpaul or Free Trade (see explanation of the Gold Chance fraud in the appendix);
—$10 million in deposits and withdrawals involving McKellar, Garner and possibly the JVW high yield investment funds (see explanation of the JVW interpleader action in the appendix);
—$1 million deposit by Tiong, and $30,000 in withdrawals and an attempted $200,000 withdrawal involving companies or persons associated with the KPJ Trust (see explanation of the Tiong $1 million investment in the appendix);
—$443,000 in deposits and $320,000 in withdrawals involving companies associated with Scott Brett (see explanation of Brett investors in the appendix); and
—$600,000 in deposits and $500,000 in transfers involving Global/Vector Medical Technology (see explanation in the appendix).

[165] These transactions included:

—$2 million in deposits and withdrawals involving Global Investment Fund, S.A., a BTCB affiliate;
—$1.3 million in payments to John Long or his companies Republic Products Corporation and Templier Caisse S.A.;
—$950,000 in deposits and withdrawals involving FEC Financial Holdings;
—$239,000 in payments to Requena, BTCB's president;
—$134,000 in payments to Mavis or Anthony Betts, relatives of George Betts, BTCB's chief financial officer, or to Lavern Erspan, a woman associated with Mavis Betts;
—$110,000 in payments to Mary Brazie, wife of Charles Brazie, a BTCB vice president; or to Brazie's apparent landlord, Clifford Shillingford;
—$105,000 in payments to Stuart K. Moss, a U.K. resident who works with BTCB; and
—$56,000 in payments to Ralph Hines, who performed work for BTCB.

name on documents associated with multi-million dollar transactions, BTCB's high yield investment program, and BTCB's involvement with Internet gambling.

The first incident occurred in July 1998, 2 months after the account was opened, when the bank received inquiries from U.S. law enforcement about BTCB account transactions involving William Koop. In response, a July 27, 1998 Security Bank memorandum shows that the bank contacted two U.S. banking agencies, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation, to request information about BTCB. The banking regulators advised Security Bank to be "cautious" due to concerns that BTCB was possibly involved with "bogus guarantee[s]" known as the "Grenada Guarantees," but "there were no prohibitions [on] doing business" with BTCB. The memorandum noted that a Secret Service agent had also checked but found "no adverse information" on BTCB.

A month later, Security Bank sent a letter dated August 27, 1998, to the Federal prosecutor handling indictments related to the Koop fraud and included the following request:

> If there comes a time that your office feels that information should be given to us concerning British Trade and Commerce Bank that indicates that we should not do business with British Trade and Commerce Bank, it would be appreciated if you would so advise.

Security Bank personnel said that the prosecutor advised calling U.S. banking regulators, but never suggested closing the BTCB account. That Security Bank made inquiries to four different government agencies shows it had concerns about BTCB and made reasonable due diligence inquiries about the bank, but received no adverse information indicating the account should be closed.

Additional troubling incidents, however, followed. Security Bank memoranda describe three separate occasions, for example, on which it had to insist on BTCB's removing its name from documentation related to multi-million-dollar certificates of deposit ("CDs"). The incidents, which took place over a two month period in late 1998, involved BTCB-prepared CDs for $1 million, $6 million and $20 million.[166]

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[166] The three incidents were described in Security Bank documentation as follows:

—A 10/21/98 Security Bank memorandum stated that BTCB had telephoned to request the bank's approval of a $6 million CD for "The Northfield Trust," which included language stating that the $6 million "will be paid by the issuing Bank or at the counters of Security Bank." The memorandum stated that Security Bank would not honor the CD and its name "must not appear" on the paperwork.

—A 11/5/98 Security Bank memorandum stated that 2 weeks later, BTCB sought approval of a $20 million draft CD for "Heller Securities" which an accompanying letter stated was "payable upon presentation at our counter as the Issuing Bank, or upon three (3) banking days advance notice . . . at the counter of our U.S. correspondent bank, Security Bank." The memorandum stated that Security Bank "will not make any commitment like that one, as . . . discussed before." Security Bank's international department head indicated that he considered this CD "very similar" to the rejected CD, and was "concerned" that BTCB was not familiar with or did not understand U.S. banking rules regarding CDs. He said that he personally spoke with Betts of BTCB and told him that the wording created a possible liability for Security Bank. He said that Betts told him that he was "wrong" and Security Bank would have "no responsibility" for the transaction. He said Security Bank had nevertheless insisted on removing its name from the letter.

—A Security Bank memorandum dated about 1 month later, on 12/10/98, stated that a draft $1 million CD containing the same wording as the rejected CD from October, had been faxed by Banco Solidario de Costa Rica which was attempting to verify it. The memorandum said that Security Bank informed the Costa Rican bank that it "did not accept

Another troubling incident, in November 1998, involved a sudden influx of over 300 checks, primarily from U.S. residents in amounts ranging from $100 to $10,000, which BTCB presented to Security Bank for clearing. All of the checks were made out to LBM Accounting, a Bahamian firm that allegedly provided accounting services to international business corporations.[167] Security Bank personnel indicated to BTCB that the bank "didn't like that type of deposit," and would not clear similar checks in the future. The bank records contain no evidence that BTCB attempted to deposit those types of checks again.

Another incident, which began with a $1 million wire transfer by an individual from Malaysia named Tiong to BTCB's account in September 1998, escalated after a February 1999 letter from Tiong demanded that Security Bank return his funds.[168] The letter stated that the wire transfer documentation had instructed Security Bank not to accept the funds unless it agreed to return them a year later. The Tiong letter stated that, because Security Bank had not acknowledged that condition prior to accepting the $1 million, he wanted his money back. Telephone conversations and correspondence followed involving Security Bank, BTCB and Tiong. Security Bank sent Tiong a letter denying any liability in the matter. Security Bank's international department head indicated that this incident had raised concern that BTCB might be, again, misusing Security Bank's name in dealing with its clients.

Still another incident took place during the summer of 1999, when Security Bank received a fax dated August 19, 1999, from a company called Actrade Capital asking it to confirm a $1 million "Standby Letter of Credit." The standby letter of credit by BTCB was accompanied by a document stating that the "Confirm and Paying Bank" was Security Bank. Security Bank sent a fax the next day to Actrade Capital stating that it "has not and will not confirm this letter of credit[.] [T]he name of Security Bank, N.A. has been used without our authorization and we do not have or accept any liability on this matter." The international department head indicated that he personally told Betts at BTCB "don't do this anymore," because BTCB had no credit relationship with Security Bank and would not confirm its letters of credit. He said this incident had caused additional concern about BTCB.

Security Bank reported that it later received, on three occasions, civil subpoenas or law enforcement inquiries about these and other incidents involving BTCB clients.

In addition to these incidents, at some point during 1998 or 1999, according to the international department head, BTCB asked Security Bank to consider providing them with a line of credit. He said that Requena talked to him personally on several occasions about obtaining credit from Security Bank. He said that he did not support extending credit, however, because of the bank's "unusual" activities. He indicated, for example, that BTCB was not engaged in the typical international trade or lending activities engaged in by

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any responsibility and that the document had no validity for us." The international department head said that he had, again, become worried. He said that he had thought BTCB either was acting in good faith but did not understand U.S. banking law, or that it was trying to take advantage of Security Bank.

[167] This company is also discussed in the case history on American International Bank.

[168] This matter is described in more detail in the appendix.

their other foreign bank clients. He said that Requena had explained that BTCB was instead an "investment bank" engaged in investing in "high yield paper." He said that Requena had indicated BTCB would, for example, invest client funds, earn a 20% return, pay 15% to their clients, and keep 5% for the bank. Security Bank's international department head said that he had "never heard" of investments with such high rates of return, and did not understand "how it is done." He said that BTCB was also involved in unusually large credit transactions—involving $1 million, $6 million, even $20 million—that Security Bank itself did not have the capital to handle. He said, "I couldn't understand their activities." He said that, because he could not understand BTCB's high yield investment activities or its multi-million-dollar letters of credit, he had declined to recommend extending BTCB a credit relationship.

The international department head stated, however, that while he did not support extending BTCB credit, he did not support ending the relationship either. He said that, while some of the BTCB transactions were worrying, Security Bank had a "good relation" with BTCB, the BTCB account had "good balances," and the transactions were ones that Security Bank felt it had "under control." He said that the inquiries made about the bank with U.S. banking regulators and the Secret Service had also reassured them about BTCB, so the account was allowed to continue into 2000.

Anti-Money Laundering Controls and Oversight. Discussions with Security Bank's anti-money laundering personnel and review of its anti-money laundering manual disclosed a number of deficiencies in Security Bank's written materials and day-to-day monitoring of accounts for suspicious activity, which were illustrated by the bank's failure to conduct adequate monitoring of the BTCB account.

One key deficiency was that Security Bank's Bank Secrecy Act ("BSA") Manual did not direct either the BSA officer for the bank or individual account officers to monitor accounts for suspicious activity. While the BSA Manual provided detailed guidance and procedures for identifying and reporting cash transactions, it contained virtually no guidance or procedures for identifying and reporting suspicious activity. No provisions directed bank employees to report suspicious activity to the BSA officer. No provisions required the BSA officer to examine bank transactions for suspicious activity. No provisions discussed the filing of Suspicious Activity Reports. No provisions even mentioned correspondent banking.

When Security Bank's BSA officer was asked about his anti-money laundering duties, he did not mention monitoring accounts or transactions for suspicious activity. When asked whether he had ever reviewed the BTCB account, he indicated that he had not because the account had rarely involved cash transactions. He indicated that it was his responsibility to monitor cash transactions, while it was the responsibility of another Security Bank official to monitor wire transfer and other non-cash transactions. The Security Bank official responsible for monitoring non-cash transactions had not reviewed the BTCB account either. He explained that, because bank policy prohibited wire transactions by non-customers, and all customers underwent a due diligence review prior to open-

ing an account, bank policy did not require reviewing wire transfers for suspicious activity, beyond an automatic OFAC screening when a wire transfer was first recorded.[169]

In short, Security Bank's policies failed to require any monitoring of wire transfers for suspicious activity and, even if it had required this monitoring, its software made anti-money laundering analysis difficult. The result was that no Security Bank employee, in 2 years, had reviewed or analyzed the nearly $50 million in incoming and outgoing wire transfers in BTCB's account.

But even if Security Bank had adequate policies, procedures and automated systems in place and its BSA officer had reviewed the BTCB account, it is unclear whether the bank would have identified or reported any suspicious activity. In the words of one Security Bank official, correspondent bank accounts were expected to show "lots of money going in and out." The bank had no procedures calling for heightened scrutiny of correspondent accounts, offshore banks or transactions in bank secrecy jurisdictions.

Closing the Account. Security Bank personnel said the incident that "spilled the cup" with respect to the BTCB account and led to its closure occurred in May 2000, when it discovered BTCB was involving Security Bank in Internet gambling. One Security Bank employee explained that the bank simply did not want to be associated with gambling; another said that all of the other BTCB incidents causing concern had involved single transactions which Security Bank had felt could be controlled, but Internet gambling involved multiple transactions by multiple parties that were beyond its control. In a letter dated May 16, 2000, Security Bank informed BTCB that it objected to use of its name in gambling websites and advised that the BTCB account would be closed "within 30 days of this communication." The account was closed, in fact, about 60 days later in July 2000.

Security Bank personnel indicated that, overall, Security Bank had been careful not to go along with questionable transactions requested by BTCB and had closed the account once Internet gambling problems were uncovered. The personnel stressed that they felt they had never seen any direct evidence of illegal activity by the bank and were not convinced that the bank had been engaged in any wrongdoing. One pointed out that when all of the questionable events involving BTCB were discussed in the same interview, they conveyed a much stronger impression than when the account

[169] The Security Bank monthly account statements also contained much less wire transfer information than other statements reviewed in the investigation. A bank official explained that, in 1999, due to increased wire traffic, the bank had purchased a new software system which identified individual wire transfers primarily by providing a unique identification number for each transaction. For example, an outgoing wire transfer might be designated on the monthly account statement as: "OT906020010," without any origination or beneficiary information. An incoming wire transfer might be designated "IN905060020." He said that this software had been selected because, among other features, it enabled the bank's electronic database to process wire transfers more quickly, in part by making more rapid OFAC checks. When the new system was implemented in May 2000, however, it also eliminated the names of wire transfer originators and beneficiaries from the monthly account statements, significantly increasing the difficulty of money laundering analysis. The analysis was more difficult because instead of analyzing wire traffic simply by looking at an account's monthly statement, a second set of documents—the original wire transfer documentation with origination and beneficiary information—would have to be collected and compared to the information in the account statement. Making the work even more difficult was the absence of any Security Bank software capable of analyzing wire traffic data for patterns or unusual transactions. These obstacles to effective anti-money laundering oversight continue today.

was open and each problem occurred and was resolved weeks apart. The international department head said that he felt that Security Bank could not be faulted in its handling of the BTCB account except for "maybe delaying the closing of the account."

(c) First Union National Bank

First Union National Bank is a major U.S. bank, with over 72,000 employees, $250 billion in assets, and one of the larger correspondent banking portfolios in the United States. Although First Union's correspondent banking department rejected a BTCB request for a correspondent relationship, BTCB managed to open a money market account with First Union's securities affiliate and used it as if it were a correspondent account for almost 18 months, from September 1998 until February 2000. During that period, BTCB moved more than $18 million through the account. First Union closed the account due to concerns about suspicious activity and to stop BTCB from claiming a correspondent relationship. It subsequently discovered and closed several other First Union accounts associated with BTCB.

Interviews were conducted with First Union employees involved in the opening, administration and closing of the BTCB account and in First Union's anti-money laundering program. Documentation in First Union files, account statements, and other materials and information were collected and reviewed.

Due Diligence Prior to Opening the Account. The evidence indicates that, in September 1998, BTCB opened a money market account with First Union's securities affiliate without any due diligence review. BTCB then requested a formal correspondent relationship, but was turned down by First Union due to negative information about the bank.

According to First Union interviews and documentation, on September 17, 1998, First Union Brokerage Services, Inc. accepted a telephone call from BTCB and immediately opened a money market account for the bank, called a "CAP" account. First Union Brokerage Services, Inc., now First Union Securities, Inc., is a subsidiary of First Union Corporation and closely affiliated with First Union National Bank. It is a fully licensed and regulated broker-dealer.

A licensed broker at a First Union Brokerage Services "call center" opened the BTCB account. First Union indicated during interviews that rules in place at the time prohibited opening a CAP account for a bank, but those rules had not been spelled out and the broker was unaware of them. First Union said that research has since determined that no bank, other than BTCB, has ever opened a First Union CAP account, and its rules have since been clarified to prevent any bank from opening a CAP account in the future.

First Union said that the money market account was immediately opened, without any due diligence, on the understanding that the accountholder would subsequently provide a limited amount of account opening and corporate documentation. First Union indicated during interviews that the broker acted in accordance with accepted practice in 1998, although its money market account opening procedures have since been changed. First Union said that its brokers must now complete an initial due diligence

checklist over the telephone prior to opening a CAP account. It said that foreign nationals or nonresident aliens are no longer permitted to open CAP accounts over the telephone; their inquiries are instead directed to First Union's private bank. It said that, if a U.S. citizen or resident alien provided satisfactory oral information in response to the due diligence telephone checklist, a First Union broker could authorize the immediate opening of a money market account during the telephone conversation, subject to a subsequent review by compliance personnel and senior securities personnel.

It is unclear who from BTCB made the call to First Union's securities affiliate. First Union's "New Commercial CAP Account Application" lists two contacts for the account: Ralph Hines and George Betts. The application also provides a U.S. address for the account: "British Trade and Commerce Bank . . . c/o First Equity Group of [Florida], 444 Brickell Avenue." Later bank statements list the same 444 Brickell Avenue address, but send the statements in care of "FEC Financial Holdings, Inc." The CAP account application is signed by Betts.

Within a few months of opening the CAP account, BTCB asked First Union to issue a letter of credit to secure a BTCB credit card account with Mastercard. BTCB was initially directed to First Union's domestic corporate banking personnel. However, when told that BTCB was "chartered in Dominica and owned by Texans," a domestic corporate banker directed BTCB to First Union's international division. First Union records indicate that BTCB contacted three different international bankers at different First Union offices over several months in late 1998 and early 1999, in an attempt to open a formal correspondent relationship, but First Union personnel declined to issue a letter of credit or otherwise establish a correspondent relationship with BTCB.

First Union interviews indicate that its most detailed due diligence review of BTCB was conducted in late 1998, after Hines had contacted a Miami office that formerly belonged to Corestates Financial Corporation, a U.S. bank which had been purchased by First Union. BTCB submitted a large packet of information about its ownership, lines of business and financial status, and offered to deposit $15 million with the bank. In response, several First Union employees in the international division made inquiries about the bank. One First Union correspondent banker indicated in an interview that he asked three other U.S. banks about BTCB which, by then, had been in operation for over a year. The First Union correspondent banker indicated that he had received uniformly negative reports about BTCB, including statements that the bank was "not reputable" and First Union should "stay away."

The First Union correspondent banker also reviewed the materials provided by BTCB. He said that BTCB had presented itself as having strong ties to the United States, stressing its ownership of First Equity Corporation of Florida, but he was not familiar with that securities firm. He indicated that BTCB's unaudited financial statement as of June 1998, had raised "red flags." He said it had indicated, unlike most banks, that BTCB was involved with investment, rather than lending activities. He noted that BTCB had claimed $400 million in "securities held for investment and financing" and then listed three "unusual" securities. The first was $130

million in "Government of Grenada Guarantees," which he said he had "never heard of" and could not verify as having the value indicated. The second was $76 million in "Bolivian Municipal Bonds." He said that Bolivian bonds represented a "very small market," and the large investment figure claimed in the financial statement did not "make sense" to him. He also questioned the value of the third investment, $140 million in "Russian Government Guarantees." He said that, together, the listed securities were "beyond credibility."

He said the statement's claim that BTCB had $9 million in retained earnings after just 9 months of operation was also "unusual" and "not credible." He said that Note 8's claim that BTCB had earned $10 million from "primarily the financing of bonds from the Government of Venezuela" was also "not feasible" since Venezuela was then experiencing economic hardship. He also questioned the $1 million Treasury stock entry, given BTCB's brief existence. He said that, overall, the financial statement was "not credible." He said that he did not question BTCB about its financial statement, however, since the negative reports on the bank's reputation had already led him to recommend against establishing a correspondent relationship.

Although BTCB's request for a correspondent relationship was rejected, BTCB began to use the CAP account at First Union's securities affiliate as if it were a correspondent account and began to claim a correspondent relationship with First Union. First Union personnel were adamant in rejecting BTCB's claim of a First Union correspondent relationship, calling that characterization of the relationship between the two banks "unfair" and "inaccurate."

Monitoring the CAP Account Activity. The evidence indicates that, about 6 months after BTCB opened the CAP account, First Union began receiving reports of unusual account activity, suspicious letter of credit transactions, and inaccurate claims by BTCB that it had a correspondent relationship with First Union. While First Union quickly detected and analyzed the transactions in the BTCB account, it was slow to take decisive action in response. After first asking BTCB to voluntarily close its account in May 1999, First Union unilaterally closed it 9 months later, in February 2000.

The CAP account opened by BTCB functioned in the same way as a checking account. BTCB made deposits and withdrawals, using wire transfers, deposit slips and checks drawn on the account. First Union paid interest on the deposits and imposed charges for wire transfers, overdrafts and other account activity. First Union sent BTCB monthly account statements. First Union also opened a brokerage account for BTCB, although this account was never used. BTCB used the CAP solely to move funds; it never used the account to purchase any securities.

BTCB opened the CAP account on September 17, 1998, with $10,000. The account saw little activity for about 6 months.[170] The

[170] Transactions of note included a $175,000 deposit by BTCB in November 1998, in connection with its requests seeking a letter of credit and correspondent relationship with First Union. In December 1998, BTCB deposited 200 small checks and increased the closing balance to $252,000. January saw 185 small deposits, BTCB's withdrawal of the $175,000, and a closing balance of $187,000. February saw $279,000 in small deposits, and a closing balance of

next 9 months saw a significant increase in account activity, as millions of dollars began moving through the CAP account. An analysis of the BTCB account transactions shows that, overall during its almost 18 months of existence, about $18 million moved through the CAP account. Nine transactions involved $1 million or more, with the largest involving $6 million. Many of the transactions appear associated with matters under civil or criminal investigation or otherwise open to question.[171]

April 1999 was the first month of increased account activity, when a $6 million deposit was made from a First Union attorney account belonging to Robert Garner.[172] This $6 million deposit was followed by almost $4 million in withdrawals. The April closing balance was $2.3 million, more than five times the previous largest balance in the account.

On April 15, 1999, a First Union representative in Brazil sent an email to First Union's international division describing a customer engaged in negotiating a credit arrangement with BTCB which claimed to "have [an] account with First Union National Bank." In response, another First Union employee sent an email stating that a corporate customer in Montreal had reported "expecting to receive a $30 [million] standby letter of credit" from BTCB who had listed First Union "as a reference." These and other First Union emails in April 1999 expressed concerns about BTCB, Dominica, and whether the CAP account should be closed. One stated: "Dominica is about 20 sq. miles, with mountainous territory. Their business is banana exports. . . . Very dirty offshore banking center." Another said, "I think if we don't feel good about the client, we absolutely must close the account." First Union's international division asked its anti-money laundering personnel to research the activity in the CAP account.

On May 3, 1999, a First Union employee circulated an email about the BTCB account stating the following:

> We have a multitude of problems here:
> (1) International refused to open this acct originally for cause.

$467,000. March saw a $400,000 withdrawal by BTCB which sent the funds to its account at Security Bank. The closing balance in March was only $16,000.

[171] These transactions included the following:

—$2 million in withdrawals from April to October 1999, involving companies or persons associated with IBCL and the Cook fraud (see explanation of the Cook fraud in the appendix);

—$6 million deposit on 4/26/99, involving McKellar, Garner and possibly the JVW high yield investment funds, followed by 101 outgoing wire transfers totaling $5.7 million, including $1 million to BTCB's account at Correspondent Services Corporation and $1 million to BTCB's account at Security Bank (see explanation of the $10 million CD interpleader action in the appendix);

—$1 million deposit on 10/19/99 by Garner, possibly involving the JVW investment funds, followed by multiple outgoing wire transfers to bank accounts around the world;

—$3 million Gold Chance deposit on 12/15/99, followed by multiple wire transfers to bank accounts around the world (see explanation of the Gold Chance fraud in the appendix);

—$2.1 million in transfers from July 1999 to January 2000 involving Orphan Advocates, China Fund for the Handicapped, and "Corporation Project of the Rehabilitation of Disable Children" (see explanation of the Gold Chance fraud in the appendix);

—$185,000 in transfers in November 1999 involving the KPJ Trust (see explanation of the $1 million investment involving KPJ Trust in the appendix);

—$220,000 transfer involving Aurora Investments S.A., a company associated with Scoff Brett, a part owner of BTCB (see explanation of Brett investors in appendix); and

—$300,000 in deposits involving Global/Vector Medical Technology (see explanation in the appendix).

[172] The $6 million deposit is associated with the JVW interpleader action and is described in more detail in the appendix.

> (2) Customer established an acct via telephone thru CAP in Sept. of 98.
> (3) On 4/26/99, $6MM rolled into the account, via wire, and half of that rolled out THE SAME DAY, via wire, and went all over the place. . . .
> (4) Customer is indicating that they are a correspondent of First Union (they're not); we need a cease and desist letter and we also need to close this account.
> [Emphasis in original text.]

On May 5, another First Union employee forwarded a copy of a BTCB letter discussing a $6 million letter of credit. The letter by BTCB, dated April 13, 1999, stated that the bank was "ready, willing and able to issue a Standby Letter of Credit in the favor of **US C&R HOLDINGS INC.** for the amount of . . . $6,000,000." [Emphasis in original text.] An attached 1998 financial statement for BTCB referenced deposits of over $800,000 at First Union, which apparently led to First Union's being asked to confirm the information.

On May 13, 1999, First Union sent BTCB a letter stating that, in a "written communication with third parties," BTCB had "implied that First Union will somehow act in concert with [BTCB] in a letter of credit arrangement. You are directed to immediately cease and desist from such unauthorized use of First Union National Bank's name, and from any express or implied indication that you have a correspondent or any other sort of relationship with First Union other than as a depositor."

The letter did not, however, ask BTCB to close the CAP account. Instead, explained a First Union correspondent banker in an interview, the decision had been made to make a verbal request to BTCB to close the CAP account. He said that he personally made this request in a May telephone conversation with Ralph Hines who responded with a "belligerent tone." He said they then waited to see whether BTCB would close the CAP account. When asked why First Union did not put the request to close the account in writing or unilaterally close it, the correspondent banker indicated that the bank was worried that it did not have sufficient proof of wrongdoing and BTCB might sue them, so they had decided to try to encourage BTCB to close the account on its own.

BTCB chose not to close the account. Instead, it used the next 4 months to move over $5 million through the CAP account, including a $900,000 wire transfer to International Business Consultants, Ltd., a company associated with the Cook fraud, and a $3 million deposit by the China Fund for the Handicapped for BTCB's high yield investment program.[173] On August 27, 1999, a First Union representative in Argentina sent an email to the international division indicating that BankBoston had called to confirm a statement by BTCB that it was a correspondent of First Union. First Union's international division replied in an email of the same date:

> They are not, but they continue to claim that they have a correspondent banking relationship with First Union. We have asked them to close an unauthorized CAP account that they

[173] For more information, see the explanation of the Gold Chance fraud in the appendix.

> opened last year. This is their only claim to a relationship with First Union. We have sent a legal advice to the bank's President, requesting that they stop promoting false facts, and to refrain from using First Union's name again. They are not a correspondent!

This email was "broadcast" to all First Union international offices as a warning about BTCB. Despite the email's exasperated tone, First Union took no further action to close BTCB's CAP account.

The next 4 months saw another $5 million move through the CAP account, including a $1 million deposit from the Robert Garner account and $300,000 from the Vector Medical Technology account.[174] December witnessed the $3 million Gold Chance deposit, followed by $3 million in wire transfers to bank accounts around the world.

Closing the BTCB Account. In late December 1999, BTCB attempted to withdraw $1 million on an account balance of about $733,000. First Union refused to approve the overdraft and another round of internal emails raised questions about the account, including the risk of monetary loss to First Union. On December 28, 1999, the First Union correspondent banker then in charge of the Americas division decided the time had come for the bank to unilaterally close the account. He telephoned BTCB and informed it that the account was going to be closed and then sent an email to the legal division stating the following:

> URGENT!! This account has significant wire and cash letter activity that is suspicious. We need to close account! I just spoke to the . . . accounts Manager at BT&C and I requested for the bank to close the account at once. He requested for me to send a letter to the bank's President. . . . This account was opened by the CAP department without International's authorization, and without any compliance requirements. I have reported this problem to Loss Prevention for over 1 year. It has turned out to be a headache for the bank, as this entity boasts to be a correspondent of First Union National Bank. . . . I need a letter as soon as possible.

In an interview, the First Union correspondent banker said that later the same day, he received a telephone call from Betts in Florida asking for the account to be kept open, at least to the end of the year, to allow completion of ongoing transactions. On December 29, 1999, First Union sent a letter to BTCB stating that the CAP account would allow fund transfers for 10 days and close in 30 days. No significant account transactions took place after that letter, aside from a final $1 million transfer to Orphan Advocates LLC. First Union notified law enforcement about BTCB's actions, and, on February 7, 2000, First Union closed the CAP account.

But the BTCB story was not over. For 6 months, First Union continued to receive reports of suspicious activity and requests to confirm a First Union correspondent relationship. On January 13, 2000, for example, Huntington National Bank in Cleveland asked

[174] For more information, see the appendix, in which the $1 million Garner transfer is discussed in connection with the $10 million CD interpleader action and the $300,000 deposit is discussed in connection with Vector Medical Technology matter.

First Union to confirm a BTCB letter of credit for $30,000. First Union personnel summed up their reaction with one word: "unbelievable." First Union sent word that it had no correspondent relationship with BTCB and would not confirm a letter of credit.

On May 1, 2000, First Union received two telexes from BTCB about a $100 million transaction. The two telexes, which contained the same message, began as follows:

> Please advise First Union National Bank Jacksonville, Florida as follows. We British Trade and Commerce Bank confirm with full responsibility the authenticity of the issuance of promissory notes numbers 1–10 with a nominal value of ten million dollars each to in total equals 100 million United States dollars in favor of St. David's Investment Trust and Bank Co., Ltd.

First Union personnel said their reaction to this $100 million telex was twofold: "unbelievable" and "this is fraud."

On May 4, 2000, First Union sent a second "broadcast" warning to all of its international personnel about BTCB. The email stated, "Please be advised that, **under no circumstances,** is business to be conducted with [BTCB] without first contacting me." [Emphasis in original text.]

On May 8, 2000, First Union sent BTCB a letter stating:

> [W]e have become aware of a Brokerage account . . . in the name of [BTCB]. We have also received two unauthenticated SWIFT messages from [BTCB] dated May 1, 2000 confirming the issuance of ten promissory notes in the amount of ten million dollars each. . . . Please be advised that it is our policy to work and maintain accounts only with foreign banking institutions that meet our internal compliance criteria and that fit our line of business criteria. [T]he Bank has ascertained that your company does not fit our requirements. . . . [E]ffective immediately, your above referenced account has been closed. Please refrain from attempting to use this account and from sending First Union National Bank or any subsidiaries thereof transaction related information or requests in the future. . . . [A]ny attempt to use First Union's services or its name will invite First Union to consider other remedies it may have.

First Union reported the telexes to law enforcement, and placed BTCB on an internal "hotlist" to prevent BTCB from opening a new account.

In July 2000, First Union received an email indicating that a Costa Rican bank was discussing a standby letter of credit with BTCB who was, again, claiming a correspondent relationship with First Union. First Union also learned that BTCB had listed First Union as one of its correspondent banks in the widely-used Polk directory of correspondent banking relationships. One First Union correspondent banker wrote: "Too late . . . it is already in the Polks directory!! We are one of their correspondents listed . . . unbelievable." But another First Union employee responded, "It's never [too] late! . . . Polk's is now going through the update process and has informed us that they will honor our written request to remove our name from BTC's entry if BTC includes us." First Union sent a letter regarding the Polks directory on July 21, 2000.

First Union personnel told Minority Staff investigators that the bank's experience with BTCB was an eye-opening lesson about how a foreign bank can misuse a U.S. correspondent relationship. They indicated that they felt BTCB had repeatedly mischaracterized its relationship with First Union, had repeatedly misused First Union's name to lend credibility to questionable transactions, and had moved suspect funds through First Union accounts.

Other BTCB-Related Accounts at First Union. In interviews, First Union personnel indicated that they had since learned of other First Union accounts with ties to BTCB.[175] They indicated that they had closed or were in the process of closing these accounts. First Union also learned from Minority Staff investigators that its correspondent account with Banque Francaise Commerciale ("BFC") in Dominica, had functioned as a conduit for BTCB banking transactions for over 2 years. An analysis of BFC monthly account statements showed transactions linked to BTCB from July 1997 until May 1999. First Union subsequently decided to close the BFC account as well.

(d) Other U.S. Banks

In addition to the bank accounts just examined, BTCB appears to have had access to a number of other U.S. based banks, including past or present accounts at Banco International de Costa Rica in Miami, Pacific National Bank in Miami, U.S. Bank, Bank of Nova Scotia in New York, the Suisse Security Bank and Trust account at Citibank, and the St. Kitts-Nevis-Antilles National Bank account at Bank of America. It may also be functioning through bank accounts opened by First Equity Corporation of Florida, FEC Financial Holdings, Inc., BTC Financial Services or other related entities. It has also carried on business through bank accounts belonging to securities firms, including PaineWebber's Correspondent Services Corporation account at the Bank of New York.

B. THE ISSUES

When it began operations in 1997, BTCB was an unknown, offshore bank in a small bank secrecy jurisdiction known for weak banking and anti-money laundering controls. BTCB was nevertheless able, within 3 years, to open accounts at several U.S. banks and move more than $85 million through the three accounts examined in this investigation. Evidence indicates that a significant portion of these funds involved illicit proceeds from financial frauds or Internet gambling. While the U.S. banks examined in this investigation closed their BTCB accounts in 7 months to 2 years, BTCB was able to replace each closed account with a new one, and con-

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[175] See chart entitled, "BTCB Related Accounts at First Union National Bank." These accounts included:

—the Robert Garner attorney account, which was opened on 1/20/98, had only a few transactions over 3 years, almost all of which appeared to involve BTCB, and was scheduled for closure in October 2000;

—an FEC Financial Holdings, Inc. account, which was opened over the telephone, operated for about 19 months from 11/12/98 until 6/30/00, and appeared to involve primarily BTCB related transactions;

—a BTC Financial Services account, which was opened on 11/2/99, appeared to involve primarily BTCB related transactions, and was scheduled for closure in October 2000; and

—numerous accounts involving Global/Vector Medical Technology, Inc., described in the appendix.

tinues to operate in the United States today. BTCB's apparent case in opening and utilizing U.S. bank accounts demonstrates how vulnerable the U.S. international correspondent banking system is to a rogue foreign bank intent on infiltrating the U.S. financial system.

Lack of Due Diligence by U.S. Banks

The BTCB case history illustrates problems in the due diligence efforts at each of the three U.S. banks examined in this investigation.

When asked to open an account, all three of the U.S. banks worked to gather information about BTCB's ownership, finances and business activities. The efforts of BIV and Security Bank were made more difficult by the fact that BTCB was a new bank with a limited track record, while First Union was able to draw on reactions to the bank after more than a year of operation. Despite their good intent and initial work, the due diligence efforts of all three are open to criticism. BIV relaxed its requirements for audited financial statements and bank references, and opened the BTCB account prior to compiling a complete file. Security Bank failed to conduct even minimal research into Dominica, waived its usual onsite visit to the bank, and failed to analyze BTCB's financial statement. First Union obtained immediate negative information on BTCB and decided against establishing a correspondent relationship, but failed to close the CAP account which BTCB then used as if it were a correspondent account. None of the three banks appear to have asked BTCB anything about BTCB's own anti-money laundering efforts.

Once BTCB began using its U.S. accounts, new warning signals emerged. All three banks witnessed sudden surges in account activity, involving millions of dollars. All three received telexes or faxes about BTCB's participation in questionable credit transactions involving $1 million, $6 million, $20 million, even $100 million. BTCB tried to pressure BIV into signing a proof of funds letter containing unusual language. BTCB tried to convince Security Bank that its high yield investment program could earn returns of 20%. BTCB ignored First Union's demands to stop claiming a correspondent relationship.

The U.S. banks' response to these warning signs was indecisive and ineffective. The BIV account officer indicated that it never occurred to her that BTCB might be engaged in wrongdoing. She assumed the sudden increase in account activity was the normal growth of a new bank. She viewed in the best possible light BTCB's letter requests, telex difficulties, and involvement in letters of guarantee for $100 million. She accepted BTCB's explanation that the repeated cash payments to its personnel involved salary payments. Neither she nor any of her superiors engaged in heightened scrutiny of an offshore bank that, despite its brief existence, remote location and limited assets, was moving millions of dollars through its BIV account. It was only after the BIV team from New York arrived that the BTCB account was reviewed with a skeptical eye, and signs of self-dealing and possible money laundering were followed by the account's immediate closure.

Security Bank personnel did not view BTCB through quite the same rose-tinted glasses as the BIV account officer, but they too gave BTCB the benefit of repeated doubts. Security Bank's international department head indicated that the bank repeatedly had concerns about BTCBs conduct, but felt they never witnessed actual wrongdoing by the bank. Security Bank knew about BTCB's high yield investment program, its lack of lending or trade activities typical of foreign banks, and its involvement in unusual, multi-million-dollar letter of credit transactions. It was aware that at least one financial fraud, committed by Koop, had utilized BTCB's account, and another depositor was fighting BTCB for the return of $1 million. Security Bank had itself repeatedly warned BTCB against wrongfully involving it in credit transactions with third parties. But Security Bank personnel showed no skepticism or reticence in providing services to an offshore bank in a remote location. The international department head said that he thought he had stopped BTCB transactions misusing Security Bank's name, and had protected the bank against loss by refusing to extend BTCB any credit. The bank's anti-money laundering personnel had assumed a correspondent account would show multi-million-dollar movements of funds and made no attempt to understand the transactions, clients or origins of the funds. The only reason Security Bank closed the BTCB account was because its name began appearing on Internet gambling websites and it did not want to be associated with gambling.

First Union initially displayed a much tougher attitude than BIV or Security Bank toward BTCB. Its initial inquiries produced an immediate negative impression of BTCB, and First Union refused to establish a correspondent relationship. Nevertheless, First Union did not initially recommend or even seem to consider closing-BTCB's CAP account. Later, when it began to receive information that BTCB was falsely claiming a correspondent relationship with First Union, misusing the bank's name in questionable transactions, and moving millions of dollars in suspect funds through its money market account, First Union responded with a weak verbal request that BTCB voluntarily close the account. When BTCB refused, First Union took another 9 months, replete with troubling incidents and additional millions of dollars, before it unilaterally closed the CAP account. The incident that finally produced decisive action was an attempted overdraft by BTCB that risked monetary loss to First Union.

Each of the U.S. banks examined in this investigation provided BTCB with access to the U.S. banking system. BIV opened the door to BTCB's U.S. activities, not only by providing BTCBs first correspondent relationship, but also by providing letters of reference for the bank, including the undated general letter relied upon, in part, by Security Bank. Security Bank personnel appeared oblivious to common signs of financial fraud, such as high yield investment programs offering double digit returns, standby letters of credit involving millions of dollars, and a small foreign bank with no lending or international trade portfolio but alleged access to tens of millions of dollars. First Union provided a major boost to BTCB's U.S. profile by allowing it to keep a money market account for 2 years despite mounting evidence of misconduct—a decision of

increasing significance in U.S. financial circles, given the consolidation of the U.S. banking and securities industries and the uneven anti-money laundering controls being applied to securities accounts.

None of the three U.S. banks appeared sufficiently aware of or alarmed by the potential damage that a single rogue foreign bank with a U.S. bank account could cause in the United States. The potential damage is illustrated by the facts of the BTCB case history, with all its suspect transactions, client complaints, correspondent abuses, law enforcement investigations, and prosecutions. Here, a single foreign bank accepted $8 million in proceeds from the Koop and Cook frauds, facilitating the swindling of hundreds of U.S. investors, with their resulting criminal prosecutions and civil recovery proceedings. It accepted $3 million in Gold Chance fraud proceeds leading to civil litigation in Canada and related discovery proceedings in the United States. It issued a $10 million bearer-share CD, resulting in lengthy civil litigation in New York, and took $1 million from a Malaysian investor who is still trying to recover his money through complaints to officials in Dominica and the United States. These and other BTCB-related investigations and proceedings continue to clog U.S. courts and consume U.S. law enforcement resources, while tarnishing the U.S. banking system with questions about its safety, integrity and money laundering risks. None of it would have happened if the U.S. banks had not opened their doors and their dollar accounts to BTCB, an offshore bank in a suspect jurisdiction.

Difficulties in Seizing Illicit Funds

The BTCB case history also illustrates the legal difficulties involved in seizing funds related to financial frauds from a U.S. correspondent account. The Koop, Cook, and Gold Chance proceedings involve fraud victims seeking the recovery of millions of dollars. In proceeding after proceeding, BTCB has contested jurisdiction and impeded discovery.

In *Schmidt v. Koop,* for example, a defrauded investor filed civil suit in a Federal court in New Jersey to recover $2.5 million he wire transferred to BTCB. BTCB claimed that the U.S. court had no jurisdiction over it and responded to discovery requests with claims that it had no accounts for Koop or his company. It was only after Koop pleaded guilty to criminal charges and sent BTCB written authorization to disclose information about his accounts that BTCB admitted the existence of five Koop-related accounts and produced limited documents for them, in exchange for being dismissed from the suit. It has not returned any funds to the defrauded investor, even though it may have $1.3 million in Koop-related funds. In the Gold Chance civil suit, the fraud victims have named BTCB a defendant and are actively seeking return of their funds. BTCB is contesting jurisdiction and has refused to return the disputed $3 million. In the Cook case, a receiver appointed by the SEC to recover funds for defrauded investors was never told by BTCB that BTCB had invested funds for some of the fraud victims and may still retain possession of some of the money. The SEC receiver is still mulling his legal options for compelling discovery and seizing funds from this bank's U.S. accounts.

BTCB is contesting jurisdiction in the United States, despite its U.S. ownership, affiliation with U.S. firms, numerous U.S. clients and multiple U.S. accounts. It does not volunteer any information about its U.S. business activities, and litigants are not having an easy time investigating or proving them. Should jurisdiction be established, BTCB could then draw upon a body of U.S. law giving it added protections against seizing funds from its U.S. accounts.[176] BTCB's conduct in the legal proceedings suggests that it is well aware of the legal protections afforded to U.S. correspondent accounts and the difficulties involved in obtaining information or funds from an offshore bank in a bank secrecy jurisdiction.

BTCB MONTHLY ACCOUNT ACTIVITY AT BANCO INDUSTRIAL DE VENEZUELA (MIAMI OFFICE)

October 1997–June 1998

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
October 1997	$0	$1,005,000	$25,020	$980,195
November 1997	$980,195	$0	$25,020	$958,052
December 1997	$958,052	$0	$953,473	$5,860
January 1998	$5,860	$49,784	$9,413	$46,231
February 1998	$46,231	$1,224,688	$820,886	$99,980
March 1998	$99,980	$2,294,532	$181,742	$2,565,499
April 1998	$2,565,499	$4,573,517	$474,375	$6,679,330
May 1998	$6,679,330	$7,878,012	$11,095,470	$3,498,560
June 1998	$3,498,560	$0	$3,498,560	$0
TOTAL:		**$17,025,533**	**$17,061,441**	

Prepared by U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, November 2000.

[176] See Chapter V (G) of this report.

BTCB MONTHLY ACCOUNT ACTIVITY AT SECURITY BANK N.A.

June 1998–March 2000

E-Z Checking–01 and Supernow Account–02 [177]

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
June 1998	$0	$7,531,481	$2,843,531	$4,702,514
July 1998	$4,702,514	$1,959,222	$4,311,023	$2,349,448
August 1998	$2,349,448	$2,706,444	$4,076,552	$983,035
September 1998	$983,035	$3,503,107	$1,362,231	$3,128,526
October 1998	$3,128,526	$9,104,555	[178] $11,525,055	$199,781
November 1998	$199,781	$2,471,456	$1,142,509	$1,513,716
December 1998	$1,513,716	$1,256,985	$2,436,698	$334,430
January 1999	$334,430	$932,660	$1,075,860	$139,939
February 1999	$139,939	$3,927,591	$3,346,225	$722,161
March 1999	$722,161	$740,980	$1,914,233	$41,262
April 1999	$41,262	$1,776,821	$698,192	$1,119,728
May 1999	$1,119,728	$543,072	$0	$1,726,521
June 1999	$1,726,521	$1,346,212	[179] $2,603,353	$447,978
July 1999	$447,978	$943,969	$885,209	$485,338
August 1999	$485,338	$1,276,015	$1,497,505	$275,793
September 1999	$275,793	$1,591,406	$1,764,662	$100,866
October 1999	$100,866	$1,233,542	$718,733	$617,388
November 1999	$617,388	$1,175,632	$1,326,191	$236,179
December 1999	$236,179	$2,285,069	$1,907,943	$387,808
January 2000	$387,808	$1,546,739	$1,460,796	$464,204
February 2000	$464,204	$1,679,586	[180] $2,187,400	$103,244
March 2000	$103,244	$1,333,168	$1,439,092	$4,944
TOTAL:		**$50,865,712**	**$49,310,114**	

Prepared by U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, November 2000.

[177] Records were subpoenaed from June 1998 to March 2000. The account remained open until July 2000.
[178] Includes $6 million withdrawal from Supernow Account-02.
[179] Includes $1 million withdrawal from Supernow Account-02.
[180] Includes $200,000 withdrawal from Supernow Account-02.

BTCB MONTHLY ACCOUNT ACTIVITY AT FIRST UNION

September 1998–February 2000

MONTH	OPENING BALANCE	DEPOSITS [181]	WITHDRAWALS [182]	CLOSING BALANCE
September 1998	$0	$10,000	$0	$9,912
October 1998	$9,912	$0	$0	$9,941
November 1998	$9,941	$190,000	$0	$200,185
December 1998	$200,185	$52,041	$0	$252,862
January 1999	$252,862	$109,441	$175,000	$187,804
February 1999	$187,804	$278,980	$0	$467,449
March 1999	$467,449	$9,500	$462,000	$15,941
April 1999	$15,941	$6,250,445	$3,929,780	$2,336,908
May 1999	$2,336,908	$40,000	$1,755,818	$617,476
June 1999	$617,476	$3,131,007	$1,665,228	$2,070,975
July 1999	$2,070,975	$94,055	$2,162,187	$3,502
August 1999	$3,502	$2,367,820	$732,900	$1,642,611
September 1999	$1,642,611	$226,263	$1,837,721	$32,068
October 1999	$32,068	$1,363,509	$806,375	$589,525
November 1999	$589,525	$289,243	$804,275	$74,951
December 1999	$74,951	$3,986,184	$3,051,363	$1,011,538
January 2000	$1,011,538	$2,655	$1,014,175	$211
February 2000	$211	$56	$229	$0
TOTAL:		**$18,401,199**	**$18,397,051**	

Prepared by U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, November 2000.
[181] Does not include interest/dividend payments.
[182] Does not include wire transfer or annual fees.

BTCB RELATED ACCOUNTS AT FIRST UNION

ACCOUNT HOLDER	TYPE OF ACCOUNT	ACCOUNT NUMBER	ACCOUNT STATUS	REMARKS
British Trade & Commerce Bank	CAP BRK	998–387–1373 17624265	Open 9/17/98–2/4/00 Open 9/17/98–2/4/00	Key account Never used
Banque Francaise Commerciale	DDA–corporate IIDA IIDA	209–000–140–8334 200–009–067–1052 200–009–060–0120	Open 5/15/96–now Open 8/28/98–5/17/99 Open 5/14/99–now	
FEC Financial Holdings Inc.	DDA–corporate	202–000–072–6184	Open 11/12/98–6/30/00	
BTC Financial Services Inc.	DDA–corporate	200–000–282–1162	Open 11/2/99–now	
Robert F. Garner Attorney At Law	DDA–corporate	202–000–035–7100	Open 1/30/98–now	
Global/Vector Medical Technologies Inc.	DDA–corporate CAP DDA–corporate DDA–corporate DDA–corporate BRK Money manager	209–000–294–6659 998–324–6063 200–000–276–0469 200–000–276–0375 200–000–748–1837 24021271 4063000997	Open 9/30/98–11/01/99 Open 1/6/99–now Open 8/30/99–now Open 9/8/99–now Open 5/10/00–now Open now Open now	Key account $5–$8 million $6–$7 million Possibly other accounts in First Union private bank
Michael H. Salit, M.D.	DDA–individual	109–001–566–5656	Open 4/28/98–now	
Signal Hill Media Grp	DDA–corporate	200–000–677–7665	Open 6/30/00–now	

Prepared by U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, December 2000

Case History No. 5

HANOVER BANK

Hanover Bank is an offshore shell bank licensed by the Government of Antigua and Barbuda (GOAB). This case history looks at how an offshore bank, operating well outside the parameters of normal banking practice with no physical presence, no staff, virtually no administrative controls, and erratic banking activities, transacted business in the United States by utilizing a U.S. correspondent account belonging to another foreign bank and became a conduit for millions of dollars in suspect funds.

The following information was obtained from documents provided by GOAB, Hanover Bank, and Harris Bank International; court pleadings; documents associated with regulatory proceedings in Jersey and the United Kingdom; interviews of persons in Antigua and Barbuda, Ireland, Jersey, the United Kingdom and the United States; and other materials. A key source of information was a June 26, 2000 interview of Hanover Bank's sole owner, Michael Anthony ("Tony") Fitzpatrick, an Irish citizen who voluntarily cooperated with the investigation. Another key bank official, Richard O'Dell Poulden, a British citizen no longer with the bank, refused to provide either an interview or answers to written questions. Two additional key interviews were conducted on March 30, 2000, with William H. Koop, a U.S. citizen who has pled guilty to laundering money from a financial fraud through Hanover Bank, and on July 23, 2000, with Terrence S. Wingrove, a British citizen fighting extradition to the United States to stand trial on criminal charges related to the Koop fraud.[183] Wingrove was interviewed at Wormwood Scrubs prison in London. The investigation also greatly benefited from assistance provided by the Antigua and Barbuda Government, the Jersey Financial Services Commission, and the Jersey Attorney General.

A. THE FACTS

(1) Hanover Bank Ownership and Management

The Hanover Bank, Ltd. ("Hanover Bank") was established as an international business corporation on August 12, 1992. According to one document, the bank received its offshore banking license the same day; according to another, the license was actually granted 4 months later on December 8, 1992. As of this writing, Hanover Bank remains a fully licensed offshore bank. Throughout its existence, the bank has had no physical office or permanent staff other than Fitzpatrick, the bank's sole owner, who operates the bank from his residence in Ireland.

Hanover Bank's Formation. When asked how Hanover Bank got started and how he ended up as its sole owner and chief executive despite a lack of banking experience, Fitzpatrick provided the following information. Fitzpatrick indicated that, in 1992, when he

[183] See *United States v. Koop* (U.S. District Court for the District of New Jersey Criminal Case No. 00–CR–68); *United States v. Wingrove* (U.S. District Court for the District of South Carolina Criminal Case No. 0:00–91); and *United States v. Cabe* (U.S. District Court for the District of South Carolina Criminal Case No. 0:00–301). See also the description of the Koop fraud in the appendix.

decided to try to open an offshore bank in Antigua and Barbuda, he realized he would need assistance from persons with banking experience. Fitzpatrick stated in his interview that he was "not a banker" and did not have any banking experience prior to his involvement with Hanover Bank. He said that his business background was in marketing, and later noted that he had never "gone to university." A copy of his resume, which he submitted to GOAB in 1993 in connection with Hanover Bank, lists credentials in the field of journalism and public relations, including serving from 1981-82, as public relations advisor to the Honorable Charles Haughey, then Prime Minister of Ireland.

Fitzpatrick turned to two individuals with banking experience to help him establish Hanover Bank. The first was Richard O'Dell Poulden, a British citizen with whom Fitzpatrick had done business in the past. He said that he turned to Poulden, because Poulden's credentials, which include a London and Harvard Business School degree, an Oxford law degree, and work at a leading merchant bank and accounting firm, would impress GOAB authorities, and because Poulden's business connections would help attract deposits for the bank. He said that Poulden agreed in a telephone call to serve as the bank's nominal owner and chairman.

The second individual with banking experience who helped Fitzpatrick establish Hanover Bank was William W. Cooper.[184] Fitzpatrick said that he met Cooper through the Antiguan office of PriceWaterhouse (now PriceWaterhouseCoopers), an accounting firm he had contacted for assistance. Fitzpatrick said that he worked with one of the PriceWaterhouse partners, Don Ward, to set up the bank. He said that Ward introduced him to Cooper, an American who was an Antiguan resident with extensive banking experience and who owned Antigua Management and Trust, Ltd., which was experienced in obtaining bank licenses. He said that GOAB law required a local director for each of its banks, and Cooper had agreed to serve as Hanover Bank's local director. He said that Ward also introduced him to Justin L. Simon, an Antiguan citizen who was then legal counsel to PriceWaterhouse and who agreed to serve as the bank's local registered agent, another requirement under GOAB law. He indicated that PriceWaterhouse prepared the paperwork necessary to "set up the bank for me."[185] Fitzpatrick said that he paid PriceWaterhouse a total of $25,000, of which $10,000 went for the bank's initial licensing fees.

GOAB documentation corroborates this description of Hanover Bank's formation. The August 1992 application to establish Hanover Bank Ltd., for example, lists Cooper and Simon as the company's original "incorporators," as does the company's articles of incorporation. The company's by-laws state that the "initial Board of Directors shall consist of the following members: Justin Simon, Richard O'Dell Poulden and Antigua Management & Trust Ltd." [Lower case letters added to original text.] The banking license application names the same three "proposed directors" for the bank. Although Fitzpatrick's name does not appear on any of the 1992 in-

[184] Cooper is also associated with American International Bank, another case history examined in this investigation.

[185] Fitzpatrick and Poulden also established Hanover Nominees Ltd., described in Fitzpatrick's resume as a "marketing subsidiary of The Hanover Bank."

corporation or licensing documents, Simon confirmed that Fitzpatrick was the moving force behind the formation of the bank. Cooper also recalled Fitzpatrick's being associated with the bank from its inception.

When asked, Fitzpatrick indicated that although he was the initial organizer and financial backer of Hanover Bank, he did not undergo any due diligence review by GOAB authorities in 1992. He said that GOAB authorities instead focused on Poulden, who was then the bank's sole shareholder and chief executive. Because Poulden refused to respond to requests for information, he did not provide any description of his role in Hanover Bank's formation. Ward of PriceWaterhouseCoopers also declined to cooperate with the investigation and so was unavailable to answer questions about his role in the bank's formation.

In early 1993, Fitzpatrick was listed for the first time in filings submitted by the bank to GOAB as Hanover Bank's sole owner. Notice of his status is recorded in a Hanover Bank corporate resolution which was signed by Fitzpatrick, as sole shareholder, and submitted to GOAB on March 31, 1993. The resolution stated that Hanover Bank had replaced Antigua Management & Trust Ltd. with two new directors, Fitzpatrick and Cooper. The official form notifying the government of this change did not explain how Fitzpatrick had become the bank's sole shareholder, nor what happened to Poulden.

According to Fitzpatrick, Poulden had decided to resign from the bank after the Clerical Medical scandal, described below, and, in 1993, transferred all of his shares to Fitzpatrick, in return for about $200,000 that was never paid. Simon also recalled a transfer of shares in 1993, and promised to look for the official notification to the government of the change in bank ownership. Although neither Fitzpatrick nor Simon produced documentation to substantiate this explanation of how Fitzpatrick assumed control of the bank, the investigation found no evidence to contradict it. It is undisputed that, from 1993 to the present, Fitzpatrick—a man without any banking experience—took control of Hanover Bank and served as its sole owner and chief executive.

Hanover Bank Management. Hanover Bank's chief executive, holding the titles of Chairman of the Board and Managing Director, has long been Fitzpatrick. The bank has no other paid staff, either on a management or clerical level, although Fitzpatrick indicated that the bank could hire employees on a part-time basis if needed and has paid commissions to individuals in the past for bringing in deposits or performing other services. Fitzpatrick said during his interview that it had always been his intent to hire professionals to manage Hanover Bank, but the persons he had dealt with had "never delivered," and he had essentially been operating the bank on his own "most of the time." He said that he believed his lack of banking experience and misjudgements had contributed to problems at the bank.

GOAB documentation does not identify Hanover Bank's management team other than Fitzpatrick, but does record 8 years of frequent changes in Hanover Bank's directors, including nine individ-

uals and one company.[186] The Bankers Almanac, a leading source of information about banks worldwide, states in a 1999 entry for Hanover Bank that the bank had five employees, including three executives besides Fitzpatrick: John Burgess, described as the bank's "general manager"; Brian Shipman, in the bank's "International Division"; and Jeffre St. James, in the bank's "Foreign Exchange & Documentary Credits" division. Older versions of the Bankers Almanac list Poulden as the general manager and Peter Coster as the head of correspondent banking. When asked about the Bankers Almanac information, Fitzpatrick said the named individuals had been bank employees or officers in the past, although never "full time." However, Burgess told a Minority staff investigator that, although he had received commissions from the bank and did "not want to embarrass Tony," he had never been a Hanover Bank employee. When told that the Bankers Almanac described him as Hanover Bank's general manager, Burgess laughed and said, "That's the first I've heard of it."

Proposed Bank Sale in 1998. Fitzpatrick indicated in his interview that he had attempted several times to sell Hanover Bank and was still interested in selling it. He said that one set of negotiations took place in 1998, when Poulden telephoned him unexpectedly and asked whether he would consider selling Hanover Bank to a group of Japanese stockbrokers looking to form a financial group. Fitzpatrick indicated that he would, and said it was unclear whether Poulden was representing the group as an attorney or as a business partner who might become one of the bank owners. He said that Poulden introduced him to Theoddor Tsuru and Takuma Abe, two Japanese businessmen who appeared to be part of the group negotiating to buy Hanover Bank, although Poulden never identified the specific individuals involved. Fitzpatrick said that Poulden engaged in detailed negotiations on behalf of the group, including settling on a $1 million purchase price and proposing to structure the sale by using a company to purchase the bank. He said that the designated company was at first Cranest Capital S.A., a company that appeared to be associated with Tsuru, but it later changed to Societe Suisse S.A., a bearer share corporation then owned by Poulden. Societe Suisse S.A. made an initial payment of 20,000 towards the purchase price, and a second payment of $100,000 was made from another source, before the deal fell through during the summer of 1998.

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[186] Hanover Bank's directors included the following:

4/92 Initial directors: Simon, Poulden, and Antigua Management & Trust Ltd. (AMT), the company owned by Cooper.

3/93 AMT was removed as a director, and Fitzpatrick and Cooper were appointed. Although the status of Simon and Poulden is unclear from the documentation, it appears that Simon remained a director, while Poulden resigned during 1993.

Cooper resigned at some point.

C. Peter Crawshay appointed at some point.

10/97 Crawshay resigned on 10/7/97, and Peter Coster was appointed. Directors were: Fitzpatrick, Simon, Coster.

3/98 Poulden and Tbeoddor Tsuru appointed directors by bank resolution on 3/12/98, with notice provided to GOAB on 5/11/98, in Hanover Bank's annual report (item 5). Directors were: Fitzpatrick, Poulden, Tsuru, Simon and Coster. Tsuru appointment was later rescinded, and Poulden apparently resigned or his appointment was ended at some point in 1998.

4/99 Coster resigned.

11/99 Mohammad Jawad and Michael Gersten appointed. Directors were: Fitzpatrick, Simon, Jawad and Gersten.

Fitpatrick said that as part of the purchase negotiations, Poulden had requested and he had agreed to immediately appoint Poulden as the chairman of the bank and to appoint Tsuru as a director. He said that Hanover Bank issued a corporate resolution in March 1998 appointing both men to the board of directors, but never filed formal notice of the change in directors with the government, as required by GOAB law, so the appointments never became final. When asked why the required papers were not filed, he said that he had been keeping them until closure of the deal and awaiting final paperwork from Poulden and Tsuru that never arrived. Fitzpatrick stated that he did not conduct any due diligence review of Tsuru prior to appointing him a bank director, but relied on Poulden's judgment as to Tsuru's reputation and suitability. He said when he later learned of Tsuru's possible involvement in the Casio fraud, described below, he rescinded the Tsuru appointment. He said the Poulden board appointment also ended after the bank purchase fell through.

Documentation obtained by the investigation indicates that, whether or not the Poulden and Tsuru appointments became final under GOAB law, during 1998, Poulden repeatedly represented himself as the bank's chairman. In addition, Hanover Bank's 1997 annual submission to the GOAB announced in Note 5, "two new appointments to the Board of Directors," naming Poulden and Tsuru. Poulden also exercised joint signatory authority over Hanover Bank's correspondent account at Standard Bank, which was opened in 1998. Fitzpatrick explained that he had agreed to make Poulden a signatory on the account, because Poulden had helped convince Standard Bank to open the correspondent account, he thought Poulden would attract new business to the bank, and his group would soon be the bank owner. He said that he did not give Poulden sole signatory authority over the account, because he had to protect the assets of the bank until the purchase was complete. He said that because the transfer of ownership over the bank was still "in transition," it had seemed appropriate for them to share control over the Hanover account and so became joint signatories.

Fitzpatrick indicated that, while serving as bank chairman in 1998, Poulden also became actively involved in the bank's management. He said that Poulden opened accounts, attracted new deposits, and approved all outgoing wire transfers. He said he had communicated with Poulden two or three times per week, usually by telephone or fax. He said that he had also traveled with Poulden to Antigua and introduced him to government officials and other business contacts. Fitzpatrick indicated that Poulden's management role at the bank had ended when the purchase agreement fell through in the latter half of 1998.

Fitzpatrick said that he had entertained other offers to buy Hanover Bank as well. He said that one of the bank clients, Terrence Wingrove, had repeatedly expressed interest in buying the bank in 1998, but never took any concrete action to do so. In 1999, he said, two British residents, Mohammad Jawad and Michael Gersten, had offered to buy the bank for $500,000. He appointed them directors in November 1999, and notified GOAB authorities. As of December 2000, however, the bank had not yet changed hands.

(2) Hanover Bank Financial Information

GOAB law requires offshore banks to submit annual audited financial statements. Hanover Bank's financial statements for 3 years, 1997, 1998 and 1999, were audited by Vaghela Unadkat & Co., which the investigation has been told is a one-man firm operating out of the accountant's residence in Birmingham, England. These statements show, over a 3-year period, tremendous swings in Hanover Bank assets, liabilities and expenses, as well as significant payments to Fitzpatrick.

The 1997 statement depicted an active bank with rapidly growing earnings, and net profits of over $1.3 million.[187] It indicated that customer deposits had skyrocketed over the prior year to almost $14 million, almost all of which would turn out to be related to the Koop and Casio frauds, described below. The financial statement also showed a dividend payment to Fitzpatrick, the bank's sole shareholder, of $350,000.

The 1998 statement presented a more mixed picture of the bank, but an even larger dividend payment to Fitzpatrick.[188] Net profits were about $1 million. Customer deposits had fallen from $14 million to $650,000. The dividend payment to Fitzpatrick had climbed to $1.9 million, twice the amount of net profits.

The 1999 statement depicted a much less active and profitable bank.[189] Net profits were 80% lower, at about $211,000. Customer deposits had fallen another 10% to about $563,000. No dividend payment was made to Fitzpatrick. This statement covers the period in which, according to Fitzpatrick, Hanover Bank had ceased operations and kept its funds in its solicitor's account in London.

The three financial statements show wild swings in the bank's assets and liabilities. In the space of a year, customer deposits plummeted from $14 million to $650,000; Hanover Bank's own deposits fell from $1.2 million to $150,000; commission payments dropped from $344,000 to $24,000; securities valued at $5 million

[187] Assets included "[f]ee income" of over $1.3 million, and "[i]nterest receivable" of over $1.1 million, both of which showed a tenfold increase over the prior year. Expenses exceeded $1 million, including "[m]anagement charges" of $124,500; "[c]ommissions and consultancy fees" of almost $276,000; travel expenses exceeding $93,000; and interest charges exceeding $562,000. The financial statement showed "[c]ash & inter bank deposits" of $1.2 million; "Government securities" valued at about $1 million; "[o]ther listed securities" valued at $4.1 million; and "[b]ills of exchange" valued at $6.4 million. "Loans and advances" were $3.4 million. "Issued share capital" was $1 million, the minimum required under GOAB law. Audit and accountancy fees were a bargain, just $15,000.

[188] Assets showed fee income had dropped to about $965,000, while interest receivables had increased to about $1.4 million. Expenses again exceeded $1 million, including management charges of $82,000; commissions and consultancy fees of more than $344,000; travel expenses exceeding $71,000; and interest charges exceeding $645,000. A new expense for "[f]oreign exchange trading losses" exceeded $186,000. At the same time, "[c]ash and inter bank deposits" had fallen tenfold to about $150,000. Assets represented by securities were zeroed out, while "[b]ills of exchange" had risen slightly to $6.5 million. "Loans and advances" had increased significantly to $5.6 million. "Issued share capital" increased fivefold, from $1 million to $5 million, in response to GOAB's new capital requirement for offshore banks. At the same time, the financial statement included a new entry for $4 million in "[p]romissory notes," suggesting that the bank's $4 million in additional capital might have been financed through a book entry loan. Audit and accountancy fees remained at $15,000.

[189] Fee income had fallen to about $119,000, and interest receivables were down to about $283,000. Expenses had also fallen, with management charges down to $60,000; commissions and consultancy fees down tenfold to $24,000; travel expenses halved to about $37,000; and both interest charges and foreign exchange losses zeroed out. "Cash & inter bank deposits" were down to about $66,000. "Bills of exchange" were down tenfold to $658,000. "Loans and advances" were down a similar amount to about $630,000. A new category of liability appeared called "Directors loan accounts," for about $84,000. The promissory note total had increased to about $4.2 million. Audit and accountancy fees were halved to $7,500.

disappeared; foreign exchange losses of $186,000 appeared one year and disappeared the next; dividend payments swung from $1.9 million to nothing. These financial statements suggest an offshore bank that was neither stable nor engaged in the prudent banking activities typical of a U.S. financial institution subject to safety and soundness regulation.

(3) Hanover Bank Correspondents

Fitzpatrick told the investigation that he kept 100% of Hanover Bank's client deposits in correspondent accounts. Although the Minority Staff investigation never discovered any U.S. bank that opened a correspondent account for Hanover Bank, Hanover Bank nevertheless gained access to the U.S. banking system by using U.S. correspondent accounts belonging to other foreign banks, such as American International Bank and Standard Bank.

American International Bank. Fitzpatrick indicated that when Hanover Bank began operation in 1992, he opened its first correspondent account at American International Bank (AIB), an offshore bank that was also licensed in Antigua and Barbuda. He said that he left this account open for years, despite making little use of it. He indicated that, in 1997, he received a letter from Overseas Development Bank and Trust (ODBT) indicating that AIB had gone into liquidation and ODBT would be opening an office in Antigua and taking over AIB's accounts. He said that he, again, left Hanover Bank's account open and, in a 1997 submission to GOAB, listed "Overseas Development Bank Ltd." in Antigua as Hanover Bank's "banker." He said that he later learned ODBT had closed its Antiguan office, but continued to operate in Dominica.

AIB and OBDT each opened a number of correspondent accounts in the United States, as explained in the AIB case history. By maintaining an account at AIB and then ODBT, Hanover Bank maintained access to their U.S. correspondent accounts as well. Fitzpatrick said that, in 2000, he had telephoned ODBT to see if he could deposit a client's funds in Hanover Bank's account at that bank. He said he was informed that ODBT had unilaterally closed the Hanover Bank account due to inactivity, and he took no steps at that time to re-open it.

Standard Bank/Harris Bank International. Fitzpatrick said that he soon discovered that clients in Europe did not want to deal with a bank whose only correspondent was another Antiguan offshore bank. He said that is why, in 1992, Hanover Bank opened a correspondent account at Standard Bank Jersey Ltd. According to the Bankers Almanac, Standard Bank Jersey Ltd. is a subsidiary of Standard Bank Offshore Group Ltd., and is related to The Standard Bank of South Africa Ltd., a major financial institution with over $22 billion in assets, and subsidiaries and related companies worldwide. According to the Bankers Almanac, Standard Bank Jersey Ltd. alone has over 200 employees and more than $600 million in assets.

When asked how Hanover Bank was able to open a correspondent account at Standard Bank Jersey Ltd. ("Standard Bank"), Fitzpatrick attributed it to Poulden's business contacts. He said that, in 1992, Poulden served on the boards of several companies, including a venture capital company whose board included

David J. Berkeley, then managing director of Standard Bank. He said that Poulden telephoned Berkeley directly to request a correspondent account for Hanover Bank. He said it was his understanding that Berkeley immediately agreed on the telephone, and the account opening forms were a mere formality. Because Standard Bank declined to respond to requests for information, it has not provided a description of or documentation related to the 1992 account opening.

Fitzpatrick stated that he knew in 1992, that Standard Bank had a U.S. dollar account with Harris Bank International in New York, and that by opening an account with Standard Bank in Jersey, Hanover Bank would be able to transact business through Standard Bank's account in the United States.

Fitzpatrick indicated that Standard Bank closed the Hanover account in 1993, after less than a year, due to the Clerical Medical scandal, described below. However, he said that 6 years later in 1998, Standard Bank opened a new account for Hanover Bank, again after Poulden contacted Berkeley, who was still at Standard Bank. Fitzpatrick explained that, to strengthen the bank in connection with the proposed 1998 sale, Poulden had, again, telephoned Berkeley and reached him at an airport. He said that Berkeley gave his approval for the correspondent account during the telephone call, instructed Poulden to wait 5 minutes to give him time to contact a Standard Bank employee, and then to call that employee who would provide him with an account number. He said that Berkeley told Poulden that he could complete the account opening documentation at a later time. He said that the Clerical Medical scandal was not discussed. He said that Poulden followed the instructions and immediately obtained an account number for Hanover Bank from a Standard Bank employee. He said they later met with Standard Bank employees in person and completed the account opening documentation. Fitzpatrick said that Standard Bank should not have opened the account in the way that it did, but it was instructive to him to see that large banks also sometimes broke the rules.

Because Standard Bank declined to respond to requests for information, it has not provided a description of or documentation related to the 1998 account opening. What is known, however, is that Jersey banking regulators subsequently investigated and censured Standard Bank for exercising inadequate due diligence in opening the Hanover Bank account. In a statement issued on July 13, 2000, the Jersey Financial Services Commission stated that, in opening the Hanover Bank account, "the senior officers [at Standard Bank] directly involved failed to follow proper procedures" and "[t]he conduct of the Bank fell well short of the standards expected by the Commission" with respect to due diligence. As a result of the investigation, Berkeley and another senior official left Standard Bank. The Commission's July statement observed: "The Commission is also satisfied that senior management changes in place, including the departure of the officers concerned, have strengthened the management of the Bank." When contacted by Minority Staff about this investigation, Jersey regulators indicated that the facts they uncovered did not match Fitzgerald's description of the 1998 account opening, but declined to provide the text of the report, a de-

scription of their findings or the underlying documentation, because the report had not been made public. The regulators indicated that, as a rule, such reports are not made public, although the Commission had yet to make a decision with respect to the Hanover Bank matter.

Fitzpatrick indicated that Hanover Bank actually used the Standard Bank correspondent account for only about 3 months, primarily from April to June 1998, after which the account was frozen amid questions regarding possibly suspicious activity. Fitzpatrick said the account was actually closed in December 1998 or January 1999.

Documents obtained by the investigation substantiate this description of the Hanover correspondent account at Standard Bank. In response to a Subcommittee subpoena, Harris Bank International provided copies of Standard Bank account statements for 1998 and 1999. These account statements and related wire transfer documentation show Hanover transactions taking place over approximately a 3-month period, with the first on March 30, and the last on June 16, 1998. Harris Bank International also provided a copy of a June 14, 2000 letter from Standard Bank attaching "a schedule detailing all items relating to Hanover Bank which were received and paid through Harris Bank for the whole period during which Hanover Bank maintained accounts with our client." The Standard Bank schedule shows a total of about $17.4 million in deposits and $13.9 million in withdrawals moving through the Harris Bank International over the 3-month period. Other documentation indicates that Hanover Bank made use of other Standard Bank correspondent accounts, for example, to transact business in British pounds or Australian dollars. Harris Bank did not have, and Standard Bank did not produce any records relating to the closing of the Hanover Bank account in late 1998 or early 1999.

Hanover Bank has had at least a few other correspondent accounts during its 8 years of existence, including a 1992 account at Lombard National Westminster Bank in Cyprus, and perhaps an account at a bank in Switzerland. The investigation did not attempt to document its non-U.S. correspondent accounts.

No Current Correspondent Bank. Fitzpatrick indicated that, as of his June 2000 interview, Hanover Bank had become inactive and had no correspondent account at any bank. According to Fitzpatrick, all remaining funds in the Hanover Bank account at Standard Bank had been transferred in late 1998 or early 1999 to an attorney trust account belonging to Finers in London, Hanover Bank's legal counsel. He indicated that funds remained in that account, although reduced, in part, by legal fees. The bank's 1998 financial statement shows that Hanover Bank also paid Fitzpatrick a 1998 " dividend" of $1.9 million, twice the amount of the bank's net profits. It is unclear whether any client deposits were used for the dividend.

(4) Hanover Bank Operations and Anti-Money Laundering Controls

Because the investigation was interested in the day-to-day operations of a shell offshore bank, Minority Subcommittee investigators interviewed Fitzpatrick about how his bank actually conducted

business. His explanations and other information provide vivid details about a bank operating with few, if any, of the administrative procedures and internal controls in place at U.S. banks.

According to Fitzpatrick, Hanover Bank did not have a permanent office or a permanent staff other than himself, and he was not a banker or accountant by training. Fitzpatrick said that he generally kept records associated with Hanover Bank at his residence in Ireland, although Poulden also kept some records during the time he was associated with the bank. Fitzpatrick stated that he did not have "computerized" records for Hanover Bank in Ireland, nor did the bank have an electronic ledger.

Fitzpatrick indicated that, for about a 6-month period in 1997, the bank used the services of an Antiguan company called American International Management Services Ltd. ("AIMS") to handle Hanover Bank's back office operations, including administering its client accounts and keeping the bank's books.[190] He said that he had visited the company in Antigua and found a "very professional" operation handling administrative matters for six or seven "small obscure banks like mine." He said, however, that Hanover Bank could not afford the $5,000 per month cost. He also described an unpleasant encounter with the head of AIMS, John Greaves, over what he described as improper disclosures of confidential information to a Hanover Bank client, which led him to sever relations with AIMS and return to operating the bank on his own.

Fitzpatrick said that Hanover Bank kept 100% of its client funds in its correspondent accounts. He said that the bank dealt mostly in U.S. dollars, but also occasionally in other major currencies such as sterling or yen. He said the bank usually had only a few client accounts open at a time, and he kept track of each client's funds by analyzing the monthly account statements sent by the correspondent banks. He said the monthly statements showed all of the deposits, withdrawals and fees affecting the Hanover Bank accounts, and he would use this information to attribute deposits, withdrawals and fees to Hanover Bank's individual client accounts.

Fitzpatrick said that Hanover Bank did not routinely prepare bank statements for its clients, nor did it pay interest on client funds. He said that most persons using a bank like his were concerned about confidentiality, and did not want monthly statements sent to them because they did not want others knowing they had an offshore bank account. He said the bank usually prepared account statements only upon request. He described one occasion in 1998, when he and Poulden together typed up statements for two client accounts, the Wingrove and Doi accounts, using Poulden's computer in England. He said they prepared the statements without assistance from anyone else, using the information in correspondent banks' monthly statements. His description indicated that it was an unusual and ad hoc effort.

One of Hanover Bank's clients, Terrence Wingrove, who was interviewed by Minority Staff investigators, confirmed that the bank did not routinely prepare account statements. When asked how he felt about not receiving monthly account statements, Wingrove said, "You don't go into a fish and chip shop and ask for

[190] AIMS is also discussed in the case history for American International Bank.

filet mignon." He said that he had trusted Fitzpatrick to handle his money properly, without worrying about the paperwork, and had told Fitzpatrick, "If my money goes walkabout, you go walkabout. That wasn't a threat, it was a promise." He said that, while Hanover Bank was not the most "efficient" bank, Fitzpatrick had acted as his "personal banker" and provided acceptable service, which was why he had maintained an account there.

When asked how Hanover Bank found clients, Fitzpatrick indicated that it was willing to pay commissions to individuals who brought deposits to the bank. He said the bank also had an entry in the Bankers Almanac, which helped demonstrate to clients that the bank was an established institution with an 8-year track record. He said that the bank did not engage in extensive marketing efforts, which was one reason it had so few accounts at a time.

Subsequent to the Fitzpatrick interview, another Hanover Bank client, John Burgess, voluntarily contacted a Minority Staff investigator and discussed his experience with the bank. Burgess said that for a period of time, from 1997 until early 1998, a Swiss company he controlled, The Trust and Agency Co. ("Tragenco"), had managed a portion of the bank's business. He said Tragenco had operated under an agreement which authorized it to unilaterally open Hanover Bank accounts for Tragenco clients engaged in investment activities. He said these clients collectively made $50–$60 million in deposits and provided Hanover Bank with about $2 million in earnings, until Tragenco ended its investment program. While the investigation did not attempt to confirm this activity, it suggests the existence of another roster of Hanover Bank clients functioning through another, unidentified correspondent account, perhaps in Switzerland, raising additional questions about Hanover Bank's account opening procedures and internal controls.

When asked how the bank handled wire transfers, Fitzpatrick indicated that Hanover Bank did not have its own capability to send or receive wire transfers, but worked through its correspondent banks. He said that incoming wire transfers were handled entirely by the correspondent bank, which unilaterally decided whether to accept the incoming funds and credit them to Hanover Bank's account. He said that he played no role in deciding whether the funds should be accepted. He said that he usually learned of an incoming wire transfer some days after the funds had come in, when he received and reviewed Hanover Bank's monthly account statement from the correspondent bank. He said that the monthly statement would list all deposits into the Hanover Bank account, virtually all of which would have been made by wire transfer.

Fitzpatrick said that the monthly statements often provided little or no information about particular deposits, and he sometimes had to contact the correspondent bank to get additional information to determine which client account should be credited with the incoming funds. He said, for example, that the wire transfer documentation often failed to name a Hanover Bank accountholder as the beneficiary of the funds, instead referencing individuals or companies who were not accountholders at the bank. When asked how he knew to attribute these incoming funds to a particular client, Fitzpatrick said that the bank generally had only a few accounts

and he could figure it out. He said that Hanover Bank's clients also often contacted him to let him know funds were coming in and should be attributed to their account.

When asked about outgoing wire transfers, Fitzpatrick explained that he personally approved all outgoing wires. Fitzpatrick said that the outgoing wire transfers were actually made by correspondent bank personnel who would debit the funds from Hanover Bank's correspondent account. He said that the bank would complete an outgoing wire transfer only after receiving written "wire instructions" from Hanover Bank specifying the amount, the beneficiary and the beneficiary's bank, and signed by a person authorized to withdraw funds from the account. He said that he usually faxed the wire instructions from his residence in Ireland to the appropriate correspondent bank personnel.

Fitzpatrick described, for example, how Hanover Bank worked with Standard Bank in 1998 with respect to wire transfers. He said that incoming funds were typically in U.S. dollars and wired to Standard Bank's correspondent account at Harris Bank International in New York. He said that the accompanying wire transfer documentation, identifying the originator and intended recipient of the funds, went to Harris Bank International, and was not routinely forwarded to Hanover Bank. He said that what he received was Hanover Bank's monthly account statement from Standard Bank, which was sent to his address in Ireland. He said that he would review the monthly statement to determine what deposits had been made into the account. However, the monthly statements often listed an incoming amount without any origination or beneficiary information. He indicated that, even when information was provided, he was sometimes unable to determine who was the intended recipient of the funds at Hanover Bank and would have to contact his clients to ask about particular deposits.

With respect to outgoing wire transfers, Fitzpatrick explained that he and Poulden had joint signatory authority over the 1998 Hanover account at Standard Bank, and had to jointly approve all funding withdrawals. He said that, typically, if an outgoing wire transfer involved an account he had opened, such as the Wingrove account, he would initiate a fax with the desired wire transfer instructions and send it to Poulden; Poulden would sign the instructions with no questions asked; and Poulden would fax the instructions to Standard Bank. He said that if an outgoing wire transfer involved an account that had been opened by Poulden, Poulden would initiate the fax to him, he would sign it with no questions asked, and he would fax the instructions to Standard Bank. Standard Bank would then complete the transfer.

Fitzpatrick discussed one incident in May 1998, which suggested that the wire transfer approval process did not always work smoothly. He said that, on the day he was moving to a new residence in Ireland, he received a request from Wingrove for an outgoing wire transfer. He said that he approved the wire and sent the wire instructions to Poulden, without first checking Wingrove's account balance because the bank records were inaccessible during the move. Standard Bank completed the wire transfer, and Fitzgerald later discovered that there was a shortfall in the Wingrove account of more than $800,000. That meant the outgoing wire

transfer had been paid for with funds deposited by another Hanover client. Both he and Wingrove stated that neither had been aware there were insufficient funds in Wingrove's account to cover the wire transfer. Both said that Wingrove quickly repaid about $400,000 of the shortfall but, as of July 2000, 2 years later, about $400,000 plus interest remained unpaid.

Hanover Bank's Anti-Money Laundering Controls. When asked about Hanover Bank's anti-money laundering efforts, Fitzpatrick provided a copy of a 1997, one-page "Policy Statement on the Opening and Conduct of Accounts." Fitzpatrick indicated that he had drafted the policy statement in response to efforts by the Antiguan government to strengthen their banks' anti-money laundering controls. The Hanover Bank policy statement set forth a number of due diligence requirements for opening new accounts, including the following:

—Customers must supply one reference from another banking institution covering the customer's banking history for at least 5 years.
—[A] customer must supply two professional references, by whom the customer has been known for at least 10 years.
—In respect of a corporation, the same references must be supplied for each director as well as for the corporation itself.
—Each and every signatory or proposed signatory of an account . . . must be personally interviewed by a Bank officer prior to the opening of the account.
—[T]he required account opening forms must be completed.
—[T]he original of each signatory's passport must be inspected and a copy taken for the Bank's file.
—[A] notarized statutory declaration, duly legalized, as to beneficial ownership of funds . . . must be completed.
—Cash transactions are prohibited.
—All transactions in excess of USD 50,000 have to be personally authorized by a bank director.

Fitzpatrick said that he was responsible for implementing these due diligence requirements, but admitted that he did not always comply with them. For example, he said that when he opened the Wingrove account in November 1997, a month after issuing the policy statement, he did not perform any due diligence review. He said that he had known Wingrove for several years and was convinced that Wingrove was an established art dealer with access to substantial funds. Fitzpatrick said that, contrary to Hanover Bank policy, he did not obtain any bank or professional references prior to opening the account. He said that he had actually asked Wingrove for these references, but he had not produced them, and Fitzpatrick had opened the account anyway. He acknowledged that there were only two pages of account opening documentation for the Wingrove account, a one-page application form and a 1-page copy of Wingrove's passport photograph. In his interview, Wingrove said that he had signed the account opening documentation while at an airport in England, and never saw or was asked to sign a signatory card for the account.

Fitzpatrick said that although he normally was the only person who opened accounts at Hanover Bank, in 1998 Poulden also

opened them. Fitzpatrick explained that, since Poulden was then chairman of the bank, he and Poulden had agreed that Poulden could open accounts on his own authority, without the prior approval of Fitzpatrick. He said that he had instructed Poulden on how to open an account, by completing certain paperwork and performing a due diligence review on the prospective client, as set out in Hanover Bank's policy statement. Fitzpatrick said that because Poulden was a "practicing barrister" and experienced businessman and seemed to want a successful Hanover Bank as much as he did, he had trusted Poulden to comply with the account opening requirements and never doublechecked his efforts. He said that Poulden had also often told him he had the paperwork for the accounts he had opened, so Fitzpatrick had not bothered to obtain a copy for his files.

Fitzpatrick said he later determined, however, that Poulden had opened some accounts without telling him and had failed to complete any account opening or due diligence documentation. Fitzpatrick was also unaware of what due diligence reviews Poulden had conducted, if any. According to Fitzpatrick and documentation obtained during the investigation, Poulden appears to have opened at least four accounts in 1998:

(1) Account No. 930509—$2.4 million deposit made on 4/1/98 for Yoshiki Doi;
(2) Account No. 930510—opened for Cranest Capital S.A., but no apparent transactions;
(3) Account No. 930511—$190,000 deposit made on 4/24/98 for Ted Tsuru and Takuma Abe joint account; and
(4) Account No. 930512—$10 million deposit made on 6/2/98 for Morgan Steepleton Investment & Securities S.A.; funds withdrawn and wire transferred 2 weeks later on 6/15/98 to a Morgan Steepleton account at another bank.

Fitzpatrick said that, because there was no account opening or due diligence documentation, he could not say with certainty who the account signatories were or what the relationships were among the accounts. He said that he had no information about Doi other than an address in Japan, and had never met or spoken with him. He thought that Poulden, Tsuru and Abe had administered the Doi account but was not sure who had signatory authority over it. Fitzpatrick thought Cranest Capital and Morgan Steepleton Investment & Securities were companies associated with Tsufu, but was not sure and was unaware who had signatory authority over either of those accounts.

When asked about the $2.4 million deposit to the Doi account, Fitzpatrick said that he first learned of that deposit when reviewing Hanover Bank's April 1998 account statement from Standard Bank. He said the amount "surprised" and "delighted" him, because he assumed it was the result of Poulden's efforts to bring new deposits to the bank and provided proof that Poulden had access to individuals with substantial funds. He said that after he saw the deposit, he telephoned Poulden who told him about opening the account for Doi. Fitzpatrick said that he did not know the purpose of the deposit or the source of the funds.

When asked what had happened to the $2.4 million, Fitzpatrick said that a number of large outgoing wire transfers initiated by Poulden had utilized funds from the Doi account.[191] Fitzpatrick thought these transfers were used, in part, to purchase an oil company in Texas and a securities firm in New York;[192]; to pay legal or consulting fees; and to help finance the purchase of Hanover Bank.[193] Fitzpatrick said that another $400,000 was inadvertently withdrawn from the Doi account in connection with the Wingrove overdraft. He said that he wrote to Doi several times about the overdraft, but Doi had never responded or requested the return of his $400,000, which Fitzpatrick said he found surprising and suspicious.

When asked about the $10 million deposit in June and its withdrawal 2 weeks later, Fitzpatrick indicated that he did make inquiries about those wire transfers at the time. He said that Poulden had told him the $10 million was going to be used to purchase "prime bank notes," and that Poulden was acting as a middleman in the transaction, between the sellers of the notes and the purchaser, Tsuru. Fitzpatrick said that Poulden had agreed with him that it was a scam, since prime bank notes are fictitious instruments with no tradeable market, but Poulden said he had been unable to convince Tsuru not to go forward with the purchase. Fitzpatrick thought, in the end, however, the purchase had not gone forward. Fitzpatrick said he did not know Tatsuya Omura, the person identified on the wire transfer documentation as the originator of the $10 million deposit, nor did he know the source of the funds. He also had no information about the Morgan Steepleton account to which the $10 million was transferred.

Fitzpatrick was also asked about Hanover Bank's lending activities. He said that Hanover Bank did not engage in regular lending, but occasionally issued a letter of credit, certificate of deposit or loan, which he would approve. The few credit transactions examined during the Minority Staff investigation presented additional evidence of questionable operations at the bank. For example, an April 3, 1998 letter signed by Fitzpatrick stated that Doi had $16.5 million in his account, even though bank records indicate that the account never held more than $2.4 million. When asked about the letter, Fitzpatrick said that Doi had asked for a "temporary loan," and Hanover Bank had engaged in a "book transaction" in which it loaned him the funds and he repaid them a few days later, re-

[191] U.S. bank records show outgoing transfers totaling over $1.3 million, including $300,000 on 4/6/98; $100,000 (in two $50,000 payments) on 4/9/98; $300,000 on 4/9/98; $150,000 on 4/20/98; $400,000 on 5/15/98; and $100,000 on 6/19/98, that were apparently initiated by Poulden or associated with the accounts opened by Poulden. Other bank records show outgoing transfers of 135,000 (U.S. $225,000) on 4/21/98; and 130 million Japanese yen (U.S. $500,000) on 5/29/98.

[192] The $300,000 payment on 4/9/98 was made to an account at Texas Commerce Bank N.A. for "Anglo Gulf Energy Inc." Articles of incorporation for Anglo-Gulf Energy Inc., filed in Texas in October 1997, indicate that it is a Texas corporation and Poulden was one of its two initial directors. An article in Private Equity Week, dated 8/10/98, states: "Anglo-Gulf Energy Inc. of Spring, Texas, is raising $3 million through a private placement of common stock. . . . Alden Capital Markets Inc. of New York is acting as agent for a sales commission of $300,000." It is possible that Alden Capital Markets Inc. was the securities firm referred to by Fitzpatrick.

[193] With respect to purchasing Hanover Bank, Fitzpatrick indicated that he thought Poulden had obtained approval to transfer $100,000 from the Doi account, in two $50,000 payments on 4/9/98, to Fitzpatrick's personal bank accounts, in partial satisfaction of the bank's proposed $1 million purchase price. When asked whether Doi was one of the Japanese stockbrokers buying the bank, Fitzpatrick said that was never made clear.

turning his account to its original status. When asked where Hanover Bank had obtained the capital to make a $16.5 million loan, Fitzpatrick said that it was "just a book transaction" that took place on paper and did not involve actual funds. He said that Poulden had drafted and asked him to sign the letter. He said he had trusted Poulden "one hundred percent," thought Poulden would not want to get him or the bank into trouble, and so had done as he asked in signing the letter. Fitzpatrick could not provide any other information about the transaction. A second questionable credit transaction, involving a $1 million letter of credit issued to an individual seeking to launder criminal proceeds, is described below in connection with the criminal conviction of Eric Rawle Samuel who once worked for Hanover Bank.

Together, the information collected by the Minority Staff investigation about the day-to-day operations of Hanover Bank show a bank that operated with few formalities, few controls, few records, and few worries about client due diligence or money laundering.

(5) Regulatory Oversight of Hanover Bank

In 8 years of operation, Hanover Bank never underwent a bank examination by its primary regulator, the Government of Antigua and Barbuda. GOAB authorities did not conduct examinations of any of its licensed banks until 1999, previously relying on audited financial statements and other filings prepared by its banks to monitor their activities. In 1999, GOAB authorities initiated a new program for government-sponsored bank examinations and, in 2000, began its first examination of Hanover Bank.[194] The examination completed a review of the bank's documents in Antigua over the summer and requested an on-site inspection in Ireland in late 2000.

Irish banking authorities have also never conducted an examination of Hanover Bank. Personnel from the Central Bank of Ireland indicated, when contacted by the Minority Staff investigation, that they had been unaware of Hanover Bank's activities in Ireland. They indicated that they had not known that Fitzpatrick was involved in international banking, that he was the sole owner of Hanover Bank, or that he was keeping bank records and faxing wire transfer instructions from his residence in Ireland. They also indicated that Ireland does not exercise any regulatory authority over Hanover Bank, since it is licensed by GOAB and apparently does not solicit deposits in Ireland.

Although it has not been the subject of routine bank examinations, Hanover Bank has undergone three special reviews by bank regulators. The first took place in 1993, shortly after the bank was licensed, when it was alleged to be involved in the Clerical Medical fraud, described below. U.K. authorities conducted a lengthy investigation, but took no formal action against the bank. GOAB authorities apparently did not investigate or take any action against the bank in this matter.

A few years later, however, as part of a general offshore banking reform effort, GOAB issued a March 24, 1997 notice of its intent

[194] See 8/25/00 letter from the GOAB's International Financial Sector Regulatory Authority to Elise Bean of Senator Levin's office, at 2.

to revoke Hanover Bank's license. The specified grounds were the bank's failure to pay its 1996 registration fees and its failure in 1992 to commence banking operations within 6 months of receiving a license. GOAB actually revoked the bank's license 2 days later. Hanover Bank was one of over a dozen banks whose licenses were revoked in the 1997 GOAB reform effort, and it is included in a list of banks that GOAB told the U.S. State Department were closing their doors. But Hanover Bank refused to close. Justin Simon, the bank's local director and registered agent, filed suit in court to overturn the license revocation. According to Simon, the suit was heard by Justice Kenneth Allen in 1997. Although GOAB authorities thought the court had overturned the revocation as a result of that proceeding, Simon indicated that Justice Allen did not actually issue a decision on the merits. He said that, instead, Keith Hurst, then head of the GOAB's International Business Corporations (IBC) Unit, unilaterally reversed the government's position and reissued the bank's license. The May 30, 1997 certificate reinstating Hanover Bank's license is signed by IBC Director Hurst.

In 1998, U.K. and Jersey banking authorities commenced a special investigation of Hanover Bank after receiving evidence that the bank was conducting illegal banking activities in both jurisdictions, as described below. In July 1998, the U.K. Financial Services Authority (FSA) obtained a court injunction prohibiting Hanover Bank from conducting banking activities in the United Kingdom. The FSA rescinded this injunction only after receiving Hanover Bank's assurance that it would not conduct business in the jurisdiction. Jersey banking authorities conducted a parallel investigation into Hanover Bank's activities in Jersey. This investigation led to its censuring Standard Bank Jersey Ltd. for opening a Hanover Bank correspondent account; alerting U.S. authorities to suspicious activity in Standard Bank's U.S. correspondent account at Harris Bank International related to Hanover Bank; and alerting GOAB authorities to their findings and concerns about Hanover Bank. These actions contributed to the unraveling, of the Koop fraud and the filing of multiple U.S. indictments,[195] as well as GOAB's subsequent decision to conduct an on-site examination of Hanover Bank in 2000.

(6) Money Laundering and Fraud Involving Hanover Bank

The Minority Staff investigation found evidence of fraudulent and criminal activities throughout Hanover Bank's 8 years of operation, involving millions of dollars lodged in various correspondent bank accounts. Three frauds in 1998, involving virtually all of Hanover Bank's clients and 100% of the funds it moved through a U.S. correspondent account, raise particular concerns. Together, they demonstrate that Hanover Bank's inadequate oversight of its few clients, associates and transactions contributed to fraudulent activity and multiple violations of banking, civil and criminal laws in the United States, United Kingdom, Jersey and elsewhere.

[195] See appendix for a more detailed description of the Koop fraud.

(a) Clerical Medical Scandal

In 1993, soon after receiving its banking license, Hanover Bank became embroiled in a major financial scandal involving 20 million, a prominent British insurance company called Clerical Medical, and a fraudulent investment scheme involving prime bank notes. Prime bank notes are fictitious financial instruments which typically contain a false promise or "guarantee" by a well-known or "prime" bank to pay a specified amount of funds, and the notes are then fraudulently characterized as available for trade at a discounted price. Fitzpatrick said during his interview that he now knows that no trading market exists for prime bank notes and they are considered a warning sign of financial fraud, but said he did not have that information at the time. The 1993 scandal, highly visible at the time, is still cited on occasion as one of the earliest examples of prime bank note fraud.[196]

Fitzpatrick explained that, soon after the bank began operations, Poulden and he began to negotiate a prime bank note investment with Managed Opportunities Ltd., an Isle of Man corporation that managed funds for the Clerical Medical Group. He said the negotiations led to an agreement among Hanover Bank, Managed Opportunities Ltd., and a Cyprus company called Kinitor Ltd., which essentially provided that Kinitor would provide certain prime bank notes in exchange for 20 million to be deposited into a Hanover Bank correspondent account at Lombard National Westminster Bank in Cyprus. Other companies, such as Bankhall Investment Management and Corporate Financial Investments were also involved.

Press reports indicate that after the 20 million was transferred to Hanover Bank's account at the Cyprus bank in or around June 1993, Clerical Medical claimed the transfer was unauthorized and demanded return of the funds.[197] Legal injunctions and lawsuits followed, freezing the funds in the Hanover account in Cyprus for about a year. Inquiries were launched by two U.K. bodies, the Securities and Investments Board and the Financial Intermediaries, Managers and Brokers Regulatory Association, as well as by the fraud office of the International Chamber of Commerce. Fitzpatrick said that, in the end, Clerical Medical recovered the 20 million, and the lawsuits were settled. He said that none of the inquiries reached any conclusions regarding Hanover Bank's knowing participation in a fraud. When the Minority Staff contacted the U.K. Financial Services Authority (FSA) for its evaluation of the Clerical Medical matter, the FSA declined to provide any information because, as the FSA stated in a letter, "the Financial Services Act of 1986 . . . does not provide for publication of any report . . . and use of, and/or disclosure to third parties, of information contained in any such report or otherwise obtained in the course of a Section 105 investigation is subject to statutory restrictions."[198]

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[196] See, for example, "Primed for fraud," *Accountancy* (4/95).

[197] See, for example, "Suspension lifted on fund managers," *Financial Times* (London) (7/19/94); "Clerical Medical regains Pounds 20m," *The Times* (7/11/94); "British Firm Sues Two Lebanese Men For Embezzlement," *AP Worldstream* (4/28/94); "SIB investigates switch of Clerical Medical funds to Cyprus," *The Times* (1/3/94); "Clerical Medical rejects demands over funds," *The Times* (8/23/93); "Insurer sues over controls of Pounds 20m," *The Times* (8/14/93).

[198] Letter dated 5/30/00 from FSA to Subcommittee.

The Clerical Medical scandal was the first indication that Hanover Bank was possibly engaging in questionable activity. Despite the lengthy investigations into its conduct, U.K. policies against releasing FSA reports meant than none of the FSA information was made available to the public or persons attempting to evaluate Hanover Bank's track record.

(b) Eric Rawle Samuel Criminal Conviction

In September 1993, just after the Clerical Medical scandal broke, Eric Rawle Samuel was arrested in the United States for offering to launder up to $12 million through Hanover Bank.[199] In January 1994, Samuel pled guilty to one count of money laundering related to his actions and was sentenced to more than 5 years imprisonment in the United States.

Samuel had "represented himself to be an employee" of Hanover Bank, according to the indictment. Fitzpatrick said in his interview that Samuel was never an employee of the bank, although he had occasionally performed some services for it. According to the indictment, Samuel had traveled to the United States on two occasions, in August and September 1993, to negotiate the sale of letters of credit to be issued by Hanover Bank in exchange for drug proceeds and a $100,000 fee for each $1 million laundered through the bank. A publicly available affidavit filed by U.S. law enforcement noted that Samuel had specifically mentioned Hanover Bank's correspondent relationships with Standard Bank in Jersey and Harris Bank in New York in connection with the laundering scheme.[200] The affidavit indicated that Samuel had also mentioned Hanover Bank's involvement with a "scam" involving "prime bank guarantees" and laundering funds "from Nigeria."[201] Samuel was arrested in Atlanta, Georgia, after exchanging a $1,000,000 Hanover Bank letter of credit for "what he believed to be . . . $100,000 in cash."[202]

In his interview, Fitzpatrick characterized the U.S. prosecution as a case of "clear entrapment." He said that it was his understanding that Samuel had received an unexpected telephone call from someone he knew in the United States, who was secretly participating in a law enforcement sting operation in an effort to reduce his own criminal sentence after an arrest. He said that the individual had apparently told Samuel that he had cash to invest, and wanted to buy a certificate of deposit or letter of credit from Hanover Bank with a face value of $1 million, for which he would pay $800,000 up-front and the rest later. He said that Samuel had told him about the proposal, which he had considered essentially a loan request, and he had approved going forward. Fitzpatrick said that he personally drafted the letter of credit Samuel used in the transaction. He said that Samuel then telephoned the person in the United States to inform him that the deal had been approved.

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[199] See *United States v. Samuel* (U.S. District Court for the Northern District of Georgia Criminal Case No. 93–CR–420–ALL), indictment dated 10/5/93; "News Release" dated 1/19/94, by the U.S. Attorney for the Northern District of Georgia, announcing guilty plea; "Judgement in a Criminal Case" dated 3/30/94.

[200] See *United States v. Samuel,* "Affidavit" dated 9/10/93, paragraph (3).

[201] *Id.,* paragraphs (19) and (25).

[202] *United States v. Samuel,* indictment, paragraph (17).

He said that the person had then told Samuel that he had "dirty money," and Samuel "fell for it" and said he "didn't mind" and would accept the cash. He said that Samuel flew to the United States with the letter of credit and met the person at a hotel, where their conversation was apparently recorded by the Federal Bureau of Investigation (FBI). He said that the person had apparently again told Samuel that he had "dirty money" and Samuel had again said he "didn't mind" and would accept it. He said the FBI then arrested Samuel who spent 5 years in prison.[203]

GOAB authorities indicated, when asked about the Samuel money laundering conviction, that they had no knowledge or record of the indictment or Hanover Bank's involvement. Hanover Bank's local director and registered agent, Justin Simon, indicated that he thought the indictment had involved a different Hanover Bank and was surprised to hear that Fitzpatrick had acknowledged his bank's involvement in the facts underlying that prosecution. The Samuel money laundering conviction provided a second strong, and early indication of Hanover Bank misconduct, but news of the conviction apparently never even reached the bank's licensing authority.

(c) Koop Fraud

William H. Koop, a U.S. citizen from New Jersey, utilized Hanover Bank in a financial fraud in which, from 1997 to 1998, he bilked hundreds of U.S. investors out of millions of dollars through a high yield investment scam.[204] In interviews with Minority Staff investigators, Fitzpatrick, Koop and Wingrove offered different and often conflicting views of what happened during the fraud, who was defrauding whom, and who knew what was going on when. Rather than attempt to evaluate their conflicting statements or assign culpability, the investigation focused on how Hanover Bank, whether knowingly or unknowingly, became a conduit for millions of dollars in illicit fraud proceeds.

The evidence indicates that Hanover Bank played a prominent role in the Koop fraud in two ways. First, Koop sent almost $5 million in fraud proceeds to Hanover Bank, partly in response to claims by Wingrove that Koop could earn returns of 20% or more. Second, Hanover Bank became a featured element in Koop promotional materials. Koop urged potential investors in his fraudulent high yield program to wire their investment funds to his Hanover Bank account and offered, for a fee, to open a Hanover Bank account for any investor wanting an offshore account. Documentation suggests that Koop pretended to open over 200 Hanover Bank accounts for his defrauded clients, eventually charging over $3,300 to open each new account.

Laundering $5 Million in Fraud Proceeds. In his interview, Koop stated that he first learned of Hanover Bank in late 1997, during a London meeting in which he was introduced to Wingrove. In a sworn deposition, Koop said that Wingrove had claimed to be

[203] Fitzpatrick said that after the arrest, a friend of Samuel had telephoned him and told him what had happened, and he had sent some money to help pay Samuel's legal fees. He said that he was never questioned by anyone about the matter and was never asked to testify.

[204] For more information about the Koop fraud, see the appendix and the case histories for British Trade and Commerce Bank and Overseas Development Bank and Trust.

a "majority stockholder of Hanover Bank"[205] and an international trader who could produce significant returns on short term investments.[206] Koop indicated that, after checking into the background of both Wingrove and Hanover Bank, he had decided to open an account and direct some of his illicit proceeds to Wingrove for investment.[207]

Koop said that he never spoke with anyone else at Hanover Bank, including Fitzpatrick, and did not find out for a number of months that Wingrove had no official position with the bank.[208] He said that he thought Wingrove had opened a Hanover Bank account for him, under the name of IFS, for which Koop was the sole signatory, and which paid 20% interest on deposits.[209] He said that he later discovered that no account had ever been opened, and all the funds he sent to Hanover Bank had actually been deposited into Wingrove's account at the bank.[210]

Koop maintained in his deposition that, of the nearly $5 million that he and his associates directed to Hanover Bank, about $3 million was supposed to have been deposited into his account, while the other $2 million was intended for Wingrove, for international investments.[211] Koop said that Wingrove actually took control of all $5 million and has yet to return a single dollar of these funds. Koop indicated that Wingrove had led him to believe he was investing the funds in artwork and antiquities, "currency trading" and "computer chips," although he did not ask and was not informed about specific trades made with his funds.[212]

Wingrove maintained in his interview that he never misrepresented his relationship to Hanover Bank and never agreed to make investments of any type other than in art and antiquities, which were his specialty. He said that he did promise Koop to produce a 50% return over a 5-year period from the purchase and sale of art and antiques. Both Koop and Wingrove agreed, however, that this promise was never put in writing, and Koop sent Wingrove millions of dollars without any formal agreement.

Wingrove said that "within weeks" of their first meeting, Koop began sending him money to speculate in art. He said, at a later point, Koop arranged for him to meet his associate, Johnny Cabe, who was in London on a business trip. He said that Cabe also began to invest funds with him and introduced him to his London accountant, Winston Allen.

Both Koop and Wingrove indicated that the $5 million sent to Hanover Bank was part of a larger sum, $12 million, that Koop directed to Wingrove over the course of 6 months using accounts at several banks. According to Wingrove, the funds sent to Hanover Bank were at first deposited by Koop through his company IFS,[213] or by Cabe through his company Hisway International Ministries.

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[205] Koop deposition in *Schmidt v. Koop* (12/10/98) at 182.
[206] *Id.* at 169, 232.
[207] *Id.* at 169–71.
[208] *Id.* at 225. See also Koop deposition in *Schmidt v. Koop* (3/2/99) at 369.
[209] Koop deposition in *Schmidt v. Koop* (12/10/98) at 165–167.
[210] *Id.* at 165–66, 182–83.
[211] Koop deposition in *Schmidt v. Koop* (12/10/98) at 166, 178–80.
[212] *Id.* at 169, 227–232.
[213] As explained in the BTCB case history, "IFS" refers to several different corporations controlled by Koop, including International Financial Solutions. Ltd. and Info-Seek Asset Management S.A.

Later, Wingrove said, funds were sent to Hanover Bank by third parties in the United States with whom he had no direct contact. He said these third party deposits caused confusion and cash flow problems, because the timing and amounts of the deposits often conflicted with information provided by Koop or Cabe about incoming funds.

Standard Bank account statements at Harris Bank International and a Hanover Bank account statement prepared for the Wingrove account[214] show numerous deposits related to the Koop fraud, totaling almost $5 million. Fitzpatrick confirmed that he attributed all of these funds to the Wingrove account. He explained that he had never met Koop or any of the other persons indicted in the Koop fraud and had never opened an account for any of them other than Wingrove. Fitzpatrick indicated that he had no idea that Koop and Cabe thought they had accounts at Hanover Bank and were directing funds into them. According to him, that was why it never occurred to him, when a $240,000 deposit was made on April 6, 1998, to "International Financial Solutions," or a $103,000 deposit was made on April 22, 1998, to "Hisway Inc.," that the funds might be intended for an account other than the Wingrove account.[215] Banking experts, however, have told the Minority Staff that a bank's casual acceptance of deposits earmarked for persons or accounts not associated with the bank is both unusual and improper bank procedure.

Fitzpatrick noted that Hanover Bank had only a handful of accounts in 1998, and the Wingrove account was the only one receiving numerous deposits at the time.[216] He said that he opened the Wingrove account in November 1997, but Wingrove did not begin using it until March 1998, when Hanover Bank opened its correspondent account at Standard Bank. Fitzpatrick stated, and bank records confirm, that from the day the account opened, Wingrove immediately began moving millions of dollars through it.

The bank records and other information indicate that Wingrove quickly transferred the deposits made into his Hanover Bank account to other bank accounts around the world. Fitzpatrick said that the quick passage of the funds through the Wingrove account did not strike him as suspicious, since he assumed Wingrove was receiving funds from clients and immediately using the funds to

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[214] Fitzpatrick and Poulden prepared one account statement for the Wingrove account, covering the months of April and May 1998. This document was turned over by Hanover Bank in discovery proceedings associated with a U.S. civil suit filed by an investor attempting to recover his funds from Koop, *Schmidt v. Koop* (U.S. District Court for the District of New Jersey Civil Case No. 978–CIV–4305). This suit named Hanover Bank as a defendant, but voluntarily dismissed the bank from the suit after obtaining discovery documents.

[215] Virtually all of the deposits credited by Fitzpatrick to the Wingrove account were directed to be paid to someone other than Wingrove. For example, the very first deposit into the 1998 Hanover Bank account at Standard Bank was for $250,000 on March 30, 1998. That deposit was made by wire transfer from the United States and directed the funds to be paid to "Financial Solutions Ltd." Three days later, on 4/2/98, $1.2 million was deposited into the Hanover Bank account for further credit to "Acct A01001001 INT." Fitzpatrick acknowledged in his interview that Financial Solutions Ltd. was not a Hanover Bank accountholder, nor would Hanover Bank's numbering system produce an account number like "A01001001." He said that many of the deposits into the Hanover Bank account referenced companies or individuals who were not accountholders at the bank and were unfamiliar to him. When asked how he knew to credit such funds to the Wingrove account, Fitzpatrick said that Wingrove had sometimes called to alert him to expected incoming funds, while other times Wingrove had appeared surprised by particular deposits but agreed they should be attributed to his account.

[216] Fitzpatrick said that the only other active Hanover Bank accounts in 1998 had been opened by Poulden, who would tell him when incoming funds should be credited to one of his clients' accounts.

purchase artwork. Legal action on behalf of Koop fraud victims has since been taken to seize remaining funds from Wingrove-controlled accounts as well as some of the artwork purchased with the Koop funds.

Advertising Hanover Bank in the Fraud. In early 1998, promotional materials associated with the Koop fraud began to feature Hanover Bank. One example is a packet of information entitled, "The I.F.S. Monthly 'Prime' Program," which Koop gave to potential investors to convince them to place funds in his fraudulent investment program. Section 2 of the packet, entitled "Wire Transfer Instructions," directed all investors to send their funds to the IFS account at Hanover Bank.[217] The Koop packet also provided background information about Hanover Bank, describing the bank's establishment, services and correspondents, and claiming the bank had "one of the most extensive and complete list of correspondent banks in the entire banking business."

In an early version of the Koop packet, a document entitled "Banking Information" stated:

> We have made arrangements with The Hanover Bank to open accounts for each of our clients . . . without any charge to you. If you are interested in doing so, please send a duplicate copy of your bank reference letter and a copy of your passport picture page. . . . IFS will then open an account for you in The Hanover Bank in the name of your trust. We are negotiating for the purchase of this bank at this time.

A later version of this document stated that, "[a]s of April 1st, 1998, IFS has . . . become the largest stockholder . . . of the Hanover Bank." A document entitled, "Trusts and Bank Accounts" offered to set up an offshore trust and bank account at Hanover Bank for $3,375, with checks made payable to Koop. Both the early and late versions of the Koop packet provided blank copies of Hanover Bank's account opening forms for personal and corporate accounts.

Still another document, dated June 22, 1998, and entitled "A Personal Letter from the Desk of William H. Koop," described how Koop's company, IFS, had been experiencing problems with its prior bank, Overseas Development Bank, and decided to make a "changeover" to Hanover Bank. The document described plans to "re-structure" the bank and move its "operating office from Antigua to the Island of Jersey." The Koop letter promised "in the very near future" to "unveil the positive factors of the bank, showing you the opportunities that it will present to you personally [including]. . . . numbered accounts[,] . . . high interest rates on time deposit accounts[, and] . . . debit cards." The Koop letter remarked that, by June 1998, "[m]ost of you" already had Hanover Bank accounts. Documents collected in civil proceedings associated with the Koop

[217] These instructions stated in part:

"Deposit Funds To: Harris Bank International, New York, New York
For Credit To: Standard Bank Jersey, Limited, Isle of Jersey, Channel Islands
For Further Credit To: Hanover Bank, Limited
For Further Credit To: I.F.S. Account #A01–001–001."

fraud[218] included a specific list of investors who supposedly had Hanover Bank accounts. This list identified over 200 individuals by name, providing each with a fictitious account number at Hanover Bank.

Fitzpatrick indicated during his interview that he had no idea at the time that Koop was purporting to open Hanover Bank accounts. Fitzpatrick speculated, and Wingrove separately confirmed, that Koop had obtained copies of Hanover Bank's account opening forms and wire transfer instructions from Wingrove, who had that information. Wingrove stated in his interview that he had sent the Hanover Bank account opening forms to Koop, because Koop had been considering opening an account.

When asked about statements in the IFS promotional materials about purchasing Hanover Bank, Koop indicated during his interview that he and Wingrove had often spoken about buying the bank, but never completed the transaction. In a sworn deposition, Koop said Wingrove had told him he was "going to have a percentage of stock in [Hanover Bank, but] . . . never turned the stock over to me."[219]

Koop created further confusion about his relationship to Hanover Bank and the bank's role in the Koop fraud by incorporating a Dominican company called "Hanover B Ltd." and opening an account at British Trade and Commerce Bank (BTCB) in the name of this corporation. Koop stated in a sworn deposition that he chose the company's name "to correspond to Hanover Bank."[220] Wingrove indicated during his interview that he was well aware of the account at BTCB, thought Koop had opened it in a deliberate attempt to "mirror" the Hanover Bank account, and thought it had helped Koop appear to be opening Hanover Bank accounts for Koop investors. Fitzpatrick indicated that he knew nothing of "Hanover B Ltd.," had never had any contact with BTCB, and had never opened a correspondent account for Hanover Bank at BTCB.

The Koop fraud provides a detailed account of how criminals can use an offshore bank to launder funds and perpetuate financial frauds. It also demonstrates how loose bank controls and nonexistent money laundering oversight contribute to the ability of criminals to carry out their activities. Fitzpatrick repeatedly said that he had no knowledge of Koop's misconduct, Wingrove's misrepresentations, or their joint misuse of the bank, yet he also failed to follow basic banking procedures that would have enhanced his awareness and understanding of the transactions taking place through his bank. When asked when he first got wind of possible wrongdoing, Fitzpatrick said that the first indications probably came in the summer of 1998, when he learned that the U.K. Financial Services Authority was investigating Hanover Bank for illegal banking activities in England and Jersey and asking about Wingrove's role at the bank.

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[218] *Schmidt v. Koop,* (U.S. District Court for the District of New Jersey Civil Case No. 978–CIV–4305).

[219] Koop deposition in *Schmidt v. Koop,* (12/10/98) at 158.

[220] Koop deposition in *Schmidt v. Koop* (3/2/99) at 431.

(d) Illegal Bank Activities in England and Jersey

In 1998, for the first time since the Clerical Medical scandal 5 years earlier, bank regulators in England and Jersey took a close look at Hanover Bank. They determined that the bank was not only operating illegally in both their countries, but was also moving millions of dollars in suspect funds. Their inquiry led to exposure of the Koop fraud, the censure of Standard Bank for providing correspondent services to Hanover Bank, and additional regulatory examination of this offshore shell bank's activities.

The 1998 inquiry began after an individual who was considering depositing funds with the bank asked Jersey banking authorities to confirm that Hanover Bank had a Jersey banking license and a London representative office.[221] The Jersey authorities contacted the U.K. Financial Services Authority (FSA) which obtained a search warrant, entered the alleged Hanover Bank office in London, and seized documents. The documents included Hanover Bank "brochures" stating that "[t]he bank holds a license to conduct international banking business on the Island of Jersey" and was "operating within the security of Jersey's stringent banking laws."[222] Another document described the London address as Hanover Bank's "Representative Office."[223] FSA investigators then interviewed persons associated with the London office, including Terrence Wingrove, Winston Allen[224] and Patrick Makosso-Jouvam.

On July 24, 1998, at the request of the FSA, the High Court in London issued an emergency injunction prohibiting Hanover Bank from conducting banking activities in the United Kingdom, since it was not licensed to accept deposits or operate a representative office.[225] An affidavit filed in the case by an FSA official stated that Wingrove had allegedly represented himself to be Hanover Bank's chairman and promised to pay commissions to Allen and Jouvam if they located new deposits for the bank.

Fitzpatrick said that he first learned of the FSA injunction when, in July 1998, he received a letter from Standard Bank stating that it intended to close Hanover Bank's correspondent account due to

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[221] See *FSA v. The Hanover Bank Ltd.,* "First Affidavit of Peter Geoffrey Brian Willsher," (7/23/98) at 4. See also FSA Press Release, "The FSA gains injunctions against Hanover Bank Limited, Winston Allen and Patrick Makosso-Jouvam" (7/24/98), reprinted at *www.fsa.gov.uk/pubs/press/1998/050.html;* and *Terry Wingrove, Winston Allen, Patrick Makosso-Jouvam* (CH 1998 Case No. F4107) before the High Court of Justice, Chancery Division. Neither the FSA nor Jersey authorities would provide copies of the pleadings. However, Fitzpatrick provided copies of certain pleadings to the plaintiff in *Schmidt v. Koop* pursuant to discovery in that case, and plaintiff provided copies to the Minority Staff investigation.

[222] *Id.* at 5.

[223] *Id.* at 7–8.

[224] Evidence obtained by the Minority Staff investigation indicates that Allen was also associated with the Koop fraud. For example, documentation and interviews establish that, in 1997 and 1998, Allen worked for Cabe, Hisway International Ministries, and related companies. In a sworn deposition, Koop described Allen as "a personal friend" to whom he loaned over $140,000 to purchase and furnish an apartment in New York. See *Schmidt v. Koop,* Koop deposition (12/10/98) at 209, 211–14, 235–36, 243; and Koop deposition (3/2/99) at 393–95. A 10/1/98 fax sent by Koop to Leonard Bedneau at BTCB, asked the bank to establish a new Dominican corporation called Atlantic Marine Bancorp, Ltd. and "add Winston Allen as an organizer with William H. Koop." Wingrove indicated in his interview that Allen was also involved in Koop's establishment of the Hanover B account at BTCB.

[225] The injunction also prohibited Wingrove, Allen, and Jouvam from "using the name Hanover Bank," describing themselves as bankers, or otherwise engaging in banking activities within the United Kingdom. A second FSA affidavit in *FSA v. The Hanover Bank Limited,* "Second Affidavit of Peter Geoffrey Brian Willsher (7/28/98), asked the court to restrain Wingrove from "making certain misleading, false or deceptive statements" regarding Hanover Bank.

its distribution of inaccurate literature. He said the letter was a "shock," and he immediately began investigating the matter. Fitzpatrick said he eventually learned of the role of Wingrove, who denied misrepresenting his relationship with Hanover Bank and admitted only to describing Hanover Bank's willingness to pay commissions for new deposits. Fitzpatrick said that Allen and Jouvam had used a computer to design new Hanover Bank "literature" to market the bank, included incorrect information about its license and ability to transact business in the U.K. and Jersey; and began prospecting for clients.[226] Fitzpatrick indicated that he did not know how many clients had been contacted or how many accounts had been purportedly opened in the Allen-Jouvam marketing effort, but believed no deposits had actually been made to the bank in connection with the effort.[227]

On November 26, 1998, the High Court in London withdrew the injunction against Hanover Bank, with the consent of the FSA and on Hanover Bank's representation that it would not transact any banking business in the U.K. Hanover Bank issued a press release claiming it had been cleared and including the Fitzpatrick statement, "I am delighted the FSA has accepted that the bank was not involved in any wrongdoing."

But the FSA had not cleared Hanover Bank of wrongdoing. To the contrary, the inquiry led FSA and Jersey authorities to take a much closer look at Hanover Bank and its Standard Bank account. Jersey authorities alerted U.S. authorities to signs of suspicious activity in the Standard Bank account at Harris Bank International, which led to a U.S. law enforcement investigation of the Koop fraud, and the resulting guilty pleas and pending indictments, including the pending indictment of Wingrove. Jersey authorities not only cooperated with the U.S. investigation, but also launched an investigation of Standard Bank, resulting in the censure of the bank and the departure of the bank's chairman.

Fitzpatrick was asked during his interview, what steps Hanover Bank had taken or could take in the future to prevent third parties like Koop, Wingrove, Allen and others from misusing the bank's name and pretending to own it. Fitzpatrick responded that he was only one person, the bank was very small, and it was very difficult to guard against third parties misusing the name and reputation of the bank. He said that he had experienced repeated instances of strangers misrepresenting the ownership of Hanover Bank, and there was "nothing [he] can do to stop it" unless others demanded adequate proof of ownership.

He related an incident of several years ago in which his Antiguan agent, Justin Simon, telephoned him from Antigua to say that a Brazilian businessman was on the island claiming to be the

[226] In his interview, Wingrove essentially confirmed Fitzpatrick's description of what happened, but maintained that Allen and Jouvam had prepared the false Hanover Bank literature without his knowledge or involvement.

[227] An analysis of Hanover and Wingrove account statements by Minority investigators, however, found one $50,000 deposit on May 20, 1998, described in wire transfer documentation as a transfer from "Metro Telecom Inc." for further credit to "Ottershaw Consultancy Ltd.," but which was credited to the Wingrove account and appeared to be associated with the Allen-Jouvam marketing effort. When asked about this deposit, Fitzpatrick said that he was unfamiliar with the names and could not recall the circumstances surrounding the deposit. He said it was possible that Wingrove had told him to credit the $50,000 to his account and he did so without asking additional questions.

Brazilian representative of Hanover Bank and investigating the bona fides of the bank. He asked Simon to have the gentleman telephone him in Ireland. He said that the person called, and Fitzpatrick informed him of his ownership of Hanover Bank. He said the Brazilian told him that a U.S. citizen had shown him documents establishing his ownership of the bank and had asked him to become the bank's Brazilian representative to find new deposits for the bank. Fitzpatrick said that the Brazilian told him he had already raised $15,000. Fitzpatrick said that when he asked for the name, address and telephone number of the U.S. person claiming ownership of the bank, the Brazilian said that he did not have that information. Fitzpatrick said this was not the only incident of this kind—it had happened a number of times over the years.

(e) Casio Fraud

227An analysis of Hanover and Wingrove account statements by Minority investigators, however, found one $50,000 deposit on May 20, 1998, described in wire transfer documentation as a transfer from "Metro Telecom Inc." for further credit to "Ottershaw Consultancy Ltd.," but which was credited to the Wingrove account and appeared to be associated with the Allen-Jouvam marketing effort. When asked about this deposit, Fitzpatrick said that he was unfamiliar with the names and could not recall the circumstances surrounding the deposit. He said it was possible that Wingrove had told him to credit the $50,000 to his account and he did so without asking additional questions.

In 1998, banking authorities examined Hanover Bank for illegal banking activities in Jersey and the United Kingdom and launched an investigation into what would turn out to be the Koop fraud, but they apparently missed the bank's possible involvement in still another multi-million-dollar financial fraud, which began in Japan and led to legal proceedings in multiple jurisdictions. The fraud involved a major Japanese electronics company, Casio Computer Co. Ltd. ("Casio"), which filed suit in Japan, the United Kingdom and the United States, among other countries, claiming that a senior employee, Osamu Sayo, had defrauded the company out of $100 million.[228] The legal suits sought worldwide injunctions against Sayo and other individuals and corporate entities associated with the fraud, including Theoddor Tsuru, who had apparently been hired by Sayo to help hide and invest a portion of the stolen funds.

Casio alleged in its U.S. complaint that "the various conspirators lied to, and cheated, Casio and each other, generated fraudulent records to conceal the frauds, and engaged in an elaborate series of wire transfers in an effort to launder the stolen funds and conceal their racketeering activities."[229] Tsuru is described as a key conspirator who, beginning in February 1997, helped transfer Casio funds through numerous bank accounts and place them in various high yield investment schemes. The U.S. complaint alleged, among

[228] See, for example, *Casio Computer Co. v. Sayo* (CH 1998–C No. 3241) before the High Court of Justice Chancery Division in London, including 6/10/98 "Injunction Prohibiting Disposal of Assets Worldwide" naming Tsuru, among other defendants; and *Casio Computer Co. v. Sayo* (U.S. District Court for the Southern District of New York, Civil Case No. 98–Civ–3772–WK), including 6/18/98 "Second Amended Complaint" naming Tsuru, among other defendants.

