

EXHIBITS

A-9 to Z-9

JF-Investigations

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US Cell- (305) 803-4861
Bahamas- (242) 422-0788
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Trust in Us

At JF Investigations, we deliver outstanding service. The choice of a private investigator is a difficult decision and you can trust that your dealings with us will be dealt with in complete confidentiality. You can count on our wealth of experience and know that you are dealing with the best. We specialize in investigations in the Caribbean including The Bahamas, Dominican Republic, Puerto Rico, Jamaica and Bermuda. We can also refer you to other excellent investigators worldwide.

Jerry Forrester:

Retired Special Agent FBI

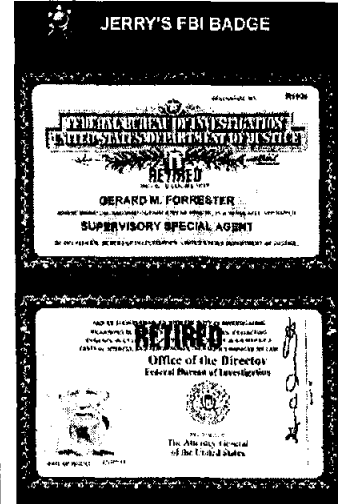
Gerard "Jerry" Forrester, is the owner of JF-INVESTIGATIONS. Jerry retired in good standing as a Special Agent of the FBI in 2001. He is presently Vice President of Security and Risk Management for the Cable Beach Resorts and Crystal Palace Casino in Nassau, Bahamas. He is also a District Constable of the Royal Bahamas Police Force and a Contract Investigator with the Security Division of the United States Department of Defense.

Jerry has 25 years experience handling and coordinating multi-agency, multi-national law enforcement operations in the Caribbean, Europe and Central America. He is used to dealing with Ambassadors, Judges, attorneys, officers and enlisted military personnel, private citizens and foreign officials.

Jerry's vast knowledge of foreign matters and his wide array of contacts in the political and business arena enable him to investigate where others could only imagine being able to get information. Let his experience work for you in whatever issue or situation you are looking to have resolved.



Jerry Forrester -Retired Special Agent FBI awarded the FBI Star Medal



CLIENTS

Federal Bureau of Investigation
U.S. Department of Justice

This is to certify that
GERARD M. FORRESTER
whose signature and photograph appear herein,
retired in good standing as a Special Agent
of the FBI

R1926 *Gerard M. Forrester* Retired Date: 11/2/2001

Jerry is a consultant for:

- Security Investigations
- Criminal Investigations
- Intelligence Investigations
- Human Resources
- Risk Management
- Contract Investigations
- Investigations

[Click here to see Richard M. Shaffers Page](#)

[Contact us](#)

Navigation



JF-Investigations.com
USA (305) 803-4861 Bahamas (242) 422-0788
Gerard "Jerry" Forrester

Notable Clients

Notable Bahamas Clients

- Lyford Cay Property Owners Association
- Private Trust Corporation
- SSBT, Ansbacher (Bahamas) Ltd.
- United Rentals
- Royal Bahamas Police Force
- Sidney Frank and Co.
- Nihco Capital Trust
- and many others.

JF-Investigation.com Pages

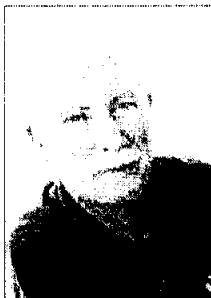
- Background Checks
- Client Testimonials
- Contact Us
- Counter Surveillance
- Home
- Jerry Forrester
- Notable Clients
- Other Services
- Richard Shaffer
- Services
- Surveillance

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Richard Shaffer:

Richard M. Shaffer,
FBI Supervisory Special Agent, Retired
Charlotte, North Carolina
(704) 497-1410
RShaffer3@Carolina.rr.com

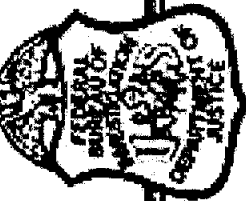
Directed the FBI's Joint Terrorism Task Force program, for all investigative, intelligence and threat assessment operations in North Carolina. Provided direct management of the FBI's counter-terrorism intelligence collection apparatus in North Carolina in coordination with all state, local, federal law enforcement, military and civilian security communities. Assisted in the development of the North Carolina terrorism threat reporting fusion center.

Directed and managed all investigations of terrorist threats, financing mechanisms and reports of terrorist targeting of critical infra-structure and businesses domiciled and/or operating within the state. Assessed and evaluated at-risk venues to include governmental, transportation, energy, technology, industrial and financial sectors. Provided daily coordination with local, state, federal, and emergency management teams in preparedness training, response planning and critical incident management. Conducted annual threat assessments on all critical infrastructure sites in North Carolina that include three nuclear power plants, the Port of Wilmington, four major military installations, the second largest financial community in the U.S. and the largest technology center on the east coast.

Since retirement, operating as a security specialist/terrorism consultant for the Public Health and Maritime Sectors.

Contact us

CLIENTS



Federal Bureau of Investigation U.S. Department of Justice

This is to certify that

GERARD M. FORRESTER

whose signature and photograph appear herein,
retired in good standing as a Special Agent
of the FBI.

R1926

Retired Date: 1/12/2001



Jerry is a consultant for:

- Lyford Cay Property Owners Assoc.
- Private Trust Corporation,
- SSBT, Ansbacher (Bahamas) Ltd.
- United Rentals,
- Royal Bahamas Police Force,
- Sidney Frank and Co.
- Mihco Capital Trust
- and Many Others.

EXHIBIT B-9

1 and this is just one of them, right?

2 A Yes.

3 Q But this was faxed to you from the Suisse Security Bank &
4 Trust?

5 A Yes.

6 Q Okay. Now, I think you're in Switzerland now. Tell us
7 what's going on and how long you're there.

8 A All right. I was there from the end of May until July
9 31st, 2001, and in the fall of 2001 we received a letter
10 updating us saying that in July, that they had lost their
11 appeal to get their license back, and the owner of the bank,
12 Mr. Harajchi, was going to appeal the decision, which he went
13 on to actually I think appeal it three different times or even
14 four, possibly. I think the last date that he was denied was
15 last summer in August of 2004. There was a provisional
16 liquidator's report that was put out in August of 2002, and --

17 Q When you say put out, what do you mean, put out? Is that
18 something that --

19 A Distributed to everyone.

20 Q Okay. Let me -- may I see that? Can I show you what's
21 been marked as Marcusse Exhibit R, see if you can identify
22 what this is?

23 A Yes. That was the third report of the provisional
24 liquidator for the bank dated August 4, 2002.

25 Q Okay. And is this something that you received?

1 A Yes.

2 Q How did you receive this?

3 A I don't remember, but -- it may have been mailed, but I'm
4 not certain how we received that.

5 MR. KACZOR: Okay. Your Honor, I'd move for its
6 admission.

7 MR. SCHIPPER: I'll object again, Your Honor. This
8 one has no name whatsoever on it, no account number. It's
9 just a document. It has nothing on it.

10 THE COURT: I'll sustain it, this witness not having
11 any memory of where it came from.

12 MR. KACZOR: I understand. Thank you, Your Honor.

13 BY MR. KACZOR:

14 Q All right. Continue. And again, I'm not trying to put
15 you in a box, but keep going. You're in Switzerland now.
16 What are you doing there?

17 A Okay. Well, as I said, I was opening an account to
18 receive funds for the other investment, Mr. Moon's and Mr.
19 Gerry's.

20 Q Okay. What happens next?

21 A And I also flew to England to meet with the barrister or
22 lawyer for these gentlemen. His name was Gurmail Sidhu,
23 S-i-d-h-u.

24 Q Okay. Let me stop you here, and I keep saying I'm sorry
25 for stopping you, but there was testimony that while you were



Suisse Security Bank & Trust Ltd.
Orissa House, East Bay Street
P.O. Box N-4801
Nassau, Bahamas.

Cash and Securities Transfer Instructions.

United States Dollar:

Bank:

UBS, Stamford,
Connecticut.
ABA # 026007993
In favour of UBS (Bahamas) Ltd
Swift code: UBSWBSNS
A/C Number: 101-WA-356115000
Suisse Security Holdings Ltd
31342
Your account number with SSBT.

A/C Name:

A/C Number:

Ref:

All other currencies:

Bank:

UBS Geneva
B, rue de Rhone
1211 Geneva
Swift code: UBSWCHZ 12A
Suisse Security Holdings
810.453.60E -USD
810.453.75T - CAD
810.453.73D- GBP
810.453.73V -DEM
810.453.72X-FRF
810.453.00Q-CHF
810.453.74F-EURO

Acc name:

Acc no:

Ref:

Your account number with SSBT.

Securities Physical Delivery:

Name: Tucker Anthony
Address: One World Financial Center 3rd Floor
200 Liberty Street
New York, NY 10281
Acc name: Suisse Security Bank & Trust
Acc Number: DET951506-1-23

Securities DTC Delivery:

Name: Wexford Clearing
DTC #: 0030, Code 40
Acc name: Suisse Security Bank
Acc no: DET-95150-1-23
Ref: Your account number with SSBT



SWISS MERCANTILE OVERSEAS CORPORATION

CASH AND SECURITIES TRANSFER INSTRUCTIONS

United States Dollars

Bank: UBS, Stamford
Connecticut
ABA # 026007893
In favour of UBS (Bahamas) Ltd
Swift code: UBS WBSNS
A/C number: 101-WA-356115000

A/c name: Suisse Security Holdings Ltd

A/c number: 31342

Ref: 213,072.0602

All Other Currencies

Bank: UBS Geneva
8 Rue de Rhone
1211 Geneva

Swift code: UBSWCHZ 12A

Acc name: Suisse Security Holdings

Acc no: 810.453.60E - USD
810.453.75T - CAD
810.453.73D - GBP
810.453.73V - DEM
810.453.72X - FRF
810.453.00Q - CHF
810.453.74F - EURO

Ref: 213,072.0602

Securities Physical Delivery

Name: Tucker Anthony
Address: One World Financial Center 3rd Floor
200 Liberty Street
New York, NY 10281

Attn: Emil Jutrowski
Acc name: Suisse Security Bank & Trust
Acc number: DET951506-L23

Ref: 213,072.0602

Securities DTC Delivery

Name: Wexford Clearing
DTC #: 0030, Code 40
Acc name: Suisse Security Bank
Acc no: DET-95150-1-23

Ref: 213,072.0602

Effective May 1999

20 Madcira Street □ PO Box 55-6391 □ NASSAU Bahamas □ Tel: (242) 323-6164 □ Fax: (242) 323-6165
email swissmerc@bact.net.bs

**TO: Mrs. Laurie Brown
Suisse Security Bank**

**FROM: Janet Marcusse, Stirs, Acct. No. 2133020602
(616) 365-1682**

DATE: 7/16/99

Enclosed is a copy of a Wire Transfer of \$14,000.00 on 7/13/99 into our account. It was difficult to read so I retyped the information on the next page.

Also, would you please arrange to transfer \$50,000 (Fifty Thousand Dollars) from our account, Stirs, Acct. No. 2133020602 to:

Swiss Mercantile Bank Corp.
Acct. # 213072
Credit to: Stirs Unlimited

Thank you.

The following copy of a wire transfer is difficult to read so I am typing out the information so it is legible on this page:

Date: 7/13/99

\$14,000 (Fourteen Thousand Dollars)

From:

Huntington National Bank

From: Ray DeMeester

ABA # 021000039

Account #03158119015

Transfer To:

Citibank, New York, NY

Swift CITI4533

Acct Name: Suisse Security Bank & Trust

Transfer into: 2133020602 (Stirs)

VIEW 2.0 BROWSE - CFT99FIC001H ----- REC 0168051 PG 0004848.001 LOCK 00
COMMAND ==> SCROL

SARPAGE 4848

DATE: 08/12/99 MONEYNET DAILY TRANSACTION LOG. REPORT 120 TIME: 23:0

SEQUENCE NUMBER: 990812004844 ASSOC. SEQ. NUM.: MATCH SEQ. NUM.: MESSAGE S

OWNING RBU: CENTRAL * ROUTING INFORMATION *

ABA NAME ABA NAME

SOURCE BANK: 021000089 CITIBANK TARGET BANK: 072000915 NATL CITY KALAMAZO

WIRE-KEY: FWIF002605 COMMLOG KEY: FWIF05649908121401305500 TESTCODE STATUS: 00

TRAN TYPE: INCOMING WIRE TRANSFER INTERNAL TRAN CODE: 0671000000 TRAN CODE:

TRAN STATUS: DRCR

DR AFFILIATE CODE: 056 CR AFFILIATE CODE: 056

REPEAT CODE: CALLER NAME:

NOTIFY:

WAIVE FEES: N

PROBLEMS:

RESOLUTIONS: EXCEPTION REASON: NONE

* FINANCIAL INFORMATION *

CREDIT ACCT: 056000628609348 SANCTUARY MINISTRIES CREDIT INTEREST ACCT:

DEBIT ACCT: 056000011200000 THE FEDERAL RESERVE BANK OF CHICAGO DEBIT INTEREST ACCT:

AMOUNT SENT: \$.00 AMOUNT RECEIVED: \$ 100,000.00 PRINCIPAL: \$ 100,000.00 INTEREST: \$

RATE: / RATE FLAG: LOAN TERM: DAYS: 000 AVAILABLE: SAME COLLATERAL: VALUE DA

* FEDWIRE MESSAGE FORMAT *

CITIBANK /ORG=S.SECURITY UNKNOWN OGB=CITIBANK TRINIDAD . TOBAGO
NATL CITY KALAMAZO/CTR/BNF=SANCTUARY MINISTRIES/AC-0628609348 BBI-- NATIONAL CIT
Y BANK 32001 GROESBE CK HIGHWAY FRASER MI 48026 INS=D36021989 SUISSE SECUTITY BA
NK & TRUST LTD ORISSA HOUSE, EAST BAY ST. POB N-4601 /ATT: MICHEL HARATCHI NASSA
U, BAHAMAS

**THIRD REPORT OF THE OFFICIAL LIQUIDATOR
OF
SUISSE SECURITY BANK & TRUST LIMITED
(In Liquidation)**

**TO
THE SUPREME COURT OF
THE COMMONWEALTH OF THE BAHAMAS
AND
THE CENTRAL BANK OF THE BAHAMAS**

Period Covered:

February 1, 2008 to December 31, 2010

Issue Date: July 12, 2011

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For further background information on the Bank, since its banking and trust licence was suspended, please review my previous reports listed below, which were filed with the Court:

- i. First Report as the Bank's Provisional Liquidator - dated August 24, 2001;
- ii. Second Report as the Bank's Provisional Liquidator - dated February 4, 2002;
- iii. Third Report as the Bank's Provisional Liquidator - dated August 4, 2002;
- iv. Fourth Report as the Bank's Provisional Liquidator - dated December 20, 2005;
- v. First Report as the Bank's Official Liquidator - dated December 15, 2006; and
- vi. Second Report as the Bank's Official Liquidator - dated March 31, 2008.

3. OBJECTIVE OF THIS REPORT

The objective of this report is to provide parties interested in the Bank's liquidation, with the steps that have been taken since my last report dated March 31, 2008, and the progress made since that date. These steps included, but were not limited to the following:

- a) Collecting and safeguarding the Bank's and its clients' fiduciary assets;
- b) Liaising with the appropriate individuals, to take possession of the Bank's assets;
- c) Liaising with the Bank's shareholders, directors, attorneys, managers, and employees, to obtain their cooperation and assistance in the performance of my duties as the Bank's Official Liquidator, as set out in the Order of my appointment;

As at the date of this report, I have identified that US\$17,717,067 remains under the control of the Bank's Management. The assets belong to the Bank's clients and its related companies as follows:

- US\$5,540,631 – in the name of Suisse Security Investment ("SSI");
- US\$12,001,291 - in the name of Suisse Security Holding ("SSH"); and
- US\$175,145 (CHF300,627) – in the name of Suisse Security Holding ("SSH").

5. BANK DEPOSITORS

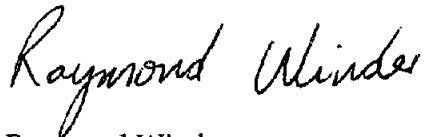
As the Bank's Official Liquidator, I continue to preserve the Bank's and its clients' fiduciary assets. In an effort to transfer the clients' assets to them, in November 2007, I placed a Notice to Creditors in the national and international newspapers, in The Bahamas, The United States, and Canada; requesting submission of official claims in the Bank's liquidation. Mass mail and emails were also issued to the Bank's depositors and creditors, requesting submission of claims. As a result, the claims have increased since the previous report.

As at March 5, 2001, the Bank's records indicated that there were 3,070 deposit accounts valued at \$57,528,776. Of the listed depositors, I have received claims from 385 clients as at December 31, 2010, valued at \$47,277,751.57.

10. CONCLUSION

During the reporting period, my agents and I spent most of our time on legal matters, which I have detailed in this report. As the Company's Official Liquidator, I have exercised my duties in accordance with the order of my appointment. This report covers the period February 1, 2008, to December 31, 2010, and will be followed by subsequent reports, which will detail events that occur subsequent to the date of this report.

Respectfully submitted July 12, 2011, this my third report



Raymond Winder
Official Liquidator

AFFIDAVIT OF FACTS CONCERNING JANET MARCUSSE

In Re: United States District Court Western District of Michigan
Criminal Docket for Case #: 1:04-cr-00165-RHB-ALL

On or around January 18th, 2012, I came home to find my house had been burglarized and completely ransacked. After further inspection it became clear that every bit of paper and files located in several large file drawers were completely emptied and scattered throughout the house. It is my firm belief that this act was not targeted towards normal valuables, rather it appeared specific to destroying documents.

Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on Nov 19th, 2013

Signed 
Christopher J. Milson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 1:04-cr-165

JANET MARCUSSE,

Defendant.

MOTION TO COMPEL PRODUCTION OF VALID SEARCH WARRANT & AFFIDAVIT

NOW COMES the defendant, Janet Marcusse, as a pro se prisoner, to request that an Order be issued for the production of a valid search warrant and sworn affidavit or other authorization under the law, which permitted the entry of federal officials or their agents into the home of Christopher Milson at 15 Choctaw Trail, Elkland, Missouri, on or about January 18, 2012, and allowed the business files belonging to Marcusse that were relevant to the above-referenced case being housed to be removed from their filing cabinets and boxes, rifled, thrown on the floor, stolen, and/or otherwise destroyed or rendered unusable.

If a valid search warrant signed by a judge and sworn affidavit in support cannot be produced, then an Order for an investigation into the criminal activity being initiated by the Office of U.S. Attorney and/or CI Division of the IRS should be made by this court if public respect for its decisions is to be maintained.

As clearly evident from the attached exhibits, it would not be a rational conclusion for any reasonable individual to accept the word of these federal officials averring they did not initiate, instigate, order, execute, or have executed this malicious destruction, as no mere thug, thief, drug abuser, or other nut job, would leave the valuables shown in the pictures behind, but instead take the time to open every filing cabinet and box, remove the contents only if they were Marcusse's business documents and throw them about the room in a crazed frenzy (See Exh. A).

