

TAX HAVEN BANKS AND U.S. TAX COMPLIANCE

HEARINGS

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

OF THE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

JULY 17 AND 25, 2008

Available via <http://www.gpoaccess.gov/congress/index.html>

Printed for the use of the
Committee on Homeland Security and Governmental Affairs



TAX HAVEN BANKS AND U.S. TAX COMPLIANCE

TAX HAVEN BANKS AND U.S. TAX COMPLIANCE

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

OF THE

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

JULY 17 AND 25, 2008

Available via <http://www.gpoaccess.gov/congress/index.html>

Printed for the use of the
Committee on Homeland Security and Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE

44-127 PDF

WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

JOSEPH I. LIEBERMAN, Connecticut, *Chairman*

CARL LEVIN, Michigan	SUSAN M. COLLINS, Maine
DANIEL K. AKAKA, Hawaii	TED STEVENS, Alaska
THOMAS R. CARPER, Delaware	GEORGE V. VOINOVICH, Ohio
MARK PRYOR, Arkansas	NORM COLEMAN, Minnesota
MARY L. LANDRIEU, Louisiana	TOM COBURN, Oklahoma
BARACK OBAMA, Illinois	PETE V. DOMENICI, New Mexico
CLAIRE McCASKILL, Missouri	JOHN WARNER, Virginia
JON TESTER, Montana	JOHN E. SUNUNU, New Hampshire

MICHAEL L. ALEXANDER, *Staff Director*

BRANDON L. MILHORN, *Minority Staff Director and Chief Counsel*

TRINA DRIESSNACK TYRER, *Chief Clerk*

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

CARL LEVIN, Michigan, *Chairman*

THOMAS R. CARPER, Delaware	NORM COLEMAN, Minnesota
MARK L. PRYOR, Arkansas	TOM COBURN, Oklahoma
BARACK OBAMA, Illinois	PETE V. DOMENICI, New Mexico
CLAIRE McCASKILL, Missouri	JOHN WARNER, Virginia
JON TESTER, Montana	JOHN E. SUNUNU, New Hampshire

ELISE J. BEAN, *Staff Director and Chief Counsel*

ROBERT L. ROACH, *Counsel and Chief Investigator*

ZACHARY I. SCHRAM, *Counsel*

MARK L. GREENBLATT, *Staff Director and Chief Counsel to the Minority*

MICHAEL P. FLOWERS, *Counsel to the Minority*

ADAM PULLANO, *Staff Assistant to the Minority*

MARY D. ROBERTSON, *Chief Clerk*

CONTENTS

Opening statements:	Page
Senator Levin	1, 45
Senator Coleman	7, 50

WITNESSES

THURSDAY, JULY 17, 2008

Hon. Douglas Shulman, Commissioner, Internal Revenue Service, U.S. Department of the Treasury	11
Hon. Kevin J. O'Connor, Associate Attorney General, U.S. Department of Justice	14
Shannon Marsh, Fort Lauderdale, Florida, accompanied by Sharon Kegerrels, Esq.	31
William Wu, Forest Hills, New York, accompanied by Henry Klingeman, Esq.	32
Martin Liechti, Head, UBS Wealth Management Americas, Zurich, Switzerland, accompanied by David M. Zornow, Esq.	35
Mark Branson, Chief Financial Officer, UBS Global Wealth Management and Business Banking, Member, UBS Group Managing Board, Zurich, Switzerland	36

FRIDAY, JULY 25, 2008

Steven Greenfield, New York, New York	51
Peter S. Lowy, Beverly Hills, California; accompanied by Robert Bennett, Esq.	52

ALPHABETICAL LIST OF WITNESSES

Branson, Mark:	
Testimony	36
Greenfield, Steven:	
Testimony	51
Liechti, Martin:	
Testimony	35
Lowy, Peter S.:	
Testimony	52
Marsh, Shannon:	
Testimony	31
O'Connor, Hon. Kevin J.:	
Testimony	14
Prepared statement	65
Shulman, Hon. Douglas:	
Testimony	11
Prepared statement	55
Wu, William:	
Testimony	32

APPENDIX

Staff Report titled "Tax Haven Banks and U.S. Tax Compliance"	73
---	----

IV

EXHIBITS

Page

1. <i>Marsh Foundations</i> , chart prepared by the U.S. Senate Permanent Subcommittee on Investigations	209
2. <i>Wu Foundation</i> , chart prepared by the U.S. Senate Permanent Subcommittee on Investigations	210
3. <i>Greenfield Foundation</i> , chart prepared by the U.S. Senate Permanent Subcommittee on Investigations	211
4. <i>Lowy Foundation</i> , chart prepared by the U.S. Senate Permanent Subcommittee on Investigations	212
5. a. Statement of former LGT Treuhand employee, formerly known as Henrich Kieber	213
b. Liechtenstein warrant for the arrest of Henrich Kieber	222
<i>DOCUMENTS RELATING TO MARSH ACCOUNTS:</i>	
6. <i>Letter of wishes, Lincol Foundation</i> , October 15, 1985	223
7. LGT receipt for US \$3,320,700 cash from Lincol Foundation, dated October 15, 1985	224
8. Handwritten letter signed by Shannon N. Marsh to Mr. Alvate, to give Kerry M. Marsh permission to review all documents and receipts pertaining to Lincol Foundation and Chateau Foundation, dated May 23, 1992	226
9. <i>Instruction</i> signed by Shannon Neal Marsh, empowering Marsh family members to act as principals for Lincol Foundation, dated November 17, 1993	227
10. Correspondence from James A. Marsh, Jr. to Peter Meier, LGT, dated October 4, 1994, re: Lincol and Chateau	228
11. <i>Letter of wishes, Lincol Foundation and Foundation Chateau</i> , October 11, 2000	229
12. LGT Memorandum to File about Lincol and Chateau Foundations, dated February 7, 2002	231
13. <i>Deed of Signature accepting appointment as Protector of the Chateau Foundation</i> , signed by Kerry Michael Marsh, Shannon Neal Marsh, and James Albright Marsh, Jr. and <i>Deed of Appointment of Successors</i> , signed by James Albright Marsh, Jr.	233
14. <i>Resolution, The Foundation Board of Foundation CHATEAU</i> , indicating the inventory of assets and liabilities at 31 December 2000 showing a total of USD 10'015'623,50, dated September 12, 2003	237
15. Letter from James A. Marsh, Jr. to LGT, dated November 10, 2004, granting LGT all administrative and management activities for Foundation Chateau	238
16. Correspondence from Shannon Neal Marsh to Members of the Foundation Council of Chateau Foundation, dated November 4, 2004, re: appointment of members of the Foundation Council of Chateau Foundation	239
17. Excerpt from <i>Estate of James A. Marsh, 2006 Income Tax Returns</i>	240
18. Three letters from Baker & McKenzie LLP (Marsh Family attorney) to the Internal Revenue Service, dated May 12, 2008, forwarding amended returns for foreign income and foreign bank and financial accounts for calendar years 2002–2006	244
<i>DOCUMENTS RELATING TO WU ACCOUNTS:</i>	
19. LGT report on JCMA Foundation, dated June 27, 2002	255
20. <i>Declaration of Trust</i> between Cobyne Limited and JCMA Foundation, dated October 1, 1996	257
21. New York City property records, recording sale of Forest Hills, NY home of William S. Wu to Tai Lung Worldwide, Ltd., dated January 21, 1997	259
22. LGT Memorandum by Kim Choy regarding JCMA Foundation, dated June 26, 2002	265
23. Documents regarding withdrawal of \$100,000 by JCMA Foundation/William Wu from LGT through HSBC Hong Kong and Shanghai Banking Corp. Hong Kong, dated June 27, 2002	266
24. Excerpt from <i>Resolution, The Foundation Board of JCMA Foundation</i> , indicating statement of assets as per 31 December 2001 in the total amount of USD 4,283,473.49, dated February 7, 2002	270

	Page
25. Excerpt from <i>Resolution, The Foundation Board of the JCMA Foundation</i> , indicating inventory of assets and liabilities at 31 December 2003 showing a total of USD 2,172,145.97, dated March 10, 2004	272
26. Excerpt from <i>Resolution of the Foundation Board of JCMA Foundation</i> , showing assets as per 31 December 2004 amount to USD 1,202,636.25, dated February 13, 2006	274
27. Excerpt from <i>Resolution of the Foundation Board of JCMA Foundation</i> , showing assets as per 31 December 2005 amount to USD 1,188,957.64, dated March 30, 2006	279
28. Excerpt from <i>Resolution of the Foundation Board of Desert Rose Foundation</i> , showing assets as per 31 December 2006 amount to USD 422,249.10, dated April 18, 2007	284
29. LGT report on Veline Foundation after a March 27, 2000, client visit	288
30. <i>Statements of assets as per 31.12.2000, Veline Foundation</i> , dated February 5, 2001	290
31. <i>Bearer Share Certificate, Manta Company Limited</i> , dated September 3, 1997	291
32. Handwritten organizational chart showing Veline Foundation ownership of corporations and property, undated	292
 DOCUMENTS RELATED TO LOWY ACCOUNTS:	
33. LGT Memorandum for the Record, dated November 26, 1996, memorializing a November 21, 1996, Meeting in Sydney regarding <i>Westfields, Adelphi, Crofton</i> between LGT and Frank Lowy, David Lowy, David Gronski, and Joshua Gelbard	293
34. LGT Memorandum for the Record, dated November 27, 1996, regarding <i>New Establishment Westfields/Lowy</i>	297
35. LGT Note for File, dated December 17, 1996, regarding telephone conversation with Frank Lowy and Joshua Gelbard regarding <i>Westfields, Adelphi, Crofton</i>	299
36. LGT Memorandum for the Record, dated January 23, 1997, regarding January 20, 1997 meeting in Los Angeles between LGT and Frank Lowy, David Lowy, and Peter Lowy regarding <i>Westfield/Lowy Family</i>	303
37. LGT Memorandum for the Record, dated March 4, 1997, regarding March 3, 1997, phone call with Peter Widmer regarding March 12, 1997 meeting in London with <i>F.L. and J. Gelbert, the definitive structure as well as the asset transfer is to be discussed</i>	307
38. Correspondence from J.H. Gelbard to LGT, dated March 12, 1997, regarding <i>formation of a Foundation by the name Luperla Foundation</i>	309
39. LGT Memorandum for the file, dated March 13, 1997, regarding March 12, 1997, meeting in London between LGT and Frank Lowy and Josua Gelbard	311
40. LGT Memorandum for the Record, dated March 16, 1997, regarding March 12, 1997, meeting in London with F.L. regarding <i>Luperla Foundation</i>	315
41. <i>Regulations, Luperla Foundation, Vaduz</i> , dated April 30, 1997	319
42. LGT Memorandum for the Record, dated May 2, 1997, regarding April 30, 1997, meeting in the Hotel Savoy, Zurich between LGT and David Lowy and J.H. Gelbard	322
43. LGT Memorandum for the File, dated May 14, 1997, regarding <i>Luperla Foundation, Vaduz</i>	326
44. LGT Memorandum for the File, dated October 23, 1997, regarding <i>Luperla Foundation/Sewell Service Ltd. B.V.I.</i>	328
45. LGT Memorandum for the File, dated January 29, 1998, regarding January 28, 1998, meeting in Bendern with Peter Widmer regarding <i>Luperla Foundation, Vaduz ("Luperla")</i>	330
46. LGT Memorandum for the File, dated June 26, 2001, regarding <i>Luperla Foundation</i>	332
47. LGT Memorandum for the File, dated July 16, 2001, regarding <i>Luperla Foundation, Vaduz</i>	334
48. LGT Memorandum for the File, dated December 17, 2001, regarding <i>Luperla Foundation, Vaduz</i>	342
49. LGT Memorandum for the File, dated December 18, 2001, regarding <i>Luperla Foundation, Vaduz</i>	348
50. LGT Memorandum for the File, dated December 20, 2001, regarding <i>Luperla Foundation, Vaduz</i>	352
51. Documents regarding Beverly Park Corporation	358

	Page
52. IRS Information Document Requests (IDR) regarding Beverly Park Corporation	362
53. State of Delaware, Division of Corporations, Entity Details for Beverly Park Corp.	365
<i>DOCUMENTS RELATING TO GREENFIELD ACCOUNTS:</i>	
54. LGT Memorandum for the Record, dated March 27, 2001, memorializing a March 23, 2001 meeting regarding Maverick Foundation between LGT and Harvey and Steven David Greenfield	367
55. LGT Summary of Maverick Foundation as of December 31, 2001, dated January 1, 2002	372
56. LGT report on Maverick Foundation, undated	373
57. LGT report on TSF Company Limited, undated	375
58. LGT report on Chiu Fu (Far East) Limited, undated	377
59. LGT Background Information/Profile for Maverick Foundation, dated October 12, 2001	379
60. LGT Background Information/Profile for TSF Company Ltd., BVI, dated December 20, 2001	380
<i>DOCUMENTS RELATING TO GONZALEZ ACCOUNTS:</i>	
61. <i>Foundation Tragique</i> flow chart, undated	381
62. LGT report for Tragunda Foundation, dated December 3, 2001	382
63. LGT Background Information/Profile for Auto and Motoren [Motors] Corp., dated October 3, 2001	384
64. LGT report on Asmeral Investment Anstalt, undated	386
65. LGT Memorandum for the File, dated September 11, 2001, regarding <i>Foundation Tragique</i>	388
66. <i>Stiftung</i> flow chart, undated	392
67. LGT Background Information/Profile for Foundation Tragique, Vaduz, dated December 18, 2001	393
68. LGT Background Information/Profile for FIWA AG, Vaduz, dated December 10, 2001	395
<i>DOCUMENTS RELATING TO CHONG ACCOUNTS:</i>	
69. LGT Background Information/Profile on Yue Shing Tong Foundation	397
70. Documents related to Apex Assets Limited	398
71. Communication between Chong and Chalet [Silvan Colanti at LGT], February-March 2008, regarding disclosure of LGT accounts	407
<i>DOCUMENTS RELATING TO MISKIN ACCOUNTS:</i>	
72. Declarations of Michael Miskin, dated 2003	413
73. Declarations and court pleadings of Stephanie Miskin, dated 2003	417
74. LGT Memorandum for the Record, dated June 30, 1998, regarding <i>New Establishment Michel Misten</i>	426
75. Michael Miskin <i>Letter of Wishes</i> with respect to the assets of Micronesia Foundation, dated July 28, 2000	430
76. LGT report on Micronesia Foundation	432
77. LGT/Michael Miskin receipt for wire transfer of GBP 3,650,314.00, dated October 21, 1998	436
78. Fax from Thomas Lungkofler/LGT to Michael Miskin, dated February 27, 2002, regarding <i>tax situation in the US-area</i>	437
<i>ADDITIONAL DOCUMENTS RELATING TO LGT:</i>	
79. Documents related to Sera Financial Corporation	438
80. Documents related to Jaffra Development Inc.	448
81. Documents related to Sewell	454
82. Excerpt from presentation related to LGT and the Qualified Intermediary (QI) Program	460
83. Documents related to LRAB Foundation	475
<i>DOCUMENTS RELATED TO UBS:</i>	
84. <i>Wealth Management And Business Banking, Client Advisor's Guidelines For Implementation And Management Of Discretionary Asset Management Relationship With U.S. Clients (2002)</i>	477
85. <i>Cross-Border Banking Activities into the United States (version November 2004)</i>	480

VII

	Page
86. <i>Restrictions on Cross-Border Banking and Financial Services Activities, Country Paper USA (Effective Date June 1st, 2007)</i> , prepared by UBS	483
87. Excerpt of <i>KeyClients in NAM, Business Case 2003–2005</i> , prepared by UBS	491
88. Correspondence of UBS to Clients, dated November 4, 2002, <i>We are writing to reassure you that your fear is unjustified and wish to outline only some of the reason why the protection of client data can not possibly be compromised . . . UBS's entire compliance with its QI obligations does not create the risk that his/her identity be shared with U.S. authorities</i>	502
89. Martin Liechti (Head of UBS Wealth Management Americas) email, January 2007, regarding net new money goal and Year of the Pig	503
90. <i>Referral Campaign BU Americas</i> , June 2003 (Swiss watch award)	504
91. <i>BS North America Report, Overview Figures NAM</i> , prepared by UBS	506
92. <i>Case Studies Cross-Border Workshop NAM</i> , prepared by UBS	518
93. UBS Memorandum, dated November 15, 2007, re: <i>Changes in business model for U.S. private clients</i>	520
94. <i>Talking Points For Informing U.S. Private Clients With Securities Holdings About The Realignment Of Our Business Model Plus Q&A</i>	522
DOCUMENTS RELATED TO OLENICOFF:	
95. <i>Statement of Facts, United States of America vs. Bradley Birkenfeld</i> , dated 2008	526
96. <i>Plea Agreement For Defendant Igor M. Olenicoff</i> , dated 2007	533
97. Emails between Birkenfeld/Olenicoff, dated July 2001, re: <i>Meeting in California</i>	550
98. Correspondence of Igor Olenicoff, dated October 2001, re: Guardian Guarantee Co. Ltd	551
99. Email between Staggl/Olenicoff, re: <i>Structure</i>	553
100. UBS documents related to opening of account for Guardian Guarantee Company, Limited	554
101. Emails related to Liechtenstein trust and a Danish corporation	557
102. Fax from Olenicoff to Birkenfeld, dated December 2001, re: <i>Structure</i>	561
103. Emails dated April 2002, re: transferring U.S. securities to a Liechtenstein account	562
OTHER DOCUMENTS:	
104. <i>Tax Haven Bank Secrecy Tricks</i> , chart prepared by the U. S. Senate Permanent Subcommittee on Investigations	564
105. <i>Liechtenstein Secrecy Laws</i> , chart prepared by the U. S. Senate Permanent Subcommittee on Investigations	565
106. Letter from Baker & McKenzie LLP (Marsh Family attorney) to the Permanent Subcommittee on Investigations, dated July 15, 2008, with clarification	566
107. Statement for the Record of the Australian Taxation Office	568
ADDITIONAL DOCUMENTS RELATED TO LOWY ACCOUNTS:	
108. LGT report on Luperla Foundation	587
109. LGT Background Information/Profile for Luperla Foundation, dated December 7, 2002	591
110. LGT Statement of Account for Luperla Foundation, dated December 29, 2001	599
111. LGT Memorandum for the Record, dated April 10, 2002, regarding retroactive dissolution of Luperla Foundation	600
112. Letter to Peter Lowy from Leon C. Janks, dated December 13, 2001, enclosing documents related to Beverly Park Corporation	601
113. a. <i>Contract For The Purchase And Sale of Real Estate</i> , sale by West Park Avenue Corporation to Beverly Park Corporation, March 1997 ...	607
b. <i>Beverly Park Corporation Guest Log</i> , Beverly Hills House and New York Condo, July 1999-May 2000	611
ADDITIONAL MATERIALS:	
114. <i>Hidden Money Trail</i> , chart prepared by the U.S. Senate Permanent Subcommittee on Investigations	629

VIII

	Page
115. a. Letter from O'Melveny & Myers LLP on behalf of their client, UBS AG, to the Permanent Subcommittee on Investigations, dated August 5, 2008, regarding Subcommittee Staff Report on Tax Haven Banks and U.S. Tax Compliance	630
115. b. Memorandum of the Permanent Subcommittee on Investigations staff regarding August 5, 2008, letter from O'Melveny & Myers LLP	635
116. <i>Tax Haven Liechtenstein, Transcript of the Frontal 21 Documentary, March 25, 2008 on ZDF Network in Germany</i>	640
117. Statement for the record submitted on behalf of the Government of the Principality of Liechtenstein	653
118. <i>Organizational changes NAM</i> , powerpoint presentation by Michel Guignard, of UBS private banking in Switzerland, May 10, 2005	655
119. Transcript of Liechtenstein court proceeding involving Mario Staggl, April 28, 2005	665
120. Affidavit of William Wu clarifying his testimony at the Permanent Subcommittee on Investigations' July 17th hearing	681
121. Correspondence between Caplin & Drysdale on behalf of Mr. Steven Greenfield and the Permanent Subcommittee on Investigations regarding the testimony of Mr. Greenfield at the Subcommittee's hearing	683
122. Correspondence between Skadden, Arps, Slate, Meagher & Flom LLP on behalf of Peter S. Lowy and the Permanent Subcommittee on Investigations regarding the testimony of Mr. Lowy at the Subcommittee's hearing	699
123. Documents relating to Footnotes found in the Staff Report, <i>Tax Haven Banks and U.S. Tax Compliance</i> , prepared by the Minority and Majority Staff of the Permanent Subcommittee on Investigations in conjunction with the Subcommittee hearings held July 17 and 25, 2008:	
[Note: Footnotes not listed are explanative, reference Subcommittee interviews for which records are not available to the public, or reference a widely available public document.]	
[*] Retained in the files of the Subcommittee.	
Footnote No. 16, <i>See Hearing Exhibit No. 89 (above)</i>	503
Footnote No. 100, <i>See Hearing Exhibit No. 116 (above)</i>	640
Footnote No. 109, <i>See Attachment</i>	710
Footnote No. 110, <i>See Hearing Exhibit No. 105 (above) and Attachment</i>	565, 722
Footnote No. 112, <i>See Attachments (2)</i>	725, 729
Footnote No. 118, <i>See Attachment</i>	743
Footnote No. 119, <i>See Attachments (3)</i>	754, 764, 772
Footnote No. 120 and 121, <i>See Hearing Exhibit No. 18 (above)</i>	244
Footnote No. 122, <i>See Hearing Exhibit No. 17 (above) and Attachments (2)</i>	240, 779, 802
Footnote No. 123 and 124, <i>See Attachments (10)</i>	824, 832, 841, 845, 849, 854, 862, 871, 875, 879
Footnote No. 129, <i>See Hearing Exhibit No. 11 (above)</i>	229
Footnote No. 130 and 134, <i>See Footnote No. 123 (above)</i>	824, 832, 841, 845, 849, 854, 862, 871, 875, 879
Footnote No. 135, <i>See Attachment</i>	884
Footnote No. 136, <i>See Footnote No. 135 (above) and Attachment</i>	884, 886
Footnote No. 137, <i>See Hearing Exhibit No. 7 (above)</i>	224
Footnote No. 138, <i>See Hearing Exhibit No. 6 (above)</i>	223
Footnote No. 139, <i>See Attachment</i>	888
Footnote No. 140, <i>See Attachment</i>	890
Footnote No. 141, <i>See Hearing Exhibit No. 12 (above)</i>	231
Footnote No. 142, <i>See Hearing Exhibit No. 11 (above)</i>	229
Footnote No. 143, <i>See Hearing Exhibit No. 14 (above) and Attachments (3)</i>	237, 892, 893, 894
Footnote No. 144, <i>See Hearing Exhibit No. 13 (above)</i>	233
Footnote No. 145, <i>See Hearing Exhibit No. 10 and Footnote No. 136 (above)</i>	228, 884, 886
Footnote No. 146, <i>See Hearing Exhibit No. 12 (above)</i>	231
Footnote No. 148, <i>See Hearing Exhibit No. 18 (above) and Attachments (2)</i>	244, 895, 898
Footnote No. 149, <i>See Hearing Exhibit No. 17 (above) and Attachments (6)</i>	240, 901, 902, 903, 904, 905, 906
Footnote No. 150, <i>See Hearing Exhibit No. 6 (above)</i>	223

IX

	Page
Footnote No. 151, <i>See Hearing Exhibit No. 8 (above)</i>	226
Footnote No. 152, <i>See Hearing Exhibit No. 9 (above)</i>	227
Footnote No. 153, <i>See Hearing Exhibit No. 12 (above)</i>	231
Footnote No. 154, <i>See Footnote No. 123 (above)</i>	824, 832, 841, 845, 849, 854, 862, 871, 875, 879
Footnote No. 155, <i>See Hearing Exhibit No. 13 (above) and Attachment</i>	233, 907
Footnote No. 156, <i>See Hearing Exhibit No. 18 (above)</i>	244
Footnote No. 158, <i>See Attachments (3)</i>	909, 917, 922
Footnote No. 159, <i>See Hearing Exhibit No. 19 and 20 (above)</i>	255, 257
Footnote No. 160, <i>See Hearing Exhibit No. 19 (above)</i>	255
Footnote No. 161, <i>See Attachment</i>	925
Footnote No. 162, <i>See Hearing Exhibit No. 21 (above)</i>	259
Footnote No. 163, <i>See Hearing Exhibit No. 19 (above)</i>	255
Footnote No. 164, <i>See Hearing Exhibit No. 24 (above)</i>	270
Footnote No. 165, <i>See Attachment</i>	926
Footnote No. 166, <i>See Attachments (6)</i>	932, 934, 936, 938, 941, 955
Footnote No. 167, <i>See Attachments (2)</i>	971, 978
Footnote No. 168–170, <i>See Hearing Exhibit No. 23 (above)</i>	266
Footnote No. 171, <i>See Hearing Exhibit No. 22 (above)</i>	265
Footnote No. 172, <i>See Attachment</i>	985
Footnote No. 173, <i>See Footnote No. 167 (above)</i>	971, 978
Footnote No. 174–177, <i>See Footnote No. 166 (above)</i>	932, 934, 936, 938, 941, 955
Footnote No. 178, <i>See Hearing Exhibit Nos. 27 and 28 (above)</i>	279, 284
Footnote No. 179, <i>See Hearing Exhibit No. 29 (above) and Attachment</i>	288, 996
Footnote No. 180, <i>See Hearing Exhibit No. 30 (above)</i>	290
Footnote No. 181, <i>See Hearing Exhibit No. 31 (above)</i>	291
Footnote No. 183, <i>See Hearing Exhibit No. 29 (above)</i>	288
Footnote No. 184, <i>See Hearing Exhibit No. 32 (above)</i>	292
Footnote No. 185, <i>See Attachments (3)</i>	997, 998, 1002
Footnote No. 187, <i>See Hearing Exhibit Nos. 33, 34, 39, 42 and 46 (above)</i>	293, 297, 311, 322, 332
Footnote No. 188, <i>See Hearing Exhibit No. 45 (above)</i>	330
Footnote No. 189, <i>See Hearing Exhibit No. 33 (above)</i>	293
Footnote No. 191, <i>See Hearing Exhibit No. 36 (above)</i>	303
Footnote No. 192, <i>See Hearing Exhibit Nos. 35 and 36 (above)</i>	299, 303
Footnote No. 193, <i>See Hearing Exhibit No. 39 (above)</i>	311
Footnote No. 194, <i>See Hearing Exhibit Nos. 40 and 45 (above)</i>	315, 330
Footnote No. 195, <i>See Hearing Exhibit Nos. 36, 39 and 42 (above)</i>	303, 311, 322
Footnote No. 196, <i>See Hearing Exhibit No. 35 (above)</i>	299
Footnote No. 197, <i>See Hearing Exhibit No. 36 (above)</i>	303
Footnote No. 198, <i>See Hearing Exhibit No. 33 (above)</i>	293
Footnote No. 199, <i>See Hearing Exhibit No. 38 (above)</i>	309
Footnote No. 200, <i>See Hearing Exhibit No. 41 (above)</i>	319
Footnote No. 201, <i>See Hearing Exhibit No. 40 (above) and Attachment</i>	315, 1005
Footnote No. 202, <i>See Hearing Exhibit No. 36 (above)</i>	303
Footnote No. 204, <i>See Hearing Exhibit Nos. 33, 35, 39, 45 and 46 (above)</i>	293, 299, 311, 330, 332
Footnote No. 205, <i>See Hearing Exhibit Nos. 38 and 40 (above)</i>	309, 315
Footnote No. 206, <i>See Hearing Exhibit Nos. 42 and 44 (above)</i>	322, 328
Footnote No. 207, <i>See Hearing Exhibit No. 38 (above)</i>	309
Footnote No. 208, <i>See Hearing Exhibit No. 41 (above)</i>	319
Footnote No. 209 and 210, <i>See Hearing Exhibit No. 43 (above)</i>	326
Footnote No. 211, <i>See Hearing Exhibit Nos. 36, 46 and 47 (above)</i>	303, 332, 334
Footnote No. 212, <i>See Hearing Exhibit No. 41 (above)</i>	319
Footnote No. 213, <i>See Hearing Exhibit No. 51 (above)</i>	358
Footnote No. 214, <i>See Hearing Exhibit Nos. 51, 113a and 113b (above)</i>	358, 607, 611
Footnote No. 215 and 216, <i>See Hearing Exhibit No. 46 (above)</i>	332
Footnote No. 217 and 218, <i>See Hearing Exhibit No. 47 (above)</i>	334
Footnote No. 219 and 220, <i>See Hearing Exhibit No. 48 (above)</i>	342
Footnote No. 221, <i>See Hearing Exhibit Nos. 48–50 (above)</i>	342, 348, 352
Footnote No. 222 and 223, <i>See Hearing Exhibit No. 48 (above)</i>	342
Footnote No. 224, <i>See Hearing Exhibit No. 50 (above)</i>	352
Footnote No. 225, <i>See Attachment</i>	1009

	Page
Footnote No. 226, <i>See Hearing Exhibit No. 52 (above) and Attachment</i>	362, 1015
Footnote No. 227, <i>See Hearing Exhibit No. 52 (above) and Attachment</i>	362, 1019
Footnote No. 229, <i>See Hearing Exhibit Nos. 54 and 55 (above)</i>	367, 372
Footnote No. 230, <i>See Hearing Exhibit Nos. 56–58 (above)</i>	373, 375, 377
Footnote No. 231, <i>See Hearing Exhibit No. 56 (above)</i>	373
Footnote No. 232, <i>See Hearing Exhibit No. 59 (above)</i>	379
Footnote No. 233 and 234, <i>See Hearing Exhibit No. 56 (above)</i>	373
Footnote No. 235, <i>See Attachments (2)</i>	1023, 1025
Footnote No. 236–241, <i>See Hearing Exhibit No. 54 (above)</i>	367
Footnote No. 243, <i>See Attachment</i>	1028
Footnote No. 248, <i>See Hearing Exhibit No. 61 (above)</i>	381
Footnote No. 249, <i>See Hearing Exhibit Nos. 61 and 68 (above)</i>	381, 395
Footnote No. 261, <i>See Hearing Exhibit No. 67 (above)</i>	393
Footnote No. 264 and 265, <i>See Hearing Exhibit No. 65 (above)</i>	388
Footnote No. 266, <i>See Hearing Exhibit Nos. 61 and 65 (above)</i>	381, 388
Footnote No. 267–269, <i>See Hearing Exhibit No. 65 (above)</i>	388
Footnote No. 270, <i>See Hearing Exhibit No. 64 (above)</i>	386
Footnote No. 271, <i>See Hearing Exhibit No. 63 (above)</i>	384
Footnote No. 272, <i>See Attachment</i>	1029
Footnote No. 273, <i>See Footnote No. 243 (above)</i>	1028
Footnote No. 275, <i>See Hearing Exhibit No. 69 (above) and Attachments (2)</i>	397, 1030, 1032
Footnote No. 276, <i>See Hearing Exhibit No. 69 (above) and Attachment</i>	397, 1034
Footnote No. 277, <i>See Footnote No. 276 (above) and Attachment</i>	1034, 1042
Footnote No. 278, <i>See Attachments (4)</i>	1048, 1049, 1050, 1051
Footnote No. 279, <i>See Attachment</i>	1052
Footnote No. 280, <i>See Attachment</i>	1053
Footnote No. 283, <i>See Hearing Exhibit No. 70 (above)</i>	398
Footnote No. 284, <i>See Footnote No. 280 (above)</i>	1053
Footnote No. 285, <i>See Attachments (5)</i>	1059, 1060, 1061, 1062, 1063
Footnote No. 286–293, <i>See Hearing Exhibit No. 70 (above)</i>	398
Footnote No. 294–297, <i>See Hearing Exhibit No. 71 (above)</i>	407
Footnote No. 299, <i>See Hearing Exhibit No. 74 (above)</i>	426
Footnote No. 300, <i>See Hearing Exhibit No. 72 (above)</i>	413
Footnote No. 301 and 302, <i>See Hearing Exhibit No. 73 (above)</i>	417
Footnote No. 303 and 304, <i>See Hearing Exhibit No. 72 (above)</i>	413
Footnote No. 305, <i>SEALED EXHIBIT and Hearing Exhibit No. 73 (above)</i>	417
Footnote No. 306, <i>See Hearing Exhibit No. 74 (above)</i>	426
Footnote No. 307, <i>See Hearing Exhibit Nos. 75 and 76 (above)</i>	430, 432
Footnote No. 308, <i>See Hearing Exhibit No. 76 (above)</i>	432
Footnote No. 309, <i>See Hearing Exhibit No. 74 (above)</i>	426
Footnote No. 310, <i>See Hearing Exhibit No. 76 (above)</i>	432
Footnote No. 312, <i>See Attachment</i>	1064
Footnote No. 313, <i>See Hearing Exhibit No. 72 (above)</i>	413
Footnote No. 315, <i>See Attachment</i>	1066
Footnote No. 317, <i>See Attachment</i>	1069
Footnote No. 319, <i>See Hearing Exhibit No. 74 (above)</i>	426
Footnote No. 321, <i>See Attachment</i>	1072
Footnote No. 323, <i>See Attachments (4)</i>	1074, 1075, 1076, 1079
Footnote No. 324, <i>See Hearing Exhibit No. 77 (above)</i>	436
Footnote No. 325, <i>See Hearing Exhibit No. 75 (above)</i>	430
Footnote No. 326, <i>See Attachment</i>	1085
Footnote No. 327, <i>See Attachment</i>	1086
Footnote No. 329, <i>See Hearing Exhibit No. 78 (above)</i>	437
Footnote No. 330, <i>See Hearing Exhibit No. 73 (above)</i>	417
Footnote No. 331, <i>See Footnote No. 317 (above)</i>	1069
Footnote No. 333, <i>See Footnote No. 321 (above)</i>	1072
Footnote No. 334, <i>See Hearing Exhibit No. 73 and Footnote No. 317 (above)</i>	417, 1069
Footnote No. 335, <i>See Hearing Exhibit No. 82 (above) and See Attachments (2)</i>	460, 1087, 1091
Footnote No. 336–337, <i>See Attachment</i>	1093
Footnote No. 339–343, <i>See Hearing Exhibit No. 79 (above)</i>	438
Footnote No. 344, <i>See Hearing Exhibit No. 80 (above)</i>	448

XI

	Page
Footnote No. 345, <i>See Hearing Exhibit No. 81 (above)</i>	454
Footnote No. 346, <i>See Hearing Exhibit Nos. 44 and 108 (above)</i>	328, 587
Footnote No. 347 and 348, <i>See Hearing Exhibit No. 80 (above)</i>	448
Footnote No. 349, <i>See Hearing Exhibit No. 83 (above)</i>	475
Footnote No. 365, <i>See Attachment</i>	1145
Footnote No. 367, SEALED EXHIBIT	*
Footnote No. 370, <i>See Hearing Exhibit No. 87 (above)</i>	491
Footnote No. 372, <i>See Hearing Exhibit No. 89 (above)</i>	503
Footnote No. 373, <i>See Hearing Exhibit No. 91 (above)</i>	506
Footnote No. 375–380, <i>See Hearing Exhibit No. 89 (above)</i>	503
Footnote No. 381, <i>See Attachment</i>	1148
Footnote No. 382, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 384, <i>See Hearing Exhibit No. 88 (above)</i>	502
Footnote No. 390, <i>See Hearing Exhibit No. 85 (above)</i>	480
Footnote No. 392, <i>See Hearing Exhibit No. 84 (above) and Attachment</i>	477, 1170
Footnote No. 393, <i>See Hearing Exhibit No. 85 (above)</i>	480
Footnote No. 398, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 400, <i>See Hearing Exhibit No. 85 (above)</i>	480
Footnote No. 402, <i>See Attachment</i>	1172
Footnote No. 404, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 405, <i>See Hearing Exhibit No. 87 (above)</i>	491
Footnote No. 409, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 410, <i>See Hearing Exhibit No. 93 (above)</i>	520
Footnote No. 413, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 415, <i>See Hearing Exhibit No. 91 (above) and Attachment</i>	506, 1173
Footnote No. 416, <i>See Hearing Exhibit No. 90 (above)</i>	504
Footnote No. 417, <i>See Hearing Exhibit No. 89 (above)</i>	503
Footnote No. 418, <i>See Hearing Exhibit No. 87 (above)</i>	491
Footnote No. 420–432, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 433, <i>See Attachment</i>	1174
Footnote No. 434, <i>See Hearing Exhibit No. 85 (above)</i>	480
Footnote No. 435, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT and <i>Footnote No. 433 (above)</i>	1174
Footnote No. 436, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 437, <i>See Hearing Exhibit No. 92 (above)</i>	518
Footnote No. 438 and 439, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 443, <i>See Hearing Exhibit Nos. 84 and 85 (above)</i>	477, 480
Footnote No. 444–450, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 451, <i>See Hearing Exhibit No. 86 (above)</i>	483
Footnote No. 455, <i>See Hearing Exhibit No. 93 (above)</i>	520
Footnote No. 458, <i>See Attachment</i>	1176
Footnote No. 459, <i>See Hearing Exhibit No. 94 (above)</i>	522
Footnote No. 464, <i>See Hearing Exhibit No. 96 (above)</i>	533
Footnote No. 465, <i>See Hearing Exhibit No. 97 (above)</i>	550
Footnote No. 468, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
Footnote No. 469, <i>See Hearing Exhibit No. 97 (above)</i>	550
Footnote No. 471, <i>See Attachments (2)</i>	1178, 1179
Footnote No. 472, <i>See Hearing Exhibit No. 98 (above)</i>	551
Footnote No. 473–475, <i>See Hearing Exhibit No. 100 (above)</i>	554
Footnote No. 476, <i>See Hearing Exhibit No. 97 (above)</i>	550
Footnote No. 477, <i>See Hearing Exhibit No. 99 (above)</i>	553
Footnote No. 478, <i>See Hearing Exhibit No. 96 (above) and Attachment</i>	533, 1180
Footnote No. 480, <i>See Attachment</i>	1181
Footnote No. 481, <i>See Attachment</i>	1182
Footnote No. 483, <i>See Attachments (2)</i>	1183, 1184
Footnote No. 484, <i>See Hearing Exhibit No. 102 (above)</i>	561
Footnote No. 485, <i>See Attachment</i>	1185
Footnote No. 486, <i>See Attachment</i>	1186
Footnote No. 487, <i>See Attachment</i>	1187
Footnote No. 488, <i>See Attachment</i>	1188
Footnote No. 489, <i>See Hearing Exhibit No. 103 (above)</i>	562
Footnote No. 490, <i>See Hearing Exhibit No. 96 (above)</i>	533
Footnote No. 491, <i>See Attachments (2)</i>	1189, 1190
Footnote No. 492, <i>See Attachments (2)</i>	1191, 1192

XII

	Page
Footnote No. 493, <i>See Attachments (2)</i>	1196, 1197
Footnote No. 495, <i>See Footnote No. 367 (above)</i> SEALED EXHIBIT	*
124. Correspondence between the Permanent Subcommittee on Investigations and Frank P. Lowy	1198
125. Correspondence between the Permanent Subcommittee on Investigations and Joshua H. Gelbard	1201

[*] Retained in the files of the Subcommittee.

TAX HAVEN BANKS AND U.S. TAX COMPLIANCE

THURSDAY, JULY 17, 2008

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

The Subcommittee met, pursuant to notice, at 9:34 a.m., in Room SD-106, Dirksen Senate Office Building, Hon. Carl Levin, Chairman of the Subcommittee, presiding.

Present: Senators Levin and Coleman.

Also Present: Senator Kerry.

Staff Present: Elise J. Bean, Staff Director/Chief Counsel; Mary D. Robertson, Chief Clerk; Robert L. Roach, Counsel and Chief Investigator; Ross Kirschner, Counsel; Laura Stuber, Counsel; Zack Schram, Counsel; Gina Reinhardt, Congressional Fellow; Timothy Everett, Intern; Jeffrey Rezmovic, Law Clerk; Lauren Sarkesian, Intern; Spencer Walters, Law Clerk; Mark L. Greenblatt, Staff Director and Chief Counsel to the Minority; Michael P. Flowers, Counsel to the Minority; Clifford C. Stoddard, Jr., Counsel to the Minority; Timothy R. Terry, Counsel to the Minority; Adam Pullano, Staff Assistant to the Minority; Kelly Brannigan; Kathy Kerrigan (Senator Kerry), and Thomas Caballero, Senate Legal Counsel's Office.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. Good morning, everybody. About 50 tax havens operate in the world today. Their twin hallmarks are secrecy and tax avoidance. Some tax havens are little known places like Andorra and Vanuatu that few Americans have heard of. Others, like Switzerland and Liechtenstein, are notorious for operating behind an iron ring of secrecy. Billions and billions of dollars worth of U.S. assets find their way into these secrecy tax havens, aided by banks, trust companies, accountants, lawyers, and others. Each year, the U.S. Treasury loses up to \$100 billion in tax revenues from offshore tax abuses. Tax havens are engaged in economic warfare against the United States and against honest, hard-working American taxpayers.

Today we will look at two banks that relied on secrecy and deception to hide not just the tax avoidance schemes of their clients, but the actions that they themselves took to facilitate U.S. tax evasion. The first bank is LGT, a private bank owned by the royal family of Liechtenstein. Liechtenstein is a tiny alpine nation whose 35,000

citizens would fill one-third of a good-sized football stadium. It has no airport, but supports 15 banks that together boast of holding more than \$200 billion in assets. Liechtenstein also boasts of secrecy laws that are more stringent than even those that have made Switzerland synonymous with hidden bank accounts.

The second bank is UBS, a Swiss bank. It is one of the world's largest financial institutions, the world's largest manager of private wealth, and a public company of international renown. Yet, as we will hear today, UBS has an estimated 19,000 so-called undeclared accounts for U.S. citizens with an estimated \$18 billion in assets that have been kept secret from the IRS.

Both LGT and UBS operate behind a wall of secrecy that this hearing and our report will show needs to come down. The evidence we have been able to obtain breaks through some of that wall of secrecy to show how these two banks have employed banking practices that facilitate, and have resulted in, tax evasion by U.S. clients.

We initiated this investigation into tax haven banks in February 2008, as a global tax scandal erupted after a former employee of LGT provided tax authorities around the world with data on about 1,400 people with accounts at LGT Bank in Liechtenstein. On February 14, 2008, German tax authorities, having obtained the names of 600 to 700 German taxpayers with LGT accounts, executed multiple search warrants and arrested a prominent businessman for allegedly using LGT accounts to evade \$1.5 million in taxes. Soon after, our IRS announced that it had initiated enforcement action against about 100 U.S. taxpayers in connection with accounts in Liechtenstein. The United Kingdom, Italy, France, Spain, and Australia made similar announcements on the same day. Altogether since February, nearly a dozen countries have announced plans to investigate taxpayers with Liechtenstein accounts, demonstrating not only the worldwide scope of the tax scandal, but also a newfound international determination to fight against tax evasion facilitated by tax haven banks.

The former LGT employee who exposed LGT's dirty laundry had to go into hiding to avoid arrest by Liechtenstein which has listed him as its No. 1 target for arrest. A \$10 million reward has been placed on his head by unknown parties on the Internet. This Subcommittee obtained about 12,000 pages of LGT documents related to U.S. clients from that former LGT employee. We also interviewed him and took his statement by videoconference, a tape of which, with precautions taken to obscure identifying details, will be presented during this hearing. His revelations are explosive.

The documents and information that he provided depict a bank that is a willing partner, and an aider and abettor, to clients trying to evade taxes, dodge creditors, or defy court orders. Internal LGT documents and other information show secrecy was a deeply embedded way of life at the LGT bank. LGT used code names for its clients and directed its bankers to use pay phones when contacting them. A LGT document instructed bankers trying to contact a client as follows: "CAUTION: Calls may be made only from public phone booths, preferably not from a [Liechtenstein] phone booth !!!" LGT set up secret, shell transfer corporations which clients could use to route money into and out of their LGT accounts, in order

to, in the words of LGT, “cover the tracks.” LGT created elaborate, deceptive offshore structures, using foundations, trusts, and corporations, to hide a client’s ownership of assets from tax authorities in other countries.

Our report presents seven case studies of U.S. clients using LGT services. Due to time constraints, we will discuss only four today. In preparation for this hearing, the Subcommittee served subpoenas on three of the four LGT clients seeking their personal appearance: Shannon Marsh, William Wu, and Steven Greenfield. Two of those individuals—Mr. Marsh and Mr. Wu—are here today. The third—Mr. Greenfield—has refused to appear after a subpoena was served on him, and we will be seeking enforcement of our subpoena. The fourth—Peter Lowy—left the country despite our request that he appear today. The Subcommittee notified his legal counsel that he would be subpoenaed to appear, if necessary. He has now agreed to appear before the Subcommittee at a continuation of this hearing a week from tomorrow.

Later in the hearing, when these individuals are called to give testimony, I will describe in more detail what we have learned about their Liechtenstein accounts, but for now I will mention each case history only briefly.

Shannon Marsh. Shannon Marsh is a son of the late James Albright Marsh, a U.S. citizen from Florida in the construction business who formed four Liechtenstein foundations in the 1980s and transferred substantial funds to them. Two of these foundations were formed for him by LGT Bank. By 2007, the assets in the four foundations had a combined value of \$49 million. LGT instructed the Marshes to use the code “Friends of J.N.” when they wished to “get in touch.” The Marsh accounts were never disclosed to the IRS by LGT Bank.

William Wu. Mr. Wu is a U.S. citizen who has lived for many years with his family in New York. LGT helped Mr. Wu hide ownership of his house in New York by helping him arrange a fake sale to an offshore company that he secretly controlled. LGT also helped him withdraw substantial funds from his Liechtenstein account, ranging from \$100,000 to \$1.5 million at a time, in ways that made the funds difficult to trace.

Steven Greenfield. Harvey and Steven Greenfield, father and son, are New York businessmen who specialize in importing toys. In March 2001, in Liechtenstein, LGT Bank held a 5-hour meeting with the Greenfields, attended by three LGT private bankers and Prince Philipp, Chairman of the LGT Board of Directors and brother to the sovereign of Liechtenstein. The meeting was primarily a sales pitch to convince the Greenfields to transfer to LGT Bank about \$30 million from a Hong Kong bank after “leaving behind as few traces as possible.” Again, Mr. Greenfield has refused to appear despite service of a subpoena, so we will be pursuing that matter.

Peter Lowy. Peter Lowy lives in California. His father, with his sons’ help, set up a LGT foundation in 1998, after telling the bank that he did not want Australian tax authorities to know about the assets. LGT took measures to hide the Lowys’ ownership of the assets, including by keeping their name off the formation documents for the new foundation, routing incoming assets through an offshore transfer corporation to prevent a direct link to the new foun-

dation, and using a Delaware corporation headed by Peter Lowy to name the beneficiaries. In 2001, the Lowys dissolved the foundation and moved to Switzerland assets totaling about \$68 million. Mr. Lowy will appear next week to answer questions about these matters.

The importance of these case studies is that they provide an inside look at what goes on behind the wall of secrecy that surrounds this Liechtenstein bank. And what does go on behind that wall? Banking practices that facilitate tax evasion—conduct that angers every honest American who pays taxes.

We have also managed to pierce some of the layers of Swiss secrecy that for too long have made Switzerland the place to bank for people with something to hide.

In late 2007, the Subcommittee took the deposition of Bradley Birkenfeld, who worked for more than 12 years as a private banker in Switzerland, including 4 years at the Geneva office of UBS. In 2008, Mr. Birkenfeld was charged and pled guilty to conspiring with a U.S. citizen, Igor Olenicoff, to defraud the IRS of \$7.2 million in taxes owed on \$200 million of assets hidden in secret accounts in Switzerland and Liechtenstein. In connection with this prosecution, the United States also detained, as a material witness, a senior UBS private banking official from Switzerland, Martin Liechti, then traveling on business in Florida. These enforcement actions appear to represent the first time that the United States has criminally prosecuted a Swiss banker for helping a U.S. taxpayer evade U.S. taxes. And Mr. Liechti is here today. I want to express my appreciation to the Justice Department and to the U.S. Attorney for the Southern District of Florida for making him available.

Our report describes how Mr. Birkenfeld signed up Mr. Olenicoff as a client, in part by traveling to California from Switzerland to meet him, and opened UBS accounts for him in Switzerland in the name of offshore corporations that Mr. Olenicoff controlled to hide his ownership of the assets. For a time, Mr. Olenicoff was Mr. Birkenfeld's largest client.

The details of their tax evasion scheme are sordid enough. But what Mr. Birkenfeld told the Subcommittee was that what he did as a private banker at UBS was ordinary practice. He told us about thousands of Swiss accounts at UBS for U.S. clients holding billions of dollars in assets, all undeclared. He also described the pressure placed on the Swiss private bankers to bring new money into the bank from the United States, called "net new money." His deposition with us and other documents show that each year, UBS assigns each private banker an annual net new money target. A January 2007 e-mail sent out by Mr. Liechti to the Swiss bankers in the Americas division wished them a happy new year, recounted how, in 2002, they had brought in 4 million Swiss francs per banker, how that number had quadrupled in 2 years to 17 million Swiss francs per banker in 2006, and then urged them to quadruple their efforts again in 2007 to bring in 60 million Swiss francs per banker in net new money from the Americas.

Mr. Birkenfeld told us that Swiss bankers regularly traveled to the United States to target U.S. citizens for net new money. He told us how these Swiss bankers maintained a low profile, using

business cards that did not mention “wealth management,” sometimes declaring they were in the United States for non-business purposes, and carrying encrypted computers that, allegedly, even U.S. Customs agents could not read.

A Subcommittee analysis of travel records supplied by Customs corroborates the testimony. The travel records show that about 20 UBS Swiss bankers made about 300 trips to the United States since 2003, often traveling together to UBS-sponsored functions designed to attract wealthy potential clients. The travel records also show that some UBS private banking officials made regular U.S. visits, including Mr. Liechti who traveled to the United States up to eight times in a year. Mr. Birkenfeld described one Swiss banker who saw 30 to 40 clients on each U.S. visit. All this to sell Swiss secrecy on U.S. soil.

Mr. Birkenfeld also described UBS Swiss bankers who presented their clients with securities products and helped execute securities transactions here in the United States, without a broker-dealer license from the Securities and Exchange Commission. In response to Subcommittee inquiries, UBS also acknowledged that, like LGT, its bankers had set up foreign corporations to disguise the ownership of accounts by U.S. clients.

The Subcommittee even obtained a document showing that UBS provided its Swiss private bankers with training on how to detect surveillance by U.S. customs agents and law enforcement officers while traveling here. Think about that: A major international bank is training its bankers to detect surveillance by U.S. authorities.

UBS efforts targeting U.S. clients to open Swiss accounts were, in the words of Mr. Birkenfeld, a “massive machine.” And the push to open Swiss accounts took place even though UBS had branch banking and securities operations in the United States that were large enough to accommodate all of its U.S. clients.

Which brings up a fundamental question. Why would a U.S. taxpayer open a UBS account in Switzerland when it could bank with UBS right here in the United States? Why would 19,000 U.S. clients with nearly \$18 billion in assets choose to open up accounts in Switzerland? It seems plain that part of the answer is that they wanted to open undeclared accounts that the IRS would not know about. They wanted secrecy.

And UBS gave them secrecy. In November 2002, UBS sent a letter to all of its U.S. clients to reassure them that their secret Swiss accounts were still safely hidden, despite a new Qualified Intermediary program, or QI, going into effect. Here is what that UBS letter said in part:

“Dear client: From our recent conversations we understand that you are concerned that UBS’ stance on keeping its U.S. customers’ information strictly confidential may have changed. . . . We are writing to reassure you that your fear is unjustified and wish to outline only some of the reasons why the protection of client data can not possibly be compromised. . . .”

We all know what is going on here. U.S. clients who don’t bank with UBS in the United States and instead bank with UBS in Switzerland are buying secrecy. And folks who buy secrecy have secrets they don’t want to reveal, such as evading taxes, ducking creditors, or defying court orders. But those clients aren’t the only

ones relying on secrecy to cloak their actions. Banks in tax havens, including the two banks under examination today, are also covering up their own actions—actions that they presumably didn't want to see exposed by media around the world.

We are putting up a chart that summarizes the Tax Haven Bank Secrecy Tricks that we have uncovered during this investigation:¹ Banks using code names for clients to disguise their identities; banks telling their bankers to use pay phones instead of business phones so authorities can't trace a call back to the bank; banks giving their bankers encrypted computers when they travel so tax authorities can't read any client information; banks funneling money through so-called transfer companies to cover the tracks of the funds and make audits difficult; banks opening accounts in the names of foreign shell companies to hide the real owners; banks setting up fake charitable trusts for the same reason; banks providing their bankers with countersurveillance training. The list goes on and on. These tricks are all about deception, all about making it impossible for the IRS to follow the money, to bring tax cheats to justice, and to bring back into the U.S. Treasury the tens of billions of dollars owed to Uncle Sam.

UBS has told the Subcommittee that it is changing its ways. It has banned travel by its Swiss bankers to the United States. It is encouraging U.S. clients to bank with UBS in the United States or at a subsidiary in Switzerland called Swiss Financial Advisors that requires all U.S. clients to disclose their accounts to the IRS. Liechtenstein tells us they are in negotiations with the United States to enter into a tax information exchange agreement and with its European neighbors to expand tax cooperation in connection with an anti-fraud agreement.

Well, I hope that is all true, but count me skeptical for a number of reasons. First, we haven't heard anything from LGT about reforms; it is not even here today, in contrast to UBS that is here today. Second, evading U.S. taxes is a billion dollar industry; it's gone on for decades; and the profits are huge, both for the tax cheats and for the banks that hold their assets. The documents and testimony that we are releasing today disclose a culture of secrecy and deception that we are determined to end, despite it being so strongly entrenched.

Tax evasion eats at the fabric of society, not only by starving health care, education, and other needed government services of resources, but also by undermining trust—making honest folks feel that they are being taken advantage of when they pay their fair share.

Our report outlines a number of ways we can fight back to end tax haven abuses, and here are a few.

First, we should support the recent innovative enforcement actions taken by the Justice Department and IRS to prosecute foreign bankers who help U.S. taxpayers cheat Uncle Sam and to compel foreign banks to disclose the names of their U.S. clients.

Second, we ought to enact new tools to penalize tax haven banks that impede U.S. tax enforcement. Congress should give the Treasury Department authority to bar U.S. financial institutions from

¹ See Exhibit No. 104, which appears in the Appendix on page 564.

doing business with those banks, and the IRS should remove those banks from the Qualified Intermediary program, the QI program, that allows them to avoid disclosing the names of their non-U.S. clients to U.S. authorities.

Third, Congress should create a rebuttable presumption in enforcement proceedings that U.S. taxpayers who form or who send assets to or who receive assets from a legal entity in an offshore secrecy jurisdiction controls that entity and is, therefore, liable for taxation on its assets and income.

Fourth, Congress ought to change the law to require banks who know U.S. clients are behind the accounts opened in the name of offshore entities to treat those accounts as U.S. accounts that have to be disclosed to the IRS.

And we can do all that and more by enacting the Stop Tax Haven Abuse Act, a bill that I and Senator Coleman introduced last year.

Right now, tax haven banks and tax haven governments dress up their secrecy laws and banking practices with phrases like “financial privacy” and “wealth management.” But secrecy breeds tax evasion. And secrecy hides not only the wrongdoers, but also those who aid and abet the wrongdoing. We are determined to tear down those secrecy walls in favor of transparency, cooperation, and tax compliance.

I want to thank my Ranking Member, Senator Coleman, and his staff for their support of this investigation and the legislation to stop tax haven abuses that we have introduced.

Senator Coleman.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Mr. Chairman.

This morning, we return to a matter that is important to all American taxpayers: The role of foreign banks—particularly those in offshore tax havens—in helping a disturbing number of wealthy Americans cheat on their taxes. At the outset, I want to express my appreciation to Senator Levin for his unwavering commitment throughout this effort. This has been a truly bipartisan investigation in every sense of the word. It would not have been possible to bring these important problems to light without your leadership, Mr. Chairman, and for that I thank you.

The problem we are confronting today is simple: Tens of thousands of America’s wealthiest citizens are using offshore secrecy jurisdictions to hide trillions of dollars and avoid paying their fair share of taxes. The offshore problem remains one of staggering proportions. These tax havens hold an estimated \$1.5 trillion in American assets, resulting in lost taxes of roughly \$100 billion. That is three times the size of the Minnesota State budget general fund—lost because of dishonest individuals and entities exploiting the secrecy of foreign countries.

In doing so, these privileged few are forcing honest American taxpayers to bear a disproportionate burden of investing in crucial areas like health care, homeland security, and education. That tax loss sits like a millstone around the necks of honest American taxpayers, who are struggling with high taxes, ever-increasing gas prices, and rising health care costs.

But these tax cheats are not acting alone. Foreign banks in these offshore havens are enthusiastic partners in this deception. Hiding behind an impregnable fortress of secrecy laws, these banks have partnered with American tax cheats to use offshore tax and secrecy havens to conceal ownership of assets and make sham transactions seem legitimate, while staying one step ahead of U.S. law enforcement and the IRS.

Over the course of the last year, the Subcommittee has engaged in a broad investigation into two of these banks: LGT Bank in Liechtenstein, and UBS AG in Switzerland. Both banks operate under strict secrecy laws, yet both banks enabled and promoted felony tax evasion, and sometimes even worse misconduct, like the bribery of American officials and others. The audacity and cleverness of the bankers we have examined are matched only by the zeal with which their American clients used their services.

Before we turn to the evidence, it is worthwhile to take a moment and review the relevant laws and rules to understand how the banks eagerly manipulated the regulatory and legal landscape to assist their tax-cheating clients. The key rules governing these foreign banks are found in the Qualified Intermediary program (QI). The QI program is intended to encourage foreign banks to assist the IRS collect taxes from overseas accounts by calling for contracts with the individual foreign banks. In short, contracts executed under the QI program require the banks to report to the IRS when the accounts held by Americans have income derived from U.S. securities and withhold the proper amount of taxes, sending that amount back to the United States.

In one sense, the QI program has been quite effective: The IRS has been able to collect substantial taxes that it previously could not. But there was a loophole in these QI agreements, and these foreign banks drove a Mack truck right through it. Basically, while the QI agreements require the banks to reveal American account holders with U.S. securities investments, the agreements do not require the reporting of accounts that are held by non-US citizens or entities.

So what did the banks do? They encouraged their American clients to form shell companies and trusts in jurisdictions with strict secrecy laws, helped them open accounts in the names of those trusts and companies, and then assisted them in shifting millions of dollars from accounts in their names to accounts in the names of the foreign entities. In doing so, these banks turned a blind eye to the fact that there was no legitimate reason for these maneuvers.

In his opening statement, Senator Levin highlighted the findings of our Subcommittee, as set forth in the bipartisan staff report we have issued to accompany this hearing. The case studies related to LGT are as appalling in their brazenness as they are disturbing in their commonality:

A family falsely hiding nearly \$50 million in trusts for decades;

Another family moving funds from one shell corporation to another to yet another in a chain of transfers that was clearly designed for one reason: To avoid paying taxes;

A family meeting with the royal family of Liechtenstein with the express purpose, in their words, of “hiding the traces”;

The brazen facilitation of bribery here in the United States by Marc Rich and his affiliates.

Sadly, the list goes on and on. What is worse, LGT was not alone. UBS engaged in parallel misconduct. In short, soon after joining the QI program, UBS undertook a systematic, wide-ranging effort to harvest tax cheats from the United States, help them restructure their Swiss accounts to avoid paying taxes on billions of dollars, and surreptitiously evade the attention of Federal law enforcement agencies.

To be clear, our focus is on UBS' operations out of Switzerland. UBS has a large number of personnel based here in the United States, including in Minnesota, and they, like us, must be surely appalled at what the Subcommittee has uncovered. These people are not part of the misconduct we examine today, nor do we suggest in any way that they are involved in these activities.

Moreover, we should note that UBS has been cooperative with the Subcommittee's investigation and has been responsive to its requests. UBS is also appearing today voluntarily, and not under compulsion of subpoena. I find it significant that while UBS did not necessarily have to send a knowledgeable witness from Switzerland, it chose to do so, which stands in stark contrast to LGT's refusal to appear before us today.

But there is a fundamental question that must be asked of UBS, and that is, when you are sending Swiss bankers, 20 UBS bankers taking over 300 trips since 2003, somebody in America has to know what is going on. Clearly, though this is generated out of Switzerland, this kind of activity in this country cannot simply have occurred without folks here intentionally turning a blind eye. I am not sure what my folks in Minnesota know, but I would sure like to find out what the folks in America knew about these transactions.

The results of the Subcommittee's investigation are striking. The evidence reveals that the banks engaged in highly suspicious activities designed to hide the identities of their clients, including, as the Chairman noted, using code words, encrypted computers designed to thwart U.S. customs officials, shell companies and trusts strewn around the world, and techniques to avoid surveillance by law enforcement. Some of these activities sound like the cloak-and-dagger deception in a James Bond movie.

It is bad enough if the banks were simply enabling tax crimes. But the problem is far worse and more pervasive than a mere see-no-evil acceptance of tax fraud. Our investigation has found that the banks have left their secrecy fortresses and furtively entered the United States to recruit and service thousands upon thousands of tax cheats. Driven by a desire to service their clients' desires, regardless of legality, these banks actively promote and cultivate this conduct day after day. They didn't just facilitate this misconduct; they orchestrated it. That must stop and it must stop now.

How do we fix this problem? The Subcommittee has offered a number of recommendations.

First, as the Chairman has noted, Congress should pass the Stop Tax Haven Abuse Act, which is comprehensive legislation that Senator Levin and I introduced, along with Senator Obama. It would

go far to stop offshore tax haven and tax shelter abuses by shining a light in the dark world of secrecy jurisdictions.

We must also change the laws and regulations which permit banks in tax havens to fulfill their contractual obligations to the IRS even though they are facilitating criminal conduct.

We must also improve the QI program, by strengthening reporting requirements for QI banks and expanding the audit process.

We must also bolster our law enforcement activities and increase the statute of limitations for activities involving tax havens.

To be clear, foreign investment is vitally important to the United States. Such investments are critical to job growth and opportunity expansion and are undeniably necessary for the economic well-being of our citizens. Nor is our focus here today on U.S. companies investing abroad, which bolsters our competitiveness in the increasingly global economy. To the contrary, our inquiry is focused on individual U.S. taxpayers who have cheated the system with the active assistance of offshore banks.

There may indeed be valid reasons for holding accounts offshore, such as Americans living and working abroad, or those with families in other countries with political or economic instability. These persons, when they file the appropriate documents with the IRS and pay their fair share of taxes, have nothing to fear from this inquiry.

I want to close, however, by speaking directly to those who should be worried: Those Americans, and their attorneys and financial enablers, who have gone offshore to dodge their taxes, escape our courts, or worse. Our message is simple: You are hurting this country. Millions of Americans struggle with bills and mortgages, pay for gas and health care, educate their children, and care for their loved ones. Hundreds of thousands of your fellow Americans protect us—both here and at war abroad—making unimaginable sacrifices on behalf of this country. By cheating on your taxes, you are forcing those people to carry even more weight on their sagging shoulders. You, the tax cheats, are not being asked to suffer as they are. You, the tax cheats, are not being asked to struggle with your daily bills and mortgages and gas prices and medical bills. You are simply being asked to pay your fair share to the country whose freedoms you so richly enjoy.

Listen closely to what we have uncovered in this investigation. Come forward and stop hiding. In one document, a foreign banker advised his American client to stop engaging in certain transactions so that the American authorities would not catch him. He said boldly, “Let sleeping dogs lie.” Well, the dogs are no longer sleeping.

Thank you, Mr. Chairman.

Senator LEVIN. Thank you very much, Senator Coleman.

And now I would like to welcome our first panel of witnesses to today’s hearing: Doug Shulman, the Commissioner of the IRS, and Kevin O’Connor, the Associate Attorney General at the Department of Justice.

Commissioner Shulman, first I want to thank you for being here today, and this is your first appearance before this Subcommittee. Your predecessor, Mark Everson, contributed frequent insights and

important context to our hearings. We welcome you. We look forward to your testimony.

Mr. O'Connor, I believe this is also your first appearance before this Subcommittee, and it is important for us to hear from the Department of Justice, and we welcome you.

We thank you both. We thank your agencies for your efforts to go after people who would dodge our tax laws and evade paying their taxes.

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

Mr. SHULMAN. I do.

Mr. O'CONNOR. I do.

Senator LEVIN. We will be using a timing system today, and one minute before the red light comes on, you will see the light change from green to yellow, giving you an opportunity to conclude your remark. Your entire testimony will be printed in the record. We ask that you limit—attempt to limit it, in any event—your oral testimony to no more than 10 minutes.

Commissioner Shulman, we will have you go first, followed by Mr. O'Connor, and then we will turn to questions. Thank you so much. Commissioner Shulman.

**TESTIMONY OF HON. DOUGLAS SHULMAN,¹ COMMISSIONER,
INTERNAL REVENUE SERVICE, U.S. DEPARTMENT OF THE
TREASURY**

Mr. SHULMAN. Thank you, Chairman Levin and Ranking Member Coleman. I want to thank you for inviting me to this Subcommittee hearing. As you said, this is my first opportunity to testify before the Subcommittee. Let me reiterate to you in public what I have told you privately.

This Subcommittee has a long and impressive history of investigating tax secrecy jurisdictions and offshore abuses that undermine the integrity of the Federal tax system and potentially divert billions of dollars from the U.S. Treasury. I am looking forward to working with you during my 5-year term as IRS Commissioner.

I have made international issues a strategic priority for the IRS. High-net-worth individuals should not be able to shortchange their fellow citizens by moving assets or income offshore as a means of avoiding U.S. taxation. Frankly, I have been outraged by some of the behavior that we have found in our investigations and that you have highlighted in your report. I also find the actions of the financial institutions involved in this evasion to be surprising and disappointing.

We have been particularly active in the international arena in the past few months, and more is in the works. Some of these activities I can discuss publicly because they are already part of the public record. There are other situations that I cannot discuss because the investigation may be ongoing. Taxpayer privacy laws generally prohibit public disclosure of IRS investigations.

¹ The prepared statement of Mr. Shulman appears in the Appendix on page 55.

The most notable recent case in the public record involves a major Swiss bank. The bank signed a disclosure agreement with the United States in 2001 to become a qualified intermediary, or QI. Becoming a QI requires a financial institution to, among other things, report on the income of U.S. taxpayers that were clients of the bank. However, a former employee of the bank, as part of his recent guilty plea, stated that a number of the bank's U.S. clients objected to having their information subjected to such reporting.

The IRS has since requested, via a John Doe summons, that the bank turn over account information on any other U.S. client who used this Swiss bank to avoid U.S. income taxes. The summons directs the bank to produce records identifying U.S. taxpayers who had accounts with the bank in Switzerland between 2002 and 2007 and elected to have their accounts remain hidden from the IRS.

On July 1, a Federal judge in Miami approved a Justice Department request to enable the IRS to serve this summons. We are working closely with the Justice Department to ensure that we get all of the information requested in the summons.

Speaking more broadly, the IRS has a multifaceted approach to combating offshore tax evasion. We are deploying a wide array of techniques and resources to uncover unlawful activities. Let me go through a few of them.

One important tool is information reporting. Most U.S. tax returns require that the filer provide information about foreign financial accounts, ownership in foreign entities, and financial statement data. In addition, a U.S. citizen with offshore accounts in excess of \$10,000 must file a foreign bank and financial account (FBAR) report. Information reporting requirements typically come with either civil or criminal penalties for noncompliance, and in some cases, both.

Another tool is the QI program, which you, Mr. Chairman, and Ranking Member Coleman have both discussed. In laymen's terms, the QI program gives the IRS an important line of sight to the activities of foreign banks and other financial institutions. It also provides detailed information reporting that the IRS, before we instituted the QI program, did not receive. The QI program is critical to sound tax administration in a global economy. By bringing foreign financial institutions more directly into the U.S. tax system, we can better ensure that U.S. persons are properly paying tax on foreign account activity and that foreign persons are subject to the proper withholding rates. However, the whole program rests on the fact that banks and financial institutions that are part of the program have to abide by their agreement with the U.S. Government.

The QI program is relatively new, and as with any new and complex program, there will be flaws that must be addressed. In my view, we need to shore up the QI program and continuously enhance it. In my written statement, I discuss some of the steps we are taking to improve this important program.

The third tool in our arsenal is international agreements such as tax treaties and tax information exchange agreements, under which other countries agree to obtain information on behalf of the United States for use in U.S. tax matters. We also have a number of efforts to share information and strategies with our international counterparts, including a Joint International Tax Shelter Informa-

tion Center, where we have people from the IRS and other tax administrations collocated to exchange information about specific abusive transactions and their promoters and investors. In addition, we meet regularly with revenue commissioners or their counterparts, from nine other countries, to consider and discuss issues of global and national tax administration. International dialogue and cooperation will only become more important in the years to come, and we will work to continually enhance these relationships.

As you noted, Chairman Levin, in some of the current activities that are underway and have been made public, we have been coordinating with our foreign counterparts, and this has been really made possible because of the groundwork we have done in the last several years to develop relationships, collocate people, etc.

When investigating offshore tax evasion and specific identities of U.S. taxpayers are not known, the IRS generally uses its John Doe summons authority. The summons is used to identify individuals, groups, or classes of U.S. taxpayers who may be involved in specific areas of tax noncompliance and who cannot be identified through other means.

And the final and very important tool that I will mention this morning is informants. Informants have been valuable sources of information for IRS civil and criminal investigations into offshore tax evasion. With the new whistleblower standards that reward informants, we are hopeful that we will get additional input on potential violations.

Deterrence is one of our most powerful weapons. In this regard, I am very proud of the hard work that the IRS and Justice Department investigators have put into these recent cases. As a result of their continuing work, I am confident that those who engage in deliberate offshore tax evasion are very concerned right now, as they should be. I believe that we owe it to the vast majority of honest taxpayers to pursue these cases aggressively, and I am committed to do so now and during my 5 years at the IRS.

I am also equally committed to respecting the rights of U.S. citizens and corporations who engage in legitimate global commerce.

In closing, I believe that we are efficiently utilizing the tools that we have, but there are other ways that Congress can help. First and foremost is to approve our 2009 budget and enact the legislative proposals that are included therein. The budget provides key enforcement resources that we can use in the area of international tax evasion.

In addition, Congress can provide more time for us to work on these cases by extending the current 3-year statute of limitations. Because of the complexity of these cases, 3 years is often insufficient to close the case properly.

Finally, it is important that Congress continue to support and strengthen our network of tax treaties. They provide a basis for information sharing, and each time an agreement is renewed, we seek more information from our treaty partners.

Mr. Chairman, thank you again for the opportunity to be here. I look forward to working with you and the Members of the Subcommittee during my tenure at the IRS, and I am happy to respond to questions.

Senator LEVIN. Commissioner Shulman, thank you so much. Mr. O'Connor.

**TESTIMONY OF HON. KEVIN J. O'CONNOR,¹ ASSOCIATE
ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE**

Mr. O'CONNOR. Thank you, Chairman Levin and Ranking Member Coleman, for the opportunity to appear here this morning to discuss the Department of Justice's efforts, alongside our colleagues at the IRS, to combat the use of tax havens and offshore entities by U.S. taxpayers to evade income taxes. Let me begin by echoing my colleague, Commissioner Shulman, commending this Subcommittee for its longstanding commitment to investigating and publicizing abuses of our Federal tax system. Your work—in particular, the report that you issued just today—has brought much needed attention to serious misconduct that threatens to undermine the fundamental integrity of our tax system. Really, Commissioner Shulman and I were remarking before that we would be so lucky to have many of your Subcommittee staffers in our offices based on the thoroughness and diligence of that report, and I commend you and your staffs as well.

Senator LEVIN. Thank you. We appreciate that, and I know they appreciate that, and you're right, they deserve that kind of a compliment.

Mr. O'CONNOR. As a result of their work, taxpayers have a greater understanding of their obligations and the consequences of non-compliance, and tax professionals and promoters are on notice that their efforts to design, market, or facilitate tax evasion schemes will not be tolerated.

Today I would like to briefly focus my remarks on the Department of Justice's role in combating the continuing problem of offshore tax evasion. Over the years, as you are well aware, Congress has made numerous changes to our tax laws to reflect advances in communications and technology. One fundamental concept has, however, remained constant: U.S. taxpayers are subject to taxation on their worldwide income from whatever source that income is derived. The use of tax haven banks and offshore nominee accounts to evade taxes is a direct assault on this basic principle and cannot be tolerated.

Offshore tax schemes, often used by high-wealth individuals, but not exclusively, potentially result in the loss of billions of dollars a year in U.S. tax revenues. For this reason, the Department, alongside with our counterparts at the IRS, have used and will continue to use all of the tools at our disposal to ensure that non-compliance is both detected, and, where appropriate, aggressively prosecuted.

While taxpayers who engage in tax evasion are subject to civil and criminal liability for their conduct, we are equally concerned about the role played by tax professionals and promoters in designing and implementing these schemes. It is discouraging, as Commissioner Shulman said, to see that some professionals—tax attorneys, accountants, bankers, brokers, corporate service providers, and trust administrators, in particular—continue to violate their

¹ The prepared statement of Mr. O'Connor appears in the Appendix on page 65.

legal and ethical responsibilities by facilitating these illegal tax schemes at a substantial profit. Holding these professionals accountable for their misconduct is necessary, and as the examples in my written testimony reflect, we are pursuing criminal sanctions against such individuals and entities where and when appropriate.

Our success in prosecuting these cases is as a result of our close working relationship with the IRS and with U.S. Attorneys' Offices across the country. For example, lawyers in the Tax Division have worked with the IRS to investigate offshore tax evasion by obtaining approval from a court to serve what are known as John Doe summonses. As my colleague from the IRS has mentioned, a John Doe Summons enables the IRS, with the assistance of the Department of Justice and Federal court approval, to obtain information about possible fraud by taxpayers whose identities at that time are unknown.

On the criminal side, the Tax Division serves as the nerve center for all of our Federal criminal tax prosecutions. Tax Division attorneys work closely with the IRS Criminal Investigation Special Agents to develop and prosecute a wide variety and array of tax crimes, including offshore evasion.

It bears noting in this regard, however, that offshore tax evasion cases are, by their nature, international in scope. Investigations requiring international cooperation are both time-consuming, expensive, and often raise complex legal issues such as national sovereignty and bank secrecy laws of the foreign countries in which evidence we may seek is located.

Despite the challenges, U.S. law enforcement agencies and our foreign counterparts are engaged in a variety of information-sharing arrangements designed to aid in shutting down illegal and abusive activity and exchanging the information we, both the IRS and the Department of Justice, need to do our jobs.

Critical to every investigation of offshore activity is the ability to obtain evidence from a foreign country. In addition to traditional letters rogatory, information can be requested through tax treaties or tax information exchange agreements in both civil and criminal cases, and through Mutual Legal Assistance Treaties—otherwise known as MLATs—in criminal cases.

Unfortunately, we do not have cooperative agreements with every country. Moreover, not all cooperative agreements cover both civil and criminal matters. On occasion, MLATs exclude outright tax crimes altogether, while other MLATs and tax treaties are limited to particular instances in which we can allege specific kinds of fraud.

In such circumstances, however, we will not be deterred. We will pursue other formal and informal methods of obtaining the foreign evidence we seek. This includes the use of John Doe summonses as well as grand jury subpoenas.

Tax evasion is a chronic drain on the public fisc and is a pernicious obstacle to effective tax administration. If not vigorously investigated and addressed, it threatens to undermine confidence in our system of voluntary compliance and self-assessment. We are dedicated to ensuring that law-abiding taxpayers have confidence that the tax laws are fairly and equally applied, and that those who would attempt to engage in tax evasion know that we will

deter their schemes, detect their schemes, and hold them accountable for their misconduct.

Thank you, Mr. Chairman and Ranking Member Coleman, for inviting me and the Department today to discuss our efforts to combat tax evasion. I would be happy to answer questions you may have.

Senator LEVIN. Thank you so much, Mr. O'Connor.

We will try an 8-minute round here for the first round of questions.

We put up a chart before that lists some of the secrecy tricks that were uncovered during our investigation that these banks have used.¹ These are actual, established banking practices at LGT and UBS, if you can believe it. The purpose of these banking practices is to stop you folks, the prosecutors and the IRS, from being able to follow the money and make it more difficult to bring tax cheats to justice.

Just to read a few of them, some of those tricks are funneling money through so-called transfer companies to cover the tracks of the funds; opening accounts in the name of foreign shell corporations and companies to hide the real owners; using foreign credit cards on undeclared accounts; using captive trustees for trusts instead of independent trustees.

Have you seen these types of practices in your work? And are these practices limited to these two banks? Mr. O'Connor.

Mr. O'CONNOR. Chairman Levin, your staff was kind enough to provide me a copy of that chart this morning in advance of the hearing. It is fair to say we have seen all of these tactics. I think with respect to Mr. Birkenfeld, the one case that has been discussed publicly because of his guilty plea, the vast majority of those secrecy tricks were actually employed in that matter. At least Mr. Birkenfeld admitted in Federal court in connection with his plea agreement that he engaged in those types of tactics. So the short answer to your question is yes.

Senator LEVIN. Do you want to add anything, Commissioner?

Mr. SHULMAN. All I would add is that anytime someone wants to evade paying taxes, they look for complexity. It is the reason people go overseas, because things become much more complex once you leave our borders and our jurisdiction. You add on top of this complex financial arrangements which include all the techniques in your chart, and you've got exactly the method by which people are looking to evade the U.S. tax laws.

Senator LEVIN. We have talked about these QI agreements as to how they are basically subverted by tactics, some of which are on that chart.¹ Should we insist that when U.S. clients are the beneficial owners of so-called foreign trusts or companies that they be treated as owners of the securities in a foreign bank account instead of owners of the nominal trust or the company that was created for them?

Mr. SHULMAN. I think the issue you bring up is the absolute issue here, which is how we can have a line of sight into the people who really benefit from the money coming from these accounts. The QI program has brought in a lot of money into the U.S. Govern-

¹ See Exhibit No. 104, which appears in the Appendix on page 564.

ment and has created a line of sight into foreign banks and those accounts.

With that said, we are in the process now of reviewing the QI program and have started discussions about tightening it up, so let me share with you those discussions.

Last week, I participated in a conference call with major accounting firms who were responsible for performing audits on the QI program. I asked them to come to us with issues, and we shared with them the issues we have seen. In addition, we raised the possibility of requiring, as part of their agreement, that they report any fraud they see in a foreign bank in the QI program to the IRS, which, frankly, is what occurs when a bank hides assets.

There is also this issue of beneficial ownership. What we are going to try to do in this regard is to rework our regulations and our QI agreements so that QI banks have to put in additional steps of due diligence to make sure they understand who the owner is; and where they cannot ascertain who the owner is, default to withholding. And so we could go through it later, and these are still being worked on.

We want to make sure we carve out legitimate businesses, like public companies or active businesses in a foreign country, so QI banks don't need to look through there. But if the owner is basically a trust that looks like an individual holder, we want to make sure we either obtain their taxpayer identification number or implement automatic withholding.

And then, finally, there is this whole issue of worldwide income that we are taking a hard look at, because one of the techniques alleged gets people out of U.S. securities and into foreign securities, which are not currently covered under the QI program.

Senator LEVIN. These banks have accomplished their deception here in avoidance of the QI program in a number of ways. The one we are going to look at today told their U.S.—here is what they told their U.S. clients: We are not going to identify you, and the way we are going to avoid identifying you to the IRS is that you are going to have to sell your U.S. securities from this account; or you have got to reopen your account under the name of a non-U.S. entity.

So they helped them to create that shell company or that trust that is then the nominal owner of those securities, rather than what they know to be the U.S. taxpayer.

Would you agree that banks that do that are gaming the QI program?

Mr. SHULMAN. Absolutely.

Senator LEVIN. And is there any reason why we should not modify this program to tell banks we will not accept that, and that if you want to participate in this program, you must disclose the beneficial owner to us when you know it?

Mr. SHULMAN. That is the intent of the QI program, and I share your anger over people who circumvent the system.

I want to emphasize, though, at least in my view, that banks that don't meet their obligation should be ashamed of themselves, and we should deal with them appropriately. But kicking a bank out of the QI program, which is always an option, would mean that account holders in that bank will not be subject to U.S. taxation.

Thus, our goal is to get banks into compliance and to keep them in the U.S. tax net, where appropriate.

Senator LEVIN. And if we can't get them into compliance, to kick them out of the program?

Mr. SHULMAN. We terminated QI agreements before, and currently have a number of QI agreements that we are looking at right now.

Senator LEVIN. How large a problem would you estimate this offshore tax haven, tax avoidance is? Can you give us any kind of an estimate as to what the loss is to the Treasury?

Mr. SHULMAN. As you know, I started this job 3 months ago. We actually have some good research in certain areas of tax evasion. Research in general in tax evasion is hard because, as you know, when there is tax evasion, people are actually hiding their activities, so it is not the kind of research you get through a census or questionnaire.

The current data we have from around 2001 does not quantify this, but I am confident to say that these activities involve thousands of taxpayers and billions of dollars.

Mr. O'CONNOR. Mr. Chairman, if I might add?

Senator LEVIN. Please.

Mr. O'CONNOR. If you just look at the Olenicoff plea, \$200 million, and some of the figures thrown around there and realize that is just one taxpayer, and then you multiply that by thousands, it is an incredibly, significantly large number that I would not even want to put a ceiling on.

Senator LEVIN. You would say it is a significant loss to the Treasury?

Mr. O'CONNOR. Absolutely.

Senator LEVIN. Would it be safe to say it is in the tens of billions? Could you even go that far? We have come up with an estimate of up to \$100 billion, and I know you are not going to want to pick any specific figure. But would you be able to say that your estimate is it would be in the tens of billions? Is that a safe estimate?

Mr. O'CONNOR. I am probably utterly unqualified to make such an assessment, but it is certainly in the billions. I think I am comfortable saying that. I would defer to Commissioner Shulman, who probably is much closer to these figures as the person who—

Senator LEVIN. You would rather defer this to a future moment, I think. [Laughter.]

But we will look forward to your estimate. At least, Commissioner Shulman, you would say it is a significant loss to the Treasury. Is that safe?

Mr. SHULMAN. It is a significant loss. And also let me tell you, even in my confirmation hearing, I talked to the Senate Finance Committee about why I made international a strategic priority of mine coming in. Where there is complexity, there are global capital flows, mobile capital, and people and businesses who want to evade taxes are going to do it in the complex international arena. And so regardless what the number is—and I agree the number is significant—this is an area that we are going to focus on at the IRS.

Senator LEVIN. Finally, the burden is now on the government to prove that an individual controls an offshore corporation, and that

is very difficult where there are secrecy jurisdictions. Would a presumption that a U.S. taxpayer who forms or who sends assets to or who gets assets from a corporation in an offshore secrecy jurisdiction controls that corporation—it would be a rebuttable presumption, but would that be helpful in tax enforcement cases? I do not know, maybe, Mr. O'Connor, I should start with you on that. I am not sure. Either one of you can give me an answer, Commissioner or Mr. O'Connor.

Mr. O'CONNOR. Well, I think certainly the more information we have as prosecutors, it is always better and the easier we can do our jobs and the more efficiently we can do our jobs. I would say that about any mechanism. In terms of what is actually in a QI, obviously those are agreements negotiated by the IRS, not the Department of Justice.

Senator LEVIN. I mean a law that created that presumption so that would have to be disclosed, it would be a rebuttable presumption, but it puts the burden on people who use these offshore tax havens to come forward and to disclose the fact that they have either assets in that tax haven or have assets, income from companies that are in those tax havens.

Mr. O'CONNOR. Yes, I think I could just say that the Department has a formal response for handling inquiries about legislation. I, as I sit here today, cannot see a reason to oppose that.

Senator LEVIN. All right. Do you have a comment on that at this time?

Mr. SHULMAN. My comment is that the idea of getting a line of sight to the people who own and control these accounts is the whole game. I actually think some of the activities that are in your report and that have been made public show that we are actually doing a pretty good job right now of getting some of these lines of sight.

Our preference would be to modify the regs in the QI program so we can see through first, and then come back later to things like presumptions because they are tools that can obviously ensnare a whole wide range of people who may or may not be involved in evasion.

Senator LEVIN. Which is why we make it rebuttable. Senator Coleman.

Senator COLEMAN. Thank you, Mr. Chairman.

The Chairman talked about U.S. clients and this issue of beneficial owners. In other words, you create a trust, the beneficial owner is the client, but you use that as a way to shield the identity of the client.

Even with secrecy jurisdictions, either to Mr. O'Connor or Mr. Shulman, is it fair to say that they still have to comply with the know-your-client obligations that we impose on banks?

Mr. SHULMAN. Yes, in order to enter the QI program, a piece of the diligence is to have acceptable know-your-customer rules. And so people who are evading this are generally doing it on purpose.

Senator COLEMAN. And that is what we call the "gap," one of my frustrations. On the one hand, banks have to know their customer, so they know who they are dealing with. Then you have the QI program. If they have had their customers unload U.S. securities, they got the assets, they have their customers set up beneficial trusts

which should be identified, but they still know the customer because the banks retain that information. And yet when QI comes, they are allowed simply to put a blinder on and to respond just to QI, even though they know that there is another path in there. And what I am frustrated about is up until this hearing, we have folks auditing QI. They may, in fact, see fraud. They may see this other stuff. But they do not report on it.

What has been the justification up until now for folks who are auditing, seeing fraud, seeing other trails, and not pursuing them? What has the rationale been all along?

Mr. SHULMAN. Like I said, I am 3 months into this job. We are now in the process of closing down a loophole in the program. I think that the intent you articulated is just that, and I think banks who circumvent that intent should be ashamed of themselves. They know that the purpose of signing up for the QI program is to provide us with a line of sight into U.S. taxpayers who have a tax obligation, and they either withhold or report that income to us. And so, dancing around a set of technicalities is not an excuse. We are going to make sure we tighten up those technicalities so they are harder to dance around, and we will keep working with this Subcommittee if we find we cannot do that through administrative remedies and regulations.

And so I cannot tell you what the purpose was before. I think the purpose was always to make sure we could see through and get the information. People have found some ways around that, and we are going to try to remedy that.

Senator COLEMAN. And I hope we do. My point with the know your customer (KYC) rules is that the information is there. Banks know who these folks are, and they have been able to segregate out their KYC obligations and to kind of disassociate KYC from QI and just respond in a narrow sense to the QI, process that information that even our own auditors did not break through. So, I ask for a little bit of common sense here. And I know that we want folks to participate in QI. We are getting access to information that we did not have. On the other hand, there is a charade being played here. There is a game being played with terrible consequences. I am not seeing any bars to simply coming in and telling auditors to go down that trail. If there is fraud, you check it out. And to the banks, we know you have KYC obligations; if you do this, you have a problem. And we talk about what the reaction to that problem is. But, to me it seems pretty clear. You have this huge gap that there does not seem to be a reason for.

Mr. O'Connor, one of the things that you talked about were these Mutual Legal Assistance Treaties (MLATs) that we have with other countries. So if you are doing an international case, we have this MLAT, but you have noted that they sometimes exclude tax crimes. I have not looked through this, but do they exclude tax crimes when we have MLATs with tax havens?

Mr. O'CONNOR. Well, not surprisingly, obviously MLATs are the product not of legislation or dictation, but of negotiation. And at the end of the day, we try to negotiate the most favorable terms possible with foreign sovereigns. But we cannot dictate necessarily what they will give and not give us.

To no one's surprise, the countries that tend to carve out, if you will, tax crimes tend to be those with bank secrecy laws. So it is an obstacle to us, and it is something we are very well aware of, and we are almost in daily communication trying to, if you will, loosen those terms to get the information we need.

Senator COLEMAN. This would come back to perhaps another area of oversight, Mr. Chairman. We are giving these countries access to the world's largest economy. We are giving them access to American securities. There is a huge benefit for being able to tap into the American economy. Even in the UBS notes, they talk about there are 200-and-something billionaires in America. This is a big market. This is still where, in spite of our challenges, it is where the money is. And I would think that we would utilize that leverage.

So I would hope we would do a review of that and say for the luxury of participating in this market, this economy, and to be able to do business, we have to close this down. As I said, you can drive a Mack truck through the holes in this system. And there is a lot of money, Mr. Chairman, that is just not going down the drain, but it is staying in people's pockets.

So I see the MLATs, and it seems to me that the exclusion is something that we really have to take a look at, and I hope we would do that.

Mr. O'CONNOR. If I may, Senator, we are, and I think in fairness, while the MLAT with a country, say, carves out tax cases except where there is an organized crime element, that is not our sole avenue to pursue evidence. So while the MLAT may not be as favorable to us as we would like, we do have a double taxation treaty. There is also what is called the IMAT, which is their own law enforcement assistance regulations in Switzerland. So there are other avenues we can pursue even if the MLAT has a carve-out for tax offenses, complete carve-out or sometimes defines tax offenses very narrowly. For example, in some countries, simple tax evasion is not a crime. It is only a civil liability. Whereas, in the United States it is a crime.

So we find that each country is different, but we are very creative in exploring different avenues. If we run into a dead end with a MLAT, we will pursue those documents through the tax treaty. And again, as Commissioner Shulman said, if we have to go all the way down to using a grand jury subpoena or a John Doe summons, we will do that as well.

Senator COLEMAN. Commissioner, just one other area of a gap in the QI program. It is my understanding—does the QI program involve folks who have assets in U.S. securities, their securities?

Mr. SHULMAN. Correct.

Senator COLEMAN. So that one of the things that we see is you get clients of both UBS and LGT who sold—if they sell of their U.S. securities, then they escape any QI obligations. Is that a fair statement?

Mr. SHULMAN. If you sell off your U.S. securities, yes.

Senator COLEMAN. And so what about expanding banks' QI reporting obligations on U.S. persons—I am talking about U.S. citizens—beyond those for simply U.S. citizens who hold securities? Have you looked at that expansion of QI?

Mr. SHULMAN. Yes, when I talk about worldwide income and mention that—and I did not go into it deeper—that is one thing we are looking at.

Senator COLEMAN. I would hope we would pursue that. Thank you, Commissioner.

Thank you, Mr. Chairman.

Senator LEVIN. Thank you very much, Senator Coleman.

We welcome Senator Kerry here, and we are going to excuse this panel unless you have questions of them.

Senator KERRY. Mr. Chairman, I don't want—

Senator LEVIN. We were going to move to the second panel.

Senator KERRY. I might have just two questions, if that is possible.

Senator LEVIN. Please.

Senator KERRY. Could I just begin by saying, first of all, thank you for the courtesy of allowing a non-Permanent Subcommittee Member to be part of this. I really appreciate that. I know that happens occasionally around here in various committees, and I am very grateful to you for your courtesy.

And, second, I would like to say thank you to you and Senator Coleman for doing this. I see that some of the chairs are empty here, but I must say to you this is a topic that people really need to understand, and its larger implications. And I am very respectful of the work that this Subcommittee has done. It has done a terrific job, though I know there are some folks who dispute some aspects of the report, and that will have an opportunity to be able to be aired here.

But when I served on the Banking Committee back in 1986, I became aware of some of this and became interested in it through a bank called BCCI, which became infamous because not only did it have money from Noriega and drug trafficking, but it has money from Osama bin Laden, which is one of the first times we observed his name. And that secrecy process really opened up a window for many of us, arms trafficking that was illicit and otherwise. And I remember visiting with the governor of the Bank of England in the course of trying to get at this and ran into resistance in certain quarters that were willing to protect the secrecy and the flow of funds in that way.

And so that is when we developed some of the MLAT apparatus, which I have heard referred to. I did hear both of the testimonies, though I was not here. And we also passed some amendments in the Banking Committee that came to be known as the Kerry amendments, which required transparency and reporting. And, ultimately, the \$10,000 transfer requirement and other things became *pro forma*.

Listening to the Administration—and we created our financial group down at the Treasury, and we have gone through a process of this. But it strikes me that we are woefully behind the curve and that the focus on this has been sort of significantly sporadic, to be honest with you. And I want you to address that a little bit.

There is an infamous building in the Cayman Islands that I believe houses some 15,000 or so brass plates that are telephone numbers and fax machines, which are used, everybody knows, to move huge sums of money in and out of the financial system. And

with the commingling of these funds that takes place with multiple transfers, ultimately accountability is really just absent.

Why are known financial tax evasion/wealth-hiding entities still able to access the largest financial systems in the world and, until recently, the most secure in our own, willy-nilly? Just why has there not been a greater push for cross-country international transparency and accountability? Because I heard you in your testimony mention we are trying to get some of these others countries to cooperate. It depends on the level of their cooperation. We are still struggling with something that is just fundamental to the integrity of every government's ability to be able to run itself and provide a fairness to their populations. And it seems to me the effort necessary to do this other than when Senator Levin and Senator Coleman have a moment of accountability is just not forthcoming.

Can you address that?

Mr. O'CONNOR. Well, I would be happy to speak on behalf of the Department of Justice. I think you are 100 percent correct about the scope of the problem, but I have had the pleasure of working with our Tax Division and to see even a case like the Birkenfeld case, the complexities involved in chasing through foreign accounts and foreign entities, it is incredible. And they are working incredibly hard with U.S. Attorneys' Offices across the country to try to ferret out these cases, both the taxpayers—and there are obviously thousands of them—as well as the promoters.

Of course, there is always going to be an issue. For example, we have one individual under indictment now who is in a country for which we do not have an extradition treaty. So you do run into road blocks in these investigations that are not made by Department of Justice or others, but it is just a simple sovereignty issue. And the folks in the Tax Division have assured me—and I am comfortable with that—that they are doing all that they possibly can to hold people accountable both here in the United States but abroad as well. And whether it is using material witness statutes to detain people, whether it is being creative in how we go about getting documentation that is not here in the United States, we are availing ourselves of all the avenues available to us.

Senator KERRY. All the evidence available, but not all the evidence that could be available. I mean, don't the G-8 fundamentally have the financial clout in the use of their system to demand greater transparency and accountability?

Mr. O'CONNOR. Senator, I think they do, and in fairness to the folks who negotiate these treaties, I would imagine every time we ask for something, the countries ask for something in return. And I would imagine if you are in the State Department or in our Office of International Affairs negotiating MLATs, and every time we ask for more information, there is a counter request to us that we have to weigh equally. And we may have reasons in that circumstance to not agree to everything they want, which the end result might be we don't get everything we want.

Again, I am not privy to, I do not participate in those negotiations, but I know that they can oftentimes reach dead ends.

Senator KERRY. Well, doesn't the IRS have a very clear sense of the level of lost revenue to the country as a consequence of these practices?

Mr. SHULMAN. We talked a little bit about this before, Senator, and let me, if I could, just respond to your earlier question, and at least give you my perspective on it. I just started my term. I am going to be here for 5 years. We are going to make this a major focus.

What I said before is really the notion that once you leave the United States, our tools become harder to use, and it takes longer to use them from a tax administration standpoint, evasion tactics are easier to execute when you get outside of the United States. You layer on that the notion that capital markets have become global, and the obvious place to hide assets.

We have never had a study directly on the leakage from the U.S. Treasury from global tax evasion, but I am comfortable saying it is in the billions of dollars, and it is something that we are going to focus on.

I think one of the keys and one thing that I know is happening now—and it has been happening in my 3 months here because I have been involved in conversations—is that the OECD has a Tax Administrator Forum that sets standards of transparency that the United States has been active in. Just in the last couple of weeks, I think the G-8 actually asked that there be a broader OECD directive around transparency. We now house people together with folks from the governments of the U.K., Australia, Canada, and Japan to look at tax evasion. And we have now coordinated efforts with those countries and others, around some of these tax haven and tax evasion cases that you have been reading about recently. And we have hundreds of cases open.

In response to your question of whether we are behind the curve, I would say every regulatory entity in the United States is going to need to pay attention to global capital flows, and that we are always going to be struggling to get ahead of the curve where there is complexity. We need to focus on both U.S. citizens, who frankly are evading their tax obligations and shortchanging their citizens, as well as on the supply side, which this Subcommittee is talking about today, the banks, the promoters, the lawyers, the accountants—anyone else involved in making it possible to evade tax obligations. I just think we need to have continued focus.

Senator KERRY. Well, my time is up. I really want to thank the Chairman. I would just say those efforts I referred to were 1986 and 1991. It is now 2008. And I will tell you, the American taxpayer has enough to be angry about in terms of what is happening to their wallet today and the sense of unfairness that is institutionalized in the system. But if we cannot get at this with greater energy and create a system that is fair, and they are picking up the burden for a whole bunch of folks who are avoiding it and taking it overseas, we have a serious long-term problem because it undermines—and all you have to do is look at other countries in Europe that have difficulties in terms of the legitimacy of their tax structures to see what begins to happen. Our underground economy is already growing enormously, and everybody knows it. And this is one of the contributing factors to that.

So, Mr. Chairman, I congratulate you again. I think this is really important stuff in terms of the integrity of our governance, and I think it is terrific you are pursuing it.

Senator LEVIN. Thank you, Senator Kerry.

Let me mention that I think we both would fully agree with you that there is a role for much stronger regulation and enforcement. But there is also a role here for legislation, and as I mentioned in my opening statement, I have introduced with Senator Coleman and Senator Obama a bill which will really take on these tax havens head on. The way we do that, one of the ways we do it in that bill, is to create a rebuttable presumption that in enforcement proceedings, a U.S. taxpayer who forms a legal entity in an offshore secrecy jurisdiction, which were enumerated by the Treasury Department, or who sends assets to an entity in a tax haven jurisdiction, or who receives assets from an entity in a tax haven jurisdiction is presumptively liable for that income and for tax on those assets.

It is the way to get at this thing. It puts the onus on taxpayers. They are not going to be able to go to that little building there that has tens of thousands of nameplates of phony corporations which allow people to avoid paying taxes because they cannot do it without violating our tax law. When they send in their tax return, under our bill they would have to disclose that they are sending assets to an entity in a tax haven. And if they do not do it, they would be violating our laws. Right now they do not violate our laws per se by just simply sending money to a tax haven. It is only if they do not report it under certain circumstances.

We want to create a rebuttable presumption that they are taxable on that income. They can rebut it. But we have to do that if we are going to take on that building in the Caymans and places like that all around the world, and these banks which facilitate and aid and abet our taxpayers. That is the way we think we can directly do it legislatively. But we need all the regulatory enforcement.

Senator KERRY. The only thing I would say to that, Mr. Chairman—and I applaud it, and I think you have to move in that direction. But I know, because I have been through this with some of these folks, what you are going to hear from some of them, and that is that in a global marketplace, where capital is competing for the return on investment and where there is a voracious appetite for deals and for who is moving their wealth where and how, some people are going to say if you make it so onerous only in one jurisdiction, those folks just are not going to bother, and they will go take their capital—

Senator LEVIN. We are not talking about foreign taxpayers. We are talking about U.S. taxpayers.

Senator KERRY. I understand that, but it is critical for the U.S. taxpayer to be able to feel they are competing on a playing field where they can have the ability to compete. And if that comparable cost of capital gets skewed, which is why the international piece is so critical here, that you have got to have the transparency and openness and have the larger financial structure, now global, not just controlled by New York as it used to be, but London, Singapore, Hong Kong, a vast array of centers of finance, you are going to have to think carefully about the implications. That is all I am saying.

Senator LEVIN. I could not agree with you more. Senator Coleman.

Senator COLEMAN. Thank you.

Mr. O'Connor, if you could look at the exhibit book to your left, Exhibit No. 92,¹ which purports to be information that comes from UBS, it was used at UBS workshops, training for some of their client advisors. It was given to us by Mr. Birkenfeld. I think he delivered that, and I will be asking the UBS folks about this. But if you look at Case 4—which the Chairman mentioned in his opening statement—and it gives a case study, and it says, “After passing the immigration desk during your trip to the USA/Canada, you are intercepted by the authorities. By checking your Palm, they find all your client meetings. Fortunately, you stored only very short remarks of the different meetings and no names.”

Then it goes on to say, “You are staying at a hotel. You are being observed.” And what they are reflecting is being observed by authorities, and that you are then intercepted by an FBI agent, and he is looking for information about one of your clients, explains to you your client is involved in illegal activities.

Then they ask, “What are the signs indicating something is going on?” In other words, this purports to be directions to folks coming in to do business here—and we are going to find out that they are not registered securities folks, that many of them that came, that on their entry documents saying they were here for personal reasons, not for business reasons were in fact here solely for the business of inducing and abetting tax evasion.

Can you tell me in your experience whether—is this standard training that American businesses give to their staff or that even other international—I am trying to understand where this fits in.

Mr. O'CONNOR. Well, if it is standard training, God help us because, again, in fairness, I would want to see what UBS would have to say about it. But it seems to me it is clearly a way to evade the QI requirements, the deemed sales provision of the QI programs, as well as our securities laws that would require them to register as investment advisors. And, as I have seen the Subcommittee's report about filing false declarations with customs, the lengths that apparently we are going to—and, again, I referred to Mr. Birkenfeld's plea where he confirms a lot of this. It is, frankly, very troubling, and that is why we charged that case as a 371 conspiracy. It was not charged as an evasion case. It is one thing for a U.S. taxpayer to be creative and create shell corporations. It is a whole different ball of wax when a bank is enabling it and encouraging it. And that is what Mr. Birkenfeld has admitted to here. It was not just a taxpayer trying to save money by not paying their lawful taxes. It was a conspiracy.

Senator COLEMAN. If you were looking at pursuing some action against the entity, would it be fair to say that this kind of information at least appears on the surface to be enabling the kind of illegal conduct that we are talking about?

Mr. O'CONNOR. Again, I have to be very careful with an ongoing investigation, but in a hypothetical manner, obviously this is documentation that raises a lot more questions than it answers.

¹ See Exhibit No. 92, which appears in the Appendix on page 518.

Senator COLEMAN. Thank you, Mr. O'Connor.

Thank you, Mr. Chairman.

Senator LEVIN. Thank you, Senator Coleman. And we will again thank you both and excuse you.

Mr. SHULMAN. Thank you.

Senator LEVIN. Before we seat the next panel, we are going to have a tape recording, so the second panel is going to be deferred until we have a presentation of a statement by and questions of a man named Heinrich Kieber.

In 2007 and 2008, Mr. Kieber, a former employee of LGT provided tax authorities around the world with records on people who had accounts at LGT. He freely gave to this Subcommittee about 12,000 pages of documents related to U.S. persons who had LGT accounts.

Mr. Kieber spent 2 years reviewing the LGT documents. He also spoke with LGT officers and employees. As a result, he gained a familiarity with the operations and practices of LGT. During a recorded interview with Subcommittee staff, he provided information on LGT practices that helped U.S. citizens hide their assets from U.S. tax authorities. Many of the practices that he outlined apply to the case histories that are featured in the next panel.

This taped interview along with the documents provided to the Subcommittee by Mr. Kieber provide insight into the practices of LGT.

This man is now in a witness protection program. His current location and name are unknown to the Subcommittee. In order to avoid any breach in the security surrounding his condition or whereabouts, we will not discuss any aspects of the interview other than the content. There is a transcript of this interview at Exhibit No. 5.a.¹

So now if we could play that interview, we would appreciate it. [Interview played.]

[The transcript of the interview follows:]

MR. ROACH: Good morning, sir. My name is Bob Roach. I am counsel for the Democratic staff of the Permanent Subcommittee on Investigations. With me is my colleague, Mike Flowers, who is counsel for the Republican staff of the Subcommittee.

MR. FLOWERS: Good morning, sir.

CONFIDENTIAL WITNESS: Good morning.

MR. ROACH: Thank you for joining us.

I understand you have a statement to make after which we will ask you a few questions about the banking and trust operations of the LGT Group. Please proceed.

CONFIDENTIAL WITNESS: Good morning.

I swear that the testimony I am about to give will be the truth, the whole truth, and nothing but the truth so help me God.

In 2000, the LGT Trust was evaluating the so-called "paperless office." A project to scan every document of each client's legal entity and index them electronically, encoding an internal "bak track" code, a b-a-k. The project requires to hire over 20 new staff members. Based on my education and skills, I, then named Heinrich Kieber, worked—started to work at the LGT Trust in Vaduz in October 2000, and I worked there for more than 2 years until the date 2002.

The LGT Group in Liechtenstein is a provider of a vast range of financial services. The key business of the LGT Group consists of the LGT Bank and the LGT Trust services. Both are independent, commercial companies, and both use autonomous computer data storage systems.

The core trade of the LGT Trust, with head office in Vaduz and several branches in Switzerland, is selling and managing Liechtenstein legal entities such as founda-

¹ See Exhibit No. 5.a., which appears in the Appendix on page 213.

tions or establishments. They cater for clients from many different countries including the USA. Generally, the client transfers his/her bank assets, such as securities and cash accounts and often also the nonbank assets, such as real estate, expensive paintings, patents, rights, etc., into the ownership of a selected one or more legal entity.

The client becomes then the beneficial owner of the legal entity. Every single legal entity from Liechtenstein has to pay on average a worldwide matchless flat tax rate of only \$1000 Swiss francs per year, regardless of the millions of different type of assets they own and income they gain.

The LGT Trust, back in the year 2002, had over 3,500 active legal entities under management, with the combined total bank assets of around 7.2 billion Swiss francs of which about 6 were invested at the LGT Bank and the rest in other Liechtenstein banks or Swiss banks. Back then, the LGT Bank had around 50 to 60 billion Swiss francs in their books. Today they hold over 100 billion Swiss francs. The real value of the nonbank assets are never recorded in the books.

The first couple of months I was in charge of the correct handling of all clients' legal entities' files to make sure that they are scanned properly and that not one of the very sensitive documents where all the data concerning the beneficial owners are recorded is lost in the process. Because of the nature of my job, I had access to all documents of all legal entities, active ones and the inactive ones.

The biggest task of the second stage was the proper indexing of all scanned documents. To be able to index the documents, we had to read every single one on our screens. It was then when I began to realize the very questionable business the LGT was often involved in and the dubious clients they were serving, the kind of business that goes beyond just facilitating massive tax evasion. Going through thousands of documents, I got very—I got the very clear picture of the highly sophisticated and sometimes surprisingly simple tricks and methods used to (a) help any clients to bring his or her bank assets to Liechtenstein and nonbank assets under the control of the one or more selective legal entity; (b) help any clients to keep his or her assets out of the reach of the taxman and people who may have a legal right to it or interest in it; (c) get around the laws of Liechtenstein and other countries; (d)—and (d)—avoid the attention of international law enforcement agencies and the international media.

Liechtenstein has implemented real tough new compliance laws in January 2001. In addition, in July 2002, they signed a mutual assistance treaty with the United States of America. This treaty was designed to protect the international financial markets against terror, organized and economic crimes. However, the business practices of LGT undermines those reforms that Liechtenstein enacted. The LGT deliberately ignores the basic principles of the know-your-customer rules. For sure, I can frankly declare that in the vast majority of all legal entities, LGT does not have a clue about the real sources of their clients' huge wealth they manage, as it has been verified in the files I delivered to the U.S. Government.

The final part of my job was to conduct training programs for all of the 85 staff members of the LGT Trust, including CEO, members of the company's board—and members of the company's board. When I was teaching the CEO or a member of the board or a trust client advisor, I confronted them about the LGT's questionable practices that I have seen in many files. Sometimes I always raised this topic with foundations' bank account managers from the LGT Bank. All these discussions were about files with strong indication to corruption, links to dictators, or business deals to avoid a U.S. embargo, for example. The answer was always the same: None of your business. Just stick to your designated job.

I obtained copies of the data of every legal entity and, furthermore, copies of vast internal documents before I left the company. All documents provided are authentic, original copies and have not been in any way changed or manipulated.

MR. ROACH: Thank you, sir.

CONFIDENTIAL WITNESS: That's my statement.

MR. ROACH: Thank you, sir. I'd now like to ask you a few questions. First of all, in your statement you referred to tricks that LGT used to help clients bring their assets into the bank, including—would you mind commenting on that, including the use of shell companies to move funds internationally.

CONFIDENTIAL WITNESS: Yes. There are several methods in use, depending on the type of assets the client wants to transfer into his or her legal entity in Liechtenstein. For bank assets, the LGT Group establishes, indirectly manages, and ultimately owns a number of legal entities, so called "special purpose vehicles," SPV. For the purpose of high-grade camouflage, there are two types of SPVs. Type A: big bank accounts around the world; and Type B: Which do not have any bank accounts but own and control Type A. To protect the LGT Group, those types used are never

from Liechtenstein. The LGT uses only SPV registered in Panama, in the British Virgin Islands, or sometimes even in Nigeria.

In practical terms, for a U.S. client, the LGT will transfer the bank's assets out of the United States through a chain of several Type A SPVs. Firstly, always into a country, for example, Canada, which from the IRS point of view is not suspicious. Next, through a series of other countries and therefore different jurisdictions. Preferably countries with very weak or, better, non-existing compliance laws. Before reaching Liechtenstein, it will run through a Swiss bank, for example the Banca del Gottardo in Lugano. This bank, in turn, has reciprocal rights to use the LGT Bank for its own customers.

For an additional layer of concealment, either the Swiss bank or the LGT Bank often perform a fake cash-out transaction to make it look like the monies have been paid out in cash over the counter where in fact they have been transferred into the concentration account of the LGT Bank and, at the same time, an equal amount has been credited into the client's legal entity's bank account. After one or two years in use, the SPVs are put into liquidation, then deleted, and new ones established.

The only purpose of all this is to make it extremely complicated for law enforcement agencies to follow the trail, as each step serves as a filter to hide the track of the client's money. For any bank or trust company in Liechtenstein, the matter of SPVs is commercially very sensitive material. The better sys—sorry. The better the system put in place, actually the less it will be detected. There's a lot of effort put into general research and checks of any possible legal implications, so that the LGT Group can always be many steps ahead of the tax authorities.

All of the clients' trust advisors and bank account managers of the LGT Group get regular in-house training in relation to the latest tricks and methods used so they can keep their knowledge up to date and can offer it to any existing or future customers.

MR. FLOWERS: Thank you, sir.

Sir, you mentioned during your statement that LGT helped clients to keep their assets out of reach of tax agencies or persons with legal claims on those assets. Could you please explain how that was accomplished?

CONFIDENTIAL WITNESS: Yes. What happens, the LGT strongly recommends to all clients to follow instructions such as, firstly, not to tell anybody concerning the legal entity to their lawyers, to other family members or relatives who are not part of the pool of beneficial owners, to friends or business partners. The reason is, any human relationship can go wrong and the client may end up in a situation where blackmailing is possible. Secondly, not to call the LGT Group from home—not from home, not from work. Use public phones instead. As Liechtenstein has an own country code number, the IRS may use the same plan as the Italian tax police did some years ago. They ordered the state-run phone company to record over a certain period the caller's i.d.; the time, date, and number dialed from a big city in Italy to Liechtenstein, to a Liechtenstein number. When the number called did not match a phone number—sorry—did match a phone number registered to a bank, trust company, or a lawyer, the tax police of Italy conducted a special assessment of the Italian callers. Thirdly, a third recommendation, only make calls in emergency to the nominated cell phone numbers of the clients' trust advisors. The LGT Trust only uses cell phone numbers from Switzerland or Austria. Again, because of the existence of a Liechtenstein-own country code number. When calling, the clients should always use the code words agreed and never state their own names or name of the legal entities. In addition, the LGT Group itself does not send any mail to their customers out of—from Liechtenstein. If at all, mail gets sent out via Swiss or Austrian post office to avoid the attention of any tax enforcement agency around the world looking for mail coming from Liechtenstein. In addition, any documents sent out are specially prepared in the way that the name of the bank, the client's name, or the legal entities' name is not revealed. The LGT Group does not call the clients at home or at work or on her or his phone—cell phones and does not communicate with their clients via email. The fact that all the LGT Trust's clients do not need their assets hidden in legal entities for their daily living helps very much to avoid detection and to keep the personal contact between the parties to a minimum, on average once per year.

MR. ROACH: Thank you.

You said that LGT used methods to allow it to get around compliance with the laws of Liechtenstein and other countries. How did LGT do that?

CONFIDENTIAL WITNESS: Yes, they're very sophisticated in that way. The know-your-customer rules necessitate a lot of up-to-date documentation concerning the client's identity and the true source of assets. In addition, a profile of every client has to be created, and any movement outside the set profile has to be reported to a preferably independent government entity, for example, to the financial intel-

ligence unit. The LGT not only fails to keep the basic documentation up to date, often there is no clear indication of the beneficial owner or the source of the monies at all. Furthermore, they, the LGT Trust, predetermine the threshold of a client's profile in such an unrealistic way that it would—that it will not trigger the compulsive report even so when according to compliance law, the transaction is regarded as more than suspicious.

MR. FLOWERS: Thank you, sir.

Sir, based on your experiences while working at LGT, did LGT ever assist U.S. persons in repatriating their assets back to the United States in a manner that would have reduced the attentions of the United States Government?

CONFIDENTIAL WITNESS: Yes, there are several tricks in use, and I recall one. Then, at times, actually the LGT Trust would adjust the legal entities' documents to designate a new beneficial owner who will cause or result in the lowest tax obligation or, if possible, a zero tax obligation. Often this means creating a—new trust documents and changing the name of the real beneficial owner into the name of a person or relative who has recently died or, in some cases, is unfortunately in the process of dying. When the assets are transferred back to the United States, the real beneficial owners explain to the IRS that they have just inherited a large amount which was only discovered in recent times.

MR. ROACH: Now, in your statement, you also said that LGT sought to avoid the attention of international law enforcement and the media. How did LGT do that?

CONFIDENTIAL WITNESS: After some major scandals in the past 15 years, in an effort to avoid bad and further damage to their reputation, many powerful financial key players in Liechtenstein established smaller banks or trust companies whose names nobody recognizes. They have transferred their risky group of clients into those new banks or trust companies. In that way, if the risky clients are exposed in a scandal overseas, the larger well-known banks or trust companies are out of trouble and the media spotlight. The LGT Trust, but not so much the LGT Bank, did not accept new clients from Russia, for example, but would refer them to such smaller trust companies.

MR. FLOWERS: Sir, you made references in your statement to LGT's role in assisting in corruptive—or corruption, acts of corruption including breaking embargoes, for example. Could you please elaborate on that?

CONFIDENTIAL WITNESS: Yeah. The words I say here is that one set of documents indicate its pride in government officials in another country—in other countries including the United States. The LGT Bank introduced the client to the LGT Trust. The LGT Trust did accept the client but refused to nominate staff onto a new Panama company where such payments should be done in the future. At the end, in this file, the payments continued to be facilitated through the LGT Bank.

And there's another file which has a very strong indication to—of corruption in a third world country. A head of a social government department owns over \$5 million U.S. dollars with no explanation in the files whatever in regard to the source of the vast amount.

MR. ROACH: In an answer to a previous question, you identified some problems with LGT's know-your-customer program. What about LGT's compliance with the qualified intermediary program?

CONFIDENTIAL WITNESS: Yeah, I strongly believe that they are violating this one too. The IRS implemented the qualified intermediary stages QI to be able to collect the withholding tax on interest and dividends on U.S. securities through foreign intermediaries. The LGT Group realized quickly that without the QI stages, the banking secrecy for their U.S. clients cannot be sustained, because only as a QI the LGT Group can avoid having to report the underlying beneficial owners to the IRS. The IRS approved the QI stages to Liechtenstein as a country and to the LGT Group as a foreign intermediary in early 2001, as both were able to persuade the IRS that Liechtenstein's know-your-customer rules were top standard. All U.S. clients from the LGT Group with U.S. securities in the bank portfolios have been informed about the QI regulations. These clients had two options: Get out of the U.S. security—sell them or keep them. The clients wanting to keep the U.S. securities had great fears that the IRS may eventually find out who the ultimate beneficial owners are, for instance, through the external auditors' working paper the IRS can request to examine.

To reduce the panic, the LGT came up with the solutions: (a) to transfer all U.S. securities held by a legal entity of a U.S. tax person into a newly established Panama corporation. To add a further layer of secrecy between the foundation and that Panama corporation, another offshore company will own the Panama corporation. The LGT's argument for the Panama corporation solution was that the IRS regards it as a per se corporation; (b) having added enough offshore companies in between the U.S. client as a beneficial owner and the entity holding the U.S. securities, the

LGT Trust declares the whole structure as being a non-U.S. status. This should keep the client out of trouble and taxes.

MR. ROACH: Thank you very much, sir. We appreciate your comments.

This concludes our questions.

MR. FLOWERS: Thank you, sir.

CONFIDENTIAL WITNESS: Thank you very much.

Senator LEVIN. After Germany and other nations began to act on the information provided by Mr. Kieber, Liechtenstein put out an international arrest warrant for Mr. Kieber and posted his picture on the government's website, and this is a chart of that website.¹ Even today it is on the website, and Mr. Kieber has been listed by Liechtenstein as their number one target for arrest.

This is what the message on that arrest warrant reads. This is a translation: "Information on the whereabouts of Heinrich Kieber should be passed on to the national police force of the Principality of Liechtenstein or the closest police station. Kieber is being sought under an international arrest warrant. Liechtenstein law enforcement authorities seek Kieber's prompt delivery/extradition. The legal basis: Warrant issued by the principality's county court on 2/9/08 for the alleged transfer (passing on) of company business secrets for use abroad and for data theft."

Liechtenstein is obviously aggressive in pursuing persons who release information about their banking practices in violation of their secrecy laws. They have not been particularly aggressive at all in combating banks that facilitate tax evasion. And while the government of Liechtenstein told the Subcommittee that it has now initiated an investigation into LGT, when the Subcommittee asked the chief compliance officer of LGT Group about the investigation, he was unaware of it.

We will now call panel two. Mr. Marsh and Mr. Wu, if you would please be seated.

[Pause.]

Senator LEVIN. Let me now welcome our second panel of witnesses for today's hearing: Shannon Marsh of Fort Lauderdale, Florida, and William Wu, of Forest Hills, New York. We appreciate your traveling here today.

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

Mr. MARSH. I do.

Mr. WU. I do.

**TESTIMONY OF SHANNON MARSH, FORT LAUDERDALE,
FLORIDA, ACCOMPANIED BY SHARON KEGGEREIS, ESQ.**

Senator LEVIN. Our investigation disclosed that Shannon Marsh is the son of the late James Albright Marsh who formed four Liechtenstein foundations in the mid-1980s, as shown in a chart which we will put up, and transferred substantial sums to those founda-

¹ Exhibit No. 5.b., which appears in the Appendix on page 222.

tions.¹ In 1985, for example, LGT documents show that he deposited \$3.3 million in cash into just one LGT foundation. That is Exhibit No. 7.² By 2007, the assets in the four foundations had a combined value of more than \$49 million.

Shannon Marsh, who is here today, has been involved with the LGT foundations since the beginning. LGT's documents indicate that he traveled to Liechtenstein, served as a foundation protector with control over the foundations' activities, and signed a so-called letter of wishes to provide instructions for distributing foundation assets that he would receive. The Marshes are in settlement discussions with the IRS.

Mr. Marsh, do you have any opening remarks?

Ms. KEGERREIS. No, Your Honor, we don't.

Senator LEVIN. Mr. Marsh, have you ever spoken to anyone at LGT Bank in Liechtenstein?

Mr. MARSH. On the advice of counsel, I hereby invoke my right to remain silent under the Fifth Amendment of the U.S. Constitution.

Senator LEVIN. And, Mr. Marsh, do you have any corrections to what I have just said about the Marsh foundations and your activities at LGT to ensure that we have the facts right?

Mr. MARSH. On the advice of counsel, I hereby invoke my right to remain silent under the Fifth Amendment of the U.S. Constitution.

Senator LEVIN. Mr. Marsh, you have been asked specific questions about matters of interest to this Subcommittee, and in response to each question, you have asserted your Fifth Amendment privilege. Is it your intention to assert your Fifth Amendment privilege to any question that might be directed to you by the Subcommittee today?

Mr. MARSH. Yes, it is, sir.

Senator LEVIN. Given the fact that you intend to assert a Fifth Amendment right against self-incrimination to all questions asked of you by this Subcommittee, you are excused. You are free to leave.

Ms. KEGERREIS. Thank you, Chairman Levin.

Senator LEVIN. Thank you.

Mr. MARSH. Thank you.

**TESTIMONY OF WILLIAM WU, FOREST HILLS, NEW YORK,
ACCOMPANIED BY HENRY KLINGEMAN, ESQ.**

Senator LEVIN. Our investigation disclosed that William S. Wu has lived for many years with his family in New York. LGT helped Mr. Wu establish a Liechtenstein foundation in 1996 and a second one in 2006. LGT documents indicate that these foundations were used to conceal certain Wu ownership interests. For example, in 1997, 3 months after forming his first foundation, Mr. Wu pretended to sell his home in New York to what appeared to be an unrelated party from Hong Kong. In fact, as you can see from the chart which we have put up,³ the buyer was a British Virgin Islands company with a Hong Kong address, and it was wholly

¹ See Exhibit No. 1, which appears in the Appendix on page 209.

² See Exhibit No. 7, which appears in the Appendix on page 224.

³ See Exhibit No. 2, which appears in the Appendix on page 210.

owned by a Bahamian corporation, which was in turn wholly owned by Mr. Wu's Liechtenstein foundation. These layers of ownership were designed to hide Mr. Wu's ownership of the home that he lived in and likely shield him from taxes at the same time.

LGT documents also show that Mr. Wu transferred substantial sums to his foundation and over the years withdrew substantial amounts ranging from \$100,000 to \$1.5 million at a time. In one instance, LGT arranged for Mr. Wu to withdraw \$100,000 using an HSBC bank check drawn on a LGT correspondent account, which made the funds difficult to trace. By 2006, Mr. Wu's first foundation had been dissolved while his second foundation had assets in excess of \$4.6 million.

Mr. Wu, do you have an opening statement?

Mr. WU. No, sir.

Senator LEVIN. Have you ever spoken to anyone at LGT Bank in Liechtenstein?

Mr. WU. Senator, I decline to answer the question based on my right to remain silent under the Fifth Amendment to the U.S. Constitution.

Senator LEVIN. And, Mr. Wu, do you have any corrections to what I have just said about your foundations and your role in them in order to ensure that we have the facts correct?

Mr. WU. No, sir.¹ And, Senator, I intend to give the same answer to any questions posed to me.

Senator LEVIN. You have been asked specific questions about matters of interest to this Subcommittee, and in response to the questions, you have asserted your Fifth Amendment privilege. Is it your intention to assert your Fifth Amendment privilege to any question that might be directed to you by the Subcommittee today?

Mr. WU. Yes, sir.

Senator LEVIN. Given the fact that you are asserting a Fifth Amendment right against self-incrimination to all questions asked of you by this Subcommittee, Mr. Wu, you are excused.

Mr. WU. Thank you.

Senator LEVIN. Thank you.

Now, the third witness who was subpoenaed for this panel was Steven Greenfield. Harvey Greenfield, Steven Greenfield's father, and Steven Greenfield are New York businessmen. In 1992, LGT helped Harvey Greenfield establish a Liechtenstein foundation for which he is the sole primary beneficiary. Steven Greenfield holds power of attorney. As shown in the Greenfield foundation chart,² the Greenfields' foundation used two British Virgin Islands corporations as conduits to transfer funds, which at the end of 2001 had a combined value of \$2.2 million.

A LGT memorandum, which is Exhibit No. 54,³ describing the 2001 meeting in Liechtenstein with Prince Philipp states the following: "The Bank of Bermuda has indicated to the client that it would like to end the business relationship with him as a U.S. citizen. Due to these circumstances, the client is now on the search for a safe haven for his offshore assets. The bank indicates strong interest in receiving the US\$30 million. The clients are very careful

¹ See Exhibit No. 120, which appears in the Appendix on page 681.

² See Exhibit No. 3, which appears in the Appendix on page 211.

³ See Exhibit No. 54, which appears in the Appendix on page 367.

and eager to dissolve the trust with the Bank of Bermuda, leaving behind as few traces as possible.”

The Subcommittee subpoenaed Mr. Greenfield to testify at today’s hearing. LGT documents indicate that he has information related to the Subcommittee’s investigation into tax haven financial institutions, their use of offshore entities and accounts for U.S. clients, and the impact of these activities on U.S. tax compliance.

Mr. Greenfield’s counsel informed the Subcommittee by letter that Mr. Greenfield would assert his Fifth Amendment rights in response to any questions and requested that he be excused from appearing at this hearing. The Subcommittee informed Mr. Greenfield’s counsel by letter that his absence was not excused and that he was required to attend the hearing and answer Subcommittee questions or assert appropriate privileges in response to particular questions. Our letter assured the lawyer that any assertion or constitutional rights would be respected, but that his client needed to make any assertions personally at the hearing. That exchange of correspondence will be included in today’s hearing record, as well as a longer statement of mine.¹

Senator LEVIN. Mr. Greenfield has ignored the Subcommittee’s subpoena and directive and has chosen not to appear today. There are both civil and criminal sanctions that can be sought by the Subcommittee for his failure to appear, and we will at the appropriate time make a decision as to how to proceed with respect to Mr. Greenfield.

The fourth witness who was to be on this panel was Peter Lowy. On July 10, 2008, Mr. Lowy was asked to appear at today’s hearing. His attorney was informed that Mr. Lowy would be formally subpoenaed if he did not agree to appear voluntarily. A subpoena was signed.

On July 11, 2008, Mr. Lowy’s attorney was asked if he was authorized to accept service of the subpoena. He replied that he would check with his client and respond by Monday, July 14. On Monday, Mr. Lowy’s attorney notified the Subcommittee that Mr. Lowy was out of the country. Yesterday, Mr. Lowy’s attorney provided a letter stating that Mr. Lowy would appear before the Subcommittee for a hearing on July 25, one week from tomorrow. The letter will be entered into the record, as well as the other documents referred to, and we will look forward to his appearance at that hearing.²

Senator LEVIN. Senator Coleman, before we proceed now to our next panel, I am wondering if I might turn to you for any comments that you might have.

Senator COLEMAN. Mr. Chairman, I simply want to say for the record that I associate myself with the comments from the Chairman and will work with the Chairman on following up and pursuing these matters.

¹Subsequent to the adjournment of the hearing, Mr. Steven Greenfield agreed to appear before the Permanent Subcommittee on Investigations at the July 25 hearing. Senator Levin’s longer statement was presented at that hearing. However, the correspondence referred to by Senator Levin is included as Exhibit No. 121, which appears in the appendix on page 683.

²See Exhibit No. 122, which appears in the Appendix on page 699.

Senator LEVIN. I want to thank you, Senator Coleman, again for your work on this matter, for the great work also of your staff. They have been essential.

Senator COLEMAN. It has been a very good bipartisan investigation, Mr. Chairman.

Senator LEVIN. Now, the next panel is Martin Liechti—and I hope I am pronouncing your name correctly, Mr. Liechti—the head of the Wealth Management Americas, which is part of the Wealth Management Business Bank Division of UBS. In this capacity, Mr. Liechti oversees, among other things, the activities of UBS private bankers in Switzerland who serve U.S. clients, and his offices are located in Zurich, Switzerland.

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

Mr. LIECHTI. Yes, I do.

TESTIMONY OF MARTIN LIECHTI, HEAD, UBS WEALTH MANAGEMENT AMERICAS, ZURICH, SWITZERLAND, ACCOMPANIED BY DAVID M. ZORNOW, ESQUIRE

Senator LEVIN. Do you have any opening remarks, Mr. Liechti?

Mr. ZORNOW. Mr. Chairman, we do not have an opening statement.

Senator LEVIN. Are you, Mr. Liechti, involved in setting and implementing policies that govern the practices of UBS private bankers in Switzerland who recruit and serve clients from the United States?

Mr. LIECHTI. Mr. Chairman, on advice of my counsel, I assert my rights under the Fifth Amendment to the U.S. Constitution and respectfully decline to answer your question.

Senator LEVIN. Mr. Liechti, as part of your responsibilities, do you travel to the United States?

Mr. LIECHTI. Mr. Chairman, on the advice of my counsel, I assert my rights under the Fifth Amendment to the U.S. Constitution, and I respectfully decline to answer your question.

Senator LEVIN. Mr. Liechti, you have been asked specific questions about matters of interest to this Subcommittee. In response to each question, you have asserted your Fifth Amendment privilege. Is it your intention to assert your Fifth Amendment privilege to any question that might be directed to you by the Subcommittee today?

Mr. LIECHTI. Yes, I do.

Senator LEVIN. Given the fact that you are asserting your Fifth Amendment right against self-incrimination to all questions asked of you by this Subcommittee, you are excused.

Mr. ZORNOW. Thank you, Mr. Chairman.

Mr. LIECHTI. Thank you.

Senator LEVIN. Thank you. We will now move to our final panel and call as our final witness today Mark Branson, the Chief Financial Officer of UBS Global Wealth Management and Business Banking of Zurich, Switzerland.

Mr. Branson, I want to thank you for traveling here today. We look forward to your testimony.

The Subcommittee also extended an invitation to the LGT Group in Liechtenstein. We do not have the authority to compel its attendance. We, nonetheless, had hoped that LGT would send a representative to answer questions and to provide us with the bank's perspective. LGT chose not to appear. LGT did send its Senior Compliance Officer to be interviewed by the Subcommittee in private last week and provided limited information in response to our requests. We obviously had hoped that LGT would be more open and forthcoming to enable the Subcommittee to gain a better understanding of its interaction with U.S. clients. However, we do not have subpoena capability over LGT, and they decided not to appear.

We are very pleased that you appeared today, Mr. Branson, and we know that in doing so you are undertaking to answer some questions which you have heard a great deal about already.

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

Mr. BRANSON. Yes, I do.

Senator LEVIN. Thank you. You may proceed. Do you have an opening statement, Mr. Branson?

Mr. BRANSON. I do.

Senator LEVIN. That is fine. Thank you.

TESTIMONY OF MARK BRANSON, CHIEF FINANCIAL OFFICER, UBS GLOBAL WEALTH MANAGEMENT AND BUSINESS BANKING, MEMBER, UBS GROUP MANAGING BOARD, ZURICH, SWITZERLAND

Mr. BRANSON. Thank you, Chairman Levin and Senator Coleman. My name is Mark Branson of UBS. I am the Chief Financial Officer of our Global Wealth Management and Swiss Businesses located in Zurich. I have been with UBS since 1997, and in my current position for 5 months. Prior to this, I was the Chief Executive Officer of UBS in Japan. I am now responsible for finance and for risk control, including the financial reporting of our performance and the maintenance of a strong compliance framework for our wealth management business worldwide.

Mr. Chairman, I have now had the chance to review your Subcommittee's staff report. I am here to make absolutely clear that UBS genuinely regrets any compliance failures that may have occurred. We will take responsibility for them. We will not seek to minimize them. On behalf of UBS, I am apologizing. I am committing to you that we will take the actions necessary to see that this does not happen again.

First, we have decided to exit entirely the business in question. That means that UBS will no longer provide offshore banking or securities services to U.S. residents through our bank branches. Such services will only be provided to residents of this country through companies licensed in the United States. While we are

winding down this business, there will be no new accounts opened, and Swiss-based client advisors will not be permitted to travel to the United States for the purpose of meeting with U.S. clients.

Second, we are working with the U.S. Government to identify those names of U.S. clients who may have engaged in tax fraud. Client identity is generally protected from disclosure under Swiss law, but such privacy protections do not apply when disclosure of client names is requested in connection with an investigation of tax fraud and where the requests are presented to the Swiss Government through established legal channels. We will fully support and assist that process.

Mr. Chairman, I have worked in this organization in many different divisions and many different locations over the past 11 years. What I have experienced is a firm which not only puts an enormous emphasis on compliance—compliance with law, compliance with regulation, compliance with internal policy—not only that but also acts as a partner to governments seeking the assistance of the financial system. We have been a recognized partner to the U.S. Government in its efforts to stop the flow of money that supports terrorism, illegal drug trade, or organized crime. And we have constructed a best-in-class system for reconciling the multiple sanction rules imposed by the United States, the United Nations, the European Union, and other countries. This system has won direct praise from senior officials in the U.S. Treasury Department. And these are just two examples.

Like many international financial institutions with clients around the globe invested in U.S. securities, UBS has entered into a Qualified Intermediary (QI) agreement with the Internal Revenue Service. We entered this agreement with the IRS effective January 1, 2001. The QI agreement established a reporting and withholding regime by which UBS would help the U.S. Treasury collect more taxes.

Chairman Levin, I know that you and Senator Coleman object to banks providing cross-border services to U.S. clients with accounts that do not require the filing of a Form W-9 with the IRS. But, respectfully, this cross-border business was and is entirely legal in both Switzerland and the United States. And, indeed, the QI expressly contemplates that U.S. citizens could access bank accounts in Switzerland and other countries without providing a Form W-9 as long as they held no U.S. securities. Unless or until those rules are changed, that is the framework with which we and other banks must comply.

In 2000, UBS adopted detailed procedures and policies to implement the QI agreement, and we worked hard to comply. For example, we undertook a comprehensive process to identify the accounts of U.S. persons which contained assets that could generate U.S. source income. Then, consistent with the QI agreement, UBS systematically communicated with all of these U.S. persons, advising them that they must either provide UBS with Form W-9, and thereby disclose to the IRS their relationship to the account, or must agree to sell all of the U.S. securities in their accounts. If those clients did not respond by taking one of those two options, we administered forced sales of the U.S. securities in those accounts. Notwithstanding this effort, we now know that our compli-

ance system had failures, and misconduct appears to have occurred.

As the Subcommittee is aware, the U.S. Department of Justice has been conducting an investigation of UBS' business of servicing U.S. clients from Switzerland. Last year, in order to respond to U.S. investigations, UBS launched a comprehensive internal investigation into our cross-border business with U.S. customers. These still ongoing investigations suggest that misconduct occurred, which we find unacceptable. We did have detailed written policies that prohibited our employees from engaging in some of the conduct that our internal investigation has uncovered, such as assisting in the creation of sham offshore companies to defraud tax authorities. While our own review is not complete, it is apparent now that our controls and our supervision were inadequate. We are committed to taking both corrective and disciplinary measures.

Mr. Chairman, as you know, we have nearly 32,000 U.S. employees out of some 80,000 employees around the world. They are all understandably alarmed by the reports of misconduct that they have been seeing. They want to know that kind of misconduct does not belong in UBS and that the firm's ethics match their own. I am here today to tell you and to tell them that, no, that kind of misconduct does not belong in UBS; and, further, that by exiting this business, we have taken a major step designed to ensure that this misconduct will not be repeated and that this matter can be properly resolved.

Thank you for the opportunity, and I will be pleased to answer your questions.

Senator LEVIN. Thank you very much, Mr. Branson, for not only coming today but for the steps which your bank is now taking. If anybody ever suggests that congressional oversight does not have an impact, I hope they will read today's hearing. We have put a lot of time into this investigation, and it has obviously already paid off and was worthwhile. We just want to clarify a few things, however, one being—you say you have read the report, you have read the stories of UBS' undeclared accounts and encrypted computers and the shell companies that you mentioned that were created, the anonymous wire transfers, the disguised business trips, the countersurveillance training, the requirement that foreign credit cards be used.

Do you have any corrections that you want to make in those factual statements?

Mr. BRANSON. I think obviously it is a very detailed, very thorough report, which raises obviously very legitimate concerns. I think there may well be some areas of factual record within the report that we may challenge, but points of detail, especially in terms of the record of growth in the business which you reference in the document, is something which doesn't actually correspond to our understanding of the growth in the business over that period, maybe some other details.

Senator LEVIN. Would you give to the Subcommittee for the record—not today, obviously, but for the record, would you provide us with any factual statements that are in the report that you disagree with?

Mr. BRANSON. I am sure we can provide that.

Senator LEVIN. Could you provide that within the next couple weeks?

Mr. BRANSON. Yes.

Senator LEVIN. Thank you. Would you agree that the purpose of the QI agreement is not just a technical compliance but is a compliance with the point and the intent of that agreement so that if a bank that agrees to provide information to the IRS of the presence of a client in that bank from the United States, and then takes steps to help that client cover up the U.S. identity of that client so that it appears that the deposit comes from some foreign entity rather than from the beneficial owner, that violates the purpose and intent and spirit of the QI agreement?

Mr. BRANSON. I would agree that the creation of any kind of sham offshore entities to conceal the identity of the client from the IRS would be a violation of the QI agreement.

Senator LEVIN. If you would take a look at Exhibit No. 92,¹ this is a cross-border workshop that UBS held for its bankers, and just take a look at Case 4, if you would. I am not going to go through all these, obviously, because of the position that you are now taking, which is a very welcome one, at UBS. But take a look at Case 4. These are all troubling because, obviously, this is training to help your bankers avoid surveillance. But there is that one sentence in the first paragraph there about, "After passing the immigration desk during your trip to the USA/Canada, you are intercepted by the authorities. By checking your Palm, they find all your client meetings." And then it says the following: "Fortunately, you stored only very short remarks of the different meetings and no names."

Would you agree that is very troubling?

Mr. BRANSON. I think this and the other case studies in this kind of training document have to be seen in the context of the legal framework under which these client advisors are operating, and clearly that is all of the applicable legal frameworks relevant to their business activities, obviously in this case specifically the legal frameworks of Switzerland, the legal frameworks of the United States.

The legal framework of Switzerland, as it relates to bank-client confidentiality, clearly prohibits the disclosure of clients' names or identities or their relationship to the bank except in circumstances of criminal activity, tax fraud, etc., as we have heard today.

So any client advisor, whether they be in Switzerland or abroad, has an enormously strong duty under the law not to disclose the names of their clients.

Senator LEVIN. Now, this is not disclosure.

Mr. BRANSON. Well, under Swiss law—

Senator LEVIN. Can you not keep a record of it?

Mr. BRANSON. The names of a client—the link of a name of a client and the relationship to UBS would count as the disclosure of that client's name—it is not the disclosure of the assets in the account. Simply the disclosure of that client relationship is against Swiss law and has severe sanctions, and that is what this training

¹ See Exhibit No. 92, which appears in the Appendix on page 518.

is designed to talk about: Are there difficult situations in which you may find yourself because of that legal framework?

Senator LEVIN. Disclosure is one thing, but putting it in your own Palm, is that disclosure under your law?

Mr. BRANSON. Yes.

Senator LEVIN. That would be disclosure, putting it into your own record?

Mr. BRANSON. If that became available to other parties.

Senator LEVIN. Of course.

Mr. BRANSON. Yes.

Senator LEVIN. That is not what it says here.

Mr. BRANSON. Putting it into your Palm would not be, but that—

Senator LEVIN. It says here, “Fortunately, you only stored very short remarks.” It doesn’t say “disclosed.” It says “stored.”

Mr. BRANSON. Yes.

Senator LEVIN. And no names.

Mr. BRANSON. I think this kind of—as I understand—obviously, I am not privy to the details of this training, but as I understand this kind of case study, this is talking about data protection, and I think in many different circumstances, data protection through lost Palms, lost BlackBerrys, lost mobile phones is one of the acute concerns of anybody in the services industry, especially the financial services industry. And I do believe that is exactly what this is referring to.

Senator LEVIN. You have testified that you were going to address the current 19,000 accounts, approximately.

Mr. BRANSON. Yes.

Senator LEVIN. Can you just give us a little more detail as to what your intent is, as to how you are going to handle that and see to it that any wrongdoing in those accounts will be disclosed and taken care of and shared with the IRS? Can you give us that again?

Mr. BRANSON. So in terms of—

Senator LEVIN. The existing accounts.

Mr. BRANSON. Existing accounts and any possible misconduct that may have occurred within UBS, we have an enormously comprehensive internal investigation into that, and obviously at the same time cooperating with the investigations of the U.S. Government into that potential misconduct. There are no final conclusions from what is an ongoing investigation. The preliminary conclusions, I think we have shared some of them with you here today. That investigation and that process which I referenced of working between the different governments and their authorities on the disclosure of client names where tax fraud is suspected, that is an ongoing process. We are supporting and we are assisting that process, and we expect it to bring results.

Senator LEVIN. Are you going to be cooperating with the IRS now?

Mr. BRANSON. Yes, we are.

Senator LEVIN. In looking at these 19,000 names?

Mr. BRANSON. We will be cooperating with the IRS on their summons.

Senator LEVIN. Will you take a look at Exhibit 88?¹

You have made reference to this notice to U.S. customers in your statement, and you said to the customers that you are going to need to do something here if you have U.S. securities in your account. "Should a customer choose not to execute such a form, the client is barred from investments in U.S. securities. But under no circumstances will his or her identity be revealed."

Now, as I understand what you are saying to your U.S. customers, it is that you must either have these securities shifted to a different entity or you must get rid of these securities, you must sell them. And that is what you call "forced"—

Mr. BRANSON. "Forced sales" of U.S. securities, yes.

Senator LEVIN. U.S. securities. And you said under no circumstances will the identity be revealed. In other words, you would not maintain an account that continued to have U.S. securities in it without a W-9 form.

Mr. BRANSON. That's correct.

Senator LEVIN. But we know from the work that this investigation has carried out that the other option which was utilized was the creation of these sham companies, these other entities in whose name the securities would then be held and deposited. But the secrecy drive here is perhaps reflected as dramatically in that one line, I think, as anything else that we have seen.

We have had a lot of folks who have asserted their rights under the Constitution today, and others did not appear at all. UBS, to its credit, not only appeared but you have taken responsibility for your actions, and you have changed your business and your business practices. And I just hope that LGT will take notice. I hope that other Swiss banks and other tax haven banks will take notice as well. UBS is the largest private bank in the world today, I believe, and by changing its stance, I hope that it will start a trend which will clean up the offshore community and stop tax haven banks from facilitating U.S. tax evasion.

So before I call on Senator Coleman, I want to thank you, Mr. Branson, and I want to thank UBS for your cooperation with this Subcommittee's investigation. Senator Coleman.

Senator COLEMAN. Thank you, Mr. Chairman. I also hope that others take notice and respond accordingly. I do have some questions.

If I can get back to that Case 4, the study there, we are talking about data protection from law enforcement. That is what this is focused on. And what troubles me—and it is more a comment than a question. If you read this, Mr. Chairman and Mr. Branson, it talks about you begin to observe, you notice that some doubt if all the hotel employees are working for the hotel; in other words, you are being observed by law enforcement. And rather than saying at that point, let UBS—let them call the Justice Department, what is the problem here, you are directing your people to figure out a way to limit any and all cooperation with law enforcement. I mean, this to me ties in with—when you look at the other stuff, you look at folks coming into the country and putting on their entry forms here "For personal business," when it appears they were here for solic-

¹ See Exhibit No. 88, which appears in the Appendix on page 502.

iting clients. You put it all together, and it is not a very comforting scenario. I just wanted to make that comment.

UBS has great presence in Minnesota, good community citizens. What I am trying to understand is you have 20 client advisors coming in, over 300 trips, they are taking clients from American—from folks here. They are taking assets. I presume it is competitive. Everyone wants to build up their portfolio.

Who in the United States was aware that these client advisors from Switzerland were coming in for the purpose of soliciting business in violation of U.S. securities law?

Mr. BRANSON. I have no knowledge that anyone in the United States was aware.

Senator COLEMAN. Wouldn't anybody have asked the question, "What are you doing here?"

Mr. BRANSON. It may well be that they are not in the same geographic location, so I have no knowledge that anybody in the U.S. knew of specific visits.

Senator COLEMAN. I find that troubling and really difficult to comprehend. If somebody has a UBS guy coming—if I am a UBS guy probably looking to build our portfolios, and somebody is coming in talking to a high-net-worth individual, I think I have to figure out what they are doing. I think I got to know what they are doing. And that piece has never been resolved, and I appreciate the steps you are taking now. I hope as you look internally that if you are really going to clean house that you raise those questions because they certainly are troubling.

Let me just ask other questions about things that I am still a little unsure of or troubled by as I sit here.

You have indicated that UBS attorneys advised the Subcommittee while some travel was permitted to the United States after November 2007, mainly if it had been previously planned, they told us in no event did any travel occur after January 2008.

Our staff has reviewed data from the Department of Homeland Security that shows from January 2008 to April 2008, many of the same UBS bankers in the Wealth Management Unit that we have talked about before came to America 12 times. Six of those trips were listed as being for non-business purposes.

Are you aware of folks in 2008 involved in the Wealth Management Unit coming to the United States and continuing to do business here?

Mr. BRANSON. Obviously, what you refer to is data that we don't have access to, and obviously, to the extent that we could get access to that, then we can clear up these questions. There may be a number of reasons why that travel either was because it genuinely was for leisure purpose, because it was for business travel unconnected with clients, maybe because some of those client advisors are no longer within that unit. So there may be a number of reasons why that does not indicate a pattern which is inconsistent with that travel ban. If there was a pattern inconsistent with that travel ban that is shown by that data, I am sure we would take the appropriate action. It is completely inconsistent with our—

Senator COLEMAN. But you are confident that your travel ban has been communicated and understood by UBS employees in Switzerland and the United States?

Mr. BRANSON. Absolutely confident, yes.

Senator COLEMAN. All right. And based on your knowledge of the program and the practices we described here today, is there anything that we described here today that you believe is different than other banks in Switzerland that fall into UBS' classes in terms of size. I am trying to figure out is it your sense that this has been the standard practice, the stuff we have seen here, or was UBS the exception?

Mr. BRANSON. It is really impossible for me to generalize across other industry or competitors. Sorry, I just really would not have that experience or knowledge.

Senator COLEMAN. It is certainly a competitive industry. You have an identified class of individuals that you are going after. I think I saw in one of the UBS documents, 222 billionaires being part of the universe.

Mr. BRANSON. I mean, certainly the business that we were in, as we pointed out, was a legal, legitimate business, so we certainly were not the only people in that business. That is for sure.

Senator COLEMAN. One of the things that was talked about today was the gap between the know-your-client obligations and the QI obligations. We have been proposing changes to the QI agreement, which include strengthening audit provisions, requiring UBS to report all American client accounts, not just those containing U.S. securities. That is not the law today. And requiring UBS to apply what it learns through know your client (KYC), to its QI obligations, what would UBS do in response to those changes?

Mr. BRANSON. Well, I guess, as I said, we are exiting the business. It, to some extent, would become a moot point under that. But I think your point is well made that there is a—under the QI agreement, the QI definition of “beneficial ownership” and the KYC definition of “beneficial ownership” are not the same. I think that is something that you pointed out to Commissioner Shulman this morning as being an ambiguity, if you like, of the QI agreement set-up. It sounds as though he is going to be addressing that ambiguity, which obviously the more clarity there is in the rules, the easier it is to not slip into gray areas.

Senator COLEMAN. Mr. Branson, based on your coming forward with a pretty full apology, with a commitment to exit the business, to restructure how UBS operates, I had a lot of questions about why you were doing the things that you are doing. I think it is pretty clear. You are doing it to develop customer relations with American clients in violation of U.S. securities law and other statutes. Let's look to the future.

Again, I appreciate your coming forward. I still remain somewhat troubled by the fact that the scope of this activity and the limited number of folks that you were dealing with to me would have to have raised questions beyond folks just coming from Switzerland. So I do hope that you look very closely and aggressively at that if you are in the process of cleaning house.

Thank you, Mr. Chairman.

Senator LEVIN. Thank you.

We have your commitment here this morning and your promise to cooperate with the U.S. tax authorities, and we assume that also

would include a commitment to cooperate with the SEC, the American Securities and Exchange Commission.

Mr. BRANSON. It does.

Senator LEVIN. Relative to any possible security violation.

Mr. BRANSON. It does.

Senator LEVIN. We cannot reach all the banks. We obviously have reached yours, and that represents progress. The way we have to reach other banks, I am afraid, is going to have to be through our laws, our regulations. We cannot get them all in front of us to do what you have done today here. So we are going to continue that effort. We hope that what you have now decided to do will reverberate throughout that tax haven community. We are determined that we are going to end these abuses which cost so much money to the American Treasury, which are so unfair to the American taxpayer, and we are going to continue that process a week from tomorrow, on July 25. And we will adjourn until then.

Thank you again, Mr. Branson.

Mr. BRANSON. Thank you.

[Whereupon, at 12:10 p.m., the Subcommittee was adjourned.]

TAX HAVEN BANKS AND U.S. TAX COMPLIANCE

FRIDAY, JULY 25, 2008

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

The Subcommittee met, pursuant to notice, at 10:05 a.m., in Room SD-106, Dirksen Senate Office Building, Hon. Carl Levin, Chairman of the Subcommittee, presiding.

Present: Senators Levin and Coleman.

Staff Present: Elise J. Bean, Staff Director/Chief Counsel; Mary D. Robertson, Chief Clerk; Robert L. Roach, Counsel and Chief Investigator; Ross Kirschner, Counsel; Zack Schram, Counsel; Gina Reinhardt, Congressional Fellow; Timothy Everett, Intern; Jeffrey Rezmovic, Law Clerk; Lauren Sarkesian, Intern; Spencer Walters, Law Clerk; Mark L. Greenblatt, Staff Director and Chief Counsel to the Minority; Michael P. Flowers, Counsel to the Minority; Adam Pullano, Staff Assistant to the Minority; Erica Flint, Staff Assistant to the Minority; Kelly Brannigan; and Thomas Caballero, Senate Legal Counsel's Office.

OPENING STATEMENT OF SENATOR LEVIN

Senator LEVIN. The Subcommittee will come to order. Sorry that we had to delay the opening because of two roll call votes on the Senate floor.

Last Thursday, the Subcommittee broke through the wall of secrecy that surrounds tax haven banks to expose how UBS AG of Switzerland and LGT Bank of Liechtenstein, from 2000 to 2007, used an array of secrecy tricks to help U.S. clients hide assets from Uncle Sam. The hearing showed, for example, how UBS opened Swiss accounts for 19,000 U.S. clients with nearly \$18 billion in assets and did not report any of those accounts to the Internal Revenue Service. The hearing also presented multiple case histories of U.S. clients who used LGT accounts to stash millions of dollars in Liechtenstein. A former LGT employee, now in hiding for disclosing LGT client information, provided videotaped testimony describing a long list of secrecy tricks and deceptive practices used by LGT to hide client funds.

UBS, to its credit, announced at the hearing last week that it would take responsibility for its actions. It apologized for past compliance failures, promised to close all 19,000 Swiss accounts unless the U.S. account holder agreed to disclose the account to the IRS,

and announced it would no longer offer undeclared offshore accounts for U.S. clients. UBS also indicated that it was prepared to cooperate with the John Doe summons served on the bank by the IRS seeking the names of U.S. clients with undeclared accounts, pending negotiations between the U.S. and Swiss Governments on how it should comply. I hope our government will accept nothing less than all 19,000 client names.

UBS' surprise stance at the hearing provides a dramatic example of how congressional oversight can help stop offshore abuses. UBS is now apparently the subject of criticism in Switzerland for agreeing to cooperate with U.S. tax enforcement efforts and disclose client names. This criticism shows how cynical Swiss secrecy has become. It is used today not only to protect account holders' privacy, but to hide wrongdoing by both account holders and the banks that help them. The United States is losing perhaps \$100 billion in tax revenues each year due to offshore tax abuses. Swiss bankers should be stopped not only from aiding and abetting such lawlessness, but from profiting from it. If UBS lives up to its promises, it is prepared to trade in bank secrecy for transparency, the rule of law, and tax cooperation. The rest of the banking industry in Switzerland and elsewhere should follow its lead.

In contrast to UBS, three other witnesses invited to appear at last week's hearing were notably absent. LGT, which is not subject to the Subcommittee's subpoena power, did not show. Though LGT met privately with Subcommittee investigators, the bank chose not to discuss and defend its practices at an open hearing, perhaps because those practices are not defensible. LGT issued a statement before the hearing that its practices have changed from those described in the Subcommittee report. Count me skeptical that LGT has stopped selling secrecy to its clients.

Another scheduled witness, Peter Lowy, was not in the country last week despite being notified of the hearing. Following our notice to him of the Subcommittee's intention to subpoena him, he determined to appear today.¹ The final witness, Steven Greenfield, failed to comply with a Subcommittee subpoena that was served on him requiring his attendance at the hearing last week. The Subcommittee announced at the hearing that it was considering initiating contempt-of-Congress proceedings with respect to Mr. Greenfield. Prior to doing so, the Subcommittee offered him a final opportunity to appear today.²

Our objective today is to take testimony from Mr. Greenfield and Mr. Lowy to complete the Subcommittee's hearing record. Both men were involved with the formation of Liechtenstein foundations with the help of LGT. Their foundations then opened LGT accounts with millions of dollars in assets. In both cases, LGT took measures to hide their ownership interests in those accounts. Both cases are now under scrutiny by the IRS.

The Greenfield and Lowy case histories unfold like spy novels, with secret meetings, hidden funds, shell corporations, captive

¹ See Exhibit No. 122, which appears in the Appendix on page 699. Exhibit includes July 18, 2008, letter identifying matters the Subcommittee requested Mr. Lowry to address at the July 25, 2008, hearing.

² Communications between the Subcommittee and counsel for Mr. Greenfield that took place during the period between July 18 and July 24 are included as part of Exhibit No. 121, which appears in the Appendix on page 683.

foundations, and complex offshore transactions spanning the globe from the United States to Liechtenstein, Switzerland, the British Virgin Islands, Australia, and Hong Kong. What they have in common is that LGT bank officials acted as willing partners to move a lot of money into their bank while obscuring the ownership and origin of the funds.

The first case history being examined today involves Harvey and Steven Greenfield, father and son, two New York businessmen who specialize in importing toys. Internal LGT documents show that, in 1992, LGT helped Harvey Greenfield establish a Liechtenstein foundation, for which he is the sole primary beneficiary and for which Steven Greenfield held power of attorney. As shown in this chart which we are putting up, which is Exhibit 3,¹ the Greenfield foundation used two British Virgin Island corporations that they controlled as conduits to transfer funds which, at the end of 2001, had a combined value of about \$2.2 million.

In March 2001, LGT records show that LGT held a 5-hour meeting at its Liechtenstein offices attended by the Greenfields, three LGT private bankers, and Prince Philipp, Chairman of the Board of the LGT Group and brother to the reigning sovereign in Liechtenstein. The meeting was primarily a sales pitch to convince the Greenfields to transfer another \$30 million to their LGT foundation from a Bank of Bermuda account in Hong Kong.

A LGT memorandum describing the meeting, Hearing Exhibit 54,² states in part the following:

“Bank of Bermuda has indicated to the client that it would like to end the business relationship with him as a U.S. citizen. Due to these circumstances, the client is now on the search for a safe haven for his offshore assets. . . . The Bank . . . indicate[d] strong interest in receiving the U.S. \$30 million. . . . The clients are very careful and eager to dissolve the Trust with the Bank of Bermuda leaving behind as few traces as possible.”

So LGT pitched itself as a “safe haven” for the Greenfields’ offshore assets and offered specific suggestions for how the Greenfields could move their \$30 million from Hong Kong “leaving behind as few traces as possible.” One LGT suggestion was to transfer the \$30 million through the two BVI corporations that the Greenfields controlled to channel assets into their Liechtenstein foundation. The documents we obtained stop in 2001; we do not know whether the \$30 million transfer actually took place.

The Lowy case history illustrates additional LGT secrecy practices. LGT documents disclose that Frank Lowy was an existing client of LGT when he asked, in 1996, about setting up a new foundation to conceal assets from Australian tax authorities.

LGT documents describe three meetings held between LGT and the Lowys, in Sydney, Los Angeles, and London, to discuss the structure, funding, and investment portfolio of a new foundation. According to a LGT memorandum, the Los Angeles meeting took place in January 1997 and was attended by LGT representatives, Frank Lowy, and his sons David and Peter Lowy.

¹ See Exhibit No. 3, which appears in the Appendix on page 211.

² See Exhibit No. 54, which appears in the Appendix on page 367.

LGT actually formed Luperla Foundation in April 1997. To hide the Lowys' ownership interest, LGT employed a number of secrecy tricks.

First, LGT did not include the Lowy name in any of the official Luperla documents. Although internal LGT documents state that Frank Lowy and his sons were the intended beneficiaries of Luperla, the only name on the foundation documents was that of their attorney, Joshua H. Gelbard.

Second, funds from other Lowy-related entities were not directly transferred into the Luperla account. Instead, LGT routed the funds through a British Virgin Islands transfer corporation, called Sewell Services Inc., to hide the trail of funds.

Third, LGT and the Lowys designed a unique mechanism to hide the fact that the Lowys were the beneficiaries of the Luperla Foundation. The key to the plan was a Delaware corporation named Beverly Park Corporation, which the Lowys controlled.

Beverly Park was formed in January 1997, the same month the Lowys met with LGT in Los Angeles. Beverly Park has a complex ownership chain that ultimately ends with the Frank Lowy Family Trust. Beverly Park's President and Director since its inception is Peter Lowy. The key Luperla provision states that the foundation's beneficiaries would be named by the last company in which Beverly Park held stock. That meant that Luperla had no official beneficiaries at the time it was formed or in the following years, except, of course, for the financial beneficiaries that were named in the documents of LGT. This ingenious set-up allowed the Lowys to deny with a straight face that they were foundation beneficiaries, while controlling the Delaware corporation that would eventually be used to name those beneficiaries.

This chart which we are putting up, which is Exhibit 114,¹ shows how the Luperla Foundation was initially funded and what happened to those funds 4 years later. First, the hidden money trail into Luperla, that is the top half of the chart. The trail starts with \$54 million in Lowy funds whose origin is unclear. One LGT document states that the \$54 million "originate[d] from a relatively complex transaction, with the goal of bringing shares listed in the stock market back into the [Lowy] family's possession, which was successfully completed." Another LGT document reports that the funds "stem[med] from a credit financing of the LGT Bank in Liechtenstein that at the time was carried out through a company called Crofton." In any event, at some point, the \$54 million made its way into a LGT account that had been opened in the name of Crofton, a company which LGT documents indicate was under the control of the Lowys.

In May 1997, the \$54 million was moved from the Crofton account at LGT to the LGT account opened in the name of Sewell Services, the BVI transfer corporation that LGT had established. From there, the \$54 million was immediately transferred to the LGT account for Luperla.

Additional transfers through Sewell Services added to the Luperla account over time and by 2001, 4 years later, the Luperla account had grown to \$68 million. At that point, the Lowys appar-

¹ See Exhibit No. 114, which appears in the Appendix on page 629.

ently decided to dissolve Luperla and move its funds to Switzerland. That gets us into the bottom half of the chart which shows the hidden instructions that led to the transfer of Luperla's funds to Switzerland.

To transfer the \$68 million and dissolve their foundation, Luperla's beneficiaries had to be named. As explained earlier, the process for naming those beneficiaries had to start with Beverly Park, the Delaware corporation whose President was Peter Lowy. In the summer of 2001, Beverly Park secretly acquired the stock of a British Virgin Islands shell company called Lonas Ltd. Lonas Ltd. had been formed in July 2001; the Lowy attorney, Joshua Gelbard, was appointed Lonas' sole director. This information about Lonas is described in several LGT documents, including Exhibits 48 through 50,¹ even though Beverly Park's own corporate minutes never mention its acquisition of this British Virgin Islands company.

On December 13, 2001, Beverly Park gave Mr. Gelbard a letter authorizing him to act on its behalf, even though he was not an officer, director, or employee of the company. A copy of this letter as well as other original documents related to Beverly Park were provided to Peter Lowy on the same day and then passed on to LGT, as shown in Exhibits 50 and 112.² Over the next week, Mr. Gelbard worked with LGT to provide the information needed for Lonas Ltd. to name the recipients of Luperla's assets and to obtain the transfer of the funds of the foundation. On December 13, 2001, Mr. Gelbard provided a handwritten certification to LGT that Beverly Park did "not hold shares of any corporation" after Lonas Ltd. That was the signal that Lonas was then empowered to name the foundation's beneficiaries the recipients of its assets. Mr. Gelbard also, on the same day, provided written instructions to LGT for "the disbursement of all assets of the foundation." Those documents are described in Exhibit 48.³

LGT documents show that even after receiving these instructions from Mr. Gelbard to transfer Luperla funds, LGT continued to view the Lowys as the true parties behind the foundation. For example, Exhibit 50 shows that after receiving instructions from Mr. Gelbard to transfer the \$68 million to two accounts at a Swiss bank, LGT twice telephoned David Lowy to confirm the instructions. LGT even took the precaution of recording one of those telephone calls.

After David Lowy authorized the transfer of the funds, on December 20, 2001, as shown in Exhibit 110,⁴ LGT emptied the Luperla account, transferring all \$68 million in two transfers to Bank Jacob Safra in Geneva.

Frank Lowy has said publicly that the funds were "distributed for charitable purposes . . . some years ago," but he has refused the Subcommittee's request to name the charities involved or identify the dates and amounts of the donations. He has also declined

¹ See Exhibit Nos. 48 thru 50, which appear in the Appendix on pages 342-352.

² See Exhibit Nos. 50 and 112, which appear in the Appendix on pages 352 and 601 respectively.

³ See Exhibit No. 48 which appears in the Appendix on page 342.

⁴ See Exhibit No. 110, which appears in the Appendix on page 599.

the Subcommittee's invitation to supply additional information about Luperla Foundation or LGT Bank.

In 2007, the Lowys were contacted by the IRS with inquiries about Beverly Park. In submissions to the IRS, Beverly Park claimed that it "did not and does not own any entities," despite the LGT documents showing that it had owned Lonas Ltd.

Today's hearing provides another opportunity to examine LGT's actions to help its clients hide assets. We hope our two witnesses, Steven Greenfield and Peter Lowy, will shed additional light on LGT's actions.

The United States was not, of course, the only country victimized by LGT. LGT has apparently assisted people from dozens of countries in every corner of the globe to evade taxes. While the IRS is investigating 147 U.S. taxpayers with LGT accounts, British tax authorities recently announced they are on the trail of 300 million pounds in unpaid taxes on 1 billion pounds hidden in Liechtenstein. In Germany, over 500 people have admitted so far to failing to pay taxes on funds in a LGT account, and hundreds more are under investigation. LGT still promotes itself as "the Wealth and Asset Management Group of the Princely House of Liechtenstein." It is ironic that a princely bank is the source of this international tax scandal.

But we can do more than simply shake our heads at that bank's conduct. We can take action to stop offshore tax abuses, starting with enactment of S. 681—the Stop Tax Haven Abuse Act. Yesterday, our colleagues on the Senate Finance Committee held a hearing on how over 18,500 companies—as many as half from the United States—claim to have offices at a single building, the Ugland House in the Cayman Islands. It sounds like the Finance Committee is as fed up as we are with tax haven tricks, and it is time to join together this year to stop tax haven abuses.

Before I call on our witnesses, I would like to turn to Senator Coleman. I want to thank him again for his ongoing support of this investigation and invite his opening remarks.

OPENING STATEMENT OF SENATOR COLEMAN

Senator COLEMAN. Thank you, Senator Levin, and I will have more abbreviated remarks today than we had last week.

A week ago, this Subcommittee held a hearing on abuses in offshore tax havens. We found a series of masquerades and maneuvers that were shocking in their audacity. Today, as the Chairman noted, we continue that inquiry. At the outset, it is important to note the reasons for today's session.

While last week's hearing was standing room only for those in the audience, just as notable were the empty chairs at the witness table. Mr. Greenfield was subpoenaed to appear before this Subcommittee last week, but he chose to defy the Subcommittee's subpoena and not attend the hearing. Mr. Lowy left the United States on a red-eye flight to Australia just before the U.S. Marshals Service could track him down and serve him with the Subcommittee subpoena. The third witness, LGT Global, also refused to appear even though it enjoys wide-ranging access to U.S. financial markets.

These actions stand in stark contrast to those who had the guts, the good sense, and the respect for this Subcommittee, to appear and answer for the conduct we have uncovered. We rightly gave credit to UBS for appearing as it did, for the candor with which it dealt with our Members and our investigators, and for its willingness to take both responsibility for past actions as well as a commitment to a principled path for how it would deal with these matters in the future. As the Chairman noted, UBS is prepared to trade in bank secrecy for transparency, the rule of law, and tax cooperation. We also recognize the actions of Mr. Marsh and Mr. Wu for appearing before us, for at a minimum they did not compound their apparent disregard for their tax obligations with disrespect for this process. And we now appreciate that Mr. Greenfield has, at long last, recognized the need to comply with the requests of this Subcommittee. And we also appreciate that Mr. Lowy returned from Australia to appear before us today. What we seek here today is what we ask of any person or entity that we engage with: A measure of candor and respect for the law.

I want to note that, at the end of the day, the tax-cheating schemes we have uncovered by the Subcommittee's investigation demonstrate one simple, undeniable fact: The actions of a few to scam their way out of tax obligations hurt all Americans. A privileged few believe they are entitled to shirk their obligations and heap their tax liability on the sagging shoulders of other Americans to make up for what they avoid.

As Senator Levin noted last week, we cannot get to all the banks or all the tax cheats. But we can move the ball forward by uncovering this misconduct bit by bit, one by one. Make no mistake: Today's hearing demonstrates forcefully that we will not relent in our pursuit of those who continue to mock our justice, our courts, and our tax system.

We will continue our efforts to ferret out those who avoid paying their fair share to the country whose freedoms they so richly enjoy. In holding this hearing today, we impart that message, upholding the traditions and integrity of the Subcommittee and, most importantly, ensuring that those who try to take advantage of the American people do not rest easy.

Thank you, Mr. Chairman.

Senator LEVIN. Thank you, Senator Coleman. Today's hearing is a continuation of the Subcommittee's hearing held last week on July 17. The purpose of today's hearing is to take testimony from two witnesses who were invited to testify last week but did not appear at that hearing. Our witnesses today are Steven Greenfield of New York City, and Peter Lowy of Beverly Hills, California.

Pursuant to Rule VI, all witnesses who testify before the Subcommittee are required to be sworn.

TESTIMONY OF STEVEN GREENFIELD, NEW YORK, NEW YORK

Senator LEVIN. We first will call on Mr. Greenfield, if you would come forward, please, and raise your right hand. Do you swear that the testimony that you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. GREENFIELD. Yes.

Senator LEVIN. Thank you, Mr. Greenfield, do you have opening remarks?

Mr. GREENFIELD. No.

Senator LEVIN. And have you ever spoken to anyone at LGT Bank in Liechtenstein?

Mr. GREENFIELD. Mr. Chairman, I respectfully assert my rights under the Fifth American of the U.S. Constitution and decline to answer.

Senator LEVIN. Mr. Greenfield, do you have any corrections to the statement of facts in my opening statement or the case history in the report released by the Subcommittee last week?

Mr. GREENFIELD. Mr. Chairman, I respectfully assert my rights under the Fifth American of the U.S. Constitution and decline to answer.

Senator LEVIN. Mr. Greenfield, you have been asked specific questions about matters of interest to this Subcommittee. In response to these questions, you have asserted your Fifth Amendment privilege. Is it your intention to assert your Fifth Amendment privilege to any question that might be directed to you by the Subcommittee today?

Mr. GREENFIELD. Yes.

Senator LEVIN. Given the fact that you intend to assert a Fifth Amendment right against self-incrimination to all questions asked of you by this Subcommittee, you are excused. Thank you for coming today.

Mr. GREENFIELD. Thank you.

**TESTIMONY OF PETER S. LOWY, BEVERLY HILLS, CALIFORNIA,
ACCOMPANIED BY ROBERT BENNETT, ESQ.**

Senator LEVIN. Our second witness is Peter S. Lowy, who is the Chief Executive Officer of the Westfield Group in the United States and a Group Managing Director of the Parent Company, Westfield Group in Australia.

Mr. Lowy, would you come forward, please, and raise your right hand. Mr. Lowy, do you swear that any testimony you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. LOWY. I do.

Mr. BENNETT. Mr. Chairman, my name is Robert Bennett, and I am counsel to Mr. Lowy. And I know Mr. Lowy is here. Could I just make one observation?

Senator LEVIN. Not now. Perhaps you can make it afterwards.

Mr. BENNETT. All right. I will do it after he finishes?

Senator LEVIN. That would be fine.

Mr. BENNETT. Thank you, Mr. Chairman.

Senator LEVIN. Mr. Lowy, do you have any opening remarks?

Mr. LOWY. No, sir.

Senator LEVIN. Mr. Lowy, have you ever spoken to anyone at LGT Bank in Liechtenstein?

Mr. LOWY. Senator, I am sorry and mean no disrespect, but on the advice of my counsel, I assert my rights under the Fifth Amendment to the U.S. Constitution and decline to answer your question.

Senator LEVIN. Mr. Lowy, do you have any corrections to the statement of facts in my opening statement or the case history in the report released by the Subcommittee last week?

Mr. LOWY. Senator, on the advice of my counsel, I assert my Fifth Amendment rights and decline to answer the question.

Senator LEVIN. Mr. Lowy, you have been asked specific questions about matters of interest to this Subcommittee. In response to each question, you have asserted your Fifth Amendment privilege. Is it your intention to assert your Fifth Amendment privilege to any question that might be directed to you by the Subcommittee today?

Mr. LOWY. Yes, sir.

Senator LEVIN. Given the fact that you intend to assert a Fifth Amendment right against self-incrimination to all questions asked of you by this Subcommittee, you are excused.

Mr. LOWY. Thank you.

Senator LEVIN. Thank you for coming.

Now, as to what your intentions are, Mr. Bennett, do you have a statement for the record that you can give to us?

Mr. BENNETT. Yes. I just want to make one correction that I feel is very important.

Senator LEVIN. We are not going to have you testify in lieu of your client.

Mr. BENNETT. Well, I am not going to correct the facts. The Subcommittee has made a mistake in——

Senator LEVIN. Then you will have to submit that then, and we——

Mr. BENNETT. Then I will, and I——

Senator LEVIN. We will receive that, but we are not going to have you substitute yourself——

Mr. BENNETT. That is fine. I will deal with it outside this room, then.

Senator LEVIN. I am sure you will anyway.

Mr. BENNETT. I will, Senator.

Senator LEVIN. We expected that. We have already had you folks talk to the press instead of talking to us, so we are not the least bit surprised that you will do it outside this room. But we are not going to have you take the place of your client.

Mr. BENNETT. That is fine. But I do think the Subcommittee should be accurate——

Senator LEVIN. Thank you.

Mr. BENNETT [continuing]. In its statements.

Senator LEVIN. We all agree we should be accurate, and if there are any inaccuracies, that should be under oath by your client and not by his lawyer trying to testify in lieu——

Mr. BENNETT. The error is made by a Subcommittee member.¹

Senator LEVIN. We stand adjourned.

[Whereupon, at 10:31 a.m., the Subcommittee was adjourned.]

¹ See Exhibit No. 122, for correspondence between Mr. Lowy's attorney and the Subcommittee on this matter, which appears in the Appendix on page 699.

A P P E N D I X

**WRITTEN TESTIMONY OF
DOUGLAS SHULMAN
COMMISSIONER OF INTERNAL REVENUE
BEFORE THE
SENATE COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS'
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING ON
TAX HAVEN FINANCIAL INSTITUTIONS: THEIR FORMATION
AND ADMINISTRATION OF OFFSHORE ENTITIES AND
ACCOUNTS FOR USE BY U.S. CLIENTS**

JULY 17, 2008

Good morning Chairman Levin, Ranking Member Coleman and members of the Subcommittee. Thank you for the opportunity to appear before you today to discuss an issue of critical importance to tax administration in this country – the practice of sheltering U.S. earned income in foreign jurisdictions as a means of avoiding U.S. taxation.

This is my first opportunity to appear before the Subcommittee, but I have met with many of you privately. Let me reiterate to the entire Subcommittee what I have told those of you with whom I have met. This Subcommittee has a long and impressive history of investigating tax havens and offshore abuses that undermine the integrity of the Federal tax system and potentially divert billions of dollars from the United States Treasury. I am pleased to be here this morning to assist you in your latest efforts to examine offshore abuses.

I have made international issues a top priority for the IRS for my five-year tenure as Commissioner. There are a number of activities and initiatives underway, and more in the works, at the IRS to help ensure that we are adapting to the global economy. In some cases, this involves proactive dialogue with foreign tax administrators and multinational enterprises.

But the focus of my testimony today will be on some broader themes and more specific examples of the IRS' investigative activities where U.S. citizens are unlawfully hiding assets and associated income overseas. As you will hear, the IRS has significantly stepped up its efforts in this area, both in civil and criminal investigations. We are using a number of innovative techniques to root out noncompliance, as I will explain further. And, while I am limited in the detail that I can share about ongoing investigations, I am pleased with the early successes that we are having at systematically pursuing unlawful off-shore schemes.

Ongoing IRS Investigations

Let me start by laying out some of the facts that I am able to discuss regarding a specific case, because the case that I am about to describe is a matter of public record. It involves a major Swiss bank.

In 2001, the bank signed a disclosure agreement with the U.S. to become a qualified intermediary (QI). This, among other things, required the bank to report on the income of U.S. taxpayers that were clients of the bank. However, a former employee of the bank, as part of his June 19, 2008 guilty plea to assisting a wealthy real estate developer in evading \$7.2 million in Federal income taxes by concealing \$200 million of assets in Switzerland and Liechtenstein, stated that a number of the bank's clients objected to such reporting.

The IRS has since requested, via a so-called John Doe summons, that a Swiss bank turn over account information on any U.S. clients who may have used Swiss bank accounts to avoid U.S. income taxes. The summons directs the bank to produce records identifying U.S. taxpayers who had accounts with the bank in Switzerland between 2002 and 2007 and elected to have their accounts remain hidden from the IRS.

On July 1st a federal judge in Miami approved a Justice Department request to enable the IRS to serve the summons. We are working closely with the Justice Department to ensure that we get the information requested in the summons.

Accordingly, the IRS is exploring our options on how to bring a potentially large number of U.S. taxpayer cases to resolution.

Another recent example relates to U.S. citizens with accounts in Liechtenstein. As we announced in February, the IRS has initiated enforcement action involving more than 100 taxpayers with accounts in this jurisdiction. Because these are ongoing investigations that are not a matter of public record, I cannot go into great detail on these matters. At the highest level, we are again looking at circumstances where U.S. citizens have systematically avoided reporting income from foreign trusts.

Patterns of Evasive Activities

In the cases that we have seen around the world, I want to highlight a few patterns of behavior that we have uncovered in our investigations. Some of the activities I will describe are not, on their own, illegal. Taken together, though, they help paint a picture of the complexity these investigations present.

First, we have seen financial institutions avoiding wire transfers from U.S. banks. In some cases, funds are diverted through a series of wire transfers using tax secrecy jurisdiction banks to disguise the identity of the true owners.

In some cases, discreet communications are stressed to the client. Phone calls are discouraged in favor of private visits. E-mail is not permitted, and code words are used to communicate. Clients have been advised not to carry documents related to accounts into the U.S.

Another method observed in examinations involves individuals physically carrying large amounts of cash from U.S. sources to tax secrecy jurisdiction banks. In some cases, taxpayers were advised to physically transport millions of dollars to an overseas bank.

We have also observed a number of techniques using off-shore accounts to effect a form of estate planning. For example, there are cases where decedents who have an undisclosed foreign trust will leave an account to one or more heirs, but outside of the reported, taxed estate. The heirs may leave their inherited balance in the foreign trust unreported in the U.S. tax system.

These cases often involve sovereign jurisdictions where we have little legal authority and taxpayers that are often difficult to identify. As I will discuss later in my remarks, the United States has agreements to obtain and share tax information with many jurisdictions, but there are limits on our ability to use those agreements. And success in obtaining information can be short-lived. If we are successful in our enforcement strategies in one jurisdiction, the promoters and the schemers often simply move to another.

What I would like to do this morning is offer a little background about these issues and explain why they are so difficult for us. I then want to explain how we are dealing with these challenges, as well as lessons learned. Finally, I will discuss what we think needs to be done moving forward.

Background

U.S. tax administration is complicated by the rapid pace at which our overall economy is globalizing. A growing percentage of large and mid-size business tax filings are from multinational businesses that include a variety of subsidiaries and partnerships operating within an enterprise structure where the ultimate parent is as likely to be foreign as domestic. In addition, a growing number of U.S. businesses acquire capital, raw materials, inventory, and other products and services from foreign businesses.

These events are natural outcomes of an increasingly global economy, and businesses have every right to optimize their global structures. Nonetheless, the complexities of globalization and cross-border activity continue to challenge U.S. tax administration. With multiple domestic and global tiered entities, it is often difficult to determine the full scope and resulting tax impact of a single transaction or series of transactions. Moreover, different jurisdictions impose a variety of different legal requirements and tax and accounting rules on multinational enterprises, leading to complex business structures. These factors create opportunities for aggressive tax planning.

It is not just large corporations that are taking advantage of globalization to engage in aggressive tax planning. Wealthy individuals are seeking ways to shelter income by moving it offshore or by participating in tax shelters organized by unscrupulous promoters who move in the shadows of the global economy.

Discovering and addressing these activities are complicated by the relative lack of transparency in the transactions that individuals and entities can conduct offshore. Not only are transactions themselves often intentionally designed, or carried out in a manner, to obscure the existence of assets or income, but the individuals engaging in the transaction, and their roles, are often intentionally difficult to identify.

I realize that the Subcommittee requested that I quantify the level of evasion through the use of offshore entities and accounts. Unfortunately, the IRS does not have data that will allow us to make a reliable estimate. The National Research Program study of individual taxpayers for Tax Year 2001, which is our best measure of the nation's tax gap, did not estimate the extent of offshore tax evasion.

IRS Approach to Combating Off-Shore Tax Evasion

Information Reporting

The IRS attempts to use an array of tools in attacking offshore noncompliance. The first of these is tax return information reporting. Most U.S. tax returns require that the filer provide information about foreign financial accounts, ownership in foreign entities, and financial statement data. For individuals, ownership of a foreign account is entered in Part III of Schedule B of the 1040, for partnerships in Schedule B on Form 1065, and for organizations exempt from income tax in Part VI on Form 990.

The Form 1120 and Form 3520 have financial statement and foreign ownership informational requirements. Individuals who have created controlled foreign corporations (CFC) are required to file information returns annually on Form 5471 for each CFC. The monetary penalty for failure to file a timely and substantially complete Form 5471 is \$10,000, up to a maximum of \$60,000 for continued failure. Failure to file can also result in a reduction of foreign tax credits.

Any U.S. person (including citizens, residents, domestic partnerships, corporations, estates or trusts) with offshore accounts in excess of \$10,000 during the course of the calendar year must file a foreign bank and financial account (FBAR) report. This includes anyone who has a financial interest in or signature or other authority over any foreign financial account, including bank, brokerage, or other types of financial accounts, in a foreign country. FBAR forms are due on June 30 of each year.

There are severe civil and criminal penalties for non-compliance with the FBAR filing requirements. Civil penalties for a non-willful violation can range up to \$10,000 per violation. Civil penalties for a willful violation can range up to the greater of \$100,000 or 50 percent of the amount in the account at the time of the violation. Criminal penalties

for violating the FBAR requirements while also violating certain other laws can range up to a \$500,000 fine or 10 years imprisonment or both. Civil and criminal penalties may be imposed together.

We also get information reporting about transactions with, and the ownership of, foreign trusts. U.S. persons are generally required to report transfers to foreign trusts and distributions from foreign trusts on Form 3520. In addition, a U.S. person who is treated as the owner of a foreign trust under the grantor trust rules is required to ensure that the foreign trust files a Form 3520-A to provide a full accounting of the trust activities for the tax year. There are significant civil penalties (up to 100 percent of the gross reportable amount) for failure to comply with the reporting requirements.

It is important to note that there are legitimate reasons for a U.S. taxpayer to have an offshore account. As with all information reporting to the IRS, we use this information as part of a broader risk analysis before reaching any conclusions about whether a taxpayer is engaged in aggressive tax planning.

The obvious downside to these types of information reporting is that they are dependent on the willingness of the taxpayer to be compliant. That is why we have looked for means of third-party reporting that often gives us a better view of what is taking place and thus encourages better compliance by the taxpayer.

Qualified Intermediary Program

In 2001 new regulations that completely overhauled the system for withholding and reporting on foreign persons took effect. An essential component of the new system is the QI program.

Under the program, foreign financial institutions voluntarily agree by contract directly with the IRS to operate under a simplified set of the withholding and reporting rules that U.S. financial institutions must follow. This means that the foreign financial institution agrees to collect identifying documentation from its customers, withhold U.S. tax based on that documentation, deposit the withheld tax with the IRS, file withholding tax returns on a Form 1042, file information returns on Form 1042-S and 1099, and submit to periodic audits performed by external auditors supervised by IRS examiners.

Prior to the 2001 regulations, dividends paid to a foreign address was treated as paid to a foreign person, and if the address were in a treaty country, the dividends were treated as paid to a resident of that country. For certain portfolio interest, entitled to a zero rate under the Code, foreign intermediaries were required to forward documentation identifying foreign beneficial owners to U.S. financial institutions. There was widespread non-compliance with this rule, in part due to the impracticality of requiring vast amounts of paper containing customer identification to be transferred and shared among competing financial institutions. Prior to 2001, foreign financial institutions abroad did not generally collect U.S. tax documentation, did not withhold U.S. tax, did not file information returns with IRS, and did not submit to IRS oversight.

Under the 2001 regulations, foreign financial institutions are required to forward beneficial owner documentation to U.S. financial institutions only if the foreign financial institutions are not qualified intermediaries. If they are qualified intermediaries, they are required to make all withholding decisions based on documentation collected from beneficial owners, withhold and deposit tax with IRS, file withholding tax returns and information returns with IRS, and submit to IRS oversight.

To date, 7,007 QI agreements have been signed. There are currently 5,660 active QI agreements. The difference between signed agreements and active agreements is due to mergers, acquisitions and terminations. For example the QI team has issued 600 default letters and has terminated 100 QI agreements. Currently, the QI program exists in 60 countries.

In layman's terms, the QI program gives the IRS an important line of sight to the activities of foreign banks and other financial institutions. It also provides detailed information reporting that the IRS did not previously receive.

However, the success of the program is dependent on the foreign bank being in compliance with its QI requirements. When a foreign bank explicitly takes on those obligations under a QI agreement with IRS, the IRS is in a much better position to hold the bank responsible for living up to those obligations.

I believe the QI program is critical to sound tax administration in a global economy. By bringing foreign financial institutions more directly into the U.S. tax system, we can better ensure that U.S. persons are properly paying tax on foreign account activity, and that foreign persons are subject to the proper withholding rates. The QI program is relatively new, and as with any new and complex program, there will be flaws that must be addressed. In my view, we need to shore up the QI program and continuously enhance it.

Accordingly, the IRS is taking a number of steps to enhance the QI program.

First, because accounting firms perform audits of QIs according to detailed procedures prescribed by IRS regulations, we have reached out to the major accounting firms that engage in this business. We advised these firms of our concerns about activity that we are seeing in some QIs. We engaged in a discussion about the role of the accounting community in conducting the audits of QIs, and what can be done to enhance the detection and reporting of violations of the QI agreement. The discussion was positive, and I am confident the firms understand our concerns.

Pursuant to a 2007 Government Accountability Office report, we are working on an enhancement to our regulations that would require audit firms to specifically report indications of fraud or illegal acts.

Finally, we are working on enhancements to the program to increase the level and quality of information reporting coming through the program. Specifically, we are considering changes to the regulations to require QIs to look through certain foreign entities – such as trusts – to determine whether any U.S. taxpayers are beneficial owners. We are also considering a regulation to have QIs report U.S. taxpayers' worldwide income to the IRS in certain cases– not just U.S. source income.

Tax Treaties, Information Exchange Agreements, and International Cooperation

The third tool in our arsenal is international agreements such as tax treaties and tax information exchange agreements (TIEAs), under which other countries agree to obtain information on behalf of the United States for use in U.S. tax matters. Tax treaties and TIEAs provide the authority for the IRS to request and obtain information from foreign sources that may not be available to the IRS. However, a request for information under a tax treaty or TIEA must generally specify certain information, such as the identity of the account holder. Without that information in the request, the other country would normally consider the request invalid.

We currently have agreements for information exchange with over 70 jurisdictions and have expanded the program in recent years to include offshore jurisdictions such as the Cayman Islands and the Bahamas. We continue to expand the number of countries with which we have agreements as well as to renegotiate some agreements, such as the U.S. - Belgium tax treaty, to improve information exchange. However, we are still significantly limited by bank secrecy laws or lack of beneficial ownership information in some jurisdictions.

Using the bi-lateral agreements that we have with individual countries, in 2004 we worked with the Tax Commissioners of Australia, Canada, and the United Kingdom to form the Joint International Tax Shelter Information Center (JITSIC). JITSIC was created to combat abusive international tax shelter activity on a real-time basis. The JITSIC office was based in Washington, DC, but in September, 2007, JITSIC expanded to a second office in London, England. Along with the expansion to London, JITSIC welcomed Japan as a new member.

JITSIC's primary focus has been on the bilateral exchange of specific abusive transactions and their promoters and investors. The results, to date, have been promising. The U.S. has received information regarding some transactions of which it had not been previously aware. In light of the complexity of the transactions, and considering the inherent difficulty normally associated with obtaining taxpayer-specific shelter information from foreign countries, it is unlikely that these transactions would have been uncovered and understood, but for JITSIC.

The U.S. has also received information regarding transactions of which it has been aware but may not have fully understood. Frequently, the information exchanged has provided additional facts and a better understanding of the transaction from the perspectives of two

tax regimes. Without JITSIC, this type of exchange and accompanying dialogue would not take place.

In addition to JITSIC, the IRS and the tax administrations of nine other countries agreed to the establishment of the so-called “Leeds Castle” Group. Under this arrangement, the commissioners of the revenue bodies China, India, and South Korea agreed to meet regularly with their counterparts from the US, the UK, Japan, Australia, Canada, France and Germany to consider and discuss issues of global and national tax administration in their respective countries.

We also continue to work closely with our tax treaty partners in multi-lateral compliance activities using the relevant Exchange of Information articles in our tax treaties. We have also been an active participant of the Organization for Economic Cooperation and Development (OECD), in which we have worked to improve and strengthen worldwide standards for information exchange.

Informants

Informants have been valuable sources of information for IRS civil and criminal investigations into offshore tax evasion.

With the new “whistleblower” standards that reward informants, we are hopeful that we will get additional input on other potential violations.

Criminal Investigations

The IRS is increasing our resources devoted to enforcing the failure to report foreign bank accounts and is currently pursuing dozens of criminal investigations of US taxpayers for offshore tax evasion. Many of these investigations are a result of the IRS' stepped up enforcement actions (announced in February 2008) involving more than 100 U.S. taxpayers to ensure proper income reporting and tax payment in connection with accounts in Liechtenstein. In addition, the IRS receives information from many other sources that can result in enforcement actions to ensure taxpayer compliance with the tax laws.

The primary focus on these investigations is on US taxpayers who fail to file the FBAR. U.S. persons are required to file a Report of Foreign Bank and Financial Accounts (FBAR), Form TD F 90-22.1, each year if they have a financial interest in or signature authority or other authority over any financial accounts, including bank, securities or other types of financial accounts, in a foreign country, if the aggregate value of these financial accounts exceeds \$10,000 at any time during the calendar year. The IRS is increasing our resources devoted to enforcing the failure to report foreign bank accounts.

John Doe Summons

The final tool I will mention to fight offshore evasion is the use of information received from the use of John Doe summonses. The IRS generally uses the John Doe summons authority to identify individuals, groups or classes of U.S. taxpayers whose member identities are unknown, who are involved in specific areas of tax noncompliance and who cannot be identified through other means. For example, we would use this type of summons when we know that taxpayers use offshore bank accounts to avoid paying taxes, but we do not know their identities. A John Doe summons served on a domestic processor of offshore bank records would give us their names, addresses and other identifying information.

The IRS requested and received court approval to serve 153 John Doe summonses in connection with its Offshore Credit Card Project. The IRS received court approval from multiple US District Courts on every John Doe summons request made.

And, as I have already explained, we continue to use the John Doe Summons in furtherance of our off-shore investigations.

How Congress Can Help

The first thing that Congress can do to assist us in these areas is to fully fund the Administration's request for the IRS' FY 2009 budget. We need sufficient resources to continue to address many of the issues that I have discussed. Grappling with complex international tax issues requires a top-notch workforce and technological tools. The President's FY 2009 Budget provides key resources to the IRS, and we urge your support.

The Budget also includes a collection of legislative proposals designed to enhance third-party reporting and, thereby, reduce the tax gap. The most significant of these proposals would require merchant card issuers to report annually on reimbursements to business entities. This legislation would help the IRS match taxpayer data with business activity and mitigate opportunities for noncompliance.

The President's budget has legislative proposals that would also be particularly helpful in the international area. The most significant of these would increase the foreign trust reporting penalty. The penalty provision would be amended to impose an initial penalty of the greater of \$10,000 or 35 percent of the gross reportable amount (if the gross reportable amount is known). The additional \$10,000 penalty for continued failure to report would remain unchanged. Thus, even if the gross reportable amount is not known, the IRS may impose a \$10,000 penalty on a person who fails to report timely or correctly as required and may impose a \$10,000 penalty for each 30-day period (or fraction thereof) that the failure to report continues.

Another area where Congress can help is to allow more time in which to conclude these civil audits where taxpayers have used foreign entities and bank accounts to avoid or

evade federal taxes. Currently the statute of limitations is 3 years. However, because of the complexity of many of these cases, we often need additional time. We are currently reviewing the extension of the statute of limitations included in the Levin-Coleman (S. 681) bill and look forward to working with your staff, along with the staff and Members of the Senate Finance and House Ways and Means Committee, to find an acceptable approach.

Finally, it is important that Congress continue to support our effort to strengthen our network of tax treaties. They provide a basis for exchanging information.

Both Congress and the IRS are limited when dealing with individuals and businesses that hide their assets in foreign jurisdictions that use financial secrecy as a tool to attract commerce to their country. Thus, we must search for ways to reduce the incentive for taxpayers to seek out such offshore financial arrangements.

Deterrence is one of our most powerful weapons. In this regard, I am proud of the hard work the IRS and Justice Department investigators have put into these cases. As a result of their continuing work, I am confident that those who engage in these types of deliberate offshore tax evasion are very concerned right now. I believe that we owe it to the vast majority of honest taxpayers to pursue these cases aggressively, and I am committed to doing so.

Conclusions

Mr. Chairman, let me repeat what I said earlier about you and this Subcommittee. You have been at the forefront in investigating important areas of Federal tax non-compliance.

The subject of the hearing this morning is no exception. Offshore tax shelters are robbing the American treasury of billions of dollars each year.

I have attempted to bring you up to date on many of the things we are doing in the offshore arena, and I hope this has been beneficial. I look forward to your continuing investigations into these areas and your assistance in halting abusive offshore tax shelters.

I appreciate the opportunity to be here this morning, and I will be happy to respond to any questions.



Department of Justice

STATEMENT OF
KEVIN J. O'CONNOR
ASSOCIATE ATTORNEY GENERAL
UNITED STATES DEPARTMENT OF JUSTICE

BEFORE THE
UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL
AFFAIRS
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

HEARING ENTITLED
"TAX HAVEN BANKS AND U.S. TAX COMPLIANCE"

PRESENTED

July 17, 2008

Chairman Levin, Ranking Member Coleman, and Members of the Subcommittee, thank you for the opportunity to appear before you this morning to discuss the Department of Justice's (the Department) efforts to combat the use of tax haven banks by U.S. taxpayers and offshore entities to evade income taxes. Let me begin by commending the Chairman and the Subcommittee for your longstanding commitment to investigating and publicizing abuses of our federal tax system. Your work has brought attention to serious misconduct that threatens to undermine the fundamental integrity of our tax system. As a result, taxpayers have a greater understanding of their obligations and the consequences of noncompliance, and tax professionals are on notice that their efforts to design, market, and facilitate tax evasion schemes will not be tolerated.

Today I would like to focus my remarks on the Department's Tax Division's role in combating the continuing problem of offshore tax evasion. Since the adoption of the Sixteenth Amendment in 1913 the application of the individual income tax has been routinely debated, litigated, and amended. Over the years, Congress has made numerous changes to our tax laws to reflect advances in business, communication, and technology. One fundamental concept has, however, remained constant: U.S. taxpayers are subject to taxation on their worldwide income from whatever source that income is derived. The use of tax haven banks and offshore nominee accounts to evade tax is a direct assault on this basic principle and cannot be tolerated.

It is important to note that the overwhelming majority of Americans understand their tax obligations and pay their taxes in full and on time. It is also important to keep in

mind that offshore entities conduct a wide variety of legitimate commercial activities. Thus, the mere fact that a U.S. taxpayer holds assets offshore or in a foreign bank is not inappropriate, provided that the information relating to the assets and the income generated by the assets are properly reported for U.S. tax purposes. Consequently, our attention is focused on U.S. taxpayers who utilize nominee or shell entities and offshore bank accounts to conceal assets and income. These offshore schemes are often used by high wealth individuals and potentially result in the loss of billions of dollars a year in U.S. taxes. In these cases the Department, along with our counterparts at the Internal Revenue Service (IRS), has used, and will continue to use all of the tools at our disposal to ensure that noncompliance is detected, and, where appropriate, prosecuted.

While taxpayers who engage in tax evasion are subject to civil and criminal liability for their conduct, we are equally concerned about the role played by tax professionals in designing and implementing these schemes. The title of the Subcommittee's 2006 Report, "Tax Haven Abuses: The Enablers, The Tools, and the Secrecy" succinctly captures the essential nature of the participation by professionals in these schemes. As the report notes:

A sophisticated offshore industry, composed of a cadre of international professionals including tax attorneys, accountants, bankers, brokers, corporate service providers, and trust administrators, aggressively promotes offshore jurisdictions to U.S. citizens as a means to avoid taxes and creditors in their home jurisdictions. These professionals, many of whom are located or do business in the United States, advise and assist U.S. citizens on the opening of offshore

accounts, establishing sham trusts, and shell corporations, hiding assets offshore, and making secret use of their offshore assets here at home.

Tax Haven Abuses: The Enablers, The Tools and Secrecy, STAFF OF SENATE PERMANENT SUBCOMM. ON INVESTIGATIONS, COMM. ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS, 1 (Aug. 1, 2006).

It is discouraging to see that some professionals continue to violate their legal and ethical responsibilities by facilitating these illegal schemes. While some simply turn a blind eye to misconduct, others actively market their tax evasion programs on U.S. soil. Holding these professionals accountable for their misconduct is a high priority, and we are not reluctant to seek injunctive relief and criminal sanctions where appropriate.

The Department has successfully prosecuted a number of taxpayers as well as tax professionals and institutions who assist them in using offshore accounts and entities to evade U.S. taxation. Recent prosecutions include:

- David Alan Struckman, co-founder of the Institute of Global Prosperity, an organization that promoted offshore “wealth-building” seminars, was convicted of tax evasion and conspiracy to defraud the United States. The bogus wealth-building methods marketed to clients included placing assets in purported foreign “common law” trusts to evade detection by the IRS. Struckman concealed more than \$45 million earned from the sale of these products through the use of bogus trusts, nominee entities, and related offshore bank accounts in the Turks and

Caicos and Eastern Europe. Struckman is currently in prison awaiting sentencing. The IRS and Tax Division continue to pursue enforcement activity against individuals who engaged in the scheme.

- Walter Anderson, a telecommunications entrepreneur, crafted an elaborate scheme using offshore trusts, shell entities and nominees in multiple tax haven jurisdictions, including the British Virgin Islands, Panama, and the Cayman Islands, for the purpose of evading more than \$200 million of his federal income taxes. For his malfeasance, Mr. Anderson is currently serving nine years in federal prison for tax fraud.
- Bruce Cohen, a financial planner, was sentenced to 37 months in prison for his role in conspiring to defraud the United States. Along with his associates, Cohen developed and marketed sham “Loss of Income” trust policies to assist taxpayers in their attempt to evade income tax. Offshore accounts and nominee entities in the Bahamas and Bermuda were part of the scheme. Mr. Cohen’s associates, Leif Rozen, a business owner, and Alan Hoehler, former in-house counsel, were also found guilty of conspiracy and federal tax charges and await sentencing.
- In addition to these cases the Tax Division and the IRS continue to actively pursue those who misuse offshore accounts and institutions for the purpose of evading U.S. taxation.

Our success in prosecuting these and other cases is a direct result of the close cooperation between the civil and criminal personnel of the Tax Division and the IRS. For example, lawyers in the Tax Division have worked with the IRS to investigate offshore tax evasion by bringing civil suits to obtain authority to serve John Doe summonses. A John Doe Summons enables the IRS, with court approval, to obtain information about possible fraud by taxpayers whose identities are unknown. These efforts yielded hundreds of thousands of documents and identified thousands of people that are now being investigated by the IRS for unreported and unpaid federal income taxes. The government's efforts in these cases not only helped gather necessary documents to identify taxpayers seeking to hide behind a veil of secrecy, but reassured law-abiding taxpayers that the tax laws are being enforced.

On the criminal side, the Tax Division serves as the nerve center for all federal tax prosecutions. Tax Division attorneys work closely with IRS Criminal Investigation Special Agents to develop and prosecute a wide array of tax crimes, including offshore evasion schemes. Tax Division attorneys also routinely provide tax expertise to United States Attorneys' offices across the country and work closely with Assistant United States Attorneys in prosecuting tax fraud complex cases.

Offshore tax evasion cases are, by their nature, international in scope. Investigations requiring international cooperation are time consuming and expensive and often raise complex legal issues such as national sovereignty and bank secrecy laws. Despite the challenges, United States law enforcement agencies and our foreign

counterparts are fully engaged in a variety of information sharing arrangements designed to aid in shutting down illegal and abusive activity.

Critical to every investigation of offshore activity is the ability to obtain evidence from a foreign country. Depending on the scope of the investigation and the type of conduct at issue, Department attorneys and prosecutors use a variety of measures in attempting to secure both documentary and testimonial evidence. In addition to traditional letters rogatory, information can be requested, for example, pursuant to tax treaties or tax information exchange agreements (TIEAs) in both civil and criminal cases; pursuant to Mutual Legal Assistance Treaties (MLATs) in criminal cases; or pursuant to the Hague Evidence Convention in civil cases. Unfortunately, we do not have such agreements – which can be faster and more effective than letters rogatory – with every country. Moreover, as noted, not all such agreements cover both civil and criminal matters; on occasion MLATs exclude tax crimes altogether, while other MLATs and tax treaties are limited to instances in which we can allege specific kinds of tax fraud. As a consequence, the Tax Division regularly works with the Criminal Division's Office of International Affairs (OIA) to negotiate more favorable MLATs covering all tax crimes and with the Treasury Department in attempting to negotiate the broadest possible information exchange provisions in our TIEAs and tax treaties.

In the case of MLATs, prosecutors in the Tax Division and the United States Attorneys' offices work closely with OIA, which has been delegated as the United States Central Authority for implementing mutual assistance. These requests seek specific types

of evidence, frequently bank records, and OIA makes the request on behalf of the prosecutors. OIA works with foreign authorities to obtain as much evidence as possible in a timely manner. In the case of tax treaties and TIEAs, requests are made through the Deputy Commissioner (International) of the Large & Mid-Size Business Division of the IRS, who has been delegated as the United States Competent Authority for the exchange of information. In general, the level of cooperation under these agreements has been positive, and the continued development of our information sharing relationships is a high priority for the Department.

Tax evasion is a chronic drain on the public fisc and is a pernicious obstacle to effective tax administration. If not vigorously investigated and addressed it threatens to undermine confidence in our system of voluntary compliance and self-assessment. Although successful offshore tax enforcement is costly and time consuming, it is essential to the mission of the Tax Division. We are dedicated to ensuring that law abiding taxpayers have confidence that the tax laws are being fairly and equally applied, and that those who attempt to engage in tax evasion know that we will detect their schemes and hold them accountable for their misconduct.

Thank you for inviting me to discuss the Department's efforts to combat offshore tax evasion. I would be happy to answer questions that you may have.

United States Senate

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Committee on Homeland Security and Governmental Affairs

Carl Levin, Chairman

Norm Coleman, Ranking Minority Member

TAX HAVEN BANKS AND U. S. TAX COMPLIANCE

STAFF REPORT

**PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS**

UNITED STATES SENATE



RELEASED IN CONJUNCTION WITH THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
JULY 17, 2008 HEARING

SENATOR CARL LEVIN
Chairman
SENATOR NORM COLEMAN
Ranking Minority Member

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

ELISE J. BEAN
Staff Director and Chief Counsel
ROBERT L. ROACH
Counsel and Chief Investigator
ZACHARY I. SCHRAM
Counsel
LAURA E. STUBER
Counsel
ROSS K. KIRSCHNER
Counsel

MARK L. GREENBLATT
Staff Director and Chief Counsel to the Minority
MICHAEL P. FLOWERS
Counsel to the Minority
ADAM PULLANO
Staff Assistant to the Minority

MARY D. ROBERTSON
Chief Clerk

TIMOTHY EVERETT
Intern
ALAN KAHN
Law Clerk
JONATHAN PORT
Intern
JEFFREY REZMOVIC
Law Clerk
LAUREN SARKESIAN
Intern
SPENCER WALTERS
Law Clerk

9/26/08

Permanent Subcommittee on Investigations
199 Russell Senate Office Building – Washington, D.C. 20510
Telephone: 202/224-9505 or 202/224-3721
Web Address: www.hsgac.senate.gov [Follow Link to “Subcommittees,” to “Investigations”]

**PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
STAFF REPORT
TAX HAVEN BANKS AND U. S. TAX COMPLIANCE**

TABLE OF CONTENTS

I. EXECUTIVE SUMMARY	4
A. Subcommittee Investigation	4
B. Overview of Case Histories	5
1. LGT Bank Case History	5
2. UBS AG Case History	10
C. Report Findings and Recommendations	19
Report Findings	
1. Bank Secrecy	19
2. Bank Practices That Facilitate Tax Evasion	19
3. Billions in Undeclared U.S. Client Accounts	19
4. QI Structuring	20
Report Recommendations	
1. Strengthen QI Reporting of Foreign Accounts Held by U.S. Persons	20
2. Strengthen 1099 Reporting	20
3. Strengthen QI Audits	20
4. Penalize Tax Haven Banks That Impede U.S. Tax Enforcement	20
5. Attribute Presumption of Control to U.S. Taxpayers Using Tax Havens	21
6. Allow More Time to Combat Offshore Tax Abuses	21
7. Enact Stop Tax Haven Abuse Act	21
II. BACKGROUND	21
A. The Problem of Offshore Tax Abuse	21
B. Initiatives To Combat Offshore Tax Abuse	22
C. Tax Haven Banks and Offshore Tax Abuse	39
III. LGT BANK CASE HISTORY	39
A. LGT Bank Profile	40
B. LGT Accounts With U.S. Clients	41
1. Marsh Accounts: Hiding \$49 Million Over Twenty Years	46
2. Wu Accounts: Hiding Ownership of Assets	52
3. Lowy Accounts: Using a U.S. Corporation to Hide Ownership	59
4. Greenfield Accounts: Pitching a Transfer to Liechtenstein	68
5. Gonzalez Accounts: Inflating Prices and Frustrating Creditors	71
6. Chong Accounts: Moving Funds Through Hidden Accounts	77

7. Miskin Accounts: Hiding Assets from Courts and a Spouse	80
8. Other LGT Practices	89
C. Analysis	96
IV. UBS AG CASE HISTORY	97
A. UBS Bank Profile	98
B. UBS Swiss Accounts for U.S. Clients	100
1. Opening Undeclared Accounts with Billions in Assets	101
2. Ensuring Bank Secrecy	104
3. Targeting U.S. Clients	107
4. Servicing U.S. Clients with Swiss Accounts	117
5. Violating Restrictions on U.S. Activities	121
C. Olenicoff Accounts	125
D. Analysis	132

#

U.S. SENATE
 PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
 STAFF REPORT ON
 TAX HAVEN BANKS AND U.S. TAX COMPLIANCE

July 17, 2008

Each year, the United States loses an estimated \$100 billion in tax revenues due to offshore tax abuses.¹ Offshore tax havens today hold trillions of dollars in assets provided by citizens of other countries, including the United States.² The extent to which those assets represent funds hidden from tax authorities by taxpayers from the United States and other countries outside of the tax havens is of critical importance.³ A related issue is the extent to which financial institutions in tax havens may be facilitating international tax evasion.

¹ This \$100 billion estimate is derived from studies conducted by a variety of tax experts. See, e.g., Joseph Guttentag and Reuven Avi-Yonah, "Closing the International Tax Gap," in Max B. Sawicky, ed., *Bridging the Tax Gap: Addressing the Crisis in Federal Tax Administration* (2006) (estimating offshore tax evasion by individuals at \$40-\$70 billion annually in lost U.S. tax revenues); Kimberly A. Clausing, "Multinational Firm Tax Avoidance and U.S. Government Revenue" (August 2007) (estimating corporate offshore transfer pricing abuses resulted in \$60 billion in lost U.S. tax revenues in 2004); John Zdanowics, "Who's watching our back door?" *Business Accents* magazine, Volume 1, No.1, Florida International University (Fall 2004) (estimating offshore corporate transfer pricing abuses resulted in \$53 billion in lost U.S. tax revenues in 2001); "The Price of Offshore," Tax Justice Network briefing paper (March 2005) (estimating that, worldwide, individuals have offshore assets totaling \$11.5 trillion, resulting in \$255 billion in annual lost tax revenues worldwide); "Governments and Multinational Corporations in the Race to the Bottom," *Tax Notes* (2/27/06); "Data Show Dramatic Shift of Profits to Tax Havens," *Tax Notes* (9/13/04). See also series of 2007 articles authored by Martin Sullivan in *Tax Notes* (estimating over \$1.5 trillion in hidden assets in four tax havens, Guernsey, Jersey, Isle of Man, and Switzerland, beneficially owned by nonresident individuals likely avoiding tax in their home jurisdictions), *infra* footnote 3.

² See, e.g., "Tax Co-operation: Towards a Level Playing Field – 2007 Assessment by the Global Forum on Taxation," issued by the OECD (October 2007) (estimating a minimum of \$5-\$7 trillion held offshore); "The Price of Offshore," Tax Justice Network briefing paper (March 2005) (estimating offshore assets of high net worth individuals at a total of \$11.5 trillion); "International Narcotics Control Strategy Report," U.S. Department of State Bureau for International Narcotics and Law Enforcement Affairs (March 2000), at 565-66 (identifying nearly 60 offshore jurisdictions with assets totaling \$4.8 trillion).

³ See, e.g., "Tax Analysts Offshore Project: Offshore Explorations: Guernsey," *Tax Notes* (10/8/07) at 93 (estimating Guernsey has \$293 billion in assets beneficially owned by nonresident individuals who were likely avoiding tax in their home jurisdictions); "Tax Analysts Offshore Project: Offshore Explorations: Jersey," *Tax Notes* (10/22/07) at 294 (estimating Jersey has \$491 billion in assets beneficially owned by nonresident individuals who were likely avoiding tax in their home jurisdictions); "Tax Analysts Offshore Project: Offshore Explorations: Isle of Man," *Tax Notes* (11/5/07) at 560 (estimating Isle of Man has \$150 billion in assets beneficially owned by nonresident individuals who were likely avoiding tax in their home jurisdictions); "Tax Analysts Offshore Project: Offshore Explorations: Switzerland," *Tax Notes* (12/10/07) (estimating Switzerland has \$607 billion in assets beneficially owned by nonresident individuals who were likely avoiding tax in their home jurisdictions).

In February 2008, a global tax scandal erupted after a former employee of a Liechtenstein trust company provided tax authorities around the world with data on about 1,400 persons with accounts at LGT Bank in Liechtenstein. On February 14, 2008, German tax authorities, having obtained the names of 600-700 German taxpayers with Liechtenstein accounts, executed multiple search warrants and arrested a prominent businessman for allegedly using Liechtenstein bank accounts to evade €1 million (\$1.45 million) in tax.⁴ About a week later, the U.S. Internal Revenue Service (IRS) announced it had “initiat[ed] enforcement action involving more than 100 U.S. taxpayers to ensure proper income reporting and tax payment in connection accounts in Liechtenstein.”⁵ The United Kingdom, Italy, France, Spain, and Australia made similar announcements on the same day.⁶ Altogether since February, nearly a dozen countries have announced plans to investigate taxpayers with Liechtenstein accounts,⁷ demonstrating not only the worldwide scope of the tax scandal, but also a newfound international determination to contest tax evasion facilitated by a tax haven bank.

In May 2008, a second international tax scandal broke when the United States arrested a private banker formerly employed by UBS AG, one of the largest banks in the world, on charges of having conspired with a U.S. citizen and a business associate to defraud the IRS of \$7.2 million in taxes owed on \$200 million of assets hidden in offshore accounts in Switzerland and Liechtenstein. The United States had earlier detained as a material witness in that prosecution a senior UBS private banking official from Switzerland traveling on business in Florida, allegedly seizing his computer and other evidence. In June 2008, the former UBS private banker, Bradley Birkenfeld, pleaded

⁴ See, e.g., “LGT: Illegally disclosed data material limited to the client data stolen from LGT Treuhand in 2002,” LGT Group press release (2/24/08) at 1 (disclosing that 600 of the 1,400 named persons were from Germany); “Tax Scandal in Germany Fans Complaints of Inequity,” *New York Times* (2/18/08).

⁵ IRS News Release, “IRS and Tax Treaty Partners Target Liechtenstein Accounts,” IR-2008-26 (2/26/08) at 1.

⁶ See, e.g., HM Revenue & Customs Press Release, “Tax Commissioners battle against tax evasion,” No. Nat 09/08 (2/26/08); Agenzia Entrate media release, “Agenzia Entrate ha ricevuto informazione su italiani con depositi in Liechtenstein” (2/26/08); Ministère du Budget, des comptes publics et de la fonction publique, “Lutte contre la fraude et l’évasion fiscale” (2/26/08); La Agencia Tributaria media release, “La Agencia Tributaria analiza información sobre ciudadanos españoles incluidos en las cuentas y depósitos bancarios de Liechtenstein” (2/26/08); Australian Taxation Office Media Release, “Tax Commissioners battle against tax evasion,” No. 2008/08 (2/26/08).

⁷ See IRS News Release, “IRS and Tax Treaty Partners Target Liechtenstein Accounts,” IR-2008-26 (2/26/08) at 1 (“The national tax administrations of Australia, Canada, France, Italy, New Zealand, Sweden, United Kingdom, and the United States of America, all member countries of the OECD’s Forum on Tax Administration (FTA), are working together following revelations that Liechtenstein accounts are being used for tax avoidance and evasion.”); Organization for Economic Cooperation and Development (OECD) press release, “Tax disclosures in Germany part of a broader challenge, says OECD Secretary-General” (2/19/08).

guilty to conspiracy to defraud the IRS.⁸ His alleged co-conspirator, Mario Staggi, part owner of a trust company, remains at large in Liechtenstein. The current UBS senior private banking official, Martin Liechti, remains under travel restrictions. This enforcement action appears to represent the first time that the United States has criminally prosecuted a Swiss banker for helping a U.S. taxpayer evade payment of U.S. taxes.⁹

On June 30, 2008, the United States took another step. It filed a petition in the U.S. District Court for the Southern District of Florida requesting leave to file an IRS administrative summons with UBS asking the bank to disclose the names of all of its U.S. clients who have opened accounts in Switzerland, but for which the bank has not filed forms with the IRS disclosing the Swiss accounts.¹⁰ The court approved service of the summons on UBS on July 1, 2008.¹¹ The summons has apparently been served, but according to Swiss authorities the Swiss and American governments are negotiating over its execution.¹² This John Doe summons represents the first time that the United States has attempted to pierce Swiss bank secrecy by compelling a Swiss bank to name its U.S. clients.

The U.S. Senate Permanent Subcommittee on Investigations has long had an investigative interest in U.S. taxpayers who use offshore tax havens to hide assets and evade taxes.¹³ As part of this effort, the

⁸ United States v. Birkenfeld, Case No. 08-CR-60099-ZLOCH (S.D.Fla.) (hereinafter “United States v. Birkenfeld”), Statement of Facts, (6/19/08). The U.S. citizen had earlier pled guilty to one count of filing a false tax return and agreed to pay back taxes, interest, and penalties totaling \$52 million. See pleadings in United States v. Olenicoff, Case No. SA CR No. 07-227-CJC (C.D.Cal.).

⁹ In the mid-1990s, the IRS arrested John Mathewson, the owner and president of an offshore bank in the Cayman Islands, on tax-related charges. Mr. Mathewson agreed to cooperate with U.S. tax investigations of his clients. In 2001 testimony before this Subcommittee, Mr. Mathewson stated that, of the 2,000 clients at his Cayman bank, he estimated that 95% were Americans and virtually all were engaged in tax evasion. “Role of U.S. Correspondent Banking in International Money Laundering,” before the Permanent Subcommittee on Investigations, S. Hrg. 107-84 (March 1, 2 and 6, 2001) at 13.

¹⁰ Ex Parte Petition for Leave to Serve “John Doe” Summons, Case No. 08-21864-MC-LENARD/GARBER (S.D.Fla.)(6/30/08) (The IRS stated that the summons would ask UBS for the names of U.S. clients for whom UBS: “(1) did not have in its possession Forms W-9 executed by such United States taxpayers, and (2) had not filed timely and accurate Forms 1099 naming such United States taxpayers and reporting to United States taxing authorities all reportable payments made to such United States taxpayers.”). This petition was filed under 26 USC §7609(f), which requires court approval of any IRS administrative summons that does not identify by name the persons for whom tax liability may attach.

¹¹ Id., Order (7/1/08) (court order approving petition to serve John Doe summons on UBS).

¹² Subcommittee meeting with Swiss Embassy (7/10/08).

¹³ See, e.g., the following hearings before the U.S. Senate Permanent Subcommittee on Investigations: “Tax Haven Abuses: The Enablers, The Tools and Secrecy,” S. Hrg. 109-797 (8/1/06) (hereinafter “Subcommittee 2006 Tax Haven Abuse Hearing”); “U.S. Tax Shelter Industry: The Role of Accountants, Lawyers, and Financial Professionals,” S. Hrg. 108-473 (November 18, 20, 2003) (hereinafter “Subcommittee 2003 Tax Shelter Industry Hearing”);

Subcommittee has undertaken an investigation into the extent to which tax haven banks may be assisting U.S. taxpayers to evade taxes, in particular by urging U.S. clients to open accounts abroad, assisting them in structuring those accounts to avoid disclosure to U.S. authorities, and providing financial services in ways that do not alert U.S. authorities to the existence of the foreign accounts. Of particular concern in this investigation has been the extent to which tax haven banks may be manipulating their reporting obligations under the Qualified Intermediary (QI) Program, which was established by the U.S. Government in 2001, to encourage foreign financial institutions to report and withhold tax on U.S. source income paid to foreign bank accounts. QI participant institutions sign an agreement to report and withhold U.S. taxes on an aggregate basis in return for being freed of the legal obligation to disclose the names of their non-U.S. clients. Evidence is emerging, however, that tax haven banks are taking manipulative and deceptive steps to avoid their QI obligation to disclose their U.S. clients.

To illustrate the issues, this Report presents two case histories showing how banks in Liechtenstein and Switzerland have employed banking practices that can facilitate, and have resulted in, tax evasion by their U.S. clients.

I. EXECUTIVE SUMMARY

A. Subcommittee Investigation

The Subcommittee began this bipartisan investigation into tax haven banks in February 2008. Since then, the Subcommittee has issued more than 35 subpoenas and conducted numerous interviews and depositions with bankers, trust officers, taxpayers, tax and estate planning professionals, and others. The Subcommittee has consulted with experts in the areas of tax, trusts, estate planning, securities, anti-money laundering, and international law, and spoken with domestic and foreign government officials and international organizations involved with tax administration and enforcement. During the investigation, the Subcommittee reviewed hundreds of thousands of pages of documents, including bank account records, internal bank memoranda, trust agreements, incorporation papers, correspondence, and electronic communications, as well as materials in the public domain, such as legal pleadings, court rulings, SEC filings, and information on the Internet. In addition, the Subcommittee has consulted with the governments of

“What is the U.S. Position on Offshore Tax Havens?” S. Hrg. 107-152 (7/18/01) (hereinafter “Subcommittee 2001 Offshore Tax Haven Hearing”); “Crime and Secrecy: The Use of Offshore Banks and Companies,” S. Hrg. 98-151 (March 15, 16 and May 24, 1983).

Liechtenstein and Switzerland, and expresses appreciation for their cooperation with the Subcommittee.

B. Overview of Case Histories

This Report presents case histories, involving LGT Bank in Liechtenstein and UBS AG of Switzerland, that lend insight into how these banks work with U.S. clients and execute their U.S. tax compliance obligations.

(1) LGT Bank Case History

The LGT Group (LGT), which includes LGT Bank in Liechtenstein, LGT Treuhand, a trust company, and other subsidiaries and affiliates, is a leading Liechtenstein financial institution that is owned by and financially benefits the Liechtenstein royal family. From at least 1998 to 2007, LGT employed practices that could facilitate, and in some instances have resulted in, tax evasion by U.S. clients. These LGT practices have included maintaining U.S. client accounts which are not disclosed to U.S. tax authorities; advising U.S. clients to open accounts in the name of Liechtenstein foundations to hide their beneficial ownership of the account assets; advising clients on the use of complex offshore structures to hide ownership of assets outside of Liechtenstein; and establishing “transfer corporations” to disguise asset transfers to and from LGT accounts. It was also not unusual for LGT to assign its U.S. clients code words that they or LGT could invoke to confirm their respective identities. LGT also advised clients on how to structure their investments to avoid disclosure to the IRS under the QI Program. Of the accounts examined by the Subcommittee, none had been disclosed by LGT to the IRS. These and other LGT practices contributed to a culture of secrecy and deception that enabled LGT clients to use the bank’s services to evade U.S. taxes, dodge creditors, and ignore court orders.

LGT’s trust office in Liechtenstein managed an estimated \$7 billion in assets and more than 3,000 offshore entities for clients during the years 2001 to 2002; it is unclear what percentage was attributable to U.S. clients. Seven LGT accounts help illustrate LGT practices of concern to the Subcommittee.

Marsh Accounts: Hiding \$49 Million Over Twenty Years.

James Albright Marsh, a U.S. citizen from Florida in the construction business, formed four Liechtenstein foundation during the 1980s, and transferred substantial sums to them. LGT assisted him in establishing two foundations in 1985, using documents that gave Mr. Marsh and his sons substantial control over the foundations and strong secrecy

protections. By 2007, the assets in his four foundations had a combined value of more than \$49 million. Although LGT became a participant in the QI Program in 2001, which requires foreign banks to report information on accounts with U.S. securities, LGT did not report the Marsh accounts. Instead it advised Mr. Marsh to divest his LGT foundations of U.S. securities, and treated the accounts as owned by non-U.S. persons, the Liechtenstein foundations that LGT had formed. After Mr. Marsh's death in 2006, the IRS apparently discovered the Liechtenstein foundations. Mr. Marsh's family is now in negotiation with the IRS over back taxes, interest and penalties owed on the \$49 million in undeclared assets.

Wu Accounts: Hiding Ownership of Assets. William S. Wu is a U.S. citizen who was born in China and has lived for many years with his family in New York. His sister is a U.S. citizen living in Hong Kong. LGT helped Mr. Wu establish a Liechtenstein foundation in 1996, and a second one in 2006, while helping his sister establish a Liechtenstein foundation that operated for four years, from 1997-2001, before transferring its assets to another foundation in Hong Kong. LGT documents indicate that these foundations were used to conceal certain Wu ownership interests. For example, in 1997, three months after forming his foundation, Mr. Wu pretended to sell his home in New York to what appeared to be an unrelated party from Hong Kong. In fact, the buyer, Tai Lung Worldwide Ltd., was a British Virgin Islands company with a Hong Kong address, and it was wholly owned by a Bahamian corporation called Sandalwood International Ltd., which was, in turn, wholly owned by Mr. Wu's Liechtenstein foundation. His sister's foundation was used in a similar manner. In her case, the documents indicate that her Liechtenstein foundation was the sole owner of a bearer share corporation formed in Samoa, called Manta Company Ltd., which owned a Hong Kong corporation called Bowfin Co. Ltd. which, in turn, held real estate, a vehicle, a mobile telephone, and two bank accounts. LGT documentation indicates that the bank was fully aware of these arrangements and expressed no concerns. LGT documents also show that Mr. Wu transferred substantial sums to his foundation and, over the years, withdrew substantial amounts, ranging from \$100,000 to \$1.5 million at a time. In one instance, LGT arranged for Mr. Wu to withdraw \$100,000 using a HSBC bank check drawn on an LGT correspondent account, which made the funds difficult to trace. By 2006, Mr. Wu's first foundation had been dissolved, while his second foundation had assets in excess of \$4.6 million.

Lowy Account: Using a U.S. Corporation to Hide Beneficiaries. Frank Lowy, an Australian citizen, was a pre-existing client of LGT when, in 1996, he formed a new Liechtenstein foundation at LGT to benefit himself and his three sons, David, Peter, and Steven.

LGT documents show that Mr. Lowy informed LGT that he wished to hide his ownership of the foundation assets from Australian tax authorities, and rather than express concern, LGT took a number of measures to accomplish that objective. LGT allowed the foundation instruments to be signed, for example, not by the Lowys, but by a Lowy family lawyer, J.H. Gelbard. LGT did not transfer assets from other Lowy-affiliated entities directly to the new foundation, but instead routed them through an offshore corporation, Sewell Services Ltd., to prevent any direct link to other Lowy entities. The foundation instruments did not name the Lowys as beneficiaries. Instead, the foundation instruments included a complex mechanism providing that the beneficiaries would be named by the last corporation in which Beverly Park Corporation, formed in Delaware, held stock. Despite this provision which authorized a future company to name the beneficiaries, internal LGT documents were explicit that Mr. Lowy and his three sons were the true beneficiaries of the foundation. Documents obtained by the Subcommittee indicate that the Lowys exercised control over the Beverly Park Corp. because it was ultimately owned by the Frank Lowy Family Trust, and Peter Lowy, a U.S. citizen living in California, was appointed the company's president and director. In 2001, when the Lowys decided to dissolve the foundation and move its assets to Switzerland, Beverly Park Corp. formed a new British Virgin Islands corporation named Lonas Inc., whose sole director and officer was the Lowy family lawyer, J.H. Gelbard. After receiving instructions from Lonas to send the foundation assets to accounts in Geneva that did not bear the Lowy name, LGT telephoned David Lowy twice to confirm the arrangements, recording one of those conversations. These telephone calls indicate that LGT continued to view the Lowys as the true beneficiaries of the foundation. In December 2001, LGT transferred assets valued at about \$68 million to a Geneva bank and dissolved the foundation.

Greenfield Accounts: Pitching a Transfer to Liechtenstein.

Harvey and Steven Greenfield, father and son, are New York businessmen who are longtime participants in the U.S. toy industry. In 1992, LGT helped Harvey Greenfield establish a Liechtenstein foundation, for which he is the sole primary beneficiary and his son holds power of attorney. This foundation used two British Virgin Islands corporations as conduits to transfer funds, and at the end of 2001, had total funds of about \$2.2 million. In March 2001, at its Liechtenstein offices, LGT held a five-hour meeting with the Greenfields attended by three LGT private bankers and Prince Philipp, Chairman of the Board of the LGT Group and brother to the reigning sovereign. The meeting was primarily a sales pitch to convince the Greenfields to transfer to their LGT foundation assets valued at "around

U.S. \$30 million” from a Bank of Bermuda office in Hong Kong. An LGT memorandum describing the meeting states:

“The Bank of Bermuda has indicated to the client that it would like to end the business relationship with him as a U.S. citizen. Due to these circumstances, the client is now on the search for a safe haven for his offshore assets. ... There follows a long discussion about the banking location Liechtenstein, the banking privacy law as well as the security and stability, that Liechtenstein, as a banking location and sovereign nation, can guarantee its clients. The Bank ... indicate[s] strong interest in receiving the U.S. \$30 million. ... The clients are very careful and eager to dissolve the Trust with the Bank of Bermuda leaving behind as few traces as possible.”

The LGT memorandum expresses no concern about Bank of Bermuda’s decision to end its relationship with the Greenfields or their desire to move their funds with “as few traces as possible.” The memorandum shows that LGT uses its “banking privacy law” as a selling point, employs the royal family to secure new business, and is more than willing to provide advice and assistance to help U.S. clients move substantial funds in secrecy.

Gonzalez Accounts: Inflating Prices and Frustrating

Creditors. Jorge and Conchita Gonzalez, and their son Ricardo, operated a car dealership in the United States for many years. Beginning in 1986, LGT helped them form two Liechtenstein foundations and two Liechtenstein corporations primarily to assist their car dealership, which was located in Puerto Rico and specialized in selling Volvos. Two of these Liechtenstein entities provided financing for the dealership. One of the Liechtenstein corporations, Auto und Motoren AG (AUM), represented itself to Volvo as a “guarantor” of the dealership’s debts, apparently without revealing that AUM and the dealership were both beneficially owned by the Gonzalezes. As a result, Volvo sent AUM copies of the invoices it sent the dealership for the cars being purchased for sale in Puerto Rico. As disclosed in a civil lawsuit asserting that Volvo, the dealership, and the Gonzalezes had fraudulently overcharged for certain cars, AUM had not merely taken receipt of the Volvo invoices, but had sent additional invoices to the dealership for selected cars, specifying a higher cost for them than Volvo had charged. Because of this “double invoicing scheme,” a jury found Volvo liable and assessed damages of \$130 million.¹⁴ The court applied the same damages to the dealership and Gonzalezes. The dealership declared bankruptcy, and the Gonzalezes formed a new Liechtenstein foundation to better hide their assets. LGT documents show that the bank was

¹⁴ The fraud charges against Volvo were later dismissed in their entirety by the appellate court.

aware of the litigation and, “[f]or the purpose of protection from creditors, who are litigating the family in Puerto Rico,” helped the Gonzalezes transfer assets from the prior foundation and companies to the new entity. The Gonzalezes eventually settled the lawsuit for much less. At the end of 2001, the new foundation’s accounts held assets with a combined value of about \$4.4 million.

Chong Accounts: Moving Funds Through Hidden Accounts.

Richard M. Chong is a U.S. citizen, California resident, and venture capitalist. After his father died and left a Liechtenstein foundation to Mr. Chong’s mother, LGT helped her reorganize it into four funds benefiting herself and her three children. The funds, called “Fund Mother,” “Fund Son R,” “Fund Daughter T,” and “Fund Son C,” held assets that, in 2002, had a combined value of about \$9.4 million. LGT records show that, beginning in 1999, Mr. Chong moved large sums into and out of the foundation accounts in transactions that appear related to his business ventures. In 2004, LGT set up for the foundation’s exclusive use what LGT has sometimes referred to as a “transfer corporation” to help disguise asset flows into and out of a foundation’s accounts. This transfer corporation acts as a pass-through entity that breaks the direct link between the foundation and other persons with whom it is exchanging funds, making it harder to trace those funds. Here, LGT’s Hong Kong office acquired Apex Assets Ltd., using a Hong Kong corporate service provider, arranged a mailing address in Samoa, and opened a new account for Apex at the bank. Financial documents show that, afterward, virtually all funds deposited into or withdrawn from the foundation accounts were routed through Apex, a practice that continued into 2007. In 2008, LGT notified Chong of the disclosure of some of its accounts by a former employee, apologized, and provided him with the names of several U.S. lawyers.

Miskin Accounts: Hiding Assets from Courts and a Spouse.

Michael Miskin, a U.K. citizen, has claimed residency in Bermuda, but lived in California for a decade, from 1991 to 2002. In 2003, after his wife of nearly 40 years filed for divorce, he effectively disappeared from view, ignored court orders to transfer California real estate and £3 million in alimony to his ex-wife, and hid assets from the court in offshore jurisdictions around the world, including possibly at LGT. LGT documents show that, in the early 1990s, LGT helped Mr. Miskin open an account in Liechtenstein and deposit millions of Swiss francs, apparently transferred from another Liechtenstein bank that had been disclosed to his wife’s legal counsel. In 1998, having obtained information indicating that Mr. Miskin was hiding assets from his wife and tax authorities, LGT nevertheless helped him form a Liechtenstein foundation and transfer into its account his existing LGT funds, then valued at nearly 10 million Swiss francs or \$6.6 million. Also in 1998,

Mr. Miskin purchased a \$700,000 condominium in California, hiding his ownership by making the purchase in the name of a Guernsey corporation owned by a Guernsey trust. Despite evidence that he lived in the condominium for years, Mr. Miskin denied being a U.S. resident; an internal LGT memorandum noted approvingly: “The financial beneficiary has his PLACE OF RESIDENCE IN BERMUDA and not in the U.S. Hence, he pays no taxes in the U.S.!!!!!!” At the end of 2001, \$6 million in assets remained at LGT. In 2003, a U.K. court ordered Mr. Miskin to pay £3 million in alimony and transfer the California realty to his ex-wife. He failed to acknowledge or comply with the court order. When Ms. Miskin filed papers to enforce the U.K. court order in a California court, Mr. Miskin unsuccessfully contested the case. In the end, the U.S. court awarded Ms. Miskin the real estate, but she was unable to obtain the alimony. The existence of the Liechtenstein foundation and funds were not disclosed to the courts or his ex-wife.

These LGT accounts together portray a bank whose personnel too often viewed LGT’s role as, not just a guardian of client assets or trusted financial advisor, but also a willing partner to clients wishing to hide their assets from tax authorities, creditors, and courts. In that context, bank secrecy laws have served as a cloak not only for client misconduct, but also for bank personnel colluding with clients to evade taxes, dodge creditors, and defy court orders.

(2) UBS AG Case History

UBS AG of Switzerland is one of the largest financial institutions in the world, and has one of the world’s largest private banks catering to wealthy individuals. From at least 2000 to 2007, UBS made a concerted effort to open accounts in Switzerland for wealthy U.S. clients, employing practices that could facilitate, and have resulted in, tax evasion by U.S. clients. These UBS practices included maintaining for an estimated 19,000 U.S. clients “undeclared” accounts in Switzerland with billions of dollars in assets that have not been disclosed to U.S. tax authorities; assisting U.S. clients in structuring their accounts to avoid QI reporting requirements; and allowing its Swiss bankers to market securities and banking services on U.S. soil without an appropriate license in apparent violation of U.S. law and UBS policy. In 2007, after its activities within the United States came to the attention of U.S. authorities, UBS banned its Swiss bankers from traveling to the United States and took action to revamp its practices.

The information obtained by the Subcommittee about UBS practices in the United States was obtained, in part, from former UBS employee, Bradley Birkenfeld, a U.S. citizen who worked as a private banker in Switzerland from 1996, until his arrest in the United States in

2008. Mr. Birkenfeld worked for UBS in its private banking operations in Geneva from 2001 to 2005, until he resigned from the bank. In 2007, while in the United States, Mr. Birkenfeld provided documentation and testimony to the Subcommittee related to his employment as a private banker. In a sworn deposition before Subcommittee staff, Mr. Birkenfeld provided detailed information about a wide range of issues related to UBS business dealings with U.S. clients. In 2008, Mr. Birkenfeld was arrested, indicted, and pled guilty to conspiring with a U.S. taxpayer, Igor Olenicoff, to hide \$200 million in assets in Switzerland and Liechtenstein, and to evade \$7.2 million in U.S. taxes.

Maintaining Undeclared Accounts with Billions in Assets.

From at least 2000 to 2007, UBS maintained Swiss accounts for thousands of U.S. clients with billions of dollars in assets that have not been disclosed to U.S. tax authorities. Although UBS AG signed a QI agreement with the United States in 2001, UBS has never filed 1099 Forms reporting these accounts to the IRS, contending that these U.S. client accounts fall outside its QI reporting obligations. UBS refers to these accounts internally as “undeclared accounts.”

In response to Subcommittee inquiries, UBS has estimated that it today has accounts in Switzerland for about 20,000 U.S. clients, of which roughly 1,000 hold declared accounts and 19,000 hold undeclared accounts that have not been disclosed to the IRS. UBS also estimates that those accounts contain assets with a combined value of about 18.2 billion in Swiss francs or about \$17.9 billion. UBS was unable to specify the breakdown in assets between the undeclared and declared accounts, except to note that the amount of assets in the undeclared accounts would be much greater.

These figures suggest that the number of U.S. client accounts in Switzerland and the amount of assets contained in those accounts have increased significantly since 2002, when a UBS document reported that the Swiss private banking operation then had more than 11,000 accounts for clients in the United States and Canada, with combined assets in excess of 20 billion Swiss francs or about \$13.3 billion.

The UBS figures for 2008 are also consistent with internal UBS documents from 2004 and 2005, which suggest that a substantial portion of the UBS Swiss accounts opened for U.S. clients at that time were undeclared, and that these undeclared accounts held more assets, brought in more new money, and were more profitable for the bank than the declared accounts. This information is contained in a set of monthly reports for select months in 2004 and 2005, which tracked key information for the Swiss accounts opened for U.S. clients, breaking down the data for both declared and undeclared accounts. Each report

appears to show substantially greater assets in the undeclared accounts than in the declared accounts. In October 2005, for example, the data indicates a total of about 18.5 billion Swiss francs of assets in the undeclared accounts and 2.6 billion Swiss francs in the declared accounts. The October 2005 report also suggests that the undeclared accounts had acquired 1 billion Swiss francs in net new money for UBS, while the declared accounts had collectively lost 333 million Swiss francs over the same time period. The monthly reports also indicate that UBS earned significantly more in revenues from the undeclared accounts. For example, the October 2005 data shows that UBS obtained year-to-date revenues of about 180 million Swiss francs from the undeclared accounts versus 22.1 million Swiss francs from the declared accounts. These statistics suggest that the undeclared U.S. client accounts were more popular and more lucrative for the bank.

In the recent U.S. criminal prosecution of Mr. Birkenfeld, the U.S. Government filed a Statement of Facts, signed by Mr. Birkenfeld, stating that UBS in Switzerland had “\$20 billion of assets under management in the United States undeclared business, which earned the bank approximately \$200 million per year in revenues.”

Ensuring Bank Secrecy. UBS has not only opened undeclared Swiss accounts for U.S. clients, UBS has assured its U.S. clients with undeclared accounts that U.S. authorities would not learn about them, because the bank is not required to disclose them; UBS procedures, practices and services protect against disclosure; and the account information is further shielded by Swiss bank secrecy laws. In November 2002, for example, senior officials in the UBS private banking operations in Switzerland sent the following letter to U.S. clients about their Swiss accounts which states in part:

“[W]e should like to underscore that a Swiss bank which runs afoul of Swiss privacy laws will face sanctions by its Swiss regulator. ... [I]t must be clear that information relative to your Swiss banking relationship is as safe as ever and that the possibility of putting pressure on our U.S. units does not change anything. ...

“UBS (as all other major Swiss banks) has asked for and obtained the status of a Qualified Intermediary under U.S. tax laws. The QI regime fully respects client confidentiality as customer information are only disclosed to U.S. tax authorities based on the provision of a W-9 form. Should a customer choose not to execute such a form, the client is barred from investments in US securities but under no circumstances will his/her identity be revealed. Consequently,

UBS's entire compliance with its QI obligations does not create the risk that his/her identity be shared with U.S. authorities."

This letter plainly asserts that UBS will not disclose to the IRS a Swiss account opened by a U.S. client, so long as that account contains no U.S. securities, even if UBS knows the accountholder is a U.S. taxpayer obligated under U.S. law to report the account and all income to the IRS.

UBS not only maintained secret, undeclared accounts for U.S. clients, it also took steps to assist its U.S. clients to structure their Swiss accounts to avoid QI reporting requirements. UBS informed the Subcommittee that, after it joined the QI Program in 2001, and informed its U.S. clients about its QI disclosure obligations, many U.S. clients elected to sell their U.S. securities so that their identities would not be disclosed to the IRS under the QI agreement. UBS told the Subcommittee that, in 2001, these U.S. clients sold over \$2 billion in U.S. securities from their Swiss accounts to avoid QI reporting. UBS allowed these U.S. clients to continue to maintain accounts in Switzerland, and helped them reinvest in other types of assets that did not trigger reporting obligations to the IRS, despite evidence that the U.S. clients were using the accounts to hide assets from the IRS. In addition, UBS told the Subcommittee that, in 2001, at least 250 of its U.S. clients with Swiss accounts opened new accounts in the names of offshore corporations, trusts, foundations, or other entities, and transferred assets including, in a number of instances, U.S. securities from their personal accounts to those new accounts. UBS treated the new accounts as held by non-U.S. persons whose identities did not have to be disclosed to the IRS, even though UBS knew that the true beneficial owners were U.S. persons. UBS was unable to estimate for the Subcommittee by the time this Report was prepared the total volume of assets that were transferred to these new accounts in 2001, although it said it was working to gather that data.

The Subcommittee also asked UBS whether, after 2001, its Swiss employees had assisted any U.S. clients to avoid QI reporting requirements, either by opening accounts with no U.S. securities or opening accounts in the names of foreign entities that, as non-U.S. persons, were not required to be disclosed to the IRS. UBS told the Subcommittee that it did not have reliable data on the extent to which its Swiss employees may have continued to engage in this conduct from 2002 to the present.

These facts indicate that, soon after it joined the QI Program, UBS helped its U.S. clients structure their Swiss accounts to avoid reporting billions of dollars in assets to the IRS. Among other actions, UBS allowed U.S. clients to establish offshore structures to assume nominal

ownership of their assets and allowed U.S. clients to continue to hold undisclosed accounts that were not reported to the IRS. Such actions, while not per se violations of the QI Program, were aimed at circumventing its intended purpose of increasing disclosure of U.S. client accounts, and led to the formation of offshore structures and undeclared accounts that could facilitate, and have resulted in, tax evasion by U.S. clients.

The Statement of Facts in the Birkenfeld criminal case characterizes these actions as follows: “By concealing the U.S. clients’ ownership and control in the assets held offshore, defendant Birkenfeld, the Swiss Bank, its managers and bankers evaded the requirements of the Q.I. program, defrauded the IRS and evaded United States income taxes.”¹⁵

Targeting U.S. Clients. Although UBS has extensive banking and securities operations in the United States that could accommodate its U.S. clients, from at least 2000 to 2007, UBS directed its Swiss bankers to target U.S. clients to open more bank accounts in Switzerland. Until recently, UBS encouraged its Swiss bankers to travel to the United States to recruit new U.S. clients, organized events to help them meet wealthy U.S. individuals, and set annual performance goals for obtaining new U.S. business. UBS Swiss bankers also marketed securities and banking products and services while in the United States, and accepted orders for securities transactions from clients in the United States, without an appropriate license and in apparent violation of U.S. law and UBS policy.

U.S. securities law prohibits persons from advertising securities products or services or executing securities transactions within the United States, unless registered with the Securities and Exchange Commission (SEC). In addition, securities products offered to U.S. persons must comply with U.S. securities laws, which generally means they must be registered with the SEC, a condition that may not be met by non-U.S. securities, mutual funds, and other investment products. State securities laws may have similar prohibitions. Moreover, U.S. tax laws may require foreign financial institutions to report sales of non-U.S. securities on 1099 Forms if the sales are effected in the United States, such as through a broker physically in the United States or telephone calls or emails originating in the United States. In addition, although UBS AG is itself licensed to operate as a bank and broker-dealer in the United States, its banking and securities licenses do not extend to its non-U.S. offices or affiliates providing services to U.S. residents.

¹⁵ United States v. Birkenfeld,” Statement of Facts, (6/19/08).

To avoid violating U.S. law, exceeding their licenses, or triggering 1099 reporting requirements, since at least 2002, UBS has maintained written policies restricting the marketing and client-related activities that may be undertaken in the United States by UBS bankers from outside of the country. For example, 2002 UBS guidelines instruct its Swiss bankers to ensure that there is “no use of US mails, e-mail, courier delivery or facsimile regarding the client’s securities portfolio;” “no use of telephone calls into the US regarding the client’s securities portfolio;” “no account statements, confirmations, performance reports or any other communications” while in the United States; “no further instructions ... from ... clients while they are in the US;” “no marketing of advisory or brokerage services regarding securities;” “no discussion of or delivery of documents concerning the client’s securities portfolio while on visits in the US;” “no discussion of performance, securities purchased or sold or changes in the investment mandate for the client” while in the United States; and “no delivery of documents regarding performance, securities purchased or sold or changes in the investment mandate for the client.” The 2004 and 2007 versions of this UBS policy are even more restrictive.

Despite these explicit and extensive restrictions on allowable U.S. activities, from at least 2000 to 2007, UBS routinely authorized and paid for its Swiss bankers to travel to the United States to develop new business and service existing clients. In his deposition, Mr. Birkenfeld told the Subcommittee that, during his four years at UBS, the private bankers from Switzerland who targeted U.S. clients typically traveled to the United States four to six times per year, using their trips to recruit new clients and provide financial services to existing clients. He estimated: “As I remember, there [were] around 25 people in Geneva, 50 people in Zurich, and five to ten in Lugano. This is a formidable force.”

Mr. Birkenfeld testified that UBS also provided its Swiss bankers with tickets and funds to go to events attended by wealthy U.S. individuals, so that they could solicit new business for the bank in Switzerland. He said that UBS sponsored U.S. events likely to attract wealthy clients, such as the Art Basel Air Fair in Miami; performances in major U.S. cities by the UBS Vervier Orchestra featuring talented young musicians; and U.S. yachting events attended by the elite Swiss yachting team, Alinghi, which was also sponsored by UBS. A UBS document laying out marketing strategies to attract U.S. clients confirms that the bank “organized VIP events” and engaged in the “Sponsorship of Major Events” such as “Golf, Tennis Tournaments, Art, Special Events.” This document even identified the 25 most affluent housing areas in the United States to provide “targeted locations where to organize events.”

To gauge the extent of UBS efforts to target U.S. clients while on U.S. soil, the Subcommittee conducted an analysis of more than 500 travel records compiled by the Department of Homeland Security, at the Subcommittee's request, of persons travelling from Switzerland to the United States from 2001 to 2008, to identify UBS Swiss bankers who serviced U.S. clients. The Subcommittee determined that, from 2001 to 2008, roughly 20 UBS Swiss client advisors made an aggregate total of over 300 visits to the United States. Only two of these visits took place from 2001 to 2002; the rest occurred from 2003 to 2008. On several occasions, the visits appear to have involved multiple client advisors travelling together to UBS-sponsored events in the United States. Some of these client advisors designated their visits as travel for a non-business purpose on the I-94 Customs declaration forms that all visitors must complete prior to entry into the United States. Closer analysis, however, reveals that the dates and ports of entry for such trips coincided with the UBS-sponsored events, suggesting the visits were, in fact, business-related. The data also disclosed UBS bankers who made regular U.S. visits. One UBS employee, for example, travelled to the United States three times per year, at roughly four-month intervals, from 2003 to 2007. Another senior UBS Swiss private bank official – Michel Guignard – visited the United States nearly every other month for a significant portion of the period examined by the Subcommittee. Martin Liechti, an even more senior Swiss private banking official who heads Wealth Management Americas, visited the United States up to eight times in a year.

NNM Performance Goals. UBS not only encouraged its Swiss bankers to travel to the United States to recruit new U.S. clients, it also assigned its Swiss bankers specific performance goals for bringing new money into the bank from the United States. Mr. Birkenfeld told the Subcommittee that, during his tenure at the bank, his superiors at UBS assigned him a specific monetary goal, referred to as a “net new money” (NNM) target, that he was expected to bring into the bank by the end of the year from U.S. clients. He said that a NNM target was assigned to each Swiss Client Advisor who dealt with U.S. clients, depending upon their seniority and past performance. He told the Subcommittee that it was his “job as a private banker ... to bring in net new money ... probably \$50 million a year or \$40 million.”

A 2007 email from Mr. Liechti indicates that the bank's focus on net new money continued after Mr. Birkenfeld left UBS in 2005. His email wishes his colleagues a “Happy New Year” and then urges them to increase their NNM efforts. He states:

“The markets are growing fast, and our competition is catching up. ... The answer to guarantee our future is GROWTH. We have grown from CHF 4 million per Client Advisor in 2004 to 17 million in 2006. We need to keep up with our ambitions and go to 60 million per Client Advisor! ...

“In the Chinese Horoscope, 2007 is the year of the pig. In many cultures, the pig is a symbol for ‘luck’. While it’s always good to have [a] bit of luck, it is not luck that leads to success. Success is the result of vision and purpose, hard work and passion. ... Together as a team I am convinced we will succeed!”¹⁶

The Liechti email indicates that in two years, from 2004 to 2006, UBS Swiss bankers had quadrupled the amount of net new money being drawn into UBS from the “Americas,” and that the bank’s management sought to quadruple that figure again in a single year, 2007. This email helps to convey the pressure that UBS placed on its Swiss private bankers to bring in new money from the United States into Switzerland.

Mr. Birkenfeld told the Subcommittee that the overall effort of the UBS Swiss private banking operation to secure U.S. clients was the most extensive he had observed in his 12 years working in Swiss private banking. He said the Swiss bankers he worked with typically had an “existing book of business,” with numerous U.S. clients, and “a very regimented cycle of going out and acquiring new clients, taking care of your existing clients, make sure the revenue was there.” He described one private banker who would see as many as 30 or 40 existing clients on a single trip. He said, “This was a massive machine. I had never seen such a large bank making such a dedicated effort to market to the U.S. market.”

A UBS business plan for the years 2003 through 2005, provides context for the Swiss focus on obtaining U.S. clients. This document observes that “31% of World’s UHNWIs [Ultra High Net Worth Individuals] are in North America (USA + Canada).” It also observes that the United States has 222 billionaires with a combined net worth of \$706 billion. This type of information helps explain why UBS dedicated significant resources to obtaining U.S. clients for its private banking operations in Switzerland. It also explains why the Swiss effort to attract billions to their tax haven may have contributed to the huge tax loss to the U.S. treasury.

Servicing U.S. Clients with Swiss Accounts. UBS not only allowed U.S. clients to open undeclared accounts in Switzerland, it also took steps to ensure that its Swiss bankers serviced their U.S. clients in

¹⁶ Email from Martin Liechti re “Happy New Year”; addressees not specified (undated).

ways that minimized disclosure of information to U.S. authorities. Mr. Birkenfeld told the Subcommittee that UBS private bankers were supposed to keep a low profile during their business trips to avoid attracting attention from U.S. authorities. He noted, for example, that UBS business cards did not include a reference to a private banker's involvement in "wealth management." He also said that some UBS Swiss private bankers who visited the United States on business told U.S. customs officials that they were instead in the country for non-business reasons. UBS also provided its private bankers with explicit training on how to detect – and avoid – surveillance by U.S. customs agents and law enforcement officers, and how to react if confronted.

Protecting client-specific account information was also a concern. Mr. Birkenfeld explained, for example, that client account statements were normally kept in Switzerland rather than mailed to the United States. He said that Swiss bankers traveling to the United States to meet with specific clients took elaborate measures to disguise or encrypt the account information they brought with them, to prevent it from falling into the wrong hands. He said, for example, some bankers took "cryptic notes" of the account information, created handwritten spreadsheets with no identifying information other than a code name, or used computers equipped to receive only highly encrypted information that, allegedly, "[e]ven if the [U.S.] Customs opened it, for instance, they wouldn't see anything."

Mr. Birkenfeld also told the Subcommittee that, despite U.S. laws and UBS policies restricting securities activities that could be undertaken in the United States by non-U.S. personnel, some UBS Swiss bankers communicated with their U.S. clients by telephone, fax, mail and email, to market securities products and services, and to carry out securities transactions. The facts suggest, until recently, UBS was not enforcing its own policies. This lack of enforcement, in turn, raises concerns that UBS Swiss bankers with U.S. clients may have been routinely violating UBS policy and U.S. law.

Olenicoff Accounts. These concerns are further illustrated by the recent criminal prosecution involving UBS accounts opened in Switzerland by Mr. Birkenfeld for Igor Olenicoff. Mr. Olenicoff is a billionaire real estate developer, U.S. citizen, and resident of Florida and California. From 2001 until 2005, Mr. Birkenfeld and Mario Staggli, a trust officer from Liechtenstein, helped Mr. Olenicoff open multiple bank accounts in the names of offshore companies he controlled at UBS in Switzerland and Neue Bank in Liechtenstein. For a time, Mr. Olenicoff was Mr. Birkenfeld's largest private banking client. To service these accounts, Mr. Birkenfeld met with Mr. Olenicoff in the United States and elsewhere, communicated with him by telephone, fax,

and email in the United States, and advised him on how to avoid disclosure of his accounts and assets to the IRS. In 2007, Mr. Olenicoff pled guilty to one criminal count of filing a false income tax return by failing to disclose the foreign bank accounts he controlled. He was sentenced to two years probation and 120 hours of community service, and paid six years of back taxes, interest, and penalties totaling \$52 million. In 2008, Mr. Birkenfeld pled guilty to conspiring with Mr. Olenicoff to defraud the IRS and avoid payment of taxes owed on \$200 million in assets hidden in accounts in Switzerland and Liechtenstein. Their alleged co-conspirator, Mr. Staggl, remains at large in Liechtenstein.