[229] *Casio Computer Co. v. Sayo* (U.S. District Court for the Southern District of New York, Civil Case No. 98–Civ–3772–WK), Second Amended Complaint at 2.

other misconduct, that Tsuru personally misappropriated a portion of the missing money, stating: "All told, it appears that Tsuru stole at least $8,000,000 of the Casio funds."[230]

In June 1998, the London court issued a worldwide Mareva injunction freezing Tsuru's assets, including a $2 million house in Japan, a $2 million house in Florida, a $1.8 million apartment in New York, and a $4 million yacht. It later issued a judgment against him and ordered him to repay $3.3 million to Casio. Additional civil litigation in the United States involving Tsuru and the Casio funds is ongoing in Florida, Illinois and New York.

Based upon the Minority Staff investigation's analysis of bank records and other evidence, it appears that three 1998 Hanover Bank deposits totaling about $12.6 million are likely associated with the Casio fraud. The deposits were made on three occasions in 1998, using Standard Bank's U.S. correspondent account at Harris Bank International.[231] The evidence linking the deposits to the Casio fraud includes the following:

—Both Fitzpatrick[232] and Wingrove[233] indicated during their interviews that they thought the deposits were likely related to the Casio fraud.

—The funds were deposited into accounts opened at the direction of Poulden, who was then an associate and representative of Tsuru, a key figure in the Casio fraud.[234]

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[230] *Id.* at 15.

[231] The three deposits were:

—$2.475 million deposited on 3/31/98, which Hanover Bank credited to the Doi account;

—$190,000 deposited on 4/22/98, which Hanover Bank apparently credited to the Tsuru-Abe joint account; and

—$10 million deposited on 5/29/98, which Hanover Bank apparently credited to the Morgan Steepleton account.

[232] When asked whether he thought Tsuru was using Hanover Bank in connection with the Casio fraud, Fitzpatrick said that he did not know, but "it looks like that." He said he first found out about the Casio fraud through an article in *The Observer* that "had Tsuru's name all over it." He said he immediately wrote to Poulden expressing concern and the need to remove Tsuru from the bank's board, and later rescinded Tsuru's appointment. Fitzpatrick said that he also wrote to Doi asking him whether his account was associated with the Casio fraud, and received a letter denying any connection. He agreed to provide copies of that letter exchange, but did not do so. He noted, however, that Doi was from Japan, the source of funds in his account was unclear, and Doi allegedly allowed his funds to be used for various investments at the direction of Tsuru, Abe and Poulden. Fitzpatrick also noted that when $400,000 was mistakenly withdrawn from the Doi account due to the Wingrove overdraft, Doi never complained or demanded return of the funds, which he found unlikely conduct with respect to legitimate funds.

[233] Wingrove indicated that he also believed the funds deposited in Hanover Bank were associated with the Casio fraud. He indicated that he was first introduced to Tsuru and Poulden by Fitzpatrick in March of 1998, when Tsuru was attempting to recover funds from another individual associated with the Casio fraud, Joseph R. Kelso. (Kelso's role in the Casio fraud is described, for example, in "Wanted—over there, but not over here," *The Observer* (4/12/98); and "Casio admits to $100m loss as executive goes into hiding," *The Observer* (6/21/98).) Wingrove said that he met with Kelso on Tsuru's behalf while Kelso was detained in England on alleged immigration violations and obtained some promising information. Wingrove indicated that, because he spoke fluent Japanese and was promised 10% of any funds he recovered, he also traveled to Japan on behalf of Tsuru and Poulden. He declined to provide specific information about the trip, other than to say he met with Doi among others, and when he returned in May 1998, warned Fitzpatrick about what he had found out. He said that, in the end, he never recovered any funds for Tsuru.

[234] Poulden had introduced Tsuru and convinced Fitzpatrick to appoint Tsuru to Hanover Bank's board in March 1998. Tsuru stated in pleadings before the London High Court that, from September 1997 until well into 1998, he had employed Poulden as a "barrister" to represent him in matters relating to unsuccessful investments made with the Casio funds. See *Casio Computer Co. v. Sayo* (CH 1998–C No. 3241), "Third Affirmation of Theoddor Tsuru" (1/12/99) at 63. Since, by Tsuru's own admission, Poulden was representing him in 1997 and 1998, in matters involving investments made with Casio funds, it is logical to assume Poulden was continuing to do so in connection with their dealings with Hanover Bank.

—The deposits were made in 1998, when Tsuru was still handling Casio funds, and were deposited to accounts associated with Tsuru, including a joint Tsuru-Abe account, the Doi account and a corporate account for Morgan Steepleton, a company Fitzpatrick said was associated with Tsuru.

—The bulk of the funds were withdrawn through wire transfers authorized by Poulden during the period he was associated with Tsuru.

While the evidence linking the $12.6 million to the Casio fraud is far from conclusive, it is more than sufficient to raise concern. U.S. legal counsel for Casio indicated that they were spending considerable time trying to track down funds and assets related to the Casio fraud, had been wholly unaware of the Tsuru-related accounts at Hanover Bank, and were interested to learn of the deposits and withdrawals.

The fate of the Casio funds that were still on deposit with Hanover Bank when the bank became inactive in 1998 is also of interest. Fitzpatrick indicated that all remaining funds in its account at Standard Bank were transferred in December 1998 or January 1999, to an attorney trust account belonging to the bank's London solicitor, Finers. No documents were produced, however, showing exactly how much was transferred to the Finers account. Evidence obtained by the investigation indicates that, at the time, a dispute arose between Fitzpatrick and Poulden over where the funds should be transferred, with each man insisting on a different attorney trust account. Fitzpatrick resolved the dispute by terminating Poulden's relationship with Hanover Bank and instructing Standard Bank to transfer the funds to Finers. There is also some evidence that Tsuru may have asserted ownership of the funds, which Fitzpatrick declined to acknowledge in light of the Casio fraud and uncertainty over the funds' status.

Fitzpatrick indicated during his June 2000 interview, that the funds sent to Finers remain in the attorney trust account, although somewhat reduced by legal fees. The bank's 1998 financial statement shows that Hanover Bank also paid Fitzpatrick a 1998 "dividend" of $1.9 million. The source of the funds used to pay the $1.9 million dividend is unclear; if the funds were drawn from the Hanover Bank correspondent account at Standard Bank, they may have included illicit proceeds from the Casio fraud.

(7) Correspondent Account at Harris Bank International

In 1998, over a 3-month period, Hanover Bank accumulated deposits of more than $17 million. Nearly $5 million of these deposits came from the self-confessed Koop fraud; the remainder appears likely to have been associated with the Casio fraud. All $17 million was deposited into and later transferred from Standard Bank's U.S. correspondent account at Harris Bank International in New York. The evidence indicates this U.S. account was the account Hanover Bank used most often during 1998, although Harris Bank International had no knowledge it was providing correspondent services to this offshore shell bank.

Information about Hanover Bank's use of the Harris Bank International account was obtained, in part, through interviews with

Harris Bank International personnel involved in the administration of the Standard Bank account. Standard Bank declined to provide either an interview or written response to a letter requesting information. Documentation in Harris Bank International files, account statements, and other materials and information were collected and reviewed.

Harris Bank International. Harris Bank International Corp. ("Harris Bank International") is a wholly owned subsidiary of Harris Trust and Savings Bank, a major Midwestern bank with over 6,500 employees and over $26 billion in assets.[235] Harris Bank International, an Edge Act corporation with about 40 employees, is headquartered in New York City, with a representative office in London. Both banks are members of the Bank of Montreal Group of companies.

According to Harris Bank International personnel, its core business is international correspondent banking, particularly handling U.S. dollar "electronic funds transfers of international origin."[236] In the Bankers Almanac, about 40 foreign banks identify Harris Bank International as their U.S. correspondent. These 40 banks include a few large banks and many smaller banks, including banks in jurisdictions known for bank secrecy, weak anti-money laundering controls or high money laundering risks, such as Austria, Bosnia-Hercegovina, Costa Rica, Latvia, Luxembourg, and Turkey. One of the 40 is Standard Bank Jersey Ltd.

Standard Bank and Hanover Bank. Harris Bank International indicated that Standard Bank Jersey Ltd. was one of its larger clients. Harris Bank International account statements for Standard Bank Jersey Ltd. show numerous transactions involving millions of dollars each day, including large bank-to-bank and bank-to-broker transfers and smaller transfers involving individual clients. The transactions included significant sums transferred to or from foreign banks in the Standard Bank group. In 1998 and 1999, the Standard Bank account saw so many transactions each day that Harris Bank International issued daily account statements. Daily account totals during April 1998, for example, ranged from a low of $3.4 million on April 10th to a high of $134 million on April 28th. In just 3 months, from April to June 1998, when the Hanover Bank account was active, more than $1.5 billion was deposited into the Standard Bank account at Harris Bank International, primarily through inter-bank transfers and the sale of large blocks of securities. Of that $1.5 billion, only about $17 million, or about 1% of the total, were deposits to Hanover Bank.

Harris Bank International stated in its letter to the Subcommittee that it has "never maintained an account relationship for Hanover Bank Ltd., Antigua and has acted only as an intermediary to transactions on behalf of Standard Bank, Jersey." Harris Bank personnel indicated that the bank did not even know that it had been providing correspondent services to Hanover Bank in 1998. Fitzpatrick and Harris Bank personnel agreed that the two

[235] See Harris Bank website at *www.harrisbank.com/facts.html;* and 6/15/00 letter from Harris Bank International to the Subcommittee.

[236] Letter dated 6/15/00 from Harris Bank International to Subcommittee.

banks had never communicated directly with each other.[237] Harris Bank International indicated that it had not known that Hanover Bank was an offshore shell bank, or that it was owned by a single individual and licensed by a secrecy jurisdiction. It indicated that, if Hanover Bank had applied directly for a correspondent relationship, Harris Bank International would likely have rejected the application.

Harris Bank International's lack of awareness of Hanover Bank is attributable, in part, to the relatively small number and dollar volume of transactions involving Hanover Bank, when compared to the other activity in the Standard Bank account. But it is also attributable to Harris Bank International's practice of not asking its respondent banks about their bank clients.

Harris Bank International indicated, for example, that despite having a longstanding correspondent relationship with Standard Bank of Jersey, it had no information on Standard Bank's own correspondent practices. Harris Bank International did not know how many accounts Standard Bank had opened for foreign banks, nor did it know whether Standard Bank would readily accept offshore shell banks or banks in secrecy jurisdictions with weak anti-money laundering controls. Harris Bank International indicated that, even after the Hanover Bank incident, it had not collected information on what foreign banks may be utilizing Standard Bank's account, and had no immediate plans to find out.

Harris Bank International stated in its letter to the Subcommittee that it did conduct ongoing due diligence reviews of Standard Bank and its correspondent account. It indicated, for example, that it took steps to ensure that Standard Bank had an active anti-money laundering program in place, and provided a copy of Standard Bank's November 1999 "Anti-Money Laundering Handbook." Standard Bank's Handbook provides general information and specific bank procedures for combating money laundering. It specifies a Money Laundering Reporting Officer for the bank, emphasizes the bank's need to "know its customers," and provides useful guidance on how to recognize and respond to signs of possible money laundering. The Handbook provides employee instruction on account opening and monitoring procedures, conducting due diligence, and reporting suspicious activity. It does not provide any specific guidance or instruction on correspondent banking. Because Standard Bank did not respond to requests for information, it is not clear if the same due diligence procedures were in place in 1998, or how the bank applies its anti-money laundering policies and procedures to correspondent bank clients.

Harris Bank International said that it has correspondent relationship managers in New York and London who oversee the Standard Bank account. It indicated that it monitors all of its accounts, including the Standard Bank account, by "regularly review[ing] transaction volumes, value and payment content." Harris Bank International indicated that its monitoring efforts have relied on manual reviews of this information, but after a recent

[237] Wingrove said in his interview that he frequently spoke with Harris Bank International customer service personnel in 1998, to find out whether certain wire transfers had been deposited into the Hanover Bank account, but the bank indicated that its customer service representatives had no recollection of Wingrove.

Federal Reserve audit recommended strengthening its monitoring program, it has allocated funds and is in the process of selecting an electronic monitoring system. It indicated that its manual monitoring program did not and could not have identified the Hanover Bank transactions as a problem, because the total dollar volume involved represented such a small portion of the Standard Bank account activity. As it stated in its letter to the Subcommittee, the Hanover transactions "were not and would not be considered suspicious from our intermediary bank perspective. These transaction types are typical of Standard Bank."

Harris Bank International said that it had relied on Standard Bank to comply with its Anti-Money Laundering Handbook and exercise due diligence in opening and monitoring all of its accounts, including the Hanover Bank account. Harris Bank International indicated that, it was only after the Minority Staff inquiry about the account, that it learned Jersey regulators had censured Standard Bank for failing to conduct adequate due diligence in initiating a correspondent relationship with Hanover Bank.

As described earlier, in July 2000, the Jersey Financial Services Commission issued a statement finding that senior officials at Standard Bank had "failed to follow proper procedures," and the bank had fallen "well short of the standards expected" with respect to due diligence. The statement commended the bank for making changes in its senior management, including dismissing the chairman of the bank, Berkeley. Because Jersey officials declined to provide copies of their investigative report or the supporting bank documentation, it is unclear whether they made assessments or issued findings regarding Standard Bank's overall anti-money laundering efforts in correspondent banking.

B. THE ISSUES

Hanover Bank is a little known, offshore shell bank, licensed by a small bank secrecy jurisdiction. It is essentially a one-man operation, taking deposits, wiring funds and dabbling in credit transactions, with virtually no controls and minimal outside oversight. On two occasions it opened a correspondent account at Standard Bank in Jersey and conducted transactions through Standard Bank's U.S. correspondent account at Harris Bank International in New York, unbeknownst to Harris Bank International. In 3 months in 1998, Hanover Bank moved over $17 million through the New York account, virtually all of which were likely illicit proceeds from the Koop and Casio frauds. The U.S. bank responsible for accepting and wire transferring the $17 million had no idea it was providing correspondent services to an offshore shell bank with no office, no trained staff, few operational controls, and past associations with fraud and criminal money laundering.

Offshore Shell Bank Operations

Because Hanover Bank's owner, GOAB authorities, and Harris Bank International cooperated with the investigation, and supporting documents and interviews were obtained from several sources, the Hanover Bank case history provides a rare opportunity to take a close look at how one offshore shell bank operated on a day-to-day basis. The view is not an inspiring one.

Hanover Bank operated well outside the parameters of normal banking practice, without the most basic administrative controls that U.S. banks expect in a regulated financial institution. It did not have a single trained banker or accountant on staff. It had no full time staff at all. It had no electronic ledger, and stored its records at the bank owner's personal residence. It opened accounts with little or no account opening documentation. It drew up a one-page set of due diligence requirements for new accounts and then ignored them. It accepted incoming funds for persons who were not accountholders at the bank. It kept all of its funds in its correspondent accounts and tracked client deposits by reviewing monthly correspondent account bank statements. It authorized outgoing wire transfers, without documenting who had authority to withdraw funds from particular client accounts. It operated without compiling or issuing regular client account statements. It certified one client account as having $16.5 million, when the account balance never exceeded $2.4 million. It incurred an $800,000 overdraft after failing to check a client's account balance before approving a requested wire transfer. It watched $17 million move through its accounts without asking any hard questions about the source of the funds. It operated for 8 years without a single on-site visit from its primary government regulator.

Hanover Bank was able to avoid regulatory oversight in part because it was a shell operation without a permanent office or staff. GOAB authorities could not simply walk in the bank's doors, ask questions and inspect documents. The bank owner was literally thousands of miles away from routine oversight. At the same time, due to its low profile, the bank never drew the attention of bank regulators in Ireland. Even after learning of its existence in the jurisdiction, Irish regulators were hesitant to exercise oversight of a bank that was licensed in the Caribbean, accepted deposits in the Channel Islands, and limited its day-to-day activities in Ireland to making telephone calls and faxing wire instructions.

The result was a bank that experienced minimal oversight and accumulated a track record of operational problems and suspect conduct, including handling funds associated with money laundering and frauds that are the subject of ongoing criminal prosecutions and civil litigation in New Jersey, New York, South Carolina, Florida, and Illinois in the United States, as well as other countries around the world.

Interviews conducted with bankers and bank regulators in the United States and elsewhere indicate that the international banking community has little awareness and no specific information on how offshore shell banks conduct business. Many expressed surprise when told of the weak recordkeeping practices and loose operating procedures at Hanover Bank. Some expressed surprise that a small, offshore shell operation gained access to a U.S. bank. Some expressed surprise at the amount of trouble that this one-man bank caused in the United States alone, apparently becoming a magnet for financial fraud and suspect funds.

Lack of Due Diligence by U.S. Bank

Although Hanover Bank never opened its own U.S. correspondent account, it managed in 3 months to use Standard

Bank's U.S. account to move millions of dollars associated with financial fraud and money laundering. The Hanover Bank case history demonstrates the money laundering vulnerability of U.S. banks that fail to ask questions about the correspondent practices of their foreign bank clients.

Harris Bank International's core business is international correspondent banking and its primary activity is providing international wire transfer services to foreign banks. Yet Harris Bank International did not ask its respondent banks about their correspondent banking activities. It did not ask its foreign bank client whether they provided correspondent banking services to other banks. It did not ask how many banks might be using the foreign bank's U.S. correspondent account, what types of banks might be using it, or the names of those banks.

The practical result is that Harris Bank International never knew it was providing correspondent services to an offshore shell bank licensed by a bank secrecy jurisdiction. Because Hanover Bank's transactions comprised just 1% of Standard Bank's total account activity, Harris Bank International's monitoring systems could not reasonably be expected to isolate and evaluate these transactions. The result is that Hanover Bank got a free pass into the U.S. banking system and carried out its transactions without triggering any anti-money laundering oversight in the United States.

That free pass would not have been issued if Harris Bank International had required its respondent banks to identify their bank clients and to refuse to give offshore shell banks access to their U.S. correspondent accounts.

In December 2000, Harris Bank International personnel indicated that, in light of the Bank of New York scandal, the Minority Staff investigation, and a recent Federal Reserve Bank audit, the bank had decided to strengthen its anti-money laundering controls in the correspondent banking field. Harris Bank International personnel indicated that, among other measures, funds had been allocated to develop better risk assessments of its existing correspondent bank clients, better client profiles, and better monitoring systems, including the bank's first electronic monitoring software. Harris Bank International personnel also indicated that the bank had decided to ask new applicants to identify their bank clients and correspondent banking practices, although it had not yet been decided whether the bank would ask the same questions of its existing clients.

Harris Bank International's recent commitment to improving its anti-money laundering controls is welcome. But the bank's hesitancy to ask its existing bank clients about their correspondent practices—including whether they allow offshore shell banks to use their U.S. accounts—continues a limited due diligence approach that is easy to administer, but hard to justify in light of the money laundering risks illustrated by the Hanover Bank case history.

HANOVER BANK TRANSACTIONS USING STANDARD BANK'S U.S. CORRESPONDENT ACCOUNT AT HARRIS BANK INTERNATIONAL

April–July 1998

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
APRIL	$0	$6,781,409	$3,265,545	$3,515,864
MAY	$3,515,864	$431,800	$525,000	$3,422,664
JUNE	$3,422,664	$10,180,635	$10,099,985	$3,503,314
JULY	$3,503,314	$30,925	$0	$3,534,239
TOTAL		**$17,424,769**	**$13,890,530**	

Data based upon information provided by Standard Bank Jersey Ltd. and attached to 6/14/00 letter to Harris Bank International Corporation from Jonathan Speck of Mourant de Feu & Jeune.

Prepared by U.S. Senate Permanent Subcommittee of Investigations, Minority Staff, November 2000.

Case History No. 6

BRITISH BANK OF LATIN AMERICA

British Bank of Latin America, Ltd. (BBLA) is a small offshore bank that obtained a license in the Bahamas, sought clients in Colombia, kept its money in the United States, and closed its doors in 2000 after being named in two separate U.S. money laundering stings. This case history examines the failure of BBLA and its major U.S. correspondent bank, the Bank of New York, to guard against money laundering through the Colombian black market peso exchange, the largest money laundering system in the Western Hemisphere.

The following information was obtained from court pleadings; documents provided by BBLA, Lloyds TSB Bank ("Lloyds"), and the Bank of New York ("BNY"); interviews; and other materials. Key sources of information included a March 9, 2000 written submission by BBLA to the Subcommittee; a March 31, 2000 interview of BBLA and Lloyds personnel; and an August 17, 2000 interview of BNY personnel. All three banks voluntarily cooperated with the investigation.

A. THE FACTS

The British Bank of Latin America, Ltd. ("BBLA") began operations in 1981. From its inception to its closure in 2000, BBLA maintained an administrative office in the Bahamas and a representative office in Colombia. In the Bahamas, the bank held an official offshore banking license; in Colombia, it held an official certificate, first issued in 1983, authorizing it to operate a representative office. All of BBLA's clients were Colombian. At its height, BBLA had 8 employees, about 200 clients, and about $135 million in assets. Throughout its existence, BBLA was affiliated with a large Colombian bank, Banco Anglo, and a major international bank based in London, Lloyds TSB Bank.

(1) BBLA Ownership

BBLA is a longtime Lloyds affiliate. Lloyds TSB Bank is a decades-old financial conglomerate with, according to the Bankers Almanac, about 77,000 employees and $280 billion in assets worldwide. The Lloyds TSB Group includes not only Lloyds TSB Bank in London, with its 1,800 branches and numerous affiliated banks, securities firms and other companies, but it is also associated with one of the world's most prominent insurance companies, Lloyd's of London.

BBLA was first established and licensed in the Bahamas in 1981, under the name Banco Anglo Colombiano (Nassau) Ltd. It began its existence and continued for more than a decade, from 1981 until 1993, as a wholly owned subsidiary of a Colombian bank, originally called Banco Anglo Colombiano S.A., then renamed Banco Anglo S.A. ("Banco Anglo"). Banco Anglo is a well established Colombian bank with over 1,000 employees and 50 branches throughout the country. It, too, is a longtime Lloyds affiliate.[238]

[238] Banco Anglo operated as a wholly owned subsidiary of Lloyds until 1976, when Colombian law changed to require local ownership of Colombian banks, and Lloyds sold 51% of Banco An-

In 1993, Colombian law was changed to prohibit Colombian banks from owning foreign bank subsidiaries, and Banco Anglo was required to sell its bank in the Bahamas. On June 29, 1993, it sold the bank to a newly-formed holding company, Sociedad Inversionista Anglo Colombiano S.A. ("SIAC"), which was incorporated in Colombia. SIAC's largest stockholder was a company in the Lloyds group, Lloyds Bank (BLSA) Ltd., which owned 49% of the shares.[239] Because a Lloyds company was the largest stockholder of both Banco Anglo and SIAC, the transfer of BBLA from one to the other in 1993 essentially kept the bank within the Lloyds group. In 1994, SIAC changed the bank's name from Banco Anglo Colombiano (Nassau) Ltd. to British Bank of Latin America, presumably to stress the bank's affiliation with Lloyds, a leading British bank.[240]

Throughout its 19 years, despite multiple technical ownership changes to comply with changes in Colombian and Bahamian laws, BBLA remained a Lloyds affiliate, through either Banco Anglo or SIAC. BBLA continually advertised its Lloyds affiliation as a key aspect of its ownership, organization and operation.

(2) BBLA Principal Lines of Business

When asked about BBLA's major business activities, BBLA and Lloyds personnel explained that, because Colombian law used to severely restrict the ability of Colombian banks to offer U.S. dollar loans to their clients, many Colombian banks established offshore subsidiaries to provide the U.S. dollar loans they could not. According to them, BBLA was established by Banco Anglo for that purpose. As one BNY analysis put it, "BBLA exist[ed] to book dollar loans for [Banco Anglo] customers."[241]

Over time, BBLA took on additional lines of business, but continued to work closely with Banco Anglo. In simplest terms, Banco Anglo provided banking services to its clients in Colombian pesos, and referred them to BBLA if they needed banking services in U.S. dollars.

BBLA stated, and the documentation substantiated, that the bank eventually had two basic groups of clients. The first consisted of Colombian companies that needed U.S. dollars to engage in foreign trade or other business transactions. BBLA provided these clients with U.S. dollar loans and trade financing, BNY stated in one memorandum, "[BBLA] takes dollar funds and makes dollar loans to Colombian borrowers to finance imports, working capital, and equipment."[242] BBLA explained that it financed its U.S. dollar loans primarily through credit lines granted to the bank by its U.S.

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glo's shares to local Colombian investors. In 1991, after Colombian law reversed course to again permit foreign ownership of Colombian banks, Lloyds re-purchased Banco Anglo stock and eventually regained its position as the bank's majority shareholder.

[239] The remaining 51% of SIAC shares were held by a number of local Colombian investors.

[240] From 1993 to 2000, Lloyds steadily increased its ownership of the shares of both Banco Anglo and SIAC. By December 1999, Lloyds owned about 97% of Banco Anglo and about 98% of SIAC. Lloyds did not become a 100% owner of BBLA, because Bahamian law had long required its banks to have more than one shareholder. For example, when Bahamian law required its banks to have a minimum of five shareholders, BBLA's shareholders included SIAC and four Lloyds employees in the Bahamas, each of whom owned one share of BBLA. In 1997, when Bahamian law changed to permit a minimum of two bank shareholders, BBLA's shareholders became SIAC and Lloyds TSB Nominees Ltd., another company in the Lloyds group.

[241] Internal credit analysis of BBLA by BNY Credit Division (10/17/95) at 4, BNYSEN 676.

[242] Internal BNY document by "BNY Credit Division" (10/18/95), BNYSEN 351.

correspondents or Lloyds affiliates. BBLA indicated that its company clients were not shell investment vehicles, but manufacturers, coffee growers and other Colombian businesses with tangible assets and active import and export sales.

BBLA's second category of clients consisted of wealthy Colombian individuals seeking private banking services in U.S. dollars. Among other services, BBLA accepted deposits from these clients and placed them in U.S. dollar investment funds and higher interest bearing accounts, primarily through accounts made available to BBLA by its U.S. correspondents or Lloyds affiliates. BBLA earned revenue from these placements, not only by assessing fees for its services, but also by sharing in the higher interest earnings paid on the deposits. BNY stated that BBLA was also used as a vehicle to allow its individual shareholders to "receive dividends offshore." [243]

During its interview, BBLA stated that, at its height, it had about 140 depositing clients and about 60 borrowing clients. The borrowing clients were all companies. Of the 140 depositors, BBLA estimated that 90% were individuals holding accounts in their own names, and about 10% were corporations. At its height, BBLA indicated that it had about $50 million in client deposits, all of which were held in its correspondent accounts. Part of BBLA's attraction for Banco Anglo clients seeking private banking services included BBLA's location in a bank secrecy jurisdiction with no personal or corporate taxes, and its ready access through its correspondents to U.S. dollar time deposits, investment accounts and wire transfer capabilities.

In addition to serving its two groups of clients, BBLA's account statements show a constant stream of large money transfers among BBLA and a handful of Lloyds affiliates, including Lloyds banks in Belgium, Colombia, Panama, the United Kingdom and the United States. These transfers, involving millions of dollars moving on almost a daily basis among the Lloyds group, were the most significant category of transactions on BBLA's account statements. They depict an offshore affiliate well-integrated into the Lloyds banking network.

BBLA stated that it did not act as a correspondent for other banks or allow other foreign banks to transact business through its U.S. account. It indicated that it did not offer its clients foreign exchange services, instead offering them banking services solely in U.S. dollars. BBLA stated that it did not engage in high yield investment programs, Internet gambling, or other high risk activities described in some of the other case histories. BBLA also indicated that it did not establish shell corporations for its clients, although any clients needing such services would be able to obtain them through other Lloyds banks.

BBLA's financial statements were audited by KPMG Chartered Accountants in the Bahamas. The 1998 audited statement indicated that the bank was thinly capitalized but profitable, primarily due to an active lending portfolio exceeding $120 million, and earnings from about $70 million in client and bank deposits. BBLA indicated that it was highly reliant on Banco Anglo for virtually all

[243] Internal BNY "Call Report" on BBLA (3/24/00) at 1, BNYSEN 333.

of its client referrals. BNY apparently agreed, stating in one credit analysis, "[BBLA] exists as a going concern only by virtue of its tie to [Banco Anglo]."[244]

(3) BBLA Correspondents

BBLA indicated that, because it specialized in offering U.S. dollar services to its clients, it kept virtually 100% of its funds in U.S. correspondent accounts and carried out almost all of its transactions in that currency. BBLA stated that its primary U.S. correspondent had long been the Bank of New York, where it opened an account in 1985, in part because Banco Anglo, already had a correspondent relationship there. BBLA indicated that it also had correspondent relationships with a number of other banks, including Bank of America, Bankers Trust, Barclays Bank, Chemical Bank, Citibank and Lloyds banks in Panama and the United States.

BBLA indicated that it had not encountered difficulty in obtaining U.S. correspondent accounts, because it had a good reputation, sound financial statements, and a close association with Lloyds. It said that, when applying to open a new account or to obtain a new credit line, it usually cited its Lloyds affiliation and indicated that it had the "backing of the Lloyds balance sheets." It said that the correspondent services it used most often were deposits made to higher interest bearing accounts and wire transfer capabilities, while also using to a lesser extent checking clearing and trade financing or other credit arrangements.

(4) BBLA Management and Operations

BBLA Management. During the 1990s, BBLA's senior officers were all employees of other Lloyds affiliated banks in the Bahamas and Colombia. BBLA also shared personnel, office space, and administrative operations with Lloyds affiliates.

In 1998 and 1999, the years focused on in the Minority Staff investigation, BBLA did not have a single senior executive who worked solely for BBLA; all of its senior management personnel also worked for other Lloyds banks. In the Bahamas, BBLA's most senior executive was David Nicoll, who was the "managing director" and head of the bank. At the same time, Nicoll was the head of Lloyds' flagship bank in the Caribbean, Lloyds TSB Bank & Trust (Bahamas) Ltd. ("Lloyds Bahamas") and an "international executive" with the Lloyds TSB Group. Three other senior managers who provided services to BBLA also worked for Lloyds Bahamas.[245] BBLA's board of directors was also dominated by Lloyds employees.[246] In Colombia, BBLA's most senior executive was J. Scott Donald, who also worked for Lloyds TSB Bank and served as the president of Banco Anglo.

At its height, BBLA employed eight individuals who worked solely for BBLA. Four were clerical staff in the Bahamas, who performed back office and administrative operations for the bank. The other four worked in Colombia, serving as the bank's sales representative, an account manager, secretary and assistant. All eight

[244] BNY Credit Division's internal credit analysis of BBLA (10/17/95) at 2, BNYSEN 674.
[245] These senior bank officials were Abraham Butler, Peter Snell and Peter Bridgewater.
[246] BBLA's board members were Nicoll, Butler and Bridgewater.

BBLA employees worked closely with staff from other Lloyds affiliates, including Banco Anglo and Lloyds Bahamas.

BBLA also shared office space and equipment with Lloyds affiliates. In the Bahamas, BBLA occupied a single room on the second floor of Lloyds Bahamas. As Lloyds' flagship bank in the Caribbean, Lloyds Bahamas maintained a sizeable facility in Nassau, the Bahamas' capital city, with three floors of offices, bank teller services in a lobby open to the public, about 70 employees, and a large sign on the building announcing the presence of the bank. BBLA's name did not appear on the outside of the building. In Colombia, in compliance with requirements for separate office space, BBLA rented an office in the same building in Bogota as Banco Anglo, but on a different floor. BNY documents suggest that the Colombian office may have closed in October 1998, even though BBLA continued to offer client services in Colombia.

BBLA Operations. With respect to day-to-day operations, BBLA explained that its Colombian representative office acted as the bank's front office responsible for developing new business and servicing existing clients, while its Bahamas office acted as the bank's back office responsible for technical and administrative matters. BBLA said that the Colombian office received virtually all of its client referrals from Banco Anglo and worked closely with Banco Anglo to open new accounts, evaluate client needs, approve loans, provide investment advice, and resolve client problems. The Colombian office did not take deposits or handle cash transactions, since it was not licensed to conduct banking activities in Colombia. It would accept client requests for wire transfers, which the Colombian staff would then communicate to the appropriate banking personnel for completion.

BBLA said that its Bahamas office handled specific bank transactions and the bank's administrative needs, utilizing Lloyds Bahamas' equipment, electronic data systems, and staff under a management agreement that paid Lloyds Bahamas a large annual fee to manage the bank. For example, among other services, Lloyds Bahamas helped keep BBLA's books, track client account activity, maintain the bank's records, handle its correspondent accounts, file required forms in the Bahamas and Colombia, and pay BBLA's bills. BBLA said that it typically handled about 20 to 30 transactions per day, including deposits, loan payments and wire transfers.

BBLA was not the only Lloyds affiliate operating out of the Bahamas under a management agreement with Lloyds Bahamas. Another was Lloyds TSB Bank & Trust (Cayman) Ltd. ("Lloyds Cayman"). For many years, Lloyds Cayman had a physical presence in the Cayman Islands and held a banking license that permitted it to conduct onshore as well as offshore business. In 1995, however, Lloyds closed the Cayman office, surrendered the bank's onshore license, and obtained a less expensive offshore license that permitted the Cayman bank to conduct its banking operations outside the jurisdiction. Lloyds then moved the Cayman bank's operations to the Bahamas. Like BBLA, Lloyds Cayman operated under a management agreement with Lloyds Bahamas, utilizing Lloyds Bahamas equipment, electronic data systems and staff. Unlike BBLA, the Caymans bank did not have a single employee of its own. Still an-

other Lloyds affiliate operating out of the Bahamas location was Lloyds TSB Bank & Trust (British Virgin Islands) Ltd., a bank that Lloyds indicated was dormant but could be revived at a later time. In short, then, four Lloyds affiliated banks—two licensed by the Bahamas, one licensed by the Cayman Islands, and one licensed by the British Virgin Islands—were co-located at the same Bahamas location.

BBLA's Anti-Money Laundering Efforts. When asked about its anti-money laundering efforts, BBLA disclosed that it did not have one set of written procedures or one person responsible for overseeing anti-money laundering efforts at both its Colombian and Bahamian offices. Instead, each BBLA office had its own anti-money laundering approach.

BBLA's Colombian office produced a copy of written anti-money laundering procedures for that office which conformed with Colombian requirements, and said that its account manager and sales representative in Colombia were well versed in the due diligence requirements for opening new accounts. BBLA's Bahamian office, on the other hand, did not have any written anti-money laundering procedures, despite Bahamian requirements for them, but later produced a copy of the anti-money laundering procedures used by Lloyds Bahamas. A December 1997 anti-money laundering audit checklist provided by BBLA also indicated that BBLA was "going to" appoint a "money laundering reporting officer," another requirement under Bahamas law, but it apparently never did. Instead, BBLA indicated that in the Bahamas, under its management agreement, Lloyds Bahamas staff was responsible for managing its anti-money laundering efforts and provided the services of its own money laundering reporting officer.[247] BBLA said it also used the services of Lloyds' "money laundering prevention officer," Peter Snell.[248] Snell, a senior vice president of Lloyds Bahamas, was not assigned exclusively to anti-money laundering duties, but had many other responsibilities. The end result was that BBLA's Bahamas office had neither written procedures nor a particular person charged with reporting suspicious activity, as required by Bahamian law, but relied on Lloyds Bahamas procedures and personnel instead.

BBLA's anti-money laundering efforts were further disjointed by the geographical separation of its front and back office operations, which operated without the benefit of a bank-wide policy or an overall manager. BBLA's Colombian staff conducted the initial due diligence reviews for new customers and handled client requests for existing accounts, but did not otherwise monitor account activity, since all account paperwork and activity reports were generated in the Bahamas. In contrast, BBLA's Bahamian staff were not involved in the account opening process and were not familiar with BBLA's clients, but were expected to monitor day-to-day account transactions and overall account activity. It is unclear who, if anyone was reviewing client accounts statements or wire transactions

[247] Under Bahamian law, every bank is required to have money laundering reporting officer whose duty is to report any suspicious activity to the Bahamas Government.

[248] This position, which is recommended but not required under Bahamian law, is supposed to have overall responsibility for a bank's money laundering program.

for suspicious activity. It is also unclear how BBLA's staff coordinated their efforts with Lloyds Bahamas.

BBLA was asked, due to its provision of U.S. dollar services to its Colombian clientele, what steps the bank had taken to ensure that it was not a recipient of laundered funds from the black market peso exchange.[249] BBLA and Lloyds personnel expressed unfamiliarity with both the term and the money laundering risks posed by that method of foreign currency exchange. BBLA said that it had no specific policies, procedures or systems in place to detect or deter money laundering through the black market peso exchange.

BBLA Oversight by Banking Regulators. Despite operating in two countries at high risk for money laundering, BBLA never underwent a bank examination or on-site visit by bank regulators in either jurisdiction and there is no evidence that any regulatory body ever took a close look at the bank's operations in 19 years of operation.

Both the Bahamas and Colombia have been identified as presenting higher than average money laundering risks. In June 2000, the Bahamas was one of 15 countries named by FATF for weak anti-money laundering controls and inadequate cooperation with international anti-money laundering efforts. The U.S. State Department's most recent International Narcotics Control Strategy Report ("INCSR 2000") describes the Bahamas as a country of "primary" money laundering concern, due to bank secrecy laws and [a] liberal international business company (IBC) regime [which] make[s] it vulnerable to money laundering and other financial crimes."[250] While banking and money laundering experts interviewed by the Minority Staff described the Bahamas as having good intentions and making important improvements, during the 1990's, it provided weak oversight and inadequate resources to regulate its more than 400 offshore banks.

Colombia is considered an even greater money laundering risk than the Bahamas due to ongoing problems with narcotics trafficking. The INCSR 2000 report, which identifies Colombia as another country of "primary" money laundering concern, provides the following information:

> Colombia produces and distributes more cocaine than any other country in the world and is also an important supplier of heroin. . . . Columbia is the center of the international cocaine trade, with drugs flowing out of the country at a stable and constant rate. . . . Recent statistics indicate that approximately 85 percent of the heroin seized by federal authorities in the northeastern United States is of Colombian origin. . . . Colombia has financial institutions which engage in currency transactions involving international narcotics proceeds that include significant amounts of U.S. dollars. . . . Colombia criminalized the laundering of the proceeds of all illegal activities in 1995 . . . but there still has not been a single money laundering conviction. . . . Even though progress has been made with respect to fighting money laundering, Colombia has

[249] For a description of the black market peso exchange, see below.
[250] *International Narcotics Control Strategy Report* (March 2000)("INCSR 2000") at 637.

> fallen short in its implementation of the money laundering and asset forfeiture laws.[251]

One of the key money laundering systems in Colombian drug trafficking, the black market peso exchange, has been targeted by the United States as a top law enforcement priority for the last 2 years. The 1999 U.S. National Money Laundering Strategy stated:

> The Black Market Peso Exchange is the largest known money laundering system for drug money in the Western Hemisphere. It may be responsible for the laundering of as much as $5 billion of narcotics proceeds each year. . . . The Black Market Peso Exchange lets Colombian narcotics traffickers transform large quantities of drug dollars from the streets of American cities into pesos in their Colombian bank accounts.[252]

The 2000 U.S. National Money Laundering Strategy explains how the system launders funds:

> First, a Colombian drug cartel arranges the shipment of drugs to the United States. The drugs are sold in the U.S. for U.S. currency which is then sold to a Colombian black market peso broker's agent in the United States. The U.S. currency is sold at a discount because the broker and his agent must assume the risk of . . . placing the U.S. dollars into the U.S. financial system. Once the dollars are delivered to the U.S.-based agent of the peso broker, the peso broker in Colombia deposits the agreed upon equivalent in Colombian pesos into the cartel's account in Colombia. At this point, the cartel has laundered its money because it has successfully converted its drug dollars into pesos, and the Colombian broker and his agent now assume the risk for integrating the laundered drug dollars into the U.S. banking system. . . . [T]he Colombian black market peso broker now has access to a pool of laundered U.S. dollars to sell to Colombian importers [who] use the dollars to purchase goods. . . .[253]

U.S. and Colombian law enforcement and banking authorities have spent significant resources tracking the black market peso exchange, educating U.S. and Colombian banks about it, and seizing laundered funds. Despite their joint efforts, the black market peso exchange continues to be the most prolific money laundering system in the United States, successfully using U.S. and Colombian banks to launder billions of dollars each year in cocaine and heroin drug proceeds.

Banking and money laundering experts indicated to Minority Staff investigators that, despite the magnitude of the money laundering problem in Colombia, Colombia's banking regulation is sound, with some of the better money laundering controls in Latin America. They indicated that Colombian authorities are actively engaged in bank oversight, including enforcing requirements for detecting and reporting suspicious transactions. The INCSR 2000 report noted: "Colombia's banks continue to comply with the reporting requirements designed to flag suspicious transactions and have

[251] INCSR 2000 at 115–16; 657–58.
[252] The National Money Laundering Strategy for 1999 (September 1999) at 21–22.
[253] The National Money Laundering Strategy for 2000 (March 2000) at 24–25.

been very cooperative with U.S. efforts to curtail financial transactions by individuals and entities designated as involved with narcotics trafficking."[254] This bright spot in Colombian anti-money laundering efforts, however, did not apply to BBLA, which remained outside Colombian banking oversight and unfamiliar with Colombian and U.S. efforts to stop money laundering through the black market peso exchange.

No Bank Examination in 19 Years. In 1995, Banco Anglo sent a memorandum on behalf of BBLA to Barclays Bank which stated that, "BBLA is subject to the supervision in varying degrees of Bahamas, Colombia and the Bank of England."[255] A copy of this memorandum was provided to BNY which began to incorporate variations of that sentence in internal reports to indicate that BBLA was a well regulated bank.[256] In 1997, a BNY memorandum indicated that BBLA had agreed in writing to "conform to all significant prudential regulations mandated by the Colombian Superintendent of Banks" and had given the Superintendent "full supervisory power" over the bank.[257] In fact, however, BBLA disclosed to the Minority Staff investigation that it had never undergone a bank examination or even a site visit by bank regulators in Colombia or any other country.

BBLA explained that its primary regulator, the Central Bank of the Bahamas, did not conduct examinations of licensed banks, instead reviewing annual reports submitted by each bank.[258] BBLA stated that it had submitted all required filings and had no history of problems with Bahamian bank regulators. BBLA noted that it was also not subject to examination in Colombia, since that country did not conduct bank examinations of representative offices that did not transact banking activities within the jurisdiction. BBLA noted that it had never taken deposits or handled cash transactions for its clients in Colombia, instead working with Banco Anglo, its Bahamas office, Lloyds Bahamas and its correspondent banks, to meet its clients' banking needs. When asked if it had ever been examined by regulators from the Bank of England or the United Kingdom's Financial Services Authority, BBLA indicated that it had not.

(5) Money Laundering Involving BBLA

In 1998 and 1999, U.S. civil forfeiture actions arising from two separate money laundering undercover operations, Operation Casablanca and Operation Juno, cited BBLA as a repository of illegal drug proceeds. In two separate court actions, the United States sought forfeiture of a total of about $2.7 million in illegal drug proceeds deposited into BBLA's correspondent account at BNY. A subsequent BBLA audit identified about 85 additional account trans-

[254] INCSR 2000 at 657.

[255] This memorandum has a bates designation of BNYSEN 648.

[256] See, for example, internal BNY memorandum to the International Credit Committee (12/1/95) at 2, BNYSEN 657; internal BNY credit proposal for BBLA to International Credit Committee (4/21/97) at 1, BNYSEN 691.

[257] Internal BNY credit proposal for BBLA to International Credit Committee (4/21/97) at 1–2, BNYSEN 691–92.

[258] The INCSR 2000 report noted, at page 637, that offshore banks in the Bahamas "must submit annual statements that do not have to include financial statements," and their "records can be maintained anywhere," which makes regular bank oversight more difficult. in 2001, the Bahamas plans, for the first time, to begin conducting its own bank examinations.

actions in 1998 and 1999, that appeared to involved suspicious activity, and also fired an employee suspected of being involved in money laundering and other wrongdoing.

(a) Operation Casablanca

Operation Casablanca was a 3-year money laundering sting conducted from 1995 until 1998 by the U.S. Customs Service.[259] A related money laundering undercover operation was code named Operation Check Mark. These undercover operations traced the laundering of more than $84 million in illegal narcotics proceeds under the control of professional money launderers for the Cali drug cartel in Colombia, and the Juarez drug cartel in Mexico. A significant portion of the $84 million consisted of illegal drug proceeds picked up in cash from various U.S. city locations by U.S. undercover agents acting at the direction of the alleged money launderers, deposited at a U.S. bank cooperating with U.S. law enforcement, and then transferred as part of the money laundering sting operation to still other bank accounts. Other funds identified or provided by the alleged money launderers were, at their direction, wire transferred by the U.S. undercover agents to other bank accounts in an attempt to launder the funds.

In February 1998, the U.S. Department of Justice seized and sought civil forfeiture under seal of funds in various bank accounts in the United States and foreign countries related to the money laundering stings. In May 1998, criminal indictments were unsealed against individuals and banks involved in the money laundering operations. Also in May, the United States filed an amended complaint in the civil forfeiture actions to correct errors and seek forfeiture of additional funds. A second amended complaint was filed in March 1999. Altogether, the United States sought forfeiture of funds from almost 100 bank accounts in the United States and 16 foreign countries.

The United States did not indict BBLA or allege that BBLA or its employees were directly engaged in narcotics trafficking or money laundering. However, the United States did name BBLA in the first and second amended forfeiture complaints as the recipient of about $1.57 million in illegal drug proceeds that, during the sting operations, on the instruction of drug traffickers, had been wire transferred by U.S. undercover agents to BBLA's correspondent account at the Bank of New York (BNY).[260] The wire transfers had directed the funds to be credited to specific clients or accounts at BBLA.[261]

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[259] See *United States v. Proceeds of Drug Trafficking Transferred to Certain Foreign Bank Accounts* (U.S. District Court for the District of Columbia Case No. 1:98–CV–0434 (NHJ)) (hereinafter "Casablanca forfeiture action"), memorandum order by the court (4/11/00), and first amended complaint for forfeiture (5/18/98).

[260] See Casablanca forfeiture action, motion to file second amended complaint (3/30/99).

[261] The wire transfer instructions named the following clients and accounts at BBLA:

—$800,000 transferred on 12/3/97 and 12/15/97 to BBLA's correspondent account for two related companies, Proenfar S.A. and Parowan Group, Inc.;

—$350,000 transferred on 12/3/97 and 3/12/98 to BBLA's correspondent account for Jaime Trujillo;

—$190,000 transferred on 12/4/95 to BBLA's correspondent account for a BBLA account numbered 0019107928;

—$150,000 transferred on 12/3/97 to BBLA's correspondent account for Piedad de Hoyos; and

Continued

When asked for more information by the Minority Staff investigation, BBLA indicated that Bahamian bank secrecy laws and the pending litigation prevented it from discussing either the transfers, the bank's conduct, or the named accountholders. Pleadings filed by three of the accountholders provided the minimal additional information that Proenfar S.A. was a manufacturing company established in Colombia, Parowan Group was a Panamanian investment company, and Piedad de Hoyos was a wealthy woman who had placed $130,000 in a certificate of deposit at BBLA.[262] BBLA accounts statements, subpoenaed from BNY, indicate that several of the wire transfer recipients conducted numerous transactions through BBLA's correspondent account in New York.

In 1999, BBLA filed legal pleadings opposing forfeiture of the $1.57 million in drug proceeds to the United States.[263] When asked why, among other reasons, BBLA stated that the bank "could be subject to double liability" because the suspect funds had been frozen in both the United States and the Bahamas and, if the courts ruled inconsistently, it could be required to pay the $1.57 million twice—once to the U.S. Government and once to the accountholders.[264] In its pleadings in the United States, the bank also seemed to be contending that, because the bank itself was innocent of any wrongdoing, funds could not be seized under U.S. law from its correspondent account, even in the event of misconduct by a BBLA client or by a third party.

In explaining its decision to accept the illegal drug proceeds in the first instance, BBLA stated: BBLA assumed that the U.S. institutions transferring the dollars would have conducted adequate investigations to ensure the legitimacy of the source of the funds that they held and transferred to BBLA. Thus, the deposits did not raise any suspicions at the time they were made."[265] This explanation seems to suggest that BBLA considered any funds transferred by a U.S. bank to be beyond suspicion and in no need of anti-money laundering oversight, but when asked, BBLA stated that its anti-money laundering controls also applied to funds transferred from U.S. banks. In light of the pending litigation, however, BBLA declined to provide additional information about the actions it took with respect to the $1.57 million.

The United States' position, in contrast, was that BBLA was not an innocent bank, should not have accepted the drug proceeds as deposits, and was not entitled to protection from forfeiture under U.S. law. When asked by the Minority Staff investigation to elaborate, the U.S. Department of Justice declined to provide further information. The Casablanca civil forfeiture proceedings are ongoing.

(b) Operation Juno

Operation Juno was a 3-year money laundering sting conducted from 1996 until 1999 by the U.S. Drug Enforcement Administration and Internal Revenue Service Criminal Investigation Divi-

—$80,000 transferred on 12/15/97 to BBLA's correspondent account for two related companies, Amarey Ltd. and Nova Medical.

[262] See Casablanca forfeiture action, claim filed by Proenfar S.A. and Parowan Group, Inc. (7/29/99) and claim filed by Piedad de Hoyos (7/21/99).

[263] See Casablanca forfeiture action, claim filed by BBLA (7/1/99).

[264] See BBLA letter to the Subcommittee (3/9/00) at 8–9.

[265] *Id.* at 8.

sion.[266] The undercover operation laundered over $26 million in drug proceeds, in part using a stock brokerage firm established by U.S. undercover agents. In December 1999, the United States indicted five Colombian nationals for narcotics trafficking and money laundering in connection with the sting operation, accusing them of being major players in the Colombian drug trade. The United States also seized and filed civil forfeiture actions involving $26 million in over 340 bank accounts at 34 U.S. banks and 52 foreign banks.

Again, the United States indicted neither BBLA nor its employees for narcotics trafficking or money laundering. However, several of the Operation Juno indictments referred to drug proceeds being sent to BBLA.[267] The United States also named BBLA in the related civil forfeiture action, this time seeking forfeiture of $1.1 million in drug proceeds that, during the sting operation, at the direction of the alleged money launderers, had been wire transferred to BBLA's correspondent account at the Bank of New York (BNY).[268] The $1.1 million had been deposited over a 2-year period, from July 1997 until July 1999, in nine wire transfers. All were transfers to BBLA's U.S. account for further credit to Andes Trading, a BBLA client.[269] BBLA account statements show numerous transactions through its BNY account on behalf of Andes Trading. When asked, BBLA declined to provide any additional information about these transfers, the bank's conduct, or Andes Trading.

BBLA opposes forfeiture of the $1.1 million in drug proceeds to the United States, for many of the same reasons given in the Operation Casablanca matter. Although BBLA ceased to conduct business by mid 2000, its attorneys are continuing to press its claim to the $1.1 million. The United States has taken the same position as it has in the Operation Casablanca matter, that BBLA is not an innocent bank, should not have accepted the drug proceeds, and should forfeit the funds to law enforcement. Like the Casablanca forfeiture action, the Juno forfeiture action is ongoing.

Together, the Casablanca and Juno civil forfeiture proceedings indicate that, over a 3-year period, BBLA became a repository for about $2.7 million in drug proceeds. Both cases indicate that the funds were the product of money laundering through the Colombian black market peso exchange. For example, when asked about

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[266] See "'Operation Juno' Indictment Targets Five Major Traffickers and $26 Million worth of Laundered Drug Proceeds," press release issued by the office of the U.S. Attorney for the Northern District of Georgia (12/9/99)(hereinafter "Juno press release").

[267] See, for example, *United States v. Monto* (U.S. District Court for the Northern District of Georgia Case No. 1:99–CR–438), criminal indictment (8/25/99); and *United States v. Botero* (U.S. District Court for the Northern District of Georgia Case No. 1:99–CR–439), criminal indictment (8/25/99).

[268] See *United States v. All Funds in Certain Foreign Bank Accounts Representing Proceeds of Narcotics Trafficking and Money Laundering* (USDC DC Case No. 1:99–CV–03112), verified complaint for forfeiture in rem (11/23/99). The complaint also seeks forfeiture of about $295,000 in drug proceeds sent to Lloyds TSB Bank & Trust (Panama) Ltd.

[269] The transfers took place, as follows:

—$250,000 transferred to BBLA's correspondent account on 7/18/97.
—$250,000 transferred to BBLA's correspondent account on 9/18/97;
—$126,127 transferred to BBLA's correspondent account on 1/22/98;
—$100,000 transferred to BBLA's correspondent account on 5/28/98;
—$100,000 transferred to BBLA's correspondent account on 10/7/98;
—$89,795 transferred to BBLA's correspondent account on 3/18/99;
—$17,185 transferred to BBLA's correspondent account on 4/13/99;
—$100,000 transferred to BBLA's correspondent account on 4/29/99; and
—$143,245 transferred to BBLA's correspondent account on 7/7/99.

the Operation Casablanca deposits, BBLA described them as U.S. dollars transferred from a U.S. bank, and noted that Colombian law "permitted Colombian nationals to make those investments with foreign currency that had not been obtained through the country's foreign exchange markets."[270] The Operation Juno deposits are explicitly linked to the black market peso exchange, and the indictments are characterized by the Drug Enforcement Agency as "a significant first step in striking out against the black market peso system that launders billions of drug dollars every year."[271] The implied fact pattern in both instances seems to be that, in order to take advantage of a better exchange rate or perhaps to avoid Colombian legal restrictions, tariffs or taxes, BBLA clients provided Colombian pesos to a Colombian money broker who exchanged them for U.S. dollars that were, in fact, the illegal drug proceeds sent to BBLA's U.S. account for the specified clients.

(c) Other Suspicious Activity

During the interview with Minority staff investigators, BBLA and Lloyds indicated that after the bank was named in the two U.S. forfeiture actions, Lloyds decided to have BBLA's accounts and transactions audited to determine if there were other suspicious transactions. Although it declined to provide a copy of the audit report, BBLA and Lloyds indicated that approximately 85 additional suspicious transactions were identified during 1998 and 1999, which led the bank to file about a dozen additional reports with law enforcement. BBLA and Lloyds declined to provide additional information about the nature of these transactions, their reports, or other aspects of the BBLA audit.

A January 2000 memorandum produced under subpoena by the Bank of New York describes a BBLA employee who was allegedly engaged in money laundering and other misconduct from 1997 until her employment was terminated by the bank in 1999.[272] The BNY memorandum, prepared after a telephone conversation with BBLA personnel, stated in part:

> It turns out that beginning in 1997, a BBLA employee began to experience personal financial difficulties. This led to her involvement in criminal activity for personal financial gain, including skimming profits and laundering money. Her activities were finally discovered in 1999 and she was immediately terminated.

BNY did not have any additional information about this matter, and BBLA declined to discuss it, so it is unclear how this employee's misconduct related to the Casablanca and Juno deposits or the 85 suspicious transactions identified in the BBLA audit. The evidence suggests, however, that BBLA's involvement with money

[270] BBLA letter to the Subcommittee (3/9/00) at 8.

[271] See Operation Juno press release at pp. 3–4, citing involvement of "money exchanger in Colombia, who typically would sell the U.S. dollars for pesos on the Colombian Black Market [P]eso Exchange." The press release also quotes James T. Martin, Chief of the Drug Division of the U.S. Attorney's Office stating that, in the Juno case, "the defendants took millions of dollars in drug money in the U.S., and millions in pesos in Colombia, and laundered them both with the money physically leaving either country."

[272] Internal BNY "Call Report" on Banco Anglo (1/27/00), BNYSEN 335.

laundering was not limited to the $2.7 million identified in the two U.S. money laundering stings.

(6) Closure of BBLA

In late 1999 or early 2000, Lloyds made the decision to close BBLA, and most BBLA transactions ceased at the end of March 2000. Lloyds explained that, during 1998 and 1999, it had been able to buy out SIAC's other shareholders and evaluate whether the bank should be continued or folded into Lloyds' other banking operations. Lloyds decided to terminate BBLA as a going concern and re-distribute its clients, assets and loans to other Lloyds banks in the Bahamas, Colombia, Panama, and United States. Lloyds denied that the two money laundering forfeiture actions were the primary reason behind closing the bank, but indicated the litigation did not encourage the bank's continuation. Lloyds indicated that legal counsel would continue to press BBLA's claims in both the Casablanca and Juno forfeiture actions. Because Lloyds is not surrendering BBLA's license, but merely discontinuing its operations, it is possible the bank could be revived at a later time.

(7) Correspondent Account at Bank of New York

The Bank of New York (BNY) began its correspondent relationship with BBLA in 1985. While the Minority Staff investigation did not examine the bank's initial decision to open the BBLA correspondent account, it did examine BNY's due diligence efforts during the latter half of the 1990s with respect to the BBLA relationship. The evidence indicates that, while BNY was diligent in its efforts to monitor the BBLA account, its anti-money laundering efforts suffered several serious deficiencies. Perhaps the most significant deficiency was BNY's failure to exercise any anti-money laundering controls related to the Colombian black market peso exchange.

Bank of New York. The Bank of New York is a major financial institution in the United States with, according to the Bankers Almanac, over 17,000 employees and $60 billion in assets. BNY has a substantial international correspondent banking portfolio, with over 2,000 international correspondent accounts and 150 correspondent banking relationship managers around the world. Its international correspondent accounts are handled primarily by its International Banking Sector which is organized into five geographic regions, including a Latin American Division that also handles banks in the Caribbean. BNY has a long history of correspondent banking in Latin America and the Caribbean, including more than a dozen relationships in Colombia and almost as many in the Bahamas.

In responding to the Minority Staff's survey of correspondent banking practices, BNY initially stated that, as a policy matter, it did not open correspondent accounts for offshore banks. When asked about its longstanding correspondent relationships with offshore banks like BBLA and Swiss American Bank, however, BNY submitted a revised form of its policy indicating that the bank did sometimes open correspondent accounts for offshore banks.[273] The

[273] See BNY letter to the Subcommittee (10/13/00) at 4, response to question (7).

Minority Staff investigation indicated that BNY has, in fact, had numerous correspondent relationships with offshore banks. In deciding whether to initiate such relationships, BNY indicated that its policy was to "evaluate the ownership, management, and reputation of the bank in question, as well as the regulatory environment of the licensing country."

When asked about its correspondent banking practices in Colombia, BNY indicated that while it was cognizant of the money laundering risks in Colombia and designated Colombia as a high risk area, the Latin American Division's experience had been generally positive. As stated in several BNY memorandum on BBLA, "We are very comfortable with the country risk of Colombia due to very sound government management and the continuing positive trends in this country."[274] Another BNY memorandum states, "Colombia has one of the strictest and [most] vigilant bank regulatory systems in the developing world."[275]

BNY also indicated, in response to questions, that it was not unusual for Colombian banks to have offshore subsidiaries and stated that BNY had correspondent relationships with several of them. BNY later identified six respondent relationships with offshore banks that were subsidiaries of Colombian banks, in addition to BBLA. BNY indicated that all six were licensed in Panama. It said that BBLA was the only Colombian offshore affiliate in BNY's portfolio that was licensed in the Bahamas, rather than Panama.

When asked about the black market peso exchange, the head of BNY's Latin American Division indicated that she had recently heard the term in an advanced money laundering training course, but was unfamiliar with the issue and had been unaware of its importance in U.S. law enforcement's anti-money laundering efforts. BNY indicated that it had no specific policies, procedures or systems of any kind related to the Colombian black market peso exchange, even for its Colombian respondent banks or their offshore affiliates.

BBLA. BNY documentation indicates that BNY viewed BBLA as part of its correspondent relationships with Lloyds and Banco Anglo, two important BNY clients. BNY stated in a letter to the Subcommittee that, "The Bank viewed BBLA as part of its overall relationship with the Lloyds Bank group."[276] The documentation indicates that BNY took on BBLA when it was a subsidiary of Banco Anglo, one of BNY's oldest and most profitable clients in Colombia; and BNY had considered the two banks in tandem ever since. BNY stated that it had often paid "[j]oint visits" to the two banks,[277] and most of BNY's internal memoranda discuss both banks jointly.

BNY provided a range of credit and non-credit correspondent services to BBLA, all in U.S. dollars. They included wire transfers, check clearing, placements of funds in higher interest bearing accounts, trade financing, and several lines of credit. BBLA made full use of these services and, despite its small size, moved tens of mil-

[274] Internal BNY memorandum from Latin American Division to International Credit Committee (10/25/94) at 2; (5/5/95) at 2; (6/20/95) at 2.

[275] Internal BNY credit proposal for Banco Anglo to International Credit Committee (12/8/95) at 2, BNYSEN 697.

[276] BNY letter to the Subcommittee (10/13/00) at 5, in answer to question (9).

[277] *Id.* at 5, in answer to question (12).

lions of dollars through its BNY account each month. BBLA's dollar volume, in fact, far exceeds any other case history in the Minority Staff investigation. In 1998 and 1999 alone, BBLA's deposits and withdrawals from its U.S. correspondent account at BNY totaled more than $1.5 billion.[278]

BNY said that, although BBLA held a Bahamian banking license, BNY classified it as a Colombian bank because it worked closely with Banco Anglo, had Colombian clients, and BNY's rating systems assigned Colombian banks a higher risk rating than Bahamian banks, which ensured a more conservative and careful approach to BBLA's monitoring.

The documentation indicates that BNY regularly monitored BBLA and, at times, compiled detailed credit analyses of BBLA's finances and business activities. For example, among other measures, BNY took the following steps:

—BNY correspondent bankers regularly traveled to Bogota to visit BBLA's offices and meet with the bank's senior management; these trips were combined with BNY visits to Banco Anglo. BNY staff also spoke regularly with BBLA staff in Bahamas and visited the Bahamas office occasionally.

—BNY staff regularly prepared memoranda summarizing contacts with the bank and information about its staff and operations.

—BNY obtained copies of BBLA's audited financial statements and other key bank documentation. It inquired about and analyzed BBLA's finances and primary lines of business, and developed detailed credit analyses of the bank. It also inquired about and analyzed BBLA's client base.

—BNY inquired about BBLA's reputation and operations with Banco Anglo and Lloyds, and placed great weight on representations that Lloyds and Banco Anglo controlled BBLA's management, exerted "quality control" over its procedures, and approved its extensions of credit to clients.[279] BNY also inquired about BBLA's reputation in Colombian banking circles.

—On at least two occasions, BNY studied BBLA's transactions and clearing activities to identify suspicious transactions, and found nothing of concern. There was no evidence, however, that BNY regularly monitored BBLA's account activity for possible money laundering.

BNY's due diligence efforts, while significant, also had several serious deficiencies. For example, BNY apparently did not request a copy of BBLA's anti-money laundering procedures and never realized that the Bahamas office had none and there was no BBLA employee assigned to anti-money laundering duties. BNY also never realized that BBLA had never undergone a bank examination or site visit by any government bank regulator. BNY indicated, to the contrary, that it had believed BBLA was subject to more oversight

[278] See chart, "British Bank of Latin America Monthly Account Activity at Bank of New York; January 1998-December 1999."

[279] See, for example, BNY internal memorandum to International Credit Committee (12/1/95), BNYSEN 657–60.

than was usual for an offshore bank, with supervision provided by the Bahamas, Colombia and the United Kingdom. BNY's Latin American Division head indicated that she thought BBLA was, in fact, examined by Colombian bank regulators and was surprised and disturbed to learn that no such examination had ever actually taken place.

BNY indicated that a major factor in its analysis of BBLA was its affiliation with Lloyds and Banco Anglo, two established banks with good reputations, sophisticated banking operations, and a history of involvement with the offshore bank. Lloyds, in fact, exercised significant BBLA oversight, through its control of BBLA's board and senior management and day-to-day involvement with the bank's operations under the agreement assigning Lloyds Bahamas responsibility for managing BBLA's affairs. BNY indicated that it had assumed Lloyds would ensure that BBLA had adequate anti-money laundering policies and procedures in place, but there was no evidence that BNY had ever actually questioned either BBLA or Lloyds about BBLA's specific anti-money laundering efforts.

When asked about the Casablanca and Juno forfeiture actions, BNY indicated that it did not learn of the Casablanca forfeiture action, filed in May 1998, until more than a year later when, on June 25, 1999, U.S. law enforcement seized the disputed funds from BBLA's account in New York. BNY indicated that, until informed by Minority staff investigators, it had not known that the forfeiture action was filed in 1998. BNY was also unaware, until informed by Minority staff investigators, of the audit of BBLA's 1998 and 1999 transactions that identified 85 additional suspicious transactions. Nor did it have details about the BBLA employee who was fired in 1999 for 2 years of misconduct including possible money laundering.

After BNY learned of the Casablanca forfeiture action in June 1999, and the Juno forfeiture action 6 months later, BNY personnel met and spoke with BBLA, Lloyds and Banco Anglo personnel and completed several additional memoranda. But the written materials do not mention either of the U.S. law enforcement actions nor do they discuss any of the issues raised by the two seizures of illegal drug proceeds. When asked why not a single BNY analysis of BBLA ever mentions either matter or any money laundering concerns, the Latin American Division head stated that was "a good question" to which she did not have an answer.

B. THE ISSUES

Black Market Peso Exchange

The BBLA case history demonstrates how an offshore bank can increase the vulnerability of a U.S. correspondent bank to money laundering through the black market peso exchange, when neither takes any steps to minimize this money laundering risk.

The black market peso exchange risks posed by BBLA were clear. BBLA had $50 million in client deposits, all in U.S. dollars, and regularly accepted U.S. dollar deposits from its clients. It did not provide foreign exchange services itself, but accepted U.S. dollars sent by its clients to its U.S. account. Its clients were all from

Colombia. As an offshore bank subject to strict secrecy laws and weak bank oversight, BBLA was attractive to money launderers. It took no steps to detect when a Colombian money broker might be exchanging a BBLA client's pesos for U.S. dollars obtained from drug trafficking. The result was that BBLA's U.S. account became a conduit for illegal drug money.

Despite a long history in Colombia and relationships with seven offshore banks affiliated with Colombian banks, BNY's most senior Latin American correspondent banker had received little training about the Colombian black market peso exchange. BNY used none of the strategies developed to combat this form of money laundering and had failed even to initiate discussions with its Colombian respondent banks about the need to identify and refuse U.S. dollars coming from the Colombian black market.

Like most correspondent accounts for foreign banks, the majority of deposits to BBLA's U.S. account were made by wire transfer, which meant that electronic software had automatically accepted the funds and directed them to BBLA's account. No human intervention or anti-money laundering oversight took place until later. BNY was necessarily dependent upon BBLA to ensure the legitimacy of the funds sent to its U.S. account, yet BNY failed to acquire an accurate understanding of BBLA's anti-money laundering efforts.

BNY's experience is unlikely to be unique. The Minority Staff survey of just 20 U.S. banks found over 200 correspondent relationships with Colombian banks; these banks have additional relationships with Colombian offshore affiliates. The BBLA case history illustrates the money laundering risks associated with these relationships and the need for U.S. correspondent banks active in Colombia to focus on the black market peso exchange.

Offshore Affiliate Issues

A second set of issues in the BBLA case history involves how a U.S. correspondent bank should view an offshore bank that is affiliated with an established bank in another jurisdiction. BNY began the BBLA relationship in part as a courtesy to an existing customer and in part on the expectation that it could rely on the established bank to oversee its offshore affiliate. BBLA's affiliates, Lloyds and Banco Anglo, did exercise oversight of BBLA; and the evidence reviewed by the investigation suggests that an affiliated offshore bank often poses less of a money laundering risk than an unaffiliated offshore bank. At the same time, the BBLA case history suggests that an affiliated status is no guaranty against anti-money laundering deficiencies.

One issue involves the effectiveness of the oversight exercised by Lloyds. Lloyds was intimately involved with BBLA, through its control of BBLA's board, senior management, client referrals and management agreement. But BBLA was not an easy bank to oversee. It operated in two jurisdictions, with offices that had completely different functions, employees and regulatory environments. BBLA did not have a single employee overseeing both offices, and the senior Lloyds managers assigned to the bank had many other responsibilities. BBLA was, in fact, one of four offshore banks that Lloyds was operating from the same Bahamas location, and it is far

from clear how much attention Lloyds Bahamas actually paid to BBLA. For example, Lloyds never ensured that BBLA had a fully functioning anti-money laundering program that met the requirements of Bahamian law.

A second issue is whether BBLA's affiliated status lulled BNY's into paying less attention to the bank. The evidence indicates that BNY did actively monitor the BBLA account and evaluated both its operations and interactions with Lloyds and Banco Anglo. However, because it viewed the banks as working in tandem, BNY treated BBLA in the same way that it treated its affiliates, with little sensitivity to the fact that BBLA, as an offshore operation, posed increased anti-money laundering risks. For example, BNY failed to realize that BBLA's primary regulator remained the Bahamas, and the tougher oversight theoretically available in Colombia and the United Kingdom never actually took place. In the end, BNY failed to obtain an accurate understanding of BBLA's regulatory oversight.

A third issue is that, while BBLA's affiliation with Lloyds provided added oversight, the banks' close association may have also made Lloyds reluctant to disclose BBLA's deficiencies and problems. The evidence indicates, for example, that Lloyds failed to alert BNY to BBLA's involvement in the Operation Casablanca forfeiture or the Lloyds-ordered audit which found 85 additional suspicious transactions. No one wants to be associated with money laundering, and Lloyds' self-interest apparently dictated against its reporting BBLA's failings to BNY. The BBLA case history shows a U.S. correspondent bank cannot always rely on an affiliated bank for negative information about its offshore affiliate.

One lesson of the BBLA case history, then, is that while BBLA's affiliation with Lloyds and Banco Anglo was a positive factor which the Bank of New York reasonably relied on, it also had hidden drawbacks that contributed to BNY's missing important anti-money laundering deficiencies in BBLA's policies, procedures, personnel and regulatory oversight.

Difficulties in Seizing Illegal Drug Proceeds

Finally, the BBLA case history demonstrates the difficulties faced by U.S. law enforcement in confiscating known drug proceeds from a U.S. correspondent account belonging to an offshore bank.

Due to the Operation Casablanca and Operation Juno money laundering stings, it is undisputed that $2.7 million in illegal drug proceeds were sent by wire transfer to BBLA's account in New York. Yet BBLA is opposing forfeiture of the funds, citing a variety of defenses. The ongoing litigation continues to consume U.S. law enforcement and prosecution resources, with the Casablanca forfeiture action exceeding 2½ years so far, and the Juno forfeiture action hitting the 1-year mark.

BBLA's argument that it was an innocent bystander to the drug deposits cannot be evaluated here, since neither BBLA nor the United States provided information about BBLA's role in accepting the $2.7 million. On the other hand, BBLA's argument that it should not be forced to bear any loss in the event of inconsistent court decisions in the Bahamas and United States focuses attention on the legal issue of who, under U.S. law, bears the risk of loss in

this situation. BBLA was an offshore bank that, by design, operated in multiple jurisdictions. It chose to get its license in the Bahamas, obtain its clients in Colombia and keep its dollars in the United States. It profited from that arrangement. Yet it claims that it should be protected from any risk of loss when faced with forfeiture proceedings in two jurisdictions over the same illegal funds. But BBLA accepted the risk of inconsistent rulings when it chose to operate in both jurisdictions at once. Even more, as a policy matter, forcing an offshore bank like BBLA to bear some risk of loss would provide an incentive for it to screen its U.S. deposits more carefully in the future. At the moment, however, how U.S. courts will treat BBLA's legal argument remains unclear.

If BBLA were to prevail in court, the $2.7 million in drug proceeds would be returned to the bank, which would presumably release the funds to the relevant accountholders. The accountholders would then be made whole and suffer no legal consequences for having exchanged currency on the black market peso exchange. Such a conclusion to the BBLA forfeiture actions would make it that much more difficult for U.S. and Colombian law enforcement to discourage use of a black market that is financing much of the illegal drug trade plaguing both our countries.

BRITISH BANK OF LATIN AMERICA MONTHLY ACCOUNT ACTIVITY AT BANK OF NEW YORK

January 1998-December 1999

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1998	$213,454	$40,133,745	$43,583,173	$283,057
February 1998	$283,057	$78,285,586	$81,851,437	$223,083
March 1998	$223,083	$67,867,385	$69,162,634	$330,289
April 1998	$330,289	$87,244,132	$85,318,591	$263,158
May 1998	$263,158	$59,968,296	$62,207,011	$428,085
June 1998	$428,085	$61,986,395	$57,747,511	$467,901
July 1998	$467,901	$24,912,043	$25,147,687	$636,209
August 1998	$636,206	$57,963,111	$56,101,057	$501,208
September 1998	$501,208	$109,213,034	$115,092,113	$222,904
October 1998	$222,904	$93,251,230	$91,634,632	$340,490
November 1998	$340,490	$66,367,458	$67,654,369	$355,848
December 1998	$355,848	$52,557,413	$51,912,424	$201,892
January 1999	$201,892	$25,841,407	$26,426,143	$417,358
February 1999	$417,358	$21,556,062	$22,400,269	$783,988
March 1999	$783,988	$77,097,833	$83,362,990	$270,128
April 1999	$270,128	$48,230,657	$47,260,612	$243,138
May 1999	$243,138	$42,193,127	$42,107,758	$128,750
June 1999	$128,750	$101,889,005	$104,288,218	$234,941
July 1999	$234,941	$48,646,448	$53,890,943	$190,446
August 1999	$190,446	$20,524,495	$18,958,590	$356,352
September 1999	$356,352	$71,930,300	$70,778,186	$209,060
October 1999	$209,060	$61,404,775	$65,395,808	$219,542
November 1999	$219,542	$151,528,274	$150,150,064	$204,778
December 1999	$204,778	$41,043,494	$42,785,700	$265,607
TOTAL		**$1,511,635,705**	**$1,535,217,920**	

Prepared by the U.S. Senate Permanent Subcommittee on Investigations, Minority Staff, January 2001.

Case History No. 7

EUROPEAN BANK

European Bank is a small onshore bank licensed by the Government of Vanuatu, an island nation in the South Pacific. In 1999, European Bank opened an account and accepted $7.5 million in deposits that turned out to be the proceeds of a massive credit card fraud in the United States. This case history looks at how this bank deposited the $7.5 million in a U.S. correspondent account at Citibank and fought for over 1 year to prevent U.S. seizure of the funds. It also looks at the practical difficulties of Citibank's monitoring a correspondent account in a remote jurisdiction with a tradition of bank secrecy and weak banking and anti-money laundering controls.

The following information was obtained from documents provided by European Bank and Citibank; court pleadings; interviews of persons in Australia, the Cayman Islands, the United States and Vanuatu; and other materials. Key information came from interviews with two bank officials, an August 7, 2000 interview of Thomas Montgomery Bayer, chairman and part owner of European Bank; and a June 22, 2000 interview of Christopher Schofield Moore, a financial institutions group vice president at Citibank in Sydney, Australia. Both European Bank and Citibank voluntarily cooperated with the investigation. The investigation also benefited from assistance provided by the Australian, Cayman and Vanuatu Governments.

A. THE FACTS

(1) European Bank Ownership and Management

European Bank is the only indigenous bank in Vanuatu that is privately owned. It is licensed to do business with both Vanuatu citizens and foreign clients. Its offices are located in Port Vila, Vanuatu's capital city. In 1999, European Bank had about $29 million in total assets, handled about 90 clients with 250 accounts, and managed about $62 million in client funds.

European Bank Formation. European Bank Ltd. was first established in 1972. By 1986, it was owned by a consortium of banks that included Bank of America, Union Bank of Switzerland, and others. In 1986, the consortium sold the bank to a Delaware corporation called European Capital Corporation, a holding company which is, in turn, owned by a trust beneficially owned by members of the Bayer family. The bank's name was changed in 1986 to European Bank because, according to Thomas Bayer, the bank hoped to attract European clients doing business in the South Pacific. Thomas Bayer became the bank's chairman. In his interview, Bayer said that, after changing hands, the bank went essentially dormant for 10 years, handling only a few investments. He indicated that, in 1995, a decision was made to revive the bank. The bank obtained its current license to service domestic and international clients in April 1995, hired experienced bankers, and in the last 5 years has become an active financial institution.

European Bank Management. European Bank's top executive is Bayer, who has held the title of executive chairman since 1986.

Documentation and interviews indicate he is actively involved in the management of the bank and serves as its most senior decision-maker.[280] European Bank began hiring management personnel when the bank came out of its dormancy in 1995. European Bank's current president and chief executive officer is Robert Murray Bohn. The senior vice president in charge of operations is Brenton Terry whose predecessor, Douglas P.M. Peters, was instrumental in reviving the bank in 1995. The current operations manager is Kely Ihrig. The senior vice president in charge of the bank's data systems is Susan Phelps, who is also an officer of an affiliated company, European Trust Co. Ltd. The senior manager of the bank's corporate and trust services is David L. Outhred. Most of the bank's senior officers appear to have had solid banking credentials and experience.

(2) European Bank Financial Information and Primary Activities

European Bank Financial Statements. Vanuatu law requires its banks to submit annual audited financial statements. In response to a request by the investigation, European Bank voluntarily provided the Subcommittee with a copy of its 1999 financial statement, which had been audited by the Vanuatu office of KPMG Chartered Accountants.

The 1999 financial statement presented a mixed picture of the bank's finances. It indicated that, overall, European Bank's 1999 income of $1.7 million was exceeded by operating expenses of $1.8 million, resulting in an overall loss of about $77,000 for the year. It valued European Bank's total assets at almost $29 million. Customer deposits, which totaled $112 million in 1998, had dropped by almost half to $62 million. Note 15 stated that a "director related party has placed a deposit of US$984,238 with the bank . . . as security to cover the overdrawn accounts of three clients." "Issued share capital" was $750,000. Despite the overall loss on the year, the bank issued a dividend payment of $116,000, double the 1998 dividend of $83,000, which was paid on profits of more than $291,000.

The financial statement suggests a small, thinly capitalized bank that, in 1999, suffered some unexpected overdrawn accounts, operating losses and a large drop in customer deposits, but nevertheless paid a sizeable dividend.

European Bank Affiliations. European Bank is part of a complex group of companies beneficially owned by the Bayer family. These companies are incorporated in Vanuatu, Canada, the United Kingdom, and the United States, with offices in other countries as well.[281] European Bank records reflect ongoing transactions with a

[280] Bayer is a former U.S. citizen who worked for the U.S. Department of Defense, moved to Australia in 1967, lived in Singapore, and eventually settled in Vanuatu in 1974. After leaving the U.S. military, Bayer worked in international banking, trust activities and investments, including at offshore financial centers. When Vanuatu declared independence in 1980, and asked its leading citizens to take Vanuatu citizenship, Bayer became a citizen of Vanuatu in 1982, giving up his U.S. citizenship. Bayer indicated that he has a business degree from the Wharton School of Business in Pennsylvania, took law courses at a university in Singapore, and is a member of the International Bar Association.

[281] Key companies in the Bayer group include the following:

number of these related parties. These companies are also a source of new clients for the bank.

European Bank Primary Lines of Business. When asked to identify its major lines of business, European Bank described a number of different types of clients and banking activities, none of which appear to dominate the bank. Its activities included: (1) domestic banking for Vanuatu residents; (2) private banking primarily for foreign clients, involving funds management and investment activities for wealthy individuals; (3) banking activities for companies and trusts formed by the bank's affiliated trust companies, European Trust and PITCO; (4) banking activities for the bank's affiliates or their clients, including the PCGF mutual funds, Fidelity Pacific Insurance, and Vanuatu Maritime Services; (5) offshore banking activities for Asian clients, such as Hong Kong citizens seeking escape from estate duties; (6) merchant credit card accounts; and (7) niche banking services for mail order companies, telemarketers and lotteries. European Bank indicated that it did not engage in regular lending activities, although it had a small trade finance portfolio.

Bayer indicated that, when European Bank first came out of its 10-year dormancy in 1995, it concentrated on a banking specialty involving services to mail order companies, telemarketers and lotteries. These banking services consisted primarily of clearing thousands of small checks in various currencies from persons buying merchandise or lottery tickets, and issuing numerous small checks in various currencies to lottery winners or persons returning merchandise or seeking refunds. European Bank performed the labor-intensive work of gathering and batching the consumer checks, while using correspondent banks with international check clearing capabilities, such as Citibank, to help it process payments and issue checks as needed. Bayer indicated that, at its peak, European Bank was clearing about 100,000 checks per month. Both Bayer and Moore indicated that it was this check clearing business that led to the establishment of European Bank's correspondent relationship with Citibank in 1996.

—*European Investment Corp. Ltd.,* a Vanuatu company which is 100% owned by European Bank, functions as an investment holding company, and owns one subsidiary, European Trust Co. Ltd.;

—*European Trust Co. Ltd. ("European Trust"),* a Vanuatu company which is licensed to engage in company and trust formation activities in Vanuatu; is 100% owned by European Investment Corp.; shares employees and office facilities with European Bank; and operates in close cooperation with European Bank;

—*Pacific International Trust Company Ltd. ("PITCO"),* a Vanuatu company which is the only other trust company in Vanuatu aside from European Trust; is owned by PITCO Corp., a Delaware company; has offices in Hong Kong, Kuala Lumpur, London, New York and Port Vila; shares employees and office facilities with European Bank; and uses European Bank as one of its bankers;

—*Pacific Capital Growth Fund Ltd. (PCGF),* a Canadian company which is wholly owned by PITCO; operates several award-winning mutual funds; requires its clients to establish Vanuatu entities; and uses European Bank as one of its bankers;

—*Fidelity Pacific Life Insurance Co. Ltd.,* a Canadian company which is one of only two registered life insurance companies in Vanuatu; holds preferred shares in European Bank; and uses European Bank as one of its bankers;

—*Asian Pacific Finance Ltd.,* a U.K. company which provides financial services and, like European Bank, is owned by European Capital Corporation; and

—*Vanuatu Maritime Services Ltd.,* a Vanuatu company which operates Vanuatu's extensive international shipping register, which is one of the largest in the world; has registered over 500 vessels; maintains ship registration offices in Greece, Hong Kong, Japan, Singapore, the United Kingdom, the United States, and Vanuatu; and uses European Bank as one of its bankers.

Another key activity at European Bank involving correspondent banks has been the bank's fiduciary placement of client funds in various money market or investment accounts at other banks to maximize interest earnings. European Bank typically makes these placements after a competitive bidding process in which its personnel contact the treasury departments at several of its correspondent banks and obtain interest rate quotations for depositing a specified amount of funds for a specified period of time. For example, European Bank might call Citibank, ANZ Bank, and Westpac Banking Corp. to find the best interest rate offered for a 30-day deposit of $1 million. Once the placement terms are settled, European Bank would direct the wire transfer of the funds to the appropriate bank and, at the end of the agreed upon placement period, collect the promised interest payments.

According to Bayer, these placements are a good source of revenue for the bank, which shares in the higher interest rates paid on the deposits. For example, if European Bank was able to place $1 million for 30 days at a 7% interest rate, it might pay its client 5% in interest and keep the remaining 2%. Documentation and interviews indicate that European Bank took a conservative approach to the placement of client funds, using major banks and low-risk investments such as money market accounts or U.S. treasury notes. The documentation also indicates that European Bank often made these placements in U.S. dollars. Documentation and interviews indicate that European Bank often made a fiduciary placement soon after receiving a substantial deposit from an individual client. Bayer indicated that European Bank typically tried to move any large deposit exceeding, for example, $1 million, into a higher interest-bearing placement by the end of the day. Citibank account statements show repeated instances in which European Bank withdrew large client deposits later the same day for placement into a higher interest-bearing money market account either at Citibank or another bank.[282]

(3) European Bank Correspondents

European Bank told the Minority Staff investigation that correspondent banks play a critical role in the bank's operations:

> The role that correspondent banks play in our bank's operation is . . . a critical one. All banks place deposits denominated in foreign currency either directly or indirectly with a correspondent that operates in the country of that currency. . . . As the Vatu [Vanuatu's domestic currency] is not an internationally used currency, virtually all of our bank's assets are on deposit with our correspondent banks. Even within Vanuatu, residents generally do not hold their investments in Vatu, so deposits we received from locally based depositors will invariably be denominated in a currency other than Vatu. For us to pay interest on that deposit, we must in turn deposit it

[282] According to Bayer, on some occasions, European Bank would combine funds from several client accounts into a single placement in order to take advantage of the higher interest rates paid on interbank deposits.

through the interbank system with one of our correspondent banks.[283]

In response to requests for information, European Bank provided a list of about a dozen banks with which it has had a correspondent relationship since 1998. These correspondent banks were licensed in Australia, Italy, the Netherlands, the United Kingdom, Vanuatu, and elsewhere.

Bayer indicated that, for 4 years beginning in 1996, European Bank's primary correspondent relationship was with Citibank. That correspondent relationship was managed by Citibank offices in Australia, but European Bank maintained seven Citibank accounts, each in a different currency, allowing it to transact business in Australia, Canada, Hong Kong, New Zealand, the United Kingdom and the United States, among other jurisdictions. Bayer indicated that European Bank's preferred currency was U.S. dollars and it carried out the bulk of its transactions through its U.S. dollar account at Citibank. European Bank also completed transactions in such currencies as Australian dollars, Canadian dollars, sterling and yen.

European Bank routinely transacts business in the United States, using a variety of U.S. correspondent accounts. While its most frequently used U.S. dollar account was at Citibank, European Bank also used U.S. dollar accounts belonging to its other correspondent banks, such as ANZ Bank (Vanuatu) Ltd. and Bank of Hawaii (Vanuatu), both of which have U.S. affiliates. ANZ Bank (Vanuatu) Ltd., for example, has a correspondent relationship and U.S. dollar account with ANZ Bank (United States) which maintains a small office in New York, and European Bank routinely transacted business through this U.S. account.[284]

While the Minority Staff investigation did not examine all of European Bank's U.S. correspondent activities, it did conduct an in-depth examination of the bank's primary correspondent relationship with Citibank. This correspondent relationship lasted 4 years, from May 1996 until May 2000, and ended only when Citibank made a decision to reduce its correspondent activity involving certain South Pacific island nations. Although European Bank's Citibank accounts are now closed, it continues to transact business in the United States through a variety of other U.S. correspondent accounts.

(4) European Bank Operations and Anti-Money Laundering Controls

European Bank operates out of offices in the capital city of Vanuatu, Port Vila. Its offices are open to the public, since the bank is authorized to take deposits from Vanuatu citizens as well as international clients. The bank shares its office space and staff with two affiliated companies, European Trust and PITCO. According to Bayer, the companies have a combined staff of about 60, of which only about 8 persons work solely for the bank.

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[283] Letter dated 5/22/00 from European Bank to the Subcommittee responding to requests for information ("European Bank letter") at 6.

[284] Both ANZ Bank (Vanuatu) Ltd. and ANZ Bank (United States) are affiliated with the Australia and New Zealand Banking Group Ltd., a large financial services conglomerate with, according to the *Bankers Almanac,* over 30,000 employees and $95 billion in assets worldwide.

From 1996 through mid 2000, the bank maintained an electronic ledger and had its own wire transfer capability using software provided by Citibank. Documentation indicates a well developed set of standard internal forms to track client accounts and bank transactions. Bank records are kept on site in Vanuatu.

The bank does not have a high volume of daily transactions nor does it routinely deal in million-dollar transactions, although it occasionally facilitates large transfers of funds. In his interview, Bayer estimated that the bank handles only about 5 to 10 transactions per day and an even smaller number of fiduciary placements. Citibank documentation indicates that over a 2-year period, 1998 and 1999, only a small number of European Bank's transactions exceeded $2 million. During those 2 years, for example, only one transaction exceeded $10 million; two transactions involved amounts between $5 and $10 million; and less than a dozen involved $2 million or more. Nevertheless, European Bank moved significant amounts of funds through its Citibank accounts. For example, in 2 years, the least active month, at its Citibank U.S. dollar account experienced more than $1 million in account activity, while the most active month saw $50 million move into and out of the account. Overall, European Bank's deposits and withdrawals from its U.S. dollar account at Citibank in 1998 and 1999 totaled almost $192 million.[285]

European Bank's Anti-Money Laundering Controls. European Bank provided the investigation with a copy of its July 1999 "Money Laundering Prevention Policy." In an interview, Bayer stated that it was the bank's first formal, written anti-money laundering policy statement, although the bank has long worked to prevent money laundering by getting to know its customers, monitoring accounts and reporting suspicious activities.

European Bank's policy statement includes sections on the definition of money laundering, how to prevent money laundering, "client acceptance criteria," and anti-money laundering procedures instructing bank employees to "know your customer," monitor transactions, and report suspicious transactions.[286] The policy statement also provides standard forms for reporting cash transactions and suspicious activity.

The person charged with implementing the anti-money laundering policy is the bank's operations manager, who also serves as European Bank's compliance officer. Bayer indicated during his interview that, prior to July 1999, European Bank had not assigned anti-money laundering duties to a particular bank em-

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[285] See chart entitled, "European Bank Monthly Account Activity at Citibank."

[286] Excerpts include the following:

—"The purpose of this policy is to ensure that . . . European Bank . . . has adequate policies, practices and procedures in place, including strict 'know your customer' rules that will encourage all staff of the Bank to promote high ethical and professional standards in the financial and banking sector and prevent the Bank being used, intentionally or otherwise, by criminal elements."

—"Transactions will only be undertaken for customers of the Bank, properly identified individuals or with authorized introductions from group associated entities."

—"It is *mandatory* that before an account is opened, the Bank Officer is satisfied that he/she 'knows the customer', and is satisfied with their bona fides. . . . The Bank requires to know . . . where appropriate, the 'beneficial owner' of the account."

—"[T]he following bank documentation must be obtained/completed: Signature Card. Account Opening Questionnaire[.] Money Laundering Prevention Questionnaire[.] Acknowledgment and Agreement form. Statutory Declaration. Beneficial Ownership form. . . ."

ployee. He said that the policy also led to the appointment of the bank's first official compliance officer.

European Bank's 1999 adoption of a written anti-money laundering policy is an overdue, but important advance in its anti-money laundering efforts. While the policy has many positive features, it has at least two drawbacks. First, it assigns all anti-money laundering and compliance duties to the bank's operations manager, who already has substantial duties in the day-to-day operation of the bank. Bayer indicated in his interview that he thought Kely Ihrig, the current operations manager, spent a very small percentage of her time on anti-money laundering responsibilities. Second, while the policy statement requires "ongoing monitoring of transactions," it appears to limit this monitoring to cash transactions. The policy statement does not require, for example, any monitoring of wire transfer activity, even though the vast majority of European Bank transactions take place through wire transfers. The statement also fails to specify any monitoring procedures, whether manual or electronic, to be used in analyzing ongoing transactions and identifying suspicious activity.

(5) Regulatory Oversight of European Bank

Vanuatu has separate regulatory regimes for its onshore and offshore banks, with different statutory requirements and different regulatory agencies. Onshore, domestic banks are regulated by the Reserve Bank of Vanuatu, while offshore banks are regulated by the Vanuatu Financial Services Commission. European Bank is regulated by the Reserve Bank. Bayer is a long-serving member of the Vanuatu Financial Services Commission.

Vanuatu has a mixed reputation with respect to its banking and anti-money laundering controls. For example, the State Department's *International Narcotics Control Strategy Repo* ("INCSR 2000") identifies Vanuatu as a country of "concern" in terms of money laundering, and describes a number of deficiencies in its anti-money laundering laws. However, the United States has not issued a formal advisory on Vanuatu nor is Vanuatu named in FATF's June 2000 list of 15 countries found non-cooperative with international anti-money laundering efforts. On the other hand, Vanuatu is named in the June 2000 list of 35 unfair tax havens published by the Organization for the Economic Cooperation and Development's Forum on Harmful Tax Practices, and in the March 2000 list of offshore jurisdictions with relatively weak financial regulation issued by the Financial Stability Forum. In late 1999, several major banks, including the Bank of New York, Deutsche Bank and Republic National Bank of New York, stopped processing wire transfers involving certain South Pacific island nations, such as Nauru, Palau Niue and Vanuatu. However, in early 2000, Vanuatu was able to convince the banks to modify their wire transfer ban as applied to Vanuatu so that it was limited, essentially, to Vanuatu's offshore banks, while allowing wire transfers involving Vanuatu's domestic onshore banks. Later in 2000, when Vanuatu underwent its first evaluation by the Asia/Pacific Group on Money Laundering (APG), a FATF regional affiliate, the evaluation identified both positive and negative features of Vanuatu's anti-money laundering controls.

Vanuatu has five locally licensed, domestic banks which together make up the Bankers Association of Vanuatu.[287] These banks are authorized to do business with Vanuatu's residents and any foreign citizen, and to complete transactions using the local currency, the Vatu, as well as any foreign currency.

Beginning in 1999, the Reserve Bank of Vanuatu was assigned responsibility for regulating these onshore banks. This regulation is carried out by the Reserve Bank's Bank Supervision Department. Bayer indicated in his interview that, to date, the Reserve Bank has not issued any bank regulations, because the industry has historically been self-regulated under rules issued by the Bankers Association of Vanuatu. Each onshore bank is required, however, to file monthly reports and an annual audited financial statement with the Reserve Bank. These filings contain information about the bank's capital, balances, major depositors, operations and other information. The Reserve Bank is charged with reviewing these reports as well as conducting bank examinations. Bayer indicated in his interview that European Bank had undergone a number of bank examinations over the years.

In addition to five onshore banks, Vanuatu has licensed over 60 "exempted" or offshore banks. Apparently, all are shell operations run by persons or companies outside of the jurisdiction. Bayer indicated during his interview that about six were affiliated with banks licensed elsewhere, while the remaining—more than 55—were offshore banks licensed only in Vanuatu. He indicated that most of the offshore banks operated under restricted banking licenses which permit the bank to accept deposits only from persons or entities specified on an approved list.

All of Vanuatu's offshore banks are regulated by the Vanuatu Financial Services Commission. The current chairman of the Commission is Bayer, who serves in an advisory capacity.[288] The Commission participates in both the licensing and monitoring of these banks. The Commission also oversees much of the rest of Vanuatu's commercial sector, including the island's international business corporations, trust companies, insurance firms, realtors and other commercial enterprises. It used to oversee the island's domestic banks as well, until that responsibility was switched in 1999 to the Reserve Bank.

According to Bayer, compared to its other duties, the Commission has spent only a small fraction of its time on matters related to offshore banks. He indicated that, of the time spent on offshore bank matters, most of the Commission's efforts have involved obtaining required fees and reports from the offshore banks, and reviewing

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[287] Vanuatu's five onshore banks are: (1) European Bank, the island's only privately-owned, indigenous bank, not licensed in any other jurisdiction; (2) National Bank of Vanuatu, which is an indigenous bank owned by the Vanuatu Government; (3) ANZ Bank (Vanuatu) Ltd., which is part of the Australia, and New Zealand Banking Group Ltd., a large regional conglomerate; (4) Banque d'Hawaii (Vanuatu) Ltd., a wholly owned subsidiary of an established U.S. bank, Bank of Hawaii which operates throughout the South Pacific; and (5) Westpac Banking Corp., which is part of a large Australian financial conglomerate.

[288] According to Bayer, the Commission operates with three members, one of whom is a government employee and serves as the official "Commissioner," while the other two serve as commission "advisors." Bayer indicated in his interview that he has been a member of the Commission since its inception in the 1980s and is the only member who has continuously served on the agency since it began. Bayer indicated in his interview that he perceived his role to be, in part, to represent the interests of the private sector. The official Commissioner for a number of years was Julian Ala, followed recently by Dudley Aru.

submitted filings. He said the Commission carried out its offshore banking duties through an "Offshore Banking Supervision Unit." He said the Commission did not, as a rule, conduct bank examinations. He indicated that offshore banks are not required to keep records in Vanuatu, and most do not, which means offshore bank examiners would have to travel to where the shell bank was operating or, alternatively, be limited to reviewing paperwork sent to Vanuatu. Bayer said that, due to requests made by the international banking community, the Commission recently agreed to examine six of its offshore banks suspected of having ties to Russian nationals and moving questionable funds. He indicated that those examinations were being conducted by a retired bank auditor from the U.K.'s Financial Services Authority, hired by Vanuatu to examine the six banks. He said that Vanuatu had made no commitment to examine its other offshore banks, which currently number more than 50. He indicated that there was an ongoing debate in Vanuatu about whether offshore bank examinations were needed and whether the cost of compliance would discourage bank applications in Vanuatu.

Bayer also said in his interview that, even though he is chairman of the Vanuatu Financial Services Commission, he plays only a limited role in the licensing process because he is not permitted to see bank ownership information. He said that, under Vanuatu law, only the official Commissioner, a government employee, has access to bank ownership information. He said that, because of this situation, he could not say with any certainty who owned Vanuatu's offshore banks—even though he is a key regulator of them. He said that it was his impression that most of the 60 offshore banks are "ego banks" owned by wealthy individuals or subsidiaries of private companies seeking to operate a bank on behalf of a related group of companies.

Bayer said that it is his impression from his Commission duties that Vanuatu's offshore banks are generally not very active. He thought that they are also generally small operations with few formal procedures. For example, he thought that few would have formal anti-money laundering procedures. He said that it was up to U.S. banks to investigate these banks prior to accepting funds or opening accounts for them. When told that U.S. banks thought that they should be able to rely on Vanuatu banking authorities to ensure the legitimacy of their licensed banks, Bayer disagreed and said U.S. banks have their own due diligence obligations they need to perform.

Although Bayer claimed there was no conflict of interest in his serving on a Commission that oversees only offshore banks, evidence indicates that European Bank operates a correspondent account for at least one Vanuatu offshore bank called Nest Bank. Nest Bank is one of the six Vanuatu offshore banks under examination for possible ties to Russian nationals. Citibank documents indicate that, beginning in January 1999 and continuing throughout the year, European Bank allowed Nest Bank to move more than $6 million through European Bank's U.S. dollar correspondent account at Citibank. These funds suggest Nest Bank may be a sizeable client at European Bank. The 1999 transactions involved such entities as a fertilizer plant in Uzbekistan; a London

company that trades in oil, chemicals, and agricultural commodities in Russia; a company called Societe Generale S.A. in the Ukraine; a company called Rusomax Ltd.; and International Bank Astana, Ltd. which the investigation was unable to locate but appears to have ties to Moscow. While the investigation did not attempt to analyze European Bank's relationship with Nest Bank, the existence of this correspondent account raises possible conflict of interest issues, since it calls for a private banker, Bayer, to oversee an offshore bank that is also his bank's client. The potential for conflict is made even more clear by the Commission's ongoing examination of Nest Bank for alleged ties to Russia and possible money laundering, since Nest Bank moved over $6 million in 1 year through European Bank's correspondent account at Citibank.

(6) Money Laundering and Fraud Involving European Bank

The Minority Staff investigation did not conduct an exhaustive review of European Bank's activities, but did conduct a detailed examination of two major accounts opened in 1999, which moved millions of dollars through European Bank's U.S. correspondent accounts. Both accounts raise serious questions about European Bank's client oversight and due diligence.

(a) Taves Fraud and the Benford Account

In 1999, European Bank opened a bank account and accepted $7.5 million on behalf of a Vanuatu corporation, Benford Ltd., that was established by its affiliated trust company and about which the bank had virtually no due diligence information. After learning that the $7.5 million consisted of proceeds from a credit card fraud, European Bank nevertheless fought for more than 1 year to prevent U.S. seizure of the funds from its correspondent account at Citibank.

In April 2000, in civil proceedings filed by the U.S. Federal Trade Commission to halt unfair and deceptive trade practices, a U.S. district court found that Kenneth H. Taves and his wife Teresa Callei Taves, both U.S. citizens, had committed a massive credit card fraud involving over $49 million.[289] Imprisoned on civil contempt charges for refusing to surrender certain assets related to the fraud, Taves was indicted in February 2000 in separate court proceedings in two countries. In the United States, Taves was charged with making false statements; in the Cayman Islands he was charged with money laundering.

The U.S. court also authorized an FTC-appointed receiver to track down and recover the fraud proceeds. The receiver found over $25 million had been transferred to Taves-controlled accounts at Euro Bank, a small bank in the Cayman Islands.[290] The Cayman Government charged three senior Euro Bank officials with laundering money from the Taves fraud and later ordered the bank closed. In July 1999, in exchange for releasing the bank from damage claims, Euro Bank's liquidators provided the FTC receiver with "information and documents in the Bank's possession" related to

[289] For more information, see the description of the Taves fraud in the appendix.
[290] Euro Bank is completely unrelated to European Bank in Vanuatu.

the Taves fraud. Using this information, the FTC receiver traced $7.5 million in Taves fraud proceeds to a European Bank account opened in the name of a Vanuatu corporation, Benford Ltd.

Benford Ltd. was incorporated by European Trust, and its bank account was opened by European Bank. The company was established at the request of one of the Euro Bank employees later charged with money laundering, who said he was acting on behalf of an unnamed client. The incorporation and account paperwork was handled by a shared senior employee, Susan Phelps, who was working for both European Trust and European Bank. Phelps has stated in a sworn affidavit that, throughout the incorporation and account opening process, she never spoke with either the Euro Bank employee or Benford's beneficial owner, but relied entirely upon faxed information to establish the corporation and open the account.

Phelps incorporated Benford Ltd. within 24 hours of receiving an application form faxed from Euro Bank with minimal information about the company's beneficial owner. The application provided no more than the beneficial owner's name, Vanessa Phyllis Ann Clyde, a London address, a copy of her passport photograph, and a one-word description of her occupation as "business." On the same day Euro Bank wire transferred $100,000 to European Bank's account at Citibank in New York, for deposit into the Benford account. European Bank opened the Benford bank account, without any additional due diligence research into Clyde, the source of her wealth, or the origin of the $100,000. Bayer indicated that all of the forms were filled out in the usual way for bank accounts opened for companies formed by its affiliate, European Trust. In other words, it was typical practice for European Trust to incorporate a new company within 24 hours of a request and then for European Bank to open a bank account in the company's name.

It was only after the Benford account was opened, that the Euro, Bank employee and the company's beneficial owner, Clyde who had an American accent, actually telephoned Phelps to discuss the account. Clyde apparently indicated that she wished to keep the Benford funds in U.S. dollars in a secure but liquid investment. Over the next 2 months, the Benford account received additional millions of dollars in deposits. The first transfer, for $2.8 million on March 17, 1999, prompted European Bank to ask some questions about their new client. After Euro Bank did not volunteer any additional information, European Bank's senior vice president asked someone he knew in the Cayman Islands about Euro Bank itself. He received the following negative information about Euro Bank:

> Small locally incorporated bank, with a local banking licence, 20/30 people on the staff, corporate activities too, not a good reputation locally, has its door open to business when other doors are closed to it, very much lower end of the local banking business, dubious, 3 months ago there were rumors that they might fail, not well respected, advise caution when dealing with them. Barclays would not accept a reference from them and would certainly not do business with them.

Despite this negative portrayal of the sole reference for the Benford account, European Bank left open the account, accepted additional funds, and chose not to try to verify any information about Clyde or her assets.

By April 1999, the Benford account held about $7.5 million. Bayer said that, by then, Benford was a "huge client," whose deposits represented about 15% of the bank's total deposit base of $50 to $60 million. In May, however, two incidents suddenly cast suspicion on the Benford funds. The first, on May 25, 1999, was a telephone call about the account from a Clyde who had an English accent, instead of an American accent. Bayer said it was the first time European Bank appeared to have two different persons claiming to be the beneficial owner of an account at the bank. Later the same week, European Bank received a fax stating that Euro Bank had been placed into receivership and the $7.5 million previously sent to the Benford account were proceeds of the Taves credit card fraud.

In response, European Bank immediately froze the Benford account, transferred the funds internally into a new, non-interest bearing account from which client withdrawals were prohibited, and filed a report with the Vanuatu police. Despite moving the Benford deposits into a non-interest bearing account within the bank, European Bank decided to continue placing the $7.5 million with the correspondent bank paying the highest interest rate on the funds, so that it could continue to earn revenue from this large deposit. European Bank did not, however, alert the correspondent bank holding the funds to their suspicious origin.

At the same time, European Bank made another attempt to learn more about the funds. In June 1999, Phelps asked the English-accented Clyde in a telephone conversation about the origin of the funds. She wrote this summary of the conversation:

> [Clyde] said I should have got this info from [the Euro, Bank employee]. I said the funds had just arrived without supporting documentation. . . . English was asked to open the a/c. Doesn't know when. . . . Doesn't know how much. Wasn't responsible for putting funds in. Not her personal funds. Extremely uncomfortable. . . . If somebody had taken funds she doesn't want to be tarred.[291]

The evidence indicates that, within months of the $7.5 million being deposited, European Bank had notice and evidence of their suspect origin. Yet European Bank steadfastly opposed releasing the funds to the FTC receiver seeking recovery of the money on behalf of the Taves fraud victims.

Litigation over the funds began in the summer of 1999, when European Bank and the FTC receiver filed separate suits in Vanuatu to freeze the $7.5 million. In September, Clyde asked the Vanuatu court to allow her to remit the Benford funds to the FTC receiver, but European Bank's nominee companies contested her control of Benford Ltd. and opposed releasing the funds. The Vanuatu police launched a criminal investigation and, in November, charged Benford Ltd. with possession of property "suspected of being pro-

[291] See Phelps affidavit and notes, CG 6509–11.

ceeds of crime." The police also obtained a criminal freeze order preventing the funds' release to the FTC or anyone else.

On December 10, 1999, after locating a document notifying Benford Ltd. that its funds had been placed in an interest bearing account at Citibank in Sydney, the FTC receiver filed suit in Australia, asking the Australian court to freeze the $7.5 million on deposit with Citibank. Unknown to the FTC receiver at the time of its filing, European Bank had taken steps that same day to transfer the funds from Citibank to one of its correspondent banks in Vanuatu. Before any transfer took place, however, the Australian court froze the funds. Additional pleadings were filed by the Vanuatu Government, European Bank and FTC receiver, each seeking control over the $7.5 million. European Bank, which had not told Citibank previously about the suspect origin of the Benford funds, sent a fax to Citibank explaining the situation and complaining that the FTC receiver was trying "every trick in the book" to "force the monies to be sent to the USA." The Vanuatu and Australian litigation continued throughout 2000.

Almost 1 year later, on November 29, 2000, a third set of legal proceedings began in the United States. Acting at the request of the FTC, the U.S. Department of Justice filed a seizure warrant and took possession of the Benford funds from Citibank in New York. It was able to seize the funds in the United States because Citibank Sydney had always kept the Benford funds in U.S. dollars in a U.S. dollar account in New York. In December 2000, the Justice Department filed a civil forfeiture action seeking to eliminate any other claim to the funds. The complaint alleged that the funds were the proceeds of the Taves credit card fraud, and the FTC receiver had "tried to obtain the funds from European Bank through a Vanuatuan court proceeding, but failed to obtain relief in Vanuatu." It is unclear whether European Bank will assert a claim to the funds.

During more than a year of litigation battles in three countries, Clyde has supported sending the Benford funds to the FTC, but European Bank has vigorously opposed it. When asked why, Bayer gave three reasons during his interview: (1) the ownership of the funds remained unclear, since Clyde had admitted in court that they were not her funds and she did not know their origin; (2) the allegation that the funds came from the Taves fraud should be established in Vanuatu court and, if true, the Vanuatu Attorney General could reimburse the fraud victims, rather than pay the monies to the FTC receiver who might exhaust the entire sum through fees and expenses;[292] and (3) European Bank had to defend itself from the risk of inconsistent court decisions which might order it to pay the $7.5 million twice, once to the Vanuatu Government in connection with the Benford money laundering prosecution and once to the FTC receiver seeking funds for the Taves fraud victims. At times, Bayer also argued that the $7.5 million deposit at Citibank represented European Bank's own funds, unrelated to the Benford

[292] However, the INCSR 2000 report warns: "Case law in Vanuatu has shown that proving the criminal origins of proceeds, especially of offenses committed abroad, is extremely difficult. Linking criminal proceeds seized in Vanuatu with the offense committed abroad through a complex series of financial transactions conducted by related corporations operating in several offshore jurisdictions is all but impossible." INCSR Report 2000 at 751.

matter, although at other times he acknowledged the Benford deposits made up the bulk of the Citibank placement.

The $7.5 million, now swelled with interest earnings to $8.1 million, is in the custody of the United States, while the litigation in Vanuatu, Australia and the United States continues.

(b) IPC Fraud

In February 1999, the same month it opened the Benford account, European Bank opened another ill-fated account under a credit card merchant agreement with a Florida corporation called Internet Processing Corporation ("IPC").[293] As in the Benford matter, European Bank opened the account without a due diligence review of the prospective client. IPC used unauthorized credit card charges to obtain $2 million in payments from European Bank and then absconded with the funds. By the time it learned of the fraud, European Bank was unable to locate IPC, the company's owner, or the missing $2 million. It ultimately suffered a $1.3 million loss which threatened the solvency of the bank.

According to Bayer, the IPC account was one of about a half a dozen new accounts that European Bank opened in 1999 in an effort to expand the bank's business into credit card clearing. It opened the IPC bank account within 1 week of being contacted for the first time by the company. As with the Benford account, the IPC account was opened based upon written materials and correspondence, without any telephone conversation or direct client contact.

Despite the credit risk involved in a merchant account, European Bank failed to conduct virtually any due diligence review of either IPC or Mosaddeo Hossain, the company's sole incorporator, registered agent, director and officer. IPC is a Florida corporation that had been created 2 weeks prior to the opening of the account. It claimed to sell travel packages on the Internet. Hossain was a Bangladeshi national allegedly living in Florida. European Bank did not inquire into the company's ownership, double check its references, ascertain its capital or bank account balances, or verify its physical address. With respect to Hossain, it did not inquire into his business background, obtain any personal or professional references, check his credit history, or verify any personal or professional information about him. The bank also failed to notice that the Bangladeshi passport he submitted as identification had expired 7 years earlier.

As soon as the account became operational in late March 1999, Hossain claimed that IPC needed to process a number of pre-sold travel packages and filed credit card charges totaling about $13 million. About 85% of these charges would later be disputed by the cardholders who would refuse to pay them. In April 1999, European Bank processed about $3.5 million of the filed charges and paid IPC over $2 million in four separate payments. Each payment was made through European Bank's U.S. dollar account at Citibank and sent to IPC's U.S. dollar account at a Florida bank, called BankAtlantic.

[293] For more information, see the description of the IPC fraud in the appendix.

On April 21, 1999, European Bank received an email from its credit card processing company about "a possible fraud of cardholders of your merchant: Internet Processing Corp." European Bank immediately stopped all credit card processing and attempted unsuccessfully to recall its latest payment to IPC of $728,000. It later learned that, each time IPC had received a payment from European Bank, IPC had promptly directed BankAtlantic to wire transfer the funds across international lines to a bank in either Israel or Jordan. An accountholder would then withdraw the funds from the bank, sometimes in cash. Despite urgent requests from European Bank and Citibank, BankAtlantic failed to return the $728,000, failed to promptly alert the banks in Israel and Jordan to the IPC fraud, and failed to provide effective assistance in locating Hossain or IPC.

European Bank directly contacted the Israeli and Jordanian banks, but neither returned any funds or provided investigative leads. European Bank also alerted U.S. law enforcement, including the Secret Service. To date, it has been unable to find any trace of IPC, Hossain or the missing $2 million. After taking into account IPCs security deposit and the limited credit card payments it received, European Bank determined that it actually lost about $1.3 million from the IPC fraud.

Citibank's relationship manager for the European Bank account, Christopher Moore, determined that the loss was substantial given European Bank's thin capitalization and required the bank to keep $1 million on deposit at Citibank until the IPC matter was fully resolved. Bayer described the loss as a "very serious matter" which could have resulted in bank failure, if the exposure had been greater. He said, however, that European Bank appears to have weathered the damage to its solvency.

(7) Correspondent Account at Citibank

Citibank's due diligence efforts with respect to opening and monitoring the European Bank account were among the most careful and conscientious witnessed during the investigation, but suffered from the practical difficulties inherent in overseeing a small foreign bank in a remote jurisdiction with weak banking and anti-money laundering controls and a tradition of bank secrecy.

Citibank. Citibank is one of the largest banks in the United States with over $700 billion in assets and operations in more than 100 countries. According to Christopher Moore, the Citibank Sydney vice president interviewed by the investigation, Citibank holds two banking licenses in Australia, one for Citibank N.A. and one for Citibank Ltd., a Citibank N.A. subsidiary. Both make up what is referred to informally as "Citibank Sydney." Citibank Sydney also includes an entity variously called the "Citibank N.A. Sydney Branch Offshore," "Sydney Offshore Banking Unit," which transacts business with persons residing outside Australia.

Citibank Sydney has an active correspondent banking business. Most of its correspondent banking operations are handled by its "Financial Institutions Group," which operates out of Citibank's Global Corporate and Investment Bank." According to Moore, the Financial Institutions Group manages about 50 correspondent relationships with financial institutions in Australia, New Zealand and

the South Pacific region. The group also oversees Australian dollar accounts for another 200 financial institutions transacting business in that currency. Despite this large customer base, Moore said that the Financial Institutions Group operates with about four relationship managers. The relationship managers are supervised by Moore, who is a vice president and longstanding employee in the group, and its senior credit officer. Moore's direct supervisors are Citibank's Australia country head and country credit officer.

Moore indicated in his interview that most of the financial institutions that Citibank Sydney works with also have U.S. dollar accounts. He indicated that, because of the frequency of U.S. dollar transactions, the Financial Institutions Group was in regular contact with Citibank offices in New York. He indicated that all U.S. dollar transactions take place in the United States, through Citibank New York; U.S. dollars are not kept in Australia by Citibank Sydney.

Initiating European Bank Relationship. Citibank Sydney managed the correspondent relationship with European Bank. Moore explained that, although he did not normally become involved in the details of a correspondent relationship, he took it upon himself to act as the relationship manager for the European Bank account. He said it was Citibank's only account in Vanuatu, which is seen in Australia as a questionable jurisdiction, and he wanted to ensure that the initial due diligence and subsequent monitoring efforts for the account were adequate.

In deciding whether to commit Citibank to a correspondent relationship with European Bank, Moore conducted a thorough and painstaking due diligence effort.[294] Among other measures, Citibank Sydney took the following steps:

—Citibank officials traveled to Vanuatu, visited European Bank's offices, inspected its operating systems, talked to the staff, and met with the bank's senior officers, including Bayer.

—Citibank obtained copies of the bank's incorporation papers, banking license, audited financial statements and other key documentation.

—Citibank asked Vanuatu banking regulators for their opinion of European Bank. It also analyzed Vanuatu's banking regulation and government.

—Citibank required European Bank to submit three written bank references and followed up with personal calls to each bank that provided a written reference. Citibank also spoke with European Bank's outside auditor

—Citibank inquired about and analyzed European Bank's finances and primary lines of business, and developed a detailed credit analysis of the bank.

—Citibank inquired about and analyzed European Bank's client base. Citibank made independent inquiries into several clients that raised due diligence concerns, such as an Aus-

[294] See, for example, Citibank's first Basic Information Report on European Bank, CG 3852–61; first site visit report, CG 6155–57; and first credit analysis of the bank, CG 4203–07.

tralian lottery and certain mail order companies. In the case of the Australian lottery, Citibank checked with Australian officials who apparently provided the company with a clean bill of health, even though the company was then under criminal investigation in the United States and later pleaded guilty to illegal lottery solicitations.[295] With respect to five clients, including the Australian lottery, Citibank required European Bank to submit a written declaration attesting to the client's reputation, competence and suitability.[296] Moore indicated during his interview that Citibank eventually realized that it did not have the resources to evaluate all of European Bank's clients, and it would have to determine whether it could rely on European Bank to conduct its own client due diligence.

—Citibank directly and repeatedly discussed anti-money laundering issues with European Bank, including providing the bank with a 90-minute video on the topic and inquiring about the bank's due diligence procedures.[297] In one memorandum, Moore expressed concern about the bank due diligence procedures stating, "It's clear to me that [European Bank] [doesn't] have a disciplined internal call file process. The customer acceptance testing is done by Tom [Bayer] and Robert [Bohn] and its apparently filed in their heads! I'm sure they know what they are doing, but is that good enough for us."[298] In his interview, Moore could not recall whether European Bank then had written anti-money laundering procedures, but said he was "confident" the bank was aware of and sensitive to its due diligence and anti-money laundering obligations. European Bank's first written anti-money laundering procedures came, in fact, 3 years later in 1999.

Despite some deficiencies, the initial due diligence performed by Citibank was much more extensive than due diligence inquiries observed in the other correspondent bank case histories. The thoroughness of the effort may have been due, in part, to reservations about the relationship expressed by the person who was then head of Citibank Sydney and Moore's immediate supervisor. He wrote:

> I have been thinking a lot about this proposed relationship and while I appreciate your diligence in developing indepth information . . . I continue to have reservations about entertaining this business. I am particularly concerned about the lack of institutional stability of the bank, the difficulty in monitoring events from Sydney and the overall image of Vanuatu. . . . [Y]ou should know that it will not be an easy sell.[299]

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[295] See *United States v. C–W Agencies Inc.* (U.S. District Court for the Western District of Washington Criminal Case No. CR99–454C), information (8/9/99) and plea agreement (8/24/99).

[296] See "European Bank Ltd. Customers Information," (5/27/96), CG 3869–73.

[297] See "Call Report European Bank" (5/2/96), CG 6155; and 11/26/96 letter from Citibank to European Bank, CG 6095.

[298] The bates designation for this document is CG 6138.

[299] 5/9/96 memorandum from William Ferguson to Moore, CG 6149. The memorandum's reference to the bank's "lack of institutional stability," according to Moore, was a reference to the bank's small size and thin capitalization. The reference to Vanuatu's "overall image," he said, was a reference to its image as a tax haven and an area that drew the attention of bank regulators.

In his interview, Moore said that he overcame these concerns by gathering detailed information about the bank and forming a consensus with his Citibank Sydney colleagues that the account was worth trying. Moore said that his meetings with the bank's management and staff impressed him with the bank's openness and willingness to provide information, Citibank's efforts to verify the bank's information were successful, and the regulators and other references all seemed to depict a solid bank under credible management. In an internal memorandum, Moore wrote, "[A]s we have step by step advanced this prospect with greatest caution and initial scepticism, we have been very impressed by the integrity and process we have seen in European Bank and its people." [300]

Monitoring the Account. Citibank Sydney began its correspondent relationship with European Bank on May 22, 1996. Over the next 4 years, Citibank provided European Bank with seven deposit accounts, each in a different currency; an electronic ledger and wire transfer software; check clearing services; check issuance capabilities allowing European Bank to issue checks in multiple currencies; foreign exchange services; limited credit lines for overdrafts and foreign currency transactions; access to Citibank's money market and other higher interest bearing accounts; and access to Citibank's bond and stock trading capabilities. The relationship expanded slowly, but steadily. Although Citibank indicated that it considered European Bank one of its smallest clients, the account statements show that, in 1998 and 1999 alone, European Bank moved $192 million through its Citibank U.S. dollar account.

Moore personally supervised the monitoring of the European Bank account. In the first 6 months the account was open, he reviewed the bank's monthly account statements and cash letter reports. The documentation indicates that, while the account was open, Citibank personnel made regular site visits to the bank. Moore reviewed, and at times contributed to, Citibank "call reports" summarizing contacts with European Bank, and various annual reviews of the relationship. In addition, when problems arose over the Benford and IPC matters, Moore personally requested explanations and performed an independent analysis of the facts.

Citibank's documentation of the correspondent relationship contains numerous reports and analysis. Citibank Sydney's Financial Information Group uses a standard form for each correspondent relationship, entitled "Basic Information Reports" (BIRs), to present due diligence information, a risk analysis, transaction profile, overview of Citibank services and credit arrangements, account highlights, and an annual analysis for each relationship. The BIRs for European Bank were completed for 1997, 1998 and 1999, and approved by Moore.[301] While these reports failed to mention the Benford or IPC matters or other specific account problems, they provided a significant amount of information and evidence of Citibank's active, ongoing monitoring of the account. Citibank Sydney also prepared several call reports and credit analyses.[302]

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[300] 5/9/96 memorandum from Moore to Ferguson, CG 6150.
[301] The bates designation for these documents are CG 3852–61.
[302] See, for example, 4/30/97 memorandum by Moore, CG 6052–53.

In May 1999, Citibank Sydney prepared a detailed analysis of the entire correspondent relationship.[303] Among other issues, the analysis looked at European Bank's "compliance risk," "country risk" and "financial risk." It identified risks in all three categories, but found them mitigated by the bank's strong management. The analysis stated, for example:

> In light of Vanuatu's tax haven status, there is the risk that EB might be dealing with clients/funds involved in money laundering/other abnormal activity. . . . Vanuatu's no-exchange control and no-income tax environment makes it attractive to dubious individuals and businesses. . . . EB has a small asset . . . and capital . . . base, making it vulnerable to unexpected losses. . . . The relationship with EB is not critical to Citibank's franchise. However it has provided growing revenues for the minimal risk of the credit facilities. . . . [O]ur dealings with EB are based on our assessment of the integrity of the group and professionalism of its owners and management.

During his interview, based upon his personal experience, Moore expressed the view that European Bank was both reputable and competent. He also acknowledged that it had not produced the expected revenue for Citibank, and had experienced some unexpected losses and troubling incidents.

With respect to the Benford account, Moore indicated that he had never conducted a detailed review of the account opening documentation or process. After being shown the account opening documents and European Bank affidavits, he expressed surprise that the bank had opened the Benford account prior to speaking to the accountholder; he said that was "not the way Citibank would do it." He also expressed surprise at the bank's failure to obtain more due diligence information prior to opening the account; he said that did not comport with his understanding of European Bank's due diligence practices. When asked how Citibank would have reacted to the negative information provided about Euro Bank in March 1999, Moore said they probably would have placed the Benford account "in suspense" at that time and performed additional research into the origin of the funds. He also indicated that he had not been aware of the ongoing litigation in Vanuatu over whether Clyde was the true beneficial owner of Benford Ltd. Asked for his overall reaction to the Benford account opening process, Moore characterized it as "sloppy" and expressed surprise that the bank had handled it in the manner it did. He said it did not match his understanding of how European Bank operated.

Closing the Account. At the end of its May 1999 review of the European Bank account, Citibank had decided to continue the correspondent relationship. One year later, Citibank reversed course and closed the account.

