

# EXHIBITS

A-8 to Z-8

negative effect on Movant's case and Mr. Gerry was released from his subpoena. (1:04-CR-165, Dkt. No. 514, at 2219-23). Movant's argument that she, in good-faith, relied on representations made by Mr. Kramer-Wilt are irrelevant to Movant's case. The indictment brought against Movant charged her with making fraudulent representations to investors. (1:04-CR-165, Dkt. Nos. 108, 470 at 8-20). Whether or not Movant was herself deceived by third-parties was a collateral matter, and irrelevant to the charges brought against her. *Id.* Additionally, Movant's assertions of what Mr. Kramer-Wilk's presence would have accomplished for Movant are purely speculative and conclusive. (*See* 1:09-CV-913, Dkt. No.34, at 183). Accordingly, Movant's argument is without merit.

Third, Movant argues that her "good-faith reliance" on representations made by Gerard Forrester was a viable defense and that denial of letters allegedly written by Mr. Forrester from evidence improperly prejudiced her case. (1:09-CV-913, Dkt. No. 34, at 184). Mr. Forrester is alleged to be a F.B.I. Agent. Mr. Forrester's purported letters which Movant claims she relied on state that a certain bank located in the Bahamas was a legitimate banking institution. *Id.* Although it is unclear from the record or Movant's exhibits whether Mr. Forrester even exists, or if the alleged letters can be authenticated, this argument does not rise to the magnitude necessary to be cognizable under a § 2255 motion. (1:04-CR-165, Dkt. No. 397; 1:09-CV-913, Dkt. No. 34).

A Court is required to hold an evidentiary hearing when factual disputes arise, unless the allegations cannot be accepted as true because they are contradicted by the record,

inherently incredible, or conclusions rather than statements of fact. *Valentine*, 488 F.3d at 325, 333. However, even if the claim is not disputed and Movant's claim is presumed true, it fails to establish an error of a constitutional magnitude or an error which resulted in a complete miscarriage of justice or so egregious that it amounts to a violation of due process. *Humphress*, 398 F.3d at 858 (citation omitted); *Watson*, 165 F.3d at 488 (citation omitted). If the Court accepts that Mr. Forrester exists and accepts that the letter is authentic, it only states that a certain bank located in the Bahamas appears to be a legitimate banking institution. (1:04-CR-165, Dkt. No. 392, Ex. 4). This would have no effect on Movant's case. The letter does not indicate that the bank's investments matched the investments Movant described to investors. Further, Movant's argument for a "good-faith reliance" regards only the collateral matter of whether Movant was defrauded by a third-party. Accordingly, Movant's argument is without merit.

Fourth, Movant argues that federal officials were involved with the administration, endorsement, and collapse of a bank located in the Bahamas, and that she was entitled to evidence regarding the federal involvement with that bank under *Brady v. Maryland*, 373 U.S. 83 (1963), and *Jencks v. United States*, 353 U.S. 657 (1957). (1:09-CV-913, Dkt. No. 34, at 186-88). Movant's implausible assertions are speculative conclusions, unsupported by the record, motion, or exhibits and are without merit.

Fifth, Movant appears to argue that her rights under the Federal Rules of Civil Procedure were violated. Movant's underlying case was criminal and properly governed by

1 going to be, it didn't turn out to be, but it was some funds  
2 that we had put with a Richard Gerry and Winfield Moon.

3 Q Okay. We'll move on to that later.

4 A Yes.

5 Q But try and follow up with the Bahamas CD Program.

6 A So we received notification that the bank had -- it was a  
7 notice of suspension stating that the governor is of the  
8 opinion the banking and trust license should be revoked.

9 MR. SCHIPPER: I'm going to object, Your Honor. Is  
10 she testifying now? It appears she's reading something.

11 BY MR. KACZOR:

12 Q Well, let me ask you, I don't want you to read anything.  
13 I mean, you've done an investigation. Obviously, something  
14 happens that you become aware of, and just tell us what it  
15 is. I don't want you to read from something.

16 A All right, okay. All right. I didn't know. Anyway, we  
17 received some letters that that they were appealing the  
18 decision. There was a Christopher Lunn, he was the CEO of the  
19 bank; and there was a Derek Ryan, who was one of the lawyers;  
20 and there were Mohammed Harajchi and a Michel Harajchi.  
21 Mohammed Harajchi owned the bank, and actually if one were to  
22 look at some of the wire transfer copies, you'll see a Michel  
23 Harajchi receiving the funds on the wire transfers.

24 They had set up some securities accounts at UBS,  
25 United Bank of Switzerland, which had locations in the Bahamas

1 and of course in Switzerland itself. So there were some  
2 securities accounts that were there in the Bahamas and that  
3 were at these other banks because UBS is so substantial. It's  
4 one of the, you know, largest banks on the earth, so to  
5 speak. That was another reason I felt content with the  
6 program, because of the substantialness of a UBS, for example,  
7 holding some of the assets.

8           Anyway, we were receiving letters from these people  
9 saying that we'll appeal this, we'll get the money released  
10 any day, it will be fine. Going into the seminar, we had  
11 received funds from another investment of significance. We  
12 had funds in several other programs that appeared to be doing  
13 well, and we were being told that this was going to be  
14 released any minute, any day; and that's where some of this  
15 any minute, any day, any time, anyhow out of my mouth was  
16 coming from at the seminar because that's what I was being  
17 told.

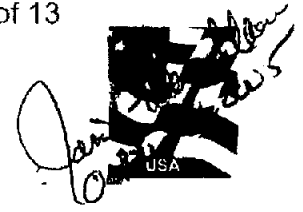
18 Q    Okay. I really don't mean to interrupt.

19 A    Yes.

20 Q    But I'm just trying to -- I understand there are other  
21 investments and I understand we're going to get into each of  
22 those and you're going to describe them.

23 A    Yes.

24 Q    So we're going to try and finish with the Bahamas Bank CD  
25 Program. But other investments, can you just tell us what

A handwritten signature in black ink is written over a rectangular stamp. The stamp contains the letters "USA" and some illegible text. The signature appears to be "Janet Mavis Marcusse".

**AFFIDAVIT OF FACT**

**Suisse Security Bank & Trust – A Dept. of Justice Sponsored Scam**

I, Janet Mavis Marcusse, a living woman over 21 years old, do hereby attest to the following: We were a group organized in 1998 as an unincorporated church health ministry, (not an incorporated 501 (c) church) desirous of helping cancer victims and in financing an alternative health clinic in conjunction with a project in Branson, Missouri, with MLC Development Corp. and several Indian tribes. In order to finance this and pay overhead, a percentage of the returns were derived from the group's investments. Funds were placed in a variety of investments fully disclosed on a "best efforts" basis.

The group's main investment starting in 1998 was stock based, originating at a broker dealer in the States that moved offshore to Nassau, Bahamas in 1999, at Swiss Mercantile, a branch office of Suisse Security Bank and Trust (SSBT). The funds were backed by \$11 million in Certificates of Deposit. The bank (SSBT) advertised SIPC protection, through Tucker Anthony, a U.S. based broker/dealer and a secondary insurance wrap on all deposits and securities up to an unlimited amount (See Exhibit #1). Significantly, a Dept. of Justice Senior Supervisory Agent in Miami, Florida, a Gerard Forrester, twice endorsed this bank (SSBT) in writing on February 11, 2000 and again on January 10, 2001, for "subscribing to all money laundering regulations" (See Exhibits #2 and #3). The bank had its license revoked less than two months later on 3-5-01 freezing all deposits amidst allegations of "money laundering" (See Exhibit #4).

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As the result, this fraud of Gerard Forrester's represented a significant enough CONFLICT OF INTEREST for the UNITED STATES of AMERICA that it should have precluded charges in the first place. If anyone should have been criminally charged with that in this matter, it should have been Gerard Forrester. For any of us to be charged with a crime WHILE RELYING on written government employee advice for so doing is unethical, hypocritical and unsupportable. It is suspect as behavior designed to prevent litigation against the Dept. of Justice for its own disastrous advice, if indeed it wasn't just a scam sponsored by rogue government agents first to steal the victim's funds and then despicably frame the victims to avoid litigation. Bank management has gone to court in the Bahamas three times to fight the license revocation over the past four years, losing each time while all along they reassured depositors that their funds were safe and secure (See Exhibit #5). The bank's provisional liquidator, Raymond Winder of Deloitte Touche, eventually reported on August 4, 2002 that at least \$31 million was stolen by bank management and has not been recovered (See Exhibit #6). A Mohammed Harajchi owned the bank and as recently as 2004, Gerard Forrester was seen at court in the Bahamas with Mr. Harajchi "defending" the bank (See Exhibit #7). As a result, the most likely scenario is that this bank was a Department of Justice/IRS/Federal Reserve scam and sting operation. The United States, backed by organizations such as the FATF and OECD, reported closing a bank in Antigua (Eurofed) for money laundering, and the main customer of Eurofed later accused of money laundering was Accord Insurance, which moved to Suisse Security Bank and Trust (SSBT) in 1999. Mr. Forrester had to be aware of all of this when he wrote his first letter of endorsement regarding SSBT in February, 2000. Mr. Forrester left the employ of the Dept. of Justice immediately

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after the bank's license was revoked in March 2001, a highly suspicious move considering his continued support of a bank owner in which \$31 million is still "missing" (See Exhibit #7).

The revocation of SSBT's banking license was quite demonstrably facilitated by pressure from the <sup>OECD</sup> ~~GAFC~~ and FATF, organizations which serve as fronts for the IRS and Federal Reserve. The Bahamas was blacklisted by the FATF and OECD (See Exhibit #8) in a move described as "orchestrated" (See Exhibit #9). New laws were passed to give the Central Bank of the Bahamas new powers to revoke bank licenses and allow "foreign inspectors to conduct on-site" bank account examinations (See Exhibit #10). Hon. Ron Paul of Texas described the FATF as a "sort of financial Gestapo" (See Exhibit #11). But of course, the "really rich people" and the politically privileged still "dodge taxes", according to President Bush (See Exhibit #12). Apparently these politically privileged include Mr. Harajchi, who purportedly gave \$10 million to the Progressive Liberal Party in 2002 which looks very much like a very generous bribe (See Exhibit #13). How is it the owner of SSBT that allowed \$31 million of investor funds to go "missing", receives whole hearted support from a former Dept. of Justice Senior Agent who even accompanies him to court, is allowed to live unmolested in his "palatial Bay View Drive, Paradise home"? (See Exhibit #14). Is this to "protect" Dept. of Justice "interests" in the missing funds? Of course the IRS "signaled it's participation and collusion in the revocation of SSBT's bank license on March 5, 2001 by having its Skill, David Cay Johnston, write an article entitled "IRS Steps Up Tax Evasion Raids" dated March 6, 2001, the very NEXT DAY. Very similar behavior was repeated by Gerard Forrester when he sent a letter dated the VERY NEXY DAY after an important House hearing (See Exhibit #15).



It has now become provable that SSBT was a scam/sting set up to entrap American Citizens to lure them in order to steal their funds, and even in some cases like ours, criminally charge those who were naïve enough to trust the Dept. of Justice's "lulling" letters. SIPC refused to pay any claims. High returns on "investment portfolios" were shown to customers of SSBT that in retrospect were probably not even true by members of this phony bank's management. Mr. Leonard A. Zawistowski, Jr., an "expert" at the Federal Reserve admitted at trial that it was the Federal Reserve that "collapsed" several banks in the Bahamas in 2001, however the trial transcript has been tampered with by Court Reporter Kevin Gaugier, CSR 3065, as numerous witnesses in court that day are preparing Affidavits to attest to this fact. Members of the bank's management and its owners have clearly been protected from criminal prosecution in the Bahamas for the theft of \$31 million to date. Why charge us and not those people? Why hide Gerard Forrester? Judge Robert Holmes Bell improperly denied the defense ALL witnesses in regards to SSBT including Mr. Forrester, Mr. Lunn, Mr. Winder and Mr. Harajchi, going so far as to cast doubts on the existence of Mr. Forrester to protect the Dept. of Justice plus wrongfully denying Henthorn material of Mr. Forrester (See Exhibit #16). It was not Judge Bell's position to act as a prosecutor and deny any evidence that would have shed light on a possible protection racket framing the alleged "defendants". Further, no wire transfer copies from the bank accounts that the "defense" stipulated to, were allowed to be presented to the jury by Judge Bell; indeed once the bank wire transfer records were certified by the "defense" thereby compelling the court to accept and present them as evidence, Judge Bell walked off the bench thereby vacating his position it appears solely in order to protect the Dept. of Justice in this fraudulent matter. Despite repeated requests, Judge Bell has refused to vacate the trial for this outrageous act of fraud.

The prosecutor portrayed our stock based investment as an illegal prime bank debenture scheme to the jury in spite of this already having been pointed out to be fraud upon the court already back in July, 2004. For the second time at trial, Mr. Zawistowski of the Federal Reserve admitted that stock based investments were not illegal prime bank debenture schemes. However, the damage had already been done to destroy the "defendants" reputation in front of the jury who may not have fully understood that the prosecution repeatedly and knowingly lied about this critical point continuing to lie as it was initially revealed almost a full year ago in court. These lies were also used in front of the grand jury to obtain the Superseding Indictment in October, 2004, after the prosecution already KNEW this to be a lie. We had been defrauded out of a million dollar investment sponsored by Accord Insurance now that I recently learned that SSBT and its stock brokerage unit were most likely an undercover operation sponsored by U.S. Customs and Secret Service in collusion with the Dept. of Justice under the supposed guise of targeting "international narcotics traffickers". Our loss in this matter and all of the fraud involved can be attributed directly to the Dept. of Justice.

David Kaczor, lead defense lawyer in this case, was given ample evidence comprising of the wire transfers to this program, in the States and offshore, the Certificates of Deposit, the Dept. of Justice Forrester letters, the Deloitte Touche provisional liquidator financial reports prepared by Raymond Winder, OECD and FATF reports, legislative events and IRS procedure and threats in the Bahamas which facilitated the Central Bank's ability to accommodate the Federal Reserve's demands to close certain banks and other important

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This fraudulent scheme orchestrated by the local Office of the U.S. Attorney was uncovered by a review of the 106<sup>th</sup> Congress House Report, 64-353 dated February 10, 2000, titled *Money Laundering Crisis Hearing*. This hearing was conducted before the Subcommittee on Crime of the Committee on the Judiciary House of Representatives. The Hearing Report precisely describes the government sponsored scam against us EXCEPT it was NOT AUTHORIZED against NON-NARCOTICS-RELATED innocent bystanders, hence the need to frame us. Until I read this Report, I had believed Mohammed Harajchi, former owner of SSBT, to be mostly at fault. Now I see I was wrong. House Report 64-353 discusses an "Operation Juno" and refers to an "Operation Dinero" whereby the Atlanta IRS and DEA in conjunction with several foreign governments operated an undercover Stock Brokerage Firm, again exclusively targeting narcotics traffickers (See Pages 90-95, Exhibit #19). The Report further details "Operation Dinero" where the IRS and DEA operated a Class B Bank in Anguilla, British West Indies, for which an "undercover agent promoted the bank's services" (See Pages 103-104, Exhibit #19). This would have been identical to Gerald Forrester's <sup>J.P.M.</sup> ~~Senior~~ Supervisory Agent, Department of Justice. Note that as soon as the House of Representatives was noticed on this type of undercover operation, on February 10, 2000, the VERY NEXT DAY, February 11, 2000, Mr. Forrester issued his first "lulling" letter designed to scam his victims. The House Report goes on to state, "this undercover Class B Bank operated in the same manner as any other offshore Class B Bank." This two-year operation resulted in the "seizure of more that One Hundred Million Dollars in cash and nine tons of cocaine". At SSBT, \$31 Million is still missing four years later with Gerald Forrester actively tampered with to remove this damning admission (See Page 806, Exhibit #20).

At trial, I asked Mr. Zawistowski, "so ... I can't rely on a government official to make a decision?" (See Page 810, Exhibit #11) and it is Judge Bell, NOT the prosecution that interferes with my question, operating outside his office as a Judge under his bar license (P10654) acting again as the prosecution. Clearly, it seems highly evident that everyone but the "defense" knew that SSBT was an undercover operation, that our funds had been seized in this undercover operation, and the only way for the Dept. of Justice to be able to keep these funds was a plea bargain but barring that, a silent presumption had to be made that we were "international drug traffickers" and those who were the most likely to suspect that they were being framed had to be illegally incarcerated, threatened, assaulted, terrorized, their mail inspected and tampered with, phone calls blocked, and all potential witnesses threatened to stay away.

Gerard Forrester was reported to STILL be at the side of Mr. Harajchi when Mr. Harajchi went to court regarding the Suisse Security Bank & Trust as evidenced in Exhibit #7. Obviously Mr. Forrester is still busy protecting the government's interests in this matter. It certainly now seems highly likely that there's only one logical reason for the Judge to have denied the use of bank records in this case. Gerald Forrester of the Department of Justice endorsed SSBT, the bank we used. We now KNOW there were undercover Bankers and Stock Brokerages where the intent was to facilitate government forfeiture of drug trafficking assets. Judge Bell, not the prosecution, but Judge Bell purposely and actively interfered with my questions of Leonard Zawistowski, Federal Reserve "expert" witness (See Exhibit # 11). At trial, Mr. Zawistowski admitted under oath that it was the Federal Reserve that "collapsed" several Class B Banks.



**Financial Industry**

**Off-shore financial institution loses case against Central Bank**

By The Nassau Guardian  
Jul 20, 2001, 07:17

Suisse Security Bank and Trust Ltd. has lost its case against the Central Bank of The Bahamas, which revoked its license earlier this year amidst allegations of money-laundering.

The judgment was handed down by Supreme Court Justice Hartman Longley, two days before Suisse chairman Mohammed Harajchi paid out an additional \$600,000 to the over 40 Bahamian employees.

On July 17, Justice Longley, in his ruling stated that provisions under the Banks and Trust Companies Act does not violate article 27 of the Constitution and therefore dismissed the action.

During a press conference Thursday at the office of People's Labour Movement, chairman Obie Ferguson, also president of Trade Union Congress said it was also a special day for the 167,000 workers of The Bahamas.

"We see now capital and labour co-existing in the best interest of all parties," Ferguson said.

Chairman of Suisse Security Bank and Trust employees Mohammed Harajchi and his counsels were present at the press conference.

"When I opened the bank, it was not just to make a business," Harajchi said. "It was more than that. It was to get involved with the people."

Following the revocation of the bank's license on March 5, by Central Bank Governor Julian Francis, Harajchi awarded the 45 employees -- including 43 Bahamians -- an excess of \$600,000.

"We said then and we say now, that is the kind of investor, the kind of employer we in The Bahamas ought to be encouraging to invest in this country," Ferguson said.

According to the trade unionist, Harajchi had no legal obligation to pay that money; he was only required to give two weeks severance pay.

"But the workers were good to him and he thought to demonstrate that by giving them what I considered to be good notice," Ferguson said.

The union was able to negotiate another \$600,000 for the workers, totaling over one million dollars in compensation.

Suisse's license was suspended by Central Bank Governor Julian Francis, who claimed that the institution failed to formally fulfill certain prudential requirements and satisfy the Central Bank of The Bahamas as to its affairs.

Police officers seized physical control of the bank's documents ordering all employees out of the building at Orissa House on East Bay Street. Francis appointed chartered accountant and banker Raymond Winder as receiver, with a mandate to control the bank's affairs in the interest of the bank's creditors.

Subsequently, the new Bank and Trust Companies Regulations Act came under attack in an action filed in the Supreme

**PRESS RELEASE/CONFERENCE**

**BY**

**MINISTER OF PUBLIC WORKS, UTILITES**

**& BAHAMASAIR**

**BRADLEY B. ROBERTS, M.P.**

**TOPIC: RESPONSE TO MOHAMMED HARAJCHI**

**& THE CONFIDENTIAL SOURCE NEWSPAPER**

**AUGUST 23, 2004**

While on vacation in the Mediterranean, I was informed that the latest alert on possible terror attacks was downgraded from imminent and severe to insignificant and fraudulent. It has now become clear that Mr. Mohammed Harajchi and the Confidential Source's claim of having political weapons of mass destruction, has turned out to only be delusional and deceitful firecrackers, as they attempted to again scandalize The Bahamian Government, and The Progressive Liberal Party, inclusive of myself at an August 11, 2004 Press Conference and in the Source on August 16, 2004.

It appears that Mr. Harajchi has reverted to what would come natural and that is to string together a few proverbial missiles and toss them into a crowd, this time being The Cabinet of The Bahamas and the oldest Political Party in the nation, The Progressive Liberal Party. But this should not be a surprise to the Bahamian people, for it seems that Mr. Harajchi's behavior is the order of the day, not only in this country, but also around the world. Mr. Harajchi and The Confidential Source Newspaper is the personification of an axis of evil.

However, what is a surprise to me are the amount of verbal assaults based on lies and innuendo that

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Mr. Harajchi and The Confidential Source stooped to during their verbal and written words of the past two weeks. In that regard, I wish to respond to a few of the delusional and fraudulent remarks.

1. On August 11, 2004, during Mr. Harajchi's delusional and fraudulent assault on The Government of the Bahamas, he was quoted as having said that he 'provided school fees for one of my relatives.' This statement again shows the mindset of Mr. Harajchi and his ilk, for he launched a verbal missile on the innocent, my entire family inclusive of myself. For the record I wish to state that I have never and would never ask Mr. Harajchi or anyone of his radical character to assist any of my relatives. Why should I? There is nothing that Mr. Harajchi could do for any of my relatives that my relatives or myself cannot do.
2. What did happen in fact is that a Prison Overseer in December of 2001 sought financial assistance to attend law school in England and while I did assist her myself; she also asked for names of other possible contributors and I named several persons that may be able to assist and she mentioned Mr. Harajchi and requested that I make a request on her behalf of Mr. Harajchi, as he even claimed himself to be a goodwill benefactor of the average Bahamian. I am now able to confirm that the single-parent mother did not receive one single penny from Mr. Harajchi. But I suspect that if she had received assistance, Mr. Harajchi would have gladly paraded her name with the cheque before the public in order to gain self-praise, which is really no recommendation of goodwill at all. I am pleased to announce that the single-parent mother has completed her LLB studies.
3. In the Confidential Source Newspaper of August 16, 2004, a story appeared under the byline of 'Harajchi tightens the rope around the PLP.' As persons of Mr. Harajchi's ilk usually do, the story attempted to justify the previous lying assault on me, claiming that he gave one of my relatives money for school fees, by insinuating that it is my daughter, who happens to be concluding her studies for a Masters Degree in International Law and living in England along with her three children. I have stated previously the facts of that situation.
4. However, for the record, my daughter and grand daughter's school fees have never been

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financed by Mr. Harajchi. Mr. Harajchi would wish that he could have Bahamians believe that only he has money to spend. But Mr. Harajchi must be made aware that Bahamians, inclusive of myself do have and spend our own money. But we don't do it to reserve the right to throw lowness or to blackmail persons after the fact. Most Bahamians, inclusive of myself can accurately and truthfully document how we made our money. It remains to be seen whether Mr. Harajchi can say the same. At least his record in the Bahamas shows that every enterprise that he has undertaken has proven him to be a serial failure.

5. The Confidential Source story of August 16, 2004 also suggested that I have been to Mr. Harajchi's home, but yet I still deemed him a present day undesirable, as many of his ilk are deemed worldwide. There is no contradiction in these two facts. Yes I have been in the presence of Mr. Harajchi at his home on two occasions as an Opposition Member. Never as a Government Official. On the first occasion it was at the request of my Leader, who was the Leader of the Official Opposition at the time. It was at that time that a second invitation was extended to me to attend a New Years Party, of which my wife and I attended and stayed for 20 minutes. But on both occasions it was in the capacity as a PLP Member attending events of what was thought to be an invitation from a goodwill and genuine Permanent Resident.
6. While a guest at his home, never have I participated in or witnessed any discussion of a 'quid pro quo' nature concerning Suisse Security Bank & Trust with the PLP or a potential PLP Government. However, as when anyone invites someone to their house, subsequently into their private lives, a person would learn a number of things about the homeowner that upon further deliberation and consideration would cause a different opinion, whether good or bad to emerge.
7. I never took any money from the likes of a Mr. Harajchi and I determined that Mr. Harajchi was bad news 17 months after the constant, unwarranted and fallacious attacks on the PLP Government in the Confidential Source.
8. As is customary of person's of Mr. Harajchi's ilk, they seek to distort fundamental and



democratic facts in order to frame and justify their radical views. Hence, on another note, the radical views are clearly shown by Mr. Harajchi in his introduction of a letter from The United States' Federal Bureau of Investigation (FBI) claiming that his Suisse Security Bank & Trust is in good standing. I would assume that Mr. Harajchi introduced this letter at his Press Conference to, in his radical and irrational view, validate his assertion that his bank license should not have been revoked.