As if the attached pictures are not compelling-enough evidence of federal involvement in this criminal activity, the timing of it removes any doubt. While it occurred 6-1/2 years after the 2005 criminal trial, it was shortly after a federal judge in a different jurisdiction acted to order a trial for the redetermination of \$936,626 in unreported income claims made against Marcusse, the same claims used at the 2005 trial to support the "intent to defraud" element of mail fraud, but which were not permitted to be rebutted with documents from the admitted bulk bank records due to obstructions from prosecutors, IRS agents, and the coercion of court-appointed counsel. The specter of a trial where Marcusse would actually be allowed to proceed pro se, which would be conducted by an impartial judge, was apparently so threatening to the Office of U.S. Attorney and IRS, as to their continuing ability to sustain their bogus charges in the event of a loss at the Tax Court trial, that the criminal activity exposed by the attached pictures was initiated.

Specifically, on December 5, 2011, after having expressed his disbelief regarding several of the unreported income claims made against Marcusse in a November 30, 2011 Order requiring additional discovery to be provided to her, Judge Gustafson in U.S. Tax Court further ordered that pretrial memorandums be submitted as he would be scheduling a trial even if he had to order a special session at Marcusse's prison (R. 57, Docket 14234-09)(See Exh. B). Among other documents, the November 30, 2011 Order had required the IRS to provide a copy of the search warrant executed against Marcusse's barrister, Gurmail Sidhu, which had been publicly reported to be based upon drug-trafficking, a charge not made in the instant case (See Exh. C). The Sidhu search warrant demonstrates a prior history in this case of unlawful search and seizure activity. (See Exh. D).

On January 10, 2012, Marcusse submitted her Reply to the Government's Response to her \$2255 in Case No. 1:09-cv-913 in which she included the previously unavailable evidence provided under the Freedom of Information Act ("FOIA") from the FBI of a Form 302, which established that a computer had been seized in the execution of a 12/18/01 search warrant of the office. This evidence proved FBI Agent Moore's testimony at the 2005 trial was false, as used by AUSA Gezon in closing arguments, that no

records had been found, because the hard drive of the computer seized did contain records, which were the same records tampered with by prosecutors prior to submission during government witness, Julie Siemen's, testimony to remove the evidence of selective prosecution where sales associate, Tom Wilkinson, was not charged (R. 70, p. 6, Case No. 1:09-cv-913). The Reply also contained considerable other evidence to establish the government's case had been knowing and deliberate fraud at the 2005 trial, which was disregarded by this court on October 26, 2012, as "new" claims (R. 77, p. 4, ft. 2, Case No. 1:09-cv-913). Previously unavailable evidence that supports claims already raised is not a "new" claim, particularly when the evidence was obstructed by the bad faith of federal officials.

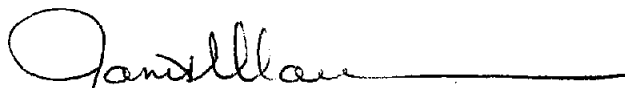
That the Office of U.S. Attorney has a history of engaging in the destruction of evidence in this case, including in contempt of a Court Order from U.S. Tax Court, is evident from the admittances of counsel to the Commissioner, Jonathan Hauck, where he avers that Brian Delaney, the Criminal Chief of the U.S. Attorney's Office, had contacted Mr. Hauck on February 16, 2011, in response to his request for information to comply with a January 5, 2011 Tax Court Order for discovery, advising him that Delaney had "purged" files (R. 76, Exh. A; R. 71, Exh. C, p. 7-8; Case No. 1:09-cv-913). An Office of U.S. Attorney is required to keep files in a felony criminal case for ten years.

Other evidence demonstrating federal officials are engaging in retaliatory and malicious activity in this case include the issuance of a tax audit against Mr. Milson on January 9, 2012.

WHEREFORE, it is requested that an Order be entered to compel the responsible government agency, including the Office of U.S. Attorney, IRS, and FBI, to produce a valid search warrant and sworn affidavit in support, and failing the ability to provide such documentation, an investigation be initiated to find the responsible parties so that their criminal misconduct may be dealt with accordingly under the law.

Submitted by,


Date: 1-29-2013



Janet Marcusse, pro se
#17128-045
FCI Tallahassee
501 Capital Circle, NE
Tallahassee, FL 32301

VERIFICATION

Pursuant to 28 USC §1746, I declare that the information contained herein upon which this Motion is submitted is true and correct to the best of my knowledge.



Janet Marcusse



01 PROPERTY OF CHRIS MILSON AT
15 CHOCTAW TRAIL, ELKLAND, MO 65644
PICTURE TAKEN ON OR AROUND 1-18-12

Chris J. Milson



03 PROPERTY OF CHRIS MILSON AT
15 CHOCTAW TRAIL, ELKLAND, MO 65644
PICTURE TAKEN ON OR AROUND 1-18-12

Chris J. Milson



04 PROPERTY OF CHRIS MILSON AT
15 CHOCTAW TRAIL, ELKLAND, MO 65644
PICTURE TAKEN ON OR AROUND 1-18-12

Chris J. Milson



05 PROPERTY OF CHRIS MILSON AT
CHOCTAW TRAIL, ELKLAND, MO 65644
PICTURE TAKEN ON OR AROUND 1-18-12

Chris Milson



06 PROPERTY OF CHRIS MILSON AT
CHOCTAW TRAIL, ELKLAND, MO 65644
PICTURE TAKEN ON OR AROUND 1-18-12

John W.



07 PROPERTY OF CHRIS MILLSON AT
CHOCTAW TRAIL, ELKLAND, MO 65644
PICTURE TAKEN ON OR AROUND 1-18-12

AM



08 PROPERTY OF CHRIS MILSON AT
CHOCTAW TRAIL, ELKLAND, MO 65644
PICTURE TAKEN ON OR AROUND 1-18-12

dm

CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of the foregoing:

MOTION TO COMPEL PRODUCTION OF VALID SEARCH WARRANT & AFFIDAVIT

upon the following addresses, by placing same in a sealed envelope, bearing sufficient postage for delivery via the United States Postal Service, to:

Clerk of Court
United States District Court
110 Michigan Street, N.W.
Grand Rapids, MI 49503

and deposited it in the postal box provided for inmates on the grounds of the Federal Correctional Institution, Tallahassee, Florida, 32301, on this 29th day of January, 2013.

Janet Marcusse

Janet Marcusse
Register No. 17128-045
Federal Correctional Institution
501 Capital Circle N.E.
Tallahassee, Florida 32301

time it was delivered to prison
ack, 497 US 266, 101 L Ed 2d 245,

7004 1160 0004 5678 1136
9211

**U.S. Postal Service™
CERTIFIED MAIL™ RECEIPT**
(Domestic Mail Only; No Insurance Coverage Provided)
For delivery information visit our website at www.usps.com

OFFICIAL USE

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$

RECEIVED
JAN 29 2013
MAIL ROOM
FCI, TALLAHASSEE, FL

Sent To
Clerk, U.S. District Court
Street, Apt. No.,
or PO Box No. 110 Michigan Street, NW
City, State, ZIP+4 Grand Rapids, MI 49503

PS Form 3800, June 2009

04/18/2012	<u>728</u>	LETTER from Supreme Court of the United States that a petition for writ of certiorari was filed on 4/6/2012 and assigned case number 11-9846 re Notice of Appeal - Final Judgment <u>577</u> filed by Janet Mavis Marcusse #17128-045, Notice of Appeal - Final Judgment <u>575</u> filed by Janet Mavis Marcusse #17128-045 (gjf) (Entered: 04/19/2012)
10/26/2012		DECISION regarding motion to vacate, set aside, or correct sentence under 28 U.S.C. 2255 regarding defendant Janet Mavis Marcusse #17128-045 filed in civil action 1:09-cv-913 (gjf) (Entered: 10/29/2012)
05/29/2013	<u>732</u>	ORDER to disburse unclaimed funds as to defendant Janet Mavis Marcusse #17128-045 ; signed by Judge Robert Holmes Bell (Judge Robert Holmes Bell, kcb) (Entered: 05/29/2013)
05/30/2013		Copy of Order <u>732</u> as to defendant Janet Mavis Marcusse #17128-045 mailed to Janet Mavis Marcusse #17128-045 and Melvin Houston (ald) (Entered: 05/30/2013)

PACER Service Center			
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Nos. 05-2556; 05-2586; 05-2666; 05-2667; 05-2668

IN THE UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

JANET MAVIS MARCUSSE,
GEORGE TERRANCE BESSER,
DONALD MAYNARD BUFFIN, JR., and
WILLIAM EDWARD FLYNN
Defendants-Appellants.

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PROOF BRIEF FOR APPELLEE
UNITED STATES OF AMERICA

CHARLES R. GROSS
United States Attorney

MICHAEL L. SCHIPPER
Assistant United States Attorney
Post Office Box 208
Grand Rapids, Michigan 49501-0208
(616) 456-2404

Clay, 346 F.3d 173, 176 (6th Cir. 2003). There was more than sufficient evidence to prove each defendant's guilt.

This case involves a "ponzi scheme." Each of the defendants played a role in creating, selling, marketing and/or managing this scheme. There were multiple witnesses and exhibits clearly demonstrating each defendant's role in the scheme and the financial benefits derived by each defendant for his or her participation in the scheme.

The defendants' main claim on appeal, as it was during trial, is that they did not intend to defraud the victims of this ponzi scheme. The evidence, however, was overwhelming that each defendant did intend to defraud the victims.

Furthermore, the Sixth Circuit has held that participation in the running of a ponzi scheme unquestionably implies intent to defraud and the existence of this intent to defraud is not debatable. Conroy v. Shott, 363 F.2d 90, 92 (6th Cir.

1966)(existence of intent to defraud in a ponzi scheme is "not debatable"). In re Mark Benskin & Co., 59 F.3d 170 (6th Cir. 1995)(unpublished)(ponzi scheme "unequivocal" evidence of intent to defraud).

Next, defendants Buffin and Flynn claim that the district court abused its discretion when it allowed the rebuttal testimony of IRS Special Agent James Flink. The district court has considerable discretion to determine the admissibility

In determining loss, the court can and did include the reasonably foreseeable acts of all of the co-conspirators. United States v. Brown, 147 F.3d 477, 485 (6th Cir. 1998). The record clearly established and the jury found that the defendants were co-conspirators in the charged ponzi scheme. Therefore, the district court's determination of loss which included the loss directly attributable to each defendant and the reasonably foreseeable acts of co-conspirators was not error, but was the correct calculation of loss.

Furthermore, the sentences fashioned for Marcusse, Besser and Buffin were not unreasonable. These claims are wholly without merit. In fact, these claims are absurd. Not only did the district court consider all of the § 3553 factors and any and all arguments raised at sentencing by each defendant, but the court varied downward significantly for each defendant. The recommended Guideline sentence for Marcusse, Besser and Buffin was life; nevertheless, Marcusse was sentenced to 25 years, Besser to 20 years, and Buffin to 15 years. None of these sentences was unreasonable.

For these reasons, the defendants' claims do not merit relief and the jury's verdicts of guilt and the district court's selection of sentences should be affirmed.

STATEMENT OF THE CASE

On October 27, 2004, the defendants (Marcusse, Besser, Buffin, Flynn) were indicted by the grand jury in an 83-Count Superseding Indictment (R. 108: Superseding Indictment.)¹ All of the counts in the Superseding Indictment relate to the defendants' involvement in the operation of a fraudulent high-yield investment venture called Access Financial ("Access"). Counts 1-39 charge all of the defendants with mail fraud (18 U.S.C. § 1341); Count 40 charges all of the defendants with conspiracy to commit mail fraud (18 U.S.C. § 371); Count 41 charges all of the defendants with conspiracy to commit money laundering (18 U.S.C. § 1956(h)); Count 42 charges all of the defendants with conspiracy to defraud the United States (18 U.S.C. § 371); Counts 43-57 charge all of the defendants with money laundering (18 U.S.C. § 1956(a)(1)(A)(I)); Count 58 charges defendants Janet Mavis Marcusse and Diane Renae Boss with money laundering (18 U.S.C. § 1957); Counts 59-65 charge the defendants Diane Renae Boss and Wesley Myron Boss with money laundering (18 U.S.C. § 1957); Counts 66-68 charge defendant Donald Maynard Buffin, Jr., with money laundering (18 U.S.C. § 1956(a)(1)(B)(I)); Counts 69-71 charge defendant Jeffery Alan Visser

¹ The Superseding Indictment also charged David Albrecht, Diane Boss, Wesley Boss and Jeffrey Visser as co-defendants.

STATEMENT OF FACTS

A. Introduction and Overview of the Fraudulent Scheme

From about 1998 to 2002, the defendants promoted and sold a fraudulent high-yield investment program under the name Access Financial. In addition to promising profits and returns far in excess of conventional investments, the defendants' represented that the investors' principal would be held by Access in a safe, bank-type account, making the investment risk free. The defendants also represented to investors that Access operated as a tax-free church and that an investor's returns would be non-taxable if the investor purchased a "church sub-chapter" package from Access. Between 1998 and 2001, Access took in approximately \$20.7 million from approximately 577 investors. When the scheme collapsed, the federal agents traced the funds and determined the investors' principal was not invested as promised. Approximately \$8.4 million of the investors' funds were used to make monthly "profit" payments to lull existing investors and attract new ones, in a fashion typical of a ponzi scheme; approximately \$4.8 million was diverted by the defendants for their personal use; approximately \$7.3 million was dissipated by the defendants in transfers and payments which had no connection to the promises made to investors. The defendants kept no records of their spending of investors' funds. They utilized

B. Evidence Related to the Fraudulent and Misleading Representations of Access Financial

1. Representations of High Profits From Secret Markets

The defendants solicited and sold the investment by word-of-mouth recommendations from existing investors. (R. 476: Jager, TT7 at 1449; R. 471: Beemer, TT2 at 333-34; R. 472: Walcott, TT3 at 375-76; Weaver, TT3 at 411-12, Nowak, TT3 at 539-40.)³ Prospective investors were required to sign a form called a "Non-Disclosure; Non-Circumvention Agreement" before hearing about the investment. (Weaver, TT3 at 413; R. 688: Government's Exhibits⁴ 63a, 63b, 66b, 66c.)

Prospective investors were told by the defendants that the profits being made by Access were from little known, secret financial programs and were not available to the uninformed public, and the profits would be far in excess of more conventional investments. Investors were told they would receive a return of as much as 20% per month on principal. (Walcott, TT3 at 388-89; P. Stinger, TT1 at 88-91, 94, 98, 101; W. Sharpe, TT 3 at 455, 463; R. 688: Ex. 1-4; Beemer, TT2 at 348-51.) Investors received a prospectus type brochure which explained the

³There are 19 volumes of the trial transcript. They will be referenced using TT followed by the volume number.

⁴ Government's Exhibits will be referenced as "Ex." throughout brief.

financial market the defendants claimed were the source of their lucrative profits (Ex. 1.) The brochure described the secret world of high-yield investments and stated that the alleged market was recognized and regulated by the United States Government, the Federal Reserve and the International Chamber of Commerce ("ICC") (Ex. 1.) The financial markets it described are complete fiction.

The early investors did, in fact, begin receiving monthly profit checks in the mail, which approximated 10% per month of their principal investment (Ex. 87.) This interest rate later dropped and by 1999, the monthly checks were calculated at 3% per month of principal. (Siemen, TT4 at 903-907; Ex. 82.)

In addition to the monthly profit checks, the investors were told that their principal was increasing as well, for a total return of 20% per month (3%, plus 17%), because of the huge success of Access' investment activities (Jager, TT7 at 1458-61; R. 473; Siemen, TT4 at 932-34; Ex. 61f, 61g, 68i, 68j, 69g, 69h.)

The defendants published and mailed to investors a periodic newsletter, which conveyed information about the success of the program and other information about Access, its program and sales staff. The newsletter often spoke of the high profits being made.

Both in the newsletters and orally, the defendants warned the investors that they would be "thrown out" of the program if they talked about the program to

II. TRIAL CLAIMS

A. THE TRIAL RECORD CONTAINS SUBSTANTIAL EVIDENCE OF EACH APPELLANT'S INVOLVEMENT IN THE RESPECTIVE CONSPIRACIES AND OF EACH APPELLANT'S REQUISITE CRIMINAL INTENT

1. Standard of Review

The Appellants each moved for a dismissal under Fed. R. Crim. P. 29 at the close of the government's case and at the close of all the proofs. (TT12 at 2392-2403; TT17 at 3486-3492.) The court denied both motions. The standard of review for a timely challenge to the sufficiency of the evidence on appeal is whether, after reviewing all of the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime proven. Jackson v. Virginia, 443 U.S. 307, 312 (1979); United States v. Clay, 346 F.3d 173, 176 (6th Cir. 2003).

2. Legal Analysis

The defendant who challenges the sufficiency of the evidence bears a heavy burden. Direct and circumstantial evidence is given equal weight and a jury verdict can be based on either alone. United States v. Prince, 214 F.3d 740, 746 (6th Cir. 2000). Establishing intent to defraud is almost always based on reasonable inferences drawn from a wide variety of evidence. United States v. Caramango, 811 F.2d 608 (6th Cir. 1986); United States v. Stone, 748 F.2d 361

(6th Cir. 1984). The Sixth Circuit has stated that the participation in the running of a ponzi scheme unquestionably implies intent to defraud. Conroy v. Scott, 363 F.2d 90, 92 (6th Cir. 1966)(existence of intent to defraud in a ponzi scheme is “not debatable”). In re Mark Benskin & Co., 59 F.3d 170 (6th Cir. 1995) (unpublished) (ponzi scheme “unequivocal evidence of intent to defraud). The element of intent or intent to defraud is conceptually the same in each of the crimes charged in the Indictment; thus, the relevant trial evidence which shows intent as to one offense also applies to the other charged offenses. The mail fraud, mail fraud conspiracy and the tax fraud conspiracy counts require intent to defraud as an element (counts 1-40 and 42). United States v. Frost, 125 F.3d 346, 354 (6th Cir. 1997)(mail fraud); United States v. Shermetaro, 625 F.2d 104, 108-11 (6th Cir. 1980) (conspiracy to defraud the IRS). Likewise, in the money laundering counts, the evidence must show the defendant had guilty knowledge of the criminal nature of the funds used in the transaction and the transaction was conducted 1) with the intent to promote the scheme (18 U.S.C. § 1956(a)(1)(A)(i); or 2) with the knowledge the transaction was designed to conceal or disguise the nature, source, control or ownership of the funds (18 U.S.C. § 1956(a)(1)(B)(i); or 3) conducted in an amount greater than \$10,000 (18 U.S.C. § 1957). United States v. Prince, 214 F.3d 740, 747 (6th Cir. 2000). United States v. Haun, 90 F.3d 1096, 1100


CONCLUSION

For these reasons the United States requests that the Defendant's convictions and sentences be affirmed.

Respectfully submitted,

CHARLES R. GROSS
United States Attorney

Dated: 4/25/07


MICHAEL L. SCHIPPER
Assistant United States Attorney
Post Office Box 208
Grand Rapids, Michigan 49501-0208

CASE NO. _____

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT
100 EAST FIFTH STREET, ROOM 540
POTTER STEWART U.S. COURTHOUSE
CINCINNATI, OHIO 45202

MEMORANDUM IN SUPPORT OF THE MOTION UNDER 28 USC
§2244 FOR ORDER AUTHORIZING DISTRICT COURT TO
CONSIDER SECOND OR SUCCESSIVE APPLICATION FOR
RELIEF UNDER 28 USC §2255

WESTERN DISTRICT OF MICHIGAN
CRIMINAL CASE NO. 1:04-cr-165

CIR. R. 22

Submitted By:

Janet Mavis Marcusse
#17128-045
Federal Correctional Institution
501 Capital Circle, NE
Tallahassee, FL 32301

EXHIBIT L-9

ISSUES TO BE CERTIFIED

I.

