

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1218760-0

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Page 384 ~ b6; b7C;

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Airtel

3/2/83

TO: SAC, NEW YORK (196B-1774)
FROM: SAC, HOUSTON (196B-881) (C)

MARC RICH;
ET AL;
FBW-ER
OO: NY

[redacted] Re HO airtel to NY, 1/4/83, and Special Agent (SA)
[redacted] telephone call from NY to HO, 2/9/83.

b6
b7C

Enclosed for New York is the original [redacted]
[redacted] which was obtained as evidence.
The originals of all other evidence obtained by the Houston
Division have previously been forwarded to the New York Division.

b6
b7C
b7D

New York requested that this [redacted] be provided to
them, since they are proceeding with investigation and possible
prosecution in which [redacted]
[redacted]

b6
b7C
b7D

No further investigation is being conducted at Houston.

50-51
ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/28/01 BY SP5 JC/maj
CGR #01-081

② - New York (Enc. 1)
1 - Houston
MMW/bgp
(3)

1*

196B-1774-96
3/30/83

FBI

TRANSMIT VIA:

- ☐ Teletype
- ☐ Facsimile
- ☐ Airtel

PRECEDENCE:

- ☐ Immediate
- ☐ Priority
- ☐ Routine

CLASSIFICATION:

- ☐ TOP SECRET
- ☐ SECRET
- ☐ CONFIDENTIAL
- ☐ UNCLAS E F T O
- ☐ UNCLAS

Date 3/2/83

TO: SAC, NEW YORK (196B-1774)

FROM: SAC, HOUSTON (196B-881) (C)

MARC RICH;
ET AL;
FBW-ER
OO: NY

Re HO airtel to NY, 1/4/83, and Special Agent (SA) [redacted] telephone call from NY to HO, 2/9/83.

Enclosed for New York is the original [redacted] which was obtained as evidence. The originals of all other evidence obtained by the Houston Division have previously been forwarded to the New York Division.

New York requested that this [redacted] be provided to them, since they are proceeding with investigation and possible prosecution in which [redacted]

No further investigation is being conducted at Houston.

Green to All SA see Green sheets 602

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED
DATE 2/20/01 BY SP5 Jc/maj
CORR # 01-081
196B-1774-96
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SERIALIZED ☒ FILED ☒

2 - New York (Enc. 1)
1 - Houston
MMW/bgp
(3)

1*

Approved: [Signature] Transmitted _____ (Number) _____ (Time) Per _____

Memorandum



To : ADIC, New York (196B-1774)(M-1)

Date 3/9/83

From *JS* SAC, Kansas City (196B-902)(WRA-SRA) (RUC)

Subject : MARC RICH,
dba MARC RICH & CO.
Et al
FBW (ENERGY RELATED)
OO: NY

Re Kansas City airtel to New York, 2/23/83.

Enclosed is subpoena for [redacted]
[redacted]

b3

*Subpoena given to
RUSA [redacted] 3/25/83*

b6
b7C

OK
2 - New York (Enc. 1)
1 - Kansas City
DSB:RA
(3)

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196B-1774-97

SEARCHED	INDEXED
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MAR 1 1983	
NEW YORK	

ga

Memorandum



To : ADIC, New York (196B-1774)(M-1)

Date 3/9/83

From : SAC, Kansas City (196B-902)(WRA-SRA) (RUC)

Subject : MARC RICH,
dba MARC RICH & CO.
Et al
FBW (ENERGY RELATED)
OO: NY

Re Kansas City airtel to New York, 2/23/83.

Enclosed is subpoena for [REDACTED]
[REDACTED]

b3

② - New York (Enc. 1)
1 - Kansas City
DSB:RA
(3)

ALL INFORMATION CONTAINED
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DATE 2/28/ BY SP5 JC/mj

196B-1774-97

SEARCHED	INDEXED
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MAR 6 1983	
FBI-NEW YORK	

EOC

TITLE: MARC RICH
dba Marc Rich and Company;

April 8, 1983

[REDACTED]
FBW-ENERGY RELATED
(OO:NY)

b6
b7C

File: 196B-1774

Case Agent: [REDACTED]

Supervisor: [REDACTED]

- I. Date Investigation Began: 10/21/81
- II. Type of Investigation: GCI
- III. Date of FBIHQ/Departmental Approval: N/A
- IV. Date Investigative Authority Expires: N/A
- V. Basis of Investigation:

[REDACTED]
[REDACTED] provided information that [REDACTED]
[REDACTED]

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VI. Major Objectives:

- 1) Identify all participants in scheme that are both actively and passively involved.

[REDACTED]
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b7E

ALL INFORMATION CONTAINED
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196B-1774-98

SEARCHED	INDEXED
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APR 11 1983	
FBI-NEW YORK	

VII. Prosecutive Opinion:

AUSA [REDACTED], SDNY, has been actively involved in investigative effort to date. He has [REDACTED]

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VIII. Milestones Completed:

1) DOJ Tax Division approval for Grand Jury, 2/22/82.

2) Identification of passive participation [REDACTED]

3) Affidavits in support of [REDACTED]

4) Motion [REDACTED]

b6
b7C
b3

5) Continued [REDACTED]

6) Obtain [REDACTED]

[REDACTED] to date).

7) [REDACTED]

8) [REDACTED]

9) [REDACTED]

10) [REDACTED]

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b7E

IX. Milestones anticipated:

1) [REDACTED]

2) Obtain [REDACTED]

Subject to results of appeal now in process. Still pending.

3) Complete review of [REDACTED]

4) Indictment Possible by August, 1983.

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X. Unusual Investigative Techniques Employed/Anticipated:

[redacted] from a [redacted] to ensure

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XI. Manpower Anticipated:

b7E

XII. Accomplishments:

Motion to [redacted] for production of [redacted]
[redacted] was settled in favor of the U.S. Government.

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(Mount Clipping in Space Below)

THE NEW YORK TIMES

WEDNESDAY, MARCH 9, 1983

D7

Fox Gets \$26 Million Financing

SLM Partners Double Stake

By THOMAS C. HAYES

Special to The New York Times

LOS ANGELES, March 8 — SLM Inc., a movie-financing partnership, agreed today to invest at least \$26 million in five new feature films to be released this year by the 20th Century-Fox Film Corporation.

The transaction brings the group's investment in Fox's 1983 releases to more than \$50 million. It also emphasizes the growing importance of external financing for major studios, which are producing more feature films to meet rising demand from pay-television services.

Irving H. Levin, president and chief executive of SLM, said the partners were allowed to view Fox's completed films in early February before deciding which ones to back.

They selected three, including "Max Dugan Returns," a Neil Simon comedy; "Porky's II — The Night After," and "Without A Trace," which has taken in \$8.3 million at the box office in four weeks, according to Daily Variety. SLM added two others films not yet completed, "The Buddy System" and "Star Chamber," based on a Fox recommendation, he added.

In addition to Mr. Levin, the major partners in SLM Inc. include Samuel Schulman, chairman, a Beverly Hills investor; Angelo J. Drossos, a vice president for investments at Dean Peter Reynolds Inc., and Billy J. McCombs, a Texas industrialist.

Unlike many arrangements with outside financiers, "we start getting our money back right from the start," Mr. Levin said.

According to the contract, SLM is to receive one-third of the studio's rental revenues from each film until its share of the production and estimated distribution costs, plus interest, are covered, Mr. Levin said.

Fox is then to take 75 percent of continuing rental revenues until it recovers its standard distribution fee, which Mr. Levin said typically was 30 percent of total film rentals. At the same time, SLM will receive one-third of the other 25 percent of rental revenue; Fox gets the other two-thirds.

After Fox recovers its distribution fees, it will take two-thirds of continuing revenues; SLM gets the rest.

(Indicate page, name of newspaper, city and state.)

Date: 3/9/83
Edition: pg D7

Title: N.Y. Times

Character:
or

Classification:

Submitting Office:

196-1774-99

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SEARCHED	INDEXED
SERIALIZED	FILED
MAR 1 1983	
FBI-NEW YORK	

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16 FEB 1983

THE RICHEST PEOPLE IN AMERICA

THE FORBES
FOUR HUNDRED

Richards Wilhelmina Cullen Robertson · E. Claiborne Robins David Rockefeller Hope Aldrich Rockefeller John Davison Rockefeller N Lawrence Spelman Rockefeller Rodman Clark
 Rockefeller Isaac Clark Rockefeller · Winthrop Paul Rockefeller · Richard Raymond Rogers O. Wayne Rollins Chapman S. Root · Henry A. Rosenberg Jr. Ruth B.
 Rosenberg Wilhelmina du Pont Ross Jack Rudin Louis Rudin Eleanor Francis du Pont Rust Richard Mellon Scaife Clarence Schabauer Jr. Caroline Hunt Schoellkopf Edward Willis
 Scripps Daniel Cross Seale William L. Seale David B. Shakarian Bayard Sharp Hugh Rodney Sharp Jr. Peter Sharp Jean Ellen du Pont Shashan Robert Shulton Walter
 Shusterman Marianna du Pont Stillman Larry A. Steinman Melvin Simon Norton Winford Simon J. R. Smyth Abby Rockefeller Symphon Henry Carl Singleton · Mikala (Jean)
 Irvine Smith Frederick W. Smith Kelvin Smith Margaret Louis du Pont Smith Rankin McEachern Smith Sr. Richard Allan Smith Vivian L. Smith Sheldon Solow · Rae
 Clark Doris Jones Stein Paul Phillips Steinberg Leonard Norman Stern Dwight Lyman Stuart Elbridge Hadley Stuart Jr. Robert B. Sutton Mel Seig Richard Seig Sydney Mack
 Taylor A. Alfred Tausen Oakleigh Blakeman Thorne Esther Dineen du Pont Thowen Lawrence St. Tuck Preston R. Tuck Donald John Trump Fred C. Trump R. E. (Ted)
 Turner Tom · E. Turner Joy Van Andel Hope Tegenwall Van Buren Robert Vice Edward Vellum Charles Vice Jr. Charles Vice Jr. Cyril Wagner Jr. Lela Schuen
 Wallace Carnegie Wallis F. Howard Walsh Sam M. Walton An Wang Lorraine C. Wang Nat Wards Leo R. Wasserman Allen Weiner Jack D. Weller Harry
 Weinberg Robert F. Weis Seyfried Weis Leticia Herbert Wexner Albert Buchman (Book) Wharton III Edwin C. (Jack) Whitehead's Betty Ewing Roosevelt Whitney Leland K.
 Whittier N. Paul Whittier Lawrence A. Wien Clayton Williams Jr. Arthur M. Wier Robert Winskip Woodruff Helen Whittier Woodward Henry Karrow William B. Ruff
 Jr. William Zimmerman Mortimer B. Zimmerman Josephine C. Abramowitz Kenneth Stanley (Bud) Adams Jr. Joseph A. Alfordson Albert B. Altsh Joe Lewis Allbritton Charles
 Robert Allen Jr. Herbert Allen Herbert Anthony Allen Fred M. Allison Robert O. Anderson Walter H. Annenberg Philip Anschutz Barbara Cox Anthony Ted Arison Isaac
 Arnold Jr. Robert H. Aronson Alice O. Nail Avery Perry Richardson Bass Sid Richardson Bass Frank Bolton Carlton Bass Stephen Davidson Bechtel Sr. Stephen Davidson Bechtel
 Jr. Arthur B. Belfer Charles B. Benson Arnold Bernhard Jack M. Berry Jr. Burton Green Bettington Electra Weymann Biggs Virginia McKnight Bingen Norton
 Blumstein Paul Block Jr. William Block Ivan Bosley Malcolm Austin Borg Cecilia Mary du Pont Braden Donald L. Bren Harvey R. (Bum) Bright Dolph Briscoe
 Jr. George R. Brown Jack Brown William Lee Lyons Brown Jr. Warren Buffett August A. Busch Jr. James R. Borgill Margaret Borgill Curtis L. Carlson Robert Rulph
 (Bobby) Carpenter Jr. William Kamble Carpenter William Walter Caruth Jr. Anne Cox Chambers Ernest H. Cockrell Edward Cohen Norman Cohen Seymour Cohen Miles
 Collins Trevor Connell Catherine Mellon Corbin Jane Bancroft Cook Jack Kent Cook Phoebe Harriet Cook Lammot du Pont Copeland Helen Kinney Copley Leo F. Corrigan Jr.
 Edwin L. Cox John L. Cox William C. Cox Jr. Ruth Chandler Williamson Russell Crocker Trammell Cross Henry Crown Lester Crown Roy H. Cullen Nathan
 Cummings Morris Barney Daley Constance Simon du Pont Danden David M. Davison Kenneth W. Davis Jr. Marvin Davis T. Cullen Davis William Elden Davis Stiles Postelgeller
 Dayton Edward J. DeBartolo Dominique de Menil John Dempsey Richard Marvin DeVos Clarence Douglas Dillon Richard Dinner Roy Edward Disney Fite Eugene Dixon
 Jr. Suzanne Seale Dixon John Thompson Dorrance Jr. John Thompson Dorrance III Irene Carpenter Draper Doris Duke Alexis Felix du Pont Jr. Edward Bradford du Pont Evelyn
 Rebecca du Pont Frantz du Pont Jr. John Claiborne du Pont Marion du Pont Pierre Samuel du Pont III William du Pont III Willie Harrington du Pont David Dorst Roy
 Dorst Seymour Dorst Charles H. Dyson James Engelhard James Emmett Evans Thomas Mellon Evans Harold Ford William Stampf Forish · David Fisher Mary Belin du Pont
 Faulkner Peter Feinberg Sandra Perry (Rockefeller) John Carl Fetter Frederick W. (Ted) Felt Marshall Felt V Larry Fisher Alan Martin Fisher Hackory Fisher Lucile Eviline
 du Pont Rust Malcolm Stevenson Forbes · Kenneth W. Ford William Clay Ford Oakley Brown Frazer Michel Fabourg Helen Clay Frick Georgia Rosenbloom Freeman John Brooks
 Fugate Daniel Mauck Saltbreath John Wilmer Saltbreath Ernest Sallo Julia Sallo Robert W. Salvin Samuel Gary Charles Cassius Sater Edward L. Sayford Gordon Peter Selby James S.
 Selmon Jr. Sol Goldman Sylvia Nathan Goldman Katherine Graham William A. Graham David William Grainger Charles B. Grant Dolly Green Margarita Lammot du Pont
 Greenwald Ben Hill Griffin Jr. Franklin Nelson Gross Robert Charles Joseph Edward Sebastian Succione Ernest Hahn Donald F. Hall Joyce Clyde Hall James Ingenwall
 Hamilton Armand Hammer Jake Louis Hamon Jr. Regd Roger Hardesty W. Averell Harriman Ann Clark Rockefeller Harris David Whitman Heart George Randolph Heart
 Jr. Randolph Apperson Heart William Randolph Heart Jr. Robert A. Heiser Henry John Heinz II Harry Brachmann Helmsley John Hendrix Leon Hess William R.
 Heisler Margaret Hunt Hill Henry Lee Hillman William Barrow Hilton Gerald Douglas Hines Orata Culp Hobbs Leticia Toones (Bob) Hope Robert Staples Howard Stanley E.
 Hubert

NEW YORK NY 10007
26 FEDERAL PLAZA
2 F-81
41 CANTON
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James Hunt-Moore, Steven P. Jole, Ballou Nelsborg Johnson, John H. Johnson, John Seward Johnson, Samuel Curtis
Kadlison, Piere Kadlison, Howard Kachel, Howard B. Koch, William Koch Jr., Kirk Kerkorian, Robert L.
James L. Knight, Philip H. Knight, Charles G. Koch, David H. Koch, William F. Koch, Lonah
and G. Landeggen, George F. Landeggen, Meyer Lansky, Estee Lander, Joseph Lander, Leonard Lander, Ronald
William Jared Lovitt, Carl H. Lindner II, John Longfellow Loeb, John Jeffrey Louis Jr., George Lucas, Daniel Keith
Lunger, John T. Lupton, Robert Alfred Lewis, Patrick J. McGuinn, Malcolm Powell Malcom, Gordon
Neil Jane Cox MacElroy, John Hugh MacMillan III, W. Duncan MacMillan, Jacob N. Mandel, Joseph E.
James Ballard, Marjorie E. John Willard, Margaret L. Forrest, Mary E., Margaret Collier, Marshall, Leonard

The Forbes Four Hundred

An inquiry into the holders of great wealth
in America, with notes on the sources of
that wealth, the careers of the people who
control it and its effect on their lives.

The Forbes Four Hundred

by Harold Seneker
with Jonathan Greenberg
and John Dorfman

AMERICANS ARE AMBIVALENT about wealth. They admire it and desire it, yet resent it and find it vaguely un-American. During the Age of the Moguls, roughly from the Civil War to the Great Depression, the very rich came out of the closet and visibly enjoyed their wealth. But now, by and large, they have gone underground with it. Drawing up this list of America's richest people was, therefore, a formidable task. A majority of the people on it would have preferred not to have been listed.

This is a compilation of the Big Rich—not of jetsetters or media celebrities, who do indeed celebrate their well-being. The Forbes Four Hundred are solidly rich, rich enough to make a difference.

A family with \$10 million or so—not big wealth by today's standards—can readily live, and in fact many do live, as well as most of the country's centimillionaires. You can't tell a person's wealth by his lifestyle. So, it is not easy to find out exactly who the Big Rich are, let alone how much they have.

You don't need fabulous wealth to live very, very well these days. How many Rolls-Royces (\$115,000 each) or yachts (\$500,000 and up) do you really need or even *want*, after all? A year's worth of very fine dinners for two at gourmet restaurants costs about \$50,000—the income from \$400,000 in tax-exempt bonds, hardly great wealth. And your very own transatlantic jet seems superfluous when you can hop on the Concorde (\$1,800, one way, New York to Paris).

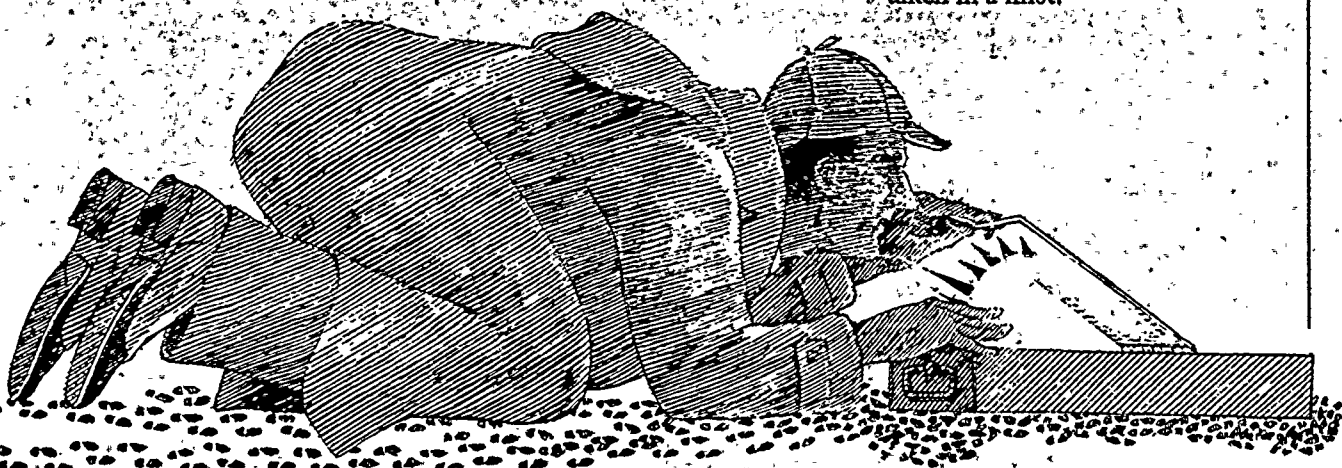
So what do the *really* rich do with their money? Some they give away: Philanthropy is "in" among the very wealthy. But most of it is reinvested, either in their existing businesses, or stocks or bonds, or in new ventures. The main thing they do, then, is create jobs and ever more of the goods and services needed to sustain the average man's lifestyle, all in the search for profit, or sense of achievement by their own standards, or sense

of family duty to the fortune. In a purely moral sense, then, conspicuous consumption may be "obscene," but great wealth is not.

Vast wealth, secretly envied where not openly admired, is still the alltime conscious or unconscious dream of many Americans—after immortality. And in the absence of knowledge, myths have naturally proliferated. Some are benign, like the hit movie, *Arthur*. But many are poisoned with political paranoia, or at least twisted for use by politicians hunting more tax dollars to spend. The accumulation of some 40 years of such malign myth-making has had consequences in the nation's laws and fiscal policy we are all still living with.

So FORBES is inaugurating The Forbes Four Hundred. In form, a periodic scorecard of who is really rich in this country—an intriguing enough inquiry anyway—but it will go beyond that: It will attempt to delve into the nature of wealth and the wealthy, into how they got that way as well as who they are, and into how they conduct their lives.

Of necessity, the list is tentative rather than authoritative: a well-informed estimate, not an audited report. But if the details are not precise, we believe the overall effect is. Great Wealth in America as it really is. An honest photograph, even if taken in a mist.



The Rules of the Chase

"If you know exactly how rich you are," observed the late John Paul Getty, "you're not really rich." Wealth, it turns out, is not a simple concept. Getty meant the fortunes of the Big Rich are normally concentrated in large businesses whose value cannot be exactly calculated unless they are actually sold. So wealth is difficult enough to guess-timate even with the cooperation of its owner or owners, and most of our subjects did *not* cooperate.

Nor is it by any means always clear exactly who *owns* a great fortune: It is often parked at least partly in the names of the immediate family or concealed in private investment companies or, more difficult, in trusts, where the separate elements of ownership (control of principal, receipt of income, power to name heirs, etc.) are deliberately spread among different people to accord with the inheritance tax laws.

To arrive at coherent estimates of wealth in all this welter, we adopted a number of rules, mostly based on common sense:

- Blocks of publicly traded stocks are priced at the market in mid-August for consistency.

- Privately held companies are valued according to estimated earnings, where estimable, based on multiples then prevailing for publicly traded companies in similar businesses.

- Lacking reasonable earnings estimates, we adopted rule-of-thumb conventions widely used within respective industries, particularly in evaluating the media: Newspapers, for instance, can be valued at \$500 and up per subscriber, or 10 to 15 times earnings, or 1.0 to 1.4 times revenues, in each case subtracting a generous allowance for probable liabilities. TV stations were evaluated for us by reputable media brokers.

- In some cases, we had to settle for estimates of book value, particularly among private oil producers, where we often did not venture beyond putting a fair estimate on their oil reserves. In one or two cases (e.g., J.R. Simplot) we were forced to work from estimates published by the general press; they are treated very conservatively, since they are often unreliable.

In fact, in every case we went out of our way to be ultraconservative; we wanted to be sure everyone on the 400 belongs on the 400.

Then came trusts. We had to proceed on almost a case-by-case basis, applying common sense. Most trusts are plainly set up to carry out a normal pattern of inheritance (to wives or husbands, or offspring) and exist mainly to minimize inheritance taxes. These trusts we generally attributed to the person who created the wealth, where still alive and in control, or else to the principal controlling family member where he is not.

We gave similar treatment to certain special arrangements which are aimed at keeping control of a valuable asset in the family (e.g., the Cargills, where, reportedly, company shares may only be sold or bequeathed to family members, the present holders are credited with full value, though their shares are not freely marketable).

On the other hand, spendthrift trusts, meant to keep control of a fortune *out* of the hands of beneficiaries, were not credited to the

beneficiaries. The estimated trust income was, while we usually looked for controlling family members when seeking to assign the principal.

Irrevocable charitable trusts were not counted in at all, even when, as in the case of the Pews, they serve to retain ultimate control over the family company, we decided such wealth is really working for charity now. Foundations, of course, were not counted either, though occasionally noted.

There was one last set of problems to deal with. Generally, we considered wealth in the name of a spouse or child as part of the still-active principal's wealth, especially when family ties are manifestly close and they all share interests in an ongoing business. Exceptions: where a fortune is so vast that another family member's share qualifies him or her for 400 status (as in An Wang and his wife, Lorraine); or where family and business ties are broken or at least noticeably frayed. So Joseph Meyerhoff is here as patriarch-in-charge while Henry Ford II is not. Ford is retired and his children are scattered, apparently maintaining their own inheritances, and are born of wives he has since divorced. (He himself had only \$80 million we could clearly identify, mainly depressed Ford stock and his 4% interest in California's Irvine Ranch.) Meyerhoff, on the other hand, still comes to the office, and his son Harvey, a big shareholder now, is in the business. One major exception is not as chauvinist as it looks: Mary Kay Cosmetics. The founder-mother Mary Kay Ash (formerly Rogers) is not listed, the president-son and lately larger shareholder Richard Rogers is. Both stoutly maintain that he is absolutely in charge of the whole show and has been for a long time. Far be it from us to come between a son and his mother.

Leslie Herbert Werner

Retailer. Columbus, Ohio. 45. Single. Went to work 1963 in father's women's clothing store. Disagreed with policy: borrowed \$10,000 to start own specialty store (sports-wear). Now has 422-store chain, The Limited, grosses \$200/sq. ft. Acquired Lane Bryant, sleepy larger chain, for assets: \$2/sq. ft. leases in \$15 markets. His share in the Limited worth around \$100 million.

David M. Darrin

Automatic Switch Co. Livingston, N.J. 64. Married, 3 sons. Father David H. worked for company, bought it, moved it to NYC from Baltimore; died 1928. After his death, mother gave one-third to management; later, two-thirds to David M. Company went public 1970; Darrin now owns 39%, worth \$86 million by itself. With proceeds of stock sales, should have more than \$100 million.

Carmage Walls

Newspapers. Houston. 73. Divorced, remarried, 3 children by first marriage, 2 by second. Started as assistant bookkeeper Orlando (Fla.) *Sentinel* 1932, became business manager 1933. Bought by chain, worked his way up to head string of papers. Started own company 1952, became buyer, holder, reseller of small-town southern newspapers: "I've made 24 millionaires" selling newspapers to his appointed publishers and others. Now family and friends own 26, total circulation of 211,000. Semiretired. Estimated net worth with wife, children: above \$100 million.

Ernest W. Kahn

Shopping centers. San Diego, Calif. 63. Married, 3 children. Started as small general contractor after leaving Navy 1946. Began building shopping centers early 1950s. Built over 34 million sq. ft. in numerous states. Sold out to Trizec Corp. (Canadian) 1980. His share: \$90 million. Semiretired: "I thought it was time to work a three-day week." With other assets, estimated net worth at least \$100 million.

James L. Knight

Knight-Ridder newspapers. Miami. 73. Married, 2 children. Long in shadow of brother and family patriarch John (d. 1981). Co-inherited

father's 3 small newspapers 1933. Acquired *Miami Herald* 1937, first of many including *Philadelphia Inquirer* and *Detroit Free Press*. Ran business side (John ran editorial policy). Now best-managed, most-profitable chain in U.S.; his stock alone worth \$87 million. With other assets, estimated net worth: over \$100 million.

Gordon McLendon

Broadcasting. Dallas. 61. Divorced twice, 4 children. Became famous as "The Old Scotchman," radio persona of 1940s, early 1950s. Invested in radio, TV stations. Pioneered Top 40 format, all-news station. Sold out 1972-77 for \$100 million plus. Bought gold, silver, strategic metals, real estate. Started early, so probably still worth over \$100 million despite recent slide.

Patrick J. McGovern

Publishing. Nashua, N.H. 45. Divorced, remarried, 2 children. Worked on tiny computer magazine, saw need for computer market census. Started International Data Corp. 1964. Started newspaper 1967 as IDC "ad" business-getter: *Computerworld*, now largest specialty publication of its kind. Moving into venture capital. Revenues \$75 million, growth 38% a year, net 10% aftertax. Net worth: at least \$100 million.

Robert Edward Petersen

Publisher. Beverly Hills. 56. Married, 2 sons (deceased). Unemployed movie publicist 1947. Borrowed \$2,000, printed *Hot Rod* magazine,



hawked at race meets, published in garage, slept on cot in corner. Built into Petersen Publishing Co.: 16 monthlies (*Guns & Ammo*, *Motorcyclist*, etc.), books, other. Married former Miss Rheingold, bought mansion, hunting ranch, art. Estimated net worth: at least \$100 million. Both young sons killed in plane crash, 1975.

Marc Rich

Oil trader. NYC. 48. Married, 3 daughters. Workaholic who built Phibro Corp.'s vast oil-trading business almost from scratch, demanded his \$1.5 million bonus under compensation rules. Phibro refused. Went away mad, as Marc Rich & Co. now does \$10 billion to \$15 billion trading a year, mostly oil, with partners mainly hired away from Phibro. Uses "leverage to the nth degree." With business down, estimated net worth still at least \$100 million.

Jack Resnick

Burton Resnick

Father and son. Real estate. NYC. Jack: 75. Married, 4 children. Started as small builder in Bronx 53 years ago, moved to Manhattan 1950s, bought, held properties. Still runs company. Burton: 46. Married, 3 children. Chief operating officer Jack Resnick & Sons, Inc. Own over 4 million sq. ft. NYC commercial space, thousands of apartments NYC and Florida. Suing Teamsters for "racketeering." Equity easily exceeds \$350 million, but silent partners, principally Belfers (*which see*), have some. Estimated net worth: share at least \$200 million. Denied by them.