2007 Overhaul. In November 2007, after its U.S. activities had come to the attention of U.S. authorities, UBS imposed a travel ban prohibiting its Swiss bankers from going to the United States. In addition, UBS re-issued a policy statement with more extensive restrictions on allowable activities within the United States by its non-U.S. personnel. UBS is currently under investigation by the SEC, IRS, and Department of Justice.

C. Report Findings and Recommendations

Based upon its investigation, the Subcommittee staff makes the following findings of fact and recommendations.

Report Findings

Based upon its investigation, the Subcommittee staff makes the following findings of fact.

1. **Bank Secrecy.** Bank secrecy laws and practices are serving as a cloak, not only for client misconduct, but also for misconduct by banks colluding with clients to evade taxes, dodge creditors, and defy court orders.
2. **Bank Practices That Facilitate Tax Evasion.** From at least 2000 to 2007, LGT and UBS employed banking practices that could facilitate, and have resulted in, tax evasion by their U.S. clients, including assisting clients to open accounts in the names of offshore entities; advising clients on complex offshore structures to hide ownership of assets; using client code names; and disguising asset transfers into and from accounts.
3. **Billions in Undeclared U.S. Client Accounts.** Since 2001, LGT and UBS have collectively maintained thousands of U.S. client accounts with billions of dollars in assets that have not

been disclosed to the IRS. UBS alone has accounts in Switzerland for an estimated 19,000 U.S. clients with assets valued at \$18 billion. The IRS has identified at least 100 accounts with U.S. clients at LGT.

4. **QI Structuring.** LGT and UBS have assisted their U.S. clients in structuring their foreign accounts to avoid QI reporting to the IRS, including by allowing U.S. clients who sold their U.S. securities to continue to hold undisclosed accounts and by opening accounts in the name of non-U.S. entities beneficially owned by U.S. clients. While these banking practices did not technically violate the banks' QI agreements, the result is that the banks helped keep accounts secret from the IRS and thereby facilitated tax evasion by their U.S. clients.

Report Recommendations

Based upon its investigation and factual findings, the Subcommittee staff makes the following recommendations.

1. **Strengthen QI Reporting of Foreign Accounts Held by U.S. Persons.** In addition to prosecuting misconduct under existing law, the Administration should strengthen the Qualified Intermediary Agreement by requiring QI participants to file 1099 Forms for: (1) all U.S. persons who are clients (whether or not the client has U.S. securities or receives U.S. source income); and (2) accounts beneficially owned by U.S. persons, even if the accounts are held in the name of a foreign corporation, trust, foundation, or other entity. The IRS should also close the "QI-KYC Gap" by expressly requiring QI participants to apply to their QI reporting obligations all information obtained through their Know-Your-Customer procedures to identify the beneficial owners of accounts.
2. **Strengthen 1099 Reporting.** Congress should strengthen the statutory 1099 reporting requirements by requiring any domestic or foreign financial institution that obtains information that the beneficial owner of a foreign-owned financial account is a U.S. taxpayer to file a 1099 Form reporting that account to the IRS.
3. **Strengthen QI Audits.** The IRS should broaden QI audits to require bank auditors to report evidence of fraudulent or illegal activity.
4. **Penalize Tax Haven Banks That Impede U.S. Tax Enforcement.** Treasury should penalize tax haven banks that

impede U.S. tax enforcement or fail to disclose accounts held directly or indirectly by U.S. clients by terminating their QI status, and Congress should amend Section 311 of the Patriot Act to allow Treasury to bar such banks from doing business with U.S. financial institutions.

5. **Attribute Presumption of Control to U.S. Taxpayers Using Tax Havens.** Congress should amend U.S. tax laws to create a presumption in enforcement proceedings that legal entities, such as corporations, trusts, and foundations, are under the control of the U.S. persons who formed them, sent them assets, or received assets from them, where those entities are located or operating in an offshore secrecy jurisdiction.
6. **Allow More Time to Combat Offshore Tax Abuses.** Congress should extend from three years to six years the amount of time the IRS has after a return is filed to investigate and propose assessments of additional tax if the case involves an offshore tax haven with secrecy laws and practices.
7. **Enact Stop Tax Haven Abuse Act.** Congress should enact the Stop Tax Haven Abuse Act to strengthen the United States' ability to combat offshore tax abuse.

II. BACKGROUND

A. The Problem of Offshore Tax Abuse

Each year, the United States loses an estimated \$100 billion in tax revenues due to offshore tax abuses.¹⁷ These funds represent a substantial portion of the annual U.S. tax gap, which is the difference between what U.S. taxpayers owe and what they pay, most recently estimated by the IRS at \$345 billion.¹⁸

In 2006, the Subcommittee released a report and held a hearing on six case studies showing how a mature offshore industry, using an armada of tax attorneys, accountants, bankers, brokers, corporate service providers, trust administrators, and others, aggressively promotes the use of tax havens to U.S. citizens as a means to avoid U.S. taxes.¹⁹ In one case history, from 1992 to 2005, two brothers from Texas created a

¹⁷ See footnote 1, *supra*, explaining the basis for this \$100 billion estimate.

¹⁸ "Using Data from the Internal Revenue Service's National Research Program to Identify Potential Opportunities to Reduce the Tax Gap," Government Accountability Office, Report No. GAO-07-423R (3/15/07) at 1 (conveying the IRS estimate of the annual U.S. tax gap at \$345 billion).

¹⁹ See Subcommittee 2006 Tax Haven Abuse Hearing.

network consisting of 58 offshore trusts and corporations, transferred \$190 million in assets to that network, and directed the investment of those offshore assets, without paying taxes on either the initial transfers or the offshore income of more than \$600 million subsequently generated.²⁰ Three other case histories showed how U.S. businessmen used offshore trusts and shell companies to hide substantial funds and other assets from U.S. tax authorities.²¹ The remaining two case histories focused on how a U.S. offshore promoter helped U.S. citizens open offshore accounts and establish offshore structures, while a U.S. securities firm used offshore entities and a phony offshore securities portfolio in an abusive tax shelter that offset billions of dollars in taxable income within the United States.²²

The 2006 Subcommittee hearing focused primarily on the roles played by U.S. professionals, such as tax attorneys, accountants, investment advisors, and bankers, in assisting U.S. taxpayers in moving assets offshore and using those offshore assets to further their personal or business aims. The roles played by tax haven professionals and financial institutions received less extensive review. The Liechtenstein tax scandal and the arrest of a former UBS private banker, however, demonstrate anew the key role played by tax haven financial institutions in facilitating, knowingly or unknowingly, U.S. tax dodges.

B. Initiatives To Combat Offshore Tax Abuse

Concerns about offshore tax abuses and the role of tax havens in facilitating tax evasion are longstanding. This Subcommittee held a hearing in 1983 on U.S. taxpayers using offshore secrecy jurisdictions to hide assets and evade U.S. taxes.²³ Over the years, the United States and the international community have undertaken an array of initiatives to combat offshore tax abuses. In recent years, this effort has intensified. A brief summary of major initiatives over the last ten years to combat offshore tax abuses follows.

Tax Information Exchange Agreements. One major effort undertaken by the United States to combat offshore tax abuse is its ongoing work to obtain tax treaties or tax information exchange agreements (TIEAs) with foreign countries.²⁴ A major objective of these

²⁰ *Id.* (see case history involving Sam and Charles Wyly).

²¹ *Id.* (see case histories involving Robert Holliday, Kurt Greaves, and Walter Anderson).

²² *Id.* (see case histories involving the Equity Development Group and the POINT Strategy).

²³ "Crime and Secrecy: The Use of Offshore Banks and Companies," hearing before the U.S. Senate Permanent Subcommittee on Investigations, S. Hrg. 98-151 (March 15, 16 and May 24, 1983).

²⁴ The United States generally enters into a tax treaty with a country to establish maximum rates of tax for certain types of income, protect persons from double taxation, arrange for tax information exchange, and resolve other tax issues. In the case of a country with nominal or no

treaties and agreements is to establish arrangements for the United States to obtain information from its counterpart to advance its tax enforcement efforts.²⁵

The United States has entered into more than 60 tax treaties with other countries.²⁶ A U.S. Model Income Tax Convention establishes the basic format and provisions that the United States seeks to include in its tax treaties.²⁷ Article 26 of the Model Convention focuses on tax information exchange. The model Article 26 states that the treaty partners “shall exchange such information as may be relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes of every kind ... including information relating to the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, such taxes.” Article 26 requires the treaty partners to protect the confidentiality of the information received from the other country and to disclose the information only to persons, administrative bodies, and courts involved in tax administration. Article 26 also allows a treaty partner to refuse to share information in certain limited circumstances, such as if obtaining the information would be at variance with the country’s laws.

In addition, the United States has entered into more than 20 TIEAs, many with known tax havens. TIEAs first came into use about 20 years ago, after Congress enacted a 1983 law authorizing the U.S. Treasury Department to negotiate bilateral or multilateral tax information exchange agreements with certain countries in the Caribbean and Central America.²⁸ TIEAs received another boost in 2000, when the

taxes, however, the United States may forego addressing a full range of tax issues and instead seek to enter into simply a tax information exchange agreement. See “Offshore Tax Evasion: Stashing Cash Overseas,” hearing before the Senate Committee on Finance (5/3/07) (hereinafter “Finance Committee 2007 Hearing on Offshore Tax Evasion”), prepared testimony of Treasury Acting International Tax Counsel John Harrington, at 3.

²⁵ The United States has identified three primary forms of information exchange: (1) exchange of information on request, in which the tax authorities of one country request specific information about specific taxpayers from the tax authorities of the second country; (2) automatic exchange of information, in which the tax authorities of one country routinely provide detailed information about a class of taxpayers, such as information detailing the interest, dividends, or royalties payments made to those taxpayers during a specified period; and (3) spontaneous exchange of information, in which the tax authorities of one country pass on information obtained in the course of administering its own tax laws to the tax authorities of another country without having been asked. *Id.* U.S. tax treaties typically encompass all three types of information exchange. *Id.*

²⁶ See list of tax treaties on IRS website at www.irs.gov (viewed 6/17/08).

²⁷ See copy of this Model Convention on IRS website (viewed 6/17/08).

²⁸ See Caribbean Basin Initiative of 1983, P.L. 98-67, 97 Stat. 396, at § 222. See also 26 U.S.C. §§ 274(h)(6)(C) and 927(e). This statutory framework initially authorized the Treasury Secretary to conclude agreements with countries in the Caribbean Basin (thereby qualifying such countries for certain benefits under the Caribbean Basin Initiative) but later expanded this authority to conclude TIEAs with any country.

Organization for Economic Cooperation and Development (OECD) began obtaining written commitments from a number of offshore jurisdictions promising to enter into tax information exchange agreements with other countries in order to avoid being identified as an uncooperative tax haven.²⁹

TIEAs, by their nature, are more limited than tax treaties, since they deal with only one issue, tax information exchange. Typically, TIEAs require the tax authorities of the two countries to agree to exchange information upon request in both criminal and civil tax matters. The parties also typically promise to provide the requested information whether or not the person at issue is a resident or citizen of either country, and whether or not the matter would constitute a violation of the tax laws of the country being asked to supply the information. In addition, the parties typically promise to provide each other with the requested information regardless of laws or practices relating to bank secrecy.

For many years, few offshore tax havens would agree to enter into a tax treaty or TIEA with the United States requiring the exchange of tax information. During the Bush Administration, however, the Treasury Department made a concerted effort to obtain TIEAs with known tax havens, in an effort to strengthen their cooperation with U.S. tax enforcement efforts. Since 2000, the Bush Administration has signed more than a dozen TIEAs. Many of these TIEAs have only recently gone into effect, and opinion is divided on whether tax havens are fully complying with the agreements.³⁰

A few countries that have resisted signing either a tax treaty or TIEA with the United States have instead entered into tax information exchange arrangements as part of a Mutual Legal Assistance Treaty (MLAT).³¹ MLATs typically establish the parameters for the signatory countries to cooperate in criminal investigations and prosecutions. By using this mechanism to respond to tax information requests, the signatory country agrees to provide tax information only in criminal tax matters. Since most U.S. tax matters are handled in civil rather than

²⁹ See discussion of OECD initiative on uncooperative tax havens, *infra*.

³⁰ For example, the OECD noted last year that some tax havens that made written commitments to enter into TIEAs have not done so, and that countries that signed a TIEA have sometimes refused or delayed producing requested information. Finance Committee 2007 Hearing on Offshore Tax Evasion, prepared testimony of OECD Center for Tax Policy Director Jeffrey Owens, at 9; "OECD Signals Plan to Renew Efforts Against Non-Cooperative Jurisdictions," BNA Report on International Tax & Accounting, No. ISSN 1522-8800 (10/15/07).

³¹ Some countries have both a MLAT and a tax treaty or tax information exchange agreement with the United States.

criminal proceedings, this approach severely restricts tax information exchanges between the two countries.³²

Liechtenstein has never entered into either a tax treaty or TIEA with the United States.³³ In 2002, Liechtenstein did enter into a MLAT with the United States, and agreed to participate in tax information exchanges in the context of criminal proceedings.³⁴ Under the MLAT, Liechtenstein agreed to provide assistance in U.S. criminal matters where the conduct at issue “constitutes tax fraud, defined as tax evasion committed by means of the intentional use of false, falsified or incorrect business records or other documents, provided the tax due ... is substantial.”³⁵ Diplomatic notes exchanged in connection with the MLAT list five types of intentional conduct that presumptively qualify as “tax fraud” entitled to assistance under the treaty, including the preparation or filing of false documents, the destruction of records, or the concealment of assets.³⁶

Switzerland has a longer history of cooperation with the United States on tax matters, although, like Liechtenstein, that cooperation has been limited to criminal tax matters. Switzerland first entered into a tax treaty with the United States in 1951.³⁷ Under that treaty, Switzerland agreed to exchange information only in criminal cases involving “tax fraud,” a criminal offense narrowly defined in Swiss law.³⁸ In 1996,

³² A 2007 assessment by the OECD of 82 countries found that 17 countries, all known tax havens, have limited their participation in tax information exchanges to criminal tax matters. See “Tax Co-operation: Towards a Level Playing Field – 2007 Assessment by the Global Forum on Taxation,” Report No. ISBN-978-92-64-03902-5 (October 2007).

³³ Liechtenstein is currently in negotiation with the United States regarding a possible tax treaty or tax information exchange agreement.

³⁴ “Treaty between the United States of America and the Principality of Liechtenstein on Mutual Legal Assistance in Criminal Matters,” (signed 7/8/02) (hereinafter “United States-Liechtenstein MLAT”), reprinted in a Message from the President of the United States to the U.S. Senate transmitting the MLAT, Treaty Doc. 107-16 (9/5/02). Prior to the MLAT, Liechtenstein had provided legal assistance to the United States in criminal matters on the basis of a diplomatic agreement. After the attack on the United States on 9/11/01, however, the United States made a concerted effort to obtain formal MLAT agreements with a number of countries, including Liechtenstein.

³⁵ Letter of Submittal by the U.S. Secretary of State to the President regarding the United States-Liechtenstein MLAT (8/14/02), reprinted in Treaty Doc. 107-16 (9/5/02), at VI.

³⁶ *Id.*

³⁷ In addition to this tax treaty, in 1973, Switzerland entered into a Mutual Legal Assistance Treaty with the United States. That MLAT, however, by its terms, generally excludes “violations with respect to taxes,” and so is not used for assistance in tax matters. Treaty between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, (1/23/77), 273 UST 2019, at Article 2. Switzerland also has a 1981 domestic law allowing “International Mutual Assistance in Criminal Matters,” but that law is difficult to use since it is confined to criminal cases, is limited to document and testimony requests, and allows multiple appeals within Switzerland. Subcommittee meeting with the Embassy of Switzerland (7/10/08).

³⁸ See, e.g., J. Springer, “An Overview of International Evidence and Asset Gathering in Civil and Criminal Tax Cases,” 22 *Gco. Wash. J. Int’l L. & Econ.* 277, 303-8 (1988); Aubert, “The

Switzerland and the United States updated the tax treaty and, among other changes, modernized the tax information exchange provisions.³⁹ A revised Article 26 now states that the treaty partners “shall exchange such information ... as is necessary for carrying out the provisions of the present Convention or for the prevention of tax fraud or the like.”⁴⁰ A Protocol agreed to in connection with the revised tax treaty provides a new definition of “tax fraud” than what was applied in the earlier tax treaty or in Swiss law. The Protocol states that “the term ‘tax fraud’ means fraudulent conduct that causes or is intended to cause an illegal and substantial reduction in the amount of the tax paid.”⁴¹ The Protocol also states: “Fraudulent conduct is assumed in situations when a taxpayer uses, or has the intention to use a forged or falsified document ... or, in general, a false piece of documentary evidence, and in situations where the taxpayer uses, or has the intention to use a scheme of lies (‘Lugengebaude’) to deceive the tax authority.” The U.S. State Department, when submitting the new treaty for ratification by the U.S. Senate, stated that the new provisions had “significantly expand[ed] the scope of the exchange of information between the United States and Switzerland.”⁴² Other observers, while conceding the improvements achieved in the 1996 tax treaty, remain critical of Swiss assistance in U.S. tax matters.

Qualified Intermediary Program. In addition to its systematic effort to obtain tax treaties or tax information exchange agreements with foreign governments, the United States launched a new initiative in 2000, which took effect in 2001, called the Qualified Intermediary (QI) Program.⁴³ The QI Program is intended to encourage foreign financial institutions to report U.S. source income to the IRS and withhold taxes on that income as required by U.S. tax law. Thousands of foreign financial institutions have become voluntary QI participants.⁴⁴

Limits of Swiss Banking Secrecy Under Domestic and International Law,” 273 Int’l Tax & Bus. Law. 273, 286-88 (1984); J. Knapp, “Mutual Legal Assistance Treaties as a Way to Pierce Bank Secrecy,” Case W. Res. J. Int’l L. 405-8, 418-20 (1988). Tax evasion is an administrative offense, not a criminal offense in Switzerland. The only tax-related crime in Switzerland is for “tax fraud,” which is difficult to establish.

³⁹ See “Convention between the United States of America and the Swiss Confederation for the Avoidance of Double Taxation with respect to Taxes on Income,” (signed 10/2/96) (hereinafter “United States-Switzerland Tax Convention”), reprinted in a Message from the President of the United States to the U.S. Senate transmitting the Convention and a related Protocol, Treaty Doc. 105-8 (6/25/97).

⁴⁰ *Id.*, Article 26 (1).

⁴¹ *Id.*, Protocol (10).

⁴² Letter of Submittal by the U.S. Secretary of State to the President regarding the United States-Switzerland Tax Convention (10/2/96), reprinted in Treaty Doc. 105-8 (6/25/97), at VII.

⁴³ For more information about the QI Program, see 26 U.S.C. §§1441-43; Treas. Reg. §1.1441-1(e)(5); Revenue Procedure 2000-12, 2000-4 I.R.B. 387.

⁴⁴ IRS briefing on the QI Program provided to the Subcommittee (5/9/08).

The QI Program is focused primarily on U.S. source income.⁴⁵ U.S. source income refers to income that originates in the United States, such as dividends paid on U.S. stock; capital gains paid on sales of U.S. stock or real estate; royalties paid on U.S. assets; rent paid on U.S. property; interest paid on U.S. deposits; and other types of “fixed, determinable, annual, or periodic income.”⁴⁶ Most of this income, when paid to a U.S. person, is taxable; most of it is not taxable when paid to a non-U.S. person, in an apparent effort to attract foreign investment to the United States. But a few categories of U.S. source income, such as U.S. stock dividends, are taxable even when paid to a non-U.S. person.

The QI Program seeks to enlist foreign financial institutions in the U.S. effort to collect and remit U.S. taxes owed primarily on U.S. source income, by offering participating institutions reduced paperwork and disclosure obligations. The QI Program applies only to foreign financial institutions that buy and sell U.S. securities on behalf of their clients through securities accounts opened at U.S. financial institutions. Treasury regulations, which took effect in 2001, require U.S. financial institutions to withhold 30 percent of the income earned on U.S. investments maintained in a foreign financial account, unless the foreign financial institution provides the U.S. withholding agent with the names of the beneficial owners of the accounts.⁴⁷ In effect, these regulations require foreign financial institutions doing business with U.S. financial institutions to disclose their clients by name or risk 30 percent of their client’s income being withheld by the U.S. financial institution. Even with this 30 percent penalty, many foreign financial institutions were reluctant to provide their client names, not only because it opened the door to competition from the U.S. financial institution over the clients, but also because it undermined bank secrecy. The QI Program was designed, in part, to resolve this dilemma for foreign financial institutions.

To participate in the QI Program, a foreign financial institution must voluntarily sign a 65-page standardized agreement with the IRS.⁴⁸ By signing the agreement, the foreign financial institution agrees to act as the U.S. withholding agent and comply with the withholding

⁴⁵ The QI Agreement also requires the reporting of two other categories of income: (1) proceeds from the sale of non-U.S. securities if the sale was effected by a broker within the United States; and (2) foreign source income, such as dividends, interest, rents, royalties or other fixed, determinable, annual, or periodic income, if that foreign income is paid in the United States. See Treas. Reg. §§ 1.6045-1(a)(1), 1.6042-3(b), 1.6049-5(b)(6); “U.S. Tax and Reporting Obligations for Foreign Intermediaries’ Non-U.S. Securities,” 47 Tax Notes Int’l 913 (9/3/07).

⁴⁶ See, e.g., Treas. Reg. § 1.6042-3 (a) and (b) on dividends, Treas. Reg. §§ 1.6049-1(a)(1) and 1.6049-5(b)(6) on interest payments.

⁴⁷ Treasury Regulations 1.1441-1, et seq., adopted in T.D. 8881, 2000-1 C.B. 1158 (5/15/2000).

⁴⁸ For a copy of the standardized agreement and country-specific forms, see the IRS website at www.irs.gov; or Rev. Proc. 2000-12, 200-4 IRB 387, which includes a model QI agreement.

obligations set out in U.S. tax law for certain clients. In addition, it must have “Know-Your-Customer” (KYC) procedures in place that ensure the foreign financial institution verifies and documents the beneficial owner of any account at its institution.

To carry out its withholding obligations, the foreign financial institution agrees to obtain a W-9 or W-8BEN Form from all of its clients who buy or sell U.S. securities through any account for which the foreign financial institution is a designated QI participant. These forms, which each client must fill out and provide to the foreign financial institution, identify the client as either a U.S. or non-U.S. person.⁴⁹ For every client who completes a W-9 Form – indicating the client is a U.S. person – the foreign financial institution agrees to file an annual, individualized 1099 Form with the IRS, reporting the client’s name, taxpayer identification number, and all “reportable payments” made to the client’s accounts.⁵⁰ In contrast, for every non-U.S. person filing a W-8BEN Form, the foreign financial institution is not required to file an individualized 1042S Form reporting account information to the IRS. Instead, QI participants calculate the “reportable amounts” of U.S. source income paid to all of their non-U.S. accounts in the QI Program, file a single 1042 Form for each category of U.S. source income paid to those accounts – also called “pooled reporting” – and remit any withheld taxes to the IRS on an aggregated basis.

The 1042 Forms filed by QI participants for non-U.S. accountholders do not contain any client names or client-specific information; instead each form contains a single aggregate figure for a single category of U.S. source income paid by the foreign financial institution during the year to all of its non-U.S. accountholders that traded U.S. securities. The foreign financial institution is also allowed to remit the withheld taxes in aggregated amounts to the IRS, with no breakdown for individual clients. For example, in the case of U.S. stock dividends, the QI participant would report the total amount of dividend

⁴⁹ W-9 Forms must be filed for “U.S. persons,” defined as U.S. citizens and U.S. resident aliens; corporations, partnerships, and associations organized under U.S. law; domestic estates; and domestic trusts. See W-9 Form, Request for Taxpayer Identification Number and Certification (Rev. 10-2007), General Instructions. W-9 Forms ask an accountholder to provide their name, address, account numbers, and Taxpayer Identification Number (TIN). W-8 Forms are filed for non-U.S. persons. W-8BEN Forms are filed for non-U.S. persons who beneficially own an account opened in the name of an intermediary, such as a bank, attorney, trustee, corporation, trust, or foundation. See W-8BEN Form, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding (Rev. 2-2006). These forms ask the accountholder to provide their name, address, and the country where they reside.

⁵⁰ “Reportable payments” include several categories of income: (1) “reportable amounts,” which are U.S. source payments such as interest, dividends, rents, royalties and other fixed, determinable, annual, or periodic income; (2) sales of foreign securities if effected in the United States; and (3) foreign-source interest, dividends, rents, royalties, or other fixed, determinable, annual, or periodic income, if paid in the United States. See, e.g., “U.S. Tax and Reporting Obligations for Foreign Intermediaries’ Non-U.S. Securities,” 47 Tax Notes Int’l 913 (9/3/07).

payments made to all of its non-U.S. accountholders during the year on a single 1042 Form, and would remit 30 percent of that total to the IRS, without providing any client-specific information. The practical effect, in the words of one Liechtenstein bank, was to preserve bank secrecy for non-U.S. accountholders, since the foreign financial institution was under no obligation to disclose any client names.⁵¹

Because U.S. securities transactions are configured, bought, and sold in U.S. dollars, foreign financial institutions are required to execute U.S. securities transactions through dollar accounts at U.S. financial institutions. If a foreign financial institution participates in the QI Program, it can designate these accounts as “QI Accounts.” If the foreign financial institution does not participate in the program, it has only “Non-QI” or “NQI Accounts.” Foreign financial institutions are required to designate each securities account they maintain with a U.S. financial institution as either a QI or NQI Account. With both types of accounts, the foreign financial institution internally tracks the dividends derived from U.S. securities and other U.S. source income paid to individual client accounts. With a NQI Account, the foreign financial institution must provide those individual client names to the U.S. financial institution, which in turn reports and remits withholding taxes to the IRS. But with a QI Account, the foreign financial institution may submit to the IRS forms using pooled reporting and aggregate withholdings, without disclosing the names of any non-U.S. persons holding U.S. securities. These financial institutions are thus allowed to withhold their client names from the IRS (and their American competitors) while maintaining the same access to the U.S. securities market – one of the world’s most lucrative – as U.S. financial institutions.

To ensure that the program is operating as intended, QI participants agree to an auditing regime. Generally, audits under the QI Program are conducted by external auditors chosen by the QI participant. Audits are intended to ensure that QI participants adhere to the standards and procedures set forth in the QI agreement. So that QIs are able to maintain client secrecy, the IRS does not have access to the raw information reviewed by the external auditor, although the IRS sets the audit parameters, reviews the qualifications of the external auditor, and determines whether the auditor faces any impediments such that they cannot accurately review the QI participant’s performance. Audits are conducted in the second and fifth years of the QI agreement, with audit reports remitted to the IRS. If an audit report raises concerns

⁵¹ See “Qualified Intermediary (QI)” presentation prepared by Brigitte Arnold of LGT Bank of Liechtenstein, (September 14-15, 2001) at 11 (“Conclusion[.] The application of the QI Rules from the banking perspective; was it worth it? Yes, because there is No Banking Secrecy without QI Status.”).

within the IRS, a second phase audit is ordered, focusing on the areas of concern. Should the concerns continue, a third phase is ordered. According to a December 2007 review of the QI Program by the U.S. Government Accountability Office (GAO), “high rates of documentation failure, underreporting of U.S. source income, and underwithholding” are the three most common reasons for third phase reviews.⁵² Failure to satisfactorily resolve the concerns – or submit timely-filed audit reports – results in termination of the relevant QI agreement.

In its review of the QI Program, GAO found that the QI agreement is silent on whether external auditors must perform additional procedures “if information indicating that fraud or illegal acts that could materially affect the results of the [audit] come to their attention.”⁵³ GAO’s analysis indicates that, under the current QI agreement, auditors are not required to, and generally do not, follow-up on indications of fraud or illegal acts by the QI participant.⁵⁴

Since the inception of the QI program, about 7,000 foreign financial institutions have signed QI agreements and participated in the program.⁵⁵ Due to mergers, withdrawals, and terminations, the IRS estimates that about 5,500 QI agreements are now active. The IRS estimates that about 100 foreign financial institutions have been involuntarily terminated from the QI program since its inception, for inadequate compliance, failed audits, or similar problems.⁵⁶ In Liechtenstein, 13 of its 15 banks have signed QI agreements; in Switzerland, virtually all major banks are QI signatories.

The QI Program has now been in effect for seven years, and evidence is emerging that some foreign financial institutions have been manipulating their QI reporting obligations to avoid reporting U.S. client accounts to the IRS. In its December 2007 study, for example, GAO discusses foreign accounts held in the name of foreign corporations, noting that “establishing a foreign corporation provides a mechanism for shielding the identity of the owner.”⁵⁷ GAO explains further:

⁵² “Tax Compliance: Qualified Intermediary Program Provides Some Assurance That Taxes on Foreign Investors are Withheld and Reported, but Can Be Improved,” (December 2007), GAO Report No. GAO-08-99 (hereinafter “2007 GAO Report on QI Program”) at 26.

⁵³ *Id.* at 27.

⁵⁴ Last week, the IRS held a teleconference with major accounting firms to discuss the QI Program and QI audits. The IRS spokesperson was quoted as saying IRS officials, including the IRS Commissioner, “had a good discussion about the role the accounting community plays with qualified intermediaries.” “IRS Commissioner Shulman, LMSB Officials Discuss QI Program with Accounting Firms,” Daily Report for Executives, BNA (7/9/08), No. ISSN 1523-567X, at 1.

⁵⁵ IRS briefing on the QI Program provided to the Subcommittee (5/9/08).

⁵⁶ *Id.*

⁵⁷ 2007 GAO Report on QI Program, at 21 (initial caps removed).

“U.S. tax law enables the owners of offshore corporations to shield their identities from IRS scrutiny, thereby providing U.S. persons a mechanism to exploit for sheltering their income from U.S. taxation. Under current U.S. tax law, corporations, including foreign corporations, are treated as the taxpayers and the owners of assets of their assets and income. Because the owners of the corporation are not known to [the] IRS, individuals are able to hide behind the corporate structure.”⁵⁸

GAO warns that the consequence under the QI Program is that “U.S. persons may evade taxes by masquerading as foreign corporations.”⁵⁹

GAO states: “Even if withholding agents learn the identities of the owners of foreign corporations while carrying out their due diligence responsibilities, they do not have a responsibility to report that information to IRS.”⁶⁰ To the contrary, GAO observes that “IRS regulations permit withholding agents (domestic and QIs) to accept documentation declaring corporations’ ownership of income at face value, unless they have ‘a reason to know’ that the documentation is invalid.”⁶¹ GAO observes that the QI agreement “implicitly” requires foreign financial institutions to use their Know-Your-Customer documentation to assess the validity of a W-8 certificate, but concludes there is no requirement that foreign corporations beneficially owned by U.S. persons be treated as U.S. accountholders that have to be disclosed to the IRS.⁶²

GAO notes that where a foreign corporation is owned by a U.S. person, the U.S. person has the legal obligation to report the corporate ownership and any taxable income to the IRS on their personal tax returns. GAO also notes that “compliance in reporting income to IRS is poor when there is no third party reporting to IRS.”⁶³ The GAO report determines that, in 2003, foreign corporations received roughly \$200 billion in U.S. source income, representing nearly 70% of all U.S. source income reported that year. GAO calculates that only about \$2 billion in tax revenue was paid on that income, reflecting a withholding rate of 1.4% and treaty benefits of \$57 billion.⁶⁴ GAO concludes that it is unclear what proportion of the beneficial owners of these foreign corporations were U.S. persons who had failed to report their income.

⁵⁸ *Id.* at 3.

⁵⁹ *Id.* in “Highlights” section summarizing report.

⁶⁰ *Id.* at 22.

⁶¹ *Id.*

⁶² *Id.* at 12, 22.

⁶³ *Id.* at 22.

⁶⁴ *Id.* at 23-24.

These and other QI abuses⁶⁵ have led the IRS to consider strengthening the QI agreement to ensure that more foreign accounts beneficially owned by U.S. persons are disclosed to the IRS.

OECD Uncooperative Tax Haven Initiative. The United States has used tax treaties, TIEAs, and the QI Program to improve tax enforcement outside of the United States. A number of multilateral initiatives to curb international tax evasion have also been undertaken over the past ten years.

One of the most visible of recent international efforts to curb international tax evasion has been led by the OECD, a coalition of 30 nations, including the United States, committed to democratic governments and market economies. In 1996, in part at the urging of the United States, the OECD formed a working group called the Forum on Harmful Tax Competition to curb “harmful preferential tax regimes” and “harmful tax practices” that hurt efforts by individual countries to enforce their tax laws.

In 1998, the OECD issued a report which, among other matters, criticized tax havens that failed to cooperate with international tax enforcement efforts by refusing to provide requested information.⁶⁶ In 2000, the OECD published a second report focused in particular on how bank secrecy laws in many tax havens impeded their cooperation with international tax information requests. The report stated that all OECD countries should “permit tax authorities to have access to bank information, directly or indirectly, for all tax purposes so that tax authorities can fully discharge their revenue raising responsibilities and engage in effective exchange of information.”⁶⁷

As a result of these two reports, in mid-2000, the OECD published a list of 35 offshore jurisdictions that it planned to include in a subsequent list of “uncooperative tax havens,” unless the countries made written commitments to exchange information in international criminal tax matters by December 2003, and in international civil tax matters by December 2005.⁶⁸ The OECD defined a “tax haven” as a country with

⁶⁵ See, e.g., *id.* at 20 (identifying additional QI abuses such as \$11 billion in payments made to accounts in “undisclosed jurisdictions” and \$7 billion in payments to “unknown recipients” that should have led to 30% withholding, but actually resulted in withholding rates of about 3%).

⁶⁶ “Harmful Tax Competition: An Emerging Global Issue,” issued by the OECD (1998).

⁶⁷ “Improving Access to Bank Information for Tax Purposes,” issued by the OECD (2000), at ¶ 20. In 2004, this standard was incorporated into paragraph 5 of Article 26 of the OECD Model Tax Convention on Income and on Capital.

⁶⁸ See OECD report, “Towards Global Tax Co-operation: Progress in Identifying and Eliminating Harmful Tax Practices,” (June 2000), reprinted in the Subcommittee 2001 Offshore

no or nominal taxation, ineffective tax information exchange with other countries, and a lack of transparency in its tax or regulatory regime, including excessive bank or beneficial ownership secrecy.⁶⁹

Many countries did not want to appear on either the OECD's list of 35 offshore jurisdictions or its subsequent list of uncooperative tax havens. To avoid being included on the list of 35 offshore jurisdictions, six countries, Bermuda, the Cayman Islands, Cyprus, Malta, Mauritius, and San Marino, gave the OECD signed commitment letters in early 2000, promising to provide effective tax information exchange in criminal and civil matters by the specified deadlines.⁷⁰ In response, the OECD omitted these countries from the list of 35. To avoid appearing on the list of uncooperative tax havens, other countries provided similar commitment letters to the OECD in 2000 and 2001, and the OECD agreed to omit them from the list of uncooperative tax havens being prepared.

Despite wavering support from the United States for the OECD effort,⁷¹ by 2002, 28 of the original 35 offshore jurisdictions identified by the OECD had committed to providing effective information exchange in criminal and civil tax matters by the specified dates.⁷² The result was that only seven countries were actually named on the OECD's official list of uncooperative tax havens made public in mid-2002.⁷³ Over time, four of the seven countries made the required commitments, so that, by 2008, the OECD list had shrunk to just three countries, Liechtenstein, Monaco, and Andorra. To date, these three countries have continued to refuse to agree to provide tax exchange information with other countries in civil and criminal matters.⁷⁴

Over the same period it was developing the lists of offshore jurisdictions and uncooperative tax havens, the OECD took a number of steps to advance global tax information exchange. In 2000, it

Tax Haven Hearing record, 125-152, at 140; and chart prepared by the Subcommittee entitled, "2000 OECD List of Offshore Tax Havens," at 91.

⁶⁹ Finance Committee 2007 Hearing on Offshore Tax Evasion, prepared testimony of OECD Center for Tax Policy Director Jeffrey Owens, at 5.

⁷⁰ *Id.*

⁷¹ See Subcommittee 2001 Offshore Tax Haven Hearing.

⁷² These 28 countries were in addition to the 6 countries that, in early 2000, had committed to tax information exchange in civil and criminal matters to avoid being included in the list of 35 offshore jurisdictions.

⁷³ "List of Unco-operative Tax Havens," issued by OECD (April 2002).

⁷⁴ In June 2008, however, Liechtenstein announced that it had concluded negotiation on an anti-fraud agreement with the European Union and its member states. The agreement would strengthen information exchange related to tax offenses. See press release, "Liechtenstein Strengthens European Tax Cooperation with Anti-Fraud Agreement," Liechtenstein Government Press Office (6/27/08).

established the Global Forum on Taxation, with participants drawn from OECD member countries and non-member offshore jurisdictions, to discuss transparency and tax information exchange issues. In 2002, the OECD issued a model tax information exchange agreement that countries could sign on a bilateral or multilateral basis to meet their commitments to tax information exchange.⁷⁵ In 2004, to further promote the OECD's work, the G20 Finance Ministers issued a communiqué supporting the OECD's tax information exchange initiative and model agreement.⁷⁶

In 2006, the OECD issued a new report assessing the legal and administrative frameworks for tax transparency and tax information exchange in 82 countries.⁷⁷ The purpose of this assessment was to help the OECD determine "what is required to achieve a global level playing field in the areas of transparency and effect exchange of information for tax purposes."⁷⁸ In October 2007, the OECD updated its 82-country assessment.⁷⁹ The OECD wrote:

"Significant restrictions on access to bank [information] for tax purposes remain in three OECD countries (Austria, Luxembourg, Switzerland) and in a number of offshore financial centres (e.g. Cyprus, Liechtenstein, Panama and Singapore). Moreover, a number of offshore financial centres that committed to implement standards on transparency and the effective exchange of information standards developed by the OECD's Global Forum on Taxation have failed to do so."⁸⁰

OECD-led efforts to promote tax information exchange are ongoing. In March 2007, the OECD sponsored a series of meetings among more than 100 tax inspectors from 36 countries to discuss aggressive tax planning schemes seen within their jurisdictions. According to top OECD officials, the meetings indicated that key

⁷⁵ See OECD Model Agreement on Exchange of Information on Tax Matters (April 2002), text available at www.oecd.org/ctp/htp. This model agreement, with revisions adopted in 2004, is also included in Article 26 of the OECD Model Tax Convention on Income and on Capital, which is similar to the U.S. Model Income Tax Convention.

⁷⁶ G20 Communiqué (October 2005) issued in association with November 2004 meeting of G20 Finance Ministers. See also Gleneagles Communiqué, paragraph 14(i), issued by the G/8 Heads of Government at the Gleneagles Summit (July 2005); communiqué issued in association with the Saint Petersburg Summit (July 2006).

⁷⁷ "Tax Co-operation: Towards a Level Playing Field – 2006 Assessment by the OECD Global Forum on Taxation," Report No. ISBN-92-64-024077 (May 2006).

⁷⁸ *Id.* at 7.

⁷⁹ "Tax Co-operation: Towards a Level Playing Field – 2007 Assessment by the Global Forum on Taxation," Report No. ISBN-978-92-64-03902-5, issued by the OECD (October 2007).

⁸⁰ *Id.*

elements in most of these tax dodges could be traced to tax havens.⁸¹ In January 2008, the OECD held discussions among its members on taking “defensive measures” against tax havens that refuse to cooperate with tax information requests.⁸² Some OECD members have also recently called for a reinvigorated list of uncooperative tax havens to include countries that, despite a written commitment, have failed to provide tax information upon request in criminal and civil matters.⁸³

EU Savings Directive. In addition to the OECD initiative, another highly visible multinational effort to promote tax information exchange and international tax enforcement cooperation is the European Union Savings Directive. This EU Directive focuses on the problem of European Union (EU) residents who open up a savings account in an EU country other than their home jurisdiction, in an attempt to hide assets and dodge taxes.

In essence, the EU Directive establishes a legal framework for EU countries to participate in automatic exchanges of information to identify EU residents with savings accounts in EU countries other than their home jurisdiction and to disclose the amount of interest payments made to those savings accounts. The aim of the EU Directive is to implement a European Commission principle that “all citizens resident in a Member State of the European Union should pay the tax due on all their savings income.”⁸⁴

The EU Savings Directive was formally adopted by the European Commission in 2003, took effect on July 1, 2005, and sponsored the first automated exchange of information among EU countries in 2006.⁸⁵ Of the 27 EU Member States, 24 participate in the automatic exchanges of information, which take place at least once per year.⁸⁶ Information is exchanged in a standardized format that specifies the identity and country of residence of the individual who received the interest payments, the amount of interest paid, and the types of debt claims that

⁸¹ See, e.g., “Offshore Financial Centers Playing Key Role In Aggressive Tax Plans, OECD Official Says,” BNA Daily Report for Executives (3/27/07).

⁸² “OECD Signals Plan to Renew Efforts Against Non-Cooperative Jurisdictions,” BNA Report on International Tax & Accounting, No. ISSN 1522-8800 (10/15/07).

⁸³ See *id.*; Finance Committee 2007 Hearing on Offshore Tax Evasion, prepared testimony of OECD Center for Tax Policy Director Jeffrey Owens, at 9.

⁸⁴ Rules applicable to the EU Savings Directive, European Commission Taxation and Customs Union Directorate website, http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/rules_applicable/index_en.htm referencing 1999 European Council meeting in Helsinki (viewed 6/11/08)(hereinafter “ECTCU Website”).

⁸⁵ See Council Directive 2003/48/EC (adopting the Savings Directive); Council Decision 2004/587/EC (setting a July 1, 2005 deadline for compliance).

⁸⁶ “Savings Taxation: frequently asked questions,” MEMO/05/228 (6/30/05), ECTCU Website (viewed 6/11/08).

gave rise to the interest. Reportable payments include interest paid on cash deposits, corporate or government bonds, negotiable debt securities, and investment funds. Other types of payments are not covered, such as stock dividend payments, income paid from insurance or pension products, or interest payments from certain bonds.⁸⁷ In addition, the EU Directive applies only to savings accounts held by individuals; it does not apply to accounts held by corporations, trusts, foundations, or other legal entities.

Three EU members, Austria, Belgium, and Luxembourg, currently do not participate in the EU Directive's automatic information exchanges. Instead, under a special arrangement approved as part of the Directive, these three EU countries levy a withholding tax on the interest payments made to nonresident individuals and, once per year, remit 75% of the amounts withheld to the individuals' reported state of residence.⁸⁸ The three countries are allowed to retain 25% of the amount withheld to cover their administrative costs of applying the withholding tax.⁸⁹ The three countries are not required to provide client-specific information to any other country, such as the names of the individuals who received the interest payments or the amounts of interest paid; they are thereby able to preserve bank secrecy.

The option provided to these three countries of providing withheld taxes instead of information about the nonresident individuals who received interest payments is described in EU materials as a temporary arrangement during a "transitional period."⁹⁰ During the transitional period, the three countries are supposed to impose a 15% withholding tax on the interest payments for the first three years the EU Directive is in effect, a period that ended on June 30, 2008. For the next three years, until June 30, 2011, the three countries are supposed to impose a 20% withholding tax. Thereafter, they are supposed to impose a 35% withholding tax which is intended to be sufficiently high to discourage international tax evasion.⁹¹

The transitional period does not have a specified ending date, but is designed to continue until the three EU countries, Austria, Belgium, and Luxembourg, as well as six other countries, Andorra, Liechtenstein, Monaco, San Marino, Switzerland, and the United States, agree to

⁸⁷ *Id.*

⁸⁸ Council Directive 2003/48/EC.

⁸⁹ "Savings Taxation: frequently asked questions," MEMO/05/228 (6/30/05), ECTCU Website (viewed 6/11/08).

⁹⁰ *Id.*

⁹¹ *Id.*

exchange tax information upon request, as set out in the OECD Model Agreement for exchanging information in tax matters.⁹²

The EU Savings Directive applies to all 27 countries in the European Union. By agreement, it also applies to a number of countries outside the European Union, including ten overseas dependent territories associated with the United Kingdom and the Netherlands,⁹³ as well as Andorra, Liechtenstein, Monaco, San Marino, and Switzerland. Four of these non-EU countries, Anguilla, Aruba, the Cayman Islands, and Montserrat, have agreed to participate in the Directive's automatic information exchanges.⁹⁴ The rest, however, comply with the EU Savings Directive in the same manner as Austria, Belgium, and Luxembourg, by applying a withholding tax during the specified transitional period rather than by supplying information about nonresident individuals who received interest payments on savings accounts within their jurisdictions.

The EU is currently in discussions to extend the Savings Directive to Hong Kong, Macao, and Singapore as well.⁹⁵

The EU Savings Directive is required to be reviewed every three years. After the Liechtenstein tax scandal erupted, Germany requested that the review examine whether the Directive should be expanded to cover more types of payments, such as stock dividends and capital gains; and more types of accountholders such as shell companies, trusts, foundations, and other legal entities being used by individuals to hide assets and dodge taxes.⁹⁶ This discussion is ongoing.

⁹² *Id.*

⁹³ These countries are Anguilla, Aruba, the British Virgin Islands, the Cayman Islands, Guernsey, the Isle of Man, Jersey, Montserrat, the Netherlands Antilles, and the Turks & Caicos Islands. *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.* In 2001 and 2002, the United States proposed regulations to require U.S. financial institutions to report to the IRS payments made to accounts held by residents of other countries in the same manner they report payments made to accounts held by U.S. persons. Treasury Proposed Rule No. 126100-00, "Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens," 66 Fed. Reg. 3925 (2001); corrected by 66 Fed. Reg. 15820 and 66 Fed. Reg. 16019; withdrawn and replaced by Treasury Proposed Rule No. 133254-02, "Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens," 67 Fed. Reg. 50386 (2002). These regulations, if finalized, would have enabled the IRS to participate in automatic exchanges of information with 16 countries to identify accounts held by U.S. citizens in those countries for tax purposes, including a number of EU countries. The proposed regulations, however, have never been finalized. At the current time, the only country with which the United States engages in routine, automatic information exchanges on financial accounts for tax purposes is Canada. 26 CFR §1.6049-8(a).

⁹⁶ See, e.g., Bertrand Benoit, "Germany seeks EU tax haven crackdown," *Financial Times*, (3/2/08).

Joint International Tax Enforcement Efforts. A final set of international tax initiatives that have intensified in recent years involve joint initiatives among various groups of countries to coordinate and enhance their tax enforcement efforts.

In 2004, for example, four countries, Australia, Canada, the United Kingdom, and the United States, established a Joint International Tax Shelter Information Centre (JITSIC) to identify, develop, and share information on a real-time basis about cross-border abusive tax schemes. A Washington, D.C. office was established to house tax personnel from all four countries. In May 2007, Japan accepted an invitation to become the fifth member of JITSIC, and a second JITSIC office was opened in London. JITSIC personnel exchange information on an ongoing basis about abusive tax schemes, their promoters, and participants. Among other actions, JITSIC has tackled abusive tax schemes involving retirement account withdrawals, highly structured financing transactions designed to generate inappropriate foreign tax credit benefits, and futures and options transactions designed to generate phony tax losses.⁹⁷ The IRS has testified that JITSIC has “sharply improved” IRS knowledge and understanding of these complex crossborder tax schemes.⁹⁸

In 2006, the tax administrators of ten countries formed the “Leeds Castle Group” to meet regularly and discuss issues of global and national tax administration, including mutual compliance challenges. The countries participating in this effort are Australia, Canada, China, France, Germany, India, Japan, South Korea, the United Kingdom, and the United States. This group is actively promoting international tax cooperation.

In addition, since 2002, the OECD has sponsored the Forum on Tax Administration, a group consisting of the tax administrators from its 30 member nations and several other countries. This Forum has promoted dialogue between tax administrators to identify good tax administration practices and promote tax enforcement. The Forum has focused to date on: (1) developing a directory of aggressive tax planning schemes to help identify trends and countermeasures; (2) examining the role of tax intermediaries, such as lawyers and accountants, in facilitating tax evasion; (3) expanding 2004 Corporate Governance Guidelines to encourage companies to issue a set of tax principles to guide their tax activities; and (4) improving the training of tax officials, especially on international tax matters.

⁹⁷ See, e.g., “Joint International Tax Shelter Information Centre Expands and Opens a Second Office in the United Kingdom,” IRS Press Release No. IR-2007-104, (5/23/07).

⁹⁸ Finance Committee 2007 Hearing on Offshore Tax Evasion, prepared statement of IRS Commissioner Mark Everson, at 9.

C. Tax Haven Banks and Offshore Tax Abuse

Over the past 30 years, dozens of countries have declared themselves tax havens and have authorized nominal or no taxation of assets transferred to their financial institutions by residents of other countries. These countries have enacted laws enabling nonresidents to form at minimal cost companies, trusts, foundations, and other legal entities to hold their assets in financial accounts protected by secrecy laws and practices enforced with criminal and civil penalties. Trillions of dollars in individual and corporate assets have since been deposited at financial institutions within these tax havens, too often as part of an effort by the beneficial owner to hide assets and dodge taxes in their home jurisdictions.

Increasingly, countries facing substantial tax evasion have taken actions to protect themselves from tax haven financial institutions that, knowingly or unknowingly, are facilitating tax dodging by nonresidents. These actions include participation in a wide range of international tax initiatives, from tax information exchange agreements, to the QI Program for foreign financial institutions, the OECD uncooperative tax haven initiative, the European Union Savings Directive, and various cooperative multinational tax enforcement initiatives.

The Liechtenstein tax scandal and the recent U.S. indictment of a Swiss banker and a Liechtenstein trust officer illustrate the scope of the problems facing countries trying to enforce their tax laws. They also demonstrate the need to strengthen existing international tax initiatives.

III. LGT BANK CASE HISTORY

The first case history examined in the Subcommittee investigation involves LGT Bank, a leading Liechtenstein financial institution that is owned by and financially benefits the Liechtenstein royal family. The evidence indicates that from at least 1998 to 2007, LGT has established practices and financial structures that could facilitate, and in some instances have resulted in, tax evasion by U.S. clients. These LGT practices include allowing U.S. citizens to maintain billions of dollars in assets in accounts not disclosed to U.S. tax authorities; advising U.S. clients on the use of complex offshore structures to hide their ownership of assets; and arranging client accounts and assets to avoid reporting requirements under the QI Program that would otherwise disclose the accounts and assets to U.S. authorities.

A. LGT Bank Profile

LGT Bank in Liechtenstein Ltd. (LGT Bank) is the largest indigenous bank in Liechtenstein.⁹⁹ It specializes in providing wealth management services to high net worth individuals and families, and currently manages about €63 billion in client assets.¹⁰⁰ It has subsidiaries and affiliates in about a dozen countries, including Austria, the Cayman Islands, Germany, Ireland, Singapore, and Switzerland. The Chief Executive Officer of the bank is Prince Max von und zu Liechtenstein, the second son of Prince Hans-Adam II, current reigning sovereign of Liechtenstein.¹⁰¹

LGT Bank is part of the LGT Group Foundation (LGT Group), which is the “Wealth & Asset Management Group of the Princely House of Liechtenstein.”¹⁰² LGT Group is owned and controlled by the royal family in Liechtenstein, which has managed it for more than 70 years as a family business.¹⁰³ The LGT Group currently administers assets valued at about 100 billion Swiss francs.¹⁰⁴

LGT Group offers a wide range of banking, investment, and trust services. Its primary components include LGT Bank, LGT Treuhand AG, LGT Trust Management Company, LGT Capital Management Ltd., LGT Capital Partners Ltd., LGT Private Equity Advisers Ltd., and LGT Financial Services Ltd.¹⁰⁵ LGT Capital Management, LGT Capital Partners, and LGT Private Equity Advisers offer investment services. LGT Treuhand AG and LGT Trust Management Company, along with multiple subsidiaries and affiliates, offer formation and management services such as establishing trusts, companies, or foundations; providing trustees, trust protectors, company officers and directors, or foundation board members; and administering the structures set up by LGT clients.¹⁰⁶

⁹⁹ LGT Bank was formerly known as the Liechtenstein Global Trust Bank.

¹⁰⁰ “Tax Haven Liechtenstein,” public television documentary produced by Frontal 21 in Germany (3/25/08).

¹⁰¹ The full name of Prince Max is His Serene Highness Maximilian Nikolaus Maria von und zu Liechtenstein. The full name of Prince Hans-Adam is His Serene Highness Johannes Adam Ferdinand Alois Josef Maria Marko d’Aviano Pius von und zu Liechtenstein.

¹⁰² LGT Group Annual Report 2007.

¹⁰³ *Id.* at 5, 7. LGT Group is wholly owned by the Prince of Liechtenstein Foundation, whose beneficiaries are members of the royal family, primarily Prince Hans-Adams. *Id.* at 7. The Chairman of the Board of Trustees of the LGT Group is Prince Philipp von und zu Liechtenstein, brother of Prince Hans-Adam. The Chief Executive Officer of LGT Group is Prince Max von und zu Liechtenstein, the second son of Prince Hans-Adam.

¹⁰⁴ *Id.* at 3; www.lgt.com, “Business performance and strategic outlook,” “LGT Group: key data as at 31 December 2007” (viewed 5/27/08).

¹⁰⁵ LGT Group Annual Report 2007, at 44-45, 78-79.

¹⁰⁶ LGT Group Portrait brochure (2007) at 15.

Altogether, LGT Group has more than 1,600 employees at 29 locations in Europe, Asia, the Middle East, and the United States.¹⁰⁷ In the United States, its key financial institution is LGT Capital Partners (USA) Inc. located in New York City. LGT Capital Partners (USA) Inc. is characterized in the LGT Group Annual Report as offering “research services,” and is not registered with the U.S. Securities and Exchange Commission (SEC) as either a broker-dealer or investment advisor.¹⁰⁸

In a recent brochure entitled “The Liechtenstein Trust Enterprise,” apparently issued by members of the LGT Group, one page near the end of the brochure lists “Arguments in favour of Liechtenstein and the Liechtenstein Trust Enterprise.”¹⁰⁹ The page states that the Principality of Liechtenstein has “[e]conomic and political stability,” “[h]igh-quality financial services,” “[d]ecades of tradition in asset management and asset structuring,” “a liberal legal framework,” and “[s]trict laws on professional secrecy for banks and trustees.” It also notes that the Liechtenstein trust enterprise is an “[e]fficient instrument for protecting assets from undesirable access” while offering “[d]iscretion and anonymity.”

B. LGT Accounts With U.S. Clients

The Liechtenstein tax scandal became public after a former LGT employee provided tax authorities around the world with data on about 1,400 persons with accounts at LGT Bank in Liechtenstein. The Subcommittee was able to obtain copies of more than 12,000 pages of internal LGT documents, dated from the mid-1990s to 2002, relating to clients connected to the United States. Some of these clients were U.S. citizens or permanent residents; some lived or worked in the United States; some owned real estate or a business in the United States; and some had children or close relatives who were U.S. citizens or residents and were also beneficial owners or beneficiaries of LGT account assets. While some of these clients appear to have opened LGT accounts that served a legitimate purpose, others appear to have used the accounts to hide assets and dodge U.S. taxes.

The Subcommittee investigated a number of LGT accounts with U.S. beneficial owners or beneficiaries. To investigate these accounts, the Subcommittee reviewed the internal LGT documentation it had obtained, and spoke with the former LGT employee who had released the documentation. The Subcommittee also contacted some of the U.S.

¹⁰⁷ LGT Group Annual Report 2007, at 5; www.lgt.com, “Business performance and strategic outlook,” “LGT Group: key data as at 31 December 2007” (viewed 5/27/08).

¹⁰⁸ LGT Group Annual Report 2007, at 45.

¹⁰⁹ “The Liechtenstein Trust Enterprise,” issued by LGT Treuhand AG and LGT Trust Management AG (undated), at 11.

clients named in the documents, and asked them to supply additional documentation and information. While some clients cooperated with the Subcommittee's inquiries, supplying documents and submitting to interviews or depositions, others asserted their Constitutional rights under the Fifth Amendment, and declined to provide any information. In addition, LGT informed the Subcommittee that it was unable to provide specific information about any of its clients, citing Liechtenstein laws prohibiting the disclosure of financial information about individuals.

LGT also declined to provide general information about accounts opened for U.S. clients, advising the Subcommittee that such disclosures, even if they did not reference specific clients, would violate Liechtenstein secrecy laws.¹¹⁰ For example, LGT declined to disclose the total number of accounts it had opened for U.S. clients, the total amount of assets in those accounts, or the total amount of revenues

¹¹⁰ LGT cited the following laws as the basis for their refusal to provide the information requested by the Subcommittee: Article 14 of the Banking Act ("The members of the organs of banks and their employees as well as other persons acting on behalf of such banks shall be obliged to maintain the secrecy of facts that they have been entrusted to or have been made available to them pursuant to their business relationships with clients. The obligation to maintain secrecy shall not be limited in time."); Article 11 of the Trustee Act ("Trustees are obliged to secrecy on the matters entrusted to them and on the facts which they have learned in the course of their professional capacity and whose confidentiality is in the best interest of their client. They shall have the right to such secrecy subject to the applicable rules of procedure in court proceedings and other proceedings before Government authorities."); Processing of Personal Data - § 1173a, Art. 28a ABGB (General Civil Code) ("The employer may not process data relating to the employee unless such data concern his or her qualification for the employment or are indispensable for the performance of the employment contract. In addition, the provisions of the Data Protection Act shall apply."); Article 10 – Data Confidentiality ("Whoever processes data or has data processed must keep data from applications entrusted to him or made accessible to him based on his professional activities secret, notwithstanding other legal confidentiality obligations, unless lawful grounds exist for the transmission of the data entrusted or made accessible to him."); Article 8 – Transborder Data Flows ("No personal data may be transferred abroad if the personal privacy of the persons affected could be seriously endangered, in particular where there is a failure to provide protection equivalent to that provided under Liechtenstein law. This shall not apply to states which are party to the EEA Agreement. Whoever wishes to transmit data abroad must notify the Data Protection Commissioner beforehand in cases where: a) there is no legal obligation to disclose the data and b) the persons affected have no knowledge of the transmission."); Prohibited Acts of a Foreign State - Art. 2 of the Liechtenstein State Security law ("b) Prohibited Acts for a Foreign State: Whoever, without being authorized, performs acts for a foreign state on Liechtenstein territory that are reserved to an authority or an official, whoever aids and abets such acts, shall be punished by the Liechtenstein court (Landgericht) with imprisonment up to three years."); Prohibited Acts for a Foreign State – Art. 271 of the Swiss Penal Code ("1. Whoever, without being authorized, performs acts for a foreign state on Swiss territory that are reserved to an authority or an official, whoever performs such acts for a foreign party or another foreign organization, whoever aids and abets such acts, shall be punished with imprisonment up to three years or a fine, in serious cases with imprisonment of no less than one year."); Economic Intelligence Service (Art. 273 SPC) ("Whoever seeks out a manufacturing or business secret in order to make it accessible to a foreign official agency, a foreign organization, a private enterprise, or their agents, whoever makes a manufacturing or business secret accessible to a foreign official agency, a foreign organization, a private enterprise, or their agents, shall be punished with imprisonment up to three years or a fine, in serious cases with imprisonment of no less than one year. Imprisonment and fine can be combined.").

produced by those accounts for LGT. It also declined to disclose how many LGT private bankers or trust officers work with U.S. clients, what percentage of their accounts are for U.S. clients versus clients from other countries, or what percentage of the accounts opened for U.S. clients had been disclosed to the United States.

LGT did, however, provide the Subcommittee with sample forms it requires new account holders to complete (such as W-8BEN certificates), a memorandum detailing its obligations under the QI Program, a copy of the External Auditor's Report on LGT's compliance with its QI obligations, and copies of some of its marketing and promotional materials. LGT also made its Head of Group Compliance, Ivo Klein, available for an interview a few days before the Subcommittee's scheduled hearing on this matter. LGT took the position that Mr. Klein could discuss only matters associated with LGT's actions under the QI Program and that disclosures on any other matters were prohibited by Liechtenstein law.¹¹¹ This restriction greatly limited the issues that Mr. Klein could address.

LGT's limited cooperation with the Subcommittee's inquiries impeded the Subcommittee's efforts to gain a full understanding of LGT's activities and practices regarding accounts opened for U.S. clients. The internal LGT documentation provided to the Subcommittee, however, and the information obtained from several LGT clients and others were sufficient to develop a partial picture of LGT's administration of accounts with U.S. clients.

The Subcommittee's investigation identified numerous LGT accounts with U.S. beneficial owners or beneficiaries with substantial assets. From at least 1998 to 2007, LGT employed practices that could facilitate, and in some instances have resulted in, tax evasion by U.S. clients. These LGT practices have included maintaining U.S. client accounts which are not disclosed to U.S. tax authorities; advising U.S. clients to open accounts in the name of Liechtenstein foundations to hide their beneficial ownership of the account assets; advising clients on the use of complex offshore structures to hide ownership of assets outside of Liechtenstein; and establishing "transfer corporations" to disguise asset transfers to and from LGT accounts. It was also not unusual for LGT to assign its U.S. clients code words that they or LGT could invoke to confirm their respective identities. LGT also advised clients on how to structure their investments to avoid disclosure to the IRS under the QI Program. Of the accounts examined by the Subcommittee, none had been disclosed by LGT to the IRS. These and other LGT practices contributed to a culture of secrecy and deception that enabled LGT

¹¹¹ LGT cited § 124 of the Penal Code, Liechtenstein.

clients to use the bank's services to evade U.S. taxes, dodge creditors, and ignore court orders.

LGT's trust office in Liechtenstein managed an estimated \$7 billion in assets and more than 3,000 offshore entities for clients during the years 2001 to 2002. It is unclear what percentage of these assets and offshore entities was attributable to U.S. clients at that time, or what the comparable figures are for 2008.

For many of its U.S. clients, LGT helped establish one or more Liechtenstein foundations, a type of legal entity that is roughly equivalent to a trust formed under U.S. law.¹¹² Liechtenstein foundations are set up at the request of a "founder" who provides the initial assets and designates the beneficiaries. The legal document establishing the foundation is typically called the Foundation's "Statutes" or "Articles." Beneficiaries are often named in a separate document called the "By-Laws," which can also contain foundation directives or restrictions. The foundation is typically run by a "Foundation Council" or "Foundation Board," composed of one or more individuals or legal entities, who administer the assets and direct the foundation's activities. Founders can also appoint "Protectors" to oversee the foundation, replace Council or Board members, and add or remove beneficiaries. These functions are sometimes performed instead by a "Board of Curators."

LGT typically used its trust company, LGT Treuhand, to help a U.S. client establish a Liechtenstein foundation, identify individuals to serve as the Council or Board members needed to administer the foundation, arrange for the initial transfer assets, and open one or more LGT accounts in the foundation's name. LGT Treuhand would also, on occasion, help LGT foundations open accounts at other financial institutions. LGT appeared to treat these accounts as beneficially owned by the Liechtenstein foundation, a non-U.S. entity, rather than as beneficially owned by the U.S. persons who established them. As non-U.S. persons, the foundations were not required to submit W-9 Forms to LGT, and LGT did not file 1099 Forms disclosing the accounts to the IRS. Of the accounts examined by the Subcommittee in connection with U.S. clients, none had been disclosed by LGT to the IRS.

Under U.S. tax law, the IRS generally views Liechtenstein foundations as foreign trusts. U.S. persons with an interest in a foreign trust, including a Liechtenstein foundation, are required to disclose the

¹¹² For more information about how Liechtenstein foundations are structured and function, see, e.g., untitled and undated document by New Haven Trust Company of Liechtenstein describing Liechtenstein foundations, Bates Nos. SW 67796-99; "Summary of Liechtenstein Entities and their Taxation," (May 2001), Bates Nos. SW 67800-13.

existence of the trust to the IRS by filing Forms 3520 (Annual Return To Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts) and 3520-A (Annual Information Return of Foreign Trust With a U.S. Owner). Form 3520 is due on or before the 90th day (or such later day as the Secretary may prescribe) after a reportable event.¹¹³ Form 3520-A must be prepared by the trustee and provided to trust beneficiaries to be filed with their returns by March 15 of the following year (assuming the trust has a December 31 year-end). Trustees must supply copies of the Foreign Grantor Trust Owner Statement and the Foreign Grantor Trust Beneficiary Statement to the U.S. owners and U.S. beneficiaries by the same deadline. While the U.S. tax code requires the trust to file the form, it also makes the U.S. owner responsible for ensuring that the form is filed and the required information furnished to U.S. owners and U.S. beneficiaries.¹¹⁴ The reporting obligations under Forms 3520 and 3520-A must be met even if a foreign government can impose penalties for disclosing financial information or foreign financial institutions or trust instruments prohibit disclosure of required information.¹¹⁵

In addition to disclosing any interest in a foreign trust, U.S. persons must also disclose to the United States all foreign bank accounts in which they have signatory authority or a financial interest. The TD F 90-22.1 Form, also known as the Foreign Bank Account Report or “FBAR,” requires disclosure of all foreign accounts with at least \$10,000. The form must be filed, not with the IRS, but with the U.S. Treasury Department. The civil penalty for failing to file the FBAR form is an automatic fine of \$10,000. In the case of willful violations, the penalty can increase to the greater of \$100,000 or 50% of the value of the account.¹¹⁶

The following descriptions of seven selected LGT accounts help illustrate the financial services offered by LGT to its U.S. clients, its efforts to ensure the secrecy of accounts opened for U.S. clients, and how LGT practices could facilitate, and have resulted in, tax evasion by U.S. clients.

¹¹³ See 26 U.S.C. § 6048. Penalties for not filing Form 3520 in a timely manner, or if the information provided is incomplete or incorrect, are assessed at 35% of the gross value of the “reportable event.” The reportable event could be a distribution from the trust or a transfer of property to the trust. The beneficiary must file the form if there has been a distribution from a trust or estate.

¹¹⁴ Penalties for failure to file Form 3520-A, or for not furnishing the information required, are 5% of the gross value of the portion of the trust's assets treated as owned by the U.S. person at the close of the year. The owner is subject to these penalties.

¹¹⁵ 26 U.S.C. § 6677(d) (imposing tax penalties for failure to file a form 3520 or 3520-A even if a foreign jurisdiction would impose a civil or criminal penalty for disclosure).

¹¹⁶ 31 U.S.C. § 5321(a)(5).

(1) Marsh Accounts: Hiding \$49 Million Over Twenty Years

James Albright Marsh, Jr. (“Mr. Marsh”) is a construction contractor who lived in Florida with his wife and six children, until he died in 2006.¹¹⁷ He, his wife, and his children have always been U.S. citizens. In 1985, Mr. Marsh traveled to Liechtenstein, and LGT helped him establish two Liechtenstein foundations, the Chateau Foundation and Lincol Foundation, which then opened accounts at LGT Bank. Also during the 1980s, Mr. Marsh formed two more Liechtenstein foundations, called Topanga Foundation¹¹⁸ and Largella Foundation,¹¹⁹ apparently using two other financial institutions in Liechtenstein.¹²⁰ Over the years, these four Liechtenstein foundations opened accounts at five Liechtenstein banks.¹²¹ By 2007, the Liechtenstein accounts had assets with a combined value in excess of \$49 million.¹²²

LGT supplied to the Marshes the instruments used to establish and administer the two foundations with LGT accounts, Chateau and

¹¹⁷ The information about the Marsh accounts is derived from internal LGT documents produced to the Subcommittee and documents provided by the Marshes in response to a Subcommittee subpoena. The Marshes did not provide an interview or deposition to the Subcommittee, instead asserting their Constitutional rights under the Fifth Amendment.

¹¹⁸ See Topanga Foundation Statutes (9/10/98), Bates Nos. MAR-1534-44.

¹¹⁹ See Statutes of Largella Stiftung (11/4/04), Bye-Laws to the Statutes of Largella Stiftung, Vaduz (11/4/04), and By-Laws to the Statutes of Largella Foundation, Vaduz (9/11/07), Bates Nos. MAR-1548-72.

¹²⁰ See letter from Baker & McKenzie, legal counsel to the Marshes, sent to an IRS Revenue Agent in Georgia, (5/12/08), Bates No. MAR-1189-92, at 1189 (“[T]he Taxpayer, a U.S. citizen, opened several foreign bank accounts in the mid-1980s via the establishment of several foundations in Liechtenstein”).

¹²¹ According to a letter sent to the IRS by legal counsel to the Marshes, at various points during the period 2002 to 2006, the four foundations had accounts at five Liechtenstein banks: (1) the Chateau Foundation maintained one account at LGT Bank and three accounts at Centrum Bank; (2) the Lincol Foundation maintained one account at LGT Bank; (3) the Largella Foundation maintained ten accounts at Liechtensteinische Landesbank, and (4) the Topanga Foundation maintained one account at the Verwaltungen und Privatbank AG and four accounts at Privatbank von Graffenreid AG. *Id.* at 1190.

¹²² See, e.g., “Estate of James A. Marsh, 2006 Income Tax Returns,” Bates Nos. MAR-1442-65, at 1451-52 (reporting that, at the time of Mr. Marsh’s death on June 16, 2006, the Chateau Foundation accounts held a total of about \$11.3 million; the Lincol Foundation account held a total of about \$13 million; the Topanga Foundation accounts held a total of about \$8.9 million; and the Largella Foundation accounts held a total of about \$11.8 million in assets, for a combined total in June 2006 of about \$45 million); “Fondation Chateau: Accounts for the year ended December 31, 2007,” (4/28/08), Bates Nos. MAR-9311-35, at 9315 (showing Chateau accounts with an increased 2007 value of about \$12.5 million); and “Lincol Foundation: Accounts for the year ended December 31, 2007,” (4/28/08), Bates Nos. MAR-9150-73, at 9152 (showing Lincol accounts with an increased 2007 value of about \$15.7 million), producing a 2007 combined total for all four foundations (assuming the Topanga and Largella accounts had not lost value since June 2006) of at least \$49 million.

Lincol.¹²³ These documents provided a large measure of control over the foundations to Mr. Marsh and his sons, and included strong secrecy protections. The Lincol documents, for example, stated that the Foundation's express "object" was to provide "economic support" for "members of certain families."¹²⁴ They provided that the Foundation would be administered by a Foundation Board, later called a Foundation Council.¹²⁵ In 2004, new By-Laws appointed Mr. Marsh and two of his sons, Kerry and Shannon, who were then 50 and 43 years old, as "Protectors" of the Lincol and Chateau Foundations.¹²⁶ As Protectors, they were authorized to remove any Member of the Foundation Council at will and replace that person with a new Member. In addition, the Council was required to obtain the consent of at least one Protector before distributing assets to a beneficiary, approving the Foundation's annual accounts, changing its rules, transferring the Foundation to a new domicile, converting it into a registered trust, or dissolving it. These provisions gave Mr. Marsh and his sons substantial control over the Foundation's administration, assets, and activities.

The documents also gave Mr. Marsh, as the Founder, authority to define a "Class of Beneficiaries" for the Foundation from which the Council had "absolute and complete discretion" to appoint the actual beneficiaries.¹²⁷ An earlier version of the document had authorized Mr. Marsh to name the actual beneficiaries instead of describing a class of beneficiaries.¹²⁸ The provision may have been refashioned to strengthen the claim that the Foundation had only contingent beneficiaries and therefore no U.S. beneficiaries and no obligation to file a tax return with the IRS. At the same time, five years earlier, Mr. March had separately executed a "letter of wishes" with respect to each of the two foundations,

¹²³ See, e.g., "Articles: Lincol Foundation, Vaduz," (10/19/00), Bates Nos. MAR-20-27 (hereinafter Lincol Articles"); "Statutes of Lincol Foundation," (6/7/05), Bates Nos. MAR-40-48 (hereinafter "Lincol Statutes"); "Bye-Laws to the Statutes of Lincol Foundation, Vaduz," (11/4/04), Bates Nos. MAR-35-38; "Bye-Laws to the Statutes of Lincol Foundation, Vaduz," (6/9/05), Bates Nos. MAR-59-62; "By-Laws to the Statutes of Lincol Foundation, Vaduz," (9/11/07), Bates Nos. MAR-63-67; "Articles: Chateau Foundation, Vaduz," (10/19/00), Bates Nos. MAR-574-81 (hereinafter Chateau Articles"); "Statutes of Chateau Foundation," (6/7/05), Bates Nos. MAR-595-603 (hereinafter "Chateau Statutes"); "Bye-Laws to the Statutes of Chateau Foundation, Vaduz," (11/4/04), Bates Nos. MAR-589-92; "Bye-Laws to the Statutes of Chateau Foundation, Vaduz," (6/9/05), Bates Nos. MAR-614-17; "By-Laws to the Statutes of Chateau Foundation, Vaduz," (9/11/07), Bates Nos. MAR-618-22.

¹²⁴ See Lincol Articles at 21; Lincol Statutes at 41. See also Chateau Articles at 575; Chateau Statutes at 596.

¹²⁵ Lincol Articles at 22; Lincol Statutes at 43. See also Chateau Articles at 576; Chateau Statutes at 598.

¹²⁶ "Bye-Laws to the Statutes of Lincol Foundation, Vaduz," (11/4/04), Bates Nos. MAR-35-38; "Bye-laws to the Statutes of Chateau Foundation, Vaduz," (11/4/04), Bates Nos. MAR-589-92.

¹²⁷ Lincol Statutes at 42. See also Chateau Statutes at 597.

¹²⁸ Lincol Articles at 24. See also Chateau Articles at 578.

clearly indicating that he wished his wife and children – all U.S. citizens – to be the beneficiaries.¹²⁹

Secrecy provisions in the Foundation documents were also strengthened in 2005, perhaps to protect the Foundation from being compelled to disclose information. While earlier Foundation documents gave the beneficiaries the right to demand information about the Foundation,¹³⁰ later versions, in a section entitled, “Information and Secrecy,” provided that the Foundation Council was not obligated to disclose any information to the Class of Beneficiaries, and was “not entitled to disclose” such information if the Council concluded the information “may be used with an improper or unlawful intent or detrimental to the Foundation or the members of the Class of Beneficiaries.”¹³¹ The section also provided that “any legal facts and aspects of the Foundation must not be drawn to the attention of outside parties, especially foreign authorities.” These provisions apparently could have been used by the Foundation Council to refuse to produce information to a U.S. beneficiary being asked by the IRS to obtain information about the Foundation.

The documents also authorized the Foundation Council to take drastic action when pressed, including by transferring the Foundation to a different country, converting it into a registered trust, or dissolving it altogether. The Lincol Articles, for example, provided:

“If as a result of certain events, such as economic or political measures, public or private law legislation or any other extraordinary events, the Foundation assets might be jeopardized or enjoyment of the beneficial interest rendered impossible, the Foundation Board shall be authorized to take appropriate defensive measures, including if necessary the transfer abroad of the domicile or the dissolution of the Foundation.”¹³²

Sometimes referred to as a “flee clause,” these types of provisions could be used to avoid or frustrate an investigation into a Foundation’s founder, assets, or beneficiaries. Counsel to LGT advised the Subcommittee that such clauses remain in use at LGT, though each foundation has different provisions, and flee clauses are not universally present.¹³³ The Lincol and Chateau Statutes also provided that revenues derived from the Foundation’s assets “may not be withdrawn ... by

¹²⁹ “Letter of Wishes” for the Lincol Foundation (10/11/00), Bates No. MAR-19; “Letter of Wishes” for the Chateau Foundation (10/11/00), Bates No. MAR-573.

¹³⁰ Lincol Articles at 24-25; Chateau Articles at 578-79.

¹³¹ Lincol Statutes at 46; Chateau Statutes at 601.

¹³² Lincol Articles at 26. See also Chateau Articles at 580.

¹³³ Subcommittee interview of Ivo Klein, head of compliance for LGT Group (7/11/08).

creditors by way of injunction, levy of execution and writ, bankruptcy or probate proceedings.”¹³⁴

In addition to creating Foundation structures that empowered the Marshes and implemented strong secrecy protections, LGT took other steps to ensure the Marsh assets were not disclosed to U.S. tax authorities. Early on, for example, LGT instructed the Marshes to use the code, “Friends of J.N.,” when they wished to “get in touch.”¹³⁵ LGT also refrained from sending any mail about the accounts to the United States, instead keeping foundation records in Liechtenstein.

The documents obtained by the Subcommittee indicate that the Marshes traveled to Liechtenstein on a minimum of four occasions to handle matters related to the foundations. The first was in 1985, when the Lincol Foundation was established.¹³⁶ An LGT receipt shows a 1985 deposit of \$3.3 million “in cash” for the Lincol Foundation,¹³⁷ and a letter of wishes signed by Shannon Marsh on the same day.¹³⁸ The second occasion was in 1989, when Mr. Marsh signed a new portfolio management agreement for the LGT trusts.¹³⁹ The third occasion was in 2000, when Mr. Marsh, accompanied by his son, James, met with LGT personnel, terminated an LGT agency agreement,¹⁴⁰ agreed to sell the LGT foundations’ U.S. securities,¹⁴¹ and signed letters of wishes.¹⁴² The fourth occasion was in 2004, when Mr. Marsh, accompanied by Shannon and Kerry, signed a document approving Chateau asset inventories from 2000 through 2003, and ratifying past investment decisions.¹⁴³ Shannon

¹³⁴ Lincol Statutes at 41; Chateau Statutes at 596.

¹³⁵ LGT report on Fondation Chateau, (undated but including a 2002 valuation of foundation assets), PSI-USMSTR-237.

¹³⁶ LGT’s internal records show that the Lincol Foundation was established on 10/17/85. LGT report on Lincol Foundation, (undated but subsequent to a client visit on October 11, 2000 and including a 2000 valuation of foundation assets), Bates No. PSI-USMSTR-613. LGT records show that the Chateau Foundation was established four months earlier, on June 26, 1985, but the Subcommittee did not locate documents showing that the Marshes traveled to Liechtenstein in June. LGT report on Fondation Chateau (undated but includes 2002 valuation of foundation assets), Bates No. PSI-USMSTR-237.

¹³⁷ Bank in Liechtenstein receipt showing deposit of \$3,320,700 “in cash” for the Lincol Foundation, (10/15/85), Bates No. PSI-USMSTR-607.

¹³⁸ Letter of Wishes signed by Shannon Neal Marsh (10/15/85), Bates No. PSI-USMSTR-605. The Subcommittee did not locate any 1985 document signed by James Albright Marsh.

¹³⁹ Portfolio Management Agreement, signed by James Albright Marsh (12/5/89), Bates No. MAR-9505-6.

¹⁴⁰ Agreement concerning the Termination of the Agency Agreement (10/11/00), Bates No. MAR-9508-9 (signed by James Albright Marsh).

¹⁴¹ LGT Memorandum to File about Lincol and Chateau Foundations (2/7/02, though the actual date is likely earlier), Bates No. PSI-USMSTR-614.

¹⁴² See Letters of Wishes signed by James Albright Marsh for the Chateau and Lincol Foundations (10/11/00), Bates Nos. MAR-19, 573.

¹⁴³ Resolutions re Chateau Foundation, signed by James A. Marsh Jr. (11/10/04), Bates Nos. MAR-623, 642, 657, and 672.

and Kerry signed documents on the same day agreeing to serve as “Protectors” of the LGT foundations.¹⁴⁴ In addition to these documents memorializing the four trips to Liechtenstein, the records show multiple occasions on which Mr. Marsh provided instructions or signed documents authorizing assets to be bought or sold and addressing other foundation issues.¹⁴⁵

In 2000, the United States launched the QI Program, to take effect in 2001. LGT signed a QI agreement scheduled to become effective in 2001. According to an internal LGT document titled “Aktenvermerk” or “Memorandum to File” regarding the Lincol and Chateau Foundations, Mr. Marsh and one of his sons, James, visited the bank in October 2000. The LGT document states: “[T]he QI situation was discussed. Both men gave the order to get out of all U.S. securities and to invest in the Euro area. The U.S. tax exempt bonds should be left alone. ... As usual the discussion was very hurried and a bit shallow. So the situation will be discussed at the next meeting.”¹⁴⁶ This document, together with other records obtained by the Subcommittee, show that the two LGT foundations, which had a number of U.S. securities, sold those securities in 2000, and invested the proceeds in non-U.S. currencies and stocks. After steering the foundations into making this change in their investment portfolios, LGT appears to have treated the account as falling outside the QI reporting requirements.¹⁴⁷ During LGT’s subsequent, six-year participation in the QI Program, none of the Marsh accounts was ever reported to the IRS.

It appears that the IRS learned of the Marsh accounts and initiated an investigation in 2006. In May 2008, the Marshes filed overdue 3520 and 3520A Forms with the IRS disclosing the existence of the foreign foundations; filed overdue Foreign Bank Account Reports (FBARs) with the Treasury Department disclosing the foreign accounts; and filed with the IRS amended income tax returns from 2002 to 2006, disclosing the income from the Liechtenstein accounts that should have been reported

¹⁴⁴ Deed of Signature (11/10/04), Bates No. MAR-9518 (signed by Kerry Marsh); Deed of Signature (undated), Bates No. MAR-9519 (signed by Shannon Marsh).

¹⁴⁵ See, e.g., letter from Mr. Marsh to LGT trust officer Peter Meier (10/4/94), Bates No. MAR-9507 (instructing LGT to change the management of the Lincol Foundation from the Zurich to the Vaduz office of LGT); LGT report on Chateau and Lincol Foundations following a client visit on 10/11/00, Bates Nos. PSI-USMSTR-237, 613 (noting client instructions in 1994 and 1998). The Marshes may have also traveled to Liechtenstein in 1998, when new Topanga Statutes were issued. Mr. Marsh’s initials appear on the Topanga Statutes, which were signed in Vaduz in 1998, but it is unclear whether he initialed the document then or at a later time.

¹⁴⁶ Memorandum for File re Lincol and Chateau Foundations (2/7/02, though the actual date is likely earlier), Bates No. PSI-USMSTR-614.

¹⁴⁷ The U.S. securities had been held by the Foundations which, under U.S. law, would likely be treated as grantor trusts, and should have resulted in the account being treated as held by a U.S. person and, under the QI Program, being reported on a 1099 Form to the IRS. See Model Qualified Intermediary Withholding Agreement, published in Revenue Procedure 2000-12, (1/24/00), 2000-1 C.B. 387.

earlier as taxable income.¹⁴⁸ The Marshes have apparently paid back taxes and interest owed on this offshore income for the period, 2002 to 2006, in an amount totaling about \$2.9 million.¹⁴⁹ They have also requested a waiver of any penalties on the ground that Mr. Marsh's wife had no knowledge of the foundations until after his death and the IRS inquiry, and his sons claimed they did not know that they were beneficiaries or that the foundations had to be reported to the IRS.

The LGT documents reviewed by the Subcommittee show, however, that Mr. Marsh's sons were aware of and had participated in the affairs of the LGT foundations. For example, a 1985 letter of wishes was signed by Shannon when the Lincol Foundation was first created in 1985.¹⁵⁰ Shannon was 24 years old at the time. A 1992 handwritten letter by Shannon instructed LGT that another brother, Kerry, had "permission to review all documents and receipts pertaining to Lincol Foundation and Chateau Foundation. Please group our investments so that we pay as little as possible in commissions as you discussed last year with my brother Kerry."¹⁵¹ At the time of this letter, Shannon was 30 years old and Kerry was 37. A 1993 document signed by Shannon informs LGT that two additional Marsh relatives were to be treated as principals with respect to the Lincol Foundation.¹⁵² A 2000 internal LGT memorandum states: "On October 11, 2000 Mr. James G. Marsh, along with his father, Mr. James Albright Marsh visited me very briefly. Mr. Knecht presented the performance of both foundations, with the corresponding explanations. The men were basically satisfied."¹⁵³ In 2004, as mentioned earlier, Shannon and Kerry, who were then 43 and 50 years old respectively, were appointed "Protectors" of the Lincol and Chateau Foundations¹⁵⁴ and signed official acceptances of their appointments in Vaduz.¹⁵⁵

¹⁴⁸ See five letters from the Marshes' legal counsel, Baker & McKenzie, to an IRS Revenue Agent in Georgia (5/12/08), Bates No. MAR-1176-92.

¹⁴⁹ See Marsh amended income tax returns for 2002 to 2006, Bates Nos. MAR 1193, 1221, 1259, 1340, and 1394. The Subcommittee does not know whether the IRS has accepted this offer or has determined that additional taxes and interest are due. The 2006 Marsh estate tax return estimated having to pay back taxes, interest and penalties in an amount totaling \$5.5 million. See Estate of James A. Marsh 2006 Income Tax Returns (9/14/07), Bates Nos. MAR-1442-66, at 1455.

¹⁵⁰ Letter of Wishes signed by Shannon Neal Marsh (10/15/85), Bates Nos. MAR-9598-99.

¹⁵¹ Handwritten letter signed by Shannon N. Marsh to Mr. Alvate (5/23/92), Bates No. PSI-USMSTR-231.

¹⁵² Document entitled, "Instruction," (11/17/93), Bates No. PSI-USMSTR-612 (signed by Shannon Neal Marsh).

¹⁵³ Memorandum for file re Lincol and Chateau Foundations (2/7/02, though the actual date is likely earlier), Bates No. PSI-USMSTR-614.

¹⁵⁴ Bye-Laws to the Statutes of Lincol Foundation (11/4/04), Bates Nos. MAR-35-38; Bye-laws to the Statutes of Chateau Foundation (11/4/04), Bates Nos. MAR-589-92.

¹⁵⁵ Deed of Signature (11/10/2004), Bates No. MAR-9518 (signed by Kerry Marsh); Deed of Signature (undated), Bates No. MAR-9519 (signed by Shannon Marsh). After completion of

The 2008 letters to the IRS prepared by legal counsel for the Marshes had this to say about Mr. Marsh:

“Mr. Marsh, a construction contractor, was unsophisticated in the area of U.S. tax reporting requirements. It is believed that he did not know that the passive income earned in the Foundations was taxable in the United States. We believe that Mr. Marsh was under the erroneous belief that his income from the Foundations was not required to be reported until such time as the funds were repatriated to the United States. This may explain why he apparently did not spend any of the money in the Foundations for over twenty years.”¹⁵⁶

Mr. Marsh was apparently sophisticated enough to set up four foundations in Liechtenstein, amass at least \$49 million in multiple accounts at five Liechtenstein banks, and avoid all QI reporting of his accounts. Assertions that he was not sophisticated enough to inquire about the tax consequences of these actions are not credible in the face of the evidence.

(2) Wu Accounts: Hiding Ownership of Assets

William S. Wu is a U.S. citizen who was born in China and has lived for many years with his family in Forest Hills, New York.¹⁵⁷ His sister is a U.S. citizen who lives in Hong Kong. In 1996, LGT helped Mr. Wu establish a Liechtenstein foundation called the JCMA Foundation; in 1997, LGT helped Ms. Wu establish a second Liechtenstein foundation called the Veline Foundation. The JCMA Foundation opened LGT accounts with assets that, by 2001, had a combined value of \$4.3 million. The Veline Foundation opened LGT accounts with assets that appear to have peaked at a value of about \$922,000; those accounts were closed by Ms. Wu in 2001, and the assets transferred to the Palone Foundation in Hong Kong.

this Report, legal counsel for the Marshes sent a letter to the Subcommittee stating that the Subcommittee had “interpreted a sentence” in a letter that legal counsel had previously sent to the IRS on behalf of Kerry and Shannon Marsh “in a way that was not intended by us,” that this sentence was “not intend[ed] to suggest that our clients were not aware of the fact that they were beneficiaries of these Foundations prior to their father’s death,” and “apologize[d] for any confusion that [their] letter may have caused on this issue.” Letter from Baker & McKenzie to the Subcommittee (7/15/08).

¹⁵⁶ See letter from the Marshes’ legal counsel, Baker & McKenzie, to an IRS Revenue Agent in Georgia regarding “Failure to timely report foreign income on Forms 1040,” (5/12/08), Bates No. MAR-1185-88, at 1186.

¹⁵⁷ Information about the Wu accounts is derived from internal LGT documents produced to the Subcommittee and from limited documentation supplied by Mr. Wu. Mr. Wu declined to provide either an interview or deposition to the Subcommittee, instead asserting his Constitutional rights under the Fifth Amendment.

The JCMA and Veline Foundations were established using LGT-supplied documents that provided a large measure of control over the foundations to their founders, and strong secrecy protections.¹⁵⁸ Because the provisions are similar to those described above in connection with the Marsh accounts, the same analysis will not be repeated here. The beneficiaries of the Foundations were Wu family members.

The original purpose of the JCMA Foundation (JCMA) appears to have been to help conceal Mr. Wu's ownership of his personal residence in New York. Three months after JCMA was formed, it was used in a complex arrangement to make it appear that Mr. Wu had sold his house to an independent third party that, in fact, he secretly controlled. To carry out this arrangement, JCMA acquired a wholly owned corporation in the Bahamas called Sandalwood International Ltd. (Sandalwood), and asked a Hong Kong company, Cobyne Ltd., to hold the Sandalwood shares in trust for JCMA.¹⁵⁹ An internal LGT memorandum on JCMA states that the "sole purpose of Sandalwood is the holding of Tai Lung Worldwide Ltd. BVI."¹⁶⁰ Tai Lung Worldwide Ltd. is apparently a corporation formed in the British Virgin Islands.¹⁶¹

New York State property records show that, on January 21, 1997, Mr. Wu sold his house in New York to Tai Lung Worldwide Ltd. (Tai Lung) for an undisclosed sum.¹⁶² In the New York property records, Tai Lung provides the same Hong Kong address used by Cobyne Ltd. in the trust agreement with JCMA. These documents suggest that Mr. Wu "sold" his house to what appeared to be an unrelated party from Hong Kong. In fact, the buyer, Tai Lung, was wholly owned by Sandalwood which, in turn, was owned by JCMA, Mr. Wu's Liechtenstein foundation. After the sale, Mr. Wu and his family continued to live in the same house, but apparently made monthly "rental" payments to a Tai

¹⁵⁸ See, e.g., Articles of the JCMA Foundation, Vaduz (6/20/96), Bates Nos. WWU-PSI 1-8; By-Laws of the JCMA Foundation, Vaduz (6/25/96), Bates Nos. WWU-PSI 9-13; By-Laws of the Veline Foundation, Vaduz (8/21/97), Bates Nos. PSI-USMSTR-5873-75.

¹⁵⁹ See Declaration of Trust, signed by Cobyne Ltd. and JCMA Foundation (10/1/96), Bates Nos. WWU-PSI 14-15. A few months later, the Sandalwood share certificate was moved to JCMA's "deposit box" at LGT. LGT report on JCMA Foundation (subsequent to 6/27/02), Bates No. PSI-USMSTR-4988.

¹⁶⁰ See LGT report on JCMA Foundation (subsequent to 6/27/02), Bates No. PSI-USMSTR-4988.

¹⁶¹ The Subcommittee identified a second corporation, Tai Lung Company, Inc., now inactive, that was formed in New York State on the same day that JCMA was formed in Liechtenstein (June 20, 1996). The registered agent for this corporation is a Dr. Er Ke Yu who appears to operate an acupuncture and Chinese herbal center near Mr. Wu's personal residence in Forest Hills, New York. See NYS Department of State, Division of Corporations, Entity Information for Tai Lung Co., Inc. It is unclear what role, if any, this second corporation may have played in Mr. Wu's affairs.

¹⁶² See New York City Department of Finance, Office of the City Register, Document No. FT-4380005495638 (1/21/97).

Lung account at Standard Chartered Bank.¹⁶³ These rental payments may have served as a mechanism for Mr. Wu to move funds out of the United States without alerting U.S. authorities.

The LGT memorandum on JCMA notes briefly the arrangement whereby Sandalwood owns Tai Lung which maintains the house in New York. There is no indication that LGT expressed any concern about this arrangement, despite the fact that it involved multiple jurisdictions – a house in New York owned by a BVI company (with a Hong Kong address), owned by a Bahamas company, owned by a Liechtenstein foundation with a founder from New York – and appeared to serve no purpose other than concealment. At the bottom of the LGT report on JCMA is the following notation: “ATTENTION US-Citizen.”

Although JCMA was apparently originally established to assume ownership of Mr. Wu’s New York residence, the documents suggest that it was soon used for other purposes as well, becoming a repository for substantial funds. Financial records produced to the Subcommittee by Mr. Wu show, for example, that by 2001, JCMA had cash and securities with a combined value of nearly \$4.3 million.¹⁶⁴ The source of the funds for these assets is unclear. One explanation contained in the records obtained by the Subcommittee is a brief notation in an internal 2001 LGT profile of JCMA stating that its funds came from “inheritance as well as from real estate holdings in the USA.”¹⁶⁵

Mr. Wu provided the Subcommittee with formal Statements of Assets for JCMA for the years 2001 to 2006. These statements show a steady stream of withdrawals from the JCMA account at LGT: \$300,000 during 2001; \$840,000 in 2002; \$1.5 million in 2003; \$1.2 million in 2004; \$500,000 in 2005; and \$300,000 in 2006.¹⁶⁶ The

¹⁶³ See LGT report on JCMA Foundation (subsequent to 6/27/02), Bates No. PSI-USMSTR-4988.

¹⁶⁴ See Resolution of the Foundation Board of JCMA Foundation, Vaduz (2/7/02), Bates No. WWU-PSI 27.

¹⁶⁵ LGT “Background Information/Profile” of JCMA Foundation (12/20/01), Bates No. PSI-USMSTR-4990.

¹⁶⁶ See 2001 “Performance” statement, JCMA Foundation (1/1/02), Bates Nos. WWU-PSI 33-34; 2002 “Performance” statement, JCMA Foundation, (1/1/03), Bates Nos. WWU-PSI 52-53; 2003 “Performance” statement, JCMA Foundation, (1/2/04), Bates Nos. WWU-PSI 61-62; 2004 “Performance” statement, JCMA Foundation, (1/2/05), Bates Nos. WWU-PSI 75-77; Resolution of the Foundation Board of JCMA Foundation, Vaduz (3/30/06), Bates Nos. WWU-PSI 78-91 (explaining in the notes that the 2005 withdrawals from JCMA were actually withdrawals from an LGT account opened for Dickinson and had been “entered in the Statement of Assets as ... additions to the loan of Dickinson Holding & Finance Ltd., BWI”); 2006 “Statement of Assets, Desert Rose Foundation,” (4/17/07), Bates Nos. WWU-PSI 92-107 at 97 (Desert Rose is a successor foundation to JCMA that began operation in 2006 and assumed ownership of Dickinson; its Statement of Assets states: “During the course of 2005 and 2006 DICKINSON HOLDING & FINANCE LTD., BVI, received monies and effected payments for and on behalf of the Foundation. These payments are registered in the books as additions/redemptions of the principal loan amount.”).

Statements of Assets generally characterize these withdrawals as “distributions” from the Foundation, and occasionally specify they are distributions to the “first beneficiary,” which is Mr. Wu.¹⁶⁷ The documents do not indicate, in most cases, how the funds were withdrawn or how they were used.

One instance in 2002, however, may be illustrative. On June 25, 2002, Mr. Wu met with LGT officials at its Hong Kong office to discuss the JCMA account. In connection with this visit, Mr. Wu instructed LGT to withdraw \$100,000 from the JCMA account and place the funds in a “bank draft” – a cheque drawn directly from a bank’s own funds – which he could take with him.¹⁶⁸ The JCMA Foundation Board approved the withdrawal, demonstrating Mr. Wu’s control over the Foundation and its funds. To provide Mr. Wu with a U.S. dollar cheque, LGT contacted HSBC Bank in Hong Kong, where LGT maintained a correspondent account. On June 26, 2002, HSBC Hong Kong provided LGT with a bank cheque for \$100,000 in U.S. dollars, “[p]ayable at any branch of HSBC Bank USA in the USA.”¹⁶⁹ Mr. Wu signed the receipt for the cheque.¹⁷⁰ It is not clear from the records obtained by the Subcommittee when or where he cashed the cheque or how he spent the \$100,000. Since the funds were provided via an HSBC bank cheque drawn on LGT’s account, and likely cashed at an HSBC branch, the funds may be difficult to trace.

During his meeting with LGT officials in Hong Kong in 2002, Mr. Wu met at length with two LGT trust officers, Beat Muller and Kim Choy. After Mr. Wu confirmed that he and all family members named in the JCMA By-laws held U.S. passports, other than his wife who held a Singapore passport, the LGT officials advised him that U.S. tax laws required disclosure of JCMA to U.S. authorities unless the foundation was restructured:

“[Kim Choy] explained the reporting requirements imposed on a US grantor, e.g. creation of the foundation, ensuring the Board Members file annual returns with the IRS. Also, as the income of

¹⁶⁷ See, e.g., the 2004 and 2005 Statement of Assets, Bates Nos. WWU-PSI 65-71, 79-85.

¹⁶⁸ See letter to LGT signed by Mr. Wu (6/27/02), Bates No. PSI-USMSTR-4980. It is possible that LGT prepared this letter during his visit and presented it to Mr. Wu for signature, since the letter requesting the bank cheque is dated one day after the bank cheque itself. See also Resolution by the JCMA Foundation Board (6/26/02), Bates No. PSI-USMSTR-4983 (approving the \$100,000 withdrawal from its account).

¹⁶⁹ Receipt for HSBC demand cheque for \$100,000, Cheque No. K939026 (6/26/02), Bates No. PSI-USMSTR-4981. See also HSBC On-Line Remittances Advice, (6/26/02), Bates No. PSI-USMSTR-4982 (notifying LGT of the \$100,000 debit to its account and listing William Wu as the “beneficiary”).

¹⁷⁰ Receipt for HSBC demand cheque for \$100,000, Cheque No. K939026 (6/26/02), Bates No. PSI-USMSTR-4981.

the Foundation is taxed to the grantor, further annual filing of income of the foundation and payment of income tax on worldwide income of the foundation. Furthermore, if US beneficiaries have received distributions from the Foundation, the Board Members must provide a Beneficiary Statement to each recipient which should be attach[ed] to his/her income tax return to the IRS. Upon the death of the US grantor, the Board Members may be considered the statutory executor of his estate and will bear liability and exposure for any non-compliance by the grantor during his lifetime of reporting and other requirements to the IRS, the filing of the deceased's US estate tax return and payment of estate taxes on the assets of the Foundation at the date of his death.

"KC informed Mr. Wu that the JCMA Foundation must be re-structured and that LGT & Treuhand were looking at formulating solutions. We raised the possibility of an insurance product which Mr Wu didn't seem interested in. Other possibilities included:

- lifetime transfers to his beneficiaries;
- making use of Mr Wu's non-US siblings to restructure the Foundation;
- private/corporate account.

"Mr. Wu acknowledged the need to restructure the Foundation and was receptive to any ideas we could come up with. Similarly, we would welcome any solutions from him or his advisers. Mr. Wu has interests in other ventures/companies unconnected with LGT which require restructuring to address US tax/reporting requirements."¹⁷¹

This LGT memorandum demonstrates LGT's knowledge and understanding of U.S. tax laws, and its willingness to advise its U.S. clients on how to structure their accounts to avoid U.S. reporting obligations.

In response to the concerns expressed by LGT, it appears that JCMA Foundation wound down its activities, transferred its assets, dissolved, and was replaced by another Liechtenstein foundation called the Desert Rose Foundation. As part of this process, in July 2004, JCMA acquired a second British Virgin Islands corporation called Dickinson Holding & Finance, Ltd. (Dickinson).¹⁷² A month later, in August 2004, JCMA transferred nearly \$1.2 million to Dickinson,

¹⁷¹ LGT Memorandum by Kim Choy regarding JCMA Foundation (6/26/02), Bates No. PSI-USMSTR-4989.

¹⁷² See Resolution of the Board of Directors of Dickinson Holding & Finance Ltd. (4/17/07), Bates Nos. WWU-PSI 16-26, at 16 (showing company was incorporated on July 12, 2004).

characterizing the asset transfer as an “interest-free loan ... for an indefinite period of time.”¹⁷³ Dickinson opened an account at LGT, deposited the funds, and began receiving and sending funds on behalf of JCMA.¹⁷⁴ Over time, JCMA transferred additional assets to Dickinson, characterizing the transfers as additional loans to the company.¹⁷⁵ In 2006, the Desert Rose Foundation (Desert Rose) was formed and opened an account at LGT.¹⁷⁶ JCMA transferred its key remaining assets to Desert Rose, including its share certificate for Dickinson and its share certificate for Sandalwood.¹⁷⁷ The financial records show that Dickinson made “distributions” of \$500,000 in 2005, and \$300,000 in 2006; the distribution in 2005 was to the “first beneficiary,” Mr. Wu, as was presumably the 2006 distribution.¹⁷⁸ Nevertheless, at the end of 2006, Dickinson Holding & Finance showed a balance of about \$4.2 million, while Desert Rose showed an account balance of about \$422,000, for a grand total of about \$4.6 million.

These figures suggest that, while JCMA Foundation has been dissolved and its LGT accounts closed, Mr. Wu continues to control more than \$4.6 million in assets at LGT accounts held in the name of Desert Rose Foundation and its wholly owned corporation, Dickinson Holding & Finance Ltd.

Mr. Wu utilized JCMA for nearly 10 years, and it is possible that he is still using the Desert Rose Foundation. In contrast, Mr. Wu’s sister utilized her Liechtenstein foundation for only a four-year period, from 1997 until 2001, after which she directed LGT to dissolve Veline and transfer its assets to a Hong Kong foundation called the Palone

¹⁷³ See 2004 Statement of Assets, JCMA Foundation (2/13/06), Bates No. WWU-PSI 64-71, at 69. This loan was apparently not reduced to writing until February 2006. *Id.*

¹⁷⁴ See 2006 “Statement of Assets, Desert Rose Foundation,” (4/18/07), Bates Nos. WWU-PSI 92-107, at 97 (“During the course of 2005 and 2006 DICKINSON HOLDING & FINANCE LTD., BVI, received monies and effected payments for and on behalf of the Foundation. These payments are registered in the books as additions/redemptions of the principal loan amount.”).

¹⁷⁵ See, e.g., Resolution of the Foundation Board of JCMA Foundation, Vaduz (3/30/06), Bates Nos. WWU-PSI 78-91 (noting that the 2005 endowment to and withdrawals from JCMA were “entered in the Statement of Assets as redemption/additions to the loan of Dickinson Holding & Finance Ltd., BVI”).

¹⁷⁶ See 2006 “Statement of Assets, Desert Rose Foundation,” (4/18/07), Bates Nos. WWU-PSI 92-107, at 95. The Subcommittee does not have the formation documents for Desert Rose, but the fact that Mr. Wu had possession of the 2006 Desert Rose financial statement suggests he is the founder of that foundation as well.

¹⁷⁷ *Id.* at 96-97. The document also states: “Sandalwood is the shareholder of a company called Tai Lung Worldwide Ltd., which owns a property in New York. ... During the course of 2006 it was resolved to distribute the shares to the first Beneficiary, however, the planned share transfer has not yet been completed.” *Id.* at 96.

¹⁷⁸ Resolution of the Foundation Board of JCMA Foundation (3/30/05), Bates Nos. WWU-PSI 78; Resolution of the Foundation Board of Desert Rose Foundation, (4/18/07), Bates No. WWU-PSI 92.

Foundation with accounts at Credit Suisse Private Bank in Zurich.¹⁷⁹ While active, the Veline Foundation kept cash and securities in its LGT accounts, with a total asset value ranging as high as \$922,000.¹⁸⁰

Like JCMA, the Veline Foundation also appears to have been used to conceal Ms. Wu's ownership interests. The records show that soon after the foundation was established it acquired a bearer share certificate giving it 100% ownership of Manta Company Ltd. (Manta), a corporation formed in Western Samoa.¹⁸¹ While many financial institutions refuse to handle bearer shares, since they can be used to hide the ownership of a company and are known instruments of money laundering,¹⁸² LGT appears to have expressed no concern about this bearer share certificate which was kept in Veline's "deposit box" at LGT.¹⁸³ While the documents obtained by the Subcommittee are unclear as to the activities engaged in by Manta, one handwritten chart indicates that it functioned as a holding company for a Hong Kong corporation called Bowfin Co. Ltd. (Bowfin) which, in turn, held real estate, a vehicle, a mobile telephone, and accounts at two banks, Standard Chartered Bank and Swiss Bank Corporation (now merged into UBS).¹⁸⁴ The document shows that these assets were owned by Bowfin,

¹⁷⁹ See, e.g., letter from Ms. Wu to LGT Bank's Representative Office in Hong Kong (3/27/01), Bates No. PSI-USMSTR-5877 (providing instructions to LGT to "wind up" Veline Foundation); LGT report on Veline Foundation after a 3/27/00 client visit (date of report preparation unclear), Bates No. PSI-USMSTR-5887 (containing notation that the Foundation was stricken from the Register on April 19, 2001). It is possible that Ms. Wu controls the Palone Foundation and, thus, was simply transferring her assets from one foundation she controlled to another.

¹⁸⁰ See, e.g., Statement of assets as per 31.12.2000 for Veline Foundation, Vaduz (2/5/01), Bates No. PSI-USMSTR-5885.

¹⁸¹ See "Bearer Share Certificate Transferable by Delivery" for Manta Co. Ltd. (issued 9/3/97 and provided to Ms. Wu on 4/18/01), Bates No. PSI-USMSTR-5878.

¹⁸² See, e.g., "Vulnerability of private banking to money laundering activities," U.S. Senate Permanent Subcommittee on Investigations hearing, "Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities," (November 9 and 10, 1999), S. Hrg. 106-428, testimony of Federal Reserve Board:

"A variant of personal investment corporation accounts that could increase the risk of the accounts being used for money laundering purposes are personal investment corporations that are owned through bearer shares. Bearer shares are negotiable instruments with no record of ownership so that title of the underlying entity is held essentially by anyone who possesses the bearer shares. Historically, bearer shares were used as a vehicle for estate planning in that at death the shares would be passed on to the deceased beneficiaries without the need for probate of the estate. However, in the context of potential illicit activity being conducted through an entity whose ownership is identified by bearer shares, it is virtually impossible for a banking organization to apply sound risk management procedures, including identifying the beneficial owner of the account, unless the banking organization physically holds the bearer shares in custody for the beneficial owner, which of course we encourage."

¹⁸³ See LGT report on Veline Foundation (subsequent to a 3/27/00 client visit), Bates No. PSI-USMSTR-5887 ("Single owner share certificate in LGT deposit box of Veline").

¹⁸⁴ See handwritten organizational chart showing Veline Foundation ownership of corporations and property (undated), Bates No. PSI-USMSTR-5889.

which was in turn owned by Manta, a bearer share corporation that was owned by Ms. Wu's Veline Foundation. The document also shows that both Bowfin and Manta used nominee directors and officers, further obscuring their ownership. The chart depicts, in short, a complex multi-tiered ownership chain using Liechtenstein, Samoan, and Hong Kong nominee entities designed to conceal the ultimate ownership interests of Ms. Wu.¹⁸⁵

LGT signed a QI agreement with the United States which took effect in 2001. Ms. Wu's foundation was dissolved in April 2001, but Mr. Wu's foundation continued operating until at least 2004, and perhaps to the present time. Despite the concerns expressed by LGT personnel in 2002 regarding the bank's "exposure for any non-compliance" by Mr. Wu regarding his tax obligations, LGT does not appear to have reported his Foundation or the Foundation's accounts to the IRS under the QI Program at any time.

It is the Subcommittee's understanding that Mr. Wu is now in negotiation with the IRS over tax liability issues related to his Liechtenstein foundations.

(3) Lowy Accounts: Using a U.S. Corporation to Hide Ownership

Frank Lowy ("Mr. Lowy") is an Australian citizen and the main shareholder and Chairman of the Westfield Group.¹⁸⁶ His three sons, David, Peter, and Steven, hold high positions in the Westfield organization. Peter Lowy, a U.S. citizen living in California, is Chief Executive Officer of Westfield Group United States. Internal LGT documents obtained by the Subcommittee indicate that the Lowys maintained a longterm relationship with LGT, utilizing multiple Liechtenstein-related entities and transactions, including entities known as the Crofton Foundation, Jelnav, Yelnarf, and the Luperla Foundation.¹⁸⁷ An LGT memorandum notes that, in 1998, the Lowy

¹⁸⁵ In reviewing LGT documentation, the Subcommittee came across many other examples of complex structures used to hide ownership of assets. See, e.g., chart entitled, "Purchase of an Apartment in London," (4/3/02), Bates No. PSI-USMSTR-6608; charts for entities related to Sunar Trust, Lovelight Foundation, Ramsar Foundation, and Bosham Foundation, (2/19/02 and 12/12/01), Bates Nos. PSI-USMSTR-6644-47, 6573-75.

¹⁸⁶ The information about the Lowy account is derived from internal LGT documents produced to the Subcommittee and documents provided by the Lowys in response to a Subcommittee subpoena.

¹⁸⁷ See, e.g., LGT Memorandum about Luperla (6/26/01), Bates No. PSI-USMSTR-8897 ("The memorandums for the file also mention the 'Yelnarf' structure which we've been conducting for years."); LGT Memorandum about Luperla (5/2/97), Bates Nos. PSI-USMSTR-8864-65 (regarding Crofton and Jelnav); LGT memorandum, subject "Westfields, Adelphi, Crofton," (11/26/96), Bates Nos. PSI-USMSTR-8773-74 (Crofton); LGT memorandum "New Establishment Westfields/Lowy," (11/27/96), Bates No. PSI-USMSTR-8775 ("Get copy of Crofton Foundation laws" from another LGT employee); LGT Memorandum, subject "Frank

account was one of the largest relationships at LGT Bank.¹⁸⁸ This analysis concentrates on the Luperla Foundation, because of its unique use of a U.S. corporation in Delaware to hide the identities of the Foundation beneficiaries. In 2001, Luperla assets had a combined value of about \$68 million.

Formation of Luperla. Discussions regarding the formation of Luperla extended over a six-month period from November 1996 to April 1997. Although LGT generally requires clients to travel to the bank or nearby Switzerland to discuss their accounts, LGT made an exception in this matter, and sent LGT personnel to meet with the Lowys outside of Liechtenstein. As one LGT memorandum explained: “The Lowys have decided that they never want to travel to Liechtenstein or Switzerland in connection with these companies again.”¹⁸⁹

The records obtained by the Subcommittee show at least three meetings between LGT personnel and the Lowys on the formation of Luperla. The first was in November 1996, in Sydney, Australia, attended by Peter Widmer, the LGT relationship manager handling the Lowy account, meeting with Mr. Lowy, his son David, longtime family attorney Joshua Gelbard, and David Gonski.¹⁹⁰ At that meeting the participants discussed the creation of a new foundation. According to a later LGT memorandum, the Lowys expressed their intent to establish a large foundation with conservative investments that would serve as “insurance” for the Lowy family.¹⁹¹ In January 1997, a second meeting took place in Los Angeles, California attended by Mr. Lowy, his sons, Peter and David, and two LGT employees. According to an LGT memorandum, this meeting was intended to discuss Luperla’s “portfolio strategy” and “cost structure,” and introduce Mr. Lowy to “the person who will also be responsible for ‘his establishment.’”¹⁹² Six weeks later,

Lowy,” (3/13/97), Bates Nos. PSI-USMSTR-8767-68 (“After the transfer of the assets, Crofton will be closed.”).

¹⁸⁸ “The mandate is to be classified as one of the largest business affairs of the LGT BIL [Bank in Liechtenstein].” LGT memorandum about Luperla (1/29/98), Bates No. PSI-USMSTR-8901.

¹⁸⁹ LGT memorandum, subject “Westfields, Adelphi, Crofton,” (11/26/96), Bates Nos. PSI-USMSTR-8773-74.

¹⁹⁰ Mr. Gonski’s relationship to Mr. Lowy is not described in the material available to the Subcommittee. According to Westfield Group’s website, Mr. Gonski has served as non-executive director of Westfield Holdings Ltd. since 1985. See <http://westfield.com/corporate/about-westfield-group/board-of-directors/> (viewed 7/7/08).

¹⁹¹ “The Lowys view these monies as ‘insurance,’ i.e., they will be invested very long-term and rather conservatively.” LGT memorandum, subject “Westfield/Lowy Family,” (1/23/97), Bates Nos. PSI-USMSTR-8771-72.

¹⁹² LGT memorandum, subject “Westfields, Adelphi, Crofton,” (12/17/96), Bates Nos. PSI-USMSTR-8760-8770 (“Regarding the composition of the portfolio strategy and the cost structure, Lowy insists on a meeting in Los Angeles, in which his sons David and Peter as well as possibly Stephen should take part. ... He would like that I meet with him in Los Angeles with the person who will also be responsible for ‘his establishment.’”). See also LGT memorandum, subject “Westfield/ Lowy Family,” (1/23/97), Bates Nos. PSI-USMSTR 8771-72.

a meeting took place in London, in March 1997, attended by three LGT employees, Mr. Lowy, and his attorney Mr. Gelbard. This meeting discussed the transfer of assets to Luperla and LGT fees. An LGT memorandum summarizing the London meeting was copied to Liechtenstein Prince Philipp.¹⁹³

LGT memoranda following these meetings note that Mr. Lowy had reached a settlement with the Australian Tax Office, did not want to bring new funds into Australia, and was concerned that if the Australian tax authorities learned of his having additional assets, the government might try to subject them to additional claims. As one LGT memorandum put it: “Special caution is to be used, however, since he doesn’t believe the Australian tax authorities that the case with the payment of the 25 M is settled for good. ... The entire documentation and assembly is to be done in such a manner that [Mr. Lowy] and his attorneys can testify before court in Australia without hesitation.”¹⁹⁴ These statements make it clear that LGT was aware that Mr. Lowy and his sons were hiding assets in the new foundation from Australian tax authorities.

LGT and the Lowys took a number of measures to keep secret Luperla’s existence and the Lowy relationship at LGT, and to distance the Lowys and other entities they controlled from the new foundation. At the Lowy’s request, for example, LGT agreed that, once the new foundation was established, to remove evidence of old LGT accounts and transactions.¹⁹⁵ In preparation for the January 1997 meeting with the Lowys in Los Angeles, an LGT trust officer wrote the following message to his associates:

¹⁹³ LGT Memorandum, subject “Frank Lowy,” (3/13/97), Bates Nos. PSI-USMSTR-8767-68 (“Lowy seems to have been very pleased with our service and would like to invite S.D. Prince Philipp ... to London this summer for a special occasion.”). H.S.H. Prince Philipp von und zu Liechtenstein was at the time a Member of the Board of Directors of LGT Bank and Chairman of the Board of Directors of LGT. See [http://www.lgt.com/export/sites/inta_lgtcom/de/wir_ueber_uns/lgt_portrait/publikationen/\\$verwaltung_publikationen/cv/cv_s_d_prinz_philipp_von_und_zu_liechtenstein_en.pdf](http://www.lgt.com/export/sites/inta_lgtcom/de/wir_ueber_uns/lgt_portrait/publikationen/$verwaltung_publikationen/cv/cv_s_d_prinz_philipp_von_und_zu_liechtenstein_en.pdf) (viewed 7/7/08).

¹⁹⁴ LGT memorandum about Luperla (3/16/97), Bates Nos. PSI-USMSTR-8902-3. See also LGT memorandum about Luperla (1/29/98), Bates No. PSI-USMSTR-8901 (“The substance of this meeting is that the client cannot officially bring these funds back into his Australian assets. Therefore they remain in the foundation.”).

¹⁹⁵ See, e.g., LGT memorandum, subject “Westfield/Lowy Family,” by Peter Widmer, (1/23/97), Bates Nos. PSI-USMSTR-8771-72 (“When everything is completed, one wants LGTT to destroy all files on the old structures, insofar as they don’t have to be kept for legal reasons. Regarding this matter, I will specifically get in touch with LGTT after the transfer into this new structure.”); LGT Memorandum, subject “Frank Lowy,” (3/13/97), Bates Nos. PSI-USMSTR-8767-68 (“We have promised once again, that all documents of Crofton will be destroyed, as long as will not have to be protected for legal reasons.”); LGT Memorandum about Luperla (5/2/97), Bates Nos. PSI-USMSTR-8864-65 (“After completion of these transactions, all documents from ‘Crofton’ and ‘Jelnav’ are definitely to be destroyed, insofar as this is legally possible. I ask Dr. Iob for confirmation of completion by June 30, 1997.”).

“Before the meeting in LA we should prepare our first proposals in writing. These should be written on neutral paper and without reference to any person or corporation in the Lowy field.”¹⁹⁶

LGT established Peter Widmer as its exclusive point of contact at LGT for the Lowys during the establishment of the new foundation, and subsequently limited the number of LGT personnel involved in the relationship.¹⁹⁷ The Lowys, in turn, made Mr. Gelbard their exclusive contact for matters related to Luperla,¹⁹⁸ and LGT agreed to accept his name on key documents. It was Mr. Gelbard, for example, who sent a letter requesting the creation of Luperla,¹⁹⁹ signed the Foundation’s formation documents,²⁰⁰ and signed Luperla’s asset management contract with LGT. LGT also listed him on its internal identification file as the contact person for Luperla, omitting any mention of the Lowys.²⁰¹ LGT also convinced the Lowys not to co-manage the assets in the foundation, on the ground that such direct involvement on their part would connect them to the entity.²⁰²

In addition, to disguise the transfer of assets from other Lowy-related entities, LGT proposed, and the Lowys agreed, to transfer the assets through a shell corporation especially set up for that purpose.²⁰³ The primary source of assets for the new foundation had been described as proceeds from a complex securities transaction.²⁰⁴ In early 1997,

¹⁹⁶ LGT Memorandum, Subject: “Westfields, Adelphi, Crofton,” (12/17/96), Bates Nos. PSI-USMSTR-8769-70.

¹⁹⁷ “We promised that the total relationship will remain under my control (key account) and that Wilfried Ospelt will personally take over the depot in an investment-strategic manner. For the short-term, the contacts should go exclusively through me.” LGT memorandum, subject “Westfield/Lowy Family,” (1/23/97), Bates Nos. PSI-USMSTR-8771-72.

¹⁹⁸ “Contact person will be in the future exclusively Joshua Gelbard.” LGT memorandum, subject “Westfields, Adelphi, Crofton,” (11/26/96), Bates Nos. PSI-USMSTR-8773-74.

¹⁹⁹ Letter from J.H. Gelbard to LGT (3/12/97), Bates Nos. PSI-USMSTR-8860-61.

²⁰⁰ Regulations Luperla Foundation, Vaduz (4/30/97), Bates Nos. PSI-USMSTR-8838-40.

²⁰¹ “Luperla is a foundation without engagement contract. Client is J. Gelbart [sic].” LGT memorandum about Luperla (3/16/97), Bates Nos. PSI-USMSTR-8902-3. See also “Identification File” for Luperla Foundation (10/31/97), Bates No. US-MSTR-8905.

²⁰² “We were able to talk them out of the desire for co-management of the investment process by pointing out that every direct influence on the foundation can have disadvantages.” LGT memorandum, subject “Westfield/ Lowy Family,” (1/23/97), Bates Nos. PSI-USMSTR-8771-72.

²⁰³ LGT has employed similar tactics on other occasions to help clients disguise the flow of assets into their LGT accounts, as examined below.

²⁰⁴ See, e.g., LGT memorandum about Luperla (1/29/98), Bates No. PSI-USMSTR-8901 (“The foundation assets shall come to the amount of approximately USD 100 million and originate from a relatively complex transaction, with the goal of bringing shares listed in the stock market back into the family’s possession, which was successfully completed.”); LGT memorandum about Luperla (6/26/01), Bates No. PSI-USMSTR-8897. (“The result from these memorandums for the file as well as from my memory is that the funds of the Luperla Foundation stem from a credit financing of the LGT Bank in Liechtenstein that at the time was carried out through a company Crofton. The result from the attached memorandums for the file is that the instructions regarding Crofton were issued by Sinus Treuhand, Zürich.”). Several LGT documents also refer

LGT acquired a British Virgin Islands corporation, Sewell Services Ltd., to serve as the intermediary for the asset transfers into Luperla from other Lowy related entities.²⁰⁵ An account in the name of Sewell was opened at LGT Bank in Liechtenstein. Assets destined for the Luperla account were transferred into the Sewell account and then transferred internally, within the bank, from the Sewell to the Luperla account. Such intra-bank transfers make it extremely difficult to trace the flow of assets, because no documentation outside of the bank shows that the funds transferred into the bank were destined for or actually deposited into the Luperla account.

On May 2, 1997, the LGT relationship manager for the Luperla account outlined the complex series of transaction that were going to be used to move Lowy assets into Luperla:

“a) Around USD 54 million (balance Crofton with us) are going to the Sewell account with us (assignment from Sinitus); subsequently Sewell pays (assignment from LGT T) the amount to Luperla.

“b) An additional roughly USD 3 million will go to Sewell (account LGT) through third-bank payments, which are likewise to be paid to account Luperla at LGT (assignment LGT T). [by hand:] CHF 3.6 million according to K. Ulrich.

“c) Crofton will close its account with Union Bank of Israel, Tel Aviv and send balance (around USD 0.2 million) to account Sewell; Sewell also pays this amount to Luperla at LGT (assignment LGT T). Luperla is then to remunerate USD 250,000.00 to its account (already opened by LGT T) with Union Bank of Israel.”²⁰⁶

to an entity called Adelphi, but it is not clear that it was used in the final transaction. Compare LGT memorandum, subject “Westfields, Adelphi, Crofton,” (11/26/96), Bates Nos. PSI-USMSTR-8773-74 (the first order of business was to “settle the credit repayment formalities at Adelphia”) and LGT Memorandum, Subject: “Westfields, Adelphi, Crofton,” (12/17/96), Bates Nos. PSI-USMSTR-8769-70 (“the free funds in the amount of rd. USD 53 million from the Adelphi - Credit Repayment and their insertion into a new structure”) with LGT Memorandum, subject “Frank Lowy,” (3/13/97), Bates Nos. PSI-USMSTR-8767-68 (“The Adelphi - assets will not be included in the new structure.”).

²⁰⁵ In a March 1997 letter to LGT requesting establishment of the Luperla Foundation, Mr. Gelbard agreed to a fee which included, among other things, “the formation and administration of a transfer company (with legal situs in the British Virgin Islands) and its bank accounts.” Letter from J.H. Gelbard to LGT regarding formation of Luperla Foundation, (3/12/97), Bates No. PSI-USMSTR-8860-61. See also LGT memorandum about Luperla (3/16/97), Bates Nos. PSI-USMSTR-8902-3. (“The monies are to be transferred from Crofton via a specially taken-over BVI company (name: Sewell [name inserted by handwriting]).”).

²⁰⁶ LGT Memorandum about Luperla (5/2/97), Bates Nos. PSI-USMSTR-8864-65. LGT had originally instructed that Sewell be dissolved after the Lowy funds were transferred into the Luperla account. *Id.* The order for dissolution was apparently not given, however, as indicated by an October 1997 LGT memorandum stating that another \$30,000 was going to be transferred

On March 12, 1997, Mr. Gelbard, the Lowy family attorney, sent a letter to LGT Treuhand, officially requesting establishment of the Luperla Foundation and detailing its structure.²⁰⁷ The “Regulations” governing the operation of Luperla Foundation were signed by Mr. Gelbard on April 30, 1997.²⁰⁸ On May 14, 1997, an LGT memorandum reported the transfer of assets to Luperla had been completed.²⁰⁹ At its inception, the foundation held assets of \$54.7 million in U.S. dollars and 3.6 million in Swiss francs.²¹⁰

Naming Beneficiaries Through a U.S. Corporation. LGT internal memoranda are clear that Luperla’s “financial beneficiaries” are the father and the three sons David, Peter, and Stefan.²¹¹ In keeping with the Lowys’ desire for secrecy, however, the Luperla Foundation did not simply name them as beneficiaries in its documentation. Instead, LGT and the Lowys devised a mechanism that the Subcommittee has not seen before, directing a U.S. corporation to name the beneficiaries of the Liechtenstein foundation.

The key U.S. corporation is identified in the Luperla “Regulations.” The first paragraph states, in essence, that the latest subsidiary of Beverly Park Corp., a Delaware corporation owned by another Lowy trust, would name the beneficiaries of the Luperla Foundation:

“The persons, companies or other entities from time to time notified in writing to the [Luperla] Board of Foundation by the company (Company) in which Beverly Park Corporation, a company formed in Delaware, United States of America, on 3 January 1997, (Corporation) for the time being holds any share and

into the Luperla account at LGT, from the Crofton company, via the Sewell account at LGT bank. Moreover, the memorandum notes that a U.S. dollar account had been opened in the name of Sewell for this purpose, and “This has apparently already been done on many occasions.” LGT memorandum, subject “Luperla Stiftung/Sewell Services Ltd. B.V.I.,” (10/23/97), Bates No. PSI-USMSTR-8896.

²⁰⁷ Letter from J.H. Gelbard to LGT regarding formation of Luperla Foundation (3/12/97), Bates Nos. PSI-USMSTR-8860-61.

²⁰⁸ Regulations Luperla Foundation, Vaduz (4/30/97), Bates Nos. PSI-USMSTR-8838-40 (hereinafter “Luperla Regulations”).

²⁰⁹ LGT memorandum about Luperla Foundation (5/14/97), Bates No. PSI-USMSTR-8883.

²¹⁰ *Id.*

²¹¹ LGT memorandum, subject “Westfield/Lowy Family,” (1/23/97), Bates Nos. PSI-USMSTR-8771-72. See also LGT memorandum about Luperla by Werner Orvati, (6/26/01), Bates No. PSI-USMSTR-8897 (“It is explicitly apparent from the memorandums for the file that, in accordance with the intention of the founder, FL and his three sons DL, PL and SL are to be financial beneficiaries.”); LGT memorandum about Luperla (7/16/01), Bates Nos. PSI-USMSTR-8867-70 (“The records document the intent of the benefactor to the effect that the economic benefactor and his three sons shall be financial beneficiaries.”).

if there is more than one such company, then the company in which the Corporation last became a shareholder before the notification (a certificate to that effect from any office bearer for the time being of the Corporation may be relied upon by the Board of Foundation) shall be within the class of distributees of the Foundation assets and the income therefrom, provided that the Company for the time being or its legal successor may revoke any such notification at any time by a further notice in writing to the Board of Foundation, and provided further that no Company shall directly or indirectly become a distributee or benefit therefrom.”²¹²

Beverly Park Corporation was, in fact, incorporated in Delaware on January 3, 1997, by a registered Delaware agent, Corporation Trust Company. Beverly Park is wholly owned by Cordera Holdings Pty Ltd., which is owned by Franley Holdings Pty Ltd., which is owned by LGF Holdings Pty Ltd., which is, in turn, owned by the Frank Lowy Family Trust.²¹³ Beverly Park’s listed address is 11601 Wilshire Blvd., 11th floor, Los Angeles, CA, which is also the address of the Westfield Group United States. Since Beverly Park’s incorporation, Peter Lowy has served as its President and as a Director.²¹⁴

By delegating the authority to name beneficiaries to the last subsidiary of Beverly Park, the Luperla Foundation ceded authority to an entity under the ultimate control of the Frank Lowy Family Trust. In addition, this structure served to keep the ownership of the Luperla assets out of Luperla records and deepened the secrecy surrounding the identity of its beneficiaries.

LGT Trust’s own internal memoranda indicate that LGT viewed the arrangement as a way to ensure that Mr. Lowy and his sons would be

²¹² Luperla Regulations.

²¹³ See Organization Chart, provided by Beverly Park in response to an IRS request, Bates No. LOWY-PSI-36; Correspondence from P.S. Seddon, Secretary, Cordera Holdings Pty Limited to Mr. Peter Lowy (3/21/97), Bates No. LOWY-PSI-3714.

²¹⁴ In 1999, the other Beverly Park officers and directors were: Richard E. Green, Vice President and Director; Mark Stefanek, Treasurer and Secretary; Leon Janks, Assistant Secretary; and Arthur E. Schramm, Director. See “List of Officers/Directors” for Beverly Park Corp. (8/26/99), Bates No. LOWY-PSI-3743. Beverly Park also appears to serve as a holding company for two properties purchased from other Westfield and Lowy affiliated entities. These properties, purchased on March 25, 1997, include a two-unit Park Avenue, Manhattan condominium for \$4.9 million purchased from Westland Park Avenue Corporation (another Delaware corporation using the Westfield Group United States’ office address); and a 7,000 square foot Beverly Hills home for \$5.75 million purchased from Clareville, Ltd., a Bermuda corporation. See “Contract for the Purchase and Sale of Real Estate,” (3/24/97), Bates Nos. LOWY-PSI-3868-71 (Manhattan condominium); “Change of Ownership Statement,” (5/13/97), Bates Nos. LOWY-PSI-3764-65 (Beverly Hills house). These properties were apparently used to house Westfield officers and directors as well as Lowy family members for business and leisure; Beverly Park charged Westfield substantial fees for some of these guest stays. See, e.g., “Beverly Park Corporation: Guest Log-Beverly Hills,” and “Beverly Park Corporation: Guest Log-New York Condo,” (monthly, July 1999 to May 2000), Bates No. LOWY-PSI-3914-31.

the financial beneficiaries of Luperla Foundation, without having to include their names in the Foundation documents. For example, a June 2001 LGT memorandum first discusses the role of Beverly Park: “I assume that instructions regarding the nomination of beneficiaries will be made by the ‘Company’ listed in the by-laws ... the company from which Beverley [sic] Park Corp. last acquired shares.”²¹⁵ It goes on to state: “It is explicitly apparent from the memorandums for the file that, in accordance with the intention of the founder, the father [Frank Lowy] and his three sons DL [David Lowy], PL [Peter Lowy] and SL [Steven Lowy] are to be financial beneficiaries.”²¹⁶ A July 2001 LGT memorandum discusses when the Luperla Board is authorized to make disbursements of assets to Foundation beneficiaries. It states that the Luperla board “must categorically be notified of the identities of possible beneficiaries (‘members of the class of distributees’[English]) through a corporation ... of which the Beverly Park Corporation ... has shares. ... If the ‘Corporation’ holds several ‘Companies,’ then the capacity to designate falls to that company of which the ‘Corporation’ most recently took up shares before the notification.”²¹⁷ The memorandum goes on to say: “The records document the intent of the benefactor to the effect that the economic benefactor and his three sons shall be financial beneficiaries.”

Dissolving Luperla. On June 25, 2001, Luperla’s board apparently approved a resolution for the “complete and final disbursement” of the Foundation’s assets and to place the Foundation itself “in liquidation (since it can no longer fulfill the purpose of the foundation after this).”²¹⁸ Documents available to the Subcommittee do not explain what triggered this resolution.

To disburse its assets, LGT required a list of Luperla’s beneficiaries from the last subsidiary of Beverly Park. To obtain this information, an LGT memorandum states: “The telephone conversation in this regard will be taken up with the economic benefactor and one of his sons and/or Joshua H. Gelbard.”²¹⁹ The memorandum indicates that a telephone conversation was held with David Lowy that same day, and that LGT learned the key Beverly Park subsidiary was Lonas Ltd., incorporated in the British Virgin Islands on July 24, 2001.²²⁰ By December 20, 2001, LGT had obtained numerous documents related to

²¹⁵ LGT Memorandum about Luperla (6/26/01), Bates No. PSI-USMSTR-8897.

²¹⁶ *Id.*

²¹⁷ LGT memorandum about Luperla (7/16/01), Bates Nos. PSI-USMSTR-8867-70.

²¹⁸ *Id.* at 8870.

²¹⁹ LGT memorandum about Luperla (12/17/01), Bates Nos. PSI-USMSTR-8879-80.

²²⁰ *Id.*

Beverly Park and Lonas.²²¹ Included were documents showing that Beverly Park held “a share” in Lonas, that Mr. Gelbard had been appointed the “first sole director” of Lonas, and that Luperla had received a “Mandate from Lonas Ltd. (notification letter) dated 12.13.2001, signed by Joshua H. Gelbard, sole director, regarding the disbursement of all assets of the foundation.”²²²

An LGT memorandum shows that, even after receiving the notification letter from Lonas, signed by Mr. Gelb, regarding disbursement of the Luperla assets, the bank decided to check the information in that letter by telephoning David Lowy and recording the conversation. The memorandum states:

“In closing, Dr. Konrad Bächinger brings up the order from Joshua Gelbard for the payment/disbursement of the foundation assets to two separate bank connections in Geneva in the ratio of 60:40. Besides verbal attestation to the accuracy of the order, David Lowy gives his consent that the Lowy family itself not be directly benefited in the framework of the commissioned transactions.”²²³

LGT obtained David Lowy’s authorization for the final Luperla disbursement a second time in a telephone call on December 20, 2001, demonstrating anew that LGT considered the Lowys to be the key decisionmakers behind Lonas, Beverly Park, and Luperla.²²⁴ LGT memos and LGT bank records show that, on December 20, 2001, over \$68 million in assets were moved in two tranches from the Luperla account at LGT bank to accounts at Bank Jacob Safra in Geneva.

Answering IRS Inquiries. In 2007, the Lowys were contacted by the IRS with inquiries about Beverly Park. In submissions to the IRS, the Lowys and Beverly Park officers stated that there was no connection between Beverly Park and any foreign accounts and entities, including Luperla. Beverly Park claimed it “has no records demonstrating ownership of stock in any other entity, including Lonas Limited BVI.”²²⁵ Mr. Leon Janks, Secretary and Director to Beverly Park, represented to the IRS that Beverly Park, its subsidiaries, officers, employees, and

²²¹ See *Id.*; LGT memorandum about Luperla (12/18/01), Bates Nos. PSI-USMSTR-8873-8874; LGT memorandum about Luperla (12/20/01), Bates Nos. PSI-USMSTR-8875-8877. With respect to some documents, LGT was not satisfied with copies and requested originals. David Lowy, in a telephone conversation on December 17, 2001, assured LGT he would provide the original documents. These documents were then “personally delivered to Dr. Konrad Bächinger [of LGT] at his private address” the next day. *Id.*

²²² LGT memorandum about Luperla (12/17/01), Bates Nos. PSI-USMSTR-8879-80.

²²³ *Id.* at 8880.

²²⁴ LGT memorandum about Luperla (12/20/01), Bates Nos. PSI-USMSTR-8875-77 at 8877.

²²⁵ “Beverly Park Response to IDR 1,” (2/21/08), Bates No. LOWY-PSI-1980-90, at 1985. See also *Id.* at 1989.

agents have no “legal or beneficial interest in ... or any direct or indirect signature, management, investment, or other authority over any foreign entities, trusts, corporations, partnerships, or foundations.”²²⁶ Peter Lowy, President and Director of Beverly Park, told the IRS he “do[es] not have sufficient personal knowledge” regarding Beverly Park’s relationship with any foreign accounts or entities, but has “no reason to doubt the accuracy” of Mr. Janks’ statements.²²⁷ It is the Subcommittee’s understanding that the IRS inquiry is ongoing.

(4) Greenfield Accounts: Pitching a Transfer to Liechtenstein

Harvey and Steven Greenfield, father and son, are longtime participants in the U.S. toy industry.²²⁸ Both are U.S. citizens from New York. In 1992, LGT helped Harvey Greenfield establish a Liechtenstein foundation, called Maverick Foundation, of which he is the sole primary beneficiary and for which his son holds power of attorney. Two days later, two corporations were formed in the British Virgin Islands (BVI) called Chiu Fu (Far East) Ltd. and TSF Company Ltd., both of which are wholly owned by the Maverick Foundation. The two BVI corporations apparently served as conduits to transfer funds to Maverick which, as of the end of 2001, had assets at LGT valued at about \$2.2 million.²²⁹

Harvey Greenfield is Chairman and Chief Executive Officer of Commonwealth Toy and Novelty Company, Inc., which is a leading manufacturer of stuffed dolls and animals, is headquartered in New York, and has offices in seven countries. Steven Greenfield served as President of that company for 15 years, and has also worked with a number of startup companies primarily in the toy industry. LGT records show that Maverick was formed on January 22, 1992, and its two subsidiaries incorporated on January 24, 1992.²³⁰ Maverick apparently maintained the stock certificates for both companies at LGT.²³¹ An internal LGT document profiling Maverick states that the origins of the funds in the Maverick account at LGT were “[e]arnings from

²²⁶ Response to IDR 23-1 (1/28/08), Bates No. LOWY-PSI-1976. See also IDR 23-1 (12/11/07), Bates Nos. PSI-LOWY 6000-3.

²²⁷ Response to IDR 22-1 (1/28/08), Bates No. LOWY-PSI-1975. See also IDR 22-1 (12/11/07), Bates Nos. PSI-LOWY 6004-7.

²²⁸ The information about the Greenfield accounts is derived from internal LGT documents produced to the Subcommittee. The Greenfields did not provide any documents or oral testimony to the Subcommittee, instead asserting their Constitutional rights under the Fifth Amendment.

²²⁹ LGT Bank in Liechtenstein bank statement for Maverick Foundation (1/1/02) (showing a balance of \$2,198,167.72); LGT Treuhand Memorandum regarding Maverick Foundation (3/27/01).

²³⁰ LGT report on Maverick Foundation (subsequent to 3/23/01 client meeting); LGT report on Chiu Fu (Far East) Ltd. (undated), Bates No. PSI-USMSTR-3205; LGT report on TSF Company Ltd. (undated), Bates No. PSI-USMSTR-3193.

²³¹ LGT report on Maverick Foundation (subsequent to 3/23/01 client meeting).

commercial activity in the toy business. The client's sources toys from across Asia (but primarily China and Hong Kong) for distribution overseas."²³² Another internal LGT document regarding Maverick states that "Steven Greenfield is the holder of the power of attorney to give instructions."²³³

The documentation obtained by the Subcommittee regarding the Greenfields' Liechtenstein accounts and entities is limited. The documents do not provide much information about activities related to Maverick, Chiu Fu, or TSF Company for the first ten years of their existence, other than cryptic notes about a 1993 "[a]greement re. acquisition of special assets"; a 1996 "mandate" to LGT's banking operations in Hong Kong regarding "administration of the [Bank in Liechtenstein] account"; and "[c]ontracts of engagement with Chiu Fu and TSF."²³⁴ There are also a few bank statements showing that Chiu Fu had an account at HSBC in Hong Kong, and TSF had an account at Standard Chartered Bank in Hong Kong.²³⁵

In 2001, however, a detailed internal LGT memorandum opens a window on the Greenfield accounts with a vivid description of a meeting that took place in Liechtenstein, at the bank, on March 23, 2001. The meeting was attended by Harvey and Steven Greenfield, three LGT private bankers, and Prince Philipp von und zu Liechtenstein, Chairman of the Board of the LGT Group and brother to the reigning sovereign. According to LGT records, the meeting lasted over five hours, from 10:00 a.m. until 3:30 p.m., with the Prince in "partial attendance."

The meeting centered on an apparent sales pitch by LGT to convince the Greenfields to transfer an offshore trust with assets valued at "around U.S. \$30 million" from a Bank of Bermuda branch in Hong Kong to LGT in Liechtenstein.²³⁶ The memorandum explains:

"The Bank of Bermuda has indicated to the client that it would like to end the business relationship with him as a U.S. citizen. Due to these circumstances, the client is now on the search for a safe haven for his offshore assets. Next to the bankable assets, this Trust [at Bank of Bermuda] also still holds operating companies. It is, however, planned, to close these companies in the near future.

²³² LGT Background Information/Profile-Existing Customers for Maverick Foundation (10/12/01).

²³³ LGT report on Maverick Foundation (subsequent to 3/23/01 client meeting).

²³⁴ *Id.*

²³⁵ See 1992 and 2001 bank statements, Bates Nos. PSI-USMSTR-3190-91, 3201-03.

²³⁶ LGT Memorandum regarding Maverick Foundation (3/27/01), at 1.

“There follows a long discussion about the banking location Liechtenstein, the banking privacy law as well as the security and stability, that Liechtenstein, as a banking location and sovereign nation, can guarantee its clients. The Bank ... indicate[s] strong interest in receiving the U.S. \$30 million. Investment issues do not seem to be clarified completely. It is explained to the client that as a U.S. citizen he cannot invest in U.S. securities directly, but the possibility of investing in funds is not ruled out.”²³⁷

The memorandum does not explain why the Bank of Bermuda wishes to end the relationship with the Greenfields, nor does LGT appear to ask. Instead, LGT presses the Greenfields to direct their offshore business to LGT.

The memorandum states that an LGT private banker offered to meet in Hong Kong at the end of April 2002, to determine if the transfer from Bank of Bermuda will take place. Two alternatives are suggested to arrange the transfer: (1) “[d]isbursement of the assets from the [Bank of Bermuda] Trust and subsequent dedication to the Maverick Foundation (under interposition of the BVI companies)”; or (2) “[t]akeover of the Trust through LGT Trust Management Ltd. as new trustee.” The memorandum also states: “The clients are very careful and eager to dissolve the Trust with the Bank of Bermuda leaving behind as few traces as possible.”²³⁸ LGT not only does not express any concern about the Greenfields’ desire for secrecy, it offers concrete suggestions to disguise the transfer of assets and minimize the change, such as by recommending use of the BVI companies as conduits for the transferred funds from Bank of Bermuda or simply taking control of the existing Trust.

In addition to making the sales pitch, the meeting took care of some administrative matters regarding the Greenfields’ existing LGT account. The memorandum notes, for example, that the Greenfields “sign[ed] off on the asset status of December 31, 1999 and December 31, 2000” for Maverick, which suggests that the Greenfields had not traveled to Liechtenstein in two years to review the account documentation. The LGT private bankers apparently also asked for signatures on “file copies” related to the Maverick account, but “[h]e refuses ... with the reasoning that they are already taken care of anyway through his signing off on the asset statuses. I point out that due to the engagement contract, we merely carry out his instructions, and that he needs to document this for us with his signatures on the file copies. Nevertheless, the client does not sign the file copies.”²³⁹ These

²³⁷ *Id.*

²³⁸ *Id.*

²³⁹ *Id.* at 2.

statements suggest that the Greenfields were responsible for directing the Maverick account investments, using LGT simply to carry out their directions.

The memorandum also discusses the two BVI corporations owned by Maverick. It states that they “were established in January 1992 with the purpose of channeling the assets into the Maverick Foundation,” that they had not been closed as planned, and that they “are to continue to exist until further notice. Possibly, they could be used again to channel assets into the Maverick Foundation.”²⁴⁰ These statements show that LGT was comfortable with “channeling assets” through shell corporations to disguise the identity of the ultimate recipient.

Although the memorandum never mentions the Qualified Intermediary Program, many financial institutions had signed QI agreements for the first time in 2001, including LGT. Those agreements may have been responsible for the memorandum’s comment that a number of financial institutions had told the Greenfields “that U.S. citizens are not those clients that one wishes for in offshore business.”²⁴¹ LGT, however, appears to have been more than willing to retain and expand the business it had with the Greenfields.

The Subcommittee was unable to ascertain from LGT or the Greenfields whether the \$30 million transfer took place or whether their LGT accounts were still open. The Subcommittee was told by the Greenfields’ legal counsel, however, that the Greenfields are currently in negotiation with the IRS and Department of Justice over tax liability issues related to Liechtenstein.

(5) Gonzalez Accounts: Inflating Prices and Frustrating Creditors

Jorge and Conchita Gonzalez, and their son Ricardo, operated a car dealership in the United States for many years.²⁴² Beginning in 1986, LGT helped them acquire two Liechtenstein foundations and two Liechtenstein corporations to assist their car dealership which was located in Puerto Rico and specialized in selling Volvos, among other cars. The foundations were the Tragunda Foundation and Fondation Tragique; the companies were Auto und Motoren AG and Asmeral Investment Anstalt. LGT also helped them form a third Liechtenstein company, Tierzucht Investierungs Anstalt, which served as a holding

²⁴⁰ *Id.* at 1, 2.

²⁴¹ *Id.* at 1.

²⁴² Information about the Gonzalez accounts is derived from internal LGT documents produced to the Subcommittee and numerous court pleadings, orders, and opinions. Jorge Gonzalez died in 1988.

company for a Spanish corporation, Ganadera, which owned a ranch in Spain. The foundations and companies each opened LGT accounts whose assets fluctuated over time. The latest LGT bank statement obtained by the Subcommittee indicates that, at the end of 2001, the accounts held assets with a combined value of about 7.4 million Swiss francs or about \$4.5 million.²⁴³

This analysis concentrates on the Liechtenstein foundations and companies connected to the car dealership in the United States. The car dealership was associated with two corporations: Trebol Motors Corporation which actually sold the cars in Puerto Rico, and Trebol Motors Distributor Corporation which imported the cars from Volvo.²⁴⁴ Both corporations (Trebol) were owned by Jorge Gonzalez and, after his death, by Conchita and Ricardo Gonzalez.²⁴⁵ Ricardo Gonzalez served as the general manager of both companies beginning in 1988.²⁴⁶ Trebol was apparently the only Volvo dealership in Puerto Rico.²⁴⁷

Tragunda Foundation (Tragunda), established in 1986, owned 100 percent of the shares of the two Liechtenstein companies, Auto und Motoren AG (AUM) and Asmeral Investment Anstalt (Asmeral). All three assisted Trebol. Tragunda appears to have provided substantial financing, at one point making a \$6 million loan to AUM, which in turn loaned funds to Trebol.²⁴⁸ Asmeral apparently acted as an intermediary for loans to Trebol from an LGT-related investment company known as FIWA AG.²⁴⁹

AUM played an even more central role. AUM represented itself to Volvo as a “guarantor” of Trebol’s debts,²⁵⁰ apparently without ever

²⁴³ LGT Bank account summary for Fondation Tragique as of 12/31/2001, (1/1/2002), Bates No. PSI-USMSTR-8700.

²⁴⁴ See Bonilla v. Volvo Car Corp., 150 F.3d 62, 65 (1st Cir. 1998) (hereinafter “Bonilla v. Volvo”).

²⁴⁵ Id.

²⁴⁶ Sworn Statement of Ricardo Gonzalez (hereinafter “Gonzalez Sworn Statement”), appendix to Perez v. Volvo, 247 F.3d 303 (1st Cir. 2001) (hereinafter “Perez v. Volvo”).

²⁴⁷ Bonilla v. Trebol Motors Corp., 150 F.3d 77, 85 (1st Cir. 1998) (hereinafter “Bonilla v. Trebol”).

²⁴⁸ See untitled chart (undated), Bates No. PSI-USMSTR-8762 (“Loan to Auto und Motoren US\$6 Mio”).

²⁴⁹ See untitled chart (undated), Bates No. PSI-USMSTR-8762 (“Fid. Loan FIWA to Trebol”); LGT Background Information/Profile – Existing/Clients regarding FIWA AG, Vaduz (12/10/01), Bates No. PSI-USMSTR-954 (describing FIWA as a “LGT- group company” that holds shares).

²⁵⁰ See Bonilla v. Volvo at 72; Gonzalez Sworn Statement at ¶ 7 (“On or about July 1985, Trebol and Volvo arranged for a Liechtenstein company named Auto Und Motoren (‘AUM’) to serve as a ‘guarantor’ of Trebol’s payment obligations for new cars purchased by Trebol from Volvo for the 1986 model year and beyond.”).

revealing that the companies shared common ownership.²⁵¹ As a result, Volvo sent AUM copies of the invoices it sent to Trebol for the inventory of cars Trebol purchased for sale in Puerto Rico, in order to keep AUM “informed of its potential liability.”²⁵² AUM did not merely take receipt of the Volvo invoices; as described in later court proceedings, AUM sent additional invoices to Trebol for selected cars, specifying a higher cost for the cars than Volvo had actually charged. The First Circuit described this “double invoicing scheme” as follows:

“Plaintiffs showed that, between 1986 and 1989, AUM sent Trebol additional invoices for the same vehicles but with different purported prices. AUM’s invoices sometimes overstated the vehicles’ cost relative to the actual price in the authentic Volvo invoice by as much as \$3000; not all AUM invoices contained inflated prices and some of the inflated ones involved small amounts (e.g., \$50). In any case, Trebol used these inflated invoices to obtain higher inventory financing from Puerto Rican banks and Trebol also calculated its retail prices using the inflated cost as a starting point. Trebol also remitted the higher invoice amount to AUM, resulting in the accumulation of a pool of excess funds in Liechtenstein. ... Since Trebol was sent copies of the original Volvo-prepared invoices, a rational jury could conclude that Trebol knew of the actual prices and was defrauding Puerto Rican banks by means of the double invoicing scheme. If Trebol used the inflated invoice prices on its tax returns, tax authorities may also have been defrauded.”²⁵³

These facts came to light in a civil lawsuit filed against Trebol challenging its pricing practices. In 1992, a group of individuals and corporations filed a Federal class action lawsuit alleging that Volvo, Trebol, and Jorge, Conchita, and Ricardo Gonzelez had engaged in a conspiracy to violate the Racketeering Influenced and Corrupt Organizations (RICO) Act “by engaging in hundreds of predicate acts of mail and wire fraud” which were part of a complex “scheme to defraud

²⁵¹ The First Circuit notes that Volvo also loaned AUM \$2.7 million in 1993, “to cover Trebol’s debts,” and Volvo later “authorized a transaction in which AUM swapped Trebol’s debt to it for equity in Trebol.” *Bonilla v. Volvo* at 72. See also Gonzalez Sworn Statement at ¶¶ 10-11. Both transactions offer added evidence that Volvo was unaware that AUM and Trebol were commonly owned. See also *Perez v. Volvo* at 317 (“If the [1993] transaction proves anything, it tends to prove that Volvo did not know, even at that late date, that AUM was a dummy corporation. Elsewise, why would Volvo lend AUM so large a sum?”). See also Gonzalez Sworn Statement at ¶ 15 (discussing relationship between AUM and Trebol, but failing to mention their common ownership and asserting: “I know that my family and company derived no benefit from AUM commensurate with the extremely high guarantee cost per car.”).

²⁵² *Bonilla v. Volvo* at 72.

²⁵³ *Id.* See also discussion in *Bonilla v. Volvo*, 150 F.3d 88, 90 (1st Cir. 1998) (hereinafter “*Bonilla v. Volvo II*”) (“A number of these invoices, as we now know, included inflated figures significantly exceeding the original invoice prices.”); *Perez v. Volvo* at 308-09.

Puerto Rican purchasers by overcharging them” for certain Volvo cars.²⁵⁴ This litigation resulted in four years of pre-trial discovery, a three-week trial in 1996, multiple appeals decided in 1998, and additional damage proceedings finally resolved years later.

In June 1996, three days before the primary trial in the litigation was to start, Trebol and the Gonzalezes admitted that the facts alleged in the third amended Complaint filed in the case were true, and the district court entered a judgment against them on the issue of liability, reserving the question of damages for later.²⁵⁵ Volvo went to trial, lost, and was found liable by a jury for damages of about \$43 million, which the court then trebled under RICO to about \$130 million.²⁵⁶ Because Trebol and the Gonzalezes had admitted being engaged in a conspiracy with Volvo to violate the RICO Act, the district court ruled, in October 1996, that the \$130 million damage award applied to them as well.²⁵⁷ Volvo, Trebol, and the Gonzalezes appealed. In 1998, the First Circuit reversed the judgment against Volvo entirely, because it found that the facts did not sustain a finding of liability. The First Circuit allowed the judgment to stand against Trebol and the Gonzalezes, however, due to their factual admissions and remanded the case to the district court for a new hearing on damages.²⁵⁸

As a result of the litigation, Trebol declared bankruptcy in September 1996.²⁵⁹ Since the district court decision applying the \$130 million damage award to Trebol had been issued about a week later, in October 1996, the First Circuit ruled that the damage award could not be applied to Trebol due to the automatic stay that protects companies in bankruptcy, and vacated the judgment pending a lifting of the stay.²⁶⁰ The end result was that, by 1998, Volvo was relieved of all RICO liability, Trebol was protected from any judgment while in bankruptcy, and the Gonzalezes faced new proceedings on their liability for RICO damages, attorney fees, and costs.

In 1997, after the initial damage award of \$130 million and before the appeals court required the damage awards to be re-evaluated, the Gonzalezes acted on the advice of LGT to acquire a new Liechtenstein

²⁵⁴ Bonilla v. Volvo, at 65.

²⁵⁵ Id. at 65.

²⁵⁶ Id. at 62.

²⁵⁷ See Bonilla v. Trebol at 80.

²⁵⁸ Id. at 85. The First Circuit also vacated an award of \$3.5 million against Volvo, Trebol, and the Gonzalezes for attorney fees and costs related to improper conduct during the litigation, and remanded the issue to the district court for a new hearing on the amount of attorney fees and costs owed by the defendants. Bonilla v. Volvo II at 90, 95.

²⁵⁹ Id. at 80.

²⁶⁰ Id. at 87.

foundation called Fondation Tragique and transfer their Liechtenstein assets to that new entity. As an LGT internal document explained later: “For the purpose of protection from creditors, who are litigating the family in Puerto Rico, the assets already being held by the Tragunda Foundation were transferred to the Fondation Tragique.”²⁶¹ This statement indicates that LGT was aware of the ongoing litigation, and fully prepared to help the Gonzalezes hide their assets from the “creditors” engaged in litigation against them.

In 1999, the district court drastically reduced the \$130 million damage award against the Gonzalezes, finding them liable for only \$200,000.²⁶² The Gonzalezes apparently paid this judgment in 2000.²⁶³

A 2001 internal LGT memorandum, prepared after several members of the Gonzalez family met with an LGT private banker in Zurich, Switzerland, indicates that LGT had been kept informed of these developments.²⁶⁴ The memorandum also indicates that Tragique’s initial beneficiaries, from 1997 until 2001, had consisted of one or more of the Gonzalez children, presumably to ensure that the assets transferred to Tragique could not be attached in connection with a judgment against Conchita or Ricardo Gonzalez in the Puerto Rican litigation. After the threat of litigation had passed, however, the Tragique beneficiaries were changed. The LGT memorandum put it this way:

“Now that the problems in Puerto Rico are resolved and a tax investigation is no longer to be presumed, we discuss the situation concerning the bylaws of the Fondation Tragique. In these regards, Conchita, as protector, signs an order to change the bylaws so that she appears as primary beneficiary, and that after her death the children – who are the current primary beneficiaries – appear as secondary beneficiaries with equal proportions.”²⁶⁵

This memorandum suggests that LGT had no qualms about changing the beneficiaries of a foundation to prevent a creditor from attaching assets. It also shows that Ms. Gonzalez exercised significant control over

²⁶¹ LGT Background Information/Profile for Fondation Tragique, Vaduz (12/18/01), Bates No. PSI-USMSTR-8711.

²⁶² Subcommittee telephone conversation with Conlee Whiteley, Kanner & Whiteley, LLC, legal counsel to the plaintiffs in the RICO suit (7/9/08).

²⁶³ *Id.*

²⁶⁴ LGT Memorandum for the File (9/11/01), Bates No. PSI-USMSTR-8704-05. According to the LGT memorandum, the meeting took place in Zurich, Switzerland, and was attended by an LGT private banker, Ms. Gonzalez, her daughter, her son Ricardo, and his wife.

²⁶⁵ *Id.* The “tax investigation” referred to in the memorandum may refer to an inquiry that was apparently initiated by Puerto Rican tax authorities but did not result in any tax assessment.

Tragique, serving as the Foundation Protector, with authority to name the Foundation's beneficiaries.²⁶⁶

The memorandum also recounts other actions taken by Ms. Gonzalez, demonstrating her control over the range of Liechtenstein assets and entities associated with her family. The memorandum notes, for example, that, "Conchita signs the order to dissolve the Tragunda Foundation and to transfer the proceeds from liquidation ... to the Foundation Tragique"; she signed the "mandate" transferring "monies, including \$550,000," from AUM to Tragique; and she approved transferring Tierzucht Investierungs, the Liechtenstein company once owned by Tragunda, to the new foundation.²⁶⁷ The memorandum states: "Conchita signs the Status of Assets of the Foundation Tragique 2000." It also recounts that the LGT private banker discussed "the investment of Tragique's assets," and that Ms. Gonzalez approved investing "\$1 million in cash" in fixed term deposits and "the rest in LGT Strategy Class Funds 5 years!"²⁶⁸ In addition, the memorandum notes that the LGT private banker had carried \$10,000 in cash to give to Ms. Gonzalez while in Zurich: "I deliver the amount of US\$10,000.—to Conchita; the cash withdrawal receipt, to be debited to the Foundation Tragique, is initialed."²⁶⁹ These actions show Ms. Gonzalez in control of the administration and assets of Tragique, Tragunda, and AUM.

By 2002, the three Liechtenstein companies controlled by Tragunda were gone. Asmeral had been dissolved;²⁷⁰ AUM had been placed in liquidation;²⁷¹ and Tierzucht Investierungs had been transferred to Fondation Tragique. LGT records show that Tragunda had also been dissolved, and only about \$2,000 remained in its LGT

²⁶⁶ *Id.* See also untitled chart depicting Fondation Tragique (undated), Bates No. PSI-USMSTR-8763. This chart shows that Tragique is administered by a "Foundation Board" and "Protector." It states that "All resolutions of the Foundation Board require the consent of the Protector." It also states, "The Protector can appoint and remove the beneficiaries" and "has all acces[s] on the assets of the Foundation." The chart also refers to the Foundation's By Laws, where the Foundation's beneficiaries are named, as a "Last Will" which can be used by the Foundation Protector to name the Foundation beneficiaries. The Foundation Protector for Tragique was Ms. Gonzalez.

²⁶⁷ *Id.*

²⁶⁸ *Id.*

²⁶⁹ *Id.*

²⁷⁰ LGT report on Asmeral Investment Anstalt (undated), Bates No. PSI-USMSTR-966 ("Status: Dissolved").

²⁷¹ LGT Background Information/Profile-Existing Customer for Auto and Motoren AG (3/10/01), Bates No. PSI-USMSTR-8729 ("Auto und Motoren AG in Liquidation. ... The corporation does not conduct commercial activity anymore. It will be dissolved in the foreseeable future.").

account.²⁷² Tragique, in contrast, held assets valued at about 7.4 million Swiss francs or about \$4.5 million.²⁷³

The documents obtained by the Subcommittee do not indicate what happened after 2002.

(6) Chong Accounts: Moving Funds Through Hidden Accounts

Richard M. Chong (Mr. Chong) was born in the United States, lives in California, is a U.S. citizen, and specializes in venture capitalist projects involving China.²⁷⁴ His father, Antonio T. Chong, founded the Yue Shing Tong Foundation at LGT in 1988, endowing it with funds allegedly from a chemical business he had developed in Taiwan and China.²⁷⁵ Antonio Chong died in 1998, and his foundation passed onto his wife Fanny L. Chong, a U.S. citizen and California resident who was the sole beneficiary.²⁷⁶ Ms. Chong added her three children as beneficiaries and reorganized the foundation by creating four funds, one for herself called “Fund Mother”; one for Richard called “Fund Son R”; one called “Fund Daughter T” and one called “Fund Son C.”²⁷⁷ In 2002, the four funds in the Yue Shing Tong Foundation had assets with a combined value of about \$9.4 million.²⁷⁸

In 1999, Ms. Chong gave her son, Richard Chong, power of attorney to “exercise [her] beneficial rights of the [Yue Shing Tong]

²⁷² LGT Bank account summary for Tragunda Foundation for the period 1/1/2002-9/30/2002, (10/2/2002), Bates No. PSI-USMSTR-8719.

²⁷³ LGT Bank account summary for Fondation Tragique as of 12/31/2001, (1/1/2002), Bates No. PSI-USMSTR-8700.

²⁷⁴ The information about the Chong account is derived from internal LGT documents produced to the Subcommittee and documents provided by Mr. Chong in response to a Subcommittee subpoena. Mr. Chong did not provide an interview or deposition to the Subcommittee, instead asserting his Constitutional rights under the Fifth Amendment.

²⁷⁵ LGT report on Yue Shing Tong Foundation (undated), Bates No. PSI-USMSTR-2206; LGT Background Information/Profile for Yue Shing Tong Foundation (2/6/02), Bates Nos. PSI-USMSTR-2189-90 (“The original founder (father) built up a large and successful chemical business in Taiwan and China. The assets originally deposited were profits generated out of this business activity.”).

²⁷⁶ See LGT Background Information/Profile for Yue Shing Tong Foundation, (10/9/01), Bates No. PSI-USMSTR 2207; By-Laws Yue Shing Tong Foundation, Vaduz (2/15/02), Bates Nos. PSI-USMSTR-2191-98, at 92.

²⁷⁷ See By-Laws Yue Shing Tong Foundation, Vaduz (2/15/02), Bates Nos. PSI-USMSTR-2191-98; Designation of Beneficiaries for Yue Sing Tong Foundation (6/27/01), Bates Nos. PSI-USMSTR-2186-88.

²⁷⁸ See LGT bank summary (6/29/02), Bates No. PSI-USMSTR-2203 (showing Mother account with \$5.2 million); (6/29/02), Bates No. PSI-USMSTR-2204 (showing Son R account with \$1.8 million); (1/1/02), Bates No. PSI-USMSTR-2202 (showing Daughter T account with \$892,000); (1/1/02), Bates No. PSI-USMSTR-2205 (showing Son C account with \$1.7 million).

Foundation on my behalf.”²⁷⁹ The documents obtained by the Subcommittee show that, for the next six years, the foundation accounts saw activity every few months, often involving large sums. Financial documents produced to the Subcommittee include lists of incoming and outgoing transfers from the Yue Shing Tong Foundation’s four funds from 1992 to mid-2007.²⁸⁰ These documents show such transactions as a \$1.5 million incoming transfer from “one of our clients”; a \$1.3 million incoming transfer from “UBS”; incoming transfers over six years from one source exceeding \$7 million; \$450,000 in incoming transfers from “Acme Components,” a company for which Mr. Chong once served as the managing director;²⁸¹ and outgoing transfers over six years to another source exceeding \$1.3 million. The LGT records also show occasional cash withdrawals in Hong Kong that over the six-year period totaled \$200,000. These and other documents obtained by the Subcommittee indicate that, unlike many of the reviewed accounts at LGT which saw only occasional activity, the Yue Shing Tong Foundation funds appear to have been used for a variety of business and personal transactions.

Another key development took place in 2004. That year, LGT helped the Foundation set up what LGT has sometimes referred to as a “transfer corporation” to help disguise asset flows into and out of a foundation’s accounts.²⁸² A transfer corporation acts as a pass-through entity that breaks the direct link between the foundation and other persons with whom it is exchanging funds or assets, making it harder to trace the origin and ultimate recipient of those funds and assets.

In this case, LGT’s office in Hong Kong helped Mr. Chong establish Apex Assets Ltd., using a Hong Kong corporate service provider called KCS Ltd.²⁸³ The documentation reviewed by the Subcommittee is unclear as to whether LGT or Mr. Chong’s foundation owned Apex. In any event, LGT opened a new account for Apex at the

²⁷⁹ See handwritten document by Ms. Chong giving Power of Attorney to her son, Richard Chong (4/24/1998), Bates No. PSI-USMSTR-2199.

²⁸⁰ See documents entitled, “Yue Shing Tong Foundation (‘mother’),” “Yue Shing Tong Foundation (‘SUN R’ a/c),” “Yue Shing Tong Foundation (Daughter Account),” “Yue Shing Tong C Foundation,” (all undated), Bates Nos. CH-PSI 47-52. Other documents reviewed by the Subcommittee indicate that these lists were not comprehensive, however, and did not include all of the wire transfers into or out of the Foundation’s funds.

²⁸¹ See, e.g., biography of Mr. Chong on website of Sycamore Ventures, www.sycamorevc.com (viewed 7/14/08).

²⁸² For more information about LGT’s use of transfer corporations, see section 8 below, and discussion of the Sewell transfer corporation used in connection with the Lowy accounts and Luperla Foundation.

²⁸³ See KCS Ltd. invoice to Apex, c/o LGT Bank in Liechtenstein AG, Representative Office Hong Kong (4/27/07), Bates No. CH-PSI 25. Other documents reviewed by the Subcommittee, including wire transfers at other financial institutions referring to Apex, indicate that it had a post office box address in Samoa.

bank. Financial documents show that, after Apex was established, virtually all funds deposited into or withdrawn from the Yue Shing Tong accounts were routed through Apex.²⁸⁴ A series of four letters sent by Mr. Chong to LGT from 2002 to 2006, for example, directed LGT to route a total of about \$200,000 in Foundation funds, through Apex, to Dynamic Travel Service, allegedly to pay for “travel expenses to be incurred by Apex.”²⁸⁵ LGT also recommended Apex’s use in other aspects of Mr. Chong’s business. On one occasion, for example, when goods had been delivered to the wrong address in one of Mr. Chong’s business ventures and had to be returned, his LGT contact sent Mr. Chong an email: “Can you ask your sender to ship them to Apex instead? This would also be better from a safety point of view.”²⁸⁶

Because of the sums funneled through the foundation accounts, Mr. Chong routinely communicated with LGT personnel in Hong Kong, exchanging correspondence and emails most often with an LGT representative named Silvan Colani.²⁸⁷ The Chong account was the only LGT account reviewed by the Subcommittee that made common use of emails. The communications dealt with a variety of issues that appear related to Mr. Chong’s business ventures including securities transactions;²⁸⁸ payments to Dynamic Travel; and transfers of funds to Sycamore Venture Capital L.P., a Silicon Valley venture capital business where Mr. Chong was a partner.²⁸⁹ Other communications forwarded documents received from KCS related to Apex, including invoices²⁹⁰ and even a Schedule K-1 Form from a corporate U.S. tax return listing Apex as a partner in a U.S. partnership.²⁹¹ On one occasion, LGT sent an email to Mr. Chong stating: “We have received your delivery of 63,303 units to Apex.”²⁹² A letter from Mr. Chong the

²⁸⁴ See documents entitled, “Yue Shing Tong Foundation (‘mother’),” “Yue Shing Tong Foundation (‘SUN R’ a/c),” “Yue Shing Tong Foundation (Daughter Account),” “Yue Shing Tong C Foundation,” (all undated), Bates Nos. CH-PSI 47-52.

²⁸⁵ Compare letters from Mr. Chong to LGT contact Silvan Colani (9/12/06 regarding \$30,000), (3/7/06 regarding \$60,000), (6/1/04 regarding \$50,000), and (5/18/04 regarding \$70,000), Bates Nos. CH-PSI 59, 60, 94, 107, with letter from Mr. Chong to LGT contact Silvan Colani (5/30/02 regarding \$85,000 sent directly from Fund Mother to Dynamic Travel, prior to the formation of Apex), Bates No. CH-PSI 108.

²⁸⁶ Email from LGT contact Silvan Colani to Mr. Chong (2/14/07), Bates No. CH-PSI 3. LGT has employed similar tactics on other occasions to help clients disguise the flow of assets into their LGT accounts, as examined below in Section 8.

²⁸⁷ See, e.g., letter from Mr. Chong to Silvan Colani, Representative of LGT in Hong Kong (3/7/06), Bates No. CH-PSI 59.

²⁸⁸ See, e.g., email from Mr. Chong to LGT contact Silvan Colani (3/20/07), Bates No. CH-PSI 8.

²⁸⁹ Letter from Mr. Chong to LGT (undated), Bates No. CH-PSI 65.

²⁹⁰ See, e.g., email from LGT contact Silvan Colani to Mr. Chong (12/26/06), Bates No. CH-PSI 1.

²⁹¹ See email from LGT contact Silvan Colani to Mr. Chong (4/18/07), Bates No. CH-PSI 16.

²⁹² Email from LGT contact Silvan Colani to Mr. Chong (2/28/07), Bates No. CH-PSI 5.

next day instructed LGT “to wire US\$63,303 ... from the account number [redacted] to account number [redacted],” indicating that the “units” that had arrived the day before referred to dollars in an incoming wire transfer.²⁹³

Throughout the documentation, LGT personnel never appeared to question the large sums moving through the foundation accounts and willingly worked to keep the transactions secret through use of Apex, allowing transfers without identifying information for the originating or recipient parties, and even using code phrases to describe funding transfers.

On February 20, 2008, LGT’s representative, Mr. Colani, sent Mr. Chong an email stating: “There is some important news that you should be aware of. Please have a look at www.lgt.com.”²⁹⁴ A historical review of the LGT website shows that was the day LGT issued a news announcement about the fact that a former LGT employee had released information on LGT accounts. Mr. Chong wrote: “Is this disclosure possibly affecting me?”²⁹⁵ Mr. Colani responded: “Yes. I’m afraid we have to assume the possibility.” Later he wrote to Mr. Chong: “Suggest you urgently seek local advice. Worst case, we must assume that all files up to 2002 are out. I’m very sorry.”²⁹⁶ LGT later gave Mr. Chong the name of several lawyers in California.²⁹⁷

The Subcommittee understands that Mr. Chong is now responding to IRS inquiries related to Liechtenstein.

(7) Miskin Accounts: Hiding Assets from Courts and a Spouse

Michael Miskin is a citizen of the United Kingdom, has claimed residency in Bermuda, but also lived in California for a decade, from 1991 to 2002.²⁹⁸ In 2003, after his wife of nearly 40 years, Stephanie Miskin, filed for divorce, he ignored court orders to transfer California real estate and £3 million in alimony to his ex-wife, hid assets in offshore jurisdictions around the world, and effectively disappeared. In the early 1990s, LGT helped Mr. Miskin open an account in Liechtenstein and transfer millions of Swiss francs to LGT, apparently

²⁹³ Letter from Mr. Chong to LGT contact Silvan Colani (3/1/07), Bates No. CH-PSI 66. A handwritten note on this letter indicates that the \$63,303 may have been “Acme dividends.”

²⁹⁴ Email from LGT contact Silvan Colani to Mr. Chong (2/20/08), Bates No. CH-PSI 35.

²⁹⁵ Email from Mr. Chong to LGT contact Silvan Colani (2/21/08), Bates No. CH-PSI 37.

²⁹⁶ Email from LGT contact Silvan Colani to Mr. Chong (2/21/08), Bates No. CH-PSI 38.

²⁹⁷ Email from LGT contact Sonja Sprenger to Mr. Chong (2/21/08), Bates No. CH-PSI 39.

²⁹⁸ The information about the Miskin accounts is derived from internal LGT documents produced to the Subcommittee and pleadings filed in court cases in Switzerland, the United Kingdom, and United States. The Subcommittee was unable to contact Mr. Miskin despite extensive efforts.

from another Liechtenstein bank that had been disclosed to his wife's legal counsel. In 1998, LGT helped him form a Liechtenstein foundation, called the Micronesia Foundation, and transferred his LGT funds, then valued at nearly 10 million Swiss francs or \$6.6 million, into the foundation's account, even though LGT believed Mr. Miskin had earned the money "under the table."²⁹⁹ In 2001, Micronesia's assets were valued by LGT at about 9.8 million Swiss francs which, due to a relative decline in the value of the dollar, was then equivalent to about \$9.6 million.

U.S. Residency. Mr. Miskin has spent substantial time in the United States, but has denied being a U.S. resident subject to U.S. taxes. In a 2003 sworn statement submitted to a U.S. court, Mr. Miskin declared that he was a U.K. citizen and resident of Bermuda.³⁰⁰ His then ex-wife disagreed, asserting in pleadings filed in the United States and the United Kingdom that he had resided in California from about 1991 until 2002.³⁰¹ Ms. Miskin indicated that Mr. Miskin had claimed Bermudan residency in an effort to avoid having to admit U.S. residency which, among other consequences, would have rendered him liable for U.S. taxes. She offered the following explanation to the court:

"[P]erhaps ten years ago Defendant [Mr. Miskin] and I were granted Bermudan residency by obtaining a residential address and depositing a substantial sum of money with, I believe, the Bank of Bermuda. The advantage of Bermudan residency to the Defendant is that it provided him with a means to enter the United States without being obliged to go through any registration process. Defendant explained to me that all he needed to do was to have with him, at any time when he entered the United States, a return flight to Bermuda. Once his entry had been secured, it was simply a matter, so the Defendant told me, of cancelling the return ticket to Bermuda and securing a refund. This arrangement had the added advantage to Defendant that by virtue of his entry into the United States not being registered, his presence did not come to the attention of any of the US authorities and particularly the Internal Revenue Service. To minimize the risk of his presence as a "permanent resident" becoming known to the IRS, Defendant was

²⁹⁹ LGT memorandum regarding a new establishment for Mr. Miskin (6/30/98), Bates Nos. PSI-USMSTR-6663-64.

³⁰⁰ See Miskin v. Miskin, Case No. 01111516, (Cal. Super. Ct. Anacapa Div. 2003) (hereinafter "Miskin Property Dispute in California"), Declaration of Michael Miskin in Support of Motion to Quash Service of Summons and Dismiss Action (8/1/03), at ¶ 1; Declaration of Michael Miskin (9/4/03), at ¶ 1.

³⁰¹ See, e.g., Miskin Property Dispute in California, Opposition to Motion to Quash; Objections to Evidence; Request for Judicial notice; Declaration of Judith Ilene Bloom (8/29/03) at 3-4; Miskin v. Miskin, High Court of Justice, Family Division, Witness Statement of Stephanie Avril Miskin (1/23/03) at ¶¶ 6-16.

scrupulous to ensure that he did not own any real estate, motor vehicle or indeed even hold bank accounts in his own name. This was achieved through the employment of nominee accounts and trust companies.”³⁰²

Mr. Miskin admitted in his sworn statement to the court that he had lived at various times in California, but denied that his stays had been sufficient to make him a U.S. resident: “I have visited Santa Barbara [in California] in the past on a tourist visa permitting me to stay for only 90 days in the United States at any one time.”³⁰³ He also declared, “Although I have visited Santa Barbara in past years, I have stayed for less than 90 days and have never been a resident. On occasion, when I have stayed in the Seaview property [in California], my name has been put on the mailbox. I understood that my name was removed on my departure or shortly thereafter.”³⁰⁴ Ms. Miskin, in contrast, told the court that Mr. Miskin had lived in Santa Barbara “for many years,” received mail there, was well-known by his neighbors and a local art center, and had purchased a \$700,000 condominium, the Seaview property, which she helped remodel.³⁰⁵

Internal LGT documents produced to the Subcommittee indicate that, from 1998 to 2001, Mr. Miskin provided the bank with contact information, not in Bermuda, but in California, listing the address and telephone number for the Seaview property,³⁰⁶ a Post Office Box address in Santa Barbara,³⁰⁷ and a business card bearing a Santa Barbara telephone number.³⁰⁸ Other LGT documents indicate that the bank was well aware of the fact that, while Mr. Miskin claimed Bermuda residency, he often lived in the United States: “Mr. Mistin’s [sic] registered place of residence is in Bermuda. In the U.S., he is a ‘visitor’ and lives most of the time in Santa Barbara. As a resident of Bermuda,

³⁰² Miskin Property Dispute in California, Declaration of Stephanie Avril Miskin in Opposition to Motion to Expunge Lis Pendens (4/4/2003), at ¶ 6.

³⁰³ Miskin Property Dispute in California, Declaration of Michael Miskin in Support of Motion to Quash Service of Summons and Dismiss Action (8/1/03), at ¶ 3.

³⁰⁴ Miskin Property Dispute in California, Declaration of Michael Miskin (9/4/03), at ¶ 3.

³⁰⁵ Miskin Property Dispute in California, Opposition to Motion to Quash; Objections to Evidence; Request for Judicial Notice; Declaration of Judith Ilene Bloom, legal counsel to Ms. Miskin (8/29/03) at 3-4; Miskin v. Miskin, High Court of Justice, Family Division, Witness Statement of Stephanie Avril Miskin (1/23/03) at ¶ 13.

³⁰⁶ See LGT Memorandum regarding a new establishment for Mr. Miskin (6/30/98), Bates Nos. PSI-USMSTR-6663-64.

³⁰⁷ See, e.g., Letter of Wishes (7/28/00), Bates Nos. PSI-USMSTR-6653-54; Feststellung der wirtschaftlich berechtigten Person (Establishment of Economically Entitled Persons) (7/18/01), Bates No. PSI-USMSTR-6652.

³⁰⁸ Copy of business card for “Michael Miskin Ceramics” in “Santa Barbara, CA” (displaying a California telephone number), Bates No. PSI-USMSTR-6665.

he has unrestricted entry and exit to and from the U.S.”³⁰⁹ LGT expressed no concern about Mr. Miskin’s conduct. To the contrary, another LGT internal document suggests that LGT viewed Mr. Miskin’s residency claim as a successful ploy to avoid U.S. taxation: “IMPORTANT: The financial beneficiary has his PLACE OF RESIDENCE IN BERMUDA and not in the U.S. Hence, he pays no taxes in the U.S.!!!!!!”³¹⁰

California Realty. In 1998, Mr. Miskin acquired U.S. real estate but used offshore entities to hide his beneficial ownership interest in the property. The property is a condominium in Montecito, California, bearing the address of 68 Seaview Drive (Seaview Property).³¹¹ Mr. Miskin has admitted in court that the Seaview Property was purchased in April 1998, by Belmont Assets Ltd., a shell corporation formed in Guernsey, and that Belmont Assets Ltd. is wholly owned by a Guernsey trust called Bonnymede Trust.³¹² Mr. Miskin has denied, however, that he was the settlor, trustee, officer, or beneficiary of the Guernsey entities:

“I do not now, nor have I ever, owned the property in Santa Barbara commonly known as 68 Seaview Drive. I understand that the property is owned by Belmont Assets Ltd. Although I have in the past acted as an advisor and consultant to Belmont Assets Ltd., I do not now, nor have I ever owned any interest in that entity. ... I believe that Belmont Assets Ltd. is owned by the Bonnymede Trust which was established in Guernsey. That is an irrevocable trust. The sole beneficiary is ‘The Royal Masonic Benevolent Institution,’ a charitable institution for the benefit of poor and distressed free masons. I was not the settlor of the Bonnymede Trust, nor to the best of my knowledge have I ever been either a trustee or a beneficiary of the Bonnymede Trust.”³¹³

Mr. Miskin claims he was not the settlor, trustee, or a beneficiary of the Bonnymede Trust, yet there is ample evidence that he controlled it. He admits having been “an advisor and consultant to Belmont

³⁰⁹ LGT Memorandum regarding a new establishment for Mr. Miskin (6/30/98), Bates Nos. PSI-USMSTR-6663-64. The 1998 memorandum mistakenly misspells Mr. Miskin’s name as “Misten” and “Mistin.”

³¹⁰ LGT report on Micronesia Foundation subsequent to 9/17/02, Bates No. PSI-USMSTR-6660.

³¹¹ Montecito is a city in Santa Barbara County, California. The property is referred to in various documents as located in Montecito or Santa Barbara.

³¹² See Miskin Property Dispute in California, Supporting Declaration of David Anfossi (3/6/03) (stating that Mr. Anfossi and Douglas M. Tufts are the trustees of the Bonnymede Trust, sole shareholders and directors of Belmont Assets Ltd., and confirming the facts related to the purchase of the Seaview Property).

³¹³ Miskin Property Dispute in California, Declaration of Michael Miskin in Support of Motion to Quash Service of Summons and Dismiss Action (8/1/03), at ¶¶ 4-5.

Assets,” which is a common means for beneficial owners to assert control over a company that they do not ostensibly own.³¹⁴ Moreover, in 2002, his granddaughter was added as a beneficiary of the trust,³¹⁵ a fact omitted from his court pleading. In addition, the Subcommittee contacted an employee of Anfossi Management in Bermuda, Douglas M. Tufts, who was a trustee of the Bonnymede Trust and a shareholder and director of Belmont Assets Ltd. Mr. Tufts stated that there is “no doubt” that Mr. Miskin initiated, controlled, and benefited from Bonnymede and Belmont.³¹⁶

Mr. Tufts says he believes that Mr. Miskin paid Anfossi Management a retainer in late 2002, to provide trustees to Bonnymede and directors to Belmont. He said that expenses relating to Bonnymede, Belmont, and the Seaview property were paid from an Anfossi escrow account funded with the retainer. After the retainer was depleted, he said that Anfossi Management began billing Mr. Miskin. He said that the bills were sent to the Seaview Property – the same property Mr. Miskin denied owning or living at – despite the fact that Mr. Miskin was ostensibly a resident of Bermuda, and Anfossi Management is located in Bermuda. Mr. Tufts said that Mr. Miskin did not pay all of his bills to Anfossi Management, and estimated that \$15,000 to \$20,000 remains outstanding.

In 2003, a U.K. court adjudicating the Miskin divorce proceedings found that Bonnymede Trust and Belmont Assets Ltd. were held “on a bare trust for, and for the exclusive benefit of” Mr. Miskin, and ordered the trust to transfer its assets to Ms. Miskin, including the Seaview Property.³¹⁷ After Ms. Miskin brought proceedings in California to enforce the U.K. court order and obtained a second court decision in her favor, the Guernsey entities complied, transferring the property to her in late 2003.³¹⁸

If Mr. Miskin had admitted to being the owner of the California property from 1998 until 2003, this ownership interest would have strengthened arguments that he was, in fact, a U.S. resident subject to U.S. taxation.

³¹⁴ See, e.g., “Tax Haven Abuses: The Enablers, the Tools and Secrecy,” before the U.S. Senate Permanent Subcommittee on Investigations, S. Hrg. 109-797, (8/1/06) at 218 (case history involving Kurt Greaves who was made a “business consultant” to companies he secretly controlled).

³¹⁵ See “Deed of Appointment of Beneficiary” for the Bonnymede Trust (11/5/02).

³¹⁶ Subcommittee interview of Douglas M. Tufts (7/7/08).

³¹⁷ Order, Miskin v. Miskin, High Court of Justice, Family Division (7/31/03).

³¹⁸ Subcommittee interview of Douglas M. Tufts (7/7/08).

LGT Accounts. An internal LGT memorandum obtained by the Subcommittee shows that, during the 1990s, LGT helped Mr. Miskin hide millions of dollars in Liechtenstein from his wife and tax authorities. The memorandum, dated June 30, 1998, provides the bank's initial analysis of Mr. Miskin's request for a "New Establishment."³¹⁹

"Mr. Alois Beck (LGT) asks me to call Mr. Mistin in Santa Barbara, CA (USA), because Mr. Mistin would like to have some information about a foundation or a trust in FL."³²⁰

"Mr. Mistin's registered place of residence is in Bermuda. In the U.S., he is a 'visitor' and lives most of the time in Santa Barbara. As a resident of Bermuda, he has unrestricted entry and exit to and from the U.S.

"About a few years ago, he made a rather large profit from the sale of his company³²¹ through the Credit Bank in Belgium. Back then he still lived in England, as a non-resident. For tax reasons (I did not understand how that works), the accounting firm [Touche] & Ross recommended that he deposit annually the positive balance, for the time period in which £25,000.00 net gets credited in interest, into the account of his wife. The account was opened, and he had the signature as well (but he's not completely sure anymore). Eight years ago, he and his wife came to a clash, and since then he has been separated from her. Chagrined, he left England, and instructed the bank to transfer the money to UBS in Geneva.³²² That is when it was noticed that the amount is still in his wife's account. The bank had not carried out his instruction to transfer the principal back to his account after the interest was credited. His wife was aware of these tax-related transactions, as well as of the fact that the bank had not carried out her husband's instructions. She took advantage of this opportunity and charged Mr. Mistin with having stolen the money from her and having hastily fled the country!!!! Thereupon he had the money transferred from Geneva to the FL Landesbank. But after the Geneva bank disclosed information to the English attorneys (!!!!!) he brought

³¹⁹ LGT memorandum regarding a new establishment for "Mr. Mistin" (6/30/98), Bates Nos. PSI-USMSTR-6663-64. The memorandum misspells Mr. Miskin's name, referring to him as "Mr. Mistin" or "Mr. Misten."

³²⁰ LGT documents often refer to Liechtenstein as "FL," an abbreviation of the nation's local name "Fuerstentum Liechtenstein."

³²¹ A later LGT document describes it as a "real-estate company (England)." LGT Background Information/Profile for Micronesia Foundation (12/13/01), Bates No. PSI-USMSTR-6666.

³²² While this LGT memo indicates the funds were transferred through UBS Geneva, documents obtained by the Subcommittee appear to show that funds were transferred through Citibank Geneva.

the money from to the BIL in cash - that was 8 years ago. In the meantime, the charge has been withdrawn by his wife.

“His wife is still keen on the money, however, and hence does not want to get divorced. The older son, very successful in business himself, is more on his mother’s side; the younger son is more on his father’s, but maintains good relations with the mother as well. In order to make sure that his wife never finds out about the foundation, the amounts are to be paid to his son ‘anonymously.’ The older son has several million himself and will for this reason not benefit from the foundation.

“The assets, currently around 10 million Swiss francs, were earned ‘under the table’ and were always separate from the official, so he is not expecting to encounter problems related to the breach of the disclosure.”

The LGT memo ends with the note: “We agreed that he will fax us three name suggestions. We will send him the prepared STOM [foundation without a mandate] documents via DHL tomorrow, July 1, 1998 to the following address: Michael Mistin, 68 Seaview Drive, Montecato, CA 93108 USA.”

The LGT memorandum indicates that, eight years earlier, in or around 1991, Mr. Miskin transferred funds from “FL Landesbank,” a reference to another Liechtenstein bank, to “the BIL,” an abbreviation for the LGT “Bank in Liechtenstein.” It is unclear whether Mr. Miskin transferred these funds to an LGT account in his own name or in the name of another person. In either event, the memorandum clearly portrays the funds as beneficially owned by Mr. Miskin. The memorandum states that the assets that had been deposited with LGT eight years earlier were “currently around 10 million Swiss francs.”

The memorandum describes actions taken by Mr. Miskin over the years to hide his funds from tax authorities and his wife, including depositing funds from the sale of his business in his wife’s bank account, transferring funds to a new bank to avoid his wife’s “English attorneys,”³²³ and depositing additional funds that had been “earned

³²³ The Subcommittee reviewed documents which independently confirm Mr. Miskin’s transfer of \$1 million from his wife’s account to Citibank in Geneva and from there to Liechtensteinische Landesbank in Vaduz. These documents were made part of a court filing in London. They include a 1991 letter from Mr. Miskin’s personal secretary to a private banker at Brown Shipley & Co. Ltd. in London, where the Miskins held accounts:

“Following your telephone conversation with Mr. Miskin today, I would confirm that the deposit in the sum of £1,000,000.00 deposited in Mrs S.A. Miskin’s name for tax purposes, should have reverted to the name of Mr M Miskin on 30th November 1990. This, obviously, has not taken place due to an oversight and I would confirm that this deposit should have been changed into the name of Mr M Miskin as of today.”

‘under the table.’” The memorandum also describes steps that will be taken “to make sure that his wife never finds out about the [new] foundation.” The author of the memorandum expresses no reservations about Mr. Miskin’s conduct or forming a new “Establishment” for him. Instead, the memorandum offers to act quickly by sending him an overnight package with account opening documentation. The address to be used is the very Seaview property that Mr. Miskin will later claim he never resided in.

LGT actually formed the Micronesia Foundation for Mr. Miskin on September 17, 1998, and opened an LGT account for the foundation with the nearly 10 million in Swiss francs transferred from Mr. Miskin’s other accounts at the bank.³²⁴

In 2000, Mr. Miskin gave LGT a letter of wishes detailing how the Micronesia assets should be distributed upon his demise, further demonstrating his control over the foundation.³²⁵ The letter lists his wife, son, and grandchildren as primary beneficiaries. The letter specifies:

“The foundation board shall advise beneficiaries to treat sums due to them with the utmost caution in respect of local taxes. The board shall seek out and advise, the best possible way for beneficiaries to receive monies either by debit card or by loan or any other suitable method that should seek to avoid such local taxes. Leaving principle sums allotted to each beneficiary in a company or foundation in Liechtenstein should be recommended. Any beneficiary who takes legal action against the foundation will be automatically excluded from being a beneficiary.”

Other LGT documents reviewed by the Subcommittee also demonstrate Mr. Miskin’s control over Micronesia. On one occasion in

Letter to Brown Shipley & Co. Ltd. (5/13/91), Bates No. 51 (handwritten). A Brown Shipley letter stated that it had dealt only with Mr. Miskin, believed that he was the “ultimate beneficiary of all funds placed with us,” and transferred the funds at his request to Citibank. Letter from Brown Shipley to Forsyte Kerman Solicitors (7/29/91), Bates No. 57 (handwritten). On June 27, 1991, Mr. Miskin transferred more than £3.7 million from Brown Shipley, including the funds formerly held in Mrs. Miskin’s name, to Citibank (Switzerland), Geneva Branch. On July 30, 1991, Citibank (Switzerland) transferred more than £3.4 million and \$400,000 to Liechtensteinische Landesbank in Vaduz. See letter from Citibank (Switzerland) to Lenz & Staehelin (8/28/91), Bates Nos. 62-64 (handwritten). This series of funding transfers came to light after a U.K. court had issued an “Injunction Prohibiting Disposal of Assets Worldwide,” (1/24/03), to prevent Mr. Miskin from disposing of the marital assets. In response to a request from the U.K. court, the District Court of Zurich ordered Citibank to provide Mrs. Miskin with information about the transfers, resulting in the August 1991 letter by Citibank.

³²⁴ See LGT receipt for deposit of about £3.65 million or about \$6.2 million, (10/21/98), Bates No. PSI-USMSTR-6656 (showing Mr. Miskin with a California address).

³²⁵ Letter of Wishes for the Micronesia Foundation, (7/28/00), Bates Nos. PSI-USMSTR-6653-54.

2000, for example, Mr. Miskin sent an email to his LGT contact after an apparent discussion of inheritance taxes on trust beneficiaries and Mr. Miskin's desire to ensure "my beneficiaries do not suffer taxes of 40% and very possibly greater amounts." He closes with the line, "I will be sending you new instructions as soon as I have figured it out."³²⁶ A 2001 fax from Mr. Miskin to LGT directs the transfer of £111,106 from Micronesia to a Barclays Bank in England "ASAP [as soon as possible]" for "the purchase price of my sons [sic] new house." The same fax directs a transfer of £15,000 from Micronesia to an account in Mr. Miskin's name at a Lloyds TSB Bank branch in Jersey.³²⁷

A 2002 letter to Mr. Miskin from his LGT account manager shows that LGT provided him with advice on offshore structures and how to continue to shield his assets from U.S. taxes:

"Dear Mr. Miskin,

"Thank you very much for your fax of February 23, 2002 and for the patience you had.

"In the meantime I have spoken with an expert for structures of the area of G.³²⁸ It turned out that with respect to the tax situation in the US-area a re-domicilization of the company to another jurisdiction would not be advisable and would additionally take a very long time. Therefore at least the company's seat has to remain in G. But it is possible to transfer the domicile of the trust as well as the representative office. In that case our suggestion would be to transfer the whole structure including the holding to a much more co-operative trust company [at] a representative office on the Isle of Man. This office being an office of high reputation would provide us with a nominee shareholder for the shares of the company and also will support us in taking over and administering the company as new trust officers in direct co-operation with us....

"I would like to inform you that after you having decided to execute the transfer all the necessary details will be arranged by us."³²⁹

³²⁶ Email from Mr. Miskin to Peter Meier of LGT regarding "That Taxing Problem," (1/19/00), Bates No. PSI-USMSTR-6658.

³²⁷ Fax from Mr. Miskin to LGT contact Alouis Beck (7/25/01), Bates No. PSI-USMSTR-6655.

³²⁸ "G" may refer to Guernsey where the trust and corporation holding the Seaview Property were domiciled.

³²⁹ Fax from "MMMag. Thomas Lungkofler" to Mr. Miskin (2/27/02), Bates No. PSI-USMSTR-6657.

This letter, faxed to Mr. Miskin at a Santa Barbara, California number, demonstrates LGT's ongoing willingness to help him place assets in offshore structures.

Hiding Assets from the Courts. In 2003, Ms. Miskin filed for divorce in London.³³⁰ Mr. Miskin did not appear at the divorce proceedings, and the divorce was finalized in July.³³¹ The U.K. court ordered Mr. Miskin to make a lump sum alimony payment to Ms. Miskin of £3 million. Mr. Miskin did not acknowledge the court order or provide the funds.³³² The documents reviewed by the Subcommittee indicate that the Micronesia Foundation was still active at LGT as of December 31, 2001, about 18 months before the court judgment,³³³ so it is possible that these funds could have been used to satisfy the alimony payment. However, neither the court nor Ms. Miskin knew of the existence of the LGT foundation and account.

The U.K. court also awarded ownership of the Seaview Property to Ms. Miskin.³³⁴ Real estate is not as easily hidden as funds, and Ms. Miskin initiated action in the Superior Court of California, to enforce the British court order and take possession of the property. Mr. Miskin, through legal counsel, filed pleadings in opposition, contending among other arguments that the court had no personal jurisdiction over him and he did not own the property being transferred. Like the London court before it, however, the California court rejected his arguments and awarded the property to Ms. Miskin.

The documents reviewed by the Subcommittee do not indicate whether the Micronesia Foundation's assets, including the \$9.6 million identified in 2001, remain at LGT.

(8) Other LGT Practices

Internal LGT documentation obtained by the Subcommittee provides additional information about LGT practices that could be used to facilitate tax evasion.

³³⁰ Ms. Miskin had first initiated divorce proceedings in 1991, but then reconciled with Mr. Miskin. On this occasion, she filed for divorce on January 13, 2003. See Miskin Property Dispute in California, Declaration of Stephanie Avril Miskin in Opposition to Motion to Expunge Lis Pendens (4/4/03), at ¶ 1.

³³¹ See Order, Miskin v. Miskin, High Court of Justice, Family Division (7/31/03).

³³² See *id.*; Subcommittee interview with Judith Bloom (5/5/08).

³³³ See LGT Background Information/Profile for Micronesia Foundation, (12/13/01), Bates No. PSI-USMSTR-6666.

³³⁴ "Order," Miskin v. Miskin, High Court of Justice, Family Division (7/31/03). See also Miskin Property Dispute in California, Opposition to Motion to Quash (8/29/03), at 2.

Gap Between KYC and QI Obligations. In response to Subcommittee questions, LGT's most senior compliance officer, Mr. Klein, stated that LGT principally relied on the declarations of their clients to determine if they had U.S. or non-U.S. status for the purpose of QI reporting.³³⁵ Mr. Klein also stated that since QI rules are distinct from Know-Your-Customer (KYC) due diligence rules, if LGT determined during a KYC evaluation that the beneficial owner of a trust or a company was a U.S. person, that information did not necessarily impact on the client's status for QI purposes.

This discrepancy is highlighted by LGT Bank's approach to the QI Audit Program. For example, LGT provided to the Subcommittee a copy of the 2006 QI External Auditor's Report, which was submitted by PriceWaterhouseCoopers AG to the IRS on June 26, 2007.³³⁶ This report notes that the auditors had concluded that at least one accountholder originally listed as a non-U.S. person may be a U.S. person with tax liability. A letter from LGT Bank to the auditors states that the bank will take corrective measures, including soliciting an appropriate W-9 from the client.³³⁷ LGT confirmed to the Subcommittee that should questions arise during the QI audits about the reliability of its information on the U.S. status of one of its clients, the bank will rectify the matter and solicit appropriate documentation. Thus, the contradiction between the QI and the KYC rules is clear: if the bank is advised through a QI audit that one of its account holders may be a U.S. person, it will actively seek to bring itself into compliance with the QI program. However, if the bank itself learns, through its KYC obligations, that the beneficial owner of an account holder is a U.S. person, it will not apply that knowledge to its QI reporting obligations.

This situation appears to demonstrate a gap in the QI Program. A condition precedent to becoming a QI is that the bank must apply appropriate KYC rules, which includes looking through a corporate entity or trust to determine the ultimate beneficial owner, or, as Mr. Klein described it, a "warm human body." So even though a bank is required to know the identity of the person behind a corporate account holder, the QI Program does not require the bank to look beyond a properly filed W-8BEN. Thus, consistent with the QI Program, LGT Bank must document the beneficial owner of a corporation, but LGT

³³⁵ Subcommittee interview of Ivo Klein, Head of LGT Group Compliance (7/11/08). See also LGT documents, "Impact of new US withholding tax regulations on non-US entities," Bates Nos. LGT 1-4; "Declaration of Non-US Status," Bates Nos. LGT 5-8; "Tax form US withholding tax/private individuals," Bates Nos. LGT 9-10.

³³⁶ "Qualified Intermediary External Auditor's Report for the Year 2006," Bates Nos. LGT 136-187, at 136.

³³⁷ *Id.* at LGT 179.

Bank need not look through the non-U.S. status of the corporation that, in fact, holds an account for a U.S. beneficial owner.

Using Transfer Corporations to “Cover Up the Tracks” of Client Funds. As indicated in some of the case histories described earlier, LGT documents obtained by the Subcommittee show that it was not uncommon for LGT to set up intermediary, pass-through corporations that were used by the bank, in the words of an LGT employee, “to cover up the tracks” of funds moving into LGT client accounts. When asked about these corporations, the head of compliance for LGT Group confirmed their existence, explaining that these “auxiliary services corporations” served several functions, including the transmission of funds “confidentially.”³³⁸

The documents show that LGT used BTS Management Ltd., formed in the British Virgin Islands (BVI), to establish a number of the transfer corporations. The documents indicate that LGT typically asked BTS Management to form a BVI corporation which then opened an account at LGT or another bank, such as Bank du Gothard in Luxembourg. The transfer corporation then received funds or securities from an LGT client and immediately transferred those funds or securities to LGT, if its account was at an outside bank. In some instances the transfer corporation was then dissolved; in other instances, it continued in existence. Once the funds or securities were delivered to LGT bank, they were moved internally within the bank, using a mechanism called “journaling” to transfer them from one LGT account to another, here from the transfer corporation’s LGT account to the client’s LGT account. This internal transfer mechanism makes it much more difficult to trace the movement of funds and securities, since it leaves no record outside of the bank showing that the assets were transferred to the ultimate recipient, the LGT client.

The Subcommittee investigation uncovered several examples of LGT engaging in this practice. For example, Sera Financial Corporation is a BVI corporation that appears to have functioned as an LGT transfer corporation. An internal LGT document describes Sera Financial as a “[s]pecial purpose company (indirect subsidiary of LTV) for portfolio transfers for assets which are to be brought into an LTV structure.”³³⁹ The document shows, by account number, that Sera Financial held one account at Banque du Gothard and eleven separate accounts at LGT

³³⁸ Subcommittee interview of Ivo Klein, Head of LGT Group Compliance (7/11/08).

³³⁹ LGT report on Sera Financial Corporation (undated), Bates Nos. PSI-USMSTR-6553-54. The document notes that Sera Financial was established on December 15, 1997, and that the “share certificate” for Sera Financial was held “in the depository account of BTS Management Ltd. at LGT Bank in Lichtenstein AG, Vaduz (since Apr 9, 1999).”

Bank in Liechtenstein.³⁴⁰ The document explains this unusual account structure as follows:

“For each customer, a sub-account or deposit facility is opened under a reference at BdG [Banque du Gothard] and at LGT. ... Funds transfers as well as securities deliveries to BdG are in favor of SERA. ... BdG is instructed to forward cash values and securities without delay to LGT BIL [Bank in Liechtenstein] in favor of Sera Financial Corp. with specification of the reference. ... As soon as the assets are credited at BIL, they are transferred to the destination account”³⁴¹

One example of how Sera Financial was used involves a new trust set up for a U.S. client in 2000. An LGT memorandum to the file discussing the transfer of assets to the new trust states: “The trust shall open an account in the LGT Bank in Liechtenstein. The transfer of assets should take place using this account. To cover up the tracks from UBS Zurich to the trust in Liechtenstein, I recommend an intermediary Single Purpose Company.”³⁴² LGT decided to use Sera Financial as the transfer corporation. A wire transfer instruction from Gotthard Bank shows how the transfer operation worked.³⁴³ It shows that on October 31, 2000, after \$1.2 million had been credited to the Sera Financial account at Banque du Gothard: “BTS Management Limited, Tortola, as Managing Director of the company Sera Financial Corporation, Tortola, B.V.I. [h]ereby declares: ... that the following beneficiary(ies) is/are entitled to the above-referenced transaction,” naming the U.S. citizen from Florida, known to the Subcommittee as a U.S. client of LGT at that time. The \$1.2 million was then transferred to his account.

A second example involves Jaffra Development Inc., a BVI corporation that appears to have been used by LGT as a transfer corporation on a single occasion. An agreement in LGT files between Jaffra and a named LGT client describes Jaffra as “an indirect subsidiary of the LGT Trust Corporation,” solely administered by BTS Management Ltd.³⁴⁴ In the agreement, the “contractor,” which is Jaffra, agrees not to “effect any transaction” or provide services to any “third party,” except as set out in the agreement. The agreement then describes Jaffra’s contractual obligations as follows:

³⁴⁰ *Id.*

³⁴¹ *Id.*

³⁴² LGT Memorandum “New Registration,” (11/2/00), Bates Nos. PSI-USMSTR-7696-97, at 7697.

³⁴³ Gotthard Bank wire transfer instruction for \$1.2 million transaction (10/31/00), Bates No. PSI-USMSTR 7680.

³⁴⁴ “Vereinbarung [Agreement],” (6/21/00), Bates Nos. PSI-USMSTR-7935-36. See also LGT account summary, “Jaffra Development Inc.,” Bates No. PSI-USMSTR-7934 (describing Jaffra as a “single purpose corporation”).

“The contractor [Jaffra] undertakes to open a separate account at the LGT Bank in Liechtenstein Corp., Vaduz, for the present transactions, and after completion of the transactions, at the latest by 01.01.2001, to liquidate this corporation. ... The client will transfer to account no. [redacted] of the contractor at the LGT Bank ... an amount of approximately CHF 6 million (six million 0/00 Swiss francs) in one or more installments after notice by telephone to the administrative board. ... The contractor will, in each case after receipt of a credit voucher, transfer the total value of assets, or the total value of assets less commission, fees (including account cancellation costs) as well as compensation, from account no. [redacted] of the contractor to the account no. [redacted], under the name of CHARIVARI FOUNDATION, Vaduz (Recipient), at the LGT Bank in Liechtenstein, in cash.”

The contract states further: “BTS Management Ltd. receives a flat fee of CHF 5,000.00 for the completion of all transactions, as well as receiving outside costs, each of which is assessed on the day of deposit to the account of the contractor. The founding and liquidation costs for the JAFFRA DEVELOPMENT INC. are included in this compensation.”

A third example involves Sewell Services Ltd., a BVI corporation which, like Jaffra, appears to have been used for a single client, in this case the Lowys, discussed earlier. A 1997 internal LGT memorandum described plans to move assets into a new foundation set up for the Lowys called Luperla Foundation.³⁴⁵ The memorandum states that \$54 million “are going to the Sewell account with us ... subsequently Sewell pays ... the amount to Luperla.” It states that an “additional roughly \$3 million will go to Sewell (account LGT)” from outside banks which Sewell is then to pay “to account Luperla at LGT.” The memorandum states that after the transactions, “The Sewell account is to be closed on May 31, 1997, and the company [is] to be dissolved.” As indicated in the earlier discussion of the Lowy accounts, over \$54 million was, in fact, passed through the Sewell LGT account into the Luperla Foundation account at LGT.³⁴⁶

³⁴⁵ “Aktenvermerk [Memorandum for the Record], Luperla Foundation, (5/2/97), Bates Nos. PSI-USMSTR-8864-65. See also letter from J.H. Gelbard to LGT re “Formation of a Foundation by the name Luperla Foundation,” (3/12/97), Bates Nos. PSI-USMSTR-8860-61 (describing the corporation to be established as a “transfer company”).

³⁴⁶ Sewell, however, was not immediately dissolved, but was apparently used for additional pass-through transactions for Luperla in October 1997. It was apparently dissolved in 1998. See LGT memorandum re “Luperla Stiftung/Sewell Services Ltd. B.V.I.,” (10/23/97), Bates No. PSI-USMSTR-8896; LGT report on Luperla Foundation (undated, subsequent to 4/2/01), Bates Nos. PSI-USMSTR-8862-63 (noting that Sewell was deleted from the registry in the British Virgin Islands on 11/1/98).

A final example involves Apex Assets Ltd., a corporation set up for Mr. Chong by LGT in 2004, as described earlier. It is unclear from the documentation reviewed by the Subcommittee whether Apex was owned by LGT or Mr. Chong's foundation. What the documents do show is that, from 2004 into 2007, virtually all funds transferred to or from Mr. Chong's foundation were routed through Apex.

Hiding Telephone Communications. Another strategy employed by LGT to enhance secrecy and client anonymity was to limit the ability of outside parties to trace client communications back to Liechtenstein. To achieve this objective, LGT not only instituted a policy of retaining client mail at the bank in Liechtenstein, or sending mail to locations outside of a client's home jurisdiction, but also undertook efforts to minimize the ability of outside parties to trace telephone calls back to the bank and even the country itself. One LGT document obtained by the Subcommittee, for example, providing information on how to contact a client, contained the following instruction:

"CAUTION: Calls may be made only from public phone booths, preferably not from a FL [Liechtenstein] phone booth !!!"³⁴⁷

A second, similar instruction was included later in the same document:

"CAUTION: Calls may be made only from public phone booths abroad (Switzerland, Austria, etc.) !!!"³⁴⁸

In addition, the Subcommittee learned from a former LGT employee that after the country of Liechtenstein received its own area code for its telephones, LGT employees began using cell phones with the Liechtenstein area code to contact clients. However, shortly thereafter, tax authorities in another country began to conduct tax audits of individuals who had made calls to, or received calls from, telephone numbers with the Liechtenstein area code. The Subcommittee was told that, after learning of these audits, LGT employees abandoned use of telephone numbers with the Liechtenstein area code and instead used numbers with Swiss or Austrian area codes.

Enabling Bribery in the United States and Elsewhere. Perhaps one of the most disturbing documents reviewed by the Subcommittee involves an LGT analysis of a request to establish a new foundation and LGT account for an existing client which LGT states may be used, in part, to facilitate the payment of bribes in the United States. The key LGT memorandum follows a meeting that took place in September

³⁴⁷ LGT report on Tissit Invest and Trade Inc. (undated, subsequent to its establishment in January 2001), Bates Nos. PSI-USMSTR-8004-5.

³⁴⁸ *Id.*

2002, with the client, one or two LGT trust officers, and an LGT compliance officer regarding the client's request to establish LRAB Foundation to receive funds from transactions involving Glencore International, an oil trading firm founded by Marc Rich.³⁴⁹ The memorandum states the following:

"1. Private Account with LGT BIL, Vaduz

Relatively large sums will be transferred into the existing account with LGT BIL [Bank in Liechtenstein]. For this reason, Mr. Skwaric has called on Mr. Karl Frick from Compliance for a client meeting. The assessment from Karl Frick is attached as a copy.

"2. Marc Rich

Marc Rich was the proprietor of a network of firms in Switzerland which were primarily active in merchandising. At times, over 1,500 persons in Switzerland alone were employed by him and a turnover of over USD 44.5 billion (2001, see copy) was achieved. He sold his portion to an employee, who continued to run the business as a firm under the name Glencore International. Marc Rich is a controversial person and very questionable with his methods. On the other side, in this year, one can see that subsequent deposits from Glencore were made into the private account of the [client] couple and therefore confirm the information of the clients.

"3. Evaluation of Compliance LGT BIL

The good impression which I have from the clients is also confirmed in the attached email from Karl Frick of the bank. I would like to add the following. The out-going transfers from the private account with LGT BIL have an amount of ca. USD 1 Million/per year. These are the office costs, carrying costs and payments in the realm of their commercial activity. **A small portion of the payments go however to the USA and Panama and may be classified as bribes.** Glencore International asked its largest partner in Ecuador to pass these payments on to third parties. This system was first established in 2002 and, for this reason, the clients are very unlucky. Previously, the payments from Glencore International were made directly to said persons. [The client] declares that he will speak with Glencore again, but is also afraid that they could lose Glencore as clients.

"4. Panama Corporation

I have discussed the possibility of a Panama Corporation as account holder and "transit account" with the clients. I have

³⁴⁹ LGT Note re "New Establishment of LRAB Foundation, Vaduz," (9/13/02), Bates No. PSI-USMSTR 8555 (emphasis added).

however, in agreement with SPR, dismissed our acting as director of such a corporation. My impression is that the clients know their situation very well; they can also assess the risks very well, but cannot change any part of their situation at the moment. The payments are however discussed with Karl Frick and can occur further.”

The memorandum seems to indicate that the clients already had LGT accounts and already conducted substantial business with Glencore International through those accounts, but were interested in setting up a new foundation and Panama corporation to channel business-related transactions through their accounts. The memorandum states that “[a] small portion of the payments” that already went through the clients’ LGT accounts and which would go through the proposed accounts “may be classified as bribes.” Rather than object to these payments or bar them or the clients from the bank, however, the LGT trust officer states that he has a “good impression ... from the clients” which is “confirmed in the attached email” from the LGT compliance officer. When asked about this memorandum, the head of compliance for LGT Group would not discuss any client-specific information, but commented that, prior to 2002, LGT, like all banks in Liechtenstein, were “not as diligent as we should have been.”³⁵⁰ He declined to disclose whether the LRAB Foundation or Panama corporation had been formed in response to the clients’ request.

C. Analysis

The LGT information reviewed by the Subcommittee investigation indicates that, too often, LGT personnel viewed the bank’s role to be, not just as a guardian of client assets or trusted financial advisor to investors, but also a willing partner to clients wishing to hide their assets from tax authorities, creditors, and courts. In that context, bank secrecy laws begin to serve as a cloak not only for client misconduct, but also for banks colluding with clients to evade taxes, dodge creditors, and defy court orders.

It is also instructive that when the LGT tax scandal broke in February 2008, the immediate reaction of the Liechtenstein government was not to condemn the taxpayers who misused the jurisdiction, promise tough action against LGT if it knowingly assisted tax fraud, or pledge to disclose relevant information. Instead, the Liechtenstein government deplored the breach of its secrecy laws, expressed indignation that any country would purchase Liechtenstein financial data from a private individual, and issued an arrest warrant for the former LGT employee

³⁵⁰ Subcommittee interview of Ivo Klein, head of LGT Group Compliance (7/11/08).

who allegedly disclosed the information.³⁵¹ In June 2008, an Internet website offered a \$7 million reward for information leading to the arrest of the former LGT employee; the Subcommittee traced this reward offer to a web hosting company in Liechtenstein.³⁵²

In July, the Liechtenstein government advised the Subcommittee that it had initiated a special investigation into the conduct of LGT Bank and Mario Staggli, and established a commission to examine Liechtenstein laws, including the question of whether it does or should violate Liechtenstein law if a Liechtenstein financial institution were to aid or abet tax evasion or tax fraud by a U.S. client. When the Subcommittee asked Mr. Klein about the status of this investigation, he replied that he was not aware of it, despite his position as head of compliance for LGT Group. Liechtenstein is also considering entering into a tax information exchange agreement with the United States to provide wider cooperation in tax enforcement matters.

IV. UBS AG CASE HISTORY

UBS AG of Switzerland is one of the largest financial institutions in the world, and has one of the world's largest private banks catering to wealthy individuals. From at least 2000 to 2007, UBS made a concerted effort to open accounts in Switzerland for wealthy U.S. clients, employing practices that could facilitate, and have resulted in, tax evasion by U.S. clients. These UBS practices included maintaining for an estimated 19,000 U.S. clients "undeclared" accounts in Switzerland with billions of dollars in assets that have not been disclosed to U.S. tax authorities; assisting U.S. clients in structuring their accounts to avoid QI reporting requirements; and allowing its Swiss bankers to market securities and banking services on U.S. soil without an appropriate license in apparent violation of U.S. law and UBS policy. In 2007, after its activities within the United States came to the attention of U.S. authorities, UBS banned its Swiss bankers from traveling to the United States and took action to revamp its practices. UBS is now under investigation by the IRS, SEC, and U.S. Department of Justice.

³⁵¹ See "Press Release from the (Liechtenstein) Office of the Public Prosecutor," (2/27/08), available at www.liechtenstein.li/en/pdf-fl-med-aktuell-staatsanwaltschaft1.pdf (viewed 7/14/08); Press Release by the Liechtenstein Police, (3/11/08); "Liechtenstein Prince Defends Bank Secrecy as Scandal Threatens Country's Haven Status," *Daily Tax Report, International Tax and Accounting* (2/22/08), No. ISSN 0092-6884, at 1; Mark Landler, "Liechtenstein issues international arrest warrant for tax informant," (3/12/08), *International Herald Tribune*.

³⁵² See www.eugen-von-hoffen.com (viewed 7/13/08).

A. UBS Bank Profile

UBS AG (UBS) is one of the largest banks in the world, currently managing client assets in excess of \$2.8 trillion.³⁵³ UBS is the product of a 1998 merger between two leading Swiss banks, Union Bank of Switzerland and Swiss Bank Corporation. In 2000, it grew even larger after merging with PaineWebber Inc., a U.S. securities firm with more than 8,000 brokers, nearly \$500 billion in client assets, and a substantial U.S. clientele.³⁵⁴

Today, UBS is incorporated and domiciled in Switzerland, but operates in 50 countries with more than 80,000 employees, of which about 38% work in the Americas, 33% in Switzerland, 17% in the rest of Europe, and 12% in Asia Pacific.³⁵⁵ UBS shares are listed on the Swiss Exchange, New York Stock Exchange, and Tokyo Stock Exchange.³⁵⁶

UBS AG is the parent company of the UBS Group which includes numerous subsidiaries and affiliates.³⁵⁷ UBS Group is managed by a Board of Directors, which oversees a Group Executive Board. The Chairman of the Board of Directors is Peter Kurer; the Group CEO is Marcel Rohner.³⁵⁸

UBS Group is organized into three major business lines: Global Wealth Management & Business Banking, Global Asset Management, and an Investment Bank. UBS has one of the largest private banking operations in the world, with hundreds of private bankers dedicated to providing financial services to wealthy individuals and their families around the world. UBS also maintains a Corporate Center that provides group-wide policies, financial reporting, marketing, information technology infrastructure, and service centers, and an Industrial Holdings segment which includes UBS' own holdings and non-financial businesses.³⁵⁹

UBS' private banking operations are included within the Global Wealth Management & Business Banking division, whose Chairman and CEO is Raoul Weil. That division is further divided into five regional segments: Wealth Management Americas; Wealth Management Asia Pacific; Wealth Management & Business Banking Switzerland; Wealth

³⁵³ "Facts&Figures," (undated) available at www.ubs.com (viewed 5/28/08).

³⁵⁴ "The Making of UBS," (undated) at 16, available at www.ubs.com (viewed 5/28/08).

³⁵⁵ "Facts&Figures," (undated) available at www.ubs.com (viewed 5/28/08).

³⁵⁶ UBS Annual Report 2007, Financial Statements, at 167.

³⁵⁷ *Id.* at 25, 96-99.

³⁵⁸ "Organizational Structure," (undated) available at www.ubs.com (viewed 5/28/08).

³⁵⁹ UBS Annual Report 2007, Financial Statements, at 41.

Management North, East & Central Europe; and Wealth Management Western Europe, Mediterranean, Middle East & Africa.³⁶⁰

In the United States, UBS maintains a large banking and securities presence, operating dozens of subsidiaries and affiliates. Its operations include a UBS AG branch office headquartered in Stamford, Connecticut; UBS Bank USA, a federally regulated bank chartered in Utah; three broker-dealers registered with the SEC, UBS International Inc., UBS Financial Services, Inc., and UBS Services LLC; and a variety of other businesses including UBS Fiduciary Trust Company in New Jersey; UBS Real Estate Securities Inc. in Delaware; UBS Trust Company National Association in New York; and UBS Life Insurance Company USA in California.³⁶¹ In 2007, UBS described its U.S. banking operations as follows: “Wealth Management US is a US financial services firm providing sophisticated wealth management services to affluent US clients through a highly trained financial advisor network.”³⁶²

In addition to its U.S.-based operations, UBS services U.S. clients through business units based in Switzerland and other countries. For example, beginning in about 2003, UBS established “U.S. International Desks” in three of its Swiss locations, Geneva, Lugano, and Zurich. These desks, staffed with private bankers known as Client Advisors, deal exclusively with U.S. clients.³⁶³ The U.S. International Desks originally categorized their U.S. clients according to the U.S. region where they lived, but in 2004, re-classified them according to the magnitude of their assets. “Core Affluent” clients were defined as those with assets ranging from 250 to 2 million Swiss Francs; “High Net Worth Individuals” (HNWI) had assets ranging from 2 million to 50 million Swiss Francs; and “Key Clients” had assets worth more than 50 million Swiss Francs.³⁶⁴ In 2005, UBS formed a new Swiss subsidiary, called “Swiss Financial Advisers,” which is an investment adviser registered with the SEC. SFA is tasked with “serving US clients outside of Switzerland.” All U.S. clients of SFA are required to file W-9 Forms. UBS AG’s North American International Wealth Management Division

³⁶⁰ “Global Wealth Management & Business Banking,” (undated), organizational chart available at www.ubs.com (viewed 5/28/08). These five regional segments were established in a reorganization that took effect in 2007. Prior to that reorganization, the Global Wealth Management & Business Banking division had just three segments: Wealth Management US, Wealth Management International & Switzerland, and Business Banking Switzerland. UBS Annual Report 2007, Financial Statements, at 41.

³⁶¹ UBS Annual Report 2007, Financial Statements, at 96-99; Strategy, Performance and Responsibility, at 104.

³⁶² UBS Annual Report 2007, Financial Statements, at 41. Wealth Management US is now included within Wealth Management Americas.

³⁶³ Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

³⁶⁴ *Id.*

also noted that “[a]ssets of clients [in SFA are] under Swiss law,” meaning that creditors seeking to attach the assets would be required to file in Swiss courts.³⁶⁵ U.S. clients who are unwilling to declare their accounts to the United States are not permitted by UBS to hold U.S. securities in their Swiss accounts, but can be serviced by Client Advisors in the Geneva, Lugano, and Zurich offices.³⁶⁶

B. UBS Swiss Accounts for U.S. Clients

Although UBS has extensive banking and securities operations in the United States that could accommodate its U.S. clients, from at least 2000 to 2007, UBS directed its Swiss bankers to target U.S. clients willing to open bank accounts in Switzerland. UBS told the Subcommittee it now has Swiss accounts for about 19,000 U.S. clients with in the range of \$18 billion in undeclared assets. In 2002, UBS assured its U.S. clients with undeclared accounts that U.S. authorities would not learn of them, because the bank is not required to disclose them; UBS procedures, practices and services protect against disclosure; and the account information is further shielded by Swiss bank secrecy laws. Until recently, UBS encouraged its Swiss bankers to travel to the United States to recruit new U.S. clients, organized events to help them meet wealthy U.S. individuals, and set annual performance goals for obtaining new U.S. business. It also encouraged its Swiss bankers to service U.S. client accounts in ways that would minimize notice to U.S. authorities. The evidence suggest that UBS Swiss bankers marketed securities and banking products and services in the United States without an appropriate license to do so and in apparent violation of U.S. law and the bank’s own policies.

Information obtained by the Subcommittee about UBS Swiss accounts opened for U.S. citizens came in part from former UBS employee, Bradley Birkenfeld. Mr. Birkenfeld is a U.S. citizen who worked as a private banker in Switzerland from 1996 until his arrest in the United States in 2008. He worked for UBS in its private banking operations in Geneva from 2001 to 2005, until he resigned from the bank.³⁶⁷ In 2007, while in the United States, Mr. Birkenfeld was subpoenaed by the Subcommittee to provide documentation and testimony related to his employment as a private banker. In a sworn deposition before Subcommittee staff, Mr. Birkenfeld provided detailed information about a wide range of issues related to UBS business dealings with U.S. clients. In 2008, Mr. Birkenfeld was arrested,

³⁶⁵ UBS Minutes of Geneva Wealth Management North America International Meeting (10/13/04), Bates No. UPSI 49952-54, at 49952.

³⁶⁶ Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

³⁶⁷ Birkenfeld deposition (10/11/07), at 14. Prior to UBS, he worked for private banking operations in Geneva at Credit Suisse and Barclays Bank.

indicted, and pled guilty to conspiring with a U.S. taxpayer, Igor Olenicoff, to hide \$200 million in assets in Switzerland and Liechtenstein, to evade \$7.2 million in U.S. taxes.³⁶⁸

(1) Opening Undeclared Accounts with Billions in Assets

From at least 2000 to 2007, UBS has opened tens of thousands of accounts in Switzerland that are beneficially owned by U.S. clients, hold billions of dollars in assets, and have not been reported to U.S. tax authorities. These Swiss accounts were opened by U.S. clients, but, for a variety of reasons, the clients did not file W-9 Forms with UBS for the accounts. Because the clients did not file W-9 reports with the bank, UBS did not file 1099 Forms with the IRS reporting the account information. UBS refers to these accounts internally as “undeclared accounts.”

In response to Subcommittee inquiries, UBS has estimated that it today has accounts in Switzerland for about 20,000 U.S. clients, of which roughly 1,000 have declared accounts and the remainder have undeclared accounts that have not been disclosed to the IRS.³⁶⁹ UBS also estimated that those accounts contain assets with a combined value of about 18.2 billion in Swiss francs or about \$17.9 billion. UBS was unable to specify the breakdown in assets between the undeclared and declared accounts, except to note that the amount of assets in the undeclared accounts would be much greater.

These figures suggest that the number of U.S. client accounts in Switzerland and the amount of assets contained in those accounts have nearly doubled since 2002, when a UBS document reported that the Swiss private banking operation then had more than 11,000 accounts for clients in “North America,” meaning the United States and Canada, with combined assets in excess of 21 billion Swiss francs or about \$13.3 billion.³⁷⁰ The UBS document also calculates that, in 2002, these accounts had earned the bank “net revenues” of about 150 million Swiss francs.³⁷¹ Since then, the Swiss private banking operations have reported opening many more U.S. client accounts in Switzerland with additional billions of dollars in assets.³⁷²

³⁶⁸ United States v. Birkenfeld.

³⁶⁹ Subcommittee interview with UBS (7/14/08).

³⁷⁰ Key Clients in NAM [North America]: Business Case 2003-2005, (undated), at 26 (chart entitled, “Assessment of Current KC [Key Client] Base”).

³⁷¹ Id.

³⁷² See, e.g., email from Martin Liechti re “Happy New Year” (undated) (stating UBS Swiss client advisors had quadrupled their intake of net new money into Switzerland from 4 million Swiss francs per client advisor in 2004 to 16 million Swiss francs per client advisor in 2006).

The UBS figures for 2008 also appear consistent with internal UBS documents from 2004 and 2005, which suggest that a substantial portion of the UBS Swiss accounts opened for U.S. clients at that time were undeclared. This information is contained in a set of monthly reports for select months in 2004 and 2005, which tracked key information for Swiss accounts opened for North American clients, meaning clients from the United States and Canada.³⁷³ These reports also break down the data for both declared and undeclared accounts.³⁷⁴ The data suggests that the undeclared accounts not only held more assets, but also brought in more new money and were more profitable for the bank than the declared accounts.

The first data element in the reports is the total amount of assets in the specified accounts. Each month shows substantially greater assets in the undeclared accounts for U.S. clients than in the declared accounts. In October 2005, for example, the data shows a total of about 18 billion Swiss francs of assets in the undeclared accounts for U.S. clients³⁷⁵ and 2.6 billion Swiss francs in the declared accounts.³⁷⁶ Clearly, the assets in the undeclared accounts vastly outweigh the assets in the declared accounts for U.S. clients.

The monthly reports also track the extent to which the accounts brought in new money to UBS, referred to as “net new money” or NNM. The October 2005 report appears to show that, for the year to date, the undeclared accounts for U.S. clients had brought in more than 1.3 billion

³⁷³ See “BS North America Report: Overview Figures North America,” prepared in July, August, September, October, November, and December 2004, and January, February, March, August, September, and October 2005. These reports appear to be excerpts from larger reports. These documents, on their face, present data for Swiss accounts opened for U.S. and Canadian clients. According to UBS, however, it is possible that the data may include some Swiss accounts opened for persons from other countries.

³⁷⁴ The 2004 monthly reports, for example, show data for “W9” accounts and “NON W9” accounts, which correspond to declared and undeclared accounts. The March 2005 report provides data for “W9” accounts and “SFA” accounts, which at that time corresponded to the declared accounts, as well as data for “NON W9” accounts, which corresponded to the undeclared accounts. “SFA” refers to Swiss Financial Advisers, the UBS subsidiary in Switzerland that is a registered U.S. investment adviser, opens securities accounts only for U.S. clients who submit W-9 Forms, and reports all such accounts to the IRS. Mr. Birkenfeld told the Subcommittee that SFA was referred to within UBS as “the declared desk.” Birkenfeld deposition at 84. He also explained that all Swiss bankers who formerly had declared accounts had been required to transfer them to SFA. *Id.* at 85. That meant U.S. clients in Switzerland with accounts outside of SFA were necessarily undeclared accounts. Reports later in 2005 use different terminology again, providing data for “US International” accounts, which correspond to the undeclared accounts, and data for a “W9 Business Row” and SFA accounts, which correspond to the declared accounts.

³⁷⁵ *Id.* The 18 billion figure is derived from the amount shown for “US International” (18.5 billion) after subtracting the amount shown for “W9 Business Row” (0.5 billion). The Subcommittee also asked UBS to produce similar data for 2006 and 2007, but has yet to receive it.

³⁷⁶ *Id.* The 2.6 billion figure is derived from adding together the figures shown for “W9 Business Row” (0.5 billion) and “SFA” (2.1 billion).

Swiss francs in net new money for UBS,³⁷⁷ while the declared accounts had collectively lost about 333 million Swiss francs over the same time period.³⁷⁸ These figures indicate that, in 2004 and 2005, the undeclared account assets were growing, while the declared account assets were shrinking.

The last data element in the monthly reports tracks the revenue generated by the accounts for UBS. Each month shows that UBS earned significantly more in revenues from the undeclared accounts for U.S. clients than from the declared accounts. For example, the October 2005 report shows that UBS obtained year-to-date revenues of about 180.9 million Swiss francs from the undeclared accounts³⁷⁹ versus 22.1 million Swiss francs from the declared accounts.³⁸⁰ By every measure employed by UBS in these monthly reports, the undeclared U.S. client accounts were more popular and more lucrative for the bank.

Still another UBS document, prepared in 2004 for a meeting of Swiss private banking officials in Geneva, to reach an “Executive Board Decision” on several matters, shows the bank’s awareness of the undeclared and declared accounts opened for U.S. clients.³⁸¹ About mid-way through, this document includes two flow charts showing how a UBS client advisor should handle an account with a “U.S. person.” The first flow chart shows that accounts for U.S. persons domiciled in the United States should go to certain offices if a W-9 is filed, and to the North American desk in Zurich if “no W9 form” is filed. The second flow chart shows that, for U.S. persons domiciled outside of the United States, accounts with a W-9 form should go to WBS in Zurich to the “W9 Team,” while accounts with “no W9 form signed” should go to the “Country team” in the country where the U.S. person was domiciled. These two flow charts provide additional evidence that the top management of UBS in Switzerland was well aware of the bank’s practice of maintaining declared and undeclared accounts for U.S. clients, and had even institutionalized the administration of these accounts in different offices.

³⁷⁷ The 1 billion figure is derived from the amount shown for “US International” (1.054 billion) after eliminating the loss shown for “W9 Business Row” (loss of 309.8 million), resulting in NNM of about 1.364 billion.

³⁷⁸ The 333 million figure is derived from adding together the figures shown for “W9 Business Row” (loss of 309.8 million) and “SFA” (loss of 23.8 million).

³⁷⁹ The 180.9 million figure is derived from the amount shown for “US International” (194.3 million) after subtracting the amount shown for “W9 Business Row” (13.4 million).

³⁸⁰ The 22.1 million figure is reached by adding together the figures shown for “W9 Business Row” (13.4 million) and “SFA” (8.7 million).

³⁸¹ UBS presentation entitled, “North America Meeting[:] Update U.S. NewCo (W9),” (9/15/04), Bates Nos. UPSI 49907-27, at 17-18.

In his deposition before the Subcommittee, Mr. Birkenfeld indicated that, while he was employed at UBS from 2001 to 2005, it was his understanding that UBS had thousands of Swiss accounts opened by U.S. clients, the majority of which were undeclared and never disclosed to the IRS. He stated that, “I didn’t see anyone declare any of those [Swiss] accounts in my entire career.”³⁸²

In the recent U.S. criminal case involving Mr. Birkenfeld, the U.S. Government filed a Statement of Facts, signed by Mr. Birkenfeld, stating that UBS Switzerland had “\$20 billion of assets under management in the United States undeclared business, which earned the bank approximately \$200 million per year in revenues.”³⁸³

(2) Ensuring Bank Secrecy

UBS has not only maintained undeclared Swiss accounts for U.S. clients containing billions of dollars in assets, it has also adopted practices to ensure that, in keeping with Swiss bank secrecy laws, those undeclared accounts would not be disclosed to U.S. authorities.

Promising Bank Secrecy. UBS has assured its U.S. clients in writing that UBS will take steps to protect their undeclared accounts from disclosure to U.S. tax authorities. In November 2002, for example, senior officials in the UBS private banking operations in Switzerland sent the following letter to its U.S. clients about their Swiss accounts:

“Dear client:

“From our recent conversations we understand that you are concerned that UBS’ stance on keeping its U.S. customers’ information strictly confidential may have changed especially as a result of the acquisition of Paine Webber. We are writing to reassure you that your fear is unjustified and wish to outline only some of the reasons why the protection of client data can not possibly be compromised upon:

“– The sharing of customer data with a UBS unit/affiliate located abroad without sufficient customer consent constitutes a violation of Swiss banking secrecy provisions and exposes the bank employee concerned to severe criminal sanctions. Further, we should like to underscore that a Swiss bank which runs afoul of Swiss privacy laws will face sanctions by its Swiss regulator ... up to the revocation of the bank’s charter. Already against this background, it must be clear that information relative to

³⁸² Birkenfeld deposition (10/11/07), at 28.

³⁸³ United States v. Birkenfeld, Statement of Facts, at 3.

your Swiss banking relationship is as safe as ever and that the possibility of putting pressure on our U.S. units does not change anything. Our bank has had offices in the United States as early as 1939 and has therefore been exposed to the risk of US authorities asserting jurisdiction over assets booked abroad since decades. Please note that our bank has a successful track record of challenging such attempts.

“– As you are aware of, UBS (as all other major Swiss banks) has asked for and obtained the status of a Qualified Intermediary under U.S. tax laws. The QI regime fully respects client confidentiality as customer information are only disclosed to U.S. tax authorities based on the provision of a W-9 form. Should a customer choose not to execute such a form, the client is barred from investments in US securities but under no circumstances will his/her identity be revealed. Consequently, UBS’s entire compliance with its QI obligations does not create the risk that his/her identity be shared with U.S. authorities.”³⁸⁴

This letter plainly asserts that UBS will not disclose to the IRS a Swiss account opened by a U.S. client, so long as that account contains no U.S. securities, even if UBS knows the accountholder is a U.S. taxpayer obligated under U.S. tax law to report the account and its contents to the U.S. Government.

UBS told the Subcommittee that it has no legal obligation to report such undeclared accounts to the IRS, provided that UBS ensures that the accounts do not contain U.S. securities and, thus, are not subject to reporting under the QI Program. UBS also told the Subcommittee that it recognizes that a U.S. accountholder may have a legal obligation to report a foreign trust, foreign bank account, or foreign income to the IRS. UBS pointed out, however, that those reporting obligations apply to the accountholder personally and not to UBS. UBS, thus, asserts that it has broken no law or QI obligation by allowing U.S. clients to open and maintain undeclared accounts in Switzerland, if those accounts do not contain U.S. securities.³⁸⁵

Helping U.S. Clients Avoid QI Disclosure. UBS has not only maintained undeclared accounts in Switzerland for numerous U.S. clients, it took steps to assist its U.S. clients to structure their Swiss accounts in ways that avoided U.S. reporting rules under the QI Program.

³⁸⁴ UBS letter addressed to “Dear client” (11/4/02).

³⁸⁵ Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

UBS informed the Subcommittee that, after it joined the QI Program in 2001, and informed its U.S. clients about its QI disclosure obligations, many of its U.S. clients elected to sell U.S. securities or open new accounts to avoid the QI reporting obligations attached.³⁸⁶ UBS told the Subcommittee, for example, that in 2001, hundreds of its U.S. clients sold their U.S. securities so that their Swiss accounts would not be covered by the QI Program. UBS told the Subcommittee that it estimates that, in 2001, its U.S. clients sold over \$2 billion in U.S. securities from their Swiss accounts. UBS allowed these U.S. clients to continue to maintain accounts in Switzerland, and helped them reinvest in other types of securities that did not trigger reporting obligations to the IRS, despite evidence that these U.S. clients were using their Swiss accounts to hide assets from the IRS.

UBS also told the Subcommittee that, in 2001, about 250 of its U.S. clients with Swiss accounts took action to establish corporations, trusts, foundations, or other entities in non-U.S. countries, open new UBS accounts in the names of those foreign entities, and then, in a number of instances, transfer U.S. securities from the client's personal accounts to those new accounts. The offshore entities included corporations, trusts, and foundations set up in the British Virgin Islands, Hong Kong, Liechtenstein, Panama, and Switzerland.³⁸⁷ UBS then accepted W-8BEN Forms from these offshore entities in which they claimed ownership of the assets had been transferred from the U.S. clients' personal accounts. UBS treated the new accounts as held by non-U.S. persons whose identities did not have to be disclosed to the IRS, even though UBS knew that the true beneficial owners were U.S. persons.

These facts indicate that, soon after it joined the QI Program, UBS helped its U.S. clients structure their Swiss accounts to avoid reporting billions of dollars in assets to the IRS. Among other actions, UBS allowed some of its U.S. clients to establish offshore structures to assume nominal ownership of assets, and allowed U.S. clients to continue to hold undisclosed accounts that were not reported to the IRS. Such actions, while not violations of the QI agreements per se, clearly undermined the program's effectiveness and led to the formation of offshore structures and undeclared accounts that could facilitate, and have resulted in, tax evasion by U.S. clients.

The actions taken by UBS, in many ways, matched LGT's response to the QI Program. Both UBS and LGT advised the Subcommittee that most of their U.S. clients engaged in a massive sell-off of U.S. securities after the banks signed QI agreements in 2001. In

³⁸⁶ *Id.*

³⁸⁷ *United States v. Birkenfeld*, Statement of Facts, at 3.

addition, both UBS and LGT allowed a number of U.S. clients to establish offshore corporations to hold U.S. securities. It appears that UBS exploited the gap between KYC rules and the QI Program in the same manner as LGT, by treating offshore corporations as non-U.S. persons for QI reporting purposes, despite knowing for KYC purposes that the offshore corporations and their assets were beneficially owned by U.S. persons. Both banks continued to maintain accounts for their U.S. clients, despite evidence that the clients were hiding their assets and accounts from the IRS. In this way, both UBS and LGT employed QI practices that kept the U.S. clients' accounts secret from the IRS and thereby facilitated tax evasion by the U.S. clients holding undeclared accounts.

The Statement of Facts in the Birkenfeld criminal case characterizes these actions as follows: "By concealing the U.S. clients' ownership and control in the assets held offshore, defendant Birkenfeld, the Swiss Bank, its managers and bankers evaded the requirements of the Q.I. program, defrauded the IRS and evaded United States income taxes."³⁸⁸

(3) Targeting U.S. Clients

In addition to discovering that UBS maintained billions of dollars in undeclared accounts in Switzerland for U.S. clients and took steps to help U.S. client circumvent QI reporting requirements, the Subcommittee discovered that, from at least 2000 to 2007, UBS Swiss bankers engaged in an intensive effort to target U.S. clients to open Swiss accounts. UBS repeatedly sent its Swiss bankers onto U.S. soil to recruit new clients, expand existing accounts, and meet increasing business demands to bring new client money from the United States into Switzerland.

Legal and Policy Restrictions on U.S. Activities. U.S. securities law prohibits non-U.S. persons from advertising securities products or services or executing securities transactions within the United States, unless registered with the Securities and Exchange Commission (SEC).³⁸⁹ In addition, securities products offered to U.S. persons must

³⁸⁸ *Id.*

³⁸⁹ See, e.g., Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1):

"(a) Registration of all persons utilizing exchange facilities to effect transactions; exemptions.

(1) It shall be unlawful for any broker or dealer which is either a person other than a natural person or a natural person not associated with a broker or dealer which is a person other than a natural person (other than such a broker or dealer whose business is exclusively intrastate and who does not make use of any facility of a national securities exchange) to make use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of, any security (other than an exempted security or commercial paper, bankers'

comply with U.S. securities laws, which generally means they must be registered with the SEC, a condition that may not be met by non-U.S. securities, mutual funds, and other investment products. In addition, although UBS AG is licensed to operate as a bank and broker-dealer in the United States, those licenses do not extend to its non-U.S. offices or affiliates providing banking or securities services to U.S. residents.³⁹⁰ Similar prohibitions may appear in State securities and banking laws. Moreover, in provisions known as “deemed sales” rules, U.S. tax laws and the standard QI agreement require sales of non-U.S. securities to be reported by foreign financial institutions on 1099 Forms sent to the IRS, if those sales were effected in the United States, such as arranged by a broker physically in the United States or through telephone calls or emails originating in the United States.³⁹¹

To avoid violating U.S. law, exceeding its SEC and banking licenses, or triggering 1099 reporting requirements for deemed sales, since at least 2002, UBS has maintained written policies restricting the marketing and client-related activities that may be undertaken in the United States by UBS employees from outside of the country.

2002 UBS Restrictions on U.S. Activities. In 2002, for example, UBS issued a set of guidelines for its Swiss bankers administering securities accounts for U.S. clients.³⁹² These guidelines stated that, under U.S. tax regulations, securities trades in non-U.S. securities on behalf of a U.S. person trigger reporting requirements to the IRS under QI or IRS deemed sales rules, unless the trades are effected “by a UBS portfolio manager with discretion from a bank office of a non-US bank outside the territory of the US.” To qualify for the exception and avoid reporting any securities trades or accounts to the IRS, the guidelines provide a long list of actions that UBS Swiss bankers cannot undertake with respect to their U.S. clients. Essentially, the guidelines instruct the Swiss bankers to persuade their U.S. clients to enter into a “discretionary asset management relationship” with the bank and then to “[c]ease to accept customer instructions from US territory” so that no securities trades are effected within the United States that might require reporting to the IRS.

acceptances, or commercial bills) unless such broker or dealer is registered in accordance with subsection (b) of this section.”

³⁹⁰ UBS makes this statement in its 2004 policy statement. See “Cross-Border Banking Activities into the United States (version November 2004),” prepared by UBS, Bates Nos. PSI-OPB 103-105, at 103 (emphasis in original).

³⁹¹ See, e.g., “U.S. Tax and Reporting Obligations for Foreign Intermediaries’ Non-U.S. Securities,” 47 Tax Notes Int’l 913 (9/3/07).

³⁹² See “Wealth Management and Business Banking Client Advisor’s Guidelines for Implementation and Management of Discretionary Asset Management Relationship with U.S. Clients,” (undated but likely late 2001). See also UBS letter to Mr. Birkenfeld (3/17/06), Bates Nos. PSI-OPB 84-85, at 1 (“[T]he rules which set forth UBS approach to servicing US resident clients have been posted on the UBS-intranet already since early 2002.”).

The 2002 UBS guidelines tell the Swiss bankers, for example, to ensure that there is “no use of US mails, e-mail, courier delivery or facsimile regarding the client’s securities portfolio;” “no use of telephone calls into the US regarding the client’s securities portfolio;” “no account statements, confirmations, performance reports or any other communications” while in the United States; “no further instructions ... from ... clients while they are in the US;” “no marketing of advisory or brokerage services regarding securities;” “no discussion of or delivery of documents concerning the client’s securities portfolio while on visits in the US;” “no discussion of performance, securities purchased or sold or changes in the investment mandate for the client” while in the United States; and “no delivery of documents regarding performance, securities purchased or sold or changes in the investment mandate for the client.”

2004 Restatement of U.S. Restrictions. A 2004 UBS policy statement on “Cross-Border Banking Activities into the United States,” replaced the 2002 guidelines, while repeating most of the prohibitions. This policy statement informed UBS non-U.S. bankers, for example, that U.S. Federal and State laws restrict the actions that they can take while in the United States.³⁹³ It states:

“UBS AG has several U.S. branches and agencies and various non-banking subsidiaries all properly licensed, but these licenses **do not** encompass cross-border services provided to U.S. residents by UBS AG offices or affiliates outside of the United States. ... Some state laws prohibit banks without a banking license from that state from soliciting deposits from that state’s residents. States also may prohibit non-licensed lenders from making certain loans to consumers in such states. Any entity outside of the United States that is not registered with the SEC ... may not advertise securities services or products in the United States.”³⁹⁴

The 2004 UBS policy statement goes on to list specific restrictions on activities that may be undertaken by its non-U.S. personnel while in the United States. These restrictions include the following:

“UBS will not advertise and market for its services with material going beyond generic information relating to the image of UBS AG and its brand in the U.S. UBS AG may not organize, absent an opinion from Legal, events in the U.S.”³⁹⁵

³⁹³ See “Cross-Border Banking Activities into the United States (version November 2004),” prepared by UBS, Bates Nos. PSI-OPB, at 103-105 (emphasis in original).

³⁹⁴ *Id.*

³⁹⁵ *Id.*

“UBS AG may not establish relationships for securities products or services with new clients resident in the United States with the use of U.S. jurisdictional means. Thus, it must ensure that it does not contact securities clients in the United States through telephone, mail, e-mail, advertising, the internet or personal visits.³⁹⁶

“UBS AG should ensure that:

- No marketing or advertising activity targeted to U.S. persons takes place in the United States;
- No solicitation of account opening takes place in the United States;
- No cold calling or prospecting into the United States takes place;
- No negotiating or concluding of contracts takes place in the United States;
- No carrying or transmitting of cash or other valuables of whatever nature out of the United States takes place; ...
- No routine certification of signatures, transmission of completed account documentation, or related administrative activity on behalf of UBS AG takes place;
- Employees do not carry on substantial activities at fixed location(s) while in the United States thereby establishing an office or maintaining a place of business.³⁹⁷

In his deposition before the Subcommittee, Mr. Birkenfeld claimed to have been unaware of these types of restrictions on his conduct until a colleague brought them to his attention in May 2005, by showing him the 2004 policy statement on UBS’ internal computer system.³⁹⁸ He told the Subcommittee, “When I read it, I was very concerned about what was going on in the bank, because this contradicted entirely what my job description was.”³⁹⁹ UBS has countered that its Swiss personnel were informed about the restrictions shortly after they were re-issued, in training sessions held during September 2004, which Mr. Birkenfeld attended.⁴⁰⁰

Sponsoring Travel to the United States. Despite the explicit and extensive restrictions on allowable U.S. activities set out in its policy statements, in interviews with the Subcommittee, UBS confirmed that,

³⁹⁶ *Id.*

³⁹⁷ *Id.* at 103-104.

³⁹⁸ Birkenfeld deposition, (10/11/07), at 105.

³⁹⁹ *Id.* at 106.

⁴⁰⁰ See UBS letter to Mr. Birkenfeld (3/17/06), Bates Nos. PSI-OPB 84-85, at 84 (stating Mr. Birkenfeld had been informed of the restrictions during two training sessions in September 2004).

from at least 2000 to 2007, it routinely authorized and paid for its Swiss bankers to travel to the United States to develop new business and service existing clients.⁴⁰¹ Documents obtained by the Subcommittee related to UBS Swiss bankers also frequently reference travel to the United States. A 2003 “Action Plan” for the UBS private banking operation in Switzerland, for example, called for increased client contact “through business trips” to the United States and directed Swiss private bankers to seek “active referrals from existing clients for new relationships.”⁴⁰² A 2005 document called for “frequent travelling” and “selective travelling” by UBS Swiss bankers to the United States as part of the services to be provided to U.S. clientele.⁴⁰³

During his deposition, Mr. Birkenfeld told the Subcommittee that, during his years at UBS, the private bankers from Switzerland who dealt with U.S. clients typically traveled to the United States four to six times per year, using their trips to search for new clients and provide financial services to existing clients.

“[W]e had a very large group of people in Lugano, Geneva, and Zurich that marketed directly into the U.S. market. The private bankers would travel anywhere between four and six times a year to the U.S., spend anywhere from one to two weeks in the U.S., prospecting, visiting existing clients, so on and so forth. ... As I remember, there [were] around 25 people in Geneva, 50 people in Zurich, and five to ten in Lugano. This is a formidable force.”⁴⁰⁴

Mr. Birkenfeld testified that UBS not only authorized and paid for the business trips to the United States, but also provided the Swiss bankers with tickets and funds to go to events attended by wealthy U.S. individuals, so that they could solicit new business for the bank in Switzerland. He said that UBS sponsored U.S. events likely to attract wealthy clients, such as the Art Basel Air Fair in Miami; performances in major U.S. cities by the UBS Vervier Orchestra featuring talented young musicians; and U.S. yachting events attended by the elite Swiss yachting team, Alinghi, which was also sponsored by UBS. An internal UBS document laying out marketing strategies to attract U.S. and Canadian clients confirms that the bank “organized VIP events” and engaged in the “Sponsorship of Major Events” such as “Golf, Tennis

⁴⁰¹ Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

⁴⁰² Chart entitled, “Action Plan 2003 for Country Team,” (undated).

⁴⁰³ “Organizational changes NAM,” Powerpoint presentation by Michel Guignard of UBS private banking in Switzerland (5/10/05), at 7.

⁴⁰⁴ Birkenfeld deposition (10/11/07), at 46, 47-48. Mr. Birkenfeld clarified during the deposition that the numbers he gave referred to “just the bankers” at the three Swiss offices.

Tournaments, Art, Special Events.”⁴⁰⁵ This document even identified the 25 most affluent housing areas in the United States to provide “targeted locations where to organize events.”⁴⁰⁶

Mr. Birkenfeld described to the Subcommittee how Swiss private bankers used these events and other means to find new U.S. clients during their trips to the United States:

“You might go to sporting events. You might go to car shows, wine tastings. You might deal with real estate agents. You might deal with attorneys. ... It’s really where do the rich people hang out, go and talk to them. ... [I]t wasn’t difficult to walk into a party with a ... business card, and then someone ask[s] you, ‘What do you do?’ and you say, ‘Well, I work for a bank in Switzerland, and we manage money there and open accounts.’ And people immediately would recognize, oh, this is someone who could open new business by opening accounts.”⁴⁰⁷

While travel by Swiss bankers to the United States was generally not only allowed, but encouraged, UBS told the Subcommittee that, on four occasions since 2000, for a variety of reasons, it had imposed temporary bans on Swiss travel to the United States.⁴⁰⁸ These short-term travel bans were imposed: (1) in 2001, following the 9/11 attack on the United States; (2) in 2003, coinciding with an IRS announcement of an Offshore Voluntary Compliance Initiative encouraging U.S. taxpayers with offshore credit cards to disclose their offshore accounts in exchange for avoiding certain penalties;⁴⁰⁹ (3) in 2003 again, following the SARS epidemic outbreak; and (4) in September 2004, in response to the questioning of a UBS private banker by the IRS. Each of these travel bans was lifted shortly after it was imposed. In November 2007, however, UBS fundamentally changed its travel policy, instituting for the first time a prohibition on business travel by its Swiss private bankers to the United States, examined further below.⁴¹⁰

To gain a better understanding of the extent to which UBS Swiss private bankers traveled to the United States in recent years, the

⁴⁰⁵ “KeyClients in NAM: Business Case 2003-2005,” prepared by UBS Wealth Management (undated), at 38-39. “NAM” refers to UBS’ North American division within its private banking operations in Switzerland.

⁴⁰⁶ *Id.* at 40.

⁴⁰⁷ *Id.* at 36-37.

⁴⁰⁸ Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

⁴⁰⁹ *Id.* See also Birkenfeld deposition before the Subcommittee (10/11/07), at 157. For more information about this IRS initiative, see the IRS website at www.irs.gov.