9. But if one were to examine the letter closely, one would see that Special Agent In Charge (SAC) Gerard Forrester is the signature supporting the contents of the letter. Who is Gerard Forrester? Yes he is a retired Special Agent of the FBI. But he likewise is a personal friend and has been a personal aide of Mohammed Harajchi's for many years. Years that I assume also included when he was an FBI Special Agent. In fact during the last hearing for the case of SSBT in the Bahamian courts, I am advised that Gerard Forrester was in the company of Mr. Harajchi during the court hearing.

I conclude by saying this, I expect that the Bahamian people would accept that the facts to date and the spirit behind Mr. Harajchi's radical attempt to destabilize the Bahamian Government is proof positive of what I labeled him on two occasions in the Parliament. On previous occasions when he was angry with the FNM Government, he threatened to take his cause to the Wall Street Journal Publication, The BBC, and CNN. Since the change of Administrations he has also threatened to do the same to the present PLP Government, but this time he's decided that he wants to expand his promotional tour and go on the Larry King Live Show also. What is he waiting for? And what will he tell the world? Will he tell them that his heart's desire is to attempt to control and influence governments?

Clearly this man is beyond rationality because in an affidavit sworn on December 12, 2001 by his own lawyer, Derek Ryan in the presence of Chris Lunn, the former Chief Executive Officer of Suisse Security Bank & Trust Limited, Mr. Harajchi had two meetings with a former FNM Cabinet Minister and 90% of the two conversations were about Mr. Harajchi wanting his bank license restored. Mr. Harajchi's claim of being a heart-warming philanthropist wanting to save the Bahamas, if not the world, had very little involvement in his two meetings with the former Cabinet Minister. In fact the tone and tenor of his remarks shows him as more of a desperate and dangerous man, who used his minor concern for the country as only a prelude to what he was really after, a bank license restored.

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[http://bradleyroberts.org/news/august04/09/press\\_release.htm](http://bradleyroberts.org/news/august04/09/press_release.htm)

10/24/2005

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**He claims that he contributed to the PLP's campaign of 2002 and he claims he expected nothing in return. So he got nothing in return, but yet he still complains. So what did he really want? A person of Mr. Harajchi's stature who it is said has four passports and is now desirous of becoming the President of The Islamic Republic of Iran, may be better off if he seeks election in his homeland in order to help the millions of poverty-stricken Iranians who would know exactly what to do with him if he ever tries to approach them as a wolf in sheep's clothing.**

**It is the sign of a dishonest man to expect that because he gave financing to a Political Party, he therefore inherits the right to malign individuals of that Political Party and avoid being called a terrorist. No one has a license to do harm after he's done what he considers to be good deeds. Mr. Harajchi is nothing more than a destabilized man at the end of his rope who believes that threatening and insulting words will enable him to destabilize governments.**

**No one should be allowed to terrorize a nation through deceit, trickery, half-truths and outright lies and not avoid being labeled what they are: an undesirable person who is not worthy of calling the Bahamas their home. It is an unforgivable insult to every Bahamian for their duly elected government members to be called rats. And if we truly want to make a serious thrust to deal with rats, as Mr. Harajchi suggests, we would be well on our way if we start with him.**

that they were proceeds of drug trafficking activities.

It might be helpful, even though Stef Cassella has already reviewed the black market peso system, to give you a little insight that I gleaned which is very similar to his.

I have placed a chart to your right entitled "Emerging Money Laundering Systems." A simple explanation of the peso exchange system might be defined as System A, dollars, and System B, pesos.

In the lower left-hand corner, the drug dealer starts the process by shipping his drugs to the United States. He then converts it or trades the drugs for currency, and it stays in a stash house.

At about the same time, in the lower, again the peso system, the person in the center is the money laundering currency exchanger. He is approached by a businessperson in Colombia who has a need for dollars in the United States. Because of the historical prohibition against having dollar accounts by the Colombian Government, he is required either to go through the central bank or to go through the currency exchanger. Because of the economics of this situation and sometimes the lack of the central bank having dollars, he goes to the currency exchanger. The currency exchanger then by cell phone or beeper contacts and buys the dollars in the United States.

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The businessman then tells the currency exchanger to which account and in what form he wants the dollars to be deposited. The reason he wants the dollars is because he wants a commodity shipped from the United States that he can either smuggle into Colombia or import legally.

If we follow the trail as a law enforcement officer would see it and as my experience has shown me, we only see the dollar or A System—we see the drugs coming in, the dollars converted to a stash house, and the dollars then transferred to U.S. business and a commodity sent out. If we follow the trail of money, we follow the money to a U.S. business; we do not see the underlying peso exchange in South America.

From the early days, the Atlanta IRS and DEA conducted many international undercover investigations of domestic and international money laundering groups. All of these investigations had one thing in common, and that was the black market peso system.

I call it a "system" because it is actually a system of exchanging currency, a System A and a System B. Skip Latson DEA and I, along with Larry Anderson, Assistant U.S. Attorney in Atlanta, have operated an undercover bank and an undercover stock brokerage firm. The undercover bank called Operation Dinero operated in Atlanta with the cooperation of the British, Italian, and Spanish governments. This bank and its undercover representatives and informants offered to the Colombian drug cartel leaders the service of hiding their narcotics money and attempting to provide financial services for them through the undercover bank.

We had the opportunity to see first-hand some of the inner workings of the black market peso exchange system and why it was of such value to them. During these meetings, we were offered \$300 million in bonds and other assets.

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During Operation June, a recently concluded operation, operated as an undercover stock brokerage firm, we were offered the opportunity to invest in computer products that were to be sold in Bogota. If we had accepted this offer, we would have been shown to U.S. businesses in the United States that would have accepted cash and then would ship these electronics to Bogota. We were assured that we could have our representative in Colombia receive pesos within 10 days of delivering the dollars.

An interesting note was the fact that we were told where we could receive our cash, from a very prominent business located in Colombia. When I mentioned this to a newly-arrived DEA agent from Bogota, he laughed and said the Embassy purchases their computer products from the same outlet because they are so cheap.

Any strategy used to assist Federal law enforcement and field law enforcement and attorneys in fighting the war on drugs must be viewed as a chess game in order to move forward. During the early seventies in South Florida, the Federal Reserve, investigators and prosecutors saw banks that were accepting boxes full of currency and gladly accepting this cash on deposit. Congress then countered that move and instituted a Currency Transaction Reporting form, or CTR, and the Government educated banks as to its purpose in following the process with prosecutions. Narcotics traffickers countered that move with moving to using businesses to launder their proceeds, these businesses being on a bank exempt list.

Congress then enacted the 8300 Form, and Government agencies educated businesses on its purpose and use, and then prosecutions followed.

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Narcotics traffickers then moved to nonfinancial institutions, transferring money via wire remitters to Mexico and Colombia. The Secretary of Treasury then implemented a General Targeting Order in New York. Narcotics traffickers were now moving to other systems.

During the past 15 years, narcotics traffickers have been moving toward, increasing their use of, the black market peso exchange system. I am very happy to see that this law will move toward countering narcotics use of this system. This system not only assists narcotics traffickers with repatriation of their wealth but also devastates the market economy of the people and businesses using the cheap dollar-peso exchange to conduct private enterprise in Colombia.

I would encourage a "sense of the House" that the branches of Government that will enforce these sanctions educate private industry as to their due diligence requirement, making sure that they are not subject to receiving funds purchased through the black market peso exchange system.

Several years ago, Ms. Doe testified before the Subcommittee on General Oversight and Investigation and listed several prominent Fortune 500 businesses to which she had sent money to purchase goods through the black market peso exchange system. I have attempted on at least two occasions to try to convince a branch of Government to educate U.S. businesses but was not successful in getting this type of education done.

The education before enforcement is as important as a passage of the law itself. I feel this law is critical if we are to continue in the chess moves against narcotics traffickers, for they have agility and speed, and a highly educated staff of financial advisers assisting them in moving their drug wealth from the place of origin back to their banks to assist them in enhancing their life styles.

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During one undercover meeting, we asked a narcotics trafficker in South American how much money he had made the year before. He said he personally made \$500 million in the United States and his extended family had earned an additional \$500 million.

Narcotics traffickers are getting older and are concerned with estate planning and how they can become part of the country club set and spend their ill-gotten gains into retirement. The black market peso exchange system affords them the opportunity to show that they did not get their money from drug trafficking or from the sale of electronics or other consumer goods purchased through the black market peso exchange system. The funds processed this way are almost untraceable by the Colombian Government.

The black market peso exchange system has for years frustrated law enforcement. If we spend months tracing the drugs to money and the money to a bank account, we are then faced with the "innocent owner" defense. If we try to resolve the issue of knowledge of the "innocent owner" and his offshore accounts in bank secrecy countries, we are stopped by the secrecy defense.

In various undercover activities, we have been asked to receive proceeds of crime from around the world for deposit into a U.S. bank account, but have been stopped because we could not "fit" it into one of the existing specified unlawful activities. This bill will go a long way toward resolving many of the problems we have faced in the past.

In closing, I would like to restate that I fully support this bill, and I thank you very much for the opportunity to appear before you today.

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Mr. **CHABOT**. Thank you very much, Mr. Bruton.

[The prepared statement of Mr. Bruton follows:]

**PREPARED STATEMENT OF WILLIAM BRUTON, CERTIFIED FRAUD EXAMINER, KROLL LINDQUIST AVEY COMPANY, ATLANTA, GA**

**ISSUE: MONEY LAUNDERING**

Mr. Chairman, my name is William Bruton. It is a pleasure for me to be here today speaking before this subcommittee about my experiences with the Black Market Peso Exchange System. I recently retired in July 1999 after 26 years with the Criminal Investigation Division Internal Revenue Service. During the past 11 years, I have spent the majority of my time managing a group of agents investigating, in part, the Colombian Black Market Peso Exchange System. The investigations started during the tenure of Bob Barr, at that time the United States Attorney in Atlanta GA. The investigation that started was captioned "Operation Polar Cap". This investigation was supervised by myself, Albert "Skip" Latson, Drug Enforcement Administration and Wilmer Buddy Parker, Assistant United States Attorney. As the Honorable Bob Barr may recall, at end of this investigation, we froze approximately 750 bank accounts nationwide, holding over 10 million dollars. We soon learned that the majority, if not all of these account owners, claimed the status of innocent owner. They claimed that they purchased these dollars, deposited to their accounts, and did not know that they were proceeds of drug trafficking activities.

It might be helpful to review this system of money laundering in order to show why this system is so sinister and harmful, not only helping to repatriate the profits to the drug dealers but how it subverts a foreign government's ability to control the basic products of its economy. The Black Market Peso System starts by the shipment of drugs from Colombia to the shores of the US. The drugs are sold for dollars in the US. Over the years the Colombian government would not allow any citizen to have a domestic US dollar account so the drug trafficker needs Pesos in Colombia to pay for the manufacture of more drugs and to pay for his life style enhancements. Legitimate business persons need dollars in the US to purchase products for resale in Colombia. The drug dealer contacts a black market "currency exchanger" and offers to sell him \$500,000 in US currency in a US city. A code and cell number is given the currency exchanger to call and arrange to pick up the money. In some cases, the currency exchanger may charge as high as 20% discount fee to the drug dealer.

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A legitimate business person in Colombia goes to see the currency exchanger telling them that he needs to pay for some products he is buying in the US. The businessman buys the dollars in the US and exchanges his pesos in Colombia. He buys the pesos at a lower rate than is being offered as the official exchange rate, sometimes a 10% discount. The businessman tells the currency exchanger what account to sent the money to in the US. Many times the money arrives at the US business from an account, on in a name, not associated with the Colombian businessman. Many times the US business will research which customer to credit the funds to or in the case of checks, they may be hand delivered and the receiver is told which person is sending the funds, even though the businessman's name is not on the item being presented.

If the products are then smuggled into Colombia through a free trade zone, the government is denied all the tax benefits of the commerce being conducted within the country.

As the circle closes, the drug dealer has his pesos in Colombia (at a 20% discount), the business man has his products in his store at a cheaper cost than his competitors who have gone through the central bank and the currency exchanger has made money from both.

From the early days, Atlanta IRS and DEA, conducted many international undercover investigations of domestic and international money-laundering groups. All of these investigations had one thing in common, and that was the Black Market Peso Exchange System. Skip Latson DEA and I along with Larry Andersen, Assistant United States Attorneys in Atlanta, have operated an undercover bank and an undercover stockbrokers firm. The undercover bank, call Operation Dinero, operated in Atlanta with the co-operation of the British, Italian, and Spanish governments. This bank, and its undercover representatives and informants, offered to the Colombian Cartel drug dealers the service of hiding their narcotics money and attempting to provide financial services for them through our undercover bank. We had the opportunity to see first hand some of the inner workings of the Black Market Peso Exchange System and why it was of such value to them. During these meetings, we were offered \$300 million in bonds, the assistance of South American airline to bulk ship currency out of the country, and works of art to convert to cash. We were also offered many millions of dollars of Mexican bank drafts to be processed through our bank. During Operation Juno, a recently concluded operation, operated as an undercover stockbrokerage firm, we were offered the opportunity to invest in computer products that were to be sold in Bogotá. If we accepted, we would be shown the U.S. businesses in the United States that would take cash, and then they would ship electronic products to Bogotá. We were assured that we could have our representatives in Colombia receive pesos within 10 days of delivering the cash to these US businesses. An interesting note was the fact that they told us where we could retrieve our cash, from a very prominent business location in Colombia. When I mentioned this to a newly arrived DEA agent

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and 20's weighing 10 times the original drug weight, even as much as 256 pounds. While it may be easy to conceal 2.2 pounds, it becomes impossible, in the same fashion, to conceal a package weighing 256 pounds. These figures are even more dramatic when you consider that a single trafficker may earn as much as \$500 million in the United States from the sale of cocaine. The weight of the illicit currency would exceed 125,000 pounds of money. Because financial institutions routinely handle large volumes of currency, it became a system of choice to use financial institutions to convert this weight to either cashier's checks or wire transfers.

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With the institution of money-laundering statutes, banks and depository institutions became the first line of defense in penetrating and preventing drug traffickers from using our financial institutions to aid in their criminal enterprises. The new money-laundering statutes require financial institutions to strip the veil of anonymity that was an essential element for money launderers. The record-keeping system identifies depositors and allows the government regulators to trace and identify money-laundering groups. As a result of the identification, money-laundering groups must move to different systems to avoid detection.

In 1994, DEA Administrator Thomas Constantine and IRS Commissioner Margaret Richardson announced the close of Operation Dinero, ending a two-year undercover drug money-laundering operation coordinated between IRS and DEA. This operation also had international law enforcement assistance from the United Kingdom, Canada, Spain, and Italy. The investigation culminated in the arrest of 116 suspects, seizure of more than a hundred million dollars in cash and nine tons of cocaine. This investigation highlighted the need for international law enforcement and regulatory agencies to cooperate in the investigation of international money-laundering rings.

Operation Dinero had two parts. The first part focused on currency pickups, both domestic and international. It identified the connection between Colombian drug trafficking and their money cell groups in the United States. The second part focused on the operation of a Class B bank established on the island of Anguilla, British West Indies. Once the undercover bank began operation, IRS and DEA undercover agents promoted the bank's services within the domestic and international criminal communities.

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This undercover Class B bank operated in the same manner as any other offshore Class B bank. The undercover operation offered checking accounts, savings accounts, and wire transfer services. While in operation it offered third party "Mexican checks" for deposit. The Mexican checks came from currency smuggled into Mexico and used to purchase cashier's checks from Mexican banks that had U.S. correspondent accounts. These checks were in U.S. dollar amounts and written by the Mexican banks on accounts of their correspondent bank in the U.S. These checks were written to Hispanic-sounding names and endorsed over to our undercover bank. In addition, we were offered 300 million dollars in securities maintained in Europe that were purchased with drug dollars in South America. The drug traffickers and peso exchangers routinely sent the undercover bank U.S. dollar checks, wire transfers etc. They then wrote checks on their account or wire transferred the money to another domestic or international bank account. With an analysis of the documentation surrounding the funds coming into the account and disbursement from the account, the U.S. government and the other governments cooperating in this effort gained intelligence that led to supplemental investigations both domestically and internationally.

The Colombian peso exchange system has brought the ability to hide the source of the illegal

SSBT

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Transmitting Businesses), 4 (Criminal Forfeiture for Money Laundering Conspiracies), 10 (Subpoenas for Bank Records), 11 (Charging Money Laundering as a Course of Conduct), 12 (Venue in Money Laundering Cases), 13 (Technical Amendment to Restore Wiretap Authority for Certain Money Laundering Offenses), 19 (Discovery Procedure for Locating Laundered Money), 20 (Repatriation of Property Placed Beyond the Jurisdiction of the Court), 21 (Laundering Proceeds of Terrorism), 28 (Restoring Recovered Property to Victims), 29 (In Personam Judgments), 30 (Use of Subpoenaed Records), 33 (Including Tribal Governments in the Definition of a Financial Institution), and 36 (Penalties for violations of geographic targeting orders and certain record keeping requirements).

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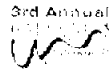
Other provisions in the bill have merit but need to be modified in some way. For example, I could support section 4 (Restraint of Assets of Person Arrested Abroad) of the provision if it provided a right to a meaningful post-restraint hearing. Although the section by section analysis states that a party whose property is restrained would have such a right, the language of the bill says nothing about that. Amazingly, an American citizen whose property is seized or restrained in a criminal forfeiture case has no *statutory* right to a post-restraint hearing and the courts are divided as to whether and under what circumstances there is a *constitutional* right to such a hearing. If Congress is going to provide foreigners arrested abroad with a right to challenge the restraint order, as it should, why not take this opportunity to provide American citizens facing criminal forfeitures in this country with the same basic due process right?

I wish I had time to provide a detailed critique of the remaining provisions in the bill, which I oppose. A number of these proposals have been unsuccessfully put forward by the DoJ since 1994 as part of an ever-expanding wish list of forfeiture legislation. Some of them reflect an unseemly desire to overrule Supreme Court decisions that have correctly rejected the government's position on issues like fugitive disentitlement and excessive fines under the Eighth Amendment. I and others have critiqued these provisions before, both in the House and recently in the Senate. I would be happy to share these critiques with you of Serial No. 94. As NACDL observed, "there is no valid reason to treat non-production of foreign account information any differently than any other failure to comply with a legitimate discovery request. Under the Federal Rules of Civil Procedure, a party can move the court for appropriate relief for an opposing party's failure to comply. Each case should be determined on its own merits as all are present discovery disputes." The section by section analysis says that a judge would have discretion to dismiss the claim for failure to produce the foreign account records. The bill actually requires a judge to dismiss the claim. There is no discretion. Some of the less controversial proposals may make it into the Senate forfeiture reform bill or a conference committee bill and become law—thereby obviating the need for this Subcommittee to consider them further. However, some of the forfeiture proposals are ill-conceived attempts to get around the Hyde reform bill provisions the House has overwhelmingly approved. Section 35 (Limitations period for challenges to cash seizures) directly conflicts with the Hyde and the Hatch/Leahy bills. Those bills follow current law by giving a claimant six years from the date he discovers that his property was forfeited without notice to him to file suit. Claimants who actually wait years—without good cause—before filing suit have had their cases thrown out based on the equitable defense of laches raised by the government. Thus, there is no need for a change in the law to protect the government against stale claims.

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In my view, consideration of the forfeiture provisions of the bill should be deferred until we see what emerges from the Senate Judiciary Committee later this month—and from a conference committee after that. The remaining forfeiture provisions on the DoJ agenda could then be taken up as part of a follow-





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Bahamas: News: Harajchi Case Wraps Up In Supreme Court

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**Bahamas Headline News**

January 29, 2003 - 09:43

**Harajchi Case Wraps Up In Supreme Court**

*A month's wait for the ruling*

A ruling into the Mohammad Harajchi, Suisse Security Bank & Trust case may not be handed down by the Supreme Court for at least another month.

The two-week long case wrapped-up closing arguments on Thursday.

During that time, defence attorneys for Suisse Security presented final arguments and rebuttals.

Suisse Security Bank & Trust had its banking licence revoked by the Governor of the Central Bank Julian Francis because he was of the opinion that the bank was conducting business that was detrimental to the public's interest and to the interests of its depositors or other creditors.

Since the onset of the trial, lead attorney for Suisse Security, Philip "Brave" Davis levied charges against the governor, claiming that Mr Francis abused his power and acted in bad faith when he revoked the bank's licence.

Mr Davis said his client was ambushed by Mr Francis, who did not give any indication to the bank that he was considering revoking its licence.

Mr Davis had questioned whether Governor Francis' power to suspend and revoke Suisse Security's bank licence was temporarily suspended by an injunction granted on March 2, 2001.

Mr Davis also questioned whether the Governor failed to give adequate reasons prior to the revocation of the bank's licence.

Throughout the trial, lead attorney for the Central Bank, William Blair QC strongly refuted criticisms that unfairness played a part in the Governor revoking the bank licence.

Mr Blair denied that Mr Francis concocted matters in order to find reason to close the bank. He said not only is that claim untrue, but there is not a shred of evidence to support it.

By Rogan M. Smith, The Bahama Journal

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09-14-05, - 09:21 PM

Bank Depositors Upset  
Candia Dames  
The Bahama Journal

Iranian businessman Mohammed Harajchi has taken his fight to get back his bank license to the Privy Council in London as hundreds of depositors continue to demand the assets they invested in Suisse Security Bank & Trust Ltd (SSBT) more than four years ago.

The depositors are reportedly growing increasingly angry by the fact that the matter has been dragging on for so long.

A source close to the matter said that the depositors are also angry at Bahamian authorities, and the whole affair is giving the country a bad name in international circles.

The Bahama Journal has learnt that the Central Bank also sought the Supreme Court's permission to complete the winding up of the bank, but has so far been unsuccessful in that attempt.

Mr. Harajchi's legal team reportedly insisted that this would be improper given that an appeal is still outstanding.

Former governor of the Central Bank Julian Francis revoked the bank's license on April 2, 2001 after determining that SSBT was carrying on its business in a manner detrimental to the public interest and the interest of depositors or other creditors.

The court soon appointed Raymond Winder provisional liquidator, granting him the powers to collect the bank's assets. But Mr. Winder is not empowered to disburse any of those assets to depositors.

If the Supreme Court were to order the bank wound up, Mr. Winder, as the official liquidator, would have more powers in his role.

A source close to the matter told The Bahama Journal that for now Mr. Winder's hands are tied as he waits for the Supreme Court or the Privy Council to make the next move.

It is not clear whether Mr. Harajchi's legal team has yet secured a court date before the Privy Council.

Meanwhile, Sonia Harajchi, Mr. Harajchi's wife, has filed suit in the Supreme Court seeking to gain control of certain of the bank's assets, namely the furniture that was in the building.

Still convinced that the Central Bank governor acted unlawfully in revoking his bank's license, Mr. Harajchi decided to take his case to the high court in London after the Court of Appeal on June 29, 2004 reaffirmed the 2003 judgment of Supreme Court Justice Austin Davis who ruled that SSBT had failed to prove any grounds of its appeal against the governor's decision.

The Court of Appeal said that Governor Francis acted in conformity with the law when he revoked the license of Suisse Security.

Suisse Security wanted the Court to determine that Supreme Court Justice Hartman Longley erred in holding that the governor's power to suspend and revoke SSBT's license was exercised in accordance with the Bank and Trust Companies Act 2000.

The bank argued that under law, it should have received notice about the revocation and should have been afforded the opportunity to state its objection in writing. But the court said this was not necessary, as pointed out by the Central Bank, because of certain practical reasons, including preventing loss to depositors and a run on the bank.

Mr. Harajchi has been a controversial figure, particularly since his license was revoked. Last summer, he launched a blistering attack on the Christie Administration, inferring that he financially helped Prime Minister Perry Christie while he

Robert Holmes Bell  
Chief, U.S. District Judge

TO: Ronald Weston, Clerk of Court  
Robert Holmes Bell  
U.S. Marshals Office  
Allen Byam, Sheriff, Calhoun County

05 AUG 29 PM 12:01

RECEIVED  
U.S. DISTRICT COURT  
WESTON, JUDGE

In Re Case No : 1:04-cr-165  
Further violations of the Fifth and Sixth  
Amendment Rights, Retaliation, Obstruction  
of Justice, Unlawful Restrictions on Access  
to Court and Legal Research

UNITED STATES OF AMERICA, Contested  
"Plaintiff" to a "criminal" case v.  
Janet Mavis Marcusse, Stranger to the Forum

1. I am being denied visits with the  
"counsel" of my choice.
2. I am being denied access to the  
law library.
3. I am being refused access to a  
legal text book as of a Restricted  
Mail Notice dated 8-16-05.