Peter Feinberg

Real estate. Palm Beach, Fla. 72. Married, 2 sons. Born Poland. Father's NYC wholesale produce business collapsed in Depression. Worked way through school, supported parents playing poker, shooting craps (with money backers), buying and selling used textbooks. Entered real estate 1936; reputation as "street smart." "I stopped gambling the minute I went into business." Has commercial real estate NYC, Florida, Denver, Atlanta; condos Florida. Turning business over to sons David (Denver), Michael (Miami). Estimated net worth: over \$100 million.

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Ono, Yoko	137	New York City	49	150	Music royalties (inheritance)
P ackard, David	104	Los Altos Hills, Calif.	70	1,000	Hewlett-Packard Co.
Palevsky, Max	129	Los Angeles	58	200	Computers
Paley, William S.	138	New York City	80	140	Broadcasting
Park, Roy Hampton	140	Ithaca, N.Y.	71	130	Newspapers, broadcasting
Parker, Jack	129	New York City	67	200	Real estate
Parrish, Jesse J. Jr.	146	Titusville, Fla.	69	110	Citrus, cattle
Paulucci, Jeno F.	146	Duluth, Minn.	64	110	Food processing
Payson, Charles S.	142	Portland, Me.	83	120	Entrepreneur (inheritance)
Pearson, Edith du Pont ..	112	Greenville, Del.	70	300*	Du Pont Co. (inheritance)
Perot, H. Ross	111	Dallas	52	325	Computer services
Petersen, Robert Edward ..	153	Beverly Hills	56	100	Publishing
Petrie, Milton	118	New York City	80	225	Retailing
Pew Family	167	Philadelphia	—	200	Sun Co.
Phipps Family	167	Orig. Pittsburgh	—	1,200	Investments (inheritance)
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Pictet, Marion MacMillan ..	142	Geneva, Switz.	49	116	Cargill, Inc.
Pitcairn Family	167	Philadelphia	—	400	Glass (inheritance)
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Pritzker, Jay Arthur	111	Chicago	60	333*	Financier
Pritzker, Robert Alan	111	Chicago	56	333*	Financier
Pulitzer Family	167	St. Louis	—	400	Newspapers (inheritance)
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Robertson, Wilhelmina Cullen ..	108	Houston	59	500*	Oil (inheritance)
Robins, E. Claiborne	137	Richmond, Va.	72	150†	A. H. Robins Co.
Rockefeller, David	105	NYC; Tarrytown, N.Y.	67	1,000	Oil (inher.), investments, real est
Rockefeller, Hope Aldrich	147	Woodstock, Vt.	44	100	Oil, real estate (inher.)
Rockefeller, John Davison IV ..	147	Charleston, W.Va.	45	100	Oil, real estate (inher.)
Rockefeller, Laurance Spelman ..	110	Tarrytown, N.Y.	72	450	Oil, real estate (inher.)
Rockefeller, Rodman Clark	147	New York City	50	100	Oil, real estate (inher.)
Rockefeller, Steven Clark	147	Middlebury, Vt.	46	100	Oil, real estate (inher.)
Rockefeller, Winthrop Paul	110	Winrock Farms, Ark.	34	400	Oil, real estate (inher.)
Rogers, Richard Raymond	146	Dallas	39	110	Mary Kay Cosmetics
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Root, Chapman S.	123	Ormond Beach, Fla.	57	200	Coca-Cola bottler
Rosenberg, Henry A. Jr.	136	Baltimore	52	133*	Oil, real estate (inher.)
Rosenberg, Ruth B.	136	Baltimore	83	133*	Oil, real estate (inher.)
Ross, Wilhelmina du Pont	140	Greenville, Del.	76	130	Du Pont Co. (inheritance)
Rudin, Jack	116	New York City	58	250*	Real estate
Rudin, Lewis	116	New York City	55	250*	Real estate

*Assuming equal shares in common fortune. †Family fortune individually allocated.

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~~TO DIRECTOR (196B-2848) ROUTINE~~ 1556

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ATTN: SA [REDACTED]

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MARC RICH, DBA MARC RICH AND COMPANY; ET AL; FBW - ENERGY
 RELATED (OO: NY).

RENYTELETYPE TO BUREAU, JANUARY 28, 1982; AND NYTELCALL
 TO BUREAU, JULY 6, 1983.

FOR INFO OF BUREAU, MEETING HAS BEEN SCHEDULED IN

[REDACTED] BETWEEN AUSA [REDACTED]

SDNY, DEPUTY ATTORNEY GENERAL [REDACTED]

[REDACTED] AND SPECIAL AGENT [REDACTED]

NYO. PURPOSE OF

MEETING IS TO DISCUSS [REDACTED]

[REDACTED] IN CAPTIONED MATTER. AUSA [REDACTED] REQUESTS THAT

SA [REDACTED] ATTEND DUE TO COMPLEXITY OF MATTER TO BE DISCUSSED.

THE ESSENCE OF THIS CASE REVOLVES AROUND THE EVASION OF
 TAX ON HUGE AMOUNTS OF DOMESTIC PROFIT (APPROXIMATELY 100

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- ☐ Immediate
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CLASSIFICATION:

- ☐ TOP SECRET
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PAGE TWO

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MILLION) EARNED ON OIL PURCHASES AND SALES. THE PROFIT WAS GENERATED BY CHANGING OF OIL CERTIFICATIONS DURING 1980 AND 1981. THIS PROFIT WAS THEN MOVED TO FOREIGN COMPANIES CONTROLLED BY THE SUBJECTS THROUGH INTERCOMPANY TRANSACTIONS AND SHAM TRANSACTIONS WITH THIRD PARTY COMPANIES HOLDING PROFITS FOR THE SUBJECTS.

ADIC, NY CONCURS WITH NECESSITY OF TRAVEL. BUREAU APPROVAL REQUESTED FOR TRAVEL OF NY CASE AGENT TO [REDACTED]

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ATTN: SA [REDACTED]

MARC RICH, DBA MARC RICH AND COMPANY; ET AL; PSW - ENERGY
RELATED (OO: NY).

RENYTELETYPE TO BUREAU, JANUARY 28, 1982; AND NYTELECALL
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FOR INFO OF BUREAU, MEETING HAS BEEN SCHEDULED IN

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SDNY, DEPUTY ATTORNEY GENERAL [REDACTED]

[REDACTED] AND SPECIAL AGENT [REDACTED] NYO. PURPOSE OF

MEETING IS TO [REDACTED]

[REDACTED] IN CAPTIONED MATTER. AUSA [REDACTED] REQUESTS THAT

SA [REDACTED] ATTEND DUE TO COMPLEXITY OF MATTER TO BE DISCUSSED.

THE ESSENCE OF THIS CASE REVOLVES AROUND THE EVASION OF
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MILLIONS EARNED ON OIL PURCHASES AND SALES. THE PROFIT WAS GENERATED BY CHANGING OF OIL CERTIFICATIONS DURING 1980 AND 1981. THIS PROFIT WAS THEN MOVED TO FOREIGN COMPANIES CONTROLLED BY THE SUBJECTS THROUGH INTERCOMPANY TRANSACTIONS AND SHAM TRANSACTIONS WITH THIRD PARTY COMPANIES HOLDING PROFITS FOR THE SUBJECTS.

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July 7, 1983

TITLE: MARC RICH
dba Marc Rich and Company;
PINCUS GREEN:

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[REDACTED]
FBW-ENERGY RELATED
(OO:NY)

File: 196B-1774

Case Agent: [REDACTED]

Supervisor: [REDACTED]

- I. Date Investigation Began: 10/21/81
II. Type of Investigation: GCI
III. Date of FBIHQ/Departmental Approval: N/A
IV. Date Investigative Authority Expires: N/A
V. Basis of Investigation:

[REDACTED]
[REDACTED] provided information that [REDACTED]
[REDACTED]

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VI. Major Objectives:

- 1) Identify all participants in scheme that are both actively and passively involved.

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VII. Prosecutive Opinion:

AUSA [redacted] SDNY, has been actively involved in investigative effort to date. He has [redacted]

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VIII. Milestones Completed:

1) DOJ Tax Division approval for Grand Jury, 2/22/82.

2) Identification of passive participation. [redacted]

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3) Affidavits in support of [redacted]

4) Motion to [redacted]

5) Continued [redacted]

6) Obtain [redacted]

[redacted] to date).

7) [redacted]

8) [redacted]

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9) [redacted]

10) [redacted]

11) [redacted]

12) [redacted]

13) Complete [redacted] review of [redacted]

14) Enforcement of subpoena on [redacted]

IX. Milestones anticipated:

1) Obtain [REDACTED]

2) Obtain approval for [REDACTED]

3) [REDACTED]
[REDACTED]

4) Indictment possible by August, 1983.

X. Unusual Investigative Techniques Employed/Anticipated:

[REDACTED] from a [REDACTED] to ensure
[REDACTED]

XI. Manpower Anticipated:

XII. Accomplishments:

Motion to [REDACTED] for production of [REDACTED]
[REDACTED] was settled in favor of the U.S. Government.
[REDACTED]

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Court Cites Marc Rich & Co. for Contempt For Refusing to Aid Probe of Oil Trading

By STEVE MURSON and ROGER LOWENSTEIN
Staff Reporters of THE WALL STREET JOURNAL

NEW YORK—Marc Rich & Co. AG, one of the biggest commodities trading companies in the world, was cited for contempt of court for refusing to cooperate with a grand jury investigation of its crude-oil trading operations.

Judge Leonard B. Sand, a federal judge here, ordered the concern on June 29 to pay \$50,000 a day in penalties, but so far Marc Rich hasn't complied and hasn't paid the fine. The closely held company is appealing the contempt citation.

The investigation sheds some light on an often mysterious company that trades about \$10 billion of commodities a year. In 1981 Marc Rich was said by commodity traders to be the "mystery buyer" behind Malaysia's apparent efforts to corner the tin market and drive up prices. The concern also is said to have speculated in oil before the Iranian cutoff and to have supplied oil to South Africa.

However, little is known about the company or its principals.

Tax Evasion Probe

The grand jury is investigating whether Marc Rich evaded U.S. taxes. In affidavits and transcripts of oral arguments before the court, government attorneys say that the company structured resales to its U.S. subsidiary to direct more than \$20 million in 1980 U.S. income to its Swiss parent company, a device that would avoid U.S. taxes.

Government affidavits filed by the U.S. attorney in U.S. District Court suggest that the U.S. subsidiary paid inflated prices for oil to the Swiss parent, which resulted in losses in the U.S.

Marc Rich argued in court that the parent and its subsidiary engage in arm's-length transactions and they weren't part of a tax evasion scheme.

Last August, Judge Sand said in a legal opinion, "The government attempts to show that this picture of formal separateness masks a scheme of deliberate tax evasion in which international (the U.S. subsidiary) regularly directed income to AG (the Swiss parent)." The government had subpoenaed Marc Rich in April 1982 to appear before a federal grand jury in the southern district of New York to produce "various records," but Marc Rich didn't supply the requested records.

The trading company's efforts to yield the contempt citation are proceeding currently on the basis of the Swiss court injunction. A spokesman for Chase Manhattan Bank, one of Marc Rich's principal bankers, said Chase had received a grand jury subpoena asking for records relating to some of Marc Rich's trading activities. "We supplied the records," the spokesman said.

Crude-Oil Sales

As part of the government's case, an agent of the Federal Bureau of Investigation testified, in a July 1982 affidavit, that in 1980 the Swiss parent sold over \$345 million of crude oil to its U.S. subsidiary. That amount equaled more than 49% of the U.S. unit's total crude oil purchases, according to the testimony. Yet the U.S. subsidiary lost \$110 million on the resale of the oil in the U.S., the agent said.

The company is run by Marc Rich and Pincus Green, who previously traded oil and metals for Philbro Corp., now known as Philbro/Salomon Inc., before forming Marc Rich & Co. AG in 1974. Philbro is the world's largest commodities concern.

A receptionist in Marc Rich's Zug, Switzerland, office said that Mr. Rich and Mr. Green were at the company's headquarters there. She said they were in "meetings" and couldn't respond to telephone calls. Mr. Rich's secretary in New York declined to say whether Mr. Rich planned to return to the U.S. soon.

Even in a business where secrecy is the norm, Mr. Rich is said to be unusually tight-

lipped. He has granted no known interviews, and he has declined to respond to numerous previous calls from this newspaper.

Mr. Rich "is like granite; he hardly ever smiles," a former employee says.

Hard Workers

Mr. Rich and Mr. Green are intense, round-the-clock workers who exercise direct control over a large share of the company's immense trading operations, estimated at \$10 billion to \$15 billion in annual revenue.

In New York, Mr. Rich gets to the office at 7 a.m. and he's already talked to people all over the world, a rival oil trader says. However, he and Mr. Green are frequently on the go. "It's amazing how only two people can be seen at so many airports," another trader says.

Most of Marc Rich's business consists of buying and selling physical commodities, including crude oil, oil products, metals, ores and grains. Its margins usually are small, but the company occasionally speculates in special circumstances, such as shortages or gluts.

In a surprise move, Richco, a Marc Rich-controlled company, purchased half of Twentieth Century-Fox Film Corp. in 1981. Denver oil millionaire Marvin Davis, a longtime associate of Mr. Rich, purchased the other half.

Suit and Countersuit

The latest twist in the struggle over the trading company's records has been a suit by some of the officers of the company against the company. The company then countersued its top officers.

A lawyer for the company said Mr. Rich and Mr. Green sought a Swiss court order directing the parent to turn over documents. Instead the parent won a Swiss court order blocking the company from turning over the information.

Government lawyer Morris Weinberg, in a district court hearing, called the Swiss suits "ridiculous, contrived and concocted." He told Judge Sand that Marc Rich & Co. could withdraw its suit in Switzerland and "simply make the documents public." The only thing preventing the corporation from doing that is an injunction that it sought against itself.

The trading company's efforts to yield the contempt citation are proceeding currently on the basis of the Swiss court injunction.

A spokesman for Chase Manhattan Bank, one of Marc Rich's principal bankers, said Chase had received a grand jury subpoena asking for records relating to some of Marc Rich's trading activities. "We supplied the records," the spokesman said.

Career Beginnings

Mr. Rich, who is in his late 40s, began his career trading metals with Philipp Brothers, now the commodities arm of Philbro/Salomon in the early 1950s. Philipp Brothers in those days was mostly an organization of German-Jewish traders, and Ludwig Jesselson, the company's chief executive, quickly took Mr. Rich under his wing.

Philbro traders say Mr. Jesselson spoke of Mr. Rich as a son. Mr. Rich attended family bar mitzvahs and often was a dinner guest at the Jesselsons' Riverdale, N.Y., home.

When Mr. Rich was transferred to Madrid, he developed Philbro's oil trading business, and helped enable the company to make huge profits during the 1973 Arab oil embargo. However, Mr. Rich demanded a bigger bonus than Philbro was willing to give, and he quit.

Mr. Rich has lured away more than 100 of Philbro's traders, according to traders still at Philbro.

(Indicate page, name of newspaper, city and state.)

Marc Rich was cited for contempt of court for refusing to cooperate with a grand jury probe of its oil trading operations. The huge commodities trading firm, which was ordered by a federal judge to pay \$50,000 a day in penalties, is appealing the citation. (Story on Page A1)

THE WALL STREET JOURNAL
6 Friday, July 15, 1983

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NY Times 7/26/83

Marc Rich Assets May Be Frozen

Sale of U.S. Unit Is Cited

By LEONARD SLOANE

A Federal judge in New York has given the United States Attorney's office permission to freeze some of the assets of Marc Rich & Company A.G., one of the world's biggest commodities traders, in order to collect \$1 million in fines for contempt of court.

The authorization, at a hearing Friday by Judge Leonard B. Sand, followed the disclosure in court that the Swiss company, based in Zug, Switzerland, had sold its American subsidiary, Marc Rich & Company International Ltd., to Clarendon A.G. Ltd., a new concern led by some of the principals of Marc Rich A.G.

The United States Attorney's Office called the American subsidiary Rich's "only real asset in the United States."

Restraining Notices

After the hearing, Morris Weinberg, the Assistant United States Attorney in charge of the case, served restraining notices on the Chase Manhattan Bank, the principal American bank of Rich, and others connected with the company.

A telephone call yesterday to the Rich office at 650 Third Avenue in New York was answered by the operator with the word "Clarendon." She said the only person who could provide any information was Peter Ryan, who was not further identified and who did not return two calls.

Robert C. Finkel and John W. Ritchie, lawyers for Rich, also did not return calls. A spokesman for Chase said it had received the restraining notice on Friday and added, "We intend to comply."

The order by Judge Sand was issued in an attempt to obtain the first \$1 million of a \$50,000-a-day fine that was imposed on Rich on June 29 for the company's refusal to turn over business records subpoenaed by a Federal grand jury. Rich was also held in contempt of court for failing to cooperate with the panel, which since last year has been investigating whether the corporation violated United States laws or evaded United States taxes.

Citation Appealed

The company has not paid any fines and has appealed the contempt citation. A hearing on the appeal is scheduled for Aug. 8.

The United States Attorney's office said it learned last Wednesday that the assets of the United States company were sold to Clarendon. Clarendon is owned by the major partners of Rich, with the exception of Marc Rich, the head, and Pincus Green, a close associate. Mr. Weinberg called this sale "an effort to fraudulently convey an asset for the purpose of avoiding the enforcement of either a judgment or in anticipation of a judgment."

The parent corporation trades approximately \$10 billion annually in oil, tin and other commodities. The United States Attorney's office charges that the Rich organization engaged in "an elaborate tax evasion scheme" in which the American subsidiary "diverted in 1980 alone a minimum of \$20 million in taxable income" to the Swiss parent to avoid United States taxes.

Rich Denial

Rich has asserted in court, however, that the dealings between the parent and the subsidiary were arm's length transactions and were not designed to evade taxes. It has also stated that since it is a Swiss company, it does not have to comply with the grand jury subpoena.

Mr. Rich, who is 49 years old, is very secretive about his operations and is not known to have ever granted an interview. He began his career about 30 years ago with Philipp Brothers, which is now the commodities unit of Phibro/Salomon Inc., where he made his reputation as an oil trader. He left in 1974 because of a salary dispute and started his own organization, taking with him some associates at Philipp.

In 1981 Mr. Rich, through one of his companies, bought 50 percent of the 20th Century Fox Film Corporation, along with Marvin Davis, the Denver oilman, who purchased the other half. That \$722 million acquisition converted Fox into a private company. A spokesman for Fox said yesterday that Mr. Rich "is not involved in any day-to-day decisions that go on here."

(Indicate page, name of newspaper, city and state.)

NEW YORK TIMES
BUSINESS SECTION

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Marc Rich Asset Freeze Due

By LEONARD SLOANE

A Federal judge said yesterday that he would sign an order permitting the United States Attorney to freeze up to \$55 million in United States assets of Marc Rich & Company A.G.

The order, which Judge Leonard B. Sand said he would sign today in Federal District Court in Manhattan, would allow restraining notices to prohibit companies and individuals from paying funds that they owe to the Swiss-based international commodities trading concern.

The order is the latest attempt by Federal prosecutors to assure payment of fines levied against Marc Rich after it refused to turn subpoenaed documents over to a Federal grand jury investigating possible tax violations by Marc Rich. Rich says the transactions being investigated were not under the jurisdiction of United States laws.

Judge Sand imposed a \$50,000-a-day fine on the company on June 29 for its refusal to surrender the documents. Last Thursday, Rich paid \$1.35 million in accrued fines, but the Government claims that a maximum of \$27.5 million may be due if the company does not pay the fines by March 14, 1984, when the term of the grand jury expires.

The judge's latest order permits Federal prosecutors to require companies that owe funds to Rich to set aside twice the amount owed, or a total of \$55 million among all the companies served by the restraining notices.

Some restraining notices have already been issued under a previous order to a number of American companies, including the Chase Manhattan Bank and the holding company for the 20th Century-Fox Film Corporation, which is half-owned by a company with the same partners as March Rich A.G.

After Marc Rich paid the \$1.35 million in fines last week, it sent notices to its customers assuring them business could be conducted normally, despite the attempts to freeze its assets. Judge Sand's order prohibits Marc Rich from sending out any more of those notices.

The judge's statement yesterday was the latest development in a series of complex proceedings over more than a year involving Rich and its principal owner, Marc Rich, a secretive oil trader who created a multibillion business since leaving the corporation now known as Philbro-Salomon Inc. in 1974 over a pay dispute.

The restraining notices referred to by Judge Sand would also prohibit Rich and Clarendon Ltd. from "transferring or otherwise dissipating" any assets in the United States or any assets that may be transferred into the United States.

Clarendon, a newly formed company with European principals, acquired the American subsidiary of Rich, known as Mark Rich & Company International, late last month in a transaction that Assistant United States Attorney Morris Weinberg called "an effort to fraudulently convey an asset."

Peter Fleming, a lawyer for

Clarendon, said yesterday that his company was separate from Marc Rich A.G. and should not have been included in the judge's latest order. In response, Judge Sand said he would accept an application from Clarendon for an evidentiary hearing to prove its right to be exempted from the restraining notices.

During yesterday's brief, late-afternoon session at the Foley Square Courthouse in Manhattan, the possibility of an agreement among the parties was discussed, involving a bond by Rich to insure payment of the fine. And in a memorandum to the court, Bruce Fader, a lawyer for Rich, said the company "will not impose a restraint against a transfer of assets except in the ordinary course of its business for countervailing value."

However, Carolyn Simpson, an Assistant United States Attorney, said, "We must presume that Rich is taking business out of the country." She added that "we have had no indication that there will be any compliance" with Judge Sand's order.

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THE NEW YORK TIMES, THURSDAY, AUGUST 4, 1983

Marc Rich Negotiations

Government lawyers continued negotiations yesterday with Marc Rich & Company A.G., the Swiss-based commodities trading organization, to eliminate the need for a Federal court order freezing up to \$55 million of the company's United States assets.

Federal Judge Leonard B. Sand had said Monday that he would freeze the assets, but Carolyn Simpson, Assistant United States Attorney, said subsequently that the Government was trying to find a solution to the problem without a court order.

A grand jury investigating possible tax evasion by Marc Rich ordered the company last year to produce records. Marc Rich refused on the ground that, as a Swiss company, it was not subject to United States subpoena power. Judge Sand last month fined Marc Rich \$50,000 a day for contempt of court, and the company immediately sold its American subsidiary to Clarendon Ltd., a new company with European owners. Last Thursday the company paid \$1,350,000 in fines but Judge Sand, in an effort to force compliance, said he would freeze up to \$55 million of the company's and Clarendon's assets, or twice the maximum possible fine.

A lawyer for Marc Rich, who asked not to be identified, said the current negotiations were designed "to protect the interests of the United States and at the same time maintain viable business operations in this country" for Clarendon and Marc Rich.

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Business Day

The New York Times

U.S. to Get Marc Rich Documents

Accord Also Guards Assets

By ERIC N. BERG

Under intense Government pressure, Marc Rich & Company A.G., one of the world's largest commodity traders, agreed last night to turn over documents subpoenaed more than a year ago by a Federal grand jury investigating the company for tax evasion.

In a brief hearing late yesterday afternoon in Federal District Court in Manhattan, Morris Weinberg, an Assistant United States Attorney, said Government prosecutors and lawyers for Marc Rich A.G. had reached a preliminary agreement under which Marc Rich A.G., based in Zug, Switzerland, would turn over the requested documents within 14 days.

Until yesterday, Marc Rich A.G. had steadfastly refused to produce the documents. As a result, it was incurring fines of \$50,000 a day imposed by a Federal judge, and some of its United States assets held by banks and other companies had been frozen.

After the hearing, lawyers for both sides drove to the home of Judge Leonard B. Sand, who is presiding in this case, for his signature on the agreement. They would not give details of the agreement nor would they say whether it would end the fine that the judge had imposed after finding Marc Rich in contempt for not honoring the subpoena.

The grand jury had requested the records of transactions in an investigation into whether Marc Rich's American subsidiary evaded some \$20 million of taxes in 1980 by inflating the price it had paid the Swiss parent for oil.

Additionally, Government prosecutors were threatening to seize virtually all of the company's United States operations if it did not comply with their requests for papers.

At the same time, Mr. Weinberg said, the agreement left the Government "fully protected" against "the dissipation of assets." Government officials have been concerned that Marc Rich A.G., to avoid having all of its United States property frozen, would begin siphoning assets out of the country.

Their concern stemmed from the fact that on June 30, one day after Marc Rich A.G. was found in contempt of court for not complying with the subpoena, the company secretly sold its United States operation, Marc Rich & Company International Ltd., to Clarendon A.G., a new concern led by some of the principals of Marc Rich A.G.

"We believe we are very close to reaching an agreement under which the Government will be fully protected against the dissipation of assets during the next 14 days, during which Marc Rich A.G. has under-

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Marc Rich in Accord On Giving U.S. Records

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taken to produce the documents previously ordered by the court, Mr. Weinberg said after the afternoon court session.

Judge Sand said that when the documents in question are received, they would be turned over immediately to the grand jury.

A lawyer for Marc Rich A.G., the object of the hearing, was in the courtroom but did not speak at the hearing. However, Peter Flemming, a lawyer representing Clarendon, asked that once an agreement was reached and the documents in question turned over, that the Government move to lift the freeze on Marc Rich's remaining United States assets. The freeze has apparently affected Clarendon's business as well.

Marc Rich A.G., which trades more than 10 billion a year in commodities including oil, copper, tin and grains

through 40 offices in 30 countries, first was questioned by a grand jury in March 1982.

When the grand jury subpoenaed the documents in its investigation, Marc Rich A.G. balked, saying that as a Swiss-based company it was outside the jurisdiction of United States courts. In any case, the company said, the transactions in question were "at arm's length" between Marc Rich in the United States and the European operations and did not involve artificial pricing to reduce taxes.

Judge Sand found Marc Rich in contempt of court June 29 and fined the company \$50,000 a day. The next day, the United States unit of Marc Rich was secretly sold, and Government prosecutors contended that the sale was merely a ploy to avoid the enforcement of the judgment against the company.

On July 22, Judge Sand served restraining orders on the Chase Manhattan Bank, which is Marc Rich A.G.'s main lender, as well as on other companies doing business with Marc Rich, ordering each of them to freeze up to \$2.7 million in the Swiss concern's assets.

Part of Fine Paid

On July 28, Marc Rich paid \$1,350,000 in fines, but the company, through its lawyers, continued to refuse to turn over the documents.

Shortly after, Government prosecutors asked to increase the amount of Marc Rich's United States assets frozen to \$55 million. Judge Sand had planned to sign such an order last Tuesday, but instead let the deadline pass, permitting the two sides to negotiate and reach agreement.

Neither of Marc Rich A.G.'s owners, 48-year-old Marc Rich and his longtime friend and business associate, Pincus Green, have attended the court proceedings. Although the company has refused to discuss their whereabouts and they have not returned reporters' telephone calls, sources said that Mr. Rich and Mr. Green, who had been living in New York until recently, had left the United States and are temporarily in Switzerland.

MONDAY, AUGUST 8, 1983

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Business Daily

The New York Times

Behind the Marc Rich Agreement

Officials Cite Traders' Fears

By ERIC N. BERG

Marc Rich & Company A.G., one of the world's largest commodity traders, agreed to hand over documents subpoenaed more than a year ago by a Federal grand jury because of rising fears among the firm's customers and suppliers that the Government was preparing to seize the company's United States operations, executives familiar with the case said yesterday.

Marc Rich still refuses to discuss the accord or anything about itself. However, the executives, now heading a firm that once was a Marc Rich subsidiary, took it upon themselves to tell the story.

To hear the executives tell it, their firm, Clarendon Ltd., no longer has any ties with Marc Rich A.G.

Three-Hour Interview

But in an interview yesterday, Peter F. Ryan, Clarendon's chief financial officer, and Willy R. Strothotte, the company's president and chief operating officer, spent three hours explaining why Marc Rich bowed to the Government's pressure in agreements signed Friday.

According to the Clarendon executives, some Marc Rich suppliers were concerned that they might not get paid if the assets of the Swiss-based commodities trader were frozen. Marc Rich, cognizant of that pressure, decided to give the documents to the Government rather than risk further damage to the firm, the Clarendon executives said.

While Marc Rich did not lose business because of the publicity, the executives said, the events had caused both buyers and suppliers of metals traded by the company to "back away" from Marc Rich and "proceed with caution." As a result, they said, Marc Rich decided to end its year-long struggle to resist the request for documents.

"They have now concluded that it is in their interest, from a financial and reputation point of view, to comply," said Mr. Ryan.

Mr. Strothotte, formerly the head of Marc Rich's metals and minerals unit, said, "They have decided to be pragmatic rather than dogmatic."