⁴¹⁰ See, e.g., UBS internal memorandum addressed to “Colleagues” regarding “Changes in business model for U.S. private clients,” (11/15/08).

Subcommittee conducted an analysis of over 500 travel records compiled by the Department of Homeland Security, at the Subcommittee's request, of persons traveling from Switzerland to the United States from 2001 to 2008, to identify UBS Swiss employees known to have provided banking and securities services to U.S. clients.⁴¹¹ The Subcommittee determined that, from 2001 to 2008, roughly twenty UBS client advisors made an aggregate total of over 300 visits to the United States. Only two of these visits took place from 2001 to 2002; the rest occurred from 2003 to 2008. On several occasions, the visits appear to have involved multiple UBS client advisors traveling together to UBS-sponsored events in the United States. Some of these client advisors designated their visits as travel for a non-business purpose on the I-94 Customs declaration forms that all visitors must complete prior to entry into the United States.⁴¹² Closer analysis, however, reveals that the dates and ports of entry for such trips coincided with the UBS-sponsored events, suggesting the visits were, in fact, business-related.

For example, the Subcommittee found that at least five UBS Swiss client advisors travelled to the United States for trips coinciding with the Art Basel Art Fair, an annual UBS-sponsored event held in early December in Miami Beach since 2002. The data shows that, over the years, several UBS Swiss client advisors were in Miami during the art show, including three in 2007. On the customs forms completed over the years by UBS travelers prior to landing at Miami International airport, only one client advisor stated that the purpose of the trip was for business, while five described the visit as for pleasure. These client advisors' trips, however, coincided closely with the dates of the Art Basel event, including an invitation-only private showing. Moreover, the Subcommittee's analysis of the customs and travel records obtained from the Department of Homeland Security show that a Swiss-based UBS client advisor traveled to New England from June 20-25, 2004, a trip coinciding with the UBS Regatta Cup held in Newport, Rhode Island from June 19-26, 2004.

⁴¹¹ To find likely UBS client advisors – as opposed to persons whose names coincidentally matched those persons identified to the Subcommittee as UBS personnel – the analysis eliminated all persons from the sample born after a given date who would be too young to be likely candidates. The data was then sorted by date traveled and the ports of entry used, to identify persons traveling at the same time to the same location. This data enabled the Subcommittee to identify UBS client advisors who, for example, made visits to Miami during the dates of the Art Basel event. The Subcommittee chose to eliminate from the analysis persons who did not appear to have a traveling correlation with other known UBS bankers or a link to a UBS event such as Art Basel, as well as persons with similar names to known UBS personnel but who reported different birthdays. The resulting figures, thus, represent a conservative analysis of the number of trips made by UBS Swiss personnel to the United States over the last seven years. The Subcommittee would like to express its appreciation for the assistance rendered by the U.S. Department of Homeland Security in securing, compiling, and analyzing this travel data.

⁴¹² See Arrival-Departure Record, CBP Form I-94, for Nonimmigrant Visitors with a Visa for the United States, discussed in the website of the Customs and Border Patrol, at www.cbp.gov.

The Subcommittee's analysis also showed patterns of travel by Swiss-based UBS client advisors who made regular U.S. visits. One UBS employee, for example, travelled to the United States three times per year, at roughly four-month intervals, from 2003 to 2007. A senior UBS Swiss private bank official – Michel Guignard – visited the United States nearly every other month for a significant portion of the period examined by the Subcommittee. Martin Liechti, an even more senior Swiss private banking official, visited the United States up to eight times in a year.

This travel data provides additional evidence regarding the personnel and resources that have been dedicated by UBS to recruiting and servicing U.S. clients with Swiss accounts.

Assigning NNM Targets. UBS not only paid for its Swiss bankers to travel to the United States and helped them attend U.S. events to prospect for new U.S. clients, it also gave its Swiss bankers specific performance goals for bringing new money into the bank from the United States. These performance goals may have intensified the efforts of UBS Swiss bankers to recruit U.S. clients.

Mr. Birkenfeld told the Subcommittee that, during his tenure at UBS, his superiors at UBS gave him a specific, annual monetary goal, referred to as a “net new money” (NNM) target that he was expected to bring into the bank by the end of the year from U.S. clients. He said that it was his understanding that an NNM target was established for each Swiss client advisor who dealt with U.S. clients. He indicated that the amount varied according to the seniority and track record of the particular client advisor. He told the Subcommittee: “So my job as a private banker predominantly was to bring in net new money, and then on top of it create return on assets, ROA. ... A rough estimate would be probably to bring in probably \$50 million a year or \$40 million.”⁴¹³

Mr. Birkenfeld explained that the NNM target could be met by securing additional assets from existing clients or by securing one or more new clients.

“[O]ne client could make your numbers or 10 or 25 could make your numbers. It's very hard to gauge that. And, again, when people aren't paying tax in the three areas I told you – inheritance, income, and capital gains – it's quite easy for people to bring money to you. They're very interested to bring as much money to the bank as possible.”⁴¹⁴

⁴¹³ Birkenfeld deposition at 20, 23.

⁴¹⁴ *Id.* at 22.

Internal UBS documents confirm that the bank carefully tracked annual figures for net new money and return on assets, among other performance measures for its Swiss private banking operations targeting clients in North America.⁴¹⁵ The documents also show that UBS took a variety of steps to encourage its bankers to meet their NNM goals. In 2003, for example, the head of the Wealth Management Americas division in Switzerland, Martin Liechti, sent a letter to his colleagues, urging each of them to refer at least five clients to Switzerland and promising to award the person with the most referrals with an expensive Swiss watch:

“Net New Money is, as you know, a key element for our success. This means that we all have to work hard to achieve our NNM goals for 2003 and the years to come. In order to reach this goal, two main initiatives have been launched: The KeyClient initiative and the Referral Program within UBS. ...

“Each Country Team making a referral will get 0.33% of the revenues generated by the Financial Advisor over a time period of four years. As you know, we set, at the beginning of the year, a target of 5 referrals per CA [Client Advisor] to be made. I am aware that it is a challenge to reach this goal. In acknowledgement of your effort and commitment, I would like to award the Client Advisor in each Country Team who achieves, until the 31st of December 2003, the most referrals (amount of money and number of referrals), but at least the 5 referrals set as target, with a Breitling wristwatch. The same will be valid for the Rep Officer (including all Rep Offices in Latin America) who achieves this goal. Since 2003 will be a unique ‘brand year’ in UBS’ history, each Breitling watch we award will be ‘customized’ with the UBS logo.”⁴¹⁶

In early 2007, Mr. Liechti sent an email setting a new NNM goal for all of UBS Swiss bankers with clients in the “Americas,” including the United States. His email states:

“Welcome to the new year! I hope you enjoyed the holidays with your family and friends and took the opportunity to relax and ‘recharge your batteries’.

⁴¹⁵ See, e.g., “BS North America Report: Overview Figures North America,” prepared by UBS (July 2004) (providing data on NNM, ROA, and other performance measures for 2004 and 2005), Bates Nos. UPSI 00060246-257; “UBS Management Summary Report-Graphs” (YTD [Year To Date] October 2002), Bates No. PSI-OPB-137 (providing ROA and NNM data for Swiss offices dealing with U.S. clients).

⁴¹⁶ Letter entitled, “Referral Campaign BU Americas,” from UBS private banking head Martin Liechti to his “Colleagues,” (6/2/03), apparently printed in an internal UBS publication, “PB Americas International News.”

“We achieved much in 2006 and I thank you for your huge efforts and dedication to the Americas.

“The markets are growing fast, and our competition is catching up. ... The answer to guarantee our future is GROWTH. We have grown from CHF 4 million per Client Advisor in 2004 to 17 million in 2006. We need to keep up with our ambitions and go to 60 million per Client Advisor! ...

“Our ambitions:

“100 RoA [Return on Assets]
60 NNM per CA [Client Advisor]
100% Satisfied Clients ...

“In the Chinese Horoscope, 2007 is the year of the pig. In many cultures, the pig is a symbol for ‘luck’. While it’s always good to have [a] bit of luck, it is not luck that leads to success. Success is the result of vision and purpose, hard work and passion. ... Together as a team I am convinced we will succeed!”⁴¹⁷

This email indicates that in two years, from 2004 to 2006, UBS Swiss bankers had quadrupled the amount of net new money being drawn into UBS from the “Americas,” and that the bank’s management sought to quadruple that figure again in a single year, 2007. This email helps to convey the pressure that UBS placed on its Swiss private bankers to bring in new money from the United States into Switzerland.

Another UBS document entitled, “KeyClients in NAM: Business Case 2003-2005,” provides context for the Swiss private banking operations’ focus on obtaining U.S. clients. This document observes that “31% of World’s UHNWIs [Ultra High Net Worth Individuals] are in North America (USA + Canada).”⁴¹⁸ It also observes that the United States has 222 billionaires with a combined net worth of \$706 billion.⁴¹⁹ This type of information helps explain why UBS dedicated significant resources to obtaining U.S. clients for its private banking operations in Switzerland.

Massive Machine. Mr. Birkenfeld told the Subcommittee that the overall effort of the UBS Swiss private banking operation to secure U.S.

⁴¹⁷ Email from Martin Liechti re “Happy New Year” (undated).

⁴¹⁸ “KeyClients in NAM: Business Case 2003-2005,” at 4.

⁴¹⁹ Id. at 5.

clients was the most extensive he had observed in his 12 years working in Swiss private banking. He stated:

“This was a massive machine. I had never seen such a large bank making such a dedicated effort to market to the U.S. market. And from my understanding and my work experience in Switzerland, it was the largest bank with the largest number of clients and assets under management of U.S. clients.”⁴²⁰

He said that the Swiss bankers he worked with typically had an “existing book of business,” that included numerous U.S. clients and had “a very regimented cycle of going out and acquiring new clients, taking care of your existing clients, make sure the revenue was there.”⁴²¹ He described one private banker who saw as many as 30 or 40 existing clients on a single trip.⁴²² He estimated that the UBS Swiss bankers in the Geneva office where he worked maintained thousands of Swiss accounts for U.S. clients.⁴²³

When asked what motivated U.S. clients to open accounts in Switzerland instead of banking with UBS in their home country, Mr. Birkenfeld gave two reasons: “Tax evasion. ... And most of the time, people always liked the idea that they could hide some from their spouse or maybe a business partner or what have you, because the secrecy of having a bank account in Switzerland gave them anonymity and discretion.”⁴²⁴ When asked whether he ever said to his U.S. clients, “You don’t have to pay taxes,” or whether that was just understood, Mr. Birkenfeld responded, “It was clearly understood. Clearly understood.”⁴²⁵

(4) Servicing U.S. Clients with Swiss Accounts

UBS not only allowed U.S. clients to open undeclared accounts in Switzerland and assured them it would not disclose these accounts unless compelled by law, UBS also took steps to ensure that its Swiss bankers serviced their U.S. clients in ways that minimized disclosure of information to U.S. authorities. These measures included refraining from mailing Swiss account information into the United States, ensuring Swiss bankers traveling to the United States carried minimal or

⁴²⁰ Birkenfeld deposition at 46.

⁴²¹ *Id.* at 76.

⁴²² *Id.* at 121.

⁴²³ *Id.* at 71.

⁴²⁴ *Id.* at 33.

⁴²⁵ *Id.* at 151.

encrypted client account information, and providing training to help its bankers avoid surveillance by U.S. authorities.

In his deposition, Mr. Birkenfeld indicated that, during his tenure at UBS from 2001 to 2005, he worked closely with Swiss bankers who were servicing U.S. clients in the United States. He said the Swiss bankers he worked with typically had an “existing book of business,” with numerous U.S. clients, and had “a very regimented cycle of ... taking care of your existing clients, mak[ing] sure the revenue was there.”⁴²⁶ He said: “So getting out into the field as we called it, was very, very important. You had to travel. Traveling was critical; otherwise the client would say, ‘What do you mean you’re not coming to visit me? What’s wrong?’ So, you know, you don’t want to upset the client.”⁴²⁷

Mr. Birkenfeld told the Subcommittee that, to his knowledge, almost all U.S. clients with Swiss accounts declined to have their account statements mailed to them in the United States.⁴²⁸ Instead, UBS held client mail in Switzerland until the client was able to view the account documentation in person, after which the information was shredded. He explained:

“You paid 500 francs a year to have all of the statements and all of the transactions held in their folder, sealed, so when they came to the bank, 6 months, a year later, they could come and look at it, go through it, and then we would shred it So I’ve had some clients who would sit there for an hour or two hours, and then they come back and say, ‘Okay. Everything’s fine.’ And they’d give the documents and say, ‘You can shred them.’ And we’d go and take it in the big shredding room and just shred everything. And then you’d start from zero again.”⁴²⁹

Mr. Birkenfeld said that, in between visits to Switzerland to review their account information, many U.S. clients expected their Swiss banker to visit them in the United States and provide updated information about their accounts. He said that, prior to a business trip in which they planned to meet with specific clients, UBS Swiss private bankers typically collected and reviewed the relevant client account information. He said that the Swiss bankers did not normally bring the actual account statements with them into the United States, but took elaborate measures to disguise or encrypt client information to prevent it from falling into

⁴²⁶ Birkenfeld deposition at 76.

⁴²⁷ *Id.* at 76-77.

⁴²⁸ *Id.* at 61.

⁴²⁹ *Id.*

the wrong hands. He said, for example, some bankers kept “cryptic notes” on each account and took only those notes into the United States.⁴³⁰ He described one Swiss banker who directed his assistant to transcribe by hand the information in his clients’ account statements onto spreadsheets, omitting any identifying information other than a code name, and then sent the handwritten spreadsheets by overnight mail to his hotel in the United States, after which he would provide the spreadsheets to his U.S. clients in individual meetings.⁴³¹ Mr. Birkenfeld described other Swiss private bankers who brought into the United States UBS-supplied laptop computers, referred to as TAS computers, programmed to receive only highly encrypted information that, allegedly, [e]ven if the [U.S.] Customs opened it, for instance, they wouldn’t see anything.”⁴³² He said that the TAS computers could be used to “access the client’s private bank statements from America and print them out, as well as view and print out product offerings.”⁴³³

UBS cautioned its bankers, when traveling to the United States, to take measures to safeguard client information and supplied the TAS computers that some Swiss bankers used. A 2004 UBS policy statement provides: “When traveling cross-border, UBS AG employees always must remember that all clients of UBS AG expect us to take all necessary steps to safeguard confidentiality. Client advisors are referred to separate guidance on the protection of confidential information and other available resources that may assist.”⁴³⁴ Mr. Birkenfeld told the Subcommittee that UBS also cautioned its Swiss bankers to keep a low profile during their business trips to the United States so they would not attract attention from U.S. authorities. He noted, for example, that UBS business cards did not include a reference to a private banker’s involvement in “wealth management.”⁴³⁵ He also said that some UBS Swiss private bankers who visited the United States on business told U.S. customs officials that they were instead in the country for “pleasure.”⁴³⁶

Documentation obtained by the Subcommittee indicates that UBS also provided training to its client advisors on how to detect – and avoid

⁴³⁰ *Id.* at 55.

⁴³¹ *Id.* at 121-122.

⁴³² *Id.* at 56-57.

⁴³³ *Id.* at 55. See also reference to TAS in UBS Minutes of a May 2003 meeting of the Geneva Private Bank North America International group (5/14/03), Bates Nos. PSI-OPB-119-20 at 119.

⁴³⁴ “Cross-Border Banking Activities into the United States (version November 2004),” prepared by UBS, Bates Nos. PSI-OPB, at 104 (emphasis in original).

⁴³⁵ Birkenfeld deposition, at 158. See also UBS Minutes of a May 2003 meeting of the Geneva Private Bank North America International group (5/14/03) at 2 (“Do not indicate Wealth Management but only UBS AG on the new business cards”).

⁴³⁶ Birkenfeld deposition, at 166.

– surveillance by U.S. customs agents and law enforcement officers. An undated UBS training document entitled, “Case Studies Cross-Border Workshop NAM” provides a series of scenarios designed to train its personnel.⁴³⁷ An excerpt from one of the scenarios is as follows:

“After passing immigration desk during your trip to USA/Canada, you are intercepted by the authorities. By checking your Palm, they find all your client meetings. Fortunately you stored only very short remarks of the different meetings and no names.

“As you spend around one week in the same hotel, the longer you stay there, the more you get the feeling of being observed. Sometimes you even doubt if all of the hotel employees are working for the hotel. A lot of client meetings are held in the suite of your hotel.

“One morning you are intercepted by an FBI-agent. He looks for some information about one of your clients and explains to you, that your client is involved in illegal activities.

“Question 1: What would you do in such a situation?”

“Question 2: What are the signs indicating that something is going on?”

The document does not indicate UBS’ preferred responses to these questions.

Mr. Birkenfeld told the Subcommittee that the UBS Swiss offices also employed techniques to help existing U.S. clients transfer money into and out of their accounts without identifying documentation. He noted, for example, that while he was at UBS, the bank typically wired funds and engaged in securities transactions without including client-specific information; instead the bank typically stated on the required documentation that the transaction was “on behalf of UBS for one of our clients.”⁴³⁸ He indicated that as the European Union tightened the rules for wire transfers, requiring the originating bank to identify the beneficial owner of the assets involved in a transaction, UBS increasingly restricted its Swiss bankers’ use of wire transfers.⁴³⁹ He said that UBS began to require clients to fly to Switzerland to withdraw cash from an account.

⁴³⁷ Case Studies Cross-Border Workshop NAM, (undated) (emphasis in original). “NAM” refers to the North American division at UBS Switzerland.

⁴³⁸ Birkenfeld deposition, at 247.

⁴³⁹ *Id.* at 251.

The Statement of Facts in the Birkenfeld criminal case describes additional actions taken by UBS bankers to help U.S. clients manage their Swiss accounts without alerting U.S. authorities. It states, for example, that UBS bankers advised U.S. clients to withdraw funds from their accounts using Swiss credit cards that “could not be discovered by United States authorities”; to “destroy all off-shore banking records existing in the United States”; and to “misrepresent the receipt of funds from the Swiss bank account in the United States as loans from the Swiss Bank.”⁴⁴⁰ The Statement of Facts also discloses that, on one occasion, “at the request of a U.S. client, defendant Birkenfeld purchased diamonds using that U.S. client’s Swiss bank account funds and smuggled the diamonds into the United States in a toothpaste tube,” presumably so that the U.S. client could obtain possession of his Swiss assets without alerting U.S. authorities.⁴⁴¹ It also states that Mr. Birkenfeld and his business associate Mario Staggl “accepted bundles of checks from U.S. clients and facilitated the deposit of those checks into accounts at the Swiss bank” and elsewhere, presumably to assist the clients in making transfers to their Swiss accounts, again without alerting U.S. authorities.⁴⁴²

Hold mail accounts, encrypted computers, wire transfers without client names, Swiss credit cards, requirements that clients travel outside of the United States to get information about their accounts – the consistent element in all of these UBS techniques is the effort to help U.S. clients hide assets sent to Switzerland. These UBS procedures, practices, and policies can also facilitate, and in some cases have resulted in, tax evasion by the bank’s U.S. clients.

(5) Violating Restrictions on U.S. Activities

The UBS practices just described, related to Swiss banker activities undertaken in the United States to recruit and service U.S. clients, may have violated U.S. law as well as UBS policy. As explained earlier, U.S. securities and banking laws prohibit non-U.S. persons from advertising securities services or products, executing securities transactions, or performing banking services within the United States, without an appropriate license. Moreover, U.S. tax laws may require a foreign financial institution to report to the IRS on 1099 Forms sales of non-U.S. securities effected in the United States, such as by executing a transaction by a broker physically in the United States or ordering the completion of a transaction through telephone calls or emails originating from the United States.

⁴⁴⁰ Birkenfeld Statement of Facts, at 3.

⁴⁴¹ *Id.* at 4.

⁴⁴² *Id.*

It was to avoid violating U.S. law, exceeding its licensed activities, or triggering 1099 reporting requirements, that caused UBS to issue policy statements restricting the activities that its non-U.S. bankers could undertake while in the United States. Its 2002 and 2004 policy statements, for example, prohibited UBS Swiss bankers, while in the United States, from advertising securities products to their clients, informing clients of how their security portfolios were performing, providing copies of account statements, or using U.S. mails, faxes, telephone calls or email to discuss a client's securities portfolio.⁴⁴³ UBS also prohibited its Swiss bankers from prospecting for new clients while in the United States, soliciting new accounts, or obtaining signatures on account opening documentation.

Despite these prohibitions, it appears that UBS Swiss bankers in the United States servicing U.S. clients routinely undertook actions that contravened the UBS restrictions. Mr. Birkenfeld described, for example, an art festival sponsored by UBS in Miami each year, which he attended with other Swiss bankers for the express purpose of soliciting new accounts. "We went to these events. We went to dinners, we went to art exhibitions, we went to private homes as private bankers, knowingly by management that they were paying for our hotel, paying for our airfare, paying us our salary, and getting us tickets to the UBS VIP tent to drink champagne with clients."⁴⁴⁴ He testified that he witnessed Swiss bankers soliciting new accounts and completing account opening documentation while in the United States. He testified that in some cases, "instead of saying, 'I signed it in New York,' they brought the forms back to Geneva and they put in 'Geneva.'"⁴⁴⁵ When asked whether he had promoted securities products during his trips to the United States, he responded, "We were promoting anything."⁴⁴⁶

Mr. Birkenfeld also told the Subcommittee that UBS Swiss bankers routinely communicated with their U.S. clients about the status of their accounts, including their securities portfolios. He said that some Swiss private bankers communicated with their U.S. clients by telephone or fax, or by sending occasional documents to them in the United States by overnight mail.⁴⁴⁷ He said the bankers sometimes used code names during the telephone calls, so that the U.S. client would not have to

⁴⁴³ See "Wealth Management and Business Banking Client Advisor's Guidelines for Implementation and Management of Discretionary Asset Management Relationship with U.S. Clients," (undated but likely late 2001); "Cross-Border Banking Activities into the United States (version November 2004)," prepared by UBS, Bates Nos. PSI-OPB, at 103-105 (emphasis in original).

⁴⁴⁴ Birkenfeld deposition, at 114.

⁴⁴⁵ *Id.* at 115, 125.

⁴⁴⁶ *Id.* at 111.

⁴⁴⁷ *Id.* at 60.

identify themselves by name, in case anyone was listening.⁴⁴⁸ He said that U.S. clients generally did not like sending or receiving emails via computer, “because they didn’t want that link, for obvious reasons.”⁴⁴⁹ Nevertheless, some clients did use email, as shown in the case involving Mr. Birkenfeld and Mr. Olenicoff, examined further below. Mr. Birkenfeld also described how Swiss bankers brought into the United States information about clients’ accounts and securities portfolios. He told the Subcommittee that his day-to-day interactions with clients were in direct contradiction to the restrictions set out in UBS’ policy statements. He indicated those policies simply were not enforced while he was at the bank.⁴⁵⁰

2007 UBS Restrictions on U.S. Activities. In June 2007, UBS issued a new version of its policy statement restricting activities in the United States by its non-U.S. bankers.⁴⁵¹ This document repeated the prohibitions in the 2004 policy statement, while adding extensive new restrictions. For example, the 2007 policy statement states that, while non-U.S. UBS bankers could continue to travel to the United States, “[t]ravels must be kept to a minimum,” and each traveling officer must be trained in and sign a certificate confirming compliance with the travel restrictions, inform his or her superior prior to a trip of planned events and clients to be visited, and report after the trip to the supervisor about all trip developments.⁴⁵² The policy statement goes on to state that “UBS will abstain from any active prospecting of any U.S. based persons,” although it would continue to accept referrals from existing clients or “U.S. Licensed Officers.”⁴⁵³ In addition, it states that non-U.S. UBS bankers “must abstain from any activity that could be construed as soliciting securities or banking business from persons located in the United States,” and “must not give any advice to prospective or existing clients on how to evade taxes or circumvent any other relevant restrictions.”⁴⁵⁴

⁴⁴⁸ *Id.* at 63-64.

⁴⁴⁹ *Id.* at 61.

⁴⁵⁰ Mr. Birkenfeld told the Subcommittee that he was not even aware of the restrictions until May 2005, when a colleague showed him the 2004 policy statement on an internal UBS computer system. He said that after being shown the 2004 policy statement, he sent emails, in June 2005, to the UBS legal and compliance divisions asking about the contradiction between the policy statement and his day-to-day activities. He provided copies of these emails, which he said were never responded to in writing. Birkenfeld deposition, at 108-109, 125-26. He told the Subcommittee that he also brought the issue to the attention of his immediate supervisor whom he said, “yelled at me and said, ‘Why are you getting everyone riled up?’” *Id.* at 126-27. He testified that he then brought the 2004 policy statement to two outside law firms, both of which advised him to resign. *Id.* at 127. Mr. Birkenfeld resigned from UBS in October 2005.

⁴⁵¹ See “Restrictions on Cross-Border Banking and Financial Services Activities: Country Paper USA (Effective Date June, 1st, 2007),” (otherwise undated).

⁴⁵² *Id.* at 4.

⁴⁵³ *Id.* at 8.

⁴⁵⁴ *Id.* at 5, 6 (emphasis in original).

2007 Travel Ban to the United States. In November 2007, UBS went further, essentially ending all travel by its Swiss bankers to the United States to solicit new business.⁴⁵⁵ UBS stated in an internal memorandum that it had decided “to realign the business model for U.S. clients by focusing our resources on our wealth management operations based in the United States ... and UBS Swiss Financial Advisors in Zurich.”⁴⁵⁶ UBS materials stated that UBS would permit “new account opening for securities related services only within those units”⁴⁵⁷ and would service existing U.S. clients only when those clients were outside of the United States and, for example, visiting Switzerland or utilizing telephone calls, faxes or other communication systems from outside the United States.⁴⁵⁸ A document providing talking points to UBS bankers on how to inform their U.S. clients about the new policy suggests telling them: “Client advisors, including myself, will no longer be traveling outside of Switzerland to meet you. ... [W]e will not be able to communicate with you about your securities account when you are in the United States. ... [W]e will not be able to execute your securities instructions if we are not satisfied that you are outside the U.S. when giving such orders.”⁴⁵⁹

The talking points also indicate that for a client who asked: “If I decide to transfer my assets to SFA [Swiss Financial Advisers], will Swiss client confidentiality still apply?,” the recommended response was: “An SFA representative would be the best person to answer that question, but my understanding is that, although your information would be reported to the IRS and potentially available to the SEC, it otherwise generally would be covered by Swiss financial privacy protections.”⁴⁶⁰ For a client who asked: “What if I do not want U.S. tax reporting services or to supply a W-9?,” the recommended response was: “Then you may retain your current account subject to the modifications I just described.”⁴⁶¹ Those modifications included keeping all communications about the account outside of the United States.

⁴⁵⁵ See, e.g., UBS internal memorandum addressed to “Colleagues” regarding “Changes in business model for U.S. private clients,” (11/15/08).

⁴⁵⁶ *Id.* at 1.

⁴⁵⁷ *Id.*

⁴⁵⁸ UBS prepared document with the heading, “Privileged and Confidential: Letters to Existing U.S. Clients with More than CHF 50,000 Who have Not been Informed Orally either to Retained Mail or Send to Non-U.S. Address,” (undated but likely in or after November 2007) (heading using all capital letters converted to initial capital format) (apparent form letter providing guidance to U.S. clients on the November 2007 policy).

⁴⁵⁹ UBS prepared document with the heading, “Talking Points for Informing U.S. Private Clients with Securities Holdings about the Realignment of our Business Model Plus Q&A,” (undated but likely in or after November 2007) (heading using all capital letters converted to initial capital format).

⁴⁶⁰ *Id.* at 3.

⁴⁶¹ *Id.* at 1-2.

According to UBS, the new policy, including the travel ban, became effective in November 2007, although a few previously planned business trips to the United States were allowed in December. UBS informed the Committee that, since January 2008, none of its Swiss private bankers has made a business trip to the United States.⁴⁶²

Contrary to this representation by UBS, however, a Subcommittee review of the relevant travel data for the Swiss bankers determined that, from January to April 2008, UBS client advisors made twelve trips to the United States, travelling from Switzerland to New York, Miami, San Francisco, and Las Vegas. The Customs I-94 Forms indicate that, on half of these trips, the Swiss bankers indicated they were travelling for business purposes, while on the other half, the Swiss bankers indicated they were travelling to the United States for non-business purposes. With respect to Mr. Liechti, head of the UBS Wealth Management Americas division, the I-94 Form shows that he arrived in the United States on April 20, 2008, on business. There is no record of his departure to date.

The clear contrast between the UBS policy restrictions dating back to at least 2002, and the activities undertaken by UBS Swiss bankers while traveling in the United States, as described by Mr. Birkenfeld in his deposition, in connection with his recent indictment, and in internal UBS documents, suggests that until recently, the UBS restrictions were not being enforced. This lack of enforcement, in turn, raises concerns that UBS Swiss bankers with U.S. clients may have been routinely violating not only the bank's internal policies, but also U.S. law. UBS is currently under investigation by the SEC, IRS, and Department of Justice regarding the activities of its Swiss bankers in the United States.

C. Olenicoff Accounts

Concerns raised by the activities of UBS Swiss bankers servicing accounts for U.S. clients are further illustrated by the UBS accounts opened in Switzerland by Mr. Birkenfeld for Igor Olenicoff.

Mr. Olenicoff is a billionaire real estate developer, U.S. citizen, and resident of California and Florida.⁴⁶³ He is President and owner of Olen Properties Corporation. From 1992 until 2005, Mr. Olenicoff opened multiple accounts at banks in the Bahamas, England, Liechtenstein, and Switzerland. These accounts were opened in the name of multiple offshore corporations he controlled, including Guardian Guarantee Co., Ltd., New Guardian Bancorp ApS, Continental

⁴⁶² Subcommittee interview of UBS, represented by outside legal counsel (6/19/08).

⁴⁶³ See pleadings in United States v. Olenicoff, Case No. SA CR No. 07-227-CJC (C.D. Cal.) (hereinafter "United States v. Olenicoff"); and United States v. Birkenfeld.

Realty Funding Corp., National Depository Corp., Sovereign Bancorp Ltd., and Swiss Finance Corp.⁴⁶⁴ Some of his accounts were opened at UBS in Switzerland, and for a time, Mr. Olenicoff was Mr. Birkenfeld's largest private banking client.

In 2007, Mr. Olenicoff pled guilty to one criminal count of filing a false income tax return by failing to disclose the foreign bank accounts he controlled.⁴⁶⁵ He was sentenced to two years probation and 120 hours of community service, and paid about \$52 million to the IRS for six years of back taxes, interest, and penalties owed on assets and income hidden in foreign bank accounts.⁴⁶⁶ In 2008, Mr. Birkenfeld pled guilty to conspiring with Mr. Olenicoff to defraud the IRS and avoid payment of taxes owed on about \$200 million in assets transferred to accounts in Switzerland and Liechtenstein.⁴⁶⁷

The Subcommittee obtained a number of documents related to the Olenicoff and Birkenfeld matters which help illustrate the actions taken by UBS private bankers and others to help U.S. clients conceal their assets and evade U.S. taxes.

Account Opening. Mr. Birkenfeld told the Subcommittee that he first heard Mr. Olenicoff's name while working at Barclays Bank.⁴⁶⁸ In 2001, soon after he began working for UBS, he contacted Mr. Olenicoff in California, flew to California for a meeting with Mr. Olenicoff and his son, and persuaded them to move their account to UBS in Switzerland.⁴⁶⁹

Mr. Olenicoff told Mr. Birkenfeld that he would like to open the UBS account in the name of Guardian Guarantee Corp. (GGC), one of the Bahamas corporations he controlled.⁴⁷⁰ Mr. Birkenfeld provided the

⁴⁶⁴ *United States v. Olenicoff*, Plea Agreement for Defendant Igor M. Olenicoff (12/10/07) (hereinafter Olenicoff Plea Agreement), at 4.

⁴⁶⁵ *Id.*

⁴⁶⁶ See "California Real Estate Developer Sentenced for Filing a False Tax Return and Failure to Disclose Foreign Bank Accounts to IRS," in "Examples of General Tax Fraud Investigations FY2008," Internal Revenue Service, <http://www.irs.gov/compliance/enforcement/article/0,,id=174630,00.html> (viewed 7/14/08).

⁴⁶⁷ Birkenfeld Statement of Facts.

⁴⁶⁸ According to Mr. Birkenfeld, Mr. Olenicoff had been a client at Barclays Bank in the Bahamas. Mr. Birkenfeld was then working for Barclays Bank in Switzerland. He said that, after joining the QI Program in 2001, Barclays decided to close all of its Bahamas accounts with U.S. clients, including Mr. Olenicoff. Mr. Birkenfeld said that the Barclays account manager in the Bahamas telephoned him to see if the Swiss office could accept the Olenicoff account. Mr. Birkenfeld said that he was then in the process of changing jobs from Barclays to UBS. Birkenfeld Deposition at 206-209.

⁴⁶⁹ Birkenfeld deposition at 206-209; email from Mr. Birkenfeld to Mr. Olenicoff and his son (7/26/01), Bates No. SW 67087.

⁴⁷⁰ See, e.g., email from Mr. Olenicoff to Mr. Birkenfeld (10/11/01), Bates Nos. SW 66660-61.

account opening documentation to Mr. Olenicoff in California, and to a Bahamas firm that administered GGC.⁴⁷¹ Mr. Olenicoff returned the completed forms.⁴⁷² On a UBS form that asked for the identity of the “beneficial owner of the assets” to be deposited into the account, Mr. Olenicoff identified GGC as the beneficial owner and listed himself and his son as the “contracting partners” who would inform UBS of any ownership change.⁴⁷³ Mr. Olenicoff also made himself and other family members account signatories.⁴⁷⁴ Mr. Birkenfeld agreed to open the account on those terms, even though he knew Mr. Olenicoff was the true beneficial owner of the assets, and the Bahamas corporation was being used to conceal that ownership.

As part of the account opening process, Mr. Olenicoff and his son signed a UBS form that “instruct[ed] UBS AG with respect to the above mentioned account not to invest in or hold US securities within the meaning of the relevant Qualified Intermediary Agreement.”⁴⁷⁵ By ruling out U.S. security investments, the Olenicoffs ensured that the account would not be reported to the IRS under the QI Program. In December 2001, Mr. Olenicoff transferred about \$89 million from Barclays Bank in the Bahamas to the new GGC account at UBS in Switzerland.⁴⁷⁶

Restructuring Olenicoff Assets. To help develop the Olenicoff account, Mr. Birkenfeld enlisted the services of Mario Staggl, part owner of a Liechtenstein trust company, New Haven Treuhand AG. In November 2001, Mr. Olenicoff and his son travelled to Liechtenstein and met with Mr. Staggl and his partner, Klaus Biedermann.⁴⁷⁷ During that meeting and in subsequent discussions, Mr. Olenicoff sought advice on how to restructure his offshore assets, taking into consideration the twin goals of avoiding taxes and maintaining “anonymity.”

The documents show that a number of proposals were considered. In one email, Mr. Staggl stated: “The shares in OLEN US are ‘owned’

⁴⁷¹ Olenicoff Plea Agreement, at 4; Birkenfeld Statement of Facts, at 5; handwritten note from Mr. Birkenfeld (undated), Bates No. SW 67527; letter from McKinney, Bancroft & Hughes of the Bahamas to Mr. Olenicoff (10/17/01), Bates No. SW 17013.

⁴⁷² Letter from Mr. Olenicoff to Mr. Birkenfeld, (10/23/01), Bates No. SW 66645.

⁴⁷³ UBS Verification of the beneficial owner’s identity, signed by Mr. Olenicoff and his son, (10/23/01), Bates No. SW66648. Another document identified Mr. Olenicoff as GGC’s president and his son as GGC’s secretary. UBS Authorized signatories (10/23/01), Bates No. SW 66649.

⁴⁷⁴ UBS Authorized signatories (10/23/01), Bates No. SW 66649.

⁴⁷⁵ UBS waiver of right to invest in U.S. securities, signed by Mr. Olenicoff and his son (10/23/01), Bates No. SW 66652.

⁴⁷⁶ Olenicoff Plea Agreement, at 4.

⁴⁷⁷ See email from Mr. Olenicoff to Mr. Staggl, (12/1/01), Bates No. SW 65109 (“we all enjoyed our stay in your beautiful country”).

by the Bahamian Company. In order to avoid any potential exposure in a tax point of view we would recommend to transfer the Bahamian company shares into a Danish Holding Company. The Danish Holding Company would be owned by the first of the Liechtenstein Trusts.”⁴⁷⁸ He also wrote:

“The cash available for UBS and Neue Bank can basically be held by the second Liechtenstein Trust. ... There is an easy way to get around [VAT taxes] by interposing an ‘off-shore’ jurisdiction since services rendered and charged to non Swiss or non Liechtenstein entities are not liable to VAT. We would recommend the second Liechtenstein Trust being the shareholder of the investment ‘off-shore’ vehicle. The jurisdiction could be the British Virgin Islands (BVI), Panama, Gibraltar. ... The administration would be looked after by New Haven in Liechtenstein. The second advantage of interposing the ‘off-shore’ vehicle would lead to another ‘saf[e]ty-break’ in a tax and anonymity aspect.”⁴⁷⁹

Mr. Olenicoff responded in part by stating: “It is the preference of the current holder of the stock, a Bahamian Corporation to move the ownership to an onshore entity, but one which provided complete anonymity as to the beneficial owners.”⁴⁸⁰ In a later email, Mr. Staggl observed: “Subsequent to our telephone discussion of last week your most recent e-mail made it very clear to me – you want to become on-shore – but still maintain an off-shore status in tax and protection point of view.”⁴⁸¹

In late 2001, Mr. Olenicoff authorized Mr. Staggl’s trust company, New Haven, to establish a Liechtenstein trust, The Landmark Settlement, and a Danish corporation, New Guardian Bancorp, on his behalf. Mr. Staggl caused to be executed a “Letter of Intent” which stated that New Haven would hold the trust property for the benefit of Mr. Olenicoff and, after his demise, for his children.⁴⁸² Mr. Staggl wrote to Mr. Olenicoff:

“First, we will establish the Liechtenstein Trust to be known as ‘The Landmark Settlement.’ All the information we need in order to proceed are available at our offices. New Haven will be the trustee. Sheltons, our correspondent in Denmark, agreed to

⁴⁷⁸ Email from Mr. Staggl to Mr. Olenicoff re “Various,” (12/4/01), Bates No. SW 65110.

⁴⁷⁹ *Id.* See also Birkenfeld Statement of Facts, at 5.

⁴⁸⁰ Email from Mr. Olenicoff to Mr. Staggl re “Structure Discussion,” (12/8/01), Bates No. SW 65111.

⁴⁸¹ Email from Mr. Staggl to Mr. Olenicoff re “Structure,” (Jan. 2002), Bates No. SW 67200.

⁴⁸² Birkenfeld Statement of Facts, at 5.

incorporate ‘New Guardian Bancorp’ wholly owned by the Liechtenstein ‘The Landmark Settlement.’”⁴⁸³

At Mr. Olenicoff’s direction, Mr. Birkenfeld arranged a transfer of \$40,000 from the GGC account at UBS to finance the set up of the two new entities.⁴⁸⁴ Mr. Olenicoff then opened accounts in the name of New Guardian Bancorp (NGB) at UBS in Switzerland and in the name of NGB and Landmark Settlement at Neue Bank in Liechtenstein.

In January 2002, Mr. Olenicoff’s companion, Jeanette Bullington, opened a personal account at UBS in Switzerland.⁴⁸⁵ As part of the account opening documentation, she signed one document instructing UBS not to invest her funds in U.S. securities “within the meaning of the relevant Qualified Intermediary Agreement.”⁴⁸⁶ She signed another stating: “I am aware of the new tax regulations. To this end, I declare that I expressly agree that my account shall be frozen for all investments in US securities.”⁴⁸⁷ These documents appear designed to ensure her account would not be disclosed to the IRS under the QI Program.

Transferring U.S. Securities Portfolio. In March 2002, Mr. Birkenfeld and Mr. Staggl helped Mr. Olenicoff transfer \$60 million in U.S. securities from a “Smith Barney portfolio” to the NGB account at Neue Bank in Liechtenstein. Mr. Staggl explained that the transfer could go directly to NGB or, alternatively, to Landmark Settlement which owned NGB, but advised against sending the securities to an account opened in Mr. Olenicoff’s personal name, since that could “jeopardize” the structure by exposing his association with the assets:

“[T]he transfer of the Smith Barney portfolio to Neue Bank ... would be [in] no danger or exposure whatsoever. ... [T]o put your mind at rest, the portfolio arriving from Smith Barney will be put into Landmark Settlement account held with Neue Bank for the time being. ... I would not recommend to open a personal account in your name since this could potentially jeopardize the structure. For the time being you and Andrei are signatories on Landmark Settlement’s bank account with Neue Bank. You may remember that you signed blank account signature cards for Neue Bank at the

⁴⁸³ Email from Mr. Olenicoff to Mr. Staggl re “Structure,” (1/8/02), Bates No. SW 65103. See also Danish Commerce and Companies Agency Extract for New Guardian Bancorp ApS, (1/18/02), Bates No. SW 66922.

⁴⁸⁴ See, e.g., email from Mr. Olenicoff to Mr. Birkenfeld authorizing transfer, (12/27/01), Bates No. SW 67081.

⁴⁸⁵ UBS Verification of beneficial owner’s Identity, (1/22/02), Bates No. SW 66974.

⁴⁸⁶ UBS Waiver of right to invest in US securities, (1/22/02), Bates No. SW 66977.

⁴⁸⁷ UBS Supplement for new Account US Status: Assets and Income/Declaration for US Taxable Persons, (undated but likely 1/22/02), Bates No. SW 66982.

occasion of our meeting in Liechtenstein and one card has been used for New Guardian Bancorp and the other for Landmark Settlement.”⁴⁸⁸

In April 2002, Mr. Staggl provided Mr. Olenicoff with wire transfer instructions to move the \$60 million in U.S. securities directly to the NGB account at Neue Bank. The wire transfer instructions specified, however, that Smith Barney send the securities to “Neue Bank” without specifying the ultimate recipient of the securities. Mr. Staggl’s email explained: “For secrecy purpose, there is no need to mention ‘New Guardian Bancorp. Aps’, but, if you prefer to do so the name of the beneficiary can be mentioned.”⁴⁸⁹ The transfer took place in April.⁴⁹⁰ Although the Neue account afterwards contained substantial U.S. securities, the account was apparently never disclosed to the IRS under the QI Program.

Many other documents reviewed by the Subcommittee demonstrate Mr. Olenicoff’s direct control of the UBS accounts opened in the names of GCC and NBC and the millions of dollars in assets held within those accounts. For example, on several occasions Mr. Olenicoff directed Mr. Birkenfeld to open new accounts for the corporate entities, move substantial funds from one UBS account to another, and close two of the accounts after a new one had been opened.⁴⁹¹ On another occasion, Mr. Olenicoff appears to have transferred substantial real estate assets in the United States from an entity he controlled in the Bahamas, National Depository Company, Ltd., to the Landmark Settlement in Liechtenstein.⁴⁹² On still another occasion, Mr. Olenicoff authorized Mr. Birkenfeld to issue five UBS credit cards for one of the UBS corporate accounts, and then appears to have cancelled those cards two weeks later.⁴⁹³

By 2005, Mr. Olenicoff had transferred a total of about \$200 million in assets into the Swiss and Liechtenstein accounts opened in the

⁴⁸⁸ Email from Mr. Staggl to Mr. Birkenfeld and Mr. Olenicoff re “New Guardian – Status,” (3/7/02), Bates No. SW 67196.

⁴⁸⁹ Email from Mr. Staggl to Mr. Olenicoff re “Smith Barney Transfer,” (4/23/02), Bates No. SW 65120; Email from Mr. Olenicoff to Mr. Staggl re “Smith Barney Transfer,” (4/25/02); Bates No. SW 67331.

⁴⁹⁰ Olenicoff Plea Agreement, at 4-5.

⁴⁹¹ See, e.g., letter from Mr. Olenicoff to Mr. Birkenfeld, (4/6/02), Bates No. SW 66782; Letter from Andrei Olenicoff to Mr. Birkenfeld, (9/3/02), Bates No. SW 67659.

⁴⁹² See, e.g., email from Mr. Staggl to Mr. Olenicoff, with copy to Mr. Birkenfeld, (6/8/04), Bates No. SW 16153; letter from Andrei Olenicoff to Mr. Staggl, (undated), Bates Nos. 67934-37).

⁴⁹³ Birkenfeld Statement of Facts, at 5; Letter from Mr. Olenicoff to Mr. Birkenfeld, (3/25/02), Bates No. SW 66783 (authorizing \$100,000 to be transferred to a new UBS account to allow “issuance of the five credit cards we discussed”); letter from Mr. Olenicoff to Mr. Birkenfeld, (4/6/02), Bates No. SW 66782 (cancelling the five credit cards two weeks later).

name of entities that he controlled. Although Mr. Olenicoff clearly exercised control over the UBS accounts and assets, Mr. Olenicoff never submitted a W-9 Form to UBS admitting he was the beneficial owner, and UBS never filed a 1099 Form with the IRS reporting the accounts. As Mr. Birkenfeld put it, when asked if the accounts were undeclared, he responded, “Yes. Every bit.”⁴⁹⁴

In 2005, after Mr. Birkenfeld left UBS, he and Mr. Staggli met with Mr. Olenicoff in Liechtenstein and advised him to transfer his assets from UBS to Neue Bank in Liechtenstein, “because Liechtenstein had better bank secrecy laws than Switzerland.” Mr. Olenicoff agreed, and transferred his assets from UBS to Neue Bank that year.⁴⁹⁵

By 2007, Mr. Olenicoff’s offshore assets had been discovered by the IRS. By the end of the year, he had pled guilty; Mr. Birkenfeld pled guilty by mid-2008. Mr. Staggli, who is under indictment for his role in managing the Olenicoff assets, remains at large in Liechtenstein and has been declared by the U.S. Government to be a fugitive.

The Olenicoff accounts at UBS were open for about four years, from 2001 until 2005. During that time, Mr. Birkenfeld has admitted that he conspired with Mr. Olenicoff to help him evade U.S. taxes by hiding his assets in Switzerland and Liechtenstein. To accomplish that end, Mr. Birkenfeld assisted Mr. Olenicoff in forming a Liechtenstein trust and Danish corporation by directing him to a Liechtenstein trust company that offered formation services, opening UBS accounts in the names of those entities, allowing Mr. Olenicoff to omit his beneficial ownership of the account assets on internal UBS forms, and helping him circumvent disclosure of the accounts to the IRS under the QI Program by signing forms instructing UBS not to purchase U.S. securities for those accounts. Mr. Birkenfeld allowed Mr. Olenicoff to transfer tens of millions of dollars from other offshore accounts into the new UBS accounts, with no apparent questions about the source of the funds. He took instructions from Mr. Olenicoff about how to invest the funds in the UBS accounts, using email, letters, and faxes to and from the United States, even though Mr. Birkenfeld was not licensed to handle securities in the United States.

The Subcommittee does not know the extent to which Mr. Birkenfeld’s actions were typical of UBS Swiss bankers; it has been unable to obtain internal UBS account documentation comparable to the documentation obtained from LGT. Mr. Birkenfeld told the Subcommittee that he did not view his actions as out of the ordinary. If

⁴⁹⁴ Birkenfeld Deposition, at 209.

⁴⁹⁵ Birkenfeld Statement of Facts, at 6; Birkenfeld deposition, at 209-210.

true, the Olenicoff case history may be one of many within UBS Swiss operations that raise concerns.

D. Analysis

Unlike LGT, UBS did not generally refrain from conducting banking operations within the United States. UBS Swiss bankers targeted U.S. clients, traveled across the country in search of wealthy individuals, and aggressively marketed their services to U.S. taxpayers who might otherwise never have opened Swiss accounts. UBS practices resulted in its U.S. clients maintaining undeclared Swiss accounts that collectively held billions of dollars in assets that were not disclosed to the IRS. UBS serviced these accounts, in part, by offering banking and securities products and services within the United States that UBS Swiss bankers were not licensed to provide. Swiss bank secrecy laws hid not only the misconduct of U.S. taxpayers hiding assets at UBS in Switzerland, but also the actions taken by UBS bankers to assist those U.S. clients.

UBS has now stopped all travel by its Swiss bankers to the United States, issued more restrictive policies, and is conducting an internal review to gauge the nature and extent of the problem. UBS also cooperated with this Subcommittee in its efforts to gain a full understanding of the facts and issues.

#

Marsh Foundations

Chateau
Foundation
(Liechtenstein)

Lincol
Foundation
(Liechtenstein)

Topanga
Foundation
(Liechtenstein)

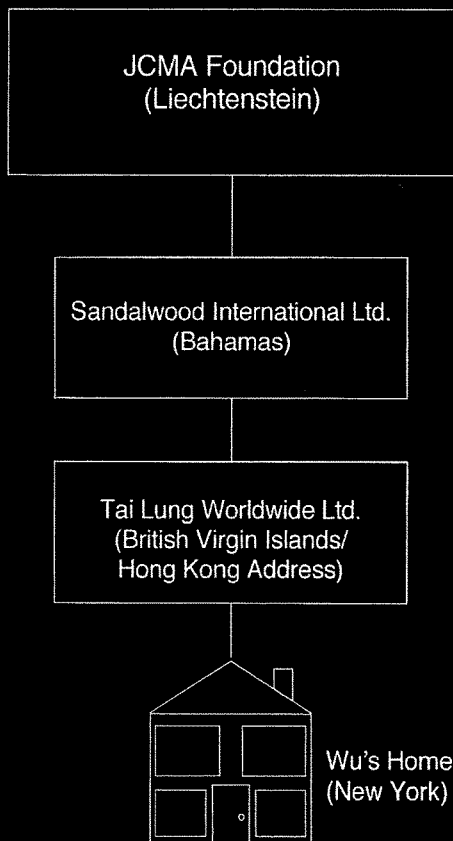
Largella
Foundation
(Liechtenstein)

Prepared by the U.S. Senate Permanent Subcommittee on Investigations, July 2008

Permanent Subcommittee on Investigations

EXHIBIT #1

Wu Foundation

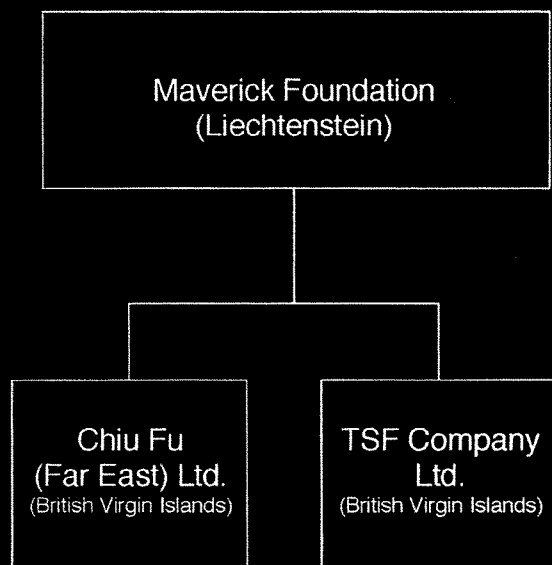


Prepared by the U.S. Senate Permanent Subcommittee on Investigations, July 2008

Permanent Subcommittee on Investigations

EXHIBIT #2

Greenfield Foundation

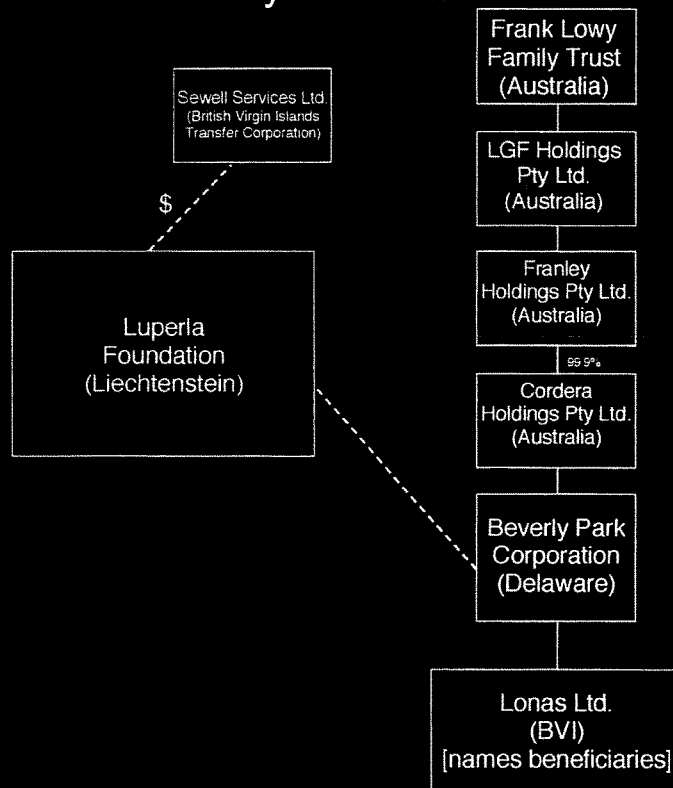


Prepared by the U.S. Senate Permanent Subcommittee on Investigations, July 2008.

Permanent Subcommittee on Investigations

EXHIBIT #3

Lowy Foundation



Prepared by the U.S. Senate Permanent Subcommittee on Investigations, July 2008

Permanent Subcommittee on Investigation

EXHIBIT #4

STATEMENT OF FORMER LGT
TREUHAND EMPLOYEE,
FORMERLY KNOWN AS
HENRICH KIEBER

Permanent Subcommittee on Investigations

EXHIBIT #5a

UNITED STATES SENATE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

- - - - -X
:
STATEMENT OF FORMER LGT :
TREUHAND EMPLOYEE :
:
- - - - -X

Washington, D.C.

APPEARANCES:

On behalf of the Committee on
Governmental Affairs:

ROBERT L. ROACH, ESQ.
Counsel and Chief Investigator
MICHAEL P. FLOWERS, ESQ.
Counsel to the Minority
199 Russell Building
United States Senate
Permanent Subcommittee on Investigations
Committee on Homeland Security and
Governmental Affairs
Washington, D.C. 20510

MR. ROACH: Good morning, sir. My name is Bob Roach. I am counsel for the Democratic staff of the Permanent Subcommittee on Investigations. With me is my colleague, Mike Flowers, who is counsel for the Republican staff of the Subcommittee.

MR. FLOWERS: Good morning, sir.

CONFIDENTIAL INFORMANT: Good morning.

MR. ROACH: Thank you for joining us.

I understand you have a statement to make after which we will ask you a few questions about the banking and trust operations of the LGT Group. Please proceed.

CONFIDENTIAL INFORMANT: Good morning.

I swear that the testimony I am about to give will be the truth, the whole truth, and nothing but the truth so help me God.

In 2000, the LGT Trust was evaluating the so-called "paperless office." A project to scan every document of each client's legal entity and index them electronically, encoding an internal "bak track" code, a b-a-k. The project requires to hire over 20 new staff members. Based on my education and skills, I, then named Heinrich Kieber, worked--started to work at the LGT Trust in Vaduz in October 2000, and I worked there for more than 2 years until the date 2002.

The LGT Group in Liechtenstein is a provider of a vast range of financial services. The key business of the LGT Group consists of the LGT Bank and the LGT Trust services. Both are independent, commercial companies, and both use autonomous computer data storage systems.

The core trade of the LGT Trust, with head office in Vaduz and several branches in Switzerland, is selling and managing Liechtenstein legal entities such as foundations or establishments. They cater for clients from many different countries including the USA. Generally, the client transfers his/her bank assets, such as securities and cash accounts and often also the nonbank assets, such as real estate, expensive paintings, patents, rights, et cetera, into the ownership of a selected one or more legal entity.

The client becomes then the beneficial owner of the legal entity. Every single legal entity from Liechtenstein has to pay on average a worldwide matchless flat tax rate of only \$1000 Swiss francs per year, regardless of the millions of different type of assets they own and income they gain.

The LGT Trust, back in the year 2002, had over 3,500 active legal entities under management, with the combined total bank assets of around 7.2 billion Swiss francs of which about 6 were invested at the LGT Bank and the rest in other Liechtenstein banks or Swiss banks. Back then, the LGT Bank had around 50 to 60 billion Swiss francs in

their books. Today they hold over 100 billion Swiss francs. The real value of the nonbank assets are never recorded in the books.

The first couple of months I was in charge of the correct handling of all clients' legal entities' files to make sure that they are scanned properly and that not one of the very sensitive documents where all the data concerning the beneficial owners are recorded is lost in the process. Because of the nature of my job, I had access to all documents of all legal entities, active ones and the inactive ones.

The biggest task of the second stage was the proper indexing of all scanned documents. To be able to index the documents, we had to read every single one on our screens. It was then when I began to realize the very questionable business the LGT was often involved in and the dubious clients they were serving, the kind of business that goes beyond just facilitating massive tax evasion. Going through thousands of documents, I got very--I got the very clear picture of the highly sophisticated and sometimes surprisingly simple tricks and methods used to (a) help any clients to bring his or her bank assets to Liechtenstein and nonbank assets under the control of the one or more selective legal entity; (b) help any clients to keep his or her assets out of the reach of the taxman and people who may have a legal right to it or interest in it; (c) get around the laws of Liechtenstein and other countries; (d)--and (d)--avoid the attention of international law enforcement agencies and the international media.

Liechtenstein has implemented real tough new compliance laws in January 2001. In addition, in July 2002, they signed a mutual assistance treaty with the United States of America. This treaty was designed to protect the international financial markets against terror, organized and economic crimes. However, the business practices of LGT undermines those reforms that Liechtenstein enacted.

The LGT deliberately ignores the basic principles of the know-your-customer rules. For sure, I can frankly declare that in the vast majority of all legal entities, LGT does not have a clue about the real sources of their clients' huge wealth they manage, as it has been verified in the files I delivered to the U.S. Government.

The final part of my job was to conduct training programs for all of the 85 staff members of the LGT Trust, including CEO, members of the company's board--and members of the company's board. When I was teaching the CEO or a member of the board or a trust client advisor, I confronted them about the LGT's questionable practices that I have seen in many files. Sometimes I always raised this topic with foundations' bank account managers from the LGT Bank. All these discussions were about files with strong indication to corruption, links to dictators, or business deals to avoid a U.S. embargo, for example. The answer was always the same: None of your business. Just stick to your designated job.

I obtained copies of the data of every legal entity and, furthermore, copies of vast internal documents before I left the company. All documents provided are authentic, original copies and have not been in any way changed or manipulated.

MR. ROACH: Thank you, sir.

CONFIDENTIAL INFORMANT: That's my statement.

MR. ROACH: Thank you, sir. I'd now like to ask you a few questions. First of all, in your statement you referred to tricks that LGT used to help clients bring their assets into the bank, including--would you mind commenting on that, including the use of shell companies to move funds internationally.

CONFIDENTIAL INFORMANT: Yes. There are several methods in use, depending on the type of assets the client wants to transfer into his or her legal entity in Liechtenstein. For bank assets, the LGT Group establishes, indirectly manages, and ultimately owns a number of legal entities, so called "special purpose vehicles," SPV. For the purpose of high-grade camouflage, there are two types of SPVs. Type A: big bank accounts around the world; and Type B: which do not have any bank accounts but own and control Type A. To protect the LGT Group, those types used are never from Liechtenstein. The LGT uses only SPV registered in Panama, in the British Virgin Islands, or sometimes even in Nigeria.

In practical terms, for a U.S. client, the LGT will transfer the bank's assets out of the United States through a chain of several Type A SPVs. Firstly, always into a country, for example, Canada, which from the IRS point of view is not suspicious. Next, through a series of other countries and therefore different jurisdictions. Preferably countries with very weak or, better, non-existing compliance laws. Before reaching Liechtenstein, it will run through a Swiss bank, for example the Banca del Gottardo in Lugano. This bank, in turn, has reciprocal rights to use the LGT Bank for its own customers.

For an additional layer of concealment, either the Swiss bank or the LGT Bank often perform a fake cash-out transaction to make it look like the monies have been paid out in cash over the counter where in fact they have been transferred into the concentration account of the LGT Bank and, at the same time, an equal amount has been credited into the client's legal entity's bank account. After one or two years in use, the SPVs are put into liquidation, then deleted, and new ones established.

The only purpose of all this is to make it extremely complicated for law enforcement agencies to follow the trail, as each step serves as a filter to hide the track of the client's money. For any bank or trust company in Liechtenstein, the matter of SPVs is commercially very sensitive material. The better sys--sorry. The better the

system put in place, actually the less it will be detected. There's a lot of effort put into general research and checks of any possible legal implications, so that the LGT Group can always be many steps ahead of the tax authorities.

All of the clients' trust advisors and bank account managers of the LGT Group get regular in-house training in relation to the latest tricks and methods used so they can keep their knowledge up to date and can offer it to any existing or future customers.

MR. FLOWERS: Thank you, sir.

Sir, you mentioned during your statement that LGT helped clients to keep their assets out of reach of tax agencies or persons with legal claims on those assets. Could you please explain how that was accomplished?

CONFIDENTIAL WITNESS: Yes. What happens, the LGT strongly recommends to all clients to follow instructions such as, firstly, not to tell anybody concerning the legal entity to their lawyers, to other family members or relatives who are not part of the pool of beneficial owners, to friends or business partners. The reason is, any human relationship can go wrong and the client may end up in a situation where blackmailing is possible. Secondly, not to call the LGT Group from home--not from home, not from work. Use public phones instead. As Liechtenstein has an own country code number, the IRS may use the same plan as the Italian tax police did some years ago. They ordered the state-run phone company to record over a certain period the caller's i.d.; the time, date, and number dialed from a big city in Italy to Liechtenstein, to a Liechtenstein number. When the number called did not match a phone number--sorry--did match a phone number registered to a bank, trust company, or a lawyer, the tax police of Italy conducted a special assessment of the Italian callers. Thirdly, a third recommendation, only make calls in emergency to the nominated cell phone numbers of the clients' trust advisors. The LGT Trust only uses cell phone numbers from Switzerland or Austria. Again, because of the existence of a Liechtenstein-own country code number. When calling, the clients should always use the code words agreed and never state their own names or name of the legal entities. In addition, the LGT Group itself does not send any mail to their customers out of--from Liechtenstein. If at all, mail gets sent out via Swiss or Austrian post office to avoid the attention of any tax enforcement agency around the world looking for mail coming from Liechtenstein. In addition, any documents sent out are specially prepared in the way that the name of the bank, the client's name, or the legal entities' name is not revealed. The LGT Group does not call the clients at home or at work or on her or his phone--cell phones and does not communicate with their clients via email. The fact that all the LGT Trust's clients do not need their assets hidden in legal entities for their daily living helps very much to avoid detection and to keep the

personal contact between the parties to a minimum, on average once per year.

MR. ROACH: Thank you.

You said that LGT used methods to allow it to get around compliance with the laws of Liechtenstein and other countries. How did LGT do that?

CONFIDENTIAL WITNESS: Yes, they're very sophisticated in that way. The know-your-customer rules necessitate a lot of up-to-date documentation concerning the client's identity and the true source of assets. In addition, a profile of every client has to be created, and any movement outside the set profile has to be reported to a preferably independent government entity, for example, to the financial intelligence unit. The LGT not only fails to keep the basic documentation up to date, often there is no clear indication of the beneficial owner or the source of the monies at all. Furthermore, they, the LGT Trust, predetermine the threshold of a client's profile in such an unrealistic way that it would--that it will not trigger the compulsive report even so when according to compliance law, the transaction is regarded as more than suspicious.

MR. FLOWERS: Thank you, sir.

Sir, based on your experiences while working at LGT, did LGT ever assist U.S. persons in repatriating their assets back to the United States in a manner that would have reduced the attentions of the United States Government?

CONFIDENTIAL WITNESS: Yes, there are several tricks in use, and I recall one. Then, at times, actually the LGT Trust would adjust the legal entities' documents to designate a new beneficial owner who will cause or result in the lowest tax obligation or, if possible, a zero tax obligation. Often this means creating a--new trust documents and changing the name of the real beneficial owner into the name of a person or relative who has recently died or, in some cases, is unfortunately in the process of dying. When the assets are transferred back to the United States, the real beneficial owners explain to the IRS that they have just inherited a large amount which was only discovered in recent times.

MR. ROACH: Now, in your statement, you also said that LGT sought to avoid the attention of international law enforcement and the media. How did LGT do that?

CONFIDENTIAL WITNESS: After some major scandals in the past 15 years, in an effort to avoid bad and further damage to their reputation, many powerful financial key players in Liechtenstein established smaller banks or trust companies whose names nobody recognizes. They have transferred their risky group of clients into

those new banks or trust companies. In that way, if the risky clients are exposed in a scandal overseas, the larger well-known banks or trust companies are out of trouble and the media spotlight. The LGT Trust, but not so much the LGT Bank, did not accept new clients from Russia, for example, but would refer them to such smaller trust companies.

MR. FLOWERS: Sir, you made references in your statement to LGT's role in assisting in corruptive--or corruption, acts of corruption including breaking embargoes, for example. Could you please elaborate on that?

CONFIDENTIAL WITNESS: Yeah. The words I say here is that one set of documents indicate its pride in government officials in another country--in other countries including the United States. The LGT Bank introduced the client to the LGT Trust. The LGT Trust did accept the client but refused to nominate staff onto a new Panama company where such payments should be done in the future. At the end, in this file, the payments continued to be facilitated through the LGT Bank.

And there's another file which has a very strong indication to--of corruption in a third world country. A head of a social government department owns over \$5 million U.S. dollars with no explanation in the files whatever in regard to the source of the vast amount.

MR. ROACH: In an answer to a previous question, you identified some problems with LGT's know-your-customer program. What about LGT's compliance with the qualified intermediary program?

CONFIDENTIAL WITNESS: Yeah, I strongly believe that they are violating this one too. The IRS implemented the qualified intermediary stages QI to be able to collect the withholding tax on interest and dividends on U.S. securities through foreign intermediaries. The LGT Group realized quickly that without the QI stages, the banking secrecy for their U.S. clients cannot be sustained, because only as a QI the LGT Group can avoid having to report the underlying beneficial owners to the IRS. The IRS approved the QI stages to Liechtenstein as a country and to the LGT Group as a foreign intermediary in early 2001, as both were able to persuade the IRS that Liechtenstein's know-your-customer rules were top standard. All U.S. clients from the LGT Group with U.S. securities in the bank portfolios have been informed about the QI regulations. These clients had two options: Get out of the U.S. security--sell them or keep them. The clients wanting to keep the U.S. securities had great fears that the IRS may eventually find out who the ultimate beneficial owners are, for instance, through the external auditors' working paper the IRS can request to examine.

To reduce the panic, the LGT came up with the solutions: (a) to transfer all U.S. securities held by a legal entity of a U.S. tax person into a newly established Panama corporation. To add a further

layer of secrecy between the foundation and that Panama corporation, another offshore company will own the Panama corporation. The LGT's argument for the Panama corporation solution was that the IRS regards it as a per se corporation; (b) having added enough offshore companies in between the U.S. client as a beneficial owner and the entity holding the U.S. securities, the LGT Trust declares the whole structure as being a non-U.S. status. This should keep the client out of trouble and taxes.

MR. ROACH: Thank you very much, sir. We appreciate your comments.

This concludes our questions.

MR. FLOWERS: Thank you, sir.

CONFIDENTIAL WITNESS: Thank you very much.

#

[News > Pressemitteilungen](#)

Pressemitteilungen

Öffentliche Fahndung nach Heinrich KIEBER

11.03.2008

KIEBER wird dringend verdächtigt, zum Nachteil einer Liechtensteiner Treuhandfirma Kundendaten ausgekundschaftet, sich verschafft und ausländischen Behörden preisgegeben zu haben. KIEBER soll gemäss Medienberichten vom Deutschen Bundesnachrichtendienst (BND) mit einer neuen Identität und neuen Reisedokumenten ausgestattet worden sein.

Es wird ersucht, Erkenntnisse zum Aufenthaltsort von Heinrich KIEBER der Landespolizei des Fürstentums Liechtenstein oder der nächsten Polizeidienststelle zu melden. Gegen KIEBER besteht ein internationaler Haftbefehl, weshalb er festzunehmen ist. Die liechtensteinischen Strafverfolgungsbehörden werden unverzüglich die Auslieferung von KIEBER begehren.

STECKBRIEF

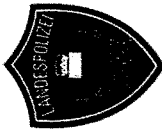
Personendaten

Name: Heinrich KIEBER
Geschlecht: männlich
Geburtsdatum: 30.03.1965
Staatsangehörigkeit: Liechtenstein

Personenbeschreibung

Grösse: 185 cm
Äussere Erscheinung: gross und kräftig
Augenfarbe: braunlich
Haarfarbe: dunkelbraun
Erscheinungsbild: kaukasischer Typ (Mitteleuropa)
Besondere Merkmale: Brillen-/Kontaktlinsenträger
Rechtliche Grundlage: Haftbefehl des Fürstlichen Landgerichts vom 29.02.2008 wegen des Verdachts des Verbrechens der Auskundschaftung von Geschäfts- und Betriebsgeheimnissen zu Gunsten des Auslands (§ 124 StGB) und des Vergehens des Datendiebstahls (§ 131a StGB).

[Zurück](#)
[Drucken](#)



Sicher. Ihre Landespolizei

Pressemitteilungen
Ratgeber
Neuigkeiten
Archiv
Fahndungen
75 Jahre Landespolizei

DAS SIND WIR
POLIZEIRUF
PRÄVENTION
DOWNLOADS
LINKS
ADRESSEN

— = Redacted by the Permanent
Subcommittee on Investigations

Shannon Neal Marsh

LETTER OF WISHES

I, the undersigned, Shannon Neal Marsh, born [REDACTED],
being Principal of

LINCOL FOUNDATION, VADUZ

hereby express my wish that:

In case of my death or incapacity and in case of death of all
the Principals of LINCOL FOUNDATION, VADUZ, the right to
give instructions shall pass to

- James Genery Marsh, born [REDACTED]
- and/or
- [REDACTED] Marsh, born [REDACTED]

Vaduz, October 15, 1985

(Shannon Neal Marsh)

Shannon Neal Marsh

Permanent Subcommittee on Investigations

EXHIBIT #6

PSI-USMSTR - 000605

 **BANK IN LIECHTENSTEIN**
Aktiengesellschaft
FL-9490 Vaduz · Postfach 85 · Tel. 075/5 11 22 · Telex 77865

Vaduz, den 15. Oktober 1985 pb

LINGOL FOUNDATION, VADUZ

Wir haben heute von Ihnen erhalten:

US\$ 2'629'700.-- Noten

" 691'000.-- "

US\$ 3'320'700.-- in cash /(./. Agio ca. \$ 3'800.--)

Gutschrift auf
☐ Konto **US\$-Konto**
☐ Depot
erhalten Sie separat.


BANK IN LIECHTENSTEIN
Aktiengesellschaft

AF-1302 0964 10T BVD

Permanent Subcommittee on Investigations
EXHIBIT #7

PSI-USMSTR - 000607

BANK IN LIECHTENSTEIN
AG
(Address, Phone, fax)

Vaduz, October 15, 1985 pb

LINCOL FOFUNDATION, VADUZ

Today we received from you:

US\$ 2,629,700.00	Notes
" 691,000.00	"

US\$ 3,320,700 in cash / (./ Agio about \$3,800.00)

US Dollar account

BANK IN LIECHTENSTEIN
AG
(Two illegible signatures)

5/23/92

To Mr. Alvord

Belegexemplar

I SHANNON M. MARSH give
 KERRY M. MARSH permission to review
 all documents and receipts
 pertaining to Lincal Foundation and
 25.6.85 Chateau Foundation. Please group our
~~investments~~ investments so that we pay as
 little as possible in commissions as
 you discussed last year with my
 brother Kerry M. Marsh.

Thank You

Shannon M. Marsh

Shannon M. Marsh

KONTR. 635

Permanent Subcommittee on Investigations

EXHIBIT #8

PSI-USMSTR - 000231

Zusatz zum Mandatsvertrag

Belegexemplar

Instruction

— = Redacted by the Permanent
Subcommittee on Investigations

In addition to the principals as per today Mrs. [REDACTED] Marsh, born on [REDACTED], is also empowered to act as a principal with individual signing power according to the Agency Agreement of LINCOL FOUNDATION, VADUZ, dated October 15, 1985.

The following two persons are also empowered to act as a principal with individual signing power after reaching the age of 25 according to the Agency Agreement of LINCOL FOUNDATION, VADUZ, dated October 15, 1985:

- Miss [REDACTED] Marsh, born [REDACTED]
- Mr. Michael Kerry Marsh, born [REDACTED]

Vaduz, 17th November 1993

Shannon Neal Marsh

Shannon Neal Marsh

KONTR. 635

Permanent Subcommittee on Investigations

EXHIBIT #9

PSI-USMSTR - 000612

Beiege, Simplar

635

635-1000/RT
 OCT 10 1994
 NO EXHIBIT

Mr. Peter Meier:

Please change the management of LINCOL from Zurich
 to Vaduz as we discussed on October 4, 1994

In addition please change LINCOL and CHATEAU so
 that they are gross oriented as per our discussion on
 October 4, 1994. (3)

4/10/1994

Thank You
James A. Marsh Jr.
 James A. Marsh Jr.
 KONTR. 635

Mit Orak. begeben
 New Camp per Tel
 out geleh

27-11-94

Permanent Subcommittee on Investigations
 EXHIBIT #10

MAR 09507

— = Redacted by the Permanent
Subcommittee on Investigations

Letter of wishes

I, the undersigned, James Albright MARSH, born [REDACTED] being
primary Beneficiary of

Lincol Foundation, Vaduz

hereby express my wish that:

1 *James Albright MARSH* born on the *aug* [REDACTED]
- Mr. Shannon Neal MARSH, born on the [REDACTED]
- Mrs. [REDACTED] MARSH, born on the [REDACTED]
- Mss. [REDACTED] MARSH, born on the [REDACTED]
- Mr. Michael Kerry MARSH, born on the [REDACTED]
second [REDACTED] MARSH born [REDACTED]
shall be primary Beneficiaries for life. The beneficial interest shall be
undivided; within the framework of the Articles each primary Beneficiary may
dispose freely of the entire beneficial interest (100%).

In case of death or incapacity of all the primary Beneficiaries, the sole second
Beneficiary shall be Mr. James Genery Marsh, born on the [REDACTED]

Beneficiaries' rights shall remain quiescent until the completion of their 18 year
of life. Separated, the quiescent share of the beneficial interest shall be
administered by the Foundation Board with the care of a pater familias. Upon
the age limit being reached, the Foundation Board shall on the Beneficiaries'
request submit accounts for the entire period of quiescence.

Notwithstanding the provisions in the above paragraph, the Foundation Board
may unanimously resolve to grant benefits even before the age limit has been
reached, if this is deemed necessary in order to safeguard the interests of the
Beneficiaries concerned.

Before the age limit has been reached, neither the Beneficiaries concerned nor
the natural or juridical persons entrusted with their legal representation shall be
entitled to inspect, or to receive information or statements of account.

Date / place:

Vaduz 11. Oct. 2000
James Marsh 10/11/00

Mr. Marsh

James Albright MARSH

Permanent Subcommittee on Investigations
EXHIBIT #11

MAR-00019

21.9.06

Letter of wishes

— = Redacted by the Permanent
Subcommittee on Investigations

I, the undersigned, James Abingdon Marsh, born [REDACTED], being
primary Beneficiary of

Fondation Chateau, Vaduz

hereby express my wish that:

- James*
- ~~Mr. James Abingdon Marsh, born on the [REDACTED]~~
 - Mr. Shannon Neal MARSH, born on the [REDACTED]
 - Mrs. [REDACTED] MASH, born on the [REDACTED]
 - Mss. [REDACTED] MARSH, born on the [REDACTED]
 - Mr. Michael Kerry MARSH, born on the [REDACTED]

James shall be ^{second} primary Beneficiaries for life. The beneficial interest shall be undivided; within the framework of the Articles each primary Beneficiary may dispose freely of the entire beneficial interest (100%).

In case of death or incapacity of all the primary Beneficiaries, the sole second Beneficiary shall be Mr. James Genery Marsh, born on the [REDACTED].

Beneficiaries' rights shall remain quiescent until the completion of their 18 year of life. Separated, the quiescent share of the beneficial interest shall be administered by the Foundation Board with the care of a pater familias. Upon the age limit being reached, the Foundation Board shall on the Beneficiaries' request submit accounts for the entire period of quiescence.

Notwithstanding the provisions in the above paragraph, the Foundation Board may unanimously resolve to grant benefits even before the age limit has been reached, if this is deemed necessary in order to safeguard the interests of the Beneficiaries concerned.

Before the age limit has been reached, neither the Beneficiaries concerned nor the natural or juridical persons entrusted with their legal representation shall be entitled to inspect, or to receive information or statements of account.

Date / place: Vaduz 11. Oct. 2000

James A Marsh 10/11/00
Mr. Marsh *James Abingdon Marsh*

MAR-00573

Aktenvermerk

Betr. LINCOL FOUNDATION / CHATEAU FOUNDATION
 zur Erl.
 zur. Kennt LGT Treuhand
 Datum Donnerstag, 7. Februar 2002

Erinnerungs- - Aktenvermerk

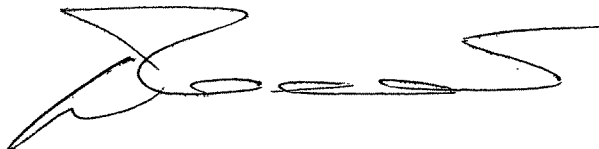
Am 11. Oktober 2000 besuchte mich auf sehr kurzfristige Vereinbarung Herr James G. Marsh zusammen mit seinem Vater, James Albright Marsh.

Herr Knecht LGT unterbreitete die Performance der beiden Stiftungen mit den entsprechenden Erläuterungen. Die Herren waren grundsätzlich zufrieden. Die Situation am Markt war ihnen auch bekannt.

Als weiteres Thema wurde die Situation wegen QI besprochen. Beide Herren gaben den Auftrag, aus allen US Titeln auszusteigen und im Euro Gebiet zu investieren. Die US steuerbefreiten Obligationen sind zu belassen.

Ich erkläre den Herren die STOM im Vergleich mit dem amerikanischen Trust. Sie sind damit einverstanden, die Akten in eine Discretionary Stiftung umzurüsten. Leider war nicht genügend Zeit, um die Unterlagen konform vorzubereiten. Wir erstellen in der Eile einen Letter of wishes, worin der Wunsch geäußert wird, dass James Albright Marsh als Erstbegünstigte bestellt werden sollte. Die Liste der Zweitbegünstigten wird auf der Vorlage etwas korrigiert und dann unterzeichnet. Nachdem bisher keine Beistatuten bestanden haben, sind die Akten für den nächsten Besuch entsprechend vorzubereiten. Ich habe den Herren den Mindestsatz von 0.2 0/00 angeboten.

Wie üblich war die Diskussion sehr hastig und etwas oberflächlich. Deshalb ist die Situation auch beim nächsten Besuch erneut zu erläutern.



Permanent Subcommittee on Investigations

EXHIBIT #12

PSI-USMSTR - 000614

Note to the File

Subject: LINCOL FOUNDATION/ CHATEAU FOUNDATION

Information copy: LFT Treuhand

Date: Thursday, February 7, 2002

Reminder – Note to file

On October 11, 2000, Mr. James G. Marsh, along with his father, Mr. James Albright Marsh visited me very briefly.

Mr. Knecht LGT, presented the performance of both foundations with the corresponding explanations. The men were basically satisfied. The market status was also made known to them.

As a further topic, the QI situation was discussed. Both men gave the order to get out of all US securities and to invest in the Euro area. The US tax exempt bonds should be left alone.

I explained the STOM to the men along with American trusts. They understand that the shares must be converted into a discretionary foundation. Unfortunately, there was not enough time to prepare the concurring documents. We quickly prepared a letter of wishes in which the wish was expressed that James Albright Marsh should be named as first beneficiary. The list of second beneficiaries will be corrected before the presentation and then signed. The documents for the next meeting will be prepared since there are no by-laws to date. I offered the men a minimal rate of 0.2 0/00.

As usual the discussion was very hurried and a bit shallow. So the situation will also be discussed at the next meeting.

(Illegible signature)

DEED OF SIGNATURE

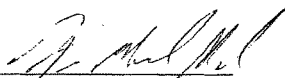
I, the undersigned

Mr Kerry Michael Marsh

hereby accept my appointment as Protector of the

CHATEAU FOUNDATION, Vaduz

and shall sign in this capacity by affixing my signature as follows:


Kerry Michael Marsh

Vaduz, the 10th November 2004

Permanent Subcommittee on Investigations

EXHIBIT #13

MAR 09518

DEED OF SIGNATURE

I, the undersigned

Mr Shannon Neal Marsh

hereby accept my appointment as Protector of the

CHATEAU FOUNDATION, Vaduz

and shall sign in this capacity by affixing my signature as follows:


Shannon Neal Marsh

Vaduz,

DEED OF SIGNATURE

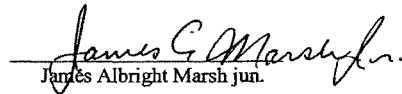
I, the undersigned

Mr James Albright Marsh jun.

hereby accept my appointment as Protector of the

CHATEAU FOUNDATION, Vaduz

and shall sign in this capacity by affixing my signature as follows:


James Albright Marsh jun.

Vaduz,

DEED OF APPOINTMENT OF SUCCESSORS

I, the undersigned, Mr James Albright Marsh jun.

— = Redacted by the Permanent
Subcommittee on Investigations

in my capacity as Protector of

CHATEAU FOUNDATION,

pursuant to the provisions of the pertinent By-Laws hereby revocably appoint as my successor as Protector:

Mrs [REDACTED] Marsh.

If Mrs [REDACTED] Marsh does not become Successor Protector on the occasion of my ceasing to be a Protector, I herewith appoint revocably as her substitute to become Successor Protector:

Miss [REDACTED] Marsh.

If Miss [REDACTED] Marsh does not become Successor Protector on the occasion of my ceasing to be a Protector, I herewith appoint revocably as her substitute to become Successor Protector:

Master Michael Kerry Marsh.

If Master Michael Kerry Marsh does not become Successor Protector on the occasion of my ceasing to be a Protector, I herewith appoint revocably as his substitute to become Successor Protector:

Master [REDACTED] Marsh.

Vaduz,


James Albright Marsh jun.

Resolution

The Foundation Board of the
Fondation CHATEAU, Vaduz

hereby resolves:

1. The inventory of assets and liabilities at 31. December 2000 showing a total of USD 10'015'623,50, which is attached to this resolution as Schedule 1, is hereby approved and adopted.
2. The investments made in 2000 according to Schedule 2 are hereby approved and adopted.
3. No distributions have been made in 2000.
4. LGT Treuhand AG, Vaduz, is entrusted with drawing up the inventory of assets and liabilities for the next business year.

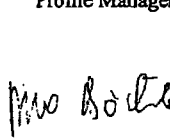
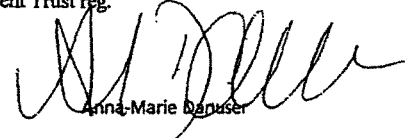
Vaduz, 12. September 2003

The Foundation Board:



lic. iur. Marcel Telser

Profile Management Trust reg.

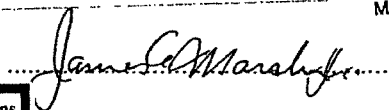
Margit Böckle

Anna-Marie Benuser

The undersigned beneficiary/beneficiaries
has/have taken due note of this resolution.

Vaduz, 10.11.2004

MAR-00623



Permanent Subcommittee on Investigations

EXHIBIT #14

Marsh James Albright jun., Florida

LGT Treuhand
Aktiengesellschaft
Städle 28
FL-9490 Vaduz

Vaduz, November 10, 2004 ANA/mvg

Fondation Chateau, Vaduz

Dear Sirs

In my capacity as economic founder and primary beneficiary of the above mentioned foundation, I hereby irrevocably grant formal approval and release to any and all administrative and management activities as well as any and all actions of LGT Treuhand AG as representative and the relevant employees of LGT Treuhand AG as Members of the Board of Directors during the entire mandate period.

I further declare that I will arrange for settlement of the final note of LGT Treuhand AG.

Yours sincerely,



Permanent Subcommittee on Investigations
EXHIBIT #15

MAR 09509

Shannon Neal Marsh
703 Harrison St., Hollywood , Florida

To the Members of the Foundation Council of
CHATEAU Foundation
P.O. Box 129
9490 Vaduz

Date: Vaduz, November 4, 2004

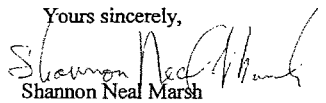
Dear Sirs

Upon my request you have agreed to be appointed members of the Foundation Council of CHATEAU Foundation.

I herewith declare to hold you harmless and to indemnify you against any and all charges, expenses, claims, demands, procedures, costs, damages or liabilities whatsoever direct or consequential arising out of or in connection with your duties as Members of the Foundation Council of the above mentioned Foundation except for gross negligent acts (which term does not include omissions).

In case that your acts or omissions are in conformity with any of the wishes or recommendations of the Protector (if any) of the above mentioned Foundation or with the provisions of the letter of wishes (if any) I shall hold you harmless and indemnify you as declared above but without any reservations or exceptions.

May I kindly ask you to declare your approval of the above by countersigning and returning a copy of this letter to me.

Yours sincerely,

Shannon Neal Marsh

Permanent Subcommittee on Investigations

EXHIBIT #16

MAR 09517

240

ESTATE OF JAMES A. MARSH

2006
INCOME TAX RETURNS

MORRISON, BROWN, ARGIZ
Certified Public Accountants ⊕ COMPANY, LLP

Permanent Subcommittee on Investigations

EXHIBIT #17

MAR-01442

Form 706 (Rev. 10-2006)

Estate of: **JAMES A MARSH****SCHEDULE G - Transfers During Decedent's Life**

(If you elect section 2032A valuation, you must complete Schedule G and Schedule A-1.)

Item number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Alternate valuation date	Alternate value	Value at date of death
A.	Gift tax paid or payable by the decedent or the estate for all gifts made by the decedent or his or her spouse within 3 years before the decedent's death (section 2035(b))	X X X X		
B.	Transfers includible under section 2035(a), 2036, 2037, or 2038:			
1	LINCOL FOUNDATION - VALUE IS BASED ON MARKET VALUE OF UNDERLYING INVESTMENTS, WHICH ARE PRINCIPALLY MARKETABLE SECURITIES. (SEE ATTACHED STATUTES OF LINCOL FOUNDATION, SEE ATTACHED FINANCIAL STATEMENTS) (SEE ATTACHED STATEMENT FOR SCHEDULE M)			13,029,701.
2	FOUNDATION CHATEAU - VALUE IS BASED ON MARKET VALUE OF UNDERLYING INVESTMENTS, WHICH ARE PRINCIPALLY MARKETABLE SECURITIES. (SEE ATTACHED STATUTES OF			
Total from continuation schedules (or additional sheets) attached to this schedule				32,027,702.
TOTAL. (Also enter on Part 5 - Recapitulation, page 3, at item 7.)				45,057,403.

SCHEDULE H - Powers of Appointment

(Include "S and 5 lapsing" powers (section 2041(b)(2)) held by the decedent.)

(If you elect section 2032A valuation, you must complete Schedule H and Schedule A-1.)

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
				MAR-01451
Total from continuation schedules (or additional sheets) attached to this schedule				
TOTAL. (Also enter on Part 5 - Recapitulation, page 3, at item 8.)				

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)
(The instructions to Schedules G and H are in the separate instructions.)

Schedules G and H - Page 21

Redacted by the Permanent
Subcommittee on Investigations6
2006.06000 MARSH, JAMES A

MARSH_1

Estate of: JAMES A MARSH

CONTINUATION SCHEDULE

Continuation of Schedule

G

(Enter letter of schedule you are continuing)

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
	FOUNDATION CHATEAU, SEE ATTACHED FINANCIAL STATEMENTS) (SEE ATTACHED STATEMENT FOR SCHEDULE M)			11,295,644.
3	TOPANGA FOUNDATION (JMLPM) - VALUE IS BASED ON MARKET VALUE OF UNDERLYING INVESTMENTS, WHICH ARE PRINCIPALLY MARKETABLE SECURITIES. (SEE ATTACHED STATUTES OF TOPANGA FOUNDATION)			8,893,712.
4	LARGELLA FOUNDATION (LANDERT), - VALUE IS BASED ON MARKET VALUE OF UNDERLYING INVESTMENTS, WHICH ARE PRINCIPALLY MARKETABLE SECURITIES. (SEE ATTACHED STATUTES OF LARGELLA FOUNDATION, SEE ATTACHED FINANCIAL STATEMENTS) (SEE ATTACHED STATEMENT FOR SCHEDULE M)			11,838,346.
				MAR-01452
TOTAL. (Carry forward to main schedule.)				32,027,702.

835031
05-01-06

7

Redacted by the Permanent
Subcommittee on Investigations

2006.06000 MARSH, JAMES A

MARSH_1

Form 706 (Rev. 10-2006)

Estate of: **JAMES A MARSH****SCHEDULE K - Debts of the Decedent, and Mortgages and Liens**

Item number	Debts of the Decedent - Creditor and nature of claim, and allowable death taxes	Amount unpaid to date	Amount in contest	Amount claimed as a deduction
1	ESTIMATE OF U.S. INCOME TAX, INTEREST AND PENALTIES ON INCOME NOT PREVIOUSLY REPORTED FOR ASSETS LISTED ON SCHEDULE G			5,500,000.

Total from continuation schedules (or additional sheets) attached to this schedule

TOTAL (Also enter on Part 5 - Recapitulation, page 3, at item 14.)

5,500,000.

Item number	Mortgages and Liens - Description	Amount

MAR-01455

Total from continuation schedules (or additional sheets) attached to this schedule

TOTAL (Also enter on Part 5 - Recapitulation, page 3, at item 15.)

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size.)
 (The instructions to Schedule K are in the separate instructions.)
 092541
 10-12-04

Schedule K - Page 25

Redacted by the Permanent
 Subcommittee on Investigations

10
 2006.06000 MARSH, JAMES A

MARSH__1



Baker & McKenzie LLP
Mellon Financial Center
1111 Brickell Avenue, Suite 1700
Miami, Florida 33131, USA

Tel: +1 305 789 8900
Fax: +1 305 789 8953
www.bakermel.com

May 12, 2008

Asia
Pacific
Bangkok
Beijing
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Kuala Lumpur
Manila
Melbourne
Shanghai
Singapore
Sydney
Taipei
Tokyo
Europe &
Middle East
Amman
Amsterdam
Antwerp
Bahrain
Baku
Barcelona
Berlin
Bologna
Brussels
Budapest
Cairo
Dusseldorf
Frankfurt / Main
Geneva
Ihr
London
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich
North & South
America
Bogota
Brasilia
Buenos Aires
Caracas
Chicago
Chihuahua
Dallas
Guadalajara
Houston
Juarez
Mexico City
Miami
Montreal
New York
Palo Alto
Porto Alegre
Rio de Janeiro
San Diego
San Francisco
Santiago
Sao Paulo
Tijuana
Toronto
Valencia
Washington, DC

Revenue Agent

Redacted by the Permanent
Subcommittee on Investigations

RE: Anna Marsh (SSN [REDACTED]) and
James A. Marsh, deceased (SS# [REDACTED])
Reasonable Cause Statement
Failure to timely report foreign income on Forms 1040
Calendar Years: 2002 - 2006

Dear Mr. [REDACTED]

As you know, the undersigned represent Anna Marsh, a U.S. citizen taxpayer with SS# [REDACTED] ("Mrs. Marsh") and the Estate of James A. Marsh, a deceased U.S. citizen taxpayer with SS# [REDACTED] ("Mr. Marsh", and together with Mrs. Marsh, the "Taxpayers") and have previously filed Forms 2848, Power of Attorney.

Enclosed please find completed and executed amended Forms 1040X, Amended U.S. Individual Income Tax Return, for calendar years 2002 through 2006 (collectively referred to as "Forms"), filed on behalf of the Taxpayers. Form 1040 for 2007 is currently under extension. The Taxpayers' failure to timely report certain foreign income on their Forms 1040 for the years specified was due to reasonable cause, and not any willful act or specific intent on the part of the Taxpayers, as explained herein below.

Many years ago, Mr. Marsh funded several foundations in Liechtenstein, called Foundation Chateau, Lincoln Foundation, Largella Foundation and Topanga Foundation (collectively, the "Foundations").

Over the years and prior to the death of Mr. Marsh in June 2006, neither Mr. Marsh nor Mrs. Marsh received any distributions from the Foundations.

Permanent Subcommittee on Investigations
EXHIBIT #18

Baker & McKenzie LLP is a

/s/rein.

MAR-01185

BAKER & MCKENZIE

— = Redacted by the Permanent
Subcommittee on Investigations

As a U.S. person under IRC § 7701(a)(30), and the substantive settler of the Foundations, Mr. Marsh was required to report income earned from the Foundations pursuant to IRC § 641(a)(4).

Mr. Marsh, a construction contractor, was unsophisticated in the area of U.S. tax reporting requirements. It is believed that he did not know that the passive income earned in the Foundations was taxable in the United States. We believe that Mr. Marsh was under the erroneous belief that his income from the Foundations was not required to be reported until such time as the funds were repatriated to the United States. This may explain why he apparently did not spend any of the money in the Foundations for over twenty years.

Mr. Marsh relied on his U.S.-based accountant(s) to handle all of his IRS filings. The U.S. accountant(s) apparently did not advise Mr. Marsh regarding his U.S. tax reporting obligations with respect to the Foundations, nor was Mr. Marsh aware of the necessity to disclose the passive income in the Foundations to his U.S. accountant(s). As a consequence, the passive income earned from the Foundations was never reported, and Mr. Marsh remained unaware of his U.S. tax reporting obligations under IRC § 641(a)(4) to the IRS.

Mrs. Marsh, who will be 85 years old on [REDACTED] 2008, was not aware of the existence of the Foundations until the commencement of an IRS examination after her husband's death. Her husband was extremely private and did not discuss financial issues with her. He was the one in their relationship who took care of business and financial matters, paying the bills and dealing with the tax return preparer so that even if Mrs. Marsh had been aware of the Foundations, she would have assumed that her husband had taken care of any reporting requirements.

Recently, while assisting Mrs. Marsh and her sons with the IRS examination, we brought to her attention that her husband's passive income in respect to the Foundations needed to be reported. Mrs. Marsh agreed without any hesitation to do everything that was required to meet her tax reporting requirements. She requested that we assist her in seeking the financial data necessary to meet the tax filing requirements. Pursuant thereto, after many months of dogged effort, all of the necessary financial information was finally obtained from Liechtenstein and carefully analyzed by U.S. tax accountants (particularly because the Foundations had many mutual fund/PFIC



investments). This financial data collection and complicated tax analysis was done at great expense in professional fees, both legal and accounting, in Liechtenstein and in the United States.

The facts above clearly demonstrate that Mrs. Marsh has acted in a responsible manner, exercising business care and prudence, and making more than reasonable efforts to determine the Taxpayers' tax reporting obligations as quickly as possible. Promptly upon being notified of their U.S. tax reporting obligations, Mrs. Marsh has cooperated fully with counsel to assist in filing these tax returns.

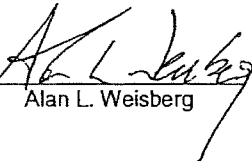
This letter and the enclosed Forms are intended to satisfy all of the Taxpayers' U.S. tax reporting obligations and any tax liability owed for calendar years 2002 through 2006.

We believe the facts, circumstances and reasons set forth above demonstrate an affirmative showing that the Taxpayers' failure to report the Foundation income in a timely manner was due to reasonable cause, and not willful neglect. We respectfully request that any possible penalties which otherwise could be imposed for the Taxpayer's failure to report timely income for calendar years 2002 through 2006 be waived.

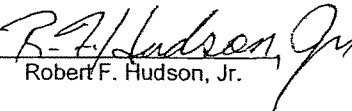
Please note that Mrs. Marsh has attested below to the facts stated above under penalties of perjury. If you require any further information, we request that you contact Alan L. Weisberg, Esq. at (305) 374-5544. Thank you for your understanding and consideration of this matter.

Very truly yours,

Weisberg and Kainen

By: 
Alan L. Weisberg

Baker & McKenzie LLP

By: 
Robert F. Hudson, Jr.



Attestation

Under penalties of perjury, I, Anna Marsh, individually and as Personal Representative for the Estate of James A. Marsh, do hereby declare that I have examined the above reasonable cause statement, and to the best of my knowledge and belief, it is true, correct and complete.

By: Anna A. Marsh Date: 5/12/08
Anna A. Marsh

By: Anna A. Marsh Date: 5/12/08
Anna A. Marsh, as Personal
Representative for the Estate
of James A. Marsh

Reasonable Cause let 1040X 5-12-08

MIADMS/336440.4

BAKER & MCKENZIE

Baker & McKenzie LLP
 Mellon Financial Center
 1111 Brickell Avenue, Suite 1700
 Miami, Florida 33131, USA

Tel: +1 305 789 8900
 Fax: +1 305 789 8953
 www.bakernet.com

May 12, 2008

Asia
 Pacific
 Bangkok
 Beijing
 Hanoi
 Ho Chi Minh City
 Hong Kong
 Jakarta
 Kuala Lumpur
 Manila
 Melbourne
 Shanghai
 Singapore
 Sydney
 Taipei
 Tokyo
 Europe &
 Middle East
 Almaty
 Amsterdam
 Antwerp
 Bahrain
 Baku
 Barcelona
 Berlin
 Bologna
 Brussels
 Budapest
 Cairo
 Dusseldorf
 Frankfurt / Main
 Geneva
 Kyiv
 London
 Madrid
 Milan
 Moscow
 Munich
 Paris
 Prague
 Riyadh
 Rome
 St. Petersburg
 Stockholm
 Vienna
 Warsaw
 Zurich
 North & South
 America
 Bogota
 Brasilia
 Buenos Aires
 Caracas
 Chicago
 Chihuahua
 Dallas
 Guadalajara
 Houston
 Juarez
 Mexico City
 Miami
 Monterrey
 New York
 Palo Alto
 Porto Alegre
 Rio de Janeiro
 San Diego
 San Francisco
 Santiago
 Sao Paulo
 Tijuana
 Toronto
 Valencia
 Washington, DC

Revenue Agent

— = Redacted by the Permanent
 Subcommittee on Investigations

RE: Anna Marsh (SSN [REDACTED]) and
 James A. Marsh, deceased (SS# [REDACTED])
 Reasonable Cause Statement

Failure to timely report foreign bank and financial
 accounts
 Calendar Years: 2002 - 2006

Dear Mr. [REDACTED]

As you know, the undersigned represent Anna Marsh, a U.S. citizen taxpayer with SS# [REDACTED] ("Mrs. Marsh") and the Estate of James A. Marsh, a deceased U.S. citizen taxpayer with SS# [REDACTED] ("Mr. Marsh" or the "Taxpayer") and have previously filed Forms 2848, Power of Attorney.

Enclosed please find completed and executed Forms TD F 90-22.1, Report of Foreign Bank and Financial Accounts, for calendar years 2002 through 2006 (collectively referred to as "Forms"), filed on behalf of the Taxpayer. The Taxpayer's failure to timely report certain foreign bank and account information for the years specified was due to reasonable cause, and not any willful act or specific intent on the part of the Taxpayer, as explained herein below.

The Taxpayer, a U.S. citizen, opened several foreign bank accounts in the mid-1980s via the establishment of several foundations in Liechtenstein, called Foundation Chateau, Lincol Foundation, Largella Foundation and Topanga Foundation (collectively, the "Foundations"). Those accounts that were open at any time during the period from January 1, 2002 through December 31, 2006 are listed in the chart below (collectively, the "Accounts"):

Bank	Foundation	Account No.	Relevant Years
Centrum Bank	Chateau		2006
			2006
			2006
LGT Bank	Chateau		2002 – 2006
LGT Bank	Lincol		2002 – 2006
Liechtensteinische Landesbank	Largella		2002- 2006
			2002- 2006
			2002- 2006
			2002- 2006
			2002- 2006
			2002- 2006
			2002, 2003
			2002
			2002- 2006
			2003 – 2005
			2003, 2004
Verwaltungs und Privatbank AG	Topanga		2002 - 2006
Privatbank von Graffenreid AG	Topanga		2002 - 2006
			2002 – 2006
			2002 – 2006
			2002 - 2004

Redacted by Permanent Subcommittee on Investigations

The Taxpayer, a construction contractor, was unsophisticated in the area of U.S. tax and reporting requirements. It is believed that he did not know that the existence of these Foundations or the passive income in the Accounts was required to be reported to the U.S. Department of Treasury. We believe that The Taxpayer was under the erroneous belief that his interest in the Accounts was not required to be reported until such time as the funds in the Accounts were repatriated to the United States. This seemingly may explain why he apparently did not spend any of the money in the Accounts for over twenty years.

The Taxpayer relied on his U.S. accountant(s) to handle all of his IRS filings. The U.S. accountant(s) apparently never advised the Taxpayer

regarding his U.S. reporting obligations with respect to non-U.S. bank accounts, nor was the Taxpayer aware of the necessity to disclose his passive income in the Accounts to his U.S. accountant(s). As a consequence, the Accounts were never reported, and the Taxpayer apparently remained unaware of his reporting obligations under 31 USC §5314.

Mrs. Marsh, who will be 85 years old on [REDACTED] 2008, was not aware of the existence of the Accounts until the commencement of an IRS examination after her husband's death. Her husband was extremely private and did not discuss financial issues with her. He was the one in their relationship who took care of business and financial matters, paying the bills and dealing with the tax return preparer so that even if Mrs. Marsh had been aware of the Foundations, she would have assumed that her husband had taken care of any reporting requirements.

Recently, while assisting Mrs. Marsh and her sons with the IRS examination, we brought to her attention that her husband's interest in the Accounts needed to be properly reported. Mrs. Marsh agreed without any hesitation to do everything that was required to meet her tax reporting requirements. She requested that we assist her in seeking the financial data necessary to meet the filing requirements. Pursuant thereto, after many months of dogged effort, all of the necessary financial information was finally obtained from Liechtenstein and carefully analyzed by U.S. tax accountants. This financial data collection and complicated tax analysis was done at great expense in professional fees, both legal and accounting, in Liechtenstein and in the United States.

The facts above clearly demonstrate that Mrs. Marsh, individually and on behalf of her deceased husband as Personal Representative of the Estate of James A. Marsh, has acted in a responsible manner, exercising business care and prudence, and making more than reasonable efforts to determine the Taxpayer's tax and information reporting obligations as quickly as possible. Promptly upon being notified of the Taxpayer's U.S. tax reporting obligations, Mrs. Marsh cooperated fully with counsel to assist in filing these reporting forms.

This letter and the enclosed Forms are intended to satisfy the Taxpayer's 31 U.S.C. §5314 reporting obligations for calendar years 2002 through 2006. We believe the acts, circumstances and reasons set forth above demonstrate an affirmative showing that the Taxpayer's failure to report the Accounts in a timely manner was due to reasonable cause, and not willful neglect. We respectfully request that, pursuant to 31 U.S.C. §5321(a)(5)(B)(ii), any and all possible penalties which otherwise could be imposed for the Taxpayer's failure to report timely the Accounts for calendar years 2002 through 2006 be waived.

— = Redacted by the Permanent
Subcommittee on Investigations

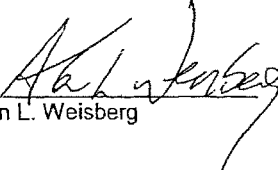
MAR-01191

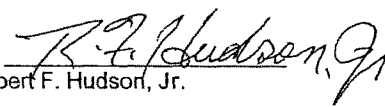
Please note that Mrs. Marsh, individually and on behalf of her deceased husband as Personal Representative of the Estate of James A. Marsh, has attested below to the facts stated above under penalties of perjury. If you require any further information, we request that you contact Alan L. Weisberg, Esq. at (305) 374-5544. Thank you for your understanding and consideration of this matter.

Very truly yours,

Weisberg and Kainen

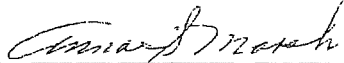
Baker & McKenzie LLP

By: 
Alan L. Weisberg


By: 
Robert F. Hudson, Jr.

Attestation

Under penalties of perjury, I, Anna Marsh, individually and as Personal Representative for the Estate of James A. Marsh, do hereby declare that I have examined the above reasonable cause statement and, to the best of my knowledge and belief, it is true, correct and complete.

By: 
Anna A. Marsh

Date: 5/12/08

By: 
Anna A. Marsh, as Personal
Representative for the Estate
of James A. Marsh

Date: 5/12/08

BAKER & MCKENZIE

Baker & McKenzie LLP
 Mellon Financial Center
 1111 Brickell Avenue, Suite 1700
 Miami, Florida 33131, USA

Tel: +1 305 789 8900
 Fax: +1 305 789 8953
 www.bakernet.com

May 12, 2008

Aala
 Pacific
 Bangkok
 Beijing
 Hanoi
 Ho Chi Minh City
 Hong Kong
 Jakarta
 Kuala Lumpur
 Manila
 Melbourne
 Shanghai
 Singapore
 Sydney
 Taipei
 Tokyo
 Europe &
 Middle East
 Almaty
 Amsterdam
 Antwerp
 Bahrain
 Baku
 Barcelona
 Berlin
 Bologna
 Brussels
 Budapest
 Cairo
 Dusseldorf
 Frankfurt / Main
 Geneva
 Kiev
 London
 Madrid
 Milan
 Moscow
 Munich
 Paris
 Prague
 Riyadh
 Rome
 St. Petersburg
 Stockholm
 Vienna
 Warsaw
 Zurich
 North & South
 America
 Bogota
 Brasilia
 Buenos Aires
 Caracas
 Chicago
 Chuquibambilla
 Dallas
 Guadalajara
 Houston
 Juarez
 Mexico City
 Miami
 Monterrey
 New York
 Palo Alto
 Porto Alegre
 Rio de Janeiro
 San Diego
 San Francisco
 Santiago
 Sao Paulo
 Tijuana
 Toronto
 Valencia
 Washington, DC

Revenue Agent

— = Redacted by the Permanent
 Subcommittee on Investigations

RE: Kerry Marsh (SSN [REDACTED])
 Shannon Marsh (SSN [REDACTED])
 Reasonable Cause Statement
 Failure to Timely File Form 3520
 Calendar Year: 2006

Dear Mr. [REDACTED]

As you know, the undersigned represent Kerry Marsh, a U.S. citizen taxpayer with SS# [REDACTED] ("Kerry Marsh") and Shannon Marsh, a U.S. citizen taxpayer with SS# [REDACTED] ("Shannon Marsh") and have previously filed Forms 2848, Power of Attorney.

Enclosed please find the following completed and executed Forms 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, for calendar year 2006 (the "Forms"), filed on behalf of Kerry Marsh; Shannon Marsh; [REDACTED] Marsh, a U.S. taxpayer with SS# [REDACTED] ("[REDACTED]"); [REDACTED] Marsh, a U.S. taxpayer with SS# [REDACTED] ("[REDACTED]"); [REDACTED] Marsh, a U.S. taxpayer with SS# [REDACTED] ("[REDACTED]"); [REDACTED] Marsh, a U.S. taxpayer with SS# [REDACTED] ("[REDACTED]"); Kerry Marsh, Shannon Marsh, [REDACTED] are referred to herein as the "Taxpayers").

The Taxpayers' failure to file these Forms in a timely manner was due to reasonable cause, and not any willful act or specific intent on the part of the Taxpayers, as explained herein below.

Many years ago, James A. Marsh, the father of Kerry Marsh and Shannon Marsh, funded several foundations in Liechtenstein, including one called Topanga Foundation (the "Foundation").

MLADMS/336548.2

Baker & McKenzie LLP is a member of Baker & McKenzie International, a Swiss Verein.

MAR-01176

BAKER & MCKENZIE

After the death of James A. Marsh and the commencement of an IRS examination, Kerry Marsh and Shannon Marsh learned that each of the Taxpayers was a beneficiary of the Foundation, and that such Foundation is a simple trust whose income is required to be distributed to each of the Taxpayers as a beneficiary. As such, we informed Kerry Marsh and Shannon Marsh that under IRC §6048(b), each of the Taxpayers is required to file Form 3520 with respect to the Foundation because they are each deemed to receive annual distributions despite the fact that they did not actually receive any income (or other) distributions in 2006 from the Foundation. Kerry Marsh and Shannon Marsh agreed without any hesitation to do everything that was required to meet the Taxpayers' tax reporting requirements. They requested that we assist them in seeking the financial data necessary to meet the filing requirement. Pursuant thereto, after many months of dogged effort, all of the necessary financial information was finally obtained from Liechtenstein and carefully analyzed by U.S. tax accountants. However, such financial and tax data was only received well after the last filing deadline for 2006 and only just now completed to be able to file the enclosed Forms. This financial data collection and complicated tax analysis (due principally to the substantial number of PFIC investments involved) was done at great expense in professional fees, both legal and accounting, in Liechtenstein and in the United States.

The facts above clearly demonstrate that Kerry Marsh and Shannon Marsh, on behalf of all of the Taxpayers, have acted in a responsible manner, exercising business care and prudence, and making more than reasonable efforts to determine their tax and information reporting obligations as quickly as possible. Promptly upon being notified of their U.S. tax reporting obligations, they cooperated fully with counsel to assist in filing the enclosed Forms.

We believe the foregoing facts, circumstances and reasons set forth above demonstrate an affirmative showing that the Taxpayers' failure to file the enclosed Forms in a timely manner was due to reasonable cause, and not willful neglect. Accordingly, we respectfully request that any and all possible penalties which otherwise could be imposed pursuant to IRC § 6677(a) and (b) be waived.

Please note that Kerry Marsh and Shannon Marsh have attested below to the facts stated above under penalties of perjury. If you require any further information, we request that you contact Alan L. Weisberg,

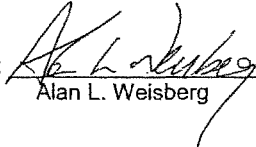


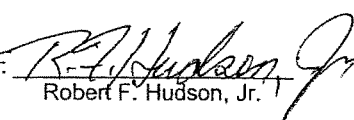
Esq. at (305) 374-5544. Thank you for your understanding and consideration of this matter.

Very truly yours,

Weisberg and Kainen

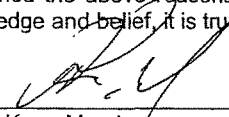
Baker & McKenzie LLP

By: 
Alan L. Weisberg

By: 
Robert F. Hudson, Jr.

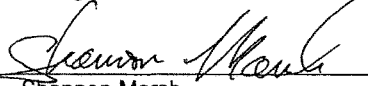
Attestation

Under penalties of perjury, I, Kerry Marsh, do hereby declare that I have examined the above reasonable cause statement, and to the best of my knowledge and belief, it is true, correct and complete.

By: 
Kerry Marsh

Date: 5/12/08

Under penalties of perjury, I, Shannon Marsh, do hereby declare that I have examined the above reasonable cause statement, and to the best of my knowledge and belief, it is true, correct and complete.

By: 
Shannon Marsh

Date: 5/12/2008

JCMA Foundation , 9490 Vaduz
 SB: Gächter Dagmar KB: Sprenger Sonja

Mand.Nr.: [REDACTED]
 L. Kundenbesuch: 27.06.2002

Gründungsdatum: 20.06.1996 Status: Aktiv

Verwaltungs- / Stiftungsräte

Profile Management Trust reg., Vad Zeichnungsrecht: Einzel
 Feuerstein Nicola Dr., Triesenberg Zeichnungsrecht: Kollektiv

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Banken

LGT Bank in Liechtenstein AG, Vaduz

AB: Müller Beat Tel. [REDACTED] Zlg-Kto: [REDACTED]

Diverses

Anlageberater: Müller Beat,
 Protektor: WU Veronica,
 Protektor: WU Margaret S.B.,
 Repräsentant: LGT Treuhand AG, Vaduz
 Vermittler: LGT Investment Management, Hong Kon
 Auftraggeber: Privater Auftraggeber

Fix-Honorare

Domicilhonorar	800.00	20.06.2003	LGT Treuhand AG, Vaduz
Kapitalsteuer	1'000.00	20.06.2003	Liechtensteinische Steuerverwaltung, Vaduz
Stiftungsrats Honorar	3'000.00	20.06.2003	LGT Treuhand AG, Vaduz

Pauschal-Honorare

Vermögenswert per: 0.00 fällig am: 0.00 Fakturierbares Pauschalhonorar: 0.00

Zweck

- 100%ige Beteiligung: - Sandalwood International Limited, Bahamas
- Verwaltung durch Byrne (T. Corkhill), Hong Kong
- Aktienzertifikat --> ins Depot JCMA 14.1.97
- einziger Zweck von von Sandalwood ist das Halten der
- Tai Lung Worldwide Ltd., BVI

Tai Lung hält ein Haus in New York, das vermietet ist.

Die Mieteinkünfte werden auf das Konto der Standard Chartered Bank
 überwiesen.

- * Cobyne Ltd. + Declare Limited sind Directors / beides nominee company von Byrne, welche Sandalwood treuhänderisch für die JCMA halten (siehe diesbezüglich auch Declaration of Trust und Service Agreement)

Besitznachweis, Verträge, Vollmachten

- die zwei Schwestern des Kunden, Mrs [REDACTED] Wu und Mrs [REDACTED] Wu haben auf dem LGT-Konto seit 1.8.96 bzw. 25.7.97 Einzelzeichnungsrecht

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

- Statuten und Beistatuten mit Protektor

Pendenzen / Geschichte

- LTV hat Auftraggeber noch nie getroffen
- Privatadresse von [REDACTED] Wu erhalten (s. Schr. Ph. Jehle vom 21.7.97): bei der nächsten Beistatuten-Änderung berücksichtigen; Mrs WU=Protektor
- die 3 Töchter des 1B leben an der selben Adresse wie der 1B (Brief PJ 10.8.99) Adresse des Sohnes fehlt --> Beistatuten
- Annahmeerklärung mit Nachfolgeregelung i.S. Protektor unterzeichnen (s. Schreiben HK 27.06.2002 - wird erfolgen)

ACHTUNG US-Citizen

Permanent Subcommittee on Investigations

EXHIBIT #19

PSI-USMSTR - 004988

UJ-16-2006 14:11

— = Redacted by the Permanent
Subcommittee on Investigations

JCMA Foundation 9490 Vaduz
SB: Dagmar Gächter KB: Sonja Sprenger

Client No.: [REDACTED]
Client Request: 6/27/2002

Founding date: 6/20/1996 Status: Active

Management/ Foundation Board
Profile Management Trust re., Vaduz Signature right: Individual
Dr. Nicola Feuerstein, Triesenberg Signature right: Joint

Banks

LGT Bank in Liechtenstein AG, Vaduz AB: Beat Müller Tel. [REDACTED] SigAcct: [REDACTED]

Miscellaneous

Investment Adviser: Beat Müller
Protector: Veronica WU
Protector: Margaret S.B. WU
Representative: LGT Treuhand AG, Vaduz
Agent: LGT Investment Management, Hong Kong
Client: Private Client

Fixed Fees

Domicile fee	800.00	6/20/2003	LGT Treuhand AG, Vaduz
Capital Tax	1,000.00	6/20/2003	Liechtenstein Tax Authority, Vaduz
Foundation Board Fee	3,000.00	6/20/2003	LGT Treuhand AG, Vaduz

Lump Sum Fee (no entry)

Purpose

- 100% Share: - Sandalwood International limited, Bahamas
- Managed by Byrne (T. Corkhill), Hong Kong
- Stock certificate -- on deposit JCMA 1/14/97
- sole purpose of Sandalwood is the holding of Tai Lung Worldwide, Ltd., BVI

Tai Lung has a house in New York that is rented.
The rental income is transferred to the account of Standard Chartered Bank.

Cobyne Ltd. + Declare Limited are directors / both nominee companies of Byrne, which Sandalwood holds in trust for JCMA (Also see Declaration of Trust and Service Agreement concerning this.)

Proof of Ownership, Contracts, Powers of Attorney

- from 8/1/96 to 7/25/97 the two sisters of the client, Mrs. [REDACTED] Wu and Mrs. [REDACTED] Wu, had individual signature rights to the LGT account.

Instructions (Management, accounting, by-laws, etc.)

- statutes and by-laws with Protector.

Pending/History

- LTV has never met the client.
- The private address for [REDACTED] Wu maintained (See 7/21/97 Ph. Jehle document): Allowed for in the next by-laws alteration; Mrs. WU = Protector
- the 3 daughters in 1B live at the same address as 1D (8/10/99 PJ letter)
- son's address is missing -- by-laws
- signed explanation with succession regulations according to Protector (See HK 6/27/2002 document.)

ATTENTION US citizen

DECLARATION OF TRUST

THIS TRUST DEED is made 1 October 1996 between Cobyrne Limited of 37/E, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong (hereinafter called the trustee) of the one part and JOMA Foundation, p.o. box 683, FL-9490 Vaduz/Principality of Liechtenstein (hereinafter called the beneficiary) of the other part.

WHEREAS the beneficiary is the beneficial owner of the following shares:

Name of Company: Sandalwood International Limited
 Address: Providence House, East Hill Street, P O Box N-3944, Nassau, Bahamas
 Number of shares: 1
 Share Number: 1

AND WHEREAS the beneficiary has requested the trustee to register the said shares in the trustee's name, and it was agreed that the trustee should execute such declaration of trust as is hereinafter contained.

NOW THIS DEED WITNESSETH as follows:

1. The trustee hereby declares that it holds the shares specified as aforesaid and all dividends and interest accrued or to accrue upon the same or any of them upon trust for the beneficiary and its successors in title and agrees to transfer pay and deal with the said shares and the dividends and interest payable in respect of the same in such manner as the beneficiary shall from time to time direct in writing subject to the following terms and conditions:

Directions to transfer shares from one beneficiary to another will be subject to the Articles of Association of the company concerned and the trustee reserves the right to notify the company concerned of changes in the beneficial ownership where it is considered necessary. In cases where notification is given and where under the Articles of Association of the company concerned the directors indicate an unwillingness to accept the transfer of beneficial interest the trustee will be under no obligation to accept the instructions given to him.

2. The trustee will at the request of the beneficiary or its successors in title attend all meetings of shareholders or otherwise which it shall be entitled to attend by virtue of being the registered proprietor of the said shares or any of them and will vote at every such meeting in such manner as the beneficiary or its successors in title shall have previously directed in writing and in default of and subject to any such direction at the discretion of the trustee and further will if so required by the beneficiary or its successors in title execute all proxies or other documents which shall be necessary or proper to enable the beneficiary, its personal representatives or assigns or its or their nominees to vote at any such meeting in the place of the trustee. The trustee reserves the right to give notice to the company when voting on any resolution that he is acting on specific instructions from the beneficiary.

..J2

Permanent Subcommittee on Investigations
EXHIBIT #20

WWU-PSI-00014

LL. RVU. ZVVJ 10.90

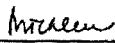
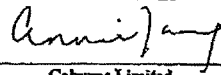
11.11.2002 10.17.17

-2-

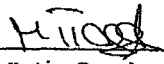
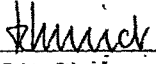
3. The trustee shall keep the beneficiary or its successors in title reasonably informed of the operations of the aforesaid company. Failure to notify the beneficiary of any specific matter will not be construed as a breach of this trust.
4. The trustee shall render debit notes for services rendered through Byrne Corporate Services Limited of 37th Floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong as their agents and Byrne Corporate Services Limited shall have a lien on the shares the subject of the trust to the extent of any unpaid fees due to them so rendered. Should fees properly rendered by Byrne Corporate Services Limited remain outstanding for more than three (3) consecutive months after the date of the rendering of the debit note concerned the trustee is hereby empowered by the beneficiary to transfer all or such part of the shares held under this trust to his own name and to sell same or to dispose of them according to his best advantage and the trustee shall be under no further obligation to the beneficiary. Provided however that the right to transfer and sell shall not be acted upon until fourteen days (14) after a final reminder requesting payment has been sent by registered post to the beneficiary at his last known address.
5. The beneficiary hereby undertakes to indemnify the trustee to the full extent of any and all obligations which arises out of the trustee holding the said shares on behalf of the beneficiary.

IN WITNESS WHEREOF the parties hereto have now set their signatures on the day and in the year beforementioned.

WITNESSED BY:

 _____ Martina Toggendorf	For and on behalf of COBYRNE LIMITED  _____ Cobyne Limited Trustee
--	--

WITNESSED BY:

 _____ Martina Toggendorf	JCSA Foundation  _____ Peter Schmid Beneficiary
--	--

Vaduz, 21st November 1996 mto

WWU-PSI-00015

— = Redacted by the Permanent
Subcommittee on Investigations

New York City Department of Finance
Office of the City Register

HELP

[Click help for additional instructions]
Selecting a help option will open new window

Detailed Document Information

Current Search Criteria:

Name: TAI LUNG*
Date: To Current Date
Party Type: All Parties
Borough/County: All Boroughs/Counties
Document Class: All Document Classes

DOCUMENT ID: FT_4380005495638	CRFN:	N/A	COLLATERAL:	N/A
# of PAGES: 5	REEL-PAGE:	4524-2412	EXPIRATION DATE:	N/A
DOC. TYPE: DEED	FILE NUMBER:	N/A	ASSESSMENT DATE:	2/18/1997
DOC. DATE: 1/21/1997	RECORDED / FILED:	2/14/1997	SLID #:	N/A
DOC. AMOUNT: \$0.00	BOROUGH:	QUEENS	MAP SEQUENCE #:	0
MESSAGE: N/A	RPTT #:	03384		

PARTY 1

NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIP	COUNTRY
WU, WILLIAM G			FOREST HILLS	NY		US

PARTY 2

NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIP	COUNTRY
TAI LUNG WORLDWIDE LTD	215 QNS ROAD EAST WU CHUNG HOUSE		WAN CHAI			HK

PARTY 3/Other

NAME	ADDRESS 1	ADDRESS 2	CITY	STATE	ZIP	COUNTRY
------	-----------	-----------	------	-------	-----	---------

PARCELS

BOROUGH	BLOCK	LOT	PARTIAL	PROPERTY TYPE	EASEMENT	AIR RIGHTS	SUBTERRANEAN RIGHTS	PROPERTY ADDRESS	UNIT	REMARKS
QUEENS	3251	70	ENTIRE LOT	PRE-ACRIS	N	N	N			

REFERENCES							REMARKS
CRFN	DOCUMENT ID	BOROUGH	YEAR	REEL	PAGE	FILE NBR	

Print View Document Search Results Search Options Main Options

Go To: Finance Home Page | NYC.gov Home Page | Contact NYC.gov | FAQs | Privacy Statement | Site Map

Permanent Subcommittee on Investigations
EXHIBIT #21

THIS INDENTURE, made the 21st day of January 1917, nineteen hundred and ninety-seven

ORIGINAL

WILLIAM S. WU, residing at [REDACTED] Forest Hills, NY

■ = Redacted by the Permanent Subcommittee on Investigations

party of the first part, and

TAI LUNG WORLDWIDE, LTD., having its principal place of business at
213 Queen's Road East, 37th Floor, Wu Chung House, Wan Chai, Hong Kong

part of the second part.

WITNESSETH, that the party of the first part, in consideration of Ten Dollars and other valuable consideration paid by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

ALL that certain plot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the

See annexed Schedule A

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the New Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as it said "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

Witt
WILLIAM S. WU

<p>— = Redacted by the Permanent Subcommittee on Investigations</p>

SCHEDULE A

ALL that certain plot, parcel of land, with the buildings and improvements thereon erected, situate lying and being in the Second Ward, Borough and County of Queens, City and State of New York, being shown as a part of Block 4 on a certain map entitled, "Map No. 3 of Forest Hills Gardens, situated at Forest Hills, Borough of Queens, City of New York, surveyed for Sage Foundation Homes Company, dated April, 1913 by C.B. Fancy, C.E." and filed in the office of the clerk, now Register, of Queens County on 7/15/13 as map No. 97 bounded and described as follows:

BEGINNING at a point on the westerly side of street known as [REDACTED], as laid down on said map distant 279.94 feet measured along said side of [REDACTED] southerly from the corner formed by the intersection of the said westerly side of [REDACTED] with the southerly side of [REDACTED] as now laid out 50 feet wide; and

RUNNING THENCE southerly along the westerly side of [REDACTED] on an arc of a circle bearing to the right and at a radius of 888.26 feet a distance of 30.06 feet;

THENCE South 71 degrees 29 minutes 13 seconds West and part of the distance through a party wall 78.50 feet;

THENCE south 26 degrees 29 minutes 13 seconds west 6.36 feet;

THENCE south 71 degrees 29 minutes 13 seconds west 17.73 feet;

THENCE north 63 degrees 30 minutes 47 seconds west 6.36 feet;

THENCE north 16 degrees 30 minutes 47 seconds west 16.03;

THENCE south 71 degrees 29 minutes 13 seconds west 5.50 feet to the east side of a private lane hereinafter described;

THENCE along said lane north 18 degrees 30 minutes 47 seconds west 13.97 feet;

— = Redacted by the Permanent
Subcommittee on Investigations

REEL 4 5 2 4 PG 24 14

THENCE north 71 degrees 29 minutes 13 seconds east and part of the distance through a party wall 112.73 feet to the westerly side of [REDACTED], to the point or place of beginning.

TOGETHER with an undivided interest of, in and to the rear service lane or driveway which lane or driveway is bounded and described as follows:

BEGINNING at a point on the southerly side of [REDACTED] as now laid out, 50 feet wide distant 127.30 feet westerly measured along said side of [REDACTED] on a course running south 48 degrees 34 minutes 35 seconds west from the corner formed by the intersection of said southerly side of said place with the westerly side of said street known as [REDACTED] and

RUNNING THENCE south 41 degrees 4 minutes 28 seconds, east 52.42 feet;

THENCE south 74 degrees 47 minutes 37 seconds east 16.75 feet;

THENCE south 15 degrees 11 minutes 19 seconds east 48.03 feet;

THENCE south 18 degrees 30 minutes 47 seconds east 120 feet;

THENCE north 71 degrees 29 minutes 13 seconds east 11.10 feet;

THENCE south 18 degrees 30 minutes 47 seconds east 21.97 feet;

THENCE south 71 degrees 29 minutes 13 seconds west 23.60 feet;

THENCE north 18 degrees 30 minutes 47 seconds west 176.40 feet;

THENCE north 41 degrees 4 minutes 28 seconds west 72.92 feet to the said southerly side of Middlemay Place and

THENCE north 48 degrees 34 minutes 35 seconds east along said side of said place 10 feet to the point or place of beginning.

SAID PREMISES being known as and by street address 81 [REDACTED] Forest Hills, New York.

STATE OF NEW YORK, COUNTY OF QUEENS 341 STATE OF NEW YORK, COUNTY OF 341

On the 21st day of January 1997, before me personally came WILLIAM S. WU

SO IN ORIGINAL

to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same.

Antonia Lupiano
Notary Public
Queens County, New York
Commission Expires August 8, 1998

ANTONIA TRUPIANO
Notary Public, State of New York
No. 0978031880
Qualified in Queens County
Commission Expires August 8, 1998

STATE OF NEW YORK, COUNTY OF 341 STATE OF NEW YORK, COUNTY OF 341

On the day of 19 , before me personally came the day of 19 , before me personally came

to me known, who, being by me duly sworn, did depose and say that he resides at No. ;

that he is the ;

of , the corporation described in and which executed the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

to be the individual described in and who executed the foregoing instrument; that he, said subscribing witness, was present and saw execute the same; and that he, said witness, at the same time subscribed his name as witness thereto.

— = Redacted by the Permanent Subcommittee on Investigations

Morgan and Belz Web
WITH COVENANTS AGAINST GRANTOR'S ACTS
TITLE No. 62,240

WILLIAM S. WU
TO
TAI LUNG WORLDWIDE, LTD

SECTION
BLOCK 3251
LOT 70
COUNTY OR TOWN QUEENS

RETURN BY MAIL TO
TAI LUNG WORLDWIDE, LTD.
C/O FRANK J. DIDERU, ESQ.
47-14 158th Street
Flushing, New York

By No. 11358

Reserve this space for use of Recording Office.

— = Redacted by the Permanent
Subcommittee on Investigations

CITY REGISTER RECORDING AND ENDORSEMENT PAGE
- QUEENS COUNTY -
(This page forms part of the instrument)

Block(s) <u>3251</u>	Record & Return to: <u>Frank J. Piller, Esq.</u>
Lot(s) <u>70</u>	<u>47-14 158th St., Flushing, N.Y. 11357</u>
<u>[Redacted]</u> <u>Fanny Piller</u>	Title/Agent Company name: <u>Pioneer Land Title Corp.</u>
	Title Company number: <u>22-290</u>

OFFICE USE ONLY - DO NOT WRITE BELOW THIS LINE

THE FOREGOING INSTRUMENT WAS ENDORSED FOR THE RECORD AS FOLLOWS:

Examined by (A): <u>[Signature]</u>	City Register Serial Number <u>010725</u>
Mile Tax Serial No. _____	Indexed By (A): <u>[Signature]</u> Verified By (A): <u>[Signature]</u>
Mile Amount \$ _____	Block(s) and Lot(s) verified by <u>[Signature]</u>
Taxable Amount \$ _____	Address <u>[Signature]</u> Tax Map <u>[Signature]</u>
Exemption (A) YES <input type="checkbox"/> NO <input type="checkbox"/>	Extra Block(s) _____ Lot(s) _____
Type: <input type="checkbox"/> NONE <input type="checkbox"/> 235 <input type="checkbox"/> OTHER _____	Recording Fee <u>A</u> \$ <u>42</u>
Dwelling Type: <input type="checkbox"/> 1-2 <input type="checkbox"/> 3 <input type="checkbox"/> 4-6 <input type="checkbox"/> OVER 6	Affidavit Fee (C) \$ _____
TAX RECEIVED ON ABOVE MORTGAGE ▼	TP-584/582 Fee (Y) \$ _____
County (basic) \$ _____	RPTT Fee (R) \$ <u>25</u>
City (Addtl) \$ _____	HPD-A <input checked="" type="checkbox"/> HPD-C <input type="checkbox"/>
Spec Addtl \$ _____	New York State Real Estate Transfer Tax ▼
TASF \$ _____	\$ <u>15.20</u>
MTA \$ _____	Serial Number <u>[Signature]</u>
NYCTA \$ _____	New York City Real Property Transfer Tax
TOTAL TAX \$ _____	Serial Number <u>003384</u>
Apportionment Mortgage (A) YES <input type="checkbox"/> NO <input type="checkbox"/>	New York State Gains Tax
Joy A. Bobrow, City Register	Serial Number _____

REEL 4524952416

RECORDED
4131
7000
26-01-6



RECORDED IN QUEENS COUNTY
OFFICE OF THE CITY REGISTER

1991 FEB 14 P 3:11

Witness My Hand and Official Seal

[Signature]

City Register

CRGF-VRD-BPG 1-93



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein AG
Representative Office Hong Kong
Suite 2908
Two Exchange Square
8 Connaught Place Central
GPO Box 13398 Hong Kong

Telephone (852) 2523 6180
Telefax (852) 2868 0059
Internet www.lgt.com
E-Mail lgthk@lgt.com

Memorandum

1 / 1

Subject **JCMA Foundation**
Author/dept./tel. **Kim Choy**
Date **June 26, 2002**
For action by
For information **BM, PW, Sonja Sprenger**

Meeting held on 25 June 2002.

Attendees : Mr William Wu
LGT – Beat Muller, Kim Choy

KC joined the meeting following BM's presentation of Mr Wu's account(s) with LGT Bank to discuss the JCMA Foundation.

Mr Wu confirmed that he and all family members named in the By-laws except his wife hold US passports and all live in the US. His wife has retained her Singapore passport (N.B. Singapore does not permit dual nationality).

The JCMA Foundation's assets consist of an account with LGT Bank and shares in a BVI company (Sandalwood) which in turn owns the family home in the US.

KC explained the reporting requirements imposed on a US grantor, e.g. creation of the foundation, ensuring the Board Members file annual returns with the IRS. Also, as the income of the Foundation is taxed to the grantor, further annual filing of income of the foundation and payment of income tax on worldwide income of the foundation. Furthermore, if US beneficiaries have received distributions from the Foundation, the Board Members must provide a Beneficiary Statement to each recipient which should be attached to his/her income tax return to the IRS. Upon the death of the US grantor, the Board Members may be considered the statutory executor of his estate and will bear liability and exposure for any non-compliance by the grantor during his lifetime of reporting and other requirements to the IRS, the filing of the deceased's US estate tax return and payment of estate taxes on the assets of the Foundation at the date of his death.

KC informed Mr Wu that the JCMA Foundation must be re-structured and that LGT & Treuhand were looking at formulating solutions. We raised the possibility of an insurance product which Mr Wu didn't seem interested in. Other possibilities included:

- lifetime transfers to his beneficiaries;
- making use of Mr Wu's non-US siblings to restructure the Foundation ;
- private/corporate account.

Mr Wu acknowledged the need to restructure the Foundation and was receptive to any ideas we could come up with. Similarly, we would welcome any solutions from him or his advisers. Mr Wu has interests in other ventures/companies unconnected with LGT which require restructuring to address US tax/reporting requirements.

Permanent Subcommittee on Investigations

EXHIBIT #22

PSI-USMSTR - 004989

Tabellel Autotext-Erzeug nicht definiert.

LGT Treuhand AG
18 Städtle
FL-9490 Vaduz
Liechtenstein

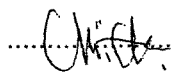
Dear Sirs,

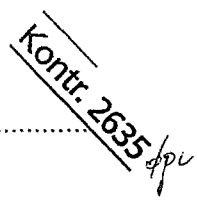
Re: JCMA Foundation, Ref. no. 328.1

Please arrange to buy a bank draft for USD100,000.00 in favour of William WU by debiting the above account. The undersigned will collect the bank draft in person.

Thank you for your attention.

Yours truly,


.....
Date: 27 June, 2002



— = Redacted by the Permanent
Subcommittee on Investigations



K939026

1-108
210

Issuing
Office: HKH-HONG KONG
On demand
pay to the
order of: WILLIAM WU

Date: 26 JUN 2002

Ref: DD

Amount

USD ONE HUNDRED THOUSAND ONLY

USD100,000.00*

To: HSBC Bank USA
140 Broadway
New York
NY 10005 USA

Payable at any branch of HSBC Bank USA in the USA

For The Hongkong and Shanghai Banking Corporation Limited

Incorporated in the Hong Kong SAR with limited liability

CHIN KWAN YUET WAH
ROSANNA
7608

LAI KWOK KAI ANNE
6549

Please DO NOT Write Below This Line

Acknowledge receipt of cheque

PSI-USMSTR - 004981

The Hongkong and Shanghai Banking Corporation Limited
Member HSBC Group

Branch HONG KONG OFFICE
Date 26 JUN 2002

ON-LINE REMITTANCES ADVICE

REFERENCE DD [REDACTED]	Drawn On / To / From HSBC BANK USA NEW YORK	[REDACTED] - Redacted by the Permanent Subcommittee on Investigations
WE HAVE DEBITED YOUR ACCOUNT [REDACTED] ON 26 JUN 2002 WITH THE AMOUNT OF A DEMAND DRAFT	Beneficiary WILLIAM WU	
REMITTANCE AMOUNT USD***100,000.00 COMMISSION HKD *976.38 TOTAL CHARGES USD*****125.00	By order of LGT BANK IN L AKT	
DR AMOUNT USD***100,125.00	Payment Details	
Bk to Bk Infor		
To LGT BANK IN LIECHTENSTEIN AG P O BOX 85 9490 VADUZ LIECHTENSTEIN		

Note: 1. For inward remittance transactions, amount credited is subject to final settlement and any additional charges will be debited to your account under advice to you.
2. For clean cheque transactions, the interest charged represents the interim cost to the bank between the immediate crediting of your account and the receipt of the cleared funds.

PSI-USMSTR - 004982

Resolution

The Foundation Board of the

JCMA Foundation, Vaduz

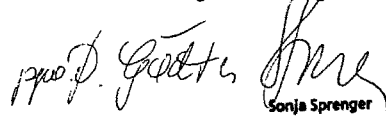
pursuant to Art. 8 and 10 of the Articles and to Art. 1 of the By-Laws as well as in accordance to the request of the first beneficiary hereby resolves to carry out the following distribution:

Amount	USD*100'000.--* by cheque
Beneficiary	William WU
Bank	HSBC Hong Kong and Shanghai Banking Corp. Hong Kong
Date	26 June 2002

Vaduz, 26 June 2002 SSP/dgc

The Foundation Board

Profile Management Trust reg.


Sonja Sprenger


Dr Nicola Feuerstein

PSI-USMSTR - 004983

Resolution

The Foundation Board of

JCMA FOUNDATION, Vaduz

has passed the following resolution:

1. The statement of assets as per 31 t December 2001 in the total amount of USD*4'283'473.49* to enclosure /1 is herewith approved.
2. All investments carried out in 2001 according to enclosures /2 are herewith approved.
3. All distributions carried out in 2001 according to enclosures /2 are herewith approved.
4. LGT Treuhand Aktiengesellschaft, Vaduz, will be instructed to establish the statement of assets for the next year.

Vaduz, 07 February 2002 / dgc

The Foundation Board:

Profile Management Trust reg.

ppw D. Gächter
Sonja Spranger
 Degmar Gächter Sonja Spranger

Dr. Nicola Feuerstein

Dr. Nicola Feuerstein

Permanent Subcommittee on Investigations

EXHIBIT #24

WWU-PSI-00027



LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

JCMA Foundation
9490 Vaduz

Vaduz, January 1, 2002
BML / BHK / 20:22:38

1/3
ECopy

— = Redacted by the Permanent
Subcommittee on Investigations

Performance

Period 01.01.2001 - 31.12.2001

ref. currency: USD

Assets as of 31.12.2000	including accr. interests (	8,642.11)	4,666,442.19
Deposits			0.00
Withdrawals			304,086.86-
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	0.00)	0.00
Assets as of 31.12.2001	including accr. interests (	921.52)	4,362,355.33
Performance			4,283,472.49
			78,882.84-

Details of performance

Profit or loss	130,864.45-
Dividends / credit interests	56,379.10
Debit interests	653.17-
Expenses and commissions	3,944.32-
Performance	78,882.84-

Average capital	100.00 %	4,438,475.83
Performance	1.78- %	78,882.84-

We do not accept responsibility for the accuracy or completeness of the information provided above.

WWU-PSI-00033

Resolution

The Foundation Board of the

JCMA Foundation, Vaduz

hereby resolves:

1. The inventory of assets and liabilities at 31 December 2003 showing a total of USD*2'172'145.97*, which is attached to this resolution as Schedule 1, is hereby approved and adopted.
2. The investments made in 2003 according to Schedule 2 are hereby approved and adopted.
3. The distributions and payments made in 2003 according to Schedule 2 are hereby approved and adopted.
4. LGT Treuhand AG, Vaduz, is entrusted with drawing up the inventory of assets and liabilities for the next business year.

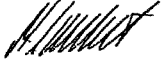
Vaduz, 10 March 2004 / dgc


The Foundation Board

Profile Management Trust reg.

Dr Nicola Feuerstein


Dagmar Gächter


lic.iur. Marco Sacchet



Permanent Subcommittee on Investigations
EXHIBIT #25

WWU-PSI-00055

FL-09492 Vaduz

MWST-Nr. 50 119

JOMA Foundation
9490 Vaduz

Vaduz, January 2, 2004
BML / BHK / 01:25:14

1/3
E

Performance

— Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2003 - 31.12.2003

ref. currency: USD

Assets as of 31.12.2002	including accr. interests (	0.00)	3,233,227.78
Deposits			525,000.00
Withdrawals			4,660,755.10
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	0.00)	2,650,000.00
Assets as of 31.12.2003	including accr. interests (	5,491.85-)	1,727,432.68
			2,172,144.97
Performance			444,712.29

Details of performance

Profit or loss	464,967.46
Dividends / credit interests	6,491.85-
Debit interests	11,527.28-
Expenses and commissions	2,236.04-
Performance	444,712.29

Average capital	100.00 %	2,067,800.55
Performance	21.51 %	444,712.29

Only the Bank's official account and safe custody advices are binding.

WWU-PSI-00061

Resolution

of the Foundation Board of

JCMA Foundation, Vaduz

The Foundation Board takes note of the Statements of Assets as per 31 December 2004 together with its notes and schedules which shall form an integral part of this resolution. After due consideration the Foundation Board states:

1. The Foundation's net assets as per 31 December 2004 amount to USD 1'202'636.25.
2. During the course the business year 2004 an amount of USD 1'026'250.00 was distributed to the first beneficiary.
3. The investments are in line with the statutory object of the Foundation and the declaration of intent of the founder.
4. In compliance with its statutory object the Foundation has not pursued any commercial activities in the business year 2004.

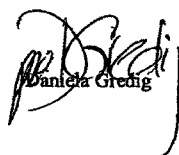
Based on these facts the Foundation Board herewith unanimously approves and adopts the said Statement of Assets and resolves to entrust the Legal Representative with the drawing up of the Statements of Assets for the business year to come.

Vaduz, 13 February 2006/SSP/xpt

The Foundation Board

Profile Management Trust reg.

Sonja Sprenger


Daniela Gredig


lic. iur. Marco Sacchet



Permanent Subcommittee on Investigations

EXHIBIT #26

WWU-PSI-00064

ICMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2004

4. Participations	2004 USD	2003 USD
<i>Sandalwood International Limited, B.V.I.</i> 100% owned by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each Issued Capital: 1 share of USD 1.-- each	1.00	1.00
<i>Dickinson Holding & Finance Ltd., B.V.I.</i> 100% owned and controlled by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each Issued Capital: 1'000 shares of USD 1.-- each	1'000.00	0.00
A statement of assets as of 31 December 2004 was provided by the directors on 15 September 2004, it shows a total of fair market value of USD 1'349'698.71	1'001.00	1.00
5. Loans	2005 USD	2004 USD
August 2004 Principal loan amount paid	1'178'515.46	0.00
	1'178'515.46	0.00

In August 2004 an interest free loan in the amount of USD 1'179'515.46 was granted to DICKINSON HOLDING & FINANCE LTD, BVI, for an indefinite period of time. A loan agreement was made in writing on 13 February 2006.

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2004

6. Liabilities	2004 USD	2003 USD
<u>Lombard Loan</u>		
On 31 May 1999 the Foundation entered into a lombard loan contract with LGT Bank in Liechtenstein AG, Vaduz. In this respect a general deed of pledge and of assignment was signed.	0.00	-1'522'690.18

The Foundation Board has no notice of any other liabilities, commitments or obligations the effect of which should be considered for disclosure in the Statement of Assets or as a basis for recording a contingency or making adjustment or provision. To-date there are neither annuities nor titles nor enforceable legal claims against the Foundation.

JCMA Foundation, Vaduz

Endowments and Distributions in 2004

<u>Endowments</u>	USD
none	0.00
<u>Distributions</u>	USD
To the first beneficiary according to a board resolution dated 12 February 2004	525'000.00
To the first beneficiary according to a board resolution dated 24 May 2004	200'500.00
To the first beneficiary according to a board resolution dated 10 August 2004	300'750.00
	<u>1'026'250.00</u>



Herrengasse 12, FL-9490 Vaduz
 Tel. +423 235 11 22 · Fax +423 235 15 22
 info@lgt.com · www.lgt.com
 OR H. 842/97, Sitz: 9490 Vaduz · MWSt-Nr. 50119

JCMA Foundation
 9490 Vaduz

Vaduz, January 2, 2005
 RML / BRK / 04:54:45

1/3
 E

— = Redacted by the Permanent
 Subcommittee on Investigations

Performance

Period 01.01.2004 - 31.12.2004

ref. currency: USD

Assets as of 31.12.2003	including accr. interests (	5,491.85-)	2,172,144.97
Deposits			4,967,838.95
Withdrawals			1,242,355.13-
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	1,850.00-)	5,903,506.84-
Assets as of 31.12.2004	including accr. interests (	0.00)	5,770.05-
Performance			28,897.84

Details of performance

Profit or loss	15,002.86
Dividends / credit interests	13,358.52
Debit interests	22.53-
Expenses and commissions	558.99
Performance	28,897.84

Average capital	100.00 %	1,061,926.94
Performance	2.72 %	28,897.84

This performance statement is meant only for information purposes and is not legally binding.

WWU-PSI-00075

Resolution

of the Foundation Board of

JCMA Foundation, Vaduz

The Foundation Board takes note of the Statements of Assets as per 31 December 2005 together with its notes and schedules which shall form an integral part of this resolution. After due consideration the Foundation Board states:

1. The Foundation's net assets as per 31 December 2005 amount to USD 1'188'957.64.
2. The assets development for the business year 2005 shows a decrease in Foundation's assets of USD 463'754.13.
3. During the course the business year 2005 an amount of USD 49'939.93 (equivalent of HKD 387'600.--) was endowed to the Foundation and an amount of USD 500'000.-- was distributed to the first beneficiary. The endowment and distributions were entered in the Statement of Assets as redemption/additions to the loan of Dickinson Holding & Finance Ltd., BVI.
4. The investments are in line with the statutory object of the Foundation and the declaration of intent of the founder.
5. In compliance with its statutory object the Foundation has not pursued any commercial activities in the business year 2005.

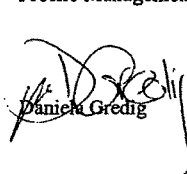
Based on these facts the Foundation Board herewith unanimously approves and adopts the said Statement of Assets and resolves to entrust the Legal Representative with the drawing up of the Statements of Assets for the business year to come.

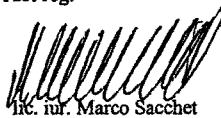
Vaduz, 30 March 2006/SSP/xpt

The Foundation Board

Profile Management Trust reg.

Sonja Sprenger


Daniela Gredig


Lic. iur. Marco Sacchet





WWU-PSI-00078

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2005

— = Redacted by the Permanent
 Subcommittee on Investigations

1. General information on the Foundation

The formation documents of JCMA Foundation were deposited with the public registry in Vaduz on 20 June 1996.

The currently valid Articles of the Foundation date back to 20 June 1996. In compliance with the said Articles, Beneficiaries of the Foundation were appointed in separate By-Laws on 25 June 1996.

As from 18 October 2004 the Foundation Board consists of two members, namely Sonja Sprenger (PGR Art. 180a) and Profile Management Trust reg., Vaduz. While Sonja Sprenger has joint signatory power, Profile Management Trust reg., Vaduz is entitled to represent and bind the Foundation by its sole signature.

The statutory minimum Foundation Fund amounts to CHF 30'000.--.

2. Cash at banks

			2005 USD	2004 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>				
Account No. [REDACTED]				
USD Account			328.35	550.63
SGD Account	SGD	11.33	6.82	6.93
HKD Account	HKD	798.52	103.03	37.75
Total LGT Bank in Liechtenstein AG, Vaduz			<u>438.20</u>	<u>595.31</u>
Total Cash at banks			<u>438.20</u>	<u>595.31</u>

Please refer to the attached bank statements for details.

Profile Management Trust reg. is the sole authorized signatory on the bank accounts of the Foundation.

3. Securities

			2005 USD	2004 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>				
Safe Custody Account No. [REDACTED]				
Money Market Funds			<u>9'002.98</u>	<u>22'524.48</u>
Total Securities			<u>9'002.98</u>	<u>22'524.48</u>
Total Securities			<u>9'002.98</u>	<u>22'524.48</u>

JCMA Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2005**

Generally the valuation of the above securities is made on a market value basis (daily rates) as of the end of the year in accordance with the information provided by the bank. Please note that the total includes unrealized profits and losses.

When managing the assets the Foundation Board takes into consideration the recommendations coming from LGT Bank in Liechtenstein AG, Vaduz. All securities transactions are detailed in the Schedules.

For further details on the asset and currency allocation, security transactions and the performance please refer to the Schedules.

4. Participations

	2005 USD	2004 USD
SANDALWOOD INTERNATIONAL LIMITED, BVI		
100% owned by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each Issued Capital: 1 share of USD 1.-- each	1.00	1.00
Sandalwood is the shareholder of a company called Tai Lung Worldwide Ltd., which owns a property in New York. Financial Statements were not provided by the directors.		
DICKINSON HOLDING & FINANCE LTD.		
100% owned and controlled by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each Issued Capital: 1'000 shares of USD 1.-- each	1'000.00	1'000.00
The Foundation granted a loan to DICKINSON, which is operating a bank account with LGT Bank in Liechtenstein AG. The attached statement of assets as of the year-end show a market value of USD 3'443'753.94 (2004) and USD 3'774'387.02 (2005).		
	1'001.00	1'001.00

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2005

5. Loans	2005 USD	2004 USD
DICKINSON HOLDING & FINANCE LTD.		
Principal loan amount paid	1'178'515.46	1'178'515.46
Additions during the year	49'939.93	0.00
Redemptions during the year	-500'015.45	0.00
	728'439.94	1'178'515.46

In August 2004 an interest free loan in the amount of USD 1'178'515.46 was granted to DICKINSON HOLDING & FINANCE LTD, BVI, for an indefinite period of time. A loan agreement was made in writing on 13 February 2006.

During the course of 2005 DICKINSON HOLDING & FINANCE LTD, BVI, received monies and effected payments for and on behalf of the Foundation. These payments are registered in the books as additions/redemptions of the principal loan amount.

6. Liabilities	2005 USD	2004 USD
<u>Lombard Loan</u>		
On 31 May 1999 the Foundation entered into a lombard loan contract with LGT Bank in Liechtenstein AG, Vaduz. In this respect a general deed of pledge and of assignment was signed.	0.00	0.00

The Foundation Board has no notice of any other liabilities, commitments or obligations the effect of which should be considered for disclosure in the Statement of Assets or as a basis for recording a contingency or making adjustment or provision. To-date there are neither annuities nor titles nor enforceable legal claims against the Foundation.

JCMA Foundation, Vaduz

Endowments and Distributions in 2005

<u>Endowments</u>	USD
- according to a declaration of endowment dated 13 September 2005 <i>transferred to Dickinson Holding & Finance Ltd, BVI HKD 387'600.00</i>	49'939.93
Total	<u>49'939.93</u>
 <u>Distributions</u>	 USD
- according to a board resolution dated 27 May 2005 <i>transferred from the bank account of Dickinson Holding & Finance Ltd, BVI</i>	200'007.72 *)
- according to a board resolution dated 17 August 2005 <i>transferred from the bank account of Dickinson Holding & Finance Ltd, BVI</i>	300'007.73 *)
Total	<u>500'015.45</u>
*) incl. charges, fees & commissions	

Resolution

of the Foundation Board of

Desert Rose Foundation, Vaduz

The Foundation Board takes note of the Statement of Assets as per 31 December 2006 together with its notes and schedules which shall form an integral part of this resolution. After due consideration the Foundation Board states:

1. The Foundation's net assets as per 31 December 2006 amount to USD 422'249.10.
2. The Cash Flow Statement for the business year 2006 shows a decrease in Foundation's assets of USD 316'633.02.
3. During the course of the said business year no endowments were made and a total of USD 300'000.00 was distributed.
4. The investments of assets are in line with the statutory object of the Foundation and the declaration of intent of the founder.
5. In compliance with its statutory object the Foundation has not pursued any commercial activities in the business year 2006.

Based on these facts the Foundation Board herewith unanimously approves and adopts the said Statement of Assets and resolves to entrust the Legal Representative with the drawing up of the Statement of Assets for the business year to come.

Vaduz, 18 April 2007/SSP/rwc

The Foundation Board

Profile Management Trust reg.

Sonja Spranger


Xenia Hestetler


Andrea Brühmann



Permanent Subcommittee on Investigations
EXHIBIT #28

WWU-PSI-00092

Desert Rose Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2006**

Generally the valuation of the above securities is made on a market value basis (daily rates as per 31 December) in accordance with the information provided by the bank. Please note that the total includes unrealized profits and losses on exchange rates and currency exchange.

When managing the assets the Foundation Board takes into consideration the recommendations coming from LGT Bank in Liechtenstein AG, Vaduz. All securities transactions are detailed in the Schedules.

For further details on the asset and currency allocation, securities transactions and the performance please refer to the Schedules.

4. Participations

	2006 USD	2005 USD
SANDALWOOD INTERNATIONAL LIMITED, BVI		
100% beneficially owned by the Foundation		

Authorized Capital: USD 5'000.00
divided into 5000 shares of USD 1.-- each
Issued Capital: 1 share of USD 1.-- each

1.00 1.00

Sandalwood is the shareholder of a company called Tai Lung Worldwide Ltd., which owns a property in New York. Financial Statements have not been provided by the directors. During the course of 2006 it was resolved to distribute the shares to the first Beneficiary, however, the planned share transfer has not yet been completed.

DICKINSON HOLDING & FINANCE LTD.
100% owned and controlled by the Foundation

Authorized Capital: USD 50'000.00
divided into 50'000 shares of USD 1.-- each
Issued Capital: 1'000 shares of USD 1.-- each

1'000.00 1'000.00

The Foundation granted a loan to DICKINSON, which is operating a bank account with LGT Bank in Liechtenstein AG. The attached statement of assets as of the year-end show a market value of USD 3'774'387.02 (2005) and USD 4'250'013.53 (2006).

Total Participations

1'001.00	1'001.00
-----------------	-----------------

22. AUG. 2007 18:33

NR. 2062 S. 6/16

Desert Rose Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2006**

5. Loans	2006 USD	2005 USD
<i>DICKINSON HOLDING & FINANCE LTD.</i>		
Principal loan amount paid	728'439.94	1'178'515.46
Additions in 2005	0.00	49'939.93
Redemptions in 2005	0.00	-500'015.45
Redemptions during the year	-324'311.87	0.00
	404'128.07	728'439.94

In August 2004 an interest free loan in the amount of USD 1'178'515.46 was granted to DICKINSON HOLDING & FINANCE LTD., BVI, for an indefinite period of time. A loan agreement was made in writing on 13 February 2006.

During the course of 2005 and 2006 DICKINSON HOLDING & FINANCE LTD., BVI, received monies and effected payments for and on behalf of the Foundation. These payments are registered in the books as additions/redemptions of the principal loan amount.

6. Liabilities

The Foundation Board has no notice of liabilities, commitments or obligations the effect of which should be considered for disclosure in the Statement of Assets or as a basis for recording a contingency or making adjustment or provision. To-date there are neither annuities nor titles nor enforceable legal claims against the Foundation.

22. AUG. 2007 18:33

NR. 2062 S. 7/16

Desert Rose Foundation, Vaduz

Endowments and Distributions in 2006

Endowments

USD

none

0.000.00**Distributions**

USD

- according to a Board Resolution dated 20 November 2006
transferred from the bank account of Dickinson Holding & Finance Ltd.

300'000.00 *300'000.00

*) includes bank charges paid by Dickinson Holding & Finance Ltd.

Veline Foundation - gelöscht am 19.04.2001 , 9490 Vaduz

SB: Gächter Dagmar

KB: Sprenger Sonja

Mand.Nr.: [REDACTED]

L. Kundenbesuch: 27.03.2000

Gründungsdatum: 21.08.1997

Status: Gelöscht

Verwaltungs- / Stiftungsräte

Profile Management Trust reg., Vad Zeichnungsrecht: Einzel
 Feuerstein Nicola Dr., Vaduz Zeichnungsrecht: Kollektiv

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Banken

LGT Bank in Liechtenstein AG, Vaduz

AB: Jehle Philip / LGT HK ZR-Nr.: [REDACTED]

Zlg-Kto: [REDACTED]

Diverses

Anlageberater: Jehle Philip / LGT HK,
 Aktien / Zessionen: LGT Bank Depot Ordinaro,
 Repräsentant: LGT Treuhand AG, Vaduz
 Vermittler: LGT Investment Management, Hong Kong
 Auftraggeber: Privater Auftraggeber

Fix-Honorare

Dormizilhonorar	800.00	21.08.2001	LGT Treuhand AG, Vaduz
Kapitalsteuer	1'000.00	21.08.2001	Liechtensteinische Steuerverwaltung, Vaduz
Stiftungsrats-honorar	3'000.00	21.08.2001	LGT Treuhand AG, Vaduz

Pauschal-Honorare

Vermögenswert per: 0.00 fällig am: 0.00 Fakturierbares Pauschalhonorar: 0.00

Zweck

- 100%ige Beteiligung: - Manta Company Limited, Western Samoa ??
- Zweck: s. Organigramm mit div. Angaben
- 1 Inhaber-Aktienzertifikat im LGT-Depot der Veline
- > siehe auch Pendenzen!

AKTIE am 12.04.2001 nach Hong Kong /Rep. Office per UPS gesandt zur Weiterleitung an Kunde

Besitznachweis, Verträge, Vollmachten**Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)**

- unsere Kontaktperson für sämtliche Pendenzen Mrs Ann Mary Pak, KK Young & Co., Hong Kong (siehe AV psc vom 14.6.99)

Pendenzen / Geschichte

- Passkopien der Dritt- und Viertbegünstigten fehlen (vorläufig abgelehnt durch die Kundin am 11.12.97)
- siehe AV scp vom 11.12.97 und cc-mail scp an Ph. Jehle vom 18.2.98 betr. Manta bzw. Struktur:
- sind alle Unterlagen ok, insbesondere das "neue" eingelieferte Aktien-zertifikat Manta? (Kopie beiliegend)
- Ist Manta 100%ige Beteiligung von Veline?

--> scp mit Kundin und KK Young besprechen (siehe Schr. K.K. Young 30.7.98 und u/Fax an KK Young vom 13.8.98)
 (- SAB: M2 und Akt ev. anpassen)

- Financial Statements bei NALA MANAGEMENT am Jahresanfang anfordern.
- VS00 von Kunde unterzeichnen per Fax nach HK 05.02.00

Permanent Subcommittee on Investigations
EXHIBIT #29

PSI-USMSTR - 005887

OCT-16-2006 14:12

= Redacted by the Permanent
 Subcommittee on Investigations

Veline Foundation – closed on 4/19/2001 9490 Vaduz Client No.: [REDACTED]
 SB: Dagmar Güchter KB: Sonja Sprenger Client Request: 3/27/2000

Founding date: 8/21/1997 Status: closed

Management/ Foundation Board
 Profile Management Trust re., Vaduz Signature right: Individual
 Dr. Nicola Feuerstein, Vaduz Signature right: Joint

Banks

LGT Bank in Liechtenstein AG, Vaduz AB: Phillip Jehle / LGT Hong Kong ZR [REDACTED] ZlgAcct: [REDACTED]

Miscellaneous

Investment Adviser: Phillip Jehle / LGT Hong Kong
 Shares/Assignments: LGT Bank Depot Ordinaro
 Representative: LGT Treuhand AG, Vaduz
 Agent: LGT Investment Management, Hong Kong
 Client: Private Client

Fixed Fees

Domicile fee	800.00	8/21/2001	LGT Treuhand AG, Vaduz
Capital Tax	1,000.00	8/21/2001	Liechtenstein Tax Authority, Vaduz
Foundation Board Fee	3,000.00	8/21/2001	LGT Treuhand AG, Vaduz

Lump Sum Fee
 (no entry)

Purpose

- 100% Share: - Manta Company Limited, Western Samoa ??
- Purpose: S. organization with miscellaneous assets
- 1 bearer stock certificate in Veline LGT-Deposit
- also see Pending

SHARE sent on 4/12/2001 to Hong Kong /Rep. Office by UPS to pass on to client

Proof of Ownership, Contracts, Powers of Attorney
 (no entry)

Instructions (Management, accounting, by-laws, etc.)

- Our contact person for all pending matters, Mrs. Ann Mary Pak, KK Young & Co., Hong Kong
 (See AV psc of 6/14/99)

Pending/History

- pass copies of the third and fourth beneficiaries are missing (temporarily declined by the client on 12/11/97)
- see AV sep of 12/11/97 and cc mail sep to Ph. Jehle dated 2/18/98 concerning Manta and structure:
- are all documents ok, especially the new Manta stock certificate issued? (See attachment.)
 Is Manta owned 100% by Veline?
- sep discussed with client and KK Young (See KK Young letter of 7/30/98 and our fax to KK Young of 8/13/98.)
 (SAB: M2 and Akt will adapt)
- Financial Statements ordered from NALA MANAGEMENT at beginning of year.
- Client VSOO signed by fax per Hong Kong

OCT-16-2006 11:36

98%

P. 09

Statements of assets as per 31.12.2000

05.02.2001

Veline Foundation
Vaduz

= Redacted by the Permanent
Subcommittee on Investigations

USD

Assets

EUR ACCOUNT		EUR	13'624.37	12'704.94
EUR FIDUCIARY DEPOSIT		EUR	323'369.05	301'546.81
Total LGT Bank in Liechtenstein AG Vaduz				314'251.75
Total Cash in banks				314'251.75
SAFE CUSTODY ACCOUNT				574'570.07
Total LGT Bank in Liechtenstein AG Vaduz				574'570.07
Total Securities				574'570.07
Manta Company Limited				1.00
Total				1.00
Total Participations				1.00


888'822.82

Liabilities

Capital	18'404.91
Remaining net worth	870'417.91
Total	888'822.82
Total Net worth	888'822.82

888'822.82

Exchange rates LGT: EUR 0.932516


 7-2-2001

Permanent Subcommittee on Investigations

EXHIBIT #30

PSI-USMSTR - 005885

BEARER SHARE CERTIFICATE

Transferable by Delivery

This Share Certificate is issued by

MANTA COMPANY LIMITED

pursuant to its Memorandum and Articles of Association and pursuant to the provisions of the International Companies Act 1987 of Western Samoa.

Registered office of the Company:
Level 2, Chandra House
Convent Street
Apia, Western Samoa

Shares covered by this Certificate total ONE (1)

and numbered from 1

Description of Shares: ORDINARY USD1.00 each

Certificate Number: 1

This is to certify that the Bearer of this Share Certificate is entitled to the shares described herein.

This Certificate was sealed by the Company on 3rd day of September, 19 97

For and on behalf of
BROWNS LIMITED

SEAL

[Signature]
DIRECTOR
For and on behalf of
BROWNS LIMITED

I HEREBY ACKNOWLEDGE RECEIPT OF THE ORIGINAL OF THIS SHARE CERTIFICATE.

[Signature]
SECRETARY

[Signature]
[Signature]
[Signature]

Control Number: 10

DATE: 18 April 2001

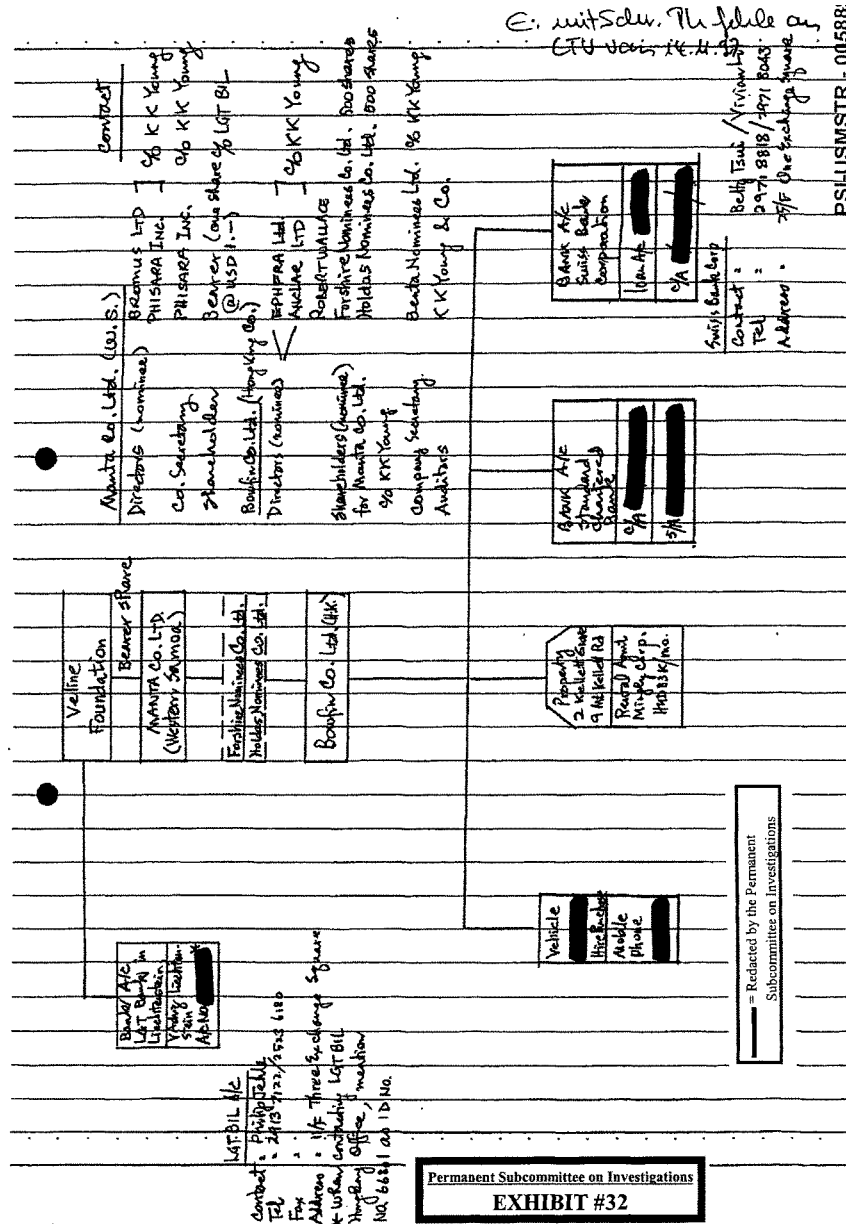
Dividend coupons issued in conjunction with this Share Certificate. 1 and 2

THIS SHARE CERTIFICATE IS ISSUED WITHOUT ALTERATION OR ERASURE

Permanent Subcommittee on Investigations

EXHIBIT #31

PSI-USMSTR - 005878





LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon 075 235 11 22
Telefax 075 235 15 22
Telex 889 222

Aktenvermerk

1 / 2

Thema **Westfields, Adelphi, Crofton**

VerfasserIn/Abt./Tel. **Peter Widmer / R22 / 1296**

Datum **26. November 1996**

Zur Erledigung

Zur Kenntnisnahme **Dr. K. Bächinger**

E. Mattle

W. Orvati, LGT Treuhand *27.11.96*

KD Westfields

*hohj. & Ruffrey
P. Widmer*

Treffen mit:
- Frank Lowy
- David Lowy
- David Gonski
- Joshua Gelbard

Datum: **21. November 1996 (in Sydney)**

LGT Bank: **P. Widmer**

1. Zuerst ist es darum gegangen, die Kreditrückzahlungsmodalitäten bei Adelphi zu regeln. Dies ist erfolgt und im beiliegenden cc:mail an Elmar Mattle vom 21. November 1996 festgehalten. Beigelegt sind für Elmar Mattle auch die Instruktionen der Crofton Foundation zur vorläufigen Anlage der Gelder bei LGT Bank für jeweils 1 Monat, visiert durch Joshua Gelbard.

2. Weiteres Vorgehen:

a) Errichtung einer neuen Stiftung

Namenswahl ist Sache von LGT; es gibt keine Präferenzen. Statuten können soweit als möglich jenen der Crofton Foundation entsprechen. (Falls diese bei LGT Treuhand nicht vorliegen, habe ich eine Kopie.)

b) Protektor

Eine weitere neu zu gründende Gesellschaft soll als Protektor auftreten; Joshua H. Gelbard soll wiederum deren Board angehören. Daneben werden 1 - 3 LGT-Leute gewünscht (P. Widmer und evtl. Dr. K. Bächinger, W. Orvati oder jemand von der Anlagenseite).

c) Überträge von Crofton auf neue Foundation

Diese sollen über eine Zwischengesellschaft erfolgen, wobei wiederum Joshua Gelbard Ansprechpartner sein wird. Er wird hierfür nach Vaduz kommen.

Permanent Subcommittee on Investigations

EXHIBIT #33

R22/4q - WESTFIELD.DOC - 26.11.1996 - 13.39

PSI-USMS-TR-008773



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

Aktenvermerk

2/2

d) Dokumentation

Die Draft-Dokumentation bezüglich neu zu gründender Gesellschaft sollte bis spätestens Ende Dezember an folgende Adresse gesandt werden:

Joshua H. Gelbard
Advocate
J.H. Gelbard & Co.
Law Office
5 Manne Street
Tel Aviv 64168
Israel

— = Redacted by the Permanent
Subcommittee on Investigations

(Joshua möchte in dieser Sache im telefonischen Kontakt auf deutsch verkehren. Tel. [REDACTED]
[REDACTED] Schriftverkehr bleibt Englisch.

3. Die Lowys haben entschieden, dass sie im Zusammenhang mit diesen Gesellschaften nie mehr nach FL oder CH reisen möchten. Aus diesem Grund ist von einem Treffen in Los Angeles (anstelle des für den 17.12.1996 in Vaduz geplanten Meetings), an dem auch noch weitere Lowy-Familienmitglieder (u.a. Peter) teilnehmen sollen, gesprochen worden. Dieses Treffen sollte frühestens in der 2. Hälfte Januar stattfinden. Ich habe offen gelassen, wer und ob überhaupt jemand von der Bank daran teilnehmen wird. Eventuell gibt es auch die Möglichkeit einer Videokonferenz.

Ansprechpartner wird in Zukunft ausschliesslich Joshua Gelbard sein.

4. Ich werde die Koordination der Aktivitäten nach meiner Rückkehr an die Hand nehmen. Für mögliche Vorarbeiten wäre ich aber schon jetzt dankbar.

P. Widmer
P. Widmer

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Herrengasse 12
FL-9490 Vaduz

Telephone: 075 235 11 22
Telefax: 075 235 15 22
Telex: 889 222

1/2

Memorandum for the Record

Subject **Westfields, Adelphi, Crofton**

Compiler / Tel.: Peter Widmer / R22 / 1296

Date: Nov. 26, 1996

For Follow up:

cc: Dr. K. Bächinger
E. Mattle
W. Orvati, LGT Treuhand Nov. 17, 1996 → [illegible] order
KD Westfields [illegible]

Meeting with: - Frank Lowy
- David Lowy
- David Gonski
- Joshua Gelbard

Date: Nov. 21, 1996 (in Sydney)

LGT Bank: P. Widmer

1. The first issue at hand was to settle the credit repayment formalities at Adelphi. This was done, and recorded in the enclosed cc: e-mail to Elmar Mattle of Nov. 21, 1996. Attached for Elmar Mattle are also the instructions from the Crofton Foundation for the preliminary investment of the monies at LGT for one month each, signed off by Joshua Gelbard.

2. Future approach:

a) Establishment of a new foundation

Choice of name is a matter for LGT; there are no preferences. Insofar as possible, laws can correspond to those of the Crofton Foundation. (In case these are not available at LGT Treuhand, I have a copy.)

b) Protector

An additional newly to be established company is to act as protector; Joshua H. Gelbard, in turn, is to be a member of this new board. Additionally, 1 – 3 LGT people are desired (P. Widmer and possibly Dr. K. Bächinger, W. Orvati or someone from the investment side.)

[Logo] LGT Treuhand
A Member of Liechtenstein Global Trust

— = Redacted by the Permanent
Subcommittee on Investigations

Memorandum for the Record

2/2

c) Transfers from Crofton to new foundation

These are to be carried out by a holding company, whereby once again Joshua Gelbard will be contact person. He will come to Vaduz for this.

d) Documentation

The draft documentation regarding the newly to be established company should be sent no later than end of December to the following address:

Joshua H. Gelbard
Advocate
J. H. Gelbard & Co.
Law Office
5 Manne Street
Tel Aviv 64168
Israel

(In this matter, Joshua would like to correspond in German during phone conversations. Tel. [REDACTED]; fax [REDACTED]; written communication remains in English.

3. The Lowys have decided that they never want to travel to Liechtenstein or Switzerland in connection with these companies again. For this reason, there was talk of a meeting in Los Angeles (instead of the one planned for Dec. 17, 1996 in Vaduz), at which other Lowy family members (Peter, among others) should participate. The earliest this meeting should take place is in the second half of January. I left open who and if someone from the bank will participate. Possibly there will also be the option of a video conference.

Contact person will be in the future exclusively Joshua Gelbard.

4. I will take on the details of the activities after my return. I'd be thankful already, however, for preparatory work, if possible.

on behalf of [illegible]

P. Widmer



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Ställe 18-22
FL-6450 Vaduz

Telefon 41-75-235 27 27
Telefax 41-75-235 27 13
Telex 86 82 27 lit

Aktenvermerk

1 / 1

Thema	Neugründung Westfields / Lowy <i>Apple (Aus)</i>
Verfasser(in) / Tel.	Werner Orvati
Datum	27. November 1996 / pfi
Bestimmt für	Dr. P. Iob
Zur Kenntnisnahme	Dr. K. Bächinger, Dr. P. Schlachter, P. Widmer

Neugründung Westfields / Lowy

Beiliegender Aktenvermerk vom 26. November 1996 von Peter Widmer.

Vorgehen:

1. Kopie der Crofton Foundation Statuten von P. Widmer einholen.
2. Welche Bestimmungen befinden sich in den Statuten Crofton bzw. Beistatuten betreffend den Protektor?
3. Wer ist Aktionär der Protektor Gesellschaft und wo ist sie zu domizilieren?
4. Sorgfaltspflichtvereinbarung: Ist die LGT BIL genügend dokumentiert über die Vermögenswerte, die auf die neu zu errichtende Stiftung übertragen werden?
Soll die Berufsheimsträgererklärung überhaupt abgegeben werden?
5. Erstellung erster Entwürfe für die folgenden Unterlagen:
 - ✓ Errichtungsauftrag (ist Joshua H. Gelbard Auftraggeber?)
 - ✓ Statuten der neu zu errichtenden Stiftung
 - ✓ sofern möglich Beistatutenentwurf
 - Zusammenstellung der üblichen Angaben für die Protektorgesellschaft wie Jurisdiktion, Name, Kapital, Aktionäre, Verwaltungsratsmitglieder, etc.

TERMIN: 13.12. 1996

FWWESTF.DOC - 26.11.1996 - DL22

Permanent Subcommittee on Investigations

EXHIBIT #34

1071423.C-0708

PSI-USMSTR - 008775

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 18 - 22
FL-9490 Vaduz

Telephone: 41-75-235 27 27
Telefax: 41-75-235 27 15
Telex: 88 92 27 bill

1/1

Memorandum for the Record

Subject **New Establishment Westfields / Lowy**

[by hand:] Group (AUS)

Compiler / Tel.: Werner Orvati

Date: Nov. 27, 1996 / pfi

For follow up: Dr. P. Iob

cc: Dr. K. Bächinger, Dr. P. Schlachter, P. Widmer

New establishment Westfields / Lowy

Enclosed memo of Nov. 26, 1996 from Peter Widmer.

Approach:

1. Get copy of the Crofton Foundation laws from P. Widmer.
2. Which rulings are in the Crofton laws and/or bylaws regarding the protector?
3. Who is stockholder of the protector company and where is it to be domiciled?
4. Due diligence agreement: Is LGT BIL sufficiently documented on the asset values that will be transferred to the newly to be established foundation?
Should the declaration of the job-secrecy carrier even be submitted?
5. Compilation of first drafts for the following documents:
 - ✓ - Establishment order (is Joshua H. Gelbard [sic] the client?)
 - ✓ - laws of the newly to be established foundation
 - ✓ - insofar as possible, bylaw draft
 - listing of the usual data for the protector company like jurisdiction, name, capital, stockholders, members of the management board, etc.

[✓ marks by hand]

APPOINTMENT: Dec. 13, 1996

[signed]

AVWESTF_DOC - NOV. 28, 1996 - 08.22

IDV 1403-C-019[illegible]



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon 075 235 11 22
Telefax 075 235 15 22
Telex 886 222

Aktenvermerk

1/2

Thema **Westfields, Adelphi, Crofton**

Verfasserin/Abt./Tel. **P. Widmer / R22 / 1296**

Datum **17. Dezember 1996**

Zur Erledigung

Zur Kenntnisnahme **H. Nipp (Pt. 3)**
Dr. K. Bächinger
W. Orvati
KD Westfield *→ P. 106*

Telefon mit: **- Frank Lowy (17.12.96)**
- Joshua Gelbard (16.12.96)

Unter Bezugnahme auf meine beiden AV's vom 26.11. und 10.12.1996 bezüglich den aus der Adelphi-Kreditrückzahlung frei gewordenen Gelder in Höhe von rd. USD 53 Mio. und deren Einbringung in eine neue Struktur mit anschliessender Übergabe ins FM, möchte ich den letzten Stand der Verhandlungen festhalten.

1. Gelbard hat mir den Empfang der Entwürfe für die neue Stiftung und die Vorschläge bezüglich Protektor bestätigt. Lowy war zu jenem Zeitpunkt auch in Israel und hat die Unterlagen bereits eingesehen. Grundsätzlich sind diese in Ordnung. Die offenen Fragen, welche jetzt schon beantwortet werden können, werden direkt an LGT Treuhand (Dr. Job) gefaxt.

Von der rechtlichen Seite werden die Abklärungen frühestens im Februar / März 1997 erledigt sein. Die Unterzeichnung der Dokumente kann dann in London oder Amsterdam erfolgen.

2. Bezüglich Ausarbeitung von Anlagestrategie und Kostenstruktur insistiert Lowy auf einem Treffen in Los Angeles, an dem auch seine Söhne David und Peter sowie ev. Stephen teilnehmen sollen. Meinen Vorschlag für eine Videokonferenz hat er abgelehnt. Er möchte, dass ich ihn mit der Person, welche für "seine Anlagen" dann auch verantwortlich sein wird, in Los Angeles treffe.

Der Grund hierfür sind Diskretionsüberlegungen sowie die Tatsache, dass er und seine Familie sich nach diesem entscheidenden Meeting weitestgehend von der Verwaltung dieser Vermögenswerte zurückziehen möchten.

Mit Lowy bin ich so verblieben, dass ich ihn nach dem 10.1.1997 in Los Angeles kontaktieren werde, um das Treffen von voraussichtlich 20. oder 21.1.1997 zu bestätigen.

Vorgängig zum L.A.-Treffen sollten wir unsere ersten Vorschläge schriftlich unterbreiten, wobei diese auf neutralem Papier und ohne Bezug auf irgend eine Person oder Gesellschaft aus dem Lowy Umfeld erfolgen sollten. Die Übermittlung soll erst nach persönlicher Absprache durch mich mit Frank erfolgen.

KZ20001 - A-WE2400C - 16.12.1996 - 10.32

Permanent Subcommittee on Investigations
EXHIBIT #35

PSI-USMSTR-008769



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

Aktenvermerk

2 / 2

3. Darf ich Heinz Nipp ersuchen, die Person zu bestimmen, welche für den Besuch in Los Angeles in Frage kommt und mit mir die Ausarbeitung der ersten schriftlichen Vorschläge vornimmt.
4. Die Festgelder sind vorläufig auf 1-Monats-Rollover-Basis bei uns angelegt. Sofern die Bereinigung der Rechtsfragen länger als erwartet dauern würde, könnte sich Lowy vorstellen, dass der FM-Auftrag auch bereits durch die "alten" Gesellschaften erteilt wird.

P. Widmer

[Logo]
LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Corporation
Staedtle 18+22
FL-9490 Vaduz
Principality of Liechtenstein
VAT-No. 50119

Telephone: +423 235 27 27
Telefax: +423 235 27 15
Internet: www.lgt.com
E-Mail: info@lgt.com

Note for File

1/2

Subject: **Westfields, Adelphi, Crofton**

Writer/ Tel.: P. Widmer/R22/1296

Date: 17 December 1996

For follow up:

To the attention of: H. Nipp
Dr. K. Baechinger
W. Orvati → [SIGNED]
KD Westfields

Telephone Conversations with: -Frank Lowy (12.17.96)
-Joshua Gelbard (12.16.96)

In reference to my two memos from 11.26 and 12.10.1996 regarding the free funds in the amount of rd. USD 53 million from the Adelphi-Credit Repayment and their insertion into a new structure with subsequent transfer in the PM, I would like to record the last condition of the proceedings.

1. Gelbard has confirmed to me the receipt of the designs/drafts for the new Foundation and the proposals regarding the protector. Lowy was also in Israel at that time and has already accepted the documents. In principle, they are in order. The open questions, which can now be answered, will be faxed directly to LGT Treuhand (Dr. Job).

On the legal side, the clarifications will be completed by February/March 1997 at the earliest. The signing of the documents can then occur in London or Amsterdam.

2. Regarding the composition of the portfolio strategy and the cost structure, Lowy insists on a meeting in Los Angeles, in which his sons David and Peter as well as possibly Stephen should take part. He refused my suggestion for a video conference. He would like that I meet with him in Los Angeles with the person who will also be responsible for "his establishment".

The reason for this is considerations of discretion as well as the fact that he and his family would like to withdraw themselves as far as possible from the management following this scheduled meeting.

I determine with Lowy that I will contact him in Los Angeles after the 1.10.1997 in order to confirm the meeting likely on the 20th or 21st of January 1997.

Before the meeting in LA, we should prepare our first proposals in writing. These should be written on neutral paper and without reference to any person or corporation in the Lowy field. The forwarding should first occur via personal consultation with Frank through me.

[Logo]
LGT Treuhand
A Member of Liechtenstein Global Trust

Note for File

2/2

3. May I ask Heinz Nipp to certify the person who comes into question regarding the meeting in Los Angeles and to conduct the composition of the first written proposals.
4. The fixed deposits are applied by us preliminarily on a 1-month-rollover-basis. If the adjustment of the legal questions lasts longer than expected, Lowy can introduce that the PM-Order should also already be informed through the "old" corporations.

[SIGNED]
P. Widmer



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon 075 235 11 22
Telefax 075 235 15 22
Telex 889 222

Aktenvermerk

1 / 2

Thema Westfield / Lowy Family

VerfasserIn/Abt./Tel. Peter Widmer / R22 / 1296

Datum 23. Januar 1997

Zur Erledigung

Zur Kenntnisnahme
H. Nipp
Dr. K. Bächinger
Th. Piske
W. Ospelt
LGT T (Dr. P. Iob)
KD Adelphi

Treffen mit
- Frank Lowy
- David Lowy
- Peter Lowy

Ort/Datum: Los Angeles, 20. Januar 1997

LGT Bank:
- Wilfried Ospelt
- Peter Widmer

1. Beim Treffen ist es darum gegangen, die Anlagestrategie für aus einer Spezialfinanzierung stammende und bei uns angelegte Festgelder in Höhe von rund US\$ 54,2 Mio. festzulegen und gleichzeitig die Überführung in eine neue Struktur zu diskutieren resp. festzulegen.

Unsere Diskussion ist zu unserer vollen Zufriedenheit verlaufen. Wir konnten unsere Minimalziele mehr als erreichen: Das Geld bleibt bei uns resp. wird ins PM übergeführt. Bezüglich Fees haben wir eine All-In-Lösung (inkl. LGT Treuhand und Fremde) zu 70 bp (bei einem Minimalziel von 45 bp) durchgesetzt.

2. Anlagestrategie:

- Strategie: Ertrag USD
- Horizont: mind. 5 Jahre, eher aber 5 - 10 Jahre
- Benchmark: Inflation USA + 2 %
- Individuelles Mandat, Sondervermögen in Einzelfällen nicht ausgeschlossen
- Beimischung spezieller Strategien: eher nicht erwünscht

Permanent Subcommittee on Investigations

EXHIBIT #36

K2344g - LOWYDOC - 23.01.1997 - 11.14

PSI-USMSTR - 008771



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

Aktenvermerk

2 / 2

3. Aus der Diskussion sind folgende weiteren Punkte festzuhalten:

- Die Lowys betrachten diese Gelder als "Versicherung", d.h. sie werden sehr langfristig und eher konservativ angelegt.
- "Wirtschaftlich Begünstigte" sind der Vater und die drei Söhne David, Peter und Stefan.
- Bis die Struktur definitiv feststeht, bleiben die Gelder bei uns als Festgeld angelegt und werden jeweils 1 Monat verlängert.
- Die Lowys möchten ein- bis zweimal jährlich anhand einer Präsentation über die Zusammensetzung und Performance informiert werden. Eine dieser Präsentationen kann in Europa stattfinden.
- Sowohl mit dem Vater wie auch den Söhnen können wir einzeln und in mündlicher Form verkehren.
- Den Wunsch nach Mitbestimmung beim Anlageprozess konnten wir ihnen ausreden, mit dem Hinweis, dass jede direkte Einflussnahme auf die Stiftung Nachteile bringen kann.
- Wir haben zugesichert, dass die Gesamtbeziehung unter meiner Kontrolle (Key Account) bleiben wird und dass Wilfried Ospelt sich dem Depot "anlagestrategiemässig" persönlich anschauen wird. Die Kontakte sollen vorläufig ausschliesslich über mich laufen.

4. Bezüglich Struktur benötigen die Lowys noch 1 - 2 Monate, bis die Gründungen bei LGTT stattfinden können. Grund: Man möchte alle bisher involvierten Parteien ersetzen, d.h. Leute wie Gelbard, Leibler oder Sinitus Treuhand sollen nicht mehr in die neue Lösung einbezogen werden.

Mit Joshua Gelbard dürfen wir weiter offen sprechen. So wie es im Moment aussieht, wird auch auf den "Protector" verzichtet werden.

Wenn alles erledigt ist, möchte man, dass LGTT sämtliche Aktien über die alten Strukturen vernichtet, soweit wir diese nicht aus rechtlichen Gründen aufbewahren müssen. Diesbezüglich werde ich mit LGTT nach Überführung in die neue Struktur speziell Kontakt aufnehmen.

Peter Widmer

PSI-USMSTR - 008772

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Herrengasse 12
FL-9490 Vaduz

Telephone: 075 235 11 22
Telefax: 075 235 15 22
Telex: 889 222

1/2

Memorandum for the Record

Subject: **Westfield / Lowy Family**

Compiler / Tel.: Peter Widmer / R22 / 1296

Date: Jan. 23, 1997

For follow up:

cc: H. Nipp
Dr. K. Bächinger
Th. Piske
W. Ospelt
LGT T (Dr. P. Iob)
KD Adelphi

Meeting with: - Frank Lowy
- David Lowy
- Peter Lowy

Place / Date: Los Angeles, Jan. 20, 1997

LGT Bank: - Wilfried Ospelt
- Peter Widmer

1. The meeting concerned determining the investment strategy for fixed deposits invested with us stemming from special financing in the amount of around US\$ 54.2 million, and simultaneous discussion or determination of the transfer to a new structure.

Our discussion went to our complete satisfaction. We were able to more than reach our minimum goals: The money will stay with us, or be transferred into the PM. Regarding fees, we have pushed through an "all-in" solution (incl. LGT Trust and external people) at 70 bp (with a minimum goal of 45 bp).

2. Investment strategy:

- Strategy: proceeds USD
- Projected timeline: minimum 5 years, probably more around 5 – 10 years
- Benchmark: Inflation USA + 2 %
- Individual mandate, special assets possible in individual cases
- Add-in of special strategies: rather undesired

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

Memorandum for the Record

2/2

3. The following additional points from the discussion are to be recorded:

- The Lowys view these monies as “insurance,” i.e., they will be invested very long-term and rather conservatively.
- “financial beneficiaries” are the father and the three sons David, Peter, and Stefan.
- Until the structure is determined definitively, the monies will remain invested as fixed deposits with us and continue to be extended 1 month at a time.
- The Lowys would like to be informed about the composition and performance once to twice a year by means of a presentation. One of these presentations can take place in Europe.
- We can communicate individually and verbally both with the father as well as with the sons.
- We were able to talk them out of the desire for co-management of the investment process by pointing out that every direct influence on the foundation can have disadvantages.
- We promised that the total relationship will remain under my control (key account) and that Wilfried Ospelt will personally take over the depot in an investment-strategic manner. For the short-term, the contacts should go exclusively through me.

4. Regarding structure, the Lowys still need 1 – 2 months until the establishments at LGTT can take place. Reason: One wants to replace all previously involved parties, i.e., people like Gelbard, Leibler, or Sinitus Trust should not be included in the new solution.

We are allowed to continue talking openly to Joshua Gelbard. The way it looks at the moment, one will also do without the “protector.”

When everything is completed, one wants LGTT to destroy all files on the old structures, insofar as we don’t have to keep them for legal reasons. Regarding this matter, I will specifically get in touch with LGTT after the transfer into the new structure.

[signed]

Peter Widmer



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 18-22
FL-9490 Vaduz

Telefon 41-75-235 27 27
Telefax 41-75-235 27 15
Telex 88 92 27 bilt

Aktenvermerk

1/1

Thema	Termin London: 12.3.1997, 15.00 Uhr
Verfasser(in) / Tel.	Werner Orvati
Datum	4. März 1997 / SKO
Zur Erledigung	Dr. P. Iob
Zur Kenntnisnahme	P.O. 6. März 1997

Telefon vom 3.3.1997 mit Peter Widmer.

Am 23.1.1997 haben P. Widmer und W. Ospelt die Familie L. in Los Angeles getroffen.

Grundsätzlich ist eine Vereinbarung betreffend die Vermögensverwaltung von zirka USD 54 Mio. erzielt worden.

Unsererseits wurde Ende 1996 an den Anwalt Joshua Gelbert in Israel ein Entwurf für Stiftungsunterlagen zugesandt.

Anlässlich der Besprechung vom 12.3.1997, 15.00 Uhr in London mit F.L. sowie J. Gelbert soll die definitive Struktur sowie die Vermögensübertragung besprochen werden.

P. Widmer sage ich bis zum 6.3.1997 die Namhaftmachung des LGTT Vertreters an dieser Besprechung zu (P. Schlachter oder P. Iob).

W. Orvati

W. Orvati

Permanent Subcommittee on Investigations

EXHIBIT #37

PSI-USMSTR - 008765

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 18 - 22
FL-9490 Vaduz

Telephone: 41-75-235 27 27
Telefax: 41-75-235 27 15
Telex: 88 92 27 bill

1/1

Memorandum for the Record

Subject **Appointment London: March 12, 1997, 3 p.m.**

Compiler / Tel.: Werner Orvati

Date: March 4, 1997 / SKO

For action: Dr. P. Iob

cc: P. O. March 6, 1997

Phone call of March 3, 1997 with Peter Widmer.

On Jan. 23, 1997, P. Widmer and W. Ospelt met the L. family in Los Angeles.

Fundamentally, an agreement was reached regarding the asset management of around USD 54 million.

From our side, a draft for foundation documents was sent to the attorney Joshua Gelbert in Israel at the end of 1996.

On the occasion of the discussion of March 12, 1997, 3 p.m. in London with F. L. and J. Gelbert, the definitive structure as well as the asset transfer is to be discussed.

I promise P. Widmer to name the LGTT representative at this discussion by March 6, 1997 (P. Schlachter or P. Iob).

[by hand:] *on behalf of S. [illegible]*

W. Orvati

- 1/2 -

J. H. Gelbard

LGT Treuhand Aktiengesellschaft
att. Werner Orvati / Dr. Paolo Iob
Städtle 18
FL-9490 Vaduz

London, 12 March 1997

Formation of a Foundation by the name Luperla Foundation

Dear Sirs,

I kindly request you to set up the Luperla Foundation according to the following enclosed documents

- Formation Deed in English (Appendix A)
- Statutes of Foundation (Appendix B)
- Regulation of Foundation (Appendix C)

The payment of the capital in the amount of sFr. 30'000.- will be effected to the Foundation's account with LGT Bank in Liechtenstein AG, Vaduz.

As legal representative of the Foundation shall be appointed:

- LGT Treuhand Aktiengesellschaft

As Board Members of the Foundation with authority to sign any two jointly shall be appointed

- Dr. Konrad Bächinger, c/o LGT Bank in Liechtenstein
- Mr. Hans-Werner Ritter, Eichgasse 4a, FL-9490 Vaduz
- Mr. Peter Widmer, c/o LGT Bank in Liechtenstein AG, Vaduz
- Mr. Werner Orvati, c/o LGT Treuhand AG, Vaduz

Signatories on the account of the Foundation with LGT Bank in Liechtenstein shall be

- the Members of the Foundation Board according to their right to represent
- LGT Treuhand, singly

Permanent Subcommittee on Investigations

EXHIBIT #38

PSI-USMSTR - 008860

- 2/2 -

The Foundation is to enter into a Management Agreement with LGT Bank in Liechtenstein AG, Vaduz as set out in Appendix D.

I agree that an annual all-in-fee of 0.7 % of the average Foundations' assets shall be debited to the Foundation in accordance with the above referred Management Agreement. This fee includes

- the management of the Foundation's assets
- the formation and administration of the Foundation and its bank accounts
- the formation and administration of a transfer company (with legal situs in the British Virgin Islands) and its bank accounts
- the annual tax and registration payments for the Foundation and the transfer company in Liechtenstein and the British Virgin Islands

I also have taken note of the fact that LGT Treuhand AG and LGT Bank in Liechtenstein AG accepts liability for any damage suffered by ourselves and or the Foundation and its Beneficiaries due to any breach of duty of the members of the Foundation Board delegated by LGT Treuhand AG and LGT Bank in Liechtenstein AG.

Yours sincerely,

J.H. Gelbard



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrengasse 12
FL-9490 Vaduz

Telefon 075 235 11 22
Telefax 075 235 15 22
Telex 889 222

Aktenvermerk

1 / 2

Thema	Frank Lowy
Verfasserin/Abt./Tel.	Peter Widmer / R22 / 1296
Datum	13. März 1997
Zur Erledigung	W. Ospelt, PBA E. Mattle, SFI Dr. P. Iob, LGTT
Zur Kenntnisnahme	S.D. Prinz Philipp von und zu Liechtenstein (Pt 3) H. Nipp, GDV Dr. K. Bächinger, GB2 W. Orvati, LGTT H.W. Ritter, LGTT

Besuch bei: - Frank Lowy
- Josua Gelbard

Datum/Ort: 12. März 1997 in London

LGT: - Dr. Paolo Iob
- Wilfried Ospelt
- Peter Widmer

1. Der Entscheid zur Überführung der Crofton Vermögenswerte von rund USD 55 Mio. (weitere Beträge, die bisher bei SBG waren, sollen folgen) ins PM ist definitiv gefallen. Die neue Struktur steht, Stiftungsunterlagen und Mandatsvertrag sind unterzeichnet, und die Zwischengesellschaft ist bestimmt (Stiftungsräte W. Orvati, H.W. Ritter, Dr. K. Bächinger, P. Widmer). Was wir jetzt noch benötigen, sind die Unterschriften der zeichnungsberechtigten Personen auf den Vergütungsaufträgen.

2. Die Überführung der Festgelder wird bei Fälligkeit stattfinden. Die Anlagen im PM werden im Laufe von 1 - 2 Monaten erfolgen. W. Ospelt wird dafür verantwortlich zeichnen.

Ausgehandelt wurde eine All-in Fee von 0,7 %, wobei darin auch alle Kosten der LGT Treuhand eingeschlossen sind. M.E. kann LGTT für effektive Kosten plus einen Nominalbetrag für deren Bemühungen Rechnung an PM stellen.

3. Lowy scheint mit unserem Service sehr zufrieden gewesen zu sein und möchte diesen Sommer S.D. Prinz Philipp, Dr. K. Bächinger und P. Widmer zu einem speziellen Anlass nach London einladen.
4. Westfield International möchte wieder an die Börse und hat dafür in den USA per voraussichtlich 7. Mai 1997 ein IPO vorgesehen.

Permanent Subcommittee on Investigations

EXHIBIT #39

R23nq - 10WY2.DOC - 13.03.1997 - 09.51

PSI-USMSR-008767



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

Aktenvermerk

2 / 2

5. Wir haben nochmals versprochen, dass alle Unterlagen von Crofton vernichtet werden, soweit diese aus rechtlichen Gründen nicht aufbewahrt werden müssen. Crofton wird nach Übertrag der Aktiven saldiert.
6. Die Adelphi-Aktiven werden nicht in die neue Struktur eingeschlossen.
7. Besten Dank an alle, die mit ihrer konstruktiven Mitarbeit diesen Abschluss ermöglicht haben.

Peter Widmer

[logo] LGT Trust
A Member of the Liechtenstein Global Trust

LGT Trust
Corporation
Staedtli 28
FL – 9490 Vaduz
Principality of Liechtenstein
VAT # 50119

Telephone + 423 235 27 27
Telefax + 423 235 27 15
Internet
www.lgt.com/lgttreuhand
Email lgttrust@lgt.com

Memorandum for the file

1 / 2

Subject Frank Lowy

From / Tel. Peter Widmer / R22 / 1296

Date 13 March 1997

For follow-up: W. Ospelt, PBA
E. Mattle, SFI
Dr. P. Iob, LGTT

CC S.D. Prince Philipp from and to Liechtenstein (Pt 3)
H. Nipp, GDV
Dr. K. Baechinger, GB2
W. Orvati, LGTT
H.W. Ritter, LGTT

Visit by: - Frank Lowy
- Josua Gelbard

Date / Place: 12 March 1997 in London

LGT: - Dr. Paolo Iob
- Wilfried Ospelt
- Peter Widmer

1. The decision of the transfer of the Crofion assets, worth around USD 55 million (further amounts, that were formerly with SBG, shall follow) is definitely cancelled in the PM. The new structure stands, foundation documents and engagement contracts are signed, and the mediating company is determined (board of directors W. Orvati, H.W. Ritter, Dr. K. Baechinger, P.Widmer). What we now will require, are the signature of the signatory beneficiary person on the payment contract.

2. The transfer of the fixed deposits will take place at the payment date. The arrangements in the PM will follow after a duration of 1 – 2 months. W. Ospelt will be responsible for showing this.

A Member of the Liechtenstein Global Trust

Memorandum for the file

2 / 2

An All-in Fee of 0,7 % was negotiated, where by all costs of the LGT Trust are included. M.E. can adjust for effective costs plus a nominal amount for their service bill.

3. Lowy seems to have been very pleased with our service and would like to invite S.D. Prince Philipp, Dr. K. Baechinger and P. Widmer to London this summer for a special occasion.

4. Westfield international would like to be listed on the stock exchange again and has scheduled in advance an IPO in the USA on 7 May 1997.

[end of page 1]

5. We have promised once again, that all documents of Crofton will be destroyed, as long as will not have to be protected for legal reasons. After the transfer of the assets, Crofton will be closed.

6. The Adelphi – assets will **not** be included in the new structure.

7. Many thanks to everyone, who with their constructive team work, have made this conclusion possible.

[signature]
Peter Widmer



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Säkkli 16-22
FL-9490 Vaduz

Telefon 41-76-235 27 27
Telefax 41-76-235 27 15
Telex 88 82 27 bll

Aktenvermerk

1/1

Thema	Luperla Foundation
Verfasser(in) / Tel.	pio
Datum	16. März 1997 / pio
Zur Erledigung	pio
Zur Kenntnisnahme	pio

Neugründung Luperla Foundation / Meeting mit F.L. vom 12.3.97 / London

Das Meeting findet im Connaught Hotel, Mayfair, London statt. Anwesend sind F.L., dessen Anwalt Joshua Gelbart sowie unsererseits Peter Widmer, Wilfried Ospelt und pio. Es wird folgendes besprochen:

1. F.L. ist zur Gründung entschlossen. Es ist jedoch besondere Vorsicht anzuwenden, da er den australischen Steuerbehörden nicht abnimmt, dass der Fall mit der Bezahlung der 25M endgültig abgeschlossen ist. Die ganze Dokumentation und Aufbau ist so abzufassen, dass F.L. sowie dessen Anwälte in Australien vor Gericht bedenkenlos aussagen können.
2. Die Luperla ist eine Stiftung ohne Mandatsvertrag. Auftraggeber ist J. Gelbart.
3. Die Gründung soll anhand der durch F.L. vorgelegten Dokumente erfolgen, welche entsprechend mit den Anwälten in Australien abgesprochen sind. J. G. und ich machen verschiedene Vorschläge zur Ergänzung der Dokumente. Es sind dies:

Statuten:

Ermächtigungsnorm zur Zuwahl eines Protektors
Arbitrage-Klausel

Beistatuten:

Nomination des Protektors sowie Festlegung von dessen Rechten und Pflichten
Einführung eines Letztbegünstigten
Einschränkung betreffend allfälliger Gesetzesänderungen in Liechtenstein hinsichtlich der Auskunftspflichten gegenüber Behörden oder Dritten

4. Es wird die Vergabe eines Vermögensverwaltungsauftrages verabredet. J. Gelbart als Auftraggeber unterzeichnet das Belegexemplar.
5. Die Gelder sollen von Crofton via eine extra übernommene BVI-Gesellschaft (Name: *Sinitus*.....) überwiesen werden. Der Auftrag an LGT BIL für Crofton muss von Sinitus Treuhand in Zürich erfolgen. Den Auftrag an Sinitus wird J. Gelbart veranlassen (Beilage: Entwurf eines Schreibens an Sinitus/am 12.3.97 an J.G. übergeben).

Permanent Subcommittee on Investigations

EXHIBIT #40

PSI-USMSTR - 008902



LGT Treuhand
A Member of Liechtenstein Global Trust

Aktenvermerk

2/2

Weiteres Vorgehen:

1. Gründung der Luperla Foundation veranlassen und Konti bei LGT BIL einrichten.
2. Übernahme der BVI-Gesellschaft veranlassen und Konti bei LGT BIL einrichten.
3. Kontonummern an J. Gelbard mitteilen (per Telefon, keine Schriftstücke)
4. VV-Auftrag an LGT-BIL vergeben
5. Geldtransfer überwachen
6. Instruktion von J. Gelbard betreffend Änderung/Ergänzung Statuten/Beistatuten abwarten

LTV/pio
16.3.97

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 18 - 22
FL-9490 Vaduz

Telephone: 41-75-235 27 27
Telefax: 41-75-235 27 15
Telex: 88 92 27 bilt

1/2

Memorandum for the Record

Subject **Luperla Foundation**

Compiler / Tel.: Roger pio

Date: March 16, 1997 / pio

For action: pio

cc: pio

New Establishment Luperla Foundation / Meeting with F. L. of March 12, 1997 / London

The meeting takes place in the Connaught Hotel, Mayfair, London. In attendance are F. L., his attorney Joshua Gelbart [sic], as well as from our side Peter Widmer, Wilfried Ospelt, and pio. The following is discussed:

1. F. L. is resolute about the establishment. Special caution is to be used, however, since he doesn't believe the Australian tax authorities that the case with the payment of the 25 M is settled for good. The entire documentation and assembly is to be done in such a manner that F. L. and his attorneys can testify before court in Australia without hesitation.

2. Luperla is a foundation without engagement contract. Client is J. Gelbart.

3. The establishment is to be carried out by means of the documents presented by F. L., which have been discussed with the attorneys in Australia accordingly. J. G. and I make various suggestions for amendment of the documents. These are:

Laws:

Authorization standard for addition of a protector
Arbitrage clause

Bylaws:

Nomination of the protector as well as determination of his rights and duties
Introduction of a final beneficiary
Restriction regarding possible legal changes in Liechtenstein regarding the disclosure duties toward agencies or third parties

4. The assignment of an asset-management contract is agreed upon. J. Gelbart as client signs the file copy.

[initialed]

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

Memorandum for the Record

2/2

5. The monies are to be transferred from Crofton via a specially taken-over BVI company (name: *Sewell* [by hand]). The order to LGT BIL for Crofton has to come from Sinitus Trust in Zurich. J. Gelbart will request the order to Sinitus. (Enclosure: Draft of a letter to Sinitus / handed over to J. G. on March 12, 1997).

Further Approach:

1. Request establishment of Luperla Foundation and set up account at LGT BIL.
2. Request takeover of BVI company and set up accounts at LGT BIL.
3. Give account numbers to J. Gelbard [sic] (by phone, no papers).
4. Assign asset-management contract to LGT BIL.
5. Monitor money transfer.
6. Wait for instructions from J. Gelbart regarding change/amendment laws/bylaws.

LTV / pio
March 16, 1997

[initialed]

Belegexemplar

**Regulations
Luperla Foundation, Vaduz**

Based on the power contained in Art. 4 of the Statutes of Luperla Foundation with seat in Vaduz, Liechtenstein, and all other powers it enabling the Board of Foundation hereby issues the following

REGULATIONS

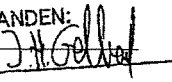
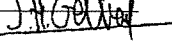
*as replacement of the
Regulations issued*

on 22.10.97

1. The persons, companies or other entities from time to time notified in writing to the Board of Foundation by the company (Company) in which Beverly Park Corporation, a company formed in Delaware, United States of America on 3 January 1997, (Corporation) for the time being holds any share and if there is more than one such company, then the company in which the Corporation last became a shareholder before the notification (a certificate to that effect from any office bearer for the time being of the Corporation may be relied upon by the Board of the Foundation) shall be within the class of distributees of the Foundation assets and the income therefrom, provided that the Company for the time being or its legal successor may revoke any such notification at any time by a further notice in writing to the Board of Foundation, and provided further that no Company shall directly or indirectly become a distributee or benefit therefrom.
2. The Board of Foundation may pay to any one or more of the distributees appointed under 1. above, to the exclusion of any of the other distributees, such portions or all of the Foundation assets or the income therefrom at such time or times as the Board of Foundation shall think fit in its absolute and uncontrolled discretion.
3. Any expenses and costs including legal costs, if any, related to the maintenance and administration, the asset management, the execution of the present Regulations and the dissolution of the Foundation shall be charged to the income, if and when they become due, and only in the event that the income does not cover sufficiently the aforementioned expenses and costs, to the Foundation assets.
4. At present there is no public, governmental or other supervisory authority or agency or similar person or institution to supervise the Foundation except as expressly provided for in the Statutes or Regulations of the Foundation. If any such authority or agency is introduced in Liechtenstein, the Foundation Board is to immediately inform the Corporation accordingly.
5. The present Regulations shall have the same legal effects as the Statutes. In case of differences between the Statutes and the Regulations the provisions of the latter shall prevail provided they do not violate any compulsory provisions of the Statutes.

6. The Board of Foundation may change, alter, amend or revoke these Regulations at any time.

Vaduz, April 30, 1997

EINVERSTANDEN:
 Approuvé: 
 Approved: 

The Foundation Board:

 Dr. Konrad Bächinger

 Peter Widmer

 Hans-Werner Ritter

 Werner Orvati



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

ERLEDIGT
Telefon 071 235 11 22
Telefax 071 235 11 22
Telex 889 222

Aktenvermerk

1/2

Thema	Luperla Foundation, Vaduz
VerfasserIn/Abt./Tel.	Peter Widmer / R22 / 1296
Datum	2. Mai 1997
Zur Erledigung	Dr. P. Iob, LGT Treuhand Wilfried Ospelt E. Matile
Zur Kenntnisnahme	H. Mapp Dr. K. Bächinger
Treffen mit:	- David Lowy - J.H. Gelbard
Datum:	30. April 1997 im Hotel Savoy, Zürich
LGT Bank:	P. Widmer

*hfe → spr
25 Jure
(und Ablage?)*

hfe

1. Die Herren waren in Zürich um mit Sinitus Treuhand die Überträge der Vermögenswerte auf Luperla vorzubereiten. Ich bin mit Ihnen das Vorgehen nochmals durchgegangen:
 - a) Ca. USD 54 Mio. (Saldi Crofton bei uns) gehen auf Konto Sewell bei uns (Auftrag kommt von Sinitus); anschliessend vergütet Sewell (Auftrag kommt von LGT T) den Betrag an Luperla.
 - b) Weitere rd. USD 3 Mio. werden durch Drittbankvergütung bei Sewell (Konto LGT) eingehen, welche ebenfalls auf Konto Luperla bei LGT zu vergüten sind (Auftrag LGT T). → Off 3.6.1997, Dr. K. Bächinger
 - c) Crofton wird deren Konto bei Union Bank of Israel, Tel-Aviv schliessen lassen und Saldo (ca. USD 0.2 Mio.) auf Konto Sewell vergüten; Sewell zahlt auch diesen Betrag an Luperla bei LGT (Auftrag LGT T).

Luperla soll dann USD 250'000.- auf deren Konto (durch LGT T bereits eröffnet) bei Union Bank of Israel vergüten.

 - d) Das Konto Sewell ist am 31.5.1997 zu saldieren und die Gesellschaft zu löschen. Auftrag durch LGT T.
2. Die Belegexemplare "Regulations" und "Statutes" der Luperla Foundation habe ich von J. Gelbard gegenzeichnen lassen, diese liegen diesem AV für P. Iob bei.
- Bezüglich der Stiftung ist somit alles i.O.

Permanent Subcommittee on Investigations

EXHIBIT #42

AFSA - DAFIDA.DCC - 02.05.1997 - 10.01

PSI-USMSJB-008864



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

Aktenvermerk

2 / 2

3. Bezüglich Anlagestrategie und Fees bleibt alles beim alten: Ertrag USD, All-in 70bp (siehe AV vom 23.1.1997).

Die neuen Investitionsvorschläge habe ich übergeben. Diese wurden geschätzt und als i.O. in Empfang genommen.

Nach Eingang der Gelder, voraussichtlich ab nächster Woche, resp. nach Anlaufen der Festgelder kann mit dem Anlageprozess begonnen werden, wobei ich nochmals festgehalten habe, dass es bis zur vollen Investition 1-2 Monate dauern kann.

4. Ich bitte die Geldflüsse mit E. Mattle zu koordinieren.

5. Nach Abschluss dieser Transaktionen sollen dann definitiv alle Unterlagen von "Crofton" und "Jelnav" vernichtet werden, soweit dies aus rechtlichen Gründen möglich ist. Ich bitte Dr. Iob um Bestätigung der Friedigung bis 30.6.1997.


P. Widmer

Beilage für Dr. Iob

[stamp:] **COMPLETED**[logo]LGT Treuhand
A Member of Liechtenstein Global TrustLGT Trust
Corporation
Herrengasse 12
FL-9490 VaduzTelephone: 075 235 11 22
Telefax: 075 235 15 22
Telex: 889 222

1/2

Memorandum for the Record

Subject **Luperla Foundation, Vaduz**

Compiler / Tel.: Peter Widmer / R22 / 1296 [by hand:] [illegible initials] → spr

Date: May 2, 1997 FYI (and file?)
[initialed]

For action: Dr. P. Job, LGT Trust
Wilfried Ospelt
E. Mattle

cc: H. Nipp
Dr. K. Bächinger

Meeting with: - David Lowy
- J. H. Gelbard

Date: April 30, 1997 in the Hotel Savoy, Zurich

LGT Bank: - Wilfried Ospelt
- Peter Widmer

[The top half of this page is struck through by hand.]

1. The gentlemen were in Zurich to prepare with Sinitus Trust the asset transfers to Luperla. I reviewed the approach with them once more:

a) Around USD 54 million (balance Crofton with us) are going to the Sewell account with us (assignment from Sinitus); subsequently Sewell pays (assignment from LGT T) the amount to Luperla. ✓

b) An additional roughly USD 3 million will go to Sewell (account LGT) through third-bank payments, which are likewise to be paid to account Luperla at LGT (assignment LGT T).
[by hand:] → CHF 3.6 million according to K. Ulrich

c) Crofton will close its account with Union Bank of Israel, Tel Aviv and send balance (around USD 0.2 million) to account Sewell; Sewell also pays this amount to Luperla at LGT (assignment LGT T). ✓

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

Memorandum for the Record

2/2

Luperla is then to remunerate USD 250,000.00 to its account (already opened by LGT T) with Union Bank of Israel. ✓

d) The Sewell account is to be closed on May 31, 1997 and the company to be dissolved. Assignment through LGT T. ✓

[all ✓ by hand]

2. I have had the file copies "Regulations" and "Statutes" of the Luperla Foundation countersigned by J. Gelbard; these are attached to this memo for P. Iob.

Regarding the foundation, everything is herewith in order.

3. Regarding investment strategy and fees everything remains the same: proceeds USD, all-in 70 bp (see memo of Jan. 23, 1997).

I have turned over the new investment suggestions. These were appreciated and received as in order.

After in payment of monies, probably starting next week, or after the fixed deposits run out, the investment process can be started, whereby I stated once more that it can take 1 – 2 months for full investment.

4. I request that the money flows be coordinated with **E. Mattle**.

5. After completion of these transactions, all documents from "Crofton" and "Jelnav" are definitely to be destroyed, insofar as this is legally possible. I ask Dr. Iob for confirmation of completion by June 30, 1997.

[signed]

P. Widmer

Enclosure for Dr. Iob
[not at hand for translation]



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

ERLEDIGT

Telefon 075 235 11 22
Telefax 075 235 15 22
Telex 889 222

Aktenvermerk

1/1

Thema Lupera Foundation, Vaduz

Verfasserin/Abt./Tel. Peter Widmer / R22 / 1296

Datum 14. Mai 1997

Zur Erledigung

Zur Kenntnisnahme H. Nipp
Dr. K. Bächinger
Dr. P. Iob, LGT Trennhand
Wlfrid Ospelt
KD

Im Anschluss an meinen AV vom 2. Mai 1997 möchte ich mitteilen, dass die Überträge der Vermögenswerte auf die Lupera Foundation abgewickelt wurden. Nach Abschluss dieser Transaktionen verfügt die Lupera Foundation über Guthaben von USD 54,7 Mio. und CHF 3,6 Mio.

Der Investitionsprozess hat bereits angefangen und wird bis zum Abschluss in bezug auf das richtige Timing der Anlagen noch eine geraume Zeit dauern.

Wie in obigem AV erwähnt, werden wir per Ende Mai veranlassen, dass die alten Konti geschlossen werden. Offen bleibt darum nur noch die Bestätigung von Dr. Iob, dass die alten "Crofton" und "Jelnav" Akten bei LGIT entfernt wurden.


P. Widmer

Permanent Subcommittee on Investigations
EXHIBIT #43

PSI-USMSTR - 008883

[logo] LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Corporation
Hertengasse 12
FL-9490 Vaduz

COMPLETED [stamped]

Telephone 075 235 11 22
Fax 075 235 15 22
Telex 889 222

Memorandum for the File

1/1

Topic: **Luperla Foundation, Vaduz**

Author / Tel.: Peter Widmer / R22 / 1296

Date: 14 May 1997

For Follow-Up:

To the Attention of: H. Nipp
Dr. K. Bächinger
Dr. P. Iob, LGT Treuhand
Wilfried Ospelt
KD

I would like to disclose, in connection to my memorandum for the file from 2 May 1997 that the transfer of assets to the Luperla Foundation has been carried out. Upon completion of this the Luperla Foundation will have assets of USD 54.7 Mil. and CHF 3.6 Mil. at its disposal.

The investment process has already begun and, with reference to the right timing of the investments, will take a fairly long time until completion.

As mentioned in the above mentioned memorandum for the file, we will arrange as per the end of May for the old accounts to be closed. Therefore, all that remains outstanding is the confirmation from Dr. Iob that the old "Crofton" and "Jelnav" shares at LGTT have been removed.

[signature]

P. Widmer



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Abteilungsleiter
Säule 18-22
R-9430 Vaduz
Fürstentum Liechtenstein

Telephone 41-75-235 27 27
Telefax 41-75-235 27 15
Telex 88 82 27 ltr
E-Mail lgt@lgttrust.li
1 00653,2664 CompuServe

Aktenvermerk

1/1

Thema Luperia Stiftung / Sewell Services Ltd. B.V.I.

Verfasser(in) / Tel. NMU

Datum 23. Oktober 1997 / nm

Zur Erledigung

Zur Kenntnisnahme RT, EVO

— = Redacted by the Permanent
Subcommittee on Investigations

Herr Elmar Matile (arbeitet bei Peter Widmer, welcher Stiftungsrat von Luperia Foundation und den Kontakt zum Auftraggeber hält) von der LGT BIL ruft an und teilt folgendes mit:

Von einer Gesellschaft namens Crofton, welche das Konto bei der LGT BIL hat werden ca. USD 30'000.-- auf das Konto der Sewell Services Ltd. transferiert (Sewell Services Ltd. ist die Tochtergesellschaft der Luperia Stiftung). Ich habe die Eröffnung eines USD-Kontos veranlasst => (USD). Von der Sewell soll dieser Betrag dann auf das Konto der Luperia vergütet werden. Dies wurde anscheinend schon öfters so gemacht.

Nach Durchsicht der Akten stelle ich fest, dass vom Konto der Sewell am 7.5.1997 USD 54.7 Mio. und CHF 3.6 Mio. sowie am 12.5.1997 USD 211'000.-- mittels Vergütungsaufträgen an die Luperia überwiesen wurden, ohne Nennung des Auftraggebers. Am 16.5.1997 wurde dann die Kontoverbindung bei der LGT BIL gelöscht.

EVO/RT bitte mit ORV Kontakt aufnehmen, um Hintergrundinformationen über die gesamte Struktur zu erfahren. Falls ORV nicht informiert sein sollte, an Peter Widmer gelangen.

Ferner sind noch folgende Pendenzen offen:

- Erledigt:
- Belegexemplare der Statuten und Beistatuten wurden noch nicht unterzeichnet (=> wurden am 25.4.97 an Herrn Widmer zur Weiterleitung an Kunden gesandt)
 - Die schriftliche Bestätigung, betr. Aktenvernichtung der Unterlagen Crofton/Yeharf der Rechtsabteilung LGT BIL ist noch hängig (s. Av PIO v. 3.7.97)

Stiftungsräte der Luperia sind:

Dr. Bächinger
Peter Widmer
Werner Orvati
Hans-Werner Ritter

Natalie Müller

Permanent Subcommittee on Investigations
EXHIBIT #44

PSI-USMSTR - 008896

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Treuhand
Corporation
Stadtle 18-22
FL-9490 Vaduz
Principality of Liechtenstein

Telephone 41-75-235 27 27
Tefax 41-75-235 27 15
Telex 88 92 27 bilt
Email lgttrust@lgt.li
100653,2664 CompuServe

Memorandum for the File

1/1

Concerned Issues **Luperla Foundation / Sewell Service Ltd. B.V.I.**

Author / Tel. NMU

Date 10.23.1997 / nmu

For Follow-Up

For the information of RT, EVO

— = Redacted by the Permanent
Subcommittee on Investigations

Mr. Elmar Mattle (who works with Peter Widmer, a member of the board of trustees of the Luperla Foundation, who maintains contact with the client), from the LGT BIL, calls and communicates the following:

Approximately 30,000.- is being transferred from a corporation named Crofton, which has the account at the LGT BIL, to the account of the Sewell Services Ltd. (Sewell Services Ltd. is the subsidiary of the Luperla Foundation). I have brought about the opening of a USD account => [REDACTED] (USD). This amount shall then be paid to the account of the Luperla from the Sewell. This has apparently already been done on many occasions.

After review of the files I establish that on 05.07.1997 USD 54.7 million and CHF 3.6 million, and on 05.12.1997 USD 211,000.-, was transferred from the account of the Sewell to the Luperla by means of authorized payment orders, without mention of the client. Then, on 05.16.1997, the account relationship at the LGT BIL was cancelled.

EVO/RT, please establishment contact with ORV to procure background information concerning the entire structure. If ORV does not have this information, make a request with Peter Widmer.

Furthermore, the following pending items are left open:

- File copies of the statutes and bylaws have still not been signed (=> were sent to Mr. Widmer on 04.25.1997 to be forwarded to the client). *completed*
- The written authorization regarding file destruction of the Crofton/Yelnarf documents of the LGT BIL legal department is still pending (see memo PIO dated 07.03.1997). *P*

Members of the board of trustees of the Luperla are: Dr. Bächinger
Peter Widmer
Werner Orvati
Hans-Werner Ritter

[signature]
Natalie Müller



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Salzstr. 18-22
FL-9490 Vaduz
Fürstentum Liechtenstein

Telephone 41-75-235 27 27
Telefax 41-75-235 27 15
Telex 88 92 27 bdt
E-Mail lgttrust@lytt.li.li
100653,2564 CompuServe

Aktenvermerk

1/1

Thema **Luperla Foundation, Vaduz ("Luperla")**

Verfasser(in) / Tel. **erm / 2621**

Datum **29. Januar 1998**

Zur Erledigung

Zur Kenntnisnahme *MM* pfr

Besprechung vom 28.01.1998 mit Herrn Peter Widmer (wp) in Barend

Anlässlich unserer Besprechung erläutert wp im wesentlichen die Hintergründe der Luperla. Hinter dieser Stiftung steht Herr Frank P. Lowy, einer der reichsten Männer Australiens (Hauptaktionär und Chairman der Westfields Holdings, verdient ca. USD 5,5 Mio p.a. = Rang 2 in Australien), Privatvermögen über mehrere Milliarden USD). Seine drei Söhne, ebenfalls in der Westfields in Top-Positionen tätig, sind wp ebenso persönlich bekannt. Das Stiftungsvermögen soll sich auf ca. 100 Mio. USD belaufen und stammt aus einer relativ komplexen Transaktion, die zum Ziel hatte, die börsenkotierten Aktien der Westfields wieder in Familienbesitz zurückzuführen, was schliesslich auch gelungen ist. ORV hat angeblich mitgewirkt und ist im Detail darüber informiert. Es soll sich wp zufolge um keinerlei "Risikogelder" handeln.

Das Wesentliche unserer Besprechung ist, dass der Klient diese Gelder nicht offiziell in sein australisches Vermögen zurückführen kann. Es bleibt somit in der Stiftung und wp ist überzeugt, dass sich daran auch nichts ändern wird, solange das PM-Mandat ordentlich ausgeführt wird. Das Mandat ist als eines der grössten Geschäfte der LGT BIL einzustufen (hat bisher ca 7 Mio CHF gebracht!). Gerade deshalb ist darauf zu achten, dass keine Belastungen oder Transaktionen über das Luperla-Konto getätigt werden, die den Klienten grundsätzlich "nervös" machen.

Ich versichere wp, dass dies nicht mehr geschehen werde (s. VG über USD 600,- unter namentlicher Anführung der Sewell). Ich werde veranlassen, dass jede Transaktion vor Ausführung wp vorgelegt wird. *normals in F4 notes / mrl*

Bezüglich der Sewell informiere ich wp, dass die Streichung veranlasst wurde.

Was die Rückvergütung der abgebuchten USD 600,- Trident-fees betrifft, so wird wp diese bei Herr M. Knecht veranlassen. Die Rückvergütung seitens der Trident ist auf ein internes Treuhandkonto gutzuschreiben und nach Absprache mit M. Knecht an LGT BIL weiterzuleiten.

LTV/eqm

29. Januar 1998

E. Müller

Permanent Subcommittee on Investigations
EXHIBIT #45

PSI-USMSTR - 008901

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Treuhand
Corporation
Städtle 18-22
FL-9490 Vaduz
Principality of Liechtenstein

Telephone 41-75-235 27 27
Tefax 41-75-235 27 15
Telex 88 92 27 bilt
Email lgttrust@lgt.li
100653,2664 CompuServe

Memorandum for the File

1/1

Concerned Issues **Luperla Foundation, Vaduz ("Luperla")**

Author / Tel. erm / 2621

Date 01.29.1998

For Follow-Up

For the information of nmu [initialed], pfr

Meeting on 01.28.1998 with Mr. Peter Widmer (wp) in Benden

On the occasion of our meeting, wp provides basic background information of the Luperla. Behind this foundation is Mr. Frank P. Lowy, one of the richest men in Australia (primary shareholder and chairman of the Westfields Holdings, earning approximately USD 5.5 million annually = second place in Australia, with private assets of several billion USD). His three sons, likewise active in top positions of the Westfields, are just as well-known to wp.

The foundation assets shall come to the amount of approximately USD 100 million and originate from a relatively complex transaction, with the goal of bringing shares listed in the stock market back into the family's possession, which was successfully completed.

ORV apparently assisted in this and is informed of the details. According to wp, no activities involving "risk money" are to be involved.

The substance of this meeting is that the client cannot officially bring these funds back into his Australian assets. Therefore, they remain in the foundation and wp is convinced that nothing along these lines will change, so long as the PM-mandate is properly conducted. The mandate is to be classified as one of the largest business affairs of the LGT BIL (has up to this point brought in CHF 7 million!). For exactly this reason it must be ensured that no fees or transactions occur through the Luperla account that make the clients "nervous" in principle.

I reassure wp that this will no longer occur (see assets fee of USD 600.-- under quotation of the name "Sewell"). I will determine that **every transaction be presented to wp before being carried out.** *noted again in F4 /*
[initialed]

As concerns the Sewell, I inform wp that the abatement has already been initiated.

Mr. M. Knecht will determine what the written-off USD 600.-- Trident fees concern (which are being repaid). The repayment is to be credited to an internal trust account on the part of the Trident and to be continued after consultation with M. Knecht.

LTV/erm
01.29.1998
[signature]



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/1

Thema **LUPERLA STIFTUNG**

Verfasser(in) / Tel. **Werner Orvati /ORV (Sandra Schneider /ssn/2640)**

Datum **26. Juni 2001**

Zur Erledigung

Zur Kenntnisnahme an **Dr. K. Bächinger**
Dr. E. Müller

Beiliegend Kopien aus der Zeit der Errichtung von Luperla Foundation:

1. Herkunft der Mittel

Aus diesen Aktenvermerken, wie auch aus meiner Erinnerung ergibt sich, dass die Mittel der Luperla Stiftung aus einer Kreditfinanzierung der LGT Bank in Liechtenstein stammen, die seinerzeit über eine Gesellschaft Crofton abgewickelt wurde. Aus den beiliegenden Aktenvermerken ergibt sich, dass die Instruktionen betreffend Crofton von Sinus Treuhand, Zürich, erteilt wurden. Ich bin davon ausgegangen, dass Crofton bei Dr. Karlheinz Ritter verwaltet worden sei.

2. Begünstigung

Hinweise betreffend die Interpretation der Beistatuten betreffend Nomination von Begünstigten bei Vorliegen von Instruktionen durch die Company oder im Falle des Widerrufs solcher Instruktionen oder im Falle des Fehlens solcher Instruktionen, habe ich in den Akten nicht gefunden. Ich gehe davon aus, dass Instruktionen betreffend die Nomination von Begünstigten durch die in den Beistatuten aufgeführte "Company" gemacht werden, falls diese Instruktionen widerrufen werden oder nicht vorhanden wären, könnte sich der Stiftungsrat auf Instruktionen abstützen, welche durch diejenige Gesellschaft gegeben würde, von welcher Beverley Park Corp. zuletzt Aktien erworben hätte.

Aus den Aktenvermerken ist eindeutig ersichtlich, dass gemäss Stifterwille FL und seine drei Söhne DL, PL und SL wirtschaftlich begünstigt werden sollen. AV von Peter Widmer vom 23.01.1997, S. 2, Linie 4.

In den Aktenvermerken wird auch die bei uns über Jahre geführte Struktur "Yelnarf" erwähnt.

Beilagen:

Aktenvermerke vom 27.11.1996 - 29.01.1998

Permanent Subcommittee on Investigations
EXHIBIT #46

PSI-USMSTR - 008897

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein
VAT-No. 50119

Telephone +423 235 27 27
Fax +423 235 27 15
Internet
www.lgt.com/igtreuhand
E-Mail lgttrust@lgt.com

Memorandum for the File

1/1

Topic: **LUPERLA FOUNDATION**
Author / Tel.: Werner Orvati / ORV (Sandra Schneider / ssn/2640)
Date: 26 June 2001
For Follow-Up:
To the Attention of: Dr. K. Bächinger
Dr. E. Müller

Copies from the time of the Establishment of the Luperla Foundation attached:

1. Origin of Funds

The result from these memorandums for the file as well as from my memory is that the funds of the Luperla Foundation stem from a credit financing of the LGT Bank in Liechtenstein that at the time was carried out through a company Crofton. The result from the attached memorandums for the file is that the instructions regarding Crofton were issued by Sinus Treuhand, Zürich. I assumed that Crofton was being managed by Dr. Karlheinz Ritter.

2. Benefit

I didn't find information regarding the interpretation of the by-laws with regard to the nomination of beneficiaries upon presentation of instructions by the Company or in the case of revocation or absence of such instructions in the file. I assume that instructions regarding the nomination of beneficiaries will be made by the "Company" listed in the by-laws, if these instructions are revoked or don't exist, the foundation board can support itself on instructions that are given by the company from which Beverley Park Corp. last acquired shares.

It is explicitly apparent from the memorandums for the file that, in accordance with the intention of the founder, FL and his three sons DL, PL and SL are to be financial beneficiaries.
Memorandum for the file from Peter Widmer from 01.23.1997, page 2, line 4.

The memorandums for the file also mention the "Yelnarf" structure which we've been conducting for years.

Attachments:

Memorandums for the file from 11.27.1996 - 01.29.1998



LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/4

Thema **LUPERLA FOUNDATION, VADUZ**

Verfasser(in) / Tel. Dr. Erik Müller

Datum 16. Juli 2001 / nmu

Zur Erledigung *best. Reglement / 16.7.01*

Zur Kenntnisnahme Dr. K. Bächinger, lic. oec. HSG W. Orvati, Dr. N. Feuerstein *2.7.01*

Bestellung von möglichen Begünstigten bzw. Vornahme von Ausschüttungen an Begünstigte unter Berücksichtigung der geltenden Stiftungsstatuten und Regulations sowie des Stifterwillens:

1. Gesellschaftsrechtlich massgebende Bestimmungen

1.1. Gemäss Art. 5 der geltenden Statuten bestimmt der Stiftungsrat im Rahmen der Reglemente über Ausmass und Art von Ausschüttungen an die Stiftungsbegünstigten. Ferner werden "Begünstigte der Stiftung und der Inhalt der Begünstigung [...] vom Stiftungsrat bestimmt. Die nähere Regelung erfolgt in einem eigenen Beistatut." (Art. 4). Der Begriff des Beistatuts wird synonym mit dem des Reglements verwendet. Die Englischversion nennt "Regulations", welche rechtsgültig erlassen wurden.

1.2. Auch die statutarische Zweckdefinition unter Art. 3 sieht vor, dass die Stiftung (über den eigentlichen Stiftungszweck gemäss Abs. 1 hinaus) "in Auslegung der Reglemente auch Zuwendungen an natürliche oder juristische Personen sowie Institutionen etc. machen" kann.

1.3. Schliesslich ist gemäss Art. 11 der geltenden Statuten, welcher unter anderem die Stiftungsauflösung regelt, der Stiftungsrat "jederzeit berechtigt, durch einstimmigen Beschluss die Stiftung aufzulösen." Ferner ist bei der Auflösung der Stiftung "das Stiftungsvermögen nach Massgabe der Begünstigungsbestimmungen [in der Englischversion: Regulations] zu verwenden."

1.4. Damit kommt den Begünstigungsbestimmungen auf jeden Fall - sei es im Fall einer vollumfänglichen und endgültigen Ausschüttung des Stiftungsvermögens mit anschliessender Löschung der Stiftung oder im Zuge einer Verwendung des Stiftungsvermögens im Sinne des Art. 11 der Statuten - eine zentrale Bedeutung zu. Umso mehr als den Regulations unter Art. 5 derselben grundsätzlich dieselbe Rechtskraft wie den Statuten und im Fall entgegenlaufender Bestimmungen das grössere Gewicht beigemessen wird.

Permanent Subcommittee on Investigations

EXHIBIT #47

PSI-USMSTR - 008867



Aktenvermerk

2/4

2. Regulations

Die Begünstigungsbestimmungen sehen für die Vornahme von Ausschüttungen zwei zwingende Schritte vor:

2.1. Notifikation(en)

Grundsätzlich werden mögliche Begünstigte ("members of the class of distributees") durch eine Gesellschaft ("Company"), an welcher die am 3. Januar 1997 gegründete und in Delaware/USA domizilierte Beverly Park Corporation ("Corporation") beteiligt ist, dem Stiftungsrat bekanntgegeben/notifiziert. Ist die Corporation an mehreren Companies beteiligt, fällt diese Bestellungskompetenz jener Company zu, an welcher die Corporation vor der Notifikation zuletzt Beteiligung genommen hat.

Begünstigte können "persons, companies or other entities" sein.

Zwingende (kumulative) Voraussetzungen für die Aufnahme in den Kreis der Begünstigten sind, dass

- die Company selbst weder direkt noch indirekt begünstigt ist (somit kann sie gewissermassen als "excluded person" betrachtet werden) und dass
- eine (bereits erfolgte) Begünstigtenbestellung durch die Company oder deren Rechtsnachfolger jederzeit durch schriftliche Mitteilung an den Stiftungsrat widerrufen werden kann.

2.2. Ausschüttung(en)

Besteht ein nach den oben beschriebenen Bestimmungen bestellter Begünstigtenkreis, liegt es im uneingeschränkten Ermessen des Stiftungsrats ("absolute and uncontrolled discretion"), eine oder mehrere Ausschüttungen zu Gunsten eines oder mehrerer Begünstigten ("member of the class of distributees") zu tätigen.

3. Stifterwille

Die Aktenlage dokumentiert den Stifterwillen dahingehend, dass der wirtschaftliche Stifter und dessen drei Söhne wirtschaftlich begünstigt werden sollen (siehe auch Aktenvermerk von Herrn Orvati vom 26. Juni 2001). Zu einer erwünschten Begünstigungsreihenfolge, verschiedenen Begünstigtenquoten, zeitlichen Rahmen oder Begünstigungsumfang liegen - mit Ausnahme der Bestimmungen von Statuten und Regulations - keine Hinweise vor. Die Existenz eines schriftlich zum Ausdruck gebrachten Stifterwillens in der Form eines Letter of Wishes (Side Letter, Record of Intent) geht aus den Akten nicht hervor.



Aktenvermerk

3/4

4. Conclusio

Die gegenständliche Stiftung wurde in der Form einer "**Discretionary Foundation**" ausgestaltet, wobei ein Letter of Wishes nicht vorliegt.

Die statutarischen Bestimmungen definieren einen sehr weitreichenden Zweck und sehen **keinen bestimmten Begünstigtenkreis** vor, sondern verweisen auf mögliche Reglemente bzw. Beistatuten, die die ordentliche Begünstigung regeln.

Die bestehenden **Regulations** schreiben eine klare Vorgehensweise mit zwei getrennten Kompetenzbereichen sowie bestimmte Voraussetzungen vor:

4.1. Die **Notifikationskompetenz** liegt bei der Company, wobei keine Kriterien zur Auswahl möglicher Begünstigter ("members of the class of distributees") festgelegt wurden. Hingegen gibt es zwingende Voraussetzungen für eine solche Notifikation:

- Schriftlichkeit;
- Adressat ist der Stiftungsrat;
- Company darf nicht direkt oder indirekt begünstigt sein;
- Notifikation muss (auf schriftlichem Wege) widerruflich sein;

Bezüglich der notifizierenden Company sind folgende Voraussetzungen gegeben:

- die Corporation muss an der Company beteiligt sein;
- falls mehrere solcher Beteiligungen bestehen, muss die notifizierende Company die vor der Notifikation zuletzt erworbene sein;

4.2. Die **Ausschüttungskompetenz** wurde uneingeschränkt und vollumfänglich dem Stiftungsrat zugewiesen ("absolute and uncontrolled discretion").

5. Massnahmen

5.1. Im vorliegenden Fall wurden bereits folgende Massnahmen gesetzt:

- Zirkularbeschluss vom 25. Juni 2001, die Stiftung im Hinblick auf eine endgültige und vollumfängliche Ausschüttung in Liquidation zu setzen, da diese danach den Stiftungszweck nicht mehr erfüllen kann sowie sämtliche Vermögensanlagen in liquide Form zu bringen;
- entsprechende Veranlassung bei der depotführenden und vermögensverwaltenden LGT Bank in Liechtenstein AG;
- entsprechende Benachrichtigung des ÖRA als Stiftungsregister.

5.2. Im Hinblick auf o.a. Ausschüttung sollte Folgendes schriftlich vorliegen:

- Notifikationsschreiben der Company wie oben ausgeführt;

PSI-USMSTR - 008870



Aktenvermerk

4/4

- Rechtsgültiger Nachweis der Corporation darüber, dass sie an der Company beteiligt ist und dass die Company die vor dem Notifikationsdatum zuletzt erworbene Beteiligung ist;
- Geeigneter Nachweis darüber, dass die Company nicht direkt oder indirekt begünstigt ist;
- (Formeller) Stiftungsratsbeschluss über die Deutung des Stifterwillens;
- Stiftungsratsbeschluss über Umfang der Begünstigung und Ausschüttungsmodalitäten;
- Einverständnis des wirtschaftlichen Stifters, sofern er nicht selbst vollumfänglich in den Genuss der Stiftungsreinvermögens kommt;

Abschliessend und der Vollständigkeit halber sei darauf hingewiesen, dass keine Unabänderlichkeitsklausel in den geltenden Stiftungsbestimmungen vorgesehen ist, der Stiftungsrat gemäss Art. 11 der Statuten dieselben jederzeit abändern und gemäss Art. 6 der Regulations auch diese abändern, vervollständigen oder widerrufen kann, wobei gleichzeitig der Stifterwille grundsätzlich seine Berücksichtigung zu finden hat.


Dr. Erik Müller

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Treuhand
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein
VAT-Nr. 50119

Telephone +423 235 27 27
Fax +423 235 27 15
Internet www.lgt.com/lgttreuhand
Email lgttrust@lgt.com

Memorandum for the File

1/4

Concerned Issues **LUPERLA FOUNDATION, VADUZ**

Author / Tel. Dr. Erik Müller

Date 07.16.2001 / nmu

For Follow-Up

already delivered / 07.18.2001

For the information of Dr. K. Bächinger, lic. oec. HSG W. Orvati, Dr. N. Feuerstein [initialed]

Specification of possible beneficiaries and initiation of disbursements to beneficiaries with regard to the effective statutes and regulations of the foundation as well as the intent of the benefactor;

1. Authoritative stipulations under company law

- 1.1. According to Article 5 of the effective statutes, the board of trustees determines the size and type of disbursement to the beneficiaries of the foundation in the framework of the regulations. Furthermore, the "beneficiaries of the foundation and the content of the benefit (...) are determined by the board of trustees. The more detailed specifications are to result from their own bylaw." (Article 4). The terms of the bylaw are synonymous with those used in the regulations. The English version names "regulations" [English], which were issued with legal force.
- 2.2. Also, the statutory definition of purpose under Article 3 specifies that the foundation (by virtue of its own foundation purpose, according to Paragraph 1 forward) can "also make donations to natural or juridical persons as well as institutions through the issue of regulations."
- 3.3. Finally, according to Article 11 of the effective statutes, which govern the dissolution of the foundation, among other things, the board of trustees of the foundation is "empowered at any time to dissolve the foundation by means of a unanimous resolution." Furthermore, upon the dissolution of the foundation, "the assets of the foundation are to be utilized under the authority of the regulations of benefit (in the English version: regulations)."
- 4.4. Thus the regulations of benefit assume a central meaning in any case - be it in the case of a complete and final disbursement of the assets of the foundation with the subsequent dissolution of the foundation or of the process of utilization of the assets of the foundation according to the terms of Article 11 of the statutes. The same legal force is imputed [to the above-mentioned regulations] as to the statutes, even more than to the regulations under Article 5 (of the regulations), and in the case of contradictory regulations, greater importance is imputed [to the above-regulations].

[logo]
LGT Trust

Memorandum for the File

2/4

2. Regulations

The regulations of benefit require two mandatory steps for the execution of disbursements:

2.1. Notification(s)

The board of trustees must categorically be notified of the identities of possible beneficiaries ("members of the class of distributees" [English]) through a corporation ("Company" [English]), of which the Beverly Park Corporation ("Corporation" [English]) has shares; the Beverly Park Corporation was founded on 01.03.1997 and is domiciled in Delaware / USA. If the "Corporation" holds several "Companies," then the capacity to designate falls to that company of which the "Corporation" most recently took up shares before the notification.

Beneficiaries can be "persons, companies, or other entities" [English].

Mandatory (cumulative) premises for entry into the exclusive group of beneficiaries are that

- the "Company" itself is neither directly nor indirectly benefited (therefore it can be specifically regarded as an "excluded person" [English]), and that
- an (already effective) designation of beneficiary can be revoked by the "Company" or its legal successors at any time by means of written message to the board of trustees.

2.2. Disbursement(s)

If there does exist an exclusive group of designated beneficiaries as described above, then it falls to the unrestricted discretion of the board of trustees ("absolute and uncontrolled discretion" [English]) whether to effect one or more disbursements in favor of one or more beneficiaries ("member of the class of distributees" [English]).

3. Intent of the benefactor

The records document the intent of the benefactor to the effect that the economic benefactor and his three sons shall be financial beneficiaries (see also memo from Mr. Orvati dated 06.26.2001). No directions exist pertaining to desired succession of beneficiaries, different beneficiary proportions, time frames, or extent of benefit - with the exception of the stipulations of statutes and regulations. The existence of the intent of the benefactor, brought to written expression in the form of a Letter of Wishes (Side Letter, Record of Intent), does not appear in the files.

[logo]
LGT Trust

Memorandum for the File

3/4

4. Conclusion

The above-described foundation was structured in the form of a “**Discretionary Foundation**”, whereupon a Letter of Wishes is not present.

The statutory stipulations define a very far-reaching purpose and specify **no certain group of beneficiaries**, but rather refer to possible regulations and/or bylaws that regulate the proper benefit.

The existing **Regulations** prescribe clear proceedings with two divided realms of competence as well as certain requirements:

4.1. The **capacity of notification** rests with the Company, whereby no criteria were established for the selection of possible beneficiaries (“members of the class of distributees”). On the other hand, there are mandatory requisites for such a notification:

- Written Form
- Addressee is the Board of Trustees
- Company may not be directly or indirectly benefited
- Notification must be revocable (by written means)

Concerning the notifying Company, the following requisites are given:

- the Corporation must be a shareholder of the Company
- if several such holdings exist, then the notifying Company must be the last acquired before the notification

4.2. The **capacity for disbursement** was allotted completely and without restriction to the board of trustees (“absolute and uncontrolled discretion”).

5. Proceedings

5.1. In the case at hand, the following proceedings have already occurred:

- Circular resolution dated 06.25.2001, regarding a complete and final disbursement, to place the foundation in liquidation (since it can no longer fulfill the purpose of the foundation after this), and to bring all investments of assets into liquid form;
- Corresponding initiation at the custodial (for the depot) and asset-managing bank, the LGT Bank in Liechtenstein AG;
- Corresponding notice in writing from ÖRA as a foundation record

5.2. With regard to the above-listed disbursement, the following should be in our possession in writing:

- Letter of notification of the Company as listed above;

[logo]
LGT Trust

Memorandum for the File

4/4

- Legal verification from the Corporation attesting that it is a shareholder of the Company and that the Company is the holding last acquired before the date of notification;
- Proper verification attesting that the Company is neither directly nor indirectly benefited;
- (Formal) resolution of the board of trustees concerning the interpretation of the intent of the benefactor;
- Resolution of the board of trustees concerning the extent of the benefit and types of disbursement;
- Consent of the economic benefactor, inasmuch as he does not himself exclusively receive the complete benefit of the net assets of the foundation.

In conclusion and for the sake of completeness it is established that no immutable stipulation is specified in the effective regulations of the foundation, that that board of trustees can alter the statutes at any time according to Article 11 (of these statutes), and that it can alter, supplement, or revoke these according to Article 6 of the Regulations, whereby the intention of the benefactor as a rule must always be taken into consideration.

[signature]
Dr. Erik Müller



LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/3

Thema **Luperla Foundation, Vaduz**

Verfasser(in) / Tel. Dr. Erik Müller

Datum 17. Dezember 2001 / ssn

Zur Erledigung

Zur Kenntnisnahme Dr. K. Bächinger, Dr. N. Feuerstein

Im Hinblick auf die endgültige Ausschüttung des gesamten Stiftungsvermögens der Luperla Foundation sind folgende Voraussetzungen gemäss meinem Aktenvermerk vom 16.07.2001 zu erfüllen:

1. Notifikationsschreiben der Company;
2. Rechtsgültiger Nachweis der Corporation darüber, dass sie an der Company beteiligt ist und dass die Company die vor dem Notifikationsschreiben zuletzt erworbene Beteiligung ist;
3. Geeigneter Nachweis darüber, dass die Company nicht direkt oder indirekt begünstigt ist;
4. (Formeller) Stiftungsratsbeschluss über die Deutung des Stifterwillens;
5. Stiftungsratsbeschluss über Umfang der Begünstigung und Ausschüttungsmodalitäten;
6. Einverständnis des wirtschaftlichen Stifters, sofern er nicht selbst vollumfänglich in den Genuss des Stiftungseinkommens kommt.

Zu 6.: Das diesbezügliche Telefongespräch mit dem wirtschaftlichen Stifter und einem seiner Söhne geführt und /oder Joshua H. Gelbard, wird aufgenommen werden.

Zu 4. und 5.: Interne Dokumente, die noch erstellt werden.

Zu 1., 2. und 3.: Folgende Dokumente wurden am 14.12.2001 zur Prüfung vorgelegt:

Zur Beverly Park Corporation:

- Vollmacht vom 13.12.2001 von Beverly Park Corp. zu Gunsten von Joshua Gelbard im Namen derselben zu handeln, unterschrieben durch den Director Leon C. Janks (**Kopie**); **Original notwendig**.
- Notarielle Bestätigung vom 13.12.2001 über die Richtigkeit der Vollmacht vom 13.12.2001, wonach Leon C. Janks Director & Officer von Beverly Park Corp. ist (**Kopie**); **Original notwendig**.
- Passkopie Joshua Gelbard: Kopie ab Original bestätigt durch Dr. K. Bächinger;
- Certificate of Qualification vom 04.02.1997 betreffend Beverly Park Corp., unterschrieben vom Secretary of State of California (**Kopie**);

Permanent Subcommittee on Investigations

EXHIBIT #48

PSI-USMSTR - 008878



Aktenvermerk

2/3

- Bestätigung des Secretary of State (datiert vom 04.01.1997) über die Echtheit des Certificate of Incorporation betreffend Beverly Park Corp., die am 03.01.1997 ausgestellt wurde (Kopie);
- To whom it may concern, ausgestellt von Joshua Gelbard am 13.12.2001, wonach er bestätigt, dass sich die Beverly Park Corp. nach dem 24.07.2001 an keiner Gesellschaft beteiligt hat (Original; handschriftlich);
- ~~Certificate of Good Standing des Secretary of State vom 17.12.2001 zur Beverly Park Corp. (Kopie); **Original notwendig.**~~
- Opinion der Kanzlei Debevoise & Plimpton, New York, wonach Beverly Park Corp. "duly formed, validly existing and in good standing under the law of the states of Delaware" ist (Kopie); **Original notwendig.**

Zur Lonas Ltd., B.V.I.:

- Aktienzertifikat der Lonas Limited, B.V.I. (incorporated on 24.07.2001) (über eine Aktie à USD 1.--, Aktienzertifikat Nr. 1) vom 06.08.2001: Kopie ab Original bestätigt durch Dr. K. Bächinger;
- Certificate of the Registered Agent of Lonas Ltd., datiert vom 06.08.2001, wonach die Beverly Park Corp. eine Aktie in der Form des Zertifikats Nr. 1, ausgestellt am 06.08.2001, hält (Original);
- Deed of Appointment von Lonas Ltd. vom 24.07.2001 und unterschrieben vom Registered Agent, wonach Joshua H. Gelbard zum first sole Director der Lonas bestellt wird (Original);
- Memorandum of matters resolved by the company's sole director on the 06.08.2001, unterschrieben von Joshua H. Gelbard (Kopie);
- Certificate of Incorporation vom Gründungstag 24.07.2001 (Original);
- Memorandum and Articles of Association of Lonas Ltd., B.V.I., vom Gründungstag 24.07.2001 (Original).
- Auftrag von Lonas Ltd. (Notifikationsschreiben) vom 13.12.2001, unterschrieben von Joshua H. Gelbard, Sole Director bezüglich der Ausschüttung aller Stiftungsvermögenswerte (Original).