NEW OR PREVIOUSLY UNAVAILABLE EVIDENCE THAT COULD HAVE PROVEN INNOCENCE OF THE GOVERNMENT'S LEGAL THEORY OF A "PONZI SCHEME" FIRST CAME TO LIGHT ON JANUARY 9, 2013, WHICH ESTABLISHES PROSECUTORS COLLABORATED IN A FRAUDULENT SCHEME WITH COURT-APPOINTED COUNSEL IN THE DELIBERATE SPOILATION OF THE BANK RECORDS UNDERLYING THE GOVERNMENT'S RULE 1006 SUMMARY EXHIBITS FOR USE AS DEFENSE EVIDENCE IN FRONT OF THE JURY TO INFER PETITIONER FABRICATED SUCH EVIDENCE IN HER DEFENSE BECAUSE THERE WAS NONE IN SUPPORT

II.

NEW OR PREVIOUSLY UNAVAILABLE EVIDENCE THAT COULD HAVE PROVEN INNOCENCE OF THE GOVERNMENT'S INVESTMENT FRAUD THEORY FIRST CAME TO LIGHT ON JANUARY 9, 2013, WHICH ESTABLISHES PROSECUTORS REMOVED THE WIRE TRANSFER DOCUMENTS FROM THE BULK BANK RECORD EXHIBITS IN SUPPORT OF SUMMARY EXHIBIT, DEF. EXH. M-AA, TO FRAUDULENTLY INVENT SUPPORT FOR THEIR EXHIBIT M-S AND REBUTTAL CLOSING ARGUMENTS DISPUTING THERE WERE BANK RECORDS TO SHOW INVESTMENTS HAD BEEN MADE IN THE INVESTMENT PROGRAMS PROMISED

III.

NEW OR PREVIOUSLY UNAVAILABLE EVIDENCE THAT COULD HAVE PROVEN INNOCENCE OF THE GOVERNMENT'S LEGAL THEORY OF A "PONZI SCHEME" FIRST CAME TO LIGHT ON FEBRUARY 11, 2013, WHICH ESTABLISHES ALL EVIDENCE OF "INVESTMENT ENTITIES", THE "ROLE" OF "THIRD PARTIES", AND WITNESS STATEMENTS THAT DID NOT SUPPORT THIS THEORY WERE WITHHELD BY PROSECUTORS FROM THE DEFENDANTS FOR THE 2005 TRIAL

IV.

NEW OR PREVIOUSLY UNAVAILABLE EVIDENCE FIRST CAME TO LIGHT ON FEBRUARY 11, 2013, WHICH ESTABLISHES THE GOVERNMENT INTENDED TO MISLEAD PETITIONER AS TO THE THEORY OF PROSECUTION FROM BEFORE THE TRIAL IN ORDER TO EVADE HAVING TO SUBMIT THE "PONZI SCHEME" CHARGE TO JURY DELIBERATION, BUT YET PLACE THE RULE 1006 SUMMARY EXHIBITS IN SUPPORT OF IT ON THE RECORD IN ORDER TO RESUME ITS USE BASED ON THE "EVIDENCE" FOR SENTENCING, DIRECT APPEAL AND COLLATERAL PROCEEDINGS

V.

NEW EVIDENCE FIRST CAME TO LIGHT ON JANUARY 11, 2013, WHICH ESTABLISHES THE GOVERNMENT EXECUTED AN ILLEGAL SEARCH, ENGAGING IN THE DELIBERATE SPOILATION OF PETITIONER'S BUSINESS RECORDS BY SEIZING OR DESTROYING THEM, TO OBSTRUCT HER FROM EXERCISING THE RIGHT TO A TRIAL IN U.S. TAX COURT TO ESTABLISH \$936,626 IN UNREPORTED INCOME CLAIMS AND \$310,722 IN TAX ASSESSMENTS FROM THE CRIMINAL TRIAL HAD BEEN FALSE AND FABRICATED TO INVENT MOTIVE IN SUPPORT OF THE MAIL FRAUD ELEMENT OF "INTENT TO DEFRAUD", AS WELL AS TO INVENT SUPPORT FOR THE FINDING IN THE DIRECT APPEAL THAT PETITIONER HAD "DESTROYED" RECORDS AFTER SHE LEARNED OF THE FEDERAL INVESTIGATION TO FABRICATE AN "OVERT ACT" IN SUPPORT OF CONSPIRACY TO DEFRAUD THE UNITED STATES

It is not until after the notice of intent to appeal from the denial of the \$2255 is due under Fed. App. Rule 4, which is 60 days after the 10/26/12 Judgment, that the IRS provides the documents from the bulk bank record exhibits and other government trial exhibits (See Exh. E, F), which ensures none of this previously unavailable evidence can be submitted in the initial \$2255 proceedings.

It is not until after certificates of appealability are filed in the \$2255 cases,²⁴ that Marcusse has the opportunity to review the documents, which had been authenticated via the "Bates" method by numbering them from 000001 to 10,960, a type of authentication not practiced at the 2005 criminal trial.

The various wire transfers in support of Marcusse's summary exhibits from the 2005 trial are collected, such as for Def. Exh. M-AA, for the Bahamas program. While many of the wire transfer documents are now available to prove AUSA Gezon was lying in his rebuttal closing arguments where he averred no bank records were available to support any investments made in the Bahamas program (1:04-cr-165, R. 522, TR 3721) (See Exh. B-1), out of the 33 investments listed, 5 are still missing, except they are all shown on the relevant bank statements, causing Marcusse to have filed a responsive pleading in the District of Columbia FOIA litigation to request that court to issue an order commanding the IRS to produce the missing wire transfer documents, a pleading which was submitted on 12/13/13 (1:12-cv-1025).²⁵

Additionally, Marcusse compared those wire transfers provided on 1/9/13 with the wire transfer copies she filed in the "evidence packs" at the 2005 criminal trial only to discover she had been the victim of a fraudulent scheme in which prosecutors collaborated with their IRS witnesses, the court-appointed defense counsel, and the trial judge to cause the deliberate spoliation of the documents provided to Marcusse from the bulk bank record exhibits for use as defense evidence in rebuttal of the

²⁴ In addition to the COA's in her own \$2255 appeals (Case Nos. 12-2677 and 13-1500), co-defendants William Flynn and George Besser requested Marcusse prepare the COA's in their \$2255 appeals (Case No. 12-2533, Flynn; Case No. 13-1402, Besser).

²⁵ One of the 5 missing wire transfer documents in support of Def. Exh. M-AA (See Exh. W), for example, includes a 10/22/99 transfer that does appear on the 10/99 bank statement, which is Bates stamped as "2793", which establishes that the transfer was in fact made (See Exh. Q-1)(Compare to Exh. W).

mate probable cause. It is a crime under 26 USC §7214 to demand knowingly greater sums of federal income taxes than are due under the law.

CONCLUSION

The new or previously unavailable evidence submitted in support of all five issues is sufficient to establish by clear and convincing evidence, particularly when considered together, as is herein requested, that no reasonable factfinder would have found Marcusse guilty of the offenses charged against her at the 2005 criminal trial, causing all of the issues to merit relief under 28 USC §2255(h)(1). Furthermore, in light of the evidence establishing Judge Bell participated in the fraudulent schemes, which were used by prosecutors, as described herein, to illegally obtain guilty verdicts, and afterwards participated in concealing, suppressing, or misstating the evidence to keep their existence from emerging on direct appeal and throughout the entire initial §2255 proceedings, it is requested this case be remanded to a different federal judge.

Respectfully submitted,

Date: January 9, 2014

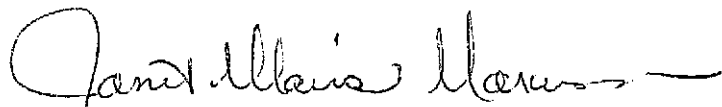


Janet Mavis Marcusse, pro se
#17128-045
Federal Correctional Institution
501 Capital Circle, NE
Tallahassee, FL 32301

VERIFICATION

Pursuant to 28 USC §1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Date: January 9, 2014



Janet Mavis Marcusse

court, Marcusse filed the instant application for leave to file a second or successive § 2255 motion.

Before filing a second or successive motion to vacate in the district court, a federal prisoner must obtain permission from this Court as provided in 28 U.S.C. § 2244(b). 28 U.S.C. § 2255(h); *In re Clemmons*, 259 F.3d 489, 491 (6th Cir. 2001). Permission will be granted only upon a prima facie showing that the motion contains: “(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or (2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.” 28 U.S.C. § 2255(h); *see also* 28 U.S.C. § 2244(b)(3). Any claim that was presented in a prior § 2255 motion is subject to dismissal. *Charles v. Chandler*, 180 F.3d 753, 758 (6th Cir. 1999) (citing 28 U.S.C. § 2244(b)(1)).

Marcusse argues that on January 9, 2013, in response to her requests for documents pursuant to the Freedom of Information Act (FOIA), she obtained over 10,000 pages of documents from the Internal Revenue Service (IRS) regarding her criminal proceedings. In addition, she contends that IRS Special Agent Stephen Corcoran stated in a February 8, 2013 affidavit that the government withheld over 99,000 pages of additional documents regarding her grand jury proceedings. She contends that these documents prove that her counsel, the government, and the trial judge tampered with the evidence and trial records, and establish that she was actually innocent of the offenses of which she was convicted. Throughout her memorandum in support of her application, she restates many of the claims that she raised in her initial § 2255 motion and asserts that the documents at issue lend support to many of these claims.

To the extent that Marcusse merely rehashes claims that she raised in her initial § 2255 motion, the claims are subject to dismissal. *See Charles*, 180 F.3d at 758. Additionally, Marcusse does not contend that her case is based on a new rule of constitutional law satisfying 28 U.S.C. § 2255(h)(2).

Because the documents Marcusse received in January 2013 were entered into evidence at her trial, they are not newly discovered, nor do they establish that no reasonable factfinder would have found her guilty of the offenses of which she was convicted. *See* 28 U.S.C. § 2255(h)(1). Marcusse argues that the documents demonstrate that her counsel, the government, and the trial judge tampered with or misrepresented bulk records underlying the government's summary exhibits because (1) some of the documents vary slightly from documents included in the small sampling of exhibits that she retained from her criminal proceedings; (2) some of the documents allegedly contradict statements made by the government at trial; and (3) the documents refer to a defense exhibit that neither she nor the person who prepared her exhibits could recall and which allegedly failed to include certain financial transactions. However, she offers no sound basis for her evidence-tampering allegations, and, in any event, she has not established that the allegedly conflicting or altered documents demonstrate that no reasonable factfinder would have found her guilty. *See id.*

As to the over 99,000 pages of documents that Marcusse has not received, Marcusse merely speculates that the documents are exculpatory due to Special Agent Corcoran's statement in his affidavit that they were not introduced at trial because they did not substantially support or advance the government's legal theory at the time of prosecution. Marcusse alleges that these documents include evidence regarding investments that she made with the victims' money. However, evidence regarding these investments was collateral to the proceedings, and any failure by the government to provide this evidence did not violate *Brady*. Accordingly, Marcusse has not established that the withheld documents are probative of her innocence. *See* 28 U.S.C. § 2255(h)(1). In light of the foregoing, Marcusse's application to file a second or successive § 2255 motion to vacate is denied.

ENTERED BY ORDER OF THE COURT



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LOUIS BACON ACCUSED OF CRIMINAL CONSPIRACY



Lyford Cay shark accused of trying to destroy Peter Nygard

An affidavit filed in the Supreme Court late last week, detailed an allegedly wide-ranging, intricate conspiracy by billionaire Lyford Cay homeowner Louis Bacon, his attorney Pericles Mailis, the Lyford Cay Property Owners Association (LCPOA), several men connected to Bacon and

a producer at the Canadian Broadcasting Corporation (CBC) to discredit multi-millionaire Canadian fashion designer Peter Nygard, who owns the home next to Mr. Bacon's on Lyford Cay.

The affidavit accompanied a writ seeking an injunction against Bacon and the CBC, which last year ran a story during a programme called 'The Fifth Estate' that accused Mr. Nygard of violating immigration laws in The Bahamas.

It recounted the sworn testimony of Alick Morrison, a former Scotland Yard detective turned security consultant/private investigator who was hired by Mr. Nygard's attorneys as a private investigator after the CBC story made news around the world.

Morrison claimed that there was an "apparent unlawful conspiracy to cause damage to the reputation and economic well being of Nygard."

"Bacon apparently enlisted the support of the LCPOA and its general manager, Mary Braithwaite to attack Nygard," the affidavit said. "He has

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4/25/2015 1:05 PM

additionally engaged a prominent Bahamian lawyer, Pericles Mailis - who also represents LCPOA - to attack Nygard on various grounds.

"It has been clearly stated by many of those named that their intent is to force Nygard from The Bahamas, by whatever means, because they appeared not to like Nygard and did not approve of his lifestyle. To this end they have made numerous unfounded allegations of misconduct by Nygard which have found their way into the public domain, many of which were reported by the CBC. An investigation has revealed that CBC used corrupt and discredited sources for the purpose of an expose story. those sources had the further aim of forcing Nygard out of The Bahamas."

Key Players

The affidavit, claimed that Jerry Forrester, reportedly a former United States (U.S.) Federal Bureau of Investigations (FBI) agent, "claimed to operate outside any rules or laws and also admitted that he would and had offered bribes to witnesses to make allegations about Peter Nygard.

"He admitted to having an intense personal dislike of Nygard and employed by CBC on behalf of 'The Fifth Estate'," Morrison alleged.

Bradley Pratt, a former Bahamian police officer, who was previously convicted of the manslaughter of a prisoner, is Mr. Forrester's partner, according to the affidavit.

"He has admitted to bribing and paying young women to make allegations about Peter Nygard," said Mr. Morrison.

Timothy Sawa is employed by CBC and is the reporter/producer of 'The Fifth Estate' program about Peter Nygard, explained Mr. Morrison.

"Sawa admitted to hiring Jerry Forrester and his partner Bradley Pratt to work on behalf of the CBC in The Bahamas with respect to that programme," Morrison said. "In fact, Forrester and Pratt arranged for all The Bahamas people who were to be used for the story to be interviewed by the CBC in The Bahamas."

Mrs. Braithwaite, executive director of the LCPOA, hired Forrester and the LCPOA security consultant," the affidavit said.

"She admitted in a recorded conversation that she wants to get rid of Peter Nygard, not only from Lyford Cay, but from The Bahamas where he is a resident," claimed Morrison. She also arranged for secret reports on and photographs of Nygard Cay. She and Forrester discussed finding a 'girl' to say she was abused by Nygard. The purpose was to ensure that Nygard could not sell another house anywhere in the world."



Pericles Mailis is a lawyer who was hired by Braithwaite to represent the LCPOA in an action against Mr. Nygard, Mr. Morrison alleged. "Mailis talks to Forrester about paying a girl \$10,000 to make an allegation of rape or serious sexual abuse against Nygard," Mr. Morrison claimed.

Mr. Morrison alleged that Mr. Mailis described the accusation as "the big one".

The Set Up

"The actions of Mr. Mailis appear to be behind the scenes political lobbying covert investigations and the provision of finances for witnesses bribed for their testimony," the affidavit claimed.

Mr. Morrison claimed that these individuals conspired to rid the affluent community of Nygard's presence and ruin his worldwide reputation, despite other Lyford Cay residents breaking environmental rules.

"They also had a champion in [Minister of Environment] Earl Deveaux, a long-time friend of Pericles Mailis," Mr. Morrison testified. "Braithwaite provided a bundle of documents including press clippings and letters, aerial/satellite images of Nygard Cay, a document containing confidential information from the US Embassy in The Bahamas, obtained by Forrester and a copy of a contract between LCPOA and a Bahamian PR company to monitor and manage press relating to Nygard."

Mr. Morrison said he met with Mr. Forrester and Mr. Mailis.

During that meeting Mr. Morrison alleged that Mr. Mailis, "spoke passionately and at length about brining Nygard's empire down."

"He spoke at length about his relationship with Earl Deveaux and how he was trying to put pressure on Nygard," the affidavit said.



Mr. Morrison also claimed to have recorded that conversation where Mr. Mailis spoke to Mr. Forrester about the alleged \$10,000 false rape accusation offer.

"In conclusion," Morrison said. "There appears to be significant evidence from the recordings I made, together with other information I received that there is a conspiracy to defame Peter Nygard," Mr. Morrison said. "In my opinion, there appears to be sufficient grounds to suspect many of those named of serious criminal behavior and the purpose of this affidavit is to bring that behavior to the attention of the authorities in The Bahamas and the US."

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EXHIBIT N-9

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Louis Bacon dodges the Police and the court summons ... but Nygard relentless in his pursuit of the man he claims set out to extort his Mayan themed \$100M mansion by muddying the int'l brand name of his fashion empire and immersing him in a sordid sexual scandal

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Police entering Lyford Cay Property Owners Assn. to Manager Mary Braithwaite with criminal process.

By E. Williams

(14th June- Nassau Bahamas) Louis Bacon has used his vast fortune to browbeat the international media and turn his London-based Attorneys into a Gestapo force on unsuspecting civilians and the freedom of the press; but all that may come to an end in a Bahamas Magistrate's Court later this month when Bacon has to face a private criminal prosecution bought by the international fashion designer, Peter Nygard .

The case goes before Chief Magistrate Roger Gomez on June 27th where a number of persons, including Mr. Bacon, are cited as conspirators in the summonses. They will be required to make their first pleas and return for the trial date to be set by the Chief Magistrate.

Mr. Nygard's allegations are the stuff of Robert Ludlum thriller movies and John LeCarre espionage novels. Mr. Nygard alleges that:

- 1. Mr. Bacon aided by the Lyford Cay Property Owners Association conspired together in a plot to force him to sell his multimillion dollar Mayan themed, water front estate using several illegal and

unwarranted measures.

2. Mr. Bacon, together with the General Manager of the LCPOA, Ms. Mary Braitwaite, directed certain unfavourable actions to be taken against Mr. Nygard and his property so these measures could be set in place.

3. Mr. Pericles Maillis, a senior Attorney to the LCPOA, was extremely instrumental in directing the parameters by which the harassment took place.

4. Mr. Bacon, through Mr. Maillis, was instrumental in hiring a former FBI agent named Jerry Forrester and directing him to conduct a series of espionage surveillances on Mr. Nygard with a view to further intimidating him and causing harm and damage.

5. Mr. Forrester brought Mr. Bradley Pratt into the mix, a disgraced former Bahamas Police Detective. These two men began a series of exercises in procuring women to concoct and fabricate stories of sexual assault on Mr. Nygard's property; and/or that they had been involved in sordid sexual activities at Mr. Nygard's behest. These women were offered huge cash advances for their complicity.



Police Car at Entrance of Point House attempting service of Criminal Proceedings on Louis Bacon.



Police entering law chambers of Pericles Maillis.