It was not immediately clear why Clarendon chose to speak on Marc Rich's behalf. But Mr. Ryan said he

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Behind Marc Rich Agreement

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spoke yesterday by telephone with Marc Rich himself, who until recently has refused to talk with virtually anyone about the case. According to Mr. Ryan, the reclusive Mr. Rich authorized him to explain why Marc Rich decided to give in. The Clarendon executives said that, by discussing the agreements reached Friday, it might repair damage to their firm's image.

Grand Jury Probe

A Federal grand jury for a year has been investigating whether Marc Rich, in a pricing scheme, inflated the price of the oil that its American subsidiary paid to the Swiss parent, thus evading about \$20 million in taxes. The grand jury had subpoenaed from the Swiss company records of some of the questioned transactions.

Marc Rich claimed that the transactions were at "arm's length," and that because it is a Swiss company, the transactions were not under the jurisdiction of United States laws. In addition, a Swiss court has ruled that Marc Rich would violate Swiss secrecy laws if it turned over the documents to the United States prosecutors.

One agreement reached Friday, after a week of intense negotiations, calls for Marc Rich to produce the subpoenaed documents by Aug. 19. Not until the documents are in prosecutors' hands will a contempt charge and a \$50,000-a-day fine, ordered on June 29 by Federal District Judge Leonard B. Sand be lifted.

So far, Marc Rich has paid

\$1,350,000 of roughly \$2 million in fines accrued, but even if it paid its overdue fine quickly, the agreement calls for the Government to keep the fines already paid.

Freeze to Be Lifted

In return for the concessions it has received from Marc Rich, the Government has agreed to lift a freeze imposed June 30 on some of Marc Rich's domestic assets. These include bank deposits, including money held for Marc Rich at the Chase Manhattan Bank, as well as money owed to the firm by various commodity traders. Although Marc Rich is best known for its activities as an oil trader, it also has interests in aluminum, bauxite, copper, lead and zinc.

A separate agreement has been reached between the Government and Clarendon, which was formed to buy Marc Rich & Company International Ltd., the American subsidiary of Marc Rich & Company A.G. Although Clarendon says it is entirely separate from Marc Rich A.G., the Government disagrees, and had threatened to seize Clarendon's assets, too. Clarendon, a trader with interests in virtually all the same commodities as Marc Rich A.G., thus has become involved in the litigation.

In the second agreement, Clarendon has agreed to pay any unpaid Marc Rich fines if Clarendon does business with Marc Rich before Aug. 19. It also pledged its oil properties in the United States as collateral, subject to seizure by the Government should Marc Rich not pay its fines. In return, the Government has agreed not to freeze any assets of

Clarendon. If Marc Rich pays the fines.

Mr. Ryan, Clarendon's chief financial officer, said Clarendon had agreed to guarantee Marc Rich's fine because, despite the fact that the two companies claim to have no connection with each other, it was felt that Clarendon could help its own name by aiding Marc Rich.

"Since the Government still thinks we are Marc Rich A.G., the only way to get an agreement was to say, 'We're not A.G., but we'll guarantee A.G.'s payment to get an agreement," Mr. Ryan said.

The connection, if any, between Marc Rich A.G. and Clarendon continues to be of interest to Federal prosecutors, who all along have claimed that the sale of the United States business was a sham aimed at preventing the Government from seizing Marc Rich's assets. Morris Weinberg, for example, the Assistant United States Attorney handling the case, has called the sale "an effort to fraudulently convey an asset for the purpose of avoiding the enforcement of either a judgment or in anticipation of a judgment."

In yesterday's interview, the Clarendon executives revealed that Clarendon's new owner, Alexander R. Hackel, had formerly served as managing director of Marc Rich.

"The restraining orders and freeze of assets have been against Marc Rich A.G. and never against Clarendon," said Peter J. Fleming, Jr., a Clarendon attorney who was at the interview. "This has been the debilitating confusion."

Lengthy Negotiations

According to Mr. Fleming and other attorneys close to the case, negotiations to reach both agreements began Monday evening and continued, sometimes late into the night, every day until Friday, when the final accords were signed at the Manhattan apartment of Judge Sand.

The negotiations pitted attorneys for Clarendon and Marc Rich against Mr. Weinberg and Carol Simpson, another Assistant United States Attorney. Negotiations to reach the agreements were at times held both separately and together, sources said.

Throughout, however, the owners of Marc Rich A.G., Pincus Green and Mr. Rich, have remained conspicuously absent. Both Mr. Rich, who before starting his firm was a metals trader at what is now the Wall Street firm of Phibro-Salomon Inc., and Mr. Green, a longtime friend and business associate of Mr. Rich, have reportedly left for Switzerland, where they maintain homes. Mr. Ryan and Mr. Strothotte said they did know when Mr. Rich or Mr. Green would return to the United States.

What is clear, however, based on yesterday's interview, is that in the days leading to the accords, both Clarendon and Marc Rich began to suffer serious operational difficulties

as customers and suppliers of both firms became skittish over the possibility of a Government seizure of assets.

Mr. Strothotte said, "It has taken a lot of assuring by our people that the reports of Clarendon's being closed down were not true and that Clarendon's assets were not impaired."

No Plan to Combine Firms

Both Mr. Strothotte and Mr. Ryan insisted that, despite the Government's claim to the contrary, Clarendon and Marc Rich remain separate organizations and that there was no plan to return Clarendon to the control of Mr. Rich or Mr. Green. Clarendon was sold, the executives said, because of a feeling that by separating Clarendon from Marc Rich, Clarendon could shield itself from negative publicity arising out of the Government's tax investigation of Marc Rich.

The Marc Rich name had become somewhat of a liability, Mr. Strothotte said. "It had become a commercial necessity to make a dissociation."

As a result, according to the executives, Mr. Rich and Mr. Green agreed to sell their interest in what is now Clarendon to Alexander R. Hackel, who had been managing director of Marc Rich. Mr. Hackel, a German citizen living in Zug, Switzerland, has now become managing director of Clarendon, which is based in Manhattan at 650 Fifth Avenue.

Terms of the sale have not been released. But according to the Clarendon executives, Mr. Hackel will pay "the full net worth" of Clarendon once an audit is completed by Deloitte, Haskins & Sells, the public accountants.

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EASTERN EDITION

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PRINCETON, NEW JERSEY

Out of the Shadows

Big Commodities Firm Is Suddenly Propelled Into Public Spotlight

Court Fines Marc Rich & Co.
For Withholding Papers;
Huge Profits in Oil Deals

Did It Really Sell U.S. Unit?

By STEVE MUFSON and ROGER LOWENSTEIN
Staff Reporters of THE WALL STREET JOURNAL

Though little known, Marc Rich & Co. AG ranks as one of the most powerful companies in the world.

Operating through an international network of traders, the Swiss-based Marc Rich sells more oil than Kuwait, more copper than Kennecott and enough tin to put a can in every kitchen in America. With annual revenue exceeding \$10 billion, it is one of the few companies that can and does sway markets. During the oil panic of 1979, it helped bid up petroleum prices, and in 1981 it teamed up with Malaysia and doubled tin prices despite a depressed world market. It trades commodities with Iranian mullahs and Angolan Marxists and, on occasion, sells arms to Third World countries.

For years, it carried on all this wheeling and dealing in secrecy. Even when it purchased a half-ownership of 20th Century-Fox Film Corp., the public didn't know the identity of the "mystery buyer" for months.

But now, the big trading house has stumbled on some unwanted publicity, and its penchant for secrecy is threatening the survival of its huge—and crucial—U.S. subsidiary. The



Marc Rich

U.S. government has argued in federal district court in New York that the company's U.S. unit paid its Swiss parent inflated prices for oil, with the effect of siphoning \$20 million in 1980 U.S. income out of the country and helping set up a "massive tax-evasion scheme."

Thus far, the government has relied on records of the U.S. unit and on information gathered by a Federal Bureau of Investigation agent, who apparently interviewed Marc Rich employees. In April 1982, the U.S. subpoenaed from the Swiss parent documents that it thinks would buttress its case—and, incidentally, would make public a great deal of information about the company.

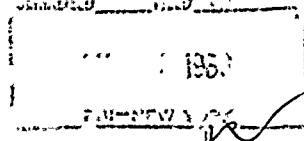
However, Marc Rich balked at turning over such records. It argues that although its two arms have the same boards and ownership, they operate independently and trade only at arms' length—that is, only when the transactions suit the business needs of each and not as part of any scheme to avoid taxes. Marc Rich's attorneys also contend that the parent company, as a Swiss corporation wholly separate from its U.S. unit, is exempt from U.S. subpoenas.

Heavy Fine

Because of its refusal to give the documents to a grand jury, Marc Rich has been in contempt of court since June 29 and sub-

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to avoid taxes. Marc Rich's attorneys also contend that the parent company, as a Swiss corporation wholly separate from its U.S. unit, is exempt from U.S. subpoenas.

Heavy Fine

Because of its refusal to give the documents to a grand jury, Marc Rich has been in contempt of court since June 29 and subject to a \$50,000-a-day fine while it appeals a federal judge's refusal to vacate the contempt order. Thus far, it has paid \$1,350,000 in fines. In addition, an assistant U.S. attorney, angered by the company's stand, has frozen Marc Rich assets held by a score of American banks and customers.

And at least one federal grand jury and the Energy Department are investigating whether the company violated federal oil-price controls during the 1970s through a complex series of trades that doubled or tripled prices to oil consumers. The trades are estimated to have involved up to 30,000 barrels a day over a two- to three-year period.

With the legal battles escalating, the two men behind the company have left their homes in New York, apparently to ride out the storm in Switzerland.

The two—Marc Rich, an intense, urbane-looking 48-year-old, and Pincus Green, his longtime sidekick—differ markedly in style. Mr. Rich lived in an expensive Park Avenue apartment building, Mr. Green in a modest white stucco house in the Flatbush section of Brooklyn. Mr. Rich, the more worldly of the two, was born in Belgium, but his family fled Europe during World War II. Shortly after the war, he was naturalized as a U.S. citizen. In 1952, he graduated from Rhodes School, a private institution in Manhattan, with a 75% average. He then studied marketing at New York University but didn't graduate.

Close Relationship

At the same time, Mr. Rich went to work for Philipp Brothers, then a clannish group of mostly German-Jewish metals traders and now known as Phibro-Salomon Inc., the world's largest commodities trading firm. Like other Phibro traders, he was a frequent dinner guest at the Riverdale, N.Y., home of Ludwig Jesselson, then the firm's operating chief. "Even then, he was different from the others," a former Phibro trader says. "He always brought the most fantastic gifts—a Polaroid camera or a crystal bowl." Mr. Jesselson spoke of him as a son. He sent him to Bolivia and then put him in charge of Phibro's Madrid office.

In the early 1970s, as oil-producing nations seized their oil fields from big oil companies, Mr. Jesselson saw an opportunity for a middleman in the oil business. Mr. Rich and Mr. Green parlayed contacts with Iranian chrome-ore traders into access to Iranian crude and, almost overnight, helped Phibro become the world's largest oil trader.

During the 1973 Arab oil embargo, Phibro chalked up tremendous profits. Mr. Rich, by then a contender to succeed Mr. Jesselson.

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Out of the Shadows: Marc Rich & Co., a Big Trader in Commodities, Is Pushed Into the Public Spotlight

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demanded a seven-figure bonus. When he didn't get it, Mr. Rich, along with Mr. Green, went to Switzerland to confront Mr. Jesselson, who was on vacation skiing. They told Mr. Jesselson they were quitting.

Since then, Mr. Rich has been obsessed with overtaking his former firm. His Marc Rich & Co. hired away dozens of former Phibro traders—and even a metals trader's secretary. They hired people for what they knew about Phibro, a Phibro trader contends.

Retorts a top Marc Rich executive: "Anyone who thinks we hired people to learn what went on inside a competitor is crazy. We hired people for their expertise, and Phibro is an excellent school. Phibro just couldn't admit that some of its people might think we're a better firm."

In Tokyo, according to a Phibro official, Phibro traders found a Marc Rich mole in their office—with the help of their own double agent, a Marc Rich secretary who was dating a Phibro trader in Buenos Aires. Phibro officials say they caught a Marc Rich employee paying for Phibro telexes. "They were beating our bids for metals by a fraction on every one," a Phibro trader says. "They knew our bids before we did."

Neither Mr. Rich nor his attorneys would comment for this article, and Mr. Rich hasn't returned dozens of telephone calls from this newspaper over the past two years.

Mr. Jesselson says he prefers not to talk about Mr. Rich, except to say, "He disappointed me; not for leaving—for how he carried on afterwards."

However, Mr. Rich has carried on the meticulous, old-style trading epitomized by Mr. Jesselson. "If a deal won't work one way, he'll come up with another approach," an oil-company executive says. Adds a former Marc Rich employee: "In the beginning, he got involved in every deal." Mr. Rich still reads the telexes arriving on traders' desks from around the world, and traders who displease him learn about it quickly. A former employee recalls Mr. Rich's acerbic comment on a zinc sale that he considered too cheap: "Anyone can sell a dollar for 99 cents."

Mr. Rich watches seemingly insignificant details. "He doesn't like anyone eating in the office or putting their own pictures on the wall," a former employee says. "I once saw him explode because a trader put his feet on the desk. He said, 'Would you do that to your own furniture?' He went nearly berserk."

Charming to Customers

But Mr. Rich can charm customers. Fluent in several languages, he often entertains clients at his occasional weekend home in Lido Beach, Long Island. A former employee recalls a client being driven there in a limousine, met by a butler, stuffed with flowers and sent back to New York. "As

soon as he drove off, another limousine drove up," the ex-employee says.

The savvy Mr. Rich got his company off to a fast start. Two years after he began it with \$2 million in seed money in 1974, it was worth \$50 million, according to a former financial officer. The former aide estimates that its net worth now exceeds \$1 billion.

Based in Zug, Switzerland, even though its two principals until recently operated out of New York, the 400-man Marc Rich & Co. maintains 40 offices in 30 countries and agents elsewhere. It buys commodities such as oil, copper, tin, zinc, aluminum, ores, sulfur, sugar, rice and grains from producing nations and sells them to consuming countries. It takes title to commodities in port and resells them as quickly as possible, often on board ship. But in the huge U.S. market, Marc Rich frequently takes goods into inventory—renting warehouse space—and in effect runs a wholesale distribution network selling oil to refineries and metals to foundries.

A Coup in Oil

Oil trading has generated its big profits. Just before the second surge in oil prices in 1979, Mr. Rich lined up supply contracts, and throughout the tight oil markets of 1979 and 1980, the firm bought oil at producing nations' official prices while many other companies paid much more. For instance, it bought 200,000 to 300,000 barrels a day of Nigerian oil and then resold them on the spot market at premiums running as high as \$14 a barrel. It also had a highly profitable contract with the Islamic Republic of Iran for about 200,000 barrels a day.

When Iran cut off oil supplies to major Western companies, Atlantic Richfield Co. was desperate. "We had to scramble. We lost 200,000 barrels a day overnight," says Martin Voland, Arco's senior vice president for crude supply. Arco tried to buy Nigerian oil, he recalls, "but we were unsuccessful." Marc Rich had a contract, however, and sold Nigerian oil to Arco at a premium. "It had an entire there that we didn't have," Mr. Voland says.

Marc Rich also had other entrees—much to the dismay of major oil companies, which preferred direct purchases to bargaining with the trading firm. When Exxon Corp. wanted access to Angola's 60,000-barrel-a-day share of production from the nation's fields, the company asked to meet with marketing agents of the Marxist African regime. Exxon was surprised, and disappointed, when Angola's representative appeared. It was "Pinky" Green from Marc Rich.

Dispute With Ecuador

For a while, Ecuador stopped dealing with Marc Rich after the company didn't pay for a disputed oil cargo worth roughly \$10 million. But in 1979, when oil became scarce, Marc Rich paid the money and resumed buying oil in Ecuador. It also began supplying the country with weapons, acting as an agent for manufacturers, according to a former Marc Rich trader. "The situation became very awkward for us," in 1981, a for-

mer trader says, "because we were also buying oil from Peru, and the two countries were fighting." In a border clash.

Marc Rich also showed its power, and daring in the tin market in 1981, according to Malaysian tin traders and Asian government officials. As tin production rose in the late 1970s, the U.S. price tumbled some 25%, from \$8.65 a pound to about \$6.41 between March 1980 and February 1981. Because tin is used primarily for cans and for solder in the construction industry, and because the economic outlook was gloomy, tin experts expected prices to continue sagging.

At that dismal point, Marc Rich agreed to represent Malaysia's state-controlled tin company, Malaysian Mining Corp., in foreign markets. In mid-1981, with tin prices still dropping, David Zaldner, a Marc Rich trader, met with Malaysia Mining's top executive and the country's finance minister and prime minister to discuss a plan to buy tin in the market, to manipulate it and push up prices, traders say.

Eager Listener

Malaysia, the world's largest tin producer, listened eagerly. The government was in trouble over low tin prices, and wasn't getting cooperation from consuming countries, one trader says.

The buying operation, begun in mid-1981, rolled world tin markets. Prices soared from a low of \$4.33 a pound to more than \$7. Consumer and producer countries met in Geneva, while the Malaysian government coyly refused to discuss its role. Prices spiraled upwards through January 1982, but then the recession deepened and the U.S. government stepped up sales of tin from its stockpiles. At the end of February, prices collapsed: they fell 22% in one two-week period alone. The big losers were Marc Rich and, especially, Malaysia, they were stuck with tons of unwanted tin for which they had paid hundreds of millions of dollars at peak prices.

In the firm's current battle with the U.S. government, Mr. Rich might well be able to run the company from Switzerland. The firm recently sold its U.S. subsidiary to a group of its own partners, excluding Mr. Rich and Mr. Green. The new owners, all foreign citizens, renamed the unit Clarendon Ltd. and told customers they would continue normal business. But it is widely suspected in commodities circles that once the heat from the government is off, Marc Rich & Co. will reemerge with a controlling interest in Clarendon. But a Marc Rich executive in Europe heatedly denies that it will regain any such controlling interest.

Judge's Doubts

However, the federal judge in the case in New York, Leonard B. Sand, says the sale might not be bona fide because it "has all the appearance of being a ploy" to put Marc Rich's assets out of U.S. reach. Judge Sand was irked because he wasn't told about the sale until two weeks afterward.

Meanwhile, the government concedes that it doesn't know where the assets of Marc Rich or Clarendon are and that even if it did, the fines aren't big enough to materially sap Marc Rich's financial strength. For him, \$50,000 a day is Saturday night boogie money, one trader says. Adds a former financial officer at the firm: "The company is enormously profitable. Theoretically, it could lose \$30 million to \$40 million and it wouldn't be jeopardized."

However, the strategy of Morris Weinberg, an assistant U.S. attorney, could severely cripple and ultimately close the company's U.S. business. As a guarantee of payment of future fines, Mr. Weinberg has won permission from Judge Sand to order Chase Manhattan, Marine Midland, Bankers Trust and a dozen other banks to freeze money that they are holding for Marc Rich or Clarendon. Funds also have been frozen at many of Rich's prime customers, such as Amerasia Hess Corp., Atlantic Richfield and Standard Oil Co. (Ohio), and Mr. Weinberg says he will ask the court to raise the daily fine "significantly."

Business Barrier

"This had put a damper on our business with Rich," says an official of a major U.S. oil company. "It's pretty tough to do business with a guy if the government goes after all the money." Many former customers, such as the copper rod plant of Westinghouse Electric Corp. in Abingdon, Va., say they now need prior clearance from their own attorneys to do business with Marc Rich.

Chemical Bank cut off the trading firm's credit about six months ago because Marc Rich didn't tell it enough about the investigations. Chase Manhattan, Marc Rich's lead bank, "is getting a lot of nervous phone calls" from Marc Rich customers, a Chase official says.

Although Marc Rich's overseas operations may be unaffected, New York is a vital center for international commodities traders and brings in several billion dollars of the firm's revenues. "There isn't any way it could continue at the same volume or level of profitability without its U.S. operation," a former Marc Rich trader believes.

Marc Rich Pays Fine, Drops Suit

By ERIC N. BERG

Marc Rich & Company A.G., the big commodity-trading concern under investigation for possible tax evasion, paid a fine of \$1.25 million yesterday. The fine was part of an agreement reached Friday with Government investigators to resolve a year-long fight over documents subpoenaed by a Federal grand jury.

Marc Rich also dropped a lawsuit it had filed to quash a contempt charge against it.

At the same time, the company, which is based in Zug, Switzerland, promised to stop invoking Swiss secrecy laws as a basis for not producing documents the grand jury has been seeking.

The jury, which first requested Marc Rich documents in March 1982, is investigating reports that Marc Rich used an illegal pricing scheme to inflate the price of the oil that its American subsidiary purchased from the Swiss parent, thus reducing the subsidiary's income and United States income taxes. The documents sought relate to the oil transactions.

\$2.6 Million Paid

The \$1.25 million fine that Marc Rich paid yesterday, the result of a June 29 contempt citation that carried a \$50,000 a day fine, brings the company's total payments to date to \$2.6 million. If the company produces the requested documents by Aug. 19,

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Marc Rich Pays Fine, Drops Suit

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as agreed Friday, it will receive a partial refund.

But if the Aug. 19 deadline passes and Marc Rich has not turned over the papers in question, the Government said it will seize oil and gas properties worth about \$55 million that Marc Rich pledged as collateral.

The agreement fully secures the Government if the papers are not produced, said Morris Weinberg Jr., the Assistant United States Attorney handling the case. "We now have \$55 million in security to execute against without litigation if the court order is further violated."

At a news conference in Manhattan yesterday, Mr. Weinberg was joined by Rudolph W. Giuliani, the United States Attorney, who called the pact with Marc Rich a "one-sided agreement" in which the Government won virtually all battles.

Subsidiaries' Records

Under the agreement, Marc Rich has agreed to relinquish not only the original documents requested of its Swiss headquarters, but also papers on file at three subsidiaries — Rescor Inc., Highams Consultants S.A. and the Liquin Resources Corporation. All three concerns, which are based in Panama, have been asked to turn over papers relating to their oil-trading activities in 1979, 1980 and 1981.

In return for Marc Rich's concessions, the Government has agreed to lift restraining orders on roughly 30 of Marc Rich's business partners, including banks and other commodity traders. The restraining orders, imposed July 22, reportedly caused Marc Rich to suffer a severe drop in business that forced the company to capitulate to prosecutors' requests.

196A-1774

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Date 8/8/83

FM NEW YORK (196B-1774) (P) (M-1)

TO ~~DIRECTOR (196B-2848) ROUTINE~~ 0118.

BT

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ATTN: SA [REDACTED]

MARC RICH, DBA MARC RICH AND COMPANY; ET AL; FBW - ENERGY RELATED.
(OO: NY).

RENYTEL TO BUREAU, JULY 6, 1983.

CAPTIONED NY CASE FILE OPENED OCTOBER, 1981. ORIGINAL ALLEGATION INVOLVED MOVEMENT OVERSEAS OF U.S. INCOME DERIVED FROM "CERTIFICATION TRADING" IN CONTROLLED OIL DURING YEARS 1980 AND 1981 BY MARC RICH AND PINCUS GREEN, OWNERS OF NUMEROUS U.S. AND FOREIGN CORPORATIONS AND OTHER U.S. COMPANIES. BASIS OF INVESTIGATION WAS [REDACTED]

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Approved: 2/28

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Date _____

PAGE TWO

NY 196B-1774

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[REDACTED]
 CONTINUED INVESTIGATION THROUGH GRAND JURY (OVER [REDACTED])
 SUBPOENAED) UNCOVERED ANOTHER [REDACTED]

[REDACTED]
 [REDACTED] ATTEMPTS TO ELICIT COOPERATION
 OF [REDACTED] NEGATIVE. [REDACTED]
 OF INVESTIGATION AND PRESENTLY EMPLOYED [REDACTED]

ADDITIONALLY, CERTAIN OTHER [REDACTED]

[REDACTED] ARE IN QUESTION

(APPROXIMATELY [REDACTED] THE TOTAL EVADED [REDACTED])

LAST ISSUE REMAINING INVOLVES [REDACTED]

[REDACTED] SHOWS THAT IN [REDACTED]

[REDACTED] THIS ACTION

NECESSITATED SUBPOENA SERVICE ON [REDACTED]

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Approved: _____

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AUGUST.

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TO DIRECTOR (196B-2848) ROUTINE

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ATTN: SA

MARC RICH, DBA MARC RICH AND COMPANY; ET AL; FBW - ENERGY RELATED
(OO: NY).

RENYTEL TO BUREAU, JULY 6, 1983.

CAPTIONED NY CASE FILE OPENED OCTOBER, 1981. ORIGINAL ALLEGATION INVOLVED MOVEMENT OVERSEAS OF U.S. INCOME DERIVED FROM "CERTIFICATION TRADING" IN CONTROLLED OIL DURING YEARS 1980 AND 1981 BY MARC RICH AND PINCUS GREEN, OWNERS OF NUMEROUS U.S. AND FOREIGN CORPORATIONS AND OTHER U.S. COMPANIES. BASIS OF INVESTIGATION WAS COOPERATION

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PAGE TWO

NY 196B-1774

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[REDACTED]
CONTINUED INVESTIGATION THROUGH GRAND JURY (OVER [REDACTED]

SUBPOENAED) UNCOVERED ANOTHER [REDACTED]

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[REDACTED]

[REDACTED] ATTEMPTS TO ELICIT COOPERATION

OF [REDACTED] NEGATIVE. HE IS NOW TARGET

OF INVESTIGATION AND PRESENTLY EMPLOYED [REDACTED]

ADDITIONALLY, CERTAIN OTHER [REDACTED]

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[REDACTED] ARE IN QUESTION

(APPROXIMATELY [REDACTED] THE TOTAL EVADED [REDACTED]

[REDACTED]
LAST ISSUE REMAINING INVOLVES [REDACTED]

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[REDACTED] SHOWS THAT IN

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NY 196B-1774

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AUGUST.

BT

Date 8/9/83

TO: DIRECTOR, FBI

196B-2848

Bureau File Number

FROM: SAC, NEW YORK
SUBJECT: MARC RICH;
DBA MARC RICH AND CO.
ET AL;
FBW - ENERGY RELATED
(OO: NY)

196B-1774

Field Office File Number

M-1

Squad or RA Number

Investigative Assistance or Techniques Used

Were any of the investigative assistance or techniques listed below used in connection with accomplishment being claimed? ☒ No ☐ Yes - If Yes, rate each used as follows:

- 1 = Used, but did not help
2 = Helped, but only minimally
3 = Helped, substantially
4 = Absolutely essential

1. Acctg Tech Assistance	Rating	6. ELSUR - Title III	Rating	11. Lab Div Field Support	Rating	16. Surveill. Sqd Asst	Rating
2. Aircraft Assistance		7. Hypnosis Assistance		12. Pen Registers		17. SWAT Team Action	
3. Computer Assistance		8. Ident Div Assistance		13. Photographic Coverage		18. Telephone Toll Records	
4. Consensual Monitoring		9. Informant Information		14. Polygraph Assistance		19. Undercover Operation	
5. ELSUR - FISC		10. Lab Div Exams		15. Show Money Usage		20. Visual Invest - Analysis (VIA)	

A. Preliminary Judicial Process (Number of subjects)	Complaints	Informations	Indictments	D. Recoveries, Restitutions, Court Ordered Forfeitures or Potential Economic Loss Prevented (PELP)				
B. Arrests, Locates & Summonses (Number of subjects)	Subject Priority (See Reverse)			Property or PELP Type Code *	Recoveries	Restitutions	Court Ordered Forfeitures	Potential Economic Loss Prevented
FBI Arrests -	A	B	C					
FBI Locates -								
Criminal Summons								
Number of Subjects of FBI Arrests Who Physically Resisted								
Number of Subjects of FBI Arrests Who Were Armed								
C. Release of Hostages: (Number of Hostages Released)				E. Civil Matters	Government Defendant		Government Plaintiff	
Hostages Held By Terrorists	All Other Hostage Situations			Amount of Suit				
				Settlement or Award			Enter AFA Payment Here	

F. Final Judicial Process: Judicial District _____ (Use two letter state abbreviations per U.S. Post Office Guide. For Example - The Northern District of Texas as ND TX; The District of Maine as ME in the state field only.)

Subject 1 - Name - _____ Subject's Description Code - _____

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	

Attach additional forms if reporting final judicial process on more than three subjects.

Remarks _____

with grand jury subpoena starting on _____

when record production is scheduled to be completed _____

2 - Bureau
2 - Field Office
See codes on reverse side. Subject description codes in Section F are required only when reporting a conviction.

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196B-1774-114A

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AUG 19 1983
FBI-NEW YORK

Marc Rich Papers Seized at Airport

By ERIC N. BERG

Acting on a late-night tip, United States agents rushed to Kennedy International Airport Monday night, halted a jet about to depart for Switzerland, and seized two steamship trunks that the Government said were packed with documents subpoenaed more than a year ago from a commodity trader, Marc Rich & Company International Ltd.

Federal agents sealed the trunks and brought them to the United States

Courthouse in lower Manhattan, where they were placed under the protection of United States marshals.