Aufgrund der oben beschriebenen Sachlage sind meines Erachtens folgende Dokumente im Original einzuholen, bevor die Ausschüttung vorgenommen wird:

- Certificate of Good Standing des Secretary of State vom 17.12.2001 zur Beverly Park Corp.;
- Opinion der Kanzlei Debevoise & Plimpton, New York, wonach Beverly Park Corp. "duly formed, validly existing and in good standing under the law of the states of Delaware" ist;
- Vollmacht vom 13.12.2001 von Beverly Park Corp. zu Gunsten von Joshua Gelbard im Namen derselben zu handeln, unterschrieben durch den Director Leon C. Janks;
- Notarielle Bestätigung vom 13.12.2001 über die Richtigkeit der Vollmacht vom 13.12.2001, wonach Leon C. Janks Director & Officer von Beverly Park Corp. ist;
- Geeigneter Nachweis darüber, dass die Company nicht direkt oder indirekt begünstigt ist; eine solche Bestätigung kann durch Joshua Gelbard in seiner Eigenschaft als Director der Lonas unter Verwendung des Firmenstempels ausgestellt werden.

PSI-USMSTR - 008875



Aktenvermerk

3/3

— = Redacted by the Permanent
Subcommittee on Investigations

Telefonat mit David Lowy vom 17.12.2001:

Ich informiere Herrn Lowy über die Notwendigkeit der oben aufgeführten Originaldokumente. Er teilt mir mit, dass er mit Ausnahme des ersterwähnten Certificate of Good Standing alle Dokumente Herrn Dr. Konrad Bächinger übermitteln werde. Die Notwendigkeit des besagten Certificate of Good Standing vom 17.12.2001 relativiert sich meines Erachtens, nachdem sich die zweitgenannte Legal Opinion auf dieses Certificate bezieht und das good standing der Beverly Park Corp. bestätigt.

Ich teile Herrn Lowy ferner mit, dass nach Erhalt der Originaldokumente die Ausschüttung vorgenommen werden könne. Die entsprechenden Beschlüsse werden unsererseits bereits vorbereitet.


Herr David Lowy ist unter der Nummer [REDACTED] (Israel) erreichbar.

Telefonkonferenz mit Dr. Konrad Bächinger und David Lowy vom 18.12.2001:

Der Nachweis darüber, dass die Lonas Ltd. weder direkt noch indirekt begünstigt ist, wurde uns per Fax (bestätigt und unterfertigt durch Joshua Gelbard in seiner Eigenschaft als Director) zugestellt und ist in Ordnung.

Zusätzlich zu den oben aufgeführten Dokumenten wird meinerseits ein Telefonat mit der Overseas Management Company (OMC) geführt und ein aktuelles Unterschriftenverzeichnis angefordert, aus dem die Unterschriftsberechtigung von Frau Geidis Dixon, die das Certificate of the Registered Agent und das Deed of Appointment von Joshua Gelbard als Director unterschrieben hat.

Abschliessend und im Hinblick auf die Ausführung des Vergütungsauftrags im Sinne des Notifikationsschreibens vom 13.12.2001 zeigt sich David Lowy damit einverstanden, sämtliche Fremdwährungskonten der Luperla in USD zu konvertieren und auf dem USD-Konto zusammenzuführen. Schliesslich zeigt er sich mit einer Pauschalfaktura der LGT Treuhand AG für alle Bemühungen im Zusammenhang mit der Liquidation, Endausschüttung und Löschung der Luperla Foundation in Höhe von CHF 25.000,- zuzüglich MWSt einverstanden.


Dr. Erik Müller

PSI-USMSTR - 008880

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Treuhand
Corporation
Stadtle 28
FL-9490 Vaduz
Principality of Liechtenstein
VAT-Nr. 50119

Telephone +423 235 27 27
Fax +423 235 27 15
Internet www.lgt.com/lgttreuhand
Email lgttrust@lgt.com

Memorandum for the File

1/3

Concerned Issues **Luperla Foundation, Vaduz**

Author / Tel. Dr. Erik Müller

Date 12.17.2001 / ssn

For Follow-Up

For the information of Dr. K. Bächinger, Dr. N. Feuerstein

In consideration of the final disbursement of the total foundation assets of the Luperla Foundation, the following prerequisites must be fulfilled according to my memo for the file dated 07.16.2001:

1. Notification letter of the company;
2. Legally valid authorization of the corporation attesting that it holds the company and that the company is the holding last acquired before the notification letter;
3. **Proper authorization that the company is not directly or indirectly benefited;**
4. (Formal) resolution of the board of trustees concerning the interpretation of the founder's intention;
5. Resolution of the board of trustees concerning the extent of benefit and the form of disbursements;
6. Consent of the economic benefactor, insofar as he himself does not exclusively benefit from the net assets of the foundation.

Pertaining to 6.: The telephone conversation in this regard will be taken up with the economic benefactor and one of his sons and/or Joshua H. Gelbard.

Pertaining to 4. and 5.: Internal documents, which still must be issued.

Pertaining to 1., 2., and 3.: The following documents were presented for review on 12.14.2001:

Pertaining to Beverly Park Corporation:

- Power of attorney dated 12.13.2001 from Beverly Park Corp. in favor of Joshua Gelbard to act in his own name, signed by the director Leon C. Janks (copy); *original is necessary*.
- Notarized certification dated 12.13.2001 attesting to the accuracy of the authorization dated 12.13.2001, which states that Leon C. Janks is director and officer of Beverly Park Corp. (copy); *original is necessary*.
- Copy of the passport of Joshua Gelbard: copy from the original certified by Dr. K. Bächinger;
- Certificate of Qualification dated 02.04.1997 regarding Beverly Park Corp., signed by the Secretary of State of California (copy);

[logo]
LGT Trust

Memorandum for the File

2/3

- Certification of the Secretary of State (dated 01.04.1997) attesting to the authenticity of the Certificate of Incorporation regarding Beverly Park Corp., which was issued on 01.03.1997 (**copy**);
- "To whom it may concern," issued by Joshua Gelbard on 12.13.2001, in which he specifies that the Beverly Park Corp. does not hold shares of any corporation after 07.24.2001 (original, hand-written);
- Certificate of Good Standing of the Secretary of State dated 12.17.2001 regarding Beverly Park Corp. (**copy**); *original is necessary*.
- Opinion of the office of Debevoise & Plimpton, New York, which states that Beverly Park Corp. is "duly formed, validly existing and in good standing under the law of the state of Delaware" (**copy**); *original is necessary*.

Pertaining to the Lonas Ltd., B.V.I.:

- Shares certificate of the Lonas Limited, B.V.I. (incorporated on 07.24.2001) (of a share at USD 1.00, shares certificate No. 1) dated 08.06.2001: copy from the original certified by Dr. K Bächinger;
- Certificate of the Registered Agent of Lonas Ltd., dated 08.06.2001, in which is stated that the Beverly Park Corp. holds a share in the form of the certificate No. 1, issued on 08.06.2001 (original);
- Deed of Appointment from Lonas Ltd. dated 07.24.2001 and signed by the registered agent, which states that Joshua H. Gelbard is appointed as first sole director of the Lonas (original);
- Memorandum of matters resolved by the company's sole director on 08.06.2001, signed by Joshua H. Gelbard (**copy**);
- Certificate of Incorporation from the day of founding, 07.24.2001 (original);
- Memorandum and Articles of Association of the Lonas Ltd., B.V.I., from the day of founding, 07.24.2001 (original);
- Mandate from Lonas Ltd. (notification letter) dated 12.13.2001, signed by Joshua H. Gelbard, sole director, regarding the disbursement of all assets of the foundation (original).

On the basis of the state of affairs as described above, it is my consideration that the following documents must be obtained in original form before the disbursement can be initiated:

- Certificate of Good Standing of the Secretary of State dated 12.17.2001 regarding Beverly Park Corp.;
- Opinion of the office of Debevoise & Plimpton, New York, which states that Beverly Park Corp. is "duly formed, validly existing and in good standing under the law of the state of Delaware";
- Power of attorney dated 12.13.2001 from Beverly Park Corp. in favor of Joshua Gelbard to act in his own name, signed by the director Leon C. Janks;
- Notarized certification dated 12.13.2001 attesting to the accuracy of the authorization dated 12.13.2001, which states that Leon C. Janks is director and officer of Beverly Park Corp.;
- Proper authorization that the company is not directly or indirectly benefited; such certification can be issued by Joshua Gelbard in his capacity as director of the Lonas through utilization of the stamp of the firm.

[logo]
LGT Trust

— = Redacted by the Permanent
Subcommittee on Investigations

Memorandum for the File

3/3

Telephone conversation with David Lowy dated 12.17.2001:

I inform Mr. Lowy of the importance of the above-listed documents in original form. He says to me that he will transmit all documents to Dr. Konrad Bächinger with the exception of the first Certificate of Good Standing. The necessity of the aforementioned Certificate of Good Standing dated 12.17.2001 becomes relative in my consideration, especially because the second-named legal opinion pertains to this certificate and \certifies the good standing of the Beverly Park Corp.

I communicate to Mr. Lowy that the disbursement can be initiated after receipt of the original documents. The appropriate resolutions are already being prepared on our part.

Mr. David Lowy is attainable at the number [REDACTED] (Israel).

Telephone conference with Dr. Konrad Bächinger and David Lowy dated 12.18.2001:

The verification that the Lonas Ltd. is neither directly nor indirectly benefited was delivered to us per fax (certified and signed by Joshua Gelbard in his capacity as director) and is satisfactory.

In addition to the documents listed above, a telephone conversation is taken up with the Overseas Management Company (OMC) on my part and a current list of authorized signatories is requested, on which [appears] the signatory rights of Ms. Geidis Dixon, who undersigned the Certificate of the Registered Agent and the Deed of Appointment of Joshua Gelbard as director.

Lastly, and in view of the execution of the authorized payment order along the terms of the notification letter from 12.13.2001, David Lowy states that he gives consent to convert all foreign-currency accounts of the Luperla to USD and to collect them in the USD account. Subsequently, he agrees to a flat fee of the LGT Trust Corp. for all endeavors associated with the liquidation, final disbursement, and dissolution of the Luperla Foundation in the amount of CHF 25,000.-- in addition to value-added tax.

[signature]
Dr. Erik Müller



LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/2

Thema **Luperla Foundation, Vaduz**
Verfasser(in) / Tel. Dr. Erik Müller
Datum 18. Dezember 2001 / ssn
Zur Erledigung
Zur Kenntnisnahme Dr. K. Bächinger, Dr. N. Feuerstein

Telefonat mit Dr. Konrad Bächinger und David Lowy vom 18.12.2001:

Der Nachweis darüber, dass die Lonas Ltd. weder direkt noch indirekt begünstigt ist, wurde uns heute per Fax (bestätigt und unterfertigt durch Joshua Gelbard in seiner Eigenschaft als Director) zugestellt und ist in Ordnung.

Zusätzlich zu den in meinem gestrigen Aktenvermerk aufgeführten Dokumenten wird ein Telefonat mit der Overseas Management Company geführt und ein aktuelles Unterschriftenverzeichnis angefordert, aus dem die Unterschriftsberechtigung von Frau Geidis Dixon, die das Certificate of the Registered Agent und das Deed of Appointment von Joshua Gelbard als Director unterschrieben hat.

David Lowy wird über Joshua Gelbard OMC informieren lassen, dass wir mit ihnen in Kontakt treten werden, um die Frage der zeichnungsberechtigten Personen der OMC zu klären.

Am 18.12.2001 bei uns eingelangte Dokumente:

Faxmitteilung von Joshua Gelbard mit den Koordinaten von Frau Geidis Dixon (OMC) unter Beilage eines Faxes an Frau Dixon, wonach er sie über unsere bevorstehende Kontaktaufnahme informiert und diese beauftragt, uns umfassend Auskunft zu erteilen.

Telefonat mit Frau Geidis Dixon von OMC vom 18.12.2001 (ca. 15.00h MEZ):

Nach einem Telefonat mit Frau Dixon sendet übermittelt mir diese eine List of Authorized Signatories for Overseas Management Company Trust (B.V.I.) Ltd.

Ich stelle fest, dass diese lediglich vom Director der OMC unterschrieben ist, ohne Beglaubigung.



PSI-USMSTR - 008873



Aktenvermerk

2/2

Telefonat mit Frau Dixon vom 18.12.2001 (ca 20.30h MEZ):

Ich teile Frau Dixon mit, dass wir eine beglaubigte Version des Unterschriftenverzeichnisses benötigen, verbunden mit dem Nachweis über ein öffentlich nachgewiesenes Zeichnungsrecht.

Sie wird uns diese per Fax zusenden; das Original soll per Kurier folgen.


Dr. Erik Müller

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein
VAT-No. 50119

Telephone: +423 235 27 27
Telefax: +423 235 27 15
Internet:
www.lgt.com/igttreuhand
E-Mail: lgttrust@lgt.com

Memorandum for the Record

1/2

Subject: Luperla Foundation, Vaduz

Compiler / Tel.: Dr. Erik Müller

Date: Dec. 18, 2001 / ssn

For action:

Cc: Dr. K. Bächinger, Dr. N. Feuerstein

Phone conversation with Dr. Konrad Bächinger and David Lowy of Dec. 18, 2001:

The confirmation that Lonas Ltd. is not benefited directly or indirectly was sent to us today by fax (confirmed and signed by Joshua Gelbard in his capacity as director) and deemed to be in order.

In addition to the documents listed in my memo of yesterday, a phone conversation is conducted with Overseas Management Company and a current signature directory requested, from which the signatory authorization of Ms. Geidis Dixon [word missing], who has signed the Certificate of the Registered Agent and the Deed of Appointment from Joshua Gelbard as director.

David Lowy will have OMC informed via Joshua Gelbard that we will get in touch with them in order to clarify the question of the persons who have signatory rights for OMC.

Documents received by us on Dec. 18, 2001:

Fax from Joshua Gelbard with information on Ms. Geidis Dixon (OMC) with enclosure of a fax to Ms. Dixon, in which he informs her of our upcoming approach and instructs her to give us comprehensive information.

Phone conversation with Ms. Geidis Dixon of OMC of Dec. 18, 2002 (around 3 p.m. Middle European Time):

After the phone call with Mr. Dixon, she sends me a List of Authorized Signatories for Overseas Management Company Trust (B. V. 1.) Ltd.

I discover that it is signed merely by the OMC director, without notarization.

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

Memorandum for the Record

2/2

Phone conversation with Ms. Dixon of Dec. 18, 2001 (around 8:30 p.m. Middle European Time):

I inform Ms. Dixon that we need a notarized version of the signature directory, connected with confirmation of a publicly verified signatory right.

She will send us these by fax; the original is to follow by courier.

[signed]

Dr. Erik Müller



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/3

Thema **Luperla Foundation, Vaduz**
Verfasser(in) / Tel. Dr. Erik Müller
Datum 20. Dezember 2001 / ssn
Zur Erledigung
Zur Kenntnisnahme Dr. K. Bächinger, Dr. N. Feuerstein

E-mail an Frau Dixon (OMC) vom 19.12.2001

zur Erinnerung, uns ehestmöglich das gewünschte Unterschriftenverzeichnis im voraus per Fax und anschliessend per Kurier zuzustellen (unter Angabe der Adresse).

Prüfung der am 18.12.2001 Herrn Dr. Konrad Bächinger an seine Privatadresse persönlich überbrachten (bei uns am 19.12. eingelangten) Originaldokumente:

Zur Beverly Park Corporation:

- Vollmacht vom 13.12.2001 von Beverly Park Corp. zu Gunsten von Joshua Gelbard im Namen derselben zu handeln, unterschrieben durch den Director Leon C. Janks (Kopie war bereits vorhanden; siehe AV vom 17.12.2001);
- Notarielle Bestätigung vom 13.12.2001 über die Richtigkeit der Vollmacht vom 13.12.2001, wonach Leon C. Janks Director & Officer von Beverly Park Corp. ist (Kopie war bereits vorhanden; siehe AV vom 17.12.2001);
- Certificate of Qualification vom 04.02.1997 betreffend Beverly Park Corp., unterschrieben vom Secretary of State of California (Kopie war bereits vorhanden; siehe AV vom 17.12.2001);
- Certificate of Good Standing des Secretary of State vom 24.03.1997 zur Beverly Park Corp. (die bereits vorhandene Kopie datiert zwar vom 17.12.2001, deren Richtigkeit wird jedoch von der Kanzlei Debevoise & Plimpton, N.Y. bestätigt; siehe unten);
- Opinion der Kanzlei Debevoise & Plimpton, New York, wonach Beverly Park Corp. "duly formed, validly existing and in good standing under the law of the states of Delaware" ist (Kopie war bereits vorhanden; siehe AV vom 17.12.2001);
- Certificate of Amendment of Beverly Park Corporation vom 19.03.1997 (betreffen Kapitalerhöhung) sowie Certificate of Incorporation vom 03.01.1997 in Kopie.

Zur Lonas Ltd., B.V.I.:

- der bereits per Fax übermittelte Nachweis darüber, dass die Lonas Ltd. weder direkt noch indirekt begünstigt ist, (bestätigt und unterfertigt durch Joshua Gelbard in seiner Eigenschaft als Director).

Permanent Subcommittee on Investigations

EXHIBIT #50

PSI-USMSTR - 008875



Aktenvermerk

2/3

Damit sind die im Original erforderlichen Dokumente, die gemäss AV vom 17.12.2001 einzuholen waren, bevor die Ausschüttung vorgenommen wird, eingelangt.

Telefonkonferenz mit Dr. Konrad Bächinger und David Lowy vom 19.12.2001:

Die Telefonkonferenz wird aufgenommen und anschliessend auf Band zur Aufbewahrung im Akt überspielt.

Wir informieren David Lowy über das Ergebnis unserer Prüfung obgenannter Dokumente:

Die Legal Opinion der Kanzlei Debevoise & Plimpton liegt zwar im Original vor, jedoch ist nicht ersichtlich, welche Person diese ausgestellt hat, da kein Kurzzeichen vorhanden und Unterschrift handschriftlich unter dem Titel "Debevoise & Plimpton" erfolgt ist.

David Lowy wird veranlassen, dass Kanzleipartner Peter R. Schwartz eine spezielle Bestätigung ausstellt, wonach er selbst die besagte Legal Opinion ausgefertigt hat.

Ferner teilen wir David Lowy mit, dass die List of Authorized Signatories von OMC noch nicht eingetroffen ist. David Lowy wird sich darum kümmern.

Abschliessend wiederholt Dr. Konrad Bächinger den Auftrag von Joshua Gelbard zur Vergütung/Ausschüttung des Stiftungsvermögens auf zwei verschiedene Genfer Bankverbindungen im Verhältnis 60:40. Neben der mündlichen Bestätigung von David Lowy betreffend die Richtigkeit des Auftrags gibt David Lowy sein Einverständnis dazu, dass die Familie Lowy selbst im Rahmen der beauftragten Transaktion nicht direkt begünstigt wird.

Die aufgenommenen Bänder werden im Gesellschaftsakt aufbewahrt.

Am 19.12.2001 bei uns eingelangte Dokumente:

- Schriftliche Faxbestätigung von Peter R. Schwarz, wonach er Partner von Debevoise & Partner ist, die legal opinion selbst unterfertigt hat und dazu legitimiert ist;
- Faxbestätigung von J. Gelbard, wonach die Lonas Ltd. die jüngste Beteiligung der Beverly Park Corporation ist;
- List of Authorized Signatories legalized by Apostille per Fax (Original folgt per Kurier);

Telefonat mit Dr. Konrad Bächinger vom 19.12.2001:

Wir werden die Originalunterschriftenliste abwarten bevor wie die Vergütung veranlassen, was ich auch David Lowy mitteile. Die übrigen Unterlagen sind vollständig vorhanden; über Sabrina Venturi, Niederlassung Lugano, die mehrere Jahre bei Morgan & Morgan gearbeitet hat erfahre ich, das OMC eine effektiv tätige Treuhandgesellschaft ist.



Aktenvermerk

3/3

Kurier vom 20.12.2001:

Wie vereinbart erhalten wir die Originalunterschriftenliste von OMC, notariell beglaubigt und apostilliert. Damit sind alle erforderlichen Dokumente im Original vorhanden.

Telefonat mit David Lowy vom 20.12.2001:

Ich bestätige den Erhalt der Dokumente und die Ausführung der Transaktion, die er mir nochmals bestätigt.

A handwritten signature in black ink, appearing to read 'Dr. Erik Müller'.
Dr. Erik Müller

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Treuhand
Corporation
Städle 28
FL-9490 Vaduz
Principality of Liechtenstein
VAT-No. 50119

Telephone +423 235 27 27
Fax +423 235 27 15
Internet www.lgt.com/lgttreuhand
Email lgttrust@lgt.com

Memorandum for the File

1/3

Concerned Issues **Luperla Foundation, Vaduz**

Author / Tel. Dr. Erik Müller

Date 12.20.2001 / ssn

For Follow-Up

For the information of Dr. K. Bächinger, Dr. N. Feuerstein

Email to Ms. Dixon (OMC) dated 12.19.2001

as a reminder to provide us with the requested list of authorized signatories as soon as possible per fax and subsequently per courier (under the address specified).

Review of the original documents personally delivered to Dr. Konrad Bächinger at his private address on 12.18.2001 (delivered to us 12.19):

Pertaining to the Beverly Park Corporation:

- Power of attorney dated 12.13.2001 from Beverly Park Corp. in favor of Joshua Gelbard to act under his own name, signed by the director, Leon C. Janks (copy was already available, see memo dated 12.18.2001);
- Notarized certification dated 12.13.2001 attesting to the accuracy of the authorization dated 12.13.2001, according to which Leon C. Janks is the director and officer of the Beverly Park Corp. (copy was already available, see memo dated 12.17.2001);
- Certificate of Qualification dated 02.04.1997 regarding Beverly Park Corp. signed by the Secretary of State of California (copy was already available, see memo dated 12.17.2001);
- Certificate of Good Standing of the Secretary of State dated 03.24.1997 regarding Beverly Park Corp. (the already available copy actually dates from 12.17.2001, but its accuracy is certified by the offices of Debevoise & Plimpton, N.Y.: see below);
- Opinion of the office of Debevoise & Plimpton, New York, which reads that Beverly Park Corp. is "duly formed, validly existing and in good standing under the law of the state of Delaware" (copy was already available, see memo dated 12.17.2001);
- Certificate of Amendment of Beverly Park Corporation dated 03.19.1998 (concerning increase in capital) as well as Certificate of Incorporation in copy form dated 01.03.1997.

Pertaining to the Lonas Ltd., B.V.I.:

- the already transmitted authentication that the Lonas Ltd. is neither directly nor indirectly benefited (certified and signed by Joshua Gelbard in his capacity as director).

[logo]
LGT Trust

Memorandum for the File

2/3

Hereby the originals of the required documents have arrived; they needed to be obtained according to the memo dated 12.17.2001 before the disbursement could be effected.

Telephone conference with Dr. Konrad Bächinger and David Lowy dated 12.19.2001:

The telephone conference commences and is subsequently stored by recording on electronic tape.

We inform David Lowy of the result of our review of the above-named documents.

The legal opinion of the office of Debevoise & Plimpton does appear in the original, but it is not apparent which person issued it since no department code can be seen, nor does there appear a hand-written signature under the title "Debevoise & Plimpton."

David Lowy will order that his colleague Peter R. Schwartz issue a special certificate in which he himself will sign the legal opinion in question.

Further, we tell David Lowy that we still do not have the List of Authorized Signatories from OMC in our possession. David Lowy will look into this.

In closing, Dr. Konrad Bächinger brings up the order from Joshua Gelbard for the payment/disbursement of the foundation assets to two separate bank connections in Geneva in the ratio of 60:40. Besides verbal attestation to the accuracy of the order, David Lowy gives his consent that the Lowy family itself not be directly benefited in the framework of the commissioned transactions.

The recorded electronic tape is stored in the corporation's file.

Documents arriving to us on 12.19.2001:

- Written fax certificate from Peter R. Schwarz which states that he is a partner of Debevoise & Plimpton; also included is the legal opinion that he has personally signed, which authorizes it;
- Fax certificate from J. Gelbard which states that the Lonas Ltd. is the most recently holding of the Beverly Park Corporation;
- List of Authorized Signatories legalized by apostille per fax (original arrives per courier).

Telephone conversation with Dr. Konrad Bächinger dated 12.19.2001:

We will wait for the original authorized signatory list before we initiate the payment, which I also say to David Lowy. The other documents are all available; I learn that OMC is an effective trust corporation from Sabrina Venturi, at the Lugano branch, who has worked for several years with Morgan & Morgan.

[logo]
LGT Trust

Memorandum for the File

3/3

Courier dated 12.20.2001:

As arranged, we receive the original list of authorized signatories from OMC, certified by notary and apostillized. Herewith all required documents are in our possession in original form.

Telephone conversation with David Lowy dated 12.20.2001:

I certify the receipt of the documents and the execution of the transactions, which he authorizes for me once more.

[signature]
Dr. Erik Müller

Form 4564	Department of the Treasury Internal Revenue Service Information Document Request	Request Number 1
To: (Name of Taxpayer and Company, Division or Branch)	Subject: Form 1120 - 200506	
Beverly Park Corporation 10990 Wilshire Blvd, Suite 1600 Los Angeles, CA 90024	Submitted to: Beverly Park Corporation	
	Dates of Previous Requests: None	

Description of Documents Requested:

Background Information

- A worldwide organization chart listing all related entities, including foreign and domestic, in existence in 2004 and 2005, where ownership of each entity is 5% or greater (directly and indirectly), including, but not limited to Cordera Holding (Sydney, Australia). This chart should include:
 - Entity name,
 - Entity address,
 - Entity type (i.e. partnership, sole proprietor, corporation, trust, joint venture, limited liability company, branches, etc.),
 - Percentage of ownership,
 - Date of formation,
 - Country of formation, and
 - Business activity.
 This chart should also indicate names and address of individual shareholders or owners which own at least 5% (directly and indirectly) of these related entities.
- Corporate By-Law for Beverly Park Corp ✓
- Articles of Incorporation for Beverly Park Corp ✓
- Corporate minutes from date of inception 3/25/97 to fiscal year ended 200706. ✓
- Copies of Beverly Park's Corp's income tax return for 200406, 200606 and 200706. ✓
- All loan agreements in existence in 200506 ✓
- All bank statements, including but not limited to, checking and savings, from April 1, 2005 to July 31, 2006.
- All brokerage statements, from April 1, 2005 to July 31, 2006.
- Copies of resolution from Board of director naming the person authorized to draw checks on the bank account.

Please be advised that we may require additional information and documents as we determine necessary as the examination progresses.

Information Due By		Nov. 26, 2007	At Next Appointment	X	Mail In
FROM	Name and Title of Requestor	Employee ID		11/1/2007	
	Internal Revenue Agent				
	Office Location:	Phone:	Fax:		

Form 4564 (Rev. 04/2004)

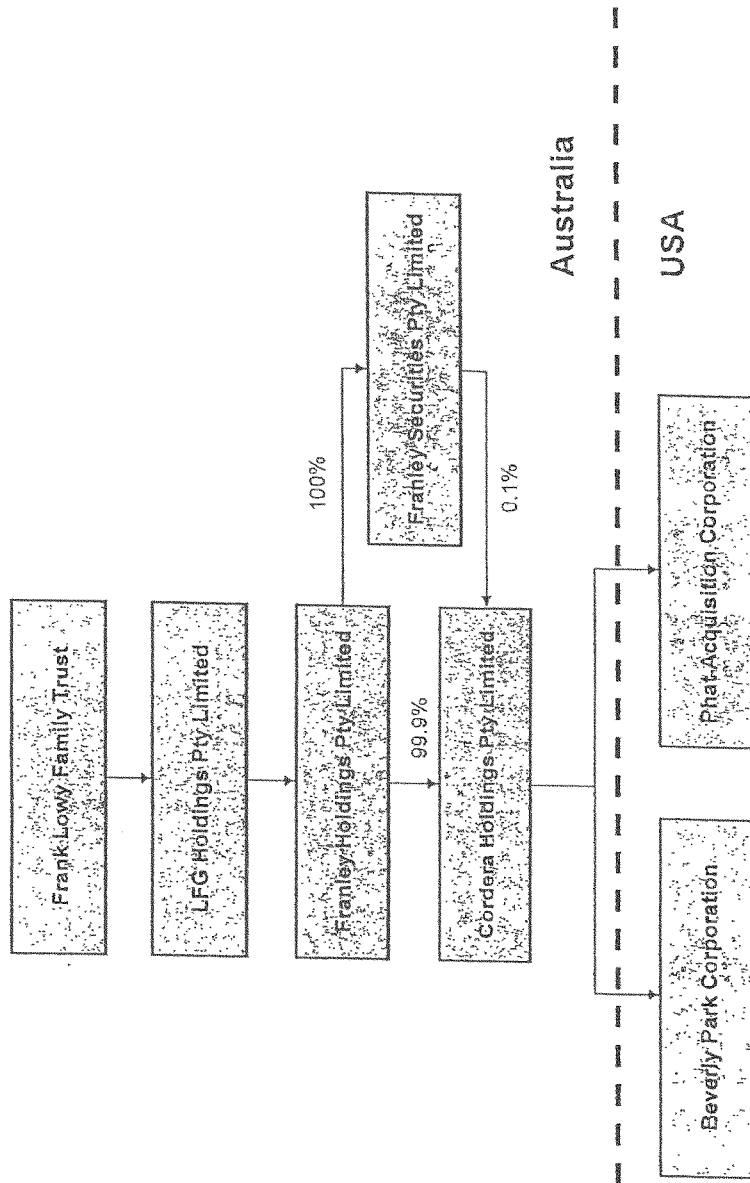
Page 1

Worksheet #: 610-

Permanent Subcommittee on Investigations

EXHIBIT #51

LOWY-PSI-000035
CONFIDENTIAL



K0006 - BPC

LOWY-PSI-000036
CONFIDENTIAL

CORDERA HOLDINGS PTY LIMITED
(Incorporated in New South Wales)
A.C.N. 000 699 249
24th Floor
100 William Street
SYDNEY NSW 2011
Tel: 61 2 9358 7180
Fax: 61 2 9358 7015

21 March 1997


Mr Peter Lowy
President
Beverly Park Corporation
12th Floor
11601 Wilshire Boulevard
Los Angeles CA 90025
USA

By Fax: 1 310 478 4519

Dear Mr Lowy

Cordera Holdings Pty Limited hereby offers to subscribe for 11,489 shares of the authorised common shares par value \$0.01 each of Beverly Park Corporation for an issuance price of US\$1,000 per share. Please advise if acceptable, and we will wire funds for value March 25, 1997.

Very truly yours
CORDERA HOLDINGS PTY LIMITED

by: 
P S SEDDON
SECRETARY

LIST OF OFFICERS/DIRECTORS

**NOTE: DISTRIBUTION OF THIS PAGE TO THE FOLLOWING ONLY:
RICHARD GREEN, PETER LOWY, IRV HEPNER, MARK STEFANEK, ROGER PORTER,
ARTHUR SCHRAMM**

Beverly Park Corporation

Officers

<i>Peter S. Lowy</i>	<i>President</i>
<i>Richard E. Green</i>	<i>Vice President</i>
<i>Mark A. Stefanek</i>	<i>Treasurer and Secretary</i>
<i>Leon Janks</i>	<i>Assistant Secretary</i>

Directors

Peter S. Lowy
Richard E. Green
Arthur E. Schramm

Executive Committee

None

IDR 22-1: Please have Peter Lowy, Director, complete the attached questionnaire regarding foreign bank accounts and foreign entities. Please have him sign the questionnaire and initial each page.

1. I was appointed President and a Director of Beverly Park Corporation (the "Company") on January 3, 1997.
2. I have not been personally involved with the Company's day-to-day operations.
3. I do not have sufficient personal knowledge to complete the questionnaire attached to this IDR and have asked Leon Janks, who has been the Secretary of the Company since November 30, 2001, to inquire into the matters raised.
4. Mr. Janks has done so, and the response to IDR 23-1 contains all relevant information he is able to provide to the questions presented.
5. I have reviewed Mr. Janks's response to IDR 23-1 and have no reason to doubt the accuracy of any of the facts stated therein.

Dated: January 28, 2008


Peter S. Lowy

LOWY-PSI-001975
CONFIDENTIAL

Permanent Subcommittee on Investigations

EXHIBIT #52

IDR 23-1: Please have Leon Janks, Director, complete the attached questionnaire regarding foreign bank accounts and foreign entities. Please have him sign the questionnaire and initial each page.

Since October 1, 1998, my firm, Green, Hasson & Janks LLP, has handled the books and records for Beverly Park Corporation (the "Company"). I became the Assistant Secretary of the Company on February 22, 1999, and I became a Director and Vice President, Treasurer, and Secretary on November 30, 2001. For the period of time beginning October 1, 1998, through the present, I have no recollection of the Company or its subsidiaries having any legal or beneficial interest in, or of the Company, its subsidiaries, officers, employees, or agents having any direct or indirect signature, management, investment, or other authority over any foreign bank accounts, brokerage accounts, or mutual funds as described in Part I or Part II of the questionnaire attached to this IDR. Similarly, for the period of time beginning October 1, 1998, through the present, I have no recollection of the Company or its subsidiaries having any legal or beneficial interest in, or of the Company, its subsidiaries, officers, employees, or agents having any direct or indirect signature, management, investment, or other authority over any foreign entities, trusts, corporations, partnerships, or foundations as described in Part III or Part IV of the questionnaire attached to this IDR.

In December 2001, the Company granted a power of attorney to an Israeli lawyer, Mr. Joshua Gelbard of Gelbard, Amit, Wexler, who I understand was completing certain formalities concerning the wind-up of an overseas entity associated with the parent of the Company. I was not directly involved in any of the activities undertaken by Mr. Gelbard, but it is my understanding that the Company was not associated with the overseas entity and had no financial interest in the wind-up.

For the period of time between January 3, 1997, when the Company was incorporated, and September 30, 1998, I have reviewed the books and records of the Company that are in the care, custody, and control of Green, Hasson & Janks LLP. From that review, I have found no indication of the Company or its subsidiaries having any legal or beneficial interest in, or of the Company, its subsidiaries, officers, employees, or agents having any direct or indirect signature, management, investment, or other authority over any foreign bank accounts, brokerage accounts, or mutual funds as described in Part I or Part II of the questionnaire attached to this IDR. Similarly, based upon my review of the books and records of the Company for that period of time, I have found no indication of the Company or its subsidiaries having any legal or beneficial interest in, or of the Company, its subsidiaries, officers, employees, or agents having any direct or indirect signature, management, investment, or other authority over any foreign entities, trusts, corporations, partnerships, or foundations as described in Part III or Part IV of the questionnaire attached to this IDR.

Leon Janks



Dated: January 28, 2008

LOWY-PSI-001976
CONFIDENTIAL

IDR 1-2

Please indicate who owns Frank Lowy Family Trust and % of ownership.

The Frank Lowy Family Trusts described in the organization chart provided on November 26, 2007, is a reference to the Australian discretionary trusts of Frank Lowy, which together own all of the interests in LFG Holdings Pty Limited. Each has its own tax identification number provided by the Australian Taxation Office. Each of the family discretionary trusts was established more than 20 years ago, and provides for a class of potential beneficiaries who may benefit at the discretion of the trustee. No person has a fixed or other absolute interest, or percentage ownership, in the trust assets.

The trusts were each established under Australian law and are recognized in Australia as discretionary trusts, with no fixed owners. The trustee of each of the discretionary family trusts is an Australian corporation.

Please indicate whether Beverly Park Corporation and [REDACTED] Corporation owns any entities.

Beverly Park Corporation (the "Company") did not and does not own any entities. [REDACTED] prior to its liquidation, did own stock in each of the following entities:

[REDACTED]
[REDACTED]

**Redacted
by
Permanent Subcommittee
on Investigations**



State of Delaware

The Official Website for the First State

[Visit the Governor](#) | [General Assembly](#) | [Courts](#) | [Other Elected Officials](#) | [Federal, State & Local Sites](#)

[State Directory](#) | [Help](#) | [Search Delaware](#)

[Citizen Services](#) | [Business Services](#) | [Visitor Info.](#)

Department of State: Division of Corporations

HOME

[About Agency](#)
[Secretary's Letter](#)
[Newsroom](#)
[Frequent Questions](#)
[Related Links](#)
[Contact Us](#)
[Office Location](#)

SERVICES

[Pay Taxes](#)
[File UCC's](#)
[Delaware Laws Online](#)
[Name Reservation](#)
[General Information](#)
[Status](#)
[Validate Certificate](#)

INFORMATION

[Corporate Forms](#)
[Corporate Fees](#)
[UCC Forms and Fees](#)
[UCC Searches](#)
[Taxes](#)
[Expedited Services](#)
[Service of Process](#)
[Registered Agents](#)
[Get Corporate Status](#)
[Submitting a Request](#)

[Frequently Asked Questions](#) | [View Search Results](#)

Entity Details

THIS IS NOT A STATEMENT OF GOOD STANDING

File Number: 2282071 **Incorporation Date /** 12/17/1991
Formation Date: (mm/dd/yyyy)
Entity Name: BEVERLY PARK CORP.
Entity Kind: CORPORATION **Entity Type:** GENERAL
Residency: DOMESTIC **State:** DE

REGISTERED AGENT INFORMATION

Name: THE CORPORATION TRUST COMPANY
Address: CORPORATION TRUST CENTER 1209 ORANGE STREET
City: WILMINGTON **County:** NEW CASTLE
State: DE **Postal Code:** 19801
Phone: (302)658-7581

Additional information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

Would you like ☐ Status ☐ Status, Tax & History Information

[Back to Entity Search](#)

To contact a Delaware Online Agent [click here](#).

[site map](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)

Permanent Subcommittee on Investigations

EXHIBIT #53



State of Delaware

The Official Website for the First State

[Visit the Governor](#) | [General Assembly](#) | [Courts](#) | [Other Elected Officials](#) | [Federal, State & Local Sites](#)

[State Directory](#) | [Help](#) | [Search Delaware](#)

[Citizen Services](#) | [Business Services](#) | [Visitor Info.](#)

Department of State: Division of Corporations

HOME

[About Agency](#)
[Secretary's Letter](#)
[Newsroom](#)
[Frequent Questions](#)
[Related Links](#)
[Contact Us](#)
[Office Location](#)

SERVICES

[Pay Taxes](#)
[File UCC's](#)
[Delaware Laws Online](#)
[Name Reservation](#)
[General Information](#)
[Status](#)
[Validate Certificate](#)

INFORMATION

[Corporate Forms](#)
[Corporate Fees](#)
[UCC Forms and Fees](#)
[UCC Searches](#)
[Taxes](#)
[Expedited Services](#)
[Service of Process](#)
[Registered Agents](#)
[Get Corporate Status](#)
[Submitting a Request](#)

[Frequently Asked Questions](#) | [View Search Results](#)

Entity Details

THIS IS NOT A STATEMENT OF GOOD STANDING

File Number: 2702491 **Incorporation Date / Formation Date:** 01/03/1997 (mm/dd/yyyy)
Entity Name: BEVERLY PARK CORPORATION
Entity Kind: CORPORATION **Entity Type:** GENERAL
Residency: DOMESTIC **State:** DE

REGISTERED AGENT INFORMATION

Name: THE CORPORATION TRUST COMPANY
Address: CORPORATION TRUST CENTER 1209 ORANGE STREET
City: WILMINGTON **County:** NEW CASTLE
State: DE **Postal Code:** 19801
Phone: (302)658-7581

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

Would you like ☐ Status ☐ Status, Tax & History Information

[Back to Entity Search](#)

To contact a Delaware Online Agent [click here](#).

[site map](#) | [about this site](#) | [contact us](#) | [translate](#) | [delaware.gov](#)



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 18+22
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/3

Thema **MAVERICK FOUNDATION**

Verfasser(in) / Tel. Christina Meusbürger

Mit Pius besprochen.

Datum 27. März 2001

28.3.01

Zur Erledigung Dagmar Gächter

Zur Kenntnisnahme Dr. Pius Schlachter

Zeit und Ort der Besprechung

Freitag, 23 März 2001, 10:00 bis 15:30 Uhr, LGT Bank in Liechtenstein AG, Vaduz

Anwesende

Harvey Greenfield (Erstbegünstigter der Maverick Foundation)
Steven David Greenfield (Zweitbegünstigter und Instruktionsberechtigter der Maverick Foundation)
Dr. Henry Leimer (HL)
Gerhard Walch (GW)
S.D. Prinz Philip von und zu Liechtenstein (teilweise)
Christina Meusbürger

BESPRECHUNGSPUNKTE

1. Allgemeines

Die Maverick Foundation wurde im Januar 1992 gegründet. Derzeit befinden sich in der Maverick Foundation rund USD 2.2 Mio. Weiters hält die Maverick Foundation zwei BVI Companies. Beide wurden im Januar 1992 mit dem Zweck gegründet, die Vermögenswerte in die Maverick Foundation einzuschleusen. Anschliessend sollten beide BVI Companies geschlossen werden, was bis heute nicht passiert ist.

Neben der Maverick Foundation verfügt der Kunde über einen Trust mit der Bank of Bermuda in Hong Kong. In diesem Trust befinden sich Vermögenswerte im Ausmass von rund USD 30 Mio. Der Kunde als Erstbegünstigter und seine Kinder die Zweitbegünstigten der Maverick Foundation sind, sind US Passport Holders und leben zum Teil in New York. Die Begünstigtenregelung für den Trust, den der Kunde mit der Bank of Bermuda hält, dürften ähnlich gelagert sein wie in der Maverick Foundation. Die Bank of Bermuda hat gegenüber dem Kunden signalisiert, dass sie die Geschäftsbeziehung mit ihm als US-Persons beenden möchte. Aufgrund dieser Umstände ist der Kunde nun auf der Suche nach einem Safe Heaven für sein Offshore Assets. Neben den bankable As

Gesellschaften gehalten, die

Permanent Subcommittee on Investigations

EXHIBIT #54



Aktenvermerk

2/3

operativ tätig sind. Es ist jedoch beabsichtigt, diese Gesellschaften demnächst zu schliessen.

Es folgt eine lange Diskussion über den Bankplatz Liechtenstein, das Bankgeheimnis sowie die Sicherheit und Stabilität, die Liechtenstein als Bankplatz und souveräner Staat seinen Kunden gewährleisten kann. Von Seiten der Bank und insbesondere von HL wird grosser Interesse signalisiert, die 30 Mio USD entgegenzunehmen. Die Investitionsseite scheint nicht vollständig abgeklärt zu sein. Es wird gegenüber dem Kunden zwar klargestellt, dass er als US-Person nicht direkt in US-Securities investieren kann. Die Möglichkeit in Fonds zu investieren, wird jedoch nicht ausgeschlossen. Meines Wissens gibt es eine Entscheidung der Generaldirektion der LGT Bank in Liechtenstein AG, nach der LGT-in house Fonds US-Persons nicht angeboten werden. Damit bliebe die Möglichkeit in andere Offshore Fonds zu investieren, wobei diese grossteils für US-Persons nicht zugänglich sind.

2. Struktur

Die Maverick Foundation wurde seinerzeit als Stiftung mit Mandatsvertrag gegründet. Ich zeige die Nachteile, die der Mandatsvertrag für den Kunden bewirken kann auf. Der Kunde kann meiner Argumentation folgen und ist schliesslich der Meinung, dass wir diesen Mandatsvertrag auflösen müssten, wobei ich auch auf die mit der Auflösung des Mandatsvertrages verbundenen höheren Kosten für die Stiftung aufmerksam mache. Die beiden BVI-Gesellschaften sollen bis auf weiteres erhalten bleiben. Möglicherweise können sie wieder zur Einschleusung von Vermögenswerten in die Maverick Foundation Verwendung finden.

3. Vermögensstatus und Belegexemplare

Der Kunde zeichnet den Vermögensstatus per 31.12.1999 und 31.12.2000 ab. Weigert sich jedoch verschiedene Belegexemplare abzuzeichnen, da diese ja ohnehin durch die Abzeichnung der Vermögensstati erledigt seien. Ich gebe zu bedenken, dass wir aufgrund des Mandatsvertrages nur seine Weisungen ausführen und er uns dies durch seine Unterschrift auf den Belegexemplaren zu dokumentieren habe. Dennoch unterzeichnet der Kunde die Belegexemplare nicht.

4. Weiteres Vorgehen

Der Instruktionsberechtigte wird Ende April in Hong Kong sein. Ich biete an, dass ich ihn bei dieser Gelegenheit, da ich ja voraussichtlich Ende April ebenfalls in Hong Kong sein werde, treffen kann. Bis dann will sich der Instruktionsberechtigte entscheiden, ob und in welcher Form eine Übertragung des derzeit im Trust befindlichen Vermögens in die Maverick Foundation vor sich gehen soll. Als Alternativen habe ich folgendes aufgezeigt:

- Ausschüttung der Vermögenswerte aus dem Trust und anschliessende Widmung an die Maverick Foundation (unter Zwischenschaltung der BVI Companies)
- Übernahme des Trusts durch LGT Trust Management Ltd. als neuer Trustee



Aktenvermerk

3/3

5. Schlussbemerkung

Die Kunden sind sehr vorsichtig und bestrebt den Trust mit der Bank of Bermuda unter Hinterlassung so weniger Spuren wie möglich aufzulösen. Auch von anderen Institutionen wurde ihnen signalisiert, dass US-Persons nicht die Kunden sind, die man sich in Offshore-Business wünscht.

Für mich war dieses Meeting ein anschauliches Beispiel dafür, dass Treuhandgeschäfte, wenn sie von Vertretern der Bankseite eingefädelt und gemanaged werden völlig nebensächlich betrachtet werden. Dieser Eindruck entstand vor allem dadurch, dass HL die Frage der Auflösung des Mandatsvertrages wörtlich als "Peanuts" bezeichnete, wobei ich der Meinung bin, dass diese Frage noch vor der Annahme zusätzlicher Vermögenswerte durch den Stiftungsrat zu lösen ist.

A handwritten signature in cursive script, appearing to read 'Christina Meusburger'.

Christina Meusburger

LGT Trust
Corporation
Städtle 18+22
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Tel.: +423 235 2727
Fax: +423 235 2772
Internet
www.lgt.com/lgttreuhand
E-mail lgttrust@lgt.com

Subject	MAVERICK FOUNDATION
Author	Christina Meusburger (handwriting: discussed with (illegible), initial, March 3, 2001)
Date	March 27, 2001
For execution	Dagmar Gächter
Noted by	Dr. Pius Schlachter (initial)

Friday, March 23, 2001, 10:00 a.m. to 3:30 p.m., LGT Bank at Liechtenstein corporation, Vaduz

Harvey Greenfield (sole beneficiary of the Maverick Foundation)
Steven David Greenfield (second beneficiary and holder of power of attorney to give instructions of the
Maverick Foundation)

Dr. Henry Leimer (HL)
Gerhard Walch (GW)
S.D. Prinz Philip von und zu Liechtenstein (partial attendance)
Christina Meusburger

1. Preface

The Maverick Foundation was established in January 1992. There are currently U.S.\$ 2.2 million in the Maverick Foundation. In addition, the Maverick Foundation holds two BVI companies. Both were established in January 1992 with the purpose of channeling the assets into the Maverick Foundation. Afterwards, both BVI companies were to be closed, which has not happened to date.

In addition to the Maverick Foundation, the client has a Trust with the Bank of Bermuda in Hong Kong. This Trust has assets in the magnitude of around U.S. \$ 30 million. **The client as sole beneficiary, and his children as secondary beneficiaries of the Maverick Foundation, hold U.S. passports and live partially in New York.** The beneficiary rules for the Trust, which the client has with the Bank of Bermuda, are likely stored similarly to how they are stored in the Maverick Foundation. The Bank of Bermuda has indicated to the client that it would like to end the business relationship with him as a U.S. citizen. Due to these circumstances, the client is now on the search for a safe haven for his offshore assets. Next to the bankable assets, this Trust also still holds operating companies. It is, however, planned, to close these companies in the near future.

There follows a long discussion about the banking location Liechtenstein, the banking privacy law as well as the security and stability, that Liechtenstein, as a banking location and over-seign nation, can guarantee its clients. The Bank, and especially HL, indicate strong interest in receiving the U.S.\$30 million. Investment issues do not seem to be clarified completely. It is explained to the client that as a U.S. citizen he cannot invest in U.S. securities directly, but the possibility of investing in funds is not ruled out. To my knowledge, there is a decision by the directorate-general of the LGT Bank at Liechtenstein, Inc., according to which LGT in-house funds are not

offered to U.S. citizens. Thus would remain the possibility to invest in other offshore funds, though these are largely not open to U.S. citizens.

2. Structure

The Maverick Foundation was established as a foundation with a contract of engagement. I present the disadvantages that this engagement contract can have for the client. The client is able to follow my arguments, and is ultimately of the opinion that we should dissolve this engagement contract, whereby I also draw attention to the increased costs for the foundation that will be associated with the dissolution of the contract. The two BVI companies are to continue to exist until further notice. Possibly, they could be used again to channel assets into the Maverick Foundation.

3. Asset Status and File Copies

The client signs off on the asset status of December 31, 1999 and December 31, 2000. He refuses, however, to sign off on various file copies, with the reasoning that they are already taken care of anyway through his signing off on the asset statuses. I point out that due to the engagement contract, we merely carry out his instructions, and that he needs to document this for us with his signature on the file copies. Nevertheless, the client does not sign the file copies.

4. Future Actions

The person who holds the power of attorney to give instructions will be in Hong Kong at the end of April. I offer to meet him there, since I expect to be in Hong Kong at the end of April myself. By then, the person who holds the power of attorney to give instructions intends to decide if, and in which form, a transfer of the current Trust assets to the Maverick Foundation should take place. I presented the following alternatives:

- Disbursement of the assets from the Trust and subsequent dedication to the Maverick Foundation (under interposition of the BVI companies)
- Takeover of the Trust through LGT Trust Management Ltd. as new trustee

5. Conclusion

The clients are very careful and eager to dissolve the Trust with the Bank of Bermuda leaving behind as few traces as possible. The clients received indications from other institutions as well that U.S. citizens are not those clients that one wishes for in offshore business.

For me, this meeting was an illustrative example of how trust business dealings, when initiated and managed by bank representatives, are seen as completely tangential. This impression was created especially by the fact that HL described the question of the dissolution of the engagement contract literally as “peanuts,” whereas I am of the opinion that this question should be resolved by the foundation’s board of trustees before accepting any additional assets.

(signature)
Christina Meusburger



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

Maverick Foundation
9490 Vaduz

Vaduz, January 1, 2002
HLE / BHK / 09:32:16

1/1
E

Summary

as of 31.12.2001

Redacted by the Permanent
Subcommittee on Investigations

acc. overview no. accounts/portfolios	cur.	amount	curr.rate	amount in USD
AA USD ACCOUNT	USD	194.22		194.22
00 SAFE CUSTODY ACCOUNT	incl.acc.interest USD {	0.00	}	2,197,973.50
		T O T A L		2,198,167.72

Permanent Subcommittee on Investigations

EXHIBIT #55

Maverick Foundation , 9490 Vaduz

SB: Gächter Dagmar

KB: Sprenger Sonja

Mand.Nr.:

L. Kundenbesuch: 23.03.2001

Gründungsdatum: 22.01.1992

Status: Aktiv

— = Redacted by the Permanent
Subcommittee on Investigations

Verwaltungs- / Stiftungsräte

Profile Management Trust reg., Vad Zeichnungsrecht: Einzel
Feuerstein Nicola Dr., Vaduz Zeichnungsrecht: Kollektiv

Banken

LGT Bank in Liechtenstein AG, Vaduz

AB: Leimer Henry / LGT

ZR-Nr.:

Zig-Kto:

Diverses

Anlageberater: Leimer Henry / LGT HK,
Hauptgesellschaft: Maverick Foundation, Vaduz
Repräsentant: LGT Treuhand AG, Vaduz
Vermittler: LGT Investment Management, Hong Kong
Auftraggeber: Privater Auftraggeber

Fix-Honorare

Domicilhonorar	800.00	22.01.2003	LGT Treuhand AG, Vaduz
Kapitalsteuer	1'000.00	22.01.2003	Liechtensteinische Steuerverwaltung, Vaduz
Stiftungsrats-honorar	3'000.00	22.01.2003	LGT Treuhand AG, Vaduz

Pauschal-Honorare

Vermögenswert per: 0.00 fällig am: 0.00 Fakturierbares Pauschalhonorar: 0.00

Zweck

Halten von 2 BVI Gesellschaften:
- CHIU FU (Far East) Limited
- TSP Company Limited

Beide Aktienzertifikate im Depot der Maverick Foundation

Besitznachweis, Verträge, Vollmachten

Vereinbarung betr. Erwerb Sondervermögen der BIL Vaduz vom 13.5.1993.

FM-Mandate der BIL Hong Kong betr. Verwaltung des BIL-Kontos am 7.2.1995
neu abgeschlossen
Mandatsverträge mit Chiu Fu und TSP

Instruktionsberechtigung f. Steven Greenfield

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)**Pendenzen / Geschichte**

- siehe auch Pendenzen bei TSP und Chiu Fu!
- Passkopien der beiden zweitbegünstigten Frauen fehlen
- vorhandene Passkopien Vater + Sohn abgelaufen
- Umwandlung in STOM/Unterlagen in den Pendenzen
- BEX/ZLG/Inv. Chiu Fu + TSP

Permanent Subcommittee on Investigations

EXHIBIT #56

Maverick Foundation , 9490 Vaduz

Assistant: Gächter, Dagmar
Date Established: 01.22.1992

Account Manager: Sprenger, Sonja
Status: Active

Client Nr.: [REDACTED]
Last Client Visit: 03.23.2001

Management Board / Board of Advisors

Profile Management Trust reg., Vad
Feuerstein, Nicola Dr., Vaduz

Signatory Rights: Single
Signatory Rights: Collective

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Banks

LGT Bank in Liechtenstein AG, Vaduz Investment advisor: Leimer, Henry/LGT Ref-No.: [REDACTED] Account:

Miscellaneous

Investment Advisor: Leimer, Henry / LGT HK
Head Corporation: Maverick Foundation, Vaduz
Representative: LGT Trust Inc., Vaduz
Broker: LGT Investment Management, Hong Kong
Client: Private Client

Fixed Fees

Domicile fees	800.00	Jan. 22, 2003	LGT Trust Inc., Vaduz
Capital taxes	1,000.00	Jan. 22, 2003	Tax Authority of Liechtenstein, Vaduz
Board of Trustees fees	3,000.00	Jan. 22, 2003	LGT Trust, Inc., Vaduz

Flat Fees

Value of Assets per: 0.00 Due on: 0.00 Billable Flat Fee: 0.00

Purpose

Holding 2 BVI companies:

- CHIU FU (Far East) Limited
- TSF Company Limited

Both stock certificates in the depot of the Maverick Foundation.

Proof of Ownership, Contracts, Powers of Attorney

Agreement re. acquisition of special assets of the BIL Vaduz on May 13, 1993.

PM-mandates of BIL Hong Kong re. administration of the BIL account newly determined on February 7, 1996.
Contracts of engagement with Chiu Fu and TSF

Steven Greenfield is the holder of the power of attorney to give instructions.

Special Instructions (Administration, Accounting, By-Laws etc.)**Comments / History**

- see also comments for TSF and Chiu Fu!
- passport copies of both secondary-beneficiary women missing
- existing passport copies of father + son expired
- Conversion in STOM/documents in the comments
- BEX/ZLG/Inv. Chiu Fu + TSF

TSF Company Limited , Tortola / B.V.I.
 SB: Gächter Dagmar KB: Sprenger Sonja

Mand.Nr.: [REDACTED]
 L. Kundenbesuch:

Gründungsdatum: 24.01.1992 Status: Aktiv

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Verwaltungs- / Stiftungsräte

IPC Management Trust reg., Vaduz Zeichnungsrecht: Einzel

Banken

Standard and Chartered Bank, Hong Kong AB:

ZR-Nr.: [REDACTED]

Diverses

Hauptgesellschaft: Maverick Foundation, Vaduz
 Repräsentant: HWR Services Limited, TORTOLA
 Vermittler: LGT Investment Management, Hong Kong
 Auftraggeber: Privater Auftraggeber

Fix-Honorare

VR-Honorar 3'000.00 24.01.2003 LGT Treuhand AG, Vaduz

Pauschal-Honorare

Vermögenswert per: 0.00 fällig am: 0.00
 Fakturierbares Pauschalhonorar: 0.00

Zweck

Besitznachweis, Verträge, Vollmachten

- 100% Tochtergesellschaft der Maverick Foundation

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

Pendenzen / Geschichte

- Zweck der TSF? --> Kunde fragen
- Konto bei Standard Chartered Bank noch sinnvoll, da kein Geld?
- Scheckbuch der Standard Chartered bank

Permanent Subcommittee on Investigations

EXHIBIT #57

PSI-USMSTR - 003193

TSF Company Limited, Tortola/ B.V.I.

Client No.: [REDACTED]

Assistant: Gaechter Dagmar Account Manager: Sprenger Sonja

Last Client Visit:

Date Established: 01.24.1992 Status: Active

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**Management-/Board of Advisors**

IPC Management Trust reg., Vaduz Signatory Rights: Individual

Banks

Standard Chartered Bank, Hong Kong Contact:

Routing No.: [REDACTED]

Miscellaneous

Main Corporation: Maverick Foundation, Vaduz
 Representative: HWR Services Limited, TORTOLA
 Broker: LGT Investment Management, Hong Kong
 Client: Private Client

Fixed Fees

[VR]- Fee	3,000.00	01.24.2003	LGT Trust AG, Vaduz
-----------	----------	------------	---------------------

Flat Fees

	0.00	due on:	
Value of Assets per:	0.00		Billable Flat Fee: 0.00

Purpose**Proof of Ownership, Contracts, Powers of Attorney**

-100% Daughter Corporation of the Maverick Foundation

Special Instructions (Administration, Accounting, Bylaws etc.)**Comments/ History**

-Aim of the TSF? → ask client
 -Account with Standard Chartered Bank still wise, because no money?
 -Checkbook of the Standard Chartered bank

Chiu Fu (Far East) Limited , Tortola / B.V.I.

SB: Gächter Dagmar

KB: Sprenger Sonja

Mand.Nr.: [REDACTED]

L. Kundenbesuch: [REDACTED]

Gründungsdatum: 24.01.1992

Status: Aktiv

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**Verwaltungs- / Stiftungsräte**

IPC Management Trust reg., Vaduz Zeichnungsrecht: Einzeln

Banken

The Hongkong and Shanghai, Hong Kong

AB:

ZR-Nr.: [REDACTED]

Diverses

Hauptgesellschaft: Maverick Foundation, Vaduz

Repräsentant: HWR Services Limited, TORTOLA

Vermittler: LGT Investment Management, Hong Kong

Auftraggeber: Privater Auftraggeber

Fix-Honorare

VR-Honorar 3'000.00 24.01.2003 LGT Treuhand AG, Vaduz

Pauschal-Honorare

Vermögenswert per: 0.00 fällig am: 0.00 Fakturierbares Pauschalhonorar: 0.00

Zweck**Besitznachweis, Verträge, Vollmachten**

- Tochtergesellschaft der MAVERICK FOUNDATION
- Agency Agreement mit Maverick Foundation

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)**Pendenzen / Geschichte**

- Zweck der Chiu Fu? - ev. Bankkto. bei HSBC schliessen?
Zeichnungsrecht ändern/ bei nächstem Kundenbesuch wird HK die Instruktion des Kunden einholen, das Konto zu löschen, das seitens HSBC die Offenlegung des wirtschaftl. Begünstigten fordert (die Stiftung wird nicht anerkannt)
- Check-Buch im roten Akt
- Kontoauszüge bei HSBC einholen

Permanent Subcommittee on Investigations

EXHIBIT #58

PSI-USMSTR - 003205

Chiu Fu (Far East) Limited, Tortola/ B.V.I.

Client No.: [REDACTED]

Assistant: Gaechter Dagmar Account Manager: Sprenger Sonja

Last Client Visit:

Date Established: 01.24.1992 Status: Active

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**Management-/Board of Advisors**

IPC Management Trust reg., Vaduz Signatory Rights: Individual

Banks

The Hongkong and Shanghai, Hong Kong

Contact:

Routing No.: [REDACTED] Account No.:

Miscellaneous

Main Corporation: Maverick Foundation, Vaduz
 Representative: HWR Services Limited, TORTOLA
 Broker: LGT Investment Management, Hong Kong
 Client: Private Client

Fixed Fees

[VR]-Fee 3,000.00 01.24.2003 LGT Trust AG, Vaduz

Fiat Fees

Value of Assets per: 0.00 due on: 0.00 Billable Flat Fee: 0.00

Purpose**Proof of Ownership, Contracts, Powers of Attorney**

-Daughter corporation of the MAVERICK FOUNDATION
 -Agency agreement with Maverick Foundation

Special Instructions (Administration, Accounting, Bylaws etc.)**Comments/ History**

- Aim of the Chiu Fu? - ev. Bank account with HSBC closed?
 Signatory right change/ with next client visit HK will obtain the instructions from the client to terminate the account, that requires the disclosure of the financial beneficiary on the part of HSBC (the foundation not approved)

-Checkbook in the red file

-Obtain account statements from HSBC



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telephone +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-mail info@lgt.com

Background Information/Profile – Existing Customers

(Legal entities/Companies)
(The German Version is binding)

— = Redacted by the Permanent
Subcommittee on Investigations

Ref. CMU/dgc

Account/custody a/c no. [REDACTED]

Contracting partner / name MAVERICK FOUNDATION, Vaduz

Background Information/Profile

1. Contracting partner's details

1.1

- ☒ Non-operating company
☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

Principal purpose of company:
Investment of Assets

1.2

- ☐ Operating company
☐ Manufacturing ☐ Trading ☐ Services ☐ Holding company

Principal business activity of the company (including sector):

Range of products/services:

Principal markets and related sales (in CHF):

Own office premises: ☐ Yes ☐ No

Number of employees (approx.):

2. Commercial background/origin of assets

Origin of funds to be provided (earnings from commercial activity, inheritance, sale of participations, sale of property, etc.):

Earnings from commercial activity in the toy business. The client's sources toys from across Asia (but primarily China and Hong Kong) for distribution overseas.

3. Details of intended use

- ☒ Asset investment ☐ Business account
☐ Other purpose (please state):

4. Other information

4.1

Profession and business of commercial beneficiary/beneficiaries:
Businessman in the toy industry

4.2

Comments:

The contracting partner undertakes to notify the bank, on his own initiative, of any changes in writing.

Vaduz, 12. October 2001

MAVERICK Foundation

Place/Date

Permanent Subcommittee on Investigations
EXHIBIT #59

Signature Profile Management
Trust reg.

[Handwritten signature]

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein

Telephone +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgtreuhand
E-Mail lgttrust@lgt.com

Background Information/Profile
(Documentation of Existing Corporate Relationship(s) to 1.January.2001)

P-BG

Clients, Domicile TSF Company Ltd., BVI

1. Description of Entity

- ☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

Year Founded/Purchased: 1992

1.1 Primary Business

Asset Management, however currently no asset worth

1.2 Details of intended use of Assets:

currently no asset worth/ follow up regulation

2. Commercial background/origin of assets incl. detailed origin of funds to be provided (earnings from commercial activity, inheritance, sale of participations, sale of property, etc.):

Earnings from business activity/ business in the toy industry. sale of products in China/Hong Kong and export overseas.

3. Country Risk Category

- ☒ 1 ☐ 2 ☐ 3

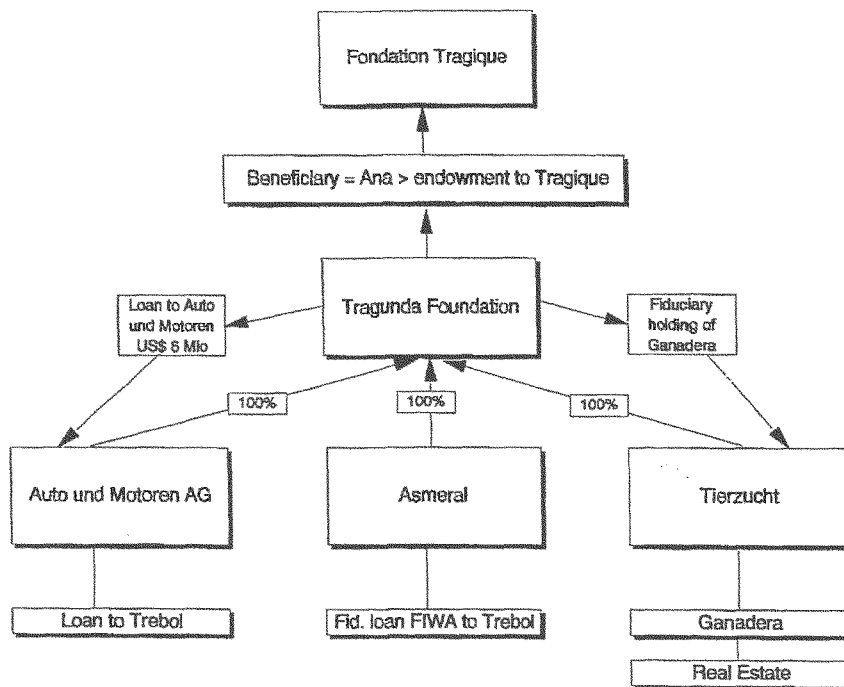
Vaduz, 12.20.2001
Place/Date

[SIGNED]
Signature – Client Advisor

- ☒ Power of Attorney per Separate Document
☐ This document replaces the previous version, dated:

Permanent Subcommittee on Investigations
EXHIBIT #60

TSF LTV/V.071001





LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgt@lgt.com
MWST-Nr. 50119

Hintergrundinformationen/Profil

P-BG

Formular für bestehende Geschäftsbeziehungen vor dem 1. Januar 2001

Rechtsträger, Sitz Fondation Tragique, Vaduz

Informationen zum Rechtsträger

- ☐ Gesellschaft mit kommerziellem Hintergrund
☒ Stiftung, Trust, Holding, usw.

Gründungs-/Übernahmejahr: 1979

1.1 Gewöhnliche Geschäftstätigkeit

Holdingfunktion, Asset Protection

Verwaltung des eigenen Vermögens

Ausschüttung an Begünstigte gemäss Beistatut

1.2 Verwendungszweck der Vermögenswerte

Vermögensanlage

Vermögenswerte, Hintergrund und Herkunft der eingebrachten und einzubringenden Vermögenswerte sowie deren Zielsetzung zum Zeitpunkt der Einbringung

Nachfolgemandat

Zwecks Schutz vor Gläubigern, welche in Puerto Rico gegen die Familie prozessierten, wurden die bereits in der Tragunda Foundation gehaltenen Vermögenswerte in die Fondation Tragique übertragen. Es handelt sich um Gesellschaften, die bereits durch die LGT betreut werden (Auto und Motoren AG in Liquidation, Tierzucht Investierungs-Anstalt).

Eintragungs- und Registrierungsnummern

- ☒ 1 ☐ 2 ☐ 3

Vaduz, 18. Dezember 2001

Ort, Datum

Unterschrift des Kundenberaters

- ☐ Bevollmächtigte gemäss separatem Formular
☐ Dieses Formular ersetzt das Formular vom:

Permanent Subcommittee on Investigations

EXHIBIT #62

PSI-USMSTR-008711

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein

Telephone +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgtreuhand
E-Mail lgttrust@lgt.com
VAT-No. 50119

Background Information/Profile
(Documentation of Existing Corporate Relationship(s) to 1. January 2001)

P-BG

Clients, Domicile Tragunda Foundation, Vaduz

1. Description of Entity

- ☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

Year Founded/Purchased: 1986

1.1 Primary Business

Holding Function

Management of own assets, disbursements to beneficiaries in accordance with
by-laws

1.2 Details of intended use of Assets:

Asset Investment

2. Commercial background/origin of assets incl. detailed origin of funds to be provided (earnings from commercial activity, inheritance, sale of participations, sale of property, etc.):

Disbursements from shares, which already represent Mandates looked after by LGT
(Auto and Motors AG, Asmeral Investments Establishment, Animal Husbandry
Investment Establishment, Vaduz)

3. Country Risk Category

- ☒ 1 ☐ 2 ☐ 3

Vaduz, 3 December 2001

Place/Date

[SIGNED]

Signature – Client Advisor

- ☐ Power of Attorney per Separate Document
☐ This document replaces the previous version, dated:



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrengasse 12
FL-9490 Vaduz

Telefon +423 235 1111
Telefax +423 235 1512
Internet www.lgt.com
E-Mail info@lgt.com

Kopie

Redacted by the Permanent
Subcommittee on Investigations

Hintergrundinformationen/Profil – Bestehende Kunden
(Juristische Personen/Gesellschaften)

Konto-/Depot-Nr. [REDACTED]

Ref. LTV/MP/ci

Vertragspartner/Name Auto und Motoren AG, in Liquidation, Vaduz

Hintergrundinformationen/Profil

1. Informationen zum Vertragspartner

- ☒ Nicht-Tätige Gesellschaft
☒ Gesellschaft mit kommerziellem Hintergrund
☐ Stiftung, Trust, Holding, usw.

Hauptzweck der Gesellschaft:
An- und Verkauf von Volvo-Automobilen

erfasst	verifiziert
Vis.: [Signature]	Vis.: [Signature]

- ☐ **2. Tätige Gesellschaft**
☐ Fabrikationsbetrieb ☐ Handelsgesellschaft ☐ Dienstleistungsbetrieb ☐ Holdinggesellschaft
Hauptgeschäftstätigkeit der Gesellschaft (inkl. Branche):

Produkte/Dienstleistungspalette: Hauptmärkte und deren Umsätze (in CHF)

Eigene Büroräumlichkeiten: ☐ Ja ☐ Nein Anzahl Mitarbeiter ca.):

2. Wirtschaftlicher Hintergrund/Herkunft der Vermögenswerte

Herkunft der einzubringenden Mittel (Erträge aus geschäftlicher Tätigkeit, Erbschaft, Verkauf von Beteiligungen, Ueigenschaftsverkauf usw.):
Gewinnspanne aus der Geschäftstätigkeit

3. Informationen zum Verwendungszweck

- ☐ Vermögensanlage ☐ Geschäftskonto
☐ Sonstiger Zweck (bitte nennen):

4. Sonstige Angaben

4.1 Beruf und Geschäftstätigkeit der wirtschaftlich berechtigten Person/Personen:

Privater *Mixen, die Import + Export von Autos (Volvo + Subaru) im Rahmen der Personals des. Kunde ist ein pensionierter Mann mit ihrem Unternehmen*

Bemerkungen:

Die Gesellschaft hat keine kommerzielle Tätigkeit mehr. Sie wird in absehbarer Zeit gelöscht.

Der Vertragspartner verpflichtet sich, Änderungen von sich aus schriftlich der Bank mitzuteilen.

Vaduz 3. Oktober 2001

Auto und Motoren AG, in Liquidation

Ort/Datum

Unterschrift

Permanent Subcommittee on Investigations

EXHIBIT #63

Kontrolliert
KYC Team

PSI-USMSTR - 008729

(logo) **LGT Bank in Liechtenstein**
A Member of Liechtenstein Global

LGT Bank in Liechtenstein
Stock Corporation
Hemengasse 12
FL-9490 Vaduz

Telephone: +423 235 11 22
Telefax: +423 235 13 23
Internet: www.lgt.com
E-Mail: info@lgt.com

Copy

Background Information/Profile- Existing Customer
(Legal entities/Companies)

Ref. LTV/MP/ci

Account/custody a/c no. [REDACTED]

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Contracting partner / Name Auto and Motoren (Motors) Corp., in liquidation, Vaduz

Background Information/Profile

1. Contracting partner's details

1.1

- ☒ Non-operating company
☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

composed	verified
Sig.: <u>[signed]</u>	Sig.: _____

Principal purpose of company:

Purchase and sale of Volvo automobiles

1.2

- ☐ Operating company
☐ Manufacturing ☐ Trading ☐ Services ☐ Holding Company

Principal business activity of the company (including sector):

Range of products/services:

Principal markets and related sales (in CHF):

Own office premises: ☐ Yes ☐ No

Number of employees (approx.): _____

2. Commercial background/origin of assets

Origin of funds to be provided (earnings from commercial activity, inheritance, sale of participations, sale of property, etc.):
Profit margin from professional activity

3. Details of intended use

- ☐ Asset investment ☐ Business account
☐ Other purpose (please state): _____

4. Other information

4.1

Profession and business of commercial beneficiary/beneficiaries:

Person of independent means; [hand-written] Widow who conducted the import and export of automobiles (Volvo and Subaru) with her husband. She is now retired, 05.13.2002
[initialed]

4.2

Comments:

The corporation does not conduct commercial activity anymore. It will be dissolved in the foreseeable future.

The contracting partner undertakes to notify the bank, on his own initiative, of any changes in writing.

4.3

Vaduz / 10.03.2001

Place/Date

Auto and Motors Corp., in liquidation

Signature

[signed]

Inspected [initialed]
KYC Team

Asmeral Investment Anstalt , 9490 Vaduz

SB: Prete Rosa

KB: Meier Peter

Mand.Nr.: [REDACTED]

L. Kundenbesuch: 26.05.1997

Gründungsdatum: 02.07.1986

Status: Gelöscht

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**Verwaltungs- / Stiftungsräte**

Peter Meier, Eschen

Zeichnungsrecht: Einzel

LIQU.

VR

Banken

LGT Bank in Liechtenstein AG, Vaduz

AB:

ZR-Nr.: [REDACTED] Zlg-Kto: [REDACTED]

Diverses

Aktien / Zessionen: Dossier / Gesellschaftsakt,
 Repräsentant: LGT Treuhand AG, Vaduz
 Auftraggeber: Privater Auftraggeber

Fix-Honorare

Domizilhonorar	800.00	01.07.2000	LGT Treuhand AG, Vaduz
Kapitalsteuer	1'000.00	01.07.2000	Liechtensteinische Steuerverwaltung, Vaduz
VR-Honorar	3'000.00	01.07.2000	LGT Treuhand AG, Vaduz

Pauschal-Honorare

Vermögenswert per:	0.00	fällig am:	0.00	Fakturierbares Pauschalhonorar:	0.00
--------------------	------	------------	------	---------------------------------	------

Zweck**Besitznachweis, Verträge, Vollmachten****Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)****Pendenzen / Geschichte**

→ 95053

Permanent Subcommittee on Investigations

EXHIBIT #64

PSI-USMSTR - 000966

Asmeral Investment Anstalt [Institution], 9490 Vaduz
 Assistant: Prete Rosa Account Manager: Meier, Peter

Client-No.: [REDACTED]
 Last Client Visit: May 26, 1997

Date Established: July 2, 1986 Status: Dissolved

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Management Board / Board of Advisors

Peter Meier, Eschen

Signatory Rights: Individual

LIQU.

Management Board

Banks:

LGT Bank in Liechtenstein AG, Vaduz Investment advisor:

Ref. No.: [REDACTED] Account: [REDACTED]

Miscellaneous:

Stocks / Transfers:

Dossier / company file

Representative:

LGT Treuhand AG [LGT Trust, Inc.], Vaduz

Client:

Private client

Fixed Fees:

Domicile fee	800.00	July 1, 2000	LGT Treuhand AG, Vaduz
Capital Tax:	1,000.00	July 1, 2000	Liechtensteinische Steuerverwaltung, Vaduz [Tax Authority of Liechtenstein]
Management Board fee	3,000.00	July 1, 2000	LGT Treuhand AG, Vaduz

Flat Fees:

	0.00	Due on:	
Value of assets as of:			Billable Flat fee: 0.00

Purpose

Proof of Ownership, Contracts, Powers of Attorney

Special Instructions (Administration, Accounting, Bylaws, etc.)

Comments / History

[in handwriting:] → 95053



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/dgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/2

Thema **Foundation Tragique**

Verfasser(in) / Tel. **Peter Meier**

— = Redacted by the Permanent
Subcommittee on Investigations

Datum **11. September 2001 /**

Zur Erledigung **Rosa Prete**

Zur Kenntnisnahme

[Signature]

Ricardo Gonzales war zusammen mit seiner Mutter Conchita, seiner Schwester [REDACTED] und seiner Gattin [REDACTED] beim Zwischenhalt von Madrid nach Moskau in Zürich, wo wir uns im Hotel Splügen zu dieser Besprechung der Pendenzen trafen.

[REDACTED] unterfertigt den Vergütungsauftrag und den Auftrag zur Löschung ihres Privatkontos [REDACTED] bei der LGT.

Ich übergebe an Conchita den Betrag von US\$ 10.000.--, der Barbezugsbeleg zu Lasten Tragique wird abgezeichnet.

Conchita unterfertigt den Vermögensstatus der Tragique 2000.

Ich diskutiere die Vermögensanlage der Tragique und bespreche die Anlagevorschläge der LGT, von C. Wehinger vorbereitet. Conchita unterzeichnet den Auftrag, die Gelder, inkl. \$ 550000.- welche von Auto und Motoren zu übertragen sind, wie folgt anzulegen: \$ 1 Mio. in Cash = Festgelder und den Rest in LGT Strategy Class Funds 5 Jahre!

Nachdem die Probleme in Puerto Rico nun erledigt sind und eine Steueruntersuchung nicht mehr zu vermuten ist, besprechen wir die Situation im Beistatut der Tragique. Diesbezüglich unterzeichnet Conchita als Protektorin einen Auftrag, das Beistatut so zu ändern, dass sie als Erstbegünstigte aufsteht und nach ihrem Tode die Kinder - die jetzigen Erstbegünstigten - als Zweitbegünstigte zu gleichen Teilen.

Der Vermögensstatus 2000 der Tragunda Foundation wird unterfertigt.

Conchita unterzeichnet als betroffene Begünstigte den Auftrag, die Tragunda Foundation zu löschen und den Liquidationserlös - insbesondere das Treuhandverhältnis Ganadera bei Tierzucht Investierungs Anstalt - auf die Foundation Tragique zu übertragen.

Die Tierzucht Investierungs Anstalt hält nach wie vor die spanische Gesellschaft Ganadera, auf welche die Immobilien eingetragen sind. Derzeit ist das Geschäft mit der Vermietung der Liegenschaft für Hochzeiten ein voller Erfolg. Nächsten Monat findet die Hochzeit eines Schweizer Paares statt!!!! Auch während der Woche finden Firmen Events statt. Letztes Jahr war die Abrechnung Kos [REDACTED] psten betragen p.a. ca. \$ 150.000.--. In diesem Jah [REDACTED] Dadurch lässt sich dann

Permanent Subcommittee on Investigations

EXHIBIT #65

PSI-USMSTR - 008704



Aktenvermerk

2/2

eine klare Berechnung der Rendite feststellen. Die Immobilie ist immer noch zum Verkauf, der Verhandlungspreis ist um die US\$ 25 Mio. (ESP 3 Mia.).

Die Auto und Motoren kann gelöscht werden. Der Betrag von ca. \$ 550.000.-- ist umgehend auf die Tragicque zu übertragen, der Liquidationserlös nach Ablauf der 6 Monate. Ein entsprechender Auftrag wird unterfertigt. Die Probleme in Puerto Rico sind erledigt. Die Trebol kommt wieder in die Gewinnzone. Allerdings wird es noch einige Jahre dauern bis die Verlustvorträge abgebaut sind. In diesem Zusammenhang fällt auch das Problem der FIWA, welche noch ein Aktienpaket von ca. 3% hält. Dieses sollte nun übertragen werden, aber es dürfen keine "schlafenden Hunde" geweckt werden. Ich habe vorgeschlagen, dass die FIWA an die TREBOL einen Brief schreibt, dass sie die Beteiligung verkaufen wollen und der Trebol Realty ein Vorkaufsrecht - first choice - einräumen. Derzeit ist der effektive Wert noch nicht so hoch, so dass ein Verkauf in Höhe von ca. \$ 2 - 300.000.-- möglich wäre. Die vertragliche Vereinbarung ist zu berücksichtigen bzw. gegenseitig aufzuheben. Der Brief von FIWA darf nicht von Peter Meier unterzeichnet werden. Der Brief sollte nach dem 22.9. geschrieben werden. Grund ist der Abbau der Investments in USA.

Ich erkläre die Situation in FL und lasse in diesem Zusammenhang das Formular über die wirtschaftlich berechtigten Personen abzeichnen und bestätigen, dass die Adressen stimmen. Conchita ist als weitere Begünstigte aufzulisten.

Ich habe die Herrschaften darüber informiert, dass ich die LGT verlassen werde. Sie bedauern dies natürlich sehr. Um meinen Nachfolger vorzustellen., bietet sich ev. die Möglichkeit am 19. - 22. September in Madrid!! Ricardo wird mich diesbezüglich aber noch anrufen.

A large, stylized handwritten signature in black ink, appearing to be 'Ricardo'.

[logo]
 LGT Bank in Liechtenstein
 A Member of Liechtenstein Global Trust

LGT Treuhand
 Aktiengesellschaft
 Städtle 28
 FL-9490 Vaduz
 Principality of Liechtenstein
 VAT-Nr. 50119

Telephone +423 235 27 27
 Fax +423 235 27 15
 Internet www.lgt.com/lgttreuhand
 Email lgttrust@lgt.com

Memorandum for the File

1/2

Concerned Parties **Foundation Tragique**

— = Redacted by the Permanent
 Subcommittee on Investigations

Author / Tel. Peter Meier

Date 09.11.2001

For Follow-Up Rosa Prete

To the Attention of SPR TLU [initialed]

Ricardo Gonzales was with his mother Conchita, his sister [REDACTED] and his wife [REDACTED] on a stopover in Zürich between Madrid and Moscow, where we met in the Hotel Splügen for a meeting concerning pending issues.

[REDACTED] signs the authorized payment order and the mandate for the cancellation of her private account [REDACTED] LGT.

I deliver the amount of US\$ 10,000.-- to Conchita; the cash withdrawal receipt, to be debited to the Foundation Tragique, is initialed.

Conchita signs the Status of Assets of the Foundation Tragique 2000.

I discuss the investment of Tragique's assets and discuss the investment advice of the LGT, prepared by C. Wehinger. Conchita signs the mandate; the monies, including \$550,000.-- which are to be transferred from the Auto and Motors Foundation, are to be invested as follows: \$1 million in cash = fixed term deposits, and the rest in LGT Strategy Class Funds 5 years!

Now that the problems in Puerto Rico are resolved and a tax investigation is no longer to be presumed, we discuss the situation concerning the bylaws of the Foundation Tragique. In these regards, Conchita, as protector, signs an order to change the bylaws so that she appears as primary beneficiary, and that after her death the children - who are the current primary beneficiaries - appear as secondary beneficiaries with equal proportions.

The Status of Assets 2000 of the Tragunda Foundation is signed.

As the concerned beneficiary, Conchita signs the order to dissolve the Tragunda Foundation and to transfer the proceeds from liquidation - especially the trust Ganadera with the Tierzucht Investierungs [Animal Husbandry Investment] Foundation - to the Foundation Tragique.

The Animal Husbandry Investment Foundation still holds the Spanish establishment Ganadera, under which the properties are registered. Currently, the operation of renting the property for weddings is a complete success. Next month the wedding of a Swiss couple is taking place!!!! Also, corporate events take place during the week. Last year, the accounting of the costs and revenues balanced out evenly. The costs come to the annual amount of approximately \$150,000.--. This year, the property is almost completely booked. Because of this, a clear calculation of the returns can be made.

[logo]
LGT Treuhand

2/2

Memorandum for the File

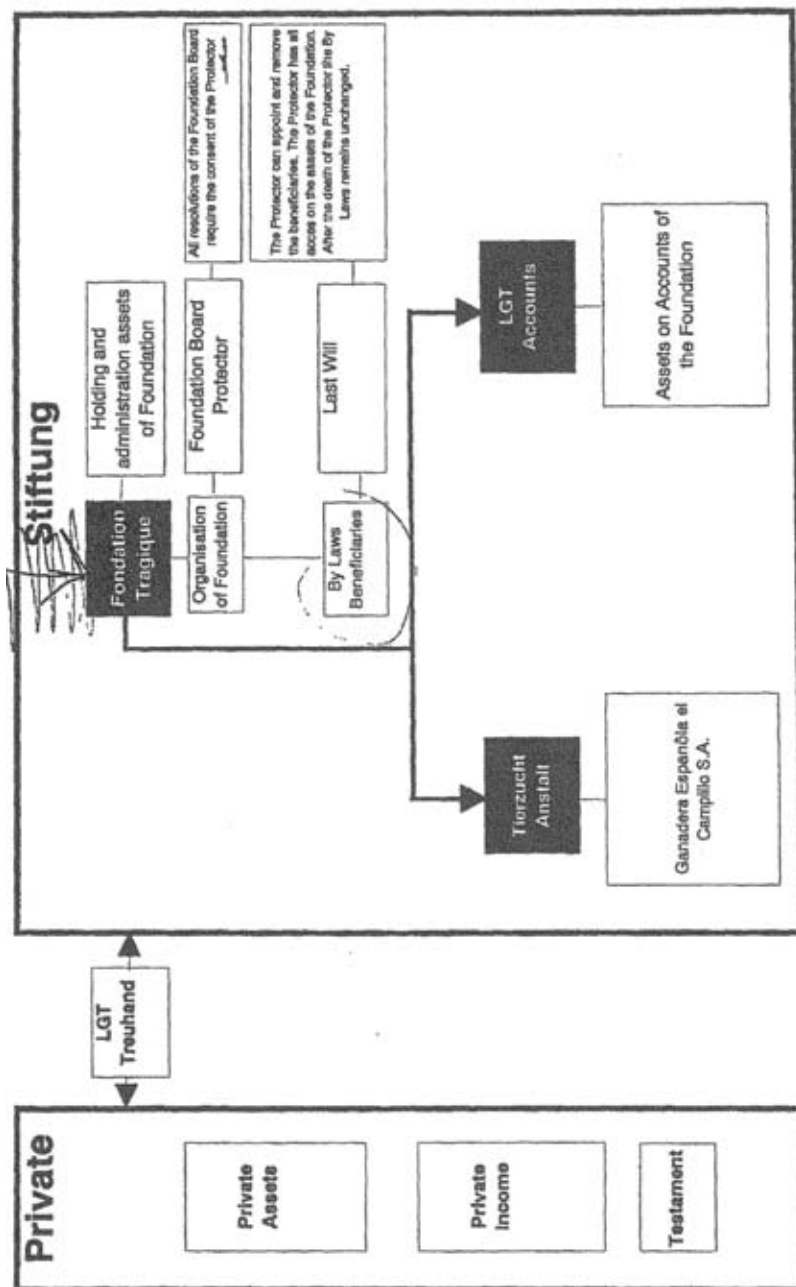
The property is still up for sale; the negotiation price is around US\$ 25 million (ESP 3 billion).

The Auto and Motors Foundation can be dissolved. The amount of approximately \$550,000.-- is immediately to be transferred to the Foundation Tragique, the proceeds from liquidation after the course of six months. A corresponding mandate is signed. The problems in Puerto Rico are resolved. The Trebol is going into the black again. However, it will still take some years before the accumulated deficit is eliminated. The problem with the FIWA also falls in this context; FIWA still holds a block of shares of approximately 3%. This should be transferred, but we must "let sleeping dogs lie." I have suggested that the FIWA write a letter to the TREBOL, saying that it would like to sell the shares and grant the Trebol Realty a first choice purchase option. Currently, the effective value is still high enough so that a sale of the amount of approximately \$2 - 300,000.-- would be possible. The contractual agreement is to be taken into consideration and respectively to be annulled. The letter from FIWA may not be signed by Peter Meier. The letter should be written after 09.22. The reason for this is the reduction of the investments in the USA.

I explain the situation in Liechtenstein, and in this context I have the form about the persons entitled to financial benefit signed and confirm that the addresses are correct. Conchita is to be added as another beneficiary.

I have informed the clients that I will leave the LGT. Naturally, they regret this very much. The possibility may present itself to introduce my successor from 09.19 to 09.22 in Madrid!! However, Ricardo must still call me in this regard.

[signed]



PSI-USMSTR - 008763



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
MWS-Nr. 50119

Hintergrundinformationen/Profil

P-BG

Formular für bestehende Geschäftsbeziehungen vor dem 1. Januar 2001

Rechtsträger, Sitz Fondation Tragique, Vaduz

1. Allgemeine Informationen

- ☐ Gesellschaft mit kommerziellem Hintergrund
☒ Stiftung, Trust, Holding, usw.

Gründungs-/Übernahmejahr: 1979

1.1 Gewöhnliche Geschäftstätigkeit

Holdingfunktion, Asset Protection

Verwaltung des eigenen Vermögens

Ausschüttung an Begünstigte gemäss Beistatut

1.2 Verwendungszweck der Vermögenswerte

Vermögensanlage

2. Wirtschaftlicher Hintergrund und Herkunft der eingebrachten und einbebringenden Vermögenswerte sowie genaue Angaben zum Herkunftsland

Nachfolgemandat

Zwecks Schutz vor Gläubiger, welche in Puerto Rico gegen die Familie prozessierten, wurden die bereits in der Tragunda Foundation gehaltenen Vermögenswerte in die Fondation Tragique übertragen. Es handelt sich um Gesellschaften, die bereits durch die LGT betreut werden (Auto und Motoren AG in Liquidation, Tierzucht Investierungs-Anstalt).

3. Handelskategorisierung

- ☒ 1 ☐ 2 ☐ 3

Vaduz, 18. Dezember 2001

Ort, Datum

Unterschrift des Kundenberaters

- ☐ Bevollmächtigte gemäss separatem Formular
☐ Dieses Formular ersetzt das Formular vom:

Permanent Subcommittee on Investigations

EXHIBIT #67

PSI-USMSTR - 008711

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein

Telephone +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgtreuehand
E-Mail lgttrust@lgt.com
VAT-No.: 50119

Background Information/Profile
(Documentation of Existing Corporate Relationship(s) to 1. January 2001)

P-BG

Clients, Domicile Fondation Tragique, Vaduz

1. Description of Entity

- ☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

Year Founded/Purchased: 1979

1.1 Primary Business

Holding function, Asset Protection

Management of own Assets

Disbursements to Beneficiaries according to By-laws

1.2 Details of intended use of Assets:

Investment of assets

2. Commercial background/origin of assets incl. detailed origin of funds to be provided (earnings from commercial activity, inheritance, sale of participations, sale of property, etc.):

Successor Mandate

For the purpose of protection from creditors, who are litigating the family in Puerto Rico, the assets already being held by the Tragunda Foundation were transferred to the Fondation Tragique. This concerns companies, that were already being overseen by the LGT (Auto and Motors AG in Liquidation, Tierzucht Investierungs-Anstalt (Animal Husbandry Investment Establishment))

3. Country Risk Category

☒ 1 ☐ 2 ☐ 3

Vaduz, 18 December 2001
Place/Date

[SIGNED]
Signature – Client Advisor

- ☐ Power of Attorney per Separate Document
☐ This document replaces the previous version, dated:



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Hemengasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com

— = Redacted by the Permanent
Subcommittee on Investigations

Hintergrundinformationen/Profil – Bestehende Kunden (Juristische Personen/Gesellschaften)

Ref. _____

Konto-/Depot-Nr. _____

Vertragspartner/Name FWA AG, Vaduz

Hintergrundinformationen/Profil

1. Informationen zum Vertragspartner

- ^{1.1}
☐ Nichttätige Gesellschaft
☐ Gesellschaft mit kommerziellem Hintergrund
☐ Stiftung, Trust, Holding, usw.

Hauptzweck der Gesellschaft: _____

^{1.2} ☒ Tätige Gesellschaft

- ☐ Fabrikationsbetrieb ☐ Handelsgesellschaft ☒ Dienstleistungsbetrieb ☐ Holdinggesellschaft

Hauptgeschäftstätigkeit der Gesellschaft (inkl. Branche): _____

Halten von Beteiligungen

Produkte/Dienstleistungspalette: _____ Hauptmärkte und deren Umsätze (in CHF): _____

Eigene Büroräumlichkeiten: ☐ Ja ☐ Nein

Anzahl Mitarbeiter ca.: _____

2. Wirtschaftlicher Hintergrund/Herkunft der Vermögenswerte

Herkunft der einzubringenden Mittel (Erträge aus geschäftlicher Tätigkeit, Erbschaft, Verkauf von Beteiligungen, Liegenschaftsverkauf usw.): _____

3. Informationen zum Verwendungszweck

- ☐ Vermögensanlage ☒ Geschäftskonto
☐ Sonstiger Zweck (bitte nennen): _____

4. Sonstige Angaben

^{4.1} Beruf und Geschäftstätigkeit der wirtschaftlich berechtigten Person/Personen: _____

^{4.2} Bemerkungen:

LGT – Gruppengesellschaft

Der Vertragspartner verpflichtet sich, Änderungen von sich aus schriftlich der Bank mitzuteilen.

^{4.3} Vaduz, 10.12.2001

Ort/Datum

Permanent Subcommittee on Investigations

EXHIBIT #68

PSI-USMSTR-000954

[logo] **LGT Bank in Liechtenstein**
A Member of Liechtenstein Global

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telephone: +423 235 11 22
Telefax: +423 235 15 22
Internet: www.lgt.com
E-Mail: info@lgt.com

Background Information / Profile – Existing /Clients Judicial persons / Companies

===== = Redacted by the Permanent
Subcommittee on Investigations

Account No. / Depository No. [REDACTED]

Ref. _____

Contractual Partner / Name FIWA AG (FIWA, Inc.), Vaduz

1. Background Information / Profile

1. Information on the Contractual Partner

1.1.

- ☐ Non-active company
☐ Company with commercial background
☐ Foundation, trust, holding company, etc.

Principal purpose of company:

1.2.

- ☒ Active company
☐ Manufacturing business ☐ Trading business ☒ Service business ☐ Holding company

Principal business activity of company (incl. sector):

Holding of shares

Products / Range of Services

Main markets and their sales volume (in Swiss francs)

Own office space: ☐ yes ☐ no Number of employees (roughly): _____

2. Commercial Background / Origin of Assets

Origin of funds to be paid in (earnings from business activity, inheritance, sale of shares, sale of real estate, etc.):

3. Information on Intended Usage

- ☐ Asset investment ☒ Business account
☐ Other purpose (please state): _____

4. Other Information

4.1. Occupation and business activity of economic beneficiary / beneficiaries:

4.2.

Comments:

LGT – group company

The contractual partner commits himself to notify the bank of any changes in writing of his own accord.

4.3.

Vaduz, Dec. 10, 2001
Place / Date

[signed] [signed]
Signature



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Söldle 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgt@lgt.com
MWST-Nr. 50119

Background Information/Profile

(The German Version is binding)

Form for existing business relationships before January 1, 2001

Mandate/domicile Yue Shing Tong Foundation

1. Informations concerning legal entity

- ☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

Year of foundation/take-over: 1988

1.1. Usual business activity

INVESTMENTS

1.2. Intended use of assets

SUCCESSOR ORGANIZATION

2. Commercial background and origin of provided assets and assets to provide and details to the country of origin.

The original founder (father) built up a large and successful chemical business in Taiwan and China. The assets originally deposited were profits generated out of this business activity. The father passed away in 1998 and additional assets were received from Mees Pierson at the time.

3. Profession and business of present commercial beneficiary/beneficiaries

Current beneficiaries are retired (mother) while Son R works for a venture capital firm and Daughter T is a house wife with three children.

Vaduz, 09 October 2001

Place/Date

Signature

☐ Power of attorney in pursuance of separate printed form

Permanent Subcommittee on Investigations

EXHIBIT #69

PSI-USMSTR - 002207

Richard M. Chong

From: Rick [REDACTED]
Sent: Tuesday, January 02, 2007 12:00 AM
To: 'Chalet@hk.super.net'
Subject: RE: Apex Assets
Attachments: Apex Asset approved expenses - Dec 2006.pdf

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

-----Original Message-----

From: Chalet@hk.super.net [mailto:Chalet@hk.super.net]
Sent: Wednesday, December 27, 2006 8:55 PM
To: Richard Chong
Subject: Apex Assets

Dear Rick,

I hope you had a good Christmas.

Please find enclosed some invoices for Apex Assets from KCS. If you agree with them, could you kindly sign them and fax them over to us for settlement. We have sufficient funds on Apex to cover them.

Let me take this opportunity to wish you all the very best for 2007.

Thanks & best regards,
Silvan

--

No virus found in this incoming message.
Checked by AVG Free Edition.
Version: 7.5.432 / Virus Database: 268.15.28/605 - Release Date: 12/27/2006 12:21 PM

--

No virus found in this outgoing message.
Checked by AVG Free Edition.
Version: 7.5.432 / Virus Database: 268.16.2/613 - Release Date: 1/1/2007 2:50 PM

Permanent Subcommittee on Investigations

EXHIBIT #70

CH-PSI-00001

Richard M. Chong

From: Rick [REDACTED]
Sent: Wednesday, February 14, 2007 6:38 PM
To: 'Chalet@hk.super.net'
Subject: RE: Delivery for 32.1

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Will do. Rick

From: Chalet@hk.super.net [mailto:Chalet@hk.super.net]
Sent: Wednesday, February 14, 2007 6:16 PM
To: Rick
Subject: Re: Delivery for 32.1

Dear Rick,

I'm sorry, I've just been informed by our relevant department that they cannot deliver the goods to 32.1. The instruction was incomplete and did not correctly identify the final recipient. We will have to return them.

Can you ask your sender to ship them to Apex instead? This would also be better from a safety point of view.

Thanks & best regards,
 Silvan

----- Original Message -----

From: Rick
To: Chalet@hk.super.net
Sent: Tuesday, February 13, 2007 10:56 PM
Subject: RE: Delivery for 32.1

Yes. Expecting it. Thanks. Rick

--
 No virus found in this incoming message.
 Checked by AVG Free Edition.
 Version: 7.5.441 / Virus Database: 268.17.37/682 - Release Date: 2/12/2007 1:23 PM

--
 No virus found in this outgoing message.
 Checked by AVG Free Edition.
 Version: 7.5.441 / Virus Database: 268.17.37/682 - Release Date: 2/12/2007 1:23 PM

--
 No virus found in this incoming message.
 Checked by AVG Free Edition.
 Version: 7.5.441 / Virus Database: 268.17.39/686 - Release Date: 2/14/2007 7:54 AM

400

RICHARD M. CHONG

1 March 2007

Mr. Henri Leimer
Mr. Silvan Colani
Representative
LGT
3 Exchange Square
11th Floor
Central, Hong Kong
Fax no : 852-2868-0059

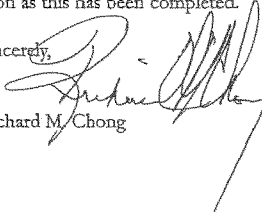
[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Dear Henri & Silvan,

Please take this memo as instruction to wire US\$63,303 (sixty three thousand three hundred and three United States dollars only) from the account number [REDACTED] to account number [REDACTED] immediately.

The transfer can begin as soon as possible. Please email me or fax me at 415-[REDACTED] as soon as this has been completed.

Sincerely,


Richard M. Chong

ACME
DIVIDENDS

[REDACTED] - SAN FRANCISCO, CA [REDACTED]
PHONE: [REDACTED] - FAX: [REDACTED]

CH-PSI-00066

Richard M. Chong

From: Rick [REDACTED]
Sent: Thursday, March 01, 2007 5:49 PM
To: 'Chalet@hk.super.net'
Subject: RE: delivery

Faxed to you today.

Rick

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

From: Chalet@hk.super.net [mailto:Chalet@hk.super.net]
Sent: Wednesday, February 28, 2007 3:42 AM
To: Richard Chong
Subject: delivery

Dear Rick,

We have received your delivery of 63,303 units to Apex. If you wish to move them to M or R, please fax us a brief instruction letter with your signature.

Thanks & best regards,
 Silvan

 No virus found in this incoming message.
 Checked by AVG Free Edition.
 Version: 7.5.446 / Virus Database: 268.18.4/703 - Release Date: 2/26/2007 2:56 PM

 No virus found in this outgoing message.
 Checked by AVG Free Edition.
 Version: 7.5.446 / Virus Database: 268.18.5/707 - Release Date: 3/1/2007 2:43 PM

Richard M. Chong

From: Chalet@hk.super.net
Sent: Wednesday, April 18, 2007 10:06 PM
To: Rick
Subject: Fw: Apex Assets Limited
Attachments: Schedule K-1.pdf

Dear Rick

Enclosed for your information.

Regards,
Silvan

-----Original Message-----

From: Gloria Ma (KCS Ltd) [mailto:gloria.ma@kcs.com]
Sent: Thursday, April 19, 2007 10:46 AM
To: Colani, Silvan
Cc: Chris Ho (KCS Ltd)
Subject: Apex Assets Limited

Dear Silvan

I have received the Schedule K-1 (Form 1065) from Sycamore Venture Capital, LP for your attention.

<<Schedule K-1.pdf>>

Regards
Gloria Ma

Gloria Ma
Associate Director

KCS Limited
8th Floor, Gloucester Tower, The Landmark
15 Queen's Road Central, Hong Kong

Direct line +852 3589 8822
Direct Fax +852 3589 8522
General Line +852 3589 8899
gloria.ma@kcs.com
www.kcs.com

No virus found in this incoming message.



Since 1946

KCS Limited
8th Floor, Gloucester Tower, The Landmark
15 Queen's Road Central, Hong Kong

Tel: +852 3589 8899
Fax: +852 3589 8556
www.kcs.com

Apex Assets Limited
c/o LGT Bank in Liechtenstein AG
Representative Office Hong Kong
Suite 4203, Two Exchange Square
8 Connaught Place
Central, Hong Kong
Attn: Mr Silvan Colani

Our ref [REDACTED]

Fee note [REDACTED]

Date 27/4/2007

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Time spent in liaising with Computershare -- Australia regarding the procedures of share transfer and relaying same to the party concerned.

Arranging for the standard transfer form regarding the transfer of the shares of Arasor International Ltd to be signed by the director of the Company and forwarding the signed form to LGT Bank in Liechtenstein AG, Representative Office in Hong Kong, for action.

Updating the Company's record.

Fee for the above

HK\$2,200

Disbursements:
Telephone

2

Total

HK\$2,202

PAYMENT METHOD

Direct payment

Send crossed cheque made payable to "KCS Limited" to 8th Floor, Gloucester Tower, The Landmark, 15 Queen's Road Central, Hong Kong together with the remittance advice below.

Direct transfer through bank accounts

Instruct your bank to remit funds by telegraphic transfer to either of our following bank accounts:

Bank: Standard Chartered Bank (Hong Kong) Limited
Shop 10, G/F & Lower G/F, New World Tower, Central, Hong Kong
KCS Limited

Account name: HK\$ current a/c

US\$ savings a/c

Swift code

When making remittance to bank accounts please indicate clearly whom the funds are from and our fee note number(s) to enable us to identify them.

Fees are payable on presentation.

KCS Limited is incorporated in the British Virgin Islands with limited liability.

* Hong Kong

* Singapore

* Shanghai

* Beijing

* Shenzhen

* Jakarta



Since 1946

KCS Limited
8th Floor, Gloucester Tower, The Landmark
15 Queen's Road Central, Hong Kong

Tel: +852 3589 8899
Fax: +852 3589 8556
www.kcs.com

REMITTANCE ADVICE

Our ref [REDACTED]

Client: Apex Assets Limited

Fee note number [REDACTED]

Date: 27/4/2007

Amount: HK\$2,202

CH-PSI-00025

Richard M. Chong

From: Chalet@hk.super.net
Sent: Wednesday, March 21, 2007 11:34 PM
To: Rick
Subject: Re: Apex Assets

Hi Rick,

Gloria has confirmed the holding and is checking how we can transfer the shares into the account of Apex where it can be traded.

I will revert as soon as we know more.

Regards,
 Silvan

----- Original Message -----

From: Rick
To: Silvan Colani
Sent: Tuesday, March 20, 2007 6:23 AM
Subject: Apex Assets

Silvan,

I believe that Apex Assets should be holding 214,145 shares of Arasor Intl which is now listed on the Australia stock exchange (symbol : ARR). I believe that these shares are registered and therefore eligible for trading. Can you check with the administrators of Apex Assets to find out about the procedures and costs of beginning to sell these shares?

Thanks,
 Rick

--
 No virus found in this outgoing message.
 Checked by AVG Free Edition.
 Version: 7.5.446 / Virus Database: 268.18.14/727 - Release Date: 3/19/2007 11:49 AM

--
 No virus found in this incoming message.
 Checked by AVG Free Edition.
 Version: 7.5.446 / Virus Database: 268.18.16/729 - Release Date: 3/21/2007 7:52 AM

405

RICHARD M. CHONG

7 March 2006

Mr. Silvan Colani
Representative
LGT
3 Exchange Square
11th Floor
Central, Hong Kong
Fax no : 852-2868-0059

— = Redacted by the Permanent
Subcommittee on Investigations

Dear Henri,

Please take this memo as instructions to transfer US\$60,000 (sixty thousand United States dollars only) from the "M" account to Apex Assets and subsequently to the following recipient as soon as possible :

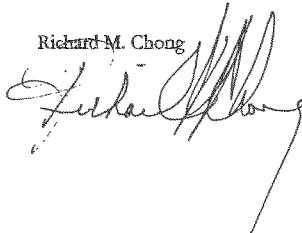
Dynamic Travel Service, Inc.
821 Sacramento Street
San Francisco, CA 94108

Dynamic Travel Service Inc
Bank of America
Chinatown Branch San Francisco
Acct # [REDACTED]
Routing Number [REDACTED]

This is payment for travel expenses to be incurred by Apex. Please email me or fax me at 415-[REDACTED] as soon as this has been completed.

Sincerely,

Richard M. Chong



[REDACTED] • SAN FRANCISCO, CA [REDACTED]
PHONE: [REDACTED] • FAX: [REDACTED]

CH-PSI-00059

LGT Treuhand AG
28 Städtle
FL-9490 Vaduz
Liechtenstein

— = Redacted by the Permanent
Subcommittee on Investigations

Dear Sirs,

Re: account [REDACTED] / ref. [REDACTED]

Please take this letter as your authority to transfer USD 37,500.-- from the above account as follows:

Beneficiary's bank: LGT Bank in Liechtenstein, Vaduz
Beneficiary: Apex Assets Ltd.
Account no.: [REDACTED] / ref. [REDACTED]

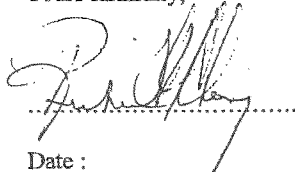
Thereafter, please transfer the funds as follows:

U.S. Trust Company of New York
New York, New York
ABA# [REDACTED]
For the account of Sycamore Venture Capital, L.P.
Account# [REDACTED]
Reference: Apex Assets

SVL capital call

Thank you for your attention to this matter.

Yours faithfully,


.....
Date :

Richard M. Chong

From: Chalet@hk.super.net
Sent: Wednesday, February 20, 2008 9:45 PM
To: Richard Chong
Subject: Update

Dear Rick,

There is some important news that you should be aware of. Please have a look at www.lgt.com

Sonja is currently in Hong Kong. If you wish to discuss, please give me a call.

Best regards,
Silvan

Permanent Subcommittee on Investigations
EXHIBIT #71

CH-PSI-00035

Richard M. Chong

From: Richard Chong [REDACTED]
Sent: Thursday, February 21, 2008 7:12 AM
To: 'Chalet@hk.super.net'
Subject: RE: Update

Silvan,

Is this disclosure possibly affecting me?

Rick

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Richard M. Chong

From: Chalet@hk.super.net
Sent: Thursday, February 21, 2008 7:41 PM
To: Richard Chong
Subject: Re: Update

Hi Rick,

Yes, I'm afraid we have to assume the possibility.

Silvan

----- Original Message -----

From: Richard Chong
To: Chalet@hk.super.net
Sent: Thursday, February 21, 2008 11:12 PM
Subject: RE: Update

Silvan,

Is this disclosure possibly affecting me?

Rick

Richard M. Chong

From: Chalet@hk.super.net
Sent: Thursday, February 21, 2008 8:16 PM
To: Richard Chong
Subject: Re: Update

Suggest you urgently seek local advice.

Worst case, we must assume that all files up to 2002 are out.

I'm very sorry. Sonja is here if you wish to discuss.

Silvan

CH-PSI-00038

Richard M. Chong

= Redacted by the Permanent
 Subcommittee on Investigations

From: Sprenger Sonja [sonja.sprenger@lgt.com]
Sent: Thursday, March 13, 2008 6:43 AM
To: [REDACTED]
Cc: Peter Xenia; Colani, Silvan
Subject: AW: Lawyer recommendation

Dear Richard

Following our yesterday's telephone conversation I have made enquiries, and wish to inform you of the findings as follows:

After having consulted with Mr. Falk regarding conflict of interest issues we had put him on our list of counsels who we generally refer client issues to, because we appreciate the quality of his advice. Mr. Falk was of the clear opinion that his representation of you would not conflict with advice he has given LGT group companies in US tax matters beforehand. Mr. Falk's law firm has now reviewed the situation in detail and came to the conclusion that Mr. Falk's representation of you in this matter could raise potential conflicts. Mr. Falk's office apologises for any inconvenience this may have caused to you.

I also want to emphasize that it is your free decision whether you want to keep Mr. Falk as your representative. Otherwise please feel free to contact the other counsel recommended to you below.

Please do not hesitate to contact me if you need more information in this respect.

Best regards
 Sonja

-----Ursprüngliche Nachricht-----
Von: Sprenger Sonja
Gesendet: Donnerstag, 13. März 2008 13:13
An: 'rchongf' [REDACTED]
Cc: Peter Xenia; Colani, Silvan
Betreff: Lawyer recommendation

Dear Richard

Following our telephone conversation, please find the name and contact details of a San Francisco based lawyer:

Heller Ehrman LLP
Brett R. Dick
 333 Bush Street
 San Francisco, CA 94104-2878
 USA
 Tel. +1 415 772 6394
 Fax. +1 415 772 6268
 E-Mail: brett.dick@hellerehrman.com

Please do not hesitate to contact me if you need more information in this respect.

Best regards
 Sonja

LGT Treuhand AG
 Städtle 28

P.O. Box 683
FL-9490 Vaduz
Phone +423 235 27 27, Fax +423 235 27 15
Mail: lgt.trust@lgt.com
Web: <http://www.lgt.com>

This message may contain confidential information and is intended only for the named addressee. Any dissemination, disclosure, copying or use by persons or entities other than the intended recipient is prohibited. If you have received this in error, please notify the sender and delete the material from your system.

1 GRIFFITH & THORNBURGH, LLP
 2 ATTORNEYS AND COUNSELORS
 8 EAST FIGUEROA STREET, SUITE 300
 POST OFFICE BOX 9
 3 SANTA BARBARA, CA 93102-0009
 TELEPHONE: 805-965-5131
 TELECOPIER: 805-965-6751

4
 5
 6 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 7 IN AND FOR THE COUNTY OF SANTA BARBARA
 8 ANACAPA DIVISION
 9

10 STEPHANIE MISKIN) CASE NO. 01111516
)
 11 Plaintiff)
)
 12 vs.) DECLARATION OF MICHAEL MISKIN
) IN SUPPORT OF MOTION TO QUASH
 13) SERVICE OF SUMMONS AND DISMISS
) ACTION
)
 14 MICHAEL MISKIN, an individual;)
)
 15 BELMONT ASSETS LTD., a Guernsey)
)
 16 Trust; and ALL PERSONS CLAIMING)
)
 17 AN INTEREST IN THE PROPERTY)
)
 18 NAMES AS DOES 1 through 25, incl.)
)
)
 19 Defendants)
)
 20 _____)

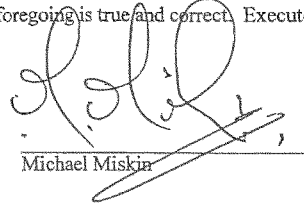
21 I, MICHAEL MISKIN, declare:
 22 1. I am a citizen of the United Kingdom. I am a legal resident of Bermuda.
 23 2. I have not been present in the United States, or in the State of California, at any time in
 24 calendar year 2003.
 25 3. I have visited Santa Barbara in the past on a tourist visa permitting me to stay for only
 26 90 days in the United States at any one time.
 27 4. I do not now, nor have I ever, owned the property in Santa Barbara commonly known
 28 as 68 Seaview Drive. I understand that the property is owned by Belmont Assets Ltd. Although
 I have in the past acted as an advisor and consultant to Belmont Assers Ltd. I do not now, nor
 have I ever owned any interest in that entity.

Permanent Subcommittee on Investigations
EXHIBIT #72

1
2 5. I believe that Belmont Assets Ltd. is owned by the Bonnymede Trust which was
3 established in Guernsey. That is an irrevocable trust. The sole beneficiary is "The Royal
4 Masonic Benevolent Institution", a charitable institution for the benefit of poor and distressed
5 free masons. I was not the settlor of the Bonnymede Trust, nor to the best of my knowledge have
6 I ever been either a trustee or a beneficiary of the Bonnymede Trust.

7 6. I never told Stephanie Miskin that I would acquire 68 Seaview Drive through my
8 personal trust headquartered in Guernsey, or that I would be the beneficial owner of the property.
9 Although Stephanie helped plan renovations to the property, these were undertaken with the
10 permission of Belmont Assets, Ltd and ultimately paid for by Belmont Assets, Ltd.

11 I declare under penalty of perjury that the foregoing is true and correct. Executed on
12 August 1, 2003 in Jalisco, Mexico.

13
14 
15 Michael Miskin

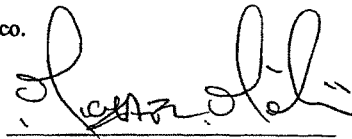
ATTORNEYS FOR: Defendant, Michael Miskin

STEPHANIE MISKIN)	CASE NO. 01111516
Plaintiff)	DECLARATION OF MICHAEL MISKIN
vs.)	
MICHAEL MISKIN, an individual;)	
BELMONT ASSETS LTD., a Guernsey)	
Trust; and ALL PERSONS CLAIMING)	
AN INTEREST IN THE PROPERTY)	
NAMES AS DOES 1 through 25, incl.)	
Defendants)	

1. I am a citizen of the United Kingdom. I am a legal resident of Bermuda.
2. I make this declaration as part of a special appearance challenging the jurisdiction of this court.
3. I have not been present in the United States, or in the State of California, at any time in calendar year 2003. Although I have visited Santa Barbara in past years, I have stayed for less than 90 days and have never been a resident. On occasion, when I have stayed in the Seaview property, my name has been put on the mailbox. I understood that my name was removed on my departure, or shortly thereafter.
4. I thought that my prior declaration made it abundantly clear that I have never owned the property at 68 Seaview Drive in Santa Barbara.

5. I understand that Stephanie Miskin's counsel has stated that there is no reason for me to be a party to this case provided that I "disavow any claim to the real property." Based on the understanding that the court will quash the summons and dismiss me as a party with prejudice, I hereby disavow any claim to 68 Seaview Drive, Santa Barbara, California.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 4, 2003 in Sausalito, Mexico.



Michael Miskin

CLARK & TREVITHICK

800 WILSHIRE BOULEVARD, TWELFTH FLOOR

LOS ANGELES, CA 90017

(213) 629-5700 TELEPHONE • (213) 624-9441 FACSIMILE

1 JUDITH ILENE BLOOM, SBN 65236
 2 LESLIE R. HOROWITZ, SBN 97630
 3 JAMES E. DANIELS II, SBN 205814
 4 CLARK & TREVITHICK
 5 A Professional Law Corporation
 800 Wilshire Boulevard, Twelfth Floor
 Los Angeles, California 90017
 Telephone: (213) 629-5700
 Facsimile: (213) 624-9441

6 Attorneys for Plaintiff Stephanie Miskin

7
 8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF SANTA BARBARA

10
 11 STEPHANIE MISKIN,

12 Plaintiff,

13 v.

14 MICHAEL MISKIN, an individual;
 15 BELMONT ASSETS LTD., a Guernsey Trust;
 and ALL PERSONS CLAIMING AN
 16 INTEREST NAMED AS DOES 1 through 25,
 inclusive,

17 Defendants.

FILED
 SUPERIOR COURT of CALIFORNIA
 COUNTY OF SANTA BARBARA

APR - 4 2003

GARY M. BLAIR, EXEC. OFFICER
 By *[Signature]*
 Jeff Hite, Deputy Clerk

CASE NO. 01111516

Assigned to Hon. Thomas P. Anderle

DECLARATION OF STEPHANIE AVRIL
 MISKIN IN OPPOSITION TO MOTION
 TO EXPUNGE LIS PENDENS

Hearing: 4-15-03

Dept: 3

Time: 9:00 a.m.

Filed: 1-31-03

18
 19
 20
 21 Stephanie Avril Miskin declares as follows:

22 1. I am the plaintiff in this action. I have personal knowledge of the facts stated here
 23 in and if called as a witness I am competent to testify thereto.

24 2. I married defendant Michael Miskin on June 21, 1964 in England. We have been
 25 married at all times since then. I filed a petition for divorce with the High Court of Justice Family
 26 Division in London, England on January 13, 2003. My petition was assigned case number
 27 FD03D00289.

28 ///

Permanent Subcommittee on Investigations

EXHIBIT #73

Redacted by the Permanent
Subcommittee on Investigations

CLARK & TREVITHICK
800 WILSHIRE BOULEVARD, TWELFTH FLOOR
LOS ANGELES, CA 90017
(213) 625-5700 TELEPHONE • (213) 624-9441 FACSIMILE

1 3. Michael Miskin was in London in May and June, 2002 during which time he stayed
2 at my house, the address of which is Belmont, [REDACTED] I have a personal
3 computer at my home with e-mail capability. Michael used my computer for e-mail
4 communications when he was in London. Attached hereto collectively as Exhibit "A" are various
5 communications I was able to retrieve from the hard drive of the computer. I did not create any of
6 these communications and they were clearly sent to and from Michael during his stay in London
7 last year.

8 4. When Defendant and I married in June 1964, we purchased together our first home
9 which was an apartment in Belmont Court, Whetstone, London, N20. When we sold that
10 apartment and moved to my current home in 1969 Defendant suggested that we gave our new
11 home the name of "Belmont". In 1991 or thereabouts Defendant rented an apartment for his
12 occupation in Santa Barbara. Although I cannot remember its precise address, I do recall that it
13 was within a complex of apartments known either as Montecito Shores or Bonnymead. I do not
14 know if he was still living there when the Bonnymead Trust was formed in 1994.

15 5. Between 1994 and 1997 Defendant repeatedly expressed his desire to purchase a
16 permanent home in the United States. Together we viewed a number of properties and in late
17 1997 we jointly selected a beachfront condominium at 68 Seaview Drive in Montecito, Santa
18 Barbara. That is the property that is the subject of this action. The purchase price was about
19 \$700,000 although the apartment was in poor condition. Defendant told me he was buying the
20 condominium through his personal trust based in Guernsey of which he was the beneficial owner.
21 I agreed to and did supervise extensive renovations at the condominium. After returning to
22 London in June, 1998 for our younger son's announcement of his engagement and subsequent
23 wedding, I returned to Montecito for New Year's 1999. Defendant told me that once I saw how
24 splendid the condominium looked after the renovations, I might want to stay. While the condominium
25 did look wonderful, I found it necessary to return to London as our marital situation was causing
26 me great distress

27 6. I have read the supporting declaration of David Anfossi dated 6 March 2003. I am
28 interested that Mr Anfossi should make a declaration of this nature as he is a personal friend of

2
DECLARATION OF STEPHANIE MISKIN

CLARK & TREYTHICK
 800 WILSHIRE BOULEVARD, TWELFTH FLOOR
 LOS ANGELES, CA 90017
 (213) 629-5700 TELEPHONE • (213) 624-9441 FACSIMILE

1 Defendant and is a significant link between the Defendant and Bermuda. In recent years both
 2 Defendant and I have been entertained to dinner with Mr Anfossi and his wife both in London and
 3 in Bermuda. I should explain that perhaps ten years ago Defendant and I were granted Bermudan
 4 residency by obtaining a residential address and depositing a substantial sum of money with, I
 5 believe, the Bank of Bermuda. The advantage of Bermudan residency to Defendant is that it
 6 provided him with a means to enter the United States without being obliged to go through any
 7 registration process. Defendant explained to me that all he needed to do was to have with him, at
 8 any time when he entered the United States, a return flight to Bermuda. Once his entry had been
 9 secured, it was simply a matter, so the Defendant told me, of cancelling the return ticket to
 10 Bermuda and securing a refund. This arrangement had the added advantage to Defendant that by
 11 virtue of his entry into the United States not being registered, his presence did not come to the
 12 attention of any of the US authorities and particularly the Internal Revenue Service. To minimize
 13 the risk of his presence as a "permanent resident" becoming known to the IRS, Defendant was
 14 scrupulous to ensure that he did not own any real estate, motor vehicle or indeed even hold bank
 15 accounts in his own name. This was achieved through the employment of nominee accounts and
 16 trust companies.

17 7. In our most recent meeting with David Anfossi in London in June 2002, a topic
 18 during dinner conversation was Defendant's dissatisfaction with the service which he was
 19 receiving from his Guernsey trustees. I specifically recall Mr Anfossi assuring Defendant that the
 20 service which would be supplied to him by the Bermudan trustees would be very much to his
 21 satisfaction.

22 8. Defendant claims to have obtained citizenship of Bermuda although I do not know
 23 if he still claims British citizenship.

24 I declare under penalty of perjury under the laws of the State of California that the
 25 foregoing is true and correct.

26 Date: April 1 2003

27 S. Miskin

28 Stephanie Avril Miskin

COPY

CLARK & TREVITHICK
800 WILSHIRE BOULEVARD, TWELFTH FLOOR
LOS ANGELES, CA 90017
(213) 629-5700 TELEPHONE • (213) 624-9441 FACSIMILE

1 JUDITH ILENE BLOOM, SBN 65236
 2 LESLIE R. HOROWITZ, SBN 97630
 3 JAMES E. DANIELS II, SBN 205814
 4 CLARK & TREVITHICK
 5 A Professional Law Corporation
 6 800 Wilshire Boulevard, Twelfth Floor
 7 Los Angeles, California 90017
 8 Telephone: (213) 629-5700
 9 Facsimile: (213) 624-9441
 10 Attorneys for Plaintiff Stephanie Miskin

FILED
SANTA BARBARA
SUPERIOR COURT

AUG 29 2003

GARY M. BLAIR, EXEC. OFFICER

By *Kristi L. Russell*
KRISTI L. RUSSELL, Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA BARBARA

11 STEPHANIE MISKIN,
 12 Plaintiff,

v.

14 MICHAEL MISKIN, an individual;
 15 BELMONT ASSETS LTD., a Guernsey Trust;
 16 and ALL PERSONS CLAIMING AN
 17 INTEREST NAMED AS DOES 1 through 25,
 18 inclusive,

Defendants.

CASE NO. 01111516
 Assigned to Hon. Thomas P. Anderle

**OPPOSITION TO MOTION TO QUASH;
 OBJECTIONS TO EVIDENCE;
 REQUEST FOR JUDICIAL NOTICE;
 DECLARATION OF JUDITH ILENE
 BLOOM**

Complaint filed: January 31, 2003

Hearing: 9-9-03
 Dept: 3 (14)
 Time: 9:00 a.m.

1.

INTRODUCTION

22 Defendant Miskin has objected to being called to respond to the complaint because he
 23 claims there is no personal jurisdiction over him in this court. He suggests that he makes no claim
 24 to the real property, but carefully stops short of giving a plain statement that eschews any claim to
 25 the real property. As the materials submitted in support of the application to serve defendant
 26 Miskin by publication shows, he has a significant presence in Santa Barbara, lives and receives
 27 mail in Santa Barbara, and it would not be unfair to compel him to respond to the complaint. Of
 28 course, if he will provide a plain statement that he makes no claim to the real property, he can be

O:\DOCS\M\MISKIN\1203\NGS\Pld\qquash.app.doc

OPPOSITION TO MOTION TO QUASH

CLARK & TREVITHICK
800 WILSHIRE BOULEVARD, TWELFTH FLOOR
LOS ANGELES, CA 90017
(213) 629-5700 TELEPHONE • (213) 624-9441 FACSIMILE

1 dismissed from the case and avoid the expense and trouble of providing a defense.

2 By way of update, plaintiff reports that the court in England with jurisdiction over the
3 dissolution of marriage has entered an order confirming that plaintiff has full ownership and
4 control of Bonnymead Trust, the sole owner of defendant Belmont. It enjoins defendant Miskin as
5 well as David Anfossi and Douglas Tufts from interfering with her ownership and control. She is
6 in the process of obtaining new management in place of the Anfossi entities. Once that has been
7 completed and defendant Miskin disavows any claim to the real property and questions relating to
8 the purported post-lis pendens deed of trust are resolved, this litigation can be ended.

9 Interestingly, former management of Belmont has discharged counsel and purports to have
10 Belmont appear in proper person. An entity like Belmont must appear through counsel, but new
11 management will either appoint new counsel or the case will simply be dismissed since plaintiff
12 now owns Belmont. A copy of the English order is attached to the Request for Judicial Notice.

13 Defendant's citation of case law that the burden of proof rests with the plaintiff
14 (accounting for all of the citation of legal authority in the motion) is not meaningful if in fact
15 defendant is a resident of California. Moreover, once plaintiff shows the existence of minimum
16 contacts with California, the burden shifts back to defendant to show that the exercise of
17 jurisdiction over him is unfair, *Integral Dev. Corp. v. Weissenbach*, 99 Cal. App. 4th 576 (2002);
18 *Bridgestone Corp. v. Superior Court*, 99 Cal. App. 4th 767 (2002).

2.

PLAINTIFF HAS ESTABLISHED GENERAL JURISDICTION OVER DEFENDANT

22 Defendant's initial claim, that he is a nonresident, has not been established. As the papers
23 provided in support of the application for an order to serve by publication showed, defendant has
24 been living in Santa Barbara for a number of years. His name is on the mailbox of the real
25 property subject of the complaint and his neighbors and the guard at the condominium know him
26 to live there. He had a regular relationship with the adult art center. His website has been full of
27 pictures of Santa Barbara where he brags of his involvement with CHP charities. The fact that he
28 is now visiting Costa Rica or Mexico (where he signed his declaration) does not change his actual

1 residence. His divorce in England was precipitated by his meretricious relationship with
2 California resident Joanna Middleton of Santa Barbara.

3 Defendant is a resident of Santa Barbara and as such, is subject to the general jurisdiction
4 of the courts in California.

5 "The first and most important basis for jurisdiction of the person of an individual
6 is presence within the boundaries of the state. This is true of any person voluntarily
7 within the state, whether he is a permanent resident or a temporary visitor; his
8 presence gives the state power over him." 2 WITKIN, CALIFORNIA
9 PROCEDURE 665 (4th ed. 1996) citing RESTATEMENT SECOND CONFLICT
10 OF LAWS § 28.

11 The Judicial Council Report explained what residence means:

12 "Residence is the place where the individual has an abode or where he has settled
13 down to live for a period of time, but not necessarily with an intention of making a
14 home there as to create a domicil.[sic]" Code of Civil Procedure § 410.10 Judicial
15 Council Comment (Residence).

16 The Miskin declaration is carefully vague as to where he was living and when. His
17 characterization of his presence in Santa Barbara for so many years as "visiting" is disingenuous at
18 best. There are undoubtedly financial advantages, particularly under applicable tax laws, for
19 maintaining a Bermuda residence and moving from country to country. But the plain facts show
20 that Miskin has been living in Santa Barbara for many years. The fact that investigators were
21 unable to find him to serve him personally only means he put more effort than most into hiding.
22 That does not mean he was not living in California and is not subject to California's power.

23 The law provides that residence alone (residence short of formal domicile) is sufficient to
24 establish jurisdiction. *Id.* at 676. Residence does not require proof of intent, *id.* The factors to
25 consider include (1) amount of time defendant spends in the state; (2) nature of his place of abode
26 in the state; (3) defendant's attitude toward the state; and (4) what defendant does in the state.
27 JUDICIAL COUNCIL 1969 REPORT 73; SECOND RESTATEMENT CONFLICT OF LAWS
28 §30 comment a.

Defendant has failed to provide details as to item (1). But the declarations previously
submitted show that defendant Miskin has lived in Santa Barbara for a number of years. He
receives mail in Santa Barbara and has his name posted on the mailbox at the real property at issue
in the case. Neighbors and condominium guards know him as a resident. He is well-known at the

CLARK & TREVINICK
800 WILSHIRE BOULEVARD, TWELFTH FLOOR
LOS ANGELES, CA 90017
(313) 623-5700 TELEPHONE • (313) 624-9441 FACSIMILE

1 art center where he throws pots. His website shows pictures of Santa Barbara and he donates
2 proceeds from local art shows to CHP charities. He lived with the plaintiff in Santa Barbara
3 despite maintaining a Bermuda "residence" for tax avoidance.

4 The nature of defendant's place of abode is the real property condominium purchased at
5 about \$700,000 in an exclusive Montecito development. It is not a motel or other pay-by-the-day
6 temporary lodging.

7 Defendant's attitude toward the state is difficult to determine and there is nothing in his
8 declaration to enlighten the court.

9 What defendant does in California is to live, enjoy his retirement, engage in an engrossing
10 ceramics hobby, and control his remaining business affairs.

11 As a California resident, served (by publication) in California, defendant Miskin is subject
12 to the power of this court and should be held to answer, in the absence of an unambiguous
13 disavowal of any claim to the real property.

14 3.

15 THE COURT HAS SPECIFIC JURISDICTION OVER DEFENDANT

16 Even if defendant were not a California resident, his activities in California relating to the
17 real property where he lives justifies the assertion of jurisdiction over him in matters relating to
18 that real property. By acting as the owner of the real property and by maintaining control over the
19 real property, he has purposefully availed himself of the benefits of living and owning property in
20 California and should be held to answer here when there is an adverse claim to the real property.
21 It is fair that he be called to answer in California as to his claims to ownership of the real property
22 which is located here and where he has lived for many years. His last minute decision to spend
23 time in Costa Rica does not change the fairness of having him appear in California and prove what
24 claim he may have to the real property. If he makes no claim, he can say so and avoid the
25 litigation.

26 The ownership or use of property within a state is a basis for jurisdiction against an
27 individual, Code of Civil Procedure §410.10 Judicial Council Comment (Ownership, Use or
28

CLARK & TREVITHICK

800 WILSHIRE BOULEVARD, TWELFTH FLOOR
LOS ANGELES, CA 90017
(213) 625-5700 TELEPHONE • (213) 624-9441 FACSIMILE

1 Possession of Thing in State).

2 "A state has power to exercise judicial jurisdiction over an individual who has
3 owned, used or possessed an immovable thing in the state with respect to any cause
4 of action arising from the thing while it was owned, used or possessed by the
5 defendant." *Id.*

6 The Comment cites the RESTATEMENT for the proposition that an "immovable thing"
7 includes real property and its improvements, *id. citing* RESTATEMENT SECOND §38,
8 Comments a and c. Since the claim arises from competing claims to real property in Santa
9 Barbara and to which plaintiff alleges defendant makes a claim, jurisdiction is entirely proper.

10 The case law has expanded the scope of what constitutes purposeful availment and what is
11 fair. For example, in *Cornelison v. Chaney*, 16 Cal. 3d 143 (1976), the court approved the exercise
12 of jurisdiction over a nonresident trucker for an accident in Nevada while defendant was en route
13 to California. Even in *Seagate Tech. v. A.J. Kogyo Co., Ltd.*, 219 Cal. App. 3d 696 (1990), a
14 foreign national corporate CEO was found to have sufficient contacts with California because as
15 CEO he caused the corporation to make a guaranty (written in Japanese) that was breached that
16 caused the financial collapse of the trading partner. He never visited California and had nothing to
17 do with the transaction other than authorize the guaranty letter.

18 Defendant has not provided the court with sufficient information as to his whereabouts and
19 where he claims he has lived all these years. He cannot move for dismissal without explaining
20 why the detailed information previously provided to the court is wrong. Surely he has the
21 information easily available from the court file. In addition, defendant Belmont, who itself had no
22 need for the information, subpoenaed the files of the investigators used by plaintiff. Plaintiff
23 raised no privilege or other objection and the files were duly delivered to Belmont who asked for
24 them only for the use of Miskin. Since there was nothing to challenge in the work done by the
25 investigators, Miskin includes no specific challenge to the declaration provided in support of the
26 application to serve by publication.

27 ///

28 ///

29 ///

CLARK & TREVITHICK

800 WILSHIRE BOULEVARD, TWELFTH FLOOR

LOS ANGELES, CA 90017

(213) 699-5700 TELEPHONE • (213) 694-9441 FACSIMILE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4.

CONCLUSION

Defendant is subject to the jurisdiction of this court. He is a long-time resident of Santa Barbara and the suit involves defendant's rights, if any, to real property within the County where he has lived for many years. There is nothing unfair about compelling defendant either to disavow any claim to the real property or to present his claims here and now.

DATED: August 28, 2003

Respectfully submitted,

CLARK & TREVITHICK

By: 

Judith Ilene Bloom
Attorneys for Plaintiff Stephanie Miskin



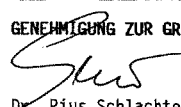
LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Sädkirch 18-22
FL-9490 Vaduz
Fürstentum Liechtenstein

Telephone 41-75-235 27 27
Telefax 41-75-235 27 15
Telex 88 92 27 bkt
E-Mail lgtrust@lgt.li
100653,2664 CompuServe

Aktenvermerk

1/2

Thema	Neugründung Michel Mistin	
Verfasser(in) / Tel.	Peter Meier	GENEHMIGUNG ZUR GRÜNDUNG:
Datum	30. Juni 1998	
Zur Erledigung	Daniela Gstöhl	Dr. Pius Schlachter
Zur Kenntnisnahme	Dr. Schlachter	

Herr Alois Beck (LGT) bittet mich, Herrn Mistin in Santa Barbara CA (USA) anzurufen, da dieser einige Informationen über eine Stiftung oder einen Trust in FL erfahren möchte.

Herr Mistin hat seinen registrierten Wohnsitz in Bermuda. In den USA ist er „Visitor“ und lebt die meiste Zeit in Santa Barbara. Als Resident of Bermuda kann er unlimitiert in USA ein und aus reisen.

Vor ca. einigen Jahren hat er durch den Verkauf seiner Gesellschaft über die Kreditbank in Belgien einen grösseren Gewinn gemacht. Damals lebte er noch in England, als Non Resident. Aus steuerlichen Gründen (ich habe das System nicht verstanden) haben ihm die Buchhalter Tuch & Ross empfohlen, jährlich das Guthaben für die Dauer, dass Netto £ 25.000.-- an Zinsen gutgeschrieben werden, auf das Konto seiner Frau zu buchen. Das Konto wurde von ihm eröffnet und er hatte auch die Unterschrift (ist sich aber nicht mehr ganz sicher). Vor 8 Jahren kam es zu Streit mit seiner Frau und seit dem lebt er getrennt von ihr. Im Verdross hat er England verlassen und dabei die Bank beauftragt, das Geld an die UBS in Genf zu überweisen. Da wurde festgestellt, dass der Betrag noch auf dem Konto seiner Frau lag. Die Bank hatte seinen Auftrag, nach Gutschrift der Zinsen das Kapital wieder auf sein Konto zu übertragen nicht ausgeführt. Seine Frau hatte Kenntnis von diesen steuerlichen Transaktionen und auch vom nicht ausgeführten Auftrag. Sie benutzte die Gelegenheit und hat Herrn Mistin angeklagt, ihr das Geld gestohlen und das Land fluchtartig verlassen zu haben!!! Daraufhin hat er das Geld von Genf auf die FL Landesbank überweisen lassen. Nachdem aber die Genfer Bank den englischen Anwälten Auskunft erteilten (!!!!!) hat er das Geld in Bar von der Landesbank zur BIL gebracht - das war vor 8 Jahren. Die Klage wurde mittlerweile von seiner Frau zurückgezogen.

Seine Frau ist aber immer noch auf das Geld scharf und möchte sich deshalb nicht scheiden lassen. Der ältere Sohn, selbst im Geschäft sehr erfolgreich, hält eher zur Mutter und der jüngere eher zu ihm, pflegt aber auch guten Kontakt zur Mutter. Damit seine Frau nie Kenntnis von der Stiftung erhält, sollen die Beträge an seinen jüngeren Sohn „anonym“ ausgezahlt werden. Der ältere hat selbst etliche Millionen und soll deshalb von der Stiftung nicht begünstigt werden.

Permanent Subcommittee on Investigations

EXHIBIT #74

PSI-USMSTR - 006663



LGT Treuhand
A Member of Liechtenstein Global Trust

Aktenvermerk

2/2

Das Vermögen, derzeit ca. 10 Mio. CHF wurde „schwarz“ erwirtschaftet und war immer vom offiziellen getrennt, er rechnet also nicht mit Problemen wegen Pflichtteilsverletzung!!

Ich habe mit ihm vereinbart, dass er uns per Fax drei Namensvorschläge sendet. Wir senden ihm die vorbereiteten STOM Unterlagen per DHL morgen 1. Juli 1998 an folgende Adresse:

Michael Mistin
68 Seaview Drive
Montecato CA 93108
USA

Falls alle Namensvorschläge besetzt sind, senden wir die Unterlagen ohne Namen.

7

[logo] LGT Trust

A Member of Liechtenstein Global Trust LGT Trust Tel. 41-75-235 27 27

Corporation Fax 41-75-235 27 15

Städtle 18-22 Telex 88 92 27 bilt

FL-9490 Vaduz E-mail lgtrust@lgt.li

Fürstentum Liechtenstein 100653,2664 CompuServe

Memorandum for the Record 1 / 2Subject **New Establishment Michel Misten**Author Peter Meier (Stamp) **APPROVAL FOR ESTABLISHMENT**

Date June 30, 1998 (signature)

For action Daniela Gstöhl Dr. Pius Schlachter

Cc Dr. Schlachter (initialed)

Mr. Alois Beck (LGT) asks me to call Mr. Mistin in Santa Barbara, CA (USA), because Mr. Mistin would like to have some information about a foundation or a trust in FL.

Mr. Mistin's registered place of residence is in Bermuda. In the U.S., he is a "visitor" and lives most of the time in Santa Barbara. As a resident of Bermuda, he has unrestricted entry and exit to and from the U.S.

About a few years ago, he made a rather large profit from the sale of his company through the Credit Bank in Belgium. Back then he still lived in England, as a non-resident. For tax reasons (I did not understand how that works), the accounting firm Tuch & Ross recommended that he deposit annually the positive balance, for the time period in which £25,000.00 net gets credited in interest, into the account of his wife. The account was opened, and he had the signature as well (but he's not completely sure anymore). Eight years ago, he and his wife came to a clash, and since then he has been separated from her. Chagnined, he left England, and instructed the bank to transfer the money to UBS in Geneva. That is when it was noticed that the amount is still in his wife's account. The bank had not carried out his instruction to transfer the principal back to his account after the interest was credited. His wife was aware of these tax-related transactions, as well as of the fact that the bank had not carried out her husband's instructions. She took advantage of this opportunity and charged Mr. Mistin with having stolen the money from her and having hastily fled the country!!! Thereupon he had the money transferred from Geneva to the FL Landesbank. But after the Geneva bank disclosed information to the English attorneys (!!!!!) he brought the money from the BIL in cash - that was 8 years ago. In the meantime, the charge has been withdrawn by his wife.

His wife is still keen on the money, however, and hence does not want to get divorced. The older son, very successful in business himself, is more on his mother's side; the younger son is more on his father's, but maintains good relations with the mother as well. In order to make sure that his wife never finds out about the foundation, the amounts are to be paid to his son "anonymously." The older son has several million himself and will for this reason not benefit from the foundation.

[logo] LGT Trust

A Member of Liechtenstein Global Trust

Memorandum for the Record 2 / 2

The assets, currently around 10 million Swiss francs, were earned "under the table" and were always separate from the official, so he is not expecting to encounter problems related to the breach of the disclosure [rules].

We agreed that he will fax us three name suggestions. We will send him the prepared STOM [foundation w/o a mandate] documents via DHL tomorrow, July 1, 1998 to the following address:

Michael Mistin
68 Seaview Drive
Montecato CA 93108
USA

If all suggested names are already taken, we will send the documents without a name.

(signature or initial)

— = Redacted by the Permanent
Subcommittee on Investigations

Michael Miskin
PO Box 5872 Santa Barbara CA 93150 USA

July 28th 2000
My Ref: MM/MM/PM3

To: Micronesia Foundation
Vaduz, Liechtenstein.

Letter of Wishes

Dear Sirs,

The following is my latest letter of wishes and intentions with respect to the assets of Micronesia Foundation, without binding you to any commitments whatsoever towards myself nor influencing in any way the administration of the foundation. It is rather my attention to detail, my general intent and directives on how assets of the foundation can be best Administered and distributed to the advantage of the beneficiaries. If I should alter my opinion, I will inform you thereof in good time. However should circumstances arise whereby the carrying out of the intent expressed below, or in any later letter, should appear unreasonable, then you should desist from the realisation of such intent.

With consideration of the above, I declare: -

Primary, secondary and tertiary beneficiaries may hereinafter be referred to and are classified by quantum. No monies or assets are to be distributed by the foundation to any beneficiaries until after my demise. In the absence of direction for whatever reason, the cash assets of the foundation are to be invested as previously, in Sterling or US Dollar deposits on one to three month time deposits with prime triple "A" banks only. Following any capital distribution as specified herein, only the yield shall be distributed among the beneficiaries. Should the total sum of the yield to be distributed be greater or lesser than the sums specified below, then the amount allocated to each beneficiary should be treated as a percentage of the whole and thereby increased or decreased on a pro-rata basis. Any real property that may be an asset of the foundation should be liquidated at the discretion of the board of the foundation, having taken reliable advice from two reputable firms of Chartered Surveyors or Realtors, wherever this may apply. All monies that may derive from real estate liquidation must be applied to the cash assets of the foundation.

1st. Primary beneficiary, Stephanie Avril Miskin of "Belmont", [REDACTED]
[REDACTED] She shall receive the sum of Sixty Thousand pounds per annum with the first payment being made within thirty days of my demise. She shall not have any rights of inspection and must, for the safety of the foundation and its very existence, be kept totally at arms length. Her legacy shall no longer be paid, in the event that she either decease, re-marry, live with a person as a common law spouse or is considered to be living as such at the discretion of the board of the foundation, or she takes any threatening action against the foundation, or it's servants, agents, representatives or any of the other beneficiaries, for the purpose of challenging the foundation. On her demise, her legacy will pass to [REDACTED] hereinafter mentioned, in addition to any existing legacy he may have from the foundation at that time.

Page....2

Permanent Subcommittee on Investigations

EXHIBIT #75

PSI-USMSTR - 006653

— = Redacted by the Permanent
Subcommittee on Investigations

2nd Primary Beneficiary, [REDACTED] shall receive the sum of one Hundred Thousand Pounds per annum. In the unlikely event that he should not survive, his legacy shall be passed to his wife [REDACTED] of the same address, provided that they are still husband and wife at the time of his demise and thereafter in any event to his daughter [REDACTED]. [REDACTED] shall be allowed to be able to have full access to the affairs of the foundation in my stead, immediately following my demise and not before. He shall be allowed to revise only his subsequent letters of wishes and intentions and only after the specific wishes contained herein have been properly executed.

Secondary beneficiary, [REDACTED] will receive, upon my demise and before my son [REDACTED] is given this letter of wishes, the sum of one hundred thousand dollars.

The following tertiary beneficiaries, who like any secondary beneficiaries, have no rights, will receive the sums mentioned immediately upon my demise.

[REDACTED]
will each receive a "One Time" amount in the sum of twenty Thousand Dollars.

The foundation board shall advise beneficiaries to treat sums due to them with the utmost caution in respect of local taxes. The board shall seek out and advise, the best possible way for beneficiaries to receive monies either by debit card or by loan or any other suitable method that should seek to avoid such local taxes. Leaving principle sums allotted to each beneficiary in a company or foundation in Liechtenstein should be recommended. Any beneficiary who takes legal action against the foundation will be automatically excluded from being a beneficiary.

This replaces my previous letter in its absolute entirety.

Yours Faithfully


Michael Miskin

PSI-USMSTR - 006654



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com

Feststellung der wirtschaftlich berechtigten Person

Ref. _____

Konto-/Depot-Nr. _____

Vertragspartner Micronesia Foundation, Vaduz

— = Redacted by the Permanent
Subcommittee on Investigations

Der/Die Unterzeichnete erklärt hiermit,

- ☐ dass er/sie selbst an den Vermögenswerten letztlich wirtschaftlich berechtigt ist:
☒ dass an den Vermögenswerten letztlich wirtschaftlich berechtigt ist/sind:

1. Name(n) Miskin
 Vorname(n) Michael
 Geburtsdatum _____
 Wohnadresse P.O. Box 5872
 PLZ/Ort Santa Barbara, California 93150
 Domizilland USA
 Nationalität USA
2. Name(n) _____
 Vorname(n) _____
 Geburtsdatum _____
 Wohnadresse _____
 PLZ/Ort _____
 Domizilland _____
 Nationalität _____
3. Name(n) _____
 Vorname(n) _____
 Geburtsdatum _____
 Wohnadresse _____
 PLZ/Ort _____
 Domizilland _____
 Nationalität _____

Der Vertragspartner verpflichtet sich, Änderungen der Bank von sich aus umgehend schriftlich mitzuteilen.

Micronesia Foundation

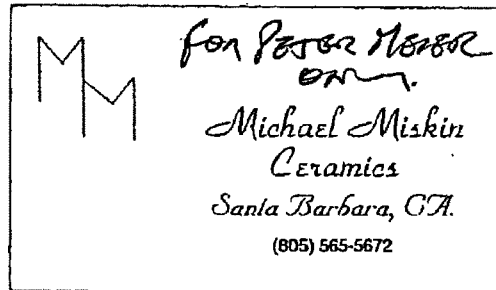
Vaduz, 18. Juli 2001

Ort/Datum

Permanent Subcommittee on Investigations
EXHIBIT #76

/ - Micronesia - 18.07.2001 - 11,48

PSI-USMSTR - 006652



PSI-USMSTR - 006665

Micronesia Foundation , 9490 Vaduz
 SB: Juon Erlin KB: Lungkofler Thomas

Mand.Nr.: [REDACTED]
 L. Kundenbesuch:

Gründungsdatum: 17.09.1998 Status: Aktiv

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Verwaltungs- / Stiftungsräte

Profile Management Trust reg., Vad Zeichnungsrecht: Einzeln einzeln
 Telser Marcel, Triesen Zeichnungsrecht: Kollektiv koll. zu zweien

Banken

LGT Bank in Liechtenstein AG, Vaduz AB: Beck Alois Tel. 1753 ZR-Nr.: [REDACTED] Zlg-Kto: [REDACTED]

Diverses

Anlageberater: Beck Alois,
 Repräsentant: LGT Treuhand AG, Vaduz
 Auftraggeber: Privater Auftraggeber

Fix-Honorare

Kapitalsteuer 1'000.00 17.09.2002 Liechtensteinische Steuerverwaltung, Vaduz

Pauschal-Honorare

	5'500.00	fällig am:	17.09.2002
Minimalhonorar	0.00	2'500'000.00	0.3750 %
Vermögensabh. Hon.	2'500'000.01	5'000'000.00	0.2500 %
Vermögensabh. Hon.	5'000'000.01	99'999'999'999.0	0.2000 %
Vermögenswert per:	30.06.2001	9'764'163.00	

Fakturierbares Pauschalhonorar: 25'153.00

Zweck

Besitznachweis, Verträge, Vollmachten

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

WICHTIG:

Der wirtschaftlich Berechtigte hat seinen WOHNSITZ IN BERMUDA und nicht in der USA. Er bezahlt also keine Steuern in der USA !!!!!

Pendenzen / Geschichte

"Appointment of a Protector and his authority to act" in der Stellmappe zur Unterschrift vom Kunden und danach erlassen.

Widmungserklärungen in der Stellmappe müssen noch von Dr. Pius Schlachter unterzeichnet werden.

Gemäss Absprache mit MP ist entgegen den Beistatuten, keine BUC zu führen. Den Kunden beim nächsten Besuch darauf aufmerksam machen und die BST entsprechend ändern.

SR wechsel?

By laws rechtsgültig erlassen? Wo abgelegt?

Passkopie fehlt

Terminvereinbarung für Kundenbesuch dringend

Pendenzen in Stellmappe

PSI-USMSTR - 006660

Micronesia Foundation, 9490 Vaduz

Assistant: Juon, Erin

Account Manager: Lungkofler, Thomas

Client Number: [REDACTED]

Last Client Visit: [REDACTED]

Date Established: Sept. 17, 1998 Status: Active

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**Management Board / Board of Advisors**Profile Management Trust reg., Vad
Telser, Marcel, TriesenSignatory Rights: Individual
Signatory Rights: CollectiveIndividual
Collective for two**Banks**

LGT Bank in Liechtenstein Corp., Vaduz Investment advisor: Beck, Alois Tel. 1753 Ref. No.: [REDACTED]

Account: [REDACTED]

Miscellaneous

Investment Advisor:

Beck, Alois

Representative:

LGT Treuhand AG [LGT Trust Corp.], Vaduz

Client:

Private Client

Fixed Fees

Capital Taxes:	1,000.00	Sept. 17, 2002	Liechtensteinische Steuerverwaltung, Vaduz [Tax Authority of Liechtenstein]
----------------	----------	----------------	--

Flat Fees

Minimum fee	5,500.00	due on:	Sept. 17, 2002	
Asset-related fees	0.00 -	2,500,000.00	0.3750%	
Asset-related fees	2,500,000.01 -	5,000,000.00	0.2500%	
Asset-related fee	5,000,000.01 -	99,999,999,999.00	0.2000%	
Value of Assets as of:	June 30, 2001	9,764,163.00		Billable Flat Fee: 25,153.00

Purpose**Proof of Ownership, Contracts, Powers of Attorney****Special Instructions (Administration, Accounting, By-laws, etc.)****IMPORTANT:**

The financial beneficiary has his PLACE OF RESIDENCE IN BERMUDA and not in the U.S. Hence, he pays no taxes in the U.S. !!!!!

Comments/History

"Appointment of a Protector and his authority to act" in the stand-up folder for client's signature, and subsequent authorization.

Dedication declarations in the stand-up folder still need to be signed by Dr. Pius Schlachter.

According to consultation with MP, contrary to the by-laws, no accounting is to be done. Alert the client to this during his next visit, and change the by-laws accordingly.

Board of trustee change?

By-laws legally enacted? Filed where?

Passport copy is missing

Date for client visit urgently needed

Comments in the stand-up folder



Bitte mit valuta 21. Oktober 1998 ausführen.
 Bitte danach Konto löschen !!
LGT Bank in Liechtenstein
 A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein Aktiengesellschaft
 Herrngasse 12 Telefon 075 235 11 22
 FL 9490 Vaduz Telefax 075 235 15 22

Barbezug dqs 2649

GBP-Konto

GBP 3'671'914.00 (gem. Tel. Mit J. Bühler)
 3'650'314. - Franko

Vaduz, 21.10.1998 / 08.11

A U S 2 - A U S 2

FRANKO

Mr.
 Michael Miskin

Sapla-Bankline CH 93108

Kontokorrent GBP

GBP ACCOUNT

Redacted by the Permanent
 Subcommittee on Investigations

PFUND STERLING

GBP 3,350,314.00

WIR BELASTEN IHR KONTO MIT VALUTA 21.10.1998
 per Saldo

GBP 3,650,314.00

UNTERSCHRIFT

00012 0005 01 01 D1

Michael Miskin

LGT Bank in Liechtenstein
 Aktiengesellschaft
 Moser Helene

MA 5156 0786 40T 00

Permanent Subcommittee on Investigations

EXHIBIT #77

PSI-USMSTR - 006656

MMMag. Thomas Lungkofler

Fax

Date February 27, 2002 / TLU Pages 1 (incl. cover sheet)

Subject

From	MMMag. Thomas Lungkofler	Telefax	00423 235 27 15
		Telephone	00423 235 26 86
To	Mr. Michael Miskin	Telefax	001 805 969 6141

Dear Mr. Miskin,

Thank you very much for your fax of February 23, 2002 and for the patience you had.

In the meantime I have spoken with an expert for structures of the area of G. It turned out that with respect to the tax situation in the US-area a re-domiciliation of the company to another jurisdiction would not be advisable and would additionally take a very long time. Therefore at least the company's seat has to remain in G. But it is possible to transfer the domicile of the trust as well as the representative office. In that case our suggestion would be to transfer the whole structure including the holding to a much more co-operative trust company as a representative office on the Isle of Man. This office being an office of high reputation would provide us with a nominee shareholder for the shares of the company and also will support us in taking over and administrating the company as new trust officers in direct co-operation with us.

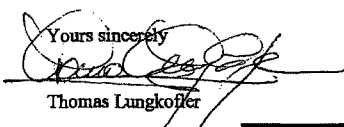
The holding (trust) would be transferred with the help of the corresponding office mentioned above to our company. Then either we administer the trust under our law for the future as it is or we even change the trust into a discretionary one with the foundation being the beneficiary. Doing so, the great advantages of a discretionary structure could be used. So from outside nothing really changes but the aim to implement the existing structure into the foundation would be reached as well as a better service could be provided to the client.

It would also be possible to transfer the ownership of the company from the trust directly to the foundation. Then the foundation would hold the company via the nominee shareholder provided by the corresponding office.

The remaining issue is to know if the trust settlement allows a transfer of the domicile. If not, the trust settlement has to be amended.

I would like to inform you that after you having decided to execute the transfer all the necessary details will be arranged by us. In case you have any further questions or comments, do not hesitate to contact me. I am looking forward to hearing from you and I would appreciate it if you could call me at your earliest convenience so that we can discuss some further details.

Yours sincerely


Thomas Lungkofler

Permanent Subcommittee on Investigations

EXHIBIT #78

PSI-USMSTR - 006657

Sera Financial Corporation Road Town , Tortola / B.V.I.

SB: Bösch Wolfgang

KB: Bösch Wolfgang

Mand.Nr.: TH - 69062

L. Kundenbesuch:

Gründungsdatum: 15.12.1997

Status: Aktiv

Verwaltungs- / Stiftungsräte

BTS Management Ltd., Tortola / B. Zeichnungsrecht: Einzel

= Redacted by the Permanent
Subcommittee on Investigations

Banken

LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
Banque du Gothard, Luxembourg	AB: Horst Bartsch	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-Nr.: [REDACTED]	Zlg-Kto: [REDACTED]

Diverses

Anlageberater: Ritter Yvonne,
 Aktien / Zessionen: Dossier / Gesellschaftsakt,
 Repräsentant: Trident Trust Comp. (BVI) Ltd., Tortola, B

Fix-Honorare**Pauschal-Honorare**

Vermögenswert par: 0.00 fällig am: 0.00 Fakturierbares Pauschalhonorar: 0.00

Zweck

Spezialgesellschaft (indirekte Tochter der LTV) für Portfoliotransfers für Vermögenswerte, welche in eine LTV-Struktur eingebracht werden.

Besitznachweis, Verträge, Vollmachten**Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)**

zuständige Personen bei der LTV sind MTE und SRE, bei der Banque du Gothard (BdG) Herr Germain Rubbini.

SEHR WICHTIG: LGT-BIL HAUPTNUMMER DARF NICHT FÜR TRANSAKTIONEN VERWENDET WERDEN; NUR FÜR UNTERSCHRIFTENREGELUNG ERÖFFNET.

Abwicklungsprozedere:

1. Es muss vorgängig eine Aufstellung der zu transferierenden Vermögenswerte sowie ein unterzeichneter und durch den KB visierter Vertrag vorliegen. Die Sorgfaltspflicht/Herkunft der Gelder wird vom entsprechenden KB wahrgenommen.
2. Für jeden Kunden wird ein unter einer Referenz ein Unterkonto bzw. Depot bei der BdG und bei der LGT
 BIL eröffnet- und zwar bei der LGT-BIL und bei BdG. Jedes Unterkonto den wir Horst Bartsch mitteilen müssen ("Referenz"); das LGT-BIL Konto ist wie "üblich" (gemäss Muster) zu eröffnen.
3. Geldtransfers sowie Titellieferungen an die BdG gehen z.G. SERA, Ref....
 Die BdG wird angewiesen die Barwerte und Wertpapiere unverzüglich an LGT BIL weiterzuleiten,
 zu Gunsten Sera Financial Corp. unter Angabe der Referenz.
4. Sobald die Vermögenswerte bei der BIL gutgeschrieben sind, werden sie valutagerecht auf das Destinationskonto (siehe Vertrag) übertragen. Dies geschieht in der Regel über einen Barbezug.
 Auf dem Barbezug-/Bareinzahlung

Permanent Subcommittee on Investigations

EXHIBIT #79
 Agio/Disagio verrechnet
PSI-USMSTR - 006553

Sera Financial Corporation Road Town , Tortola / B.V.I.

SB: Bösch Wolfgang

KB: Bösch Wolfgang

Mand.Nr.: TH - 68062

L. Kundenbesuch:

Gründungsdatum: 15.12.1997

Status: Aktiv

werden
darf (*spesenfrei*).

5. Ueberträge auf die BdG sind immer z.G. der Sera Financial unter Anga-
be der Referenz z.Hd. Hr. Germain Rubbini zu tätigen.

Das Aktienzertifikat befindet sich im Depot der BTS Management Ltd. bei der LGT Bank
~~Triechenstein AG, Vaduz (seit 9.4.1999).~~

Pendenzen / Geschichte

Pendenzen sind auf den jeweiligen Uebersichtslisten (im jeweiligen physischen Akt) ersichtlich.

Translation of German original. Translator comments in brackets < >.

— = Redacted by the Permanent
Subcommittee on Investigations

Sera Financial Corporation Road Town, Tortola / B.V.I.

SB: Bösch Wolfgang
Establishment date: Dec 15, 1997

KB: Bösch Wolfgang
Status: Active

Mand.No.: TH-68062
L. customer visit:

Administrative board / board of trustees

BTS Management Ltd., Tortola / B. Signature authority: individual

Banks

LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
Banque du Gothard, Luxembourg	AB: Horst Bartsch	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:
LGT Bank in Liechtenstein AG, Vaduz	AB: Ritter Yvonne	ZR-No.:	Paymt. Acc.:

Miscellaneous

Investment advisor <AB>: Ritter Yvonne,
Shares / assignments: dossier / company act,
Representative: Trident Trust Comp. (BVI) Ltd., Tortola, B

Fixed fees

Flat fees

Asset value per: 0.00 due on: 0.00 Billable flat fee: 0.00

Purpose

Special purpose company (indirect subsidiary of LTV) for portfolio transfers for assets which are to be brought into an LTV structure.

Proof of ownership, agreements, powers of attorney

Instructions (administration, accounting, bylaws, etc.)

Responsible persons at LTV are MTE and SRE, at Banque du Gothard (BdG) Mr. Germain Rubbini.

VERY IMPORTANT: LGT-BIL PRIMARY NUMBER MUST NOT BE USED FOR TRANSACTIONS; OPENED ONLY FOR SIGNATURE REGULATION.

Processing procedure:

1. A list of the assets to be transferred as well as a signed agreement approved by the KB must first be available. Due diligence/origin of the funds is administered by the respective KB.
2. For each customer, a sub-account or deposit facility is opened under a reference at BdG and at LGT <problem with sentence in German>
BIL - namely, at LGT-BIL and at BdG. Each sub-account <problem with sentence in German> that we must communicate to Horst Bartsch ("reference"); the LGT-BIL account is to be opened as "usual" (according to model).
3. Funds transfers as well as security deliveries to BdG are in favor of SERA, Ref....
BdG is instructed to forward cash values and securities without delay to LGT BIL in favor of Sera Financial Corp. with specification of the reference.
4. As soon as the assets are credited at BIL, they are transferred to the destination account (see agreement) on value date. This occurs as a rule per cash withdrawal.
On cash withdrawal/deposit slip, there should be a note that no agio/disagio may be calculated

<Alternate Translation, bullet #2, PSI-USMSTR-6553>

2. For each customer, a sub-account or deposit facility is opened under a reference at BdG and at LGT-BIL. We must communicate each sub-account to Horst Bartsch ("reference"); the LGT-BIL account is to be opened as "usual" (according to model).

Sera Financial Corporation Road Town, Tortola / B.V.I.

Mand.No.: TH -68062

SB: Bösch Wolfgang

KB: Bösch Wolfgang

L- customer visit:

Establishment date: Dec 15, 1997

Status: Active

("free of charge").

5. Balances to BDG are always to be transferred in favor of Sera Financial with specification of the reference addressed to Mr. Germain Rubbini.

The share certificate is held in the depository account of BTS Management Ltd. at LGT Bank in Liechtenstein AG, Vaduz (since Apr 9, 1999)

Tasks / history

Tasks can be seen in the respective overview lists (in each physical act).



LGT Treuhand
Aktiengesellschaft
Sädkle 7/8+22
FL-9490 Vaduz
Fürstentum Liechtenstein
MWST-Nr. 50119

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Aktenvermerk

1/2

Thema **NEUGRÜNDUNG**

Verfasser(in) / Tel. **Christina Meusburger**

Datum **2. November 2000 / cho**

Zur Erledigung **Rahel Kieber-Fuchs, Corina Hohl, Gruppe Support**

Zur Kenntnisnahme **Dr. Pius Schlachter**

— = Redacted by the Permanent
Subcommittee on Investigations

1. Allgemeines

Der Neukunde [REDACTED] besucht uns am 20. Oktober 2000. Der Kontakt zu [REDACTED] kam über Vermittlung eines langjährigen Kunden der LGT Treuhand, [REDACTED] zustande. [REDACTED] ist US-Passport-Holder und wohnt in [REDACTED] möchte seine bei der UBS Zürich liegenden Vermögenswerte, zumindest teilweise, in einen Trust einbringen. Die Bankbeziehung zur [REDACTED] unterhält [REDACTED] seit ca. 3 Jahren.

2. Sorgfaltspflicht

[REDACTED] übermittelt eine umfangreiche Dokumentation aus der die Herkunft seiner Vermögenswerte erklärbar ist.

**Redacted
by
Permanent Subcommittee
on Investigations**

In Anbetracht der verfügbaren Informationen bestehen keine Bedenken gegen die Entgegennahme der Vermögenswerte.

PSI-USMSTR - 007696



Aktenvermerk

— = Redacted by the Permanent
Subcommittee on Investigations

2/2

3. Lösungsansatz

Ich erläutere eingehend Stiftung und Trust, wobei sich [REDACTED] schliesslich für einen liechtensteinischen Trust entscheidet. In diesen Trust wird [REDACTED] jene Vermögenswerte einbringen, die derzeit bei der UBS Zürich liegen und nicht in US-Securities investiert sind. Insgesamt handelt es sich dabei um ein Volumen von ca. 1.2 Mio USD.

Der Trust soll ein Konto bei der LGT Bank in Liechtenstein eröffnen. Auf dieses Konto soll der Übertrag des Vermögens stattfinden. Um die Spur von der UBS Zürich zum liechtensteinischen Trust abzuschneiden, empfehle ich die Zwischenschaltung einer Single Purpose Company. [REDACTED] scheint ein sehr vorsichtiger Mensch zu sein und ist auch in Anbetracht der relativ hohen Gebühren im Verhältnis zu den einzubringenden Vermögenswerten (CHF 10'000.-) damit einverstanden.

4. US-Person

[REDACTED] unterzeichnet den von Baker McKenzie entworfenen Indemnification Letter.

5. Details zum Trust

Weiters unterzeichnet [REDACTED] folgende Unterlagen:

- Auftrag an die LGT Trust Management Limited einen Trust zu errichten mit Gründungshonorar CHF 5'000.-- und jährlichem Honorar von 0.4% der Assets under Trust
- Declaration of Due Diligence
- Power of Attorney zu Gunsten von [REDACTED] als Instruktionsberechtigter des Trusts
- Letter of Wishes - solange [REDACTED] lebt, soll er am Trustgut begünstigt sein. Nach seinem Ableben soll sein Testament, das sich bei [REDACTED] befindet, Grundlage für die Begünstigung sein.

6. Antrag an die Geschäftsleitung

Ich ersuche die Geschäftsleitung um Genehmigung zur Gründung des beschriebenen Trusts.

1) Bankabschnitt UBS 31.12.99+98

2) Seienheit der Daten muss
sich aus den Unterlagen ergeben

3) Freistellungsbescheinigung [REDACTED]
für US-Personen

Antrag bewilligt:

Dr. Pius Schlachter

15.11.00

PSI-USMSTR - 007697

P:\Tax Haven Banks\LGT\Translations (07-01-06)\Outside .

[company logo] LGT Trust LGT Trust Telephone + 423 235 27 27
 A member of Liechtenstein Global Trust Corporation Telefax + 423 235 27 15
 Staedtle 18+22 Internet
 FI-9490 Vaduz www.lgt.com/lgttreuhand
 Fuerstentum Liechtenstein Email lgttrust@lgt.com
 MWST-Nr. 50119

— = Redacted by the Permanent
 Subcommittee on Investigations

Memorandum for the record 1/2

Subject New Registration

Sender/Tel. Christina Meusburger

Date 2.November 2000/ cho

To: Rahel Kieber-Fuchs, Corina Hohl, Group Support

CC: Dr. Pius Schlachter [initialed]

1. General

The new client, [REDACTED], visits us on 20 October 2000. The contact with [REDACTED] was facilitated by a long time client of LGT Trust, [REDACTED] is a US passport holder and lives in [REDACTED]. [REDACTED] wishes to place his assets, currently with UBS Zurich, at least partially, in a trust fund in the [REDACTED]'s has had a banking relationship to UBS Zurich for approximately three years.

2. Liabilities

[REDACTED] hands over extensive documentation from which the origin of his assets can be traced.

**Redacted
 by
 Permanent Subcommittee
 on Investigations**

In consideration of the available information, there remain no concerns against the acceptance of the assets.

[logo] LGT Trust

Redacted by the Permanent
Subcommittee on Investigations

Memorandum for the record 2/2

3. Solutions

I explain in detail foundation and trust, whereby [REDACTED] decides on a Liechtenstein-based trust. [REDACTED] will transfer all the assets currently held in the UBS Zurich and that are not invested in US securities, to this trust. Collectively, this amounts to approximately 1.2 million US dollars.

The trust shall open an account in the LGT Bank in Liechtenstein. The transfer of assets should take place using this account. ~~To cover up the tracks from UBS Zurich to the trust in Liechtenstein, I recommend an intermediary Single Purpose Company: [REDACTED] appears to be a very careful individual and seems to also be in agreement to the relatively high fees (CHF 10,000) related to the incoming assets.~~

4. US-Persons

[REDACTED] undersigns Indemnification Letter drafted by Baker McKenzie.

5. Details of the Trust

Furthermore, [REDACTED] undersigns the following records:

- Request to LGT Trust Management Limited to establish a trust with foundation fees of CHF 5,000,- and annual fees of 0.4% of the Assets under Trust
- Declaration of due diligence
- Power of Attorney in support of [REDACTED] is individual holding power of attorney to give instructions of the trust.
- Letter of Wishes – as long as [REDACTED] is alive, he shall be beneficiary of the trust. After his passing, his will, which [REDACTED] has, shall serve as the foundation for the nomination of beneficiaries.

6. Request to the General Management

I seek out approval of the general management to acceptance of the establishment of the aforementioned trust.

Contract agreed:

[handwriting/notes:]

1. Bankstatements UBS 12.31.99 + 98
2. [unable to decipher]
3. [unable to decipher]

[signature]

Dr. Pius Schlachter

Document Properties	
---------------------	--

Gothard Bank
Niederlassung Luxemburg
6, Avenue Maria-Thérèse
L-2132 Luxemburg

— = Redacted by the Permanent
Subcommittee on Investigations

Feststellung des wirtschaftlich Berechtigten

Betreff: Überweisung/Einzahlung/Scheckeinreichung/Wertschriftentransfer
in Höhe von ca. USD 1'200'000.--
zu Gunsten Konto Nr. [REDACTED]
lautend auf Sera Financial Corporation, B.V.I.
Rubrik (falls gegeben) [REDACTED]
bei Banque du Gothard, Succursale de Luxembourg
Datum der Transaktion bis spätestens 31.12.2000

Der/die Unterzeichnete, BTS Management Limited, Tortola, als Direktor der Gesellschaft
Sera Financial Corporation, Tortola, B.V.I.

erklärt hiermit:

- ☒ dass folgende Person(en) an der obengenannten Transaktion wirtschaftlich
berechtigt ist/sind:
Name/Vorname: [REDACTED]
Geburtsdatum/-ort: [REDACTED]
wohnhaft in: [REDACTED] USA
- ☐ dass die eingebrachten Werte rechtmässigen Ursprungs sind und weder aus
Drogen - oder Waffenhandel stammen noch aus anderen Verbrechen oder
Vergehen.

Der/Die Unterzeichnete nimmt davon Kenntnis, dass die Bank den Behörden gegenüber
zum Zeugnis und zur Auskunft verpflichtet ist, soweit Bestimmungen der luxemburgischen
Gesetzgebung dies vorsehen. BTS MANAGEMENT LTD

Ort und Datum: Vaduz, 31.10.00/soh NFE
Unterschrift [Signature]

Anlage: Kopie Ausweispapier des/der wirtschaftlich Berechtigten

Gotthard Bank
Luxemburg Branch Office
6, Avenue Maire-Therese
L-2131 Luxemburg

— = Redacted by the Permanent
Subcommittee on Investigations

Statement of Beneficiary

~~Subject: e-transfer / deposit / check / transfer of securities~~
In the amount of: approx. USD 1,200,000
To account nr. [REDACTED]
Account holder: Sera Financial Corporation, B.V.I.
Rubric (if appl.) [REDACTED]
Bank du Gothard, Succursale de Luxembourg
Date of Transaction no later than 12/31/2000

The undersigned, BTS Management Limited, Tortola, as Managing Director of the company Sera Financial Corporation, Tortola, B.V.I

Hereby declares:

☒ that the following beneficiary(ies) is/are entitled to the above-referenced transaction:

Last name / First name: [REDACTED]
DOB: [REDACTED]
Resident in: [REDACTED], USA

☐ that the assets in question are of rightful origin and do not stem from illegal drug or weapons trade or other criminal activities.

The undersigned understands that the bank is obligated to provide the competent authorities with information upon request in so far as provided by Luxemburg legislation.

Place / Date: Vaduz, 10/31/00 / soh BTS Management LTD
NFE
Signature

Attachment: copy of beneficiary's personal ID

Jaffra Development Inc. --> gelöscht am 23.07.2001, Tort Mand.Nr.: [REDACTED]

SB: Bösch Wolfgang

KB: Bösch Wolfgang

L. Kundenbesuch:

Gründungsdatum: 16.05.2000

Status: Gelöscht

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Verwaltungs- / Stiftungsräte

BTS Management Ltd., Tortola / B. Zeichnungsrecht: Kollektiv

Banken

LGT Bank in Liechtenstein AG, Vaduz

AB: Ritter Yvonne

ZR-Nr.: [REDACTED] Zlg-Kto:

Diverses

Anlageberater: Ritter Yvonne

Aktien / Zessionen: Dossier / Gesellschaftsakt,

Repräsentant: Morgan & Morgan Trust, British Virgin Isl

Fix-Honorare

Pauschal-Honorare

Vermögenswert per:

0.00

fällig am:

0.00

Fakturierbares Pauschalhonorar: 0.00

Zweck

Single Purpose Gesellschaft

Besitznachweis, Verträge, Vollmachten

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

Pendenzen / Geschichte

Permanent Subcommittee on Investigations

EXHIBIT #80

PSI-USMSTR - 007934

Jaffra Development Inc. > cancelled on 07.23.2001, Tort

Assistant: Bösch, Wolfgang

Account Manager: Bösch, Wolfgang

Client Number: [REDACTED]

Last Client Visit:

Date Established: 05.16.2000

Status: Cancelled

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Management / Board of Advisors

BTS Management Ltd., Tortola / B.

Signatory Rights: Collective

Banks

LGT Bank in Liechtenstein Corp., Vaduz

Contact: Ritter, Yvonne

Ref. No.: [REDACTED]

Account:

Miscellaneous

Investment Advisor:

Ritter, Yvonne

Shares / Transfers:

Dossier / Corporation File

Representative:

Morgan & Morgan Trust, British Virgin Islands

Fixed Fees**Flat Fees**

Value of Assets per:

0.00

due on:

0.00

Billable Flat Fee: 0.00


Purpose

single purpose corporation

Proof of Ownership, Contracts, Powers of Attorney**Special Instructions (Administration, Accounting, Bylaws, etc.)****Comments/History**

Vereinbarung

— = Redacted by the Permanent
Subcommittee on Investigations


als Auftraggeber

und

JAFFRA DEVELOPMENT INC., Road Town, Tortola, B.V.I.

als Auftragnehmerin

Präambel

Die Auftragnehmerin ist eine indirekte Tochtergesellschaft der LGT Treuhand Aktiengesellschaft, Städtle 18, FL-9490 Vaduz, welche ihrerseits eine 100%ige Tochtergesellschaft der LGT Bank in Liechtenstein AG, Vaduz, ist.

Einziger Verwaltungsrat der Auftragnehmerin ist die BTS Management Ltd., Tortola, B.V.I.


Die Auftragnehmerin verpflichtet sich, keine, ausser die in nachfolgender Ziffer 2 in Verbindung mit Ziffer 3 erwähnte Transaktion über die JAFFRA DEVELOPMENT INC., B.V.I., zu tätigen und diese Gesellschaft keinem Dritten zur Verfügung zu stellen. Die Auftragnehmerin verpflichtet sich, für die vorliegende Transaktionen ein separates Konto bei der LGT Bank in Liechtenstein AG, Vaduz, zu eröffnen und nach Abschluss der Transaktionen, spätestens am 1. Januar 2001, diese Gesellschaft zu liquidieren.

Auftrag

1. Der Auftraggeber ermächtigt und beauftragt die Auftragnehmerin wie folgt und die Auftragnehmerin nimmt diesen Auftrag an.
2. Der Auftraggeber wird auf Konto Nr. 0166153 der Auftragnehmerin bei der LGT Bank in Liechtenstein AG, Herrengasse 12, FL-94590 Vaduz

einen Betrag von ca. CHF 6 Mio
(Schweizer Franken sechs Millionen 0/00)

in einer oder mehreren Tranchen nach telefonischem Voraviso an den Verwaltungsrat der Auftragnehmerin übertragen.

3. Die Auftragnehmerin wird - jeweils nach Erhalt einer Gutschrift - die gesamten Vermögenswerte oder die entsprechenden Vermögenswerte einer jeweiligen Tranche, abzüglich Kommissionen, Spesen (inkl. Kontrollöschungskosten) sowie Entschädigung, vom Konto Nr.  der Auf-

PSI-USMSTR - 007835

tragnehmerin auf das Konto Nr. [REDACTED] lautend auf CHARIVARI STIFTUNG, Vaduz ("Empfänger"), bei der LGT Bank in Liechtenstein, in bar übertragen.

4. Die Auftragnehmerin garantiert, die kontoführende Bank entsprechend dem erteilten Auftrag weiter zu beauftragen.

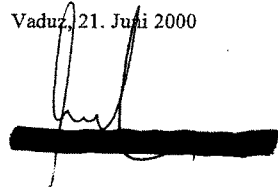
Im übrigen trifft die Auftragnehmerin keine wie immer geartete Haftung für die ordnungsgemässe Abwicklung der Übertragung, insbesondere übernimmt sie keine Garantie für die Abwicklung innerhalb bestimmter Fristen. Sämtliche aus der Abwicklung der Übertragung resultierenden Ansprüche hat der Auftraggeber direkt beim kontoführenden Institut geltend zu machen.

5. Für die Durchführung der gesamten Transaktion erhält die BTS Management Ltd. eine Pauschale von CHF 5'000.00, sowie zusätzlich Drittkosten, jeweils bewertet per Eingangstag auf dem Konto der Auftragnehmerin. Die Gründungs- sowie Liquidationskosten für die JAFFRA DEVELOPMENT INC. sind in dieser Entschädigung inbegriffen.

Diese Entschädigung ist auch geschuldet, wenn bis zum 31. Dezember 2000 keine Transaktion erfolgt. Diesfalls wird oben genannte Entschädigung am 1. Januar 2001 zur Zahlung fällig.

6. Änderungen und Ergänzungen dieser Vereinbarung bedürfen der Schriftform.
7. Dieses Vertragsverhältnis untersteht dem liechtensteinischen Recht. Für allfällige Streitigkeiten aus diesem Vertragsverhältnis vereinbaren alle Parteien die ausschliessliche Zuständigkeit des Fürstlich Liechtensteinischen Landgerichtes in Vaduz.
8. Der Unterfertigte bestätigt, dass er dieses Instrument nicht zur missbräuchlichen Inanspruchnahme des Bankgeheimnisses / Treuhändergeheimnisses verwenden wird und die Vermögenswerte nicht aus kriminellen Handlungen oder Unterlassungen herrühren.

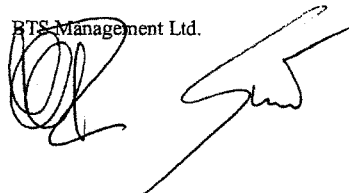
Vaduz, 21. Juni 2000



[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

JAFFRA DEVELOPMENT INC., Auftragnehmerin

BTS Management Ltd.



PSI-USMSTR - 007936/

Agreement

[REDACTED]

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

as client

~~and~~

JAFFRA DEVELOPMENT INC., Road Town, Tortola, B.V.I.

as contractor

Preamble

The contractor is an indirect subsidiary of the LGT Trust Corporation, Städtle 18, FL-9490 Vaduz, which is for its part a 100% subsidiary of the LGT Bank in Liechtenstein Corp., Vaduz.

The sole entity of the administrative board of the contractor is BTS Management Ltd., Tortola, B.V.I.

The contractor undertakes that it will not effect any transaction through the JAFFRA DEVELOPMENT INC., B.V.I., except where mentioned in the following Item 2 in connection with Item 3, and that it will not place this corporation in the service of any third party. The contractor undertakes to open a separate account at the LGT Bank in Liechtenstein Corp., Vaduz, for the present transactions, and after completion of the transactions, at the latest by 01.01.2001, to liquidate this corporation.

Mandate

1. The client authorizes and instructs the contractor as follows and the contractor accepts this mandate.
2. The client will transfer to account no. [REDACTED] of the contractor at the LGT Bank in Liechtenstein Corp., Herrengasse 12, FL-94590 Vaduz

**an amount of approximately CHF 6 million
(six million 0/00 Swiss francs)**

in one or more installments after notice by telephone to the administrative board.

3. The contractor will, in each case after receipt of a credit voucher, transfer the total value of assets, or the corresponding total value of assets less commission, fees (including account cancellation costs) as well as compensation, from account no. [REDACTED] of the

contractor to the account no. [REDACTED] under the name of CHARIVARI FOUNDATION, Vaduz ("Recipient"), at the LGT Bank in Liechtenstein, in cash.

4. The contractor guarantees to re-commission the custodian bank corresponding to the mandate issued.

Incidentally, the contractor is not to be kept responsible in any way for the proper processing of the transfer, and it especially makes no guarantee to processing within a specified period of time. The contractor must make a claim with the custodian institution for all claims resulting from the processing of the transfer.

5. The BTS Management Ltd. receives a flat fee of CHF 5,000.00 for the completion of all transactions, as well as receiving additional outside costs, each of which is assessed on the day of deposit to the account of the contractor. The founding and liquidation costs for the JAFFRA DEVELOPMENT INC. are included in this compensation.

This compensation is still owed if no transaction occurs before 12.31.2000. In this case, the above-mentioned compensation is due for payment on 01.01.2001.

6. Changes and supplementation to this agreement must appear in writing.
7. This contract relation derives authority from the law of Liechtenstein. For possible disputes which arise from this contract relation, all parties agree to the exclusive jurisdiction of the royal district court of Liechtenstein in Vaduz.
8. The undersigned declares that he will not utilize this deed for improper usage of bank secrecy or trust secrecy, and that the values of assets do not originate from criminal activity or neglect.

Vaduz, 06.21.2000

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

[signature] [REDACTED] Client

JAFFRA DEVELOPMENT INC., Contractor

BTS Management Ltd.

[signature] [signature]



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

ERLEDIGT
Telefon 077 231 11 22
Telefax 075 235 11 22
Telex 889 222

Aktenvermerk

1/2

Thema	Luperla Foundation, Vaduz
Verfasserin/Akt./Tel.	Peter Widmer / R22 / 1296
Datum	2. Mai 1997
Zur Erledigung	Dr. P. Iob, LGT Treuhand Wilfried Ospelt E. Mattle
Zur Kenntnisnahme	H. Mapp Dr. K. Bächinger
Treffen mit:	- David Lowy - J.H. Gelbard
Datum:	30. April 1997 im Hotel Savoy, Zürich
LGT Bank:	P. Widmer

*Wf → spr
Zu Info
(und Ablage?)*

Wf

1. Die Herren waren in Zürich um mit Sinitus Treuhand die Überträge der Vermögenswerte auf Luperla vorzubereiten. Ich bin mit Ihnen das Vorgehen nochmals durchgegangen:
 - a) Ca. USD 54 Mio. (Saldi Crofton bei uns) gehen auf Konto Sewell bei uns (Auftrag kommt von Sinitus); anschliessend vergütet Sewell (Auftrag kommt von LGT T) den Betrag an Luperla. ✓
 - b) Weitere rd. USD 3 Mio. werden durch Drittbankvergütung bei Sewell (Konto LGT) eingehen, welche ebenfalls auf Konto Luperla bei LGT zu vergüten sind (Auftrag LGT T). → OF & Co. g.m. u. Co.
 - c) Crofton wird deren Konto bei Union Bank of Israel, Tel-Aviv schliessen lassen und Saldo (ca. USD 0.2 Mio.) auf Konto Sewell vergüten; Sewell zahlt auch diesen Betrag an Luperla bei LGT (Auftrag LGT T). ✓

Luperla soll dann USD 250'000.- auf deren Konto (durch LGT T bereits eröffnet) bei Union Bank of Israel vergüten. ✓

 - d) Das Konto Sewell ist am 31.5.1997 zu saldieren und die Gesellschaft zu löschen. Auftrag durch LGT T.
-
2. Die Belegexemplare "Regulations" und "Statutes" der Luperla Foundation habe ich von J. Gelbard gegenzeichnen lassen, diese liegen diesem AV für P. Iob bei.
- Bezüglich der Stiftung ist somit alles i.O.

Permanent Subcommittee on Investigations

EXHIBIT #81

ARMA - SPECIALDOC - 02.05.1997 - 11.01

PSI-USMSTR-008864



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

Aktenvermerk

2 / 2

3. Bezüglich Anlagestrategie und Fees bleibt alles beim alten: Ertrag USD, All-in 70bp (siehe AV vom 23.1.1997).

Die neuen Investitionsvorschläge habe ich übergeben. Diese wurden geschätzt und als i.O. in Empfang genommen.

Nach Eingang der Gelder, voraussichtlich ab nächster Woche, resp. nach Anlaufen der Festgelder kann mit dem Anlageprozess begonnen werden, wobei ich nochmals festgehalten habe, dass es bis zur vollen Investition 1-2 Monate dauern kann.

4. Ich bitte die Geldflüsse mit E. Mattle zu koordinieren.

5. Nach Abschluss dieser Transaktionen sollen dann definitiv alle Unterlagen von "Crofton" und "Jelnav" vernichtet werden, soweit dies aus rechtlichen Gründen möglich ist. Ich bitte Dr. Iob um Bestätigung der Briedigung bis 30.6.1997.


P. Widmer

Beilage für Dr. Iob

[stamp:] **COMPLETED**

[logo] **LGT Treuhand**
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Herrengasse 12
FL-9490 Vaduz

Telephone: 075 235 11 22
Telefax: 075 235 15 22
Telex: 889 222

1/2

Memorandum for the Record

Subject **Luperla Foundation, Vaduz**

Compiler / Tel.: Peter Widmer / R22 / 1296 [by hand:] [illegible initials] → spr

Date: May 2, 1997 FYI (and file?)
[initialed]

For action: Dr. P. Iob, LGT Trust
Wilfried Ospelt
E. Mattle

cc: H. Nipp
Dr. K. Bächinger

Meeting with: - David Lowy
- J. H. Gelbard

Date: April 30, 1997 in the Hotel Savoy, Zurich

LGT Bank: - Wilfried Ospelt
- Peter Widmer

[The top half of this page is struck through by hand.]

1. The gentlemen were in Zurich to prepare with Sinitus Trust the asset transfers to Luperla. I reviewed the approach with them once more:

a) Around USD 54 million (balance Crofton with us) are going to the Sewell account with us (assignment from Sinitus); subsequently Sewell pays (assignment from LGT T) the amount to Luperla. ✓

b) An additional roughly USD 3 million will go to Sewell (account LGT) through third-bank payments, which are likewise to be paid to account Luperla at LGT (assignment LGT T).
[by hand:] → CHF 3.6 million according to K. Ulrich

c) Crofton will close its account with Union Bank of Israel, Tel Aviv and send balance (around USD 0.2 million) to account Sewell; Sewell also pays this amount to Luperla at LGT (assignment LGT T). ✓

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

Memorandum for the Record

2/2

Luperla is then to remunerate USD 250,000.00 to its account (already opened by LGT T) with Union Bank of Israel. ✓

d) The Sewell account is to be closed on May 31, 1997 and the company to be dissolved. Assignment through LGT T. ✓

[all ✓by hand]

2. I have had the file copies "Regulations" and "Statutes" of the Luperla Foundation countersigned by J. Gelbard; these are attached to this memo for P. Iob.

Regarding the foundation, everything is herewith in order.

3. Regarding investment strategy and fees everything remains the same: proceeds USD, all-in 70 bp (see memo of Jan. 23, 1997).

I have turned over the new investment suggestions. These were appreciated and received as in order.

After in payment of monies, probably starting next week, or after the fixed deposits run out, the investment process can be started, whereby I stated once more that it can take 1 – 2 months for full investment.

4. I request that the money flows be coordinated with **E. Mattle**.

5. After completion of these transactions, all documents from "Crofton" and "Jelnav" are definitely to be destroyed, insofar as this is legally possible. I ask Dr. Iob for confirmation of completion by June 30, 1997.

[signed]

P. Widmer

Enclosure for Dr. Iob
[not at hand for translation]

- 1/2 -

J. H. Gelbard

~~LGT Treuhand-Aktiengesellschaft~~
att. Werner Orvati / Dr. Paolo Iob
Städtle 18
FL-9490 Vaduz

London, 12 March 1997

Formation of a Foundation by the name Luperla Foundation

Dear Sirs,

I kindly request you to set up the Luperla Foundation according to the following enclosed documents

- Formation Deed in English (Appendix A)
- Statutes of Foundation (Appendix B)
- Regulation of Foundation (Appendix C)

The payment of the capital in the amount of sFr. 30'000.- will be effected to the Foundation's account with LGT Bank in Liechtenstein AG, Vaduz.

As legal representative of the Foundation shall be appointed:

- LGT Treuhand Aktiengesellschaft

As Board Members of the Foundation with authority to sign any two jointly shall be appointed

- Dr. Konrad Bächinger, c/o LGT Bank in Liechtenstein
- Mr. Hans-Werner Ritter, Eichgasse 4a, FL-9490 Vaduz
- Mr. Peter Widmer, c/o LGT Bank in Liechtenstein AG, Vaduz
- Mr. Werner Orvati, c/o LGT Treuhand AG, Vaduz

Signatories on the account of the Foundation with LGT Bank in Liechtenstein shall be

- the Members of the Foundation Board according to their right to represent
- LGT Treuhand, singly

PSI-USMSTR - 008860

- 2/2 -

The Foundation is to enter into a Management Agreement with LGT Bank in Liechtenstein AG, Vaduz as set out in Appendix D.

I agree that an annual all-in-fee of 0.7 % of the average Foundations' assets shall be debited to the Foundation in accordance with the above referred Management Agreement. This fee includes

- the management of the Foundation's assets
- the formation and administration of the Foundation and its bank accounts
- the formation and administration of a transfer company (with legal situs in the British Virgin Islands) and its bank accounts
- the annual tax and registration payments for the Foundation and the transfer company in Liechtenstein and the British Virgin Islands

I also have taken note of the fact that LGT Treuhand AG and LGT Bank in Liechtenstein AG accepts liability for any damage suffered by ourselves and or the Foundation and its Beneficiaries due to any breach of duty of the members of the Foundation Board delegated by LGT Treuhand AG and LGT Bank in Liechtenstein AG.

Yours sincerely,

J.H. Gelband



460

QUALIFIED INTERMEDIARY (QI)

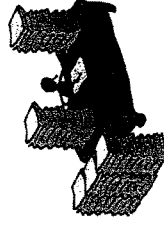
**STEP Event 2001 / September 14/15, 2001:
Presentation by Brigitte Arnold
LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz**



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

QUALIFIED INTERMEDIARY (QI)

NEW US WITHHOLDING TAX REGULATIONS FROM THE BANKING PERSPECTIVE



461




New US Withholding Tax Regulations

- ◆ Withholding tax on interests and dividends on US securities
- ◆ Effective date - January 1, 2001
- ◆ Major Impacts
 - Documentation
 - Withholding
 - Reporting
 - Allocation
- ◆ Increased responsibilities for foreign intermediaries (QI vs. NQI)

Disadvantages of being a NQI

- ◆ Extensive documentation requirements:
 - Full disclosure of beneficial owner to the IRS. Form W-8BEN or Form W-9 required for each account
- ◆ Full withholding of 30% on dividends and interests in case of non-disclosure
- ◆ Comprehensive reporting requirements
 - NQI must report taxable income for each underlying beneficial owner
→ Penalty of 20% of income in case of failure
- ◆ NQI liable for additional tax, interest and penalties

463



Becoming a QI is a must

- ◆ Relief from beneficial owner disclosure requirements
- ◆ Use of local KYC documentation is acceptable; not required to pass W-8 documentation on to withholding agent or IRS
- ◆ Documentation remains with the QI
- ◆ QI files income reports by „reporting pools“. No need for reporting by individual beneficial owners
- ◆ Simplified withholding and reporting requirements vs. a NQI

Qualification as QI (general)

- ◆ Approved Country Know-Your-Customer Rules
- ◆ Agreement with IRS
- ◆ Auditing of procedure (no requirement to divulge identity of account holders to IRS)

465

US Accounts

◆ Generally QIs and NQIs must pass Forms W-9 up to the US paying agent (full disclosure of names of US customers)

→ Backup withholding tax of 31% (*) on all dividends, interest payments and sales proceeds in case of non-disclosure

(*) progressively reduced to 28% during the next 5 years

QI Status of LGT Bank Vaduz

- ◆ Approval of Liechtenstein's KYCR by the IRS as per 28.02.2001
- ◆ Internal decision as per 01.03.2001 to become QI
- ◆ Application for QI status submitted to IRS as per 07.03.2001
- ◆ LGT Bank Vaduz permitted to act as a QI beginning 01.01.2001 (retroactive)

Documentation Benefits for LGT

- ◆ Client confidentiality maintained
- ◆ KYC available
- ◆ Documentation transition rules available
- ◆ Relief for simple and grantor trusts available
- ◆ → All QI benefits available

468

Simple and Grantor Trusts (FL Foundations etc.)

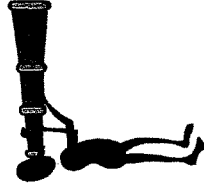
- ◆ LGT as QI bank avoids having to report underlying beneficial owners to IRS if
 - LGT as QI obtains documentation
 - LGT as QI additionally identifies beneficial owners (passport etc.)
- otherwise
- ◆ Full disclosure of underlying beneficial owners to IRS (QI and NQI)

469

Conclusion

The application of the QI Rules from the banking perspective; was it worth it?

Yes, because there is





LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrengasse 12
FL-9490 Vaduz

Telephone +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com

Impact of new US withholding tax regulations on non-US entities

1. Qualification of non-US entities under the US regulations

For the qualification of non-US entities, it has to be determined whether the entity itself can be regarded as the beneficial owner of the assets it holds, whether it is considered to be a US or a non-US person and whether it is a corporation (company) or a trust for tax purposes.

1.1. Beneficial ownership in general

US federal income tax law defines the beneficial owner as the person who, according to US tax law, is the owner of the relevant income for tax purposes and who beneficially owns the income. In general, a person is treated as the owner of the income, and thus as the beneficial owner, to the extent it is required under US tax principles to include the amount paid in gross income on a tax return. A person, who receives income as a nominee, asset manager or agent for another person or who has to be considered as a mere structure, can thus not be considered the beneficial owner under US tax principles.

1.2. US or non-US entity

Basically, an entity (corporation, company, partnership or other business entity) is regarded as being a non-US entity, if it is incorporated or created outside the territory of the United States.

Trusts (and foundations or similar vehicles without a commercial purpose) are regarded as being US trusts if a US court is able to exercise supervision over the administration of the trust (the so-called court test) and a US person has the authority to control all substantial decisions of the trust (the so-called control test). Both tests must be met at the same time in order for a trust to be qualified as a US person.

1.3. Business entity or trust

It is of importance for the classification of non-US entities, whether they were founded to pursue a commercial business activity (business entity) or not (trust).

1.3.1. Business entities

A business entity is a non-US business entity if the type of legal structure to which it belongs appears on the list of „per se corporations“ (see the appendix) published by the US authorities. This list contains an overview of countries with specified legal entities, e.g. the Swiss and Luxembourg AG, the UK Public Limited Company etc.

Or, if they do not appear on the „per se corporations“ list, non-US business entities can be classified according to the „check the box rules“:

- If, under local law, none of the shareholders/owners/members have unlimited personal liability for the debts of or claims against the entity (i.e. all these persons bear only limited liability), then the entity automatically and without having to make any special declaration will be classified as a corporation for US income tax purposes. It also has the option under the check the box rules to explicitly elect to be treated as a partnership, e.g. as a transparent “flow through” entity. To do so, it must file a Form 8832 with the US tax authorities.

- If, under local law, any or only one shareholder/owner/member has unlimited liability for the debts of or claims against the entity, then the entity will basically be treated as a (transparent) partnership. Such an entity also has the possibility under the check the box rules to opt explicitly to be treated (if there is more than one member) as a corporation (by filing Form 8832) for US income tax purposes.
- The same rules apply to an entity which is owned by a sole owner. If this person does not bear unlimited liability, the entity will basically be treated as a corporation (unless an explicit election to the contrary has been made). ~~In contrast, if the person does bear unlimited liability, the entity will be disregarded unless it has explicitly elected to be treated as a corporation (by filing Form 8832).~~

The above classification rules apply irrespective of whether the shareholders/owners/members are US persons or non-US persons.

US tax legislation contains special rules concerning Controlled Foreign Corporations, Personal Holding Companies, Passive Foreign Investment Companies etc., which cannot be dealt with within the scope of these explanations.

1.3.2. Trusts

According to US law, a trust exists if it was created by a will or by an inter vivos declaration whereby trustees take title to property for the purpose of protecting or conserving it for the beneficiaries. The persons who created such a trust might also be the beneficiaries. Generally speaking, a trust exists according to US law if the arrangement is to vest in trustees responsibility for the protection and conservation of beneficiaries who cannot share in the discharge of this responsibility. Trustees and beneficiaries do not therefore form a joint enterprise for the conduct of business, i.e. they do not form a business entity.

Trusts are further divided into grantor trusts, simple trusts and complex trusts.

a. Grantor trusts

The following trusts are grantor trusts according to US tax law if the grantor, the person who settled or funded the trust, is still alive:

- Any non-US trust established by a US person (citizen, resident alien) for the benefit or potential benefit of a US person. Normally, any non-US trust so established will be considered for the benefit of US persons, except if any such benefit to US persons is explicitly prohibited.
- Any non-US trust established by a non-US person, if such person within five years after establishing the trust becomes a US person (citizen, resident alien). This will lead to the trust being treated as if established by a US person.
- Any non-US trust established by a non-US person, if the trust is revocable.
- Any non-US trust established by a non-US person, whereby only the settlor or the settlor's spouse may benefit from distributions from the trust during the lifetime of the settlor.
- Any non-US trust established by a non-US person prior to September 19, 1995 and which is a "grandfathered" grantor trust according to US tax law.

b. Simple trusts

If a trust does not fulfil the criteria of a grantor trust, it is regarded as a simple trust, if it is required

- under the governing documents to distribute all the trust's income annually on a current basis to the beneficiaries, and
- the trust is not allowed to distribute or accumulate income or gains for charitable purposes, and
- the trust does not in fact distribute any capital or accumulated income in excess of current income.

c. Complex trusts

Trusts, which are neither grantor trusts nor simple trusts, are regarded as complex trusts.

d. Non-US foundations (e.g. Liechtensteiner foundations and similar entities)

Foundations and similar vehicles, which normally cannot be formed to pursue commercial objectives but have as their main objective the preservation of family wealth, will be treated as trusts under US tax principles. The basic rules described above for trusts are therefore applicable. The same could apply to similar entities (e.g. Liechtenstein trust enterprises (Trust Reg.), trusts and establishments).

On the other hand, if such an entity does pursue commercial business purposes and activities, it should be classified in accordance with the check the box rules. Therefore, such entities always have to be examined to ascertain whether they are to be treated as transparent or non-transparent.

e. Trusts/foundations with underlying company

With these structures, the trust (or the foundation etc.) is not the entity which holds the investments but rather a business entity. This entity (and not the trust) is then the bank's regular client. The question of which structures are to be classified for tax purposes is determined according to the rules applying to business entities („per se corporations“, „check the box rules“).

2. Tax treatment of business entities and trusts under the withholding regulations

2.1. Business entity

Non-US business entities, which are either included on the list of „per se corporations“ or classified as corporations according to the „check the box rules“, are basically regarded as the beneficial owners of the securities and income which they hold. The restriction that a person, who receives income as a nominee, asset manager, or trustee or who serves purely as a conduit, is not recognized as the beneficial owner applies fully in this case.

In cases where the entity cannot be regarded as the beneficial owner, it is considered to be an intermediary for tax purposes.

2.2. Trusts

Grantor trusts and simple trusts are regarded as transparent entities for tax purposes. They are not recognized as being the beneficial owners of the assets they hold, but rather as intermediaries.

In contrast, complex trusts are regarded as beneficial owners.

3. Consequences of tax classification within the scope of the Qualified Intermediary regulations

In order for the banks with Qualified Intermediary (QI) status to meet the requirements of the QI Agreement they must be aware of the tax status of their custody account holders. An adequate approach to this problem is by asking the client to confirm his or her status either on a declaration statement or the official IRS forms provided for this purpose.

3.1. Entities which are recognised as beneficial owners

Non-US entities, which can be regarded as the beneficial owners of the assets they hold, are obligated to confirm these circumstances on the declaration of non-US status to be passed on to LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz. This will enable LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz, to treat the entity as a non-US person. The form with regard to non-US status will remain with the bank, i.e. neither the declaration nor the information it contains will be forwarded to the USA.

3.2. Entities which are regarded as intermediaries

3.2.1. General

If a non-US entity is not regarded as a beneficial owner but rather as an intermediary according to the US tax regulations, it is not entitled to submit a Form W-8BEN. It must inform LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz, of its status on the Form W-8IMY and on the declaration regarding non-US status. The W-8BEN forms of the actual beneficial owners are to be attached to these forms. LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz, is obligated to forward these forms to its US custodian, which will pass the information on to the US tax authorities (with the exception of the declaration regarding non-US status, which is kept solely at the bank).

LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz, will only disclose the names of its custody account clients and the actual beneficial owners with the explicit consent of the custody account client concerned.

3.2.2. Special relief measures for grantor and simple trusts / Liechtenstein foundations and similar vehicles (which do not have US persons as the grantor or beneficiaries)

At the beginning of December 2000, the US tax authorities (IRS) issued supplementary regulations which provide a significant improvement with respect to non-US trusts and offshore foundations (e.g. Liechtenstein foundations), which are treated as equivalent to trusts according to US tax law, as well as to similar entities that are not themselves regarded as being the beneficial owners (i.e. grantor and simple trusts). A decisive point in this supplementary ruling is that in the case of these legal structures, the identity of the custody account client and the beneficial owner does not have to be disclosed to the US custodian and the US tax authorities if, in addition to the Forms W-8IMY for the trust (foundation) and W-8BEN for the beneficial owner (the grantor or beneficiary), the QI bank also receives from the beneficial owners those documents which identify them as the beneficial owners according to the valid know-your-customer rules.

Custody account clients of LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz, can benefit directly from these relief measures. To do so, they must submit to LGT Bank in Liechtenstein Aktiengesellschaft, Vaduz, in addition to the declaration regarding non-US status, a legally signed Form W-8IMY for the trust concerned together with the Forms W-8BEN for the grantor and the beneficial owners, as well as a certified photocopy of the passports of these persons. Generally, the photocopies can be certified by a notary public, a court or another recognized certification authority. All the submitted forms (declaration regarding non-US status, W-8IMY, W-8BEN, photocopies of passports) will be kept exclusively at the bank and not forwarded to the US custodian or the US tax authorities.

In cases where US persons are involved as beneficial owners, these relief measures do not apply. In such instances, as was previously the case, the persons concerned must disclose their identity to the US tax authorities using Form W-9.

3.3. Responsibilities

The responsibility for the correct qualification of the entity as a beneficial owner or intermediary lies solely with the entity and/or with the persons which represent it. In cases of doubt, a tax expert should be consulted in view of the important consequences attached to an incorrect qualification as a beneficial owner (submission of a Form W-8IMY and disclosure of the beneficial owner on Form W-8BEN).



LGT Treuhand

— Redacted by the Permanent
Subcommittee on Investigations

LGT Treuhand Aktiengesellschaft
"adde 28, PL-9490 Vaduz
Telefon +423 235 27 27 · Telefax +423 235 27 15
Mail: lgt.truhand@lgt.com
Internet: www.lgt.com/lgttreuhand
R.H.702/63 · Sitz: 9490 Vaduz · MWSt-Nr. 50119

Aktenvermerk

1/1

Thema	Neugründung LRAB Foundation, Vaduz (Weiterer Aktenvermerk)	LGT TREUHAND AG - STELLE COMPLIANCE
Verfasser(in) / Tel.	Mag. Hans-Jörg Gatt	Eingangsdatum: 10/09/02
Datum	13. September 2002 / HUG	GEPRÜFT IM SINNE DER BESTEHENDEN RICHTLINIEN
Zur Erledigung	Barbara Gmeiner (BGI)	Vision CO: [Signature]
Zur Genehmigung	Compliance / Geschäftsführung / Teamleitung Sonja Sprenger	Datum: 10/09/02

1. Privatkonto bei LGT BIL, Vaduz

Auf dem bestehenden Konto bei LGT BIL werden relativ grosse Summen transferiert. Aus diesem Grund hat Herr Skvaric Herrn Karl Frick von der Compliance zur Kundenbesprechung hinzugezogen. Die Beurteilung von Karl Frick liegt als Kopie bei.

2. Marc Rich

Marc Rich war Inhaber eines Firmengeflechts in CH welches vornehmlich im Warenhandel tätig war. Zeitweise waren über 1'500 Personen alleine in CH für ihn tätig und ein Umsatz von über USD 44.5 Mia. (2001, siehe Kopie) wurde erzielt. Er hat seine Anteile an Angestellte verkauft, welche die Firma unter dem Namen Glencore International weiterführen. Marc Rich ist eine umstrittene Person und teilweise in seinen Methoden sehr fragwürdig. Andererseits sieht man, dass in diesem Jahr auf dem Privatkonto des [REDACTED] ausschliesslich Eingänge von Glencore waren und somit die Angaben der Kunden untermauert werden.

3. Einschätzung der Compliance LGT BIL

Der gute Eindruck den ich von den Kunden habe wird im beigelegten email auch von Karl Frick von der Bank bestätigt. Folgendes möchte ich aber anbringen. Die ausgehenden Transfers auf dem Privatkonto bei LGT BIL haben ein Volumen von ca. USD 1 Mio. / pro Jahr. Dies sind die Bürokosten, Frachtkosten und Zahlungen im Rahmen ihrer geschäftlichen Tätigkeit. Ein kleiner Teil der Zahlungen gehen aber in die USA und nach Panama und können als Schmiergeldzahlungen eingestuft werden. Glencore International hat sie als ihr grösster Partner in Ecuador ersucht, diese Zahlungen an Dritte weiterzugeben. Dieses System wurde erst 2002 errichtet und die Kunden sind damit sehr unglücklich. Früher wurden die Zahlungen von Glencore International direkt an besagte Personen geleistet. [REDACTED] gibt an, dass er nochmals mit Glencore sprechen wird, aber gleichzeitig Angst hat, dass sie Glencore als Kunden verlieren könnten.

4. Panamagesellschaft

Ich habe mit den Kunden die Möglichkeit einer Panamagesellschaft als Kontoinhaber und „Durchgangskonto“ besprochen. Ich habe aber, in Absprache mit SPR, **abgelehnt**, dass wird als Direktoren einer solchen Gesellschaft agieren. Mein Eindruck ist, dass sich die Kunden ihrer Situation sehr bewusst sind, sie können auch das Risiko sehr gut abschätzen, können aber an der Situation momentan nichts ändern. Die Zahlungen sind jedenfalls mit Karl Frick besprochen und können auch weiterhin erfolgen.

[Signature]
Mag. Hans-Jörg Gatt

Permanent Subcommittee on Investigations

EXHIBIT #83

PSI-USMSTR - 008555

[Logo]
LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand Corporation
Staedtli 18, FL-9490 Vaduz
Telephone: +423 235 27 27 Telefax: +423 235 27 15
E-Mail: info@lgt.com
Internet: www.lgt.com
OR H. 702/63 – Location 9490 Vaduz – MWST-Nr. 50119

— = Redacted by the Permanent
Subcommittee on Investigations

1/4

Note for File

Subject: **New Establishment of LRAB Foundation, Vaduz [STAMPED]**

Writer/ Tel.: **Mag. Hans-Joerg Gatt**

Date: **13 September 2002 / HJG**

For Execution: **Barbara Gmeiner (BGI)**

For Notice: **Compliance [INITIALED] / Executive [INITIALED] / Team Management Sonja Sprenger**

1. Private Account with LGT BIL, Vaduz

Relatively large sums will be transferred into the existing account with LGT BIL. For this reason, Mr. Skwaric has called on Mr. Karl Frick from Compliance for a client meeting. The assessment from Karl Frick is attached as a copy.

2. Marc Rich

Marc Rich was the proprietor of a network of firms in Switzerland which were primarily active in merchandising. At times, over 1,500 persons in Switzerland alone were employed by him and a turnover of over USD 44.5 billion (2001, see copy) was achieved. He sold his portion to an employee, who continued to run the business as a firm under the name Glencore International. Marc Rich is a controversial person and very questionable with his methods. On the other side, in this year, one can see that subsequent deposits from Glencore were made into the private account of the [REDACTED] and therefore confirm the information of the clients.

3. Evaluation of Compliance LGT BIL

The good impression which I have from the clients is also confirmed in the attached email from Karl Frick of the bank. I would like to add the following. The out-going transfers from the private account with LGT BIL have an amount of ca. USD 1 Million/per year. These are the office costs, carrying costs and payments in the realm of their commercial activity. A small portion of the payments go however to the USA and Panama and may be classified as bribes. Glencore International asked its largest partner in Ecuador to pass these payments on to third parties. This system was first established in 2002 and, for this reason, the clients are very unlucky. Previously, the payments from Glencore International were made directly to said persons [REDACTED] declares that he will speak with Glencore again, but is also afraid that they could lose Glencore as clients.

4. Panama Corporation

I have discussed the possibility of a Panama Corporation as account holder and "transit account" with the clients. I have however, in agreement with SPR, dismissed our acting as director of such a corporation. My impression is that the clients know their situation very well; they can also assess the risks very well, but cannot change any part of their situation at the moment. The payments are however discussed with Karl Frick and can occur further.

[SIGNED]
Mag. Hans-Joerg Gatt

Wealth Management and Business Banking
CLIENT ADVISOR'S GUIDELINES FOR IMPLEMENTATION AND MANAGEMENT OF
DISCRETIONARY ASSET MANAGEMENT RELATIONSHIP WITH U.S. CLIENTS

Introduction

As of January 2002, UBS has determined to serve its U.S. resident client base through their existing banking relationships, for clients with securities holdings ideally coupled with a discretionary asset management relationship. ~~In no cases, will UBS entertain relationships with securities-related communication from o.~~ to the United States. Client Advisors have a significant role in implementing the discretionary asset management relationship and managing it for those clients that adopt it. They also must make sure that no securities-related communication from or to U.S. territory occurs. These guidelines set out the effect of adopting the discretionary asset management relationship, the process for implementing its adoption for clients and guidelines for managing the discretionary asset management relationship once it is adopted by the clients.

A. Effect of adopting the discretionary asset management relationship

Most importantly, UBS will have the duty to manage the client's discretionary account in accordance with the investment mandate selected by the client. However, because the client is granting UBS discretionary authority, UBS will make decisions concerning the trades in securities to be made in the discretionary account.

Under United States (US) tax regulations, trades in foreign (non-US) securities on behalf of a US person – effected by a UBS portfolio manager with discretion from a bank office of a non-US bank outside the territory of the US – will not be viewed as being done on US territory, and will therefore be considered to be effected outside of the US. Accordingly, such trades will not be subject to reporting under the US Internal Revenue Service's (IRS) deemed sales rules or the QI Agreement, which UBS has entered into with the US IRS.

Under US securities regulations, trades effected in securities - by a UBS portfolio manager with discretion from a bank office of a non-US bank outside the territory of the US – should not trigger registration requirements under the US laws governing brokers and investment advisers (provided, in the case of the law governing investment advisers, the guidelines set out below for the management of the discretionary asset management relationship are carefully followed).

B. Process for implementing the discretionary asset management relationship

In summary, (and subject to special treatment for some non-standard clients discussed below), US client relationships will be restructured into discretionary asset management contracts (i.e., PM mandates or managed fund portfolios), (1) through a letter (and in some cases, a phone call) to the client alerting the client that no securities orders will be accepted from them, (2) oral agreement (by telephone) by the client to the discretionary asset management relationship and (3) follow-up as soon as possible to obtain a contract that must be concluded and signed outside the US at the next possible meeting.

Immediate Action – As of 17 January 2002

- (1) Send letter to all PB and PCC clients (except APS/AFS and W-9 clients)
- (2) Cease to accept customer instructions from US territory
- (3) Ensure retained mail implemented for all PB and PCC clients
- (4) Prepare for call to PB and PCC clients by: (a) identifying active traders, (b) determining the appropriate investment mandate and whether there are any special instructions, (c) determining standard pricing for asset size and investment mandate
- (5) Start calling all PB and PCC clients that conduct active trading [visit key clients] to obtain the agreement of such clients to the discretionary asset management relationship: use attached **PSI-OPB-0008285** Answer and Note to File which includes the details that must be covered in obtaining the client's agreement to the discretionary relationship

Permanent Subcommittee on Investigations

EXHIBIT #84

Follow up Action

- (1) If client agrees, arrange and hold meeting with client outside of the U.S. for client to sign documents
- (2) If client does not agree, complete asset transfer instructions

Ongoing Action for non-active Clients

When a trading instruction is received from clients, follow step (4)(b) and (c) and (5) above under Immediate Action and take appropriate step under Follow up Action

APSAFS Clients

Such contracts (note: **not** the entire relationship) have to be terminated immediately

W-9 Clients

W-9 clients have been centralized into a specialized unit to ensure appropriate handling. Please refer to the following link:

<http://bw.ubs.com/page/0/36/0,1080,636-157251-1-0,00.shtml>

C. Guidelines for managing the discretionary asset management relationship once it is adopted

It is critical that no further instructions are received from PB and PCC clients while they are in the US. In addition, Client Advisers are not permitted to communicate advice or information about the client's securities portfolio while the client is in the US. Set out below are the kinds of communications that are not permitted and the kinds of communications that are permitted.

Communications that are not permitted

No marketing of advisory or brokerage services regarding securities –

- No direct mailings
- No telemarketing
- No e-mail or other electronic communications
- No seminars

No use of US mails, e-mail, courier delivery or facsimile regarding the client's securities portfolio –

- All account documentation must be executed outside of the US
- No account statements, confirmations, performance reports or any other communications

No use of telephone calls into the US regarding the client's securities portfolio –

- No calls to client regarding performance, securities purchased or sold or changes in the investment mandate for the client
- No responding to inquiries regarding any of the same if the client calls from the US

No discussion of or delivery of documents concerning the client's securities portfolio while on visits in the US with the client –

- No discussion of performance, securities purchased or sold or changes in the investment mandate for the client
- No delivery of documents regarding performance, securities purchased or sold or changes in the investment mandate for the client

PSI-GR-10000286

Client Advisors may communicate with the clients regarding any aspect of the client's private banking relationship – except the securities portfolio – (in the case of PB clients) and banking (in the case of PCC clients) with UBS. These aspects could include information or discussion regarding, for example, the client's deposit account, non-securities holdings or loans. Communications regarding these aspects of the relationship can take place while the client is in the US through the telephone, mails, email, facsimile or while the Client Advisor is visiting in the US with the client.

Cross-Border Banking Activities into the United States (version November 2004)

1. Introduction; Regulated Activities in United States and Status of UBS Entities

The U.S. legal regulatory framework draws an important distinction between banking and securities activities:

Banking activities, most important cash and custody services, are governed by various federal and state laws and are regulated by various federal and state banking supervisors, including, in the case of UBS AG's branches, agencies, and bank depository subsidiaries, the Federal Reserve Board (the "Board"), the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC") and the Connecticut, Illinois and Utah state banking departments.

Securities related activities (i.e., broker-dealer, investment advisor) are governed by various federal and state laws and are regulated by the Securities and Exchange Commission ("SEC") and state securities supervisors. Broker-dealers also are members of, and governed by, a self-regulatory organization ("SRO") known as the National Association of Securities Dealers ("NASD"). There is a separate regulator and regulatory scheme for providers of commodities services.

UBS AG has several U.S. branches and agencies and various non-banking subsidiaries all properly licensed, but these licenses do not encompass cross-border services provided to U.S. residents by UBS AG offices or affiliates outside of the United States. (Unless otherwise specified, all references herein to "UBS AG" refer to offices located, or employees based, outside of the United States).

2. Advertising & Events

Advertising: Some state laws prohibit banks without a banking license from that state from soliciting deposits from that state's residents. States also may prohibit non-licensed lenders from making certain loans to consumers in such states. Any entity outside of the United States that is not registered with the SEC (and, in the case of brokerage activities, with the NASD) may not advertise securities services or products in the United States. Therefore, UBS AG will not advertise and market for its services with material going beyond generic information relating to the image of UBS AG and its brand in the U.S.

Events. UBS AG may not organize, absent an opinion from Legal, events in the U.S.

3. Establishing Relationships with New Clients Resident in the United States

Securities services/products. UBS AG may not establish relationships for securities products or services with new clients resident in the United States with the use of U.S. jurisdictional means. Thus, it must ensure that it does not contact securities clients in the United States through telephone, mail, e-mail, advertising, the internet or personal visits.

Banking services/products. To avoid possible violations of state law and/or to avoid establishing and maintaining a place of business in the United States, UBS AG should ensure that:

- No marketing or advertising activity targeted to U.S. persons takes place in the United States;
- No solicitation of account opening takes place in the United States;
- No cold calling or prospecting into the United States takes place;

Permanent Subcommittee on Investigations

EXHIBIT #85

PSI-OPB - 0000103

- No negotiating or concluding of contracts takes place in the United States;
- No carrying or transmitting of cash or other valuables of whatever nature out of the United States takes place; The same applies to actively organizing such transfers or attempting to circumvent this prohibition through other means.
- ~~No routine certification of signatures, transmission of completed account documentation, or related administrative activity on behalf of UBS AG takes place;~~
- Employees do not carry on substantial activities at fixed location(s) while in the United States thereby establishing an office or maintaining a place of business.

Outside the United States. Soliciting and accepting banking business from U.S. residents while they are outside of the United States generally is not problematic.

4. Maintaining Relationships with Clients Resident in the United States

Securities services/products. UBS AG may not maintain relationships for securities services or products with clients resident in the United States, unless the relationship is conducted without the use of U.S. means (e.g., telephone, mail, e-mail, advertising, the internet or personal visits into the United States) and consistent with procedures UBS AG has established in this regard.

Banking services/products. If UBS AG obtains a U.S. resident client for banking services without violating the restrictions set forth in section 3 above, it may service the account:

- UBS AG may provide statements, account information and transaction confirmations to the client, provided it does so in accordance with the terms agreed by the client and in compliance with all applicable internal procedures.
- UBS AG may provide product and service information subject to the points mentioned in section 6 below.
- UBS AG may certify signatures, transmit account documentation and conduct related administrative activity for existing clients.

Under no circumstances will UBS AG be carrying or transporting cash and other valuables of whatever nature on behalf of clients into or out of the United States. The same applies to actively organizing such transfers or attempting to circumvent the prohibition.

When traveling cross-border, UBS AG employees always must remember that all clients of UBS AG expect us to take all necessary steps to safeguard confidentiality. Client advisors are referred to separate guidance on the protection of confidential information and other available resources that may assist.

5. Dealing with Financial Intermediaries and other Non-Private Clients Resident in the United States

Securities services/products. UBS AG may not deal with financial intermediaries or other non-private clients resident in the United States in matters relating to securities services and products, except for registered broker-dealers and U.S. licensed banks, provided that it does not directly or indirectly deal with the private and non-private clients of such broker-dealers and banks.

Banking services/products. UBS AG may accept referrals from financial intermediaries in the United States, provided that the financial intermediaries (i) do not work for UBS AG, (ii) do not actively market UBS AG services and products, and (iii) make referrals only to accommodate client requests. In dealing with such intermediaries, UBS AG must comply with the restrictions set forth in sections 3 and 4 above.

6. Product Offering

PSI-OPB - 0000104

Securities products. All securities products offered to U.S. persons must be compliant with U.S. laws, which generally means that they must be registered with the SEC. The purchase of securities may be exempt from registration if certain conditions are met.

Lending products. It may be necessary to obtain a state license to offer lending products, depending on the purpose, amount, interest rate and borrower of the product. There is a reasonable argument that federal consumer protection laws do not apply to products offered by non-U.S. entities, but state consumer protection laws (e.g., anti-usury) may apply.

Research. UBS AG research may not be distributed to clients in the United States, except in very limited circumstances.

E-Banking. UBS AG has implemented specific restrictions for e-banking for U.S. customers.



For Internal Use Only

Restrictions on Cross-Border Banking and Financial Services Activities

Country Paper USA¹

(Effective Date June, 1st, 2007)

Permanent Subcommittee on Investigations
EXHIBIT #86

PSI-OPB - 0000268

¹ The terms "USA" or "United States" for the purposes of this paper also embraces all territories and dependencies of the United States, e.g., Puerto Rico.



For Internal Use Only

1. Introduction

- 1.1 **Overview of U.S. Regulatory Framework:** The United States has a comprehensive legal framework concerning the regulation of banking and securities services that generally requires a financial institution that provides banking or securities services to persons in the United States to be licensed by an appropriate federal regulator and/or one or more U.S. state regulators. The U.S. legal regulatory framework distinguishes between *banking* and *securities* activities (and among particular securities activities, i.e., investment advice [including discretionary asset management], brokerage, and investment funds). As discussed below, in some cases the rules relating to securities services are more restrictive than the rules applicable to banking services.
- 1.2 **U.S. Presence of UBS Global WM&BB:** UBS AG has several U.S. offices and affiliates, each a "U.S. Licensed Office", that are licensed to provide banking services, securities services, or both in various U.S. states (such as UBS AG's branch offices in New York and UBS Financial Services Inc.). However, these licenses do not permit non-U.S. offices or affiliates of UBS AG to provide banking or securities services to U.S. residents.²
- 1.3 **Purpose of this Paper:** In addition to its U.S. Licensed Offices, UBS AG, through the employees of its non-U.S. offices and affiliates ("UBS Employees"), is interested in servicing U.S. residents, but only to the extent permitted by U.S. law. Failure to comply with U.S. rules and regulations may result in substantial civil, administrative and criminal sanctions against UBS AG and its employees and could have a substantial negative impact on UBS AG's reputation in the United States. Accordingly, all UBS non-U.S. offices and affiliates must conduct their business with U.S. residents in strict accordance with the rules and limitations set forth in this Country Paper.

This paper is intended for use by (i) any UBS Employee who has any contact with an existing or prospective client who is a resident of the United States, including but not limited to Traveling Officers, and (ii) any UBS Employee who has supervisory or compliance responsibilities with respect to such UBS Employees. All staff concerned must sign the certification mentioned in Section 2.1.3. to confirm compliance with this Country Paper.

1.4 Definitions

- 1.4.1 **UBS AG or UBS:** Unless stated otherwise, references to "UBS AG" or "UBS" refer to offices or affiliates of UBS AG located outside of the United States.
- 1.4.2 **UBS Employee:** Any employee or officer of a non-U.S. office or affiliate of UBS.
- 1.4.3 **Traveling Officer:** Any UBS Employee who travels to the United States and meets with a person resident in the United States who is either an existing or prospective client of UBS.

² UBS Swiss Financial Advisers AG ("UBS SFA"), a Swiss subsidiary of UBS AG registered with the U.S. Securities Exchange Commission ("SEC") as an investment adviser and with the Swiss Federal Banking Commission as a securities dealer is able to solicit U.S. resident prospects and service U.S. resident customers. As with U.S. Licensed Offices, UBS SFA's licenses do not permit other non-U.S. offices or affiliates of UBS AG to provide banking or securities services to U.S. residents.



For Internal Use Only

1.4.4 **Communication Concerning Securities Services or Products:** Any communication to facilitate, induce or attempt to induce a securities transaction or any communication concerning the advisability of purchasing or selling a specific security or securities in general.

1.5. **More Information:** Questions concerning this paper or the obligations and limitations discussed in this paper should be directed to:

Franz Zimmermann, Legal, Global WM&BB

Thomas Christen, US Competence Center, Global WM&BB



For Internal Use Only

2. General Principles

- 2.1 **Travel to the United States:** UBS Employees may travel to the United States to meet with existing and prospective clients **so long as** all of the requirements and restrictions of this Country Paper are met.
- 2.1.1 Travels must be kept to a minimum.
 - 2.1.2 Each Traveling Officer must be properly trained on the rules set forth in this Country Paper before traveling.
 - 2.1.3 Each Traveling Officer must confirm compliance with the restrictions set forth in this Country Paper by signing a specific certification.
 - 2.1.4 Before each trip to the United States, a Traveling Officer must obtain specific approval from his or her supervisor supported by submission of a travel plan listing those events the Traveling Officer intends to attend, and those existing and prospective clients the Traveling Officer intends to meet.
 - 2.1.5 After returning from each trip to the United States, a Traveling Officer must report to his or her supervisor about all events attended and all existing and prospective clients visited, and to confirm that he or she complied with the provisions of this Country Paper.
- 2.2 **UBS Activities Outside of the United States:** The restrictions set forth in this Country Paper generally do not apply to communications or dealings between UBS and an existing or prospective client while that client is located outside of the United States.
- 2.3 **No Place of Business in the United States:** A UBS Employee may not engage in any activity that would result in UBS establishing a place of business in the United States.
- 2.3.1 A Traveling Officer must not carry on substantial activities at any fixed location in the United States thereby establishing an office or maintaining a place of business.
 - 2.3.2 An existing or prospective client should not be able to predict or anticipate when or where a Traveling Officer will be in the United States without having made a specific appointment.
- 2.4 **No Communications Concerning Securities Services or Products via U.S. Jurisdictional Means**
- 2.4.1 A UBS Employee may not communicate concerning securities services or products with a person resident in the United States when such person is in the United States. This includes visits at a U.S. address and communications by mail, telephone, e-mail, facsimile, telex or otherwise to the United States.
 - 2.4.2 A client relationship for a U.S. resident with securities holdings must either (i) be subject to a strictly enforced retained mail policy or (ii) have a correspondence address outside the United States.
 - 2.4.3 Any client request to receive mail relating to a securities account at a U.S. address or otherwise receive information concerning securities services or products in the United States ~~must be denied.~~ ^{PSI OTCB 0000271}



For Internal Use Only

- 2.4.4 While in the United States a Traveling Officer must not discuss securities services or products with a client.
- 2.4.5 While in the United States, a Traveling Officer must not hand out to the client any document that relates to the client's securities holdings.
-
- 2.4.6 While in the United States, a Traveling Officer must not distribute to, collect from, or discuss with an existing or prospective client any contract, brochure or other document that relates to securities services or products.
- 2.4.7 A UBS Employee, including a Traveling Officer, must respond to a U.S. resident client's inquiries concerning securities services or products that, if the client wishes to discuss these matters, he or she must do so when outside the United States.
- 2.5 **No Solicitations in the United States:** A UBS Employee must abstain from any activity that could be construed as soliciting securities or banking business from persons located in the United States. In this regard, the following general restrictions apply.
- 2.5.1 **Advertising:** UBS may not advertise UBS's banking and securities services in the United States other than with materials that provide generic information relating to the image of UBS and its brand in the United States. Such materials may not include information about any specific service or product offered by UBS and may not include references to banking, or securities products or services. Legal must approve an advertisement before it may be distributed in the United States.
- 2.5.2 **Events:** A Traveling Officer may only organize or participate in an event in the United States after receiving specific approval for that event from Legal. Any such event organized by UBS, its US-offices or affiliates, or third parties must be limited to discussing general information about UBS or banking services. Under no circumstances may a Traveling Officer solicit banking or securities business or discuss securities-related matters at such events.
-
- 2.5.3 **Dealing with Financial Intermediaries in the United States:** Any contractual arrangement with a U.S. based Financial Intermediary must be approved in advance by Legal. UBS may not enter into any arrangements with other UBS-units or third parties (e.g. Finders, Financial Intermediaries wherever located) specifically designed to refer U.S. resident persons to UBS.
- 2.5.4 **Cold Calls:** A UBS Employee may not make cold calls to any person located in the United States.
- 2.5.5 **Distributing Account Opening Documents:**
- 2.5.5.1 No person may distribute contractual documentation relating to securities services or products to any person located in the United States.
- 2.5.5.2 No person may distribute account opening documents as described in section 4.3.1 below unless the document is expressly requested by a client or prospective client.
- 2.6 **Accepting or Facilitating Transfers of Assets**
- 2.6.1 A Traveling Officer must not transport cash, bills, checks, securities or any other valuables into, out of or within the United States on behalf of an existing or prospective client.
- 2.6.2 A Traveling Officer or other UBS Employee must not otherwise organize such transfers or take any other step to attempt to circumvent this prohibition through other means.

PSI-OPB - 0000272



For Internal Use Only

2.7 **Executing Contracts:** A Traveling Officer may not execute any contract on behalf of UBS while in the United States

2.8 **Emergencies:**

~~The Security Risk Control Hotline +41 44 234 24 24 is always available (24 hours a day) for emergency calls regarding any urgent matter.~~

2.9 **Adherence to Law:** A UBS Employee may not take any step that would assist any person to violate or evade any applicable law.

2.9.1 A UBS Employee must not give any advice to prospective or existing clients on how to evade taxes or circumvent any other relevant restrictions applicable to them.

2.10 **Adherence to Relevant UBS Directives and Procedures:** In addition to the limitations discussed above, all client relationships remain subject to all relevant regulations set-forth in more detail by pertinent directives, policies and procedures. In particular, client relationships are subject to:

2.10.1 Relevant AML/KYC and related requirements which apply to the respective booking center.

2.10.2 All investment profiling and similar requirements relating to the products and services the client wishes to receive.

2.11 **Product-Specific Issues**

2.11.1 **Securities products.** All persons offering securities to U.S. persons must comply with U.S. laws which generally means that the securities offered must be registered with the SEC. The purchase of securities may however be exempt from registration if certain conditions are met. ~~Legal will direct the business either by issuing general guidance or on a case-by-case basis.~~

2.11.2 **Lending products.** It may be necessary to obtain a state license to offer lending products, depending on the purpose, amount, interest rate and borrower of the product. Legal will direct the business either by issuing general guidance or on a case-by-case basis.

2.11.3 **Research.** UBS research may not be distributed to clients in the United States, except in very limited circumstances. Approval must be obtained from Legal before distributing any UBS research to a U.S. resident.

2.11.4 **E-Banking.** UBS has implemented specific restrictions for e-banking for U.S. customers.

PSI-OPB - 0000273



For Internal Use Only

3. Servicing Existing Clients Located in the United States

3.1 **General Restrictions:** With respect to a U.S. resident who is already a client of UBS all of the restrictions outlined in Section 2 above continue to apply.

3.2 **Permissible Activities:** If UBS AG has obtained a U.S. resident client for banking services (e.g., the client is acquired on an unsolicited basis), UBS employees may take additional steps with respect to a banking account. The following applies to banking services not securities services.

- 3.2.1 A UBS Employee may provide statements, account information and transaction confirmations to the client in the United States, provided (i) such documents relate only to banking services and not to securities services or products; and (ii) the UBS Employee delivers the documents in accordance with the terms agreed by the client and in compliance with all applicable internal procedures.
- 3.2.2 A UBS Employee may provide banking services and product information subject to the product restrictions discussed in section 2.11 above.
- 3.2.3 While in the United States, a Traveling Officer may certify signatures, transmit (updated) account documentation and conduct related administrative activity for existing clients so long as such activities relate only to banking services or products.
- 3.3 **Activities with Existing Securities Client:** In any meeting, the Traveling Officer may not communicate with the client concerning securities services or products. If an existing securities client who has not entered into a discretionary mandate with UBS inquires whether a better structure for receiving services exists, the Traveling Officer may confirm that there is (i.e., a discretionary mandate) but indicate that any other discussion would have to take place outside of the United States.



For Internal Use Only

4. Establishing Relationships with New Clients in the United States ("Prospecting")

4. No Active Prospecting-Principle

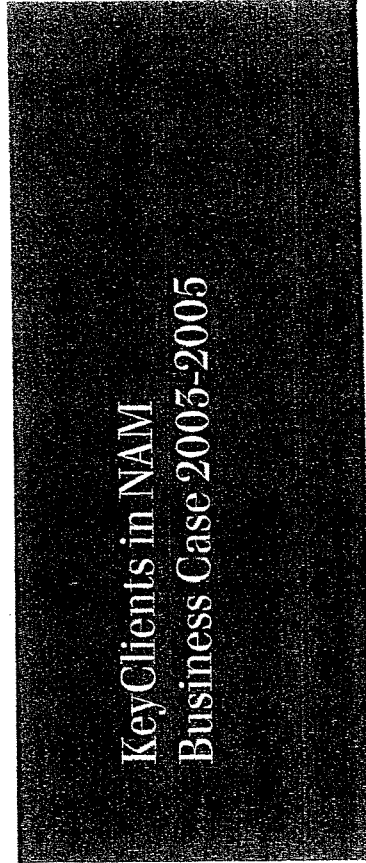
UBS will abstain from any active prospecting of any U.S. based persons. Further, a UBS Employee must adhere to all of the restrictions set forth in Section 2 above when communicating or dealing with a prospective client.

4.2 Permissible Activities: Traveling Officers and other UBS staff may however:

- 4.2.1 Contact prospects who have articulated an interest for banking services and are referred by existing clients or U.S. Licensed Offices.
- 4.2.2 Talk to prospects who have shown an interest for banking services about their personal circumstances, topics of general economic interest and UBS in general.
- 4.2.3 Under no circumstances may a UBS Employee who communicates with a prospective client concerning banking products or services communicate with that prospective client concerning securities services or products.
- 4.3 **Account Opening Process:** If a Traveling Officer meets with a prospective client (as described in Section 4.2 above) and the prospective client asks to open a banking account with UBS, the following process should be followed.
 - 4.3.1 A Traveling Officer may distribute to an unsolicited banking services prospect the standard UBS account opening documentation in the United States. However, UBS forms that relate to securities business (e.g. an Asset Management Agreement) can only be offered to or discussed with the prospect when he or she is outside of the United States.
 - 4.3.2 An unsolicited banking services prospect may execute the standard UBS account opening documentation in the United States. However, the prospective client must return the forms to the appropriate UBS booking center by mail.
 - 4.3.3 Traveling Officers may not be directly involved in the execution of the account opening documentation while in the United States or in the mailing of the documentation from the prospective client to the booking center outside of the United States.
 - 4.3.4 Further guidance with regard to the correct completion of contractual forms (client details, signatures, locations, dates) can be found in section 2.1.1 of the Compliance & Legal Manual.
 - 4.3.5 Account openings generally will not occur by means of correspondence (i.e. no account opening documentation is sent to the United States).



Strictly private and confidential



KeyClients in NAM
Business Case 2003-2005

Permanent Subcommittee on Investigations
EXHIBIT #87

Table of Contents

- ◆ Market Assessment
- ◆ Restrictive Regulatory Environment
- ◆ Competitive Environment
- ◆ Assessment of current KeyClient base
- ◆ Key Success Factors
- ◆ Marketing Strategy
- ◆ Goals

Restrictive Regulatory Environment

Restrictive Regulatory Environment

- ◆ Main Restrictive Regulations
- ◆ Descriptions
- ◆ Implications

Restrictive Regulatory Environment

Main Restrictive US Regulations (Booking center CH)

- ◆ Qualified Intermediary Status (QI)
- ◆ Deemed Sales Requirements
- ◆ Voluntary Disclosure / I.R.S.
- ◆ Patriot Act I & II
- ◆ Broker Dealer Act
- ◆ Investment Advisor Act

Main Restrictive Canadian Regulations

- ◆ The Bank Act (s. 510)



Restrictive Regulatory Environment

Description of Main Restrictive US Regulations (booking center CH)

- ◆ QI agreement covers US Securities. Clients who are liable to taxation in the US can hold US securities only if they are declared. US clients with undeclared accounts may no longer hold any US securities.
- ◆ The Deemed Sales Rules enlarge the scope of the QI agreement to cover non-US securities for US persons. It makes it necessary for UBS to cease to accept securities instructions from within the US.
- ◆ Voluntary Disclosure: the government encourages US tax payers to come forward to voluntarily register and pay prior tax obligations and penalties.

Restrictive Regulatory Environment

- * USA PATRIOT ACT: "Uniting and Strengthening of America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism". Imposition of strict Know Your Customer Regulations, and constant monitoring of money movements.
- * Broker-Dealer and Investment Advisor Acts: Laws requiring broker/dealers, investment advisors and firms providing investment advice to register with the SEC and adhere to SEC regulations.

497

Restrictive Regulatory Environment

Description of Main Restrictive Canada Domestic Regulations

- ❖ Section 510 is the key provision of the Bank Act with respect to proposed activities of a foreign bank. It is not permissible for non-Canadians banks outside of Canada to seek out banking relationships with Canadian residents while the residents are in Canada. Generally speaking, UBS AG would not be permitted to provide broker-dealer type services, investment management or advisory services in Canada without being registered to provide such services with the appropriate provincial regulatory body.

Restrictive Regulatory Environment

Implications for UBS (booking center CH)

- ❖ US Regulations: Decrease in traditional advantages, and existing loss of Simple Assets (US Offshore Voluntary Disclosure).
- ❖ Canadian Regulations: Closer attention is necessary in regard to giving domestic clients investment advice, and with marketing and promotional activities. Employees of UBS who are not registered in Canada also need to be careful not to negotiate or enter into contract within Canada.

Implications for UBS (Canada Domestic)

- ❖ Full registration of CA is required to proactively market own services in Canada.

Assessment of Current KeyClient Base

Assessment of Current KC Base

KCs Statistics

2002	Number of Clients	Total Assets*	Net New Money*	Net Revenues*	Return on Assets	Actively Managed Shares
Total KC	23	2'047'227	774'826	14'049	0.88	49.49%
Total NAM all segments	11'170	21'117'661	241'650	150'000	1.00	48.26%

* Numbers are listed in thousands of CHF

Comment:

The RoA is extremely high. Therefore, we anticipate a decrease due to an increasing competition.



UBS AG
P.O. Box, 8008 Zurich
Tel. +41 1 234 11 11

Daniel H. Perron
Bärengrasse 16
8001 Zurich

Tel. +41 1 237 70 70
Fax +41 1 237 70 77
daniel.perron@ubs.com

www.ubs.com

November 4, 2002

Dear client

From our recent conversations we understand that you are concerned that UBS' stance on keeping its U.S. customers' information strictly confidential may have changed especially as a result of the acquisition of Paine Webber. We are writing to reassure you that your fear is unjustified and wish to outline only some of the reasons why the protection of client data can not possibly be compromised upon:

- The sharing of customer data with a UBS unit/affiliate located abroad without sufficient customer consent constitutes a violation of Swiss banking secrecy provisions and exposes the bank employee concerned to severe criminal sanctions. Further, we should like to underscore that a Swiss bank which runs afoul of Swiss privacy laws will face sanctions by its Swiss regulator, the Swiss Federal Banking Commission, which can amount up to the revocation of the bank's charter. Already against this background, it must be clear that information relative to your Swiss banking relationship is as safe as ever and that the possibility of putting pressure on our U.S. units does not change anything. Our bank has had offices in the United States as early as 1939 and has therefore been exposed to the risk of US authorities asserting jurisdiction over assets booked abroad since decades. Please note that our bank has a successful track record of challenging such attempts.
- As you are aware of, UBS (as all other major Swiss banks) has asked for and obtained the status of a Qualified Intermediary under U.S. tax laws. The QI regime fully respects client confidentiality as customer information are only disclosed to U.S. tax authorities based on the provision of a W-9 form. Should a customer choose not to execute such a form, the client is barred from investments in US securities but under no circumstances will his/her identity be revealed. Consequently, UBS's entire compliance with its QI obligations does not create the risk that his/her identity be shared with U.S. authorities.

We look forward to working with you.

Sincerely,
UBS AG

Michael P. Guignard
Executive Director

Daniel H. Perron
Executive Director

Permanent Subcommittee on Investigations

EXHIBIT #88

PSI-OPB - 0000022

From: Liechti, Martin
Subject: Happy New Year

Welcome to the new year! I hope you enjoyed the holidays with your family and friends and took the opportunity to relax and "recharge your batteries".

We achieved much in 2006 and I thank you for your huge efforts and dedication to the Americas.

The markets are growing fast, and our competition is catching up. Also, new competition, like Itau, is showing up on the radar. The answer to guarantee our future is GROWTH. We have grown from CHF 4 million per Client Advisor in 2004 to 17 million in 2006. We need to keep up with our ambitions and go to 60 million per Client Advisor! Best shift will have to be implemented to keep up and bring our RoA to 100 bp.

Our ambitions:

100 RoA
60 NNM per CA
100% Satisfied Clients
100% UBP

In the Chinese Horoscope, 2007 is the year of the pig. In many cultures, the pig is a symbol for "luck". While it's always good to have bit of luck, it is not luck that leads to success. Success is the result of vision and purpose, hard work and passion. We have to put ourselves into a position where "luck" can find us! That we can do by sharpening our focus on our priorities for this year, which are:

To reach our ambitions don't try the extraordinary, but do the ordinary in an extraordinary way!

Our Senior Managers and our Desk Heads must CREATE, CARE and COACH the A-TEAM!

Together as a team I am convinced we will succeed!

With best wishes for the New Year,

Martin Liecht

Permanent Subcommittee on Investigations

EXHIBIT #89

Page URL: <http://bw.ubs.com/page/0/60,1080,636-142506-1-6526,00.shtml>

PB Americas International News - Monday, 2 June 2003 - 14:23

Referral Campaign BU Americas

Dear Colleagues,

The first five months of this year have been very challenging for our industry. The decline in investor confidence, the military conflict in the Middle East, and the ever increasing regulatory scrutiny that has descended upon our business, continue to present difficult challenges. We are, however, convinced that even in this difficult environment, we are well-positioned to provide our clients with the best solutions for their financial needs.

Net New Money is, as you know, a key element for our success. This means that we all have to work hard to achieve our NNM goals for 2003 and the years to come. In order to reach this goal, two main initiatives have been launched: The KeyClient initiative and the Referral Program within UBS. These initiatives have two goals: On the one side they will, as I said, help us to achieve our NNM targets. On the other side, they should help us to increase co-operation between UBSI, the Private Bank and the other Business Groups of UBS and between the Client Advisors and the Product Specialists. The success of these initiatives is crucial for the success of the Integrated Business Model of UBS, thus crucial for our success.

The Referral Agreement, which we have been elaborating during the previous weeks, has been signed and contains the following key point: Each Country Team making a referral will get 0.33% of the revenues generated by the Financial Advisor over a time period of four years. As you know, we set, at the beginning of the year, a target of 5 referrals per CA to be made. I am aware that it is a challenge to reach this goal. In acknowledgement of your effort and commitment, I would like to award the Client Advisor in each Country Team who achieves, until the 31st of December 2003, the most referrals (amount of money and number of referrals), but at least the 5 referrals set as target, with a Breitling wristwatch. The same will be valid for the Rep Officer (including all Rep Offices in Latin America) who achieves this goal. Since 2003 will be a unique "brand year" in UBS' history, each Breitling watch we award will be "customized" with the UBS logo.

Although 2003 is likely to remain a challenging year for investors, we are well positioned to build on our strengths, capabilities and services. Our excellent reputation for client service combined with the continued "tight to quality" will help us to gain more market share. We are committed to become the pre-eminent advisor to our clients' financial affairs. It is therefore imperative that you give this campaign the attention it deserves. I am already looking forward to awarding those of you who will achieve this goal!

Martin Liechti

Permanent Subcommittee on Investigations
EXHIBIT #90



- White dial with luminous hands and hour markers.
- Date display.
- Stainless steel case.
- Black leather strap.
- Water-resistant to 330 feet.
- Sapphire crystal.
- Automatic movement.



- Mother-of-pearl dial with luminous hour markers.
- Date display.
- Stainless steel case.
- Black leather diver strap.
- Water-resistant to 330 feet.
- Sapphire crystal.
- Superquartz movement.

	YTD Jul 04 Assets (in CHFm)	YTD Jul 04 AMS	YTD Jul 04 ROA	July 2004 Revenue (in CHFm)	July 2004 Revenue (in CHFm)
North America	27'077	56.5%	1.13%	-97.7	23.7
W9					
CAN DOM					
CAN INTL					
NON W9					
KEY CLIENTS NAM (OGECBQA)	1'018	50.9%	1.03%	6.5	0.9
WM USA GE (OGESQQA)	6'398	71.5%	1.08%	52.1	2.0
WM US NORTH EAST (OGESYSA)	5'460	61.4%	1.21%	-22.8	5.2
CD CORE AFFLUENT NE ZH (OGGAAKA)	917	74.1%	1.47%	-5.4	1.1
CD US NE ZH (OGABVCA)	1'548	63.6%	1.25%	-15.1	1.6
CD US NE ZH HNWI (OGAHTQA)	1'837	58.2%	1.07%	2.7	1.6
CD US NE LG (OGAZ4WA)	749	60.6%	1.17%	-5.8	0.7
MGT CT US NE (AXTR) (OGAAXEA)	409	40.7%	0.79%	-1.2	0.2
WM US MIDWEST/ SE/ WESTERN (OG96JA)	4'349	67.7%	1.22%	-26.8	4.3
CD US MW ZH (OGAZAVA)	1'101	70.2%	1.18%	-0.1	1.1
CD US SE ZH (OGAZ5QA)	1'492	45.4%	1.00%	-21.3	1.2
CD WESTERN ZH (OGAYHHA)	1'755	85.0%	1.46%	-5.8	2.0
WM AFR/WTW CLIENTS AMERICAS (OGHYE)	545	51.0%	0.9%	-2.2	0.4
WM AFR/WTW CLIENTS AMERICAS (OGHYE)	545	51.0%	0.9%	-2.2	0.4
WM AFR/WTW CLIENTS AMERICAS (OGHYE)	545	51.0%	0.9%	-2.2	0.4
WM AFR/WTW CLIENTS AMERICAS (OGHYE)	545	51.0%	0.9%	-2.2	0.4
LONDON					
NORTH AMERICA ADVISORS (OGGAEEA)	1'247	23.4%	0.40%	-27.3	0.0
ACQUISITION NORTH AMERICA (OGGA7BA)					



B5 North America Report
 Overview Figures NAM
 August 2004
 Contact: Jana Kurth Tel: 1973 - 74795

Overview Figures North America

	Assets (in CHF m)	AMS (in %)	ROA (in %)	Aug 04 NNM* (in CHF m)	YTD Aug 04 NNM* (in CHF m)	Aug 04 Revenue (in CHF m)	YTD Aug 04 Revenue (in CHF m)
North America	27'099	56.6	1.12	51.1	362.3	24.3	196.3
W9							
CAN DOM							
CAN INTL							
WM CANADA INTERNATIONAL	5'621	54.8	1.24	-9.5	3.9	5.1	41.9
CANADA INTL NASSAU	802	53.7	0.80	-6.9	8.5	0.5	1.1
CD CANADA INTL GENEVA	1'208	57.6	1.24	1.4	-12.9	1.2	10.1
CD CANADA INTL ZURICH	3'611	54.2	1.27	-3.9	8.9	3.4	30.8
CD CANADA EAST ZH	1'710	59.8	1.33	1.0	-37.7	1.6	15.5
CD CANADA WEST/ONTARIO ZH	1'901	49.1	1.21	-4.9	41.6	1.7	15.2
NON W9	15'911	64.7	1.23	53.7	221.5	15.7	130.0
KEY CLIENTS NAM							
WM US NORTH EAST	5'533	61.9	1.21	71.0	123.3	5.4	44.3
CD CORE AFFLUENT NE ZH	915	74.1	1.46	-4.8	-23.3	1.1	9.1
CD US NE ZH	1'593	64.9	1.25	62.7	96.1	1.6	18.9
CD US NE ZH HNW	1'851	59.2	1.09	13.9	49.9	1.8	8.3
CD US NE LG	767	58.6	1.17	0.3	1.2	0.7	5.8
MGT CT US NE (AXTP)	405	41.0	0.79	-1.0	-9.3	0.3	2.2
WM US MIDWEST/ SE/ WESTERN	4'282	68.2	1.21	6.4	105.6	4.1	34.9
CD US MW ZH	1'090	70.0	1.17	-7.3	-5.5	1.0	8.6
CD US SE ZH	1'446	46.3	0.99	22.0	31.2	1.2	10.0
CD WESTERN ZH	1'746	85.0	1.44	8.3	78.3	1.9	16.2
WM AFFLUENT CLIENTS AMERICAS	963	51.1	1.88	5.9	-7.3	1.4	10.4
WM AFFLUENT CLIENTS AME LG	55	56.9	1.91	0.2	0.6	0.1	0.6
WM AFFLUENT CLIENTS AME GE	254	50.0	2.33	-1.5	0.1	0.4	2.9
WM AFFLUENT CLIENTS AME ZH	654	51.2	1.74	5.9	-5.6	0.9	6.8
LONDON							
NAM ADVISORS	1'260	24.0	0.45	5.8	122.0	0.5	3.9
ACQUITION NAM							

FIGURES ROUNDED BY FIVE AND NOT TO BE USED FOR ANALYSIS AND REPORTING PURPOSES. BEST EFFORTS TO OBTAIN DATA FROM SOURCE.