Citibank's decision to close the European Bank account was not based on profitability concerns or bank misconduct, but on a broader policy decision to join an effort by other multinational banks to restrict correspondent banking activities in certain South Pacific is-

[303] See "FI—Commercial Bank Individual Analysis" for European Bank (5/7/99), CG 4038–43 and 6063.

land nations, including Nauru, Palau and Vanuatu. This effort, which began in November 1999, was partly in response to the Bank of New York scandal which raised awareness of money laundering concerns in correspondent banking and partly in response to media reports of $70 billion in Russian funds moving through shell banks licensed in Nauru.[304] Among the banks restricting correspondent banking in the South Pacific were the Bank of New York, Deutsche Bank, and the Republic National Bank of New York. In a November 25, 1999 email, Moore notified European Bank that Citibank was considering adopting the same policy. On December 13, 1999, the Bank of New York rejected a European Bank wire transfer due to its association with Vanuatu. On December 17, 1999, Citibank sent a letter to European Bank announcing its decision to close the account.[305] The account actually closed 5 months later in May 2000.

When asked about closing the European Bank account, Moore sent an email to other Citibank colleagues explaining the basis for the decision. He wrote:

> We are exiting European Bank . . . a bank licensed and domiciled in Vanuatu, and owned by Vanuatu citizens, not because of any concerns about European Bank directly. Unfortunately, because of Australian Tax Office suspicions that Australian individuals use Vanuatu to evade taxes, Vanuatu attracts a lot of attention from here. On top of that, the BONY action has raised the profile of Vanuatu. . . . We just feel that the environmental risk, that something totally unexpected does bob up, is more than we wish to take. The icing on this decision was that our customer found itself with a deposit (from another bank) that was subject to action in the USA as possible proceeds of crime. They did all the right things, including obtaining a Vanuatu court injunction to freeze the funds with them. They also redeposited the USD with us, in the normal course of banking, and the US receivers found this out and obtained a freeze order on us. . . . [W]e are satisfied our customer is innocent of any complicity. . . . I have the highest regard for the individuals who own and operate European Bank, and we are exiting in [a] manner that causes least harm to their franchise.[306]

B. THE ISSUES

The European Bank case history raises at least two sets of issues. First, it raises fundamental questions about how a correspondent bank oversees a respondent bank in a remote, jurisdiction with a tradition of bank secrecy and weak banking and anti-money laundering controls. Second, it provides a vivid demonstration of how a foreign bank can delay seizure of funds from its U.S. correspondent account, even when the funds are clearly the product of attempted fraud and money laundering.

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[304] For more information, see the Bank of New York description in the appendix.
[305] The bates designation for this document is CG 3945.
[306] Moore email dated 1/24/00, CG 1053; see also Moore email dated 1/11/00, CG 1051.

Correspondent Bank Oversight

Citibank Sydney went the extra mile in its due diligence efforts with respect to European Bank. It assigned a senior bank official to oversee the relationship. It conducted site visits, meetings with management, financial analyses, and client evaluations. It monitored account activity and made inquiries into specific problems like the Benford and IPC matters. It maintained a high level of oversight for 4 years.

But in the end, it is far from clear that Citibank really knew how European Bank was operating on a day-to-day basis. The evidence is overwhelming that European Bank opened the Benford and IPC accounts with little or no due diligence, contrary to Citibank's understanding of the bank's procedures. In both instances, European Bank opened the account knowing little more than the name of the accountholder. It made no inquiries into the accountholder's background, source of wealth or origin of funds. When confronted, in one instance, by negative information concerning the party who referred the Benford account,, European Bank simply averted its eyes, left the account open, and hoped for the best. A more cynical interpretation is that European Bank deliberately accepted the large deposits without caring where they came from or about their association with a disreputable bank. In neither case, did European Bank undertake reasonable steps to know its customer.

The consequences for the bank have been serious. In the Benford matter, European Bank is battling legal proceedings in three countries. The collateral damage from this litigation includes negative media reports, diversion of bank resources, and ongoing legal expense. One case is litigating the basic issue of who is the true owner of Benford Ltd.—a fact that European Bank should have established with clarity when it created the corporation, opened a bank account for it, and accepted $7.5 million in deposits. Benford Ltd. has itself been charged with possession of crime proceeds, and European Bank's reputation has been tarnished by its role in incorporating and managing this company. In the IPC matter, European Bank lost $1.3 million. The bank's chairman and part owner, Bayer, had to cover the losses to prevent a bank failure. Citibank's confidence in the bank's management was badly shaken, and it required the bank to post $1 million in deposits to secure Citibank against possible future losses. European Bank decided to abandon the credit card clearing business at least in the short term.

Yet there is no reason to believe that the Benford and IPC accounts were handled in anything but a routine manner. Both accounts were opened prior to any direct contact with the prospective client, a situation which Bayer said was typical given Vanuatu's remote location and time difference. Bayer indicated that the Benford account opening forms were completed in the same way the forms are completed for all clients referred by European Trust—providing minimal client information, signatures from European Trust employees, and no disclosure of the true owner of the Vanuatu corporation opening the account. European Trust has indicated that it routinely establishes new Vanuatu corporations within 24 hours of a request, a time period which necessarily restricts how much due diligence it can accomplish. The investigation found no evidence to

indicate that the Benford and IPC accounts represented anything but business as usual at European Bank.

Moreover, although the Minority Staff investigation did not conduct an extensive analysis of other accounts opened by European Bank, documentation and interviews contain warning signs of lax due diligence practices in other accounts as well. For example, for years, European Bank maintained an account for the Australian Lottery Federation International Ltd.[307] At the same time the account was open, this company, its owner Randall Thiemer, and related companies were under criminal investigation in the United States and Canada, which resulted in a 1999 guilty plea to conspiracy to conduct illegal lottery solicitations.[308] Both Bayer and Moore indicated they had been unaware of the U.S. proceedings. Another instance involves the correspondent account that European Bank opened for Nest Bank in 1999. Nest Bank is an offshore Vanuatu bank that, because of international concerns over suspect Russian funds moving through South Pacific shell banks, is now under review by Vanuatu authorities. Nest Bank moved more than $6 million through its European Bank account in 1 year, most of it with ties to Russia or countries formerly part of the Soviet Union. Bayer indicated that he could not discuss the account due to Vanuatu's confidentiality requirements and the lack of publicly available court filings disclosing Nest Bank's ownership and activities. Moore indicated he had been unaware of the account.

In 1996, the head of Citibank's operations in Australia expressed concern about the European Bank account, in part due to "the difficulty in monitoring events from Sydney." Vanuatu's banks operate under a tradition of bank secrecy and weak banking regulation. European Bank is Vanuatu's only indigenous bank; no parent bank audits its operations. It is owned and directed by an individual who is a powerful player in Vanuatu's economy and government. It works closely with trust companies that have their own culture of nondisclosure. For the two accounts examined in detail, Citibank was given no negative information about the Benford account until a third party filed suit in Australia, and it had no warning of the IPC loss, even though Benford Ltd. and IPC were among European Bank's largest accounts.

The European Bank case history provides a powerful illustration of the money laundering risks inherent in international correspondent banking. It demonstrates that, when dealing with a small bank operating in a remote jurisdiction with weak bank oversight and uneven anti-money laundering controls, even a diligent correspondent bank may be left in the dark about missteps leading to money laundering charges, beneficial owner disputes, fraud, and substantial losses.

Seizing Suspect Funds

The European Bank case history raises a second set of issues as well. Through the twists and turns of litigation battles in three countries, it demonstrates how a small foreign bank can delay sei-

[307] See "European Bank Ltd. Customers Information" (5/27/96), CG 3869.

[308] See *United States v. C–W Agencies Inc.* (U.S. District Court for the Western District of Washington Criminal Case No. CR99–454C), information (8/9/99) and plea agreement (8/24/99).

zure of funds from a U.S. correspondent account, even when the funds are the product of fraud and money laundering.

Ample evidence links the $7.5 million in the Benford account at European Bank to the Taves fraud. The players involved, the timing, the amounts, the wire transfers—all are consistent with the money coming from the unauthorized credit card billing scheme described in the U.S. court decision in the Taves case. Ample evidence also links the Benford account to Clyde, including her signature on the form asking to establish Benford Ltd., her passport photograph and London address which match the materials in European Trust's files, her possession of the Benford incorporation papers, and her past association with one of the individuals charged with participating in the Taves money laundering effort.

For more than a year, in her capacity as the beneficial owner of Benford Ltd., Clyde has supported remitting the Benford funds to the FTC receiver. Citibank has repeatedly expressed its willingness to transfer the funds in accordance with court order. But European Bank has not been willing to transfer the funds to the FTC receiver. It has fought legal battle after legal battle to try to keep control of the funds and ensure they were not "forced" to the United States, but sent instead to Vanuatu authorities. The reasons for the bank's actions are unclear.

Perhaps European Bank felt committed to defending Vanuatu sovereignty. Perhaps it hoped to ensure that Vanuatu received a portion of the seized funds, even though the Taves investigative work was performed elsewhere and the monies were intended for fraud victims. Perhaps European Bank wanted a portion of the seized funds to reimburse its legal fees, even though much of the legal wrangling followed its refusal to allow the transfer of the funds to the United States in 1999. Perhaps European Bank wanted the interest earnings on the $7.5 million—exceeding $600,000 at last count even though the bank would be profiting from illicit proceeds that it chose to move into a non-interest bearing account in May 1999. Perhaps European Bank worried about having to pay the $7.5 million twice, although it is hard to believe Vanuatu authorities would force one of its leading citizens to pay a sum that, if already paid to the FTC receiver, would break the bank. Perhaps European Bank wanted simply to best the FTC receiver, which tried so many legal maneuvers to obtain the funds and, in the bank's eyes, would pay its own fees and expenses before reimbursing any fraud victims.

Whatever its motivations, European Bank mounted a resourceful campaign to stop the transfer of the Benford funds. In Vanuatu, it argued that no one really knew who owned the Benford money, since Clyde had admitted they were not her personal funds and the FTC had not proven in court they were from the Taves fraud. In Australia, it contended that the $7.5 million on deposit with Citibank was not Benford's funds at all, but European Bank's own funds, placed in an investment account to earn higher interest. In making this argument, European Bank drew on the legal status of funds in a correspondent account. It claimed that the funds in the Citibank account were the property of the accountholder—European Bank—and not the property of the bank's clients, even if client funds were used to make the deposits.

The FTC receiver was equally resourceful in its litigation strategy. It began by filing suit in Vanuatu. When it found European Bank reluctant to release the $7.5 million from the Benford account, it persuaded Clyde to file suit in Vanuatu seeking court approval to authorize her own company to remit the funds to the FTC receiver. When the Vanuatu police appeared to be as reluctant as European Bank to surrender custody of the $7.5 million, the FTC receiver filed suit in Australia to try to obtain the funds directly from Citibank. While European Bank argued the funds were not actually in Australia, but remained in the Benford account at European Bank in Vanuatu, the fact is, when faced with the Australian court's freeze order, Citibank refused to transfer the funds at European Bank's instruction. Clearly, the $7.5 million was under Citibank's control.

The FTC receiver's next legal effort came when it convinced the U.S. Department of Justice to seize the funds at Citibank in New York as money laundering proceeds. After all, the $7.5 million had always been in U.S. dollars in a U.S. dollar account. Despite appearing to travel from California to the Cayman Islands to Vanuatu, the funds never actually left the United States—they just moved from one U.S. bank account to another. The proof is that, when confronted with the U.S. seizure warrant, Citibank delivered the funds to the U.S. Government.

The U.S. Government's seizure of the funds is not, however, equivalent to forfeiture of the funds. The U.S. Justice Department's civil forfeiture action provides all interested parties with an opportunity to assert a contrary claim to the funds. If European Bank were to assert ownership of some or all of the $8.1 million, the United States might have to prove, under statutory provisions affording correspondent accounts special forfeiture protections,[309] that European Bank "knowingly engaged" in the laundering of the funds or in other criminal misconduct justifying seizure of the bank's own money. One recent U.S. district court has interpreted this standard to mean that the United States has to demonstrate a bank's "knowing involvement" in or "willful blindness" to the criminal misconduct giving rise to the seizure action.[310] The questions in this matter would include what European Bank knew and when, and whether it was willfully blind to criminal misconduct associated with the Benford funds.

The larger policy issues come into view with the realization that European Bank keeps virtually 100% of its clients' funds in correspondent accounts and conducts 100% of its U.S. dollar transactions through U.S. correspondent accounts. That means that 100% of European Bank's funds in the United States benefit from greater forfeiture protections than suspect funds in other types of U.S. bank accounts. The same is true for all foreign banks choosing to deposit funds in U.S. correspondent accounts. And it is not just foreign banks who benefit, but also wrongdoers who ask the foreign banks to keep their deposits in U.S. dollars. Taves, for example, originally deposited his illicit proceeds in U.S. bank accounts in California. He then sent the funds from the United States, through

[309] See 18 U.S.C. § 984(d). See also Chapter V(G) of this report.

[310] *United States v. $15,270,885.69* (2000 U.S. Dist. LEXIS 12602, 2000 WL 1234593 SDNY 2000).

two bank secrecy jurisdictions, the Cayman Islands and Vanuatu, only to have the funds end up back in the United States, but in a Citibank account which requires U.S. law enforcement to surmount additional legal hurdles to sustain forfeiture.

The European Bank case history is a cautionary tale about how a small, determined foreign bank in a remote jurisdiction can delay and perhaps ultimately frustrate U.S. law enforcement efforts to seize illicit proceeds sent to the foreign bank as part of a money laundering effort, so long as the laundered funds are deposited into a U.S. correspondent account.

EUROPEAN BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

January 1998-December 1999

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1998	$51,600	$3,665,819	$3,696,455	$34,664
February 1998	$31,664	$1,821,760	$1,711,361	$145,064
March 1998	$145,064	$2,437,018	$2,415,062	$167,020
April 1998	$167,020	$1,622,284	$1,568,763	$220,541
May 1998	$220,541	$2,210,457	$2,102,815	$328,183
June 1998	$328,183	$1,722,647	$1,678,084	$372,746
July 19T8	$372,746	$2,714,000	$1,412,137	$1,134,609
August 1998	$1,134,609	$3,188,179	$3,888,629	$434,158
September 1998	$434,158	$5,572,689	$5,069,024	$937,823
October 1998	$937,823	$11,415,104	$11,938,224	$414,704
November 1998	$414,704	$5,033,054	$5,305,670	$142,088
December 1998	$142,088	$4,359,456	$3,987,909	$513,634
January 1999	$513,634	$3,588,709	$3,916,399	$185,944
February 1999	$185,944	$2,237,332	$2,320,974	$102,303
March 1999	$102,303	$8,505,525	$7,117,827	$1,490,002
April 1999	$1,490,002	$15,506,331	$10,170,361	$6,825,971
May 1999	$6,825,971	$3,284,932	$9,904,192	$1,016,711
June 1999	$1,016,711	$8,725,235	$7,472,331	$2,269,615
July 1999	$2,269,615	$51,826,202	$53,009,742	$1,086,075
August 1999	$1,086,075	$6,796,758	$6,937,332	$945,511
September 1999	$945,511	$18,641,703	$17,862,655	$1,724,559
October 1999	$1,724,559	$10,481,608	$11,783,867	$422,300
November 1999	$422,300	$5,159,706	$5,474,264	$107,742
December 1999	$107,742	$11,376,490	$10,907,139	$577,093
TOTAL		**$191,892,998**	**$191,651,216**	

Prepared by the U.S. Senate Permanent Subcommittee of Investigations, Minority Staff, December 2000

Case History No. 8

SWISS AMERICAN BANK
SWISS AMERICAN NATIONAL BANK

Swiss American Bank Ltd. ("SAB") and Swiss American National Bank Ltd. ("SANB") are two banks with the same ownership that were licensed in Antigua and Barbuda in the early 1980's. Throughout their history, these banks have been troubled by controversial leadership, questionable practices by bank officials, and accounts that were repositories of funds from major financial frauds and other illegal activities. This case study shows how major U.S. banks that served as correspondents to these institutions were at times unaware of even high profile frauds and controversies associated with the banks and were slow to take action on the accounts, at times maintaining the accounts for years after they knew and were concerned about suspicious account activities and management problems that afflicted the SAB and SANB.

The following information was obtained from documents provided by the Government of Antigua and Barbuda, Bank of America, Bank of New York, Chase Manhattan Bank, court pleadings, interviews of government officials and other persons in Antigua and Barbuda, the United Kingdom, and the United States, and other materials. Key sources of information were interviews with John Greaves, former General Manager of Swiss American Banking Group (1988-1995), conducted on July 24 and 25, 2000; Brian Stuart-Young, Chairman and Managing Director of Swiss American Bank, conducted on October 11, 2000; relationship managers and other officials from Bank of America (conducted July 10, 11, 31, and October 24, 2000), Bank of New York (conducted August 10 and 30, 2000), and Chase Manhattan Bank (conducted August 2, 3, and 4, 2000). The investigation greatly benefitted from the cooperation and assistance provided by a number of officials of the Government of Antigua and Barbuda, particularly the Executive Director of the International Financial Sector Regulatory Authority and the Director of the Office of Drugs and Narcotics Control Policy.

A. THE FACTS

(1) Ownership and Management

SAB and SANB were part of a financial group in Antigua and Barbuda called the Swiss American Banking Group. It included the two banks and a trust company, Antigua International Trust. SAB is an offshore bank with a physical presence in Antigua and Barbuda. It was licensed to do business as an offshore bank in April 1983; as an offshore bank it is prohibited from doing business with citizens of Antigua and Barbuda. SANB is a domestic Antiguan bank, licensed in May 1981 to do business with citizens of Antigua. All three entities had the same ownership, the same board, a common General Manager and for many years both banks shared the same facilities and the same staff.

When they were licensed, the owner of both SAB and SANB was listed as Swiss American Holding Company, a Panamanian company. The license application for SAB noted that Swiss American

Holding Company was wholly owned by Inter Maritime Bank of Geneva, Switzerland, and Home State Financial Services, Inc. of Cincinnati, Ohio. Each entity is listed as controlling a 50% share of the holding company and the banks.

Inter Maritime Bank in Geneva, founded in 1966, was part of a group of companies active in banking, shipping and the petroleum industry. It was initially created to serve as the in-house bank for shipping and other financial activities undertaken by its affiliates. The founder and owner of Inter Maritime Bank is Baruch ("Bruce") Rappaport.[1] Rappaport is an Israeli citizen who became very active in the economic and political life of Antigua. He also owned 50% of the West Indies Oil Company which owned a refinery in Antigua. In December 1997, Rappaport was named as Antiguan Ambassador to the Soviet Union. In 1989, the Bank of New York purchased 19.9% of Inter Maritime Bank. At that time, Inter Maritime's name was changed to Bank of New York-Inter Maritime Bank. In July 1996 Bank of New York increased its ownership of Inter Maritime to 27.9%. Bank of New York reported in February 2000 that Rappaport continued to hold the remaining shares Inter Maritime.[2] The remainder of this report, except when quoting material, will refer to Inter Maritime Bank by its current name, Bank of New York-Inter Maritime Bank ("BYN–IMB").

Home State Financial Services, Inc. was owned by Marvin Warner, who served as U.S. Ambassador to Switzerland in the mid-late 1970's. In 1986, Home State Financial Services, Inc. was placed in bankruptcy due to financial problems encountered by one of its subsidiaries, Home State Savings Bank. Warner pleaded guilty to misapplication of funds and securities violations for the role he played in the financial downfall of Home State Savings Bank. As part of the bankruptcy proceedings, the State of Ohio assumed control of Home State Financial Services, Inc. and, as a result, its holdings in the Swiss American entities. BYN–IMB subsequently purchased Home State's holdings in the Swiss American entities from the State of Ohio.

Documents made available to the Subcommittee suggest that BYN–IMB owned Swiss American Holding Company and controlled SAB and SANB at least until 1993.[3] The current ownership of the

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[1] It is uncertain whether Rappaport was the sole owner of Inter Maritime when SAB and SANB were formed. In 1978, two internal memoranda of the Bank of New York, which established a relationship with Inter Maritime in 1969, reported that Inter Maritime officials stated that the Gokal brothers, Pakistani businessmen who later became heavily involved in the BCCI scandal, invested between $6 million and $8 million Swiss Francs in Inter Maritime for 20% of the bank. Subsequent memos about Inter Maritime and the Swiss American banks do not mention the Gokal brothers, and a memo in 1983 states that "almost all shares [of Inter Maritime] are owned or controlled by Bruce Rappaport."

[2] According to a 1983 internal Bank of New York memorandum, Rappaport held 7.5% of Bank of New York stock and increased that percentage of ownership through the purchase of additional shares in 1983.

[3] BYN–IMB's ownership interest in Swiss American Holding Company remains uncertain. Recently BYN–IMB was dismissed from a case brought against it, SAB, and SANB by the U.S. Government to recover drug/terrorist related assets that had been forfeited to the U.S. Government. BYN–IMB was dismissed due to lack of jurisdiction. BYN–IMB claimed it had divested itself of Swiss American Holdings in 1988:

> "On December 28, 1987, BYN–IMB sold all of its shares of SAHC to an unrelated entity in which BYN–IMB had no interest or control, in a transaction in which all of the obligations of the parties were completed by December 15, 1988. . . . Since the end of 1988, BYN–IMB has not owned any shares or held any interest in SAHC." *USA v. Swiss American Bank, L., Swiss American Holding Company S.A. of Panama, and Inter Maritime Bank, Geneva* (U.S. District Court for the District of Massachusetts, C.A. No. 97-CV-12811 (RWZ)), Motion of

Swiss American entities is structured through a series of International Business Corporations (IBCs) and trusts. Swiss American Holding Company is currently owned by Carlsberg (or Carlsburg), S.A, a Bermuda corporation, which in turn is owned by a charitable trust controlled by Rappaport. Two of the U.S. correspondents of SAB and SANB that were interviewed by the Minority Staff did not know the name of the charitable trust, and the Bank of New York thought the name of the charitable trust is the Inter Maritime Foundation, but it was not certain. The Chairman and Managing Director of SAB was not able to tell the Minority Staff the name of the charitable trust, either. The lack of information by the correspondent U.S. banks with respect to the details of the ownership of SAB and SANB is troubling.

(2) Financial Information and Primary Activities

SAB has about 4,000 clients with 5,000 accounts and total assets of $111 million (of which $103 million are deposits). The bank's main function is private banking, providing wealth management services to its clients. According to SAB officials, approximately 4,500 of its 5,000 accounts currently have less than $50,000 in value. Its customers are largely from Europe, and bank officials estimate that less than 15% of their customers are from the United States. Bank officials have told Minority Staff that they are attempting to phase out their business in the United States. Bank records indicate that in recent years a significant portion of SAB's business has been generated by Internet gambling companies or entities that provided cash transfer services for Internet gambling facilities. This issue is discussed in more detail later in the report.

SANB provides retail banking services to individuals and companies in Antigua and Barbuda and other Eastern Caribbean nations. It also provides international banking services such as foreign currency exchange and letters of credit. It was recently sold to Antigua Barbuda Investment Bank ("ABIB"), and will soon become part of ABIB. ABIB, another domestic bank licensed to do business in Antigua and Barbuda, is affiliated with Antigua Overseas Bank, an offshore bank.

(3) Correspondents

Correspondent banks of SAB in the United States have included Nations Bank, Bank of America and Chase Manhattan Bank. Correspondent banks of SANB in the United States have included Citizens Bank and Southern International Bank (which later merged with Sovran Corporation and then with NCNB National Bank to become Nations Bank), NCNB National Bank (which later merged with C&S/Sovran Corporation to become Nations Bank), Bank of America (which later took over Nations Bank), Irving Trust Com-

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Bank of New York-Inter Maritime Bank, Geneva to Dismiss or, in the Alternative, for Summary Judgment, April 1, 1998.

Yet, in correspondence submitted to both Bank of America and Nations Bank in March of 1993, David McManus, the Deputy General Manager of the Swiss American Banking Group wrote that BYN–IMB controlled the Swiss American Banking Group, which directly contradicts what was reported in the BYN–IMB filing in April 1998: "Swiss American Banking Group consists of Swiss American Holdings, SA, a Panamanian company which owns 100% of Swiss American Bank Ltd., Swiss American National Bank of Antigua Ltd. and Antigua International Trust Ltd. Swiss American Holdings SA is wholly owned by the Inter Maritime Group in Geneva."

pany (which was later taken over by Bank of New York), Bank of New York (which inherited the account from Irving Trust), and Chase Manhattan Bank.

SAB and SANB currently have no correspondent relationships with U.S. banks; SAB has correspondent banking relationships with United Kingdom, Dutch and Canadian banks which presumably have correspondent relationships with U.S. banks. Through these nested correspondent relationships, SAB still maintains access to U.S. banks. As noted above, SANB has been sold to Antigua Barbuda Investment Bank.

(4) Operations and Anti-Money Laundering Controls

SAB officials told the Minority Staff that they have been making efforts to improve the bank's anti-money laundering controls. According to SAB materials provided the Minority Staff, the bank has established a series of account opening requirements for personal and corporate accounts. To open personal accounts, according to the materials, clients are required to provide verified signatures, proof of residence, proof of identity, a current bank reference, proposed average monthly deposit value and information on the anticipated source of funds. According to the SAB materials, applicants for corporate accounts are required to provide verified signatures, certificate of incorporation, memorandum and articles of association and a current certificate of good standing if the entity is more than a year old, proof of identity and at least one current bank reference on each shareholder/director and authorized signatory. Proof of the corporation's registered office, proposed account activity including anticipated average monthly deposit and anticipated source of funds is also required, according to the materials. In the case of bearer share companies, SAB says it requires an attestation by the directors to identify true beneficial ownership. SAB officials told the Minority Staff that in keeping with statutes enacted in Antigua in early 1999, the bank has not accepted deposits in cash or in bearer negotiable instruments since April 1999.

SAB officials told the Minority Staff that as part of its ongoing monitoring program, all staff receives anti-money laundering training and management attends anti-money laundering conferences in the United States. SAB officials said that the bank has invested in computer monitoring software to track transactional activity. According to officials, the program is designed to monitor for suspicious activity in a way that would be compliant with U.S. Government anti-money laundering controls.

The Chairman and Managing Director told the Minority Staff that they know the beneficial owners of 90% of the accounts and that they have not received enough information on the beneficial ownership of about 3% of the accounts.

(5) Regulatory Oversight

SAB is regulated by the Government of Antigua and Barbuda's International Financial Sector Regulatory Authority which was created in 1998. To date, no examination of the bank has been conducted. The bank is required to submit an annual audited financial statement to the International Financial Sector Regulatory Authority.

SANB is regulated by the Eastern Caribbean Central Bank, which includes an annual bank examination.

(6) Money Laundering and Fraud Involving SAB/SANB

SAB and SANB have been identified as repositories of illicit funds from several illegal operations. Such incidents were not isolated events. They have occurred on a continual basis throughout the life of the institutions. In addition, bank officials engaged in misdeeds and questionable activities. With respect to some frauds and questionable activities that occurred through the accounts at the banks, top officers knew or should have known what was occurring; yet they were slow to act to halt the activity or failed to act. This succession of problems and questionable leadership (in addition to SAB's offshore license and lack of any examination by regulatory authorities) qualifies SAB and SANB as high risk institutions. The following items illustrate these points.

(a) Controversial Leadership

The leadership of Swiss American Banking Group (the group that includes SAB and SANB) has a history of involvement in controversial and questionable financial dealings and banking activities.

First, the history of controversial dealings involving Baruch Rappaport, the beneficial owner of SAB and SANB, has been well chronicled. It includes a series of oil tanker deals with Indonesia's government-owned oil company, Pertimina, which contributed to the nation's economic problems in the mid-1970's; an oil deal with Gabon (completed after one of Rappaport's banks loaned money to the President of Gabon, Omar Bongo, and the Oil Minister) that had such highly favorable terms for Rappaport's company that the government won a subsequent arbitration award of $25 million; his role as middleman in an effort to build an oil pipeline through Iraq; and business associations with some key figures associated with BCCI.[4]

Two members of the Board of Directors for SAB, Marvin Warner and Burton Bongard, were connected with Home State Financial Services, Inc. which initially was a 50% owner of SAB. Warner owned Home State Financial Services, Inc.; Bongard was President of Home State Savings Bank, a Cincinnati savings and loan that was owned by Home State Financial Services. In 1986, Home State Financial Services Inc. was placed in bankruptcy due to financial problems encountered by Home State Savings Bank. In March 1987, Warner was convicted of six State criminal charges of misapplication of funds and three securities violations for illegal activities that caused the collapse of Home State Savings Bank. He was sentenced to 3½ years in prison and ordered to pay $22 million in restitution. Bongard was convicted of 41 counts of willful misapplication of funds and 41 counts of unauthorized acts. He was sentenced to 10 years in prison and ordered to pay $114 million in

[4] "Seeking Testimony in Pipeline Case: Immunity Given to a Secretive Swiss" *New York Times* (March 6, 1988) Jeff Gerth and Stephen Engelberg; "Untangling what Pertamina owes—and to whom" *Business Week* (February 7, 1977); "Key Player in BCCI fraud loses appeal" *Guardian* (March 12, 1999) Dan Atkinson; "Pak millionaire appeals verdict in BCCI case" *Hindustan Times* (March 10, 1999).

restitution costs. In addition, he subsequently pleaded guilty to four Federal felony counts of misapplication of funds and was sentenced to 6 years in Federal prison.[5]

Another SAB board member, Steven Arky was a son-in-law of Warner, and counsel to ESM Government Securities. Clients of his law firm, Arky, Freed, Stearns, Watson, Greer, Weaver & Harris, lost millions of dollars that they had invested in ESM. They subsequently sued the firm, contending that the firm knew that ESM was insolvent and that the clients' investment could be lost and yet failed to advise the clients of that fact.

William Cooper, discussed previously in this report, signed SAB's license application as the organizer of the corporation and as Vice-President of Swiss American Holding Company. Cooper was also listed as a member of the Board of Directors. Cooper served as General Manager of Swiss American Banking Group from approximately 1981 to 1984. In 1992, Cooper became owner of American International Bank which is discussed in another chapter of this report. Cooper is now under U.S. indictment for money laundering activities associated with the operations of Caribbean American Bank, a rogue bank that operated through American International Bank.

Another long time member of SAB's Board of Directors is Burton Kanter, a controversial tax attorney from Chicago. The current Chairman and Managing Director of Swiss American Bank estimated that Kanter has been a member of the Board for approximately 12 years. For the past 25 years, Kanter or his clients have been the subject of numerous criminal and civil investigations and complaints alleging tax evasion, money laundering, and securities fraud.[6] All of these matters generally involved offshore banks and

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[5] In 1985, the SEC closed ESM Government Securities Inc., of Fort Lauderdale, Florida, because it had an undisclosed debt of over $300 million. The closure of ESM caused problems for Home State Savings Bank and American Savings and Loan Association of Miami, Florida. (Warner owned 28% of American Savings and Loan and served as its Chairman). Both Home State and American funneled millions of dollars worth of government securities into EMS, ostensibly as collateral for loans from ESM. However, the government securities were worth far more than what had been borrowed. ESM then raised cash by borrowing against the securities. At the time of ESM collapse, Home State Savings Bank had over-collateralized its loans by about $144 million and American had over-collateralized its loans by approximately $50 million. Those institutions lost money when ESM was closed, and that caused a run on Home State that led the Governor of Ohio to shut down the bank. The collapse of the bank also exhausted all of the funds in a thrift-owned insurance fund, causing a statewide crisis that resulted in a 3-day closure of all State-chartered savings and loans.

The owners of ESM pleaded guilty or were convicted in State and Federal courts on fraud charges. Warner was charged and pleaded guilty to misapplication of funds and securities violations for the role he played in the financial downfall of Home State Savings Bank.

As a result of these events, Warner declared bankruptcy. As part of the liquidation of Home State Financial's assets to repay the State of Ohio for bailing it out, the bank's 50% share in Swiss American Bank was sold back to BYN–IMB. See "Michigan Jury Clears Home State's Warner of 18 Federal Charges" *National Thrift News Inc.* (June 29, 1987) Sharon Moloney; "Early Warnings About Home State Pushed Aside" *Business First of Columbus Inc.* (August 5, 1985) Dick Kimmins; "Risky Business: The Story of Home State" *Business First of Columbus Inc.* (May 27, 1985) Mark Heschmeyer; "Final Suit Brings First Loss in ESM Fraud Case" *South Florida Business Journal, Inc.* (January 22, 1990) Melinda Sisser; "Warner, Two Guilty on ESM" *National Thrift News Inc.* (March 9, 1987) Sharon Moloney; "Jury Returns Verdict in Case Stemming from Ohio's Thrift Crisis" *Associated Press* (March 2, 1987) Bill Vale; "Securities Firm Boss Gets 30 Years in Fraud" *Chicago Tribune* (October 18, 1986) Associated Press.

[6] In December 1999, a special trial judge for the U.S. Tax Court determined that Kanter and a number of his clients had engaged in a scheme to hide kickback payments that the clients had received (some of which were paid to Kanter) and underpaid their taxes as a result. The court's 300 plus page decision contains a section entitled "Kanter's Fraud," which includes the following:

> . . . Kanter was the architect who planned and executed the elaborate scheme with respect to the kickback income payments received . . . In our view, what we have here, purely and

offshore trusts structured to "avoid" U.S. taxes. Yet, as of 2000, SAB, in a communication to another bank, still designated Kanter as one of the "[i]ndividuals responsible for the bank."[7]

The General Manager of the Swiss American Banking Group from 1984 to 1987 was Peter Herrington. Herrington established and personally serviced the accounts of John Fitzgerald (discussed below in this report). These accounts were seized by both the U.S. and Antiguan Governments because the accounts contained funds related to drug sales and the Irish Republican Army.

John Greaves, General Manger of Swiss American Banking Group from 1988 to 1995, was involved in a number of controversial matters during his tenure at Swiss American Banking Group and was in the leadership of two other banks and a management firm that were engaged in a number of controversial activities, described in other parts of this report.

(b) The Fitzgerald Case—Drugs and Terrorist Money

From 1985 to 1997, SAB and SANB were significantly involved in a money laundering case involving a man named John Fitzgerald. The involvement began when Fitzgerald, a money launderer acting on behalf of the Murray brothers, leaders of a drug organization in Boston, deposited, between 1985 and 1987, approximately $7 million into accounts that had been established at SAB and SANB.[8] Four of the accounts were in the name of bearer share IBCs, that is, corporations whose ownership was vested in the individuals who controlled the certificates of the shares of the corporation. Two of the accounts (one at SAB and the other at SANB) were in the name of Guardian Bank, a bank licensed in Anguilla in 1986. Those two Guardian Bank accounts eventually became the repository for most of the funds deposited by Fitzgerald and other members of the drug organization. Three bearer share IBCs were listed as the owners of that bank.

The General Manager of the Swiss American Banking Group at the time was Peter Herrington who assisted Fitzgerald with the formation of all of the IBCs and the management of the accounts at SAB and SANB. The formation of the accounts was handled by Antigua International Trust. Herrington served as Director of all

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simply, is a concerted effort by an experienced tax lawyer and two corporate executives to defeat and evade the payment of taxes and to cover up their illegal acts so that the corporations, Prudential and Travelers, and the Federal Government would be unable to discover them.

. . . Kanter created a complex money laundering mechanism made up of sham corporations and entities . . . to receive, distribute, and conceal his income, as well as [the other defendants'] income . . . Kanter's use of the various sham entities made it difficult and sometimes impossible to trace the flow of the money and is substantial evidence of his intent to evade tax.

In addition, a number of trust arrangements structured by Kanter for his clients have been challenged by the IRS and have resulted in settlements, with the defendants paying millions of dollars to the IRS.

Kanter was also associated with an entity called Castle Bank and Trust Company, Inc., a Bahamian Bank that was the subject of a concentrated IRS investigation in the mid-70's as one of the early Caribbean-based offshore banks for criminal accounts and tax evasion activities. Castle Bank served as the trustee and repository for many of the entities established by Kanter for his clients.

[7] However, the Chairman and Managing Director of SAB told the Minority Staff that Kanter was a non-executive director, and that he didn't have any role in the day to day management of the bank.

[8] It has been reported to the Subcommittee staff that the Murray brothers and Fitzgerald were also involved in the sale of weapons to IRA terrorists and that some, or even all, of the funds deposited into the accounts at SAB and SANB were associated with the IRA.

of the IBCs and Guardian Bank and performed transactions in the SAB and SANB accounts.

Most of the funds were initially deposited into accounts at SAB and then transferred into other accounts at SAB and SANB. By mid-1987, the $7 million Fitzgerald accounts in the name of Guardian Bank constituted approximately one third of all deposits at SAB. SAB owner Rappaport, concerned that an unknown party controlled one-third of Swiss American Banking Group's deposits, asked Herrington to identify the beneficial owner(s) of Guardian Bank. When Herrington refused to do so, he was immediately suspended and was dismissed from his position 1 month later (June 1987). Between the time of Herrington's suspension and his termination, he notified Fitzgerald of Rappaport's concerns.

At that time, Herrington resigned as the director of Guardian and the IBC. When efforts to resolve the matter failed, the attorney who claimed to be the new director of Guardian Bank filed a lawsuit in Antigua and Barbuda requesting the court to recognize him as the director of Guardian and to authorize the withdrawal of funds in the Guardian Bank accounts at SAB and SANB which held Fitzgerald's money. At that same time, Swiss American Banking Group officials began to investigate the accounts opened by Herrington and hired an auditor to review the accounts. The review identified a number of irregularities. In addition, the Group learned from law enforcement officials that the funds may be tied to drug and arms trafficking. They contacted the Antiguan Government, and in June 1990, the Minister of Finance for the Government of Antigua and Barbuda instructed Swiss American Banking Group to freeze the funds. In December 1990, the High Court of Antigua ruled that Guardian Bank's director did not have the proper corporate authority to file the suit, and the funds remained frozen at SAB/SANB.[9]

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[9] This description is drawn from pleadings filed by the Department of Justice in association with *USA v. Swiss American Bank, LTD, et al.* (op. cit.) and documents and correspondence related to that matter.

An October 1989 report by the Special Branch of the Royal Bermuda Police Force and the U.S. grand jury indictment issued against Fitzgerald provide a description of the trail of the funds that is instructive as to how the international banking system is used to move and launder illicit funds. In early 1985, Fitzgerald established a St. Lucian corporation by the name of "Halcyon Days Investments, Ltd." and opened an account in that corporation's name at the Canadian Imperial Bank of Commerce in St. Lucia. Between January and March 1985, Fitzgerald and other members of the drug organization deposited $3 million into the account. In May 1985, the account was closed and all of the funds (in excess of $3 million), were transferred to the Guinness Marn and Company Bank in the Cayman Islands through a bank check issued to the Guinness Bank. The total in the account subsequently grew to $5 million. In the Fall of 1985, the $5 million in funds were wire transferred from the Guinness Bank account to Philadelphia to Manufacturers Hanover Bank in New York to the Bank of Bermuda and on to SAB. The wire transfer of $5 million was divided equally between two accounts at SAB (Rosebud Investments and White Rose Investments). The funds were subsequently transferred into the accounts of Guardian Bank (one at SAB and one at SANB). According to the police report, "not only is this path murky, but subsequently Guinness Marn sold their subsidiary in Cayman because of their embarrassment at the management. Regrettably Guinness Marn have chosen not to reveal why they were embarrassed or the source of the money."

The Special Branch report also detailed the irregularities and lack of controls attendant to the accounts and the operations of SAB/SANB during Herrington's tenure:

> One of the accounts (Rosebud Investments) received $450,000 in cash from the Bank of Bermuda. The funds appear to have come from a safety deposit box at the Bank of Butterfield. In October 1985, Herrington used Swiss American's relationship with the Bank of Bermuda to influence the staff there to accept the cash deposit. When the funds were transferred to the account at Swiss American, they were "held" until Herrington made the book entries.
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> Another account (Jones Enterprises) was used as a "feeder" account for some of the other Fitzgerald accounts. According to the police report, "[l]arge cash deposits were made into the ac-

In May 1993, Fitzgerald was indicted for racketeering conspiracy and money laundering, and in August 1993, he pleaded guilty to the charges. As part of the agreement, he forfeited all of the proceeds of those illicit activities that had been deposited in the accounts at SAB and SANB. A final order of forfeiture was issued in May 1994. In early 1994, U.S. authorities approached Antiguan officials to seek their assistance in freezing the funds, providing public notice of the forfeiture action and to facilitate the return of the funds once the forfeiture notice was final. Negotiations lasted for nearly 2 years.[10] Finally, in November 1995, Washington, D.C. counsel for the Antiguan Government informed U.S. authorities that nearly 1 year before—sometime between December 1994 and January 1995—approximately $5 million of the Fitzgerald funds were transferred to the Antiguan Government by officials from the Swiss American Banking Group. Counsel informed the U.S. officials that the funds in the Fitzgerald accounts had been transferred to the Antiguan Government, which had spent the funds to pay pending debts and therefore the money was no longer available. At first, Antiguan officials maintained that the Swiss American Banking Group had unilaterally transferred the funds. In January 1998, Antigua wrote:

> In 1994, prior to the payment, but after the U.S. Court order, the Banks and the Government discussed the appropriate disposition of these funds. While the Banks initiated these discussions, the Government understood all of the facts and circumstances regarding this account and acting in the public interest of Antigua and Barbuda released the freeze order on the funds and approved the disposition of the funds in a manner agreed by the Banks and approved by the Government.

Swiss American Banking Group officials claim the $5 million were transferred on January 23, 1995. The Antiguan Government claimed the transfer occurred on December 28, 1994. The U.S. Government was later informed that the remaining $2 million of Fitz-

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count and later diverted to others but as the clients' statements are missing it is not possible at this stage to say where the cash originated."

Banks slips were written up as "cash" and "deposit" when money was being transferred from one account to another as a way to disguise its destination. Only by checking other banking records can the accountants identify whether true cash was handed over and frequently it was not.

Many of the loans made by the banks are to companies c/o AIT and no other details are available.

Documents related to the companies associated with the accounts were missing.

The source of many deposits was unknown, as was the ownership of the companies.

Over $500,000 in cash was deposited directly into the accounts at Swiss American Bank. Another $500,000 came through a cash deposit at the Bank of Bermuda.

The police report also captures what appears to have been a general lack of concern about illicit activities on the part of bank officials. The report notes that the Assistant Manager of the Swiss American Banking Group, MacAllister Abbott, who with Peter Herrington was a signator on the corporate accounts set up for Fitzgerald "thought Guardian was established to hide the profits skimmed from casino operations. He thought Jack Fitzgerald had a controlling interest and also thought that Herrington maintained a second set of books on behalf of the company. Abbott has been described as a person who would turn a blind eye to tax evasion but appears to have no knowledge of drug involvement." Mr. Abbott is currently General Manager of Antigua Overseas Bank.

[10] Although the U.S. had been asking Antigua to freeze the funds since early 1994, it wasn't until November 1996 that Antigua informed the U.S. that the funds had been frozen on its (Antigua and Barbuda) order in June of 1990.

gerald funds had been retained by the bank. It is unclear whether the funds were retained as a set off against outstanding Antiguan loans or whether they were retained to cover expenses incurred by the bank.

Moreover, the Minority Staff received a copy of a letter written in early 2000 that alleged that $880,000 of the Fitzgerald funds were "transferred between January 22–25, 1995, to Inter Continental Bulk Traders S.A. account #4763751 at Bank of Bermuda, Hamilton." The Minority Staff confirmed that the account does exist at Bank of Bermuda and that a transfer of $880,000 did occur in the January 22–25, 1995 time period. It has been reported to the Minority Staff that those funds were paid upon a resolution of the Swiss American Banking Group board as payment against a series of invoices submitted by a number of people who, at the request of Rappaport, had engaged in a review of SAB. One explanation offered to the Minority Staff regarding the transfer was that Inter Continental Bulk Traders was an account controlled by Rappaport and the funds were transferred to that account rather than directly paying those who submitted the invoices, because Rappaport engaged the services of those people to provide an independent review of the accounts at Swiss American Banking Group, which he controls. However, the ownership of the Inter Continental Bulk Traders account has not been confirmed, and that does not explain why the payments would be made through the Inter Continental Bulk Traders account rather than directly to those who performed the services. Moreover, it has been reported to the Minority Staff that the funds were transferred out of the account at the Bank of Bermuda in two tranches, which seems inconsistent with the contention that payments were made to a number of individuals. Without confirmation from the Bank of Bermuda on the ownership of the account and what happened to the funds in question, the fate of the $880,000 remains unclear.

For the next 2 years—November 1995 to December 1997—the U.S. Government continued to press for a detailed explanation and accounting of the transfer of the funds, and records relating to each of the Fitzgerald accounts. Although the Antiguan Government identified the source of the funds that were transferred from SAB and SANB, it informed the United States that the records of the accounts were not available because they had been destroyed in a hurricane.[11]

[11] It has been alleged that the funds transferred to the Antiguan Government were returned to the Swiss American Banking Group as repayment for outstanding debts that the Government of Antigua and Barbuda owed to SANB. This included millions of dollars of promissory notes that the Antiguan Government had issued to an enterprise called Roydan Ltd. Roydan Ltd. was the company that owned and operated a melon farm in Antigua called Roydan Farms, that used a high-technology tropical irrigation system. The operation was owned by an Israeli named Maurice Sarfati, and is discussed at length in a report, "Guns for Antigua" by the Commission of Inquiry established by the Governor-General of Antigua and Barbuda to look into the circumstances surrounding the shipment of arms from Israel to Antigua. The report was issued in 1990 by Louis Blom-Cooper QC, the appointed Commissioner. According to the report, Sarfati received governmental approval for his agricultural project in August 1984, and operation on the farm commenced in 1985. Throughout its inception and operation, the enterprise borrowed heavily for startup and operation costs. Sources of funds included the U.S. Overseas Private Investment Corporation and SANB and SAB. The Government of Antigua and Barbuda issued a series of promissory notes to Roydan Farms. In addition, SANB had extended an overdraft facility to Roydan Ltd., and has allowed it to escalate to over $1 million without any board resolution or any collateral agreement. In March 1988, a receiver was placed in control of the venture at the insistence of OPIC and the two Swiss American banks. By July 1988, Roydan Ltd. was $8

In December 1997, the U.S. Department of Justice filed a civil complaint alleging that SAB, SANB, Swiss American Holdings S.A. and BNY–IMB intentionally seized and converted the $7 million in illicit proceeds located in accounts at SAB and SANB that had been forfeited to the U.S. Government.

In September 2000, the Federal District Court judge presiding over the case dismissed the U.S. Government's claim for lack of personal jurisdiction over the defendants. The government is going to appeal the matter.

(c) The Gherman Fraud

Henry Gherman served as a financial adviser to individuals and medical practice pension funds in the Miami area. Between 1982 and 1988, while claiming to make purchases of Certificates of Deposit for his clients, Gherman transferred client funds to his corporate accounts which he controlled. The funds were wired to other accounts or used for the benefit of Gherman and his family members.[12]

In February 1989, he pleaded guilty to the charges and received a 30 year sentence and was required to make payments of $12.9 million in restitution to the victims of his fraud. Authorities testified that Gherman never accounted for approximately $1 million of the funds he embezzled.

A private investigator hired by some of Gherman's victims discovered that Gherman had established an account at SAB. On August 31, 1988, two of Gherman's victims petitioned the High Court of Antigua and Barbuda and secured a freeze of all assets in any

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million in debt. At the request of the Antiguan cabinet, the banks agreed to conditionally revoke the receivership for 90 days. By February 1989, Roydan Ltd. was no longer in existence.

However, its owner, Sarfati, was at the same time in the midst of brokering a deal for the shipment of Israeli arms through Antigua to the Medellin drug cartel. The linkage was discovered after a raid on the Columbian farm of Medellin Cartel leader Jose Ganzalo Rodriguez Gacha in December 1989. It was also discovered that one of the weapons included in the shipment was used to assassinate Colombian Presidential candidate Luis Carlos Galin.

The Commission of Inquiry was critical of Roydan's management and the influence Sarfati was able to exert within the Antiguan Government:

> . . . [A] lucrative market around the world was quickly jeopardized by the management structure of Roydan to enable it to service its loans, especially from an agency of the U.S. Government, the Overseas Private Investment Corporation (OPIC).
>
> . . . Throughout 1986 Roydan experienced continuous cash flow crises due to lack of management cost control systems and the use of antiquated accounting procedures. Financial statements were tardily produced and reflected a superficial financial picture.
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> . . . [A] report in 1987 to a U.S. Congressman stated that "because of its demonstrated helter-skelter system of spending, without any type of fixed controls, Roydan's credit history is devastating, both in the USA and in Antigua." (p. 51)
>
> . . . The story of the melon farm trail, and other incidental events, discloses a tale of insinuation and influence of a man with a remarkable talent for getting from a vulnerable administration in Antigua almost anything he desired. (p. 121)

One of Commissioner Blom-Cooper's recommendations was:

> "A judicial inquiry should be set up to investigate the dealings in 1985–1987 between Maurice Sarfati and the Government of Antigua. The enquiries currently being undertaken by a firm of U.S. Attorneys are welcome but do not meet the justifiable demands of an inquiring public in Antigua and abroad. This should include the administration of Roydan Ltd and the issue of promissory notes." (p. 132)

[12] On August 8, 1988, Gherman left the country leaving notes to his clients apologizing for his actions. Shortly before his departure, Gherman withdrew $4.4 million in cash from his corporate accounts at Commerce bank in Miami. On August 10, 1988, 25 creditors (some of Gherman's victims) petitioned the Dade County Circuit Court and secured the appointment of a receiver and a freeze of Gherman's corporate assets and the assets of his family. On August 28, 1988, the Federal Government filed a criminal complaint against Gherman, charging him with wire fraud and the embezzlement of $9.8 million. A warrant for Gherman's arrest was issued on August 29, 1988. In October 1988, Gherman was arrested in Japan after having been expelled from Taiwan.

accounts controlled by Gherman. The court-appointed receiver for Gherman's assets also filed an action before the High Court on November 4, 1988, requesting that he be recognized by the Court as the receiver for Gherman and to enjoin and require the turnover of all funds, related documents and other assets in the possession of SAB or its affiliates. However, because of Antigua's bank secrecy laws, when the victims filed with the High Court, they were unable to confirm how many accounts Gherman held, how much was in any account or even whether Gherman did hold accounts at the bank. At that time, SAB neither confirmed nor denied the existence of any accounts that belonged to Gherman. Cordell Sheppard, the counsel for SAB stated:

> We are willing to do anything we can, if we can do it without breaking the law. If we do have any documents, and that is not to say we do, we are prohibited by law from disclosing them.

After his arrest in Japan, Gherman wrote to SAB on December 6, 1988, and requested that the bank release all records of all of the accounts at the bank that he controlled. He also requested that all funds in the bank that he controlled be forwarded to the court-appointed receiver in the United States.

The efforts by law enforcement officials, Gherman's victims and the receiver resulted in a review of Gherman's account at SAB. As part of his fraud, Gherman had established an Antiguan IBC called Chaska Trading and opened an account for the IBC at SAB, which was used to launder the funds that Gherman had stolen from his clients. Records and court testimony indicate that in a period of approximately 1 month—between July and August 1988—$3.2 million in embezzled funds were deposited into the Chaska account at SAB. Gherman told law enforcement officials that all of the deposits into the Chaska account at SAB were made with cash that he or his brother personally carried to Antigua. Apparently, SAB had no concern that a client would deposit $3.2 million into an account within a 1 month time period. About $2.2 million of those funds were subsequently transferred into an account established in the name of Chaska Trading at Prudential Bache Securities.

At Gherman's sentencing hearing his brother, Warren Gherman testified that he (Warren Gherman) deposited funds into Henry Gherman's SAB account shortly before Henry Gherman left the country by delivering the funds to a bank officer at SAB:

Q. Now, Mr. Gherman, on August 5th of 1988 you made a trip to Antigua, did you not?

A. Yes, sir.

* * *

Q. Now, you didn't walk down there—I am sorry—you didn't travel down there with a cashier's check, did you?

A. No, sir.

Q. In fact, you had a suitcase full of money, is that correct?

A. I said this, yes.

Q. Could you describe how you made the deposit, who you met with down there?

A. A bank officer. I don't believe—I believe his name was Reeves (phonetic).

* * *

Q. Did you declare the money when you left?
A. No, sir.

Q. Why didn't you declare the money?
A. I didn't put any thing down. I just signed—I travel around the country and outside the country, and I just normally sign the document that I—where they ask you to sign on the paper.

Q. I am sorry. When you left the United States you didn't declare any Customs form that you were transporting $500,000 in cash?
A. No, sir.

Q. Did you read the Customs form?
A. I said I didn't.

At the time of Gherman's deposit, John Greaves was General Manager of the Swiss American Banking Group. He informed Minority Staff that he did not recall any employee at SAB who had a name like "Reeves" or a name that sounded like "Reeves." And, although Greaves' name sounds like "Reeves," Greaves told the staff that he had no recollection of receiving $500,000 in cash from Warren Gherman, noting that he would have remembered if he received such an amount. Greaves noted that at the time the deposit took place—August 5, 1988—it was legal to accept cash deposits in Antigua.

On April 28, 1989, the trustee received $787,271.84 from SAB, representing the balance of unrecovered funds that Gherman had deposited in the bank, less amounts withheld by SAB as attorney fees and handling charges. The trustee recalled that SAB charged a rather large amount ($50,000–$100,000) as its costs.

(d) The DeBella Fraud

Between September 1986, and May 1990, Michael Anthony DeBella was President and Chairman of the Board of Directors of United Bank International ("UBI") and owner of 45,000 out of 50,000 shares of UBI stock. UBI was an offshore "Class B" bank located in The Valley, Anguilla. Its "Class B" license was an offshore license that allowed it to conduct banking business with customers other than citizens or temporary residents of Anguilla.

UBI was not a real bank. According to an attorney who investigated the bank on behalf of a client, it was nothing but a storefront office with one or two employees and a fax machine. The true purpose of UBI was to serve as a front for financial frauds. Through UBI, DeBella and his accomplices defrauded prospective borrowers by issuing fraudulent letters of credit, lines of credit and loans in return for the payment of advance fees. These advance fees ranged from 1 to 12 percent of the face value of the amount sought by the particular borrower. DeBella represented to various victims that UBI had assets of $12,000,000 and deposits totaling $16,000,000. Although pieces of paper purporting to be banking instruments were issued, UBI never produced any actual financing. Between 1986 and 1990, DeBella and his accomplices defrauded

victims of approximately $2 million. At the sentencing hearing for one of DeBella's accomplices, an IRS investigator stated that he was not aware of any legitimate business whatsoever conducted by UBI. "I believe it was a front for a fraudulent enterprise," he stated. "I am not aware of any successful transaction." The presiding judge stated, in accordance with the investigator's statements, "This is not an example of a legitimate business that had one or two fraudulent acts, but the whole business from beginning to end is permeated with fraud. The business itself was the mechanism to perpetuate the fraud." [13]

To add to the legitimacy of UBI, DeBella and his accomplices claimed that UBI had correspondent relationships with other major banks. UBI had an account at SANB which had a correspondent account at Irving Trust Company. DeBella and his accomplices directed victims to wire transfer advance fees to the SANB correspondent account at Irving Trust Company (which was subsequently taken over by Bank of New York). These funds were then credited to UBI's account at SANB.

Testimony by the U.S. IRS agent who investigated the fraud provided a description of how criminals used offshore banks in secrecy jurisdictions to hide the trail of the funds they had stolen. According to the agent, the money "would be wired from the victim's bank account to the Bank of New York where Swiss American National Bank had an account. From there, the funds would be wired down to Swiss American National Bank and placed in the account of United Bank International." After the funds reached the UBI account in SANB, "within a short period, the funds would be wired back from Swiss American Bank up to the Bank of New York, and placed into one of the accounts controlled by Mr. DeBella."

DeBella established companies in the United States and elsewhere and held accounts in the names of those corporations in banks in Florida and Connecticut. Those accounts were used to move funds acquired through the frauds in and out of the United States and further hide the trail of those funds.[14]

In addition to the advance fee for loan frauds, DeBella also used UBI to commit a theft involving approximately $800,000 worth of shrimp. DeBella represented that UBI would finance the shipment of shrimp from a company in China (China Foreign Trade, a company that was, at least in part, owned by the Chinese Government) to a company in the United States (Imported Meats, Inc.). As a result of this agreement, China Foreign Trade shipped the shrimp to the United States and Imported Meats, Inc. made seven wire transfers totaling $873,762.54 to SANB's correspondent account at the Bank of New York for further credit to UBI between December 18,

[13] *U.S. v. Michael A. DeBella, Jr., et al.* (U.S. District Court for the Southern District of Florida, Case No. 93–6081–CR–Hurley), Superceding Indictment and Transcript of Sentencing Hearing, 12/18/95.

[14] For example DeBella was the president and director of Atlantic Capital Corporation, a corporation chartered in the State of Florida, and was also the director of Atlantic Capital Corporation, Ltd., a corporation chartered in St. Johns, Antigua, British West Indies. DeBella held an account at Commonwealth Savings and Loan Association of Florida under the name of "Atlantic Capital." DeBella also operated an unincorporated business known as Marlborough Village, a mobile home park located in Marlborough, Connecticut, and held an account People's Savings Bank, West Hartford, Connecticut, under the name of Marlborough Village.

1989, and February 23, 1990. DeBella sent only $77,000 to China Foreign Trade.[15]

An attorney was retained by China Foreign Trade to recover the $800,000 in funds owed to it by UBI. He discovered that UBI was nothing more than a storefront operation, as described above. He also discovered that UBI's banking license was revoked by Anguillan Ministry of Finance on May 29, 1990. In the Notice of Intended Revocation, issued on April 4, 1990, the Minister of Finance declared that the license was being revoked because UBI was "carrying on business in a manner detrimental to the public interest." The revocation notice identified nine separate frauds that had been perpetrated through UBI by its owners between 1987 and 1989.

After his discovery, the attorney contacted the General Manager of the SAB, John Greaves. The attorney told Greaves about the fraud that had been perpetrated against his client by UBI and DeBella. The attorney also informed Greaves that UBI's license had been revoked by the Government of Anguilla. The attorney followed up the phone conversation with a letter to Greaves at SAB and a letter to Rappaport at the headquarters of his Swiss Bank, BNY–IMB in Switzerland.

On June 25, 1990, Greaves responded to the attorney's letters. He wrote:

> "In reply to your letter 22nd June, addressed to Mr. Bruce Rappaport, could you please take note that neither Mr. Bruce Rappaport nor the Inter Maritime Bank in Geneva has any connection with the Swiss American group, either as shareholders or directors and that future enquiries or correspondence should be addressed directly to the undersigned at the address below.
>
> To now refer to your enquiry, the bank in question did have a small banking relationship with us, and during the course of this relationship, we, on occasions, effected transfers out through our correspondent banking network on their behalf and received payments in. The turn over on the accounts has never exceeded a low five-figure."

There were a number of misstatements and misleading information contained in the portions of Greaves' letter cited above. As noted in an earlier portion of this report, Rappaport was the owner of Swiss American Banking Group. However, the ownership chain was hidden through a series of offshore corporations and trusts. In

[15] The wire transfers totaled $873,762.54. On November 21, 1989, DeBella prepared a UBI cashier's check in the amount of $935,225.61, payable to China Foreign trade. However, on December 18, 1989, UBI stopped payment on the cashier's check. On December 22, 1989, UBI wired only $77,014.08 from the account of Swiss American National Bank at the Bank of New York to the account of China Foreign Trade at Citibank, Shenzen, China. On December 27, 1989, China Foreign Trade transmitted a copy of a telex from Shenzen, China to UBI refusing UBI's payment. After this date, UBI made no further payments to China Foreign Trade. However it continued to receive wire transfer payments from Imported Meats, Inc. through SANB's correspondent account at the Bank of New York. *U.S. v. Michael A. DeBella, Jr., et al.,* (U.S. District Court for the Southern District of Florida, Case No. 93–6081–CR–Hurley), Superceding Indictment.

addition, he was directly involved in the operations of the banks.[16] The paragraph left the impression that Rappaport had no ownership or control of the Swiss American Banking Group when, in fact, he clearly did. Greaves told Minority Staff that Rappaport had directed that similar language be included in all letters addressing the issue of his relationship to the Swiss American Banking Group because Rappaport did not want his association with the group to be known.

In addition, records obtained by the U.S. Government show that Greaves' characterization of UBI's account at SANB was incorrect. The letter stated that UBI "did have a small banking relationship" with SANB. In fact, although the letter referred to the account in the past tense, the account was still active during and after the date of Greaves' letter.

Greaves also told the attorney that "the turnover on the accounts has never exceeded a low five-figure." The records obtained by the Subcommittee related to UBI's activity that took place through its account at SANB shows that between early 1987 and late 1990, UBI received deposits totaling over $1.1 million, including some transfers that were greater than $100,000. The record of UBI's activity through SANB's correspondent account at Irving Trust and Bank of New York shows that between April 1989 and September 1990 UBI had 25 outgoing wire transfers totaling over $400,000, with 4 transactions of $50,000 or more. These figures are more than the "low five figure" amount cited in Greaves' letter.

Even after Greaves and SANB had been advised of the fraud against China Trade and that UBI's license had been revoked by the Government of Anguilla, SANB allowed the UBI account to remain open, and processed transactions—including withdrawals—through it. Records show that SANB processed 11 transactions worth over $160,000 involving UBI after June 22, 1990.

Moreover, officials at the Swiss American Bank Group allowed DeBella and one of his accomplices to open three additional accounts at SAB after receiving notification of the China Foreign Trade fraud and the revocation of UBI's license. One of the accounts was in the name of Commonwealth Investment Corporation. This account served a conduit through which DeBella defrauded additional victims after he abandoned the UBI scheme.

In one of the frauds run through the Commonwealth Investment Corporation account, DeBella defrauded one victim of $600,000. In February 1993, a criminal complaint was sworn out against DeBella and his accomplices for their activities related to the frauds committed through UBI in the late 1980's and 1990. DeBella was taken into custody in February 1993. In April 1993, DeBella falsely represented to an English engineer by the name of Anthony Craddock that DeBella's company, Atlantic Capital Corporation, Ltd., had received, in its capacity as a fiduciary, $120,000,000 from the Nigerian Government, which had been deposited into the Commonwealth Investment Corporation account at SAB. DeBella represented to Craddock that he could release the funds after a payment of $600,000 in disbursement fees. On April

[16] Rappaport personally hired Greaves as Herrington's replacement. Greaves told Minority Staff that he would regularly fly to Geneva to meet with Rappaport and discuss the operations of the Swiss American Banking Group.

13, 1993 Craddock wire transferred $600,000 into the Commonwealth Investment account at SAB.[17] However, no funds were ever disbursed to Craddock, nor were the "fees" repaid to him. Between April 15 and April 20, 1993, DeBella withdrew most of the $600,000.

On May 6, 1993, DeBella and two accomplices (Sandra Ann Siegel, also known as "Sandy DeBella," and Joseph Macaluso) were indicted on a range of offenses related to the advance fee for loan fraud, including conspiracy, mail fraud, wire fraud, money laundering, bank fraud, and tax evasion. A superseding indictment was filed on January 6, 1994, to incorporate the Craddock fraud.

The Atlantic Capital and Commonwealth Investment accounts at SAB were closed between the months of July and September, 1993. DeBella was convicted of the charges in May 1995. In December 1995, he was sentenced to 51 months in prison and ordered to pay $600,000 in restitution to Craddock and $69,500 to the IRS.

In his continuing efforts to recover the $600,000 he paid to DeBella, Craddock wrote to SAB seeking return of his funds and filed a claim against the bank in the Antigua High Court of Justice in 1996. Craddock also wrote to SAB's correspondent bank, the Bank of New York, about the fraud. When the Bank of New York inquired about the matter in 1996, SAB provided the following response:

> Michael DeBella, a U.S. citizen, has been jailed in the U.S. for, among other things, defrauding Craddock of $600,000. It would appear that in a Nigerian-type scam, DeBella promised Craddock a handsome share of $120 million from the Nigerian Ministry of Finance if he participated in whatever the deal was. This in itself does not speak well for Craddock.
>
> In any event, Mr. Craddock has been bombarding our board members and management with numerous letters requesting the return of his funds (which we do not have) and, only yesterday, we sent copies of his correspondence to an attorney in the USA for him to examine and determine whether there is sufficient cause for a cease and desist order.
>
> Unfortunately, because of local offshore banking legislation, we are not in a position to advise Mr. Craddock whether or not any part of the funds he is trying to trace is on deposit with us as that would probably put an end to the matter.

SANB's reply to the Bank of New York did not mention the fact that SAB opened accounts and processed transactions for DeBella long after its General Manager, Greaves, had been made aware of frauds that DeBella perpetrated through UBI and that the license of DeBella's bank, UBI, had been revoked for activity detrimental to the public interest.

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[17] On April 13, 1993, the funds were incorrectly wired to SANB for credit to the account of Commonwealth Investments Corporation. Bank officials realized the account was actually at SAB and credited the account at that bank on April 14, 1993. Another $50,000 from another fraud was wired into the SAB account in March 1993. *Anthony J. Craddock, Craddock (UK) Limited v. Michael A. DeBella, Jr., Atlantic Corporation Limited, Commonwealth Investment Corporation and Swiss American Bank Ltd.* (In the High Court of Justice, Antigua and Barbuda, Suit No. 213/1996), Affidavit of Brian Stuart Young, and Exhibits, March 18, 1997. *U.S. v. Michael A. DeBella, Jr., et al.,* (U.S. District Court for the Southern District of Florida, Case No. 93–6081–CR–Hurley), Superceding Indictment.

Minority Staff asked Greaves about the inconsistencies in his June 1990 letter and why SAB would open and service additional accounts for DeBella after learning of the frauds DeBella perpetrated through UBI and that UBI's license had been revoked for activity detrimental to the public interest. Greaves informed the staff that "mistakes had been made" at Swiss American, including mistakes at the senior management level and including mistakes by himself. He would not elaborate further on the case of DeBella and Swiss American's role in it.

(e) The Fortuna Alliance Fraud

The Fortuna Alliance was a Ponzi scheme that attracted its victims by marketing over the Internet.[18] Labeled as a multi-level marketing plan, the scheme promised investors large returns on their initial investment as new members were recruited into the program. For example, promoters told investors that they would receive $5,200 for a one-time investment of $250. Higher investments would earn even higher monthly returns according to the promoters. The program operated between November 1995 and May 1996, when the Federal Trade Commission secured a court order halting the program. The FTC estimated that during its operation, the Fortuna Alliance scheme collected over $7.5 million from victims. The FTC documented that the perpetrators of the fraud had established two accounts at SAB in Antigua in the name of two trusts—the Fortuna Alliance Trust and the Prosper Trust[19]—and had forwarded at least $5.5 million of victims' funds into those accounts between March and May 1996, utilizing SAB's correspondent account at Chase Manhattan Bank.[20] The perpetrators of the fraud also used credit cards issued by SAB that drew from the Fortuna Alliance Trust account.

The FTC filed its complaint against the Fortuna Alliance and four perpetrators of the scheme—Augustine Delgado, Libby Gustine Welch, Donald R. Grant and Gail Oliver—in the U.S. District Court for the Western District of Washington on May 23,

[18] This fraud was examined as part of the Subcommittee's investigation into Internet fraud. See "Fraud on the Internet: Scams Affecting Consumers," Hearing before the Permanent Subcommittee on Investigations, February 10, 1998 (S. Hrg. 105–453).

[19] According to U.S. enforcement personnel, the Prosper Trust was a holding account for a number of clients that were trusts. Presumably the assets of each trust was held in a separate sub-account. In June 2000, the Minority Staff discovered a Web site for an entity called the Prosper International League Ltd. ("PILL"), a Bahamian entity offering Belize offshore trusts called Prosper Trusts, stressing the secrecy and the tax evasion potential of the trusts. The organization also markets a Ponzi investment scheme similar to that offered by the Fortuna Alliance. It is owned by individuals operating out of Florida. Material included on its web site indicates the organization has been in existence at least since 1994. The web site for PILL states that the trust funds are held by Swiss American Bank in Antigua. It may be the case that PILL controlled a large account at SAB, and the Prosper Trust account beneficially owned by the principles of the Fortuna Alliance was actually a sub-account of the larger Prosper Trust account.

[20] The FTC's estimate was based on records obtained from wire transfer requests originating from Whatcom State Bank in Washington, where the Fortuna Alliance held an account. The Minority Staff reviewed the monthly statements of SAB and SANB's account at Chase Manhattan Bank. The staff identified $5.3 million [This figure is a correction by Subcommittee staff of the figure that appears in the original publication of this report in February 2001.] that had been sent from the Whatcom State Bank, by order of the Fortuna Alliance, to Fortuna's two accounts at SAB during the March-May time period. Another $1.65 million had been sent from the Whatcom State Bank, by order of the Fortuna Alliance, to a Prosper Trust account at SANB. During that same period, an additional $24,000 [This figure is a correction by Subcommittee staff of the figure that appears in the original publication of this report in February 2001.] was wired into the SAB accounts at Chase for further credit to the Prosper Trust from other U.S. and foreign banks. SAB officials told Minority Staff that they eventually secured a cease and desist order against PILL.

1996. The court issued a temporary restraining order on May 24 and a preliminary injunction on June 12. Both orders prohibited further marketing of the scheme or any related program, froze Fortuna's assets, appointed a receiver for Fortuna and ordered the defendants to "direct that Swiss American Bank of Antigua transfer to Fortuna Alliances's bank account at Whatcom State Bank all funds previously transferred by or from Fortuna Alliance, Augustine Delgado or Libby Gustine Welch to that bank."

At the same time that the FTC sought to obtain a restraining order in Washington, the Department of Justice filed a claim in the High Court of Antigua to freeze the funds in the accounts controlled by the Fortuna Alliance and its principles. On May 29, 1996, the High Court issued an order freezing the two Fortuna Alliance accounts and all other related accounts.

The principals of the Fortuna Alliance failed to return the funds that they had forwarded to the two SAB accounts. On June 12, 1996, the U.S. District Court for the Western District of Washington issued a contempt citation against the defendants for failing to return the funds from SAB and refusing to provide an accounting of the funds. When they continued to defy the court's initial order in the preliminary injunction, the court issued civil arrest warrants against three of the defendants on June 27, 1996.

Although SAB officials told Minority Staff that they cooperated with the U.S. efforts to secure the return of the funds, the bank appears to have been less than cooperative. The U.S. Government had named SAB as a neutral party in the freeze petition. This is a normal occurrence in seizure actions in the United States, and the banks that are named in such suits generally cooperate with the court order. SAB, however, actively fought the United States in the recovery process. According to U.S. Government officials negotiating a return of the funds in the SAB accounts, SAB officials were initially uncooperative in negotiations. SAB officials would not tell U.S. representatives how much money was in the accounts, citing Antigua's bank secrecy laws. This made it difficult for the government to know the exact amount of money in the accounts because additional funds may have been wired into the account from different banks, and principals of the Fortuna Alliance had been drawing down against one of the accounts to pay credit card bills. SAB officials also demanded that the U.S. Government pay the bank $1 million of the funds in compensation for the costs the bank had absorbed in dealing with the issue, the damage to its reputation caused by the suit, and the interest lost from the account because it was frozen.

On September 10, 1996, SAB joined with some of the principals of the Fortuna Alliance and asked the court to remove the freeze. In its filing, SAB claimed that it was an innocent third party; that if the freeze continued, it would affect SAB's normal course of business; that the U.S. Government had failed to provide any evidence that any of the funds in the Fortuna Alliance accounts were in fact those of the principals, that the principals were signatories of the account, or that the assets were at the disposal of the principals.

On October 22, 1996, Delgado, the owner of Fortuna Alliance, wrote to the manager of SAB and expressed his deep frustration with the continued freeze of his funds. In the letter, Delgado admit-

ted that he was a beneficiary of the accounts that had been frozen and claimed that SAB had accepted additional funds for the Fortuna Alliance accounts after the freeze was imposed by the High Court of Antigua and SAB was on notice of questionable activities by the beneficiaries of the account:

> As you are aware I am a beneficial party for certain funds held in Fortuna Alliance Trust. . . . In addition to these there are other funds held in suspense that have come to your bank after the injunction (August 9th from the Netherlands).
>
> I am formally requesting that you arrange a loan to me collateralized by these funds held by you that does not violate your banks policies or the injunctions.

The SAB manager's response included the following:

> Management has given serious review to the circumstances related to your request, and guided by fiduciary responsibilities and relevant legalities, we are unable to register as security for a credit facility the funds held either in the Trust account or for the Trust account.
>
> We appreciate the grave concerns raised in your letter to us, and have sought to identify legal means by which we could respond to your request. On the one part, we are bound by order of the Court and, on the other part, the fact that funds are held for a trust account carry further responsibility for the bank to ensure that there is no breach of trust. The only authority for the custody of the funds is the stated trust, and a Trustee has no implied power to borrow.
>
> At this time we have no means to respond to your request, we will however continue to press for the legal resolution of this matter. We share your concerns over the length of time taken to address the matter and the adverse impact it has on your business. We are powerless to influence these events of the court, and can only act in compliance with its orders.
>
> Please contact us if you wish to meet further on these matters.

Finally on February 24, 1997, the FTC and the Fortuna principals entered into a settlement agreement providing for the return of $2.8 million from SAB and requiring the Fortuna principals to make additional funds available to pay all claims. According to U.S. officials, even after the principals of the Fortuna Alliance agreed to the settlement, SAB officials balked at sending the funds back to the United States, insisting that they be paid part of the funds. SAB eventually settled for $50,000.

By May 1, 1998, the FTC had refunded approximately $5.5 million to over 15,000 victims in 70 countries throughout the world.[21] However there were still $2.2 million in additional claims that were outstanding. Under the terms of the February 1997 settlement, Fortuna was obliged to pay those additional funds. However, the defendants refused to fulfill their obligations and did not supply additional funds. Instead, Delgado and other members of the

[21] The sources of the $5.5 million are as follows: $2.2 million in uncashed checks returned to investors; $2.8 million returned from accounts at SAB; $350,000 in assets frozen in U.S. banks.

original Fortuna Alliance opened another Ponzi operation similar to the first scheme, called Fortuna Alliance II. On June 5, 1998, the U.S. District Court for the Western District of Washington issued a civil contempt order against Fortuna Alliance and its owner, Delgado, for failure to make the payments as required under the settlement agreement and for failure to abide by the agreement not to engage in similar activities.

Bank records reviewed by the Minority Staff indicate the Fortuna Alliance wired at least $6.9 million [This figure is a correction by Subcommittee staff of the figure that appears in the original publication of this report in February 2001.] into its SAB and SANB accounts, but the settlement agreement called for only $2.8 million to be returned from SAB and SANB. After the $2.8 million had been returned to the U.S Government, it is likely that substantial sums still remained in the accounts and presumably were available to the principals of Fortuna Alliance, perhaps to perpetrate their second Ponzi scheme.

(f) Other Frauds/Questionable Accounts

In 1997 or 1998, Robert Burr, an accomplice in the Cook fraud (described in the appendix to this report), opened two accounts in the name of two foreign trusts (Right Hand Investments and Silver Search International) at SAB. Burr instructed SAB that all funds transferred into the Right Hand Investments account should be immediately transferred into the Silver Search International account. Given the bank secrecy laws of Antigua and Barbuda, the mechanism employed by Burr would effectively hide the trail of his funds. An investigator working with the SEC appointed receiver attempting to recover the funds stolen by Cook told the Minority Staff that it has been established that Burr attempted to use these trusts to prevent law enforcement officials from seizing assets he acquired through the fraud.

Peter Berney, a U.S. citizen who has been indicted in both New York and Nevada for stock fraud and money laundering apparently ran millions of dollars through an account at SAB during 1999.

The issues discussed above raise serious questions about the adequacy of the initial due diligence and ongoing monitoring conducted by both Swiss American banks. In some instances, these frauds evidence possible complicity of SAB and SANB bank employees or officials. SAB officials have told Minority Staff that they have recognized past problems and have made a concerted effort to improve their management and anti-money laundering policies. One law enforcement official also reported improved performance. However, over the past few years SAB has taken on accounts from entities involved with Internet gambling activities, which raise additional money laundering and legal concerns for correspondent banks.

(g) Internet Gambling/Sports Betting

Antigua is one of a number of countries that have legalized Internet gambling, and it has become one of the most popular locations for such enterprises. For a licensing fee between $100,000 and $75,000, an Internet gambling operation can purchase a license in Antigua and Barbuda. Approximately 100 Internet gambling licenses have been issued by Antigua and Barbuda. As noted in an-

other section of this report, Internet gambling is vulnerable to money laundering, and it is illegal in the United States. This has caused some U.S. banks to refuse accounts from Internet gambling clients and correspondent relationships with foreign banks that accept such clients. When offshore banks with Internet gambling clients open correspondent accounts with U.S. based banks, the money laundering vulnerability of the correspondent bank is increased, because it is not just dealing with unknown customers of the client bank, it is also handling the customers of the Internet gambling establishments who have access at the client bank. Moreover, the correspondent bank is in the position of facilitating a possible crime by accepting funds for activities that are illegal when carried out within the United States.

SAB services a large number of Internet gambling accounts. A brief search of the Internet disclosed hundreds of Internet gambling entities that advertised SAB as their bank and directed clients to wire funds to their SAB accounts through one of SAB's U.S. correspondent banks. In 1998 and 1999, wire transfers directed to Internet gambling entities flowing through SAB correspondent accounts grew to millions of dollars each month. The Internet gambling clients of SAB included World Sports Exchange, whose co-owner Jay Cohen was recently convicted and sentenced to 21 months in prison in the United States for violation of the Federal Wire Act, which prohibits interstate or foreign gambling via telephone or telegraph.

In addition to SAB's U.S. based correspondent accounts, SAB's correspondent accounts at non-U.S. based banks, such as Toronto Dominion in Canada and BNY–IMB in Geneva were also advertised as places where gamblers could send funds for SAB's gambling clients.

Moreover, the money laundering vulnerabilities of correspondent accounts that are compounded by the combination of correspondent banking and Internet gambling clients are further magnified through the proliferation of E-cash operations such as Totalnet, InterSafe Global, Ecashworld, Electronic Financial Services. E-cash operations are intermediaries for the transfer of funds between consumers and merchants. Many Internet gambling operations are using such services. Individual bettors are instructed to open accounts at, and send their funds to, the E-cash intermediary, which then deals with the gambling company. This further hides the origin of funds.

The Web sites of a number of on line casinos contained the exact same description of one of the E-cash companies, "InterSafe Global," and described how the casinos utilized its services:

> InterSafe Global LLC is a Nevada based company that operates the E-cash service for Casino on Net. InterSafe specializes in secure Internet transaction processing. They provide a vital link between Internet customers and merchants. When our clients want to make a deposit to their casino bankroll, this is done through InterSafe. The credit card is charged to InterSafe Global LLC, and this is the name that will appear on your credit card statement.

The Internet casinos using InterSafe instruct clients who wish to make wire transfers into their casino account to forward the transfers to "InterSafe Global LLC, Account number 1641101, Swiss American Bank."

These intermediaries further obscure the source and extent of Internet gaming that may be taking place through a bank that services such accounts, and makes it even more difficult for correspondent banks to know which and how many gambling entities may be using one of their client banks. The gambling entities are nested within the E-cash company account.

SAB recently announced it would no longer use its U.S.-based correspondent accounts for Internet gambling clients. However, it is not clear whether SAB will continue to service the accounts of, and accept wire transfers for, the E-cash companies that accept deposits for Internet gambling companies.

(7) Correspondent Accounts at U.S. Banks

(a) Bank of New York

SANB established a correspondent relationship with Irving Trust Company in December 1981. The relationship was continued by Bank of New York ("BNY") when it acquired Irving Trust Company in 1988–1989 and was terminated in June 1999. Little information is available about the structure and operating procedures of Irving Trust's correspondent banking department at that time. A December 1981 memo by the relationship manager indicates that Irving Trust was introduced to SANB through its courier in Antigua and Barbuda, who was the brother-in-law of SANB's Assistant Manager, McAllister Abbott.

Minority Staff interviewed the BNY relationship manager who was responsible for the account from October 1993 through its termination in April 1999, and the head of the Latin American Division who has held that position since 1990.

The Correspondent Banking Department is located within the International Sector Division, headed by the Vice-Chairman of the bank. The International Sector is divided into four geographical regions—Europe, Asia, Middle East/Africa and Latin America. The Latin American Division is headed by a Division Head, a Senior Vice President of the bank. The Division is divided into two Districts. The Caribbean Region is located in District Two. District Two has two relationship managers and a District Manager. The Latin American Division has four representative offices in the region. The duty of the relationship managers is to sell products and services to clients. However, relationship managers are also responsible for following the activities of their clients and events in the countries in which they operate. The administrative, back office activities are handled by a group called deposit services. The Latin America Division has 200–225 correspondent banking relationships, with a total of 480 accounts. The relationship manager who handled the SANB account had 30–35 clients with 40–45 accounts.

Representatives of BNY told Minority Staff that to open a correspondent account at BNY, a bank must submit a request in writing; provide a letter from its regulatory authority that it is licensed to do business; three letters of reference including a letter from the

Central Bank of the country and if possible two from U.S. banks, and a list of all of the owners, directors and management; identify the type of products and services it would like to use; and indicate the expected volume of activity. Relationship managers are required to visit the site of the bank. The relationship manager, the District Manager and the Division Head review the application and make the decision whether to accept the account. If a potential client plans to conduct business with, or utilize services of, some other division of the bank, representatives of that division will also be in on the review process. The Compliance Division for the bank is a separate unit, but a compliance officer is assigned to the International Services Sector.

BNY representatives told Minority Staff that as part of BNY's ongoing monitoring program, relationship managers in the Caribbean Division have a goal of visiting clients at least once a year and in highly sensitive areas the District Manager is required to meet with the clients. After returning from a site visit, relationship managers are required to write a country report and a client visit report. Client banks are required to supply audited financials annually. Monthly statements are not reviewed. However, BNY has a monitoring system that can follow trends in account activity and produce monthly reports on unusual activity. Relationship managers are required to review the reports and provide a written explanation of the activity in question.

According to the client contact memos produced by BNY, which include Irving Trust memos from the beginning of the account, the relationship managers did not identify any serious problems or concerns with the SANB account until about 1995. Significant frauds that utilized SANB were not addressed by the relationship managers. For example, when Peter Herrington was dismissed in 1987 as General Manager of the Swiss American Banking Group for involvement in the Fitzgerald matter noted above, the reports from the relationship manager stated: "Peter Herrington has left and Andrew Barnes is the new G.M. (Apparently Herrington did not leave on very amiable terms)." The relationship manager apparently did not obtain any information regarding the Fitzgerald case. Similarly, although the SANB account at Irving Trust Company and then BNY were the conduit for the flow of funds involving the DeBella fraud in 1989 and 1990, there is no mention of the matter in any of the files provided to the Subcommittee. IRS agents had subpoenaed account records from BNY during its investigation, discussed the account with BNY representatives and addressed the matter in the trial and sentencing of DeBella, which lasted through 1995. There is no indication that BNY relationship managers were advised of this issue by other divisions within BNY, or that relationship managers made any inquiries of SANB to understand SANB's role in the matter. As noted in the review of the DeBella fraud contained above, documents and information made available to the Subcommittee indicate that the General Manager of the Swiss American Banking Group, John Greaves, continued to allow DeBella to utilize SANB accounts after he had been provided with information and documentation alleging DeBella's involvement in fraudulent activity. The Division Head and the Relationship man-

ager interviewed by Minority Staff indicated that the account was quiet until about 1995.

In 1995, BNY memos indicate that personnel began to notice questionable transactions occurring in the account. In 1993, SANB issued and BNY confirmed two standby letters of credit to Banco de la Union in Costa Rica.[22] Ostensibly, the letters of credit guaranteed the capital reserves the bank was required to maintain. In April 1994, Banco de la Union authorized another bank to collect on the letters of credit. However, SANB instructed BNY not to pay. In late 1994, attorneys for Banco de la Union threatened to sue BNY. Yet, for a long period of time, SANB failed to respond to numerous requests by BNY for SANB to explain its position on the matter, and to provide the name of its legal counsel in New York.

Around the same time as BNY confirmed the letter of credit in 1993, Bank of America (BOA) (at that time, a correspondent for SAB) received a similar request to confirm a standby letter of credit that SAB wanted to issue to Banco de la Union. The stated purpose of the standby letter was the same as the letter of credit backed by BNY: To serve as a guarantee for the capital requirements that bank was required to possess in order to meet Costa Rican licensing requirements. Although BNY backed the standby letter, BOA refused. In an internal memo, the BOA credit manager expressed his concerns:

> I am not in favor of our issuing this SBLC in support of a client establishing a bank in Costa Rica for the following reasons:
>
> —We don't know the client or the type of bank we are guaranteeing.
>
> —This is not trade related.
>
> —This is not a specific transaction in the sense that client is going to have this SBLC as long as it continues business in Costa Rica and we are going to be asked to continually renew.
>
> —The pricing of 50 BPS is not attractive.
>
> The principle reason of those above is that we would be guaranteeing and support liquidity needs of a bank we don't even know and don't know that we would want our name associated with that entity or its principals. Therefore, from a policy perspective this is turned down.

Documents associated with SANB's correspondent account at Nations Bank also raise questions about Banco de la Union and the wisdom of approving a letter of credit for Banco de la Union.[23]

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[22] A standby letter of credit is a financial guarantee against non-performance. It is similar to a surety bond. Generally when such an instrument issued by a offshore bank or a bank that is not internationally known, the party who is relying on the standby letter will demand that a larger, better known financial institution "commit to," or back, the letter. Often, the small bank will ask its correspondent bank to commit to the standby letter of credit. Committing to the letter places the bank at risk if the small bank does not honor the letter. Generally, to eliminate its exposure, the correspondent bank will require the respondent bank requesting the commitment to provide collateral equal to the value of the pledge that the correspondent bank is making. Thus, the correspondent bank has no risk of loss. This is what BNY did with its standby letter of credit arrangements with SANB.

[23] Material obtained from the SANB correspondent account at Nations Bank indicate that in 1993 Nations Bank became involved in a controversy with the Deputy General Manager of the Swiss American Banking Group, David McManus, that revealed more information about Banco de la Union and raised questions about the bank and the individuals associated with it. A letter

Continued

Additionally, SANB reported to BNY that a number of forged checks totaling $53,000 had been written against SANB's account at BNY. Nine months after the checks had been cleared, SANB informed BNY of the forgeries and asked that its account be credited $53,000. The relationship manager discussed these matters with John Greaves, the General Manager of Swiss American Banking Group during a visit to SANB in April 1995. According to the relationship manager, SANB officials refused to tell him who it was that issued the checks and the circumstances surrounding their issuance. BNY did not press SANB on the matter. The relationship manager and the Division Head stated that these incidents raised concerns about the account.

By 1996, Swiss American Banking Group had replaced Greaves with a new General Manager and the SANB account was of such concern to the BNY Division Head that she discussed the matter with other BNY officials, including the head of credit policy. A decision was made to have a set of meetings with SANB to pursue the issues more aggressively. There was some discussion of closing the account, but the new Swiss American Banking Group General Manager made the representation that he had a mandate to improve operations at the bank and requested the help of BNY to do so. BNY made a decision to give him the opportunity to improve the condition of SANB.

In February 1996, the relationship manager addressed a number of frauds and suspicious transactions (including those addressed in the April 1995 meeting) with the new General Manager. These included $90,000 in forged checks in 1993; a fraud involving the Bank of Scotland and a SANB client; efforts to wire cash deposits made at BNY to SANB; and the $600,000 stolen by DeBella in 1993. The issues were discussed at the meeting and the Swiss American General Manager followed up with a letter to BNY addressing the matters.

Once again, the answers from SANB were incomplete and some, as the relationship manager described, were "total contradictions." For example, SANB acknowledged that the $53,000 in forged checks involved the SANB employee who was responsible for reconciling the checks (i.e., confirming that the checks debited to the SANB account matched the record of disbursements in the SANB ledger), but would provide no additional information to BNY. SANB told BNY that the individual who controlled the account involved in the attempted fraud against the Bank of Scotland had been in-

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and memorandum from a Nations Bank Vice President described the matter. Two foreign insurance companies that were clients of SANB were attempting to expand their businesses into the United States and were looking for a U.S. Trustee to hold funds to pay insurance claims filed by U.S. citizens. McManus recommended the companies to Nations Bank. Before Nations Bank ever made a decision about accepting the trust fund, McManus sent Nations Bank 2 million shares of a Nevada corporation to be used to fund one of the insurance companies. In performing due diligence on that company, Nations Bank discovered that the owner/recordholder of the stock was Banco de la Union; the company whose stock was sent to Nations Bank had its charter terminated nearly 6 months earlier; the stock was a restricted offering that under U.S. securities laws was required to be held outside the United States, and a Ronald Seale, who identified himself as a financial advisor to the insurance company, told Nations Bank that he was a shareholder of Banco de la Union and in that capacity had allowed the insurance company to use the name of the bank to hold title to the stock. Seale had eight separate complaints filed against him in Florida for selling discounted letters of credit related to oil business ventures. It turns out that the BNY documents on the Banco de la Union issue reveal that Seale had been a minority shareholder in Banco de la Union; became its President in August 1993; and was involved in the letter of credit controversy that involved BNY and the SANB correspondent account.

carcerated and the account number had been re-issued to another party. The re-issuance of the account number was described as "unusual" and "something I didn't like" by the relationship manager. In discussing the DeBella fraud, SANB acknowledged that DeBella had been defrauding a number of people, but SANB made no mention of the long and extensive use that DeBella made of accounts at SANB to perpetrate his frauds even after SANB was on notice that DeBella was involved in questionable activities.[24] Regarding the attempt to wire transfer cash deposits to SANB, BNY asked SANB to confirm that the account no longer existed and provide the closure date. SANB officials refused to provide BNY with any details of the entity whose account was in question except to write that "we have no account, nor have we ever had an account in the name [of the account in question]." The General Manager of Swiss American Banking Group then proceeded to suggest that the matter involved an account at SAB, and was being handled by Bank of America, which was a correspondent for SAB. No additional information was provided. The relationship manager described this response as "total contradictions," adding that it was one more factor in the process that led to the decision to eventually close the account.

When asked by Minority Staff why BNY did not press to receive more complete answers to these matters, the relationship manager noted that in the early 1990's banks were more concerned with credit risk than anything else. There was not much of that type of business in the Caribbean. Security and money laundering were not the high priority because BNY was not involved with a lot of offshore banks. He noted that when banks talked of exposure and risk, they were more concerned with losing money. The relationship manager noted that the nature of banking is changing and the international efforts to battle money laundering has shifted the focus of the banks. Meanwhile, however, BNY's relationship with SANB continued.

During this period of time, SANB had been BNY's largest revenue producer in Antigua for a number of years. However, both the relationship manager and the Division Head stated that SANB was a relatively small account, and that its revenue position would not influence any decision whether to close the account. The relationship manager noted that BNY officials told him they would support a decision to close the account if that was his decision. He noted that in 1996, he wrote a memo recommending that BNY not accept additional accounts in some areas because of weak regulatory controls and it was approved by his superiors. The relationship manager reiterated that he wanted to give the new Swiss American General Manager an opportunity to improve operations at the bank.

[24] In 1995, after DeBella was convicted in Federal Court, Craddock, the victim of a $600,000 swindle perpetrated by DeBella in 1993, wrote to BNY, advised the bank of the conviction and asked for assistance in securing the return of his money. BNY wrote back to Craddock and informed him that the funds had been deposited though Barclays Bank and did not involve SANB's relationship with BNY. However, there is no indication that BNY made any connection between this matter and the DeBella frauds that earlier used the SANB account at Irving Trust and BNY. Although BNY questioned SANB about the Craddock funds, it made no inquiries about the SANB relationship with DeBella.

In May 1996, the Division Head again met with senior officers of the bank to alert them to activities and issues related to SANB. She recognized the matter could be a sensitive issue because of the position of Rappaport as a major shareholder of BNY and the sole owner of Swiss American. According to the Division Head, upper management supported her approach and the relationship with Rappaport did not factor into the decisions affecting SANB. Rather, the decision was made to treat the SANB relationship at arms length and not give it any special treatment.

The Division Head asked the relationship manager to provide a summary of all of the cases involving SANB. The memo noted that "all the subpoenas and check forgeries are really concentrated between 1993 and 1995." After reviewing the cases, the relationship manager concluded by writing:

> Clearly, all these cases at Swiss American occurred during the administration of Mr. John Greaves the former General Manager, who resigned last summer September and still resided on the island. . . . [T]he new GM, has been brought by the Board of Directors to clean the record of the institution.
>
> Even though this relationship has been very frustrating during the past 3 years we should try to extend a grace period to Mr. Fisher and his new team.

He informed Minority Staff that he believed the new General Manager was making an effort to improve the situation at SANB. At that point, the Division Head instructed the relationship manager to continue to follow the situation and keep her informed.

In November 1996, the Division Head and the relationship manager again met with the General Manager of Swiss American Banking Group. The Division Head informed Minority Staff that she had a lot of issues she wanted to discuss and hear from the General Manager in detail on each of the items. The Division Head wanted to stress to the General Manager that these matters were receiving the attention of senior management at BNY and that "we have to get to the bottom of this." The Division Head also wanted to size up the General Manager and estimate the prospects of his ability to improve matters at SANB.

The report of the meeting prepared by the relationship manager underscored the serious tone of the meeting:

> Taking in consideration all the problems the Bank of New York has been experiencing with this relationship, "our meeting went very well."
>
> Ken told us that his priority was to review and clear the institution of all of its problems and finally bring back Swiss American to profitability. He mentioned that most of the problems were due to the mismanagement of the previous administration. Problems ranged from, as he said to [sic] "under-reported or mis-reported" non performing assets to the Board of Directors and the Eastern Caribbean Central Bank to suspicious offshore accounts at Swiss American National Bank.
>
> . . . [The Division Head] strongly restated to Mr. Fisher that we would close the account if there was no improvement in the way Swiss American conducts its businesses. The Bank of New

> York received five subpoenas regarding Swiss American from various U.S. agencies, during the past 16 months.
>
> The memo concluded by noting, "We will keep monitor[ing] the account very closely."

When asked by Minority Staff why BNY continued to maintain the relationship in light of the concerns it had, the Division Head said it was due to a number of factors: The new General Manager appeared to be trying to turn things around and she felt BNY was having some success with him and that he was making progress; as a professional courtesy, BNY wanted to help him succeed; no one likes to terminate a client; and BNY faced some potential losses if the account was terminated and BNY wanted his help to mitigate those.

The Division Head informed the Minority Staff that around the same time as the November meeting, the SANB account was put on the "refer" list, meaning the wire transfer and cash letter transactions of the SANB received more monitoring and manual intervention, and credit activity (such as clearing large checks or wire transactions when funds may not be immediately available to cover the amount of the transaction) had to receive the approval of the relationship manager.

BNY was unable to locate any documents (other than monthly statements) that addressed the relationship during 1997. There are no documents to indicate any knowledge or inquiries by BNY of the Fortuna Alliance fraud that affected both SAB and SANB, despite the wide attention it received. However, in February 1998, BNY was notified that the U.S Government had sued SAB, SANB and BNY–IMB for recovery of funds related to the Fitzgerald case. Both the Division Head and the relationship manager were surprised by the news of the civil action and concerned. The Division Head was upset that SANB had not advised BNY of what was a long term controversy. As the Division Head noted, it became a major topic during BNY's visit to SANB a few weeks later. According to the relationship manager, the BNY representatives received another surprise when they arrived at SANB. They learned that the General Manager of Swiss American Banking Group had left and SANB had a new General Manager. BNY had not been advised of the change. According to the relationship manager, the new General Manager "sounded the same" as the previous GM as he laid out his mandate for the BNY officials.

Regarding the lawsuit filed against the banks, the new General Manager told the BNY representatives that SAB was not at fault. He provided the history of the funds and noted that SAB and SANB were caught between conflicting demands of the Antiguan and the U.S. Government. According to the report of the meeting written by the relationship manager, the General Manager concluded his presentation of the Fitzgerald funds by saying "currently nobody knows where these funds are!! The Antiguan Government claims they do not have them anymore!!!" [emphasis included in original]

The Division Head offered a similar account to the Minority Staff and characterized the claim as "highly improbable." The Division Head was upset that SANB did not notify BNY of the lawsuit, but

noted that the General Manager explained that he thought BNY would have known of the suit because of its part ownership of BNY–IMB. Clearly, the BNY Correspondent Banking Department had not been notified by its own bank, either. The Division Head indicated that as a result of the matter and the way it was handled by SANB, she was seriously considering terminating the relationship.

Other information presented by the General Manager at the meeting raised additional concerns for the BNY representatives. The relationship manager's meeting report describes another controversial matter raised by the SANB General Manager:

> 10.) [The General Manager] see [sic] future growth in Antigua is in Internet Gambling. This new industry in Antigua works as follows:
>
> 1. When there is a sport event—boxing, football, soccer, etc. especially in the U.S.
> 2. People will place their bet through the Internet to an offshore company in Antigua.
> 3. Wire funds to Antigua via remittance company, Western Union, for example.
> 4. The company will mail checks to the winner—these checks issued by local banks are usually drawn on U.S. banks (BNY, Nations Bank, etc.).
>
> Another offshore activity which will generate a lot of questions on the part of the U.S.[25]

The Division Head told the Subcommittee staff that BNY had already been hearing a lot about Internet gambling, she wanted no involvement with Internet gambling proceeds being processed through the BNY account, and she made that very clear to the General Manager. Although the General Manager responded that the activities were being conducted through the offshore banks and not the domestic banks in Antigua and Barbuda, she was concerned that it would be difficult for the Swiss American Banking Group to limit the activity to its offshore bank because of the tie in ownership between SAB and SANB.

The relationship manager told the Minority Staff that when the General Manager spoke about Internet gambling, he made up his mind to recommend that the account be closed. Before he could process his recommendation, Swiss American Banking Group installed another General Manager, and then BNY identified a series of suspicious checks that had been written against the SANB account.

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[25] Another issue raised by the General Manager also raised concerns. According to the relationship manager's report:

> SANB is still lending to the Antiguan Government, financing its deficit. However, [the general manager] told us confidentially, all of these loans to the government are guaranteed by the West Indies Oil Company, the local company owned 50% by the government and the rest by SANB's principal shareholder. A percentage of the taxes paid by the consumers on each gallon is allocated to SANB [confidential].

According to the Division Head, this raised another question about Rappaport's involvement with the bank and the Antiguan Government. Although BNY officials had been told that Rappaport was distancing himself from Antigua, the information supplied by the SANB General Manager contradicted that. The information also raised concerns that Rappaport may be using financial institutions under his control to further his own interests.

When the Division Head returned from the February 1998 trip to SANB, she wrote up a memo and had a discussion with the Head of the International Banking sector and an Executive Vice President of the Bank. The Division Head's intention was to bring her concerns—including the lawsuit—to the attention of the Executive Vice President. Her inclination was to close the account. She wanted the Executive Vice President to discuss the matter with more senior members of the bank and the BNY Board members who also sat on the BNY–IMB Board. The Division Head and the relationship manager then waited for some response for senior management. In October 1998, the Swiss American Group hired another General Manager, the third in a 1-year period.

In December 1998, nearly 10 months after the meeting in Antigua at which the U.S. lawsuit and Internet gambling were discussed, the relationship manager reported to the BNY compliance department that SANB had issued six checks in series, two for $9,900 and four for $9,000 each. All of the checks were drawn on SANB's account with BNY. The relationship manager wrote:

> Even though Swiss American authorized the payment, we believe, like California Bank and Trust, that these drafts are highly suspicious and must be reported to the proper authorities. We are almost sure the negotiating bank will do the same soon.

According to both the Division Head and the relationship manager, this was the event that triggered the closure of the account. In addition, SANB had again failed to notify BNY that a new General Manager had been hired. According to the Division Head, she discovered the change when SANB submitted a notice to the administrative office that it wanted to add the signature of the new General Manager to the authorized signature card for its account. At that point, the Division Head notified the Executive Vice President of her intention to close the account and also, as a courtesy, told the BNY Board member who sat on the BNY–IMB Board of her intentions.

In reviewing the account to determine how long the termination period should last, the relationship manager wrote the following:

> I conducted a preliminary survey of SANB relationship with The Bank of New York, and I have to admit to you the relationship has been more extensive than we thought. BNY is subject's primary clearing bank in the U.S. It is going to take more than 60 days to close it down, especially SANB has currently two stand by letters for $500,000 and $300,000 assigned to Visa and Mastercard.
>
> These slc's [standby letters of credit] guaranteed SANB's credit cards in the Caribbean Region. In addition, SANB has an average of 300 checks issued and drawn on BNY floating around the market, a monthly average of 250 payments going through the account and finally they send 3,000 cash letters every month.

On January 9, 1999, the relationship manager wrote the new General Manager and informed him that BNY would close SANB's correspondent account effective March 31, 1999. SANB did not

transfer out the balance of its account by the closing date of March 31. On April 8, the Division Head wrote the General Manager:

> Even though a 3-month deadline to March 31, 1999, was extended for an orderly transition to another U.S. Commercial Bank, to date no actions have been taken by your staff to reduce the number of payments and checks in your account and the transfer of the Visa and Master Card standby letters of credit.

The Division Head told the General Manager that within 10 days BNY would cease clearing any checks; would not process any payment instructions; and would notify Master and Visa Cards that BNY would not renew the stand by letters of credit when they expire.

The Division Head instructed the General Manager to "Take all appropriate measures to transfer the balance of your account by Friday, April 23, 1999."

The account was closed on June 1, 1999. The memo closing out the account stated:

> Latin America and The Caribbean Division closed the accounts of Swiss American National Bank as a result of a series of suspicious transactions and payments during 1997, 1998 and 1999. The division actually received five subpoenas during this period from the U.S. Government concerning different cases of money laundering and other illegal activities.
>
> The Caribbean Desk decided to close the account at the end of 1998, when 50 [sic] checks were issued for $9,900 each in favor of one individual.

Both the Division Head and the relationship manager told the Minority Staff that they should have closed the account sooner. When asked why no decision was made until December 1999, nearly a year after the meeting in Antigua, the relationship manager told the Staff that he didn't know what to say, that it was a lapse on his part. He said closure of the account was definitely something he should have done in 1998. The Division Head said that in hindsight, the account should have been closed down sooner, right after she returned from the February trip to SANB.

There were other aspects of the SANB operation that BNY did not pursue. In two of the meeting reports, the relationship manager wrote that the General Manager noted that Swiss American Banking Group board members were from New York and Chicago. When asked if they knew who the board members were, the relationship manager and the Division Head told the Minority Staff that the general managers never gave the names of the board members. Eventually, BNY learned the name of the board member in New York. When asked if they ever learned the name of the board member in Chicago, the Division Head told the Minority Staff that she and the relationship manager were never given the name of that board member. The relationship manager asked for the name a number of times and the Division Head kept telling the relationship manager to go back to SANB and get the name. She said that the situation was frustrating and that BNY should have known the name of the board member and SANB should have told

BNY when asked. The board member from Chicago is the controversial tax attorney Burton Kanter.

In addition, BNY was not sure of all of the entities in the ownership chain of SANB. Internal memos describe the ownership of SAB and SANB as: "Swiss American Holdings (Panama), which is owned by Carlsberg (Bahamas), which is owned by a private Trust controlled by Rappaport." BNY informed the Subcommittee that it believes the name of the private trust is the Inter Maritime Foundation, but it is not sure. Although BNY knew the true owner of the bank, it did not have a complete understanding of the entities that comprise the ownership chain.

BNY records related to the SANB correspondent relationship reveal a number of visits and exchanges, starting in mid-1995 and continuing through 1998, in which BNY representatives questioned SANB management about a number of specific suspicious transactions and other controversial incidents involving the bank. In some cases, SANB officials failed to share all of the information they had on a matter with the BNY representatives. In some instances, SANB did not provide an accurate description of the transactions. Both the relationship manager and the Division Head told Minority Staff that these events and SANB's response raised concerns about the bank and its management. Yet, for a prolonged period of time, even though BNY closely monitored the account and its problems, and was concerned about the relationship, it allowed SANB to continue to maintain a correspondent relationship.

(b) Bank of America

SANB established a correspondent relationship with Bank of America in April 1987. The account was terminated in June 1991 when it was replaced by an account in the name of SAB. The SAB account was closed in June 1999. This section focuses on SAB's correspondent relationship with BOA.

The structure of BOA's International Banking Department and its Caribbean division, and its due diligence policies and ongoing monitoring programs are detailed in the case study on American International Bank. Minority Staff interviewed the BOA relationship manager who was responsible for the SANB and the SAB accounts from 1990 through the termination of the SAB account in July 1999, and senior officials from the correspondent banking and compliance departments of BOA.

Prior to establishing a relationship with SAB, BOA records show that it had concerns about its correspondent relationship with SANB as far back as 1990. In August 1990, the relationship manager for the account wrote a call memo (a report on a visit with or call to the client bank) which stated: "This is a privately owned bank with poor financials and obvious operating problems. . . . Follow-up: . . . Nothing more until financials improve measurably." When asked why BOA kept the account if it had the problems described, the relationship manager stated that BOA only performed transactional business for SANB, and the memo only meant that BOA needed to keep an eye on the account, not that SANB had violated any laws.

In 1991, BOA established an automatic investment account for SANB, which allowed SANB to receive more interest on assets on

deposit in its account. In the memo establishing the account, the administrative officer who handled the account noted, "As per Tom Wulff watch this bank very carefully." The relationship manager explained that he was notifying the administrative officer that the bank was not well managed and should be watched, but that he did not believe that the bank was engaged in anything illegal. He believed that SANB was not sharp operationally and wanted the administrative officer to watch the account to make sure SANB did not do anything to hurt BOA.

A few months later, in June 1991, SANB wrote to the account's administrative officer in New York:

> Confirming our recent conversation, we wish to close out the account of Swiss American National Bank of Antigua and initiate a new account in the name of Swiss American Bank Ltd. . . .
>
> We are making this change because the time has come to better divide the activities of the two entities and as the transactions that have been handled through Bank of America traditionally have been more oriented towards Swiss American Bank Ltd., we feel that we should have the account in that name.

SANB included Articles of Association, financial statements and approved signatory lists for itself and SAB. No additional account opening material accompanied the letter and the relationship manager observed that it appears as if the SAB account was opened without anyone at BOA first making a determination if they wanted SAB to open an account. Yet, as an offshore bank, SAB potentially had a much different clientele and engaged in different banking activities than SANB, which was a domestic, commercial bank and it was regulated by a different authority. Domestic banks (such as SANB) are regulated by the Eastern Caribbean Central Bank. Offshore banks (such as SAB) are regulated by the jurisdiction licensing the bank. To the extent that the two institutions shared anything in common, it was the management and administration, about which BOA had already expressed concerns.

The 1989 audited financial statements for SAB contained the following auditor's comment:

> A number of the Bank's depositors have given written instructions that correspondence should not be sent by the Bank. Consequently, we did not attempt to obtain confirmation of customer accounts totalling [sic] $1,931,627 credit and $71,972 debit.

A similar disclaimer was included in SAB's audited financial statement for 1990. A BOA senior official agreed those disclaimers should have raised questions, noting that the amount cited in the 1989 financial statements ($1,931,627) represented approximately 20% of all deposits. There was no indication in the documents provided to the Subcommittee that the BOA relationship manager at the time noted or followed up on this matter.

Another cautionary call memo was written in July 1991:

> The private ownership of this bank is known to be legitimate although General Manager David McManus was recently

> linked to a minor bank scandal in Anguilla when he made calls there with clients of the bank later found to be of questionable reputation.
>
> . . . [T]here is an ongoing investigation by the Gov. General's office in Anguilla concerning alleged questionable banking practices by their client. Reportedly, the issue relates to the unauthorized solicitation of funds. David understood and agreed that until these issues are officially resolved, it would not be prudent to explore further business opportunities between our banks.

The next day, the relationship manager sent a message to the account officer in New York, stating: "I am sending you a separate copy of my 7–18–91 call memo on this bank. We need to keep an eye on the activity in this account."

When asked by Minority Staff if he was concerned that BOA was getting involved in a banking relationship that it did not want to be in, the relationship manager noted that it was a long standing relationship, that it was not obvious that SAB was a different bank from SANB, and that the change in bank accounts was just a bookkeeping matter.

Again in 1992, the relationship manager commented on the problems of SAB:

> This remains an outwardly unimpressive, disorganized and cluttered operation, plagued by turnover and seemingly weak management.
>
> The bank is nevertheless liquid, and frequently keeps very good CD balances with BINY [Bank of America International New York].
>
> It remains to be seen, however, if they can generate sufficient volumes to attain profitability on what must have been an extremely expensive start-up operation.

When asked why BOA kept the account after recognizing ongoing problems at the bank for a number of years, the relationship manager replied: "Why not? It was not a problem for me. They needed someone to clear for them. We were set up to do that. We had been doing that since 1987. Those [problems addressed in the call reports] weren't aspects of the bank that we were concerned with." When asked if the problems identified in the memos could lead to other kinds of problems, the manager noted that is why he asked the administrative officer to keep an eye on the account—that the problems were not illegal activities, but operational difficulties.

In 1993, the relationship manager sought approval to establish a small revolving line of credit for SAB that would be used to issue commercial letters of credit and standby letters of credit on behalf of private banking customers. The credit line would be collateralized by certificate of deposits placed with BOA. The credit manager denied the request, noting:

> —We know little about the parentage of this bank. The structure appears designed to isolate the real owners and to take advantage of tax and regulatory havens in Panama and Antigua.

—Our borrower is designed to serve an offshore market of private banking clientele.

—Who controls or monitors activities?

—We are being asked to issue SBLCs guaranteeing activities of their private banking clients. We don't know these clients. We don't know the beneficiaries. We don't even know at this point what kinds of loans or non payments we would be guaranteeing. Our standby's could be all over the place. . . .

The potential for being blind-sided is quite pronounced and I am not in favor of the presentation. If we knew more about the parentage, respectability, integrity of the bank I would be willing to consider trade finance but I would continue to believe we should not extend credit to service their private banking clients.

The relationship manager stated that although he disagreed with some of the comments made by the credit officer he did not file a reply because the issue was not worth fighting. He did confirm that BOA knew that the bank was owned by Rappaport.

In 1993 and 1994, the relationship manager's call memos indicate that SAB appeared to turn the corner financially (although not operationally) and maintained good balances with BOA. At the same time, BOA began to receive reports of questionable activities involving accounts at SAB. BOA records show that between 1993 and 1995, SAB accounts were associated with fraudulent bills of exchange, sports betting activities, and suspicious wire transfer activity. Then in March 1995, a member of BOA's control and compliance department sent the relationship manager a fax with the message: "This afternoon additional evidence of another scam where Swiss American Bank name is used in conjunction with their account at BINY." The information included in the fax related to a pyramid scheme operating through accounts established at SAB that encouraged victims to send funds to SAB's correspondent account at BOA. A notation on the fax cover sheet signed by the relationship manager states: "Discussed closure of account with John Greaves, i.e. ceasing of ck writing and cash letters. He agreeable will give progress ck tomorrow." In May 1995 the relationship manager reported to the Vice President of BOA's International Deposit Services that major services provided to the SAB account were being terminated:

I met with this bank [Swiss American] last week. They are well underway to replacing all of our facilities with Chase, and agreed that May 31 would be the deadline for the discontinuance of drafts drawn on us, cash letters to us, and Microwire and telex transfers outgoing.

Other than the documentation cited above, there was no documentation on the reasons for, or the processes that led to, the decision to terminate the services or close the account. The relationship manager told the Minority Staff that he believed that the basis for the action was the discovery of the pyramid scheme. A senior BOA official told the Minority Staff he believed that the decision was less related to money laundering and more related to sloppy banking, which, in his opinion, may explain why BOA moved more slow-

ly on completely closing the account. As a result of the actions taken, the account services offered to SAB were significantly reduced, as was the flow of funds through the account.

Less than 2 weeks later, the relationship manager authored another negative memo about SAB:

> Since our decision a month ago to ask Swiss American to find another correspondent bank, their operation appears, if anything, to have worsened.
>
> . . . This poorly managed bank which seemed to be especially lacking in controls on new relationships, was constantly preyed upon by con artists and during the visit, it was noted that their account balance was inflated by approx $250M in checks apparently being returned unpaid, and this was rectified with BINY.

At the same time, another issue presented itself when representatives of an entity called European Union Bank, an Internet bank licensed in Antigua that subsequently defrauded depositors of millions of dollars, approached BOA about opening a correspondent account. The relationship manager's call memo reported:

> This bank had written asking for an account relationship and during the visit, provided extensive documentation attesting to their status as a duly authorized offshore bank in Antigua. Ownership, however, was referred to as a group in the Bahamas on which they had no readily available information, quarters were new, unfinished and occupied mostly by computers and their customers are mostly "European investors" who they reach thru "International publications" and the Internet. This appears to be an example of what we do not want to get near.

The material presented to BOA by European Union Bank representatives indicated that it had a correspondent account with SAB. This apparently did not result in any further inquiries or cause any further reevaluation of BOA's relationship with SAB.[26] The account manager doesn't recall if it caused additional concerns, noting that he already had enough reason to terminate the relationship with SAB. A senior BOA official commented that BOA simply failed to make the connection between European Union Bank, its relationship with SAB and, as a result, its connection with BOA.

Approximately 1 year later, in July 1996, the SAB account was still with BOA and still the object of negative assessments by the relationship manager:

> It has been a year since we requested Swiss American to find another correspondent as the result of their continued operational problems, and they have at least finally managed to redirect their cash letter and payments business, although they still maintain a sizeable demand balance and are the recipients of a considerable volume of in-transfers. We agreed to 90 days for them to notify remitters and close the account totally as we

[26] The current Chairman and Managing Director of SAB told the Minority Staff that while European Union Bank had a corporate account at SAB, it never had a correspondent account at SAB.

> clearly did the right thing in getting rid of this relationship although again, we cannot move too abruptly lest we be accused of damaging their business without apparent cause.
>
> . . . [T]hey also admitted to problems with their ECCB [Eastern Caribbean Central Bank] audit which resulted in their petitioning that bank for some relief, citing their previous management problems and steps to clean up in the meantime. Problems apparently included mis-classification and hidden loans, complicated by inadequate followup.

The relationship manager noted the situation showed that with banks that have a high volume of activity, it is difficult to stop the flow of funds from clients. He noted that the termination of check clearing and wire transfer services stopped the potentially most harmful activities and that the volume of funds through the account was very low. However, the account remained open.

In August 1997, more than 2 years after BOA had asked SAB to find another correspondent, the relationship manager wrote a more favorable memorandum about the client:

> Swiss American seems to have made great strides in getting their house in order with this, their offshore bank, now physically separated from the local bank and the previous management now long departed.
>
> . . . At our insistence as a result of some past dubious transactions which passed through their account, they also long ago discontinued their cash letter and electronic payments business with us and have since maintained just a deposit account through which they receive approximately 50 incoming payments monthly, and for which they are very appreciative. This seems to be a reasonable compromise as I had been hesitant to force them to totally close their account as we really had no defensible grounds.

There is no evidence in the documentation related to the SAB account that BOA was aware of the major frauds involving accounts at Swiss American Bank, such as the Fortuna Alliance fraud, which was receiving a great deal of public attention at the time. The relationship manager told Minority Staff that in retrospect he had to admit some bad judgment at the time he wrote the memorandum cited above. He said he should not have been so easy on SAB and that it was not a sharp operation, but he never thought the bank had done anything that was illegal.

In February 1998, BOA learned of the complaint filed against SAB by the U.S. Government regarding the Fitzgerald account. At first, the relationship manager once again agreed to continue the relationship with SAB:

> This is an old issue going back to the 1980's, also includes the Antiguan Government. As we have done in other cases, it was my intention to tell him to go find another correspondent bank, explaining that it would be in our mutual interest to avoid the possibility of later embarrassments should compliance issues, etc. arise. Also as before, it is difficult to be more forceful as no guilt has been proven, etc.

> Stewart Young [the Manager of Swiss American Bank] was totally cooperative while describing this situation as something which occurred long ago before the bank purged its management, includes heavy involvement of the local government which largely initiated the problem and is an issue in which the current bank is cooperating fully and hopeful will be shortly resolved.
>
> The bank has totally changed management and has managed its DF account with us in an entirely satisfactory manner for the past 2–3 years. It uses us only for limited transactions not including cash letter or funds transfers and has been totally cooperative with respect to the clean up of earlier processing problems. I therefore agreed to table this issue for now, while making it a matter of record.

The relationship manager said that it was the first illegality involving SAB that he encountered and sympathized with the position of SAB, seemingly caught between conflicting orders of two governments. A senior BOA official pointed out that at that time it was BOA practice to rely heavily on the judgment of the relationship manager. With an account for a small bank, such as SAB, BOA gave great discretion to the relationship manager, and there would not be a lot of other people looking at, or asking questions about, the account. He told the Minority Staff that is one reason why BOA was revamping its policies and practices.

In March 1998, the relationship manager received a memo from the BOA legal department detailing a number of inquiries that BOA had received about SAB and its clients. According to the relationship manager it was then that he realized that "we had a mess beyond operational problems." At that point, he reported that he had asked SAB to close its account with BOA:

> "I had long ago required Swiss American to discontinue their cashletter (clearings) and wire transfer (Microwire) activities with us as some transactions appeared suspect, although seemingly as the result of poor management. With a complete change of management and cessation of those activities, their DF account had remained open to facilitate in-transfers. We now have the 1/98 issue of Money Laundering Alert describing a possible precedent settling civil lawsuit by the U.S. authorities against Swiss American Bank and others, involving the Antiguan Government, and accusing collaboration with money launderers. As above, Mr. Stewart Young has today been asked to close their BA New York branch DF account.

The same day, the relationship manager sent a memo to the administrative officer in New York:

> I have copied you on call memos noting that I today asked each of the banks above to close their accounts with us at their earliest convenience. Please monitor these balances accordingly and let me know if they do not close within 30 days. As per the memos, this is the result of continued money laundering related inquiries.

Yet, in July 1998 the relationship manager reported that the account was still open:

> The last of our overseas bank relationships in Antigua, Swiss American will now be transferring the remainder of their deposit balances with us to their existing Chase account, as per my earlier request. Although a very bland US $73MM balance sheet reflecting little more than the arbitrage of local deposits to offshore and a relationship otherwise satisfactory, the bank had been involved in some litigation between the U.S. Government and the local authorities concerning the ownership of funds in a situation which although not necessarily wrong, was typical of the offshore industry in Antigua and we had elected to terminate this account relationship. Stewart Young was understanding and admitted he had been slow to move as he had enjoyed the benefits of reciprocity.

In June 1999, the account was still open. The relationship manager, meanwhile had retired from BOA. He told Minority Staff that when he retired he thought the account had been closed. However, it had not been closed and the merger with Nations Bank brought in an account that SAB had with Nations Bank, so the size of the account had grown, although the limitations on account services remained in place.

Throughout the 1990's BOA appears to have been unaware of the frauds and controversies (such as those described at the beginning of this case study) that plagued the Swiss American Banking Group. The relationship manager noted that the history of the account does show that when he became aware of problems, he did try to stop them. A senior BOA official noted that the decision to completely terminate the relationship with SAB in 1999 did not involve the relationship manager and was more of a business decision and was not based on the problems previously discussed. According to the official, the account had little activity, was not generating much income for BOA and there was no reason to bear the time and expense of keeping it open. He indicated that it should have been closed a long time ago, and was not the type of account that BOA wanted.

On June 16, 1999, the account was finally terminated.

This is another example of a bank that was slow to terminate a correspondent relationship even when it had questions about the client. The records of BOA's relationship with SAB show that over many years, BOA representatives had ongoing concerns about the management and organization of the bank. Serious questions about the ownership and purpose of SAB were raised by the credit department early in the relationship. Yet even after being confronted with questionable account activity and other controversial incidents, BOA curtailed but did not terminate the relationship; instead, it was allowed to continue for another 4 years.

(c) Chase Manhattan Bank

SANB established a correspondent relationship with Chase Manhattan Bank ("Chase") in October 1981; however, BNY was the main correspondent for SANB. SAB established a correspondent relationship with Chase in April 1995. Chase was a major correspondent for SAB. This section focuses on Chase's correspondent relationship with SAB. Both accounts were terminated in 2000, during the Minority Staff's inquiry into the account.

The structure of Chase's International Banking Department and its Caribbean Division, and its due diligence policies and ongoing monitoring programs are detailed in the case study on American International Bank. Since the debt crisis that affected Latin America in the early 1980's, Chase did not pursue credit relationships in many Latin American and Caribbean nations. In those areas Chase often did not assign relationship managers to serve as point of contact for the financial institutions in those areas. Instead, the countries were served by sales teams that marketed non-credit, cash management products. Between 1994 and 1996, the unit assigned to cover Antigua as well as some other Caribbean and Latin American countries was headed by a credit risk management official who supervised one and then a second account officer. Two of the accounts handled by the unit were SAB and SANB. After 1996, the credit official left the unit and the account officers worked under the direction of a sales team leader. Sale representatives sell services and products to clients but do not act as a relationship manager for an account. As a result, there was no main contact who was responsible for coordinating all of the responsibilities associated with the SAB account. The credit risk manager continued to monitor the account and, for nearly 4 years, raised questions about the relationship. However, the vacuum created by the lack of a single relationship manager for the SAB account delayed a coordinated and informed assessment of the SAB relationship.

The account opening documentation for SAB contained little information on the institution other than the annual report supplied by SAB. Even though SAB was designed to be a completely different type of bank than SANB, with different clientele and a different regulatory authority (local Caribbean banks are regulated by the Eastern Caribbean Central Bank and offshore banks are regulated by the jurisdiction that licensed the bank), the sales representative relied on Chase's existing relationship with SANB to justify establishing a relationship with SAB. He wrote: "Given that there is a DDA already opened in our books in n/o Swiss American National Bank of Antigua (DDA #001–1–87985), no further account justification comments are included." [27]

In September 1995, the credit risk manager asked one of the account administrators to initiate a daily item-by-item review of all debits and credits to the accounts of SAB and SANB, including all cash letters. By October, the review identified what the credit manager described as deposits that did not seem consistent with the business of a private offshore bank—deposits more appropriately deposited into SANB, the onshore bank. In October, the credit manager issued a memo that the Legal Department was considering filing a criminal referral with the U.S. Government on the matter.

As a result, the sales representative informed the Minority Staff that on his next visit to SAB in January 1996, he asked about the banks' anti-money laundering policies. He wrote:

[27] The sales representative told the Minority Staff that the reason for so little justification in the memo may have been the fact that Chase had an existing relationship with SANB. He also speculated that there may be a missing call memo because SAB was an offshore bank and he usually would have questions on financials and fund flows and would have put the information in a memo. However his memo cited above indicates that he relied on the existing relationship.