6. Mr. Bacon entered into a deal with the Canadian Broadcasting Corporation to air a damaging untruthful expose on Mr. Nygard's operations in The Bahamas, alleging in that broadcast that Mr. Nygard was acting unlawfully in The Bahamas therefore jeopardizing his immigration status. This is particularly significant as the former Government publically expressed its venom towards Mr. Nygard and key former Cabinet Ministers became known dinner and retreat companions with Mr. Bacon at his villa in Kamalamee Cay, Andros and at Point House, Lyford Cay.

7. Mr. Forrester and Mr. Pratt traveled to various international destinations on this mission, one such trip was to a London office of an assumed fashion competitor of Mr. Nygard where these two men, on Bacon's behalf, solicited help in destroying the Nygard brand name. Video taped evidence of these meetings may be introduced into evidence.

8. The LCPOA was complicit with Mr. Bacon in disturbing the deeded right of way or easement over the Bacon property to Nygard's in hopes that this would force Mr. Nygard into a fire sale of his property since his only access to it was being controlled by Mr. Bacon.

9. Mr. Bacon's conduct led to a series of on line, cyber attacks discrediting him and his brand name and which were injurious to his enterprise.

10. The hiring of Mr. Forrester and Mr. Pratt, who has a violent past history also, put him in fear of his life and safety, as well as that of his staff and guests.

Former Bahamas Attorney General Alfred Sears and former Crown Prosecutor and senior Barrister, Charles MacKay, have carriage of the private criminal prosecution for Mr. Nygard assisted by Barrister and former Member of Parliament, Keod Smith.

While Mr. Bacon was assumed to be in The Bahamas this week, he continued to elude Police as they staked out his properties to personally serve on him the court-issued summons. The head of Mr. Bacon's household at Point House is said to have accepted service for him, which is to be argued constitutes good service on Mr. Bacon.

Ms. Braitwaite, Mr. Pratt and Mr. Maillis have been personally served.

This is Mr. Nygard's second effort at this private criminal prosecution. The first effort launched in late April was deflected by the former Attorney General Mr. John Delaney, who used his powers to enter a *nolle prosequi* in the matter. Mr. Delaney said his rationale was that as the substantive issues were of a civil nature, he did not think that it should be pursued criminally.

Concerned legal observers and the general public quickly lit on the fact that Mr. Delaney, an appointee of the now ousted Free National Movement Government, lives in Lyford Cay, is a member of the LCPOA and, since the defeat of the FNM in the May 2012 General Elections, has opened his private law practice just a stone's throw away from Lyford Cay where he is believed to have a number of Lyford Cay Club members as his clients, who are also associates of Mr. Bacon.

Mr. Bacon, who is said to have bank-rolled the FNM's losing general election campaign to the tune of millions of dollars, made no secret about his close association with the former FNM Government and his chummy relationship with former FNM Environment Minister Earl Deveaux, who may reportedly also be could end up as a joint defendant in the private criminal prosecution.

With the FNM out of office and that part of his protective cover blown, Mr. Bacon faces an uphill battle against his known persuasion to remain reclusive.

Bacon's London-based law-firm, known for its brute force on the media, has been doubling up on its letters of threat and intimidation about the media in The Bahamas reporting on the private prosecution

Successful BTC Bahamas Junkanoo Carnival was the big success this week!
Young teen shot at police is arrested for possession of a firearm in Abaco!

POLLS

How would rate Ingraham's Administration

Very Bad (44%, 24 Votes)

Excellent (25%, 14 Votes)

Regular (9%, 5 Votes)

Bad (9%, 5 Votes)

Good (7%, 4 Votes)

Very Good (5%, 3 Votes)

Don't Know (1%, 0 Votes)

Total Voters: 55

Polls Archive

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media on Man remove prop off plane without notice to FAA and international agencies – Is Transport in the Bahamas Safe?

Octavio Conner on Embassy host Students from Takoma Education Campus

media on Man remove prop off plane without notice to FAA and international agencies – Is Transport in the Bahamas Safe?

and many believe that various arms of the international press has also been silenced.

At the Magistrates' Court level, the evidence will be put by Mr. Nygard. The defendants will then have their opportunity to present their defence. Then, after summations from both sides, the presiding Magistrate will be the sole judge as to the veracity of the evidence in relation to the accusations made.

Said a leading Bahamian criminal trial attorney, "the pursuit of private criminal cases are still a novelty in The Bahamas, but they are an ancient part of the common law and statute. Mr. Bacon will discover that The Bahamas as a Commonwealth country is not a place where you want to scoff at the rule of law and a summons of the court."

It is expected that various issues raised in the trial will be heard before the higher courts and even as far as the Privy Council before this matter is finally adjudicated at the Magistrates' Court level.

MAGISTRATE'S COURT		MAGISTRATE COURT	
JUN 17 2012 PAID NASEN, BAHAMAS			
Complainant	Defendant	Witness	NATURE OF OFFENCE
Peter Nygard	Louis Bacon	Aide Morrison	Count I
	Jerry Jonester	Peter Nygard	ATTEMPTING TO ACCUSE ANOTHER OF AN INFAMOUS OFFENCE FOR THE PURPOSE OF
	Bradley Pratt	Witness "A"	EXTORTION CONTRARY TO SECTION 83 AND SECTION 346 (2) OF THE PENAL CODE CHAPTER
	Timothy Stone	Witness "E"	84.
Case #	Morris Kirtu	Stephen Pace	Particulars are:
	John McGehee	Eric Gibson	That on Bradley Pratt between the period of 20 th December, 2012 to the 16 th March, 2014 at
	Debbie Maitly	Witness "R"	New Providence, being concerned together did attempt to accuse Peter Nygard of an infamous offence by offering
	Mary Heathway	Expert Witness from USCM	money to Witness "A" to make up stories that she or other women had been indecently assaulted by the
		Law Paul Patterson	Complainant for the purpose of the extortion of Nygard Case from Peter Nygard.
		Donald Arthur	
		Patricia Lindsay	Count II
		Witness "C"	ATTEMPTING TO THREATEN TO ACCUSE ANOTHER OF AN INFAMOUS OFFENCE FOR THE
		Michael Monte	PURPOSE OF EXTORTION, CONTRARY TO SECTION 83 AND SECTION 346 (2) OF THE PENAL
		John Pace	CODE CHAPTER 84
		Witness "D"	Particulars are:
			That on Bradley Pratt between the period of 20 th December, 2012 to the 16 th March, 2014 at
			New Providence, being concerned together did attempt to threaten to accuse Peter Nygard of an infamous offence
			by offering money to Witness "A" to make up stories that she or other women had been indecently assaulted
			by the Complainant for the purpose of the extortion of Nygard Case from Peter Nygard.
			Count III
			CONSPIRING TO ACCUSE ANOTHER OF AN INFAMOUS OFFENCE FOR THE PURPOSE OF EX-
			EXTORTION CONTRARY TO SECTION 86 AND SECTION 346 (2) OF THE PENAL CODE CHAPTER 84
			Particulars are:
			That on Louis Bacon Jerry Jonester and Bradley Pratt between the period of 20 th December, 2012 to
			the 16 th March, 2014 at New Providence, being concerned together did conspire to accuse Peter Nygard
			of an infamous offence by offering money to Witness "A" to make up stories that she or other women had
			been indecently assaulted by the Complainant for the purpose of the extortion of Nygard Case from Peter Nygard.
			Count IV
			CONSPIRING TO THREATEN TO ACCUSE ANOTHER OF AN INFAMOUS OFFENCE FOR THE
			PURPOSE OF EXTORTION, CONTRARY TO SECTION 86 AND SECTION 346 (2) OF THE PENAL

PAID
CE. B.L.
17/06/12

		<p>Particulars are:</p> <p>That you Louis Bacon Jerry Fontana and Debbie Brad between the period of 20th December 2002 to the 16th March 2011 at New Providence being concerned together did conspire to induce Peter Nygard of an infamous offence by offering money to Witness "A" to make up stories that she or other women had been indecently assaulted by the Complainant for the purpose of the extortion of Nygard Cay from Peter Nygard.</p>
		<p>Count V</p> <p>WITH INTENT TO DEFAUD BY REMOVING BOUNDARY MARKS AND A SIGN TO CHANGE CERTAIN EASEMENT RIGHTS BELONGING TO PETER NYGARD CONTRARY TO SECTION 358 (1) OF THE PENAL CODE CHAPTER 84</p>
		<p>Particulars are:</p> <p>That between the period 2004 and September 2011 Louis Bacon and another being concerned together did firstly remove certain boundary marks with respect to an easement enjoyed by the Complainant and secondly remove a sign at the entrance of the easement indicating access to Nygard Cay with intent to defraud.</p>
		<p>Count VI</p> <p>INTENTIONAL LIBEL OF ANOTHER CONTRARY TO SECTION 315 (2) OF THE PENAL CODE CHAPTER 84</p>
		<p>Particulars are:</p> <p>That you Timothy Sawa, Mervin Kemp and Josh McKenney from April of 2010 and continuing to New Providence a producer of actor in the Film Festive Programmes Co-producer and Writer host while being employed at the Canadian Broadcasting Corporation did in a programme appearing under the title "Peter Nygard: Larger Than Life" on the Canadian Broadcasting Corporation Television Network did intentionally by spoken words publish a defamatory libel concerning Peter Nygard namely that Peter Nygard was guilty of indecently assaulting a woman which would be an offence contrary to the Sexual Offences and Domestic Violence Act 1997.</p>
		<p>Count VII</p> <p>CONSPIRING TO ACCUSE ANOTHER OF AN INFAMOUS OFFENCE FOR THE PURPOSE OF EXTORTION CONTRARY TO SECTION 86 AND SECTION 346 (2) OF THE PENAL CODE CHAPTER 84</p>
		<p>Particulars are:</p> <p>That you Peter Les Mallin and Jerry Fontana between the period of June 2010 and March 2011 at New Providence being concerned together did conspire to induce Peter Nygard of an infamous offence by inducing a girl to say that she was indecently assaulted by the Complainant for the purpose of the extortion of Nygard Cay from Peter Nygard.</p>
		<p>Count VIII</p>

		<p>CONSPIRING TO ACCUSE ANOTHER OF AN INFAMOUS OFFENCE FOR THE PURPOSE OF EXTORTION CONTRARY TO SECTION 86 AND SECTION 346 (2) OF THE PENAL CODE CHAPTER 84</p>
		<p>Particulars are:</p> <p>That you Mary Branshaw and Jerry Fontana between the period of June 2010 and March 2011 at New Providence being concerned together did conspire to induce Peter Nygard of an infamous offence by inducing a girl to say that she was indecently assaulted by the Complainant for the purpose of the extortion of Nygard Cay from Peter Nygard.</p>

I A.

BAHAMAS ISLANDS
NEW PROVIDENCE

Here state
shortly the
matter of the
Information
or
Complaint.

WHEREAS complaint has this day been made before the undersigned, one of Her Majesty's Justices of the Peace in and for the said Islands, for that you LOUIS BACON

- (1) Conspired to accuse another of an infamous offence for the purpose of extortion contrary to section 86 and section 346(2) of the Penal Code chapter 84.
- (11) Conspired to threaten to accuse another for an infamous offence for the purpose of extortion, contrary to section 86 and section 346(2) of the Penal Code chapter 84.
- (111) With intent to defraud by removing boundary marks and a sign to change certain easement rights belonging to Peter Nygard contrary to section 355(1) of the Penal Code chapter 84.

THESE are therefore to command you in Her Majesty's Name to be and appear at the Magistrate's Court at Nassau, NP, on the 27th day of JUNE 2012 at 2 PM o'clock ~~in the morning~~ before such Justice of the Peace of the said Islands as may then be there to answer to the said complaint and to be further dealt with according to Law.

GIVEN under my hand and seal this 7th day of June in the year of our Lord 2012 at the aforesaid Island.

COURT NO. 1

[Signature]
Stipendiary and Circuit Magistrate
(SUMMONS TO THE DEFENDANT UPON AN INFORMATION OF COMPLAINT)

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27 O V E R T H E P O L I C E S H I E L D S

EXHIBIT O-9

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Suspected Peter Nygård Notes Point To 2010 Death As MURDER!

March 3rd, 2014



HSK Exclusive - The May 2010 death of a 54-year-old man — whose naked body was reportedly discovered inside the residence of Peter Nygård's former next door neighbor, Louis Bacon — seems to be an incident the billionaire Bahamian-resident knows all about, yet never divulged the details.

Sources have long suspected the documentation surrounding Dan Tuckfield's death to not make sense. To be sure, Tuckfield's recorded time of death — and the time noted as when his body was discovered — don't only conflict, they clash. In addition, the body is reported to have been "showing signs of decomposition"... this, supposedly on the same date of death. Add all of that to word "the body was cremated within hours of its discovery" and you have sketchy, at best.

Now... nearly three-years after the incident, notes — apparently penned by Nygård, exclusively obtained by HSK — reveal shocking statements which could lead federal investigators to reopen a case that was closed with an autopsy report listing heart disease as Tuckfield's 'official' cause of death. "We did not find that there was anything suspicious about the way the man died," stated Bahamian cops.

"Tuckfield's cause of death was listed as "coronary artery disease" and the certificate listed no antecedent causes," The Toronto Sun reports. "Police clarified that Tuckfield was actually found naked in the jacuzzi at Point House, not the pool. Bacon was reportedly not in the country at the time."



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WHO'S JACKY TALKING ABOUT?

Who's Jacky Talking About? - April 20, 2015 Today's blind item may be an NBA player but, because he's reported to be hooked on that CoCo rather than in love with her ... you'd think this 24-year-old point ...

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Who's Jacky Talking About? - March 30, 2015 It turns out ... today's blind item has a much more in common with Mrs. Carter than Jay Z after all! Sure, this female pop star may have been fathered by ...

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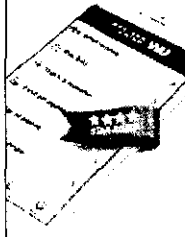
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EXHIBIT P-9

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WESTERN UNION WU

unexplained crimes that need clarification.



One that comes to mind is the unexplained death of Dan Tuckfield, Louis Bacon's property manager whose naked body, was found almost a year ago floating in the property's pool. His death went unreported by police and Tuckfield's body was quickly removed from the country and cremated before any question could be asked.

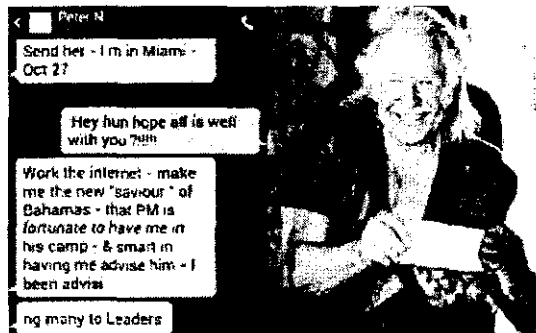
Scribble would be the best-fitted word to describe the penmanship... handwriting that seems to be a spot on match to Peter Nygård's famed signature.

The words are few, but powerful — and potentially incriminating. "Authorized Dan Death? \$ Sent?," the scribble reads. "FBI Helping Police The Murder... "Bacon is afraid of me... Tax cons... IRS problems." There's also mention of a "Power Boat..Foil Circle..Full of Cocaine," alongside a sketch of what appears to be a depiction of a power boat steering wheel. "Power boat.. Trafficking Illegal Dredger."

Could Dan Tuckfield be the "illegal dredger" referenced? According to archived reports... Tuckfield was Bacon's "house-worker." He's also said to have been an American who was illegally working in the Bahamas. But Nygård highlighting such employer status would be like the pot calling the kettle black. Just ask Alan Mayes, a US ex-employee of Nygård's, who told The Fifth Estate, "I asked about some kind of paperwork or documentation that I could carry in my pocket, and that's probably a question I shouldn't have asked because he just got red in the face and said, 'Didn't I just tell you that your work permit is being taken care of? That's all you need to know, so I suggest you get back to work.'"

Not only have a number of insiders exposed Nygård for his frequent boasting over 'having Bahamian political figures in pocket' — we've uncovered a text message proving just that!

Take a look for yourself:



Along with the 'Nygård Notes' we've landed a November 5, 2013 text message — sent from the Finn's 310.***.**** cell phone. The message (to a dotting female) is clear, "that PM is fortunate to have me in his camp." Crooked Caribbean politicians could be the missing piece to the puzzle. To be sure, there's wide speculation of Bahamian authorities swiftly sweeping Dan Tuckfield's possible murder under the rug. If so... The question to ask would be: WHY?

"Tuckfield's body was found around 10 a.m. on Sunday, May 2. Tuckfield's death certificate listed his time of death as 9:30 a.m. on May 2."

Our insiders are sticking to their shared belief, "If it were up to Peter Nygård, Louis Bacon would go down for murder. He hates him that much." Part of what we could make out from the scribbled bullet point notes seems to paint that very picture. Know why? This would be the second 'mysterious' death on the island, with ties to Nygård, since he set up shop about 25-years ago. That would be an average of one dead body in Nygård's

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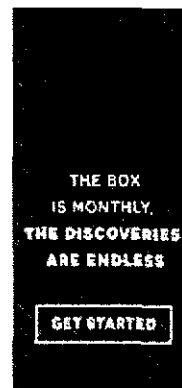
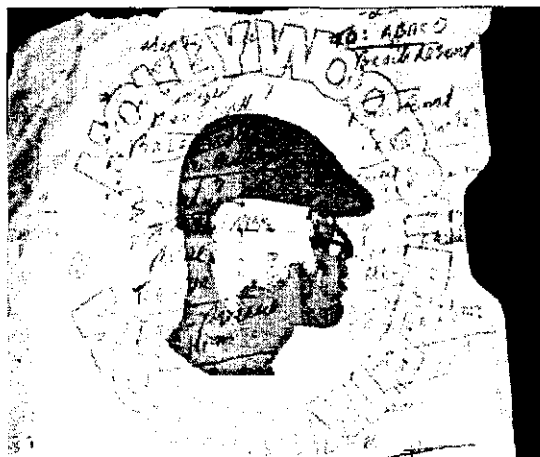
radius per decade. Don't believe me... Just ask former FBI agent Gerard Forrester. Another notation made eluded to Louis Bacon as possibly "authorizing" a murder for hire. But when considering Bacon, a killer — a giant red flag comes to mind. Unlike Nygård, Bacon has proven to be far from similarly connected to Bahamian leaders. In fact, he's fallen at the center of sharp controversy over previous efforts to preserve the Caribbean nation's Clifton Point. Know why? We're told Nygård wants "all that land." Sources say that's exactly why "a coup was formed.. and Bacon was bullied" off of his former next-to-Nygård property.



Here's the key points we could make out of the scribble, written on a torn-open Wells Fargo standard bank envelope, marked "\$5,000" with a black felt tip marker:

- "Meeting somewhere else"
- "Authorized Dan Death?"
- "Bacon could have authorized"
- "\$ Sent?"
- "FBI Helping Police"
- "The Murder?"
- "Ian... Presence on Him"
- "TO: ABACO Beach Resort"
- "Power Boat", "Foil Circle"
- "Friend with 4 Marry"
- "Big is..."
- "Bacon is Afraid of me"
- "Tax Cons, IRS Problems"
- "Charlie", "Cummings", "David Pier"
- "Gave Envelope"
- "Power Boat @ Abico"
- "Trafficking Illegal Dredger"
- "Full of Cocaine"
- "was seen Turq & Caicos"
- "commute with Malice ..."
- "saying my driver got everything"
- "USA Embassy Lady", "Officer"
- "Bahamian or... Cooley"

Take a look at the notes for yourself... Which don't only appear to be an exact match to Peter Nygård's penmanship — the written statement, "Bacon is afraid of me" could also be considered as Nygård's self-admission that he personally drafted the writings)...