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060247



BS North America Report
 Overview Figures NAM
 September 2004
 Contact: Jana Kurth Tel: 1923 - 74795

Overview Figures North America

	Assets (in CHF bn)	AMS (in %)	ROA (in %)	Sep 04 NNM* (in CHF bn)	YTD Sep 04 NNM* (in CHF bn)	Sep 04 Revenue (in CHF bn)	YTD Sep 04 Revenue (in CHF bn)
North America	27'108	57.0	1.14	15.2	377.5	28.3	224.6
W9							
CAN DOM							
CAN INTL							
WM CANADA INTERNATIONAL	5'652	56.5	1.26	23.3	27.3	6.6	48.6
CANADA INTL NASSAU	808	58.5	0.83	0.1	8.5	0.5	1.7
CD CANADA INTERN. GENEVA	1'209	57.3	1.25	-2.0	14.9	1.4	11.9
CD CANADA INTERN. ZURICH	3'635	55.8	1.30	24.4	33.3	4.6	35.4
CD CANADA EAST ZH	1'711	60.4	1.37	8.6	24.1	2.4	17.9
CD CANADA WEST/ONTARIO ZH	1'924	51.8	1.23	15.8	57.4	2.2	17.4
NON W9	15'780	65.0	1.25	-82.0	139.5	18.3	148.3
KEY CLIENTS NAM							
WM USA GE	1'762	74.7	1.21	21.1	11.3	1.5	7.7
WM US NORTH EAST	5'488	61.7	1.23	-40.3	83.0	6.4	50.7
CD CORE AFFLUENT NE ZH	933	74.7	1.50	-4.5	-27.8	1.4	10.5
CD US NE ZH	1'433	63.8	1.26	-26.2	69.8	1.7	20.6
CD US NE ZH HNW	1'935	58.8	1.12	-2.3	47.6	2.0	10.3
CD US NE LG	759	58.8	1.21	-8.9	-7.6	1.0	6.8
MGT CT US NE (AKTF)	427	44.5	0.80	-0.1	-9.3	0.3	2.5
WM US MIDWEST/ SE/ WESTERN	4'328	67.7	1.23	-24.9	80.8	5.0	39.9
CD US MW ZH	1'104	75.6	1.20	-0.3	-5.9	1.4	10.0
CD US SE ZH	1'486	44.5	1.00	-19.7	11.4	1.3	11.3
CD WESTERN ZH	1'737	85.6	1.46	-5.4	71.3	2.4	18.6
WM AFFLUENT CLIENTS AMERICAS	1'911	51.6	1.86	1.3	-5.9	1.4	11.8
WM AFFLUENT CLIENTS AME LG	35	53.8	1.80	0.2	0.5	0.1	0.7
WM AFFLUENT CLIENTS AME GE	259	49.5	2.29	0.2	0.3	0.4	3.4
WM AFFLUENT CLIENTS AME ZH	697	52.3	1.72	-1.2	-6.6	0.9	7.7
LONDON							
NAM ADVISORS	1'772	23.8	0.45	30.6	192.6	0.5	4.3
AGGREGATION NAM							
WM CANADA INTERNATIONAL	5'652	56.5	1.26	23.3	27.3	6.6	48.6

REPORTING COUNTRIES: CANADA, USA, UK, SWITZERLAND AND OTHERS. FIGURES NOT FINALLY AUDITED. CURRENCY: CHF (BILION)

CONFIDENTIAL TREATMENT REQUESTED

UPS1 00060248



BS North America Report
Overview Figures NAM
 October 2004
 Contact: Jana Kurth Tel: 1923 - 74795

Overview Figures North America

	Assets <small>in CHFm</small>	AMS <small>in %</small>	ROA <small>in %</small>	Oct 04 NNM* <small>in CHFm</small>	YTD Oct 04 NNM* <small>in CHFm</small>	Oct 04 Revenue <small>in CHFm</small>	YTD Oct 04 Revenue <small>in CHFm</small>
North America	26'429	56.4	1.13	-131.0	246.5	23.6	248.2
W9							
CAN DOM							
CAN INTL							
WM CANADA INTERNATIONAL	5'482	54.7	1.25	-62.7	-35.5	5.4	54.0
CANADA INTL NASSAU	754	50.6	0.82	-43.0	-34.4	0.5	2.2
CD CANADA INTERN. GENEVA	1'180	56.4	1.25	-6.3	-21.2	1.2	12.7
CD CANADA INTERN. ZURICH	3'549	55.1	1.29	-13.6	19.7	3.6	39.1
CD CANADA EAST ZH	1'674	60.1	1.37	0.9	-23.1	1.9	19.8
CD CANADA WEST/ONTARIO ZH	1'875	50.6	1.22	-14.6	-42.8	1.9	19.3
NON W9	15'375	64.9	1.25	-44.3	95.2	14.9	163.3
KEY CLIENTS NAM							
WM US CORE	5'880	59.9	1.21	-17.8	-47.5	4.3	42.0
US CORE AFFLUENT	750	57.9	1.17	-1.9	-1.9	0.0	0.0
US CORE AFFLUENT LG	751	59.1	1.21	10.7	3.0	0.9	7.6
MGMT CT US NE (AXTE)	627	54.1	0.82	-2.1	-15.4	0.5	3.0
WM US NORTH EAST	5'201	61.2	1.22	-13.0	69.9	4.8	55.5
CD CORE AFFLUENT NE ZH	7	78.7	1.50	-1.7	-29.5	0.0	10.5
CD US NE ZH	1'452	70.5	1.26	-17.9	51.9	1.5	22.2
CD US NE ZH HNM	2'364	57.9	1.13	1.3	-48.9	2.0	12.3
CD US NE LG	751	59.1	1.21	10.7	3.0	0.9	7.6
MGMT CT US NE (AXTE)	627	54.1	0.82	-2.1	-15.4	0.5	3.0
WM US MIDWEST/ SE/ WESTERN	4'320	68.1	1.23	-35.5	45.3	4.2	44.1
CD US MW ZH	1'071	70.9	1.18	-3.2	-9.1	0.9	10.9
CD US SE ZH	1'437	44.6	1.01	-26.6	-15.2	1.3	12.6
CD WESTERN ZH	1'812	85.0	1.45	-5.4	66.5	2.0	20.7
WM AFFLUENT CLIENTS AMERICAS	1'009	51.2	1.85	-0.7	-6.6	1.5	13.3
WM AFFLUENT CLIENTS AME LG	55	56.0	1.90	0.1	1.0	0.1	0.8
WM AFFLUENT CLIENTS AME GE	253	47.9	2.26	-1.0	-0.6	0.4	3.8
WM AFFLUENT CLIENTS AME ZH	701	52.0	1.71	-1.6	-8.4	1.0	8.7
LONDON							
NAM ADVISORS	1'202	23.0	0.44	-15.2	137.4	-0.4	4.7
ACQUISITION NAM							

* QUANTITIES IN MILLION US DOLLARS, UNLESS OTHERWISE SPECIFIED. ALL FIGURES IN US DOLLARS ARE UNAUDITED.

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060249



BS North America Report
Overview Figures NAM
 November 2004
 Contact: Jana Kurth Tel: 1923 - 74795

Overview Figures North America

	Assets (in CHFm)	AMS (in %)	ROA (in %)	Nov 04 NNM* (in CHFm)	YTD Nov 04 NNM* (in CHFm)	Nov 04 Revenue (in CHFm)	YTD Nov 04 Revenue (in CHFm)
North America	25'878	56.3	1.13	-21.3	225.2	24.6	272.9
W9							
CAN DOM							
CAN INTL							
WM CANADA INTERNATIONAL	5'354	54.7	1.25	24.1	-11.4	5.3	59.3
CANADA INTL NASSAU	760	47.8	0.81	38.5	2.1	0.5	2.7
CD CANADA INTERN GENEVA	1'152	57.2	1.25	5.1	-16.1	1.2	13.9
CD CANADA INTERN ZURICH	2'442	55.4	1.29	-17.4	2.3	3.6	42.7
CD CANADA EAST ZH	1'622	60.3	1.36	-2.9	-25.0	1.8	21.6
CD CANADA WEST/ONTARIO ZH	1'820	51.2	1.22	-14.5	28.3	1.8	21.1
NON W9	15'025	64.7	1.25	-52.5	42.8	15.7	179.0
KEY CLIENTS NAM							
WM US NORTH EAST	5'032	61.2	1.21	-14.2	55.7	5.0	60.6
CD CORE AFFLUENT NE ZH	-	0.0	1.50	-0.6	-29.9	0.0	10.5
CD US NE ZH	1'371	71.7	1.26	-7.2	44.7	1.5	23.7
CD US NE ZH INWM	2'297	57.5	1.11	-14.8	34.0	2.3	14.6
CD US NE LG	743	58.7	1.20	0.7	3.7	0.7	8.2
MGT CT US NE (AXTF)	620	55.0	0.84	7.2	-9.2	0.5	3.5
WM US MIDWEST/ SE/ WESTERN	4'207	68.7	1.22	-18.2	27.1	4.2	48.3
CD US VW ZH	1'053	71.3	1.18	-4.8	-13.9	1.0	11.9
CD US SE ZH	1'393	46.1	1.00	-8.6	-23.6	1.1	13.7
CD WESTERN ZH	1'761	84.9	1.44	-4.8	61.8	2.0	22.7
WM AFFLUENT CLIENTS AMERICAS	1'082	50.7	1.85	0.0	-6.6	1.7	15.0
WM AFFLUENT CLIENTS AXE LG	54	56.0	1.86	-0.0	1.0	0.1	0.3
WM AFFLUENT CLIENTS AME GE	280	47.7	2.28	-1.8	-2.4	0.5	4.3
WM AFFLUENT CLIENTS AME ZH	757	51.4	1.71	-0.2	-6.5	1.1	9.8
LONDON							
NAM ADVISORS	1'172	23.4	0.44	-11.3	126.1	0.4	5.1
ACQUISITION NAM							

* FINANCIAL RESULTS OF THE US NORTH EAST BRANCH ARE NOT TAKEN INTO ACCOUNT IN THE QUARTERLY FIGURES

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060250



BS North America Report
Overview Figures NAM
 December 2004
 Contact: Jana Kurth Tel: 1973 - 74795

Overview Figures North America

	Assets in CHF m	AMS in %	ROA in %	Dec 04 NNM* in CHF m	YTD Dec 04 NNM* in CHF m	Dec 04 Revenue in CHF m	YTD Dec 04 Revenue in CHF m
North America	26'060	55.1	1.14	-133.4	91.8	27.4	300.3
W9							
CAN DOM							
CAN INTL							
WM CANADA INTERNATIONAL	5'986	55.7	1.26	37.2	25.8	6.0	65.9
CANADA INTL MALLSAU	4'737	50.4	0.82	32.9	34.9	0.5	3.2
CD CANADA INTERN. GENEVA	1'159	57.5	1.26	5.3	21.5	1.3	15.2
CD CANADA INTERN. ZÜRICH	3'494	56.2	1.30	8.5	11.8	4.2	46.9
CD CANADA EAST ZH	1'637	61.2	1.37	8.1	34.1	2.0	23.6
CD CANADA WEST/ONTARIO ZH	1'857	51.8	1.24	17.6	45.9	2.1	23.3
NON W9	15'066	62.7	1.25	-200.8	-158.1	17.6	196.6
VIPA ACQUISITION NAM/GE							
WM US NORTH EAST	5'105	61.2	1.22	9.8	65.5	5.3	65.8
CD CORE AFFLUENT NE ZH		0.0	1.50	-0.2	30.0	-	10.5
CD MILLIONAIRES US NE ZH	1'363	71.8	1.29	-0.3	37.4	2.0	25.7
CD HRNW US NE ZH	2'322	57.8	1.10	-15.0	19.0	1.9	16.5
CD US NE LG	765	57.1	1.21	2.0	5.7	0.8	9.1
MGT CT US NE (AXTP)	655	56.4	0.86	26.1	16.9	0.5	4.1
WM US MIDWEST/ SE/ WESTERN	4'102	66.7	1.24	-179.9	-152.9	4.8	53.0
CD US MW ZH	1'069	58.7	1.18	-10.0	-23.9	1.1	13.0
CD US SE ZH	1'416	45.6	1.01	-1.1	-24.9	1.3	15.1
CD WESTERN ZH	1'618	63.7	1.47	-168.5	-102.1	2.3	25.0
WM AFFLUENT CLIENTS AMERICAS	1'118	52.5	1.92	-4.1	-10.7	2.3	17.3
WM AFFLUENT CLIENTS AME LG	56	57.6	1.95	0.2	1.2	0.1	1.0
WM AFFLUENT CLIENTS AME GE	290	50.8	2.35	-1.1	-3.5	0.8	5.1
WM AFFLUENT CLIENTS AME ZH	771	52.7	1.76	-3.6	-12.2	1.4	11.2
LONDON							
RAM ADVISORS	1'220	22.1	0.45	2.7	128.8	0.6	5.7
ACQUISITION NAM/GE							

IN REPORT CD AM CORRESPOND TO OTHERS THE WEEDS ARE NOT IN THE ACCOUNT ON CD AM TRAWLERS

CONFIDENTIAL TREATMENT REQUESTED

UPS! 00060251

Overview Figures North America

January 2005

		Assets	AMS	ROA	Jan 05 NNM*	YTD Jan 05 NNM*	Jan 05 Revenue	YTD Jan 05 Revenue
		(in \$ Bn)	(in %)	(in %)	(in \$ Bn)	(in \$ Bn)	(in \$ Bn)	(in \$ Bn)
North America		27'057	0.0	1.11	67.3	67.3	24.9	24.9
SFA	UBS SFA AG	427		0.32	1.5	1.5	0.114	0.1
W9	WM W9 EUROPE	1,394	0.0	0.85	5.1	5.1	1.2	1.2
CAN DOM	WM CANADA DOM	2,057	0.0	0.85	51.5	51.5	1,344	0.9
CAN INTL	WM CANADA INTERNATIONAL	5,209	0.0	1.21	-12.6	-12.6	15.7	15.7
	CANADA INTERNATIONAL	723	0.0	0.75	2.9	2.9	0.7	0.6
	CD CANADA INTERNATIONAL	1,195	0.0	1.11	1.2	1.2	1.1	1.2
	CD CANADA INTERNATIONAL	257.0	0.0	1.11	1.2	1.2	1.1	1.2
	CD CANADA EAST ZH	1,678	0.0	1.25	4.7	4.7	1.9	1.9
	CD CANADA WEST/CENTRAL ZH	1,894	0.0	1.22	2.1	2.1	0.0	2.0
NON W9		15'515	0.0	1.21	-12.6	-12.6	15.7	15.7
	WPA ACQUISITION NMM	88	0.0	0.85	5.1	5.1	1.2	1.2
	WM US	3,944	0.0	0.53	10.7	10.7	0.1	0.1
	WM US							
	WM US							
	WM US NORTH EAST (EXG KSYA)	5'189	0.0	1.15	-61.9	-61.9	5.0	5.0
	CD US NE ZH (RWI)	2,339	0.0	1.11	-58.7	-58.7	2.2	2.2
	CD MILLONAIRES US NE ZH	1,380	0.0	1.36	-5.4	-5.4	1.6	1.6
	CD US NE LG	792	0.0	1.11	1.1	1.1	0.7	0.7
	MGT CT US NE	678	0.0	0.91	2.7	2.7	0.5	0.5
	RETENTION CD US NE		0.0	0.0	-1.7	-1.7	-0.0	-0.0
	WM US MIDWEST/ SE/ WESTERN	4'243	0.0	1.23	6.6	6.6	4.3	4.3
	CD US MW ZH	1,095	0.0	1.25	2.9	2.9	1.2	1.2
	CD US SE ZH	1'467	0.0	0.98	5.7	5.7	1.2	1.2
	CD WESTERN ZH	1,681	0.0	1.42	-2.0	-2.0	2.0	2.0
	WM AFFLUENT CLIENTS AMERICAS	1'159	0.0	1.66	5.0	5.0	1.6	1.6
	WM AFFLUENT CLIENTS AME LG	57	0.0	1.85	0.2	0.2	0.1	0.1
	WM AFFLUENT CLIENTS AME GE	291	0.0	1.89	-0.0	-0.0	0.5	0.5
	WM AFFLUENT CLIENTS AME ZH	805	0.0	1.98	4.8	4.8	1.1	1.1
LONDON	WAM ADVISORS	1,285	0.0	0.51	31.0	31.0	0.3	0.3

Contact: Anna North Tel: 4323 - 74795

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060252



BS North America Report
Overview Figures NAM
 February 2005
 Contact: Jana Kurth Tel: 1923 - 74795

Overview Figures North America

		Assets	AMS	ROA	Feb 05 NNM*	YTD Feb 05 NNM*	Feb 05 Revenue	YTD Feb 05 Revenue
		(in CHF bn)	(in %)	(in %)	(in CHF bn)	(in CHF bn)	(in CHF bn)	(in CHF bn)
North America		26'922	53.9	1.13	20.5	88.9	25.6	50.6
SFA	UBS SFA AG	556	n/a	0.43	0.7	2.2	0.2	0.4
W9								
CAN DOM	WM CANADA DOM	2'084	24.5	0.57	41.7	93.3	1.0	2.0
CAN INTL	WM CANADA INTERNATIONAL	5'461	56.7	1.21	-0.0	-12.3	5.5	11.0
	CD CANADA NY/NASSAU	131	54.8	0.87	14.3	15.3	0.5	1.1
	CD CANADA NY/NEW YORK	117	54.8	0.73	2.4	7.4	1.9	2.4
	CD CANADA INTERNATIONAL	540	57.5	1.78	0.3	-10.3	3.7	7.6
	CD CANADA NY/SE ZH	1'655	62.0	1.37	-0.0	-2.7	0.0	0.0
	CD CANADA WEST/ONTARIO ZH	1'077	53.0	1.24	-4.1	-8.6	-1.9	-3.9
NON W9		15'413	63.2	1.25	-50.1	-63.2	16.5	32.2
	VIPA ACQUISITION NAM GE	300	24.3	1.01	15.0	1.7	0.4	0.9
	WELFARE	1'111	57.8	1.27	1.8	2.7	0.1	0.1
	WELFARE	1'111	57.8	1.27	1.8	2.7	0.1	0.1
	WELFARE	1'111	57.8	1.27	1.8	2.7	0.1	0.1
	WM US NORTH EAST	5'192	61.1	1.21	16.4	-44.0	5.5	10.5
	CD US NE ZH HAM	2'387	55.4	1.20	51.5	-7.2	2.6	4.7
	CD MILLIONAIRES US NE ZH	1'375	73.0	1.35	12.2	6.5	1.6	3.1
	CD US NE LG	790	59.3	1.14	-4.7	-3.6	0.8	1.5
	MGT CT US NE	638	59.3	1.00	-40.7	-38.0	0.6	1.1
	RETENTION CD US NE	2	32.9	2.62	-1.8	-1.8	0.0	0.0
	WM US MIDWEST/ SE/ WESTERN	4'196	67.8	1.23	-24.2	-17.6	4.3	8.7
	CD US MW ZH	1'092	72.9	1.20	-0.3	2.6	1.0	2.2
	CD US SE ZH	1'438	45.0	0.99	-19.3	-13.5	1.2	2.4
	CD WESTERN ZH	1'666	83.7	1.47	-4.7	-5.7	2.1	4.1
	CD NW/SE/WE SPECIAL CLIENTS	-	0.0	0.0	-	-	0.0	0.0
	WM AFFLUENT CLIENTS AMERICAS	1'182	53.0	1.68	-0.1	3.1	1.7	3.3
	WM AFFLUENT CLIENTS AME LG	55	59.4	1.94	-0.1	-0.1	0.1	0.2
	WM AFFLUENT CLIENTS AME GE	286	51.9	1.95	-1.0	-2.1	0.5	0.9
	WM AFFLUENT CLIENTS AMF ZH	840	53.0	1.58	0.9	5.3	1.1	2.2
LONDON	RAM ADVISORS	1'209	23.1	0.5	7.8	23.1	0.4	1.0

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060253



BS North America Report
Overview Figures NAM
 March 2005
 Contact: Jara Kurth, Tel: 1923 - 74795

Overview Figures North America

		Assets	AMS	ROA	Mar 05 NNM*	YTD Mar 05 NNM*	Mar 05 Revenue	YTD Mar 05 Revenue
		(in CHF bn)	(in %)	(in %)	(in CHF bn)	(in CHF bn)	(in CHF bn)	(in CHF bn)
North America		27'290	54.3	1.18	-135.8	-47.0	29.2	79.9
SFA	UBS SFA AG	1'055	38.5	0.49	-9.7	-7.6	0.5	0.8
W9								
CAN DOM	WM CANADA DOM	2'109	23.4	0.36	-21.8	11.4	1.0	2.9
CAN INTL	WM CANADA INTERNATIONAL	5'586	56.3	1.39	36.8	24.6	6.8	17.8
	CANADA INTERNATIONAL	2'290	61.1	1.50	15.2	11.5	0.5	1.0
	CD US NE	2'600	72.1	1.50	12.0	12.0	0.5	1.0
	CD CANAD	2'600	72.1	1.50	12.0	12.0	0.5	1.0
	CD CANAD	1'000	67.2	1.42	0.0	2.8	2.5	3.0
	CD CANADA WEST/ONTARIO ZH	1'594	53.0	1.31	16.0	16.0	1.3	3.0
NON W9		15'614	62.7	1.31	-94.0	-157.2	18.7	50.9
	WFA ACQUISITION NAM SE	2'822	28.0	1.02	12.2	12.2	0.5	1.5
	WM US NORTH EAST	5'198	60.4	1.27	-99.4	-143.4	6.1	16.5
	CD US NE ZH HWI	2'368	54.0	1.23	-111.0	-118.2	2.5	7.3
	CD MILLIONAIRES US NE ZH	1'391	73.3	1.50	-6.9	-0.4	2.1	5.2
	CD US NE LG	802	58.1	1.19	5.0	1.4	0.9	2.4
	MGT CT US NE	635	59.1	1.04	14.8	23.2	0.6	1.7
	RETENTION CD US NE	2	74.3	2.53	-1.2	-3.0	0.0	0.0
	WM US MIDWEST/ SE/ WESTERN	4'254	67.6	1.32	-0.0	-17.6	5.2	13.9
	CD US MW ZH	1'110	71.8	1.23	1.7	4.3	1.2	3.4
	CD US SE ZH	1'457	46.1	1.04	-0.5	-14.0	1.4	3.8
	CD VWESTERN ZH	1'686	83.4	1.61	-1.2	-7.9	2.6	6.7
	CD MW SE/ WE SPECIAL CLIENTS	1	0.0	5.43	-0.0	-0.0	0.0	0.0
	WM AFFLUENT CLIENTS AMERICAS	1'239	53.1	1.70	0.9	4.0	1.8	5.1
	WM AFFLUENT CLIENTS AME LG	57	58.5	1.82	0.3	0.2	0.1	0.3
	WM AFFLUENT CLIENTS AME GE	316	52.4	1.95	-0.0	-2.1	0.5	1.5
	WM AFFLUENT CLIENTS AME ZH	867	53.1	1.60	0.7	5.9	1.2	3.4
LONDON	NAM ADVISORS	1'253	22.4	0.5	-2.8	-20.7	0.3	1.4



BS North America Report
 Overview Figures NAM
 August 2005
 Contact: Jana Kurth-Siegl
 Tel: 1973 - 74796

Overview Figures North America

	YTD 2005	YTD 2005	YTD 2005	YTD 2005	Mtd 2005	YTD 2005	Mtd 2005	YTD 2005
	Assets in Bn	AMS %	ROA %	Discretionary Share %	Revenues in mld CHF	Revenues in mld CHF	NMM in mld CHF	NMM in mld CHF
North America	41.2	51.2	0.98	31.7	28.9	242.4	1799.2	3253.0
US (YTD 2005)								
MILLIONAIRES ZH								
MILLIONAIRES GE								
AFFLUENT AWE								
W9 BUSINESS ROW								
TOTAL US INTL MILLIONAIRES								
HNWI GE 1								
HNWI GE 2								
HNWI NE ZH								
HNWI MWISE/AWE ZH								
ADVISORS LONDON								
TOTAL US INTL HNWI								
> SFA	2.1	37.6	0.66	37.0	13	6.1	-3.0	-12.5
EUROPE DESKS AMERICA NY								
EUROPE DESKS BAHAMAS								
IKURUS BAER NAM L A								
> Can International	6.0	55.9	1.26	33.1	6.1	48.4	21.5	40.2
CD CANADA EAST ZH	1.8	62.6	1.36	44.7	1.9	15.9	-0.5	-15.8
CD CANADA WEST/ONTARIO ZH	2.0	52.9	1.28	25.5	2.1	16.6	5.2	19.1
CD CANADA INTERN. GENEVA	1.3	57.7	1.32	30.9	1.4	10.9	24.6	20.4
CANADA INTL NASSAU	0.8	45.9	0.94	29.7	0.7	5.0	-7.8	16.5
> Can Dom	5.5	51.8	1.03	16.5	5.2	39.2	2.6	28.2
CD CAN TORONTO	0.8	55.8	1.05	25.0	0.7	5.0	2.5	12.5
CD CAN MONTREAL	0.8	55.9	1.05	3.1	0.9	2.0	2.6	31.2
CD CAN VANCOUVER	0.6	47.2	0.95	30.1	0.6	2.0	0.1	24.8
CD CAN CALGARY	0.0	0.0	0.00	0.0	0.0	0.0	0.0	0.0
CD LATIN AMERICA TORONTO	0.1	2.5	0.50	1.6	0.3	2.0	11.4	286.5
> KeyClient Development NAM	2.9	0.8	0.07	0.1	0.1	0.3	1708.9	1726.3

Source: Figures based on GMS/Domino (Facts&Figures Report on GCRS)

* US Dom. Figures Mtd. Aug with deficiencies, esp. Revenues (will be corrected in Sep 2005)

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060255



BS North America Report
Overview Figures NAM
 September 2005
 Contact: Jana Kurth-Siegl
 Tel: 1923 - 74 195

Overview Figures North America

	YTD 2005		YTD 2005		Mid 2005	YTD 2005	Mid 2005	YTD 2005
	Assets in bn	AMS %	ROA %	Discretionary Share %	Revenue in bn CHF	Revenue in bn CHF	HHW in bn CHF	HHW in bn CHF
North America	41.3	50.9	0.99	33.0	36.3	778.7	106.4	3359.4
US International								
MILLIONAIRES ZH								
MILLIONAIRES GE								
AFFLUENT AME								
W9 BUSINESS ROW								
TOTAL US INTL MILLIONAIRES								
HNWI GE 1								
HNWI GE 2								
HNWI NL ZH								
HNWI MW/SE/WE ZH								
ADVISORS LONDON								
TOTAL US INTL HNWI								
> SFA	2.1	37.7	0.67	37.2	1.3	7.4	2.4	14.9
EUROPE DESKS								
EUROPE DESKS AMERICA NY								
EUROPE DESKS BAHAMAS								
JULIUS BAER NAM L.A.								
> Can International	6.2	56.2	1.29	33.1	7.6	56.0	-29.9	10.3
CD CANADA EAST ZH	1.9	62.5	1.40	44.6	2.7	18.6	-1.2	-17.0
CD CANADA WEST/ONTARIO ZH	2.1	52.5	1.29	25.2	2.5	19.1	-16.2	2.8
CD CANADA INTERN GENEVA	1.4	59.5	1.34	31.6	1.7	12.6	4.0	24.4
CANADA INTL NASSAU	0.8	46.3	0.95	29.1	0.7	5.7	-16.4	0.1
> Can Dom	2.0	56.2	1.29	33.1	7.6	56.0	-29.9	10.3
CD CAN TORONTO								
CD CAN MONTREAL								
CD CAN VANCOUVER								
CD CAN CALGARY								
CD LATIN AMERICA TORONTO								
> KeyClient Development NAM	3.1	0.8	0.07	0.1	0.2	0.4	18.0	1744.3

Source: Figures based on GMI5/Domino (Facts&Figures Report on GCR5)

US Dom: Figures with deficiencies

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060256



BS North America Report
 Overview Figures NAM
 October 2005
 Contact: Jana Kurth-Spiegl
 Tel: 1923 74795

Overview Figures North America

	YTD 2005		YTD 2005		MD 2005	YTD 2005	MD 2005	YTD 2005
	Assets in Bn	Assets %	RGA %	Discretionary Share %	Revenue in mld CHF	Revenue in mld CHF	NMM in mld CHF	NMM in mld CHF
North America	42.1	49.8	0.98	32.3	32.5	311.2	269.0	3628.4
US International								
MILLIONAIRES ZH								
MILLIONAIRES GE								
AFFLUENT AME								
W9 BUSINESS ROW								
TOTAL US INTL MILLIONAIRES								
HNWI GE 1								
HNWI GE 2								
HNWI NE ZH								
HNWI MW/SE/WE ZH								
ADVISORS LONDON								
TOTAL US INTL HNWI								
> SFA	2.1	38.3	0.68	37.8	1.3	8.7	-8.9	-23.8
EUROPE								
EUROPE DESKS AMERICA NY								
EUROPE DESKS BAHAMAS								
DESK IB NAM LOS ANGELES								
> Can International	6.2	56.0	1.30	32.6	7.4	63.4	62.4	72.7
CD CANADA EAST ZH	1.9	62.1	1.39	44.3	2.1	20.7	12.3	-4.7
CD CANADA WEST/ONTARIO ZH	2.1	52.7	1.29	24.7	2.3	21.4	19.2	22.0
CD CANADA INTERN GENEVA	1.4	58.7	1.32	30.8	1.3	14.0	32.0	56.4
CANADA INTL NASSAU	0.8	46.4	1.10	29.2	1.7	7.4	-1.0	-0.9
> Can Dom	2.4							
CD CAN TORONTO	0.5							
CD CAN MONTREAL	0.4							
CD CAN VANCOUVER	0.3							
CD CAN CALGARY	0.0							
CD LATIN AMERICA TORONTO	0.1							
> KeyClient Development NAM	3.6	6.7	0.10	5.9	0.5	0.9	7.3	1751.5

Source: Figures based on GIMIS/Domino (Facts&Figures Report on GCRS)

CONFIDENTIAL TREATMENT REQUESTED

UPSI 00060257

Case Studies Cross-Border Workshop NAM

- Please go through each case. Put yourself into the concrete situation as it occurs in real life.
- Do not tackle the case with the perspective of what you think that Legal, Compliance, IT or Security Risk wants to hear.
- Compare your behaviours with the ones of your colleagues in the group.
- Identify and note questions you want to raise in the plenary session.

Case 1

During your trip to the USA/Canada, where you wish to visit various clients, you are stopped at the border by the customs authority or during your stay by the police and confronted with the following questions:

- purpose of your visit
- your profession
- people you are going to visit
- content of your baggage incl. notebook, cell phone, PDA (SMS, MMS, digital photographing) or Blackberry

Question 1: How do you react? How do you prepare for such a potential confrontation? How did you fill out your immigration form?

You get a strange feeling about the way the questions are asked. You remember that, with the intention to avoid having to carry those documents with you, you had sent an envelope with some of the sensitive account related data to your hotel (alternatively: a friend in the respective country whom you know very well; a family member; a local business contact).

Question 2: How do you handle sensitive documents you want to use during your visit (such as account statements and similar documents) when planning a trip to the USA/Canada?

Case 2

During the discussion with a very interesting prospect in the USA/Canada he/she indicates that he/she has a substantial amount of money to transfer from his/her home country to your bank. The prospect queries whether the bank can assist him/her in this respect. He/She mentions in the same token that Bank XYZ had offered him/her very concrete services for his/her assistance.

Question: How do you react? Would it make a difference if the person was a long standing client of the bank?

Case 3

During a trip to the USA/Canada you intend to meet client X. He recently gave you a telephone call and asked you to bring his latest account statements with you at your next visit. He also mentioned that he would like to hand over to you a number of written trading orders and to discuss them at the proposed meeting. Finally, he refers to the telephone conversation you had with him some weeks ago regarding the advantages of a PM mandate and he asked you to also bring along the necessary documents for the conclusion of a PM contract.

Permanent Subcommittee on Investigations

EXHIBIT #92

Due to a conflict of dates you are not able to travel. As you do not want to disappoint your client, you consider making a call to the local UBS branch/subsidiary (where you know one of the officers very well) and ask an officer to meet your client and to satisfy his requests on your behalf.

Question 1: What do you think of this idea?

Question 2: Generally speaking, to what extent and in which activities can your colleague of the local branch/subsidiary be of assistance? Please go through concrete situations as they occur in your daily work.

Case 4

After passing the immigration desk during your trip to the USA/Canada, you are intercepted by the authorities. By checking your Palm, they find all your client meetings. Fortunately you stored only very short remarks of the different meetings and no names.

As you spend around one week in the same hotel, the longer you stay there, the more you get the feeling of being observed. Sometimes you even doubt if all of the hotel employees are working for the hotel. A lot of client meetings are held in your suite of the hotel.

One morning you are intercepted by an FBI-agent. He looks for some information about one of your clients and explains to you, that your client is involved in illegal activities.

Question 1: What would you do in such a situation?

Question 2: What are the signs indicating that something is going on?

Case 5

As you had a lot of documents to take with you to your trip to the USA/Canada, the carry on luggage was very heavy and you decided to put your notebook in the checked luggage. When arriving at your destination, you realise that your notebook is missing. You are not sure, whether you had a separate excel-file with a client summary still on your notebook.

Question 1: What would you do in such a situation?

Later on, when arriving at the hotel, you are contacted by an anonymous caller. He pretends having found your notebook at the airport and offers you a deal: He sends you the notebook if you pay him an amount of USD 100'000. Your notebook is equipped with the latest security features (encryption, token based authentication).

Question 2: Your reaction

αβ

Strictly Confidential

UBS AG
Postfach
8098 Zürich
Tel. +41-44-234 11 11

Memorandum

15 November 2007

to
cc
from
subject Internal Memo

Changes in business model for U.S. private clients

Dear Colleagues

As part of our ongoing efforts to better serve our clients and to streamline and simplify our business in compliance with applicable laws and regulations, we have decided to realign the business model for U.S. clients by focusing our resources on our wealth management operations based in the United States ("U.S. units") and UBS Swiss Financial Advisers in Zurich ("UBS SFA"). Our U.S. units provide a complete set of sophisticated wealth management services to private clients. UBS SFA is an SEC-registered investment advisor and Swiss-regulated entity that offers investment programs in the Swiss tradition, trained private bankers and expertise in global investment diversification.

After the acquisition of PaineWebber in 2000, UBS has worked to better accommodate the global needs of U.S. clients. The establishment of UBS SFA in 2005 was a further important step in that process. UBS SFA has proved to be very successful and clients have responded very positively. UBS also has provided limited services to U.S. private clients who chose to maintain assets with UBS AG, governed by our established policies and procedures.

Over the years we have periodically reviewed these offerings in order to provide the best level of service to our clients in compliance with applicable laws and regulations. As part of these periodic reviews, we have recognized for some time that the current business structure is complex and could benefit from being simplified and streamlined. UBS has decided to accelerate the consolidation of our offerings to U.S. clients on these two platforms, U.S. units and UBS SFA.

We decided to further realign the overall structure and service model for U.S. clients by:

- increasing our focus on the U.S. units and UBS SFA by permitting new account opening for securities related services only within those units;
- Discontinuing client relationships with assets below CHF 50,000;
- Permitting new account openings for banking services only with a minimum asset size of CHF 250,000; and
- Servicing clients only in their respective booking center.

The changes are effective immediately.

Permanent Subcommittee on Investigations

EXHIBIT #93

462-Collection

TOTAL P.03

 $\alpha\beta$

Internal Memo
15 November 2007
Page 2 of 2

Further information and instructions will follow in the course of the ongoing implementation of the new business model.

~~if you have questions please contact our U.S. competence center, (Thomas Christen 1923-44753 / Thomas.christen@ubs.com).~~ In case of questions from clients please contact U.S. competence center prior to answering their questions.

Best regards

Raoul Weil, Chairman and CEO Global Wealth Management & Business Banking

UBS AG

αβ

Internal use only

TALKING POINTS FOR INFORMING U.S. PRIVATE CLIENTS WITH SECURITIES HOLDINGS ABOUT THE REALIGNMENT OF OUR BUSINESS MODEL PLUS Q&A

A. Information that must be relayed on the call:

CA: Please permit me to explain the important changes that UBS has decided to make to the private banking relationships with our U.S. clients.

- As part of our ongoing efforts to better serve our clients and to streamline and simplify our business, we have decided to realign the services we offer to U.S. clients by focusing our resources on our wealth management operations based in the United States ("U.S. units") and UBS Swiss Financial Advisers ("SFA") in Zurich. Our U.S. units provide a complete set of sophisticated wealth management services to private clients. SFA is an SEC-registered investment adviser and Swiss regulated entity that offers investment programs in the Swiss tradition, trained private bankers and expertise in global investment diversification. If you would like to explore the services available through the U.S. units or SFA, please let me know and I will have a representative of those businesses contact you.
- Because of our increased focus on servicing our U.S. clients through the mentioned units, we are making some modifications to our existing service model. Specifically, if you would like to remain with UBS and do not choose to transfer your relationship to our U.S. units or SFA, we will not be able to open new securities accounts for you or any other U.S. client. Client advisors, including myself, will no longer be traveling outside of Switzerland to meet you, and you will only be serviced in your booking center location here in Switzerland. Moreover, in accordance with established policies, we will not be able to communicate with you about your securities account when you are in the United States. In other words, if you choose to maintain your account at UBS, any communication between us, including telephone, e-mail, fax, and written correspondence that involves your securities account must occur when you are outside the United States (which is subject to verification). [NOTE TO CLIENT ADVISERS: THIS STATEMENT IS SUBJECT TO THE ONE-TIME EXCEPTION AS PER ANSWER 5 HEREINAFTER]

We should emphasize that we will not be able to execute your securities instructions if we are not satisfied that you are outside the U.S. when giving such orders.

B. Questions and Answers

Q1. What do I need to do to transfer my assets to the U.S. units or SFA?

A. I will have a representative of U.S. units/SFA contact you to explain the services they offer and the account opening process. Please note that the U.S. units and SFA provide Form 1099 tax reporting services and will require that you supply a W-9 form.

Q2. What if I do not want U.S. tax reporting services or to supply a W-9?

A. Then you may retain your current account subject to the modifications I just described.

Permanent Subcommittee on Investigations

EXHIBIT #94

1

αβ

Q3. Is there any other option for me at UBS?

A. I am afraid not. Although we very much would like to retain your business, if none of these choices is satisfactory to you, we will follow your instruction to transfer your assets to another institution if that is what you decide to do. Although we may accept simple instructions from the United States to transfer custody of your securities, i.e. you do not instruct us to sell your securities holdings or part of it but to transfer it in its entirety to another institution, please note that, in accordance with established policies, any instructions to sell your securities holdings (even as part of a transfer) must be given when you are outside of the United States and are subject to verification.

More generally, as I have mentioned, all instructions about selling, buying, redeeming, exchanging or otherwise engaging in securities transactions must be given when you are outside the United States, which is, of course, subject to verification.

Q4. If I decide to keep my existing account, how will I communicate with you?

A. You may visit us in Switzerland. Otherwise you can only communicate with us when you are outside the United States. These requirements apply to phone, e-mail, fax, and correspondence. For example:

If you contact us by telephone, we will need to be able to verify that your call originated from outside the United States or request that you provide a non-U.S. phone number and return your call. In either case, we will ask you to tell us from where you are calling.

If you contact us by written correspondence, we will need clear evidence (such as a postmark indicating that the point of mailing occurred outside the U.S.), and we will continue to retain your mail or send any outbound correspondence only to a non-U.S. mailing address.

If you contact us by facsimile, we will need to be able to verify that your fax transmission originated from outside the United States or request that you provide a non-U.S. phone number through which fax communications may be made.

If you contact us by e-mail, we will request that you provide a non-U.S. phone number and respond via a telephone conversation.

We may, of course, implement additional measures to verify that any such contact we have with you occurs only when you are outside the United States.

Q5a. If I keep my existing account, may you provide me with information about my securities holdings when I am in the United States?

A. With one limited exception, the answer is "no". During this conversation, I may tell you the aggregate valuation of your securities portfolio and describe the overall performance of your entire portfolio in the aggregate compared to a past time period. I will not, however, after this conversation be able to have any further conversations about these subjects nor may I discuss the performance of particular securities products and/or the allocations of securities products in your portfolio (neither currently nor historically) while you are in the United States. So this is a one-time exception.

Q5b. If I keep my existing securities account with UBS, may I contact you from the United States to change my investment profile?

A. No. Unfortunately, this type of communication may only be made when you are outside the United States. Again, we will have to verify that you are outside the United States.

Q6. May I communicate with you from the United States about banking products?

A. We may discuss banking products and services, including cash deposits, precious metals, credit and debit cards, loans, and safe deposits.

αβ

Q7. May I sell my securities and place the proceeds with you in a cash account? If not, why not?

A. As I mentioned before, for reasons of client service and business considerations, UBS is looking to promote its U.S. units and SFA and not to transfer existing securities accounts at UBS AG into cash accounts. However, if you determine it to be an option for you to be invested in cash only, you may instruct us to sell your securities holdings as long as such instruction is given when you are outside the United States (again, subject to verification). I should underscore that, even if you only have a cash account with us, we will only be able to meet with you at the booking location of the funds.

Q8. You mentioned "business considerations" and "streamlining and simplifying." What on earth are you talking about?

A. By concentrating the U.S. private client business in our U.S. units and SFA, we are able to increase operational and management efficiency, and focus on the services and product delivery models that we believe should hold the most long-term promise for our private client segments.

Q9. Why did you decide to make this change now?

A. This is a continuation of the evolution of our offerings to US private clients. Since UBS acquired PaineWebber in the United States and formed SFA in Switzerland, U.S. clients have responded very positively to the investment opportunities and service models they offer. We believe now is the right point in time to accelerate the consolidation of our offerings to US clients on these platforms.

Q10. Are you doing this in response to pressure, especially from U.S. authorities?

A. These changes are the result of the periodic review of our business and our continuing efforts to offer excellent service in compliance with applicable legal and regulatory requirements.

Q 10a. Are you respectively UBS subject of an investigation of US regulators?

UBS has to keep specifics about its regulatory interactions confidential. We are therefore not in a position to answer your question.

Q 10b. Am I exposed because of the most recent events?

As you will appreciate, UBS is bound by strict client confidentiality provisions the bank will, of course, abide by. They can only be lifted under strict conditions as per applicable law.

Q11. If I decide to transfer my assets to SFA, will Swiss client confidentiality still apply?

A. An SFA representative would be the best person to answer that question, but my understanding is that, although your information would be reported to the IRS and potentially available to the SEC, it otherwise generally would be covered by Swiss financial privacy protections.

Q12. If I decide to keep my existing account, will you as my client adviser continue to service it?

A. I will remain in my current position for at least the near term. After that point, I might consider other opportunities within the bank, including working for SFA, where I could continue to manage your assets.

$\alpha\beta$

Internal use only

Q13. What are you going to do? Are you going to leave UBS?

A. I will remain in my current position for at least the near term. After that point, I might consider other opportunities within the bank, including working for SFA, where I could continue to manage your assets.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
Case No. 08-CR-60099-ZLOCH

UNITED STATES OF AMERICA

vs.

BRADLEY BIRKENFELD,

Defendant.

STATEMENT OF FACTS

The United States Attorneys Office for the Southern District of Florida, the United States Department of Justice, Tax Division, and the defendant, Bradley Birkenfeld (hereinafter referred to as the "defendant Birkenfeld") and his counsel agree that, had this case proceeded to trial, the United States would have proven the following facts beyond a reasonable doubt, and that the following facts are true and correct and are sufficient to support a plea of guilty:

The Qualified Intermediary Program

Beginning in 2000, the Internal Revenue Services ("IRS") sought to increase the collection of tax revenues without raising tax rates. In furtherance of this mission, the IRS established the Qualified Intermediary ("Q.I.") Program. Pursuant to the Q.I. Program, foreign banks voluntarily entered into Qualified Intermediary agreements with the IRS pursuant to which these foreign banks agreed to identify and document any customers who held U.S. investments, which were generally marketable securities and bonds, or received United States source income into their off-shore accounts. In accordance with IRS requirements, foreign banks agreed to have their customers fill out IRS Forms W-8BEN, which required the beneficial owner of a bank account to be identified on the form, or IRS Forms W-9, which required United States beneficial owners of bank accounts to be identified.

Foreign banks further agreed to issue IRS Forms 1099 to United States customers for United States source payments of dividends, interest, rents, royalties and other fixed or determinable income paid into the United States customers' off-shore bank accounts. Alternatively, if a client refused to be identified under the Q.I. Agreement, foreign banks agreed to withhold and pay over a twenty-eight percent withholding tax on U.S. source payments and then bar the client from holding U.S. investments. In addition, the sales proceeds, interest and

dividends earned on non-United States investments, if the purchase or sale of the investment was made as a result of contact (in person, via email, telephone or fax) with the U.S. client in the United States, were subject to the Form 1099 reporting requirements or twenty-eight percent withholding. These transactions are referred to under the Q.I. Program as "deemed sales."

In January 2001, a large Swiss bank ("Swiss Bank"), entered into a Q.I. agreement with the IRS. Swiss Bank owns and operates banks, investment banks and stock brokerage businesses throughout the world, and has locations in the United States, with branch locations in the Southern District of Florida. This agreement was a major departure from historical Swiss bank secrecy laws under which Swiss banks concealed bank information for United States clients from the IRS. At all relevant times to this indictment, the Swiss bank represented to the IRS that it had continued to honor this Qualified Intermediary agreement.

Defendant Birkenfeld's Employment

During the entire period from 1998 through 2006, defendant Birkenfeld was employed by various banks in Switzerland as a private banker primarily servicing United States clients. From 1998 through July 2001, defendant Birkenfeld was employed by Barclays Bank in Geneva, Switzerland. In 2001, Barclays Bank entered into a Q.I. agreement with the IRS. In order to comply with the terms of the Q.I. agreement, Barclays Bank decided to terminate its off-shore private banking business for United States clients that refused to complete an IRS Form W-9. Accounts owned by United States clients that refused to fill out IRS Forms W-9 were known in the off-shore banking business as "undeclared" accounts.

From 2001 through 2006, defendant Birkenfeld was employed as a director in the private banking division of a large Swiss bank ("Swiss Bank"), which owns and operates banks, investments banks, and stock brokerage businesses throughout the world, including the United States, with offices in the Southern District of Florida. A manager at the Swiss Bank assured defendant Birkenfeld that even though the Swiss Bank signed a Q.I. Agreement, the Swiss Bank was committed to continue to provide private banking services to United States clients who wished for their accounts to remain undeclared. Swiss Bank managers authorized and encouraged defendant Birkenfeld and other private bankers to travel to the United States to solicit new clients and conduct banking for existing United States clients. The Swiss Bank sponsored events in the United States where Swiss bankers met with U.S. clients, including Art Basel in Miami and the NASDAQ 100 tennis tournament in Miami. The Swiss Bank trained bankers traveling to the United States in techniques to avoid detection by United States law enforcement authorities, including training bankers to falsely state on customs forms that they were traveling into the United States for pleasure and not business. Defendant Birkenfeld, Swiss Bank managers and bankers knew that they were not licensed to provide banking services, offer investment advice or solicit the purchase or sale of securities through contact with clients in the United States.

The Tax Fraud Scheme

When the Swiss Bank notified its U.S. clients of the requirements of the Q.I. agreement, many of the Swiss Bank's wealthy U.S. clients refused to be identified, to have taxes withheld from the income earned on their offshore assets, or to sell their U.S. investments. To these clients, the Q.I. reporting requirements defeated the purpose of opening a Swiss bank account; to conceal their accounts from the IRS and to evade U.S. income taxes. These accounts were known at the Swiss Bank as the United States undeclared business. Rather than risk losing the approximately \$20 billion of assets under management in the United States undeclared business, which earned the bank approximately \$200 million per year in revenues, managers and bankers at the Swiss Bank, including defendant Birkenfeld, assisted these wealthy U.S. clients in concealing their ownership of the assets held offshore by assisting these clients in creating nominee and sham entities. These entities were usually set up in tax haven jurisdictions, including Switzerland, Panama, British Virgin Islands, Hong Kong and Liechtenstein. Defendant Birkenfeld, Swiss Bank managers and bankers and U.S. clients prepared false and misleading IRS Forms W-8BEN that claimed that the owners of the accounts were sham off-shore entities and failed to prepare and file IRS Forms W-9 that should have identified the owner of the account, the U.S. client.

Managers and bankers at the Swiss Bank, including defendant Birkenfeld, maintained relationships with Swiss and Liechtenstein businessmen, such as Mario Staggl, who would set up these nominee and sham entities for the Swiss Bank's U.S. clients and pose as owners or directors of these entities. By concealing the U.S. clients' ownership and control in the assets held offshore, defendant Birkenfeld, the Swiss Bank, its managers and bankers evaded the requirements of the Q.I. program, defrauded the IRS and evaded United States income taxes.

In order to further assist U.S. clients in concealing their Swiss bank accounts, defendant Birkenfeld, Mario Staggl, other private bankers and managers at the Swiss Bank and others advised U.S. clients to:

- place cash and valuables in Swiss safety deposit boxes;
- purchase jewels, artwork and luxury items using the funds in their Swiss bank account while overseas;
- misrepresent the receipt of funds from the Swiss bank account in the United States as loans from the Swiss Bank;
- destroy all off-shore banking records existing in the United States, and;
- utilize Swiss bank credit cards that they claimed could not be discovered by United States authorities.

On one occasion, at the request of a U.S. client, defendant Birkenfeld purchased

diamonds using that U.S. client's Swiss bank account funds and smuggled the diamonds into the United States in a toothpaste tube. Defendant Birkenfeld and Mario Staggi accepted bundles of checks from U.S. clients and facilitated the deposit of those checks into accounts at the Swiss Bank, Liechtenstein and Danish banks.

The Billionaire U.S. Real Estate Developer

Defendant Birkenfeld's largest client was a billionaire real estate developer whose initials are I.O. (hereinafter identified as "I.O."). I.O. had residences in Southern California and in Broward County, within the Southern District of Florida. On several occasions, defendant Birkenfeld, Mario Staggi and Swiss Bank managers met with I.O. in Switzerland and in the United States. It was well-known at the Swiss Bank that I.O. was a U.S. citizen, that the income earned on his accounts was subject to Q.I. withholding and reporting requirements, however, during the period from 2001 through 2005, the Swiss Bank issued no Forms 1099 to I.O., nor did the Swiss Bank report any Form 1099 information to the IRS or withhold or pay over any taxes to the IRS.

From at least 2001 through the date of the Indictment, defendant Birkenfeld conspired with Mario Staggi, an owner and operator of a Liechtenstein trust company, I.O., additional private bankers and managers employed by the Swiss Bank, and others to defraud the United States by assisting I.O. in evading income tax on the income earned on \$200 million of assets hidden offshore in Switzerland and Liechtenstein. In order to circumvent the requirements of the Q. I. Agreement, the defendant and others conspired to conceal I.O.'s ownership and control of the \$200 million of assets hidden offshore by creating and utilizing nominee and sham entities.

Defendant Birkenfeld, Mario Staggi, I.O., additional private bankers and managers employed by the Swiss Bank, and others committed numerous overt acts in Broward County in the Southern District of Florida, Central District of California, Switzerland, Liechtenstein, and elsewhere in furtherance of the conspiracy, including the following:

On or about June 21, 2001, I.O. caused to be sent completed bank account opening documents for an account at the Swiss branch of a large bank based in London to defendant Birkenfeld, including a Form W-8BEN, Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding that falsely and fraudulently claimed that the beneficial owner of the newly opened account was a shell corporation located in the Bahamas.

On or about July 26, 2001, defendant Birkenfeld caused to be sent an email to I.O. and others that the large bank based in London was terminating North American clients, travel and resources, and that his new employer, the Swiss Bank, had a superior network, product range and

management, and had recently acquired a large United States securities brokerage house in order to enhance United States investment expertise.

On or about October 19, 2001, defendant Birkenfeld caused to be sent via facsimile to I.O. at a United States facsimile number Swiss bank account opening documents from the Swiss Bank, including a form entitled "Verification of the beneficial owner's identity." This form, executed by I.O., falsely and fraudulently stated that I.O. was not the beneficial owner, and that a nominee Bahamian corporation was beneficial owner of the account. The application further listed I.O. as a signatory to the account.

On or about December 4, 2001, Mario Staggli recommended to I.O. that in order to further conceal I.O.'s ownership of off-shore assets, in addition to setting up Liechtenstein trusts and Dutch holding companies, I.O. should set up an entity in the British Virgin Islands, Panama or Gibraltar that "would lead to another 'safety break' in a tax and anonymity aspect."

On or about December 19, 2001, Mario Staggli caused to be executed a "Letter of Intent," which stated that New Haven Trust Company Limited, trustee of The Landmark Settlement, intended to hold the trust property for the benefit of I.O., and, after his demise, for his children.

On or about March 13, 2002, defendant Birkenfeld caused to be sent a facsimile to I.O. at a United States facsimile number listing \$15 million of bonds that an investment manager at the Swiss Bank had purchased for I.O.

On or about March 25, 2002, I.O. caused to be sent a facsimile to defendant Birkenfeld authorizing defendant Birkenfeld to issue five credit cards from the Swiss Bank to I.O. and others.

On or about April 16, 2002, I.O. caused to be sent a letter to defendant Birkenfeld authorizing the wire transfer of \$80 million from one account at the Swiss Bank to another account at the Swiss Bank.

On or about April 23, 2002, Mario Staggli caused to be sent an email to I.O. in the United States with instructions for I.O. to transfer a portfolio, worth approximately \$60 million, containing United States securities from a brokerage house in London to an account in the name of a Danish shell corporation at a Liechtenstein bank.

On or about April 25, 2002, an unindicted co-conspirator caused to be sent an email to I.O., with a copy to Mario Staggli, that recommended that in addition to the Liechtenstein trusts

and Danish holding companies, I.O. should set up United Kingdom companies to act as nominee shareholders. As stated in the email, "... the partners appear to be U.K. companies and Liechtenstein does not appear to be connected.... The role of the U.K. companies is simply to act as nominee shareholders."

On March 25, 2002, I.O. caused to be sent a fax authorizing defendant Birkenfeld to wire transfer \$39 million from one account at the Swiss Bank to another account at the Swiss Bank.

On or about May 7, 2002, Mario Staggl caused to be sent a reply email advising I.O. not to put his name on any Liechtenstein accounts because doing so could "jeopardize the structure," and reminded I.O. that he had executed blank account signature cards that Mario Staggl could use.

On or about April 15, 2003, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2002 tax year, listing his address as Sanctuary Cove, Florida that fraudulently omitted income earned on off-shore assets.

On or about May 19, 2003, Mario Staggl caused to be sent an email to I.O., with a copy to defendant Birkenfeld, that stated that Mario Staggl's lawyers in Gibraltar told him "that everything is now in order to proceed with the application to transfer ownership to Gibraltar" of I.O.'s 147 foot yacht.

On or about March 24 and March 25, 2004, defendant Birkenfeld traveled to the Southern District of Florida to meet with I.O. and a banker from the Swiss Bank's New York branch in order to solicit I.O. to take out real estate loans with the Swiss Bank using his undeclared off-shore assets as collateral.

On or about April 15, 2004, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2003 tax year, listing his address as Lighthouse Point, Florida that fraudulently omitted income earned on off-shore assets.

On or about April 15, 2004, I.O. filed his United States individual income tax return, Form 1040, for the 2003 tax year, listing his address as Lighthouse Point, Florida that fraudulently omitted income earned on off-shore assets.

On or about April 15, 2005, I.O. filed his United States Individual Income Tax Return, Form 1040, for the 2004 tax year, listing an address in Lighthouse Point, Florida that failed to report the income earned on off-shore assets.

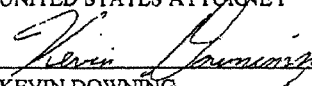
On or about June 12, 2005, defendant Birkenfeld and Mario Staggl met with I.O. at a Liechtenstein bank and advised him to transfer all of his assets held by the Swiss Bank to a Liechtenstein bank because Liechtenstein had better bank secrecy laws than Switzerland.

The tax loss associated with the conspiracy involving the evasion of income taxes of the approximate \$200 million I.O. concealed offshore is \$7,261,387 million, exclusive of penalties and interest.

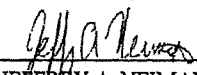
Respectfully submitted,

R. ALEXANDER ACOSTA
UNITED STATES ATTORNEY

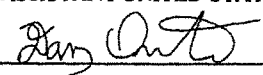
Date: 6/10/08

By: 
KEVIN DOWNING
SENIOR TRIAL ATTORNEY
MICHAEL P. BEN'ARY
TRIAL ATTORNEY
UNITED STATES DEPARTMENT OF JUSTICE
TAX DIVISION

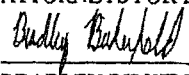
Date: 6/13/08

By: 
JEFFREY A. NEIMAN
ASSISTANT UNITED STATES ATTORNEY

Date: 6/10/08

By: 
DANNY ONORATO
PETER RABEN
ATTORNEYS FOR DEFENDANT

Date: 10/06/08

By: 
BRADLEY BIRKENFELD
DEFENDANT

1 THOMAS P. O'BRIEN
 United States Attorney
 2 WAYNE R. GROSS
 Assistant United States Attorney
 3 Chief, Santa Ana Branch Office
 BRETT A. SAGEL (CBN: 243918)
 4 Assistant United States Attorney
 Ronald Reagan Federal Building
 5 411 West Fourth Street, Suite 8000
 Santa Ana, California 92701
 6 Telephone: (714) 338-3598
 Facsimile: (714) 338-3708
 7 Email: Brett.Sagel@usdoj.gov
 8 Attorney for Plaintiff
 United States of America
 9
 UNITED STATES DISTRICT COURT
 10 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 11 SOUTHERN DIVISION
 12
 13 UNITED STATES OF AMERICA,) SA CR No. 07-227-CJC
)
 14 Plaintiff,) PLEA AGREEMENT FOR DEFENDANT
) IGOR M. OLENICOFF
 15 v.)
)
 16 IGOR M. OLENICOFF,)
)
 17 Defendant.)
)
 18

19 1. This constitutes the plea agreement between IGOR M.
 20 OLENICOFF ("defendant") and the United States Attorney's Office
 21 for the Central District of California ("the USAO") in the
 22 investigation of into tax violations regarding defendant and
 23 numerous entities related to defendant. This agreement is
 24 limited to the USAO and cannot bind any other federal, state or
 25 local prosecuting, administrative or regulatory authorities.

26 PLEA

27 2. Defendant gives up the right to indictment by a grand
 28 jury, waives venue, and agrees to plead guilty to the one-count

1 information in the form attached to this agreement or a
2 substantially similar form.

3 NATURE OF THE OFFENSE

4 3. In order for defendant to be guilty of count one, which
5 charges a violation of Title 26, United States Code, Section
6 7206(1), the following must be true: (1) The defendant made and
7 subscribed a return, statement, or other document which was false
8 as to a material matter; (2) The return, statement, or other
9 document contained a written declaration that it was made under
10 the penalties of perjury; (3) The defendant did not believe the
11 return, statement, or other document to be true and correct as to
12 every material matter; and (4) The defendant falsely subscribed
13 to the return, statement, or other document willfully, with the
14 specific intent to violate the law. Defendant admits that
15 defendant is, in fact, guilty of this offense as described in
16 count one of the information.

17 PENALTIES

18 4. The statutory maximum sentence that the Court can impose
19 for a violation of Title 26, United States Code, Section 7206(1)
20 is: 3 years imprisonment; a 3-year period of supervised release;
21 a fine of \$100,000 or twice the gross gain or gross loss
22 resulting from the offense, whichever is greatest; and a
23 mandatory special assessment of \$100. The Court may order
24 defendant to pay any additional taxes, interest and penalties
25 that defendant owes to the United States. Also, the Court must
26 order defendant to pay the costs of prosecution, which may be in
27

1 addition to the statutory maximum fine stated above.

2 5. Supervised release is a period of time following
3 imprisonment during which defendant will be subject to various
4 restrictions and requirements. Defendant understands that if
5 defendant violates one or more of the conditions of any
6 supervised release imposed, defendant may be returned to prison
7 for all or part of the term of supervised release, which could
8 result in defendant serving a total term of imprisonment greater
9 than the statutory maximum stated above.

10 6. Defendant also understands that, by pleading guilty,
11 defendant may be giving up valuable government benefits and
12 valuable civic rights, such as the right to vote, the right to
13 possess a firearm, the right to hold office, and the right to
14 serve on a jury.

15 7. Defendant further understands that the conviction in
16 this case may subject defendant to various collateral
17 consequences, including but not limited to, deportation,
18 revocation of probation, parole, or supervised release in another
19 case, and suspension or revocation of a professional license.
20 Defendant understands that unanticipated collateral consequences
21 will not serve as grounds to withdraw defendant's guilty plea.

22 FACTUAL BASIS

23 8. Defendant and the USAO agree and stipulate to the
24 statement of facts provided below. This statement of facts
25 includes facts sufficient to support a plea of guilty to the
26 charge described in this agreement and to establish the
27

1 sentencing guideline factors set forth in paragraph 12 below. It
2 is not meant to be a complete recitation of all facts relevant to
3 the underlying criminal conduct or all facts known to defendant
4 that relate to that conduct.

5 Defendant is the President and Owner of Olen Properties
6 Corporation (hereinafter "OPC"). During the years 1992 through
7 2004, defendant owned, controlled, and had signatory authority
8 over financial accounts outside of the United States. At least
9 as early as August 1997, defendant listed himself as chairman of
10 Sovereign Bancorp Ltd. (hereinafter "SBL") and President and
11 Director of National Depository Corporation, Ltd. (hereinafter
12 "NDC") on signature cards for Barclays Bank in the Bahamas, which
13 also listed defendant as an authorized signatory on these
14 accounts. Defendant also had signatory authority and controlled
15 several financial accounts with Solomon Smith Barney, which were
16 held in Solomon Smith Barney's office in London, England.
17 Defendant's accounts in Solomon Smith Barney's England offices
18 included accounts in the names of SBL, NDC, Guardian Guarantee
19 Company, Ltd. (hereinafter "GGCL"), Continental Realty Funding
20 Corporation (hereinafter "CRFC"), and Swiss Finance Corporation.
21 Defendant opened several accounts at UBS, formerly known as Union
22 Bank of Switzerland (hereinafter "UBS") in Switzerland, in which
23 defendant had signatory authority and listed himself as Vice
24 President and Director of accounts under the name of GGCL and New
25 Guardian Bancorp APS (hereinafter "NGB"). In addition, defendant
26 also had signatory authority and control over several financial
27 accounts at Neue Bank in Liechtenstein, including an account in
28 the name of NGB.

1 Defendant directed and authorized transactions from his off-
2 shore financial accounts, including, but not limited to the
3 following transactions. On or about March 9, 1992, defendant
4 transferred approximately \$61,000,000 from an OPC account at
5 First Interstate Bank in Newport Beach, California, to a Bank of
6 Montreal account in Canada under the name of NDC. On or about
7 October 5, 1998, defendant directed Solomon Smith Barney to
8 transfer approximately \$40,000,000 from an SBL account at Solomon
9 Smith Barney (England) to an SBL account at Barclay's Bank
10 (Bahamas). On or about June 4, 2001, defendant directed Solomon
11 Smith Barney to transfer approximately \$17,000,000, \$43,000,000,
12 and \$58,000,000 from CRFC, NDC, and SBL accounts, respectively,
13 at Solomon Smith Barney (England) to NDC and SBL accounts at
14 Barclay's Bank (Bahamas). On or about December 10, 2001,
15 defendant directed Barclay's Bank to transfer approximately
16 \$89,000,000 from a GGCL account at Barclay's Bank (Bahamas) to
17 open the GGCL account at UBS (Switzerland). On or about February
18 27, 2002, defendant directed Solomon Smith Barney to transfer
19 approximately \$38,000,000 from CRFC, NDC, and CRFC accounts at

1 Solomon Smith Barney (England) to an GGCL account at Barclay's
2 Bank (Bahamas).

3 For the calendar years 1998 through 2004, defendant filed
4 his United States Individual Income Tax Returns (hereinafter
5 "Form 1040") with the Internal Revenue Service for the respective
6 tax years. Defendant signed his 1998, 1999, 2000, 2001, 2002,
7 ~~2003, and 2004 Form 1040s under penalties of perjury.~~ Defendant
8 attached a Schedule B, Interest and Ordinary Dividends, to each
9 of his Form 1040s for tax years 1998 through 2004. Each of the
10 Form 1040s that defendant filed included Part III of Schedule B,
11 Foreign Accounts and Trusts, whereby the Internal Revenue Service
12 asked on Line 7a, "At any time during [calendar year], did you
13 have an interest in or a signature or other authority over a
14 financial account in a foreign country, such as a bank account,
15 securities account, or other financial account?" Line 7b stated,
16 "If 'yes,' enter the name of the foreign country." Lines 7a and
17 7b of Part III of Schedule B attached to the Form 1040s called
18 for material information in that the requested information is
19 necessary for a correct computation of the tax due and owing and
20 has a natural tendency to influence or impede the Internal
21 Revenue Service in ascertaining the correctness of the tax due
22 and owing of the taxpayer. On each of the 1998 through 2004 Form
23 1040s, defendant falsely answered "No" to line 7a and left the
24 space blank next to line 7b, even though, as he then well knew
25 and understood, he had an interest in, signatory authority, and
26 other authority over financial accounts in foreign countries
27 during these years.

28 On or about April 15, 2003, in the Central District of
California and elsewhere, defendant, a resident of Laguna Beach,
California, did willfully make and subscribe a 2002 U.S.
Individual Income Tax Return, Form 1040, which was verified by a
written declaration that it was made under the penalties of
perjury and was filed with the Internal Revenue Service, which
defendant did not believe this 2002 U.S. Individual Income Tax
Return to be true and correct as to every material matter in that
Schedule B Part III, Foreign Accounts and Trusts, Line 7a asked
"At any time during 2002, did you have an interest in or a
signature or other authority over a financial account in a
foreign country, such as a bank account, securities account, or
other financial account?" to which said return falsely stated
"NO," whereas, as defendant then and there well knew and
believed, was a false statement, as defendant had ownership,
control, and signatory authority over financial accounts in
England, Switzerland, the Bahamas, and Liechtenstein. When
defendant signed his 2002 Form 1040, defendant knew that it
contained false information as to a material matter, and in
filing the false 2002 Form 1040, defendant acted willfully.

WAIVER OF CONSTITUTIONAL RIGHTS

9. By pleading guilty, defendant gives up the following rights:

- a) The right to persist in a plea of not guilty.
- b) The right to a speedy and public trial by jury.
- c) The right to the assistance of legal counsel at trial, including the right to have the Court appoint counsel for defendant for the purpose of representation at trial. (In this regard, defendant understands that, despite his plea of guilty, he retains the right to be represented by counsel - and, if necessary, to have the court appoint counsel if defendant cannot afford counsel - at every other stage of the proceedings.)
- d) The right to be presumed innocent and to have the burden of proof placed on the government to prove defendant guilty beyond a reasonable doubt.
- e) The right to confront and cross-examine witnesses against defendant.
- f) The right, if defendant wished, to testify on defendant's own behalf and present evidence in opposition to the charges, including the right to call witnesses and to subpoena those witnesses to testify.
- g) The right not to be compelled to testify, and, if defendant chose not to testify or present evidence, to have that choice not be used against defendant.

By pleading guilty, defendant also gives up any and all rights to pursue any affirmative defenses, Fourth Amendment or

1 Fifth Amendment claims, and other pretrial motions that have been
2 filed or could be filed.

3 WAIVER OF DNA TESTING

4 10. Defendant has been advised that the government has in
5 its possession the following items of physical evidence that
6 could be subjected to DNA testing:
7 Documents obtained via search warrants
8 Defendant understands that the government does not intend to
9 conduct DNA testing of any of these items. Defendant understands
10 that, before entering a guilty plea pursuant to this agreement,
11 defendant could request DNA testing of evidence in this case.
12 Defendant further understands that, with respect to the offense
13 to which defendant is pleading guilty pursuant to this agreement,
14 defendant would have the right to request DNA testing of evidence
15 after conviction under the conditions specified in 18 U.S.C. §
16 3600. Knowing and understanding defendant's right to request DNA
17 testing, defendant knowingly and voluntarily gives up that right
18 with respect to both the specific items listed above and any
19 other items of evidence there may be in this case that might be
20 amenable to DNA testing. Defendant understands and acknowledges
21 that by giving up this right, defendant is giving up any ability
22 to request DNA testing of evidence in this case in the current
23 proceeding, in any proceeding after conviction under 18 U.S.C. §
24 3600, and in any other proceeding of any type. Defendant further
25 understands and acknowledges that by giving up this right,
26 defendant will never have another opportunity to have the

1 evidence in this case, whether or not listed above, submitted for
2 DNA testing, or to employ the results of DNA testing to support a
3 claim that defendant is innocent of the offense to which
4 defendant is pleading guilty.

5 SENTENCING FACTORS

6 11. Defendant understands that the Court is required to
7 consider the United States Sentencing Guidelines ("U.S.S.G." or
8 "Sentencing Guidelines") among other factors in determining
9 defendant's sentence. Defendant understands, however, that the
10 Sentencing Guidelines are only advisory, and that after
11 considering the Sentencing Guidelines, the Court may be free to
12 exercise its discretion to impose any reasonable sentence up to
13 the maximum set by statute for the crimes of conviction.

14 12. Defendant and the USAO agree and stipulate to the
15 following applicable sentencing guideline factors:

16 Base Offense Level : 6 [U.S.S.G. § 2T1.1(a)(2)]

17 Acceptance of
18 Responsibility: -2 [U.S.S.G. § 3E1.1(a)]

19 Defendant and the USAO agree not to seek, argue, or suggest in
20 any way, either orally or in writing, that any other specific
21 offense characteristics, adjustments or departures, from either
22 the applicable Offense Level or Criminal History Category, be
23 imposed. If, however, after signing this agreement but prior to
24 sentencing, defendant were to commit an act, or the USAO were to
25 discover a previously undiscovered act committed by defendant
26 prior to signing this agreement, which act, in the judgment of

1 the USAO, constituted obstruction of justice within the meaning
2 of U.S.S.G. § 3C1.1, the USAO would be free to seek the
3 enhancement set forth in that section.

4 13. There is no agreement as to defendant's criminal
5 history or criminal history category.

6 14. The stipulations in this agreement do not bind either
7 the United States Probation Office or the Court. Both defendant
8 and the USAO are free to: (a) supplement the facts by supplying
9 relevant information to the United States Probation Office and
10 the Court; (b) correct any and all factual misstatements relating
11 to the calculation of the sentence; and (c) argue on appeal and
12 collateral review that the Court's sentencing guidelines
13 calculations are not error, although each party agrees to
14 maintain its view that the calculations in paragraph 12 are
15 consistent with the facts of this case.

16 DEFENDANT'S OBLIGATIONS

17 15. Defendant agrees that he will:

18 a) Waive Indictment by Grand Jury, waive venue, and
19 Plead guilty as set forth in this agreement.

20 b) Not knowingly and willfully fail to abide by all
21 sentencing stipulations contained in this agreement.

22 c) Not knowingly and willfully fail to: (i) appear as
23 ordered for all court appearances; (ii) surrender as ordered for
24 service of sentence; (iii) obey all conditions of any bond; and
25 (iv) obey any other ongoing court order in this matter.

1 d) Not commit any crime; however, offenses which would
2 be excluded for sentencing purposes under U.S.S.G. § 4A1.2(c) are
3 not within the scope of this agreement.

4 e) Not knowingly and willfully fail to be truthful at
5 all times with Pretrial Services, the U.S. Probation Office, and
6 the Court.

7 f) To fill out and deliver to the USAO, prior to
8 sentencing, a completed financial statement listing defendant's
9 assets on a form provided by the United States Attorney's Office.

10 g) Prior to sentencing, abandon his claim for a refund
11 on the 1999 Corporate Return for Olen Properties Corporation
12 ("OPC") seeking a refund based on interest income "paid" from OPC
13 to Sovereign Bancorp Ltd. ("SBL"), another corporation controlled
14 by defendant.

15 h) Prior to sentencing, defendant will move all money
16 held in foreign financial accounts, including bank and securities
17 accounts, which defendant has an interest in, signature
18 authority, or any other authority, to financial accounts within
19 the United States. Defendant further agrees that during the
20 period of supervised release or probation, that defendant will
21 not have any interest in, signature authority, or any other
22 authority over a financial account in a foreign country, such as
23 a bank account, securities account, or other financial account.

24 i) Cooperate with the Internal Revenue Service in the
25 determination of defendant's civil tax liability and the tax
26 liability of corporations owned and/or controlled by defendant

27

28

1 for the Tax Years 1998-2004. Defendant agrees:

2 1) That defendant will, prior to the time of
3 sentencing, enter into closing agreements for the years 1998
4 through 2004 for his Individual Income Tax Returns, correctly
5 reporting unreported income and/or correcting improper deductions
6 and credits, and will, if requested to do so by the Internal
7 Revenue Service, provide the Internal Revenue Service with
8 information regarding the years covered by the returns, and will
9 pay at sentencing all additional taxes, and will pay promptly all
10 penalties and interest assessed by the Internal Revenue Service
11 to be owing as a result of any computational errors.

12 2) That nothing in this agreement forecloses or
13 limits the ability of the Internal Revenue Service to examine and
14 make adjustments to defendant's closing agreements.

15 3) That defendant will not, after entering into
16 the closing agreements, file any claim for refund of taxes,
17 penalties, or interest for amounts attributable to the closing
18 agreements filed in connection with this plea agreement.

19 4) That defendant is liable for the fraud penalty
20 imposed by the Internal Revenue Code, 26 U.S.C. § 6663, on the
21 understatement of civil tax liability for Tax Years 1998-2004.

22 5) To give up any and all objections that could be
23 asserted to the Examination Division of the Internal Revenue
24 Service receiving materials or information obtained during the
25 criminal investigation of this matter, including materials and
26 information obtained through the execution of search warrants or
27

1 through grand jury subpoenas.

2 THE USAO'S OBLIGATIONS

3 16. If defendant complies fully with all defendant's
4 obligations under this agreement, the USAO agrees:

5 a) To abide by all sentencing stipulations contained in
6 this agreement.

7 b) At the time of sentencing, provided that defendant
8 demonstrates an acceptance of responsibility for the offense up
9 to and including the time of sentencing, to recommend a two-level
10 reduction in the applicable sentencing guideline offense level,
11 pursuant to U.S.S.G. § 3E1.1, and to recommend and, if necessary,
12 move for an additional one-level reduction if available under
13 that section.

14 c) Not to further prosecute defendant for violations
15 arising out of defendant's conduct described in the stipulated
16 factual basis set forth in paragraph 8 above or tax violations
17 associated with moneys transferred to and held in foreign bank
18 accounts from 1998 through 2004, or any other conduct known to
19 the Government at the time this agreement is signed by defendant.
20 Defendant understands that the USAO is free to prosecute
21 defendant for any other unlawful past conduct or any unlawful
22 conduct that occurs after the date of this agreement. Defendant
23 agrees that at the time of sentencing the Court may consider the
24 uncharged conduct in determining the applicable Sentencing
25 Guidelines range, where the sentence should fall within that
26 range, the propriety and extent of any departure from that range,

27

28

1 and the determination of the sentence to be imposed after
2 consideration of the sentencing guidelines and all other relevant
3 factors.

4 BREACH OF AGREEMENT

5 17. If defendant, at any time between the execution of this
6 agreement and defendant's sentencing on a non-custodial sentence
7 or surrender for service on a custodial sentence, knowingly
8 violates or fails to perform any of defendant's obligations under
9 this agreement ("a breach"), the USAO may declare this agreement
10 breached. If the USAO declares this agreement breached, and the
11 Court finds such a breach to have occurred, defendant will not be
12 able to withdraw defendant's guilty plea, and the USAO will be
13 relieved of all of its obligations under this agreement.

14 18. Following a knowing and willful breach of this
15 agreement by defendant, should the USAO elect to pursue any
16 charge or any civil or administrative action that was either
17 dismissed or not filed as a result of this agreement, then:

18 a) Defendant agrees that any applicable statute of
19 limitations is tolled between the date of defendant's signing of
20 this agreement and the commencement of any such prosecution or
21 action.

22 b) Defendant gives up all defenses based on the statute
23 of limitations, any claim of preindictment delay, or any speedy
24 trial claim with respect to any such prosecution or action,
25 except to the extent that such defenses existed as of the date of
26 defendant's signing of this agreement.

1 c) Defendant agrees that: i) any statements made by
2 defendant, under oath, at the guilty plea hearing; ii) the
3 stipulated factual basis statement in this agreement; and iii)
4 any evidence derived from such statements, are admissible against
5 defendant in any future prosecution of defendant, and defendant
6 shall assert no claim under the United States Constitution, any
7 statute, Rule 410 of the Federal Rules of Evidence, Rule 11(f) of
8 the Federal Rules of Criminal Procedure, or any other federal
9 rule, that the statements or any evidence derived from any
10 statements should be suppressed or are inadmissible.

11 LIMITED MUTUAL WAIVER OF APPEAL AND COLLATERAL ATTACK

12 19. Defendant gives up the right to appeal any sentence
13 imposed by the Court, and the manner in which the sentence is
14 determined, provided that (a) the sentence is within the
15 statutory maximum specified above and is constitutional, (b) the
16 Court in determining the applicable guideline range does not
17 depart upward in offense level or criminal history category and
18 determines that the total offense level is 4 or below, and (c)
19 the Court imposes a sentence within or below the range
20 corresponding to the determined total offense level and criminal
21 history category. Defendant also gives up any right to bring a
22 post-conviction collateral attack on the conviction or sentence,
23 except a post-conviction collateral attack based on a claim of
24 ineffective assistance of counsel, a claim of newly discovered
25 evidence, or an explicitly retroactive change in the applicable
26 Sentencing Guidelines, sentencing statutes, or statutes of

1 conviction. Notwithstanding the foregoing, defendant retains the
2 ability to appeal the conditions of probation or supervised
3 release imposed by the court, with the exception of the
4 following: standard conditions set forth in district court

5 General Orders 318 and 01-05; the drug testing conditions
6 mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol
7 and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

8 20. The USAO gives up its right to appeal the sentence,
9 provided that (a) the Court in determining the applicable
10 guideline range does not depart downward in offense level or
11 criminal history category, (b) the Court determines that the
12 total offense level is 4 or above, and (c) the Court imposes a
13 sentence within or above the range corresponding to the
14 determined total offense level and criminal history category.

15 COURT NOT A PARTY

16 21. The Court is not a party to this agreement and need not
17 accept any of the USAO's sentencing recommendations or the
18 parties' stipulations. Even if the Court ignores any sentencing
19 recommendation, finds facts or reaches conclusions different from
20 any stipulation, and/or imposes any sentence up to the maximum
21 established by statute, defendant cannot, for that reason,
22 withdraw defendant's guilty plea, and defendant will remain bound
23 to fulfill all defendant's obligations under this agreement. No
24 one - not the prosecutor, defendant's attorney, or the Court -
25 can make a binding prediction or promise regarding the sentence
26 defendant will receive, except that it will be within the

1 statutory maximum.

2 NO ADDITIONAL AGREEMENTS

3 22. Except as set forth herein, there are no promises,
4 understandings or agreements between the USAO and defendant or
5 defendant's counsel. Nor may any additional agreement,
6 understanding or condition be entered into unless in a writing
7 signed by all parties or on the record in court.

8 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

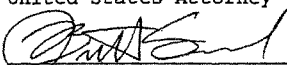
9 23. The parties agree and stipulate that this Agreement
10 will be considered part of the record of defendant's guilty plea
11 hearing as if the entire Agreement had been read into the record
12 of the proceeding.

13 This agreement is effective upon signature by defendant and
14 an Assistant United States Attorney.

15
16 AGREED AND ACCEPTED

17 UNITED STATES ATTORNEY'S OFFICE
18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

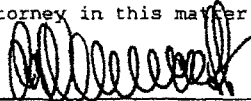
19 THOMAS P. O'BRIEN
20 United States Attorney

21 
22 BRETT A. SAGEL
Assistant United States Attorney

10/29/07
Date

23 I have read this agreement and carefully discussed every
24 part of it with my attorney. I understand the terms of this
25 agreement, and I voluntarily agree to those terms. My attorney
26 has advised me of my rights, of possible defenses, of the
27

1 Sentencing Guideline provisions, and of the consequences of
2 entering into this agreement. No promises or inducements have
3 been made to me other than those contained in this agreement. No
4 one has threatened or forced me in any way to enter into this
5 agreement. Finally, I am satisfied with the representation of my
6 attorney in this matter.

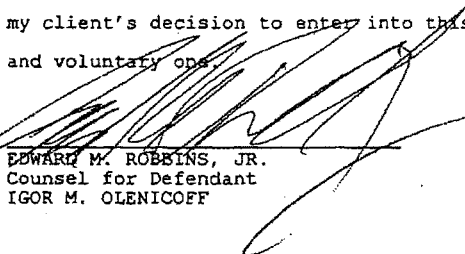
7 

8 IGOR M. OLENICOFF
9 Defendant

10/17/07

Date

11 I am IGOR M. OLENICOFF's attorney. I have carefully
12 discussed every part of this agreement with my client. Further,
13 I have fully advised my client of his/her rights, of possible
14 defenses, of the Sentencing Guidelines' provisions, and of the
15 consequences of entering into this agreement. To my knowledge,
16 my client's decision to enter into this agreement is an informed
17 and voluntary one.

18 

19 EDWARD M. ROBBINS, JR.
20 Counsel for Defendant
21 IGOR M. OLENICOFF

10/17/07

Date

Meeting in California

Subject: Meeting in California
 Date: Thu, 26 Jul 2001 15:23:07 +0100
 From: "Bradley Birkenfeld" <birkenfeld@attglobal.net>
 To: "OLENICOFF, Andrei" <aolenicoff@olenproperties.com>
 CC: "OLENICOFF, Igor" <iolenicoff@olenproperties.net>

Dear Andrei,

It was nice to speak to you the other day after some time. As we discussed, I needed to pursue a more advantageous firm to do my business, since Barclays was terminating North American clients, travel and resources. This was not suitable for me, so I have signed a contract as a Director with UBS to commence on October 2 (my assistant will be joining me as well). UBS has a superior network, product range, credit rating, senior management etc. Additionally, they just acquired Paine Webber to enhance their investment expertise.

I will call you next week when I return to Geneva and we can review some dates in August that would be mutually convenient to set up a meeting in your neighborhood. I hope all is well and I look forward to seeing you. Take care.

Regards,

Brad

the.
 set up [✓] Conseq
 file for Mario?
 New Haven



October 11, 2001

Via Fax:

VPP
bcc BRAD
BERKENFELD

Hartis Pinder
McKinney, Bancroft & Hughes
Mareva House
4 George Street
Nassau, Bahamas

Dear Hartis:

I hope this letter finds you well, in all respects.

We are in the process, on behalf of Guardian Guarantee Co. Ltd, of establishing an account with UBS Bank, in Geneva. The representative for the bank is Mr. Bradley Birkenfeld. Mr. Birkenfeld felt that it would be best handled if he forwarded his requests for information to your office, as the corporate office for Guardian. He indicated that he may also call you, should there be any questions, relative to the opening of the account with UBS.

The signatories on this Guardian account will be Andrei Olenicoff, Natalia Olenicoff, Jeanette Bullington and myself. The purpose of the account is to be a clearing account for the investments Guardian Guarantee Co. Ltd. will be making through the UBS network of financial managers.

Should you need additional information, please reach me by phone, E-mail or fax.

Best regards,

A handwritten signature in dark ink, appearing to read "Igor M. Olenicoff".

Igor M. Olenicoff

7 Corporate Plaza • Newport Beach, CA 92660
(949) 644-OLEN • Fax (949) 719-7200
www.olenproperties.com

Permanent Subcommittee on Investigations
EXHIBIT #98

SW 066661



UBS / d-4

October 23, 2001

Bradley C. Birkenfeld
UBS AG
Rue de la Corrairie 16
P.O. Box 2600, CH-1211
Geneva 2, Switzerland

Re: Guardian Guarantee Co. Ltd.

Dear Brad:

Pursuant to our discussions, enclosed please find the completed forms for the opening of the above referenced account. Also enclosed are copies of the signatories passports and the corporate documents requested.

I look forward to getting the account opened at your earliest convenience. Once the account is opened, please give me a call so that we can make further arrangements.

Best regards,

A handwritten signature in dark ink, appearing to read "Igor", written over a horizontal line.

Igor M. Olenicoff
President

IMO:cs
Enclosures

7 Corporate Plaza • Newport Beach, CA 92660
(949) 644-OLEN • Fax (949) 719-7200
www.olenproperties.com

SW 066645

ructure

Subject: Structure

Date: Sat, 02 Jan 1904 06:43:10 +0200

From: Mario Staggi <mstaggi@newhaven.li>

To: Igor Olenicoff <iolenicoff@olenproperties.com>

CC: <aolenicoff@olenproperties.com>

→ Jan
 File @
 him

Dear Igor

Subsequent to our telephone discussion of last week your most recent e-mail made it very clear to me - you want to become on-shore - but still maintain an off-shore status in tax and protection point of view.

I have had a chance to review the structure based on the latest findings and should like to summarize as follows:

Danemark definitely provides for an on-shore status in an appearance point of view as well as for a "tax exemption" status in a tax point of view. With regard to the banks, both UBS and Neue Bank would not have to charge VAT on their management fee since the Danish Holding Co. is not liable for VAT. Moreover, a Danish Holding Co. is not even allowed by law to apply for a VAT number if it in itself does not have a turnover/activity in Denmark. Our Danish Co will without any doubt not perform any turnover in Denmark and the VAT problem would not exist. There is no need to escape to Gibraltar, latter being a traditional tax-haven jurisdiction and not necessarily advantageous to the appearance aspect. The banking / VAT aspect Sitzerland, UK and Liechtenstein is covered if Denmark or Gibraltar is used but Denmark got a much better reputation.

secrecy?
 yes

The proposed company name "New Guardian Bancorp" is available and could be used.

It is further anticipated that the Danish Holding Co. will absorb/acquire the Olen US bearer shares presently allocated to the Bahamian Company. This is basically possible without any foreseeable problems but I should recommend to you to seek advice from a local US Tax Adviser because we will have to take the FIRPTA rule into account. Would you please check this with your domestic Tax Adviser and let me have his thoughts.

stock for
 stock exchange

Again, I strongly recommend not to use a Swiss Company since Swiss Holding Companies in conjunction with the US is the worst you can have (at least in this structure). The VAT is also an issue. I am sure your local Tax Adviser will share my opinion.

Looking forward to hearing from you, I remain,

Personal regards,

Mario

2/1

12/10/01 10:27 AM

Permanent Subcommittee on Investigations

EXHIBIT #99

SW 067200



A

Master no.

Verification of the beneficial owner's identity
(Form A as per Art. 3 and 4 CDB)

Account/Custody Account No.:

Contracting partner:

IGOR OLENICOFF
ANDREI OLENICOFF

Category:

Company

The undersigned hereby declares:

(mark with a cross where appropriate)

☐ that the contracting partner is the beneficial owner of the assets concerned.

☒ that the beneficial owner of the assets concerned is:

Last name/First name (or firm)

Guardian Guarantee Company Limited

Address/Domicile, Country

4 George Street

Mareva House

Nassau, Bahamas

The contracting partner undertakes to inform the bank immediately of any changes.

Nassau, Bahamas 23/10/01

Place/Date

Signature(s)

For internal bank use only

Signature(s) verified

DU-Ref.:

Customer/Adviser's signature:

DU-Ref.:

Supervisor's signature:

(as per Directives PF/005)

19.10.2001

G3050 E V0 03.2000 J2

Permanent Subcommittee on Investigations

EXHIBIT #100

SW 066648



Authorized signatories

Master no. _____

 = Redacted by the Permanent
Subcommittee on Investigations

Company: Guardian Guarantee Company Limited

Tel. No.: 242-322-4195

Exact address of domicile: 4 George Street - Mareva House - Nassau, Bahamas

We hereby advise you of the following persons with unlimited authority to sign (without right of substitution) and who are authorized to carry out any legal acts and to enter into other obligations vis-à-vis UBS AG (hereinafter UBS) in connection with claims or assets deposited under the above master number and enter into other obligations vis-à-vis UBS:

Authorized signatory 1		Authority to sign:
Last name/first name:	Olenicoff, Igor	<input type="checkbox"/> by sole signature
Nationality:	USA / [redacted]	<input checked="" type="checkbox"/> by joint signature of 1
Date of birth:	USA / [redacted]	
Signature:	[Signature]	
Authorized signatory 2		Authority to sign:
Last name/first name:	Olenicoff, Andrei	<input type="checkbox"/> by sole signature
Nationality:	USA / [redacted]	<input checked="" type="checkbox"/> by joint signature of 1
Date of birth:	USA / [redacted]	
Signature:	[Signature]	
Authorized signatory 3		Authority to sign:
Last name/first name:	Olenicoff, [redacted]	<input type="checkbox"/> by sole signature
Nationality:	USA / [redacted]	<input checked="" type="checkbox"/> by joint signature of 1
Date of birth:	USA / [redacted]	
Signature:	[redacted]	
Authorized signatory 4		Authority to sign:
Last name/first name:	[redacted]	<input type="checkbox"/> by sole signature
Nationality:	USA / [redacted]	<input checked="" type="checkbox"/> by joint signature of 1
Date of birth:	USA / [redacted]	
Signature:	[redacted]	

(Please cross out unused fields.)

In particular, said authorized signatories are authorized to deposit, buy and sell, pledge, loan, convert and withdraw securities/book entry securities with binding effect in our name, to make deposits or withdraw funds in any manner whatsoever, be it by cheque or otherwise, to sign all settlements of account, receipts, discharges, verifications, transfers and assignments, to issue, accept, endorse or give discharges on bills of exchange, cheques, orders or similar instruments of every kind, to receive communications, statements of account/custody account and all other statements, to conclude agreements with UBS on the use of electronic journals and to use same, to elect a jurisdiction and generally to do everything his/her/they may deem expedient or necessary. The authorized signatories are also authorized to take out any type of credit/loans in our name with binding effect and to give UBS legally binding instructions for the management of assets or to place an investment order. Furthermore, he/she/they are authorized to open and close accounts/custody accounts. It is his/her/their responsibility, and not the responsibility of UBS, to inform me/us at once of his/her/their actions.

Several authorized signatories

Without explicit restriction to joint signature the authorized signatories are authorized to act severally (sole signature). Provided that there is no other provision in writing the authority to sign by joint signature means joint signature of two.

The power of attorney of the authorized signatories shall be applicable without restriction until UBS receives an explicit revocation in writing. The power of attorney, therefore, shall remain in effect irrespective of any other or missing entries in a public register (e.g. the commercial register).

The present power of attorney shall be exclusively governed by and construed in accordance with Swiss law. The place of performance of all obligations of both parties, the place of debt collection, the latter only for customers domiciled outside Switzerland, as well as the exclusive place of jurisdiction for any disputes arising out of and in connection with this power of attorney shall be: Geneva, Switzerland.

UBS reserves the right, however, to take legal action against the grantor of the power of attorney before the authority of his/her/its domicile or before any other competent authority, in which event exclusively Swiss law shall remain applicable.

Company Name: Guardian Guarantee Company Limited

Last name/First name: Olenicoff, Igor

Function: President

Last name/First name: Olenicoff, Andrei

Function: Secretary

Place/Date: NASSUA, BAHAMAS 23/10/01

*The word company also stands for legal entities such as foundations, public entities, associations, etc.

For internal bank use only

Signature field verified

OU-Ref.:

OU-Ref.:

(as per Directives PF/1/005)

Customer Adviser's signature:

Supervisor's signature:

63054 E V3 02.2001 JS

19.10.2001



Waiver of right to invest in US securities

Master no.

Account no.

The undersigned instructs UBS AG with respect to the above mentioned account not to invest in or hold US securities within the meaning of the relevant Qualified Intermediary Agreements (IRS Rev. Proc. 2000-12).

Name of Account Holder Guardian Guarantee Company Limited
 Street 4 George St. Marens House
 Postal Code/Place Nassau Country of domicile Bahamas

Nassau, Bahamas 13/10/01
 Place/Date

Signature

[Handwritten Signature]
[Handwritten Signature]



For internal bank use only

Signature(s) verified/Signed in my presence

OU-Ref.

Signature

61526 E VO 10.2001

B

This Form will be kept in the records of UBS AG

THANK YOU !

Subject: THANK YOU !

Date: Sat, 01 Dec 2001 16:16:34 -0800

From: Igor Olenicoff <olenicoff@olesproperties.com>

To: MARJO STAGGL <newhaven@newhaven.lol.li>

CC: Bradley Birkenfeld <brkenfeld@attglobal.net>

THANK YOU AND KLAUS FOR MEETING WITH US LAST WEEK. WE FELT IT WAS A PRODUCTIVE MEETING FOR US AND ONE WHICH WILL LEAD TO PRODUCTIVE BUSINESS FOR BOTH OF OUR FIRMS.

AFTER RETURNING TO GENEVE, IT BECAME CLEAR THAT WE NEED TO RECONSIDER CERTAIN ASPECTS OF WHAT WE TALKED ABOUT AND MAYBE REDUCE THE NUMBER FROM THREE TO TWO TRUSTS. THE PRIMARY REASON FOR THIS IS THAT WE WERE INFORMED BY BRAD THAT THEY WOULD HAVE TO CHARGE THE VAT. CHARGE IS WE WERE TO DO BUSINESS THROUGH THE TRUST YOU FORM AND THAT WE NEED A FIRM IN A NON-SWISS ENTITY TO AVOID THIS TAX AND AS SUCH MAYBE WE ARE BETTER OFF SIMPLY RENAMING THE EXISTING ENTITY WE HAVE TO MATCH THE ENTITY NAME WE WERE GOING TO FORM WITH YOU AND ONLY HAVE THE STOCK OF THAT ENTITY ISSUED TO ONE OF THE OTHER TRUSTS, NAMELY LANDMARK. THIS WAY LANDMARK WOULD OWN THE MISC., ASSETS AND THE INVESTMENT COMPANIES STOCK WHICH WOULD BE IN THE EXISTING JURISDICTION. PLEASE GIVE ME YOUR ADVICE ON THIS ISSUE SO WE CAN DECIDE HOW MANY TRUSTS YOU NEED TO FORM. IT MAY EVEN BE ONLY ONE IF THE STOCK OF THE REAL ESTATE ENTITIES CAN BE OWNED BY A SWISS ENTITY AND THE STOCK OF THAT ENTITY WOULD BE OWNED BY THE TRUST YOU FORM.

PLEASE GIVE THIS SOME THOUGHT AND LET ME KNOW. WE ARE PREPARED TO GO FORWARD WITH ARNOLD AND PAUL, BUT NEED TO KNOW WITH WHICH ENTITY TO ESTABLISH THE RELATIONSHIP WITH THEM WITH. IT APPEARS THAT IT SHOULD BE THE SAME ENTITY THAT CURRENTLY HAS THE ACCOUNTS AT THE CURRENT INSTITUTION, WITH A NON-SWISS JURISDICTION TO AVOID THE VAT. ASSESSMENT? PLEASE ADVISE YOUR THOUGHTS ON THIS BEFORE WE LAUNCH OFF TO A START THAT MAY NOT BE IN THE PROPER FORMAT.

THANK KLAUS AGAIN FOR THE TIME AND ADVISE AND WE LOOK FORWARD TO SEEING YOU AGAIN SOON AS WE ALL ENJOYED OUR STAY IN YOUR BEAUTIFUL COUNTRY AND THE WONDERFUL FOOD WE WERE ABLE TO SAMPLE.

of 1

12/1/2001 7:53 AM

Permanent Subcommittee on Investigations

EXHIBIT #101

SW 065109

ntous

Subject: Various
Date: Tue, 04 Dec 2001 18:24:50 +0200
From: Mario Stagg <matagg@newhaven.li>
To: <olenicoff@olenproperties.com>

Dear Igor

Thank you for your message of December 2. It was a pleasure to meet with you, Andrej and Jasettis and I am sure that this was the beginning of an excellent relationship.

I have read your aforementioned e-mail and should like to comment as follows:

The structure could basically be cut down to two trusts but I would still not recommend to do so. We were talking about three different components which would become part of the structure and in our opinion these should be kept and treated separate for reasons discussed.

The shares in OLEN US are "owned" by the Bahamian Company. In order to avoid any potential exposure in a tax point of view we would recommend to transfer the Bahamian company shares into a Danish Holding Company. The Danish Holding Company would be owned by the first of the Liechtenstein trusts. Advantage is that Denmark is not a "off-shore" jurisdiction. Any dividends which might be paid from Olen to the Cayman Company could be disposed by way of dividend to the Danish Holding Company without being liable to Danish taxation and would become "offshore" assets.

The cash available for UBS and Neue Bank can basically be held by the second Liechtenstein Trust. If this is the case 7.6% VAT would become due on the bank's management charge as well as on the trustee fees. There is an easy way to get around this VAT by interposing an "off-shore" jurisdiction since services rendered and charged to non Swiss or non Liechtenstein entities are not liable to VAT. We would recommend the second Liechtenstein Trust being the shareholder of the investment "off-shore" vehicle. The jurisdiction could be the British Virgin Islands (BVI), Panama, Gibraltar. The investment "off-shore" vehicle would be the contracting partner to the banks. The administration would be looked after by New Haven in Liechtenstein. The second advantage of interposing the "off-shore" vehicle would lead to another "safely-break" in a tax and anonymity aspect.

There is basically no objection to have Landmark, provided it is an off-shore company, becoming the "Cash Box" (account holder) with both banks either in its existing name or re-named. The share in either Landmark or Landmark in its renamed form could be transferred to the third Liechtenstein Trust. Either a new "offshore-entity" or the existing Landmark could become the account holder/contracting partner to UBS and Neue Bank.

Finally, I should stress that a Swiss Holding Company would not be the appropriate jurisdiction in particular keeping in mind the 35% Withholding Tax Switzerland applies.

Please let me have your thoughts.

Kind regards

Mario

STRUCTURE DISCUSSION

Subject: STRUCTURE DISCUSSION

Date: Sat, 08 Dec 2001 15:55:22 -0800

From: Igor Olenicoff <olenicoff@olenproperties.com>

To: MARIO STAGOL <mstagsol@newhaven.101.jp>

CC: Bradley Birkenfeld <birkenfeld@attglobal.net>

Andrei Olenicoff <olenicoff@olenproperties.com>

MARIO, BASED ON OUR LAST CONVERSATION, YOU WERE GOING TO LOOK INTO A STRUCTURE WHICH MAY AVOID THE VAT TAX, BUT STILL HAVE AN ON-SHORE PRESENCE, SUCH AS IN DENMARK OR _____?

BARING THE ABILITY TO DO IT ON SHORE, WHICH IS OUR PREFERENCE SIMPLY FROM AN APPEARANCE STANDPOINT, WE ARE RESOLVED TO DOING OFFSHORE THROUGH A JURISDICTION OF YOUR RECOMMENDATION. I BELIEVE THE MOST PREFERRED OF THE ONES WE DISCUSSED IS GIBRALTAR.

THE STRUCTURE WOULD BE TO HAVE YOU FORM LANDMARK SETTLEMENT, WHICH WOULD THEN FORM THE DANISH OR GIBRALTAR ENTITY AND OUR PREFERENCE OF A NAME AT THIS TIME, ASSUMING IT IS AVAILABLE WOULD BE NEW GUARDIAN BANKCORP, LTD. . . THIS NEW ENTITY WOULD THEN OPEN THE INVESTMENT MANAGEMENT ACCOUNTS AT USBS WITH BRAD AND WE WILL PUT YOU IN TOUCH WITH THE LONDON INVESTMENT BANK WHERE ANOTHER ACCOUNT WOULD BE OPENED.

LANDMARK SETTLEMENT WOULD REMAIN THE HOLDING TRUST COMPANY FOR THESE INVESTMENTS AND THE ACCOUNTS AT THE INVESTMENT BANKS WOULD BE OPENED REQUIRING TWO SIGNATURES TO MAKE ANY WITHDRAWALS FROM THE ACCOUNTS. YOURS AS TRUSTEE AND ONE OF US AS THE MANAGERS OF THE ACCOUNTS. YOU WOULD ISSUE AUTHORIZATION FROM THE TRUST TO THE INVESTMENT BANKS TO TAKE MANAGEMENT DIRECTION FROM ANDREI, JEANNETE OR MYSELF RELATIVE TO THE INVESTMENTS.

IF THE VAT TAX CAN NOT BE AVOIDED FOR THE INVESTMENT ACCOUNT MANAGEMENT FEE THROUGH A DANISH CORPORATION, THEN PERHAPS WE CAN NEXT FORM A DANISH OR SWISS ENTITY TO BE THE PARENT COMPANY AND HOLDER OF THE REAL ESTATE COMPANY STOCK. IN SHORT, IT IS THE PREFERENCE OF THE CURRENT HOLDER OF THE STOCK, A BANAMIAN CORPORATION TO MOVE THE OWNERSHIP TO AN ONSHORE ENTITY, BUT ONE WHICH PROVIDED COMPLETE ANONYMITY AS TO THE BENEFICIAL OWNERS. I AM THINKING THAT A SWISS ENTITY MAY BE THE BEST VEHICLE TO DO THIS WITH, AND IF YOU AGREE THEN WE WOULD NEED TO ESTABLISH A SWISS ATTORNEY CONTACT WHO WOULD AGREE TO SERVE AS THE DIRECTORS AND OFFICERS OF THE SWISS ENTITY WITH THE STOCK BEING ISSUED TO LANDMARK SETTLEMENT.

I WILL BE IN FLORIDA NEXT WEEK, HOWEVER ANDREI WILL BE AT OUR OFFICES IN CALIFORNIA AND YOU CAN CALL HIM OR SIMPLY EMAIL BOTH OF US --WHICH EVER IS EASIER FOR YOU.

THANK YOU FOR YOUR ASSISTANCE

Subject: Structure**Date: Fri, 08 Jan 1994 20:52:22 +0200****From: Mario Staggj <mstaggj@newhaven.UJ>****To: <iolelcoff@oleseproperties.com>, Igor Olenicoff <iolelcoff@oleseproperties.com>**

Dear Igor

Thank you for your email of December 13 which is indeed very clear. We agree to proceed accordingly.

First, we will establish the Liechtenstein Trust to be known as "The Landmark Settlement". All the information we need in order to proceed are available at our offices. New Haven will be the trustee.

Sheltons, our correspondent in Denmark, agreed to incorporate "New Guardian Bancorp" wholly owned by the Liechtenstein "The Landmark Settlement" and in order for them to proceed they require to have the share capital (Danish Krona 125'000) approx USD 20'000 in their client accounts. I will provide you with the account details tomorrow. Once the New Guardian is incorporated this money will be for free disposal of the company. With regard to Sheltons I should mention that this firm is rated within the top 3 leading tax firms in Denmark. For your information their web-site is: www.sheltons-tax.com. The managing director Mr. Ned Shelton who is personally known to New Haven and its directors for many years is considered to be "The Leading Tax Advisor" in Denmark. There is no need to mention that I will negotiate a discounted fee.

I do not see any problem for New Guardian to enter into a Management Agreement with Andrej and yourself and suggest that such an agreement will be drafted by Sheltons once the company is duly incorporated.

With regard to the second Danish company I will ask Sheltons to clear the proposed name "Landmark Realty Holding Co. and if this name is available I am sure it can be translated into Danish and incorporated in its Danish translation. If the name should not be available we use a name which includes "Real Estate Investment" or "Real Estate Holding" not making reference to any of the entity names in the structure. Again, in order for Sheltons to proceed they will need a further \$ 20'000 being the share capital for the second Danish company.

I basically agree for the second Danish company to be owned by the Landmark Settlement (latter also owning the first Danish company New Guardian Bancorp, but should stress, in order to have "things" separated (we are also using a name for the second Danish company which will not lead to the others) to establish a second Liechtenstein Trust. Please let me have your thoughts.

I will be in touch with you on Monday December 17.

Kind regards,

Mario

[Click here and type return address and phone and fax numbers]

**THE OLEN
COMPANIES**

Fax



To: Bradley Birkenfeld	From: Igor M. Olenicoff
Fax: 41-22-375-68-48	Pages: 6
Phone:	Date: 12/27/01
Re: Structure	CC:

☐ Urgent
 ☐ For Review
 ☐ Please Comment
 ☐ Please Reply
 ☐ Please Recycle

Pursuant to our discussion, enclosed is a signed copy of an e-mail from myself to Mario wherein he requests the transfer of \$40,000 (Forty Thousand Dollars), as initial capital, for the formation of the two entities referenced. Please accept this letter as our authorization for you to make such a transfer.

Igor M. Olenicoff
Igor M. Olenicoff

Andrei Olenicoff
Andrei Olenicoff

*Is it a check?
UBS*

[Redacted signature block]

Permanent Subcommittee on Investigations
EXHIBIT #102

SW 067081

with Barney Transfer

Subject: Smith Barney Transfer
 Date: Tue, 23 Apr 2002 11:35:37 +0200
 From: Mario Staggi <mstaggi@newhaven.jp>
 To: Igor Olenicoff <olenicoff@olenicoff.com>

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Dear Igor,

We are looking forward to seeing you and Andrej in the near future. The account is kept in the name of New Guardian Bancorp Aps and you may remember that you and Andrej have signed the signature cards at the occasion of our first visit at Neus Bank.

Smith Barney can now be instructed to wire the securities according to the co-ordinates set out below:

Neus Bank's correspondent:	Brown Brothers Harriman & Co. New York, DTC 010
For further Credit to:	Interzettle Zurich acc.-no: [REDACTED]
In favour of:	Neus Bank AG LI-9496 Vaduz acc.-no: [REDACTED]

For secrecy purpose, there is no need to mention "New Guardian Bancorp. Aps", but, if you prefer to do so the name of the beneficiary can be mentioned.

Please do not hesitate to contact me if anything needs to be discussed.

Regards,
 Mario

10/21/2002 4:41 AM

Permanent Subcommittee on Investigations
 EXHIBIT #103

SW 065120

Re: Smith Barney Transfer

— = Redacted by the Permanent
Subcommittee on Investigations

Subject: Re: Smith Barney Transfer
Date: Thu, 25 Apr 2002 16:13:34 -0700
From: Igor Olenicoff <olenicoff@olenproperties.com>
Organization: Olen Properties
To: Mario Staggl <mstaggl@newhaven.il>

MARIO, WE GAVE THEM INSTRUCTIONS TODAY TO SHIP THE SECURITIES AS NOTED BELOW
 SO NEUE SHOULD BE RECEIVING IT IN A MATTER OF A FEW DAYS. WHEN THEY DO,
 PLEASE SO ADVISE.

AFTER THEY HAVE REVIEWED THE PORTFOLIO RECEIVED, AND HAVE ANY SUGGESTIONS
 FOR IMPROVING THE PERFORMANCE OF THE PORTFOLIO, WE WOULD WELCOME THEIR INPUT.

PLEASE THANK THEM AND WE LOOK FORWARD TO MEETING WITH THEM AGAIN.

BEST PERSONAL REGARDS,

IGOR

Mario Staggl wrote:

> Dear Igor,
 > We are looking forward to seeing you and Andrej in the near future. The
 > account is kept in the name of New Guardian Bancorp Aps and you may remember
 > that you and Andrej have signed the signature cards at the occasion of our
 > first visit at Neue Bank.
 >
 > Smith Barney can now be instructed to wire the securities according to the
 > co-ordinates set out below:
 > Neue Bank's correspondent: *Brom Brothers Harriman & Co.*
 > *New York, DTC 010*
 >
 > For further Credit to: *Intersectle Zurich*
 > *acc.-no: [REDACTED]*
 >
 > In favour of: *Neue Bank AG*
 > *LI-9490 Vaduz*
 > *acc.-no: [REDACTED]*
 >
 > For secrecy purpose, there is no need to mention "New Guardian Bancorp.
 > Aps", but, if you prefer to do so the name of the beneficiary can be
 > mentioned.
 >
 > Please do not hesitate to contact me if anything needs to be discussed.
 >
 > Regards,
 > Mario

IGOR OLENICOFF <olenicoff@olenproperties.com>
 PRESIDENT
 OLEN PROPERTIES

SW 067331

Tax Haven Bank Secrecy Tricks

- **Code Names for Clients**
- **Pay Phones, not Business Phones**
- **Foreign Area Codes**
- **Undeclared Accounts**
- **Encrypted Computers**
- **Transfer Companies to Cover Tracks**
- **Foreign Shell Companies**
- **Fake Charitable Trusts**
- **Straw Man Settlers**
- **Captive Trustees**
- **Anonymous Wire Transfers**
- **Disguised Business Trips**
- **Counter-Surveillance Training**
- **Foreign Credit Cards**
- **Hold Mail**
- **Shred Files**

Liechtenstein Secrecy Laws

Article 14 of the Banking Act: "The members of the organs of banks and their employees as well as other persons acting on behalf of such banks shall be obliged to maintain the secrecy of facts that they have been entrusted to or have been made available to them pursuant to their business relationships with clients. The obligation to maintain secrecy shall not be limited in time."

Article 11 of the Trustee Act: "Trustees are obliged to secrecy on the matters entrusted to them and on the facts which they have learned in the course of their professional capacity and whose confidentiality is in the best interest of their client. They shall have the right to such secrecy subject to the applicable rules of procedure in court proceedings and other proceedings before Government authorities."

Article 10 – Data Confidentiality: "Whoever processes data or has data processed must keep data from applications entrusted to him or made accessible to him based on his professional activities secret, notwithstanding other legal confidentiality obligations, unless lawful grounds exist for the transmission of the data entrusted or made accessible to him."

Processing of Personal Data - § 1173a, Art. 28a ABGB (General Civil Code): "The employer may not process data relating to the employee unless such data concern his or her qualification for the employment or are indispensable for the performance of the employment contract. In addition, the provisions of the Data Protection Act shall apply."

Article 8 – Transborder Data Flows : "No personal data may be transferred abroad if the personal privacy of the persons affected could be seriously endangered, in particular where there is a failure to provide protection equivalent to that provided under Liechtenstein law. This shall not apply to states which are party to the EEA Agreement.; whoever wishes to transmit data abroad must notify the Data Protection Commissioner beforehand in cases where: a) there is no legal obligation to disclose the data and b) the persons affected have no knowledge of the transmission."

Prohibited Acts of a Foreign State - Art. 2 of the Liechtenstein State Security Law: "Prohibited Acts for a Foreign State: Whoever, without being authorized, performs acts for a foreign state on Liechtenstein territory that are reserved to an authority or an official, whoever aids and abets such acts, shall be punished by the Liechtenstein court (Landgericht) with imprisonment up to three years. "

Prohibited Acts for a Foreign State – Art. 271 of the Swiss Penal Code: "Whoever, without being authorized, performs acts for a foreign state on Swiss territory that are reserved to an authority or an official, whoever performs such acts for a foreign party or another foreign organization, whoever aids and abets such acts, shall be punished with imprisonment up to three years or a fine, in serious cases with imprisonment of no less than one year."

Economic Intelligence Service (Art. 273 SPC): "Whoever seeks out a manufacturing or business secret in order to make it accessible to a foreign official agency, a foreign organization, a private enterprise, or their agents, whoever makes a manufacturing or business secret accessible to a foreign official agency, a foreign organization, a private enterprise, or their agents, shall be punished with imprisonment up to three years or a fine, in serious cases with imprisonment of no less than one year. Imprisonment and fine can be combined."

Prepared by the U.S. Senate Permanent Subcommittee on Investigations, July 2008.

Permanent Subcommittee on Investigations EXHIBIT #105

BAKER & MCKENZIE

Baker & McKenzie LLP
Mellon Financial Center
1111 Brickell Avenue, Suite 1700
Miami, Florida 33131, USA

Tel: +1 305 789 8900
Fax: +1 305 789 8953
www.bakernet.com

Asia
Pacific
Bangkok
Beijing
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Kuala Lumpur
Manila
Melbourne
Shanghai
Singapore
Sydney
Taipei
Tokyo

Europe &
Middle East
Amman
Amsterdam
Athens
Baghdad
Baku
Barcelona
Berlin
Bologna
Brussels
Budapest
Cairo
Düsseldorf
Frankfurt / Main
Geneva

Kyiv
London
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich

North & South
America
Bogota
Brasilia
Buenos Aires
Caracas
Chicago
Columbus
Dallas
Guadalajara
Houston
Jamaica
Mexico City
Miami
Montreal
New York
Palo Alto
Porto Alegre
Rio de Janeiro
San Diego
San Francisco
Santiago
Sao Paulo
Tijuana
Toronto
Valencia
Washington, DC

July 15, 2008

Senator Carl Levin
Chairman
U.S. Senate Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, DC 20510-6262

and

Senator Norm Coleman
Ranking Minority Member
U.S. Senate Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, DC 20510-6262

RE: "Marsh Accounts:" Statement Clarification

Dear Senator Levin and Senator Coleman:

Having been provided with an advance copy of your Staff Report on "Tax Haven Banks and U.S. Tax Compliance," it has come to our attention that the Staff Attorneys have interpreted a sentence that we wrote in a "Reasonable Cause" letter submitted to the IRS on behalf of Kerry Marsh and Shannon Marsh (regarding a late filing of a Forms 3520 for 2006) in a way that was not intended by us, thus leading to an inaccurate inference and understanding of the taxpayers' position [noted at page 42]. As the authors of the "Reasonable Cause" letter that apparently has caused this misunderstanding of our clients' position, we would like to clarify and correct the record.

It is not our clients' position that they only learned of being among the beneficiaries of certain Liechtenstein Foundations following their father's death in June 2006. Instead, our "Reasonable Cause" letter was attempting to explain that the clients learned after their father's death (from us) that one of these Foundations constituted a so-called "simple trust" whose income needed to be reported by them for US tax purposes on Forms 3520, even though they had not received any distributions from that Foundation in 2006. We did not intend to suggest that our clients were not aware of the fact that they were beneficiaries of these Foundations prior to their father's death, and any inference to that effect was not intended. We apologize for any confusion that our "Reasonable Cause" letter may have caused on this issue.

Please also note that we believe that there are other factual errors in the section of the Staff Report regarding the "Marsh Accounts" (e.g., the IRS audit of the Marsh family started in the Summer of 2006, not 2007 as stated at page 42); however, this letter is not intended to be

Robert F. Hudson, Jr.
Tel: +1 305 789 8906
robert.f.hudson@bakernet.com

Via Email
mary_robertson@hagac.senate.gov

Permanent Subcommittee on Investigations

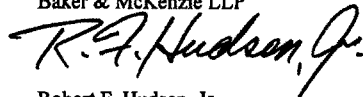
EXHIBIT #106

BAKER & MCKENZIE

a comprehensive response to all such potential factual errors, but rather simply a clarification of what we thought was a particularly unfortunate inference from our apparently less than clear explanation of our taxpayers' reason for why the Forms 3520 for 2006 were being filed late.

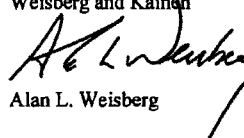
Respectfully submitted,

Baker & McKenzie LLP



Robert F. Hudson, Jr.

Weisberg and Kainen



Alan L. Weisberg



The Honourable Senator Carl Levin, Chairman

The Honourable Senator Norm Coleman,
Ranking Member

Permanent Subcommittee on Investigations
Homeland Security and Government Affairs
United States Senate
Room 199 Russell Senate Office Building
Washington, D.C. 20510-6262
United States of America

Our reference:

Contact officer: Michael O'Neill
Telephone: +61 2 9374 2538
Facsimile: +61 2 9374 2736

Issue date: 15 July 2008

Via Email: mary_robertson@hsgac.senate.gov

Dear Senators Levin and Coleman

TAX HAVEN ENQUIRY

Thank you for your letter of 6 July 2008, including your invitation to provide a submission to your enquiry and to attend and give testimony.

Unfortunately, a prior commitment in Australia prevents me from attending at this time, however the Australian Taxation Office is very supportive of the good work of your Subcommittee, and we offer a short written submission (attached hereto) regarding our approaches in dealing with abusive tax haven arrangements.

Also attached for your information are our publications:

- Compliance Program ([Compliance Program 2007-08](#));
- Aggressive Tax Planning ([Don't Take the Bait](#));
- Tax Havens and Tax Administration ([Tax Haven Booklet](#));
- Taxpayer Alert - Liechtenstein ([TA 2008/2](#));
- Taxpayer Alert - Vanuatu ([TA 2008/8](#)).

Please contact me on +61 2 6216 1018 or my colleague, Mr Michael O'Neill, acting Deputy Commissioner, on the above numbers if we may further assist.

Yours sincerely

Michael D'Ascenzo
Commissioner of Taxation

PO BOX 900 CIVIC SQUARE ACT 2608 AUSTRALIA
ADDRESS

+61 (0)2 6216 1111
TELEPHONE

+61 (0)2 6216 2743
FACSIMILE

[Permanent Subcommittee on Investigations](#)

EXHIBIT #107

Introduction

The Australian Taxation Office (ATO) believes that persistent and sustained compliance action is required to contain abusive use of tax havens. We believe this is important not only to contain revenue leakage but also to sustain the community's confidence in the fairness of the system and the effectiveness of tax administration.

While we are not aware of an effective way to measure the "compliance gap" in respect of the abusive use of tax havens, we note that the flow of funds through tax havens is increasing. For example, we are aware of OECD estimates that between \$US 5-7 trillion are held in tax havens or banking secrecy jurisdictions.

In addition, the Australian Transaction Reports and Analysis Centre (AUSTRAC), Australia's Financial Intelligence Unit (FIU), has sophisticated capabilities to track international fund flows. In the fiscal year ending 30 June 2007, about \$16 billion was sent directly to tax havens from Australia, and approximately \$18 billion was sent directly from tax havens to Australia.

These figures show a material increase in fund flows over the 2006 fiscal year. Some of this increase is attributable to better capability i.e. our systems are providing better measurement of the flow of funds.

We also know from our risk assessment activities that a significant part of the flow of funds to and from tax havens is not abusive. These amounts may relate to tourism or travel, or legitimate business in goods or services. Another aspect of these funds relates to havens as "hubs" for certain financial transactions like insurance, private equity or hedge funding. These financial transactions may not give rise to tax risk other than in terms of tax competition.

Putting aside the use of havens for legitimate tax benefits and other purposes, we believe that Australia needs to be vigilant in relation to tax haven risk. This is because modern technologies make it easier to use tax havens, and the abusive use of tax havens adversely affects trust and confidence in our tax system. Our Compliance Program,¹ that publishes our compliance strategies for business and the community, has made cross border dealings a top priority over the past 6 years and highlights our strong focus on dealing with abusive use of tax havens.

What has changed during this period is that international dealings with tax havens are beginning to spread beyond large corporates and high wealth individuals to all parts of the community. We are seeing examples of the "migration" of tax haven use to small businesses and individuals. We believe this is partly driven by globalisation, ease of travel, advances in communications (including the availability of International Business Companies over the internet), and relatively low establishment costs. However there are also risks associated with this activity.

The ATO has increased its efforts to educate the community on the dangers of abusive use of tax havens and strengthened its ability to deter, detect, disrupt tax haven schemes typically linked to tax avoidance or evasion, and in some cases concerned with serious criminality like money laundering. These risks are outlined in our Tax Haven Booklet².

An essential ingredient has been strengthening our ability to work with other Australian agencies and international cooperation with other revenue authorities, such as the Joint International Tax Shelter Information Centre (JITSIC)³. For

¹ http://ato.gov.au/content/downloads/cor00103964_Compliance.pdf

² Tax Haven Booklet

³ JITSIC member countries include Australia, Canada, Japan, United Kingdom and the United States of America.

example, one strategy in Australia (Project Wickenby)⁴ links various federal agencies (regulators, law enforcement, intelligence and prosecutors) in a taskforce under the leadership of the ATO.

We have made improvements in all stages of our compliance strategy associated with tax havens:

- Detecting the risk
- Educating and communicating
- Encouraging voluntary disclosure and correction
- Dealing firmly with the worst behaviours including promoters of abusive tax havens
- Recommending law reform, and
- Strengthening international cooperation.

Detecting the risk

A range of structures or typologies have been identified as abusive tax haven schemes. These range from the use of false invoices to inflate deductions to the establishment of legal entities to hold securities or other assets. The common element in all of these typologies is the secrecy or lack of transparency by which beneficial ownership can be hidden.

We make use of strategic intelligence analysis to understand the tax haven landscape, identify key leverage points and refine our strategies to combat the abusive use of tax havens.

These include:

- taxpayer profiles to draw trends across a broader population and understand behavioural drivers such as hiding assets from creditors (including family members after divorce), disguising "black funds" or concealing ownership to manipulate markets e.g. securities trading
- scheme typologies to expedite evidence gathering, achieve consistency in the application of the law and result in more targeted litigation and debt recovery
- mapping promoter and intermediary networks to understand the risks (taxpayer numbers, types of schemes, fund flows, whether historical or real time, commissions etc)
- engage with tax havens and have dialogue about concerns arising from aggregated case data and seek options for reform.

Together with partner agencies, we have sought to profile higher risk regions for Australian tax (and other regulatory) systems e.g. Vanuatu.

Educating and communicating

We have strengthened our communications with the community and the tax profession. The messages are simple: "don't get mixed up in dodgy tax haven arrangements and, if you have, come clean!" We use every vehicle for relaying the

⁴) <http://www.treasurer.gov.au/DisplayDocs.aspx?pageID=&doc=pressreleases/2006/004.htm&min=phc>

message including taxpayer alerts to warn people what arrangements to avoid and booklets that gives tips on what to watch out for and what to do if you think you are at risk⁵.

Encouraging voluntary disclosure and correction

We emphasise the benefits of coming clean, including peace of mind and low or no penalties for those who voluntarily tell us about their offshore arrangements. Our marketing efforts are supported by letters and calls to those we have detected as having tax haven transactions, prompting them if necessary to lodge a voluntary disclosure.

In some cases reduced risk of prosecution is also possible. Importantly this requires cooperation and full disclosure of the arrangements and the promoters involved.

Dealing firmly with the worst behaviours including promoters of abusive tax havens

Our top priority is to deal very firmly with the worst abuses and in particular promoters and their onshore associates who encourage use of abusive tax haven schemes. For this purpose, promoters are those who design, market or implement abusive haven schemes, and include some banks and financiers, accountants and lawyers, agents, trustees and brokers. Often based in tax havens or banking secrecy jurisdictions, promoters specialise in hiding assets or income so as to divide legal and beneficial ownership.

In these cases we will use the full weight of the law, including referral for prosecution and action to confiscate proceeds of crime to send a strong deterrent message. Our aim is to make Australia a “no go zone”. To support this it is essential we have integration and cooperation among partner agencies. In 2006 this was significantly strengthened with the funding of the multi-agency taskforce - Project Wickenby. The Australian Government supported the Wickenby taskforce by providing special funding and amending taxation laws to allow the sharing of tax information. Integration is also supported at the agency level by the secondment to, and rotation of, officers between agencies to share experiences, expertise and skilling.

The taskforce is focused on the most abusive cases and on those who promote these activities. Currently over 370 civil audits and 20 criminal investigations are underway. To date, Wickenby has raised \$157 million in liabilities, collected over \$70 million and restrained about \$72 million from the proceeds of criminal activity. Criminal prosecution activity is underway. Several people have been charged with taxation offences, including one alleged promoter and one conviction resulting in a custodial sentence.

Recommending Law Reform

Changes have been made to our tax secrecy disclosure provisions to allow partner agencies involved in Project Wickenby to be able to “talk together” rather than deal with each other bilaterally. New anti-money laundering laws and our new promoter penalty regime also provide significant new tools to deter and deal with this behaviour.

⁵ Don't Take the Bait

Strengthening international cooperation

On an international level, the ATO participates in the processes of the OECD encouraging transparency and effective exchange of information. We are also strengthening our international framework via the negotiation of Tax Information Exchange Agreements.

More importantly, we are working with tax administrations through our double tax agreements with unprecedented levels of cooperation. This includes sharing data pursuant to tax treaties and the conduct of simultaneous examinations across jurisdictions and sharing intelligence and strategy so that common issues can be developed and actioned. These issues include tax haven regions, promoters and intermediaries, and some particular higher risk taxpayers.

An important development was the establishment of JITSIC in 2004 to supplement the ongoing work of tax administrations in identifying and curbing abusive tax avoidance transactions, arrangements and schemes. The ATO is working with our JITSIC partners in Washington DC and London to enhance bilateral and multilateral efforts to attack cross border schemes, including those promoted by firms and individuals who operate without regard to national borders.

In particular, the ATO enjoys excellent working relations with the Internal Revenue Service (IRS). The interaction between our officers may include weekly teleconferences, opportunities to jointly workshop matters, sharing intelligence and training tools, enhanced evidence gathering to support civil or criminal investigations. The strength of these personal and professional relationships allows us to make joint representations to tax havens in order to explore reform options. For example, the ATO is working with other tax agencies including Her Majesty's Revenue and Customs (HMRC) and IRS in respect of Liechtenstein in making joint representations for greater transparency.

We now address the 7 focus questions.

1. The scope and impact of tax evasion through the use of tax haven entities and accounts and its impact on the international community

The OECD estimates globally, \$US5-7 trillion is held off-shore⁶.

Abusive use of tax havens is a problem for many countries. Our analysis of Australia's situation suggests that the risk of abusive transactions with tax havens may have increased, particularly among individuals and small businesses. However the size of the issue in Australia is small relative to some other countries.

While the flow of Australian dollars to and from tax havens is significant, it needs to be seen in the context that not all tax haven transactions are abusive under Australian tax law.

Intelligence also suggests that increases in flows to particular regions can be based on economic and commercial factors. An example of this is the concentration of hedge funds in the Cayman Islands.

Intelligence also indicates that fund flows to countries other than tax havens may also represent a tax risk where that country is being used as a conduit to channel funds to a tax haven.

Bank secrecy is often a feature of tax havens. However, some countries that are not low-tax jurisdictions have bank secrecy arrangements that may be exploited to conceal income and evade tax because they do not have effective tax information exchange with other countries.

While revenue is at risk because of abusive tax haven schemes, those who participate in these schemes also run risks. Some participants lack financial awareness and – through poor or unethical advice, lack of knowledge or wishful thinking – may believe that an abusive arrangement is legitimate. Some funds in tax havens have disappeared or been lost to the investor by the misdeeds of the promoter.

Offshore evasion is a concern internationally. However, we are not aware of an effective way to estimate precisely the amount of tax at risk. Factors that mitigate this risk in Australia include:

- geographical factors
- the existence of AUSTRAC
- our own vigilance in this area
- the lack of an inheritance tax or gift duty
- the relative size of the flow of funds from Australia to tax havens (compared to some other countries)
- the law-abiding ethics of most Australians
- the message we are sending from Project Wickenby and other activities.

⁶ Testimony of Mr Jeffrey Owens, Director of the Centre for tax Policy and Administration at the OECD before the USA's Senate Finance Committee on Off-shore tax Evasion.

Arrangements we are concerned about

Concealment is our main concern – in particular, those schemes and arrangements that use secrecy laws to conceal assets and income that are subject to tax in Australia.

In the simplest case of concealment, a taxpayer may seek to conceal assets and income by setting up a bank account in a tax haven. As the tax haven does not have an agreement to exchange information with Australia, or the country has a strict bank secrecy regime, we cannot obtain detailed information about the offshore bank account directly.

In more complex cases, taxpayers may use an 'international promoter' to set up and manage offshore trusts or companies that seek to conceal the taxpayer's beneficial ownership of assets. The most common form of tax haven structure used to conceal ownership is the 'international business company'.

In these cases, the international promoter may interpose trusts or companies as the shareholders, using their own companies as trustees or nominees. The directors of the offshore company may also be companies associated with the international promoter. Arrangements are put in place to ensure that the Australian taxpayer is still able to influence or control the offshore trust or company eg letter of wishes.

These complex arrangements aim to conceal the true ownership of assets and result in the failure to declare any offshore income or gains in relevant tax returns. Australians who use these arrangements leave other Australians to bear a greater tax burden. These arrangements erode community confidence in Australia's tax system.

Intelligence indicates that a few Australians are using more complex offshore structures which involve the creation of layers of entities offshore and the opening of bank accounts under the names of these entities in jurisdictions not recognised as tax havens.

An example of the typologies is the intelligence obtained as a result of our compliance activities regarding Liechtenstein entities. A structure peculiar to Liechtenstein law, the "Foundation" has been identified as a vehicle that is used to conceal the ownership of assets and/ or income.

2. Role of financial institutions, trust and management companies and professional firms in the structuring and servicing of offshore entities and accounts for evasion of taxes

The ATO is currently reviewing the taxation affairs of Australian taxpayers who appear to have concealed income in offshore entities located in banking secrecy jurisdictions and tax havens.

International promoters provide specialised accounting, banking and professional trustee services. The services commonly include tax planning, administration of offshore assets and advising on the establishment of trust and corporate structures.

In many cases the international promoter provides its services to Australian residents and associated entities through intermediaries, commonly Australian attorneys and accountants.

Marketing material indicates that the essential service provided by the international promoter is tax and financial planning, which includes administering companies and trusts domiciled in tax haven or banking secrecy countries. Our intelligence shows that a component of the services provided by the international promoter is to establish entities or structures which are not able to be connected to the ultimate or beneficial owner. These arrangements rely on local bank secrecy and confidentiality laws in the jurisdictions where the entities are established.

The international promoter may act on verbal instructions from a client to settle a trust, which in turn owns shares in a company incorporated in a low tax jurisdiction, for example, the British Virgin Islands.

In-house entities associated with the international promoter are used as office bearers when incorporating entities for particular clients. The use of these entities makes it difficult to identify any natural person who controls, is associated with or receives a benefit from an entity established by the promoter.

The promoter may also arrange a bank account for the company it has incorporated for its client in, for example, London, Jersey or Switzerland and provide signatories for the account.

Other techniques used by the promoters include:

- the provision of foreign cell phones to prevent the tracing of calls in Australia
- meetings held in person, either in Australia or overseas
- the use of "e-faxes" which requires the client to have a subscription to access the e-faxes
- the use of London post office box addresses and London bank accounts for entities created, to give the appearance of UK domicile for those entities, when they are in reality domiciled in a low tax country
- the use of encryption on computer records
- the identification of clients by reference to initials or cryptic identifiers
- the use of couriers to deliver documents.

3. How privacy and secrecy laws in tax havens facilitate tax evasion and impede tax evasion investigations and enforcement efforts

Banking secrecy poses a significant risk to the public revenue.

Essentially, the main impediment to the ATO posed by tax haven secrecy laws arises from the difficulty of obtaining basic information that may be indicative of fraud and evasion. This is a "Catch 22" situation – without knowing that a person has funds in a tax haven, it can be difficult to identify or prove fraud or evasion. Without having identified fraud or evasion, access to relevant information is precluded by the secrecy laws of the tax havens.

Tax havens which operate on the basis of privacy or secrecy laws provide the opportunity for trust and asset management institutions, such as LGT, to establish tailored, confidential structures for taxpayers looking to take advantage of these laws to conceal their income from their tax administrations.

Experience has shown that many taxpayers who use these tailored financial structures in tax havens are engaging in tax evasion. The hallmarks of these structures are:

- Deception about ultimate beneficial ownership
- Structures may be used to hide assets and/or income offshore and/or create deductions by deception
- Secrecy surrounding access to funds and repatriation
 - funds accessed offshore or to fund lifestyle
 - back to back loans for purchase of assets
 - accounting records and bank accounts may be held offshore.

For example in the Liechtenstein context, the true beneficial owner of a foundation and its assets does not appear on the public records of the official public registry. The statutes and by-laws of an unregistered foundation are not available publicly.

The establishment of structures that use layering via multiple entities, such as nominee companies incorporated in various tax havens, makes it difficult for the ATO to gather offshore information which may reveal participation by Australian taxpayers in tax evasion. Secrecy laws in these tax havens mean that investigations into the interposed companies may not reveal the links to Australian taxpayers.

The lack of transparency inherent in these structures means that the ATO is largely reliant on the co-operation of the taxpayer (where the taxpayer is known) to proffer further information in the course of its investigations. The exercise of the ATO's information gathering powers would otherwise prove ineffective given the jurisdictional limits of these powers.

The ATO is also aware that the level of secrecy afforded to a taxpayer may be linked to their political status. In the LGT context we are aware that different provisions may be put in place for politically exposed persons to maintain their confidentiality.

Whilst the legislative framework of banking and privacy laws governs the operation of financial institutions, trusts and nominee companies, it is useful to recognise the importance of separating the powers between the financial sector, the executive and the judiciary to ensure transparency and effective operation of the regulatory system. As a general comment, tax haven jurisdictions may have closely connected administrative arms with the Government in power, in contrast to the modern and transparent approach to *separation of powers*.

Where they exist, these close connections between financial institutions, regulators, administrators and the judiciary may undermine any outwardly transparent statutory framework.

4. Other impediments to ATO arising from use of tax haven institutions, entities and accounts

The ATO has encountered difficulties in applying Australian taxation laws to non-common law entities, such as Liechtenstein foundations. These hybrid entities possess characteristics of both a common law trust and a corporation and they may not fall squarely within the anti-deferral of tax provisions.⁷

Until legislative or judicial clarification is provided on this issue, the ATO will continue to characterise these hybrid entities on a case by case basis.

The ATO also faces impediments to gathering offshore information from banking institutions. For example, where a subsidiary or branch entity of an Australian bank is operating offshore, the question arises whether we are able to access offshore banking information in these circumstances. The question also arises where a foreign bank operates in Australia and has tax haven links.

⁷ For example, Australia's Controlled Foreign Companies provisions apply where a tax haven company is controlled from Australia and the company is primarily in receipt of passive income. Different provisions apply to trusts.

5. Initiatives taken by the Australian government to combat offshore tax evasion, including the role and effectiveness of legal assistance treaties, tax information exchange agreements, and multilateral tax organizations and groups

Project Wickenby Taskforce

Project Wickenby is a multi-agency taskforce. It was formally funded in 2006 to investigate internationally promoted tax arrangements that allegedly involve tax avoidance or evasion and, in some cases, large-scale money laundering. The project has \$305 million in funding over seven years. Its focus is to take decisive action against identified promoters and their Australian associates and clients.

The agencies involved in Project Wickenby, are the ATO, law enforcement agencies and the corporate regulator. The ATO is the lead agency. This is the first time these agencies, supported by our FIU, AUSTRAC, have brought their expertise and powers together to deal with tax avoidance and evasion.

Project Wickenby has led to a number of arrests and charges.

Legislative Reform

After the establishment of the Project Wickenby taskforce and the whole of government approach to tackling its challenges, it was considered that secrecy provisions contained in the tax legislation impeded the efficient and effective operations of the taskforce, necessitating some changes.

New provisions were enacted, sections 3G and 3H of the *Taxation Administration Act*, 1953, to allow greater interaction with all arms of the taskforce and to provide a mechanism to share tax information between taskforce members.

We will also use other approaches such as our new promoter penalty regime which provides substantial increased penalties – for a body corporate, up to \$2.75 million or twice the profits from the scheme. This legislation is aimed at eliminating unscrupulous operators who promote unsustainable arrangements to the detriment of both taxpayers and ethical advisers.

In 2006 a new *Anti-Money Laundering and Counter-Terrorist Financing Act* 2006 was introduced which covers the finance sector, gambling sector, bullion dealers and some professions that provide financial services, such as lawyers and accountants. These groups will be required to monitor and report to our FIU on a wide range of services such as opening accounts, accepting deposits, issuing travellers cheques and some gambling activities.

Multi Jurisdiction Collaboration

The ATO in conjunction with its partner agencies including the IRS, HMRC, Canada Revenue Agency (CRA), and New Zealand Inland Revenue Department (NZIRD) are collaborating to develop strategies to combat the abusive use of tax havens. The ATO is also engaged with JITSIC to combat cross border tax non-compliance.

International Promoter Strategy (IPS)

The aim of this strategy is to engage tax havens about common issues with a view to reforms like enhanced transparency. Our approach is to identify off-shore promoters

who are operating in Australia, and identify their on-shore associates (intermediaries) who are marketing and selling to Australian taxpayers.

By addressing high risk promoters, intermediaries and taxpayers we gather intelligence on the activity/ mischief and collate the information to produce a greater understanding of the tax haven and related tax risk. We share our intelligence with tax treaty nations as a step towards representations seeking reform. International cooperation is critical to the success of this strategy.

Mutual Assistance Requests

Mutual assistance protocols enhance our ability to tackle tax haven schemes involving criminality. However, material provided to police and prosecutors under mutual assistance is often restricted in that it cannot be shared with the ATO. This can impede our efforts towards collaboration.

Mutual assistance requests and assistance are predicated upon Australia reasonably making out a criminal matter. However, in havens and countries with banking secrecy laws, it may be very difficult to gather information in the first place. In other words, this "Catch 22" situation inhibits Australia's ability to seek support under mutual assistance provisions.

AUSTRAC

An important source of information is AUSTRAC, which identifies Australian taxpayers who may be engaged in tax evasion using tax havens. AUSTRAC routinely monitors domestic transactions over \$10,000 as well as international fund transfers.

AUSTRAC records the details of the ordering customer, beneficiary customer, the account to which the funds are to be credited, the amount transferred and the sending and receiving institutions. We use the information in these reports to identify participants and promoters of abusive tax schemes and tax evasion, as well as taxpayers who are hiding outside the tax system. In addition, we use AUSTRAC information to:

- monitor money movements into and out of Australia
- profile individuals and other taxpayers
- identify high-risk or suspicious transactions
- identify and quantify compliance risks and develop compliance strategies, and
- select cases for further investigation.

We also have access to information from financial institutions, as well as transaction data for credit and debit cards that have been issued offshore and used in Australia.

Information gathering powers of the ATO

The ATO has compulsory information gathering powers under the *Income Tax Assessment Act, 1936* (ITAA).

Under section 263 of the ITAA the ATO can seek access without notice to places, buildings, and documents. The decision to use this power is made by a senior ATO officer.

Under section 264 of the ITAA the ATO can issue a formal notice requiring production of documents or information including the attendance at a formal interview. In these formal interviews the privilege against self incrimination is not available. However, attorney/ client privilege still applies in respect of the powers. In some cases, ambit claims of attorney/ client privilege have been used to hinder investigations.

There are penalties for non-compliance with these provisions.

Under section 264A of the ITAA the ATO can issue an "offshore information request" There is an evidentiary sanction for non-compliance with this provision.

Encouraging Voluntary Compliance

Our Compliance Program that publishes our compliance strategies right across the community has dealing with abusive use of tax havens as one of its top priorities. Through Project Wickenby and a broader offshore compliance initiative, we are increasing our audit coverage including our coverage of high wealth individuals. We are also sending several thousand letters asking taxpayers to review their international issues.

The other element of our compliance strategy relates to enhanced communications with the community and the tax professions. Our tax haven concerns have been relayed via publications, in speeches to business and professional forums, and via the media. The messages have been simple – don't get mixed up in this and if you do come clean!

The benefits of coming clean have been articulated as reduced penalties and interest, less audit stress and inconvenience and in some cases reduced risk of prosecution. The Australian prosecutor, the Commonwealth Director of Public Prosecutions, has stated publicly that he will, subject to certain conditions, look favourably on voluntary haven disclosures, thus reducing the prosecution risk.

Penalty concessions have been provided under our Offshore Voluntary Disclosure Initiative (OVDI). Under this initiative, taxpayers who volunteer their offshore arrangements may receive low or no penalties. To date 733 people have made disclosures involving over \$31 million in income.

Intelligence and feedback from the tax profession has been favourable about our efforts to encourage voluntary disclosures. Some firms are establishing particular expertise in unwinding haven structures and settling up with the ATO.

Analysis of data trends and community perception testing confirm that our tax haven strategies are having a positive impact on compliance. Data analysis suggests that those people subject to review under Project Wickenby have ongoing improved compliance up to 57% higher than the "control" population. Community perception surveys also suggest broad support for ATO strategies in dealing with haven participants firmly and fairly.

Education and Communication

Taxpayer Alerts

The ATO issues "taxpayer alerts" to help people avoid becoming entangled in the abusive use of tax havens. The ATO issues alerts on our website about emerging schemes we are concerned about and risky arrangements.

The ATO issued a specific taxpayer alert (TA 2008/2)⁸ on 13 March 2008 to address the risks identified in relation to the abusive use of Liechtenstein foundations and/or bank accounts. We also issued a taxpayer alert (TA 2008/08)⁹ on 7 May 2008 warning against using tax evasion arrangements in Vanuatu.

Publications

To assist taxpayers in their understanding of tax havens and their Australian tax obligations, in October 2007 the ATO published a revised version of its original 2004 publication *Tax havens and tax administrations*. This publication illustrates the ATO's approach to dealing with tax avoidance and evasion where tax havens are used, including the information sources that are available, such as AUSTRAC.

Taxation Information Exchange Agreement (TIEA)

In March 2002, the OECD's global forum on taxation developed a model agreement for information exchange on tax matters. Australia has begun a program to negotiate TIEAs with a number of countries using the model agreement. We concluded agreements with Bermuda in November 2005, Antigua and Barbuda in January 2007, and the Netherlands Antilles in March 2007. We are negotiating agreements with another seven countries. In addition, the Isle of Man has agreed to sign an agreement with Australia. Whilst we are pleased that TIEA negotiations progress, their broader use and effectiveness is yet to be determined.

⁸ TA 2008/2

⁹ TA 2008/8

6. The scope and impact of the LGT tax investigation and any lessons learned

Tax Office Strategy

The ATO is investigating the use of Liechtenstein entities and bank accounts in collaboration with other revenue agencies. In Australia, we are conducting 20 tax audits which are likely to raise tax liabilities in excess of \$100 million. Anecdotal information suggests that relatively few Australians are involved in Liechtenstein arrangements relative to citizens from other countries.

Liechtenstein

The ATO is currently reviewing the taxation affairs of Australian taxpayers who appear to have concealed income in offshore entities located in banking secrecy jurisdictions and tax havens. We have a particular focus on taxpayers who have used the services of the LGT Group and its trustee entity, LGT Treuhand Aktiengesellschaft in Vaduz, Liechtenstein (LGT).

- LGT Treuhand A.G. operates a fiduciary or trustee service and establishes and administers legal entities such as anstalts, stiftungs (foundations) and trusts for its clients.
- LGT Bank in Liechtenstein A.G. is the banking division of the LGT Group. It has responsibility for banking services related to the investment functions of the LGT Group.

The services provided by LGT include administration and investment of offshore assets which appear to be beneficially owned by the client. LGT acts on instructions from a client to establish or create a Liechtenstein entity and subsidiary entities in other tax haven jurisdictions. In the Australian examples, the parent entity is usually a foundation or trust. In some instances, LGT appears to have been retained as an agent of the client, and has established and administered a Liechtenstein entity acting in that capacity.

The beneficial owners of the Liechtenstein entity are commonly a natural person and their family members, however their identity and control appear to be concealed on public and bank records by the interposition of a foundation board comprising LGT officials, who exercise control of that entity on behalf of the beneficial owners. Documents relating to a private family foundation are not recorded on the Liechtenstein public registry. The foundation is a separate legal entity and the board members have discretion to nominate beneficiaries, so that secrecy is maintained.

The ATO understands that in practice the foundation board members act on the wishes or instructions of the settlor or beneficial owners of the entity. In other cases the client has used a foreign attorney to give instructions to the foundation board members or has replaced the by-laws or regulations of the foundation to appoint new beneficiaries.

LGT allegedly designs client structures so that the client or beneficial owner is unable to be connected to the Liechtenstein entity, whether that entity is a foundation, trust or anstalt. The services provided by LGT rely on the banking and secrecy laws operating in Liechtenstein to prevent disclosure of the client's identity or information.

LGT will also arrange to open and operate a bank account for the foundation or trust it has established for its client. The bank accounts are typically held in the name of the entity, to avoid any connection with the instructing client, and to meet the bank's anti-money laundering obligations.

Assets administered by LGT may be invested in a diverse range of managed funds and currencies. Further, safety deposit facilities can be arranged for clients to secure

other valuable items such as art and jewellery which may also form part of the investment portfolio.

Funds owned by entities that are established by LGT for its clients are commonly invested with its own bank or funds management entities:

- LGT Bank in Liechtenstein;
- LGT Capital Invest Limited Grand Cayman; and
- LGT Portfolio Management (Cayman) Limited.

At the client's direction, funds may be invested with a third party bank, usually operated in a banking secrecy jurisdiction.

The ATO understands that for a trust or foundation to be established by LGT, substantial funds must be settled in the trust or foundation for it to be economically viable for LGT. LGT clients are wealthy investors who typically invest a small portion of their total wealth in a LGT structure and who do not need access to these funds to support their domestic lifestyle.

LGT plays an active role in servicing and administering the client's Liechtenstein entity. For example the board members of a foundation will be LGT employees. They are responsible for administration of the entity and are the approved signatories.

The use of LGT employees as board members or trustees and in-house or 'omnibus' entities as nominee directors of interposed entities is considered to be another means by which the beneficial owner is distanced from being connected to their Liechtenstein entity. This may facilitate the avoidance or evasion of tax on any offshore income derived by the Liechtenstein entity by an Australian taxpayer, who is the beneficial owner.

LGT also arranges for shell entities incorporated in other tax haven jurisdictions (such as BVI or Panama) to be set up as interposed entities of the Liechtenstein entity for its clients. The ATO considers that these special purpose vehicles are used to layer the transactions and the flow of funds, and may be designed to prevent regulators and tax administrators from determining the underlying ownership and control of the entity established by LGT and its assets and income.

LGT allegedly recommends to clients that fund transfers be conducted through interposed entities in countries outside the client's domestic jurisdiction. The Australian experience is that clients have adopted this recommendation and that few international fund transfers are remitted directly between Australian residents and Liechtenstein or Switzerland as detected by our FIU.

Communication between the ultimate beneficial owner of the foundation and LGT appears to be limited to either face to face or telephone contact. LGT instructs the ultimate beneficial owner of the foundation to avoid written correspondence with it and clients are provided with codes and passwords to maintain confidentiality and secrecy.

Intelligence held by the ATO indicates that at July 2006 there were 14 banks operating in Liechtenstein with funds under control of approximately 255 billion Swiss francs. Also operating in Liechtenstein was numerous Treuhand (Trust Service Companies). Further intelligence indicates that as at November 2006 approximately 127,000 entities were registered with the public company registry (the population of Liechtenstein is approximately 35,000).

The ATO has employed several compliance strategies – audits, issuing information production notices (both domestically and off-shore), conducting formal and informal interviews, accessing premises (with or without notice) to copy documents, and exchanging information with our Tax Treaty partners.

More importantly, the sharing of intelligence between international tax agencies has provided a unique understanding of Liechtenstein financial services and entities and will provide an opportunity to engage with Liechtenstein to achieve greater transparency and exchange of information.

The ATO welcomes news that new laws in Liechtenstein will enhance regulation and transparency in relation to some legal entities. However, we are concerned to see the detailed law and its proposed implementation in 2009 to determine whether there are practical changes to trustee/ banking practices.

Lessons learned

- Project management strategies are essential to successful audit outcomes.
- Sharing of information with other revenue agencies expedites the progress of cases.
- Our compliance activities have resulted in disclosures or settlements.

7. What initiatives and reforms would strengthen international efforts to combat tax evasion

- Information sharing amongst revenue authorities – multi jurisdictional as opposed to bilateral (treaty based)
- Where appropriate undertake simultaneous audits
- Regular and timely exchange of information under the treaty
- Compliance with OECD guidelines on exchange of information and transparency
- Defensive legislative measures to protect revenue bases from the abusive use of tax haven arrangements
- Looking at broader options for sustainable economic and social development for those tax havens which are developing economies
- Develop close working relationships and regular communications, including participating in successful workshops with other revenue agencies
- Policy makers and country leaders that drive cultural and behavioural changes resulting in the belief that tax haven abuse is inconsistent with being a good citizen.

Luperla Foundation Städtle 28 in Liquidation, 9490 Vaduz

SB: Schneider Sandra

KB: Müller Erik Dr.

Mand.Nr.:

L. Kundenbesuch: 06.07.2000

Gründungsdatum: 21.03.1997

Status: Aktiv

Verwaltungs- / Stiftungsräte

Werner Orzali, Frömsen

Zeichnungsrecht: Kollektiv

KOLL ZU ZWEIEN

Konrad Bächinger, Sevelen

Zeichnungsrecht: Kollektiv

KOLL ZU ZWEIEN

Feuerstein Nicola Dr., Triesenberg

Zeichnungsrecht: Einzel

EINZELN

Banken**Diverses**

Anlageberater:

Piske Thomas,

Aktion / Zessionen:

Keine (gemäss Mandatsvertrag),

Repräsentant:

LGT Treuhand AG, Vaduz

Auftraggeber:

Privater Auftraggeber

Redacted by the Permanent
Subcommittee on Investigations

Fix-Honorare**Pauschal-Honorare**

0.00

fällig am:

0.00

Fakturierbares Pauschalhonorar: 0.00

Zweck

Vermögensverwaltung LGT BIL

Besitznachweis, Verträge, Vollmachten

S T O M

Muttergesellschaft der Sewell Services Ltd., B.V.I. => im BVI Register
gestrichen per 1.11.98.

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

- keine Standard-Statuten und -Beistatuten

- keine Fixhonorare. Die LGT-Gruppe erhält pro Jahr 0.7% des Vermögens

- auch Gesellschaftssteuern werden von der LTV bezahlt

fällig jeweils am 20.3. eines Jahres

('Fiscal Charges' = STEMPELSTUER jedoch nicht s. AV P. Widmer v. 7.7.98)

(falls Gutachten etc. eingeholt werden müssten, würde dies jedoch

von der Stiftung bezahlt)

- Sämtliche von uns zu bezahlende Rechnungen sind an P. Widmer, LGT BIL
zur Kontrolle zu senden (siehe div. AV)

- Die Leistungen werden immer mit dem Code "N" erfasst

- Kundenkontakt hat P. Widmer => EINER DER BESTEN KUNDEN DER LGT BIL !!!!!

- J. Gelbart ist der Anwalt des Kunden. Wir haben mit ihm Kontakt

- B-tung, da STOM daran denken, dass bei Einzahlungen Widmungserklärung
zu erstellen ist. Für Ausschüttungen bzw. -zahlungen an EB STR-Beschluss
fassen. Bei häufigen Bezügen des EB einmal jährlich mit Verm. Status
pauschal genehmigen.

- Kundenbekanntschaft: P. WIDMER LGT BIL HAT PERSÖNLICHEN KUNDENKONTAKT
IDENTIFIKATION ERFOLGTE DURCH P. WIDMER - ES WIRD
UNSERSEITS KEINE ID-AKTE ERSTELLT, DA SONST DAS
KUNDENVERHÄLTNIS GESTÖRT WÜRD. (gem. Bespr. ERM mit
P. Widmer)

Pendenzen / Geschichte

- Lt. AV PID v. 3.7.97 sollten die
nichtet werden. LTV hat diesbez

Permanent Subcommittee on Investigations

EXHIBIT #108

- IL

PSI-USMSTR - 008862

Luperla Foundation Städtle 28 in Liquidation, 9490 Vaduz

SB: Schneider Sandra

KB: Müller Erik Dr.

Mand.Nr.:

L. Kundenbesuch: 06.07.2000

Gründungsdatum: 21.03.1997

Status: Aktiv

gesandt zur Abklärung. Schriftliche Begründung ist immer noch ausstehend
 => WO BEFINDEN SICH DIESE UNTERLAGEN? BEI DER LTV? Kopien sind im roten
 Akt abgelegt unter "Gründungs-Unterlagen".

- Status 97, 98, 99 u. 00 sowie Beschluss

- Existiert Konto Union Bank of Israel noch?!!!
 Wo sind KOE-Unterlagen?!!!

- Empfang der Gründungsunterlagen wurde noch nicht bestätigt

- ID-Akt kann nicht erstellt werden, da wir keine Passkopie haben
 bzw. keine Kopie von der Bank erhalten

- Letzter Kundenbesuch: 6.7.2000 NFE war bei der Bank. Das Beistatut
 wurde geändert, ein Entwurf wurde erstellt u. an M. Kolb gemailt.
 Anscheinend war Kunde auch am 26.7. bei der Bank gem.
 Marion Kolb. Uns fehlen die AV von beiden Besuchen!!!!
 Nach mehrmaligen Anfragen bei M. Kolb nichts gehört...

- Kundenbesuch im März 2001 bei Dr. C. Bächinger. Gem. M. Kolb
 wollte Kunde nichts unterzeichnen. Ausserdem ist eine Pass-
 kopie anscheinend auch bei der Bank nicht vorhanden !!!! 2.4.01/nmu

- FORMULAR W.BERECHTIGTER:

 ist bei ERM zur Abklärung, ob dieses Formular noch ausgefüllt werden
 muss, da Stiftung in Liquidation ist u. demnächst aufgelöst wird.
 => die diesbezüglichen Unterlagen i.S. Liquidation (AV's, Antrag, Beschlüsse
 sind NOCH NICHT EINGESCANNT !!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!!

AKT IST BEI ERM 20.7.01/nmu

— = Redacted by the Permanent
 Subcommittee on Investigations

Luperla Foundation Staedtle 28 in Liquidation, 9490 Vaduz
Advisor: Scheider Sandra Account Manager: Mueller Erik Dr.

Client-No.: [REDACTED]
 Last Client Visit: 07.06.2000

Date Established: 03.21.1997 Status: Active

Management-/Board of Advisors

Werner Orvati, Fruemsen	Signatory Rights:	Collective	ANY TWO JOINTLY
Konrad Baechinger, Sevelen	Signatory Rights:	Collective	ANY TWO JOINTLY
Feuerstein Nicola Dr., Triesenberg	Signatory Rights:	Single	SINGLE

Banks:

MISCELLANEOUS:

Investment Adviser: Piske Thomas,
 Shares / Transfers: None (according to Mandate agreement)
 Representative: LGT Trust Corp, Vaduz
 Client: Private Client

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Fixed Fees:

Flat Fees: 0.0 Due on: 0.00 Billable Flat fee: 0.00
 Value of asset per:

Purpose:
 Administration of assets LGT BIL

Proof of Ownership, Contracts, Powers of Attorney:

Foundation without a Mandate

Parent company of the Sewell Services Ltd., B.V.I. => deleted from the BVI Register per 11.1.98

Special Instructions (Administration, Accounting, Bylaws, etc.)

- no Standard – Statutes and – bylaws
- no fix fees. The LGT – Group receives 0.7 % of the assets every year
 - the business tax will also be paid from LTV
 - always due on 3.20 of the year
- (“Fiscal Charges” = but no STAMP TAX see memorandum for the file P. Widmer from 7.7.98)
 (in the case that expert advise will have to be obtained, this would be paid by the foundation)
- bills to be paid by everyone together are to be sent to P. Widmer, LGT BIL for control (see div. memorandums for the file)
- the payments shall always be entered with “N”
- P. Widmer has client contact => ONE OF THE BEST CLIENTS AT LGT BIL !!!!!!!
- J. Glebart is the attorney of the client. We have contact with him
- A-10-tion, when thinking about the foundation without a mandate, that a declaration of dedication is to be generated with deposits. For disbursements and payments, write to primary beneficiary board of directors – decision. Permit an asset status fee once a year with frequent statements of the primary beneficiary.

Luperla Foundation Staedtle 28 in Liquidation , 9490 Vaduz
Advisor: Scheider Sandra Account Manager: Mueller Erik Dr.

Client-No.: [REDACTED]
 Last Client Visit: 07.06.2000

Date Established: 03.21.1997 Status: Active

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

- Client acquaintanceship: P. WIDMER LGT BIL HAS SUCCEEDED WITH PERSONAL CLIENT CONTACT IDENTIFICATION THROUGH P. WIDMER – THERE IS NO IDENTIFICATION FILE ESTABLISHED ON OUR SIDE, BECAUSE OTHERWISE THE CLIENT RELATIONSHIP WOULD BE DISTURBED. (according to discussion ERM with P. Widmer)

Comments/History

- As in memorandum for the file from 7.3.97 the documents regarding Crofton/Yelnarf should be destroyed. LTV has sent a corresponding request to the legal department of LGT BIL for clarification. Written justification is still outstanding.
 [end of page 1]

= > WHERE CAN THESE DOCUMENTS BE FOUND? AT THE LTV? Copies are filed in the red file under "Establishment Documents".

- Status 97, 98, 99 and 00 as well as decisions.

- Does the Union Bank of Israel account still exist?!!!!
 Where are the KOE – documents?!!!!

- Receipt of the establishment documents are not yet confirmed

- ID – file can not be generated, because we do not have copies of the passport and we have not received copies from the bank

- last client visit: 7.6.2000 NFW was at the bank. The bylaw was changed, a draft was generated and mailed to M. Kolb. Apparently the client was also at the bank on 7.26. according to Marion Kolb. We are still missing the memorandums for the file for both visits!!!!
 After multiple inquiries with M. Kolb we have heard nothing...

- Client visit in March 2001 at Dr. C. Baechinger. According to M. Kolb the client did not want to undersign. Besides this, a copy of the passport is apparently not on hand at the bank !!!! 4.2.01 / nmu

- FINANCIAL BENEFICIARY FORM: *****

is with ERM for clarification, whether this form still has to be filled out, because the foundation is in liquidation and will be deleted shortly.

= > the corresponding documents in writing of the Liquidation (memorandums for the file, requests, resolutions, are NOT YET SCANNED IN !!!

FILE IS WITH ERM 7.20.01 / NMU



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
MWSI-Nr. 50119

Hintergrundinformationen/Profil

P-BG

Formular für bestehende Geschäftsbeziehungen vor dem 1. Januar 2001

Rechtsträger, Sitz Luperla Foundation, Vaduz

1. Informationen zum Rechtsträger

- ☐ Gesellschaft mit kommerziellem Hintergrund
☒ Stiftung, Trust, Holding, usw.

Gründungs-/Übernahmejahr: 1997

1.1 Gewöhnliche Geschäftstätigkeit

Begünstigtenregelung und Verwaltung des eigenen Vermögens im Sinne der Stiftungsstatuten.

1.2 Verwendungszweck der Vermögenswerte

Wirtschaftliche Unterstützung des Stifters und deren Söhne.

2. Wirtschaftlicher Hintergrund und Herkunft der eingebrachten und einzubringenden Vermögenswerte sowie genauere Angaben zum Herkunftsland

Der wirtschaftliche Stifter ist Hauptaktionär und Chairman der Westfields Gruppe. Die Gelder stammen aus einer Transaktion, durch welche die Aktienmehrheit an der Gruppe aus dem Streubesitz wieder in den Familienbesitz der Familie erreicht wurde. Der wirtschaftliche Stifter soll der zweitvermögenste Australier sein.

3. Länderrisikokategorisierung

- ☒ 1 ☐ 2 ☐ 3 ☐ 4

Vaduz, 12.07.2002

Ort, Datum

Erik Müller
Dr. Erik Müller

Unterschrift des Kundenberaters

- ☐ Bevollmächtigte gemäss separatem Formular
☐ Dieses Formular ersetzt das Formular vom:

Permanent Subcommittee on Investigations

EXHIBIT #109

PSI-USMSTR-008908
Luperla-Fond 12.07.2002 DocV9.0007



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
MWS-Nr. 50119

Identifikationsakte Vertragspartner ist natürliche Person

ID-NP

Rechtsträger, Sitz Luperla Foundation, Vaduz (aufgelöst)

— = Redacted by the Permanent
Subcommittee on Investigations

Vertragspartner

Name, Vorname	Gelbard Joshua Herbert
Geburtsdatum	[REDACTED]
Wohnsitzadresse	Gelbard, Amit, Wexler - Law Office, 5 Manne St.
Wohnsitzstaat	64168 Tel Aviv, Israel
Staatsangehörigkeit(en)	Israel
Beruf/Branche	Rechtsanwalt

- ☒ keine PeP-Indikation
☐ PeP-Indikation gegeben (Formular "Erklärung zur politisch exponierten Persönlichkeit" ausfüllen!)

- Aufnahme der Geschäftsbeziehung ☒ Persönliche Vorsprache (A)
☐ Korrespondenzweg (B)

1. Identifizierung bei persönlicher Vorsprache

- Kopie beweiskräftiges ID-Dokument ☒ Gültiger Reisepass
☐ Gültige(r) Identitätskarte/-ausweis
☐ ID-Bestätigung der zuständigen Wohnortbehörde

2. Identifizierung bei Aufnahme der Geschäftsbeziehung auf dem Korrespondenzweg

- ☐ Beglaubigte Kopie des gültigen Reisepasses oder der(s) gültigen Identitätskarte/-ausweises
und Bestätigungsschreiben des Vertragspartners gem. Art. 17 Abs. 1 SPV

Erläuterungen:

Die Art der Beglaubigung richtet sich nach nationalen Rechtsvorschriften des Staates in dem die Beglaubigung ausgestellt wird.

Das Bestätigungsschreiben des Vertragspartners hat zwingend die oben aufgelisteten Daten zu enthalten (Name, Vorname, Geburtsdatum usw.).

Art. 17 Abs. 3 SPV: "Spricht der Vertragspartner nach erfolgter Identifizierung auf dem Korrespondenzweg zum ersten Mal persönlich vor, so ist dieser gemäss den Bestimmungen des Art. 14 SPV erneut zu identifizieren."

- ☐ Erstidentifikation
☒ Dieses Formular ersetzt das Identifikationsformular vom (Datum): Nachdokumentation
☐ Bereits gültig mittels beweiskräftigen Dokumenten identifiziert in (M2-Nummer):

Vaduz, 12.07.2002

Ort, Datum

Dr. Erik Müller

Unterschrift des Kundenberaters

Dieses Formular gilt für Neukunden ab dem 1. Januar 2001, Änderung des Vertragspartners oder bei Reidentifikation desselben aufgrund bestehender Zweifel (Art. 7 SPG) oder eines dringenden Verdachts auf Täuschung (Art. 8 SPG).

PSLUSMSTR - 008909
Luperla Identifikationsakte 12.07.2002.doc/1.07.001



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
MWS-Nr. 50119

Erklärung für Vermögenseinheiten ohne wirtschaftliche WB-D Berechtigung (Discretionary Stiftungen / Discretionary Trusts)

Rechtsträger, Sitz Luperla Foundation, Vaduz (aufgelöst)

Vertragspartner Gelbart Joshua Herbert

A. Letztlich wirtschaftlich berechtigt an den Vermögenswerten, die in den Rechtsträger eingebracht werden bzw. wurden

- ☐ ist/sind der/die Vertragspartner selbst.
☒ ist/sind folgende Person(en):

1. Name(n) Lowy
Vorname(n) Frank P.
Geburtsdatum _____
Wohnadresse _____
PLZ/Ort _____
Domizilland Australien
Nationalität(en) _____
Beruf/Branche Hauptaktionär und Chairman der Westfields Gruppe.

Verhältnis zwischen obgenannter Person und dem Vertragspartner:

VP ist Ingjähriger Vertrauensanwalt von Frank Lowy.

Vom Kundenberater auszufüllen:

- ☒ keine PeP-Indikation; Visum KB: _____
☐ PeP-Indikation gegeben (KB: Formular "Erklärung zur politisch exponierten Persönlichkeit" ausfüllen!)

2. Name(n) _____
Vorname(n) _____
Geburtsdatum _____
Wohnadresse _____
PLZ/Ort _____
Domizilland _____
Nationalität(en) _____
Beruf/Branche _____

Verhältnis zwischen obgenannter Person und dem Vertragspartner:

Vom Kundenberater auszufüllen:

- ☐ keine PeP-Indikation; Visum KB: _____
☐ PeP-Indikation gegeben (KB: Formular "Erklärung zur politisch exponierten Persönlichkeit" ausfüllen!)

Vaduz, 12.07.2002
Ort/Datum

Dr. Erik Müller
Unterschrift des Vertragspartners
(zwingend ab 1.1.2001)

PSI-USMSTR - 008910
Formular 1002 vom 01.07.2002 (2002.07.01)



LGT Treuhand
A Member of Liechtenstein Global Trust

2/2

B. Bezüglich der Vermögenswerte des Rechtsträgers gilt folgendes:

1. Es besteht keine Instruktionsberechtigung bestimmter Personen und es wurden noch keine wirtschaftlich Berechtigten bestellt.
2. Die wirtschaftlich Berechtigten können aus nachstehendem Kreis von Personen bestimmt werden:

siehe AV von Dr. E. Müller vom 16.07.2001.

Ist/sind die Person(en) gemäss (A.) Teil des Personenkreises?

☒ Ja ☐ Nein

Bsp. "Die Nachkommen nach Hans Muster". Die Begünstigtenregelung ist in vollem Wortlaut beizufügen, nicht jedoch ein allfällig bestehender und für den Stiftungsrat oder Trustee rechtlich nicht verbindlicher "Letter of Wishes". Bei Klauseln in der Begünstigtenregelung "...derzeit bestehend aus ..." sind die Namen der betreffenden Personen hier ebenfalls zu nennen.

3. Nachstehende Personen sind als Kuratoren / Protektoren / Beiräte usw. eingesetzt:

1. Name(n) _____
 Vorname(n) _____
 Geburtsdatum _____
 Wohnadresse _____
 PLZ/Ort _____
 Domizilland _____
 Nationalität(en) _____
 Beruf/Branche _____
 in der Funktion als: _____

- ☐ keine PeP-Indikation; Visum KB: _____
☐ PeP-Indikation gegeben (Formular "Erklärung zur politisch exponierten Persönlichkeit" ausfüllen!)

2. Name(n) _____
 Vorname(n) _____
 Geburtsdatum _____
 Wohnadresse _____
 PLZ/Ort _____
 Domizilland _____
 Nationalität(en) _____
 Beruf/Branche _____
 in der Funktion als: _____

- ☐ keine PeP-Indikation; Visum KB: _____
☐ PeP-Indikation gegeben (Formular "Erklärung zur politisch exponierten Persönlichkeit" ausfüllen!)

Vaduz, 12.07.2002

Dr. Erik Müller

Ort/Datum

Unterschrift der Kundenberaters

- ☐ Erstfeststellung
☐ Dieses Formular ersetzt das Formular vom (Datum): _____

PSI-USMSTR - 008911
Update 2002: Form 12.07.2002, Rev. 07/1001

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein

Telephone +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
VAT-No. 50119

Background Information/Profile
(Documentation of Existing Corporate Relationship(s) to 1.January.2001)

P-BG

Clients, Domicile Luperla Foundation, Vaduz

1. Description of Entity

- ☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

Year Founded/Purchased: 1997

1.1 Primary Business

beneficiary regulations and administration of own assets within the scope of the foundation's statutes

1.2 Details of intended use of Assets:

financial support for the founder and his sons

2. Commercial background/origin of assets incl. detailed origin of funds to be provided (earnings from commercial activity, inheritance, sale of participations, sale of property, etc.):

The financial founder is main shareholder and Chairman of the Westfields Group. The funds originate from a transaction, through which the majority of the shares in the group was achieved from the shares owned by diverse shareholders coming into the ownership of the family. The financial founder is the second largest holder of assets in Australia.

3. Country Risk Category

- ☒ 1 ☐ 2 ☐ 3

Vaduz 12.07.02
Place/Date

[Signed]
Dr. Erik Mueller
Signature - Client Advisor

- ☐ Power of Attorney per Separate Document
☐ This document replaces the previous version, dated (Date):

[Logo]

LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein

Telephone +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
VAT-NO. 50119

Identification File
Contracting Partner is an Individual Person

ID-NP

— = Redacted by the Permanent
Subcommittee on Investigations

Entity, Domicile Luperla Foundation, (dissolved)

Last name, First Name	Gelbard Joshua Herbert
Date of birth	[REDACTED]
Address	Gelbard, Amit, Wexler – Law Office, 5 Manne St.
City	64168 Tel Aviv, Israel
Citizenship	Israel
Occupation/Business	Attorney

☒ no PeP-Indication
___ PeP Indication given (Fill out form "Explanation of politically affiliated personality")

Admission of Business Relationship ☒ In person (A)
___ By way of correspondence (B)

1. Identification during Personal Visit

Copy of conclusive Identification ☒ Valid passport
___ Valid ID Card
___ ID – Confirmation of upstanding citizenship

2. Identification at Intake of Business Relationship via Correspondence

___ Certified copy of a valid passport or of valid ID Card and written confirmation of signatory per Art. 17 Abs. 1 SPV

Explanations:

The method of certification is based upon the federal provision of the country where the certification is issued.

The written certification of the contracting partner is required to contain the above details (Last name, First name, date of birth, etc.).

Art. 17 Abs. 3 SPV: "If the initial identification of the contracting partner has taken place via written correspondence, then in accordance with Art. 14 SPV, formal identification is to take place upon the first in-person visit by the contracting partner.

___ First identification
☒ This document replaces the Identification document from (Date):
___ Already valid conclusive document identified in (M2-Number):

Vaduz, 07.12.2002
City, Date

Dr. Erik Mueller **[SIGNED]**
Signature – Client Advisor

This document is valid for new clients from 1 January 2001, changes to the signatories or by re-identification due to the same existing skepticism (Art. 7 SPG), or an urgent suspicion of deceit (Art. 8 SPG).

Luperla Identification File 07.12.2002.doc/V.071001

[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein

Telephone +423 235 27 27
Telefax +423 235 27 15
Internet
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
VAT No. - 50119

**Statement Concerning Unjustifiable Assets
(Discretionary Trusts)**

WB-D

Entity, Domicile Luperla Foundation, Vaduz (dissolved)

Contract Partner Gelbart Joshua Herbert

A. Most recent beneficiary of the assets that are to be/were brought into the entity:

- ☐ is/are the contracting partner
☒ is/are the following individual(s):

1. Last Name Lowy
First Name Frank P.
Date of Birth
Address
Zip/State or Province
Country of Residence Australia
Nationality(ies)
Occupation/Industry Main shareholder and Chairman of the Westfield Group

Relationship of above-named individual (the Power Holder) to the contracting partner:
VP is a long standing trusted lawyer of Frank Lowy.

To be completed by the client advisor:

- ☒ No PeP indicator: Seal - Client Advisor: _____
☐ PeP-Indication Provided (Advisor: Complete Form "Declaration of Politically Exposed Individual")

2. Last Name
First Name
Date of Birth
Address
Zip/State or Province
Country of Residence
Nationality
Occupation/Industry

Relationship of above-named individual (the Power Holder) to the contracting partner:

To be completed by the client advisor:

- ☒ No PeP indicator: Seal - Client Advisor: _____
☐ PeP-Indication Provided (Advisor: Complete Form "Declaration of Politically Exposed Individual")

Vaduz 07.12.2002
Place/Date

Dr. Erik Mueller [SIGNED]
Signature – Client Advisor
(mandatory as of 1.1.2001)

B. The following applies with respect to the assets of the entity:

1. There are no individuals who have power of attorney to give instruction and no financial beneficiaries have been appointed.
2. The financial beneficiaries can be appointed from within a close circle of individuals.

See Memorandum for the file from Dr. E. Mueller from 07.06.2001

Are/will the individual(s) per (A.) be part of this circle of Individuals?

☒ Yes ☐ No

For example "The Successors of Hans Muster". The beneficiary regulation is attached in full text; however, not a possible existing and for the Board of Advisors or Trustee not legally binding "Letter of Wishes". With clauses in the beneficiary regulation "...currently consisting of..." the names of the concerned persons should also be mentioned.

3. Following individuals are appointed as Curators/Guardians/Board Members, etc.

1. Last Name _____
 First Name _____
 Date of Birth _____
 Address _____
 Zip/State or Province _____
 Country of Residence _____
 Nationality(ies) _____
 Occupation/Industry _____
 In the function as: _____

- ☐ No PeP indicator: Seal - Client Advisor: [INITIALED] _____
☐ PeP-Indication Provided (Advisor: Complete Form "Declaration of Politically Exposed Individual")

2. Last Name _____
 Date of Birth _____
 Address _____
 Country of Residence _____
 Nationality(ies) _____
 Occupation/Industry _____
 In the function as: _____

- ☐ No PeP indicator: Seal - Client Advisor: _____
☐ PeP-Indication Provided (Advisor: Complete Form "Declaration of Politically Exposed Individual")

Vaduz, 07.12.2002 _____
 Place/Date

[SIGNED] Dr. Erik Mueller _____
 Signature – Client Advisor

- ☐ Original
☐ This document supercedes the previous version dated (date):



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

Luperla Foundation
9490 Vaduz

Vaduz, December 29, 2001 1/1
E

— = Redacted by the Permanent
Subcommittee on Investigations

Statement of account

Status 31.12.2001

USD ACCOUNT

Date	Text	Value	Debit USD	Credit USD	Balance USD
01.10.01	BALANCE BROUGHT FORWARD				
18.12.01	FOREIGN EXCHANGE	20.12.01		2,887,769.39	54,565,725.63
	FOREX DEAL AA0529339				57,453,495.02
	LUPERLA FOUNDATION				
18.12.01	FOREIGN EXCHANGE	20.12.01		991,710.57	58,445,205.59
	FOREX DEAL AA0529340				
	LUPERLA FOUNDATION				
18.12.01	FOREIGN EXCHANGE	20.12.01		6,622,717.32	65,067,922.91
	FOREX DEAL AA0529341				
	LUPERLA FOUNDATION				
18.12.01	FOREIGN EXCHANGE	20.12.01		1,961,456.53	67,029,379.44
	FOREX DEAL AA0529344				
	LUPERLA FOUNDATION				
18.12.01	FOREIGN EXCHANGE	20.12.01		798,181.59	67,827,561.03
	FOREX DEAL AA0529345				
	LUPERLA FOUNDATION				
19.12.01	MONEY TRANSFER / FOREX	18.12.01	16,452.59		67,811,108.44
	Transfer 7697647				
	LGT TREUHAND				
19.12.01	FOREIGN EXCHANGE	20.12.01		310,294.27	68,121,402.71
	FOREX DEAL AA0529392				
	LUPERLA FOUNDATION				
19.12.01	MONEY TRANSFER / FOREX	18.12.01		16,452.59	68,137,855.30
	Transfer 7698092				
	LGT TREUHAND				
20.12.01	MONEY TRANSFER / FOREX	20.12.01	40,682,713.18		27,255,142.12
	Transfer 7706901				
	BANK JACOB SAFRA				
20.12.01	MONEY TRANSFER / FOREX	20.12.01	27,255,142.12		0.00
	Transfer 7706943				
	BANK JACOB SAFRA				
	Total		68,154,307.89	13,588,582.26	
	New balance in your favour				0.00

We kindly request you to examine this statement and notify us in writing of any inaccuracies within one month (see our General Business Conditions).

Permanent Subcommittee on Investigations

EXHIBIT #110

PSI-USMSTR - 008841

[logo]LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein
VAT-No. 50119

Telephone: +423 235 27 27
Telefax: +423 235 27 15
Internet:
www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com

Memorandum for the Record

1/1

Subject: **Luperla Foundation, Vaduz**

Compiler / Tel.: Dr. Erik Müller

Date: April 10, 2002 / fgr

For follow up: Sandra Schneider

Cc:

Update E-Doc:

The routine review of the physical folder as well as the comments section shows that not all documents have been scanned in yet. Since the actual foundation is about to be dissolved and the final accounting has already been carried out, the relatively large effort of archiving the file documents no longer has a purpose in my opinion.

Therefore, the pending documents (signed asset statuses, etc.) as well as all those documents that are connected with the final disbursements of all asset values, are to be filed physically in the corresponding sections in the red folder. The subsequent archiving in the E-Doc can be dispensed with in my opinion.

The formal resolution on the dissolution of the foundation still needs to be done retroactively. The dissolution is subsequently to be requested as a foundation registry with the public registry office.

[signed]

Dr. Erik Müller

Permanent Subcommittee on Investigations

EXHIBIT #111

601



GREEN HASSON & JANKS LLP
BUSINESS ADVISORS AND CPAs

December 13, 2001

Peter Lowy
11601 Wilshire Boulevard
12th Floor
Los Angeles, CA 90025

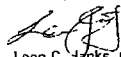
Dear Peter,

As requested by David Lowy, enclosed are the following original documents relating to Beverly Park Corporation:

1. Certificate of Qualification issued by the Secretary of State of the State of California;
2. Certificate of Incorporation issued by the Secretary of State of the State of Delaware;
3. Letter engaging Joshua Gelbard and related Notarization;
4. Original attorney letter verifying appointment of Leon Janks as Director and Vice President of Beverly Park Corporation.

I am pleased that we could be of service to you.

Best regards,


Leon C. Janks, CPA
Partner

LCJ:bmt

Encl.

LOWY-PSI-003687
CONFIDENTIAL

A Member of  International
A world-wide organization of accounting firms and business advisers

10990 Wilshire Boulevard | Sixteenth Floor | Los Angeles, California 90024-3929
Tel: (310) 873-1600 | Fax: (310) 873-6600 | www.ghadvisors.com

Permanent Subcommittee on Investigations
EXHIBIT #112



1793019

SECRETARY OF STATE

CERTIFICATE OF QUALIFICATION

I, BILL JONES, Secretary of State of the State of California, hereby certify:

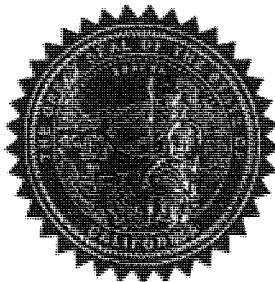
That on the 4TH day of FEBRUARY, 19 97,

BEVERLY PARK CORPORATION

a corporation organized and existing under the laws of DELAWARE,
complied with the requirements of California law in effect on that date for the purpose
of qualifying to transact intrastate business in the State of California, and that as of
said date said corporation became and now is qualified and authorized to transact
intrastate business in the State of California, subject however, to any licensing
requirements otherwise imposed by the laws of this State.

IN WITNESS WHEREOF, I execute this
certificate and affix the Great Seal
of the State of California this 7th
day of February, 1997

Secretary of State



LOWY-PSI-003688
CONFIDENTIAL

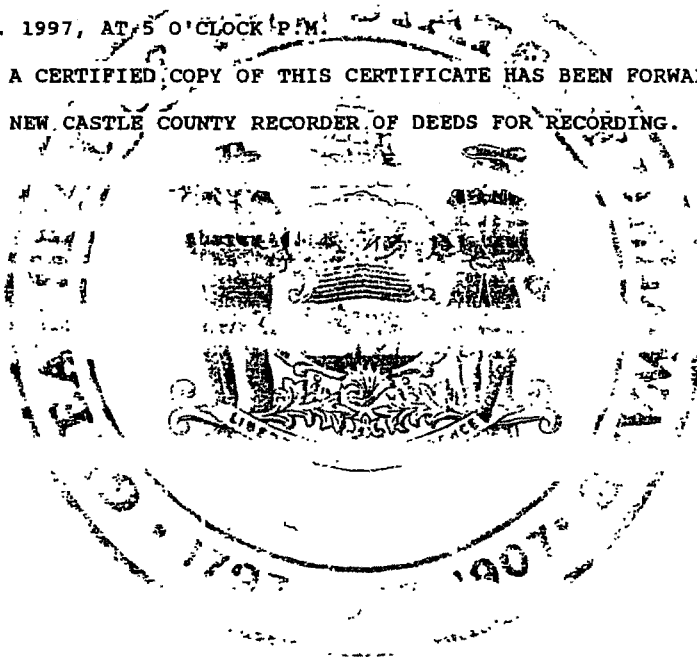
State of Delaware

PAGE 1

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "BEVERLY PARK CORPORATION", FILED IN THIS OFFICE ON THE THIRD DAY OF JANUARY, A.D. 1997, AT 5 O'CLOCK P.M.

A CERTIFIED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS FOR RECORDING.



LOWY-PSI-003689
CONFIDENTIAL



Edward J. Freel
Edward J. Freel, Secretary of State

2702491 8100

971003117

AUTHENTICATION:

8271182

DATE:

01-04-97

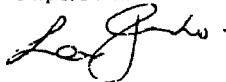
Beverly Park Corporation
10990 Wilshire Boulevard, Suite 1600
Los Angeles, California 90024

December 13, 2001

Joshua Gelbard
Gelbard Amit & Wexler
5 Manne Street
Tel Aviv
64168 Israel

Dear Joshua,

On behalf of Beverly Park Corporation and in my capacity as a director and officer I am engaging and authorizing you and your firm to act on behalf of the above named corporation.



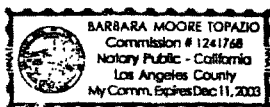
Leon C. Janks
Director

LOWY-PSI-003690
CONFIDENTIAL

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California
 County of Los Angeles
 On 13th December 2001 before me, Barbara Moore Topazio, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
 personally appeared Leon C. Janks
Name(s) of Signer(s)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Barbara Moore Topazio
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Authorization

Document Date: December 13, 2001 Number of Pages: 1

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

LOWY-PSI-003691
CONFIDENTIAL

Signer's Name: Leon C Janks

Signer's Name: _____

- ☐ Individual
☒ Corporate Officer
 Title(s): Director & Officer
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

- ☐ Individual
☐ Corporate Officer
 Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney-in-Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing:
Beverly Park
Corporation

Signer Is Representing: _____



FRIEDMAN, HELLER & ENRIQUEZ, LLP
LAW OFFICES

PAUL M. ENRIQUEZ
DAVID A. FRIEDMAN
ROBERT M. HELLER
GRANT A. CARLSON
*ALSO ADMITTED IN ILLINOIS
*ALSO ADMITTED IN NEW YORK
*ALSO ADMITTED IN NEW JERSEY

OF COUNSEL
RICHARD B. SKOLNICK
BARBARA S. LEMMON
GARY P. KOHN
KYLE P. KELLY

December 13, 2001

Joshua Gelbard
Gelbard, Amit & Wexler
5 Manne Street
Tel Aviv
64168 Israel

Dear Mr. Gelbard:

We are attorneys licensed to practice law in the State of California, United States of America. In such capacity, we have reviewed the corporate minutes of Beverly Park Corporation, a Delaware corporation. Please be advised that such minutes reflect that Leon C. Janks is currently a Director and Vice President of Beverly Park Corporation.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Paul M. Enriquez', with a stylized flourish at the end.
PAUL M. ENRIQUEZ

PME/jlp
Beverly Park
Gelbard.ltr

LOWY-PSI-003692
CONFIDENTIAL

433 N. CAMDEN DRIVE, SUITE 965, BEVERLY HILLS, CALIFORNIA 90210 (310) 273-1115
FAX (310) 273-1115 EMAIL: ENRIQUEZ@FHE-LAW.COM
www.fhe4law.com

CONTRACT FOR THE PURCHASE AND SALE OF REAL ESTATE

This is intended to be a legally binding contract.

— = Redacted by the Permanent
Subcommittee on Investigations

Beverly Park Corporation, a Delaware corporation ("Buyer"), offers to purchase the Property, as defined herein, from Westland Park Avenue Corporation, a Delaware corporation ("Seller"), situated at Unit 31 A/B, 500 Park Tower Condominium, 500 Park Avenue, New York, New York 10022 together with all improvements thereon, rights and easements appurtenant thereto, all fixtures thereon ("Real Property") for the purchase price of \$4,900,000 (the "Purchase Price"). Seller hereby accepts Buyer's offer to purchase subject to the terms and conditions of this contract

1. **Closing Date and Escrow.** This transaction shall close on or before March 25, 1997 (unless extended by mutual agreement of the parties ("Closing Date") at 11601 Wilshire Boulevard, 12th Floor, Los Angeles, CA 90025, on the Closing Date. The Purchase Price shall be paid in cash. The Title Company shall act as escrow agent for all matters except for the payment of the Purchase Price will be paid by Buyer to Seller outside of escrow.

2. **Title.** Promptly after mutual execution of this contract, Seller shall order a preliminary title report from First American Title ("Title Company") and promptly deliver same to Buyer, each document referred to therein and all other existing or proposed documents affecting title.

Within five calendar days of receipt of such title report and documents, Buyer shall notify Seller in writing of Buyer's objections to title. Seller shall notify Buyer in writing within five calendar days of receipt thereof that (i) it will eliminate such objections by the Closing Date or (ii) it is unwilling or unable to eliminate such objections. Unless Seller shall timely notify Buyer that it shall eliminate all such objections, Buyer shall have until the earlier of the Closing Date or five days from receipt of Seller's written notice to terminate this Contract.

At closing, title shall be conveyed by grant deed and shall be good and marketable and free and clear of all liens and encumbrances of record (including, but not limited to, a loan in the original principal amount of \$2,500,000 with Bank of America, N T & S A, identified as Loan # [REDACTED] (the "Loan") or known to Seller other than current property taxes not yet due and the preliminary title report exceptions not objected to by Buyer as set forth above ("Permitted Exceptions"). Seller shall deliver to Buyer at closing an agreed-upon form of Owner's Policy in the amount of the Real Property Purchase Price dated as of the Closing Date, showing good and marketable title to the Real Property in Buyer's name as the insured, subject only to the Permitted Exceptions. Buyer may obtain reasonable endorsements at its cost. The policy shall be paid for by Buyer. Seller shall notify the Bank of America to provide a pay-off demand for the loan to the Title Company.

3. **Prorations.** Seller and Buyer shall pay city and state transfer taxes in accord with local practice. Assessments and bonds shall be prorated through the Closing Date with Buyer to assume the balance. Real property taxes, property operations expenses, utilities and other recurring costs shall be prorated as of the Closing Date.

4. **Inspections.** Buyer has fully inspected the Property and hereby approves of the Property's condition.

5. **Certificates and Other Requirements.**

A. Seller and Buyer shall execute and file all forms necessary to comply with the New York State Department of Taxation requirements pursuant to Article 31-B of the New York State Tax Law. Seller shall pay all amounts payable on account thereof and shall indemnify and hold Buyer harmless in connection therewith, including, without

LOWY-PSI-003868
CONFIDENTIAL

Permanent Subcommittee on Investigations
EXHIBIT #113a

limitation, the payment of all reasonable attorneys' fees and expenses. This obligation shall survive the Closing.

B. Seller represents to Buyer that Seller has dealt with no broker in connection with the sale. Seller and Buyer shall indemnify and hold each other harmless in connection with the representations made in this paragraph 5B, including, without limitation, the payment of reasonable attorneys' fees and expenses. This obligation shall survive the Closing.

C. Seller is not a foreign person as defined in Internal Revenue Code SS1445, as amended, and will execute and deliver at Closing a certificate or other form confirming such representation in the form required by the Internal Revenue Code.

D. Seller shall cause the Condominium Board managing the property or its managing agent to deliver to Buyer a statement that all common charges and any other assessments then due and payable to the Condominium Board have been paid. It shall be the obligation of the Seller to pay same up to date of closing.

E. Seller will cause the Condominium Board to issue prior to the Closing Date any required approvals related to the conveyance of the Property to Buyer.

F. Seller shall deliver to Buyer all keys to the Property, including, without limitation, keys to the door, mailbox and storage facility, if any.

6. Possession Possession of the Property shall be delivered to Buyer on the Closing Date in an "As-Is," "Where-Located" condition, provided the Property is in the same general condition as of the date hereof, and in accordance with the Permitted Exceptions.

7. Warranty To the best of Seller's knowledge, Seller hereby represents and warrants to the best of its knowledge, to Buyer now and as of the Closing Date, the following:

(i) There are no physical, structural, mechanical, inadequate utilities or other defects or problems related to or affecting the Property, and no hazardous/toxic materials on or near the Property, its soils, water or improvements;

(ii) The Property, its use and operation are in compliance with all laws, codes, regulations and requirements and all covenants, conditions and restrictions, and the Property includes all permits, easements and other authorizations and agreements from governmental and private parties for normal use, operation, ingress and egress from the Property;

(iii) There are no contracts, agreements or arrangements, written or oral, express or implied, affecting or related to the Property existing, pending or which would constitute a potential default;

(iv) There is no litigation, condemnation, administrative or other proceeding or hearing either instituted or threatened, or any basis therefor, which might adversely affect the use, operation or value of the Property or Seller's ability to perform hereunder;

(v) Seller has not misrepresented or failed to disclose any fact which might adversely affect the use, operation or value of the Property. Seller's representations and warranties shall not be reduced or restricted because of Buyer's inspections or waivers of conditions to closing, shall be deemed material and shall survive the closing, recordation of any deeds and any transfer of title.

8 Maintenance. If the Property or improvements are destroyed or materially damaged or if any portion is taken by condemnation or such proceedings are commenced before closing, Buyer may terminate this Contract. If Buyer elects in its sole discretion to accept the Property in its then condition, all insurance and condemnation proceeds shall be paid to Buyer. Seller until the Closing Date shall maintain the Property in good repair.

with its current insurance and operate in a first-class manner, performing all obligations under all agreements affecting the Property. Seller shall not enter into or modify any agreements affecting the Property without Buyer's permission, which shall not be unreasonably withheld.

9. **Indemnification.** Buyer and Seller shall each defend, indemnify and hold the other and its successors and assigns harmless from all claims, demands, liabilities or expenses, including reasonable attorneys' fees, relating to the Property which arise out of events occurring prior to or after closing, as the case may be.

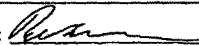
10. **Miscellaneous.** This is the entire agreement between Buyer and Seller, superseding any prior or concurrent agreements or understandings, written or oral, express or implied. All amendments or modifications must be in writing signed by Buyer and Seller. This Contract shall survive the closing and recordation of any deed and shall be binding on the parties' successors and assigns. Headings are for convenience and shall not be used in the interpretation of this contract. If any provision is held illegal or unenforceable in whole or in part, the remainder of the provisions of this Contract shall not be impaired. The prevailing party in any dispute between Buyer and Seller shall be entitled to its costs and attorneys' fees.

11. **Warranty of Authority.** The persons executing this Contract represent and warrant that each has full power and authority to execute and deliver this Contract and all documents contemplated hereby and to take all other actions necessary or desirable to complete this transaction on behalf of Buyer or Seller, as applicable, all of which shall be valid and binding on Buyer or Seller, as applicable, without the approval of any person or entity, including any bankruptcy or probate court, or the taking of any other action.


12. **Attachments.** The attached Non-Foreign Tax Certification signed by Seller is a part hereof and is incorporated herein.

Duly executed by the parties hereto as of March 24, 1997.

SELLER: Westland Park Avenue
Corporation

By: 
Richard Green
Its: President

BUYER: Beverly Park Corporation

By: 
Peter Lowy
Its: President

NON-FOREIGN TAX CERTIFICATION

IRC Section 1445 provides that a buyer of a U.S. real property interest must withhold tax if the seller is a foreign person. To inform the buyer that the withholding of tax is not required upon sale of the Real Property, the undersigned Seller hereby declares as follows: (i) that it is the owner of the Real Property and its tax I.D. number is as set forth above; (ii) Seller is not a nonresident alien for U.S. tax purposes or a foreign corporation, foreign partnership, foreign trust or foreign estate as defined in the IRC and Income Tax Regulations; (iii) the undersigned understands that this Tax Certification may be disclosed to the IRS by the Buyer and that any false statement contained herein could be punishable by fine, imprisonment or both. Under penalty of perjury, the undersigned declares that this certification is true, correct and complete to the best of its knowledge and belief and that it has all necessary authority to execute same.

Seller: Westland Park Avenue Corporation

By: _____

Its: _____

BEVERLY PARK CORPORATION
 GUEST LOG - Beverly Hills
 Jul-99

Daily Rate: \$3,000

WHL	WCI	DATE	GUEST NAME	
		1-Jul		
		2-Jul		
		3-Jul		
		4-Jul		
		5-Jul		
		6-Jul		
		7-Jul		
		8-Jul		
		9-Jul		
1		10-Jul	David Lowy/Daniel Lowy	Bus/Guest
1		11-Jul	David Lowy/Daniel Lowy	Bus/Guest
		12-Jul	David Lowy	Business
		13-Jul		
		14-Jul		
		15-Jul		
		16-Jul		
		17-Jul		
		18-Jul		
		19-Jul		
		20-Jul		
		21-Jul		
		22-Jul		
		23-Jul		
		24-Jul		
		25-Jul		
		26-Jul		
		27-Jul		
		28-Jul		
		29-Jul		
		30-Jul		
		31-Jul		

2 TOTAL

6,000

LOWY-PSI-003914
 CONFIDENTIAL

BEVERLY PARK CORPORATION
 GUEST LOG -Beverly Hills
 Aug-99

Daily Rate: \$3,000

WHL	WCI	DATE	GUEST NAME
		1-Aug	
		2-Aug	
		3-Aug	
		4-Aug	
		5-Aug	
1		6-Aug	Frank Lowy
0		7-Aug	Frank Lowy
		8-Aug	
		9-Aug	
		10-Aug	
		11-Aug	
		12-Aug	
		13-Aug	
		14-Aug	
		15-Aug	
		16-Aug	
		17-Aug	
		18-Aug	
		19-Aug	
		20-Aug	
		21-Aug	
		22-Aug	
		23-Aug	
		24-Aug	
		25-Aug	
		26-Aug	
		27-Aug	
		28-Aug	
		29-Aug	
		30-Aug	
		31-Aug	

1 TOTAL

3,000

BEVERLY PARK CORPORATION
 GUEST LOG -New York Condo
 Sep-99

Daily Rate: \$1,800

WHL	WCI	DATE	GUEST NAME	
		1-Sep		
		2-Sep		
		3-Sep		
		4-Sep		
		5-Sep		
		6-Sep		
		7-Sep		
		8-Sep		
		9-Sep		
		10-Sep		
		11-Sep		
		12-Sep		
		13-Sep		
		14-Sep		
		15-Sep		
		16-Sep		
		17-Sep		
		18-Sep		
		19-Sep		
		20-Sep		
		21-Sep		
	1	22-Sep	Mark Stefanek	Business
	0	23-Sep	Mark Stefanek	Business
		24-Sep		
		25-Sep		
		26-Sep		
		27-Sep		
		28-Sep		
1		29-Sep	Stephen Johns	Business
0		30-Sep	Stephen Johns	Business

1 1 TOTAL

1,800 1,800

BEVERLY PARK CORPORATION
 GUEST LOG -New York Condo
 Sep-99

Daily Rate: \$1,800

WHL	WCI	DATE	GUEST NAME	
		1-Sep		
		2-Sep		
		3-Sep		
		4-Sep		
		5-Sep		
		6-Sep		
		7-Sep		
		8-Sep		
		9-Sep		
		10-Sep		
		11-Sep		
		12-Sep		
		13-Sep		
		14-Sep		
		15-Sep		
		16-Sep		
		17-Sep		
		18-Sep		
		19-Sep		
		20-Sep		
		21-Sep		
	1	22-Sep	Mark Stefanek	Business
	0	23-Sep	Mark Stefanek	Business
		24-Sep		
		25-Sep		
		26-Sep		
		27-Sep		
		28-Sep		
1		29-Sep	Stephen Johns	Business
0		30-Sep	Stephen Johns	Business
1	1	TOTAL		

1,800 1,800

BEVERLY PARK CORPORATION
 GUEST LOG - Beverly Hills
 Oct-99

Daily Rate: \$3,000

WHL	WCI	DATE	GUEST NAME
0		1-Oct	Shirley Lowy
0		2-Oct	Shirley Lowy/Andrew Briggs
0		3-Oct	Shirley Lowy/Andrew Briggs
		4-Oct	
		5-Oct	
		6-Oct	
		7-Oct	
		8-Oct	
		9-Oct	
		10-Oct	
		11-Oct	
		12-Oct	
		13-Oct	
1		14-Oct	Frank & Shirley Lowy/Andrew Briggs
1		15-Oct	Frank & Shirley Lowy/Andrew Briggs
0		16-Oct	Frank/Shirley Lowy
		17-Oct	
		18-Oct	
		19-Oct	
		20-Oct	
		21-Oct	
		22-Oct	
		23-Oct	
		24-Oct	
		25-Oct	
1		26-Oct	Stephen Johns
1		27-Oct	Stephen Johns
1		28-Oct	Stephen Johns
1		29-Oct	Stephen Johns
1		30-Oct	Stephen Johns
1		31-Oct	Stephen Johns
8		TOTAL	

24,000

BEVERLY PARK CORPORATION
GUEST LOG -NY CONDO
Oct-99

Daily Rate: \$1,800

WHL	WCI	DATE	GUEST NAME	
1		1-Oct	Stephen Johns	
1		2-Oct	Stephen Johns	
1		3-Oct	Stephen Johns	
1		4-Oct	Stephen Johns	
1		5-Oct	Stephen Johns/Frank & Shirley Lowy	
1		6-Oct	Frank/Shirley Lowy	
1		7-Oct	Frank/Shirley Lowy	
1		8-Oct	Frank/Shirley Lowy	
1		9-Oct	Frank/Shirley Lowy	
1		10-Oct	Frank/Shirley Lowy	
1		11-Oct	Frank/Shirley Lowy	
1		12-Oct	Frank/Shirley Lowy	
1		13-Oct	Frank/Shirley Lowy	
0		14-Oct	Frank/Shirley Lowy	
		15-Oct		
		16-Oct		
		17-Oct		
		18-Oct		
		19-Oct		
		20-Oct		
		21-Oct		
		22-Oct		
		23-Oct		
		24-Oct		
		25-Oct		
		26-Oct		
		27-Oct		
		28-Oct		
		29-Oct		
		30-Oct		
		31-Oct		
13		TOTAL		

\$23,400

[illegible]

LOWY-PSI-003920
CONFIDENTIAL

BEVERLY PARK CORPORATION
 GUEST LOG - New York Condo
 Dec-99

Daily Rate: \$1,650 Rent
 \$ 150 Food

WHL	WCI	DATE	GUEST NAME	
		01-Dec		
		02-Dec		
		03-Dec		
	0	04-Dec	Leon/Sharon Janks	Guest
	1	05-Dec	Peter/Janine Lowy-Leon/Sharon Janks	Guest
	1	06-Dec	Peter/Janine Lowy-Leon/Sharon Janks	Guest
	0	07-Dec	Peter/Janine Lowy-Leon/Sharon Janks	Guest
	0	08-Dec	Janine Lowy	Guest
	0	09-Dec	Janine Lowy	Guest
		10-Dec		
		11-Dec		
		12-Dec		
		13-Dec		
		14-Dec		
		15-Dec		
		16-Dec		
		17-Dec		
		18-Dec		
		19-Dec		
		20-Dec		
		21-Dec		
		22-Dec		
		23-Dec		
		24-Dec		
		25-Dec		
		26-Dec		
		27-Dec		
		28-Dec		
		29-Dec		
		30-Dec		
		31-Dec		

2

\$3,300
 \$300
 \$3,600 TOTAL DUE

BEVERLY PARK CORPORATION
 GUEST LOG -NY CONDO
 Jan-00

Daily Rate: \$1650 Rent
 \$150 Food

WHL	WCI	DATE	GUEST NAME
		01-Jan	
		02-Jan	
		03-Jan	
		04-Jan	
		05-Jan	
		06-Jan	
		07-Jan	
		08-Jan	
		09-Jan	
		10-Jan	
		11-Jan	
1		12-Jan	Frank/Shirley Lowy
1		13-Jan	Frank/Shirley Lowy
0		14-Jan	Frank/Shirley Lowy
		15-Jan	
		16-Jan	
		17-Jan	
		18-Jan	
		19-Jan	
		20-Jan	
		21-Jan	
		22-Jan	
		23-Jan	
	1	24-Jan	Richard Green
	1	25-Jan	Richard Green
	1	26-Jan	Richard Green
	0	27-Jan	Richard Green
		28-Jan	
		29-Jan	
		30-Jan	
		31-Jan	

2	3	
\$3,300	\$4,950	
\$300	\$450	
\$3,600	\$5,400	TOTAL DUE

BEVERLY PARK GOLF & COUNTRY CLUB
 GUEST LOG - Beverly Hills House
 Jan-00

Daily Rate: \$2,750 Rent
 \$250 Food

"REVISED"

WHL	WCI	DATE	GUEST NAME	
		01-Jan		
		02-Jan		
		03-Jan		
		04-Jan		
		05-Jan		
0		06-Jan	David Lowy	
0			Margo/Daniel/Noah/Emila Lowy/Orly	Guest
0		07-Jan	David Lowy	
0			Margo/Daniel/Noah/Emila Lowy/Orly	Guest
0		08-Jan	David Lowy	
0			Margo/Daniel/Noah/Emila Lowy/Orly	Guest
		09-Jan		
		10-Jan		
		11-Jan		
		12-Jan		
		13-Jan		
1		14-Jan	Frank/David Lowy	
0			Shirley/Margo/Daniel/Noah/Emila/Orly	Guest
0		15-Jan	David Lowy	
0			Shirley/Margo/Daniel/Noah/Emila/Orly	Guest
1		16-Jan	Frank/David Lowy	
0			Shirley/Margo/Daniel/Noah/Emila/Orly	Guest
1		17-Jan	Frank/Shirley Lowy	
1		18-Jan	Frank/Shirley Lowy	
1		19-Jan	Frank/Shirley Lowy	
0		20-Jan	Frank/Shirley Lowy	
0		21-Jan	Shirley Lowy	Guest
0		22-Jan	Shirley Lowy	Guest
		23-Jan		
		24-Jan		
		25-Jan		
		26-Jan		
		27-Jan		
		28-Jan		
		29-Jan		
		30-Jan		
		31-Jan		
5		TOTAL		

\$13,750
 \$1,250
 \$15,000

BEVERLY PARK CORPORATION
 GUEST LOG -NY CONDO
 Jan-00

Daily Rate: \$1650 Rent
 \$150 Food

WHL	WCI	DATE	GUEST NAME
		01-Jan	
		02-Jan	
		03-Jan	
		04-Jan	
		05-Jan	
		06-Jan	
		07-Jan	
		08-Jan	
		09-Jan	
		10-Jan	
		11-Jan	
1		12-Jan	Frank/Shirley Lowy
1		13-Jan	Frank/Shirley Lowy
0		14-Jan	Frank/Shirley Lowy
		15-Jan	
		16-Jan	
		17-Jan	
		18-Jan	
		19-Jan	
		20-Jan	
		21-Jan	
		22-Jan	
		23-Jan	
	1	24-Jan	Richard Green
	1	25-Jan	Richard Green
	1	26-Jan	Richard Green
	0	27-Jan	Richard Green
		28-Jan	
		29-Jan	
		30-Jan	
		31-Jan	

2 3
 \$3,300 \$4,950
 \$300 \$450
 \$3,600 \$5,400 TOTAL DUE

622

BEVERLY PARK CORPORATION
GUEST LOG -Beverly Hills House
Feb-00

"REVISED"

Daily Rate: \$2,750 RENT
250 FOOD

WHL	WCI	DATE	GUEST NAME	
		01-Feb		
		02-Feb		
		03-Feb		
		04-Feb		
		05-Feb		
		06-Feb		
		07-Feb		
		08-Feb		
		09-Feb		
		10-Feb		
		11-Feb		
		12-Feb		
1		13-Feb	STEVEN LOWY	
1		14-Feb	STEVEN LOWY	
1		15-Feb	STEVEN LOWY	
		16-Feb		
		17-Feb		
		18-Feb		
		19-Feb		
		20-Feb		
		21-Feb		
		22-Feb		
		23-Feb		
		24-Feb		
		25-Feb		
		26-Feb		
		27-Feb		
		28-Feb		
		29-Feb		
3		TOTAL		

\$8,250 RENT
~~\$750~~ FOOD
\$9,000

623

BEVERLY PARK CORPORATION
GUEST LOG -Beverly Hills House
Mar-00

REVISED"

Daily Rate: \$2,750 RENT
250 FOOD

WHL	WCI	DATE	GUEST NAME
		01-Mar	
		02-Mar	
		03-Mar	
		04-Mar	
		05-Mar	
		06-Mar	
		07-Mar	
		08-Mar	
		09-Mar	
0		10-Mar	Andrew Briggs
0		11-Mar	Andrew Briggs/Shirley Lowy
0		12-Mar	Andrew Briggs/Shirley Lowy
0		13-Mar	Shirley Lowy
0		14-Mar	Shirley Lowy
0		15-Mar	Shirley Lowy
1		16-Mar	Frank Lowy/Shirley Lowy
1		17-Mar	Frank Lowy/Shirley Lowy
1		18-Mar	Frank Lowy/Shirley Lowy
1		19-Mar	Frank Lowy/Shirley Lowy
1		20-Mar	Frank Lowy/Shirley Lowy
1		21-Mar	Frank & Shirley Lowy/Andrew Briggs
1		22-Mar	Frank & Shirley Lowy/Andrew Briggs
1		23-Mar	Frank & Shirley Lowy/Andrew Briggs
0			Daniel Lowy
1		24-Mar	Frank & Shirley Lowy/Andrew Briggs
0			Daniel Lowy
1		25-Mar	Frank & Shirley Lowy/Andrew Briggs
0			Daniel Lowy
0		26-Mar	Frank & Shirley Lowy/Andrew Briggs
0			Daniel Lowy
		27-Mar	
		28-Mar	
		29-Mar	
		30-Mar	
		31-Mar	

10 TOTAL

\$27,500 RENT
\$2,500 FOOD
\$30,000

BEVERLY PARK CORPORATION
 GUEST LOG -NY CONDO
 Mar-00

"REVISED"
 Daily Rate: \$1,650 - RENT
 \$ 150 - FOOD

WHL	WCI	DATE	GUEST NAME
		01-Mar	
		02-Mar	
		03-Mar	
		04-Mar	
		05-Mar	
		06-Mar	
		07-Mar	
		08-Mar	
		09-Mar	
		10-Mar	
		11-Mar	
		12-Mar	
		13-Mar	
		14-Mar	
1		15-Mar	Frank Lowy
		16-Mar	
		17-Mar	
		18-Mar	
		19-Mar	
		20-Mar	
		21-Mar	
		22-Mar	
		23-Mar	
		24-Mar	
		25-Mar	
		26-Mar	
		27-Mar	
		28-Mar	
		29-Mar	
		30-Mar	
		31-Mar	
1		TOTAL	

\$1,650 RENT
 \$150 FOOD
\$1,800

625

BEVERLY PARK CORPORATION
GUEST LOG - New York Condo
Apr-00

Daily Rate: \$1,650 Rent
150 Food

WHL	WCI	DATE	GUEST NAME	
		01-Apr		
		02-Apr		
		03-Apr		
		04-Apr		
		05-Apr		
		06-Apr		
		07-Apr		
		08-Apr		
		09-Apr		
		10-Apr		
		11-Apr		
		12-Apr		
		13-Apr		
		13-Apr		
		14-Apr		
		15-Apr		
		16-Apr		
	1	17-Apr	Richard Green	
	0	18-Apr	Richard Green	
		19-Apr		
		20-Apr		
		21-Apr		
		22-Apr		
		23-Apr		
		24-Apr		
		25-Apr		
		26-Apr		
		27-Apr		
		28-Apr		
		29-Apr		
		30-Apr		
0	1	TOTAL		

\$0 \$1,800

BEVERLY PARK CORPORATION
 GUEST LOG -New York Condo
 May-00

Daily Rate: \$1,650 Rent
 150 Food

WHL	WCI	DATE	GUEST NAME	
		01-May		
		02-May		
		03-May		
		04-May		
		05-May		
		06-May		
1/2	1/2	07-May	Frank Lowy/Peter Lowy	
		08-May	Frank Lowy/Peter Lowy	
		09-May		
		10-May		
		11-May		
		12-May		
		13-May		
		14-May		
		15-May		
		16-May		
		17-May		
		18-May		
		19-May		
		20-May		
		21-May		
		22-May		
		23-May		
		24-May		
		25-May		
		26-May		
		27-May		
		28-May		
		29-May		
		30-May		
		31-May		

1/2 1/2 TOTAL

\$900

\$900

627

BEVERLY PARK CORPORATION
GUEST LOG -Beverly Hills House
May-00

Daily Rate: \$2,750 Rent
250 Food

WHL	WCI	DATE	GUEST NAME	
		01-May		
		02-May		
		03-May		
1		04-May	Frank Lowy/Andrew Briggs	
1		05-May	Frank Lowy/Andrew Briggs	
1		06-May	Frank Lowy/Andrew Briggs	
0		07-May	Frank Lowy/Andrew Briggs	
		08-May		
		09-May		
		10-May		
		11-May		
		12-May		
		13-May		
		14-May		
		15-May		
		16-May		
		17-May		
		18-May		
		19-May		
		20-May		
		21-May		
		22-May		
		23-May		
		24-May		
		25-May		
		26-May		
0		27-May	David Lowy	
		28-May		
		29-May		
		30-May		
		31-May		
3		TOTAL		

\$8,250
\$750
\$9,000

BEVERLY PARK CORPORATION
 GUEST LOG -New York Condo
 May-00

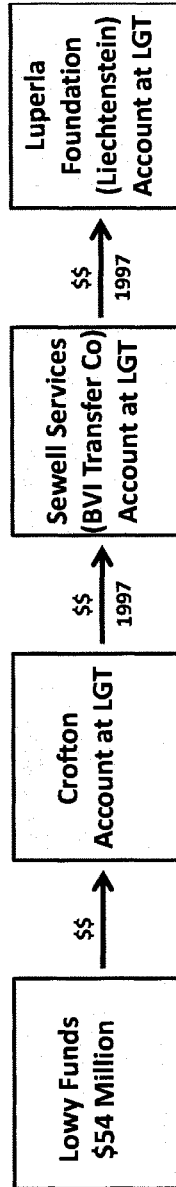
Daily Rate: \$1,650 Rent
 150 Food

WHL	WCI	DATE	GUEST NAME	
		01-May		
		02-May		
		03-May		
		04-May		
		05-May		
		06-May		
1/2	1/2	07-May	Frank Lowy/Peter Lowy	
		08-May	Frank Lowy/Peter Lowy	
		09-May		
		10-May		
		11-May		
		12-May		
		13-May		
		14-May		
		15-May		
		16-May		
		17-May		
		18-May		
		19-May		
		20-May		
		21-May		
		22-May		
		23-May		
		24-May		
		25-May		
		26-May		
		27-May		
		28-May		
		29-May		
		30-May		
		31-May		

1/2 1/2 TOTAL

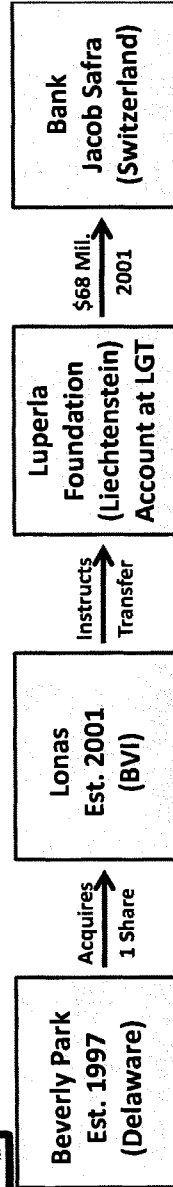
\$900 \$900

Hidden Money Trail



Permanent Subcommittee on Investigations
EXHIBIT #114

Hidden Instruction Trail





O'MELVENY & MYERS LLP

BEIJING
BRUSSELS
CENTURY CITY
HONG KONG
LONDON
LOS ANGELES

1625 Eye Street, NW
Washington, D.C. 20006-4001
TELEPHONE (202) 383-5300
FACSIMILE (202) 383-5414
www.omm.com

NEWPORT BEACH
NEW YORK
SAN FRANCISCO
SHANGHAI
SILICON VALLEY
TOKYO

OUR FILE NUMBER
0880152-00075

August 5, 2008

WRITER'S DIRECT DIAL
(202) 383-5374

BY HAND DELIVERY

The Honorable Carl Levin, Chairman
The Honorable Norm Coleman, Ranking Member
Permanent Subcommittee on Investigations
Homeland Security & Governmental Affairs Committee
United States Senate
199 Russell Senate Office Building
Washington, D.C. 20510-6200

WRITER'S E-MAIL ADDRESS
lblalack@omm.com

Re: **PSI's Staff Report on Tax Haven Banks & U.S. Tax Compliance**

Dear Chairman Levin & Ranking Member Coleman:

I am writing at the request of my client, UBS AG ("UBS"), to respond to Chairman Levin's invitation to Mark Branson during the July 17, 2008 hearing ("Hearing") of the Permanent Subcommittee on Investigations ("Subcommittee" or "PSI") for UBS to correct any errors in the Subcommittee Staff Report ("Staff Report") issued on July 15, 2008. My client has identified certain assertions and statements in the Staff Report that are either factually incorrect or incomplete.¹ Accordingly, UBS requests that this letter be entered into the Hearing record and that the Subcommittee correct the Staff Report as noted herein.

¹ This submission does not catalog all factual errors contained in the Staff Report such as incorrect dates or misstatements of fact relating to the titles and organizational functions of various UBS employees. For instance, footnote 381 of the Staff Report refers to an "LGT presentation" (p. 86); this is apparently a typographical error and should be "UBS presentation." As another example, the Staff Report states that, "[i]n 2005, UBS formed a new Swiss subsidiary, called 'Swiss Financial Advisors,' which is a broker-dealer registered with the SEC" (p. 83). Swiss Financial Advisors ("SFA") is a registered investment adviser with the U.S. Securities & Exchange Commission ("SEC"); it is not a registered broker-dealer. Rather, by this letter, UBS simply seeks to identify the incorrect statements and assertions in the Staff Report that appear to be most material to the Subcommittee's inquiry.

Permanent Subcommittee on Investigations
EXHIBIT #115a

O'MELVENY & MYERS LLP

The Honorable Carl Levin, Chairman & The Honorable Norm Coleman, Ranking Member, August 5, 2008, Page 2

A. Growth in the U.S. Cross-Border Business

Using the current estimate of 20,000 accounts and 18 billion Swiss Francs that UBS provided to the PSI Staff, the Staff Report states that "the number of U.S. client accounts in Switzerland and the amount of assets contained in those accounts have nearly doubled since 2002, when a UBS document reported that the Swiss private banking operation then had more than 11,000 accounts for clients in 'North America,' meaning the United States and Canada, with combined assets in excess of 21 billion Swiss francs or about \$13.3 billion." (p. 84; *see also* p. 9) UBS business records strongly suggest that the number of U.S. clients and the assets they hold at UBS Switzerland have not doubled since 2002. As we informed the PSI Staff in our meeting on July 14, 2008, this has been a non-growth, essentially static business over the last several years. Indeed, we estimate that in constant dollar terms, assets under management declined over the period in question.

Comparing UBS's current estimates of 20,000 U.S. clients with assets of 18 billion Swiss Francs to the "North America" figures from 2002 is not a proper basis for comparison. The 2002 figures on which the Staff Report relied were for the "North America" business unit, which is only one unit within Booking Center Switzerland. By contrast, the current estimate provided by UBS is for U.S. clients – based on either citizenship or domicile of the accountholder or the beneficial owner respectively – for all of Booking Center Switzerland. Further, the current estimate of 18 billion Swiss Francs includes all assets in the accounts of the relevant U.S. clients, while the "North America" figures include only securities assets of the relevant U.S. clients. Moreover, "North America" is a business unit, but not every account in that business unit is an account held by a U.S. person. The North America unit services clients from the United States and Canada, as well as many other countries around the world. Such clients may have moved from North America to other parts of the world or may simply have been serviced by a client advisor in the North America business unit.

To support the conclusion that the U.S. cross-border business has grown since 2002, the Staff Report also quotes a 2007 e-mail message from Martin Liechti regarding net new money goals and states: "This email indicates that in two years, from 2004 to 2006, UBS Swiss bankers had quadrupled the amount of net new money being drawn into UBS from the 'Americas,' and that the bank's management sought to quadruple that figure again in a single year, 2007." (p. 96; *see also* p. 14) Yet, Mr. Liechti's e-mail message in fact provides no support for this incorrect conclusion in the Staff Report. As its name suggests, and as the Staff Report acknowledges, the "Americas" unit overseen by Mr. Liechti generally serviced clients from Canada, the Caribbean and countries in Central and South America, in addition to the United States. Latin America is one of the fastest growing markets for the Wealth Management business group, and Mr. Liechti might have expected significant increases in net new money in the Americas unit as a whole because of that fast growing region. Further, Mr. Liechti's unit also included other U.S. booking centers, namely UBS International, Inc. ("UBS-I"). The quoted language of that letter does not indicate that UBS focused its interest on the United States, nor does it express a preference that business growth stem from the United States rather than other regions within the Americas business unit.

O'MELVENY & MYERS LLP

The Honorable Carl Levin, Chairman & The Honorable Norm Coleman, Ranking Member, August 5, 2008, Page 3

As part of the evidence cited to support the conclusion that UBS aggressively sought to grow the U.S. cross border business in this country, the Staff Report also states: "In 2003 . . . the head of the Wealth Management Americas division in Switzerland, Martin Liechti, sent a letter to his colleagues, urging each of them to refer at least five clients to Switzerland and promising to award the person with the most referrals with an expensive Swiss watch." (p. 95) Contrary to the inference in the Staff Report, we do not believe that this letter pertains to the referral of clients to Switzerland. Instead, it pertains to the referral of clients to UBS Financial Services, the SEC-registered, domestic unit of UBS – the former Paine Webber or UBS-I, also an SEC-registered entity which focuses on the servicing of non-U.S. clients. As quoted in the Staff Report, the letter states: "Each Country Team making a referral will get 0.33% of the revenues generated by the Financial Advisor over a time period of four years." (p. 95) In UBS terminology, "Country Team" refers to a group of Swiss-based client advisors and "Financial Advisor" refers to a broker working for UBS Financial Services or UBS-I. Thus, the letter explains that Swiss-based client advisors will receive a third of the revenue resulting from any clients from the U.S. or elsewhere that they refer to UBS Financial Services or UBS-I. This sentence is consistent with the terms of the referral agreement at the time between UBS AG and UBS Financial Services and UBS-I, which contemplates referrals of U.S. resident clients only to UBS Financial Services but not vice-a-versa.

B. UBS Employee Travel to the U.S. in 2008

The Staff Report notes that "UBS informed the Committee that, since January 2008, none of its Swiss private bankers has made a business trip to the United States." (p. 104) Citing the Subcommittee's study of Department of Homeland Security customs data, the Staff Report states that "[c]ontrary to this representation by UBS, however, a Subcommittee review of the relevant travel data for the Swiss bankers determined that, from January to April 2008, UBS client advisors made twelve trips to the United States, traveling from Switzerland to New York, Miami, San Francisco, and Las Vegas. The Customs I-94 Forms indicate that, on half of these trips, the Swiss bankers indicated they were traveling for business purposes, while on the other half, the Swiss bankers indicated they were traveling to the United States for non-business purposes. With respect to Mr. Liechti, head of the UBS Wealth Management Americas division, the I-94 Form shows that he arrived in the United States on April 20, 2008, on business." (p. 104)

As an initial matter, UBS did not represent to the Subcommittee that "since January 2008, none of its Swiss private bankers has made a business trip to the United States." Rather, UBS informed the PSI Staff that, since January 2008, UBS's policy has been that no Swiss-based client advisor may travel to the United States for the purpose of visiting a U.S. client. UBS further represented that this policy was communicated clearly to client advisors. Notwithstanding the statements in the Staff Report, UBS has no evidence to date that this policy has been violated.

We do not have access to the data upon which the Staff Report relies, and thus we cannot comment upon it. In particular, there is no way to know which UBS personnel are being referred to as having made twelve trips to the United States in 2008. We have, however, attempted to

O'MELVENY & MYERS LLP

The Honorable Carl Levin, Chairman & The Honorable Norm Coleman, Ranking Member, August 5, 2008, Page 4

review UBS business records concerning all reimbursed business travel to the United States since January 2008 for employees currently or formerly associated with the U.S. cross-border business. Contrary to the inferences in the Staff Report, it is our current belief, based on the information we have reviewed to date, that employees have complied with the current policy, and that there have been no visits by Swiss-based client advisors to customers in the United States during this time frame.

The one employee identified in the Staff Report, Martin Liechti, was not a client advisor; he was a manager whose direct reports included UBS employees based in the United States. Further, Mr. Liechti was no longer responsible for the U.S. cross-border business at the time of the trip referenced in the Staff Report. The information that we have reviewed also indicates that Michel Guignard and Patrick Schmid traveled to the United States during 2008. Mr. Guignard, like Mr. Liechti, was formerly a manager in the cross-border business, but did not have such responsibilities in 2008. Patrick Schmid is also a manager, not a client advisor, and while he did have responsibilities with respect to the U.S. cross-border business at the beginning of 2008, he had other managerial responsibilities as well. It is our current understanding (based on the pre-approval process introduced by UBS) that these trips were for business purposes other than meeting with U.S. based clients. At present, we have no basis for believing that Messrs. Liechti, Guignard or Schmid met with U.S. clients during their trips to the United States in 2008. Other data indicates that certain travel was reimbursed because persons were considering relocating to the United States. We also have evidence that a client advisor traveled to Las Vegas, Nevada in March 2008 for solely personal reasons. We have not discovered a single instance of reimbursed travel to the United States since January 2008 that we have reason to believe was reimbursed for the business purpose of meeting with a U.S. client. If the Subcommittee has additional information suggesting that client advisors met with clients in the U.S. during a trip in 2008, UBS requests that the information be shared with us so that we can investigate the circumstances surrounding the trip.

C. UBS "Helped" 250 U.S. Clients Establish Offshore Entities

The Staff Report states: "UBS also told the Subcommittee that, in 2001, it helped about 250 U.S. clients with Swiss accounts to establish corporations, trusts, foundations, or other entities in non-U.S. countries, open new UBS accounts in the names of those foreign entities, and then, in a number of instances, transfer U.S. securities from the client's personal accounts to those new accounts." (p. 88; *see also* p. 11) This statement is incorrect.

UBS informed the Subcommittee that 251 accounts were opened in 2000 or 2001 in the name of offshore entities with one or more U.S.-domiciled persons as beneficial owners. UBS also informed the PSI Staff that it appeared preliminarily that, with respect to some of those accounts, UBS employees referred clients to third parties, who helped the clients establish these offshore entities without the involvement of UBS personnel. UBS explained to the PSI Staff that it was in the process of investigating these situations. Thus, as previously described to the PSI Staff, the ongoing investigation preliminarily indicates that UBS personnel did not establish these structures and UBS made clear that such referrals did not occur with respect to all of these

O'MELVENY & MYERS LLP

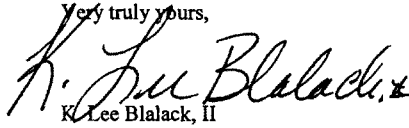
The Honorable Carl Levin, Chairman & The Honorable Norm Coleman, Ranking Member, August 5, 2008, Page 5

accounts. Therefore, it is not accurate to state that UBS "helped" or referred the 250 accountholders establish the corporate structures, trusts and foundations referenced in the Staff Report.

D. "Undeclared" Accounts which "have not been disclosed to the IRS"

The Staff Report states: "In response to Subcommittee inquiries, UBS has estimated that it today has about 20,000 accounts in Switzerland for U.S. clients, of which roughly 1,000 are declared accounts and 19,000 are undeclared accounts that have not been disclosed to the IRS." (pp. 9, 84; *see also* pp. 81, 83) In the course of our discussions with the PSI Staff, UBS never referred to such accounts as "undeclared" accounts. Further, UBS told the Subcommittee that it has reason to believe that some clients with accounts for which no Form W-9 has been filed (and was not required to be filed) do in fact report information with respect to their UBS accounts in their U.S. tax returns and thus cannot reasonably be considered "undeclared" with respect to the IRS.

Should you have any questions regarding this submission, please contact me at your earliest convenience.

Very truly yours,

 K. Lee Blalack, II
 for O'Melveny & Myers LLP

cc: Robert Roach, Esq. (via hand delivery)
 Chief Investigative Counsel, Permanent Subcommittee on Investigations
 Mike Flowers, Esq. (via hand delivery)
 Minority Deputy Chief Counsel, Permanent Subcommittee on Investigations
 Alan Brudner, Esq. (via electronic delivery)
 Louis J. Barash, Esq. (via electronic delivery)
 Thomas Delaney, Esq. (via electronic delivery)

STAFF MEMORANDUM

TO: FILE
FROM: MAJORITY AND MINORITY STAFF
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
DATE: NOVEMBER 2008
RE: UBS LETTER ON SUBCOMMITTEE REPORT

On July 17, 2008, the U.S. Senate Permanent Subcommittee on Investigations held a hearing and issued a staff report entitled, "Tax Haven Banks and U.S. Tax Compliance." The Report stated: "From at least 2000 to 2007, UBS made a concerted effort to open accounts in Switzerland for wealthy U.S. clients, employing practices that could facilitate, and have resulted in, tax evasion by U.S. clients." During the hearing, Subcommittee Chairman Levin invited UBS AG to submit any corrections of factual matters in the Report. In response, on August 5, 2008, UBS submitted a letter to the Subcommittee disputing several Report statements as "either factually incorrect or incomplete." The UBS letter is included in its entirety in the hearing record. The purpose of this memorandum is to respond to the concerns identified in that letter.

A. UBS Actions to Open Swiss Accounts for U.S. Clients

The UBS letter takes issue with three points in the Report regarding the bank's efforts to open accounts in Switzerland for U.S. clients: (1) that the number of U.S. client accounts and the dollar value of those account assets increased from 2002 to 2007; (2) that UBS pressured its Swiss bankers to bring new money from the United States into Switzerland; and (3) that UBS offered an award to encourage its bankers to meet net new money goals.

Increase in U.S. Clients. The Report states that "the number of U.S. client accounts in Switzerland and the amount of assets contained in those accounts have nearly doubled since 2002," contrasting data in a 2002 UBS document citing more than 11,000 accounts with \$13.3 billion in assets for clients in the United States and Canada, with UBS's admission that, in 2007, it had about 20,000 accounts with \$18 billion in assets for clients in the United States alone. In its letter, UBS asserts that "UBS business records strongly suggest that the number of U.S. clients and the assets they hold at UBS Switzerland have not doubled since 2002. ... [T]his has been a non-growth, essentially static business over the last several years." UBS also asserts that the 2002 document did not include data from all of its Swiss business units or all of the assets in U.S. client accounts at that time.

UBS disputes the Report's analysis, which relies on an internal UBS document, while at the same time failing to provide any specific empirical data supporting its position. The Subcommittee has had a longstanding request for UBS to provide specific information on the number and location of its U.S. client accounts and U.S. client controlled accounts, and the value

and types of assets in those accounts over specified periods of time. UBS has not provided that specific data. UBS states in its letter that its business records “strongly suggest” that the number of accounts and asset amounts “have not doubled since 2002,” without describing the nature of those business records, providing copies of them, or stating what those records do show. Whether and the extent to which UBS saw an increase in U.S. client accounts and assets in Switzerland, from 2002 to 2007, could easily be settled by UBS’ providing specific, comparable data for the years in question.

Net New Money. UBS wrote: “To support the conclusion that the U.S. cross-border business has grown since 2002, the Staff Report also quotes a 2007 e-mail message from Martin Liechti regarding new net money goals and states: ‘This email indicates that in two years, from 2004 to 2006, UBS Swiss bankers had quadrupled the amount of net new money being drawn into UBS from the ‘Americas’ and that the bank’s management sought to quadruple that figure again in a single year, 2007.’ (p. 96; *see also* p. 14) Yet, Mr. Liechti’s e-mail message in fact provides no support for this incorrect conclusion in the Staff Report. As its name suggests, and as the Staff Report acknowledges, the “Americas” unit overseen by Mr. Liechti generally serviced clients from Canada, the Caribbean and countries in Central and South America, in addition to the United States. Latin America is one of the fastest growing markets for the Wealth Management business group, and Mr. Liechti might have expected significant increases in net new money in the Americas unit as a whole because of that fast growing region.”

The Report did not cite the 2007 Liechti email as evidence that UBS had increased U.S. client accounts in Switzerland since 2002. That issue was addressed in the Report section entitled, “(1) Opening Undeclared Accounts with Billions in Assets,” which appeared on pages 83-86 and drew primarily upon the document entitled, “Key Clients in NAM: Business Case 2002-2005,” and a series of documents entitled, “BS North America Report: Overview Figures North America,” covering the months July - December 2004, January - March 2005 and August - October 2005. The 2007 Liechti email was referenced in Report section, “(3) Targeting U.S. Clients,” on pages 94-97, in a discussion of how UBS had assigned “net new money” (NNM) targets to its Swiss bankers. The Report cited Liechti email as evidence that UBS was pressing its Swiss private bankers to bring new money from the United States into Switzerland. The Report explicitly acknowledged that the 2007 email was addressed to all UBS Swiss bankers with clients in the “Americas.” The United States is certainly one of the geographical areas included in the “Americas,” and there is no indication in the email that the United States was excluded from the goals established in that communication. The UBS letter does not dispute the Report’s statement that, between 2002 and 2007, UBS assigned its Swiss bankers specific NNM performance goals to bring new money from the United States into Switzerland, and that those performance goals may have intensified the efforts of UBS Swiss bankers to recruit U.S. clients.

Swiss Watch Award. The UBS letter raised concerns about the Report’s treatment of a June 2003 letter sent by Martin Liechti, a senior UBS official in Switzerland, to his colleagues offering to award an expensive Swiss watch to the person with the largest number of client referrals. UBS wrote: “[W]e do not believe that this letter pertains to the referral of clients to Switzerland. Instead, it pertains to the referral of clients to UBS Financial Services, the SEC-registered, domestic unit of UBS – the former Paine Webber or UBS-I, also an SEC-registered

entity which focuses on the servicing on non-U.S. clients.” The Report did not, however, cite the Liechti letter, entitled “Referral Campaign BU Americas,” as evidence of UBS efforts to increase U.S. client accounts in Switzerland, but as another example of actions taken by UBS to encourage its bankers to meet net new money goals. In the 2003 letter, Mr. Liechti wrote:

“Net New Money is, as you know, a key element for our success. This means that we all have to work hard to achieve our NNM goals for 2003 and the years to come. In order to reach this goal, two main initiatives have been launched: The Key Client initiative and the Referral Program within UBS. These initiatives have two goals: On the one side, they will, as I said, help us to achieve our NNM targets. On the other side, they should help us to increase co-operation between UBSI, the Private Bank and the other business groups of UBS and between the client advisors and the Product Specialists. The success of these initiatives is crucial for the success of the integrated Business Model of UBS, thus crucial for our success.”

Moreover, as documented in UBS material regarding its Referral Desk, and as explained by former Referral Desk personnel, the Referral Program cited in the 2003 letter also referred business to UBS’ affiliate, Swiss Financial Advisors, an SEC-registered financial advisor located in Switzerland.

B. UBS Employee Travel to the United States in 2008

The UBS letter also takes issue with the Report regarding its statements about UBS employee travel to the United States in 2008. The letter asserts that UBS “did not represent to the Subcommittee that ‘since January 2008, none of its Swiss private bankers has made a business trip to the United States.’” UBS claims instead that it informed PSI staff that its policy was that no Swiss-based UBS client advisor was to travel to the United States. Moreover, UBS claims that certain employees, such as Martin Liechti and Michel Guignard, were not client advisors at all, but managers, and so were not subject to the travel ban. UBS also claims that its own records – which it failed to provide to Subcommittee staff despite repeated requests – do not reflect the travel documented by data generated by the U.S. Department of Homeland Security (DHS). Finally, UBS asserts that its Swiss client advisers who travelled to the United States travelled for other business purposes and not to meet with existing clients.

As a threshold matter, in its final meeting with counsel for UBS, Subcommittee staff expressly asked whether there had been any travel in or after January 2007 by UBS Swiss-based client advisors, and UBS counsel replied with an unequivocal “no.” As indicated in the Report, however, this response does not square with data recorded on at least 12 different dates in various ports of entry throughout the United States by separate U.S. customs officials. Given this data, the Subcommittee staff cannot concur with UBS’ assertion that the Report inaccurately describes the extent and timeframe of travel by its Swiss-based personnel into the United States.

With respect to UBS’ statement that certain Swiss employees named in the Report were not client advisers but managers, this information does not detract from the Report’s findings. Travel by UBS managers, who are more senior in stature than its client advisers, does not

mitigate or excuse UBS' efforts to recruit or service wealthy U.S. clients while traveling in the United States. Mr. Birkenfeld told the Subcommittee, for example, that Mr. Liechti insisted on meeting personally with "key clients," or clients of significant net worth. Such meetings contributed to UBS efforts to convince wealthy American clients to deposit or increase their assets in Swiss accounts.

Regarding UBS' claim that its own records do not indicate that its travel ban to the United States was violated, we remain unpersuaded. Absent any indication that the DHS data is inaccurate, the lack of corroborative data from UBS indicates only that its own records fail to capture the activities of its employees. We also find it significant that UBS excluded client recruitment efforts from its description of its Swiss-based employees' activities in the United States.

C. UBS "Helped" 250 U.S. Clients Establish Offshore Entities

The UBS letter objects to the statement in the Report that UBS bankers "helped" 250 U.S. clients with Swiss accounts "establish corporate, trusts, foundations, or other entities in non-U.S. countries, open new UBS accounts in the names of those foreign entities, and then, in a number of instances, transfer U.S. securities from the client's personal accounts to those new accounts." UBS acknowledges that its employees referred "some" American clients to third parties who established offshore entities that then opened UBS accounts into which these clients could move their U.S. securities. UBS states, however, that not all 250 offshore entities were created or referred in this manner, and stresses that its employees did not themselves establish the offshore structures. Whether or not UBS personnel referred U.S. clients to third parties to establish offshore entities or established the offshore entities themselves, it is beyond dispute that UBS, through its Know-Your-Client procedures, was fully aware that the offshore entities were beneficially owned by its U.S. clients. It is also beyond dispute that UBS permitted these offshore entities to open accounts at the bank and accepted deposits from offshore entities that UBS knew were owned or controlled by U.S. clients, without reporting the accounts to the IRS. Without UBS' cooperation, none of these accounts could have evaded IRS review. In addition, a recent federal indictment of a senior UBS official based in Switzerland alleges that, on August 17, 2004, two UBS managers "organized a meeting in Switzerland with outside lawyers and accountants to discuss the creation of structures and other vehicles for clients who wanted to conceal their Swiss Bank accounts ... [from] tax authorities in the United States and Canada."

D. Undeclared Accounts

Finally, UBS wrote: "The Staff Report states: 'In response to Subcommittee inquiries, UBS has estimated that it today has about 20,000 accounts in Switzerland for U.S. clients, of which roughly 1,000 are declared account and 19,000 are undeclared accounts that have not been disclosed to the IRS.' (pp. 9, 84 *see also* pp. 81, 83) In the course of our discussions with the PSI Staff, UBS never referred to such accounts as 'undeclared' accounts. Further, UBS told the Subcommittee that it has reason to believe that some clients with accounts for which no Form W-9 has been filed (and was not required to be filed) do in fact report information with respect to

their UBS accounts in their U.S. tax returns and thus cannot reasonably be considered 'undeclared' with respect to the IRS."

Although UBS states that it never referred to "undeclared accounts" in its discussions with PSI staff, that phrase appears in UBS documents produced to the Subcommittee. For example, a document entitled, "Key Clients in NAM: Business Case 2002-2005," notes: "QI Agreement covers US Securities. Clients who are liable to taxation in the US can hold US securities only if they are declared. US Clients with undeclared accounts may no longer hold any US securities." Another UBS document, entitled "International Business Workshop Meeting Notes, February 23, 2007," contains the following notation: "Weaknesses/Threats ... 'Undeclared' ... Americas desk[:] SFA referral issue (FAs do not always work through SFA and find out about undeclared accounts through word of mouth. We must try to control referral pipeline)."

UBS did tell the Subcommittee that it had reason to believe that some of its U.S. clients may have reported information about their accounts on their U.S. tax returns even though they did not file a W-9 Form. UBS also told the Subcommittee that it could provide no estimate of how many clients acted in that manner. That is why the Report noted "roughly 1,000 are declared accounts and 19,000 are undeclared accounts that have not been disclosed to the IRS."

TAX HAVEN LIECHTENSTEIN

**Transcript of the *Frontal 21* Documentary
March 25, 2008 on ZDF Network in Germany**

Speaker:

We're preparing for a trip to Liechtenstein. We want to fake-launder money. We want to find out how €800,000 in dirty money can be transformed into a clean fortune. We are working with a hidden camera; we want to document how tax fraudsters smuggle money past the tax authorities, with the aid of Austrian, Swiss, and Liechtenstein banks – just as thousands of rich Germans do. Here, in what is known as the Golden Triangle connecting Liechtenstein, Switzerland, and Austria, our destination is a small valley in the Alps, where 80,000 companies and foundations are located. And most of them exist only to transfer billions in assets unnoticed – to Liechtenstein.

Professor Peter Geiger:

It is astounding why Liechtenstein actually still exists as a country – because it has been able to assert itself throughout history through luck and chance.

Werner Rügemeier:

Today Liechtenstein is a financial hub for concealed capital flows, and that can be used by both tax evaders and corporations such as Siemens, or also by others who have something to hide.

Reinhard Kilmer:

Liechtenstein is, in my view, a parasitic dwarf state which aims to hoard tainted funds, to profit from what others have amassed through criminal means.

Speaker:

Welcome to Vaduz, Liechtenstein. We have an appointment at the Volksbank. On the telephone, we expressed our interest in an anonymous foundation. We identify ourselves as German entrepreneurs who wish to invest €800,000 in undeclared cash. We are filming with a hidden camera. But, much to our surprise, the Volksbank Liechtenstein does not want to have anything to do with these sorts of transactions.

Employee:

We do not accept any undeclared funds, sorry, we can't help you.

Speaker:

There is a reason for this sudden reservation. Days before the Liechtenstein Trustee Association warned its members. The internal email was leaked to us.

Voice:

Warning: According to information available to us, a German television team is in Liechtenstein researching for the ZDF program *Frontal 21*. It apparently cannot be ruled out that they are also working with a hidden camera. We ask members to exercise caution, in particular with current and new clients who are largely unknown.

Speaker:

The warning comes too late, because we visited the parent company of the Liechtenstein Volksbank in the Austrian city of Bregenz – also using a hidden

camera. And there, the bank is indeed very willing to assist German tax evaders to conceal their illegal funds. We are asked to come up to the second floor. Here, discreet conversations take place. A senior-level employee is expecting us, Director G from Liechtenstein.

Employee:

I have asked Mr. G to join us. He comes from the *Juricon Treuhandanstalt*, our subsidiary in Liechtenstein. If you want to establish a foundation, we can take care of that for you right away here in Bregenz.

Speaker:

We come straight to the point: We ask whether we can deposit our alleged €800,000 in cash to establish a foundation. The Volksbank employees make clear that it does not matter whether our money has been taxed in Germany or not.

Employee:

No problem. You can deposit the money here and then you have two possibilities. You leave your money here in Austria. We also practice banking secrecy. Or we transfer the money for you to our subsidiary bank in Liechtenstein. It is handled discreetly. No German tax authority learns of it.

Speaker:

So it absolutely goes without saying that we could deposit €800,000 in black money in the EU country of Austria and transfer it to Liechtenstein.

Reinhard Kilmer:

If a banker receives a financial investment and knows that the money is tainted, the banker, of course, makes himself punishable for a crime. It seems Austria is increasingly turning into a haven for millionaires, for Austria has very special banking secrecy.

Speaker:

And that guarantees absolute discretion, the Volksbank advisor assures us. The Juricon director is immediately willing to establish an anonymous foundation for us.

Employee:

We will take care of all the logistics here. You do not have to go to Liechtenstein yourself. Your money remains in an account in Austria or is transferred to Liechtenstein. Whatever you like. It will then be placed into the foundation. No one will ever learn your name. You remain anonymous.

Speaker:

The Volksbank employee finally goes to get our foundations, which were being prepared during the meeting. And these are the founding papers for our foundation in Liechtenstein, where our €800,000 would land. And no one could find out that we are behind it.

Employee:

Here, we have our foundation charter and power of attorney. We only have to sign and then we have a foundation.

Reinhard Kilmer:

The cooperation between Liechtenstein and Austria stinks to high heaven. It is rather conspicuous that such outstanding business relations have evolved here. Austria is apparently trying to be a kind of outpost for Liechtenstein. Because Liechtenstein has totally clammed up in matters of legal assistance, in matters of anonymity. And Austria is trying to become a partner in crime – and that as an EU member state. Now that's really cheeky.

Speaker:

Our money would migrate from Germany via Austria to Liechtenstein – a route with which it is well familiar. Medard Fuchsgruber, white-collar-crime detective, frequently travels this route on commission by defrauded capital investors. The drive leads in the direction of the Austria border.

Medard Fuchsgruber:

Even after 20 years on the job, the charm of this route is plain to see. Hundreds and thousands of investment fraudsters have traveled this route to secure their money in Switzerland, Liechtenstein, or even Austria. That means this route is used not only by the average German tax evader but clearly also by the professionals.

Speaker:

The Lake Constance highway to Austria is much loved by black-money smugglers. It takes them to the secure banking locale of Switzerland and all the way to Liechtenstein.

Medard Fuchsgruber:

Everybody is on the road here. Just look: Whether trucks or even vacationers with their RVs. You'll find it all here. And, accordingly, one is just part of the big mass here and therefore can actually hide rather well and go with the flow. And particularly when they use the season, the high season for vacationers, who wants to perform any security checks on these masses traveling along here? Security checks are actually virtually impossible now.

Speaker:

In fact, German customs can only check a small fraction of the travelers and relies on spot checks. The officers are increasingly dealing with professionals.

Wolfgang Schmitz:

We are increasingly discovering cash amounts in specially prepared hiding places. That means the perpetrators have their own vehicles; they have false bottoms in the floors of the vehicles, prepared seats – and make sure that they bring things along in which cash can be transported. For example, we have found a walking cane with a respectable sum rolled up in it. We uncovered a strong box in a spare tire, in a cavity made especially to transport cash – certainly used more than once – before we discovered it. So we see here quite plainly that both the money launders engaging in criminal activities and those attempting to steal their cash abroad, away from the tax authorities, are becoming more resourceful.

Speaker:

Over the past year, German customs agents have seized a total of € 5.3 million in black money – German tax fraudsters have transferred 40,000 times more to Austria and Switzerland – over €200 billion. We cross the Austrian border without any checks.

Medard Fuchsgruber:

This three-country triangle obviously has something people want, something almost akin to the Bermuda triangle, when you think about how much money disappears here.

Speaker:

From the German-Austrian border, we reach Vaduz in half an hour. Here, in Liechtenstein, some 300 trust offices and 15 banks are expecting their affluent clientele. The Liechtensteiners' main line of business is the discrete financial investment. Here, Fuchsgruber wants to meet an informant, the former employee of a Liechtenstein trust office. The meeting place is a cafe. The man is afraid, does not want to be recognized. He claims Liechtenstein banks had written instructions from the highest levels to protect tax evaders.

Former Employee of the Trust:

The Liechtenstein system, that's the Princely Family. I know from banks that are close to the Princely Family that there is a directive paper explaining how to proceed so that clients are not uncovered. It has never been said, "Please make sure that your customers also properly declare the money in their respective country of residence for tax purposes." There definitely have never been any such directions.

Speaker:

The Principality of Liechtenstein has a total of 34,000 residents, who, however, earn almost four times as much per capita as Germans – €90,000 per capita, that is the world's highest. The principality has taken precautions so that it will remain so. The world's rich see its foundation law as an invitation to launder money and evade taxes. Prince and Hereditary Prince are at once heads of state and billion-dollar bankers.

Prince and Hereditary Prince:

People of Liechtenstein, I promise you to dedicate myself to the well-being of people and country, in accordance with our constitution.

Speaker:

Dedicated to the well-being of people and country is apparently also the princely bank LGT, which administers approx. €63 billion in private assets. The bank director is a son of the prince: Prince Max von Liechtenstein. Tax fraudsters such as *Deutsche Post* CEO Klaus Zumwinkel found a safe haven in this financial empire. It seems this inconspicuous trust office in Vaduz is also dedicated to the well-being of people and country. The *Industry und Finanzkontor* (Liechtenstein chamber of commerce), led by Prince Michael of Liechtenstein. Here, the Hessian CDU party found a safe haven, for millions of euros in illegal money. The cover name: Zaunkönig Foundation. Most of the Liechtenstein ambassadors also belong to the Princely Family. Prince Stefan von Liechtenstein represents his country in Germany. Previously he served at the largest Swiss bank UBS.

Werner Rügemeier:

The Princely House presents the head of state. The head of states can dissolve the government without grounds. The head of state appoints the major diplomatic representatives abroad. And at the same time, the Princely House is the largest banker of the state, one of the largest trustees. And this close link between political functions and economic activity actually does not exist anywhere else in Europe.

Speaker:

The economic power of the Princely House is concentrated within the family's own LGT Group – The Princely Bank with member trust companies. The *LGT Treuhand* discretely administers a billion assets in trusts and foundations. For many years, that went well, until one employee packed it in. An insider from *LGT Treuhand* contacted the German Intelligence Service. He is still hiding behind a false email address, named Julia. The unknown informant offers bank documents uncovering money-laundering, terrorist financing, and tax evaders. Later, his identity becomes known: It is Heinrich K. of Baldaß in Liechtenstein, 42 years of age, a former software expert at *LGT Treuhand*. Here's where Heinrich K. worked. This is where he copied and stole sensitive documents of German tax evaders – for the government of Liechtenstein, more than an embarrassing affair.

Heinz Frommelt:

That is regrettable because this princely bank is otherwise a high, very high-quality institution. It is a true quality bank, which is also very heavily involved in onshore business, in other words, not only offshore, particularly this bank – it is very regrettable that it has gotten caught up in this affair.

Speaker:

In Strasburg, the German Intelligence Service arranges Heinrich K.'s conspiratorial meeting with German investigators. The informant and the investigators meet in a hotel room. Heinrich K. has account documents of roughly 700 German LGT customers. The data provide evidence of massive tax evasion to Liechtenstein. The data thief receives €4.2 million in reward money from the German authorities. Then Heinrich K. goes into hiding, equipped with a new identity. Liechtenstein is outraged.

Heinz Frommelt:

That is a criminal act, in which the German authorities participated and could definitely be found guilty of complicity.

Speaker:

They see that differently here. In November 2007, the Bochum public prosecutors receive the Liechtenstein papers, for them, unprecedented evidence for high-flying crimes.

Eduard Güroff, public prosecutor:

Well, in this case we are dealing with about 700 suspects, German suspects. With roughly 700 suspects, we've easily got between 30,000 to 40,000 pages of reading material. These documents will be read by about 35 tax investigators, five public prosecutors. And in searches which we conducted some time ago, for example, several tax investigators, public prosecutors, and law-enforcement officers have naturally become involved.

Speaker:

Public prosecutor Margaret Lichtinghagen and her boss are planning the biggest tax raid ever in the history of the Federal Republic of Germany. The investigators have their sights on banks, companies, and private persons. Like the Bochum public prosecutors, white-collar-crime detective Medard Fuchsguber is also on the trail for illegal funds. We are still on the road with him in the Golden Triangle, between Austria, Switzerland, and Liechtenstein, en route to St. Margareten.

Medard Fuchsgrubner:

In traditional investment fraud – which still today causes billions in damages annually in Germany – we regularly land the majority of the cases squarely in Switzerland and in Austria, and then, ultimately, also at Swiss and Liechtenstein foundations. That means that time and again the money is plainly hidden here within a radius of 150 km.

Speaker:

From Germany, after a 15-minute drive, we reach the Swiss border. From here, it's only another few kilometers to St. Margareten, a favorite Swiss border town among German tax fraudsters. We were here already once before, in July 2005. We identified ourselves as German investors, filming with a hidden camera. We inquired at a Credit Suisse branch whether the bank had a problem with undeclared cash. Already the teller knew to offer advice, "With a minimum of 50,000 Swiss Francs, you're in," she said and sent us to the first floor. There, a Credit Suisse advisor was expecting us and provided tips on how we could transfer our cash to Switzerland.

Employee:

For us, it is good that we have Austria as a buffer. The only customers who have so far been checked came in on the train. A customs officer automatically travels along on the train. But nothing has happened to people traveling by car.

Speaker:

For those who want to play it safe, the banks offer a very special service.

Medard Fuchsgrubner:

For those for whom it is too risky to travel this route themselves or who do not have the time to seek out this vacation paradise, we now have the phenomenon that the service providing bank branch will clearly also assume this risk through money couriers.

Speaker:

Detective Fuchsgrubner is on the trail of this phenomenon – here, at the heart of the Swiss financial world, the *Zurich Paradeplatz*. Billions in illegal funds are believed to be held in the bank vaults of the financial institutions. Fuchsgrubner has an appointment with the employee of a Zurich asset management company. The informant turns over to him a revealing document: the invoice for a money courier. The drive to a customer in Germany and back to Switzerland is listed exactly down to the kilometers.

Reinhard Kilmer:

The invoice is clear proof that this transfer of illegal money is, indeed, well organized. Swiss banks like to contest that fact, also don't like to get their hands dirty. But we happen to know that Swiss banks generally know someone who will take care of the transport. That means there are asset management companies and established companies in this area that do the so-called dirty work.

Speaker:

The major private assets kept here are well protected by Swiss banking secrecy. But the Liechtenstein trustees were first to cover all tracks that could lead to the true owners.