As has been my practice for ALL prior  
visits here at Calhoun County and ALL  
prior visits at Newaygo County, I have  
ALWAYS taken a pen and paper with

legal assistant was held unconstitutional.

The Deputy also stated that my only "authorized" legal "counsel" was David Kaczor. As this court is fully aware, the so-called "defense" counsel forced upon me that I had repeatedly objected to in writing as a "prosecutorial tool" in February, 2005, Mr. Kaczor, has been promoted to Chief Litigator in the Public Defender's Office, no doubt in part due to the "services" he provided this court in this case, such as, but not limited to, the dozens of vital "defense" documents improperly withheld from the jury in violation of the Federal Rules of Evidence and which would have undoubtedly resulted in a far different verdict had the evidence been included. I have asked Mr. Kaczor for copies of the "withheld" evidence I gave him four times now - on June 13, June 23, July 19, and again on August 3, 2005, at which time Mr. Kaczor gave me a small amount of the evidence I requested consisting of only the MLC Development Corp. documents, while making a show of his file that this was "all" of the evidence I gave him. It most certainly was NOT all of the evidence as it was missing items like the bank records from the Wells Fargo account

I was moving to Missouri within months (5-01). Ample evidence already on the record proves Ozon lied to obtain an arrest warrant for "non-appearance" as there was no personal service or certified mail sent. I was "kidnapped" on bogus "charges" on a "private action" from a "private court". Prior back x-rays currently held in a safe location will prove I was battered by U.S. Marshals, a "violent felony", along with the currently withheld court video tapes and the admission of Steve Hetherington, Deputy U.S. Marshal, who admitted to me on July 7, 2005, that it was he who acted against me on November 9, 2004, but it was at Ellen Carmody's command! The multiple violations of Item C are already heavily documented on the court's record.

For the record, I did not threaten to physically harm Robert Holmes Bell and the accusation is simply ludicrous. As already indicated, "fat boy" is Robert W. Plaster, the only person too fat to fit in the witness seat, and it is NOT this court's "place" to prevent my civil litigation against this unindicted "protected" thief and perjuror. It is bad enough this court "protected" this criminal from prosecution in this matter. Further, for the U.S. Marshals to automatically "assume" that "fat boy" was Robert Holmes

Bell was remarkably insulting to their "boss", besides being grossly incompetent "investigative" work. It is more likely to be a pathetic attempt to trump up more bogus charges in an effort to claim "rewards" of up to \$25,000 under 18 U.S.C. 3059. Even Mr. Kaczor immediately KNEW "fat boy" was Robert W. Plaster.

Sincerely,

Janet Mavis Marcusse

Janet Mavis Marcusse, Stranger to the Forum

cc: David Kaczor

TO: UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FROM: JANET MAVIS MARCUSSE, et al.  
C/O NEWAYGO COUNTY JAIL  
300 WILLIAMS STREET  
WHITE CLOUD, MICHIGAN

OCT 27 PM 12:09

IN RE: YOUR CASE 1:04-cr-165, et al.  
SEE FRCP RULE 60(b)

NOTICE OF CLAIM OF PROSECUTORIAL  
MISCONDUCT - SOLICITATION OF PERJURY

I, Janet Mavis Marcusse, a living woman over 21 years old, do hereby provide Notice that the prosecution did solicit the perjury of Government witness, Bruce Marcusse. Notary Public Sheryl DeVry is being sought per the attached FOIA to provide testimony to the same.

Date: October 25, 2005

By: Janet



Sheryl DeVry  
Janet Mavis Marcusse,  
Authorized Representative for  
JANET MARCUSSE, et al.

JM

Date: September 20, 2005

To: Newaygo County County Jail  
Att: Roger N. Palmiter, Jail Administrator  
300 Williams Street, P.O. Box 845  
White Cloud, Michigan [49349]

From: Christopher J. Milson  
15 Choctaw Trail  
Elkland, Missouri [65644]

Re: Final Notice and Petition of Grievance  
U.S.P.S. Conf. # 0305 0830 0000 3129 9270

Dear Mr. Palmiter,

I have written to you on occasion as to the welfare of all inmates within your care but primarily as it relates to Janet Mavis Marcusse. Last Tuesday (9/13) I called the U.S. Marshals office in Grand Rapids and was informed that Jan was being transported from the Calhoun County Jail in Battle Creek to your facility that same day.

Jan reported she's been asking all week for her legal papers that came in transport from Calhoun however is still being refused access to her property originally received by mail. I have mentioned this particular issue to you and your staff on numerous occasions that it could be a serious matter of law to withhold legal matter and mail for it violates state, federal and constitutional law. According to the Supreme Court, you may reject property or a publication "only if it is determined detrimental to the security, good order, or discipline of the institution or if it might facilitate criminal activity." You may not however reject said items "solely because its content is religious, philosophical, political, social or sexual, or because its content is unpopular or repugnant." *Thornburgh v. Abbott*, [490 U.S. 401, 405] 540.71(b). (1989).

The Supreme Court has also declared that "[p]rison walls do not form a barrier separating prison inmates from the protections of the Constitution," *Turner v. Safley*, 482 U.S., at 84



nor do they bar free citizens from exercising their own constitutional rights by reaching out to those on the "inside," *id.*, at 94-99; *Bell v. Wolfish*, 441 U.S. 520 (1979); *Jones v. North Carolina Prisoners' Labor Union, Inc.*, 433 U.S. 119 (1977); *Pell v. Procunier*, 417 U.S. 817 (1974).

In the past I haven't quoted much law because I assumed a man in your position would already be informed however I'm disappointed from the numerous reports and affidavits I've received that things at the Newaygo County Jail haven't really changed that much from my first letter sent to you exactly a year ago. Your employees do not seem to understand the law as one of your Sergeants once proclaimed to me "I don't know the law, I just enforce it". I ended the conversation there as it is hard to argue with logic like that from a man who others look to for guidance at Newaygo.

Consequently others at your facility look to you for guidance Mr. Palmiter and the public trusts you to act in accordance to law and due diligence to such matters. The public expects prison administrators to be responsible for maintaining internal order and discipline, for securing their institutions against unauthorized access or escape, and to protect inmates placed in your custody, not to tamper with mail or to prevent the exercise of constitutional liberties as afforded by law. " [a] policy of judicial restraint cannot encompass any failure to take cognizance of valid constitutional claims whether arising in a federal or state institution. When a prison regulation or practice offends a fundamental constitutional guarantee, federal courts will discharge their duty to protect constitutional rights. *Johnson v. Avery*, 393 U.S. 483, 486 (1969).

Unless you can show cause as to how an inmate's mail or legal papers is a hindrance to the operation of your facility you must cease and desist in the above practices as you have been noticed and well informed, now and in the past. Stating a claim or rebuttal that certain inmates are within the jurisdiction and custody of U.S. Marshals or the Federal Government does not excuse or dismiss your duties and responsibilities as an official of the State while performing your obligations required under laws made by Congress. It might be argued that an excessive amount of paper within a cell could be a fire hazard.

In this case that would not seem a reasonable argument given the fact that the papers requested represent a mere fraction of what has been accepted in your cells before. If there is a specific amount of paper that is prohibited by a local rule, then show the source of law from which that rule was drawn allowing such a denial. Furthermore, no one can smoke inside your facility made of concrete and steel designed to prevent such a hazard.

The Supreme Court goes on to say " The First Amendment serves not only the needs of the polity but also those of the human spirit - a spirit that demands self-expression. Such expression is an integral part of the development of ideas and a sense of identity. To suppress expression is to reject the basic human desire for recognition and affront the individual's worth and dignity. 14 Cf. Stanley v. Georgia, 394 U.S. [416 U.S. 396, 428] 557 (1969).

Not only are Jan's legal papers her right to have as a matter of rights and dignity, it's also vital for her case and for others that depend on her. Suppression and withholding of such material may be viewed by an administrative tribunal as an obstruction of justice, negligence and a dereliction of official duty. I've included copies of past letters and exhibits with this letter that will be forwarded to the proper authorities should I not receive a reply from you within ten (10) days from receipt of this letter rebutting or stating a remedy providing immediate relief to this matter.

Thank you,



Christopher J. Milson

Cc: Janet Mavis Marcusse

U.S.P.S. Conf. # 0305 0830 0000 3129 9270

### Proof of the Service


I, Christopher J. Milson, Sui Juris, hereby certify, and if called will so testify, under the constitution(s) and laws of the States united, that I am at least 18 years of age, and that I served the following document(s):

- |                                      |  |
|--------------------------------------|--|
| 1. Final Notice and Petition_9.20.05 | 9. Newaygo_JanConditionsCmpl_9.11.04     |
| 2. Newaygo_AlisaAffAssault_9.7.04    | 10. Newaygo_JanPUstuffPalmitter_11.25.04 |
| 3. Newaygo_CenturyTel_12.12.04       | 11. Newaygo_LetterToPastor_8.2.04        |
| 4. Newaygo_Char_Grievance_3.08.05    | 12. Newaygo_Mail_Granzo_9.23.04          |
| 5. Newaygo_Poor_Conditions_9.13.04   | 13. Newaygo_PastorToSheriff_8.17.04      |
| 6. Newaygo_Inmates_Rights            | 14. Newaygo_Phone_Palmitter_10.13.04     |
| 7. Newaygo_JanAfdvitAssault_7.25.04  | 15. Newaygo_Response_to_Palm_9.20.04     |
| 8. Newaygo_JanAfdvitNoMed8.14.04     | 16. Newaygo_SumSignedLet_9.15.04         |

The above represents a total of 30 pages

The undersigned hereby certifies that on the date of September 20, 2005, he delivered the above document(s) by placing same in a properly addressed envelope and depositing in the US Mail having a Priority Mail confirmation number of : 0305 0830 0000 3129 9270

To: Newaygo County Sheriff's Office  
Att: Roger N. Palmiter, Jail Administrator  
300 Williams Street, P.O. Box 845  
White Cloud, Michigan [49349]

Signed:   
\_\_\_\_\_  
Christopher J. Milson

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1 Most dramatically of all is the discovery of a  
2 Department of Justice scam in regards to an undercover bank  
3 and undercover broker/dealer, and I believe that I can prove  
4 that fraudulent narcotics trafficking charges were brought  
5 against us on Count 83 and were littered all through this case  
6 from the beginning to the end encompassing Kenny DeBoer, a  
7 defense lawyer, framing Donald Buffin as a conspirator in an  
8 importation narcotics trafficking so that the Department of  
9 Justice could reach back into the past and keep funds that  
10 were taken from Suisse Security Bank and Trust in the Bahamas  
11 on March 5, 2001. And the reason that I believe I can prove  
12 this is that it is a matter of congressional hearing record  
13 that -- hold on a second.

14 In the 106th Congressional House Report No. 64-353  
15 dated February 10, 2000, entitled Money Laundering Crisis  
16 Hearing, this hearing was conducted before the Subcommittee on  
17 Crime and the Committee on the Judiciary House of  
18 Representatives. The hearing report precisely describes the  
19 government-sponsored scam against us except it was not  
20 authorized against non-narcotics-related innocent bystanders.  
21 Hence the need to frame us.

22 Until I read this report I had believed that  
23 Mohammed Harajchi, former owner of Suisse Security Bank and  
24 Trust, to be mostly at fault. Now I see that I was wrong.  
25 House Report 64-353 discusses an Operation Juno and refers to

1 an Operation Dinero whereby the Atlanta IRS and DEA in  
2 conjunction with several foreign governments operated an  
3 undercover stock brokerage firm, again exclusively targeting  
4 narcotics traffickers. The report further details Operation  
5 Dinero where IRS and DEA operated a Class B bank in Anguilla,  
6 British West Indies, for which an undercover agent promoted  
7 the bank's services. This would be identical to Gerard  
8 Forrester's letter as senior supervisory agent, Department of  
9 Justice.

10 This hearing was held on February 10, 2000. Gerard  
11 Forrester's letter was dated February 11th, 2000, indicating  
12 the authorization of Congress to go ahead with this undercover  
13 bank in regards to Suisse Security Bank and Trust. On  
14 February 11th, 2000, Mr. Forrester issued his first lulling  
15 letter designed to scam his victims, which included myself and  
16 the investors to which I have steadfastly remained responsible  
17 from the beginning of this scam.

18 Mr. Forrester, senior supervisory special agent with  
19 the U.S. Department of Justice, Federal Bureau of  
20 Investigation, as recorded in the County Register, Liber No.  
21 592, Page 6165, discusses how this bank February 11th, 2000,  
22 one day after the house hearing, is one of the few banks in  
23 the Bahamas which expresses concerns and attempts to learn the  
24 proper procedures to curtail money laundering in their  
25 institution. In fact, they are the only one that has

1 expressed their concerns to the FBI. It is terrible when a  
2 bank follows the laws of their country. A tabloid in the  
3 business of making money writes an article such as was written  
4 and the bank cannot defend itself. It is also terrible when  
5 one relies upon a Department of Justice employee for advice  
6 and is framed for the same.

7 On January 12th, 2001, as recorded in the County  
8 Register, Liber 592, Page 6166, is another letter from Mr.  
9 Forrester in which it states: In the past the FBI wrote to  
10 you a letter expressing our thanks concerning SSBT as being  
11 one of the few banks in the Bahamas -- oh, I'm sorry. I'm  
12 reading the same thing again, I believe. No, I'm not. In  
13 their institution to learn the proper procedures to curtail  
14 money laundering in their institution. In fact, they are the  
15 only one that has expressed their concern to the FBI.

16 It was less than two months later that this bank  
17 failed. Over \$4 million of our funds, of wire transfer funds  
18 bank records were denied allowing the jury to be seen which I  
19 believe would have made all the difference in the world. My  
20 word against government agents in this case did not carry the  
21 weight that wire transfer copies and bank records would have,  
22 and I was wrongfully denied the use of these bank records so  
23 that money laundering international narcotics trafficking  
24 could be authorized against these funds to reach back and get  
25 them. There was absolutely no reason to have international

1 drug trafficking accusations in this case repeatedly show up  
2 and show up and show up.

3 Also, in the PSI report it states that I lied,  
4 supposedly, about putting money in this bank and that it  
5 failed. There is a notice of suspension of the Suisse  
6 Security Bank and Trust limited license as recorded in the  
7 County Liber 592, Page 6170. I was denied the provisional  
8 liquidator at Deloitte & Touche, a respectable accounting  
9 firm, as far as a witness in this case. The letter to Mr.  
10 Besser in regards to the bank failing and being under  
11 receivership as recorded in Liber 592, 6171, 72, 73, and 74.  
12 are all being attached to complaints to have the guilty  
13 verdict turned aside for prosecutorial misconduct and fraud.

14 Going back to the House Report, after discussing Mr.  
15 Forrester's letter, the very next day after the House  
16 authorized these undercover bank and stock brokerage schemes,  
17 the House Report goes on to state: This undercover Class B  
18 bank operated in the same manner as any other offshore Class B  
19 bank. This two-year operation resulted in the seizure of more  
20 than \$100 million in cash and nine tons of cocaine.

21 Coincidentally, we were accused of cocaine in a case  
22 in which everybody agreed there was no cocaine involved.  
23 Count 83 was authorized under Title 21, Food and Drugs, Drug  
24 Abuse and Prevention. There was no reason to have cocaine and  
25 narcotics trafficking involved in this case unless it was to

1 reach back and take the money that has already been stolen  
2 from us.

3 At Suisse Security Bank and Trust \$31 million is  
4 still missing four years later with Gerard Forrester actively  
5 tampered with to remove this admission. At trial I asked Mr.  
6 Zawistowski, expert witness with the Federal Reserve, So I  
7 can't rely on a government official to make a decision? This  
8 question was tampered with. Clearly it seems highly evident  
9 that everyone but the defense knew that SSBT was an undercover  
10 operation, that our funds had been seized in this undercover  
11 operation, and the only way for the Department of Justice to  
12 be able to keep these funds was a plea bargain. But barring  
13 that, a silent presumption had to be made that we were  
14 international drug traffickers, and those who were most likely  
15 to suspect that they were being framed had to be illegally  
16 incarcerated, threatened, assaulted, terrorized, their mail  
17 inspected and tampered with, phone calls blocked, and all  
18 potential witnesses threatened to stay away.

19 As recently as 2004 Gerard Forrester, who no longer  
20 works for the Department of Justice, was reported to still be  
21 at the side of Mr. Harajchi when Mr. Harajchi went to court  
22 regarding Suisse Security Bank and Trust. Obviously Mr.  
23 Forrester is still busy protecting the government's interests  
24 in this matter.

25 It now seems highly likely there's only one logical



1 reason for the Department of Justice to have denied the use of  
2 bank records in this case. Gerard Forrester of the Department  
3 of Justice endorsed SSBT, the bank we used. We now know there  
4 were undercover bankers and stock brokerages where the intent  
5 was to facilitate government forfeiture of drug trafficking  
6 assets.

7 I think everybody's in agreement that drug  
8 trafficking needs to be stopped and narcotics trafficking  
9 should be addressed, and there is nothing wrong with sting  
10 operations regarding drug trafficking. However, the House  
11 made it very, very, very clear that any innocent bystanders  
12 were to be protected. In order to account for and keep the  
13 seized funds, I maintain and I believe that this is the reason  
14 for the international drug trafficking to prevent any problems  
15 over the innocent bystander rule. We had to be found guilty,  
16 so no defense whatsoever was allowed by the Department of  
17 Justice.

18 A court cannot and will not redress a wrong when he  
19 who invokes it has unclean hands. Olmstead v. United States,  
20 a Supreme Court case, 277 U.S. 438. Excuse me, I -- being  
21 locked up is not conducive to having your papers in good  
22 order.

23 In Olmstead, and I quote from this: "The terms of  
24 appointment of federal prohibition agents do not purport to  
25 confer upon them authority to violate any criminal law. Their

1 teaches the whole people by its example. Crime is contagious.  
2 If the government becomes a lawbreaker, it breeds contempt for  
3 law; it invites every man to become a law unto himself; it  
4 invites anarchy. To declare that in the administration of the  
5 criminal law the end justifies the means -- to declare that  
6 the government may commit crimes in order to secure the  
7 conviction of a private criminal -- would bring terrible  
8 retribution. Against that pernicious doctrine this Court  
9 should resolutely set its face." I agree wholeheartedly.

10 In regards to Suisse Security Bank and Trust, there  
11 is a complaint from which I have been reading which should  
12 have arrived at the court this morning, and in it is contained  
13 the certified evidence which the Court is compelled to receive  
14 in regards to this matter. It is my position, therefore, that  
15 there was no mail fraud. I relied upon a government agent,  
16 and not only Mr. Forrester, but in regards to another matter I  
17 relied upon a gentleman, a United States Department of  
18 Treasury attorney for advice that can be proven as well with  
19 the same type of certified evidence which is coming into the  
20 Court's records, and -- bear with me a second. I'm sorry,  
21 I'll find it in a second. I know I have it.

22 THE COURT: What are you hunting for?

23 DEFENDANT MARCUSSE: Something that was filed with  
24 the Court last night.

25 THE COURT: Well, our discussion here relates to the

1 presentence report and its accuracy.

2 DEFENDANT MARCUSSE: Yes. That had to do with the  
3 \$600,000 of supposed income. I had provided proof that I did  
4 not own Worldwide E-Capital, that a Winfield E. Moon owned  
5 it. It also provided the proof that a partner of Mr. Moon and  
6 Mr. Kramer-Wilt who -- there we go. I have found it.

7 Assistant U.S. Attorney Thomas Gezon did willingly,  
8 knowingly and deliberately solicit the perjury of James Flink,  
9 IRS, to deceive the jury and fraudulently obtain a conviction  
10 with malice aforethought against Janet Mavis Marcusse. Mr.  
11 Flink swore under oath that the alleged defendant was the sole  
12 owner and sole signatory of Worldwide E-Capital, LLC, so that  
13 he could fraudulently add \$600,000 in bogus income to a 2001  
14 1040 tax return the IRS prepared for Janet Mavis Marcusse. I  
15 do not consent to this criminal act.

16 Wells Fargo bank records in Mr. Gezon's possession  
17 proved this was not true, but Mr. Gezon refused to allow  
18 defense attorney David Kaczor to use stipulated bank records  
19 to impeach the testimony of James Flink. These deliberate  
20 acts of prosecutorial misconduct and perjury were designed to  
21 fraudulently allege the untrue motive of greed in order to  
22 deceive and induce the jury into finding all of the alleged  
23 defendants guilty.

24 I further allege that this single act of enormous  
25 fraud may have been enough all by itself to be the cause of

1 the guilty verdicts in this case because \$600,000 in income  
2 constitutes 20 years of income to the average middle-class  
3 citizen that is likely to sit on a jury. This act of fraud is  
4 particularly egregious misconduct in that a five-minute check  
5 with the Nevada Secretary of State absolutely proves that  
6 Winfield E. Moon's been the only owner member ever of  
7 Worldwide E-Capital, LLC, from its inception on 9/12/2000.

8 The Wells Fargo Bank account Mr. Gezon actively  
9 prevented the jury from seeing also evidenced an account  
10 address of record that belonged to Mr. Moon of 3168 Bellaire  
11 Drive, Las Vegas, Nevada, 89109. Other exculpatory evidence  
12 in Mr. Gezon's possession that was purposely withheld from the  
13 jury were receipts on which Mr. Moon signed for over \$1.5  
14 million from this Wells Fargo account alone. Also, according  
15 to official Nevada Secretary of State records, Mr. Richard  
16 Gerry became the resident agent of Worldwide E-Capital, LLC,  
17 on 3/26/2000, at the exact time in question at trial. Mr.  
18 Richard Gerry was also the registered agent of Crawford &  
19 Associates, LLC, as filed on 2/14/2001, evidencing that I knew  
20 him at the time.

21 Mr. Moon and Mr. Gerry were both clearly tampered  
22 with and threatened by the IRS and the prosecution, thereby  
23 preventing their attendance and testimony at trial. This  
24 witness tampering was essential to the prosecution's case in  
25 order to cover up Flink's and Gezon's lies about the alleged

1 \$600,000 in income, bolster their false claims of a Ponzi by  
2 blocking all evidence of any legitimate investments, using  
3 only part of the records to grossly mislead the jury, and most  
4 importantly, deprive the defense of the testimony, proof, and  
5 evidence that my investment advisor, Mr. Gerry, was being  
6 directly advised at that time by then government lawyer  
7 attorney James Kramer-Wilt of the Bureau of Public Debt,  
8 Department of the Treasury.

9 According to the Sixth Circuit, the intent to  
10 defraud in a Ponzi scheme is not debatable. As the result,  
11 there was no federal jurisdiction in this matter as there was  
12 no controversy to adjudicate. This fraudulent presumption was  
13 also used to deprive the defense of all evidence and testimony  
14 at trial that Mr. Gerry, Mr. Moon, and Mr. Kramer-Wilt were  
15 the source of all of the 2001 May seminar investment  
16 information presented on the videotape other than that of the  
17 Branson Project, which would have proven there was no intent  
18 to deceive any of the investors by the alleged defendants.

19 In certified evidence deliberately withheld from the  
20 jury in spite of being placed on the Court's record prior to  
21 the end of the trial was the proof that in 2002 Mr.  
22 Kramer-Wilt was considered an expert witness by the Department  
23 of Justice and recommended as such in a May 2002 U.S.  
24 Attorney's Bulletin. The FDIC also considered Kramer-Wilt an  
25 expert.

1           The defense was also prevented from having Mr. Moon  
2 attest to the fact that Mr. Moon's background included a  
3 position on the cabinet of former Alabama governor James  
4 Fulsome, as well as a stint as Mr. Fulsome's campaign  
5 manager. All of this would have deprived the prosecution of  
6 the fraudulent, malicious character assassination of Janet  
7 Mavis Marcusse. Henthorn documents were denied, so he could  
8 not even be located -- as to James Kramer-Wilt, so he could  
9 not even be located as a defense witness.

10           Reliance upon government officials, particularly  
11 upon a government attorney considered to be the foremost  
12 expert on the planet in the field of high-yield investments,  
13 would have been an absolute defense to prove there was no  
14 intent to deceive or defraud investors. Indeed, the  
15 prosecution was well aware of this reality. As a result,  
16 there is no continuation of the evidence for a valid jury  
17 verdict or to proceed to any valid sentencing in this matter  
18 whatsoever.