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Ex-FBI Agent Recorded Saying He "Kidnapped" Fugitives Back to Their Homeland in 1990s; Now Denies He Meant It

By Allan Lengel ticklethewire.com

WASHINGTON - A former FBI agent bragged that while working for the agency in the 1990s "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 Miami Herald reported.

The Herald reported that retired FBI Agent Gerard "Jerry" Forrester, the FBI's Miami liaison officer in the Caribbean in the 1990s, made the statements in secretly recorded conversations, which were part of a defamation lawsuit.

The conversations appeared in an affidavit that has surfaced in a defamation lawsuit in the Bahamas filed by Canadian fashion mogul Peter Nygard against New York hedge fund billionaire Louis Bacon and others, the paper reported. Bacon and Nygard both own property in the Bahamas.

The paper reported that Forrester, now a private investigator, worked for Bacon and was a consultant for an unflattering profile on Nygard that aired on the Canadian Broadcast Company.

The paper reported that the affidavit in the defamation lawsuit said Forrester told of a suspect, who was initially arrested in Miami for a Bahama murder in the 1990s. A short time later, without due process, the suspect was shipped out on a plane to Bahamas where he was killed in custody. Under U.S. law, the suspect would have had the right to fight extradition.

"I kidnapped him back to Nassau," Forrester, owner of JF-Investigations in the Bahamas, said in the recorded conversations. "They had him for about 10 hours and the guy wound up dead." He later added about deporting others: "I did it all the time. ... All the time for 20 or 30 years."

The recordings were made by former Scotland Yard detective Alick Morrison, who had been hired by fashion mogul Nygard to find out if Forrester and others were behind the negative profile on him on the CBC, the paper reported.

Forrester chuckled when asked about the recordings, according to the Herald.

"Yes, I did say it. Was it true? No. Why did I embellish? Because I brag."

The FBI in Miami declined comment, the Herald reported.

Posted: March 31st, 2011 under FBI, News Story.

Tags: bahamas, FBI, jerry forrester, peter nygard louis bacon, Scotland Yard

Comments: none



Jerry Forrester/company website



Allan Lengel My Adventures Tracking Marion Barry



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EXHIBIT Q-9



The CBC's hired liar

Investigator recruited to dig dirt on Nygard loved to brag about his dubious exploits

KEVIN ENGSTROM, WINNIPEG SUN

FIRST POSTED: MONDAY, APRIL 04, 2011 12:16 AM EDT | UPDATED: MONDAY, APRIL 04, 2011 12:35 AM EDT

A man illegally smuggled out of the United States turns up dead, sparking an investigation from the White House.

It sounds like the plot of a bad B-movie, but Jerry Forrester insisted he lived the story.

The ex-FBI agent, who says he was paid \$1,500 per day, plus expenses, by the CBC to find people in the Bahamas willing to trash Peter Nygard, regularly ran off at the mouth while talking to private investigator Alick Morrison.

During the course of Morrison's three-month undercover operation, Forrester regularly regaled Morrison with a series of stories, ranging from his personal dislike of Nygard to his friendship with actor Sean Connery.

But nothing matched the tale Forrester told about how he regularly "kidnapped" fugitives from the United States and illegally transported them back to the Bahamas.

"Pick 'em up, put 'em on a plane and send him back," Forrester told Morrison, unaware the conversation was being recorded.

He claimed he had done such things for "20 or 30 years."

In one case, he told Morrison of Rodney Taylor, described as a "bad guy" who killed an armoured car guard. Ten hours after Forrester and his partner Bradley Pratt returned him to Nassau, Taylor mysteriously died.

Everyone was cleared of wrongdoing in the 1998 death, but Forrester said it did result in explaining to then-attorney general Janet Reno about how it came to be the suspect ever made it to Nassau in the first place.

"Janet Reno never answered back (following his explanation), so I guess what we do, kidnapping ... must have been legal," Forrester told Morrison.

Last week, Forrester confirmed telling the tale to Morrison, then said he made the whole thing up.

"Yes, I did say it. Was it true? No. Why did I embellish? Because I brag," he reportedly told a Nassau court.

Forrester, who lists himself as a "consultant" for the CBC on a resume obtained by the Winnipeg Sun, declined an interview request on the advice of his lawyer, then provided a series of supportive emails from friends.

"You guys know what (Nygard) is like," Forrester told the Sun.

A TANGLED WEB OF DECEIT

The wild world of Jerry Forrester, the former FBI agent hired by the CBC

to investigate Peter Nygard, according to Alick Morrison's affidavit:

1. Forrester insisted he was a close friend of actor Sean Connery, showing Alick Morrison the James Bond star's number on his phone.
2. The Fifth Estate paid Forrester \$9,000 to find Maribel Rodriguez, only to call him off at the last minute.
3. Bob McKeown hosted the Fifth Estate report on Peter Nygard. For a fee of \$1,500 a day, Forrester procured all of the guests for the show. He even offered to pay women to tell stories about Nygard.
4. Bradley Pratt was an associate of Forrester's who allegedly helped him kidnap a man from the U.S. to the Bahamas, where he later died.

EXHIBIT R-9



case came to the attention of U.S. Attorney General Janet Reno.

- 6. Forrester works as a security consultant, investigating Nygard, for the Lyford Cay Property Owners Association, a group named in Nygard's lawsuit as part of a conspiracy to evict him from the Bahamas.
- 7. Billionaire Louis Bacon frequently butted heads with Nygard, his Lyford Cay neighbour. He is also named in the lawsuit.

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Man hired to dig dirt on Nygard had dubious past

KEVIN ENGSTROM, QMI AGENCY

FIRST POSTED: SUNDAY, APRIL 03, 2011 01:43 PM MDT | UPDATED: SUNDAY, APRIL 03, 2011 02:08 PM MDT



Undated photo of former FBI agent Gerard (Jerry) Forrester, the owner of JF Investigations in the Bahamas. Forrester is one of four parties, along with the CBC, named in a lawsuit filed by Winnipeg fashion mogul Peter Nygard on March 24, 2011. (jf-investigations.com)

WINNIPEG - A man illegally smuggled out of the United States turns up dead, sparking an investigation from the White House. It sounds like the plot of a bad B-movie, but Jerry Forrester insisted he lived the story.

The ex-FBI agent, who says he was paid \$1,500 per day, plus expenses, by the CBC to find people in the Bahamas willing to trash fashion tycoon Peter Nygard, allegedly ran off at the mouth regularly while talking to Alick Morrison, a private investigator hired by Nygard.

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"You guys know what (Nygard) is like," Forrester said.

kevin.engstrom@sunmedia.ca

Twitter: @kevin_engstrom

EXHIBIT S-9

News Winnipeg

Nygaard wins round 1 against CBC in court

Fashion mogul alleges CBC conspired with enemies against him

First posted: Friday, June 03, 2011 11:39 PM CDT

Peter Nygaard has won the latest skirmish in his ongoing legal battle with the Canadian Broadcasting Corporation.

On Friday, the Manitoba Court of Queen's Bench upheld a lower court's decision, rejecting an attempt by the CBC to have Nygaard International's civil suit quashed on the grounds it was frivolous and constituted an abuse of process.

The case is one of many launched by the fashion mogul relating to the state broadcaster's April 2010 airing of *Larger Than Life*, a *Fifth Estate* documentary that featured former employees speaking critically of Nygaard.

Launched a year before the documentary aired, the company claims the CBC induced and conspired with Nygaard employees to breach confidentiality agreements they had signed with the fashion company in the making of the documentary. Others named in the suit are CBC employees Tim Sawa, David Studer, Patrick Prowse, and Dana Neal.

In upholding the Oct. 22 decision, Judge Diana Cameron said the CBC was essentially arguing "for constitutional immunity from any litigation that might implicate their manner of gathering and disseminating information."

"Such a claim cannot be sustained under a blanket assertion of freedom of expression," Cameron wrote.

Nygaard officials were pleased with the court's decision.

"Justice Cameron has agreed with the decision of Master Lee that freedom of expression exercised by the media is not without restrictions or limitation," said Nygaard spokeswoman Sharon Clarke.

"Nygaard International will continue to pursue its lawsuit against CBC for the recovery of substantial damages resulting from the illegal conduct of CBC employees."

A CBC spokesman declined comment. But the broadcaster's lawyer, Robert Tapper, played down the decision.

"This is Round 1 of a 12-round battle. In fact, it's not even Round 1 yet," said Tapper.

Tapper believes the suit was launched by Nygaard to dissuade the public broadcaster from ever airing the documentary, referring to the tactic as "libel chill."

Defamatory libel

EXHIBIT T-9

In April, a private criminal prosecution for defamatory libel was launched by Nygard officials against CBC and three of its employees — Sawa, Morris Karp, and Fifth Estate host Bob McKeown — relating to the documentary.

A civil suit was hatched around the same time in the Bahamas, where Nygard lives at his posh resort for much of the year. Lawyers for Nygard allege the CBC and others — including Nygard's former neighbour, billionaire Louis Bacon — conspired to tarnish his name in an effort to have his permanent resident status in that country revoked.

A PUZZLING CASE

The ongoing saga of Peter Nygard's dispute with the CBC is part soap opera, part spy thriller. We piece it together:

WHAT THEY'RE ARGUING OVER

CBC aired a Fifth Estate documentary critical of Nygard on April 9, 2010, based on interviews with ex-employees. The program remains available for viewing on CBC's website.

WHAT'S THE PROBLEM?

Nygard officials have many beefs, but here are the big two:

1. Nygard says employees signed confidentiality agreements upon being hired, which the company says means they shouldn't have talked to the CBC. The company also contends the CBC induced these employees to break their legal agreements. This is the basis of the Winnipeg-based civil suit.
2. Nygard officials allege the CBC conspired with enemies of Nygard to discredit him. Those people include billionaire Louis Bacon, Nygard's former neighbour in Lyford Cay.

THE CON ARTISTS

Allan and Michelle May, who were featured prominently in the documentary, have been convicted of fraud multiple times — including less than a year before the program went to air. Allan was recently thrown in jail after failing to pay back US\$189,000 they had defrauded. An arrest warrant remains outstanding for his wife Michelle.

THE MOLE

Nygard hired former Scotland Yard detective Alick Morrison last summer to pose as a hired hand of one of Nygard's competitors in an effort to infiltrate the alleged group of conspirators in the Bahamas, where the fashion mogul holds permanent residency.

THE DUPE

Morrison hired and befriended ex-FBI agent Jerry Forrester, who worked with the CBC on the documentary. Forrester freely discussed how he and others collaborated with the CBC, hopeful Nygard's permanent residency would eventually be revoked and he'd be forced to leave the country.

OTHER CASES

In addition to the Winnipeg-based civil suit, suits have been filed by Nygard against the CBC and others in New York, Los Angeles, and the Bahamas relating to the documentary. A direct criminal prosecution for defamatory libel was also launched in Winnipeg in April against the broadcaster and three of its employees — including Fifth Estate host Bob McKeown.

[Read full story](#)

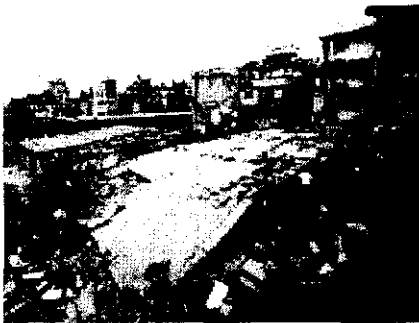
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Did Ex-FBI Agent Kidnap Bahamians?

Posted By [Stephanie Woodrow](#) On March 31, 2011 @ 11:16 am In [News](#) | [Comments Disabled](#)

While working as an FBI agent in the 1990s, **Gerard "Jerry" Forrester** claims he routinely arrested Bahamian criminal defendants in South Florida and illegally returned them to the Bahamas on commercial flights without any formal review of their cases in U.S. courts, the Miami Herald reported [1].



Forrester later said he was simply bragging and that the claims were not true.

The revelation came in the form of secretly recorded conversations that were released this week as part of an unrelated civil court case in the Bahamas, the newspaper reported. The recordings were done by former Scotland Yard detective **Alick Morrison**, who was working as a private investigator for one of the parties in the civil case.

[2]

Jerry Forrester

(jf-investigations.com) recordings, he detailed the kidnappings. "I did it all the time. ...

All the time for 20 or 30 years." Morrison replied, "Well, you can't just pack somebody up and put them on a plane."

Forrester retorted: "We did it all the time."

In the recordings he detailed several instances of when and how this occurred.

The Herald reported that Forrester downplayed his statements on the tapes: "Yes, I did say it. Was it true? No. Why did I embellish? Because I brag," he laughed.

According to the newspaper, it is unclear how many times Forrester may have forcibly removed Bahamian fugitives from South Florida.

However a former Bahamian police officer, **Bradley Pratt**, who worked with Forrester denies the former agent's claims. Of one specific case, Pratt said, "I can categorically tell you that's a lie. The Bahamian government would not engage in such activity, nor tolerate such activity." The newspaper added that Pratt said Forrester has a tendency to "run off at the mouth."

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EXHIBIT U-9

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Jerry Forrester

President at Caribbean Investigations
Miami/Fort Lauderdale Area Gambling & Casinos

Previous Bahamar Development co., Cable Beach Resorts, Crystal Palace Casino
Education East Stroudsburg University of Pennsylvania



Connect Send Jerry InMail

500+ connections

https://www.linkedin.com/pub/jerry-forrester/5/627/5b0

Background

Experience

President
Caribbean Investigations
May 2011 – Present (4 years) | Caribbean Nations

VP of Security
Bahamar Development co.
2005 – March 2011 (6 years)

VP of Security
Cable Beach Resorts
2001 – 2011 (10 years)

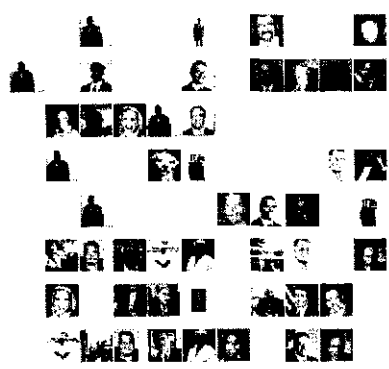
Vice President
Crystal Palace Casino
2001 – 2011 (10 years)

Supervisory Special Agent
FBI
1971 – 2001 (30 years)

Skills

Top Skills

- 98+ Surveillance
- 89+ Internal Investigations
- 89+ Private Investigations
- 97 Executive Protection
- 76 Physical Security
- 73 Casino
- 69 Criminal Investigations
- 80 Enforcement



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Rodney Morgan
Intelligence Community Enterprise Consultant - HP

Mark Hofmann
President at Beep Group Lauderdale 1, Inc.

susan bowman
secretary at FBI

How You're Connected

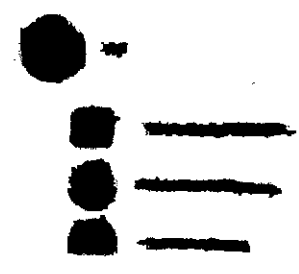


EXHIBIT V-9

38 Hotels

Jerry also knows about...

35 Customer Service 27 Inventory Management

Education

East Stroudsburg University of Pennsylvania
BS, Education
1960 - 1964



Additional Info

Interests

Golf

Personal Details

Birthday January 4

Advice for Contacting Jerry

305-803-4861
jlf1021@aol.com

Projects

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Bahamar will become the most important destination in the Caribbean. With an all new and outstanding composition of Caribbean and Contemporary architecture as well as the best assembly of sophisticated and fun attractions, it will surely become the destination for modern travelers.

6 team members, including:

Jerry Forrester
President at Caribbean Investigations
Patrick Greives

John Kristich
Hospitality Design and Construction Con...
Trip McCoy

Recommendations

Given (4)

Douglas S. Shipley, MSED
Acting Assistant Special Agent in Charge/Supervisory Special Agent (Retired)



While in the Bahamas I had the opportunity to observe the professionalism in which Doug approached his assignment. He is intelligent and well organized. He is a credit to the United States Government

October 27, 2011, Jerry worked with Douglas S. at Federal Bureau of Investigation



Advanced



“ Ron and I met 35 years ago when he was with Scotland Yard and I was with the FBI. We have remained friends since we met and have been doing private investigations together since we both retired. He is a true professional and excellent investigator.

February 4, 2010. Jerry was with another company when working with Ronald at Surelock International Limited



Anthony Velazquez
Assistant Legal Attache - Capetown, R.S.A.

“ Tony Velazquez is one of the most outstanding young men I have met. He is intelligent, quick witted, socialable and never stops thinking.

Jerry Forrester

January 28, 2010. Jerry managed Anthony indirectly at FBI

Harvey Perkins
EVP

“ Harvey is one of the most knowledgeable casino men I have worked with since my retirement from the FBI. His integrity is beyond reproach. It would be an honor to work with him again.