Medard Fuchsgruber:

In my view, we are then, of course, also quickly talking about defrauders, smuggling money – Switzerland is the cover for Liechtenstein. If I am a perpetrator of fraud and I want to collect money, first with investors, then I need a reputable cover. Switzerland provides me with the reputable cover. Switzerland has a good reputation. The bank location time and again tries to present itself publicly as very clean and very well regulated. If then I, of course, want to hide my acquired, my collected, my stolen, beloved money, then I, in turn, need Liechtenstein, because it offers me the opportunity to remain anonymous in a way Switzerland no longer can.

Speaker:

The business success of the Liechtenstein trusts is based on anonymity. But that is all over now for the *LGT Treuhand*, since the public prosecutor's office in Bochum learned of many of its customers.

Voice:

It's going down now. Here in front of the villa. There are 1, 2, 3, 4, 5, 6, 7, 8 people going inside the villa.

Reinhard Kilmer:

It goes without saying that we are dependent on the element of surprise. And the investigating authorities like to come calling very early – of course, simply to surprise the suspects. They are confronted with the charge of a crime. Search and seizure warrants are presented. And then we really get down to work.

Speaker:

The reporters are already there when *Deutsche Post* CEO Klaus Zumwinkel is caught. It is the first time that one of the discreet customers of LGT is uncovered. For many others, this comes as a shock. The whistle has been blown on the search. The Bochum public prosecutors are displeased.

Eduard Güroff:

We are completely surprised that that something leaked out about the sting from somewhere. But I would expressly like to add that, counter to some press reports, I trust my investigating officers implicitly, in particular my colleagues at the public prosecutors office – they were not the leak.

Speaker:

The search in front of running cameras has an impact. At the public prosecutor's office in Bochum, so far over 400 tax evaders have voluntarily come forward. Margret Lichtinghagen is astounded that one out of every two of them does not appear in the LGT documents. While the Bochum public prosecutor's office is pleased with the success of its investigation, the Prince's House responds with utter bewilderment, levels charges against the Federal Republic of Germany.

Hereditary Prince Alois von und zu Liechtenstein:

Apparently the German government still does not understand how one deals with friendly nations with directly elected democracies. Germany would be better advised to use its tax revenues to get a handle on its tax system than to spend millions on stolen data.

Speaker:

Already once before, eight years ago, intelligence findings led to a crisis between Germany and Liechtenstein. In that case, a confidential German intelligence file on Liechtenstein became public. In it, the German Federal Intelligence Service names names, calls Liechtenstein an ideal place for money-laundering. The allegation: Disguised as reputable trustees, expert money-launderers collude with politicians, civil servants, judges, and bankers. The Prince's House denies everything; like today, it rejects any and all allegations of complicity in money-laundering and tax evasion.

Prince Hans Adam von Liechtenstein:

I believe one has to remain calm about the whole matter. I mean that there is naturally a certain degree of envy, particularly in certain circles, where they are not very happy about the fact that Liechtenstein is a tax oasis surrounded by tax wastelands; that's just the way it is;. We just have to live with the fact that certain circles have a vested interest in putting pressure on us, and that will always be the case.

Speaker:

Notwithstanding their calm, the then-governing officials in Liechtenstein go about appointing a special investigator.

Heinz Frommelt:

It was thoroughly necessary, to a degree, to expose the situation, I think, to draw attention to what at that time were not fully functioning courts, for example, or public prosecutor's services, or even the understaffing of law-enforcement officers, which, in fact, existed. These shortcomings were known, but the extent of their pervasiveness only came to light, or were uncovered, when the crisis broke. That is correct. Yes.

The LiGa Cabaret in Liechtenstein

"Leather shoes, sunglasses, briefcase, gall. Like bees to honey, they swarmed to Vaduz. Taxis with Munich tags, black jeeps, Rolls Royce from Great Britain, a glass of champagne on arrival, everything's okay.

Speaker:

Liechtenstein: Where today private banks and trust offices are making killer deals, bitter poverty was pervasive only a few decades ago. At the start of the 1920s, Liechtenstein is a far cry from becoming the vault of the wealthy. A valley of the Alps, inhabited by milk farmers, it is governed by Prince Franz Josef, who in 1926 creates the foundations for anonymous financial investments through a new law.

Werner Rügemeier:

Democracies emerged after World War I, and the old elites had something to hide, and Liechtenstein created a legal entity to fill this need, so to speak.

Speaker:

From 1926 onward, investors are able to place their assets in the protection of the safe haven. Hidden in anonymous foundations and so-called mailbox companies. Before too long, there is a mailbox company for every resident of Liechtenstein.

Prof. Peter Geiger:

It is certainly true that with the mailbox companies, Liechtenstein was eyeing the tax bases of other countries, or maybe simply capital funds looking for a somewhat safer place somewhere. They could've included tax-evasion money.

Speaker:

The prince collaborates with the Nazis. Liechtenstein survives the war as an independent state. In 1945, it has an advantage as a place of business and investment. The great era of the trusts begins. From 1960 until today, revenues of the principality have grown twentyfold.

Prof. Peter Geiger:

As a historian, I realize time and again that, over these decades and beyond, ever since this line of business has existed in Liechtenstein, a certain sense of guilt has also always been associated with it, the awareness that it is an area which creates problems and is also morally dubious.

LiGa Cabaret in Liechtenstein

Guns, cannons, tanks, mines – they all need capital. Explosive toys for the little guys. Money knows no morals. . . .

Speaker:

Even the GDR availed itself of the aid of the Liechtenstein capitalists, maintained a covert network of companies through which hard currency was procured. Until today, it is still a mystery where the millions from the GDR shadow economy disappeared to after the wall came down. Trust companies like the *Präsidialanstalt* in Liechtenstein served as a cover for the GDR transactions. Two investigating committees attempted to secure the GDR assets. But Liechtenstein stayed mum.

Volker Neumann, SPD:

Liechtenstein was not very helpful in the civil dispute about these kinds of recognized institutes that held accounts with money. The judicial system has actually always tried to preserve the secrecy of these institutions. They have kept the level of confidentiality so high that it is extremely difficult to assert claims in this area.

Speaker:

That will succeed only when insiders break the vow of secrecy of the trusts. An unknown person drops off a CD ROM at the public prosecutor's office in Bochum. The investors are not a little amazed. The disc holds secret documents on thousands of foundations established by a trustee in Vaduz, also on German citizens who do not want to pay taxes on their wealth.

Reinhard Kilmer:

For the German government, this database that fell into the hands of the investigating authorities has truly been a blessing. For the material is apparently so valuable that enormous sums of previously undeclared taxes could now be recouped.

Speaker:

Herbert Battliner, trustee from Vaduz, is behind that. He had hidden in Liechtenstein foundations millions in assets belonging to prominent figures, for example, the horse show jumper Paul Schockemöhle's money, in the Satyr Foundation; for example, Helmut Kohl's and the CDU's millions in illegal funds, hidden in the Norfolk Foundation; for example, money gained by the drug dealer Reis Torres, in the

Somaterie Foundation. The Battliner trustee worked closely with banks, for example, the Dresdner Bank. Assets of German taxpayers were also transferred to Liechtenstein via the bank. Without the banks assisting, the dubious transactions of the Liechtenstein trustees would not have been possible. Then as now.

We are doing a spot check in Baden-Baden, at a branch of the renowned Swiss UBS Bank. It has an office directly across from the Brenner's Park Hotel. Whoever wants to become a customer here, has to invest a minimum of €500,000. Swiss UBS is the world's largest bank for wealthy private customers. We've scheduled an appointment, identify ourselves as real estate managers. We are filming again with a hidden camera. They are expecting us. We pretend as though we want to invest and hide a large sum in Switzerland. The branch director is at first cautious.

Employee:

You see, we are subject to German law here, just like any other German bank. We accept only legal money.

Speaker:

And then, we do receive an astounding offer.

Employee:

So, if you want it to be more discreet, then I can put you in contact with a Swiss sales representative. We do not have anything formally to do with him. He arrives from Switzerland on his own account, will even visit you at your home, if you would like. You can establish account contracts that way, and all without having to travel to Switzerland.

Employee:

Don't worry, we mail the account documents to Switzerland via our interoffice mail system. The advisor does not take them with him across the border. So you cannot fall into the hands of any German authority. Our Swiss sales service also arrives in a car with German tags, so the neighbors do not get suspicious.

Speaker:

The two explain that already a total of 15,000 German clients alone in Baden-Württemberg have been taken care of by the Swiss sales service of UBS. As we are leaving, they assure us that we will soon receive news from Switzerland.

Reinhard Kilmer:

The situation in Baden-Baden, the building, everything about it, supports the fact that deals are being made here that are anything but legal. Swiss bankers have apparently managed to build a good network. They are well organized, but also, on the other hand, know that they are engaging in transactions that are not entirely legal and, when in doubt, have to expect that they could be prosecuted if the thing becomes public. That is why when it comes to illegal transactions, no German UBS employees are involved; rather, these matters are handled by Swiss employees.

Speaker:

A few days after our visit in Baden-Baden, we receive news from Switzerland.

Voice:

Hello, we will meet on Wednesday, March 12, at the Colombie Hotel, in Freiburg, at 3 p.m. Regards, Simon

Speaker:

The Colombie Hotel in Freiburg. Five star. One of the best hotels in the city. 3 p.m. sharp, the UBS director from Basel shows up. We tell him too of our intention to hide money from authorities and creditors.

Swiss UBS employee:

I have options that my German colleagues don't have. As a Swiss citizen, it does not matter squat to me whether you declare your money for tax purposes or not. I can help you invest it in a bankruptcy-proof manner, as we say. Even if you go bankrupt, no one will get to it.

Speaker:

He also recommends a Liechtenstein foundation as the best form of financial investment, globally established.

Swiss UBS employee:

If you really want to play it safe, you can also deposit your money in Singapore, at UBS, of course. They do not give out any information. And in combination with a Liechtenstein foundation, you have a very discreet financial investment. I will nevertheless continue to provide your customer service.

Speaker:

We say good-bye to our future Swiss customer-service provider.

Reinhard Kilmar:

I assume that UBS is trying to generate financial investments, very targeted in Germany, and the bank does not give a hoot whether it is clean or dirty money. The bank is set up in such a way that it shows clients ways to organize transportation and, in principle, does not have any moral problems at all with it.

Speaker:

Shady-operating banks easily fall victim to blackmail. This fate seems to have befallen the *Liechtensteinische Landesbank LLB*. Since the summer 2000, the long-time LLB employee Roland L. has been copying the data of German customers who are obviously hiding their money from taxation at LLB. Roland L. wants to blackmail the bank. But he is caught. In jail, he confides to co-inmates that he has hidden a copy of the account documents at a secure location. Account slips of 1,300 customers. Receipts totaling over €4 billion in illegal money. The documents wind up in the hands of Michael F. of Rostock. He and accomplices now want to blackmail LLB. Michael F. tries it with clients of LLB. His first victim is an entrepreneur from Wilhelmshaven, who has allegedly hidden €4 million in Liechtenstein. At his office, he apparently agrees to pay €300,000 for the account slips. But the blackmailers let the deal collapse. They have realized that they have much bigger fish to fry. Now it's the Landesbank's turn; it will have to pay millions.

Heinz Frommelt:

Every bank is vulnerable to blackmail when it comes to bank secrets. That is one of the fundamental pieces of capital of a bank. Trust and confidentiality is a basic piece of capital, and the image of a bank can be severely damaged if this confidentiality is not preserved.

Speaker:

The LLB is prepared to pay. It sends detectives with payoff money to a hotel in Zurich. The blackmailers are waiting there. The bank pays €5 million for a portion of the account slips; another €4 million at a second meeting.

Reinhard Kilmer:

The circumstance that a bank will pay €9 million for blackmail shows crystal clear that this bank has a lot to hide. And these shady deals, this bank's criminal actions must obviously be worth a great deal of money to the bank. And one can perhaps imagine what kinds of sums we are talking about if €9 million are paid in blackmail.

Speaker:

The Landesbank refuses an interview on the blackmail case. As we are filming the bank building, the camera team is constantly being photographed by security personnel. We are being observed and even hassled. It seems investigations are unwanted here. Prince's House, government, judiciary, banks, and trustees – they all prefer to remain silent. All our requests for an interview in Liechtenstein are refused. A little country is clamming up – not only to the press but also to the international community. The Organization for Economic Development and Cooperation, the OECD in Paris, represents the major industrialized nations. It agrees on rules to prevent criminal transactions and money-laundering.

Achim Pross:

The OECD has a black list. Liechtenstein appears on the list, because Liechtenstein will not cooperate with other countries either in criminal or other tax matters. What does that mean? Well, if a fiscal authority, a public prosecutor's office comes calling in Liechtenstein regarding ongoing cases, then they receive a polite but definite "no" from Liechtenstein.

Nicolette Kressl:

We all have to call tax evasion what it is, a crime. Germany has long been presenting initiatives at the European level, also within the OECD. And it goes without saying, we will continue to press the case that all countries must together take action against tax evasion.

Speaker:

Many countries have been discussing this matter for a long time. Little has come of it. The principality does not think to give up its controversial anonymous foundations, despite black lists and warnings. The pressure from neighboring countries apparently is not strong enough.

Werner Rügemeier:

Apparently, this country has a not very visible, yet very powerful, lobby. When we consider alone the major corporations that have hidden money there, when we consider the political parties, including the CDU or other parties from other European countries, well, that is indeed a very powerful lobby for this dwarf state.

Speaker:

So the public prosecutor's office in Bochum bears the entire burden of the investigation. To date, investigators have recovered a total of €130 million in evaded taxes from the principality. And they are ensuring that bad money comes to good. For example, an association that cares for children with Cancer and their parents, received €500,000 from the criminal case. In a parents house in Essen, the adults can

live together with their sick children during the surgery and chemotherapy – almost like home. Thanks to money from tax fraudsters. The house was expanded to twice its original size and now houses 18 families.

Peter Henning:

Money that was supposed to have left the Federal Republic of Germany has returned, in a manner of speaking, and gone to the common good in Germany.

Speaker:

Public prosecutors have a chance only if insiders come forward about the Liechtenstein transactions. Then, the wall of silence will begin to show cracks. But for now, it stands well fortified.

#

653



**EMBASSY OF THE
PRINCIPALITY OF LIECHTENSTEIN**

The Honorable Carl Levin
Chairman
Senate Permanent Subcommittee on
Investigations
Russell Senate Office Building 199
Washington, DC 20510

The Honorable Norm Coleman
Ranking Member
Senate Permanent Subcommittee on
Investigations
Russell Senate Office Building 199
Washington, DC 20510

Washington, 19 August 2008

Subject: Hearing on Tax Haven Banks and U.S. Tax Compliance

Dear Chairman Levin and Ranking Member Coleman:

On behalf of the Government of the Principality of Liechtenstein, I submit to you the enclosed Statement for the Record and request that it be included in the record of the Subcommittee's recent hearing entitled "Tax Haven Banks and U.S. Tax Compliance" held on July 17, 2008, and July 25, 2008.

Sincerely,

A handwritten signature in black ink, appearing to read "Fritsche".

Claudia Fritsche
Ambassador

Enclosure

CC:

- Members of the Permanent Subcommittee on Investigations

Permanent Subcommittee on Investigations

EXHIBIT #117



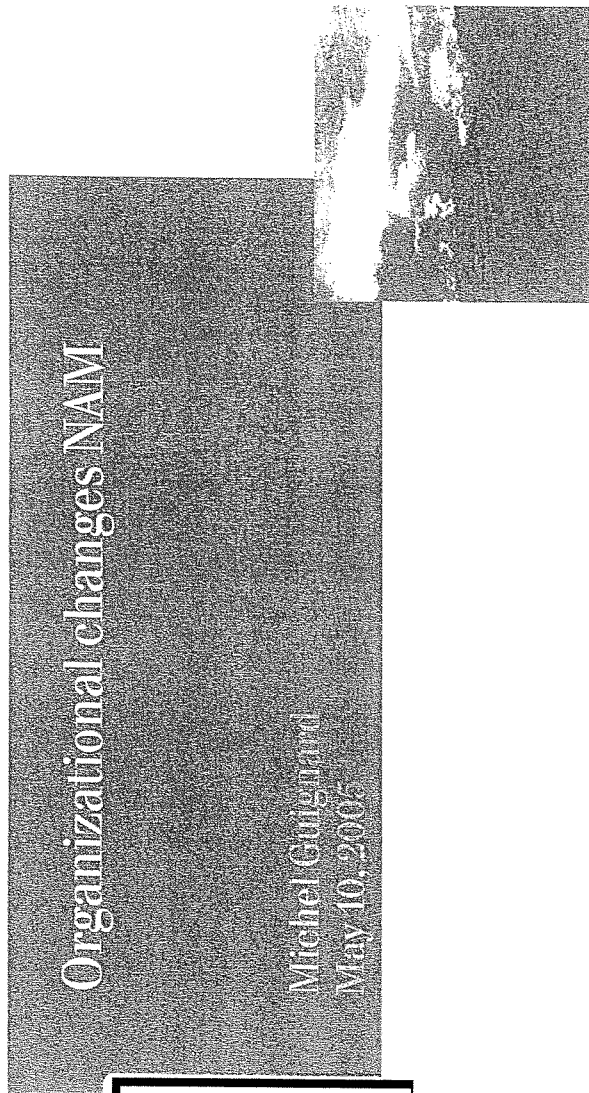
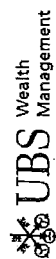
EMBASSY OF THE
PRINCIPALITY OF LIECHTENSTEIN

**Permanent Subcommittee on Investigations
Hearing on Tax Haven Banks and U.S. Tax Compliance**

**Statement for the Record
August 19, 2008**

In connection with the involvement of Liechtenstein economic intermediaries in international tax investigations, the Government of Liechtenstein has stated explicitly that it does not condone the aiding and abetting of tax offenses in the financial center of Liechtenstein. The Government, therefore, seeks the implementation of the highest international standards and gives priority to cooperation with other countries to combat tax offenses. In this regard, a number of agreements have been concluded, and new legal provisions have been adopted, over the past several years. Important agreements regarding the exchange of tax information are nearing completion both with the US (TIEA) as well as with the EU and all 27 of its member states (Anti-Fraud Agreement). The Government of Liechtenstein is striving to complete the TIEA negotiations before the end of the year so that the agreement can be implemented domestically over the coming year.

In connection with the recent tax affairs involving UBS and LGT, appropriate measures are being taken in Liechtenstein. In May 2008, the independent Financial Market Authority (FMA) initiated investigations regarding the allegations made in the United States to determine whether Liechtenstein financial service providers violated regulatory provisions. The results of these investigations will be carefully examined and will have appropriate consequences if there is evidence of misconduct on the part of financial service providers. In the event that Liechtenstein's laws were breached, this will include possible criminal prosecutions.



Permanent Subcommittee on Investigations
EXHIBIT #118

PSI-OPB - 0000123

Challenges for BS NAM

◆ Established Markets NAM (**Canada Intl., US Intl.**)

- Increase share of wallet of existing clients
- New client acquisition

Focus: NNM/revenues, referrals, segment moves, "BRG light"

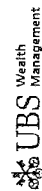
◆ Growth Markets (**Canada Domestic, UBS SFA**)

- Increase market share

Focus: NNM/Revenues

◆ Key Clients

- Increase share of wallet **within UBS** of existing clients
- Acquisition of new clients **for UBS**



Keys to mastering the challenges

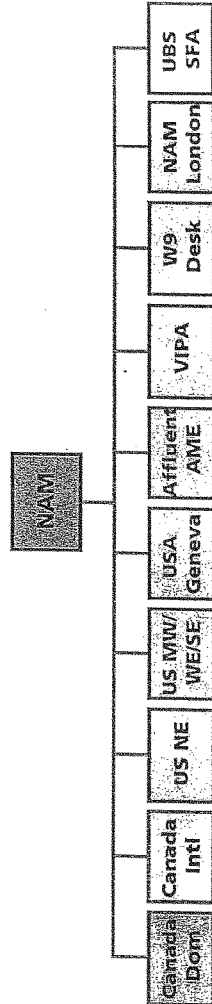
- ◆ FOCUS + SYSTEMATIC IMPLEMENTATION
- ◆ Lean structures and efficient processes
- ◆ Differentiation between pure management functions and client-related roles
- ◆ Targeted, consistent, timely communication throughout BS NAM
- ◆ Implementation of lead offering per client segment
- ◆ Consistency in client relationships, living deputization

657

Assessment of US International

	<u>Today</u>	<u>Future</u>
◆ Focus	Partial	Improved
◆ Structure/processes	Complex	Simplified
◆ Mgmt vs Client role	Mixed	Separate
◆ Communication	Diluted	Consistent/clear
◆ Segment offering	Partial	Improved
◆ Consistency	Mixed	Improved

Current organization NAM

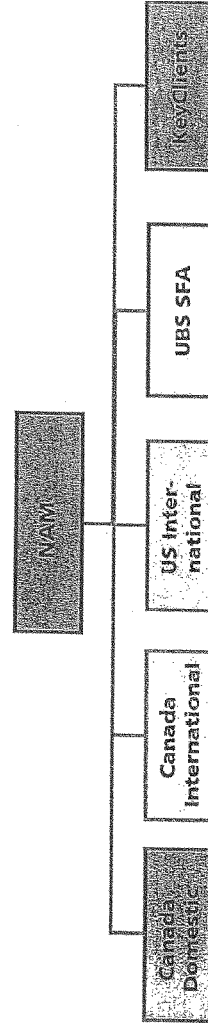


659

Complex structure for simple business

- ◆ 4 major product lines: Wealth Management, Private Banking, Asset Management, and Insurance
- ◆ Many regional offices, particularly in the US, where the business is highly competitive
- ◆ Affluent and Private Banking are highly competitive in the US
- ◆ Slow down in the US market
- ◆ Many private equity efforts
- ◆ Disproportionate focus on the US market

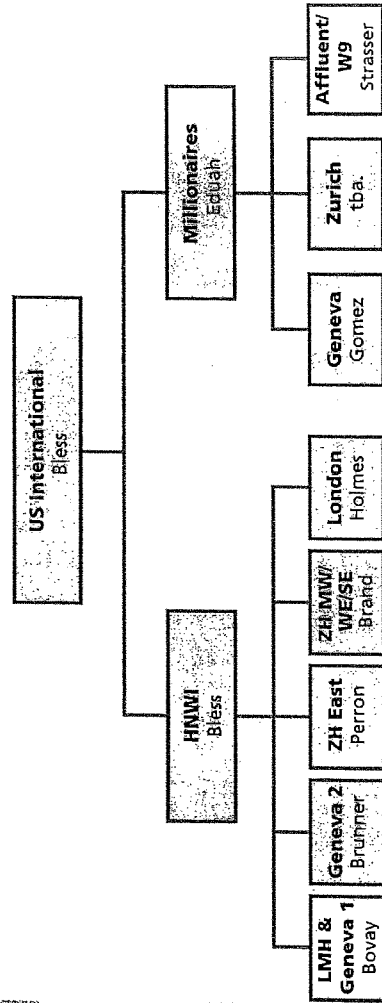
New organization NAM (as from July 1, 2005)



Simple structure for simple business

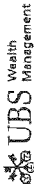
- ◆ 4 business models, 4 country teams (plus KeyClients)
- ◆ Critical mass (larger Desks)
- ◆ Efficient decision-making process
- ◆ Mass and punch in our largest market

US International (as from July 1, 2005)



Client segment-specific service

HNWI	Millionaires
<ul style="list-style-type: none">◆ Client value proposition: "Your trusted proactive financial partner delivering priority access to global expertise"◆ Focus: HNWI-2 and KC◆ Lead offering: PM, MFP, Loans, other◆ Development approach: BRG Light◆ Referrals to other UBS entities◆ Frequent travelling◆ Geographic lead	<ul style="list-style-type: none">◆ Client positioning: "Comprehensive, personalized investment solutions from a leading global financial institution"◆ Focus: CoRA and HNWI-1◆ Lead offering: MFP, funds, cash◆ Development approach: Potential project, segment move funnel◆ Referrals to other UBS entities◆ Selective travelling◆ Geographic follow



Key benefits of new US Intl. organization

- 1 Millionaire CAs/Desks are better positioned to pursue their client segment
- 2 HNW/ CAs/Desks will dedicate more time to their clients and prospects
- 3 Simpler and more effective management structure
- 4 Better results for BS NAM as a whole

Next steps

◆ Personal, desk and bilateral discussions	20.05.05
◆ Adjustment of MIS structures	30.06.05
◆ Fine-tuning of management processes	30.06.05
◆ Review of office space	30.06.05
◆ Implementation of new organization structure	01.07.05
◆ Review and adjustment of servicing model per segment	30.09.05

664

665

(Crest)
Principality of Liechtenstein
Princely
District Court

11 RS.2004.239
ON 53

WITNESS HEARING

Assistance in Criminal Matter: Public Prosecutor General at the
Federal Court of Justice, Karlsruhe
In the proceedings against: Mario Staggl
Location: Princely District Court of Vaduz
Date: April 28, 2005
Start of Hearing: 9:45 am
Present: Examining Magistrate Dr. Thomas Schmid
Clerk of the Court Helga Henny
Witness Mario STAGGL

**The following attendees are present from the Prosecutor General's
Department of Karlsruhe:**

Sigrid Hegmann, Karin Timpe and Melanie Löb

Further attendees:

Attorney-at-law Dr. Schilling for Gerhard Wissner
Attorney-at-law Gottfried Reims and
Attorney-at-law Blickle for Gotthard Lerch

The witness provides the following personal information:

Last name(s): STAGGL
Former name(s):
First name(s): Mario
Date and place of birth: 07/16/1964, Walenstadt/SG
Domicile or residence: Zollstrasse 130a, 9494 Schaan
Hometown (only FL and CH): Balzers
Trade or occupation: Trustee
Relation to the accused/
suspect or other involved
parties: not related (neither by birth nor by marriage)

Permanent Subcommittee on Investigations

EXHIBIT #119

The judge reminds the witness to state the whole truth, and nothing but the truth, to the best of his/her knowledge, not to conceal anything and to provide the statement so that he/she, if necessary, can provide an affidavit of the testimony. The witness is reminded that wrong witness testimony is punishable according to § 288 StGB (Criminal Code).

After being instructed of the reasons of refusal to give evidence according to §§ 107, 108 StPO (Code of Criminal Procedure), the witness provides the following testimony:

I expressly waive my right of refusal to give evidence, meaning my right not to appear as a witness in this criminal matter.

I completed a commercial apprenticeship and have been working with trusts since 1988. I started out at the Cortrust company and changed to the Codex Treuhand company in 1990. I have known my present partner Dr. Biedermann since 1988 and together with him founded New Haven Treuhand AG in 1995. Before I entered the trust business, I completed Business School in Switzerland. From 1991 until 1993, I attended Trustee School in addition to working at the company, and in 1995 and 1996 I completed a training course for Swiss trustees. Presently I am undergoing training in England, where I'm training to be a tax expert.

As a result of my profession as a trustee, I act as an executive (director, member of the Advisory Board, etc.) in various companies. I think I hold executive positions in about 200 companies. If I were in my office, of course I could tell you the precise number. The companies in which I hold executive positions are not only located in Liechtenstein, but also in other countries, with the focus in addition to Liechtenstein also being the BVI. At New Haven Treuhand AG, my partner Dr. Biedermann and myself are financially qualified. I have a 40% interest in New Haven Treuhand, Dr. Biedermann has a 60% interest.

The present representative of Gotthard Lerch, attorney-at-law Reims, then poses further questions regarding the corporate purpose of New Haven Treuhand AG.

New Haven Treuhand AG is a licensed trustee company. New Haven Treuhand AG was founded because Dr. Biedermann and I wanted to develop our own business philosophy in the trustee field in our own trustee company. I think that I personally manage about 150 to 200 customers. Gotthard Lerch is one of my customers.

I have known Gotthard Lerch since about 1990. I met Mr. Lerch during my employment at Codex. I had known him before that by name from my position at Cortrust. I do not remember today how and in what way the first contact with Gotthard Lerch occurred.

I assume that Gotthard Lerch was also a customer of Cortrust.

There is a contractual relationship between Gotthard Lerch and New Haven Treuhand AG. The subject matter of the contractual relationship basically relates to tax-optimized asset management and tax-saving succession planning. A comparable contractual relationship also exists with Gerhard Wisser.

I believe I met Gerhard Wisser in 2000 when he was introduced to me by Gotthard Lerch. My contract with Gerhard Wisser was also to structure the assets so that after his passing, they could be passed on to his relatives in a tax-saving manner. Guidelines were established for the asset management of both persons, i.e. regarding Gotthard Lerch and Gerhard Wisser. These guidelines were developed with both gentlemen following my consultation. The investment guidelines were such that 60% of the assets were to be invested in bonds and 40% of the assets in stocks.

Without referring to the files, I am not able to state the present asset status of Gotthard Lerch or Gerhard Wisser.

For Gerhard Wisser, New Haven Treuhand AG manages the following companies or foundations:

- Sicanus SA, BVI
- Jovite Enterprises, BVI
- Silega Trust, FL¹
- Lerima Trust, FL

No company we manage for Wisser is headquartered in South Africa.

For Gotthard Lerch, New Haven Treuhand AG manages the following companies and foundations:

- Incostam Stiftung, FL
- United Property Foundation, FL
- Key Exchange Ltd., BVI
- Heritage Property, Labuan
- Trinland Trust, FL
- Irvington Business, BVI
- Caledon Consulting, BVI

I do not know whether Gotthard Lerch has entrusted us with his entire assets or whether he is employing another trustee.

To my knowledge, New Haven Treuhand AG manages no company that could be financially associated with Gotthard Lerch and Gerhard Wisser.

Gotthard Lerch and Gerhard Wisser are not executives at any of the persons/trusts mentioned above.

I am aware of the origin of Gotthard Lerch's and Gerhard Wisser's funds.

Gerhard Wisser's funds came from private accounts, which were originally held in his name at Swiss banks.

¹ FL = Principality of Liechtenstein

Gotthard Lerch's funds originate in part from personal banking connections and in part from business proceeds in connection with real estate projects.

The funds were deposited in part in cash, in part by check and also by wire transfer. The duty of the due diligence provisions of Liechtenstein was adhered to for all transactions.

Gotthard Lerch's real estate projects were carried out in South Africa, China, and the U.S. This is not an exhaustive list, but countries that I presently remember at this moment. Gotthard Lerch has been dealing with real estate projects as long as I have known him.

The Silega Trust either holds the shares of Jovite Enterprises Corp. or of Sicanus Continental SA. The Lerima Trust holds either the share capital of Jovite Enterprises Corp. or of Sicarius Continental SA.

Based on Liechtenstein interpretation, the position of Gerhard Wisser at Silega Trust and Lerima Trust would be referred to as the financial developer. Both Trusts are discretionary trusts, under which family members hold a potential beneficiary claim. In the case of a discretionary trust, the trustee is granted comprehensive discretion with respect to asset management, which is only limited by a statement of policy on the part of the trustee. No protector was appointed for either Trust.

The share capital of Sicanus and of Jovite is held 100% in the above Trusts.

Regarding the Wisser trust:

As far as I know, this is the South-African trust of Gerhard Wisser. We are not involved in this.

Jovite and Sicanus are aimed at the managing of their own assets. In addition, these companies serve the purpose of performing all other activities relating to the

corporate purpose. The primary corporate purpose is asset management.

The assets are managed so that the executive bodies of the companies issue the appropriate asset management orders to the bank. The executives of Jovite and Sicanus Continental are Dr. Biedermann and myself.

In asset management, real estate also plays a role.

One of the trusts, either Silega Trust or Lerima Trust, holds a property in South Africa. However, I do not know at the moment whether this real estate was managed by the trust itself or the underlying company. The property management tasks were not carried out by the company or the trust itself, but by local property managers.

Regarding the companies of Gotthard Lerch:

The Incostam Foundation:

The Incostam Foundation is a classic Liechtenstein family foundation managing its own assets. By setting up the foundation, the financial developer of the family foundation loses access to the foundation assets. The executive bodies of the foundation are only obligated to the deed of trust. The purpose of the foundation is the retention of assets and interests as well as allocations to beneficiaries. After the passing of Mr. Lerch, his family members will be the beneficiaries.

The Arbocant family foundation is assigned to another family member, namely the spouse and children of Mr. Lerch.

I am a member of the board of trustees of one foundation, namely the Arbocant Foundation, where the potential beneficiaries are the spouse and children of Mr. Lerch.

The Arbocant Foundation also includes assets inherited by the spouse of Gotthard Lerch.

The assets of the Incostam Foundation come from Mr. Lerch. The assets originate from savings accumulated during former activities by Mr. Lerch in the period of 1990 and before. Mr. Lerch was a manager for at least one multinational company in Germany.

The Palma Foundation has a completely different circle of beneficiaries and has nothing to do with this matter. The beneficiaries of this foundation are members of a different family.

The United Property Foundation

This is also a Liechtenstein family foundation with the purpose of managing its own assets, holding interests and dispersing allocations to the beneficiaries. The family members are the beneficiaries.

The assets of this foundation on the day it was set up were provided in their entirety by the financial developer, as was also the case for the Incostam Foundation. I am not able to recall today the amount of assets contributed on the day it was set up. In the case of the United Property Foundation, for example, proceeds from the sale of properties were paid in. The United Property Foundation still holds real estate in South Africa. The properties are managed by a local property manager. The United Property Foundation also holds interests in other companies, which were already mentioned above.

The Key Exchange

The Key Exchange has managed its own assets and indirectly also financed real estate projects. One of the downstream companies mentioned above, which are owned by Gotthard Lerch, then appeared as a direct financier.

There were no common projects of companies which can be associated financially with Gotthard Lerch and Gerhard Wisser. What I just said relates to the

point of view of the financially authorized person. To my knowledge, Gotthard Lerch and Gerhard Wisser did not participate (financially) in any projects jointly.

Heritage Property

Heritage Property invested in a large real estate project in China. The project is called Urumqi/Emerald Hills. Heritage Property is a corporation under Labuan law. I cannot say when Heritage Property was founded. As far as I remember, the property project in China was the only project of Heritage Property.

The Trinland Trust

The purpose of the Trinland Trust is to hold the capital of Caledon Consulting Inc. as well as of Irvington Business.

The corporate goal of Caledon and Irvington in turn was to manage their own assets. The names of the respective companies and foundations have no deeper meanings.

Regarding the question whether the witness is aware of any business contacts of Gotthard Lerch in Malaysia:

I only know that he was working on a hotel project in Thailand which was not executed. I believe that there were even drawings regarding the location of the hotel and the facilities, however the project was not implemented.

Caledon Consulting

The assets of this company also stem from the private assets of Gotthard Lerch; this also applies to the assets of Irvington Business.

The corporate and business activities of Caledon Consulting and of Irvington Business are to manage their own assets. Apart from this corporate purpose, no additional transactions were carried out via these companies.

I am not familiar with Aisha Investments.

I am not familiar with Al-Hayat Investments either.

I do not know anything about the accounts of Gotthard Lerch and Gerhard Wisser. Of course I do know the accounts of the companies referred to above.

Executive positions in the above companies/trusts are only held by Dr. Biedermann and myself. Transactions via the banking accounts were always signed by him or me.

I am not familiar with RHB Bank in Malaysia. Neither do I know Dao Heng Bank in Hong Kong.

I do not know whether Gerhard Wisser has or had accounts with Habib Bank in Dubai or Lloyds Bank in the same location. I believe that Gotthard Lerch had an account with Habib Bank; I do not remember in what connection I learned the fact that Gotthard Lerch has an account with Habib Bank.

Apart from the information I received in connection with these proceedings, I am not familiar with the name Tahir.

I am not familiar with the nickname "Junior". I am not familiar with the name Gargasch either.

Apart from the information I received in connection with these proceedings, I am not aware that there are contacts between Gotthard Lerch or Gerhard Wisser and the United Arab Emirates and/or Dubai. I know about a "Dubai" project from

hearsay; however, we never did anything in this respect.

I would consider the relations with Gotthard Lerch as business relations, however, over the course of the extensive business relations we have increasingly become friends with each other. We are on first name terms with each other. In Liechtenstein, being on first name terms with each other is not considered an indication of particular familiarity. We also have superficial family contacts; Gotthard Lerch knows my wife and my children, and my wife sends a Christmas card to them every year. However, there is no very close friendship-like relationship between the families.

The situation with Mr. Wisser is similar to that with Gotthard Lerch, with the only difference being that we have not known each other as long.

I was introduced to Gerhard Wisser by Gotthard Lerch and met him personally for the first time in 2000 or 2001. He disclosed that he was considering a divorce, which would probably be handled in South Africa; for this reason, he wanted to protect himself from an asset point of view.

With respect to the relationship between Gotthard Lerch and Gerhard Wisser, I know that the two have known each other since the 1960s. I was not familiar with the business background between the two. I know that they know each other. I do not know whether they conduct or have conducted business together.

With respect to a project in China, I know about one contact, namely the AIL company (Advanced Industries Ltd.). This is a general contractor for the China project. I had no direct contact with AIL. However, within the scope of the project, we carried out wire transfers to this company. I do not know what person was the contact at AIL. During the course of the China project, if I remember correctly, I learned of Japing Wang; he was probably AIL's project leader responsible for the China project.

I remember that there were three or four real estate projects by Gotthard Lerch in

South Africa, however I no longer remember the exact subject matter and names. The projects in South Africa were located in the vicinity of Cape Town, one in Durban and probably Johannesburg.

Hentiq is a South-African company, whose corporate purpose is property management. Gerhard Wisser was Director at Hentiq. The United Property Foundation holds interests in Hentiq. Constantia is a community in South Africa. I could imagine that Hentiq is holding the property in Constantia.

As regards the query about a money transfer in the year 2004 in the amount of presumably 90,000 rand between Hentiq and the United Property Foundation:

I cannot remember such a transaction. I certainly would not remember a transaction of this magnitude by heart.

I believe that I was once Director at Hentiq until this position was assigned to Gerhard Wisser. There are no other South-African companies where I am a Director, however, at the moment I cannot say this with 100% certainty.

Another South-African company is Skyprops. The objective of this company is also to hold real estate. Without looking at the computer in my office, I cannot say who the local director of this company is.

There were meetings with Mr. Wisser one or twice a year, in my office. I never met with Lerch and Wisser at AVE in Buchs.

As regards the query of travel expense documents of the defendant Wisser indicating that in May 1998, a meeting took place between Mr. Wisser, Mr. Lerch and Mr. Staggl at AVE in Buchs:

It is noted that attorney-at-law Reims disagrees with the admissibility of this question because the query was materially incorrect and had been repeatedly clarified by the defendant Wisser.

I maintain my statement that I never met with Lerch and Wisser at AVE in Buchs.

The United Property Foundation also holds interests in Skyprops. I am not aware of additional subsidiaries of the United Property Foundation.

Key Exchange does not hold any interests in other companies.

When provided with the information that Aisha made payments to Key Exchange and Incostam, I would like to provide the following statement for the minutes:

I can neither confirm nor deny this. I simply do not know.

When furthermore provided with the information that these payments were already made in 2001 and were for amounts of CHF 600,000:

I cannot say anything with respect to this matter.

To my knowledge, no account was set up abroad for any company in which I held an executive position. Accounts for companies headquartered abroad were also opened in Liechtenstein.

Accounts are set up as needed by the respective company with one or more banks.

Following an interruption of 20 minutes, the hearing continues at 1:05 pm.

I know the company William McGeachy Electrical by name. I believe that this company also holds real estate in South Africa.

I do not know the Tinner family.

I am also not familiar with Traco company or the Traco Group.

I am not familiar with Jari Trust, the same also applies to Higher Institute.

I would like to remark that whenever I say that I am not familiar with various names, this should be interpreted such that I have heard these various names based on the information I learned in connection with these proceedings.

I do not know the name Pivit.

As regards the query according to which documents reveal that the witness met with the defendant at United Property:

The United Property Foundation is domiciled at New Haven Treuhand AG. There were personal meetings with Mr. Wisser in my office about once or twice a year.

The last meeting with Mr. Lerch presumably took place at the beginning of November 2004. I have not seen and talked to Mr. Lerch since then. However, there were meetings with Mr. Lerch's defense attorneys, with attorney-at-law Reims and with attorney-at-law Dr. Bachmann. The last meeting was probably 2 months ago.

I met Gerhard Wisser last in August 2004. After that, there was one more contact, about 8 weeks ago. This last telephone contact was about an inquiry as to whether and how far the renovation work on a certain property should be continued. To my knowledge, Gerhard Wisser had also been arrested in South Africa. On the occasion of this last telephone call, I surely also asked him about the status of the proceedings in South Africa. The meeting in August 2004 took place in Zurich and just between the two of us. Mr. Lerch was not present.

Via questioning by attorney-at-law Reims:

Apparently Mr. Wisser already announced directly in connection with his release that he would return to South Africa. However, it was already clear back then that the authorities there were also looking to get a hold of him. Since he felt he had nothing to be blamed for, he returned there.

The meeting with Mr. Wisser took place following his release in Germany en route to South Africa. He announced that he did not desire any more contact with Gotthard Lerch and myself.

Regarding the question whether the witness knew whether Mr. Lerch was looking for investors for the Emerald Hills project in China and whether Mr. Lerch informed him that he found some:

The Emerald Hills project required a lot of financing; the question about financiers and investors was brought up at the beginning. Mr. Lerch was looking for investors for this project. To my knowledge, he also found investors. However, due to the incidents surrounding these proceedings, the investors distanced themselves from the project and no new ones could be found.

In the past 10 years, I never learned that Gotthard Lerch had been in Spain.

Via questioning by attorney-at-law Blickle:

The structure of the foundations and companies at issue are part of my classic daily business.

The majority of Mr. Lerch's assets were deposited before 2000. Some of the structures are 15 years old. The inflow of assets took place essentially between 1994 and 1998.

Via questioning by the officials of the requesting authority:

I have no information that Mr. Lerch was corresponding with Spain.

Attorney-at-law Reims requests the submission of the correspondence with Spain. It is noted that no correspondence is submitted.

I heard about the Emerald Hills project for the first time in 1999/2000. This project was started when the hotel project in Langkawi/Thailand had failed.

Gotthard Lerch conducted real estate projects in South Africa in 1998/99. Since then, he had constantly been dealing in real estate.

Via questioning by the judge:

I expressly agree that the minutes just recorded from my statements be submitted to the authority requesting judicial assistance without any additional formalities, in particular without any further transfer proceedings. Accordingly, I waive transfer proceedings with respect to this testimony.

The witness waives the right to witness compensation.

After having been presented the document for review and having been reminded again of the obligation to tell the truth, I hereby confirm the accuracy of the statements provided by me by signing this document.

End: 2:00 pm

Signature: (signed)
The witness

The judge
(signed)

The clerk of the court
(signed)

 IN RE:

 WILLIAM WU

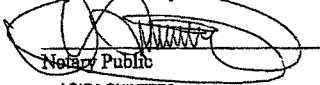
 AFFIDAVIT OF
 WILLIAM WU

WILLIAM WU, being of full age and duly sworn according to law, upon his oath deposes and says:

1. I was the recipient of a Subpoena from the Permanent Subcommittee on Investigations dated April 22, 2008.
2. I am represented by Henry E. Klingeman, Esq. in this matter.
3. I testified before the Permanent Subcommittee on July 17, 2008.
4. I have received the transcript of my testimony, as well as Chief Clerk Mary D. Robertson's memorandum asking me to review the transcript for accuracy.
5. I respectfully request that the Permanent Subcommittee accept a clarification to page 74, specifically lines 6-9, and make it part of the official record by including this Affidavit in the official record.
6. I did not intend the words "no, sir" to be a substantive answer to Senator Levin's question.
7. I did not intend to agree that Senator Levin's factual description was correct.
8. Instead, I meant to reiterate my intention to refuse to answer any question based on my Fifth Amendment privilege, as my other responses indicate.
9. In the committee hearing setting, I was nervous and I sometimes have difficulty with English, which is not my first language.
10. In sum, I respectfully request that the official record of the July 17 hearing include this Affidavit, as it clarifies my testimony on that date.


 WILLIAM WU

Sworn To And Subscribed
 Before Me This 16th
 Day Of October, 2008


 Notary Public

LOIRA QUINTERO
 Notary Public, State of New York
 No. 01008161882
 Qualified in Queens County
 Commission Expires Feb. 20, 11

Permanent Subcommittee on Investigations
EXHIBIT #120

mc

74

1 TESTIMONY OF WILLIAM WU, FOREST HILLS, NEW YORK,

2 ACCOMPANIED BY HENRY KLINGEMAN, ESQ.

3 Mr. Wu. Senator, I decline to answer the question
4 based on my right to remain silent under the Fifth Amendment
5 to the United States Constitution.

6 Senator Levin. And, Mr. Wu, do you have any
7 corrections to what I have just said about your foundations
8 and your role in them in order to ensure that we have the
9 facts correct?

10 Mr. Wu. No, sir. And, Senator, I intend to give the
11 same answer to any questions posed to me.

12 Senator Levin. And you have been asked specific
13 questions about matters of interest to this Subcommittee,
14 and in response to the questions, you have asserted your
15 Fifth Amendment privilege. Is it your intention to assert
16 your Fifth Amendment privilege to any question that might be
17 directed to you by the Subcommittee today?

18 Mr. Wu. Yes, sir.

19 Senator Levin. Given the fact that you are asserting a
20 Fifth Amendment right against self-incrimination to all
21 questions asked of you by this Subcommittee, Mr. Wu, you are
22 excused.

23 Mr. Wu. Thank you.

24 Senator Levin. Thank you.

25 Now, the third witness who was subpoenaed for this

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 DANIE LUTHER, MISSISSIPPI
 HANCOCK H. HARRIS, MISSISSIPPI
 ROBERTA H. LAMBERT, MISSISSIPPI
 MARIE L. HENRI, MISSISSIPPI
 BLANCH L. LAMBERT, MISSISSIPPI
 BLANCH L. LAMBERT, MISSISSIPPI
 CLAUDE POLCARSKEL, MISSISSIPPI
 ION TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VOINOVICH, OHIO
 NORM COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MELKON, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 6, 2008

VIA U.S. MAIL & EMAIL (gbl@leftcourtlaw.com)

Mr. Steven Greenfield
 c/o Gerald B. Lefcourt, Esq.
 Gerald B. Lefcourt, P.C.
 148 E. 78th Street
 New York, New York 10075

Dear Mr. Greenfield:

On July 17, 2008, the U.S. Senate Permanent Subcommittee on Investigations will hold a hearing on tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of these activities on tax compliance in the United States. The hearing will be held at 9:30 a.m. in Room 106 of the Dirksen Senate Office Building in Washington, D.C.

The Subcommittee requests that you testify at the hearing. To assist the Subcommittee's understanding of the issues, we ask that you be prepared to address and answer questions about the following matters.

1. How did you first learn about LGT? How was your business solicited? How were LGT's services presented to you?
2. Please describe each account and legal entity that was opened, formed, or acquired on your behalf by LGT or in connection with your LGT account, including any corporation, trust or foundation. Why did you decide to open an account with LGT or form or acquire an entity in connection with LGT? What advice did LGT provide you?
3. Please describe when and how you opened each account or formed or acquired each entity in connection with LGT, and afterward, how you interacted with LGT personnel who administered the account or entity. Please describe when and where you have met with LGT personnel, and what was discussed, including whether there was any discussion of tax matters.
4. Do you have any other accounts or legal entities established or acquired on your behalf involving an offshore jurisdiction? If so, please describe them.

Permanent Subcommittee on Investigations
EXHIBIT #121

5. Please describe any interactions you have had with the IRS as they relate to your interactions with LGT or any other tax haven financial institution, including whether you have reached or are working on a settlement.

Please submit a written statement addressing the above matters. This statement will be included in its entirety in the printed hearing record. Subcommittee rules require that the written statement of all witnesses be received by 9:30 a.m. on Tuesday, July 15, 2008. Please deliver the written statement to the Subcommittee's Chief Clerk, Mary Robertson, through electronic mail at mary_robertson@hsgac.senate.gov. In addition, you may provide an oral statement of up to ten minutes in length, to be followed by questions from Subcommittee Members.

Thank you for your assistance in this matter. If you have any questions or would like additional information, please contact Robert Roach (Senator Levin) at 202/224-9505 or Michael Flowers (Senator Coleman) at 202/224-3721.

Sincerely,



Norm Coleman
Ranking Minority Member
Permanent Subcommittee on Investigations



Carl Levin
Chairman
Permanent Subcommittee on Investigations

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. PRYOR, ARKANSAS
 MARY L. LANDRIEU, LOUISIANA
 BARACK OBAMA, ILLINOIS
 CLARE McCASKILL, MISSOURI
 JON TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VONNOVICH, OHIO
 NORM COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MELHORN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 7, 2008

VIA U.S. MAIL & EMAIL (crn@capdale.com)

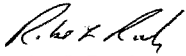
Cono R. Namorato, Esq.
 Caplin & Drysdale
 One Thomas Circle, N. W., Suite 1100
 Washington, DC 20005


Dear Mr. Namorato:

Per your recent discussion with the Permanent Subcommittee on Investigations whereby you agreed to accept service on behalf of your client, Steven Greenfield, attached please find a copy of a Subcommittee *Subpoena* for your client to appear before the Permanent Subcommittee on Investigations on Thursday, July 17, 2008, at 9:30 a.m. in Room 106 of the Dirksen Senate Office Building at the Subcommittee's hearing entitled *Tax Haven Banks and U. S. Tax Compliance*.

Should you have any questions, please feel free to contact us at 202/224-9505.

Sincerely,


 Robert L. Roach
 Counsel & Chief Investigator
 Permanent Subcommittee on Investigations


 Michael P. Flowers
 Counsel to the Minority
 Permanent Subcommittee on Investigations

Attachment

cc: Scott D. Michel, Esq.
 Caplin & Drysdale
 sdm@capdale.com

UNITED STATES OF AMERICA
Congress of the United States

E02827

To STEVEN GREENFIELD

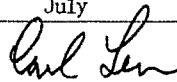
_____, Greeting:

Pursuant to lawful authority, YOU ARE HEREBY COMMANDED to appear before the SENATE PERMANENT SUBCOMMITTEE ON INVESTIGATIONS OF THE COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS of the Senate of the United States, on July 17, 20⁰⁸, at 9:30 o'clock a.m., at their committee room 106 Dirksen Senate Office Building, Washington, D.C. 20510, then and there to testify what you may know relative to the subject matters under consideration by said subcommittee.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To _____
to serve and return.

Given under my hand, by authority vested in me by the Subcommittee, on this 7th day of July, 20⁰⁸.



Chairman, Senate Permanent Subcommittee on Investigations of the Committee on Homeland Security and Governmental Affairs

Caplin & Drysdale
ATTORNEYS

Caplin & Drysdale, Chartered
One Thomas Circle, NW, Suite 1100
Washington, DC 20005
202-462-5000 202-429-3301 Fax
www.caplindrysdale.com

EXHIBITS REFERRED TO IN THIS LETTER
MAY BE FOUND IN THE FILES
OF THE SUBCOMMITTEE

202-852-5090 Direct
cm@capdale.com

July 11, 2008

BY EMAIL AND HAND DELIVERY

Robert L. Roach, Counsel and Chief Investigator
Michael P. Flowers, Counsel to the Minority
United States Senate
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st Street and Constitution Avenue, NE
Washington, DC 20510

Re: Subpoena of July 7, 2008 to Steven Greenfield

Gentlemen:

As I have informed you, my partner Scott Michel and I are counsel to Steven Greenfield, who is the recipient of a subpoena, a copy of which is enclosed as Exhibit 1, seeking his appearance at a hearing of the Permanent Subcommittee on Investigations ("PSI") scheduled to be held on July 17, 2008.

As you know, PSI has twice sought information from Mr. Greenfield. First, he was the subject of a prior subpoena dated April 29, 2008 ("the first subpoena") (Exhibit 2). The first subpoena demanded that Mr. Greenfield produce various documents and appear personally on May 16, but waived that appearance if documents were provided. In response to this subpoena, Mr. Greenfield's then counsel, Gerald B. Lefcourt, wrote to the Chair and the Ranking Member stating that Mr. Greenfield would assert his Fifth Amendment privilege in response to the demand for documents, and would further assert that privilege were he required to appear before PSI. (See Exhibit 3). We understand that in response thereto, after some discussion, the first subpoena was effectively withdrawn.

On July 3, a message was left with Mr. Lefcourt asking whether he would accept service of a second subpoena to Mr. Greenfield. That was followed up with a letter to Mr.

Greenfield, in care of Mr. Lefcourt, informally requesting that Mr. Greenfield testify at a hearing to be held on July 17 and posing a list of topics as to which his testimony was sought. (Exhibit 4). The letter makes no mention of either the first subpoena or a proposed new subpoena, nor does it acknowledge Mr. Lefcourt's representation that Mr. Greenfield has a valid Fifth Amendment privilege and would assert said privilege were he required to appear to testify or demanded to produce documents.

In response to this letter request and the request that Mr. Lefcourt accept service of a second subpoena, we communicated with you and agreed to accept service of the instant subpoena dated July 7 on Mr. Greenfield's behalf.

Mr. Greenfield's position has not changed. We represent to you that Mr. Greenfield still intends to assert his rights under the Fifth Amendment as to all matters under inquiry. We (and Mr. Lefcourt) as his counsel would not sanction such a claim of privilege unless we believed it was well grounded in the applicable law. We also remind you, as did Mr. Lefcourt, that the courts have long recognized the right of innocent persons to rely upon their Fifth Amendment privilege. *See, e.g., Ohio v. Reiner*, 532 U.S. 17 (2001).

In light of Mr. Greenfield's intention to assert his rights under the Fifth Amendment, requiring him to appear before PSI simply to "claim the Fifth" would do nothing but embarrass him and subject him to ridicule. We do not believe that this is a proper use of PSI's subpoena power.

According to PSI, the purpose of the July 17 hearing is as follows:

The Permanent Subcommittee on Investigations hearing will examine how financial institutions located in offshore tax havens, including Liechtenstein and Switzerland, may be engaged in banking practices that could facilitate, and in some instances have resulted in, tax evasion and other misconduct by U.S. clients. The hearing will also examine how U.S. domestic and international tax enforcement efforts could be strengthened.

Plainly, requiring Mr. Greenfield to appear merely to assert his rights under the Fifth Amendment would not advance the stated goals of the hearing. Since he will provide no information of the sort sought by PSI, commanding his presence can serve no valid investigative or oversight purpose.

Moreover, the Senate Rules counsel that it is not appropriate to hold an open hearing where doing so may "tend to disgrace or injure the professional standing of an individual, or otherwise to expose an individual to public contempt or obloquy, or will represent a clearly unwarranted invasion of the privacy of an individual." Senate Rule XXVI(5)(b)(3). Because requiring Mr. Greenfield to appear in these

Caplin & Drysdale
CHARTERED

- 3 -

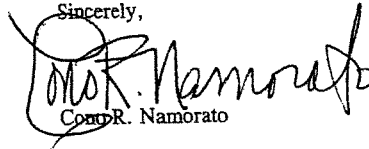
circumstances will provide nothing of substance to PSI, it would accomplish nothing other than to invade his privacy, expose him to publicity, injure his reputation and make him an object of contempt in the public eye. Mr. Greenfield is a private citizen, not a government official responsible to the public trust, and should not be compelled to endure such a proceeding.

Having said all of the above, if you still deem it necessary to verify that Mr. Greenfield would assert his Fifth Amendment privilege, we would entertain steps that you might wish to take in that regard, including possibly his making representations to that effect in a closed door session with PSI staff. Please let me know whether you wish to discuss any such options.

For these reasons, please be advised that Mr. Greenfield respectfully declines to appear before PSI on July 17 at a public hearing.

Thank you for your consideration of this matter.

Sincerely,



Christopher R. Namorato

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. PRYOR, ARKANSAS
 MARY L. LANDRIEU, LOUISIANA
 BARACK OBAMA, ILLINOIS
 AME MCCASKILL, MISSOURI
 TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VONNOVICH, OHIO
 NORM COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MELUORN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 14, 2008

VIA U.S. MAIL & EMAIL (cm@capdale.com)

Cono R. Namorato, Esq.
 Caplin & Drysdale
 One Thomas Circle, N.W., Suite 1100
 Washington, D.C. 20005

Dear Mr. Namorato:

In a letter dated July 11, 2008, you informed the Permanent Subcommittee on Investigations that your client, Mr. Steven Greenfield, "declines" to appear at the Subcommittee's July 17, 2008, hearing as required by the July 7 subpoena to Mr. Greenfield. Your letter states that Mr. Greenfield refuses to appear at the hearing because he intends to assert his Fifth Amendment privilege against self-incrimination in response to the questions put to him by the Subcommittee. We will treat your letter as a request to excuse your client from having to comply with the Subcommittee's subpoena requiring his appearance as a witness at that hearing based on your representation that he will assert his Fifth Amendment privilege. The Subcommittee hereby declines the request and is not excusing Mr. Greenfield from appearing before the Subcommittee in accordance with the subpoena.

The privilege against self-incrimination is a personal right of witnesses, and, accordingly, the Subcommittee requires witnesses affirmatively to assert the privilege in response to questioning and does not accept representations from counsel, even when made on the record. Accordingly, the Subcommittee's practice has been not to excuse witnesses who state their intention to assert their Fifth Amendment privilege from appearing altogether, but rather to require witnesses to attend hearings and assert their privilege in response to specific questions from the Subcommittee. While the Subcommittee provided a list of some general subjects about which it intends to question Mr. Greenfield, because a valid assertion of the privilege against self-incrimination is predicated on a witness' good-faith determination that the provision of a truthful answer to a particular question propounded creates a reasonable apprehension of incriminating him or her, a witness cannot ultimately make the particular judgment necessary for invocation of the privilege except in consideration of a specific question.

The Subcommittee's practice is in accordance with established Fifth Amendment case law, which provides a defendant in a criminal trial with the absolute right to avoid taking the witness stand to testify or affirmatively assert a Fifth Amendment privilege, *see Jenkins v. Anderson*, 447 U.S. 231, 235 (1980), but does not permit witnesses, including defendants in civil and other non-


Cono R. Namorato, Esq.
 July 14, 2008
 Page 2

criminal proceedings, to refuse to take the stand, but instead requires them to appear for testimony and assert the privilege as to specific questions. *See* 28 C.A. Wright & V.J. Gold, *Federal Practice and Procedure: Federal Rules of Evidence* § 6167, at 408 (1993) ("a witness [other than the accused] does not have a privilege to refuse to be called to testify," but "has a right to refuse to give answers that may be incriminating"); *United States v. Duran*, 884 F. Supp. 573, 574 (D.D.C. 1995) ("Although a witness other than a criminal defendant cannot properly invoke the Fifth Amendment privilege against self-incrimination to avoid appearing at trial altogether, he or she can invoke the privilege to avoid answering incriminating questions." (citing *Allen v. Illinois*, 478 U.S. 364, 368 (1986))). Hence, a witness before the Subcommittee may assert a privilege against self-incrimination in refusing to answer specific questions where applicable, but cannot use the invocation of the Fifth Amendment to avoid appearing before the Subcommittee altogether.

Mr. Greenfield's appearance at the hearing is sought solely in the Subcommittee's belief that Mr. Greenfield can provide useful information relevant to the Subcommittee's investigation, and that directing appropriate questions to Mr. Greenfield may yield such important information. You can be assured that the Subcommittee respects the constitutional rights of witnesses, including your client, and does not seek to harass or embarrass witnesses who exercise those rights.

Accordingly, we deny your client's request to be excused from appearing before the Subcommittee at the July 17 hearing and order and direct him to appear. We would caution that failure to comply with the Subcommittee's subpoena could subject your client to possible criminal penalties under 2 U.S.C. § 192 and civil enforcement proceedings under 2 U.S.C. § 288d.

Sincerely,


 Norm Coleman
 Ranking Minority Member
 Permanent Subcommittee on Investigations


 Carl Levin
 Chairman
 Permanent Subcommittee on Investigations



Caplin & Drysdale, Chartered
One Thomas Circle, NW, Suite 1100
Washington, DC 20005
202-862-5000 202-429-3301 Fax
www.caplindrysdale.com

202-862-5090 Direct
cm@capdale.com

July 15, 2008

BY HAND DELIVERY AND EMAIL TO STAFF

The Honorable Carl Levin
Chairman
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st Street and Constitution Avenue, NE
Washington, DC 20510

The Honorable Norm Coleman
Ranking Minority Member
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
1st Street and Constitution Avenue, NE
Washington, DC 20510

Re: Steven Greenfield

Gentlemen:

I am responding to your letter of July 14, 2008, in connection with our client, Steven Greenfield. With the utmost of respect, Mr. Greenfield will not appear at the hearing scheduled for July 17.

We, along with prior counsel for Mr. Greenfield, Gerald B. Lefcourt, have informed the Subcommittee on two separate occasions that Mr. Greenfield intends to decline to answer any questions with regard to the subject matter of the hearing and to assert his Fifth Amendment right against self-incrimination in response to any question relating to the topics set forth in the Subcommittee's letter of July 6. Nonetheless, the Subcommittee continues to insist on his presence in the stated "belief that . . . he can provide useful information relevant to the Subcommittee's investigation, and that directing appropriate questions to Mr. Greenfield may yield such important information." Please accept that in reliance on his Constitutional

rights, Mr. Greenfield does not intend, absent full immunity, to provide *any* information to the Subcommittee pertinent to its inquiry. Any continuing belief to the contrary is entirely unfounded.

We acknowledge that the law provides, as your letter states, that a “valid assertion of the privilege against self-incrimination is predicated on a witness’ good faith determination that the provision of a truthful answer to a particular question propounded creates a reasonable apprehension of incriminating him...” We are, however, surprised by your citation to *United States v. Duran*, 884 F. Supp. 573 (D.D.C. 1995). That case does not provide any support for a claim that it is appropriate to demand a public assertion of the privilege, or more generally for the practice of the Subcommittee outlined in your letter. Instead, *Duran* stands squarely for the unremarkable proposition that it is entirely *improper* to call a witness for the sole purpose of triggering a public assertion of the privilege.¹ The reference to the Supreme Court’s decision in *Allen v. Illinois*, 478 U.S. 364 (1986), is also baffling, since Justice Rehnquist on the page you cite merely reiterates the centrality of the right to remain silent not only in response to questions posed in a criminal context but more broadly in civil contexts, as well.

In exercising our responsibilities to represent our client ethically within the bounds of the law, we have reviewed the general subject areas of the Subcommittee’s inquiry, as outlined in its invitation letter to Mr. Greenfield of July 6, and determined that he will not answer any question that may be relevant, even remotely, to the subjects stated therein. Under the standards set forth in your letter, we, as his counsel, have made the good faith determination that he has a valid privilege. To the extent you will not accept our representations of this, attached is our client’s affidavit to this effect.

We also reiterate our offer to present Mr. Greenfield in a private session where he can go through the exercise of asserting his claim of privilege in response to specific questions. This is in accordance with Senate rules, which provide that witnesses should not be subjected to harassment or embarrassment. In all candor, we can ascertain no legitimate purpose to your insistence that Mr. Greenfield, a private citizen, appear in a public forum, presumably recorded for repeated public viewing on television or on line, solely to assert his Fifth Amendment privilege. This Subcommittee is well aware of his intentions and he has offered the Subcommittee the option, at its convenience, of having him assert his privilege by affidavit or in a private session with staff or otherwise. Mr. Greenfield really means what we have said he means – that he will assert the Fifth Amendment to any question concerning the subject of your hearing. The continued insistence that he appear on July 17th points squarely to a desire to embarrass and to harass.

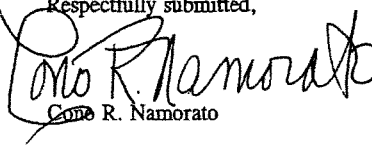
¹ The government witness in *Duran* signaled his intent to assert his rights under the Fifth Amendment in response to one line of anticipated cross-examination. The district court held that it was improper to pose those questions just to elicit the Fifth Amendment and precluded questioning in the area.

Caplin & Drysdale
CHARTERED

- 3 -

In sum, Mr. Greenfield will appear in private session to assert his rights if you so insist. Please contact me if you would like to arrange a session for Mr. Greenfield to be interviewed by Committee staff, or by yourselves in a private forum.

Respectfully submitted,


Cono R. Namorato

Enclosure

UNITED STATES SENATE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
COMMITTEE ON HOMELAND SECURITY & GOVERNMENTAL AFFAIRS

IN RE INVESTIGATION INTO TAX HAVEN BANKS
AND UNITED STATES TAX COMPLINACE

(SUBPOENA TO STEVEN GREENFIELD)

AFFIDAVIT OF STEVEN D. GREENFIELD

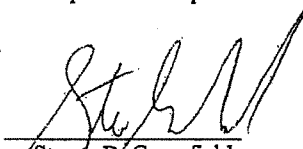
STATE OF NEW YORK }
COUNTY OF NEW YORK }

STEVEN D. GREENFIELD, having been first duly sworn, deposes and says:

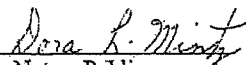
1. I am aware that my attorney received on my behalf a subpoena purporting to require my attendance before the Permanent Subcommittee on July 17, 2008, and to testify at a hearing.

2. I am also advised that the Permanent Subcommittee has identified to my counsel the substance of the questions that would be posed to me.

3. On advice of counsel, and aware of the subject matter of the hearing and the questions that would be posed, I hereby state that I will assert my rights under the Fifth Amendment to the United States Constitution in response to all questions relating to the subject matter of the Subcommittee's hearing.


Steven D. Greenfield

Sworn to before me this 15th
day of July 2008


Notary Public

DORA L. MINTZ
Notary Public, State of New York
No. 01M15008229
Qualified in New York County
Commission Expires February 16, 2011

JOSEPH L. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. PRYOR, ARIZONA
 MARY L. LANDRIEU, LOUISIANA
 BARACK OBAMA, ILLINOIS
 CLARE MCCASKILL, MISSOURI
 JON TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VONNOVICH, OHIO
 NORM COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MILHORN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 18, 2008

VIA U.S. MAIL & EMAIL (crn@capdale.com)

Cono R. Namorato, Esq.
 Caplin & Drysdale
 One Thomas Circle, N.W., Suite 1100
 Washington, D.C. 20005

Dear Mr. Namorato:

Your client, Mr. Steven Greenfield, was subpoenaed to appear at a Permanent Subcommittee on Investigations hearing on July 17, 2008. Mr. Greenfield's failure to appear at yesterday's hearing places him in default of that subpoena. As you know, we advised you on July 14, 2008, of the Subcommittee's denial of Mr. Greenfield's request to be excused from appearing at the hearing and ordered and directed Mr. Greenfield to appear.

Your letter of July 15, 2008, informed the Subcommittee that Mr. Greenfield would not appear at the July 17 hearing, and "offer[ed] to present Mr. Greenfield in a private session." The United States Court of Appeals for the District of Columbia Circuit has stated: "Of course, it is up to the committee, not the witness, to decide whether hearings should be open or executive." *Wilson v. United States*, 369 F.2d 198, 204 (D.C. Cir. 1966). In accordance with that principle and after considering its past practice and a range of factors under Senate, Committee, and Subcommittee rules, the Subcommittee declines to convene in closed session as you request.

At the conclusion of yesterday's hearing, the Chairman adjourned the hearing until July 25, 2008, when the Subcommittee will reconvene to hear from another witness who was scheduled to appear on a panel with Mr. Greenfield, but was abroad at the time of the hearing and was not under subpoena. That witness has agreed to appear before the Subcommittee to testify on Friday, July 25, 2008, at 9:30 a.m.

Before proceeding to consider enforcement actions with respect to the subpoena served on your client, the Subcommittee extends to Mr. Greenfield the opportunity to appear before the Subcommittee at the July 25 hearing, in compliance with the outstanding subpoena, either to testify or to assert appropriate privileges in response to specific questions. Please advise Robert Roach or Mike Flowers of the Subcommittee staff at 202/224-9505, by close of business on Monday, July 21, 2008, whether Mr. Greenfield will appear at the July 25 hearing.

Sincerely,



Norm Coleman
 Ranking Minority Member
 Permanent Subcommittee on Investigations



Carl Levin
 Chairman
 Permanent Subcommittee on Investigations

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. PRYOR, ARKANSAS
 MARY L. LANDRIEU, LOUISIANA
 BARACK OBAMA, ILLINOIS
 CLAIRE MCCASKILL, MISSOURI
 JON TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VOINOVICH, OHIO
 NORM COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MELHORN, MINORITY STAFF DIRECTOR

United States Senate
 COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 22, 2008

VIA U.S. MAIL & EMAIL (cm@capdale.com)

Mr. Steven Greenfield
 c/o Cono R. Namorato, Esq.
 Caplin & Drysdale
 One Thomas Circle, N.W., Suite 1100
 Washington, D.C. 20005

Dear Mr. Greenfield:

On July 25, 2008, the U.S. Senate Permanent Subcommittee on Investigations will continue its hearing on tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of these activities on tax compliance in the United States. The hearing will be held at 9:30 a.m. in Room 342 of the Dirksen Senate Office Building in Washington, D.C.

The Subcommittee has been advised by your counsel that you will appear at the July 25th hearing. To assist the Subcommittee's understanding of the issues, we ask that you be prepared to address and answer questions about the following matters.

1. When and how did you or other family members first become associated with LGT?
2. Please describe the services provided by LGT.
3. Please describe, including the nature, purpose, beneficial ownership, and source and disposition of assets, any account or legal entity of which you or other family members were founders, beneficiaries, beneficial owners or in any way controlled or benefitted from that was established, managed, or in any way serviced by LGT.
4. Please describe, including the nature, purpose, beneficial ownership, and source of funding, of Chiu Fu (Far East) Ltd. and TSF Company Ltd. and any relationship or role they had with respect to the Maverick Foundation.
5. Please describe when and where you have communicated or met with LGT personnel. Please describe what was discussed, including whether there was any discussion of tax matters. Please describe what services LGT has provided. What advice did LGT provide you?

6. Do you have any other accounts or legal entities established or acquired on your behalf involving an offshore jurisdiction? If so, please describe them.
7. Please describe any interactions you have had with the IRS as they relate to your interactions with LGT or any other tax haven financial institution, including whether you have reached or are working on a settlement.

Please submit a written statement addressing the above matters. This statement will be included in its entirety in the printed hearing record. Subcommittee rules require that the written statement of all witnesses be received by 9:30 a.m. on Wednesday, July 23, 2008. Please deliver the written statement to the Subcommittee's Chief Clerk, Mary Robertson, through electronic mail at mary_robertson@hsgac.senate.gov. In addition, you may provide an oral statement of up to ten minutes in length, to be followed by questions from Subcommittee Members.

Thank you for your assistance in this matter. If you have any questions or would like additional information, please contact Robert Roach (Senator Levin) at 202/224-9505 or Michael Flowers (Senator Coleman) at 202/224-3721.

Sincerely,



Norm Coleman
Ranking Minority Member
Permanent Subcommittee on Investigations



Carl Levin
Chairman
Permanent Subcommittee on Investigations

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. FEYER, ARIZONA
 MARY L. LANDRIEU, LOUISIANA
 BARACK OBAMA, ILLINOIS
 CLARE McCASKILL, MISSOURI
 JON TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VONNOVICH, OHIO
 NORM COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MILHORN, MINORITY STAFF DIRECTOR

United States Senate
 COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 10, 2008

VIA U.S. MAIL & EMAIL (robert.bennett@skadden.com)

Mr. Peter S. Lowy
 c/o Robert S. Bennett, Esq.
 Skadden, Arps, Slate, Meagher & Flom LLP
 1440 New York Avenue, N.W.
 Washington, D.C. 20005

Dear Mr. Lowy:

On July 17, 2008, the U.S. Senate Permanent Subcommittee on Investigations will hold a hearing on tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of these activities on tax compliance in the United States. The hearing will be held at 9:30 a.m. in Room 106 of the Dirksen Senate Office Building in Washington, D.C.

The Subcommittee requests that you testify at the hearing. To assist the Subcommittee's understanding of the issues, we ask that you be prepared to address and answer questions about the following matters.

1. When and how did you or other family members first become associated with LGT?
2. Please describe the services provided by LGT.
3. Please describe, including the nature, purpose, beneficial ownership, and source of funding, of each such account or legal entity that was established, managed, or in any way serviced by LGT.
4. Please describe, including the nature, purpose, beneficial ownership, and source of funding, of Sewell Services, Ltd.
5. Please describe the nature of Beverly Park Corporation and any relationship or role it had with respect to the Luperla Foundation or Lonas, Ltd.
6. Please describe when and where you have communicated or met with LGT personnel. Please describe what was discussed, including whether there was

Permanent Subcommittee on Investigations
EXHIBIT #122


any discussion of tax matters. Please describe what services LGT has provided. What advice did LGT provide you?


7. Do you have any other accounts or legal entities established or acquired on your behalf involving an offshore jurisdiction? If so, please describe them.
8. Please describe any interactions you have had with the IRS as they relate to your interactions with LGT or any other tax haven financial institution, including whether you have reached or are working on a settlement.

Please submit a written statement addressing the above matters. This statement will be included in its entirety in the printed hearing record. Subcommittee rules require that the written statement of all witnesses be received by 9:30 a.m. on Tuesday, July 15, 2008. Please deliver the written statement to the Subcommittee's Chief Clerk, Mary Robertson, through electronic mail at mary_robertson@hsgac.senate.gov. In addition, you may provide an oral statement of up to ten minutes in length, to be followed by questions from Subcommittee Members.

Thank you for your assistance in this matter. If you have any questions or would like additional information, please contact Robert Roach (Senator Levin) at 202/224-9505 or Michael Flowers (Senator Coleman) at 202/224-3721.

Sincerely,


Norm Coleman
Ranking Minority Member
Permanent Subcommittee on Investigations


Carl Levin
Chairman
Permanent Subcommittee on Investigations

701

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL (202) 371-7000
FAX (202) 393-5760
www.skadden.com

DIRECT DIAL
202-371-7180
DIRECT FAX
202-371-7813
EMAIL ADDRESS
ROBERT.BENNETT@SKADDEN.COM

FIRM/AFFILIATE OFFICES
BOSTON
CHICAGO
HOUSTON
LOS ANGELES
NEW YORK
PALO ALTO
SAN FRANCISCO
WILMINGTON

BEIJING
BRUSSELS
FRANKFURT
HONG KONG
LONDON
MOSCOW
MUNICH
PARIS
SINGAPORE
SYDNEY
TOKYO
TORONTO
VIENNA

July 14, 2008

VIA FACSIMILE AND HAND DELIVERY

The Honorable Carl Levin
Chairman
The Honorable Norm Coleman
Ranking Minority Member
United States Senate
Committee on Homeland Security and
Governmental Affairs
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, D.C. 20510-6262

RE: Invitation to Peter S. Lowy to Attend Hearing on July
17, 2008

Dear Senators Levin and Coleman:

We are writing in response to your letter of July 10 inviting our client, Mr. Peter S. Lowy, to appear at a hearing of the Permanent Subcommittee on Investigations that is scheduled for July 17, 2008. Mr. Lowy must respectfully decline to accept your invitation to appear and testify at that hearing.

As you undoubtedly are aware, the first contact between the Subcommittee staff and Mr. Lowy's office occurred on June 17 regarding the production of documents. Thereafter, on June 19, as counsel for Mr. Lowy, we voluntarily accepted service of a subpoena for documents returnable on July 7. We worked diligently, in accordance with Mr. Lowy's instructions, to assist the Subcommittee staff and produced on July 3 approximately 4,100 pages of documents on a disk (at the request of the Subcommittee staff), in advance of the July 7 return

The Honorable Carl Levin
The Honorable Norm Coleman
July 14, 2008
Page 2

date for the subpoena. We understand that the Subcommittee staff is satisfied with that production.

On July 8, the Subcommittee publicly announced that it planned to hold hearings on July 17. We had previously requested a meeting with the Subcommittee staff, which occurred on July 9. During the course of that meeting, the staff provided us, as counsel for Mr. Lowy, with information regarding the investigation of the Subcommittee. On July 10, for the first time, we were notified that Mr. Lowy's presence was requested at the hearing scheduled for July 17.

Unfortunately, as we have previously advised the Subcommittee staff, Mr. Lowy was already scheduled to be out of the country on business and will be unable to attend the hearing. Moreover, given the very short notice provided to Mr. Lowy regarding his requested appearance, it would be impossible for us to prepare Mr. Lowy adequately to testify before the Subcommittee. Furthermore, as we advised the Subcommittee staff already, Mr. Lowy simply does not have knowledge regarding many of the questions you have indicated you wish to ask. Accordingly, for all these reasons, Mr. Lowy respectfully declines to appear at the hearing scheduled on July 17.

We respectfully request that this letter be made part of the record of the Subcommittee's proceedings on this matter.

Very truly yours,



Robert S. Bennett

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
(202) 371-7180
CABLE FAX
(202) 371-7813
EMAIL ADDRESS
RHEMETT@SKADDEN.COM

FIRM/AFFILIATE OFFICES
BOSTON
CHICAGO
HOUSTON
LOS ANGELES
NEW YORK
PALO ALTO
SAN FRANCISCO
WILMINGTON

BEIJING
BRUSSELS
FRANKFURT
HONG KONG
LONDON
MOSCOW
MUNICH
PARIS
SINGAPORE
SYDNEY
TOKYO
TORONTO
VIENNA

July 15, 2008

VIA ELECTRONICALLY AND HAND DELIVERY

The Honorable Carl Levin
Chairman
The Honorable Norm Coleman
Ranking Minority Member
United States Senate
Committee on Homeland Security and
Governmental Affairs
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, DC 20510-6262

Re: Peter S. Lowy

Dear Senators Levin and Coleman:

This is to confirm my conversation of July 14th with Bob Roach of Subcommittee staff. I told Mr. Roach that should you require the presence of Peter Lowy at any future hearings, that he will voluntarily appear or alternatively that I will accept a subpoena on his behalf.

We request that Subcommittee Staff provide us with as much notice as possible regarding the date of his requested appearance so that both Mr. Lowy and counsel can arrange their schedules.

I hope you understand that it was not until July 10th that we were advised for the first time that the Subcommittee wanted Mr. Lowy to appear before the Subcommittee on July 17th. We have repeatedly told Subcommittee Staff that Mr. Lowy would be unavailable on that date because he had a long standing commit-

The Honorable Carl Levin
July 15, 2008
Page 2

ment to be out of the country. Mr. Lowy's unavailability on July 17th is due to scheduling issues and no disrespect is intended to the Subcommittee.

I request that this letter be made part of the official proceedings.

Very truly yours,

A handwritten signature in black ink, appearing to read "RS Bennett". The signature is written in a cursive, flowing style.

Robert S. Bennett

705

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, D.C. 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

DIRECT DIAL
202-371-7180
DIRECT FAX
202-371-7813
EMAIL ADDRESS
ROBERT.BENNETT@SKADDEN.COM

FIRM/AFFILIATE OFFICES
BOSTON
CHICAGO
HOUSTON
LOS ANGELES
NEW YORK
PALO ALTO
SAN FRANCISCO
WILMINGTON

BEIJING
BRUSSELS
FRANKFURT
HONG KONG
LONDON
MOSCOW
MUNICH
PARIS
SINGAPORE
SYDNEY
TOKYO
TORONTO
VIENNA

July 16, 2008

VIA FACSIMILE AND HAND DELIVERY

The Honorable Carl Levin
Chairman
The Honorable Norm Coleman
Ranking Minority Member
United States Senate
Committee on Homeland Security and
Governmental Affairs
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, D.C. 20510-6262

RE: Peter S. Lowy's Attendance at Hearing on July 25, 2008

Dear Senators Levin and Coleman:

This is to confirm my conversation earlier today with Robert L. Roach, Counsel and Chief Investigator to the Subcommittee, in which I indicated that Mr. Peter S. Lowy will voluntarily appear at a hearing of the Subcommittee on Friday, July 25, 2008 at 10:00 a.m. We request that, if Mr. Lowy's absence at tomorrow's hearing is noted, it also be noted that Mr. Lowy will be appearing voluntarily before the Subcommittee on July 25.

Thank you for your cooperation in this matter.

Very truly yours,


Robert S. Bennett

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. PRYOR, ARKANSAS
 MARY L. LANDRIEU, LOUISIANA
 BARACK OBAMA, ILLINOIS
 CLARE McCASKILL, MISSOURI
 JON TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VOINOVICH, OHIO
 NORM COLLIAM, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MILHORN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

July 18, 2008

VIA U.S. MAIL & EMAIL (robert.bennett@skadden.com)

Mr. Peter S. Lowy
 c/o Robert S. Bennett, Esq.
 Skadden, Arps, Slate, Meagher & Flom LLP
 1440 New York Avenue, N.W.
 Washington, D.C. 20005

Dear Mr. Lowy:

On July 25, 2008, the U.S. Senate Permanent Subcommittee on Investigations will continue its hearing on tax haven financial institutions, their formation and administration of offshore entities and accounts for use by U.S. clients, and the impact of these activities on tax compliance in the United States. The hearing will be held at 9:30 a.m. in Room 342 of the Dirksen Senate Office Building in Washington, D.C.

The Subcommittee has been advised by your counsel that you will appear at the July 25th hearing. To assist the Subcommittee's understanding of the issues, we ask that you be prepared to address and answer questions about the following matters.

1. When and how did you or other family members first become associated with LGT?
2. Please describe the services provided by LGT.
3. Please describe, including the nature, purpose, beneficial ownership, and source and disposition of assets, any account or legal entity of which you or other family members were founders, beneficiaries, beneficial owners or in any way controlled or benefitted from that was established, managed, or in any way serviced by LGT.
4. Please describe, including the nature, purpose, beneficial ownership, and source of funding, of Sewell Services, Ltd.
5. Please describe the nature of Beverly Park Corporation and any relationship or role it had with respect to the Luperla Foundation or Lonas, Ltd.

6. Please describe when and where you have communicated or met with LGT personnel. Please describe what was discussed, including whether there was any discussion of tax matters. Please describe what services LGT has provided. What advice did LGT provide you?
7. Do you have any other accounts or legal entities established or acquired on your behalf involving an offshore jurisdiction? If so, please describe them.
8. Please describe any role that Sinitus Trust or Mr. Joshua Gelbard had with respect to the formation, management, administration, transactions, or operations of any entity of which you or other family members were founders, beneficiaries, beneficial owners or in any way controlled or benefitted from.
9. Please identify any individuals or entities, including, but not limited to, any Israeli charities, that received any disbursement of assets (and the amount of assets) that were at any time held by the Luperla Foundation.
10. Please describe any interactions you have had with the IRS as they relate to your interactions with LGT or any other tax haven financial institution, including whether you have reached or are working on a settlement.

Please submit a written statement addressing the above matters. This statement will be included in its entirety in the printed hearing record. Subcommittee rules require that the written statement of all witnesses be received by 9:30 a.m. on Wednesday, July 23, 2008. Please deliver the written statement to the Subcommittee's Chief Clerk, Mary Robertson, through electronic mail at mary_robertson@hsgac.senate.gov. In addition, you may provide an oral statement of up to ten minutes in length, to be followed by questions from Subcommittee Members.

Thank you for your assistance in this matter. If you have any questions or would like additional information, please contact Robert Roach (Senator Levin) at 202/224-9505 or Michael Flowers (Senator Coleman) at 202/224-3721.

Sincerely,



Norm Coleman
Ranking Minority Member
Permanent Subcommittee on Investigations



Carl Levin
Chairman
Permanent Subcommittee on Investigations

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. PRYOR, ARKANSAS
 MARY L. LANDRIEU, LOUISIANA
 BARACK OBAMA, ILLINOIS
 CLAIRE McCASKILL, MISSOURI
 JON TESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 TED STEVENS, ALASKA
 GEORGE V. VOINOVICH, OHIO
 NORM COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. MELHORN, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-6250

August 8, 2008

VIA U.S. MAIL & EMAIL (robert.bennett@skadden.com)

Robert S. Bennett, Esq.
 Skadden, Arps, Slate, Meagher & Flom LLP
 1440 New York Avenue, N.W.
 Washington, D.C. 20005

Dear Mr. Bennett:

The Permanent Subcommittee on Investigations is in receipt of your letter dated August 1, 2008. For the reasons set forth below, the decision has been made not to include your letter in the record of the hearing the Subcommittee held on July 25, 2008.

As a threshold matter, the Subcommittee interprets your August 1 letter as an attempt by Mr. Lowy, through counsel, to offer substantive evidence on the manner in which he complied with the Subcommittee's subpoena. As you are aware, during the hearing on July 25, 2008, the Chair ruled that statements of a witness' counsel will not be heard by the Subcommittee when the witness has refused to provide testimony on the grounds of his Constitutional privilege against compulsory self-incrimination. Based upon this ruling, as well as Subcommittee Rule 8, which states explicitly that counsel may not answer for a witness, the Chairman and Ranking Minority Member have jointly determined that it is not appropriate to include the letter in the hearing record.

Moreover, your letter contains a number of factual inaccuracies. On or about June 30, 2008, in a telephone conversation with Subcommittee counsel to discuss production of material responsive to a subpoena issued to Mr. Lowy, you were advised that the Subcommittee would hold the July 17 hearing, and that there was a possibility that Mr. Lowy would be called to testify. You advised that you were reluctant to have Mr. Lowy testify before having the opportunity to be fully briefed about that matter. On July 9, 2008, you and your colleagues met with Subcommittee counsel in our offices, and we provided extensive information on the evidence compiled by the Subcommittee about Mr. Lowy's relationship with LGT. At no time during that meeting did you or your colleagues raise the possibility that Mr. Lowy would be travelling on July 17. In a subsequent telephone conversation with Subcommittee counsel, you advised that Mr. Lowy had pre-existing travel plans and that as a result he would not be in the United States on July 17. You further stated that you believed he would be in either Australia or London.

On Friday, July 11, 2008, Subcommittee counsel advised you by telephone that we would likely issue a subpoena to Mr. Lowy if he declined to appear voluntarily at the July 17 hearing. Included in that conversation was a standard question as to whether Mr. Lowy had authorized you to accept service of that subpoena. You responded that you did not know whether Mr. Lowy would attend the July 17 hearing voluntarily, nor did you know if you were authorized to accept service of a subpoena. You concluded the conversation of July 11 by stating that you could not speak with Mr. Lowy until the weekend and that you would respond to Subcommittee counsel on the following Monday, July 14.

Based on your representation, Subcommittee counsel believed that Mr. Lowy would not leave the United States until the issue of his appearance at the hearing had been resolved, or that you would accept service of a subpoena on his behalf and he would return to the United States by the hearing date. Otherwise, your agreement to provide answers on Monday to the questions posed to you on Friday, would not have provided a meaningful opportunity to address the Subcommittee's stated intention of securing Mr. Lowy's attendance at the July 17 hearing.

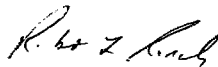
The Friday conversation made you – and presumably Mr. Lowy – aware of the likelihood that the Subcommittee would issue a subpoena prior to Mr. Lowy's departure on travel. You did not advise the Subcommittee that Mr. Lowy would depart before you responded. It was not until Monday, July 14, that you advised Subcommittee counsel that Mr. Lowy had already left the United States the night before, on a 10:30 PM flight from Los Angeles (1:30 AM EST) Sunday evening, July 13, precluding service of the subpoena discussed with you on Friday, July 11. You did not specify Mr. Lowy's destination.

In closing, we note that Subcommittee counsel spent a considerable amount of time, both at our meeting with you in our offices on July 9, 2008, and after publication of the Subcommittee's staff report, providing you and your colleagues with detailed information (including identification of key documents) related to the issues and concerns raised by the Lowy accounts and transactions at LGT. It is unfortunate that we have not received full and complete responses in return.

Sincerely



Michael P. Flowers
Counsel to the Minority
Permanent Subcommittee on Investigations

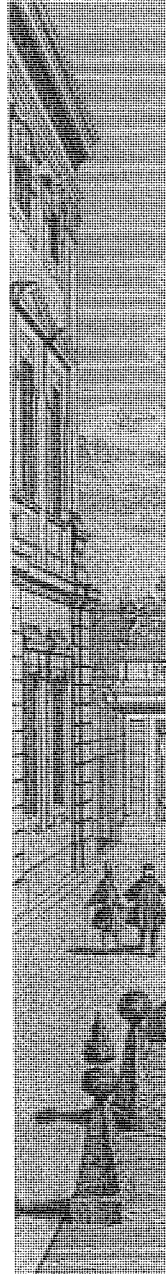


Robert L. Roach
Counsel
Permanent Subcommittee on Investigations



The Liechtenstein
Trust Enterprise (Trust reg.)

LGT Trust – The fiduciary experts of the
Princely House of Liechtenstein.



The Principality of Liechtenstein

The Principality of Liechtenstein – situated in the heart of Europe – is a constitutional, hereditary monarchy founded on a democratic and parliamentary basis. Liechtenstein offers significant advantages as a location for incorporating companies, foundations and special asset endowments:

- Political conditions have been extremely stable since the country became a sovereign state in 1806. In the 20th century, Liechtenstein has enjoyed dynamic economic development and today has thriving industrial and service sectors. It has no national debt, a balanced budget and an above-average share of exports. Liechtenstein has been a member of the European Economic Area (EEA) since 1995.
- The Customs Treaty of 1923 (together with amendments as a result of Liechtenstein joining the EEA) forms the basis for the close economic ties with Switzerland. Since the Swiss Franc has been Liechtenstein's legal tender since 1924, a currency treaty was concluded with Switzerland in 1980. Having a currency common with Switzerland has proven to be extremely beneficial.

- Political and economic stability and continuity, combined with strict laws on banking and professional secrecy, have led to the establishment of a high-quality financial services centre with an efficient infrastructure. Full-service banks with worldwide connections offer instruments for asset management and protection.
- Liechtenstein private and company law, which is geared towards promoting private enterprise, sets out a liberal framework for the establishment and management of a diverse range of legal instruments for dealing with problems of both a commercial and non-commercial nature.
- Holding and domiciliary companies are exempt from property, capital gains and income tax. However, they are subject to capital tax at a reduced rate.

The legal structure of the trust enterprise

Legal form

The trust enterprise under Liechtenstein law is a form of company under civil law which has its own legal personality in its typical structure. The trust enterprise represents a special form of the trust structure, namely the so-called "business trust". Unlike trusts, the trust enterprise cannot only acquire its own legal personality but it can also conduct business of a commercial nature under its own corporate name.

There is considerable flexibility in designing the objects and organisation of a trust enterprise. Depending upon the structure, a trust enterprise may adopt a form similar to that of a foundation or that of a corporation. In addition to conducting commercial and financial transactions, the trust enterprise can also be used purely for asset management and as a holding company.

Formation

The trust enterprise is established by executing the trust articles, which contain the certified signature of the settlor. In addition to the imperative legal provisions, the trust articles can include additional rules for the organisation and detailed regulations of the beneficial interests involved in the trust enterprise. However, the latter is normally regulated by separate regulations or by-laws, which are not deposited with the Public Register.

The entry in the Public Register has a constitutive effect, i.e. the trust enterprise does not acquire a separate legal personality until it has been entered in the Public Register.

Publication

On request, any person can obtain an extract from the Public Register. This extract shows the following information relating to the trust enterprise: register number, date of entry, corporate name, registered office, date of formation, object, trust fund, members of the board of trustees, authorised signatories and representatives, method used for official announcements by the company, legal representative.

Object

The settlor has extensive discretion in determining the trust enterprise's object. It must be noted, however, that certain objects require special approval. In any event, the designated object must expressly state whether the trust enterprise is permitted to conduct business of a commercial nature, i.e. whether or not it is permitted to operate on a commercial basis.

Trust fund and trust assets

The minimum capital (trust fund) of the trust enterprise is normally CHF 30,000 (where divided into shares: CHF 50,000). The trust fund can be deposited in cash or through contributions in kind. On formation of the trust enterprise, proof must be provided that the trust fund has been fully paid up. Additional funds can be endowed to the trust enterprise after it has been created.

By contrast, the trust assets include the entirety of all assets of the trust enterprise. Endowments to the trust assets can be made also after the trust enterprise has been created.

Liability for commitments

Only the trust enterprise's assets are liable to the trust enterprise's creditors. As a matter of principle, the participants in the trust enterprise are not personally liable. Neither the participants in the trust enterprise nor its settlor are under any statutory obligation to make additional contributions.

Organisation

The legislative authorities have given extensive personal discretion to the settlor to specify in the trust articles how the trust enterprise is to be organised and what form the cooperation between the participants in the trust enterprise is to take. Participants are understood to be the settlor, the trustee, the beneficiaries and the prospective beneficiaries.

- The settlor

The settlor is the person who endows or undertakes to endow assets to the trust fund, and who simultaneously specifies in detail in the trust articles how these assets are to be managed and utilised.

The settlors of a trust enterprise can be natural persons or legal entities from Liechtenstein and abroad. Only one settlor is needed.

- The board of trustees

The board of trustees may consist of one or more natural persons and/or legal entities (trustees). The board of trustees manages the trust enterprise and represents it towards the outside in all matters determined by the law or the trust articles.

At least one member of the board of trustees who is authorised to represent the trust enterprise and manage its business must hold an appropriate license or special approval from the government.

- **Auditors**

If the trust enterprise pursues a commercial object or if the trust articles allow for business to be conducted on a commercial basis, it must appoint auditors who are licensed to practise in Liechtenstein. For trust enterprises which do not pursue a commercial object, the appointment of auditors is optional.

- **Legal representative**

The legal representative is the person authorised to accept service for the trust enterprise in Liechtenstein. The legal representative is not a governing body but is only authorised by act of law to accept service of any kind of document from the courts and government authorities. However, there is the option for the founder or for governing bodies of the trust enterprise to grant the legal representative additional powers to act for and represent the trust enterprise.

Beneficiaries

Beneficiaries can be specified in the trust articles drawn up by the settlor or in the by-laws or regulations of the trust enterprise (which are not deposited with the Public Register), and both the type as well as scope of the beneficial interest can be defined there. If no beneficiaries are appointed, there is a presumption of law that the settlor himself is the beneficiary.

The trust articles may specify that creditors are unable to access beneficial interests awarded by the trust enterprise.

Bookkeeping and preparation of the annual accounts

Trust enterprises which pursue a commercial object are obliged to keep a proper set of accounts. The annual accounts must be audited by auditors who are licensed to practise in Liechtenstein; these accounts must be submitted to the Liechtenstein tax authorities within six months following the close of the business year.

Simplified regulations apply to trust enterprises which do not conduct any business on a commercial basis and whose object clause in the articles does not permit such business to be conducted. They must prepare an annual schedule of assets (statement of assets and liabilities). On this basis, the only declaration required to be given to the Public Register within six months following the close of the business year is that a schedule of assets is available and that no business of a commercial nature has been pursued. The schedule of assets itself is not submitted.

Taxation

Trust enterprises which qualify as a holding or domiciliary company are exempt from any property, capital gains and income tax. They are subject to an annual capital tax of 0.1 percent of the trust enterprise's equity, with a minimum amount of CHF 1,000. If the trust fund is divided into shares then profit distributions are subject to a withholding tax (coupon tax) of 4 percent.

Conversion and merger

The trust articles can provide for the trust enterprise to be converted into a different type of corporate body or merged with another company.

Dissolution

Within the framework of the statutory restrictions, the trust articles may specify which participant is granted the authority to pass a resolution to dissolve the trust enterprise. The dissolution of the trust enterprise usually leads to it being wound up, with the liabilities of the trust enterprise being satisfied and the assets normally being liquidated. Any liquidation surplus is distributed to the beneficiaries on expiry of a blocked period of six months (from the date of the third call for claims in the official publication as provided for in the trust articles). The trust enterprise can then be deleted from the Public Register.

Arguments in favour of Liechtenstein and the Liechtenstein Trust Enterprise

The Principality of Liechtenstein

- Economic and political stability
- Central location within Europe
- High-quality financial services centre with efficient infrastructure
- Strict laws on professional secrecy for banks and trustees
- Liberal legal framework conditions
- Decades of tradition in asset management and asset structuring

The trust enterprise

- Extensive flexibility in individual design
- Appropriate instrument for succession planning over several generations
- Efficient instrument for protecting assets from undesirable access
- Discretion and anonymity

Illustration: Jakob Gottfried, after Salomon Kleiner, Detail from "Entrance to the Gardens at Rossau, between the Main Building and the Outbuildings", c. 1737

© Collections of the Prince of Liechtenstein, Vaduz – Vienna
LIECHTENSTEIN MUSEUM, Vienna. www.liechtensteinmuseum.at

LGT Treuhand AG · Städtle 28 · FL-9490 Vaduz
Phone +423 235 27 27 · Fax +423 235 27 15

LGT Trust Management AG · Städtle 28 · FL-9490 Vaduz
Phone +423 235 27 35 · Fax +423 235 27 15

lgt.trust@lgt.com
www.lgt.com

LGT is represented in 29 first-class business locations in Europe, Asia, the Middle East and America.
A complete address list can be seen at: www.lgt.com

This publication is for your information only and is not intended as an offer, solicitation of an offer, public advertisement or recommendation to buy or sell any investment or other specific product. The information in this publication does not constitute an aid for decision-making in relation to financial, legal, tax or other consulting matters, nor should any investment or other decisions be made on the basis of this information alone. It is recommended that advice be obtained from a qualified expert. Investors should be aware that the value of investments can fall as well as rise. Positive performance in the past is therefore no guarantee of positive performance in the future. The risk of price and foreign currency losses and of fluctuations in return as a result of unfavorable exchange rate movements cannot be ruled out. There is a possibility that investors will not recover the full amount they initially invested.

From: [Counsel for LGT]
Sent: Thursday, June 26, 2008 3:05 PM
To: Roach, Bob (HSGAC); Flowers, Mike (HSGAC)
Cc: [REDACTED]
Subject:

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Bob and Mike,

During our meeting on June 17, you asked us to cite the specific Liechtenstein and Swiss statutes that would prohibit LGT from producing (or commenting on) certain requested information and/or documents. Below please find the relevant portions of these statutes. We have also attached a copy of the Data Protection Act. This is the only statute for which LGT has a full English translation.

You also asked whether there were any exemptions to these provisions that allow banks to give information to the IRS in connection with the QI. It is my understanding that the Swiss Federal Department of Justice authorized QIs to give information under the QI Agreements. Similarly in Liechtenstein, the government has approved the giving of information under the QI Agreements by amending § 124 Penal Code.

If you need additional information on any of these provisions, please let me know. Thanks, [REDACTED]

A. Liechtenstein

1. **Banking Secrecy - Article 14 of the Banking Act:** "The members of the organs of banks and their employees as well as other persons acting on behalf of such banks shall be obliged to maintain the secrecy of facts that they have been entrusted to or have been made available to them pursuant to their business relationships with clients. The obligation to maintain secrecy shall not be limited in time."
2. **Trustee Secrecy - Article 11 of the Trustee Act:** "Trustees are obliged to secrecy on the matters entrusted to them and on the facts which they have learned in the course of their professional capacity and whose confidentiality is in the best interest of their client. They shall have the right to such secrecy subject to the applicable rules of procedure in court proceedings and other proceedings before Government authorities."
3. **LGT Employee Information**
 - (a) **Processing of Personal Data - § 1173a, Art. 28a ABGB (General Civil Code):** "The employer may not process data relating to the employee unless such data concern his or her qualification for the employment or are indispensable for the performance of the employment contract. In addition, the provisions of the Data Protection Act shall apply."

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 110

(b) Data Protection Act

➤ **Article 10 – Data Confidentiality:** “Whoever processes data or has data processed must keep data from applications entrusted to him or made accessible to him based on his professional activities secret, notwithstanding other legal confidentiality obligations, unless lawful grounds exist for the transmission of the data entrusted or made accessible to him.”

➤ **Article 8 – Transborder Data Flows:** “No personal data may be transferred abroad if the personal privacy of the persons affected could be seriously endangered, in particular where there is a failure to provide protection equivalent to that provided under Liechtenstein law. This shall not apply to states which are party to the EEA Agreement.

Whoever wishes to transmit data abroad must notify the Data Protection Commissioner beforehand in cases where:

- a) there is no legal obligation to disclose the data and
- b) the persons affected have no knowledge of the transmission.”

U.S. does not have protections equivalent to that provided under Liechtenstein law. Article 5 deals with “equivalence” and the Appendix to the DPA list 2 situations where U.S. protections are considered equivalent, neither of which appear to be applicable.

4. Prohibited Acts of a Foreign State - Art. 2 of the Liechtenstein State

Security law:

b) Prohibited Acts for a Foreign State

Whoever, without being authorized, performs acts for a foreign state on Liechtenstein territory that are reserved to an authority or an official, whoever aids and abets such acts, shall be punished by the Liechtenstein court (Landgericht) with imprisonment up to three years.

B. Switzerland (only applicable to questions ##34, 49-51 involving the Swiss Trust)**1. Prohibited Acts for a Foreign State – Art. 271 of the Swiss Penal Code**

"1. Whoever, without being authorized, performs acts for a foreign state on Swiss territory that are reserved to an authority or an official, whoever performs such acts for a foreign party or another foreign organization, whoever aids and abets such acts, shall be punished with

imprisonment up to three years or a fine, in serious cases with imprisonment of no less than one year."

2. Economic Intelligence Service (Art. 273 SPC)

"Whoever seeks out a manufacturing or business secret in order to make it accessible to a foreign official agency, a foreign organization, a private enterprise, or their agents, whoever makes a manufacturing or business secret accessible to a foreign official agency, a foreign organization, a private enterprise, or their agents, shall be punished with imprisonment up to three years or a fine, , in serious cases with imprisonment of no less than one year. Imprisonment and fine can be combined."

[Counsel for LGT]

This e-mail message and any attached files are confidential and are intended solely for the use of the addressee(s) named above. This communication may contain material protected by attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error, and any review, use, dissemination, forwarding, printing, copying, or other distribution of this e-mail message and any attached files is strictly prohibited. [REDACTED] reserves the right to monitor any communication that is created, received, or sent on its network. If you have received this confidential communication in error, please notify the sender immediately by reply e-mail message and permanently delete the original message.

To reply to our email administrator directly, send an email to [REDACTED]

[REDACTED]

=====



A. THE FOUNDATION – AN ENDOWMENT OF ASSETS FOR A PURPOSE

According to its legal definition, the foundation is an endowment of assets which is directed at the realization of a specifically designated purpose or benefit of the beneficiaries and forms a separate legal entity.

B. FORMATION AND EXISTENCE OF THE FOUNDATION

For establishing a foundation, assets must be endowed for a specific purpose or benefit of beneficiaries. This endowment of assets may be made in the form of a donation, a disposition *mortis causa* or a contract of inheritance. In each of these cases, a document is necessary that must meet certain requirements of form and contents. This document must be signed by the founder or founders, be officially legalized and furthermore include information on :

- the name and domicile of the foundation;
- the purpose or object of the foundation;
- the appointment, composition and authority to sign of the foundation council and the audit authority, if such must be appointed due to the legal provisions;
- the utilization of the foundation fund in case of dissolution.

Further rules concerning the foundation can be laid down in the articles or the so-called by-laws. If the foundation is established by means of one single document, this is called a *Stiftsbrief* (foundation deed). The foundation instrument as well as the articles or the foundation deed must be deposited with the Public Register acting as Foundation Register for supervisory purposes.

In order to acquire legal personality, some types of foundations must be entered in the Foundation Register. Other foundations, such as family foundations, already come into existence when being established. When a foundation has been established in a legally effective way, the endowment of assets has become final and is therefore irrevocable. However, the right to revoke may be expressly reserved in the articles, in which case revocation is possible at any time. The same applies to the articles, which are irrevocable as a matter of principle unless there is an express right of amendment.

C. THE PURPOSE OF THE FOUNDATION

The purpose of the foundation can be chosen freely within the limits set by the law. These limits include the prohibition of unlawful, immoral or otherwise illegal purposes. It is also prohibited to give the foundation a purely profit-oriented purpose. Economic purposes are only allowed insofar as revenues from commercial activities serve the purpose of the foundation. By the way, the purpose may concern the family, or be a charitable, social, ecclesiastical or other one.



D. THE FOUNDER

Contrary to a widespread opinion, the founder is not a governing body. His only duties are to lay down the articles and actually transfer the funds promised to the foundation. Until the foundation comes into existence, however, the founder has the greatest possible influence: He may appoint the beneficiaries, determine the foundation capital and choose any purpose within the limits of the law. But after the foundation's establishment, the founder has to observe that he must no longer meddle in the administration of the foundation. The founder may be a domestic or foreign individual or legal entity. In practice, the position of founder is often held by a lawyer for reasons of anonymity.

E. THE FOUNDATION CAPITAL

The foundation capital is the amount endowed and actually transferred by the founder to the foundation. Its legal minimum is CHF 30,000.---- in cash or in kind. The foundation capital may also be in a foreign currency recognized by the law or consist of rights of use and enjoyment or other rights. What counts is that the foundation capital has actually ceased to be the property of the founder and has in full been endowed / transferred to the foundation at the time of establishment. It is, by the way, also possible to transfer further assets to the foundation after it has been established, all assets together forming the foundation fund. The amount of these assets is the limit of liability of the foundation. The foundation's creditors therefore have no access to the founder.

F. INTERNAL ORGANIZATION OF THE FOUNDATION

The foundation's internal organization includes at least the foundation council. Further governing bodies may be prescribed by the law or instituted by the founder.

1. The Foundation Council

The foundation council is the executive body of the foundation. It may be composed of domestic or foreign individuals or corporate entities. Detailed provisions concerning appointment, term or office etc. may be included in the articles.

The powers of the foundation council are manifold. By the law, the foundation council is empowered to carry out all tasks not assigned to any other body. Among these are:

- proper management;
- carrying out all acts the foundation purpose may bring about;
- appointing the beneficiaries if the founder has not done so or done so unclearly, and if no other body has been assigned this duty.



The foundation council is responsible to the founder and obliged to pay damages to the latter in case the foundation deed is violated.

2. The Board of Curators

The board of curators is a body whose institution and appointment is due to the founder. It may in particular be given supervisory powers that may consist of the dismissal of members of the foundation council or in the cancellation of resolutions of the foundation council. Further powers may be :

- the amendment of regulations or by-laws of the foundation;
- counsel to the foundation board in all matters;
- designation of the beneficiaries as well as the manner and extent of their benefit.

3. The Audit Authority

Whether an audit authority is appointed is usually left to the founder. Foundations obliged by the law to appoint an audit authority are rare. It is the duty of an audit authority to examine the whole accounting of the foundation, particularly the balance sheets and inventories as well as the profit and loss statement.

G. THE BENEFICIARIES

The beneficiaries are the actual reason for the foundation's existence. They are characterized by the fact that they are granted a certain benefit either factually or in the articles. The manner and extent of the beneficial rights are due to the founder's wishes and intentions, which are often laid down in by-laws. By-laws need not be deposited with the Foundation Register, for which reason they - and therefore the beneficiaries - may remain secret. In practice, it is common to appoint supplementary beneficiaries who receive the benefit after the beneficiaries' decease. The beneficiary right is similar to an expectancy. It may be subject to conditions and prerequisites or become valid only after certain events have occurred. If a consideration is provided to be given by the beneficiary or beneficiaries, an express statement of acceptance is necessary.

The claim for the benefit is directed against the foundation as such; it is a claim for the proper execution of the founder's original wishes and intentions. Unless otherwise provided by the founder, unequal treatment of beneficiaries is prohibited.

H. ACCOUNTING

Foundations are subject to the general rules on accounting. They have to keep proper books and make a statement of assets and liabilities correctly reflecting their financial situation. Foundations who are legally required to employ an



audit authority are subject to more extensive obligations of accounting and disclosure.

However, this statement of assets and liabilities is not open to third parties. With registered foundations, the foundation council once a year makes a global statement that an inventory of assets has been made, without having to provide details of the financial situation. Deposited foundations need not make such a statement.

I. TERMINATION OF THE FOUNDATION

In general, the foundation is terminated by expiry of the term laid down in the articles as provided by the founder. Another reason for the foundation's termination is that its purpose has become prohibited or impossible to realize. Furthermore, the foundation council may - based on an express authorization in the articles - resolve the foundation's dissolution or conversion into another legal form.

Summary of Liechtenstein Entities and their Taxation

I. History

When after the armistice of the first world war the Danube monarchy and with it Liechtenstein, which had been tied to the Danube Monarchy by an overall commercial treaty, lay in shambles, the Liechtenstein legislator (or rather a small number of farsighted men, in particular Dr. Wilhelm Beck) decided to make Liechtenstein an off shore jurisdiction with the clear intention to attract foreign capital. (Quite an undertaking at that time when Liechtenstein was one of the poorest countries of Europe with virtually no industry and infrastructure.)

II. The Tax Code

The first step to be taken was changing the tax law. In 1921 a new tax code was enacted.

A. Recurring taxes (property-, active income- and revenue taxes)

The main change in the new tax code was to create two different tax regimes: Ordinarily taxed and tax privileged juridical persons in relation to property-, income- and revenue taxes, recurring annual taxes. As per the new tax code the distinction runs as follows:

1. ordinarily taxed ordinarily resident juridical persons registered with the public registry, and
2. resident only juridical persons registered with the public register enjoying a privileged tax position.

1

Resident only juridical persons registered with the public register are defined as

"juridical persons registered with the public register which have only their residence with or without offices in Liechtenstein and do not carry on any commercial or business activity in Liechtenstein."¹

The dividing line is doing / not doing business within Liechtenstein or with Liechtenstein residents. Resident only juridical persons are invited without any negative tax consequences to maintain their business office in Liechtenstein and perform in Liechtenstein all corporate activities, such as board meetings, shareholders meetings and all other activities to maintain control and management in Liechtenstein. Putting on as much substance as possible will also strengthen their position in third countries.

Such resident only juridical persons registered with the public register are liberated from any property-, active income- or revenue taxes. They only have to pay a capital tax of 1‰ of the paid in capital or the invested capital and the reserves respectively. However, they have to pay a minimum of CHF 1 000.-- p.a..²

Trust funds under a trust are treated the same way (unless Tax Code Art. 31 para. 1 Bst.e applies, i.e. the trust funds are Liechtenstein trust funds).

Holding companies and non registered foundations whose sole or major purpose is to only administer their own assets or to have and administer continually only holdings in underlying entities have the same tax status, i.e. 1 ‰ on paid in capital or invested capital and reserves, with a minimum of CHF 1 000.-- p.a..³

Foundations receive a reduction on the capital tax: For assets above 2 million the tax rate is 3/4 ‰ and assets above 10 million it is 1/2 ‰.⁴

¹ Sitzunternehmen gem. Art. 84 StG (1)

² Tax Code Art. 84

³ Tax Code Art. 83

⁴ Tax Code Art. 85

This capital tax is the only recurring tax levied on resident only juridical persons registered with the public register and holding juridical persons / non registered foundations with holding function and trust settlements.

Besides the above mentioned recurring taxes mention has to be made to the following additional taxes, not contained in the Tax Code:

B. Swiss Stamp Duty (Stempelsteuer/Emissionsabgabe)

The Swiss stamp duty is a tax which is levied on negotiable instruments. In the present context it is not necessary to go into details. Mention must be made, however, that shares issued by a company limited are subject to stamp duty at the rate of 1%. This only applies to companies limited by shares which have a share capital of more than CHF 250 000.--. The stamp duty is a one time tax at the issuance of shares.

C. Liechtenstein formation or stamp duty

This one time tax applies where the Swiss stamp duty does not. It becomes applicable at formation, change of domicile, or capital increase of juridical persons or particular property dedications at a rate of 1%. If the capital is less than CHF 250 000.-- no stamp duty is payable. The tax rate is reduced to 1/2 % if the capital is more than 5 million and to 0.3 % if more than 10 million.

Family Foundations and special dedication with the simple purpose of administering their assets, in the holding and continuous administration of holdings in other enterprises are taxed at a tax rate of 2 ‰, with a minimum of CHF 200.--.

This tax also applies to the changing of hand of participation rights in juridical persons, companies or special dedications which are economically liquidated or brought into liquid form. (Envisaged is mainly the sale of shelf companies.)

III. The Law on Persons & Companies (PGR)

The second step was a total modernisation of the company law. Instead of this limited goal the Liechtenstein legislator adopted a full new code of the law of persons and companies, known as the PGR, the Personen- und Gesellschaftsrecht (law of persons and companies) in 1926, amended in 1928 by the law on trust enterprises, known as the TrUG (Gesetz über das Treuunternehmen).

The PGR is an immensely rich and liberal statute. It provides a large variety of legal entities and instruments for carrying on commercial business, structuring and holding of assets, in particular family assets, and the furtherance of abstract purposes. The complete list comprises 19 different entities starting with the Verein (Association) and ending with the Heimstätte (Homestead). Before going to specific entities we have to look at two divisions of entities, namely

- Division 1:
- Association types entities, i.e. joining together of persons for economic or other purposes
 - Foundation type entities, i.e. dedication of assets for the furtherance of purposes or the benefit of ascertained or ascertainable beneficiaries
- Division 2:
- Business functions
 - Abstract purpose functions, and
 - Family purpose functions

Out of the 19 entities in the PGR the following are in practice the most commonly used:

- The Trust (Treuhanderschaft)
- The Private Foundation (private Stiftung)
- The Company Limited by Shares (Aktiengesellschaft)
- The Establishment (Anstalt)
- The Trust Enterprise (Treuunternehmen)

Private Foundations and Trusts are of foundation type, Company Limited by Shares are association type and Establishment and Trust Enterprise are hybrids, i.e. they can be structured either way.

A. Foundation Type Entities

1. The Trust

The trust is the dedication of assets for specific purposes (under Liechtenstein not limited to charitable purposes) or the benefit of ascertained or ascertainable beneficiaries. The Settlor has transferred such assets (trust funds) to the trustee who has to administer these in accordance with the trust instrument. The transfer must have been fully executed for the trust to come in existence.

The trust must be either lodged with the Court or entered into the public register (which will show date of creation, name of trust, trustees and duration). This is not a constitutive rule. The trust comes into existence upon the fully executed transfer of the trust property to the trustee.

The trust creation is based on private autonomy, i.e. the Settlor can structure the trust instrument as he likes, he also may reserve to himself rights and powers, including the right to revoke the trust, but such reservation has to be made expressly. There are, however, two limits to this: He cannot remain so many rights and powers that the instrument no longer really constitutes a trust and concerning the beneficiaries and the trustees he cannot oust the jurisdiction of the court. He may, however, institute an arbitration court. In practice, the Settlor usually reserves no or very little power within the ambit of family trusts.

As under common law, from which the Liechtenstein legislator has adopted the trust concept, the trustees have the following general duties:

- due diligence (the diligence of an ordinary man of business), including duty to safeguard the trust funds
- personal performance
- joint administration

- duty to account and inform
- duty not to profit from the trust

and the beneficiaries the following claims:

- claiming ordinary and proper administration
- claims under breach of trust
- tracing and restitution *in rem* (where it is possible to follow trust property alienated in breach of trust)
- damages in favour of the trust.

Additionally, under the provisions of the law the court may be applied to by beneficiaries and trustees and has an extensive *ad hoc* jurisdiction to grant specific relieves. Charitable trusts are under the continuous supervision of the court.

2. The Foundation

The foundation is the exact civil law counterpart to the common law trust. It is the dedication of property for specific purposes (they can be charitable or non-charitable) or for the benefit of ascertained or ascertainable beneficiaries, effected after the transfer of the property to the foundation and the foundation bound to administer such property in accordance with the provisions of the statutes of the foundation. The executive organ of the foundation is the board of foundation.

The only difference to the common law trust is that the foundation has juridical personality and it is the foundation which is the owner of the property dedicated. The board of directors is only the executive organ of the foundation (there is, however, a possibility to create a foundation without legal personality).

Foundations have been known all over the continent and fulfilled the same functions as trusts do, in the case of private foundations in particular the tying up of family wealth, the protection of family assets and also family members. In the old days these foundations were known as "family boxes". Unfortunately, in the neighboring countries these family foundations have been "axed" and can now only be used

within a very restricted ambit. Liechtenstein did not follow this development, but renewed the foundation in the PGR.

Once created, the foundation has to be either registered with the public register (showing date of formation, name, residence, date of registration or lodging with the court, duration, purpose, capital, board members, board members' signing rights, public announcements, resident agent) or lodged with the court.

The foundation after its creation lives independently from the founder. He has no further function and there is no such thing as "founder's rights" as is often believed. However, the founder may reserve expressly to himself certain powers and rights, even the power to revoke. Naturally, the founder would not want to reserve as many powers and rights as to make the foundation an entity fully under his control.

It is not necessary to go into details concerning the duties and powers of the board of foundation and the rights of the beneficiaries. They are essentially the same as under the trust.

Although private foundations are not under the supervision of the court, the court has a wide ad hoc jurisdiction when applied to by beneficiaries or trustees. The charitable foundations, in the contrary, are under the supervision of the Liechtenstein government.

B. Association Type Entities

1. The Company Limited by Shares (Aktiengesellschaft)

The company limited by shares is the most commonly used association type entity in Liechtenstein practice. In the words of the PGR

"The company limited by shares is a company with its own firm, whose in advance determined capital (share capital) is divided into part-sums (shares) and for whose liabilities only the company's assets are liable."⁵

⁵ Art. 261 (1) PGR

Essentially, the only liability of the shareholders is to pay-in the shares subscribed to. Mention must be made, however, that the statutes may specify additional liabilities and additional liabilities or performances may be attached to certain categories of shares). The shareholder is not personally liable for the liabilities of the company. Apart from that there is an additional caveat: A major shareholder acting like a shadow director can also be held personally liable for liabilities of the company limited by shares.

The minimum share capital under Liechtenstein law is CHF 50'000.--. It is also possible to have a variable share capital (as long as it does not fall under the minimum capital).

Concerning the shares themselves and their qualifications the law provides in a liberal way for quite a number of different options:

- Shares can be issued as name registered shares or as bearer shares.
- Share certificates may be denominated in a part-sum or in a quota (fraction) of the total share capital.
- It is possible not to issue share certificates at all.
- Issuance of shares sub pari possible under certain conditions
- Extensive regulation of employee participation in shares
- Shares attached with additional obligations
- Possibility to remunerate shareholders who are subject to additional obligations
- Issuance of gratuitous shares
- Ordinary and preference shares
- Exchangeable preference shares
- Substitution of debentures by shares
- Shares with delayed voting right
- Shares with different or no voting rights
- Redemption of shares by the company with reserved right to call back the paid out capital.⁶

From an organisational point of view the company limited by shares needs mandatory three organs, namely

⁶ This list is enumerative and not complete.

- the board of directors
- the shareholders meeting
- the control authority

The board of directors is the executive body which administers the company and represents it vis-à-vis third parties.

The shareholders meeting usually has the power⁷:

- to appoint and dismiss board members and the members of the control authority,
- to decide on the financial statements
- to give discharge to the board and the control authority
- to accept and change the statutes
- to decide on the formation of branches and
- generally to decide on all matters which are reserved to the shareholders meeting by the law and the statutes or presented to it by other organs.

In order to be constituted, the company limited by shares must be registered with the public register, showing the date of acceptance of statutes, firm and seat of the company, the purpose and if applicable the duration of the company, the amount of the share capital and the part sum or quota of the shares and the amount paid in thereon, the objects in case of contribution in kind, the character of the shares, the amount of payments in specie, taking over and privileges of the founders, the members of the board and their nationality, the form in which the board communicates its intentions and the way of representation, the control authority, the form in which public announcements are made.

C. The Hybrids

1. The Establishment

⁷ These powers are not stringent. The articles of association may regulate differently.

The Establishment has been the legal entity most often used in Liechtenstein practice and also the legal entity the most misunderstood.

The Establishment is in accordance with the statutory wording:

"...an independent and organized enterprise dedicated for continuing economic or other purposes and entered into the public register as establishment register which shows a status of tangible and personal means and which does not have public character or another form of legal entity."⁸

This definition is a negative definition. It essentially says that it is an organized entity with assets and personal means which is not structured as another legal entity. Looking at the further provisions concerning the establishment it becomes clear what is meant: The answer is a legal entity which can be structured in such a way as it is wished. It is free of the stringent provisions and restrictions applicable for other entities and there are only a number of minimum requirements, such as

- the name of the establishment and the place of business
- the definition of the supreme authority within the establishment
- the definition of the executive authority
- principles regarding the financial statement and the use of the profits
- the form in which public announcements are made.

The establishment has been qualified as a hybrid. A hybrid because it can be structured either in an association type manner or in a foundation type manner.

If structured in an association type manner and if combined with an economic purpose the Establishment will organisationally be structured and administered very much along the lines of a company, however, with less stringent legal provisions as provided in the company law. It does not seem that Liechtenstein practice had made great use of this possible structure.

⁸ Art. 534 (1) PGR

If structured in a foundation type manner and combined with family purposes, the establishment becomes much alike a foundation. This type is often used in Liechtenstein practice, although often the adherence to foundation principles is not total and consequent.

Liechtenstein practice has apart from the above developed a most commonly used establishment structure which needs to be looked at:

The most intriguing aspect of this widely used establishment structure are the so-called "founder's rights". These seem to be the hallmark of this establishment. Fundamentally speaking there is upon formation of the establishment the founder, the person who creates the establishment, lays down the objects and the organisational structure of the establishment. The so-called founder's rights are nothing but rights and powers reserved by the founder for himself. Typically, these rights and powers are

- the power to appoint and remove members of the board of directors
- the power to change or modify the articles
- the power to terminate and liquidate the establishment
- the power to discharge the board
- acceptance and decision on the financial statements
- the power to decide on distribution or use of profits⁹
- and, surprisingly, a power to appoint and exclude beneficiaries¹⁰

This amazing mix of company type powers and foundation type power can only be explained by the desire to achieve with one legal entity three functions:

- To assure that the founder stays in control of the establishment
- To have an instrument available to perform business activities
- To implement a family function, namely to provide for concurrent and successive beneficiaries.

In the articles of the establishment they usually provide consequently for two organs

⁹ all powers which in a company are held by the shareholders meeting

¹⁰ a foundation type power

- the founder being the supreme organ
- the board of directors being the executive organ.
- the control authority where stringently required by the law (i.e. where the establishment carries on commercial business)

Whilst before 1980 there has been dispute about the inheritability and transferability of founder's rights this problem has been solved by the amendment of the PCR in 1980 under which it is provided that founder's rights can be assigned, transferred and devised, but not charged or otherwise encumbered (Sic. Persons doing business with Establishments and their founders should beware.)

Under the amendment of the law in 1980 it is provided that by law the founder is the supreme authority of the establishment. Also under this amendment there is a legal presumption that the founder is the sole beneficiary if no beneficiaries are appointed.¹¹

By law the statutes or articles of an establishments mandatory have to contain the following provisions:

- The name or firm and the seat and the denomination as establishment
- The purpose and the objects of the establishment
- The value of the establishment capital (if not consisting of cash) and the manner of its acquisition and its composition
- The powers of the supreme organ
- The organs for the management and if applicable for the controlling and the manner of representing the establishment
- The principles for the establishment of the financial statements and for the use of the surplus
- The form in which the establishment makes its public announcements.¹²

The establishment has to be registered with the public register (showing the formation act, the date of the statutes, the name or firm of the establishment and its seat, the purpose or objects respectively and if applicable the duration of the establishment, the amount of the funds dedicated to the establishment and the paid in amount or

¹¹ In the opinion of the writer the amendment of 1980 has created more imminent problems than before.

otherwise brought in assets with their estimated value, if applicable enjoyment rights of third parties with the entitled parties, name and address or firm and seat respectively of the board members and their residence address, the form in which the board communicates its intentions and the manner of representation, the form in which the establishment makes its public announcements).

2. The Trust Enterprise

The TrUG, the statute concerning the trust enterprise, is a very rich and probably the least understood and most misunderstood statute. In order to understand one must bear in mind that

- the PGR and the TrUG are essentially the work of one draftsman, the late Dr. Wilhelm Beck
- the draftsman was well aware that the PGR in general and the statutory provisions concerning the trust in particular showed deficiencies and needed corrections and additions. The TrUG therefore is "subsidiary applicable" to the trust law in general and has additional provisions concerning the trust law in general.
- the draftsman wanted to incorporate into the PGR the notion of the business trust, i.e. a trust in lieu of incorporation as a capital company (this being one application of trusts for business purposes)
- the draftsman not only was influenced by the common law, but also by American Trust law which sometimes differs considerably from the pure common law.

Consequently, the TrUG is from a systematic point of view absolutely impossible. With one law there are corrections and additions of and to the trust law in general, a full law which is "subsidiary applicable" to the trust law in general and a law incorporating the so-called business trust. Consequently, there are legal provisions which relate to a foundation type trust enterprise (like the family trust enterprise) and

¹² Art. 536 (2) PGR

legal provisions which relate only to an association type trust enterprise (like the business trust). Careful consideration is asked in interpreting the TrUG.

There is no need here to go into detail. The general principles of trust/foundation law and company law apply respectively for the association type and association type trust enterprise.

The Liechtenstein common practice has not used the richness of the TrUG, but has been using for years a trust enterprise structure which is mirrorlike to the most commonly used establishment, i.e. founder's rights, founder being the supreme organ, power to appoint beneficiaries. This structure needs no further comment.

The TrUG provides mandatory for the following provisions to be contained in the statutes/articles of the trust enterprise:

- Firm, seat, duration, purpose or objects respectively and the express denomination as "Trust Enterprise", "Trust Foundation", "Business Trust" or a similar description
- The trust funds (and its acquisition whereby the assets have to be described as to their value in the statutes or a legalized inventory with the assurance that the statements are correct)
- Number, manner of appointment of the trustees and indication as to how trustees are appointed
- Form in which public announcements are made.

Trust enterprises have to be entered into the public register (showing firm (name), seat, duration and purpose or objects respectively, amount of the trust fund or a statement as to the amount of estimated value if fund does not consist of cash, a statement as to its composition and if not fully paid in a statement how outstanding amounts are going to be paid in, name, first name, professions and residence or firm (name) and seat of the trustees who are going to exercise the trust powers, form of public announcements).

Vaduz, 22nd July 1999; update May 2001

Dr.iur. Klaus Biedermann

TRANSLATION

STATUTES

**TOPANGA FOUNDATION
VADUZ**

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 118

JCM

MAR-01534

Art. 1

Name

Under the name of

TOPANGA FOUNDATION

exists a foundation in accordance with articles 552 et seq. of the Liechtenstein Person and Companies Act.

Art. 2

Registered Office and Place of Jurisdiction

The registered office of the foundation is in Vaduz, Principality of Liechtenstein.

All legal matters arising out of the formation and existence of the foundation are subject to Liechtenstein law. The regular place of jurisdiction for the foundation is the competent court of its registered office.

Art. 3

Duration

The duration of the foundation is unlimited.

A handwritten signature in black ink, appearing to be 'JGM'.

MAR-01535

Art. 4**Capital**

The minimum capital is CHF 30'000.00 (Swiss Francs thirty thousand).

The assets of the foundation can be increased at any time by contributions from the founder or from third parties.

Art. 5**Purpose**

The object of the foundation shall be to manage its assets and provide benefits for the beneficiaries designated by the Board of Foundation.

Art. 6**Organs**

The organs of the foundation are:

1. The board of foundation
2. The board of curators
3. The auditor (optional)



MAR-01536

Art. 7**The Board of Foundation**

The board of foundation consists of one or more natural persons or corporate bodies, although at least one natural person must fulfil the requirements of article 180a Liechtenstein Person and Companies Act.

The members of the board of foundation are initially appointed by the founder for an indefinite period of time. In case of the resignation, incapacity to act or decease of one of the members of the board of foundation, the remaining members elect a replacement. If there is no longer any member of the board of foundation, then the representative can elect a replacement or make an application to the Court of first instance of the Principality of Liechtenstein (Landgericht) to appoint replacement members of the board of foundation.

The board represents the foundation in a legally binding manner pursuant to the law and the provisions of the statutes. It can appoint authorized persons and stipulates their right of signature.

The board of foundation constitutes itself and determines the manner of signature. If the board of foundation consists of two members, its resolutions must be passed unanimously. If more than two members of the board have been appointed, resolutions are passed with a simple majority of votes. In the case of circular resolutions, these are only valid if there is a written comment from all members of the board of foundation (approval, rejection, abstention).

Art. 8**The Board of Curators**

The board of curators consists of one or more natural persons or corporate bodies.



MAR-01537

The members of the board of curators are initially appointed by the founder for an indefinite period of time. In case of the resignation, incapacity to act or decease of one of the members of the board of curators, the remaining members elect a replacement. Changes in the composition of the board of curators have to be notified to the board of foundation by means of a resolution signed by all members of the board of curators.

If the board of curators consists of only one person, this person must immediately appoint his successor for the case of his retirement. The appointment must be presented to the board of foundation together with a written declaration of acceptance from the successor. If there is no longer any member of the board of curators, then the representative can elect a replacement or make an application to the Court of first instance of the Principality of Liechtenstein (Landgericht) to appoint a replacement for the board of curators.

The board of curators has the following powers:

1. to propose a new member of the board of foundation
2. to propose and advise with regard to the utilisation of the foundation's assets
- ~~3. to propose beneficiaries and to determine the extent of their entitlement~~
- ~~4. to propose changes or amendments to the existing statutes or the transformation of the foundation~~

The board of curators constitutes itself. Its resolutions must be passed unanimously and the minutes of this resolutions must be notified to the board of foundation.

Art. 9

The Auditor

The appointment of an auditor by the board of foundation is optional.

Art. 10

Financial Year

The financial year ends on December 31 each year.

Art. 11

The Beneficiaries

The beneficiaries of the foundation are those persons or institutions designated by the board of foundation.

Art. 12

Regulations and By-laws

The board of foundation can issue regulations in which the administration of the foundation is set out in detail.

The board of foundation can issue by-laws designating beneficiaries and regulating the extent and manner of their entitlement. The by-laws have the same legal validity as the statutes.

The issuance, modification and annulment of regulations and by-laws require the approval of all members of the board of foundation.

JG AM

Art. 13**The Representative**

The representative is appointed for the first time by the founder. Subsequently, the board of foundation is empowered to appoint or dismiss the representative.

The representative has the powers prescribed by law and by the statutes.

Art. 14**Modification of the Statutes, Transformation and Dissolution of the Foundation**

The board of foundation is empowered to modify these statutes.

The board of foundation can at any time, under observance of the provisions of law, transform the foundation into an establishment (Anstalt) or a trust enterprise (Treuunternehmen).

The board of the foundation can order the dissolution of the foundation. In case of dissolution, the board decides on the utilization of the assets of the foundation within the framework of the law and the statutes.

Resolutions regarding the modifications of the statutes, the transformation of the foundation or its dissolution must be passed unanimously by the board of foundation.

Vaduz, September 10, 1998

In witness whereof,
we have executed these statutes
as founder:

PRÄSIDENTIAL-ANSTALT



MAR-01540

750

page 8 of 8

This translation corresponds with the German text. The German text is binding.

Vaduz, September 10, 1998
AT53/FRJ

PRÄSIDENTIAL-ANSTALT

97140e

A handwritten signature in black ink, appearing to be 'J. Am' or similar, written in a cursive style.

MAR-01541



2

born on [REDACTED]

born on [REDACTED]

born on [REDACTED]

born on [REDACTED]

qual parts

三

Upon the death of all persons mentioned in I. and II. 1) - 5), the descendants of James Albright Marsh, Jr. shall be beneficiaries at equal parts per stirpes.

IV.

Each beneficiary mentioned in II.1) - 6) will have the right to receive all statements and information regarding the Foundation on his own or her own (without the consent of another beneficiary).

██████████, born on ██████████ ██████████, born on ██████████ and ██████████ born in ██████████ can get any such information when they reach the age of 18.

34

In case the second beneficiaries unanimously agree to challenge the mental ability of the first beneficiary to make proper decisions in terms of the management of the Foundation the Board of Foundation shall retain three prominent psychiatrists, preferably heads of departments at large Universities, who will have to agree by majority vote that the first beneficiary shall mentally not be capable of managing the foundation.

VII

This by-law replaces the by-law of October 12, 2000.

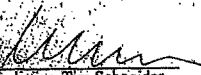
VIII

During the lifetime of the first beneficiary this by-law is revocable at any time by the first beneficiary and by the beneficiaries mentioned in II 1) - 2). After the death of the first beneficiary it is irrevocable.

Wade, November 10, 2004

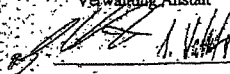
KD/NSA

In witness thereof
our signatures:


Dr. Tim Schneider


Dr. Christof Ebersberg

MGV Management und
Verwaltung Anstalt


J. V. V. V.

TRJBT/TRADE

MAR-01544



STATUTES
of
LARGELLA STIFTUNG

§ 1

Name

Under the name of

LARGELLA STIFTUNG
LARGELLA FOUNDATION

a Foundation has been formed as an independent legal entity, pursuant to these Statutes and pursuant to art. 552 et seq. of the Liechtenstein Civil and Companies Act.

§ 2

Duration

The Foundation is established for a permanent period of time.

§ 3

Domicile and Applicable Law

The domicile of the Foundation is Vaduz, Principality of Liechtenstein.

The Foundation Council may at any time by simple majority resolution, under observance of the legal and statutory provisions, transfer the domicile to another place at home and abroad.

All legal relationships of the Foundation are governed solely by Liechtenstein Law.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 119

MAR-01548

§ 4

Objects

The Foundation's objects are

- 1) the providing of means for
 - a) the upbringing and education
 - b) the accommodation and support
 - c) the livelihood in general
- 2) the economic support in the widest sense

of the members of certain families as well as the pursuance of similar objects.

The Foundation may further or in addition undertake distributions outside the family circle to certain or determinable natural or juridical persons, to institutions and the like, or grant such persons or institutions other economic advantages.

Within the scope of the administration of its assets the Foundation may conduct all legal transactions which serve the pursuance and realisation of its objects. Trade according to commercial manner is not conducted.

§ 5

Withdrawal of beneficial interest

Revenues deriving from the Foundation's assets as well as any beneficial interest as such may not be withdrawn from a member of the Class of Beneficiaries by creditors by way of injunction, levy of execution and writ, bankruptcy or probate proceedings.

§ 6

Foundation Fund

- a) The Foundation Fund is CHF 30'000.- (in words: Swiss francs thirty thousand).
- b) The Foundation assets may at any time be increased without limitation, by donations from the Founder or third parties, whereby such donations shall be allocated to the Foundation Fund or reserve.

§ 7

Beneficial Interest

- a) Upon formation of the Foundation, the Founder determines the Class of Beneficiaries. At the same time, the Founder may specify the prerequisites and the content of any beneficial interest as well as the prerequisites and the procedure of the eventual appointment of beneficiaries.

Thereafter and subject always to any terms already defined by the Founder, the Foundation Council has the authority, at its absolute and complete discretion to appoint beneficiaries out of the Class of Beneficiaries, to determine the prerequisites of any such beneficial interest as well as the content thereof, and also to amend and/or revoke any such beneficial interest.

- b) The members of the Class of Beneficiaries shall have no legal claim to dissolution of the Foundation, to certain items or to division of the Foundation assets, nor distribution of income and/or capital assets of the Foundation nor any right whatsoever to institute legal proceedings against the Foundation.
- c) Distributions effected by the Foundation Council to any appointed Beneficiary are made on condition that
 - 1) such distribution is not subject to measures which in the opinion of the Foundation Council have a prohibitive or confiscatory effect;
 - 2) pursuant to the laws of the country of residence, the appointed Beneficiary may freely dispose of such amount payable to him, and that all distributions in cash shall not be subject to forced conversion into domestic currency at compulsory rates of exchange.
- d) All dispositions by a member of the Class of Beneficiaries, in particular relating to distributions granted out of the Foundation assets to such member, shall not be subject to and definitely be excluded from the marital power which may exist or result from any marriage.

Organisation of the Foundation

1. The Foundation Council

- a) The Foundation Council is the supreme authority of the Foundation. It consists of at least two members, who may either be natural or juridical persons.

The term of office of the Foundation Council is unlimited.

Every Member of the Foundation Council shall appoint a Substitute for his representation in Council meetings in case of hindrance. The appointment of a Substitute requires the consent of the Foundation Council.

The Foundation Council may appoint a Substitute should a Member of the Council not undertake such appointment within four weeks upon assuming his office.

Substitutes have no authority to represent the Foundation.

- b) The Foundation Council administers the Foundation and represents it vis-à-vis third parties.

The Foundation Council may delegate the exercise of certain powers to third parties and appoint agents.

- c) The Foundation Council meets as often as necessary or expedient upon invitation of a Member or the President, if appointed. The President shall convene a meeting when a Member submits such request together with the proposed agenda. Any Member may call a meeting should the President not meet this obligation.

The convocation of the Foundation Council shall be made known by registered letter. The notification shall include place, time and agenda and shall be issued at least 10 days before the meeting calculated from the day of dispatch. In urgent circumstances the term for notification may be reduced.

Should all Members of the Foundation Council be present or duly represented by a Substitute the meeting is duly constituted and in quorum without observing the afore-said formalities.

- d) The President takes the chair. If not appointed or in his absence, the Member of the Council, eldest in age, may take the chair. In the event that Substitutes only be present the meeting itself shall appoint the Chairman.

- e) The Foundation Council is in quorum when all Members are personally present or duly represented by their Substitutes.

Should a quorum not be achieved, upon request of a Member a new meeting with the same agenda shall be convened, not earlier than five and no later than ten days, calculated from the date of the first meeting. At this second meeting a quorum is achieved notwithstanding the number of Members present or represented.

- f) Unless the Statutes specify to the contrary resolutions require the simple majority of all Foundation Council Members or Substitutes.
- g) The Foundation Council may also pass resolutions in writing on proposals. Such resolutions by circular letter require unanimity of the Members of the Foundation Council. Substitution is not permitted.
- h) Foundation Council's resolutions shall be minuted, such Minutes to be signed by the Chairman and Secretary. The Secretary appointed by the Chairman need not be a Member of the Foundation Council.
- i) The liability of the Foundation Council, its Members and their Substitutes shall be limited to intentional malfeasance and gross negligence.
- k) The Foundation Council has the right of coopting further Members; this requires unanimity of the Members in office. Substitutes are appointed pursuant to sub-section 1.a).
- l) A Member of the Foundation Council may resign office at any time and with immediate effect without giving reason. The same applies to Substitutes.

In the event of a Substitute's resignation the replacing Substitute shall be appointed pursuant to sub-section 1.a).

- m) In exclusion of other legal provisions, a Member of the Council may only be removed for important reasons and upon request of the participants by the Register Office.

A Member of the Foundation Council may remove his Substitute at any time without giving reason. The replacing Substitute shall be appointed pursuant to sub-section 1.a).

- n) The retirement of a Member of the Foundation Council results in the automatic retirement of his Substitute.
- o) Upon assuming office or at a later date, every Member of the Foundation Council shall appoint a Successor for the event of incapacity to act, decease, or for the case of retirement for any other reason. The appointment of a Successor may be revoked at any time by the appointing Member and requires in each and every case the consent of the Foundation Council.

In the event that no Successor has been appointed by a Member the Foundation Council itself may appoint the Successor. Should for any reason no Member of the Foundation Council be in office and no Successor appointed, the Register Office shall appoint the replacing new Members of the Council upon proposal of the Legal Representative, a participant, or of the auditors.

2. Other Authorities

Upon the formation of the Foundation, the Founder and thereafter the Foundation Council is entitled to appoint further authorities, such as auditors and the like, and to determine their powers and duties, if not already determined in these Statutes.

§ 9

Signatories and manner of signing

The Foundation Council determines the authorisation to sign for its Members and agents.

Lawful signing on behalf of the Foundation occurs in such manner, that the signatory or signatories affix the signature to the Foundation wording.

§ 10

Administration and Investment

If not resolved otherwise by the Foundation Council the Foundation assets are to be administered at the seat of the Foundation.

The manner of the administration and investment of the Foundation assets is not and shall not be prescribed, inasmuch that future developments cannot be foreseen. The Foundation Council is therefore, disbarred other legal provisions, in no way restricted in the administration and investment of the assets but shall act at its absolute and complete discretion. There is no obligation on the part of the Foundation Council to insure the Foundation assets.

§ 11

Business Year

The business year is the calendar year.

§ 12

Auditors

The Auditors, if appointed, shall submit to the Foundation Council a written report concerning their examination, and proposal. In addition, the Auditors shall supervise the observance of the terms and provisions of the Statutes and of the Bye-Laws, if any.

§ 13

Information and Secrecy

The Foundation Council is not obliged to disclose information, to report to or to render accounts to members of the Class of Beneficiaries relating facts and relationships of the Foundation.

In case the Foundation Council decides at its absolute and complete discretion to furnish any member(s) of the Class of Beneficiaries with information or reports of any kind or with accounts the exercise of such discretion shall not confer any immediate or future right to such Beneficiary(ies) or to any other member(s) of the Class of Beneficiaries to receive information reports and/or accounts.

However, the Foundation Council is not entitled to disclose any such information report and/or accounts when prevailing circumstances lead the Foundation Council to the conclusion that an information may be used with an improper or unlawful intent or detrimental to the Foundation or the members of the Class of Beneficiaries.

The Foundation's Statutes and/or Bye-Laws as well as any legal facts and aspects of the Foundation must not be drawn to the attention of outside parties, especially foreign authorities, unless the Foundation Council unanimously considers such in the interests of the Foundation or the members of the Class of Beneficiaries.

§ 14

Forfeiture of beneficial interest

Whoever wholly or partly, directly or indirectly, contests this Foundation as such, its formation or its existence, Statutes or Bye-Laws, endowments irrespective of donor as well as resolutions by its authorities that are validly based on law, Statutes or Bye-Laws, shall be excluded from the Class of Beneficiaries with retrospective effect.

The meaning "contestation" shall also include the institution of legal proceedings before a domestic or foreign authority.

The Foundation Council may accept the respective person again as member of the Class of Beneficiaries if this person withdraws or discontinues absolutely such contestation.

§ 15

Amendment of Statutes, Issuance and Amendment of Bye-Laws

- a) The Foundation Council, under observance of the legal requirements, is entitled to supplement and/or amend the Statutes including the Foundation's objects and organisation.
- b) Upon formation of the Foundation, the Founder and thereafter the Foundation Council shall be entitled to issue Bye-Laws. Such Bye-Laws shall be in writing and shall be signed by the Founder or after the formation of the Foundation by the Foundation Council. Bye-Laws have the same legal effect as the Statutes.

In addition, the Foundation Council is entitled at its absolute and complete discretion to supplement amend and/or partially or wholly revoke such Bye-Laws.

- c) The written Resolutions pursuant to a) and b) require unanimity of all Members of the Foundation Council.

§ 16

Legal Validity

Should any of the provisions in the Statutes and Bye-Laws be invalid the validity of the Foundation as such, or of any other provisions shall not be affected.

- 9 -

§ 17

Foundation Council, by means of a unanimous resolution of all Members may convert the Foundation into another legal form, i.e. an establishment or registered trust, should the circumstances have so changed that such be in the Foundation's interests.

§ 18

Dissolution of the Foundation

- a) The Foundation may not be revoked.
- b) Inasmuch as circumstances under which the Foundation was formed so change that the objects of the Foundation may no longer be sensibly achieved, the Foundation Council shall be authorised to dissolve the Foundation in whole or in part. Such resolution of the Foundation Council requires unanimity of all Members of the Foundation Council.
- c) Upon the dissolution of the Foundation its assets existing at the time shall be distributed to those members of the Class of Beneficiaries as appointed and to such extent as determined by the Foundation Council at its absolute and complete discretion.

§ 19

Legal Representative

The Legal Representative shall initially be appointed by the Foundation Council.

§ 20

These Statutes have been set up in German and English. In case of any doubt the German wording prevails.


Vaduz, the 10. November 2004

For the accuracy of the engrossment:

LARGELLA STIFTUNG

The Foundation Council:


Dr Peter Marxer


Dr Peter Goop

MAR-01556

KONFORMITÄTSGEKLÄRUNG
 Es wird amtlich bescheinigt, dass diese
 Statuten den Inhalt der ursprünglichen
 Statuten unter Berücksichtigung
 sämtlicher dem Amt bekannten Änderungen
 wörtlich wiedergeben.

Vaduz, den 18. Nov. 2004



— = Redacted by the Permanent
Subcommittee on Investigations

BYE - LAWS
to the Statutes of
LARGELLA STIFTUNG, Vaduz

Pursuant to sec. 15 of the Statutes of LARGELLA STIFTUNG, Vaduz, of even date, the power to issue By-Laws is with the Foundation Council.

Based upon the foregoing, the Foundation Council hereby adopts the following

BYE - LAWS

concerning the appointment of Protectors and the determination of their powers and duties:

I. Appointment

1. Qualifications

- (a) Only natural persons being capable to act and older than 25 years who are, as far as possible, familiar with the family affairs and situation of at least some of the members of the class of beneficiaries of the Foundation, may be appointed as Protectors of the Foundation.
- (b) Members of the Foundation Council may, when in office, not hold the office of a Protector.

2. Number and First Appointment

- (a) At no time there shall be more than three Protectors in office.
- (b) As first Protectors of the Foundation be herewith appointed the following three individuals:
 - 1.) Mr James Albright Marsh jun., born on [REDACTED]
 - 2.) Mr Kerry Michael Marsh, born on [REDACTED]
 - 3.) Mr Shannon Neal Marsh, born on [REDACTED]

3. Appointment of Additional and Successor Protectors

- (a) As long as there are less than three Protectors in office, the Protector(s) in office shall have the power to appoint unanimously at any time additional Protectors in order to bring the number of Protectors in office up to three, subject to the following Sub-Clause (b).
- (b) Each Protector ("the Appointor") shall have the power to appoint a Successor

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 119

MAR-01558

Protector (the "Appointee") to become Protector in case that he ceases to be a Protector. In addition, each Protector shall have the power, but no obligation, to revocably or irrevocably appoint a Substitute Successor Protector to become Protector in case the Appointee shall for any reason whatsoever not become Protector on the occasion of the Appointor's ceasing to be a Protector. If more than one Substitute Successor Protectors are appointed, the Appointor has to indicate the priority within the Substitute Successor Protectors. If no priority is indicated, the eldest candidate prevails over the younger ones. No Protector however, shall have the power to appoint a Successor Protector to become Protector in case that his Appointee ceases to be a Protector after having assumed the office of a Protector.

Should all Protectors in office cease to be Protectors at the same time or should the only Protector in office cease to be Protector and should not at least one Successor Protector have been appointed, these By-Laws shall expire and the Foundation shall henceforth continue to exist without a Protector, unless otherwise unanimously resolved by the Foundation Council.

II. Term of Office and Resignation

1. Term of Office

Subject to the special provisions as contained herein the Protectors are appointed for lifetime.

2. Termination of Term of Office for Specific Reasons

The Term of Office of any Protector terminates by operation of law upon the death, incapacity or bankruptcy of such a Protector, furthermore, if he or she is sentenced for a felony or declared dead by a competent court.

3. Resignation

Each Protector shall be entitled to resign his/her office at any time without giving reason by means of a written notice to the Foundation Council and the Co-Protector (if any).

4. Procedure if more than one Protector is in office:

The Protectors in office form the Protectors' Committee.

The Protectors' Committee will meet as often as necessary or purposeful upon invitation by one Protector.

The Protectors' Committee shall hold a meeting in quorum. A quorum shall consist of all the Members in office.

Should a quorum not be achieved, a new meeting shall be convened, upon demand of at least one Member, and at least two Members shall form a quorum in such meeting.

The Protectors' Committee shall pass resolutions by a simple majority provided that at least two Members are voting for such resolution, unless otherwise provided in this By-Statute or other By-Statutes. The Protectors' Committee may also pass circular letter resolutions, which require unanimity.

The Members' liability shall be limited to deliberate or grossly negligent malfeasance.

5. Representatives

Each Protector is entitled to be represented at a meeting by a representative duly authorized by a written proxy. Representatives are however not entitled to sign on behalf of their principal on circular letter resolutions.

III. Powers

1. Exclusive Powers

- (a) The Protector(s) shall have the power to remove by resolution any Member of the Foundation Council without giving reasons and with immediate effect. The exercise of this power results in the automatic retirement of the Substitute of the removed Member, if any, regardless whether such Substitute has been appointed by the removed Member himself/herself or by the Foundation Council.
- (b) The Protector(s) shall have the power to appoint by resolution new Members of the Foundation Council in replacement of the Members having been removed by the Protector(s). The new Members appointed by the Protector(s) in exercise of this power shall prevail over the Successor nominated by the Member having been removed by the Protector(s).

2. Non-exclusive Powers

The Foundation Council shall prior to the exercise of any of the following powers request the prior consent of at least one of the Protector(s):

- (a) Distributions to the beneficiaries;
- (b) Addition of Persons to the Class of Excluded Persons and Removal of persons from such Class;
- (c) The approval of the annual accounts of the Foundation;
- (d) The amendment, supplementation of the Statutes.
- (e) The issuance, the amendment and supplementation or revocation of By-Statutes.
- (f) The dissolution of the Foundation.

- (g) The transfer of the domicile of the Foundation
- (h) The conversion of the Foundation into an establishment or a registered trust enterprise.
- (i) The fixing of the remuneration of the Members of the Foundation Council.

IV. Amendment

After the formation of the Foundation the provisions of these Bye-Laws may be amended, revoked or supplemented by the Foundation Council at any time with the consent of the simple majority of the Protector(s) in office from time to time.

Vaduz, November 4th, 2004

LARGELLA STIFTUNG The Foundation Council:


Dr. Peter Märker


Dr. Peter Goop

Die Echtheit der Unterschrift des
Herrn Dr. rer. Peter MÄRKER, Rechtsanwalt,
FL-0170 Vaduz,
wird amtlich bestätigt.
Fürst. Liechtenstein. Landesgerichtskanzlei FL-0450 Vaduz.
Vaduz, den 15. NOV. 2004

Die Echtheit der Unterschrift des
Herrn Dr. Peter GOOP, Rechtsanwalt,
FL-0450 Vaduz,
wird amtlich bestätigt.
Fürst. Liechtenstein. Landesgerichtskanzlei
Vaduz, den 15. NOV. 2004



MAR-01561

B Y E - L A W S

to the Statutes of

LARGELLA STIFTUNG, Vaduz

Pursuant to the provisions of §§ 7 and 14 of the Statutes of LARGELLA STIFTUNG, Vaduz, of even date, the Foundation Council herewith adopts the following

B Y E - L A W S

concerning the beneficial interest and the distribution of the Foundation Assets in case of dissolution of the Foundation.

I. Class of Beneficiaries

1. General Description

Distributions, grants, or benefits of any other kind to the debit of the principal assets of the Foundation and/or the income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of:

- a) Mr. James Albright Marsh jun.
born August 4, 1927
- b) the spouse of the individual referred to above under a),
- c) the children of the individual referred to above under a) born from legal wedlock (the "Children") as well as the issue and remoter issue of the Children (the "Issue", the Children together with the Issue are referred to herein as the "Descendants"), or
- d) any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be to the benefit of one or more members of the Class of Beneficiaries pursuant to Sub-Clauses a), b) or c) above not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clauses a), b) and c) above not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Class of Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.

2. Issue

issue as used in these Bye-Laws means and includes irrespective of the degree of relationship any and all legitimate issue of the Children including the adopted and legitimised issue but not including the illegitimate issue.

3. Excluded Persons

The Class of Excluded Persons includes and consists of any ex-spouse of a member of the Class of Beneficiaries and of those members of the Class of Beneficiaries as the Foundation Council in its free and absolute discretion by means of a unanimous resolution shall declare revocably or irrevocably to become a member of the Class of Excluded Persons.

The Foundation Council shall have the power and authority at any time and from time to time in its free and absolute discretion by means of a unanimous resolution to declare revocably or irrevocably that a person shall cease to be a member of the Class of Excluded Persons with immediate effect.

II. Appointment of Beneficial Interest

1. General Provisions

The power to appoint a beneficial interest is vested in the Foundation Council. Upon request of a member of the Class of Beneficiaries or his/her representative the Foundation Council in its free and absolute discretion shall decide

- (a) whether, when and for the benefit of which member(s) of the Class of Beneficiaries of the Foundation distributions, grants or other benefits shall be made or awarded;
- (b) to what extent, in which shares and proportions and in which manner distributions, grants or other benefits shall be made or awarded;
- (c) whether distributions, grants or other benefits shall be made or awarded subject to any condition, limitation, restriction and/or other provision;
- (d) whether any distribution, grant or other benefits shall be made or awarded to the debit of the principal assets of the Foundation and/or the income thereof.

2. Legal Position of the Members of the Class of Beneficiaries

- (a) The Foundation Council decides in its free and absolute discretion whether distributions, grants or other benefits shall be made or awarded for the benefit of all members of the Class of Beneficiaries or under the exclusion of the other or others for the benefit of only more members or one member of the Class of Beneficiaries.

- (b) None of the members of the Class of Beneficiaries shall have a legal title vis-à-vis the Foundation as to distributions, grants or other benefits to be made or awarded to the debit of the principal assets of the Foundation and/or the income thereof.
- (c) In case the Foundation Council has in exercise of its power made an appointment for the benefit of a member of the Class of Beneficiaries this appointment may be revoked at any time by the Foundation Council at discretion and such a revocation does not constitute a claim of such a Beneficiary vis-à-vis the Foundation.
- (d) None of the members of the Class of Beneficiaries shall have the right to claim from the Foundation Council to disclose any deliberation of the Foundation Council as to the manner in which the Foundation Council should exercise any power or any discretion conferred upon the Foundation Council or disclosing the reasons for any particular exercise of any such power or discretion or the material upon which such reasons shall or might have been based or any other document relating to the exercise or proposed exercise of any such power or discretion.

3. No Duty to Appoint a Beneficial Interest

- a) The Foundation Council is not obliged to exercise its power to appoint a beneficial interest and no member of the Class of Beneficiaries shall have a right to demand the exercise of such power by the Foundation Council.
- b) Insofar and inasmuch as the Foundation Council has not exercised its power to appoint a beneficial interest, distributions, grants as well as other benefits shall not take place.

Income of a business year not distributed by the Foundation within twenty-four (24) months after the close of such business year shall be added to the principal assets of the Foundation Fund.

III. Termination of the Foundation

1. Extinction of the (contingent) Class of Beneficiaries

In case there should no longer be any members of the Class of Beneficiaries and no longer any members of the Class of Excluded Persons who could - provided that certain conditions will occur - become a member of the Class of Beneficiaries the Foundation has fulfilled its purpose and has to be dissolved by the Foundation Council.

The Foundation Assets existing at that time shall then be distributed to the Karolinska Institute in Stockholm to be used for and disposed of the research of children's cancer and the benefit of children with cancer.

2. Dissolution for Other Reasons

Should the Foundation be dissolved for other reasons the Foundation Council shall in its free and absolute discretion decide for the benefit of which members or member of the Class of Beneficiaries (for the benefit of all or under the exclusion of the other or others for the benefit of more or only one of those members) and in which shares and manner the Foundation Assets existing at that time shall be distributed.

3. Cancellation of the Foundation

In case of cancellation of the Foundation the above provisions concerning the distribution of the remaining Foundation Assets shall be applied similarly.

4. Transfer of the Foundation Assets in Whole

The Foundation Council shall have the power to transfer the Foundation Assets to another legal entity or a trust organised under the laws of the Principality of Liechtenstein or a foreign country or to use them for the creation of such a legal entity or such a trust provided always that as a result of the exercise of this power the objects and purposes of the Foundation may be more sensibly achieved.

By means of such an action the unamendable provisions of the Statutes and Bye-Laws may not be amended and especially the regulations concerning the beneficial interest may not be affected thereby.

After the transfer of the Foundation Assets according to the preceding provisions has been effected the Foundation shall be terminated.

IV. Amendment of Bye-Laws

The provisions of these Bye-Laws may be amended and/or revoked by the Foundation Council at any time and from time to time provided always that such amendment or revocation may not contradict the objects and purposes of the Foundation.

Vaduz, November 4th, 2004

LARGELLA STIFTUNG

The Foundation Council;

Die Einheit der Unterzeichner des
Herrn Dr. Peter MARXER, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich besiegelt.
Fried. Hofmannsche Anwaltskanzlei /MS
Vaduz, den 15. NOV. 2004

Dr. Peter Marxer

Dr. Peter Goop

Die Einheit der Unterzeichner des
Herrn Dr. Peter MARXER, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich besiegelt.
Fried. Hofmannsche Anwaltskanzlei /MS
Vaduz, den 15. NOV. 2004



BY-LAWS
to the Statutes of

LARGELLA FOUNDATION, VADUZ

— = Redacted by the Permanent
Subcommittee on Investigations

Pursuant to the provisions of §§ 7 and 15 of the Statutes of LARGELLA FOUNDATION, Vaduz, dated November 10, 2004 the Foundation Council hereby adopts the following

BY-LAWS

Concerning the beneficial interest and the distributions of the Foundation Fund in case of dissolution of the Foundation.

1. During the lifetime of James A. Marsh, Jr. distributions, grants or benefits of any other kind to the debit of the principal assets of the Foundation and/or income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of
 - a) Mr. James A. Marsh, Jr.
born on [REDACTED]
resident at [REDACTED]
 - b) his spouse
Mrs. Anna S. Marsh
born on [REDACTED]
resident at [REDACTED]
 - c) the children of James A. Marsh, Jr. born from legal wedlock (the "Children") as well as the issue and remoter issues of the Children (the "Descendants") or
 - d) any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be for the benefit of one or more members of the Class of Beneficiaries pursuant to Sub-Clause a), b) or c) hereinbefore not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clause a), b) or c) not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 119

MAR-01566

2. In case of the death of James A. Marsh, Jr., if any assets of the Foundation shall be included in the gross estate of James A. Marsh, Jr. for U.S. federal estate tax purposes or for purposes of any other estate, inheritance and other death taxes and duties (the "Taxable Assets"), then the Foundation Council may, but only to the extent of the Taxable Assets, pay that portion of such taxes (exclusive, however, of any generation-skipping transfer taxes imposed on any direct skip resulting from the death of James A. Marsh, Jr.) that is equal to the difference between the amount of such taxes actually imposed upon the estate of James A. Marsh, Jr. and the amount of such taxes which would have been imposed upon the estate of James A. Marsh, Jr. if there were no Taxable Assets.

In addition, in the case of the death of James A. Marsh, Jr., the Foundation Council shall pay to the executors, administrators or personal representatives of the estate of the James A. Marsh, Jr. such sum or sums as such executors, administrators or personal representatives may from time to time certify to the Foundation Council as being required to pay part or all of any unpaid income, gift or generation-skipping transfer taxes imposed by the United States of America or any governmental unit or subdivision thereof on James A. Marsh, Jr. during his lifetime and for which the estate of James A. Marsh, Jr. or the Foundation or any beneficiary or member of the class of beneficiaries of the Foundation may be liable under applicable U.S. tax laws with respect to the assets or the income of this Foundation during any portion of or all of its existence up through and including the date of the settlement of any and all such tax liabilities with respect to any IRS audit involving this Foundation and/or its beneficiaries.

The Foundation Council shall be protected in making any payment of taxes under this Clause 2 in relying upon a written statement furnished by the executors, administrators or personal representatives of the estate of the James A. Marsh, Jr. as to the amount of any such taxes which may be due, and shall be under no duty to contest the same or to inquire into the correctness of any such written statement. Any reference to "taxes" in this Clause 2 shall include any related interest and penalties on the taxes otherwise payable under this Clause 2.

3. Also in case of the death of James A. Marsh Jr., after paying or providing for any tax payments pursuant to Clause 2 hereinbefore, the surviving spouse

Mrs. Anna S. Marsh
born on [REDACTED]
resident at [REDACTED]

shall be the sole beneficiary during her lifetime and, except as provided in Clause 2, no distributions shall be paid to any person other than to Mrs. Anna S. Marsh during her lifetime. Her beneficial interest shall be limited to the Net Income of the Foundation Fund, payable at least quarter annually on and after the adoption of the amendment with respect to all Net Income earned on or after the date of death of James A. Marsh Jr. Net Income for any period shall mean all the fiduciary accounting income of the Foundation Fund for such period after deduction of any and

all cost, taxes, duties expenses etc. properly allocable to such income determined as if the Foundation were a trust established under the laws of the State of Florida, U.S.A. and governed by the Uniform Revised Principal and Income Act of the State of Florida as in effect for such period. It shall be within the discretion of the Foundation Council to also distribute part or the total of the Foundation Fund, other than income, to Mrs. Anna S. Marsh for her health, maintenance or support in accordance with a liberal application of this provision.

4. In the event of the death of Anna S. Marsh, if any assets of the Foundation shall be included in the gross estate of Anna S. Marsh for U.S. federal estate tax purposes or for purposes of any other estate, inheritance and other death taxes and duties (the "Taxable Assets"), then, unless Anna S. Marsh shall provide otherwise by her Will, the Foundation Council shall, but only to the extent of the Taxable Assets, pay that portion of such taxes that is equal to the difference between the amount of such taxes actually imposed upon the estate of Anna S. Marsh and the amount of such taxes which would have been imposed upon the estate of Anna S. Marsh if there were no Taxable Assets. The Foundation Council shall be protected in making any payment of taxes under this Clause 5 in relying upon a written statement furnished by the executors, administrators or personal representatives of the estate of the Anna S. Marsh as to the amount of any such taxes which may be due, and shall be under no duty to contest the same or to inquire into the correctness of any such written statement. Any reference to "taxes" in this Clause 4 shall include any related interest and penalties on the taxes otherwise payable under this Clause 4.
5. Upon the death of Anna S. Marsh distributions, grants or benefits of any other kind to the debt of the principal assets of the Foundation and/or the income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of
 - a) Kerry M. Marsh, Shannon Neal Marsh, James G. Marsh, [REDACTED] [REDACTED] and [REDACTED] in equal shares and per stirpes or, in case any of those Children of James A. Marsh Jr. who shall de cease without leaving any descendants, as provided in Sub-Clause c) hereof.
 - b) to any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be for the benefit of one or more members of the Class of Beneficiaries pursuant to Clause 5 (it a) hereinbefore not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clause a) not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Excluded Persons should not affect the validity and legality of

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

— = Redacted by the Permanent
Subcommittee on Investigations

4.

any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.

- c) Should any of Kerry M. Marsh, Shannon Neal Marsh, James Marsh, [REDACTED] and [REDACTED] decease or predecease his/her share of beneficial interest shall be for the benefit of his/her descendants in equal shares and per stirpes. In case any of them shall decease without leaving any descendants his/her share of beneficial interest shall be for the benefit of the his surviving brothers and sisters in equal shares or in case of their predecease for the benefit of their descendants in equal shares and per stirpes.

6. Descendant

Descendant means and includes any and all legitimate issue of the Children, irrespective of the degree of relationship, including adopted and legitimated issues, but not including illegitimate issues.

7. Effective Date of these By-Laws

These By-Laws shall be considered to be effective with retrospective effect to June 15, 2006.

8. Excluded Persons

The Class of Excluded Persons includes and consists of any ex-spouse of a member of the Class of Beneficiaries and of those members of the Class of Beneficiaries who the Foundation Council in its free and absolute discretion declares by unanimous resolution revocably or irrevocably to be excluded from the Class of Beneficiaries.

The Foundation Council shall have the power and authority at any time and from time to time in its free and absolute discretion by means of a unanimous resolution to declare revocably or irrevocably that a person shall cease to be a member of the Class of Excluded Persons with immediate effect.

9. Limitation of the Discretion of the Foundation Council

The Foundation Council shall have no discretion in relation to the provisions of Clause 3 hereinabove. To the contrary, Anna S. Marsh shall have an enforceable claim against the Foundation in relation to the annual Net Income of the Foundation pursuant to Clause 3.

10. Appointment of the Beneficial Interest

Except as provided in Clauses 3 and 5 hereinabove, the power to appoint a beneficial interest is vested in the Foundation Council. Upon request of

a member of the Class of Beneficiaries or his/her representative the Foundation Council shall decide in its free and absolute discretion

- a) whether, when and for the benefit of which member(s) of the Class of Beneficiaries of the Foundation distributions, grants or other benefits shall be made or awarded;
 - b) to what extent, in which shares and proportions and in which manner distributions, grants or other benefits shall be made or awarded;
 - c) whether any distributions, grants or other benefits shall be made or awarded subject to any condition, limitation, restriction and/or other provision;
 - d) whether any distribution, grant or other benefits shall be made or awarded to the debit of the principle assets of the Foundation and/or the income thereof.
11. Except as provided in the provisions of Clauses 3 and 5 hereinabove, the legal position of the members of the Class of Beneficiaries is the following:
- a) Except as provided in Clauses 3 and 5 hereinabove, the Foundation Council decides in its free and absolute discretion whether distributions, grants or other benefits shall be made or awarded for the benefit of all members of the Class of Beneficiaries or under the exclusion of one or more for the benefit of some or only one member of the Class of Beneficiaries.
 - b) Except as provided in Clauses 3 and 5 hereinabove, none of the members of the Class of Beneficiaries shall have a legal title vis-à-vis the Foundation as to distributions, grants or other benefits to be made or awarded to the debit of the principle assets of the Foundation and/or income thereof.
 - c) None of the members of the Class of Beneficiaries shall have the right to claim from the Foundation Council to disclose any deliberation of the Foundation Council as to the manner in which the Foundation Council should exercise any power or any discretion conferred upon the Foundation Council or disclosing the reasons for any particular exercise of any such power or discretion or the information upon which such reasons shall or might have been based or any other document relating to the exercise or proposed exercise of any such power or discretion.
12. Except as provided in Clauses 3 and 5 hereinabove the Foundation Council has no Duty to Appoint a Beneficial Interest
- a) Except as provided in Clauses 3 and 5 hereinabove, the Foundation Council is not obliged to exercise its power to appoint a beneficial interest and no member of the Class of Beneficiaries shall have a right to demand the exercise of such power by the Foundation Council.

- b) Insofar and inasmuch as the Foundation Council has not exercised its power to appoint a beneficial interest, distributions, grants as well as other benefits shall not take place.

13. Termination of the Foundation

In case there shall no longer be any member of the Class of Beneficiaries and no longer any members of the Class of the Excluded Persons who could – provided the Foundation Council so decides – become a member of the Class of Beneficiaries, the Foundation has fulfilled its purpose and has to be dissolved by the Foundation Council, then the Foundation Fund existing at the time shall be distributed to the American Cancer Society in the United States to be used for and disposed of the research of children's cancer and the benefit of children with cancer.

Should the Foundation be dissolved for other reasons, the Foundation Council shall distribute the Foundation Fund existing at the time in accordance with Clause 5 hereinabove.

The Foundation Council shall have the power to transfer the Foundation Fund to any other legal entity or trust organised under the laws of Liechtenstein or of any foreign country or to use them for the creation of such legal entity or trust provided always that as a result of the exercise of this power the objects and purposes of the Foundation may be more sensibly achieved.

By means of such an action the unamendable provisions of the Statutes and By-Laws may not be amended and especially the provisions concerning beneficial interest may not be affected thereby.

14. Amendment of the By-Laws

These By-Laws may be amended, revoked or supplemented by the Foundation Council at any time prior to the death of James A. Marsh, Jr. with the consent of the Protector(s) in office from time to time.

Following the death of James A. Marsh, Jr., if he is survived by Anna S. Marsh, these By-Laws, except as provided in this amendment executed this 11 day of September, 2007 (effective with retrospective effect to June 15, 2006), thereafter shall be irrevocable and may not be amended or revoked, or supplemented in a manner to limit or revoke any rights or privileges granted to (1) Anna S. Marsh by these By-Laws, in particular under Clause 3 hereof and (2) the Children of James A. Marsh Jr., in particular under Clause 5 hereof. Thus, with the exception of the provisions providing for the beneficial interest of Anna S. Marsh in Clause 3 and the Children of James A. Marsh Jr. in Clause 5, which shall be unamendable, the provisions of these By-Laws may be amended and/or revoked by the Foundation Council at any time and from time to time with the consent of the Protector(s) provided always that such amendment or

revocation may not contradict the objects and purposes of the Foundation.

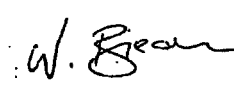
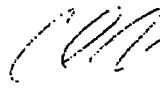
Vaduz, September 11, 2007
AT91/VSA/BNI

LARGELLA FOUNDATION
The Foundation Council



Sascha Valejta

KRP Corporate Services Trust reg.



Ester Blanco · Nicole Biedermann



Fondation Chateau

Accounts for the year ended December 31, 2007



1. Fondation Chateau

1.1 Country and date of incorporation

The Foundation has been incorporated in Vaduz, Principality of Liechtenstein, on June 28, 1985, in accordance with the provisions of Art. 552 et seq. of the Liechtenstein Civil and Companies Act (PGR).

1.2 Principal activity

The principal activity of the Foundation is dealing in investments.

2. Order to Confida Trust and Auditing Company Limited

On March 20, 2008 the Council of Fondation Chateau instructed Confida Trust and Auditing Company Limited to draw up the Financial Statements for the year 2007, based on the new initial prices of the investments as at June 17, 2008 and the aggregated purchase prices since that date.

3. Summary of significant accounting policies

The principal accounting policies adopted in the preparation of these Financial Statements are set out below:

3.1 Basis

The Financial Statements are based on the bank statements from Centrum Bank AG, which have been handed over from the Council of Fondation Chateau.

3.2 Opening balance

The opening balance corresponds to the Financial Statement as at December 31, 2006 (dated October 25, 2007). These records are based on the new initial prices of the investments as at June 17, 2008 and the aggregated purchase prices since that date.

3.3 Accounting and valuation methods

The accounting records and financial statements comply with the law of the Principality of Liechtenstein (PGR). The Financial Statements give a true and fair view of the financial position and income.



All assets and liabilities have been valued at market prices at the date of the Balance Sheet.

3.3.1 Foreign currency translation

According to the order of The Council of Fondation Chateau, the accounting records have been kept and the Financial Statements have been prepared in United States Dollars (USD).

Foreign currency transactions have been accounted for at the exchange rate prevailing at the date of the transactions. Profit and losses resulting from the settlement of such transactions and from the translation of assets and liabilities denominated in foreign currencies are recognised in the Income Account. Such balances are translated at the exchange rates of Centrum Bank AG as at December 31, 2007.

The Foundation Capital has been translated at historical cost.



3.3.2 Fair value estimation

The preparation of the Financial Statements in conformity with the law of the Principality of Liechtenstein (PGR) requires to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosures of contingent assets and liabilities at the date of the Financial Statements and the stated amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Vaduz, April 28, 2008

CONFIDA

Trust and Auditing Company Limited

 Erich Bürzle General Manager	 Martin Brunner Executive Officer
--	--

Fondation Chateau

FL-8490 Vaduz**Financial Statement as at December 31, 2007**

	Notes	2007 / USD	2006 / USD
ASSETS			
Cash at bank	1	166'839.20	324'908.04
Short term investments	2	3'090'858.64	2'400'000.00
Securities	3	9'363'150.60	9'521'429.92
Accrued income	4	66'976.49	57'888.41
		<u>12'687'824.93</u>	<u>12'304'226.37</u>
LIABILITIES			
Currency forward transactions	5	-82'672.26	-45'578.13
Accounts payable	6	-12'207.35	-12'519.70
Accrued expenses	7	-56'100.00	-116'500.00
		<u>12'536'645.32</u>	<u>12'129'628.54</u>
Equity formation			
Foundation Capital (CHF 30'000.00)	8	11'811.02	11'811.02
Reserves	9	11'842'817.52	11'283'833.33
Profit for the year		682'016.78	833'984.19
		<u>12'536'645.32</u>	<u>12'129'628.54</u>

The Council of
Fondation Chateau

Vaduz, April 28, 2008 bua/bra

MAR-09315

Fondation Chateau

FL-0490 Vaduz

Income Account

(for the period from January 1, 2007 to December 31, 2007)

	Notes	2007 / USD 12 months	2006 / USD 6.5 months
Realized profit on securities	10	495'703.13	199'123.47
Net interest earned on bonds	11	85'943.22	46'967.19
Net dividends earned	12	53'313.87	18'015.79
Realized profit on short term investments	13	21'406.99	2'530.87
Net interest earned on short term investments	14	128'553.35	58'395.92
Realized loss (profit) on currency forward transact.	15	-244'079.83	4'729.66
Credit interest on bank accounts		1'212.85	408.45
Debit interest on bank accounts		-495.76	-633.45
Currency exchange differences		-5'500.72	-23'781.21
Realized income from investments		536'057.00	305'756.49
Non-realized profit on securities	16	422'438.92	726'593.18
Non-realized profit on short term investments	17	27'024.94	0.00
Non-realized loss on currency forward transact.	18	-37'094.13	-45'578.13
Variation in accrued interest	19	9'088.08	3'449.16
Non-realized income from investments		421'458.81	684'464.21
INCOME FROM INVESTMENTS		957'515.81	990'220.70
Bank charges		-13.87	-2'148.16
Administration and asset management fees	20	-208'128.31	-90'539.43
Legal, advisory and board member's fees	21	-35'752.91	-12'218.07
Accountancy fees	22	-30'703.94	-50'519.70
Capital tax	23	-900.00	-811.15
EXPENDITURE		-275'490.03	-156'236.51
PROFIT FOR THE YEAR		682'016.78	833'984.19

MAR-09316

Fondation Chateau

FL-8490 Vaduz

**Notes to the Financial Statement and to the
Income Account closed as at December 31, 2007**

	USD	USD
ASSETS		
1. Cash at bank		
Centrum Bank AG, Vaduz		
USD - account	22'314.13	
CHF - account, CHF 3'733.10	3'303.63	
EUR - account, EUR 3'324.23	4'888.33	
GBP - account, GBP 359.67	719.05	
JPY - account, JPY 15'302'010.00	135'416.06	168'639.20
2. Short term investments		
Centrum Bank AG, Vaduz		
Time deposits		
Time deposit at 3.750 % interest, 31.12.07 - 24.01.08 as per enclosed valuation page 4	300'000.00	
Time deposit at 3.875 % interest, 13.12.07 - 11.01.08 as per enclosed valuation page 4, EUR 120'000.00	176'389.44	
Time deposit at 3.500 % interest, 31.12.07 - 24.01.08 as per enclosed valuation page 4, EUR 140'000.00	205'787.68	682'177.12
Call deposits		
Fiduciary call deposit 48h at 4.150 % interest, as per enclosed valuation page 5	2'100'000.00	
Call deposit 48h at 3.000 % interest, as per enclosed valuation page 5, EUR 210'000.00	308'681.52	2'408'681.52
		3'090'858.64

MAR-09317

- 2 -

	USD	USD
3. Securities		
Centrum Bank AG, Vaduz		
Securities at cost		
Initial prices as at June 17, 2006 and aggregated purchase prices in the period 17.06.2006 - 31.12.2007 as per enclosed valuation pages 1 - 3		8'214'117.50
Value adjustment on securities		
Non-realized profit due to the variation in prices	805'548.16	
Non-realized profit due to the variation in fx-rates	343'484.94	1'149'033.10
Total market value as per enclosed valuation pages 1 - 3		<u>9'363'150.60</u>
4. Accrued income		
Centrum Bank AG, Vaduz		
Accrued interest on time deposits	341.75	
Accrued interest on bonds	<u>66'634.74</u>	<u>66'976.49</u>

MAR-09318

- 3 -

	USD	USD
LIABILITIES		
5. Currency forward transactions		
Centrum Bank AG, Vaduz		
Non-realized loss due to the variation in fx-rates as per enclosed valuation pages 6 - 7		82'672.26
6. Accounts payable		
Confida Trust and Auditing Company Ltd., Vaduz		
Invoice dated 31.12.2007, setting up the accounts with the new Opening Balance as at June 17, 2008, incl. input of the initial prices of the investments, accountancy fees for the periods 17.06.2008 - 31.12.2008 and 01.01.2007 - 30.09.2007, CHF 13'794.30		12'207.35
7. Accrued expenses		
Kaiser Ritter Partner Trust Services Anstalt, Vaduz		
Accruals for Directors' and Domicile fees for the period 10.08.2007 - 28.06.2008, handling fees and third-party expenses	8'000.00	
Accrued capital tax for the period 28.06.2007 - 28.06.2008	900.00	
Accruals for advisory and administrative services rendered until December 31, 2007	10'000.00	18'900.00
Dr. Oliver Neesensohn, Vaduz		
Accruals for legal services, rendered in the period 18.08.2007 - 31.12.2007		3'200.00
Carry forward to page 4		22'100.00

MAR-09319


- 4 -

	USD	USD
Brought forward from page 3		22'100.00
Confida Trust and Auditing Company Ltd., Vaduz		
Accruals for accountancy fees for the period 01.10.2007 - 31.12.2007, based on the new initial prices of the investments	4'000.00	
Accruals for services to be rendered in respect of the breakdown of the qualified dividends for the period 01.01.2000 - 30.09.2007	5'500.00	
and an additional report until 31.12.2007	1'000.00	
Accruals for services to be rendered in respect of splitting the realized profit and loss on securities for the period 01.01.2000 - 30.09.2007 into long and short term capital gains	11'000.00	
and an additional report until 31.12.2007	2'000.00	
Accruals for services to be rendered in respect of drawing up the dividends and distributions received from investment funds and certificates for the period 01.01.2000 - 30.09.2007	3'000.00	
and an additional report until 31.12.2007	500.00	
Accruals for services to be rendered in respect of drawing up the realized profit and loss derived from investment funds and certificates for the period 01.01.2000 - 30.09.2007	6'000.00	
and an additional report until 31.12.2007	1'000.00	
		34'000.00
		<u>56'100.00</u>

MAR-09320

— = Redacted by the Permanent
Subcommittee on Investigations

- 5 -

	USD	USD
EQUITY		
8. Foundation Capital		
Statutory capital of CHF 30'000.00, at the historic exchange rate of 0.393701 at the formation's date		<u>11'811.02</u>
9. Reserve		
Additional paid in capital, accumulated income and expenditure since the Foundation's formation up to June 16, 2006		11'283'833.33
Profit for the period 17.06.2006 - 31.12.2006	833'984.19	
Distributions to the beneficiary: Anna S. Marsh		
		
Payment on 18.10.2007	-125'000.00	
Payment on 14.11.2007	<u>-150'000.00</u>	558'984.19
		<u>11'842'817.52</u>

MAR-09321

- 6 -

	USD	USD
INCOME FROM INVESTMENTS		
10. Realized profit on securities		
Realized profit due to the variation in prices	593'353.18	
Realized loss due to the variation in prices	-196'529.83	
Realized profit due to the variation in fx-rates	110'079.16	
Realized loss due to the variation in fx-rates	-11'199.58	495'703.13
11. Net interest earned on bonds		
Gross interest	85'943.22	
Withholding tax	0.00	
Bank's commission	0.00	85'943.22
12. Net dividends earned		
Gross dividends & distributions	68'956.01	
Withholding tax	-15'642.14	
Bank's commission	0.00	53'313.87
13. Realized profit on short term investments		
Call deposits		
Realized profit due to the variation in fx-rates	21'406.99	
Realized loss due to the variation in fx-rates	0.00	21'406.99
14. Net interest earned on short term investments		
Gross interest	128'553.35	
Withholding tax	0.00	
Bank's commission	0.00	128'553.35
15. Realized loss on currency forward transactions		
Realized profit due to the variation in fx-rates	23'086.50	
Realized loss due to the variation in fx-rates	-267'176.43	-244'079.93

MAR-09322

- 7 -

	USD	USD
16. Non-realized profit on securities		
Non-realized profit due to the variation in prices	170'128.91	
Non-realized profit due to the variation in fx-rates	252'311.01	422'439.92
17. Non-realized profit on short term investments		
Call deposits		
Non-realized profit due to the variation in fx-rates	24'716.01	
Time deposits		
Non-realized profit due to the variation in fx-rates	2'308.93	27'024.94
18. Non-realized loss on currency forward transactions		
Non-realized loss due to the variation in fx-rates		-37'094.13
19. Variation in accrued interest		
Short term investments		
Accrued interest on call deposits as at 01.01.2007	-686.67	
Accrued interest on call deposits as at 31.12.2007	0.00	
Accrued interest on time deposits as at 01.01.2007	0.00	
Accrued interest on time deposits as at 31.12.2007	341.75	-344.92
Securities		
Accrued interest on bonds as at 01.01.2007	-57'201.74	
Accrued interest on bonds as at 31.12.2007	66'634.74	9'433.00
		9'088.08

MAR-09323

- 8 -

	USD	USD
EXPENDITURE		
20. Administration and asset management fees		
Centrum Bank AG, Vaduz		
Portfolio management fee, custody service fee and brokerage rates, 1st Quarter	50'706.96	
Portfolio management fee, custody service fee and brokerage rates, 2nd Quarter	50'764.82	
Portfolio management fee, custody service fee and brokerage rates, 3rd Quarter	54'145.69	
Portfolio management fee, custody service fee and brokerage rates, 4th Quarter	52'510.84	208'128.31
21. Legal, advisory and board member's fees		
Kaiser Ritter Partner Trust Services Anstalt, Vaduz		
Accruals for Directors' and Domicile fees for the period 10.08.2007 - 28.06.2008, handling fees and third-party expenses	8'000.00	
Accruals for advisory and administrative services rendered until December 31, 2007	10'000.00	18'000.00
BBT Treuhand AG, Vaduz		
Invoice dated 23.07.2007, services rendered in the the period 27.10.2006 - 30.06.2007, CHF 1'210.50		1'020.66
Dr. Oliver Nesensohn, Vaduz		
Accruals for legal services, rendered in the period 18.08.2007 - 31.12.2007		3'200.00
Carry forward to page 9		22'220.66

MAR-09324

- 9 -

	USD	USD
Brought forward from page 8		22'220.88
Domar Fiduciary and Management Est., Vaduz		
Reversal of accruals for services rendered in the period 24.06.2005 - 31.12.2006	-11'000.00	
Invoice dated 22.02.2007, services rendered in the period 24.06.2005 - 22.02.2007, CHF 15'513.35	12'793.46	
Invoice dated 24.08.2007, Administration and Domicile fees for the period 28.08.2007 - 10.08.2007, services rendered in the period 23.02.2007 - 10.08.2007 and special services rendered in respect of the Foundation's wind-up, CHF 13'030.00	10'804.31	12'597.77
LGT Bank in Liechtenstein AG, Vaduz		
Providing the foundation's council with copies of all bank transactions and statements of assets, CHF 1'000.00		823.05
LGT Treuhand AG, Vaduz		
Reversal of accruals for services rendered	-5'000.00	
Invoice dated 05.02.2007, services rendered CHF 6'348.40	5'111.43	111.43
		<u>35'752.91</u>
22. Accountancy fees		
Confida Trust and Auditing Company Ltd., Vaduz		
Reversal of accrued accountancy fees for the years 1999 - 2006	-67'000.00	
Invoice dated 10.05.2007, accountancy fees for the years 1999 - 2006 (going concern), including all work related hereto (1st part), CHF 37'929.00	31'217.28	
Invoice dated 13.09.2007, accountancy fees for the years 1999 - 2006 (going concern), including all work related hereto (2nd part), CHF 40'570.60	34'207.93	-1'574.79
Carry forward to page 10		<u>-1'574.79</u>

MAR-09325

- 10 -

	USD	USD
Brought forward from page 9		-1'574.79
Invoice dated 13.09.2007, services rendered in respect of copying all bank transactions, bank statements and statements of assets for the years 1985 - 2006, CHF 7'198.45		6'089.52
Reversal of accruals for services rendered in respect of checking all entries and payments in the period 2nd quarter 1985 - 31.12.2006 including reports	-14'000.00	
Invoice dated 13.09.2007, services rendered in respect of checking all entries and payments in the period 2nd quarter 1985 - 31.12.2006, including amended and revised reports dated 07.04.2007 and 24.05.2007, CHF 16'102.35	13'577.02	-422.98
Reversal of accruals for setting up the accounts with the new Opening Balance as at June 17, 2006, input of the new initial prices of the investments	-2'000.00	
Reversal of accruals for accountancy fees for the period 17.06.2006 - 31.12.2006, based on the new initial prices of the investments	-4'000.00	
Invoice dated 31.12.2007, setting up the accounts with the new Opening Balance as at June 17, 2006, incl. input of the initial prices of the investments, accountancy fees for the periods 17.06.2006 - 31.12.2006 and 01.01.2007 - 30.09.2007, CHF 13'794.30	12'132.19	6'132.19
Accruals for accountancy fees for the period 01.10.2007 - 31.12.2007, based on the new initial prices of the investments		4'000.00
Accruals for services to be rendered in respect of the breakdown of the qualified dividends for the period 01.01.2007 - 30.09.2007	1'000.00	
and an additional report until 31.12.2007	1'000.00	2'000.00
Carry forward to page 11		16'203.94

MAR-09326

- 11 -

	USD	USD
Brought forward from page 10		16'203.94
Accruals for services to be rendered in respect of splitting the realized profit and loss on securities for the period 01.01.2007 - 30.09.2007 into long and short term capital gains	2'000.00	
and an additional report until 31.12.2007	<u>2'000.00</u>	<u>4'000.00</u>
Accruals for services to be rendered in respect of drawing up the dividends and distributions received from investment funds and certificates for the period 01.01.2000 - 30.09.2007	3'000.00	
and an additional report until 31.12.2007	<u>500.00</u>	
Accruals for services to be rendered in respect of drawing up the realized profit and loss derived from investment funds and certificates for the period 01.01.2000 - 30.09.2007	6'000.00	
and an additional report until 31.12.2007	<u>1'000.00</u>	<u>10'500.00</u>
		<u>30'703.94</u>

23. Capital tax**Kaiser Ritter Partner Trust Services Anstalt, Vaduz**

Accrued capital tax for the period 28.06.2007 - 28.06.2008

900.00**Exchange rates as at 31.12.2007**

CHF 1.00 = USD 0.88496
 EUR 1.00 = USD 1.46991
 GBP 1.00 = USD 1.99919
 JPY 100.00 = USD 0.88496

MAR-09327

Valuation with market prices
per 31.12.2007

Fondation Chateaub

• = Redacted by the Permanent Subcommittee on Investigations

Sec. No.		Trc	Designation	Units	Pur. value in trc	Market price	Current value	non realised
				thousands	Pur. value in USD	Exchange rate	in USD USD	gain/loss USD
2125114	USD		URS AG LONDON BRANCH	2,620,402	95,940.00	85.14080	117,232.00	21,312.00
			OTEM END PERLES 2005 -		95,940.00			
			PERPETUAL ON CH SIXPER					
1741388	USD		RICHES RETAIN INDEX	55,025.00	182,460.00	3.45000	302,556.00	26,350.00
			AMM AMM MARK IV OPEN END		182,460.00			
234463	JPY		CERT 30M-WITHOUT FLEAD	38,008,000	31,736,018.00	1,682,16000	276,842.31	9,396,086.86
			AMMUTY OF PALADIUM					
			AMMUTY FROM IGC -		31,736,018.00	0.04096		
			AMM RETUIT		31,736,018.00			
1072369	USD		COFFEE VALUE ADDED FUND	1,712,340	100,617.32	381.17000	327,021.57	24,351.45
			LIMITED - OVA MARKET		100,617.32			
			REVITAL FUND					
1242984	USD		VTG INC - S-	227,341	310,025.57	1,869,91000	325,089.66	34,059.29
			VTG INC - S-		310,025.57			
			VTG INVESTMENT STRATEGIES					
			LTD - TOP PORTF 11-B LTD					
1232732	RUB		IRAEAS IN RUBO STOCK	5,058,800	179,218.43	35.36000	349,278.48	51,398.06
			TECHNOLOGY (08)		179,218.43			
			TECHNOLOGY (08)		179,218.43	1.46931		
1884074	USD		STELLAR INVESTMENT FUNDS	3,005,000	305,696.53	137.72000	413,140.00	21,853.47
			STELLAR INVESTMENT FUNDS		305,696.53			
			STELLAR - GLOBAL		305,696.53			
			CONVERTIBLES FUND (USD)					
2546861	USD		RM-A IND- CAPITALIZATION	6,755,000	396,564.57	43.89600	431,237.50	34,691.93
			LYON INTERNATIONAL ASSET		396,564.57			
			MANAGEMENT LYON ETF		396,564.57			
			ROBETA IN RUSSIE					
			YITAM 10 PCF					
2612413	USD		W.P. STONK HOLDINGS	2,095,000	294,135.61	178.51000	357,020.00	65,875.39
			FUND SICAV		294,135.61			
			SIG -IND-		294,135.61			
47700	USD		PELIM CAPITAL FUND LTD	995,028	300,646.39	344.12000	340,334.45	61,672.16
					300,646.39			

MAR-09330

— = Redacted by the Permanent
Subcommittee on Investigations

Investment Chateau		Valuation with market prices per 31.12.2007		SECURITIES CERTIFIN BANK AG		Page : 3 10/03/10 / 28.04.2008	
SEC-INT.	TIC	Designation	Number Shares	Per Value in tte EUR	Market price SECURITIES	Current value in EUR	Non realized losses in EUR
3393143	CHF	15.40213 BANK VERTICAD. CAYMAN	200.000.000	200.000.00	83.40000	216.104.27	33.063.17-
3330688	GBP	MULTI DEFENSE VOFIT 2007 - 27.08.2008 18.75% HBC BANK PLC WALL OF REVERSE OF A MARKET OF INS SENIOR	130.000.000	262.187.21	88.43651	210.787.40	33.599.71-
871390	GBP	6.775% BANK OF SCOTLAND PLC	280.000.000	280.000.00	88.80000	494.551.20	34.702.48
1541077	USD	EMC MEDIUM-TERM NOTES 3.75 % GARANTIE 2008 - 01.04.2008	240.000.000	451.844.73	99.31000	249.511.50	7.387.50
1638318	USD	3.75% BV BANK MORGANLANDE CORPORATE INC, NEW YORK 2002 - 15.07.2013 SENIOR	250.000.000	240.325.00	99.96500	244.315.50	20.111.50
1802489	USD	3.75 % KREDITANSTALT FUER WIRTSCHAFTEN KFN	250.000.000	254.200.00	87.73500	280.100.00	17.400.00
2142185	USD	EMC MEDIUM-TERM NOTES 4.75 % BROADWAY MONOP. SPRINGFIELD S.A. 2007 - 15.07.2013 SENIOR	240.000.000	252.700.00	100.04000	231.787.50	12.711.50
2241008	USD	GM MEDIUM-TERM NOTES 3.80% 12/15/2013	3.800.000	276.777.32	114.13800	399.486.00	20.477.68
Total per depot				8.254.117.40		8.347.150.40	1.349.033.10
Number of positions : 33				Positions evaluated : 33			

MAR-09331

Page 1 4
10/13/10 / 21.04.2008

= Redacted by the Permanent Subcommittee on Investigations

Fondation Caritas		Valuation with median prices per 31.12.2007		SHORT TERM INVESTMENTS		Current value in BGC USD		not realized realized USD	
SEC.-NO.	Trc Designation	Number Rights	Par. value in trc Par. 02/2007 in USD	Market price Exchange rate					
022001	CHFTRON BANK AG 9110 VADUZ								
090803111	EUR 3.175% TIME DEPOSIT 12.12.2007 - 11.01.2008	120.000.000	120.000.00	100.00000	176.389.44		143.50-		
090803142	EUR 3.1% TIME DEPOSIT 11.12.2007 - 24.01.2008	140.000.000	136.732.44	1.49991	249.787.68		2.471.83		
010803142	USD 3.75% TIME DEPOSIT 11.12.2007 - 24.01.2008	180.000.000	243.115.75	1.49991	300.000.00		0.00		
Total per depot			679.849.19		682.177.12		2.308.93		
Number of positions :		3							
Positions evaluated :		3							

MAR-09332

Page : 5
10/31/10 / 28.04.2008

Valuation with market prices
per 31.12.2007

CURRENCY

= Redacted by the Permanent
Subcommittee on Investigations

Sec. nr.	Trc	Designation	Number Shares	Par value in rre RML value in rre	Market price Exchange rate	Current value in RML USD	non realized GAIN/LOSS USD
014608041	USD	4.15 % 100 Millions BA/RY Bour. Call-Money	2,100,000,000	2,100,000.00	100.00000	2,100,000.00	0.00
090705111	RON	1.0% Callmoney 48 hours	210,000,000	210,000.00	100.00000	308,681.32	24,716.01
				263,895.51	1.48992		
Total per depot				2,310,000,000		2,408,681.32	24,716.01
Number of positions :			2				
Positions evaluated :			2				

MAR-09333

Reduced by the Permanent
Subcommittee on Investigations

Page 6
10/13/10 / 24.04.2008

Valuation with market prices
per 21.12.2007
CURRENT FORWARD TRANSACTION

021015 CENTRAL BANK AQ
2110 VALU2

Sec.-nr.	Tic Designation	Number BILION	Put value in tic PUS. VALU2 IN USD	Market price EXCHANGE RATE	Current value IN USD	non realized GAIN/LOSS USD
70801243	CHF CURRENT FORWARD TRANSACTION 24.12.2007 CHF/USD VALUTA 24.01.2008 1.1743	250.000.000-	250.000.000- 212.316.92-	100.00000 \$ 88.62481	212.482.02-	9.461.10-
70801243	CHF CURRENT FORWARD TRANSACTION 24.12.2007 CHF/USD VALUTA 24.01.2008 1.1792	210.000.000-	210.000.000- 212.000.19-	100.00000 \$ 88.62481	212.482.02-	9.531.88-
70801241	EUR CURRENT FORWARD TRANSACTION 24.12.2007 EUR/USD VALUTA 24.01.2008 1.42	1.500.000.000-	1.500.000.000- 2.110.000.00-	100.00000 \$ 1.47023	2.205.316.10-	75.316.10-
70801071	GBP CURRENT FORWARD TRANSACTION 04.12.2007 GBP/USD VALUTA 07.01.2008 2.092	30.000.000-	30.000.000- 61.308.00-	100.00000 \$ 1.98440	59.832.18-	1.475.82
70801072	GBP CURRENT FORWARD TRANSACTION 04.12.2007 GBP/USD VALUTA 07.01.2008 2.092	180.000.000-	180.000.000- 228.230.00-	100.00000 \$ 1.99410	353.105.00-	9.215.00
70801241	USD CURRENT FORWARD TRANSACTION 24.12.2007 USD/USD VALUTA 24.01.2008 1.42	2.110.000.000	2.110.000.000 2.120.000.00	100.00000 \$	2.110.000.00	0.00
70801243	USD CURRENT FORWARD TRANSACTION 24.12.2007 CHF/USD VALUTA 24.01.2008 1.1743	212.310.920	212.310.92 212.310.92	100.00000 \$	212.310.92	0.00
70801243	USD CURRENT FORWARD TRANSACTION 24.12.2007 CHF/USD VALUTA 24.01.2008 1.1792	212.000.140	212.000.14 212.000.14	100.00000 \$	212.000.14	0.00

MAR-09334

Relacted by the Permanent Subcommittee on Investigations

Page 1 7
10.11.10 / 28.04.2008

Fondation Chateau
621018 CRYPTUM NAME AG
8489 VALDE

Valuation with market prices
per 11.12.2017
CURRENCY FORWARD TRANSACTION

Sec.-nr.	Tyc Designation	Number Rights	Pur. value in ttc Pur. value in USD	Market price Exchange rate	Current value in USD	non realized gain/loss USD
7082071	USD CURRENCY FORWARD TRANSACT 04.12.2007 GBP/USD VALUTA 07.01.2008 2.082	41.506.000	41.506.00 41.506.00	100.00000 %	41.506.00	0.00
7082072	USD CURRENCY FORWARD TRANSACT 04.12.2007 GBP/USD VALUTA 07.01.2008 2.082	218.320.000	218.320.00 218.320.00	100.00000 %	218.320.00	0.00
Total per depot	Number of positions : 10 Positions evaluated : 10		0.00		82.872.24-	82.872.24-
Total per mandator	Number of positions : 48 Positions evaluated : 48		11.271.931.20		12.371.326.98	1.099.385.78

***** END OF THE LIST *****

Clotches without success: 0

MAR-09335

802



Lincol Foundation

Accounts for the year ended December 31, 2007

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 122

MAR-09150



1. Lincol Foundation

1.1 Country and date of incorporation

The Foundation has been incorporated in Vaduz, Principality of Liechtenstein, on October 17, 1985, in accordance with the provisions of Art. 552 et seq. of the Liechtenstein Civil and Companies Act (PGR).

1.2 Principal activity

The principal activity of the Foundation is dealing in investments.

2. Order to Confida Trust and Auditing Company Limited

On March 20, 2006 the Council of Lincol Foundation instructed Confida Trust and Auditing Company Limited to draw up the Financial Statements for the year 2007, based on the new initial prices of the investments as at June 17, 2006 and the aggregated purchase prices since that date.

3. Summary of significant accounting policies

The principal accounting policies adopted in the preparation of these Financial Statements are set out below:

3.1 Basis

The Financial Statements are based on the bank statements from LGT Bank in Liechtenstein AG, which have been handed over from the Council of Lincol Foundation.

3.2 Opening balance

The opening balance corresponds to the Financial Statement as at December 31, 2006 and dated October 23, 2007. These records are based on the new initial prices of the investments as at June 17, 2006 and the aggregated purchase prices since that date.

3.3 Accounting and valuation methods

The accounting records and financial statements comply with the law of the Principality of Liechtenstein (PGR). The Financial Statements give a true and fair view of the financial position and income.



All assets and liabilities have been valued at market prices at the date of the Balance Sheet.

3.3.1 Foreign currency translation

According to the order of The Council of Lincol Foundation, the accounting records have been kept and the Financial Statements have been prepared in United States Dollars (USD).

Foreign currency transactions have been accounted for at the exchange rate prevailing at the date of the transactions. Profit and losses resulting from the settlement of such transactions and from the translation of assets and liabilities denominated in foreign currencies are recognised in the Income Account. Such balances are translated at the exchange rates of LGT Bank in Liechtenstein AG as at December 31, 2007.

The Foundation Capital has been translated at historical cost.

3.3.2 Fair value estimation

The preparation of the Financial Statements in conformity with the law of the Principality of Liechtenstein (PGR) requires to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosures of contingent assets and liabilities at the date of the Financial Statements and the stated amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Vaduz, April 24, 2008

CONFIDA

Trust and Auditing Company Limited

Erich Bärzle
General Manager

Martin Brunner
Executive Officer



Lincol Foundation

FL-0490 Vaduz

Financial Statement as at December 31, 2007

	Notes	2007 / USD	2006 / USD
ASSETS			
Cash at bank	1	4'353.03	264'355.18
Currency forward transactions		0.00	56'545.61
Securities	2	15'307'384.89	13'945'895.93
Precious metals	3	419'130.45	317'536.84
Accrued income	4	91'399.07	93'502.32
		<u>15'822'267.44</u>	<u>14'877'835.88</u>
LIABILITIES			
Currency forward transactions	5	-5'681.72	0.00
Accounts payable	6	-12'952.62	-11'442.06
Accrued expenses	7	-81'700.00	-124'500.00
		<u>-15'741'933.10</u>	<u>-14'541'893.82</u>
Net assets			
		<u>15'741'933.10</u>	<u>14'541'893.82</u>
Equity formation			
Foundation Capital (CHF 30'000.00)	8	13'729.98	13'729.98
Reserves	9	14'028'163.84	13'015'970.95
Profit for the year		1'700'039.28	1'512'192.89
		<u>15'741'933.10</u>	<u>14'541'893.82</u>

The Council of
Lincol Foundation

Vaduz, April 24, 2008 bue/bra

MAR-09154



Lincol Foundation

FL-0490 Vaduz

Income Account

(for the period from January 1, 2007 to December 31, 2007)

	Notes	2007 / USD 12 months	2006 / USD 8.5 months
Realized profit (loss) on securities	10	324'301.12	-39'243.15
Net interest earned on bonds	11	172'655.36	58'419.91
Net dividends earned	12	91'048.41	20'299.25
Realized loss on currency forward transact.	13	-251'708.16	-57'143.53
Credit interest on bank accounts		198.89	22.69
Debit interest on bank accounts		-27.20	-46.88
Currency exchange differences		20'966.32	891.25
Realized income from investments		357'454.54	-16'800.46
Non-realized profit on securities	14	1'504'021.70	1'535'318.79
Non-realized profit on precious metal	15	101'593.61	30'618.79
Non-realized loss (profit) on currency forward trans.	16	-62'227.33	56'545.61
Variation in accrued interest	17	-18'939.03	22'542.91
Non-realized income from investments		1'524'448.95	1'645'026.10
INCOME FROM INVESTMENTS		1'881'903.49	1'628'225.64
Administration and asset management fees	18	-98'670.61	-50'321.77
Legal, advisory and board member's fees	19	-52'055.88	-11'971.28
Accountancy fees	20	-30'137.72	-52'942.06
Capital tax	21	-1'000.00	-797.64
EXPENDITURE		-181'864.21	-116'032.75
PROFIT FOR THE YEAR		1'700'039.28	1'512'192.89

MAR-09155



Lincol Foundation

FL-9490 Vaduz

**Notes to the Financial Statement and to the
Income Account closed as at December 31, 2007**

	USD	USD
ASSETS		
1. Cash at bank		
LGT Bank in Liechtenstein AG, Vaduz		
USD - account	3'643.06	
CHF - account, CHF 119.87	106.49	
EUR - account, EUR 78.50	115.59	
GBP - account, GBP 168.79	338.95	
JPY - account, JPY 16'874.00	148.94	
		<u>4'353.03</u>
2. Securities		
LGT Bank in Liechtenstein AG, Vaduz		
Securities at cost		
Initial prices as at June 17, 2006 and aggregated purchase prices in the period 17.06.2006 - 31.12.2007 as per enclosed valuation pages 1 - 4		
		12'268'044.40
Value adjustment on securities		
Non-realized profit due to the variation in prices	2'341'390.60	
Non-realized profit due to the variation in fx-rates	697'949.89	
		<u>3'039'340.49</u>
Total market value as per enclosed valuation pages 1 - 4		<u>15'307'384.89</u>

MAR-09156



- 2 -

	USD	USD
3. Precious metals		
LGT Bank in Liechtenstein AG, Vaduz		
Precious metals at cost		
Initial prices as at June 17, 2006 as per enclosed valuation page 6		286'918.05
Value adjustment on precious metals		
Non-realized profit due to the variation in prices		132'212.40
Total market value as per enclosed valuation page 6		<u>419'130.45</u>
4. Accrued income		
LGT Bank in Liechtenstein AG, Vaduz		
Accrued interest on bonds		<u>91'399.07</u>



- 3 -

	USD	USD
LIABILITIES		
5. Currency forward transactions		
LGT Bank in Liechtenstein AG, Vaduz		
Non-realized loss due to the variation in fx-rates as per enclosed valuation page 5		<u>5'681.72</u>
6. Accounts payable		
Confida Trust and Auditing Company Ltd., Vaduz		
Invoice dated 31.12.2007, setting up the accounts with the new Opening Balance as at June 17, 2006, incl. input of the initial prices of the investments, accountancy fees for the periods 17.06.2006 - 31.12.2006 and 01.01.2007 - 30.09.2007, CHF 14'556.15		<u>12'952.62</u>
7. Accrued expenses		
Kaiser Ritter Partner Trust Services Anstalt, Vaduz		
Accruals for Directors' and Domicile fees for the period 10.08.2007 - 17.10.2008, handling fees and third-party expenses	10'000.00	
Accrued capital tax for the period 11.08.2007 - 17.10.2008	1'000.00	
Accruals for advisory and administrative services rendered until December 31, 2007	<u>9'000.00</u>	20'000.00
Dr. Oliver Nesensohn, Vaduz		
Accruals for legal services, rendered in the period 18.08.2007 - 31.12.2007		<u>3'200.00</u>
Carry forward to page 4		23'200.00

MAR-09158



- 4 -



	USD	USD
Brought forward from page 3		23'200.00
Confida Trust and Auditing Company Ltd., Vaduz		
Accruals for accountancy fees for the period 01.10.2007 - 31.12.2007, based on the new initial prices of the investments	4'000.00	
Accruals for services to be rendered in respect of the breakdown of the qualified dividends for the period 01.01.2000 - 30.09.2007	7'000.00	
and an additional report until 31.12.2007	1'000.00	
Accruals for services to be rendered in respect of splitting the realized profit and loss on securities for the period 01.01.2000 - 30.09.2007 into long and short term capital gains	14'000.00	
and an additional report until 31.12.2007	2'000.00	
Accruals for services to be rendered in respect of drawing up the dividends and distributions received from investment funds and certificates for the period 01.01.2000 - 30.09.2007	3'000.00	
and an additional report until 31.12.2007	500.00	
Accruals for services to be rendered in respect of drawing up the realized profit and loss derived from investment funds and certificates for the period 01.01.2000 - 30.09.2007	8'000.00	
and an additional report until 31.12.2007	1'000.00	
		38'500.00
		61'700.00

MAR-09159



— = Redacted by the Permanent
Subcommittee on Investigations

- 5 -

	USD	USD
8. Foundation Capital		
Statutory capital of CHF 30'000.00, at the historic exchange rate of 0.457666 at the formation's date		<u>13'729.98</u>
9. Reserves		
Additional paid in capital, accumulated income and expenditure since the Foundation's formation up to June 18, 2006		13'015'970.95
Profit for the period 17.06.2006 - 31.12.2006	1'512'182.89	
Distribution on 29.06.2007 to the beneficiary: Anna S. Marsh		
		
	<u>-500'000.00</u>	<u>1'012'182.89</u>
		<u>14'028'163.84</u>

MAR-09160



- 6 -

	USD	USD
INCOME FROM INVESTMENTS		
10. Realized loss on securities		
Realized profit due to the variation in prices	392'208.69	
Realized loss due to the variation in prices	-116'421.79	
Realized profit due to the variation in fx-rates	80'174.92	
Realized loss due to the variation in fx-rates	-31'660.70	324'301.12
11. Net interest earned on bonds		
Gross interest	172'655.36	
Withholding tax	0.00	
Bank's commission	0.00	172'655.36
12. Net dividends earned		
Gross dividends & distributions	114'318.65	
Withholding tax	-23'270.24	
Bank's commission	0.00	91'048.41
13. Realized loss on currency forward transactions		
Realized profit due to the variation in fx-rates	174'991.07	
Realized loss due to the variation in fx-rates	-426'699.23	-251'708.16
14. Non-realized profit on securities		
Non-realized profit due to the variation in prices	973'588.99	
Non-realized profit due to the variation in fx-rates	530'452.71	1'504'021.70
15. Non-realized profit on precious metal		
Non-realized profit due to the variation in prices		101'593.61
16. Non-realized loss on currency forward transactions		
Non-realized loss due to the variation in fx-rates		-62'227.33

MAR-09161



- 7 -

	USD	USD
17. Variation in accrued interest		
Accrued interest on bonds at the beginning of the year	-93'502.32	
Accrued interest on bonds bought during the year	-17'681.61	
Accrued interest on bonds sold during the year	845.83	
Accrued interest on bonds at the end of the year	<u>91'399.07</u>	<u>-18'939.03</u>



- 8 -

	USD	USD
EXPENDITURE		
18. Administration and asset management fees		
LGT Bank in Liechtenstein AG, Vaduz		
All-in AM fee, 1st Quarter, CHF 29'476.20	24'522.68	
All-in AM fee, 2nd Quarter, CHF 30'142.70	24'808.78	
All-in AM fee, 3rd Quarter, CHF 29'433.80	25'417.80	
All-in AM fee, 4th Quarter, CHF 27'294.25	23'921.35	
		98'670.61
19. Legal, advisory and board member's fees		
Kaiser Ritter Partner Trust Services Anstalt, Vaduz		
Accruals for Directors' and Domicile fees for the period 10.08.2007 - 17.10.2008, handling fees and third-party expenses	10'000.00	
Accruals for advisory and administrative services rendered until December 31, 2007	9'000.00	19'000.00
BBT Treuhand AG, Vaduz		
Invoice dated 23.07.2007, services rendered in the the period 27.10.2006 - 30.08.2007, CHF 1'210.50		1'020.66
Dr. Oliver Nesensohn, Vaduz		
Invoice dated 30.08.2007, services rendered in the the period 20.08.2007 - 17.08.2007, CHF 19'290.53	16'265.20	
Accruals for legal services, rendered in the period 18.08.2007 - 31.12.2007	3'200.00	19'465.20
Domar Fiduciary and Management Est., Vaduz		
Reversal of accruals for services rendered in the period 24.06.2005 - 31.12.2008	-12'000.00	
Invoice dated 22.02.2007, services rendered in the the period 24.06.2005 - 22.02.2007, CHF 17'773.35	14'532.58	
Carry forward to page 9	2'532.58	39'485.86

MAR-09163



- 9 -

	USD	USD
Brought forward from page 8	2'532.58	39'485.86
Invoice dated 24.10.2007, services rendered in the period 23.02.2007 - 10.08.2007, special services rendered in respect of the Foundation's win-up and the credited Administration and Domicile fees for the period 10.08.2007 - 16.10.2007, CHF 10'667.65	9'126.87	11'859.45
LGT Bank in Liechtenstein AG, Vaduz		
Providing the foundation's council with copies of all bank transactions and statements of assets, CHF 1'000.00		823.72
LGT Treuhand AG, Vaduz		
Reversal of accruals for services rendered	-5'000.00	
Invoice dated 05.02.2007, services rendered CHF 6'348.40	5'086.85	86.85
		52'055.88
20. Accountancy fees		
Confida Trust and Auditing Company Ltd., Vaduz		
Reversal of accrued accountancy fees for the years 1999 - 2006	-71'000.00	
Invoice dated 10.05.2007, accountancy fees for the years 1999 - 2006 (going concern), including all work related hereto (1st part), CHF 37'929.00	31'114.85	
Invoice dated 13.09.2007, accountancy fees for the years 1999 - 2006 (going concern), including all work related hereto (2nd part), CHF 45'216.90	38'127.23	-1'757.92
Invoice dated 13.09.2007, services rendered in respect of copying all bank transactions, bank statements and statements of assets for the years 1994 - 2006, CHF 6'832.60		5'761.05
Carry forward to page 10		4'003.13



- 10 -

	USD	USD
Brought forward from page 9		4'003.13
Reversal of accruals for services rendered in respect of checking all entries and payments in the period 01.01.1993 - 31.12.2006 including reports	-12'000.00	
Invoice dated 13.09.2007, services rendered in respect of checking all entries and payments in the period 01.01.1993 - 31.12.2006, including amended and revised reports dated 17.04.2007 and 24.05.2007, CHF 13'853.50	11'680.88	-319.14
Reversal of accruals for setting up the accounts with the new Opening Balance as at June 17, 2006, incl. input of the new initial prices of the investments	-2'000.00	
Reversal of accruals for accountancy fees for the period 17.06.2006 - 31.12.2006, based on the new initial prices of the investments	-4'500.00	
Invoice dated 31.12.2007, setting up the accounts with the new Opening Balance as at June 17, 2006, incl. input of the initial prices of the investments, accountancy fees for the periods 17.06.2006 - 31.12.2006 and 01.01.2007 - 30.09.2007, CHF 14'556.15	12'453.73	5'953.73
Accruals for accountancy fees for the period 01.10.2007 - 31.12.2007, based on the new initial prices of the investments		4'000.00
Accruals for services to be rendered in respect of the breakdown of the qualified dividends for the period 01.01.2007 - 30.09.2007 and an additional report until 31.12.2007	1'000.00 1'000.00	2'000.00
Accruals for services to be rendered in respect of splitting the realized profit and loss on securities for the period 01.01.2007 - 30.09.2007 into long and short term capital gains and an additional report until 31.12.2007	2'000.00 2'000.00	4'000.00
Carry forward to page 11		19'637.72

MAR-09165



- 10 -

	USD	USD
Brought forward from page 10		19'637.72
Accruals for services to be rendered in respect of drawing up the dividends and distributions received from investment funds and certificates for the period 01.01.2000 - 30.09.2007 and an additional report until 31.12.2007	3'000.00 500.00	
Accruals for services to be rendered in respect of drawing up the realized profit and loss derived from investment funds and certificates for the period 01.01.2000 - 30.09.2007 and an additional report until 31.12.2007	6'000.00 1'000.00	10'500.00
		<u>30'137.72</u>
21. Capital tax		
Kaiser Ritter Partner Trust Services Anstalt, Vaduz		
Accrued capital tax for the period 10.08.2007 - 17.10.2008		<u>1'000.00</u>

Exchange rates as at 31.12.2007

CHF	1.00	=	USD	0.88984
EUR	1.00	=	USD	1.47250
GBP	1.00	=	USD	2.00811
JPY	100.00	=	USD	0.89326

— = Redacted by the Permanent
Subcommittee on Investigations

Valuation with market prices
per 31.12.2007

Page 1
20.03.05 / 24.04.2008

LINCOLN FOUNDATION

000100 LOT BANK IN LIECHTENSTEIN AG
PARIS YAUZIE

SECURITIES LIST

Sec. no.	Tic	Designation	Number Shares	Par. value in ttc EUR	Par. value in USD	Market price EUR/USD	Current value in EUR	non realized GAIN/LOSS USD
113793	CHF	LOT CAPITAL INVEST LTD. KAPITAL INVEST LP ALTERNATIVE INVEST	446,000	621,397.76	904,036.45	1,428,00000	931,228.65	97,180.02
120804	CHF	NEULE SA ACT. NOL.	610,000	218,312.50	338,440.28	520,00000	231,810.92	120,870.44
87816	CHF	CASTLE PRIVATE EQUITY AG ACT.	5,330,000	666,230.00	338,100.00	138,10000	664,889.72	114,517.04
107609	EUR	KONZERNELLE IFF NV SBS	16,110,000	180,889.58	33,440.00	88,92880	291,838.39	89,298.07
188764	EUR	ROYAL DUTCH SHELL PLC SBS -A-	6,380,000	107,434.03	28,780.00	1,47280	182,018.61	46,394.58
32646	EUR	ALLIANCE SE NAMES-ART. VERBODEN	1,100,000	128,331.00	1,47280	1,47280	339,443.07	79,483.06
32700	EUR	KONZERNELLE CAPITAL-REDUX SA NAMED-ART. VERBODEN	1,800,000	137,149.13	81,780.00	1,47280	246,972.67	39,034.96
48833	EUR	ADA, PARIS ACT.	6,400,000	133,480.00	27,390.00	1,47280	286,124.49	64,123.15
48763	EUR	MOYENES E.A. ACT.	3,010,000	194,002.14	1,47280	1,47280	294,116.59	107,602.89
50385	EUR	L'ORÉAL S.A. ACT.	1,400,000	147,313.76	108,880.00	1,47280	230,841.89	93,316.58
82801	EUR	SOREL, MATTHEUS ACT.	9,100,000	137,499.31	46,370.00	1,47280	281,155.97	128,228.23
70038	EUR	FRANCE TELECOM SA ACT.	7,550,000	130,310.76	24,420.00	1,47280	279,710.98	97,466.42
186636	GBP	COPTICA PLC. SBS	33,000,000	139,975.23	3,470.00	1,47280	217,738.04	73,354.92
76277	JPY	NISSAN CORP. SBS	5,000,000	164,378.33	2,008.11	3,470,00000	172,445.81	86,200.97
76317	JPY	(FROM: NISSAN KOSUMU K)			86,444.44	0,89326		
76319	JPY	OLYMPUS OPTICAL CO. LTD. SBS	5,000,000	22,514,350.00		4,420,00000	208,343.06	17,626.12
76360	JPY	SANY CORP. SBS	4,000,000	28,001,940.00		6,200,00000	221,328.48	8,887.48-

MAR-09168

== Redacted by the Permanent Subcommittee on Investigations

Sec. no.	Trc	Description	Number Shares	Pur. value in trc Pur. value in USD	Market price Exchange rate	Current value in trc USD	non realized gain/loss USD
000100	LOT BANK IM LICHTENSTEIN AG						
8440	YANZ						
1831286	USD	LOT PORTFOLIO MANAGEMENT (CAYMAN) LTD.	210,000	457,329.50	2,740.10000	570,223.00	142,893.50
		SHARES OF PREMIUM GLOBAL TREASURY		457,329.50			
1831295	USD	LOT CAPITAL INVEST LTD.	510,000	678,424.98	1,342.76000	731,900.80	53,483.82
		REGISTRATION UNIT OF FIXED INCOME GLOBAL		678,424.98			
1831296	USD	OPERATION INVESTMENT LOANS	300,000	453,260.80	1,973.01000	591,901.00	138,640.20
		LOAN TO LOT SECURITY FUND GLOBAL SECTOR TREASURY (USD)		453,260.80			
831177	BURK	GRIFFIN INTERNATIONAL UMBRELLA FUND - GRIFFIN EUROPEAN EUROPEAN VALUE	1,330,000	484,102.84	401.190000	785,703.99	199,383.15
		FUND S&P		626,320.84	1.67250		
1523792	USD	LOT FUND ASIA/PACIFIC RE JAPAN (USD)	215,000	435,111.98	2,744.79000	590,729.85	155,617.87
		ACTIVITY FUND ASIA/PACIFIC RE JAPAN (USD)		435,111.98			
1831312	USD	LOT CAPITAL INVEST LTD - LOT OF SOFTISSER GLOBAL SMALL CAP (USD)	230,000	394,103.50	1,920.31000	441,809.20	47,705.80
		REED S&P		394,103.50			
1831391	USD	LOT CAPITAL INVEST (SGP) ATD - LOT OF FIXED INCOME EMERGING MARKETS (USD)	200,000	406,759.11	2,585.81000	511,146.00	104,406.89
		REED PPG S&P		406,759.11			
3821610	USD	LOT CAPITAL MANAGEMENT AG -LOT MULTI MANAGER ASIA RE JAPAN (USD)	300,000	372,084.00	2,081.55000	624,469.50	252,385.50
		-CLASSE A-		372,084.00			

— = Redacted by the Permanent Subcommittee on Investigations

Page : 4
10/03/05 / 24.04.2008

SECURITIES LTD
Valuation with market prices
per 31.12.2007

Sec.-nr.	Pr. Designation	Number Shares	Pr. value in the Pr. value in USD	Market price SECURITIES LTD	Current value in SEC-USD	Not realized gain/loss USD
249353	USD 5,1250 INTER- CONTINENTAL CORPORATION	300,000,000	302,785.60	104.48000 \$	313,440.00	10,654.40
321865	2006 - 11.09.2016 14% LPM INTERNATIONAL FINANCE INC.	1,400,000,000	1,450,000.00	100.95000 \$	232,382.90	18,310.18
333841	1998 - 23.07.2008 METALL LINC INTER- NATIONAL INF. FUND SICAV - WORLD GOLD FUND SIS -A3- CAPITALISATION	9,250,000	246,891.09	0.14686	471,380.00	146,587.70
Total per depot			12,268,044.40		15,307,386.89	3,039,342.49
	Number of positions : 36					
	Positions evaluated : 36					

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Page : 6
 10/31/01 / 24/04/2008

Valuation with market prices
 per 31.12.2001
 METAL ACCOUNT

LUNGLI FOUNDATION
 000120 LGT BANK IN LICHTENSTEIN AG
 9190 VANDZ

Sec.-nr.	Tyc	Designation	Number Rights	Pur. value in ttc PMT. Value in USD	Market price Exchange rate	Current value in ttc USD	non real load -GOLD/2004 USD
100000	USD	Gold Ounces	500,000	286.918,05 286.918,05	918.21090	419.130,45	132.212,40
Total per depot				286.918,05		419.130,45	132.212,40
Number of positions : Positions evaluated : 1							
Total per mandateur				12.554.962,45		12.770.822,62	3.165.473,17
Number of positions : Positions evaluated : 45							

***** END OF THE LIST *****

Classement without success: 0

Articles

LINCOL FOUNDATION, Vaduz

1. Name

Under the name

LINCOL FOUNDATION, Vaduz

there exists as from October 17, 1985 a Foundation with independent legal personality pursuant to Art. 552 et seq. of the Liechtensteinisches Personen- und Gesellschaftsrecht (PGR).

2. Domicile and Legal Venue

2.1. The domicile of the Foundation shall be Vaduz in the Principality of Liechtenstein, where the Foundation shall also have its ordinary legal venue.

2.2. By means of a resolution passed unanimously and with observance of the legal provisions and the provisions contained in these Articles, the Foundation Board may at any time transfer the Foundation's domicile to another place, at home or abroad.

2.3. All the legal relationships of this Foundation shall be subject exclusively to Liechtenstein law.

3. Duration

The duration of the Foundation shall be unlimited.

4. Object

4.1. The object of the Foundation shall be the economic support of members of certain families as well as, supplementally, of natural and legal persons outside the family circle.

4.2. The Foundation shall be authorized to conclude all transactions that may serve the Foundation's object. Within this frame, the alienation and charging of the Foundation's assets, including the yield, as well as the non-commercial granting of loans and credits shall be admissible. Commercial objects shall not be pursued.

5. Foundation Fund

5.1. The Foundation fund shall amount to CHF 30'000.-- (thirtythousand Swiss Francs).

MAR-00021

5.2. The Foundation assets may be increased without limit at any time, by endowments made by the founder or third parties and in this regard, endowments shall be allocated to the Foundation fund or to the reserves and shall be subject in every respect to the provisions contained in these Articles relating to the Foundation fund.

6. Liability and Liability to Make Further Contributions

Only the Foundation's assets shall be liable for the Foundation's obligations. Any liability on the part of the Founder or third parties to make further contributions does not exist.

7. Administration and Investment of the Assets

In so far as the Foundation Board does not determine to the contrary, the Foundation's assets shall be administered at the Foundation's domicile. The Foundation Board may entrust professional property administrators with the administration. Basically, the Foundation Board shall decide at its discretion concerning investment and in this regard is not subject to any legal restrictions; nevertheless, it shall at all times have the Foundation's object in mind.

8. The Foundation's Governing Body

8.1. The Foundation Board shall be the Foundation's sole and supreme Governing Body, which shall be comprised of one or more Members. Where several Members are appointed, they may appoint a President, a Secretary and the like and, at the same time, determine the powers and obligations (Regulations).

8.2. Initially, the Foundation Board shall be appointed by the Founder in the Formation Deed. The appointment by substitution and co-optation as well as the removal of the Foundation Board shall be undertaken by the Foundation Board. In the event of the resignation or removal of all Members of the Foundation Board, new Foundation Board Members shall be appointed by the Princely Court of Justice (Fürstlich Liechtensteinisches Landgericht), Vaduz, after hearing the last remaining Member. The term of office of the Foundation Board Members shall be unlimited.

8.3. Each Foundation Board Member may appoint a substitute who shall represent the Member concerned at Foundation Board Meetings in the event of his inability to attend. Should an appointment not ensue, the Foundation Board may appoint a substitute. Substitutes shall not be authorized to represent. Their mandate shall terminate eo ipso with that of the Foundation Board Member they represent, by earlier revocation or by resignation, which may be tendered at any time without reasons being given.

MAR-00022

8.4. The Foundation Board shall represent the Foundation externally and towards third parties and shall take all steps necessary for the achievement of the Foundation's object. The Foundation Board may transfer to third persons the exercise of power for limited purposes.

8.5. The Foundation Board shall meet as often as business requires. It shall be empowered to pass resolutions if all Members of the Foundation Board are present or duly represented by their substitutes. Minutes shall be kept of all Foundation Board Meetings, representations by substitutes shall be noted. The minutes shall be signed by the Chairman and the Secretary. The latter need not be a Member of the Foundation Board.

8.6. The President or, where a President has not been appointed, the oldest (with regard to age) Member of the Foundation Board, shall summon a meeting of the Foundation Board if a Foundation Board Member so demands and furnishes details of the agenda. Should the requested summons not ensue within ten days, every Member of the Foundation Board shall be empowered to summon a meeting. Summonses to attend must ensue in writing, with information relating to place, time and agenda, at least ten days before the meeting is due to take place, calculated from the date of posting. In the event of danger due to delay or with the agreement of all the participants, observance of the standard practice may be waived.

8.7. In the event of a quorum not being present, a new meeting with the same agenda shall be summoned while observing standard procedure. At this second meeting, a quorum shall be deemed to be constituted regardless of the number of Members present or represented.

8.8. Basically, the Foundation Board shall pass all resolutions with a simple majority of votes, in so far as the law, the Articles, the By-Laws or other documents of the Foundation do not determine otherwise. Resolutions may also be passed by circular letter. Such resolutions shall require unanimity; representation shall not be admissible.

8.9. A Foundation Board Member may resign at any time, with immediate effect, without stating reasons.

The removal of the Foundation Board, of individual Members and Substitutes by Beneficiaries of the Foundation (§ 50 Abs 2 Gesetz über das Treuunternehmen) shall be expressly excluded.

8.10. The appointment, removal and resignation of the Foundation Board Members shall ensue in the written form. In the event of a removal being put to the vote, the Member concerned shall abstain, after having been heard.

8.11. The Foundation Board, its Members and Substitutes shall be liable only for intentional or grossly negligent breach of duty.

MAR-00023

9. Signature Rights

Initially, signature rights shall be determined by the Founder in the Formation Deed and subsequently, by the Foundation Board.

10. Beneficiaries of the Foundation

10.1. The Beneficiaries of the Foundation and the content of the beneficial interest shall initially be determined by the Founder and subsequently by the Foundation Board. The detailed regulation shall ensue in the By-Laws.

10.2. Under no circumstances shall an actionable legal claim accrue from this beneficial interest. Any disposal of beneficial interest, with or without valuable consideration, shall be excluded.

10.3. The beneficial interest acquired without valuable consideration may not be withdrawn from the Beneficiaries by way of injunction, levy of execution and writ or bankruptcy proceedings and their beneficial interest may be neither taken in execution nor attached (Art. 567 PGR).

11. Amendment of the Articles and By-Laws

11.1. The Foundation Board shall be authorized to supplement, amend and revise the Articles and By-Laws. The By-Laws shall have the same legal effect as the Articles.

11.2. In order to be valid, the resolutions mentioned in the above paragraph require unanimity and the written form. In so far as such resolutions concern the Articles, they shall be attested by a public act.

12. Obligation to Disclose, Right of Inspection and Observance of Secrecy

12.1. In respect of Beneficiaries, but not Remaindermen ("Anwartschaftsberechtigte"), the Foundation Board shall be obliged upon the Beneficiaries' written demand and as far as their rights are concerned,

- to provide them equitably with information about all relevant facts and circumstances, to report at reasonable intervals and submit accounts, and

- at the Beneficiaries' expense, to permit inspection of all books of account and business records.

MAR-00024

12.2. Should the Foundation Board be of the opinion that the information demanded is being used with wrongful or inadmissible intent or in a manner which could be at variance with the interests of the Foundation or the Beneficiaries, then the Foundation Board shall not provide the requested information. The Foundation Board shall decide at its discretion whether these prerequisites exist.

12.3. Unless the Foundation Board unanimously agrees that such disclosure could be in the interest of the Foundation or the Beneficiaries, these Articles, the By-Laws (if any) or any actual or legal relationship whatsoever concerning the Foundation shall not be disclosed to third parties.

13. Legal Representative

Initially, the Legal Representative of the Foundation shall be appointed by the Founder in the Formation Deed and subsequently, by the Foundation Board.

14. Remuneration

The Legal Representative, the Members of the Foundation Board and the persons authorized by them shall be entitled to a remuneration in accordance with local and professional usage as well as to the reimbursement of their out of pocket expenses.

15. Conversion

By means of a resolution passed unanimously, the Foundation Board shall be authorized to convert the Foundation into an Establishment or a Registered Trust Enterprise in the event that circumstances have changed to such an extent that a conversion is warranted in the interest of the Foundation or its Beneficiaries.

16. Legal Effect (Salvatorische Klausel)

Should individual provisions of the Articles, By-Laws or other Foundation documents prove to be invalid, the legal effect of the Foundation shall not be affected thereby. An invalid provision shall be replaced in accordance with the intent and object of the Foundation; loopholes shall be closed appropriately.

MAR-00025

17. Interpretation of the Articles

17.1. The Articles and By-Laws shall be interpreted according to their meaning and purpose. In case of doubt, interpretation shall be based on the presumed intention of the Founder and in this case the intermediate development shall be taken into consideration.

17.2. If the Articles and/or By-Laws and/or other Foundation documents are available in different languages the German text is decisive in case of doubt.

18. Dissolution of the Foundation

18.1. In the event of substantial changes in the circumstances under which the Foundation was formed, or if the Foundation's object can no longer be meaningfully achieved, the Foundation Board shall be authorized by means of a resolution passed unanimously to dissolve the Foundation. The Foundation Board shall decide at its discretion whether these prerequisites exist.

18.2. If as a result of certain events, such as economic or political measures, public or private law legislation or any other extraordinary events, the Foundation assets might be jeopardized or enjoyment of the beneficial interest rendered impossible, the Foundation Board shall be authorized to take appropriate defensive measures, including if necessary the transfer abroad of the domicile or the dissolution of the Foundation.

18.3. In the event of the Foundation being liquidated, the Foundation Board shall upon passing the resolution to dissolve the Foundation, appoint one or several liquidators and determine their representative authority.

18.4. In the event of the Foundation being dissolved, the Foundation assets shall be allocated pursuant to the provisions concerning beneficial interest. In the absence of such provisions the Foundation Board shall pass a resolution concerning the allocation of the Foundation assets, which resolution must also be passed unanimously.

19. Court of Arbitration

19.1. All disputes arising from the Foundation relationship shall be settled by a court of arbitration comprised of three persons, under exclusion of the ordinary courts.

MAR-00026

19.2. Each of the parties to the dispute shall appoint an arbitrator, who shall mutually co-opt a chairman. If one of the arbitrators is not appointed within a period of one month or if the two arbitrators fail to agree on the appointment of the chairman, the appointment shall be made by the Princely Court of Justice (Fürstlich Liechtensteinisches Landgericht) in Vaduz, upon petition by one of the parties to the dispute.

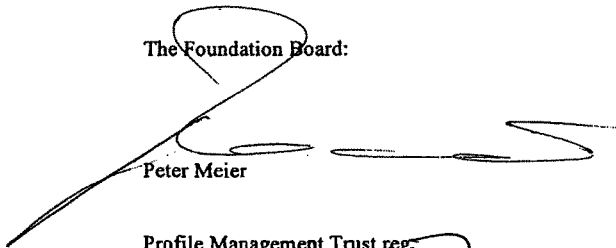
19.3. Once constituted, the court of arbitration shall also be competent for any other disputes arising from the Foundation relationship and involving the same two parties, as long as such dispute is pending in court.

19.4. The decisions of the court of arbitration shall be final.

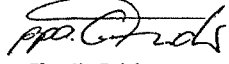
19.5. The proceedings of the court of arbitration as well as all other legal relationships, in particular the objection to an arbitrator, are subject to the provisions of the Rules of civil practice (Liechtensteinische Zivilprozessordnung). The costs of the proceedings shall be determined by the court of arbitration.

Vaduz, October 19, 2000

The Foundation Board:


Peter Meier

Profile Management Trust reg.


Claudia Frick
Senior Officer


Marcel Telser
Director

MAR-00027



STATUTES
of
LINCOL Foundation

§ 1

Name

Under the name of

LINCOL Foundation

a Foundation has been formed as an independent legal entity, pursuant to these Statutes and pursuant to art. 552 et seq. of the Liechtenstein Civil and Companies Act.

§ 2

Duration

The Foundation is established for a permanent period of time.

§ 3

Domicile and Applicable Law

The domicile of the Foundation is Vaduz, Principality of Liechtenstein.
The Foundation Council may at any time by simple majority resolution, under observance of the legal and statutory provisions, transfer the domicile to another place at home and abroad.

All legal relationships of the Foundation are governed solely by Liechtenstein Law.

§ 4

Objects

The Foundation's objects are

- 1) the providing of means for
 - a) the upbringing and education
 - b) the accommodation and support
 - c) the livelihood in general
- 2) the economic support in the widest sense

of the members of certain families as well as the pursuance of similar objects.

The Foundation may further or in addition undertake distributions outside the family circle to certain or determinable natural or juridical persons, to institutions and the like, or grant such persons or institutions other economic advantages.

Within the scope of the administration of its assets the Foundation may conduct all legal transactions which serve the pursuance and realisation of its objects. Trade according to commercial manner is not conducted.

§ 5

Withdrawal of beneficial interest

Revenues deriving from the Foundation's assets as well as any beneficial interest as such may not be withdrawn from a member of the Class of Beneficiaries by creditors by way of injunction, levy of execution and writ, bankruptcy or probate proceedings.

§ 6

Foundation Fund

- a) The Foundation Fund is CHF 30.000.-- (in words: Swiss francs thirtythousand).
- b) The Foundation assets may at any time be increased without limitation, by donations from the Founder or third parties, whereby such donations shall be allocated to the Foundation Fund or reserve.

§ 7

Beneficial interest

- a) Upon formation of the Foundation, the Founder determines the Class of Beneficiaries. At the same time, the Founder may specify the prerequisites and the content of any beneficial interest as well as the prerequisites and the procedure of the eventual appointment of beneficiaries.

Thereafter and subject always to any terms already defined by the Founder, the Foundation Council has the authority, at its absolute and complete discretion to appoint beneficiaries out of the Class of Beneficiaries, to determine the prerequisites of any such beneficial interest as well as the content thereof, and also to amend and/or revoke any such beneficial interest.

- b) The members of the Class of Beneficiaries shall have no legal claim to dissolution of the Foundation, to certain items or to division of the Foundation assets, nor distribution of income and/or capital assets of the Foundation nor any right whatsoever to institute legal proceedings against the Foundation.
- c) Distributions effected by the Foundation Council to any appointed Beneficiary are made on condition that
 - 1) such distribution is not subject to measures which in the opinion of the Foundation Council have a prohibitive or confiscatory effect;
 - 2) pursuant to the laws of the country of residence, the appointed Beneficiary may freely dispose of such amount payable to him, and that all distributions in cash shall not be subject to forced conversion into domestic currency at compulsory rates of exchange.
- d) All dispositions by a member of the Class of Beneficiaries, in particular relating to distributions granted out of the Foundation assets to such member, shall not be subject to and definitely be excluded from the marital power which may exist or result from any marriage.

Organisation of the Foundation

1. The Foundation Council

- a) The Foundation Council is the supreme authority of the Foundation. It consists of at least two members, who may either be natural or juridical persons.

The term of office of the Foundation Council is unlimited.

Every Member of the Foundation Council shall appoint a Substitute for his representation in Council meetings in case of hindrance. The appointment of a Substitute requires the consent of the Foundation Council.

The Foundation Council may appoint a Substitute should a Member of the Council not undertake such appointment within four weeks upon assuming his office.

Substitutes have no authority to represent the Foundation.

- b) The Foundation Council administers the Foundation and represents it vis-à-vis third parties.

The Foundation Council may delegate the exercise of certain powers to third parties and appoint agents.

- c) The Foundation Council meets as often as necessary or expedient upon invitation of a Member or the President, if appointed. The President shall convene a meeting when a Member submits such request together with the proposed agenda. Any Member may call a meeting should the President not meet this obligation.

The convocation of the Foundation Council shall be made known by registered letter. The notification shall include place, time and agenda and shall be issued at least 10 days before the meeting calculated from the day of dispatch. In urgent circumstances the term for notification may be reduced.

Should all Members of the Foundation Council be present or duly represented by a Substitute the meeting is duly constituted and in quorum without observing the afore-said formalities.

- d) The President takes the chair. If not appointed or in his absence, the Member of the Council, eldest in age, may take the chair. In the event that Substitutes only be present the meeting itself shall appoint the Chairman.

- e) The Foundation Council is in quorum when all Members are personally present or duly represented by their Substitutes.

Should a quorum not be achieved, upon request of a Member a new meeting with the same agenda shall be convened, not earlier than five and no later than ten days, calculated from the date of the first meeting. At this second meeting a quorum is achieved notwithstanding the number of Members present or represented.

- f) Unless the Statutes specify to the contrary resolutions require the simple majority of all Foundation Council Members or Substitutes.
- g) The Foundation Council may also pass resolutions in writing on proposals. Such resolutions by circular letter require unanimity of the Members of the Foundation Council. Substitution is not permitted.
- h) Foundation Council's resolutions shall be minuted, such Minutes to be signed by the Chairman and Secretary. The Secretary appointed by the Chairman need not be a Member of the Foundation Council.
- i) The liability of the Foundation Council, its Members and their Substitutes shall be limited to intentional malfeasance and gross negligence.
- k) The Foundation Council has the right of coopting further Members; this requires unanimity of the Members in office. Substitutes are appointed pursuant to sub-section 1.a).
- l) A Member of the Foundation Council may resign office at any time and with immediate effect without giving reason. The same applies to Substitutes.

In the event of a Substitute's resignation the replacing Substitute shall be appointed pursuant to sub-section 1.a).

- m) In exclusion of other legal provisions, a Member of the Council may only be removed for important reasons and upon request of the participants by the Register Office.

A Member of the Foundation Council may remove his Substitute at any time without giving reason. The replacing Substitute shall be appointed pursuant to sub-section 1.a).

- n) The retirement of a Member of the Foundation Council results in the automatic retirement of his Substitute.
- o) Upon assuming office or at a later date, every Member of the Foundation Council shall appoint a Successor for the event of incapacity to act, decease, or for the case of retirement for any other reason. The appointment of a Successor may be revoked at any time by the appointing Member and requires in each and every case the consent of the Foundation Council.

In the event that no Successor has been appointed by a Member the Foundation Council itself may appoint the Successor. Should for any reason no Member of the Foundation Council be in office and no Successor appointed, the Register Office shall appoint the replacing new Members of the Council upon proposal of the Legal Representative, a participant, or of the auditors.

2. Other Authorities

Upon the formation of the Foundation, the Founder and thereafter the Foundation Council is entitled to appoint further authorities, such as auditors and the like, and to determine their powers and duties, if not already determined in these Statutes.

§ 9

Signatories and manner of signing

The Foundation Council determines the authorisation to sign for its Members and agents.

Lawful signing on behalf of the Foundation occurs in such manner, that the signatory or signatories affix the signature to the Foundation wording.

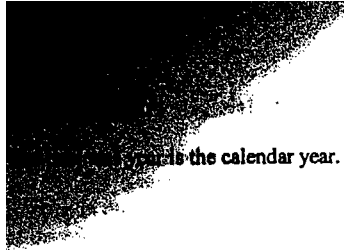
§ 10

Administration and Investment

If not resolved otherwise by the Foundation Council the Foundation assets are to be administered at the seat of the Foundation.

The manner of the administration and investment of the Foundation assets is not and shall not be prescribed, inasmuch that future developments cannot be foreseen. The Foundation Council is therefore, disbaring other legal provisions, in no way restricted in the administration and investment of the assets but shall act at its absolute and complete discretion. There is no obligation on the part of the Foundation Council to insure the Foundation assets.

§ 11



the calendar year.

§ 12

Auditors

The Auditors, if appointed, shall submit to the Foundation Council a written report concerning their examination, and proposal. In addition, the Auditors shall supervise the observance of the terms and provisions of the Statutes and of the Bye-Laws, if any.

§ 13

Information and Secrecy

The Foundation Council is not obliged to disclose information, to report to or to render accounts to members of the Class of Beneficiaries relating facts and relationships of the Foundation.

In case the Foundation Council decides at its absolute and complete discretion to furnish any member(s) of the Class of Beneficiaries with information or reports of any kind or with accounts the exercise of such discretion shall not confer any immediate or future right to such Beneficiary(ies) or to any other member(s) of the Class of Beneficiaries to receive information reports and/or accounts.

However, the Foundation Council is not entitled to disclose any such information report and/or accounts when prevailing circumstances lead the Foundation Council to the conclusion that an information may be used with an improper or unlawful intent or detrimental to the Foundation or the members of the Class of Beneficiaries.

The Foundation's Statutes and/or Bye-Laws as well as any legal facts and aspects of the Foundation must not be drawn to the attention of outside parties, especially foreign authorities, unless the Foundation Council unanimously considers such in the interests of the Foundation or the members of the Class of Beneficiaries.

§ 14

Forfeiture of beneficial interest

Whoever wholly or partly, directly or indirectly, contests this Foundation as such, its formation or its existence, Statutes or Bye-Laws, endowments irrespective of donor as well as resolutions by its authorities that are validly based on law, Statutes or Bye-Laws, shall be excluded from the Class of Beneficiaries with retrospective effect.

The meaning "contestation" shall also include the institution of legal proceedings before a domestic or foreign authority.

The Foundation Council may accept the respective person again as member of the Class of Beneficiaries if this person withdraws or discontinues absolutely such contestation.

§ 15

Amendment of Statutes, Issuance and Amendment of Bye-Laws

- a) The Foundation Council, under observance of the legal requirements, is entitled to supplement and/or amend the Statutes including the Foundation's objects and organisation.
- b) Upon formation of the Foundation, the Founder and thereafter the Foundation Council shall be entitled to issue Bye-Laws. Such Bye-Laws shall be in writing and shall be signed by the Founder or after the formation of the Foundation by the Foundation Council. Bye-Laws have the same legal effect as the Statutes.

In addition, the Foundation Council is entitled at its absolute and complete discretion to supplement amend and/or partially or wholly revoke such Bye-Laws.

- c) The written Resolutions pursuant to a) and b) require unanimity of all Members of the Foundation Council.

§ 16

Legal Validity

Should any of the provisions in the Statutes and Bye-Laws be invalid the validity of the Foundation as such, or of any other provisions shall not be affected.

Conversion

The Foundation Council, by means of a unanimous resolution of all Members may convert the Foundation into another legal form, i.e. an establishment or registered trust, should the circumstances have so changed that such be in the Foundation's interests.

Dissolution of the Foundation

The Foundation Council may resolve to dissolve the Foundation if the Foundation was formed so change that the Foundation Council shall be dissolved. Such resolution of the Foundation Council shall be binding on the Foundation Council.

The assets of the Foundation at the time shall be distributed to the members of the Foundation Council and to such extent as determined by the Foundation Council in its complete discretion.

Legal Representative

The Legal Representative shall initially be appointed by the Foundation Council.

These Statutes have been set up in German and English. In case of any doubt the German wording prevails.

Vaduz, the 7th day of June 2005

For the accuracy of the engrossment:

Dr. Peter Marxer
Dr. Peter Goop
The Foundation Council

Vaduz, den 7. Juni 2005

PR. 3100

STADT LIECHTENSTEIN
RECHTSGEBUNG

LINCOL Foundation
The Foundation Council.

Dr. Peter Marxer Dr. Peter Goop

MAR-00048

BYE - LAWS

to the Statutes of

LINCOL FOUNDATION, Vaduz

— = Redacted by the Permanent
 Subcommittee on Investigations

Pursuant to sec. 15 of the Statutes of LINCOL FOUNDATION, Vaduz, of even date, the power to issue By-Laws is with the Foundation Council.

Based upon the foregoing, the Foundation Council hereby adopts the following

BYE - LAWS

concerning the appointment of Protectors and the determination of their powers and duties:

I. Appointment1. Qualifications

- (a) Only natural persons being capable to act and older than 25 years who are, as far as possible, familiar with the family affairs and situation of at least some of the members of the class of beneficiaries of the Foundation, may be appointed as Protectors of the Foundation.
- (b) Members of the Foundation Council may, when in office, not hold the office of a Protector.

2. Number and First Appointment

- (a) At no time there shall be more than three Protectors in office.
- (b) As first Protectors of the Foundation be herewith appointed the following three individuals:
 - 1.) Mr James Albright Marsh jun., born on [REDACTED]
 - 2.) Mr Kerry Michael Marsh, born on [REDACTED]
 - 3.) Mr Shannon Neal Marsh, born on [REDACTED]

3. Appointment of Additional and Successor Protectors

- (a) As long as there are less than three Protectors in office, the Protector(s) in office shall have the power to appoint unanimously at any time additional Protectors in order to bring the number of Protectors in office up to three, subject to the following Sub-Clause (b).
- (b) Each Protector ("the Appointor") shall have the power to appoint a Successor

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 123

MAR-00035

Protector (the "Appointee") to become Protector in case that he ceases to be a Protector. In addition, each Protector shall have the power, but no obligation, to revocably or irrevocably appoint a Substitute Successor Protector to become Protector in case the Appointee shall for any reason whatsoever not become Protector on the occasion of the Appointor's ceasing to be a Protector. If more than one Substitute Successor Protectors are appointed, the Appointor has to indicate the priority within the Substitute Successor Protectors. If no priority is indicated, the eldest candidate prevails over the younger ones. No Protector however, shall have the power to appoint a Successor Protector to become Protector in case that his Appointee ceases to be a Protector after having assumed the office of a Protector.

Should all Protectors in office cease to be Protectors at the same time or should the only Protector in office cease to be Protector and should not at least one Successor Protector have been appointed, these By-Laws shall expire and the Foundation shall henceforth continue to exist without a Protector, unless otherwise unanimously resolved by the Foundation Council.

II. Term of Office and Resignation

1. Term of Office

Subject to the special provisions as contained herein the Protectors are appointed for lifetime.

2. Termination of Term of Office for Specific Reasons

The Term of Office of any Protector terminates by operation of law upon the death, incapacity or bankruptcy of such a Protector, furthermore, if he or she is sentenced for a felony or declared death by a competent court.

3. Resignation

Each Protector shall be entitled to resign his/her office at any time without giving reason by means of a written notice to the Foundation Council and the Co-Protector (if any).

4. Procedure if more than one Protector is in office:

The Protectors in office form the Protectors' Committee.

The Protectors' Committee will meet as often as necessary or purposeful upon invitation by one Protector.

The Protectors' Committee shall hold a meeting in quorum. A quorum shall consist of all the Members in office.

Should a quorum not be achieved, a new meeting shall be convened, upon demand of at least one Member, and at least two Members shall form a quorum in such meeting.

The Protectors' Committee shall pass resolutions by a simple majority provided that at least two Members are voting for such resolution, unless otherwise provided in this By-Statute or other By-Statutes. The Protectors' Committee may also pass circular letter resolutions, which require unanimity.

The Members' liability shall be limited to deliberate or grossly negligent malfeasance.

5. Representatives

Each Protector is entitled to be represented at a meeting by a representative duly authorized by a written proxy. Representatives are however not entitled to sign on behalf of their principal on circular letter resolutions.

III. Powers

1. Exclusive Powers

- (a) The Protector(s) shall have the power to remove by resolution any Member of the Foundation Council without giving reasons and with immediate effect. The exercise of this power results in the automatic retirement of the Substitute of the removed Member, if any, regardless whether such Substitute has been appointed by the removed Member himself/herself or by the Foundation Council.
- (b) The Protector(s) shall have the power to appoint by resolution new Members of the Foundation Council in replacement of the Members having been removed by the Protector(s). The new Members appointed by the Protector(s) in exercise of this power shall prevail over the Successor nominated by the Member having been removed by the Protector(s).

2. Non-exclusive Powers

The Foundation Council shall prior to the exercise of any of the following powers request the prior consent of at least one of the Protector(s):

- (a) Distributions to the beneficiaries;
- (b) Addition of Persons to the Class of Excluded Persons and Removal of persons from such Class;
- (c) The approval of the annual accounts of the Foundation;
- (d) The amendment, supplementation of the Statutes.
- (e) The issuance, the amendment and supplementation or revocation of By-Statutes.
- (f) The dissolution of the Foundation.

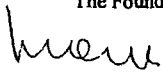
- (g) The transfer of the domicile of the Foundation
- (h) The conversion of the Foundation into an establishment or a registered trust enterprise.
- (i) The fixing of the remuneration of the Members of the Foundation Council.

IV. Amendment

After the formation of the Foundation the provisions of these Bye-Laws may be amended, revoked or supplemented by the Foundation Council at any time with the consent of the simple majority of the Protector(s) in office from time to time.

Vaduz, November 4th, 2004

LINCOL FOUNDATION The Foundation Council: *cu*


Dr. Peter Marxer


Dr. Peter Goop



Die Echtheit der Unterschrift des
Herrn Dr. iur. Peter MARXER, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürstl. Liechtenstein. Landgerichtskanzlei
Vaduz, den 21. JUNI 05 *ms*

Die Echtheit der Unterschrift des
Herrn Dr. Peter GOOP, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürstl. Liechtenstein. Landgerichtskanzlei
Vaduz, den 21. JUNI 05 *ms*

BYE - LAWS

to the Statutes of

LINCOL FOUNDATION, Vaduz

— = Redacted by the Permanent
Subcommittee on Investigations

Pursuant to the provisions of §§ 7 and 14 of the Statutes of LINCOL FOUNDATION, Vaduz, of even date, the Foundation Council herewith adopts the following

BYE - LAWS

concerning the beneficial interest and the distribution of the Foundation Assets in case of dissolution of the Foundation.