At a court hearing yesterday morning, Federal Judge Leonard B. Sand ordered Marc Rich International to turn over by noon today subpoenaed documents not yet delivered.

Marc Rich International had been the United States operation of Marc Rich & Company A.G. until it was sold July 7 and renamed Clarendon Ltd. Both Clarendon and its former parent, based in Switzerland, are being investigated by the Govern-

ment on charges of tax evasion.

Visibly angered, Judge Sand told lawyers for Clarendon: "Within 24 hours from noon today, every single piece of paper in control of Clarendon from outside the United States is to be sent to the custody of this court."

He added: "Failure to comply with that will be a violation of this court's order and will bring further actions."

The judge also ordered that documents subpoenaed from Marc Rich International still in the United States

Continued on Page D6

Continued From First Business Page
be delivered to Government prosecutors by 4:30 P.M. yesterday. It was not immediately clear whether Clarendon had complied. Lawyers for Clarendon said they did not know whether the clerical staff could compile the requested documents and cart them downtown to meet the deadline.

A Hearing This Morning

The judge also told lawyers that a hearing would be held this morning at which the trunks would be opened, and defense attorneys would have a chance to try to prevent the documents from being entered as evidence.

The seizing of the trunks, which came seconds before the jet containing them was to depart for Zurich, was a curious twist in the Marc Rich case. It came only a few hours after Government prosecutors announced that Marc Rich, after resisting for more than a year, had agreed to turn over all documents subpoenaed by a Federal grand jury beginning in March 1982.

Federal prosecutors, including Morris Weinberg Jr., the Assistant United States Attorney handling the case, had expressed confidence that Marc Rich would comply with the agreement. Their confidence rested on the fact that since June 29, Marc Rich has been held in contempt of court for failing to turn over the papers and has been incurring fines of \$50,000 a day.

According to the agreement reached Friday, Marc Rich was to continue incurring these fines until it produced the requested documents. It has already paid \$2.6 million.

But the recovery of the trunks at the airport, just moments before they were to leave the United States, cast fresh doubt on Marc Rich's good will, sources close to the prosecutors of fice said. They said it is unclear whether the Government would take new steps to force Marc Rich to comply with its requests.

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The Washington Post

WEDNESDAY, AUGUST 10, 1983

Higher in Area Approximately 75 Miles
From District of Columbia (See Box on A)

Trading Firm's Documents Seized at N.Y. Airport

By James L. Rowe Jr.
Washington Post Staff Writer

Three days after the Swiss trading firm Marc Rich & Co. AG agreed to supply corporate records to a federal grand jury in New York, federal agents seized two trunks full of subpoenaed documents at Kennedy Airport Monday night to prevent them from being flown to Switzerland.

The documents belonged to a former Marc Rich subsidiary and had been subpoenaed by a grand jury

investigating whether the subsidiary evaded U.S. taxes by allegedly shifting profits from oil-trading transactions to the Swiss parent.

Yesterday, the two black steamer trunks sat in a New York federal courtroom in front of U.S. District Judge Leonard B. Sand, who has presided over the nearly 18-month battle between Marc Rich and federal prosecutors.

New York attorney Peter Fleming, who represented the new owners

of the former subsidiary, said the documents were being shipped to Switzerland so they could be examined by the firm's New York counsel. "I think it can be explained," Fleming told Sand, "but I believe that is for another day."

The U.S. subsidiary had agreed months ago to provide prosecutors with the documents that presumably detail its side of the oil transactions. Some 70,000 pages have been turned over by the subsidiary, but thou-

sands more pages remained to be produced, including those in the trunks.

The Swiss parent had refused for more than a year to turn over its records on the transactions and was fined \$50,000 a day by Sand on June 29.

On Friday, Marc Rich promised to surrender the Swiss-held documents after Sand issued orders attaching Rich's assets at 30 compa-

See RICH, A9, Col. 1

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Trading Firm's Documents Seized At N.Y. Airport

RICH, From A1

nies with which the Swiss firm was known to have relationships.

Marc Rich, who nine years ago set up the trading firm that bears his name, is also a half-owner of the company that owns Twentieth Century-Fox Film Co. Rich and associate Pincus Green, who had directed the secretive \$10 billion trading empire from New York, reportedly moved to Switzerland in mid-June.

The documents seized Monday night were owned by Clarendon Ltd. AG, which was Marc Rich International Ltd. until June 30 when the subsidiary was surreptitiously sold by the Swiss firm to three of its five previous owners.

Assistant U.S. attorney Jane Parver told Sand yesterday that prosecutors had received information that more documents were to be shipped to Switzerland last night.

Prosecutors would not identify either the Clarendon employee who was to accompany the documents nor how the government was alerted to the shipment. Parver told the court that reservations had been made on several different airline flights to Switzerland Monday night and that when the Clarendon employee was approached she told Parver she had been instructed "by counsel" not to talk to government lawyers.

Fleming said he appeared at the hearing as the "alter ego" of Washington attorney Edward Bennett Williams. Sand said Williams had asked that yesterday's hearing be postponed because he could not attend. Sand held the hearing anyway.

Williams represents not only Clarendon Ltd., but Marc Rich and his associate Green.

Green and Rich were the only owners of the New York subsidiary that are not owners of Clarendon, according to Assistant U.S. attorney Morris Weinberg, who has headed the government's efforts in the tax investigation. The subsidiary was a U.S. corporation. Clarendon is Swiss.

Sand ordered Clarendon to produce every document subpoenaed by the grand jury by noon today. He said that any document examination, stamping or copying could be done by Clarendon's lawyers under the supervision of the U.S. attorney's office.

The documents the Swiss parent has agreed to produce are still due Aug. 19, Weinberg said. By Aug. 19, the company will have paid \$2.6 million in fines to the court.

The grand jury has been investigating whether in 1980 the New York subsidiary bought oil at a loss from the Swiss parent in order to shift about \$100 million in profits out of the grasp of U.S. tax laws to more lightly taxed Switzerland. Because grand jury investigations are secret, prosecutors have declined to discuss the exact dimensions of the investigation.

In battling the federal subpoena, the Swiss firm first argued that U.S. courts had no jurisdiction in Switzerland, an argument rejected by a federal appeals court and the Supreme Court. The firm later invoked Swiss secrecy laws, but Sand rejected that argument and imposed the fine June 29.

Special Correspondent John Kennedy also contributed to this story.

Tax probbers grab documents at JFK

By THOMAS HANRAHAN

Documents subpoenaed by a federal grand jury investigating tax evasion were seized aboard a jet at Kennedy Airport as lawyers for a Swiss commodities firm tried to take the papers out of the country, federal officials said yesterday.

Manhattan Federal Judge Leonard Sand yesterday ruled that the subpoenaed information must not leave the country, and ordered that a number of documents in Switzerland be returned to the United States by noon today. The firm has until Aug. 19 to produce the documents in court.

Clarendon AG, an American subsidiary of Marc Rich & Co., had tried to take the documents to Switzerland Monday night so the company's lawyers could review them, said

Robert Meister, a lawyer for Clarendon.

Marc Rich, a multibillion-dollar corporation based in Zug, Switzerland, is one of the world's largest commodity dealers. It is being investigated for tax evasion.

Government lawyers said they discovered two of Clarendon's lawyers at Kennedy Airport aboard a plane headed for Switzerland. Two trunks filled with the subpoenaed material also were on the plane, they said.

Marc Rich earlier paid \$1.25 million in fines for its yearlong refusal to furnish documents subpoenaed by a grand jury investigating whether the company's U.S. subsidiary evaded taxes on oil trading profits.

Pressured by the fines and the threatened freeze of its assets, the firm agreed Friday to give the documents to the grand jury.

Daily News, Wednesday, August 10, 1983

196 A-1774-117

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COMPANY NEWS

Judge Bars Marc Rich Delay

By ERIC N. BERG

Marc Rich & Company International Ltd., the commodity trading firm that has spent the last year and a half resisting prosecutors' requests for subpoenaed documents, yesterday asked a Federal judge for 12 more days to produce the documents.

But in a court hearing, a visibly irritated Judge Leonard B. Sand rejected the request. The documents had been subpoenaed by a Federal grand jury investigating possible tax evasion by Marc Rich & Company A.G., which was the parent firm of March Rich International.

Instead, the judge ordered Marc Rich International to turn over all requested documents in the United States by the close of business yesterday.

And he gave the firm until Monday morning to produce any remaining documents under subpoena. Most of the other documents are in Zug, Switzerland, where Marc Rich International had been based before it was sold and renamed Clarendon Ltd., itself now based in Zug.

"By 10 A.M. Monday, New York time, the documents must be in transit," the judge said at a hearing at the United States Court House in lower Manhattan.

Hauling Documents to Court

It was not immediately clear if Clarendon had complied with the court's request to relinquish some documents yesterday. Sources close to the case, however, said that about 5 P.M. workmen began hauling boxes of documents from Clarendon's 650 Fifth Avenue headquarters to the

courthouse in Manhattan.

Prosecutors and defense attorneys spent more than an hour yesterday fighting over how long it should take to produce all the documents. The Government began subpoenaing the papers in March 1982 as part of its investigation into whether Marc Rich A.G. had used an oil pricing scheme to reduce its 1981 United States income taxes.

At one point in the hearing, Peter Fleming Jr., a Clarendon attorney, suggested that it would be imprudent to heed the Government's request to transport documents from Switzerland without photocopying them because the documents could be lost. "Suppose the plane crashed," Mr. Fleming said.

"I think one way to avoid that would be to have Mr. Fleming on the plane," responded Jane W. Parver, an Assistant United States Attorney in charge of the Major Crimes unit.

"I don't want to take that risk," Mr. Fleming said.

One-Day Extension

In making his order to produce some documents by the end of business yesterday, Judge Sand in effect gave Clarendon a one-day extension. The judge had originally said that documents in the United States had to be in prosecutors' hands by Tuesday. He ordered that deadline after United States agents, acting on a late-night tip Monday, halted a jet at John F. Kennedy International Airport and seized two steamer trunks crammed with documents that they said came under the subpoena.

At yesterday's hearing, attorneys for Clarendon told the judge that they

had been unable to meet his Tuesday deadline because its clerical staff simply did not have enough time to duplicate the papers. The attorneys asked to deliver all papers, in and outside the United States, by Aug. 22.

Judge Sand, however, angered by what he considered delaying tactics, refused the requests.

"We are not dealing here with a mom-and-pop grocery store," Judge Sand said. "We are dealing here with a worldwide commodity-trading firm, which, I have been told, uses telexes, telephones — in short, all the devices of modern communication."

After hearing a request from Clarendon attorneys that the attorneys be permitted to travel to Switzerland, where Clarendon is based, and assemble documents themselves, the judge said, "I can't begrudge anyone wanting a trip to Switzerland." But he added, "What I am trying to suggest is that 99 percent of the documents in question can be produced by a reasonably intelligent secretary or clerk. It doesn't require legal skills or your supervision until a later date."

Clarendon attorneys had until 9:30 A.M. yesterday to review documents in the heavy black steamer trunks seized at the airport. But the attorneys permitted the deadline to pass, and the trunks were placed in the custody of the prosecutors.

According to Miss Parver, the documents in the trunks, which were sealed after being taken from the plane, will be given to the grand jury investigating Marc Rich A.G. But since the papers are the object of a subpoena, they will remain secret unless Judge Sand orders they be made public.

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Memorandum



To : SAC, NY (196-1774) (P)

Date 8/11/83

From : SA [REDACTED]

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Subject : MARC RICH
DBA MARC RICH AND CO
ETAL
FBW - ENERGY RELATED
OO: NY

Due to transfer of case agent it is recommended that the captioned matter be reassigned.

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REASSIGN

To →
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Date 8/11/83

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FM NEW YORK (196A-1774) (P) (M-1)

TO ~~DIRECTOR~~ (ROUTINE) 1453

BT

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ATTENTION: SUPERVISOR [] FINANCIAL CRIMES SECTION.

MARC RICH, DBA; MARC RICH AND COMPANY; PINCUS GREEN; []

[] FBW - ENERGY RELATED (OO: NY).

ON [] ATTORNEYS FOR []

ASKED FEDERAL JUDGE LEONARD B. SAND FOR TWELVE MORE DAYS TO
 PRODUCE SUBPOENAED DOCUMENTS. IN A HEARING THE JUDGE REJECTED
 THE REQUEST AND ORDERED [] TO TURN OVER ALL
 REQUESTED DOCUMENTS [] BY CLOSE OF BUSINESS

[] FURTHER, HE GAVE []

TO PRODUCE ANY REMAINING DOCUMENTS UNDER SUBPOENA, MOST OF WHICH
 ARE IN []

JUDGE SAND ORDERED THE DEADLINE AFTER U.S. CUSTOMS AGENTS,
 ACTING ON A LATE NIGHT-TIP, TOOK POSSESSION []

[] DOCUMENTS BELIEVED TO BE UNDER SUBPOENA. U.S. CUSTOMS

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PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

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☐ SECRET
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☐ UNCLAS E F T O
☐ UNCLAS

Date _____

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TOOK POSSESSION [REDACTED] UNDER THE AUTHORITY OF A FORTH-WITH
SUBPOENA.

JUDGE SAND ALLOWED [REDACTED] ATTORNEYS UNTIL [REDACTED]
[REDACTED] TO REVIEW THE DOCUMENTS [REDACTED] BUT THE ATTORNEYS
PERMITTED THE DEADLINE TO PASS AND THE [REDACTED] WERE PLACED IN THE
CUSTODY OF THE GOVERNMENT. THE DOUCMENTS WILL NOW BE GIVEN TO THE
GRAND JURY INVESTIGATING THE CASE.

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TO DIRECTOR (ROUTINE)

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ATTENTION: SUPERVISOR [REDACTED] FINANCIAL CRIMES SECTION.

MARC RICH, DBA; MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

[REDACTED] FBW - ENERGY RELATED (OO: NY).

ON [REDACTED] ATTORNEYS FOR [REDACTED]

ASKED FEDERAL JUDGE LEONARD B. SAND FOR TWELVE MORE DAYS TO
PRODUCE SUBPOENAED DOCUMENTS. IN A HEARING THE JUDGE REJECTED
THE REQUEST AND ORDERED [REDACTED] TO TURN OVER ALL
REQUESTED DOCUMENTS [REDACTED] BY CLOSE OF BUSINESS

[REDACTED] FURTHER, HE GAVE [REDACTED]

TO PRODUCE ANY REMAINING DOCUMENTS UNDER SUBPOENA, MOST OF WHICH
ARE IN [REDACTED]

JUDGE SAND ORDERED THE DEADLINE AFTER U.S. CUSTOMS AGENTS,
ACTING ON A LATE NIGHT-TIP, TOOK POSSESSION [REDACTED]

[REDACTED] DOCUMENTS BELIEVED TO BE UNDER SUBPOENA. U.S. CUSTOMS

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DATE 2/21/00 BY SP5 JC/mag

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PAGE TWO

NY 196A-1774

UNCLAS

TOOK POSSESSION [REDACTED] UNDER THE AUTHORITY OF A FORTH-WITH
SUBPOENA.

JUDGE SAND ALLOWED [REDACTED] ATTORNEYS UNTIL [REDACTED]

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[REDACTED] TO REVIEW THE DOCUMENTS [REDACTED]

BUT THE ATTORNEYS

PERMITTED THE DEADLINE TO PASS AND THE [REDACTED] WERE PLACED IN THE
CUSTODY OF THE GOVERNMENT. THE DOUCMENTS WILL NOW BE GIVEN TO THE
GRAND JURY INVESTIGATING THE CASE.

BT

SWISS SEIZE PAPERS SOUGHT IN U.S. CASE

Corporate Secrecy Law Cited
in Act at Marc Rich Office

By KIRK JOHNSON

The Swiss Government, citing its laws on corporate disclosure, has seized documents belonging to a Swiss-based multinational company that is under investigation in the United States for possible income-tax evasion. And it said yesterday that it would not release the documents without negotiations with Washington.

Swiss officials said yesterday that the papers were seized Friday night in Zug at the headquarters of Marc Rich & Company A.G., in an effort to determine whether the company had violated Switzerland's secrecy laws in agreeing to surrender many of its records to a grand jury in the United States.

The company, one of the world's biggest commodities trading firms, agreed 10 days ago to surrender certain records to a Federal grand jury. The panel is investigating charges that the firm evaded United States income taxes on at least \$20 million in profits.

The document seizure is the latest twist in a case that has involved American and Swiss courts and batteries of lawyers in both countries. By acting on the basis of its national laws, however, Switzerland's action puts the case on a

Continued on Page D8, Column 4

P.A. 10 F 277 8/10/83.

P. 1 of 2

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DATE 2/21/81 BY SP5 JC/mar

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AUG 15 1983	
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Swiss Seize Marc Rich Documents

Continued From Page A1
government-to-government basis for the first time.

Marc Rich agreed on Aug. 5 to provide documents that had been subpoenaed more than a year ago by a Federal grand jury in Manhattan. Under a contempt-of-court citation, the company had run up more than \$2 million in fines before finally agreeing to supply the documents.

"I think this is going to turn into a fairly complicated issue," said Robert B. Reich, a professor at Harvard's Kennedy School of Government. "On the one hand you have a legal question, and on the other, you have a political question."

In a statement released jointly by the Justice Department in Washington and the United States Attorney's office for the Southern District of New York, officials expressed "regret" at the Swiss action.

"From everything we know about these documents, their surrender to the grand jury would constitute no violation or attempted violation of any Swiss law," the statement said.

Although the statement said United States officials would continue to work with the Swiss Government in resolving the matter, it added that "there are outstanding orders by the United States District Court, and we will be seeking appropriate sanctions to assure their compliance." Morris Weinberg Jr., an Assistant United States Attorney in charge of the case, who read the statement over the telephone, said he could not elaborate.

Spokesmen for Marc Rich could not be reached for comment yesterday. Calls to the company's New York office were not returned. There was no answer at Swiss headquarters in Zug.

Despite the officials' obvious chagrin over the seizure, it was not clear whether the Swiss action would cripple the grand jury investigation.

A spokesman at the Swiss Embassy in Washington said yesterday that the

United States would have to file a formal request with the Swiss Government if it wanted to obtain the seized files. But he said, the Swiss would be willing to cooperate — if there were no violation of their secrecy statutes.

"It's not our intention to frustrate U.S. court proceedings," said Jurg Leutert, a legal adviser to the Swiss Embassy. "It's our intention to follow Swiss law."

The seizure of the documents "does not mean that they can't be used in the U.S. investigation," Mr. Leutert said. But he added, "We must examine them first."

Mr. Leutert said Swiss officials had been concerned about possible secrecy-law violations and added that his Government had previously contacted United States officials about the issue, "but we never received a reply."

He said Swiss prosecutors were examining the seized papers to determine whether Marc Rich's agreement to turn over its documents to the United States grand jury violated the disclosure laws. He said he was uncertain how many documents had been seized or whether they were the same papers that were being sought by American investigators.

Under Swiss law, "Certain business and economic information may simply not be given to foreign authorities," Mr. Leutert said.

But even though many of the documents requested by United States prosecutors had not yet been provided, he said, the agreement to turn them over might in itself constitute a Swiss violation. Secrecy-law violations in Switzerland are punishable by jail terms and severe fines.

The commodities firm, in originally refusing to turn over its documents to United States authorities, had argued that it would violate Swiss law by doing so. The firm's refusal subsequently led to a contempt-of-court citation.

On June 29, Judge Leonard B. Sand of the Federal District Court in Manhattan ordered that the company pay a \$50,000-a-day fine pending the delivery of the documents. The judge had previously served restraining orders on several companies doing business with Marc Rich, ordering each of them to freeze up to \$2.7 million of the Swiss company's assets.

Marc Rich trades more than \$10 billion worth of commodities a year, including oil, copper, tin and grain, through 40 offices in 30 countries. It was first questioned by the Federal grand jury in Manhattan in March 1982.

Last Monday, shortly after the company had agreed to supply the subpoenaed documents and pay \$1.35 million in accrued fines, Federal investigators received a tip that certain papers might be taken out of the country. They raced to Kennedy International Airport and halted a jet ready to take off for Switzerland. Two trunks of documents were seized.

Judge Sand ordered then that "every single paper" requested in the tax evasion investigation would have to be provided by the company within 24 hours. Failure to comply, he said, would be "a violation of this court's order and will bring further action."

When the company agreed on Aug. 5 to provide the documents, they were given 14 days to do so.

The documents requested by the United States primarily concern records of transactions in an investigation into whether Marc Rich's American subsidiary evaded some \$20 million of taxes in 1980 by inflating the price it had paid the Swiss parent company for oil.

In announcing their decision to release the documents, Marc Rich officials said they had agreed because of fears among the company's customers and suppliers that the Government was preparing to seize its United States assets.

P 262

Date 8/12/83

☐ Birth ☐ Credit ☐ Criminal ☐ Death ☐ INS ☐ Marriage* ☒ Motor Vehicle ☐ Other ☒ Driver's License

To RADIO ROOM Buded

Return to SA MI File number 196A-1774

Name and aliases of subject, applicant, or employee, and spouse Ancus Green b6 b7C

Addresses [Redacted]
Residence [Redacted]
Business [Redacted]
Former [Redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JCL/mg

* Date and place of marriage (if applicable) _____

Race W Sex ☒ Male ☐ Female Age _____ Height _____ Weight _____ Hair _____ Eyes _____

Birth [Redacted] Birthplace _____

Arrest Number _____ Fingerprint classification _____ Criminal specialty _____

Specific information desired _____ b6 b7C Social Security Number [Redacted]

Results of check _____

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Date 8/12/83

☐ Birth ☐ Credit ☐ Criminal ☐ Death ☐ INS ☐ Marriage * ☒ Motor Vehicle ☐ Other ☒ Driver's License

To RADIO ROOM Buded

Return to SA (m-1) File number 196A-1774

Name and aliases of subject, applicant, or employee, and spouse
MARC RICH

b6
b7C

Addresses
Residence 80 Kensington ST, Lido Beach, NY
Business
Former 625 Park Ave, NY, NY

* Date and place of marriage
(if applicable)

Race <u>W</u>	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	Age	Height	Weight	Hair	Eyes
Birth date <u>12/18/34</u>	Birthplace					
Arrest Number	Fingerprint classification			Criminal specialty		
Specific information desired						Social Security Number

Results of check

ALL INFORMATION CONTAINED
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FBI

TRANSMIT VIA:

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PRECEDENCE:

☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

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TO ~~DIRECTOR (196B-2848)~~ ROUTINE 1525

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ATTENTION: [REDACTED] FINANCIAL CRIMES SECTION).

MARC RICH, DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

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[REDACTED] FBW- ENERGY RELATED (OO: NY).

RENYTEL, AUGUST 11, 1983.

THE PURPOSE OF THIS TELETYPE IS TO KEEP FBIHQ UPDATED REGARDING
 STATUS OF CAPTIONED INVESTIGATION.

ON [REDACTED] SEIZED DOCUMENTS THAT WERE
 UNDER SUBPOENA AT [REDACTED]
 IN AN EFFORT TO DETERMINE WHETHER [REDACTED]

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[REDACTED] IN AGREEING TO SURRENDER ITS RECORDS TO A GRAND JURY IN
 THE UNITED STATES. FURTHER, DOCUMENTS WILL NOT BE RELEASED WITHOUT
 NEGOTIATIONS WITH WASHINGTON. UNITED STATES WILL HAVE TO FILE A FORMAL
 REQUEST WITH [REDACTED] TO OBTAIN SEIZED DOCUMENTS. [REDACTED] ARE
 LIKELY TO COOPERATE IF THEY FIND NO VIOLATION OF THEIR [REDACTED]

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PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
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Date _____

PAGE TWO

NY 196A-1774

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SURRENDER OF [] DOCUMENTS TO U.S. GRAND JURY WOULD CONSTITUTE NO
VIOLATION OR ATTEMPTED VIOLATION OF ANY []

NY WILL KEEP FBIHQ ADVISED.

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TO DIRECTOR (196B-2848) ROUTINE

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ATTENTION: [REDACTED] FINANCIAL CRIMES SECTION).

MARC RICH, DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

[REDACTED] FBW- ENERGY RELATED (OO: NY).

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RENYTEL, AUGUST 11, 1983.

THE PURPOSE OF THIS TELETYPE IS TO KEEP FBIHQ UPDATED REGARDING
STATUS OF CAPTIONED INVESTIGATION.

ON [REDACTED] SEIZED DOCUMENTS THAT WERE
UNDER SUBPOENA AT [REDACTED]
IN AN EFFORT TO DETERMINE WHETHER [REDACTED]

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THE UNITED STATES. FURTHER, DOCUMENTS WILL NOT BE RELEASED WITHOUT
NEGOTIATIONS WITH WASHINGTON. UNITED STATES WILL HAVE TO FILE A FORMAL

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REQUEST WITH [REDACTED] TO OBTAIN SEIZED DOCUMENTS. [REDACTED] ARE
LIKELY TO COOPERATE IF THEY FIND NO VIOLATION OF THEIR [REDACTED]

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SURRENDER OF [REDACTED] DOCUMENTS TO U.S. GRAND JURY WOULD CONSTITUTE NO
VIOLATION OR ATTEMPTED VIOLATION OF ANY [REDACTED]

NY WILL KEEP FBIHQ ADVISED.

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Swiss See Accord on Seized Papers

By JOHN TAGLIABUE

Special to The New York Times

BONN, Aug. 17 — Swiss Government officials said today that they believed agreement could be reached with the United States to secure the release of documents of Marc Rich & Company A.G. that have been subpoenaed in a Federal grand jury investigation of the company.

"We believe that the problem can be solved, through contacts, through talks," said Jörg Kistler, a spokesman for the Swiss justice ministry, in Bern.

But the officials could not say how soon such an agreement could emerge, or whether it would release all or only part of the papers, which Swiss prosecutors seized last week-end at the company's headquarters in Zug, Switzerland.

A United States court has ordered the company to turn over the documents to a Federal grand jury investigating the Swiss-based commodities trading firm for possible tax evasion.

shareholders, according to Peter F. Ryan, the chief financial officer of Clarendon Ltd.

Clarendon Ltd. is the new name of what had been the subsidiary of Marc Rich & Company A.G. that operated in the United States. In 1978, Marc Rich & Company International Ltd. was organized in Switzerland as a subsidiary of Marc Rich A.G., primarily to handle trading activities in the United States, according to Mr. Ryan.

But on June 30, one day after Marc Rich A.G. was found in contempt of court for not complying with a subpoena by a Federal grand jury investigating the company for possible tax evasion, the Swiss parent sold the United States operation to Clarendon A.G., a new concern run by some of the principals of Marc Rich A.G.

The new owner of Clarendon, for example, Alexander J. Hackel, was previously the managing director of Marc Rich A.G., and Willy R. Strothotte, the president and chief operating officer of Clarendon, was the head of the metals and minerals unit of Marc Rich.

Clarendon officials have insisted that their company is independent, but Morris Weinberg Jr., an Assistant United States Attorney, has called the

move to start his own firm and took a number of top traders, including Mr. Green, with him.

Since his departure, according to traders interviewed, Mr. Rich has been waging a vendetta against his former employer, instructing employees at times to take losses on trades if it meant stealing business from Philipp Brothers. Stories abound of the two firms hiring "moles" to spy on each other and of plotting to lure away each others' key traders.

On one occasion, according to John Hughes, a principal in the London-based commodity firm of LHW Futures, Philipp Brothers urged its bankers not to provide credit to Mr. Rich's fledgling firm. But Mr. Rich, in one of his earliest coups, was able to secure a contract to supply crude oil to Atlantic Richfield. With this as collateral, he acquired the bank credit needed to build his business.

Apart from his resentment toward his former boss, however, Mr. Rich has a reputation for being a quick-thinking, aggressive trader who encourages employees to take chances.

"The secret of success in this business is to spot trends," said Gerard F. Cerchio, the president of Sun International Inc., the trading arm of the Sun Company. "Marc Rich spots trends quicker than anyone I know. He is also a bigger risk-taker than others."

Working 16-hour days in an industry where prices change from minute to minute, Mr. Rich is said to take an unusual interest in his staff, traveling often, visiting staff members in remote trading outposts to let them air their concerns.

One commodity industry executive recalled an occasion in which Mr. Rich, on a tour of his New York office, stopped to help a secretary struggling to repair a typewriter.

"He went over to see if he could help her," the executive recalled. "He is just very sensitive to the needs around him."

And, his associates say, he has maintained his modesty.

"You wouldn't know Marc Rich from a \$30,000-a-year bank executive," said Mr. Hughes, of LHW Futures. "There is nothing ostentatious about him."

Commenting on the fact that Mr. Rich wears a relatively inexpensive Seiko wristwatch, Mr. Hughes said, "He is just not a high-profile glamour boy."

tempting to cut off oil supplies to the United States, Marc Rich A.G. was able to purchase oil in the spot market and resell it to major United States refiners at prices double the prevailing world rate of \$12 a barrel.