19           The Supreme Court case of Durland v. United States,  
20 16 S.Ct. 508, 511, is absolutely clear on this point: "If the  
21 mails were employed at any stage, the question of guilt turns  
22 on whether the government -- or the defendant had a fraudulent  
23 intent. That is the significant fact." One does not seek out  
24 the advice of the foremost legal expert on the planet, who  
25 happens to work for the Department of Treasury, if one has a

1 fraudulent intent. According to Documentary Credit World from  
2 2001 in June, Mr. James Kramer-Wilt was the conference  
3 co-chair for the Seminar on Combating High-Yield Investment  
4 Fraud convened at the George Mason University School of Law  
5 in Arlington, Virginia. Law students were being advised by  
6 Mr. Kramer-Wilt at the exact precise time Mr. Gerry, acting as  
7 my proxy, was using Mr. Kramer-Wilt as an advisor.

8 There is an obvious pattern of the prosecution  
9 protecting the rich politically-connected men in this case,  
10 such as Mr. Moon and Mr. Plaster, from any civil or criminal  
11 culpability for their representations to me, their investment  
12 advice to me, and particularly their fraud against me and  
13 thereby my investors. This is all such a tremendous conflict  
14 of interest for the Department of Justice, it should have  
15 prevented the action in the first place had it not been for  
16 the personal greed and career ambitions of Thomas Gezon,  
17 Assistant U.S. Attorney; James Flink, IRS; and Samuel Moore,  
18 FBI. It is also highly likely that this prosecution was  
19 instigated to prevent litigation against the government for  
20 its own culpability in our losses, and this possibility will  
21 be investigated further.

22 I contend that Messrs. James Kramer-Wilt, Richard  
23 Gerry, and Winfield Moon may have also been actively prevented  
24 as defense witnesses because a very clear pattern evidencing a  
25 government employee-sponsored scam, particularly aggressive

1 term of three months, and his charges were reduced to one  
2 count, constituting a misdemeanor charge, in spite of the fact  
3 that Mr. Gerry was known by all prosecutors, including this  
4 set, to be my main investment advisor from late 2000 forward.  
5 Three months versus Terry Besser with twenty years. What is  
6 the matter with you people?

7 Both prosecutors, by these convictions, also knew  
8 that James Kramer-Wilt advised Richard Gerry. Mr. Gerry has  
9 been free ever since after one year's probation, is now back  
10 in the consulting business per a recent check with Nevada  
11 Secretary of State. No wonder the Department of Justice could  
12 not afford under any circumstance to allow any of this  
13 information or these witnesses to surface during this trial.  
14 This is a gross obstruction of justice and an outrageous  
15 conflict of interest.

16 These men who advised me were able to keep the money  
17 they defrauded us out of and my investors out of, and they  
18 received little to no incarceration at all. Mr. Plaster had a  
19 purchase agreement that he brought forward to this Court that  
20 was a quarter of a page in which he purported that \$43 million  
21 worth of real estate with a nonrefundable million-dollar  
22 deposit, coincidentally so he could steal my investors' money,  
23 was a legitimate document with no property description. There  
24 isn't a realtor on the planet that would buy that one, not to  
25 speak of anybody with half a brain.



1           These men who advised me were able to keep the money  
2 they defrauded us and thereby our investors out of, and they  
3 received little to no incarceration at all. And in the case  
4 of Mr. Plaster with the blessing of John Ashcroft and this  
5 group right here, he got to keep the million dollars he stole  
6 from my investors. Yet Mr. Gezon initially maliciously  
7 recommended prison sentences of 14,520 months or life in  
8 prison for those of us who were advised by expert federal  
9 government attorneys. This is a gross abuse of authority and  
10 conflict of interest to such a degree it can hardly even be  
11 adequately described. It even suggests a potential condition  
12 of mental illness, it is so grossly abusive.

13           In this court a man convicted of a \$134 million  
14 Ponzi scheme who admitted it, Dan Broucek, in June 2005  
15 resulted in an order asking that his sentence be reduced from  
16 84 months, as it was considered excessive. Yet in this case  
17 Mr. Gezon was initially seeking over 1,200 years in this  
18 entirely bogus prosecution against us, but has since revised  
19 the recommendation to approximately 25 years in a clear  
20 admission as to how utterly ridiculous the first  
21 recommendation truly was.

22           In dozens of similar cases similar to this one,  
23 defendants were sentenced to terms of five months,  
24 twenty-seven months, five years, or in many other cases it  
25 wasn't even deemed criminal. It was pursued as a civil fraud

1 twice too many women with a television on 24 hours a day, no  
2 pen, my mail is constantly tampered with, I have not done a  
3 lot of my legal files in over a month in order to review  
4 anything that I have or prepare properly for this. I take  
5 objection, exception to the entire PSI report. It is based  
6 entirely on fraud. There is no -- the mail fraud is a bogus  
7 charge. It has to be based on intent. There was no intent to  
8 defraud in this case whatsoever.

9 The money laundering is based on international drug  
10 trafficking, which everyone has agreed does not comply in this  
11 case. Money was not the issue for me in this case other than  
12 to finance people who had cancer problems. That was the only  
13 interest in my case in my own instance.

14 Therefore, for the record, I guess I need to  
15 specifically object to preserve the objection. I object to  
16 Paragraphs 203, 204, 205, 206, 207, 209, 210, 214, and I'd  
17 care to take another look to see what else I probably object  
18 to, which is basically all of it.

19 I'm here to help the clients get their money, and  
20 this exercise in futility, stupidity, obscenity, perversity,  
21 theft, slander, and every other filthy word a person could  
22 possibly think of has not helped the clients get their money.  
23 There's \$31 million laying around. The Department of Justice  
24 is trying to steal from these people, and a lawsuit against  
25 Plaster is being detoured and stymied as a result of my

1 credibility being absolutely annihilated by the lies of these  
2 gentlemen over there.

3 Excuse me while I just check this so I can -- and I  
4 have frequently been accused of being mouthy and bad language  
5 and everything else, but you tell me if you were shackled like  
6 an animal, like a piece of meat in Africa, human rights,  
7 there's a Supreme Court case in Africa where they don't allow  
8 prisoners to be shackled like animals the way that we have  
9 been shackled and treated.

10 All right. Offense level computations. I object to  
11 everything from 195 all the way to the end of it. All of the  
12 points are bogus. It's a bogus case. It's designed to keep  
13 litigation from the Department of Justice. I had a newsletter  
14 that went out in October of 2002 in which I threatened  
15 litigation against the government in this matter, and that's  
16 what this case has been entirely about.

17 So I take objection to 195 through 233. Zero  
18 points, zero sentence. There is no case here, and it can  
19 either be stopped on this level or it can be stopped on  
20 another. But I promise you over there this case will be  
21 overturned and you people will be looking for jobs, real jobs,  
22 where you can learn to tell the truth instead of lying. Face  
23 me. Face me with your lies. You tell me that I took the  
24 \$600,000 from --

25 THE COURT: Ms. Marcusse, Ms. Marcusse --

1 government hands, away from the state. It isn't the IRS so  
2 much as the state. The state is not to determine whether or  
3 not I can go to Mexico and get a cancer treatment that the  
4 state deems I should have chemotherapy instead for.

5 THE COURT: Oh, I'm sorry. I thought you were  
6 talking about religion. Okay. Continue on with your  
7 discussion.

8 DEFENDANT MARCUSSE: This Court has been acting as a  
9 minister under ecclesiastical law representing the Church of  
10 England in a debt contract. Catholics are allowed a 508  
11 exception. Where does it say that only Catholics have First  
12 Amendment rights? Is this not a political question?

13 This proceeding has failed to produce and state a  
14 claim upon which relief can be granted. This proceeding in  
15 this court has lost its jurisdiction by its denial of due  
16 process. I have not committed a crime, and there is nothing  
17 on which to convict me. Therefore, the conviction is null and  
18 void.

19 I do not accept or consent to have my rights blocked  
20 or impeded in any way, shape or form. I do not accept any  
21 offer or consent to have my body or possessions seized or  
22 confiscated or used by anyone or their agent for their own use  
23 or for the benefit of another.

24 I do not agree to be placed twice in jeopardy for  
25 the same pretended crime. I was given to the custody of the

1 Attorney General for the bogus competency exam. This is a  
2 double jeopardy sentencing.

3 The only contract that I have with you, Judge Bell,  
4 is to release the lien and the property attached to it per my  
5 Form 90s and 91s. The doctrine of contribution discusses  
6 joint tortfeasors have the right to collect from joint  
7 tortfeasors. If I'm to be deemed a tortfeasor, I have the  
8 right to collect from those that contributed to the loss, and  
9 litigation will be instigated shortly to go after all culpable  
10 parties in this manner.

11 The Court is also take mandatory judicial notice  
12 that my Michigan operator's license did expire on October  
13 15th, 2004, prior to the indictment dated October 27th, 2004.  
14 I refused a voter's registration card in October of 2000. As  
15 a result, the Michigan Secretary of State has no consent to  
16 take any human organ donations in regards to me, the human  
17 being.

18 Under the Clearfield Trust Doctrine, government does  
19 business on business terms. I have prepared financial  
20 statements for the time and energy that I was compelled and  
21 forced to provide for this experiment. I am taking this  
22 opportunity to inform you that this Court and its officers now  
23 owe me the sum of \$2,425,000 at the rate of \$5,000 a day for  
24 485 days of involuntary fraudulent incarceration. This is an  
25 honest settlement of the damages inflicted upon me during the

1 THE COURT: Very well.

2 MR. SCHIPPER: Your Honor, throughout the course of  
3 this trial, which was quite lengthy, there were many times  
4 when words were used in an attempt to describe the nature of  
5 this case, horrible and terrible. But none came close to  
6 describing what this case was.

7 Now, when you're involved in an investigation for  
8 this long and a case for this long, many times I think it's  
9 easy to lose track of the significance of the case. We talk  
10 about 577 victims and after awhile it's just a number. There  
11 aren't a tenth, maybe a twentieth of them here today. 577  
12 people. It's an amazing number.

13 DEFENDANT MARCUSSE: I object to the 577. That's an  
14 inaccurate amount.

15 THE COURT: Excuse me. Excuse me.

16 DEFENDANT MARCUSSE: That was a lie.

17 THE COURT: Excuse me. If you'll be quiet here. We  
18 listened respectfully to you. We will listen respectfully to  
19 Mr. Schipper.

20 Mr. Schipper?

21 MR. SCHIPPER: Thank you, Your Honor. \$21 million.

22 DEFENDANT MARCUSSE: That's a lie too. I'm sorry.

23 THE COURT: Ms. Marcusse, please be quiet.

24 MR. SCHIPPER: Your Honor, a word that kept coming  
25 to mind but a word that I had always heard used with physical

1 crimes is heinous, so I looked it up. It's a simple  
2 definition, and it's absolutely appropriate. Heinous is  
3 defined as an act that is hatefully or shockingly evil.  
4 Hatefully or shockingly evil.

5 DEFENDANT MARCUSSE: That is you.

6 MR. SCHIPPER: There could not possibly be, Your  
7 Honor, a more apt description --

8 DEFENDANT MARCUSSE: Than what you have done.

9 MR. SCHIPPER: -- of what this woman did.

10 DEFENDANT MARCUSSE: What you have done to these  
11 people is heinous.

12 THE COURT: Ms. Marcusse, if you intend to stay  
13 here, you're going to have to be respectful.

14 Continue, please.

15 MR. SCHIPPER: Your Honor, she took the most  
16 important things that people have. Physical injuries you can  
17 recover from, but loss of trust, faith, and belief in friends,  
18 in co-workers, in church members, and in family are oftentimes  
19 unfortunately, from talking to many of the victims over the  
20 course of the last couple years, injuries that may never, ever  
21 heal.

22 She robbed those people of that by her actions and  
23 how she taught her followers to seek out victims. Not  
24 strangers, but people like Dolores Walcott who testified, a  
25 wonderful older woman who went to church with Dave Albrecht.

1 is probably at a level 48 if my calculations are correct. I  
2 don't think there's a score that's out there that could  
3 overrepresent the seriousness of what she's done to those  
4 500-some-odd people and their families and their children and  
5 their relationships with people at work and friends and church  
6 and family members. There isn't a score that's high enough.

7 That's all, Your Honor. Thank you.

8 THE COURT: You have persons that are going to talk?

9 MR. SCHIPPER: Yes, Your Honor.

10 MS. JAGER: My name is Sue Jager.

11 Thank you, Your Honor. Thank you for this  
12 opportunity to address the Court and let us, the victims, our  
13 voices be heard.

14 We do not even know where to start or even how to  
15 finish. There is so much hurt and destruction this evil  
16 person has strung out over the years behind her. If the devil  
17 ever walked this earth, she is it.

18 We do not even need to go over all the pain and  
19 heartache she has caused. We are all well aware of it, as  
20 well as the Court is. Everyone seems to know it but her, and  
21 that is because she is a heartless, inhuman person. Lies and  
22 deceit is all she has ever lived with her whole life, and it  
23 is only now she has come to be accountable for years and years  
24 of theft and con jobs.

25 Oh, yes, she was a professional con artist. What a



1 terrific occupation. Something to be real proud of. The jury  
2 saw right through her and came back quickly with a guilty  
3 verdict. But then we all knew she was a long time ago.

4 She told them, I quote, I am a cancer survivor.  
5 Yeah, right, old gal. The only cancer you ever had was  
6 heartlessness and brainlessness, and it's non-curable.

7 We are asking you to send her away for the rest of  
8 her life so society will never have to deal with the likes of  
9 her again. When one victim asked her for their money back  
10 because they were going to lose their home, Jan's response,  
11 rather cold and uncaringly, was, Well, people should not live  
12 beyond their means. Well, for crying out loud, she had stolen  
13 their means. While she was shacking up all over Europe with  
14 William Flynn, her boyfriend for the moment, for three or four  
15 months at a hundred dollars a night in a hotel room, whose  
16 means was she freely living on? Certainly not her own or  
17 his. Just a tad bit over their means, I'd say, especially  
18 when it was not her money she was spending. It was stolen  
19 money, stolen from all of us, people who had worked all of our  
20 lives at honest jobs to earn it.

21 Then there was this great so-called seminar at the  
22 Crown Plaza. It was so laughable. It was such a mess and  
23 done so badly it was pathetic. She made the statement in  
24 front of everyone, If you don't have your money in two  
25 weeks -- whoops, there's that famous two weeks again that they

1 were all so famous for using. They all used it so freely.  
2 Anyway, she said, I will send it to you personally. Yeah,  
3 right. Well, she must have sent those checks out of the same  
4 account that the \$25 million check was drawn on because to our  
5 knowledge not one person got any check from her. Of course,  
6 maybe her two weeks meant never. It seems to have been so to  
7 all of them, their famous two weeks.

8 She should not be allowed access to a computer while  
9 she is in jail or she will just run another scam and hurt and  
10 destroy even more people. This seems to be the only thing she  
11 is good at: destruction.

12 At one time during the trial some of the victims  
13 picked up the fact she must have been living with three  
14 different boyfriends at one time in the same house in  
15 Missouri: her boyfriend from Wisconsin; her boyfriend we have  
16 seen in this court; and then her very, very young boyfriend  
17 named Patrick who was about twenty-five years younger than she  
18 was. Really, was she so desperate she needed to pick up babes  
19 out of the cradle? Well, it was finally realized why she  
20 never made any investments that she claims she was making for  
21 us. She was busy running her own illegal business. We think  
22 it's called prostitution.

23 Do we think she is capable of real harm to anyone?  
24 Oh, yes, she is. She's had contracts out on people's lives  
25 before, and even charged with that offense.

1           DEPENDANT MARCUSSE: That's a lie.

2           MS. JAGER: Is she a threat to society? Yes, she  
3 is. Therefore, we are asking you to send her away so long she  
4 will be too old to hurt anyone ever again or to spend the  
5 money we all know she has hidden away. But we are sure her  
6 boyfriend will have a good time while she wastes away in  
7 jail. Scammers scamming the scammer, we think that is called.

8           We are all very proud to be called Americans and  
9 pleased to live in this great country of ours. If she is so  
10 unhappy being an American that she would denounce that  
11 privilege and then spit on it and trample on it, we all would  
12 be very glad to escort her out of this country of ours if she  
13 ever gets out of her little cell. Perhaps the front lines in  
14 Iraq would be more to her liking. Wonderful men and women are  
15 dying every day to give us this freedom we all enjoy, and we  
16 would be glad to replace these wonderful men and women who  
17 need to come home safe with the likes of her. We don't need  
18 her.

19           Your Honor, this is no longer about money. It's  
20 about justice. The jury gave us half that justice we were  
21 seeking when we heard the words "guilty." She is, and now we  
22 are asking you to give the rest of our payment, jail time for  
23 a long time. That will be justice.

24           We lost, yes. No one wins. But there is life after  
25 all of this. We see light at the end of the tunnel, and I --

1 as I told so many over this long, long struggle, hang on, we  
2 will prevail. But some just could not hang on. They were too  
3 worn down and beaten down, and we are without them here  
4 today. To see this, and she is to blame, we will stand for  
5 them and prevail.

6 Do we hate anyone? Never. But we hate what these  
7 so-called human beings did. Will we be sad to see her leave?  
8 Not one bit. Will we feel sorry for her? Not ever. But we  
9 do feel bad for a life that was so wasted by evil.

10 All of us will go home today, sleep in our own beds,  
11 breathe fresh air, eat whatever we want. We will look around  
12 us and see God's creations and all the colors that are so  
13 glorious. We will enjoy our grandchildren, our children, and  
14 some of us will go home and will hold our precious little  
15 great-grandchildren and rock them to sleep tonight, and  
16 they'll hug and they'll kiss us and put their little arms  
17 around us. We'll hold our elderly parents' hands and be there  
18 for them when they leave this life. She traded all of this  
19 for a few pieces of silver in her own greed. Was it worth  
20 it? Thank you.

21 MR. SCHIPPER: No one else, Your Honor, thank you.

22 THE COURT: No one else, okay.

23 It now becomes the Court's responsibility to impose  
24 the sentence in this matter, this matter carrying an adjusted  
25 offense level downward to a 43 and a criminal history level of

1 I in this matter. The Court has obviously presided throughout  
2 this proceeding and taken, I just noticed the other day, had  
3 taken 134 pages of notes of its own and has had the benefit of  
4 considerable documentation both from Ms. Marcusse and from  
5 other persons in this case.

6 The Court believes that its responsibility extends  
7 both to review the nature and circumstances of the offense in  
8 its entirety that the jury returned guilty verdicts on, but  
9 also the history and characteristics of this defendant that is  
10 before the Court for sentencing. Unfortunately, this  
11 defendant's complete lack of cooperation handicaps this  
12 Court's ability to learn a little more about this defendant,  
13 the parts of this defendant that might be more favorable to  
14 her. The parts that may be more compelling of the  
15 opportunities for rehabilitation are not before this Court by  
16 virtue of her inability to cooperate and her lack of  
17 cooperation with the presentence officer and this Court.

18 So therefore, the Court has to look at the numerous  
19 instances of misrepresentation and prevarications that have  
20 been given by Ms. Marcusse and others involved in this  
21 conspiracy to not only commit mail fraud, but commit huge  
22 amounts of money laundering. This sophisticated money  
23 laundering under the guise of specialized high return  
24 investments the jury found was criminal by virtue of the  
25 nature of the sophistication and misrepresentations, the

1 defendant's leadership in these numerous misrepresentations to  
2 the investors and misappropriation of monies through various  
3 entities both created by her and created by others, and with  
4 no acceptance of responsibility whatever on her behalf.

5 And then the most odious to this Court is the  
6 numerous instances of obstruction of justice where not only  
7 Ms. Marcusse, but she urged others not to cooperate with the  
8 government in its investigation under Paragraph 193.

9 DEFENDANT MARCUSSE: Ouch, quit. Quit.

10 THE DEPUTY MARSHAL: Stand here.

11 DEFENDANT MARCUSSE: I'm not listening to these  
12 lies. You have a bogus case and you know it.

13 THE COURT: One more remark and you're out of here.

14 DEFENDANT MARCUSSE: Quit hurting me, you bitch.

15 THE COURT: Stand up and be quiet until I finish.

16 DEFENDANT MARCUSSE: Make them stop hurting me.

17 THE COURT: Stand and be quiet until I finish.

18 DEFENDANT MARCUSSE: She's bending my finger off.

19 THE COURT: If you will stand and be quiet.

20 DEFENDANT MARCUSSE: Stop it.

21 THE COURT: Remove her. Remove this lady from the  
22 court, please, from the courtroom.

23 DEFENDANT MARCUSSE: Let go of the pen, you  
24 terrorist.

25 THE COURT: Ms. Marcusse, I would like to have you

1 here when I pronounce sentence, but if you're going to behave  
2 like that --

3 DEFENDANT MARCUSSE: I don't consent to any sentence  
4 that you put out because you didn't let me present a case. So  
5 anything that you come up with other than the charge is  
6 dismissed, I don't consent to in any way, shape or form.

7 THE COURT: Remove her. She's being obstructive.

8 DEFENDANT MARCUSSE: So I can leave, and you do  
9 whatever the hell you want.

10 (Defendant Marcusse was escorted from the courtroom by the  
11 Deputy Marshals.)

12 THE COURT: Therefore, this Court pronounces  
13 sentence in the amount of 240 months in Counts 41 and 43  
14 through 57 and Counts 81 and 82. Those 250 (sic) months will  
15 be combined with a 60-month sentence on Counts 1 through 40  
16 and 42 to be consecutive with the sentence on Counts 41, 43  
17 through 57, Counts 81 and 82. A 120-month sentence on Count  
18 58 will be concurrent with the sentence of 240 months on Count  
19 41, Counts 53 through 57, and Counts 81 through 82.

20 This brings the Court's total to 300 months or 25  
21 years in prison. This reflects the seriousness of this  
22 offense. It promotes the respect for the law and affords an  
23 adequate deterrent to criminal behavior, and it protects the  
24 public from what this Court believes is likely to be a  
25 continuation of this behavior if in fact and when in fact this

1 defendant gets an opportunity to come back into the public.

2 This Court will order as a special recommendation  
3 that of psychological assessment and treatment as part of the  
4 Bureau of Prisons sentence that is being imposed in this  
5 matter.

6 A period of three years of supervised release as to  
7 each count, concurrent as to each count, will be entered.  
8 There will be obviously a monthly reporting requirement, a  
9 requirement of filing income tax returns, a requirement that  
10 there be no known association with anti-government persons;  
11 that is, persons who are obstructing government functions or  
12 are obstructing their duties owed to the government. This  
13 takes into consideration, obviously, that one has a First  
14 Amendment right of association, but in fact this goes beyond  
15 that.

16 This Court would waive a fine requirement, but  
17 would, however, enter the restitution order of \$12,651,244.80  
18 payable 60 days after the start of supervised release at the  
19 rate of \$1,000 a month. The mandatory special assessment of  
20 \$6,000 will be due.

21 And two other matters. As to Count 42, which is the  
22 conspiracy to defraud the United States, there will be  
23 obviously an order that the taxes be due in the amount of  
24 \$310,722. Pursuant to Count 83, an order of forfeiture is  
25 entering at this time. That final order of forfeiture is as



1 to property in the value of up to \$10 million.

2 Ms. Marcusse has the right of appeal both of the  
3 convictions and of this sentence. She has ten days within  
4 which to file an appeal of this sentence and conviction, and  
5 those forms which will be provided for her today will be an  
6 evidence of the same.

7 For the record, the Court will require Mr. Reporter  
8 to prepare a transcript of the sentence that the Court has  
9 just imposed commencing with her removal from this courtroom  
10 for her inability to listen and be available for this  
11 imposition of sentence through the end of this proceeding  
12 today and will provide that through the Court's clerk to her  
13 before she leaves this building today.

14 Any legal objection to the sentence that is being  
15 imposed, Mr. Gezon?

16 MR. SCHIPPER: No, Your Honor.

17 THE COURT: Excuse me, Mr. Schipper.

18 MR. SCHIPPER: That's okay, Your Honor. No legal  
19 objection.

20 THE COURT: Mr. Kaczor, your client having been  
21 removed from the courtroom, any legal objection you wish to  
22 place into the record?

23 MR. KACZOR: No, Your Honor, and I obviously can't  
24 control her behavior, but I apologize for it.

25 THE COURT: No, you did all you could do, and I want

1 to once again thank you for the service which you provided and  
2 the service which I'm sure you were capably able to provide to  
3 her had she availed herself of those services.