I. Class of Beneficiaries**1. General Description**

Distributions, grants, or benefits of any other kind to the debit of the principal assets of the Foundation and/or the income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of:

- a) Mr. James Albright Marsh jun.
born [REDACTED]
- b) the spouse of the individual referred to above under a),
- c) the children of the individual referred to above under a) born from legal wedlock (the "Children") as well as the issue and remoter issue of the Children (the "Issue", the Children together with the Issue are referred to herein as the "Descendants"), or
- d) any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be to the benefit of one or more members of the Class of Beneficiaries pursuant to Sub-Clauses a), b) or c) above not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clauses a), b) and c) above not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Class of Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 123

MAR-00059

2. Issue

issue as used in these Bye-Laws means and includes irrespective of the degree of relationship any and all legitimate issue of the Children including the adopted and legitimised issue but not including the illegitimate issue.

3. Excluded Persons

The Class of Excluded Persons includes and consists of any ex-spouse of a member of the Class of Beneficiaries and of those members of the Class of Beneficiaries as the Foundation Council in its free and absolute discretion by means of a unanimous resolution shall declare revocably or irrevocably to become a member of the Class of Excluded Persons.

The Foundation Council shall have the power and authority at any time and from time to time in its free and absolute discretion by means of a unanimous resolution to declare revocably or irrevocably that a person shall cease to be a member of the Class of Excluded Persons with immediate effect.

II. Appointment of Beneficial Interest

1. General Provisions

The power to appoint a beneficial interest is vested in the Foundation Council. Upon request of a member of the Class of Beneficiaries or his/her representative the Foundation Council in its free and absolute discretion shall decide

- (a) whether, when and for the benefit of which member(s) of the Class of Beneficiaries of the Foundation distributions, grants or other benefits shall be made or awarded;
- (b) to what extent, in which shares and proportions and in which manner distributions, grants or other benefits shall be made or awarded;
- (c) whether distributions, grants or other benefits shall be made or awarded subject to any condition, limitation, restriction and/or other provision;
- (d) whether any distribution, grant or other benefits shall be made or awarded to the debit of the principal assets of the Foundation and/or the income thereof.

2. Legal Position of the Members of the Class of Beneficiaries

- (a) The Foundation Council decides in its free and absolute discretion whether distributions, grants or other benefits shall be made or awarded for the benefit of all members of the Class of Beneficiaries or under the exclusion of the other or others for the benefit of only more members or one member of the Class of Beneficiaries.

- (b) None of the members of the Class of Beneficiaries shall have a legal title vis-à-vis the Foundation as to distributions, grants or other benefits to be made or awarded to the debit of the principal assets of the Foundation and/or the income thereof.
- (c) In case the Foundation Council has in exercise of its power made an appointment for the benefit of a member of the Class of Beneficiaries this appointment may be revoked at any time by the Foundation Council at discretion and such a revocation does not constitute a claim of such a Beneficiary vis-à-vis the Foundation.
- (d) None of the members of the Class of Beneficiaries shall have the right to claim from the Foundation Council to disclose any deliberation of the Foundation Council as to the manner in which the Foundation Council should exercise any power or any discretion conferred upon the Foundation Council or disclosing the reasons for any particular exercise of any such power or discretion or the material upon which such reasons shall or might have been based or any other document relating to the exercise or proposed exercise of any such power or discretion.

3. No Duty to Appoint a Beneficial Interest

- a) The Foundation Council is not obliged to exercise its power to appoint a beneficial interest and no member of the Class of Beneficiaries shall have a right to demand the exercise of such power by the Foundation Council.
- b) Insofar and inasmuch as the Foundation Council has not exercised its power to appoint a beneficial interest, distributions, grants as well as other benefits shall not take place.

Income of a business year not distributed by the Foundation within twenty-four (24) months after the close of such business year shall be added to the principal assets of the Foundation Fund.

III. Termination of the Foundation

1. Extinction of the (contingent) Class of Beneficiaries

In case there should no longer be any members of the Class of Beneficiaries and no longer any members of the Class of Excluded Persons who could - provided that certain conditions will occur - become a member of the Class of Beneficiaries the Foundation has fulfilled its purpose and has to be dissolved by the Foundation Council.

The Foundation Assets existing at that time shall then be distributed to the Karolinska Institute in Stockholm to be used for and disposed of the research of children's cancer and the benefit of children with cancer.

2. Dissolution for Other Reasons

Should the Foundation be dissolved for other reasons the Foundation Council shall in its free and absolute discretion decide for the benefit of which members or member of the Class of Beneficiaries (for the benefit of all or under the exclusion of the other or others for the benefit of more or only one of those members) and in which shares and manner the Foundation Assets existing at that time shall be distributed.

3. Cancellation of the Foundation

In case of cancellation of the Foundation the above provisions concerning the distribution of the remaining Foundation Assets shall be applied similarly.

4. Transfer of the Foundation Assets in Whole

The Foundation Council shall have the power to transfer the Foundation Assets to another legal entity or a trust organised under the laws of the Principality of Liechtenstein or a foreign country or to use them for the creation of such a legal entity or such a trust provided always that as a result of the exercise of this power the objects and purposes of the Foundation may be more sensibly achieved.

By means of such an action the unamendable provisions of the Statutes and Bye-Laws may not be amended and especially the regulations concerning the beneficial interest may not be affected thereby.

After the transfer of the Foundation Assets according to the preceding provisions has been effected the Foundation shall be terminated.

IV. Amendment of Bye-Laws

The provisions of these Bye-Laws may be amended and/or revoked by the Foundation Council at any time and from time to time provided always that such amendment or revocation may not contradict the objects and purposes of the Foundation.

Vaduz, June 9th, 2005

LINCOL FOUNDATION
The Foundation Council: *HN*



Die Echtheit der Unterschrift des Dr. Peter Marxer
Herrn Dr. iur. Peter MARXER, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürstl. Liechtenstein. Landgerichtskanzlei
Vaduz, den 21. JUNI 05

Dr. Peter Goop
Dr. Peter Goop

Die Echtheit der Unterschrift des
Herrn Dr. Peter GOOP, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürstl. Liechtenstein. Landgerichtskanzlei
Vaduz, den 21. JUNI 05

BY-LAWS

— = Redacted by the Permanent
Subcommittee on Investigations

to the Statutes of**LINCOLN FOUNDATION, VADUZ**

Pursuant to the provisions of §§ 7 and 15 of the Statutes of LINCOLN FOUNDATION, Vaduz, dated June 7, 2005 the Foundation Council herewith adopts the following

BY-LAWS

Concerning the beneficial interest and the distributions of the Foundation Fund in case of dissolution of the Foundation.

1. During the lifetime of James A. Marsh, Jr. distributions, grants or benefits of any other kind to the debt of the principal assets of the Foundation and/or income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of
 - a) Mr. James A. Marsh, Jr.
born on [REDACTED]
resident at [REDACTED]
 - b) his spouse
Mrs. Anna S. Marsh
born on [REDACTED]
resident at [REDACTED]
 - c) the children of James A. Marsh, Jr. born from legal wedlock (the "Children") as well as the issue and remoter issues of the Children (the "Descendants") or
 - d) any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be for the benefit of one or more members of the Class of Beneficiaries pursuant to Sub-Clause a), b) or c) hereinbefore not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clause a), b) or c) not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.
2. In case of death of James A. Marsh Jr., his descendants, James Marsh, [REDACTED] and [REDACTED] shall receive upon their request from the principal assets of the Foundation the sum, in the aggregate, of \$1,333,333.33 (One Million Three Hundred Thirty Three Thousand Three Hundred Thirty Three United States Dollars and Thirty Three United States Cents) (the "Exempt Amount"), to be divided among them in equal shares and per stirpes (it being noted that Kerry M. Marsh and Shannon Neal Marsh are not listed in this Clause 2 as sharing in the aforesaid Exempt Amount because they will receive their equal shares of the additional \$666,666.67 Exempt Amount from a separate foundation for their benefit).
3. Also in case of the death of James A. Marsh, Jr., if any assets of the Foundation shall be included in the gross estate of James A. Marsh, Jr. for U.S. federal estate tax purposes or for purposes of any other estate, inheritance and other death taxes and duties (the "Taxable Assets"); then the Foundation Council may, but only to the extent of the Taxable Assets, pay that portion of such taxes (exclusive, however, of any generation-skipping transfer taxes

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 123

MAR-00063

— = Redacted by the Permanent
Subcommittee on Investigations

imposed on any direct skip resulting from the death of James A. Marsh, Jr.) that is equal to the difference between the amount of such taxes actually imposed upon the estate of James A. Marsh, Jr. and the amount of such taxes which would have been imposed upon the estate of James A. Marsh, Jr. if there were no Taxable Assets.

In addition, in the case of the death of James A. Marsh, Jr., the Foundation Council shall pay to the executors, administrators or personal representatives of the estate of the James A. Marsh, Jr. such sum or sums as such executors, administrators or personal representatives may from time to time certify to the Foundation Council as being required to pay part or all of any unpaid income, gift or generation-skipping transfer taxes imposed by the United States of America or any governmental unit or subdivision thereof on James A. Marsh, Jr. during his lifetime and for which the estate of James A. Marsh, Jr. or the Foundation or any beneficiary or member of the class of beneficiaries of the Foundation may be liable under applicable U.S. tax laws with respect to the assets or the income of this Foundation during any portion of or all of its existence up through and including the date of the settlement of any and all such tax liabilities with respect to any IRS audit involving this Foundation and/or its beneficiaries.

The Foundation Council shall be protected in making any payment of taxes under this Clause 3 in relying upon a written statement furnished by the executors, administrators or personal representatives of the estate of the James A. Marsh, Jr. as to the amount of any such taxes which may be due, and shall be under no duty to contest the same or to inquire into the correctness of any such written statement. Any reference to "taxes" in this Clause 3 shall include any related interest and penalties on the taxes otherwise payable under this Clause 3.

4. Also in case of the death of James A. Marsh Jr., after paying or providing for the distribution of the Exempt Amount as required by Clause 2 and any tax payments pursuant to Clause 3 hereinbefore, the surviving spouse

Mrs. Anna S. Marsh
born on [REDACTED]
resident [REDACTED]

shall be the sole beneficiary during her lifetime and, except as provided in Clause 2 and 3, no distributions shall be paid to any person other than to Mrs. Anna S. Marsh during her lifetime. Her beneficial interest shall be limited to all of the Net Income of the Foundation Fund, earned on or after the date of death of James A. Marsh Jr. until the date of death of Mrs. Anna S. Marsh, payable at least quarter annually. Net Income for any period shall mean the greater of:

- a) all the fiduciary accounting income of the Foundation Fund for such period after deduction of any and all costs, taxes, duties expenses etc. properly allocable to such income determined as if the Foundation were a trust established under the laws of the State of Florida, U.S.A. and governed by the Uniform Revised Principal and Income Act of the State of Florida as in effect for such period; and
- b) the "distributable net income" of the Foundation for such period determined pursuant to Section 643(a) of the the United States Internal Revenue Code of 1986, as amended (the "U.S. Code"), on the basis that the Foundation is a "foreign trust" for purposes of the United States federal income tax pursuant to Section 7701(a)(31)(B) of the U.S. Code.

It shall be within the discretion of the Foundation Council to also distribute part or the total of the Foundation Fund, other than income, to Mrs. Anna S. Marsh for her health, maintenance or support in accordance with a liberal application of this provision.

5. In the event of the death of Anna S. Marsh, if any assets of the Foundation shall be included in the gross estate of Anna S. Marsh for U.S. federal estate tax purposes or for purposes of any other estate, inheritance and other death taxes and duties (the "Taxable Assets"), then, unless Anna S. Marsh shall provide otherwise by her Will, the Foundation Council shall, but only to the extent of the Taxable Assets, pay that portion of such taxes that is equal to the difference between the amount of such taxes actually imposed upon the estate of Anna S. Marsh and the amount of such taxes which would have been imposed upon the estate of Anna S. Marsh if there were no Taxable Assets. The Foundation Council shall be protected in making any payment of taxes under this Clause 5 in relying upon a written statement furnished by the executors, administrators or personal representatives of the estate of the Anna S. Marsh as to the amount of any such taxes which may be due, and shall be under no duty to contest the same or to inquire into the correctness of any such written statement. Any

— = Redacted by the Permanent
Subcommittee on Investigations

reference to "taxes" in this Clause 5 shall include any related interest and penalties on the taxes otherwise payable under this Clause 5.

6. Upon the death of Anna S. Marsh distributions, grants or benefits of any other kind to the debt of the principal assets of the Foundation and/or the income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of

- a) Kerry M. Marsh, Shannon Neal Marsh, James G. Marsh, [REDACTED] and [REDACTED] in equal shares and per stirpes or, in case any of those Children of James A. Marsh Jr. who shall die without leaving any descendants, as provided in Sub-Clause c) hereof.
- b) to any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be for the benefit of one or more members of the Class of Beneficiaries pursuant to Clause 6 lit a) hereinbefore not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clause a) not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.
- c) Should any of Kerry M. Marsh, Shannon Neal Marsh, James Marsh, [REDACTED] and [REDACTED] die or predecease his/her share of beneficial interest shall be for the benefit of his/her descendants in equal shares and per stirpes. In case any of them shall die without leaving any descendants his/her share of beneficial interest shall be for the benefit of the his surviving brothers and sisters in equal shares or in case of their predecease for the benefit of their descendants in equal shares and per stirpes.

7. Descendant

Descendant means and includes any and all legitimate issue of the Children, irrespective of the degree of relationship, including adopted and legitimated issues, but not including illegitimate issues.

8. Effective Date of these By-Laws

These By-Laws shall be considered to be effective with retrospective effect to June 15, 2006.

9. Excluded Persons

The Class of Excluded Persons includes and consists of any ex-spouse of a member of the Class of Beneficiaries and of those members of the Class of Beneficiaries who the Foundation Council in its free and absolute discretion declares by unanimous resolution revocably or irrevocably to be excluded from the Class of Beneficiaries.

The Foundation Council shall have the power and authority at any time and from time to time in its free and absolute discretion by means of a unanimous resolution to declare revocably or irrevocably that a person shall cease to be a member of the Class of Excluded Persons with

immediate effect.

10. Limitation of the Discretion of the Foundation Council

The Foundation Council shall have no discretion in relation to the provisions of Clause 2 and 4 hereinabove. To the contrary, the beneficiaries named in Clause 2 shall have an enforceable claim against the Foundation in relation to the Exempt Amount. The same shall be true for Anna S. Marsh in relation to the annual Net Income of the Foundation pursuant to Clause 4.

11. Appointment of the Beneficial Interest

Except as provided in Clauses 2, 4 and 6 hereinabove, the power to appoint a beneficial interest is vested in the Foundation Council. Upon request of a member of the Class of Beneficiaries or his/her representative the Foundation Council shall decide in its free and absolute discretion

- a) whether, when and for the benefit of which member(s) of the Class of Beneficiaries of the Foundation distributions, grants or other benefits shall be made or awarded;
- b) to what extent, in which shares and proportions and in which manner distributions, grants or other benefits shall be made or awarded;
- c) whether any distributions, grants or other benefits shall be made or awarded subject to any condition, limitation, restriction and/or other provision;
- d) whether any distribution, grant or other benefits shall be made or awarded to the debit of the principle assets of the Foundation and/or the income thereof.

12. Except as provided in the provisions of Clauses 2, 4 and 6 hereinabove, the legal position of the members of the Class of Beneficiaries is the following:

- a) Except as provided in Clauses 2, 4 and 6 hereinabove, the Foundation Council decides in its free and absolute discretion whether distributions, grants or other benefits shall be made or awarded for the benefit of all members of the Class of Beneficiaries or under the exclusion of one or more for the benefit of some or only one member of the Class of Beneficiaries.
- b) Except as provided in Clauses 2, 4 and 6 hereinabove, none of the members of the Class of Beneficiaries shall have a legal title vis-à-vis the Foundation as to distributions, grants or other benefits to be made or awarded to the debit of the principle assets of the Foundation and/or income thereof.
- c) None of the members of the Class of Beneficiaries shall have the right to claim from the Foundation Council to disclose any deliberation of the Foundation Council as to the manner in which the Foundation Council should exercise any power or any discretion conferred upon the Foundation Council or disclosing the reasons for any particular exercise of any such power or discretion or the

Information upon which such reasons shall or might have been based or any other document relating to the exercise or proposed exercise of any such power or discretion.

13. Except as provided in Clauses 2, 4 and 6 hereinabove the Foundation Council has no Duty to Appoint a Beneficial Interest

- a) Except as provided in Clauses 2, 4 and 6 hereinabove, the Foundation Council is not obliged to exercise its power to appoint a beneficial interest and no member of the Class of Beneficiaries shall have a right to demand the exercise of such power by the Foundation Council.
- b) Insofar and inasmuch as the Foundation Council has not exercised its power to appoint a beneficial interest, distributions, grants as well as other benefits shall not take place.

14. Termination of the Foundation

In case there shall no longer be any member of the Class of Beneficiaries and no longer any members of the Class of the Excluded Persons who could – provided the Foundation Council so decides – become a member of the Class of Beneficiaries, the Foundation has fulfilled its purpose and has to be dissolved by the Foundation Council, then the Foundation Fund existing at the time shall be distributed to the American Cancer Society in the United States to be used for and disposed of the research of children's cancer and the benefit of children with cancer.

Should the Foundation be dissolved for other reasons, the Foundation Council shall distribute the Foundation Fund existing at the time in accordance with Clause 6 hereinabove.

The Foundation Council shall have the power to transfer the Foundation Fund to any other legal entity or trust organised under the laws of Liechtenstein or of any foreign country or to use them for the creation of such legal entity or trust provided always that as a result of the

exercise of this power the objects and purposes of the Foundation may be more sensibly achieved.

By means of such an action the unamendable provisions of the Statutes and By-Laws may not be amended and especially the provisions concerning beneficial interest may not be affected thereby.

15. Amendment of the By-Laws

These By-Laws may be amended, revoked or supplemented by the Foundation Council at any time prior to the death of James A. Marsh, Jr. with the consent of the Protector(s) in office from time to time.

Following the death of James A. Marsh, Jr., if he is survived by Anna S. Marsh, these By-Laws, except as provided in this amendment executed this 11 day of September, 2007 (effective with retrospective effect to

June 15, 2006), thereafter shall be irrevocable and may not be amended or revoked, or supplemented in a manner to limit or revoke any rights or privileges granted to (1) the named beneficiaries in Clause 2, (2) Anna S. Marsh by these By-Laws, in particular under Clause 4 hereof, and (3) the Children of James A. Marsh Jr., in particular under Clause 6 hereof. Thus, with the exception of the provisions providing for the beneficial interest of the specified beneficiaries in Clause 2, Anna S. Marsh in Clause 4 and the Children of James A. Marsh Jr. in Clause 6, which shall be unamendable, the provisions of these By-Laws may be amended and/or revoked by the Foundation Council at any time and from time to time with the consent of the Protector(s) provided always that such amendment or revocation may not contradict the objects and purposes of the Foundation.

Vaduz, September 11, 2007
AT91/VSA/BNi


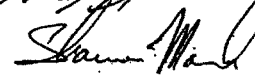
LINCOL FOUNDATION
The Foundation Council

Sascha Valenta

KRP Corporate Services Trust reg.

Ester Blanco Nicole Biedermann

MLADMS/111765.11

read and approved 
Read and Approves 

*erhalten von LGT
16.12.04*

Articles

FONDATION CHATEAU, Vaduz

1. Name

Under the name

FONDATION CHATEAU

there exists as from June 25, 1985 a Foundation with independent legal personality pursuant to Art. 552 et seq. of the Liechtensteinisches Personen- und Gesellschaftsrecht (PGR).

2. – Domicile and Legal Venue

2.1. The domicile of the Foundation shall be Vaduz in the Principality of Liechtenstein, where the Foundation shall also have its ordinary legal venue.

2.2. By means of a resolution passed unanimously and with observance of the legal provisions and the provisions contained in these Articles, the Foundation Board may at any time transfer the Foundation's domicile to another place, at home or abroad.

2.3. All the legal relationships of this Foundation shall be subject exclusively to Liechtenstein law.

3. Duration

The duration of the Foundation shall be unlimited.

4. Object

4.1. The object of the Foundation shall be the economic support of members of certain families as well as, supplementally, of natural and legal persons outside the family circle.

4.2. The Foundation shall be authorized to conclude all transactions that may serve the Foundation's object. Within this frame, the alienation and charging of the Foundation's assets, including the yield, as well as the non-commercial granting of loans and credits shall be admissible. Commercial objects shall not be pursued.

5. Foundation Fund

5.1. The Foundation fund shall amount to CHF 30'000.– (thirtythousand Swiss Francs).

MAR-00575

5.2. The Foundation assets may be increased without limit at any time, by endowments made by the founder or third parties and in this regard, endowments shall be allocated to the Foundation fund or to the reserves and shall be subject in every respect to the provisions contained in these Articles relating to the Foundation fund.

6. Liability and Liability to Make Further Contributions

Only the Foundation's assets shall be liable for the Foundation's obligations. Any liability on the part of the Founder or third parties to make further contributions does not exist.

7. Administration and Investment of the Assets

In so far as the Foundation Board does not determine to the contrary, the Foundation's assets shall be administered at the Foundation's domicile. The Foundation Board may entrust professional property administrators with the administration. Basically, the Foundation Board shall decide at its discretion concerning investment and in this regard is not subject to any legal restrictions; nevertheless, it shall at all times have the Foundation's object in mind.

8. The Foundation's Governing Body

8.1. The Foundation Board shall be the Foundation's sole and supreme Governing Body, which shall be comprised of one or more Members. Where several Members are appointed, they may appoint a President, a Secretary and the like and, at the same time, determine the powers and obligations (Regulations).

8.2. Initially, the Foundation Board shall be appointed by the Founder in the Formation Deed. The appointment by substitution and co-optation as well as the removal of the Foundation Board shall be undertaken by the Foundation Board. In the event of the resignation or removal of all Members of the Foundation Board, new Foundation Board Members shall be appointed by the Princely Court of Justice (Fürstlich Liechtensteinisches Landgericht), Vaduz, after hearing the last remaining Member. The term of office of the Foundation Board Members shall be unlimited.

8.3. Each Foundation Board Member may appoint a substitute who shall represent the Member concerned at Foundation Board Meetings in the event of his inability to attend. Should an appointment not ensue, the Foundation Board may appoint a substitute. Substitutes shall not be authorized to represent. Their mandate shall terminate eo ipso with that of the Foundation Board Member they represent, by earlier revocation or by resignation, which may be tendered at any time without reasons being given.

MAR-00576

8.4. The Foundation Board shall represent the Foundation externally and towards third parties and shall take all steps necessary for the achievement of the Foundation's object. The Foundation Board may transfer to third persons the exercise of power for limited purposes.

8.5. The Foundation Board shall meet as often as business requires. It shall be empowered to pass resolutions if all Members of the Foundation Board are present or duly represented by their substitutes. Minutes shall be kept of all Foundation Board Meetings, representations by substitutes shall be noted. The minutes shall be signed by the Chairman and the Secretary. The latter need not be a Member of the Foundation Board.

8.6. The President or, where a President has not been appointed, the oldest (with regard to age) Member of the Foundation Board, shall summon a meeting of the Foundation Board if a Foundation Board Member so demands and furnishes details of the agenda. Should the requested summons not ensue within ten days, every Member of the Foundation Board shall be empowered to summon a meeting. Summons to attend must ensue in writing, with information relating to place, time and agenda, at least ten days before the meeting is due to take place, calculated from the date of posting. In the event of danger due to delay or with the agreement of all the participants, observance of the standard practice may be waived.

8.7. In the event of a quorum not being present, a new meeting with the same agenda shall be summoned while observing standard procedure. At this second meeting, a quorum shall be deemed to be constituted regardless of the number of Members present or represented.

8.8. Basically, the Foundation Board shall pass all resolutions with a simple majority of votes, in so far as the law, the Articles, the By-Laws or other documents of the Foundation do not determine otherwise. Resolutions may also be passed by circular letter. Such resolutions shall require unanimity; representation shall not be admissible.

8.9. A Foundation Board Member may resign at any time, with immediate effect, without stating reasons.

The removal of the Foundation Board, of individual Members and Substitutes by Beneficiaries of the Foundation (§ 50 Abs 2 Gesetz über das Treuunternehmen) shall be expressly excluded.

8.10. The appointment, removal and resignation of the Foundation Board Members shall ensue in the written form. In the event of a removal being put to the vote, the Member concerned shall abstain, after having been heard.

8.11. The Foundation Board, its Members and Substitutes shall be liable only for intentional or grossly negligent breach of duty.

MAR-00577

9. Signature Rights

Initially, signature rights shall be determined by the Founder in the Formation Deed and subsequently, by the Foundation Board.

10. Beneficiaries of the Foundation

10.1. The Beneficiaries of the Foundation and the content of the beneficial interest shall initially be determined by the Founder and subsequently by the Foundation Board. The detailed regulation shall ensue in the By-Laws.

10.2. Under no circumstances shall an actionable legal claim accrue from this beneficial interest. Any disposal of beneficial interest, with or without valuable consideration, shall be excluded.

10.3. The beneficial interest acquired without valuable consideration may not be withdrawn from the Beneficiaries by way of injunction, levy of execution and writ or bankruptcy proceedings and their beneficial interest may be neither taken in execution nor attached (Art. 567 PGR).

11. Amendment of the Articles and By-Laws

11.1. The Foundation Board shall be authorized to supplement, amend and revise the Articles and By-Laws. The By-Laws shall have the same legal effect as the Articles.

11.2. In order to be valid, the resolutions mentioned in the above paragraph require unanimity and the written form. In so far as such resolutions concern the Articles, they shall be attested by a public act.

12. Obligation to Disclose, Right of Inspection and Observance of Secrecy

12.1. In respect of Beneficiaries, but not Remaindermen ("Anwartschaftsberechtigte"), the Foundation Board shall be obliged upon the Beneficiaries' written demand and as far as their rights are concerned,

- to provide them equitably with information about all relevant facts and circumstances, to report at reasonable intervals and submit accounts, and

- at the Beneficiaries' expense, to permit inspection of all books of account and business records.

MAR-00578

12.2. Should the Foundation Board be of the opinion that the information demanded is being used with wrongful or inadmissible intent or in a manner which could be at variance with the interests of the Foundation or the Beneficiaries, then the Foundation Board shall not provide the requested information. The Foundation Board shall decide at its discretion whether these prerequisites exist.

12.3. Unless the Foundation Board unanimously agrees that such disclosure could be in the interest of the Foundation or the Beneficiaries, these Articles, the By-Laws (if any) or any actual or legal relationship whatsoever concerning the Foundation shall not be disclosed to third parties.

13. Legal Representative

Initially, the Legal Representative of the Foundation shall be appointed by the Founder in the Formation Deed and subsequently, by the Foundation Board.

14. Remuneration

The Legal Representative, the Members of the Foundation Board and the persons authorized by them shall be entitled to a remuneration in accordance with local and professional usage as well as to the reimbursement of their out of pocket expenses.

15. Conversion

By means of a resolution passed unanimously, the Foundation Board shall be authorized to convert the Foundation into an Establishment or a Registered Trust Enterprise in the event that circumstances have changed to such an extent that a conversion is warranted in the interest of the Foundation or its Beneficiaries.

16. Legal Effect (Salvatorische Klausel)

Should individual provisions of the Articles, By-Laws or other Foundation documents prove to be invalid, the legal effect of the Foundation shall not be affected thereby. An invalid provision shall be replaced in accordance with the intent and object of the Foundation; loopholes shall be closed appropriately.

MAR-00579

17. Interpretation of the Articles

17.1. The Articles and By-Laws shall be interpreted according to their meaning and purpose. In case of doubt, interpretation shall be based on the presumed intention of the Founder and in this case the intermediate development shall be taken into consideration.

17.2. If the Articles and/or By-Laws and/or other Foundation documents are available in different languages the German text is decisive in case of doubt.

18. Dissolution of the Foundation

18.1. In the event of substantial changes in the circumstances under which the Foundation was formed, or if the Foundation's object can no longer be meaningfully achieved, the Foundation Board shall be authorized by means of a resolution passed unanimously to dissolve the Foundation. The Foundation Board shall decide at its discretion whether these prerequisites exist.

18.2. If as a result of certain events, such as economic or political measures, public or private law legislation or any other extraordinary events, the Foundation assets might be jeopardized or enjoyment of the beneficial interest rendered impossible, the Foundation Board shall be authorized to take appropriate defensive measures, including if necessary the transfer abroad of the domicile or the dissolution of the Foundation.

18.3. In the event of the Foundation being liquidated, the Foundation Board shall upon passing the resolution to dissolve the Foundation, appoint one or several liquidators and determine their representative authority.

18.4. In the event of the Foundation being dissolved, the Foundation assets shall be allocated pursuant to the provisions concerning beneficial interest. In the absence of such provisions the Foundation Board shall pass a resolution concerning the allocation of the Foundation assets, which resolution must also be passed unanimously.

19. Court of Arbitration

19.1. All disputes arising from the Foundation relationship shall be settled by a court of arbitration comprised of three persons, under exclusion of the ordinary courts.

MAR-00580

19.2. Each of the parties to the dispute shall appoint an arbitrator, who shall mutually co-opt a chairman. If one of the arbitrators is not appointed within a period of one month or if the two arbitrators fail to agree on the appointment of the chairman, the appointment shall be made by the Princely Court of Justice (Fürstlich Liechtensteinisches Landgericht) in Vaduz, upon petition by one of the parties to the dispute.

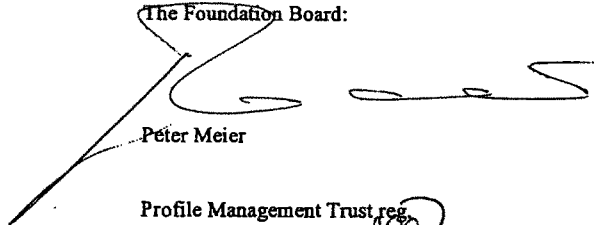
19.3. Once constituted, the court of arbitration shall also be competent for any other disputes arising from the Foundation relationship and involving the same two parties, as long as such dispute is pending in court.

19.4. The decisions of the court of arbitration shall be final.

19.5. The proceedings of the court of arbitration as well as all other legal relationships, in particular the objection to an arbitrator, are subject to the provisions of the Rules of civil practice (Liechtensteinische Zivilprozessordnung). The costs of the proceedings shall be determined by the court of arbitration.

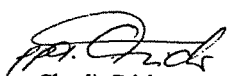
Vaduz, October 19, 2000

The Foundation Board:



Peter Meier

Profile Management Trust reg.



Claudia Frick
Senior Officer



Marcel Telser
Director

MAR-00581



STATUTES

of

Fondation CHATEAU

§ 1

Name

Under the name of

Fondation CHATEAU

a Foundation has been formed as an independent legal entity, pursuant to these Statutes and pursuant to art. 552 et seq. of the Liechtenstein Civil and Companies Act.

§ 2

Duration

The Foundation is established for a permanent period of time.

§ 3

Domicile and Applicable Law

The domicile of the Foundation is Vaduz, Principality of Liechtenstein.

The Foundation Council may at any time by simple majority resolution, under observance of the legal and statutory provisions, transfer the domicile to another place at home and abroad.

All legal relationships of the Foundation are governed solely by Liechtenstein Law.

§ 4

Objects

The Foundation's objects are

- 1) the providing of means for
 - a) the upbringing and education
 - b) the accommodation and support
 - c) the livelihood in general
- 2) the economic support in the widest sense

of the members of certain families as well as the pursuance of similar objects.

The Foundation may further or in addition undertake distributions outside the family circle to certain or determinable natural or juridical persons, to institutions and the like, or grant such persons or institutions other economic advantages.

Within the scope of the administration of its assets the Foundation may conduct all legal transactions which serve the pursuance and realisation of its objects. Trade according to commercial manner is not conducted.

§ 5

Withdrawal of beneficial interest

Revenues deriving from the Foundation's assets as well as any beneficial interest as such may not be withdrawn from a member of the Class of Beneficiaries by creditors by way of injunction, levy of execution and writ, bankruptcy or probate proceedings.

§ 6

Foundation Fund

- a) The Foundation Fund is CHF 30.000,-- (in words: Swiss francs thirtythousand).
- b) The Foundation assets may at any time be increased without limitation, by donations from the Founder or third parties, whereby such donations shall be allocated to the Foundation Fund or reserve.

§ 7

Beneficial interest

- a) Upon formation of the Foundation, the Founder determines the Class of Beneficiaries. At the same time, the Founder may specify the prerequisites and the content of any beneficial interest as well as the prerequisites and the procedure of the eventual appointment of beneficiaries.

Thereafter and subject always to any terms already defined by the Founder, the Foundation Council has the authority, at its absolute and complete discretion to appoint beneficiaries out of the Class of Beneficiaries, to determine the prerequisites of any such beneficial interest as well as the content thereof, and also to amend and/or revoke any such beneficial interest.

- b) The members of the Class of Beneficiaries shall have no legal claim to dissolution of the Foundation, to certain items or to division of the Foundation assets, nor distribution of income and/or capital assets of the Foundation nor any right whatsoever to institute legal proceedings against the Foundation.
- c) Distributions effected by the Foundation Council to any appointed Beneficiary are made on condition that
 - 1) such distribution is not subject to measures which in the opinion of the Foundation Council have a prohibitive or confiscatory effect;
 - 2) pursuant to the laws of the country of residence, the appointed Beneficiary may freely dispose of such amount payable to him, and that all distributions in cash shall not be subject to forced conversion into domestic currency at compulsory rates of exchange.
- d) All dispositions by a member of the Class of Beneficiaries, in particular relating to distributions granted out of the Foundation assets to such member, shall not be subject to and definitely be excluded from the marital power which may exist or result from any marriage.

Organisation of the Foundation

1. The Foundation Council

- a) The Foundation Council is the supreme authority of the Foundation. It consists of at least two members, who may either be natural or juridical persons.

The term of office of the Foundation Council is unlimited.

Every Member of the Foundation Council shall appoint a Substitute for his representation in Council meetings in case of hindrance. The appointment of a Substitute requires the consent of the Foundation Council.

The Foundation Council may appoint a Substitute should a Member of the Council not undertake such appointment within four weeks upon assuming his office.

Substitutes have no authority to represent the Foundation.

- b) The Foundation Council administers the Foundation and represents it vis-à-vis third parties.

The Foundation Council may delegate the exercise of certain powers to third parties and appoint agents.

- c) The Foundation Council meets as often as necessary or expedient upon invitation of a Member or the President, if appointed. The President shall convene a meeting when a Member submits such request together with the proposed agenda. Any Member may call a meeting should the President not meet this obligation.

The convocation of the Foundation Council shall be made known by registered letter. The notification shall include place, time and agenda and shall be issued at least 10 days before the meeting calculated from the day of dispatch. In urgent circumstances the term for notification may be reduced.

Should all Members of the Foundation Council be present or duly represented by a Substitute the meeting is duly constituted and in quorum without observing the afore-said formalities.

- d) The President takes the chair. If not appointed or in his absence, the Member of the Council, eldest in age, may take the chair. In the event that Substitutes only be present the meeting itself shall appoint the Chairman.

- e) The Foundation Council is in quorum when all Members are personally present or duly represented by their Substitutes.

Should a quorum not be achieved, upon request of a Member a new meeting with the same agenda shall be convened, not earlier than five and no later than ten days, calculated from the date of the first meeting. At this second meeting a quorum is achieved notwithstanding the number of Members present or represented.

- f) Unless the Statutes specify to the contrary resolutions require the simple majority of all Foundation Council Members or Substitutes.
- g) The Foundation Council may also pass resolutions in writing on proposals. Such resolutions by circular letter require unanimity of the Members of the Foundation Council. Substitution is not permitted.
- h) Foundation Council's resolutions shall be minuted, such Minutes to be signed by the Chairman and Secretary. The Secretary appointed by the Chairman need not be a Member of the Foundation Council.
- i) The liability of the Foundation Council, its Members and their Substitutes shall be limited to intentional malfeasance and gross negligence.
- k) The Foundation Council has the right of coopting further Members; this requires unanimity of the Members in office. Substitutes are appointed pursuant to sub-section 1.a).
- l) A Member of the Foundation Council may resign office at any time and with immediate effect without giving reason. The same applies to Substitutes.

In the event of a Substitute's resignation the replacing Substitute shall be appointed pursuant to sub-section 1.a).

- m) In exclusion of other legal provisions, a Member of the Council may only be removed for important reasons and upon request of the participants by the Register Office.

A Member of the Foundation Council may remove his Substitute at any time without giving reason. The replacing Substitute shall be appointed pursuant to sub-section 1.a).

- n) The retirement of a Member of the Foundation Council results in the automatic retirement of his Substitute.
- o) Upon assuming office or at a later date, every Member of the Foundation Council shall appoint a Successor for the event of incapacity to act, decease, or for the case of retirement for any other reason. The appointment of a Successor may be revoked at any time by the appointing Member and requires in each and every case the consent of the Foundation Council.

In the event that no Successor has been appointed by a Member the Foundation Council itself may appoint the Successor. Should for any reason no Member of the Foundation Council be in office and no Successor appointed, the Register Office shall appoint the replacing new Members of the Council upon proposal of the Legal Representative, a participant, or of the auditors.

2. Other Authorities

Upon the formation of the Foundation, the Founder and thereafter the Foundation Council is entitled to appoint further authorities, such as auditors and the like, and to determine their powers and duties, if not already determined in these Statutes.

§ 9

Signatories and manner of signing

The Foundation Council determines the authorisation to sign for its Members and agents.

Lawful signing on behalf of the Foundation occurs in such manner, that the signatory or signatories affix the signature to the Foundation wording.

§ 10

Administration and Investment

If not resolved otherwise by the Foundation Council the Foundation assets are to be administered at the seat of the Foundation.

The manner of the administration and investment of the Foundation assets is not and shall not be prescribed, inasmuch that future developments cannot be foreseen. The Foundation Council is therefore, disbarring other legal provisions, in no way restricted in the administration and investment of the assets but shall act at its absolute and complete discretion. There is no obligation on the part of the Foundation Council to insure the Foundation assets.

868

- 7 -

§ 11

Business Year

The business year is the calendar year.

§ 12

Auditors

The Auditors, if appointed, shall submit to the Foundation Council a written report concerning their examination, and proposal. In addition, the Auditors shall supervise the observance of the terms and provisions of the Statutes and of the Bye-Laws, if any.

§ 13

Information and Secrecy

The Foundation Council is not obliged to disclose information, to report to or to render accounts to members of the Class of Beneficiaries relating facts and relationships of the Foundation.

In case the Foundation Council decides at its absolute and complete discretion to furnish any member(s) of the Class of Beneficiaries with information or reports of any kind or with accounts the exercise of such discretion shall not confer any immediate or future right to such Beneficiary(ies) or to any other member(s) of the Class of Beneficiaries to receive information reports and/or accounts.

However, the Foundation Council is not entitled to disclose any such information report and/or accounts when prevailing circumstances lead the Foundation Council to the conclusion that an information may be used with an improper or unlawful intent or detrimental to the Foundation or the members of the Class of Beneficiaries.

The Foundation's Statutes and/or Bye-Laws as well as any legal facts and aspects of the Foundation must not be drawn to the attention of outside parties, especially foreign authorities, unless the Foundation Council unanimously considers such in the interests of the Foundation or the members of the Class of Beneficiaries.

§ 14

Forfeiture of beneficial interest

Whoever wholly or partly, directly or indirectly, contests this Foundation as such, its formation or its existence, Statutes or Bye-Laws, endowments irrespective of donor as well as resolutions by its authorities that are validly based on law, Statutes or Bye-Laws, shall be excluded from the Class of Beneficiaries with retrospective effect.

The meaning "contestation" shall also include the institution of legal proceedings before a domestic or foreign authority.

The Foundation Council may accept the respective person again as member of the Class of Beneficiaries if this person withdraws or discontinues absolutely such contestation.

§ 15

Amendment of Statutes, Issuance and Amendment of Bye-Laws

- a) The Foundation Council, under observance of the legal requirements, is entitled to supplement and/or amend the Statutes including the Foundation's objects and organisation.
- b) Upon formation of the Foundation, the Founder and thereafter the Foundation Council shall be entitled to issue Bye-Laws. Such Bye-Laws shall be in writing and shall be signed by the Founder or after the formation of the Foundation by the Foundation Council. Bye-Laws have the same legal effect as the Statutes.

In addition, the Foundation Council is entitled at its absolute and complete discretion to supplement amend and/or partially or wholly revoke such Bye-Laws.

- c) The written Resolutions pursuant to a) and b) require unanimity of all Members of the Foundation Council.

§ 16

Legal Validity

Should any of the provisions in the Statutes and Bye-Laws be invalid the validity of the Foundation as such, or of any other provisions shall not be affected.

§ 18

- a) The Foundation may not be revoked.
- b) Inasmuch as circumstances under which the Foundation was formed so change that the objects of the Foundation may no longer be sensibly achieved, the Foundation Council shall be authorised to dissolve the Foundation in whole or in part. Such resolution of the Foundation Council requires unanimity of all Members of the Foundation Council.
- c) Upon the dissolution of the Foundation its assets existing at the time shall be distributed to those members of the Class of Beneficiaries as appointed and to such extent as determined by the Foundation Council at its absolute and complete discretion.

§ 20

Vaduz, the 7th day of June 2005

For the accuracy of the engrossment:

Vaduz, den

Fondation CHATEAU

The Foundation Council: *OK*

Dr. Peter Marxer

Dr. Peter Goop

MAR-00603

— = Redacted by the Permanent
Subcommittee on Investigations

B Y E - L A W S
to the Statutes of
FONDATION CHATEAU, Vaduz

Pursuant to sec. 15 of the Statutes of FONDATION CHATEAU, Vaduz, of even date, the power to issue By-Laws is with the Foundation Council.

Based upon the foregoing, the Foundation Council hereby adopts the following

B Y E - L A W S

concerning the appointment of Protectors and the determination of their powers and duties:

I. Appointment

1. Qualifications

- (a) Only natural persons being capable to act and older than 25 years who are, as far as possible, familiar with the family affairs and situation of at least some of the members of the class of beneficiaries of the Foundation, may be appointed as Protectors of the Foundation.
- (b) Members of the Foundation Council may, when in office, not hold the office of a Protector.

2. Number and First Appointment

- (a) At no time there shall be more than three Protectors in office.
- (b) As first Protectors of the Foundation be herewith appointed the following three individuals:
 - 1.) Mr James Albright Marsh jun., born on [REDACTED]
 - 2.) Mr Kerry Michael Marsh, born on [REDACTED]
 - 3.) Mr Shannon Neal Marsh, born on [REDACTED]

3. Appointment of Additional and Successor Protectors

- (a) As long as there are less than three Protectors in office, the Protector(s) in office shall have the power to appoint unanimously at any time additional Protectors in order to bring the number of Protectors in office up to three, subject to the following Sub-Clause (b).
- (b) Each Protector ("the Appointor") shall have the power to appoint a Successor

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 123

MAR-00589

Protector (the "Appointee") to become Protector in case that he ceases to be a Protector. In addition, each Protector shall have the power, but no obligation, to revocably or irrevocably appoint a Substitute Successor Protector to become Protector in case the Appointee shall for any reason whatsoever not become Protector on the occasion of the Appointor's ceasing to be a Protector. If more than one Substitute Successor Protectors are appointed, the Appointor has to indicate the priority within the Substitute Successor Protectors. If no priority is indicated, the eldest candidate prevails over the younger ones. No Protector however, shall have the power to appoint a Successor Protector to become Protector in case that his Appointee ceases to be a Protector after having assumed the office of a Protector.

Should all Protectors in office cease to be Protectors at the same time or should the only Protector in office cease to be Protector and should not at least one Successor Protector have been appointed, these By-Laws shall expire and the Foundation shall henceforth continue to exist without a Protector, unless otherwise unanimously resolved by the Foundation Council.

II. Term of Office and Resignation

1. Term of Office

Subject to the special provisions as contained herein the Protectors are appointed for lifetime.

2. Termination of Term of Office for Specific Reasons

The Term of Office of any Protector terminates by operation of law upon the death, incapacity or bankruptcy of such a Protector, furthermore, if he or she is sentenced for a felony or declared death by a competent court.

3. Resignation

Each Protector shall be entitled to resign his/her office at any time without giving reason by means of a written notice to the Foundation Council and the Co-Protector (if any).

4. Procedure if more than one Protector is in office:

The Protectors in office form the Protectors' Committee.

The Protectors' Committee will meet as often as necessary or purposeful upon invitation by one Protector.

The Protectors' Committee shall hold a meeting in quorum. A quorum shall consist of all the Members in office.

Should a quorum not be achieved, a new meeting shall be convened, upon demand of at least one Member, and at least two Members shall form a quorum in such meeting.

The Protectors' Committee shall pass resolutions by a simple majority provided that at least two Members are voting for such resolution, unless otherwise provided in this By-Statute or other By-Statutes. The Protectors' Committee may also pass circular letter resolutions, which require unanimity.

The Members' liability shall be limited to deliberate or grossly negligent malfeasance.

5. Representatives

Each Protector is entitled to be represented at a meeting by a representative duly authorized by a written proxy. Representatives are however not entitled to sign on behalf of their principal on circular letter resolutions.

III. Powers

1. Exclusive Powers

- (a) The Protector(s) shall have the power to remove by resolution any Member of the Foundation Council without giving reasons and with immediate effect. The exercise of this power results in the automatic retirement of the Substitute of the removed Member, if any, regardless whether such Substitute has been appointed by the removed Member himself/herself or by the Foundation Council.
- (b) The Protector(s) shall have the power to appoint by resolution new Members of the Foundation Council in replacement of the Members having been removed by the Protector(s). The new Members appointed by the Protector(s) in exercise of this power shall prevail over the Successor nominated by the Member having been removed by the Protector(s).

2. Non-exclusive Powers

The Foundation Council shall prior to the exercise of any of the following powers request the prior consent of at least one of the Protector(s):

- (a) Distributions to the beneficiaries;
- (b) Addition of Persons to the Class of Excluded Persons and Removal of persons from such Class;
- (c) The approval of the annual accounts of the Foundation;
- (d) The amendment, supplementation of the Statutes.
- (e) The issuance, the amendment and supplementation or revocation of By-Statutes.
- (f) The dissolution of the Foundation.

- (g) The transfer of the domicile of the Foundation
- (h) The conversion of the Foundation into an establishment or a registered trust enterprise.
- (i) The fixing of the remuneration of the Members of the Foundation Council.

IV. Amendment

After the formation of the Foundation the provisions of these Bye-Laws may be amended, revoked or supplemented by the Foundation Council at any time with the consent of the simple majority of the Protector(s) in office from time to time.

Vaduz, November 4th, 2004

FONDATION CHATEAU
The Foundation Council: *ON*

[Signature]
Dr. Peter Marxer

[Signature]
Dr. Peter Goop



Die Echtheit der Unterschrift des
Herrn Dr. iur. Peter MARXER, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürst. Liechtenstein, Landgerichtskanzlei
Vaduz, den 21. JUNI 05 *[Signature]*

Die Echtheit der Unterschrift des
Herrn Dr. Peter GOOP, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürst. Liechtenstein, Landgerichtskanzlei
Vaduz, den 21. JUNI 05 *[Signature]*

— = Redacted by the Permanent
Subcommittee on Investigations

B Y E - L A W S

to the Statutes of

FONDATION CHATEAU, Vaduz

Pursuant to the provisions of §§ 7 and 14 of the Statutes of FONDATION CHATEAU, Vaduz, of even date, the Foundation Council herewith adopts the following

B Y E - L A W S

concerning the beneficial interest and the distribution of the Foundation Assets in case of dissolution of the Foundation.

I. Class of Beneficiaries

1. General Description

Distributions, grants, or benefits of any other kind to the debit of the principal assets of the Foundation and/or the income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of:

- a) Mr. James Albright Marsh jun.
born [REDACTED]
- b) the spouse of the individual referred to above under a),
- c) the children of the individual referred to above under a) born from legal wedlock (the "Children") as well as the issue and remoter issue of the Children (the "Issue", the Children together with the Issue are referred to herein as the "Descendants"), or
- d) any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be to the benefit of one or more members of the Class of Beneficiaries pursuant to Sub-Clauses a), b) or c) above not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clauses a), b) and c) above not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Class of Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.

2. Issue

issue as used in these Bye-Laws means and includes irrespective of the degree of relationship any and all legitimate issue of the Children including the adopted and legitimised issue but not including the illegitimate issue.

3. Excluded Persons

The Class of Excluded Persons includes and consists of any ex-spouse of a member of the Class of Beneficiaries and of those members of the Class of Beneficiaries as the Foundation Council in its free and absolute discretion by means of a unanimous resolution shall declare revocably or irrevocably to become a member of the Class of Excluded Persons.

The Foundation Council shall have the power and authority at any time and from time to time in its free and absolute discretion by means of a unanimous resolution to declare revocably or irrevocably that a person shall cease to be a member of the Class of Excluded Persons with immediate effect.

II. Appointment of Beneficial Interest

1. General Provisions

The power to appoint a beneficial interest is vested in the Foundation Council. Upon request of a member of the Class of Beneficiaries or his/her representative the Foundation Council in its free and absolute discretion shall decide

- (a) whether, when and for the benefit of which member(s) of the Class of Beneficiaries of the Foundation distributions, grants or other benefits shall be made or awarded;
- (b) to what extent, in which shares and proportions and in which manner distributions, grants or other benefits shall be made or awarded;
- (c) whether distributions, grants or other benefits shall be made or awarded subject to any condition, limitation, restriction and/or other provision;
- (d) whether any distribution, grant or other benefits shall be made or awarded to the debit of the principal assets of the Foundation and/or the income thereof.

2. Legal Position of the Members of the Class of Beneficiaries

- (a) The Foundation Council decides in its free and absolute discretion whether distributions, grants or other benefits shall be made or awarded for the benefit of all members of the Class of Beneficiaries or under the exclusion of the other or others for the benefit of only more members or one member of the Class of Beneficiaries.

- (b) None of the members of the Class of Beneficiaries shall have a legal title vis-à-vis the Foundation as to distributions, grants or other benefits to be made or awarded to the debit of the principal assets of the Foundation and/or the income thereof.
- (c) In case the Foundation Council has in exercise of its power made an appointment for the benefit of a member of the Class of Beneficiaries this appointment may be revoked at any time by the Foundation Council at discretion and such a revocation does not constitute a claim of such a Beneficiary vis-à-vis the Foundation.
- (d) None of the members of the Class of Beneficiaries shall have the right to claim from the Foundation Council to disclose any deliberation of the Foundation Council as to the manner in which the Foundation Council should exercise any power or any discretion conferred upon the Foundation Council or disclosing the reasons for any particular exercise of any such power or discretion or the material upon which such reasons shall or might have been based or any other document relating to the exercise or proposed exercise of any such power or discretion.

3. No Duty to Appoint a Beneficial Interest

- a) The Foundation Council is not obliged to exercise its power to appoint a beneficial interest and no member of the Class of Beneficiaries shall have a right to demand the exercise of such power by the Foundation Council.
- b) Insofar and inasmuch as the Foundation Council has not exercised its power to appoint a beneficial interest, distributions, grants as well as other benefits shall not take place.

Income of a business year not distributed by the Foundation within twenty-four (24) months after the close of such business year shall be added to the principal assets of the Foundation Fund.

III. Termination of the Foundation

1. Extinction of the (contingent) Class of Beneficiaries

In case there should no longer be any members of the Class of Beneficiaries and no longer any members of the Class of Excluded Persons who could - provided that certain conditions will occur - become a member of the Class of Beneficiaries the Foundation has fulfilled its purpose and has to be dissolved by the Foundation Council.

The Foundation Assets existing at that time shall then be distributed to the Karolinska Institute in Stockholm to be used for and disposed of the research of children's cancer and the benefit of children with cancer.

2. Dissolution for Other Reasons

Should the Foundation be dissolved for other reasons the Foundation Council shall in its free and absolute discretion decide for the benefit of which members or member of the Class of Beneficiaries (for the benefit of all or under the exclusion of the other or others for the benefit of more or only one of those members) and in which shares and manner the Foundation Assets existing at that time shall be distributed.

3. Cancellation of the Foundation

In case of cancellation of the Foundation the above provisions concerning the distribution of the remaining Foundation Assets shall be applied similarly.

4. Transfer of the Foundation Assets in Whole

The Foundation Council shall have the power to transfer the Foundation Assets to another legal entity or a trust organised under the laws of the Principality of Liechtenstein or a foreign country or to use them for the creation of such a legal entity or such a trust provided always that as a result of the exercise of this power the objects and purposes of the Foundation may be more sensibly achieved.

By means of such an action the unamendable provisions of the Statutes and Bye-Laws may not be amended and especially the regulations concerning the beneficial interest may not be affected thereby.

After the transfer of the Foundation Assets according to the preceding provisions has been effected the Foundation shall be terminated.

IV. Amendment of Bye-Laws

The provisions of these Bye-Laws may be amended and/or revoked by the Foundation Council at any time and from time to time provided always that such amendment or revocation may not contradict the objects and purposes of the Foundation.

Vaduz, June 9th, 2005

FONDATION CHATEAU

The Foundation Council: *GM*

Marxer
Dr. Peter Marxer

Goop
Dr. Peter Goop

MAR-00617

Die Echtheit der Unterschrift des
Herrn Dr. iur. Peter MARXER, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürstl. Liechtenstein. Landgerichtskanzlei
Vaduz, den 21. JUNI 05 *for*



Die Echtheit der Unterschrift des
Herrn Dr. Peter GOOP, Rechtsanwalt,
FL-9490 Vaduz,
wird amtlich bestätigt.
Fürstl. Liechtenstein. Landgerichtskanzlei
Vaduz, den 21. JUNI 05 *two*

— = Redacted by the Permanent
Subcommittee on Investigations

BY-LAWS
to the Statutes of
FONDATION CHATEAU, VADUZ

Pursuant to the provisions of §§ 7 and 15 of the Statutes of FONDATION CHATEAU, Vaduz, dated June 7, 2005 the Foundation Council herewith adopts the following

BY-LAWS

Concerning the beneficial interest and the distributions of the Foundation Fund in case of dissolution of the Foundation.

1. During the lifetime of James A. Marsh, Jr. distributions, grants or benefits of any other kind to the debit of the principal assets of the Foundation and/or income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of
 - a) Mr. James A. Marsh, Jr.
born on [REDACTED]
resident at [REDACTED]
 - b) his spouse
Mrs. Anna S. Marsh
born on [REDACTED]
resident at [REDACTED]
 - c) the children of James A. Marsh, Jr. born from legal wedlock (the "Children") as well as the issue and remoter issues of the Children (the "Descendants") or
 - d) any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be for the benefit of one or more members of the Class of Beneficiaries pursuant to Sub-Clause a), b) or c) hereinafter not being an Excluded Person and any company or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clause a), b) or c) not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.

2. In case of the death of James A. Marsh, Jr., if any assets of the Foundation shall be included in the gross estate of James A. Marsh, Jr. for U.S. federal estate tax purposes or for purposes of any other estate, inheritance and other death taxes and duties (the "Taxable Assets"), then the Foundation Council may, but only to the extent of the Taxable Assets, pay that portion of such taxes (exclusive, however, of any generation-skipping transfer taxes imposed on any direct skip resulting from the death of James A. Marsh, Jr.) that is equal to the difference between the amount of such taxes actually imposed upon the estate of James A. Marsh, Jr. and the amount of such taxes which would have been imposed upon the estate of James A. Marsh, Jr. if there were no Taxable Assets.
In addition, in the case of the death of James A. Marsh, Jr., the Foundation Council shall pay to the executors, administrators or personal representatives of the estate of the James A. Marsh, Jr. such sum or sums as such executors, administrators or personal representatives may from time to time certify to the Foundation Council as being required to pay part or all of any unpaid income, gift or generation-skipping transfer taxes imposed by

— = Redacted by the Permanent
Subcommittee on Investigations

the United States of America or any governmental unit or subdivision thereof on James A. Marsh, Jr. during his lifetime and for which the estate of James A. Marsh, Jr. or the Foundation or any beneficiary or member of the class of beneficiaries of the Foundation may be liable under applicable U.S. tax laws with respect to the assets or the income of this Foundation during any portion of or all of its existence up through and including the date of the settlement of any and all such tax liabilities with respect to any IRS audit involving this Foundation and/or its beneficiaries.

The Foundation Council shall be protected in making any payment of taxes under this Clause 2 in relying upon a written statement furnished by the executors, administrators or personal representatives of the estate of the James A. Marsh, Jr. as to the amount of any such taxes which may be due, and shall be under no duty to contest the same or to inquire into the correctness of any such written statement. Any reference to "taxes" in this Clause 2 shall include any related interest and penalties on the taxes otherwise payable under this Clause 2.

3. Also in case of the death of James A. Marsh Jr., after paying or providing for any tax payments pursuant to Clause 2 hereinbefore, the surviving spouse

Mrs. Anna S. Marsh
born on [REDACTED]
resident at [REDACTED]

shall be the sole beneficiary during her lifetime and, except as provided in Clause 2, no distributions shall be paid to any person other than to Mrs. Anna S. Marsh during her lifetime. Her beneficial interest shall be limited to all of the Net Income of the Foundation Fund, earned on or after the date of death of James A. Marsh Jr. until the date of death of Mrs. Anna S. Marsh, payable at least quarter annually. Net Income for any period shall mean the greater of:

- a) all the fiduciary accounting income of the Foundation Fund for such period after deduction of any and all costs, taxes, duties expenses etc. properly allocable to such income determined as if the Foundation were a trust established under the laws of the State of Florida, U.S.A. and governed by the Uniform Revised Principal and Income Act of the State of Florida as in effect for such period; and
- b) the "distributable net income" of the Foundation for such period determined pursuant to Section 643(a) of the the United States Internal Revenue Code of 1986, as amended (the "U.S. Code"), on the basis that the Foundation is a "foreign trust" for purposes of the United States federal income tax pursuant to Section 7701(a)(31)(B) of the U.S. Code.

It shall be within the discretion of the Foundation Council to also distribute part or the total of the Foundation Fund, other than income, to Mrs. Anna S. Marsh for her health, maintenance or support in accordance with a liberal application of this provision.

4. In the event of the death of Anna S. Marsh, if any assets of the Foundation shall be included in the gross estate of Anna S. Marsh for U.S. federal estate tax purposes or for purposes of any other estate, inheritance and other death taxes and duties (the "Taxable Assets"), then, unless Anna S. Marsh shall provide otherwise by her Will, the Foundation Council shall, but only to the extent of the Taxable Assets, pay that portion of such taxes that is equal to the difference between the amount of such taxes actually imposed upon the estate of Anna S. Marsh and the amount of such taxes which would have been imposed upon the estate of Anna S. Marsh if there were no Taxable Assets. The Foundation Council shall be protected in making any payment of taxes under this Clause 5 in relying upon a written statement furnished by the executors, administrators or personal representatives of the estate of the Anna S. Marsh as to the amount of any such taxes which may be due, and shall be under no duty to contest the same or to inquire into the correctness of any such written statement. Any reference to "taxes" in this Clause 4 shall include any related interest and penalties on the taxes otherwise payable under this Clause 4.
5. Upon the death of Anna S. Marsh distributions, grants or benefits of any other kind to the debt of the principal assets of the Foundation and/or the income thereof may within the scope of the objects and purposes of the Foundation be made or awarded only for the benefit of
- a) Kerry M. Marsh, Shannon Neal Marsh, James G. Marsh, [REDACTED] and [REDACTED] in equal shares and *per stirpes* or, in case any of those children of James A. Marsh Jr. who shall decess without leaving any descendants, as provided

b) to any trust or foundation or similar structure having been set up for and continuing at the day of the distribution, grant or benefit award to be for the benefit of one or more members of the Class of Beneficiaries pursuant to Clause 5 lit a) hereinbefore not being an Excluded Person and any company, or other legal entity totally and directly owned at the day of the distribution, grant or benefit award by one or more members of the Class of Beneficiaries pursuant to Sub-Clause a) not being Excluded Persons ("Qualifying Company"), provided that any subsequent change in the actual or beneficial ownership or any subsequent change in the actual or beneficial ownership or any subsequent addition of a person to or any removal of a person from the Class of Beneficiaries or the Excluded Persons should not affect the validity and legality of any distributions, grants or benefits previously awarded to a Qualifying Company by the Foundation and that the Foundation Council shall not be obliged to review any further allocation and application of the assets distributed, granted or transferred to a Qualifying Company.

c) Should any of Kerry M. Marsh, Shannon Neal Marsh, James Marsh, [REDACTED] and [REDACTED] decease or predecease his/her share of beneficial interest shall be for the benefit of his/her descendants in equal shares and per stirpes. In case any of them shall decease without leaving any descendants his/her share of beneficial interest shall be for the benefit of the his surviving brothers and sisters in equal shares or in case of their predecease for the benefit of their descendants in equal shares and per stirpes.

Descendant means and includes any and all legitimate issue of the Children, irrespective of the degree of relationship, including adopted and legitimated issues, but not including illegitimate issues.

These By-Laws shall be considered to be effective with retrospective effect to June 15, 2006.

The Class of Excluded Persons includes and consists of any ex-spouse of a member of the Class of Beneficiaries and of those members of the Class of Beneficiaries who the Foundation Council in its free and absolute discretion declares by unanimous resolution revocably or irrevocably to be excluded from the Class of Beneficiaries.

The Foundation Council shall have the power and authority at any time and from time to time in its free and absolute discretion by means of a unanimous resolution to declare revocably or irrevocably that a person shall cease to be a member of the Class of Excluded Persons with immediate effect.

The Foundation Council shall have no discretion in relation to the provisions of Clause 3 hereinabove. To the contrary, Anna S. Marsh shall have an enforceable claim against the Foundation in relation to the annual Net Income of the Foundation pursuant to Clause 3.

Except as provided in Clauses 3 and 5 hereinabove, the power to appoint a beneficial interest is vested in the Foundation Council. Upon request of

- a) whether, when and for the benefit of which member(s) of the Class of Beneficiaries of the Foundation distributions, grants or other benefits shall be made or awarded;
- b) to what extent, in which shares and proportions and in which manner distributions, grants or other benefits shall be made or awarded;

- c) whether any distributions, grants or other benefits shall be made or awarded subject to any condition, limitation, restriction and/or other provision;
- d) whether any distribution, grant or other benefits shall be made or awarded to the debit of the principle assets of the Foundation and/or the income thereof.

11. Except as provided in the provisions of Clauses 3 and 5 hereinabove, the legal position of the members of the Class of Beneficiaries is the following:

- a) Except as provided in Clauses 3 and 5 hereinabove, the Foundation Council decides in its free and absolute discretion whether distributions, grants or other benefits shall be made or awarded for the benefit of all members of the Class of Beneficiaries or under the exclusion of one or more for the benefit of some or only one member of the Class of Beneficiaries.
- b) Except as provided in Clauses 3 and 5 hereinabove, none of the members of the Class of Beneficiaries shall have a legal title vis-à-vis the Foundation as to distributions, grants or other benefits to be made or awarded to the debit of the principle assets of the Foundation and/or income thereof.
- c) None of the members of the Class of Beneficiaries shall have the right to claim from the Foundation Council to disclose any deliberation of the Foundation Council as to the manner in which the Foundation Council should exercise any power or any discretion conferred upon the Foundation Council or disclosing the reasons for any particular exercise of any such power or discretion or the information upon which such reasons shall or might have been based or any other document relating to the exercise or proposed exercise of any such power or discretion.

12. Except as provided in Clauses 3 and 5 hereinabove the Foundation Council has no Duty to Appoint a Beneficial Interest

- a) Except as provided in Clauses 3 and 5 hereinabove, the Foundation Council is not obliged to exercise its power to appoint a beneficial interest and no member of the Class of Beneficiaries shall have a right to demand the exercise of such power by the Foundation Council.
- b) Insofar and inasmuch as the Foundation Council has not exercised its power to appoint a beneficial interest, distributions, grants as well as other benefits shall not take place.

13. Termination of the Foundation

In case there shall no longer be any member of the Class of Beneficiaries and no longer any members of the Class of the Excluded Persons who could – provided the Foundation Council so decides – become a member of the Class of Beneficiaries, the Foundation has fulfilled its purpose and has to be dissolved by the Foundation Council, then the Foundation Fund existing at the time shall be distributed to the American Cancer Society in the United States to be used for and disposed of the research of children's cancer and the benefit of children with cancer.

Should the Foundation be dissolved for other reasons, the Foundation Council shall distribute the Foundation Fund existing at the time in accordance with Clause 5 hereinabove.

The Foundation Council shall have the power to transfer the Foundation Fund to any other legal entity or trust organised under the laws of Liechtenstein or of any foreign country or to use them for the creation of such legal entity or trust provided always that as a result of the exercise of this power the objects and purposes of the Foundation may be more sensibly achieved.

By means of such an action the unamendable provisions of the Statutes and By-Laws may not be amended and especially the provisions concerning beneficial interest may not be affected thereby.

14. Amendment of the By-Laws

These By-Laws may be amended, revoked or supplemented by the Foundation Council at any time prior to the death of James A. Marsh, Jr. with the consent of the Protector(s) in office from time to time.

Following the death of James A. Marsh, Jr., if he is survived by Anna S. Marsh, these By-Laws, except as provided in this amendment executed this 11 day of September, 2007 (effective with retrospective effect to June 15, 2006), thereafter shall be irrevocable and may not be amended or revoked, or supplemented in a manner to limit or revoke any rights or privileges granted to (1) Anna S. Marsh by these By-Laws, in particular under Clause 3 hereof and (2) the Children of James A. Marsh Jr., in particular under Clause 5 hereof. Thus, with the exception of the provisions providing for the beneficial interest of Anna S. Marsh in Clause 3 and the Children of James A. Marsh Jr. in Clause 5, which shall be unamendable, the provisions of these By-Laws may be amended and/or revoked by the Foundation Council at any time and from time to time with the consent of the Protector(s) provided always that such amendment or revocation may not contradict the objects and purposes of the Foundation.

Vaduz, September 11, 2007
AT91/VSA/BNF



FONDATION CHATEAU
The Foundation Council

Sascha Valenta

KRP Corporate Services Trust reg.

Ester Bianco Nicole Biedermann

MLADM/312449.3

read and approved 
Read And Approved 

Fondation Chateau , 9490 Vaduz

SB: Böckle Margit

KB: Danuser Anne-Marie

Mand.Nr.: [REDACTED]

L. Kundenbesuch: 11.10.2000

Gründungsdatum: 25.06.1985

Status: Aktiv

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**Verwaltungs- / Stiftungsräte**

Telscher Marcel, Triesen

Zeichnungsrecht: Kollektiv

koll. zu zweien

Profil Management Trust reg., Vad Zeichnungsrecht: Einzel

Banken

LGT Bank in Liechtenstein AG, Vaduz

AB: Ackermann Silvio Tel ZR-Nr.: [REDACTED]

Zig-Kto: [REDACTED]

Diverses

Anlageberater:

Ackermann Silvio,

Repräsentant:

LGT Treuhand AG, Vaduz

Auftraggeber:

Privater Auftraggeber

Fix-Honorare

Kapitalsteuer

1'000.00

25.06.2003

Liechtensteinische Steuerverwaltung, Vaduz

Pauschal-Honorare

Minimalhonorar

5'500.00

fällig am:

25.06.2003

Vermögensabh. Hon.

0.00

- 999'999'999.00

0.2000 %

Vermögenswert per:

31.03.2002

13'573'000.00

Fakturierbares Pauschalhonorar: 27'146.00

Zweck

- Einbringung in die Stiftung aus Familienvermögen.

- Ab Dezember 1994 nur noch Vermögensverwaltung bei LGT Vaduz.

Besitznachweis, Verträge, Vollmachten

Verwaltungsauftrag BIL vom 26.10.1994.

Portfolio-Management vom 17. September 1998.

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

- Kunden melden sich mit Codewort: "Friends of J.N."

- Aufgrund Unzufriedenheiten bei der Bilfinanz ZH (Hr. Zemp) wurden im Dezember 994 sämtliche Vermögenswerte von Bilfinanz Zürich auf das neue Konto der Stiftung bei der BIL Vaduz übertragen.

- Keine Beistatuten, nur letter of wishes.

- Extraleistungen dürfen belastet werden.

- siehe Lincol

Pendenzen / Geschichte

- VM Status 2000 und 2001 abz. lassen.

Beim nächsten Kundenbesuch erledigen:

- Kunden fragen: Adressen und Tel. Nr. verifizieren

- Letter of wishes verifiz. und zeichnen

- Familienverhältnisse abklären

- Abklärung betreffend Einsichtnahme Kerry Marsh

- Bestätigung Herkunft Gelder

- By laws verifizieren (neu)

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 135

PSI-USMSTR - 000237

— = Redacted by the Permanent
Subcommittee on Investigations

Foundation Chateau, 9490 Vaduz
SB: Margit Böckle KB: Anne-Marie Danuser

Client No.: [REDACTED]
Client Visit: 10/11/2000

Founding date: 6/25/1985 Status: Active

Management/ Foundation Board

Marcel Telser, Triesen Signature right: Joint joint with two
Profile Management Trust re., Vaduz Signature right: Individual

Banks

LGT Bank in Liechtenstein AG, Vaduz AB: Silvio Ackermann Acct.# [REDACTED] ZigAcct: [REDACTED]

Miscellaneous

Investment Adviser: Silvio Ackermann
Representative: LGT Treuhand AG, Vaduz
Client: Private Client

Fixed Fees

Capital Tax 1,000.00 6/25/2003 Liechtenstein Tax Authority, Vaduz

Lump Sum Fee

Minimal fee: 5,500.00 due on: 6/25/2003
Assets fee: 0.00 - 999,999,999.00 0.2000%
Assets per: 3/31/2002 13,573,000.00 Basic invoice lump sum fee: 27,146.00

Purpose

- Bringing family assets into a foundation
- As of December 1994, only already under assets management of LGT Vaduz

Proof of Ownership, Contracts, Powers of Attorney

BIL Management instruction of 10/26/1994

Portfolio Management of 17 September, 1998

Instructions (Management, accounting, by-laws, etc.)

- Clients report with code word "friends of J.N."
- Based on dissatisfaction with Bilfinanz Zurich (Hr. Zemp) in December 1994, all assets were transferred from Bilfinanz Zurich to the new foundation account at BIL Vaduz.
- No bylaws, only letter of wishes
- Extra payments must be made.
- See Lincol.

Pending/History

- 2000 and 2001 asset status should be counted.
- For next client visit take care of:
- Client question: Verify addresses and phone numbers.
- Letter of wishes verify and sign
- Clarify family relationships
- Clarify Kerry Marsh concerning inspection
- Verify (new) by-laws

Lincol Foundation , 9490 Vaduz

SB: Böckle Margit

KB: Danuser Anne-Marie

Mand.Nr.: [REDACTED]

L. Kundenbesuch: 11.10.2000

Gründungsdatum: 17.10.1985

Status: Aktiv

Verwaltungs- / Stiftungsräte

Telscher Marcel, Triesen

Zeichnungsrecht: Kollektiv

Profile Management Trust reg., Vad Zeichnungsrecht: Einzel

[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

Banken

LGT Bank in Liechtenstein AG, Vaduz

AB: Ackermann Silvio Tel ZR-Nr.: [REDACTED] Zlg-Kto: [REDACTED]

Diverses

Anlageberater:

Ackermann Silvio,

Repräsentant:

LGT Treuhand AG, Vaduz

Fix-Honorare

Kapitalsteuer 1'000.00 17.10.2002 Liechtensteinische Steuerverwaltung, Vaduz

Pauschal-Honorare

Minimalthonorar	5'500.00	fällig am:	17.10.2002	
Vermögensabh. Hon.	0.00	-	999'999'999.00	0.2000 %
Vermögenswert per:	11.10.2000		16'871'000.00	

Fakturierbares Pauschalhonorar: 33'742.00

Zweck

- Einbringung in die Stiftung aus Familienvermögen.
- Ab Dezember 1994 nur noch Vermögensverwaltung bei LGT Vaduz.

Besitznachweis, Verträge, Vollmachten

Verwaltungsauftrag BIL betr. Verwaltung des BIL-Kontos vom 26.10.94
Portfolio-Management vom 17. September 1998

Akteneinsichtsrecht für Kerry Marsh
(gem. Weisung vom 23.05.92 sowie Bestätigung 17.09.98)

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

Wurde nicht durch BILFINANZ ZH vermittelt

Kunden melden sich mit Codewort: "Friends of J.N."

Aufgrund Unzufriedenheiten bei Bilfinanz ZH (Hr. Zemp) wurden im Dezember 1994 sämtliche Vermögenswerte von der Bilfinanz Zürich auf das neue Konto der Stiftung bei der BIL Vaduz übertragen

Extraleistungen dürfen belastet werden

siehe auch Chateau

Pendenzen / Geschichte

Beim nächsten Kundenbesuch erledigen:

- Adressen und Tel.Nr. verifizieren
- Bestätigung Herkunft der Gelder
- Abklärung Einsichtnahme Kerry Marsh
- Abkl. der Familienverhältnisse
- LoW verifizieren und zeichnen
- By laws verifizieren (neu)

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 136

PSI-USMSTR - 000613

— = Redacted by the Permanent
Subcommittee on Investigations

Lincol Foundation, 9490 Vaduz
SB: Margit Böckle KB: Anne-Marie Danuser

Client No.: [REDACTED]
Client Visit: 10/11/2000

Founding date: 10/17/1985 Status: Active

Management/ Foundation Board

Marcel Telser, Triesen Signature right: Joint
Profile Management Trust re., Vaduz Signature right: Individual

Banks

LGT Bank in Liechtenstein AG, Vaduz AB: Silvio Ackermann Acct.# [REDACTED] ZlgAcct: [REDACTED]

Miscellaneous

Investment Adviser: Silvio Ackermann
Representative: LGT Treuhand AG, Vaduz

Fixed Fees

Capital Tax 1,000.00 10/17/2002 Liechtenstein Tax Authority, Vaduz

Lump Sum Fee

Minimal fee: 5,500.00 due on: 10/17/2002
Assets fee: 0.00 - 999,999,999.00 0.2000%
Assets per: 10/11/2002 16,871,000.00 Basic invoice lump sum fee: 33,742.00

Purpose

- Bringing family assets into a foundation
- As of December 1994, only already under assets management of LGT Vaduz

Proof of Ownership, Contracts, Powers of Attorney

BIL Management instruction concerning management of BIL accounts of 10/26/1994
Portfolio Management of 17 September, 1998

Kerry Marsh right to view the vile
(according to instruction of 5/23/92 and confirmation of 9/17/98)

Instructions (Management, accounting, by-laws, etc.)

Not handled by BILFINANZ ZURICH

Chents report with code word "friends of J.N."

Based on dissatisfaction with Bilfinanz ZH (Hr. Zemp) in December 1994, all assets were transferred from
Bilfinanz Zurich to the new foundation account at BIL. Vaduz.
Extra payments must be made.
Also see Chateau

Pending/History

For next client meeting take care of:

- Verify addresses and phone numbers.
- Certify origin of money
- Clarify Kerry Marsh concerning inspection
- Clarify family relationships
- Letter of wishes verify and sign
- Verify (new) by-laws

SRU a/PN 5.12.88
 BANK IN LIECHTENSTEIN
 Herengasse 12, 41 - 9490 Vaduz, Tel. 075 5 11 23, Telex 075 5 12 22, Bote 94222

Portfolio Management Agreement

between

Chateau Fondation / Nr. 213.887.5

hereafter referred to as the Client

and

Bank in Liechtenstein AG

hereafter referred to as BIL

A) The Client authorizes and empowers BIL to manage

- ☒ all accounts / custodian accounts
☐ the following accounts / custodian accounts

which are held on the Client's behalf at

- ☒ BIL
☐ the following banks)

according to the following guidelines:

B) The value of the managed accounts and custodian accounts is to be calculated in the following currency:

- ☐ SFr.
☒ US\$
☐ DM
☐ _____

The assets are to be managed according to the principles of one of the following BIL model portfolios:

- ☐ Bond portfolio (model A)
☐ Income oriented portfolio (model B)

- ☒ Growth oriented portfolio (model C)
☐ Equity portfolio (model D)

Fiduciary investments including sub-participations (i.e. investments made in the name of BIL, but at the risk of the client, whereby the amount, the place of deposit, the currency, maturity and interest conditions are left to the discretion of BIL) are

- ☒ permitted
☐ not permitted.

With these fiduciary investments, BIL is obligated only to credit the specified account with those amounts, which it received from foreign debtors in repayment of the principal and as interest payments for its free disposal. If a debtor does not discharge or only partially discharges his obligations, or if he cannot fulfill them because of transfer or foreign exchange regulations in his own country or in that of the investment currency, BIL is obliged merely to assign its claim held in trust to the account holder. BIL is not bound to perform any other obligations. The currency of the investment does not have to be the same as that of the debtor country.

The Client declares that within the scope of this management agreement

- ☐ use may be made of a credit on security. The borrowing limit will be determined according to the currently valid lending and margin provisions. It may not exceed 60% of the portfolio value. In this case it is left to BIL's discretion as to what extent it will actually take advantage of such borrowing limits when making an investment.

MAR 09505

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 139

☒ 16) No use may be made a credit on security

Purchases in investment funds whose investment principles comply with the investments according to the model portfolio are

☒ 17) permitted

☐ 18) not permitted.

C) Fee

For its services within the scope of this agreement BIL charges an annual fee amounting to 0.25% of the managed portfolio, but at least SFr 1,500.--. The fee will be debited proportionately at the end of each quarter.

D) Additional Provisions

1. The principles governing the model portfolios are established periodically by BIL on the basis of prevailing market conditions. The can be inspected at BIL at any time.

2. The Client takes note that within the scope of this portfolio management agreement

— no trading in commodity futures or transactions in financial futures will be undertaken, unless the latter activity serves as a means of hedging for an existing investment, and

— no option dealing will be carried out with the exception of sales of premiums and call options or purchases of put options, which are fully covered by appropriate securities, precious metals or cash positions.

3. BIL is empowered, but not obligated, to exercise the rights as shareholder, co-owner etc. arising from the investments made.

4. BIL is responsible for observing the guidelines according to B). The Client takes note and agrees that on account of market conditions (e.g. a sharp fluctuation in the value of a security) it may not be possible in the short term to adhere to the principles according to Point B) 9-12. In this event, BIL will re-establish the agreed-upon structure within a reasonable period of time.

replaces PM-Agreement of 24/6/85

Furthermore, the Client releases BIL and its employees from all liability for the possible consequences of their actions or omissions, particularly with respect to the selection of investments.

5. Special instructions from the Client regarding investments may only be given in writing. If such special instructions contradict the principles agreed upon under A), or if BIL deems these instructions to be incompatible with its general investment policy, this special order will be executed via a separate account/custodian account, which will not be covered by the terms of this management agreement. If this is not feasible for technical reasons (e.g. an individual selling order), BIL may terminate this management agreement in order for the investment policy to be reformulated. If BIL does not terminate the agreement, it is no longer responsible for observing the guidelines according to B).

The observance of the general conditions valid for accounts/custodian accounts is a prerequisite for the procedure described above involving a separate account/custodian account.

6. This agreement does not become void upon the death, mental incapacity or bankruptcy of the client.

7. The Client confirms that he/she has received BIL's General Business Conditions and agrees to be bound by them.

E) Selection Stipulations

1. One or both boxes can be ticked in each case with Points A) 1/2 and A) 3/4. With all other points only one selection may be ticked. If no box is ticked next to a point, or if by error several boxes are ticked, the first box in the point is regarded as being valid.

2. The Client takes note that as regards assets in custody by third parties (Point A) 4), this agreement can only become effective if the Client grants BIL a power of attorney with the third party according to its formal regulations.

This management agreement is subject to the laws of the Principality of Liechtenstein. The place of performance and the venue for any proceedings at law shall be Vaduz. However, BIL reserves itself the right to legal action before the courts at the Client's domicile, or before any other competent court.

James A. M. ...
KONTR. 635 4

Place/Date: Vaduz, 5.12.89/PM/fa

Signature: *[Signature]*

MAR 09506

Agreement concerning the

Termination of the Agency Agreement

between

Mr. Marsh

hereinafter "the Principal"

and

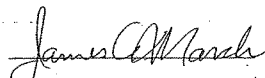
LGT Treuhand Aktiengesellschaft, Städtle 18/22, FL-9490 Vaduz

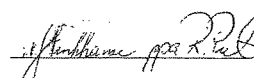
hereinafter "the Fiduciary"

1. There exists between the Principal and the Fiduciary an Agency Agreement of October 15, 1985 concerning the administration of the Fondation Chateau.
2. With regard to the duties hitherto performed the Principal hereby grants full discharge to the Fiduciary and the members of the Foundation Board appointed by the latter.
3. The parties hereby agree that the Agency Agreement of October 15, 1985 shall be terminated with immediate effect.
4. In the event of any dispute arising from this Agreement the Princely Court of Justice (Fürstlich Liechtensteinisches Landgericht) in Vaduz shall have jurisdiction. This Agreement shall be governed by the laws of Liechtenstein.
5. This Agreement shall be drawn up in duplicate and shall be signed by both parties. Each party shall receive one copy.

Vaduz, October 11, 2000

Vaduz, October 11, 2000


Mr. Marsh


LGT Treuhand Aktiengesellschaft

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 140

MAR 09508

Marsh James Albright jun., Florida

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz

Vaduz, November 10, 2004 ANA/mvg

Fondation Chateau, Vaduz

Dear Sirs

In my capacity as economic founder and primary beneficiary of the above mentioned foundation, I hereby irrevocably grant formal approval and release to any and all administrative and management activities as well as any and all actions of LGT Treuhand AG as representative and the relevant employees of LGT Treuhand AG as Members of the Board of Directors during the entire mandate period.

I further declare that I will arrange for settlement of the final note of LGT Treuhand AG.

Yours sincerely,



Resolution

The Foundation Board of the
Fondation CHATEAU, Vaduz

hereby resolves:

1. The inventory of assets and liabilities at 31. December 2001 showing a total of USD 8'673'496.97, which is attached to this resolution as Schedule 1, is hereby approved and adopted.
2. The investments made in 2001 according to Schedule 2 are hereby approved and adopted.
3. No distributions have been made in 2001.
4. LGT Treuhand AG, Vaduz, is entrusted with drawing up the inventory of assets and liabilities for the next business year.

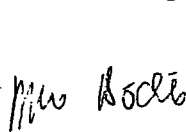
Vaduz, 12. September 2003

The Foundation Board:



lic. iur. Marcel Telser

Profile Management Trust reg.



Margit Böckle



Anna-Marie Danuser

The undersigned beneficiary/beneficiaries
has/have taken due note of this resolution.

Vaduz, 10.11.2004



Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 143

MAR-00642

Resolution

The Foundation Board of the
Fondation CHATEAU, Vaduz

hereby resolves:

1. The inventory of assets and liabilities at 31. December 2002 showing a total of USD 7'051'248.98, which is attached to this resolution as Schedule 1, is hereby approved and adopted.
2. The investments made in 2002 according to Schedule 2 are hereby approved and adopted.
3. No distributions have been made in 2002.
4. LGT Treuhand AG, Vaduz, is entrusted with drawing up the inventory of assets and liabilities for the next business year.

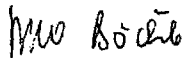
Vaduz, 12. September 2003

The Foundation Board:



Mr. Mr. Marcel Telser

Profile Management Trust reg.



Margit Böckle

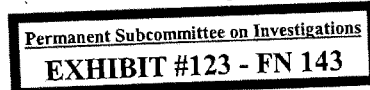


Anna-Marie Danuser

The undersigned beneficiary/beneficiaries
has/have taken due note of this resolution.

Vaduz, 10. 11. 2004

MAR-00657

Resolution

The Foundation Board of the
Fondation CHATEAU, Vaduz

hereby resolves:

1. The inventory of assets and liabilities at 31. December 2003 showing a total of USD 9'809'257.11, which is attached to this resolution as Schedule 1, is hereby approved and adopted.
2. The investments made in 2003 according to Schedule 2 are hereby approved and adopted.
3. No distributions have been made in 2003.
4. LGT Treuhand AG, Vaduz, is entrusted with drawing up the inventory of assets and liabilities for the next business year.

Vaduz, 12. Mai 2004

The Foundation Board:



lic. iur. Marcel Telser


Profile Management Trust reg.



Margit Böckle

The undersigned beneficiary/beneficiaries
has/have taken due note of this resolution.

Vaduz, 10. 11. 2004



Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 143

MAR-00672

BAKER & MCKENZIE

Baker & McKenzie LLP
Mellon Financial Center
1111 Brickell Avenue, Suite 1700
Miami, Florida 33131, USA

Tel: +1 305 789 8900
Fax: +1 305 789 8953
www.bakernet.com

May 12, 2008

Asia
Pacific
Bangkok
Beijing
Kuala Lumpur
Hong Kong
Jakarta
Kuala Lumpur
Manila
Melbourne
Shanghai
Singapore
Sydney
Taipei
Tokyo
Europe &
Middle East
Athens
Amsterdam
Antwerp
Bahrain
Baku
Barcelona
Berlin
Brussels
Budapest
Cairo
Frankfurt / Main
Geneva
Hiro
London
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich
North & South
America
Bogota
Brasilia
Buenos Aires
Caracas
Chicago
Chihuahua
Dallas
Guadalajara
Houston
Juarez
Mexico City
Miami
Montenrey
New York
Palo Alto
Porto Alegre
Rio de Janeiro
San Diego
San Francisco
Santiago
Sao Paulo
Tijuana
Toronto
Valencia
Washington, DC

[REDACTED], Revenue Agent

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

RE: Anna Marsh ([REDACTED])
Reasonable Cause Statement
Failure to Timely File Form 3520
Calendar Year: 2006

Dear Mr. Everett:

As you know, the undersigned represent Anna Marsh, a U.S. citizen taxpayer with SS# [REDACTED] (the "Taxpayer") and the Estate of James A. Marsh, a deceased U.S. citizen taxpayer with SS# [REDACTED] ("Mr. Marsh") and have previously filed Forms 2848, Power of Attorney.

Enclosed please find the following completed and executed Form 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, for calendar year 2006, filed on behalf of the Taxpayer (the "Form").

The Taxpayer's failure to file this Form in a timely manner was due to reasonable cause, and not any willful act or specific intent on the part of the Taxpayer, as explained herein below.

Many years ago, the Taxpayer's husband, Mr. Marsh, funded several foundations in Liechtenstein, including three called Foundation Chateau, Lincol Foundation and Largella Foundation (collectively, the "Foundations").

The Taxpayer, who will be 85 years old on [REDACTED] was not aware of the existence of the Foundations until the commencement of an IRS

Baker & McKenzie LLP is a

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 148

ein.

MAR-01179

examination after her husband's death on June 16, 2006. Her husband was extremely private and did not discuss financial issues with her.

Subsequently, the Taxpayer learned that the Foundations qualify as Qualified Terminable Interest Property (QTIP) Trusts, all of whose income is required to be distributed to the Taxpayer as the surviving spouse. As such, we informed the Taxpayer that under IRC §6048(c), she is required to file Form 3520 with respect to these Foundations because she is deemed to receive annual distributions despite the fact that she did not actually receive any income (or other) distributions in 2006 from these Foundations. The Taxpayer agreed without any hesitation to do everything that was required to meet her tax reporting requirements. She requested that we assist her in seeking the financial data necessary to meet the filing requirement. Pursuant thereto, after many months of dogged effort, all of the necessary financial information was finally obtained from Liechtenstein and carefully analyzed by U.S. tax accountants. However, such financial and tax data was only received well after the last filing deadline for 2006 and only just now completed to be able to file the enclosed Form. This financial data collection and complicated tax analysis (due principally to the substantial number of PFIC investments involved) was done at great expense in professional fees, both legal and accounting, in Liechtenstein and in the United States.

The facts above clearly demonstrate that the Taxpayer has acted in a responsible manner, exercising business care and prudence, and making more than reasonable efforts to determine her tax and information reporting obligations as quickly as possible. Promptly upon being notified of her U.S. tax reporting obligations, the Taxpayer cooperated fully with counsel to assist in filing the enclosed Form.

We believe the foregoing facts, circumstances and reasons set forth above demonstrate an affirmative showing that the Taxpayer's failure to file the enclosed Form in a timely manner was due to reasonable cause, and not willful neglect. Accordingly, we respectfully request that any and all possible penalties which otherwise could be imposed pursuant to IRC § 6677(b) be waived.

Please note that the Taxpayer has attested below to the facts stated above under penalties of perjury. If you require any further

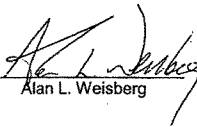
BAKER & MCKENZIE

information, we request that you contact Alan L. Weisberg, Esq. at (305) 374-5544. Thank you for your understanding and consideration of this matter.

Very truly yours,

Weisberg and Kainen

Baker & McKenzie LLP

By: 
Alan L. Weisberg

By: 
Robert F. Hudson, Jr.

Attestation

Under penalties of perjury, I, Anna Marsh, do hereby declare that I have examined the above reasonable cause statement, and to the best of my knowledge and belief, it is true, correct and complete.

By: 
Anna A. Marsh

Date: 5/12/08

Reasonable Cause Int 3520 (Rev) 5-12-08

MIADMS\336540.4

MAR-01181

BAKER & MCKENZIE

Baker & McKenzie LLP
Mellon Financial Center
1111 Brickell Avenue, Suite 1700
Miami, Florida 33131, USA

Tel: +1 305 789 8900
Fax: +1 305 789 8953
www.bakernet.com

May 12, 2008

Asia
Pacific
Bangkok
Beijing
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Kuala Lumpur
Macao
Melbourne
Shanghai
Singapore
Sydney
Taipei
Tokyo
Europe &
Middle East
Almaly
Amsterdam
Antwerp
Bahrain
Baku
Barcelona
Berlin
Bologna
Brussels
Budapest
Cairo
Dusseldorf
Frankfurt / Main
Geneve
Hijh
London
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich
North & South
America
Bogota
Brasilia
Buenos Aires
Caracas
Chicago
Chihuahua
Dallas
Guadalajara
Houston
Juarez
Mexico City
Miami
Montreay
New York
Pale Alto
Porto Alegre
Rio de Janeiro
San Diego
San Francisco
Santiago
Sao Paulo
Tijuana
Toronto
Valencia
Washington, DC

Revenue Agent

Redacted by the Permanent
Subcommittee on Investigations

RE: Anna Marsh (SSN [REDACTED]) and
James A. Marsh, deceased (SSN [REDACTED])
Reasonable Cause Statement
Failure to Timely File Forms 3520 and 3520-A
Calendar Years: 2002 - 2005

Dear Mr. Everett:

As you know, the undersigned represent Anna Marsh, a U.S. citizen taxpayer with SSN [REDACTED] ("Mrs. Marsh") and the Estate of James A. Marsh, a deceased U.S. citizen taxpayer with SSN [REDACTED] (the "Taxpayer") and have previously filed Forms 2848, Power of Attorney.

Enclosed please find the following completed and executed Forms 3520, Annual Return to Report Transactions With Foreign Trusts and Receipt of Certain Foreign Gifts, and Forms 3520-A, Annual Information Return of Foreign Trust with a U.S. Owner, for calendar years 2002 through 2005, each filed on behalf of the Taxpayer (collectively referred to as "Forms").

The Taxpayer's failure to file these Forms in a timely manner was due to reasonable cause, and not any willful act or specific intent on the part of the Taxpayer, as explained herein below.

Many years ago, the Taxpayer funded several foundations in Liechtenstein, called Foundation Chateau, Lincol Foundation, Largella Foundation and Topanga Foundation (collectively, the "Foundations").

As a U.S. person under IRC § 7701(a)(30) who directly transferred property to a foreign trust with U.S. beneficiaries, during his lifetime the Taxpayer is treated as the constructive or deemed owner of the Foundation assets for U.S. federal income tax purposes pursuant to IRC § 679. Prior to the death of the Taxpayer in June 2006, the Foundations did not make any distributions to any beneficiaries, and no contributions were made to the Foundations in the last six years.

Baker & McKenzie LLP is

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 148

arein.

MAR-01182

BAKER & MCKENZIE

— = Redacted by the Permanent
Subcommittee on Investigations

The Taxpayer, a construction contractor, was unsophisticated in the area of U.S. tax reporting requirements. It is believed that he did not know that as the constructive or deemed owner of the Foundation assets he had reporting requirements in the United States. We believe that the Taxpayer was under the erroneous belief that his constructive or deemed ownership of the Foundation assets was not required to be reported until such time as the assets were repatriated to the United States. This may explain why he apparently did not spend any of the money in the Foundations for over twenty years.

The Taxpayer relied on his U.S.-based accountant(s) to handle all of his IRS filings. The U.S. accountant(s) apparently did not advise the Taxpayer regarding his U.S. reporting obligations with respect to the Foundation assets, nor was the Taxpayer aware of the necessity to disclose his ownership of the Foundation assets to his U.S. accountant. As a consequence, the Forms 3520 and 3520-A were never filed, and the Taxpayer remained unaware of his reporting obligations under IRC §6048 to the IRS.

Mrs. Marsh, who will be 85 years old on [REDACTED], was not aware of the existence of the Foundations until the commencement of an IRS examination after her husband's death. Her husband was extremely private and did not discuss financial issues with her. He was the one in their relationship who took care of business and financial matters, paying the bills and dealing with the tax return preparer so that even if Mrs. Marsh had been aware of the Foundations, she would have assumed that her husband had taken care of any reporting requirements.

Recently, while assisting Mrs. Marsh and her sons with the IRS examination, we brought to her attention that Forms 3520 and 3520-A were required to be filed with respect to the Foundations. Mrs. Marsh agreed without any hesitation to do everything that was required to meet her tax reporting requirements. She requested that we assist her in seeking the financial data necessary to meet the filing requirements. Pursuant thereto, after many months of dogged effort, all of the necessary financial information was finally obtained from Liechtenstein and carefully analyzed by U.S. tax accountants. This financial data collection and complicated tax analysis was done at great expense in professional fees, both legal and accounting, in Liechtenstein and in the United States.

The facts above clearly demonstrate that Mrs. Marsh has acted in a responsible manner, exercising business care and prudence, and making more than reasonable efforts to determine the Taxpayer's tax and information reporting obligations as quickly as possible. Promptly upon being notified of the Taxpayer's U.S. tax reporting obligations, Mrs. Marsh cooperated fully with counsel to assist in filing these Forms.

BAKER & MCKENZIE

We believe the foregoing facts, circumstances and reasons set forth above demonstrate an affirmative showing that the Taxpayer's failure to file the enclosed Forms in a timely manner was due to reasonable cause, and not willful neglect. Accordingly, we respectfully request that any and all possible penalties which otherwise could be imposed pursuant to IRC § 6677(b) be waived.

Please note that Mrs. Marsh has attested below to the facts stated above under penalties of perjury. If you require any further information, we request that you contact Alan L. Weisberg, Esq. at (305) 374-5544. Thank you for your understanding and consideration of this matter.

Very truly yours,

Weisberg and Kainen

Baker & McKenzie LLP

By: 

Alan L. Weisberg

By: 

Robert F. Hudson, Jr.

Attestation

Under penalties of perjury, I, Anna Marsh, individually and as Personal Representative for the Estate of James A. Marsh, do hereby declare that I have examined the above reasonable cause statement, and to the best of my knowledge and belief, it is true, correct and complete.

By: 

Anna A. Marsh

Date: 5/12/08

By: 

Anna A. Marsh, as Personal
Representative for the Estate
of James A. Marsh

Date: 5/10/08

DECEASED
Department of the Treasury - Internal Revenue Service

1040X **Amended U.S. Individual Income Tax Return** OMB No. 1545-0047

Rev. November 2003 See separate instructions.

This return is for calendar year **2002**, or fiscal year ended **▶**

Your first name and initial **JAMES A. MARSH (DEC. 06/16/06)** Last name **_____** Your social security number **_____**
 If a joint return, spouse's first name and initial **ANNA MARSH** Last name **_____** Spouse's social security number **_____**
 Home address (no. and street) or P.O. box if mail is not delivered to your home **_____** Apt. no. **_____** Phone number **_____**
 City, town or post office, state, and ZIP code **_____** For Paperwork Reduction Act Notice, see page 6.

A If the name or address shown above is different from that shown on the original return, check here **▶** ☐ Yes ☒ No
B Has the original return been changed or audited by the IRS or have you been notified that it will be? ☐ Yes ☒ No
C Filing status. Be sure to complete this line. Note: You cannot change from joint to separate returns after the due date.
 On original return ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household ☐ Qualifying widow(er)
 On this return ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household* ☐ Qualifying widow(er)
 * If the qualifying person is a child but not your dependent, see page 2.

Use Part II on page 2 to explain any changes

	A. Original amount or as previously adjusted (see page 2)	B. Net change - amount of increase or (decrease) - explain in Part II	C. Correct amount
Income and Deductions (see pages 2-6)			
1 Adjusted gross income (see page 3)	3,722.	682,466.	686,188.
2 Itemized deductions or standard deduction (see page 3)	9,650.	218,240.	227,890.
3 Subtract line 2 from line 1	-5,928.	464,226.	458,298.
4 Exemptions. If changing, fill in Parts I and II on page 2	6,000.	-6,000.	0.
5 Taxable income. Subtract line 4 from line 3	0.	458,298.	458,298.
6 Tax (see page 4). Method used in col. C TRS	0.	368,163.	368,163.
7 Credits (see page 4)	0.	31,966.	31,966.
8 Subtract line 7 from line 6. Enter the result but not less than zero	0.	336,197.	336,197.
9 Other taxes (see page 4)			
10 Total tax. Add lines 8 and 9	0.	336,197.	336,197.
Payments			
11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4			
12 Estimated tax payments, including amount applied from prior year's return			
13 Earned income credit (EIC)			
14 Additional child tax credit from Form 8812			
15 Credits from Form 2439, Form 4136, or Form 8885			
16 Amount paid with request for extension of time to file (see page 4)			
17 Amount of tax paid with original return plus additional tax paid after it was filed			
18 Total payments. Add lines 11 through 17 in column C			
Refund or Amount You Owe			
19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			
20 Subtract line 19 from line 18 (see page 5)			
21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5			336,197.
22 If line 10, column C, is less than line 20, enter the difference			
23 Amount of line 22 you want refunded to you			
24 Amount of line 22 you want applied to your estimated tax			

Sign Here Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.

Preparer's signature *Anna Marsh* **Date** *5/5/08* **FILING AS SURVIVING SPOUSE** *James Marsh* **Date** *5/5/08*
Spouse's signature, if a joint return, both must sign. **Preparer's SSN or PTIN** **Check if self-employed** ☐ **EN** **Phone no.** **(305) 373-5500**

Paid Preparer's Use Only **Firm's name (or yours if self-employed), address, and ZIP code** **MORRISON, BROWN, ARGIZ & FARRA, LLP**
1001 BRICKELL BAY DRIVE, 9TH FLOOR
MIAMI, FL 33131

LHA 210701 11-19-02 **INTEREST NOT INCLUDED** **460,901.** **TOTAL DUE** **460,901.** Form 1040X (Rev. 11-2003)

DECEASED
Department of the Treasury - Internal Revenue Service

Form 1040X **Amended U.S. Individual Income Tax Return** OMB No. 1545-0047

This return is for calendar year **2003**, or fiscal year ended **2003**.

Your first name and initial **JAMES A. MARSH (DEC. 06/16/06)** Last name **MARSH** Your social security number **[REDACTED]**
 If a joint return, spouse's first name and initial **ANNA MARSH** Last name **MARSH** Spouse's social security number **[REDACTED]**
 Home address (no. and street) or P.O. box if mail is not delivered to your home **[REDACTED]** Apt. no. **[REDACTED]** Phone number **[REDACTED]**
 City, town or post office, state, and ZIP code **[REDACTED]** For Paperwork Reduction Act Notice, see page 8.

A If the name or address shown above is different from that shown on the original return, check here ☐ Yes ☒ No
 B Has the original return been changed or audited by the IRS or have you been notified that it will be? ☐ Yes ☒ No
 C Filing status. Be sure to complete this line. Note: You cannot change from joint to separate returns after the due date.
 On original return ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household ☐ Qualifying widow(er)
 On this return ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household* ☐ Qualifying widow(er)
 * If the qualifying person is a child but not your dependent, see page 2.

Use Part II on page 2 to explain any changes

	A. Original amount or as previously adjusted (see page 2)	B. Net change - amount of increase or (decrease) - explain in Part II	C. Correct amount
Income and Deductions (see pages 2-6)			
1 Adjusted gross income (see page 3)	4,014.	609,317.	613,331.
2 Itemized deductions or standard deduction (see page 3)	9,500.	276,729.	286,229.
3 Subtract line 2 from line 1	-5,486.	332,588.	327,102.
4 Exemptions. If changing, fill in Parts I and II on page 2	6,100.	-6,100.	0.
5 Taxable income. Subtract line 4 from line 3	0.	327,102.	327,102.
6 Tax (see page 4). Method used in col. C SCH. D	0.	239,606.	239,606.
7 Credits (see page 4)	0.	39,641.	39,641.
8 Subtract line 7 from line 6. Enter the result but not less than zero	0.	199,965.	199,965.
9 Other taxes (see page 4)	0.		
10 Total tax. Add lines 8 and 9	0.	199,965.	199,965.
Payments			
11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4			
12 Estimated tax payments, including amount applied from prior year's return			
13 Earned income credit (EIC)			
14 Additional child tax credit from Form 8812			
15 Credits from Form 2439, Form 4136, or Form 8865			
16 Amount paid with request for extension of time to file (see page 4)			
17 Amount of tax paid with original return plus additional tax paid after it was filed			
18 Total payments. Add lines 11 through 17 in column C			
Refund or Amount You Owe			
19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			
20 Subtract line 19 from line 18 (see page 5)			
21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5			199,965.
22 If line 10, column C, is less than line 20, enter the difference			
23 Amount of line 22 you want refunded to you			
24 Amount of line 22 you want applied to your estimated tax			

Sign Here (Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.)

Preparer's signature *[Signature]* **Date** **5/5/08** **FILING AS SURVIVING SPOUSE** *[Signature]* **Date** **5/5/08**
 Your signature **Date** Spouse's signature. If a joint return, both must sign. **Date**
Preparer's signature *[Signature]* **Date** **5/5/08** **Check if self-employed** ☐ **Preparer's SSN or PTIN** **[REDACTED]**
Preparer's Use Only Firm's name for you (if self-employed), address, and ZIP code **MORRISON, BROWN, ARGIZ & FARRA, LLP** **EN**
1001 BRICKELL BAY DRIVE, 9TH FLOOR **Phone no.** **(305) 373-5500**
MIAMI, FL 33131

LHA 310001 11-25-00 **INTEREST NOT INCLUDED** **62,086.** **TOTAL DUE** **262,051.** **Form 1040X (Rev. 11-2003)**

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 149

= Redacted by the Permanent Subcommittee on Investigations

DECEASED
Department of the Treasury - Internal Revenue Service

Form 1040X **Amended U.S. Individual Income Tax Return** OMB No. 1545-0047
(Rev. November 2004) ▶ See separate instructions.

This return is for calendar year **2004**, or fiscal year ended ▶

Personal Information

Your first name and initial **JAMES A. MARSH** Last name **DEC. 06/16/06** Your social security number **[REDACTED]**
 If a joint return, spouse's first name and initial **ANNA MARSH** Last name **[REDACTED]** Spouse's social security number **[REDACTED]**
 Home address (no. and street) or P.O. box if mail is not delivered to your home Apt. no. Phone number
 City, town or post office, state, and ZIP code For Paperwork Reduction Act Notice, see page 6.

Part I

A If the name or address shown above is different from that shown on the original return, check here ☐ Yes ☒ No
 B Has the original return been changed or audited by the IRS or have you been notified that it will be? ☐ Yes ☒ No
 C Filing status. Be sure to complete this line. Note. You cannot change from joint to separate returns after the due date.
 On original return ▶ ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household ☐ Qualifying widow(er)
 On this return ▶ ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household ☐ Qualifying widow(er)
 * If the qualifying person is a child but not your dependent, see page 2.

Part II Use Part II on page 2 to explain any changes

	A. Original amount or as previously adjusted (see page 3)	B. Net change - amount of increase or (decrease) - explain in Part II	C. Correct amount
Income and Deductions (see pages 2-6)			
1 Adjusted gross income (see page 3)	3,982.	56,505.	60,487.
2 Itemized deductions or standard deduction (see page 3)	11,600.	325,465.	337,065.
3 Subtract line 2 from line 1	-7,618.	-268,960.	-276,578.
4 Exemptions. If changing, fill in Parts I and II on page 2	6,200.		6,200.
5 Taxable income. Subtract line 4 from line 3	0.	0.	0.
6 Tax (see page 4). Method used in col. C TAX TABLE	0.	38,790.	38,790.
7 Credits (see page 4)	0.	38,790.	38,790.
8 Subtract line 7 from line 6. Enter the result but not less than zero	0.	38,790.	38,790.
9 Other taxes (see page 4)	0.		
10 Total tax. Add lines 8 and 9	0.	38,790.	38,790.
Payments			
11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4			
12 Estimated tax payments, including amount applied from prior year's return			
13 Earned income credit (EIC)			
14 Additional child tax credit from Form 8812			
15 Credits from Form 2439, Form 4136, or Form 8885			
16 Amount paid with request for extension of time to file (see page 5)			
17 Amount of tax paid with original return plus additional tax paid after it was filed			
18 Total payments. Add lines 11 through 17 in column C			
Refund or Amount You Owe			
19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			
20 Subtract line 19 from line 18 (see page 5)			
21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5			38,790.
22 If line 10, column C, is less than line 20, enter the difference			
23 Amount of line 22 you want refunded to you			
24 Amount of line 22 you want applied to your estimated tax			

Sign Here Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.

Signatures

Your signature **[Signature]** Date **5/5/08** FILING AS SURVIVING SPOUSE
 Spouse's signature, if a joint return, both must sign. **[Signature]** Date **5/5/08**

Preparer's Information

Preparer's signature **[Signature]** Date **5/5/08** Check if self-employed ☐ Preparer's SSN or PTIN **[REDACTED]**
 Firm's name (for you to use if self-employed), address, and ZIP code **MORRISON, BROWN, ARGIZ & FARRA, LLP**
1001 BRICKELL BAY DRIVE, 9TH FLOOR Phone no. **(305) 373-5500**
MIAMI, FL 33131

LHA 410201 11-03-04 **INTEREST NOT INCLUDED** **9,671.** **TOTAL DUE** **48,461.** Form 1040X (Rev. 11-2004)

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 149

Redacted by the Permanent Subcommittee on Investigations

DECEASED
Department of the Treasury - Internal Revenue Service

Form 1040X **Amended U.S. Individual Income Tax Return** OMB No. 1545-0074
(Rev. November 2003) **See separate instructions.**

This return is for calendar year **2005**, or fiscal year ended **12/31/05**

Personal Information

Your first name and initial **JAMES A. MARSH (DEC. 06/16/06)** Last name **MARSH** Your social security number **[REDACTED]**

If a joint return, spouse's first name and initial **ANNA MARSH** Last name **MARSH** Spouse's social security number **[REDACTED]**

Home address (no. and street) or P.O. box if mail is not delivered to your home **[REDACTED]** Apt. no. **[REDACTED]** Phone number **[REDACTED]**

City, town or post office, state, and ZIP code **[REDACTED]** For Paperwork Reduction Act Notice, see page 6.

A If the address shown above is different from that shown on your last return filed with the IRS and you would like us to change it, check here ☐

B Filing status. Be sure to complete this line. Note. You cannot change from joint to separate returns after the due date.

On original return ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household ☐ Qualifying widow(er)

On this return ☐ Single ☒ Married filing jointly ☐ Married filing separately ☐ Head of household ☐ Qualifying widow(er)

* If the qualifying person is a child but not your dependent, see page 2 of the instructions.

Use Part II on page 2 to explain any changes

	A. Original amount or as previously adjusted (see page 3)	B. Net change - amount of increase or (decrease) - explain in Part II	C. Correct amount
Income and Deductions (see instructions)			
1 Adjusted gross income (see page 3)	29,088.	1,759,333.	1,788,421.
2 Itemized deductions or standard deduction (see page 3)	12,000.	278,579.	290,579.
3 Subtract line 2 from line 1	17,088.	1,480,754.	1,497,842.
4 Exemptions. If changing, fill in Parts I and II on page 2 (see page 3)	6,400.	-6,400.	0.
5 Taxable income. Subtract line 4 from line 3	10,688.	1,487,154.	1,497,842.
6 Tax (see page 4). Method used in col. C QDCGTW	1,602.	949,797.	951,399.
7 Credits (see page 4)	0.	117,554.	117,554.
8 Subtract line 7 from line 6. Enter the result but not less than zero	1,602.	832,243.	833,845.
9 Other taxes (see page 4)			
10 Total tax. Add lines 8 and 9	1,602.	832,243.	833,845.
Payments			
11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 4			
12 Estimated tax payments, including amount applied from prior year's return			
13 Earned income credit (EIC)			
14 Additional child tax credit from Form 8812			
15 Credits from Form 2439, Form 4136, or Form 8885			
16 Amount paid with request for extension of time to file (see page 4)			
17 Amount of tax paid with original return plus additional tax paid after it was filed			1,602.
18 Total payments. Add lines 11 through 17 in column C			1,602.
Refund or Amount You Owe			
19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			
20 Subtract line 19 from line 18 (see page 5)			1,602.
21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 5			832,243.
22 If line 10, column C, is less than line 20, enter the difference			
23 Amount of line 22 you want refunded to you			
24 Amount of line 22 you want applied to your estimated tax			

Sign Here

Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.

Preparer's signature **[Signature]** Date **5/5/08** Filing as **SURVIVING SPOUSE**

Spouse's signature **[Signature]** Date **5/5/08**

Prepared by

Firm's name (or yours if self-employed), address, and ZIP code **MORRISON, BROWN, ARGIZ & FARRA, LLP
1001 BRICKELL BAY DRIVE, 9TH FLOOR
MIAMI, FL 33131**

Check if self-employed ☐ Preparer's SSN or PTIN **[REDACTED]**

Phone no. **(305) 373-5500**

LHA
510701
12-03-05INTEREST NOT INCLUDED
141,682.TOTAL DUE
973,925.Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 149= Redacted by the Permanent
Subcommittee on Investigations

1040X (Rev. February 2007) **Amended U.S. Individual Income Tax Return** (OMB No. 1545-0074)

This return is for calendar year **2006**, or fiscal year ended **▶**

Sign Here (If a joint return, spouse's first name and initial) **JAMES A. MARSH (DEC.) 06/16/06** Last name **Marsh** Your social security number **[REDACTED]**

Home address (no. and street) or P.O. box if mail is not delivered to your home **[REDACTED]** Apt. no. **[REDACTED]** Phone number **[REDACTED]**

City, town or post office, state, and ZIP code **[REDACTED]**

A If the address shown above is different from that shown on your last return filed with the IRS, would you like us to change it in our records? **▶** ☐ Yes ☒ No

B Filing status. Be sure to complete this line. Note: You cannot change from joint to separate returns after the due date.

On original return ☐ Single ☐ Married filing jointly ☒ Married filing separately ☐ Head of household ☐ Qualifying widow(er)

On this return ☐ Single ☐ Married filing jointly ☒ Married filing separately ☐ Head of household ☐ Qualifying widow(er)

* If the qualifying person is a child but not your dependent, see page 3 of the instructions.

Use Part II on page 2 to explain any changes

	A. Original amount or as previously adjusted (see page 3)	B. Net change - amount of increase or (decrease) - explain in Part II	C. Correct amount
Income and Deductions (see instructions)			
1 Adjusted gross income (see page 3)	667,272.	-153,466.	513,806.
2 Itemized deductions or standard deduction (see page 3)	109,687.	96,654.	202,341.
3 Subtract line 2 from line 1	561,585.	-250,120.	311,465.
4 Exemptions. If changing, fill in Parts I and II on page 2 (see page 4)	1,100.		1,100.
5 Taxable income. Subtract line 4 from line 3	560,485.	-250,120.	310,365.
6 Tax (see page 5). Method used in col. C QDCGTW	193,843.	171,660.	365,503.
7 Credits (see page 5)	36,580.	12,928.	49,508.
8 Subtract line 7 from line 6. Enter the result but not less than zero	157,263.	158,732.	315,995.
9 Other taxes (see page 5)			
10 Total tax. Add lines 8 and 9	157,263.	158,732.	315,995.
Payments			
11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 5			
12 Estimated tax payments, including amount applied from prior year's return			
13 Earned income credit (EIC)			
14 Additional child tax credit from Form 8812			
15 Credits: Federal telephone excise tax or from Forms 2439, 4136, or 8885	30.		30.
16 Amount paid with request for extension of time to file (see page 5)			
17 Amount of tax paid with original return plus additional tax paid after it was filed			157,496.
18 Total payments. Add lines 11 through 17 in column C			157,526.
Refund or Amount You Owe			
19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			263.
20 Subtract line 19 from line 18 (see page 6)			157,263.
21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 6			158,732.
22 If line 10, column C, is less than line 20, enter the difference			
23 Amount of line 22 you want refunded to you			
24 Amount of line 22 you want applied to your estimated tax			

Sign Here (If a joint return, see page 2. Keep a copy for your records.)

Preparer's signature **[Signature]** Date **5/15/08** **Spouse's signature** **[Signature]** Date **5/15/08**

Preparer's Use Only Firm's name (or yours if self-employed), address, and ZIP code **MORRISON, BROWN, ARGIZ & FARRA, LLP**
1001 BRICKELL BAY DRIVE, 9TH FLOOR
MIAMI, FL 33131

Check if self-employed ☐ Preparer's SSN or PTIN **[REDACTED]** Phone no. **(305) 373-5500**

CH 010001 02-12-07 For Paperwork Reduction Act Notice, see separate instructions. **Form 1040X (Rev. 2-2007)**

TOTAL DUE
171,832.

— = Redacted by the Permanent Subcommittee on Investigations

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 149

MAR-01340

Form	1040X <small>(Rev. February 2007)</small>	Department of the Treasury - Internal Revenue Service Amended U.S. Individual Income Tax Return <small>See separate instructions.</small>	OMB No. 1545-0074																																																																																																																																				
This return is for calendar year 2006 , or fiscal year ended ▶																																																																																																																																							
Your first name and initial ANNA MARSH		Last name [REDACTED]																																																																																																																																					
If a joint return, spouse's first name and initial [REDACTED]		Last name [REDACTED]																																																																																																																																					
Home address (no. and street) or P.O. box if mail is not delivered to your home [REDACTED]		Apt. no. Phone number [REDACTED]																																																																																																																																					
City, town or post office, state, and ZIP code [REDACTED]																																																																																																																																							
A If the address shown above is different from that shown on your last return filed with the IRS, would you like us to change it in our records? <input type="checkbox"/> Yes <input type="checkbox"/> No																																																																																																																																							
B Filing status. Be sure to complete this line. Note: You cannot change from joint to separate returns after the due date. On original return <input type="checkbox"/> Single <input type="checkbox"/> Married filing jointly <input checked="" type="checkbox"/> Married filing separately <input type="checkbox"/> Head of household <input type="checkbox"/> Qualifying widow(er) On this return <input type="checkbox"/> Single <input type="checkbox"/> Married filing jointly <input checked="" type="checkbox"/> Married filing separately <input type="checkbox"/> Head of household <input type="checkbox"/> Qualifying widow(er) <small>* If the qualifying person is a child but not your dependent, see page 3 of the instructions.</small>																																																																																																																																							
Use Part II on page 2 to explain any changes																																																																																																																																							
Income and Deductions (see instructions)																																																																																																																																							
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="width: 15%;">1. Original amount or as previously adjusted (see page 3)</th> <th style="width: 15%;">2. Net change - amount of increase or (decrease) - explain in Part II</th> <th style="width: 15%;">3. Correct amount</th> </tr> </thead> <tbody> <tr> <td>1 Adjusted gross income (see page 3)</td> <td style="text-align: right;">11,893.</td> <td style="text-align: right;">214,283.</td> <td style="text-align: right;">226,176.</td> </tr> <tr> <td>2 Itemized deductions or standard deduction (see page 3)</td> <td style="text-align: right;">5,219.</td> <td style="text-align: right;">574.</td> <td style="text-align: right;">5,793.</td> </tr> <tr> <td>3 Subtract line 2 from line 1</td> <td style="text-align: right;">6,674.</td> <td style="text-align: right;">213,709.</td> <td style="text-align: right;">220,383.</td> </tr> <tr> <td>4 Exemptions. If changing, fill in Parts I and II on page 2 (see page 4)</td> <td style="text-align: right;">3,300.</td> <td style="text-align: right;">-2,200.</td> <td style="text-align: right;">1,100.</td> </tr> <tr> <td>5 Taxable income. Subtract line 4 from line 3</td> <td style="text-align: right;">3,374.</td> <td style="text-align: right;">215,909.</td> <td style="text-align: right;">219,283.</td> </tr> <tr> <td>6 Tax (see page 5). Method used in col. C: QDCGTW</td> <td style="text-align: right;">338.</td> <td style="text-align: right;">579,695.</td> <td style="text-align: right;">580,033.</td> </tr> <tr> <td>7 Credits (see page 5)</td> <td style="text-align: right;">0.</td> <td style="text-align: right;">6,981.</td> <td style="text-align: right;">6,981.</td> </tr> <tr> <td>8 Subtract line 7 from line 6. Enter the result but not less than zero</td> <td style="text-align: right;">338.</td> <td style="text-align: right;">572,714.</td> <td style="text-align: right;">573,052.</td> </tr> <tr> <td>9 Other taxes (see page 5)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>10 Total tax. Add lines 8 and 9</td> <td style="text-align: right;">338.</td> <td style="text-align: right;">572,714.</td> <td style="text-align: right;">573,052.</td> </tr> <tr> <td colspan="4">Payments</td> </tr> <tr> <td>11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 5</td> <td></td> <td></td> <td></td> </tr> <tr> <td>12 Estimated tax payments, including amount applied from prior year's return</td> <td></td> <td></td> <td></td> </tr> <tr> <td>13 Earned income credit (EIC)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>14 Additional child tax credit from Form 8812</td> <td></td> <td></td> <td></td> </tr> <tr> <td>15 Credits: Federal telephone excise tax or from Forms 2439, 4136, or 8885</td> <td style="text-align: right;">30.</td> <td></td> <td style="text-align: right;">30.</td> </tr> <tr> <td>16 Amount paid with request for extension of time to file (see page 5)</td> <td></td> <td></td> <td></td> </tr> <tr> <td>17 Amount of tax paid with original return plus additional tax paid after it was filed</td> <td></td> <td></td> <td style="text-align: right;">308.</td> </tr> <tr> <td>18 Total payments. Add lines 11 through 17 in column C</td> <td></td> <td></td> <td style="text-align: right;">338.</td> </tr> <tr> <td colspan="4" style="text-align: center;">Refund or Amount You Owe</td> </tr> <tr> <td>19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS</td> <td></td> <td></td> <td style="text-align: right;">338.</td> </tr> <tr> <td>20 Subtract line 19 from line 18 (see page 6)</td> <td></td> <td></td> <td style="text-align: right;">572,714.</td> </tr> <tr> <td>21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 6</td> <td></td> <td></td> <td style="text-align: right;">572,714.</td> </tr> <tr> <td>22 If line 10, column C, is less than line 20, enter the difference</td> <td></td> <td></td> <td></td> </tr> <tr> <td>23 Amount of line 22 you want refunded to you</td> <td></td> <td></td> <td></td> </tr> <tr> <td>24 Amount of line 22 you want applied to your estimated tax</td> <td></td> <td></td> <td></td> </tr> <tr> <td colspan="4"> Sign Here Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge. </td> </tr> <tr> <td colspan="2"> Your signature [Signature] Date 5/5/08 </td> <td colspan="2"> Spouse's signature, if a joint return, both must sign. Date [REDACTED] </td> </tr> <tr> <td colspan="2"> Preparer's signature [Signature] Date 5/5/08 </td> <td colspan="2"> Check if self-employed <input type="checkbox"/> Preparer's SSN or PTIN [REDACTED] </td> </tr> <tr> <td colspan="2"> Firm's name (or yours if self-employed), address, and ZIP code MORRISON, BROWN, ARGIZ & FARRA, LLP 1001 BRICKELL BAY DRIVE, 9TH FLOOR MIAMI, FL 33131 </td> <td colspan="2"> EIN [REDACTED] Phone no. (305) 373-5500 </td> </tr> <tr> <td colspan="4"> CCH For Paperwork Reduction Act Notice, see separate instructions. 610721 02-12-07 INTEREST NOT INCLUDED </td> </tr> <tr> <td colspan="2" style="text-align: right;"> TOTAL DUE 619,980. </td> <td colspan="2"></td> </tr> </tbody></table>					1. Original amount or as previously adjusted (see page 3)	2. Net change - amount of increase or (decrease) - explain in Part II	3. Correct amount	1 Adjusted gross income (see page 3)	11,893.	214,283.	226,176.	2 Itemized deductions or standard deduction (see page 3)	5,219.	574.	5,793.	3 Subtract line 2 from line 1	6,674.	213,709.	220,383.	4 Exemptions. If changing, fill in Parts I and II on page 2 (see page 4)	3,300.	-2,200.	1,100.	5 Taxable income. Subtract line 4 from line 3	3,374.	215,909.	219,283.	6 Tax (see page 5). Method used in col. C: QDCGTW	338.	579,695.	580,033.	7 Credits (see page 5)	0.	6,981.	6,981.	8 Subtract line 7 from line 6. Enter the result but not less than zero	338.	572,714.	573,052.	9 Other taxes (see page 5)				10 Total tax. Add lines 8 and 9	338.	572,714.	573,052.	Payments				11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 5				12 Estimated tax payments, including amount applied from prior year's return				13 Earned income credit (EIC)				14 Additional child tax credit from Form 8812				15 Credits: Federal telephone excise tax or from Forms 2439, 4136, or 8885	30.		30.	16 Amount paid with request for extension of time to file (see page 5)				17 Amount of tax paid with original return plus additional tax paid after it was filed			308.	18 Total payments. Add lines 11 through 17 in column C			338.	Refund or Amount You Owe				19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			338.	20 Subtract line 19 from line 18 (see page 6)			572,714.	21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 6			572,714.	22 If line 10, column C, is less than line 20, enter the difference				23 Amount of line 22 you want refunded to you				24 Amount of line 22 you want applied to your estimated tax				Sign Here Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.				Your signature [Signature] Date 5/5/08		Spouse's signature, if a joint return, both must sign. Date [REDACTED]		Preparer's signature [Signature] Date 5/5/08		Check if self-employed <input type="checkbox"/> Preparer's SSN or PTIN [REDACTED]		Firm's name (or yours if self-employed), address, and ZIP code MORRISON, BROWN, ARGIZ & FARRA, LLP 1001 BRICKELL BAY DRIVE, 9TH FLOOR MIAMI, FL 33131		EIN [REDACTED] Phone no. (305) 373-5500		CCH For Paperwork Reduction Act Notice, see separate instructions. 610721 02-12-07 INTEREST NOT INCLUDED				TOTAL DUE 619,980.			
	1. Original amount or as previously adjusted (see page 3)	2. Net change - amount of increase or (decrease) - explain in Part II	3. Correct amount																																																																																																																																				
1 Adjusted gross income (see page 3)	11,893.	214,283.	226,176.																																																																																																																																				
2 Itemized deductions or standard deduction (see page 3)	5,219.	574.	5,793.																																																																																																																																				
3 Subtract line 2 from line 1	6,674.	213,709.	220,383.																																																																																																																																				
4 Exemptions. If changing, fill in Parts I and II on page 2 (see page 4)	3,300.	-2,200.	1,100.																																																																																																																																				
5 Taxable income. Subtract line 4 from line 3	3,374.	215,909.	219,283.																																																																																																																																				
6 Tax (see page 5). Method used in col. C: QDCGTW	338.	579,695.	580,033.																																																																																																																																				
7 Credits (see page 5)	0.	6,981.	6,981.																																																																																																																																				
8 Subtract line 7 from line 6. Enter the result but not less than zero	338.	572,714.	573,052.																																																																																																																																				
9 Other taxes (see page 5)																																																																																																																																							
10 Total tax. Add lines 8 and 9	338.	572,714.	573,052.																																																																																																																																				
Payments																																																																																																																																							
11 Federal income tax withheld and excess social security and tier 1 RRTA tax withheld. If changing, see page 5																																																																																																																																							
12 Estimated tax payments, including amount applied from prior year's return																																																																																																																																							
13 Earned income credit (EIC)																																																																																																																																							
14 Additional child tax credit from Form 8812																																																																																																																																							
15 Credits: Federal telephone excise tax or from Forms 2439, 4136, or 8885	30.		30.																																																																																																																																				
16 Amount paid with request for extension of time to file (see page 5)																																																																																																																																							
17 Amount of tax paid with original return plus additional tax paid after it was filed			308.																																																																																																																																				
18 Total payments. Add lines 11 through 17 in column C			338.																																																																																																																																				
Refund or Amount You Owe																																																																																																																																							
19 Overpayment, if any, as shown on original return or as previously adjusted by the IRS			338.																																																																																																																																				
20 Subtract line 19 from line 18 (see page 6)			572,714.																																																																																																																																				
21 Amount you owe. If line 10, column C, is more than line 20, enter the difference and see page 6			572,714.																																																																																																																																				
22 If line 10, column C, is less than line 20, enter the difference																																																																																																																																							
23 Amount of line 22 you want refunded to you																																																																																																																																							
24 Amount of line 22 you want applied to your estimated tax																																																																																																																																							
Sign Here Under penalties of perjury, I declare that I have filed an original return and that I have examined this amended return, including accompanying schedules and statements, and to the best of my knowledge and belief, this amended return is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which the preparer has any knowledge.																																																																																																																																							
Your signature [Signature] Date 5/5/08		Spouse's signature, if a joint return, both must sign. Date [REDACTED]																																																																																																																																					
Preparer's signature [Signature] Date 5/5/08		Check if self-employed <input type="checkbox"/> Preparer's SSN or PTIN [REDACTED]																																																																																																																																					
Firm's name (or yours if self-employed), address, and ZIP code MORRISON, BROWN, ARGIZ & FARRA, LLP 1001 BRICKELL BAY DRIVE, 9TH FLOOR MIAMI, FL 33131		EIN [REDACTED] Phone no. (305) 373-5500																																																																																																																																					
CCH For Paperwork Reduction Act Notice, see separate instructions. 610721 02-12-07 INTEREST NOT INCLUDED																																																																																																																																							
TOTAL DUE 619,980.																																																																																																																																							

— = Redacted by the Permanent Subcommittee on Investigations

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 149

MAR-01394

BAKER & MCKENZIE

Baker & McKenzie LLP
Mellon Financial Center
1111 Brickell Avenue, Suite 1700
Miami, Florida 33131, USA

Tel: +1 305 789 8900
Fax: +1 305 789 8953
www.bakernet.com

Asia
Pacific
Bangkok
Beijing
Hanoi
Ho Chi Minh City
Hong Kong
Jakarta
Kuala Lumpur
Manila
Melbourne
Shanghai
Singapore
Sydney
Taipei
Tokyo

Europe &
Middle East
Almity
Amsterdam
Antwerp
Bahrain
Baku
Barcelona
Berlin
Bologna
Brussels
Budapest
Cairo
Copenhagen
Frankfurt / Main
Geneva

Paris
London
Madrid
Milan
Moscow
Munich
Paris
Prague
Riyadh
Rome
St. Petersburg
Stockholm
Vienna
Warsaw
Zurich

North & South
America
Bogota
Buenos Aires
Caracas
Chicago
Columbus
Dallas
Guadalajara
Houston
Javier
Mexico City
Miami
Montevideo
New York
Palo Alto
Porto Alegre
Rio de Janeiro
San Diego
San Francisco
Santiago
Sao Paulo
Tijuana
Toronto
Valencia
Washington, DC

July 15, 2008

Senator Carl Levin
Chairman
U.S. Senate Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, DC 20510-6262

and

Senator Norm Coleman
Ranking Minority Member
U.S. Senate Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington, DC 20510-6262

RE: "Marsh Accounts:" Statement Clarification

Dear Senator Levin and Senator Coleman:

Having been provided with an advance copy of your Staff Report on "Tax Haven Banks and U.S. Tax Compliance," it has come to our attention that the Staff Attorneys have interpreted a sentence that we wrote in a "Reasonable Cause" letter submitted to the IRS on behalf of Kerry Marsh and Shannon Marsh (regarding a late filing of a Forms 3520 for 2006) in a way that was not intended by us, thus leading to an inaccurate inference and understanding of the taxpayers' position [noted at page 42]. As the authors of the "Reasonable Cause" letter that apparently has caused this misunderstanding of our clients' position, we would like to clarify and correct the record.

It is not our clients' position that they only learned of being among the beneficiaries of certain Liechtenstein Foundations following their father's death in June 2006. Instead, our "Reasonable Cause" letter was attempting to explain that the clients learned after their father's death (from us) that one of these Foundations constituted a so-called "simple trust" whose income needed to be reported by them for US tax purposes on Forms 3520, even though they had not received any distributions from that Foundation in 2006. We did not intend to suggest that our clients were not aware of the fact that they were beneficiaries of these Foundations prior to their father's death, and any inference to that effect was not intended. We apologize for any confusion that our "Reasonable Cause" letter may have caused on this issue.

Please also note that we believe that there are other factual errors in the section of the Staff Report regarding the "Marsh Accounts" (e.g., the IRS audit of the Marsh family started in the Summer of 2006, not 2007 as stated at page 42); however, this letter is not intended to be

Robert F. Hudson, Jr.
Tel: +1 305 789 8906
robert.f.hudson@bakernet.com

Via Email
mary_robertson@hsgac.senate.gov

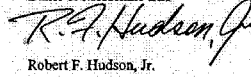
Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 155

BAKER & MCKENZIE

a comprehensive response to all such potential factual errors, but rather simply a clarification of what we thought was a particularly unfortunate inference from our apparently less than clear explanation of our taxpayers' reason for why the Forms 3520 for 2006 were being filed late.

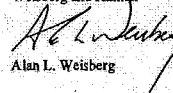
Respectfully submitted,

Baker & McKenzie LLP



Robert F. Hudson, Jr.

Weisberg and Kainan



Alan L. Weisberg

Articles

**JCMA Foundation,
Vaduz**

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 158

WWU-PSI-00001

22. AUG. 2007 18:27

NR. 2061 S. 3

1. Name

Under the name

JCMA Foundation

there exists pursuant to these Articles and pursuant to Art. 552 et seq. of the Liechtensteinisches Personen- und Gesellschaftsrecht (PGR) a Foundation with independent legal personality.

2. Domicile and Legal Venue

2.1. The domicile of the Foundation shall be Vaduz in the Principality of Liechtenstein, where the Foundation shall also have its ordinary legal venue.

2.2. By means of a resolution passed unanimously and with observance of the legal provisions and the provisions contained in these Articles, the Foundation Board may at any time transfer the Foundation's domicile to another place, at home or abroad.

2.3. All the legal relationships of this Foundation shall be subject exclusively to Liechtenstein law.

3. Duration

The duration of the Foundation shall be unlimited.

4. Object

4.1. The object of the Foundation shall be the economic support of members of certain families as well as, supplementally, of natural and legal persons outside the family circle.

4.2. The Foundation shall be authorized to conclude all transactions that may serve the Foundation's object. Within this frame, the alienation and charging of the Foundation's assets, including the yield as well as the non-commercial granting of loans and credits shall be admissible. Commercial objects shall not be pursued.

5. Foundation Fund

5.1. The Foundation fund shall amount to SFr. 30'000.-- (thirtythousand Swiss Francs).

5.2. The Foundation assets may be increased without limit at any time, by endowments by the Founder or third parties and in this regard, endowments shall be allocated to the Foundation fund or the

reserves and shall be subject in every respect to the regulations in these Articles which apply to the Foundation fund.

6. Liability and Liability to make Further contributions

Only the Foundation's assets shall be liable for the Foundation's obligations. Any liability on the part of the Founder or third parties to make further contributions does not exist.

7. Administration and Investment of the Assets

In so far as the Foundation Board does not determine to the contrary, the Foundation's assets shall be administered at the Foundation's domicile. The Foundation Board may entrust professional property administrators with the administration. Basically, the Foundation Board shall decide at its discretion concerning investment; nevertheless, it shall at all times have the Foundation's object in mind.

8. The Foundation's Governing Bodies

The Foundation's Governing Bodies shall be:

- The Foundation Board as the Supreme Governing Body
- Protector

9. The Foundation's Governing Body

9.1. The Foundation Board shall be the Foundation's sole and supreme Governing Body, which shall be comprised of one or more Members. Where several Members are appointed, they may appoint a President, a Secretary and the like and, at the same time, determine the powers and obligations (Regulations).

9.2. Initially, the Foundation Board shall be designated by the Founder in the Formation Deed. After formation, the Foundation Board shall be entitled to co-opt new Members. In the event of the resignation of all Members of the Foundation Board, new Foundation Board Members shall be appointed by the Princely Court of Justice, Vaduz, upon the proposal of the Legal Representative. The term of office of the Members of the Foundation Board shall be unlimited.

9.3. Each Member of the Foundation Board may appoint a substitute who shall represent the Member concerned at Foundation Board Meetings in the event of his inability to attend. Should an appointment not ensue, the Foundation Board may appoint a substitute. Substitutes shall not be authorized to represent. Their mandate shall terminate eo ipso with that of the Foundation Board Member they represent, the earlier revocation or by resignation, which may be tendered at any time without reasons being given.

22.AUG.2007 18:28

NR.2061 S. 5

9.4. The Foundation Board shall represent the Foundation externally and towards third parties and shall take all steps necessary for the achievement of the Foundation's object. The Foundation Board may transfer to third persons the exercise of power for limited purposes.

9.5. The Foundation Board shall meet as often as business requires. It shall be empowered to pass resolutions if all Members of the Foundation Board are present or duly represented by their substitutes. Minutes shall be kept of all Foundation Board Meetings, representations by substitutes shall be noted. The minutes shall be signed by the Chairman and the Secretary. The latter need not be Member of the Foundation Board.

9.6. The President or, where a President has not been appointed, the oldest (with regard to age) Member of the Foundation Board, shall summon a meeting of the Foundation Board if a Foundation Board Member so demands and furnishes details of the agenda. Should the requested summons not ensue within ten days, every Member of the Foundation Board shall be empowered to summon a meeting. Summonses to attend must ensue in writing, with information relating to place, time and agenda, at least ten days before the meeting is due to take place, calculated from the date of posting. In the event of danger due to delay or with the agreement of all the participants, observance of the standard practice may be waived.

9.7. In the event of a quorum not being present, a new meeting with the same agenda shall be summoned while observing standard procedure. At this second meeting, a quorum shall be deemed to be constituted regardless of the number of Members present or represented.

9.8. Basically, the Foundation Board shall pass all resolutions with a simple majority of votes, in so far as the law, the Articles, the By-laws or other documents of the Foundation do not determine otherwise. Resolutions may also be passed by circular letter. Such resolutions shall require unanimity; representation shall not be admissible.

9.9. A Foundation Board Member may resign at any time, with immediate effect, without stating reasons.

The removal of the Foundation Board, of individual Members and Substitutes by Beneficiaries of the Foundation (§ 50 Abs 2 Gesetz über das Treuunternehmen) shall be expressly excluded.

9.10. The Foundation Board, its Members and Substitutes shall be liable only for intentional or grossly negligent breach of duty.

10. Signature Rights

Initially, signature rights shall be determined by the Founder in the Formation Deed and subsequently, by the Foundation Board.

11. Protector

11.1. Initially, the Protector shall be appointed by the Founder. On the occasion of his appointment, the Protector shall designate a successor. Removal from office shall be possible at any time by means of a contrarius actus on the part of the person who made the appointment. Similarly, the Protector may tender his resignation at any time without stating reasons. Regarding liability the provisions applicable to the Foundation Board shall also apply to the Protector.

11.2. The Protector shall supervise the observance of the Foundation Articles and By-Laws and, generally, the administration of the Foundation. The Protector shall not be authorized to represent. He shall be under obligation to maintain complete secrecy.

11.3. The Founder shall regulate in detail the sphere of authority of the Protector on the occasion of his appointment, and may decide that the legal validity of certain resolutions of the Foundation Board are subject to the Protector's written approval.

12. Beneficiaries of the Foundation

12.1. Beneficiaries of the Foundation and the content of the beneficial interest shall be determined by the Foundation Board. The detailed regulation shall ensue in a By-Law.

12.2. Under no circumstances shall an actionable legal claim accrue from this beneficial interest. Any disposal of beneficial interest, with or without valuable consideration, shall be excluded.

12.3. The beneficial interest acquired without valuable consideration may not be withdrawn from the Beneficiaries by way of injunction, levy of execution and writ or bankruptcy proceedings and their beneficial interest may be neither taken in execution nor attached (Art. 567 PGR).

13. Amendment of the Articles, Issuance and Amendment of By-Laws

13.1. The Foundation Board shall be entitled to supplement and amend the Articles as well as to issue, amend / supplement and annul By-Laws. The By-Laws shall have the same legal effect as the Articles.

13.2. In order to be valid, the resolutions mentioned in the above paragraph require unanimity and the written form. In so far as such resolutions concern the Articles, they shall be attested by a public act.

14. Obligation to Disclose, Right of Inspection and Observance of Secrecy

14.1. Upon written demand and as far as their rights are concerned, the Foundation Board shall provide the Beneficiaries, but not the Reversioners, equitably with information

- concerning all facts and circumstances, report at reasonable intervals and submit accounts and

- at their expense, permit inspection of all books of account and business records.

14.2. Should the Foundation Board be of the opinion that the information demanded is being used with wrongful or inadmissible intent or in a manner which could be at variance with the interests of the Foundation or the Beneficiary, the Foundation Board shall not provide the information. The Foundation Board shall decide solely whether these prerequisites exist.

14.3. Unless the Foundation Board agrees unanimously that such disclosure could be in the interest of the Foundation or the Beneficiaries, these Articles, possible By-laws and any actual or legal relationships of the Foundation whatsoever shall not be disclosed to third parties.

15. Legal Representative

The legal representative of the Foundation shall be appointed by the Foundation Board. Initially, the appointment shall be made by the Founder in the Formation Deed.

16. Conversion

By means of a resolution passed unanimously, the Foundation Board shall be empowered to convert the Foundation into an establishment or a registered trust enterprise in the event that the circumstances have changed to such an extent that such action is warranted in the interest of the Foundation or its Beneficiaries.

17. Legal Effect

Should individual provisions of the Articles, By-laws or other Foundation documents prove to be invalid, the legal effect of the Foundation shall not be affected thereby. An invalid provision shall be replaced in accordance with the intent and object of the Foundation; loopholes shall be closed appropriately.

18. Interpretation of the Articles

18.1. The Articles and By-laws shall be interpreted according to their meaning and purpose. In case of doubt, interpretation shall be based on the presumed intention of the Founder and in this case the intermediate development shall be taken into consideration.

18.2. If the Articles and/or By-laws and/or other Foundation documents are available in different languages the German text is decisive in case of doubt.

19. Dissolution of the Foundation

19.1. In the event of a substantial change in the circumstances under which the Foundation was formed, or if the Foundation's object can no longer be meaningfully achieved, the Foundation Board shall be entitled, by means of a resolution passed unanimously, to dissolve the Foundation. The Foundation Board shall decide at its discretion whether such changed circumstances exist.

19.2. If, as the result of any occurrences - as, for example, economic or political measures, public or private law legislation or any other extraordinary events - fear exists for the safety of the Foundation assets, or because of such occurrences enjoyment of the beneficial interest is impossible, the Foundation Board shall be entitled to take appropriate defensive measures and, possibly, to transfer the domicile of the Foundation to abroad or to dissolve the Foundation.

19.3. In the event of the Foundation being liquidated, the Foundation Board shall, with the resolution to dissolve the Foundation, appoint one or several liquidators and determine their representative authority.

19.4. In the case of dissolution of the Foundation the Foundation assets shall be applied pursuant to the provisions relating to the beneficial interest. In the absence of such provisions the Foundation Board shall pass a resolution concerning the application of the Foundation assets. Such a resolution must also be passed unanimously.

20. Court of Arbitration

20.1. All disputes arising from the Foundation relationship shall be settled by a court of arbitration comprised of three persons, under exclusion of the ordinary courts.

20.2. Each of the parties to the dispute shall appoint an arbitrator, who shall mutually co-opt a chairman. If one of the arbitrators is not appointed within a period of one month or if the two arbitrators fail to agree concerning the appointment of the chairman, the appointment shall be made by petition of one of the parties to the dispute to the Princely Liechtenstein Court of Justice, Vaduz.

22. AUG. 2007 18:29

NR. 2061 S. 9

20.3. Once constituted, the court of arbitration shall be competent as long as a dispute is pending in the court, also for other disputes involving the same two parties arising from the Foundation relationship.

20.4. The decisions of the court of arbitration shall be final.

20.5. The relevant provisions of the Liechtensteinische Zivilprozessordnung shall be valid for the proceedings of the court of arbitration and all other legal relationships also, in particular, for the objection to an arbitrator. The costs of the proceedings shall be determined by the court of arbitration.

Vaduz, 20th June 1996

The Founder:

LGT Treuhand
Aktiengesellschaft

[Signature] i.O.R. Pelt



Mit der Urschrift gleichlautend.

F. L. Landgerichtskanzlei

Vaduz, am 20. JUNI 1996

By-Laws
JCMA Foundation, Vaduz

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 158

WWU-PSI-00009

22 AUG 2007 18:30

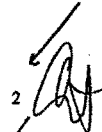
NR. 2061 S. 11

— = Redacted by the Permanent
Subcommittee on Investigations

Based on Art. 10. and 11. of the Articles, the undersigned Foundation Board of JCMA Foundation, Vaduz, hereby issues the following By-laws which shall be entitled to the same legal force as the Articles themselves.

1. **Beneficiaries of the Foundation**

- 1.1 Mr. William Shao-Ling WU, born on the [REDACTED] shall be the sole primary Beneficiary for life.
- 1.2 The following persons shall be reversioners and shall be appointed Beneficiaries in the sequence listed below:
- 1.2.1 After the death of the primary Beneficiary, the sole second Beneficiary shall be:
- A) the primary Beneficiary's spouse,
[REDACTED] at 80 %
residing at the primary Beneficiary's home
- B) the primary Beneficiary's son,
[REDACTED] at 20 %
- 1.2.2 After the death or in the event of the predecease of a second Beneficiary, the third Beneficiaries listed under 1.2.3 shall take the place of the same in equal parts per stirpes. Should however [REDACTED] have any direct descendants, his share should not go to the third Beneficiaries but be passed on to his descendants in equal parts per stirpes.
- 1.2.3 After the death of the primary and second Beneficiaries, the third Beneficiaries shall be the primary Beneficiary's daughters:
- [REDACTED], born on the [REDACTED]
[REDACTED], born on the [REDACTED]
[REDACTED], born on the [REDACTED]
- in equal parts per stirpes.

2 

WWU-PSI-00010

— = Redacted by the Permanent
Subcommittee on Investigations

1.2.4 After the death or in the event of the predecease of a third Beneficiary, the descendants of the Beneficiary concerned shall take the place of the same in equal parts per stirpes. In the event that the deceased third Beneficiary does not have any descendants, the deceased Beneficiary's share shall accrue to the remaining third beneficiary stirpes in equal parts.

1.2.5 In the event that all third beneficiaries and any of their descendants have passed away the fourth Beneficiaries shall be the primary Beneficiary's sisters

_____, born on the _____

_____, born on the _____
residing at _____

in equal parts per stirpes

1.2.5 Where thereafter no Beneficiaries are appointed, the heirs, after the last Beneficiary, shall be appointed Beneficiaries per stirpes, according to their title to an inheritance.

1.3 Where beneficial interest in the Foundation is enjoyed by several persons, the Foundation assets shall be divided according to the beneficial interests and/or books of account shall be kept.

1.4 A Beneficiary or Reversioner who, for any reason, contests the legal existence of the Foundation, the Foundation's Articles, these By-Laws, other Foundation documents or resolutions passed by the Foundation Board or allocations of assets, completely or in part, judicially or extra judicially, shall lose immediately for himself and his successors any claims in accordance with these By-laws. In this case, a said Beneficiary's potential share shall accrue to the remaining Beneficiaries according to their beneficial interest. The Foundation Board shall be empowered to maintain such claims, completely or in part, if its members agree unanimously that this corresponds to the Founder's presumed intent.

3

22. AUG. 2007 18:50

NR. 2061 S. 13

— = Redacted by the Permanent
Subcommittee on Investigations

2. Limitation according to Age

- 2.1 Beneficiaries' rights shall remain quiescent until the completion of their 25th year of life. Separated, the quiescent share of the beneficial interest shall be administered by the Foundation Board with the care of a pater familias. Upon the age limit being reached, the Foundation Board shall submit accounts to the Beneficiary, upon the latter's demand, for the entire period of quiescence.
- 2.2 Notwithstanding the provisions in the above paragraph, the Protectors under point 3. can give the consent to the Foundation Board regarding distributions, even before the age limit has been reached, if such distributions appear to be necessary in order to safeguard the Beneficiary's interest.
- 2.3 Before the age limit has been reached, neither the Beneficiary nor the natural or juridical persons appointed for the legal representation of the said Beneficiary shall be entitled to inspect, to receive information or a statement of account.

3. Protectors

- 3.1 In case of death of both, Mr. William Wu and Mrs. [REDACTED], the persons mentioned below shall be appointed Protectors of the Foundation:

[REDACTED], born on the [REDACTED]

In case of [REDACTED]'s predecease, the protector shall be [REDACTED]

- 3.2 The rights of the protector are limited to asking the Foundation board any coverage of expenses in relation to the upbringing of the beneficiaries under point 1.2.3 until their age of 25 years.



WWU-PSI-00012

4. Scope of the beneficial interest

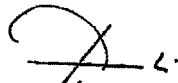
The beneficial interest shall be comprised of the Foundation's entire assets, the yield therefrom as well as the contingent liquidation surplus.

5. Amendments of these By-laws

With the assent of all the Beneficiaries affected by this, the Foundation Board may at any time completely or partly rescind, amend or supplement the present by-laws.

Vaduz, 25th June 1996 uko

The Foundation Board :


Werner Orvati


Hans-Werner Rüttler


Peter Schmid

By-Laws

VELINE Foundation, Vaduz

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 158

By-Laws / Veline Foundation, Vaduz / Vaduz, 21st August 1997 scp/mto

PSI-USMSTR - 005873

— = Redacted by the Permanent
Subcommittee on Investigations

Based on Art. 10 and 11 of the Articles, the undersigned Foundation Board of VELINE Foundation, Vaduz, hereby issues the following By-laws which shall be entitled to the same legal force as the Articles themselves.

1. Beneficiaries of the Foundation

1.1. M/s [REDACTED], born on [REDACTED], residing at [REDACTED] shall be the sole primary Beneficiary for life.

1.2. The following persons shall be Remainders and shall be appointed Beneficiaries in the sequence listed below:

1.2.1. After the death of the primary Beneficiary, the sole second Beneficiary shall be the primary Beneficiary's spouse, [REDACTED] on [REDACTED], residing at [REDACTED] (telephone no. [REDACTED]), and/or c/o The Hongkong Bank, Head Office, Hong Kong.

1.2.1.1. After the death of the primary and second Beneficiaries, the third Beneficiary shall be Mr [REDACTED], born on [REDACTED], residing at [REDACTED] USA, (telephone no. [REDACTED], fax no. [REDACTED]).

1.2.2. After the death of the primary, second and third Beneficiaries, the sole fourth Beneficiary shall be [REDACTED], born on [REDACTED], residing at [REDACTED].

1.3. Where thereafter no Beneficiaries are appointed, the heirs, after the last Beneficiary, shall be appointed Beneficiaries per stirpes, according to their title to an inheritance.

1.4. Where beneficial interest in the Foundation is enjoyed by several persons, the Foundation assets shall be divided according to the beneficial interests and/or books of account shall be kept.

1.5. A Beneficiary or Remainder who, for any reason, contests the legal existence of the Foundation, the Foundation's Articles, these By-laws, other Foundation documents or resolutions passed by the Foundation Board or allocations of assets, completely or in part, judicially or extrajudicially, shall lose immediately for himself and his successors any claims in accordance with these By-laws. In this case, a said Beneficiary's potential share shall accrue to the remaining Beneficiaries according to their beneficial interest. The Foundation Board shall be empowered to maintain such claims, completely or in

part, if its members agree unanimously that this corresponds to the Founder's presumed intent.

2. Scope of the beneficial interest

The beneficial interest shall be comprised of the Foundation's entire assets, the yield therefrom as well as the contingent liquidation surplus.

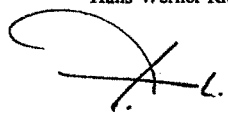
3. Amendments of these By-laws

With the assent of all the Beneficiaries affected by this, the Foundation Board may at any time completely or partly rescind, amend or supplement the present By-laws.

Vaduz, 21st August 1997 scp/mto

The Foundation Board:


 Hans-Werner Kitter


 Werner Orvati


 Peter Schmid

NYS Department of State

Division of Corporations

Entity Information

Selected Entity Name: TAI LUNG CO., INC.

Selected Entity Status Information

Current Entity Name: TAI LUNG CO., INC.

Initial DOS Filing Date: JUNE 20, 1996

County: QUEENS

Jurisdiction: NEW YORK

Entity Type: DOMESTIC BUSINESS CORPORATION

Current Entity Status: INACTIVE

Selected Entity Address Information

DOS Process (Address to which DOS will mail process if accepted on behalf of the entity)

DR. ER KE YU

603

39-01 MAIN STREET

FLUSHING, NEW YORK, 11354

Registered Agent

NONE

NOTE: New York State does not issue organizational identification numbers.

[Search Results](#)

[New Search](#)

[Division of Corporations, State Records and UCC Home Page](#) [NYS Department of State Home Page](#)

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 161



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
MWS-Nr. 50119

Hintergrundinformationen/Profil

P-BG

Formular für bestehende Geschäftsbeziehungen vor dem 1. Januar 2001

Rechtsträger, Sitz JCMA FOUNDATION, Vaduz

Wahlmöglichkeiten zum Rechtsträger:

- ☐ Gesellschaft mit kommerziellem Hintergrund
☒ Stiftung, Trust, Holding, usw.

Gründungs-/Übernahmejahr: 1996

1.1 Gewöhnliche Geschäftstätigkeit

Vermögensverwaltung, Halten von Beteiligung

1.2 Verwendungszweck der Vermögenswerte

Familienstiftung/Nachfolgeregelung

Wirtschaftlicher Hintergrund und Herkunft der eingebrachten und einzubringenden Vermögenswerte sowie genaue Angaben zum Herkunftsland:

Das eingebrachte Vermögen stammt aus Erbschaft sowie dem Halten von Immobilien in den USA

Landenspezifische Kategorisierung:

- ☒ 1 ☐ 2 ☐ 3 ☐ 4

Vaduz, 20.12.2001

Ort, Datum

Unterschrift des Kundenberaters

- ☒ Bevollmächtigte gemäss separatem Formular
☐ Dieses Formular ersetzt das Formular vom:

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 165

JCMA LTV.doc/V.071001
PSI-USMSTR - 004990



LGT Treuhand
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Soldate 28
FL-9490 Vaduz
Fürstentum Liechtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgttrust@lgt.com
MWSt-Nr. 50119

Derzeit bevollmächtigte Dritte (nat. und jur. Personen)

PRO-BEV

Anhang zum Formular Hintergrundinformationen/Profil P-NG und P-BG

Rechtsträger, Sitz JCMA FOUNDATION, Vaduz

Als Bevollmächtigte gelten diejenigen natürlichen oder juristischen Personen, welche der LGT Treuhand AG gegenüber anstelle des Auftraggebers/Begünstigten Weisungen erteilen und/oder Rechte ausüben und/oder selbständig Transaktionen auf Bankkonten auslösen können.

1. Name/Firma	WU	= Redacted by the Permanent Subcommittee on Investigations
Vorname(n)		
Geburtsdatum/Gründungsdatum		
Wohnadresse/Sitzadresse		
PLZ/Ort		
Domizilland		
Nationalität(en)	USA	
Beruf/Branche		

Verhältnis zwischen obgenannter Person und dem Vertragspartner, bzw. den wirtschaftlich Berechtigten:

Schwester

- ☒ keine PeP-Indikation;
☐ PeP-Indikation gegeben (Formular "Erklärung zur politisch exponierten Persönlichkeit" ausfüllen!)

Bevollmächtigung ☐ bis (Datum):
☒ unbefristet

- ☐ Instruktionsbevollmächtigter basierend auf Mandatsvertrag (siehe Beilage)
☒ Zeichnungsberechtigter auf Bankkonto ohne Organstellung
☐ Zeichnungsberechtigter auf Bankkonto mit Organstellung
☐ Person mit umfassenden organrechtlichen Kompetenzen:
☐ Generalbevollmächtigter
☐ Inhaber einer Begünstigtenvollmacht
☐ andere Vollmacht:

nächste Seite →



LGT Treuhand
A Member of Liechtenstein Global Trust

— = Redacted by the Permanent
Subcommittee on Investigations

2/2

2. Name/Firma WU
Vorname(n) [REDACTED]
Geburtsdatum/Gründungsdatum [REDACTED]
Wohnadresse/Sitzadresse
PLZ/Ort
Domizilland
Nationalität(en) USA
Beruf/Branche
 Verhältnis zwischen obgenannter Person und dem Vertragspartner, bzw. den wirtschaftlich Berechtigten:
Schwester

- ☒ keine PeP-Indikation
☐ PeP-Indikation gegeben (Formular "Erklärung zur politisch exponierten Persönlichkeit" ausfüllen!)

Bevollmächtigung ☐ bis (Datum):
☒ unbefristet

- ☐ Instruktionsbevollmächtigter basierend auf Mandatsvertrag (siehe Beilage)
☒ Zeichnungsberechtigter auf Bankkonto ohne Organstellung
☐ Zeichnungsberechtigter auf Bankkonto mit Organstellung
☐ Person mit umfassenden organrechtlichen Kompetenzen:
☐ Generalbevollmächtigter
☐ Inhaber einer Begünstigtenvollmacht
☐ andere Vollmacht:

- ☒ Erstfeststellung
☐ Dieses Formular ersetzt das Formular vom (Datum):

Vaduz, 20.12.2001
Ort/Datum

Ch. Hunkeler
 Unterschrift des Kundenberaters

[REDACTED]

OCT-16-2006 14:11

LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

Background Information/Profile
Form for business relationships existing before January 1, 2001

P-BG

Legal holder, location JMCA FOUNDATION, Vaduz

☒ Foundation, trust, holding company, etc.
Year founded: 1996

1.1 Regular activity

Asset management, holding of shares

1.2 Purpose for use of assets

Family foundation/succession regulation

2. Economic background and origin of assets brought in and to be brought in, value according to exact information concerning country of origin:

The assets brought in come from inheritance as well as from real estate holdings in the USA

3. Country risk category 1

☒ 1

Vaduz, 12/20/2001
Place, date

(illegible signature)
Signature of Customer Representative

☒ Authorized under separate form

OCT-16-2006 14:11

LGT Treuhand
A Member of Liechtenstein Global Trust

Authorized third party (natural and legal persons)
Supplement to background information/profile form P-NG and P-BG

PRO-BEV

Legal holder, location JCMA FOUNDATION, Vaduz

This natural or legal person serves as authorized party to give LGT Treuhand AG instructions to clients/beneficiaries and/or exercise rights and/or can handle individual transactions on bank accounts.

1. Last Name WU
First Name [REDACTED]
Date of Birth [REDACTED]
Citizenship USA

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

☒ No PeP indication

Authorization ☒ no end date

☒ Authorized signature on bank account without branch designation

See next page →

OCT-16-2006 11:35

99%

P.06

OCT-16-2006 14:11

P. 07

LGT Treuhand
A Member of Liechtenstein Global Trust

2/2

2. Last name WU

First Name

Date of Birth

Citizenship

USA

— = Redacted by the Permanent
Subcommittee on Investigations

☒ No PeP indicationAuthorization ☒ no end date☒ Authorized signature on bank account without branch designation☒ First Declaration

Vaduz, 12/20/2001
Place, date

(illegible signature)
Signature of Customer Representative

OCT-16-2006 11:36

99%

P. 07



LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

JCHA Foundation
9490 Vaduz

Vaduz, January 1, 2002
BML / BRK / 20:22:38

1/3
ECopy

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2001 - 31.12.2001

ref. currency: USD

Assets as of 31.12.2000	including accr. interests (	9,642.11)	4,666,442.19
Deposits			0.00
Withdrawals			304,086.86-
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	0.00)	0.00
Assets as of 31.12.2001	including accr. interests (	921.52)	4,362,355.33
Performance			4,283,472.49
			78,882.84-

Details of performance

Profit or loss	130,864.45-
Dividends / credit interests	56,379.10
Debit interests	453.17-
Expenses and commissions	3,944.32-
Performance	78,882.84-

Average capital	100.00 %	4,438,475.83
Performance	1.78- %	78,882.84-

We do not accept responsibility for the accuracy or completeness of the information provided above.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 166

WWU-PSI-00033



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

JCHA Foundation
9490 Vaduz

Vaduz, January 1, 2002
BML / BHK / 20:22:38

2/3
ECopy

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2001 - 31.12.2001

withdrawals

value	date	transaction	currency	amount	amount in USD
30.03.2001	Transfer	6742444 WU SHAO LOONG TERESA	USD	300,000.00	300,000.00
28.06.2001	Transfer	7053960	USD	842.46	842.46
30.06.2001	Transfer	7038747 LGT TREUHAND AG	USD	3,244.40	3,244.40
					304,086.86

PERSÖNLICHE INFORMATIONEN
 R-9490 Vaduz
 E-Mail: info@jcmf.com
 MWST-Nr. 50 119

JCMA Foundation
9490 Vaduz

Vaduz, January 2, 2003
BML / BHK / 17:42:34

1/3
ECopy

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2002 - 31.12.2002			ref. currency: USD
Assets as of 31.12.2001	including accr. interests (	921.52)	4,283,472.49
Deposits			0.00
Withdrawals			840,361.91-
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	0.00)	0.00
Assets as of 31.12.2002	including accr. interests (	0.00)	3,443,110.58
			3,233,227.78
Performance			209,882.80-
Details of performance			
Profit or loss			215,718.67-
Dividends / credit interests			10,071.32-
Debit interests			602.39-
Expenses and commissions			3,633.06-
Performance			209,882.80-
Average capital	100.00 %		3,743,206.38
Performance	5.61- %		209,882.80-

Only the Banks official account and safe custody advices are binding.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 166

WWU-PSI-00052

FL 9490 Vaduz E-Mail info@jgt.com MWST-Nr. 50 119

JCMA Foundation
9490 Vaduz

Vaduz, January 2, 2003
BML / BHK / 17:42:34

2/3
ECopy

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2002 - 31.12.2002

withdrawals

value	date	transaction	currency	amount	amount in USD
18.01.2002		Transfer 7806501	USD	300,000.00	300,000.00
01.02.2002		Transfer 7883737 IRS BANK LTD.	SGD	10.00	5.47
01.02.2002		Transfer 7854261 CHIN LEAN KEAT	SGD	338,800.00	184,482.02
26.06.2002		Transfer 8388889 THE HONGKONG + SHANGHAI	USD	100,125.00	100,125.00
30.06.2002		Transfer 8356027 LGT TREUHAND AG	USD	5,436.92	5,436.92
14.11.2002		Order 8866349 THE HONGKONG + SHANGHAI	USD	250,312.50	250,312.50
					<u>840,361.91</u>

PL-SPRDAU VADUZ

MWST-Nr. 50 119

JCMA Foundation
9490 Vaduz

Vaduz, January 2, 2004
BML / BHK / 01:25:14

1/3
E

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2003 - 31.12.2003			ref. currency: USD
Assets as of 31.12.2002	including accr. interests (	0.00)	3,233,227.79
Deposits			525,000.00
Withdrawals			4,680,795.10
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	0.00)	2,650,000.00
Assets as of 31.12.2003	including accr. interests (	5,491.85-)	1,727,432.68
Performance			2,172,144.97
			444,712.29
Details of performance			
Profit or loss			464,967.46
Dividends / credit interests			6,491.85-
Debit interests			11,527.28-
Expenses and commissions			2,236.04-
Performance			444,712.29
Average capital	100.00 %		2,067,000.55
Performance	21.51 %		444,712.29

Only the Banks official account and safe custody advices are binding.

R 

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 166

WWU-PSI-00061

JCMA Foundation
9490 Vaduz

Vaduz, January 2, 2004
BML / BHK / 01:25:14

2/3
E

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2003 - 31.12.2003

withdrawals

value date transaction	currency	amount	amount in USD
21.03.2003 Order 9321701 SOLECTRON CORPORATION	USD	1,500,010.89	1,500,010.89
30.06.2003 Order 9653172 LCT TREHARD AG	USD	5,784.21	5,784.21
			(b) 1,505,795.10

deliveries of securities

settl.date transaction	cur. no. of shs/bom.	price	net amount	net amount in USD
18.06.2003 SEC TRANSFER IN USD 500,000.000		105.000	525,000.00	(b) 525,000.00
Anthracite Rated Investments				
1.2 % 2003-26.04.2013 CPWA/Crown Balanced				
18.06.2003 SEC TRANSFER OUT USD 500,000.000		100.000	500,000.00	(b) 500,000.00
Anthracite Rated Investments				
1.2 % 2003-26.04.2013 CPWA/Crown Balanced				
29.07.2003 MANUAL SEC. TRANS. USD 500,000.000		105.000	525,000.00	(b) 525,000.00
Anthracite Rated Investments				
1.2 % 2003-26.04.2013 CPWA/Crown Balanced				
29.07.2003 MANUAL SEC. TRANS. USD 500,000.000		100.000	500,000.00	(b) 500,000.00
Anthracite Rated Investments				
1.2 % 2003-26.04.2013 CPWA/Crown Balanced				
17.12.2003 SEC TRANSFER IN USD 2,650,000.000		100.000	2,650,000.00	(b) 2,650,000.00
LCT Capital Invest Limited				
Registered-unit CT PremiumStrategy GDM (USD) /				
				2,650,000.00

LGT
LGT Bank

Herengasse 12, FL-9490 Vaduz
Tel. +423 235 11 22 - Fax +423 235 15 22
info@lgt.com - www.lgt.com
OR H. 842/97, Sitz: 9490 Vaduz - MWSt-Nr. 50119

JCMA Foundation
9490 Vaduz

Vaduz, January 2, 2005
BML / BHK / 04:54:45

1/3
E

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2004 - 31.12.2004

ref. currency: USD

Assets as of 31.12.2003	including accr. interests (	5,491.85-)	2,172,144.97
Deposits			4,967,838.95
Withdrawals			1,742,355.13-
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	1,858.00-)	5,903,506.84-
Assets as of 31.12.2004	including accr. interests (	0.00)	5,778.05-
Performance			23,119.79
			28,897.84

Details of performance

Profit or loss	15,002.86
Dividends / credit interests	13,358.52
Debit interests	22.53-
Expenses and commissions	558.99
Performance	28,897.84

Average capital	100.00 %	1,061,926.94
Performance	2.72 %	28,897.84

This performance statement is meant only for information purposes and is not legally binding.

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 166

WWU-PSI-00075



LGT Bank

Herrengasse 12, CH-9490 Vaduz
Tel. +423 235 11 22 - Fax +423 235 15 22
info@lgt.com - www.lgt.com
ÖR H. 842/97, Sitz: 9490 Vaduz - MWSt-Nr. 50119

JCMA Foundation
9490 Vaduz

Vaduz, January 2, 2005
BML / BEK / 04:54:45

2/3
E

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2004 - 31.12.2004

deposits

value date	transaction	currency	amount	amount in USD
15.04.2004	Order 4736578 GRANT THORNTON-CLIENT AC	USD	45,297.57	45,297.57
07.06.2004	Order 4940764 HSBC LTD. HONG KONG	USD	200,500.00	200,500.00
18.08.2004	Order 5183705 DICKINSON HOLDING + FINANCE LT	USD	2,072,141.38	2,072,141.38
				<u>2,317,938.95</u>

withdrawals

value date	transaction	currency	amount	amount in USD
13.02.2004	Order 4511052 ZVP/4511037	USD	40.36	40.36
13.02.2004	Order 4511037 UBS AG, CH	USD	3,789.47	3,789.47
13.02.2004	Order 4503307 ORILLION CORPORATION JAPAN K.K	USD	525,000.00	525,000.00
27.05.2004	Order 4835295	USD	200,500.00	200,500.00
09.06.2004	Order 4946720	USD	200,500.00	200,500.00
01.07.2004	Order 5026818 ZVP/5026816	USD	39.35	39.35
01.07.2004	Order 5026818 UBS AG, CH	USD	1,967.99	1,967.99
02.08.2004	Order 5121416 LGT TREUHAND	USD	6,796.19	6,796.19
10.08.2004	Order 5163385	USD	300,750.00	300,750.00
27.12.2004	Order 5690665 UBS AG, CH	HKD	23,102.74	2,971.77
				<u>1,242,355.13</u>

deliveries of securities

settl.date	transaction	cur. no. of shs/nom.	price	net amount	net amount in USD
17.12.2003	SBC TRANSFER OUT LGT Capital Invest Ltd	USD 2,650,000.00-	100.000	2,650,000.00-	2,650,000.00- ←
16.08.2004	ENTRY/WITHDRAWAL Registered-unit CF PremiumStrategy GDM (USD) / LGT Capital Invest Ltd	USD 2,295,000-	1,166.040	2,676,061.80-	2,676,061.80-
16.08.2004	ENTRY/WITHDRAWAL Registered-unit CF PremiumStrategy GDM (USD)	USD 500,000.000-	108.650	543,250.80-	543,250.80-
16.08.2004	ENTRY/WITHDRAWAL Authracite Rated Investments 1.2 & 2003-26.04.2013 CapitalProtected Notes	USD 1.000-	0.000	0.00	0.00
16.08.2004	ENTRY/WITHDRAWAL Sandalwood International Bearer-Shares **internally securities**	USD 26.000-	1,244.040	32,345.04-	32,345.04-
	LGT Funds Network - LGT Honey Bearer-unit				<u>5,901,656.84-</u>

WWU-PSI-00076



LGT Bank

Herrengasse 12, FL-9490 Vaduz
Tel. +423 235 11 22 · Fax +423 235 15 22
info@lgt.com · www.lgt.com
ÖR H. 842/97, Sitz: 9490 Vaduz · MWSt-Nr. 50119

JCMA Foundation
9490 Vaduz

Vaduz, January 2, 2005
BML / BHK / 04:54:45

3/3
E

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2004 - 31.12.2004

securities transactions (purchases)

reg. date	transaction	cur. no. of shs/nom.	price	net amount	net amount in USD
27.01.2004	Purchase LGT Capital Invest Ltd Registered-unit CF PremiumStra	USD 2,295.000	1,149.590	2,652,839.35	2,652,839.35
12.02.2004	Subscription LGT Funds AGwK - LGT Money Bearer-unit	USD 13.000	1,237.870	16,092.31	16,092.31
19.04.2004	Subscription LGT Funds AGwK - LGT Money Bearer-unit	USD 36.000	1,239.870	44,635.32	44,635.32
03.05.2004	Subscription LGT Funds AGwK - LGT Money Bearer-unit	USD 5.000	1,240.760	6,203.80	6,203.80
29.09.2004	Subscription LGT Funds AGwK - LGT Money Bearer-unit	USD 20.000	1,246.030	24,920.60	24,920.60
29.12.2004	Subscription LGT Funds AGwK - LGT Money Bearer-unit	USD 1.000	1,251.090	1,251.09	1,251.09
				<u>2,745,942.47</u>	

securities transactions (sales)

reg. date	transaction	cur. no. of shs/nom.	price	net amount	net amount in USD
25.05.2004	Redemption LGT Funds AGwK - LGT Money Bearer-unit	USD 162.000	1,240.420	200,948.04	200,948.04
29.07.2004	Redemption LGT Funds AGwK - LGT Money Bearer-unit	USD 1.000	1,243.550	1,243.55	1,243.55
30.07.2004	Redemption LGT Funds AGwK - LGT Money Bearer-unit	USD 6.000	1,243.610	7,461.66	7,461.66
10.08.2004	Redemption LGT Funds AGwK - LGT Money Bearer-unit	USD 242.000	1,244.110	301,074.62	301,074.62
12.08.2004	Redemption LGT Funds AGwK - LGT Money Bearer-unit	USD 20.000	1,243.990	24,879.80	24,879.80
27.12.2004	Redemption LGT Funds AGwK - LGT Money Bearer-unit	USD 3.000	1,250.690	3,752.07	3,752.07
				<u>539,359.74</u>	

WWU-PSI-00077

Resolution

of the Foundation Board of

JCMA Foundation, Vaduz

The Foundation Board takes note of the Statements of Assets as per 31 December 2005 together with its notes and schedules which shall form an integral part of this resolution. After due consideration the Foundation Board states:

1. The Foundation's net assets as per 31 December 2005 amount to USD 1'188'957.64.
2. The assets development for the business year 2005 shows a decrease in Foundation's assets of USD 463'754.13.
3. During the course the business year 2005 an amount of USD 49'939.93 (equivalent of HKD 387'600.--) was endowed to the Foundation and an amount of USD 500'000.-- was distributed to the first beneficiary. The endowment and distributions were entered in the Statement of Assets as redemption/additions to the loan of Dickinson Holding & Finance Ltd., BVI.
4. The investments are in line with the statutory object of the Foundation and the declaration of intent of the founder.
5. In compliance with its statutory object the Foundation has not pursued any commercial activities in the business year 2005.

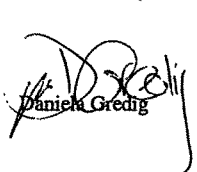
Based on these facts the Foundation Board herewith unanimously approves and adopts the said Statement of Assets and resolves to entrust the Legal Representative with the drawing up of the Statements of Assets for the business year to come.

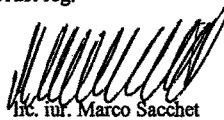
Vaduz, 30 March 2006/SSP/xpt

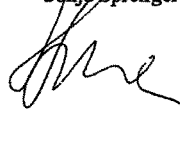
The Foundation Board

Profile Management Trust reg.

Sonja Sprenger


Daniela Gredig


iur. Marco Sacchet



Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 166

WWU-PSI-00078



JCMA Foundation, Vaduz

**STATEMENT OF ASSETS
as per 31 December 2005**

JCMA Foundation, Vaduz

Statement of Assets as per 31 December 2005

	Notes	2005 USD	2004 USD
Cash at banks	2	438.20	595.31
Securities	3	9'002.98	22'524.48
Participations	4	1'001.00	1'001.00
Loans	5	<u>728'439.94</u>	<u>1'178'515.46</u>
Gross Assets		738'882.12	1'202'636.25
Liabilities	6	<u>0.00</u>	<u>0.00</u>
Net Assets		<u>738'882.12</u>	<u>1'202'636.25</u>

Vaduz, 28 March 2006/SSP/xpt

JCMA Foundation

Profile Management Trust reg.



Daniela Greting



lic. iur. Marco Sacchet



Sonja Sprenger

The accompanying notes and schedules form part of this Statement of Assets.

WWU-PSI-00080

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2005

<p>— = Redacted by the Permanent Subcommittee on Investigations</p>

1. General information on the Foundation

The formation documents of JCMA Foundation were deposited with the public registry in Vaduz on 20 June 1996.

The currently valid Articles of the Foundation date back to 20 June 1996. In compliance with the said Articles, Beneficiaries of the Foundation were appointed in separate By-Laws on 25 June 1996.

As from 18 October 2004 the Foundation Board consists of two members, namely Sonja Sprenger (PGR Art. 180a) and Profile Management Trust reg., Vaduz. While Sonja Sprenger has joint signatory power, Profile Management Trust reg., Vaduz is entitled to represent and bind the Foundation by its sole signature.

The statutory minimum Foundation Fund amounts to CHF 30'000.--.

2. Cash at banks

			2005 USD	2004 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>				
Account No. [REDACTED]				
USD Account			328.35	550.63
SGD Account	SGD	11.33	6.82	6.93
HKD Account	HKD	798.52	103.03	37.75
Total LGT Bank in Liechtenstein AG, Vaduz			438.20	595.31
Total Cash at banks			438.20	595.31

Please refer to the attached bank statements for details.

Profile Management Trust reg. is the sole authorized signatory on the bank accounts of the Foundation.

3. Securities

			2005 USD	2004 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>				
Safe Custody Account No. [REDACTED]				
Money Market Funds			9'002.98	22'524.48
Total Securities			9'002.98	22'524.48
Total Securities			9'002.98	22'524.48

JCMA Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2005**

Generally the valuation of the above securities is made on a market value basis (daily rates) as of the end of the year in accordance with the information provided by the bank. Please note that the total includes unrealized profits and losses.

When managing the assets the Foundation Board takes into consideration the recommendations coming from LGT Bank in Liechtenstein AG, Vaduz. All securities transactions are detailed in the Schedules.

For further details on the asset and currency allocation, security transactions and the performance please refer to the Schedules.

4. Participations

	2005 USD	2004 USD
SANDALWOOD INTERNATIONAL LIMITED, BVI		
100% owned by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each		
Issued Capital: 1 share of USD 1.-- each	1.00	1.00
Sandalwood is the shareholder of a company called Tai Lung Worldwide Ltd., which owns a property in New York. Financial Statements were not provided by the directors.		
DICKINSON HOLDING & FINANCE LTD.		
100% owned and controlled by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each		
Issued Capital: 1'000 shares of USD 1.-- each	1'000.00	1'000.00
The Foundation granted a loan to DICKINSON, which is operating a bank account with LGT Bank in Liechtenstein AG. The attached statement of assets as of the year-end show a market value of USD 3'443'753.94 (2004) and USD 3'774'387.02 (2005).		
	1'001.00	1'001.00

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2005

5. Loans	2005 USD	2004 USD
DICKINSON HOLDING & FINANCE LTD.		
Principal loan amount paid	1'178'515.46	1'178'515.46
Additions during the year	49'939.93	0.00
Redemptions during the year	-500'015.45	0.00
	728'439.94	1'178'515.46

In August 2004 an interest free loan in the amount of USD 1'178'515.46 was granted to DICKINSON HOLDING & FINANCE LTD, BVI, for an indefinite period of time. A loan agreement was made in writing on 13 February 2006.

During the course of 2005 DICKINSON HOLDING & FINANCE LTD, BVI, received monies and effected payments for and on behalf of the Foundation. These payments are registered in the books as additions/redemptions of the principal loan amount.

6. Liabilities	2005 USD	2004 USD
<u>Lombard Loan</u>		
On 31 May 1999 the Foundation entered into a lombard loan contract with LGT Bank in Liechtenstein AG, Vaduz. In this respect a general deed of pledge and of assignment was signed.	0.00	0.00

The Foundation Board has no notice of any other liabilities, commitments or obligations the effect of which should be considered for disclosure in the Statement of Assets or as a basis for recording a contingency or making adjustment or provision. To-date there are neither annuities nor titles nor enforceable legal claims against the Foundation.

JCMA Foundation, Vaduz

Endowments and Distributions in 2005

<u>Endowments</u>	USD
- according to a declaration of endowment dated 13 September 2005	49'939.93
<i>transferred to Dickinson Holding & Finance Ltd, BVI HKD 387'600.00</i>	
Total	<u>49'939.93</u>
 <u>Distributions</u>	 USD
- according to a board resolution dated 27 May 2005	200'007.72 *)
<i>transferred from the bank account of Dickinson Holding & Finance Ltd, BVI</i>	
- according to a board resolution dated 17 August 2005	300'007.73 *)
<i>transferred from the bank account of Dickinson Holding & Finance Ltd, BVI</i>	
Total	<u>500'015.45</u>
*) incl. charges, fees & commissions	

JCMA Foundation, Vaduz

Cash flow statement 2005

	<u>USD</u>
Net Assets as per 31 December 2004	1'202'636.25
<u>Increase in Assets</u>	
Endowment (redemption of loan DICKINSON)	49'939.93
Profit	409.13
Dividends / credit interests	<u>0.00</u>
<i>Total Increase in assets</i>	<u>50'349.06</u>
<u>Decrease in Assets</u>	
Distributions (additions to loan DICKINSON)	500'015.45
Foreign bank fees	0.00
Debit interests	18.70
Administrative & consultancy fees LGT Treuhand AG	
LGT Treuhand AG	7'969.95
Sandalwood International Limited	<u>6'099.09</u>
<i>Total Decrease in assets</i>	<u>514'103.19</u>
Change in assets	<u>-463'754.13</u>
Net Assets as per 31 December 2005	<u>738'882.12</u>

▼ LGT Bank

Tel: +423 235 11 22 : Fax: +423 235 15 22
info@lgt.com - www.lgt.com
ÖR H. 842/97, Sitz: 9490 Vaduz - MWSt-Nr. 50119

JCMA Foundation
9490 Vaduz

Vaduz, January 1, 2006
BML / BHK / 11:55:48

1/3
E

Statement of assets

as of 31.12.2005

Redacted by the Permanent
Subcommittee on Investigations

no.	accounts/portfolios	cur.	amount	cur.rate	amount in USD
AA	USD account	USD	328.35		328.35
AG	SGD account	SGD	11.33	0.6015	6.82
AI	HKD account	HKD	798.52	0.1290	103.03
01	safe custody account	incl.acc.interest USD (	0.00)		9,002.98
T O T A L					9,441.18

currency- and investment break-down (For all LGT funds the actual investments are taken into consideration)

category	amount in USD	in %	USD	HKD	SGD	other
cash	438.20	4.64	3.48	1.09	0.07	
short term inv.	9,002.98	95.36	95.36			
T O T A L	9,441.18	100.00	98.84	1.09	0.07	

Only the Banks official account and safe custody advices are binding.

WWU-PSI-00086

▼ LGT Bank

Tel: +423 235 11 22 - Fax: +423 235 15 22
 info@lgt.com - www.lgt.com
 OR H. 842/97, Sitz: 9490 Vaduz - MWSI-Nr. 50119

JCMA Foundation
 9490 Vaduz

Vaduz, January 1, 2006 2/3
 BML / BHK / 11:55:48 E

— = Redacted by the Permanent
 Subcommittee on Investigations


Statement of assets

as of 31.12.2005

portfolio		safe custody account					
no. of shs/nom.	name security no./maturity	purchase price	actual price EUTAX	value in USD acc. interest	P/L in %	share %	
Money market funds							
No. 7	LGT MM FD USD 001532775	1,246.311 USD	1,286.140	9,003 0	3.19	95.35	
TOTAL portfolio acc. interest				9,003			

actual foreign currency exchange rates

currency	rate
USD	1.000000
HKD	0.129032
SGD	0.601509

 LGT Bank

Interregional Ltd. (LGT Bank)
Tel: +423 235 11 22 - Fax: +423 235 15 22
info@lgt.com - www.lgt.com
ÖR H. 842/97, Sitz: 9490 Vaduz - MWSt-Nr. 50119

JCHA Foundation
9490 Vaduz

Vaduz, January 1, 2006
BML / BHK / 11:55:48

3/3
E

Statement of assets

as of 31.12.2005

Redacted by the Permanent
Subcommittee on Investigations

sector overview of equities

Branche	USD	RKD	SGD	other	Total in USD
Investmen	9003				9,003
TOTAL	9003				9,003

▼ LGT Bank

INFORMATIONAL DOCUMENT
Tel. +423 235 11 22 - Fax +423 235 15 22
info@lgt.com - www.lgt.com
OR H. 842/97, Sitz: 9490 Vaduz - MWSt-Nr. 50119

JCMA Foundation
9490 Vaduz

Vaduz, January 1, 2006
BML / BBK / 12:53:31

1/3
E

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2005 - 31.12.2005

ref. currency: USD

Assets as of 31.12.2004	including accr. interests (	0.00)	23,119.79
Deposits			0.00
Withdrawals			14,069.04
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	0.00)	0.00
			9,050.75
Assets as of 31.12.2005	including accr. interests (	0.00)	9,441.18
Change in value net			390.43

Details of performance

Profit or loss	409.13
Coupons / credit interests / dividends	0.00
Debt interests	18.70
Expenses and commissions	0.00
Change of accrued interest	0.00
Performance / change in value net	2.55 % 390.43

This performance statement is meant only for information purposes and is not legally binding.

WWU-PSI-00089

LGT Bank

Tel: +423 235 11 22 - Fax: +423 235 15 22
 info@lgt.com - www.lgt.com
 ÖR H. 842/97, Sitz: 9490 Vaduz - MWSt-Nr. 50119

JCMA Foundation
 9490 Vaduz

Vaduz, January 1, 2006
 BML / BHK / 12:53:31

2/3
 E

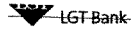
Performance

Redacted by the Permanent
 Subcommittee on Investigations

Period 01.01.2005 - 31.12.2005

Withdrawals

value	date	transaction	currency	amount	amount in USD
03.05.2005	Order 6171628	KCS LIMITED	HKD	28,980.00	3,718.66
07.07.2005	Order 6452537	UBS AG, ZH	USD	38.85	38.85
07.07.2005	Order 6452554	UBS AG, ZH	USD	38.85	38.85
07.07.2005	Order 6452544	UBS AG, ZH	USD	131.73	131.73
07.07.2005	Order 6452557	UBS AG, ZH	USD	2,171.00	2,171.00
07.07.2005	Order 6441316	LGT TREURAND	USD	7,969.95	7,969.95
					<u>14,069.04</u>



HERENGASSE 14, FL-9900 VADUZ
 Tel: +423 235 11 22 - Fax: +423 235 15 22
 info@lgt.com - www.lgt.com
 OR H. 842/97, Sitz: 9490 Vaduz - MWSt-Nr. 50119

JCMA Foundation
 9490 Vaduz

Vaduz, January 1, 2006
 BML / BRK / 12:53:31

3/3
 E

Performance

Redacted by the Permanent
 Subcommittee on Investigations

Period 01.01.2005 - 31.12.2005

securities transactions (sales)

reg. date	transaction	cur. no. of shs/nom.	price	net amount	net amount in USD
02.05.2005	Redemption LGT Funds AGvK - LGT Money Registered-unit -B-	3	1,261.000	3,783.00	3,783.00
06.07.2005	Redemption LGT Funds AGvK - LGT Money Registered-unit -B-	6	1,267.790	7,606.74	7,606.74
16.08.2005	Redemption LGT Funds AGvK - LGT Money Registered-unit -B-	2	1,270.030	2,540.06	2,540.06
					13,929.80

WWU-PSI-00091

Resolution

of the Foundation Board of

Desert Rose Foundation, Vaduz

The Foundation Board takes note of the Statement of Assets as per 31 December 2006 together with its notes and schedules which shall form an integral part of this resolution. After due consideration the Foundation Board states:

1. The Foundation's net assets as per 31 December 2006 amount to USD 422'249.10.
2. The Cash Flow Statement for the business year 2006 shows a decrease in Foundation's assets of USD 316'633.02.
3. During the course of the said business year no endowments were made and a total of USD 300'000.00 was distributed.
4. The investments of assets are in line with the statutory object of the Foundation and the declaration of intent of the founder.
5. In compliance with its statutory object the Foundation has not pursued any commercial activities in the business year 2006.

Based on these facts the Foundation Board herewith unanimously approves and adopts the said Statement of Assets and resolves to entrust the Legal Representative with the drawing up of the Statement of Assets for the business year to come.

Vaduz, 18 April 2007/SSP/rwe

The Foundation Board

Profile Management Trust reg.

Sonja Springer


Xenia Hostettler


Holger Andrea Brüllmann

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 166

WWU-PSI-00092



Desert Rose Foundation, Vaduz

**STATEMENT OF ASSETS
as per 31 December 2006**

22. AUG. 2007 10:32

RA-2002 3. 3/10

Desert Rose Foundation, Vaduz**Statement of Assets as per 31 December 2006**

	Notes	2006 USD	2005 USD
Cash at banks	2	1'019.39	438.20
Securities	3	16'100.64	9'002.98
Participations	4	1'001.00	1'001.00
Loans	5	404'128.07	728'439.94
Gross Assets		422'249.10	738'882.12
Liabilities	6	0.00	0.00
Net Assets		422'249.10	738'882.12

Vaduz, 18 April 2007/SSP/rwe

Desert Rose Foundation

Profile Management Trust reg.




Maria Hostettler
Rita von Andrea Brüllmann

Sonia Sprenger



The accompanying notes and schedules form part of this Statement of Assets.

WWU-PSI-00094

22. AUG. 2007 18:53

NH: 2002 S. 4/10

Desert Rose Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2006**

— = Redacted by the Permanent
Subcommittee on Investigations

1. General information on the Foundation

The formation documents of Desert Rose Foundation were deposited with the public registry in Vaduz on 20 June 1996.

The currently valid Articles of the Foundation date back to 4 December 2006. In compliance with the said Articles, Beneficiaries were appointed in separate By-Laws on 25 June 1996.

As from 18 October 2004 the Foundation Board consists of two members, namely Sonja Sprenger (PGR Art. 180a) and Profile Management Trust reg., Vaduz. While Sonja Sprenger has joint signatory power, Profile Management Trust reg., Vaduz is entitled to represent and bind the Foundation by its sole signature.

The statutory minimum Foundation Fund amounts to CHF 30'000.--.

2. Cash at banks

	2006 USD	2005 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>		
Account No. [REDACTED]		
USD Account	952.40	328.35
SGD Account	SGD 11.33 7.39	6.82
HKD Account	HKD 463.52 59.60	103.03
Total Cash at banks	1'019.39	438.20

Please refer to the attached bank statements for details.

Profile Management Trust reg. is the sole authorized signatory on the bank accounts of the Foundation.

3. Securities

	2006 USD	2005 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>		
Safe Custody Account No. [REDACTED]		
Money Market Funds	16'100.64	9'002.98
Total Securities	16'100.64	9'002.98

22. NOV. 2007 18:33

NR. 2062 S. 5/16

Desert Rose Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2006**

Generally the valuation of the above securities is made on a market value basis (daily rates as per 31 December) in accordance with the information provided by the bank. Please note that the total includes unrealized profits and losses on exchange rates and currency exchange.

When managing the assets the Foundation Board takes into consideration the recommendations coming from LGT Bank in Liechtenstein AG, Vaduz. All securities transactions are detailed in the Schedules.

For further details on the asset and currency allocation, securities transactions and the performance please refer to the Schedules.

4. Participations

	2006 USD	2005 USD
SANDALWOOD INTERNATIONAL LIMITED, BVI		
100% beneficially owned by the Foundation		
Authorized Capital: USD 5'000.00		
divided into 5000 shares of USD 1.- each		
Issued Capital: 1 share of USD 1.- each	1.00	1.00

Sandalwood is the shareholder of a company called Tai Lung Worldwide Ltd., which owns a property in New York. Financial Statements have not been provided by the directors. During the course of 2006 it was resolved to distribute the shares to the first Beneficiary, however, the planned share transfer has not yet been completed.

DICKINSON HOLDING & FINANCE LTD.
100% owned and controlled by the Foundation

Authorized Capital: USD 50'000.00		
divided into 50'000 shares of USD 1.- each		
Issued Capital: 1'000 shares of USD 1.- each	1'000.00	1'000.00

The Foundation granted a loan to DICKINSON, which is operating a bank account with LGT Bank in Liechtenstein AG. The attached statement of assets as of the year-end show a market value of USD 3'774'387.02 (2005) and USD 4'250'013.53 (2006).

Total Participations

1'001.00	1'001.00
-----------------	-----------------

22. AUG. 2007 18:33

NR. 2062 S. 6/16

Desert Rose Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2006**

5. Loans	2006 USD	2005 USD
<i>DICKINSON HOLDING & FINANCE LTD.</i>		
Principal loan amount paid	728'439.94	1'178'515.46
Additions in 2005	0.00	49'989.93
Redemptions in 2005	0.00	-500'015.45
Redemptions during the year	-324'311.87	0.00
	<u>404'128.07</u>	<u>728'439.94</u>

In August 2004 an interest free loan in the amount of USD 1'178'515.46 was granted to DICKINSON HOLDING & FINANCE LTD., BVI, for an indefinite period of time. A loan agreement was made in writing on 13 February 2006.

During the course of 2005 and 2006 DICKINSON HOLDING & FINANCE LTD., BVI, received monies and effected payments for and on behalf of the Foundation. These payments are registered in the books as additions/redemptions of the principal loan amount.

6. Liabilities

The Foundation Board has no notice of liabilities, commitments or obligations the effect of which should be considered for disclosure in the Statement of Assets or as a basis for recording a contingency or making adjustment or provision. To-date there are neither annuities nor titles nor enforceable legal claims against the Foundation.

22. AUG. 2007 18:33

NR. 2062 S. 7/16

Desert Rose Foundation, Vaduz**Endowments and Distributions in 2006**

Endowments**USD**

none

0.000.00**Distributions****USD**

- according to a Board Resolution dated 20 November 2006
transferred from the bank account of Dickinson Holding & Finance Ltd.

300'000.00 *300'000.00

*) Includes bank charges paid by Dickinson Holding & Finance Ltd.

22. NOV. 2007 10.33

RR. 2002 S. 6/10

Desert Rose Foundation, Vaduz**Cash Flow Statement 2006**

	<u>USD</u>
Net Assets as per 31 December 2005	738'882.12
 <u>Increase in Assets</u>	
Endowments	0.00
Partial repayment of Loan from Dickinson Holding & Finance Ltd.	324'311.87
Price Gains	<u>750.80 /</u>
<i>Total Increase in assets</i>	<u>325'062.67</u>
 <u>Decrease in Assets</u>	
Distributions	300'000.00 b
Decrease in Loans	324'311.87
Bank Charges & currency exchange Dickinson Holding & Finance Ltd.	29.07 /
Administrative & consultancy fees	
- LGT Treuhand AG	CHF 9'854.40 7'947.09
- KCS Limited	7'282.33
- MINT TAX CONSULTING LIMITED	<u>2'125.33</u> 1736 b
<i>Total Decrease in assets</i>	<u>641'695.69</u>
 Change in assets	<u>-316'633.02</u>
 Net Assets as per 31 December 2006	<u>422'249.10</u>



LGT Bank in Liechtenstein Ltd.
Hengstgasse 12, FL-9490 Vaduz
Phone +423 235 11 22 - fax +423 235 15 22
Internet: www.lgt.com
CH 112295, Reg. Office 9490 Vaduz - VAT No. 50119

COPY

statement of assets per 31.12.2006



address for dispatch

client
Desert Rose Foundation

client number

reference currency
USD

table of contents

Desert Rose Foundation
9490 Vaduz

liquidity

page 2

short-term investments

page 2

further information

page 3

— = Redacted by the Permanent
Subcommittee on Investigations

Box 1 AA I 2554 31.12.2006

WWU-PSI-00100

LETT Bank in Liechtenstein Ltd.
Herengasse 12, FL-9490 Vaduz
Phone +423 235 11 22 - fax +423 235 15 22
info@lebbank.li www.lebbank.li
CH-1112 Vaduz, Reg. Office: 9490 Vaduz - VAT No. 5019

COPY

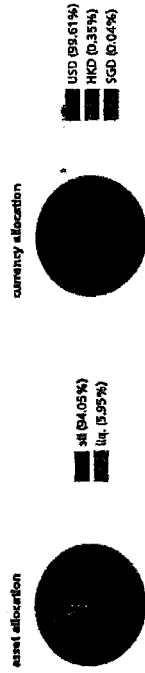
Client: Desert Rose Foundation
Client number: [REDACTED]
Reference currency: USD

page 1 / 7

statement of assets per 31.12.2006

asset allocation overview				
asset allocation/ currency	amount in USD	USD	HKD	SGD
amount in USD	16,100.64	94.05 %		
amount in HKD			99.40	
amount in SGD				7.39
total	17,100.03	17,053.04		

LETT funds allocation contained.



[REDACTED] = Redacted by the Permanent Subcommittee on Investigations



client: Desert Rose Foundation
client number: [REDACTED]
reference currency: USD

COPY

LGT Bank in Liechtenstein Ltd.
Herrngasse 12, FL-9490 Vaduz
Phone +423 235 11 22, Fax +423 235 15 22
E-Mail: info@lgt.li, service@lgt.li
CR 112336, Reg. Office: 9490 Vaduz, VAT No. 50119

statement of assets per 31.12.2006

page 2/7

accounts (liquidity)		balance in currency	exchange rate vs. USD	balance in USD	% of portfolio
account					
AG SGD account		11.33	0.6523	7.39	0.04 %
total				1,019.39	5.03 %

other positions

amount in currency	
curr.	

money market funds (short-term investments)

curr.	units	designation	ISIN security no.	purchase price	current price	value in USD	P/L	% of port.
						16,100.64		94.05 %
total								

equities

curr.	units	designation	ISIN security no.	sector country	purchase price	current price	value in USD	P/L	% of port.
							0.00		n.a.
total									

31.12.2006

31.12.2006

22. AUG. 2007 18:35

NK. 2062 S. 12/16

LCF Bank in Luxembourg Ltd.
 Avenue de la Liberté 12
 1050 Luxembourg
 Phone: +352 235 11 22 Fax: +352 235 15 22
 info@lcf.com www.lcf.com BIC: LCFILUX
 OR 112255 Reg. Office 9480 Vaduz VAT No. 50119

COPY

client: Desert Rose Foundation
 client number: [REDACTED]
 reference currency: USD

statement of assets per 31.12.2006

page 3 / 7

exchange rates applied

currency exchange rate vs. USD
 SGD 0.652250

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

900 T AA 1 2334 31.12.2006

WWU-PSI-00103

LGT Bank in London, Ltd.
Horseferry Road, London W1P 2AD, UK
Phone: +4420 235 11 22 Fax: +4420 235 11 22
info@lgt.com www.lgt.com - BE: BULDOX
OR: 1122335, Reg. Office: 9480 Value - VAT No. 50119

COPY

client: Desert Rose Foundation
client number: [REDACTED]
reference currency: USD

statement of assets per 31.12.2006

page 4 / 7

glossary		PS		purchase/sale	
acc. int.	accrued interest	st	vs.	short-term investments	
curr.	currency	YTM		yield to maturity	
fl	fixed loans				
GICS	Global Industry Classification Standard				
ht	hedge funds				
int.	interest				
ISIN	International securities identification number				
mod. dur.	modified duration				
no.	number				
p.a.	per annum				
pe	private equity				
pl	profit/loss				

disclaimer

This statement of assets replaces the custody account statement in accordance with the General Business Conditions or Safe Custody Regulations.
Complaints about account or custody account statements must be submitted within one month, if no complaints are received before this period expires, the statements shall be deemed to have been approved.
The Global Industry Classification Standard ("GICS") was developed by and is the exclusive property of Morgan Stanley, Capital International Inc. ("MSCI") and Standard & Poor's, a division of The McGraw-Hill Companies, Inc. ("SGP") and is licensed for use by LGT Group Companies. Neither MSCI, SGP nor any third party involved in making or compiling the GICS or any GICS classifications makes any express or implied warranties or representations with respect to such standard or classification (or the results to be obtained by the use thereof). LGT Group Companies and any third party involved in making or compiling the GICS or any GICS classifications have no control over the standard or classification. Without limitation, the use of the GICS or any GICS classifications in no way constitutes an endorsement, recommendation, approval, or any other form of support or liability for any direct, indirect, special, consequential or any other damages (including lost profits) even if notified of the possibility of such damages.

[REDACTED] = Redacted by the Permanent Subcommittee on Investigations

2004 31.12.2006

LGT Bank in Liechtenstein Ltd.
Herrngasse 12, FL-9490 Vaduz
T +423 735 11 22 Fax +423 735 15 22
info@lgt.li www.lgt.li
OR 1123955, Reg. Office: 9463 Vaduz · VAT No. 50119

COPY

Client: Dornier Base Foundation
Client number: [REDACTED]
reference currency: USD

statement of assets per 31.12.2006

page 5 / 7

change in net value	750.80 USD	performance 4.16 %
performance 01.01.2006 - 31.12.2006 in USD		
deposits	24,282.80	
balance of internal transfers	0.00	
accrued interest	0.00	
valuation of assets as at 31.12.2006	17,120.03	
change in net value	750.80	performance 4.16 %
coupons/dividends	0.00	
expenses and charges	0.00	

This performance statement is meant only for information purposes and is not legally binding.

[REDACTED] = Reduced by the Permanent
Subcommittee on Investigations

2354 31.12.2006



client: Dr. David J. Bass Foundation
client number: [REDACTED]
reference currency: USD

COPY

LGT Bank für Liechtenstein Ltd.
Herrngasse 12, CH-9500 Vaduz
Phone: +423 239 11 22, Fax: +423 239 15 22
Internet: www.lgtbank.li
OR 112356, Reg. Office 9450 Vaduz - VAT No. 50119

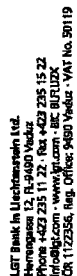
statement of assets per 31.12.2006

page 6 / 7

deposits				
date *	designation	currency	amount	exchange rate ** amount in USD
28.04.2006	Money Transfer/Forex DICKINSON HOLDING + FRANCE LT	HKD	17,700.00	0.1289 2,282.80
withdrawals				
date *	designation	currency	amount	exchange rate ** amount in USD
02.05.2006	Money Transfer/Forex MINT TAX CONSULTING LIMITED	HKD	-16,480.00	0.1288 -2,125.33
19.06.2006	Money Transfer LGT TREUHAND AG	USD	-7,947.08	1.0000 -7,947.08
deposits without				
date *	designation	units	price **	amount exchange rate ** amount in USD
total				
				0.00

[REDACTED]
= Redacted by the Permanent
Subcommittee on Investigations

2394 31.12.2006



client: Desert Rose Foundation
client number: [REDACTED]
reference currency: USD

copy

statement of assets per 31.12.2006

717 affect

[illegible]

* booking date
** at time of transaction

_____ = Redacted by the Permanent Subcommittee on Investigations

77:54 31.12.2005



JCMA Foundation, Vaduz

**STATEMENT OF ASSETS
as per 31 December 2004**

**Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 167**

WWU-PSI-00065

JCMA Foundation, Vaduz

Statement of Assets as per 31 December 2004

	Notes	2004 USD	2003 USD
Cash at banks	2	595.31	18'856.94
Securities	3	22'524.48	3'675'978.21
Participations	4	1'001.00	1.00
Loans	5	1'178'515.46	0.00
Gross Assets		1'202'636.25	3'694'836.15
	6	0.00	-1'522'690.18
Net Assets		1'202'636.25	2'172'145.97

Vaduz, 13 February 2006 SSP/xpt

JCMA Foundation

Profile Management Trust reg.



Daniela Greutli



lic. iur. Marco Sacchet



Sonja Sprenger

The accompanying notes and schedules form part of this Statement of Assets.

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2004

1. General information on the Foundation

The formation documents of JCMA Foundation were deposited on 20 June 1996 with the public registry in Vaduz.

The currently valid Articles of the Foundation date back to 20 June 1996. In compliance with the said Articles, Beneficiaries of the Foundation were appointed in separate By-Laws on 25 June 1996.

As from 19 October 2005 the Foundation Board consists of two members, namely Sonja Sprenger (PGR Art. 180a) and Profile Management Trust reg., Vaduz. While Sonja Sprenger has joint signatory power, Profile Management Trust reg., Vaduz is entitled to represent and bind the Foundation by its sole signature.

The statutory minimum Foundation Fund amounts to CHF 30'000.--.

2. Cash at banks

			2004 USD	2003 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>				
Account No. [REDACTED]				
USD Account			550.63	18'818.28
SGD Account	SGD	11.33	6.93	38.66
HKD Account	HKD	293.82	37.75	0.00
Total LGT Bank in Liechtenstein AG, Vaduz			595.31	18'856.94
Total Cash at banks			595.31	18'856.94

Please refer to the attached bank statements for details.

Profile Management Trust reg. is the sole authorized signatory on the bank accounts of the Foundation.

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

ICMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2004

3. Securities	2003 USD	
<u>LGT Bank in Liechtenstein AG, Vaduz</u>		
Safe Custody Account No. [REDACTED]		
Hybrid Instruments	0.00	523'400.00
Interest accrued	0.00	4'083.00
Money Market Funds	22'524.48	498'495.21
Provisional fund	0.00	2'650'000.00
Total Securities	22'524.48	3'675'978.21
Total Securities	22'524.48	3'675'978.21

Generally the valuation of the above securities is made on a market value basis (daily rates) as of the end of the year in accordance with the information provided by the bank. Please note that the total includes unrealized profits and losses.

When managing the assets the Foundation Board takes into consideration the recommendations coming from LGT Bank in Liechtenstein AG, Vaduz. All securities transactions are detailed in the Schedules.

For further details on the asset and currency allocation, security transactions and the performance please refer to the Schedules.

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2004

4. Participations	2004 USD	2003 USD
<i>Sandalwood International Limited, B.V.I.</i> 100% owned by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each Issued Capital: 1 share of USD 1.-- each	1.00	1.00
<i>Dickinson Holding & Finance Ltd., B.V.I.</i> 100% owned and controlled by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each Issued Capital: 1'000 shares of USD 1.-- each	1'000.00	0.00
A statement of assets as of 31 December 2004 was provided by the directors on 15 September 2004, it shows a total of fair market value of USD 1'349'698.71	1'001.00	1.00
5. Loans	2005 USD	2004 USD
August 2004 Principal loan amount paid	1'178'515.46	0.00
	1'178'515.46	0.00

In August 2004 an interest free loan in the amount of USD 1'179'515.46 was granted to DICKINSON HOLDING & FINANCE LTD, BVI, for an indefinite period of time. A loan agreement was made in writing on 13 February 2006.

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2004

6. Liabilities	2004 USD	2003 USD
<u>Lombard Loan</u>		
On 31 May 1999 the Foundation entered into a lombard loan contract with LGT Bank in Liechtenstein AG, Vaduz. In this respect a general deed of pledge and of assignment was signed.	<u>0.00</u>	<u>-1'522'690.18</u>

The Foundation Board has no notice of any other liabilities, commitments or obligations the effect of which should be considered for disclosure in the Statement of Assets or as a basis for recording a contingency or making adjustment or provision. To-date there are neither annuities nor titles nor enforceable legal claims against the Foundation.

JCMA Foundation, Vaduz

Endowments and Distributions in 2004

<u>Endowments</u>	USD
none	0.00
<u>Distributions</u>	USD
To the first beneficiary according to a board resolution dated 12 February 2004	525'000.00
To the first beneficiary according to a board resolution dated 24 May 2004	200'500.00
To the first beneficiary according to a board resolution dated 10 August 2004	300'750.00
	1'026'250.00



JCMA Foundation, Vaduz

**STATEMENT OF ASSETS
as per 31 December 2005**

**Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 167**

WWU-PSI-00079

JCMA Foundation, Vaduz

Statement of Assets as per 31 December 2005

	Notes	2005 USD	2004 USD
Cash at banks	2	438.20	595.31
Securities	3	9'002.98	22'524.48
Participations	4	1'001.00	1'001.00
Loans	5	<u>728'439.94</u>	<u>1'178'515.46</u>
Gross Assets		738'882.12	1'202'636.25
Liabilities	6	<u>0.00</u>	<u>0.00</u>
Net Assets		<u>738'882.12</u>	<u>1'202'636.25</u>

Vaduz, 28 March 2006/SSP/xpt

JCMA Foundation

Profile Management Trust reg.



Daniela Greting



lic. iur. Marco Sacchet



Sonja Sprenger

The accompanying notes and schedules form part of this Statement of Assets.

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2005

— = Redacted by the Permanent
Subcommittee on Investigations

1. General information on the Foundation

The formation documents of JCMA Foundation were deposited with the public registry in Vaduz on 20 June 1996.

The currently valid Articles of the Foundation date back to 20 June 1996. In compliance with the said Articles, Beneficiaries of the Foundation were appointed in separate By-Laws on 25 June 1996.

As from 18 October 2004 the Foundation Board consists of two members, namely Sonja Sprenger (PGR Art. 180a) and Profile Management Trust reg., Vaduz. While Sonja Sprenger has joint signatory power, Profile Management Trust reg., Vaduz is entitled to represent and bind the Foundation by its sole signature.

The statutory minimum Foundation Fund amounts to CHF 30'000.--.

2. Cash at banks

			2005 USD	2004 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>				
Account No. [REDACTED]				
USD Account			328.35	550.63
SGD Account	SGD	11.33	6.82	6.93
HKD Account	HKD	798.52	103.03	37.75
Total LGT Bank in Liechtenstein AG, Vaduz			438.20	595.31
Total Cash at banks			438.20	595.31

Please refer to the attached bank statements for details.

Profile Management Trust reg. is the sole authorized signatory on the bank accounts of the Foundation.

3. Securities

			2005 USD	2004 USD
<u>LGT Bank in Liechtenstein AG, Vaduz</u>				
Safe Custody Account No. [REDACTED]				
Money Market Funds			9'002.98	22'524.48
Total Securities			9'002.98	22'524.48
Total Securities			9'002.98	22'524.48

JCMA Foundation, Vaduz**Notes to the Statement of Assets as per 31 December 2005**

Generally the valuation of the above securities is made on a market value basis (daily rates) as of the end of the year in accordance with the information provided by the bank. Please note that the total includes unrealized profits and losses.

When managing the assets the Foundation Board takes into consideration the recommendations coming from LGT Bank in Liechtenstein AG, Vaduz. All securities transactions are detailed in the Schedules.

For further details on the asset and currency allocation, security transactions and the performance please refer to the Schedules.

4. Participations

	2005 USD	2004 USD
SANDALWOOD INTERNATIONAL LIMITED, BVI		
100% owned by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each		
Issued Capital: 1 share of USD 1.-- each	1.00	1.00
Sandalwood is the shareholder of a company called Tai Lung Worldwide Ltd., which owns a property in New York. Financial Statements were not provided by the directors.		
DICKINSON HOLDING & FINANCE LTD.		
100% owned and controlled by the Foundation		
Authorized Capital: USD 50'000.00 divided into 50'000 shares of USD 1.-- each		
Issued Capital: 1'000 shares of USD 1.-- each	1'000.00	1'000.00
The Foundation granted a loan to DICKINSON, which is operating a bank account with LGT Bank in Liechtenstein AG. The attached statement of assets as of the year-end show a market value of USD 3'443'753.94 (2004) and USD 3'774'387.02 (2005).		
	<u>1'001.00</u>	<u>1'001.00</u>

JCMA Foundation, Vaduz

Notes to the Statement of Assets as per 31 December 2005

5. Loans	2005 USD	2004 USD
DICKINSON HOLDING & FINANCE LTD.		
Principal loan amount paid	1'178'515.46	1'178'515.46
Additions during the year	49'939.93	0.00
Redemptions during the year	-500'015.45	0.00
	728'439.94	1'178'515.46

In August 2004 an interest free loan in the amount of USD 1'178'515.46 was granted to DICKINSON HOLDING & FINANCE LTD, BVI, for an indefinite period of time. A loan agreement was made in writing on 13 February 2006.

During the course of 2005 DICKINSON HOLDING & FINANCE LTD, BVI, received monies and effected payments for and on behalf of the Foundation. These payments are registered in the books as additions/redemptions of the principal loan amount.

6. Liabilities	2005 USD	2004 USD
<u>Lombard Loan</u>		
On 31 May 1999 the Foundation entered into a lombard loan contract with LGT Bank in Liechtenstein AG, Vaduz. In this respect a general deed of pledge and of assignment was signed.	0.00	0.00

The Foundation Board has no notice of any other liabilities, commitments or obligations the effect of which should be considered for disclosure in the Statement of Assets or as a basis for recording a contingency or making adjustment or provision. To-date there are neither annuities nor titles nor enforceable legal claims against the Foundation.

JCMA Foundation, Vaduz

Endowments and Distributions in 2005

<u>Endowments</u>	USD
- according to a declaration of endowment dated 13 September 2005	49'939.93
<i>transferred to Dickinson Holding & Finance Ltd, BVI HKD 387'600.00</i>	
Total	<u>49'939.93</u>
 <u>Distributions</u>	 USD
- according to a board resolution dated 27 May 2005	200'007.72 *)
<i>transferred from the bank account of Dickinson Holding & Finance Ltd, BVI</i>	
- according to a board resolution dated 17 August 2005	300'007.73 *)
<i>transferred from the bank account of Dickinson Holding & Finance Ltd, BVI</i>	
Total	<u>500'015.45</u>
*) incl. charges, fees & commissions	

JCMA Foundation, Vaduz

Cash flow statement 2005

	<u>USD</u>
Net Assets as per 31 December 2004	1'202'636.25
<u>Increase in Assets</u>	
Endowment (redemption of loan DICKINSON)	49'939.93
Profit	409.13
Dividends / credit interests	<u>0.00</u>
<i>Total Increase in assets</i>	<u>50'349.06</u>
<u>Decrease in Assets</u>	
Distributions (additions to loan DICKINSON)	500'015.45
Foreign bank fees	0.00
Debit interests	18.70
Administrative & consultancy fees LGT Treuhand AG	
LGT Treuhand AG	7'969.95
Sandalwood International Limited	<u>6'099.09</u>
<i>Total Decrease in assets</i>	<u>514'103.19</u>
Change in assets	<u>-463'754.13</u>
Net Assets as per 31 December 2005	<u>738'882.12</u>

22. AUG. 2007 18:59

NR. 2063 S. 1/14

RESOLUTION of the Board of Directors
of
DICKINSON HOLDING & FINANCE LTD.
(Company No.605658)

THE UNDERSIGNED, being the Directors of DICKINSON HOLDING & FINANCE LTD. ("the Company"), a Company organized as an International Business Company under the laws of the British Virgin Islands and incorporated on the 12th day of July 2004, consent to the adoption of the following resolution taken without a meeting, this instrument to have the same force and effect as if the actions herein referred to had been taken at a timely called and duly held meeting of the Board of Directors of the Company and direct that this written consent to such actions be filed with the minutes of the proceedings of the Board of Directors of the Company

STATEMENT OF ASSETS AS AT 31 DECEMBER 2006

IT IS HEREBY
RESOLVED AS FOLLOWS:

1. The statement of assets as per 31 December 2006 showing a total net worth USD 4'243'704.74 is hereby approved and adopted.
2. The investments and payments made in 2006 are hereby approved and adopted.

This Consent shall be effective as per the 17th day of April 2007.

IPC Management Trust reg.


Xenia Hostettler Sonya Sprenger
Director

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 172

WWU-PSI-00016

22. AUG. 2007 18:39

NR. 2063 S. 3/14

Statements of assets as per 31.12.2006 17.04.2007

Dickinson Holding & Finance Ltd.
Wickhams Cay, PO Box 146
Road Town, Tortola

= Redacted by the Permanent
Subcommittee on Investigations

	31.12.2005 USD	31.12.2006 USD
Assets		
USD account	279.17	713.28
Total LGT Bank in Liechtenstein AG Vaduz	279.17	713.28
Total Cash in banks	279.17	713.28
safe custody account	3'774'107.85	4'243'991.46
Total LGT Bank in Liechtenstein AG Vaduz	3'774'107.85	4'243'991.46
Total Securities	3'774'107.85	4'243'991.46
	<u>3'774'387.02</u>	<u>4'243'704.74</u>
Liabilities		
USD fixed advance incl. accrued interest	2'685'168.75	3'137'692.34
Total LGT Bank in Liechtenstein AG Vaduz	2'685'168.75	3'137'692.34
Total Bank loans	2'685'168.75	3'137'692.34
Loan from Desert Rose Foundation, Vaduz	728'439.94	404'128.07
Total	728'439.94	404'128.07
Total Other loans	728'439.94	404'128.07
Capital**	1'000.00	1'000.00
Capital Development Account *	359'778.33	700'884.33
Total	360'778.33	701'884.33
Total Net worth	360'778.33	701'884.33
	<u>3'774'387.02</u>	<u>4'243'704.74</u>

* Annotations to the Capital Development Account:
This account reflects a compensation figure which results from the circumstance that no bookkeeping is kept.

The Capital Development Account includes all reserves and results carried forward, the result of the respective period and any current account figures or relations to parent and/or affiliated companies, if not separately accounted for.

WWU-PSI-00017

22. AUG. 2007 18:39

NR. 2063 S. 4/14

— = Redacted by the Permanent
Subcommittee on Investigations

COPY

LEI Bank in Luxembourg Ltd.
Pöschelstr. 12, 10199 Berlin
Phone: +49 30 25 14 23 15 22
Fax: +49 30 25 14 23 15 22
Email: info@lei.com
Or 112356 Reg. Office 9400 Vdaz - Vat No. 50119

statement of assets per 31.12.2006



address for dispatch

Client
Dickinson Holding & Finance Ltd.

Client number
0194537

reference currency
USD

table of contents

liquidity	page 2
fixed loans	page 2
bonds and bond funds	page 3
turnover information	page 3

Dickinson Holding & Finance Ltd.
Road Town, Tortola
VIRGIN ISLANDS BRITISH

Page 31.12.2006

22. AUG. 2007 18:40

NR. 2063 S. 5/14

— = Redacted by the Permanent
Subcommittee on Investigations

COPY

client: Dickson Holding & Finance Ltd.
client number: [REDACTED]
reference currency: USD



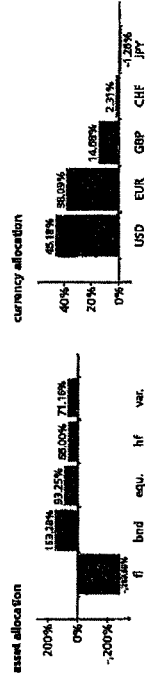
LGT Bank in Liechtenstein Ltd.
Hengsras 12, FL-9400 Vaduz
Phone: +423 235 11 22 - Fax: +423 235 15 22
E-Mail: info@lgt.li
ON 1122564 Reg. Office: 9499 Vaduz - VAT No. 90119

statement of assets per 31.12.2006

page 1 / 8

asset allocation overview						
asset allocation/ currency	amount in USD	USD	EUR	GBP	CHF	JPY
fixed loans	-3,137,692.34	-283.69 %				
equity	1,635,210.46	151.12 %	1.71 %	0.39 %	0.02 %	0.04 %
equity funds	725,985.46	66.90 %				
other funds	91,355.57	8.36 %	1.04 %	1.92 %	0.06 %	0.12 %
total	1,106,612.40	510,697.45	421,338.21	161,306.49	25,523.21	-13,833.63

LGT Funds allocation condensed.



WWU-PSI-00019

1948 31.12.2006

22. AUG. 2007 18:40

989

NR. 2063 S. 6/14

Redacted by the Permanent Subcommittee on Investigations

COPY

LCR Bank in Lithuania Ltd.
Heronas 12, B-6900 Vaidz
Phone +433 235 11 22; Fax +433 235 15 22
info@lcr.com - www.lcr.com - BIC: BULI22
CH 1172356, Reg. Office: 9999 Vaidz - VAT No. 50119

client: Odebrecht Holding & Finance Ltd.
client number: [REDACTED]
reference currency: USD

page 2 / 8

statement of assets per 31.12.2006

accounts (liquidity)		balance in currency	exchange rate vs. USD	balance in USD	% of portfolio
account					
AC HED account		0.00	0.1726	0.00	0.00 %
other positions					
amount in currency		curr.			
Fixed loans					
curr.	amount in curr. debt int. in curr.	term	interest rate (dabn)	exchange rate vs. USD	volume in USD debt int. in USD
USD	-300,000.00	20.11.2006 - 21.02.2007	5.9375 %	1.0000	-300,000.00
	-2,028.64				-2,028.64
money market funds (short-term investments)					
curr.	units designation	ISIN security no.	purchase price	current price	value in USD P/L % of portf.
					63,080.84
					570 %
total					

WWU-PSI-00020

statement of assets per 31.12.2006

WWU-PSI-00021

22. AUG. 2007 18:43

991

NR. 2063 S. 8/14

— = Redacted by the Permanent
Subcommittee on Investigations

COPY

LEST Bank in Liechtenstein Ltd.
Hengengasse 12, FL-9480 Vaduz
Phone +423 235 11 22 - Fax +423 235 15 22
info@lest.com - www.lest.com - EC 800577
CH 1125391, Reg. Office: 260 Vaduz - VAT No. 50119

client: Dideron Holding & Finance Ltd.
client number: [REDACTED]
reference currency: USD

statement of assets per 31.12.2006

page 4 / 8

expected interest payments in the next 12 months (estimate)

month/year	USD	total USD
04/2007	6,000.00	6,000.00

WWU-PSI-00022

1949 31.12.2006

22. AUG. 2007 18:43

NR. 2063 S. 9/14

— = Redacted by the Permanent Subcommittee on Investigations

COPY

LGT Bank in Liechtenstein Ltd.
 1000 Vaduz
 Phone +423 235 11 22 - Fax +423 235 15 23
 info@lgt.com - www.lgt.com - SIC 64120X
 ON 1172356, Reg. Office: 9490 Vaduz - VAT No. 50119

page 5 / 8

client: Delacour Holding & Finance Ltd.
 client number: [REDACTED]
 reference currency: USD

statement of assets per 31.12.2006

glossary		P/S		purchase/sale	
accr. int.	accrued interest	st	short-term investments	st	short-term investments
curr.	currency	vs.	vs.	yield	yield to maturity
fl	fixed loans	YTM	YTM		
GICS	Global Industry Classification Standard				
hr	hedge funds				
int.	interest				
int. id	international securities identification number				
mod. dur.	modified duration				
no.	number				
pa.	per annum				
pe	private equity				
P/L	profit/loss				

disclosure

This statement of assets replaces the custody account statement in accordance with the General Business Conditions or Safe Custody Regulations. Complaints about account or custody account statements must be submitted within one month, if no complaints are received before the period expires, the statements shall be deemed to have been approved.

1948 31.12.2006

PKT 1.44

WWU-PSI-00023

LGIT Bank in Uchiyemphala Ltd.
Henningsen 12, R-4490 Velaar
Phone +423 235 11 22 - Fax +423 235 15 22
info@lgit.com - www.lgit.com - SIC 311102X
OK 112358, Reg. Office: 4490 Velaar - VNT No. 80119

— = Redacted by the Permanent
Subcommittee on Investigations

COPY

client: Oddsson Jeddou & Parnice Ltd.
client number: [REDACTED]
reference currency: USD

page 6/8

statement of assets per 31.12.2006

change in net value 345,021.65 USD performance 34.72 %

performance 01.01.2006 - 31.12.2006 in USD

	USD
deposits	0.00
balance of internal transfers	0.00
balance of internal transfers	0.00
balance of internal transfers	0.00
balance of internal transfers	0.00
valuation of assets as at 31.12.2006	1,005,072.40
change in net value	345,021.65 performance 34.72 %
coupons/dividends	6,000.00
expenses and charges	-0.70

This performance statement is meant only for information purposes and is not legally binding.

19.03.31.12.2006

22. AUG. 2007 18:44

NK. 2063 S. 11/14

— = Redacted by the Permanent
Subcommittee on Investigations

COPY

client: Dickinson Holding & Finance Ltd.
client number: [REDACTED]
reference currency: USD

LGT Bank in Liechtenstein Ltd.
Herrngasse 12, FL-6400 Vaduz
Phone +423 235 11 22 - Fax +423 235 15 22
info@lgt.com - www.lgt.com - BG BLI001
CH 112256, Reg. Office: 5460 Vaduz - VAT No. 50119

page 7 / 8

statement of assets per 31.12.2006

withdrawals		date *	designation	ISIN security no.	unit/ nominal value	price **	currency	amount	exchange rate **	amount in USD
		28.04.2006	Money Transfer ICMA FOUNDATION				USD	-2,283.57	1.0000	-2,283.57
		28.07.2006	Money Transfer LGT TREUHAND AG				USD	-3,265.65	1.0000	-3,265.65
		total								-318,327.52
buys		date *	designation	ISIN security no.	unit/ nominal value	price **	currency	amount	exchange rate **	amount in USD
		total								-1,292.51
sells		date *	designation	ISIN security no.	unit/ nominal value	price **	currency	amount	exchange rate **	amount in USD
		20.02.2006	Redemption LGT MM RD USD		-1	1,292.5100	USD	1,292.51	1.0000	1,292.51

NK. 2063 S. 11/14

NK. 2063 S. 11/14

WWU-PSI-00025

COPY

LST Bank in Liechtenstein Ltd.
Harrungasse 12, FL-9490 Vaduz
Phone +423 235 11 22 · Fax +423 235 15 22
info@lsg.com · www.lsg.com · BIC: BULFID33
OR 1172356, Reg. Office: 9490 Vaduz · VAT No. 50119

878 2500

client: Dickinson Holding & Finance Ltd.
client number: [REDACTED]
reference currency: USD

statement of assets per 31.12.2005

sales (continued)		ISBN	units/ nominal value	price **	currency	amount exchange rate **	amount in USD
date *	designation	security no.					
19.06.2006	Redemption: LGT MAM RD			1,308.2600	USD	1,308.26	1,308.26
Total							31,059.33

* booking date
** at time of transaction

WWU-PSI-00026

Wu
 c/o [REDACTED] Central, Hong Kong SAR
 Tel: [REDACTED]
 Fax: [REDACTED]
 e-mail: [REDACTED]

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

LGT Bank in Liechtenstein AG, Representative Office
 2908 Two Exchange Square
 Central, Hong Kong
Attn: Mr. Philip Jehle

By Hand

27th March 2001

27 MAR 2001

Dear Philip:

Re Veline 668.1

CONFIRMATION

Please forward the following to LGT Treuhand AG, Vaduz, for the attention of Mr Peter Schmid:

You are hereby authorised to transfer the two bonds without selling to the following accounts—

1. The DEM 600,000 Toyota Bond
 To: Interstetle, DBC 7506
 In favour of Credit Suisse Private Banking, Zurich
 Acc. [REDACTED]
 Attn. Mr G Capasso, PSXF 65
 In favour of account 0835-794429-35 safe keeping account
 In the name of Palon Foundation
2. The Euro 300,000 EIB Bond
 To: Euroclear, Acc. 94285
 In favour of Credit Suisse Private Banking, Zurich
 Attn. Mr G. Capasso, PSXF 65
 In favour of Acc. [REDACTED] safe keeping account
 In the name of Palon Foundation
3. Upon maturity of the Euro deposit, please uplift the deposit and transfer telegraphically all the credit balance but leaving Euro 10,000 in the current account
 To: Deutsche Bank, Frankfurt
 In favour of Credit Suisse Private Banking, Zurich
 Acc. [REDACTED] Euro
 In the name of Palon Foundation

Please inform me of the value date of the Euro cash transfer.

Please return the one share of Manta Company Ltd to the undersigned.

Thereafter, please wind up Veline Foundation, using the credit balance of Euro 10,000 in the current account to pay for any expenses incurred by you. After deducting your expenses, please transfer the balance telegraphically to the same account as above. Then, please consider the account closed. Could you also please let me know how long the winding up of Veline will take, and the approximate expenses associated with the process.

It has been a pleasure doing business with you and thank you very much for the excellent service you have rendered in the past. Situation has changed that warrants this, and your understanding is appreciated.

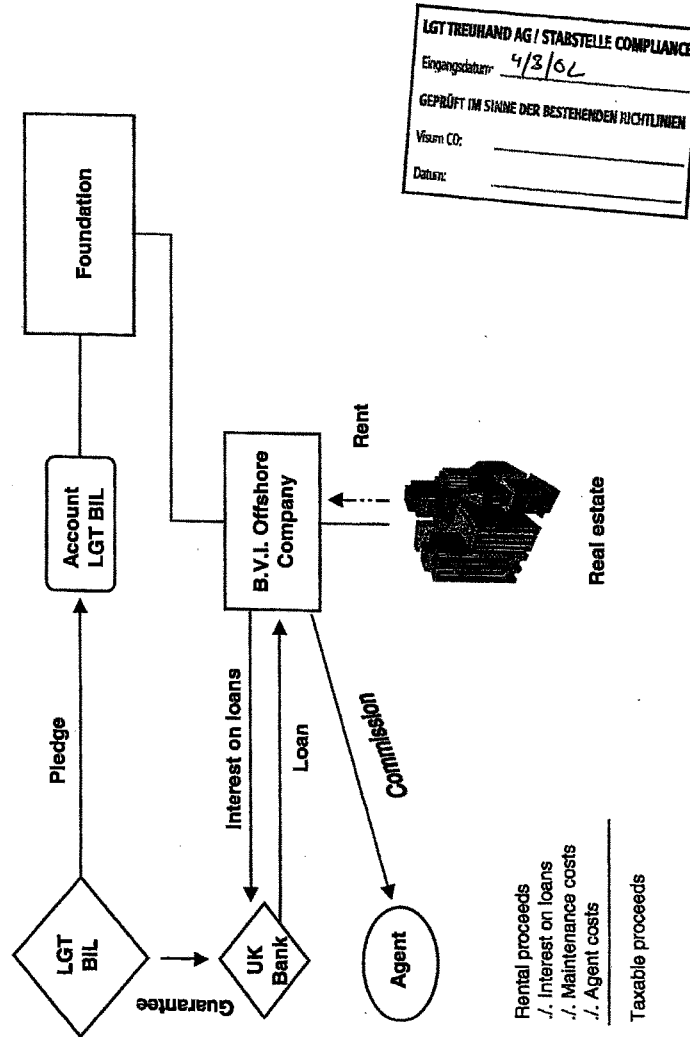
Yours sincerely,

[REDACTED]

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 179

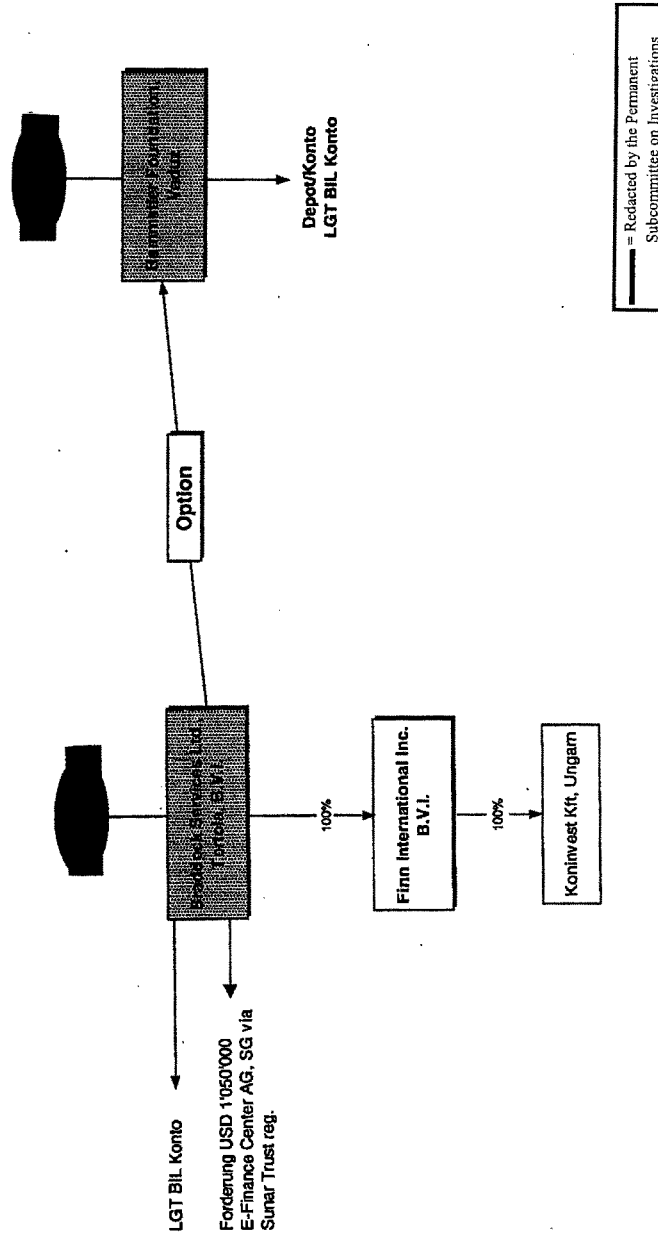
PSI-USMSTR - 005877

Purchase of an Apartment in London

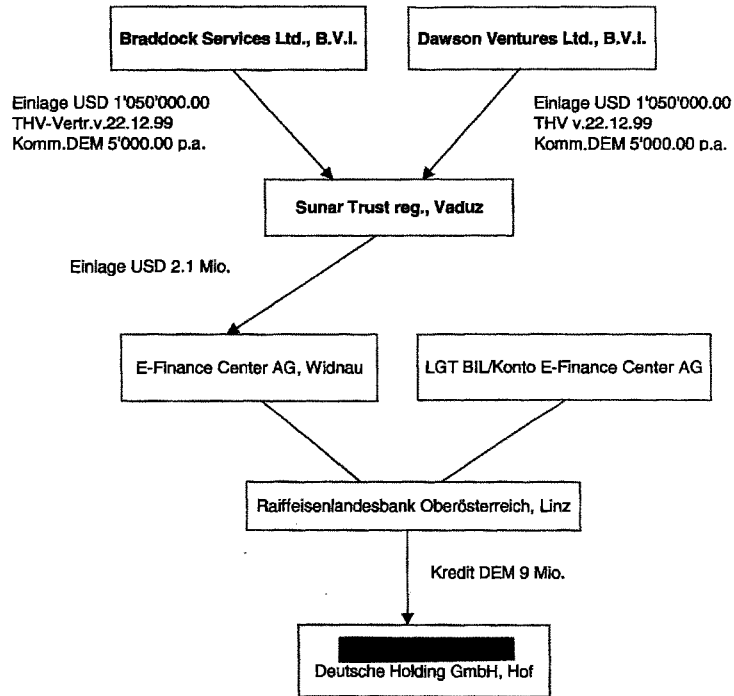


PSI-USMSTR - 006608

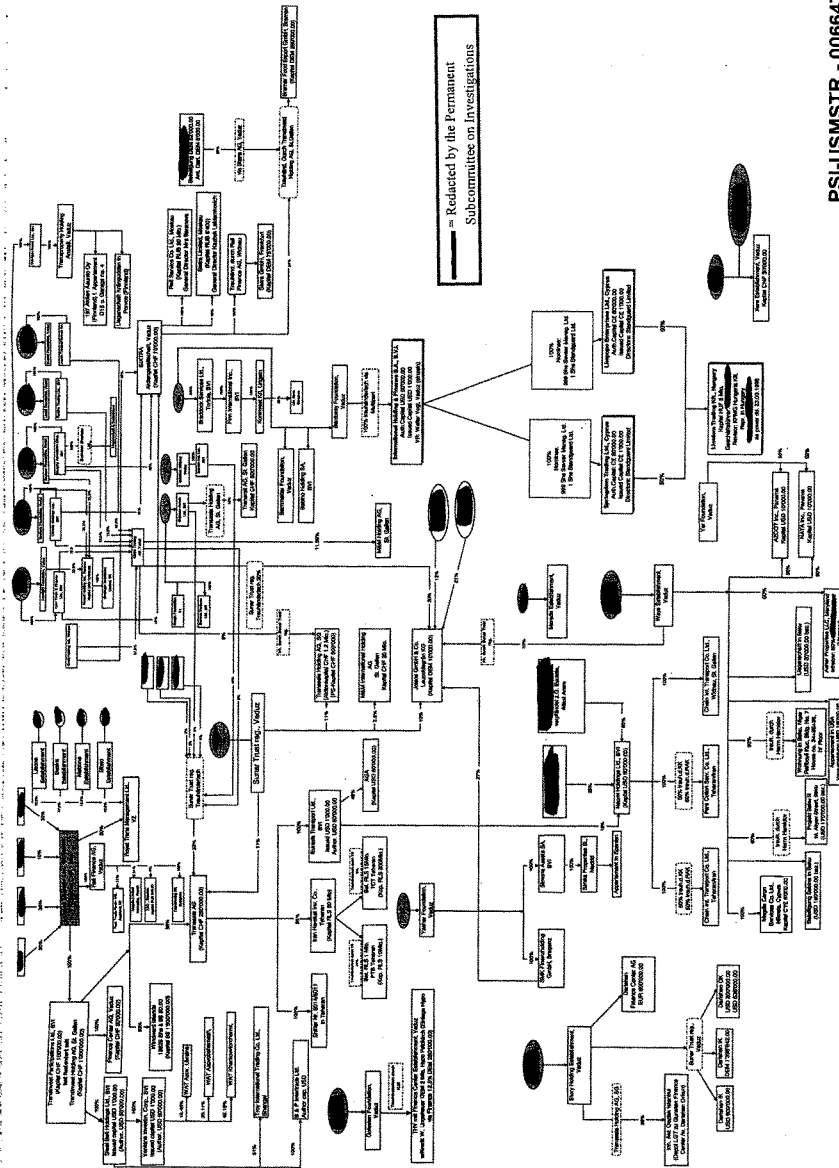




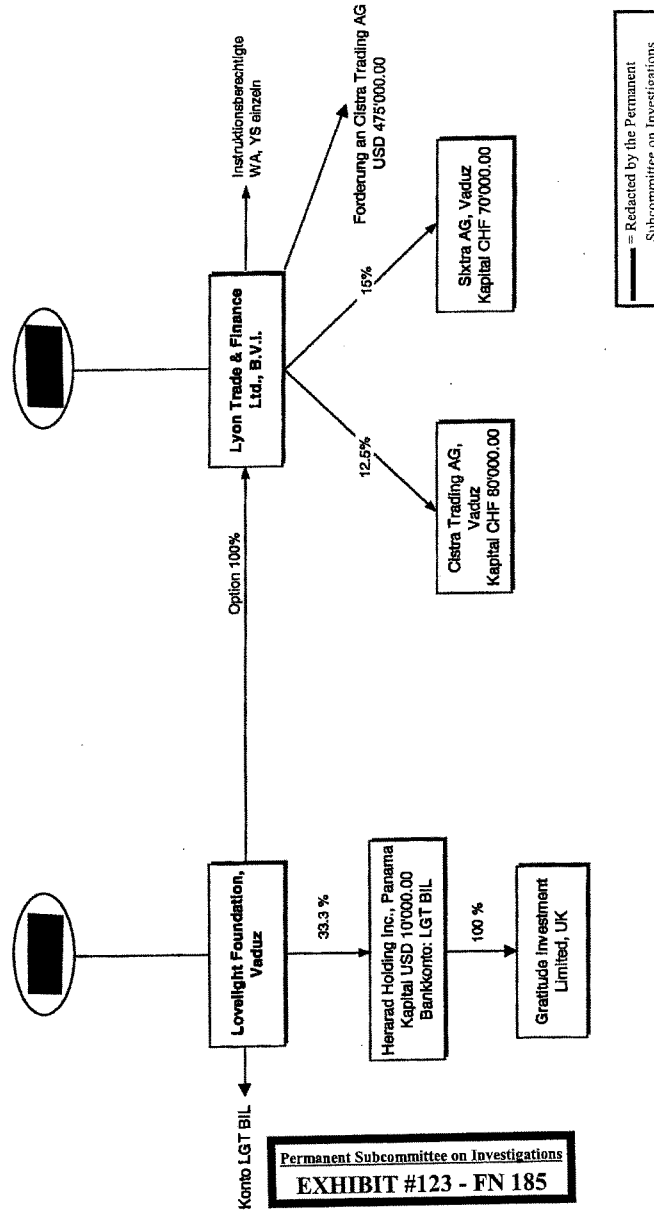
1000



— = Redacted by the Permanent
Subcommittee on Investigations

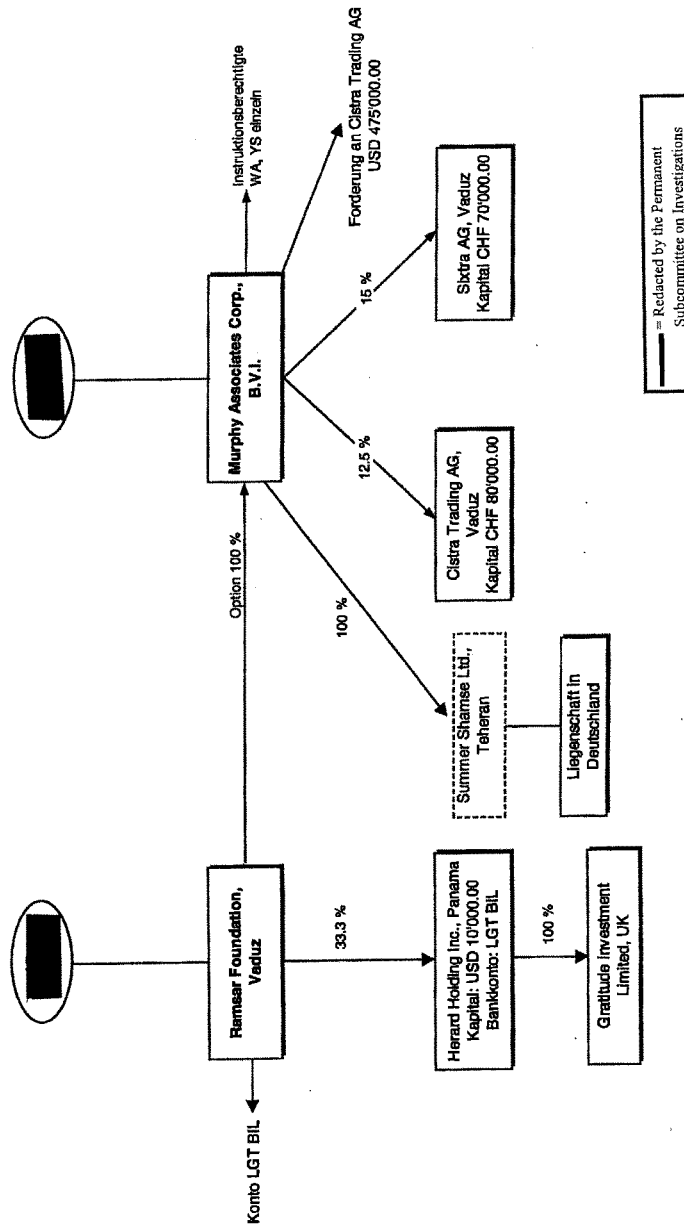


lovelorg.xls



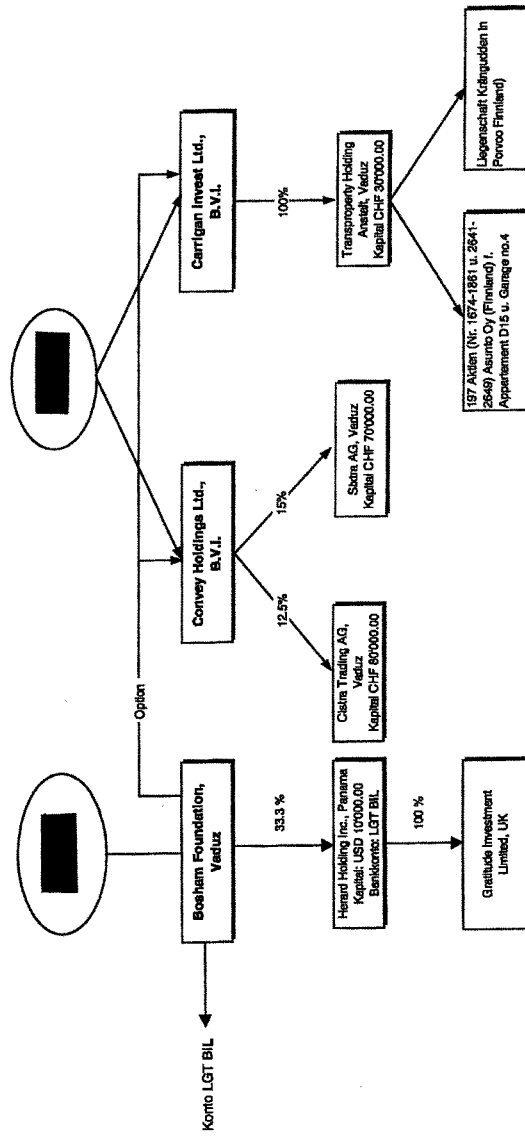
12.12.2001 SEI/pvo

PSI-USMSTR - 006573



12.12.2001 SEI/pwo

PSI-USMSTR - 006574



— = Redacted by the Permanent Subcommittee on Investigations

12.12.2001 SEI/pvo

PSI-USMSTR - 006575

Identifikationsakte: Vertragspartner (bzw. Einbringer von Vermögenswerten)
Natürliche Personen

Name der Verbandsperson: **LUPERLA FOUNDATION**

Name, Vorname: J.H. Gelbart

Geburtsdatum: ?

Nationalität: ? verm. Israel

Wohnsitzadresse: nur Büroadresse bekannt

Aufnahme der Geschäftsbeziehung: ☐ Persönliche Vorsprache (A)
☐ Korrespondenzweg (B)

Durch Peter Widmer gemäss Fax PIO v. 13.12.96

(A) Identifizierung bei persönlicher Vorsprache: ?

- ☐ Persönliche Bekanntheit ⇒ es genügt, die persönlichen Daten im oberen Teil einzusetzen
- ☐ Beweiskräftiges Dokument kopieren
- ☐ Pass
- ☐ Identitätskarte
- ☐ Personalausweis
- ☐ andere

(B) Identifizierung bei Kontaktaufnahme auf dem Korrespondenzweg

- ☐ Persönliche Bekanntheit ⇒ es genügt, die persönlichen Daten im oberen Teil einzusetzen
- ☐ Beglaubigte Passkopie
- ☐ Beglaubigte Unterschrift
- ☐ Bestätigung einer Bank, eines Rechtsanwaltes oder eines Wirtschaftsprüfers(anerkannt), dass Kopie des Dokuments mit Original, bzw. dass Unterschrift mit Tatsache übereinstimmt
- ☐ Vertragspartner im Inland bzw. in der CH domiziliert Wohnsitzadresse durch Postzustellung überprüft

Dokument in Identifikationsakte ablegen!

Vaduz, 31.10.1997/nmu

Erich Vorburger

Hans-Werner Ritter

Gilt für Neukunden ab 01. Januar 1997 oder bei

Permanent Subcommittee on Investigations

r Verdacht auf Täuschung.

EXHIBIT #123 - FN 201

PSI-USMSTR - 008905

Adressverwaltung: Abfragen / Verwalten
 AVO10 14:35:20 23.05.97
 Nachba Nr. [REDACTED] Erfasst von: SRS 97.03.21 L. Mut. von: 0.00.00
 Pers. Anrede: [REDACTED] Pers. / Vertret. (J): [REDACTED]
 Pers. Titel: [REDACTED]
 Pers. Vorn.: [REDACTED]
 Pers. Name: [REDACTED]
 Firma/Ges.: [REDACTED]
 Adresse 1: [REDACTED]
 Adresse 2: [REDACTED]
 Adresse 3: [REDACTED]
 PLZ / Ort: [REDACTED]
 Land: [REDACTED]
 Boss Nr.: [REDACTED]
 Telefon-Nr.: [REDACTED]
 E-Mail/RLX: [REDACTED]
 Zustandig: [REDACTED] Dir.: [REDACTED]
 Sprachcode: [REDACTED]
 Institutionell / Privat (I/P): [REDACTED]
 Empfohlen durch BIRT (J): [REDACTED]

Suchbegriffe:
 Name: [REDACTED]
 Firma: [REDACTED]
 Gruppe: [REDACTED]

Abfrage - Datenfreigabe betätigen
 F3 - Ende F8 - Weitere Suchbegriffe / Zusatztext F12 - Anzeige

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

PSI-USMSTR - 008906

Identification file: Contract Partner (or producer of assets, respectively)
Natural Persons

Name of Association: **LUPERLA FOUNDATION**
Surname, Name: J.H. Gelbart
Birth date: ?
Nationality: ? presumably Israeli
Residence: only office address known
Establishment of business relations: ☐ Personal Appearance (A)
☐ Written Correspondence (B)

Through Peter Widmer according to Fax PIO from 12.13.96

(A) Identification by personal appearance: ?

☐ Personal Appearance → it will do to fill out the data in the space above

☐ Copy of convincing document ☐ Passport
☐ Identification Card
☐ Identity Card
☐ Other

(B) Identification by contacting through written correspondence

☐ Personal Appearance → it will do to fill out the data in the space above
☐ Notarized passport copy
☐ Notarized signature
☐ Confirmation of a Bank, attorney or an accountant (accredited), that the copy of the document or, respectively, the signature, coincides with the original
☐ Checked domestic contract partner or, as the case may be, address of residence in Switzerland with the postal delivery.

File Document in Identifications file!

Vaduz, 10.31.1997 / nmu

Erich Vorburger Hans-Werner Ritter

Applies for new clients as of 01 January 1997 or for changes of contract partners, doubts as to their identity or suspicion of fraud.

1008

Address management: Query / Manage AV010 14:35:20 05.23.97

Madaba No. [REDACTED] Entered by: SRE 03.21.97 Last changed: 0.00.00

Person Title:	Mr.	Personal / Confidential:
Person Title:		
Person First Name:	J.H.	Search Criteria
Person Surname:	Gelbard	Name: GELBARD
Company:	J.H. Gelbard & Co.	Company: J.H. GELBARD & CO.
Address 1:	Law Office	Group:
Address 2:	5 Mannie St.	
Address 3:		
Zip code / City:	64168 Tel Aviv	TEL AVIV
Country:	Israel	Tel. No. 0097235246578
Boss No.		
Telephone No.:	00972/3/524 65 78	
Fax No.:	00972/3/524 65 81	
Email / Telex:		
Responsible:	Assistant: 672 621 Dir.:	Institutional / Private (I/P):
Type of gift:	Lang. Code: 3	Referred by BILT (J):

Query - Activate data disclosure

F3 - End F8 - More Search criteria / Additional text F12 - Record

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

IDR 1: Please provide the following information --

1. Certificate of Incorporation of Beverly Park Corporation, A Delaware Corporation.

See the enclosed document (BPTTR-00001 – BPTTR-00003).

2. Certificate of Amendment of Beverly Park Corporation.

See the enclosed document (BPTTR-00004 – BPTTR-00005).

3. Copy of books, record, or any other data detailing control and ownership of Beverly Park Corporation.

The only owner of Beverly Park Corporation stock has been Cordera Holdings Pty, Ltd. Beverly Park Corporation (the "Company") has no records demonstrating ownership of stock in any other entity. A schedule of stock certificates issued to Cordera Holdings Pty, Ltd. and the stock certificates are enclosed (BPTTR-00006 – BPTTR-00014).

4. Stock register of Beverly Park Corporation with details of:

a. share acquisitions and disposals, particularly how one share of \$1.00 in Lonas Limited BVI was acquired around August 6, 2001,

b. Details of structure of entities such as directorship, shareholding, etc.

As noted in the response to Item 3 above, the Company has no records demonstrating ownership of stock in any other entity, including Lonas Limited BVI.

The following is a schedule of the directors and officers of the Company:

January 3, 1997

Initial Directors: Peter Lowy
Richard Green
Arthur Schramm

Officers: Peter Lowy (President)
Richard Green (Vice President)
Mark Stefanek (Treasurer and Secretary)

February 22, 1999

Directors: Peter Lowy
Richard Green
Arthur Schramm

Officers: Peter Lowy (President)
Richard Green (Vice President)
Mark Stefanek (Treasurer and Secretary)
Leon Janks (Assistant Secretary)

June 30, 2001

Directors: Peter Lowy
Richard Green
Arthur Schramm

Officers: Peter Lowy (President)
Richard Green (Vice President)
Leon Janks (Treasurer and Secretary)

November 30, 2001 – to present

Directors: Peter Lowy
Leon Janks

Officers: Peter Lowy (President)
Leon Janks (Vice President, Treasurer, and Secretary)

5. Minute book and minutes of meetings of Beverly Park Corporation, particularly:

- a. resolution by Beverly Park Corporation dated December 13, 2001;**
- b. appointment of Mr. Leon C. Janks as director;**
- c. minutes of meetings confirming any arrangements with Lonas Limited BVI, Luperia Foundation; LGT Treuhand, Liechtenstein Global Trust or LGT Bank in Liechtenstein.**

All the corporate minutes are enclosed (BPTTR-00015 – BPTTR-00035). The Company does not have care, custody, or control of any other documents responsive to this request.