In 1979, when a shutoff of Iranian crude again threatened domestic oil supplies, Marc Rich A.G. earned huge premiums — as much as \$14 a barrel, industry sources say — by supplying the Atlantic Richfield Company with Nigerian crude that the commodity trader had contracted for before the revolution in Iran.

And in early 1981, when falling tin prices threatened the economy of Malaysia, Mr. Rich demonstrated his own influence in world commodity markets. A close friend of Abdul Rahman Aki, then the head of the Malaysian Mining Corporation, the state-owned tin company, Mr. Rich reportedly masterminded a plan to buy most of the world's tin, stockpile it, and inflate prices. The plan made Mr. Rich a considerable amount of money before it finally collapsed when the United States stepped up tin sales from its own stockpiles.

Throughout these dealings, Mr. Rich and his firm have remained intensely secretive. Honoring a tradition of confidentiality dating to 15th-century Venetian silver merchants, they have refused to disclose the names of customers or suppliers or details of trades. Mr. Rich, who has maintained an apartment in Manhattan and a home in Lido Beach, L.I., has left the United States for Switzerland, as has Mr. Green. Both men have refused all requests for interviews.

The secrecy surrounding Mr. Rich is nearly as total as that surrounding his business dealings. It is known that Mr. Rich emigrated to the United States from Belgium when he was about 11 years old to escape the Nazi persecution of Jews during World War II. Mr. Rich's father, David Rich, a maker of burlap and cotton bags, worked at the Melrose Bag and Burlap Company of Manhattan.

According to school records, Mr. Rich attended Forest Hills High School in Queens but later transferred to the Rhodes School, a college preparatory institution on Manhattan's Upper West Side, where he managed a low "B" average. He was president of the French club, and according to his report card, was "a

ments to judge whether the Government objected to their delivery abroad, he said.

Few Requests Denied

Swiss officials said that of the nearly 250 requests for aid under the 1977 treaty, fewer than a half-dozen had been refused.

Mr. Kistler said Switzerland's federal prosecutor ordered the Marc Rich papers seized last week-end, acting on information that the company had reached an agreement to deliver them to a New York court.

He said the papers were being held in the justice ministry in Bern, and were unavailable to Marc Rich company executives or their lawyers.

The case is viewed in the Swiss capital as the most recent in a long struggle between Switzerland and the United States over Washington's frequent pursuit of Swiss companies and documents.

The struggle has led to several agreements between the countries, including one concluded last year involving stock market trading on insider information.

Mr. Kistler said Switzerland was "willing to give assistance in case of tax fraud." But he said officials in Bern had "no knowledge of an official request," which he said "would have to go via the Justice Department" under a legal assistance treaty both countries signed in 1977.

The treaty has applied to tax evasion cases since it was expanded by a Swiss statute enacted Jan. 1, he said.

Asked how soon Switzerland could respond to an official request, he said, "that would depend on the evaluation."

He emphatically denied that Switzerland sought to conceal illegal activities.

"It is not a question of protecting wrongdoing," he said, "it is a question of sovereignty."

Switzerland's penal code prohibits Swiss-based companies from delivering to foreigners papers with confidential economic information relating to third parties.

In case of a request from United States officials for the documents, Swiss officials would review the docu-

A Story of Success Is Turning Sour For Marc Rich

Continued From First Business Page

Kopping a commercial jet just before two to take off for Switzerland.

And with reports circulating that Marc Rich A.G. may have asked the Swiss police to seize its documents, Judge Sand now appears fed up. At a hearing Monday, he threatened to shut down Marc Rich A.G.'s United States operations if the commodities firm does not deliver the papers.

\$18 Billion in Trades

The company's operations are extensive. Last year, according to competitors, Marc Rich A.G.'s 450 employees in 40 offices worldwide traded more than \$18 billion worth of commodities, including aluminum, bauxite, copper, lead, zinc, tin and crude petroleum. Its unit operating in the United States, Marc Rich & Company International Ltd., with 200 employees in New York, Chicago, Pittsburgh and Detroit, traded another \$1 billion. Considered together, the firms were second in size to only Philipp Brothers, which trades more than \$25 billion a year.

Marc Rich International was sold June 30 to Clarendon Ltd., a company that was formed for the sale and whose independence is now a key issue in Federal court.

Marc Rich has its headquarters in a steel-and-glass building in Zug, a small farming community near Zurich that is home to a number of large corporations because of its low taxes. Privately held, Marc Rich A.G. does not release financial results. But a recent magazine article estimated Mr. Rich's own net worth at \$150 million.

Mr. Rich is co-owner of Marc Rich A.G. with Pincus (Pinky) Green, who is Mr. Rich's longtime friend and business associate. Along with Martin Davis, a Denver oilman, Mr. Rich also has a controlling interest in the 9th Century-Fox Film Corporation, which is now a private concern.

Series of Business Coups

Marc Rich A.G. attained its current size largely through a series of business coups that illustrate both the skill of its traders and the influence of Mr. Rich himself. In 1973 and 1974, for example, when Arab nations were attempting to cut off oil supplies to the United States, Marc Rich A.G. was able to purchase oil in the spot market and resell it to major United States refiners at prices double the prevailing world rate of \$12 a barrel.

In 1979, when a shutdown of Iranian trade again threatened domestic oil supplies, Marc Rich A.G. earned huge premiums — as much as \$14 a

purposeful, actively creative boy with a strong commitment to moving ahead."

After graduation, Mr. Rich enrolled at New York University to study marketing, but he never graduated.

He did get a job at Philipp Brothers Inc., which today is the trading arm of Phibro-Salomon Inc. When Mr. Rich began working at Philipp, the tight-knit group of German-Jewish metals traders took him under their wing and taught him their trade.

Considered a Rising Star of Firm

Mr. Rich became the protégé of Ludwig Jesselson, then the chairman and chief executive of Philipp Brothers, and soon was regarded as one of the trading firm's rising stars.

"He was just an amazingly fast study," recalled one metals trader. "You'd teach him something, and he'd learn it the first time — no questions asked. He was just an astute, very knowledgeable trader."

In an industry filled with young millionaires, Mr. Rich was also known as a modest man, despite his talent for trades.

In 1973 and into 1974, Mr. Rich negotiated a series of deals that ultimately led to his departure in anger from Philipp. A co-founder of the oil-trading division at that firm, Mr. Rich had helped the firm earn millions of dollars by parlaying his contacts with Middle Eastern metals suppliers into oil contracts with countries that included Iran and Iraq. While other traders scrambled for supplies during the oil embargo, Philipp Brothers had all it needed — thanks to Mr. Rich. As a result, under Philipp Brothers' incentive program, Mr. Rich earned a bonus exceeding \$1 million.

Dispute Over Bonus

But the bonus was never paid. According to current and former Philipp Brothers employees, the firm's management said that "no single person deserved a seven-figure bonus." What is more, Mr. Rich, who had been considered next in line to succeed Mr. Jesselson, was told that he would not be getting the top spot. Incensed, Mr. Rich left Philipp Brothers to start his own firm and took a number of top traders, including Mr. Green, with him.

Since his departure, according to traders interviewed, Mr. Rich has been waging a vendetta against his former employer, instructing employees at times to take losses on trades if it meant stealing business from Philipp Brothers. Stories abound of the two firms hiring

Outlines of Marc Rich's International Business Network

Marc Rich & Company A.G.

Incorporated in Zug, Switzerland, 1974

These two companies have a substantial number of shareholders in common.

Richco N.V.

Incorporated in the Netherlands Antilles, 1980

SUBSIDIARIES

Marc Rich & Company F.E.
Swiss corporation

Higams Consultants S.A.
Panamanian corporation

Rescor Inc.
Panamanian corporation

Liquin Resources Corporation
Panamanian corporation

Seymour Trading Company A.G.
Swiss corporation

Clarendon Ltd.

Incorporated in Zug, Switzerland, 1972 as Marc Rich & Company International; sold and current name adopted in July 1983 but its independence is disputed

Century Chartering Company

Result of 1982 merger of two subsidiaries, Century Chartering Company and Richco Exploration Inc.

SUBSIDIARIES

Richco Holdings
Netherlands

company; owns stock in 20th Century Fox Film Corporation

Richco Capital
Swiss company; deals in precious metals

Richco Sugar
Swiss company

Brownstone Commodities Corporation
United States

company acquired in 1981; registered as futures commission merchant

Richco Grain
Swiss company

Richco Bullion
British company

Richco Rotterdam
Netherlands

company

Richco Securities
United States

company

Marc Rich & Company (Grain)
United States

company

Other Related Business Ventures

Marc Rich & Company Export
United States company

formed in 1975 as domestic international sales corporation and suspended in 1980

Guem Oil and Refining Company
United States company

owned by a small group of Marc Rich & Company A.G. shareholders

Marc Rich & Company Inc.
United States company

formed in 1974 and now inactive

Sources: Securities and Exchange Commission; Commodity Futures Trading Commission; Swiss Commercial Register; Secretaries of State of New York, Delaware and Texas; Clerk's office of New York County, and Peter F. Ryan

Independence of Clarendon at Center of Inquiry

A key issue in the investigations surrounding Marc Rich & Company A.G., one of the world's largest commodity traders, has been the independence of a company that at one time was a subsidiary operating in the United States.

The Marc Rich empire encompasses dozens of corporations in numerous countries. The companies are closely held and information about them is difficult to obtain, but they operate under the umbrella of two parent companies: Marc Rich & Company A.G., a Swiss corporation, and Richco N.V., a Netherlands Antilles corporation.

'Substantially' Same Shareholders

The parent corporations are owned by "substantially" the same group of shareholders, according to Peter F. Ryan, the chief financial officer of Clarendon Ltd.

Clarendon Ltd. is the new name of what had been the subsidiary of Marc Rich & Company A.G. that operated in the United States. In 1978, Marc Rich & Company International Ltd. was organized in Switzerland as a subsidiary of Marc Rich A.G., pri-

or to an effort to fraudulently convey an asset."

Marc Rich A.G. still guarantees the borrowings of its former subsidiary, according to Mr. Ryan, who was previously with Marc Rich International.

Mr. Ryan and other Clarendon executives also continue to work for and operate out of Richco offices in New York, although Mr. Ryan said the functional overlap between Clarendon and Richco is minimal.

Marc Rich A.G. and Clarendon also have headquarters in the same building in Zug.

Judge Leonard B. Sand of United States District Court has scheduled a hearing for Monday in Manhattan to determine whether the parent and the

affiliate are conspiring to resist his orders to turn over subpoenaed documents.

An affidavit last year by an agent for the Federal Bureau of Investigation, Gerald J. Lang, was submitted to the court as a description of the intercorporate oil dealings by Marc Rich companies.

In the affidavit, Mr. Lang stated that his investigation into crude oil trading in 1980 between Marc Rich A.G. and Marc Rich International found that International sustained a loss of \$110 million on sales of more than \$300 million worth of oil it had originally bought from its Swiss parent and then resold at lower prices.

Another affidavit by Mr. Lang, ac-

cording to court records, asserts that International avoided Federal taxes by structuring its resales to shift \$20 million in domestic income offshore to its Swiss parent.

There is no public evidence that the Government is investigating transactions involving the Richco companies, even though they do business in the United States. Officials in the United States Attorney's Office for the Southern District of New York, who are conducting the grand jury investigation, declined to comment on any aspect of the case.

Mr. Rich, who is reported to be in Switzerland, could not be reached for comment and his attorneys did not return a reporter's phone call.

Swiss See Accord on Seized Papers

By JOHN TAGLIABUZZI

Special to The New York Times
RONN Aug 17 — Swiss Government

Mr. Kistler said Switzerland was "willing to give assistance in case of tax fraud." But he said officials in Bern had "no knowledge of an official request" which he said "would have

ments to judge whether the Government objected to their delivery abroad, he said.

Few Requests Denied

Business Day

8/18/83

The New York Times

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The Man Behind Marc Rich

Success Story Turns Sour

By ERIC N. BERG

It is the classic immigrant success story. Speaking only a foreign tongue, a young man flees war-torn Europe for America where, after an apprenticeship in a business run by other immigrants, he starts his own firm and becomes a multimillionaire.

It is the story of how Marc Rich — Belgian-born Jewish refugee, a low "B" student in high school and the son of a burlap bag maker — became head of one of the largest commodity trading firms in the world.

It is also a story shrouded in secrecy, and one that has begun to turn sour.

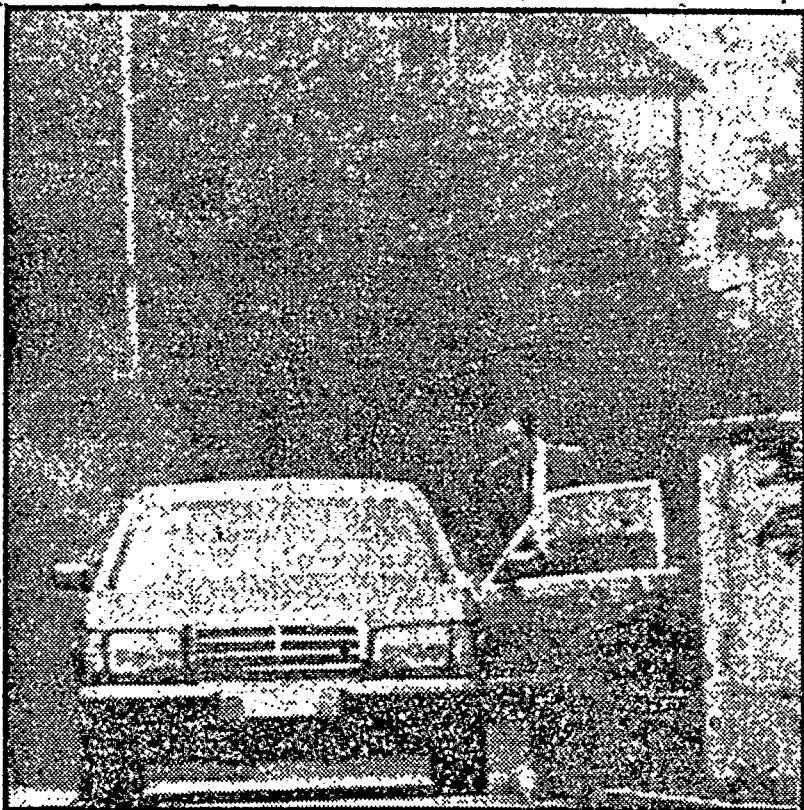
For much of his childhood, Mr. Rich did not even speak English, let alone the arcane language of commodities.

Extensive Commodity Knowledge

Today, however, Mr. Rich, who is now 48 years old, speaks perfect English and Spanish as well as his native French. His knowledge of commodities, gleaned from years of experience at the old-line New York-based commodity firm of Philipp Brothers, is considered unrivaled in the industry.

Largely as a result of this knowledge, the commodity trading firm Mr. Rich started in 1974, Marc Rich & Company A.G. of Zug, Switzerland, has become a \$10 billion-a-year organization considered among the most influential and successful in the industry. Indeed, the first public challenge to its reputation has been the investigation of the firm for engaging in what the United States Government calls "a massive tax evasion scheme."

For almost a year and a half, Government prosecutors have been trying to determine whether Marc Rich A.G. charged an artificially high price for oil sold to its United States subsidiary in order to reduce the sub-



Fortune Magazine

The elusive Marc Rich, seen recently at his home near Zug, Switzerland.

sidary's 1980 income taxes. Led by an Assistant United States Attorney, Morris Weinberg Jr., the prosecutors have subpoenaed hundreds of thousands of Marc Rich documents, including telexes, bank statements, accounting records and interoffice correspondences.

The Rich companies have resisted the subpoenas. At first, Marc Rich A.G. officials argued that they did not have to comply because the firm is Swiss-based. Then, last Monday, they said that Marc Rich A.G. could not comply because Swiss authorities, citing that country's strict laws on corporate secrecy, had seized some of the requested papers.

Requests for Extensions

Until recently, Federal District Judge Leonard B. Sand seemed willing to accommodate Marc Rich A.G.'s requests for extensions to deadlines for producing the papers.

But in late June, Judge Sand began to put pressure on Marc Rich for the documents. On June 29, he found the company in contempt of court and levied a \$50,000-a-day fine on Marc Rich A.G. until the subpoenaed documents had been surrendered.

On Aug. 5 it had appeared that the case was close to resolution when Marc Rich A.G. agreed to turn over the documents by the next day in return for the Government's agreement to lift a freeze on some of Marc Rich A.G.'s assets in the United States.

But the dramatic late-night airport seizure last week of two steamer trunks crammed with documents subpoenaed from Marc Rich A.G.'s domestic unit has cast fresh doubt on the firm's good will, Government prosecutors charge. They grabbed the trunks and their courier after

Continued on Page D18

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[REDACTED] FBW-ENERGY RELATED; OO: NEW YORKb6
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UNITED STATES ATTORNEY (USA), SOUTHERN DISTRICT OF NEW YORK
(SDNY), REQUESTS SPECIAL AGENT (SA) [REDACTED] TRAVEL TO NEW
YORK, BEGINNING [REDACTED] FOR A MINIMUM OF ONE (1) WEEK. SA
[REDACTED] ASSISTANCE IS NECESSARY FOR DETAILED REVIEW OF [REDACTED]
[REDACTED] CAPTIONED MATTER IS A HIGHLY COMPLEX TAX EVASION SCHEME,
AND DUE TO [REDACTED] FAMILIARITY WITH THE CASE FOR NEARLY TWO (2)
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ASSISTANT DIRECTOR IN CHARGE (ADIC), NEW YORK; AND SPECIAL
AGENT IN CHARGE (SAC), NEW HAVEN CONCUR.

REQUEST FEDERAL BUREAU OF INVESTIGATION HEADQUARTERS (FBIHQ)
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FBI NEW HAVEN ROUTINE

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UNITED STATES ATTORNEY (USA), SOUTHERN DISTRICT OF NEW YORK
(SDNY), REQUESTS SPECIAL AGENT (SA) [REDACTED] TRAVEL TO NEW
YORK, BEGINNING [REDACTED] FOR A MINIMUM OF ONE (1) WEEK. SA

[REDACTED] ASSISTANCE IS NECESSARY FOR DETAILED REVIEW OF [REDACTED]
CAPTIONED MATTER IS A HIGHLY COMPLEX TAX EVASION SCHEME,

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AND DUE TO [REDACTED] FAMILIARITY WITH THE CASE FOR NEARLY TWO (2)
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FM DIRECTOR FBI (196B-2843)

TO FBI NEW HAVEN PRIORITY

FBI NEW YORK (196A-1774) PRIORITY

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[REDACTED] FBW-ENERGY RELATED; OO: NY

RENYTEL TO THE DIRECTOR, DATED AUGUST 19, 1983.

RENYTEL REQUESTED BUREAU APPROVAL FOR TRAVEL OF SA

[REDACTED] FROM NEW HAVEN TO NEW YORK, THE WEEK OF

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[REDACTED] FOR RECORD REVIEW IN THIS MATTER.

TRAVEL IS APPROVED.

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FM DIRECTOR FBI (156B-2648)

TO FBI NEW HAVEN PRIORITY

FBI NEW YORK (196A-1774) PRIORITY

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RENYTEL TO THE DIRECTOR, DATED AUGUST 19, 1983.

RENYTEL REQUESTED BUREAU APPROVAL FOR TRAVEL OF SA

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[REDACTED], FOR RECORD REVIEW IN THIS MATTER.

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MONEY & BANKING

HOW THE MARC RICH CASE SHAKES THE SECRET WORLD OF THE GLOBAL TRADERS

The tax troubles of Marc Rich & Co., the upstart Swiss concern, have turned an uncomfortable spotlight on the shadowy world of international trading companies. Not the least of the threats to the trading community as a result of the still unfolding affair is the prospect that U.S. tax collectors will methodically peel away the secrecy that has been an indispensable feature of traders' dealings.

But the way that global traders do business is changing dramatically in other ways, too. Such factors as flexible exchange rates, lightning-fast electronic communications, and disruptive political embargoes on transactions that are their lifeblood are crimping the ability of these giants—some of which trace their lineage to the great European colonial empires—to cope deftly and profitably with wars, revolutions, or droughts.

Most of the world's big trading companies (table) are privately held and guard their inner workings as if they were state secrets. "The reason so little is known about international trading operations is that the boundaries between the U.S. and the rest of the world are much less delineated for them," says a consultant whose clients range from Exportkhleb (the Soviet grain trading company) to Texas oilman Nelson Bunker Hunt. "The whole area is so legally foggy and the competition is so stiff that it is inherently a very secretive business."

Not only secretive, but clannish. Marc Rich, a Belgian-born immigrant to the U.S., was viewed as an interloper when he started his own company in 1974 after leaving Philipp Bros., now the trading arm of Phibro-Salomon Inc. But Rich had evidently learned his lessons well. In the wake of the Iran-related upheavals in the Middle East, it was his firm that secured crude oil and sold it for a nifty profit to oil majors whose supply lines had been severed. When tin prices plummeted in the early 1980s, Marc Rich stepped in as agent for Malaysia's state-controlled tin company, buying and stockpiling to push up prices.

Today, Marc Rich and its affiliates annually turn over \$10 billion worth of crude and oil products, metals, minerals, and foodstuffs. Assets total some \$1 bil-

lion, and 1,000 employees are scattered around the world in 40 nations. But the U.S. probe has dealt this empire a serious blow. Many of Marc Rich's trading partners and clients have reduced their exposure to the company. "Justly or not, many trading houses have cut their trading limits with Marc Rich by 50% or even 80%," says a Geneva broker.

order to cut its 1980 U.S. taxes by more than \$20 million.

The outcome is vitally important to more companies than Marc Rich. By their very nature, trading companies conduct business simultaneously in dozens of different countries, serving as the link between a copper producer in Chile, for example, and a refiner such as Ken-

A GUIDE TO THE BIG INTERNATIONAL TRADERS

Company	Headquarters	Specialty
Associated Metals & Minerals	New York	Metals, ores
Cargill	Minnetonka, Minn.	Grain
Clarendon	New York	Oil, metals
Continental Grain	New York	Grain
Louis Dreyfus	Paris	Grain
East Asiatic	Copenhagen	Manufactures, metals
Jardine Matheson	Hong Kong	Oil, agricultural
Metallgesellschaft	Frankfurt	Metals, ores
Mitsubishi	Tokyo	Manufactures, raw materials
Mitsui	Tokyo	Manufactures, raw materials
Philipp Bros.	New York	Metals, oil
Marc Rich	Zug, Switzerland	Oil, metals, agricultural

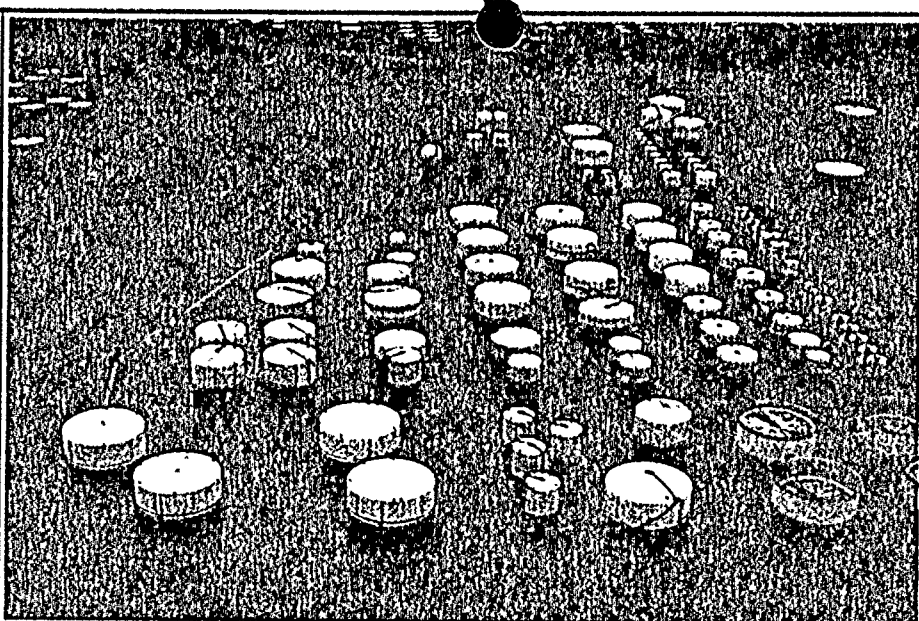
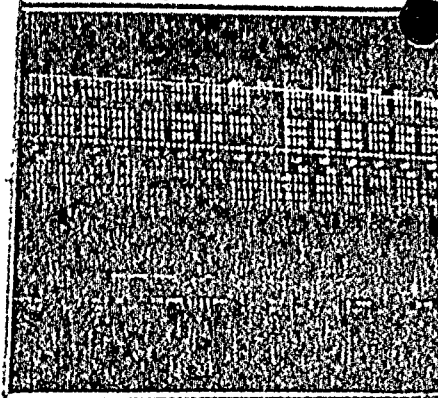
Willy Strathotte, president of Clarendon Ltd., which was Marc Rich's U.S. subsidiary until it was sold to some former employees in July, says the bulk of lost business stems from confusion over restraining orders that were sent to the Swiss company's clients and banks in the U.S. "A company of less size and importance might not have survived. People were essentially afraid of being stuck in the middle of a conflict between the government and [Marc Rich]," he says. The orders were rescinded after Marc Rich agreed to produce subpoenaed documents and pledged its U.S. oil properties and its 50% interest in Twentieth Century-Fox Film Corp. as collateral against any fines.

NOT JUST MIDDLEMEN. The firm's meteoric rise to prominence in oil trading was to some extent its undoing. In response to an industrywide Energy Dept. oil-pricing probe, Marc Rich's U.S. unit in 1982 turned over the documents that have become the fodder for the tax case. Strathotte told BUSINESS WEEK. Now a grand jury is examining whether Marc Rich overcharged its U.S. subsidiary for oil in

necott Corp. or an end-user such as Westinghouse Electric Corp. International trading is a low-margin, high-volume business that is heavily dependent on the expertise of individual traders.

A trader's knowledge of a commodity and what affects its price is crucial. A fraction-of-a-cent difference in the bid and offered prices—which can change at any moment—may amount to a fortune in multimillion-dollar commodity deals. In business contacts, adds Clarendon's Strathotte: "The reputation of the individual is key. When clients think of Clarendon and aluminum, they think of the man who's handling aluminum much more than of the company."

Trading companies do far more than merely act as middlemen in commodity deals. Traditionally, trading concerns have accepted the risk of owning commodities—and that risk has increased dramatically in the past decade of heightened price volatility, floating currencies, and high interest rates. "The international trader bridges the gap between the necessities of a producer and a consumer," says a trading company



USING THE FUTURES MARKETS TO HEDGE AGAINST PRICE VOLATILITY IS VITAL IN THE HIGH-VOLUME, LOW-MARGIN BUSINESS OF TRADING COMMODITIES SUCH AS OIL

official. "A trading company that is marketing a commodity in scores of countries is in a much better position to absorb inventory risk." In addition, large trading operations will often finance, say, the startup of a mining operation in South America.

ACROSS NATIONAL BORDERS. Other vast changes are overtaking global trading. New futures contracts in metals, oil, and financial instruments permit hedging against price volatility on a far broader scale. The drawback is that such price protection reduces potential profit. Marc Rich was recently rumored to be reeling from a big loss in Swiss-franc futures. But a company officer shrugs it off, noting that Marc Rich actively uses the markets to hedge.

The electronic dissemination of information has also made it harder for global traders to "scoop" their competitors on news events that affect prices. The Chicago Mercantile Exchange plans an electronic hookup with Singapore's gold exchange that could signal the beginning of around-the-clock trading on organized exchanges. That, says Philip M.

Johnson, former chairman of the Commodity Futures Trading Commission (CFTC), is "a wonderful business idea that will bring the laws of different countries into direct contact on a daily basis.... The possibilities of confusion are magnified immensely."

The ability of trading companies to do business across national borders goes a long way toward explaining their penchant for secrecy. Although many of the trading giants are based in such commerce centers as London, New York, and Hong Kong, the location of their headquarters is more a matter of tradition or expedience than of national ties. For Michel Fribourg, whose family has controlled Continental Grain Co. for generations and who travels frequently between the U.S. and Europe, "headquarters is in his head," observes Harald B. Malmgren, an international trade specialist. He says that transactions are so complex and fast-paced that it would be virtually impossible for trading companies to operate if they were under constant scrutiny.

And that is the crux of the Marc Rich episode. In general, the U.S. government recognizes that commodities are interchangeable and that trading companies play a vital role. But it does step in when it feels that a company has used its foreign operations to circumvent U.S. law. A federal grand jury indictment unsealed in mid-August, for example, accuses Cook International Inc. of tax fraud by making "sham sales" and "sham purchases" of soybeans through a Swiss subsidiary, Maecom. The ramifications in the Marc Rich case are likely to be more far-reaching, however. Cook was headquartered in Memphis, and though once a major power in U.S. grain exporting, it was forced to sell out

to Mitsui & Co. in 1978 after a disastrous fling in soybean speculation.