January 25, 2009. Jerry worked directly with Harvey at Spectrum Gaming Group

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108th Congress (2003-2004)

House Report 108-414 - Part 1

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Committee Report 1 of 50 - House Report 108-414 - Part 1 - EVERYTHING SECRET DEGENERATES: THE FBI'S USE OF MURDERERS AS INFORMANTS

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1981

1981: Supervisory Special Agent John Morris tells superiors that Stephen Flemmi's information has been used in six successful applications for electronic surveillance, including the two highest priority organized crime investigations in Boston, one being 98 Prince Street. (*U.S. v. Salemme*, 91 F.Supp. 2d 141, 152 (D. Mass. 1999)). 706

Early 1981: Assistant Special Agent in Charge Robert Fitzpatrick meets with James 'Whitey' Bulger. Fitzpatrick later testifies that he had misgivings about continuing to use Bulger and Stephen Flemmi as informants because they were not sufficiently productive, and they engaged in serious criminal activity. *U.S. v. Salemme*, 91 F.Supp. 2d 141, 207 (D. Mass. 1983). 707

January 1981: According to Brian Halloran, he is summoned to a meeting with James 'Whitey' Bulger, Stephen 'The Rifleman' Flemmi, and John B. Callahan, former head of World Jai Alai and Winter Hill Gang associate and financial adviser. (DICK LEHR & GERARD O'NEIL, BLACK MASS 146 (2000)). 708

Assistant Special Agent in Charge Robert Fitzpatrick is assigned to the Boston FBI Office. (DICK LEHR & GERARD O'NEIL, BLACK MASS 53 (2000)). 709

1-6-81: The San Francisco SAC sends an airtel to the FBI Director regarding a telephone call to Special Agent John Connolly on January 5, 1981. [This document is heavily redacted, apparently including all parts relating to Connolly.] 710

1-9-81: With the help of James 'Whitey' Bulger and Stephen 'The Rifleman' Flemmi, the FBI wiretaps Jerry Angiulo's headquarters at 98 Prince Street in Boston. (*U.S. v.*

EXHIBIT W-9

5-11-81: A World Jai Alai expense report indicates that Paul Rico and World Jai Alai entertained FBI Special Agents Tom Dowd and Jerry Forrester in the Bahamas. [Note: Rico testified at the Alcee Hasting Impeachment trial before the Senate that Tom Dowd's wife was an employee of Miami Jai Alai.] 719

5-15-81: According to a memorandum from Special Agent Shaun T. Rafferty to the Boston SAC: 'On 5/15/81, Joseph Williams advised that on 5/9/81, Henry Tameleo was visited in prison by the following individuals: Donald Fraser and Ronald Shurtleff. Both have robbery arrests and Fraser is on parole.' 720

5-26-81: The Massachusetts Parole Board unanimously denies Peter Limone a commutation hearing. 721

5-27-81: Roger Wheeler, Sr., owner of World Jai Alai, is shot dead at Southern Hills Country Club in Tulsa, Oklahoma. John Martorano shoots Wheeler, and Joe MacDonald is the getaway driver. Others implicated are James 'Whitey' Bulger, Stephen 'The Rifleman' Flemmi and H. Paul Rico. Edmund H. Mahony, *Former FBI Agent Arrested*, HARTFORD COURANT, Oct. 10, 2003; see also *U.S. v. Salemme*, 91 F.Supp. 2d 141, 208-9 (D. Mass. 1999). 722

July 1981: Tulsa and Connecticut investigators get a tip from Boston that the Winter Hill Gang is involved in the Wheeler murder. 723

7-7-81: A memorandum from Special Agent John J. Cloherty, Jr., to the Boston SAC regarding Henry Tameleo and others states, 'As Boston investigation entitled (REDACTED) has determined Salvati aware (REDACTED) subpoenaed and there is no indication at this time that Con-Puter, Inc. in violation of any statute within Bureau jurisdiction, it is recommended that captioned matter be placed in a closed status.' 724

Late July 1981: H. Paul Rico is brought out of retirement to investigate allegations of corruption by then-U.S. District Judge Alcee Hastings of Florida. He poses as a Mafioso in an FBI 'sting' of Hastings. (See Marjorie Williams, *The Perplexing Case of Judge Alcee Hastings; Is He a Victim of His Own Greed? A House Panel Must Decide*, WASHINGTON POST, July 7, 1988; Ralph Ranalli, *Ex-FBI Man to Testify at Mob Trial*, BOSTON HERALD, Aug. 4, 1997). 725

7-29-81: Kenneth Conrad's daughter, Elizabeth Conrad Parent, learns from Special Agent John Connolly about her father's death. 'When [Parent] expressed her desire to retrieve her father's body, she said Connolly told her not to pursue it and to keep quiet about the murder. 'This is an ongoing investigation and I'd appreciate it if you didn't do anything about it for a while,' Parent recalled Connolly saying. 'We've got informants. You could jeopardize them.' Connolly did not identify the informants, Parent said. In a telephone conversation two years later, Parent said she thanked Connolly for helping her collect on her father's life insurance policy[.]' (Jonathan Wells, Jack Meyers, & Maggie Mulvihill, *Whitey Gang Victims May Be Buried in Canada, Woman Says Agent Knew About Dad's Murder*, BOSTON HERALD, Dec. 11, 2000). 726

October 1981: Edward 'Ted' Harrington leaves his position as U.S. Attorney for the District of Massachusetts, according to an affidavit he executed on December 31, 1981. 727

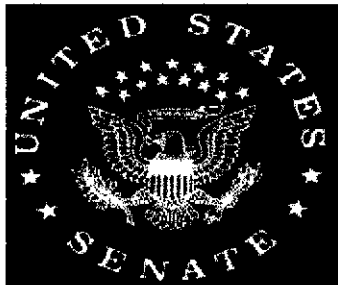
9-11-81: H. Paul Rico signs an indemnification agreement with the FBI to assist the FBI in furtherance of its investigation of alleged misconduct by then-U.S. District Court Judge

**MINORITY STAFF OF THE
U.S. SENATE PERMANENT SUBCOMMITTEE
ON INVESTIGATIONS**

REPORT ON

**CORRESPONDENT BANKING:
A GATEWAY TO MONEY LAUNDERING**

February 5, 2001.



Prepared By:

Linda J. Gustitus, Chief Counsel and Staff Director

Elise J. Bean, Deputy Chief Counsel

Robert L. Roach, Counsel and Chief Investigator

**MINORITY STAFF OF THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
REPORT ON
CORRESPONDENT BANKING:
A GATEWAY FOR MONEY LAUNDERING**

February 5, 2001

U.S. banks, through the correspondent accounts they provide to foreign banks, have become conduits for dirty money flowing into the American financial system and have, as a result, facilitated illicit enterprises, including drug trafficking and financial frauds. Correspondent banking occurs when one bank provides services to another bank to move funds, exchange currencies, or carry out other financial transactions. Correspondent accounts in U.S. banks give the owners and clients of poorly regulated, poorly managed, sometimes corrupt, foreign banks with weak or no anti-money laundering controls direct access to the U.S. financial system and the freedom to move money within the United States and around the world.

This report summarizes a year-long investigation by the Minority Staff of the U.S. Senate Permanent Subcommittee on Investigations, under the leadership of Ranking Democrat Senator Carl Levin, into correspondent banking and its use as a tool for laundering money. It is the second of two reports compiled by the Minority Staff at Senator Levin's direction on the U.S. banking system's vulnerabilities to money laundering. The first report, released in November 1999, resulted in Subcommittee hearings on the money laundering vulnerabilities in the private banking activities of U.S. banks.¹

I. Executive Summary

Many banks in the United States have established correspondent relationships with high risk foreign banks. These foreign banks are: (a) shell banks with no physical presence in any country for conducting business with their clients; (b) offshore banks with licenses limited to transacting business with persons outside the licensing jurisdiction; or (c) banks licensed and regulated by jurisdictions with weak anti-money laundering controls that invite banking abuses and criminal misconduct. Some of these foreign banks are engaged in criminal behavior, some have clients who are engaged in criminal behavior, and some have such poor anti-money laundering controls that they do not know whether or not their clients are engaged in criminal behavior.

These high risk foreign banks typically have limited resources and staff and use their correspondent bank accounts to conduct operations, provide client services, and move funds. Many deposit all of their funds in, and complete virtually all transactions through, their correspondent accounts, making correspondent banking integral to their operations. Once a correspondent account

¹ See "Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities," S.Hrg. 106-428 (November 9 and 10, 1999), Minority Staff report at 872.

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already advanced \$240,000 to Zhemakov on his signature alone. BTCB has admitted that releasing the \$240,000 violated the account instructions. Whether this violation was deliberate or inadvertent, it demonstrates a lack of proper account controls. And it raises, again, the spectre of BTCB misconduct -- paying funds upon request to Zhemakov, while refusing to pay funds to the plaintiffs with the excuse that the entire \$3 million is "locked" into a year-long investment.

BTCB later posted with the Ontario court a \$3 million letter of credit with a maturity date of December 15, 2000. However, when that date arrived, BTCB failed to pay the required amount to the court. Gold Chance is still seeking recovery of its funds.

The Gold Chance fraud provides a third illustration of a financial fraud carried out in part through an offshore bank with a U.S. account. While the major impact in this instance is in Canada, where the defrauded investors reside and the key civil suit has been filed, there is also a collateral impact on the United States in which BTCB's U.S. correspondent bank is being asked to produce documents and explain what happened to the \$3 million sent to BTCB's U.S. account.

(5) \$10 Million CD Interpleader

In August 1999, PaineWebber's clearing firm, Correspondent Services Corporation (CSC), filed an interpleader complaint in federal court in New York to resolve a dispute over the ownership of a \$10 million certificate of deposit ("CD") issued by BTCB.³⁵⁵ The parties asserting conflicting claims to it included J. Virgil Waggoner, a wealthy U.S. citizen from Texas; Donal Kelleher, an Irish citizen living in England who served, for a time, as an investment advisor to Waggoner; J.V.W. Investment Ltd., a Dominican corporation established by BTCB for Waggoner and administered for a time by Kelleher; and First Equity Corporation of Florida, the securities firm that, in 1998, was owned by BTCB. In August 2000, the U.S. district court issued a decision³⁵⁶ which resolved the CD ownership issue in favor of Waggoner, but also identifies troubling information about BTCB's investment activities and operations.

BTCB's Issuance of the \$10 Million Bearer CD. The August 2000 court decision, documents associated with the interpleader action, discussions with bank officials, and other information produced the following facts. Waggoner is a retired chief executive officer of a large chemical company in Texas, and the current chief executive and owner of a U.S. company called J.V.W. Investments, Ltd.³⁵⁷ In November 1997, Waggoner entered into an arrangement with Kelleher under which Kelleher agreed to locate a high-yield investment program for a \$10 million investment by Waggoner, in exchange for receiving a percentage of any profits on such investment.³⁵⁸ In mid-1998, Kelleher told Waggoner about the BTCB high

³⁵⁵Correspondent Services Corp. v. J.V.W. Investment Ltd. (U.S. District Court for the Southern District of New York Civil Case No. 99-CIV-8934 (RWS)), complaint (8/16/99).

³⁵⁶Correspondent Services Corp. v. J.V.W. Investment Ltd., 2000 U.S. Dist. LEXIS 11881 (U.S. District Court for the Southern District of New York 2000)(hereinafter "CSC v. JWV").

³⁵⁷See SEC filing by Sterling Chemicals Holdings, Inc., Schedule 14A (12/27/97), proxy statement at 5.

³⁵⁸CSC v. JWV at 4.

yield program, and Waggoner agreed to invest in it.

On June 12, 1998, BTCB requested their completion of various forms to establish an international business corporation and open an account.³⁵⁹ On June 19th, BTCB incorporated J.V.W. Investment Ltd. as a bearer share Dominican corporation.³⁶⁰ The name of this company mirrored the name of Waggoner's existing U.S. corporation, J.V.W. Investments Ltd., but omitted the letter "s" from "Investments." BTCB has advocated taking this approach to naming a new Dominican corporation to "allow an orderly and mostly invisible transition" from an existing corporation somewhere else.

On June 25, 1998, JVW Investment Ltd. ("JVW") entered into a cooperative venture agreement with BTCB to place an investment in BTCB's high yield program. As explained in the court's decision, this agreement provided:

(a) JVW would deposit \$10 million into a 'Custody/Transaction Account at BTCB'; (b) BTCB would issue a certificate of deposit ('CD') in JVW's name; (c) the CD would have a term of one year and bear interest at 6% per annum; and (d) BTCB would place the \$10 million into investments to provide a 'significant yield' on a best efforts basis over the course of a year.³⁶¹

On 6/28/98, \$10 million belonging to Waggoner was transferred into a Citibank correspondent account in New York. This correspondent account belonged to Suisse Security Bank and Trust ("SSBT"), a small offshore bank licensed in the Bahamas. Although Citibank was unaware of it, beginning in 1997 or 1998, SSBT had begun providing correspondent services to BTCB and allowing BTCB to use the SSBT account at Citibank.

The court notes a factual dispute over whether the \$10 million paid into the correspondent account was supposed to be deposited into the BTCB account at SSBT, or into a freestanding account at SSBT. The court decision states:

According to Waggoner's pleadings, BTCB instructed Kelleher to place the \$10 million into a BTCB sub-account in the name of JVW at SSBT BTCB would then place the \$10 million into the Investment Program and issue the CD to JVW. Kelleher, however, transferred Waggoner's \$10 million into a freestanding account at SSBT, not the designated BTCB sub-account SSBT [then] refused to transfer the \$10 million from the freestanding account to the BTCB sub-account. As a result, Waggoner did not gain entry into the Investment Program. SSBT, when asked why it refused to effect the transfer, first stated that it was concerned that the \$10 million might have an illegal origin. When a formal inquiry showed that to be wholly without basis, SSBT stated that it had placed the \$10 million into ACM mutual funds ... at Kelleher's direction. ... Kelleher claims, by contrast, that he

³⁵⁹Id. at 11.

³⁶⁰Id. at 14.

³⁶¹Id. at 19.

instructed SSBT to place the \$10 million in the BTCB sub-account.³⁶²

³⁶² Id. at 22-24.

The court notes that Kelleher claimed the \$10 million CD issued in JWV's name was replaced by BTCB with another \$10 million CD "with the identical certificate number, but issued in bearer form."³⁶³ This bearer CD, dated 6/28/98, is the CD that was placed into Correspondent Services Corporation custody, to be held until the CD's one-year maturity date.

After vigorous complaints about the bank to Bahamian bank regulators, SSBT agreed to release the funds deposited by Waggoner. SSBT chose to do so by transferring the ACM mutual funds it had purchased with the \$10 million. SSBT transferred the mutual funds to CSC, for further credit to BTCB, to benefit JWV.³⁶⁴ When liquidated, the mutual funds produced about \$7.7 million.³⁶⁵ The court found that, by investing the \$10 million in ACM mutual funds, SSBT was responsible for a shortfall of about \$2.2 million from the \$10 million originally deposited.³⁶⁶ The court noted that Waggoner considered taking legal action against SSBT to recover the \$2.2 million, but did not do so.³⁶⁷ When a Minority Staff investigator asked why no legal action had been taken against SSBT, Waggoner and JWV's legal counsel, Kenneth Caruso, declined to discuss his clients' legal strategy. Bahamian bank regulators provided a September 15, 2000 letter stating that an external audit of SSBT had "ruled out any possibility of irregularity on the part of [SSBT]." However, neither the government nor SSBT would produce a copy of the audit report.

In any event, once his funds were lodged with BTCB, Waggoner took action to eliminate Kelleher's role in overseeing the BTCB investment. On November 10, 1998, Waggoner sent a letter to Kelleher terminating his services for allegedly breaching their agreement to locate a high yield investment program.³⁶⁸ On the same date, Waggoner transferred all JWV shares to Wagonwheel Trust, a new Dominican trust formed for him by BTCB and controlled by BTCB as the appointed trustee. The next day, November 11th, Wagonwheel Trust removed Kelleher from his position as sole director of JWV, and replaced him with a BTCB subsidiary, International Corporate Services, Ltd. After that date, BTCB refused to provide Kelleher with any information about JWV's investments in the BTCB high yield program or to pay him any portion of alleged profits.³⁶⁹

In June 1999, the \$10 million CD matured, and Kelleher claimed a portion of the funds, leading to the interpleader action. On August 16, 2000, the U.S. district court held that Kelleher had no ownership interest in the CD, but refused to dismiss, on summary judgement, his claim for damages against Waggoner for failing

³⁶³ Id. at 24.

³⁶⁴ See 9/21/98 letter from Betts to Tucker Anthony; and undated letter from Kelleher to Tucker Anthony. Tucker Anthony held the ACM mutual funds for SSBT.

³⁶⁵ Id.

³⁶⁶ Id.

³⁶⁷ Id. at 24, 27.

³⁶⁸ Id. at 26.

³⁶⁹ Id. at 27.

to act in good faith in their joint business dealings.³⁷⁰ The civil proceedings are ongoing.

JVW and BTCB. The interpleader action over the \$10 million CD opens a window on BTCB's dealings with one of its clients and, in so doing, raises three sets of concerns about the bank's internal controls and investment activities. First, the proceedings expose operational deficiencies and aggressive tactics at BTCB. Second, they disclose troubling information about BTCB's dealings with SSBT, a small Bahamian bank with a poor reputation and limited assets. Third, they illustrate problems with BTCB's high yield investment program, including possibly fraudulent promises to pay extravagant returns and possibly fraudulent misuse of investor funds.

³⁷⁰ Id. at 64.

The civil litigation discloses, first, operational and internal control deficiencies at BTCB. The court found a number of inconsistencies and ambiguities in the documentation used to establish the beneficial owner of the \$10 million CD and JVW, requiring pages of legal analysis to recite and resolve. The CD, for example, was issued by BTCB in bearer form, despite a provision in the cooperative venture agreement calling for the CD to name JVW so that its ownership would be clear. With respect to JVW, the court noted that the “IBC order form” containing instructions for forming JVW, including naming the company’s beneficial owner, was signed on June 22, 1998 – three days after the company had been incorporated on June 19th.³⁷¹ JVW’s incorporation documents were signed by BTCB’s subsidiary, ICS, again without indicating the corporation’s beneficial owner.³⁷² A letter sending “account opening forms” for a JVW bank account at BTCB is dated June 23, 1998 – five days after the \$10 million had been sent to SSBT and an account opened.

The civil litigation also exposes BTCB’s willingness to engage in aggressive tactics when intervening in a dispute over client funds, even when the dispute is due, at least in part, to BTCB’s own missteps. To resolve the dispute between Waggoner and Kelleher over the \$10 million CD, BTCB established and became the trustee of a new Dominican trust, Wagonwheel Trust, in November 1999, set up to benefit Waggoner. BTCB caused the trust to take possession of JVW’s bearer shares, and remove Kelleher as JVW’s sole director. In taking these actions, BTCB did not act as a neutral or passive financial institution. To the contrary, it took an active stance in favor of Waggoner and used the bank’s fiduciary powers and subsidiary to help Waggoner wrest control of JVW away from Kelleher. BTCB also took possession of Waggoner’s funds for placement in its high yield program, and refused Kelleher’s requests for information about the investment or its alleged returns.

Second, the civil litigation exposes troubling information about BTCB’s dealings with SSBT. The documentation in the civil proceeding makes it clear that BTCB actively assisted JVW in opening an account and transferring funds to SSBT. For example, a fax dated June 29, 1998, from Betts to Kelleher, provided BTCB’s account number at SSBT, approved a JVW letter to SSBT, and offered to forward the \$10 million CD to SSBT on JVW’s behalf. SSBT then refused for three months to release the \$10 million. In an 8/27/98 letter to SSBT, Kelleher stated that an audited balance sheet obtained from public records in the Bahamas showed that SSBT was “extremely small with very little cash or assets and ... is indeed far smaller than the size of [JVW’s \$10 million] deposit.” The letter expressed “doubt” about SSBT’s “stability and liquidity.” Bahamian government officials told the investigation that SSBT had a long history of regulatory problems

³⁷¹Id. at 11-12.

³⁷²Id. at 14-15.

requiring oversight. Yet BTCB chose to do business with SSBT, despite its lack of assets and poor regulatory history. In addition, neither BTCB nor SSBT ever informed Citibank that BTCB was using SSBT's Citibank account to transact business. Citibank told the investigation that it had been completely unaware it was providing services to BTCB.

Even more troubling is information released in the course of the civil litigation regarding BTCB's high yield investment program. Several of the documents indicate that Waggoner and Kelleher had been told by BTCB that the \$10 million investment would produce \$50 million or more in profits in less than six months. A 9/15/98 letter from Brazie, for example, suggested that the funds released by SSBT be invested into "ongoing HYIPs" or high yield investment programs at Global Investment Fund S.A. Brazie explained that Global Investment Fund S.A. was "wholly owned by ICS/BTCB and serve[d] as a 'pooling' and 'masking' entity for funds from other IBC clients." Handwritten notes by Kelleher on the letter, following a telephone conversation with Brazie, state: "Return min 25%/wk." One week later, a 9/23/98 letter from Waggoner to Kelleher stated, "I want this project expedited and the delays/excuses ended. As my trustee, you must hurry to get my \$50 million in profits to me this year." A letter to BTCB from Kelleher, dated 4/13/99, stated, "The sum over due and payable [to his company alone] ... by [BTCB] is we repeat: **USD - 58,660,200.**" [Emphasis in original text.] Dominican government officials and U.S. bankers interviewed during the investigation uniformly expressed disbelief that such returns were possible.