> During our meeting, I raised the subject of money laundering and asked what procedures SAB had in place to deter it. They said this matter was of utmost concern to them, and cited requirements embedded in account conditions delivered to every new customer (in fact, they provided me with a copy). They also said this subject is covered in internal guidelines to marketing officers. In general, I found that the threat of money laundering is explicitly recognized and guarded against by Antiguan bankers. They tend to put it in the context that it is not worth risking the legitimate offshore business; tax avoidance and asset protection, for the huge downside of taking on the illegitimate offshore business; drug-related.

The sales representative who managed the SAB and SANB accounts from 1995 through September 1996 and again from February 1999 through their closure in 2000, stated that issue was the only questionable activity he had heard of regarding the SAB accounts during the 1995–1996 period.

The sales representative told the Minority Staff that to him money laundering always had the connotation of money from drug trafficking. He viewed offshore activity as a means for individuals to set up entities (IBCs, trusts) and accounts that would enable them to deposit funds so that they would be immune to foreign exchange violations.

In March 1996, the credit officer wrote a memo to the sales representative regarding the owner of SAB:

> My sources tell me that "international financier" Bruce Rappaport, the alleged owner of Swiss American, is an Israeli shipowner who established Maritime Bank in Switzerland, now BONY-Maritime with Rappaport still the Chairman. We once had credit lines to Maritime, but we became "uncomfortable" and canceled them (this all happened before BNY bought into the operation).
>
> Rappaport is a controversial figure—his supporters would probably characterize him as aggressive, innovative and entrepreneurial. His detractors would probably choose far less kind words to describe him. As best as I can tell, however, he could be called a "Donald Trump type", but not a "Robert Vesco type", i.e. he's a wheeler-dealer but has no known involvement with any truly nefarious activities (e.g., drugs). Obviously, our colleagues at BNY seem to consider him a respectable partner.

The sales representative stated that he probably knew that Rappaport was the owner of SAB when he called on the bank in 1995, but he would not have known the significance of the name. He stated that he probably noted in a call report who the owner was, but if no one reading the memo knew anything about Rappaport, it would have had no bearing on the decision to open the account. The sales representative who was responsible for the account from September 1996 through February 1999 said she learned of Rappaport's ownership of SAB during a meeting with Business Development Manager of Swiss American Banking Group in October 1997.

In June 1997, Chase received a subpoena for documents and statements related to the SAB and SANB accounts. When the credit risk manager learned of the subpoenas in October of that year, he again raised questions about the client to the compliance officer and operation risk manager for cash management services:

> You may remember that we recently closed the DDA of American International Bank, Antigua, and I was surprised that there was no concurrent government investigation of Swiss American (which was the inspiration for American Int'l).
>
> Looks like somebody is interested.
>
> Do you know if Swiss American ever comes up in your meetings with Legal re suspicious transactions?

The credit risk manager told the Minority Staff that he recalled that AIB was closed because of the general nature of its activities. He understood that AIB was started by former SAB people trying to replicate SAB and he thought SAB would also be investigated because of its size and similarity of marketing strategy. He noted that although he had no specific responsibility for the SAB accounts at that time, in addition to the subpoena, he had heard of some incidents over a period of years where SAB was mentioned as having been involved in situations where their customers were alleged to have been involved in questionable activities, and used SAB accounts as repositories for illicit funds. He said the incidents involved a fraud, an investment scheme, a theft of funds from a U.S. bank, and an incident involving German customs. The credit risk manager observed that he could not state whether the incidents were significant given SAB's size, but he was trying to be pro-active.

The sales representative who took over the SAB and SANB accounts in September 1996 was copied on the internal e-mail regarding the subpoenas, but did not recall the matter and did not perform any follow up on the issue. Other than the credit risk manager's memo cited above, there is no indication that the subpoenas occasioned any review of the SAB accounts or any follow up with the client.

In 1996 and 1997, the Fortuna Alliance fraud received national attention. Millions of dollars taken in the fraud moved through SAB's account at Chase. In fact, in the months of April and May 1996, the amount of funds wired by the Fortuna Alliance into the SAB account at Chase represented 31% and 18%, respectively, of all deposits into the SAB account ($3.4 million of $10.7 million in April and $1.6 million of $8.8 million in May). Yet, there is no indication in any of the documents provided to the Subcommittee by Chase that indicate that those responsible for the account were aware of the fraud or that anyone in Chase followed up with SAB on the matter.

In August 1998, a member of Chase's fraud prevention unit wrote to the sales representative to report that he was informed by another U.S. bank that a client of SAB had fraudulently transferred money out of the U.S. bank and into its account at SAB. The U.S. bank contacted Chase to see if Chase could assist in obtaining

a return of the funds from SAB. He concluded his message with the following:

> Our records show that Swiss American has been suspected of money laundering. Can you tell me whether this is an account that Chase will continue to maintain.

The sales representative told Minority Staff that she was not aware of any records that showed that SAB had been suspected of money laundering and said there was no specific proof that SAB was involved in money laundering with respect to the funds that were transferred out of the U.S. bank and into SAB. The sales representative reported that SAB claimed the funds were already gone and had liability concerns about returning the funds to the U.S. bank. She also wrote to the credit risk manager:

> I explained to [the member of the Fraud Prevention Unit] that SAB may not necessarily be consciously money laundering but was used as a conduit by their customer just as some Mexican banks recently involved in money laundering had used Chase as a conduit. In addition, I explained that the revenue from this account was at least $100k per annum and we are not going to make a rush to judgment to close the account immediately.

The credit risk manager noted that revenue of $100,000 is moderately attractive but not huge and that if someone had truly challenged and substantiated shortcomings in the integrity of a customer, he could not imagine that any of his colleagues would use revenue as a reason to keep the client if trust had been broken.

In October 1998, Chase officials initiated a follow up on the U.S. Government's legal action against SAB regarding the Fitzgerald case. The U.S. Government filed a complaint against SAB and some of its related entities in December 1997. By February 1998, the news of the case had been widely circulated and, as described above, BNY and BOA, began to follow up with SAB on the matter. Chase did not respond until later. The sales representative told the Minority Staff that SAB's business manager notified her of the matter in June 1998. She told the Subcommittee staff that she decided to wait for the outcome of the case and see what needed to be done at that time. She noted that the matter did not really involve Chase. As a result, she did not pass the matter on to legal investigations. The August 8 memo by a Fraud Prevention official alluding to allegations of money laundering (cited above) may reflect an awareness of SAB's connection to the Fitzgerald case, but it is not certain. However, there are no indications in the documents supplied to the Subcommittee that Chase had pursued the issue with SAB until October 1998, about 10 months after the legal action was initiated.

According to the sales representative, the credit risk manager called her in October, after a *Wall Street Journal* article announced the case had been dismissed. At that point, the credit risk manager began to look at the matter, and called the sales representative.

The credit risk manager recalled that he first became aware of the matter when he learned that the case against SAB had been

dismissed.[28] It also drew the attention of his superiors. He noted it was not clear whether SAB was unjustly accused or still under suspicion, and he asked the sales representative for some underlying information. According to the sales representative, this request coincided with one of her periodic trips to SAB and she questioned the Managing Director about the incident when she visited the bank in November 1998. She reported that the Managing Director told her that the United States tried to collect the funds from SAB after it had unsuccessfully tried to collect the money from the Antiguan Government. However, SAB turned the funds over to the Antiguan Government at the request of the government.[29] The sales representative reported that the Managing Director provided documentation to her and she forwarded it to risk management. According to the sales representative, there was no additional action taken by Chase after the information was received from the Managing Director.

Notes from the sales team leader, written in November 1998, state:

> "Call 11/15/98 Ken Brown . . . his boss is furious about the news published in the *Wall Street J.* on the U.S. Gov't losing the case against SAB for lack of merit . . . He wants to close the account. I tell him no unless we have a universal policy in the region, but it is up to them. . . . A couple of days later the boss reluctantly relented. For the time, at least, they are ok. . . . The pressure from the U.S. Gov't is likely to keep increasing, so these kind of accounts are very likely to die anytime soon, anyway, because of the cost of complying with rules, if nothing else."

The credit risk manager stated that he received SAB's explanation from the sales representative, and it appeared to him as if SAB had stepped in and saved the funds and that the situation was another case of a fraud perpetrated by customers but nothing to suggest any complicity on the part of the SAB. When he conveyed that information to his superior, the account was allowed to remain open.

When asked if Chase should have known about this incident earlier than it did, the credit manager told the Minority Staff that if the relationship with SAB had been a credit relationship, or there was a relationship manager for the account, the information would have conveyed earlier and Chase would have expected SAB to pass the information on earlier. Since it was a non-credit relationship and there was no relationship manager, it was not a situation where Chase would expect SAB to give it news. Since there was no relationship manager, the sales representative was the logical contact point but it was not her job to be the focal point for the relationship.

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[28] The credit risk manager told the Subcommittee staff that he believed that the date when he first learned of the issue was in July 1998, when the case had been dismissed. However, the case was not dismissed until October, and this is when the sales representative recalls being contacted by the credit risk manager. So it may be that the credit risk manager did not learn of the issue until October 1998.

[29] This account is not accurate. As described above, SAB initiated the transfer to the Government of Antigua and Barbuda. It was not ordered to do so.

In November 1998, the credit risk manager made a series of internal inquiries about the SAB account. He told Minority Staff that because there was no relationship manager for the account and he was the credit risk manager, he was receiving a lot of piecemeal information about the SAB account, some of which identified incidents involving SAB. He told the Minority Staff that concern about the relationship was growing because it had to be viewed from a big picture. The account had been solicited under circumstances and a marketing strategy that no longer existed at Chase. Chase solicited the client and SAB had terminated or reduced relationships with other U.S. banks because of the interest that the Chase sales force showed to it. According to the credit risk manager, because of that Chase could not in good conscience just terminate the account because of unease with the relationship if SAB was making reasonable efforts to make sure its clients were appropriate. The credit risk manager stated that when the account was opened, Chase knew that SAB would have to take extra precautions because of the nature of its business and the potential clients it would attract. Chase had been led to believe that SAB was extra cautious, but the growing number of incidents led him to question if SAB was taking the precautions. He decided to take the responsibility to coordinate the collection of information on SAB to pull together a more complete picture of the client and the relationship.

The credit risk manager made inquiries in a number of Chase departments about the account. One hand written note of a conversation with the fraud prevention and investigations unit reads:

> "Generally bad rep. But not on anybody's hit list."

He also asked the fraud department to identify instances where the SAB account had caused some concern. The official in the fraud department who followed up on the credit risk manager's request wrote the following memo:

> Inquiry initiated upon request of [credit risk manager], Treasury Solutions, who was undertaking a review of our relationship with captioned bank in light of recent publicity regarding laundered money being turned over to the Government of Antigua and Barbuda by Swiss American. Inquiry revealed that captioned bank has come to official attention as a suspected repository of proceeds of con games; however, there is no present indication that the bank is currently considered a money laundering institution. We are aware that in several instances, phony wire transactions have designated customers of Swiss American as beneficiaries, and in at least one such instance, the beneficiary was suspected of operating a scam in the past. Considering the difficulties in determining actual ownership of the bank, its location, the operating environment of these offshore banks, and the questions raised above, recommend that we exercise especial caution dealing with this entity if a decision is made to continue our relationship at all. [Credit risk manager] advised.

According to the credit risk manager, the response he received identified incidents that were small relative to other frauds, and not in the major league swindle category, that Chase has seen. Ac-

cording to the credit risk manager there was nothing to indicate that SAB had been anything but an innocent victim. He noted it did not have a perfect system to screen account holders, but no one did. Chase was aware that SAB was soliciting business broadly and that it had accepted a lot of clients who were not from Antigua and it was difficult to obtain references on such clients. The issue was whether SAB had been less than prudent in accepting clients. He concluded that nothing he saw suggested the bank had been less than honorable.

He stated that at the time he considered sending the results of his research to the sales representative with instructions to get all of the information on the relationship collected and out in the open so that an informed and coordinated decision could be made on the account. However, he said at the time it did not seem illogical to conclude that SAB met Chase's standards, so he did not go to the sales representative. Eventually, he did take that step.

However, the reports provided to the credit risk manager did not address some of the major controversies involving SAB, such as the involvement of SAB officers in money laundering and frauds such as the DeBella case. Nor did it mention the Fortuna Alliance fraud which did involve the Chase correspondent account.

Other issues began to arise with respect to SAB. During a site visit to SAB in November 1998 (when the U.S. legal action against SAB was discussed), the sales representative learned that SAB was serving Internet gambling accounts. She told Minority Staff that she had noticed that there was an increase in the volume of checks issued by SAB each month and when she inquired about the matter she learned of the gambling accounts. In her call memo, this issue was discussed as part of a proposal to supply SAB with a new service to speed the issuance of checks:

> —CPS—Check Print—Proposal was sent prior to the visit. . . . Check issue is now close to 2,000 per month and likely to double in 1999. Part of the volume is coming from checks issued to winners of the virtual casino players on the Internet; their customers instruct payee to be paid via fax and an indemnification is provided. Virtual casino is licensed in Antigua. An article from the Interactive Gaming Council titled "Congress Strips Internet Gaming Prohibition From Final Budget Bill" dated October 21, 1998 was given to us (dated October 21, 1998).

The sales team leader who accompanied the sale representative on the visit also noted SAB's Internet gambling accounts:

> The reason behind the increase in transactions with us, mainly paper checks, is because they are conducting the payments for casinos in the island, especially those that use the Internet. They are very careful to send winners' checks immediately, via mail, directly from the island to the beneficiary, as soon as they are so requested, to avoid damaging the casino's image. The way this works is that the gaming occurs by debiting a credit card, and winners get a refund of winnings the same day as the original debt; any positive balance, or wins over current account, are sent via check.

As noted in a previous section that discusses Internet gambling, it is illegal in the United States to place wagers by the Internet. In addition to the questions of legality, there is an increased risk of money laundering. The sales representatives who handled the SAB accounts were not aware of these issues. The sales representatives who learned of SAB gambling-related accounts in 1998 told the Minority Staff that she did not know the activity was illegal, that it was based on licensed Antiguan entities, and she never received any feedback from her superiors that gambling-related accounts were a problem or a concern. She noted that the General Manager of SAB had provided her with notice that Congress had defeated attempts to make Internet gambling illegal. When asked if it raised concerns from a money laundering perspective, the sales representative said no because it was legal in Antigua and not illegal under U.S. law.

The sales representative who took over the SAB account in February 1999 learned that SAB was servicing gambling-related accounts when he took over the account and read the memo of the sales team leader. He told Minority Staff that he did not discuss the issue with SAB because he believed that everything Chase needed to know about the matter was already on record and he did not think Internet gambling was illicit. The sales representative said it did not cause any concerns for him, the information had been recorded by his boss (the sales team leader), and if it didn't cause his boss any concern he didn't see why it should raise a concern for him.

He also did not recall anyone raising a concern about Chase being a correspondent for a bank that serviced gambling-related accounts. He was unaware that Internet gambling companies were instructing their clients to forward their funds through SAB's correspondent account at Chase. However, he said that even if he was aware of that activity, it would not have caused a concern for him unless he had prior knowledge that the activity was illegal, and he did not know that.

The credit risk manager believed that he became aware that SAB was servicing gambling-related accounts in early 2000, when he assisted in answering an inquiry about why SAB was projecting that it would use 10,000 checks per month and it was determined that the increased volume was related to issuing checks to customers of gambling institutions.[30] He didn't receive or read the sales representative's November 1998 memo on the matter. He noted that he is still unaware if anything SAB did with respect to Internet gambling is illegal, and he presumed it to be legal. He did not recall discussing with anyone whether it was legal or not and doesn't know if anyone had made an inquiry on that matter. He did not recall discussing the issues of reputational risk or money laun-

[30] It is possible that the credit risk manager first learned of the gambling connection in late 1999. In November 1999, Chase noticed a series of payments going to several Antiguan concerns that appeared to be gambling establishments. It was subsequently confirmed that the entities were gambling institutions. The credit risk manager was involved in the effort to identify the institutions. In March 2000, there was an inquiry regarding SAB's projections that it would need 10,000 checks per month. It was determined that the volume was due to gambling-related payments. The credit risk manager was also involved in that inquiry.

dering because so many of the checks were small and there didn't seem to be any substantial movement of money.

He noted that one of the duties of a relationship manager would have been to follow all customer activities and put all of the pieces of the puzzle together. Because the SAB account did not have a relationship manager, this did not happen.

From the responses of the Chase personnel and the lack of any attention to this matter in the account documents provided to the Subcommittee by Chase, it appears that the legal and money laundering issues associated with Internet gambling received little, if any attention. Yet, there was clear evidence that this activity represented a significant part of SAB's business and the SAB correspondent account at Chase was a major vehicle for the flow of those funds. As noted above, both the sales representative and the sales team leader identified Internet gambling as the reason behind SAB's increased transactions through the Chase account; inquiries about payments made through the SAB account identified Internet gambling activity and accounts at SAB in 1998; and in 1999, Chase was advised that SAB's monthly use of checks would expand significantly due to Internet gambling-related payments.

Beyond those items already noted, the size of the monthly statement for the SAB account at Chase suddenly expanded from approximately 50 pages per month to about 150 pages per month. By late 1998 the size of the monthly statements had grown to approximately 400–450 pages and over 500 pages long by the end of 1999. A significant portion of the increase appears due to the increased number of transactions related to collection and payments of funds related to Internet gambling activities. The Subcommittee staff reviewed five monthly account statements from 1998 and 1999. The amount of funds deposited into the SAB account for further credit to entities that were clearly identified as Internet gambling enterprises were $1.5 million (January 1998); $938,000 (May 1998); $3.1 million (November 1998); $6.3 million (May 1999); and $6.9 million (September 1999).[31] These figures represent 10%, 5%, 20%, 30% and 22%, respectively, of the total deposits into the SAB correspondent account at Chase during those months. In March 1998, the U.S. Attorney for the Southern District of New York indicted 21 owners, managers and employees of 11 Internet sports betting firms for collecting wagers from U.S. citizens over the Internet. One of those indicted was Jay Cohen, one of the owners of World Sports Exchange ("WSE"), an Internet sports betting operation. Cohen was tried and convicted in Federal District Court in New York in 1999 for criminal violation of the Federal wire act for engaging in gambling over the Internet. WSE was a client of SAB. Many transactions processed through the SAB account at Chase were for the WSE. Chase records were subpoenaed for the trial and a Chase employee provided testimony at the trial about check and wire transfer activity in the SAB account at Chase that involved WSE. In July and August 2000, the Minority Staff searched the

[31] The credits totaled for each month were only the credits that were registered for, the benefit of entities that the Subcommittee could clearly identify as being related to Internet gambling. There may have been additional gambling-related deposits not included in these totals because the name of the beneficiary of the funds was not clearly identifiable as an Internet gambling entity. Monthly debits were more difficult to total because many of the pay outs were to the individual bettors, not to the gambling firms.

Internet and identified hundreds of Internet gambling sites that instructed clients to wire funds to the SAB account at Chase Manhattan Bank.

Yet, there is no evidence that any of these incidents caused any concerns or raised any questions within Chase or resulted in any question of SAB activity or clients until the account was finally terminated in August 2000.

In early August 2000, the Minority Staff informed Chase personnel of recent U.S. Federal and State court determinations that betting over the Internet is a violation of U.S. law, and that the staff had identified hundreds of Internet gambling web sites that instructed customers to forward funds through the SAB account at Chase. On August 18, 2000, the sales team leader wrote to the General Manager of the Swiss American Banking Group to reaffirm that the Swiss American accounts at Chase would be closed on September 14. In that letter he also wrote:

> Moreover, it has come to our attention that customers of yours have created websites on the Internet, numbering in the hundreds, in which they advertise Internet gambling services, and in some instances plainly link these sites to sites offering pornographic materials, and include Chase's name and at times incorrectly identify Chase as your affiliate. This unauthorized use of Chase's name on public websites is unacceptable, and we insist that you inform your customers who operate such sites to remove Chase's name from them. More importantly, Chase has learned that at least one U.S. Federal court has recently determined that conducting Internet gambling operations within the United States is a criminal violation of U.S. law. I am sure that in light of this you agree with me that it would be inappropriate for your accounts with us to continue to be used by your customers who operate Internet gambling sites to either receive funds from or send funds to persons within the United States, and we expect that you will immediately advise your customers who conduct Internet gambling operations of that fact and that such transmissions will cease.

In September 1999, the credit risk manager learned that the Chase compliance department had been using the flow of the Fitzgerald funds through SAB and SANB as an illustration of a money laundering scheme in its training materials. The illustration involved SAB and SANB and noted the relationships between the two banks as well as Rappaport. When asked, if the fact that the banks were used as examples in Chase's anti-money laundering training raised additional concerns about the bank's correspondent relationship with Chase, the credit risk manager noted that the SAB had been cleared of the case used in the training illustration and no one in compliance had told him that SAB was doing something wrong and should not be a client.

In the Fall of 1999, two events occurred that caused the credit risk manager to conduct another review of the SAB and SANB relationships. SAB asked Chase to open foreign currency accounts for SAB and SANB in London.[32] Because the accounts allowed with-

[32] In addition to the request by SAB and SANB to open foreign exchange accounts in London, the credit risk manager saw newspaper accounts that reported on possible ties that Rappaport

drawals in different currencies, there was a possibility that the account could be overdrawn. This type of account required a credit rating and approval by a separate credit risk group. In an attempt to avoid writing up a new memo, the sales representative asked the credit risk manager to vouch for the account. The sales representative told Minority Staff that he realized that Chase was reaching a new juncture with the account and would have to make a decision whether to move ahead with it. He believed that if the credit risk manager signed off on the new account, the credit risk group would also approve it. He also believed that the credit risk manager wanted a strong recommendation from the sales team. If that was provided, the sales representative believed that the credit risk

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and his bank, BNY–IMB, had with some of the individuals and companies associated with the flow of billions of dollars of Russian money through BNY, some of which may have passed through Rappaport's bank, BNY–IMB. The press attention also focused on past controversies involving Rappaport. As a result of such reports, the credit risk manager sent a memo to a Chase employee in Europe who followed the BNY–IMB correspondent account at Chase. He wrote asking what actions, if any, Chase might be taking with respect to the BNY–IMB account. He noted that Chase was reviewing the relationship with SAB/SANB:

> It is rather crucial as Swiss American is seeking to open additional DDA's and expand business with CMB. We would obviously be "influenced" by CMB-Switzerland's perspective.

The credit risk manager later reported to colleagues that the employee in Switzerland reported that she expected the account to be closed. At the same time, the credit risk manager asked the sales representative to ask SAB about its ownership and relationship with BNY–IMB. When asked why Chase did not already possess such information about a client, the credit risk manager told Minority Staff that the information is something Chase would ask for when opening a relationship, but it is not something it would ask for during a relationship because there is no annual review of a non-credit relationship.

The sales representative reported back that SAB and SANB were owned by Swiss America Holdings Company and that Swiss America Holdings Company was owned by Carlsberg. However there was no mention of the charitable trust that owned Carlsberg.

The sales representative also reported some information on the relationship of Rappaport to BNY–IMB, but some of the information he reported was incorrect. He concluded his memo to the credit risk manager by writing:

> My conclusion is that we MAY have some indirect, common ownership by Rappaport in Swiss American and Intermaritime. However, whereas his ownership of Swiss American is full and unquestionable, it is unclear whether he even has principal or controlling interest in Intermaritime Bank of New York. Brian Stuart Young can address the Swiss American ownership details, but it would be unreasonable for me to press him for details on the Intermaritime side of the ledger.

Thus, basic information about the ownership structure of its correspondents SAB and SANB, and important information about other banking interests of the owner of SAB/SANB were not fully known to Chase years after it established relationships with SAB and SANB, and the sales representative was reluctant to inquire about them.

Also in the Fall of 1999, the credit risk manager notified his colleagues that there were "numerous accounts of Caribbean and other non-U.S. banks" that had been established by Chase divisions, other than the division that normally handled correspondent banking relationships. He noted that two Antiguan banks—Antigua Overseas Bank and Worldwide International Bank—had been opened by the United Nations Branch of Chase. In a follow up memo, he noted:

> Just wanted everyone to be aware that there are DDA's residing elsewhere in CMB which are outside my Team's "jurisdiction" and thus not subject to our screening or monitoring. [emphasis in original]

One colleague replied:

> Obviously, "know your customer" policies, presumably have been covered off and someone looks after them. Also, I believe that the SCO's [senior credit officers] should be aware of corporate and institutional names in their respective countries.

Another colleague wrote:

> My own unscientific rating of certain geographic locations includes the presumption (biased, obviously) that anything from Antigua or Tortola is probably diseased and contagious and should be avoided like mosquitos in Queens. I hope that KYC criteria have been followed here—as the UN branch has dealt with int'l accounts for a long time, hopefully they were on the ball in these cases. Meanwhile, my head is going back into the sand on this one.

Chase officials told the Minority Staff that the individual who wrote the memo meant that because Antigua Overseas Bank and Worldwide International Bank were not in his department, they were not his responsibility and he didn't know anything about them.

manager would sign off on the expansion of the account. He wrote to his sales team manager seeking advice:

> I spoke with the on-shore affiliate [SANB] [in the] morning, and they asked me to open FX accounts in London. Then, now in the afternoon, . . . the offshore [SAB] also asked me to open up the same. . . .
>
> What I see coming at Chase is a situation similar to [another account], where we operate with no eventuality with what exists, but when it comes to open a new account[s], there are complications, since they require that Risk Management approve, etc. I don't know what the [credit risk manager in London] will ask, but he will certainly want something from the client manager (???), and whom will we ask to guarantee the name?
>
> What should we do? [A Swiss American official] is going to be in Miami. . . . Is it time to tell him frankly that opening a new account would give us a lot of problems? . . . [W]hich makes me think . . . I just sent them a proposal [for a check disbursement account]. Now I'm asking myself if [the credit risk manager] will authorize that account? What do you recommend?
>
> (Just recently [the credit risk manager and someone from compliance] have been asking about the nature of a client at SAB, because of a series of MO's [money orders] that had passed through the account and whose name they did not recognize).

The sales team manager responded:

> Talk with [the credit manager] and suggest the theory that as long as Chase doesn't decide otherwise, they are a "client in good standing" and there's no reason to deny them service. I will speak with [another Chase official] on Tuesday if it's not going well. If [the credit risk manager] says no (I don't see why he would be more papist than the people) you and I will talk to him together on Tuesday, what do you think?

The sales representative told the Minority Staff that he realized that the account was at that time "wounded." It had been tainted because of some of the previous incidents and attention given to it. When asked if he wanted to keep the account open, the sales representative told the Minority Staff that the account was important to him "revenue wise". It was important for him to get clear direction from his boss to close it, and he said that he was getting the opposite—SAB was a citizen in good standing, so why close it. He then pressed the credit risk manager for a memo vouching for the account. In late December 1999, the credit risk manager responded:

> PRIVATE/CONFIDENTIAL/OFF THE RECORD
>
> SAB is getting too much bad press—it's even used as a Case Study in our Money Laundering Training. It must be rigorously examined without further delay. If Credit raises the issue, they're "under attack" from the outset. If you raise the issue ("the best defense is a good offense"), you may still have a shot. [And if we all do nothing, we will all look like idiots,

plus any request for new accounts/services will most probably be denied.]

Here's what I suggest:

A) Lay out the background on SAB
B) Describe what you want to do, and
C) Describe how you propose to "police" them.
D) Get Skea's support (since Ken Lay is lame duck at this point)
E) Seek concurrence of John Stevens and Chris Carlin

By "background", I mean a succinct but honest listing of the pluses and minuses, such as (not necessarily complete):

PLUSES:
We solicited them, not them/us.
DDA has been conducted properly—no issue whatsoever.
Good revenue generator.
I've reviewed their Cash Letters—nothing suspicious.
To best of our knowledge, their strategy (soliciting PBI types via Frequent Flyer magazines and Website) is completely legal—probably no different from our own PBI activities.
Per their statement, customer base is about 80% US/Canadian; 20% European; only 2% Latin American (i.e., not the Medellin Cartel).
Only 15 customers have accounts > $500M; only 4–5 > $1MM (again, not exactly major drug dealer profile).
Management completely open with us.
They themselves have been quick to pull the plug on suspicious customers.

MINUSES:
Not a "strategic" customer.
Their domicile (Antigua) lax.
They've been drawn into several frauds/money laundering incidents but were cleared.
Their strategy undoubtedly attracts individuals evading taxes in their home countries.
Ownership (Bruce Rappaport) is controversial.

By "what you want to do" I mean:
Absolutely no credit facilities (I presume)
Maintain existing business plus accept new accounts (I presume)

By "how do you police them" I mean:
CMB visits
Other conditions, controls, informational requirements, etc. (for example, continuing to review Cash Letters, getting info on customer base, etc. on a periodic basis)

The credit risk manager told the Minority staff that there were individuals throughout the organization who were expressing concern about the relationship (and he would even include himself in that group). He told the sales representative that without a relationship manager to handle the account, the sales representative should assume the responsibility to pull all of the information about the account together have a comprehensive analysis of the

relationship. The credit risk manager felt if Chase officials could satisfy themselves that SAB was an innocent victim, then they might be convinced that it was still an acceptable client. The credit risk manager felt that it was necessary to achieve some consensus on the account.

The sales representative told the Minority Staff that after the credit risk manager's memo was issued, there was no need for the sales team manager to speak with the credit risk manager. Instead, he needed to speak to more senior officials in sales. It was clear that the credit risk manager wanted the sales team to sign off. The sales manager said he encouraged the sales team leader to speak to more senior sales officials, but the sales team never signed off.

In early January 2000, the sales representative spoke with an official of SAB and noted that he told the SAB official that,

> "[W]e will not move to open FX accounts for them in London until we are able to re-position SAB internally as regards risk management."

The sales representative told the Minority Staff that opening new accounts would require introducing a whole new set of people at Chase to SAB and the history of the account and would require a whole new initiative and the support to do that did not exist at the current time. He told the SAB official that they could revisit the issue in 6 months.

In March 2000, a new check disbursement account was opened for SAB. The sales representative told the Subcommittee staff that, unlike the new accounts discussed in December and January, the checking disbursement account was an offshoot of the existing DDA account that SAB held in New York. He told Subcommittee staff that he was not required to go through a new account opening process for that service (as he was with the foreign exchange accounts discussed above) and he was not sure that he was required to go through risk management. He noted that it appeared that the credit risk manager was not sure either. He said that the fact that news of the new service never got to the credit risk manager until after it was opened is a function of how custom service felt it had to route the program to get it into the system.

He said the credit risk manager never spoke to him about the issue, nor did he ever hear that the credit risk manager was concerned or frustrated that the account had been opened up.

The credit risk manager agreed that additional accounts for U.S. corporate names can be opened by the sales representatives without additional sign off from the risk management department. He noted that the sales representative had mentioned the new service a few months earlier and advised it would provide Chase with greater control over the disbursement of checks. The credit risk manager believed it was a logical explanation, but had advised the sales representative to complete the analysis he outlined in his December 21 memo before any new accounts were opened. When he learned that a new account had been opened, the credit risk manager told the Minority Staff that he felt he had asked that the future of the SAB account be discussed before any new accounts were opened. However, he did not feel that the sales representative was

trying to go around him, since he would inevitably receive notice that the new account was being established.

As noted above, however, the opening of the account did draw the attention of Chase officials when it was noted on the account form that SAB was projecting a monthly volume of 10,000 checks.[33]

The credit risk manager told the Minority Staff that it was during 2000 that Chase officials from the credit, sales and compliance/risk divisions discussed the SAB and SANB accounts. The concern was that given the publicity around the account and the man hours that Chase had devoted to the relationship, it was no longer a good fit for Chase. The officials decided to terminate the relationship.

On April 28, 2000, the sales representative wrote to Swiss American Banking Group and informed it that Chase was going to terminate its accounts due to a "lack of strategic fit." The sales representative told the Minority Staff that he did not participate in any conversations that presumably led to the decision to terminate the accounts. He was asked to communicate the decision to the client and wrote the letter. He noted that he had a general conversation with the sales team leader about the terminations of the accounts and the leader noted that they could not defend the account any longer, the pressure was building.

Initially, Chase asked SAB to close the account within 30 days. According to the credit risk manager, SAB retained counsel who approached Chase and informed Chase that SAB was trying hard to find a new correspondent, but could not meet the 30-day deadline. The counsel suggested that if Chase shut down the account before SAB could locate elsewhere, SAB might sue Chase. The sales team leader told Chase officials that SAB was working to find a new correspondent and should be able to close the account within a matter of weeks. Chase told SAB that if it ceased all activity in the account, it would extend the account to clear outstanding checks.

In August 2000, the account was still open. On August 14, the sales team leader wrote to SAB and told bank officials that Chase would close the accounts by September 14 unless they were closed sooner by SAB. SAB requested a 30 day extension of the September 14 date. Chase refused and the accounts were closed on October 5, 2000.

Efforts were made by the credit risk manager to monitor the relationship with SAB. However, his efforts were hampered by a number of factors. Because of the non-credit nature of the relationship, there was not a single individual who served as the relationship manager or central point of contact for the account. SAB was slow to convey information to Chase. Sales representatives did not closely monitor the relationship and at times did not act on important information that they received. The bank was unaware of controversial activities that were associated with the account, and was slow to respond to the proliferating account activity related to Internet gambling. These factors precluded a complete and coordi-

[33] The sales representative told the Minority Staff that he is not sure where the projected monthly volume of 10,000 checks originated. He was not sure that was the number he gave to the administrator. He said that based on earlier conversations with SAB, the number 10,000 would be a lot less and he questioned the validity of the 10,000 figure.

nated review of the relationship. As a result, the relationship was maintained until late in the summer of 2000.

B. THE ISSUES

SAB and SANB have had a long history of controversial leadership, questionable activity by corporate officers, accounts that served as repositories for funds from frauds and other illicit activities, and a reluctance to fully cooperate with efforts of enforcement officials to seize the proceeds of illicit activities that were in the bank. More recently, SAB has serviced accounts that are related to Internet gambling, an activity that is vulnerable to money laundering and illegal in the United States.

Despite this history, until recently SAB and SANB have been able to maintain correspondent accounts at some of the largest and most prestigious U.S. banks, including Bank of New York, Bank of America, and Chase Manhattan Bank. These relationships can be characterized by failure of the U.S. correspondents to respond more quickly and decisively to patterns of problems and questionable activities in the relationship and inadequate due diligence and ongoing monitoring.

Throughout their relationship with SAB and SANB, the U.S. banks were continually confronted with, or making inquiries about, problems and questionable activities associated with the SAB/SANB accounts. Yet, the relationships were allowed to continue for long periods of time—even years—after the problems began to surface. One bank—BNY—even experienced occasions when SANB was slow, or simply refused, to provide information relevant to important issues related to the correspondent banking relationship. The relationship managers for BOA and BNY stated that they should have terminated the relationships earlier than they did.

The banks' failure to act more quickly and decisively stemmed in part from what appears to have been a general convention throughout the correspondent banking field—a reluctance to sever a relationship once it is established. This reluctance stems from both a sense of customer loyalty and a concern about liability for damages that may result from severing a relationship. When a correspondent account is also a significant revenue generator, there is even more incentive to give the client an opportunity to correct its problems before terminating a relationship. While there is no indication that the banks in these relationships knowingly ignored illegal behavior, these factors will often cause correspondent banks to repeatedly give their client the benefit of the doubt and to continue relationships in the hope that clients will correct problems, or repeatedly extend termination dates to allow clients time to find new correspondents. While this practice may be changing as the nature of international finance and the business strategies of major banks shift, it was certainly a factor in the SAB and SANB relationships.

> Chase was slow to address SAB about the large amount of Internet gambling proceeds that were flowing through SAB's correspondent account at its New York branch, even when numerous Internet gambling firms were indicted by U.S. Government officials and a Chase employee was called to testify at a criminal prosecution involving one of the Internet gambling establishments that used the SAB correspondent account.

BNY apparently did little or no follow up on illegal activities through the SANB correspondent accounts at its New York branch, even though their personnel were directly contacted by prosecutors involved in the DeBella case.

BOA made a determination to terminate its correspondent relationship with SAB in 1995. While it significantly reduced the services it offered to the bank at that time, the relationship continued for an additional 4 years after that decision was made.

BNY–IMB, a foreign affiliate of BNY, has been serving as a conduit for SAB's Internet gambling clients, even though BNY does not want to service Internet gambling business.

All three U.S. banks accepted SAB and SANB's account of their dispute with the U.S. Government regarding the Fitzgerald affair, with little or no effort to independently verify the facts.

The history of the relationships with SAB and SANB also reveal weaknesses in the due diligence and ongoing monitoring practices of the U.S. correspondents. Fundamental issues regarding the management and structure of the banks appear to have been unknown to the relationship managers. While all three banks reviewed in this case study followed up on matters that came to their attention and one bank attempted to be pro-active in reviewing the relationship, initial due diligence and ongoing monitoring failed to identify key issues and major problems and controversies that involving SAB and SANB, resulting in an incomplete information base from which to assess the relationship.

Chase and BOA initiated a correspondent relationship with SAB with little or no due diligence, relying on their previous connections with SANB. The banks failed to recognize the fact that SAB was an entirely different type of bank than SANB, with different clientele, different purposes and a different regulator. It presented a potentially different type of correspondent relationship from SANB and a different set of money laundering vulnerabilities.

Although the banks knew that Rappaport was the beneficial owner of SAB and SANB, they did not know the identity of all of the entities in the ownership chain, nor did any inquire why the ownership of the bank was structured through a series of trusts and IBCs that were formed in secrecy jurisdictions.

The banks apparently were unaware of the controversial history and activities of a number of board members of SAB and SANB, and made no inquiries about them.

Banks appear to have been unaware of many of the major frauds and other illegal activities that used SAB or SANB as repositories for illicit funds, even when their own institutions had been used as the conduit for the flow of funds from a particular fraud to SAB or SANB.

Chase was unaware that hundreds of web sites of Internet gambling clients of SAB were instructing customers to send

wagers through the correspondent account at its bank, even though Internet gambling in the United States is illegal under U.S. law.

Interviews with the correspondent banks related to the SAB and SANB relationships once again highlighted a pattern present in many of the case studies included in this report: non-credit foreign bank relationships do not receive the same level of attention and scrutiny as credit relationships, contributing to lapses and oversights in the due diligence and ongoing monitoring process.

For example, the credit risk manager at Chase stated that the monitoring of non-credit relationships is generally reactive. Even when an attempt was made to be pro-active in the monitoring of the SAB account, because of the non-credit nature of the relationship there was not a single person who served as the focal point for the relationship. The result was that Chase did not receive timely information from its client, questionable activities and frauds associated with the account were not identified and the effort to conduct a coordinated and fully informed review of the relationship was hindered.

The relationship manager at BNY explained that the bank did not press SANB to get more information about questionable account activity because in the early 1990's banks were more concerned with credit risk than vulnerability to money laundering.

The discrepancy in the level of scrutiny given to the different types of relationships is underscored by the memo written by a BOA credit manager in response to a request to extend a fully collateralized revolving line of credit to SAB. His memo raised questions about the ownership, structure and purpose of the bank and who controls and monitors its activities. This reflected a level of scrutiny and evaluation that was often missing in the non-credit relationships that existed between SAB and SANB and their U.S. correspondent banks.

Case Histories Nos. 9 and 10
M.A. BANK
FEDERAL BANK

M.A. Bank of the Cayman Islands and Federal Bank of the Bahamas are two offshore banks affiliated with larger commercial operations in Argentina. Federal Bank's license was suspended on February 13, 2001, by the Bahamian Government after 9 years of operation; M.A. Bank remains open for business after nearly 10 years of operation. Both banks were shell banks: they had no physical office for conducting banking business with customers, and they existed through their correspondent relationships. Neither bank had an Argentinian banking license despite cultivating an Argentinian clientele and Argentinian banking activities and neither ever underwent an examination by any banking regulator. Yet both offshore shell banks were able to open U.S. dollar accounts at Citibank New York, obtain Citibank automated systems for sending international U.S. dollar wire transfers, and move more than a billion dollars through their U.S. accounts. $7.7 million of that was illegal drug money in the case of M.A. Bank and $1 million was bribe money in the case of Federal Bank.

This case history examines the due diligence and monitoring failures of their U.S. correspondent bank, Citibank, which enabled these two high risk foreign banks to gain entry to the U.S. banking system. They include Citibank's failure to realize that both banks were essentially operating in Argentina without a license, its failure to realize that a $7.7 million seizure order for M.A. Bank targeted illegal drug proceeds from a Mexican drug cartel, its failure to realize that M.A. Bank operated without basic fiscal controls and far outside the parameters of normal banking practice, its failure to learn that Federal Bank had no anti-money laundering program, and its failure to provide accurate and complete answers to Argentinian bank regulators' questions about the ownership and activities of Federal Bank.

Information pertaining to M.A. Bank was obtained from documents provided by the Government of the United States and Citibank, court pleadings, interviews of government officials and other persons in Argentina, Mexico, the United States and the Cayman Islands, and other materials. Key sources of information were interviews with an official from the U.S. Federal Reserve Board of Governors (March and November 2000), relationship managers and other officials from Citibank (May and October 2000), and copies of interviews of the principals of M.A. Bank conducted by agents of the U.S. Customs Service in June 1999. The U.S. Customs Service conducted an investigation of MAB and M.A. Casa de Cambio as a follow up to an undercover drug operation. The investigation included interviews, in June 1999, with the principals of MAB and regulators in Argentina. Much of the Minority Staff's understanding of the operations of MAB was gained from the records of those interviews. The investigation also sent written questions to MAB officials, but they declined to provide any information.

Information pertaining to Federal Bank was obtained from the bank records of Banco Republica, Federal Bank, and American Exchange Company, provided by Citibank pursuant to subpoena;

interviews with Citibank officials; interviews with two Members of the National Congress of the Argentine Republic, Elisa Carrio and Gustavo Gutierrez, and their staffs; and copies of audits of Banco Republica conducted by the Central Bank of Argentina, one commenced in 1996, concluded in 1997, and reported on in July 1998 and the other commenced in July 1998 and dated August 1998. The Minority Staff invited the owners of Federal Bank, both directly (by letter on September 15, 2000, to Jorge Maschwitz, attorney for the bank in Uruguay) and through their agents (by letter on January 8, 2001, to the bank's registered agent, Winterbotham Trust Company Ltd., of Nassau, Bahamas) to provide any information with respect to the bank and to answer Subcommittee questions. There has been no response. The Bahamas Central Bank revoked the license of Federal Bank Ltd. on February 13, 2001.

A. THE FACTS

M.A. BANK

M.A. Bank is a shell bank licensed by the Cayman Islands with no physical office anywhere. M.A. Bank has never been examined by a regulatory body of any jurisdiction. The owners and officers of M.A. Bank ("MAB") exploited the gaps in the regulation of offshore banks to structure a banking operation with poor controls and operating procedures that are an invitation for money laundering and tax evasion. This case study shows how inadequate due diligence and ongoing monitoring by M.A. Bank's correspondent bank enabled M.A. Bank to utilize its correspondent relationship to access the U.S. financial network and engage in highly suspicious financial transactions for more than 1½ years after assets in its account were seized for illegal activity.

(1) M.A. Bank Ownership and Management

M.A. Bank is part of a group of Argentine finance, investment and currency exchange entities, collectively known as Mercado Abierto Group ("the M.A. Group").[34] The M.A. Group is owned and managed by three individuals: Miguel Iribarne, Aldo Luis Ducler and Hector Scasserra. These individuals also hold positions as officers in other entities of the M.A. Group, including M.A. Bank. All three are former government officials. Iribarne worked in the Ministry of Economy for 14 years, attaining the position of Undersecretary for the Economy. Scasserra was the Director of the National Development Bank, Minister of the Interior and also worked in the Ministry of Economy. Ducler is a former Secretary of Finance.

[34] Entities that are part of the M.A. Group include: Mercado Abierto S.A., an over-the-counter securities broker-dealer that functions primarily as an asset management company, which is the major owner of all of the other entities in the M.A. Group; M.A. Casa de Cambio, a currency exchange house; M.A. Valores Sociedad de Bolsa, an entity that operates within the Buenos Aires stock market; M.A. Capital Markets, a merchant bank that deals with mergers and acquisitions. Mercado Abierto, S.A. owns the entities in the following proportions: MAB (60%); M.A. Casa de Cambio (97%); M.A. Valores Sociedad de Bolsa (97%); M.A. Capital Markets. [In the original publication of this report in February 2001, footnote read "M.A. Capital Markets (97%). This percentage reported was an error. No percentage of ownership was reported in the documents cited.] Source: "Basic Information Report," supplied by Citibank, translated from Spanish by CRS; M.A. Bank Limited Financial Statements and Independent Auditors' Report for 1998; and Mercado Abierto, S.A., Annual Report and Financial Statements as of June 30, 1998.

According to its financial statements, MAB was registered in the Cayman Islands on September 23, 1991 as Petra Investments Bank, but one day later it changed its name to M.A. Bank. It was issued a Category "B" banking license (an offshore banking license) on October 22, 1991. M.A. Bank's main activities are listed as those related to securities trading and the administration of investment portfolios for its own accounts and its customers' accounts.

In its financial statements, M.A. Bank reports that it is owned by Mercado Abierto, S.A., one of the entities that is part of the Mercado Abierto group, and Sigma Financial Corporation. During interviews of Ducler, Scassera and Iribarne conducted by agents of the U.S. Customs Service in June 1999, a review of MAB's articles of incorporation showed that 60% of MAB is owned by Mercado Abierto, S.A. and the remaining 40% is owned by Sigma Financial Corporation. Upon questioning by a Customs agent, Iribarne revealed that Sigma Financial Corporation, a Cayman Islands company, was owned by Iribarne, Scasserra and Ducler. According to the Customs interview, Iribarne said that this structure was created for "tax purposes." Customs agent notes from the interview state:

> Miguel Iribarne explained that the Cayman Islands have rules about the amount of capital M.A. Bank must have in relation to deposits. Over the years M.A. Bank has increased their amount of capital. This makes the profits subject to taxation in Argentina. So, they received authorization from the Cayman authorities to establish another corporation that owns 40% of M.A. Bank. This reduces their taxes in Argentina by 40%. Miguel Iribarne stated that Sigma Financial is only in the Caymans, so they do not have to pay the taxes in Argentina.

Minutes of a Sigma Board of Director's meeting lists a former Mercado Abierto employee as the sole director of Sigma. According to the Customs interviews, Iribarne told the Customs agent, "They did this for 'tax purposes' so none of their names would appear on the documents for Sigma Financial."

MAB's administrative agent in the Caymans is Coutts and Company; MAB has no physical presence and conducts no business from the Cayman Islands. MAB also has a representative in Uruguay, Elenberg-Guttfraind & Associates.

(2) Financial Information and Primary Activities

The stated primary purpose of MAB is to provide offshore banking and investment services to clients of Mercado Abierto. As described above, the main activities of MAB are trading securities and the management of investment portfolios. MAB offers clients access to international markets for the acquisition of bonds or other investments that they could not acquire through Argentine-regulated investment firms and provides a vehicle for depositing funds outside of Argentina. According to Citibank officials, because of Argentine financial regulations, financial institutions that are licensed in Argentina are limited in the securities and bonds they can offer to clients. Therefore, most financial institutions, in order to provide their clients with a full range of international investment opportunities, establish foreign banking entities that are li-

censed in a jurisdiction other than Argentina and are therefore able to offer clients a broader range of investment opportunities. The MAB's 1998 financial statement reported that it had $37 million in assets and $26 million in deposits at the end of 1998. The bank did not respond to a request for information about its primary activities and the number of clients and accounts it serviced.[35]

(3) M.A. Bank's Correspondents

MAB had U.S. correspondent accounts with Swiss Bank Corporation (now Union Bank of Switzerland) from January 1992 to May 1995, and with Citibank from September 1994 to March 2000. MAB also had additional correspondent accounts in Europe and South America for payments, transfers and settlements involving foreign currencies and securities.

(4) M.A. Bank Operations and Anti-Money Laundering Controls

An MAB official told a U.S. Customs agent that MAB does not accept unknown clients. To open an account at MAB, MAB said an individual must be referred by an existing client, already have an investment with Mercado Abierto or be someone who is known to the officers of MAB. According to an MAB official, the bank has know-your-customer ("KYC") rules similar to those employed in banks in the U.S. The Minority Staff obtained a copy of a three-page MAB document titled "Policies and procedures to prevent money laundering activities." The document identifies the policies and procedures for establishing new relationships and servicing accounts. They are organized under four topics: "Know the Customer," "Forbidden Transactions," "Transactions to be closely monitored and reported to the management," and "Considerations to be taken when analyzing suspicious transactions." The policies and procedures included the following: the customer's true identity must be known; all suspicious transactions must be immediately reported to the management; cash deposits and withdrawals are forbidden. However, as revealed through the interviews of MAB officials by the U.S. Customs Service, top officials at MAB were aware that these policies and procedures were not followed at MAB.

(5) Regulatory Oversight

MAB is licensed as a Class B (offshore) bank in the Cayman Islands. Other than its registered agent, it has no physical presence

[35] In March 2000, Senator Levin wrote to the counsel for MAB and requested that the bank provide a general description of its activities and information on, among other things, its assets and the number of its clients and accounts. He asked that the bank provide answers to his inquiries by April 26. MAB never provided any information or answers to Senator Levin. In April, Senator Levin received a copy of a letter sent to Chairman Collins by MAB's new attorney in the United States. The attorney referred to Senator Levin's letter to MAB and stated:

> I am not in a position to address your inquiries at this time. I have just been retained on this case, which has been going on for several years. Obviously I am just now learning about the facts, and as I am sure you are aware this is a complex case which cannot be mastered in a moment's time. I will be meeting with my clients face to face in the very near future and I will continue in my efforts to review the extensive materials. I will write you again when I learn the facts of this case. Obviously I cannot comply with your April 26, 2000 deadline.

To date, MAB has not supplied any information to the Subcommittee.

in the Cayman Islands, and it is prohibited from doing business with residents of the Cayman Islands.[36] Offshore banks are required to submit annual audited financial statements to the Cayman Islands Monetary Authority ("CIMA"), the governmental entity that regulates banks in the country, but offshore banks are not required to keep their records in the Cayman Islands.

In 1991, when M.A. Bank first received its offshore banking license, the Cayman Islands still permitted the licensing of a bank which was not a branch or subsidiary of another bank, which planned to keep its employees and banking records outside of the Cayman Islands, and which planned to have no physical presence on the island other than a mailing address at a local registered agent. The Cayman Islands has since discontinued issuing such bank licenses, but has allowed its existing offshore shell banks to retain their Cayman licenses. In 2000, for the first time, Cayman banking authorities began a bank examination process which requires bank examiners, acting on behalf of the government, to conduct an independent inspection of the bank records and operations of Cayman licensed banks. Prior to this program, Cayman banking authorities oversaw Cayman banks primarily by analyzing information submitted by those licensed banks or their auditors. The new Cayman examination program requires an independent review of records and includes sending Cayman examiners to conduct onsite visits of Cayman banks that keep employees and records outside of the Cayman Islands.[37] However, M.A. Bank, despite nearly 10 years of operation, has yet to undergo any bank examination or site visit by any bank regulator, whether from the Cayman Islands, Argentina or any other country.

MAB is required to have an agent that represents it in the Cayman Islands, and is responsible for accepting notices from CIMA and providing information required or requested by the regulatory authorities. MAB is represented by Coutts and Company. The Coutts official who handles the MAB account told the Minority Staff that Coutts' only function is to serve as a point of contact for government officials. Coutts does not maintain any records, nor does it perform any activities with respect to MAB's banking activities.

Although the M.A. Group operates out of Argentina, MAB is not licensed to operate in Argentina and is not regulated by the Central Bank of Argentina. According to the Customs interviews, one of the principals told the U.S. Customs agent that:

> . . . they [MAB] do not need a license [in Argentina] because [MAB] is an offshore bank. Miguel Iribarne told [the Customs agent] that the administrative offices for M.A. Bank are located in Montevideo, Uruguay . . . When [the Customs agent] asked, why do they do this? Miguel Iribarne responded that M.A. Bank is an offshore bank, if they had offices in Argentina they would be subject to regulation by the Central Bank.

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[36] M.A. Bank's representative in Uruguay, Elenberg-Gotfraind & Assoc., informed the Minority Staff that MAB has a "physical and legal presence and address in Georgetown, Grand Cayman (Coutts & Co. Cayman Ltd)." However, this is nothing more than an agent's office. M.A. Bank has no office or staff in the Cayman Islands, and in interviews with the Customs Service, one of the owners of M.A. Bank stated that MAB had no offices in the Caymans.

[37] For a general description of the status of anti-money laundering efforts in Argentina, see the Regulatory Oversight section in the Federal Bank discussion.

MAB has an administrative office in Uruguay at an auditing/consulting firm called Elenberg-Gutfraind & Associates. According to the principals of Elenberg-Gutfraind, the firm is registered with the Central Bank of Uruguay as a representative of MAB. However, it does not appear that any type of administrative activities related to banking or customer services takes place at that office. In a letter to the Minority Staff, the principals of Elenberg-Gutfraind explained that their relationship with the M.A. Group (including MAB), included consulting advice and technical assistance related to audits of the bank. Essentially, the firm "received and sent documents and correspondence which are essential for the fulfillment of the audit." From the information provided, it appears as if MAB's administrative office in Uruguay is a representative or agent office that may maintain documents or records. Neither the principals of MAB nor the principals of Elenberg-Gutfraind made any suggestion or offered any information that MAB was licensed in, or regulated by, Uruguay.

A Special Examiner from the U.S. Federal Reserve Board of Governors who accompanied a U.S. Customs agent during their interviews of MAB owners and officials in June 1999 told the Minority Staff that the investigation established that MAB did not have a physical presence anywhere other than Argentina. According to the Special Examiner, "M.A. Bank is nothing more than an account holder at Citibank." The examiner noted that through that account, MAB can receive and make wire transfers, deposits and withdrawals. According to the examiner, its account is no different from any checking or savings account an individual would set up, and through that account MAB could process transactions for all of its customers.

(6) Money Laundering and Fraud Involving M.A. Bank

(a) Laundering of Drug Proceeds through M.A. Bank

In May 1998, the Department of Justice announced the conclusion of a 3-year undercover drug operation called "Casablanca." In the undercover operation, U.S. Customs agents infiltrated the Amado Carillo Fuentes drug organization ("the Juarez cartel"), posing as money launderers. As part of the operation, the agents laundered money for the cartel through a number of Mexican and Venezuelan banks. As an outgrowth of the original operation, the agents also collected cash from cartel drug operations in the region of Chicago and laundered the money back to foreign banks and money houses through correspondent accounts maintained at banks operating in the United States. Over a period of one year (May 1997-May 1998), $43 million was wire transferred to specific accounts identified to the undercover agents by members of the Juarez cartel.[38]

The U.S. Government filed seizure warrants for the drug-related funds in those accounts in May 1998. Among the affected accounts were two accounts in the New York branch office of Citibank, One

[38] Records obtained from the Customs Department indicate that Jose Alvarez Tostado, a lieutenant in the Juarez cartel, had telefaxed the undercover agents a list of banks and accounts that had been established to receive the transfer of the funds. The fax identified 10 different accounts, including two accounts at Citibank.

belonged to M.A. Bank; the other belonged to M.A. Casa de Cambio. According to a government undercover agent, $7.7 million in drug proceeds had been deposited in the account of M.A. Bank and $3.9 million had been transferred into the account of M.A. Casa de Cambio.

Between August 12, 1997, and January 7, 1998, a total of $3.983 million was transferred into the M.A. Casa de Cambio account at Citibank New York in eight separate transactions by U.S. Customs undercover agents acting under instructions from representatives of the Juarez cartel. Between August 12, 1997, and April 1, 1998 a total of $7.768 million was transferred into the M.A. Bank account at Citibank New York in 18 separate transactions by U.S. Customs undercover agents acting under instructions from representatives of the Juarez cartel. In seven of the eight transfers to the Citibank M.A. Casa de Cambio account and in nine of the 18 transfers to the Citibank M.A. Bank account, the wire instructed that the funds were for the benefit of Nicholas DiTullio. DiTullio is a real estate agent in Argentina and an account holder at M.A. Bank. His account was opened on July 10, 1997, approximately one month before the drug-related transfers started.[39]

When the U.S. Government presented seizure warrants for the accounts in question, only $1.569 million remained in the MAB account and $234,000 remained in the M.A. Casa De Cambio account. The remainder of the drug deposits had been wired transferred out of the accounts to Argentina. After the seizure of the $1.8 million remaining in the accounts on May 18, 1998, MAB sought return of this money, based on the defense that it was an innocent bank.[40]

The U.S. Customs Service carried out an investigation of MAB and M.A. Casa de Cambio which included interviews, in June 1999, with the principals of MAB and regulators in Argentina. As a result of the investigation, on February 10, 2000, the U.S. Government filed a complaint to seize the funds in the accounts of MAB and M.A. Casa de Cambio on the grounds that the officials of the bank and the Casa de Cambio were aiding the laundering of funds. The complaint alleged in part:

> . . . Dueler caused to be opened one or more accounts at M.A. Bank, M.A. Casa de Cambio and/or Mercado Abierto in the

[39] According to the Complaint for Forfeiture filed by the U.S. Government, the account was opened up after DiTullio was approached by two individuals, named Jorge Iniguez and Jaime Martinez-Aryon, who wanted assistance in acquiring real estate in Argentina. Iniguez is a former Group Supervisor of the Mexican Federal Judicial Police. While in that position, he became involved in the distribution of marijuana in Mexico. In 1991 he was arrested in California and eventually convicted on Federal charges of conspiracy to import 800 pounds of marijuana into the United States. In order to facilitate the transfer of funds for the purchase of properties, DiTullio offered to open an account through which Mr. Iniguez could transfer funds from the U.S. to Argentina. DiTullio recommended that an account be opened with MAB and/or M.A. Casa de Cambio and arranged a meeting between himself, Ducler and Iniguez. The account was opened in Mr. DiTullio's name because Ducler would not open an account in Mr. Iniguez' name because of the source of the funds to be laundered through the account. Instead, Ducler suggested that one or more accounts be opened in DiTullio's name, and that those accounts be used to transfer the funds to Argentina. *Complaint for Forfeiture* (U.S. District Court for the Central District of California, Western Division, No. cv 00-01493), 2/10/00.

[40] Under current law, the funds deposited into a correspondent bank account do not belong to the depositor but to the bank. Therefore, the government cannot seize the funds based on the wrongdoing of the depositor. In order to seize the money from the bank's correspondent account, the government must show that the bank was facilitating the laundering of illicit gains. Otherwise the bank has an "innocent bank" defense. The only way for the government to seize the illicit funds, without proving culpability by the bank, is to file a complaint in the jurisdiction where the depositor has his account, and this is often a foreign jurisdiction.

> name of DiTullio. It was understood by Dueler, DiTullio and Iniguez that said accounts would be used to transfer drug proceeds from the United States to Argentina, and that said proceeds would then be paid out of the account(s) to DiTullio for delivery to Iniguez. The government is informed and believes and thereon alleges that the opening of the account(s) in DiTullio's name was designed to disguise the nature, source and ownership of the drug proceeds that were to be filtered through the account(s), and that Dueler was aware of the true nature and source of the funds, i.e., drugs. In opening the account(s), Dueler intentionally dispensed with virtually all of the standard internal controls and processes generally required to open accounts with M.A. Bank and/or M.A. Casa de Cambio.
>
> . . . Drug proceeds belonging to the Juarez Cartel would be picked up in Chicago, as set forth in paragraph 16 above, and then wire transferred to the Citibank accounts of M.A. Casa de Cambio and M.A. Bank, as set forth in paragraphs 17 (a) and (b) above. The monies would then be credited and paid by M.A. Casa de Cambio and M.A. Bank to DiTullio.
>
> . . . Despite the various names given as the beneficiaries of the money transfers listed above, all of the transferred funds were in fact paid by M.A. Bank and M.A. Casa de Cambio to Nicolas DiTullio ("DiTullio"), either in U.S. currency or by cashier's check. The government alleges that DiTullio, Dueler, Iniguez and Martinez-Ayon, among others, were participants in a money laundering conspiracy, the object of which was to convert drug proceeds from the Chicago pickups into currency and checks issued by M.A. Bank and M.A. Casa de Cambio in Argentina.
>
> . . . Based upon the above facts, there is probable cause to believe that M.A. Bank and M.A. Casa de Cambio knowingly used the Citibank accounts referred to in paragraphs 17 (a) and (b) to launder money in violation of 18 U.S.C. §§ 1956 (a)(1), 1956 (b) and 1957. Accordingly, there is further probable cause to believe that funds contained in the above-referenced accounts are subject to seizure and forfeiture to the United States pursuant to 18 U.S.C. § 981(a) (1). Additionally, to the extent that the specific funds contained in the accounts are not the same monies that were involved in the money laundering transactions, there is probable cause to believe that those funds have merely replaced identical property previously on deposit in the accounts (which identical property was in fact involved in money laundering) and are therefore subject to seizure and forfeiture to the United States pursuant to 18 U.S.C. § 984.

On June 9, 2000, the U.S. Government and the owners of the M.A. Group reached a settlement on the disposition of $1.8 million in seized funds. The U.S. Government retained $1.2 million and the owners of the M.A. Group received $600,000. Subsequent to the settlement, Aldo Ducler, one of the owners of the M.A. Group and MAB, placed a full page advertisement in the Argentine newspaper, La Nacion. The advertisement, entitled, "The Truth of the

Facts" portrayed the settlement agreement with the United States as a vindication of the actions of MAB and its owners.[41]

On December 26, 2000, the Acting Director of the Office of International Affairs of the U.S. Department of Justice sent a letter to Dr. Jose Nicasio Dibur of the Ministry of Justice in Argentina concerning the resolution of the action taken by the United States against MAB and its owners and refuting the claim of vindication by Ducler. In the letter, the Acting Director wrote:

> It was agreed that the consent judgment did not constitute an admission of liability or wrongdoing on the part of the claimants. *Id.* At lines 3–6. At the same time, however, the consent judgment did not constitute an agreement by the United States that the claimants committed no illegal acts, or that the claimants lacked guilty knowledge of the illegal acts described in the complaint.
>
> . . . The essential purpose of the consent judgment was to divide the seized funds while leaving open the question of whether the claimants committed or, were knowledgeable of, the illegal acts described in the complaint. This is not particularly unusual.
>
> . . . In essence, the parties "agreed to disagree" concerning that question. That being said, it should be noted that this office would not have entered into the consent judgment unless it believed that there was a valid factual basis for the forfeiture of the funds.
>
> . . . The consent judgment applied only to the civil forfeiture case in which it was entered. It did not provide for immunity for any party (corporate or individual) with respect to potential criminal conduct. The United States made no representations whatsoever about the further investigation or prosecution concerning the criminal conduct described in the complaint.
>
> . . . However, the consent judgment is not evidence that the United States exonerated the M.A. entities or their principals

[41] It, in part, stated:

The conclusions of this exhaustive investigation (by the U.S. Government) resulted in the signing of a bilateral agreement between the United States, the Department of Justice, and the Department of Treasury of the United States, and our entities and directors, signed June 9, 2000 and stamped (registered) in the judicial district of California June 18 by Judge Spencer. Under this agreement the Government of the United States desists of any judicial action, and expressly clarified that there was no culpability or fault by any side. More specifically it eliminates the possibility of any new legal claim in this case. In addition it implies the recognition and acceptance by the United States that:

—The director of M.A. at all times acted within compliance of all legal applicable laws and with absolute good faith.

—The lack of existence at all times of any knowledge or suspicion on our side about the alleged illicit origin of the funds, which came in all cases from first rate U.S. banking institutions operating within the territories of the United States.

—The collaboration we gave with our lawyers since the beginning of the investigations, collaboration that has been underscored and duly appreciated by the United States. This was shown in a letter that [Assistant U.S. Attorney] Steven Welk sent our lawyer, in which (naming us explicitly) he transmitted to us his appreciation for the attention received in Buenos Aires and our cooperation in the investigation. This language in a letter that has a letterhead of the U.S. Justice Department and with a signature of who is acting in the name of the [U.S. Attorney for the Central District of California] (Alejandro Mayorkas) would be unthinkable if the government of the United States did not have the conviction that it had been dealing with honorable people that don't have anything to do with money laundering.

or that the government believed that the allegations or the complaint were not true.

(b) Unsound and Illegal Banking Practices

In June 1999, representatives of the U.S. Customs Service and the U.S. Federal Reserve Board of Governors traveled to Argentina and interviewed officials of the Argentine Central Bank ("BCRA"), MAB, and Nicolas DiTullio. MAB officials described to the Customs agent how MAB serviced its clients' accounts and, in particular, how it handled transactions of DiTullio. The explanations offered by the MAB owners reveal banking practices that were highly vulnerable to money laundering and far outside the parameters of normal banking practice.

M.A. Group officials said that M.A. Bank had KYC procedures similar to those at U.S. banks and that individuals can only open accounts at MAB if they are referred from an existing client, are already an investment client of M.A. Group, or are known to the officers of MAB. DiTullio was not required to provide references or undergo a credit check because his name was well known in the real estate field, and he was a long-time acquaintance of Ducler, Iribarne and Scasserra.

Operation in violation of Argentine banking law. According to the Customs agent's interviews, officials of the BCRA stated MAB is not licensed to operate as a bank in Argentina. They said it can operate as a client of another bank (an account holder like anyone else), but it is not allowed to conduct banking business in Argentina: It cannot take in deposits or dispense withdrawals. Yet, it appears that MAB did accept deposits and dispense withdrawals to its customers in Buenos Aires at the offices of the M.A. Group.

During a tour of the Mercado Abierto offices, a Customs agent asked Iribarne, one of the owners and the President of MAB, if the teller window and the vault in the M.A. Casa de Cambio section of the offices was the place he, as a customer of MAB, would bring funds and have MAB wire the money somewhere else. According to the Customs interviews:

> Iribarne said yes that is correct. They, M.A. Bank, would keep the money in the vault until they could transport it to the bank, after which they would transport the money.
>
> . . . [The Customs agent] also asked if he received money from the United States as a customer of M.A. Bank, would someone from Mercado Abierto pick up the cash at the bank in Argentina, bring it to Mercado Abierto and place the money in the vault, and would he receive the money at the windows right here. Iribarne said that is correct.

During the interviews, the Special Examiner from the Federal Reserve Board of Governors asked MAB officials how a customer could receive money in Argentina if MAB did not have a branch or an account in Argentina. According to the Customs record of the interview, Iribarne explained how the process worked:

> 1) For example, Nicolas DiTullio sends the M.A. Bank account at Citibank in the United States $100,000.

> 2) If Mercado Abierto has the cash in their vault in Argentina, Nicolas DiTullio comes into the Mercado Abierto offices and they would give him the $100,000 in cash at the teller window. Nicolas DiTullio signs the receipt and leaves.
>
> 3) If Mercado Abierto does not have the cash, they contact a licensed bank or Cambio in Argentina that has a branch in the U.S. (For example purposes, Bank Boston). They tell Bank Boston that they (M.A. Bank) are going to wire $100,000 to the Bank Boston Branch in the U.S. Bank Boston receives the wire in the U.S. and holds the funds in a temporary account for M.A. Group Bank. Then someone from M.A. Bank officer [sic] goes into Bank Boston in Argentina. Bank Boston, Argentina, checks to make sure they have received the wire in the U.S. and then releases the $100,000 in cash to the M.A. Bank officer. The officer takes the cash back to Mercado Abierto and places the money in the vault until Nicolas DuTullio arrives to receive the $100,000.

An MAB officer and accountant told the Customs agent that there is no account for MAB in Argentina, so they always use other institutions. When a Customs agent asked if records are kept for all MAB transactions of $10,000 or more, as required by the BCRA, Iribarne, according to the interview records, responded that:

> They do not have to report any of the M.A. Bank transactions to the Central Bank or keep a record . . . because the money does not come into Argentina . . . if a bank is licensed in Argentina they would have to report the transaction and keep the log, but an offshore bank like M.A. Bank does not. This is because the wire transfer activity takes place offshore using "undeclared" funds. The report would be the responsibility of Bank Boston, if and when they transferred the $100,000 to Argentina to cover the withdrawal.

The account officer told the U.S. Customs agent that the financial transactions of all of M.A. Group's subsidiaries were run through a central treasurer's office. All transactions for all of the entities in the M.A. Group are conducted in bulk during the day and one company can lend money to another company as needed to help it meet commitments. At the end of the day the treasurer records the transactions in the proper set of books.

The U.S. Government also obtained documentary evidence that M.A. Bank was conducting banking operations in Argentina. According to the Special Examiner from the Federal Reserve Board of Governors, the U.S. Government received material from MAB that included deposit and withdrawal tickets all signed by DiTullio. According to the examiner, when the examiner asked the MAB principals if they had a license to operate MAB in Argentina, they told the examiner that performing the transactions was a service they provided to their clients.

Pseudonym accounts. Many of the wire transfers made to DiTullio's account at MAB were sent to MAB's correspondent account at Citibank. The affidavit of a Custom's agent, submitted in support of the seizure warrant for funds in MAB's account at Citibank New York, disclosed that many of the wire transfers that

were credited to DiTullio's account at MAB identified entities other than MAB as the beneficiary of the transfer, and the entity identified in the "for the benefit of" column often was someone other than DiTullio. Oftentimes, the only correct information on the wire transfer documentation was MAB's correspondent account number. Despite these inaccuracies, Citibank did not reject the transfers or return the money to the originator but credited the funds to MAB's account. MAB then credited them to DiTullio's account.

When the Customs agent asked the owners of MAB how they knew to credit the transfers to DiTullio's account and not to someone else's, Iribarne said that DiTullio had advised them in advance of the amounts that would be sent. When asked again by the Customs agent how the bank knew to credit DiTullio's account when the name of the party to be credited on the wire was a different name from DiTullio's, Iribarne said they were able to match the date and time of the transfers with letters DiTullio sent to M.A. Bank notifying the bank of incoming funds. Yet, the report of the Customs agent noted that the letters notifying MAB of forthcoming wire transfers to be sent by DiTullio were provided several days before the undercover operation wired the funds, and the letters did not list a date when the transfers would occur. These omissions raise a question of how the M.A. Bank officials knew to credit the DiTullio account.

Moreover, MAB owners indicated that such transactions were regular occurrences at the bank. According to the Customs interviews, the owners of MAB stated that they regularly received "fantasy names" on wire transfers and used the amount and date to match them to client deposit notices:

> Iribarne went on to explain that they (M.A. Bank) normally receive many "fantasy names" on the wire transfers they receive, so they just use the amount and date to match them to the proper client. When [the Customs agent] asked about these "fantasy names," Miguel Iribarne said clients do this so the funds are not "regulated." Miguel Iribarne also explained that it is also normal for clients to wire transfer money to M.A. Bank and leave the beneficiary information completely off the wire transfer instruction, and M.A. Bank still matches the money to the client.

According to the Special Examiner from the Federal Reserve Board of Governors, the practice described by the MAB owner violates normal banking practice. The examiner noted that if a bank received a wire transfer on which the name of the party to be credited was a different name from the name of the account holder who told the bank a wire transfer would be made to their account, the bank would generally call the account holder to confirm where the funds are to be credited. The bank would also ask the account holder why a third party would have money transferred into their account.

Servicing illicit funds. In discussing how they handled accounts of DiTullio and others when the wire transfer contained incorrect or no beneficiary information, the bank owners were very clear that they believed that the clients were doing this to avoid taxes. According to the Customs interviews:

> [The Customs agent] asked, what if two clients claim the same amount of money, or some client claims that money had been sent and M.A. Bank could not find the transfer amid all the similar transfers? Miguel Iribarne said they have never had this problem. Miguel Iribarne stressed that their clients trust the bank, "especially the non-declared funds." [The Customs agent] inquired if the funds were non-declared for tax purposes, and Miguel Iribarne said yes.

At one point, Iribarne told the Customs agent that he believed that all offshore accounts belonged to people avoiding taxes and that the money may sometimes come from other illegal sources as well:

> [The Customs agent] mentioned the offshore, unregulated funds. Miguel Iribarne told [the Customs agent] that he believes that all offshore accounts belonged to people avoiding taxes. Miguel Iribarne said maybe the money sometimes comes from other illegal activities as well. [The Customs agent] asked him if he thought M.A. Bank's clients were hiding money to avoid taxes? Miguel Iribarne said sure, most of the customers have overseas account [sic] so they do not have to report income. Miguel Iribarne said he does not care. The customers are the ones not reporting, not him.

Falsification of withdrawal records. One of the ways DiTullio withdrew money from M.A. Bank was in cash. According to Iribarne, DiTullio would call and tell M.A. Bank he would be coming in to withdraw money, and then he would show up and sign a withdrawal receipt when he withdrew the money. The owners of MAB provided the Customs agent with copies of the withdrawal slips that had been completed and signed by DiTullio. The Minority Staff received a copy of one of those slips. The form appeared as follows:

October 29, 1997

We have RECEIVED today from M.A. Bank Ltd., Grand Cayman, the amount of USD 10,100.00

Ten Thousand One Hundred and 00/100 United States Dollars

Please debit such amount from Account # 25913
in name of Nicolas A. Di Tullio
with yourselves.

by Account # 25913

Nicolas A. Di Tullio
APODERADO DE EURO-AMERICA FINANCE NV

As can be seen from the form, while MAB's name and address is included in the typewritten statement on the form, it is not imprinted on the form itself. The withdrawal slip is not a preprinted slip that banks generally produce and make available to all customers. Rather, it is a form that appears to have been produced on a typewriter or printer with places to insert the amount received and the name and account number of the client.

In reviewing the withdrawal receipts signed by DiTullio, the Customs agent asked why the receipts looked different from the M.A. Casa de Cambio receipts, which appeared more official. According to the Customs interviews:

> Iribarne said that the M.A. Bank receipts are a private receipt. The transactions are not reportable to the government, so they can generate them any way they want. [The Customs agent] asked, why is Euro-American Finance printed on the receipts (it looks like a receipt Nicolas DiTullio generated)? Miguel Iribarne said the form is in the computer; Nicolas DiTullio can ask to have anything put on the receipt and they would do it, they did not care. [The Customs agent] asked about Euro-American Finance. Hector Scassera [one of the other owners of MAB] said Nicolas DiTullio did not want the local tax authorities to know about, and tax him on, the money coming from the United States. Euro-American is a company name Nicolas DiTullio uses to avoid the tax authorities.

According to the Special Examiner from the Federal Reserve Board of Governors, several aspects of the withdrawal process described by the owner of MAB were not in accordance with standard banking practices. According to the examiner, typically the institution's name, address and other information about the bank would be preprinted on a withdrawal form. No such information was on the withdrawal forms signed by DiTullio. The form was simply a typewritten note. Apparently, MAB had no withdrawal slips. The Minority Staff learned that the examiner asked someone at the teller window at M.A. Group's offices for some deposit/withdrawal tickets and was told that they did not have any. The examiner also noted that in the case of DiTullio, the form was printed in English, even though DiTullio spoke only Spanish.

The Special Examiner also noted that the forms were signed by DiTullio as if he were an individual authorized by the company, Euro-American Finance, to make withdrawals. This leaves the impression it is Euro-American Finance that has the account at MAB and is the entity making the withdrawal. However, the examiner pointed out and the owners of MAB acknowledged, that the funds were being withdrawn by DiTullio from his own account. The examiner stated that this was not typical banking practice, noting that in the United States, individuals do not sign withdrawal slips on behalf of an organization that does not have an account at the bank. The examiner said: "it just isn't done." The examiner said that DiTullio told the Customs agent that he had signed a number of the withdrawal forms in advance of any withdrawal.

(7) Correspondent Account at Citibank

MAB maintained an account with Citibank from September 1994 through March 2000. During that time period, $1.8 billion moved through its account. Citibank had maintained a relationship with the M.A. Group since 1989. Over the years, various subsidiaries of the M.A. Group had established accounts at Citibank. In addition to MAB, other M.A. subsidiaries, including Mercado Abierto, M.A. Casa de Cambio and M.A. Valores, had accounts at Citibank New York. All of the accounts with the M.A. Group and its subsidiaries were terminated in March 2000. The MAB account with Citibank in New York was limited to non-credit, electronic banking services.

Citibank Organization for Correspondent Accounts in Argentina. Correspondent banking activities at Citibank are located in the Financial Institutions Group. Correspondent accounts in Argentina are located in the division covering Central and Eastern Europe, the Middle East, Africa, the Indian subcontinent and Latin America ("CEEMEA") which is responsible for overseeing and administering correspondent banking relationships including support services in connection with wire transfer operations. According to the marketing head for the Latin American Unit in the Financial Institutions Group in New York, in the 1980s Citibank instituted the Troika system for account management to improve coordination and communication. Under that approach, responsibility for an account opened in the United States by a financial institution in a foreign country was shared between (1) an account officer in the country where the client institution is located, (2) an account officer in the New York office and (3) a service account officer in New York.

The lead for the account is the country account officer in the country where the client is located. That officer is responsible for account opening, including due diligence and KYC information, and maintaining contact with the customer to ensure that the relationship is operating smoothly and to market new products and services. According to the marketing head, the New York officers focused on customer service, product information, and administration of account activities. In addition, it was the responsibility of the New York office to look at overdrafts and credit issues associated with the account. Such issues were supposed to be reported to the country account officer, who had the authority to approve overdrafts and credit. According to the marketing head, it was not the responsibility of the New York office to check monthly statements or verify transactions.

Monitoring for money laundering and suspicious activity was the responsibility of the anti-money laundering unit in Tampa. As with overdraft and credit issues, any money laundering or suspicious activity issues are communicated to the country account officer, and the Financial Institutions compliance officer in New York might be notified and brought into the matter; the New York service officers may not hear of such matters. The anti-money laundering unit in Tampa had systems to identify high risk countries and generic high risk institutions, but not specific clients. According to the marketing head, until about one year ago, Citibank did not have a system in place to determine if correspondent clients should be classified as high risk. Citibank is now developing account profiles to

identify high risk customers, who will be subjected to tighter monitoring and controls.

According to an investigator assigned to Citibank's anti-money laundering unit in Tampa, the unit reviews U.S. dollar based fund transfers that fall within parameters that Citibank establishes regarding dollar amounts, high risk countries and institutions that may be indicative of money laundering. All wire transfer activities falling within the parameters are sent to Tampa for review. The transactions are then sorted by different categories and reviewed for anomalous behavior. Tampa receives records of approximately 400,000 wire transfers per month that fall within the general parameters. They are then reviewed by two people for certain characteristics that would indicate anomalous behavior. When such behavior is identified and it is determined that further investigation is warranted, the unit will develop an investigative file. Investigative files may also be created if other events or activities cause the unit to decide to conduct a review of a client account.

The unit head for Financial Institutions in Argentina told the Minority Staff that the bank in Argentina is divided into products and relationships. The relationship manager team is responsible for the coordination of the sale of products and has the primary responsibility for marketing products. The relationship managers also have responsibility for credit and KYC issues. The relationship managers report to the unit head for Financial Institutions. The unit manages approximately 70 relationships with financial institutions whose main offices are located in Argentina. It also covers relationships with another 30 institutions located in Argentina whose main offices are in other foreign countries. (In those cases, the Citibank office in the country where the client's main office is located has the lead on the relationship). The largest number of relationships is with insurance companies and the second category of relationships is with banks.

Daily operations of the client correspondent accounts are handled by the cash management and customer service units in Argentina, with assistance from Citibank in New York. Marketing and decisions on accepting and expanding relationships are the responsibility of the Argentine relationship managers, with approval from the unit head and the compliance department.

According to the Financial Institutions unit head, the primary document reflecting the due diligence information for a client is the Basic Information Report ("BIR"), which contains information on the history and nature of the institution, its ownership and its financial condition. In addition, a client folder will contain a checklist of items or information that must be obtained. The Financial Institutions unit head said that Citibank also takes into consideration other, more qualitative factors that do not appear on any checklist and are not firm requirements, such as the institution's reputation, and expectation of a minimum of 5 years of operating history in the market, audited balance sheets, certain minimum amounts of equity and whether the institution is known to some senior Citibank officials.

Ongoing monitoring consists of annual updates of the BIR and visits with the client both over the telephone and in person. However, the Financial Institutions unit head told Minority Staff that

Citibank Argentina does not review monthly account statements of the clients, that Citibank New York monitored the accounts. The market head in Citibank New York disagreed with that observation. He told Minority Staff that Citibank New York only monitored the account for overdrafts and credit issues, and Citibank New York did not monitor the monthly accounts. He said the Citibank office in Tampa was responsible for money laundering oversight. The head of the Financial Institutions unit in Citibank Argentina told the Minority Staff that he estimated that the relationship manager for MAB may have met personally with MAB officials four times per year and spoken with them over the telephone many other times. He noted that the amount of attention given to a client was related to the size of the relationship. He indicated MAB was a rather small client because it had only one product, electronic banking services.

Citibank Policy on Shell and Offshore Correspondent Accounts. When Citibank was asked in the Minority Staff survey of correspondent banking whether Citibank would "as a policy matter, establish a correspondent relationship with a bank (a) that does not have a fixed physical presence in any location, such as a shell bank," Citibank's response was:

> The GCIB [Global Corporate and Investment Bank] does not establish relationships with customer banks that have no fixed physical presence in a particular location or with banks whose licenses require them to operate exclusively outside the jurisdiction in which they are licensed.

When Citibank was asked in the survey whether Citibank would "establish a correspondent relationship with a bank (b) whose only license requires the bank to operate outside the licensing jurisdiction," Citibank's response was:

> The GCIB does not open bank accounts for banks that have no fixed physical presence in a particular location or with banks whose licenses require them to operate exclusively outside the jurisdiction in which they are licensed. However the GCIB may open a bank account for an existing customer bank's off-shore subsidiaries or affiliates.

When asked how Citibank Argentina could have accepted the correspondent account of MAB (which is not an affiliate or subsidiary of a bank but of a securities firm) in light of Citibank's policies as expressed in its survey response prepared by its Vice President and Director of Compliance for the Global Corporate and Investment Bank, the Financial Institutions unit head said he did not know if what the Vice President reported as Citibank policy was correct. He noted that the opening of the MAB account was approved by the Citibank Compliance Department. Citibank representatives at the meeting also noted that as a subsidiary of M.A, MAB activities were included as part of M.A. Group's report to its Argentine regulators. However, the Minority Staff pointed out that the regulatory agency for a securities firm is different from a regulatory agency for a bank, and such reporting cannot guarantee an

examination of the critical and potentially vulnerable areas of a banking operations.[42]

Four months after this issue was discussed and Minority Staff had asked for a clarification of the policy, legal counsel for Citibank wrote to the Minority Staff on September 29, 2000, to re-state Citibank's policy. Legal counsel informed Minority Staff that the policy presented in Citibank's survey response was "incomplete and had created a misunderstanding about the circumstances under which Citibank has account relationships with offshore banks." Citibank's counsel went on to describe a modified policy with respect to offshore banks that have no physical presence in the offshore jurisdiction:[43]

> I indicated that our response to question 11 (as well as question 10) should have made clear that Citibank would and does open accounts for off-shore subsidiaries or affiliates of existing customer financial institutions, not just existing customer banks as our response indicated, and that these off-shore relationships could be established without regard to whether the offshore entity had a fixed physical presence in the off-shore location. M.A. Bank fits this scenario, as Mercado Abierto, S.A., an Argentine financial institution that has had an account with Citibank since 1989, is the parent of M.A. Bank . . .
>
> . . . We remain uncertain about whether attaching significance to physical presence is meaningful when one considers the nature of offshore banks.
>
> . . . Offshore affiliates typically service the existing customers of the parent institution; they do not do business with residents of the offshore jurisdiction or transact business in the local offshore currency, or seek to establish an independent customer base. Their function is to serve as registries or booking vehicles for transactions arranged and managed from onshore jurisdictions. Accordingly, there is little need for a staff or physical facility and there is nothing inherently suspicious about the failure of an offshore affiliate to have a physical presence in the offshore jurisdiction.
>
> Of course these vehicles are to be distinguished from banks with offshore licenses that are not affiliated with an onshore financial institution. For such banks, physical presence may be an indicator of a legitimate operation (and the absence of a physical presence may suggest that further inquiry into the legitimacy of such a bank's operations is warranted).
>
> In Citibank's view, the key to ensuring the viability and reputability of an offshore bank that is an affiliate of a financial institution is fulsome Know Your Customer due diligence with regard to the financial institution group. Regulatory oversight

[42] Approximately one month after this interview with the head of the Financial Institutions unit, an employee at Citibank in Argentina wrote the Vice President of Financial Institutions in New York that the Argentina office was implementing a strategy for all of its Financial Institution customers. The letter stated that Citibank Argentina was beginning to close all accounts for offshore vehicles that were not consolidated under a local bank, and consequently not regulated by the Central Bank of Argentina.

[42] The concern expressed by the Minority Staff was with respect to banks that have no physical presence anywhere and are not branches or subsidiaries of another bank with a physical presence in another jurisdiction.

by offshore jurisdictions is uneven and cannot be relied on uniformly. Further, although financial institutions generally report the activities of their affiliates, including offshore affiliates, in consolidated financials that typically are presented to regulators, in cases where the parent financial institution is not a bank the oversight by the banking regulator in the onshore jurisdiction may not occur in these circumstances, although non-banking regulators may provide some limited oversight. For these reasons, careful review of the reputation and management of the parent or affiliated institution is likely to be the most important indicator of a legitimate offshore operation. And for these reasons it is Citibank's policy to avoid account relationships with offshore entities that are incorporated by an individual or entity that is unaffiliated with a larger, reputable bank or financial institution.

Offshore entities that are primarily booking entities requiring minimal personnel or physical operations often are managed from a location that is closer to the jurisdiction of the parent institution than the offshore jurisdiction. Your staff have indicated skepticism about the legitimacy of such "back offices" and inquired about the kinds of activity in which one might expect them to engage. Indeed, there seems to be some sense that a test of legitimacy might be whether a back office has the capacity to print and mail statements. The need to print and mail statements will depend on the customer base of the offshore and the nature of the business, and may defeat the purposes of offshore banking—confidentiality and tax planning. Mailing statements for activity in the private bank account of a customer, for example, risks breaches in the confidentiality as well as triggering a taxable event. Private bank customers often do not receive regular statements but rather rely on the personal relationship with the private banker for information about the status of their account.

In sum, local banks and financial institutions establish offshore affiliates for a number of legitimate purposes. Where the affiliate is a booking vehicle, the transactions may be managed from an onshore jurisdiction and there may be no need for a physical presence in the offshore jurisdiction. Thus, in Citibank's view, instead of looking to the existence or non-existence of a physical presence to determine the legitimacy of the offshore entity, it is more useful to look to the character and conduct of the larger institution with which it is affiliated.

Opening the M.A. Bank account. When the MAB account was opened in 1994, Citibank had an existing relationship with MAB's parent, M.A. Group, since 1989. The Financial Institutions unit head told the Minority Staff that because of the existing relationship with M.A. Group, Citibank had relied on the due diligence and existing knowledge of the parent company to substitute for some of the due diligence it would normally perform on a new account. For example, Citibank did not ask MAB for references for its previous correspondent bank. It did not enforce the 5 year operating requirement because, as the head of the Financial Institutions unit explained, the requirement is designed to ensure the potential client

has experience in the market place, and since MAB's parent had been in operation since 1983, that was fulfilled. The Financial Institutions unit head was not sure if Citibank received a copy of MAB's license. He explained that Citibank had received an audited financial statement that contained a note stating that MAB was incorporated in, and had a license from, the Cayman Islands.

It is unclear whether Citibank fully understood the nature of MAB's operations. The July 1994 Basic Information Report filled out for MAB contains the statement: "The entity appears in Mercado Abierto balance sheet as a subsidiary so it is regulated by Argentine Central Bank." However, an official of the Argentine Central Bank ("BCRA") told U.S. Customs agents that MAB was not licensed in Argentina, it was not regulated by the BCRA, and it was not authorized to operate in Argentina. MAB's President, Iribarne, told Customs agents the same thing. Moreover, as the unit head had explained to the Minority Staff, MAB was specifically created as an entity that was not regulated by the Argentine authorities so that it could sell international securities and bonds that it would be precluded from purchasing and selling if it were subject to Argentine regulations.

In light of Mr. Iribarne's statements to the Customs agents that indicated that MAB was operating out of M.A.'s headquarters in Buenos Aires, the Minority Staff asked the head of the Financial Institutions unit if Citibank believed that MAB had authority to operate in Argentina. The Financial Institutions unit head told the Minority Staff that he was not sure, that it was a legal matter. However he said he did not think that anyone at Citibank ever believed that MAB operated as a bank in Argentina.

When asked if he knew or believed that MAB operated as a bank somewhere else, the Financial Institutions unit head stated that MAB operated with Argentine clients, but not in Argentina. He said that since he was not involved in the detailed matters of accounts he really did not know, but he believed MAB had a back office operation in Uruguay. He noted that most Argentine financial institutions have back office operations in Uruguay for their Cayman Island facilities. He said the main reason for banks selecting Uruguay is that it would be too expensive to license a bank in Argentina if banking was not the principle purpose of the financial institution, and operating out of the Cayman Islands would be too far from the customers. He said it was a matter of cost and proximity that attracted banks to Uruguay.

The Financial Institutions unit head said he was not sure if anyone at Citibank had confirmed that MAB had a real operation in Uruguay. When asked, the Financial Institutions unit head stated that no one visited an MAB office in Uruguay as part of the initial due diligence on the bank. He said the decision makers of MAB were in Buenos Aires, so he did not think it made sense to look at a back office. Instead, Citibank had contact with the decision makers of the parent company.

When asked if anyone from Citibank had ever gone to Uruguay to confirm that MAB had a back office operation in that country, the Financial Institutions unit head said "no." The Minority Staff

asked that Citibank try to confirm the existence of such an office, but Citibank never did so.[44]

Citibank's Response to Seizure Warrants. As noted above, in May 1998 the U.S. Customs Service presented Citibank New York with seizure warrants for funds in the accounts of MAB and M.A. Casa de Cambio. $1.8 million was seized on May 18, 1998. The order was for the seizure of funds existing in the accounts at the time. There was no requirement or request for Citibank to freeze or close the accounts.

Citibank documents show that at the time of the seizure, Citibank New York informed Citibank Argentina of the seizure, and Citibank Argentina asked MAB about the matter. According to the Financial Institutions unit head in Argentina, Citibank did not connect the seizure warrant with illegal activity. When Citibank representatives in Argentina spoke to MAB officials at the time, the MAB officials indicated that they were surprised by the action and did not know why the funds were seized.[45]

According to the marketing head in New York and the Financial Institutions unit head in Argentina, neither Citibank New York nor Citibank Argentina learned that illegal funds were the basis for the seizure until November 1999, nearly 1½ years after the seizure took place.

In August 1999, the Subcommittee subpoenaed Citibank records and statements of the MAB and M.A. Casa de Cambio accounts. As a result of the subpoena, the market head in New York called the Financial Institutions unit head in Argentina and reported that Citibank lawyers in New York were asking about the possibility of closing the MAB account because of the seizure in 1998. The market head in New York called Argentina to inquire about the account and why the Subcommittee would be subpoenaing its records. The Financial Institutions unit head in Argentina told the Minority Staff that as a result of the call from New York, he instructed the relationship manager of the MAB account to find out more about the seizure action. At that point both the market head in New York and the unit head in Buenos Aires were still unaware that the seizure was related to an undercover drug operation.

In late October, MAB presented Citibank Argentina with a two page letter report on activities associated with the seizure. In the letter, MAB stated: "Customs is investigating financial transactions within the United States which are thought to be related with illegal activities." MAB identified DiTullio as the client responsible for the transfers of the funds that were seized, but did not specifically mention that the activity was related to drug trafficking. MAB noted that it had met with and was cooperating with the U.S. Customs Service.

Subsequent to the receipt of the report from MAB, Citibank Argentina sent an e-mail to the market head in New York. The e-mail recounted the details of the seizure and passed on information that

[44] The market head from New York told the Minority Staff that when Citibank installed computer equipment for MAB to enable MAB to use certain Citibank banking services, the equipment was installed in Argentina. This could be a further sign that there was no back office operation in Uruguay.

[45] The marketing head in New York told the Minority Staff that although records indicate that he, along with personnel in Argentina, were informed of the seizure shortly after it occurred in 1998, he did not recall being advised of the seizure at that time.

apparently had been received from MAB—that it had cooperated with the Customs Service, the matter was at that time an administrative not a judicial proceeding, and that a resolution was expected soon. The memo concluded with an offer to close the account:

> Notwithstanding this and even knowing that the shareholders are very well known in the market and the company has strict anti-money laundering control, we would be prepared to close the DDAs if you consider it necessary.

A decision was made not to close the accounts. According to the Financial Institutions unit head in Argentina, Citibank had a long relationship with M.A. Group and there were never any problems with the account or the entities involved, M.A. Group had a good reputation in Argentina, and Citibank did not believe that the organization or its officials would knowingly be involved in illegal activities.

The head of Financial Institutions in Argentina told the Subcommittee staff that he subsequently discussed the matter with two of his superiors in Argentina who instructed him to further investigate the matter and find out what the illegal activity was and what banks were involved. In November 1999, 18 months after the seizure warrant was served on Citibank, Citibank Argentina asked MAB for a copy of the wire transfers that were under investigation and asked MAB to prepare a copy of all of their documents relating to the entire matter. The head of the Financial Institutions unit in Argentina informed the Minority Staff that when Citibank Argentina received the copies of the transactions, he reviewed them and noticed that the names of the parties involved in the transactions seemed to him to be strange names for investors in Argentina. He told the Minority Staff that combined with the information he already had that illegal activity had been involved, he decided to inform the client that Citibank was going to close the MA accounts in mid-November. At that time, he still did not know that the transfers in question were related to drug trafficking.

Upon hearing that news, MAB and its attorneys asked to meet with Citibank officials. On the day of the meeting, Citibank Argentina finally received the information on the case from MAB, which revealed that the transactions in question were related to drug trafficking. At the meeting MAB requested Citibank to keep the account open and to keep the information confidential because closing the account or releasing the information to the public would harm their reputation and business. MAB officials also said that they were negotiating the sale of MAB to a European bank and any news on the closing of the correspondent account or the Customs investigation would damage the prospects for the sale. The Financial Institutions unit head asked for the name of the European bank, but MA officials would not provide it. MAB requested a meeting with Citibank New York. Citibank held off on closing the account. The Financial Institutions unit head responded that the issue was a compliance matter for the bank and he could not make a decision. Although initial efforts were made to arrange the meeting with Citibank New York, it never took place.

On December 2, 1999, a few days after Citibank received the materials from MAB and held the meeting with its principals, newspaper articles revealed that MAB accounts were frozen because of drug trafficking. According to the head of the Financial Institutions unit the action taken by Citibank Argentina at that time was to send the material to New York and place the matter in the hands of compliance in New York. Although the Financial Institutions unit head told the Minority Staff that he had previously made the decision to close the account, that action was not taken.

On December 2, 1999, the Financial Institutions unit head sent a memorandum to the head of compliance for Argentina. The memorandum recounted the history of the MAB case and the steps that had been taken by Citibank Argentina; it suggested that the closing of the account was delayed to allow public attention to dissipate. The memo included the following:

> From the standpoint of process Citibank Buenos Aires cannot exercise control over accounts at Citi New York. The follow-up of that is the task of AML [anti-money laundering] and we have never received any communication in that regard. The amounts involved are not very significant because these are individual transfers of US 500,000, insignificant in the movements of the client.
>
> The closing of the account is already decided but the present situation obliges us to wait a few days until the issue ceases to be public. The subject is being aired publicly because letters rotatory have come from the Mexican authorities seeking to recover properties purchased with these funds, since the funds apparently come from Mexican Banks.
>
> This case can be used politically to pressure the Congress for prompt passage of laws on money laundering.
>
> We still believe that MA acted in good faith in this case, but the public character it has taken on will mean hardship for that entity to the extent of having to close its operations.

On December 3, Citibank formally blocked the MA accounts and its legal staff conducted an investigation of all of the MA accounts. Also, on December 3, 1999, the MAB relationship manager in Argentina e-mailed the New York marketing officer who handled the MAB account. Her communication included the following:

> As I anticipated yesterday, this issue has become public. We are in the middle of an ARR which will ask us about the following points:
>
> 1) What AML [anti-money laundering] control procedures does Citibank New York have? Do we know that there is an AML unit that controls the transactions, among others those sent under PUPID. At the appropriate time the BIR of the client in which the average movements of each of the accounts is shown was sent. Are there such controls? Is the AML unit in Tampa the one in charge of doing it or each division in New York?

The next day, Citibank New York responded:

> I have placed a call to [the investigator], AML Unit, Florida for confirmation of what aspects of AML they monitor.
>
> Citibank NY is currently in the process of establishing an AML procedure for your FI [Financial Institution] accounts located in New York. I will forward correspondence separately to you today to initiate this process.

According to the head of the Financial Institutions unit, Citibank Argentina was told to close the accounts in February 2000, nearly 21 months after the seizure took place. Between the time the seizure warrant was served on Citibank in 1998 and September 1999, MAB moved $304 million through its correspondent banking account at Citibank.

Between the service of the seizure warrant in May 1998 and October 1999, Citibank did not follow up on information and communications available to it that would have revealed that the activities being investigated were related to drug trafficking. The seizure warrant served on Citibank in May 1998 indicated the seizure was related to money laundering. Citibank informed the Minority Staff that it did not notice that information when the warrant was served. The press gave widespread attention to the indictments and warrants served on numerous U.S. and foreign banks as a result of Operation Casablanca. Citibank was identified as a recipient of some warrants. Apparently, those reports did not result in any review or investigation inside of Citibank, otherwise the connection with the MAB seizure warrant would have been discovered. In June 1998, MAB wrote to Citibank and asked that Citibank:

> Furnish us a report on the origin, cause [and] authority acting on the attachment order received, as well as all actions taken by you whose objective was to make disposition of Lloyds in our current account No. 361111386, as far as possible, providing us an exact copy of the documentary evidence attesting to the existence of such judicial order and of the transfers or other actions taken by you as a consequence thereof.

Citibank can find no communications that responded to MAB's inquiry. The preparation of a response to MAB would likely have informed Citibank that the seizure warrant was related to money laundering associated with drug trafficking.

In 1998 and early 1999, MAB raised the issue of the seizure several times in communications and meetings with Citibank. In May 1998, Scassera and Iribarne told the relationship manager that they did not know who ordered the transfers and were hiring an attorney in the United States to represent them in the investigations. In June Citibank received notice from MAB that the U.S. Customs Service would be requesting monthly statements and all related documentation from the MAB account. On four subsequent occasions (August, September and October 1998 and March 1999) MAB informed Citibank of its communications and contacts with the Customs Service. None of these contacts caused Citibank to make additional inquiries or learn what the nature of the action was and why the Customs Service was so interested in the account.

According to the Financial Institutions unit head, Citibank never made a connection that the involvement of the Customs Service

suggested that there might be illegal activity involved. Moreover, he told the Minority Staff that he had asked the relationship manager to find out what was involved in the situation, but the client never told her what was really going on. He noted that in March MAB officials informed the relationship manager that they expected the money to be returned soon.

When asked by the Minority Staff why Citibank did not threaten to close the account if MAB was not being responsive to its inquiries, the unit head remarked that the client was someone Citibank totally trusted and therefore never thought the seizure was related to anything illegal. Also, he told the Minority Staff that MAB told Citibank that the investigation involved one of it clients. He said under such circumstances he would have thought the warrant was related to a commercial matter.

After MAB told Citibank in October 1999 that the Customs investigation involved financial transactions related to illegal activities, it took Citibank nearly one additional month to get the information that provided details on the matter.

Additionally, Minority Staff informed Citibank counsel in late September or early October 1999 that the basis for the Minority Staff's interest in the matter was because the funds seized were the result of drug transactions related to Operation Casablanca. Apparently this information was not passed on to the market head in New York and the head of the Financial Institutions unit in Argentina, because in late October Citibank personnel in New York and Argentina still did not know the reason for the seizure.

In September 2000, legal counsel for Citibank wrote a letter to Minority Staff to explain the bank's response to the seizure warrant. In the letter Citibank informed the Minority Staff that:

> Although there was nothing on the face of the warrants that linked the seizures to narcotics proceeds, the warrants did contain statutory references to 18 U.S.C. Secs. 981 and 984 and to 18 U.S.C. Secs. 1956 and 1957.
>
> . . . The legal personnel who received the warrants apparently did not recognize that they were related to money laundering allegations and simply processed them without pursuing further inquiries.
>
> . . . Neither did the business people in New York recognize the statutory citations in the warrants as related to money laundering. Without the benefit of the affidavit, they assumed these seizure warrants, like the vast majority of those received by Citibank, were related to a civil dispute, which would not trigger an in-depth account review.
>
> . . . Citibank did not appreciate until late September 1999 that the seizure warrants were linked to narcotics trafficking.
>
> . . . in response to this letter, members of the Minority Staff shared with Citibank counsel either a summary of the information contained in Agent Perino's affidavit or the affidavit itself.
>
> . . . Citibank lawyers made inquiries to the business people about the status of the M.A. Bank account.

. . . However, . . . neither Mr. Norena or Mr. Lopez was informed that the inquiry related to allegations that the M.A. Bank account had been used to launder proceeds of narcotics trafficking. Mr. Lopez, who thought the seizure warrant was routine, did not understand the basis for the renewed interest in the seizure or the implication that the seizure should have triggered an account review.

. . . Mr. Lopez . . . initiated an inquiry with the principals of Mercado Abierto who informed him of the allegations that M.A. Bank had been used to launder drug money and, on November 19, 1999, provided him with Agent Perino's affidavit. Thereafter, Mr. Lopez recommended that Citibank terminate all of its relationships with the Mercado Abierto group, even though the Mercado Abierto principals appeared to be cooperating with the Customs Service investigation and believed that the allegations that had led to the seizure of the accounts would be quickly resolved in their favor.

. . . Citibank itself was not in a position to confirm that any suspicious account activity or pattern was in fact related to the laundering of drug money. The Mercado Abierto accounts were blocked on December 3, 1999, and were formally closed as of February 21, 2000.

. . . In deciding to open the correspondent banking accounts that were the subject of May 18, 1998 seizure warrant, Citibank was dealing with an established customer who enjoyed an excellent reputation as a long-established and significant member of the Argentine financial community.

. . . Mercado Abierto today manages an investment portfolio worth $400 million and in April of this year ranked seventh among brokers in the Buenos Aires stock exchange. Further, in the course of performing its Know Your Customer due diligence, Citibank reviewed anti-money laundering policies that had been adopted by Mercado Abierto.

. . . But what may have happened here, as the Customs Service's Forfeiture Complaint speculates is that one of the principals "intentionally dispensed with virtually all of the standard internal controls and processes generally required to open accounts with M.A. Bank and/or M.A. Casa de Cambio."

. . . In circumstances like these, in which a principal is alleged to have subverted his own institutions internal controls the most careful scrutiny by Citibank may not be enough to prevent an unscrupulous principal from attempting to abuse the correspondent banking system once a correspondent account has been established.

. . . Although we believe that the opening of the M.A. Bank account was appropriate, Citibank's failure to undertake a complete account review in May 1998, when the seizure warrant was first received was not. As a result of the lessons learned from this episode, Citibank has adopted new procedures to process those seizure warrants that affect its relationships with correspondent banks in emerging markets, like the

seizure warrants that Citibank received for M.A. Bank and M.A. Casa de Cambio.

In March 2000, after the MA accounts had been closed, an investigator in Citibank's anti-money laundering unit conducted a self-initiated review of all of the MA Group accounts. The investigation was undertaken after the investigator saw an article about MAB in a local newspaper. In June he produced a report which included the following:

> According to an article taken from *The Miami Herald* dated March 1, 2000, "Alejandro Ducler, [sic] a former vice minister of finance for Argentina, allegedly transferred $1.8 million in drug cartel proceeds. Dulcer [sic] is one of the owners of the Argentine financial holding firm known as Mercado Abierto, which owns M.A. Casa de Cambio, M.A. Valores S.A. and M.A. Bank Limited. All four held accounts with Citibank. . . . After reviewing the funds transfer activity of the aforementioned from April 1997 through March 2000, a total of $84,357,473.21 was transferred to the entities mentioned below. The consecutive whole dollar amounts transferred and the nature of the business contributed to the rise in suspicious activity and ongoing monitoring."

The entities identified in that report include some that were engaged in a significant amount of transactions with MAB. Citibank representatives informed Minority Staff that it was not accurate to conclude that the $84 million in transactions identified in the AML review were suspicious. According to Citibank representatives, the review identified those transactions that involved dollar amounts and institutions that fell within parameters established by the anti-money laundering unit. Those parameters are based on information obtained through U.S. Government advisories and other expert opinion on where the bulk of money laundering occurs. According to Citibank representatives, the determination of whether the $84 million worth of transactions falling within those parameters were anomalous or suspicious would require more investigation and analysis. That was not performed. The Minority Staff has since learned that Citibank did file a Suspicious Activity Report on the $84 million in transactions.

FEDERAL BANK

(1) Grupo Moneta and Banco Republica

Grupo Moneta, an economic group in Argentina, was, according to Citibank records, established in December 20, 1977. According to Citibank documents,[46] Grupo Moneta was owned equally (33% each) by Argentinians Raul Moneta, Benito Lucini, and Monfina, S.A., an entity owned by the members[47] of the Moneta family. In October 1983, the Central Bank of Argentina approved the establishment of a wholesale bank in the group, Banco Republica. In March 1992, the Bahamas approved the establishment of an off-

[46] See organizational charts from 1997 and 1999 at the end of this chapter.

[47] Monfina S.A. according to Citibank records is owned equally by Raul Moneta, Fernando Moneta, Alejandra Moneta de Moim, and Alicia Moneta de French. Jorge Rivarola held a 1% interest in Grupo Moneta as well.

shore bank in the group, Federal Bank Ltd. Federal Bank was understood by Citibank officials to be an offshore vehicle for customers of Banco Republica, and its correspondent relationship was handled by Citibank in that context.

Grupo Moneta was described in a Citibank memorandum in November 1996 as "one of the most important groups in the country [of Argentina] with consolidated assets of approximately $500 million." According to Citibank documents, it owned at various times a number of financial entities in addition to Banco Republica and Federal Bank. These entities which were owned either directly or through other companies included Adamson Inc.; Republica Holdings,[48] which, along with Citibank, owned stock in CEI Citicorp Holdings, a company which owns stock in various telecommunications and media companies in Argentina; Citiconstrucciones, a construction company unrelated to Citibank; and International Investments Union, Ltd. Banco Republica also owned a percentage of CEI Citicorp Holdings and several other entities, including a controlling percentage in two consumer banks, Banco Mendoza and Banco de Prevision Social.

Citibank had a long-term relationship with Grupo Moneta and the families of its owners, Raul Moneta and Benito Lucini. This relationship had two primary components: Citibank's correspondent relationship with Banco Republica, which included both cash management and credit services; and Citibank's ownership interest, together with Grupo Moneta, in CEI Citicorp Holdings. Citibank also maintained accounts for other Grupo Moneta entities, including its correspondent account with Federal Bank. The financial institutions division of Citibank Argentina, which had responsibility for correspondent relationships in Argentina, treated its relationship with Banco Republica and its relationship with Grupo Moneta in tandem and almost interchangeably, often including an assessment of the Grupo Moneta relationship as a whole when addressing the status of Banco Republica. Federal Bank was analyzed by Citibank as a subset of the Grupo Moneta and Banco Republica relationship.

(2) Federal Bank Ownership

According to the Central Bank of the Bahamas, Federal Bank was licensed in July 1992 "to conduct unrestricted banking business from within The Commonwealth of the Bahamas."[49] However the 1999 annual statement of Federal Bank says its license is restricted to "conduct banking and trust business with non-residents," making it an offshore bank. This discrepancy was not explained, but the evidence is clear that Federal Bank did not act as a domestic bank in the Bahamas but confined itself to offshore banking activities. The Bahamas Central Bank said the registered office of the bank and the managing agents of the bank are the Winterbotham Trust Company, Limited, of Nassau.

The Central Bank of the Bahamas provided the Subcommittee with a document claiming to show the ownership of Federal Bank. The owners on the document were identified as Abraham Butler,

[48] The name of Republica Holdings prior to January 28, 1998, was United Finance Company, or UFCO.

[49] Letter dated September 7, 2000, from the Manager of the Bank Supervision Department of the Central Bank of the Bahamas to the Subcommittee.

George Knowles, and Philip Beneby, each listed as a banker in Nassau, Bahamas. Butler is shown as holding 50,000 shares; Knowles as holding 1,650,000 shares; and Beneby as holding 3,300,000 shares. When the Minority Staff inquired as to the identity of these three persons, the Central Bank said that each of the individuals is an employee of Lloyds TSP Bank in the Bahamas, which acted as Federal Bank's managing agent prior to the Winterbotham Trust Company. The Central Bank explained that Bahamas law used to allow individual officers of the registered agent to serve as nominee owners of the bank being managed. The Central Bank said that there was no good reason for this practice, it effectively disguised bank ownership, and the Bahamas no longer allows it. The Central Bank told the Minority Staff they expect that by the end of the year, the law will require bank records to reflect the names of the actual beneficial owners of all banks licensed in the Bahamas that conduct business with the public.[50]

In a telephone conversation with the head of the Central Bank of the Bahamas, the Central Bank confirmed to the Minority Staff that the actual ownership of Federal Bank is similar to that reported by Citibank for Grupo Moneta, with 33% of the shares owned by Raul Moneta; 33% owned by the members of the Moneta family; 30% owned by Benito Jaime Lucini; 3% owned by Paulo Juan Lucini; and 1% owned by Jorge Rivarola. But for the 3% ownership by Paulo Lucini, this information comports with the ownership information contained in the Citibank documents for Grupo Moneta.[51]

In a claim directly contradicted by the information provided by Citibank and the Central Bank of the Bahamas to the Minority Staff, Raul Moneta is reported as having recently denied any ownership in Federal Bank in an interview with *The Miami Herald*.[52]

(3) Financial Information and Primary Activities

In a December 1998 analysis of Banco Republica by Citibank, in a document entitled a "Commercial Bank Individual Analysis," the Resident Vice President of Citibank Argentina described the sources of Banco Republica's funding as follows:

> The principal source of funding for BR is its base of deposits, which represents 55% of its funding. Within the composition of its deposits, we find that the principal type of BR deposit is CD's of individuals with substantial assets who trust Raul Moneta [one of the owners of Banco Republica]. This represents a change with respect to the past, since the number of deposits of institutional investors has decreased.
>
> Second, 45%, is the lines of credit with foreign banks, which BR uses frequently for foreign trade transactions. In addition,

[50] When asked why Federal Bank's nominee owners had such a wide disparity in the number of shares each is recorded as owning, the Central Bank said it did not understand the reason for the records reflecting the differences in shares.

[51] Banco Republica did not itself have any direct ownership interest in Federal Bank. Both banks were entities owned by Grupo Moneta.

[52] "Miami Banks Used for International Money Laundering, Investigation Reveals," by Andres Oppenheimer, February 5, 2001.

> BR has lines of credit with local banks such as Galicia, Deutsche, and Sudameris.[53]

Martin Lopez, Citibank's relationship manager for Grupo Moneta entities from 1995 to 2000, told the Subcommittee that his understanding of Banco Republica was that it was a wholesale bank in Argentina that dealt with corporate customers and private bank customers in Argentina. He described Federal Bank as an offshore vehicle "to help private banking customers" of Banco Republica.[54] He added that Federal Bank was created to replace American Exchange Company, another offshore vehicle of Grupo Moneta incorporated in Panama with an office in Uruguay. American Exchange Company is discussed later in this chapter.

Lopez explained that the purpose of Federal Bank was to help private banking customers of Banco Republica who wanted to keep their deposits out of Argentina for fear of the country's economic instability. He said domestic banks like Banco Republica, in order to compete with international banks, set up these kind of offshore banks. Lopez described Federal Bank as a small offshore bank with not more than 200 or 250 customers. He said the deposits in Federal Bank belong to customers of Banco Republica and that Grupo Moneta used these deposits to provide loans through Federal Bank to another Grupo Moneta entity, Republica Holdings.[55]

In a memo dated February 6, 1997, Lopez described the elements of the Federal Bank role in Grupo Moneta:

> The existence of this vehicle is justified in the group's strategy because of the purpose it serves:
>
> (a) To channel the private banking customers of Banco Republica to which they provide back-to-backs and a vehicle outside Argentina where they can channel their savings, which are then replaced in Banco Republica by Federal Bank, constituting one of the bank's most stable sources of funding (approximately US $34 MM). (b) To channel the cash flow of the partners of Banco Republica and serve, with these deposits and the assets of Federal Bank, as a bridge, financing loans aimed at companies associated with CEI. (c) To finance UFCO[56] through swaps of their share positions giving it financing against the most liquid shares (Telefonica, Telecom) for US $20 MM which, in turn, Federal matches with banks abroad.[57]

The financial statement for Federal Bank for the year ending 1999 shows total assets in 1998 of almost $252 million and in 1999 of almost $133 million. The main liabilities included about $50 million in deposits and $40 million due to banks each year; $64 million in 1998 and $8 million in 1999 owed to creditors for purchases of securities; and $66 million in 1998 and $4 million in 1999 as "forward sales of securities." The 1999 financial statement describes

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[53] Translated from Spanish by the Congressional Research Service.

[54] By private banking customers, Lopez meant wealthy individual seeking wealth management services from the bank.

[55] Republica Holdings, according to Lopez, has three holdings itself. Grupo Moneta's CEI shares, Telephonica Argentina shares, and Telecom shares. He added that sometimes when Republica Holdings has to pay interest on its money, it gives its shares in these entities to Federal Bank as collateral and Federal Bank loans Republica Holdings the money it requires.

[56] UFCO changed its name to Republica Holdings in January 1998.

[57] Translation from Spanish provided by the Congressional Research Service.

Federal Bank's "line of business" as "placing short-term deposits with members of the international banking community and making loans to customers either in currencies or securities and trading in securities."

The Minority Staff reviewed the monthly statements of Federal Bank for its correspondent account at Citibank and determined that during the course of Federal Bank's correspondent account at Citibank New York, from November 1992 through May 2000, over $4.5 billion[58] moved through the account. This figure exceeds any other offshore bank examined by the Minority Staff for that period.

(4) CEI

Citibank was not only the correspondent bank for Banco Republica and Federal Bank, Citibank was also a partner with Grupo Moneta and Banco Republica, and—for a brief time—with Federal Bank, in a holding company called CEI Citicorp Holdings, S.A. (originally named Citicorp Equity Investments, S.A.), referred to hereafter as CEI. To understand the correspondent banking relationships, it is necessary to also be familiar with this business collaboration.[59]

Citibank started CEI as a company to hold and manage the stock of companies in Argentina which Citibank came to own as a result of defaults on loans and conversion of its Argentinian bonds, using debt for equity swaps. Citibank owned its interest in CEI through a Delaware corporation Citibank established called International Equity Investments (IEI). Citibank's purchase of equity in Argentinian companies through its ownership of IEI and, in turn, CEI, was approved by the Office of the Comptroller of the Currency (OCC) in 1992,[60] with the condition that Citibank reduce its ownership of CEI over time. For example, the OCC said Citibank could hold no more than 40% of CEI's shares by the end of 1997, at which time CEI was to be managed by a third party, and Citibank would, by a certain time, have to completely divest itself of any ownership interest in the company. The OCC also imposed a number of other relevant conditions on Citicorp's activities relative to CEI.

In 1992, when Citibank was in need of capital and pursuant to its agreement with the OCC, it looked for a purchaser of some of its CEI stock. It found that purchaser in Raul Moneta and his financial organization Grupo Moneta. While it is difficult to piece together exactly how the Grupo Moneta's shares in CEI were purchased and distributed, it appears that in July 1992 Citibank sold approximately 10% of its CEI stock to Grupo Moneta through United Finance Company Limited (UFCO); UFCO purchased an

[58] The Minority Staff calculated that the total amount of money deposited in the Federal Bank correspondent account at Citibank New York from November 1992 through May 2000 was $4,317,646,934, excluding 5 months for which the monthly statements are missing. When estimated amounts for the missing 5 months are added to the total, the result exceeds $4.5 billion.

[59] See "Remarks Grupo Republica," dated 2/6/97, by Citibank, PS018310. "This association (CEI) means, both for Grupo Moneta and Citibank, a long-term strategic alliance which requires, because of the amount of the investment and the relative weight of Grupo Moneta therein, a very strong interrelationship between both and a commitment by both to maintain that relationship." (Translated from Spanish by the Congressional Research Service.) The Minority Staff's account of the ownership and operation of CEI is based on a briefing provided by Citibank attorneys.

[60] Interpretive Letter No. 643, July 1, 1992, Frank Maguire, Acting Senior Deputy Comptroller.

additional percentage of CEI in December 1992.[61] Out of its shares of CEI stock, UFCO sold a 4.27% interest in CEI to Banco Republica. Citibank loaned UFCO a substantial percentage of the funds it needed to purchase the CEI stock.

In 1998 Citibank sold additional shares of CEI stock to Grupo Moneta, and Grupo Moneta increased its overall ownership to 39.9%.[62] Over time the ownership of CEI changed, and as of May 31, 2000, according to the June 30, 2000, annual report filed with U.S. Securities and Exchange Commission, the principal shareholders of CEI were Ami Tesa Holdings Ltd. (ATH) (67.7%) and Citibank New York (23%). Hicks, Muse, Tate and Furst, Inc. held approximately 40% of the ATH stock, and approximately 27% of the ATH stock was held in escrow by Citibank for Republica Holdings and ITC, both owned by Grupo Moneta.

In its June 2000 report, CEI described itself to the Securities and Exchange Commission as "a holding company primarily engaged through controlled companies and joint venture companies in the telecommunications business, the cable television business, and the media business in Argentina."

(5) Correspondent Account at Citibank

Citibank opened its correspondent account for Banco Republica in 1989.[63] It opened a correspondent account for Federal Bank in 1992. The Banco Republica account stayed open until 1999, and the Federal Bank account stayed open until 2000, when both accounts were closed due to the collapse of Banco Republica because of a "run" on the bank in 1999. The "run," according to Lopez was due to the publication in the Argentine press of information that Banco Republica had received a CAMEL rating of 4 from the Central Bank of Argentina. CAMEL ratings are used to grade the financial stability, safety and soundness of a banking institution. The ratings range from 1 to 5, with 5 being the worst. A CAMEL rating of 4 is considered very poor, and both Lopez and Carlos Fedrigotti, President of Citibank Argentina, told the Subcommittee they would not open an account for a bank with a CAMEL rating of 4.

The account opening documentation produced by Citibank for the Banco Republica account is limited. It consists of a Legal Agreement dated August 30, 1989, regarding use of Citibank's Global Electronic Financial Network, the list of account numbers (there appear to be two), an account opening checklist that appears to be a reminder for sending information to various departments within Citibank, several apparently minor messages, an information sheet creating the accounts, and what appears to be a letter of request to Citibank Argentina to open an account signed by Jorge Maldera and Pablo Lucini, both directors of Banco Republica. The account opening documentation produced for the Federal Bank account is even less; it consists of a single signature card signed by Jorge

[61] Citibank's attorney wrote to the Subcommittee on February 25, 2001, after reviewing a draft of this report and said that the sale to UFCO in December 1992 was an additional 10% of CEI. Documents in Citibank files, however, suggest that the 1992 sale was larger than 10%.

[62] This increase in CEI shares for Grupo Moneta was accomplished through the purchase of the shares by Republica Holdings, formerly UFCO. It is uncertain when the Central Bank of Argentina became aware of the fact that UFCO or Republica Holdings was owned by Grupo Moneta.

[63] It also opened an account for American Exchange Company at the same time. It appears Citibank used a common account opening document for both institutions.

Maschwitz as Director of Federal Bank. There is no documentation in the Citibank account opening records for either bank with respect to: Ownership, an audited financial statement, references from regulators or others about the bank's reputation, or a copy or discussion of anti-money laundering procedures.

Although Federal Bank is a shell bank with an offshore license, Citibank told the Subcommittee that it had a correspondent relationship with Federal Bank because Federal Bank was part of the larger financial enterprise of Grupo Moneta and was the offshore vehicle for Banco Republica, the owners of which Citibank said they knew very well. For example, one Citibank document written in March 1997 states: "There is a close relationship between our Senior Management and R. Moneta. This, added to the association that exists between this group and CEI, means that Citibank has profound knowledge of the corporate structure, details of its organization, and the operation of Grupo Moneta and Banco Republica." Another Citibank document states that Raul Moneta "has easy access to our Senior Management (John Reed, Bill Rhodes, Paul Collins, etc.)." [64]

Although Federal Bank was an offshore shell bank licensed in a country known for weak banking and money laundering controls, Citibank documentation does not indicate any steps taken to ensure enhanced scrutiny of this bank. To the contrary, Citibank appeared to ignore even basic due diligence requirements it had in place for correspondent accounts. For example, although Citibank normally requires an on-site annual visit to its bank clients, Lopez said that as the relationship manager for Federal Bank, he never visited it and doesn't know anyone from Citibank who has. When asked where the bank is located, Lopez said he "has a feeling" it is in Uruguay in the offices of "some representative or attorney." When asked about the absence of a physical location for its customers, Lopez said it is like M.A. Bank; "they only need a booking unit that receives deposits and could make loans."

Lopez said that he knew Federal Bank was not permitted to conduct banking business in Argentina and that it did not have any other correspondent accounts other than Citibank, apart from its correspondent relationship with Banco Republica. Since Federal Bank is a shell bank and thus totally dependent upon its correspondent relationships, it appears that all of Federal Bank's transactions were conducted either through its correspondent account at Citibank or its correspondent account at Banco Republica.

(6) Regulatory Oversight

The regulatory authority for Banco Republica is the Central Bank of Argentina, also known as BCRA. According to Carlos Fedrigotti, the President of Citibank Argentina, the BCRA "gets

[64] Several Citibank reports on Grupo Moneta and Banco Republica note specifically the close relationship Citibank Argentina has with the owners of Grupo Moneta. A credit report from August 1997 states: "We have excellent contacts at the Senior level. . . . This close relationship gives us access to confidential internal Bank information." And a Commercial Bank Analysis of Banco Republica dated December 1998 states: "The bank's Senior Management has a strong relationship with Raul Moneta, who is No. 1 in this group. The relationship came about as a result of the 'shareholder' relationship Citibank has with Grupo Republica in CEI (Citicorp Equity Investment). Raul Moneta has easy access to our Senior Management (John Reed, Bill Rhodes, Paul Collins, etc.)." John Reed is the former Chairman of Citibank; Bill Rhodes is a Vice Chairman, and Paul Collins is a retired Vice Chairman.

good reviews" from both the banking industry in Argentina and outside parties such as the World Bank and the International Monetary Fund. Fedrigotti said the BCRA has "done a good job in cleaning up" the banking industry in Argentina and that the industry is far safer than it was 6 or 7 years ago. Fedrigotti said Citibank Argentina gets audited on an annual basis; and the Minority Staff learned that Banco Republica was subject to two audits that took place from 1996 through 1999.