Marc Rich, by contrast, is based in Switzerland, whose laws bar turning over Swiss economic documents to other nations. The firm's brand-new office building in Zug has been dubbed "the Dallas building" by the village's 23,000 inhabitants, who associate the blue-tinted glass structure with the popular television series. As of Jan. 1, the Swiss Bilateral Judicial Assistance Treaty covers tax fraud, but that country is irked by the U.S. government's failure to invoke the treaty and its use of what Switzerland considers underhanded methods to get Swiss documents.

'CRASH COURSE.' The ripples from Marc Rich reach beyond Switzerland. A British government source says the case bears "certain interesting parallels" to the CFTC's effort to obtain documents of Alan J. Ridge & Co., a London coffee trader that was the first company to which Britain applied its 1980 Protection of Trading Interests Act. "If [Ridge] had yielded up its documents, it would have blown its business worldwide because its commercial confidentiality would have been compromised," he adds.

An executive of British Petroleum Co., which has had extensive dealings with Marc Rich, views the U.S. case as "an attempt to push U.S. laws on the rest of the world. This line of action does nothing but handicap companies in their worldwide dealings, and it robs the market of a major player." Strathotte insists that most of the company's clientele is equally sympathetic. Still, he says: "This [case] has really been a catch-22. After undergoing a crash course in the American judiciary system in the past several weeks, I wouldn't put my money on any of my predictions."

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TO

[redacted]
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GREETINGS:

WE COMMAND YOU that all business and excuses being laid aside, you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, on the [redacted] to testify and give evidence in regard to an alleged violation of :

[redacted]
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and not to depart the Court without leave thereof, or of the United States Attorney, and that you produce at the time and place aforesaid the following:

For the period of [redacted]
[redacted]

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And for failure to attend and produce the said documents you will be deemed guilty of contempt of Court and liable to penalties of law.

Dated: New York, N.Y.
August 29, 1983

Rudolph W. Giuliani
RUDOLPH W. GIULIANI
United States Attorney for the
Southern District of New York.

Raymond F. Burghardt

Clerk.

NOTE: REPORT AT ROOM 767. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 767, upon each day on which you attend Court as a witness.

[redacted]
Assistant United States Attorney
Telephone: [redacted]

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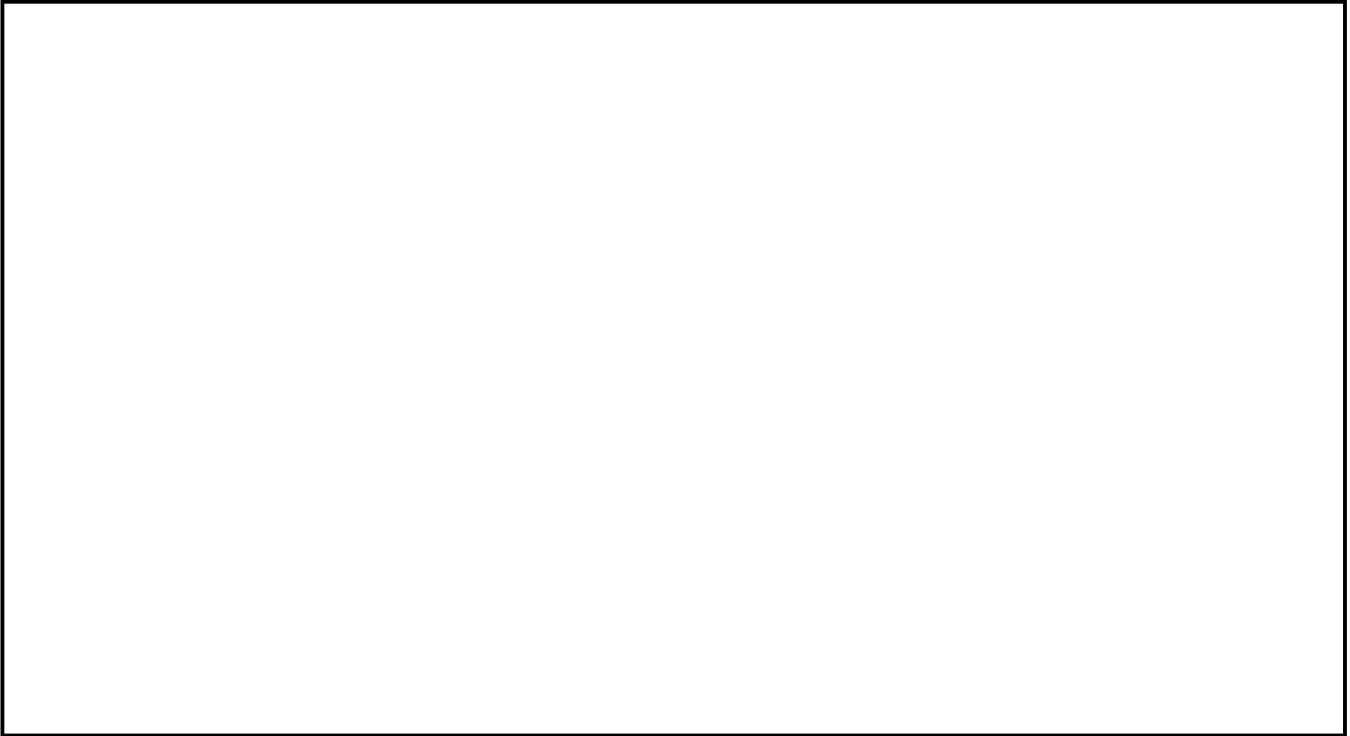
Room [redacted]
One St. Andrew's Plaza
New York, New York 10007

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United States District Court
SOUTHERN DISTRICT OF NEW YORK

TO



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GREETING:

WE COMMAND YOU that all and singular business and excuses being laid aside; you and each of you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court, to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, in and for the said Southern District of New York, on the

to testify and

give evidence in regard to an alleged violation of

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on the part of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

And for failure to attend you will be deemed guilty of contempt of Court and liable to penalties of the law.

DATED: New York, N. Y.

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Rudolph W. Giubani
United States Attorney for the
Southern District of New York

Raymond F. Burghardt
Clerk.

Note: Report at Room 450. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 450, upon each day on which you attend Court as a witness.

Assistant U.S. Attorney

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Room

One St. Andrews Plaza
N.Y.N.Y.

ADVICE OF RIGHTS

1. YOU MAY REFUSE TO ANSWER ANY QUESTION IF A TRUTHFUL ANSWER TO THE QUESTION WOULD TEND TO INCRIMINATE YOU.
2. ANYTHING THAT YOU DO SAY MAY BE USED AGAINST YOU BY THE GRAND JURY OR IN A SUBSEQUENT LEGAL PROCEEDING.
3. IF YOU HAVE RETAINED COUNSEL, THE GRAND JURY WILL PERMIT YOU A REASONABLE OPPORTUNITY TO STEP OUTSIDE THE GRAND JURY ROOM TO CONSULT WITH COUNSEL IF YOU SO DESIRE.

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Transmit attached by Facsimile - UNCLAS

Precedence Priority

To: SAC, HOUSTON (196B-881)
 From: ADIC, New York (196A-1774) (m-1)
 Subject: MARC Rich; dba
 MARC Rich and Company
 PBW-energy related

Date: 8/29/83

Time: Transmitted - 1840Z

 Initials - SN
REC'D - GM

☐ Fingerprint Photo ☐ Fingerprint Record ☐ Map ☐ Newspaper clipping ☐ Photograph
☐ Artists Conception ☒ Other Subpoena

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Special handling instructions:

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New York for background info.

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THE SWISS TV OBSERVER NEUMANN SAID THE US THINKS THAT ALL COUNTRIES, BIG AND SMALL, MUST SUBVERT THEIR NATIONAL INTERESTS TO AMERICAN MEASURES. COMMENTING ON THE NEW ROUND OF AMERICAN-SWISS ECONOMIC CONTRADICTIONS."

(text)

Under the pretext of nonpayment of taxes by the Swiss branch of the Marc Rich firm, American authorities have given an ultimatum: either Switzerland changes its internal legislation or its companies will be deprived of admission to American markets. The local press evaluates this action by the Reagan administration as an open threat, an attempt to interfere into the internal affairs of Western European countries through the threat of economic sanctions. Recalling that this is not the first time that the Reagan administration has tried to dictate conditions to Switzerland, the newspaper Courrier said that the Americans are living under the illusion of a Pax Americana.

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From: ADIC, New York (196A-1774) (m-1)

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MARC Rich and Company
Pincus Green
FSW-energy related

Date: 8/29/83

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DMW/PK

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☒ OtherSubpoena

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FBI/DOJ

Memorandum



To : SAC, II (196B-1774) (P) (M-1)

Date 8/29/83

From : SUPERVISOR [redacted]

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Subject : MARC RICH, DBA;
MARC RICH AND COMPANY;
PINCUS GREEN:
[redacted]
FBW - ENERGY RELATED
(OO: NY)

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Captioned matter is a major joint investigation of the IRS, Customs and NYO, FBI. Indictment charging RICO, FBW, Mail and Tax Frauds is expected to be returned in mid-September, 1983. The case has received wide-spread media coverage and requires constant, periodic up-dates to FBIHQ.

Starting on [redacted] the law firm of [redacted] will send one lawyer and approximately 10 paralegal clerks to Room # 1633 at 26 Federal Plaza to review approximately [redacted]. The review will consist of [redacted].

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b3

Normally, this review would be done prior to surrender of any subpoenaed documents. However, due to Judge Sand's order the documents were turned over in mass.

AUSA [redacted] has requested an FBI clerical employee to be present during this review process for control purposes, since the documents are Grand Jury Material. AUSA [redacted] has stated this employee need not be familiar with the case and could possibly bring other work with him while performing this "security" duty. AUSA desires full-time COVERAGE cooperation of this review to insure Government custodial continuity.

b6
b7C
b3

It is estimated this task will take a minimum of four weeks, seven days a week, for approximately 14 hours per day. Specific times will be arranged with the law firm involved. The AUSA is concerned with expeditious completion.

196B-1774-130

SEARCHED	INDEXED
SERIALIZED	FILED
AUG 31 1983	

- 1 - ASAC II
- 1 - SUPV. M-1
- 1 - 196B-1774

CC DESTROYED
8-2-83
Advised to [redacted]
Samer of [redacted]

b6
b7C

WTG:mms
(3)

[redacted]
EOD [redacted] - assigned to [redacted]
ASAC [redacted]

Approved [redacted]
8/29/83

Ph. Consultant with [redacted]
8-30-83

NY 196B-1774
WTG:mms

of this review so that a Government review of these documents is possible.

In light of the foregoing, it is requested that clerical employees be assigned to observe and control the review. AUSA [redacted] should be contacted for access to Room # 1633 and for further instructions. NYO Case Agent is [redacted], NYO, ext. 2943 or 791-9199.

b6
b7C
b3

NYO 995 243 1333Z

RR HQ NH

DE NY 002

R 011300Z SEPT 83

FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848) RO UTINE

NEW HAVEN (196B-795) ROUTINE

BT

UNCLAS

ATTN: [REDACTED] HEADQUARTERS)

MARC RICH; DBA MARC RICH A ND COMPANY; PINCUS GREEN; [REDACTED]

b6
b7C

[REDACTED] FBW - ENERGY RELATED; (OO: NY).

RENYTELETYPE TO BUREAU, AUGUST 19, 1983.

FOR INFO FBIHQ, APPROXIMATELY [REDACTED] ARE

NOW IN CUSTODY USA/FBI, NY PURUSANT TO COURT ORDER AND

SUBPOENA. EXACT SIGNIFICANCE OF ITEMS UNKNOWN EXCEPT USA,

FBI BELIEVE OF MAJOR IM PORTANCE. SOME DOCUMENTS IN RAW STATE

IN THAT THEY HAVE NOT YET BEEN REVIEWED BY [REDACTED]

b3

FOR PRIVILEGE AN D/OR NON-COVERAGE BY SUBPOENA. STARTING

[REDACTED] BEGAN SUCH REVIEW AND .

[REDACTED] IN NYO SPA CE. DOCUMENTS

INCLUDED [REDACTED]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JG/mg

196A-1774-131

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 1 1983	
FBI-NEW YORK	

PAGE TWO

NY 196A-1774

UNCLA S

[REDACTED] DOCUMENTS WILL HAVE TO BE PERUSED AND DETAILED

[REDACTED] ANALYSIS PREPARED WHERE NECESSARY.

ADDITIONALLY, IT HAS COME TO ATTENTION OF USA THAT [REDACTED]

[REDACTED] IN POSSESSION [REDACTED]

AUSA, SDNY, NEGOTIATING FOR REVIEW SAID DOCUMENTS. HOWEVER,

[REDACTED] REQUEST [REDACTED] DUE TO SIGNIFICANCE

OF THE RECORDS, IF AGREEMENT CAN BE REACHED, USA HAS REQUESTED

FORMER CASE AGENT, SA [REDACTED] TRAVEL TO [REDACTED]

IT IS PROJECTED TRAVEL WILL BE WEEK OF [REDACTED]

AUSA, SDNY INTENDS REQUEST FOR INDICTMENT BEFORE END OF SEPT.

INDICTMENT TENTATIVELY TO INCLUDE [REDACTED]

[REDACTED] BUREAU HAS NOTED HIGH IMPACT GIVEN BY MEDIA. TO DATE,

b6
b7C
b3
b7E

b3
b7E

[REDACTED]

[REDACTED] GRAND JURY SUBPOENA.

b3

DUE TO COMPLEXITY, NOTORIETY, SIGNIFICANCE AND SHORT TIME BEFORE INDCITMENT, AS WELL AS EXPERTISE OF FORMER CASE AGENT WHO WAS ASSIGNED MATTER TWO YEARS, IT IS REQUESTED SA [REDACTED] TEMPORARY ASSIGNMENT BACK TO NY BE EXTENDED TO MINIMUM OF ADDITIONAL 30 DAYS. FOR INFO OF FBIHQ, NYO, IN ADDITION TO SA [REDACTED] HAS ASSIGNED FULL-TIME ONE SAA CPA AND ONE ACCOUNTING TECHNICIAN AS WELL AS ADDITIONAL SAAS AS NEEDED.

b6
b7C

DUE TO LIMITED VEHICLE AVAILABILITY IN NYO, AND NECESSITY TO ASSIGN VEHICLE FOR EXCLUSIVE USE IN THIS CASE, AND TO ALLOW SA TO RETURN HOME ON WEEKENDS THEREBY KEEPING PER DIEM TO A MINIMUM, IT IS REQUESTED RENTAL VEHICLE BE AUTHORIZED.

TO REITERATE, FBIHQ APPROVAL REQUESTED FOR TRAVEL OF SA [REDACTED] [REDACTED] WEEK OF [REDACTED] IF USA OBTAINS AUTHORIZATION, MINIMUM 30 DAYS EXTENSION OF SA [REDACTED] AT NEW YORK AND RENTAL OF VEHICLE FOR MINIMUM 90 DAYS.

b6
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b7E

SAC, CRIMINAL DIVISION, NYO CONCURS WITH REQUESTED FOREIGN TRAVEL AND BOTH SACS, NY AND NEW HAVEN CONCUR WITH 30-DAY

PAGE FOUR

NY 19 6A-1774

UNCLAS

EXTENSION OF SA AT NY.

b6
b7C

BT

FBI

TRANSMIT VIA:

☒ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS
Date 8/31/83

002

FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (~~196B-2848~~) ROUTINE *1333Z*NEW HAVEN (~~196B-795~~) ROUTINE *1335Z*

BT

UNCLAS

ATTN: [REDACTED] HEADQUARTERS)

MARC RICH; DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

b6
b7C

[REDACTED] FBW - ENERGY RELATED; (OO: NY).

RENYTELETYPE TO BUREAU, AUGUST 19, 1983.

FOR INFO FBIHQ, APPROXIMATELY [REDACTED] ARE

NOW IN CUSTODY USA/FBI, NY PURUSANT TO COURT ORDER AND

SUBPOENA. EXACT SIGNIFICANCE OF ITEMS UNKNOWN EXCEPT USA,

FBI BELIEVE OF MAJOR IMPORTANCE. SOME DOCUMENTS [REDACTED]

b3

IN THAT THEY HAVE NOT YET BEEN REVIEWED BY [REDACTED]

FOR PRIVILEGE AND/OR NON-COVERAGE BY SUBPOENA. STARTING

[REDACTED] BEGAN SUCH REVIEW AND

SEQUENTIAL [REDACTED]

IN NYO SPECIAL. DOCUMENTS

INCLUDED [REDACTED]

1 - NEW YORK

1 - SUPV. M-1

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/11/01 BY SP5 SC/may

GJL:mms

(2)

Approved: LFL/FBI

Transmitted _____

(Number)

(Time)

Per _____

196A-1774-131

SEARCHED PA FILED PA

SEP 2 1983

[REDACTED]

b6
b7C

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE TWO

NY 196a-1774

UNCLAS

[REDACTED] DOCUMENTS WILL HAVE TO BE PERUSED AND DETAILED

[REDACTED] ANALYSIS PREPARED WHERE NECESSARY.

ADDITIONALLY, IT HAS COME TO ATTENTION OF USA THAT [REDACTED]

[REDACTED] IN POSSESSION [REDACTED]

AUSA, SDNY, NEGOTIATING FOR REVIEW SAID DOCUMENTS. HOWEVER,

[REDACTED] REQUEST [REDACTED] DUE TO SIGNIFICANCE

OF THE RECORDS, IF AGREEMENT CAN BE REACHED, USA HAS REQUESTED

FORMER CASE AGENT, SA [REDACTED] TRAVEL TO [REDACTED]

IT IS PROJECTED TRAVEL WILL BE WEEK OF [REDACTED]

AUSA, SDNY INTENDS REQUEST FOR INDICTMENT BEFORE END OF SEPT.
INDICTMENT TENTATIVELY TO INCLUDE [REDACTED]

[REDACTED] BUREAU HAS NOTED HIGH IMPACT GIVEN BY MEDIA. TO DATE,

b6
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b7E

Approved: _____ Transmitted _____ Per _____
(Number) (Time)

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE THREE

NY 196A-1774

UNCLAS

 GRAND JURY SUBPOENA.

DUE TO COMPLEXITY, NOTORIETY, SIGNIFICANCE AND SHORT TIME BEFORE INDCITMENT, AS WELL AS EXPERTISE OF FORMER CASE AGENT WHO WAS ASSIGNED MATTER TWO YEARS, IT IS REQUESTED SA _____ TEMPORARY ASSIGNMENT BACK TO NY BE EXTENDED TO MINIMUM OF ADDITIONAL 30 DAYS. FOR INFO OF FBIHQ, NYO, IN ADDITION TO SA _____ HAS ASSIGNED FULL-TIME ONE SAA CPA AND ONE ACCOUNTING TECHNICIAN AS WELL AS ADDITIONAL SAAS AS NEEDED.

DUE TO LIMITED VEHICLE AVAILABILITY IN NYO, AND NECESSITY TO ASSIGN VEHICLE FOR EXCLUSIVE USE IN THIS CASE, AND TO ALLOW SA TO RETURN HOME ON WEEKENDS THEREBY KEEPING PER DIEM TO A MINIMUM, IT IS REQUESTED RENTAL VEHICLE BE AUTHORIZED.

TO REITERATE, FBIHQ APPROVAL REQUESTED FOR TRAVEL OF SA _____
 _____ WEEK OF _____ IF USA OBTAINS
 AUTHORIZATION, MINIMUM 30 DAYS EXTENSION OF SA _____ AT NEW YORK
 AND RENTAL OF VEHICLE FOR MINIMUM 90 DAYS.

SAC, CRIMINAL DIVISION, NYO CONCURS WITH REQUESTED _____
 TRAVEL AND BOTH SACS, NY AND NEW HAVEN CONCUR WITH 30-DAY

b3

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b7Cb6
b7C
b7E

Approved: _____ Transmitted _____ Per _____
 (Number) (Time)

FBI

TRANSMIT VIA:

- ☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

- ☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

- ☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE FOUR

NY 196A-1774

UNCLAS

EXTENSION OF SA AT NY.

BT

b6
b7C

#

Approved: _____ Transmitted _____ Per _____
(Number) (Time)

Memorandum



To : SAC, II (196A-1774) (P) (M-1)

Date 9/2/83

From : SUPERVISOR [REDACTED]

b6
b7C

Subject : MARC RICH, DBA;
MARC RICH AND COMPANY;
PINCUS GREEN:
[REDACTED]
FBW -ENERGY RELATED
(OO: NY)

b6
b7C

Remymemo, 8/29/83.

On [REDACTED] contact was made with [REDACTED] Attorney,
[REDACTED] He advised that he will
be conducting and overseeing the review of the documents.

b6
b7C
b3

The documents will be reviewed as follows:

First [REDACTED] second, [REDACTED]
[REDACTED] and third, [REDACTED] that are
designated as [REDACTED] He would
like the review to take place from 9:00 a.m. to 9:00 p.m., Monday -
Friday; excluding weekends. Weekends will only be worked if
necessary.

b3

The review will consist of the following process:
The documents will be sequentially numbered at Room 1633, 26
Federal Plaza; next, they will be sent to Tyrell, 115 Greenwich
St., New York, NY, for xeroxing. They will be sent back to
Room 1633, 26 Federal Plaza where xeroxing will be verified and
the privilege review will take place. As this procedure is
completed, production of the documents to the Government will
begin.

The above procedure was acceptable to AUSA [REDACTED]

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 SC/maz

① - 196A-1774
1 - Supv. M-1

WTG:mms
(3)

b6
b7C

196A-1774-132

SERIALIZED	fw	FILED	fw
SEP 2 1983			
[REDACTED] YORK			

Transmit attached by Facsimile - UNCLAS

Precedence

Priority

SSRA

To:

Newburg RA (196-NEW)

From ADAC, New York (196A-1774) (m-1)

Subject: MARC Rich, aka

MARC Rich and Company
Pence Green

FBW-energy related

☐ Fingerprint Photo

☐ Fingerprint Record

☐ Map

☐ Newspaper clipping

☐ Photograph

☐ Artists Conception

☒ Other

Subpoena

Special handling instructions:

Call SA [redacted]

- New York for background inf

b6

b7C

b6

b7C

Approved: L/A/S

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/mg

FBI/DOJ

9/1/83 - Subpoena

left w/ [redacted]

at request of AVSA

had talked to

[redacted] city & they
were arranging an
interview.

b6
b7C
b3

Received
NRA
5:00 PM
8/29/83
DMW

Assign
lead.

9/1/83 - [redacted]

adv [redacted]

live there.

[redacted] moved [redacted] ago.

Phone # for [redacted] not theirs.
Don't know where he
lives.

Placed [redacted]

in Driveway

SEARCHED	INDEXED
SERIALIZED	FILED
AUG 1983	
FBI NEW ROCHELLE	

[redacted]

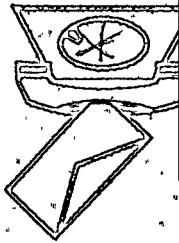
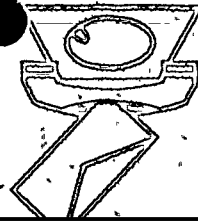
b6

b7C

196A-1774-133



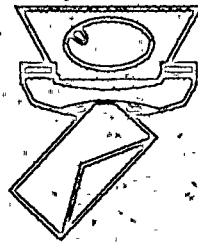
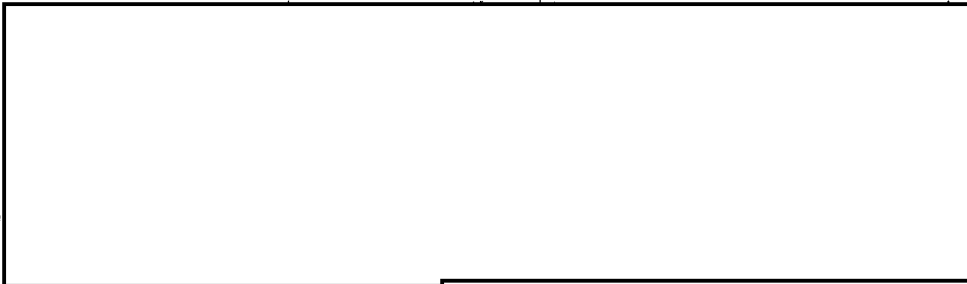
b6
b7C



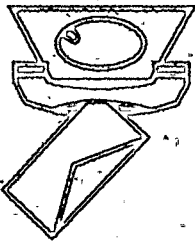
79



Sub.



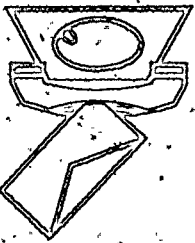
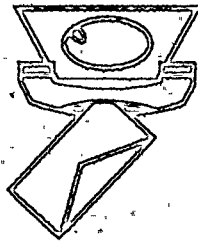
b6
b7C



79



Sub.



Memorandum



To : SAC, NEW YORK (196A-1774)
Attn: Supv. M-1

Date 9/2/83

From : SA [redacted] NRA

b6
b7C

Subject : MARC RICH dba Mark Rich
and Company
ET AL
FBW-ENERGY RELATED

Re NYO Facsimile and copy of subpoena dated 8/29/83.

On 9/1/83 inquiry was made by the writer at [redacted]
[redacted] to locate and serve [redacted]
[redacted] advised that [redacted] moved from that address
[redacted] ago and she did not know his present address.

b6
b7C
b3

The 1983 Cross Reference Directory for [redacted]
reflected that the telephone number for [redacted] on referenced
subpoena came back to him at [redacted]

b6
b7C
b3

On same date went to [redacted] Was advised
by [redacted] that [redacted] was not home. She stated that
[redacted] attorney had contacted AUSA [redacted] SDNY,
on 8/31/83 and they were attempting to arrange a meeting
between [redacted] and AUSA [redacted] Telephonically
contacted [redacted] who corroborated this. He requested that
the copy of the subpoena be left with [redacted] This was done.

b6
b7C
b3

The above set forth for case agent's info as it is not
known whether he was aware of [redacted] contact with [redacted]
attorney.

b6
b7C
b3

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/may

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TEO:teo

196A-1774-134

SEARCHED	INDEXED
SERIALIZED	FILED
1983	
FBI - NEW ROCHELLE	

NYO
M-1
a.

[redacted] B
K.A.

b6
b7C

VZCZCHQ0003

RR NH NY

DE HQ #0031 2491930

ZNR UUUUU

R 061645Z SEP 83

FM DIRECTOR FBI

TO FBI NEW YORK (196A-1774) (M-1) ROUTINE

FBI NEW HAVEN ROUTINE

BT

UNCLAS

MARC RICH; DBA MARC RICH & COMPANY; PINCUS GREEN; [REDACTED]

b6
b7C

[REDACTED] FBW; ENERGY RELATED; OO: NEW YORK

RE NY TELETYPE TO THE DIRECTOR, 9/1/83.

NEW YORK'S REQUEST FOR FORMER CASE AGENT [REDACTED] -NEW

b6
b7C

HAVEN DIVISION TO BE ASSIGNED TO THE NEW YORK DIVISION FOR A MAX-
IMUM OF 30 DAYS IS APPROVED.

NEW YORK'S REQUEST TO PERMIT SA [REDACTED] TO UTILIZE A RENTAL
VEHICLE WHILE TEMPORARILY ASSIGNED TO THE NEW YORK DIVISION IS
NOT APPROVED.

b6
b7C

BT

#0031

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/0 BY SP5 JC/mg

b6
b7C

196A-1774-135

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 1 1983	
[REDACTED]	

13

VZCZCHQ0435

RR NY NY

DE HQ #0031 2401930

ZNR UUUUU

R 061845Z SEP 83

FM DIRECTOR FBI

TO FBI NEW YORK (196A-1774) (4-1) ROUTINE

FBI NEW HAVEN ROUTINE

BT

UNCLAS

MARC RICH; DBA MARC RICH & COMPANY; PINGUS GREEN; [REDACTED]

b6
b7C

[REDACTED] FBI; FREELY RELATED; OO: NEW YORK

RE NY TELETYPE TO THE DIRECTOR, 9/1/83.

NEW YORK'S REQUEST FOR NORMAL CASE ATTENT [REDACTED] NEW

b6
b7C

HAVEN DIVISION TO BE ASSIGNED TO THE NEW YORK DIVISION FOR A 44Y-
IMUM OF 30 DAYS IS APPROVED.

NEW YORK'S REQUEST TO PERMIT SA [REDACTED] TO UTILIZE A RENTAL
VEHICLE WHILE TEMPORARILY ASSIGNED TO THE NEW YORK DIVISION IS
NOT APPROVED.

b6
b7C

BT

#0031

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JCD/mj

196A-1774-1335

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 04 1983	

[REDACTED]

b6
b7C

FBI

TRANSMIT VIA: -

☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

Date 9/9/83

026

FM NEW YORK (196A-1774) (P) (M-1)

~~TO DIRECTOR (196B-2848)~~ 0056

BT

UNCLAS

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES UNIT, BUREAU)

MARC RICH; DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

b6
b7C

[REDACTED] FBW - ENERGY RELATED (OO: NY)

RENYTEL TO BUREAU, SEPTEMBER 1, 1983; AND FBIHQ TELCALL
 TO NY, SEPTEMBER 9, 1983.