4 MR. KACZOR: Thank you, Your Honor.

5 THE COURT: This was a very difficult undertaking  
6 and you did it in exemplary fashion.

7 Anything else we should take up, Mr. Schipper?

8 MR. SCHIPPER: Only very briefly, Your Honor. I  
9 want to make sure the record's very clear for obvious purposes  
10 that in fact when the defendant was handcuffed and asked to  
11 remove, it was as a result of not only her failure to listen,  
12 but her turning, walking away from the Court, and refusal to  
13 stand at the podium.

14 THE COURT: You are right. You're right. I should  
15 describe that more in detail.

16 She was standing before the podium as the Court  
17 required, and as the Court proceeded to go through the  
18 rationale for its sentencing she became very agitated,  
19 pointing her finger at the Court, sticking her face out at the  
20 Court, and at one point she turned around to leave the  
21 podium. The Court told her not to; told her if she continued,  
22 she would be removed; and she continued with that behavior.

23 The logic of the Court's position is rather obvious,  
24 and that is the Court as an entity and as an institution is  
25 entitled to respect and deference. That was not given by Ms.

1     Marcusse. Ms. Marcusse was adequately warned that this would  
2     be the title taken, and in an absence of an orderly court  
3     proceeding, one has a disorderly court proceeding, and a  
4     disorderly court proceeding is a miscarriage of justice. So  
5     it's the orderliness of a proceeding that in many cases  
6     determines the delivery of justice. That necessitated her

12                     MR. KACZOR: Thank you, Your Honor.

13                     (Proceedings concluded at 11:02 a.m.)

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TO: UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION  
110 MICHIGAN, N.W.  
GRAND RAPIDS, MI 49503

DE NOV - 4 AM 10:24

FROM: JANET MAVIS MARCUSSE, et al.  
C/O NEWAYGO COUNTY JAIL  
WHITE CLOUD, MICHIGAN

IN RE: Your File No. 1:04-CR-165

: SENTENCING DEEMED NULL & VOID:

: NOTICE OF THIS INTENT OF THIS APPEAL:

I, : Janet - Mavis : Marcusse, a living woman over 21 years, do not consent to this conviction or to any of the terms of this sentence as documented in your transcript dated October 28, 2005, for File No 1:04-CR-165 or for Docket No. 1:04:CR:165-01. I, : Janet - Mavis : Marcusse, take exception to this File No. 1:04-CR-165 and this Docket No. 1:04:CR:165-01 in its ENTIRETY. Any consent that has been or is obtained under duress and torture is involuntary and is hereby deemed null and void.

This court and this judge do not have the authority nor do I consent to the add-on "special recommendation that of psychological assessment

and treatment" on Page 5, Lines 12-15, under a  
 Dr-Sell type of decision, given the FACT that this  
 "trial" is OVER. MANDATORY JUDICIAL NOTICE is to be  
 taken of the FACT that I was deemed "competent" to  
 "stand trial" after a forensic psychological assessment  
 was imposed without an appropriate "hearing" on the  
 matter at the time. I do not have to silently  
 endure TORTURE, which is prohibited by International  
 Law and International Treaties as criminal acts,  
 including being considered that of a war crime against  
 its victims. I was subjected to verbal abuse  
 prior to your October 28, 2005, hearing, such as  
 being called a "whore" by your Female Marshal,  
 and physical abuse, such as hair pulling,  
 scratching, multiple bruises, and a nearly  
 broken thumb, all of which was inflicted  
 by your SICK, criminally-minded, U.S.  
 Marshals acting in collusion under orders to  
 produce the desired response that was  
 designed to facilitate your corrupt "recommenda-  
 tion" for a "psychological assessment and treatment"  
 on cue as the Director of this very SICK  
 play. Also playing her "part," "victim  
 Spokesperson," Sue Jager, herein noted as  
 an arsonist and bankruptcy fraudster, with  
 no criminal of a background for even this  
 prosecution to consider using her as a witness  
 at "trial", performed as the prosecution's  
 skill at this hearing, by stating in her

"script" that I was a "whore", thereby evidencing ample proof that this "psychological recommendation" was "produced" by the actors and agents of this court engaging in multiple criminal acts to deceive the public, the record, and deprive its victim(s) of all due process as well as any human dignity. As the result, I also take exception to all of Page 8. For this judge to consider himself or his lap-dog prosecutors "the court" is not only an affront to human beings in general, but an insult to the law and ethical judges and prosecutors worldwide.

I take specific exception to Page 5, lines 19-22, in that this court is hereby notified that I will associate with whomever I please, whenever I please, under My First Amendment RIGHT of association. No jury verdict supports this abuse of discretion.

I take specific exception to Page 6, lines 9-11, in regards to Count 83. I do not consent to any "final order" of forfeiture as "to property in the value of up to \$10 million." This court will take MANDATORY JUDICIAL NOTICE that there were no "drugs" or "narcotics" as ADMITTED by the prosecution involved in this File / Docket / Case No. 1:04-CR-165, et. al. ;

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J.M.M.

therefore, there is no lawful or legal authority upon which to base your bogus and fraudulent forfeiture. The court is not permitted to be a party to fraud.

I take specific exception to Page 8, lines 11 and 12, in regards to "title taken." I do not consent to any "title taken" of me, the human being. Severe forms of trafficking in persons is prohibited by 22 U.S.C. 7102. Robert Holmes Bell d.b.a. Judge Bell admits his duplicity and bias in the Transcript from the October 13, 2005, Hearing, p. 31-32, in which he personally takes "perverse pleasure" that we "and our people", i.e., the INVESTOR VICTIMS, were all "basically scammed" by "the fellows in Las Vegas and other places." Judge Bell has been fully aware that these "fellows" who "scammed" us were government employees and a close friend of former Attorney General, John Ashcroft, which should have prevented this case from being pursued due to the Plaintiff's "unclean hands" had an ethical "judge" been involved, but which in this case merely meant the jury was prevented from having this information. Judge Bell arbitrarily deemed us a "Ponzi" thereby eliminating any presumption of a "controversy", which should have denied

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any presumption of jurisdiction, but Judge Bell ignored that RUBE in order to USE this fraudulent presumption instead to deprive the accused of a defense in its entirety, including even that of their own bank records, acting as a prosecutor rather than that of a Judge, doing whatever he could to insure these bogus convictions. As the result, all of these convictions are deemed null and void for fraud.

The 11-Page "Amounts owed to people in Access Case" is hereby deemed null and void for prosecutorial misconduct and fraud due to Messrs. Gezon's and Schippie's falsification of these records regarding the number of "people" involved and "amounts owed" by their fraudulent addition of "people" not on the investor list and by not reducing the "amounts owed" by returns for many of these "people" on the list in order to fraudulently increase the total "owed" to "match" the fraudulent totals of 577 people and \$ 20,686,875 on the Indictment(s) to cover up the existence of investment returns to facilitate lying to both jury groups to secure the Indictment(s) and the bogus convictions. This list was never submitted to the jury to prevent defense scrutiny of it and the corresponding objections thereto in order to prevent exposure of this fraud. The list contains 533 names, not 577.

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J.M.H.



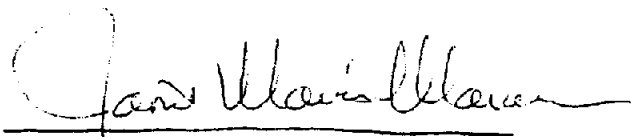
Therefore, in accordance with Article III, Section (d) of the Interstate Agreement on Detainers (MCL 780.601), I may request final disposition of all untried indictment(s), information (s), or complaint (s) on the basis that no trial has been had on the merits in a court of competent jurisdiction or before a lawful tribunal.

For this NOTICE to this UNITED STATES DISTRICT COURT is with this date of this IN-TENT for the Intervention and/or Appeal(s) for (to) the appropriate Court(s) / Authority(s) by this Janet - Mavis: Marcusse within this TEN (10) - day - time - frame.

I waive NONE of MY RIGHTS in this matter.

Date: November 2, 2005

By:



Janet - Mavis: Marcusse  
Autograph, Master /  
Authorized Representative  
for the JANET MAVIS  
MARCUSSE, et. al.

J.M.A.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Hon. Robert Holmes Bell

v.

Case No. 1:04-cr-00165

JANET MARCUSSE,

Defendant.

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**OPINION**

A competency hearing was held regarding Defendant Janet Marcusse on February 23, 2005. She had been sent for a competency evaluation pursuant to 18 U.S.C. § 4241 because of her violent outburst at her arraignment.

A forensic report was prepared by Michelle Hoy-Watkins, Psy.D., Licensed Clinical Psychologist, State of Illinois. It has been filed in this matter under seal. Defendant Marcusse refused to participate in the evaluation, and thus the psychologist was unable to provide a comprehensive assessment of her clinical functioning. She did note, however, that Defendant Marcusse appeared adequately nourished and groomed, with adequate hygiene. Marcusse was alert and oriented, and seemed attentive to the explanation of the purpose of the evaluation and the limits of confidentiality. She appeared to be of at least average intelligence, and exceptionally versed in legal terminology. She also seemed quite capable of managing her day-to-day routine, and received no psychotropic medication throughout the evaluation period.

Before representing herself at the competency hearing, Defendant Marcusse answered coherently questions contained in the Benchbook for United States District Court Judges, 4th ed., Federal Judicial Center, and stated that she understood the crimes with which she has been charged, and that if she is found guilty on the charges against her, or pleads guilty thereto, she could be sentenced to up to twenty years in prison. She stated that she had studied the United States Sentencing Commission Guidelines. She noted that she has a copy of the Federal Rules of Evidence, and is familiar with the Federal Rules of Criminal Procedure.

The government expressed its opinion that Defendant Marcusse is competent, as did she. The government also proffered a number of exhibits, to which Ms. Marcusse did not object, thus they were admitted. Exhibit 1 was a copy of Defendant Marcusse's license, dated September 11, 1997, to act as a securities agent. Exhibit 2 was a 1996 State of Michigan Insurance Bureau license to act as an accident and health insurance agent. Exhibit 3 was a March 6, 1996, very comprehensive application for employment stating that Defendant Marcusse was in the Honor Society in high school, obtained a 3.7 grade point average at Davenport College and a 3.9 grade point average at Detroit College of Business. It further stated that she had nineteen years of experience using an adding machine, calculator, personal computer, and that she types 100 words per minute and is competent in word processing and customer relations. From the employment application, it appears that Ms. Marcusse was steadily employed from 1976 through 1996, and in none of those employments, of which there were seven, was there any suggestion that she was fired for any inappropriate behavior. The employment application was signed and dated by Defendant Marcusse. Exhibit 4 reflected a personal bankruptcy filed December 10, 1997, and discharged March 26, 1998. The exhibit contained very thorough information regarding Defendant's debts and assets.

The government's Exhibit 5 was a newsletter, allegedly written to investors of Access Financial. This letter, although containing some of Defendant Marcusse's rather bizarre views of this case, is also coherent and well written.

Finally, as noted by the Assistant United States Attorney, Defendant Marcusse conducted reasonably appropriate cross-examination of witnesses at her preliminary and detention hearings. The Court finds that Ms. Marcusse's outburst at her arraignment was either aberrational or within her control. Thus, the Court, on February 25, 2005, entered an order finding that Ms. Marcusse is competent within the meaning of 18 U.S.C. § 4241(d).

Date: March 14, 2005

/s/ Ellen S. Carmody  
ELLEN S. CARMODY  
United States Magistrate Judge

# Screaming con artist gets 25 years in prison

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Ringleader of \$12.7 million scheme hauled from courtroom before sentence

AP Associated Press

updated 10/28/2005 8:46:10 PM ET

GRAND RAPIDS, Mich. — The ringleader of a scheme that bilked investors out of millions of dollars was sentenced to 25 years in prison Friday, but not before the screaming defendant was removed from the courtroom.

Janet Mavis Marcusse was convicted of defrauding 577 people of \$12.7 million and laundering the money through bank accounts opened under the names of nonexistent churches.

Marcusse, 49, spoke for more than an hour at the hearing, accusing the government of setting her up. She walked away from the lectern as U.S. District Judge Robert Holmes Bell began issuing her sentence, prompting the judge to order U.S. marshals to bring her back, prosecutor Mike Schipper said.

Marcusse yelled repeatedly at the judge while she was restrained, saying "I don't recognize you" before she was removed from the courtroom, Schipper said. Bell sentenced her and ordered the court reporter to give the defendant a copy of the transcript, the prosecutor said.

"It's unfortunate that she was unable to maintain the decorum of the court and show the respect to Judge Bell that Judge Bell showed her by allowing her to speak for over an hour," said David L. Kaczor, a federal public defender assigned to help Marcusse prepare her defense. She had refused to be represented by a lawyer.

Prosecutors said Marcusse led a ring that preyed on investors including many retirees who lost their life savings. There were victims throughout the United States, but most were from western Michigan.

## 'I lost everything'

Paul Stinger, 63, of Spring Lake, lost about \$150,000 in the scam. He had retired from his production job at Steelcase Inc., a Grand Rapids-based

maker of office furniture where about a quarter of the victims worked, but he now has a construction job to make ends meet.


“I lost everything,” he said. “I have no retirement.”

Marcusse was convicted in June of 61 counts, including conspiracy, mail fraud and money laundering. Seven others convicted in the case were sentenced this month to prison terms ranging from five to 20 years.

Marcusse was living in Grand Rapids when the investigation started but fled with her investment records to the Branson, Mo., area in 2002. She remained a fugitive until 2004, when authorities tracked her to a cabin in a wooded area of rural Missouri, prosecutors said.

Marcusse accused the government of tampering with witnesses and other prosecutorial misconduct. Schipper called the allegations “absolutely baseless.”

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FILED

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

05 NOV 18 PM 3:12

CLERK  
WESTERN DISTRICT OF MICH  
mb

IN THE MATTER OF *UNITED STATES*  
v. *JANET MAVIS MARCUSSE*,  
CASE NO. 1:04-CR-165

Administrative Order  
No. 05-152

It appearing that Janet Mavis Marcusse has sent all manner of written communications to this Court's Clerk's office and various judicial officers, virtually all said communications are lacking in any legal merit and are plainly designed to harass and intimidate the recipients. The burden of disposition is far beyond any colorable claim for attention and remedy.

Accordingly, the office of the Clerk of this Court is hereby instructed to forthwith send all communication from said Janet Mavis Marcusse to a Magistrate Judge to determine whether said communication is a lawful pleading or a continuation of meritless paper writings. Based on the determination of the Magistrate Judge, the communication shall either be filed or rejected.

**IT IS SO ORDERED.**

Date: November 18, 2005



ROBERT HOLMES BELL  
CHIEF UNITED STATES DISTRICT JUDGE



TO: UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION  
110 MICHIGAN, N.W.  
GRAND RAPIDS, MI 49503

CC: U.S. DISTRICT COURT, LANSING  
KEVIN W. GAUGIER, COURT REPORTER  
NATIONAL COURT REPORTERS ASSOCIATION  
OFFICE OF PROFESSIONAL RESPONSIBILITY  
SIXTH CIRCUIT COURT OF APPEALS

FROM: JANET MAVIS MARCUSSE, et al.  
c/o DEWAYGO COUNTY JAIL  
300 WILLIAMS STREET  
WHITE CLOUD, MICHIGAN 49349

IN RE: File No. 1:04-CR-165

COMPLAINT OF COURT REPORTER OFFICIAL MISCONDUCT  
TRIAL TRANSCRIPT VOIDED FOR FRAUD

I, Janet Mavis Marcusse, a living woman over 21 years, do herein provide this court with an official Complaint for Fraud against Court Reporter, Kevin Gaugier, CSR-3065. An initial review of part of Jury Trial Transcript, File No. 1:04-CR-165,  
Page 1 of 4



has evidenced its total unsuitability to be used in any way, shape or form due to fraud, including excessive tampering with trial witness testimony and the court's responses, which in virtually every instance only serves to benefit the prosecution while harming the alleged "defendants" in a clear malicious and deliberate effort to deprive the victims of this fraud of any due process from any responsible source; not just this corrupt prosecution in this fraudulent action in this particular court. One notable example of this transcript tampering out of many is the deliberate deletion of government "expert" witness, Mr. Zawistowski's sworn admission that it was the Federal Reserve that collapsed the Class B banks in the Bahamas in the year 2001, and what would have been a highly beneficial admission for the alleged "defendants" to preserve for the record is now "missing" from the transcript.

Clearly, Court Reporter, Kevin Gaugier, has been successfully solicited by this corrupt, criminally-minded prosecution to falsify the official court's record to commit acts of RICO Fraud in

Page 2 of 4

SJM

collusion against the alleged "defendants". A copy of this Complaint is being provided to the National Court Reporter's Association to lodge an official civil and criminal Complaint against Mr. Gaugier and his bond. This fraud is compounded by the additional threat of extortion and blackmail against the alleged "defendants" RIGHTS of APPEAL in regards to the Notice from Leonard Green, Clerk, Sixth Circuit Court of Appeals in which it is warned that in regards to an Appeal in that court, "You must use our transcript purchase order form BCA-30..." and "should satisfactory arrangements for transcript production, including necessary FINANCIAL arrangements, not be made within (10) days after filing your Notice of Appeal, your Appeal can be dismissed." [Emphasis added]. In other words, victims of Mr. Gaugier's fraud are forced to PAY for it too, or lose their RIGHTS.

Court Reporter, Kevin Gaugier's acts of fraud constitute the following criminal acts: unauthorized practice of law, Collusion, RICO, falsified as well as omitted transcript "certified" records,  
Page 3 of 4 JAH

malfeasance and misfeasance of office,  
neglect of duty, extortion and blackmail.

If the prosecution felt that their case  
was so weak that they had to solicit  
Court Reporter, Kevin Gaugier, to commit  
these criminal acts for them and thereby  
jeopardize his own career simply to  
maintain this bogus action, and this  
must be the case, as Mr. Gaugier  
would have had no reason whatsoever  
to falsify the transcripts on his own  
accord, then it should be glaringly  
obvious by now to this court that  
this entire case / file / docket should  
be immediately VOIDED for FRAUD.  
These "certified" transcripts are a contempt  
of Court.

Mandatory Judicial Notice is hereby  
ORDERED: the Court CANNOT be a  
party to FRAUD — these so-called  
"certified" trial transcripts are voided  
for fraud.

Date: November 13, 2005 By: Janet Maus Marcusse

Janet Maus Marcusse  
Autograph / Master /  
Authorized Representative  
For the JANET MAUS MARCUSSE,  
et al. *JMM*

Page 4 of 4

PROOF OF SERVICE

We attest that we witnessed Janet  
Mavis Marcusse insert the enclosed  
papers entitled:

COMPLAINT OF COURT REPORTER  
OFFICIAL MISCONDUCT  
TRIAL TRANSCRIPT VOIDED FOR FRAUD

to: RONALD C. WESTON, SR. CLERK  
UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION  
110 MICHIGAN NW  
GRAND RAPIDS MI 49503

into an envelope with 1st Class mail stamps  
fully affixed thereto on the 13th day  
of November, 2005, and such was taken  
for delivery by the custodial employees  
at the Newaygo County Jail.

*Janet Marcusse*

Witnesses:

Marian L. Hitt

Brenda Kelley

*WPH*

# BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

June 11, 1996

## INVESTMENT SCHEME ADVISORY

On October 21, 1993, the Federal Reserve Board and other federal banking agencies issued an Interagency Advisory concerning "prime bank" financial instruments, a copy of which is attached. The 1993 advisory warned that there were illegal schemes claiming to involve financial instruments issued by a "prime bank" and claiming unrealistic rates of return or other benefits. Since the issuance of the advisory, law enforcement and regulatory authorities in the United States and abroad have prosecuted numerous individuals for their participation in "prime bank" scams, and millions of dollars in illegal proceeds have been seized.

In one federal case involving a program that supposedly invested in "prime bank" financial instruments, a U.S. Court of Appeals stated unequivocally that "Prime Bank Instruments do not exist". (Securities and Exchange Commission v. John D. Lauer, 52 F.3d 667, 669 (7th Cir. 1995)).

Despite the notoriety given to illegal "prime bank" scams and the efforts of law enforcement authorities over the past several years, fraudulent investment schemes supposedly involving "prime bank" financial instruments and other investment opportunities involving extremely unusual rates of return, which are sometimes referred to as "roll programs", are still proliferating. Unlike the schemes the Federal Reserve encountered in 1993, many of the recent frauds state that the Federal Reserve sanctions the investment program, oversees trading in secret "prime bank" markets, licenses or registers traders of "prime bank" financial instruments, has agents in offices around the world to handle investments and redemptions of "prime bank" instruments, or is in some other manner involved with an investment opportunity.

This advisory reiterates that the Federal Reserve is not aware of any legitimate use of any type of "prime bank" financial instrument. Also, the Federal Reserve does not participate in any manner in any "prime bank"-related investment program. The Federal Reserve does not license or register traders, does not have agents who process or oversee investments, and does not sanction, authorize, license, or otherwise administer any type of investment program or plan for the public in the United States or abroad.

Attachment

1 interest.

2 THE COURT: Any other questions in this matter?

3 MR. KACZOR: No, Your Honor.

4 THE COURT: Okay. Thank you. You may be excused.

5 Next witness.

6 MR. SCHIPPER: Thank you, Your Honor. We call Mr.

7 Leonard Zawistowski.

8 LEONARD A. ZAWISTOWSKI, JR.,

9 A witness called at 1:39 p.m. by the government, sworn by  
10 the Court, testified:

11 DIRECT EXAMINATION

12 BY MR. SCHIPPER:

13 Q Good afternoon, Mr. Zawistowski.

14 A Good afternoon.

15 Q Would you please state your complete name and spell your  
16 last name?

17 A Sure. It's Leonard, L-e-o-n-a-r-d, middle initial A. for  
18 Anthony, and then Zawistowski is spelled  
19 Z-a-w-i-s-t-o-w-s-k-i, and I'm a junior.

20 Q Thank you. Mr. Zawistowski, how are you currently  
21 employed?

22 A I'm a senior special investigator with the Division of  
23 Banking Supervision at the Federal Reserve in Washington, D.C.

24 Q What are your current job duties?

25 A Well, primarily as an investigator we investigate

1 financial frauds that occur at banks that we supervise. We  
2 also investigate money laundering allegations that occur at  
3 those banks. We're very active in this particular time with  
4 terrorist financing investigations; and in many instances, and  
5 kind of covers all those responsibilities, we have  
6 responsibility for financial fraud investigations that come up  
7 as part of those other investigations.

8 Q How long have you been involved with financial fraud  
9 investigations?

10 A Well, I've been in federal law enforcement for 29 years,  
11 and I would say since the late '80s, probably for 20 years of  
12 my career, I've been involved with financial fraud  
13 investigations.

14 Q Could you let the jury know a little bit of your  
15 educational background?

16 A Yes. I'm a graduate with a bachelor of arts in criminal  
17 justice from Gannon University in Erie, Pennsylvania, and then  
18 I have a law degree from George Mason University School of Law  
19 in Arlington, Virginia.

20 Q How about your work background?

21 A Well, I mentioned the 29 years. I started in 1975 with  
22 the Federal Bureau of Investigation as a fingerprint  
23 examiner. Then I went on to the Supreme Court Police  
24 Department which provides security for Supreme Court justices  
25 in Washington. I did that for several years while I was going

1 to law school. Then upon completion of my law school  
2 education, I went right into service as a special agent with  
3 the Bureau of Diplomatic Security at the U.S. Department of  
4 State, which primary functions there are protection of the  
5 Secretary of State, protection of classified information,  
6 protection of the U.S. embassies around the world, as well as  
7 investigations because I was the chief of the Visa Fraud  
8 Investigation Section while I was at the State Department. We  
9 investigated -- so if you were an immigrant trying to come  
10 into the United States, you might have tried to fraudulently  
11 obtain a visa or fraudulently obtain a passport or  
12 counterfeited a passport. We investigated those things.

13 I'm sorry, I stopped. Let me continue, then. In  
14 1990 I went on to the Federal Reserve in the Office of  
15 Inspector General as a criminal investigator to conduct  
16 investigations of fraud that had been conducted against the  
17 Federal Reserve. I did that for three years to which point  
18 they started the position that I currently am in, which is  
19 called the Special Investigation Section in the Division of  
20 Banking Regulation and Supervision. So I moved over there and  
21 I've continued in those duties since 1993.

22 Q Are your investigations limited to fraud schemes within  
23 the United States?

24 A No, not at all. Many of the -- almost every one has  
25 international implications.



4 covered some other areas and added these red flags that we  
5 spoke of.