The Financial Action Task Force on Money Laundering ("FATF") and the U.S. State Department's most recent International Narcotics Control Strategy Report ("NCSR 2000") report indicate that Argentina's anti-money laundering efforts are mixed. Argentina did not have a comprehensive anti-money laundering law until the year 2000.[65] Based upon passage of this new law, FATF recognized Argentina as a full member for the first time in 2000. However, FATF's latest annual report (2000) states:

> Recent high-profile investigations have shown evidence that drug cartels are active in Argentina, and underlined fears that it could become a growing international money laundering center. While there was no indication of other sources of illegal proceeds, it is believed that bribery and contraband could also contribute to the money laundering which occurs in Argentina.

The regulatory authority for Federal Bank is the Central Bank of the Bahamas. In June 2000, the Bahamas was one of 15 countries named by FATF for weak anti-money laundering controls and inadequate cooperation with international anti-money laundering efforts. The INCSR 2000 report describes the Bahamas as a country of "primary" money laundering concern due to "bank secrecy laws and [a] liberal international business company (IBC) regime [which] make[s] it vulnerable to money laundering and other financial crimes." While banking and money laundering experts interviewed by the Minority Staff described the Bahamas as having good intentions and making important improvements, during the 1990's it provided weak oversight and inadequate resources to regulate its more than 400 offshore banks.

Because Federal Bank and Banco Republica were both owned by Grupo Moneta, Federal Bank might also be expected to be subject to oversight by the Central Bank of Argentina as an affiliate of Banco Republica. As Citibank Argentina President Fedrigotti told the Subcommittee, if Federal Bank had been linked to Banco Republica, it would have been reviewed by BCRA. But that link was not made, however, because Banco Republica did not directly own Federal Bank, and, although Citibank knew that Federal Bank was owned by the same persons who owned Banco Republica (Grupo Moneta), the Central Bank of Argentina did not.

Ironically, in fact, Citibank officials expressed concern internally about the weak regulatory oversight of Federal Bank, because they knew the Central Bank of Argentina was not aware of the common ownership of Federal Bank and Banco Republica. In an internal

[65] The Minority Staff has been advised that the effective date of the new anti-money laundering law (law 25.246) was actually February 7, 2001, because it was awaiting the approval of the President of Argentina before it could be implemented.

memo,[66] Lopez, the relationship manager for Grupo Moneta entities, wrote, "Its [Federal Bank's] existence is not reported as linked to BCRA despite being a banking vehicle (offshore category D in our policy), which makes it a risky vehicle per se because of having only the control of the Central Bank of the Bahamas." Yet, as discussed later, when the Central Bank asked Citibank about Federal Bank's ownership, Citibank chose to keep silent about the offshore bank's links to Banco Republica and Grupo Moneta. In addition, Citibank failed to give any heightened scrutiny to what its own relationship manager characterized as "a risky vehicle per se."

(7) Central Bank of Argentina Concerns

Resolution No. 395/96. The Central Bank of Argentina has established limits with respect to the amount of stock a bank can hold in a company to which it is related and the amount of loans a bank can make to related companies. In 1996 the Central Bank became concerned about the extent of Banco Republica's ownership (4.27%) in CEI. That amount represented more than 15% of Banco Republica's computable equity, which is the limit previously established by the Central Bank. Banco Republica asked the Central Bank for a waiver of the 15% limit for 3 years. The Central Bank granted that waiver on the condition that Banco Republica "refrain from carrying out any transaction that involves, even temporarily, directly or indirectly increasing the financing of CEI or assuming any risk connected with said company." It went on to require that Banco Republica not "increase its stake in other companies, except those that may eventually be associated with Banco de Mendoza S.A.," a retail bank Banco Republica was in the process of purchasing.[67]

During the 1996/7 audit, the Central Bank expressed concern that Banco Republica had increased its shares of CEI. The auditors referred to a conflict between what it was being told by Banco Republica, that the bank owned 4.27% of CEI, and what it had learned from the media and another inspection, that Banco Republica owned 33–35% of CEI. The references in the news media to a larger share of CEI are likely the ownership interest of UFCO (discussed above), also owned by Grupo Moneta. It is uncertain whether the Central Bank at the time of the 1996/7 audit knew that UFCO was owned by Grupo Moneta. The Central Bank appears to suggest that another entity linked to Banco Republica may hold the CEI shares, but it does not mention UFCO in that context. The Central Bank apparently tried to resolve the discrepancy by asking CEI for the ownership information directly, but it appears that at the time of the audit, it did not have a response from CEI. The Central Bank put as its first item for its next inspection, "Fulfillment of Resolution No. 395/96".

In August 1998, according to Citibank documents,[68] Grupo Moneta "increased its stake in CEI to 39.9% . . . and at the same time Raul Moneta was named president of CEI. . . ." The 1998 in-

[66] See "Remarks on Grupo Republica" dated 2/6/97, PS018309. "Federal Bank Ltd.: Located in the Bahamas with US $25 MM in capital. Its existence is not reported as linked to BCRA [Central Bank] despite being a banking vehicle (offshore category D in our policy), which makes it a risky vehicle per se because of having only the control of the Central Bank of the Bahamas."

[67] See Resolution No. 395, Buenos Aires, August 28, 1996, Central Bank of Argentina.

[68] See FITS Argentina memo dated April 1997.

crease in shares in CEI was, it appears, in the name of Republica Holdings (formerly UFCO). If the Central Bank were to treat affiliated ownership as subject to the restrictions of Resolution 395/96, then, this increase in CEI ownership by Grupo Moneta would be a violation of the Central Bank's Resolution 395/96.

In addition, under the Resolution it appears Banco Republica was prohibited from lending money to CEI related entities. Yet in the Citibank internal documents assessing the activities of Federal Bank, Citibank notes that one of the purposes of Federal Bank is "(t)o channel the cash flow of the partners of Banco Republica and serve, with these deposits and the assets of Federal Bank, as a bridge, financing loans aimed at companies associated with CEI." This activity appears to be an end-run around the conditions imposed on Banco Republica by the Central Bank Resolution. Since Banco Republica is apparently prohibited from loaning money to companies associated with CEI, it appears Grupo Moneta was using Federal Bank to do what Banco Republica could not do. But because the Resolution prohibits Banco Republica loans "directly or indirectly" to CEI related companies, it may reach the activity of Federal Bank, as an affiliated entity, as well.

Audits. In 1996/7 and 1998, the Central Bank of Argentina conducted audits of Banco Republica, and copies of these audits were made available to the Subcommittee. These audits identify numerous concerns by the Central Bank about the management and operations of Banco Republica, and both resulted in a CAMEL rating of 4 for the bank. Although Citibank had, according to its records, "access to confidential internal bank information" about Banco Republica and had "profound knowledge" of its structure, organization and operation, Citibank said it was unaware until 1999 that Banco Republica had been given a CAMEL 4 rating by the Argentine Central Bank. A comparison of the information obtained by the Central Bank during these audits with the information Citibank Argentina had as a result of its correspondent relationship raises additional serious discrepancies and questions about the effectiveness of Citibank's due diligence and ongoing monitoring.

a. Operations and Anti-Money Laundering Controls. Citibank Argentina repeatedly notes in its analyses of Banco Republica that the bank has an anti-money laundering program. In a FITS memo (a brief financial analysis of a bank with which Citibank Argentina has a credit relationship) of April 1997, Citibank notes: "BR has internal procedures to prevent money laundering, including KYC policies. This matter is overseen by Banco Central de la Republica Argentina. We have no evidence or information from third parties that BR was or is carrying out illicit money laundering transactions with the knowledge of its management or shareholders." But in the BCRA audit of 1998, the BCRA notes with concern: "The entity under examination [Banco Republica] does not have a manual containing the programs against laundering money from illicit activities," despite early requirements that it do so and "despite the fact that the internal Auditor, in his report on the work performed between July 1997 and June 1998, pointed out that 'It is necessary to set up a manual

of rules and procedures regarding precautionary measures with respect to laundering. . .'"

The Subcommittee asked Lopez whether he had obtained from Banco Republica a copy or documentation of Banco Republica's anti-money laundering program. Lopez said he discussed the anti-money laundering program with Banco Republica management during his annual reviews and was told by the management that Banco Republica had such a program. He said he was satisfied with that response and assumed the same program would apply to Federal Bank. Lopez said he had not seen the BCRA report prior to his preparation for the Subcommittee interview, that it "was disturbing" and " shocking" to see the BCRA finding that no written procedures existed and that Banco Republica "never disclosed" to Citibank Argentina that they had a problem with the BCRA. Lopez said that sometimes his office asks to see a bank's anti-money laundering manual and sometimes they "trust the customer." He noted Citibank had a 20 year relationship with Grupo Moneta, and that "now I see a customer of 20 years can lie to you."

When asked about the extent to which Citibank Argentina reviewed the anti-money laundering policies of Federal Bank, Lopez said that because Federal Bank had the same management as Banco Republica, Citibank assumed they had the same procedures. When asked whether Citibank had ever asked Federal Bank about its anti-money laundering procedures, Lopez said he did and that is reflected, he said, in the comments in the annual reviews when discussing Grupo Moneta as a whole. The Subcommittee was not able to find any reference in the Citibank documents to the anti-money laundering program or procedures of Federal Bank.

b. Federal Bank Transactions with CEI Related Companies. Resolution 395/96 appears to prohibit Banco Republica not only from increasing its ownership in CEI, but also from loaning money to CEI related entities. From Citibank documents, however, it appears that Banco Republica used Federal Bank as a way to get around that limitation and that Citibank was aware of this effort. An October 23, 1995, call memorandum from Lopez describes the utility of Federal Bank to Banco Republica. It says, "Strategically, the group needs a vehicle to which to channel its private banking and to create for it a nexus between its investment in CEI booked in UFCO and Banco Republica's financial activity." In describing the assets of Federal Bank, Lopez writes that $30 million of Federal Bank's assets are "deposits of the Banco Republica members themselves, which are lent to target-name customers of Banco Republica and to businesses linked to CEI whose loans cannot be processed through Banco Republica."

In a September 1996 memo on Banco Republica Lopez writes that the significance of Federal Bank to Banco Republica is to, "[c]hannel the liquidity of the shareholders of Banco Republica and, with these deposits and the assets of Federal Bank, support the acquisitions or grant loans to CEI companies. . ."

The Minority Staff was not able to determine whether the BCRA regulations prohibit a bank from using an entity with common ownership as a vehicle to do what BCRA has prohibited the regulated bank from doing, but such an activity appears to be at odds

with the import of BCRA's restrictions on Banco Republica in Resolution 395/96.

c. Withholding Information from the Central Bank. The Central Bank also made several observations in the 1998 audit that information requested of Banco Republica about certain issues regarding Federal Bank was not provided despite repeated requests. The Central Bank said in the 1998 audit: ". . . everything related to the Federal Bank Limited, Republica Propiedades S.A., CEI Citicorp holdings S.A., among others, had to be claimed several times via memos or directly to the officers in several meetings held during the inspection and afterwards. It must be stated that the information given in those cases was contradictory or kept back and had to be requested over again." [69]

d. Misleading the Central Bank as to the Ownership of Federal Bank. The 1998 audit suggests that the Central Bank was not aware at the time that Federal Bank was actually owned by Grupo Moneta, which also owned Banco Republica. The Central Bank's discussion of Banco Republica's operations with Federal Bank does not mention the common ownership, and in fact in its closing paragraph [70] of that discussion it seems to indicate that it was told by Banco Republica officials that "Federal Bank Limited had discontinued its operations with Banco Republica S.A."

In 1997 and 1998 according to the audit documents, Federal Bank applied to the Central Bank for the opportunity to open an office in Argentina. The Central Bank appeared to be very concerned about the fact that Federal Bank was licensed in the Bahamas and was without any consolidated banking supervision system. Again, the Minority Staff could find no mention of the bank's common ownership with Banco Republica. The Central Bank, in the end, denied the request by Federal Bank.

In the 1998 audit, the Central Bank investigators reported, "At a meeting on November 17, 1998, with Pablo Lucini, [one of Citibank's principal contacts at Banco Republica] he denied any 'economic group' relationship between BR [Banco Republica] and Federal B.L. [Bank Limited]."

This apparent misinformation by Pablo Lucini to the Central Bank of Argentina was compounded when the Central Bank specifically asked Citibank Argentina in April 1999 to provide the Central Bank with any information Citibank Argentina had with respect to the ownership of Federal Bank.[71] Despite repeated references in their own documents and records to the fact that Federal Bank was 100% owned by Grupo Moneta,[72] and that it knew Grupo Moneta so well, Citibank Argentina responded to the Central Bank that their "records contain no information that would enable us to determine the identity of the shareholders of the referenced bank." [73]

The Subcommittee asked relationship manager Martin Lopez to explain Citibank's response to the Central Bank. Lopez said he did not see the letter before it went out, but he knew the Central Bank

[69] Annex I of 1996 Audit, Folio 28.
[70] 1996 Audit. Folio 133.
[71] See the exchange of letters on this subject at the back of this chapter.
[72] See, for example, Citibank Basic Information Reports for November 1996, August 1997, and May 1999, report Federal Bank as owned 100% by Grupo Moneta.
[73] May 1999 letter from Carlos Fedrigotti, CEO of Citibank Argentina to the Central Bank.

was looking for information about Federal Bank. He said he had the impression that the Central Bank "was trying to play some kind of game," that it was "trying to get some legal proof of ownership." When the Subcommittee asked why he thought the request for information about Federal Bank's owners from the Central Bank was a "game," Lopez said because one of the signers of the letter had previously been a relationship manager or unit head of financial institutions in Bank of Boston, and he must have known the owners of Federal Bank. Lopez said he thought maybe the Central Bank was put in an "awkward position" and was "looking for legal proof." At one point he said, "We [Citibank Argentina] don't have information in Argentina; it's in New York." However, the Subcommittee was later told that the annual reports on Banco Republica containing the organizational structure and ownership were, in fact, maintained in Citibank Argentina. Lopez also said he had a conversation with the counsel for Citibank Argentina and with the Chief of Staff to Fedrigotti about how to respond to the letter. Lopez said he told them he did not think Citibank should respond. He said following the conversation, Fedrigotti wrote the letter and sent it. He said Fedrigotti definitely knew at the time that Federal Bank was owned by Grupo Moneta. At the same time, Lopez argued that the letter is "technically true," because Citibank Argentina did not have any "legal" documents showing the ownership of Federal Bank and that any such information would have been kept in Citibank New York. When asked whether he called Citibank New York to ask them or let them know of the request, he said he did not and he did not know if anyone else did.

The Minority Staff also asked Citibank Argentina President Carlos Fedrigotti about Citibank's response. Fedrigotti said he got the letter from the Central Bank in April 1999 and that the letter was "within the context of what I knew was going on out in the market," referring to the restructuring of Banco Republica and Grupo Moneta at that point in time. He said he read it, understood the gist of what was being requested, and handed it to his deputy. He said he told his deputy to consult with Citibank Argentina General Counsel and to prepare a response. He said a few days later a response was prepared for his signature; he said he looked at it quickly, and he did not consult the original letter. He said he saw the first paragraph, asked if it was accurate, and was told it was. He said he looked at the second paragraph that referred BCRA to Citibank in New York because that "is where the Federal Bank account was domiciled." He said he was satisfied with the content, approved it, and spent no more than 15 seconds on it.

Apparently nothing occurred with respect to the BCRA request and Citibank Argentina's response for more than a year, according to Fedrigotti. Then in July 2000, when the Subcommittee requested information with respect to Federal Bank from Citibank, "another review of the documents and papers was made." Fedrigotti said the question was asked, "how is this letter (Citibank's response to BCRA) consistent with information in Citibank files." He said it was brought to his attention, and he got involved. He said he was told the response to BCRA was in keeping with the policy at the bank that if information is requested for an account in another jurisdiction, the person making the request should be referred to that

jurisdiction. In this case, Fedrigotti said, although Citibank Argentina handled all of the due diligence and day-to-day relationships with Federal Bank, the actual account was held at Citibank New York. Fedrigotti said that it was also true that the ownership information sought by the BCRA that Citibank Argentina had was "rebuttable"—that is, it "wasn't information that could legally demonstrate the ownership" of Federal Bank and so the "letter was legally correct."

Lopez said that he now knows Citibank should have answered the letter "in a different way," that Citibank "should have done more." He said in July 2000 when Citibank New York learned about the letter as a result of the Subcommittee's investigation, the "compliance people were very upset" with the answer provided in the letter. Once Citibank New York decided the first response was "a mistake," Lopez said, then a second letter was drafted and sent telling the Central Bank that Citibank has "information prepared internally by our [Citibank] institution regarding Federal Bank Limited [that] includes references to the identify of its [Federal Bank's] shareholders." The second letter is dated July 27, 2000.

Fedrigotti said that during his review of the matter in July 2000, "having myself been exposed more deeply to the type of information that was contained and nature of informal working papers that reflected our understanding of the connection between these entities, and keeping with our policy with being fully open with our regulators, I took the step to give information to the regulators." Fedrigotti added that he wanted to make clear that in doing so, he was not "invalidating the legality" of the first letter. He said, "We were supplementing the [earlier] information." But even in this second letter, Citibank Argentina does not provide complete and accurate information. For example, the Citibank letter does not acknowledge to the Central Bank that Citibank New York has a correspondent account with Federal Bank that was initiated and managed by Citibank Argentina, and it tells the Central Bank that Citibank Argentina has no account with Federal Bank.

When asked whether he remembered any conversation with Citibank officials with respect to the BCRA request about "playing games," Fedrigotti said he did not. He added that it was "not a fair assumption" to say the BCRA was "playing games."

After receiving information about Federal Bank's ownership from Citibank Argentina, Fedrigotti said that BCRA recently (February 7, 2001) asked Citibank Argentina to "justify the apparent discrepancy" between Citibank Argentina's first letter and its second letter, and Fedrigotti did so.

e. Other Central Bank Concerns. The Central Bank audits identify other concerns about the operation and management of Banco Republica. The Central Bank claimed that Banco Republica was providing financing with preferential conditions for "their linked clients" both with respect to interest rates and terms. The Central Bank was concerned that there was no organization manual for Banco Republica and that the procedure manuals for the bank had not been approved by the Board of Directors. It questioned a 10-year rental contract with Citibank for office property that it said was possibly prohibited by Argentine law. It said the work done by the external auditors of Delloite & Touche for Banco

Republica was "'insufficient' regarding both the depth of the developed procedures and the level of the conclusions which do not accord with the observations and verifications determine in the inspection." It said the controls put in place from the bank's internal audit "are not totally appropriate" because "the procedures implemented lack the necessary depth." In the 1998 audit, the Central Bank said, "To sum up, the present structure of the business is impossible." As a result of its audits, the Central Bank in the 1996/7 audit and in the 1998 audit assigned a CAMEL rating to Banco Republica of 4.

During this same time, Citibank Argentina analyzed Banco Republica quite differently. Citibank gave Banco Republic an internal rating of "IA." "I" is the highest rating a bank in a credit relationship can get from Citibank and "IV" is the worst. "IA," according to Lopez, means Citibank recognizes some potential risk in the customer which requires more frequent follow ups. But Lopez and the Citibank Argentina team saw Banco Republica as a normal banking operation with apparently limited matters of concern. In a 1996 Basic Information Report, Lopez noted that Banco Republic was a "leading wholesale bank," that it had "shareholders' financial soundness," and that it was "managed with recognized record and experience."

Citibank New York closed its correspondent account with Banco Republica on September 27, 1999, after Banco Republica's collapse. Citibank closed its correspondent account with Federal Bank in June 2000. When asked why there was a lengthy delay between the closing of the two accounts, Lopez told the Subcommittee that Federal Bank had requested the extended opening in order to clear out its account.

(8) American Exchange Company

American Exchange Company, according to Martin Lopez and Citibank documents, was created by Grupo Moneta prior to Federal Bank and was the first offshore vehicle of Grupo Moneta. Its account with Citibank was opened at the same time the correspondent accounts with Banco Republica were opened. At that time, Lopez said, Grupo Moneta did not need an offshore bank, because the intended activity was only to trade securities and conduct foreign exchange for customers; the offshore entity, according to Lopez did not need to hold deposits. Most of the activities of American Exchange, Lopez told the Subcommittee, were absorbed by Federal Bank over the years. He said it was his understanding that American Exchange continued after Federal Bank came into existence but with little activity.

American Exchange Company, although referred to in Citibank documents several times as an offshore bank, is not a bank, according to Lopez, but "more like an asset management and brokerage house." It is, according to Lopez, incorporated in Panama, with a representative in Uruguay and owned by Grupo Moneta. Citibank's monthly statements for American Exchange show its address to be in Punta Del Este, Uruguay. Lopez said he does not know how many employees American Exchange has but that maybe the company needs "one person to administer the book entries." He said the same people he worked with from Grupo Moneta represented

American Exchange to Citibank Argentina. Lopez did not know whether American Exchange is licensed to do business in Argentina.

When asked who regulates American Exchange, Lopez said no one does, because American Exchange does not hold deposits. He said the money placed with the company does not stay in American Exchange for more than 1 or 2 days.

With respect to the extent of an anti-money laundering program at American Exchange, Lopez said Citibank Argentina believed American Exchange had the same program and procedures as the other entities in the Moneta Group. The Subcommittee has learned from reviewing the Central Bank audits, however, that Banco Republica, and other entities owned by Grupo Moneta, did not have any anti-money laundering program.

The Subcommittee subpoenaed Citibank for its documents with respect to American Exchange. The results were limited. One account opening document appears to be a signature card with the name Jorge Videla. Lopez said he did not know the identity of Videla and there was no due diligence information on him in the file. A second document appears to assign an account number to American Exchange. A third document appears to provide basic data on American Exchange, such as country of location and provides several codes apparently internal to Citibank. The investigation was unable to locate any customer profile or substantive information on American Exchange in the Citibank records.

The American Exchange account was closed on June 30, 2000. The closing appears to be part of a policy established by Citibank in the Spring of 2000 to close all demand deposit accounts for offshore vehicles of Argentinian financial entities "that are not consolidating under a local bank, and consequently regulated by the Local Central Bank." [74]

(9) Suspicious Activity at Federal Bank

Money Laundering and the IBM Scandal. In January 1994, IBM Argentina made a successful bid on a contract in Argentina to install software and provide training for Banco Nacion, a government owned bank. The amount of the bid was $300 million. It turned out that $37 million of that amount was for a nonexistent subcontractor, Computacion y Capacitacion Rural S.A. or CCR, for the purpose of providing kickbacks to Argentine public officials involved in the contract. To date it appears IBM paid approximately $21 million of the $37 million, half of which has been traced to Swiss bank accounts of Argentine officials. The scandal has been called "one of the biggest political-financial scandals" in Argentina's history.[75] Part of that bribe money moved through Federal Bank. On May 10, 1994, Compania General De Negocios, a bank in Uruguay, ordered $1 million to be taken from its Credit Suisse account and deposited in Federal Bank's correspondent account at Citibank. The $1 million proved to be part of the $21 million payoff from the IBM kickback scandal.

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[74] E-mail dated 6/16/2000 from Martin Ubiema to James A. Forde, *et al.* CA001371.

[75] "IBM Scandal That Rocked Argentina Far From Resolved," *The Miami Herald,* May 16, 1999, by Andres Oppenheimer.

Movement of Money. In its 1998 audit, the Central Bank expressed concern about the volume of the transactions taking place between Banco Republica and Federal Bank. In the 1998 audit, the Central Bank noted that "the operation carried out by [Banco Republica] with the Federal Bank Ltd. presents peculiar characteristics due to its close relationship to the companies linked to the bank. . . ." The 1996/7 audit noted that "during November and December 1996, 8.88% and 13.53% respectively" of the money moving through Banco Republica's correspondent account in Citibank New York "were accredited by the Federal Bank Limited." The Central Bank said that while the amounts were not significant, it was worth noting that the majority of such money was "related to operations with companies linked with Banco Republica. . . ." The 1998 audit concluded with the suggestion that the next inspection do an "analysis of the operations with Federal Bank Limited."

The Central Bank also noted transactions through Banco Republic and Federal Bank with respect to four offshore companies created in the Bahamas on the same date, March 18, 1997. The Central Bank noted that these companies have the same representative, and they have the same address in Uruguay as Federal Bank. These four companies are: Ludgate Investments Ltd., South Wark Asset Management Ltd., Lolland Stocks Ltd., and Scott & Chandler Ltd. The Banco Republica monthly statements from the Citibank New York correspondent account show the movement of millions of dollars each month between the accounts of these entities at Federal Bank and the accounts at Banco Republica. Out of its concern for the transactions involving these four companies, the Central Bank auditors apparently recommended obtaining more information about them from the Central Banks of the Bahamas and Uruguay.

The Minority Staff reviewed the monthly statements of Banco Republica, Federal Bank and American Exchange Company. In many instances large sums of money moved on the same day from Banco Republica's correspondent account at Citibank New York to American Exchange's correspondent account at Citibank New York, and then to Federal Bank's correspondent account at Citibank New York. Other amounts moved in the reverse direction, from Federal Bank to American Exchange to Banco Republica. All of the accounts through which the money moved were U.S. dollar accounts in Citibank New York. The first chart, below, shows just a few of the many instances of the movement of such sums in these accounts. It summarizes some of the activity in 1995 and in January and February 1996. The second chart shows a similar movement of money in 2000 after Banco Republica had collapsed. In lieu of Banco Republica it appears the money began moving to or through Eurobanco.

MOVEMENT OF MONEY THROUGH BANCO REPUBLICA, AMERICAN EXCHANGE, AND FEDERAL BANK
1995 and 1996

DATE	AMOUNT	FROM	TO	TO
January 31, 1995	$3,000,000	Banco Republica	American Exchange	Federal Bank
October 12, 1995	$5,000,000	Banco Republica	American Exchange	Federal Bank
December 14, 1995	$500,000	Banco Republica	American Exchange	Federal Bank
December 18, 1995	$1,000,000	Banco Republica	American Exchange	Federal Bank
December 20, 1995	$700,000	Banco Republica	American Exchange	Federal Bank
January 23, 1996	$500,000	Banco Republica	American Exchange	Federal Bank
January 25, 1996	$300,000	Federal Bank	American Exchange	Banco Republica
January 31, 1996	$600,000	Banco Republica	American Exchange	Federal Bank
February 1, 1996	$200,000	Federal Bank	American Exchange	Banco Republica
February 6, 1996	$200,000	Federal Bank	American Exchange	Banco Republica
February 7, 1996	$200,000	Federal Bank	American Exchange	Banco Republica
February 26, 1996	$549,778	Verwaltungs	American Exchange	Key West Ltd.
February 28, 1996	$600,000	Federal Bank	American Exchange	Banco Republica
February 29, 1996	$200,000	Federal Bank	American Exchange	Banco Republica

Prepared by the Minority Staff of the Permanent Subcommittee on Investigations, February 2001.

MOVEMENT OF MONEY THROUGH FEDERAL BANK, AMERICAN EXCHANGE, AND EUROBANCO
2000

DATE	AMOUNT	FROM	TO	TO
January 27, 2000	$300,000	Federal Bank	American Exchange	Eurobanco
February 9, 2000	$300,000	Federal Bank	American Exchange	Eurobanco
February 29, 2000	$300,000	Federal Bank	American Exchange	Eurobanco
March 3, 2000	$300,000	Federal Bank	American Exchange	Eurobanco
March 15, 2000	$200,000	Federal Bank	American Exchange	Eurobanco
March 27, 2000	$200,000	Federal Bank	American Exchange	Eurobanco
April 3, 2000	$200,000	Federal Bank	American Exchange	Eurobanco
May 23, 2000	$292,343	Federal Bank	American Exchange	Eurobanco
May 23, 2000	$50,250	Federal Bank	American Exchange	Eurobanco

Prepared by the Minority Staff of the Permanent Subcommittee on Investigations, February 2001.

As the 1995/1996 chart shows, for example, on January 31, 1995, $3 million was wired from Banco Republica's correspondent account in Citibank New York to the account in Citibank New York of American Exchange Company. It was then, on that same day, wired from the Citibank New York account of American Exchange to the Citibank New York correspondent account of Federal Bank. On October 12, 1995, $5 million was wired following the same route.

These same-day transactions appeared to be at their height in 1996. For example, it happened some 17 times in the first 2 months of 1996. The Minority Staff consulted several experts with respect to wire transfers and money laundering and not one of the five persons consulted could explain a reasonable business justification for this pattern of transfers. All five suggested that the only reason for the transactions going through American Exchange was to layer the transactions, since all of the accounts involved were dollar accounts in the United States.

Contrary to Lopez' description of Federal Bank taking the place or business of American Exchange Company for Grupo Moneta, the monthly statements of Federal Bank and American Exchange Company show years of activity involving tens of millions of dollars going back and forth between the two entities.

Lopez told the Subcommittee that Citibank Argentina in general, and he as relationship manager in particular, never saw the monthly statements of Federal Bank or Banco Republica. He said the monthly statements were handled by Citibank New York which held the correspondent account. Lopez said it would be Citibank New York's responsibility to monitor the movement of money through the Banco Republica and Federal Bank accounts. Yet Citibank New York told the Subcommittee it did not have that responsibility. The market head in New York told Minority Staff that Citibank New York only monitored the account for overdrafts and credit issues, and New York did not monitor the monthly accounts. He said the Citibank office in Tampa was responsible for money laundering oversight.

While the Central Bank of Argentina was concerned about the movement of money between Federal Bank and Banco Republica, and the movement of money involving the four Bahamanian companies established in 1997, the Subcommittee found no written evidence in the materials subpoenaed from Citibank that Citibank New York or any Citibank office noticed or expressed any concern with respect to either issue. Nor was there any documentation expressing any concern about or observation of the same-day movement of money through the three accounts of Banco Republica, American Exchange, and Federal Bank.

Citibank's failure to question the transactions and unusual movements of money through the Federal Bank, American Exchange, and Banco Republica accounts is even more troubling in light of the large sums involved. Movements of $200,000, $500,000, even $3 million in even sums were routine. In one exceptional transaction occurring on April 29, 1994, one transfer of $28 million occurred. This was four to five times the size of even the larger transactions among these accounts.

In the 9 years of monthly statements reviewed by the Minority Staff, deposits of hundreds of thousands of dollars were common; the largest month saw total deposits of over $173 million. The magnitude of these monthly statements far exceeds any other offshore bank reviewed by the Minority Staff investigation. Yet Citibank asked few questions why a shell offshore bank in the Bahamas would have access to such sums and chose to move its funds in the patterns it did.

B. THE ISSUES

M.A. Bank and Federal Bank are shell offshore banks, licensed in jurisdictions that have had weak anti-money laundering controls. Citibank accepted both banks as correspondent clients because they were affiliated with large commercial operations in Argentina. In the case of M.A. Bank, Mercado Abierto was a large financial institution that was a customer of Citibank; with Federal Bank, the relationship was even stronger. Citibank was a business partner with Grupo Moneta and had been doing business with Grupo Moneta entities for a number of years. Citibank reported in its internal analysis of these entities that the principals of both groups were persons with excellent reputations.

What Citibank overlooked or failed to see was that no past or current relationship with, and no level of confidence in the reputations of, these financial groups can replace the need for independent regulatory oversight. And as shell offshore banks, neither of these banks was subject to that oversight. With respect to M.A. Bank, Citibank failed to address the fact that the financial entity of which M.A. Bank was a part was not subject to any bank regulatory authority. Mercado Abierto, because it was a securities firm and not a bank, was not subject to oversight by the Central Bank of Argentina, and hence, M.A. Bank, as an affiliate, was never brought within the Central Bank's purview. In the case of Federal Bank, Citibank's conduct is more disturbing, because it was both aware of and concerned about the fact that the Central Bank of Argentina did not know Federal Bank was owned by Grupo Moneta, and yet it misled the Central Bank about Federal Bank's ownership when it was asked for information. Had the Central Bank known that Federal Bank was also owned by Grupo Moneta, Federal Bank, as an affiliate, might have come under the purview of the Central Bank.

These shell offshore banks appear to have achieved exactly what they set out to do—avoid independent regulatory oversight, and the structure they used to do so should have set off alarm bells at Citibank. In fact, M.A. Bank's owners acknowledged as much when they said that M.A. Bank set up administrative operations in Uruguay to avoid regulation. At least two banking experts have indicated to Minority Staff that any institution set up in a manner similar to M.A. Bank would raise red flags, and they would expect that the bank would be reviewed very closely before a correspondent relationship was established.

M.A. Bank. MAB employed banking practices that were characterized by a Special Examiner for the Federal Reserve Board of Governors as inconsistent with typical banking operations and not indicative of safe and sound banking practice. These practices were

highly vulnerable to money laundering and, as revealed by the investigation by the U.S. Customs Service, facilitated the concealment and movement of illicit funds. These practices included accepting deposits and dispensing withdrawals in Argentina, in violation of Argentine banking law; accepting deposits from unidentified sources for unknown destinations; and using withdrawal forms that did not contain the name of the bank.

The practices implemented by MAB—with the full knowledge of the owners of the bank—appear to have violated Argentine banking law, violated anti-money laundering principles and created an environment that facilitated money laundering and tax evasion. In restating its policy regarding opening accounts for shell banks, Citibank noted that "the character of the institution" is "key." The description of MAB's structure and banking practices that Iribarne provided to the U.S. Customs agent shows the questionable character and conduct of both MAB and the larger financial institution with which it is affiliated. Yet, there were no examinations and reviews of MAB's practices and policies, and the due diligence and ongoing monitoring by Citibank in the case of MAB was poor.

* There was confusion at Citibank over the appropriate roles of the account managers that created a lack of coordination with respect to ongoing monitoring and lack of attention to activities in the MAB account. The Financial Institutions unit head in Argentina told the Minority Staff that New York was responsible for monitoring the account. The market head in New York said that the New York office only monitored for credit and overdraft issues. As of December 1999, the account officers in both New York and Argentina were uncertain about what, if any, review of the account was being conducted by the anti-money laundering unit in Florida. It appears that Citibank did not have in place account profiles to identify high risk customers that should be subjected to tighter monitoring. One was established for the Argentina financial institution accounts only after the bank learned that the assets seized in the MAB account were related to drug trafficking. The anti-money laundering unit in Tampa did not initiate a review of the M.A. entities until late 1999 or early 2000, more than 1½ years after the assets in the account were seized. At that point, it discovered a series of possible suspicious transactions that spanned nearly 3 years of account activity.

* Citibank was slow to follow up on the seizure warrant and did not firmly press its client for answers to obvious issues related to the seizure of the accounts' assets. Customs issued a seizure warrant on the M.A. Bank correspondent account at Citibank for the Casablanca drug money in August 1998. Citibank, however, never took any action to review the account in light of the seizure, nor did it require its client to explain the reason for the seizure. Consequently, it was nearly 16 months before Citibank learned the reason for the seizure and began to take action. During that time period—June 1998 through September 1999—over $300 million moved through the M.A. Bank correspondent account at Citibank.

Federal Bank. With respect to Federal Bank, Citibank remained acutely aware throughout the correspondent relationship of the fact that Grupo Moneta was a partner with Citibank in CEI. The extent to which this colored Citibank's judgment in opening and monitoring the three correspondent accounts discussed in this case history cannot be isolated, but it clearly had some effect. Citibank Argentina, which had responsibility for the due diligence in opening correspondent accounts in Argentina and in maintaining the correspondent relationships, accepted Grupo Moneta's oral assurances that it had an anti-money laundering program in place. It did not attempt to confirm that by requesting a copy of the program or the anti-money laundering requirements. No one at Citibank apparently identified any of the activity in the accounts or among the accounts as suspicious or worthy of further review, despite the many same-day transaction among Federal Bank, Banco Republica, and American Exchange Company.

But most troubling is Citibank's participation in keeping from the Central Bank information on the ownership of Federal Bank. Citibank's files are replete with references to Grupo Moneta's ownership of Federal Bank. In fact, Citibank's stated rationale for opening the account with Federal Bank, which is an offshore shell bank, and therefore an exception to Citibank's policy, is specifically because Federal Bank was part of a larger financial group with what Citibank thought was a good reputation. Citibank has told the Subcommittee that it would avoid any correspondent account with an offshore shell bank not connected with a larger financial institution with which Citibank already had a relationship. So, Federal Bank's ownership was not only something with which Citibank was totally familiar; it was central to Citibank's relationship with Federal Bank.

At the time Citibank received the request from the Central Bank for "all information" Citibank Argentina "may have about Federal Bank Limited, especially the identify of its shareholders," Citibank knew the Central Bank did not know Federal Bank was connected to Grupo Moneta and Banco Republica. If it had known, the Central Bank might have included the Federal Bank in its audits, perhaps due to its common ownership with Banco Republica. The fact that such audits were not taking place was noted by Martin Lopez, the relationship manager, in 1996 as making Federal Bank "a risky vehicle per se because it is controlled only by the Central Bank of the Bahamas." Yet in 1999 when the Central Bank of Argentina specifically asked the President of Citibank Argentina, Carlos Fedrigotti, for "all information" about Federal Bank, Fedrigotti said "our records contain no information that would enable us to determine" who owns Federal Bank.

Because of this unusual response, the question arises as to why Citibank would be less than forthright in answering the Central Bank's inquiry. One answer may be it was responding to a request from Grupo Moneta to maintain confidentiality about its activities. Another answer may be that since, according to Citibank internal documents Federal Bank was being used by Grupo Moneta to loan money to CEI related entities, it was helping Grupo Moneta avoid sanction from the Central Bank for violating the Central Bank's limitations on lending to related entities. A third answer may be

that Citibank did not want to trigger Central Bank oversight of Federal Bank. The reason for Citibank's misleading response to the Central Bank of Argentina remains a troubling mystery.

For both of these banks, perhaps the biggest failing for Citibank was that Citibank did not believe the nature of these banks—an offshore bank with no physical presence and no regulation—was an important factor. Therefore it did not give the banks heightened scrutiny or attention, where more timely and thorough reviews of their operations and transactions may have identified the unsound practices and suspicious transactions that occurred in the accounts, much earlier than when they were finally discovered.

M.A. BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

February 1995–December 1996

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
February 1995	($681)	$162,283	$148,296	$13,304
March 1995	$13,304	$4,187,984	$4,151,288	$50,000
April 1995	$50,000	$5,080,782	$5,001,453	$129,328
May 1995	$129,328	$4,387,155	$4,466,484	$50,000
June 1995	$50,000	$8,113,597	$8,113,597	$50,000
July 1995	$50,000	$11,998,916	$11,998,016	$50,000
August 1995	$50,000	$17,161,739	$17,132,380	$79,359
September 1995				
October 1995	$50,000	$10,536,298	$10,536,298	$50,000
November 1995	$50,000	$12,374,605	$12,324,187	$100,418
December 1995	$100,418	$31,905,451	$31,955,869	$50,000
Total 1995		**$105,908,810**	**$105,828,768**	
January 1996	$50,000	$15,435,676	$15,435,676	$50,000
February 1996	$50,000	$18,288,394	$18,244,033	$94,361
March 1996	$94,361	$29,737,386	$29,781,747	$50,000
April 1996	$50,000	$27,652,732	$27,652,732	$50,000
May 1996	$50,000	$70,351,181	$70,351,181	$50,000
June 1996	$50,000	$113,705,149	$113,690,140	$65,008
July 1996	$65,008	$56,838,539	$56,861,922	$41,625
August 1996	$41,625	$77,623,351	$77,804,976	($140,000)
September 1996	($140,000)	$67,787,876	$67,597,876	$50,000
October 1996	$50,000	$74,085,484	$74,085,484	$50,000
November 1996				
December 1996	$50,000	$59,039,012	$59,059,759	$29,252
Total 1996		**$610,544,780**	**$610,565,526**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee on Investigations, February 2001.
Blanks indicate missing or illegible statements.

M.A. BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

January 1997–December 1998

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1997	$29,252	$53,303,323	$53,282,576	$50,000
February 1997	$50,000	$52,151,036	$52,151,036	$50,000
March 1997	$50,000	$61,535,040	$61,441,073	$143,967
April 1997	$143,967	$51,890,047	$51,969,615	$64,400
May 1997	$64,400	$65,409,697	$65,424,097	$50,000
June 1997	$50,000	$123,432,889	$123,432,889	$50,000
July 1997	$50,000	$77,893,843	$77,893,843	$50,000
August 1997	$50,000	$69,659,609	$69,648,709	$60,900
September 1997	$60,900	$34,261,446	$34,272,346	$50,000
October 1997	$50,000	$63,395,384	$63,395,384	$50,000
November 1997	$50,000	$29,626,805	$29,547,543	$129,262
December 1997	$129,262	$32,116,655	$32,195,917	$50,000
Total 1997		**$714,675,774**	**$714,655,028**	
January 1998	$50,000	$22,477,997	$22,477,997	$50,000
February 1998	$50,000	$21,638,729	$21,656,626	$32,102
March 1998	$32,102	$52,967,821	$52,898,526	$101,397
April 1998	$101,397	$36,678,415	$36,729,813	$50,000
May 1998	$50,000	$14,723,277	$14,772,243	$1,033
June 1998	$1,033	$88,437	$83,915	$5,555
July 1998	$5,555	$809,708	$803,435	$11,828
August 1998	$11,828	$477,493	$487,567	$1,754
September 1998	$1,754	$13,864,214	$13,851,106	$14,862
October 1998	$14,862	$17,297,364	$17,271,129	$41,098
November 1998	$41,098	$25,007,496	$25,041,389	$7,205
December 1998	$7,205	$22,307,275	$22,285,826	$28,654
Total 1998		**$228,338,226**	**$228,359,572**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee on Investigations, February 2001.

M.A. BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

January 1999–September 1999

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1999	$28,654	$15,456,337	$15,465,042	$19,949
February 1999	$19,949	$12,091,326	$12,022,305	$88,971
March 1999	$88,971	$24,896,503	$24,878,009	$107,465
April 1999	$107,465	$30,695,291	$30,752,757	$50,000
May 1999	$50,000	$17,330,081	$17,344,307	$35,773
June 1999	$35,773	$37,675,161	$37,672,550	$38,384
July 1999	$38,384	$13,204,280	$13,227,554	$15,109
August 1999	$15,109	$32,415,839	$32,380,949	$50,000
September 1999	$50,000	$40,784,536	$40,809,836	$24,699
Total 1999		**$224,549,354**	**$224,553,309**	
Total 1995–1999		**$1,884,016,944**	**$1,883,962,203**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee on Investigations, February 2001.

M.A. BANK ACCOUNT ACTIVITY AT CITIBANK AFTER SERVICE OF THE SEIZURE WARRANT

June 1998–September 1999

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
June 1998	$1,033	$88,437	$83,915	$5,555
July 1998	$5,555	$809,708	$803,435	$11,828
August 1998	$11,828	$477,493	$487,567	$1,754
September 1998	$1,754	$13,864,214	$13,851,106	$14,862
October 1998	$14,862	$17,297,364	$17,271,129	$41,098
November 1998	$41,098	$25,007,496	$25,041,389	$7,205
December 1998	$7,205	$22,307,275	$22,285,826	$28,654
January 1999	$28,654	$15,456,337	$15,465,042	$19,949
February 1999	$19,949	$12,091,326	$12,022,305	$88,971
March 1999	$88,971	$24,896,503	$24,878,009	$107,465
April 1999	$107,465	$30,695,291	$30,752,757	$50,000
May 1999	$50,000	$17,330,081	$17,344,307	$35,773
June 1999	$35,773	$37,675,161	$37,672,550	$38,384
July 1999	$38,384	$13,204,280	$13,227,554	$15,109
August 1999	$15,109	$32,415,839	$32,380,949	$50,000
September 1999	$50,000	$40,784,536	$40,809,836	$24,699
TOTAL		**$304,401,341**	**$304,377,676**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee on Investigations, February 2001.

FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

November 1992–December 1994

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
November 1992	$0	$5,330,633	$5,328,982	$1,650
December 1992	$1,650	$14,368,856	$14,285,770	$84,736
January 1993	$84,736	$19,293,049	$19,376,530	$1,255
February 1993	$1,255	$11,915,523	$11,917,691	($912)
March 1993	($912)	$41,857,850	$41,851,575	$5,362
April 1993	$5,362	$12,360,188	$12,329,939	$35,611
May 1993	$35,611	$36,299,282	$36,339,371	($4,477)
June 1993	($4,477)	$37,703,801	$37,699,349	($25)
July 1993	($25)	$88,234,741	$88,251,972	($17,256)
August 1993	($17,256)	$52,691,342	$52,682,873	($8,787)
September 1993	($8,787)	$73,444,093	$73,438,767	($3,461)
October 1993	($3,461)	$51,118,708	$51,126,460	($11,213)
November 1993	($11,213)	$149,155,112	$149,143,898	$0
December 1993 .	$0	$79,902,823	$79,917,429	($14,605)
January 1994	($14,605)	$119,180,140	$119,170,186	($4,652)
February 1994				
March 1994	($1,079)	$128,860,126	$128,874,553	($15,506)
April 1994	($15,506)	$173,589,317	$173,582,384	($8,573)
May 1994				
June 1994				
July 1994	($2,376)	$75,126,638	$75,154,291	($30,029)
August 1994	($30,029)	$104,071,925	$104,095,369	($53,474)
September 1994	($53,474)	$104,015,463	$103,973,061	($13,130)
October 1994				
November 1994				
December 1994	($24,173)	$131,987,104	$131,953,077	$9,853
TOTAL		**$1,510,506,794**	**$1,510,493,527**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.
Blanks indicate missing or illegible statements.

FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

January 1995–December 1996

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1995	$9,853	$77,902,327	$77,812,083	$100,097
February 1995	$100,097	$37,320,409	$37,420,510	($2)
March 1995	($2)	$40,146,626	$40,128,623	$18,000
April 1995	$18,000	$64,907,222	$64,925,222	$0
May 1995	$0	$66,135,773	$66,135,773	$0
June 1995	$0	$53,132,809	$53,132,809	$0
July 1995	$0	$38,592,158	$38,498,750	$93,407
August 1995	$93,407	$35,547,949	$35,535,402	$105,954
September 1995	$105,954	$36,033,726	$36,056,731	$82,950
October 1995	$82,950	$24,221,051	$24,304,001	$0
November 1995	$0	$36,479,258	$36,479,258	$0
December 1995	$0	$113,992,702	$113,992,702	$0
January 1996	$0	$54,200,617	$54,129,753	$70,864
February 1996	$70,864	$62,305,676	$61,707,140	$669,400
March 1996	$669,400	$75,194,172	$75,778,277	$85,295
April 1996	$85,295	$48,112,851	$48,125,529	$72,617
May 1996	$72,617	$56,509,422	$56,555,268	$26,771
June 1996	$26,771	$55,312,054	$55,314,825	$24,000
July 1996	$24,000	$53,429,086	$53,436,486	$16,600
August 1996	$16,600	$63,314,748	$63,331,348	$0
September 1996	$0	$39,876,070	$39,876,070	$0
October 1996	$0	$46,031,435	$45,979,735	$51,700
November 1996	$51,700	$58,088,719	$58,140,419	$0
December 1996	$0	$81,790,876	$81,741,676	$49,200
TOTAL		**$1,318,577,736**	**$1,318,538,390**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.

FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

January 1997–December 1998

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1997	$49,200	$43,274,452	$43,323,652	$0
February 1997	$0	$52,501,155	$52,501,155	$0
March 1997	$0	$61,630,109	$61,630,109	$0
April 1997	$0	$72,857,583	$72,853,383	$4,200
May 1997	$4,200	$62,792,675	$62,796,875	$0
June 1997	$0	$75,546,117	$75,546,117	$0
July 1997	$0	$97,272,324	$97,272,324	$0
August 1997	$0	$85,765,292	$85,765,292	$0
September 1997	$0	$74,203,479	$74,203,479	$0
October 1997	$0	$51,146,255	$51,008,730	$137,525
November 1997	$137,525	$70,438,211	$70,575,736	$0
December 1997	$0	$80,512,574	$80,512,574	$0
January 1998	$0	$31,683,853	$31,683,853	$0
February 1998	$0	$57,012,817	$57,012,817	$0
March 1998	$0	$69,827,366	$69,827,366	$0
April 1998	$0	$22,084,470	$22,084,470	$0
May 1998	$0	$61,855,635	$61,841,635	$14,000
June 1998	$14,000	$58,670,711	$58,663,711	$21,000
July 1998	$21,000	$43,087,986	$42,220,686	$888,300
August 1998	$888,300	$71,361,949	$71,873,449	$376,800
September 1998	$376,800	$55,974,848	$56,334,848	$16,800
October 1998	$16,800	$25,500,166	$25,489,966	$27,000
November 1998	$27,000	$8,989,479	$9,014,979	$1,500
December 1998	$1,500	$22,857,608	$22,859,108	$0
Total		**$1,356,847,114**	**$1,356,896,314**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.

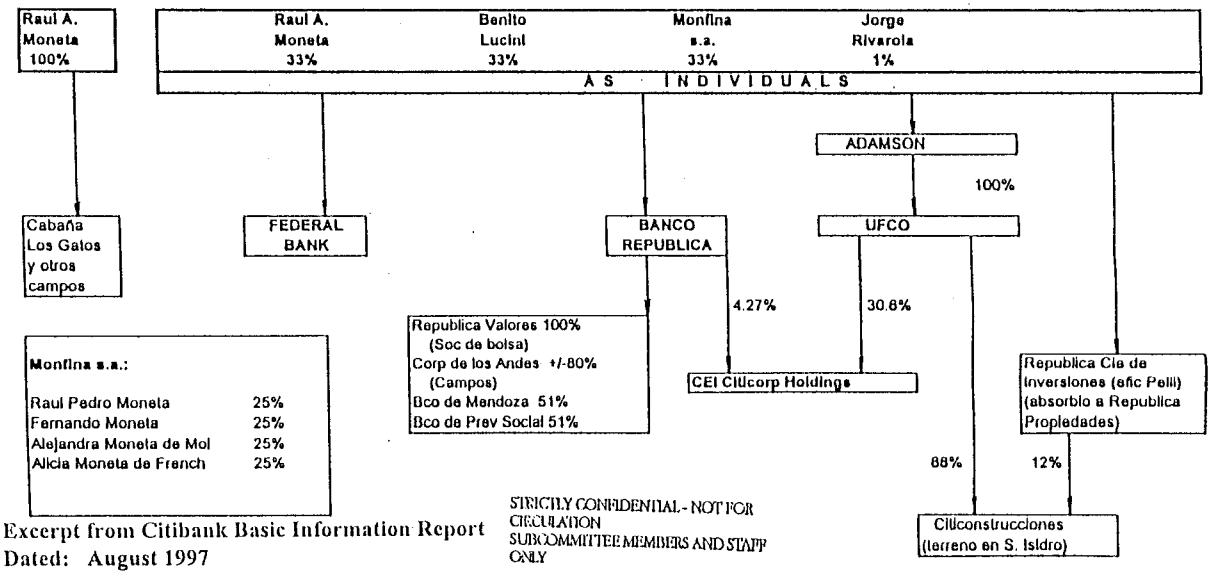
FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK

January 1999–May 2000

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1999	$0	$35,205,145	$35,205,145	$0
February 1999	$0	$19,695,910	$19,695,910	$0
March 1999	$0	$22,251,472	$22,251,472	$0
April 1999	$0	$8,226,070	$8,226,070	$0
May 1999	$0	$12,425,893	$12,424,393	$1,500
June 1999	$1,500	$3,045,581	$3,047,081	$0
July 1999	$0	$2,905,798	$2,905,798	$0
August 1999	$0	$7,559,454	$7,559,454	$0
September 1999	$0	$813,164	$813,164	$0
October 1999	$0	$1,902,299	$1,902,299	$0
November 1999	$0	$3,780,819	$3,779,819	$1,000
December 1999	$1,000	$1,313,588	$1,314,588	$0
January 2000	$0	$344,609	$344,609	$0
February 2000	$0	$797,156	$797,156	$0
March 2000	$0	$1,372,541	$1,372,541	$0
April 2000	$0	$6,386,905	$6,386,905	$0
May 2000	$0	$3,688,886	$3,660,165	$28,721
TOTAL		**$131,715,290**	**$131,686,569**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.

MONETA GROUP: SUBSIDIARIES and OWNERSHIP



Monfina s.a.:

Raul Pedro Moneta	25%
Fernando Moneta	25%
Alejandra Moneta de Mol	25%
Alicia Moneta de French	25%

Excerpt from Citibank Basic Information Report
Dated: August 1997

STRICTLY CONFIDENTIAL - NOT FOR CIRCULATION
SUBCOMMITTEE MEMBERS AND STAFF ONLY

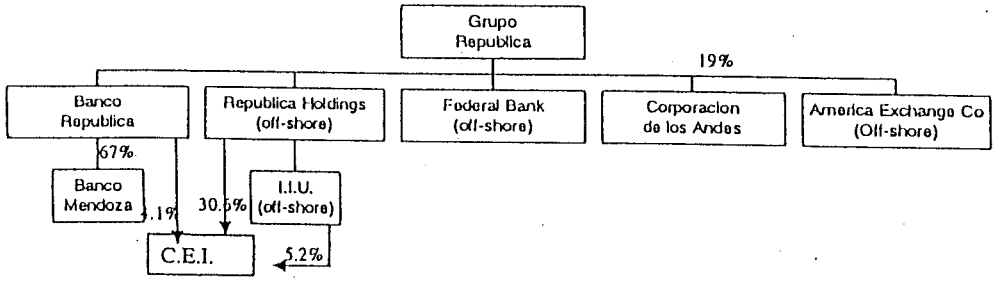
PS018276

Management Information:

Ownership:

Owner Name	%
Raul Moneta	33
Benito Lucini	33
Monfina(Raul (25%),Fernando(25%), Alejandra(25%) y Alicia (25%) Moneta)	33
Jorge Rivarola	1

If this company is a Financial Group or is part of an Economic Group, please provide an organizational chart of its structure:



Sírvase citar: 540/38/99

Banco Central de la República Argentina

Buenos Aires,

Al RESPONSABLE DE LA ADMINISTRACION de
CITIBANK N.A. (SUCURSAL ARGENTINA),
Sr. CARLOS MARIA FEDRIGOTTI GONGORRA,
Bartolomé Mitre 530,
(1036) CAPITAL FEDERAL

STRICTLY CONFIDENTIAL - NOT FOR CIRCULATION
SUBCOMMITTEE MEMBERS AND STAFF ONLY

Nos dirigimos a Ud. con relación a un procedimiento para determinar si existe algún tipo de vinculación económica entre entidades financieras sujetas al control de esta Superintendencia y *Federal Bank Limited*, una sociedad constituida el 9.3.92 de acuerdo con las leyes del Estado de las Bahamas, con domicilio legal en Bolam House, King & George Streets, PO Box N° 4843, Nassau, Bahamas.

Mediante transferencias desde y hacia Federal Bank Limited las entidades financieras argentinas reciben y pagan depósitos de residentes en el exterior. Las transferencias se realizan con débitos y créditos en la cuenta de Federal Bank Limited en Citibank New York, *número 36017146*.

En vista de la importancia de las transferencias citadas, esta Superintendencia solicita toda información que pudiera tener esa Sucursal sobre Federal Bank Limited, especialmente la identidad de sus accionistas. En igual orden, también solicitamos su intercesión ante la casa en Nueva York, a fin de que su Matriz provea la información requerida.

El tratamiento será confidencial, ya que las informaciones que obtiene la Superintendencia en el ejercicio de sus facultades tienen carácter secreto, de acuerdo con el artículo 53 de la Ley 24.144.

Sin otro particular, saludamos a Ud. muy atentamente.

BANCO CENTRAL DE LA REPUBLICA ARGENTINA
Superintendencia de Entidades Financieras y Cambiarias

PS018229

ELBA CASTAÑO
GERENTE DE SUPERVISION
DE ENTIDADES FINANCIERAS
Grupo O

JUAN CARLOS E. NOUGUES
GERENTE GENERAL DE SUPERVISION
SUPERINTENDENCIA DE ENTIDADES

PS018229

To the OFFICER IN CHARGE OF ADMINISTRATION
OF CITIBANK N.A. (ARGENTINA BRANCH)
Mr. CARLOS MARIA FEDRIGOTTI GONGORRA
Bartolomé Mitre 530
(1036) CAPITAL FEDERAL

This is in reference to a proceeding to determine if there is any sort of economic link between financial entities subject to the control of this Superintendence and *Federal Bank Limited*, a company established on March 1992, under the laws of the Commonwealth of the Bahamas, with legal domici at Bolam House, King & George Streets, PO Box 4843, Nassau, Bahamas.

By means of transfers from and to Federal Bank Limited, the Argentine financial entities receive and pay deposits of residents abroad. The transfers a made with debits and credits to the account of Federal Bank Limited in Citibar New York, *number 36017146*.

In light of the importance of the aforementioned transfers, this Superintendence requests all information that Branch may have about Federa Bank Limited, especially the identity of its shareholders. Likewise, we also request your intercession with the house in New York so your headquarters w provide the requested information.

The matter will be treated confidentially, since the information obtainec the Superintendence in the exercise of its authorities is confidential in accordance with Article 53 of Law 24,144.

Sincerely,

Translated from the Spanish by
the Congressional Research
Service

N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

541/329-1290
Fax
541/329-1032

Carlos M. Fedrigoni
Presidente

STRICTLY CONFIDENTIAL - NOT FOR CIRCULATION
SUBCOMMITTEE MEMBERS AND STAFF ONLY

CITIBANK

Señora y Señor
Elba Castaño y Juán Carlos E. Nougués
Banco Central de la República Argentina
Reconquista 266
(1003) Buenos Aires, Argentina

De nuestra consideración:

RE: FEDERAL BANK LIMITED

De acuerdo a lo solicitado en su carta del 20 de abril de 1999, les informamos que no obra en nuestros registros información que nos permita determinar la identidad de los accionistas del banco de la referencia.

Respecto a la solicitud de intercesión ante Citibank N.A. New York, cumplimos en señalar que la información deberá ser requerida a ésta directamente, por vía de la rogatoria de estilo a ser cursada a la autoridad local competente, para que ésta, autorice y disponga la entrega de la información solicitada. Ello debido a que Citibank N.A., New York es una entidad diferente a Citibank N.A., Sucursal Buenos Aires, sujeta a jurisdicción y leyes aplicables distintas a las de ésta última

No duden en contar con nuestra colaboración a los efectos de agilizar la mencionada intercesión ante Citibank N.A., New York, una vez efectuados por Uds. los pasos señalados en el párrafo anterior.

Sin otro particular, saludamos a Uds. muy atentamente.

PS018230

PS018230

CITIBANK [logo]

Elba Castaño and Juan Carlos E. Nougués
Banco Central de la República Argentina
Reconquista 266
(1003) Buenos Aires, Argentina

Dear Sir and Madam:

RE: FEDERAL BANK LIMITED

Pursuant to the request in your letter of April 20, 1999, this is to advise that our records contain no information that would enable us to determine the identity of the shareholders of the referenced bank.

With respect to the request to intercede with Citibank N.A. New York, please be advised that the information must be requested from that entity directly, by standard letter rogatory to be issued to the local competent authority so that it may authorize and order that the requested information be turned over. This is because Citibank N.A., New York is an entity different from Citibank N.A., Buenos Aires Branch, subject to applicable jurisdiction and laws different from those of the latter.

Please be assured of our cooperation for purposes of facilitating the aforementioned intercession with Citibank N.A., New York, once you have taken the steps specified above.

Very sincerely,

Translated from the Spanish by
the Congressional Research Service

Citibank N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

54/329-1290
Fax
54/329-1032

Carlos M. Fedrigotti
Presidente

STRICTLY CONFIDENTIAL - NOT FOR CIRCULATION
SUBCOMMITTEE MEMBERS AND STAFF ONLY

CITIBANK

27 de julio de 2000.-

Señores
Elba Castaño/Dr. Juan Carlos Barale
Banco Central de la República Argentina
Edificio San Martín , 2do. Piso, Of. 200
(1003) Buenos Aires, Argentina

De mi consideración:

RE: FEDERAL BANK LIMITED

Tenemos el agrado de dirigirnos a Uds. haciendo relación a la carta que bajo referencia 540/38/99 y con referencia al Federal Bank Limited, que esa Superintendencia nos dirigiera y la contestación que a la misma este banco brindara.

Este banco ha tomado conocimiento de una investigación que está siendo llevada a cabo en los Estados Unidos de América sobre algunas cuestiones relativas al Federal Bank Limited, lo que nos ha llevado a revisar nuevamente la información existente en esta entidad y que está relacionada con el Federal Bank Limited. En este sentido nos parece apropiado darles a conocer que en la información elaborada internamente por nuestra institución sobre Federal Bank Limited, existe información que incluye referencias sobre la identidad de sus accionistas. Ella no tiene relación con transacciones realizadas por Citibank Argentina, puesto que Federal Bank Limited no es ni ha sido cliente de esta entidad en la Argentina.

Si estás interesados en la información indicada, les rogamos nos lo hagan saber y pondremos la misma a vuestra disposición.

Carlos M. Fedrigotti
Presidente

STELLA MARIS CERANA
SECRETARIA
GERENCIA DE SUPERVISION DE ENTIDADES FINANCIERAS

PS018231

PS018231

July 27, 2000

Elba Castaño / Dr. Juan Carlos Barale
Banco Central de la República Argentina
Edificio San Martin, 2do Piso, Of. 200
(1003) Buenos Aires, Argentina

Dear Sir and Madam:

RE: FEDERAL BANK LIMITED

This is in connection with the letter which, under reference 540/38/99 regarding Federal Bank Limited, that Superintendence sent us, and the answer this bank provided.

This bank has become aware of an investigation being carried out in the United States of America regarding certain questions relative to Federal Bank Limited, which has caused us to re-review the information existing in this entity which is connected with Federal Bank Limited. In this regard, we feel it is appropriate to advise you that the information prepared internally by our institution regarding Federal Bank Limited includes references to the identity of its shareholders. That has no connection with transactions carried out by Citibank Argentina, since Federal Bank Limited is not and has not been a customer of this entity in Argentina.

If you are interested in the aforementioned information, please let us know and we will make it available to you.

[illegible signature]

Translated from the Spanish by
the Congressional Research
Service

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APPENDIX

This appendix summarizes a number of money laundering scandals and financial frauds referenced in the report, concentrating on how each utilized U.S. correspondent bank accounts. Included are:

(1) Bank of New York scandal;
(2) Koop fraud;
(3) Cook fraud;
(4) Gold Chance fraud;
(5) $10 million CD interpleader;
(6) other suspect transactions at the British Trade and Commerce Bank;
(7) Taves fraud and the Benford account; and
(8) IPC fraud.

(1) Bank of New York Scandal

The Bank of New York scandal became public news during the summer of 1999, with media reports of $7 billion in suspect funds moving from two Russian banks through a U.S. bank to thousands of bank accounts throughout the world.

Pleadings from subsequent criminal cases describe what happened.[311] They indicate that, during a 4-year period from 1995–1999, two Russian banks, Depositamo-Kliringovy Bank ("DKB") and Commercial Bank Flamingo, deposited over $7 billion into correspondent bank accounts at the Bank of New York ("BNY") in the United States. After successfully gaining entry for these funds into the U.S. banking system, on multiple occasions, the Russian banks transferred amounts from their BNY correspondent accounts to commercial accounts at BNY that had been opened for three shell corporations, Benex International Co. Inc. ("Benex"), Becs International L.L.C. ("Becs"), and Lowland, Inc. These three corporations, in turn, transferred the funds to thousands of other bank accounts around the world, using electronic wire transfer software provided by BNY. In aggregate, from February 1996 through August 1999, the three corporations completed more than 160,000 wire transfers.

In February 2000, guilty pleas were submitted by Lucy Edwards, former vice president of BNY's Eastern European Division, her husband Peter Berlin, and the three corporations to conspiracy to commit money laundering, operating an unlawful banking and money transmitting business in the United States, and aiding and abetting Russian banks in conducting unlawful and unlicensed banking activities in the United States. The defendants admitted that their money laundering scheme had been designed in part to help Russian individuals and businesses transfer funds in violation of Russian currency controls, customs duties and taxes. The three corporations agreed to forfeit more than $6 million in their BNY bank accounts.

In August 2000, a Federal court held that the United States had alleged sufficient facts to establish probable cause to seize an addi-

[311] *United States v. Berlin* (U.S. District Court for the Southern District of New York Criminal Case No. S1–99–CR–914 (SWK)), information filed 2/16/00; *United States v. Kudryavtsev* (U.S. District Court for the Southern District of New York Criminal Case No. S1–00–CR–75 (JSR)), information filed 3/29/00.

tional $27 million from two BNY correspondent accounts belonging to DKB and its part owner, another Russian bank called Sobinbank.[312] The judge expressed skepticism regarding Sobinbank's claim to be protected from seizure of its funds due to its status as an innocent bank, observing in a footnote:

> The Court cannot fathom how billions of Sobinbank's dollars could have been transferred out of its constantly replenished BONY Account, to accounts in the United States, without Sobinbank's knowledge or willful blindness to the scheme.[313]

While denying criminal liability for its own actions, BNY committed itself in a February 2000 agreement with the Federal Reserve Bank of New York and the New York State Banking Department to revamping its correspondent banking practices and anti-money laundering controls. In particular, BNY agreed to strengthen its due diligence reviews and its systems for reporting suspicious activity. BNY subsequently ended correspondent relationships with about 180 Russian banks.

The BNY scandal caused other U.S. banks to review their correspondent accounts with Russian banks as well. Information provided in response to the Subcommittee's correspondent banking survey indicates that, from 1998 to 2000, Deutsche Bank's U.S. operations reduced the number of its correspondent relationships with Russian banks from 149 to 57, while HSBC Bank USA ended almost 230 relationships with Russian banks, going from 283 to 57.

The BNY scandal also led to a wider review of Russian money laundering activities utilizing international payment systems to move funds.[314] The State Department's 1999 International Narcotics Control Strategy Report, a leading analysis of international anti-money laundering efforts, reported that according to the Central Bank of Russia, $78 billion was sent by Russians to offshore accounts in 1998 alone, and $70 billion of that amount went through banks chartered in Nauru, a small island in the Pacific. In response, several U.S. banks determined in 1999 that they would no longer open correspondent accounts or process wire transfers for banks licensed by Nauru or certain other small South Pacific islands. Nauru is reported to have licensed 400 banks in recent years, including Sinex Bank which, according to the court order in the BNY civil forfeiture case, was the ordering party "responsible for over $3 billion in transfers to the Benex and Becs Accounts" at the Bank of New York.

The BNY money laundering scandal, the revelations regarding Russian correspondent banking practices, and the $7 billion and $78 billion figures reflecting possibly illegal Russian funds moving through the U.S. and international correspondent banking systems, drive home the money laundering vulnerabilities present in the correspondent banking field.

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[312] *United States v. $15,270,885.69 (2000 U.S. Dist. LEXIS 12602, 2000 WL 1234593 SDNY 2000).*

[313] *Id.* at footnote 11.

[314] *See,* e.g., 1999 hearings on Russian Money Laundering before House Banking Committee.

(2) Koop Fraud

In February 2000, William H. Koop, a U.S. citizen from New Jersey, pleaded guilty to conspiracy to commit money laundering in violation of 18 U.S.C. 1957.[315] Koop was the key figure in a financial fraud which, over 2 years, bilked hundreds of U.S. investors out of millions of dollars. As part of this fraud, Koop made frequent use of U.S. correspondent accounts utilized by three offshore banks, Overseas Development Bank and Trust (ODBT), Hanover Bank and British Trade and Commerce Bank (BTCB). He moved about $13 million in illicit proceeds through U.S. accounts associated with these banks,[316] and used their services to launder these funds and otherwise advance his fraudulent activity.

Nature of Koop Fraud. Court pleadings, documents, videotapes, and interviews[317] provide the following information about Koop's illicit activities.[318] In or around the summer of 1997, Koop, a retired swimming pool contractor with no financial credentials or education beyond high school, began to represent himself as an experienced investment advisor. Koop claimed he had a high yield investment program that could produce returns as high as 489% over a 15-month period, allegedly with little or no risk. He also admitted in his criminal proceedings that he had represented himself as specializing in "prime bank notes," which he acknowledged are fictitious financial instruments. On a number of occasions, Koop appeared before groups of small investors urging them to pool their funds into amounts of $1 million to $5 million, for placement into his investment program. Over 200 U.S. investors appear to have placed funds with Koop. With rare exceptions, none has recovered any of their principal or promised returns.

Koop called his investment program the "I.F.S. Monthly 'Prime' Program." Koop operated this program through several entities he controlled, all of which he referred to as "IFS." These entities included: (1) International Financial Solutions, Ltd., which was incorporated in Dominica by OBD, and changed its name on 11/28/97, to Info-Seek Ltd.; (2) Info-Seek Asset Management Trust, which was established by BTCB in Dominica on 4/20/98; and (3) Info-Seek Asset Management S.A., which was established by BTCB in Dominica on the same day, 4/20/98.

Koop prepared and distributed a large packet of information about the IFS investment program to potential investors. His promotional materials explained the IFS investment program as follows:

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[315] *United States v. Koop* (U.S. District Court for the District of New Jersey Criminal Case No. 00–CR–68), criminal information dated 2/4/00.

[316] As set out in the case histories for each bank, Koop moved about $4.3 million through ODBT, nearly $5 million through Hanover Bank, and about $4 million through BTCB. He moved additional millions through other banks in the United States and elsewhere.

[317] Key interviews included a March 30, 2000 interview of Koop; a June 26, 2000 interview of Hanover Bank's sole owner, Michael Anthony ("Tony") Fitzpatrick, an Irish citizen who voluntarily cooperated with the investigation; a October 13, 2000 interview of ODBT's sole owner L. Malcolm West, a British citizen who also voluntarily cooperated; and a July 23, 2000 interview of Terrence S. Wingrove, a British citizen fighting extradition to the United States to stand trial on criminal charges related to the Koop fraud. Wingrove also voluntarily cooperated with the investigation and was interviewed at Wormwood Scrubs prison in London.

[318] Many of the documents in this matter were provided by a defrauded investor who filed suit against Koop, *Schmidt v. Koop* (U.S. District Court for the District of New Jersey Civil Case No. 978–CIV–4305), in an attempt to recover a $2.5 million investment.

> This program will pay you up to 489% plus principal on your investment, and your initial investment is guaranteed. . . . Receive a check for 5% of your initial investment each month while your balance grows to the rate chosen in any one of the following listed programs. Your first check starts after the first 90 days. . . . **If you are worried about whether IFS will really pay what is promised, please be advised that IFS has never failed to payout on any program that it has ever entered into with any and all clients.** [Emphasis in original text.]

In a section entitled, "Frequently asked questions," the IFS materials explained how IFS could offer such large returns:

> Your investment in the form of money will be held in a trust offshore. There is a very large demand offshore for large blocks of money that are certified and cleared as clean funds. By joining group funds together and committing large blocks of funds, we are able to command the returns that are normal for these transactions.

In response to a question about the safety of the funds, the IFS materials stated:

> All of the monies go into the trust where they are disbursed through lines of credit and promissory notes. This is done through a credit line that IFS has been able to establish with many of the prime banks of the world. The money never leaves the trust. The truth of the matter is that these funds are safer than mutual funds, real estate and the stock market.

When asked about taxes, the materials stated, "It is up to you to report your income to Uncle Sam as you see fit to do so. Due to the fact that IFS is setup as a pure private trust, we do not report it to anyone."

Koop worked with a number of other persons who served as intermediaries in organizing individuals into investment groups and soliciting investment funds. Koop worked, for example, with a minister in South Carolina, Johnny Cabe, who formed his own company called Hisway International Ministries, and solicited investments primarily from church members.[319] He worked with Hank A. Renovato Jr. who formed a Nevada corporation, Capital Fortress, Inc., and solicited investors in Alabama and Colorado. He worked with Glenn Cruzen who formed a company called Effortless Prosperity and solicited investments in Texas and California; Richard Olit who solicited investors in California; Leighton L.K.L. Suganuma who formed a Nevada corporation called Aloha "The Breath of Life" Foundation, Inc.; and Mark A. Meyerdirk in Kansas. Koop also worked with two individuals living in England, Terrence Wingrove and Winston Allen. Koop has indicated that he typically paid an intermediary 10% of the funds they were responsible for directing into the IFS investment program.[320]

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[319] See *United States v. Johnny William Cabe and Shelton Joel Shirley* (U.S. District Court for the District of South Carolina Criminal Case No. 0:00–301) and *United States v. Terrence Stanley Victor Wingrove* (U.S. District Court for the District of South Carolina Criminal Case No. 0:00–91).

[320] *Schmidt v. Koop,* Koop deposition (12/10/98) at 121.

Koop's Use of Offshore Banks. Koop utilized numerous bank accounts in the commission of his illicit activities. At first, he directed fraud victims to send money to his personal bank account at Interchange State Bank in Saddle Brook, New Jersey. Later he directed funds to banks in other States such as Illinois, Missouri, and Oregon. In 1997, he began using offshore banks. Koop used the offshore banks examined in this investigation to further his fraudulent activities in four ways: (1) to establish offshore companies to conduct business transactions; (2) to open offshore accounts where co-conspirators and investors could send funds and he could start to launder them; (3) to generate revenue and perpetrate his fraud by offering investors the opportunity, for a fee, to open their own offshore bank accounts where promised investment returns could be deposited; and (4) to increase his wealth by earning interest on deposits or using the offshore banks' investment programs.

Overseas Development Bank and Trust. ODBT was the first offshore bank Koop used in his fraud. ODBT established Koop's initial offshore corporation, International Financial Solutions, Ltd., which would become one of Koop's primary corporate vehicles for the fraud. ODBT opened five accounts for Koop and allowed millions of dollars in illicit proceeds to move through them. It allowed Koop to open at least 60 more accounts for third parties—who turned out to be the defrauded investors, before ODBT liquidity problems caused Koop to switch his offshore banking to Hanover Bank and BTCB.

According to Koop, he first became involved in offshore banking when, in 1997, he saw a fax advertising offshore services at American International Bank (AIB) in Antigua and Barbuda. Koop said that he quickly and easily established his first offshore corporation and opened his first offshore account at AIB, without ever actually speaking to anyone at the bank. He said he simply exchanged faxed materials with the bank, including an application form requesting minimal due diligence information, and his corporation and account were established.

Koop said in his interview that he later learned that AIB had been taken over by ODBT and so began dealing with ODBT. However, account documentation indicates that he dealt with directly with ODBT from the beginning, and that ODBT appears to have handled his accounts from their inception.[321] The documentation indicates that Koop had accounts at ODBT for almost 2 years, from August 1997 until April 1999, which was also the key time period for his fraudulent activity.[322]

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[321] For example, the investigation obtained copies of faxes dated 8/12/97, which were written by Koop, were addressed specifically to ODBT, and referred to the initial opening of Koop-related accounts at the bank. A key account statement covering an 18-month period from 8/97 until 3/99, was also issued by ODBT. The investigation found no similar documentation addressed to AIB. Because, from its inception in 1996 until late 1997, ODBT had a correspondent account at AIB, Koop may have mistakenly thought that he was dealing with AIB. Much of the documentation related to the Koop accounts at ODBT was collected in discovery proceedings related to *Schmidt v. Koop,* after Koop provided written authorization for ODBT to produce all documentation related to his accounts at the bank. Some of the documents refer to Overseas Development Bank, or Overseas Development Banking Group, rather than Overseas Development Bank and Trust. But because the vast majority refers to ODBT, this discussion refers to ODBT throughout the text.

[322] ODBT also appears to have kept the Koop-related accounts after it terminated its association with AIB in the spring of 1998, possibly because Koop was one of the few AIB depositors with substantial assets.

ODBT documentation indicates that the bank established at least the following five Dominican corporations for Koop and opened bank accounts in their names:

(a) account numbered 010–001–988 for International Financial Solutions, Ltd.;[323]
(b) account numbered 010–002–285 for International Financial Solutions, Ltd.;[324]
(c) account numbered 010–003–844 for Info-Seek Ltd.;
(d) account numbered 010–003–753 for Charity-Seek International Ltd.;[325] and
(e) account numbered 010–003–754 for Professional Fund Raisers International Ltd.

The investigation obtained only one, fairly complete account statement for these five accounts. It lists all transactions for IFS account numbered 010–001–988, from August 1997 when it opened, until March 17, 1999, about a month before the account closed. Most of the deposits and withdrawals were in large round numbers, such as $10,000, $50,000 or $100,000. Many of the deposits were made by Koop, his fraud victims or co-conspirators.[326] Over a dozen transactions, mostly withdrawals, exceeded $100,000.[327] Altogether over almost 18 months, the account statement shows deposits totaling more than $4.3 million and withdrawals of nearly the same amount.

The investigation also obtained a single page from an account statement for the IFS account numbered 010–002–285, covering the first month this account was opened. It shows an initial deposit of $800,000, all of which was transferred from the original IFS ac-

[323] The incorporation papers for Koop's key offshore company, International Financial Solutions, Ltd., indicate it was incorporated in Dominica on 10/21/94, although later documents claim the incorporation date was 10/21/97. Since the ODBT account documentation shows transactions as early as August 1997, however, the 1994 incorporation date appears more likely to be authentic. On November 28, 1997, Koop changed the name of his company from International Financial Solutions, Ltd. to Info-Seek Ltd. He referred to both companies as "IFS."

[324] This account was associated with a Visa credit card that ODBT had provided to Koop's company and was apparently used to pay the company's substantial Visa charges.

[325] Charity-Seek International Ltd. was incorporated as a Dominican bearer-share company by ODBT at Koop's request in December 1997. Koop told the bank that the company would be owned by Charity-Seek International Trust, which Koop described as a trust he had previously established in Belize and which was controlled by him and his associates, Hank Renovato, Leighton Suganuma and Mark Meyerdirk. Professional Fund Raisers International Ltd. was incorporated by ODBT on the same day as a bearer-share company that Koop said would be owned by a Belizian trust, Professional Fund Raisers International Trust, controlled by the same individuals. Koop requested the establishment of both companies and their accounts in a 12/2/97 memorandum he sent to West at ODBT. He asked ODBT to establish the companies and accounts within 24 hours of his request. Koop also made the unusual request that ODBT serve as the account signatory for both accounts, apparently to avoid identification of the accounts if a subpoena were to request all accounts for which Koop were a signatory. In response, ODBT established both accounts within 24 hours, although it is unclear whether ODBT agreed to act as the signatory for them. West indicated in his interview that he did not recall either account and did not believe that ODBT would have agreed to act as the signatory since that would have been "very unusual." He said that his normal course of action would have been to forward the Koop requests to AIMS for processing. He promised to research the matter and provide copies of the account opening documentation if they could be located, but no such documents were provided to the Minority Staff investigation.

[326] ODBT also opened accounts for some of the persons working with Koop, in particular account numbered 010–003–026 for Effortless Prosperity, a company associated with Glenn Cruzen.

[327] The largest transactions were:

—$1.2 million withdrawal on 9/8/97 to Bank of America for George Bevre;
—$800,000 transfer on 11/5/97 to the second IFS account numbered 010–002–285;
—$800,000 withdrawal on 12/3/97 to Arab Bank in Dubai, U.A.E.; and
—$500,000 withdrawal on 3/6/98 to Measures Frank & Co.

count; two withdrawals totaling $700,000, which were wire transferred on December 3, 1997 to Arab Bank in Dubai, and a closing balance of about $100,000. On November 26, 1997, Overseas Development Banking Group issued a letter "To Whom It May Concern" stating that Koop was the sole signatory for the IFS account and the account balance was in excess of $1.5 million.[328] All of this money was related to Koop's self-confessed financial fraud and money laundering.

The IFS account statement also includes four entries showing that Koop paid $300 per account to open 60 additional accounts at ODBT, apparently for fraud victims who wished to open their own offshore accounts.[329] Koop apparently was charging his investors a much higher fee than $300 for each account he opened. The investigation obtained copies of faxes sent by 16 individuals in nine States in the United States to ODBT, inquiring about the status of their ODBT accounts and whether Koop or IFS had deposited any funds into them. When asked, West indicated during his interview that he had been unaware of the 60 accounts opened by Koop for third parties. He said that, in 1999, ODBT had closed numerous accounts with small balances due to a lack of information about the beneficial owners of the funds, and guessed that the 60 accounts were among the closed accounts. While he promised to research the 60 accounts, he did not provide any additional information about them.

Because the Minority Staff investigation was unable to obtain account statements for the 60 accounts, the other four accounts opened for Koop, and the accounts opened for other persons involved in the IFS investment scheme, the total deposited into ODBT accounts in connection with the Koop fraud is unknown. The facts indicate, however, that it is certain to collectively involve millions of dollars.

Koop directed his co-conspirators and fraud victims to send funds to his ODBT accounts through various U.S. correspondent accounts. For example, account statements for Jamaica Citizens Bank Ltd. (now Union Bank of Jamaica, Miami Agency) show numerous Koop-related transactions from October 1997 into early 1998. Wire transfer documentation shows repeated transfers through Barnett Bank in Jacksonville. In both cases, the funds went through a U.S. account belonging to AIB, and from there were credited to ODBT and then to Koop. In January 1998, Koop also issued wire transfer instructions directing funds to be sent to Bank of America in New York, for credit to Antigua Overseas Bank, for further credit to Overseas Development Bank, and then to one of his five accounts at ODBT.

In the spring of 1998, ODBT began experiencing liquidity problems and failing to complete Koop's wire transfer requests. Koop materials from this time period state:

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[328] This balance apparently reflects both IFS accounts open at the time, account 101–001–988 with about $783,000, and account 010–002–285 with about $800,000.

[329] These account entries were:

—$7,500 on 11/7/97 for 25 accounts;
—$4,500 on 11/12/97 for 15 accounts;
—$4,500 on 1/16/98 for 15 accounts;
—$1,800 on 2/13/98 for 6 accounts.

> We are currently transacting our banking business with the Overseas Development Bank and Trust Company, which is domiciled in the island of Dominic[a] in the West Indies. We have witnessed a slowness in doing business with this bank as far as deposit transfers and wire transfers are concerned. Because of these delays, we have made arrangements with the Hanover Bank to open accounts for each of our clients that are currently with ODB, without any charge to you. If you are interested in doing so, please send a duplicate copy of your bank reference letter . . . passport picture . . . [and] drivers license. . . . IFS will then open an account for you in the Hanover Bank, in the name of your trust.

By April 1998, Koop began directing his co-conspirators, and fraud victims to deposit funds in U.S. correspondent accounts being used by Hanover Bank or BTCB, and generally stopped using his ODBT accounts. In a document sent to Koop investors entitled, "A Personal Letter from the Desk of William H. Koop," dated June 22, 1998, Koop stated that, due to the problems encountered at ODBT, IFS had made the "changeover" to Hanover Bank. Koop finally closed his ODBT accounts in April 1999.

Hanover Bank. Koop's subsequent use of Hanover Bank is detailed in that bank's case history, earlier in this report.

Koop and BTCB. Koop stated that he began his relationship with BTCB in mid-1998, after a chance meeting in Washington, D.C. with Charles Brazie, a BTCB vice president, who told him about the bank's high yield investment program and faxed him account opening forms.[330] BTCB documentation indicates that Koop opened his first BTCB bank account on April 20, 1998.

Over the course of 1998, BTCB documentation indicates that the bank established the following five Dominican corporations for Koop and opened bank accounts in their names:

(a) account numbered 101–011089–0 for Info-Seek Asset Management S.A.;
(b) account numbered 101–011079–2 for Hanover B Ltd.;
(c) account numbered 101–011117–3 for Cadogan Asset Management Ltd.;
(d) account numbered 101–011107–5 for Atlantic Marine Bancorp Ltd.; and
(e) an account for Starfire Asset Management S.A.

The Info-Seek Asset Management S.A. account was the successor to Koop's three IFS accounts at ODBT. Hanover B Ltd. was incorporated on May 21, 1998. The Hanover B account was opened in an apparent attempt by Koop to mimic a correspondent account for Hanover Bank. Koop has stated in a sworn deposition that the name "Hanover B Ltd." was chosen "to correspond to Hanover Bank."[331] Another person indicted in the Koop fraud, Terrence Wingrove has said that he understood the Hanover B account was opened to "mirror" the real Hanover Bank account and make fraud victims think they were sending funds to either IFS or to their own Hanover Bank offshore accounts that Koop, for a fee, had pre-

[330] See account opening documentation, 4/9/98 document signed by Brazie on how to structure BTCB relationship. See also *Schmidt v. Koop,* Koop deposition (12/10/98) at 130.
[331] *Schmidt v. Koop,* Koop deposition (3/2/99) at 431.

tended to open for them. In a letter dated 12/10/98, BTCBs own legal counsel referred to the Hanover B account as the "Hanover Bank" account.[332]

BTCB account statements covering most of 1998,[333] show that in a 6-month period from April to October 1998, over $2.6 million was transferred into and out of the IFS account, while about $1.3 million passed through the Hanover B account in the same period.[334] These funds, which were deposited into BTCB's U.S. accounts at BIV and Security Bank, total almost $4 million. All of this money is related to Koop's self-confessed financial frauds and money laundering.

Most IFS investors, when sending money to IFS directly, transferred amounts in the range of $5,000 to $50,000. The largest single IFS investor appears to have been Glenn Schmidt, of California, who sent $2.5 million. This money was sent by wire transfer on 4/22/98, 2 days after Koop opened his first account at BTCB. Schmidt transferred the funds from his bank in California to BTCBs correspondent account at BIV in Miami, for further credit to IFS. It was the largest single deposit into BTCB's account at BIV. Koop admitted in his criminal case that he had convinced Schmidt to invest these funds, failed to invest the money as promised, and failed to repay any funds to Schmidt despite repeated assurances. Instead, he used the $2.5 million to provide funds to his co-conspirators, establish four more accounts at BTCB, and make Ponzi payments to a few IFS investors awaiting returns. He also transferred $1 million to a Bank of America account in Oregon for "CPA Services," a company run by the Christian Patriot Association, an organization which is associated with militia groups and which Koop said he sometimes used to make cash payments to third parties.[335]

In September 1998, Schmidt filed a civil suit in federal court in New Jersey to recover his $2.5 million.[336] That suit named as defendants Koop, several of his companies, BTCB, BIV and Hanover Bank. BTCB sought to be dismissed from the suit, claiming among other arguments that the suit had failed to state a claim against the bank and the U.S. court lacked jurisdiction over it. BTCB also, at first, seemed to deny any relationship with Koop. A 10/29/98 "certification" filed by BTCB president Requena stated in part: "[T]here is not, nor has there been an account opened in BTCB . . . for 'William H. Koop' or for 'International Financial Solutions Ltd.'"[337] Despite this certification, plaintiffs counsel sent BTCB a written authorization by Koop to provide documentation related to

[332] Both BTCB and Hanover Bank have told the investigation that they never dealt directly with each other, and Hanover Bank never opened a correspondent account at BTCB. While the documentation supports that representation, the documentation also makes it clear that Hanover B Ltd. was confused on more than one occasion with Hanover Bank.

[333] These statements were produced by BTCB in response to *Schmidt v. Koop* discovery requests.

[334] BTCB account statements for the Cadogan and Atlantic Marine Bancorp accounts show they were opened in July 1998, with the $6,500 minimum in deposits allowed, and experienced no further activity through December 9, 1998. No account statement was produced for the Starfire account. The deposits into the IFS and Hanover B accounts came from co-conspirators in the Koop fraud and from defrauded investors. BTCB records show, for example, that Koop's co-conspirator, Cabe, sent payments of $450,000, $150,000 and $499,990 to the Hanover B account. Several IFS investors wired funds to the IFS account.

[335] *Schmidt v. Koop,* Koop deposition (12/10/98) at 66, 73.

[336] This is the *Schmidt v. Koop* case.

[337] *Schmidt v. Koop* "Certification of Rudolfo Requena," dated 10/29/98.

"any BTCB account" controlled by or related to him. In response, on 12/10/98, BTCB disclosed that Koop had, in fact, five accounts at the bank and provided account statements and other information. In return, plaintiff's counsel voluntarily dismissed BTCB from the civil suit "without prejudice," meaning that it could petition to rejoin the bank again, if appropriate.

Koop has pleaded guilty to conspiracy to launder the fraud proceeds. BTCB records show that virtually all of the $4 million deposited into the IFS and Hanover B accounts in 1998 was withdrawn within about 6 months. Much of the money was transferred to bank accounts controlled by Koop or his accomplices, including in Mississippi, the United Kingdom, and at CPA Services. In two instances in June 1998, a total of over $30,000 was paid to third parties to help purchase and furnish a New York apartment. In another instance, on 7/21/98, BTCB issued a certified check for $294,000 to Bergen County in New Jersey, enabling Koop to purchase a house there.[338] According to Koop, what is omitted from the records provided by BTCB in the civil suit is another $1.3 million in illicit proceeds that he placed in BTCB's high yield investment program.

Koop Investment in BTCB High Yield Program. Koop told the investigation that, on June 29, 1998, he transferred $1,325,000 to a BTCB subsidiary, Global Investment Fund, for investment in BTCB's high yield program.[339] He said that BTCB had contacted him repeatedly about investment opportunities. He provided a copy, for example, of a BTCB document promising annual returns on certificates of deposit as high as 79%. He also provided copies of BTCB documents setting out specific terms for an investment in its high yield program, including a letter of intent, corporate resolution for a private placement of funds, and cooperative venture agreement. Koop said that he pursued only one of the offered BTCB investments, in which BTCB's subsidiary, Global Investment Fund, promised to pay him a 100% return on the $1.3 million each week for 40 weeks, for a total of more than $50 million.

U.S. bank records for BTCB's account at Security Bank show transfers of millions of dollars in July and August 1998 to accounts associated with Global Investment Fund, any one of which could have included Koop's investment funds. These transactions included:

—7/3/98 wire transfer of $1 million from BTCB's account at Security Bank to Bank One in Columbus, Ohio, for further credit to Bank One in Houston, Texas, for further credit to "Global Investment Fund S.A."—these funds were initially rejected and successfully re-transmitted on 7/6/98;

—8/14/98 wire transfer of $170,000 from BTCB's account at Security Bank to Banque National de Paris in New York for Sundland States "Ref. Global Investment Fund/Outlast";

[338] *Schmidt v. Koop,* Koop deposition (3/2/99) at 433.

[339] See also *Schmidt v. Koop,* Koop deposition (12/10/98) at 58–59, 143–46, 149–57; and (3/2/99) at 406; and evidence of $1 million transfers from the BTCB account at Security Bank to a Global Investment Fund on 7/3 and 7/6/00.

—8/14/98 wire transfer of $830,000 from BTCB's account at Security Bank to the Royal Bank of Scotland in the Bahamas for Highland Financial Corp. "Ref. Global Investment Fund";

—8/26/98 wire transfer of $1,006,918.31 from Bank One Trust Company N.A. in Columbus, Ohio, to BTCB's account at Security Bank for further credit to "Global Investment Fd SA"; and

—8/31/98 wire transfer of $1 million from BTCB's account at Security Bank to U.S. Bank in Aurora, Colorado, for Global Investment Fund S.A.

These transactions alone establish transfers of $3 million to Global Investment Fund during the summer of 1998, which was when Koop alleged he made his investment into BTCB's high yield program. Koop noted in his interview that, as of March 2000, BTCB had yet to make a single payment or to return any of his principal. He stated that BTCB still had $1,325,000 of his proceeds, together with any interest or profits accumulated over the last 2 years. If true, BTCB would still have possession of over $1.3 million in fraud proceeds that ought to be returned to Koop's defrauded investors.

The Koop fraud provides a detailed illustration of how criminals can use offshore banks and their U.S. accounts to launder funds and perpetuate financial frauds. It also demonstrates how inadequate bank controls and money laundering oversight contribute to the ability of criminals to carry out their activities. The impact on the United States includes hundreds of defrauded investors, prosecutions in New Jersey and South Carolina, extradition proceedings in the United Kingdom, civil litigation, and the ongoing depletion of law enforcement and court resources.

(3) Cook Fraud

In March 1999, Benjamin Franklin Cook III was named in civil pleadings filed by the Securities and Exchange Commission (SEC) in Texas as a key figure in a fraudulent high yield investment program which, in the course of less than 1 year, bilked over three hundred investors out of more than $40 million. In August 2000, a criminal indictment in Arizona charged Cook with 37 counts of racketeering, fraud and theft. U.S. bank records indicate that at least $4 million associated with this fraud passed through U.S. correspondent accounts belonging to BTCB, and BTCB was directly involved in investment activities undertaken by persons and companies associated with the Cook fraud.

Nature of Cook Fraud. On March 16, 1999, the SEC filed a complaint and other pleadings before a Federal court in Texas requesting emergency relief against Cook, his company Dennel Finance Ltd. ("Dennel"), International Business Consultants Ltd. ("IBCL"), and a number of other individuals and entities, for engaging in a "fraudulent scheme to offer and sell unregistered 'prime bank' securities throughout the United States."[340] The complaint alleged that the defendants raised funds primarily by "target[ing]

[340] *SEC v. Cook* (U.S. District Court for the Northern District of Texas Civil Case No. 399–CV–0571), complaint and other pleadings dated 3/16/99. See also legal pleadings compiled at www.dennelfinancial.com.

religious and charitable groups and persons investing retirement funds." It alleged "numerous misrepresentations and omissions of material fact" by defendants, including that investor funds would be "secured by a bank guarantee," would serve as "collateral to trade financial instruments with top 50 European Banks," and would earn "annual returns of 24 to 60 percent." The complaint alleged that, "[i]n reality, the prime bank program . . . [did] not exist," and defendants had "misappropriated investment funds for personal and unauthorized uses, including making Ponzi payments to existing investors with funds provided by new investors."

The U.S. district court in Texas issued orders in March and April 1999, prohibiting Cook from making false statements to investors, freezing his assets, appointing a receiver, requiring expedited discovery, and affording other emergency relief requested by the SEC. To recover investor funds, the SEC appointed Lawrence J. Warfield as its official receiver charged with locating and taking control of assets belonging to Cook and others involved in the fraud. The receiver quickly froze about $11 million in assets, began reconstructing business and financial records, and began subpoenaing records from 142 U.S. bank accounts used in the Cook fraud.

Cook and his associates refused to cooperate with the investigation. In September, the court issued an order requiring Cook to show cause why he should not be held in contempt, and on October 8, 1999, ordered him imprisoned for contempt of court. On October 20, Cook was arrested and confined to a Texas detention facility.

On August 20, 2000, the Arizona Attorney General indicted Cook on 37 counts of racketeering, fraud and theft. The indictment, which was sealed pending Cook's extradition from Texas, was described by the Arizona Attorney General as alleging that Cook defrauded 300 investors out of more than $41 million through a fraudulent investment program. The indictment allegedly asserted that only $635,000 of the $41 million had ever been invested, and most of these funds were lost. The complaint also allegedly stated that Cook used much of the $41 million on personal expenses, including a luxury home, automobiles, airplanes and jewelry, and to purchase real estate.

Cook and BTCB. After reviewing U.S. bank records and other information, the investigation determined that at least $4 million in illicit proceeds from the Cook fraud moved through accounts at BTCB, and that BTCB itself was directly involved in investment activities undertaken by persons and entities associated with the Cook fraud.

An analysis of BTCB's U.S. correspondent bank records by Minority Staff investigators uncovered documentary evidence linking 100 wire transfers to defrauded investors or entities associated with the Cook fraud, including Dennel and IBCL.[341] These transactions moved funds totaling $4,086,152 over a 2-year period from 1998 until 2000, suggesting BTCB accounts were an active conduit for funds associated with the Cook fraud. The 100 wire transfers included the following:

—BIV records disclosed 34 deposits totaling over $1.4 million from April 6 until May 28, 1998, when BIV closed the BTCB

[341] See chart entitled, "BTCB Transactions Related to Cook Fraud," in BTCB case history.

account. All were wire transfers directed to BTCB for further credit to IBCL. The first deposit, on 4/6/98, was for $634,982, which increased the bank's total deposits at the time by 23%.

—Security Bank records disclosed 34 deposits totaling over $2.3 million, and 24 withdrawals totaling over $2 million from June 22, 1998 until February 14, 2000. These transactions involved wire transfers to or from Security Bank's U.S. correspondent account for BTCB, accompanied by directions to credit or debit an entity associated with the Cook fraud. The transactions involved primarily IBCL or Dennel, but also Global Investments Network Ltd., Trans Global Investments, Wealth & Freedom Network LLC, and Premier Gold Fund Ltd. The transfers included 14 deposits in 1998 with directions to credit the funds to Dennel, suggesting the existence of a Dennel account at BTCB at least during that year.

—First Union records disclosed eight withdrawals totaling over $2 million from April 26 to October 6, 1999. All were wire transfers from BTCB to accounts associated with IBCL and, in one instance, with Desert Enterprises Ltd., also associated with the Cook fraud.

More than 20 of the 100 wire transfers equaled or exceeded $100,000. Two of the largest transactions, on 4/6/98 and 9/16/98, together deposited more than $1 million into the IBCL account at BTCB. The largest withdrawal, on 5/7/99, sent $900,000 to an IBCL account in California.

The transactions included in this data analysis were selected because of bank account or wire transfer documentation which, on its face, directly linked the funds to a defrauded investor or to an entity associated with the Cook fraud, as indicated in court filings and other materials provided by the SEC receivers' office. It is likely that additional Cook-related transactions escaped detection due to the limited documentation available to the Minority Staff investigation and limited public information regarding how the Cook fraud operated. In light of the $40 million scope of the Cook fraud, the $4 million that passed through BTCB accounts shows BTCB was an active conduit for the fraud.

IBCL Investment in BTCB High Yield Program. In addition to opening accounts and moving funds, the investigation obtained evidence indicating that BTCB actively participated in some of the investment activities undertaken by persons and companies associated with the Cook fraud. BTCB's investment role appears to have begun in 1998 and continued throughout 1999, despite the March 1999 SEC complaint naming Dennel and IBCL, among others, as participants in a massive investment fraud.

The investigation first learned of BTCB's investment role after speaking with a person who had complained about BTCB to the Dominican Government. Wayne Brown, a Canadian citizen, voluntarily answered questions and provided documents related to his ongoing efforts to recover $30,000 he sent to BTCB in 1998 for placement in a high yield investment program. Brown characterized his lost investment as due, in part, to the Cook fraud.

Brown explained that he made the $30,000 investment because an old friend, Tony Rodriguez, allegedly an experienced investor, had recommended that he try the BTCB high yield program. Brown said that, on the advice of Rodriguez, he solicited additional investments from family members and other persons, pooled the funds, and provided a total of about $250,000 to Rodriguez for investment. He said the funds were wire transferred to BTCB's correspondent account at Security Bank in several installments, and Rodriguez was supposed to ensure their placement in the BTCB program. He said that it was his understanding that, in order to gain access to the BTCB investment program, Rodriguez had worked with Peter Shifman, an accountant with ties to both Cook and IBCL. He said that it was his understanding that Shifman, who was familiar with Dominica and BTCB, was able to get Rodriguez' investors into the BTCB program. He said the investment program never produced any returns, and he and his associates have been unable to recover any of their funds.

Documents obtained by the investigation establish that Rodriguez was associated with at least three entities that, according to the SEC receiver, were involved in the Cook fraud: Global Investment Network Ltd., Coopman Ltd., and Wealth & Freedom Network, LLC. The documents establish that, in 1998, BTCB not only maintained accounts for Global Investment Network Ltd., Coopman Ltd. and IBCL, but also dealt directly with Rodriguez and Shifman, and eventually placed IBCL funds into BTCB's own high yield investment program.

In a memorandum dated 7/20/98, on IBCL letterhead, for example, Shifman reported the following to "All Investors," including Brown:

> I have just returned from Roseau, Dominica. . . . [A]ll pooled funds are now invested. I have received a letter from Dr. Charles Brazie, Vice President of Managed Accounts of British Trade and Commerce Bank indicating that our funds have been allocated for participation. . . . Please note that the Company mentioned on the letter head (Global Investment Funds S.A.) is the Investment Company of British Trade and Commerce Bank. . . . Dr. Brazie has indicated that the first disbursement will now be sometime next week.

This document indicates that BTCB was directly involved in handling investments for IBCL and IBCL's investors.

A later memorandum from Shifman to "All Investors," dated 4/1/99, suggests that the BTCB investment program was not going well and investment returns were not being paid as promised.

> All of you are aware that . . . disbursements have not been issued since the beginning of December, 1998 . . . due to the lack of performance by the Bank that IBCL is contracted with. . . . I am able to offer these options to each individual investor. . . . Continue our current contract and wait until the end of April to see if that contact performs. Request the return of your investment. . . . Terminate the current contract and issue a new contract with the following terms: 1. The investment contract will be for twelve (12) months. 2. A Certificate of Deposit will be purchased through the Bank and its Florida-

based Securities Firm for the total amount of the investment. 3. A guaranteed rate of return of two percent (2%) per month, paid monthly will be paid to investors.

This memorandum is dated less than 1 month after the SEC complaint alleging IBCL involvement with investment fraud.

Brown indicated that, despite the Shifman promise of a 2% monthly return, he requested the return of his $30,000.[342] Brown indicated that, in response, he received conflicting stories about whether his $30,000 was actually with Global Investment Network Ltd. under the control of Rodriguez, or with IBCL under the control of Shifman. On 10/8/99, Brown received a fax on IBCL letterhead stating that, while the records indicated his $30,000 had been "transferred directly to the IBCL account" at BTCB:

> [h]owever, the funds were placed in that account under contract with Global Investments Network Ltd., leaving them outside of our control. In order to place them into the Certificate of Deposit Program, and realize further profits from the BTCB, we would have to enter a new [agreement] issued to you from this office. I am expecting a call from Betts [at BTCB] sometime in the next hour or so, and he and I will address your situation, as well as others, and figure out the best and most efficient means of handling your investment.

A few days later, Brown received a letter from BTCB dated 10/11/99, signed by Betts and addressed, "To all depositors in Global Investment Network Ltd. [a]nd certain depositors in International Business Consultants Ltd." After observing that the Global Investment Network account had been largely depleted, the letter indicated a solution had been found to help individual investors. The letter announced that BTCB had "come to an arrangement with Tony Rodriguez with respect to handling your deposits with Global and IBCL." The letter continued:

> As I have explained to many of you on the telephone the remaining balance in Global will only return 17% of your original principal. However, of the approximately $300,000 of your deposits that went into Global, $252,615 was transferred into IBCL and is presently invested in their managed account with the Bank. . . . The bottom line is that if you agree to let your funds be placed under the management of IBCL and Peter Shifman then the Bank can assure you that your funds are safe and in an account that is intact and will stay that way until the investment program is over.

Despite BTCB's strong encouragement to leave all funds with IBCL in the BTCB investment program, Brown continued to ask for the return of his funds, without success.

The investigation obtained a second BTCB letter dated 10/11/99, which was also signed by Betts. This letter was addressed to Tony Rodriguez at Global Investment Network Ltd. It discussed a "proposed settlement" in which BTCB would "take over the management" of Global Investment Network funds "in conjunction with Peter Shifman," provided that Rodriguez made up a funding short-

[342] See document signed by Brown, dated 4/6/00, requesting return of his $30,000 investment.

fall by transferring additional funds from his Coopman Ltd. account at BTCB to the IBCL account. This letter provides still more evidence of BTCB's deep involvement in the investment activities of these entities at a time when, in 1999, each was under investigation in the ongoing SEC fraud proceedings.

Brown said that, after many attempts to recover his funds from the BTCB high yield investment program, he requested the assistance of Dominica's banking regulators. On August 1, 2000, he received a letter from Dominica's banking supervisor stating that records produced by BTCB indicated that his $30,000 had been transferred by Rodriguez out of BTCB to one of Rodriguez's "other accounts in the United States." The banking supervisor wrote: "It now appears that you have to pressure Rodriguez for the return of the funds. It was a mistake not to have invested directly with [BTCB]."

Brown indicated that he felt as if he were in a shell game where his funds were being moved from account to account, always beyond his reach, from Global Investment Network to IBCL to BTCB to another bank in the United States. He noted that, at each step, the persons involved had simply blamed someone else for not producing promised returns and not returning his funds.

When Minority Staff investigators contacted the SEC receiver and his staff to obtain their perspective on BTCB, the receiver's staff expressed surprise at the number, dollar amount and timing of BTCB transactions tied to persons and entities associated with the Cook fraud. The staff provided a copy of a letter sent by the SEC receiver to BTCB on May 8, 2000, asking the bank to freeze all funds in the IBCL account. The staff said it was their understanding that BTCB had, in fact, frozen the IBCL account, but few funds were captured. They indicated they had been unaware that $4 million in suspect funds had passed through BTCB; unaware of the Dennel, Global Investment Network and Coopman accounts at BTCB; and unaware that IBCL investor funds had been lodged with BTCB.

The Cook fraud provides another illustration of how criminals use offshore banks and their U.S. accounts to launder funds and facilitate financial fraud. The impact on the United States includes, again, hundreds of defrauded investors, SEC proceedings prosecutions in New Jersey and South Carolina, extradition proceedings in the United Kingdom, civil litigation, and the ongoing depletion of law enforcement and court resources.

(4) Gold Chance Fraud

In April 2000, two brothers filed a civil suit in Canada alleging, in essence, that their company, Gold Chance International Ltd. ("Gold Chance"), was the victim of a loan fraud involving $3 million.[343] They alleged that Gold Chance had been fraudulently induced to deposit $3 million as supposed loan collateral into an attorney trust account in Canada, waited months for a loan that never materialized, and then learned that the company's funds had been secretly transferred to an offshore account at BTCB.

[343] *Gold Chance International Ltd. v. Daigle & Hancock* (Ontario Superior Court of Justice, Case No. 00–CV–188866)(hereinafter "*Gold Chance*").

In response to plaintiffs' efforts to recover the funds, an Ontario court granted immediate emergency relief, including freezing assets under a Mareva injunction, appointing a receiver for the law firm's trust account, and ordering BTCB and others to cooperate with discovery. Although the civil proceedings have yet to reach a conclusion, a preliminary court decision, pleadings in the civil case, and other information show that the $3 million was deposited into BTCB's U.S. correspondent account at First Union National Bank on December 15, 1999, and within a week, the funds were divided up and wired to multiple bank accounts around the world. In an order dated June 12, 2000, the court expressed skepticism regarding BTCB's claim that the $3 million was still safely on deposit with the bank, invested at the request of a client into a 1-year BTCB high yield program maturing in December 2000.

Nature of Gold Chance Fraud. On April 16, 2000, Canadian citizens Brent and Greg Binions filed a civil suit in the Ontario Superior Court of Justice, on behalf of Gold Chance and two other companies they own, seeking recovery of the $3 million from two individuals, Sayse Chatterpaul and Paul Zhernakov, several companies controlled by these individuals, and the law firm and banks involved in moving the funds out of Canada, including BTCB.

The plaintiffs' statement of claim, related pleadings and an opinion issued by the court in June 2000, indicate the following facts.[344] In the fall of 1999, Gold Chance was introduced to and entered into negotiations with Chatterpaul to obtain a loan to develop certain automobile fuel technology. In December 1999, Gold Chance executed a borrowing agreement with Chatterpaul's alleged company, Triglobe International Funding Inc. The agreement provided that Triglobe would issue a loan to Gold Chance, on the condition that Gold Chance first posted 25% of the loan amount in cash collateral to be kept in a fiduciary account under the control of legal counsel. On December 3, 1999, having borrowed the required sum from Toronto Dominion Bank, Gold Chance delivered a $3 million bank draft to Daigle & Hancock, a Canadian law firm, for deposit into the firm's fiduciary account at the Bank of Montreal.

The promised loan was not, however, issued to Gold Chance. After 2 months, on February 17, 2000, Chatterpaul and Gold Chance replaced the original agreement with a second borrowing agreement which, among other changes, replaced Triglobe with a company called Free Trade Bureau S.A. ("Free Trade"). The agreement provided that Free Trade would issue a $12 million loan to Gold Chance, collateralized by the $3 million in the fiduciary account. Chatterpaul signed the contract on behalf of Free Trade. When no loan materialized, on March 13, 2000, Gold Chance demanded return of the $3 million.

The pleadings allege plaintiffs learned in March 2000 that, without their consent, the $3 million had been transferred in December 1999, to a BTCB account for Free Trade. The pleadings allege that the $3 million was quickly depleted through multiple wire transfers initiated by BTCB to bank accounts around the world. The pleadings also state that plaintiffs learned Free Trade was owned, not

[344] See *Gold Chance* statement of claim (4/16/00), amended statement of claim (5/17/00), and "Reasons for Decision" by Judge Campbell (6/12/00).

by Chatterpaul, but by Zhernakov, an individual with whom they had had no prior dealings. The pleadings accuse the defendants of a variety of fraudulent acts, contractual and fiduciary breaches, wrongful conversion and other misconduct, and demand compensatory and punitive damages.

Free Trade and BTCB. BTCB admits that it has not only handled accounts and funds for persons and entities associated with the Gold Chance fraud, but also retains possession of the disputed $3 million, which it claimed was placed in a 1-year BTCB investment program.

In its September 2000 submission to the Subcommittee, BTCB acknowledged its involvement in the Gold Chance dispute, without using specific client names. BTCB provided the following description of the civil litigation:

> A longstanding Canadian client had an existing account with BTCB, and his background fully checked out. He subsequently placed an additional $3 million into this BTCB account . . . [and] committed these funds under a year long investment contract with BTCB to place the funds; which the bank in turn committed for a year. The first sign of trouble BTCB had was when a company completely unknown to us surfaced, and alleged that the $3 million was actually its money given to the lawyer in Trust.
>
> Unfortunately, it turned out later that the Canadian lawyer had obtained the $3 million from a client company under the false pretense, that the $3 million would be used as collateral for a loan from BTCB of $12 million, a situation completely unknown to us and contradicted by all paperwork between BTCB and this Canadian client and lawyer regarding the placement of $3 million with us in December 1999. . . .
>
> BTCB has the $3 million invested under the signed contract, and will return the funds when the contracted 1-year period expires in December 2000."

BTCB also stated that it had "filed an affidavit [with the Canadian court] explaining our lack of knowledge and documenting the Canadian client and lawyer's signed documents submitted to our bank; thus requesting a complete dismissal from the action." Although BTCB did not provide a copy of the affidavit or the attached documents, the investigation obtained them from the publicly available pleadings in the Canadian lawsuit. The affidavit was signed by BTCB president Requena and filed on September 7, 2000, less than 2 weeks before BTCB made its submission to the Subcommittee.

In explaining BTCB's role to the court, the Requena affidavit attempted to draw a stark contrast between Zhernakov and Chatterpaul, stating that while BTCB had done business with Zhernakov for 2 years, BTCB "does not have any knowledge or information . . . and has never had any business or other relationship or affiliation with" Chatterpaul or any of his companies.[345] With respect to Zhernakov, the Requena affidavit stated that Free Trade had been "incorporated on 2 January 1998 . . . for the De-

[345] Requena affidavit at 6.

fendant, Paul Zhernakov pursuant to his instructions [and] . . . has been a customer of BTCB since January 1998."[346] Exhibit L to the affidavit provides copies of BTCB's standard agreements for its high yield investment program, signed by Zhernakov on behalf of his company Free Trade, establishing that the company became a participant in the program in January 1998.

U.S. bank records substantiate Zhernakov's status as a BTCB client, including records showing the Zhernakov name in BTCB account transactions as early as April 1998. U.S. bank records also show one transaction involving Chatterpaul—a wire transfer dated June 21, 1999, originated by Sayse Chatterpaul, sending $680,000 from the Canada Trustee Mortgage Company in Ontario to the BTCB account at Security Bank for further credit to Free Trade. This deposit, for more than half a million dollars, should have attracted BTCB's notice. At a minimum, it provides evidence of a connection between Chatterpaul and Free Trade and contradicts BTCB's claim to the court that it had never had any business dealings with Chatterpaul.

Plaintiffs' pleadings raise questions about Zhernakov's background, business dealings, and source of funds.[347] Plaintiffs' information appears to be based primarily on a sworn deposition provided by Zhernakov on June 5, 2000, in connection with the lawsuit. Citing pages in a Zhernakov transcript, plaintiffs allege that Zhernakov was born in Russia in 1954, and is currently a citizen of Grenada. They allege he was employed by the Russian Navy for 17 years, then worked for an airline and had a business consulting firm, but currently "does not work or have a business."[348] They state that Zhernakov testified at his deposition that he arranged loans through BTCB for commissions, spoke regularly with Betts during 1999, and worked on occasion with Chatterpaul. Plaintiffs state that Zhernakov testified that both he and Chatterpaul were "authorized" to act on behalf of Free Trade.[349] This information raises questions about what due diligence research BTCB did prior to accepting Zhernakov as a client and what information BTCB had about the source of his funds. It also casts doubt on BTCB's assertion to the court that it had no prior dealings with or information about Chatterpaul since, according to Zhernakov, Chatterpaul had signing authority for Free Trade, a BTCB-established Dominican corporation.

With respect to the Gold Chance funds, U.S. bank records show the deposit of the $3 million into BTCB's account at First Union on 12/15/99. The wire transfer documentation states that the funds originated from Daigle & Hancock at the Bank of Montreal and the intended beneficiary was Free Trade Bureau S.A. at BTCB. On the day the funds were deposited, BTCB's account balance at First Union was only $14,308. Over the next 2 weeks, only three other small deposits, totaling about $25,000, came into the BTCB account. That means that, for the month of December 1999, the $3 million in Gold Chance funds were the primary source of funds in the BTCB account.

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[346] *Id.*
[347] See *Gold Chance,* "Factum of the Plaintiffs" (6/8/00).
[348] *Id.* at 7.
[341] *Id.* at 8–9.

The wire transfers that depleted the $3 million deposit do not, on their face, substantiate BTCB's claim that it placed the $3 million into a year-long investment program. Instead, the bank records show that the $3 million deposit on 12/15/99 was followed by a flurry of outgoing wire transfers in widely varying amounts to multiple bank accounts around the world. Most of the payments using the Gold Chance funds appear to have been made to BTCB creditors or clients, with about $355,000 transferred to other BTCB correspondent accounts. Altogether, in the span of 1 week ending December 23, 1999, about $2.3 million left the BTCB account.[350] By December 29, 1999, only about $734,000 remained in the BTCB account, of which all but $40,000 was attributable to the Gold Chance funds. On 12/30/99, BTCB deposited another $275,000, taken from its Security Bank correspondent account, and on 1/3/00, it transferred $1 million from the BTCB account to a Bank of America branch in Idaho for "Orphan Advocates LLC."[351] After the $1 mil-

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[350] The wire transfers included the following:

—$93,000 on 12/16/99 to Bank of Nevis International for Universal Marketing Consultants;
—$15,339.95 on 12/16/99 to First National Bank of Antlers, Oklahoma for Republic Products Corp., a company controlled by BTCB's major stockholder John Long;
—$240,000 on 12/17/99 to Barclays Bank in the Bahamas for BSI Corporation;
—$50,000 on 12/20/99 and $50,000 on 12/23/99 to National Commercial Bank in Dominica for BTCB's correspondent account;
—$200,000 and $55,000 in two separate wire transfers on 12/21/99, both to Pacific National Bank in Miami for BTCB's correspondent account;
—$205,000 on 12/21/99 to Mashreq Bank in Dubai for Graham Farrell;
—$612,000 on 12/21/99 to Banque Cantonale de Geneve for Laurent Finance;
—$200,000 on 12/23/99 to HSBC Bank in Hong Kong for Wanvijit Chauatong;
—$140,000 on 12/23/99 to ANZ Grindlay Bank in India for Asset Management India;
—$40,000 on 12/23/99 to a Union Planters Bank account for the credit of BTCB's president Rodolfo Requena; and
—$14,625 on 12/23/99 to the Bank of Montreal for Zhernakov, one of the defendants in the civil lawsuit.

[351] Orphan Advocates LLC is an Idaho corporation and another BTCB client. The Ontario court reviewing the Gold Chance case has authorized the plaintiffs to inquire about whether this Idaho corporation is somehow associated with Betts or his wife, Mavis Betts, who still resides in Idaho. See *Gold Chance,* court orders dated 5/15/00 and 6/2/00. The court has also authorized inquiries into the corporation's relationship with entities called Orphan Advocates Trust, Orphan Advocates Foundation, China Fund for the Handicapped, and a company which has changed its name four times in 4 years, from Children's Aid of Idaho, Inc. in 1994, to Children's Adoption Service International, Inc. in 1995, to Children's Adoption Services Inc. in 1996, to CASI Foundation for Children, Inc. in 1998.

Plaintiffs have alleged that the $1 million payment to Orphan Advocates LLC on January 3rd was actually paid into an account held by Orphans Advocates Trust which, in turn, transferred the funds on the same day to the China Fund for the Handicapped. See *Gold Chance,* "Factum of the Plaintiffs" (6/8/00) at 6. China Fund for the Handicapped appears to be another investor in BTCB's high yield program. Documentation at First Union shows that, on 6/21/99, the Fund transferred $3 million from its bank account at Chiyu Banking Corp. in Hong Kong to BTCB's account at First Union. Ted Johnson, a member of the Board of CASI Foundation for Children, Inc., told a Minority Subcommittee investigator on November 3, 2000, that it was his understanding that the China Fund for the Handicapped had invested a significant amount in BTCB's high yield investment program. Johnson said that the Fund was "not satisfied with the timing or amount" of the returns on their BTCB investment, although he understood the Fund had not filed any legal action. He also said that the China Fund for the Handicapped with BTCB investments was associated with the China Fund for the Handicapped that is a quasi-governmental organization in China, headed by Deng Xiaoping's son, Deng Pufang. He also stated that the China Fund for the Handicapped is associated with Orphan Advocates LLC.

Wire transfer documentation indicates additional links between BTCB, the China Fund for the Handicapped, and Orphan Advocates LLC. The wire transfers include the following:

—7/8/99 transfer of $1 million from BTCB account at First Union to a bank in Milwaukee, Wisconsin, called Marshall & Isley Bank, for further credit to an attorney trust account, belonging to John P. Savage;
—8/11/99 transfer of $2,500 from BTCB account at BIV to the same Milwaukee bank and the same attorney trust account, with the following notation: "Ref: Orphans Advocates Ltd."; and
—11/30/99 transfer of $150,000 from BTCB account at First Union to the Bank of Communication in Beijing for the "Corporation Project of the Rehabilitation of Disable Children,"

Continued

lion transfer, the BTCB account at First Union held only about $11,000. No significant activity took place in the account afterward, and in February 2000, First Union closed the BTCB account.

The Ontario court appeared to have reached the conclusion in June 2000, that Gold Chance's $3 million was no longer at BTCB. After reviewing bank and wire transfer documentation showing disbursement of the Gold Chance funds and recounting BTCB's failure to return the $3 million to Zhernakov upon his request, the Ontario court wrote, "The prepared statement of Betts that the funds are in BTCB is not to be believed, against either the tracing evidence or Betts' failure to deliver the funds."[352]

Despite this statement by the court in June, BTCB nevertheless claimed, in the Requena affidavit submitted to the court in September, that the $3 million was "invested on 15 December 1999."[353] The affidavit contended that the First Union account was a "general account used for business and investment purposes by BTCB[,] [t]he money from Free Trade was not trust money as far as BTCB was aware and so it was co-mingled with the general funds in this account." The affidavit maintained that the $3 million was credited to the Free Trade account and "deposited by the Defendant Free Trade . . . into a managed investment account for a locked-in period of 1 year."[354] BTCB further claimed that any dispute over the $3 million investment must be resolved by arbitration in London, as provided in the investment agreement.

Free Trade Investment in BTCB High Yield Program. The evidence suggests that BTCB's high yield investment program may be contributing to the Gold Chance fraud. First, the documents provided by BTCB to the court, attached as Exhibit L to the Requena affidavit, establish that Free Trade enrolled in BTCB's investment program in January 1998—2 full years before the Gold Chance deposit. Although BTCB maintains that the $3 million was intended for and immediately placed into its investment program pursuant to Free Trade's managed account agreement, the documentation provided by the bank does not support that assertion. To the contrary, Exhibits M through U discuss opening a "new account" with the money, under dual signatory authority that differed from Free Trade's managed account agreement. Not one of these documents mentions the word "investment" in connection with the $3 million; not one references the BTCB investment program. The first document to claim that the $3 million was placed into a BTCB investment program is a BTCB letter dated April 12, 2000, a month after Gold Chance demanded return of its funds. The unavoidable implication is that BTCB may itself be defrauding Gold Chance—delaying return of the $3 million by falsely claiming the money's enrollment in the BTCB investment program.

Additional concerns arise from BTCB's admission in the Requena, affidavit at page 19 that, although transactions involving the $3 million required two signatures—from Zhernakov and Daigle—the bank had already advanced $240,000 to Zhernakov on

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which allegedly is a member of the same Federation for the Disabled, in China, as is the China Fund for the Handicapped.

[352] See *Gold Chance* "Reasons for Decision" (6/12/00) at 9.

[353] See *Gold Chance,* Requena affidavit (9/7/00) at 14.

[354] *Id.* at 2.

his signature alone. BTCB has admitted that releasing the $240,000 violated the account instructions. Whether this violation was deliberate or inadvertent, it demonstrates a lack of proper account controls. And it raises, again, the spectre of BTCB misconduct—paying funds upon request to Zhernakov, while refusing to pay funds to the plaintiffs with the excuse that the entire $3 million is "locked" into a year-long investment.

BTCB later posted with the Ontario court a $3 million letter of credit with a maturity date of December 15, 2000. However, when that date arrived, BTCB failed to pay the required amount to the court. Gold Chance is still seeking recovery of its funds.

The Gold Chance fraud provides a third illustration of a financial fraud carried out in part through an offshore bank with a U.S. account. While the major impact in this instance is in Canada, where the defrauded investors reside and the key civil suit has been filed, there is also a collateral impact on the United States in which BTCB's U.S. correspondent bank is being asked to produce documents and explain what happened to the. $3 million sent to BTCB's U.S. account.