PURPOSE OF TELETYPE TO KEEP FBIHQ ADVISED OF DEVELOPMENTS
 IN CAPTIONED.

ON SEPTEMBER 8, 1983, AUSA [REDACTED] SDNY, ADVISED
 THAT NEGOTIATIONS WITH [REDACTED] HAD BROKEN DOWN. SA

[REDACTED] TRAVEL TO [REDACTED] NOT NECESSARY. APPARENTLY,

[REDACTED] WILL NOT RECOGNIZE U.S. SUBPOENA AUTHORITY.

A TREATY REQUEST WILL BE NECESSARY. STATE DEPARTMENT EXPECTED
 TO MAKE A PRESS RELEASE ON SEPTEMBER 10, 1983 REGARDING
 NEGOTIATIONS.

① - NEW YORK
 1 - SUPV. M-1

MEB:mms
 (2)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/21/01 BY SP3 SC/mj

196A-1774-136

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b7C
b3
b7EApproved: C/ovTransmitted He

(Number)

(Time)

Per *2

FBI

TRANSMIT VIA: .

☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE TWO

NY 196A-1774

UNCLAS

DURING WEEK OF SEPTEMBER 19, 1983, OR SEPTEMBER 26, 1983, INDICTMENT OF MARC RICH, PINCUS GREEN, MARC RICH AND COMPANY INTERNATIONAL, LTD., AKA "CLARENDON LTD.", AND MARC RICH AND COMPANY, A.G. WILL BE FILED. INDICTMENT WILL CHARGE ONE COUNT RICO, ONE COUNT RICO CONSPIRACY, FOUR COUNTS MAIL FRAUD, 31 COUNTS WIRE FRAUD, TWO COUNTS TAX EVASION AND SIX COUNTS TRADING WITH ENEMY ACT VIOLATION. TOTAL EXPOSURE 285 YEARS AND \$405,000 IN FINES. A JOINT USA, FBI, IRS, CUSTOMS PRESS CONFERENCE WILL RELEASE ABOVE.

A SUPERCEEDING INDICTMENT EXPECTED TO BE FILED TO INCLUDE

AS WELL AS APPROXIMATELY AN ADDITIONAL \$200 MILLION OF EVADED U.S. PROFITS UTILIZING CHARGED RICO SCHEME. SOME OF WHICH MAY HAVE BEEN USED BY RICH TO PURCHASE 50% INTEREST IN CENTURY FOX MOVIE STUDIOS.

FBIHQ WILL BE KEPT ADVISED.

BT

b6
b7c

Approved: _____ Transmitted _____ Per _____
(Number) (Time)

NY0474 2530056

RR HQ

DE NY 026

R 092100Z SEP 83

FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848)

BT

UNCLAS

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES UNIT, BUREAU

MARC RICH; DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

b6
b7C

[REDACTED] FBW - ENERGY RELATED (OO: NY)

RENYTEL TO BUREAU, SEPTEMBER 1, 1983; AND FBIHQ TELCALL
TO NY, SEPTEMBER 9, 1983.

PURPOSE OF TELETYPE TO KEEP FBIHQ ADVISED OF DEVELOPMENTS
IN CAPTIONED.

ON SEPTEMBER 8, 1983, AUSA [REDACTED] SDNY, ADVISED
THAT NEGOTIATIONS WITH [REDACTED] HAD BROKEN DOWN. SA

b6
b7C
b3
b7E

[REDACTED] TRAVEL TO [REDACTED] NOT NECESSARY. APPARENTLY,

[REDACTED] WILL NOT RECOGNIZE U.S. SUBPOENA AUTHORITY.

A TREATY REQUEST WILL BE NECESSARY. STATE DEPARTMENT EXPECTED
TO MAKE A PRESS RELEASE ON SEPTEMBER 10, 1983 REGARDING
NEGOTIATIONS.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/mj

196A-1774-134

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WC

PAGE TWO

NY 196A-1774

UNCLAS

DURING WEEK OF SEPTEMBER 19, 1983, OR SEPTEMBER 26, 1983, INDICTMENT OF MARC RICH, PINCUS GREEN, MARC RICH AND COMPANY INTERNATIONAL, LTD., AKA "CLARENDON LTD.", AND MARC RICH AND COMPANY, A.G. WILL BE FILED. INDICTMENT WILL CHARGE ONE COUNT RICO, ONE CO UNT RICO CONSPIRACY, FOUR COUNTS MAIL FRAUD, 31 COUNTS WIRE FRAUD, TWO COUNTS TAX EVASION AND SIX COUNTS TRADING WITH ENEMY ACT VIOLATION. TOTAL EXPOSURE 285 YEARS AND \$405,000 IN FINES. A JOINT USA, FBI, IRS, CUSTOMS PRESS CONFERENCE WILL RELEASE ABOVE.

A SUPERCEEDING INDICTMENT EXPECTED TO BE FILED TO INCLUDE AS WELL AS APPROXIMATELY AN ADDITIONAL \$200 MILLION OF EVADED U.S. PROFITS UTILIZING CHARGED RICO SCHEME. SOME OF WHICH MAY HAVE BEEN USED BY RICH TO PURCHASE 5% INTEREST IN CENTURY FOX MOVIE STUDIOS.

FBIHQ WILL BE KEPT ADVISED.

BT

b6
b7c

When Nations' Laws Clash, Companies Are Caught in a Bind

Continued From First Business Page
seized in Iran, the United States responded by freezing Iranian assets not only in this country but also in overseas branches of United States-based banks. The governments of the foreign countries that were affected, albeit grudgingly, did not try to interfere with the freeze.

After the International Business Machines Corporation sued Hitachi Ltd., accusing it of stealing trade secrets, Hitachi filed its own suit in Japan. Hitachi contended that if any wrong were committed, it was done in Japan. Therefore, Hitachi argued,

the courts in Japan, not those in the United States, should hear the case.

Upon the collapse of Sir Freddie Laker's trans-Atlantic Skytrain service, the Justice Department started a grand jury investigation of possible price-fixing by British Airways and British Caledonian Airways. Britain objects to this investigation, and to a civil antitrust suit in which the British liquidator of Laker is suing the two British airlines in an American court, seeking triple damages, which are not available under British law.

Switzerland's highest court denied a request from the Securities

and Exchange Commission for the identity of investors involved in insider trading in connection with the \$2.5 billion takeover of the Santa Fe International Corporation by the Kuwait Petroleum Corporation. In Switzerland, insider trading is not a crime.

Washington's Basic Attitude

In all these cases, the main question is: Which country's laws should prevail? As a general rule, the United States believes it has jurisdiction over any commercial actions that either take place in this country or have

a substantial effect here.

"We do have different standards from other people, and in the past we have been able to get away with them," said Douglas Rosenthal, a former head of the Justice Department's foreign commerce section. He now represents British Caledonian Airways and is counsel to the Canadian Government on extraterritoriality.

"But these days," he added, "the United States doesn't have the overwhelming economic clout it used to, and other nations are protecting their own economic interests much more aggressively than they used to."

Other countries increasingly feel that the United States is overstepping its legitimate authority when it tries to impose its rules on corporations that have their headquarters abroad.

"There is a deep sense of anger in Great Britain and Europe about the pipeline debacle and a deep sense of dismay over the actions of the United States Justice Department in settling up a grand jury investigation of the Laker collapse," said Sir Michael Havers, England's Attorney General. "American extensions of jurisdiction have been inching forward, and I think it is a very dangerous develop-

Some American lawyers, however, take a different view.

"I don't think that the United States has been expanding its jurisdiction," said Thomas Barr, a New York lawyer who represents I.B.M. both in the Hitachi case and in the European Economic Community's antitrust action against the company. "I think the reason we're seeing more problems with extraterritorial jurisdiction is just that the world is getting smaller."

Role of International Courts

Deciding which country's laws are paramount is not easy. A country can not be forced to accept another country's ruling. Although there are international courts, they move very slowly. And since no nation can be forced to submit a case for resolution against its will, international courts rarely get a chance to hear major jurisdictional disputes.

"These are very difficult problems to resolve because there is no agreement in the international community on what the rules on extraterritorial jurisdiction ought to be," said Mr. Marcuss, the Washington lawyer. "Ultimately I think the resolution of these issues will have to be a matter for negotiation — and self-restraint."

Most international legal battles are resolved politically. Sometimes a settlement can be reached through negotiations, but sometimes it can't.

A few countries have adopted defensive legislation to protect themselves from American claims. Following a uranium antitrust action that Europeans regarded as unduly intrusive, both France and Britain passed laws forbidding the release of certain commercial information.

Last year's pipeline sanctions may have raised the level of resistance to American jurisdictional claims.

"The United States is paying heavily for the pipeline sanctions," said Mr. Rosenthal, the representative of British Caledonian Airways. "There is a feeling abroad that the U.S. was irrational and so outrageous with its sanctions that reasoning doesn't work any more and that the best tactic is to be strong and aggressive in resisting any American claims to extraterritorial jurisdiction."

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When Nations' Laws Clash

Typical Case At Marc Rich

By TAMAR LEWIN

Marc Rich & Company A.G., the Swiss-based commodity trading firm under investigation for possible United States tax evasion, is in a classic double bind.

The company cannot give American prosecutors many of the documents they have subpoenaed because the Swiss Government has seized them to make sure their release would not violate the corporate secrecy laws of Switzerland. But every day that goes by without Marc Rich turning over the documents means that it must pay another \$50,000 fine because it is in contempt of court in the United States. Some Marc Rich documents, two trunks full, were seized in New York by American authorities.

Marc Rich is not alone in facing such a dilemma. In the global marketplace, more and more companies have become involved in legal conflicts ranging from antitrust enforcement to trade secrets.

Diverse Ideas About Behavior

The laws governing business are largely an expression of a country's ideas about desirable commercial behavior. But other countries may have conflicting ideas — and conflicting laws.

"The drift toward more confrontation is clear," said Stanley Marcuss, a Washington lawyer and former Assistant Secretary of Commerce. "I think it's largely because of the multinational phenomenon. So many companies have foreign subsidiaries that commerce is bound to involve a lot of different national interests."

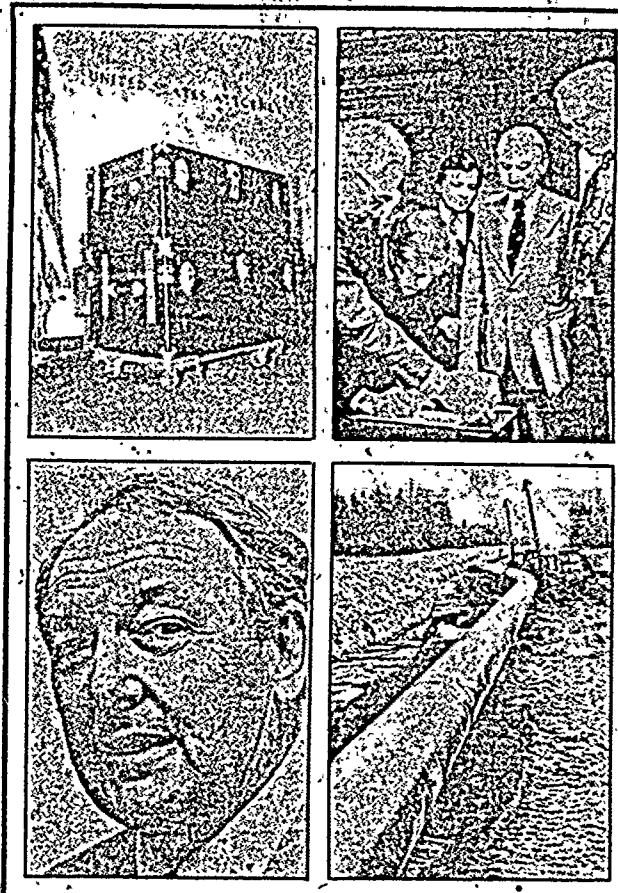
These international confrontations have consequences far beyond the legal world. It is generally recognized, for example, that the Atlantic alliance was seriously hampered when President Reagan imposed sanctions against foreign companies helping to build the Soviet natural gas pipeline.

Many businessmen fear that further attempts by Washington to control foreign companies would make it harder for American enterprises to maintain a good relationship with their trading partners overseas.

The Marc Rich case is the latest in a long series of international legal conflicts. Here are some recent examples:

In the pipeline dispute, Dresser Industries found itself in the same kind of bind that Marc Rich is in now. Dresser faced American reprisal if it honored its supply contract in France, and it faced French reprisal if it did not. President Reagan finally lifted the ban last November after the governments of France, Britain, West Germany and Italy protested. They insisted that the United States had no right to control their trade policies and that they would go ahead with any contracts to supply parts for the pipeline.

When American hostages were



The New York Times / Richard Sanders; United Press International; Financial Times
Clockwise from top left: Marc Rich & Company papers seized in the U.S., President Carter signing order to freeze Iranian assets, section of Soviet pipeline to Western Europe and Sir Freddie Laker. All represent confrontations between countries where conflicting commercial ideas or laws exist.

The Steamer-Trunk Affair

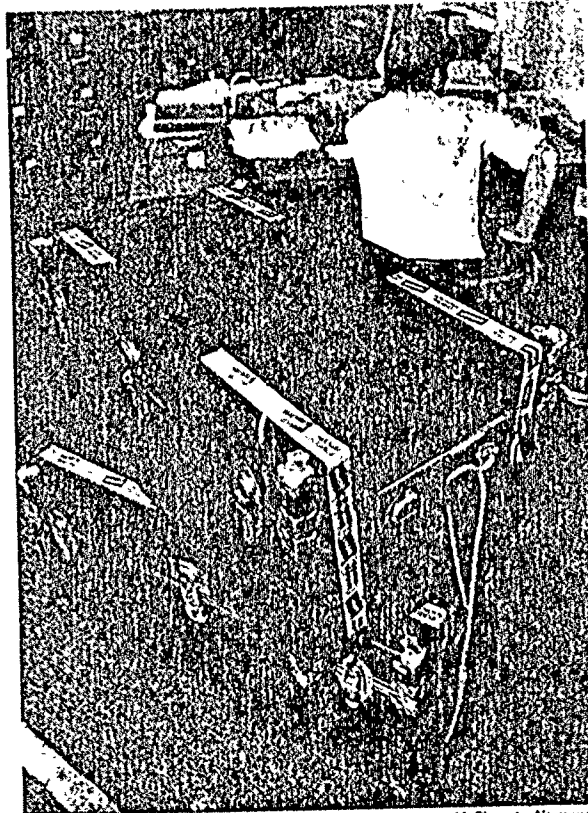
Swissair's Flight 111 from New York's Kennedy Airport to Geneva and Zurich was almost ready for its 7 p.m. takeoff when federal agents suddenly halted the departure and summoned one of the Zurich-bound passengers, a paralegal from a New York law firm, off the plane. But what the agents really wanted was her baggage—two black steamer trunks crammed with documents belonging to Marc Rich & Co., the big Swiss-based commodities trading firm, which owns half of Twentieth Century-Fox. The reason: just three days earlier Rich had agreed to turn over many of these same papers to a federal grand jury.

The incident was but the latest in a bizarre legal battle that began 18 months ago when the United States charged Rich & Co. with evading taxes on \$20 million in income earned here. Rich's lawyers denied that last week's attempted night flight had violated the commodities firm's agreement to surrender the documents. They said the papers were being flown to Zurich for a review to make certain that they contained no confidential information—and that other documents sought by the grand jury had already been shipped there for the same reason. Federal Judge Leonard B. Sand was not convinced: he angrily ordered the firm to turn over all the subpoenaed documents immediately. "The thinness of the ice on which your client stands is something you must be aware of," he told the company lawyers. The same day, Rich produced 252 cartons of documents in court and the next day it loaded several bagfuls of papers on a plane for delivery back to New York.

Inflated Prices: The government might have guessed it would be hard to drag information out of the Rich firm and its secretive founder, Marc Rich. About all that is known of Rich is that he is a 48-year-old American citizen who quit what is now-Phibro-Salomon in 1973 to start his own trading firm. He did well: Rich & Co.'s annual revenues are estimated at more than \$10 billion, and in 1981 the firm, teaming up with oil baron Marvin Davis, bought Twentieth Century-Fox Corp. Last year the U.S. charged that Rich was profiting at government expense. It said the firm had evaded U.S. income taxes by selling oil to its U.S. subsidiary, Marc Rich & Co. International, at inflated prices—making it appear that the Amer-

ican unit was losing money on the trades.

Rich personally refused to appear before a grand jury investigating the charge and to produce the documents, mostly trading reports, that it wanted. Later, the company's U.S. subsidiary did agree to produce the material, but the parent company refused, saying that a Swiss company was not subject to U.S. subpoenas. In June, Rich and his second in command, Pincus (Pinky) Green, left New York for Switzerland, where a court ordered the parent firm not to give up the documents on the ground that Swiss law



Jacques M. Chenet—Newsweek

The papers in question: A last-minute catch

prohibits Swiss companies from revealing business secrets to foreign governments.

But back in the United States Judge Sand was exerting pressure; he held Rich & Co. in contempt of court and fined it \$50,000 for each day it refused to hand over the documents. A week later, Rich and Green quietly sold the U.S. subsidiary to one of its other partners and the unit was renamed Clarendon AG. Sand didn't hear about the deal until some time later, but when he did he angrily called it "a ploy to frustrate the implementation of the court's order." He threatened to freeze up to \$55 million of Rich & Co.'s U.S. assets and later issued restraining orders to prevent the distribution of its American holdings (Rich had reportedly been trying to sell its 50 per-

cent interest in Twentieth Century-Fox).

With the squeeze on, Rich seemed to be caving in. It paid \$2.6 million in fines for contempt, put up \$55 million in securities as collateral for any other fines that might be levied and finally agreed to surrender the documents. But the controversy over the case may not end just because the papers are safely in the court's hands. The Swiss government has lodged an official protest with the United States over what it considers heavy-handed American prosecution methods. The Swiss position is that the United States could have received the information it wanted without resorting to subpoenas and without bringing a Swiss firm into conflict with Swiss secrecy laws. The Swiss may be content to let the matter drop and the investigation may proceed smoothly. But with last week's steamer-trunk caper fresh in mind, U.S. officials may not be quick to bet on it.

DAVID PAULY with HOPE LAMPERT in New York and bureau reports

Metromedia On a Roller Coaster

John Kluge has done a remarkable job of pushing his Metromedia broadcasting empire to the top of Wall Street's ratings chart. By combining the huge cash flow of his seven television stations with heavy borrowings, Kluge turned the company's stock into the highest-priced issue on the New York Stock Exchange. But last week the picture suddenly clouded. Abraham Briloff, a well-known critic of creative corporate accounting, suggested that the company was so strapped for cash last fall that it resorted to a financing ploy that could result in its paying an effective interest rate of 26 percent. Metromedia's stock plunged from \$500 to \$390 a share in just two days—knocking \$323 million off its total market value and reducing Kluge's personal holdings by \$79 million.

Briloff took exception to a deal in which Metromedia sold certain assets of its outdoor advertising business for \$485 million, with a provision for buying them back in 1987. By subtracting the \$105 million in taxes the company had to pay on the sale and making other adjustments, Briloff figured that the company had raised only \$289 million in new funds—and that based on the stipulated buy-back price, it was saddling itself with a usurious rate of interest.

Kluge's supporters dismissed the attack, pointing out that the company is not obligated to buy back the assets. Still, it was questionable whether the debt-laden company should have engaged in any kind of new financing. Analysts insist that Kluge can pull off his high-risk dreams for Metromedia and at the weekend the stock had recouped \$55 of its earlier decline. In any case, the future price moves of the company's stock won't be quite so dramatic: a 10-for-1 split of the shares is effective this week.

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People

Call them the boys of Indian summer. Roy Scheider, 47, and Robert Redford, 46, have both donned pinstripes and taken to the field in two new movies about the All-American pastime. In *Tiger Town*, the first made-for-TV feature for the new Disney cable channel, Scheider plays Billy Young, a fading 39-year-old baseball legend who is spurred on to win a pennant by the faith of an eleven-year-old fan, played by Justin Henry, 12 (*Kramer vs. Kramer*). Scheider, who broke his nose during an early "career" as a boxer, says that he has always wanted to portray a baseball player but never before had the chance. "As a kid, I played sand-lot softball," he recalls. "Now here I am acting out a fantasy I've had since I was dreaming of ways to get out of New Jersey." Redford, meanwhile, was returning to the screen for the first time since 1980, when he appeared in *Brubaker* and directed *Ordinary People*. This month he is on location at Westchester Memorial Stadium in Yonkers, N.Y., filming *The Natural*, based on Bernard Malamud's 1955 novel about a 34-year-old Jewish player who finally makes it to the big leagues during the 1930s. Like Scheider, maybe like every American male, Redford is glad to have a chance to experience an un-lived fantasy. He had planned to be a ballplayer at the University of Colorado, but, Redford recalls, "I was there on a half scholarship, and proceeded to get sidetracked."



Scheider in *Tiger Town*

It was a wedding with, well, star appeal. After a five-year romance, Carrie Fisher, 26, who rocketed to fame as Princess Leia in the *Star Wars* trilogy, and Paul Simon, 41, still crazy about her after all these years, were married in a Jewish ceremony at his West Side Manhattan apartment. The cast of guests appropriate to such a show-biz union included the bride's long-divorced parents, Eddie Fisher and Debbie Reynolds, *Star Wars* Creator George Lucas, Comedian Robin Williams, Simon's once and present singing partner, Art Garfunkel, and Billy Joel, who presented the couple with a jukebox filled with records from the 1950s. More traditionally, Papa Fisher gave his daughter six ruby,



Redford in *The Natural*

garnet, jade and diamond rings and a vintage Cartier watch. To his new son-in-law he gave his "most prized possession," a framed photograph of Fisher holding Carrie and her brother Todd when they were babies. After the formalities, though, the customary honeymoon was replaced by a "working honeymoon" as the couple flew off to Houston, where Simon and Garfunkel were to appear as part of a nationwide reunion tour.

His shadowy persona and penchant for secrecy have made pictures of him a rare commodity. But the rare commodities in which the Belgian-born financier is more interest-

ed—oil, gold and aluminum, among others—have made the Switzerland-based firm he founded in 1974 one of the most successful in the world, with an annual trading volume of \$10 billion. Recently, though, Business Wizard Marc Rich, 49, has become the center of an international financial wrangle that has the courts and governments of two countries pulling at his various corporate arms. Two years ago, the U.S. Government began investigating a potentially "massive tax-fraud scheme" involving an oil deal between Marc Rich & Co. AG and its New York City-based subsidiary. A federal court subpoena for tens of thousands of the firm's documents had produced only talk until two weeks ago, when two steamer trunks full of company papers were seized by federal agents as they were about to be loaded on a jetliner bound for Switzerland. At about the same time, another batch of documents was confiscated by Swiss authorities at the company's headquarters in Zug, lest the country's strict corporate secrecy laws be violated. Out of patience, U.S. Federal Judge Leonard Sand has threatened to shut down the company's U.S. operations until the papers are delivered, and will decide next month whether to order the seizure of \$55 million worth of Rich's assets that the company put up to guarantee compliance with the subpoena. Meanwhile Rich, as elusive as ever, has returned to Switzerland. —By Guy D. Garcia



A scene in Manhattan



A rare glimpse of Paul Simon

Time Magazine
8/29/83

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Fraud Probe of Marc Rich

Continued from page 1, column 4
year. Under an agreement with the U.S. government, Marc Rich began to comply but the Swiss government seized documents earlier this month.

Also complicating the situation was the supposed sale of the American subsidiary so that it became an independent company, Clarendon Ltd. However, government prosecutors have expressed skepticism, since the heads of the new company have been associated with Marc Rich.

Judge Sand had scheduled a hearing for yesterday to take evidence concerning the sale and other aspects of the investigation but it was postponed until Sept. 19 while the U.S. and Swiss governments negotiate over whether the Swiss will allow the turnover of the documents it seized to be surrendered.

Both Messrs. Giuliani and Pedowitz have spent hours each day on the case during recent weeks. Morris Weinberg Jr., an Assistant U.S. Attorney, has been in charge of the investigation since last year.

He has since been joined by Carolyn L. Simpson, an Assistant U.S. Attorney, who handled much of the negotiations that led to payment of the contempt fines. Other prosecutors now participating in the case are Jane Parver, Chief of Major Crimes, and Martin J. Auerbach, an Assistant U.S. Attorney.

The Swiss company has been represented by Morton M. Maneker, Bruce E. Fader, Jeffrey A. Mishkin, John W. Ritchie and Robert C. Finkel, of Proskauer. While he was head of Proskauer's litigation department, Marvin E. Frankel, was its lead litigation lawyer.

Mr. Frankel left Proskauer in the midst of the litigation to become a name partner in what now is Kramer, Levin, Nease, Kamen &

Frankel but still is listed as an attorney of record.

Milgrim Thomaian has represented the U.S. subsidiary in civil litigation and when the grand jury investigation spilled into court, Williams & Connolly represented it, with Milgrim Thomaian in charge of document production.

Earlier this month, Curtis, Mallet-Prevost replaced Williams & Connolly for the grand-jury investigation. The Curtis, Mallet-Prevost lawyers representing Clarendon are Peter E. Fleming Jr., T. Barry Kingham, Elliot Lauer, Mark O'Donoghue and Michael Zimmerman.

The civil litigation involving the subsidiary is believed to have been handled by Robert Thomaian and Robert E. Meister of Milgrim Thomaian.

Williams & Connolly still remains associated with the investigation, since Edward Bennett Williams and Richard M. Cooper, of the firm, represent the two main principals in the Swiss company; Marc Rich and Pincus Green.

The government lawyers in Washington who have been concerned in the case include Glenn L. Archer Jr., head of the Department of Justice's Tax Division, and Robert Edwin Davis, a Deputy Assistant Attorney General.

Also involved are Mark M. Richard, a Deputy Assistant Attorney General in the Criminal Division, Phillip T. White, head of the International Affairs Section in the Criminal Division; and Lawrence W. Chambliss, of the International Affairs Section.

The interests of the Swiss government have been represented by Robert E. Herzstein, of Arnold & Porter, in Washington, and Juerg B. Leutert, legal adviser to the Swiss Embassy in Washington.

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New York Law Journal

New York Law Journal

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NEW YORK, TUESDAY, AUGUST 23, 1983

Top Prosecutors Arrayed Against Major Firms Heavy Artillery Up Front In U.S. Probe of Marc Rich

By Alan Kohn

What started out two years ago as a routine investigation is no more. Now, there are almost daily headlines about suspicions of massive tax fraud by the American subsidiary of a Swiss commodities trader, Marc Rich & Co. AG.

High government officials, eleven Federal prosecutors and dozens of government agents are involved, as are five law firms. Defiance of a Federal judge's order to turn over documents to a grand jury has cost Marc Rich more than \$2.6 million in contempt fines.

After Marc Rich finally began complying with the order, the Swiss government seized some of the documents, creating an incident with the U.S. government and further legal complications.

What caused the interest of lawyers, newspapers and high government officials was the amount of the contempt fines, \$50,000 daily, and the fact the company paid the fines and agreed to comply with the subpoena only after the government moved, in effect, to freeze the subsidiary's assets.

Six Federal prosecutors in the office of U.S. Attorney Rudolph W.

Giuliani, including Mr. Giuliani and Lawrence B. Pedowitz, Chief of the Criminal Division, now are involved in New York City and five more are working on the case in Washington.

The law firms playing roles include Proskauer Rose Goetz & Mendelsohn; Curtis, Mallet-Prevost, Colt & Mosle; and Milgrim Thoma-
jan Jacobs & Lee, in New York City, and Williams & Connolly and Arnold & Porter, in Washington.

An Internal Revenue Service investigation begun in 1981 was continued last year by Southern District prosecutors who are probing whether Marc Rich charged artificially high prices for commodities sold to its American subsidiary to reduce the latter's tax liability.

Marc Rich already has paid \$2.6 million in daily \$50,000 contempt fines for failure to produce subpoenaed documents. The company was ordered to comply with the subpoena last year by Judge Leonard B. Sand, of the U.S. District Court for the Southern District of New York.

After appeals failed and the company still failed to comply, the judge imposed the \$50,000 daily fines this

Continued on page 3, column 3

Court Decisions in Marc Rich Case To Help U.S. Pursue Foreign Firms

By ROBERT E. TAYLOR
And ROGER LIWENSTEIN

Staff Reporters of THE WALL STREET JOURNAL

The U.S. is trying to expand its jurisdiction over foreign companies that may have broken U.S. laws.

It is getting support for that effort from recent precedent-setting decisions that courts have made in the government's fight with Marc Rich & Co. AG. A federal grand jury is investigating whether the Swiss-based commodities concern evaded taxes by diverting income from its U.S. subsidiary to the parent firm.

Attorneys say the new, tough approach promises to intensify conflicts between U.S. courts and multinational companies, and between the courts and governments. Already, federal prosecutors in other parts of the country are preparing to cite the Rich case as a precedent for stiffer sanctions in cases involving foreign concerns.