6. Accounting records such as general ledger, profit and loss statements, financial statements for the year ended:

- a. December 31, 1997;
- b. December 31, 1998;
- c. December 31, 1999;
- d. December 31, 2002;
- e. December 31, 2003;
- f. December 31, 2004;
- g. December 31, 2005; and
- h. December 31, 2006.

Financial statements and general ledgers are enclosed for the years ending June 30, 1998, through June 30, 2006 (BPTTR-00036 – BPTTR-00672).

7. List of all assets owned by Beverly Park Corporation.

All assets of the Company are detailed in the financial statements and general ledgers provided in response to Item 6 above (BPTTR-00036 – BPTTR-00672).

8. Copy of Power of Attorney or any other authority granted by Mr. Leon C. Janks, in his capacity as director of Beverly Park Corporation, to Mr. Joshua H. Gelbard and/or Lonas Limited BVI or others on December 13, 2001 to act on behalf of Beverly Park Corporation.

See the enclosed documents (BPTTR-00673 – BPTTR-00675).

9. Notarized certification by Debevoise & Plimpton LLP dated approximately on December 13, 2001 authorized by Mr. Joshua H. Gelbard and/or Lonas Limited BVI or others on behalf of Beverly Park Corporation.

The Company does not have care, custody, or control of any documents responsive to this request.

10. All books, records, or any other data outlining the structure of the arrangements including relevant legal opinions and outlines of implementation, particularly opinion by Debevoise & Plimpton LLP dated approximately December 13, 2001 confirming the incorporation and good standing of Beverly Park Corporation.

An opinion dated December 17, 2001, from Debevoise & Plimpton LLP is enclosed (BPTTR-00676 – BPTTR-00677).

11. All books, records, or any other data detailing communications between Beverly Park Corporation and Mr. Peter R. Schwartz and/or Debevoise & Plimpton LLP concerning:

- a. Beverly Park Corporation;**
- b. Lonas Limited BVI;**
- c. Luperla Foundation;**
- d. LGT Treuhand A.G.;**
- e. LGT Bank in Liechtenstein, or**
- f. Their associated entities.**

The Company does not have care, custody, or control of any documents responsive to this request.

12. All books, records, and any other data detailing communications between Mr. Leon C. Janks and/or Beverly Park Corporation and:

- a. Luperla Foundation;**
- b. LGT Treuhand A.G. of Vaduz, Liechtenstein;**
- c. LGT Bank in Liechtenstein;**
- d. Mr. Joshua H. Gelbard of Tel Aviv, Israel;**
- e. Lonas Limited BVI;**
- f. Sewell Services Limited BVI;**
- g. Ms. Geidis Dixon;**
- h. Overseas Management Company.**

As described in response to Item 8 above, enclosed is a copy of a letter from Mr. Leon Janks to Mr. Joshua Gelbard with related documents (BPTTR-00673 – BPTTR-00675). The Company does not have care, custody, or control of any other documents responsive to this request.

13. All books, records, and any other data detailing communications between Mr. Leon C. Janks and/or Beverly Park Corporation and:

- a. Mr. Frank P. Lowy;
- b. Mr. Peter Simon Lowy;
- c. Mr. David Hillel Lowy;
- d. Mr. Steven Mark Lowy;
- e. Westfield America Inc.; or
- f. The Westfield Group or their associated entities.

This request as written is overly broad and burdensome because, on its face, it would appear to include numerous documents detailing communications between Mr. Leon Janks and/or the Company and the individuals or entities identified, many of which do not relate in any respect to the Company. Should you require specific documents that are relevant to this matter, please provide a more detailed request specifying those documents required.

14. All books, records, and any other data around December 2001 relating to the flow of funds between Beverly Park Corporation and:

- a. Luperla Foundation;
- b. LGT Treuhand A.G.;
- c. LGT Bank in Liechtenstein;
- d. Lonas Limited BVI; or
- f. Sewell Services Limited BVI.

The Company does not have care, custody, or control of any documents responsive to this request.

— = Redacted by the Permanent
Subcommittee on Investigations

15. All banking records, deposit forms, bank statements and receipts including bank account number [REDACTED] with City National Bank located at 10889 Wilshire Boulevard, Los Angeles, California 90024 c/- Alder Green Hasson LLP.

All bank statements for fiscal year ending June 30, 1999, through June 30, 2006, that could be located for the following accounts are attached (BPTTR-00678 - BPTTR-01333):

Petty Cash Checking for Beverly Hills—City National Bank Account Number [REDACTED]

Petty Cash Checking for New York—City National Bank Account Number [REDACTED]

General Checking Account—City National Bank Account Number [REDACTED]

Money Market Account—City National Bank Account Number [REDACTED]

Form 4564	Department of the Treasury Internal Revenue Service Information Document Request	Request Number 23-1
To: (Name of Taxpayer and Company, Division or Branch)	Subject: Form 1120 - 200506	
Beverly Park Corporation 10990 Wilshire Blvd, Suite 1600 Los Angeles, CA 90024	Submitted to: Beverly Park Corporation	
	Dates of Previous Requests: None	

Description of Documents Requested:**Background Information - foreign transactions:**

1. Please have Leon Janks, Director, complete the attached questionnaire regarding foreign bank accounts and foreign entities. Please have him sign the questionnaire and initial each page.

Please be advised that we may require additional information and documents as we determine necessary as the examination progresses.

— = Redacted by the Permanent
Subcommittee on Investigations

Information Due By	Dec. 28, 2007	At Next Appointment	Mail In	X
Name and Title of Requestor	Employee ID:		Date:	
FROM	Internal Revenue Agent		12/11/2007	
Office Location:	Phone:	Page 1		
450 Golden Gate Ave. (6th fl) San Francisco, Ca 94102 Stop 6107, E.G. 1103	Fax:			
Form 4564 (Rev. 04/2004)	Worksheet #: 610-			

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 226

PSI-LOWY 006004

Foreign Accounts/Entities Information

Part I: Did Beverly Park Corporation or its subsidiaries have any legal or beneficial interest in, or did Beverly Park Corporation, its subsidiaries, officers, employees, or agents have direct or indirect signature, management, investment, or other authority over foreign bank accounts or brokerage accounts or mutual funds in the following countries, between 1987 and the present?

If yes, please describe the type of account and name of account holder.

Tax Haven Countries	Geographical Location	yes	no
Andorra	Europe	yes	no
Anguilla	Caribbean	yes	no
Antigua and Barbuda	Caribbean	yes	no
Aruba	Caribbean	yes	no
Bahamas	Caribbean	yes	no
Bahrain	Arabian Sea	yes	no
Barbados	Caribbean	yes	no
Belize	Caribbean/Cont'l America	yes	no
British Virgin Islands	Caribbean	yes	no
Cook Islands	Pacific Ocean	yes	no
Cyprus	Pacific Ocean	yes	no
Channel Islands	Europe	yes	no
Guernsey/Jersey/Man	Europe	yes	no
Isle of Man	Europe	yes	no
Jersey	Europe	yes	no
Libya	North of Africa	yes	no
Lichtenstein	Europe	yes	no
Maldives	Caribbean	yes	no
Marshall	Pacific Ocean	yes	no
Nauru	Caribbean	yes	no
Netherlands Antilles	Caribbean	yes	no
Neville	Pacific Ocean	yes	no
Nor	Pacific Ocean	yes	no
Panama	Caribbean/Cont'l America	yes	no
Paraguay	Pacific Ocean	yes	no
Peru	Caribbean	yes	no
St. Vincent and the Grenadines	Caribbean	yes	no
The Commonwealth of Dominica	Caribbean	yes	no
The Principality of Monaco	Europe	yes	no
The Republic of the Maldives	Indian Ocean	yes	no
The Republic of the Marshall Islands	Pacific Ocean	yes	no
The Republic of the Seychelles	Indian Ocean	yes	no
The Republic of Vanuatu	Pacific Ocean	yes	no
Tonga	Pacific Ocean	yes	no
Turks & Caicos	Caribbean	yes	no
US Virgin Islands	Caribbean	yes	no

Part II: Did Beverly Park Corporation or its subsidiaries have any legal or beneficial interest in, or did Beverly Park Corporation, its subsidiaries, officers, employees, or agents have direct or indirect signature, management, investment, or other authority over foreign bank accounts or brokerage accounts or mutual funds in other foreign countries, between 1987 and the present?

If yes, please list the countries in which you have foreign bank accounts or brokerage accounts or mutual funds, and describe the type of accounts:

TP

Foreign Accounts/Entities Information

Part III: Did Beverly Park Corporation or its subsidiaries have any (a) direct or indirect interest in, or did Beverly Park Corporation, its subsidiaries, officers, employees, or agents have direct or indirect significant management, investment, or other authority over any foreign entities, trusts, corporations, partnerships, foundations in the following countries, between 1997 and the present?

If yes, please describe the type of entity, name of the entity, and relationship to the entity.

Island Countries	Geographical Location	yes	no
Andorra	Europe	yes	no
Anguilla	Caribbean	yes	no
Antigua and Barbuda	Caribbean	yes	no
Aruba	Caribbean	yes	no
Bahamas	Caribbean	yes	no
Barbados	Caribbean	yes	no
Belize	Caribbean	yes	no
Bermuda	Caribbean	yes	no
British Virgin Islands	Caribbean	yes	no
Cayman Islands	Caribbean	yes	no
Cook Islands	Pacific Ocean	yes	no
Curaçao	Caribbean	yes	no
Guam	Caribbean	yes	no
Guamsey/Rain/Alamney	Europe	yes	no
Isle of Man	Europe	yes	no
Jersey	Europe	yes	no
Liberty	Europe	yes	no
Lichtenstein	Europe	yes	no
Luxembourg	Europe	yes	no
Maldives	Indian Ocean	yes	no
Netherlands Antilles	Caribbean	yes	no
Norfolk	Caribbean	yes	no
Nor	Pacific Ocean	yes	no
Palau	Pacific Ocean	yes	no
Paraguay	Caribbean/Central America	yes	no
Samoa	Pacific Ocean	yes	no
St. Kitts	Caribbean	yes	no
St. Vincent and the Grenadines	Caribbean	yes	no
The Commonwealth of Dominica	Caribbean	yes	no
The Republic of the Marshall Islands	Caribbean	yes	no
The Republic of the Marshall Islands	Indian Ocean	yes	no
The Republic of the Marshall Islands	Pacific Ocean	yes	no
The Republic of the Marshall Islands	Pacific Ocean	yes	no
The Republic of the Marshall Islands	Pacific Ocean	yes	no
Tonga	Pacific Ocean	yes	no
US Virgin Islands	Caribbean	yes	no

Foreign Accounts/Entities Information

Part IV: Did Liberty Park Corporation or its subsidiaries have any legal or beneficial interest in, or did Liberty Park Corporation, its subsidiaries, officers, employees, or agents have direct or indirect supervision, management, investment, or other authority over any foreign entities, trusts, corporations, partnerships, foundations in other foreign countries, between 1987 and the present?

yes _____ no _____

If yes, please describe the type of entity, name of the entity, and your relationship to the entity.

Part V: Certification/Declaration

I have read and completed the foregoing statements consisting of 3 pages, each of which I have signed. Under the penalties of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

Signature _____ Title _____ Date _____

Form 4564	Department of the Treasury Internal Revenue Service Information Document Request	Request Number 22 - 1
To: (Name of Taxpayer and Company, Division or Branch)	Subject: Form 1120 - 200506	
Beverly Park Corporation 10990 Wilshire Blvd, Suite 1600 Los Angeles, CA 90024	Submitted to: Beverly Park Corporation	
	Dates of Previous Requests: None	

Description of Documents Requested:

Background Information - foreign transactions:

1. Please have Peter Lowy, Director, complete the attached questionnaire regarding foreign bank accounts and foreign entities. Please have him sign the questionnaire and initial each page.

Please be advised that we may require additional information and documents as we determine necessary as the examination progresses.

— = Redacted by the Permanent
Subcommittee on Investigations

Information Due By	Dec. 28, 2007	At Next Appointment	Mail In	X	Date:	12/11/2007
FROM	Name and Title of Requestor Internal Revenue Agent	Employee ID:				
	Office Location: 450 Golden Gate Ave. (4 th fl) San Francisco, Ca 94102 Sup 6307, EG 1303	Phone:				
		Fax:				
					Page 1	
	Form 4564 (Rev. 04/2004)				Worksheet #: 630	

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 227

PSI-LOWY 006000

Foreign Accounts/Entities Information

Part I: Did Beverly Park Corporation or its subsidiaries have any legal or beneficial interest in, or did Beverly Park Corporation, its subsidiaries, officers, employees, or agents have direct or indirect significant management, investment, or other authority over foreign bank accounts or brokerage accounts or mutual funds in the following countries, between 1997 and the present?

If yes, please describe the type of account and name of account holder.

Tax Haven Countries	Specialized Location	yes	no
Andorra	Europe		
Anguilla	Caribbean		
Antigua and Barbuda	Caribbean		
Aruba	Caribbean		
Bahamas	Caribbean		
Barbados	Caribbean		
Belize	Caribbean		
British Virgin Islands	Caribbean/Caribbean America		
Cayman Islands	Caribbean		
Curaçao	Caribbean		
Guernsey	Europe		
Guam	Caribbean		
Jersey	Europe		
Isle of Man	Europe		
Libya	Europe		
Liechtenstein	Europe		
Monaco	Europe		
Nauru	Caribbean		
Netherlands Antilles	Caribbean		
Norway	Europe		
Norway	Europe		
Palau	Caribbean		
Peru	Caribbean		
Samoa	Caribbean		
St. Lucia	Caribbean		
St. Vincent and the Grenadines	Caribbean		
The Commonwealth of Dominica	Caribbean		
The Principality of Monaco	Europe		
The Republic of the Marshall Islands	Caribbean		
The Republic of the Northern Mariana Islands	Caribbean		
The Republic of the Philippines	Caribbean		
The Republic of Venezuela	Caribbean		
Tonga	Caribbean		
Tuvalu & Cook	Caribbean		
US Virgin Islands	Caribbean		

Part II: Did Beverly Park Corporation or its subsidiaries have any legal or beneficial interest in, or did Beverly Park Corporation, its subsidiaries, officers, employees, or agents have direct or indirect significant management, investment, or other authority over foreign bank accounts or brokerage accounts or mutual funds in other foreign countries, between 1997 and the present?

If yes, please list the countries in which you have foreign bank accounts or brokerage accounts or mutual funds, and describe the type of accounts.

yes _____
no _____

Foreign Accounts/Entities Information

Part IV: Did Beverly Park Corporation or its subsidiaries have any legal or beneficial interest in, or did Beverly Park Corporation, its subsidiaries, officers, employees, or agents have direct or indirect signature, management, investment, or other authority over any foreign entities, trusts, corporations, partnerships, foundations in other foreign countries, between 1987 and the present?

Yes _____ No _____

If yes, please describe the type of entity, name of the entity, and your relationship to the entity.

Part V: Certification/Declaration

I have read and completed the foregoing statements consisting of 3 pages, each of which I have signed. Under the penalties of perjury, I declare that I have examined this statement and to the best of my knowledge and belief, it is true, correct and complete.

Signature _____ Name _____ Title _____ Date _____

Standard Chartered

TSF COMPANY LIMITED P O BOX 683 STADTLE 18 FL-9490 VADUZ LIECHTENSTEIN LIECHTENSTEIN		2	BRANCH 分行 LANDMARK BRANCH ENQUIRY HOTLINE 諮詢熱線 2886 8868 STATEMENT DATE 報數日期 DECEMBER 31, 2001 CURRENCY 貨幣 UNITED STATES OF AMERICA ACCOUNT TYPE 戶口種類 CURRENT ACCOUNT ACCOUNT NUMBER 戶口號碼	
002050				
DATE (日期)	DEBIT (借方)	CREDIT (貸方)	WITHDRAWAL (支取)	BALANCE (餘額)
NOV 30	Balance Forward			1,165.60
DEC 14	FM S/A		59.32	
		TOTAL	0.00	1,126.28
			59.32	

_____ = Redacted by the Permanent Subcommittee on Investigations

Note: Please advise a change of address &/or information request on form overleaf
 閣下如欲更改通訊地址或索取其他服務請向介紹處索取及交回背頁表格。

SAFE DEPOSIT BOXES OF VARIOUS SIZE ARE AVAILABLE FOR RENT. PLEASE CONTACT
 YOUR NEAREST BRANCH OR OUR ENQUIRY HOTLINE 2202 2313 FOR DETAILS.

PAGE 1

 Permanent Subcommittee on Investigations
 EXHIBIT #123 - FN 235

TSF COMPANY LIMITED

PSI-USMSTR - 003190

Standard Chartered

— = Redacted by the Permanent
Subcommittee on Investigations

TSF COMPANY LIMITED
P O BOX 683
STADTLE 18
FL-9490 VADUZ LIECHTENSTEIN
LIECHTENSTEIN

2

BRANCH 分行 LANDMARK BRANCH
ENQUIRY HOTLINE 查詢熱線 2886 8688
STATEMENT DATE 報數日期 DECEMBER 31, 2001
CURRENCY 貨幣 HONG KONG DOLLAR
ACCOUNT TYPE 戶口種類 CURRENT ACCOUNT
ACCOUNT NUMBER 戶口號碼

001283

DATE	DESCRIPTION	DEBIT	CREDIT	BALANCE
NOV 30	Balance Forward			461.99-
DEC 10	REL MAINT FEE 1356166		150.00	611.99-
DEC 14	FM S/A	461.98		150.01-
DEC 31	DEBIT INTEREST		3.37	
	TOTAL	461.98	153.37	153.38-

Note: Please advise a change of address &/or information request on form overleaf
閣下如欲更改通訊地址或索取其他服務請介購填妥及交回背面表格。

* WITH EFFECT FROM 17 DEC 01, OUR PRIME LENDING RATE IS 5.125% PER ANNUM *

PAGE 1

TSF COMPANY LIMITED

PSI-USMSTR - 003191

STATEMENT OF ACCOUNT WITH
The Hongkong and Shanghai Banking Corporation Limited

香港上海匯豐銀行有限公司

COPY 1

BRANCH HONG KONG OFFICE
分行

ACCOUNT
賬戶

CHIU FU (FAR EAST) LIMITED
P O BOX 683 STADTLE 18
FL-9490 VADUZ
LIECHTENSTEIN

FCCY C/A

H

DATE 日期	DETAILS 摘要	DEPOSITS/WITHDRAWALS 存入/支出	BALANCE IN 結餘 USD
30 APR 1 MAY	1992 TT HKH147826BKOL TT HKH147826BKOL	BAL B/P 未上結餘 12.91 300,000.00	305,054.85 5,041.94
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <p>----- = Redacted by the Permanent Subcommittee on Investigations</p> </div>			

DEPOSITS 0 0.00 BALANCE 16 MAY 92 5,041.94
存入
WITHDRAWALS 2 300,012.91 結餘
支出 OVERDRAFT = 00
透支

USD BEST LENDING RATE: 22 OCT 91 6.25% 4 NOV 91 6.00% 14 JAN 92 5.75%

ANY EXCEPTION, ERROR, OR CHANGE OF ADDRESS SHOULD BE PROMPTLY ADVISED TO THE OFFICER IN
CHARGE OF THE DEPARTMENT CONCERNED.
倘有錯誤或更改地址時請即通知有關部門主任為荷

E & O E

STATEMENT MNEMONICS

DD DEMAND DRAFTS
TT TELEGRAPHIC TRANSFERS
MT MAIL TRANSFERS
DR BILLS RECEIVABLE
CHG CHARGES
INT INTEREST

結單項目
即時匯票
電匯
電匯
應收票據
費用
利息

CLBR CLEAN BILLS RECEIVABLE
FBP FOREIGN BILLS PURCHASED
CLBC CLEAN BILLS FOR COLLECTION
T/CNQ TRAVELLERS' CHEQUES
PCDS PROCEEDS

應收信用票據
買入外匯票據
代客信用票據
旅行支票
收入款項

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 235

PSI-USMSTR - 003201

STATEMENT OF ACCOUNT WITH The Hongkong and Shanghai Banking Corporation Limited				香港上海匯豐銀行有限公司
BRANCH 分付		HONG KONG OFFICE	ACCOUNT 賬戶	MCOPY 1/1
CHIU FU (FAR EAST) LIMITED P O BOX 683 STADTLE 13 FL-9490 VADUZ LIECHTENSTEIN			FCCY C/A	H

DATE 日期	DETAILS 賬項	DEPOSITS/WITHDRAWALS 存入/支出	BALANCE IN 餘額 USD
31MAR	1992	BAL B/P 承上餘額	444,757.68
2APR	FCA HKH020492CHGS	12.94	444,744.74
3APR	TT HKH140645BKOL	12.94	
	TT HKH140645BKOL	442,000.00	2,731.80
6APR	FCA HKH060492	463,440.00CR	466,171.80
9APR	TT HKH141987BKOL	12.95	
	TT HKH141987BKOL	463,000.00	3,158.85

= Redacted by the Permanent
Subcommittee on Investigations

DEPOSITS 存入	1	463,440.00CR	BALANCE 16APR92	3,158.85
WITHDRAWALS 支出	5	905,038.83		
				OVERDRAFT = 00 透支

USD BEST LENDING RATE: 22OCT91 6.25% 4NOV91 6.00% 14JAN92 5.75%

ANY EXCEPTION, ERROR, OR CHANGE OF ADDRESS SHOULD BE PROMPTLY ADVISED TO THE OFFICER IN
CHARGE OF THE DEPARTMENT CONCERNED.
倘有錯誤或更改地址時請即通知有關部門主任為荷

E & O E

STATEMENT MNEMONICS		結算項目		
DD	DEMAND DRAFTS	即期匯票	CIBP	CLEAN BILLS RECEIVABLE
TT	TELEGRAPHIC TRANSFERS	電匯	FSP	FOREIGN BILLS PURCHASED
MT	MAIL TRANSFERS	信匯	CLBC	CLEAN BILLS FOR COLLECTION
BR	BILLS RECEIVABLE	匯票應收	T/CHE	TRAVELLERS' CHEQUES
CHG	CHARGES	費用	PCDB	PROCEEDS
ZNT	INTEREST	利息		

匯票應收	匯票應收
匯票應收	匯票應收
匯票應收	匯票應收
匯票應收	匯票應收
匯票應收	匯票應收

STATEMENT OF ACCOUNT WITH

The Hongkong and Shanghai Banking Corporation Limited

香港上海銀行有限公司

BRANCH HONG KONG OFFICE
分行ACCOUNT
賬戶

COPY 1

CHIU FU (FAR EAST) LIMITED
P O BOX 683 STADTLE 18
FL-9490 VADUZ
LIECHTENSTEIN

FCCY C/A

H

DATE 日期	DETAILS 細項	DEPOSITS/WITHDRAWALS 存入/支出	BALANCE IN 結餘 USD
16 APR 22 APR	1992 FCA NSC220492FCA	BAL B/F 帳上結餘 301,896.00CR	3,158.85 305,654.85
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> = Redacted by the Permanent Subcommittee on Investigations </div>			

DEPOSITS 1 301,896.00CR BALANCE 30 APR 92 305,054.85
 存入 0 0.00 結餘
 WITHDRAWALS 0 0.00 OVERDRAFT = 00
 支出 0.00 透支

USD BEST LENDING RATE: 22 OCT 91 6.25% 4 NOV 91 6.00% 14 JAN 92 5.75%

ANY EXCEPTION, ERROR, OR CHANGE OF ADDRESS SHOULD BE PROMPTLY ADVISED TO THE OFFICER IN
 CHARGE OF THE DEPARTMENT CONCERNED.
 倘有錯誤或更改地址時請即通知有關部門主任為荷

E & O E

STATEMENT MNEMONICS

DD DEMAND DRAFTS 匯票項下
 TT TELEGRAPHIC TRANSFERS 電匯
 MT MAIL TRANSFERS 信匯
 BR BILLS RECEIVABLE 匯兌票據
 CHQ CHARGES 費用
 INT INTEREST 利息

CLBT CLEAN BILLS RECEIVABLE
 PSP FOREIGN BILLS PURCHASED
 CLBC CLEAN BILLS FOR COLLECTION
 T/CHQ TRAVELLERS' CHEQUES
 PCDS PROCEEDS

電收信用票據
 買入外匯票據
 代收匯票票據
 旅行支票
 收入款項

PSI-USMSTR - 003203



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrengasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

Fondation Tragique
9490 Vaduz

Vaduz, January 1, 2002
CMA / PK2 / 09:23:47

1/1
E

Summary

as of 31.12.2001

Redacted by the Permanent
Subcommittee on Investigations

acc. overview					
no.	accounts/portfolios	cur.	amount	curr.rate	amount in CHF
AA	USD ACCOUNT	USD	2,852.15	1.682500	4,798.75
AC	USD FINANCIAL DEPOSIT	USD	1,000,000.00	1.682500	1,682,500.00
GO	SAFE CUSTODY ACCOUNT	incl. acc. interest CHF (	0.00)		5,744,736.35
S U B T O T A L					7,432,035.10
TOTAL accrued interest on time- and euro-deposits					1,151.55
T O T A L					7,433,186.65

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 243

PSI-USMSTR - 008700



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

Tragunda Foundation
9490 Vaduz

Vaduz, October 2, 2002
CMA / PK2 / 10:22:34

1/1
E

Performance

Redacted by the Permanent
Subcommittee on Investigations

Period 01.01.2002 - 30.09.2002

ref. currency: CHF

Assets as of 31.12.2001	including accr. interests (	0.00)	4,900.55
Deposits			0.00
Withdrawals			0.00
Balance transfer from/to another account			0.00
Balance deliveries of securities	including accr. interests (	0.00)	0.00
Assets as of 30.09.2002	including accr. interests (	0.00)	4,900.55
			4,259.45
Performance			641.10-

Details of performance

Profit or loss	610.35-
Dividends / credit interests	0.00
Debit interests	0.00
Expenses and commissions	30.75-
Performance	641.10-

Average capital	100.00 %	4,900.00
Performance	13.08- %	641.10-

Only the Banks official account and safe custody advices are binding.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 272

PSI-USMSTR - 008719

Yue Shing Tong Foundation , 9490 Vaduz

SB: Gächter Dagmar

KB: Sprenger Sonja

Mand.Nr.: [REDACTED]

L. Kundenbesuch: 05.02.2002

Gründungsdatum: 29.07.1988

Status: Aktiv

Verwaltungs- / Stiftungsräte

Profil Management Trust reg., Vad Zeichnungsrecht: Einzeln
 Feuerstein Nicola Dr., Triesenberg Zeichnungsrecht: Kollektiv

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Banken

LGT Bank in Liechtenstein AG, Vaduz	AB: Leimer Henry / LGT	ZR-Nr.: 0945520	Zig-Kto: [REDACTED]
LGT Bank in Liechtenstein AG, Vaduz	AB: Leimer Henry / LGT	ZR-Nr.: 0144521	Zig-Kto:
LGT Bank in Liechtenstein AG, Vaduz	AB: Leimer Henry / LGT	ZR-Nr.: 0144522	Zig-Kto:
LGT Bank in Liechtenstein AG, Vaduz	AB: Leimer Henry / LGT	ZR-Nr.: 0179284	Zig-Kto:

Diverses

Anlageberater: Leimer Henry / LGT HK,
 Repräsentant: LGT Treuhand AG, Vaduz
 Vermittler: LGT Investment Management, Hong Kong
 Auftraggeber: Privater Auftraggeber

Fix-Honorare

Domicilhonorar	800.00	29.07.2003	LGT Treuhand AG, Vaduz
Kapitalsteuer	1'000.00	29.07.2003	Liechtensteinische Steuerverwaltung, Vaduz
Stiftungsrats-honorar	3'000.00	29.07.2003	LGT Treuhand AG, Vaduz

Pauschal-Honorare

Vermögenswert per: 0.00 fällig am: 0.00 Fakturierbares Pauschalhonorar: 0.00

Zweck**Besitznachweis, Verträge, Vollmachten**

Kunde hat am 22.3.1995 das PM-Mandate mit LGT Hong Kong ersatzlos gekündigt. Anlage neu Kunde - Hong Kong - LGT Vaduz

Weisungen (Verwaltung, Buchhaltung, Beistatut usw.)

Statuten mit Stifterrechten

Auftraggeber ist verstorben, siehe Vollmacht an Zweitbegünstigte, Sohn Richard, vom 27.4.98 bei BS

ACHTUNG: Vermögensstati - für jeden Begünstigten (da jeder eigenes Bankkonto hat)
 separate VS erstellen gem. SCP 19.11.1999

Pendenzen / Geschichte

- Umwandlung STOM bei nächstem Treffen mit Kunde/R besprechen
- VS00 + 01 von SO unterzeichnen
 (anschliessend ein VS der gesamten Assets von SR unterzeichnen lassen)
- By-Laws betr. Son C überarbeiten/Zweit- bzw. Drittbegünstigte sind noch einzusetzen

Permanent Subcommittee on Investigations
 EXHIBIT #123 - FN 275

PSI-USMSTR - 002206

Yue Shing Tong Foundation , 9490 Vaduz

Client # TH [REDACTED]
Last meeting: 2/5/2002

Administrator: Dagmar Gächter

Consultant: Sonja Sprenger

Date of Incorporation: 07/29/1988

Status: Active

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations**Administrative / Foundation Board**Profile Management Trust reg., Vaduz
Dr. Nicola Feuerstein, TriesenbergSignatory Power: individual
Signatory Power: joint**Banks**

LGT Bank in Liechtenstein AG, Vaduz Contact: Henry Leimber / LGT ZR-Nr.: 0845520 Zlg account: [REDACTED]
 LGT Bank in Liechtenstein AG, Vaduz Contact: Henry Leimber / LGT ZR-Nr.: 0144521 Zlg account:
 LGT Bank in Liechtenstein AG, Vaduz Contact: Henry Leimber / LGT ZR-Nr.: 0144522 Zlg account: A
 LGT Bank in Liechtenstein AG, Vaduz Contact: Henry Leimber / LGT ZR-Nr.: 0179284 Zlg account:

Miscellaneous

Investment advisor/consultant: Henry Leimer / LGT Hong Kong
 Representative: LGT Treuhand AG, Vaduz
 Broker: LGT Investment Management, Hong Kong
 Client: Private contractor

Basic Fees

Domicile fee: 800 07/29/2003 LGT Treuhand AG, Vaduz
 Capital Tax: 1,000 07/29/2003 Liechtenstein Tax Administration, Vaduz
 Foundation Board fee: 3,000 07/29/2003 LGT Treuhand AG, Vaduz

Flat Fees

Minimum fee: 0.00
 Assets per 0.00 Amount to be billed: 0.0

Purpose**Proof of Ownership, Contracts, Power of Attorney:**

Client canceled PM contract with LGT Hong Kong on 3/22/1995 and opened new account – Hong Kong – LGT Vaduz

Instructions (Administration, Accounting, By-laws etc.)

Statutes with founder's rights

Client has passed away – see power of attorney for secondary beneficiary, son Richard, signed by BS on 4/27/98.

ATTENTION: status of assets – create separate status of assets as per SCP 11/19/1999 for each beneficiary since each has his own account

Open Issues / History

Discuss STOM conversion with client at next meeting

VS00 & 01 to be signed by BO

Review/change by-Laws concerning Son C / 2nd and 3rd beneficiaries yet to be appointed.



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Hornmatten 12
FL-1060 Vaduz

Telephone +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-mail info@lgt.com

Background Information/Profile

(Legal entities/Companies)
(The German version is binding)

Account/custody a/c no.

"Son C"

Ref. SSP/dgc

Contracting partner/ name YUE SHING TONG FOUNDATION, Vaduz

Background Information/Profile

1. Contracting partner's details

1.1

- ☒ Non-operating company
☐ Company with commercial basis
☐ Foundation, trust, holding company, etc.

Principal purpose of company:

Investment of Assets

1.2

- ☐ Operating company
☐ Manufacturing ☐ Trading ☐ Services ☐ Holding company

Principal business activity of the company (including sector):

Range of products/services:

Principal markets and related sales (in CHF):

Own office premises: ☐ Yes ☐ No

Number of employees (approx.):

If yes, where?

Street, incl. number:

Postcode, town and country:

Control arrangements/structure of company (organisational chart, shareholders, etc.):

1.3

Additional information about the company:

2. Commercial background/origin of assets

2.1

Origin of funds to be provided (earnings from commercial activity, inheritance, sale of participations, sale of property, etc.):

The clients father built up a large and successful chemical business in Taiwan and China. The assets originally deposited were profits generated out of this business activity.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 275

DEL IEMSTD-0021RQ



2 / 2

^{2.2} is there documentary evidence attesting to the origin of the funds available (contracts, statements, etc.)?
☐ Yes ☒ No
 If yes, in what form and held by whom?

^{2.3} Country of origin of assets: China/Taiwan
^{2.4} Assets will be provided by means of
☒ Bank transfer ☐ Cash ☐ Transfer of securities/precious metals ☐ Delivery of securities/precious metals
 From institution/bank, town/country: LGT Bank in Liechtenstein AG, Vaduz
^{2.5} Planned initial investment placed with LGT (in CHF): 3'500'000
^{2.6} Additional details supplied for validation purposes:

3. Details of intended use

^{3.1} Purpose of relationship with LGT
☒ Asset investment ☐ Business account
☐ Other purpose (please state): _____
^{3.2} Investment horizon for funds to be provided
☐ Short-term (up to 12 months) ☒ Medium to long-term (beyond 12 months)
^{3.3} Anticipated vol. of account movements (incoming/outgoing funds) per annum (in CHF):
☐ Less than 1 million ☒ Over 1 million.

4. Other information

^{4.1} Profession and business of commercial beneficiary/beneficiaries:
Architect in USA
^{4.2} Do the details of the commercial beneficiary supplied relate to a person who currently holds or has previously held important public office (in government, state-run companies, civil service, political parties, etc.) or who is, or has been, closely associated with the holders of such offices (family members, etc.)?
☐ Yes: please give details on the separate form 'Declaration on persons with high political profile'
☒ No
^{4.3} Comments:

The contracting partner undertakes to notify the bank, on his own initiative, of any changes in writing.

^{4.4} Vaduz 06 February 2002
 Place/Date

YUE SHING TONG FOUNDATION
 Signature: [Signature] Profile Management: [Signature]
 Dagmar Gächter Trustee: [Signature] Christian Neuschafer

By-Laws

**Yue Shing Tong Foundation,
Vaduz**

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 276

PSI-USMSTR - 002191

Based on Art. 10 and 15 of the Articles, the undersigned Foundation Board of Yue Shing Tong Foundation hereby revokes all previous By-Laws of Yue Shing Tong Foundation and with the assent of the current Beneficiary Mrs. Fannie L. Chong issues the following By-Laws which shall be entitled to the same legal force as the Articles themselves.

— = Redacted by the Permanent
Subcommittee on Investigations

1. Funds

Yue Shing Tong Foundation shall have four funds:

"Fund Mother"

The "Fund Mother" shall comprise the property transferred to or held by the Foundation for the "Fund Mother", administered under account no [REDACTED] "Mother" with LGT Bank in Liechtenstein, Vaduz.

"Fund Son R"

The "Fund Son R" shall comprise the property transferred to or held by the Foundation for the "Fund Son R", administered under account no [REDACTED] "Son R" with LGT Bank in Liechtenstein, Vaduz.

"Fund Daughter T"

The "Fund Daughter T" shall comprise the property transferred to or held by the Foundation for the "Fund Daughter T", administered under account no [REDACTED] "Daughter T" with LGT Bank in Liechtenstein, Vaduz.

"Fund Son C"

The "Fund Son C" shall comprise the property transferred to or held by the Foundation for the "Fund Son C", administered under account no [REDACTED] "Son C" with LGT Bank in Liechtenstein, Vaduz.

— = Redacted by the Permanent
Subcommittee on Investigations

2. Beneficiaries of "Fund Mother"

2.1. Fannie L. Chong, born on [REDACTED], residing at [REDACTED] USA, shall be the sole primary Beneficiary for life.

2.2. The following persons shall be Remainders and shall be appointed Beneficiaries in the sequence listed below:

2.2.1. After the death of the primary Beneficiary, the second Beneficiaries shall be her children

[REDACTED] Chong, born on [REDACTED], residing at [REDACTED]

Richard Martin Chong, born on [REDACTED], residing at [REDACTED]

[REDACTED] Chong [REDACTED], born on [REDACTED], residing at [REDACTED]

in equal parts per stirpes.

2.2.2. After the death or in the event of the predecease of a second Beneficiary, the descendants of the Beneficiary concerned shall take the place of the same in equal parts per stirpes. In the event that the deceased second Beneficiary does not have any descendants, the deceased Beneficiary's share shall accrue to the remaining second beneficiary stirpes in equal parts.

2.3. Where thereafter no Beneficiaries are appointed, the heirs, after the last Beneficiary, shall be appointed Beneficiaries per stirpes, according to their title to an inheritance.

= Redacted by the Permanent
 Subcommittee on Investigations

3. Beneficiaries of Fund "Son R"

3.1. Richard Martin Chong, born on [REDACTED], residing at [REDACTED] USA, shall be the sole primary Beneficiary for life.

3.2. The following persons shall be Remainders and shall be appointed Beneficiaries in the sequence listed below:

3.2.1. After the death of the primary Beneficiary, the sole second Beneficiary shall be the primary Beneficiary's spouse, [REDACTED] born on [REDACTED], residing at [REDACTED]

3.2.2. After the death of the primary and second Beneficiary, the third Beneficiaries shall be their children

[REDACTED], born on [REDACTED], residing at [REDACTED]

[REDACTED], born on [REDACTED], residing at [REDACTED]

in equal parts per stirpes.

3.2.3. After the death or in the event of the predecease of a third Beneficiary, the descendants of the Beneficiary concerned shall take the place of the same in equal parts per stirpes. In the event that the deceased third Beneficiary does not have any descendants, the deceased Beneficiary's share shall accrue to the remaining third beneficiary stirpes in equal parts.

3.3. Where thereafter no Beneficiaries are appointed, the heirs, after the last Beneficiary, shall be appointed Beneficiaries per stirpes, according to their title to an inheritance.

= Redacted by the Permanent
Subcommittee on Investigations

4. Beneficiaries of "Fund Daughter T"

4.1. [REDACTED] Chong [REDACTED], born on [REDACTED], residing at [REDACTED] USA (tel. home [REDACTED] office [REDACTED]).

4.2. The following persons shall be Remainders and shall be appointed Beneficiaries in the sequence listed below:

4.2.1. After the death of the primary Beneficiary, the sole second Beneficiary shall be the primary Beneficiary's husband, [REDACTED], born on [REDACTED], residing at [REDACTED], [REDACTED] USA.

4.2.2. After the death of the primary and second Beneficiary, the third Beneficiaries shall be their children

[REDACTED], born on [REDACTED], residing at [REDACTED] USA


[REDACTED], born on [REDACTED], residing at [REDACTED] USA

[REDACTED], born on [REDACTED], residing at [REDACTED] USA





in equal parts per stirpes.

4.2.3. After the death or in the event of the predecease of a third Beneficiary, the descendants of the Beneficiary concerned shall take the place of the same in equal parts per stirpes. In the event that the deceased third Beneficiary does not have any descendants, the deceased Beneficiary's share shall accrue to the remaining third beneficiary stirpes in equal parts.

4.2.4. Where thereafter no Beneficiaries are appointed, the heirs, after the last Beneficiary, shall be appointed Beneficiaries per stirpes, according to their title to an inheritance.

 = Redacted by the Permanent
Subcommittee on Investigations

5. Beneficiaries of Fund "Son C"

5.1.  Shong, born on , US-citizen, residing at

 USA shall be the sole primary Beneficiary for
life.

6. Division of assets / Financial statements

Where beneficial interest is enjoyed by several persons, the Foundation assets shall be divided according to the beneficial interests and/or books of account shall be kept.

7. Forfeit of beneficial interest

A Beneficiary or Remainder who, for any reason, contests the legal existence of the Foundation, the Foundation's Articles, these By-Laws, other Foundation documents or resolutions passed by the Foundation Board or allocations of assets, completely or in part, judicially or extrajudicially, shall lose immediately for himself and his successors any claims in accordance with these By-Laws. In this case, a said Beneficiary's potential share shall accrue to the remaining Beneficiaries according to their beneficial interest. The Foundation Board shall be empowered to maintain such claims, completely or in part, if its members agree unanimously that this corresponds to the Founder's presumed intent.

8. Limitation according to Age

8.1. Beneficiaries' rights shall remain quiescent until the completion of their 20th year of life. Separated, the quiescent share of the beneficial interest shall be administered by the Foundation Board with the care of a pater familias. Upon the age limit being reached, the Foundation Board shall submit accounts to the Beneficiary, upon the latter's demand, for the entire period of quiescence.

8.2. Notwithstanding the provisions in the above paragraph, the Foundation Board may pass unanimous resolution to effect distributions, even before the age limit has been reached, if such distributions appear to be necessary in order to safeguard the Beneficiary's interests.

8.3. Before the age limit has been reached, neither the Beneficiary nor the natural or juridical persons appointed for the legal representation of the said Beneficiary shall be entitled to inspect, to receive information or a statement of account.

9. Scope of the beneficial interest

The beneficial interest shall be comprised of the Foundation's entire assets, the yield therefrom as well as the contingent liquidation surplus.

10. Amendments of these By-Laws

With the assent of all the Beneficiaries affected by this, the Foundation Board may at any time completely or partly rescind, amend or supplement the present By-Laws.

Vaduz, 15 February 2002 SSP/dgc

The Foundation Board:

Profile Management Trust reg.

ppro. D. Göttsch & Münster-Tübingen

Dr Nicola Feuerstein



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com

Feststellung der wirtschaftlich berechtigten Person

Ref. CMU/dgc

Konto-/Depot-Nr. [REDACTED]
Vertragspartner YUE SHING TONG FOUNDATION, Vaduz

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Der/Die Unterzeichnete erklärt hiermit,

- ☐ dass er/sie selbst an den Vermögenswerten letztlich wirtschaftlich berechtigt ist:
☒ dass an den Vermögenswerten letztlich wirtschaftlich berechtigt ist/sind:

1. Name(n) Chong
Vorname(n) Fanny L.
Geburtsdatum [REDACTED]
Wohnadresse [REDACTED]
PLZ/Ort [REDACTED]
Domizilland USA
Nationalität USA
2. Name(n) _____
Vorname(n) _____
Geburtsdatum _____
Wohnadresse _____
PLZ/Ort _____
Domizilland _____
Nationalität _____
3. Name(n) _____
Vorname(n) _____
Geburtsdatum _____
Wohnadresse _____
PLZ/Ort _____
Domizilland _____
Nationalität _____

Der Vertragspartner verpflichtet sich, Änderungen der Bank von sich aus umgehend schriftlich mitzuteilen.

Vaduz, 27. Juni 2001

YUE SHING TONG FOUNDATION

Ort/Datum

/- 10 - 27.06.2001 - 16,36

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 277

Profile Management

Trust reg.

PSI-USMSTR-002186

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com

Ref. CMU/dgc

Vertragspartner YUE SHING TONG FOUNDATION, Vaduz

~~_____~~ = Redacted by the Permanent Subcommittee on Investigations

Trust reg.

PSI-USMSTR-002187



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrengasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com

Feststellung der wirtschaftlich berechtigten Person

Ref. CMU/dgc

Konto-/Depot-Nr. _____

Vertragspartner YUE SHING TONG FOUNDATION, Vaduz

_____ = Redacted by the Permanent
Subcommittee on Investigations

Der/Die Unterzeichnete erklärt hiermit,

- ☐ dass er/sie selbst an den Vermögenswerten letztlich wirtschaftlich berechtigt ist:
☒ dass an den Vermögenswerten letztlich wirtschaftlich berechtigt ist/sind:

1. Name(n) Chong-
 Vorname(n) _____
 Geburtsdatum _____
 Wohnadresse _____
 PLZ/Ort _____
 Domizilland USA
 Nationalität USA
2. Name(n) _____
 Vorname(n) _____
 Geburtsdatum _____
 Wohnadresse _____
 PLZ/Ort _____
 Domizilland _____
 Nationalität _____
3. Name(n) _____
 Vorname(n) _____
 Geburtsdatum _____
 Wohnadresse _____
 PLZ/Ort _____
 Domizilland _____
 Nationalität _____

Der Vertragspartner verpflichtet sich, Änderungen der Bank von sich aus umgehend schriftlich mitzuteilen.

Vaduz, 27. Juni 2001

Ort/Datum

/ - 50 - 27.06.2001 - 16,41

YUE SHING TONG FOUNDATION

Profile Management

Unterschrift

Trust reg.

PSI-USMSTR-002188

LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Herrengass 12
FL-9490 Vaduz

Tel. = 423 235 27 27
Fax = 423 235 27 15
Internet
www.lgt.com/lgttreuhand
lgttrust@lgt.com

DESIGNATION OF BENEFICIARIES

— = Redacted by the Permanent
Subcommittee on Investigations

Account / Deposit Nr. —

Contracting Party: YUE SHING TONG FOUNDATION, Vaduz

The undersigned hereby confirms

- ☐ that he/she is the current beneficiary of the assets
☒ that the current beneficiary of the assets is / are:

1. Last name Chong
First name Fanny L
Date of birth —
Address —
ZIP, town —
Country of residence USA
Nationality USA

2. Last name
First name
Date of birth
Address
ZIP, town
Country of residence
Nationality

3. Last name
First name
Date of birth
Address
ZIP, town
Country of residence
Nationality

The contracting party is obligated to immediately inform the bank in writing of any changes.

Vaduz, June 27, 2001
Place / Date

YUE SHING TONG FOUNDATION, Vaduz
Signature

A Member of Liechtenstein Global Trust

Aktiengesellschaft
Herrengass 12
FL-9490 VaduzFax = 423 235 27 15
Internet
www.lgt.com/lgttreuhand
lgttrust@lgt.com

DESIGNATION OF BENEFICIARIES

— = Redacted by the Permanent
Subcommittee on Investigations

Account / Deposit Nr. [REDACTED]Contracting Party: YUE SHING TONG FOUNDATION, Vaduz

The undersigned hereby confirms

- ☐ that he/she is the current beneficiary of the assets
☒ that the current beneficiary of the assets is / are:

4. Last name Chong
First name Richard Martin
Date of birth [REDACTED]
Address [REDACTED]
ZIP, town [REDACTED]
Country of residence USA
Nationality USA
5. Last name
First name
Date of birth
Address
ZIP, town
Country of residence
Nationality
6. Last name
First name
Date of birth
Address
ZIP, town
Country of residence
Nationality

The contracting party is obligated to immediately inform the bank in writing of
any changes.

Vaduz, June 27, 2001
Place / Date

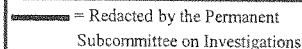
YUE SHING TONG FOUNDATION, Vaduz
Signature

LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Herrengass 12
FL-9490 Vaduz

Tel. = 423 235 27 27
Fax = 423 235 27 15
Internet
www.lgt.com/lgttreuhand
lgttrust@lgt.com

DESIGNATION OF BENEFICIARIES






 = Redacted by the Permanent
Subcommittee on Investigations

Account / Deposit 

Contracting Party: YUE SHING TONG FOUNDATION, Vaduz

The undersigned hereby confirms

- ☐ that he/she is the current beneficiary of the assets
☒ that the current beneficiary of the assets is / are:

7. Last name Chong-
First name 
Date of birth 
Address 
ZIP, town 
Country of residence USA
Nationality USA

8. Last name
First name
Date of birth
Address
ZIP, town
Country of residence
Nationality

9. Last name
First name
Date of birth
Address
ZIP, town
Country of residence
Nationality

The contracting party is obligated to immediately inform the bank in writing of any changes.

Vaduz, June 27, 2001
Place / Date

YUE SHING TONG FOUNDATION, Vaduz
Signature



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrengasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

Yue Shing Tong Foundation
Mother
9490 Vaduz

Vaduz, June 29, 2002
HLE / BHK / 15:22:43

1/1
E

Summary

as of 30.06.2002

Redacted by the Permanent
Subcommittee on Investigations

acc. overview		cur.	amount	curr.rate	amount in USD
no. accounts/portfolios					
AB USD ACCOUNT		USD	218.61-		218.61-
AY USD FIDUCIARY DEPOSIT		USD	984,000.00		984,000.00
00 SAFE CUSTODY ACCOUNT	incl.acc.interest	USD (	0.00)		4,180,655.00
			S U B T O T A L		5,164,636.39
	TOTAL accrued interest on time- and euro-deposits				95.12
			T O T A L		5,164,731.51

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 278

PSI-USMSTR - 002203



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 115

Yue Shing Tong Foundation
Sun R.
9490 Vaduz

Vaduz, June 29, 2002
HLE / BHK / 15:06:12

1/1
E

Summary

as of 30.06.2002

Redacted by the Permanent
Subcommittee on Investigations

acc. overview		cur.	amount	curr.rate	amount in USD
no. accounts/portfolios					
AA USD ACCOUNT		USD	913.92		913.92
AC USD FIDUCIARY DEPOSIT		USD	1,277,000.00		1,277,000.00
00 SAFE CUSTODY ACCOUNT	incl.acc.interest USD (		0.00)		500,000.00
			S U B T O T A L		1,777,913.92
			TOTAL accrued interest on time- and euro-deposits		627.85
			T O T A L		1,778,541.77

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 278

PSI-USMSTR - 002204



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrngasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

Yue Shing Tong Foundation
Daughter T.
9490 Vaduz

Vaduz, June 29, 2002
HLE / BHK / 15:06:12

1/1
E

Summary

as of 30.06.2002

Redacted by the Permanent
Subcommittee on Investigations

acc. overview		cur.	amount	curr.rate	amount in USD
no.	accounts/portfolios				
AA	USD ACCOUNT	USD	512.69-		512.69-
00	SAFE CUSTODY ACCOUNT	incl.acc.interest USD (	0.00)		831,681.19
T O T A L					831,168.50

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 278

PSI-USMSTR - 002202



LGT Bank in Liechtenstein
A Member of Liechtenstein Global Trust

LGT Bank in Liechtenstein
Aktiengesellschaft
Herrengasse 12
FL-9490 Vaduz

Telefon +423 235 11 22
Telefax +423 235 15 22
Internet www.lgt.com
E-Mail info@lgt.com
MWST-Nr. 50 119

Yue Shing Tong Foundation
SON C
9490 Vaduz

Vaduz, June 29, 2002
HLE / BHK / 15:12:54

1/1
E

Summary

as of 30.06.2002

Redacted by the Permanent
Subcommittee on Investigations

acc. overview					
no.	accounts/portfolios	cur.	amount	curr.rate	amount in USD
AA	USD ACCOUNT	USD	3,613.21		3,613.21
AB	USD CALL MONEY	USD	304,378.83		304,378.83
AC	USD FIDUCIARY DEPOSIT	USD	1,033,000.00		1,033,000.00
00	SAFE CUSTODY ACCOUNT	incl.acc.interest USD (	0.00)		358,359.00
S U B T O T A L					1,699,351.04
TOTAL accrued interest on time- and euro-deposits					444.19
T O T A L					1,699,795.23

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 278

PSI-USMSTR - 002205

Bespprechung: Conversation:	mit avec	Mrs. Fannie L. Chong, Mr. Richard Chong	
	über objet	Yue Shing Tong Foundation, Vadez	
Datum: 24. 4. 1998 Date:	Zeit: 14.00 - 14.30 Heure:	Ort: Hong Kong Lieu:	Rep/Office LGT BL

I, the undersigned Fannie L. Chong, born [REDACTED]
in my capacity as actually sole beneficiary
of Yue Shing Tong Foundation, Vadez, do hereby
appoint my son, Mr. Richard Chong, born [REDACTED]
[REDACTED], to be my attorney in regard of the said
Foundation and directly authorize and
empower my son and attorney to exercise
my beneficial rights of the said Foundation
on my behalf and for my account to the
same extent and in the same manner as I am
authorized to do, including with disbursements and
confirming receipt hereof.

Hong Kong, 24th of April 1998

Fannie L. Chong

Fannie L. Chong

I, the undersigned Richard Chong, born [REDACTED]
do hereby accept his assignment.

[Signature]
Richard Chong

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 279

PSIUSMSTR - 002199

Yue Shing Tong Foundation ("mother")**Incoming amounts**

— = Redacted by the Permanent
Subcommittee on Investigations

Date:	Currency:	Amount:	Source:
25.05.1992	USD	250'000.00	[REDACTED]
20.08.1992	USD	54'436.17	n.a.
16.04.1999	USD	33'392.00	[REDACTED]
07.06.1999	USD	59'133.75	[REDACTED]
23.07.1999	USD	2'423'555.00	[REDACTED]
10.08.1999	USD	158'702.00	UBS AG
16.08.1999	USD	1'946'600.00	[REDACTED]
27.08.1999	USD	418'600.00	[REDACTED]
15.09.1999	USD	63'309.84	ACME Components M SDN BHD
24.05.2000	USD	1'499'982.00	one of our clients
24.07.2000	USD	249'985.00	Wing Lung Bank Ltd.
26.07.2000	USD	58'888.43	ACME Components M SDN BHD
27.08.2001	USD	96'322.15	ACME Components M SDN BHD
10.05.2002	USD	329'974.32	[REDACTED]
15.05.2002	USD	400'008.82	[REDACTED]
09.12.2002	USD	96'329.75	ACME Components M SDN BHD
17.11.2003	USD	121'535.49	ACME Components M SDN BHD

Outgoing amounts

Date:	Currency:	Amount:	Recipient:
22.10.1993	USD	325'013.58	[REDACTED]
23.08.1994	USD	13'208.09	Antonio T. Chong
17.10.1996	USD	332'011.93	Mees Pierson Trust (Asia) Ltd.
21.04.1997	USD	330'010.37	[REDACTED]
04.05.1999	USD	70'000.00	[REDACTED]
04.05.1999	USD	180'000.00	[REDACTED]
18.05.1999	USD	90'000.00	[REDACTED]
05.06.2000	USD	50'000.00	[REDACTED]
13.06.2000	USD	20'000.00	[REDACTED]
13.06.2000	USD	80'000.00	[REDACTED]
24.10.2000	USD	180'000.00	[REDACTED]
12.04.2001	USD	150'000.00	cash withdrawal in HK
08.04.2002	USD	62'500.00	Emerald Investment Corp.
05.06.2002	USD	85'112.67	Dynamic Travel Services Inc.
14.11.2002	USD	350'000.00	[REDACTED]
23.05.2003	USD	100'000.00	[REDACTED]
27.05.2003	USD	100'000.00	[REDACTED]
25.09.2003	USD	62'532.25	Sycomore Ventures Capital L.P.
03.12.2003	USD	150'000.00	[REDACTED]

Internal transfers

Date:	Currency:	Amount:	Recipient:
28.02.2000	USD	100'000.00	"SUN R a/c"
25.07.2000	USD	249'985.00	"SUN R a/c"
13.02.2002	USD	2'000'000.00	"SON C a/c"
24.04.2006	USD	30'000.00	Yue Shing Tong R Foundation

Yue Shing Tong Foundation ("SUN R" a/c)**Incoming amounts**

— = Redacted by the Permanent
Subcommittee on Investigations

Date:	Currency:	Amount:	Source:
21.07.1999	USD	1'299'985.00	—
05.08.1999	USD	1'300'000.00	UBS AG
03.06.2003	USD	9'251.96	—
02.07.2003	USD	92'557.37	Usl Corporation

Outgoing amounts

Date:	Currency:	Amount:	Recipient:
15.07.1999	USD	20'000.00	cash withdrawal in HK
07.09.1999	USD	600'000.00	—
25.02.2000	USD	300'000.00	—
15.05.2000	USD	20'005.00	cash withdrawal in HK
12.07.2000	USD	250'000.00	—
25.10.2000	USD	10'000.00	—
25.04.2001	USD	200'000.00	—
05.02.2002	USD	10'000.00	cash withdrawal in HK
25.09.2002	USD	10'010.00	—
14.11.2002	USD	200'000.00	—
12.06.2003	USD	100'000.00	—
18.06.2003	USD	100'000.00	—
24.06.2003	USD	100'000.00	—
12.12.2003	USD	9'037.05	cash withdrawal in HK

Internal transfers

Date:	Currency:	Amount:	Source:
28.02.2000	USD	100'000.00	from "Mother a/c"
26.07.2000	USD	249'965.00	from "Mother a/c"
24.04.2006	USD	30'000.00	from "Mother a/c"

Yue Shing Tong Foundation (Daughter Account)**Incoming amounts**

— = Redacted by the Permanent
Subcommittee on Investigations

Date:	Currency:	Amount:	Source:
22.07.1999	USD	499'985.00	[REDACTED]
06.08.1999	USD	500'000.00	[REDACTED]


Outgoing amounts

Date:	Currency:	Amount:	Recipient:
14.02.2001	USD	10'000.00	[REDACTED]

Yue Shing Tong C. Foundation

— = Redacted by the Permanent
Subcommittee on Investigations

Outgoing amounts

Date:	Currency:	Amount:	Recipient:
15.02.2002	USD	300'000.00	

Internal transfers

Date:	Currency:	Amount:	Source:
13.02.2002	USD	2'000'000.00	from "Mother a/c"

Yue Shing Tong Foundation ("mother")

(amounts paid to Apex Assets Limited in US dollars)

= Redacted by the Permanent
Subcommittee on Investigations

Date:	to/from APEX	Recipient:
15.01.2004	10'000.00	APEX
24.03.2004	16'500.00	ACME Components M SDN BHD
21.05.2004	70'000.00	Dynamic Travel Services Inc.
21.10.2004	150'000.00	[REDACTED]
10.01.2005	1'500.00	APEX
14.03.2005	300'000.00	[REDACTED]
03.05.2005	400'000.00	Orient First Capital Ltd.
21.07.2005	300'000.00	[REDACTED]
28.07.2005	2'000.00	APEX
05.12.2005	135'000.00	[REDACTED]
23.12.2005	37'500.00	Sycamore Venture Capital L.P.
02.02.2006	-250'000.00	
15.02.2006	-349'000.00	
23.02.2006	-260'000.00	
09.03.2006	60'000.00	Dynamic Travel Services Inc.
24.07.2006	500'000.00	[REDACTED]
13.09.2006	30'000.00	Richard Chong
14.09.2006	870'606.71	APEX
27.11.2006	37'500.00	Sycamore Venture Capital L.P.
04.03.2007	-63'303.00	
30.07.2007	-15'000.00	
14.08.2007	50'000.00	APEX
Loan amount	<u>2'033'303.71</u>	

"SUN R" a/c - YUE SHING TONG R FOUNDATION

Date:	to/from APEX	Recipient:
24.03.2004	50'000.00	Orient First Capital Ltd.
13.05.2004	-375'000.00	
03.06.2004	50'000.00	Dynamic Travel Services Inc.
21.10.2004	600'000.00	Richard Chong
04.11.2004	200'000.00	Richard Chong
14.02.2005	51'000.00	Orient First Capital Ltd.
14.03.2005	30'000.00	Orient First Capital Ltd.
03.05.2005	170'000.00	Orient First Capital Ltd.
05.12.2005	50'000.00	Orient First Capital Ltd.
25.07.2006	50'000.00	[REDACTED]
05.04.2007	6'000.00	APEX
14.08.2007	25'000.00	APEX
Loan amount	<u>907'000.00</u>	

"Daughter a/c" - YUE SHING TONG T FOUNDATION

Date:	to/from APEX	Recipient:
21.10.2004	250'000.00	[REDACTED]
03.05.2005	200'000.00	Orient First Capital Ltd.
14.08.2007	150'000.00	APEX
Loan amount	600'000.00	

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

"SON C" a/c - YUE SHING TONG C FOUNDATION

Date:	to/from APEX	Recipient:
05.05.2005	200'000.00	Orient First Capital Ltd.
28.07.2005	250'000.00	[REDACTED]
10.08.2005	150'000.00	[REDACTED]
08.14.07	25'000.00	APEX
Loan amount	625'000.00	

1059

RICHARD M. CHONG

7 March 2006

Mr. Silvan Colani
Representative
LGT
3 Exchange Square
11th Floor
Central, Hong Kong
Fax no : 852-2868-0059

— = Redacted by the Permanent
Subcommittee on Investigations

Dear Henri,

Please take this memo as instructions to transfer US\$60,000 (sixty thousand United States dollars only) from the "M" account to Apex Assets and subsequently to the following recipient as soon as possible :

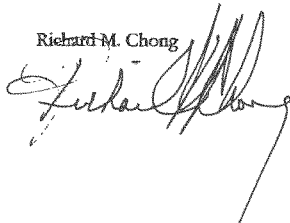
Dynamic Travel Service, Inc.
821 Sacramento Street
San Francisco, CA 94108

Dynamic Travel Service Inc
Bank of America
Chinatown Branch San Francisco
Acct # [REDACTED]
Routing Number [REDACTED]

This is payment for travel expenses to be incurred by Apex. Please email me or fax me at 415-840-0487 as soon as this has been completed.

Sincerely,

Richard M. Chong



— • SAN FRANCISCO, CA • —
PHONE: — • FAX: —

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 285

CH-PSI-00059

1060

RICHARD M. CHONG

12 September 2006

Mr. Silvan Colani
Representative
LGT
3 Exchange Square
11th Floor
Central, Hong Kong
Fax no : 852-2868-0059

Redacted by the Permanent
Subcommittee on Investigations

Dear Henri,

Please take this memo as instructions to transfer US\$30,000 (thirty thousand United States dollars only) from the "M" account to Apex Assets and subsequently to the following recipient as soon as possible :

Dynamic Travel Service, Inc.
821 Sacramento Street
San Francisco, CA 94108

Dynamic Travel Service Inc
Bank of America
Chinatown Branch San Francisco
Acct # [REDACTED]
Routing Number [REDACTED]

This is payment for travel expenses to be incurred by Apex. Please email me or fax me at 415-840-0487 as soon as this has been completed.

Sincerely,


Richard M. Chong

• SAN FRANCISCO, CA •
PHONE: [REDACTED] • FAX: [REDACTED]

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 285

CH-PSI-00060

1061

RICHARD M. CHONG

1 June 2004

Mr. Henri Leimer
Representative
LGT
3 Exchange Square
11th Floor
Central, Hong Kong
Fax no : 852-2868-0059

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Dear Henri,

Please take this memo as instructions to transfer US\$50,000 (fifty thousand United States dollars only) from the "R" account to Apex Assets and subsequently to the following recipient as soon as possible :

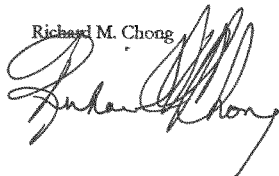
Dynamic Travel Service, Inc.
821 Sacramento Street
San Francisco, CA 94108

Dynamic Travel Service Inc
Bank of America
Chinatown Branch San Francisco
Acct # [REDACTED]
Routing Number [REDACTED]

This is payment for travel expenses to be incurred by Apex. Please email me or fax me at 415-840-0487 as soon as this has been completed.

Sincerely,

Richard M. Chong



[REDACTED] • SAN FRANCISCO, CA • [REDACTED]

PHONE: [REDACTED] • FAX: [REDACTED]

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 285

CH-PSI-00094

1062

RICHARD M. CHONG

18 May 2004

Mr. Henri Leimer
Representative
LGT
3 Exchange Square
11th Floor
Central, Hong Kong
Fax no : 852-2868-0059

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Dear Henri,

Please take this memo as instructions to transfer US\$70,000 (seventy thousand United States dollars only) from the "M" account to Apex Assets and subsequently to the following recipient as soon as possible :

Dynamic Travel Service, Inc.
821 Sacramento Street
San Francisco, CA 94108

Dynamic Travel Service Inc
Bank of America
Chinatown Branch San Francisco
Acct # [REDACTED]
Routing Number [REDACTED]

This is payment for travel expenses to be incurred by Apex. Please email me or fax me at 415-840-0487 as soon as this has been completed.

Sincerely,

Richard M. Chong

[REDACTED] • SAN FRANCISCO, CA • [REDACTED]
PHONE: [REDACTED] • FAX: [REDACTED]

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 285

CH-PSI-00107

1063

RICHARD M. CHONG

30 May 2002

Mr. Henri Leimer
Representative
LGT
3 Exchange Square
11th Floor
Central, Hong Kong
Fax no : 852-2868-0059

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

Dear Henri,

Please take this memo as instructions to wire US\$85,000 (eighty five thousand United States dollars only) from the "M" account to the following account as soon as possible :

Dynamic Travel Service, Inc.
Bank of America
Chinatown Branch
701 Grant Avenue
San Francisco, CA 94108
ABA Routing # : [REDACTED]
Account # : [REDACTED]
Beneficiary : Dynamic Travel Service, Inc.

Please email me or fax me at 415-840-0487 as soon as this has been completed.

Sincerely,

Richard M. Chong

[REDACTED] • SAN FRANCISCO, CA • [REDACTED]
PHONE: [REDACTED] • FAX: [REDACTED]

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 285

CH-PSI-00108

03/18/2003 15:39 FAX 8059664031
03/05/2003 13:28 8855643

UPS-SB
WILSON&PETTINE

PAGE 15 042/073

SUPPORTING DECLARATION OF DAVID ANFOSSI

I, DAVID ANFOSSI, declare as follows:

1. I am over the age of eighteen (18) years. I know the following facts of my own personal knowledge, except where based on information and belief, and if called to testify, I could and would competently testify thereto. I am a Director and Shareholder in the company known as Belmont Assets Limited, which is a registered company in the Island of Guernsey, Channel Islands, registered number 33651. The registered office for the company is located at Crossways Centre, Braye Road, Vale, Guernsey GY3 5PH, and has been the registered office address since June 10, 2002. Beside myself, Belmont Assets Limited has one other shareholder, Douglas M. Tufts. Mr. Tufts and I are also the only Directors of the company. Attached hereto as Exhibit "A" is a copy of the Belmont Assets Limited January 16, 2003 Minutes of the Board of Directors Meeting, which shows the Directors and Shareholders of the company.

2. Mr. Tufts and I are Trustees of the Bonnymead Trust. We are also the Directors of BELMONT ASSETS LIMITED. The Bonnymead Trust owns all the share of BELMONT ASSETS LIMITED. The Bonnymead Trust is an irrevocable trust with a single beneficiary. The beneficiary is The Royal Masonic Benevolent Institution. There are no other beneficiaries. Attached hereto as Exhibit "B" is a copy of the Bonnymead Trust dated May 20, 1994.

3. Belmont Assets Limited was formed on February 20, 1998. Mr. Tufts and I are the only Shareholders and Directors of the company. No persons or entities, other than Mr. Tufts and I, hold any legal or equitable or beneficial interest in the company. As recorded in the corporate records, on or about April 7, 1998, the company purchased as an investment certain real property commonly known as 68 Seaview Drive, Santa Barbara, California 93108. A copy of the Grant Deed is attached hereto as Exhibit "C" and incorporated herein by reference as if fully set forth. Since the time the company acquired 68 Seaview Drive, to the best of my knowledge and belief, after a complete review of the company records, books and Minutes, no person or entity, other than the company, has had a legal or equitable or beneficial interest in the real property.

4. At no time since the formation of the company, to the best of my knowledge and belief, has the Plaintiff, STEPHANIE MISKIN, had any ownership interest whatsoever in the

14
BELMONT ASSETS LIMITED'S SPECIAL APPEARANCE FOR NOTICE OF MOTION AND MOTION TO EXPUNGE LIS PENDENS,
SUPPORTING DECLARATION OF DAVID ANFOSSI; AND MEMORANDUM OF POINTS AND AUTHORITIES

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 312

MAR 18 2003 15:39

WTS

03/18/2003 15:38 FAX 8059664031
03/06/2003 13:28 8055643341

UPS-SB
WILSON&PETTINE

PAGE 16 243/073

1 company or any properties, real or personal, which the company holds. At no time has any other
2 party named in this action ever had an ownership interest, legal interest, equity interest or beneficial
3 interest in the company or any of the assets of the company, whether they be real or personal
4 property.

5 5. Title to the real property commonly known as 68 Seaview Drive, Santa Barbara,
6 California 93108, has been solely in the name of the company since it was acquired on April 7,
7 1998.

8 6. The only legal notice received by BELMONT ASSETS LIMITED at its proper address
9 that appears may be related to this matter is a document entitled "In Re Roy Enter", a bankruptcy
10 matter. It does deal with a Lis Pendens matter on its face, but does not appear to deal with the
11 present case. BELMONT ASSETS LIMITED has never received through its registered office any
12 notices of Lis Pendens regarding 68 Seaview Drive, Santa Barbara, California, USA. Attached
13 hereto as Exhibit "D" is a copy of the Notice of Pendency of Action and Notice of Re-Recording of
14 Pendency of Action (Lis Pendens).

15 I declare under penalty of perjury under the laws of the State of California that the foregoing
16 is true and correct.

17 Executed this 6th day of March, 2003, at Hamilton, Bermuda.

18
19 
20 DAVID ANFOSSI

21
22
23
24 BelmontNoticeMotionToExpunge.doc

25

26

27

28

15
BELMONT ASSETS LIMITED'S SPECIAL APPEARANCE FOR NOTICE OF MOTION AND MOTION TO EXPUNGE LIS PENDENS,
SUPPORTING DECLARATION OF DAVID ANFOSSI AND MEMORANDUM OF POINTS AND AUTHORITIES

MAR 18 2003 15:33

RAA

1066

DEED OF APPOINTMENT OF BENEFICIARY

Between

WENDY SILVERMAN
(PROTECTOR)

And

N. DAVID ANFOSSI
(TRUSTEE)

and

DOUGLAS M. TUFTS
(TRUSTEE)

Dated: 5 November 2002

The Armoury Building
37 Reid Street
Hamilton
Bermuda

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 315

— = Redacted by the Permanent
Subcommittee on Investigations

THIS DEED is made the 5th day of November 2002 **BETWEEN**

1. **N. DAVID ANFOSSI** and **DOUGLAS M. TUFTS** of The Armoury Building, 37 Reid Street, Hamilton, Bermuda, (the "Trustees").
2. **WENDY SILVERMAN** of 410 Palm Avenue, Unit # 83, Carpenteria, California, 93013, USA, ("the Protector").

SUPPLEMENTAL to the Declaration of Trust (the "Settlement") dated 20 May 1994 and known as The Bonnymead Trust.

WHEREAS

- A. Clause 4 of the Settlement gives the Trustees power (with the consent of the Protector) to add to the beneficiaries (as defined in the Settlement).
- B. The Trustees are the present trustees of the Settlement.
- C. The Protector is the present Protector of the Settlement.
- D. The Trustees wish to add [REDACTED] Miskin of [REDACTED]
[REDACTED] England, (the "Additional Beneficiary") to the beneficiaries.

NOW THIS DEED WITNESSES as follows:

1. In exercise of the power given to it by the Settlement the Trustees hereby declare that the Additional Beneficiary shall be added to the beneficiaries for all the purposes of the Settlement.
2. The addition shall take effect from 5 November 2002.
3. The Protector hereby consents to the appointment of the Additional Beneficiary.

IN WITNESS whereof the parties hereto have executed this deed on date first above written.

SIGNED by the said)
 N. DAVID ANFOSSI)
 In the presence of:)
)
 _____)

SIGNED by the said)
 DOUGLAS M. TUFTS)
 In the presence of:)
)
 _____)

SIGNED by the said)
 WENDY SILVERMAN)
 In the presence of:)
 _____)

Wendy Silverman

David M. Anfossi

IN THE HIGH COURT OF JUSTICE

No.

FAMILY DIVISION

PRINCIPAL REGISTRY

Before Mr Justice

BETWEEN:

STEPHANIE AVRIL MISKIN

Petitioner

and

MICHAEL MISKIN

Respondent

ORDER

Upon hearing Counsel for the Petitioner on a without notice Application and reading the Witness Statement of the Petitioner made on 14 January 2003

AND UPON THE PETITIONER UNDERTAKING through Counsel to this Court:

- (i) To pay the reasonable costs incurred by any person other than the Petitioner to whom notice of this Order may be given in ascertaining whether any assets to which this Order applies are within their power, possession, custody or control and in complying with this Order and to indemnify any such person against all liabilities which may flow from such compliance.

- (ii) To obey any Order this Court may make as to damages if it shall consider that the Respondent has sustained any damages by reason of this Order which the Petitioner ought to pay.

IT IS ORDERED THAT:-

- (1) The Respondent be restrained whether by himself, his agents or otherwise from:-

- (i) Disposing whether by himself, through his agents or otherwise the property at 68 Seaview Drive, Montecito, Santa Barbara, California, CA 9310, United States of America, such property being registered in the name of Belmont Assets Limited.
- (ii) A BMW 5 Series motor vehicle registration number 410 MM located at Belmont Parkway, London, N20 0XP.
- (iii) Eight stamp albums containing first day covers located at Belmont, Parkway London, N20 0XP
- (iv) A Honda Superdream motorcycle registration number BLU 649T located at Belmont, Parkway, London, N20 0XP
- (v) From removing from the Jurisdiction, transferring, disposing of, pledging or charging or otherwise passing with title to or possession of or otherwise dealing with any funds which are in the Respondent's name or in the name of the Trustees of M. Miskin Discretionary Settlements whether the same are now within or outside the Jurisdiction and any other of his assets which are within the Jurisdiction

SAVE THAT the Respondent shall be at liberty to expend a sum not exceeding £300 per week for ordinary living expenses from his assets and that the Respondent may expend such reasonable sums on legal advice and representation as may be requisite from his assets

PROVIDED THAT nothing in this order shall prevent any bank from exercising any rights of set off it may have in respect of facilities afforded by any such bank to the Respondent prior to the date of this Order.

- (2) The Respondent do disclose, by way of Affidavit full details of all his assets (including interests in Trusts and nominee accounts wherever they are located within or without the Jurisdiction by 4pm on 29 January 2003.
- (3) The Respondent do forthwith on service of this Order deliver up his passport or passports to the Petitioner's Solicitors, Messrs Goodman Derrick of 90 Fetter Lane, London, EC4A 1PT.
- (4) There be liberty to the Respondent to apply to vary or discharge this Order on

1071

48 hours notice.

(5) Costs be reserved.



LGT Treuhand
A Member of Uchtenstein Global Trust

LGT Treuhand
Aktiengesellschaft
Städtle 28
FL-9490 Vaduz
Fürstentum Lichtenstein

Telefon +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgttreuhand
E-Mail lgt@lgt.com
MWS-Nr. 50119

Hintergrundinformationen/Profil
Formular für bestehende Geschäftsbeziehungen vor dem 1. Januar 2001

P-BG

Rechtsträger, Sitz Micronesia Foundation, 9490 Vaduz

1. Informationen zum Rechtsträger

- ☐ Gesellschaft mit kommerziellem Hintergrund
☒ Stiftung, Trust, Holding, usw.

Gründungs-/Übernahmejahr: 1998

1.1 Gewöhnliche Geschäftstätigkeit

Verwaltung eigenes Vermögen

1.2 Verwendungszweck der Vermögenswerte

Ausschüttung an Begünstigte gemäss Beistatut.

2. Wirtschaftlicher Hintergrund und Herkunft der eingebrachten und einzubringenden Vermögenswerte sowie anderer Aufgaben zum Hintergrund

Aus Verkauf Immobilienfirma (England) über Kreditbank in Belgien (siehe AV vom 30.6.1998)

3. Landesspezifische Bewertung

- ☒ 1 ☐ 2 ☐ 3

Vaduz, 13.12.2001

Ort, Datum

Unterschrift des Kundenberaters

- ☐ Bevollmächtigte gemäss separatem Formular
☐ Dieses Formular ersetzt das Formular vom:

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 321

PSI-USMSTR 006666

oooo[logo]
LGT Trust
A Member of Liechtenstein Global Trust

LGT Trust
Corporation
Städtle 28
FL-9490 Vaduz
Principality of Liechtenstein

Telephone +423 235 27 27
Telefax +423 235 27 15
Internet www.lgt.com/lgtreuhand
E-Mail lgttrust@lgt.com
VAT-No. 50119

Background Information/Profile
(Documentation of Existing Corporate Relationships before 01. January 2001)

P-BG

Legal Entity, Domicile Micronesia Foundation, 9490 Vaduz

1. Description of Entity

- ☐ Company with commercial basis
☒ Foundation, trust, holding company, etc.

Year Founded/Purchased: 1998

1.1 Primary Business

Asset Management

1.2 Intended use of assets:

Disbursement to beneficiaries according to by-law.

2. Commercial background and origin of assets (current and to be provided), as well as detailed information on the country of origin :

From the sales of a real-estate company (England) through credit bank in Belgium
(see memo of June 30, 1998)

3. Country Risk Category

- ☒ 1 ☐ 2 ☐ 3 ☐ 4

Vaduz, Dec. 13, 2001
Place, Date

[SIGNED]
Signature of Account Manager

- ☒ Power of Attorney per separate document
☐ This document replaces the previous version, dated:

1074

07 '91 17:38 071 606 9833 BROWN SHIPLEY --- FORSYTE KERNAN 01-366 1395
Michael Miskin "Belmont" Park Way, London, N20 0XP 01-366 1395

PMH

13th May, 1991.

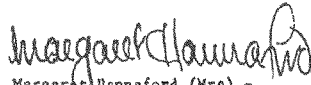
Mr G Redway,
Brown Shipley & Co. Ltd.,
Founders Court,
Lothbury,
LONDON, EC2R 7HE.

Dear Geoff,

Following your telephone conversation with Mr Miskin today, I would confirm that the deposit in the sum of £1,000,000.00 deposited in Mrs S.A. Miskin's name for tax purposes, should have reverted to the name of Mr M Miskin on 30th November 1990.

This, obviously, has not taken place due to an oversight and I would confirm that this deposit should be changed into the name of Mr M Miskin as of today.

Yours sincerely,


Margaret Hannaford (Mrs) -
Personal Secretary to Mr M Miskin

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 323

SI

1075

7/07 '91 17:38

071 806 9833

BROWN SHIPLEY

FORSYTE KERNAN

001



BROWN, SHIPLEY & CO. LIMITED
FIFTH FLOOR, 100 BROADWAY, LONDON EC4A 3DF

29th July 1991

Forsyte Kerman Solicitors,
79 New Cavendish Street,
London W1M 8AQ.

Dear Sirs,

Mr. Michael Miskin

With reference to your letters dated 25th and 26th of July enclosing an Order made in the High Court and subsequently amended, I am supplying you with the following information:-

1. Funds have, in the past, been placed by Mr. Michael Miskin in his own name and that of his wife, Mrs S.A. Miskin. The original deposits were solely in the name of Mr. Miskin but, at a later date, he requested us to place some of these monies for account of his wife as a result of accountants' tax advice which we did. A copy of our records relating to Mrs Miskin is attached together with a letter from Mr. Miskin's secretary dated the 13th of May 1991 relating to £1 million.
2. We did hold Certificates of Deposit issued by various institutions which were paid away to Citicorp Investment Bank in Zurich on Mr. Miskin's instruction. We are not holding any fixed deposits in the names of either Mr. or Mrs Miskin or for the credit of any Miskin Discretionary accounts.

I wish to stress that at all times we believed that the ultimate beneficiary of all funds placed with us was Mr. Michael Miskin and we had no contact whatsoever with Mrs Miskin or a mandate signed by her.

Should you wish to know the precise amount of money we transferred on behalf of Mr. Miskin we are happy to provide this subject to prior approval of the beneficiary.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'G.G. Bell'.

G.G. Bell

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 323

52

1076

STAEBLIN :28- 8-91 : 16:36 : LENZ & STAEBLIN- 071 436 6088:# 2/ 5
Citibank (Switzerland) Tel. (01) 205 71 71
Bahnhofstrasse 63 Telex R23 923
P.O. Box 344
CH-8021 Zurich

CITIBANK+

Dr. Monica van Hoboken
Lenz & Staehelin
Rechtsanwälte
Bleicherweg 58
8027 Zürich

28th August, 1991

Dear Dr. van Hoboken,

With reference to the amended order of the District Court, Zurich, dated 19th August, 1991, and our brief telephone conversation of 27th August, 1991, I give you below a list of payments made which are subject to the above order:

27th June, 1991 GBP 3,737,949.84
credited to Citibank (Switzerland)
Geneva branch, for Lancaster.

29th July, 1991 three amounts GBP 3,457,000; USD 400,000
and USD 1616.50 were paid to Verwaltungs-
und Privat Bank, Vaduz, which returned
these the same day.

30th July, 1991 three amounts GBP 3,456,902.54;
USD 399,836.34 and USD 1613.23 were paid
to Liechtensteinische Landesbank, Vaduz,
advice to be given to Dr. Norbert Seeger.

I am informed that there have been minor transfers to the customer or his order, but the details of these are in Geneva. No funds, excepting minimal amounts due to refunding or charges and odd balances remain and all accounts have been closed.

.../2

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 323

67

1077

STAEHLIN

;28- 8-91 : 16:36 ;


LENZ & STAEHLIN-

071 436 6088:# 3/ 5

Dr. Monica van Hoboken
August 28, 1991
Page 2.

I attach copies of the final payments to the Liechtensteinische Landesbank Vaduz, which we have retrieved from Zurich Processing Center. If you require further documents we will, if you request this, search for and supply them. Please, however, bear in mind the possible questions arising from the federal structure of Switzerland and costs which we would incur in deciding whether further detailed information and documents are essential.

Yours very truly,


Gordon Insley
Division Counsel

Encl.

63

1078

DELIVERY CONFIRMATION
PRINTED ON: 27-Jun-91 14:36
MSG BS 106560 1
TO : TX 045823923() ON: 27-Jun-91 14:34
FROM : TELEX K. LEWIS ON: 27-Jun-91 14:34
BY : LINE 1 DURATION: 99 (Seconds)

Redacted by the Permanent
Subcommittee on Investigations

27-JUN-91 14:34

TO CITICORP INVESTMENT BANK ZURICH SWITZERLAND
FROM BROWN SHIPLEY AND CO LTD.. LONDON

FOR INFORMATION ONLY

WE HAVE TODAY CREDITED YOUR ACCOUNT WITH CITIBANK LONDON WITH GBP
3.737.949.84 VALUE 27.6.91 WHICH AMOUNT PLEASE UTILISE FAVOUR OF
LANCASTER.

WE HAVE INSTRUCTED CITIBANK LONDON TO URGENTLY TELEX ADVISE
YOURSELVES TODAY.

REGARDS
TREASURY

+++

KJL

686704 BSCD G
623923A CCB CH

IN THE HIGH COURT OF JUSTICE

NO: FD03D00289

FAMILY DIVISION

PRINCIPAL REGISTRY

BEFORE THE HONOURABLE MR JUSTICE SINGER

BETWEEN:

STEPHANIE AVRIL MISKIN

Petitioner

and

MICHAEL MISKIN

First Respondent

and

BELMONT ASSETS LIMITED

Second Respondent

and

TRUSTEES OF M MISKIN DISCRETIONARY SETTLEMENTS

Third Respondent

INJUNCTION PROHIBITING DISPOSAL OF ASSETS WORLDWIDE

IMPORTANT:

NOTICE TO THE RESPONDENTS

- (1) This Order prohibits you from dealing with your assets up to the amount stated. The Order is subject to the exceptions at the end of the Order. You should read it all carefully. You are advised to consult a Solicitor as soon as possible. You have a right to ask the court to vary or discharge this Order.
- (2) If you disobey this Order you may be found guilty of contempt of court and you may be fined or your assets may be seized.

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 323

THE ORDER

An Application was made on the 23 January 2003 by Counsel for the Petitioner to the Judge who heard the application supported by the witness statement listed in Schedule 1 and accepted the undertakings in Schedule 2 at the end of this Order.

AND UPON the basis that the Petitioner asserts that the First Respondent is the beneficial owner of the Second Respondent

IT IS ORDERED that:

1. Belmont Assets Limited and the Trustees of the M Miskin Discretionary Settlements be joined as Second and Third Respondents respectively to the Application whereby the Petitioner seeks injunctive relief.
2. **Disposal of assets**
 - 2.1 The First Respondent must not
 - 2.1.1 in any way dispose of or deal with or diminish the value of any of his assets whether they are in or outside England or Wales whether in his own name or not and whether solely or jointly owned up to the value of £3,000,000. This prohibition includes the following assets in particular:
 - (a) the property known as 68 Seaview Drive, Montecito, Santa Barbara, California, CA9310, USA or the net sale money after payment of any mortgages if it has been sold;
 - (b) A BMW 5 Series motor vehicle registration number 410 MM located at Belmont Parkway, London, N20 0XP.
 - (c) Eight stamp albums containing first day covers located at Belmont, Parkway London, N20 0XP
 - (d) A Honda Superdream motorcycle registration number BLU 649T located at Belmont, Parkway, London, N20 0XP
 - 2.2 If the total unincumbered value of the First Respondent's assets in England and Wales exceeds £3,000,000, the First Respondent may remove any of those assets from England and Wales or may dispose of or deal with them so long as the total unincumbered value of his assets still in England and Wales remains above £3,000,000.
 - 2.3 If the total unincumbered value of the First Respondent's assets in England and Wales does not exceed £3,000,000, the First Respondent must not remove any of those assets from England and Wales and must not dispose of or deal with any of them, but if he has other assets outside England and Wales the First Respondent may dispose of or deal with those assets so long as the total unincumbered value of all his assets whether in or outside England and Wales

remains above £3,000,000.

3. The Second Respondent must not transfer, dispose of, pledge, charge or otherwise change title to or possession of or otherwise deal with the property known as 68 Seaview Drive, Montecito, Santa Barbara, California, CA9310, USA.
4. The Third Respondent must not deal with or diminish the value of any assets whether they are in or outside England or Wales held to the benefit of the First Respondent subject both to paragraph 2.2 and 2.3 above and the Exceptions identified below.
5. **Disclosure of information**

The First Respondent must inform the Petitioner's solicitors in writing within 48 hours of service of this Order of all his assets whether in or outside England and Wales and whether in his own name or not and whether solely or jointly owned, giving the value, location and details of all such assets. The First Respondent may be entitled to refuse to provide some or all of this information on the grounds that it may incriminate him. The information must be confirmed in an affidavit which must be served on the Petitioner's Solicitors within 14 days after this Order has been served on the First Respondent.

EXCEPTIONS TO THIS ORDER

- (1) This Order does not prohibit the First Respondent from spending £750 a week towards his ordinary living expenses and also £5,000 or a reasonable sum on legal advice and representation. But before spending any money the First Respondent must tell the Petitioner's Solicitors where the money is to come from.
- (2) The First Respondent may agree with the Petitioner's Solicitors that the above spending limits should be increased or that this Order should be varied in any other respect but any such agreement must be in writing.
- (3) The First Respondent may cause this Order to cease to have effect if the First Respondent provides security by paying the sum of £3,000,000 into court or makes provision for security in that sum by some other method agreed with the Petitioner's Solicitors.

SERVICE OUT OF THE JURISDICTION AND SUBSTITUTED SERVICE

The Petitioner be at liberty to serve the Petition in this cause dated 14 January 2003, the Acknowledgment of Service, the Forms A and C dated 17 January 2003, this Order and any other pleadings or Orders of this Court on the Respondent by way of

electronic mail to him at his email addresses at "alantiy2k@cox.net" and "michael@mmiskin.com".

DURATION OF THIS ORDER

This Order will remain in force until discharged by a further Order of the Court.

This Order shall also cease to have effect if the First Respondent provides security as provided above

VARIATION OR DISCHARGE OF THIS ORDER

Any Respondent (or anyone notified of this Order) may apply to the court at any time to vary or discharge this Order (or so much of it as affects that person), but anyone wishing to do so must provide the Petitioner's Solicitors with 48 hours notice.

NAME AND ADDRESS OF PETITIONER'S SOLICITORS

The Petitioner's solicitors are:

Goodman Derrick, 90 Fetter Lane, London EC4A 1PT (Ref. TJL/17733.1)

Telephone: (020) 7404 0606

Facsimile: (020) 7421 7966

Email: tlangton@gdlaw.co.uk

INTERPRETATION OF THIS ORDER

- (1) In this Order 'he' 'him' or 'his' include 'she' or 'her' and 'it' or 'its'.
- (2) Where there are two or more Respondents then (unless otherwise stated)
 - (a) References to 'the Respondent' mean both or all of them
 - (b) An Order requiring 'the Respondent' to do or not to do anything requires each Respondent to do or not to do it.
 - (c) A requirement relating to service of this Order or of any legal proceedings on 'the Respondent' means on each of them.

EFFECT OF THIS ORDER

- (1) A Respondent who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.
- (2) A Respondent which is a corporation and which is ordered not to do

something must not do it itself or by its directors, officers, employees, or agents or in any other way.

THIRD PARTIES

- (1) **Effect of this Order.** It is a contempt of court for any person notified of this Order knowingly to assist in or permit a breach of the Order. Any person doing so may be sent to prison, fined, or have his assets seized.
- (2) **Effect of this Order outside England and Wales.** The terms of this Order do not affect or concern anyone outside the jurisdiction of this court until it is declared enforceable or is enforced by a court in the relevant country and then they are to affect him only to the extent they have been declared enforceable or have been enforced UNLESS such person is:
 - (a) a person to whom this Order is addressed or an officer or an agent appointed by power of attorney of such a person; or
 - (b) a person who is subject to the jurisdiction of this court and (i) has been given written notice of this Order at his residence or place of business within the jurisdiction of this court and (ii) is able to prevent acts or omissions outside the jurisdiction of this court which constitute or assist in a breach of the terms of this Order.
- (3) **Set off by Banks.** This injunction does not prevent any bank from exercising any right of set off it may have in respect of any facility which it gave to the Defendant before it was notified of the Order.
- (4) **Withdrawals by the First Respondent.** No bank need enquire as to the application or proposed application of any money withdrawn by the First Respondent if the withdrawal appears to be permitted by this Order.

SCHEDULE 1

Witness Statement

The Petitioner relied on the following witness statement:

- (1) *Stephanie Avril Miskin dated 23 January 2003*

SCHEDULE 2

Undertakings given to the court by the Petitioner

- (1) *If the court later finds that this Order has caused loss to the Respondents, and decides that the Respondents should be compensated for that loss, the Petitioner will comply with any Order the court may make.*
- (2) *The Petitioner will serve on the Second Respondent at its registered office at Crossways Centre, Brae Road, Vale, Guernsey, Channel Islands and upon the Third Respondents as and when their address is known a copy of this Order*

and the witness statement of Stephanie Avril Miskin dated 23 January 2003.

- (3) *Anyone notified of this Order will be given a copy of it by the Petitioner's Solicitors.*
- (4) *The Petitioner will pay the reasonable costs of anyone other than the Respondents which have been incurred as a result of this Order including the costs of ascertaining whether that person holds any of the Respondents' assets and if the court later finds that this Order has caused such person loss, and decides that such person should be compensated for that loss, the Petitioner will comply with any Order the court may make.*
- (5) *If for any reason this Order ceases to have effect (including in particular where the First Respondent provides security as provided for above), the Petitioner will forthwith take all reasonable steps to inform, in writing, any person or company to whom he has given notice of this Order, or who he has reasonable grounds for supposing may act upon this Order, that it has ceased to have effect.*

All communications to the court about this Order should be sent to Room 307, Room E15 Royal Courts of Justice, Strand, London, WC2A 2LL quoting the case number. The office is open between 10 am and 4.30 pm Monday to Friday. The telephone number is 0207 936 6148.

Dated 24 January 2003



Meier Peter

= Redacted by the Permanent
Subcommittee on Investigations

Von: [REDACTED]
Gesendet: Mittwoch, 19. Januar 2000 16:49
An: peter.meier@lgt.com
Betreff: Re: AW: That Taxing Problem

Dear Peter,

Your information really just confirms what I found out, by going through the situation of dealing with some money from an overseas trust, following the death of my Mother in September last. This fact of course, makes my current letter of wishes a complete waste of time and I am very glad that I have found out now. I will have to reconstruct it totally in order that my beneficiaries do not suffer taxes of 40 % and very possibly greater amounts. I do not need any UK fiscal advice thank you, as I already use Deloitte & Touche for that. I just have to seriously reconsider the method for distribution in the event of my demise to protect the unsuspecting beneficiaries. In that regard I will be sending you new instructions as soon as I have figured it out.

Regards

Michael Miskin

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 326

PSI-USMSTR - 006658

1086

26/07 01:14:54 FAX +423 255 2075
From: Michael Miskin To: Alois Beck

LGT/PRC
Date: 7/25/01 Time: 12:20:21 AM

001
Page 1 of 2

From the desk
of
Michael Miskin
BY
FAX

2715

Redacted by the Permanent
Subcommittee on Investigations

ERLEDIGT

Fax no. 1522 / Tina Chesl

For the attention of Alois Beck July 25th 2001

Dear Alois,

2 lasten Micronesia Stiftung

Following our telephone conversation today please effect the following Sterling
Transfers ASAP:-

1). Transfer the sum of Sterling 111,106.00 (one hundred and eleven thousand,
one hundred and six pounds.) to

Barclays Bank
32 Clarendon Road
Watford, Herts WD1 1LD
United Kingdom
Sort Code

For the account of Matthew Arnold & Baldwin Solicitors

Account Number

Reference:-

Please Transfer the sum of Sterling 15,000.00 (fifteen thousand pounds)
To the account of M. Miskin

Lloyds TSB Bank (Jersey Branch)
Sort Code 30-16-42
A/c Number

Please kindly confirm by fax when these transfers have been made. Alois, the
larger transfer is part of the purchase price of my sons new house and it must
arrive at the receiving bank before August 1st.

Thank you for your kind assistance

M. Miskin

Michael Miskin

Micronesia Stiftung

Val. 27.7. beids.
durch führen

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 327

PSI-USMSTR - 006655



LGT Bank in Liechtenstein Ltd.
 Herrngasse 12, FL-9490 Vaduz
 Phone +423 235 11 22 · Fax +423 235 15 22
 info@lgt.com · www.lgt.com
 OR Nr.: 1122356, Reg. Office: 9490 Vaduz · VAT No. 50119

Client designation _____

RM _____

Initials RM _____

Client no. _____

Declaration of Non-US Status¹

(Companies, Partnerships, Trusts, Foundations and Collective Investment Vehicles)

Registered office/permanent address/address of trustee _____

Principal place of business _____

In accordance with the United States Withholding Tax Regulations and the «Qualified Intermediary Agreement» between LGT Bank in Liechtenstein Ltd., Vaduz (hereinafter called «Bank») and the US Internal Revenue Service (hereinafter called «IRS») the undersigned account holder (hereinafter called «account holder») hereby discloses to the Bank the following information relating to the ownership of assets held in the above-mentioned account in order to enable the Bank

1. to ascertain whether an account holder is or is not a «US Person», and
2. to determine whether the account holder intends to claim the benefits of a taxation agreement, if any, between the US and the account holder's country of tax residence.

I. Declarations

A. Declaration of Non-US Status

I/We the undersigned, acting for or on behalf of the undersigned whom we represent and are empowered to sign for, hereby declare that the account holder is a

(fill in legal description of entity) organised under the laws of _____

(fill in name of country): _____

Declaration of Non-US Status (Company, Partnership, Trust, Foundation, etc.)

I, the undersigned, hereby declare that the account holder is a _____ (fill in legal description of entity) organized under the laws of _____ (fill in name of country).

I, the undersigned, hereby declare that the account holder is not a US Person, as defined in the US Internal Revenue Code, and that the account holder is not a resident of the United States for US tax purposes.

I, the undersigned, hereby declare that the account holder is not a US Person, as defined in the US Internal Revenue Code, and that the account holder is not a resident of the United States for US tax purposes.

I, the undersigned, hereby declare that the account holder is not a US Person, as defined in the US Internal Revenue Code, and that the account holder is not a resident of the United States for US tax purposes.

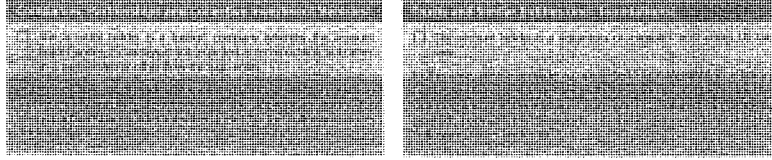
Declaration of Non-US Status (Individual)

I, the undersigned, hereby declare that I am not a US Person, as defined in the US Internal Revenue Code, and that I am not a resident of the United States for US tax purposes.

I, the undersigned, hereby declare that I am not a US Person, as defined in the US Internal Revenue Code, and that I am not a resident of the United States for US tax purposes.

I, the undersigned, hereby declare that I am not a US Person, as defined in the US Internal Revenue Code, and that I am not a resident of the United States for US tax purposes.

¹ The present form, duly completed, will be kept in the records of the Bank.



Please note

a) Partnerships and entities to be treated as such

If you are signing this declaration on behalf of an entity that is, or is treated as, a partnership for US tax purposes or which has made an election to that effect, you must complete Form W-BIMY and, in addition, each partner/shareholder/member must complete the corresponding form (either Form W-9 for each US citizen or US resident or Form W-BBEN for each non-US beneficiary). If you are signing this declaration on behalf of an entity which has elected to be disregarded for US tax purposes, documentation from the sole member/shareholder is required. In signing this declaration, partnerships or other entities treated as such hereby authorise the Bank to forward all IRS forms (e.g. Form W-BBEN, W-9, W-BIMY, etc.) which they have sent or submitted to the Bank, to the US custodian or the IRS, and in this respect explicitly waive banking secrecy.

b) Grantor and simple trusts

Grantor and simple trusts with no US persons as grantor or beneficiary

If you are signing this declaration on behalf of a grantor or simple trust, or for an equivalent vehicle under US tax law (e.g. a Liechtenstein-based foundation), for which no US person is involved as a beneficial owner, you can benefit directly from the exemption rule for smaller trusts, in accordance with which, in the case of legal entities of this nature, no identification of the client or of the beneficial owner is required to be made to the IRS. Moreover, the precondition for this is that in addition to Form W-BIMY for the trust (foundation) you are also required to send the Bank either Form W-BBEN for the relevant beneficial owners (grantors or beneficiaries) or an authenticated² copy of the passport(s) of these beneficial owners. As a rule, authentication can be carried out by a notary, a court or some other recognised authenticating office. Form W-BIMY must be signed by the organ representing the trust, foundation, etc. (trustee, member of the foundation board, etc.), and Form W-BBEN in the case of the grantor trust by the grantor (i.e. the person who founded the trust, foundation, etc.) or in the case of the simple trust, by each non-US beneficiary. All forms submitted will be retained exclusively within the Bank and none will be forwarded to the US custodian or the IRS. For the purposes of the Bank's audit under section 10 of the QI Agreement, the account holder, upon request, will make available to the Bank's QI auditor records that establish that the account holder has provided the Bank with documentation of all its grantors/beneficiaries.

Grantor trusts with US grantor

If you are signing this declaration for a grantor trust in respect of which a US person is the grantor, then you must provide a Form W-BIMY from the organ representing the trust, foundation, establishment, etc. (i.e. from the trustee, foundation board, management board) and a Form W-9 from the grantor (i.e. the person who founded the trust, foundation, establishment, etc.). In signing this declaration, grantor trusts in respect of which the grantor is a US person hereby authorise the Bank to forward all IRS forms (e.g. Form W-9, W-BIMY, etc.) which they have sent or submitted to the Bank, to the US custodian or the IRS, and in this respect explicitly waive banking secrecy.

Simple trusts with US beneficiaries

If you are signing this declaration on behalf of a simple trust in respect of which a beneficiary is a US person, then you must provide a Form W-BIMY from the organ representing the trust, foundation, establishment, etc. (trustee, foundation board, management board, etc.) and the appropriate documentation from each individual beneficiary (either Form W-9 for each US citizen or resident or Form W-BBEN for each non-US beneficiary). In signing this declaration, simple trusts in respect of which one of the beneficiaries is a US person hereby authorise the Bank to forward all IRS forms (e.g. Form W-9, W-BBEN, W-BIMY, etc.) which they have sent or submitted to the Bank, to the US custodian or the IRS, and in this respect explicitly waive banking secrecy.

B. «No Effectively Connected Income» Declaration

The account holder hereby declares that the income to which this form relates is not effectively connected with the conduct of a trade or business in the US.

II. Beneficial Ownership Confirmation

If the account holder elects to be treated neither as a flow-through entity nor as a transparent entity for US tax purposes, it declares that, according to US tax principles, it is the beneficial owner of all assets and income deposited in the above-mentioned account.

² Where the beneficial owner has appeared in person, presentation of the passport is sufficient.

**III. Discovery of Status as a «US Person»/
Agreement to Sell US Securities under Deduction of Backup
Withholding Tax**

If the declarations made above become invalid after the filing of this form with the Bank due to

- a) a change in the status of the account holder or of the beneficial owner, and/or
- b) the subsequent discovery of the fact, notwithstanding this form, that the account holder's or the beneficial owner's status has been misrepresented, and

if the account holder or its shareholder(s)/member(s)/partner(s)/grantor(s)/beneficiary(ies) etc. is/are deemed to be the beneficial owner(s) of the assets or of the income from the above-mentioned account, is/are classified as US person(s) after 1 January 2001 and refuse(s) to submit a valid IRS Form W-9 to the Bank,

the account holder hereby irrevocably agrees that the Bank has the right, without prior notice, to sell all US investments held (or considered to be held) in the above-mentioned account as well as all non-US investments, which are primarily traded upon instructions from the US or for which payment is deemed to have been made within the US, and to deduct and pay to the IRS a backup withholding tax of 28% (or the then applicable rate) on the income and the gross sale proceeds of such investments as provided for by the «Qualified Intermediary Agreements» between the Bank and the IRS. (The backup withholding tax will be transferred to the IRS without disclosing the account holder's identity to the US custodian or the IRS.) Furthermore, the account holder agrees that the Bank may not invest in US investments on the account holder's behalf.

The account holder hereby expressly releases the Bank from any liability in respect of the sale of its US investments and in respect of the Bank ceasing further US investments pursuant to the application of this provision III and undertakes to indemnify the Bank for any liability incurred under the US tax rules or under the Qualified Intermediary Agreement in connection with the Bank's late discovery of the client's status as a US person.

IV. Application of Tax Treaty Relief

By completing this section IV, the account holder declares that it wishes to claim the benefits of the applicable Double Tax Treaty concluded between the US and:

(Please specify name of country) and declares (please check a and c or b and c):

YES ☐ a) that the account holder is a resident of the above-named country within the meaning of the Double Tax Treaty between the US and that country, or

YES ☐ b) that the account holder is not a resident of the above-named country within the meaning of its Double Tax Treaty with the US but is otherwise treaty eligible for the following reason

and, in either case

YES ☐ c) that the account holder meets all the conditions necessary to claim the benefits of the Treaty, including all conditions pertaining to any «Limitation on Benefits» provisions contained in the Treaty, and derives the income within the meaning of section 894 of the US Internal Revenue Code, and the regulations thereunder, as the beneficial owner. Therefore it is fully entitled to claim the corresponding reduced withholding tax rates on all these assets and income to which this form relates. The account holder also certifies that it has taken note of the Treaty text on the Internet site of the Swiss Bankers Association www.swissbanking.org relating to the restriction in Treaty benefits.

V. Change in Circumstances

During the contractual relationship with the Bank, the account holder undertakes to inform the Bank without delay, on its own initiative of any change in circumstances which, under applicable US tax regulations, either

- a) modifies its status as a «non-US Person» and causes it to acquire the status of a «US Person», or
- b) modifies its US tax status.

The account holder certifies

- a) that, if necessary, it has taken appropriate tax advice in the US and in its country of residence or country of treaty eligibility on the issues covered herein, in particular in order to be able to confirm that it meets the conditions allowing it to claim Treaty benefits, and
- b) that to the best of its knowledge and belief, the information contained herein is true, correct and complete, and
- c) that no contrary information has, directly or indirectly, been provided to the Bank or to any of its officers, employees or agents.

 Place/Date

 Signature of the account holder



LGT Bank in Liechtenstein Ltd.
 Herrengasse 12, FL-9490 Vaduz
 Phone: +423 235 11 22 · Fax: +423 235 15 22
 info@lgt.com · www.lgt.com
 OR Nr.: 1122356, Reg. Office: 9490 Vaduz · VAT No. 50119

Client designation

RM

Initials RM

Client no.

Tax form US withholding tax/private individuals
Assets and income subject to US withholding tax

Declaration regarding Non-US status¹

In compliance with US withholding tax regulations and for the purpose of establishing the status and qualification of the account holder for the maintenance of a securities custody account (for the purposes of US withholding tax) as a

Non-US-Person, or US-Person

the undersigned account holder² hereby makes and confirms the following declarations to LGT Bank in Liechtenstein Ltd., Vaduz (hereinafter called the «bank»):

1. Non-US Person declaration (private individual)

With regard to the maintenance of your securities custody account(s) with us, we request you to check the appropriate box below:

Are you a US citizen?
 (sole or dual citizenship)

Yes No
☐ ☐

If your answer to the above question is «No», please continue checking the boxes below:

Are you a US resident alien?

Yes No
☐ ☐

(lawful permanent resident, e.g. «green card holder»,
 or substantial physical presence in the USA in the current and
 the previous two years³)

Are you a US taxpayer for any other reason?

Yes No
☐ ☐

(e.g. dual resident, spouse filing jointly,
 rescinding US citizenship
 or long-term residency, other reasons)

2. Disclosure with IRS Form W-9 or waiver in respect of investments in US securities

(applies only to US Persons, i.e. if you have answered «Yes» to any one of the above questions)

If you have answered «Yes» to any one of the above questions, please submit a completed Taxation Form W-9 (available from the bank on request) with legally valid signature. In so doing, you are at the same time authorizing us to pass on this Form W-9 to the US depository bank or the US tax authorities (IRS).

¹ To be kept on file internally with the bank only.

² Joint custody account holders must complete and sign separate forms.

³ According to the «substantial physical presence test», a person is defined as a US Person, who has lived in the USA for at least a total of 183 days in the current year and in the two preceding years (days in the current year count fully, days in the first preceding year count for one-third and days in the second preceding year count for one-sixth).

If the undersigned account holder is a US person and does not submit a Form W-9 to the bank, he/she accepts that no US securities will be held on his/her behalf, and expressly undertakes to issue no orders to the bank for the purchase of US securities, nor to deliver any US securities to the bank. He/she hereby expressly releases the bank from any liability in connection with the bank's refusal to execute US security transactions in the absence of Form W-9.

3. Beneficial Ownership

The undersigned account holder hereby declares that he/she is the beneficial owner according to US tax principles of the assets and income to which this declaration relates.

4. Treaty relief

(applies only to Non-US Persons, optional)

By checking this box ☐ the undersigned account holder confirms that he/she meets all the provisions of the treaty between

(write in the relevant country) and the United States that are necessary to claim a reduced rate of withholding tax, including any limitations on benefits provisions, and derives the income within the meaning of Section 894 of the US Internal Revenue Code, and the regulations thereunder, as the beneficial owner.

5. Change of circumstances in status as a Non-US-Person

The undersigned account holder undertakes to notify the bank in writing if his/her status as a Non-US Person according to US tax principles changes to the status of a US Person.

6. Discovery of status as a US Person/Agreement to sell US securities under deduction of backup withholding tax

If, for whatever reason, this declaration becomes invalid after its filing with the bank due to

(a) change in the circumstances changing the account holder's status from a Non-US Person to a US Person, and/or

(b) late discovery of the fact that, notwithstanding this declaration, the account holder is or has become a US Person under US tax principles, and

if, at that time, the account holder does not agree to file a valid IRS Form W-9 with the bank to forward it to the US custodian or the US tax authority (IRS),

the undersigned account holder hereby irrevocably instructs the bank to sell all US investments falling hereunder held in the custody account(s) under the above mentioned client number, following standard business practice and without prior notice, and to deduct and remit to the IRS the backup withholding tax at 28% (or the then applicable rate) on the gross proceeds of such investments, as provided for under the Qualified Intermediary Agreement concluded between the bank and the US Internal Revenue Service (IRS).⁴

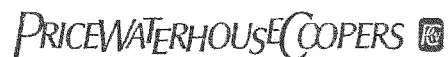
The undersigned account holder expressly and without any limitation herewith waives any claims for damages and will indemnify the bank for any liability in connection with the sale of his/her US investments pursuant to the application of this provision.

⁴ Remittance of backup withholding tax to the IRS will be done without disclosure of the identity of the account holder, as expressly foreseen by the Qualified Intermediary Agreement.

Place/Date

Signature of the account holder

LGT- 0010



— = Redacted by the Permanent
Subcommittee on Investigations

LGT Bank in Liechtenstein AG
Vaduz
QI-EIN [REDACTED]

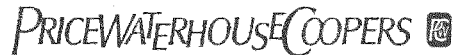
Qualified Intermediary
External Auditor's Report
for the Year 2006

June 26, 2007 / 00523473.001/10/gnp

PricewaterhouseCoopers ist weltweit in rund 140 Ländern und in der Schweiz in Aarau, Basel, Bern, Chur, Gené, Lausanne, Lugano, Luzern, Neuenburg, Sitten, St. Gallen, Thun, Winterthur, Zug und Zürich vertreten und bietet Wirtschaftsprüfung, Steuer- und Rechtsberatung und Wirtschaftsberatung an.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 336

LGT- 0136



PricewaterhouseCoopers AG
 Birchstrasse 160
 8050 Zürich
 Telefon +41 58 792 44 00
 Fax +41 58 792 44 10

LGT Bank in Liechtenstein AG
 Herrengasse 12
 9490 Vaduz
 Principality of Liechtenstein

26 June 2007 gnp

REPORT OF FACTUAL FINDINGS

We have performed the procedures agreed with you and the Internal Revenue Service ("IRS") described in IRS Revenue Procedure 2002-55 and the Industry Directive on Qualified Intermediary Audit Reports for Audit Years after 2004, dated 11 April 2006, related to the withholding and reporting obligations covered by the Qualified Intermediary Agreement between the IRS and LGT Bank in Liechtenstein AG for the year ending 31 December 2006 and have summarised our findings in the attached reports. Our engagement was undertaken in accordance with the International Standard on Auditing applicable to agreed-upon procedures engagements. The procedures were performed solely to assist you in connection with Phase 1 of the Audit Guidance for External Auditors of Qualified Intermediaries under IRS Procedure 2002-55 and our procedures and findings are presented in the attached report.


Because the procedures described in IRS Revenue Procedure 2002-55 and summarised in the attached report do not constitute either an audit or a review made in accordance with International Standards on Auditing, we do not express any assurance on the withholding and reporting obligations covered by the Qualified Intermediary Agreement between the IRS and LGT Bank in Liechtenstein AG.

Had we performed additional procedures or had we performed an audit or review in accordance with International Standards on Auditing, other matters might have come to our attention that would have been reported to you.

Our report is solely for the purpose as set forth in the first paragraph of this report and for your information and the use of the IRS, and is not to be used for any other purpose or to be distributed to any other parties. This report relates only to the withholding and reporting obligations covered by the Qualified Intermediaries agreement and does not extend to any financial statements of LGT Bank in Liechtenstein AG taken as a whole.

PricewaterhouseCoopers AG


 Rolf Birrer
 Partner


 Peter Günter
 Director

LGT- 0137

INDEX

Statement #	DESCRIPTION	Page #
--	Cover Sheet	--
--	Index	--
--	Qualified Intermediary Data	--
--	External Auditor's Data	--
1	Treaty Statements Report	1
2	Documentation Validity Report (Foreign Persons & U.S. Exempt Recipients)	2-1 to 2-3
2A	Documentation Validity Report (Foreign Persons & U.S. Exempt Recipients - Indirect Account Holders)	2A-1 to 2A-3
3	Documentation Validity Report (U.S. Non-Exempt Recipients)	3
4	Accounting Review of U.S. Non-Exempt Recipients (Disclosure Prohibited)	4
5	PAI Obligations	5
--	PAI Information	5A
--	KYC Investigations	6
6	Removal of U.S. Non-Exempt Recipients	7
7	Withholding Rate Pool Classification	8
8	Withholding Rate Pool Classification (U.S. Non-Exempt Recipients)	9-1 to 9-2
9	Alternative Procedure	10
10	Withholding (NRA Withholding Assumed)	11-1 to 11-2
11	Withholding (NRA Withholding, Not Assumed)	12
12	Backup Withholding (Responsibilities Assumed)	13
13	Backup Withholding (Responsibilities Not Assumed)	14
14	Backup Withholding on Reportable Payments (Disclosure Prohibited)	15
15	Assets Held by U.S. Non-Exempt Recipients (Disclosure Prohibited)	16
16	Timely Deposits Report	17
17	Forms 1042 and 945	18
18	Reporting Pools Schedule (optional)	18A
18A	Forms 1042 and 945 - Underwithholding and Over withholding Adjustments (optional)	18B
18B	Forms 1042 and 945 - Unreconciled Differences (optional)	18C
18C	Forms 1042-S and 1099	19
19	Form 1042-S & Form 945 - Unreconciled Differences (optional)	19A
19A	Change in Circumstance	20
20	Partnership / Trust Information in relation to 4A.01 und 4A.02	21
21	Information to the treatment of foreign Estates	22
22	Curing Information	23
23	Validation of Sampling Method	--
--	Summary and Certification	--

[REDACTED] = Redacted by the Permanent
 Subcommittee on Investigations

Qualified Intermediary Data	
1	Name as it appeared on the QI agreement
2	Current name, if different from line 1
3	Current address
<input type="checkbox"/> (Check box if different from QI agreement)	
4	QI EIN number
5	Name of Responsible Party:
6	Title
7	Current Address
8	Telephone Number
9	Fax Number
10	E-mail Address
11	Name of Contact Person
12	Title
13	Telephone Number
14	Fax Number
15	E-mail Address

LGT Bank in Liechtenstein AG

Herrengasse 12

9490 Vaduz

Liechtenstein

Thomas Piatek

Chief Executive Officer

Herrengasse 12, FL-9490 Vaduz

00423 235 15 47

00423 235 15 92

[REDACTED]

Brigitte Arnold

Legal Counsel


00423 235 16 61

00423 235 12 39

LGT-0139

External QI/Auditor's Data

1	Name of QI Auditor as it appears on Appendix 8 of QI Agreement	PricewaterhouseCoopers AG
2	Name of QI Auditor as it appears on this External Audit Report	PricewaterhouseCoopers AG
3	Address of QI Auditor	Birschstrasse 160 CH-8050 Zurich Switzerland
4	Name of Auditor Signing This Report	Peter Günter
5	Title	Director
6	Telephone Number	0041 55 792 24 39
7	Fax Number	0041 55 792 24 10
8	E-mail Address	
9	Name of Contact Person at Auditor's Firm	Peter Günter
10	Title	Director
11	Telephone Number	0041 55 792 24 39
12	Fax Number	0041 55 792 24 10
13	E-mail Address	

 = Redacted by the Permanent
 Subcommi

TREATY STATEMENT REPORT STATEMENT FOR 2004

	Number	FOOT- NOTE
1 a The number of accounts covered by the QI Agreement that are held by direct account holders that are not U.S. residents, or all such accounts contained in a valid sample selected in accordance with AG10.04.	246	1
b The number of accounts identified in 1a, for which treaty benefits are claimed.	2	
c The number of accounts for which treaty benefits are claimed (1b), for which documentary evidence (see QI Agreement, Sec. 2.12 for definition) has been obtained.	2	
d The number of accounts for which documentary evidence has been obtained (1c), held by account holders that are not individuals or governments.	0	
2 The number of accounts in 1d that do not contain a valid treaty statement described in section 5.03(B) of the QI Agreement. A valid treaty statement must be signed and dated by the beneficial owner. A treaty statement may be incorporated into another document that is signed by the beneficial owner.	0	
3 For the accounts identified in 1d, identify:		
a The number of accounts covered by the QI Agreement held by intermediaries or flow through entities for whose account holders recipient specific reporting is required under section 8.02(B) and (C) or section 8.04 of the QI Agreement.	0	
b The number of accounts from 3a that are intermediaries (any person that acts on behalf of another person such as custodian, broker, nominee, or other agent).	0	
c The number of accounts from 3a that are flow through entities (see QI Agreement Sec. 2.17 for definition of flow through entity.)	0	
d The number of indirect account holders holding through each intermediary (3b) that is a direct account holder identified in 3b (see QI Agreement, Sec. 2.01 for the definition of direct and indirect account holders).	0	
e The number of indirect account holders holding through each flow through entity (3c) that is a direct account holder identified in 3b	0	
4 a1 The number of indirect account holders covered by the QI Agreement or all such account holders contained in the sample selected in accordance with AG10.04.	12	2
a2 The number of indirect account holders in 4a1 for which treaty benefits are claimed.	0	
b The number of account holders in 4a2, for which documentary evidence has been obtained.	0	
c The number of indirect account holders aggregated in 4b, that are not individuals or governments.	0	
s The number of indirect account holders segregated in 4c whose documentation does not contain a valid treaty statement described in section 5.03(B) of the QI Agreement.	0	

DOCUMENTATION/ADDITIONAL REPORT FOR NON-RESIDENTS AND EXEMPT RECIPIENTS		Number	FOOT- NOTE
1	The number of accounts identified as covered by the GI Agreement that are held by direct account holders that are not U.S. non-exempt recipients, or the number of such accounts contained in the sample selected under AG10.04.	246	3
2 a	The number of accounts included in 1 that contain Form W-9BEN, as per the company's record.	1	
b	The number of accounts included in 1 that contain Form W-8EXP, as per the company's record.	3	
c	The number of accounts included in 1 that contain Form W-8ECI, as per the company's record.	0	
d	The number of accounts included in 1 that contain Form W-8IMY, as per the company's record.	2	
e	The number of accounts included in 1 that contain Form W-9, as per the company's record.	0	
f	The number of accounts included in 1 that contain documentary evidence, as per the company's record.	237	
g	The number of accounts included in 1 that contain no documentation, as per the company's record.	3	4
3	FORM W-8BEN (2a): Determine that lines 1-4 are completed and consistent with each other. For the signature and date, noted that December 31 of the audit year was within three full calendar years following the year of signature and determine that the certifications attested under penalties of perjury have not been modified.		
a	The number of Forms W-8BEN inspected. (2a)		
b	The number of Forms W-8BEN that did not satisfy the criteria in 3.	1	
4	FORM W-8BEN (2a): For a Form W-8BEN for which the beneficial owner has claimed treaty benefits, inspect Part II of the Form W-8BEN. Note that Line 8a (residence certification, including name of country) and Line 8c (section 854 and LOB certification), but only for non-individuals are completed and consistent with each other and with Part I of the Form.	0	
a	The number of Forms W-8BEN inspected. (2a)		
b	The number of Forms W-8BEN that did not satisfy the criteria in 4.	1	
5	FORM W-8EXP (2b): For accounts documented with Form W-8EXP, inspect Form W-8EXP. Determine that lines 1-4, 9a-9c and 10, 11, 12 or 13 are completed and consistent with each other. For the signature and date, determine that the certifications attested under penalties of perjury have not been modified.	0	
a	The number of Forms W-8EXP inspected. (2b)	3	
b	The number of Forms W-8EXP that did not satisfy the criteria in 5.	0	
6	FORM W-8ECI (2c): For accounts documented with Form W-8ECI, inspect the Form W-8ECI. Determine that lines 1-6 and 9 are completed and consistent with each other. For the signature and date, determine that December 31 of the audit year was within three full calendar years following the year of signature, and determine that the certifications attested under penalties of perjury included on the forms have not been modified.		
a	The number of Forms W-8ECI inspected. (2c)	0	
b	The number of Forms W-8ECI that did not satisfy the criteria in 6.	0	

DOCUMENTATION VALIDITY REPORT (Foreign Persons and U.S. Beneficiaries)	
7	<p>FORA W-9 (2d): For accounts documented with Form W-9, read and inspect the Form W-9. Determine that lines 1-4, 6, 9a, 10a, 10b (if applicable), and 11-13 are completed and consistent with each other. For the signature and date, determine that the certifications attested under penalties of perjury included on the form have not been modified.</p> <p>The number of Forms W-9 inspected. (2d)</p> <p>a The number of Forms W-9 inspected. (2d) <u>2</u></p> <p>b The number of Forms W-9 that did not satisfy the criteria in 7. <u>0</u></p> <p>8</p>
a	<p>FORA W-9 (2b): For accounts documented with Form W-9, read and inspect the Form W-9. Determine that the following lines are completed and consistent with each other: Name, U.S. taxpayer identification number, and Part II (For U.S. payees exempt from backup withholding). For the signature and date, determine that the certifications attested under penalties of perjury included on the form have not been modified.</p> <p>The number of Forms W-9 inspected. (2b)</p> <p>a The number of Forms W-9 inspected. (2b) <u>0</u></p> <p>b The number of Forms W-9 that did not satisfy the criteria in 8. <u>0</u></p>
9	<p>DOCUMENTARY EVIDENCE (2): For accounts documented only with documentary evidence, inspect the documentary evidence. Determine by reading the documentary evidence and note:</p> <p>a The number of accounts documented with documentary evidence only. (2f) <u>236</u></p> <p>b The number of accounts where the documentary evidence is not one of the types listed in the applicable attachment to the QI Agreement of the documentary evidence does not appear to be in proper form when compared to documents of the same type listed in the Attachment. <u>1</u></p> <p>c The number of accounts reviewed where the documentary evidence either: 1. Supports the account holder's foreign status and, for an account holder that claims treaty benefits, the country of issuance is the same country for which the treaty benefits are claimed and the documentation supports the account holder's residence in the treaty country, or, 2. Supports the account holder's status as a U.S. exempt recipient. <u>236</u></p> <p>d The number of accounts reviewed that did not satisfy either 1 or 2 from 9c above. <u>1</u></p>
e-1a	The number of accounts in the case of an international organization, where the organization is designated by executive order under 22 U.S.C. 288 through 288(f). <u>0</u>
e-2a	The number of accounts in the case of international organizations, foreign governments or foreign central bank of issues that do not satisfy the above criteria (e-1a). <u>0</u>
e-1b	The number of accounts in the case of a foreign government or foreign central bank of issue, where the documentary evidence supports the account holder's status as such. <u>0</u>
e-2b	The number of accounts in the case of foreign governments or foreign central bank of issue that do not satisfy the above criteria (e-1b). <u>0</u>
e-1c	The number of accounts in the case of a person that has provided documentary evidence indicating it is a bank, broker, custodian, intermediary, or other agent, where a written representation that the person is acting on its own behalf is included in the documentary evidence. <u>0</u>
e-2c	The number of accounts in the case of a person that has provided documentary evidence indicating it is a bank, broker, custodian, intermediary, or other agent, where a written representation that the person is acting on its own behalf is not included. <u>0</u>

DOCUMENTATION/VALUATION REPORT
(Foreign Persons and U.S. Exempt Residents)
STATEMENT OF DISCLOSURE

- [illegible]

DOCUMENTATION/VALIDITY REPORT
(Foreign Persons and U.S. Exempt Recipients, Including Account Holders)

This is a Form 11 and report 12 of 10-01 (4) (1)

	Number	FOOT-NOTE
1 The number of accounts identified as covered by the GI Agreement that are held by indirect account holders that are not U.S. non-exempt recipients, or the number of such accounts contained in the sample selected under AG10.04.	11	
2 a The number of accounts included in 1 that contain Form W-8BEN, as per the company's record.	8	
b The number of accounts included in 1 that contain Form W-8EXP, as per the company's record.	6	
c The number of accounts included in 1 that contain Form W-8ECI, as per the company's record.	0	
d The number of accounts included in 1 that contain Form W-8IMY, as per the company's record.	0	
e The number of accounts included in 1 that contain Form W-9, as per the company's record.	0	
f The number of accounts included in 1 that contain documentary evidence, as per the company's record.	3	
g The number of accounts included in 1 that contain no documentation, as per the company's record.	0	
3 FORM W-8BEN (2a) Determine that lines 1-4 are completed and consistent with each other. For the signature and date, note that December 31 of the audit year was within three full calendar years following the year of signature and determine that the certifications attested under penalties of perjury have not been modified.		
a The number of Forms W-8BEN inspected. (2a)	9	
b The number of Forms W-8BEN that did not satisfy the criteria in 3.	0	
4 FORM W-8BEN (2b) For a Form W-8BEN for which the beneficial owner has claimed treaty benefits, inspect Part II of the Form W-8BEN. Note that Line 6a (beneficial owner's country name) and Line 6c (beneficial owner's tax identification number) are completed and consistent with each other and with Part I of the Form.		
a The number of Forms W-8BEN inspected. (2a)	3	
b The number of Forms W-8BEN that did not satisfy the criteria in 4.	0	
5 FORM W-8EXP (2b) For accounts documented with Form W-8EXP, inspect Form W-8EXP. Determine that lines 1-4, 6a-9c and 10, 11, 12 or 13 are completed and consistent with each other. For the signature and date, determine that the certifications attested under penalties of perjury have not been modified.		
a The number of Forms W-8EXP inspected. (2b)	0	
b The number of Forms W-8EXP that did not satisfy the criteria in 5.	0	
8 FORM W-8ECI (2c) For accounts documented with Form W-8ECI, inspect the Form W-8ECI. Determine that lines 1-6 and 8 are completed and consistent with each other. For the signature and date, determine that December 31 of the audit year was within three full calendar years following the year of signature; and determine that the certifications attested under penalties of perjury included on the forms have not been modified.		
a The number of Forms W-8ECI inspected. (2c)	0	

Page 2/1-1

LGT-0145

DOCUMENTATION VARIETY REPORT (For all persons and U.S. exempt recipients, in all account holders)	
b. The number of Forms W-8ECI that did not satisfy the criteria in 6.	0
7. FORM W-8IMY (20). For accounts documented with Form W-8IMY, read and inspect the Form W-8IMY. Determine that lines 1-4, 6, 8a, 10a, 10b (if applicable), and 11-13 are completed and consistent with each other. For the signature and date, determine that the certifications attested under penalties of perjury included on the forms have not been modified.	0
a. The number of Forms W-8IMY inspected. (2d)	0
b. The number of Forms W-8IMY that did not satisfy the criteria in 7.	0
8. FORM W-9 (2a). For accounts documented with Form W-9, read and inspect the Form W-9. Determine that the following lines are completed and consistent with each other: Name, U.S. taxpayer identification number, and Part II (For U.S. payers exempt from backup withholding). For the signature and date, determine that the certifications attested under penalties of perjury included on the form have not been modified.	0
a. The number of Forms W-9 inspected. (2a)	0
b. The number of Forms W-9 that did not satisfy the criteria in 8.	0
9. DOCUMENTARY EVIDENCE (2f). For accounts documented only with documentary evidence, inspect the documentary evidence. Determine by reading the documentary evidence and note whether: a. The number of accounts documented with documentary evidence only. (2f) b. The number of accounts where the documentary evidence does not appear to be in proper form when compared to documents of the same type listed in the applicable attachment to the CI Agreement or the documentary evidence does not appear to be in proper form when compared to documents of the same type listed in the Attachment.	3
c. The number of accounts reviewed where the documentary evidence either: 1. Supports the account holder's foreign status and, for an account holder that claims treaty benefits, the country of issuance is the same country for which the treaty benefits are claimed and the documentation supports the account holder's residence in the treaty country, or, 2. Supports the account holder's status as a U.S. exempt recipient.	0
d. The number of accounts reviewed that did not satisfy either 1 or 2 from 9c above.	0
e-1a. 28a(i). The number of accounts in the case of an international organization, where the organization is designated by executive order under 22 U.S.C. 288 through 288(f).	0
e-2a. 1a). The number of accounts in the case of international organizations, foreign governments or foreign central bank of issues that do not satisfy the above criteria (e-1a).	0
e-1b. status as such. The number of accounts in the case of a foreign government or foreign central bank of issue, where the documentary evidence supports the account holder's status as such.	0
e-2b. The number of accounts in the case of foreign governments or foreign central bank of issues that do not satisfy the above criteria (e-1b).	0
e-1c. The number of accounts in the case of a person that has provided documentary evidence indicating it is a bank, broker, custodian, intermediary, or other agent, where a written representation that the person is acting on its own behalf is included in the documentary evidence.	0
e-2c. The number of accounts in the case of a person that has provided documentary evidence indicating it is a bank, broker, custodian, intermediary, or other agent, where a written representation that the person is acting on its own behalf is not included.	0

**DOCUMENTATION ATTACHMENT FOR
(Foreign Persons and U.S. Estate Report) Indirect Accounts Holders**

10	For the accounts determined to be documented under 1.9, examine the most recently updated information for the audit year drawn from the account opening statement, any other account documents or correspondence associated with the account (for purposes of this section, the account holder is the "tag" screen print as of December 31 of the audit year). Determine:	0
a	The number of accounts for which identifying information in the documentation does not match the most current identifying information in the account holder's file (taking into account any information that links the identifying information in the documentation to the identifying information in the account holder's file).	0
b-1	The number of accounts documented with documentary evidence for which the documentary evidence and the account holder's file exhibits only an address at a financial institution, including a hold mail instruction (except when the financial institution is the beneficial owner), an in-care-of address, or a P.O. Box, and whether the CI has satisfied the additional requirements of section 1.1441-7(b)(2)(i) (Rules Regarding Establishment of Foreign Status) of the CI Agreement.	0
b-2	The number of accounts identified in 10b-1 for which the CI has NOT satisfied the additional requirements of section 1.1441-7(b)(2)(i) (Rules Regarding Establishment of Foreign Status) of the CI Agreement.	0
c	The number of accounts for which the documentation or the account holder's file shows a U.S. mailing or residence address for the account holder or standing instructions to pay from the account to a U.S. address or to an account maintained in the United States.	0
c-1	The number of accounts in 10c for which the account holder is a U.S. person.	0
c-2	The number of accounts in 10c, where the CI has not satisfied the additional requirements of section 1.1441-7(b)(2)(i) and (ii) of the CI Agreement or, in the case of Forms W-9, the CI has not satisfied the additional requirements of section 1.1441-7(b)(2)(i) of the regulations.	0
c-3	The number of accounts where the beneficial owner has claimed treaty benefits, the documentation or the account holder's file shows a residence address or mailing address, or a P.O. Box, in-care-of address or an address at a financial institution, including a hold mail instruction (except when the financial institution is the beneficial owner), that is not in the applicable treaty country, or standing instructions to pay from the account to an address outside the treaty country or to an account maintained outside the treaty country.	0
d-1	The number of accounts in 10d-1 where the CI has not satisfied the additional requirements of section 1.1441-7(b)(2)(i) of the CI Agreement, or in the case of Forms W-9, the CI has not satisfied the additional requirements of section 1.1441-7(b)(2)(i) of the regulations.	0
11 a	The number of accounts that are not documented with Forms W-9, W-8, W-8ECI, W-8, or documentary evidence that is listed in the applicable Attachment to the CI Agreement.	0
b	The number of accounts that are documented with Forms W-9 or documentary evidence that is inadequate after applying 10a-d	0

DOCUMENTATION VALIDITY
(U.S. Non-Exempt Recipients)
 STATEMENT OF DISCLOSURE

	Number	FOOT-NOTE
1 a The number of accounts identified as covered by the QI Agreement that are held by direct and indirect account holders that are U.S. non-exempt recipients, or all such accounts contained in the sample selected in accordance with AG10.04.	5	
b The number of accounts segregated from those in 1a as the accounts of those U.S. non-exempt recipients whose identity is not prohibited by law from disclosure, including the accounts of U.S. non-exempt recipients that have waived the prohibitions against disclosure.	5	
c The number of accounts segregated from those in 1b as the accounts of U.S. non-exempt recipients for which the QI has not assumed primary Form 1099 reporting and backup withholding responsibility.	5	
d From the accounts segregated in 1c, segregate the accounts documented with Form W-9 and determine that each Form W-9 has the following lines completed and consistent with one another: Name, U.S. taxpayer identification number, Part II (for U.S. payees exempt from backup withholding), and for the signature and date; determine that the certifications attested under penalties of perjury have not been modified.	5	
d1 The number of Forms W-9 inspected.	5	
d2 The number of Forms W-9 that satisfy the criteria in 1d.	5	
e From the accounts segregated in 1c, note the number of accounts that are not documented with Form W-9.	0	
e1 From the accounts segregated in 1c, segregate the accounts where Form W-9 did not have the following lines completed and consistent with one another: Name, U.S. taxpayer identification number, and Part II (for U.S. payees exempt from backup withholding). These are the accounts which have Form W-9 that does not satisfy the criteria of AG10.03(A)(5), 1 step 7 and 1d above.	0	
e2 The number of Forms W-9 for the accounts in 1e-1.	0	
2 a The number of Forms W-9 in 1d1 for which the name and TIN of the U.S. non-exempt recipient do not match the name and TIN on the withholding statement associated with the last payment made to the account for the audit year.	0	
b The number of accounts in 1d1 for which the name, and (if provided) address and TIN of the U.S. non-exempt recipient do not match to the name, address and TIN on the withholding statement associated with the last payment made to the account for the audit year.	0	

ACCOUNT REVIEW OF U.S. NON-EXEMPT RECIPIENTS
(Disclosures prohibited)
STATEMENT 1003(A) 1/2/2

		FOOT- NOTE
1 a	The number of accounts identified as covered by the QI Agreement that are held by direct and indirect account holders that are U.S. non-exempt recipients, or all such accounts contained in the sample selected under AG10.04.	5
b	The number of accounts segregated from those in 1a as those of U.S. non-exempt recipients whose identity is prohibited by law from disclosure, and that have not waived the prohibitions against disclosure.	0
c-1	The number of accounts in 1b opened prior to January 1, 2001	0
c-2	The number of accounts in 1b opened on or after January 1, 2001	0
2	Include a copy of the letter obtained from the Responsible Party, as defined in AG10.01.4(b), explaining why the accounts in 1b exist and how the procedures of both section 8.04(A) (for those accounts opened prior to January 1, 2001) and section 6.04(B) (for those accounts opened on or after January 1, 2001) of the QI Agreement have been and are being applied.	n/a

PAI OBLIGATIONS REPORT STATEMENT OF SECTION 1221		Number	FOOT- NOTE
1	a The number of PAI agreements covered by the QI agreement.	0	7
	b The name of each PAI.	na	
2	a The number of PAI agreements that did not cover all offices of the PAI located in a country listed in Appendix A of the QI Agreement.	0	
	b The number of PAI agreements that did not provide that the QI include all reportable payments made by the PAI in the QI's Forms 945, 1099, 1042 and 1042-S.	0	
	c The number of PAI agreements that did not require that the PAI provide the QI with all information necessary for the QI to meet its obligations under the QI Agreement.	0	
	d The number of PAI agreements that contain any provisions limiting the PAI's liability for underwithholding or reporting due to the PAI's failure to perform its obligations under the PAI agreement.	0	
	e The number of PAI agreements that did not require the PAI to disclose U.S. non-exempt recipients and indirect account holders to the same extent as the QI Agreement.	0	
	f The number of PAI agreements that did not prohibit the PAI from assuming primary withholding responsibility or primary Form 1099 reporting and backup withholding responsibility.	0	
	g The number of PAI agreements where the PAI is not subject to audit procedures that are identical to those applicable to the QI under the QI Agreement and the PAI's designated auditor is listed in Appendix B of the QI Agreement or has been approved by the IRS for that PAI.	0	
	h The number of PAI agreements where the PAI is not subject to all other obligations of the QI under the QI Agreement.	0	
3	Determine the number of notices described in section 4.01(B) of the QI Agreement (identifying each PAI filed by the QI with the IRS) where the date of filing for the notice does not precede the date of the first payment received by the PAI from the QI pursuant to the PAI agreement.	0	
4	a The number of PAI's that provided a Form W-8IMY to the QI	0	
	b Obtain from the QI a copy of each PAI's W-8IMY and note whether it meets the criteria. The number of Forms W-8IMY included in 4a where the following lines are not completed and consistent with one another: Lines 1-4 and as applicable, lines 6, 9a, 10a, 10b, 11-15, and/or the signature and date that the certifications attested under penalties of perjury have been modified.	0	



FOOT-
NOTE



No. 9

N/A

see attached 9

- 1 We obtained a letter from the QI signed by the Responsible Party as defined in AG10.01.4(b) and by the QI's legal counsel stating whether either is aware that the QI is in material violation or is under investigation for violation of any of the know-your-customer rules, practices, or procedures applicable to any branches of the QI located in countries named in the Attachments to the QI Agreement.
 - a Based on the information in this letter and from its own information, state whether the external auditor is aware of any such material violations or investigations.
 - b If the answer to 1a is "yes", identify the material violations or investigations.
- 2 Include a summary of the letter signed by the QI's Responsible Party and the QI's legal counsel as described in 1.

REMOVAL OF U.S. NON-EXEMPT RECIPIENTS REPORT

	FOOT- NOTE
1 a We obtained from the Company a list of all direct and indirect account holders with reportable amounts covered by the QI-Agreement that were held by U.S. non-exempt recipients, or a sample of such accounts selected in accordance with section 10.04 of Rev Proc 2002-55.	Number 5
b The number of accounts identified in 1a that were closed during the audit year.	0
2 The number of accounts with the QI, not covered by the QI Agreement, of which we are aware, if any, held by the same U.S. non-exempt recipients who held the accounts IDENTIFIED in 1b, and opened during the audit year.	0
3 a The number of accounts with the QI, not covered by the QI Agreement, if any, of which we are aware, held by the same U.S. non-exempt recipients who held the accounts IDENTIFIED in 1b, to which there were any transfers of assets from an account covered by the QI Agreement.	0
4 Whether the external auditor is aware that the QI removes U.S. non-exempt recipients from accounts covered by the QI Agreement for the purpose of circumventing the Form 1069 reporting and backup withholding provisions of the QI Agreement. If so obtain a letter from the QI explaining the reasons.	n/a

WITHHOLDING RATE POOL CLASSIFICATION REPORT		Number	FOOT- NOTE
Report 1	The number of accounts covered by the QI Agreement that are held by direct account holders that are not U.S. non-exempt recipients, or all such accounts contained in the sample selected under AG10.04, or, for purposes of the spot check in Phase 1 of the audit, all such accounts selected under AG10.04.7.	24	
2 a	Number of accounts in 1, covered by the QI agreement for which the QI has not assumed primary NRA withholding responsibility	24	
	For accounts in 2a, classify the accounts into Form 1042-S income classification and then according to withholding rate. An account within an income classification to which more than one withholding rate has been applied must be placed into multiple withholding rate classifications.		
b	Total number of withholding rate classifications by income codes.	24	
3	The number of accounts in 2a, for which the QI's classifications in 2b do not match the account records that show how the QI has classified the type of income and withholding rate for purposes of its withholding rate pools.	0	
4	For indirect account holders;		
a-1	The number of indirect account holders covered by the QI Agreement or all such account holders contained in the sample selected under AG10.04, or, for purposes of the spot check in Phase 1 of the audit, all such accounts selected under AG10.04.7.	12	
a-2	The number of indirect account holders in 4a-1 that are not U.S. non-exempt recipients.	12	
b	Number of indirect account holders in 4a-2, covered by the QI agreement for which the QI has not assumed primary NRA withholding responsibility.	12	
	For accounts in 4b, classify the accounts into Form 1042-S income classification and then according to withholding rate. An account within an income classification to which more than one withholding rate has been applied must be placed into multiple withholding rate classifications.		
c	Total number of withholding rate classifications by income codes.	12	
d	The number of indirect account holders in 4a-2, for which the QI's classifications in 4b do not match the account records that show how the QI has classified the type of income and withholding rate for purposes of its withholding rate pools.	0	

WITHHOLDING RATE POOL CLASSIFICATION
 U.S. Non-Exempt Recipients Report
 Statements 9-10, 13, 15/12

		Number	FOOT- NOTE
1	a	The number of accounts covered by the QI Agreement that are held by direct account holders that are U.S. non-exempt recipients, or all such accounts contained in the same sample selected under AG10.04, or, for purposes of the spot check in Phase 1 of the audit, all such accounts selected under AG10.04.7.	5
	b	The number of accounts in 1a which are the accounts of U.S. non-exempt recipients whose identity is not prohibited by law from disclosure, including the accounts of U.S. non-exempt recipients that have waived the prohibitions against disclosure.	5
2	a	Number of accounts in 1b, covered by the QI agreement for which the QI has not assumed primary Form 1099 and backup withholding responsibility	5
	b	The number of accounts for which the classifications and amounts do not match the classifications and amounts in the QI's withholding statements.	0
3	a-1	The number of indirect account holders covered by the QI Agreement, or all such account holders contained in the same sample selected under AG10.04, or for purposes of the spot check in Phase 1 of the audit, all such account holders selected under AG10.04.7	0
	a-2	The number of indirect account holders identified in 3.a-1, that are U.S. non-exempt recipients.	0
	b	The number of indirect account holders in 3a-2, which are U.S. non-exempt recipients whose identity is not prohibited by law from disclosure, including the accounts of U.S. non-exempt recipients that have waived the prohibitions against disclosure.	0
	c i	Number of indirect account holders, covered by the QI agreement for which the QI has not assumed primary Form 1099 and backup withholding responsibility	0
	c ii	The number of indirect account holders for which the classifications and amounts do not match the classifications and amounts in the QI's withholding statements.	0

1111

Alternative Procedure Report		Foot-note
Number		
	For accounts identified in statement #9, 1a and 3a-2, inspect the withholding statements associated with the Forms W-2IMY to determine whether the allocation information was provided to the withholding agent no later than January 15 of the year following the payment.	
1 a	Number of accounts for which allocation information was not provided to the withholding agent in time (see above).	0

Withholding Report (NRA Withholding Assumed)		Amount	Foot- Note
Section 1			
1 a	Identify all accounts covered by the QI Agreement that are held by direct account holders that are not U.S. non exempt recipients, or all such accounts contained in the sample under AG 10.04.7 (see statement # 8.1)		
b	From the inspection of accounts in statement #8.2 identify those accounts for which the QI has assumed primary NRA withholding responsibility.		
c	For the accounts in 1b, obtain account statements and records that show the investments and type of income earned and the amounts of withholding.		
d	Based on the records described in 1c, classify the accounts in 1b according to the type of income paid to each account. An account to which more than one type of income has been paid must be placed into multiple income classifications.		
e	Based on documentation for the account (after determinations under AG 10.03 (A)(4) and (5) have been made), determine the withholding rate and further classify the accounts in 1b within an income classification according to withholding rate. An account within an income classification to which more than one withholding rate has been applied must be placed into multiple withholding rate classifications.		
f	For each account in 1b, determine the amount (if any) by which the amount of withholding based on the classifications under 1d and 1e exceeds the amount withheld by the QI as of December 31 of the audit year, that is the UNDERWITHHOLDING.	n/a	10
Section 2			
2 a	For each account, make adjustments to the underwithholding (if any) determined under 1 to the extent necessary to reflect the correct amount of underwithholding (e.g. an adjustment to reflect documentation received after December 31 of the audit year or amounts to tax reported and paid on the QI's form 1042 or amended 1042 for the audit year).		
b	Report each adjustment made under 2a to the amount of underwithholding for each account, with an explanation of such adjustment.	n/a	
Section 3			
3 a	Identify all indirect holders covered by the QI Agreement or all such account holders contained in the sample under AG 10.04, or, for purposes of the spot check in Phase 1 of the audit, all such accounts selected under AG 10.04.7 (this are the same as #8, 4a-1)		
b	From the accounts in 3a, segregate the indirect account holders that are not US non exempt recipients.		
c	From the inspection of the accounts in statement 8.4-1, identify those accounts for which the QI has assumed primary NRA withholding responsibility.		

Withholding Report (NRA Withholding Assumed)	
d	From the accounts in 3c, obtain the withholding statements associated with the payments to the indirect account holders.
e	Classify the accounts in 3c according to the type of income paid to each account. An account account to which more than one type of income has been paid must be placed into multiple income classifications.
f	Based on documentation for the account (after determinations under AG 10.03 (A)(4) and (G) have been made), determine the withholding rate and further classify the accounts in 3c within an income classification according to withholding rate. An account within an income classification to which more than one withholding rate has been applied must be placed into multiple withholding rate classifications.
g	For each account in 3c, determine the amount (if any) by which the amount of withholding based on the classifications under 3e and 3f exceeds the amount withheld by the QI as of December 31 of the audit year, that is the UNDERWITHHOLDING.
4 a	For each account in 3c, make adjustments to the underwithholding (if any) determined under 3g to the extent necessary to reflect the correct amount of underwithholding (e.g., an adjustment to reflect documentation received after December 31 of the audit year or amounts to tax reported and paid on the QI's form 1042 or amended 1042 for the audit year).
b	Report each adjustment made under 4a to the amount of underwithholding for each account, with an explanation of such adjustment.

FOOT-NOTE

Report

For each account required to be reported under 10.03(B)(4).2, report 3 - statement #1,3 and each indirect account holder required to be reported under 10.03(B)(4).2 report 4 - statement #9,4d determine the amount (if any) by which the amount of withholding based on classifications under AG10.03(B)(4).1, step 5 - statement #9,2b exceeds the amount withheld as of December 31 of the audit year.

i b The amount of underwithholding for each account and each indirect account holder within each withholding classification.

2. ^a For each account in 1a, make adjustments to the underwithholding (if any) determined in 1b to the extent necessary to reflect the correct amount of underwithholding (e.g., an adjustment to reflect documentation received after December 31 of the audit year or amounts of tax reported and paid on the QI's Form 1042 or amended 1042 for the audit year).

132

^b Report the adjustments made in 2a with an explanation of each.

၇၉

Backup withholding Report (Responsibilities Assumed)		
STATEMENT OF FINANCIAL INFORMATION		

Report 1 The amount of underwithholding for each account and each indirect account holder for which there is no TIN.

AMOUNT N/A

FOOTNOTE 11

Backup Withholding (Responsible Party Not Assumed)
STATEMENT OF ACCOUNT

FOOT-
NOTE

Amount

Report

1 The amount of underwithholding for each account and each indirect account holder for which backup withholding is required 0 6

Backup Withholding on Reportable Payments (Disclosure Prohibited)
STATEMENT 5010 (09/04)

Report
1

The amount of underwithholding for each account for which backup withholding is required.

Provide
Attachment 0
Foot-
note 5

ASSETS HELD BY U.S. NONEXEMPT RECIPIENTS
(Disclosure Prohibited)
STATEMENT FOR 6/30/2017

Report	Provide	FOOT-NOTE
1	Attachment	
For each account identified in and required to be reported under Statement #4, 1b, where the assets that generate or could generate reportable payments have not been disposed of or the account holder disclosed, obtain a letter from the Responsible Party, as defined in AG-10.0.1.4(b), explaining the reason why assets that generate or could generate reportable payments have not been disposed of or the account holder disclosed. Include a copy of the letter obtained with this report.	see letter	6

TIMELY DEPOSITS REPORT
STATEMENT 704 (Q1/Q2)

Report

Provide Attachment	FOOT- NOTE

1 a Obtain the QI's records of payments covered by the QI Agreement, the QI's Form 1042 and the QI's records of tax deposits. Determine whether the payment dates timely correspond with the date for any required deposits. (Mainly relevant for QI's with primary NRA withholding responsibility)

b Report any payment dates that do not timely correspond with deposit dates.

N/A 12

LGT- 0163

FORMS 1042 AND 1045
STATEMENT FOR 1099-DIV

Report Description	Amount	FOOT- NOTE
1 The external auditor must report:		
1 a The aggregate amount reported paid to the QI on the Forms 1042-S issued to the QI.	37928182	13
b The aggregate amount reported paid to QI on the Forms 1099 issued to QI (unknown recipient).	0	
c The aggregate amount reported paid by the QI on Forms 1042-S to each reporting pool.	32955410	
d The aggregate amount reported paid by the QI on Forms 1042-S to other QI's as a class.	4821707	
e The aggregate amount reported paid by the QI on Forms 1042-S to indirect account holders.	17838	14
f The aggregate amount shown paid by the QI to U.S. non-exempt recipients as a class.	156946	15
g The aggregate amount shown paid by the QI to U.S. exempt recipients as a class.	0	
h The total amounts withheld by the QI.	2789908	16
i The total amounts withheld by others.	2783467	
2 The aggregate amount of any adjustments under Section 9 of the QI Agreement incorporated in each amount in Report 1.	0	
3 a The amount of any unreconciled variances.	0	
3 b The amount of any unreconciled tax withholding variances.	0	



Enter the total amount reported paid by the QI on Forms 1042-s to each reporting pool.

Also, for each pool please enter the withholding rate. In addition, enter the income code, exemption code and recipient code as determined on form 1042-s.

For reporting pool number, simply number the pools. For example, the first pool should be number 1, the second pool number 2.

A reporting pool consists of income that falls within a particular withholding rate and within a particular income code, exemption code, and recipient code as determined on Form 1042-S.

A single recipient code may be used for all reporting pools except for amounts paid to foreign tax exempt

Pool Number	Withholding Rate	Income Code	Exemption Code	Recipient Code	Amount	Withholding
1	00.00	01	05	15	14919732.00	0.00
2	30.00	01	00	15	616.00	185.00
3	00.00	01	05	2	3'025'065.00	0.00
4	00.00	01	05	16	795949.00	0.00
5	00.00	01	05	20	17'938.00	0.00
6	30.00	06	00	15	6'091'333.00	1'827'400.00
7	15.00	06	00	15	395'344.00	59'300.00
8	00.00	06	02	15	78'322.00	0.00
9	30.00	06	00	20	12'078.00	3'623.00
10	00.00	06	04	16	437'37.00	0.00
11	00.00	06	02	16	822'789.00	0.00
12	00.00	34	02	15	5'176'402.00	0.00
13	00.00	36	02	15	1'559'221.00	0.00
14	30.00	13	00	15	16'964.00	5'669.00
15	30.00	24	00	15	8.00	2.00
16	35.00	27	00	15	16'820.00	5'887.00
Subtotal					32'974'246.00	1'902'086.00

other Cl's	Pool Number	Withholding Rate	Income Code	Exemption Code	Recipient Code	Amount	Withholding
	17	00.00	01	09	12	643'539.00	0.00
	18	30.00	01	00	12	35.00	11.00
	19	00.00	01	09	12	1'313.00	0.00
	20	00.00	01	09	12	175'402.00	0.00
	21	30.00	06	00	12	2'159'112.00	647'735.00
	22	15.00	06	00	12	1'067'060.00	163'064.00
	23	00.00	06	09	12	1'436.00	0.00
	24	10.00	06	00	12	1'700.00	170.00
	25	30.00	06	00	12	255'667.00	76'760.00
	26	15.00	06	00	12	252.00	38.00
	27	30.00	06	00	12	109.00	33.00
	28	00.00	34	02	12	278'028.00	0.00
	29	00.00	36	02	12	60'606.00	0.00
	30	00.00	36	02	12	157'192.00	0.00
	31	30.00	13	00	12	37.00	11.00
Subtotal						4'921'707.00	867'922.00
Enter Total Amount						377'95'955.00	278'908.00



Post Number	Minibank Ref	Income Code	Expense Code	Response Code	Amount	Minibank
Burclear	00.00	01	09	12	13190412	0.00
BH	30.00	01	00	12	651	156
BH	00.00	01	05	12	232787	0
BH	00.00	01	05	12	5114561	0
BH	15.00	06	00	12	1700	170
BH	15.00	06	00	12	1441250	216192
BH	30.00	06	00	12	7140055	2142772
BH	00.00	06	02	12	16098	0
BH	00.00	09	08	12	928735	0
BH	30.00	13	00	12	21707	5512
BH	30.00	24	00	12	8	2
BH	35.00	27	00	12	16930	5887
BH	5.00	36	02	12	191001275	0
BH	30.00	06	00	12	86660	20555
BH	30.00	06	00	12	15253	0
BH	00.00	01	05	12	73571	0
BH	00.00	01	05	12	865609	0
BH	30.00	08	00	12	32560	5683
BH	30.00	08	00	12	188169	50451
BH	30.00	08	00	12	628760	189235
BH	30.00	08	00	12	84457	25337
BH	30.00	08	00	12	35309	5446
BH	15.00	06	02	12	281518	84526
BH	30.00	08	00	12	57723	0
BH	30.00	06	00	12	100689	30289
BH	15.00	06	00	12	5087	763
BH	30.00	06	00	12	567	167
BH	00.00	34	02	2	38378	0
BH	00.00	34	02	2	500651	0
BH	00.00	34	02	2	500651	0
Enter Total Amount					37926192.08	2739565.00
1941 LGT own reporting					37789565.00	2739565.00
Difference					-30227.08	-3598.80
Explanation for the differences						
Burclear					18392.00	
Difference BH					14884.00	4465.00
ANZ					-30160.00	-208.00
Total					30230.00	3598.80

LGT-0167

FORMS 1042-S AND 1099
STATEMENT OF FOREIGN DISBURSEMENTS

Report	Description	Number	Foot- Note
1	The number of indirect account holders covered by the QI Agreement or all such account holders contained in the sample selected under AG10.04, or, for purposes of the spot check in Phase 1 of the audit, all such account holders selected under AG10.04.7.	12	17
2 a	Obtain copies of Forms 1042-S and Forms 1099 filed by the Company for each account in 1, the Forms W6-MY and summary of associated withholding statements applicable to each such account provided to the QI and the QI's records of payments to each such account.	12	17
b	Reconcile the QI's records of payments and the withholding statements provided to the QI with the amounts reported for each such account holder on the QI's Forms 1042-S and 1099. For this reconciliation, unreconciled variances are permitted within reasonable limits based on the facts and circumstances. The reconciliation should show the amount of any unreconciled variances.	12	17
c	The number of accounts for which the payments cannot be reconciled with the payments reported on Forms 1042-S and on Forms 1099 and, for those accounts, the amounts reported on each form and the amounts of any unreconciled variances.	0	



1 Include letter from CI regarding change of circumstance

see annex

Reporting according to the industry effective on qualified intermediary/Audit Reports for Audits (as after 2004)					
Partnerships on Trusts (as after 2004) / Capital Small Grants (as after 2004)					
Line No.	Procedures	Reported Number of Partners	Reported Number of Beneficial Owners	Reported Number of Trust Owners	Reported Number of Beneficial Owners
i.a	Number of partnerships using the option of 4A.01	0	0	0	0
i.b	Number of simple / grantor trusts using the option of 4A.01	22	346794	46989	
ii	These entities were identified by the Qualified Intermediary and reported to the QI-Auditor. There is no code, flag in the system to determine this option.				
iii	Number of partners / Beneficial Owners benefiting of the option of 4A.01	0			
iv	Number of trust owners benefiting of the option of 4A.01	22			

A)

Results and Conclusions

During the phase one audit we reviewed the largest of these partnerships or trusts, based on reportable amounts (see line 5). All others were included in stratum a and if selected for review of document validity under Audit Guidance Sec. 10.03 (A) (5), step 6 we applied the procedures in (B) and (C) of the directors directive.

(B) Results for the largest partnership or trust

- | | | |
|-----|---|-----|
| i | A written agreement, referenced in Section 4A.01 (1) was in the file | yes |
| ii | review of list or other records showing all partners / Beneficial owners of a trust and determine if they are correct and timely documented | yes |
| iii | Were separate 1042-S issued to any partner, owners and/or beneficiaries | no |
| | if yes, was allocation information from the partnership received to support the amount on the individual 1042-S | n/a |
| | if yes, that no such partners, owners and/or beneficiaries were included in any collective refund claim filed by the CI for the audit year | n/a |

Result for other partnership / Trusts

- | | |
|--|-----|
| No other partnership / trust was selected by the sampling software | n/a |
|--|-----|

(C) Determination of withholding rate

- | | | |
|-----|---|-----|
| i.a | Total number of partners, owners or beneficiaries | 22 |
| i.b | We reviewed | 1 |
| ii | We determined the withholding rate for income code 01 - Interest as no other reportable amounts were paid | 0% |
| iii | Spot check result | 1.0 |
| iv | number of undocumented partners, owners and/or beneficiaries | 0 |
| v | number of US or pass-through partners, beneficial owners as defined in Section 2.17 of the WP agreement or Section 2.25 of the VT agreement | 0 |

LGT-0171

Partnerships of trusts created as certain high-risk trusts

Line No. / Phase	Number of partnerships using the option of 4A.02	Number of simple / grantor trusts using the option of 4A.02	There were no entities identified by the Qualified intermediary and reported to the CI-Auditor. There is no code, flag in the system to determine this option.	We found no indication in the sample which would suggest something else.	No accounts were excluded from the audit in phase I
I.a	0	0	0	0	0
I.b	0	0	0	0	0
II	0	0	0	0	0
III	0	0	0	0	0

Reporting according to the industry Directive on Qualified Intermediary/Auditor Reports (on Auditor's letter 2/04).

Certain Foreign Estates

We received from the QI representations that he treats the accounts of deceased persons based on the documentation of the decedent. In Liechtenstein there is no separate estate status. The beneficial owners form a partnership where only all Beneficial Owners can act together.

LGT-0173

Reporting according to the Industry Directive on Qualified Intermediary Audit Reports for Audit Years after 2004

For reporting on the Sampling Data part A and B (i - vi) - see the sampling memo

Information about accounts determined by the external auditor to be in the sample as identified upon review by the external auditor is submitted. While curing of inadequate documentation is permissible, the curing process should not delay the submission of an external audit report.

vii	the total number of accounts with NRA under withholding in the sample as identified upon review by the external auditor	0
viii	the total number of accounts with additional backup withholding in the sample as identified upon review by the external auditor	0
ix	the total amount of NRA under withholding in the sample as identified upon review by the external auditor	0
x	the total amount of additional backup withholding in the sample as identified upon review by the external auditor	0
xi	the total number of accounts with NRA under withholding in the sample at the time the external audit report was submitted	0
xii	the total number of accounts with additional backup withholding in the sample at the time the audit report was submitted	0
xiii	the total amount of NRA under withholding in the sample at the time the audit report was submitted	0
xiv	the total amount of additional backup withholding in the sample at the time the audit report was submitted	0
xv	the timeframe in which curative documentation was received for accounts identified upon review by external auditor as having been under withheld for NRA purposes or for backup withholding purposes, and the amount of NRA under withholding or backup withholding cured.	n/a

LGT-0174

Listing of Footnotes

Foot Note #	Report #	Line #	Text
1	1	1	Total 245 clients according to sampling memo and one intermediary covering the 11 indirect accounts.
2	1	4a1	Total 11 indirect accounts, thereof one joint account with two account holders = 12 indirect account holders
3	2	1	see above Foot Note # 1
4	2	2 g	3 accounts opened prior to 2001, presumed non US-clients. All accounts are accounts for individuals living in Germany, Austria and Spain. No DTT was applied.
5	2	9b	1 accounts opened prior to 2001. It is an internal account, where differences for various counterparties are booked through.
6	2	9d/10c-1	One account was opened after 2001. It is a joint-account for a family with 3 beneficial owners (parents and son) living since several years in Germany again. All 3 are documented with German passports as Non Resident Aliens. The son's German passport shows a birthplace in the United States. The bank has treated the account as foreign, no DTT was applied. There were no US security sales during 2006. The bank is not allowed to contact the client. Therefore the tax situation of the family could not be further documented.
7	5	1a	QI represents that he has no PAI agreements.
8	6	1	In performing the procedures outlined in AG 10.03 (A) 6 regarding document validity, we reviewed in compliance with the attachment of Liechtenstein 240 direct account holders (line 9a, 9b und 11a of Report 2). As a result of these procedures, we are not aware, that the QI is in material violations or is under investigations for violations of any KYC-rules, practices or procedures applicable.
9	6	2	We refer to the letter of the QI
10	11	1f	QI represents that he acts as QI with secondary withholding and reporting responsibility
11	13	1	QI represents that he acts as QI with secondary withholding and reporting responsibility
12	17	1	QI represents that he acts as QI with secondary withholding and reporting responsibility only.

Foot Note #	Report #	Line #	Text
13	18	1a	Differences between own 1042-S reporting and external 1042-S reporting are documented and explained in report # 18B.
14	18	1e	The QI reported its indirect accounts holders in one 1042-S form to unknown due to banking secrecy. Clients were correctly documented.
15	18	1f	Amount as reported by the US-custodian.
16	18	1h	Differences between own 1042-S reporting and external 1042-S reporting are documented and explained in report # 18B.
17	19	1	see foot note 2



APPENDIX 1 : (Required attachments)

[Cross-referenced to report]

- a) Letter of CI to report # 6 - KYC investigations
- b) Letter of CI in relation to incidents 6 and report #4, 14, 15 - Undisclosed US Persons
- c) Letter of CI to report # 20 - Change in Circumstance
- d) Sampling Memo
- e)

APPENDIX 2 : (Additional information)

[Cross-referenced to report]

- a)
- b)
- c)
- d)
- e)



LGT Bank in Liechtenstein Ltd.
Hertengasse 12, FL-9490 Vaduz
Principality of Liechtenstein

Phone +423 235 11 22 · Fax +423 235 15 22
info@lgt.com · www.lgt.com
VAT No. 50119

PricewaterhouseCoopers AG
Mr. Peter Günter
Birchstrasse 160
8050 Zürich

Vaduz, June 26, 2007 RE/bra

KYC Investigations Report in Relation to the QI Agreement Sec. 10.03 (A) (9).2 and the relevant
Audit Guidance Rev. Proc. 2002-55

Dear Mr. Günter

We are not aware of any material violations or investigations of any of the know-your-customer rules,
practices, or procedures applicable to the bank and any branches located in countries named in the At-
tachments to the QI Agreement.

Under penalties of perjury, we declare that we have examined this letter and to the best of our knowl-
edge and belief, it is true, correct, and complete.

Yours sincerely
LGT Bank in Liechtenstein Ltd.

Handwritten signature of Thomas Piske.

Thomas Piske

Handwritten signature of Brigitte Arnold.

Brigitte Arnold



LGT Bank in Liechtenstein Ltd.
Herrengasse 12, FL-9490 Vaduz
Principality of Liechtenstein

Phone +423 235 11 22 · Fax +423 235 15 22
info@lgt.com · www.lgt.com
VAT No. 50119

PricewaterhouseCoopers AG
Mr. Peter Günter
Birchstrasse 160
8050 Zürich

Vaduz, June 26, 2007 RE/bra

Footnote 6 in the Qualified Intermediary External Auditor's Report for the Year 2006

Dear Mr. Günter

With refer to Footnote 6 in the Qualified Intermediary External Auditor's Report for the Year 2006 and would like to give you the following information:

This account was opened after 2001. It is a joint-account for a family with 3 beneficial owners (parents and son) living since several years in Germany again. All 3 are documented with German passports as Non Resident Aliens. The son's German passport shows a birthplace in the United States. The bank has treated the account as foreign, i.e. as Non-US Person and thus has deducted 30% US withholding tax. No treaty relief (DTT) was applied. The amounts of US securities deposited in the securities custody account of the client was EUR 15'242.76 (EUR 3'949.76, EUR 7'452.00 and EUR 3'850.-) as per May 30, 2007 (in USD (exchange rate EUR/USD: 1.3428): USD 20'467.98 as per May 30, 2007). Please be informed that there were no sales of US securities during 2006. The bank is not allowed to contact the client. Therefore the tax situation of the family could not be further documented.

Please be informed that as soon as we get in contact with the client we will clarify the status of the client for the purposes of US withholding tax regulations. If we then discover that the client is a US person under US tax principles, and if, at that time, the account holder does not agree to file a valid IRS Form W-9 with the bank to forward it to the US custodian or the US tax authority (IRS), we will sell all US investments held by the client and deduct and remit to the IRS the backup withholding tax at 28% on the gross proceeds of such investments, as provided for under the Qualified Intermediary Agreement concluded between the bank and the IRS.

Yours sincerely
LGT Bank in Liechtenstein Ltd.


Thomas Piske


Brigitte Arnold



LGT Bank in Liechtenstein Ltd.
Herrengasse 12, FL-9490 Vaduz
Principality of Liechtenstein

Phone +423 235 11 22 · Fax +423 235 15 22
info@lgt.com · www.lgt.com
VAT No. 50119

PricewaterhouseCoopers AG
Mr. Peter Günter
Birchstrasse 160
8050 Zürich

Vaduz, June 26, 2007 RE/bra

Change in Circumstances Report in Relation to the QI Agreement Sec. 10.03 (E) (1).2 and the relevant Audit Guidance Rev. Proc. 2002-55

Dear Mr. Günter

There were no

- a) acquisition of all, or substantially all, of our assets in any transaction in which our company is not the surviving entity
- b) material changes in the know-your-customer rules and procedures set forth in the Attachments to the QI Agreement; and
- c) significant changes in our business practices that affect our ability to meet our obligations under the QI Agreement

Under penalties of perjury, we declare that we have examined this letter and to the best of our knowledge and belief, it is true, correct, and complete.

Yours sincerely
LGT Bank in Liechtenstein Ltd.

T. Piske

Thomas Piske

B. Arnold

Brigitte Arnold



Memo

To: / Location: "LGT Bank in Liechtenstein AG", 2006 Qualified Intermediary
Agreed Upon Procedures File

From: / Location: Peter Günter, Director, PricewaterhouseCoopers AG

Date: June 18, 2007

Subject: Statistical Sampling Plan for the Qualified Intermediary
Compliance Examination of "LGT Bank in Liechtenstein AG"
Account Holders

This memorandum outlines the sampling plan that is used in the agreed upon procedures examination of "LGT Bank in Liechtenstein AG" accounts to report on the state of withholding compliance (referred to as a "QI audit"). Our methods are based on an examination of all accounts identified by "LGT Bank in Liechtenstein AG" as having received reportable amounts during the 2006 calendar year. In determining the sample design, Internal Revenue Service ("IRS") guidelines contained in the Revenue Procedure 2002-55, QI Agreement Section 10.04 and the Industry Directive on Qualified Intermediary Audit Reports, for Audit years after 2004 were followed.

1. BACKGROUND

In general, under Revenue Procedure 2002-55, if an external auditor is required to perform a QI audit based on a valid sample of accounts, it shall use a statistical sample whenever an examination of all accounts within a particular class of accounts would be prohibitive in terms of time and expense. The external auditor may select one statistical sample from a population consisting of accounts from each of the following three strata:

- (a) All accounts covered by the QI Agreement that are held by direct account holders that are not U.S. non-exempt recipients;
- (b) All accounts covered by the QI Agreement that are held by direct account holders that are U.S. non-exempt recipients; and
- (c) All indirect account holders covered by the QI Agreement.

LGT- 0181



- (d) Information on the Beneficial Owners of the biggest trust / partnership on the basis of reportable amounts to which QI has applied Section 4A01 or 4A02 as amended in Rev. Proc. 2004-21 resp. Rev. Proc. 2005-77

"LGT Bank in Liechtenstein AG" has 1'381 clients having received reportable amounts for the year 2006. Because of the time and expense required to analyze this large number of clients, even after considering the breakdown into the three required strata, the use of statistical sampling with respect to "LGT Bank in Liechtenstein AG" clients covered by the QI Agreement is appropriate. In determining the completeness we compared the reportable amounts with the amounts reported by the custodians.

We drew a single stratified sample from the sampling frame of all clients provided by the LGT Bank in Liechtenstein AG. The QI was responsible for assigning the accounts according to the required strata, as defined above. The QI pointed out it's 22 trusts at the same time; however Beneficial Ownership data was provided at a later stage. These 22 trusts were included in strata A of the original sampling, the largest was retained for strata D.

The sampling unit is the client, as reported in the QI's list of clients, having received reportable amounts for the year.

2. SAMPLING FRAME DEVELOPMENT

Our general approach for developing the sampling frame from the population file of "LGT Bank in Liechtenstein AG" accounts that received reportable income during the year was as follows: (1) review and reformat the data file received from "LGT Bank in Liechtenstein AG", (2) identify any duplicate records and remove or correct these based on guidance from the client, and (3) develop a final data set from which to determine the appropriate sample size. Our specific steps and results are described below.

A. INPUT DATA

We present a summary of the original data received from "LGT Bank in Liechtenstein AG".

We received one data file consisting of 1'381 records for clients having received reportable amounts divided in the following stratas A: 1'365, B 5, C 11. All 22 trusts benefiting from the new section 4A.01 were included in strata A but separately flagged.

The file was converted to format consistent with our ACL-based processing software and all information was retained.



A consistency check was developed to test the integrity of the data. This check included searching for missing or erroneous values in key data fields, and developing tabulations of item counts and amounts to ensure that we could match control totals supplied by "LGT Bank in Liechtenstein AG". No data irregularities were found and all control totals were matched. No changes to the data were made in developing input data files.

B. DUPLICATE RECORDS

We tested the file for duplicate records with matching values in each field provided by the client. No duplicate records were found.

C. ZERO-VALUE AND NEGATIVE REPORTABLE INCOME RECORDS

We detected no zero-values or negative reportable income records.

D. FINAL SAMPLING FRAME

The sampling frame contained 261 records.

3. SAMPLE SIZE DETERMINATION

Under Revenue Procedure 2002-55, section 10.04.3, the initial sample size for the QI audit is determined in the following way:

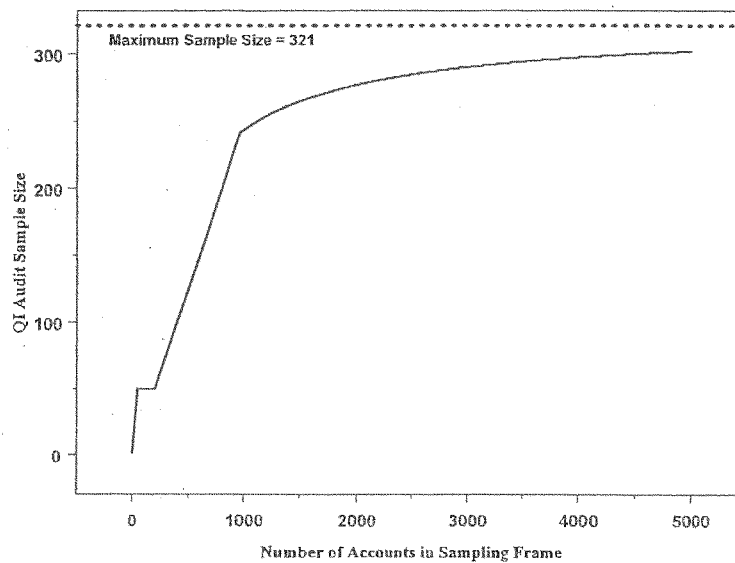
- If the number of accounts is less than 50, all accounts are considered for the QI audit.
- If the number of accounts is at least 50 but less than 200, the sample size is 50.
- If the number of accounts is at least 200 but less than 965, the sample size $\frac{1}{4}$ of the number of accounts.
- If the number of accounts is at least 965, then the sample size is determined by the following formula:

$$\frac{321.283 \times N}{N + 320.283}$$

N represents the total number of accounts in the sampling frame.

Figure 1 is a graphical representation of the sample size calculation.

Figure 1 – Relationship Between Number of Accounts in the Sampling Frame and the QI Audit Sample Size



"LGT Bank in Liechtenstein AG" has 1'381 clients in its sampling frame and, following the rules described above, the initial sample size for the QI audit is 261. Rev. Proc. 2002-55 requires this sample size to be allocated proportionally across the three required strata (a, b and c, as defined above) according to the number of accounts in each stratum. The minimum sample size for each stratum is 50, unless there are fewer accounts within the stratum, in which case all must be selected. The breakdown of the allocation to the required strata is shown below.

<u>Required Stratum</u>	<u>Initial Record Count</u>	<u>Reportable Amounts USD</u>	<u>Withheld amounts</u>	<u>Sample Size</u>	<u>Reportable Amount for sample USD</u>	<u>Withheld amounts</u>
<u>A</u>	1'365	37'795'955	2'789'908	245	13'359'406	827'157
<u>B</u>	5	156'646	0	5	156'646	0
<u>C</u>	11	17'838	0	11	17'838	0
<u>Total excl. D</u>	<u>1'381</u>	<u>37'970'439</u>	<u>2'789'908</u>	<u>261</u>	<u>13'533'890</u>	<u>827'157</u>
<u>D*</u>	<u>22</u>	<u>346'794</u>	<u>46'899</u>	<u>1</u>	<u>102'000</u>	<u>0</u>

* amounts included in strata A, total 22 trusts, the biggest having 1 Beneficial Owner was selected for the audit.

4. SAMPLE SELECTION

We selected sample records using a sort-by-randomly-assigned-numbers scheme. To assign permanent random numbers to each record in the sampling frame, we used: ACL 8.3.0.000 on Windows XP Professional Version 2002 SP2, (c)1986-2004 ACL Services Ltd, www.acl.com. The seed numbers were at random by ACL software.

Before assigning the random numbers, we also assigned a sequential number, starting with 1, to be consistent with the ordering of the records in the sample frame before sampling took place.

After assigning a permanent random number to each record we then selected the first 245 records in stratum (a), the 5 records in stratum (b), and 11 in stratum (c).



"LGT Bank in Liechtenstein AG" QI Audit
June 18, 2007
Page 6 of 6

In compliance with Industry Directive on Qualified Intermediary Audit Reports – For Audit Years After 2004, dated 11 April 2006, the biggest trust having received reportable amounts was chosen for the purpose to review all its Beneficial Owners. No other trust was selected by the sampling software.

— = Redacted by the Permanent
Subcommittee on Investigations

LGT Bank in Liechtenstein AG, Vaduz

QI-EIN [REDACTED]

**PHASE 1 REPORT IN RESPECT OF THE
FACTUAL FINDINGS UNDER REV. PROC. 2002-55**

AUDIT YEAR 2004

30 September 2005

LGT-0187



UBS AG
P.O. Box 2600
CH-1211 Geneva
Tel. +4122-375-1111

Minutes

www.ubs.com

October 13, 2004

CONFIDENTIAL

attendees Stéphane Mundwiler;
Gomez, .

Alexandre Baumgartner; Christian Bovay;

Angel

apologies

cc: Michel Guignard

re: GENEVA WM North America Intl. Meeting

October 13th, 2004

Action	by whom	when
1. Information		
2. Business Development		
UBS SWISS FINANCIAL ADVISORY AG :		
- green light for the project: activity starts 01.10.2004. Now they are in the stage of contacting clients, and their web site is open.		
- bank will be open in January 2005.		
BUSINESS MODEL AND KEY OFFERING: serving US clients out of Switzerland.		
- min account size 500'000 CHF		
- client target: US domiciled (US non-domiciled will be handled by a different team: UBS AG W-9)		
- products: PM/MFP (6 offerings), active advisory (3 offerings): fee based business = flat fee only, Forex, cash account, direct investments, fiduciary, selected SEC funds.		
- administration: new opening documents forms available Jan 05, IRS and client reporting = full service (IRS 1099, etc). services included in the flat fee.		
- US tax efficient investing		
- Fully owned by UBS AG		
- Assets of clients under Swiss law (US civil courts need to file in CH)		
- NNM referral compensation to be confirmed (100% to GVA?)		

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 365

CONFIDENTIAL TREATMENT REQUESTED

UPSIO0049952

DO'S:

- profiling
- investment suitability (no non-US registered funds)
- contracts effective on signing date

DON'T'S:

- not discuss UBS AG regulatory position
- not suggest client become non-W9 clients
- not offer non-SEC products
- no advice sourced from UBS AG to UBS SFA

3. Product

ICBD: formal introduction of which has joined Gilbert Benz in Zürich. He will be our special NAM clients support in order to improve communication between PM's and CA's. He will help us to defend / present different PM strategies to clients.

Please find hereafter some issues regarding our last meeting:

Cash management - concern that our rates are not competitive - We have been told that a floating rate fund should be set up in the future, I will let you know as soon as I have more information on this. I will also discuss the matter with

Bond funds - why not straight bonds because of bond fund fees - the feedback I received here was as follows:

Diversification - Huge number of bonds in a fund

Duration - much easier to manage duration by selling funds rather than re-aligning individual bonds portfolio

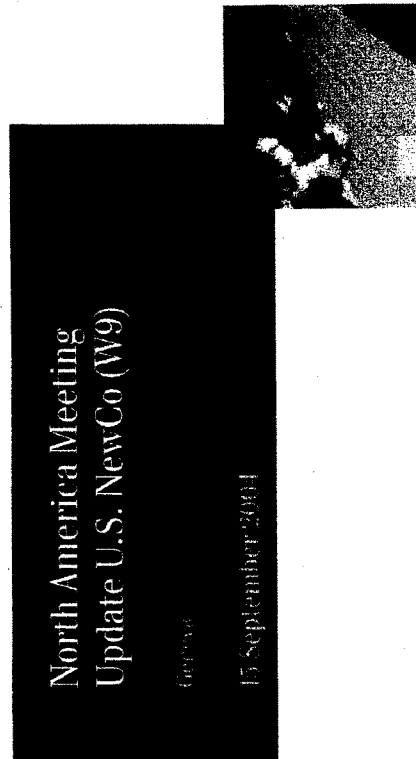
Actively managed - managers look to work the fund to increase performance, even with trades offering as little as 1 bp return

Transparency - I am taking this up with PDM and will revert. Although I can say that we are working hard with PBS to improve reporting of performance and strategy information

Stagflation concerns - There was a report by JP Morgan a year ago raising this concern when it appeared more credible. The latest article says that some of the indicators suggesting stagflation have continued this year. However the view that we are about to enter a period of stagflation is certain that of the minority, and inflation does not seem to be a credible threat right now.

GAM vs. Absolute returns - someone raised the possibility that the slide I showed for Absolute Return may have been misleading if UBS had taken time investing in the fund and so missed some of the downside. Talking to GAM this would have worked against UBS holding cash early as performance declined more in the latter part of YTD. Lastly I have had it confirmed that the slide is based on the time when the client's money would have been physically in the program.

PM: equity teams will be changed as they performed badly (aggressive PM very under benchmark).		
4. Operation		
5. Compliance		
6. HR		
Mass Affluent: a client advisor position is still open. Please contact Angel Gomez for any interest you may have.		
Key client: open position for interest you may have.	replacement. Please contact	for any
HNW/NAM GE: open position for any interest you may have.	replacement. Please contact	for
7. Events		
Lunch & Learn: please do not forget to register for this event which will take place at Rue du Rhône 6 (room 632) from 11h30 to 13h30. The subject will be "Alternative and Quantitative - Private Equity".		
Walk the Floors: kindly note that this event (lunch with M.Liecht) will finally take place on November 2 nd from 12h to 14h at Grand Menel.		
8. Other Issues		
Next meeting will be held on October 20 th , 2004 by Christian Sorey		



Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 381

CONFIDENTIAL TREATMENT REQUESTED

UPSI00049907

Executive Board Decision 3 August 2004

SECTION 1

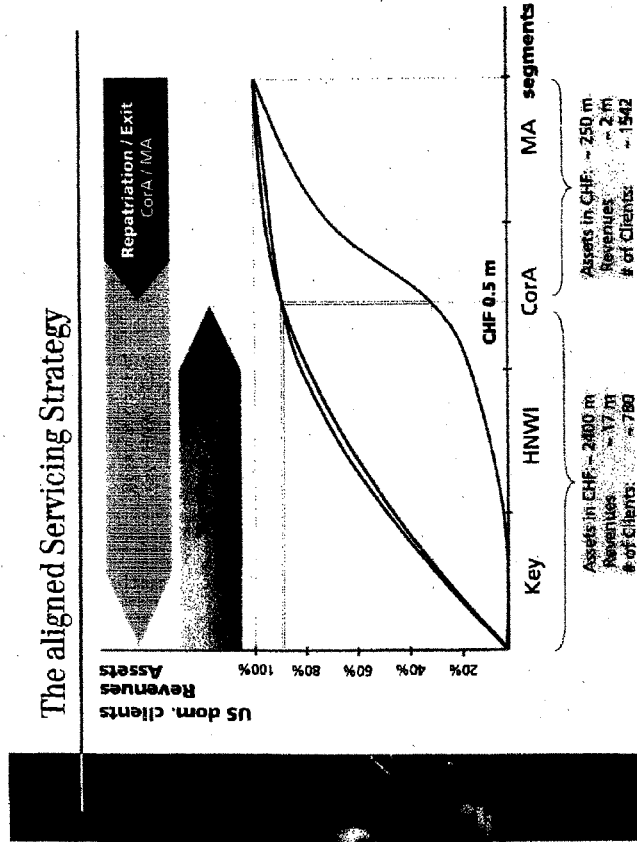
CONFIDENTIAL TREATMENT REQUESTED

UPSI00049908

Changes since EB Decision of 2 September 2003

- ◆ Legal requirement of using a U.S. custodian was dropped in October 2003 (change in U.S. custody rule)
- ◆ The potential risk of a QI audit on deemed sales issues in 2006, based on 2005 client status, is considered to be lower
- ◆ Clarification that only U.S. domiciled W9 clients trigger SEC oversight
- ◆ Further detailed analysis has shown that Swiss regulatory requirements and local IT processing, in comparison to U.S. tax specifics, are a higher implementation hurdle
- ◆ The American Outsourcing Provider's (OSP) offering did not correspond to the proposals and promises made prior to the Business Case approval and during the Due Diligence phase in December 2003
 - Data protection was not guaranteed anymore
 - Swiss based solution lead to new implementation cost

⇒ Outsourcing Option using American OSP is not pursued any longer and Swiss outsourcing alternatives become viable



NewCo 'Boutique'

Basic Assumptions

- ◆ Legal Set-up NewCo 'Boutique'
 - Subsidiary of UBS AG
 - Securities Dealer FBC
 - Registered Investment Adviser SEC
- ◆ NewCo 'Boutique' used for clients with assets > CHF 500'000 only
 - Start contacting after pre-registration with FBC and completion of OSP contract
 - Step wise migration of clients and staff
- ◆ Outsourcing IT / Ops and partly Accounting/Reporting to OSP
 - leverage of existing outsourcing solution
 - substantial decrease in back-office staffing
 - Independence from UBS AG
- ◆ Custody: within OSP Custody Network, partly with UBS
- ◆ Business Requirements Day 1 strictly limited by existing OSP platform
- ◆ Implementation can be done by existing U.S. NewCo W9 - project structure

Offering - NewCo 'Boutique'

- ◆ Personalised Swiss wealth management 'Boutique' relationship:
 - servicing of a small number of customers (not more than 100 per CA)
 - regional focus of Client Advisers
 - consideration of time difference in the U.S.
 - proactiveness is part of the business model
- ◆ Frequent travelling
- ◆ Enhanced U.S. specific reporting (besides 1099 reporting)
 - Capital Gain/Loss and Income Statement
 - Specific information on tax lots and transactions
- ◆ Complete investment range - APA / PM / Advisory
- ◆ Open architecture with tax efficient selections
- ◆ Investment process which considers personal tax situation
- ◆ Scenario tools for portfolio simulations (total wealth)
- ◆ Financial Planning - tax and estate planning (day 2)

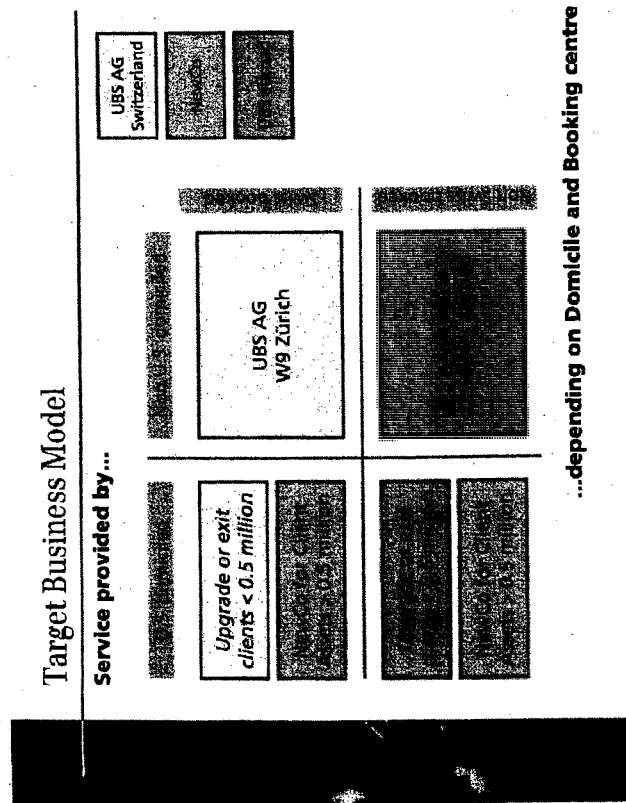
Investment Process - NewCo 'Boutique'

- ◆ NewCo will have its own investment process. The NewCo Investment Committee will be responsible for defining adequate investment guidelines and governance details for NewCo.
- ◆ NewCo would use different sources of research material, among them the Swiss OSP's. In regions or products where there is little or no OSP coverage, this will be supplemented by material from UBS and other brokers. UBS will provide an alphabetic focus list for equities.
- ◆ Strategic Asset Allocations will be taken from UBS (not considered proprietary) and applied to the OSP models.
- ◆ The security selection within product modules will be as follows:
 - Equities: primarily based on OSP and supported by material from other brokers, including UBS
 - Bonds: NewCo specialists using research material from various brokers
 - Funds: UBS fund recommended list of SEC registered funds will be adopted
 - Structured products and alternative investments (if available) will be selected by NewCo specialists

Segmentation / Migration Approach

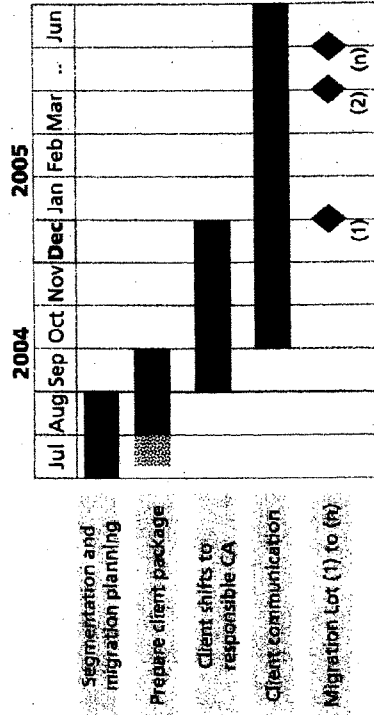
SECTION 3

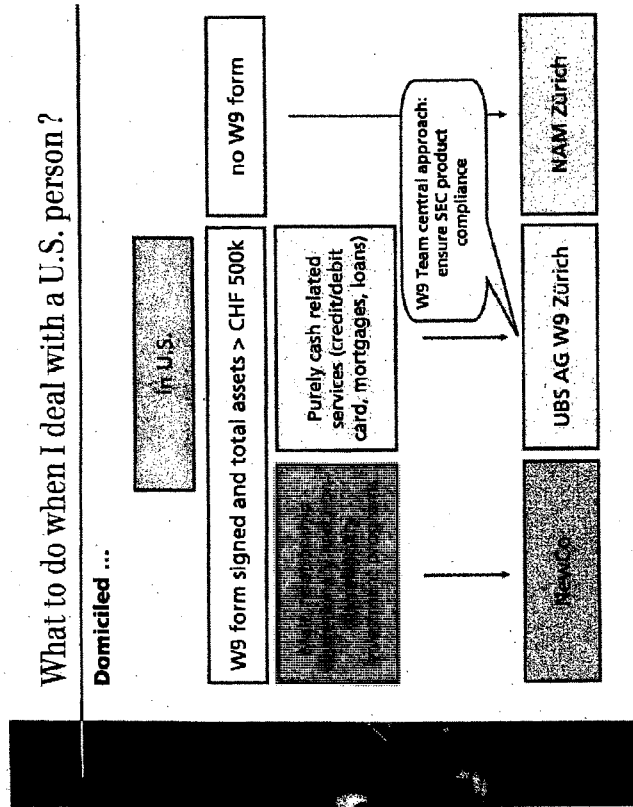




Proposed Timelines

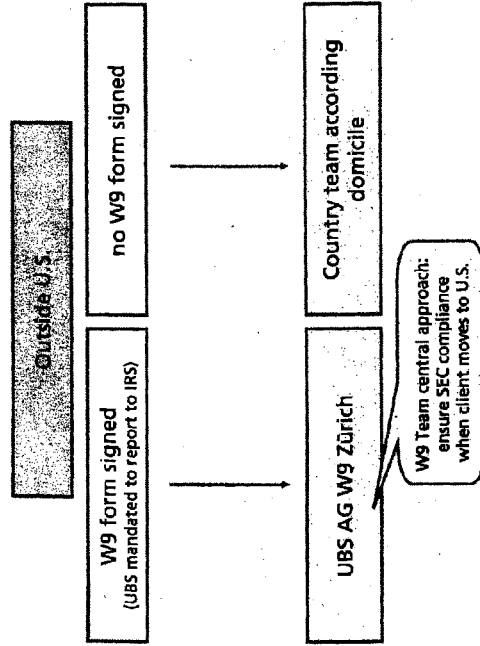
Front office related activities





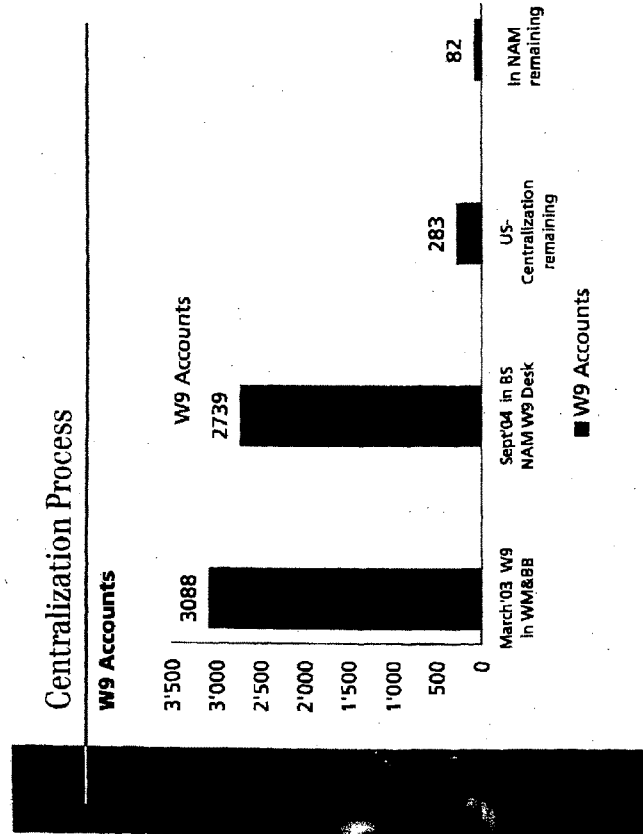
What to do when I deal with a U.S. person ?

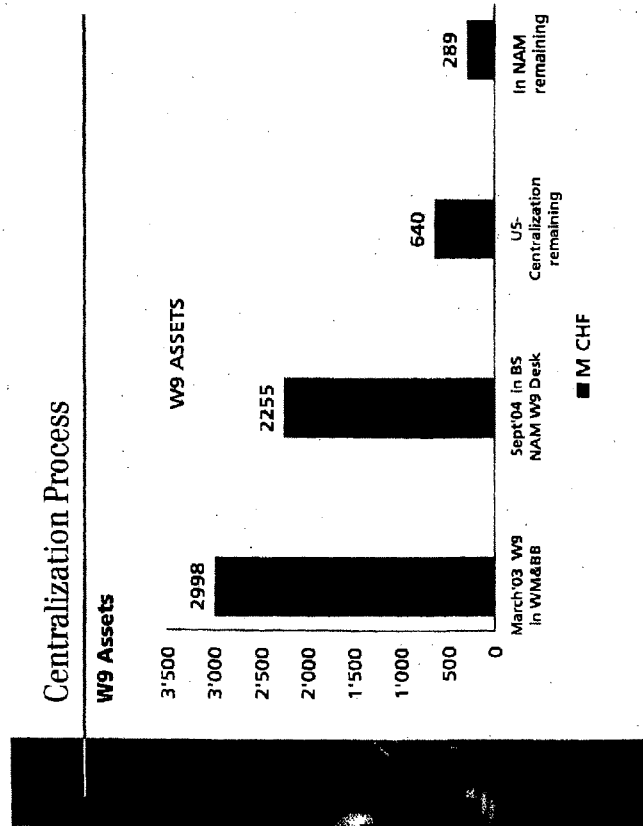
Domiciled ...



Impacts on U.S. Centralization

SECTION 4





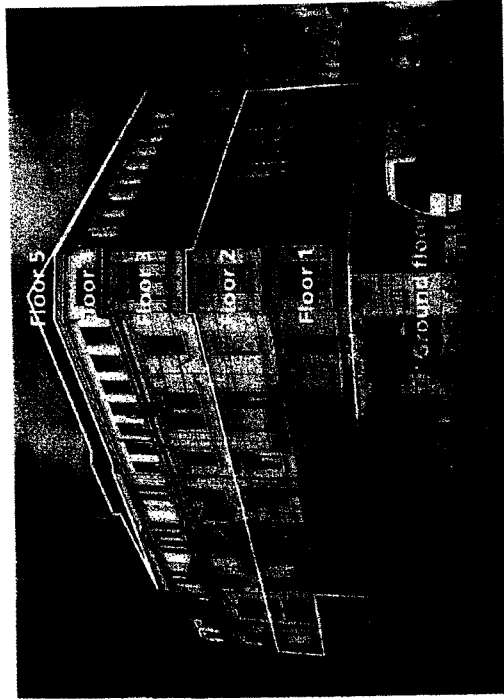
Impact on Centralization Process

- ◆ US-Centralization in final phase
- ◆ Same scope
- ◆ Same pace
- ◆ Some large accounts still ahead

UBS Swiss Financial Advisers AG

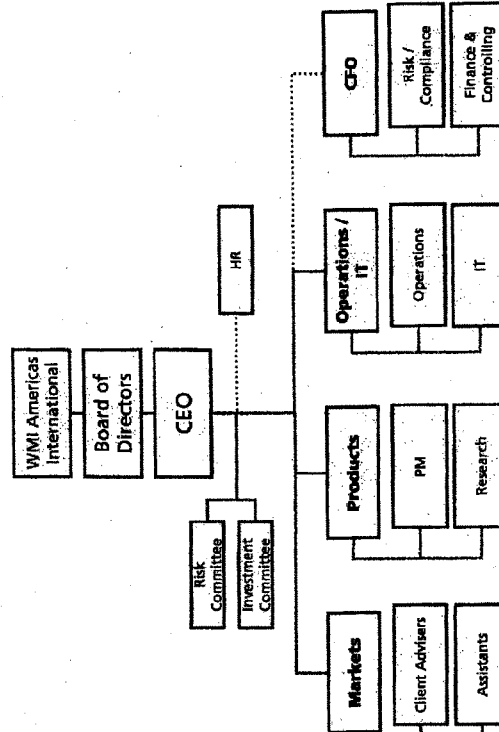
SECTION 5

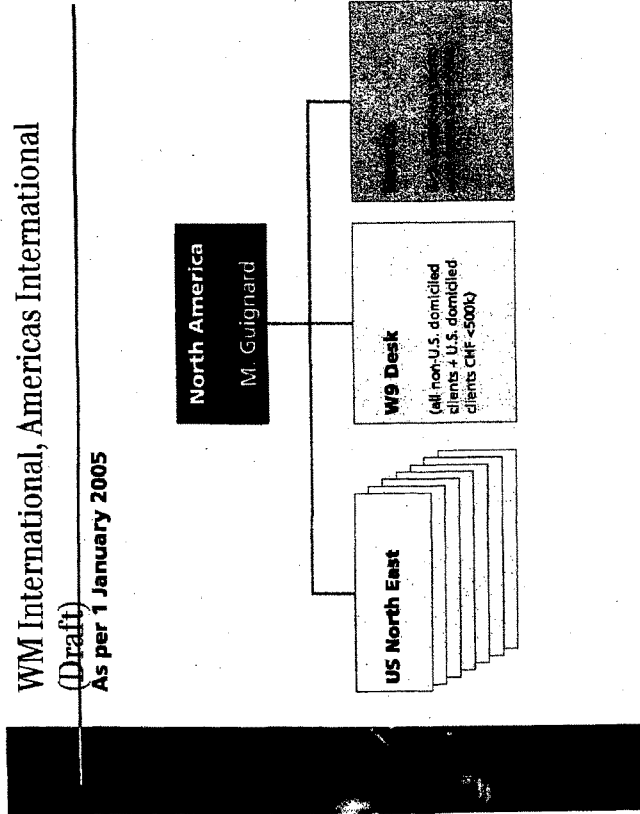
Building Löwenstrasse 49



Structure NewCo (Draft)

Organisational Reporting



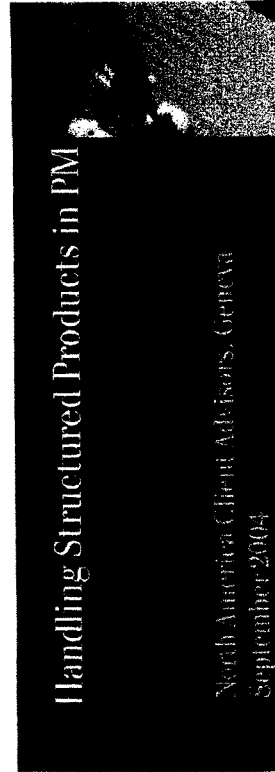
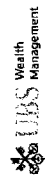


Contacts

Michel Guignard

Tel: [REDACTED]

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations



1170



— = Redacted by the Permanent
Subcommittee on Investigations

REGISTERED MAIL
M. Bradley C. Birkenfeld
[REDACTED]

Genève, le 17 mars, 2006

Dear Bradley,

This is to confirm the various items discussed during our yesterday's meeting as well as to respond to the issues raised in your correspondence dated February 28, 2006.

**Redacted
by
Permanent Subcommittee
on Investigations**

- "Cross-Border Banking Activities into the United States" document. You have told us that you have not been aware of this document until you came across it on the Intranet in June 2005 and now assert that you were compelled to resign from UBS because of this document. We should like to draw your attention to the following three points:

Firstly, our in-house training "Securities Education for Travelling Officers" and more particularly the "Cross-Border Business Training Workshop North America" held by our Legal Counsel [REDACTED] precisely educates and trains our Client Advisors to ensure their in-depth understanding and awareness of the legal and regulatory environment of foreign markets. The goal of these training workshops is to familiarize Client Advisors with the regulatory framework and to provide them with Tips & Tools and Do's and Don'ts as issued by our Security specialists as well as going through a detailed presentation of the specific "Country papers" for each jurisdiction. You personally participated to both trainings in September 2004 and were made familiar with the Cross-border document for the United States as were all other Client Advisors participating to the same workshop.

Secondly, you will know that the rules which set forth UBS approach to servicing US resident clients have been posted on the UBS- intranet already since early 2002.

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 392

PSI-OPB - 0000084



— = Redacted by the Permanent
Subcommittee on Investigations

Thirdly, we must record that [REDACTED] did respond to your inquiry addressed to [REDACTED] in June 2005 by walking you through the "Country Paper" during a telephone conversation that took place shortly after you had sent the mentioned memo to [REDACTED].

This being said, we wrestle with why you portray the Country Paper to be unclear and unknown to you and dare to name it as the reason for your resignation from the Bank more than one year after you had evidently knowledge of it, and even more so since your February 23, 2006, letter does not contain this contention.

As agreed during today's meeting, you will get back to us addressing yourself with a more specific request which will hopefully allow us to better understand your concerns about this internal document.

Sincerely,

Monika Planzo Boesch
Director

p.o.
Hansjörg Bless
Executive Director

Action Plan 2003 for Country Team		Targets 2003: NIM	AMS	RoA	NR-DC	DEADLINE
WHAT	HOW (concret and measurable activities)				RESP	
Focus on existing clients	<ul style="list-style-type: none"> • Increase contact frequency through business trips and invitation to Switzerland or Marketing Events • Get active referrals from existing clients for new relationships • Joint client visits with BU head, RMM, CTH • ABCD-Analysis of client portfolios • Analysis of potential client by client for increase NIM, RoA, AMS - basis sur domine 71.08 • In depth analysis of clients with low RoA and/or AMS and definition of appropriate action plan per client • Analysis of clients without contacts during past 6 months - Exclusion • In depth analysis of min. 2 Key accounts per client portfolio for further development of business relationship (team approach between CTH, CA and product specialists) • Involvement of UBS and external network to increase service offering and quality to clients • Analysis of potential Private Banking clients within AK-clients - lead • Quarterly meeting with AK-teams (Zurich, Geneva, Lugano) to discuss potential upgrading candidates and defining activity measures • more 	same				7 per trip
Focus on new clients	<ul style="list-style-type: none"> • Establish list of min. 5 potential clients per CA (input and track in ReNew) • Define 2 wish clients per Country Team (Mega client) with appropriate action plan • Invitation to client events (individual small or larger events) • Active soliciting of new business through intermediaries such as Paine Webber, UBS GAM, UBSW, external asset managers, consultants • more 					

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 402

PSI-OPB - 0000260

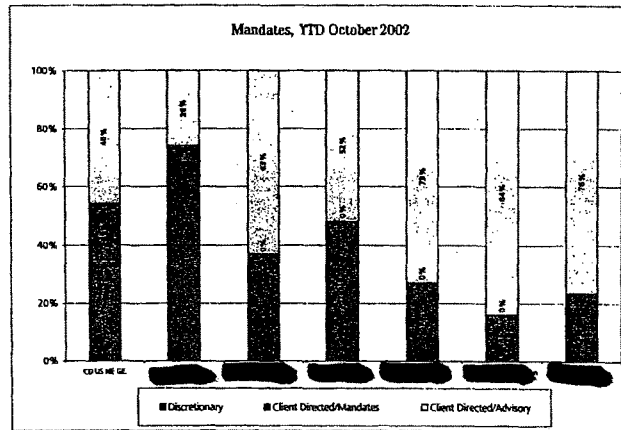
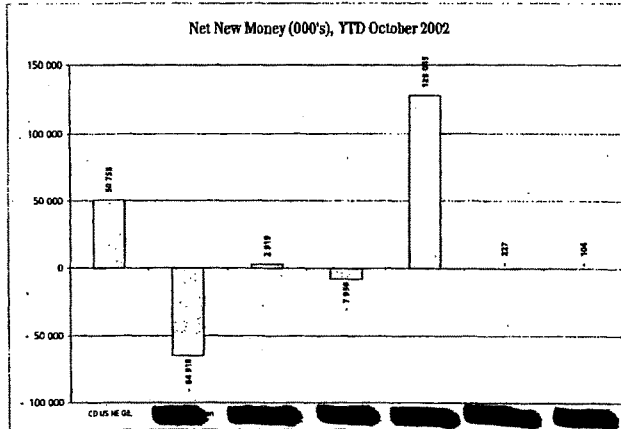


Management Summary Report - Graphs

YTD October 2002

CD US NE GE (0002371A)

— = Redacted by the Permanent Subcommittee on Investigations





UBS AG
P.O. Box 2600
CH-1211 Geneva
Tel. +4122-375-1111

Valérie Dubuis
Rue de la Corratierie 16
1204 Genève
Tel. +41 22-375-6482
Fax +41 22-375-6949

www.ubs.com

Minutes

May 14, 2003

CONFIDENTIAL

attendees Christian Bovay; Valérie Dubuis; Bradley Birkenfeld; James Wood; Maria Del Carmen Cid; Stefan Heim; Stephane Mundwiler; Anita Keller; Heinz Bertschi; Angel Gomez; Roman Brunner; Marisa Ogando; David Coutinho; Anita Von Arx; Alexandre Baumgartner; Alexis Rodet; Christine Stauffer; Diane Veress (AAT); Lutz Neumann-Lysloff;

apologies Huguette Scarbolo; Yann Meyer; Stephane Furrer; Salvatore D'Aprile; Julien Voegeli; Stéphane Furrer; Philippe Gaillard; Pamela Fuerst; Christian Cramer; Anita Winkelmann; Sandra Kohler; Denis Gianferrari; Christophe Dubois; Julien Favre; Patrick Gattoni; Séverine Perrot;

cc Martin Liechti
Michel Guignard

re GENEVA P.B. North America Intl. Meeting

May 14, 2003

Action	by whom	when
1. Fast protocol deadline		
2. Information		
Absolute Return Note in USD : <ul style="list-style-type: none"> 100% Capital Protection at maturity Minimum Coupon of 1.50% p.a. Potential for a higher return dependent on absolute change of underlying stocks Retrocession 180 bp indic. BUT : <ul style="list-style-type: none"> Basket of 20 international stocks Underlying not very volatile (See more details attached)	D. Veress	
3. Business Development		
Travel to the US : Since May 13, 2003 travel may start again and CA's can start slowly to plan their next travel trip to the USA. A travel report with a list of clients visited should be established for CB.		
Credit cards & Structured solutions : these should absolutely not be offered while travelling.		
Secured e-mail : Possibility to use secured e-mail for business trip soon. Problems that CA are faced with TAS have been forwarded to the TAS Product Manager.		
Audit : they will be in our office between July & September this year and SCPAS		

PSI-OPB - 0000119

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 433

— = Redacted by the Permanent
Subcommittee on Investigations

clients will be controlled up to \$ 1mios and KYC Procedures up to \$ 2mios.

USA Key Clients : High Net Worth Potential clients have to be annouced to Stéphane Furrer.

New business cards : Do not indicate Wealth Management but only UBS AG on the new business cards. Phone numbers remain unchanged.

3. Product

Gold & Numismatics : an exclusive service the Bank provides with contact centre Lutz in Basel & Zürich and which covers the following topics :

Neumann

- Physical gold trading for clients
- Purchases and sales
- Auction representation
- Inheritance
- Lectures and presentations

More details on the web : www.ubs.com/numismatics

Product Development and Services :

A meeting has been organised on May 22nd 2003 at 10.30 in Corratierie 16, 2nd floor with Mr. Marco Schaller and Mr. Frank W. Kuhn.

4. Operation

5. Compliance

KYC Test : this test is mandatory for everyone and has to be completed by the end of June. (3 tries)

<https://...>

6. HR

7. Events

G8 in Evian :

Demonstrations could apparently continue on Monday and Tuesday June 2nd & 3rd. Colleagues working at Corratierie 16 will come to work normaly on those dates. Employees are requested to wear casual and not to draw attention with their briefcases or ties. Furthermore, reinvestments of fiduciary, call etc should be done in advance. Hotline : 022/375 6464

Country Meeting :

The next country meeting will be held in Montreux, begining of February 2004. More details to follow.

8. Other Issues

1. The next country meeting will be held in Montreux, begining of February 2004.

PRIVILEGED AND CONFIDENTIAL

LETTERS TO EXISTING U.S. CLIENTS WITH MORE THAN CHF 50,000 WHO HAVE NOT BEEN INFORMED ORALLY EITHER TO RETAINED MAIL OR SEND TO NON-U.S. ADDRESS

Dear XXX

We are writing to highlight the key provisions of our realigned service model. UBS AG has for many years sought to meet the global investment needs of U.S. private clients, like you, by providing a complete set of sophisticated wealth management services. Over the years we have periodically reviewed these offerings in order to provide the best level of service to our clients in compliance with applicable laws and regulations. As part of these periodic reviews, we have recognized for some time that the current business structure is complex and could benefit from being simplified and streamlined.

Consistent with that recognition, we have decided to refine the overall structure through which U.S. clients are served as follows:

- Increasing our focus on the U.S.-based Wealth Management Operations ("U.S. Units") and UBS Swiss Financial Advisers AG ("UBS SFA"), which is a Swiss-based SEC-registered investment adviser and EBK-regulated entity that offers investment programs in the Swiss tradition and expertise in global investment diversification. Going forward, U.S. clients, including existing clients, may open new accounts for securities related services only with the U.S. Units or UBS SFA.
- ~~Servicing the U.S. clients of UBS AG only in such clients' respective booking centers (for Switzerland, Zurich, Geneva or Lugano). As a practical matter, this means that as long as~~ you maintain your account with UBS AG, you may either meet with us in person in Switzerland or you may otherwise communicate with us only when you are outside the United States:
 - If you contact us by telephone, we will need to be able to verify that your call originated from outside the United States or request that you provide a non-U.S. phone number and return your call. In either case, we will ask you to tell us from where you are calling.
 - If you contact us by written correspondence, we will need clear evidence (such as a postmark indicating that the point of mailing occurred outside the U.S.), and we will continue to retain your mail or send any outbound correspondence only to a non-U.S. mailing address.
 - If you contact us by facsimile, we will need to be able to verify that your fax transmission originated from outside the United States or request that you provide a non-U.S. phone number through which fax communications may be made.

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 458

- o If you contact us by e-mail, we will request that you provide a non-U.S. phone number and respond via a telephone conversation.

We should emphasize that we will not be able to execute your securities instructions if we are not satisfied that you are outside the U.S. when giving such orders.

We believe that the above-referenced modifications will streamline our operations, bring our services closer to our U.S. clients, and enhance our ability to ensure compliance with applicable laws and regulations. This process represents a continuation of the evolution of our offerings to U.S. clients. Since UBS acquired U.S. Units like PaineWebber and formed UBS SFA in Switzerland, U.S. clients have responded very positively to investment opportunities and service models they offer. We believe that now is the right time to accelerate the consolidation of our offerings to U.S. Clients on these platforms.

With this in mind, you may:(1) retain your current account with UBS AG subject to the modifications described above; or (2) transfer your assets to the U.S. Units or UBS SFA. If you would like to explore the services available through the U.S. Units or UBS SFA, please let me know, and I will have a representative of those businesses contact you. Please note that the U.S. Units and UBS SFA provide U.S. Form 1099 tax reporting services and will require that you supply a U.S. Form W-9.

Sincerely,

*Per our conversation, I have enclosed
all the documents to open the account.
If you have any questions, please
contact me. Take care.*

*Regards,
Brad*

Bradley C. Birkenfeld

Redacted by the Permanent
Subcommittee on Investigations

Switzerland



Bradley C. Birkenfeld
Director

UBS AG
Rue de la Corratierie 16
1204 Geneva, Switzerland
Tel. +41-22-375 61 32
Fax +41-22-375 69 49
bradleybirkenfeld@ubs.com

www.ubs.com

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 471

SW 067527

1179

10/22/01 10:24 FAX 242 328 2520

MCKINNEY BANCROFT HUGHES

002/002

MCKINNEY, BANCROFT & HUGHES
COUNSEL AND ATTORNEYS-AT-LAW
CHAMBERS

MAREVA HOUSE, 4 GEORGE STREET, P.O. BOX N-3837, NASSAU, BAHAMAS

YOUR REF:

CO/G/315/HEP/cs

OUR REF:

VIA FAX

17th October 2001

No. (949) 719-7200

Mr. Igor M. Olenicoff,
OLEN,
7 Corporate Plaza,
Newport Beach, CALIFORNIA 92660,
U.S.A.

Dear Igor,

Re: Guardian Guarantee Co. Ltd.

Thank you for your fax of the 11th October.

Mr. Brad Birkenfeld called me last week and indicated that he would be forwarding information to me in connection with the opening of the account.

I have received the information from Mr. Birkenfeld and will be in touch with you shortly.

Yours sincerely,


Martin E. Pinder

MR. DONALD B. MCKINNEY (1945-1952)
PAUL HENRY BETHEL (1958-1978)
JAMES LINDALL (1985-1989)
PARTNERS
BRYAN H. MCKINNEY
RICHARD H. F. LIGHTFOOT
WALTER E. PRAGER
BENJAMIN A. V. CHASTINE (FREETOWN)
H. CAMPBELL, CLARKE II
J. DAVID LINDALL
PAUL D. KNOWLES
D. DAVID STEWART
LOURENCE C. BETH
METTAMCHALLAN-HUGHES
J. PROSSPERO WILSON
MICHAEL E. L. ALLEN

NASSAU OFFICE
P.O. Box N-3837
Nassau, Bahamas
Telephones
(242) 328-1155-6 (242) 322-4214-5
Fax Number
(242) 328-2520
Cable Address
LANCHAMBERS-HUGHES
Telex Number
237 20 100 LANCHAMBERS
E-mail Address
mckinbho@bahamas.net.bz



FREETOWN OFFICE
P.O. Box F-40-37
Freetown, Grand St. James
Telephones
(242) 352-4257-8 (242) 352-7424
Fax Number
(242) 352-72-4
Cable Address
LANCHAMBERS-HUGHES
Telex Number
237 20 100 LANCHAMBERS
E-mail Address
mckinbho@bahamas.net.bz

ASSOCIATES
NASSAU OFFICE
K. HANNAH CORMAN/PER-SIMOLA
APRIL R. TURNER
SHARON A. MORGAN-ROBERTS
DORIS L. GARDNER
SHARON W. WILSON
MICHELLE E. COLLIS
TUDOR A. SAGAR
FREETOWN OFFICE
DALENT THOMPSON
PAULETTE P. ROACHE

MEMBER: LEX MUNDI, A Global Association of 151 Independent Law Firms

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 471

SW 017013

vious

Subject: Various

Date: Tue, 04 Dec 2001 18:24:50 +0200

From: Mario Staggi <mstaggi@newhaven.li>

To: <olealc@olenproperties.com>

Dear Igor

Thank you for your message of December 2. It was a pleasure to meet with you, Andrej and Jeanette and I am sure that this was the beginning of an excellent relationship.

I have read your aforementioned e-mail and should like to comment as follows:

The structure could basically be cut down to two trusts but I would still not recommend to do so. We were talking about three different components which would become part of the structure and in our opinion these should be kept and treated separate for reasons discussed.

The shares in OLEN US are "owned" by the Bahamian Company. In order to avoid any potential exposure in a tax point of view we would recommend to transfer the Bahamian company shares into a Danish Holding Company. The Danish Holding Company would be owned by the first of the Liechtenstein trusts. Advantage is that Denmark is not a "off-shore" jurisdiction. Any dividends which might be paid from Olen to the Cayman Company could be disposed by way of dividend to the Danish Holding Company without being liable to Danish taxation and would become "offshore" assets.

The cash available for UBS and Neue Bank can basically be held by the second Liechtenstein Trust. If this is the case 7,6% VAT would become due on the bank's management charge as well as on the trustee fees. There is an easy way to get around this VAT by interposing an "off-shore" jurisdiction since services rendered and charged to non Swiss or non Liechtenstein entities are not liable to VAT. We would recommend the second Liechtenstein Trust being the shareholder of the investment "off-shore" vehicle. The jurisdiction could be the British Virgin Islands (BVI), Panama, Gibraltar. The investment "off-shore" vehicle would be the contracting partner to the banks. The administration would be looked after by New Haven in Liechtenstein. The second advantage of interposing the "off-shore" vehicle would lead to another "saftey-break" in a tax and anonymity aspect.

There is basically no objection to have Landmark, provided it is an off-shore company, becoming the "Cash Box" (account holder) with both banks either in its existing name or re-named. The share in either Landmark or Landmark in its renamed form could be transferred to the third Liechtenstein Trust. Either a new "offshore-entity" or the existing Landmark could become the account holder/contracting partner to UBS and Neue Bank.

Finally, I should stress that a Swiss Holding Company would not be the appropriate jurisdiction in particular keeping in mind the 35% Withholding Tax Switzerland applies.

Please let me have your thoughts.

Kind regards

Mario

of 1

10/31/2003 7:54 AM

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 478

SW 065110

STRUCTURE DISCUSSION

Subject: STRUCTURE DISCUSSION**Date: Sat, 08 Dec 2001 15:55:22 -0800****From: Igor Olenicoff <olenicoff@olenproperties.com>****To: MARIO STAGOL <newhavac@newhaven.iaf.il>****CC: Bradley Birkenfeld <birkenfeld@attglobal.net>****Andrei Olenicoff <olenicoff@olenproperties.com>**

MARIO, BASED ON OUR LAST CONVERSATION, YOU WERE GOING TO LOOK INTO A STRUCTURE WHICH MAY AVOID THE VAT TAX, BUT STILL HAVE AN ON-SHORE PRESENCE, SUCH AS IN DENMARK OR _____?

BARRING THE ABILITY TO DO IT ON SHORE, WHICH IS OUR PREFERENCE SIMPLY FROM AN APPEARANCE STANDPOINT, WE ARE RESOLVED TO DOING OFFSHORE THROUGH A JURISDICTION OF YOUR RECOMMENDATION. I BELIEVE THE MOST PREFERRED OF THE ONES WE DISCUSSED IS GIBRALTAR.

THE STRUCTURE WOULD BE TO HAVE YOU FORM LANDMARK SETTLEMENT, WHICH WOULD THEN FORM THE DANISH OR GIBRALTAR ENTITY AND OUR PREFERENCE OF A NAME AT THIS TIME, ASSUMING IT IS AVAILABLE WOULD BE NEW GUARDIAN BANCORP, LTD. . THIS NEW ENTITY WOULD THEN OPEN THE INVESTMENT MANAGEMENT ACCOUNTS AT UBS, WITH BRAD AND WE WILL PUT YOU IN TOUCH WITH THE LONDON INVESTMENT BANK WHERE ANOTHER ACCOUNT WOULD BE OPENED.

LANDMARK SETTLEMENT WOULD REMAIN THE HOLDING TRUST COMPANY FOR THESE INVESTMENTS AND THE ACCOUNTS AT THE INVESTMENT BANKS WOULD BE OPENED REQUIRING TWO SIGNATURES TO MAKE ANY WITHDRAWALS FROM THE ACCOUNTS, YOURS AS TRUSTEE AND ONE OF US AS THE MANAGERS OF THE ACCOUNTS. YOU WOULD ISSUE AUTHORIZATION FROM THE TRUST TO THE INVESTMENT BANKS TO TAKE MANAGEMENT DIRECTION FROM ANDREI, JEANNETE OR MYSELF RELATIVE TO THE INVESTMENTS.

IF THE VAT TAX CAN NOT BE AVOIDED FOR THE INVESTMENT ACCOUNT MANAGEMENT FEE THROUGH A DANISH CORPORATION, THEN PERHAPS WE CAN NEXT FORM A DANISH OR SWISS ENTITY TO BE THE PARENT COMPANY AND HOLDER OF THE REAL ESTATE COMPANY STOCK. IN SHORT, IT IS THE PREFERENCE OF THE CURRENT HOLDER OF THE STOCK, A BAHAMIAN CORPORATION TO MOVE THE OWNERSHIP TO AN ONSHORE ENTITY, BUT ONE WHICH PROVIDED COMPLETE ANONYMITY AS TO THE BENEFICIAL OWNERS. I AM THINKING THAT A SWISS ENTITY MAY BE THE BEST VEHICLE TO DO THIS WITH, AND IF YOU AGREE THEN WE WOULD NEED TO ESTABLISH A SWISS ATTORNEY CONTACT WHO WOULD AGREE TO SERVE AS THE DIRECTORS AND OFFICERS OF THE SWISS ENTITY WITH THE STOCK BEING ISSUED TO LANDMARK SETTLEMENT.

I WILL BE IN FLORIDA NEXT WEEK, HOWEVER ANDREI WILL BE AT OUR OFFICES IN CALIFORNIA AND YOU CAN CALL HIM OR SIMPLY EMAIL BOTH OF US --WHICH EVER IS EASIER FOR YOU.

THANK YOU FOR YOUR ASSISTANCE

01

10/31/2003 7:55 AM

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 480

SW 065111

Subject: Structure
 Date: Sat, 02 Jan 1904 06:43:10 +0200
 From: Mario Staggi <mstaggi@newhaven.li>
 To: Igor Olenicoff <iolenicoff@olenproperties.com>
 CC: <aolenicoff@olenproperties.com>

→ Jan
 file @
 hm

Dear Igor

Subsequent to our telephone discussion of last week your most recent e-mail made it very clear to me - you want to become on-shore - but still maintain an off-shore status in tax and protection point of view.

I have had a chance to review the structure based on the latest findings and should like to summarize as follows:

Danemark definitely provides for an on-shore status in an appearance point of view as well as for a "tax exemption" status in a tax point of view. With regard to the banks, both UBS and Neue Bank would not have to charge VAT on their management fee since the Danish Holding Co. is not liable for VAT. Moreover, a Danish Holding Co. is not even allowed by law to apply for a VAT number if it in itself does not have a turnover/activity in Danemark. Our Danish Co will without any doubt not perform any turnover in Danemark and the VAT problem would not exist. There is no need to escape to Gibraltar, latter being a traditional tax-haven jurisdiction and not necessarily advantageous to the appearance aspect. The banking / VAT aspect Switzerland, UK and Liechtenstein is covered if Danemark or Gibraltar is used but Danemark got a much better reputation.

geography?
 yes

The proposed company name "New Guardian Bancorp" is available and could be used.

It is further anticipated that the Danish Holding Co. will absorb/acquire the Olen US bearer shares presently allocated to the Bahamian Company. This is basically possible without any foreseeable problems but I should recommend to you to seek advice from a local US Tax Adviser because we will have to take the FIRPTA rule into account. Would you please check this with your domestic Tax Adviser and let me have his thoughts.

stock for
 stock
 ok change

Again, I strongly recommend not to use a Swiss Company since Swiss Holding Companies in conjunction with the US is the worst you can have (at least in this structure). The VAT is also an issue. I am sure your local Tax Adviser will share my opinion.

Looking forward to hearing from you, I remain,

Personal regards,

Mario

51

12/10/01 10:27 AM

Permanent Subcommittee on Investigations
 EXHIBIT #123 - FN 481

SW 067200

structure

Subject: Structure**Date: Fri, 08 Jan 1904 20:52:22 +0200****From: Mario Staggi <mstaggi@newhaven.li>****To: <loienicoff@olenproperties.com>, Igor Olenicoff <loienicoff@olenproperties.com>**

Dear Igor

Thank you for your email of December 13 which is indeed very clear. We agree to proceed accordingly.

First, we will establish the Liechtenstein Trust to be known as "The Landmark Settlement". All the information we need in order to proceed are available at our offices. New Haven will be the trustee.

Sheltons, our correspondent in Denmark, agreed to incorporate "New Guardian Bancorp", wholly owned by the Liechtenstein "The Landmark Settlement" and in order for them to proceed they require to have the share capital (Danish Krona 125'000) approx USD 20'000 in their client accounts. I will provide you with the account details tomorrow. Once the New Guardian is incorporated this money will be for free disposal of the company. With regard to Sheltons I should mention that this firm is rated within the top 3 leading tax firms in Denmark. For your information their web-site is: www.sheltons-tax.com. The managing director Mr. Ned Shelton who is personally known to New Haven and its directors for many years is considered to be "The Leading Tax Advisor" in Denmark. There is no need to mention that I will negotiate a discounted fee.

I do not see any problem for New Guardian to enter into a Management Agreement with Andrej and yourself and suggest that such an agreement will be drafted by Sheltons once the company is duly incorporated.

With regard to the second Danish company I will ask Sheltons to clear the proposed name "Landmark Realty Holding Co. and if this name is available I am sure it can be translated into Danish and incorporated in its Danish translation. If the name should not be available we use a name which includes "Real Estate Investment" or "Real Estate Holding" not making reference to any of the entity names in the structure. Again, in order for Sheltons to proceed they will need a further \$ 20'000 being the share capital for the second Danish company.

I basically agree for the second Danish company to be owned by the Landmark Settlement (latter also owning the first Danish company New Guardian Bancorp, but should stress, in order to have "things" separated (we are also using a name for the second Danish company which will not lead to the others) to establish a second Liechtenstein Trust. Please let me have your thoughts.

I will be in touch with you on Monday December 17.

Kind regards,

Mario

of 1

10/31/2003 7:51 AM

Permanent Subcommittee on Investigations

EXHIBIT #123 - FN 483

SW 065103

CVR-NO 26160464

PRINTED: 18 Jan 2002
PAGE 1

EXTRACT

COMPANY NAME:

NEW GUARDIAN BANCORP ApS

Latest changes registered: 18 Jan 2002 Date of incorporation: 1 Aug 2001

Latest changes to the articles of association: 4 Jan 2002

Registered office: c/o Sheltons
Strandboulevarden 122, 3.
2100 Copenhagen

Municipality of registered office: Copenhagen

Objectives: The Company's objective is to conduct trade and financial activities, including the acquisition of and investment in share capital as a holding company in Danish and foreign companies, and other similar business in accordance with the decision of the management board.

Share capital: 125,000.00

Promoters: ASX 9667 ApS
c/o Steen Schierbeck Law Firm
Store Kongensgade 118
1264 Copenhagen K

Management board: Director Nikolaus Karl Markus Biedermann
Muhleholz 14
LI Vaduz
Litauen

Director Jesper Kilbæk
Østerbrogade 132, 5. mf.
2100 Copenhagen Ø

Director Mario Regto Edwin Staggl
Gschind 863
LI 9497 Triesenberg
Liechtenstein

Power to bind the company: The company can be bound by two directors jointly.

293 est translation of Extract from CCA.doc

Verification of the beneficial owner's identity

(Form A as per Art. 3 and 4 CDB)

Account/Custody Account No.:

Contracting partner:

Category:

The undersigned hereby declares:

(mark with a cross where appropriate)

- ☐ that the contracting partner is the beneficial owner of the assets concerned.
- ☒ that the beneficial owner of the assets concerned is:

Last name/first name (or firm)

Address/Domicile, Country

Bullington, Jeanette

Redacted by the Permanent
Subcommittee on Investigations

U. S. A.

The contracting partner undertakes to inform the bank immediately of any changes.



Newport Beach, Ca 1/22/02
Place/Date

Jeanette Bullington
Signature(s)

For internal bank use only

Signature(s) verified
DU-Ref.
DU-Ref.
(as per Directives PF/1/005 and PB/DG/010)

Customer Adviser's signature
Supervisor's signature

69050 E V1 10.2001 J3

06.12.2001

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 485

SW 066974

1186

Waiver of right to invest in US securities

Account no.

The undersigned instructs UBS AG with respect to the above mentioned account not to invest in or hold US securities within the meaning of the relevant Qualified Intermediary Agreement (IRS Rev. Proc. 2000-12).

Name of Account Holder Bullington, Jeanette
Street
Postal Code/Place Redacted by the Permanent Subcommittee on Investigations Country of domicile U.S.A.

Newport Beach, Ca 1/22/02 Jeanette Bullington
Place/Date Signature



For internal bank use only Signature(s) verified/Signed in my presence
OU-Ref. Signature
61526 E V0 10.2001 J3 This Form will be kept in the records of UBS AG 06.12.2001

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 486

SW 066977

13/02 '02 18:47 FAX

42008/008


 Master no.
 0240 - 591.932 MW

 Account no.
 0240 - 591.932

Supplement for new Account US Status
Assets and Income/Declaration for US Taxable Persons

Family Name account holder	_____	First Name	_____
Nationality	_____	Street	_____
Postal code/City	_____	Country	_____

In accordance with the regulations applicable under US law relating to withholding tax, I declare, as the holder of the above-mentioned account, that I am liable to tax in the USA as a US person. I avail myself of the following right:

A. Waiver of right to invest in US securities
 I am aware of the new tax regulations. To this end, I declare that I expressly agree that my account shall be frozen for all investments in US securities.

 Geneva,
 Place/date

Genevieve Bullington
 Signature
 Geneva

For internal bank use only	Signature(s) verified/Signed in my presence
DU-ref.	Signature
61393 E V0 11.2001 JB	13.02.2002

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 487

SW 066982

Birkenfeld, Bradley

From: mstaggi [mstaggi@newhaven.li]
 Sent: mardi, 7. mai 2002 16:09
 To: Birkenfeld, Bradley
 Cc: mstaggi
 Subject: New Guardian - Status

Dear Gentlemen

Redacted
by
Permanent Subcommittee
on Investigations

As far as the two danish holding companies (New Guardian Bancorp and Landmarke Aps) are concerned, there is no danger or exposure in terms of finances, validity and ongoing existence. Ned's problems do not affect this in anyway. Furthermore, the two companies are under Newhaven's controll, i.e., Dr. Biedermann and myself being the directors and signatories on the bank accounts. Igor, all I would like to reiterate that Denmark's jurisdiction provides the best business options for what you want to achieve.

With regard to the transfer of the Smith Barney portfolio to Neue Bank in favor of New Guardian Bancorp Aps. I should confirm that would be no danger or exposure whatsoever. However, I can understand your concerns and in order to put your mind at rest, the portfolio arriving from Smith Barney will be put into Landmark Settlement account held with Neue Bank for the time being. This makes total sense since Landmark Settlement is the shareholder of New Guardian. I would not recommend to open a personal account in your name since this could potentially jeopardize the structure. For the time being you and Andrei are signatories on Landmark Settlement's bank account with Neue Bank. You may remember that you signed blank account signature cards for Neue Bank at the occasion of our meeting in Liechtenstein and one card has been used for New Guardian Bancorp and the other for Landmark Settlement.

I hope this clarifies the present situation and I look forward to talking to you.

Kind regards,
 Mario

Permanent Subcommittee on Investigations
 EXHIBIT #123 - FN 488

SW 067196

UBS AG
Bradley C. Birkenfeld
Rue de la Corraterie 16
1211 Geneva
SWITZERLAND

[REDACTED] = Redacted by the Permanent
Subcommittee on Investigations

April 06, 2002

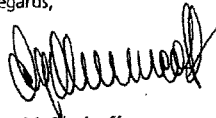
Dear Brad,

Please accept this written authorization to wire \$80,000,000.00 from account [REDACTED] to account [REDACTED]

Please cancel all five credit cards for account [REDACTED] and reimburse the guarantee costs to that account.

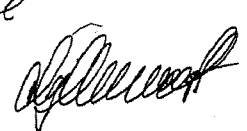
Thank you for your prompt attention to this matter.

Regards,



Igor M. Olenicoff

*Please invest \$50,000,000
into a call deposit until
further notice*



Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 491

SW 066782

1190

PHONE NO. :

05 Sep. 2002 21:50 P1

UBS AG
Bradley C. Birkenfeld
Rue de la Corraterie 16
1204 Geneva
Switzerland

— = Redacted by the Permanent
Subcommittee on Investigations

September 03, 2002

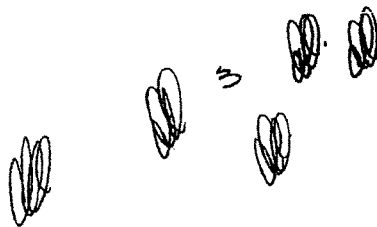
Dear Brad,

Per our earlier telephone conversations, we would like to instruct you to close the accounts () and (). Please transfer all the remaining balances from these accounts to the following account (). Thank you.

Regards,

Igor Olenicoff


Andrei Olenicoff



Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 491

SW 067659

Andrei Olenicoff

From: Mario Staggli [mstaggli@newhaven.li]
Sent: Tuesday, June 08, 2004 4:29 AM
To: Igor Olenicoff; aolenicoff@olenproperties.com
Cc: Bradley C. Birkenfeld
Subject: Trf of NDC to Nimenco/Landemarke Holding Aps

Dear Igor and Andrei

I am glad to confirm that the transfer has been completed on Friday last week I personally oversaw the completion of this major transaction. All the necessary "paper work" has been signed by the Directors of Landemarke Holding Aps as well as by the Auditors appointed with the business valuation and subsequent capital (required by law) increase of the Danish Company.

The share capital registered is now USD 310m.

This will give us a great flexibility in terms of "tax efficient planning" in the future starting with immediate effect.

I expect to receive the new certificate from the Danish Authorities within the week.

There is only one minor item I need your input on. The NDC share cert still has not yet arrived at my office. Whilst reviewing Hartis Pinder's letter of May 20 to you I discovered that the new share cert no. 2 refers to nominal 100 reg. shares in NDC whilst the "Stock Transfer Form from Bearer to Registered Shares" as well as the previous bearer share cert no. 1 refers to nominal 50 shares.

Has a "stock split" taken place or is it just a simple "typo mistake"?

Please let me have your comments on this.

Kind regards,
 Mario

Mario Staggli
 Director

New Haven Trust Company Ltd
 Zollstrasse 16
 FL-9494 Schaan
 Liechtenstein
 Tel. +423 237 56 10
 Fax +423 237 56 20

New Haven Trust Company Ltd. - Confidential Communication
 The information contained in this e-mail is confidential and may be subject to legal professional privilege. It is intended solely for the addressee. If you receive this e-mail by mistake please promptly inform us by reply e-mail and then delete the e-mail and destroy any printed copy. You must not disclose or use in any way the information in the e-mail.

Permanent Subcommittee on Investigations
 EXHIBIT #123 - FN 492

SW 016153



Mr. Mario Staggl
New Haven Trust Company Limited
Zollstrasse 16
PO Box 544
FL-9494 Schaan
Liechtenstein

Re: National Depository Company, Ltd. ("NDC")
Response to questions from the Auditor

Dear Mario:

This correspondence is in response the auditor's questions that were relayed to me regarding Olen Properties real estate business. Below will respond to each inquiry in the same order:

1. A share certificate for Olen Residential Realty Corp ("ORRC") is enclosed. Please note the Company was previously known as The Olen Company. A name change was effectuated in 1998 but it is still the same corporation, therefore the share certificate states The Olen Company.

2. Documentation of ownership for the following properties:

- Willowbrook Apartments
- Olen Pointe Brea (I&II)
- Eagle Trace Apartments
- Corporate Park Plaza
- Empresa Corporate Plaza
- Spectrum Pointe II
- Desert Club Apartments
- Sanctuary Cove Apartments (this was purchased in two phases, hence two separate reports. Phase 2 was known as Sanctuary Bay at the time)
- Weston Place Apartments
- Spectrum Technology Center

In regards to the mortgage debt, I can tell you that some of the properties have individual mortgages and others have one mortgage which covers many properties. This is the reason for the losses that the auditor has questioned in certain companies such as First OCR Corp., OCR Capital Corp., OCR GE Corp., etc. Each of these entities hold 7-10 properties and obtained one loan based on the mortgage of all the properties. Therefore, we report the income on an individual property basis so that we can accurately analyze the performance of

Seven Corporate Plaza • Newport Beach, CA 92660
(949) 844-OLEN • Fax (949) 719-7200
www.olenproperties.com

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 492

SW 067934

each asset. The mortgage payment, however, cannot be accounted for on an individual property basis because there is one statement and one payment for each loan, therefore we account for the mortgage expense as being from the holding company. Again, all of the income is on the property level, all the mortgage expense is on the company level. If you refer to the schedule of properties there is a column which lists the entity that owns the property and you can see that there are single entities that own multiple properties, but there is only one figure listed for the outstanding debt. The other way to verify this is that you can look at the individual property financial statements for those properties, and you will notice there is no mortgage expense. That is because all of the mortgage expense is on the company level, namely First OCR, OCR Capital, etc. We have done our best to enclose mortgage statements for the following properties in a manner which is understandable.

- Willowbrook Apartments
- Olen Pointe Brea (I&II)
- Eagle Trace Apartments
- Corporate Park Plaza (this loan covers 8 properties)
- Empresa Corporate Plaza
- Spectrum Pointe II
- Desert Club Apartments
- Sanctuary Cove Apartments
- Weston Place Apartments
- Spectrum Technology Center

4. Appraisals are enclosed for the following properties:

- Indian Hills (Nevada)
- Club Lake Pointe**
- Sanctuary Cove**
- Weston Place**
- Mitchell Corporate Center**
- Olen Newport Center**
- Walkabout

** = not located in our files. Figures were provided by the Lender since they ordered the reports. Copies were not provided to Olen.

5. Cost Documentation as follows:

- Serena Shores: An escrow closing statement is enclosed
- Spectrum Pointe III: This one is more difficult because Olen constructed the project over time. The land was purchased 8 years ago and held until the market was ready, then the building was built on it. All that is available is Olen's in-house accounting report which lists the costs, and is enclosed here.

-Banning-Lewis Ranch: Olen's subsidiary Banning-Lewis Venture Inc. contributed approximately \$28,000,000 into the partnership in exchange for a 50% interest in the project. A copy of that operating agreement is enclosed and I have highlighted the portion which describes the amount of investment.

6. Statements from the most significant accounts are enclosed. Please note that Olen Properties uses a wholly owned subsidiary Secured Holdings Inc. which it has designated to perform non-real estate oriented operations, hence the accounts are in that name. Certain accounts are pledged to Bank of America and therefore have that name on them as well.


Questions from previous material:

1. The consolidated statement includes all expenses for management of the properties. Although each property does pay a management fee which reimburses the management company for its expense, it does not necessarily cover all of the expense so hence there will be a variation.
2. "Investments Related" are investments in other ventures, such as the investment into Banning-Lewis Ranch (\$28,000,000) and Quantum Park & Village (\$8,000,000), Walkabout (\$6,000,000) and so forth. Also this line item, combined with the "Accounts Receivable - Related" further down the report is part of the accounting between the related entities, when investments are made from one Olen entity to the next, that investment is accounted for in this manner. This helps to maintain the separateness of the individual subsidiary entities and helps monitor their performance over time.
3. The Total Liabilities include other items besides just the mortgage. There are other accounts payable and most importantly the intercompany accounting referenced above. If you look at the total for "Mortgage Payable" on the computer generated Balance Sheet it is \$563,133, 123 for Olen Properties, plus the construction loans payable of 70,919,491, plus the Olen Residential Mortgages of 251,058,407 and the total of \$885,111,021 is very close to figure used in the Pro Forma Disposition Summary. Also you need to understand that the pro forma disposition summary was merely some rough numbers to determine the value of the company today, were it to be liquidated. A precise figure of the value were all of that to occur is impossible to determine.
4. "Deferred Loss/Gains on Transfer" has to do with the accounting for tax purposes of various property transfers within the related entities, similar to what was described above. It is simply an accounting function, no third party liability is part of this item.

5. As mentioned above, the entities you reference in the letter are holding companies which were formed as part of the financing for a number of commercial properties. The Lender, in this case GE Capital and also First Union Bank, wanted their loans to be in special purpose entities. As such the Borrower under these loans are these new entities such as OCR Capital, etc. These entities make the monthly mortgage payments. The income is generated at the property level by the properties that are held by these various holding companies, hence there is great expense to the entities you reference and no income. Conversely, if you look at the individual property statements for the properties held you notice there is not any mortgage interest expense. By combining the property statements and the holding company statements you get a total picture of the performance of these properties.

I am hopeful that this information and these answers adequately serve your purpose. Should you require anything further please do not hesitate to contact me.

Best Regards,


Andrei Olenicoff

25/03 '02 18:51 FAX

002

— = Redacted by the Permanent
Subcommittee on Investigations

UBS AG
Bradley C. Birkenfeld
16 Rue de la Corrairie
1211 Geneva
Switzerland

March 25, 2002

Dear Brad,

Please accept this written authorization to transfer \$ 100,000.00 from the account [redacted] to account [redacted]. This will commence the issuance of the five credit cards we discussed. I will bring the original copy of this letter to you for your files. Thank you.

Sincerely,



Igor M. Olenicoff
President

*not doing credit based
on tip to Stanara 4/02.*

*credit card
out*

*FO
Jan
Akhie
Nat
Bob Amb.*

Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 493

SW 066783

1197

UBS AG
Bradley C. Birkenfeld
Rue de la Corraterie 16
1211 Geneva
SWITZERLAND

April 06, 2002

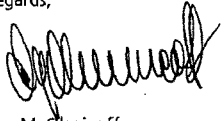
Dear Brad,

Please accept this written authorization to wire \$80,000,000.00 from account 0240-591937 NC to account 0240-550812 VM.

Please cancel all five credit cards for account 0240-550812 VM and reimburse the guarantee costs to that account.


Thank you for your prompt attention to this matter.

Regards,



Igor M. Olenicoff

*Please invest \$50,000,000
into a call deposit until
further notice*



Permanent Subcommittee on Investigations
EXHIBIT #123 - FN 493

SW 066782

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
 CARL LEVIN, MICHIGAN
 DANIEL K. AKAKA, HAWAII
 THOMAS R. CARPER, DELAWARE
 MARK L. DYER, KANSAS
 MARY L. LANDRIEU, LOUISIANA
 BENNY CRAIG, ILLINOIS
 LARRY KUDARCI, MISSOURI
 JON HESTER, MONTANA
 SUSAN M. COLLINS, MAINE
 JUD STEVENS, ALASKA
 GEORGE V. VONNOVICH, OHIO
 JOHN COLEMAN, MINNESOTA
 TOM COBURN, OKLAHOMA
 PETE V. DOMENICI, NEW MEXICO
 JOHN WARNER, VIRGINIA
 JOHN E. SUNUNSU, NEW HAMPSHIRE
 MICHAEL L. ALEXANDER, STAFF DIRECTOR
 BRANDON L. BERNHARDT, SECURITY STAFF DIRECTOR

United States Senate

COMMITTEE ON
 HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
 WASHINGTON, DC 20510-5250

July 18, 2008

VIA U.S. MAIL & EMAIL (robert.bennett@skadden.com)

Mr. Frank P. Lowy
 c/o Robert S. Bennett, Esq.
 Skadden, Arps, Slate, Meagher & Flom LLP
 1440 New York Avenue, N.W.
 Washington, D.C. 20005


Dear Mr. Lowy:

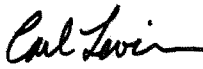
As you know, the Permanent Subcommittee on Investigations recently issued a Subcommittee report and held a hearing on *Tax Haven Banks and U.S. Tax Compliance*. Included in the Subcommittee report was a case study on the formation and management of an entity called the "Luperla Foundation" and related entities. As reported in the study, LGT Group documents obtained by the Subcommittee show that you were the founder of Luperla and that you and your three sons were the intended beneficiaries.

On Friday, July 25, 2008, the Subcommittee will reconvene its hearing to discuss the Luperla Foundation. Mr. Peter S. Lowy has agreed to appear at that hearing.

If you believe that any of the information presented in the case study is incorrect or you wish to share relevant material with the Subcommittee, we would be pleased to receive any information you wish to provide and to meet with you to discuss this matter. We would also be willing to arrange a telephone or video conference if that is more convenient for you. Please contact Robert Roach or Mike Flowers of the Subcommittee staff at 202/224-9505 if you have any questions or would like to arrange a meeting or submit materials to the Subcommittee.

Sincerely,


 Norm Coleman
 Ranking Minority Member
 Permanent Subcommittee on Investigations


 Carl Levin
 Chairman
 Permanent Subcommittee on Investigations

Permanent Subcommittee on Investigations
 EXHIBIT #124

1199

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

1440 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005-2111

TEL: (202) 371-7000
FAX: (202) 393-5760
www.skadden.com

UNLTD. 24
(202) 371-7160
DIRECT FAX
(202) 371-7813
EMAIL ADDRESS
ROBERT.BENNETT@SKADDEN.COM

FIRM/AFILIATE OFFICES
BOSTON
CHICAGO
HOUSTON
LOS ANGELES
NEW YORK
PALO ALTO
SAN FRANCISCO
WASHINGTON, D.C.
WILMINGTON

BEIJING
BRUSSELS
FRANKFURT
HONG KONG
LONDON
MOSCOW
PARIS
SINGAPORE
SYDNEY
TOKYO
TORONTO
VIENNA

July 24, 2008

VIA FACSIMILE AND HAND DELIVERY

The Honorable Carl Levin
Chairman
The Honorable Norm Coleman
Ranking Minority Member
United States Senate
Committee on Homeland Security and
Governmental Affairs
Permanent Subcommittee on
Investigations
199 Russell Senate Office Building
Washington, DC 20510-6262

RE: Letter to Frank P. Lowy of July 18, 2008

Dear Senators Levin and Coleman:

Mr. Frank Lowy has asked me to respond to your letter of July 18, 2008, in which you offer to confer with Mr. Lowy and receive additional information from him. Mr. Lowy respectfully declines this invitation for the following reasons:

First, this belated offer should have been made before the Subcommittee's report was publicly released. The offer comes far too late, as the Subcommittee's report has already done substantial damage to the reputation of Mr. Lowy and his family. After-the-fact corrections to the record, no matter how significant, will receive little attention and have little effect; it is simply impossible now to unring that bell.

The Honorable Carl Levin
The Honorable Norm Coleman
July 24, 2008
Page 2

Second, prior to release of the report, I raised the possibility of making a knowledgeable person available to discuss the issues of concern to the Subcommittee, rather than requiring the appearance of Peter Lowy, who knows little about the transactions in question. This was rejected, heightening concerns about whether the Subcommittee has pre-judged the matter.

Mr. Lowy does want to convey to the Subcommittee the following information:

- Neither Mr. Lowy nor any member of his family received any distributions from the Liechtenstein foundation that was the subject of the Subcommittee's report.
- All of the funds held in the foundation were distributed several years ago for charitable purposes in Israel.
- Mr. Lowy and his family have honored their tax obligations to all taxing authorities, have cooperated with them in the past, and continue to do so now.
- In short, neither he nor his family has done anything improper.

Under these circumstances, Mr. Lowy declines the Subcommittee's offer.

We respectfully request that this letter be made part of the official record.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. S. Bennett", written in a cursive style.

Robert S. Bennett

1201

JOSEPH I. LIEBERMAN, CONNECTICUT, CHAIRMAN
CAPT. LEVIN, MICHIGAN
DANIEL K. AKAKA, HAWAII
THOMAS R. CARPER, DELAWARE
MARK L. PRYOR, ARKANSAS
MARY L. LANDRIEU, LOUISIANA
BARACK OBAMA, ILLINOIS
CLAIRE MOSKOWSKI, MISSOURI
JON TESTER, MONTANA
SUSAN M. COLLINS, MAINE
TED STEVENS, ALASKA
GEORGE V. VOINOVICH, OHIO
NORM COLEMAN, MINNESOTA
TOM COBURN, OKLAHOMA
PETE V. DOMENICI, NEW MEXICO
JOHN WARNER, VIRGINIA
JOHN E. SUNUNU, NEW HAMPSHIRE
MICHAEL L. ALEXANDER, STAFF DIRECTOR
BRANDON L. MELHORN, MINORITY STAFF DIRECTOR

United States Senate
COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

July 24, 2008

VIA FACSIMILE (972-3-609-6568)

Joshua H. Gelbard, Esq.
12 H Be'lyar Street
Tel Aviv, Israel 62093


Dear Mr. Gelbard:


As you may know, the Permanent Subcommittee on Investigations recently issued a Subcommittee report and held a hearing on *Tax Haven Banks and U.S. Tax Compliance* (copy available at: http://hsgac.senate.gov/public/_files/071708PSIRReport.pdf). Included in the Subcommittee report is a case study on the formation and management of Luperla Foundation. As reported in the study, LGT Group documents obtained by the Subcommittee show that you were involved in the formation of, and transactions related to, Luperla and other entities including Crofton and Lonas Ltd.

On Friday, July 25, 2008, the Subcommittee will reconvene its hearing to discuss the Luperla Foundation. Mr. Peter S. Lowy has agreed to appear at that hearing.

The Subcommittee would appreciate the opportunity to speak with you about the formation and transactions of Luperla and related entities. If you believe that any of the information presented in the case study is incorrect or you wish to share relevant material with the Subcommittee, we would be pleased to receive any information you wish to provide and to meet with you to discuss this matter. We would also be willing to arrange a telephone or video conference if that is more convenient for you. Please contact Robert Roach or Mike Flowers of the Subcommittee staff at 202/224-9505 if you have any questions or would like to arrange a meeting or submit materials to the Subcommittee.

Sincerely,


Norm Coleman
Ranking Minority Member
Permanent Subcommittee on Investigations


Carl Levin
Chairman
Permanent Subcommittee on Investigations

Permanent Subcommittee on Investigations
EXHIBIT #125



גלברד, עמית, וקסלר – עורכי דין
GELBARD, AMIT, WEXLER – LAW OFFICE

12 Heh Be'Iyar St., (Corner Tashach St.)
Kikar Hamedina, Tel-Aviv 62093

רח' ה' באייר 12 (פינת תש"ח)
כיכר המדינה, תל-אביב 62093

Fax: 972-3-6096568

Tel. 6096563: טל'

פקסימיליה: 6096568-03

E-mail: gelbardj@barak.net.il אלקטרוני
July 28, 2008

By fax 2022247042
and by post

The Honorable Carl Levin, Chairman
The Honorable Norman Coleman, Ranking Minority Member
United States Senate
Committee on Homeland Security and Governmental Affairs
Permanent Subcommittee on Investigations
199 Russell Senate Office Building
Washington DC 20510-6262
USA

Honorable Members,

I acknowledge the receipt of your letter of Friday 25, July, which arrived during our weekend.

I do not believe I can be of any assistance. I am sure you have all official documents relating to the mentioned entities.

From the little I read in one of the papers, I observed, things which seem incorrect, but I am far from having the full picture.

Therefore I apologize, but I have to refuse to your request.

Yours sincerely,

J.H. Gelbard
J.H. Gelbard,