(5) $10 Million CD Interpleader

In August 1999, PaineWebber's clearing firm, Correspondent Services Corporation (CSC), filed an interpleader complaint in Federal court in New York to resolve a dispute over the ownership of a $10 million certificate of deposit ("CD") issued by BTCB.[355] The parties asserting conflicting claims to it included J. Virgil Waggoner, a wealthy U.S. citizen from Texas; Donal Kelleher, an Irish citizen living in England who served, for a time, as an investment advisor to Waggoner; J.V.W. Investment Ltd., a Dominican corporation established by BTCB for Waggoner and administered for a time by Kelleher; and First Equity Corporation of Florida, the securities firm that, in 1998, was owned by BTCB. In August 2000, the U.S. district court issued a decision[356] which resolved the CD ownership issue in favor of Waggoner, but also identifies troubling information about BTCB's investment activities and operations.

BTCB's Issuance of the $10 Million Bearer CD. The August 2000 court decision, documents associated with the interpleader action, discussions with bank officials, and other information produced the following facts: Waggoner is a retired chief executive officer of a large chemical company in Texas, and the current chief executive and owner of a U.S. company called J.V.W. Investments, Ltd.[357] In November 1997, Waggoner entered into an arrangement with Kelleher under which Kelleher agreed to locate a high-yield investment program for a $10 million investment by Waggoner, in exchange for receiving a percentage of any profits on such investment.[358] In mid-1998, Kelleher told Waggoner about the BTCB high yield program, and Waggoner agreed to invest in it.

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[355] *Correspondent Services Corp. v. J.V.W. Investment Ltd.* (U.S. District Court for the Southern District of New York Civil Case No. 99–CIV–8934 (RWS)), complaint (8/16/99).

[356] *Correspondent Services Corp. v. J.V.W. Investment Ltd.*, 2000 U.S. Dist. LEXIS 11881 (U.S. District Court for the Southern District of New York 2000)(hereinafter "*CSC v. JVW*").

[357] See SEC filing by Sterling Chemicals Holdings, Inc., Schedule 14A (12/27/97), proxy statement at 5.

[358] *CSC v. JVW* at 4.

On June 12, 1998, BTCB requested their completion of various forms to establish an international business corporation and open an account.[359] On June 19th, BTCB incorporated J.V.W. Investment Ltd. as a bearer share Dominican corporation.[360] The name of this company mirrored the name of Waggoner's existing U.S. corporation, J.V.W. Investments Ltd., but omitted the letter "s" from "Investments." BTCB has advocated taking this approach to naming a new Dominican corporation "to allow an orderly and mostly invisible transition" from an existing corporation somewhere else.

On June 25, 1998, J.V.W. Investment Ltd. ("JVW") entered into a cooperative venture agreement with BTCB to place an investment in BTCB's high yield program. As explained in the court's decision, this agreement provided:

> (a) JVW would deposit $1.0 million into a "Custody/Transaction Account at BTCB"; (b) BTCB would issue a certificate of deposit ("CD") in JVW's name; (c) the CD would have a term of 1 year and bear interest at 6% per annum; and (d) BTCB would place the $10 million into investments to provide a "significant yield" on a best efforts basis over the course of a year.[361]

On 6/28/98, $10 million belonging to Waggoner was transferred into a Citibank correspondent account in New York. This correspondent account belonged to Suisse Security Bank and Trust ("SSBT"), a small offshore bank licensed in the Bahamas. Although Citibank was unaware of it, beginning in 1997 or 1998, SSBT had begun providing correspondent services to BTCB and allowing BTCB to use the SSBT account at Citibank.

The court notes a factual dispute over whether the $10 million paid into the correspondent account was supposed to be deposited into the BTCB account at SSBT, or into a freestanding account at SSBT. The court decision states:

> According to Waggoner's pleadings, BTCB instructed Kelleher to place the $10 million into a BTCB sub-account in the name of JVW at SSBT. . . . BTCB would then place the $10 million into the Investment Program and issue the CD to JVW. Kelleher, however, transferred Waggoner's $10 million into a freestanding account at SSBT, not the designated BTCB sub-account. . . . SSBT [then] refused to transfer the $10 million from the freestanding account to the BTCB sub-account. As a result, Waggoner did not gain entry into the Investment Program. SSBT, when asked why it refused to effect the transfer, first stated that it was concerned that the $10 million might have an illegal origin. When a formal inquiry showed that to be wholly without basis, SSBT stated that it had placed the $10 million into ACM mutual funds . . . at Kelleher's direction. . . . Kelleher claims, by contrast, that he instructed SSBT to place the $10 million in the BTCB sub-account.[362]

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[359] *Id.* at 11.
[360] *Id.* at 14.
[361] *Id.* at 19.
[362] *Id.* at 22–24.

The court notes that Kelleher claimed the $10 million CD issued in JVW's name was replaced by BTCB with another $10 million CD "with the identical certificate number, but issued in bearer form."[363] This bearer CD, dated 6/28/98, is the CD that was placed into Correspondent Services Corporation custody, to be held until the CD's 1-year maturity date.

After vigorous complaints about the bank to Bahamian bank regulators, SSBT agreed to release the funds deposited by Waggoner. SSBT chose to do so by transferring the ACM mutual funds it had purchased with the $10 million. SSBT transferred the mutual funds to CSC, for further credit to BTCB, to benefit JVW.[364] When liquidated, the mutual funds produced about $7.7 million.[365] The court found that, by investing the $10 million in ACM mutual funds, SSBT was responsible for a shortfall of about $2.2 million from the $10 million originally deposited.[366] The court noted that Waggoner considered taking legal action against SSBT to recover the $2.2 million, but did not do so.[367] When a Minority Staff investigator asked why no legal action had been taken against SSBT, Waggoner and JVWs legal counsel, Kenneth Caruso, declined to discuss his clients' legal strategy. Bahamian bank regulators provided a September 15, 2000 letter stating that an external audit of SSBT had "ruled out any possibility of irregularity on the part of [SSBT]." However, neither the government nor SSBT would produce a copy of the audit report.

In any event, once his funds were lodged with BTCB, Waggoner took action to eliminate Kelleher's role in overseeing the BTCB investment. On November 10, 1998, Waggoner sent a letter to Kelleher terminating his services for allegedly breaching their agreement to locate a high yield investment program.[368] On the same date, Waggoner transferred all JVW shares to Wagonwheel Trust, a new Dominican trust formed for him by BTCB and controlled by BTCB as the appointed trustee. The next day, November 11th, Wagonwheel Trust removed Kelleher from his position as sole director of JVW, and replaced him with a BTCB subsidiary, International Corporate Services, Ltd. After that date, BTCB refused to provide Kelleher with any information about JVW's investments in the BTCB high yield program or to pay him any portion of alleged profits.[369]

In June 1999, the $10 million CD matured, and Kelleher claimed a portion of the funds, leading to the interpleader action. On August 16, 2000, the U.S. district court held that Kelleher had no ownership interest in the CD, but refused to dismiss, on summary judgment, his claim for damages against Waggoner for failing to act in good faith in their joint business dealings.[370] The civil proceedings are ongoing.

JVW and BTCB. The interpleader action over the $10 million CD opens a window on BTCB's dealings with one of its clients and,

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[363] *Id.* at 24.
[364] See 9/21/98 letter from Betts to Tucker Anthony; and undated letter from Kelleher to Tucker Anthony. Tucker Anthony held the ACM mutual funds for SSBT.
[365] *Id.*
[366] *Id.*
[367] *Id.* at 24, 27.
[368] *Id.* at 26.
[369] *Id.* at 27.
[370] *Id.* at 64.

in so doing, raises three sets of concerns about the bank's internal controls and investment activities. First, the proceedings expose operational deficiencies and aggressive tactics at BTCB. Second, they disclose troubling information about BTCB's dealings with SSBT, a small Bahamian bank with a poor reputation and limited assets. Third, they illustrate problems with BTCB's high yield investment program, including possibly fraudulent promises to pay extravagant returns and possibly fraudulent misuse of investor funds.

The civil litigation discloses, first, operational and internal control deficiencies at BTCB. The court found a number of inconsistencies and ambiguities in the documentation used to establish the beneficial owner of the $10 million CD and JVW, requiring pages of legal analysis to recite and resolve. The CD, for example, was issued by BTCB in bearer form, despite a provision in the cooperative venture agreement calling for the CD to name JVW so that its ownership would be clear. With respect to JVW, the court noted that the "IBC order form" containing instructions for forming JVW, including naming the company's beneficial owner, was signed on June 22, 1998—3 days after the company had been incorporated on June 19th.[371] JVW's incorporation documents were signed by BTCB's subsidiary, ICS, again without indicating the corporation's beneficial owner.[372] A letter sending "account opening forms" for a JVW bank account at BTCB is dated June 23, 1998—5 days after the $10 million had been sent to SSBT and an account opened.

The civil litigation also exposes BTCB's willingness to engage in aggressive tactics when intervening in a dispute over client funds, even when the dispute is due, at least in part, to BTCB's own missteps. To resolve the dispute between Waggoner and Kelleher over the $10 million CD, BTCB established and became the trustee of a new Dominican trust, Wagonwheel Trust, in November 1999, set up to benefit Waggoner. BTCB caused the trust to take possession of JVW's bearer shares, and remove Kelleher as JVW's sole director. In taking these actions, BTCB did not act as a neutral or passive financial institution. To the contrary, it took an active stance in favor of Waggoner and used the bank's fiduciary powers and subsidiary to help Waggoner wrest control of JVW away from Kelleher. BTCB also took possession of Waggoner's funds for placement in its high yield program, and refused Kelleher's requests for information about the investment or its alleged returns.

Second, the civil litigation exposes troubling information about BTCB's dealings with SSBT. The documentation in the civil proceeding makes it clear that BTCB actively assisted JVW in opening an account and transferring funds to SSBT. For example, a fax dated June 29, 1998, from Betts to Kelleher, provided BTCB's account number at SSBT, approved a JVW letter to SSBT, and offered to forward the $10 million CD to SSBT on JVW's behalf. SSBT then refused for 3 months to release the $10 million. In an 8/27/98 letter to SSBT, Kelleher stated that an audited balance sheet obtained from public records in the Bahamas showed that SSBT was "extremely small with very little cash or assets and . . .

[371] *Id.* at 11–12.
[372] *Id.* at 14–15.

is indeed far smaller than the size of [JVW's $10 million] deposit." The letter expressed "doubt" about SSBT's "stability and liquidity." Bahamian Government officials told the investigation that SSBT had a long history of regulatory problems requiring oversight. Yet BTCB chose to do business with SSBT, despite its lack of assets and poor regulatory history. In addition, neither BTCB nor SSBT ever informed Citibank that BTCB was using SSBT's Citibank account to transact business. Citibank told the investigation that it had been completely unaware it was providing services to BTCB.

Even more troubling is information released in the course of the civil litigation regarding BTCB's high yield investment program. Several of the documents indicate that Waggoner and Kelleher had been told by BTCB that the $10 million investment would produce $50 million or more in profits in less than 6 months. A 9/15/98 letter from Brazie, for example, suggested that the funds released by SSBT be invested into "ongoing HYIPs" or high yield investment programs at Global Investment Fund S.A. Brazie explained that Global Investment Fund S.A. was "wholly owned by ICS/BTCB and serve[d] as a 'pooling' and 'masking' entity for funds from other IBC clients." Handwritten notes by Kelleher on the letter, following a telephone conversation with Brazie, stated: "Return min 25%/wk." One week later, a 9/23/98 letter from Waggoner to Kelleher stated, "I want this project expedited and the delays/excuses ended. As my trustee, you must hurry to get my $50 million in profits to me this year." A letter to BTCB from Kelleher, dated 4/13/99, stated, "The sum over due and payable [to his company alone] . . . by [BTCB] is we repeat: **USD—58,660,200**." [Emphasis in original text.] Dominican Government officials and U.S. bankers interviewed during the investigation uniformly expressed disbelief that such returns were possible.

U.S. bank records also raise questions about what BTCB actually did with the funds once they were in the bank's possession. Waggoner's $10 million is the largest single investment in BTCB's high yield program uncovered by the investigation. The court pleadings indicate that the ACM mutual funds purchased with the $10 million were apparently transferred by SSBT in several stages in September and October 1998, to CSC for liquidation.[373]

On 10/26/98, at BTCB's request, CSC transferred $6.5 million to BTCB's account at Security Bank. The origination, timing and size of this transfer suggests that the $6.5 million came from the JVW funds; the investigation found no other transaction that could account for the source of funds used in this wire transfer. The next day, on 10/27/98, BTCB transferred the $6.5 million to an attorney trust account at First Union National Bank belonging to Robert Garner. Garner is an attorney who has worked for both BTCB and First Equity Corporation of Florida. Within a week of receiving the funds, Garner transferred the $6.5 million, on 11/3/98, to an attorney trust account at Union Bank of Switzerland ("UBS") in Zurich belonging to Robert McKellar.

The $6.5 million was not the first time that U.S. bank records showed funds moving among accounts belonging to McKellar, Gar-

[373] See 9/21/98 letter from Betts to Tucker Anthony; and undated letter from Kelleher to Tucker Anthony. Tucker Anthony held the ACM mutual funds for SSBT.

ner and BTCB. Less than 2 weeks earlier, on 10/19/98, BTCB, had wire transferred $3.5 million from its account at Security Bank to "McKellar's Solicitors Unit." The source of this $3.5 million is unclear, as is its relationship, if any, to the JVW proceedings. The fact that the $3.5 million and $6.5 million sent to McKellar in October 1998 together add up to the $10 million at issue in the JVW proceedings may be just coincidence.

Two 1998 BTCB financial statements further document the movement of these funds. A BTCB financial statement as of 6/30/98, which BTCB submitted to First Union when applying for a correspondent account, states in Note 3 that the bank had $10 million in deposits at SSBT. There is no mention of deposits at UBS. BTCB's audited financial statement 6 months later, as of 12/31/98, which was submitted to the Dominican Government, states in Note 4 that the bank had "10M in Union Bank of Switzerland." The December 1998 financial statement made no reference to deposits at SSBT. The logical inference, then, is that BTCB moved $10 million from SSBT to UBS during the latter half of 1998. The timing, dollar amount and banks involved all suggest that the BTCB funds in Switzerland came, in whole or in part, from the JVW funds.

Once the funds were placed in a Swiss bank account, little is known about them, and it is unclear whether the funds were ever placed in an investment. What is clear is that, 6 months later, on 4/26/99, U.S. bank records show McKellar wire transferring $6 million from the UBS account in Zurich to Garner's account at First Union. On the same day, Garner transferred the $6 million to BTCB's account at First Union. On the day before, 4/25/99, BTCB's First Union account balance was only about $77,000. The $6 million was a huge addition to an account that otherwise had few funds. From 4/26/99 to the end of May, only six other deposits were made into the BTCB account totaling about $217,000. The bank records establish, then, that the majority of funds in the BTCB account at First Union, from April 26 until May 31, 1999, was attributable to the $6 million deposit.

The bank records also show that the $6 million deposit on 4/26/99 was followed by a flurry of outgoing wire transfers, 43 in April and 58 in May, in widely varying amounts to bank accounts around the world. In the span of 1 month ending May 31, 1999, BTCB transferred about $5.7 million out of its First Union account. The three largest sets of wire transfers were the following:

—$1 million on 4/26/99 to BTCB's account at Correspondent Services Corporation;

—$1 million on 4/26/99 to BTCB's account at Security Bank; and

—1.4 million in four wire transfers on 4/26/99 and 5/7/99 to four accounts, each of which referenced International Business Consultants Ltd., a participant in the Cook fraud described earlier.

U.S. bank records show another, possibly related set of transactions 6 months later. On 10/15/99, $999,976 was transferred from an unidentified account at UBS in Zurich to Garner's account at First Union. Given earlier wire transfers, it is possible that these

funds came from the UBS account belonging to McKellar. Four days later, on 10/19/99, Garner transferred the $1 million to BTCB's account at First Union. When the deposit was made, BTCB's account balance was only about $27,600. BTCB then disbursed the $1 million in the same way it had disbursed the $6 million, using multiple wire transfers to multiple bank accounts.

BTCB's treatment of the JVW funds, once lodged with the bank, raise unavoidable questions about whether the bank was misusing investor funds. First, there is no clear evidence that the JVW funds were ever invested, especially if the $6.5 million sent to Switzerland was, in fact, taken from the JVW investment. Second, the $6.5 million transferred from CSC to BTCB, was quickly transferred out of the bank through two attorney trust accounts in the United States and Switzerland. The reasons BTCB used two attorney trust accounts to move the $6.5 million to Switzerland are unclear; possibly it was devised to conceal the movement of the funds or impede tracing them.

Third, when the $6 million came back from the Swiss account, through Garner's account, to BTCB in April 1999, the funds arrived at a time when BTCB's primary U.S. correspondent account was almost empty. The quick disbursement of the $6 million in varying amounts to various bank accounts suggests that JVW investment funds were being used, in whole or in part, to pay BTCB's creditors and clients and to replenish BTCB's coffers. The $1 million transfer from Switzerland in October 1999, seems to have followed the same pattern. When a Minority Staff investigator asked legal counsel for Waggoner and JVW about how the JVW funds were invested and whether Waggoner had any concerns about the status of the funds, he declined to respond, other than to indicate that his clients did not wish to discuss their financial affairs.

(6) Other Suspect Transactions At BTCB: KPJ Trust, Michael Gendreau, Scott Brett, Global/Vector Medical Technologies

In reviewing U.S. bank records and other information associated with BTCB, the investigation came across additional evidence of possible misconduct and ongoing civil and criminal investigations involving funds at BTCB. This evidence included the following:

—KPJ Trust. U.S. bank records show that, on 9/21/98, Tiong Tung Ming of Malaysia transferred $1 million to BTCB's account at Security Bank. Tiong has since complained to Dominican, U.K. and U.S. Government officials, the Eastern Caribbean Central Bank, and Security Bank about his continuing inability to recover his funds. Tiong invested these funds with a BTCB client, K.P.J. Trust S.A. ("KPJ Trust"), through Michael Dibble and Rosemarie Roeters-Van Lennep, based upon a 9/15/98 joint venture agreement promising "[t]rading profits . . . [of] ONE HUNDRED FIFTY PERCENT (150%) during the duration of the program (40 weeks), which will be distributed on a monthly basis." [Emphasis in original text.]

A 9/17/98 letter on BTCB letterhead, signed by Betts, acknowledged receipt of the funds "from Ming Tung Tion [sic] in favor of KPJ S.A." However, after Tiong complained to Security

Bank and others, Betts sent a 2/25/99, letter denying any knowledge of Tiong. After additional correspondence, Betts sent a 3/15/99 letter stating that Tiong's funds had been placed, through KPJ Trust, into a BTCB "Managed Accounts Contract" for 1 year, and could not be returned to him until 9/21/99. When Tiong continued to demand his funds and the KPJ Trust later joined in those demands, a 5/11/99 letter from Brazie stated that Tiong's funds could be released earlier if "we receive additional funds from other entities and those are committed to Global Investment Fund S.A. to replace your funds." BTCB did not, however, release any funds, even at the end of the 1-year period on 9/21/99.

Documents supplied by Tiong recite repeated broken promises by BTCB to return the funds. Yet, at the same time, U.S. bank records show that BTCB made $315,000 in payments to several persons associated with the KPJ Trust:

—9/22/98 wire transfer of $200,000 from BTCB's account at Security Bank to United Bank in Rustenburg, South Africa, for "W.H. Keyser . . . Ref. K.P.J. Trust S.A.," returned on 9/29/98 because United Bank could not locate the account;

—1/15/99 wire transfer of $5,000 from BTCB's account at Security Bank to the Royal Bank of Scotland in London, for Ms. Van Lennep and KPJ Trust SA, using the account of Stuart Moss, a London resident who regularly works with BTCB;

—8/5/99 wire transfer of $25,000 from BTCB's account at Security Bank to Wells Fargo Bank in Denver, Colorado, for Ms. Van Lennep, "Ref. K.P.J. Trust S.A.";

—11/1/99 wire transfer of $110,000 from BTCBs account at First Union to Wells Fargo Bank in San Francisco, California, for Ms. Van Lennep; and

—11/26/99 wire transfer of $175,000 from BTCB's account at First Union to Wells Fargo Bank in California for Ms. Van Lennep.

The KPJ Trust allegations have clear parallels to other BTCB matters examined by the investigation, including the references to BTCB's high yield investment program and Global Investment Fund subsidiary; BTCB's insistence that the investor's funds were unavailable for 1 year; and BTCB's nonpayment of the funds to the investor, despite making payments to the BTCB client who arranged for the funds to be deposited at the bank in the first place.

—Brett Investors. Investors in Texas, California and Canada have made complaints that funds invested with Scott Brett and, on his instructions, wired to BTCB, have not been returned. Brett is a part owner of BTCB through Bailett International Ltd., according to documents supplied by BTCB to U.S. banks, and other information linking Brett to John Long, BTCB's majority owner. Despite the limited information available about this matter, the investigation located U.S. bank records showing over $763,000 in wire transfers involving in-

vestors who have complained of being defrauded or persons or entities associated with Brett, including the following:

—2/10/98 wire transfer of $25,000 from unknown originator to BTCB's account at BIV for "Aurora Investments";

—2/25/98 wire transfer of $2,010 from unknown originator to BTCB's account at BIV for "Aurora Investments";

—3/11/98 wire transfer of $29,994 from A. Kotelr to BTCB's account at BIV for "Bailett I";

—4/22/98 wire transfer of $15,000 from unknown originator to BTCB's account at BIV for "Aurora Investments";

—10/22/98 wire transfer of $10,500 from Arthur W. Hogan, an investor claiming to have been defrauded by Brett, to BTCB's account at Security Bank;

—10/27/98 wire transfer of $110,500 from Denver and Arlene Hopkins in Louisiana to BTCB's account at Security Bank "per Scott Brett";

—12/9/98 wire transfer of $250,000 from "Newcastle Enterprises Scott Brett" to BTCB's account at Security Bank for "Aurora Investments";

—1/14/99 wire transfer of $100,000 from BTCB's account at Security Bank to Washington Trust Bank in Spokane, Washington, for "Bailett International . . . Ref: Aurora Investments S.A."; and

—4/28/99 wire transfer of $220,000 from BTCB's account at First Union to Canadian Imperial Bank of Commerce in Kelowna, British Columbia, for "Bearisto & Co. Trust" for "Aurora Investments S.A."

Civil and criminal investigations may be underway into these complaints.

—Gendreau Investment. Plaintiffs' filings in the Gold Chance case provide information about a BTCB client in Minnesota, Michael Gendreau, who allegedly invested $390,000 with BTCB in 1998, and has been "unable to get his money back."[374] The U.S. Treasury Department and the FBI in Seattle have allegedly been informed and may be investigating his claims against BTCB.

—Global/Vector Medical Technology Accounts. U.S. bank records show BTCB's involvement with a company headed by an individual suspected of past securities fraud. The company is Global Medical Technologies, Inc., a Florida corporation which, on January 29, 1999, changed its name to Vector Medical Technologies, Inc. ("Vector"). Vector's chairman and chief executive is Dr. Michael H. Salit, a Florida resident who apparently received a medical degree in Israel, but has not been licensed to practice medicine in any U.S. State including Florida. Salit was the subject of a 1996 SEC enforcement action for

[374] *Gold Chance,* "Affidavit of Brent Binions" (4/20/00) at 2.

securities fraud[375] which resulted in a March 2000 final judgment that required him, without admitting or denying SEC allegations, to pay $600,000 to the government and accept a court order permanently enjoining him from engaging in securities fraud. The court excused Salit from paying all but $25,000 of the required sum in light of a financial statement showing him to be without assets. The court warned, however, that the full $600,000 would become due if the SEC "obtain[ed] information indicating that Defendants' representations to the [SEC] concerning their assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate or incomplete."[376]

Salit is a signatory on at least seven Vector accounts at First Union, and U.S. bank records show a number of transactions between BTCB and Vector.[377] The bank records indicate that Vector's initial account was opened at First Union on 9/30/98, well after the SEC enforcement action was underway. The bank records indicate that, during 1999 and 2000, hundreds of investors across the United States paid over $16 million into Vector's CAP account to purchase Vector shares. The bank records show that BTCB paid $500,000 into Vector's initial account soon after it opened, and subsequently received $1 million in payments from Vector over a 12-month period, several installments of which were pass-through payments involving BTC Financial.

The key transactions include the following:

—12/14/98 wire transfer of $300,000 with the notation "[promissory] note & investment," and a 3/15/99 wire transfer of $200,000, from BTCB's account at Security Bank into Vector's initial account at First Union, which provided virtually all of the funds in the Vector account;

—1/6/99 wire transfer of $145,000 from Vector's initial account to its newly-opened CAP account, utilizing the funds provided by BTCB;

—8/26/99 check for $300,000 written by Vector on its CAP account for BTCB, which BTCB deposited on 9/2/99 into its Security Bank account, presumably in repayment of the funds provided by BTCB in December;

—10/4/99 check for $200,000 written by Vector on its CAP account for BTCB, which BTCB deposited on 10/5/99 into its First Union account, presumably in repayment of the funds provided by BTCB in March;

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[375] *SEC v. The Appletree Companies Inc. f/k/a Modami Services, Inc., Michael H. Salit, David B. Lobel, Paul B. Kravitz, and W. Scott Long III* (U.S. District Court for the Southern District of Florida Civil Case No. 96–8675–Civ–Seitz).

[376] *Id.,* "Final Judgment of Permanent Injunction and Other Relief as to Defendants Salit and Lobel" (3/3/00) at 5.

[377] Vector has at least seven accounts at First Union, numbered 209–000–294–6659 (opened 9/30/98 until 11/1/99, and referred to as the "initial account"); 998–324–6063 (opened 1/5/99 to present, and referred to as the "CAP account"); 200–000–276–0469 (opened 8/30/99 to present); 200–000–276–0375 (opened 9/8/99 to present); 200–000–748–1837 (opened 5/12/00 to present); 24021271 (brokerage account); and 4063000997 (money manager account, possibly opened in 8/00). Vector may have additional accounts in First Union's private bank.

—11/12/99 check for $100,000 written by Vector on its CAP account for BTC Financial Services which deposited the check on the same day, waited for it to clear, and then wrote a $100,000 check to BTCB, signed by Betts and dated 11/18/99, which BTCB deposited into its First Union account on 11/19/99;

—12/14/99 check for $100,000 written by Vector on its CAP account for BTC Financial Services which deposited the check on the same day, and immediately wrote a $100,000 check to BTCB, signed by Requena. and dated 12/14/99, which BTCB deposited into its Security Bank account on 12/15/99;

—1/10/00 check for $100,000 written by Vector on its CAP account for BTC Financial Services which deposited the check on 1/11/00, and immediately wrote a $100,000 check to BTCB, signed by David Cooper and dated 1/11/99, which BTCB deposited into its Security Bank account on 1/12/00;

—2/2/00 check for $100,000 written by Vector on its CAP account for BTCB, which BTCB deposited into an unknown account on 2/9/00; and

—2/29/00 check for $100,000 written by Vector on its CAP account for BTCB, with the notation "Final Payment," which BTCB deposited into its Security Bank account on 3/1/00.

A 1999 Vector financial statement indicates, in Note 8, that the $500,000 provided by BTCB was a loan and, on October 4, 1999, apparently in connection with repaying the $500,000 principal, Vector agreed to pay BTCB a second $500,000 "as payment in full of principal and interest as well as for the surrender and release by BTCB of all its right, title and interest in Vector, including its stock ownership. BTCB had the right to approximately 1,400,000 unissued shares of the Company's common stock."

BTCB either failed to conduct sufficient due diligence to discover Salit's recent involvement with securities fraud allegations or decided to do business with Salit despite his past. BTCB not only lent Vector significant funds—one of the few business loans issued by this bank—but then allegedly acquired rights to 1.4 million in unissued Vector shares. BTCB then supposedly surrendered these rights in exchange for a portion of the $16 million the company was raising from new investors. SEC and criminal investigations may now be underway to determine whether Vector Medical Technology venture has any indications of securities fraud.

(7) Taves Fraud and the Benford Account

In April 2000, U.S. citizens Kenneth H. Taves and his wife Teresa Callei Taves were found liable by a U.S. district court for defrauding hundreds of thousands of credit card holders by billing their credit cards for unauthorized charges totaling more than $49 million. About $7.5 million in fraud proceeds was traced to a European Bank account opened in the name of a Vanuatu corporation, Benford Ltd. Benford Ltd. had been established by European Trust and its bank account opened by European Bank, without any due

diligence research into the company's beneficial owner or source of funds. Even after learning that the $7.5 million came from the Taves fraud victims, European Bank fought for more than 1 year to prevent U.S. seizure of the $7.5 million from its correspondent account at Citibank.

Taves Fraud. The Taves fraud first became public in January 1999, when the U.S. Federal Trade Commission (FTC) filed a civil complaint in California charging the Taves and associated companies and individuals with unfair and deceptive business practices arising from fraudulent credit card billing.[378] In response, the court issued a temporary restraining order freezing the Taves' assets, requiring the defendants to provide an accounting of their activities and assets, and appointing an FTC receiver to locate and return fraudulently obtained monies.[379]

In May 1999, the court held Taves in criminal contempt for hiding assets from the FTC, including a $2 million house in Malibu transferred to a corporation and $6.2 million deposited into a bank account at Euro Bank in the Cayman Islands.[380] Euro Bank is a longstanding, Cayman licensed bank that has no affiliation with European Bank or the Bayer family. The U.S. district court ordered Taves imprisoned until he turned over the $2 million from the house transfer to the FTC receiver. Imprisoned on May 4, 1999, Taves was still in custody when he was indicted in February 2000, in both the United States and Cayman Islands.[381]

In April 2000, the U.S. court issued findings of fact and conclusions of law holding the Taves and other defendants liable for fraudulent credit card billing.[382] The court ruled that "the uncontroverted evidence overwhelmingly demonstrate[d] that the defendants participated in a billing scheme by submitting unauthorized [credit card] charges for processing."[383] The court determined that, in November 1997, the Taves' companies paid a fee to Charter Pacific Bank in California to gain access to a credit card database containing over 3 million credit card numbers.[384] The Taves then opened merchant bank accounts—accounts used to accept credit card payments—at Charter Pacific Bank and Heartland Bank and began billing small amounts, often $19.95, to thousands of credit card numbers in the database.[385] Although the defendants apparently alleged that the $19.95 was a monthly fee that the credit card holders paid to access adult-content Internet web sites operated by Taves-related companies, the court found that the defendants had "stole[n]" the credit card numbers from the database and "charged card numbers without the cardholders' authorization."[386] The court

[378] See *FTC v. J.K. Publications, Inc.* (U.S. District Court for the Central District of California Civil Case Number CV 99–0044 ABC (AJWx)), complaint (1/5/99) and amended complaint (1/20/99).

[379] See *FTC v. J.K. Publications, Inc.,* temporary restraining order (1/6/99).

[380] See *FTC v. J.K. Publications, Inc.,* order holding Taves in contempt for not disclosing Malibu realty (5/4/99); order requiring Mr. and Mrs. Taves to produce documentation related to Euro Bank account (5/5/99); and order granting summary judgment (4/7/00) at 3.

[381] See *United States v. Taves* (U.S. District Court for the Central District of California Criminal Case No. 00–CR–187–ALL), indictment (2/29/00); money laundering charges filed in the Cayman Islands (2/9/00). A trial is scheduled on the U.S. charges in January 2001.

[382] See *FTC v. J.K. Publications, Inc.,* order granting summary judgment (4/7/00).

[383] *Id.,* at 51.

[384] *Id.* at 17, 21, 51.

[385] *Id.* at 12, 16–17, 20, 51.

[386] *Id.* at 53. See also *id.* at 6, 16–18, 34–35, 51–52.

found that, in 1998 alone, over $49.6 million was deposited into the Taves' merchant accounts[387] from unauthorized charges billed to over 783,000 credit card numbers in the Charter Pacific database.[388] The funds were then used for various purposes, including paying Mr. and Mrs. Taves a "salary" of $1.8 million each.[389] The court found that $25.3 million of the $49.6 million had been transferred to offshore bank accounts at Euro Bank.[390]

In February 2000, the Cayman Government charged three senior Euro Bank officials with money laundering, citing the $25.3 million transferred to the bank from the Taves fraud. These charges, brought against Ivan Richard Wykeham Burges, Brian Leslie Peter Culma, and Judith Mary Donegan, are the first money laundering prosecutions brought against Cayman bank officials in the country's history. Criminal charges were also brought against six other individuals, including Taves for money laundering.[391]

In May 1999, due to money laundering concerns arising not only from the Taves fraud but other matters as well, the Cayman Government closed Euro Bank.[392] In June 1999, Euro Bank's shareholders placed the bank in voluntary liquidation, and the bank began winding up its affairs. On July 26, 1999, Euro Bank's liquidators agreed to provide the FTC with "information and documents in the Bank's possession" relating to the Taves fraud in exchange for releasing the Bank from damage claims related to the bank's actions in that matter.[393] After the agreement was approved by the Cayman Grand Court, the FTC receiver reviewed Euro Bank information and found the $7.5 million transfer from Taves-related accounts at Euro Bank to the Benford account at European Bank in Vanuatu.

Establishing Benford Ltd. The Benford account was opened in February 1999, at the request of Euro Bank employee Ivan Burges, later charged with money laundering on behalf of Taves. The account was opened by Susan Phelps, who is both a European Bank director and employee, and a European Trust officer.[394] On 2/3/99, Burges sent a fax to European Bank inquiring about establishing a Vanuatu corporation and opening a corporate bank account for an unnamed client. Phelps faxed Burges the requested information. On 2/8/99, Burges requested incorporation and account opening forms and, the next day, faxed an "urgent" request to establish a Vanuatu corporation called Benford Ltd., still without naming the client on whose behalf he was acting. Phelps supplied him with the

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[387] *Id.* at 25.
[388] *Id.* at 33–34.
[389] *Id.* at 13.
[390] *Id.* at 36–37.
[391] Documents attached to public court filings in the FTC case in the United States, includes, for example, documents showing Taves' paying Donegan, one of the Euro Bank employees, $4,000 per month for her efforts on his behalf and authorizing her to use his Cayman beach house "for the purposes of spending a few leisurely hours there from time to time." Another document shows Taves' transferring one of his companies to her "free of charge" in February 1999, apparently in a continuing effort to hide assets from the FTC and evade the January 1999 court order imposing an asset freeze.
[392] *FTC v. J.K. Publications, Inc.,* "Report of Receiver's Activities Dated August 4, 1999," (8/6/99) at 1; interviews of Cayman Government officials in April 2000.
[393] See "Deed of Compromise, Release, Accord and Satisfaction" (7/26/99) at 2.
[394] This information is based upon affidavits filed by Phelps in various court proceedings, as well as account documentation and other information. See, for example, *Evans v. European Bank* (Civil Case No. 85 of 1999 before the Supreme Court of Vanuatu), Phelps affidavit (11/22/99); *Evans v. Citibank* (Case No. 4999 of 1999 before the Supreme Court of New South Wales, Sydney Registry, Equity Division), Phelps affidavit (12/17/99).

requested forms as well as wire transfer instructions for sending funds to European Bank's correspondent account at Citibank in New York.

On 2/17/99, Burges faxed an application to incorporate Benford Ltd. providing minimal information about the person who would be the corporation's beneficial owner. Burges provided nothing more than her name, Vanessa Phyllis Ann Clyde, a London address, a copy of her passport photograph, and a one-word description of her occupation as "business." On the same day Burges wire transferred $100,000 from Euro Bank to Citibank in New York, for European Bank. Without asking any questions or obtaining any additional information, 24 hours later on 2/18/99, European Trust Incorporated Benford Ltd. Phelps faxed a copy of the incorporation papers to Burges on 2/19/99, and asked where to send the originals. He instructed her to send them to Clyde in London.

The documents created by European Trust to establish Benford Ltd. never identify the company's beneficial owner by name nor refer to Clyde.[395] Instead they reference a series of shell corporations which Bayer said in his interview are controlled by "the Bayer group" of companies.[396] Only one European Trust document—not part of the company's official incorporation papers—actually named Clyde. Entitled "Nominee Declaration" and bearing the same date, 2/18/99, as the official incorporation papers, it declared that European Trust's nominee company, Meldrew Ltd,. was holding Benford's shares as a nominee for Clyde.[397] Bayer explained that this nominee declaration was typically the key document European Trust used to establish the beneficial ownership of a Vanuatu company it formed. He said that typically European Trust would maintain a copy in its files, but would not supply a copy to European Bank.

Opening the Benford Account. After incorporating Benford Ltd. through European Trust, Phelps put on her European Bank hat and opened a bank account for corporation. Phelps admitted in court pleadings that, throughout the bank account opening process, she never spoke with either Burges or Clyde.[398] The documentation

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[395] The State Department's INCSR 2000 report states that one of the key deficiencies in Vanuatu's anti-money laundering laws is its corporate secrecy laws which "shield the identity and assets of beneficial owners of business entities. . . . The anonymity and secrecy provisions available through ownership of Vanuatuan [corporations], along with the ease and low cost of incorporation, make them ideal mechanisms for tax evasion and money laundering schemes." INCSR (March 2000) Money Laundering and Financial Crimes Country Reports, Vanuatu.

[396] For example, the "constitution" used to establish Benford Ltd. names only one "incorporator," Atlas Corp. Ltd., a Bayer group company. The constitution is signed on 2/17/99, by Phelps, on behalf of Atlas Corp. Ltd. A Benford corporate resolution, signed by Phelps on 2/18/99 on behalf of Atlas Corp. Ltd., appoints Benford's sole director, Diract Ltd., and its sole corporate officer, Lotim Ltd., which are two more Bayer group companies. A "share certificate" purporting to issue 100 Benford shares to a company called Meldrew Ltd., is signed by Phelps on behalf of Diract Ltd. and by another European Bank employee, David Outhred, who signed the certificate on behalf of Lotim Ltd. Bayer said during his interview that Meldrew Ltd. is owned by European Trust. Together, Benford Ltd.'s official incorporation documents, corporate resolutions and share certificate never mention Clyde, the company's true owner.

[397] The document states that Meldrew Ltd. "hereby admits that the above mentioned shares are your absolute property and that they only stand registered in our name at your request as your nominee in Trust for you absolutely and that we have no beneficial interest therein whatsoever." [Emphasis in original text omitted.] It is signed by Phelps and Outhred on behalf of still two more European Trust companies, Zenith Inc. and Orion Inc., which are apparently Meldrew's officers.

[398] See *Evans v. European Bank* (Civil Case No. 85 of 1999 before the Supreme Court of Vanuatu), Phelps affidavit (11/22/99), paragraph (3), "I did not speak to Mr. Burges during the course of the correspondence . . . and verily believe nobody else from [European Bank or European Trust] spoke to Burges." CG 6439–43.

also makes it clear that European Bank opened the Benford account without conducting any due diligence research into Clyde, the source of her wealth, or the origin of the initial deposit of $100,000.

The European Bank forms used to open the Benford bank account provide even less due diligence information than the European Trust forms used to establish the corporation. The account opening questionnaire, as well as a Benford corporate resolution and mandate to open the bank account, are all signed by Phelps. None mentions Clyde.[399] None provides additional due diligence information about Benford Ltd. Bayer indicated that these forms were filled out in the usual way for bank accounts opened for companies formed by its affiliate, European Trust.

One of the European Bank forms, entitled a "Statutory Declaration of Account Holder In Relation to the Operation of the Account," was apparently intended, in part, to protect the bank against money laundering. European Bank provided a copy of this completed form for the Benford account. It stated that the "beneficial owner" of the Benford account was "Benford Limited," again without making any reference to Clyde, and essentially declared that the funds deposited into the Benford account were not derived from criminal activities.[400] But the declaration was not signed by Clyde or Burges. The form was instead signed by Phelps, on 2/25/99, prior to her making any inquiry into the origin of the Benford funds or conducting any substantive due diligence. Her signature was witnessed by Bayer, who also signed the form without having any knowledge of the account funds or Clyde. When asked how this document protected European Bank from money laundering, when it was signed by its own employee and not based on any factual knowledge, Bayer said that the Benford form had been completed in a routine manner similar to other accounts at the bank.

Bayer explained that, although Clyde's name never appeared on a bank document connected with the Benford account, European Bank had access to her identity through European Trust. Although Vanuatu law generally prohibits trust companies from disclosing a Vanuatu corporation's ownership, he explained that this prohibition could be waived by the company owner to open a bank account. Bayer said that European Bank could have simply asked European Trust at any time for the identity of the corporate beneficial owner. He noted that, in the case of Benford Ltd., that step

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[399] One European Bank form, entitled "Declaration of the Beneficial Owner's Identity," appeared to require disclosure of a bank account's beneficial owner but was completed without doing so. The copy of this form provided by European Bank to the Subcommittee was signed by Phelps, dated 2/25/99, and identified "the beneficial owner of the assets deposited with the bank" as "Benford Limited." Bayer indicated this was a common way for European Trust to complete the form for companies they managed. He explained that the purpose of the form was not to reveal a company's true owner, but to establish that the accountholder is also the owner of the deposits placed into the account.

The Minority staff investigation later discovered a second version of this form, also signed by Phelps on 2/25/99, which was attached to an affidavit filed by Bayer in a Vanuatu court proceeding. See *In re European Bank* (Company Case No. 8 of 1999 before the Supreme Court of Vanuatu), Bayer affidavit (7/28/99), Exhibit L. The form stated that the "beneficial owner of the assets deposited with the bank" in the Benford account was "Vanessa P A Clyde." During his interview, Bayer was unable to explain why there were two versions of this document or why he had failed to supply the investigation with the same version he filed in court.

[400] The document states: "The deposits to be credited to the above mentioned account holder are not derived from, nor proceeds of, any forms of unlawful activity whatsoever nor were these assets (including the funds to be deposited) obtained in any manner contrary to the laws of the country whence they came or any other relevant country."

was unnecessary since Phelps worked for both the bank and the trust company and had the knowledge on hand for both entities.

Increasing Deposits and Increasing Concerns About the Benford Account. The Benford bank account application and related documents were dated 2/24/99 and 2/25/99. The Benford account was apparently opened on 2/26/00, when $97,900 out of the $100,000 transferred from Euro Bank on 2/17/99, was credited by European Bank to the newly opened Benford account, and the other $2,100 was kept by European Trust to pay for Benford's incorporation expenses.

About 2 weeks after the Benford bank account was opened, on March 17, 1999, Burges telephoned European Bank and spoke with Phelps for the first time. He included in the telephone conversation a woman whom he alleged to be his client Clyde, who spoke with an American accent, despite her British passport. According to Phelps' sworn affidavit, this was the first of several telephone conversations she had in March and April discussing how Clyde wished to invest her funds.[401]

During these 2 months, Burges also wired more than $7 million to the Benford account.[402] All of the funds came from Taves-related accounts at Euro Bank. All were made after the 1/6/99 court order freezing Taves' assets. All were wire transferred to European Bank's U.S. dollar correspondent account at Citibank in New York.

Bayer indicated in a letter to the Subcommittee that these funds were unexpected[403] and prompted additional due diligence efforts. After the March deposit of $2.8 million, according to Bayer, European Bank contacted Euro Bank to ask about the nature of the funds, and Euro Bank promised to "get back to us with the answers."[404] Phelps then asked European Bank's senior vice president, Douglas Peters, if he could find out more about Euro Bank.

On 3/29/99, Peters sent a fax to persons he knew in the Cayman Islands asking about Euro Bank. One of the persons responded by fax the same day stating that she would like to speak to him by telephone. Peters' handwritten notes of the telephone conversation on 3/30/99 state the following about Euro Bank:

> Small locally incorporated bank, with a local banking license, 20/30 people on the staff, corporate activities too, not a good reputation locally, has its door open to business when other doors are closed to it, very much lower end of the local banking business, dubious, 3 months ago there were rumors that they might fail, not well respected, advise caution when dealing with them. Barclays would not accept a reference from them and would certainly not do business with them.

According to Bayer, Peters communicated this information to both Phelps and to Bayer himself.

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[401] Clyde indicated on several occasions her preference for keeping the funds in U.S. dollars in a secure but liquid investment. For example, on 2/23/99, Clyde sent Phelps a fax asking whether the bank could "place Benford client funds in a market account . . . [i.e.,] a New York brokerage fund and keep privacy." European Bank ultimately placed the funds in U.S. dollar, interest-bearing accounts at its correspondent banks.

[402] Citibank records show that the $7 million was deposited in three wire transfers: $2.8 million on 3/17/99; $750,000 on 4/9/99; and $3.88 million on 4/9/99.

[403] Letter dated 5/22/00 from Bayer to Senator Levin at 8.

[404] *Id.*

Despite this negative portrayal of Euro Bank—the sole reference for the Benford account—European Bank left open the account, accepted additional funds, and chose not to try to verify any information about Clyde or her assets. Bayer explained the bank's actions by saying that Euro Bank had referred other clients with no negative consequences, the client was not asking to withdraw the funds, and Clyde had reassured Phelps by explaining that Clyde was retired and diversifying her holdings as part of an estate planning process. When asked how that information fit with Clyde's passport information indicating she was 61, and her incorporation application describing her as still in business, Bayer said that the bank had been satisfied with her explanation and did not feel any concern at the time. He acknowledged that the bank did not undertake any effort to independently verify Clyde's background or assets, or to obtain additional references for her.

By April 1999, the Benford deposits totaled about $7.5 million. Bayer said in his interview that Benford Ltd. had become a "huge client" for the bank, and agreed that its $7.5 million represented about 15% of the bank's total deposit base of $50 to $60 million at the time.

In May 1999, two incidents suddenly cast new suspicion on the Benford funds. The first was on 5/25/99, when Phelps received a telephone call about the account from a Clyde with an English accent, instead of an American accent. Phelps reported the call and a fax received the next day to Bayer who said during his interview that it was the first time European Bank appeared to have two different persons claiming to be the beneficial owner of an account at the bank. On 5/29/99, a Friday, European Bank received another fax, a letter dated 5/27/99, from a firm representing Euro Bank.[405] It stated that Euro Bank had been placed into receivership and the $7.5 million previously transferred to the Benford account appeared to be associated with the Taves fraud. Bayer indicated that, in response to these two events, the bank immediately froze the Benford account internally and, on Monday, 5/31/99, filed a report with the Vanuatu police.[406]

Bayer indicated, and bank documentation substantiates that, prior to May 1999, European Bank had followed its usual practice of directing the Benford funds into a series of "placements" at its correspondent banks, in order to maximize the interest earned on the funds. After freezing the funds, Bayer indicated that European Bank transferred them internally into a new, non-interest bearing account from which client withdrawals were prohibited.[407] However, even after moving the Benford deposits into a non-interest bearing account within the bank, European Bank continued to place the $7.5 million with the correspondent bank paying the highest interest rate on the funds.[408] A series of placements by Eu-

[405] See letter dated 5/27/99 from Maples and Calder to European Bank.

[406] See also *Evans v. Citibank* (Case No. 4999 of 1999 before the Supreme Court of New South Wales, Sydney Registry, Equity Division), affidavit of Susan Phelps (12/17/99), CG 6519–22.

[407] *Id.* Phelps affidavit at paragraph (7).

[408] Documentation and interviews indicate the following U.S. dollar placements involving the $7.5 million:

—30 day placement from 7/20/99 until 8/20/99 at Westpac Bank;
—30 day placement from 8/20/99 until 9/20/99 at Citibank;
—30 day placement from 9/20/99 until 10/20/99 at ANZ Bank;

Continued

ropean Bank with its correspondents for $7.5 million plus interest appear to have been paid for with the Benford funds.[409] In his interview, Bayer said that while he was "not denying" that these placements included the Benford deposits, he maintained that they also included non-Benford funds, such as European Bank's own interest earnings from the deposits and possibly $20,000 to $40,000 belonging to one or two other clients. Despite a request, Bayer did not identify these other clients or provide documentation showing how or when other client funds may have been combined with the frozen $7.5 million in Benford funds and included in these placements.

In June 1999, after freezing the Benford funds internally, European Bank attempted to find out more about their origin. Bayer indicated and documentation suggests that inquiries directed to Euro Bank and Burges were unanswered. Phelps had already attempted, without success, to verify Clyde's London address and telephone number.[410] She also asked Clyde to send a notarized copy of her passport photograph, which Clyde did and which matched the one the bank had on file for the Benford account. On 6/15/99, Phelps asked Clyde in a telephone conversation about the origin of the funds. She wrote this summary of the conversation:

> [Clyde] said I should have got this info from Burges. I said the funds had just arrived without supporting documentation. . . . English was asked to open the a/c. Doesn't know when. . . . Doesn't know how much. Wasn't responsible. for putting funds in. Not her personal funds. Extremely uncomfortable. . . . If somebody had taken funds she doesn't want to be tarred.[411]

Vanuatu and Australia Court Proceedings. Within months of the $7.5 million being deposited, European Bank had notice and evidence of their suspect origin. Yet when legal proceedings ensued in Vanuatu and then Australia, European Bank steadfastly opposed releasing the funds or remitting them to the FTC receiver representing the Taves fraud victims.

The litigation began in the summer of 1999. On July 2, 1999, someone claiming to be Clyde attempted to withdraw $700,000 from the Benford account. Because the account was frozen, European Bank refused the request but, according to Bayer, also realized that it had no statutory basis or court order supporting its refusal. On 7/28/99, European Bank filed a lawsuit in Vanuatu court asking for a court order freezing the Benford account, which the court issued on the same day.[412] On 8/25/99, the FTC receiver filed a civil suit in the Vanuatu court seeking information about the account and restraining Benford Ltd. from transferring any funds.[413] The court consolidated the two cases and granted the FTC receiver access to the information in the first suit.

—placement from 10/20/99 until November 2000 at Citibank, after which the funds were seized and taken into custody by the United States.

[409] A review of European Bank's U.S. dollar correspondent account records at Citibank and ANZ Bank show no other deposit, transaction or placement, in 1998 or 1999, which could have given rise to these $7.5 million placements, other than the Benford deposits.

[410] See Phelps email dated 5/26/99, CG 6497.

[411] See Phelps affidavit and notes, CG 6509–11.

[412] *In re European Bank* (Company Case No. 8 of 1999 before the Supreme Court of Vanuatu).

[413] *Evans v. European Bank* (Civil Case No. 85 of 1999 before the Supreme Court of Vanuatu).

On 9/22/99, Clyde filed a pleading in the Vanuatu case stating that, "subject to the Order of this Honorable Court," she would like to remit all of the Benford funds to the FTC receiver.[414] Her sworn affidavit stated:

> I knew nothing of the founding of Benford Limited, nor of the opening of an account with European Bank Limited, until I received, unsolicited, a copy of the Benford's Articles of Incorporation and a summary of charges from European Bank. . . . In late January of 1999, I was living in . . . Malibu, California . . . [and] an old and close friend of my family, Gretchen Buck . . . told me that . . . I would earn a helpers fee of at least $10,000 if I would assist her in opening an offshore account for "a friend." I was assured that the purposes of the account were totally aboveboard and the "friend" was of unimpeachable integrity with a few legitimate business problems but a person who craved anonymity. I agreed to assist, and at Buck's request, signed 40 pieces of blank paper. I have not seen these papers since. . . . I became suspicious thereafter when Buck was not forthcoming . . . [and] would say . . . "Its best you don't know."

Gretchen Buck is an associate of Taves, a former Euro Bank accountholder, and one of the individuals indicted in the Cayman Islands for money laundering. She apparently directed the transfer of more than $3 million to the Benford account.[415]

Attached to Clyde's pleading were documents indicating that she intended to transfer control over Benford Ltd. from European Trust's nominee companies to the FTC receiver's legal counsel in Vanuatu, so that the $7.5 million could be paid to the FTC. European Trust's nominee companies, however, opposed this change in control over Benford Ltd. and opposed remitting the $7.5 million to the FTC receiver.[416]

More litigation in Vanuatu followed, including a criminal investigation of Benford Ltd. by the Vanuatu police for money laundering.[417] On 11/30/99, the Vanuatu police charged Benford Ltd. with possession of property "suspected of being proceeds of crime."[418]

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[414] *Evans v. European Bank,* Clyde affidavit (9/22/99).

[415] See *FTC v. J.K. Publications,* "Report of Receiver's Activities dated August 4, 1999," at 5–6.

[416] See *Evans v. Citibank* (Case No. 4999 of 1999 before the Supreme Court of New South Wales, Sydney Registry, Equity Division), affidavit of Douglas Edmund Raftesath, Australian counsel for the FTC receiver (12/17/99) at 3.

[417] On 9/23/99, the Vanuatu police asked the court to impose a freeze under criminal law on the $7.5 million, pending an investigation of Benford Ltd. for money laundering. Despite requests by Benford Ltd. and the FTC receiver to attend the hearing on this request, the court heard from the police on an ex parte basis, issued the requested order, declined to allow release of the $7.5 million to the FTC receiver, and ordered additional proceedings. On 10/29/99 and 11/22/99, Phelps filed two affidavits in the case providing additional information and stating that, despite the bank's role in establishing the corporation, opening its bank account and managing the $7.5 million, European Bank did not know the true identity of Benford Ltd.'s beneficial owner.

[418] Information filed before the Supreme Court of Vanuatu (Criminal Case No. 754 of 1999). On 12/2/99, pursuant to the request of the police, the Vanuatu court issued still another order freezing the Benford funds. On 12/3/99, Clyde filed a new civil suit in Vanuatu court requesting an order declaring her the sole beneficial owner of Benford Ltd. and requiring Meldrew Ltd., the European Trust nominee company, to transfer all Benford shares to the Vanuatu counsel working with the FTC receiver. *In re Benford Ltd.* (Company Case No. 14 of 1999 before the

Continued

Legal proceedings began in Australia after the FTC located a document notifying Benford Ltd. that its funds had been transferred to "Citibank Limited, [Offshore Bank Unit] Sydney."[419] On 11/30/99, the FTC receiver sent a letter to Citibank offices in Sydney, Australia ("Citibank Sydney"), alerting it to the Taves fraud and its relation to the Benford funds deposited by European Bank.[420] On 12/10/99, the FTC receiver filed suit in Australia to freeze the $7.5 million on deposit with Citibank.[421]

Unknown to the FTC receiver at the time of its filing, European Bank had, in fact, taken steps that same day to transfer the funds from Citibank to one of its correspondent banks in Vanuatu.[422] Before any transfer took place, however, the Australian court issued an order freezing the funds.

Additional pleadings followed in Australia from the Vanuatu Government, European Bank and FTC receiver, all seeking control of the $7.5 million. At first, European Bank alleged that the frozen $7.5 million was unrelated to the Benford funds and Taves fraud,[423] and the FTC receiver's Australian legal counsel agreed to drop the suit. That was on a Friday. According to Moore, European Bank asked Citibank to transfer the funds to Westpac Banking Corp. in Vanuatu on the following Monday. However, on Sunday, the Australian federal police filed an emergency request to freeze the funds pending further investigation, and the Australian court reinstated the freeze.

On 12/15/99, European Bank sent a fax to Citibank complaining that the FTC receiver was trying "every trick in the book" to "force the monies to be sent to the USA."[424] Bayer concluded the fax with these observations:

Supreme Court of Vanuatu). The intent of her lawsuit was, again, to facilitate the transfer of the $7.5 million to the FTC receiver.

[419] See "Interest Bearing Deposit Confirmation," dated 10/12/99, issued by European Bank to Benford Ltd., CG 4625.

[420] The letter placed Citibank "on notice that [the FTC receiver] assert[s] priority claims over any funds originating from this fraud, including the funds on deposit with you." According to Citibank, this letter was the first notice they had of any problem with the $7.5 million deposit made by European Bank. See *Evans v. Citibank* (Case No. 4999 of 1999 before the Supreme Court of New South Wales, Sydney Registry, Equity Division), affidavit of Christopher Schofield Moore (12/16/99).

[421] *Evans v. Citibank* summons (12/10/99). The pleadings stated, in part, that while the FTC receiver had obtained freeze orders for the funds in Vanuatu, the funds "had already been transferred before the orders could be carried out . . . [and] there is a real risk that any moneys held by Citibank . . . may be transferred out of Citibank's accounts." Affidavit of Douglas Edmund Raftesath, Australian counsel for the FTC receiver (12/10/99) at 3.

[422] In a 12/10/99 fax to Citibank Sydney, CG 4810, Bayer informed Moore for the first time about the suspicious activity surrounding the Benford account beginning 6 months earlier, in May 1999, the ongoing money laundering investigation by the Vanuatu police, and the Vanuatu court orders freezing the funds. Bayer wrote:

> "We of course will not be distributing the [Benford] funds to anyone without the direction of the Vanuatu Supreme Court. Unfortunately for your bank, it has not been the high bidder for this deposit upon rollover and I confirm our request that you follow our instruction to transfer the funds to Westpac Banking Corporation for the credit of their Port Vila branch, for the further credit of ourselves (copy enclosed). I assure you that the decision to move the funds has been purely a commercial one and not one driven by any hidden agenda. We will continue to favor Citibank whenever possible in support of our relationship with your bank which we value greatly."

[423] European Bank contended that the freeze order was inappropriate because the funds on deposit with Citibank "are not funds belonging to Benford but are funds belonging to European Bank." *Evans v. Citibank,* affidavit of Susan Phelps (12/17/99) at paragraph (14).

[424] 12/15/99 fax from European Bank to Citibank Sydney, CG 4686–87. He stated further, "The monies have never 'fled the jurisdiction.' They have always been on deposit in US$ with European Bank and nowhere else. European Bank . . . placed the funds in various banks to get the best return."

> Locally [European Bank] has been perceived as being the bank that uncovered the suspicious transactions and took all the right steps to assist the authorities. Now in Australia we are being cast as money launderers and probable accomplices. I fear the Australian authorities would like to believe that.

In December 1999, a local Vanuatu newspaper gave this summary of the Benford matter:

> The Vanuatu Government could find themselves with a US$7.5 million (v982 million) windfall cash gift if the Public Prosecutors office are successful in convicting . . . Benford Ltd. of laundering money here from the illicit proceeds of one of the biggest credit card frauds in history. . . . [The FTC receiver] has been travelling the world tracking down the missing money. He advised, "There are a couple of countries in the Caribbean, . . . Channel islands, . . . Europe and Vanuatu where stolen money was sent. . . . [U]nfortunately, Vanuatu is the only country that is trying not to return the funds to the rightful owners. . . ." [M]embers of the Finance Centre believe that if the government do confiscate it, a clear message will be sent to the outside world not to launder the proceeds of crime through Vanuatu's Finance Centre. This case is however a sensitive one. Vanuatu may have a fight on its hands if it tries to confiscate the funds owing to ordinary people around the world that the court in California USA has ordered to be returned.[425]

The Vanuatu and Australian litigation continued throughout 2000.

U.S. Court Proceedings. Almost 1 year later, on November 29, 2000, at the request of the FTC, the U.S. Department of Justice filed legal proceedings to seize the Benford funds from Citibank in New York. It was able to file the pleadings in the United States, because Citibank Sydney had always kept the Benford funds in U.S. dollars in a U.S. account at Citibank in New York. When presented with the seizure warrant, issued by a U.S. magistrate, Citibank New York, delivered the funds to the United States. On December 21, 2000, the United States filed a civil forfeiture action seeking to eliminate any other claim to the Benford funds.[426] The complaint alleged that the funds were the proceeds of the Taves credit card fraud, and the FTC receiver had "tried to obtain the funds from European Bank through a Vanuatuan court proceeding, but failed to obtain relief in Vanuatu."

During more than a year of litigation in three countries, Clyde has supported sending the Benford funds to the FTC, but European Bank has vigorously opposed it. When asked why, Bayer gave three reasons during his interview: (1) the ownership of the funds remained unclear, since Clyde had admitted that they were not her funds and she did not know their origin; (2) the allegation that the funds came from the Taves fraud should be established in Vanuatu

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[425] "Vanuatu Goes After $US7.5m of Laundered Money," *Trading Post Vanuatu* (12/4/99).

[426] *United States v. $8,110,073.30 in U.S. Currency, Representing $7,593,532.48 Deposited by European Bank at Citibank NA (Sydney Branch) on or about October 20, 1999, Plus Accrued Interest Since the Date of Deposit* (U.S. District Court for the Central District of California Civil Case No. CV–00–13328 (CBM)), complaint (12/21/00).

court and, if true, the Vanuatu Attorney General could reimburse the fraud victims, rather than pay the monies to the FTC receiver who might exhaust the entire sum through fees and expenses;[427] and (3) European Bank had to defend itself from the risk of inconsistent court decisions which might order it to pay the $7.5 million twice, once to the Vanuatu Government in connection with the Benford money laundering prosecution and once to the FTC receiver seeking funds for the Taves fraud victims. At times, Bayer also argued that the $7.5 million deposit at Citibank represented European Bank's own funds, unrelated to the Benford matter, although at other times he acknowledged the Benford deposits made up the bulk of the Citibank placement.

The $7.5 million, now swelled with interest earnings to $8.1 million, remains in the custody of the United States, while the litigation in Vanuatu, Australia and the United States continues.

(8) IPC Fraud

In February 1999, the same month it opened the Benford account, European Bank opened another ill-fated account under a credit card merchant agreement with a Florida corporation called Internet Processing Corporation ("IPC"). As in the Benford matter, European Bank opened the account without a due diligence review of the prospective client. IPC used unauthorized credit card charges to obtain $2 million in payments from European Bank and then absconded with the funds. By the time it learned of the fraud, European Bank was unable to locate IPC, the company's owner, or the missing $2 million. It ultimately suffered a $1.3 million loss which threatened the solvency of the bank.

IPC Merchant Account. According to Bayer, the IPC account was one of about a half a dozen new accounts that European Bank opened in 1999 in an effort to expand the bank's check clearing business into credit card clearing. Bayer said that the bank had not then understood the financial exposure involved in credit card clearing, and its negative experience with IPC and two other companies has since led to its getting out of that line of business for at least the short term.

Bayer explained that the credit card clearing business essentially involved European Bank's earning fees for providing advance payments at a discounted rate to merchants seeking the quick processing of credit card charges. He said that, in 1999, European Bank worked with a Netherlands credit-card processing company called TNT International Mail ("TNT") to make advance credit card payments. Essentially, a company with a European Bank merchant account would send its credit card slips to European Bank; European Bank would forward the data to TNT; TNT would advance the total amount of credit card charges, discounted at a certain rate, to European Bank; and European Bank would, in turn, advance certain payments to the merchant by depositing the funds into the company's merchant account. European Bank would then wait for the

[427] However, the State Department's INCSR 2000 report warns: "Case law in Vanuatu has shown that proving the criminal origins of proceeds, especially of offenses committed abroad, is extremely difficult. Linking criminal proceeds seized in Vanuatu with the offense committed abroad through a complex series of financial transactions conducted by related corporations operating in several offshore jurisdictions is all but impossible." INCSR Report 2000 at 751.

credit card charges to clear, earning its profits from the payments ultimately made by the cardholders.

Bayer explained that European Bank had undertaken a variety of steps to protect the bank from the credit risk associated with advancing credit card payments to merchants, including: (1) requiring its merchants to make a large security deposit; (2) charging its merchants a 6% discount rate instead of the usual 2.5% to 3.5%; (3) retaining 10% of incoming payments from TNT until the merchant's credit card charges cleared; and (4) performing random reviews of credit card orders to detect fraud or misconduct. According to Bayer, what the bank had not taken into account was the possibility of a massive credit card fraud by a merchant who would abscond with the payments made by European Bank for unauthorized credit card charges that would never clear.

Bayer said that the IPC account was first referred to European Bank by a company called Media World which worked with telemarketers and, among other services, earned a fee for bringing them together with banks willing to provide merchant accounts.[428] Bayer said that Media World was owned by Michael Okun, a U.S. citizen living in Florida who had referred two other merchants to European Bank as well. Bayer said that he thought Media World had investigated IPC and was recommending the company, but later learned that Media World had simply referred IPC, without any prior investigation into the company's reputation or reliability.

The documentation indicates that Media World first contacted European Bank about the IPC account around 2/15/99, when Okun sent an email to Kely Ihrig alerting her to expect account opening documentation from IPC. Ihrig had recently been hired by European Bank as its operations manager. The next day, IPC letters and materials arrived by fax, with 49 pages of account opening information.

Ihrig actually opened the IPC account 1 week later on 2/23/99. As with the Benford account, the IPC account was opened based upon written materials and correspondence, without any telephone conversation or direct client contact. Further, despite the credit risk involved, the documentation indicates that the bank performed virtually no due diligence prior to opening the IPC merchant account.

The IPC account opening questionnaire, dated 2/12/99, was signed by Mosaddeo Hossain. It indicated that IPC had been incorporated just 10 days earlier, on 2/2/99. Questions asking about IPC's assets and liabilities were left blank. The company address in Florida, which European Bank did not attempt to verify, was actually the address of a "Kwik Serve Food Store" in a questionable area of town. IPC's business activities were described as "Outbound Telemarketing of Tours & Time Shares," which Bayer said referred to selling vacation and travel packages on the Internet. Bayer said that while European Bank generally considered telemarketers a credit risk, it had been reassured by IPC's providing numerous pages of information about the travel packages it was marketing. Bayer indicated that, later, the bank was unable to find any evi-

[428] For example, Bayer said that, for every $100 in credit card charges posted by a merchant referred by Media World, European Bank would have kept $6 and, from that $6, paid Media World perhaps $1 for referring the merchant.

dence that IPC had actually marketed any products on the Internet, although it may have made some telephone sales.

The questionnaire listed two references for IPC. The first was Mike Okun of Media World. According to Bayer, Okun later indicated that he was unaware that IPC had listed him as a reference, and knew little about either the company or Hossain. The second reference was "Bank Atlantic Hillsboro Office," which turned out to be BankAtlantic, a Federal savings bank in Florida. The questionnaire states that IPC had "banked with them for 1 years/months," without indicating whether the correct time period was 1 year or 1 month. As part of the account opening process, European Bank asked IPC for a written reference letter from BankAtlantic. In response, BankAtlantic provided a very brief letter, dated 2/19/99, addressed to "whom it may concern," stating that IPC "has maintained an account with BankAtlantic, and has handled [the] account as agreed." Bayer said during his interview that this letter had caused European Bank to assume IPC had a mature association with BankAtlantic. However, the bank learned later that the Florida bank account had been opened on 2/5/99, 2 weeks prior to the date of the reference letter; it held only $1,500 at the time of the letter; and it represented the first time Hossain had done business with BankAtlantic.

No inquiry was made by European Bank and no information was provided by IPC about any aspect of the company's finances, such as its initial capitalization or account balances. Nor was any information provided about the company's ownership.[429] The file did include copies of IPC's incorporation papers, but the documents contained primarily boiler plate language and virtually no due diligence information other than listing Hossain as the company's sole incorporator, sole director, sole officer and sole registered agent.

Hossain was, in fact, the only individual named in any of the IPC account opening documentation. Despite his key role, the account opening questionnaire provided minimal information about him—nothing more than his name, a Florida address, his Bangladeshi nationality, and his passport photograph—essentially the same skeletal information provided in the Benford account opening documentation.[430] Hossain did list himself on the questionnaire as IPC's accountant, but Bayer indicated that the bank did not know whether Hossain was actually a member of the accounting profession. He admitted that the bank had not obtained any information about Hossain's business background, past employment or finances.[431]

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[429] A form entitled, "Verification of the Beneficial Owner's Identity," listed IPC as the beneficial owner of the assets deposited with European Bank, but did not provide the "identity" of IPC's owner. Bayer said this was not a mistake, because the beneficial ownership form was not intended to identify a company's true owner, but merely to verify that the entity opening the account was the true owner of any funds deposited into its account. When asked whether the bank had noticed the lack of information about IPC's ownership, Bayer indicated that had not been noticed at the time, but the bank had later determined that Hossain was the sole company shareholder.

[430] In this instance, the Bangladeshi passport was marked as having expired 7 years earlier, in 1992, a fact that Bayer said was not noticed at the time.

[431] When asked whether European Bank had any concern about the geographic logic of a Bangladeshi doing business in the United States and using a bank in Vanuatu, Bayer indicated that had not been a concern. He said that the United States was a nation of immigrants, and Hossain had listed a U.S. telephone number, a U.S. address, and a U.S. bank account, so the bank reasonably believed he was a U.S. resident. Bayer said they had assumed IPC was using a Vanuatu bank because the company was so new that it had been unable to convince a U.S.

European Bank opened the IPC bank account within 1 week of being contacted for the first time by the company. Despite opening a merchant account involving credit risk and services beyond that of a run-of-the-mill corporate bank account, European Bank conducted virtually no due diligence investigation of IPC or Hossain. It did not inquire into the company's ownership, double check its references, ascertain its capital or bank account balances, or verify its physical address. With respect to Hossain, it did not inquire into his business or employment background, obtain any personal or professional references, check his credit history, or verify any personal or professional information about him. The only facts that the bank had were that IPC was a brand new company with a new Florida bank account, and Hossain was willing to pay unusually high charges to open a merchant account at a Vanuatu bank.

When asked whether he thought the bank's due diligence effort was adequate, Bayer said that, at the time, European Bank had not understood its exposure and had thought it was dealing with a U.S. corporation that had sufficient bona fides to open a U.S. bank account. He indicated that the bank later learned to its detriment that its due diligence efforts had been insufficient to protect it from loss.

IPC Fraud. European Bank approved opening the IPC merchant account in February, but the account did not become operational until late March 1999, after European Bank had obtained a merchant identification number for IPC from several credit card companies. During the 1-month waiting period, emails from Okun and Hossain inquired into the status of the account. Hossain indicated that he had already sold numerous travel packages and had credit card charges piling up that needed processing.

The Bayer interview and other documentation indicate that as soon as its merchant account became operational, IPC filed numerous credit card charges which, in less than 3 months, totaled about $13 million. Bayer indicated in his interview that the vast majority of these charges, about 85%, would later be disputed by cardholders who refused to pay the billed amounts. He said there were also indications, never proven, that IPC may have illegally obtained the credit card numbers from a database and simply fabricated the unauthorized charges.

In April 1999, the first month the IPC account was operational, European Bank processed about $3.5 million in charges and paid IPC over $2 million. The documentation shows that European Bank sent the $2 million in four payments through its U.S. dollar account at Citibank to the IPC account at BankAtlantic. The payments were:

—$705,775.41 wire transferred by European Bank on 4/1/99;
—$333,641.68 wire transferred by European Bank on 4/9/99;
—$358,333.59 wire transferred by European Bank on 4/15/99; and
—$728,098.90 wire transferred by European Bank on 4/22/99.

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bank to open a merchant account and so began looking abroad. He acknowledged that the bank had subsequently been unable to locate Hossain's personal residence, either in the United States or elsewhere, and that the company address provided also proved false.

On 4/21/99, European Bank received an email from TNT, its credit card processing company, describing a phone call reporting "a possible fraud of cardholders of your merchant: Internet Processing Corp." European Bank attempted to find out more, but was unable to obtain any new information for several days. On 4/23/99, it asked Citibank to recall its latest payment to IPC of $728,000, and Citibank sent a 4/23/99 telex to BankAtlantic asking it to return the funds. Although BankAtlantic apparently acknowledged on 4/26 receiving the Citibank telex, BankAtlantic failed to return the $728,000. Instead, on the same day, 4/26/99, at IPC's request, it wire transferred all but about $11,000 from the IPC account to a small bank in Jordan.

The documentation indicates that the 4/26 transfer was just the latest in a series of transfers by IPC within days of receiving a payment from European Bank. In each instance, IPC transferred the funds across international lines to a bank in either Israel or Jordan.[432]

When asked to describe BankAtlantic's response to the possible IPC fraud, Bayer characterized it as "abysmal." He noted that BankAtlantic never returned the $728,000; failed to promptly alert the banks in Israel and Jordan to the possible IPC fraud; and failed to provide effective assistance in locating Hossain, IPC or the missing $2 million. The Minority Staff investigation contacted BankAtlantic directly about the IPC account. BankAtlantic neither confirmed nor denied that it had opened the IPC account based upon an expired Florida drivers license, expired passport, and an unverified company address. BankAtlantic indicated that it did not normally issue a bank letter of reference for a 2-week old account with minimal funds, and speculated that the BankAtlantic letter provided to European Bank might have been a forgery. When asked whether the bank had any concerns in April 1999 when IPC began moving large sums from Vanuatu to banks in the Middle East, BankAtlantic indicated that the events had taken place so quickly, within the space of a month, that it had no documentation indicating concerns prior to being contacted by European Bank. Despite a request, BankAtlantic did not provide an explanation of why it transferred the $728,000 payment to a Jordan bank on 4/26/99, instead of returning the funds to European Bank as requested.

European Bank alerted U.S. law enforcement, including the Secret Service, to the IPC fraud. On 5/7/99, European Bank faxed urgent messages to Bank Leumi in Israel and Union Bank in Jordan about the IPC fraud, but neither bank returned any funds or provided investigative leads. Bank Leumi stated in a 6/10/99 fax that

[432] Bank documentation indicates the following four transfers:

—Following European Bank's payment of about $705,000 on 4/1/99, IPC transferred $700,000 on 4/5/99 to Bank Leumi in Tel Aviv, Israel, and an unspecified accountholder withdrew the funds on 4/9/99.

—Following European Bank's payment of about $333,000 on 4/9/99, IPC transferred $330,000 on 4/12/99 to Union Bank for Savings and Investment in Amman, Jordan, and Paul Al Marjai, the accountholder, withdrew the funds on 4/15/99.

—Following European Bank's payment of about $358,000 on 4/15/99, IPC transferred $342,000 on 4/21/99 to the same Union Bank in Jordan, and Marjai withdrew the funds on 4/26/99.

—Following European Bank's payment of about $728,000 on 4/26/99, IPC transferred $734,000 on 4/22/99 to Union Bank in Jordan, and Marjai withdrew the funds on 4/29/99.

"under Israeli law, banks owe a strict duty of confidentiality to their customers, which prevents us from providing any additional information other than by compulsion of law." European Bank asked Media World for assistance in locating IPC and Hossain; Okun agreed and stated in an email that, "to avoid this absolute mess in the future, my investigating team will investigate any and all people we bring to you."[433] European Bank was unable to find any trace of IPC, Hossain or the missing $2 million.

European Bank calculated that, after taking into account IPC's security deposit, the bank's discount rate and holdbacks, it actually lost about $1.3 million from the IPC fraud. On 5/17/99, Citibank sent a letter asking about the fraud: "Citibank feels it would like to have an understanding of what . . . happened, and what will be done to avoid a repeat, given that we have placed very considerable weight on European Bank's management." In an internal Citibank memorandum dated 5/18/99, the relationship manager for the European Bank account, Christopher Moore, indicated that the loss appeared to be a substantial one, given European Bank's thin capitalization. He wrote:

> The real risk for us in the future is that some transactions that cause loss finish up in accounts with us . . . and they don't have the resources to cover us. . . . [W]e have to decide if this event is terminal for us.

In the end he recommended requiring European Bank to keep $1 million on deposit at Citibank until the IPC matter was fully resolved. European Bank eventually sent Citibank a more detailed explanation of the IPC fraud.[434] The memorandum by bank president Robert Bohn stated in part:

> The fraud occurred in the business of credit card clearing for a U.S. merchant that had been recommended . . . by an existing client and which very quickly turned out to be bad. Our normal due diligence . . . on that merchant, including a trade reference and a reference from his USA bank, as well as a financial assessment, revealed no obvious warning signals.

When asked about this memorandum, Bayer explained that the "existing client" and "trade reference" both referred to Okun at Media World, and the "financial assessment" was the bank's determination that, because IPC was so new, the bank would use its most cautious merchant account terms, requiring a 6% discount rate and 10% holdbacks on incoming credit card payments. Bayer said that, even with those precautions, the loss had been a "very serious matter" for the bank, had required him to deposit $1 million to cover the lost funds, and could have resulted in a bank failure, if the exposure had been greater. He said, however, that European Bank appears to have weathered the damage to its solvency.

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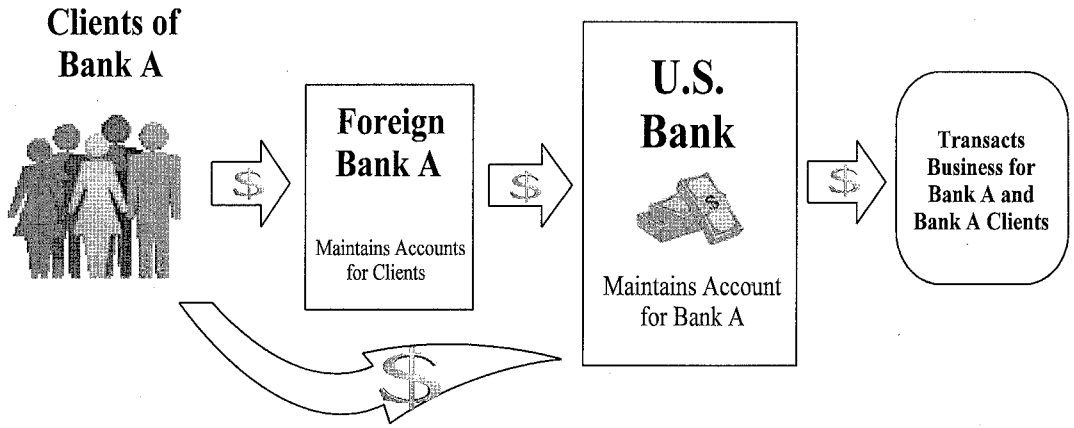
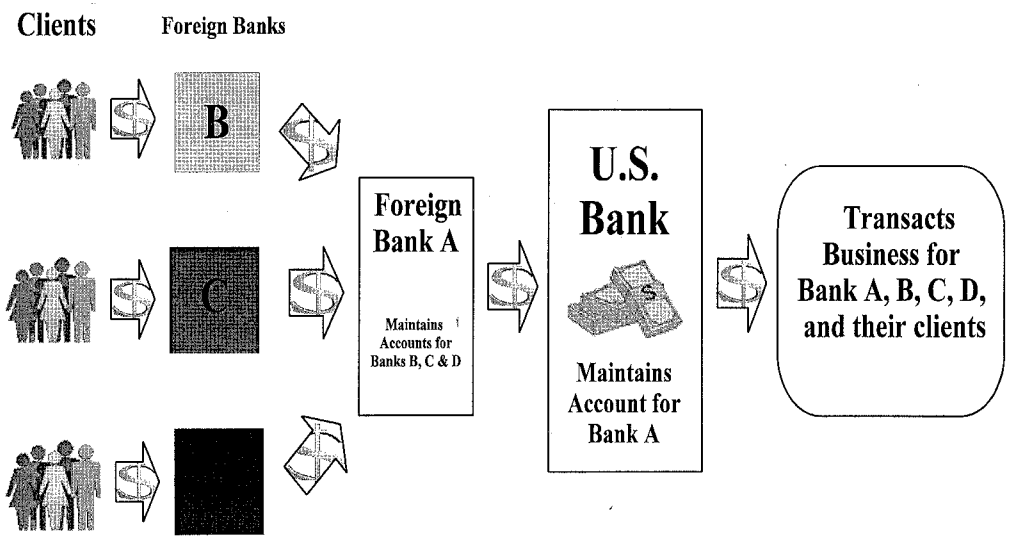
[433] Email dated 7/13/99 from Okun of Media World to Ihrig at European Bank.
[434] See 7/1/99 memorandum from European Bank to Moore at Citibank, CG 3966–67.

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___1___

CORRESPONDENT BANKING



NESTED CORRESPONDENT BANKING



Senate Permanent Subcommittee
On Investigations
EXHIBIT #____2____

001503

COMMERCIAL ACTIVITIES AND COMMERCIAL OBJECTIVES

The objective of The Bank is to provide offshore financial services in a tax free environment primarily, but not exclusively to Private Banking and Corporate customers. The ability to provide this complete service in a confidential manner is seen as a competative advantage which will enable the Bank to expand its client base on a worldwide basis.

TYPE AND SOURCE OF BUSINESS

The customer base comes largely from clients worldwide who have a high net worth and an established performance record. The focus of the bank's marketing effort is in the U.S.A., Europe, Asia and South America.

The Bank offers the following services:
Money Market Accounts
Certificates of Deposit
Current Accounts
Portfolio Management for Customers
Advisory Services in Financial Matters
Lending on a very selective basis
Bank Licensing and Management

The Bank only makes loans if they are properly secured. The funds raised by means of money market accounts, current accounts and certificates of deposit are reinvested in the US stock and corporate bond market.

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Some specific investment opportunities are:

- Checking Accounts
- Savings Accounts
- Money Market Accounts
- Call Deposits
- Certificates of Deposit
- Bonds & Debentures
- Stocks & Shares
- Visa Card

BANKING CONFIDENTIALITY

The Banking Acts of Antigua provide criminal penalties or a prison term for any disclosure of the business affairs of a client of a bank or a transaction with or involving a bank or trust company.

The Acts do not prohibit disclosure of confidential information upon court order in connection with an authorized investigation or with the giving of evidence on an alleged criminal offense.

All officers and staff of The Banking Group are required to sign a confidentiality statement and are subject to immediate employment termination for disclosing client business matters. We can assure you that all matters concerning your account and transactions are dealt with on a confidential basis.

In addition, no tax treaties or exchange of information treaties exist between Antigua and foreign countries other than the United Kingdom.

ADVANTAGES OF INCORPORATING AN OFFSHORE COMPANY IN ANTIGUA

- The International Business Corporations Act of 1982 is a very modern and flexible law.
- An Antiguan Offshore Company is not subject to any Tax for a period of 50 years.
- Antigua has no Tax Treaties or Exchange of Information Agreements with any country other than the U.K..
- There are no requirements to have a paid-in capital, nor time limit in which the authorized capital must be fully paid, except for banks and insurance companies;
- There are no requirements to file any corporate reports with the Government regarding any offshore activities.
- There are no citizenship or residence requirements for directors, officers, stockholders or incorporators;
- Officers and Directors need not be Shareholders;
- Meetings of Directors and Shareholders may be held in Antigua & Barbuda or in any other country;
- The books of the corporation may be kept in any part of the world;
- The corporation may increase or reduce its authorized capital by means of an amendment to its Articles of Incorporation;
- Share Certificates can be issued in registered or bearer form, with or without par value;
- There are no currency restrictions of any type for Antiguan Offshore Corporations.
- Antigua's extensive professional and banking facilities make it a perfect location for negotiation and execution of offshore transactions.

Senate Permanent Subcommittee
On Investigations
EXHIBIT #3

THREE NESTED BANKS AT
AMERICAN INTERNATIONAL BANK

Caribbean American Bank	Financial Fraud
Hanover Bank	Financial Fraud
Overseas Development Bank & Trust	Financial Fraud

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 4

001077

CALL MEMO

FROM: T. WULFF

TO: R. ANGUIZOLA
CC: K. PARKER
X. FIGUEROLA
A. ALLEN
H. BRAUTIGAM
E. SALLES

DATE: 7-26-96

SUBJECT: SWISS AMERICAN BANK

DATE OF CALL: 7-25-96 LAST CALL: 5-10-95

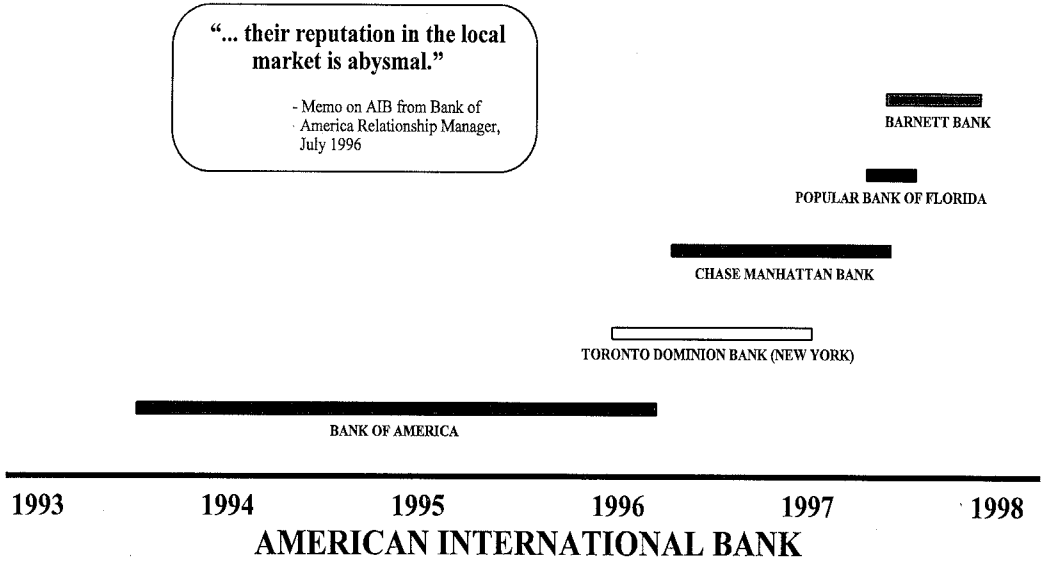
Ken Fisher, General Manager

It has been a year since we requested Swiss American to find another correspondent as the result of their continued operational problems, and they have at least finally managed to redirect their cashletter and payments business, although they still maintain a sizeable demand balance an are the recipients of a considerable volume of in-transfers. We agreed to 90 days for them to notify remitters and close the account totally as we clearly did the right thing in getting rid of this relationship although again, we cannot move too abruptly lest we be accused of damaging their business without apparent cause.

While details were not made available, they also admitted to problems with their ECCB audit which resulted in their petitioning that bank for some relief, citing their previous management problems and steps to clean up in the meantime. Problems apparently included mis-classification and hidden loans, complicated by inadequate followup.

On a related subject, and although I did not call on American International Bank for obvious reasons, exiting that relationship (the account is now totally closed) also seems to have been prudent since although no proof is of course available, their reputation in the local market is abysmal. Rumors include money laundering, Russian mafia, etc., while management of that bank also now includes the former manager of Swiss American Bank, again not a reassuring situation.

AIB'S CORRESPONDENT ACCOUNT HISTORY

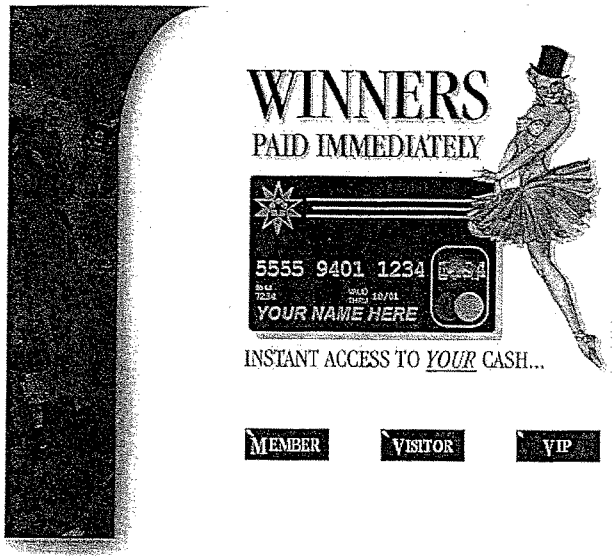


Senate Permanent Subcommittee
On Investigations
EXHIBIT #__5__

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___6___

Offshore sportsbook by Vegas Book Casino and Sports Book

http://www.vegasbook.com/



CREDIT CARD AUTHORIZATION FORM Note: The card must be in the individuals name that is requesting the credit to their account

I_____ authorized Card Services, Ltd., on behalf of Vegas Book Ltd., to debit my credit card. I acknowledge the intent of the transactions, and the fact that they are gambling related. I am fully aware the transaction (s) on my credit card statement will reflect the funds sent to Card Services, Ltd. on behalf of Vegas Book, Ltd., and for verification and signature on file purposes, I am enclosing a copy of my Drivel's License and/or Passport and Credit Card. By signing and submitting this document I agree and acknowledge that the transaction (s) made against my Credit Card are final. Please call 1-888-765-9061 to verify that the fax copy was received clearly.

Card Holder Signature X_____ Date: _____

Please copy the front and back of your credit card here

Please copy the front of your drivers license or passport here.

WIRING INSTRUCTIONS

BANK NAME:	ST. KITTS-NEVIS-ANGUILLA NATIONAL BANK, LTD. Central Street Basseterre, St. Kitts, W.I.
Swift BIC:	KNANKNSK
US Correspondent:	Bank of America International 100 S.E. 2nd St. Miami, Fl. 33131
ABA Number:	066 007 681
Credit to:	St. Kitts-Nevis-Anguilla National Bank Ltd.
Further credit:	British Trade & Commerce Bank
Account number:	41325
Final credit to:	(Your Account name and/or Account number and/or PIN number)

Senate Permanent Subcommittee
On Investigations
EXHIBIT #____7____

FORTUNA ALLIANCE DEPOSITS INTO SWISS AMERICAN BANK / ACCOUNT @ CHASE MANHATTAN

Month	Date	Deposit Amount	Source	Monthly Account Total *Total Deposits plus Other Credits*	Percentage *Total D.A. / Total D+O.C.*
March	3-21-96	$100,000.00	Whatcom State Bank	$4,085,001.15	7.34%
	3-29-96	$100,000.00			
	3-29-96	$100,000.00			
		$300,000.00			
April	4-1-96	$100,000.00	Whatcom State Bank	$10,728,863.27	31.69%
	4-2-96	$200,000.00			
	4-3-96	$100,000.00			
	4-4-96	$200,000.00			
	4-9-96	$200,000.00			
	4-11-96	$200,000.00			
	4-16-96	$600,000.00			
	4-16-96	$200,000.00			
	4-19-96	$200,000.00			
	4-22-96	$200,000.00			
	4-23-96	$200,000.00			
	4-23-96	$200,000.00			
	4-25-96	$200,000.00			
	4-26-96	$200,000.00			
	4-29-96	$200,000.00			
	4-30-96	$200,000.00			
		$3,400,000.00			
May	5-2-96	$200,000.00	Whatcom State Bank	$8,869,986.88	18.04%
	5-2-96	$200,000.00			
	5-7-96	$200,000.00			
	5-9-96	$200,000.00			
	5-10-96	$200,000.00			
	5-10-96	$200,000.00			
	5-14-96	$200,000.00			
	5-23-96	$200,000.00			
		$1,600,000.00			

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___8___

Kenneth M. Brown
09/10/99 03:16 PM

To: Christopher D. Carlin/CHASE@CHASE, Ronald C Ferraris/CHASE
cc:
Subject: Swiss American / Antigua

It looks like we have a "failure to communicate" here

---------- Forwarded by Kenneth M. Brown/CHASE on 09/10/99 03:06 PM ----------

John Lanza
09/10/99 02:52 PM

To: Kenneth M. Brown/CHASE@CHASE
cc:
Subject: Swiss American / Antigua

FYI, in 11/98, Christine Arrata and I sent illustrations of money laundering schemes to all compliance officers. One scheme involved all of these banks and notes the relationships between them as well as Bruce Rappaport. The purpose of the illustrations was to provide a tool for AML training.

Regards,

John

---------- Forwarded by John Lanza/CHASE on 09/10/99 02:47 PM ----------

Kenneth M. Brown
09/10/99 11:46 AM

To: Ernest Mahone/CHASE@CHASE
cc: Gerardo L. Cahn/CHASE@CHASE, Wayne Bennett/CHASE@CHASE (bcc: John Lanza/CHASE)
Subject: Swiss American / Antigua

Confirming our discussion, I am aware that the name of Bruce Rappaport has been in the press as part of the BONY/Russia investigations.

In addition to Rappaport's interest in Inter-Maritime Bank/Switzerland (a Chase customer), he is also major owner of Swiss American Bank and Swiss American National Bank, Antigua, which have several DDAs with Chase:

0011879285 SWISS AMERICAN NATL BK OF AN ST JOHNS ANTIGUA&BARB

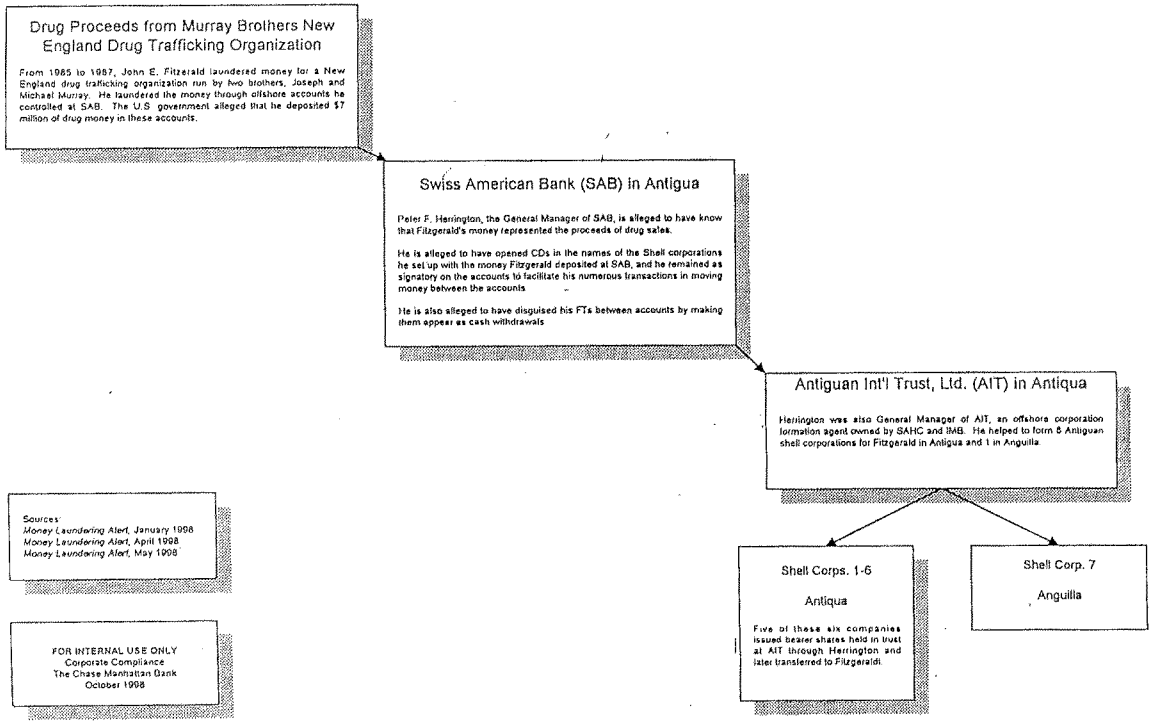
0011879293	SWISS AMERICAN BANK LIMITED	SAINT JOHNS ANTIGUA
0400920549	SWISS AMERICAN BANK LTD	ST. JOHNS ANTIGUA

These DDAs have been subject to our usual monitoring/screening procedures - we have even undertaken additional steps because of their "profile" - but there have been no irregularities identified in the conduct of their accounts. Chase Treasury Solutions Sales Officers have called on Swiss American frequently and always reported favorably on the customer.

Please advise me if you require further information.

Ken Brown
Chase Treasury Solutions
Credit Risk Management

NEW ENGLAND/ANTIGUA MONEY LAUNDERING SCHEME



Sources:
Money Laundering Alert, January 1998
Money Laundering Alert, April 1998
Money Laundering Alert, May 1998

FOR INTERNAL USE ONLY
Corporate Compliance
The Chase Manhattan Bank
October 1998

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___9___

To: Kenneth M. Brown/Chase @ Chase
cc: Gerardo L. Cahn/Chase @ Chase
From: **Josefita Robinson/CHASE** Global Payment & Treasury Services 212 552-4913 Fax Number: 212 552-1623
Date: Wednesday August 5, 1998 06:01 PM
Subject: **Swiss American Bank, St. John Antiqua**

Ken, I am keeping you in the loop* since Len Korman initially spoke to you. I spoke to Len Korman (from Fraud and Investigation). He informed me that Nations Bank lost $64K from Americo Mortgage Investors, a recent customer of SAB. SAB responded to Nations' letter requesting if SAB could return the funds to which SAB indicated that the funds were gone already. Nations called Len Korman to see if Chase could help them out. I explained to Len that SAB may not necessarily be consciously money laundering but was used as a conduit by their customer just as some of the Mexican banks recently involved in money laundering had used Chase as a conduit. In addition, I explained that the revenue from this account was at least $100K per annum and we are not going to make a rush judgement to close the account immediately. In any event, based on the questions Ken directed me to asked my contact at SAB (Brian Stuart-Young), I gave him the information obtained from Brian.

The $64K funds in question was removed by an authorized signatory of Americo Mortgage. Although there are other funds in the account, SAB cannot just give the amount requested by Nations since there is a liability issue and they could be sued. Also, Americo gave a U.S. lawyer a power of attorney to initiate payment instructions and Brian believes this person may be involved in the fraud. This client opened an account with SAB a month ago and SAB intends to closed their account. He indicated that the usual due diligence and documentation requirement was asked of Americo. However, they will wait for Americo to give them a designated bank and all the balances in the account will then be transferred. Brian does not want to do it in pieces. He also intends to report this as "Suspicious Transaction" to the Money Laundering Adm. Unit in Antigua. Brain will speak to Nations Bank tomorrow (he returned my call from his home, on vacation) to discuss directly the issue and see if there is a way to resolve things.

Ken wanted more information regarding Americo and how they did their due diligence. At this point, I suggested that we do a three way call since I cannot think of all the questions he may want. He opted to speak to Brain directly and I gave his phone number.

Regards,
Jo

To: Josefita Robinson/Chase @ Chase
cc:
From: **Leonard M. Korman/CHASE** Fraud Prevention and Investigation (212) 701-5328 Fax Number: (212) 344-2384
Date: Monday August 3, 1998 04:37 PM
Subject: **Swiss American Bank, St. John Antiqua**

NationsBank contacted me about the nature of our correspondent relationship with Swiss American Bank. They had sent a recall notice on 8 fraudulent fund transfers and hadn't heard anything back. Swiss American's customer is Americo Mortgage Investors. Our records show that Swiss American has been suspected of money laundering. Can you tell me whether this is an account that Chase will continue to maintain.

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 10

November 17, 1998

56-2552-98

Swiss American Bank St. Johns Antigua

Inquiry initiated upon request of K. Brown, Treasury Solutions, who was undertaking a review of our relationship with captioned Bank in light of recent publicity regarding laundered money being turned over the the Government of Antigua and Barbuda by Swiss American. Inquiry revealed that captioned bank has come to official attention as a suspected repository of proceeds of con games; however, there is no present indication that the bank is currently considered a money laundering institution. We are aware that in several instances, phoney wire transactions have designated customers of Swiss American as beneficiaries, and in at least one such instance, the beneficiary was suspected of operating a scam in the past. Considering the difficulties in determining actual ownership of the bank, its location, the operating environment of these offshore banks, and the questions raised above, recommend that we exercise especial caution in dealing with this entity if a decision is made to continue our relationship at all. K. Brown advised 11/18/98.

James A. Nicholas

(6) caution

Please index the following without an "X"

Swiss American National Bank
Antigua

Swiss American Holding SA
Panama

Inter Maritime Bank
Bank of New York-Inter Maritime Bank
Geneva

Bruce Rappaport

Senate Permanent Subcommittee
On Investigations
EXHIBIT #____11____

FRAUDS THROUGH
SWISS AMERICAN BANK/ SWISS AMERICAN NATIONAL BANK

Gherman	Embezzlement	1989-1990
DeBella	Advance Fee for Loan	1993-1995
Fortuna Alliance	Ponzi Scheme	1996-1997
Fitzgerald	Drug/Arms Money Laundering	1998

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 12

Ante Kljuce 12/06/99 11:50 AM

Chase Treasury Solutions (305) 386-4888 Fax Number: (305) 386-6986

To: Kenneth M. Brown/CHASE@CHASE
cc:
Subject: Bank of NY - Intermaritime

As per a conversation with Swiss American's Brian Stuart-Young this morning:

1. Swiss American Bank Ltd. and Swiss American National Bank of Antigua, both of which are incorporated in Antigua, are 100% owned by Swiss American Holdings, S.A., a Panamanian corporation.

2. Swiss American Holdings S.A. is 100% owned by Carlsburg, S.A. (or Carlsberg, S.A.), another Panamanian company which is essentially fully owned by Bruce Rappaport.

3. Internaritime has no present ownership nor business affiliation with Swiss American Bank Ltd. nor Swiss American National Bank of Antigua. A correspondent relationship used to exist.

4. Bruce Rappaport used to be a prominent shareholder in Intermaritime. Approximately 5 years ago, Bank of New York bought into Intermaritime, which resulted in the latter changing its name to Intermaritime-Bank of NY, and which positioned Bank of New York as at least another (if not THE) most prominent shareholder in Intermaritime.

5. Bruce Rapapport is believed to have direct stock ownership in Bank of New York.

My conclusion here is that we MAY have some indirect, common ownership by Rappaport in Swiss American and in Intermaritime. However, whereas his ownership of Swiss American is full and unquestionable, it is unclear whether he even has principal or controlling interest in Intermaritime- Bank of New York. Brian Stuart-Young can address the Swiss Ameircan ownership details, but it would be unreasonable for me to press him for details on the Intermaritime side of the ledger.

Qué Mas Quiere ?

Ante

---------- Forwarded by Ante Kljuce/CHASE on 12/06/99 11:28 AM ----------

Kenneth M. Brown
12/02/99 03:36 PM

To: Philip Reynolds/CHASE@CHASE
cc: Josiane Fleming/CHASE@CHASE (bcc: Ante Kljuce/CHASE)
Subject: Bank of NY - Intermaritime

Josianne left me a VoiceMail saying this DDA was really driven by custody-related business and she expected the account to be closed. I now recall having seen seen earlier E-mails to that effect. (I think

Senate Permanent Subcommittee
On Investigations
EXHIBIT #____13____

PAYMENT METHODS

- eCASHWORLD
- BANK WIRE
- CREDIT CARD
- WESTERN UNION

Bank Wire

Money deposited by Wire Transfer will be available in your Merlin's Magic Castle Online Casino account immediately after receiving the bank's confirmation.

To deposit money to your Merlin's Magic Castle Online Casino account by means of wire transfer simply forward the transfer to Merlin's Magic Castle from any bank to any one of the following banks. Include your USER NAME in the transaction.

Merlin's Magic Castle Online Casino can only accept payment in US Dollars.

NOTE: All correspondence with Merlin's Magic Castle Online Casino must contain the player USER NAME for easy reference to an account.

Once you have deposited funds into your casino account you are ready to play at the casino for real.

Chase Manhattan Bank
1 Chase Manhattan Plaza
New York, NY 10081
USA

SWIFT CODE: C H A S U S 3 3

ABA #021000021 for credit to Account #001-1-879293 in the name of Swiss American Bank Ltd., (Antigua) for

- eCash World
- Credit Card
- Western Union
- Bank Wire
- Bank Draft

Bank Wire

Money deposited by Wire Transfer will be available in your Gold Nugget Online Casino account immediately after receiving the bank's confirmation.

To deposit money to your Gold Nugget Online Casino account by means of wire transfer simply forward the transfer to Gold Nugget from any bank to any one of the following banks. Include your USER NAME in the transaction.

CLICK HERE

Gold Nugget Online Casino can only accept payment in US Dollars.

NOTE: All correspondence with Gold Nugget Online Casino must contain the player USER NAME for easy reference to an account.

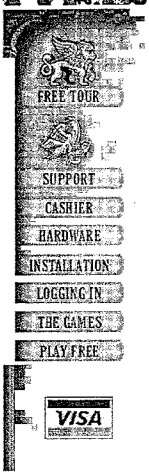
Once you have deposited funds into your casino account you are ready to play at the casino for real.

Chase Manhattan Bank
1 Chase Manhattan Plaza
New York, NY 10081
USA

Swift Code: C H A S U S 3 3

ABA #021000021 for credit to Account #001-1-879293 in the name of Swiss American Bank Ltd., (Antigua) for further credit to GP A/C

BELLISSIMO



CASHIER

Buying Credits: Bank Wire

You can have your local bank deposit money into your casino account by requesting a Wire Transfer from them. Money deposited this way will be available in your casino account immediately after we receive Cashier's confirmation.

Please note that we can only accept payment in US dollars. Also, ensure that your username* is specified on the transaction in order for us to promptly and accurately identify and credit your account.

*This is the same username you use when you connect with the software to the casino.

Request that your bank wire funds to any of the following banks:

Chase Manhattan Bank
1 Chase Manhattan Plaza
New York, NY 10081
USA

Swift Code: C H A S U S 3 3
ABA #021000021 for credit to account #001-1-879293 in the name of Swiss American Bank Ltd., (Antigua) for further credit to GP A/C #1626901.

Toronto Dominion Bank
International Centre - Toronto
P.O. Box 1 TD Centre
Toronto, Ontario M5K 1A2
Canada

Swift Code: T D O M C A T T O R
ABA #021000021 for credit to Account #001-1-879293 in the name of Swiss American Bank Ltd., (Antigua) for further credit to GP A/C #1626901.

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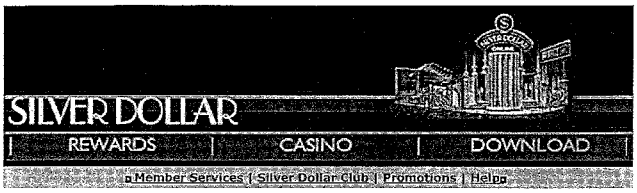
Information in this document is subject to change without notice.



Wire Transfers - Make An Easy 20% Bonus

English Harbour Entertainment Ltd. accepts wire transfers in US$. Your funds will be available as soon as we have been notified that the money has been received. You will be notified by email when you can access your account. The monthly deposit limit is currently $5,000.

Please instruct your bank to send the Wire Transfer to:

Chase Manhattan Bank
1 Chase Manhattan Plaza
New York, New York
USA
10081

Swift Code:CHASUS33
ABA#021000021
For credit to account #001-1-879293
Favour: Swiss American Bank Ltd.
For: English Harbour Entertainment Limited.
Account # 1654301

Please ensure the name and the amount that appears on the Wire Transfer agrees with the information you have provided on the registration form.

For assistance with wire transfers please email us at cashier3@silverdollarcasino.com

Please ensure that the following is included in your email:

Username
Email Address
First Name
Last Name
Wire Amount Sent
Bank Name

This information will help us identify you and the funds that will be received by Silver Dollar Casino (English Harbour Entertainment Ltd.).

PERSONAL PAGES

Others:
-> payments
-> wire transfer deposit bonus
-> western union deposit bonus

Deposit :
-> by western union
-> by money order
-> by check
-> by credit card

Withdrawal :
-> by credit card

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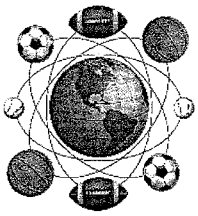

Only Sportsbook to Offer 3% Annual Interest On All Accounts!

World Sports Exchange is a licensed internet sports book regulated by the Gaming Commission
of Antigua and Barbuda. We offer traditional wagering including straight line bets, over/unders, parlays and teasers, reverses, and "if" bets all executable Online.
W.S.E also offers a marketplace for the trading of Sports Futures, an opportunity to buy and sell your favorite teams and players all season long.
We currently make markets in football, hockey, baseball, basketball, and golf.
W.S.E also offers Online Horse Racing.

You must be at least 18 years of age

Click Here To Enter The World Sports Exchange

If you think you may have a gambling problem? See Gamblers Anonymous

You must have a FRAMES-ENABLED browser to view this site

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Bank Wire Instructions

The Following Wire Transfer Instructions must be followed when funding your World Sports Exchange account by bank wire. Be aware that it will take at least one working day for your wire to reach us. If you have any questions regarding how to wire, please call us at (268) 480-3888

Please inform us that your Wire is on its way.

1. When wiring money transfers send funds to:
   Chase Manhattan Bank
   1 Chase Manhattan Plaza
   New York, N.Y. 10081
   U.S.A.

   SWIFT CODE: C H A S U S 3 3

   ABA #021000021 for credit to Account #001-1-879293 in the name of Swiss American Bank Ltd., Antigua W.I. for futher credit to World Sports Exchange Account #1584401.

2. When wiring money transfers from Canada:
   Toronto Dominion Bank
   International Center
   Toronto, Toronto. P.O. Box 1TD Center
   Toronto, Ontario M5K1A2
   Canada

   SWIFT CODE: T D O M C A T T O R

   For credit to **US Account** in the name of Swiss American Bank Ltd., Antigua W.I. for futher credit to World Sports Exchange Account #1584401.

3. When wiring money transfers from elsewhere, Please call us at (268) 480-3888 for complete instructions.

INTERNET GAMBLING DEPOSITS
SWISS AMERICAN BANK CORRESPONDENT ACCOUNT AT CHASE

Date	Internet Gambling Deposits	Total Deposits	Percent
January 1998	$1,524,880	$14,791,818	10%
May 1998	$938,942	$17,326,282	5%
November 1998	$3,162,453	$16,006,326	20%
May 1999	$6,296,895	$20,817,667	30%
September 1999	$6,980,093	$31,416,384	22%

24 00 06:39p Gerardo L. Cahn

Chase Manhattan
One Biscayne Tower
2 South Biscayne Boulevard, Suite 2200
Miami, FL 33131

August 18, 2000

Swiss American Bank Limited
High Street, P.O.B. 1302
St. John's, Antigua, W.I.

Swiss American National Bank of Antigua
Independence Drive and High Street, P.O.B. 1302
St. John's, Antigua, W.I.

Dear Mr. Stuart-Young:

I have your letter of August 15, 2000 requesting an extension of the 30 day notice of termination which I provided in my letter of August 14. As you know, Chase first began requesting in April of this year that you terminate your accounts with us, and we now believe that the 30 day notice period, to expire September 14, is sufficient to enable you to complete this termination process. Consequently, your request that we agree to extend that period must be refused. We will not charge you an early termination penalty for the early closing of the time deposits.

Moreover, it has come to our attention that customers of yours have created websites on the internet, numbering in the hundreds, in which they advertise internet gambling services, and in some instances plainly link these sites to sites offering pornographic materials, and include Chase's name and at times incorrectly identify Chase as your affiliate. This unauthorized use of Chase's name on public websites is unacceptable, and we insist that you inform your customers who operate such sites to remove Chase's name from them. More importantly, Chase has learned that at least one U.S. federal court has recently determined that conducting internet gambling operations within the United States is a criminal violation of U.S. federal law. I am sure that in light of this you agree with me that it would be inappropriate for your accounts with us to continue to be used by your customers who operate internet gambling sites to either receive funds from or to send funds to persons within the United States, and we expect that you will immediately advise your customers who conduct internet gambling operations of that fact and that such transmissions will cease.

Please let me know as soon as possible what steps you have taken to implement the requirements set forth above.

Very truly yours,

Gerardo L. Cahn

253688:v01

From: TKIRK --ABACIS Date and time 03/19/93 14:0
To: TWULFF --ABACIS2 RANGZOLA--ABACIS
BDAFOE --NADSF <-ABACIS(BDAFOE)

From: THOMAS E. KIRK
CREDIT ADMIN #4108
Subject: SWISS AMERICAN BANK
TOM, REF OUR DISCUSSION ON YOUR REQUEST FOR CREDIT FACILITIES.
MY MAIN CONCERNS CENTER AROUND THE FOLLOWING:
-WE KNOW LITTLE ABOUT THE PARENTAGE OF THIS BANK. THE STRUCTURE APPEARS DESIGNED TO ISOLATE THE REAL OWNERS AND TO TAKE ADVANTAGE OF TAX AND REGULATORY HAVENS IE PANAMA AND ANTIGUA.
- OUR BORROWER IS DESIGNED TO SERVE AN OFFSHORE MARKET OF PRIVATE BANKING CLIENTELE.
- WHO CONTROLS OR MONITORS ACTIVITIES?
- WE ARE BEING ASKED TO ISSUE SBLCS GUARANTEEING ACTIVITIES OF THEIR PRIVATE BANKING CLIENTS. WE DONT KNOW THESE CLIENTS. WE DONT KNOW THE BENEFICIARIES. WE DONT EVEN KNOW AT THIS POINT WHAT KINDS OF LOANS OR NON PAYMENTS WE WOULD BE GUARANTEEING. OUR STANDBY'S COULD BE ALL OVER THE PLACE.
- OUR BORROWER IS NOT PARTICULARLY STRONG WHICH I REALIZE IS MITIGATED SOMEWHAT BY THE FACT THAT THEY WILL BE SECURING OUR OUTSTANDINGS WITH PLEDGED DEPOSITS
THE POTENTIAL FOR BEING BLIND-SIDED IS QUITE PRONOUNCED AND I AM NOT IN FAVOR OF THE PRESENTATION.
IF WE KNEW MORE ABOUT THE PARENTAGE, RESPECTABILITY, INTEGRITY OF THE BANK I WOULD BE WILLING TO CONSIDER TRADE FINANCE BUT I WOULD CONTINUE TO BELIEVE WE SHOULD NOT EXTEND CREDIT TO SERVICE THEIR PRIVATE BANKING CLIENTS.

Post-It™ brand fax transmittal memo 7671 | # of pages ▸ 1

To Dick Lineka, SUP	From Tom Wulff
Co.	Co.
Dept.	Phone #
Fax # 622-6362	Fax #

Dick —
Bob Anguizola and I will call you on this later in the day.
627-6604
Tom W.

Senate Permanent Subcommittee On Investigations
EXHIBIT # 14

002222

Senate Permanent Subcommittee
On Investigations
EXHIBIT #15

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SUBCOMMITTEE MEMBERS AND STAFF ONLY

May 1998

- Hector Noreña called us with the following information: The US Customs Service ordered the siezure of the funds from M.A.Casa de Cambio and M.A. Bank DDAs.
- FI informs the Commercial Bank Head and the Compliance Officer.
- We had a meeting with M.A management (Hector Scasserra and Miguel Iribarne) to inform said procedure and investigate the origin of the legal procedure. They said the reasons were unknown to them.

June 1998

- M.A. informed us that the U.S. Customs Service formally notified them that it would ask Citibank copies of the DDAs bank statements between August 1997 and January 1998 and all the related documentation.
- M.A.asked for instructions to let their lawyer in USA get the information from Citibank NY
- We asked Customer Service NY and Corporate Legal BA about the text of the letter authorizing Miss Maria Caravetta, M.A. USA Lawyer. We afterwards legalized it and sent it to Citibank NY.

August 1998

- Hector Noreña informed us that Citibank NY handled the requested bank statements to the US Customs Service
- M.A. confirmed us that their lawyer offered the US Customs Services all the information necessary for the investigation.

September 1998

- M.A.informed us that there were no legal settlements initiated. The US Customs only purpose whas to preserve the funds connected to the investigation.

October 1998

- M.A. informed us that the seizure of the funds in its DDAs would be soon resolved. In addition, Miss Caravetta offered the US Customs testimonies from M.A: shareholders and the final beneficiaries of the funds investigated.

March 1999

- M.A. informed us that they have asked the US Customs Service a meeting in Buenos Aires, to collaborate with the US Customs and introduce them to the final beneficiarie of the funds investigated.

October 1999

- H.Noreña called to inform us that our NY lawyers wanted to know the status of the onvestigation.
- We asked the client a report on al the procedures done until then
- On october 22, the client sent us the said report. In this report they mentioned a meeting in Buenos Airs with the US Customs Services where they showed their accounting and leagl books and introduced their client to the US Customs. The latter explained that the transfers were originated in

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legal tranasctions originated in his activities (real estate). He also offered to introduce the US Customs the buyer of the properties.

- On October 25 we send an e-mail to H.Noreña describing our meeting and asking about the need of closing the aforementioned DDAs.
- We agreed with H.Noreña that we would not need to close the accounts considering M.A. reputation and history in the Financial Markets in Argentina.

November 1999

- We asked M.A. a copy of the investigated transfers (11-12-99).
- On Novemeber 19, we held a meeting with M.A: Management and their lawyer, Mr. Sanguinetti, to have an update on the situation and ask them the closing of the DDAs.
- They asked us not to close the accounts at the moment.They were negotiating the divestiture of their Private Banking business to a foreign bank and the closing of the accounts at Citibank could damage their negotiations.
  M.A. asked for a meeting with Citibank NY, NY Compliance and M.A. Lawyers to describe everything that had been done until then and show that M.A. had nothing to do with this investigation.
- On November 23 M.A. sent us the file with all the information on the investigation.
- On November 24 we sent an a-mail to H.Noreña infomring the request from M.A.

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 16

WILMER, CUTLER & PICKERING
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JANE C. SHERBURNE
DIRECT LINE (202) 663-6858
INTERNET JSHERBURNE@WILMER.COM

September 29, 2000

By Hand Delivery

Elise J. Bean, Deputy Chief Counsel
Robert L. Roach, Counsel
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
SR-193 RSOB
United States Senate
Washington, DC 20510

Dear Elise and Bob:

You have asked Citigroup to explain its response to seizure warrants served in May 1998 on Citibank for accounts belonging to the Mercado Abierto Group. I am providing this explanation with the understanding Bob and I reached that the Subcommittee will not assert that this response constitutes a waiver of any attorney/client, work product, or other applicable privilege.

As you are aware, on May 14, 1998, the United States Customs Service applied to the United States District Court for the Central District of California for seizure warrants for all funds on deposit in account numbers 36111386 (up to the amount of $7,768,649) and 36137631 (up to the amount of $3,983,650), belonging to M.A. Bank and M.A. Casa de Cambio respectively. The Customs Service submitted to the District Court an affidavit of Special Agent Stephen M. Perino, stating the facts that supported issuance of the seizure warrant. Agent Perino's affidavit averred that proceeds from narcotics trafficking had been transferred to these accounts.

On May 18, 1998, Citibank was served with the seizure warrants (without the supporting affidavit) and placed a block on these accounts. Although there was nothing on the face of the warrants that linked the seizures to narcotics proceeds, the warrants did contain statutory references to 18 U.S.C. Secs. 981 and 984 and to 18 U.S.C. Secs. 1956 and 1957. These citations provide civil forfeiture authority for violations of money laundering statutes.

The seizure warrants ordered Citibank to issue checks for the stated amounts or the balances in the accounts on the day the warrants were served. Neither account contained the stated amount. On May 18, 1998, Citibank issued checks in the amounts of $1,596,110.34 with respect to 36111386, and $234,598.23 with respect to 36137631, which were delivered to a Customs Agent on May 20, 1998.

Regrettably, these seizure warrants did not result in a full-blown review of the M.A. Bank account. The legal personnel who received the warrants apparently did not recognize that they were related to money laundering allegations and simply processed them without pursuing further inquiries.

Neither did the business people in New York recognize the statutory citations in the warrants as related to money laundering. Without the benefit of the affidavit, they assumed these seizure warrants, like the vast majority of those received by Citibank, were related to a civil dispute, which would not trigger an in-depth account review.

As the correspondence between Citibank and the Minority Staff demonstrates, Citibank did not appreciate until late September 1999 that the seizure warrants were linked to narcotics trafficking. As you are aware, in the midst of its private banking inquiry in September 1999, the Permanent Subcommittee on Investigations served a subpoena on Citibank for documents related to M.A. Bank and M.A. Casa de Cambio. On September 27, 1999, counsel for Citibank asked the Subcommittee for an opportunity to discuss with the Subcommittee staff "the basis of its interest in this material" because "[t]o the best of Citigroup's knowledge . . . the beneficial owners of this account have not been accused of any impropriety, nor have they been subject of any allegation or accusation of any wrongdoing." We understand that in response to this letter, members of the Minority Staff shared with Citibank counsel either a summary of the information contained in Agent Perino's affidavit or the affidavit itself.

Thereafter, Citibank lawyers made inquiries to the business people about the status of the M.A. Bank account. As Hector Norena, the New York account manager, recounted in his interview with you, he conveyed this inquiry to Martin Lopez, the relationship manager for Mercado Abierto in Buenos Aires sometime in October 1999. However, as they told you in their interviews, neither Mr. Norena or Mr. Lopez was informed that the inquiry related to allegations that the M.A. Bank account had been used to launder proceeds of narcotics trafficking. Mr. Lopez, who thought the seizure warrant was routine, did not understand the basis for the renewed interest in the seizure or the implication that the seizure should have triggered an account review.

As you know from your interview of Mr. Lopez, he initiated an inquiry with the principals of Mercado Abierto who informed him of the allegations that M.A. Bank had been used to launder drug money and, on November 19, 1999, provided him with Agent Perino's affidavit. Thereafter, Mr. Lopez recommended that Citibank terminate all of its relationships with the Mercado Abierto group, even though the Mercado Abierto principals appeared to be

cooperating with the Customs Service investigation and believed that the allegations that had led to the seizure of the accounts would be quickly resolved in their favor. In fact, the principals requested a meeting between their U.S. lawyers and Citibank compliance personnel in New York to make their case that account closure was an unnecessary step in view of their cooperation with the Customs Service investigation and their lack of involvement in the transactions being investigated.

Indeed, according to a Consent Judgment entered on June 13, 2000, the United States agreed to dismiss the complaint against the Mercado Abierto principals with prejudice and to return approximately one third of the funds seized from M.A. Bank's Citibank accounts. *See United States v. $1,830,708.57 in U.S. Currency*, No. CV 11-1493 JSL (SHx) (C.D. Cal., consent judgment filed June 13, 2000).

On November 24, 1999, the day before Thanksgiving, that request for a meeting was communicated to Citibank in New York. On December 2, 1999, before Citibank had responded to this request, press reports appeared in Argentina regarding alleged connections between one of the principals and the laundering of narcotics proceeds. On December 3, 1999, Martin Lopez was asked to send by facsimile the materials he had received from the Mercado Abierto principals to New York. This material, which included the Perino affidavit, was sent to Karen Kirchen, Citibank's GCIB Global Compliance Director and Deputy General Counsel, in New York on December 3, 1999.

Thereafter, beginning in early December 1999 and under the direction of legal counsel, Citibank undertook a complete review of the Mercado Abierto relationship, mindful of its obligations to disclose suspicious activity to appropriate authorities. Citibank itself was not in a position to confirm that any suspicious account activity or pattern was in fact related to the laundering of drug money. The Mercado Abierto accounts were blocked on December 3, 1999 and were formally closed as of February 21, 2000.

In deciding to open the correspondent banking accounts that were the subject of the May 18, 1998 seizure warrant, Citibank was dealing with an established customer who enjoyed an excellent reputation as a long-established and significant member of the Argentine financial community. Created in 1983 (and a Citibank customer since 1989), by 1996, Mercado Abierto's participation in the Buenos Aires stock exchange was 10 percent of the total volume of transactions in the stock exchange. In fact, Mercado Abierto today manages an investment portfolio worth $400 million and in April of this year ranked seventh among brokers in the Buenos Aires stock exchange. Further, in the course of performing its Know Your Customer due diligence, Citibank reviewed anti-money laundering policies that had been adopted by Mercado Abierto.