U.S. bank records also raise questions about what BTCB actually did with the funds once they were in the bank's possession. Waggoner's \$10 million is the largest single investment in BTCB's high yield program uncovered by the investigation. The court pleadings indicate that the ACM mutual funds purchased with the \$10 million were apparently transferred by SSBT in several stages in September and October 1998, to CSC for liquidation.³⁷³

On 10/26/98, at BTCB's request, CSC transferred \$6.5 million to BTCB's account at Security Bank. The origination, timing and size of this transfer suggests that the \$6.5 million came from the JWV funds; the investigation found no other transaction that could account for the source of funds used in this wire transfer. The next day, on 10/27/98, BTCB transferred the \$6.5 million to an attorney trust account at First Union National Bank belonging to Robert Garner. Garner is an attorney who has worked for both BTCB and First Equity Corporation of Florida. Within a week of receiving the funds, Garner transferred the \$6.5 million, on 11/3/98, to an attorney trust account at Union Bank of Switzerland ("UBS") in Zurich belonging to Robert McKellar.

The \$6.5 million was not the first time that U.S. bank records showed funds moving among accounts belonging to McKellar, Garner and BTCB. Less than two weeks earlier, on 10/19/98, BTCB had wire transferred \$3.5 million from its account at Security Bank to "McKellar's Solicitors Unit." The source of this

³⁷³See 9/21/98 letter from Betts to Tucker Anthony; and undated letter from Kelleher to Tucker Anthony. Tucker Anthony held the ACM mutual funds for SSBT.

\$3.5 million is unclear, as is its relationship, if any, to the JVW proceedings. The fact that the \$3.5 million and \$6.5 million sent to McKellar in October 1998 together add up to the \$10 million at issue in the JVW proceedings may be just coincidence.

Two 1998 BTCB financial statements further document the movement of these funds. A BTCB financial statement as of 6/30/98, which BTCB submitted to First Union when applying for a correspondent account, states in Note 3 that the bank had \$10 million in deposits at SSBT. There is no mention of deposits at UBS. BTCB's audited financial statement six months later, as of 12/31/98, which was submitted to the Dominican government, states in Note 4 that the bank had "10m in Union Bank of Switzerland." The December 1998 financial statement made no reference to deposits at SSBT. The logical inference, then, is that BTCB moved \$10 million from SSBT to UBS during the latter half of 1998. The timing, dollar amount and banks involved all suggest that the BTCB funds in Switzerland came, in whole or in part, from the JVW funds.

Once the funds were placed in a Swiss bank account, little is known about them, and it is unclear whether the funds were ever placed in an investment. What is clear is that, six months later, on 4/26/99, U.S. bank records show McKellar wire transferring \$6 million from the UBS account in Zurich to Garner's account at First Union. On the same day, Garner transferred the \$6 million to BTCB's account at First Union. On the day before, 4/25/99, BTCB's First Union account balance was only about \$77,000. The \$6 million was a huge addition to an account that otherwise had few funds. From 4/26/99 to the end of May, only six other deposits were made into the BTCB account totaling about \$217,000. The bank records establish, then, that the majority of funds in the BTCB account at First Union, from April 26 until May 31, 1999, was attributable to the \$6 million deposit.

The bank records also show that the \$6 million deposit on 4/26/99 was followed by a flurry of outgoing wire transfers, 43 in April and 58 in May, in widely varying amounts to bank accounts around the world. In the span of one month ending May 31, 1999, BTCB transferred about \$5.7 million out of its First Union account. The three largest sets of wire transfers were the following:

- \$1 million on 4/26/99 to BTCB's account at Correspondent Services Corporation;
- \$1 million on 4/26/99 to BTCB's account at Security Bank; and
- \$1.4 million in 4 wire transfers on 4/26/99 and 5/7/99 to 4 accounts, each of which referenced International Business Consultants Ltd., a participant in the Cook fraud described earlier.

U.S. bank records show another, possibly related set of transactions six months later. On 10/15/99, \$999,976 was transferred from an unidentified account at UBS in Zurich to Garner's account at First Union. Given earlier wire transfers, it is possible that these funds came from the UBS account belonging to McKellar. Four days later, on 10/19/99, Garner transferred the \$1 million to BTCB's account at First Union. When the deposit was made, BTCB's account balance was only about \$27,600. BTCB then disbursed the \$1 million in the same way it had disbursed the \$6 million, using multiple wire transfers to multiple bank accounts.

BTCB's treatment of the JVW funds, once lodged with the bank, raise unavoidable questions about

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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)	
JANET MAVIS MARCUSSE,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 1:12-cv-01025 (CKK)
)	
UNITED STATES DEPARTMENT)	
OF JUSTICE, et al.,)	
)	
Defendants.)	
_____)	

DECLARATION OF JEANNE M. MCLAUGHLIN

I, Jeanne M. McLaughlin, hereby affirm the following as my testimony in the above-captioned case:

1. I have been employed as Manager of the Freedom of Information (“FOI”) Office with the Board of Governors of the Federal Reserve System (“Board”) from March 2000 to the present. I was responsible for processing a request under the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”) made by Janet Marcusse (“plaintiff”) to the Board by letter dated June 20, 2011, and was responsible for tracking the processing of a similar request made by the plaintiff to the Board by letter dated June 6, 2006. Accordingly, I have personal knowledge of the facts herein.
2. The Board’s FOI Office has a number of duties with respect to processing requests for information under FOIA. For all incoming FOIA requests, FOI Office staff searches for previous FOIA requests for the same or similar information in the FOIA tracking system

and performs a preliminary search of the Board's FIRMA database (described in ¶ 7 below) for responsive records. Once a preliminary search is completed, FOI Office staff assigns the request to the appropriate track – simple (used for requests for public records or records previously cleared for release), complex, or expedited. The FOI Office then forwards FOIA requests being processed through the complex and/or expedited tracks to the Legal Division for processing and response.

3. In addition to these duties, the FOI Office generates and sends letters to FOIA requesters acknowledging receipt of FOIA requests, sends fee estimates to requesters, sends referral letters to other agencies, and, when appropriate, sends letters extending the Board's time to process FOIA requests. The FOI Office is also responsible for sending all responsive documents to a FOIA requester. I have been responsible for performing these duties and overseeing employees of the FOI Office who perform these duties since becoming the Manager of the FOI Office in March 2000.
4. In the course of performing my duties described above, I became aware that the Board received a letter, dated June 20, 2011, from Janet Marcusse, requesting documents under FOIA (the "June 2011 FOIA Request"). The June 2011 FOIA Request was sent by mail to the Board's FOI Office and received on June 28, 2011. The June 2011 FOIA Request requested:

Any information or documents about Suisse Security Bank & Trust, Nassau, Bahamas [and]
Any information or documents about Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas[.]

A true and correct copy of the June 2011 FOIA Request is attached hereto as Exhibit A.

5. Upon receipt of a FOIA request for records pertaining to a bank or bank holding company, such as the June 2011 FOIA Request, FOI Office staff routinely searches the National Information Center (“NIC”) database to verify that the Board is the primary regulator of the bank or bank holding company. NIC is a comprehensive, public, electronic database containing information regarding banks and other institutions for which the Federal Reserve has a supervisory, regulatory, or research interest, including both domestic banks and foreign banking organizations operating in the U.S. Because the June 2011 FOIA Request sought records related to Suisse Security Bank & Trust, Nassau, Bahamas and Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas, which appeared to be banking entities, FOI Office staff searched the NIC database to determine if the Board was their primary regulator. If the Board was their primary regulator, responsive documents might be located in other divisions of the Board or in Board records at Federal Reserve Banks, suggesting other avenues to search. FOI Office staff searched the NIC database by entering the search terms “Swiss Mercantile,” “Swiss Mercantile Bank Corporation,” “Suisse Security” and “Swiss Security Bank & Trust.” Neither Swiss Mercantile Bank Corporation nor Suisse Security Bank & Trust, nor any other bank with a similar name in the Bahamas, was listed in the NIC database.
6. Because the NIC database did not contain information relating to Suisse Security Bank & Trust, Nassau, Bahamas or Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas, it appeared that the Board was not their primary regulator. As a result, I considered it unlikely that the Board would have documents responsive to the June 2011 FOIA Request. Nevertheless, to further rule out the possibility that the Board had

responsive records, FOI Office staff, under my supervision, performed several additional searches which are described below.

7. In addition to NIC, FOI Office staff performed an electronic search of the Federal Reserve Integrated Records Management Architecture system ("FIRMA") database. FIRMA is an electronic database of Board records compiled and maintained by the Board's Office of the Secretary. FIRMA collections include publicly available records of general interest to Board staff, such as speeches, testimony, and press releases, as well as more specialized collections related to the Board's major functions such as bank applications, inspection and examination reports, and Congressional correspondence, some of which are non-public. FOI Staff searched the bank application collection in FIRMA using the same search terms listed in ¶ 5 above to further rule out the possibility that the Board had regulated these entities. Our search of the FIRMA database uncovered no records at all about these two institutions.
8. In addition to the searches described above, I personally searched the United States Department of the Treasury's webpage regarding the Capital Purchase Program ("CPP"), currently located at <http://www.treasury.gov/initiatives/financial-stability/programs/investment-programs/cpp/Pages/capitalpurchaseprogram.aspx>. As a result of my duties in processing prior FOIA requests, I am aware that the CPP was a preferred stock and equity warrant purchase program conducted by the U.S. Treasury's Office of Financial Stability as part of the Troubled Asset Relief Program ("TARP"). I am also aware that many banking institutions participated in CPP and that the Board has some records related to CPP-participation by these institutions. If either Suisse Security Bank & Trust, Nassau, Bahamas or Swiss Mercantile Bank Corporation, Paradise Island

or Nassau, Bahamas participated in CPP, the Board might have CPP records related to their participation responsive to the June 2011 FOIA Request. Treasury's CPP website, which listed the names of all CPP participants, did not include any information regarding Suisse Security Bank & Trust, Nassau, Bahamas or Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas. As a result, I concluded that the Board did not have any CPP-related records regarding these institutions.

9. In addition to the searches described above, FOI Office staff searched the internet using the search terms listed in ¶ 5 above to uncover publically available information regarding Suisse Security Bank & Trust, Nassau, Bahamas or Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas. Although the Board is not obligated to search non-Board records, such as the internet, FOI Office staff performed the search because we believed it might uncover information which could be of assistance to the plaintiff. The internet search uncovered information that Suisse Security Bank & Trust, Nassau, Bahamas and Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas were offshore entities primarily regulated by the Central Bank of the Bahamas. The internet search also indicated that Suisse Security Bank & Trust was liquidated in 2001. In order to provide further assistance, the FOI Office provided the plaintiff with a partial copy of the Third Report of the Provisional Liquidator of Suisse Security Bank & Trust Limited to the Supreme Court of the Commonwealth of the Bahamas, dated August 4, 2002, obtained from the internet, as well as the name, address and telephone number of the Central Bank of the Bahamas. A true and correct copy of that document, as well as the Board's June 30, 2011 response letter to the plaintiff, is attached hereto as Exhibit B.

10. In addition to the searches described above, a search of the FOIA tracking system uncovered that a previous FOIA request from the plaintiff seeking similar records had been received by letter dated June 2, 2006 (the "June 2006 FOIA Request"). Like the June 2011 FOIA Request, the June 2006 FOIA Request sought:

[a]ny information [the Board] may have in regards to a bank in Nassau, Bahamas, called Suisse Security Bank & Trust, that had its license revoked in March or April 2001

In addition to this information, the June 2006 FOIA Request stated:

I am particularly concerned in whether the Federal Reserve or any other known governmental agency, domestic or foreign, had any role whatsoever in the failure of the above bank which would reveal the main cause for the collapse.


A true and correct copy of the June 2006 FOIA Request is attached hereto as Exhibit C.

11. The June 2006 FOIA Request was referred to the Legal Division for processing. It is the Legal Division's typical practice in responding to FOIA requests to prepare internal processing notes listing the Board records searched and describing the results of that search. The Legal Division's FOIA processing notes for the June 2006 FOIA Request, which I have reviewed, state that Legal Division staff searched FIRMA as well as the Board's Division of Bank Supervision and Regulation's Supervisory and Enforcement files and uncovered no responsive records. The processing notes further state that publicly available information from www.google.com indicated that Suisse Security Bank & Trust had its license revoked by Bahamian authorities after an investigation into improper loan transactions, possibly involving insiders of the bank. The processing notes state that the bank did not have any U.S. operations, and that news articles did not indicate that U.S. authorities had been consulted or involved in any way in the investigation or closure of the bank. A true and correct copy of the Board's August 9,

2006 letter to the plaintiff, informing her of the Board's "no responsive records" determination with regard to the June 2006 FOIA Request, is attached hereto as Exhibit D. The Board's June 2006 determination of no responsive records further indicated to me, as did the results of the searches described in ¶¶ 5 and 7-9 above, that the Board had no records responsive to the June 2011 FOIA Request.

12. As a result of the searches described in ¶¶ 5 and 7-9 above, and the "no responsive records" determination with regarding to the June 2006 FOIA Request described in ¶¶ 10-11 above, and based on my 12 years of experience as manager of the Board's FOI Office, it was my conclusion that FOI Office staff had searched all Board records reasonably likely to contain records responsive to the June 2011 FOIA Request and had found none.

I declare under penalty of perjury that the foregoing is true and correct. Executed in the city of Washington, D.C. on this 17 day of August, 2012.



Jeanne M. McLaughlin

Exhibit A

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
FREEDOM OF INFORMATION REQUEST

2011 JUN 28 PM 4:07

REQUESTOR: JANET MARCUSSE DATE OF BIRTH 10/15/1956
REG. NO: 17128-045 PLACE OF BIRTH Excelsior, Michigan
ADDRESS: Federal Correctional Institution CRIMINAL CASE NO: 1:04-cr-165
501 Capital Circle, NE U.S. DIST. COURT: Western District of Michigan
Tallahassee, FL 32301

BRANCH OR AGENCY FROM WHICH REQUESTED:

Board of Governors
Federal Reserve System
20th and Constitution Ave., NW
Washington, D.C. 20551

DEAR SIR:

I hereby request that you furnish to me within 10 days s provided by law: (See Title 5 U.S.C. §552 (A) (6) (A)), copies of the following specified documents or information:

1. Any information or documents about Suisse Security Bank & Trust, Nassau, Bahamas
2. Any information or documents about Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas
3. _____
4. _____
5. _____

My request is not limited to the above. It includes all documents, reports, pictures, exhibits, memorandums, letters, summaries, handwritten notes, recordings, and all other information concerning this subject which is contained in your offices under the supervisor and administration of the above stated agency or branch of government.

My above request is made pursuant to the provisions of the Freedom of Information and Privacy Act, Title 5 U.S.C.A. §552, 552a,

Respectfully submitted this 20th day of June, 2011
Janet Marcuse

FREEDOM OF INFORMATION REQUEST

TO: Freedom of Information Section

DATE: June 17, 2011

Board of Governors

Federal Reserve System

20th and C Streets, NW

Washington, D.C. 20551

This is a noncommercial request under the Freedom of Information Act as amended 5 U.S.C.A. in conjunction with the Privacy Act 5 U.S.C.A. §552a. I understand that I am entitled to at least 100 pages of free copying and a maximum of two (2) hours of free research time.

I request a complete and thorough search of all filing systems and locations for all my records maintained by your agency; including, all documents and where appropriate "main" files and "See References". I wish to make it clear that I am requesting "ALL" records in your office "identifiable with my request".

If documents are denied in whole or in part, please specify which exemptions are claimed for each passage or whole document denied. Give the number of pages pertaining to this request and the dates documents are withheld. I am also making a request for any "reasonable segregable portion" of my records; specifically, I am asking for an index of the withheld records and portions of documents at issue in this request. (VAUGHN INDEX) (see **Vaughn vs. Rosen, 484 F. 2d 820**).

I expect a response to this request within ten (10) working days as provided by §552 (a)(6)(A)(i). I will appeal any denials regarding my request in this matter. If denied, please specify the office and address to which an "APPEAL LETTER" should be directed.

NAME: Janet Marcusse FEDERAL ID# 17128-045

ADDRESS: Federal Correctional Institution
501 Capital Circle, NE Tallahassee, FL 32301

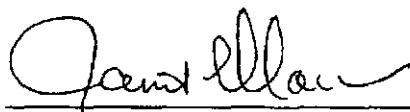
PLACE OF BIRTH: Belmond, Iowa

SOCIAL SECURITY# 485-74-1766

DECLARATION

I swear and affirm under penalty of perjury that I am, Janet Marcusse, DATE OF BIRTH 10/15/1956. This declaration is submitted in lieu of my notarized signature pursuant to **Title 28 U.S.C. Section 1746**. I hereby certify that I am the person named above and understand that any falsification of this statement is punishable under the provisions of **Title 18 U.S.C. Section 1001**.

SIGNATURE



DATE

6/17/2011

Exhibit B



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

June 30, 2011

Ms. Janet Marcusse
Reg No: 17128-045
Federal Correctional Institution
501 Capital Circle, NE
Tallahassee, FL 32301

Dear Ms. Marcusse:

This is in response to your letter dated June 20, 2011, which was received by the Board's Freedom of Information office on June 28, 2011. Pursuant to the Freedom of Information Act (the "Act"), 5 U.S.C. § 552, you seek the following information:

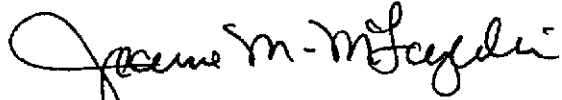
1. Any information or documents about Suisse Security Bank & Trust, Nassau, Bahamas.
2. Any information or documents about Swiss Mercantile Bank Corporation, Paradise Island or Nassau, Bahamas.

Upon review of publicly available information, it appears that Suisse Security Bank & Trust and Swiss Mercantile Bank Corporation were off-shore entities who were primarily regulated by the Central Bank of The Bahamas. In addition, our review indicates that Suisse Security Bank & Trust was liquidated in 2001. For your convenience, I have enclosed a partial copy of the Third Report of the Provisional Liquidator of Suisse Security Bank & Trust, which was submitted to the Supreme Court of the Commonwealth of The Bahamas on August 4, 2002. Should you seek further information regarding these entities, you may wish to contact the Central Bank of The Bahamas directly at (242) 302-2615. You may also contact the Central Bank of The Bahamas by mail at the following address:

The Central Bank of The Bahamas
P.O. Box N-4868
Nassau, N.P., Bahamas

Should you require any additional assistance, please feel free to contact me at 202-872-2407.

Very truly yours,

A handwritten signature in black ink, appearing to read "Jeanne M. McLaughlin". The signature is written in a cursive, flowing style.