6 Q So those warnings about Prime Banks have been on the  
7 Internet since 1993?

8 A Yes, sir.

9 Q Or 19 --

10 A Yes, sir, they have been. Let me caution, 1996 I know it  
11 was on the Internet. 1993 was maybe a little early for the  
12 Internet warnings to be out there, but when the Internet  
13 became more prominent and when we had an operating Web site,  
14 the '93 warning did go on there. But in 1996 that warning  
15 went right on the Web site.

16 Q So at any time following 1996, if anyone went on the  
17 Internet and looked up Prime Banks, they'd find your warnings?

18 A Our warnings, warnings from the SEC, warnings from the  
19 Federal Trade Commission, warnings from state securities  
20 commissioners, warnings from state consumer affairs agencies,  
21 warnings from local district attorneys' offices. There  
22 were -- the Internet is full at this point and in the mid '90s  
23 with warnings --

24 MR. KACZOR: Excuse me.

25 THE WITNESS: -- about prime banks.

EXHIBIT O-8

17 which was very clearly disclosed as a stock program, is not a  
18 Prime Bank scheme?

19 A To tell you the truth, what I reviewed about the Bahamas  
20 program was I didn't see any reference to the instrument  
21 itself except for these debenture tradings. I saw the rate of  
22 return and the promise of safety. Unless you can cite me to

1 Q Yes.

2 A They were blacklisted at some point. I think it was in  
3 that time frame.

4 Q All right. I was looking at an article from August of  
5 2000 if that sounds about the right time. And apparently  
6 afterwards there were a number of Bahamas banks where their  
7 licenses were pulled and the banks failed if you're aware?  
8 Are you aware of that?

9 A I'm not aware of failure, but I know that a lot of shell  
10 bank corporations that were not -- that were what we call  
11 Class B banks that were licensed in the Bahamas and some of  
12 these other countries, but can only deal with offshore  
13 clients, non-Bahama, Bahamian clients, they -- because of that  
14 action by the Financial Action Task Force and pressure brought  
15 by that task force, the regulatory structure was improved and  
16 increased and many banks closed because they could not handle  
17 that sort of scrutiny.

18 Q All right. In your business have you run across a Gerald  
19 Forrester who is a supervisory special agent with the U.S.  
20 Department of Justice?

21 A No, I have not. Could you say the name again, please?

22 Q Gerard M. Forrester.

23 A And his title was special --

24 Q He was a supervisory special agent with the United States  
25 Department of Justice.

1 A I'd say no because in my experience, usually you're with  
2 the FBI or the Marshal's Service or the DEA. I haven't heard  
3 of a supervisory special agent who just works for Justice.

4 Q Wouldn't that be an FBI agent?

5 A It could be. That's why I'm confused, yeah.

6 Q So if you had a bank that was just a shell bank or a --  
7 I'm sorry, the term that you used?

8 A Shell or Class B bank.

9 Q Class B bank?

10 A Right.

11 Q Would it be likely that a supervisory special agent of  
12 the United States Department of Justice would endorse that  
13 bank in writing?

14 A As you know, anything is possible. I have no knowledge  
15 of that and don't know the context that it was taken from.

16 Q Well, were you aware what bank the Bahamas CD Program was  
17 issued from?

18 A No, I'm not aware of that.

19 Q Suisse Security?

20 A I'm not familiar with it.

21 Q That's the bank that this senior supervisory agent from  
22 the U.S. Department of Justice endorsed?

23 MR. SCHIPPER: Objection, Your Honor. There's no  
24 foundation for this.

25 THE COURT: It assumes facts not in evidence.

1 Sustained.

2 BY DEFENDANT MARCUSSE:

3 Q All right. One other -- one other question. Do you know  
4 a James Kramer Wilt who is a lawyer with the Bureau of Public  
5 Debt?

6 A Yes, I do.

7 Q Do you know what he did for a job or position?

8 A He was an attorney in the Bureau of Public Debt and part  
9 of his responsibilities were addressing questions about  
10 fraudulent program activity targeting the Treasury Department.

11 Q All right. So if an organization were to have employed  
12 his or sought his services, would that not be a factor in  
13 attempting to do business the correct way?

14 MR. SCHIPPER: Objection, Your Honor, again calls  
15 for speculation and asks for things not in evidence at all.

16 MR. KACZOR: Your Honor, can I respond? I think  
17 this is an expert witness that deals with the characteristics  
18 of different types of fraudulent schemes, and it seems to me a  
19 valid question would be if this factor were present, would it  
20 not negate some of the characteristics you're talking about or  
21 would it be different than some of the characteristics you're  
22 talking about.

23 THE COURT: In other words, I guess I understood the  
24 question to be if someone sought out that person's approval.

25 MR. SCHIPPER: That's right.

1 THE COURT: Would in fact that show that whatever he  
2 approved is okay? Is that what the --

3 DEFENDANT MARCUSSE: Yes, that's what I was asking,  
4 basically.

5 THE COURT: I think the problem with that question  
6 is it calls for the thought processes and approval of another  
7 person. It calls for that other person's thought processes.

8 MR. KACZOR: I understand.

9 THE COURT: That's what I think we're getting at  
10 here. I think there's a way to pursue this, but not with that  
11 question.

12 Mr. Kaczor, do you want to help her with that?

13 MR. KACZOR: Yes, Your Honor, if I could have just a  
14 minute.

15 (Mr. Kaczor conferred with Defendant Marcusse.)

16 BY DEFENDANT MARCUSSE:

17 Q All right. As an expert, wouldn't it be true that  
18 seeking out the advice of experts like yourself to avoid a  
19 fraudulent scheme be an indication of good faith to not  
20 participate in fraudulent schemes or bad programs?

21 A Ms. Marcusse, I work in Washington, D.C., and that colors  
22 my answer because you can buy opinions for every subject, on  
23 every side of every subject with money, with promises of  
24 other -- with any other promise of compensation. And so to  
25 say that you would seek out, say, a former government official

1 or a former ambassador to someplace or something of that  
2 nature to give something credibility, I guess I'm not -- I  
3 don't buy into that right away that it gives it legitimacy  
4 because you can buy talent on either side of any question in  
5 my opinion.

6 Q So then, in other words, I can't rely on a government  
7 official to make a decision?

8 A To make a decision?

9 Q Yes.

10 THE COURT: That isn't -- we're not talking about  
11 that. That's a whole different issue. That's a different  
12 issue.

13 DEFENDANT MARCUSSE: I'm sorry, I didn't hear you.

14 THE COURT: That's a whole different issue. He's  
15 talking about former officials.

16 Anything else?

17 BY DEFENDANT MARCUSSE:

18 Q Excuse me. At the time the person worked for the  
19 government.

20 A Mr. Wilt did?

21 Q Yes. At the time that I was asking him questions or  
22 asking for his advice, he worked for the government.

23 MR. SCHIPPER: We don't know that. Is she  
24 testifying now, Your Honor? She'll have the opportunity if  
25 she wants to testify.

1 DEFENDANT MARCUSSE: Well, I was trying to ask --

2 THE COURT: Excuse me. I think it assumes some  
3 facts not in evidence here.

4 Anything else?

5 (Mr. Kaczor conferred with Defendant Marcusse.)

6 DEFENDANT MARCUSSE: All right. Thank you.

7 THE COURT: Thank you.

8 Anything else by way of cross-examination of this  
9 witness?

10 Redirect examination of this witness?

11 MR. SCHIPPER: No, Your Honor.

12 THE COURT: Okay. Thank you, sir. You may be  
13 excused.

14 We'll take a recess at this time and we'll proceed  
15 with the next witness.

16 (Proceedings recessed at 2:31 p.m.; reconvened at 2:47 p.m.)

17 DAVID LEE,

18 A witness called at 2:47 p.m. by the government, sworn by  
19 the Court, testified:

20 DIRECT EXAMINATION

21 BY MR. GEZON:

22 Q Can you give us your name, sir?

23 A David Lee.

24 Q And are you employed with -- is it National City Bank?

25 A That's correct.

1 for transfers, would there not?

2 A Somebody would order the transfer, yes.

3 Q All right. So getting back to the original question,  
4 wouldn't there need to be a person as a signatory on an  
5 account, investment or otherwise?

6 A In general I'd say yes, that's true.

7 Q All right. Thank you. Do you recall the Federal Reserve  
8 expert with the top security clearance testifying that the  
9 Federal Reserve crashed some banks in the Bahamas in 2001 and  
10 2002?

11 A I'm not sure if he said crashed. I don't know if -- they  
12 crashed some banks?

13 Q Yes, that's -- I was just asking if you recall the  
14 testimony where he stated that.

15 A I don't recall him saying they crashed some banks in the  
16 Bahamas, no, but he could have.

17 Q In regards to the \$600,000 that was considered spent with  
18 Worldwide E-Capital, in your investigation did you run across  
19 any information that we were concerned about an embezzlement  
20 inside our own company?

21 A Regarding the \$600,000?

22 Q No, in general.

23 A About a -- that you, Access Financial, had a concern  
24 about embezzlement within Access Financial Company?

25 Q Yes.



1 A That could be correct.

2 Q Are you aware that a representative from the Federal  
3 Reserve admitted that they crashed a lot of the banks in the  
4 Bahamas in 2001?

5 A I wasn't aware of that.

6 Q Is it not possible, then, that I might be over at this  
7 table in order to cover up what the Federal Reserve did to our  
8 bank and our investment?

9 MR. GEZON: Your Honor, I object.

10 THE COURT: Sustained.

11 DEFENDANT MARCUSSE: I withdraw the question.

12 THE COURT: Sustained.

13 DEFENDANT MARCUSSE: That's all I have. Thank you.

14 THE COURT: Any other cross-examination?

15 Redirect?

16 MR. VALENTINE: No, thank you.

17 THE COURT: Recross?

18 RECROSS-EXAMINATION

19 BY MR. GEZON:

20 Q So you were getting the newsletters and your checks.

21 Were they coming in the mail?

22 A That's correct.

23 Q Were they coming from Grand Rapids?

24 A I believe so.

25 Q So you gave your money to Mr. Wilkinson and you started

1 and it's just not a question and he's being argumentative,  
2 Your Honor.

3 THE COURT: Overruled. Next question.

4 MR. KACZOR: Thank you, Your Honor.

5 BY MR. SCHIPPER:

6 Q Now, Exhibit 50, please. First part of that second  
7 paragraph, please, Cindy. This is a newsletter in October of  
8 '01. Did you write this newsletter?

9 A Yes.

10 Q Okay. You write: "I have always made decisions based on  
11 the safety and security of the principal as our utmost concern  
12 versus the return on those funds." That's your words, right?

13 A Yes, it is.

14 Q So if Mr. and Mrs. Sharpe testified as they did that you  
15 told them their money was completely safe, it was guaranteed,  
16 the principal was guaranteed, that wasn't true, was it?

17 A It was true.

18 Q Then where's their money?

19 A Perhaps we should ask the Federal Reserve.

20 Q So the Federal Reserve took their money?

21 A That was the earlier testimony, that they crashed the  
22 banks in the Bahamas.

23 Q Okay. So your testimony is that the United States  
24 federal government, the Federal Reserve, took the investors'  
25 money? Is that your testimony, yes or no?

1 A That's the testimony that I heard a couple of weeks ago,  
2 that the Federal Reserve crashed some banks in the Bahamas.

3 Q Could we go to Exhibit 52, please, Cindy? Can you  
4 highlight the first paragraph? Actually, do the caption, too,  
5 please. Sorry about that, Cindy. Do the entire caption just  
6 through the first paragraph. That's good, thank you.

7 Now, did you write this newsletter?

8 A Yes, I did.

9 Q Would you read that first paragraph, please? You can  
10 read the whole paragraph.

11 A "This is to warn you that the courts located in Grand  
12 Rapids, Michigan are being operated by people of criminal  
13 intent and actions, each of whom have routinely displayed a  
14 complete contempt for people's rights, the law, and the  
15 Constitution. This area has repeatedly been mentioned as  
16 being one of the most corrupt in the country. Read this and  
17 make up your own minds. Involvement with these criminals is  
18 at your own risk, unless you are a criminal too, as you will  
19 see. They will lie to you, make up the law, and misquote the  
20 law, possibly because they are so stupid and brain dead they  
21 can't even read it, much less understand it, but just as  
22 likely because they are running a criminal racketeering  
23 organization. If there were any real justice in this  
24 injustice system, they would all be put in prison. Current  
25 criminal actions as charged by others and myself against

- 1 today, is it, to you?
- 2 A What was the point of the Branson Project?
- 3 Q The Branson Project happened after all the money was  
4 lost, didn't it?
- 5 A Thanks to the Federal Reserve.
- 6 Q Exhibit 55, please -- or 54, sorry, Cindy. Let's skip  
7 that. Now, Ms. Marcusse, you at one point were subpoenaed to  
8 testify in front of the grand jury, correct?
- 9 A Yes.
- 10 Q And you in fact appeared before the grand jury, didn't  
11 you?
- 12 A Yes.
- 13 Q And that's what was referenced in one of those  
14 newsletters where Mr. Gezon asked you only about -- or asked  
15 you a lot of questions about alternative health?
- 16 A Yes.
- 17 Q When you testified in front of the grand jury, I think  
18 you testified earlier that you refused to answer questions  
19 that had to do with Sanctuary Ministries or your ministry,  
20 correct?
- 21 A Yes.
- 22 Q And when you were subpoenaed to grand jury, you were  
23 actually given a subpoena, correct, to show up? That's a  
24 document, right?
- 25 A Through the lawyer who was handling the civil case.

UNITED STATES TAX COURT  
 WASHINGTON, DC 20217

JANET MAVIS MARCUSSE, )  
 )  
 Petitioner, )  
 ) Docket No. 14234-09.  
 v. )  
 )  
 COMMISSIONER OF INTERNAL REVENUE, )  
 )  
 Respondent )

O R D E R

Petitioner filed a motion to compel production of documents on August 9, 2010 (which motion was supplemented by filings on November 22 and 23, 2010; December 28, 2010; May 23, 2011; and August 8, 2011). Respondent filed an objection to petitioner's motion to compel on September 7, 2010, which objection was supplemented by a filing on July 15, 2011. The Court denied petitioner's motion in part on January 5, 2011, leaving unresolved several document requests as to which petitioner contended that additional responsive documents existed that respondent had not produced nor accounted for. We now resolve the remaining disputes.

Requests as to which the motion will be denied

In connection with petitioner's request (8), petitioner alleges that she gave to respondent a list of requests that she did not file with the Court. We will decline her request that we compel any documents so requested, since the request is not of record.

Petitioner's asserted need for the documents described in requests (11) and (13) has been vitiated by requested admissions that have been deemed admitted.

Petitioner's request (18) concerns Wells Fargo documents. Respondent has evidently produced all responsive documents, and the further information that petitioner evidently seeks is authentication of a particular document. The means for requesting authentication is a request for admission, which petitioner does not allege that she has served.

Request (19) is evidently moot in view of documents that petitioner has received from another source.

As to request (22), respondent's counsel describes her personal efforts to obtain responsive information, and states that none can be located.

Petitioner's motion to compel as to the foregoing requests will be denied.

Requests as to which the motion will be granted

As to requests (1) and (1)(a), (4), (5), and (6), the text of respondent's latest filing (on July 15, 2011) asserts:

[R]espondent's counsel has inquired of both the United States Attorney's Office for the Western District of Michigan, and from respondent's Criminal Investigation Division, if any additional information exists with regard to documentation requested by petitioner, and respondent's counsel is informed that both entities have no additional information.

We assume that these responses are given by respondent's counsel in good faith. However, the responses are in sharp contrast with the response as to request (22), discussed above. By contrast, these responses recount without any detail the hearsay statements of unidentified persons. We cannot tell whether anyone has actually been called on to take responsibility to make an effort to locate the documents, nor what the seriousness nor magnitude of that effort has been. The filing of July 15, 2011, makes little response to, and little attempt to explain, the anomalies alleged in petitioner's filings of May 23 and August 8, 2011. We will overrule respondent's objections for which there is only this inadequate support.

In response to petitioner's request (9), respondent asserts the prohibition of section 6103 on the disclosure of tax return information of a third party, and states that "respondent believes he is prohibited from addressing that information in this filing as it would violate I.R.C. § 6103 because a third-party is not covered by the I.R.C. § 6103(h)(4) exceptions." However, Ms. Marcusse appears to allege that the same dollars were attributed as income to her which were also attributed to the third party as income to him. If so, then it is not clear to the Court--and the IRS has not explained--why disclosure is not permitted by section 6103(h)(4)(B) or (C). We therefore do not sustain the objection to request (9) based on section 6103.

In response to request (14), respondent asserts that "respondent does not have copies ... and therefore cannot produce them." This response is defective in the same manner as

the responses to numbers (1) and (1)(a), (4), and (5). It does not make an adequate accounting, and the objection will not be sustained.

To give effect to the foregoing, it is

ORDERED that petitioner's motion to compel is granted, to the extent that respondent is required to produce to petitioner on or before January 6, 2011, in response to petitioner's requests as numbered below--

(1) and (1)(a): the second page of the Business Account Application; the Certificate of Authority; and the transaction receipts for withdrawals and for the \$800,000 deposit;

(4): documentation for all Western Union transfers by petitioner in 1999-2001;

(5): wire transfers made by Gurmail Sidhu, and the related search warrant;

(6) and (6)(a): checks 1001, 1024, 1070, and 1079;

(9): any "Tax Chart", Form 866-A, Form 8821, and bank records showing George Besser's unreported income derived from the same sources from which income was attributed to petitioner; and

(14): shorthand notes or other original records, as requested. It is further

ORDERED that, in addition to the respects in which petitioner's motion to compel was already denied by the Court's order dated January 5, 2011, it is now denied in all other respects not granted here, including with respect to requests (8), (11), (13), (18), and (19).

**(Signed) David Gustafson  
Judge**

Dated: Washington, D.C.  
November 30, 2011

**UNITED STATES TAX COURT**

JANET MAVIS MARCUSSE, )  
 )  
 Petitioner, )  
 )  
 v. ) Docket No. 14234-09  
 )  
 COMMISSIONER OF INTERNAL REVENUE, ) Filed Electronically  
 )  
 Respondent. )

**RESPONDENT'S MOTION TO VACATE  
THE COURT'S NOVEMBER 30, 2011 ORDER**

RESPONDENT MOVES to have the Court vacate its Order dated November 30, 2011, and states the following in support:

1. On November 30, 2011, the Court issued an Order in this matter granting petitioner's motion to compel with regard to petitioners requests for specific items mentioned in (1) and (1)(a), (4), (5), (6) and (6)(a), (9), and (14).

2. Contemporaneous with the filing of this Motion, respondent is filing a Motion for Entry of Decision which effectively represents respondent's concession of this civil tax controversy due to evidentiary concerns.

3. Respondent believes that the granting of his Motion for Entry of Decision would obviate the need for further discovery in this matter.

4. In the event that the Court finds that the Motion for Entry of Decision does not remove the need for further discovery



in this matter, respondent offers the following explanation of his efforts to provide petitioner with her discovery.

5. In its November 30, 2011 Order, the Court mentioned that respondent's responses describing his efforts in providing discovery to petitioner were assumed to be given in good faith, but were recounts, without detail, of the hearsay statements of unidentified persons. Further, the Court overruled respondent's objections finding there was inadequate support.

6. As mentioned in RESPONDENT'S SUPPLEMENTAL RESPONSE TO PETITIONER'S MOTION TO COMPEL, respondent has been in contact with the United States Attorney's Office for the Western District of Michigan, respondent's own Criminal Investigation Division, respondent's personnel, the Federal Bureau of Investigation, various banks, and others.

7. In an effort to adequately demonstrate respondent's efforts in producing discovery in this matter, the following is an abbreviated timeline of the efforts made by respondent's counsel with regard to the discovery items remaining in dispute that have been sought from respondent (inclusive of respondent's counsel, Criminal Investigation Division and other business units), the United States Attorney's Office for the Western District of Michigan, the Federal Bureau of Investigation, and banks:

12/22/2009      Petitioner's Request for Production of Documents

1/5/2010      Letter from respondent's counsel Andrew Stroot to  
petitioner indicating that petitioner's discovery  
requests were premature.

1/9/2010      Letter from petitioner requesting the formal  
discovery request be considered informal  
requests.

1/19/2010      Email from respondent's counsel Andrew Stroot to  
Donald Kempf, the Revenue Agent who issued the  
Statutory Notice of Deficiency regarding  
documents requested by petitioner.

1/20/2010      Respondent's counsel Andrew Stroot had contact  
with Darline Goeman, the Revenue Agent on  
criminal trial. Ms Goeman subsequently sent  
respondent's counsel some trial exhibits and  
trial transcripts.

1/21-25/2010      Respondent's counsel Andrew Stroot contact with  
Darline Goeman. Respondent's counsel Andrew  
Stroot received 5 binders of all trial exhibits  
and discs (with electronic copies) from Darline  
Goeman and mailed the discs back to Goeman.

2/1/2010 Darline Goeman had contact with the United States Attorney's Office for the Western District of Michigan and discovered that the Assistants who prosecuted the case, Tom Gezon and Mike Schipper.

2/10/2010 Letter from petitioner with discovery requests

3/8/2010 Respondent's counsel Andrew Stroot sent an email to Darline Goeman with a copy of informal discovery requests.

3/9/2010 Respondent's counsel Andrew Stroot had numerous email contacts with Darline Goeman regarding informal discovery requests which indicated that petitioner was given a copy of all exhibits at her criminal trial and also received a copy of the trial transcript. Darline Goeman's email also contained responses and/or comments on the informal discovery requests.

3/10/2010 Respondent's Response to Petitioner's Informal Discovery Requests. Provided: GX-219; GX-219a; Checks and wire transfers used to construct Form 886-A; GX-98a and GX-98b; GX-94, GX-145; GX-146, GX-147; GX-307; GX-91, GX-92, GX-90, GX-95, GX-119, GX-120, GX-121, GX-122, GX-10, GX-11, GX-12, GX-13, GX-134, GX-148, GX-138, GX-135, GX-149,

GX-139, GX-136, GX-150, GX-140, GX-137, GX-151;  
GX-160; GX-1; GX-31, GX-33; GX-32, GX-34;

5/5/2010 Received Petitioner's Motion to Compel Production  
of Documents.

5/25/2010 Respondent's Objection to Petitioner's Motion to  
Compel Production of Documents.

6/11/2010 Court Order that respondent should treat the  
Motion to Compel Production of Documents as a  
formal request for production of documents and  
respondent should serve on petitioner a  
substantive response or objection. Response  
ordered by July 13, 2010.

7/13/2010 Letter from respondent's counsel Erin Hines to  
petitioner with responses to formal discovery  
requests.

8/9/2010 Petitioner's Motion to Compel Production of  
Documents.

9/2/2010 Respondent's counsel Erin Hines sent petitioner a  
letter responding to petitioner's "Informal  
Request for the Production of Documents &  
Things".

9/3/2010 Respondent's Objection to Petitioner's Motion to  
Compel Production of Documents.

11/16/2010 Respondent's counsel Erin Hines had contact with Darline Goeman to locate boxes of exhibits from criminal trial.

11/16/2010 Email from Darline Goeman to respondent's counsel Erin Hines indicating respondent's counsel should contact Stephen Corcoran with respondent's Criminal Investigation Division.

11/30/2010 Email from Stephen Corcoran to respondent's counsel Erin Hines indicating he was sending nine boxes containing "bulk exhibits" from Criminal Investigation Division.

12/2/2010 Respondent's counsel received the nine boxes.

12/17/2010 Respondent's counsel Erin Hines emailed Darline Goeman regarding Forms 886-A for Besser and Flynn, hotel receipts, Western Union wire transfers, and a L&J oil lease.

12/17/2010 Emailed response from Darline Goeman, who spoke with Stephen Corcoran, to respondent's counsel Erin Hines regarding questions above: (1) no 886-As prepared for Flynn or Besser with respect to criminal trial; (2) does not recall getting any receipts from hotels; (3) the only wire transfers were those going into Marcusse's

personal accounts and the wires to WorldWide Capital E for approximately \$800,000; (4) payment from Exhibit 208 Accounting ending 4060 with respect to payments to Bruce Marcusse - no other information, but referred to Bruce Marcusse's trial testimony.

1/11/2011 After a number of previous attempts in the days preceding, respondent's counsel Jonathan Hauck made his first substantive contact with the United States Attorney's Office for the Western District of Michigan after the telephone conference with the Court and petitioner on January 5, 2011, and contact with Kristina Zelasko (who is the person responsible for maintaining petitioner's records at that office as neither of the original prosecutors were still with the office).