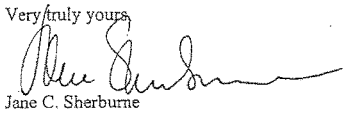
But what may have happened here, as the Customs Service's Forfeiture Complaint speculates, is that one of the principals "intentionally dispensed with virtually all of the standard

internal controls and processes generally required to open accounts with M.A. Bank and/or M.A. Casa de Cambio." *See United States v. $1,830,708.57*, Complaint for Forfeiture (U.S. Customs Service), No. CV00-01493 (SHx) (C.D. Cal., complaint filed Feb. 10, 2000), at 12-13. In circumstances like these, in which a principal is alleged to have subverted his own institution's internal controls, the most careful scrutiny by Citibank may not be enough to prevent an unscrupulous principal from attempting to abuse the correspondent banking system once a correspondent account has been established.

Although we believe that the opening of the M.A. Bank account was appropriate, Citibank's failure to undertake a complete account review in May 1998, when the seizure warrant was first received, was not. As a result of the lessons learned from this episode, Citibank has adopted new procedures to process those seizure warrants that affect its relationships with correspondent banks in emerging markets, like the seizure warrants that Citibank received for M.A. Bank and M.A. Casa de Cambio. These new procedures are designed to ensure that those persons at Citibank who have primary responsibility for knowing the bank's customers and for implementing the bank's anti-money laundering policies are alerted whenever seizure warrants raise these issues. Although most seizure warrants are not related to money laundering or narcotics trafficking, Citibank now has procedures in place to ensure that warrants that do raise these concerns are properly handled and that the customers and accounts affected by these warrants are carefully reviewed and, if appropriate, closed.

I hope this information has been useful. Please call me if you have any questions.

Very truly yours,



Jane C. Sherburne

cc: Rena C. Johnson
Chief Counsel and Staff Director, Majority

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 17

ORIGINAL

United States District Court

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

In the Matter of the Seizure of
(Address or brief description of property or premises to be seized)

All funds on deposit in account number 36111386, located at Citibank, 1 Court Square, 43rd Floor, Long Island City, New York, up to the amount of $7,768,649.00.

FILED
CLERK, U.S. DISTRICT COURT
– 1998
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

SEIZURE WARRANT

CASE NUMBER:

98-1191M

TO: United States Custom Service and any Authorized Officer of the United States: Affidavit(s) having been made before me by Special Agent Stephen M. Perino who has reason to believe that in the Eastern District of New York there is now certain property which is subject to forfeiture to the United States, namely (describe the property to be seized)

All funds on deposit in account number 36111386, located at Citibank, 1 Court Square, 43rd Floor, Long Island City, New York, up to the amount of $7,768,649.00.

I am satisfied that the affidavit(s) and any recorded testimony establish probable cause to believe that the property so described is subject to seizure and forfeiture pursuant to 18 U.S.C §§ 981 and 984, for violations of 18 U.S.C. §§ 1956 and 1957, and that grounds exist for the issuance of this seizure warrant.

YOU ARE HEREBY COMMANDED to seize within 10 days the property specified, serving this warrant and making the seizure (in the daytime - 6:00 A.M. to 10:00 P.M.)(at any time in the day or night as I find reasonable cause has been established), leaving a copy of this warrant and receipt for the property seized, and prepare a written inventory of the property seized and promptly return this warrant to the undersigned judicial officer as required by law.

The bank is ordered by the court to issue a check for $7,768,649.00 payable to United States Customs Service and deliver it to the agent serving this warrant, but if there are insufficient funds in the above-referenced account, the bank is ordered to freeze all funds in the above-referenced account immediately upon receipt of this seizure warrant. After imposition of the freeze, funds may continue to be credited to this account until the balance reaches $7,768,649.00, but no funds may be withdrawn from or transferred out of said account, nor may the bank enforce or impose any offset against said account. When the balance in said account reaches $7,768,649.00, or at the close of business on the day on which this warrant is served, whichever is first, the bank is ordered to issue a check for $7,768,649.00, or the balance in the account.

5/14/98 433 pm
Date and Time Issued

Los Angeles, California
City and State

JAMES W. McMAHON
U.S. Magistrate Judge
Name and Title of Judicial Officer

ENTERED ON ICMS
1998

Signature of Judicial Officer

SRW SRW

RETURN

DATE WARRANT RECEIVED	DATE AND TIME WARRANT EXECUTED	COPY OF WARRANT AND RECEIPT FOR ITEMS LEFT WITH
5-18-98	5-18-98 0900 hours	Patricia Fenton

INVENTORY MADE IN THE PRESENCE OF

SA PERINO & SA YAGODA

INVENTORY OF PROPERTY SEIZED PURSUANT TO THE WARRANT

ONE "CITIBANK" CASHIER'S CHECK NO. 9813800049 FOR ACCOUNT NO. 36111386 IN THE AMOUNT OF $1,596,110.34.

CERTIFICATION

I Swear that this inventory is a true and detailed account of the property seized by me on the warrant.

Subscribed, sworn to, and returned before me this date.

U.S. Judge or Magistrate — Date 6/5/98

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 18

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE

May 18, 1998

Custodian of Records
Citibank New York
1 Court Square
43rd Floor
Long Island City, NEW YORK 11120

File: UL02BR96LA0024

To Whom it May Concern:

By service of this Formal Written Request pursuant to Title 12, United States Code, Sections 3402(5), 3403(b), 3408 and Title 31, Code of Federal Regulations, Section 14.2 et. seq., your institution is hereby requested to produce the records described in Attachment A.

This Formal Written Request relates to an ongoing official investigation. I certify that a copy of this Formal Written Request will be served or mailed to the customer(s) listed in Attachment A on or before the date your institution will be required to provide the requested information.

After the United States Customs Service has notified the customer and waited an appropriate period of time for a response, Special Agent Stephen Perino or another Customs Agent will appear at your institution to certify in writing that all requirements enumerated in the Right to Financial Privacy Act of 1978 [Title 12, United States Code, Section 3401 et seq.] have been satisfied. At this time and at the location specified below, you will provide Agent Perino with the records requested in Attachment A:

Location: United States Customs Service
300 South Ferry Street, Room 2037
Terminal Island, CA 90731
(310) 514-6231 Ext. 159
Date: three weeks from the date of this request
Time: 1:00 p.m.

If there are any questions about this request or the production of records, please feel free to contact Agent Perino at the telephone number provided above.

Sincerely,

John E. Hensley
Special Agent in Charge
United States Customs Service

300 South Ferry Street, Room 2037, Terminal Island, California.

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ATTACHMENT A

ANY AND ALL records regarding the accounts or other financial transactions of, or involving:

1. Account number:

36137631

for the time period beginning May 18, 1997 through the present date. Records requested are to include, but are not limited to, the following:

1. All open or closed checking, savings and N.O.W. accounts. To include:

   a. Signature Cards
   b. Monthly Bank Statements
   c. Canceled checks (front and back)
   d. Deposit tickets AND ALL NECESSARY OFFSETS
   e. Credit and debit memos AND ALL NECESSARY OFFSETS
   f. Wire transfer records
   g. Forms 1099 or back up withholding statements.

2. All copies of open or closed bank loan or mortgage documents, to include, but not limited to:

   a. Loan applications
   b. Loan ledger sheet
   c. Copy of loan disbursement documents
   e. Copy of loan repayment documents
   f. Loan correspondence files
   g. Collateral agreements
   h. Credit reports
   I. Copies of notes or other instruments reflecting the obligation to pay
   j. Copies of real estate mortgages, chattel mortgages or other security for bank loans
   k. Copies of annual interest paid statements
   l. Copies of loan amortization statements
   m. Escrow instructions.

3. Certificates of deposit (purchased or redeemed), to include:

   a. Copies of the certificates
   b. Records pertaining to interest earned, withdrawn or reinvested

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c. Forms 1099 or back up withholding records.

4. Open or closed investment or security custodian accounts, to include:

   a. Documents reflecting purchase
   b. Documents reflecting negotiation security or investment
   c. Safekeeping records and logs
   d. Receipts for the receipt or delivery of the investment or security
   e. Copies of annual interest earned statements.

5. All open or closed IRA, Keogh, or other retirement plans, to include:

   a. Statements
   b. Investment, transfer, and redemption confirmation slips
   c. Documents reflecting purchase of investment
   d. Documents reflecting redemption of investment
   e. Copies of annual interest earned statements.

6. Customer correspondence file.

7. Retained copies of all Cashier's, Manager's, Bank, or Traveler's Checks, and Money orders, to include:

   a. Copies of documents used to purchase check/money order
   b. Copies of documents reflecting negotiation of check/money order
   c. Retained copies of application
   d. Retained copies of negotiated check/money order.
   e. AND ALL NECESSARY OFFSETS

8. Wire transfer file, to include:

   a. Fed. Wire, Swift, CHIPS or other documents reflecting wire transfer of funds to, from, or on behalf of the above named individuals or entities.
   b. Documents reflecting source and beneficiary of funds wired out
   c. Documents reflecting disposition and source of wire transfer in.
   d. Debit and or credit memos, telexes, wires, instructions, memorandums, confirmations and any other correspondence relating to each wire transfer.
   e. ALL NECESSARY OFFSETS.

9. Copies of all open or closed safe deposit box rental and entry records.

10. Open or closed credit card files, to include:

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a. Applications for credit cards
b. Monthly statements
c. Copies of charges
d. Copies of documents used to make payments on account.

11. Retained copies of Currency Transaction Reports (Forms 4789).

12. Copies of bank's CRT Exempt List (if subject is exempt) and documents reflecting justification for exemption.

13. Open or closed Letter of Credit Files, to include:

a. Applications and/or security agreements for the Letter of Credit.
b. All documents related to Letters of Credit.
c. Collateral information of the buyer and/or beneficiaries related to Letters of Credit.
d. Payments made as related to the Letter of Credit.

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Senate Permanent Subcommittee
On Investigations
EXHIBIT #___19___

October 29, 1997

We have RECEIVED today from M.A. Bank Ltd., Grand Cayman, the amount of USD 10,100.00

Ten Thousand One Hundred and 00/100 United States Dollars

Please debit such amount from Account # 25913
in name of Nicolas A. Di Tullio
with yourselves.

by Account # 25913

Nicolas A. Di Tullio
APODERADO DE EURO-AMERICA FINANCE NV

Senate Permanent Subcommittee
On Investigations
EXHIBIT #_____20_____

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Iglesias, Amalia

From: Llera, John
Sent: Friday, December 03, 1999 2:15 PM
To: Iglesias, Amalia
Cc: Andrade, Marcus; Llera, John; Lopez, Martin; Piantoni, Nestor; Norena, Hector
Subject: Re: FW: M.A.Casa de Cambio - M.A.Bank Ltd.

Importance: High

Amalia,

I have placed a call to Carlos Ayala, AML Unit, Florida for confirmation of what aspects of AML they monitor.

Citibank NY is currently in the process of establishing an AML procedure for your FI accounts located in New York. I will forward correspondance separately to you today to initiate this process.

I faxed a translated copy of your 11/24/99 email to Tom Lahiff [Legal Department] and to Carol Baldwin [Sr. Compliance Officer] today. Carol will review the pencing issues with Tom. I will forward on to you their recommedations as I receive notification.

Regards,
John.

_____ Reply Separator _____
Subject: FW: M.A.Casa de Cambio - M.A.Bank Ltd.
Author: Amalia Iglesias at 53CSBUE/o=AF1/c=US/a=MCI/p=CITICORP
Date: 12/03/1999 9:41 AM

John:
Como te anticipe ayer, este tema ha tomado estado publico, nosotros estamos en medio de un ARR el cual nos consultara acerca de los siguientes puntos:

1.-que procedimientos de control de AML tiene Citibank N.Y.? - sabemos que existe una AML Unit que controla las transacciones, entre otras las enviadas bajo PUPID . En su momento fue enviado el BIR del cliente en el cual figura los movimientos promedio de cada una de las cuentas. Se efectuar dichos controles?
Es AML Unit en Tampa la encargada de hacerlo o cada division en N.Y.?

2.- Hector Noreña oportunamente, estuvo hablando con los abogados y compliance Officer. desearíamos conocer su opinion respecto al cierre de las DDAs ante las actuales circunstancias y cual deberia ser el procedimiento adecuado a seguir.

Nos ayudara mucho tu rapida respuesta.

Gracias
Amalia
-----Original Message-----
From: Iglesias, Amalia
Sent: Monday, October 25, 1999 6:20 PM
To: Norena, Hector
Cc: Lopez, Martin
Subject: M.A.Casa de Cambio - M.A.Bank Ltd.

PS017803

As I indicated to you yesterday, this matter has become public, we are in the midst of an ARR asking about the following:

1- what procedures does Citibank NY have for control of AML? We know that there is an AML unit that controls the transactions, among others those sent under PUPID. At the appropriate time, the customer's BIR was sent; this includes the average activity of each account. Are these controls being implemented? Is the AML Unit in Tampa in charge of doing it or each division in NY?

2. Hector Noreña spoke with the attorneys and compliance officer on a timely basis. We would like to know your opinion on the closing of the DDA's in view of the current circumstances, and what would be the appropriate procedure to follow.

Your prompt response will be very helpful.

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 21

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FACSIMILE 011 (44171) 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE 011 (322) 285-4900
FACSIMILE 011 (322) 285-4949

FRIEDRICHSTRASSE 95
D-10117 BERLIN
TELEPHONE 011 (49301) 2022-6400
FACSIMILE 011 (49301) 2022-6500

September 29, 2000

By Hand Delivery

Linda J. Gustitus
Chief Counsel and Staff Director, Minority
Permanents Subcommittee on Investigations
Committee on Governmental Affairs
SR-193 RSOB
United States Senate
Washington, D.C. 20510

Dear Linda:

In the course of the interview of Martin Lopez, we realized that Citibank's response to Senator Levin's survey regarding correspondent banking services was incomplete and had created a misunderstanding about the circumstances under which Citibank has account relationships with offshore banks. The questions and answers at issue are the following:

Question 10: Would your institution, as a policy matter, establish a correspondent relationship with a bank (a) that does not have a fixed physical presence in any location, such as a shell bank? (b) whose only license requires the bank to operate outside the licensing jurisdiction?

March 13 Answer: The GCIB does not establish relationships with customer banks that have no fixed physical presence in a particular location or with banks whose licenses require them to operate exclusively outside the jurisdiction in which they are licensed.

Question 11: Would your institution, as a policy matter, open a bank account other than a correspondent account with a bank (a) that does not have a fixed physical presence in any location, such as a shell bank? (b) whose only license requires the bank to operate outside the licensing jurisdiction?

March 13 Answer: The GCIB does not open bank accounts for banks that have no fixed physical presence in a particular location or with banks whose licenses require them to

operate exclusively outside the jurisdiction in which they are licensed. However, the GCIB may open a bank account for an existing customer bank's off-shore subsidiaries or affiliates.

You pointed out at Mr. Lopez' interview that Citibank's correspondent relationship with M.A. Bank appeared to be inconsistent with these responses. I indicated that our response to Question 11 (as well as Question 10) should have made clear that Citibank would and does open accounts for off-shore subsidiaries or affiliates of existing customer *financial institutions*, not just existing customer *banks* as our response indicated, and that these offshore relationships could be established without regard to whether the offshore entity had a fixed physical presence in the offshore location. M.A. Bank fits this scenario, as Mercado Abierto, S.A., an Argentine financial institution that has had an account with Citibank since 1989, is the parent of M.A. Bank.

We have been reflecting on the concerns stated by you and your staff about establishing relationships with offshore banks that have no physical presence in the offshore jurisdiction. We remain uncertain about whether attaching significance to physical presence is meaningful when one considers the nature of offshore banks.

An offshore bank is a bank that is licensed by and chartered in a particular jurisdiction that authorizes the bank to provide financial services to non-residents. Regulatory features in offshore jurisdictions that are attractive to onshore institutions and investors typically include little or no taxation of transactions booked in the offshore jurisdictions, fewer interest rate restrictions (enabling offshore banks to provide more favorable rates), and greater protection of customer confidentiality.

Many local banks and financial institutions set up offshore affiliates or subsidiaries to provide private banking and other services that enable their customers to take advantage of these favorable conditions. Local institutions also may use offshore vehicles to buy and hold securities that are not available on-shore, as well as to provide additional capital for booking loans when home country lending limits, as established by the central bank of the home country, do not provide adequate capital to book loans in-country.

Offshore affiliates typically service the existing customers of the parent institution; they do not do business with residents of the offshore jurisdiction or transact business in the local offshore currency, or seek to establish an independent customer base. Their function is to serve as registries or booking vehicles for transactions arranged and managed from onshore jurisdictions. Accordingly, there is little need for a staff or physical facility and there is nothing inherently suspicious about the failure of an offshore affiliate to have a physical presence in the offshore jurisdiction.

Of course these vehicles are to be distinguished from banks with offshore licenses that are not affiliated with an onshore financial institution. For such banks, physical presence may be an indicator of a legitimate operation (and the absence of a physical presence may suggest that further inquiry into the legitimacy of such a bank's operations is warranted).

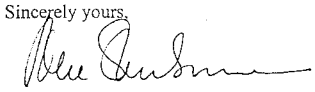
In Citibank's view, the key to ensuring the viability and reputability of an offshore bank that is an affiliate of a financial institution is fulsome Know Your Customer due diligence with regard to the financial institution group. Regulatory oversight by offshore jurisdictions is uneven and cannot be relied on uniformly. Further, although financial institutions generally report the activities of their affiliates, including offshore affiliates, in consolidated financials that typically are presented to regulators, in cases where the parent financial institution is not a bank the consolidated financial will be presented to regulators other than bank regulators. Thus, rigorous oversight by the banking regulator in the onshore jurisdiction may not occur in these circumstances, although non-banking regulators may provide some limited oversight. For these reasons, careful review of the reputation and management of the parent or affiliated institution is likely to be the most important indicator of a legitimate offshore operation. And for these reasons it is Citibank's policy to avoid account relationships with offshore entities that are incorporated by an individual or entity that is unaffiliated with a larger, reputable bank or financial institution.

Offshore entities that are primarily booking entities requiring minimal personnel or physical operations often are managed from a location that is closer to the jurisdiction of the parent institution than the offshore jurisdiction. Your staff have indicated skepticism about the legitimacy of such "back offices" and inquired about the kinds of activity in which one might expect them to engage. Indeed, there seems to be some sense that a test of legitimacy might be whether a back office has the capacity to print and mail statements. The need to print and mail statements will depend on the customer base of the off-shore and the nature of the business, and may defeat the purposes of offshore banking -- confidentiality and tax planning. Mailing statements for activity in the private bank account of a customer, for example, risks breaches in confidentiality as well as triggering a taxable event. Private bank customers often do not receive regular statements but rather rely on the personal relationship with the private banker for information about the status of their account.

In sum, local banks and financial institutions establish offshore affiliates for a number of legitimate purposes. Where the affiliate is a booking vehicle, the transactions may be managed from an on-shore jurisdiction and there may be no need for a physical presence in the offshore jurisdiction. Thus, in Citibank's view, instead of looking to the existence or non-existence of a physical presence to determine the legitimacy of the offshore entity, it is more useful to look to the character and conduct of the larger institution with which it is affiliated.

Please let me know if I can provide any further information.

Sincerely yours,



Jane C. Sherburne

cc: Rena C. Johnson
Chief Counsel and Staff Director, Majority

LETTER FROM CITIBANK'S COUNSEL TO THE PSI SUBCOMMITTEE, SEPTEMBER 29, 2000

"Indeed, there seems to be some sense that a test of legitimacy might be whether a bank office has the capacity to print and mail statements. The need to print and mail statements will depend on the customer base of the offshore and the nature of the business, and may defeat the purposes of offshore banking – confidentiality and tax planning. Mailing statements for activity in the private bank account of a customer, for example, risks breaches in the confidentiality **as well as triggering a taxable event**. Private bank customers often do not receive regular statements but rather rely on the personal relationship with the private banker for information about the status of their account."

Author: Martin Ubierna at 53CSBUE/o=AF1/c=US/a=MCI/p=CITICORP
Date: 06/16/2000 4:17 PM
Priority: Normal
TO: James A. Forde at 11USNYC/o=af1/c=us/a=mci/p=citicorp, John Llera at 00USNYC
CC: Carlos Barrio at 53CSBUE/o=AF1/c=US/a=MCI/p=CITICORP,
John P. Emert at 01USNYC/o=af1/c=us/a=mci/p=citicorp,
Ignacio Morello at 53CSBUE/o=AF1/c=US/a=MCI/p=CITICORP,
Nestor Piantoni at 53CSBUE/o=AF1/c=US/a=MCI/p=CITICORP
Subject: Closing of Federal Bank and American Exchange DDAs / Closi
---------- Message Contents ----------

John/James,

Based on your request I am forwarding the mail where was documented our conversation with the client about the closing (dated May, 8, 2000) and where you can find references to prior conversations).

Additionally, I am attaching some mails about the commercial strategy to be implemented for all the FI-Argentina customers (without any exception) about the closings of DDA for off-shore vehicles that are not consolidating under a local bank, and consequently regulated by the Local Central Bank (BCRA: Banco Central de la Republica Argentina). As you can see, the first mail is dated April 06, 2000, but again you can find references to prior conversations and meetings. Moreover, as a proof of this strategy implementation, you should have mails about the closing of other accounts done during this year.

Finally, I will try to find any other document about the definition of this strategy (that has begun during the first months of this year) and previous meetings.

I hope this information is enough to cover your concern about the closing of these 2 DDAs. As I already mentioned yesterday in my request, it could be helpful for you discuss this with John Emert.

-----Original Message-----
From: Ubierna, Martin
Sent: Monday, May 08, 2000 8:04 PM
To: Lopez, Martin
Cc: Piantoni, Nestor; Giovanelli, Carlos
Subject: Federal Bank

Martin,

De acuerdo a lo que me pediste y en función de lo que ya le habías adelantado a Pablo Lucini, hoy me comuniqué con él y le dije que si no recibimos antes del 30-May-00 la solicitud del cierre de la DDA, en esa fecha le llegará una carta de Citi NY comunicándole que a los 30 dias, es decir el 30-Jun-00, se cerrará la misma.

Saludos,

Martin Ubierna
Relationship Manager
Financial Institutions - Argentina
(5411) 4329-1703

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I will send the mails attached in other mails because memory prolblems with the delivery.

Best Regards,

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 22

FTN Summary Report

AML Unit Tampa, FL

According to an article taken from the Miami Herald dated March 1, 2000, Alejandro Dulcer, a former vice minister of finance for Argentina, allegedly transferred $1.8 million in drug cartel proceeds. Dulcer is one of the owners of the Argentine financial holding firm known as Mercado Abierto, which owns M.A. Casa de Cambio, M.A. Valores S.A. and M.A. Bank Limited. All four held accounts with Citibank. (Account Numbers: 36137631,36964952,36111386 & 36964944) The FTN Team of the AML Unit has reviewed the transfers conducted through Mercado Abierto and its holdings. After reviewing the funds transfer activity of the aforementioned from April '1997 through March '2000, a total of $84,357,473.21 were transferred to the entities mentioned below. The consecutive whole dollar amounts transferred and the nature of the business contributed to the rise in suspicion and ongoing monitoring.

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AML Unit Tampa, FL USA

citigroup

Action Detail Record Log

InvestigationName: MERCADO Abierto S.A.

Investigator Initiating Investigation: CARLOS R. AYALA, JR.

Product(s): FTN

Date opened: 6/15/2000 File Number: FTN #69

MO-DAY-YR	Action Taken/Reason for Entry:	Initials & Stamp of Investigator
6/15/2000	See Summary Report for details: REDACTED	
6/23/00	Reviewed file and approved SAR	Assistant Vice President Anti-Money Laundering Unit 7800 Citibank Center Tampa, FL 33610

PS017805

American Exchange Company
Monthly Statement of Wire Transfers through Citibank New York
January and February 1996

DATE	AMOUNT	FROM	TO	TO
January 23	$ 500,000	Banco Republica	American Exchange	Federal Bank
January 25	$ 300,000	Federal Bank	American Exchange	Banco Republica
January 31	$ 600,000	Banco Republica	American Exchange	Federal Bank
February 1	$ 200,000	Federal Bank	American Exchange	Banco Republica
February 6	$ 200,000	Federal Bank	American Exchange	Banco Republica
February 7	$ 200,000	Federal Bank	American Exchange	Banco Republica
February 26	$ 549,778	Verwaltungs	American Exchange	Key West Ltd.
February 28	$ 600,000	Federal Bank	American Exchange	Banco Republica
February 28	$ 400,000	Federal Bank	American Exchange	Banco Republica
February 29	$ 200,000	Federal Bank	American Exchange	Banco Republica

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 23

CITIBANK

1 05

CITIBANK, N.A.
CUSTOMER QUALITY SERVICE INTERNATIONAL
111 WALL STREET, 21ST FLOOR
NEW YORK, NEW YORK 10043

(PRIMARY) FEDERAL BANK LTD
BLANES VIALE 5910
MONTEVIDEO,URUGUAY

(RECONCILEMENT) NONE

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CYCLE STATEMENT FOR ACCOUNT 3 6 0 1 - 7 1 4 6 534

NAME: FEDERAL BANK LTD

RULE-OFF PERIOD: MONTHLY

PERIOD FROM: 05/01/96 TO 05/31/96

CUSTOMER CONTACT: NONE

TELEPHONE: NO TELEPHONE

FOR INQUIRIES CONCERNING YOUR ACCOUNT
CONTACT: LATIN AMERICA CUSTOMER SERVICE (212)657-3000

SPECIAL INSTRUCTIONS:

NONE
ROUTING INSTRUCTIONS:
NONE

REPORTS:
SUMMARY BY TRANSACTION
PAID CHECKS
BACKVALUE DETAIL REPORT
INTEREST STATEMENT SUMMARY

OUTPUTS: NONE

COPIES: 01

(SECONDARY) NONE

PS015002

Senate Permanent Subcommittee On Investigations
EXHIBIT # 24

CITIBANK

REPORT DATE 06/03/96 ACCOUNT 3601-7146 ROLL OFF FROM 05/01/96 TO 05/31/96 RUN DATE 06/01/96 TIME 05:20 N 09

STATEMENT PAGE

ACCOUNT NAME - FEDERAL BANK LTD

DATE	REFERENCE #/ BATCH TRACK	TRANSACTION DESCRIPTION	DEBITS	CREDITS	LEDGER BALANCE
05/03/96	29612411112	SAME DAY CR TRANSFER		1,500,000.00	2,355,446.00
	650370957262	OUR REF NUM: LCG61240095700 DETAILS: NONE PROVIDED ORDER PARTY: 36965728 AMERICAN EXCHANGE CO PUNTA D EL ESTE URUGUAY DEBIT PARTY: 36965728 AMERICAN EXCHANGE CO			
05/03/96	39612411108	SAME DAY DR TRANSFER	1,500,000.00		855,446.00
	650370925262	OUR REF NUM: LCG61240092500 DETAILS: NONE PROVIDED ORDER PARTY: 36017146 FEDERAL BANK LIMITED MONTEVI DEO URUGUAY CREDIT PARTY: 36012804 BANCO REPUBLICA S.A.			
					855,446.00

CITIBANK

CITIBANK, N.A.
CUSTOMER QUALITY SERVICE INTERNATIONAL
111 WALL STREET, 21ST FLOOR
NEW YORK, NEW YORK 10043

4 08

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(PRIMARY) AMERICAN EXCHANGE CO
BOULEVAR ARTIGAS
(ENTRE CALLE 2 Y 3)
CASA SUNRISE
PUNTA DEL ESTE URUGUAY

(RECONCILEMENT): NONE

CYCLE STATEMENT FOR ACCOUNT 3 6 9 6 - 5 7 2 8 534

NAME: AMERICAN EXCHANGE CO

RULE-OFF PERIOD: MONTHLY

PERIOD FROM: 05/01/96 TO 05/31/96

CUSTOMER CONTACT: NONE

TELEPHONE: NO TELEPHONE

FOR INQUIRIES CONCERNING YOUR ACCOUNT
CONTACT: LATIN AMERICA CUSTOMER SERVICE (212)657-3000

SPECIAL INSTRUCTIONS:

NONE
ROUTING INSTRUCTIONS:
NONE

REPORTS:
SUMMARY BY TRANSACTION
PAID CHECKS
BACKVALUE DETAIL REPORT
INTEREST STATEMENT SUMMARY

OUTPUTS: NONE

COPIES: 01

(SECONDARY) NONE

CA000171

745

CITIBANK

REPORT DATE 06/03/96 ACCOUNT 3696-5728 ROLE OFF FROM 05/01/96 TO 05/31/96 RUN DATE 06/01/96 TIME 05:36

STATEMENT

ACCOUNT NAME - AMERICAN EXCHANGE CO

PAGE 1

			OPENING LEDGER BALANCE		10,177.08
			OPENING AVAILABLE BALANCE		10,177.08
DATE	REFERENCE #/ BATCH TRACK	TRANSACTION DESCRIPTION	DEBITS	CREDITS	LEDGER BALANCE
05/03/96	29612471752	SAME DAY CR TRANSFER		1,500,000.00	1,510,177.08
	650415593262	OUR REF NUM: S0761242010501 DETAILS: PABLO PAULIER OTHER REF: NONE ORDER PARTY: BANCO REPUBLICA S.A. DEBIT PARTY: 36012804 BANCO REPUBLICA S.A. BENEF S BANK: 36012804			
05/03/96	39612471754	SAME DAY DR TRANSFER	1,500,000.00		10,177.08
	650370957262	OUR REF NUM: LCG61240095700 DETAILS: NONE PROVIDED ORDER PARTY: 36965728 AMERICAN EXCHANGE CO PUNTA D EL ESTE URUGUAY CREDIT PARTY: 36017146 FEDERAL BANK LIMITED			

CITIBANK

R 03

CITIBANK, N.A.
CUSTOMER QUALITY SERVICE INTERNATIONAL
111 WALL STREET, 21ST FLOOR
NEW YORK, NEW YORK 10043

(PRIMARY) BANCO REPUBLICA S.A.
SARMIENTO 336
CAPITAL FEDERAL, ARGENTINA
CODIGO POSTAL 1041

(RECONCILEMENT) NONE

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CYCLE STATEMENT FOR ACCOUNT 3 6 0 1 - 2 8 0 4 534

NAME: BANCO REPUBLICA S.A.

RULE-OFF PERIOD: MONTHLY

PERIOD FROM: 05/01/96 TO 05/31/96

CUSTOMER CONTACT: NONE

TELEPHONE: NO TELEPHONE

FOR INQUIRIES CONCERNING YOUR ACCOUNT
CONTACT: LATIN AMERICA CUSTOMER SERVICE (212)657-3000

SPECIAL INSTRUCTIONS:
NONE

ROUTING INSTRUCTIONS:
NONE

REPORTS:
SUMMARY BY TRANSACTION
PAID CHECKS
BACKVALUE DETAIL REPORT
INTEREST STATEMENT SUMMARY

OUTPUTS:
NONE

COPIES: 01

SECONDARY: NONE

PS008523

747

CITIBANK

REPORT DATE 06/03/96 ACCOUNT 3601-2804 RULE OFF FROM 05/01/96 TO 05/31/96 RUN DATE 06/01/96 TIME 05:19 K 04

ACCOUNT NAME - BANCO REPUBLICA S A STATEMENT PAGE 15

DATE	REFERENCE # BATCH TRACK	TRANSACTION DESCRIPTION	DEBITS	CREDITS	LEDGER BALANCE
05/03/96	29612464327 550370925262	SAME DAY CR TRANSFER OUR REF NUM: LCG61240092500 DETAILS: NONE PROVIDED ORDER PARTY: 36017146 FEDERAL BANK LIMITED MONTEVI DEO URUGUAY DEBIT PARTY: 36017146 FEDERAL BANK LIMITED		1,500,000.00	1,629,312.88
05/03/96	39612464321 650415593262	SAME DAY DR TRANSFER OUR REF NUM: S0761242010501 DETAILS: PABLO PAULIER OTHER REF: NONE ORDER PARTY: BANCO REPUBLICA S.A. CREDIT PARTY: 36965728 AMERICAN EXCHANGE CO ORDER BANK: BANCO REPUBLICA SA	1,500,000.00		129,312.88

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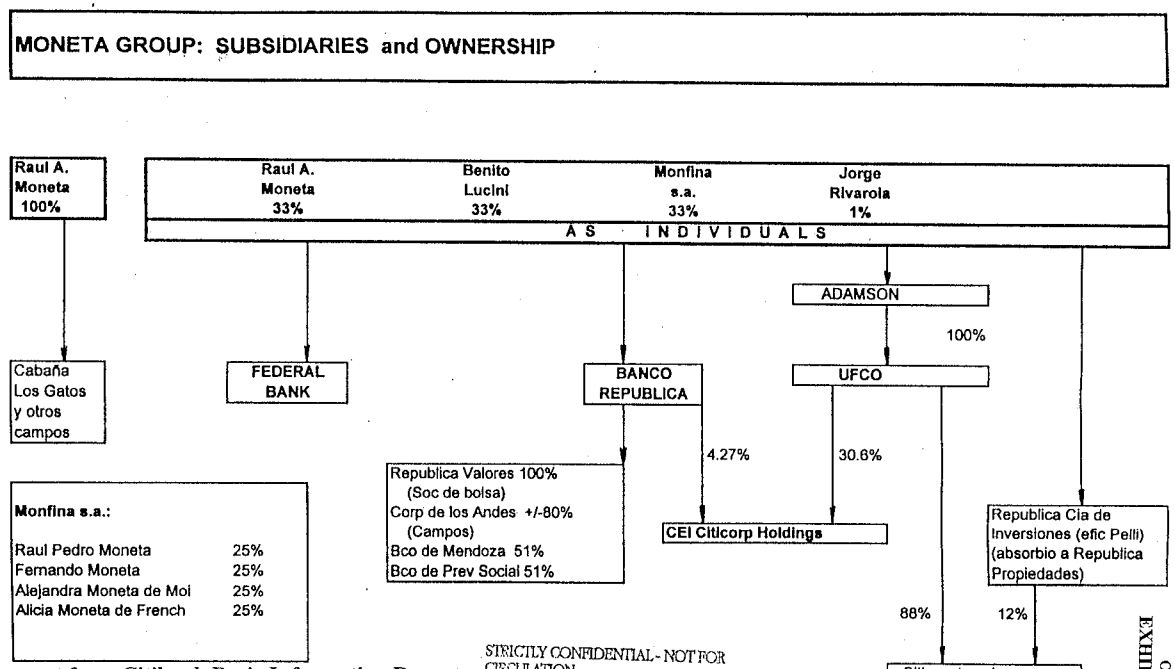
PS008538

748



Excerpt from Citibank Basic Information Report
Dated: August 1997

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PS018276

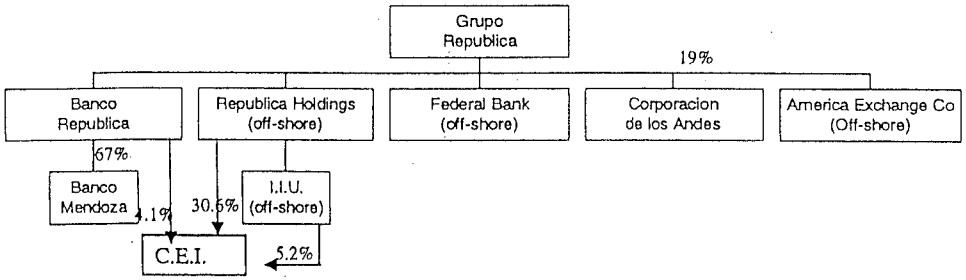
Senate Permanent Subcommittee On Investigations
EXHIBIT # 25

Management Information:

Ownership:

Owner Name	%
Raul Moneta	33
Benito Lucini	33
Monfina(Raul (25%),Fernando(25%), Alejandra(25%) y Alicia (25%) Moneta)	33
Jorge Rivarola	1

If this company is a Financial Group or is part of an Economic Group, please provide an organizational chart of its structure:



750

PS000832

Excerpted from a Citibank Basic Information Report
Dated: 5/17/99

Senate Permanent Subcommittee
On Investigations
EXHIBIT #_____26_____

CITIBANK'S SELF-DESCRIBED KNOWLEDGE OF BANCO REPUBLICA, FEDERAL BANK AND RELATED ENTITIES

1996 – Citibank Basic Information Report

> We have excellent contacts at the senior level. . .This close relationship gives us access to confidential internal bank information.

1997 – Citibank's Analysis of Grupo Moneta as "Family Owned"

> There is a close relationship between our Senior Management and R. Moneta. This, added to the association that exists between this group and CEI, means that Citibank has profound knowledge of the corporate structure, details of its organization, and the operation of Grupo Moneta and Banco Republica.

1998 – Citibank's Commercial Bank Analysis of Grupo Moneta

> The bank's Senior Management has a strong relationship with Raul Moneta, who is No. 1 in this group. The relationship came about as a result of the "shareholder" relationship Citibank has with Grupo Republica in CEI (Citicorp Equity Investment). Raul Moneta has easy access to our Senior Management (John Reed, Bill Rhodes, Paul Collins, etc.)

Senate Permanent Subcommittee
On Investigations
EXHIBIT #_____27_____

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FITS ARGENTINA

TARGET MARKET - RAAC

as of : Apr-97

REPUBLICA

Money Laundering:

Describe company's Money Laundering policies:
BR tiene procedimientos internos para evitar el lavado de dinero, incluyendo politicas de KYC. Este tema esta supervisado por el Banco Central de la Republica Argentina.
No tenemos evidencias ni información de terceros de que BR estuvo o esté desarrollando transacciones ilícitas de lavado de dinero con el conocimiento de su management o accionistas.

Describe company's money laundering policies:
BR has internal procedures to prevent money laundering, including KYC [TR.: possibly "Know your customer"] policies. This matter is overseen by Banco Central de la República Argentina.
We have no evidence or information from third parties that BR was or is carrying out illicit money laundering transactions with the knowledge of its management or shareholders.

Excerpt from June 30, 1998, BCRA audit of Banco Republica:

9. Prevention of Money Laundering

The entity under examination does not have a manual containing the programs against laundering money from illicit activities, despite [previous] stipulations. . . and despite the fact that the internal Auditor, in his report on the work performed between July 1997 and June 1998 pointed out that "it is necessary to set up a manual of rules and procedures regarding precautionary measures with respect to laundering. . ."

In addition, the outside Auditor's report on compliance with the BCRA rules regarding the prevention of money laundering, for the quarter ending June 30, 1998, notes that the entity should:

> **a) Set up a manual of rules and procedures regarding prevention of laundering money from illicit activities in order to comply with BCRA [requirements].**
>
> **b) Set up a procedure that enables it to ensure the integrity of the information in the database required by the controlling organization.**
>
> **c) Provide evidence, in all cases, of the controls. . .**

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 28

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94

RESOLUCION N° 395

Buenos Aires, 28 AGO 1996

Therefore

THE BOARD OF DIRECTORS OF
BANCO CENTRAL DE LA REPUBLICA ARGENTINA
RESOLVES

1. To allow Banco República to pay the balance of [the] capital contribution in the amount of $5 million and make a new contribution of $25 million with shares of Citicorp Equity Investments S.A. and, because of its ownership of these securities, exceed the limit established in item 3.1 of Appendix II, Document "A" 2140, for three years starting with notification of this resolution, if and only if Banco República:

   - Complies with the commitment that in no case will its stake in operating companies that are part of CEI investments, measured individually or through their presence in holding companies, exceed the limits established in item 3.1 of Appendix II, Document "A" 2140.

   - Maintains the shareholdings in CEI registered at the lower of their equity value or current share price.

- Deducts from the entity's computable equity, for purposes of all the technical regulations and guidelines regarding minimum capital, the profits generated because of increases in the value of this stake, in excess of the value of these shares as of June 30, 1996, determined as set forth in the previous item.

- Calculates the requirement for minimum capital above the excess reflected in the book value of the shareholdings of CEI compared to the limit established in item 3.1 of Appendix II, Document "A" 2140, using a coefficient of 0.5.

- Refrains from carrying out any transaction that involves, even temporarily, directly or indirectly increasing the financing of CEI or assuming any risk connected with said company.

- Does not increase its stake in other companies, except those that may eventually be associated with Banco de Mendoza S.A.

Excerpted from a Citibank Basic Information Report
Dated: 5/17/99

PS000833

– In August 1998, Grupo Republica exercises a call it possessed on the shares of CEI. When Grupo Werthein sold its shares (in total to the equity fund "Hicks, Muse, Tate & Furst") and in part Citicorp (17%), Grupo Republica exercised the call and increased its stake in CEI to 39.9%, thus becoming the largest shareholding group in this company, with approximately US$ 1700 MM. At the same time, Raul Moneta was designated president of CEI in place of Ricardo Handley.

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 29

9/2/96

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Grupo Moneta

Composición accionaria de las empresas del grupo

La composición accionaria es exactamente igual para todas las empresas:

- Banco República
- U.F.C.O.
- Citiconstrucciones S.A.
- Federal Bank

Esta se distribuye de la siguiente manera:

• Benito Jaime Lucini	33%
• Raul Adolfo Moneta	33%
• Monfinsa (Flia Moneta)	33%
• Jorge Enrique Rivarola	1%

Shareholdings of the companies in the group

The shareholdings are exactly the same for all the companies:

- Banco Republica
- UFCO
- Citiconstrucciones S.A.
- Federal Bank

They are distributed as follows:

- Benito Jaime Lucini	33%
- Raul Adolfo Moneta	33%
- Monfinsa (Moneta family)	33%
- Jorge Enrique Rivarola	1%

Senate Permanent Subcommittee
On Investigations
EXHIBIT #30

CITIBANK ACCOUNT OPENING STEPS

- Verify the applicant's bank license;
- Obtain the applicant's financial statements;
- Evaluate the applicant's creditworthiness;
- Determine the applicant's primary lines of business;
- Determine whether the applicant has a fixed, operating office in the jurisdiction;
- Visit the applicant's primary office in the jurisdiction;
- Review media reports on the applicant;
- Complete a customer profile.

Senate Permanent Subcommittee
On Investigations
EXHIBIT #31

CITIBANK'S POLICY ON OPENING ACCOUNTS FOR OFFSHORE SHELL BANKS

February 2000 Subcommittee Survey:

Citibank "does not open bank accounts" for offshore shell banks except Citibank "may open a bank account for an existing customer **bank**'s off-shore subsidiaries or affiliates."

September 2000 Letter to PSI Subcommittee:

"Citibank would and does open accounts for off-shore subsidiaries or affiliates of existing customer ***financial institutions,*** **not just** existing customer ***banks***. . ."

CITIBANK ARGENTINA'S POLICY ON ACCOUNTS WITH OFFSHORE SHELL BANKS

MEMO TO CITIBANK NEW YORK FROM CITIBANK ARGENTINA, JUNE 16, 2000

"Additionally I am attaching some mails about the commercial strategy to be implemented for all the FI-Argentina customers (without any exception) about the closings of DDA for off-shore vehicles that are not consolidating under a local bank, and consequently regulated by the Local Central Bank (BCRA: Banco Central de la Republica Argentina)."

Banco Central de la República Argentina

Senate Permanent Subcommittee
On Investigations
EXHIBIT #____32____

Buenos Aires,

Al RESPONSABLE DE LA ADMINISTRACION de
CITIBANK N.A. (SUCURSAL ARGENTINA),
Sr. CARLOS MARIA FEDRIGOTTI GONGORRA,
Bartolomé Mitre 530,
(1036) CAPITAL FEDERAL

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Nos dirigimos a Ud. con relación a un procedimiento para determinar si existe algún tipo de vinculación económica entre entidades financieras sujetas al control de esta Superintendencia y *Federal Bank Limited*, una sociedad constituida el 9.3.92 de acuerdo con las leyes del Estado de las Bahamas, con domicilio legal en Bolam House, King & George Streets, PO Box N° 4843, Nassau, Bahamas.

Mediante transferencias desde y hacia Federal Bank Limited las entidades financieras argentinas reciben y pagan depósitos de residentes en el exterior. Las transferencias se realizan con débitos y créditos en la cuenta de Federal Bank Limited en Citibank New York, *número 36017146*.

En vista de la importancia de las transferencias citadas, esta Superintendencia solicita toda información que pudiera tener esa Sucursal sobre Federal Bank Limited, especialmente la identidad de sus accionistas. En igual orden, también solicitamos su intercesión ante la casa en Nueva York, a fin de que su Matriz provea la información requerida.

El tratamiento será confidencial, ya que las informaciones que obtiene la Superintendencia en el ejercicio de sus facultades tienen carácter secreto, de acuerdo con el artículo 53 de la Ley 24.144.

Sin otro particular, saludamos a Ud. muy atentamente.

BANCO CENTRAL DE LA REPUBLICA ARGENTINA
Superintendencia de Entidades Financieras y Cambiarias

PS018229

ELBA CASTAÑO
GERENTE DE SUPERVISION
DE ENTIDADES FINANCIERAS
Grupo O

JUAN CARLOS E. NOUGUES
SUBGERENTE GENERAL DE SUPERVISION
SUPERINTENDENCIA DE ENTIDADES

PS018229

To the OFFICER IN CHARGE OF ADMINISTRATION
OF CITIBANK N.A. (ARGENTINA BRANCH)
Mr. CARLOS MARIA FEDRIGOTTI GONGORRA
Bartolomé Mitre 530
(1036) CAPITAL FEDERAL

This is in reference to a proceeding to determine if there is any sort of economic link between financial entities subject to the control of this Superintendence and *Federal Bank Limited*, a company established on March 1992, under the laws of the Commonwealth of the Bahamas, with legal domici at Bolam House, King & George Streets, PO Box 4843, Nassau, Bahamas.

By means of transfers from and to Federal Bank Limited, the Argentine financial entities receive and pay deposits of residents abroad. The transfers a made with debits and credits to the account of Federal Bank Limited in Citibar New York, *number 36017146*.

In light of the importance of the aforementioned transfers, this Superintendence requests all information that Branch may have about Federa Bank Limited, especially the identity of its shareholders. Likewise, we also request your intercession with the house in New York so your headquarters w provide the requested information.

The matter will be treated confidentially, since the information obtainec the Superintendence in the exercise of its authorities is confidential in accordance with Article 53 of Law 24,144.

Sincerely,

Translated from the Spanish by
the Congressional Research
Service

N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

541/329-1290
Fax
541/329-1032

Carlos M. Fedrigotti
Presidente

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SUBCOMMITTEE MEMBERS AND STAFF ONLY

CITIBANK

Señora y Señor
Elba Castaño y Juán Carlos E. Nougués
Banco Central de la República Argentina
Reconquista 266
(1003) Buenos Aires, Argentina

De nuestra consideración:

RE: FEDERAL BANK LIMITED

De acuerdo a lo solicitado en su carta del 20 de abril de 1999, les informamos que no obra en nuestros registros información que nos permita determinar la identidad de los accionistas del banco de la referencia.

Respecto a la solicitud de intercesión ante Citibank N.A. New York, cumplimos en señalar que la información deberá ser requerida a ésta directamente, por via de la rogatoria de estilo a ser cursada a la autoridad local competente, para que ésta, autorice y disponga la entrega de la información solicitada. Ello debido a que Citibank N.A., New York es una entidad diferente a Citibank N.A., Sucursal Buenos Aires, sujeta a jurisdicción y leyes aplicables distintas a las de ésta última

No duden en contar con nuestra colaboración a los efectos de agilizar la mencionada intercesión ante Citibank N.A., New York, una vez efectuados por Uds. los pasos señalados en el párrafo anterior.

Sin otro particular, saludamos a Uds. muy atentamente.

PS018230

PS018230

CITIBANK [logo]

Elba Castaño and Juan Carlos E. Nougués
Banco Central de la República Argentina
Reconquista 266
(1003) Buenos Aires, Argentina

Dear Sir and Madam:

RE: FEDERAL BANK LIMITED

Pursuant to the request in your letter of April 20, 1999, this is to advise that our records contain no information that would enable us to determine the identity of the shareholders of the referenced bank.

With respect to the request to intercede with Citibank N.A. New York, please be advised that the information must be requested from that entity directly, by standard letter rogatory to be issued to the local competent authority so that it may authorize and order that the requested information be turned over. This is because Citibank N.A., New York is an entity different from Citibank N.A., Buenos Aires Branch, subject to applicable jurisdiction and laws different from those of the latter.

Please be assured of our cooperation for purposes of facilitating the aforementioned intercession with Citibank N.A., New York, once you have taken the steps specified above.

Very sincerely,

Translated from the Spanish by
the Congressional Research Service

Citibank N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

541/329-1290
Fax
541/329-1032

Carlos M. Fedrigotti
Presidente

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SUBCOMMITTEE MEMBERS AND STAFF ONLY

CITIBANK

27 de julio de 2000.-

Señores
Elba Castaño/Dr. Juan Carlos Barale
Banco Central de la República Argentina
Edificio San Martín , 2do. Piso, Of. 200
(1003) Buenos Aires, Argentina

De mi consideración:

RE: FEDERAL BANK LIMITED

Tenemos el agrado de dirigirnos a Uds. haciendo relación a la carta que bajo referencia 540/38/99 y con referencia al Federal Bank Limited, que esa Superintendencia nos dirigiera y la contestación que a la misma este banco brindara.

Este banco ha tomado conocimiento de una investigación que está siendo llevada a cabo en los Estados Unidos de América sobre algunas cuestiones relativas al Federal Bank Limited, lo que nos ha llevado a revisar nuevamente la información existente en esta entidad y que está relacionada con el Federal Bank Limited. En este sentido nos parece apropiado darles a conocer que en la información elaborada internamente por nuestra institución sobre Federal Bank Limited, existe información que incluye referencias sobre la identidad de sus accionistas. Ella no tiene relación con transacciones realizadas por Citibank Argentina, puesto que Federal Bank Limited no es ni ha sido cliente de esta entidad en la Argentina.

Si están interesados en la información indicada, les rogamos nos lo hagan saber y pondremos la misma a vuestra disposición.

Carlos M. Fedrigotti
Presidente

BANCO CENTRAL DE LA REPUBLICA ARGENTINA
GERENCIA
DE INVESTIGACIONES FINANCIERAS
31 XI 05
STELLA MARIS CERANA
SECRETARIA
GERENCIA DE SUPERVISION DE ENTIDADES FINANCIERAS

PS018231

PS018231

July 27, 2000

Elba Castaño / Dr. Juan Carlos Barale
Banco Central de la República Argentina
Edificio San Martin, 2do Piso, Of. 200
(1003) Buenos Aires, Argentina

Dear Sir and Madam:

RE: FEDERAL BANK LIMITED

This is in connection with the letter which, under reference 540/38/99 regarding Federal Bank Limited, that Superintendence sent us, and the answer this bank provided.

This bank has become aware of an investigation being carried out in the United States of America regarding certain questions relative to Federal Bank Limited, which has caused us to re-review the information existing in this entity which is connected with Federal Bank Limited. In this regard, we feel it is appropriate to advise you that the information prepared internally by our institution regarding Federal Bank Limited includes references to the identity of its shareholders. That has no connection with transactions carried out by Citibank Argentina, since Federal Bank Limited is not and has not been a customer of this entity in Argentina.

If you are interested in the aforementioned information, please let us know and we will make it available to you.

[illegible signature]

Translated from the Spanish by
the Congressional Research
Service

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FRIEDRICHSTRASSE 95
D-10117 BERLIN
TELEPHONE 011 (49301) 2022-6400
FACSIMILE 011 (49301) 2022-6500

February 21, 2001

By Telecopy and First Class Mail

Linda J. Gustitus
Chief Counsel and Staff Director, Minority
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
SR-193 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Linda:

As you requested, enclosed are copies of correspondence between Citibank Argentina and the Argentine Central Bank subsequent to the July 27, 2000 offer by Citibank Argentina to make available its internal work papers related to Federal Bank. This correspondence includes:

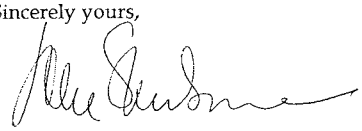
- The Central Bank's response of August 11, 2000, to the July 27 offer and requesting that this information be forwarded;
- The letter from Citibank Argentina of September 6, 2000, transmitting the information to the Central Bank;
- A request from the Central Bank of February 7, 2001 seeking an explanation for the difference between Citibank Argentina's letter of May 14, 1999 and its letter of July 27, 2000; and
- Citibank Argentina's response of February 12, 2001 to the Central Bank's February 7 inquiry.

For your convenience, I have also enclosed translations of these letters. In addition, I am enclosing the translation of a letter written by the Central Bank President, Pedro Pou, published in Clarin on February 18, 2001, which addresses the correspondence with Citibank Argentina regarding Federal Bank and states that the

Central Bank's lawyers have determined that the letters do not constitute any violation of law or regulation.

Please let me know if I can be of further assistance.

Sincerely yours,



Jane Sherburne

Cc: Christopher Ford, Chief Counsel for the Majority

Sírvase citar: Nota N° 540 / 154/00
Expte. N° 15.837/00

Banco Central de la República Argentina

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CERTIFICADA CON
AVISO DE RECEPCION.

Buenos Aires, 11 AGO 2000

Sr. Presidente
de CITIBANK N.A. Argentina
Sr. Carlos María Fedrigotti,
Bartolomé Mitre 530
(1036) CAPITAL FEDERAL

Nos dirigimos a Ud. con relación a su ofrecimiento de poner a disposición de la Superintendencia de Entidades Financieras y Cambiarias la información reunida en esa entidad sobre Federal Bank Limited, de acuerdo con lo comunicado en su nota fechada el 27.07.00.

Al tiempo que agradecemos la colaboración prestada por Citibank N.A. Argentina, solicitamos que el material disponible se envíe en fotocopia anexada a nota de remisión en la que se consigne su detalle, a la Gerencia de Supervisión de Entidades Financieras "D" de esta Superintendencia, Reconquista 266, (1003) Buenos Aires.

Sin otro particular, saludamos a Ud. muy atte.

BANCO CENTRAL DE LA REPUBLICA ARGENTINA
Superintendencia de Entidades Financieras y Cambiarias

GERENTE DE SUPERVISION
DE ENTIDADES FINANCIERAS
Grupo D

JUAN CARLOS BARALE
GERENTE GENERAL DE ENTIDADES FINANCIERAS
A/C DE LA SUBGERENCIA GENERAL DE SUPERVISION

PS020062

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Central Bank of the Republic of Argentina

Certified delivery with return receipt.

Buenos Aires
August 11, 2000

President
Citibank, N.A. Argentina
Mr. Carlos Maria Fedrigotti

We write with respect to your offer to place at the disposition of the Superintendence of Financial Entities and Exchange Houses the information collected in your institution regarding Federal Bank Limited, in accordance with what was communicated in your letter dated July 27, 2000.

At a time to be agreed upon with the assistance of Citibank N.A. Argentina, we ask that the available material be sent in a photocopy attached to a cover letter that gives the particulars of the material, to Unit D of the Supervision of Financial Entities within this Superintendence.

Very truly yours,

Central Bank of the Argentine Republic
Superintendence of Financial Entities and Exchange Houses

Elba Castaño
Juan Carlos Barale

Citibank, N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

Tel/Fax (5411) 4329-1000

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Buenos Aires, 6 de septiembre del 2000

Señores
Superintendencia de Entidades Financieras y Cambiarias
Gerencia de Supervisión de Entidades Financieras "D"
Reconquista 266, (1003) Buenos Aires
Presente

Ref.: Nota Nº 540/156/00
Expte. Nº 15.837/00

De mi consideración:

Tenemos el agrado de dirigirnos a Uds. en relación a la nota de referencia que nos dirigiera esa Superintendencia con fecha 11 de agosto del 2000.

Conforme a lo requerido en dicha nota, acompañamos a la presente fotocopia de material que contiene información sobre Federal Bank Limited. Señalamos que una porción sustancial de esta información ha sido preparada internamente y/o puede no estar basada en documentación fehaciente. Esta información es provista a Uds. basados en el entendimiento que la misma es confidencial y secreta y que, de conformidad con la normativa vigente, no será revelada a terceros.

Sin otro particular, saludamos a Uds. muy atentamente.

Carlos A. Giovanelli
Apoderado
Vicepresidente interinamente a cargo
de la sucursal Argentina

PS020064

Civelli Andrés

BANCO CENTRAL DE LA REP. ARG.
SERVICIOS GENERALES
6 SET. 2000
Expte. Nº 028571

C/ un sobre.

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Buenos Aires, September 6, 2000

Messrs.
Superintendency of Financial and Exchange Entities
Financial Entities Supervision Department, "D"
Reconquista 266, (1003) Buenos Aires

Re.: Letter No. 540/156/00
File No. 15.837/00

Dear Sirs:

Reference is made to the letter dated August 11, 2000 addressed to us by this Superintendency.

As required in such letter, we hereby attach a photocopy of material containing information about Federal Bank Limited. Please be aware that a substantial portion of this information has been generated internally and/or may not be based on irrebuttable documentation. This information is provided to you based on the understanding that it is confidential and secret and that, in accordance with the regulations currently in force, it will not be disclosed to third parties.

Sincerely yours,

Carlos A. Giovanelli
Attorney in Fact
Vice President temporarily in charge
of the Argentine branch

N° 4 5

Banco Central de la República Argentina
Superintendencia de
Entidades Financieras y Cambiarias

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Buenos Aires, 7 de febrero del 2001.-

Señor Presidente

Tengo el agrado de dirigirme a usted, en relación con las notas cursadas por Ud. y el Sr. Carlos Giovanelli a esta Institución los días 1° de agosto y 6 de septiembre del año 2000, que se registraran bajo n° 24.298/00 y 28.571/00 respectivamente.-

A ese respecto, cumplo en informar que tal correspondencia evidencia una actitud contradictoria y cuanto menos reticente por parte de esa entidad para brindar información en el marco de lo que le había solicitado antes la Superintendencia de Entidades Financieras y Cambiarias, para determinar la vinculación existente entre entidades sujetas al contralor de esta superintendencia y el Federal Bank Limited, y respecto de lo que el Citibank NA mediante nota del 17 de mayo de 1999 (registrada bajo n° 17309/99) informó que no obraban en sus registros información que les permitiera determinar la identidad de los accionistas del Federal Bank Limited.-

En tal sentido, se ha instruído a las áreas correspondientes evalúen la procedencia de iniciar las actuaciones respectivas, en función de las disposiciones del artículo 41 de la Ley de Entidades Financieras.-

Por ello, solicito que en el plazo perentorio de 72 horas hábiles informe sobre:

1) Si la actividad llevada a cabo por esa sucursal con el Federal Bank Limited ha sido puesta en conocimiento de los organismos directivos de Citibank NA, y en tal caso envíe la documentación respectiva;
2) si la actividad llevada a cabo por esa sucursal con el Federal Bank Limited ha sido puesta en conocimiento del regulador del Citibank NA en los Estados Unidos (Office of the Comptroller of the Currency);
3) si la actividad llevada a cabo por esa sucursal con el Federal Bank Limited ha sido puesta en conocimiento de Financial Crime Enforcement Network.-

En caso de no recibir respuesta en el plazo indicado, se procederá a informar de la situación en forma directa a las autoridades respectivas.-

Sin otro motivo en particular, saludo a usted muy cordialmente,

SEÑOR PRESIDENTE DE CITIBANK
Carlos M. Fredigotti

PS020066

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Central Bank of the Argentine Republic
Superintendence of
Financial Institutions and Exchange Houses

Buenos Aires
February 7, 2001

Mr. President:

I write to you with respect to the letters issued by you and Mr. Carlos Giovanelli to this institution on August 1 and September 6, 2000, registered under the numbers 24.298/00 and 28.571/00 respectively.

In respect of those letters, I write to inform you that this correspondence evidences a contradictory attitude and at least a reluctant one on the part of the entity to send the information in the form in which the Superintendence of Financial Institutions and Exchange Houses had earlier asked, in order to determine the existing relationship among entities subject to the control of this Superintendence and Federal Bank Limited, and on this matter of which Citibank NA through its letter of May 17, 1999 (registered under number 17309/99) reported that its files [*registros*] did not possess information that permitted you to determine the identity of Federal Bank Limited's shareholders.

For that reason, the relevant areas have been instructed to evaluate the procedures to initiate appropriate action, in accordance with Article 41 of the Law of Financial Entities.

Therefore, I ask that within the next 72 business hours you report regarding:

1. Whether the relationship [*actividad*] carried out by this branch with Federal Bank Limited has been made known to Citibank N.A.'s organizational executives, and if so, send the respective documentation;

2. Whether the activity carried out by this branch with Federal Bank Limited has been made known to Citibank N.A.'s regulator in the United States (OCC);

3. Whether the activity carried out by this branch with Federal Bank Limited has been made known to the Financial Crimes Enforcement Network.

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In the event that we do not receive a response within the indicated time period, we will proceed to inform the respective authorities of the situation directly.

Cordially yours,

[illegible signature and stamp]

Citibank, N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

TelFax (541) 329-1000

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Buenos Aires, 12 de febrero de 2001

Señores
Superintendencia de Entidades Financieras y Cambiarias
Reconquista 266, (1003) Buenos Aires
Presente

De nuestra consideración:

Tenemos el agrado de dirigirnos a Uds. en relación a la nota que nos dirigiera esa Superintendencia con fecha 7 de febrero de 2001.

Al respecto, respetuosamente les hacemos saber que disentimos totalmente con vuestra caracterización de la correspondencia aludida en vuestra nota. Lo informado en nuestra nota del 14 de mayo de 1999 (registrada bajo N° 17309/99) se basaba en la inexistencia en nuestro poder de documentación que permitiera acreditar fehacientemente la identidad de los accionistas de Federal Bank Limited y en la circunstancia de que esa entidad no era cliente de esta sucursal ya que no tenía cuenta en ésta ni había realizado operaciones con la misma. Sin perjuicio de ello y conforme lo manifestáramos en nuestra nota del 27 de julio de 2000, con motivo de la investigación que está siendo llevada a cabo por un Sub-Comité del Senado de los Estados Unidos de América, Citibank, N.A. reexaminó y debió presentar a ese Sub-Comité la información de que disponía relativa a Federal Bank Limited que incluía referencias a la identidad de sus accionistas, información que no es fehaciente por haber sido elaborada internamente. Esta circunstancia motivó nuestra espontánea puesta a disposición de ese Banco Central de esta información, que posteriormente les entregáramos.

El actuar de las autoridades de esta sucursal en el tema antes referido ha sido legalmente correcto, y ha estado guiado por la buena fe y despojado de cualquier intención de ocultar evidencia relativa a los temas que fueran objeto de vuestros requerimientos. Nuestro ofrecimiento inicial de colaborar en el procesamiento de la carta rogatoria es clara prueba de nuestra predisposición a facilitar la correcta obtención de la información requerida por el Banco Central.

PS020009

Bank, N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

Tel/Fax (541) 329-1000

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En virtud de lo expuesto, consideramos que esta entidad no ha cometido infracción alguna por lo que no corresponde la iniciación de actuaciones en el marco de las disposiciones del artículo 41 de la Ley de Entidades Financieras.

Finalmente, en respuesta a las preguntas de su nota del 7 de febrero de 2001, reiteramos que la cuenta de Federal Bank Limited era una cuenta con Citibank, N.A., Nueva York y que, por lo tanto, no hubieron operaciones entre Federal Bank Limited y esta sucursal. Asimismo, informamos a Uds. que:

1) El Senior Management de Citibank en Nueva York y Miami fue puesto en conocimiento del contenido de la correspondencia antes aludida, así como de la inexistencia de transacciones entre esta sucursal y Federal Bank Limited, todo ello a través de diversas conversaciones mantenidas al efecto por los funcionarios de esta sucursal.

2) Esta sucursal ha sido informada por su casa matriz que el regulador de Citibank, N.A. en los Estados Unidos (Office of the Comptroller of the Currency) ha sido puesto en conocimiento del contenido de la correspondencia referida en vuestra nota, no obstante no haber estado Citibank, N.A. legalmente obligado a ello.

3) Las normas que requieren a bancos estadounidenses suministrar al Financial Crimes Enforcement Network (FinCEN) determinada información les prohiben revelar a terceros el suministro o no de la misma. Sin embargo, esta sucursal ha sido informada por su casa matriz que no existen razones que justifiquen poner en conocimiento del Financial Crimes Enforcement Network (FinCEN) acerca de la correspondencia referida en vuestra nota.

En razón de lo expuesto, entendemos haber dado cumplimiento en tiempo y forma a vuestra solicitud y aclarado satisfactoriamente que la actitud de esta sucursal se ha adecuado legalmente a vuestros anteriores requerimientos, sin perjuicio de lo cual quedamos a vuestra disposición ante cualquier aclaración que pudieran considerar necesaria.

Sin otro particular, saludamos a Uds. muy atentamente.

Carlos M. Fedrigotti
Presidente

PS020070

RECIBI ORIGINAL
SIN/CON ___ COPIAS
CODIGO 300
FIRMA
12/02 p/
ACLARACION DE FIRMA
15:00 hs.

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Buenos Aires, February 12, 2001

Messrs.
Superintendency of Financial and Exchange Entities
Reconquista 266, (1003) Buenos Aires

Dear Sirs:

Reference is made to the letter dated February 7, 2001 addressed to us by this Superintendency.

In this respect, we respectfully inform you that we totally disagree with your characterization of our earlier letters. The information provided in our letter dated May 14, 1999 (registered under No. 17309/99) was based on the non-existence in our hands of documentation that could provide irrebutable evidence of the identity of Federal Bank´s shareholders and on the fact that such entity was not a client of this branch as it did not have an account with this branch and had not executed transactions with the latter. Notwithstanding the foregoing and in accordance with what we informed you in our letter dated July 27, 2000, due to an investigation that is being held by a Sub-Committee of the U.S. Senate, Citibank, N.A. reexamined and delivered to such Sub-Committee information that it held related to Federal Bank Limited that included references to the identity of its shareholders, which information is not irrebutable because it had been prepared internally. This circumstance motivated our spontaneous offer of this information to this Central Bank, that we later delivered to you.

The performance of the authorities of this branch in the above referred matter has been legally correct, guided by good faith and free from any intention to conceal evidence related to the matters that were the subject of the Central Bank´s requests. Our offer to collaborate with the process of the rogatory letter is a clear evidence of our predisposition to assist in the correct obtention of the information required by the Central Bank.

As a consequence, we consider that this entity has not incurred any infringement and therefore it does not correspond the initiation of proceedings under Article 41 of the Financial Entities Law.

Finally, in response to the questions raised in your letter dated February 7, 2001, we reiterate that the account of Federal Bank Limited was with Citibank, N.A. New York, and that therefore there were no transactions between Federal Bank and this branch. Also, we inform you that:

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1) The Senior Management of Citibank in New York and Miami has been informed about the content of the letters mentioned above, as well as about the absence of transactions between this branch and Federal Bank Limited, through diverse conversations held to such end by officials of this branch.

2) This branch has been informed by its head office that the regulator of Citibank, N.A. in the United States (Office of the Comptroller of the Currency) has been informed about the content of the letters mentioned above, although Citibank, N.A. was not legally required to so inform the Office of the Comptroller of the Currency.

3) The statute that requires certain disclosures by U.S. banks to the Financial Crime Enforcement Network (FinCEN) prohibits banks from revealing to third parties that such disclosures have been made. Notwithstanding, this branch has been informed by its head office that there is no basis to report to the Financial Crime Enforcement Network (FinCEN) in reference to the correspondence referred to in your letter.

Based on the foregoing, we understand that we have timely and formally complied with your request and that we have satisfactorily clarified that the attitude of this branch has legally adequated to your previous requirements, although we are at your disposal should you need any clarification that you might consider necessary.

Sincerely yours,

Carlos M. Fedrigotti
President

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TELEPHONE 011 (322) 285-4900
FACSIMILE 011 (322) 285-4949

FRIEDRICHSTRASSE 65
D-10117 BERLIN
TELEPHONE 011 (49301) 2022-6400
FACSIMILE 011 (49301) 2022-6500

February 27, 2001

By Facsimile and Hand Delivery

Linda J. Gustitus
Chief Counsel and Staff Director, Minority
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
SR-193 Russell Senate Office Building
United States Senate
Washington, D.C. 20510

Dear Linda:

Enclosed please find the response we received yesterday from the Central Bank of Argentina to Mr. Fedrigotti's letter of February 12, 2001. For your convenience, I have also enclosed a translation of the letter.

As you can see, the Central Bank's legal and technical staff has determined that Citibank's response to the Central Bank's request for information violated no law or regulation.

To ensure that the record for the upcoming hearings is accurate and complete, I ask that you include in the record the complete series of correspondence between the Central Bank of Argentina and Citibank with respect to the Central Bank's request for information regarding Federal Bank as well as translations for each of those letters.

Sincerely yours,

Jane C. Sherburne

cc: Christopher Ford
Chief Counsel and Staff Director, Majority

Central Bank of the Argentine Republic
President

Buenos Aires, February 26,2001

MR. PRESIDENT:

This is in reference to the letters sent by Citibank N.A. dated May 17, 1999, August 1, 2000, September 6, 2000, and February 12, 2001, all of them related to information in the possession of your entity with respect to the Federal Bank Limited.

In that regard, this is to advise you that, according to the opinion of the various legal – technical departments of the Central Bank, there has been no legal infraction that justifies bringing judicial and/or administrative – financial actions against the entity that you head.

However, this Central Bank would have wished that the information that Citibank N.A. had available had been furnished when it was requested and not sometime afterwards, as a result of an investigation carried out in a foreign country.

I remain,

Sincerely

[Signature]
Pedro Pou

PRESIDENT
CITIBANK
DR. CARLOS FEDRIGOTTI

Banco Central de la República Argentina
Presidente

Buenos Aires,26 de febrero de 2001.-

SEÑOR PRESIDENTE:

Me dirijo a Ud. en relación con las notas cursadas por Citibank N.A. con fechas 17 de mayo de 1999, 1 de agosto de 2000, 6 de septiembre de 2000, y 12 de febrero de 2001, todas ellas relacionadas con la información en poder de vuestra entidad referida al Federal Bank Limited.

Al respecto le informo que conforme han dictaminado las distintas áreas técnico legales de este Banco Central no se ha configurado una infracción legal que amerite la iniciación de acciones judiciales y/o administrativo-financieras en contra de la entidad a su cargo.

Sin embargo, este Banco Central hubiese deseado que la información con la cual contaba el Citibank N.A. hubiese sido aportada cuando fue requerida y no tiempo después a resultas de una investigación llevada a cabo en un país extranjero.

Sin otro particular, lo saludo muy atentamente.-

Pedro Pou

SEÑOR PRESIDENTE
CITIBANK
DR. CARLOS FEDRIGOTTI
S / D

PS020080

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 33

British Trade & Commerce Bank
Licensed for Full Trust Business

EMENS Bldg., Dame Eugenia Charles Blvd., Bayfront
P.O. Box 2042
Roseau, Commonwealth of Dominica
Tel.: (767) 448-6410 Fax: (767) 448-6477
E-mail: btcbank@tod.dm
SWIFT BTCB DM DM

Progressive Certificate of Deposit Investments

(Term Deposit Certificates)

British Trade & Commerce Bank issues Certificates of Deposit for a one year term at attractive yields to its select clientele. The terms of such Certificates are summarized as follows.

Principal Amount (US$)	Monthly Interest Rate (%)	Effective Annual Rate (%)	Interest Disbursement Terms
25,000 - 49,999	1.25	16.07	annually in arrears
50,000 - 74,999	1.50	19.56	annually in arrears
75,000 - 99,999	1.75	23.14	annually in arrears
100,000 - 475,000	2.50	34.48	quarterly in arrears
500,000 - 975,000	3.00	42.57	monthly in arrears
1,000,000 - 1,450,000	3.50	51.10	monthly in arrears
1,500,000 - 1,950,000	4.00	60.01	monthly in arrears
2,000,000 - 3,450,000	4.50	69.58	monthly in arrears
3,500,000 - 4,950,000	5.00	79.58	monthly in arrears

Higher Yield Alternatives Available For Amounts Exceeding US$5,000,000

These Certificates are issued within two international banking days of the receipt of the principal funds. Interest from these Certificates is disbursed within five international banking days following the accrual date. Principal is disbursed within five international banking days of presentation of the Certificate upon maturity. Filing of an International Business Company in Dominica is encouraged for Principal Amounts in excess of US$100,000.

SEP-06-00 10:33 AM INT'L BUSINESS UNIT

British Trade & Commerce Bank.
Licensed for Full Trust Business.
Emens Bldg., Dame Eugenia Charles Blvd. Bayfront.
Roseau Commonwealth of Dominica.
PO Box 2042. Phone: (767) 448-8410 Fax: 448-6477
e-mail: btcbank@cwdom.dm - SWIFT: BTCBDMDM

Certificate of Deposit Investments

(Term Deposit Certificates)

British Trade & Commerce Bank issues Certificates of Deposit for a one year term at attractive yields to its select clientele. The terms of such Certificates are summarized as follows.

Principal Amount	Interest Rate Monthly	Effective Annual Rate	Disbursement
(US$)	(%)	(%)	
25,000 - 49,999	1.25	15	annually in arrears
50,000 - 74,999	1.50	18	annually in arrears
75,000 - 99,999	1.75	21	annually in arrears
100,000 - 475,000	2.00	24	~~annually~~ quarterly in arrears
500,000 - 975,000	2.25	30.6 (1)	monthly in arrears
1,000,000 - 1,450,000	2.50	34.5 (1)	monthly in arrears
1,500,000 - 1,950,000	2.75	38.5 (1)	monthly in arrears
2,000,000 - 3,450,000	3.00	42.5 (1)	monthly in arrears
3,500,000 - 4,950,000	3.25	46.8 (1)	monthly in arrears

(1) Assumes monthly interest left for compounding.

Higher Yield Alternatives Available For Amounts Exceeding US$5,000,000

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Filing of an International Business Company in Dominica is encouraged for Principal Amounts in excess of US$100,000.

Eff. 1/1/99

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___34___

British Trade & Commerce Bank.
Licensed for Full-Trust Business

Dame Eugenia Charles Blvd, Bayfront, Roseau
Commonwealth of Dominica
Ph.:(767) 448-6410 Fax:(767) 448-6477
E-Mail: btcbank@cwdom.dm SWIFT: BTCB DM DM

September 22, 1998

In order to protect assets properly, whether in BTCB or elsewhere you should consider setting-up a specific structure to assure privacy and avoid unnecessary reporting and taxation issues. There are no taxes on IBC/Trust income or capital gains in Dominica and the privacy laws are very tight. You should seek your own tax and legal advice before proceeding on these matters. However, as discussed, one attractive structure could be as illustrated on Attachment "A". The specifics are:

1. Immediately, establish an IBC in Dominica (if necessary, in same name as the one in which you have contractual identity and/or the funds could be received). This will allow an orderly and mostly invisible transition. This IBC should have an Account at BTCB in order to receive the proceeds of Programs and to disburse them as instructed. This IBC should be 100% owned by bearer shares to be held by the Business Trust. The fee for setting and filing the IBC is $1,500, including Government filing and fees (in lieu of taxes) and routine Corporate Administration for the first year.

2. Simultaneously, you could establish a Business Trust (your choice of names) in Dominica. This trust would not hold any bank accounts, nor hold any assets except the bearer shares of IBC. Any dividends from the IBC will pass through Business Trust for immediate distribution in accord with the instructions that must accompany the dividend. The fees for setting and filing such Trust are $4,000, including Government fees and routine Trust Administration for the first year.

3. You should select an "Organizer" of the IBC and Business Trust, and could designate International Corporate Services Ltd (an IBC owned 100% by BTCB) as the Director-Designee for the IBC and BTCB as Trustee of the Business Trust. Any documents executed by ICS Ltd will first be provided for review by the Organizer, who will advise that "they see no reason why {IBC Name} should not execute such documents as provided to Organizer." ICS Ltd will not execute any documents without having received such review comments.

4. The IBC's Accounts should be set-up with dual signatures required, including an officer of ICS Ltd and an officer of BTCB (usually myself as Vice President over all managed accounts).

5. One or more Asset Trusts (your choice of structure, trustees, and such) should be established, filed and activated once proceeds from trading are disbursed by the IBC. The fees for setting and filing such are $4,000/each, including Government filing fees and routine Trust Administration for the first year.

6. Any interface with U.S. activities could be restricted to interface only with this Asset Trust(s), or in certain desirable cases, with other IBC's you may wish to set-up **under those Asset Trusts and all of assets accruing to such interfaces would be from/through those Asset Trusts** [e.g., such Trusts or their IBC's could purchase goods and services, hold international debit cards, reinvest assets, purchase and hold stocks or property, and such].

7. The IBC held under the Business Trust would be the entity that would enter into subsequent Trading Programs on a 50/50 cooperative venture with BTCB and would receive all resulting "Investor" earnings/proceeds for distribution. Such IBC Account would operate under a Cooperative Venture Agreement and written Special Transaction Instructions, which assure that the Principal held or applied under any Programs would be limited to Blocked Funds in that IBC's Account(s), or, secured by a top Western European Bank 106% Guarantee.

8. This structure provides: a) access to immediate programs without any significant burden on your resources; b) assurance that the subject assets and earnings are always under joint control of ICS Ltd and BTCB; c) accrual of substantial assets under the Asset Trusts with maximum flexibility on their utilization while maximizing the preservation of capital and earnings; and, all of the Privacy and fiscal advantages afforded by Dominican Law.

9. If you commence with another entity, any subsequent identity change is subject to penetration on the basis of "form over substance" claims.

10. The choice of structure is of course yours, however any client entity that is not domiciled in Dominica is prohibited by our Board from participating in our High Yield Income Programs, so that we may protect the bank and its clients against "cross-jurisdictional" exposure/penetration.

11. If this is desirable to you, I can have the necessary forms sent by the Bank based upon what can you submit to me.

We trust that this information satisfies your request and we look forward to a mutually beneficial professional relationship. I will be happy to discuss this further and can be reached at the coordinates listed below.

Sincerely,

Charles L. Brazie, Ph.D.
Vice President - Managed Accounts

Phone :(767) 448-6410
Fax :(767) 448-6477
Cellular :(767) 235-6410 Dominica
:(703) 304-8236 USA

Jun-02-98 11:59A BT&C Bank/Trust

British Trade & Commerce Bank.
Licensed for Full Trust Business.

Emens Bldg., Dame Eugenia Charles Blvd. Bayfront,
Roseau Commonwealth of Dominica.
PO Box 2042. Phone: (767) 448-8410 Fax: 448-6477
E-mail: btcbank@cwdom.dm - SWIFT: BTCBDMDM

THE FOLLOWING IS TO BE CONSIDERED PRIVATE AND CONFIDENTIAL TO THE RECEIPENT. ANY UNAUTHORIZED USE WILL BE PROSECUTED TO THE FULLEST EXTENT OF THE LAW.

SHAREHOLDERS OF BRITISH TRADE & COMMERCE BANK	SHARES
BRITISH TRADE & COMMERCE BANK BANCORP TRUST REPRESENTED BY MR. RODOLFO REQUENA, TRUSTEE BENEFICIAL INTERESTS ARE HELD BY MR. JOHN LONG	15,000
MR. RODOLFO REQUENA	3,000
BAILLET INTERNATIONAL LTD. BENEFICIAL INTERESTS HELD BY DR. DANA BAILEY AND MR. SCOTT BRETT	3,000
BAYFRONT INVESTMENT TRUST BENEFICIAL OWNER MR. PABLO URBANO	750
MR. DIRAN SARKISSIAN	750
MR. HERRY ROYER	750
MR. CLARENCE BUTLER	750
TREASURY SHARES HELD FOR OFFICER AND EMPLOYEE PROFIT SHARING	6,000
TOTAL SHARES AUTHORIZED AND OUTSTANDING	30,000

Tel.: (305)372-6267; Fax: (305)372-8724; Web-site: www.offshorebusiness.com November 30, 2000 OffshoreAlert

British Trade & Commerce Bank: Financial troubles deepen

Dominica-registered British Trade & Commerce Bank appears to be on its last legs, if a recent letter to clients from the bank's President, Rodolfo Requena, is anything to go by.

In the letter, Requena seems to be digging the bank into a deeper hole by offering rates of return of up to 50 per cent for clients who delay making withdrawals.

In one part, Requena effectively admits to running a Ponzi scheme by stating that old depositors must wait until money comes in from new depositors before they can be paid. Some clients said they have been told verbally that they will not be able to make withdrawals until April/May, 2001 at the earliest. The letter, in full, is below:

November 9, 2000

Dear Sir,

You may be aware our bank has been suffering from a temporary liquidity situation. This situation has continued to the point that the bank is unable to meet its obligations with its depositors and creditors.

As President of the bank, it is my responsibility to bring this matter to your attention and outline to you the causes and the measures that management is implementing to re-capitalize the bank, rebuild its liquidity, and meet its obligations with its depositors and creditors.

1. In May of this year, the major shareholder of the bank retired from the organization due to severe health problems. The retirement resulted in a large withdrawal of deposits from the bank due to the close relationship of the depositor with the shareholder.
2. During the month of June, the bank was served with a lawsuit from a court in Canada for actions taken by one of our customers. The bank was never involved in or aware of those actions. The customer obtained funds from his client under some pretense and wired the funds from his client to our bank. The lawyers for the plaintiffs convinced the Canadian Court that BTCB was part of the action. The lawyers for the plaintiffs spread all kinds of erroneous information and allegations against the bank. They circulated information considered private and confidential about the movement of the bank's funds, creating delicate situations not only for our bank but also for some of our customers. Some of our operating and correspondent accounts in other banks were closed or frozen. Wire transfers received by BTCB in those banks in the past few months have been rejected and returned for security reasons. All this has created a very difficult environment for BTCB to conduct its normal business, dramatically affecting our liquidity position.
3. Due to these circumstances many of our customers have withdrawn their deposits and many have not made any new ones thus compounding the liquidity problem because most of our funds are invested in long term investments that do not allow us to withdraw funds until their maturity.

Due to the above reasons we have taken the following measures to solve this temporary situation:

1. The bank has retained lawyers to represent us in all the jurisdictions that are affected by the Canadian lawsuit. A strong and affirmative action has been taken to prove to the Canadian court that BTCB has no involvement at all in this action. Personally, I have been heavily involved in these activities to make sure that we succeed in our actions.
2. We are currently holding conversations with three different investor groups, two from Latin America and one from Japan. These discussions are to bring fresh capital to the bank. The range of these investments are between $5,000,000 to $25,000,000. These groups are very serious and are doing their due diligence on the bank before committing the funds. We are confident that these discussions will bring good results.
3. An aggressive marketing action has been taken in order to bring new customers to the bank from Latin America. We are offering a full array of combined services through a strategic alliance with a group of financial companies in South Florida. The services include asset management, stock brokerage services, mortgage banking, credit cards and real estate operations. This combined package is very attractive for Latin Americans.
4. In order to give us time to bring the new investors, attract new customers and implement our marketing plan we would like to offer you the following options for the funds you presently have with the bank:

4.1 Convert your existing account to a one-year Certificate of Deposit earning interest at a 15% per annum. Interest will be paid every six months.

4.2 Offer all customers the option to purchase convertible preferred stock of the bank. One share will be offered for every $500 of bank deposit you have. There will be a repurchase agreement in one year for the same amount of stock at a price of $750 per share for those of you that want to retire the investment after that period of time.

Customers requesting withdrawals from their accounts must wait for new investors or wait until the bank works its way out of the liquidity problem.

We sincerely believe in the strong potential of the bank and hope that as customers who have believed in our institution in the past, that you will help us in these difficult moments to overcome the adversity and give us the opportunity to solve the situation.

We encourage and invite you to choose any of the first two options in order to make the bank financially stronger and create earnings for the benefit of all of us.

If you would like to discuss your options with a bank officer, please do not hesitate to contact George Betts, Charles Brazie, Patricia Inglis or me.

Let us keep serving you in your banking needs.

Sincerely,
For and on behalf of
British Trade & Commerce Bank

Rodolfo Requena
President

Cc Honourable Ambrose George
Minister of Finance, Industry and Planning
Government of the Commonwealth of Dominica

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01-23-01 08:55AM FROM-JACQUES LITTLE

ICOMING SWIFT MESSAGE OPER ORG: 02126 INT'L TRADE CENTRE - ONTARIO
0/24/00 13:45 ICN: 001024-047833-000 BESS SEQ NO: 0081 PAGE: 1

SENDER SWFT ADDRESS	RECEIVER SWFT ADDRESS	MSG TYPE	L/C ID	DOC TRACK ID	STATUS	ERROR FOUND
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SEAU
MINICA RO

ROYAL BANK OF CANADA
TRADE SERVICE CENTRE
L/C # E153899T0212
DOCTRAC # 471569

THIS CABLE IS THE
OPERATIVE INSTRUMENT

ROYAL BANK OF CANADA
LETTERS OF CREDIT DEPARTMENT
INTERNATIONAL TRADE CENTRE, ONTARIO

7 : SEQUENCE OF TOTAL
: 1/1
:
0 : TRANSACTION REFERENCE NUMBER
: 001024/L4
:
3 : FURTHER IDENTIFICATION
: LCFTB102300
:
) : DATE
: 001024
:
7C: DETAILS OF GUARANTEE
: L/C NUMBER: FTB102300
: DATE OF ISSUE: OCTOBER 23, 2000
: DATE OF MATURITY: DECEMBER 15, 2000
: DATE OF EXPIRATION: DECEMBER 30, 2000
: WE BRITISH TRADE AND COMMERCE BANK HEAD OFFICE AT EMENS
: BUILDING, BAYFRONT, DAME EUGENIA CHARLES BLVD., ROSEAU,
: COMMONWEALTH OF DOMINICA, WEST INDIES, HEREBY OPEN OUR
: UNCONDITIONAL, IRREVOCABLE, DIVISIBLE, ASSIGNABLE AND FREELY
: TRANSFERABLE LETTER OF CREDIT IN FAVOUR OF MR.R. GEOFFREY
: NEWBURY, BARRISTER AND SOLICITOR IN TRUST FOR COURT ACTION NO.
: 00-CV-188866 IN THE ONTARIO SUPERIOR COURT OF JUSTICE FOR THE
: AMOUNT OF 3,000,000.00 (UNITED STATES DOLLARS THREE MILLION ONLY)
: WHICH IS DUE ON DECEMBER 15, 2000.
: PARTIAL PAYMENTS UNDER THIS LETTER OF CREDIT ARE ALLOWED BEFORE
: MATURITY AT THE DECISION OF THE ISSUER. THE PAYMENT OF THE
: UNPAID BALANCE IS AVAILABLE UPON BENEFICIARY'S FIRST WRITTEN
: DEMAND VIA BANK WIRE SYSTEM AT MATURITY. DEMAND HEREUNDER MUST BE
: MARKED 'DRAWN UNDER LETTER OF CREDIT NUMBER FTB102300 DATE
: OCTOBER 23, 2000'.
: WE ENGAGE WITH YOU THAT DEMAND DRAWN UNDER AND IN COMPLIANCE WITH
: THE TERMS OF THIS LETTER OF CREDIT SHALL BE DULY HONORED ON DUE
: PRESENTATION TO US BUT NOT BEFORE MATURITY DATE DECEMBER 15,
: 2000.
: THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND
: PRACTICES FOR DOCUMENTARY CREDIT (1993 REVISION) ICC PUBLICATION
: NO.500.
: THIS IS AN OPERATIVE INSTRUMENT,NO MAIL CONFIRMATION TO FOLLOW.
: GEORGE E. BETTS, EXECUTIVE VICE PRESIDENT
: PATRICIA INLGIS, VICE PRESIDENT, COMMERCIAL BANKING
:

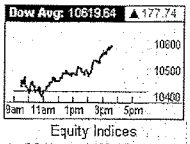
Senate Permanent Subcommittee
On Investigations
EXHIBIT #35

INTERNET ADVERTISEMENTS FOR OFFSHORE SHELL BANKS

New York
Stock
Exchange

WELCOME TO SWISS OFFSHORE GROUP

Swiss Offshore Group is an executive level financial and management consulting firm that provides support to corporations, financial institutions and high net worth individuals



Equity Indices

▲	DOW	177.74	10619.64
▲	S&P500	19.28	1265.14
▲	NASDAQ	37.71	2300.22
▲	EURO500	1.87	237.56
▼	FTSE100	-27.00	5916.70
▼	NIKKEI	-44.86	13201.14

A Financial Power-House

Offshore Bank Formation

Your Own Bank In Your Favorite Jurisdiction

There's a lot more to a successful bank portfolio than CAPITAL. You need resources, technological and marketing expertise, asset management abilities, loan administration - in a word, Services. Swiss Offshore Group is the provider of such service

Intel, Network Appliance in $1-billion, 7-year technology agreement; Intel falls 11/16

It may surprise you to learn that the NUMBER ONE reason for people moving money offshore is NOT because of tax benefits but asset protection. Today's predaceous and litigious society unfortunately makes successful people vulnerable to lawsuits of every kind.

Good by uncle...and

For ever!

Peace Of Mind

Although it is difficult to start a bank in most of the large bureaucratic countries, there are many nations whose laws are not as strict. In fact, there are jurisdictions where people have been able to start banks just by incorporating a company with the word bank in its name. Other jurisdictions, such as the Cayman Islands, have had reasonable bank regulations for some time and so have prospered as financial centers.

Formation of Your Own Bank puts you in the driver's seat. You tell us who you are and what country you're interested in, and we give you the information most likely to be important to you.

Swiss Offshore Group will help you to place your assets out of reach of greedy tax collectors and governments, IRS, FBI, CIA , ex-wives, vicious relatives or anyone wishing you bad. Your Own Offshore Bank will have various overseas properties, investments and assets while you are maintaining your anonymity.

Your Own Bank
Your Peace Of Mind

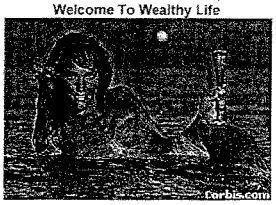
What We Do?

Swiss Offshore Group can arrange the formation of an offshore bank formations in your favorite secure jurisdictions, set up YOUR OWN OFFSHORE BANK, arrange for an associated Visa and MasterCard credit cards to be issued for your bank, and give you the peace of mind you want.

We work closely with top banks click here and card issuers in every secure jurisdictions.

Formation and administration of bank, trusts and international business companies (IBS's) in over 75 of offshore jurisdictions world-wide, including New Zealand, Australia, Chile, The Dominican Republic, Ireland, Argentina, Belize, Brazil, Spain, Italy, Costa Rica, Venezuela, Uruguay, Prague, Bodrum, The Spanish-Moroccan Tax Havens, The Madeira Tax Haven of Portugal, The Jamaican Free Trade Zones, The Dominican Republic Free Trade Zones, Campione D'Italia, Andorra, Poland, The Eastern Turkish Border and Tbilisi, Mozambique, Guatemala, The Virgin Islands, The Philippine Islands, and Anguilla are just some of the countries and places featured.

Your Own Offshore Bank;
Welcome To Wealthy Life

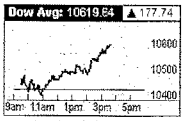


Offshore Bank Formation *Jurisdictions:*

Antigua Barbuda	Belize	Cayman Islands	Costa Rica	Czech Republic
Dominica	European Union	Liechtenstein	Nauru	St. Vincent
Vanuatu	Montenegro	Grenada	Western Samoa	Anguilla
Turks and Caicos				

New York
Stock
Exchange

TO PETRO FUNDS



Equity Indices

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▲	EUROSTO	1.87	237.56
▼	FTSE100	-27.00	5916.70
▼	NIKKEI	-44.86	13201.14

Petro Funds is an executive level financial and management consulting firm that provides support to corporations, financial institutions and high net worth individuals

A GLOBAL FINANCIAL POWER-HOUSE

OFFSHORE BANK FORMATION

JURISDICTION:

ANGUILLA

Intel, Network Appliance in $1-billion, 7-year technology agreement; Intel falls 11/16

YOUR OWN ANGUILLA BANK

FOR ONLY US$9,500

Endless Summers

Secrecy 100%

Why Anguilla?

Anguilla is a small British colony and has a very stable government. Its annual licensing fee is US$3,800 for banks maintaining a "physical presence" on the island (i.e., a local office and resident agent), and US$7,600 for banks with no physical presence. Fees are assessed on a calendar-year basis and advance payment of first-year fees is required.

The Companies Act and the Banking Act, which govern the licensing and operation of banks on Anguilla, are easy to comply with. No previous banking experience is required, but the government is careful in granting charters and must be assured that legitimate business interests are represented. Once a charter is granted, operations are easy since there are few laws governing ongoing operations.

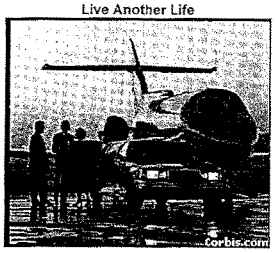
There are no official paid-in capital requirements for private banks, but the Anguillan government does require that owners of new banks show evidence that they could meet a minimum cash asset requirement of US$47,500 for "physical presence" banks or US$187,500 for banks with no physical presence if requested to do so. There are no taxes on international banking and the government's attitude toward international banks is good since the offshore financial industry represents the third largest source of revenue to the Anguillan government.

An offshore bank is one having its operations carried on outside of Anguilla. Numerous large banks have established branches or subsidiaries in various offshore financial centers and make loans to various foreign borrowers around the world. Interest on monies loaned is normally paid to the parent bank at commercial rates of interest. A profit spread is added to the interest rate charged to the borrower, and the margin is retained tax free in Anguilla.

Frequently, an offshore bank will maintain depositor's accounts in several or the world's currencies, and in addition issue major credit cards, which may then be utilized anywhere in the world.

Your Own Bank
Your Road To Success

Your Own Bank
Live Another Life



Confidentiality

In Anguilla, the principle of preserving client information of a confidential nature is of paramount importance. A bank in Anguilla may not give a credit report or other account information, without first obtaining the approval of their customer.

The Confidential Relationships Ordinance, 1981 makes it an offence to divulge confidential information obtained in the normal course of a business or professional practice. The ordinance applies to all confidential information of a business of a professional nature and stipulates heavy fines on persons or companies wrongfully divulging such information without proper authority.

Anguilla;
The Bullet Proof Jurisdiction

Taxes?

- Corporate Income Taxes: None
- Individual Income Taxes: None
- Transfer Taxes at Death: None
- Transfer Taxes on Gifts: None
- Other Taxes: None
- Tax Treaties: None
- Transportation Agreements: None
- Tax Information Exchange Agreements: None
- Mutual Assistance in Tax Matters: None

In Anguilla
It Is Exactly

"Anguilla may be on it's way to becoming a very viable tax-haven. It offers a zero-tax jurisdiction. No corporate, income, or resident taxes are levied for residents, nor for non-residents who use an Anguillan bank to engage in international business."

LANGUAGE: The official and spoken language is English.

CURRENCY: Eastern Caribbean (EU) dollar.

EXCHANGE CONTROL: There are no Foreign Exchange controls, and the US dollar circulates freely throughout the economy. Bank accounts can be maintained in US dollars in either personal or corporate savings accounts, checking accounts, CD's, or other investment instruments.

TYPE OF LAW: Anguilla's legal system is based upon English Common Law, with local modifications. The judiciary is independent of the Executive and Legislative branches, and is fully independent of political influence. Anguilla has, since 1992 (and specifically in 1994), introduced and adopted numerous pieces of modern financial service legislation. These laws were drafted with the involvement of all elected legislators, with the advice of the private sector practitioners, and the consent of British Government representatives.

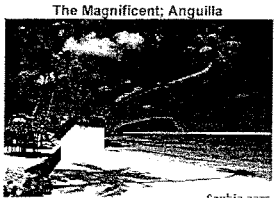
Anguilla
A Tax Haven In The Heaven

Documents you will receive on completion:

- Certificate of the opened foreign currency Correspondent A/C as well as a receipt for the foreign currency account issued by Anguilla Bank.
- Certificate of inscription (registration) in the Companies Register.
- Memorandum of Association of the bank.
- Articles of Association.
- License as proof for conducting banking and other financial activities.
- Certified English copy of the above legalized with a Anguilla respected law office.

Your Own Bank;
How Money Becomes Wealth

The Magnificent; Anguilla



Mailing, Fax, Telephone And Office Facilities: As part of the domiciliary service fee we provide clients with a registered office address in the country of incorporation but clients may find it convenient to arrange for mail forwarding, fax and telephone facilities through our Switzerland, The Bahamas Islands, London or other Petro Funds world-wide offices. This service may be especially useful where, for example, the company is opening bank accounts. Normally the bank would address statements and other correspondence to the company at the address of the client but this results in a loss of confidentiality in that the connection between the company name and the client will be automatically made.

To safeguard against this mail can be directed to our offices and we can re-mail those letters in a plain envelope addressed to the client or otherwise as the client directs. An additional advantage of using our re-mailing services is that the provision of a re-mailing address through one of our prestigiously located offices in the onshore jurisdictions may allow the offshore company to appear to be domiciled on-shore and thereby give that company an added degree if respectability.

For example, your offshore company could quote Petro Funds London office address on its letterhead and thereby appear to be domiciled in the UK. This procedure is particularly attractive if the Hong Kong address is used as a Hong Kong company is not required to quote its registered office address on its letterhead. Thus if an offshore company were to quote a Hong Kong address it would be indistinguishable from the letterhead, from a normal Hong Kong trading company.The charge for this service is only $275 per annum.

Trust Services: Using a trust to own the shares of an offshore company can result in very substantial tax and non-tax related advantages which will accrue both on death and during the lifetime of the trust settler. These advantages may include:

Saving Of Inheritance Tax: On death, the Inheritance tax which would normally be assessed on the value of shares would generally be eradicated.

Asset Protection: Assets placed into trust are generally beyond the reach of creditors who might arise as a result of financial difficulties, divorce proceedings, litigation, etc.

Avoidance Of Probate: A trust provides a means whereby assets can be smoothly passed on to the next generation without the disruption, delays substantial costs, loss of confidentiality associated with the probate procedure which necessarily follows when assets are bequeathed by will.

Continuity: Trusts provide a means whereby assets can continue to be administered in accordance with the wishes of the settlor after his death so the weak can be protected from others and the spend-thrift can be protected from himself.

Lifetime Tax Savings: During lifetime, substantial income and capital gains tax advantages may result from setting up the trust. Using the service of one of our licensed trust companies, we are pleased to act as trustee for a suitably drafted discretionary trust and the cost of this service would be from US$500 for setting up the trust deed and from US$500 per annum for the provision of trustee services.

Anguilla
The Unspoiled Jurisdiction

Your Offshore Bank;
Your Peace Of Mind

Other Services: Petro Funds provides a wide range of administrative and documentary services including, but not limited to legalization and notarizing of documents, credit cards, yacht and ship registration, invoicing, documentary trade services, trade finance applications, accounting, consulting and immigration services.

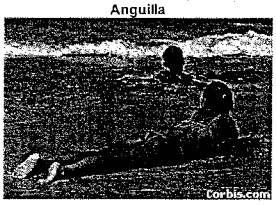
VIP Package:

For one payment of US$15,900 Petro Funds will provide the following:

- Preparation and filing of Your Banking License (Charter) with the Registrar of Companies to create and incorporate your Anguilla bank.
- Appointment and payment of a registered agent and registered office in Anguilla for one year for your banking operation.
- Appointment and payment of two (2) Officers/Directors to serve as Nominees for the Bank for one year.
- Preparation of the initial Minutes, filing of the Notice of Registered Office, and issuance of Share Certificates.
- Opening of a corporate local bank account and stock brokerage account in Anguilla.
- Visa And MasterCard and debit card application to issue your own Credit Cards.
- Application for a clearing bank and (3) correspondent banks (London, Zurich and Hong Kong).
- The bank will be formed within 4 to 6 weeks of receipt of the fee and a completed Confidential Client Information Form.

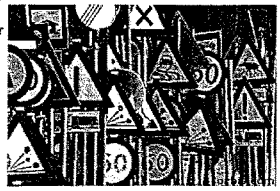
Your Own Bank;
How Money Becomes Wealth

Soft And Warm;
Anguilla



Confused?

The average person is frequently confused by the complexity of international tax planning and discouraged by the substantial costs involved in a bank formation, registration of a company or trust in a tax haven. The registration costs and ongoing yearly administration expenses frequently exceed what the average person could save in taxes.



Petro Funds Offshore Services Division has a new program to answer those concerns. We provide the simple, secure, private and low cost answer for the person who is just starting out or the veteran who now understands that simplicity is the essence of genius. Our survey has shown that this solution answers all of the needs for 100% of the persons seeking to go offshore.

The program includes BEARER SHARES so that complete anonymity is guaranteed, documentation and support services so that you can open a bank under your complete control, where and when you wish, and flexibility so that you can change your financial affairs to reflect your future needs.

Other Jurisdictions?

GLOBAL MONEY CONSULTANTS
POB 70865 Athens 16605 Greece • FAX: +416-3525168, +3120-5241407

MONTENEGRO

Your Own European Offshore Bank for ONLY USD$9.999

Everybody knows how much money there is to be made in the banking business. You've heard that money makes money...and banks make money with other people's money!

If you're looking to open a **FULLY LICENSED BANK** which is authorised to carry on all banking business worldwide, the MOST ATTRACTIVE JURISDICTION is currently the REPUBLIC OF MONTENEGRO!

Key advantages include:

- Low set-up cost - JUST USD$9.999 for a full functioning bank (plus USD$4.000 annual fees)
- Correspondent Bank A/C included in the package
- Mail Address with forwarding, and Telephone/Fax included in the package
- No large capital requirements - just USD$10.000 capital gets your Banking License (and which you get IMMEDIATELY BACK after the Bank is being set-up)
- Favourable tax rate of just 2.5%
- May be formed by any natural person OR company WORLDWIDE - no intrusive background checks!
- European Jurisdiction
- Ideal for INTERNET BANKING operations!
- Fast set-up time

The Country

The Republic of Montenegro technically forms part of the Yugoslav Federation and is situated on Balkans, having the seashore on Adriatic right in the heart of Europe and Mediterranean.

However, Montenegro is autonomous within Yugoslavia. Montenegro has a pro-western government and remained neutral during the recent Balkan war. Economic sanctions against Yugoslavia do not apply to Montenegro.

The local currency is at par with the Deutsche Mark, which is a legal tender in Montenegro.

The capital of the Republic is Podgorica. The country has its own Constitution and President.

The Government has been preparing for a long time and with great care the Montenegro Free Economic Zone, within which the "Development of Montenegro as an International Offshore Centre" is one of the main sub projects! This project envisages that Montenegro shall become a new centre suitable for international business operations providing business, tourist and other services to foreign companies on top-level standards.

Legal Basis of Offshore Banking Business in Montenegro

The "Act on companies which are established and which conduct business activity on special terms" was adopted by the Assembly of the Republic of Montenegro on July 26, 1996 in conformity with the Article 88, point 2 of the Constitution of Montenegro.

The Act allows for the establishment of OFFSHORE BANKS, and also for numerous other TAX ADVANTAGES designed to encourage inward foreign

investment. Foreign-owned companies are privileged and completely exempted from exchange controls etc. Further details of this Law can be supplied on request to seriously interested parties.

According to the Article 2 of the Act one of the allowed activities is financial services. To obtain a Banking License a company must be established as JOINT STOCK COMPANY ("JSC") formed by at least two subscribers (as subscriber may participate ANY physical or juridical person) and have a paid capital of USD$10.000.

Confidentiality

All information provided to the Ministry of Finance, banks and other organizations who perform duties of registering the bank and other duties of the company, is protected by specific confidentiality laws.This includes identities of the principals, financial statements etc.

Bank License

The Ministry of Finance of Montenegro is also the regulatory body which issues the bank license.

A standard bank license allows a JSC registered under the Act the following banking operations:

1. Payments under client instructions and bank exchanges under correspondent banks name, cashing services, establishing of correspondent relations with foreign banks and opening of "nostro" and "loro" accounts.

2. Opening and supervising of clients' nominee accounts in correspondent banks in foreign currencies.

3. Acceptance of all kinds of deposits and exercising of allkinds of deposit works.

4. Attracting and managing of new money instruments, deposits, and credits of business partners, excluding money deposits of Citizens of the Republic of Montenegro.

5. Financing under other party instruction.

6. Handling, buying, selling and keeping of payment documents and value papers (checks, letters of credit, shares, taxes and other documents and exercising of other legal operations with these documents).

7. Granting of Bank Guaranties for third parties, which foresee payment in money.

8. Contracting and exercising of factoring services, purchasing of the rights on goods delivery and services granting, acceptance of risks under noncompliment of such liabilities and bills collecting.

9. Purchasing and selling of cash currency and currency which is deposited on account of juridical and physical persons.

10. Intermediary operations in trade with value papers.

11. Purchasing and payment receiving.

12. Attracting and investing of assets and management of value papers according to clients' instructions and other persons on the market and trust representation operations.

13. Rendering of brokerage, consulting services and leasing.

14. Creating a reserve, insurance and other funds from own and attracted funds for guaranties and insurance and development of banking activity and investment in Montenegro, according to the law on companies established

and operated under special terms.

15. Participating as a founding party or shareholder of banking organizations in Montenegro and also abroad - in subsidiary banks, as well as in similar institutions and organizations, according to the law on companies that are established and operated in Montenegro.

16. Opening of branches and representation offices on the territory of the Republic of Montenegro and abroad.

SUCH BANKING LICENSES ARE NOT LIMITED BY TIME.

Tax Regime

The bank has a duty to file a tax declaration in due time or to hand over to the competent tax authority other data necessary for calculating taxable profit. The bank pays the tax at the rate 2.5% on its declared profit. The tax base is further reduced with the amount of financial resources from income which is directed into investments within the territory of the Republic.

Annual Payments

An amount of USD$100 is payable to the Registry for the joint stock companies annually. An annual fee of USD$4.000 is payable for the Registered Agent and Registered Office in the Republic of Montenegro (payable on incorporation, then annually on the anniversary thereafter). Book-keeping and accountancy costs are not included. These extra services can be provided if required. This fee includes provision of Mail Forwarding and (shared) Telephone & Fax facilities. It is therefore possible to run an INTERNET BANKING OPERATION without the need to establish a physical presence in Montenegro beyond the Registered Office address!

Correspondent Accounts

The basic package includes opening a CORRESPONDENT BANK A/C at the Bank of Montenegro. This allows the new bank to use their existing correspondent network which includes Citibank, Commerzbank, Union Bank of Switzerland etc for sending and receiving payments.

For additional fee we can arrange direct CORRESPONDENT ACCOUNTS with banks in other countries.

Formation Time

Usually to form a new bank with the client's directors and name proposed takes 4-8 weeks. Sometimes it can be completed much quicker, especially if extra care is taken to ensure that all documents are in order.

Requirements to Commence Formation

1. At least three (3) potential names of the bank, so that one can be chosen which is free. Please send them by e-mail, since all documents which we send you will bear the name of the bank.

2. At least two (2) Founders - they can be physical persons, in which case we will require photocopies of their passports, certified with an Apostille. If the Founders are legal entities, then copies of the registration papers, which must also be affixed with an Apostille. If you require Nominees, recommend you simply take two (2) **Panamanian Companies** from us (at a cost of USD$999 each).

3. Payment of USD$10.000 as Founder's Capital, which you must pay by wire transfer direct to the Central Bank of Montenegro. AFTER FORMATION YOU ARE FREE TO WITHDRAW OR REALLOCATE THIS CAPITAL!

4. Power-of-Attorney to our lawyers in Montenegro to file the necessary documents. We can supply this form on receipt of your confirmed order

and payment.

5. Payment of incorporation fees (USD$9.999) plus first year's Domiciliary Fees
(USD$4.000) by wire transfer. (Guaranteed refundable in the unlikely event that your banking licence is declined). A 50% deposit will be accepted to start work, with the balance payable when your banking licence has been issued and you have verified it with the Government if you wish.

Documents you will receive on completion

1. Certificate of the opened foreign currency Correspondent A/C as well as a receipt for the foreign currency account issued by the Montenegro Bank.
2. Certificate of inscription (registration) in the Companies Register.
3. Memorandum of Association of the bank.
4. Articles of Association
5. Licence as proof for conducting banking and other financial activities.
6. Certified translations of above in English and Russian with Apostilles.

Order

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Our Shopping Cart System allows you to order online!
(You can also use it to order by mail or fax, if you prefer.)
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European Jurisdictions

Ordering Instructions

To place your order right now, simply fill out the order form below, and click "Send Order". Alternatively fill out this form, print it out and fax it to our office at +44-845-334-9012.

All orders are processed immediately.

Online Order Form

offsure.com

Montenegro Offshore Bank

Yes, I'd like to order my own **Montenegro Offshore Bank**..

If you'd like to order a **NEW Montenegro Offshore Bank** (at $35,000), please enter three name choices in the order of your preference. The names must include "Bank".

If you'd like to order an **OFF-THE-SHELF Montenegro Offshore Bank** (at $42,000), please enter "OFF-THE-SHELF" into the first field below, and leave the other two blank.

Three Name Choices.

Name #1:

Name #2:

Name #3:

Two Founders. We provide two anonymous Panamanian corporations as founders. If you wish to supply your own founders, companies or individuals, please enter their names below:

Founder #1:

Founder #2:

One Director. You supply the director, who must be a natural person. If you prefer us to provide a nominee directors, please be prepared to sign a notarized Nominee Director Contract which protects the nominee director from abuse.

Director:

Please enter your delivery and contact details:

Name:

Address:

OPC International Order Form

City: State: Zip:

Country:

Phone:

Fax:

E-mail:

Payment Options

Total amount: US$

Payment is by wire transfer only. Submit your order, and depending on your location and preferred currency we will email you the most convenient wire instructions. Select Preferred Currency

Additional Requests or Comments:

Please tell us how you found us!

Before you press the button below, please make sure that you have entered all required information. It is especially important that you have selected your preferred payment method - if you haven't done so please do it now!

Thank You For Your Order!

Send Order

After you press "Send Order", the computer will pause as it processes the order. Please do not hit the submit button twice as it is normal for the computer to pause while it processes your order for a few seconds. It will then show you a confirmation of your order in a few moments.

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Senate Permanent Subcommittee
On Investigations
EXHIBIT #___36___

Treasury Regulations on Suspicious Activity Reports

31 CFR 103.18

(a)(1) Every bank shall file with the Treasury Department ... a report of any suspicious transaction relevant to a possible violation of law or regulation ....

(a)(2) A transaction requires reporting under the terms of this section if it is conducted ... through the bank, it involves ... at least $5,000 ... and the bank knows, suspects, or has reason to suspect that: ...

(a)(2)(i) The transaction involves funds derived from illegal activities ...

(a)(2)(ii) The transaction is designed to evade any requirements of this part or any other regulations promulgated under the Bank Secrecy Act ... or

(a)(2)(iii) The transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the bank knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction.

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 37

PS018310

- Federal Bank Ltd: Located in the Bahamas with US$ 25 MM in capital. Its existence is not reported as linked to BCRA despite being a banking vehicle (offshore category D in our policy), which makes it a risky vehicle per se because of having only the control of the Central Bank of the Bahamas.

  Explanation: The existence of this vehicle is justified in the group's strategy because of the purpose it serves: a) To channel the private banking customers of Banco República to which they provide back-to-backs and a vehicle outside Argentina where they can channel their savings, which are then re-placed in Banco República by Federal Bank, constituting one of the bank's most stable sources of funding (approximately US$ 34 MM).
  b) To channel the cash flow of the partners [TR.: or shareholders] of Banco Repúlica and serve, with these deposits and the assets of Federal Bank, as a bridge, financing loans aimed at companies associated with CEI.

c) To finance UFCO through swaps [TR.: or repos] of their share positions giving it financing against the most liquid shares (Telefónica, Telecom) for US$ 20 MM which, in turn, Federal matches with banks abroad.

<u>These are the only inter-company activities among companies in the group.</u>

Regarding Grupo:

- Concentration: Many of their assets are applied to financing the long-term investment in CEI, which results in major fluctuations of net worth in accordance with changes in the price of this stock. 1994, 1995, and 1996 were years of heavy losses in terms of net worth, which offset some of the 1993 profits.

  Explanation: CEI invested in a "basket" of companies, mostly privatized, with strong potential for growth. Overall the investment has been profitable.

<u>Management</u>:

<u>Character</u>: Raul Moneta is an entrepreneur who spends much of his time on the business of CEI which, moreover, is where the group has many of its assets. He is seen by the market as an able negotiator and lobbyist with businessmen and politicians, which enables him to take an aggressive business approach to negotiations.
Benito Jaime Lucini devotes most of his time to the bank, and is perceived by the market as conservative, making for a good combination with Raul Moneta. The personal reputations of both are unimpeachable, and this is one of the reasons why Citibank senior management chose them as partners of the bank in CEI.
This association means, both for Grupo Moneta and Citibank, a long-term strategic alliance which requires, because of the amount of the investment and the relative weight of Grupo Moneta therein, a very strong interrelationship between both and a commitment by both to maintain that relationship.

REDACTED

STRICTLY CONFIDENTIAL - NOT FOR CIRCULATION
SUBCOMMITTEE MEMBERS AND STAFF ONLY

- Federal Bank Ltd: Localizado en Bahamas con u$ 25 MM de capital. Su existencia no esta reportada como vinculada ante BCRA pese a ser un vehiculo bancario (Off Shore categoria D en nuestra politica), lo que lo hace un vehiculo riesgoso per se por tener solamente el control del Banco Central de Bahamas.

  Justificacion: La existencia de este vehiculo se justifica dentro de la estrategia del grupo por la finalidad que cumple : a) Canalizar los clientes del private banking de Banco Republica a los cuales les proveen back to backs y un vehiculo fuera de Argentina donde canalizar sus ahorros, que luego son recolocados en Banco Republica por Federal Bank, constituyendo una de las fuentes de funding mas estable del banco (u$ 34 MM aproximadamente).
  b) Canalizar la liquidez de los socios de Banco Republica y servir con estos depositos y el patrimonio de Federal Bank como bridge financing de prestamos dirigidos a cias vinculadas a CEI
  c) Financiar a UFCO a traves de pases de sus posicion de acciones dandole financiamiento contra las acciones mas liquidas (Telefonica, Telecom) por u$ 20 MM lo que a su vez Federal calza con bancos del exterior.

Estos son los unicos movimientos intercompanies que hay entre empresas del grupo.

Del Grupo:

- Concentracion: Tienen una gran parte de su patrimonio aplicado a financiar la inversion a largo plazo en CEI, lo que les provoca grandes fluctuaciones patrimoniales de acuerdo a la evolucion del precio de esta accion. 1994 y 1995 y 1996 fueron años de fuertes perdidas patrimoniales que netearon en parte las ganancias de 1993.

  Justificacion: CEI invirtio en una canasta de empresas en su mayoria privatizadas con fuerte potencial de crecimiento. Punta a punta la inversion ha sido rentable.

Management:

Character: Raul Moneta es un "entrepeneur" que dedica gran parte de su tiempo al negocio de CEI que por otra parte es donde el grupo tiene gran parte de los activos. Es visto por el mercado como un habil negociador y lobista con empresarios y politicos lo que le permite encarar negocios con agresividad comercial.
Benito Jaime Lucini dedica su tiempo principalmente al banco siendo percibido por el mercado como conservador lo que genera una buena combinacion con Raul Moneta.
La reputacion personal de ambos es intachable siendo esta una de las razones que motivo al Sr management de Citibank en la eleccion de estos como partners del banco en CEI.
Esta asociacion significa tanto para el Grupo Moneta como para Citibank una alianza estrategica a largo plazo, la que requiere por el monto de la inversion y el peso relativo del Grupo Moneta dentro de la misma una interelacion muy fuerte entre ambos y un commitment de ambos de mantener dicha relacion.

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___38___

BANK OF AMERICA COMMENTS ON SWISS AMERICAN BANK, 1990-1998

"This is a privately owned bank with poor financials and obvious operating problems. ... Followup: ... Nothing more until financials improve measurably." **(August 1990)**

"The private ownership of this bank is known to be legitimate although General Manager David McManus was recently linked to a minor bank scandal in Anguilla when he made calls there with clients of the bank later found to be of questionable reputation. ... [T]here is an ongoing investigation by the Gov. General's office in Anguilla concerning alleged questionable banking practices by their client." **(July 1991)**

"I am sending you a separate copy of my 7-18-91 call memo on this bank. We need to keep an eye on the activity in this account." **(July 1991)**

"This remains an outwardly unimpressive, disorganized and cluttered operation, plagued by turnover and seemingly weak management." **(August 1992)**

"Since our decision a month ago to ask Swiss American to find another correspondent bank, their operation appears, if anything, to have worsened. ... This poorly managed bank which seemed to be especially lacking in controls on new relationships, was constantly preyed upon by con artists." **(May 1995)**

"It has been a year since we requested Swiss American to find another correspondent as the result of their continued operational problems. ... We agreed to 90 days for them to notify remitters and close the account totally as we clearly did the right thing in getting rid of this relationship although again, we cannot move too abruptly lest we be accused of damaging their business without apparent cause . ... [T]hey also admitted to problems with their ECCB [Eastern Caribbean Central Bank] audit which ... apparently included mis-classification and hidden loans, complicated by inadequate follow up." **(July 1996)**

"I had long ago required Swiss American to discontinue their cashletter (clearings) and wire transfer (Microwire) activities with us as some transactions appeared suspect, although seemingly as the result of poor management. ... We now have the 1/98 issue of Money Laundering Alert describing a possible precedent settling civil lawsuit by the US authorities against Swiss American Bank and others, involving the Antiguan Government, and accusing collaboration with money launderers. As above, Mr. Stewart-Young has today been asked to close their BA New York branch DF account." **(March 1998)**

CHASE MANHATTAN BANK COMMENTS ON SWISS AMERICAN BANK, 1995-1999

In October, the Chase Legal Department considers filing a criminal referral with the U.S. government on activity that did not seem consistent with the business of a private offshore bank. **(October 1995)**

Chase receives a subpoena for SAB account documents. "You may remember that we recently closed the DDA of American International Bank, Antigua, and I was surprised that there was no concurrent government investigation of Swiss American (which was the inspiration for American Int'l) ... Looks like somebody is interested .... Do you know if Swiss American ever comes up in your meetings with Legal re suspicious transactions?" **(June 1997)**

"Our records show that Swiss American has been suspected of money laundering. Can you tell me whether this is an account that Chase will continue to maintain." **(August 1998)**

"[The Transaction Approval Group Manager] is furious about the news published in the Wall Street J. on the US Gov't losing the case against SAB for lack of merit .... He wants to close the account. I tell him no unless we have a universal policy in the region, but it is up to them. ... A couple of days later the [Transaction Approval Group Manager] reluctantly relented." **(November 1998)**

"Inquiry revealed that captioned bank has come to official attention as a suspected repository of proceeds of con games; however, there is no present indication that the bank is currently considered a money laundering institution. We are aware that in several instances, phony wire transactions have designated customers of Swiss American as beneficiaries, and in at least one such instance, the beneficiary was suspected of operating a scam in the past. Considering the difficulties in determining actual ownership of the bank, its location, the operating environment of these offshore banks, and the questions raised above, recommend that we exercise especial caution dealing with this entity if a decision is made to continue our relationship at all." **(November 1998)**

"SAB is getting too much bad press - it's even used as a Case Study in our Money Laundering Training. It **must** be rigorously examined without further delay. If Credit raises the issue, they're "under attack" from the outset. If **you** raise the issue ("the best defense is a good offense"), you may still have a shot. [And if we all do nothing, we will all look like idiots, plus **any** request for new accounts/services will most probably be denied.]" **(December 1999)**

Senate Permanent Subcommittee
On Investigations
EXHIBIT #39

To: Ante Kljuce
cc: Patrick B. Blake
From: **Kenneth M. Brown** InfoServ - Internat'l Institutional 212-552-6743 Fax Number: 212-552-1623
Date: Thursday October 12, 1995 04:38 PM
Subject: **SWISS AMERICAN BANK**

Followed up today with Roger Lyster of Legal Investigations.

He may file a Criminal Referral Form with the U.S. Government, which is a requirement whenever we uncover a pattern of suspicious activity, but he doubts there would be any follow-up from the Feds - they are more interested in larger fish, i.e., pursuing big $ drug-related activities, not the possibility (repeat: possibility) of some small-time operator who is obviously being "secretive" but where it is unclear whether he is hiding money from his wife, business partner, or the I.R.S.

We must NOT inform Swiss American of our filing such a Criminal Referral Form. We can, however, act as if "nothing has happened" and ask them questions about their own KYC process, etc.

Will keep you informed if/when I hear more from Lyster.

K B

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 40

GTM Client Tracking
Call Report

Company: 0019409608 - AMERICAN INTERNATIONAL BANK
Current Relationship:
Call Date: 01/23/96 Tuesday

Client Attendees: John Greaves

Chase Attendees: Ante Kljuce
Other Chase Attendees:
Location of Meeting: Client Location

Memo By: Ante Kljuce

Team: E Carib Svc Prod (H93)
Area: Western Hemisphere
Purpose: Identify Opportunity **Outcome:**
Summary: First ever call made to identify opporutunities / Comprehensive clearing lead resulted
Product(s): Advising All Products, AIP/GAINS All Products, Chase GOLD, MicroStation, Money Transfer, Check Deposits
Cross-Sell Effort: No
With:

Discussion:

Met with John Greaves, Director and GM, who is a former GM of Swiss American Bank.
This is a prospect on which I was making my first ever call.

AIB was formed approximately 3 years ago to deal exclusively on the offshore front. It is managed by William Cooper and Greaves, two Caribbean-seasoned bankers who retired from careers with Multinational banks (Barclays, RBC, etc.) Cooper is AIB President and founder, responsible for putting together the investors group.

Swiss American may be the oldest Antiguan-based offshore bank but AIB is said to have surpassed it in offshore footings in its short 3 year history. This has been accomplished by its sole focusing on the offshore business, and by such innovative techniques as advertising on the internet, where AIB has a 21 page "display" generating an average of 12 inquiries per day.

When I mentioned to John that we had not been able to locate them in the Polk Directory of Banks, he mentioned that they are working on listings, and can now be found in The Bankers' Almanac.

He gave me a business prospectus and will be providing me with copies of audited figures for the 3 years AIB has been in existence. John also disclosed the 3 banks he currently uses: Midland PLC, Toronto Dominion and Nations. I will be running a reference check with each of these.