Jeanne M. McLaughlin
Manager, Freedom of Information Office

Enclosure

**THIRD REPORT OF THE PROVISIONAL LIQUIDATOR
OF
SUISSE SECURITY BANK & TRUST LIMITED**

**TO
THE SUPREME COURT OF THE COMMONWEALTH OF THE
BAHAMAS**

Dated: August 4, 2002

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SUISSE SECURITY BANK & TRUST LIMITED
THIRD REPORT OF THE PROVISIONAL LIQUIDATOR

1. INTRODUCTION

- 1.1 On March 5, 2001, by Notice of Suspension issued by The Central Bank of The Bahamas ("The Central Bank"), Suisse Security Bank & Trust Limited's (the "Bank") banking and trust licence was suspended. Further, by a Notice of Appointment issued by the Governor of The Central Bank on March 5, 2001, I, Raymond Winder, Certified Public Accountant and partner in Deloitte & Touche Bahamas was appointed Receiver of the Bank, with all of the powers of a Receiver under the Companies Act, 1992.
- 1.2 On March 5, 2001, after the Notice of Suspension and Notice of Appointment of Receiver were served on Chief Executive Officer of the Bank, Mr. Christopher Lunn by The Central Bank, I assumed control of the Bank. I sought the assistance and cooperation of the management and staff of the Bank. They have all refused and or withheld their cooperation.
- 1.3 By a letter from The Central Bank dated March 8, 2001, the terms of reference according to which I was to function as Receiver were set out. The letter stated that during the period of the suspension of the Bank's license, the affairs of the Bank were to be frozen and no client or creditor balances were to be paid and therefore I, as Receiver, was to seek to identify all assets of the Bank and maintain those assets for the benefit of the Bank's depositors, creditors and owners.
- 1.4 The Central Bank, on April 2, 2001, by virtue of The Banks and Trust Companies Regulation (Revocation of Licence) Order and pursuant to paragraph (i) of subsection (1) (a) of section 14 of the Banks and Trust Companies Regulation Act, 2000, revoked the Bank's banking and trust licence which had been granted on the 20th July, 1993.

1.5 To date, the Board of the Bank has initiated a number of actions in the name of the Bank, namely:

1. Common Law Action No. 258 of 2001 applying for judicial review of certain actions of the Central Bank commenced on 23rd February, 2001.
2. Civil (Constitutional) Action No. 394 of 2001 challenging the vires of Section 14 (1) (f) of the Banks and Trust Companies Regulation Act, 2001 which was commenced on the 29th March, 2001. A Ruling was rendered by Mr. Justice Longley against the Bank and costs were awarded in favour of the Central Bank and the Attorney General.
3. Appeal No. 43 of 2001 to the Court of Appeal against the Ruling of Mr. Justice Longley. This appeal was commenced on the 7th August, 2001. The Ruling of Mr. Justice Longley was affirmed and no order as to costs was made.
4. Common Law Action No. 437 of 2001, seeking judicial review of the revocation of the Banking licence of the Bank by the Central Bank, is now pending.
5. Common Law Action No. 980 of 2001 seeking an injunction restraining the hearing of the Winding Up Petition in Equity Action No. 436 of 2001 is pending before the Supreme Court.
6. Action No. 18 of 2001 ("the statutory appeal") in the Supreme Court, challenging the revocation order, commenced on 11th March 2002 before the Honourable Mr. Justice Austin Davis.

1.6 On April 5, 2001, Julian Francis, in his capacity as Governor of The Central Bank, pursuant to section 14 (5) of the Banks and Trust Companies Regulations Act, 2000, filed a winding up petition with the Supreme Court of The Commonwealth of The Bahamas ("The Supreme Court") for winding up of the Bank and the appointment of myself as official liquidator. On application of the Governor of the Central Bank dated April 5, 2001, an Exparte Order of the Supreme Court, on April 9, 2001, I was appointed Provisional Liquidator of the Bank.

1.7 My duties, as Provisional Liquidator, as set out in the said Order of my appointment, are as follows:

- *To take possession of, collect, and protect the assets of the Bank, but not to distribute or part with the same until further order.*
- *To discharge rents, salaries, and other current expenses.*

- To require any person who has possession of documents or information in relation to the accounts, assets and securities or affairs of the Bank and its clients, to produce the same.
- To require any person who has information in relation to the accounts, assets, securities or affairs of the Bank, to meet with me at such time and place as I determine and to provide me with information that may be required in the exercise of my duties.
- To do all other things necessary to preserve the assets and estate of the Bank.

1.8 On the morning of April 9, 2001, prior to receiving the Order of my appointment as Provisional Liquidator, I learned that Messrs. Michel Harajchi, Derek Ryan, Christopher Lunn and Wendell Ferguson had broken into and gained access to the Bank's premises. From telephone conversations with Michel Harajchi on April 9, 2001, he cited that their understanding was that my position as Receiver fell away once the license had been revoked. My agents, on my behalf, regained control of the Bank on April 9, 2001 at approximately 3:30 p.m. after I had received the Order of my appointment as Provisional Liquidator. From the investigations, I determined that following items, which were included on a list from Ryan & Co. in their letter of March 12, 2001 had been removed from the Bank's premises:

- 1 Power Macintosh Chief Executive Officer's Office
- 1 Power Macintosh Server Room

It was further noted that the Bank's web page was reactivated and information including telephone numbers one which appears to be that of Michel Harajchi was noted as a contact for updates on what was happening at the Bank.

2. OBJECTIVES OF THE REPORT

- 2.1 The objective of this report is to provide The Supreme Court with an update on the status of this liquidation, including information relative to my attempts to take possession of, collect and protect the assets of the Bank and to obtain the cooperation of the Bank's shareholders, directors, attorneys, management and employees in order to assist me in the performance of my duties as Provisional Liquidator, as set out in the Order of my appointment.
- 2.2 Further, details are given relative to the status of the legal actions before the court and the steps that I have taken as a result of the status of these actions.

2.3 This, my third report, covers the period February 5, 2002 to August 4, 2002. Reference should be made to my first and second reports dated August 24, 2001 and February 4, 2002, respectively, which were filed in The Supreme Court.

3. STEPS TAKEN BY THE PROVISIONAL LIQUIDATOR

3.1 As noted in my previous reports, I have had, and continue to encounter, formidable obstruction and interference from the Bank's management, employees, shareholders, directors and attorney. This, along with the length of time that has passed and the present position of the matters before the Court has resulted in much loss to the Bank, its depositors, and creditors.

3.2 In an effort to reduce further losses, I, on August 9, 2002, filed an *ex parte* summons in this Honorable Court for an Order seeking further directions from the Court as to my ability pursuant to the Order of my appointment, and in particular, for directions to do the following: -

- a. Carry on business to the extent that may be necessary for the benefit of the Bank's clients and in particular, upon the request of the Bank's clients, release the clients' International Business Companies' records to their newly appointed registered agent(s).
- b. Upon the request of the Bank's clients, to liquidate their securities holdings which are being held by the Bank in a fiduciary capacity.
- c. Liquidate the securities holdings of the Bank at such time as I may determine will be beneficial to the estate.
- d. Do all acts and execute in the name and on behalf of the Bank all deeds, receipts and other documents, and for that purpose use, where necessary, the Bank's seal.

In addition, I sought orders:

- a. Directing Barclays Bank PLC, its employees, servants and agents, UBS Geneva, its employees, servants and agents, and Suisse Security Investments, Inc. (SSI) and Suisse Security Holdings Ltd. (SSH), their employees, servants and agents to provide all relevant account information relating to SSI and SSH, including but not limited to the following:
 - i. Copies of all documents, including bank advices of all transactions originating from Suisse Security Bank and Trust Limited to SSH and SSI.
 - ii. Copies of all documents, including all bank advices relating to any funds received by SSH and SSI for and on behalf of Suisse Security Bank and Trust Limited or others from January 2001 onwards.
 - iii. Names and addresses of all shareholders, officers and directors of SSH and SSI from January 2001 onwards.
 - iv. All written and electronic instructions from Suisse Security Bank and Trust Limited, SSH and SSI directing deposits, withdrawals and/or transfers.
 - v. An accounting of all transactions involving the Bank accounts of SSH and SSI at UBS Geneva and Barclays Bank PLC, respectively, from January 1, 2001 onwards.
- b. Directing SSH and SSI, its account signatories and shareholders to provide the Provisional Liquidator with letters signed by them authorizing UBS Geneva, Barclays Bank, PLC or any other institution to provide the Provisional Liquidator with information relative to the accounts maintained at UBS Geneva, Barclays Bank, PLC and elsewhere in the name of SSH and SSI.
- c. Directing the beneficial owners, management, employees, and agents, including the registered agents, of SSH and SSI to turn over to the Provisional Liquidator all funds held by these entities on behalf of the Bank or to provide the Provisional Liquidator with letters signed by them authorizing UBS Geneva, Barclays Bank, PLC or others to turn over all funds held by SSH and SSI on behalf of the Bank to the Provisional Liquidator.

- d. Directing Barclays Bank, PLC and UBS Geneva to provide the Provisional Liquidator with any and all information relating to the accounts held by Barclays Bank, PLC and UBS Geneva for and on behalf of SSH and SSI and/or Suisse Security Bank and Trust Limited.
- e. Directing Mr. Christopher Lunn, Chief Executive Officer and Director; Mr. Mohammed Harajchi, Director and Chairman; Mr. Terry Nadu, Director; Mr. Alister McKeller, Director; Derek Ryan, Esq., Corporate Secretary; Ms. Vandessa Lockhart, Head of Filing Department; Ms. Kay Briggs, Head of Visa Department; Tamiko Miller, Head of Corporate Department; Ms. Ketress Wells, Reconciler and Mr. Archie Strachan, Head of Trading Department, to submit the required statement of affairs of the Bank, pursuant to Sections 155 and 156 of the Companies Act, 1992, as requested by the Provisional Liquidator by letters dated the 29th March, 2001.
- f. Directing the Bank's management and directors to turn over all assets, records and the corporate seal of the Bank to the Provisional Liquidator.

These orders would put me in a position to deal with the Bank's affairs in an orderly manner and deal with creditors and others on a day-to-day basis. Further, I would be in a position to collect and protect the assets of the Bank, so that these can be distributed to the depositors and creditors in the event that a winding-up order is eventually made, or the Bank returned to the duly constituted management of the Bank, if it is not made.

CASH AND SECURITIES FROM RBC DAIN RAUSCHER

- 3.3** In my second report I advised the Court of RBC Dain Rauscher's (formerly Tucker Anthony) reluctance to turnover to me the cash and securities that it held on the account of the Bank. I further advised the Court that my United States Attorneys were in the process of preparing the relevant documents to obtain a turnover order from the United States Bankruptcy Court to have RBC Dain Rauscher transfer the assets to me. I am pleased to advise the Court that pursuant to the Turnover order obtained in the United States Bankruptcy Court assets were transferred into my possession on May 3, 2002. To date I have transferred to the Bahamas from RBC Dain Rauscher cash and securities, with the exception of the mutual funds.

3.4 As noted in my previous report, RBC Dain Rauscher (formerly Tucker Anthony), pursuant to an attachment Order relative to the JVW matter, had transferred \$3,000,000 to the United States Marshall in order to secure the payment of any funds awarded to the plaintiff in that matter.

ASSETS THAT REMAIN UNDER THE CONTROL OF MANAGEMENT, DIRECTORS AND SHAREHOLDERS OF THE BANK

> SSI	US\$5,540,631 ¹
> SSH	US\$12,001,291
	CHF300,627 (US\$175,145)

3.5 On July 13, 2001, I was granted an Order restraining SSH and SSI from disposing of the assets of the Bank and its customers held in the accounts at Barclays Bank PLC, Nassau, Bahamas.

UBS Geneva and/or any other account until further notice. A copy of this Order was sent to Barclays, UBS Geneva and Ryan & Co., the registered offices of SSH and SSI. On July 31, 2001 the Compliance Officer and Money Laundering Reporting Officer of Barclays confirmed that the accounts were blocked in accordance with the Restraining Order. Further, by letter dated December 12, 2001 my attorney requested assurance from Barclays that the funds of SSI were still being restrained. By letter dated January 4, 2002 McKinney Bancroft & Hughes, acting on behalf of Barclays, confirmed that Barclays, was not holding any funds in the name of SSI as the account was closed on April 24, 2001.

3.6 Despite my numerous requests for cooperation, the Bank's employees, management, shareholders, attorney and directors have refused to comply. To date this lack of cooperation and the blatant disregard for the Orders of the Court namely the Order of my appointment and the Restraining Order has resulted in me not being able to obtain information on the SSH and SSI accounts and more importantly to gain control of the cash balances once held at Barclays and UBS Geneva in the name of SSI and SSH, respectively. From the limited information available to me these balances total US\$17,541,922 and CHF300,627. 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. In this regard, I hereby request that this Honourable Court require management, staff, directors and attorney of the Bank and the shareholders and Directors of SSH and SSI to file with the Court an accounting of the funds once held on accounts at Barclays and UBS Geneva in the name of SSI and SSH respectively.

¹This includes deposits totaling \$953,591.84 that I am advised were made after March 5, 2001.

LEGAL ACTIONS, CONCLUDED

**Edwin Cowan et al v. K.D. Triak Investments, Inc. et al Case No. 95-414-Civ-FTM-210
United States District Court, Middle District of Florida, Fort Myers Division**

- 3.7 On August 6, 2001 the appellate Court issued an Order affirming the decision of the District Court on this matter. The Bank has lost \$1,599,284.40.

Because of the obstruction and interference of Derek Ryan, I was unable to give instructions in this matter; had I been able to instruct the attorneys who represented the Bank in this matter at the commencement of my term, this loss may have been prevented.

- 3.8 This action was addressed in the financial statements as a contingency in which it is indicated that the principal shareholder of the Bank had committed to issue a letter of comfort on the \$1.6 million. In this regard, my attorney, on my behalf, will issue a demand on the principal shareholder of the Bank relative to this matter and his letter of undertaking.

LEGAL ACTIONS, PENDING

➤ **Correspondent Services Corp. v. JW Investments Ltd., First Equities Corp of Florida, JV Waggoner, and Donal Kelleher v. Suisse Security Bank and Trust Ltd., No. 99 Civ. 8934 (RWS) United States District, Southern District of New York**

- 3.9 On August 3, 2001 I sought and obtained leave from this Honourable Court to defend this action. The potential loss to the Bank in this action is US\$3,000,000.

- 3.10 Since the May 28, 2002 so Ordered Opinion dismissing the Federal Court Action (the "May 28, Opinion") my United States attorneys have been actively engaged defending the Bank's interest in the Federal District Court, the United States Court of Appeals for the Second Circuit, the New York State Court, the New York Appellate Court, and the Bankruptcy Court.

◆ **Federal District Court** - On October 1, 2002, the Waggoner Parties filed their Memorandum of Law in Support of Cross-Motion for a Stay and in Opposition to Motion for Assessment of Damages. In their Opposition, the Waggoner Parties argued that the Court should limit or deny the Bank's damages award for several reasons, including, among others, that the Bank's damages were not proximately caused by the Waggoner Parties' attachment and that there has not been a final adjudication that the attachment was wrongful. The Waggoner Parties have also asked the Court to stay any decision on the issue until after the Second Circuit has ruled on their appeal.

The Bank's reply to the Waggoner Parties' Opposition and Cross-Motion for a Stay is currently due on November 26, 2002, at which time the Bank will submit an updated damages report that will include the fees that it has incurred since September 20, 2002 and will respond to the arguments made by the Waggoner Parties in the Opposition. The Waggoner Parties' sur-reply in further support of their cross motion for a stay is due on December 9, 2002.

On October 31, 2002, the Bank moved for an Additional Undertaking Order, requesting that the Waggoner Parties provide an additional \$1.1 million as security for the Bank's potential damages. The Waggoner Parties opposed this motion on November 5, 2002. The Bank submitted its Reply Brief on November 17, 2002. The Undertaking Motion has been fully submitted by the Parties and is pending before the Court.

- ♦ *State Court* - In anticipation of the dismissal of the Federal Court Action, on November 8, 2001 the Waggoner Parties commenced an action in the Supreme Court, New York County (the "State Court Action") and concurrently moved for an attachment of the same assets that had been originally attached in the Federal Court Action. On May 2, 2002, Justice Gammerman granted the Waggoner Parties' motion for an attachment and on May 9, 2002 the Court entered an Order of Attachment (the "State Court Attachment"). The State Court Attachment expressly provided that it was a continuation of the Federal Court Attachment - and not a "new" attachment. This purported "continuation" of the lien obtained in the Federal Court Action was significant because it arguably provided the Waggoner Parties with a security interest which improved their position before the Bankruptcy Court.

Accordingly, the Bank filed a Notice of Appeal and Pre-Argument Statement on June 3, 2002. In the Pre-Argument Statement, the Bank set forth the following grounds for seeking the reversal of Justice Gammerman's decision: (1) The Court misapprehended the standard for ordering an attachment pursuant to Rule 6212(a) and improperly ordered an attachment; and (2) The Court exceeded its authority by ordering that the attachment is a "continuation" of an attachment and lien previously obtained by the Waggoner Parties in the Federal Court Action.

Exhibit C

2006-430

To: Board of Governors of the Federal Reserve System
 20th and C Streets, N.W.
 Washington, D.C. 20551

From: Janet M. Marcusse
 2733 East Battlefield Rd., #183
 Springfield, MO 65804

Re: FREEDOM OF INFORMATION ACT REQUEST
 SUISSE SECURITY BANK & TRUST

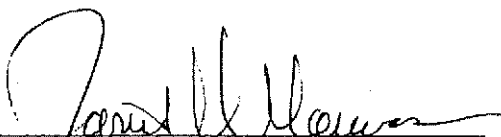
BOARD OF GOVERNORS
 OF THE
 FEDERAL RESERVE SYSTEM
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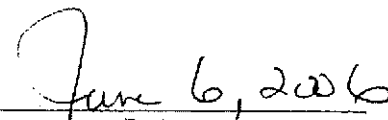
To Whom It May Concern:

I am seeking under the Freedom of Information Act any information your office may have in regards to a bank in Nassau, Bahamas, called SUISSE SECURITY BANK & TRUST that had its license revoked in March or April of 2001.

I am particularly concerned in whether the Federal Reserve or any other known governmental agency, domestic or foreign, had any role whatsoever in the failure of the above bank which would reveal the main cause for the collapse.

Please respond as promptly as possible. Thank you for your cooperation.


 Janet M. Marcusse


 Date

8267 5782 4000 DTLE 5000

RECEIVED
 OFFICE OF THE SECRETARY
 OF INFORMATION OFC

2006 JUL 26 AM 11:42

BOARD OF GOVERNORS
 OF THE
 FEDERAL RESERVE SYSTEM

EXHIBIT Z-9

Exhibit D

2006-430



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

AUG 09 2008

Ms. Janet Marcusse
2733 East Battlefield Road, # 183
Springfield, MO 65804

Dear Ms. Marcusse:

This is in response to your letter dated June 6, 2006, and received by the Board's Freedom of Information office on July 26. Pursuant to the Freedom of Information Act (the "Act"), 5 U.S.C. § 552, you request

"any information [the Board] may have in regards to a bank in Nassau, Bahamas, called SUISSE SECURITY BANK & TRUST, that had its license revoked in March or April 2001."

You are particularly interested

"in whether the Federal Reserve or any other known governmental agency, domestic or foreign, had any role whatsoever in the failure of the above bank which would reveal the main cause for the collapse."

Staff has searched appropriate Board records and made suitable inquiries, but has found no documents that are responsive to your request. Accordingly, we cannot provide you with any information. A determination that no responsive records exist is considered to be an "adverse determination" under the Act. You may appeal this determination in accordance with section 261.13(i) of the Board's Rules Regarding Availability of Information, a copy of which is enclosed for your information.

Very truly yours,

(signed) Margaret McCloskey Shanks

Margaret McCloskey Shanks
Associate Secretary of the Board

Enclosure

FOR FILES
HEISE HARRIS

FILE COPY

EXHIBIT Z-9