2/14/2011 Respondent's counsel Erin Hines contacted Darline Goeman regarding the existence of Forms 886-A for George Besser and William Flynn.

2/14/2011 Respondent's counsel Jonathan Hauck made specific requests for information from Kristina Zelasko United States Attorney's Office.

2/16/2011 Respondent's counsel Jonathan Hauck was contacted by the Criminal Chief of the United States Attorney's Office the Western District of Michigan, Brian Delaney, regarding our requested information. In short, he stated that some of the file had been "purged", that purged documents would likely remain with their original investigative agencies, and that he lacked sufficient staff to produce the specific information requested. He offered to allow respondent's personnel search their records at their office in Michigan (excluding grand jury material).

2/17/2011 The United States Attorney's Office informs respondent's counsel that it will send materials via disc.

2/18/2011 Received three discs from Kristina Zelasko which contained electronic copies of Trial Exhibits, Trial Transcript, and Charts. These discs were identical to those received by respondent's counsel in January of 2010 from Darline Goeman.

2/23/2011 Respondent's counsel Erin Hines emailed Darline

Goeman and Stephen Corcoran requesting additional material.

2/24/2011 Darline Goeman responded to respondent's counsel's request by stating that counsel has all the materials available.

3/3/2011 Respondent's counsel Jonathan Hauck contacted Stephen Corcoran to follow up on the February 23, 2011 request for additional materials.

3/3/2011 Respondent's counsel Jonathan Hauck contacted Kristina Zelasko. Respondent's counsel clarified what was in the United States Attorney's Office's file with Ms. Zelasko, and was informed that the office did not have any responsive documents other than what was sent on discs. Ms. Zelasko stated that the United States Attorney's Office for the Western District of Michigan had transcripts, individual case files (which would not contain documents like those being sought), pleadings, and copies of exhibits, and that any other material should be with the investigating agencies.

3/4/2011 Stephen Corcoran indicated he found additional



documents and that he would send them to respondent's counsel.

3/4/2011 Respondent's counsel Jonathan Hauck contacted Sam Moore with the Federal Bureau of Investigation to seek out responsive documents. Mr. Moore states that he does not have any responsive records.

3/4/2011 Respondent's counsel Jonathan Hauck contacted respondent's Revenue Agent Donald Kempf with regard to existence of a Forms 886-A with regard to Mr. Besser and Mr. Flynn. Mr. Kempf's initial response is that he believes there are none.

3/4/2011 Email from Darline Goeman to respondent's counsel Erin Hines providing transcripts Mr. Besser and Mr. Flynn.

3/7/2011 Donald Kempf provided additional information on the 886-A issue for Mr. Besser and Mr. Flynn. Mr. Kempf is still making inquiries.

3/7/2011 Contacted Sam Moore who informed respondent's counsel that the Federal Bureau of Investigation had no responsive records.

3/8/2011 Donald Kempf consulted with other personnel within the respondent, and provided additional confirmation on the 886-A issue for Mr. Besser.

3/10/2011 Video Tapes arrived.

3/10/2011 Respondent's counsel Jonathan Hauck contacted Wells Fargo, and spoke to "Noreen" who stated that they have a seven year record retention schedule, and as such, had no responsive records.

3/10/2011 Respondent's counsel Jonathan Hauck contacted PNC bank (National City became PNC) and spoke to "Robin" and subsequently "David" who stated that they have a seven year retention schedule, and as such, had no responsive records.

3/16/2011 Contacted Sam Moore regarding Gerard Forrester.

3/31/2011 Respondent's counsel sent petitioner the documents that were responsive to her requests to the extent that they were in respondent's possession and to the extent allowed by law.

8. In addition to the external contacts listed above and the numerous phone calls and emails not specifically listed, respondent's counsel reviewed all of the documents available, mostly in March of 2011, and produced copies to petitioner of all the relevant documents that were available.

9. Respondent's position continues to be that he has provided petitioner with all the documents he was able to discover, or that were in his possession, that appeared to be

responsive to petitioner's requests and that he was authorized to provide by law.

10. With regard to REQUESTS (1) and (1)(a), the Court has granted petitioners motion to compel, and ordered respondent to produce the second page of a Business Account application, the Certificate of Authority, transaction receipts for withdrawals, and a transaction receipt for an \$800,000 deposit. With regard to REQUEST (5) the Court has granted petitioners motion to compel, and ordered respondent to produce wire transfers made by Gurmail Sidhu, and a copy of a search warrant with regard to Mr. Sidhu. With regard to REQUEST (6) and (6)(a), the Court has granted petitioners motion to compel, and ordered respondent to produce checks numbered 1001, 1024, 1070, and 1079. In an effort to locate and produce these documents, respondent, as noted above, has contacted respondent's Criminal Investigation Division and other business units, the United States Attorney's Office for the Western District of Michigan, the Federal Bureau of Investigation, and banks. Respondent's counsel has reviewed the documentation available, and has not been able to locate the documents that he has been ordered to produce.

11. With regard to REQUEST (4), the Court has granted petitioners motion to compel, and ordered respondent to produce all Western Union transfers made by petitioner in 1999-2001.

Respondent has been, and continues to be, of the position that these documents do not exist. This being said, were there responsive documents to this request in the materials available to respondent, respondent's counsel would have produced them to petitioner.

12. With regard to REQUEST (9) the Court has granted petitioners motion to compel, and ordered respondent to produce any "Tax Chart", Form 866-A, Form 8821, and bank records showing George Besser's unreported income derived from the same sources from which income was attributed to petitioner. Preliminarily, respondent believes that the Court mistakenly ordered respondent to produce a Form 866-A which is an "Agreement as to Final Determination of Tax Liability" in stead of a Form 886-A which is what petitioner requested. Additionally, a Form 8821 is "Tax Information Authorization" which respondent sent to petitioner so that she could provide it to Mr. Besser. Respondent was not of the understanding that the Form 8821 was an item at issue as it was not part of petitioner's REQUEST (9). Respondent previously stated to petitioner the following when he sent petitioner the documents on March 31, 2011:

"As for the Form 886-A for George Besser, respondent has searched his records and been in contact with his agents, and has been

informed that there are no documents responsive to this request. We note that we have not received a Form 8821 from Mr. Besser. However, we also note that receipt of Form 8821 from Mr. Besser would not have changed respondent's production with regard to this request as it is respondent's understanding that Forms 886-A were not prepared for Mr. Besser as part of the criminal trial or at any other time for the years at issue."

On April 18, 2011, after respondent's counsel had mailed his production of documents to petitioner, respondent's counsel received Mr. Besser's Form 8821. Per the Court's order respondent has mailed a copy of Mr. Besser's Form 8821 to petitioner, but as noted above, the receipt of the Form 8821 did not change respondent's production of documents.

13. With regard to the bank records requested by petitioner and which the Court has ordered production with regard to REQUEST (9) respondent has provided GX-91, GX-92, GX-90, GX-95, GX-119, GX-120, GX-121, GX-122, GX-10, GX-11, GX-12, GX-13, GX-134, GX-148, GX-138, GX-135, GX-149, GX-139, GX-136, GX-150, GX-140, GX-137, and GX-151 which was every exhibit requested by


petitioner. Respondent's counsel notes that petitioner assumes in "Petitioners Response to Respondent's Supplemental Response to Petitioner's Motion to Compel" that a "Tax Chart" for Mr. Besser exists apparently because one was created for Mr. Flynn. Respondent has not been able to find any evidence that such a document ever existed. Respondent's counsel has reviewed the documentation available, and has not been able to locate the documents that he has been ordered to produce.

14. With regard to REQUEST (14), the Court has granted petitioners motion to compel, and ordered respondent to produce shorthand notes or other original records as requested. Petitioner's REQUEST (14) mentions the testimony of Leonard Zawistowski of the Federal Reserve who testified at petitioner's criminal trial. Petitioner's request appears to be in an effort to correct her transcript for her criminal trial and may be requesting the notes of Mr. Zawistowski or those of the court reporter. As petitioner cites to 28 U.S.C. § 753, which regulates court reporters, respondent believes that petitioner is requesting documents expected to be within the possession of the court reporter for her criminal case. Respondent's counsel believes that he previously contacted the court reporter for petitioner's criminal case, but as he could not locate his notes for this call, he made contact with the court reporter again on

January 3, 2012. Respondent's counsel spoke with Kevin Gaugier who was the court reporter for petitioner's criminal trial. Mr. Gaugier stated that he did not have, nor would he have access to, any of Mr. Zawistowski's notes from petitioner's trial. Further, Mr. Gaugier stated that he would not produce a copy of his stenographic short hand notes without a court order. Respondent's counsel has reviewed the documentation available, and has not been able to locate the shorthand notes and other original records of either Mr. Zawistowski or Mr. Gaugier that he has been ordered to produce.

WILLIAM J. WILKINS  
Chief Counsel  
Internal Revenue Service

Date: JAN 06 2012

By:   
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OF COUNSEL:  
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Division Counsel  
(Small Business/Self-Employed)  
NANCY B. ROMANO  
Area Counsel  
(Small Business/Self-Employed:Area 2)

1 A What's your question?

2 Q I said are you aware that the Bosses have liquidated  
3 their assets and the government has turned them over to the  
4 victims?

5 A The Bosses have not given the government any assets that  
6 have been liquidated and returned to investors.

7 Q Are you aware as a result of the interference in this  
8 litigation, that the first liens that the clients had for the  
9 benefit of the clients was removed when this adjournment was  
10 given and that the assets were ultimately returned to the  
11 Bosses at the end of this litigation?

12 A Could you repeat that question?

13 MR. SCHIPPER: I'm going to object, Your Honor.

14 THE COURT: Sustained. Not relevant.

15 BY DEFENDANT MARCUSSE:

16 Q Are you aware that at the end of this litigation, as the  
17 result of this adjournment, that the assets were returned to  
18 the Bosses?

19 MR. SCHIPPER: I'm going to object again, Your  
20 Honor. I'm not sure there's a question there.

21 THE COURT: Sustained. That civil case has nothing  
22 to do with this matter. Nothing to do with this matter. Next  
23 question, please.

24 BY DEFENDANT MARCUSSE:

25 Q The grand jury subpoenas, in regards to the exhibit



1 listing Virgil Boss, it is Exhibit No. 368. Yes, please.  
2 Could I have that up? Is it not true that a constitutional  
3 objection is a valid reason to refuse to produce books and  
4 records?

5 MR. SCHIPPER: Objection again, Your Honor.

6 THE COURT: Sustained.

7 BY DEFENDANT MARCUSSE:

8 Q What is your understanding of what is a valid objection  
9 to produce books and records?

10 MR. SCHIPPER: Objection, Your Honor. I don't think  
11 this witness can answer that question.

12 THE COURT: That's a judicial determination.  
13 Sustained.

14 BY DEFENDANT MARCUSSE:

15 Q You filed a complaint dated 12/5/03. Do you recall the  
16 content of the complaint that you filed dated 12/5/03?

17 A I swore to a criminal complaint regarding you, yes.

18 Q All right. One of the items that you accuse me of in  
19 this complaint was not using a safe bank; is that correct?

20 A I'd have to see the criminal complaint before me before  
21 I'm going to say what I had sworn to at that time.

22 Q It is true that that's part of the indictment, is that  
23 not correct, not using a safe bank?

24 A Like I said, if you show me on the indictment, I could  
25 say yes or no.

1           DEFENDANT MARCUSSE: Here it is, number 15. Would  
2 you show that to him?

3           MR. KACZOR: Your Honor, may I approach and show the  
4 witness Paragraph 15 of your affidavit?

5           THE COURT: You may.

6           MR. KACZOR: Thank you, Your Honor.

7 (Document provided to witness.)

8           THE WITNESS: Yes, that's what it says on the  
9 affidavit.

10          MR. KACZOR: Thank you.

11 BY DEFENDANT MARCUSSE:

12 Q Are you familiar with a Gerard Forrester of the  
13 Department of Justice, a senior supervisory agent?

14 A No, I'm not.

15 Q Do your departments coordinate with each other on who  
16 recommends or endorses -- do different Department of Justice,  
17 Federal Bureau of Investigation offices coordinate with each  
18 other?

19 A I'm not sure of your question.

20 Q My question is this. Gerard Forrester endorsed in  
21 writing twice --

22          MR. SCHIPPER: Objection, Your Honor. That's not a  
23 question. She's going to make some statement about what  
24 Gerard Forrester said or didn't say.

25          DEFENDANT MARCUSSE: I was going to ask him if he

1 was aware of the statement.

2 THE COURT: What's the relevance to this matter,  
3 please? What's the relevance?

4 DEFENDANT MARCUSSE: Because he made an accusation I  
5 didn't use a safe bank and the Department of Justice endorsed  
6 it as a safe bank.

7 THE COURT: What's that have to do with this case?

8 DEFENDANT MARCUSSE: Because they're claiming I did  
9 a Ponzi when I didn't do a Ponzi.

10 THE COURT: But that's part of your proofs in this  
11 case. What's this, an affidavit regarding setting up of the  
12 complaint prior to the grand jury? Is that what this is?

13 MR. SCHIPPER: I believe that's what she --

14 THE COURT: I don't know where we are.

15 DEFENDANT MARCUSSE: This and the indictment said  
16 that I did not use a safe bank as well.

17 MR. SCHIPPER: Your Honor, she'll have an  
18 opportunity to testify if she wants to.

19 MR. KACZOR: I think she's going to move on.

20 THE COURT: Please do.

21 BY DEFENDANT MARCUSSE:

22 Q In the grand jury materials it was stated that Tim  
23 Bannister stated that he told you about a \$1.2 million  
24 transfer to MLC and Plaster. Do you recall that?

25 A I'm not sure what you're saying. What grand jury

1 materials? You're going a little fast there.

2 Q I'm sorry, I didn't hear the end of what you said.

3 A I'm not understanding what you're referencing or what  
4 you're talking about.

5 MR. SCHIPPER: I'm going to object. I believe it's  
6 hearsay, Your Honor.

7 THE COURT: It is hearsay. Sustained.

8 BY DEFENDANT MARCUSSE:

9 Q During your investigation did you become aware that \$1.2  
10 million was transferred to MLC and directly to Mr. Plaster?

11 A Repeat that again.

12 Q I said during your investigation did you become aware  
13 that \$1.2 million was transferred to MLC and directly to Mr.  
14 Plaster?

15 A I don't know if it was from you or if it was from one of  
16 the IRS agents. There may have been a reference to that, but  
17 I cannot say firsthand that I know of that actually occurring.

18 Q In your investigation you spoke with a Mr. Bannister; is  
19 that correct?

20 A That's correct.

21 Q Did he not tell you that he saw me in Branson at the MLC  
22 offices in the summer of 2002?

23 A Did Bannister say he saw you there?

24 Q Yes.

25 A No.

1 someplace because I think that's normal procedure. But I  
2 don't recall it being said that you refused it. I don't  
3 recall. It may be true. I can't say offhand.

4 Q Is it not true that the proof of service signed by Cindy  
5 Vine stated that she merely mailed the subpoena?

6 A I don't know.

7 Q Could we have up Exhibit 33, please, Page 2? Is it not  
8 true in the complaint that you swore to that you stated I was  
9 dealing with Prime Bank investments?

10 A I believe there's a reference to Prime Bank investments.

11 Q Is it not true in the October 1999 letter that it  
12 specifically states, Paragraph 2, if you could read the first  
13 sentence, please?

14 MR. KACZOR: I think she's asking if you could read  
15 the first sentence out loud.

16 THE WITNESS: You want me to read that sentence out  
17 loud?

18 DEFENDANT MARCUSSE: Please.

19 THE WITNESS: "We are instead in what is termed a  
20 stock trading program that issues a certificate of deposit to  
21 back funds and guarantees three percent a month on that CD by  
22 way of a current distribution."

23 BY DEFENDANT MARCUSSE:

24 Q To your knowledge, having been in the securities  
25 business, I believe you said your background was, there is no

1 Prime Bank program that has stock in it, is there?

2 A You asked a couple things there at once. Are you asking  
3 am I a securities person or are you talking about the Prime  
4 Bank?

5 Q I'm asking about the Prime Bank.

6 A And what are you asking about it?

7 Q There is no Prime Bank program out there that has stocks  
8 in it, is there?

9 MR. SCHIPPER: Objection, Your Honor, foundation.  
10 He's an FBI agent. I don't think he's testified yet that he's  
11 able to answer that question.

12 THE COURT: Can you answer that question?

13 THE WITNESS: You're asking me is there a Prime Bank  
14 program that has stock certificates?

15 BY DEFENDANT MARCUSSE:

16 Q That has stocks in it?

17 A I don't know of anything like that.

18 Q All right. If we could go to the first page of this  
19 newsletter, towards the bottom of that first paragraph, if you  
20 could read the last sentence?

21 A The last sentence?

22 Q Yes, please.

23 A "We have been in the new program since late last year on  
24 a small scale, so this is not something we are experimenting  
25 in with investors' funds; it is instead something for which we

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
JANET MAVIS MARCUSSE	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 12-cv-01025
	)	
U.S. DEPARTMENT OF JUSTICE, <u>et al</u> ,	)	
	)	
Defendants.	)	
_____	)	

**DECLARATION OF DAVID M. HARDY**

I, David M. Hardy, declare as follows:

(1) I am currently the Section Chief of the Record/Information Dissemination Section ("RIDS"), Record Management Division ("RMD"), at Federal Bureau of Investigation Headquarters ("FBIHQ") in Washington, D.C., and currently relocated to Winchester, Virginia. I have held this position since August 1, 2002. Prior to joining the FBI, from May 1, 2001 to July 31, 2002, I was the Assistant Judge Advocate General of the Navy for Civil Law. In that capacity, I had direct oversight of Freedom of Information Act ("FOIA") policy, procedures, appeals, and litigation for the Navy. From October 1, 1980 to April 30, 2001, I served as a Navy Judge Advocate at various commands and routinely worked with FOIA matters. I am also an attorney who has been licensed to practice law in the state of Texas since 1980.

(2) In my official capacity as Section Chief of RIDS, I supervise approximately 276 employees who staff a total of ten (10) units and two field operational service center units whose collective mission is to effectively plan, develop, direct and manage responses to requests for

access to FBI records and information pursuant to the FOIA as amended by the OPEN Government Act of 2007 and the OPEN FOIA Act of 2009; the Privacy Act; Executive Order 13526, Presidential, Attorney General and FBI policies and procedures; judicial decisions; and Presidential and Congressional directives. The statements contained in this declaration are based upon my personal knowledge, upon information provided to me in my official capacity, and upon conclusions and determinations reached and made in accordance therewith.

(3) Due to the nature of my official duties, I am familiar with the procedures followed by the FBI in responding to requests for information from its files pursuant to the provisions of the FOIA, 5 U.S.C. § 552, and the Privacy Act of 1974, 5 U.S.C. § 552a. Specifically, I am aware of the FBI's responses to the FOIA/Privacy Act ("FOIPA") requests of plaintiff Janet Mavis Marcusse, who has sought access to FBI records pertaining to the Suisse Security Bank & Trust, an FBI Special Agent, and herself, in six separate FOIPA requests spanning 2006 to 2012.

(4) The FBI submits this declaration in support of DOJ's motion for summary judgment to provide the Court and plaintiff with justifications for the withholding of information from the release in accordance with Vaughn v. Rosen, 484 F.2d 820 (D.C. Cir. 1973), pursuant to FOIA Exemptions 3, 6, 7(C), 7(D), and 7(E), 5 U.S.C. §§ 552 (b)(3), (b)(6), (b)(7)(C), (b)(7)(D), and (b)(7)(E).

**ADMINISTRATIVE HISTORY OF PLAINTIFF'S SIX  
FOIA AND PRIVACY ACT REQUESTS**

**First Request Re: The Suisse Security Bank and Trust and Other Matters  
Forwarded by U.S. Department of Justice ("DOJ") to FBIHQ**

(5) By letter dated 1/15/06, DOJ forwarded to the FBI a FOIA request from plaintiff dated November 23, 2005. The seven-page letter contained 25 separate requests for information,



and referenced the Suisse Security Bank & Trust, and an FBI Special Agent. (See Exhibit A.)

(6) By letter dated January 27, 2006, the FBI acknowledged plaintiff's request; assigned it FOIPA number 1036791-000; advised that no main files pertinent to the request were located in the Central Records System at FBIHQ; and advised that if plaintiff believes a file exists in one of the FBI field offices, "it is incumbent upon you to direct your request to the appropriate office." Further, the FBI advised plaintiff of her right to appeal to the DOJ Office of Information and Privacy ("OIP"). (See Exhibit B.)

(7) By letter dated March 16, 2006, plaintiff filed an appeal of the FBI's no record determination with DOJ OIP. (See Exhibit C.)

(8) By letter dated April 6, 2006, OIP acknowledged plaintiff's appeal and assigned it appeal number 06-1626. (See Exhibit G.)

(9) The FBI has no record of an OIP final determination response to plaintiff's appeal. On August 16, 2012 the FBI contacted OIP and was advised that there is no final response letter in OIP's appeal 06-1626 file; consequently the outcome is unknown.

**Second Request Re: Two Letters Written by an FBI Special Agent  
Request Mailed to FBIHQ**

(10) By letter dated March 16, 2006, plaintiff wrote to FBIHQ seeking "any information your office may have in regards to two letters allegedly written and signed by a former employee named Gerard M. Forrester. Copies of the two letters are attached." (See Exhibit D.)

(11) By letter dated April 11, 2006, the FBI responded to plaintiff's third-party request, notifying her either proof of death or a privacy waiver is required. The FBI enclosed a Privacy

Waiver and Certification of Identity form, and notified plaintiff of her right to file an appeal with OIP. (See Exhibit H.)

**Third Request Re: The Suisse Security Bank and Trust  
Request Mailed to FBI's Miami Field Office ("MMFO")**

(12) By letter dated March 16, 2006, plaintiff wrote to the MMFO seeking "any information your office may have in regards to a bank in Nassau, Bahamas, that had its license revoked in March or April of 2001." In the subject line of the letter, plaintiff wrote "Suisse Security Bank & Trust." (See Exhibit E.)

(13) By letter dated April 18, 2006, the FBI notified plaintiff her MMFO request had been forwarded to FBIHQ, and that the request had been assigned FOIPA Number 1044595-000. Further, the FBI advised that it had conducted a search of the automated indices to its central records system files and had located no records in the MMFO responsive to her FOIA request. The FBI notified plaintiff of her right to file an administrative appeal. (See Exhibit I.)

**Fourth Request Re: The Suisse Security Bank and Trust  
Request Mailed to FBIHQ**

(14) By letter dated March 29, 2006 to FBIHQ, plaintiff wrote to FBIHQ seeking "any information your office may have in regards to a bank in Nassau, Bahamas, that had its license revoked in March or April of 2001." In the subject line of the letter, plaintiff wrote "Suisse Security Bank & Trust." (See Exhibit F.)

(15) The FBI responded to plaintiff's FOIA request by letter dated April 24, 2006, stating that "a search of the automated indices to our central records system files at FBI Headquarters located no records responsive to your FOIPA request." The FBI notified plaintiff of her right to file an administrative appeal. (See Exhibit J.)