The visit was most successful, as John totally subscribes to our multi-product relationship philosophy and is open to switching a large share of wallet to Chase, as follows:

1. CHART and SDR advising

2. MICRO-based Funds Transfer (400 items per month)
3. Cash Letter (8M items per month)
4. Chase GOLD (100-125 on-us items + an unspecified # of GPB checks drawn against Midland)
5. AIP, two-tier ($300M trigger / $2MM average investment)
6. Investment Management & Custody for a pool of $17MM, now mostly invested in US Treasuries through 4 brokers (he is not tying-in the investment mgt. and custody functions, preferring in fact that we accommodate the custody.)
7. Gold bullion purchase (this is not a regular need, but one John cited to evidence the diversity of need. He actually had a customer last week wanting to buy 600 metric ounces.)

John explained that his principal product lines are: formation and management of offshore companies, trusts, and commercial holding companies, along with the underlying cash and investment management opportunities. He is also into offshore ship registry. As I understood it, his typical pitch is to "incorporate" individuals into offshore citizenship which then makes them eligible for a host of products voided to domestic (U.S.) nationals. Such set-up typically costs $1,250 and is efficient for someone with as little as $20M - $25M to invest. John elaborated to the effect that to "take-in" deposits from US nationals is not a transgression. It becomes a transgression if and when these nationals end up not reporting the investment, which is no legal concern of the offshore depository institution.

I will again follow up these leads, and pre-qualify AIB (through Ken Brown) as a DDA holder prior to issuing a proposal. If these volume estimates hold; we could be looking at a $60M+ prospect.

Follow-up:

Date: **Completed:**
Action:
Comments:
Power User Section

Created By: Rosario G. Gonzalez Date Created: 02/14/96 09:49 AM

Audit History:

Editor:	Edit Date:
Ante Kljuce	02/21/96 07:18 AM
Rosario G. Gonzalez	02/14/96 09:57 AM

(* Audit History displays the last 5 on-line edits, top-down most recent first)

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 41

Joseph Martin
09/09/99 04:24 PM

Latin America Client Management 212-270-8118 Fax Number: 212-270-8333

To: Kenneth M. Brown/CHASE@CHASE
cc: John Stevens/CHASE@CHASE
Subject: Re: Caribbean Bank DDAs

My own unscientific rating of certain geographic location includes the presumption (biased, obviously) that anything from Antigua or Tortola is probably diseased and contagious and should be avoided like mosquitos in Queens. I hope that KYC criteria have been followed here- as the UN branch has dealt with int'l accounts for a long time, hopefully they were on the ball in these cases. Meanwhile, my head is going back into the sand on this one.....

Senate Permanent Subcommittee
On Investigations
EXHIBIT #42

462-1806

000969

FROM: T. WULFF

TO: R. ANGUIZOLA L. KING
CC: K. PARKER H. BRAUTIGAM
K. BOYD

DATE: 9-4-92

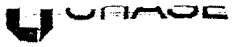
SUBJECT: SWISS AMERICAN BANK

John Greaves, General Manager
Romell Tiwari, Financial Controller

DATE OF CALL: 8-18-92 LAST VISIT: 7-15-91

This remains an outwardly unimpressive, disorganized and cluttered operation, plagued by turnover and seemingly weak management. We did not discuss trade lines, as their financials continue to be weak. They are again not utilizing Microwire, even after a re-training last year -Tiwari, the new financial officer, is to try to get this processing going again. The bank is nevertheless liquid, and frequently keeps very good CD balances with BINY.

Swiss American does, however, have very wealthy private ownership and recently scored a marketing coup when they set up their own Visa/Mastercard system, reportedly utilizing cash secured accounts, which is the envy of their local competition. This is the only bank in the OECS with it's own International credit card, soon to be followed by an EC$ version "Swissamericard". It remains to be seen, however, if they can generate sufficient volumes to attain profitability on what must have been an extremely expensive start-up operation.



Senate Permanent Subcommittee
On Investigations
EXHIBIT # 43

The Chase Manhattan Bank
One Chase Manhattan Plaza, 18th Floor
New York, NY 10081
Tel 212-552-4913
Fax 212-552-1623

Josefita L. Robinson
Vice President
Global Payment
and Treasury Services

March 12, 1997

Mr. John E. Greaves
Director
American International Bank Ltd.
Suite 5, Woods Center
St. Johns, Antigua, W.I.

Re: Account No. 0011623188

Dear Mr. Greaves:

Although we appreciate having your business, The Chase Manhattan Bank periodically reviews accounts. At this time we regret to inform you that your financial institution does not meet the criteria to be serviced on a forward basis. Part of it has to do with the strategic fit and the market effort to maintain such accounts.

Accordingly, we are, by this letter, providing notice to you that Chase will close your account thirty (30) calendar days from the date of this letter. At such time, all services presently utilized (including Chase Microstation Modules of Infocash, GOLD and Chart, Cash Letters and the Premier Collection) will be discontinued. We suggest that you immediately start "unwinding" the use of Chase GOLD and discontinue issuance of regular checks. At that time, we will mail to your address of record an official check in the amount of your remaining collected balance. You may, of course, withdraw your balance before that time at your convenience.

The thirty day notice period is intended to give you time to arrange for an orderly transition of your account to another service provider.

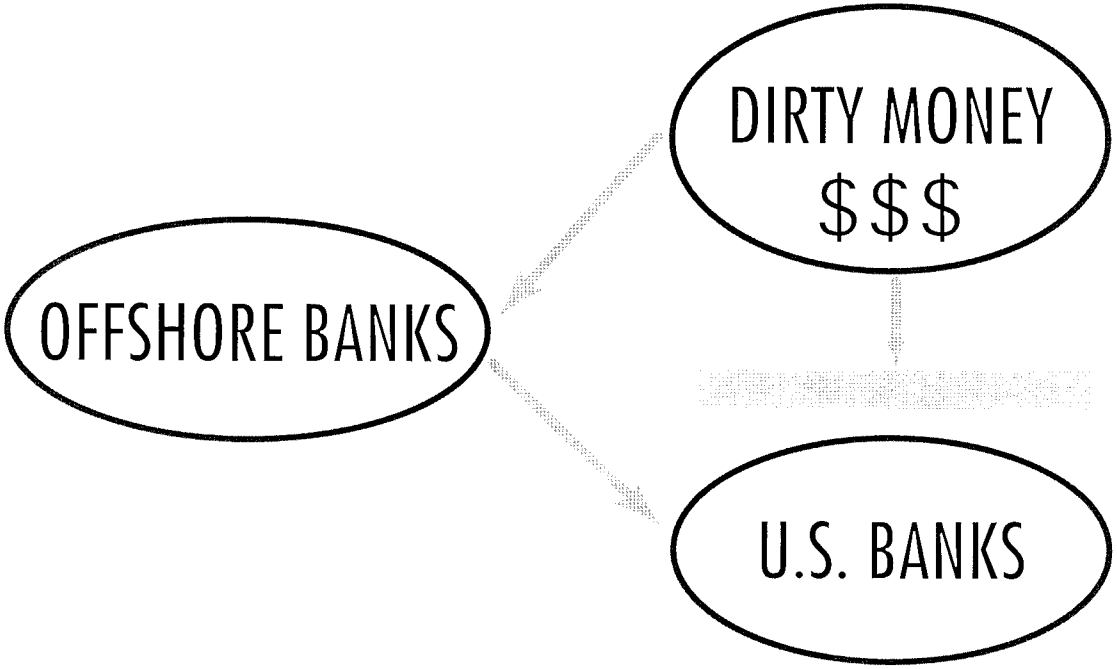
Sincerely,

Jo L. Robinson

CC: Aida Strub, AT - Chase Miami
Deanna Spearin, Account Adm.- Chase NY

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___44___

GATEWAY TO U.S. BANKS



Senate Permanent Subcommittee
On Investigations
EXHIBIT #___45___

SUMMARY OF GOLD CHANCE FRAUD

Prepared by Minority Staff of Permanent Subcommittee on Investigations
March 6, 2001

In April 2000, two brothers filed a civil suit in Canada alleging, in essence, that their company, Gold Chance International Ltd. ("Gold Chance"), was the victim of a loan fraud involving $3 million.[1] They alleged that Gold Chance had been fraudulently induced to deposit $3 million as supposed loan collateral into an attorney trust account in Canada, waited months for a loan that never materialized, and then learned that the company's funds had been secretly transferred to an offshore account at BTCB.

In response to plaintiffs' efforts to recover the funds, an Ontario court granted immediate emergency relief, including freezing assets under a Mareva injunction, appointing a receiver for the law firm's trust account, and ordering BTCB and others to cooperate with discovery. Although the civil proceedings have yet to reach a conclusion, a preliminary court decision, pleadings in the civil case, and other information show that the $3 million was deposited into BTCB's U.S. correspondent account at First Union National Bank on December 15, 1999, and within a week, the funds were divided up and wired to multiple bank accounts around the world. In an order dated June 12, 2000, the court expressed skepticism regarding BTCB's claim that the $3 million was still safely on deposit with the bank, invested at the request of a client into a one-year BTCB high yield program maturing in December 2000.

Nature of Gold Chance Fraud. On April 16, 2000, Canadian citizens Brent and Greg Binions filed a civil suit in the Ontario Superior Court of Justice, on behalf of Gold Chance and two other companies they own, seeking recovery of the $3 million from two individuals, Sayse Chatterpaul and Paul Zhernakov, several companies controlled by these individuals, and the law firm and banks involved in moving the funds out of Canada, including BTCB.

The plaintiffs' statement of claim, related pleadings and an opinion issued by the court in June 2000, indicate the following facts.[2] In the fall of 1999, Gold Chance was introduced to and entered into negotiations with Chatterpaul to obtain a loan to develop certain automobile fuel technology. In December 1999, Gold Chance executed a borrowing agreement with Chatterpaul's alleged company, Triglobe International Funding Inc. The agreement provided that Triglobe would issue a loan to Gold Chance, on the condition that Gold Chance first posted

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[1] Gold Chance International Ltd. v. Daigle & Hancock (Ontario Superior Court of Justice, Case No. 00-CV-188866)(hereinafter "Gold Chance").

[2] See Gold Chance, statement of claim (4/16/00), amended statement of claim (5/17/00), and "Reasons for Decision" by Judge Campbell (6/12/00).

25% of the loan amount in cash collateral to be kept in a fiduciary account under the control of legal counsel. On December 3, 1999, having borrowed the required sum from Toronto Dominion Bank, Gold Chance delivered a $3 million bank draft to Daigle & Hancock, a Canadian law firm, for deposit into the firm's fiduciary account at the Bank of Montreal.

The promised loan was not, however, issued to Gold Chance. After two months, on February 17, 2000, Chatterpaul and Gold Chance replaced the original agreement with a second borrowing agreement which, among other changes, replaced Triglobe with a company called Free Trade Bureau S.A. ("Free Trade"). The agreement provided that Free Trade would issue a $12 million loan to Gold Chance, collateralized by the $3 million in the fiduciary account. Chatterpaul signed the contract on behalf of Free Trade. When no loan materialized, on March 13, 2000, Gold Chance demanded return of the $3 million.

The pleadings allege plaintiffs learned in March 2000 that, without their consent, the $3 million had been transferred in December 1999, to a BTCB account for Free Trade. The pleadings allege that the $3 million was quickly depleted through multiple wire transfers initiated by BTCB to bank accounts around the world. The pleadings also state that plaintiffs learned Free Trade was owned, not by Chatterpaul, but by Zhernakov, an individual with whom they had had no prior dealings. The pleadings accuse the defendants of a variety of fraudulent acts, contractual and fiduciary breaches, wrongful conversion and other misconduct, and demand compensatory and punitive damages.

Free Trade and BTCB. BTCB admits that it has not only handled accounts and funds for persons and entities associated with the Gold Chance fraud, but also retains possession of the disputed $3 million, which it claimed was placed in a one-year BTCB investment program.

In its September 2000 submission to the Subcommittee, BTCB acknowledged its involvement in the Gold Chance dispute, without using specific client names. BTCB provided the following description of the civil litigation.

> A longstanding Canadian client had an existing account with BTCB, and his background fully checked out. He subsequently placed an additional $3 million into this BTCB account ... [and] committed these funds under a year long investment contract with BTCB to place the funds; which the bank in turn committed for a year. The first sign of trouble BTCB had was when a company completely unknown to us surfaced, and alleged that the $3 million was actually its money given to the lawyer in Trust.
>
> Unfortunately, it turned out later that the Canadian lawyer had obtained the $3 million from a client company under the false pretense, that the $3 million would be used as collateral for a loan from BTCB of $12 million, a situation completely unknown to us and contradicted by all paperwork between BTCB and this Canadian client and lawyer regarding the placement of $3 million with us in December 1999. ...

> BTCB has the $3 million invested under the signed contract, and will return the funds when the contracted one-year period expires in December 2000."

BTCB also stated that it had "filed an affidavit [with the Canadian court] explaining our lack of knowledge and documenting the Canadian client and lawyer's signed documents submitted to our bank; thus requesting a complete dismissal from the action." Although BTCB did not provide a copy of the affidavit or the attached documents, the investigation obtained them from the publicly available pleadings in the Canadian lawsuit. The affidavit was signed by BTCB president Requena and filed on September 7, 2000, less than two weeks before BTCB made its submission to the Subcommittee.

In explaining BTCB's role to the court, the Requena affidavit attempted to draw a stark contrast between Zhernakov and Chatterpaul, stating that while BTCB had done business with Zhernakovk for two years, BTCB "does not have any knowledge or information ... and has never had any business or other relationship or affiliation with" Chatterpaul or any of his companies.[3] With respect to Zhernakov, the Requena affidavit stated that Free Trade had been "incorporated on 2 January 1998 ... for the Defendant, Paul Zhernakov pursuant to his instructions [and] ... has been a customer of BTCB since January 1998."[4] Exhibit L to the affidavit provides copies of BTCB's standard agreements for its high yield investment program, signed by Zhernakov on behalf of his company Free Trade, establishing that the company became a participant in the program in January 1998.

U.S. bank records substantiate Zhernakov's status as a BTCB client, including records showing the Zhernakov name in BTCB account transactions as early as April 1998. U.S. bank records also show one transaction involving Chatterpaul -- a wire transfer dated June 21, 1999, originated by Sayse Chatterpaul, sending $680,000 from the Canada Trustee Mortgage Company in Ontario to the BTCB account at Security Bank for further credit to Free Trade. This deposit, for more than half a million dollars, should have attracted BTCB's notice. At a minimum, it provides evidence of a connection between Chatterpaul and Free Trade and contradicts BTCB's claim to the court that it had never had any business dealings with Chatterpaul.

Plaintiffs' pleadings raise questions about Zhernakov's background, business dealings, and source of funds.[5] Plaintiffs' information appears to be based primarily on a sworn deposition provided by Zhernakov on June 5, 2000, in connection with the lawsuit. Citing pages in a Zhernakov transcript, plaintiffs allege that Zhernakov was born in Russia in 1954, and is currently a citizen of Grenada. They allege he was employed by the Russian Navy for 17 years, then worked for an airline and had a business consulting firm, but currently "does not work or

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[3]Requena affidavit at 6.

[4]Id.

[5]See Gold Chance, "Factum of the Plaintiffs" (6/8/00).

have a business."[6] They state that Zhernakov testified at his deposition that he arranged loans through BTCB for commissions, spoke regularly with Betts during 1999, and worked on occasion with Chatterpaul. Plaintiffs state that Zhernakov testified that both he and Chatterpaul were "authorized" to act on behalf of Free Trade.[7] This information raises questions about what due diligence research BTCB did prior to accepting Zhernakov as a client and what information BTCB had about the source of his funds. It also casts doubt on BTCB's assertion to the court that it had no prior dealings with or information about Chatterpaul since, according to Zhernakov, Chatterpaul had signing authority for Free Trade, a BTCB-established Dominican corporation.

With respect to the Gold Chance funds, U.S. bank records show the deposit of the $3 million into BTCB's account at First Union on 12/15/99. The wire transfer documentation states that the funds originated from Daigle & Hancock at the Bank of Montreal and the intended beneficiary was Free Trade Bureau S.A. at BTCB. On the day the funds were deposited, BTCB's account balance at First Union was only $14,308. Over the next two weeks, only three other small deposits, totaling about $25,000, came into the BTCB account. That means that, for the month of December 1999, the $3 million in Gold Chance funds were the primary source of funds in the BTCB account.

The wire transfers that depleted the $3 million deposit do not, on their face, substantiate BTCB's claim that it placed the $3 million into a year-long investment program. Instead, the bank records show that the $3 million deposit on 12/15/99 was followed by a flurry of outgoing wire transfers in widely varying amounts to multiple bank accounts around the world. Most of the payments using the Gold Chance funds appear to have been made to BTCB creditors or clients, with about $355,000 transferred to other BTCB correspondent accounts. Altogether, in the span of one week ending December 23, 1999, about $2.3 million left the BTCB account.[8]

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[6] Id. at 7.

[7] Id. at 8-9.

[8] The wire transfers included the following:

–$93,000 on 12/16/99 to Bank of Nevis International for Universal Marketing Consultants;
–$15,339.95 on 12/16/99 to First National Bank of Antlers, Oklahoma for Republic Products Corp., a company controlled by BTCB's major stockholder John Long;
–$240,000 on 12/17/99 to Barclays Bank in the Bahamas for BSI Corporation;
–$50,000 on 12/20/99 and $50,000 on 12/23/99 to National Commercial Bank in Dominica for BTCB's correspondent account;
–$200,000 and $55,000 in two separate wire transfers on 12/21/99, both to Pacific National Bank in Miami for BTCB's correspondent account;
–$205,000 on 12/21/99 to Mashreq Bank in Dubai for Graham Farrell;
–$612,000 on 12/21/99 to Banque Cantonale de Geneve for Laurent Finance;
–$200,000 on 12/23/99 to HSBC Bank in Hong Kong for Wanvijit Chauatong;
–$140,000 on 12/23/99 to ANZ Grindlay Bank in India for Asset Management India;

By December 29, 1999, only about $734,000 remained in the BTCB account, of which all but $40,000 was attributable to the Gold Chance funds. On 12/30/99, BTCB deposited another $275,000, taken from its Security Bank correspondent account, and on 1/3/00, it transferred $1 million from the BTCB account to a Bank of America branch in Idaho for "Orphan Advocates LLC."[9] After the $1 million transfer, the BTCB account at First Union held only about $11,000. No significant activity took place in the account afterward, and in February 2000, First Union closed the BTCB account.

The Ontario court appeared to have reached the conclusion in June 2000, that Gold

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–$40,000 on 12/23/99 to a Union Planters Bank account for the credit of BTCB's president Rodolfo Requena; and
–$14,625 on 12/23/99 to the Bank of Montreal for Zhernakov, one of the defendants in the civil lawsuit.

[9]Orphan Advocates LLC is an Idaho corporation and another BTCB client. The Ontario court reviewing the Gold Chance case has authorized the plaintiffs to inquire about whether this Idaho corporation is somehow associated with Betts or his wife, Mavis Betts, who still resides in Idaho. See Gold Chance, court orders dated 5/15/00 and 6/2/00. The court has also authorized inquiries into the corporation's relationship with entities called Orphan Advocates Trust, Orphan Advocates Foundation, China Fund for the Handicapped, and a company which has changed its name four times in four years, from Children's Aid of Idaho, Inc. in 1994, to Children's Adoption Service International, Inc. in 1995, to Children's Adoption Services Inc. in 1996, to CASI Foundation for Children, Inc. in 1998.

Plaintiffs have alleged that the $1 million payment to Orphan Advocates LLC on January 3rd was actually paid into an account held by Orphans Advocates Trust which, in turn, transferred the funds on the same day to the China Fund for the Handicapped. See Gold Chance, "Factum of the Plaintiffs" (6/8/00) at 6. China Fund for the Handicapped appears to be another investor in BTCB's high yield program. Documentation at First Union shows that, on 6/21/99, the Fund transferred $3 million from its bank account at Chiyu Banking Corp. in Hong Kong to BTCB's account at First Union. Ted Johnson, a member of the Board of CASI Foundation for Children, Inc., told a Minority Subcommittee investigator on November 3, 2000, that it was his understanding that the China Fund for the Handicapped had invested a significant amount in BTCB's high yield investment program. Johnson said that the Fund was "not satisfied with the timing or amount" of the returns on their BTCB investment, although he understood the Fund had not filed any legal action. He also said that the China Fund for the Handicapped with BTCB investments was associated with the China Fund for the Handicapped that is a quasi-governmental organization in China, headed by Deng Xiaoping's son, Deng Pufang. He also stated that the China Fund for the Handicapped is associated with Orphan Advocates LLC.

Wire transfer documentation indicates additional links between BTCB, the China Fund for the Handicapped, and Orphan Advocates LLC. The wire transfers include the following:

--7/8/99 transfer of $1 million from BTCB account at First Union to a bank in Milwaukee, Wisconsin, called Marshall & Isley Bank, for further credit to an attorney trust account, belonging to John P. Savage;
–8/11/99 transfer of $2,500 from BTCB account at BIV to the same Milwaukee bank and the same attorney trust account, with the following notation: "Ref: Orphans Advocates Ltd."; and
--11/30/99 transfer of $150,000 from BTCB account at First Union to the Bank of Communication in Beijing for the "Corporation Project of the Rehabilitation of Disable Children," which allegedly is a member of the same Federation for the Disabled, in China, as is the China Fund for the Handicapped.

Chance's $3 million was no longer at BTCB. After reviewing bank and wire transfer documentation showing disbursement of the Gold Chance funds and recounting BTCB's failure to return the $3 million to Zhernakov upon his request, the Ontario court wrote, "The prepared statement of Betts that the funds are in BTCB is not to be believed, against either the tracing evidence or Betts' failure to deliver the funds."[10]

Despite this statement by the court in June, BTCB nevertheless claimed, in the Requena affidavit submitted to the court in September, that the $3 million was "invested on 15 December 1999."[11] The affidavit contended that the First Union account was a "general account used for business and investment purposes by BTCB[,] [t]he money from Free Trade was not trust money as far as BTCB was aware and so it was co-mingled with the general funds in this account." The affidavit maintained that the $3 million was credited to the Free Trade account and "deposited by the Defendant Free Trade ... into a managed investment account for a locked-in period of one year."[12] BTCB further claimed that any dispute over the $3 million investment must be resolved by arbitration in London, as provided in the investment agreement.

Free Trade Investment in BTCB High Yield Program. The evidence suggests that BTCB's high yield investment program may be contributing to the Gold Chance fraud. First, the documents provided by BTCB to the court, attached as Exhibit L to the Requena affidavit, establish that Free Trade enrolled in BTCB's investment program in January 1998 -- two full years before the Gold Chance deposit. Although BTCB maintains that the $3 million was intended for and immediately placed into its investment program pursuant to Free Trade's managed account agreement, the documentation provided by the bank does not support that assertion. To the contrary, Exhibits M through U discuss opening a "new account" with the money, under dual signatory authority that differed from Free Trade's managed account agreement. Not one of these documents mentions the word "investment" in connection with the $3 million; not one references the BTCB investment program. The first document to claim that the $3 million was placed into a BTCB investment program is a BTCB letter dated April 12, 2000, a month after Gold Chance demanded return of its funds. The unavoidable implication is that BTCB may itself be defrauding Gold Chance -- delaying return of the $3 million by falsely claiming the money's enrollment in the BTCB investment program.

Additional concerns arise from BTCB's admission in the Requena affidavit at page 19 that, although transactions involving the $3 million required two signatures -- from Zhernakov and Daigle -- the bank had already advanced $240,000 to Zhernakov on his signature alone. BTCB has admitted that releasing the $240,000 violated the account instructions. Whether this violation was deliberate or inadvertent, it demonstrates a lack of proper account controls. And it

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[10]See Gold Chance, "Reasons for Decision" (6/12/00) at 9.

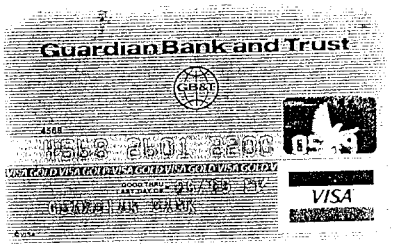
[11]See Gold Chance, Requena affidavit (9/7/00) at 14.

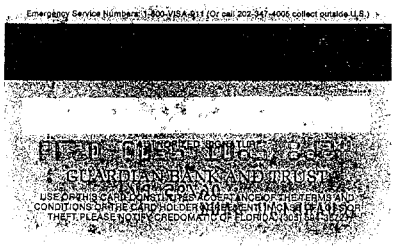
[12]Id. at 2.

raises, again, the spectre of BTCB misconduct -- paying funds upon request to Zhernakov, while refusing to pay funds to the plaintiffs with the excuse that the entire $3 million is "locked" into a year-long investment.

BTCB later posted with the Ontario court a $3 million letter of credit with a maturity date of December 15, 2000. However, when that date arrived, BTCB failed to pay the required amount to the court. Gold Chance is still seeking recovery of its funds.

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 46





Senate Permanent Subcommittee
On Investigations
EXHIBIT # 47

$3 Million Deposit of Gold Chance Funds Depleted in Wire Transfers By British Trade & Commerce Bank to 33 Bank Accounts in 45 Days December 1999 - January 2000

1 Daigle & Hancock → 2 Bank of Montreal → 3 First Union National Bank in Florida

4 Idaho
Date: 1/3/2000
Recipient: Orphan Advocates LLC
Bank Recipient: Bank of America Boise
Amount: $1,000,000

5 Niagara Falls, Ontario
Date: 12/23/99
Recipient: Paul Zhenakov
Bank Recipient: Bank of Montreal, Niagara Falls
Amount: $14,525

6 New Delhi, India
Date: 12/23/99
Recipient: Indian Forsailing Company Ltd.
Bank Recipient: Grindlay Bank New Delhi
Amount: $10,000

7 Florida
Date: 12/23/99
Recipient: Gertrude Lawrence
Bank Recipient: Nations Bank of Florida NA
Amount: $10,000

8 Abu Dabai
Date: 12/23/99
Recipient: Ashok Kumar
Bank Recipient: Abu Dubai Commercial Bank
Amount: $20,000

9 New Delhi, India
Date: 12/23/99
Recipient: Ragiz Ahuga
Bank Recipient: ANZ Grindlay New Delhi
Amount: $25,000

10 Florida
Date: 12/23/99
Recipient: Rodolfo Requena
Bank Recipient: Union Planters Bank Miami
Amount: $40,000

11 Dominica
Date: 12/23/99
Recipient: British Trade & Commerce Bank
Bank Recipient: National Commercial Bank Dom
Amount: $50,000

12 Dubai
Date: 12/23/99
Recipient: Greyhound Ferrel
Bank Recipient: Mashreq Bank Dubai
Amount: $30,000

13 New Delhi, India
Date: 12/23/99
Recipient: Asset Management India
Bank Recipient: Grindlays New Delhi
Amount: $140,000

14 Hong Kong
Date: 12/23/99
Recipient: Wanvijit Chauatong
Bank Recipient: Hong Kong Shanghai Bank Corporation
Amount: $200,000

15 Florida
Date: 12/21/99
Recipient: British Trade & Commerce Bank
Bank Recipient: Pacific National Bank Miami
Amount: $55,000

16 Dubai
Date: 12/21/99
Recipient: Graham Farrell
Bank Recipient: Mashreq Bank Dubai via NY
Amount: $200,000

17 $205,000
Date: 12/21/99
Amount: $205,000

18 Switzerland
Date: 12/21/99
Recipient: Laurent Finance and Switzerland
Bank Recipient: Banque Cantonale de Geneva
Amount: $612,000

19 Dominica
Date: 12/20/99
Recipient: INSAT COM Limited
Bank Recipient: National Commercial Bank Dominica
Amount: $10,000

20 Colorado
Date: 12/20/99
Recipient: John Hasbaick
Bank Recipient: Northwest Bank Denver
Amount: $10,000

21 Dominica
Date: 12/20/99
Recipient: British Trade & Commerce Bank
Bank Recipient: National Commercial Bank Dominica
Amount: $50,000

22 Florida
Date: 12/21/99
Recipient: M. Mantlando
Bank Recipient: Executive Miami Bank
Amount: $13,000

23 Florida
Date: 12/10/99
Recipient: British Trade & Commerce Bank
Bank Recipient: Pacific National Bank
Amount: $30,000

24 Dominica
Date: 12/10/99
Recipient: Brown Brothers Harmon Inv. Bankers
Bank Recipient: National Commercial Bank of Dominica

25 Florida
Date: 12/13/99
Recipient: British Trade & Commerce Bank
Bank Recipient: Pacific National Bank Miami
Amount: $50,000

26 Dominica
Date: 12/14/99
Recipient: British Trade & Commerce Bank
Bank Recipient: National Commercial Bank of Dominica
Amount: $20,000

27 Florida
Date: 12/14/99
Recipient: FEC Holding Inc.
Amount: $45,000

28 Oklahoma
Date: 12/16/99
Recipient: Republic Products
Bank Recipient: First National Bank, Antlers Oklahoma
Amount: $15,339.95

29 Illinois
Date: 12/14/99
Recipient: Arenson Office Furnishing
Bank Recipient: LaSalle National Bank Chicago
Amount: $29,037.25

30 Dominica
Date: 12/7/99
Recipient: Caribbean Building Agency Ltd.
Bank Recipient: National Commercial Bank of Dominica
Amount: $50,000

31 California
Date: 12/16/99
Recipient: Roeters Van Lennep
Bank Recipient: Wells Fargo SF
Amount: $30,000

32 Nevis
Date: 12/16/99
Recipient: Universal Marketing Consultants
Bank Recipient: Bank of Nevis International
Amount: $93,000

33 Nassau
Date: 12/17/99
Recipient: Barclays Bank PLC
Bank Recipient: BSI Corp Nassau
Amount: $240,000

1D6-8068 Gold Chance funds Gen Affairs

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___48___

SUPPLEMENTAL REMARKS OF JORGE BERMUDEZ
Delivered to the United States Senate
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
March 16, 2001

Madam Chairman, Senator Levin, and Members of the Permanent Subcommittee on Investigations.

I wish to clarify my oral testimony before the Permanent Subcommittee on March 2, 2001, regarding the extent to which Citibank's current anti-money laundering monitoring processes would isolate the transfers listed in Exhibit 23 for investigative follow-up. Exhibit 23 shows transfers between Banco Republica and Federal Bank, and one transfer between Verwaltungs and Key West Ltd., in which American Exchange appears as the intermediary.

When I was asked whether the pattern of transfers appearing in Exhibit 23 would trigger an in-depth review under Citibank's current anti-money laundering monitoring systems, I should have indicated that Citibank's current monitoring systems would not necessarily isolate these transfers for further investigation. Although intermediary transactions are highlighted in Citibank's current monitoring system, the transfers listed in Exhibit 23 are not intermediary transfers in which all three parties -- Banco Republica, American Exchange, and Federal Bank for example -- appear in the same transaction. Instead, each line in Exhibit 23 actually represents two separate funds transfers. For example, the first line in Exhibit 23 represents one transfer from Banco Republica to

American Exchange, and a separate transfer from American Exchange to Federal Bank. Citibank's current funds transfer monitoring systems do not have the capability to identify the two separate transfers as related.

I would like to thank the Subcommittee for this opportunity to clarify my earlier testimony.

Senate Permanent Subcommittee
On Investigations
EXHIBIT #_____49_____

SUPPLEMENTAL REMARKS OF CARLOS FEDRIGOTTI
Delivered to the United States Senate
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
March 16, 2001

Madam Chairman, Senator Levin, and Members of the Permanent Subcommittee on Investigations.

I wish to clarify my oral testimony before the Permanent Subcommittee on March 2, 2001, regarding the extent to which an offshore bank that appeared on the consolidated balance sheet of its Argentine parent would be subject to the regulation and control of the Argentine Central Bank. Senator Levin asked me whether, if the Argentine Central Bank had been aware that Federal Bank was affiliated with Banco Republica, Federal Bank would have been within the regulatory purview and examination of the Central Bank. I testified that

> [A]t some point in time, in the last few years, the Central Bank requested all Argentine banks which had affiliated entities to consolidate them in their reporting, and thus the consolidated entity would fall under the regulatory environment in Argentina. Neither of these affiliated entities were ever consolidated in that sense, and therefore they did not fall within the regulatory environment in Argentina.

I wish to make clear that when I referred to "the regulatory environment in Argentina" I did not mean to suggest that when the Central Bank becomes aware of an affiliated offshore, that it regulates the offshore. Rather, consolidated reporting renders the Central Bank's regulation of the onshore bank more meaningful, because its assessment of the onshore institution's financial soundness is made with information

about the assets and liabilities of their offshore affiliates. However, the fact that an Argentine bank includes its offshore affiliates in its reports to the Central Bank does not bring those offshore affiliates within the purview or control of the Central Bank of Argentina or provide a meaningful opportunity for the Central Bank to evaluate policies and practices of the offshore entity or detect money laundering.

I would like to thank the Subcommittee for this opportunity to clarify my earlier testimony.

Senate Permanent Subcommittee
On Investigations
EXHIBIT #__50__

U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

May 17, 2001

The Honorable Susan M. Collins
Chair
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Madam Chair:

On behalf of the Department of Justice (DOJ), I would like to express our appreciation for the opportunity to testify before your Subcommittee on March 6, 2001, regarding correspondent banking issues, and I would also like to commend you and your staff for the focus that you have brought to money laundering and financial crimes. This letter responds to your inquiries posed to Criminal Division Deputy Assistant Attorney General (DAAG) Mary Lee Warren; please find below our responses to the questions forwarded by Senator Levin.

(1) The 2000 National Money Laundering Strategy, which was jointly issued by the Departments of Justice and Treasury one year ago, has already led, under action item 2.1.1., to U.S. banking regulators' identifying international correspondent banking as a high risk area for money laundering. Given the growing recognition that correspondent banking relationships with high risk foreign banks provides a major pathway for money laundering in the United States, please indicate what additional steps, if any, the Strategy will take to address this area of vulnerability. In addition, please indicate the following.

(a) Goal 1, Objective 6 in the 2000 Strategy sets up a process for identifying a "major money laundering system" that justifies creation of a federal action team and an intensified cross-agency effort to disrupt the flow of illicit money in the United states through such a system. Are there any plans to determine whether the high risk correspondent banking activity identified in the minority staff report qualifies as a major money laundering system under this objective?

Response:

Although the Department of Justice considers correspondent banking an issue of grave concern in its fight against money laundering, we have not viewed correspondent banking as a money laundering "system," per se. The Department views correspondent banking as a process within the financial system that nevertheless can be and has been corrupted by money launderers.

In our view, Goal 1, Objective 6 of the 2000 Money Laundering Strategy is designed and intended to address issues relating to the Colombian Black Market Peso Exchange (BMPE), a money laundering system by which billions of U.S. drug dollars are converted into trade goods. The extensive BMPE system utilizes and corrupts virtually every domestic and international financial system including correspondent banking relationships. For example, many money launderers have employed correspondent banking relationships to disguise the nature of their funds through the BMPE system. The Department targets such criminal enterprises through undercover operations and other investigative techniques as demonstrated in Operations Casablanca, Juno and Skymaster, as previously discussed by DAAG Warren.

The *1999 Money Laundering Strategy* examined issues relating to correspondent banking in two other component parts: (1) in Goal 2, which requires the Justice and Treasury Departments, and federal regulators to "enhance the defenses of U.S. financial institutions against abuse by criminal organizations," and (2) in Goal 2, Objective 1, Action Item 2.1.1, which sets forth a review process for transactions that "pose a heightened risk of money laundering and other financial crimes."

However, in drafting the *2000 Strategy*, it was decided to focus on high-risk customers and transactions rather than correspondent banking per se. The *2000 Strategy* called upon the Departments of the Treasury and Justice to convene a high-level working group of federal bank regulators and law enforcement officials to examine what guidance would be appropriate to enhance financial institution scrutiny of potentially high-risk transactions or patterns of transactions. The working group concluded that the most appropriate means to address the issue of enhanced scrutiny by financial institutions of high-risk customers and their transactions would be to work with the financial services industry to develop guidance that financial institutions (both bank and non-bank) could incorporate within their existing anti-money laundering and suspicious activity reporting regimes.

Following that approach, the inter-agency working group, convened pursuant to the *2000 Strategy*, developed guidance focused on one specific class of "high-risk" accounts -- transactions by senior foreign political figures of the proceeds of corruption. In January 2001, having discussed the proposal with the financial services community, the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the Department of State issued "Guidance on Enhanced Scrutiny for Transactions That May Involve the Proceeds of Foreign Official Corruption." This guidance encourages financial institutions, in their private banking and similar high dollar-value accounts and transactions, to apply enhanced scrutiny to transactions that may involve the proceeds of corruption by senior foreign political figures and their close family and associates. To assist financial institutions in applying enhanced scrutiny to these types of transactions, the guidance provides a set of suggested account establishment and maintenance procedures designed to help institutions obtain appropriate information on accounts held by senior foreign political figures and their immediate family and close associates ("Covered Persons"), as well as a list of questionable or suspicious activities involving a Covered Person's transactions that, when present, often will warrant enhanced scrutiny of a particular transaction.

The 2001 Strategy is currently being drafted, and the Departments of Justice and the Treasury will certainly take into consideration the findings contained in the minority report.

(b) Goal 1, Objective 1 in the 2000 Strategy identifies four High Intensity Money Laundering and Related Financial Crime Areas (HIFCA), including cross-border currency movements in the border region involving Texas, Arizona and Mexico. Are there any plans to examine the role of correspondent banking in this HIFCA, including the use of armored vehicles to transport cash from Mexican banks with correspondent accounts at U.S. banks?

Response:

Yes. As described below, an integral assignment for the HIFCA is the identification of all U.S.-based accounts, correspondent or otherwise, into which economically inexplicable

amounts of U.S. cash are being deposited from Mexico. The HIFCA has established a HIFCA Action Team and Executive Committee, and is in the early stages of organization.

The Southwest Border High Intensity Money Laundering and Related Financial Crime Area (HIFCA) has been studying the transport of bulk currency shipments from Mexico for some time - particularly as they relate to the use of correspondent banking relationships. From the outset, a core responsibility of the Southwest Border HIFCA has been to review and consider appropriate actions with respect to the cross-border movement of bulk currency - by armored express vehicle and otherwise - from Mexico into the United States.

Indeed, the memorandum initiating the Southwest Border HIFCA stated that:

> HIFCA efforts [should] concentrate on bulk currency shipments, both inbound and outbound, along the Southwest border generally, but within the HIFCA specifically. Law enforcement and regulators will place particular emphasis on identifying and examining those individuals and entities moving anomalous volumes of U.S. currency into the United States from Mexico, whether bank-to-bank or through cross-border accounts, and on the down-stream movement of these funds after they are placed in U.S. financial institutions.

The detection of anomalous volumes of currency repatriated to accounts in the United States requires identification and analysis of the domestic accounts, and subsequently, close coordination with Mexican authorities to ascertain if the statistical results are indeed excessive by standards of any legitimate commercial activity. While these efforts are ongoing, it is still too early in the process to determine if these cross-border movements of currency largely involve criminal proceeds.

(c) Goal 4 in the 2000 Strategy seeks to strengthen international cooperative efforts to disrupt the global flow of illicit money. Are there any plans in connection with Goal 4 to alert our international counterparts to the high risk correspondent banking activity identified in the minority staff report and utilize international cooperative mechanisms to stop money laundering through international correspondent accounts?

Response:

The vast majority of federal criminal and civil cases involving correspondent and other U.S. bank accounts are initiated and prosecuted by the 94 United States Attorneys' Offices. To the extent that Headquarters becomes aware of cases involving foreign correspondent bank accounts, we notify our foreign law enforcement counterparts where appropriate. Where money laundering cases involving foreign correspondent bank accounts are prosecuted or handled civilly by the Asset Forfeiture and Money Laundering Section, we likewise work with our foreign counterparts when and where appropriate. Some examples of cases where case-specific information has been or could be disseminated to domestic financial institutions and our foreign law enforcement counterparts are discussed below in the response to Question 4.

With respect to the issue of alerting our foreign counterparts about the high risk correspondent banking activity identified in the minority staff report, the Department has had numerous opportunities to inform our international counterparts of the existence and contents of the report through our work in the Financial Action Task Force (FATF) and its regional bodies. In particular, the report and the subsequent hearings were discussed at the most recent meeting of the Caribbean Financial Action Task Force (CFATF) in Port of Spain, Trinidad. Also, in bilateral meetings held with the countries discussed in the report, the U.S. delegation was informed that a number of offshore banks located in these countries had lost their correspondent bank accounts in the United States as a direct result of the report.

Additionally, the multilateral 29-country FATF engages in an annual exercise to identify ongoing or novel money laundering methods ("typologies") detected by the participating states. The use of international correspondent banking relationships to foster illicit money laundering schemes and other financial crimes is a topic of substantial interest to the FATF members. DOJ will work with the Departments of State and the Treasury, and other U.S. representatives to the FATF in an effort to consider recommendations relating to correspondent banking issues. For example, in the past we have participated in FATF typologies exercises involving the use of money remitters and Free Trade Zones, and have noted heightened international interest as a result.

The minority report was also discussed at the most recent meeting of the U.S./Mexico Senior Law Enforcement Plenary held in Washington DC on April 2-3, 2001. It was agreed that the use of correspondent bank accounts to facilitate the movement of illicit funds will be studied in more depth by the bilateral Money Laundering Working Group.

(2) During the hearing, the Department indicated that it would examine the issue of how to identify foreign banks involved in multiple, but unrelated instances of money laundering or other wrongdoing, so that the Department can determine whether it should take action, not just against the particular clients of a foreign bank, but perhaps against the bank itself as a conduit for money laundering. Please describe what steps the Department plans to take to put a system into place to identify such foreign banks and take appropriate legal action against them.

Response:

One of the most powerful tools at our disposal, but one that also is one of the most difficult to apply is in the area of corporate criminal liability. We successfully applied those principles in the Operation Casablanca context; however, in this case, we had direct representations to bank managers. As DAAG Warren testified on March 6:

> there is certainly a general strategy that we look for banks as corporations, as entities, as defendants themselves, if it appears that they are guilty of wrongdoing. We have prosecuted and we have a chart that goes on for many pages of numbers of financial institutions that we have proceeded against directly and not just against any particular offender within that bank. What you suggest is, certainly the collection now of so many instances of wrongdoing from one relatively small bank may suggest - or more than suggest - some rottenness at the very core here. Those are the kinds of instances that we need to analyze to see if we can meet our standards for corporate liability proof in a criminal case against the entity itself. And we have found that proceeding in that way has had an enormously deterrent effect in the banking community, not just in the United States, but our efforts against foreign banks, as well, and could have a salutary effect here.

[The chart is enclosed as Appendix 1.]

The elements of corporate liability, as set forth by case precedent, must be applied to the facts of each case. Information concerning specified banks and their accounts completed over time may add greatly to our proof.

The Departments of Justice and the Treasury have created several collaborative inter-agency mechanisms to compile, integrate, and analyze financial data relevant to money laundering cases. In this way, we can identify, investigate, and prosecute domestic and international bank accounts - including correspondent accounts - which are being utilized for money laundering or other illicit purposes. The multi-agency Special Operations Division, Money Laundering Unit, and the USCS Money Laundering Coordination Center spearhead such coordinated nationwide efforts.

In addition, the Department's Criminal Division participates on the undercover review committees of the Federal Bureau of Investigation, Drug Enforcement Administration, U.S. Customs Service, and Internal Revenue Service to ensure proper and appropriate enforcement activities in money laundering cases. Through such centralized participation, the Department is able to identify bank accounts through which illicit proceeds are repeatedly deposited and transferred. The Criminal Division also scrutinizes criminal and civil forfeiture cases filed nationwide, seeking to identify and find links among related bank accounts used for illicit purposes. The Asset Forfeiture and Money Laundering Section and the Office of International Affairs of the Criminal Division also are exploring the possibility of collating information relating to international bank accounts that are identified in mutual legal assistance requests.

(3) During the hearing, the Department indicated that U.S. correspondent banks might be able to take steps that would simplify service of legal process on foreign respondent banks. Please provide any recommendations the Department has in this area.

Response:

In her March 6 testimony, DAAG Warren stated that:

Another [suggestion] might be, in terms of your "Know Your Customer" rules, an extension of that is to also have an entry on that, "Who is your representative for service [of] process here in the United States?" so that, if in fact,

they are doing business through their correspondent account, they're present for purposes of service of our process, as well, to retrieve that information. I think there are many ways that we could look at this and see how - what might best help us.

As the testimony of DAAG Warren indicated, the Department is considering a proposal requiring respondent banks to identify a person in the United States to accept service of process, in conjunction with the initiation of a correspondent account at a U.S. bank. Such a designation would ensure that bank records at respondent banks would be made available upon service of process in the United States, without having to resort to the Mutual Legal Assistance or other formal diplomatic process and would seek to balance the advantages derived by the foreign bank account holders with their concomitant responsibilities. We are continuing to explore this proposal at this time.

(4) During the hearing, the Department indicated that there might be some "public indicia" of problems associated with a particular high risk foreign bank that have not been, but could be, included in a bank advisory issued by U.S. government agencies. Please provide some examples of these indicia. In addition, please provide any recommendations or describe any steps that could be taken regarding how U.S. law enforcement could signal U.S. banks when particular foreign banks present increased money laundering risks.

Response:

Although there are sensitive law enforcement concerns which prevent the disclosure of certain investigative information, there are instances where we could improve the mechanisms to communicate with and alert domestic banks to potential problems relating to correspondent accounts or account holders.

In particular, we must work more closely with our counterparts at the Treasury Department and bank regulators to find possible methods to strengthen appropriate safeguards and make notifications and advisories in a timely fashion to banks and financial institutions, within the constraints of law enforcement restrictions and sensitivities. Where, as the result of money laundering investigations, it becomes clear that a foreign bank is being used to facilitate the movement of illicit funds through the United States, law enforcement must inform the bank regulators at the earliest possible moment. As a result of

the investigation in Operation Casablanca, it became clear that the Los Angeles branch of (Mexican) Bancomer was being used to facilitate the drug money laundering. In this case, the Department and the U.S. Customs Service notified and subsequently worked very closely with the Special Investigations and Enforcement Section of the Division of Banking Supervision and Regulation at the Federal Reserve in the investigation and prosecution of Bancomer for money laundering.

In instances where indictments, public seizure warrants or forfeiture orders have been filed that indicate a foreign bank is being used to facilitate money laundering, such public information should be shared with our bank regulators. In the cases involving Caribbean American Bank (CAB) and American International Bank (AIB), which are cited in the report, if the bank regulators had been provided advanced notification about information in these cases, they would have been in a position to have alerted our domestic banks and prevented the multiple opening and use of various correspondent banking accounts by AIB that ultimately facilitated the money laundering operations conducted by CAB.

In addition, whenever the Department or other law enforcement agencies become aware that an offshore bank is no longer licensed in a jurisdiction to conduct business, this information must be communicated to our bank regulators at the earliest possible time. For example, in the case of Antigua and Barbuda, the United States was informed during a series of bilateral meetings in 1998 and 1999 of the names of the offshore banks whose licenses had been revoked by the government of Antigua and Barbuda. Despite having their licenses revoked, some of the banks still continued to advertise on the Internet and to conduct business. At a minimum, our domestic banks should be notified of these license revocations through advisories or alerts issued by the bank regulators. Such alerts to our domestic banks are issued by the Office of the Comptroller of the Currency (OCC)and by FinCEN. An example of such an alert was issued by the Office of the Comptroller of the Currency on April 21, 1998, concerning the unauthorized banking of Caribbean Bank of Commerce, Ltd. Such alerts could be used now to notify U.S. banks of the recent revocation of 14 banking licenses by the Bahamas and 17 banking licenses by Grenada. The Department will continue to work with the bank regulators to ensure that such information is communicated to the OCC and FinCEN so that it can be disseminated to our domestic banking sector on a timely basis.

(5) In prepared testimony submitted to the Subcommittee for the March 2 hearing, Robb Evans provided several proposals for strengthening the ability of court-appointed receivers to recover funds on behalf of U.S. crime victims. Please provide the Department's reaction to these proposals, including whether the Department would support the enactment of these or similar provision into law.

Response:

The Department of Justice has reviewed Mr. Evans' proposals and acknowledges the concerns raised. At this time, we believe that the present statutory scheme is appropriate for the court to appoint receivers to recover funds on behalf of crime victims in the United States. As Mr. Evans noted, the Department already has the authority to ask the court to appoint, in appropriate cases, a receiver to assist in the recovery and disbursement of the proceeds derived from fraud offenses.

Where fraud proceeds are located overseas, the Department's Criminal Division has worked with our foreign counterparts, through mutual legal assistance treaties and letters rogatory to restrain and repatriate fraud proceeds. Currently, the Department is working on a number of forfeiture cases in which millions of dollars of fraud proceeds have been restrained at our request by the authorities in the Cayman Islands, Jersey, Switzerland, Antigua and France. Since these cases are ongoing, we cannot comment on them at this time. In addition, the Department, through the Civil Division, has hired private foreign counsel to file civil suits to recover the proceeds in foreign countries. Further, the Civil Asset Forfeiture Reform Act of 2000, Pub.L. No. 106-185, 114 Stat. 202 (2000) granted express authority to the Attorney General to allocate forfeited property to pay as restitution for victims of crimes.

There have, however, been occasions in which foreign courts have ruled that the United States lacks standing to pursue fraud proceeds because it is not an actual victim of the fraud. In such cases, it has been necessary to have a trustee appointed to act on behalf of all victims. In addition, when seeking the restraint and return of fraud proceeds in criminal prosecutions and civil forfeiture cases, the U.S. has been stymied by its inability to give assurances of reciprocity to the country where the fraud proceeds are located. Because there is no express authority to forfeit the proceeds of foreign fraud located here in the United States, some countries have declined to give the U.S. assistance that we could not reciprocally give to them. We

will continue to monitor these issues carefully and seek out additional ways to strengthen recovery of assets for restitution to victims.

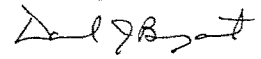
(6) Please provide any other recommendations that the Department has for strengthening anti-money laundering safeguards or enforcement actions in the correspondent banking field.

Response:

The Department of Justice has previously submitted proposed anti-money laundering provisions relating to correspondent banking to Congress, and we continue to study and contemplate ways to enhance our enforcement efforts. In light of the newness of the Administration and incoming personnel, we are not yet in a position to provide further specific recommendations, but expect soon to be.

Once again, thank you for the opportunity to testify before your Subcommittee on this important topic.

Sincerely,



Daniel J. Bryant
Assistant Attorney General

Enclosure

DOMESTIC AND INTERNATIONAL DEPOSITORY AND OTHER FINANCIAL INSTITUTIONS PENALIZED FOR BANK SECRECY ACT AND/OR MONEY LAUNDERING VIOLATIONS 1977-2001

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
	2000		
Rainbow Casino	Vicksburg, Mississippi	Bank Secrecy Act	$75,000
Casa de Cambio Rega	Hidalgo, Texas	Bank Secrecy Act	$2,500
D&S Checking	Newark, New Jersey	Bank Secrecy Act	$75,000
Mex Pesos Currency Exchange	San Ysidro, California	Bank Secrecy Act	$50,000
Ameristar Casino Vicksburg, Inc/	Vicksburg, MS	Bank Secrecy Act	$160,000
Polish and Slavic Federal Credit Union	Brooklyn, NY	Bank Secrecy Act	$185,000
Sunflower Bank, Inc.	Salina, KS	Bank Secrecy Act	$100,000
	1999		
Grand Casinos of Mississippi, Inc.-Biloxi	Biloxi, MS	Bank Secrecy Act	$160,500
Riverboat Corp. of Mississippi d/b/a Isle of Capri-Biloxi	Biloxi, MS	Bank Secrecy Act	$227,500
Riverboat Corp. of Mississippi d/b/a Isle of Capri-Vicksburg	Vicksburg, MS	Bank Secrecy Act	$150,000
Lady Luck Mississippi, Inc. d/b/a Lady Luck Natchez	Natchez, MS	Bank Secrecy Act	$115,000

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Biloxi Casino Corp. d/b/a Casino Magic-Biloxi	Biloxi, MS	Bank Secrecy Act	$145,000
Banco Industrial de Venezuela	Venezuela	Money Laundering	$4,007,891.28 seized. Case pending.
Caribbean American Bank	Venezuela	Money Laundering	$4,260,385.57 seized. Case pending. Civil penalty complaint filed.
Banco Bilbao Vizcaya	Mexico	Money Laundering	$175,000 forfeiture
Banoro	Mexico	Money Laundering	$1,101,761.00 forfeiture
Banamex	Mexico	Money Laundering	$2,489,151.32 forfeiture
Banco Santander Mexicano	Mexico	Money Laundering	$673,347.75 forfeiture
Bital (Banco International)	Mexico	Money Laundering	$3,148,884.40 seized. Forfeiture case dismissed. Civil penalty complaint filed and pending.
Banco Mercantil del Norte S.A. Banorte Banpais	Mexico	 Money Laundering Money Laundering	 $480,000 forfeiture $1,020,000 forfeiture
Supermail, Inc.	Reseda, CA	Money Laundering	Guilty plea. Penalty pending
Bancomer, S.A.	Mexico	Money Laundering	$500,000 criminal fine; $9.4 million forfeiture, plus plea agreement
Banca Serfin, S.A.	Mexico	Money Laundering	$500,000 criminal fine; $4,179,981.84 forfeiture, plus plea agreement
Confia, S.A.	Mexico	Money Laundering	$12,200,000 forfeiture
Gulfside Casino, DBA Copa Casino	Gulfport, MS	Bank Secrecy Act	$101,000 civil penalty

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
	1998		
Trump Taj Mahal Casino	Atlantic City, NJ	Bank Secrecy Act	$477,000 civil penalty
	1997		
Ramesas America Oriental	New York, NY	Money Laundering	$2,000,000 criminal fine
Barnett Bank, Inc.	Jacksonville, FL	Bank Secrecy Act	$100,000 civil penalty
Resorts International Hotel & Casino	Atlantic City, NJ	Bank Secrecy Act	$88,000 civil penalty
	1996		
Corfinge	El Salvador	Money Laundering	$340,000 forfeiture
Olympic Remittance Corp.	United States	Money Laundering	$67,000 forfeiture
Bangkok Metropolitan Bank	Thailand	Unsafe anti-money laundering controls	$3,500,000 fine and termination of U.S. license.
Vigo International	New York, NY	Money Laundering	$1,500,000 criminal fine
National Bank of Greece	New York, NY	Bank Secrecy Act	$300,000 Federal Reserve civil penalty cease and desist order
Any Kind of Check Cashing	Washington, DC	Bank Secrecy Act	$30,000 civil penalty
Brunswick Bank & Trust	Brunswick, NJ	Bank Secrecy Act	$150,000 civil penalty
Casa de Cambio Rene	Calexico, CA	Bank Secrecy Act	$10,000 civil penalty
	1995		

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Atlantic Bank of New York	New York, NY	Bank Secrecy Act	$1,000,000 criminal fine $100,000 civil penalty
Borges & Irnao, Inc.	Newark, NJ	Bank Secrecy Act	$80,000 civil penalty
Calumet National Bank	Hammond, IN	Bank Secrecy Act	$15,000 civil penalty
Downey National Bank	Downey, CA	Bank Secrecy Act	$55,000 civil penalty
Fox Cut Rate Liquors, Inc.	Baltimore, MD	Bank Secrecy Act	$10,000 civil penalty
Sunniland Bank	Ft. Lauderdale, FL	Bank Secrecy Act	$115,000 civil penalty
	1994		
American Express Bank International	United States	Money Laundering	$25,000,000 forfeiture $ 7,000,000 civil penalty
Republic National Bank of Miami	Miami, FL	Bank Secrecy Act	$4,000,000 forfeiture $1,950,000 civil penalty
Caesars Casino	Atlantic City, NJ	Bank Secrecy Act	$57,300 civil penalty
Claridge Hotel & Casino	Atlantic City, NJ	Bank Secrecy Act	$120,000 civil penalty
First National Bank	Chicago Heights, IL	Bank Secrecy Act	$20,000 civil penalty
Greate Bay Hotel & Casino	Atlantic City, NJ	Bank Secrecy Act	$61,500 civil penalty
Jonestown Bank & Trust Co.	Jonestown, PA	Bank Secrecy Act	$12,500 civil penalty
Lasalle National Bank #2	Lasalle, IL	Bank Secrecy Act	$5,000 civil penalty
Mark Twain Bank	Ladue, MO	Bank Secrecy Act	$750,000 civil penalty

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Metropolitan Bank & Trust	Agana, Guam	Bank Secrecy Act	$6,000 civil penalty
New Damen & Grand Damen Currency	Chicago, IL	Bank Secrecy Act	$5,000 civil penalty
Public Employees Credit Union	Austin, TX	Bank Secrecy Act	$2,000 civil penalty
Republic National Bank	Miami, FL	Bank Secrecy Act	$1,950,000 civil penalty
Sacramento First National Bank	Sacramento, CA	Bank Secrecy Act	$20,000 civil penalty
Tienda Cali, Inc.	Calexico, CA	Bank Secrecy Act	$5,000 civil penalty
Western Union Financial Services	Paramus, NJ	Bank Secrecy Act	$50,000 civil penalty
	1993		
Banque Leu	Luxembourg	Money Laundering	$ 60,000 criminal fine $ 3,340,000 forfeiture
Hong Kong and Shanghai Bank	Agana, Guam	Bank Secrecy Act	$225,000 civil penalty
United Mizrahi Bank	Israel	Bank Secrecy Act	$400,000 Federal Reserve civil penalty Cease and desist order
Bank of Hawaii	Honolulu, HI	Bank Secrecy Act	$90,000 civil penalty
Check Express of Florida	Tampa, FL	Bank Secrecy Act	$20,000 civil penalty
Chicago Rush Currency Exchange	Chicago, IL	Bank Secrecy Act	$15,000 civil penalty
Corestates Financial Corp.	Philadelphia, PA	Bank Secrecy Act	$55,000 civil penalty
Damen Federal Bank for Savings	Schaumburg, IL	Bank Secrecy Act	$100,000 civil penalty
Dexter Credit Union	Central Falls, RI	Bank Secrecy Act	$80,000 civil penalty

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Dollar Savings & Trust Co.	Youngstown, OH	Bank Secrecy Act	$1,182,639 civil penalty
Essex Imports, Inc.	Deerfield Beach, FL	Bank Secrecy Act	$50,000 civil penalty
First Bank	Coon Rapids, MN	Bank Secrecy Act	$45,000 civil penalty
Hong Kong/ Shanghai Banking	Agana, Guam	Bank Secrecy Act	$225,000 civil penalty
Harrah's Marina Hotel and Casino	Atlantic City, NJ	Bank Secrecy Act	$312,750 civil penalty
National Check Cashiers	Oklahoma City, OK	Bank Secrecy Act	$100,000 civil penalty
United Mississippi Bank	Natchez, MS	Bank Secrecy Act	$40,000 civil penalty
	1992		
Habib Bank, N.A.	Switzerland	Bank Secrecy Act	$200,000 Federal Reserve civil penalty cease and desist order
National Bank of Pakistan	Chicago, IL	Bank Secrecy Act	$200,000 Federal Reserve civil penalty cease and desist order
Norwest Bank Great Falls, N.A.	Great Falls, MT	Money Laundering	$327,712 criminal penalty
Bally's Park Place Casino	Atlantic City, NJ	Bank Secrecy Act	$9,000 civil penalty
Bally's Grand Hotel & Casino	Atlantic City, NJ	Bank Secrecy Act	$126,000 civil penalty
Caliber Bank	Phoenix, AZ	Bank Secrecy Act	$65,000 civil penalty
E-Z Check Cashing	Deerfield Beach, FL	Bank Secrecy Act	$5,000 civil penalty
First National/Maryland	Baltimore, MD	Bank Secrecy Act	$950,000 civil penalty
Jack's Quick Cash	Orlando, FL	Bank Secrecy Act	$18,000 civil penalty

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Los Angeles National	Los Angeles, CA	Bank Secrecy Act	$480,000 civil penalty
Randolph Clark Currency Exchange	Chicago, IL	Bank Secrecy Act	$18,000 civil penalty
Showboat Hotel & Casino	Atlantic City, NJ	Bank Secrecy Act	$58,500 civil penalty
Tropworld Hotel & Casino	Atlantic City, NJ	Bank Secrecy Act	$414,000 civil penalty
Trump Plaza Hotel and Casino	Atlantic City, NJ	Bank Secrecy Act	$292,500 civil penalty
Trump Castle Hotel and Casino	Atlantic City, NJ	Bank Secrecy Act	$175,500 civil penalty
	1991		
BCCI II	Various	Money Laundering RICO Fraud	$550,000,000 forfeiture $200,000,000 civil penalty
BCCI II	Boca Raton, FL	Bank Secrecy Act	$15,200,000 criminal fine
Bank of Mingo	Naugatuck, WV	Bank Secrecy Act	$54,600 civil penalty
Farm and Home Savings	Nevada, MO	Bank Secrecy Act	$500 criminal fine (against bank and employee)
MiCasita Money Exchange	San Ysidro, CA	Bank Secrecy Act	$250 criminal fine
	1990		
Bank of Credit and Commerce International	Luxembourg	Money Laundering	$15,300,000 forfeiture
Bank Leumi Trust Co.	New York, NY	Bank Secrecy Act	$242,000 criminal fine
BCCI I	Luxembourg	Money Laundering	$15,200,000 forfeiture
Citizens Bank of Gibson	Haubstadt, IN	Bank Secrecy Act	$65,000 criminal fine

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
First Westside Bank	Omaha, NE	Bank Secrecy Act	$1,200 criminal fine
First Bank of Georgia	East Point, GA	Money Laundering	$85,200 criminal fine $85,000 forfeiture?
LBS Bank	New York, NY	Bank Secrecy Act	$50,000 criminal fine
National Mortgage Bank of Greece	New York, NY	Money Laundering Bank Secrecy Act	$8,000,000 criminal fine $2,000,000 forfeiture $2,000,000 Federal Reserve civil penalty
National Bank of Greece	New York, NY	Money Laundering Bank Secrecy Act	$125,000 Federal Reserve civil penalty
Red Oak State Bank	Red Oak, TX	Bank Secrecy Act	$100,000 criminal fine
National Bank of Washington	Washington, DC	Bank Secrecy Act	$368,000 civil penalty
Robert Lee State Bank	Robert Lee, TX	Bank Secrecy Act	$10,000 civil penalty
	1989		
Banco de Occidente	Colombia	Money Laundering	$5,000,000 forfeiture
I.M. Simon and Co.	Clayton, MO	Bank Secrecy Act	$1,000 criminal fine
Peoples Bank	Belleville, NJ	Bank Secrecy Act	$3,000 criminal fine
Ponce Federal Bank	Ponce, PR	Bank Secrecy Act	$2,500,000 criminal fine
Smithfield State Bank	Smithfield, PN	Bank Secrecy Act	$51,600 criminal fine
United Orient Bank	New York, NY	Bank Secrecy Act	$2,000,000 criminal fine

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Bank Leumi Trust	New York	Bank Secrecy Act	$291,000 civil penalty
First Women's Bank	New York	Bank Secrecy Act	$80,000 civil penalty
Ponce Federal	Ponce	Bank Secrecy Act	$500,000 civil penalty
United Orient Bank	New York	Bank Secrecy Act	$250,000 civil penalty
	1988		
American National Bank	Hamden, CT	Bank Secrecy Act	$200,000 criminal fine $22,000 civil penalty
Bank J. Vontobel Co.	Not Specified	Bank Secrecy Act	$20,000 criminal fine
Central National Bank/Alamo	Austin, TX	Bank Secrecy Act	$250,000 criminal fine
E.F. Hutton	Providence, RI	Bank Secrecy Act	$1,010,000 criminal fine
Extebank	Hauppauge, NY	Bank Secrecy Act	$100,000 criminal fine
National Bank of Fairhaven	Fairhaven, MA	Bank Secrecy Act	$150,000 criminal fine
Ramsey Savings & Loan Assn.	Ramsey, NJ	Bank Secrecy Act	$6,000 criminal fine
North Valley Bank	Redding, CA	Bank Secrecy Act	$100,000 civil penalty
Oscar's Money Exchange	Hildago, TX	Bank Secrecy Act	$3,010,000 civil penalty
Rainier National	Seattle, WA	Bank Secrecy Act	$95,000 civil penalty
San Antonio Federal	San Antonio, TX	Bank Secrecy Act	$60,000 civil penalty
United Orient Bank	New York, NY	Bank Secrecy Act	$750,000 criminal fine
	1987		

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Citizen First National Bank	Ridgewood, NJ	Bank Secrecy Act	$2,000 criminal fine
Inco Bank & Trust Ltd.	Cayman Islands	Conspiracy	$456,000 criminal fine
Merchants Trust Bank	Kenner, LA	Bank Secrecy Act	$1,000 criminal fine
Bank Of New England	Boston, MA	Bank Secrecy Act	$156,000 civil penalty
Comerica Bank/Detroit	Detroit, MI	Bank Secrecy Act	$32,000 civil penalty
Continental Illinois	Chicago, IL	Bank Secrecy Act	$70,000 civil penalty
Harris Trust & Savings	Chicago, IL	Bank Secrecy Act	$50,000 civil penalty
Key Banks, Inc.	Albany, NY	Bank Secrecy Act	$130,000 civil penalty
Liberty State Bank	Troy, MI	Bank Secrecy Act	$200,000 civil penalty
Long Island Trust	Garden City, NY	Bank Secrecy Act	$187,980 civil penalty
Manufacturers and Traders	Buffalo, NY	Bank Secrecy Act	$160,000 civil penalty
Old National Bancorp	Spokane, WA	Bank Secrecy Act	$70,000 civil penalty
Shawmut Bank, N.A.	Boston, MA	Bank Secrecy Act	$295,000 civil penalty
Valley Bank	Las Vegas, NV	Bank Secrecy Act	$192,000 civil penalty
	1986		
Bank of New England	United States	Bank Secrecy Act	$1,240,000 criminal fine
Border Money Exchange	Brownsville, TX	Bank Secrecy Act	$8,250 criminal fine
Caribbean Federal Savings	San Marcos, PR	Bank Secrecy Act	$450,000 criminal fine

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Commercial Bank & Trust	Lowell, MA	Bank Secrecy Act	$202,100 criminal fine
First Missouri Bank	Warrenton, MO	Bank Secrecy Act	$75,000 criminal fine
Housatonic Bank & Trust	Ansonia, CT	Bank Secrecy Act	$750 criminal fine
Magnolia Federal Bank	Hattiesburg, MS	Bank Secrecy Act	$22,000 criminal fine $3,000 civil penalty
McLean Bank	McLean, VA	Bank Secrecy Act	$80,050 criminal fine
Metropolitan National Bank	McAllen, TX	Bank Secrecy Act	$310,000 criminal fine
Provident Institution for Savings	Boston, MA	Bank Secrecy Act	$100,000 criminal fine
Seaway National Bank	Watertown, NY	Bank Secrecy Act	$2,000 criminal fine
Union County Bank	Maynardville, TN	Bank Secrecy Act	$10,000 criminal fine
Bank of America	San Francisco, CA	Bank Secrecy Act	$4,750,000 civil penalty
Barnett Bank, Inc.	Jacksonville, FL	Bank Secrecy Act	$112,000 civil penalty
Commercial Bank	Lowell, MA	Bank Secrecy Act	$27,000 civil penalty
First Bank System, Inc.	Minneapolis, MN	Bank Secrecy Act	$248,160 civil penalty
Hartford National Corp.	Hartford, CT	Bank Secrecy Act	$220,000 civil penalty
Interfirst Corp.	Dallas, TX	Bank Secrecy Act	$315,000 civil penalty
M Bank Corporation	Brownsville, TX	Bank Secrecy Act	$600,000 civil penalty
Merchants National Bank	Indianapolis, IN	Bank Secrecy Act	$500,000 criminal fine $200,000 civil penalty

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Michigan National Corp.	Bloomfield Hills, MI	Bank Secrecy Act	$219,000 civil penalty
Security Pacific National	Los Angeles, CA	Bank Secrecy Act	$605,000 civil penalty
Texas Comm. Bancshares	Houston, TX	Bank Secrecy Act	$1,900,000 civil penalty
Wells Fargo Bank	San Francisco, CA	Bank Secrecy Act	$75,000 civil penalty
	1985		
Bank of Boston	Boston, MA	Bank Secrecy Act	$500,000 criminal fine
Chase Manhattan	New York, NY	Bank Secrecy Act	$360,000 civil penalty
Chemical Bank	New York, NY	Bank Secrecy Act	$210,000 civil penalty
Crocker National Bank	San Francisco, CA	Bank Secrecy Act	$2,250,000 civil penalty
Equitable Bancorp	Baltimore, MD	Bank Secrecy Act	$121,750 civil penalty
Irving Trust Co.	New York, NY	Bank Secrecy Act	$295,000 civil penalty
J.B. Hanauer Company	Livingston, NJ	Bank Secrecy Act	$20,000 criminal fine $75,000 civil penalty
Manufacturers Hanover	New York, NY	Bank Secrecy Act	$320,000 civil penalty
National Bank of Detroit	Detroit, MI	Bank Secrecy Act	$168,000 civil penalty
Norstar Bancorp	Albany, NY	Bank Secrecy Act	$269,940 civil penalty
Riggs National Bank	Washington, DC	Bank Secrecy Act	$269,750 civil penalty
Summit State Bank	Bloomington, MN	Bank Secrecy Act	$4,000 criminal fine
Seafirst Corp.	Seattle, WA	Bank Secrecy Act	$697,000 civil penalty

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Sun Bank, Inc.	Miami, FL	Bank Secrecy Act	$156,200 civil penalty
Bank of Monroe	Union, WV	Bank Secrecy Act	$1,000 criminal penalty
Illinois National Bank	Springfield, IL	Bank Secrecy Act	$10,000 criminal penalty
Greater Providence Deposit Corp.	Providence, RI	Bank Secrecy Act	$50,000 criminal penalty
	1984		
Great American Bank	North Miami, FL	Bank Secrecy Act	$375,000 criminal fine
Pan American International Bank	Reno, NV	Bank Secrecy Act	$95,000 criminal fine
(unknown year) Pan American Bank	Las Vegas, NV	Bank Secrecy Act	$125, 000 criminal fine
Global Union Bank	New York, NY	Bank Secrecy Act	$12,000 criminal fine $51,700 civil penalty
First State Bank	Fitzgerald, GA	Bank Secrecy Act	$3,000 criminal fine
Security State Trust	Bettendorf, IA	Bank Secrecy Act	$1,000 criminal fine
United Oklahoma Bank	Oklahoma City, OK	Bank Secrecy Act	$2,000 criminal fine
O'Bannon Banking Co.	Buffalo, MO	Bank Secrecy Act	$19,000 criminal fine
St. Michael's Credit Union	Lynn, MA	Bank Secrecy Act	$10,000 criminal fine
First Galesburg National	Galesburg, IL	Bank Secrecy Act	$1,000 criminal fine
Southwestern Bank and Trust	Oklahoma City, OK	Bank Secrecy Act	$1,000 criminal fine
Atco National Bank	Atco, NJ	Bank Secrecy Act	$50,000 criminal fine
Rockland Trust Co.	Rockland, MA	Bank Secrecy Act	$50,000 criminal fine

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY
Midland Bank and Trust Co.	Paramus, NJ	Bank Secrecy Act	$2,500 criminal fine
First National Bank in Jefferson Parrish	Matairie, LA	Bank Secrecy Act	$ 5,000 criminal fine $35,000 civil penalty
	1983		
National Republic Bank Chicago	Chicago, IL	Bank Secrecy Act	$15,000 criminal fine $ 9,000 civil penalty
Princeton Cooperative Credit Union	Princeton, MN	Bank Secrecy Act	$30,000 criminal fine
First National Bank	Fort Lee, NJ	Bank Secrecy Act	$7,000 criminal fine
Mountain Ridge State Bank	West Orange, NJ	Bank Secrecy Act	$5,000 criminal fine
Summit National Bank	St. Paul, MN	Bank Secrecy Act	$2,000 criminal fine
First National Bank and Trust	Kearny, NJ	Bank Secrecy Act	$37,500 criminal fine
American Investors	Pittsburgh, PA	Bank Secrecy Act	$103,000 criminal fine
First National Bank	Patterson, NJ	Bank Secrecy Act	$2,000 criminal fine
Community National Bank	Austin, TX	Bank Secrecy Act	$2,500 criminal fine
	PRIOR TO 1983		
1977 Chemical Bank	New York, NY	Bank Secrecy Act	$200,000.00 criminal fine
1979 United America's Bank	New York, NY	Bank Secrecy Act	$12,000 criminal fine
1981 Garfield Bank	Montebello, CA	Bank Secrecy Act	$2,300,000 criminal fine
1982 Palm State Bank	Palm Harbor, FL	Bank Secrecy Act	$2,000 criminal fine

FINANCIAL INSTITUTION	LOCATION	VIOLATION	PENALTY

Senate Permanent Subcommittee
On Investigations
EXHIBIT #_____51_____

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

RESPONSES TO APRIL 2001 PSI FOLLOW-UP QUESTIONS TO JOSEPH MYERS

(1)(a) Please indicate whether the Department agrees that foreign shell banks are inherently more difficult to monitor than foreign banks with a physical presence due to, for example, the relative inaccessibility of a shell bank's personnel and records, the inability of bank regulators to observe bank operations or conduct unannounced inspections, and the problems involved with U.S. law enforcement's locating and obtaining information from a foreign shell bank.

ANSWER: The Department of the Treasury believes that thorough and effective supervision and oversight of a financial institution is essential to combat money laundering and related financial criminal activity. We agree with the Committee that the types of foreign shell banks described in the Minority Report's case studies were not subject to adequate regulatory oversight and supervision by the countries where they were located or chartered for the types of reasons suggested in this question: the relative inaccessibility of the institution's records and personnel to regulatory officials in the countries, the inability of the countries' regulators to observe the institution's operations and to conduct unannounced inspections, and the difficulties law enforcement faces in obtaining records and information from such institutions. Where foreign "shell" banks are licensed in a jurisdiction with a weak or inadequate supervisory regime, then such institutions are particularly vulnerable to exploitation by money launderers.

The Department does not believe, however, that the absence of a physical office to receive customers, standing alone, necessarily exposes an institution to an increased risk of money laundering activity. For instance, there are a number of Internet-centered banks that are subject to adequate supervision by US financial regulators, including the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC). These Internet-centered financial institutions do not have a physical address to receive customers or to engage in face-to-face transactions with customers although they do maintain a physical location to process the institution's "back room" operations. These US-licensed institutions are subject to adequate regulatory supervision and must comply with all Treasury and regulatory anti-money laundering requirements.

(b) During the hearing, the Department indicated that it wanted to consider the case of "an Internet bank that doesn't really exist anywhere but may be legitimate and sufficiently supervised."

> **(1) Are there Internet banks which are licensed to conduct banking operations in the United States and which have no physical presence in any jurisdiction and no affiliation with any bank that has a physical presence? If yes, please indicate approximately how many of these banks are currently licensed in the United States?**

ANSWER: Treasury is not aware of Internet-based banks licensed to conduct banking operations in the US which do not have a physical presence in the US or whose books and

records cannot be accessed in the US. Any depository institution that receives a charter to conduct operations in the US and has federally insured deposits is subject to regulatory and supervisory oversight by a US federal bank regulatory agency. The OCC is reviewing the issues concerning situations where banks maintain some of their records off-shore to determine if additional steps may be necessary. While some Internet-based banks do not have a "bricks and mortar" lobby where customers can enter to meet with bank officials, the US chartered Internet-based banks do, at a minimum, maintain a physical presence for their back office operations. If an Internet-based bank were to elect to maintain this physical presence outside of the US, US bank regulators would still require any such entity to make its books and records available for inspection within the US.

Treasury is not aware of foreign-licensed Internet-based banks, that are not "shell" banks as defined by the Committee, that conduct business operations in the US and that are not currently subject to regulation by US or other competent foreign authorities. However, as we note in response (b)(2) below, it is certainly possible for US citizens to open online accounts with foreign-licensed shell banks in jurisdictions that lack adequate anti-money laundering regulation and supervision. US federal financial regulators would have no way of knowing about these online transactions and would have no ability to regulate or supervise the conduct of that foreign-licensed Internet-based bank if the foreign institution was not licensed or chartered to do business in the United States. Of course, it is a criminal violation for an institution to receive deposits in the US without a license from a state or federal authority.

(2) Please identify three non-U.S. Internet banks currently in operation, which meet the Department's description and, for each bank, provide its name, web address, where it is licensed, and the name and telephone number of a person at the bank who can answer questions about its operation.

ANSWER: See answer (b)(1) above. Treasury is not aware of non-US Internet-based banks doing business in the US that are not currently subject to regulation by US or other competent authorities. For example, Security First Network Bank, approved for a charter by the Office of Thrift Supervision (OTS) on May 10, 1995, is owned by the Royal Bank of Canada but maintains a presence in Atlanta, Georgia. Similarly, CIBC National Bank, approved for a charter by the OCC on July 9, 1999, maintains a presence in Maitland, Florida but is owned by the Canadian Imperial Bank of Commerce in Toronto, Canada.

There are also Internet-based banks that are licensed in other countries, such as the United Kingdom, and that may conduct business with US residents. Like their US licensed counterparts, some of these institutions maintain a physical office in the US, but it is not used to conduct face-to-face business with customers. Many of these entities are affiliated with other traditional financial services companies that are licensed in the foreign country. For example, the UK-licensed Internet bank, Egg, is affiliated with the UK-based Prudential Financial Services Company. Treasury does not have comprehensive information about each of these foreign-licensed institutions and does not know whether these institutions permit residents outside of the jurisdiction of licensing to open online accounts.

Of course, US citizens can open online accounts with foreign shell banks in jurisdictions that lack adequate anti-money laundering regulation and supervision. US federal financial regulators would have no way of knowing about these online transactions and would have no ability to regulate or supervise the conduct of the foreign shell bank if the foreign shell bank was not licensed or chartered in the United States and/or if the foreign jurisdiction did not honor a US regulator's request for information.

(3) In 1997, an Internet bank called European Union Bank, which was licensed in Antigua and Barbuda, had no physical office, and operated solely over the Internet using a computer allegedly located in the United States, was closed after millions of dollars in bank deposits disappeared. Is the Department aware of any evidence indicating that a foreign Internet shell bank poses fewer money laundering risks than a foreign shell bank which does not operate solely over the Internet?

ANSWER: Treasury believes that the quality of a jurisdiction's regulatory regime plays a paramount role in reducing the threat of money laundering in a jurisdiction. Treasury has been working hard bilaterally, and through an interagency process, to convince other jurisdictions of the need to implement comprehensive and trustworthy regulatory structures in their financial sectors. In a jurisdiction with weak and ineffective regulatory and supervisory regimes, the form of the "shell" bank – whether Internet-based, based in a building, or both – has little consequence for the institution's vulnerability to money laundering activity or the jurisdiction's ability to monitor effectively money laundering activity in the institution.

(c) During the hearing, the Department indicated that it wanted to consider the case of foreign shell banks that "may be subsidiaries of, for example, securities companies or insurance companies."

(1) Is the Department aware of insurance companies with affiliated shell banks? If so, please identify three such insurance companies and, for each, provide its name, the name of its shell bank, the countries where the insurance company and bank are licensed, and the name and telephone number of a person at the insurance company and at the shell bank who can answer questions.

ANSWER: The Treasury Department does not have sufficient information available to answer this question. Treasury has notified representatives of the state insurance regulators of the Committee's interest in this area, but we cannot provide further responsive information at this time.

(2) Approximately how many securities firms are believed to have affiliated shell banks? Approximately how many U.S. licensed broker-dealers have affiliated shell banks? Other than Mercado Abierto S.A. and M.A. Bank, please identify three securities firms with affiliated shell banks, and, for each, provide its name, the name of its shell bank, the countries where the securities firm and bank are licensed, and the name and telephone number of a person at the securities firm and at the shell banks who can answer questions.

ANSWER: As part of the Treasury Department's efforts to respond to this question, the Securities and Exchange Commission (SEC) agreed to conduct an informal survey of several of the largest securities firms not owned by a bank holding company. The securities firms indicated that they would consult with the appropriate personnel in their corporations, and none of the surveyed firms reported that it had an affiliated shell bank. SEC staff indicated that it would be difficult for the SEC to determine this type of information for most of the over 8,000 U.S. registered broker-dealers because the information is not readily available.

A more comprehensive answer would require additional information from securities firms that are owned by bank holding companies or national banks. The Federal Reserve Board supervises bank holding companies and the OCC supervises national banks, and they are both aware of the Committee's inquiry.

> **(3) If a shell bank's parent firm is a regulated securities firm or insurance company in another country, would the securities regulator or insurance regulator in the country where the parent firm is located have regulatory authority over the foreign shell bank? Is it likely that the securities regulator or insurance regulator would have the authority to require the foreign shell bank to comply with anti-money laundering requirements applicable to the parent firm? What about the situation where the parent firm has an office and is regulated in the United States and the shell bank is licensed in another country; would the US regulators have regulatory authority over the subsidiary bank?**

ANSWER: The Department lacks sufficient information to respond to the portions of the above question concerning the authority of foreign securities and insurance regulators, since the authority of a securities or insurance regulator varies country by country. Similarly, whether a foreign shell bank that is the subsidiary of a foreign parent, and is regulated in a different jurisdiction than the parent, would be subject to the same anti-money laundering compliance regime as the parent company likely also varies country by country. Experience suggests that, depending on the jurisdictions involved, anti-money laundering compliance requirements will differ when the parent and sub are not subject to regulation in the same jurisdiction.

For example, US regulators would not necessarily have authority over, nor the practical ability to supervise, a shell bank licensed in a foreign country, even though the foreign parent firm has an office and is regulated in the United States. The SEC is not an "umbrella" regulator. While the SEC has access to and regulatory authority over broker-dealers registered in the US, the SEC would not automatically have access to nonpublic information maintained by a foreign entity controlled by the US registered broker-dealer that was not related to the broker-dealer's operations in the US with US customers.

Similarly, federal financial regulators exercise Bank Secrecy Act (BSA) regulatory authority only over the US portion of a financial institution's activities, and do not have the statutory authority to regulate the non-US operations of a foreign-licensed institution or the affiliate of a foreign-licensed institution operating outside of the US, since the BSA does not have extraterritorial application.

(4) In the case of Mercado Abierto S.A. which is an Argentine securities firm, and M.A. Bank, which is a subsidiary of Mercado Abierto and a shell bank licensed in the Cayman Islands, the investigation found that Argentine banking regulators and securities regulators did not exercise any regulatory authority over M.A. Bank. The investigation also identified over $7 million in illegal drug deposits at M.A. Bank. Does the Department believe that the presence of the parent firm in Argentina should have resulted in increased regulatory scrutiny and anti-money laundering oversight of the firm's subsidiary bank? If so, what should have happened that did not?

ANSWER: The Department cannot conclude categorically that every time a parent company is licensed in one jurisdiction but maintains a subsidiary institution licensed in another jurisdiction that the subsidiary institution should necessarily be subject to increased regulatory scrutiny and anti-money laundering oversight. As mentioned elsewhere in the Department's responses to the Committee's questions, the Department believes that the quality of a jurisdiction's regulatory supervision scheme is of critical importance.

As a general matter, the Department expects corporate entities to exercise the diligence necessary to monitor the anti-money laundering compliance of the entities within their corporate structure. While regulatory scrutiny and examination for compliance with anti-money laundering requirements play an important role, they cannot substitute for an institution's ability to implement effective practices and procedures to identify and root out money laundering activity throughout the institution's corporate structure.

As also noted above, federal financial regulators exercise BSA regulatory authority only over the US portion of a financial institution's activities, and do not have the statutory authority to regulate the non-US operations of a foreign-licensed institution since the Bank Secrecy Act does not have extraterritorial application. Thus, the activities of the foreign parent firm and that foreign parent's foreign-licensed bank subsidiary would not, in any event, generate increased regulatory scrutiny in the US by US financial regulators.

(2) Suppose that a U.S. bank wanted information or guidance about a foreign bank that has applied for a correspondent account and that is not named in any U.S. bank advisory or other alert. Is there any particular federal office that the U.S. bank could contact to obtain this information? If so, what is the name, telephone number, and web address of that office?

ANSWER: There is no single federal office that a US bank can contact to obtain information about whether to open a correspondent account for another institution. While the federal government does make a considerable amount of information available to US financial institutions, the institution, itself, is ultimately responsible for undertaking the necessary amount of due diligence to ensure that the foreign correspondent institution is an entity whom the US institution wants as a customer. In addition to examining the information detailed below, the US institution can use commercial databases to research the foreign institution's owners, officers, and directors and can direct the US institution's employees and agents to pursue additional

avenues of inquiry. This additional inquiry can include: verifying that the foreign institution has a valid banking charter; obtaining and reviewing the foreign institution's financial statements; visiting the foreign institution; obtaining a list of the proposed correspondent's set of correspondent bank relationships; visiting and speaking with appropriate individuals at the foreign institutions; discussing the proposed institution with the US bank's contacts in the country and region; and determining whether there are any adverse legal rulings against the foreign institution.

As a general rule, law and regulation prohibit US financial regulators from divulging certain information provided by one regulated financial institution to another regulated financial institution. For example, federal law prohibits disclosing that a suspicious activity report (SAR) has been filed relating to an individual or institution. In rare circumstances, and when warranted, however, information can be disclosed consistent with the regulators' guidelines. Information that the federal financial regulators obtain from their foreign counterparts also cannot ordinarily be disclosed to private sector entities.

The Department of the Treasury has encouraged US financial institutions to consult some or all of the following sources, available on US Government web sites, for information that can help inform the US institution about whether to open a correspondent account. These sources of information were included as part of the recently released Guidance on Enhanced Scrutiny for Transactions That May Involve the Proceeds of Foreign Official Corruption. Informative sources include:

- The annual *National Money Laundering Strategy* issued jointly by the Department of the Treasury and the Department of Justice (www.treas.gov/press/releases/reports.htm);
- Advisories and other publications issued by the Financial Crimes Enforcement Network (FinCEN) of the Department of the Treasury (www.treas.gov/fincen);
- The Office of the Comptroller of the Currency's Alerts and Advisories (www.occ.treas.gov/issue.htm#news);
- The list of Specially Designated Nationals and Blocked Persons issued by the Treasury Department's Office of Foreign Assets Control (www.treas.gov/ofac);
- Evaluations of particular nations in the International Narcotics Control Strategy Report, prepared annually by the State Department (http://www.state.gov/www/global/narcotics_law/narcotics.html);
- The World Factbook published annually by the Central Intelligence Agency (www.cia.gov/cia/publications/factbook/index.html);
- Reports issued by the General Accounting Office on international money laundering issues (www.gao.gov);

- Publications and other materials posted on web-sites of United States Government Departments and Agencies (www.firstgov.gov); and

- Reports issued by Congressional Committees of hearings and investigations concerning international money laundering (www.house.gov; www.senate.gov).

(3) Please provide any recommendations or describe any steps that are under consideration or are being taken by the Department to improve the information and guidance that U.S. bank regulators provide to U.S. banks regarding particular foreign banks that present increased money laundering risks.

ANSWER: On January 16, 2001, the Department led an interagency effort to issue Guidance on Enhanced Scrutiny for Transactions That May Involve the Proceeds of Foreign Official Corruption. The guidance noted that it was limited to "one type of high-risk activity" and the Department will continue to consult with interagency experts to determine whether additional guidance is necessary.

The Department is also aware that the New York Clearing House Association is working on a set of draft guidelines addressing shell banks, offshore banks, and institutions in high-risk jurisdictions, and that the Clearing House has discussed the draft with PSI staff. The Department has asked to review the draft and will consider additional guidance, as necessary, to assist or supplement the efforts of the Clearing House.

More generally, the Department will continue to meet with the federal financial and securities regulators to explore whether federal law permits any additional administrative steps that can be taken to provide further information to US institutions concerning non-US licensed institutions that present an increased risk of money laundering activity.

(4) The 2000 BSA Handbook identified international correspondent accounts as a high risk area for money laundering for the first time. Please describe what steps are being taken by U.S. bank examiners to ensure that U.S. banks are employing enhanced due diligence procedures when opening and monitoring correspondent accounts for high risk foreign banks.

ANSWER: In September, 2000, the Office of the Comptroller of the Currency (OCC) issued the Bank Secrecy Act/Anti-Money Laundering Examination Handbook, applicable to banks supervised by the OCC and to national bank examiners. This handbook establishes examination procedures for evaluating a bank's system to detect and report suspicious activity, and identifies common money laundering schemes (e.g., structuring, the Black Market Peso Exchange, Mexican Bank Drafts, and factored third party checks). The handbook also identifies high-risk products and services, including international correspondent banking relationships, special use accounts, and private banking, and establishes examination procedures to address these subjects, including specialized procedures for foreign correspondent banking.

In addition, the OCC has initiated a program to identify banks that may be vulnerable to money laundering and examine those banks using agency experts and specialized procedures. Some of those examinations have focused on foreign correspondent banking. Banks are selected for such examinations based on, among other things, their location in high-intensity drug trafficking or money laundering areas, law enforcement leads, excessive currency flows, significant private banking activities, suspicious activity reporting and large currency transaction reporting patterns, and funds transfers or account relationships with drug source or stringent bank secrecy countries.

From August 2000 through March 2001, the OCC conducted reviews of all national banks and Federal Branches with significant exposure to one or more of the FATF designated non-cooperative countries and territories. Exposure was determined by reviewing the nature and content of international transactions to and from those countries including transactions through correspondent bank accounts. The objective of the reviews was to determine the nature and extent of exposure and the level of commensurate anti-money laundering controls. The OCC is currently compiling the results of those reviews and plans to conduct additional supervisory activity in institutions with identified weaknesses. In addition, all BSA examinations that the OCC conducts in 2001 will include a review of foreign correspondent banking activities, as applicable.

(5) Please provide any other recommendations that the Department has for strengthening anti-money laundering safeguards or enforcement actions in the correspondent banking field.

ANSWER: The Department wants to eliminate as much money laundering vulnerability in correspondent banking as possible. In approaching this task, the Department also seeks to protect customer privacy and wants to maintain those lawful and beneficial aspects of correspondent banking activity without imposing unnecessary regulatory burdens.

The Department has conducted meetings with federal financial and securities regulators and the private sector to determine whether the Department can identify particular types of transactions as presenting significant risks of money laundering activity. The Department looks forward to working with the Committee and the Congress to help educate US financial institutions about the risks and vulnerabilities of particular activities to money laundering activity and improving anti-money laundering compliance and supervision.

The Department will continue to encourage US financial institutions to review their existing relationships with correspondent account customers to determine whether to apply heightened anti-money laundering safeguards to any of these relationships. The Department is aware that the New York Clearing House Association is working on a set of draft guidelines concerning anti-money laundering policies and procedures relating to correspondent banking. While the Department is not participating in drafting these guidelines, the Department will study the work product to supplement the efforts of the Clearing House and to consider whether the Department needs to issue additional guidance. For example, the Department may consider additional guidance concerning maintaining correspondent accounts for non-US chartered banks that are not affiliated with an entity in a well regulated or supervised jurisdiction and that do not maintain a physical presence in any jurisdiction.

Senate Permanent Subcommittee
On Investigations
EXHIBIT #52

POST HEARING QUESTIONS FOR CITIBANK REPRESENTATIVES

1. A memo (hereafter referred to as the "June 2000 memo") prepared by an investigator at Citibank's anti-money laundering unit in Florida contained the following: "The FTN Team of the AML Unit has reviewed the transfers conducted through Mercado Abierto and its holdings. After reviewing the funds transfer activity of the aforementioned from April '1997 through March '2000, a total of $84,357,473.21 were transferred to the entities mentioned below. The consecutive whole dollar amounts transferred and the nature of the business contributed to the rise in suspicion and ongoing monitoring."

Citibank provided the Subcommittee with charts that detailed the parties and amounts related to the transactions referenced in the June 2000 memo. The aggregate amount of those transactions was approximately $84 million. Those charts also showed that of the $84 million in transactions referenced in the June 2000 memo, approximately $22 million were processed through M.A. Bank.

Another document provided to the Subcommittee by Citibank showed that an Assistant Vice President of Citibank's anti-money laundering unit reviewed the June 2000 memo and the file accompanying it and approved the filing of a Suspicious Activity Report ("SAR") with the Financial Crimes Enforcement Network ("FINCEN").

At the hearing, Mr. Bermudez testified that Citibank filed a SAR on the $84 million in transactions referenced in the June 2000 memo. He then stated that "the Tampa investigator has told the staff that this figure was not correct."

a.) Please explain why and in what regard the figure is incorrect.

b.) When and how did Citibank discover that not all of the $84 million worth of transactions referenced in the June 2000 memo were suspicious?

c.) Why did an Assistant Vice-President of Citibank's anti-money laundering unit approve the June 2000 memo and why did Citibank submit a SAR to the U.S. government on all $84 million of the transactions referenced in the June 2000 memo?

2. A letter sent to the Minority Staff by Citibank's legal counsel, Jane Sherburne, which described the benefits and operations of offshore shell banks, contained the following statement: "Mailing statements for activity in the private bank account of a customer, for example, risks breaches in confidentiality as well as triggering a taxable event."

Please have Ms. Sherburne explain that statement, in particular, how mailing a bank statement triggers a taxable event.

3. How many shell banks - defined as banks which have no physical presence in any jurisdiction and which are not branches or subsidiaries of banks that have a physical presence in a jurisdiction - have correspondent accounts with Citibank? Please provide a list of the banks and where they are licensed.

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April 6, 2001

By Telecopy and First Class Mail

Hon. Carl Levin, Ranking Minority Member
Permanent Subcommittee on Investigations
Committee on Governmental Affairs
United States Senate
SR-193 Russell Senate Office Building
Washington, DC 20510-6262

Dear Senator Levin:

Citibank provides the following answers to the Post Hearing Questions for Citibank Representatives that you included in your letter of March 23, 2001:

(1) You have asked Citibank to explain the circumstances surrounding the use of the figure "$84 million" in a June 2000 memo prepared by an investigator in Citibank's Anti-Money Laundering and Investigations Unit.

As the investigator told the Minority Staff when he was interviewed, he wrote the June 2000 memo in response to a March 1, 2000 article in which the Miami Herald reported that $1.8 million in alleged drug-trafficking proceeds had been moved through correspondent accounts belonging to Mercado Abierto. The article identified Mercado Abierto, M.A. Bank, and M.A. Casa de Cambio, but provided no identifying information about the specific transfers that made up the $1.8 million in alleged drug trafficking proceeds or about the originators or beneficiaries of those transfers.

As the investigator informed your staff, because he had no way of identifying from the newspaper article the specific transfers that made up the $1.8 million, he reviewed all of the transfers into the four accounts owned by Mercado Abierto and its affiliates that took place between April 1997 and March 2000 and that fell within the $50,000 to $1 million range that the AML Unit established in consultation with law enforcement officials. The investigator found that between April 1997 and March 2000, approximately $84 million was transferred to the Mercado Abierto entities in transaction that met the AML Unit's parameters. The investigator reviewed these transfers, the originators of these transfers, and their beneficiaries, and found that

he could not identify the $1.8 million in allegedly drug-related transfers among the $84 million in transfers he reviewed.

Given that the Miami Herald had reported that allegedly drug-related transfers were being made to Mercado Abierto and its affiliates, the investigator decided to provide to the appropriate law-enforcement authorities the information he was able to collect regarding these transfers. This was the same information that was provided to the Minority Staff. As the investigator told the Minority Staff during his interview, he was not as precise as he could have been in describing the relationship between the $1.8 million reported in the newspaper and the $84 million in transfers that he investigated. Nonetheless, in his interview the investigator emphasized to the Minority Staff that he did not regard the entire $84 million as suspicious; rather, it was only the $1.8 million described in the newspaper article that was suspicious but because he had been unable to isolate it from other transfers, he and his supervisor decided to report the total amount of all transfers within the parameters decribed above ($84 million) to the appropriate law-enforcement authorities.

(2) You have asked us to explain the following sentence, included in a letter discussing offshore banks: "Mailing statements for activity in the private bank account of a customer, for example, risks breaches in confidentiality as well as triggering a taxable event." Specifically, you asked "how mailing a bank statement triggers a taxable event."

In the paragraph in which this sentence appears, we were attempting to explain why some offshore banks may choose not to print and mail statements to their customers, and therefore why the ability to print and mail statements is not necessarily a reliable test of the legitimacy of an offshore bank's back office. We had understood that customers of offshore banks may be concerned that an aggressive tax authority in a territorial tax jurisdiction (i.e. a jursidiction that does not tax income earned offshore by its citizens) would take the position that the income had been earned onshore if statements had been received onshore. On further examination, however, we think it is unlikely that tax authorities would take such a position, although, as Mr. Fedrigotti noted at the hearings, it is his understanding that printing statements could create a sufficient business presence to subject the offshore bank itself to taxation in the jurisdiction in which the back office is located.

3) You have asked Citibank to tally the number of "shell banks" -- as defined by the Minority Staff -- that have correspondent accounts with Citibank. Citibank is currently in the process of gathering the information necessary to respond to this question. As we have told the Minority Staff, Citibank does not have a centralized correspondent banking department. It

therefore must gather this information separately from each of its control units in more than 100 countries around the world. Understandably, this process is taking some time. We expect to be able to provide you with a response shortly.

Sincerely yours,

Jane C. Sherburne

cc: The Honorable Susan M. Collins
Chairman

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___53___

Bank of America.

April 9, 2001

Senator Carl Levin
Ranking Democrat
Permanent Subcommittee on Investigations
193 Russell Senate Office Building
Washington, D.C. 20510

Re: Response to letter dated March 23,2001

Dear Senator Levin:
The following are responses to the questions from issues discussed in the hearing:

1. *Please provide the opening and closing dates of Antigua Overseas Bank's correspondent account with Bank of America.*

Antigua Overseas Bank's correspondent relationship:
Open Date: March 1992
Close Date: June 2000

2. *What can Bank of America do to ensure that when it terminates a correspondent*

relationship with a bank because it does not feel comfortable doing business with that bank, it does not inadvertently continue to service that bank because that bank also has, or subsequently establishes, a correspondent account with another bank that also has a correspondent account at Bank of America?

No system or process currently exists. However, we are currently looking at two or three options. While a systematic process can be designed to identify and stop such transactions, we need to review the legal implications of doing so. In addition, we also need to determine how we would work with our good correspondent bank clients to effect such a process. We hope to have a solution in place within the next 90 days.

If you have additional questions please feel free to contact Monique Maranto at 410-605-5208 or me.

Sincerely,

James C. Christie
Senior Vice President
Global Treasury Risk Management
510.873.5701

Senate Permanent Subcommittee
On Investigations
EXHIBIT #___54___

POST HEARING QUESTIONS TO MR. WEISBROD

1. Please provide the opening and closing dates of Antigua Overseas Bank's ("AOB") correspondent account with Chase Manhattan Bank.

2. Subsequent to the hearing, it came to the attention of the Minority Staff that AOB established its account with Chase Manhattan Bank after American International Bank had been placed in receivership. At the time that the AOB correspondent account was opened at Chase Manhattan Bank, did any representatives of Chase Manahattan Bank know that AOB was serving as a correspondent bank to other banks and, if so, did those representatives know to what banks AOB was providing correspondent services?

3. What can Chase Manhattan Bank do to ensure that when it terminates a correspondent relationship with a bank because it does not feel comfortable doing business with that bank, it does not inadvertently continue to service that bank because that bank also has, or subsequently establishes, a correspondent account with another bank that also has a correspondent account at Chase Manhattan Bank?

Andrew R. Kosloff
Vice President and
Assistant General Counsel
Legal Department

April 5, 2001

VIA AIRBORNE

Hon. Carl Levin
Ranking Democrat
Permanent Subcommittee on Investigations
193 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Levin:

Your letter dated March 23, 2001 addressed to David Weisbrod of TheChase Manhattan Bank ("Chase") has been referred to me for response.

As to the three follow up questions set forth in your letter, Chase responds as follows.

Response to question 1: An account for Antigua Overseas Bank, Ltd. ("AOB") was opened at Chase's United Nations branch office on December 1, 1998. The account was closed to new transactions on August 1, 2000. All outstanding checks drawn on the account were cleared by November 15, 2000 and the account was completely closed as of that date.

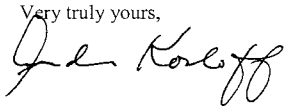
Response to question 2: Chase was not aware that AOB was serving as a correspondent bank for other banks.

Response to question 3: It is Chase's policy only to accept correspondent relationships from banks with good reputations in the marketplace. Our enhanced "know your customer" due diligence process for correspondent banks now includes a requirement that our staff investigate the correspondent's "know your customer" policies and procedures to determine whether their policy requires enhanced due diligence/standards of care relating to the opening of accounts for their correspondent banks. Inquires are also required as to whether our correspondents allow the opening of accounts on their books for shell banks and banks with offshore licenses.

J.P. Morgan Chase & Co. • One Chase Manhattan Plaza, Floor 26, New York, NY 10081
Telephone: 212 552 4672 • Facsimile: 212 552 4272
andrew.r.kosloff@chase.com

In addition, as we have noted JP Morgan Chase has joined with its fellow members of The New York Clearing House and formed a task force to develop a code of best practices for correspondent banking, and we will carefully consider any recommendations made by this group.

Very truly yours,



Senate Permanent Subcommittee
On Investigations
EXHIBIT #____55a____

INTERNATIONAL FINANCIAL SECTOR REGULATORY AUTHORITY
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Lower Nevis Street
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14th July 2000

Ms Elise Bean
c/o The Hon Carl Levin
Permanent Subcommittee on Investigations
United States Senate
Committee on Governmental Affairs
Washington
DC 20510-6250
USA

Dear Ms Bean

I refer to a letter dated 29th June 2000 from Senator, the Honourable Carl Levin, Ranking Minority Member, Permanent Subcommittee on Investigations, in which he requested information on a number of banks.

We are pleased to cooperate fully with his request by providing the information in the format outlined in his letter.

It should be noted that one of the banks on the list is not regulated by the International Financial Sector Regulatory Authority (IFSRA). Swiss American National Bank of Antigua is a domestic bank and is regulated by the Eastern Caribbean Central Bank (ECCB) which regulates all domestic banks both in Antigua and Barbuda and several other countries in the Eastern Caribbean. The ECCB is an independent regulatory agency with a staff of over 300 persons and it enjoys a high reputation in the community of Central Banks around the world and with the International Monetary Fund (IMF). While IFSRA is not the regulatory body for Swiss American

National Bank, it has voluntarily provided us with the information requested and we have included it in the enclosed package.

We have also included some information about the legislative, regulatory and investigative machinery in Antigua and Barbuda that we believe you should know.

Since 1998, we began a complete reform of the legislative, regulatory, investigative and enforcement machinery governing money laundering and other financial crimes. Our reform process was so intense and so successful that we were among a handful of 35 jurisdictions that successfully passed a rigorous evaluation by the Financial Action Task Force (FATF) in June 2000. We were very pleased that we were found to be a cooperative jurisdiction for the prevention of money laundering. The review team for The Americas was led by Mr Joseph Myers of the US Department of Treasury, and we feel sure that he would be able to provide you with objective information on our strenuous efforts to establish machinery that meets the highest international standards.

Below, we highlight some of the measures that we have taken:

- we revamped the Board of Directors of IFSRA to ensure that it has no connection with the institutions in the private sector. It is now comprised of persons with legal and law enforcement background as well as an understanding of the obligations to the international community. The Board is supported by a qualified team at IFSRA who have a strong accounting and auditing background.

- our legislature passed legislation that forbids the acceptance of cash into our offshore banks. There is therefore no opportunity for unsourced and untraceable funds to reach our banking system.

- by law, banks cannot open anonymous accounts; the beneficial owners of bank accounts must be known.

- IFSRA and the Office of National Drug Control Policy (ONDCP), which is a Financial Investigation Unit, have imposed, by law, strict know your customer requirements with which the banks are obliged to comply by law. There are severe penalties for non-compliance.

- all banks are required to report suspicious transactions and the ONDCP carries out training programmes for all banks to train their staff to be alert to suspicious transactions; in the last year, ONDCP has investigated 22 suspicious transactions reported by banks.

- while banks are governed by confidentiality laws, regulatory and enforcement authorities have the power by law to obtain financial information in the case of criminal matters and to share such information with competent authorities in other jurisdictions.

- with regard to bearer-share ownership of International Business Corporations (IBC's), the legislature has enacted legislation where registered agents in Antigua and Barbuda are required to know the identity of the owners of such bearer-shares and to maintain a record of such ownership in Antigua and Barbuda. It is a violation of the law for such records not to be maintained, and it is equally a violation of the law for the owners of bearer-shares to provide false information.

- our jurisdiction has cooperated fully with other jurisdictions in the international community to prevent money laundering and to prosecute criminals. We have cooperated successfully with authorities in the United States, the United Kingdom, Switzerland, Canada and the Ukraine and our cooperation has brought criminals to justice on money laundering, fraud and tax evasion.

Both the Government of Antigua and Barbuda and the authorities are very keen to maintain our jurisdiction in the forefront of the prevention of money laundering. We are very concerned that Antigua and Barbuda should repair permanently a bad impression, created in the mid 1990's that the jurisdiction is poorly supervised. To this end, we have made significant strides that have been publicly acknowledged by governments and international institutions such as the United Nations, the FATF, the US Departments of State and Treasury, the United Kingdom Department of Treasury and the Foreign and Commonwealth Office.

I have taken the liberty of including in this package of material, copies of the relevant laws governing regulation and money laundering as well as details of bank requirements for "know your customer" practices and procedures. I hope these will be of help to you.

Ambassador Ronald Sanders will be contacting you during the course of the week beginning 17th July to establish a date when he, the Honourable Wrenford Ferrance, Head of ONDCP and I could come to Washington to see you.

I close by again assuring you of Antigua and Barbuda's commitment to the prevention of money laundering and other financial crime and our willingness to assist you in your work.

Yours sincerely

Althea Crick
Executive Director

Senate Permanent Subcommittee
On Investigations
EXHIBIT #55b

JERSEY FINANCIAL SERVICES COMMISSION

Ms Elise Bean
Deputy Chief Counsel to the Minority
Permanent Sub-Committee on Investigations
United States Senate
193 Russell Buildings
Washington DC 20510
U.S.A.

Your Ref.:

Our Ref.: RCP/jw/G214

13th March 2001

Dear Elise

Correspondent Banking

Thank you for sending me a copy of the Report of the Minority Staff of the Permanent Subcommittee on Investigations. I was most grateful to you for giving me advanced warning of the publication of this Report and for your sterling efforts to get me a copy. I have read it with interest.

I hope you will find it helpful if I make a couple of points about the references to Jersey. Overall, I believe that the discussion of the Hanover/Standard case is fair and I am very pleased that we were able to work with you on this matter.

Nevertheless, a few points remain on the references to Jersey:-

(a) in Section E you point out that bank regulators in Jersey declined to provide to you a special report that resulted in the censure of Standard Bank Jersey Limited. This is in a section which suggests that this kind of secrecy somehow inhibits anti-money laundering efforts. In fact, of course, as you are aware, we are perfectly capable of submitting such a report to other regulators and to law enforcement agencies - and have done so. As a regulator, we do not have a direct gateway to you. However, you will recall that we encouraged you to ask a US agency (such as the Department of Justice or the US Federal Reserve, with whom we do have a gateway) to request a copy of the Report from us. They never did so. That is a pity. Nevertheless, it is fair, I think, to say that the fact that the Subcommittee did not receive a copy of the Report was not a matter which would have inhibited in any way any international efforts against money laundering.

(b) In Section B. in the paragraph for shell banks, you say that Cayman Islands, Bahamas and Jersey told the Minority Staff investigators that they no longer issue bank licences to unaffiliated shell banks. It is quite wrong to include Jersey with the Cayman Islands

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E-MAIL: info@jerseyfsc.org INTERNET: www.jerseyfsc.org

and Bahamas in this context, since Jersey has never given licences to such banks since Jersey became a finance sector in the 1960s.

(c) In sub-section E, (Casio fraud) of Section 6 on money laundering, you suggest that the Jersey authorities apparently missed the bank's possible involvement in the Casio fraud. I am not sure on what basis you say this. In fact, we were perfectly well aware of this involvement and it was part of our on-going cooperation with authorities in the UK and elsewhere.

Notwithstanding these points, I do believe that the account of the Hanover/Standard affair is fair and that the Report is a very useful one. If there is any further way in which we can help the work of the Subcommittee, I hope you will let me know. Indeed, I do, as you know, from time to time, come to Washington DC and I look forward to our next meeting.

Yours sincerely

Richard Pratt
Director General

Senate Permanent Subcommittee
On Investigations
EXHIBIT #55c

PETER G. CROOK
Director General

Our Ref: CLM/BAP/CSG

Ms Linda Gustitus
Chief Counsel
The Permanent Sub-Committee on Investigations
Minority Staff Report on Correspondent Banking
193, Russell Senate Office Building
Washington DC
20510
United States of America

15 March 2001

Dear Madam

RE: MINORITY STAFF OF THE PERMANENT SUB-COMMITTEE ON INVESTIGATIONS - REPORT ON CORRESPONDENT BANKING

I and my colleagues here in Guernsey have read with interest your detailed and informative report into the money laundering risks of correspondent banking. It certainly highlights several areas of concern to all of us involved in the prevention and detection of money laundering.

We learned of a relationship between Guardian Bank and Credit Suisse (Guernsey) Limited a short while before Mr Mathewson's arrest and at that time the Commission discouraged Credit Suisse from continuing with the relationship and it was terminated in 1995. At the same time the then Managing Director of Credit Suisse (Guernsey) Limited left the Island to work for a bank in the Bahamas.

The Commission takes your report very seriously and has taken action in two areas as a response to it:

First, meetings have been held with Credit Suisse to impress upon them the seriousness of the situation and to ensure that all Guardian accounts have been closed. We have requested Credit Suisse (Guernsey) Limited to confirm that they have no similar relationships. We have been assured that the current management of Credit Suisse would not have accepted Guardian as a client and that Credit Suisse do not see correspondent banking as an appropriate business line for Guernsey. They would not now open any new correspondent banking relationships.

GUERNSEY FINANCIAL SERVICES COMMISSION
LA PLAIDERIE CHAMBERS, LA PLAIDERIE, ST. PETER PORT, GUERNSEY GY1 1WG
TELEPHONE: (01481) 712706/712801 FACSIMILE: (01481) 712010 INTERNATIONAL DIALLING CODE: 44 1481
E-MAIL: info@gfsc.guernseyci.com INTERNET: http://www.gfsc.guernseyci.com

Second, I have issued a notice to all Guernsey banks requiring them to confirm to the Commission whether or not they provide correspondent, clearing or similar banking relationships to other banks. If any such relationships are discovered the Commission will review them closely with the bank concerned. Any unacceptable relationships will result in the Commission requiring the bank to exit that business line.

Turning again to your report, there are two areas where the Commission feels that certain misconceptions should be corrected. The Commission is keen to ensure that perceptions of the Island held by international bodies are based upon a clear understanding of local laws and practices.

The first area is the sub-committee's definition of "offshore banks." Although the Committee is clearly entitled to define offshore banks in whatever way it feels is best it should be noted that Guernsey banks (and therefore Credit Suisse (Guernsey) Limited) do not fall within that definition. The definition states "Offshore banks have licences which bar them from transacting banking activities with the citizens of their own licensing jurisdiction or bar them from transacting business using the local currency of the licensing jurisdiction." There is only one category of banking licence issued in Guernsey and all Guernsey banks are fully supervised with a physical presence in Guernsey. All Guernsey banks may take deposits from residents of Guernsey as well as any other jurisdiction and in whatever currency they desire. There are no "offshore" banks in Guernsey under the sub-committee's definition.

The second misconception of Guernsey in the report is the reference on page 50 of the report to "a bank in a secrecy jurisdiction such as Credit Suisse in Guernsey." Mr Mathewson may have been under the misapprehension that Guernsey is a secrecy jurisdiction but it is not. There is no secrecy legislation in Guernsey. Common law banking confidentiality applies in Guernsey in precisely the same way as it applies in the United Kingdom. It is widely expected that confidentiality would be applied in Guernsey following the ruling in English law laid down by the case of Tournier vs National and Provincial Union Bank of England, 1924. Mr Mathewson's understanding of, and regard for, the laws of the jurisdictions in which he operated was evidently limited. In this particular case it was wrong.

Guernsey is keen to play its part in the fight against economic crime, and is keen to be seen to be fulfilling its international obligations in combating money laundering. To this end I hope you will have read that Guernsey was regarded as a co-operative jurisdiction by the Financial Action Task Force in its recent investigations – 15 jurisdictions were considered unco-operative. I am also pleased to write that the Financial Stability Forum placed Guernsey in Group 1 in its recent evaluation of financial centres. It commented that jurisdictions in Group 1 "are generally perceived as having legal infrastructures and supervisory practices and/or a level of resources devoted to supervision and co-operation relative to the size of their financial activities, and/or a level of co-operation that are largely of a good quality".

I hope you find the above helpful and, indeed, positive and trust that you will not hesitate to contact the Commission if you wish to seek any further clarification.

Yours faithfully

Peter. C. Crook.

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Senate Permanent Subcommittee
On Investigations
EXHIBIT #_____55d_____

GOVERNMENT OF ANGUILLA
FINANCIAL SERVICES DEPARTMENT

OFFICE OF THE DIRECTOR OF
FINANCIAL SERVICES

Statement of Facts

On the 2 March 2001 the Hon. Carl Levin in his opening statement commented that it was possible to purchase a bank based in Anguilla allegedly for an annual fee of $3,800 and pay only $7,600 for an offshore bank without a physical presence. This statement implied that there are few or no controls with respect to the setting up of offshore banks in Anguilla.

The Government of Anguilla has had formal bank licensing guidelines in place since 1994 and these meet the international standards set by the Basel Committee on Banking Supervision on the licensing of banks. As a result, any applications for a banking licence would be investigated fully to ensure that they would meet the Guidelines. No bank may operate without a licence and no licence would be given to a bank whose comptrollers were not considered to be fit and proper and which did not meet the Guidelines. Furthermore, Anguilla has no banks that do not have a physical presence in Anguilla.

The Anguillian Government charges a licence application fee of between equivalent US$370 and US$9,300, and an annual licence fee of between equivalent US$3,700 and US$18,600 for an offshore banking licence, depending on whether the applicant has an existing domestic banking licence or is applying for an offshore banking licence only. The fees are actually stated in Eastern Caribbean dollars.

Anguilla has a total of five (5) licensed banks on the island. Of these five banks, four have a domestic licence, including Bank of Nova Scotia and Barclays Bank and one has only an offshore banking licence. The offshore bank maintains its mind and management and its physical presence in Anguilla. It is regulated by this office. The four domestic banks are regulated by the Eastern Caribbean Central Bank.

On another point the St. Kitts-Nevis-Anguilla National Bank – also mentioned in the hearing of 5 February 2001 - is a bank which operates in St Kitts and Nevis, which is on the FATF NCCT list. This bank is neither licensed by nor maintains operations in Anguilla. The name dates from the period prior to 1980 when Anguilla was part of the now defunct Associated State of St Kitts-Nevis-Anguilla. The St Kitts-Nevis-Anguilla National Bank is subject to the laws of St Kitts and Nevis.

Anguilla is a UK Overseas Territory and is required by the United Kingdom to conduct its financial services within the framework of international financial regulatory standards and good practice. This conduct is overseen by HE The Governor who reports to the UK Government. It should be further noted that Anguilla has full anti-money laundering legislation, regulations and procedures in place.

I solemnly swear, under threat of perjury, that the above statement is true and correct to the best of my knowledge.

John D.K. Lawrence
Director of Financial Services
Government of Anguilla

12th June 2001

Notary Public

CARMENCITA DAVIS

My Commission expires JUN 19 2001

COMMISSIONER FOR OATHS
ANGUILLA

GOVERNMENT OF ANGUILLA
GUIDELINES FOR BANK LICENSING

1. The granting of a Banking Licence is discretionary: it is a privilege to be extended or withheld – it is not a right of any applicant. The key point of control in the regulation of the banking sector is when an application is being considered by the Licensing Authority.

   Applicants should understand that the proper investigation of their application may take some time and they should plan accordingly.

2. The supervision of banks engaged in cross-border operations requires close ongoing co-operation between the respective national supervisory authorities. Overseas Territories have taken steps to ensure that legal gateways exist within their banking legislation to permit a free exchange of regulatory information with other recognised banking supervisory authorities where such information will assist those authorities in carrying out their responsibilities.

LICENSING POLICY

3. The policy with respect to bank licensing, and except where the bank is predominantly locally owned and primarily doing business in the territory and those banks in Anguilla and Montserrat which are the subject to supervision by the Eastern Caribbean Central Bank, is as follows:

   a) full banking activities will only be permitted by branches or subsidiaries of banks with a well established and proven track record and which are subject to effective consolidated supervision by their home supervisory authority.

   b) off-shore banking will only be permitted by:

      (i) branches or subsidiaries of banks with a well established and proven track record which are subject to effective consolidated supervision;

      (ii) banks which, although not subsidiaries, are closely associated with an overseas bank, and which, by agreement, will be included within the consolidated supervisionexercised by the overseas bank's home supervisory authority;

      (iii) wholly-owned subsidiaries of acceptable non-bank corporations whose shares are quoted on a recognised stock exchange, where the objective of the subsidiary is to undertake in-house treasury operations only, and where such operations are fully consolidated within the published financial statements of the parent company.

4. Banks will only be granted licences if their place of incorporation, mind and management are within the same jurisdiction, or, in the case of a subsidiary, if the mind and management are located in the jurisdiction in which consolidated supervision is being exercised.

5. In line with internationally accepted good practice in relation to bank licence applications, the Licensing Authority should expect as minimum to be satisfied that:

   a) the management has proven experience in a relevant field of banking;

   b) the controllers are fit and proper people to undertake the functions envisaged and that the ongoing management will be competent;

   c) the institution will conduct its business in a prudent fashion;

   d) the institution has devised an appropriate and sustainable business plan;

   e) adequate capital and other resources will be provided in relation to that business plan;

   f) direct confirmation has been received from the supervisory authority in the country in which the institution or its proposed parent is incorporated, that the authority;

      (i) consents to the establishment of the institution in the host territory;
      (ii) will exercise consolidated supervision over the institution's overall activities, including within the host territory; and
      (iii) will cooperate fully in the sharing of regulatory information with the Licensing Authority.

   g) The applicant will appoint approved auditors who will perform audit work according to internationally accepted auditing standards.

   h) the applicant will disclose to the Licensing Authority all information that the latter legitimately needs to fulfil its overall supervisory responsibilities.

6. A prerequisite for the maintenance of sound banking standards is careful consideration of the financial standing, overall probity, skills and reputation of new banking applicants. To this end, in addition to obtaining the formal consent referred to in paragraph 5 (f), the Licensing Authority will consult parent supervisory authorities about these aspects in relation to each new applicant seeking to establish a bank in the territory. This consultation is an essential part of the Authority's duty to cooperate with other supervisory bodies.

7. Any subsequent change of ownership once the licence has been granted, will require the prior approval of the Licensing Authority and will be subject to independent verification and checking by the Authority, similar in scope to that required of the original applicant.

Senate Permanent Subcommittee
On Investigations
EXHIBIT # 55e

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Bahamas Banking Sector Moves Away From Shell Banks, Bahamas Financial Services Board 04 April 2001

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It is anticipated that as a result of the supervisory regime being implemented, there will be a reduction in the number of managed banks operating in The Bahamas. Of the 400+ companies licenced to conduct banking and/or trust business, it is estimated that some 125 operate as brass plates, i.e. with no physical office or employees in country.

Since the enactment of new financial services industry regulations, and the Government's announced intention not to encourage such operations, some of this number have decided not to remain in The Bahamas. Importantly, however, it is estimated that approximately half of the managed banks will remain and comply with local regulations - effectively establishing a physical presence in The Bahamas and expanding their operations.

A recent interview with Governor Julian Francis of The Central Bank of The Bahamas revealed that there have been no new licences granted for "managed banks" over the last 2 years, and that it has been the Government plan to phase out this category of bank licence in due course. Banks will be able to operate under "management agent" arrangements, but subject to strict conditions relative to management contracts and senior officer staffing, records being maintained in The Bahamas, and physical presence requirements.

Participating on a local radio Talk Show, the Prime Minister of The Bahamas recently confirmed his belief that there will be no net loss of jobs resulting from this initiative but, rather, the creation of new employment. "The Government is keenly interested in the growth and development of our financial services sector, an important and treasured pillar of our economy, and in the continued availability of employment for qualified Bahamians in the sector". The Prime Minister also has stated that in seeking to act prudentially in addressing issues resulting from various international initiatives, the Government took advice from the financial services industry, and most particularly the banking sector.

Central Bank Governor Francis in recent interviews also has projected that some 60 erstwhile-managed banks will be providing jobs in both senior and non-managerial positions. A move in that direction is anticipated to increase the demand for office space. The Governor also has stated his firm belief that The Bahamas is doing the things necessary to ensure that it continues to be seen as a serious jurisdiction, one that is perceived to embody those things that are attractive to legitimate business -- businesses which want to be in a mainstream, solid, well-regarded jurisdiction.

Since 1965 (introduction of banking regulation), The Bahamas has had uninterrupted growth and development, underpinned by the commitment of long-term partners. Economic stability and a strong partnership between the government and the constituents of the financial services sector have contributed to this success. The presence of the many international corporate partners in The Bahamas has been credited by the Prime Minister as giving encouragement of a bright and prosperous future for The Bahamas, particularly as a thriving international financial center.

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The Associated Press State & Local Wire March 1, 2001

The Associated Press State & Local Wire

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CAYMAN ISLANDS: Dozens of banks must set up local offices

GEORGE TOWN, **Cayman** Islands (AP) - **Cayman** Island regulators will require more than 60 of its licensed banks to establish offices in the British Caribbean territory, although the new rules will not apply to most of its banks.

The new regulations give 62 so-called "**shell" banks** nine months to each establish a staffed, principal office in the **Cayman** Islands at which they must maintain their records, the **Cayman** Islands Monetary Authority announced in a statement released Thursday.

The territory in 1992 stopped issuing new licenses for such banks, which do not have a physical presence in the islands and are not regulated by any foreign "home" country.

The majority of the banks licensed in the territory are subsidiaries of major foreign banks and are regulated by both the **Cayman** Islands and the "home" country, where the parent company is based.

The new rules do not apply to the 388 banks licensed in the **Cayman** Islands that are subsidiaries or branches of major banks, the authority said.

So far, 16 of the 62 "**shell" banks** have set up offices in the **Cayman** Islands, the authority said.