**Fifth Request Re: Janet Mavis Marcusse**  
**Request Mailed to FBIHQ**

(16) By letter dated May 12, 2009 to FBIHQ, plaintiff requested records concerning Criminal Case No: 1:04-cr-165 in the Western District of Michigan. Plaintiff identified six categories of items, including “Any National Security Letters authorized and issued, along with supporting documents and affidavits” and “FBI Form 302s.” Plaintiff made “a firm promise to pay any reasonable fees and costs for locating and duplicating the records requested above, as determined in accordance with 26 CFR 601.702(f) and not to exceed a sum equal to \$50.00....” A sworn penalty of perjury statement was included in the request. **(See Exhibit K.)**

(17) By letter dated May 26, 2009, OIP<sup>1</sup> forwarded to the FBI plaintiff’s May 12, 2009 FOIA request sent to OIP, stating “Because it is seeking records of interest to the Federal Bureau of Investigation, we are forwarding this request to your Office for processing and direct response to the requester. For your information, we have also routed this request to the Executive Office for United States Attorneys.” [(“EOUSA”)] In addition, we are also processing this request on behalf of the Office of Information Policy.” **(See Exhibit L.)**

(18) By letter dated June 2, 2009, the FBI acknowledged plaintiff’s FOIA request and assigned it FOIPA number 1131545-000. The FBI advised it was searching the indices to its central records system at FBI HQ and would inform her of the results as soon as possible. **(See Exhibit M.)**

(19) By letter dated June 8, 2009, the EOUSA forwarded to the FBI plaintiff’s

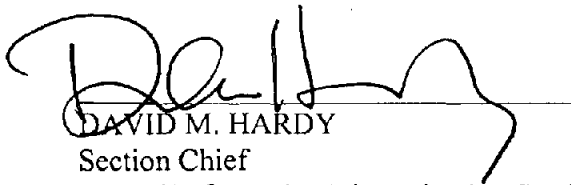
---

<sup>1</sup> The Office of Information and Privacy changed its name to the Office of Information Policy on or about March 11, 2009.

withheld pursuant to FOIA Exemptions 3, 6, 7(C), 7(D) and 7(E), U.S.C. §§ 552 (b)(3), (b)(6), (b)(7)(C), (b)(7)(D) and (b)(7)(E). The FBI has carefully examined the responsive documents and has determined that the information withheld from plaintiff, if disclosed, could reveal information protected by statute; could cause unwarranted and clearly unwarranted invasion of the personal privacy interests of third parties; could disclose the identities of – and information provided by – confidential sources; and could reveal FBI techniques and procedures. Accordingly, all reasonably segregable, non-exempt information has been released within documents referred to the FBI, as a result of plaintiff's FOIA/PA request to the FBI.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct, and that Exhibits A through ZZ attached hereto are true and correct copies.

Executed this 11<sup>th</sup> day of January, 2013.

  
DAVID M. HARDY  
Section Chief  
Record/Information Dissemination Section  
Records Management Division  
Federal Bureau of Investigation  
Winchester, Virginia

---

323, 334, 624-650, 1065-1079, 1354, 1366, 1368-1380 and 1389-1390.

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JANET MAVIS MARCUSSE )

Plaintiff, )

v. )

U.S. DEPARTMENT OF JUSTICE, et al. )

Defendants. )

Civil Action No. 12-cv-01025

EXHIBIT A

U.S. Department of Justice  
Justice Management Division

**Freedom of Information Act/Privacy Act  
Referral/Action Slip**

Clerk:

Date:

Organization: JMD/FASS

JAN 15 2006

Building & Room: LOC, 113

- | To                                  | From  | To                                  | From   |
|-------------------------------------|---|-------------------------------------|--|
| <input type="checkbox"/>            | <input type="checkbox"/> Office of Information & Privacy                        | <input type="checkbox"/>            | <input type="checkbox"/> Immigration Review, Executive Office for    |
|                                     | _____   | <input type="checkbox"/>            | <input type="checkbox"/> Inspector General, Office of                |
|                                     | _____   | <input type="checkbox"/>            | <input type="checkbox"/> Intelligence Policy and Review, Office of   |
|                                     | _____   | <input type="checkbox"/>            | <input type="checkbox"/> INTERPOL, U.S. National Central Bureau      |
| <input type="checkbox"/>            | <input type="checkbox"/> Antitrust Division                                     | <input type="checkbox"/>            | <input type="checkbox"/> Justice Management Division<br>Staff: _____ |
| <input type="checkbox"/>            | <input type="checkbox"/> Bureau of Alcohol, Tobacco, Firearms<br>and Explosives | <input type="checkbox"/>            | <input type="checkbox"/> Justice Programs, Office of                 |
| <input type="checkbox"/>            | <input type="checkbox"/> Civil Division   | <input type="checkbox"/>            | <input type="checkbox"/> Legal Counsel, Office of                    |
| <input type="checkbox"/>            | <input type="checkbox"/> Civil Rights Division                                  | <input type="checkbox"/>            | <input type="checkbox"/> National Drug Intelligence Center           |
| <input type="checkbox"/>            | <input type="checkbox"/> Community Relations Service                            | <input type="checkbox"/>            | <input type="checkbox"/> Pardon Attorney, Office of                  |
| <input type="checkbox"/>            | <input type="checkbox"/> Community Oriented Policing Services                   | <input type="checkbox"/>            | <input type="checkbox"/> Professional Responsibility Advisory Office |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> Criminal Division                                      | <input type="checkbox"/>            | <input type="checkbox"/> Professional Responsibility, Office of      |
| <input type="checkbox"/>            | <input type="checkbox"/> Dispute Resolution, Office of                          | <input type="checkbox"/>            | <input type="checkbox"/> Solicitor General, Office of                |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> Drug Enforcement Administration                        | <input type="checkbox"/>            | <input type="checkbox"/> Tax Division                                |
| <input type="checkbox"/>            | <input type="checkbox"/> Environment & Natural Resources Division               | <input checked="" type="checkbox"/> | <input type="checkbox"/> U.S. Attorneys, Executive Office for        |
| <input type="checkbox"/>            | <input type="checkbox"/> Federal Bureau of Prisons                              | <input type="checkbox"/>            | <input type="checkbox"/> U.S. Marshals Service                       |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> Federal Bureau of Investigation                        | <input type="checkbox"/>            | <input type="checkbox"/> U.S. Parole Commission                      |
| <input type="checkbox"/>            | <input type="checkbox"/> Federal Detention Trustee, Office of                   | <input type="checkbox"/>            | <input type="checkbox"/> U.S. Trustees, Executive Office for         |
| <input type="checkbox"/>            | <input type="checkbox"/> Foreign Claims Settlement Commission                   | <input type="checkbox"/>            | <input type="checkbox"/> _____                                       |

N Requester: Janet M. Marcusse

Ref: Susse Security Bank & Trust

Date of Request: November 23, 2005

Received By: FOIA/PA Mail Referral Unit Type of Request: FOIA

Remarks: Requester advised of this referral.

7005 0390 0005 2367 0807

FOIA REQUEST



FOIA

November 23, 2005

Mr. Alberto R. Gonzales, Attorney General  
U.S. Dept. of Justice  
950 Pennsylvania Ave. N.W.  
Washington, D.C. 20530-0001

Dear Mr. Gonzales:

Attached are two letters, one written in February, 2000, and the other in January, 2001, which appear to be authored and signed by a Mr. Gerard M. Forrester, a Supervisor Special Agent employed by the U.S. Dept. of Justice, at the Miami, Florida, office. Please provide answers to the following questions under the Freedom of Information Act

1. Did Mr. Gerard Forrester work for the U.S. Dept. of Justice, Miami, Florida, office during the time these two letters were authored? Please provide Gerard Forrester's dates of employment with the Dept. of Justice
2. Please provide any information your office or the Miami office may have in regards to

The authenticity of the Forrester letters attached.

3. Was Suisse Security Bank & Trust in Nassau an undercover bank as described in the House Report 64-353 "Money Laundering Crisis" dated February 10, 2000, one day prior to Mr. Forrester's first letter?
4. The name(s) and contact information for Mr. Forrester's supervisor(s) in the Florida office
5. Any information your office or the Florida office may have regarding Mr. Forrester's involvement and/or support of the owners and/or management of Eurofed in Antigua.
6. Any information your office or the Florida office may have regarding Mr. Forrester's involvement and/or support of Accord Insurance, a client of Eurofed and later of Suisse Security Bank and Trust.
7. Any assumed names used by or associated with Gerard Forrester. Was "Gerard Forrester" an assumed name?
8. Was the broker/dealer associated with Suisse Security Bank & Trust and/or its branch

n. . . . .



Swiss Mercantile an undercover broker/dealer as described in House Report 64-353? Is this why SIPC (Securities Investor Protection Corporation) refused to pay as required?

9. Provide any litigation by or against the U.S. Dept. of Justice in regards to the attached endorsement letters of Suisse Security Bank & Trust.
10. Provide the basis in law for a Dept. of Justice employee to endorse an offshore bank.
11. Provide the basis in law which provides for the Dept. of Justice to move against anyone who has relied upon the written advice of a Dept. of Justice employee, such as the letters attached, in a NON-DRUG-RELATED case.
12. What liability does the Dept. of Justice bear in regards to an ex-employee who continues to publicly support at court hearings the former owner of an offshore bank in which \$31 million is "missing", i.e., Suisse Security Bank & Trust?

13. Is all or part of the "missing" \$31 million of Suisse Securit Bank & Trust in the custody of the U.S Dept. of Justice and/or in "closed" bank accounts.
14. Provide the basis in law which facilitate the Dept. of Justice to proceed under "hidden" charges of international narcotics trafficking while at the same time denying on the court's record that the case is about "drugs". Is this done to facilitate the seizure of offshore funds by bypassing the "innocent bystander" prohibition as mandated by Congress?
15. Provide the basis in law for a forfeiture to be "based" upon Title 21, Food & DRUGS, in an admittedly non-drug case.
16. Provide the basis in law whereby the UNITED STATES OF AMERICA is empowered to act as Plaintiff in a non-drug "criminal" case.
17. Provide the basis in law where Congress is empowered to set up a "demonstration"

a "experimental" court.

18. Provide the basis in law whereby the UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION, is empowered to adjudicate any action, civil or criminal, without consent, in light of the fact that 28 U.S.C. 110 does not have a parallel authority in the CFR.
19. Provide the delegated authority for Thomas Gezon, Ass't U.S. Attorney, to represent the Plaintiff, UNITED STATES OF AMERICA, in a non-DRUG-related case in a so-called "criminal" action.
20. Provide the authority for a U.S. Attorney or Ass't U.S. Attorney to "deem" someone an "international drug trafficker" in spite of no evidence and admitting on the Court's record that it is not a drug case.
21. Provide the authority for a U.S. Attorney to "deem" someone a "terrorist" simply by falsifying narcotics charges against them and keeping these charges "hidden" as no evidence exists to

Substantiate these "hidden" charges.

22. Are falsified "terrorist" and "international drug trafficking" charges used to deny all due process and facilitate pretrial detention in the absence of a valid reason in the UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION?
23. Who is responsible for verifying the accuracy of Donald Davis's, Ass't U.S. Attorney and District Director of the Homeland Security, allegations of "terrorist" and "international drug trafficker"? Who may I appeal to for complaints and civil and/or criminal litigation and action against falsified terrorist and narcotics charges?
24. Provide the basis in law for a judge to vacate the bench and thereby vacate jurisdiction in a court case and still "continue" the action after being repeatedly challenged on this point. Does this not necessitate a dismissal of all charges?
25. Provide the basis in law for Ass't U.S. Attorney,

and Judge / Magistrate to refuse to provide a copy of their Oaths of Office upon written and verbal request.

A prompt response to these questions is most appreciated.

Sincerely,

Janet Mavis Marcusse

Janet-Mavis Marcusse, 15 Choctaw Trail,  
Eikland, MO 65644

Attachments: Exhibits 1-4

cc: Office of Professional Responsibility  
Arlan Spector, Chairman, Senate Judiciary Committee  
F. James Sensbrenner, Chairman, House Judiciary Committee  
Ronald Weston, Clerk of Court, UNITED STATES DISTRICT  
COURT, WESTERN DISTRICT OF MICHIGAN  
IN RE: YOUR Case 1:04-cr-165, et. al.

Warehouse Address:

Newaygo County Jail

300 Williams

White Cloud, MI 49349

June 6, 2006

Janet M. Marcusse  
15 Choctaw Trail  
Elkland, MO 65644

Co-Director  
Office of Information and Privacy  
United States Department of Justice  
Suite 11050  
1425 New York Avenue  
Washington, D.C. 20530-0001

Re: FOIA Request regarding Gerard M. Forrester

To Whom It May Concern:

I am hereby appealing the denial of information regarding Gerard M. Forrester, former U.S. Government employee. This government employee appears to have endorsed an offshore bank, Suisse Security Bank & Trust, Nassau, Bahamas, in his official capacity, releasing his letters under the letterhead of the U.S. Department of Justice, Miami, Florida, to the general public, thereby not permitting any Privacy Act "exclusions" to apply to cover up his existence. The Forrester letters were relied upon by members of the private citizenry of the United States to their express detriment. To cover up such acts and the documents to support such acts, would be possibly engaging in acts which may be of a criminal nature. The Fifth Amendment to the Constitution is clear: "No person shall ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." Further, it is a criminal act under Title 18 § 2071 to engage in the willful concealment of any record, proceeding, map, book, document, paper or other thing, filed or deposited in any clerk or officer of the United States, or in any public office, or with any judicial or public officer of the United States." As Suisse Security Bank & Trust not only had its license revoked at the instigation of the Federal Reserve, but tens of millions of dollars went "missing", for a "senior" government official to endorse such a bank, then no information can be discovered in conjunction with no public denial by the U.S. government of the existence of Mr. Forrester or his letter, now over five years later, is most suspicious. If anyone put out a letter in my name, it would not take me five years to publicly respond.

I look forward to the prompt compliance with my request for information regarding the endorsement letters Gerard M. Forrester, or any government employee using the name, Gerard M. Forrester, as an alias, wrote in promotion of the failed Suisse Security Bank & Trust.

Sincerely,

  
Janet M. Marcusse

7005 3110 0004 3875 7935

Attachments: Copy of David Hardy letter  
National City Bank wire transfer copy of \$400,000 (7/15/99)  
to Suisse Security Bank  
Offshore Alert Newsletter - evidence that Forrester letter  
was in the public domicile



U.S. Department of Justice

Office of Information and Privacy

Telephone: (202) 514-3642

Washington, D.C. 20530

DEC 27 2006

Ms. Janet M. Marcusse  
15 Choctaw Trail  
Elkland, MO 65644

Re: Appeal No. 06-2324  
BVE:KM

Dear Ms. Marcusse:

You appealed from the action of the Federal Bureau of Investigation on your request for access to records pertaining to "Gerard M. Forrester, former U.S. Government employee."

After carefully considering your appeal, I am affirming the FBI's action in refusing to confirm or deny the existence of any records responsive to your request. Without consent, proof of death, official acknowledgment of an investigation, or an overriding public interest, confirming or denying the existence of law enforcement records concerning an individual could reasonably be expected to constitute an unwarranted invasion of personal privacy. See 5 U.S.C. § 552(b)(7)(C).

If you are dissatisfied with my action on your appeal, you may seek judicial review in accordance with 5 U.S.C. § 552(a)(4)(B).

Sincerely,

  
Daniel J. Metcalfe  
Director

# SSBT

means

## Suisse Security Bank & Trust

What does SSBT stand for?



SSBT stands for Suisse Security Bank & Trust (also Ship Simulator and Bridge Teamwork and 15 more)

What is the abbreviation for Suisse Security Bank & Trust?



Suisse Security Bank & Trust is abbreviated as SSBT

by Mark Rodriguez | 4 years ago (updated 4 months ago)

SSBT  
stands for  
Suisse Security Bank & Trust  
...  
by allacronyms.com



SSBT  
stands for  
Suisse Security Bank & Trust  
...  
by allacronyms.com

SSBT stands for Suisse Security Bank & Trust



Home → Collections → Bahamas

Recommend 4

# Ex-FBI agent: I 'kidnapped' Bahamian back to Nassau

March 30, 2011 | By Jay Weaver, The Miami Herald

0 0  
Tweet 0

In secretly recorded conversations, a former FBI agent said he routinely arrested Bahamian criminal defendants in South Florida and unlawfully sent them back to their homeland on commercial airline flights without any formal review of their cases in U.S. courts.

The shocking admissions by retired FBI agent Gerard "Jerry" Forrester, the FBI's Miami liaison officer in the Caribbean in the 1990s, surfaced this week as part of an unrelated civil court battle in the Bahamas between New York hedge fund billionaire Louis Bacon and Canadian fashion mogul Peter Nygard, who own estates in exclusive Lyford Cay.

According to an affidavit of the audio recordings, Forrester said a Bahamian murder suspect was arrested in Miami, held briefly in jail, placed on a plane and later killed in police custody in the Bahamas. He said the defendant's death was brought to the attention of then-U.S. Attorney General Janet Reno.

"I kidnapped him back to Nassau," Forrester said while being recorded last year by former Scotland Yard detective Alick Morrison, who was working as a private investigator for Nygard. "They had him for about 10 hours and the guy wound up dead."

Forrester, a private investigator now working with a former Bahamian police officer who was cleared in the 1998 killing of the defendant in police custody, downplayed his statements on the tapes: "Yes, I did say it. Was it true? No. Why did I embellish? Because I brag," he said with a chuckle.

The affidavit, filed in the Bahamas along with Nygard's defamation case against Bacon and others, does not indicate how many times Forrester may have forcibly removed Bahamian fugitives from South Florida. The FBI in Miami declined to comment.

Under federal law, foreign nationals wanted on an arrest warrant issued in their native country have the legal right to challenge their extradition or removal in U.S. courts.

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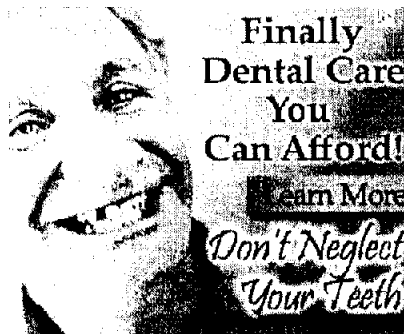
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Take the case of Manuel Noriega, the deposed Panamanian strongman, who served 20 years in a federal prison in Miami-Dade County for drug trafficking. He was allowed to fight his extradition to France on related money-laundering charges for more than two years before he was flown there in April 2010.

Noriega's lawyer, Jon May, who reviewed the affidavit with Forrester's recorded statements, said the federal government has an obligation to investigate his words and actions to determine if laws and rights were violated.

"Whenever you're taking someone into custody by stealth and delivering them to another police agency in a foreign country, you lose transparency," May said. "They can just disappear into some gulag, and [authorities] can act with impunity."

The undercover investigation that led to the recordings of Forrester began last summer. Then, Nygard hired the former Scotland Yard detective to investigate Nygard's neighbor in the Bahamas, Bacon, whom he was battling over property easement rights in court. According to his affidavit, Morrison's job was to uncover whether Bacon, Forrester and others were behind an unflattering profile of Nygard, the women's fashion designer, that was aired last year by the Canadian Broadcasting Co. The documentary was titled "Larger Than Life."

Morrison eventually met Forrester, a consultant for the TV program, who said he worked for Bacon. Forrester also worked with a former Bahamian police officer, Bradley Pratt, on private investigations in the Bahamas, including Lyford Cay. Forrester and Pratt had become close during their law enforcement careers.

Morrison posed as an investigator for a purported British fashion company that feared Nygard as a competitor and sought to hire Forrester to find out how he dug up dirt on Nygard for the TV documentary.

The evidence eventually was used for the defamation action filed by Nyard this week in the Bahamas.

Improbably, during recorded conversations in Miami, New York, the Bahamas and London, Forrester spoke openly not only about his personal dislike for Nygard but also about his exploits as a 30-year FBI agent.

Last September, Forrester detailed how he had arrested a Bahamian man in Miami's Overtown neighborhood in the 1990s and identified him as Bradley Taylor. Forrester said he was wanted on murder charges related to bank robberies.

"Oh, I kidnapped him," Forrester was recorded saying, without providing an exact date. (The arrest happened in early 1998, according to public records.)

"I did it all the time. ... All the time for 20 or 30 years," he said.

Morrison then said: "Well, you can't just pack somebody up and put them on a plane."

"We did it all the time," Forrester said, going into greater detail about the arrest of the Bahamian man in Overtown.

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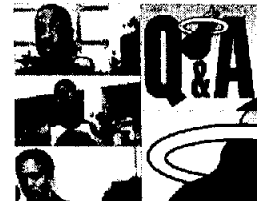
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It is a temporary file, and will expire about an hour after the search.

-----  
Searching 2000\_register...

Your query:

**"gerard forrester"**

is equivalent to:

(LIT **gerard forrester**)

and was interpreted as:

LIT  
( **gerard forrester**  
)

The database contains 53,699,012 words in 34,540 documents.

The database contains the following fields:

body - All non-fielded text  
section - Section of the Federal Register  
date - Issue Date of the Federal Register  
rules - Rules and Regulations  
proposed - Proposed Rules  
notices - Notices  
presidential - Presidential Documents  
contents - Table of Contents  
reader - Reader Aids  
corrections - Corrections

**gerard** occurs 29 times in 28 documents.

**forrester** occurs 36 times in 12 documents.

The search found 0 documents. It took less than a second.

-----  
The search was performed by a WAIS Inc server: WAIS Server 2.1.6.  
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Judgment for \$57,371 entered against Michael Kondratiev-Keigh in New York.

Complaint - March 28, 2000

Millerton Trading LLC, Millerton Properties Inc., and Millerton Group Ltd. vs. Michael Murphy, Daniel Gallardo, Michael Boyd Wilkinson, Boyd Capital Markets Inc., et al, filed at New York State Supreme Court. Complaint states, inter alia, that Michael Kondratiev-Keigh was a founding member of Millerton Trading.

Complaint and Judgment - 1997 and 1998

Civil lawsuit and judgment for \$61,000 at New York State Supreme Court in a case brought by the law firm of Schwartzman Garalik Walker Kapliff & Mann PC against Michael Kondratiev-Keigh.

Complaint - 1994

Civil lawsuit that was filed at the U. S. District Court for the Southern District of New York by Robert J. Longo alleging racketeering against Michael Kondratiev-Keigh, Keigh & Associates, Allen B. Gottlieb, Allen B. Gottlieb PC, Kenneth R. Lagonia, AmerCredit International Ltd., and Robert Bardey. SAME CASE: Settlement/Dismissal Orders - 1995 and 1996 and Docket Sheet.

Tax Liens - 1992 and 1994

Two tax liens entered against Michael Kondratiev-Keigh in New York, one for \$4,568 on April 28, 1992 and another for \$4,371 on December 22, 1994.

Bank Crozier

Liquidator's Report - September 4, 2003

Preliminary Report by Bank Crozier liquidator Garvey Louison, filed at Grenada Supreme Court

Winding-Up Order - July 24, 2003

Grenada Supreme Court Order appointing Garvey Louison as liquidator

Grenada Supreme Court Letter - July 22, 2003

Letter from Court Registrar Robert Branch to attorney Jerry Seales, representing liquidation petitioner Spark 4 Dimension Ltd., informing Seales that the petition was "defective" and asking for it to be withdrawn. Despite the letter, the petition was heard - and approved - by the court two days later.

Winding-Up Petition - June 16, 2003

Petition by Grenada's Minister of Finance, Anthony Boatman, to liquidate Bank Crozier, filed at Grenada Supreme Court.

Winding-Up Petition - June 12, 2003

Petition by Spark 4 Dimension Ltd. to liquidate Bank Crozier, filed at Grenada Supreme Court.

Civil Lawsuit - May 20, 2003

Carla Bella Ltc. vs. Bank Crozier Ltd., Daryl Sands and Minister of Finance, filed at Grenada Supreme Court.

Suisse Security Bank & Trust

Bahamas Supreme Court Ruling - April 25, 2003

Eighty-five page ruling in which Justice Austin Davis rejected all 14 grounds put forward by SSBT in its appeal against a decision to revoke its license. Justice Davis commented: "SSBT's conduct of its affairs was palpably nonchalant and apparently beyond redemption when its licence was revoked."

Provisional Liquidator's Letter - November 11, 2002

Four-page letter. In one part, the provisional liquidator states: "Please be informed that I have had, and continue to encounter, formidable obstruction and interference from the Bank's management, employees, shareholders, directors, and attorneys. I have requested information and assistance from these persons, in accordance with the Order of my appointment, but such requests have been ignored."

Provisional Liquidator's Report - August 4, 2002

Thirty-three page report. In one part, the provisional liquidator states alleges that the owners of the bank transferred assets out of the jurisdiction, adding: "Further as long as these funds remain under the control of management this Bank is rendered insolvent, as the assets presently available to me are insufficient to cover the Bank's liabilities to depositors and creditors."

Bahamas Supreme Court Judgment - July 17, 2001

Dismissing a lawsuit filed by SSBT against the Central Bank of the Bahamas, its Governor, Julian Francis; and the Bank's Receiver, in which the bank argued that its license had been taken away illegally.

Bahamas Central Bank Order - April 2, 2001

Revoking the banking license of Suisse Security Bank & Trust.

Suisse Security Bank & Trust injunction - March 5, 2001

Order aimed at preventing its license from being suspended and the subsequent suspension, notwithstanding the injunction.

FBI Special Agent Gerard M. Forrester supports SSBT

Bizarre letters - on FBI letterhead - from a Miami-based FBI Agent, Gerry Forrester, in support of SSBT. The Feb. 11, 2000 letter is particularly extraordinary and invites suspicion. KYC News has confirmed that both of the letters are genuine. Forrester retired from the FBI shortly after writing them to operate as a private investigator in Florida.



Witness

EXHIBIT #4

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