"It used to be that if an investigation extended offshore, the Justice Department said, 'This is the end,'" says Washington tax attorney Gerald A. Feffer. But the Rich case, he says, "vividly demonstrates how hard the department will push for overseas documents and how unsympathetic the courts can be to complaints that disclosure would violate another country's secrecy laws."

Stiff Sanctions

In the Marc Rich case, Assistant U.S. Attorney Morris Weinberg has convinced two federal courts in New York that the company is subject to a U.S. grand jury subpoena even though the parent company doesn't regularly do business in the U.S. In the past, such companies were usually thought to be beyond the reach of grand jury subpoenas.

Moreover, Mr. Weinberg's subpoenas have been enforced by unusually stiff sanctions. Federal Judge Leonard B. Sand, by imposing fines, freezing assets and threatening to close Marc Rich's U.S. subsidiary, has apparently broken down the company's long resistance and succeeded in obtaining at least some of the records being sought.

In Florida, prosecutors say they plan to refer to the \$50,000-a-day Marc Rich fines in asking a federal judge to increase to at least \$100,000 his \$500 daily fine against the Bank of Nova Scotia for ignoring a subpoena. The bank has been contesting the subpoena for 23 months, partly on the ground that Bahamian law bars disclosure, but it recently exhausted its appeals when the Supreme Court declined to review the case.

If steeper fines don't force compliance

from the bank, government attorneys say they'll ask further sanctions.

"Case law is beginning to firm up that the grand jury or a trial court should have access to overseas documents," says John Smietanka, U.S. attorney in Grand Rapids, Mich. As a result, he says, penalties may grow and "each succeeding case should take a lot less time."

To enforce a grand-jury subpoena calling for surrender of documents in Germany, Mr. Smietanka last year asked a federal judge to impose a fine of \$50,000 a day on that country's Deutsche Bank AG. He also asked that the daily amount increase by another \$50,000 every 10 days. On the eve of a hearing on that motion, the Germans compromised by turning over most of what was sought.

Judge Sand's rulings on jurisdiction in the Marc Rich case also appear to have reached further than usual. In the past, at-

"Case law is beginning to firm up that the grand jury or a trial court should have access to overseas documents," a U.S. attorney says. As a result, "each succeeding case should take a lot less time."

torneys say, subpoenas generally have been enforced only on companies regularly doing business in the U.S.

Judge Sand decided that although Marc Rich has a large U.S. subsidiary, the government failed to show that the parent company regularly does business in the U.S. Still, he ruled that the subpoena could be served because the parent company was involved in a transaction, part of which occurred in the U.S., that a grand jury is investigating.

U.S. attorneys say his ruling is supported by precedent in civil case law that requires people who have acted in a state to appear and account for their actions if they are the subject of litigation.

But attorneys for Marc Rich say the judge's ruling excessively expands subpoena power. "Overseas extensions of the grand jury power are for the Congress, not the courts," attorney John Ritchie argued in an unsuccessful appeal for the company.

"It's certainly an unusual instance of granting a subpoena," says Andreas Lowen-

feld, a New York University law professor.

Despite the severity of moves so far, however, the government may fail to force full compliance. Such enforcement efforts can only be effective, says Justice Department attorney Peter Clark, if a company has a U.S. operation that can be subjected to fines or other sanctions. Deutsche Bank and Bank of Nova Scotia, for instance, have U.S. branches.

Until now, Marc Rich has been exposed to the power of U.S. courts through its domestic subsidiary. Its commodities customers, in fact, are so wary of the court that Marc Rich's domestic business has dried up. Recently, however, Marc Rich sold the subsidiary to Alex Hackel, previously managing director of Marc Rich, and other partners in the parent firm.

Judge Sand has suggested the sale may have been a "sham" carried out so the company could subvert his orders. He has yet to rule on whether the sale is legitimate; if he decides it is, and the subsidiary is severed, the court will lose its leverage over Marc Rich in the U.S.

Unresolved Issues

Other issues in the case also remain unresolved. After 18 months of resistance, Marc Rich recently agreed to turn over the Swiss documents, only to have the Swiss government step in and seize many of them on secrecy-law grounds. The company insists it is doing all it can to comply with the subpoena, but Judge Sand says he will examine whether the company agreed to comply "with its fingers crossed," anticipating the Swiss action.

Generally, U.S. courts avoid requiring companies to do anything that would violate the company's home laws. But U.S. courts have increasingly ignored foreign laws forbidding compliance with subpoenas when shown evidence of "bad faith" by a company, or when they have found that U.S. interests outweigh a foreign government's concerns. In the Bank of Nova Scotia case, for instance, a federal appeals court in Atlanta said, "We aren't willing to emasculate the grand-jury process whenever a foreign nation attempts to block our criminal justice system."

Some experts say that tougher subpoena enforcement is needed to force secrecy-minded Bahamians are talking to the U.S. in an effort to better handle U.S. demands for documents. And the Swiss enacted a new law, effective last Jan. 1, that gives U.S. prosecutors their first hopes of Swiss cooperation in some tax-fraud investigations.

Wall Street Journal
8/22/83

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MURRAY KEMPTON

A Famous Lawyer Who Quit Shielding A Foreign Trader

THE OTHER DAY Edward Bennett Williams, most revered of last-resorts of scoundrels, courtously but resolutely let it be known that he would no longer represent the friends and partners of Marc Rich, Co. in their struggle to shield their books from the scrutiny of government investigators.

Rich had been resisting federal subpoenas for 18 months; by the time it turned at bay and retained Williams & Connolly as its counsel. By then, its contempt fines added up to more than \$2 million, and it seemed to have no recourse but capitulation.

But then, the night before the presumed surrender of Rich's New York books, Justice Department agents scur-

ried to Kennedy Airport just in time to seize two trunks packed with one former subsidiary's records and consigned for shipment to Switzerland, that bourn from which few financiers' secrets return. The next day, the retrieved trunks were hauled before federal Judge Leonard Sand, and he cast a cold eye first upon them and next upon Peter Fleming, Williams' stand-in as counsel for what used to be Marc Rich's American affiliate.

Fleming explained that his clients were so far from intending to scuttle the books that they had decided to dispatch the trunks because the only New York lawyer familiar enough with their contents to separate wheat from chaff happened to be in Switzerland. That sort of alibi would not much serve a restaura-

teur seen carrying a gasoline can and a stock of rage into his premises, but loftier personages have a larger margin of error, and Judge Sand could only accept Fleming's excuse and order the speediest compliance with the subpoena in the future.

The next day, it was announced that Edward Bennett Williams had severed all connection with the case. All he would say, publicly, was that the Marc Rich matter was too complicated for any intelligence as wanting in sophistication as his own. There are, he had decided, just too many players.

If there are not too many, there would appear at least to be one or two no wise lawyer could untroubledly trust. Williams' clientele has included all varieties of recklessness and rascality, from Joseph McCarthy to Frank Costello; but his experience could hardly have encompassed a client who would get himself detected in circumstances allowing the inference that, in complying with a subpoena, he might be sanitizing his files.

Williams has been retained by mafiosos and bagmen and seldom had trouble containing them; but it is difficult not to conclude that he has now found out that Forbes magazine's roster of the 400 richest men in America is so much more fearsome a catalog of ungovernable effrontery than Cosa Nostra's executive

establishment that no lawyer's reputation is entirely secure in association with some of those named.

Marc Rich made Forbes' roll of paladins at a bound. In the early '70s he entered the oil market on his own and quickly displayed a splendid immunity to prejudice against his country's enemies that The Wall Street Journal suggests he transacted for oil with the Ayatollah Ruhollah Khomeini during the hostage crisis.

By 1982, Rich's commodity company was reportedly trading \$10 billion a year and, as The Wall Street Journal nicely put it, was selling more oil than Kuwait and more copper than Kennecott. Its resources remain mysterious but of vast repute; even to the oil and tin gluts have not been altogether kind to them, and two years ago the government began to suspect that Rich's American affiliates had entered into asset transfers with their Swiss headquarters designed to escape \$20 million in taxes.

The government has since more zealously and remorselessly pursued, and Marc Rich has manfully and agilely resisted. All the same, it is prayerfully to be hoped that no one at Marc Rich, Co. will have cause to regret that Edward Bennett Williams did not stick around a little longer.

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Marc Rich and U.S. Agree to Postpone Hearing to Sept. 19

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—Next Monday's scheduled hearing on a federal grand jury investigation of Marc Rich & Co. AG has been postponed until Sept. 19.

The delay was worked out by attorneys for the U.S. government and the Switzerland-based commodities concern. The government is trying to obtain Marc Rich documents for the grand jury probe of whether the company evaded federal income taxes.

The government and Marc Rich are involved in a lengthy legal battle over access to those documents. The company is being fined \$50,000 a day and having some of its assets attached for failing to comply with grand jury subpoenas.

Late last week it appeared that the battle had ended as Marc Rich agreed to turn over the subpoenaed documents by today. But over the weekend the Swiss government seized some of the documents, claiming that turning them over to the grand jury would violate Swiss secrecy laws.

The Monday hearing had been scheduled by Federal District Judge Leonard and to determine, among other things, whether Marc Rich was acting in good faith in attempting to turn over the documents. Judge Sand approved the postponement.

Yesterday, U.S. attorneys said they needed more time to determine whether they could obtain from the Swiss the records needed for the tax evasion investigation. Judge Sand has ordered the U.S. government to try to work out a settlement with the Swiss government.

Though the two sides have had preliminary discussions, there hasn't been any breakthrough. "I know there isn't any agreement imminent on a governmental level," said Juerg Leufert, legal adviser to the Swiss embassy in Washington.

If government attorneys can obtain the subpoenaed documents, the Sept. 19 hearing is likely to be canceled, the sources said.

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Elusive Target

Where is Marc Rich?

In a milieu that abounds in shadowy figures, Marc Rich is one of the most elusive of all. Probably the world's biggest independent dealer in crude oil, Rich, 49, leads an intensely private life, is rarely photographed and gives no interviews. His money, however, talks. He was the secret partner in the \$722 million purchase of 20th Century-Fox in 1981. He is believed to be the "mystery buyer" who the same year tried to corner the global market for tin. The Belgian-born Rich, whose family fled to New York during World War II, found his calling 30 years ago as a metals trader after dropping out of New York University. The Swiss-based commodities firm he founded in 1974, Marc Rich & Co. AG, is now one of the largest in the world, trading an annual volume of \$10 billion worth of oil, gold, aluminum, sulfur and sugar, among other things. Rich's personal fortune is estimated at more than \$100 million. "Everybody is amazed at his commercial success," says Oil-Industry Consultant Walter Levy, "without quite knowing how he did it."

The U.S. Government, for one, is determined to find out. The Justice Department believes the company carried out a "massive tax-fraud scheme" in 1980 by diverting some \$20 million in profits from its subsidiary in New York City to its headquarters in Switzerland. The department's probe has resulted in a prolonged legal face-off with the firm. The latest crisis came last week, when Federal Judge Leonard Sand threatened to freeze up to \$55 million in Marc Rich & Co. assets at some 20 domestic banks and companies, a move which would have paralyzed the company's U.S. operations.

The confrontation began in April 1982, when a federal grand jury started looking into charges that during the 1970s the Rich firm had sold price-controlled oil through a complicated series of trades that resulted in illegally inflated profit margins. In addition, federal prosecutors accused the Swiss company of covering up the profits by selling oil to its U.S. subsidiary at an artificially high rate. Since the subsidiary then resold the oil at lower market rates, it incurred a sizable loss in the U.S., thus escaping income taxes.

To evaluate the charges, the grand jury demanded to see some of Marc Rich & Co.'s files. The firm refused, contending that a Swiss company need not honor a U.S. subpoena and that, in any case, the transactions among its divisions were made according to fair-market prices. Last fall Judge Sand issued a contempt citation against the company. He ordered a \$50,000 fine for each day that it failed to release the documents, a penalty that could total \$27.5 million by the time the grand jury disbands. In June, Marc Rich & Co. secretly sold its U.S. division to a

group of the parent company's officers, all foreign nationals. U.S. Attorney Morris Weinberg called the maneuver an "egregious deception" designed to bolster the firm's claim of foreign immunity.

Rich started his career with Manhattan-based Philipp Brothers, then a quiet company (now Philbro-Salomon) of metals traders. He became something of a protégé of Ludwig Jesselson, the company's head. After assignments in Bolivia and Spain, he returned to New York and built the company's lucrative oil-trading department. He made a killing during the 1973 Arab oil embargo, but the company declined to pay the seven-figure commission he demanded and he left in a huff. With partner Pincus ("Pinky") Green, a fellow *Wunderkind* trader from Philbro, he established his own firm with headquarters in Zug, an Alpine town 14 miles south of the financial center of Zurich.

As his company's troubles have become public, some customers say they are



The commodity trader's headquarters in Zug
A "massive tax-fraud scheme"?

shying away. The firm has changed its name in the U.S. to Clarendon Ltd. and has taken down the Marc Rich signs around its Fifth Avenue offices. Rich himself has moved out of his Park Avenue apartment, and is believed to be working out of the Zug offices. Two weeks ago, Clarendon sent out notices telling its customers it would conduct business as usual during the freeze, but since then Judge Sand has prohibited those reassurances on pain of further contempt citations.

The increasing pressure finally compelled lawyers for Marc Rich & Co. to agree late last week to deliver the contested documents within two weeks. But Rich, who was once described by a former colleague as being "like granite," may find new ways to go on stonewalling his accusers.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA :

- v - :

INDICTMENT

MARC RICH, PINCUS GREEN, :
CLYDE MELTZER, MARC RICH + CO., :
A.G., and MARC RICH & CO. :
INTERNATIONAL, LTD., a/k/a :
"Clarendon A.G. (Ltd., S.A.)", :
its purported successor in interest, :

83 Cr.

Defendants. :

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COUNT ONE

THE RACKETEERING CONSPIRACY

The Grand Jury charges:

Introduction

At all times relevant to this Indictment, except as
otherwise indicated:

1. The defendant MARC RICH is a United States citizen
and a principal shareholder and Chairman of the Board of
Directors of the defendant MARC RICH + CO., 'A.G. ("AG"), and
Chairman of the defendant MARC RICH & CO. INTERNATIONAL, LTD.
a/k/a "Clarendon A.G. (Ltd., S.A.)," its purported successor in
interest ("INTERNATIONAL").

2. The defendant PINCUS GREEN is a United States
citizen and a principal shareholder and member of the Board of
Directors of the defendant AG, and President of the defendant
INTERNATIONAL.

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SOUTHERN DISTRICT OF NEW YORK

3. The defendant CLYDE MELTZER is a United States citizen and vice-president in charge of crude oil trading for Listo Petroleum, Houston, Texas. In or about late summer 1982, the defendant CLYDE MELTZER was hired as a crude oil trader by the defendant INTERNATIONAL.

4. The defendant AG is a Swiss corporation which is engaged in the worldwide business of trading commodities, including crude oil, and transacts and does business in the United States. The defendant AG has not filed any United States corporate income tax returns.

5. The defendant INTERNATIONAL is a wholly-owned Swiss subsidiary of the defendant AG, which is in the business of trading commodities, including crude oil, in the United States and files United States corporate income tax returns. The defendant INTERNATIONAL has its principal offices in New York City and in Zug, Switzerland. During 1980 and 1981, revenues generated by the defendant INTERNATIONAL from crude oil trading constituted the principal part of the defendant INTERNATIONAL's reportable income in the United States for corporate income tax purposes. As a reseller and trader of crude oil in the United States, defendant INTERNATIONAL was also subject to the oil price control rules and regulations administered by the Department of Energy as set forth in Paragraphs 16 through 23 below.

6. Rescor, Inc. ("Rescor") and Highams Consultants ("Highams") are wholly-owned Panamanian subsidiaries of the defendant AG engaged in the business of trading crude oil. Rescor and Highams do not maintain separate sets of books and records from the defendant AG.

7. The defendant AG, and its wholly-owned subsidiaries the defendant INTERNATIONAL, Rescor, and Highams are an enterprise, as defined in 18 U.S.C. § 1961(4), engaged in, and the activities of which affect, interstate and foreign commerce. The enterprise has been conducted by the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, INTERNATIONAL and others through a pattern of racketeering activity wherein the defendants and others concealed in excess of \$100 million in taxable income from crude oil transactions of the defendant INTERNATIONAL by diverting it, through a series of sham transactions, offshore to the defendant AG. This \$100 million in taxable income itself had been illegally generated for the most part by the defendants' violations of federal energy laws and regulations. The enterprise has been used by the defendants to enable the defendant INTERNATIONAL to evade in excess of \$48 million in United States taxes for the 1980 and 1981 tax years.

8. In addition, during the American hostage crisis in Iran, the defendants used the enterprise to violate federal laws prohibiting commercial transactions and credit transactions with Iran to trade crude oil and fuel oil purchased directly from the National Iranian Oil Company.

The Objects of the Racketeering Conspiracy

9. From on or about January 1, 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL, the defendants, being individuals and entities employed by and associated with an enterprise engaged in, and the activities of which affect, interstate and foreign commerce, together with others known and unknown to the Grand Jury ("co-racketeers"), unlawfully, wilfully and knowingly, did combine, conspire, confederate and agree together and with each other to commit an offense against the United States, to wit, a violation of Title 18, United States Code, Section 1962, that is, to conduct and participate, directly and indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity as defined in Title 18, United States Code, Section 1961(5)

10. It was an object of the racketeering conspiracy that the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, together and with their co-racketeers, would and did commit and agree to commit the acts of racketeering, including mail fraud, indictable under Title 18, United States Code, Section 1341, as charged in Paragraphs 26 and 27 of this Count and in Counts 25-28, and wire fraud, indictable under Title 18, United States Code, Section 1343, as charged in Paragraphs 12-25 and 28-29 of this Count and in Counts 5-24 and 29-51, all in violation of Title 18, United States Code, Section 1962(c).

The Pattern of Racketeering

11. It was a part of the pattern of racketeering activity that from on or about January 1, 1980, up to and through the date of the filing of this Indictment, the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL, together and with their co-racketeers, unlawfully, wilfully and knowingly, would and did devise and intend to devise schemes and artifices to defraud the United States, and its agencies thereof, and to obtain money and property by means of false and fraudulent pretenses, representations and promises, to wit:

(i) the Internal Revenue Service ("IRS") in its lawful governmental service of administering and overseeing the collection of taxes in the United States;

(ii) the Department of Energy ("DOE") in its lawful governmental service of administering and overseeing the laws and regulations which provided for price controls and limited mark-ups for the sale of crude oil produced in or imported into the United States; and

(iii) the Department of Treasury and its Office of Foreign Assets Control in its lawful governmental service of administering and overseeing the laws and regulations which prohibited unauthorized commercial transactions and credit transactions with Iranian-controlled entities during the American hostage crisis.

The Racketeering Acts

The Scheme To Defraud The IRS

12. It was part of said scheme and artifice to defraud the IRS (as well as the DOE) that the defendants MARC RICH and PINCUS GREEN would and did cause third party companies, to wit, West Texas Marketing ("WTM"), Abilene, Texas, and Listo Petroleum ("Listo"), Houston, Texas, to conduct business for and on behalf of the defendant INTERNATIONAL and to conceal approximately \$71 million in domestic profits belonging to the defendant INTERNATIONAL by making it appear that such profits had in fact been earned by WTM and Listo rather than by the defendant INTERNATIONAL.

13. It was further part of said scheme and artifice to defraud the IRS (as well as the DOE) that the \$71 million in domestic profits of the defendant INTERNATIONAL being concealed and held by WTM and Listo would be and were moved by wire transfers to foreign bank accounts of the defendant AG and its wholly-owned subsidiaries Rescor and Highams through a series of sham transactions involving foreign crude oil, in which WTM and Listo purportedly "lost" to the defendant AG amounts equivalent to the concealed profits actually belonging to the defendant INTERNATIONAL.

14. It was further part of said scheme and artifice to defraud the IRS (as well as the DOE) that the defendants and their co-racketeers would and did create in excess of \$31 million in fraudulent deductions for the defendant INTERNATIONAL by fabricating transactions between the defendants AG and

INTERNATIONAL relating to offshore oil deals between the defendant AG and Charter Oil Company Bahamas. As a result of these sham transactions, over \$31 million in taxable income was diverted from the defendant INTERNATIONAL offshore to the defendant AG.

15. It was a further part of said scheme and artifice to defraud the IRS (as well as the DOE) that the defendants and their co-racketeers would and did create \$2,716,510.00 in fraudulent deductions for the defendant INTERNATIONAL by fabricating a transaction between the defendant INTERNATIONAL and Rescor involving the purchase of foreign crude oil by Rescor. As a result of this sham transaction, \$2,716,510.00 in taxable income was diverted from the defendant INTERNATIONAL offshore to the defendant AG through Rescor.

Method and Means

Background: Oil Price Control Regulations

16. The Emergency Petroleum Allocation Act (EPAA) of 1973, Title 15, United States Code, Section 751, et seq., and the regulations promulgated thereunder, provided for price controls and mandatory allocation of all crude oil produced in or imported into the United States.

17. Under various of the regulations, the United States, through the DOE, limited the prices that could be charged for domestic crude oil. Under the regulations, the permissible price was different for different regulatory categories of crude oil.

18. The regulatory categories of crude oil were "old" (also called "lower tier"), "new" (also called "upper tier") and "stripper." Crude oil was categorized or labelled "old," "new", or "stripper" depending on the history or the level of production of the well from which the oil came. Crude oil coming from a well at or below a designated 1972 level of production was labelled "old"; "new" oil referred to crude oil discovered since 1973 or oil obtained from existing wells in excess of the 1973 level of production; "stripper" oil referred to crude oil produced from a well whose average daily production was less than ten barrels. These categories (or labels) corresponded to price control categories and were not based on any physical or chemical characteristics of the oil. Since the oil was physically identical, oftentimes a quantity of domestic crude oil contained components of old oil, new oil and stripper. A barrel of domestic crude oil with a new oil or old oil component was referred to as a "controlled barrel." Stripper oil was referred to as "uncontrolled."

19. Old oil (lower tier) had the lowest maximum lawful selling price. New oil (upper tier) had a higher maximum lawful selling price than old oil. Stripper oil was exempt from price controls and could be sold at the world market price which was far in excess of the prices for old and new oil. Depending on the type of crude oil, a stripper barrel would at relevant times sell for in excess of \$20 more than a lower tier barrel and \$15 more than an upper tier barrel of like quality.

20. Every seller of a volume of domestic crude oil was required by the regulations to certify in writing to the purchaser the respective amounts and prices of old oil, new oil, and stripper oil contained in the crude oil being sold. The DOE periodically audited and reviewed the records of sellers and purchasers of crude oil, which records were required to be kept by law, to determine compliance with the regulations.

21. During the period of price controls, in order to evade the regulations and produce illegal and huge profits, controlled oil was on occasion sold through a series of oil resellers known as a "daisy chain." The defendant INTERNATIONAL frequently participated as the original reseller of controlled oil into a "daisy chain." The "daisy chain" was utilized by the original reseller to make it extremely difficult to trace the movement of controlled barrels and to facilitate illegal alteration of the certifications on controlled barrels into stripper barrels (uncontrolled) which could then be sold at the much higher world market price. The original reseller of controlled oil into the "daisy chain" would receive, at the conclusion of the "daisy chain," an equivalent quantity of crude oil falsely certified as stripper barrels at drastically discounted prices from the world market value. The original reseller would then sell these stripper barrels at the world market price and realize enormous profits. Each of the oil companies in the "daisy chain" made a smaller profit.

22. Under the regulations, a crude oil reseller was defined as an entity which purchased or sold crude oil without substantially changing its form by processing or other means. A reseller was restricted in the prices it could charge its customer for crude oil. The regulations established a "permissible average markup" (PAM) for resellers. Effective September 1, 1980, the DOE established the permissible average markup of 20¢ per barrel for a reseller such as the defendant INTERNATIONAL. In the event that a reseller's actual average markup, computed on a monthly basis, exceeded its PAM, the excess profits were illegal.

23. Resellers were required on a monthly basis to submit forms ERA-69 to the DOE setting forth their actual average markup per barrel for crude oil sales. On the ERA-69, resellers were required to set forth the dollar amount of any PAM overcharges in order that the overcharges could be immediately refunded to customers.

24. The defendant INTERNATIONAL was a reseller subject to the 20¢ per barrel PAM and was required to file forms ERA-69 on a monthly basis.

25. Among the methods and means employed by the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL and their co-racketeers to effectuate the scheme described in Paragraph 11(i) and Paragraphs 12 through 15 above, were the following:

The West Texas Marketing "Pot"

(a) Prior to September 1980, the defendants MARC RICH and PINCUS GREEN for the defendant INTERNATIONAL would and did transact numerous "daisy chain" crude oil deals with West Texas Marketing ("WTM"), a crude oil reseller in Abilene, Texas. In those "daisy chain" deals, WTM would and did purchase from the defendant INTERNATIONAL domestic controlled oil upon the agreement to sell back to the defendant INTERNATIONAL, after going through a "daisy chain," an equal quantity of stripper oil (uncontrolled) at a substantial discount from the world market price, which the defendant INTERNATIONAL then sold to third parties for huge profits. The substantial profits from these transactions were recorded on the books and records of the defendant INTERNATIONAL.

(b) After September 1980, the defendants MARC RICH and PINCUS GREEN agreed with the principals of WTM to alter their "daisy chain" transactions with the defendant INTERNATIONAL so that the huge profits of the defendant INTERNATIONAL from these crude oil transactions would be retained for it by WTM, rather than being reflected on the books and records of the defendant INTERNATIONAL as before. In these later transactions, WTM would continue to buy controlled barrels from the defendant INTERNATIONAL at the controlled price and agree to produce for the defendant INTERNATIONAL an equal number of stripper barrels at a price substantially below the market value. However, rather than sell these cheap stripper barrels back to the defendant INTERNATIONAL at the lower price as previously, WTM agreed

ostensibly to sell the stripper barrels to the defendant INTERNATIONAL, or to third party companies designated by the defendant INTERNATIONAL, at the higher market price. From these deals, WTM purportedly reflected huge profits on its books, which profits were referred to as the "pot."

(c) The defendants MARC RICH and PINCUS GREEN and the principals of WTM further agreed that the huge profits in the "pot" belonged to the defendant INTERNATIONAL and would be retained by WTM in its bank accounts for the defendant INTERNATIONAL.

(d) To further conceal the scheme, the defendants and their co-racketeers would and did cause WTM to prepare and mail invoices to the defendant INTERNATIONAL which falsely indicated that WTM had sold the stripper barrels to the defendant INTERNATIONAL at the high world market price, when in truth and in fact the defendant INTERNATIONAL was paying a far lower price upon WTM's agreement secretly to kickback to the defendants the huge profits held by WTM for the defendant INTERNATIONAL in the "pot".

(e) The monies in the "pot" were periodically moved out of the United States at the instance of the defendants MARC RICH and PINCUS GREEN to foreign bank accounts of the defendant AG and its foreign subsidiaries Rescor and Highams through sham transactions, wherein WTM would incur pre-arranged losses to the defendant AG and its foreign subsidiaries. For example, in many of these transactions the defendant AG would purportedly sell a cargo of foreign crude oil to WTM, and then WTM would ostensibly

sell the same oil back on the same day to Rescor, the defendant AG's subsidiary, for \$3 per barrel less than WTM had paid for it. These transactions were a sham in that they were utilized by the defendants solely to remove monies from the "pot" and move the profits offshore. The defendants paid WTM 20¢ per barrel to engage in these sham transactions.

(f) On or about around April 30, 1981; the defendant MARC RICH and others met in New York, New York with representatives of WTM to discuss the amount remaining in the WTM "pot". The defendant MARC RICH and the principals of WTM agreed on a compromise "pot" amount of \$1,215,000.00 and as a result of the meeting, the \$1,215,000.00 from the "pot" was moved out of the United States to the defendant AG through a sham foreign loss transaction involving AG's subsidiary Highams.

(g) From in or about October 1980, through May 1981, the defendants moved and caused to be moved in excess of \$23 million offshore to the defendant AG and its foreign subsidiaries from the WTM "pot".

(h) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-racketeers would and did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, various telexes, telefaxes, and wire and cable transfers of monies, including wire transfers of monies from the "pot" sent by WTM from the United States to

foreign bank accounts of the defendant AG and its subsidiary Highams resulting from transactions involving oil tankers, as set forth below:

	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE TRANSFER</u>	<u>NAME OF VESSEL(S)</u>
(1)	wire transfer to AG of \$12,507,818.40 by WTM (including \$1,786,831.00 from the "pot")	October 21, 1980	"Arctic Star"
(2)	wire transfer to AG of \$4,050,000.00 by WTM from the "pot"	October 23, 1980	"Norse King"
(3)	wire transfer to AG of \$5,384,217.00 by WTM from the "pot"	January 5, 1981	"Olympic Bond"
(4)	wire transfer to AG of \$5,000,000.00 to AG by WTM from the "pot"	January 30, 1981	"Nia Rocco Piaggio" and "Okinoshima Maru"
(5)	wire transfer to AG of \$1,199,974.00 by WTM from the "pot"	February 9, 1981	"Okinoshima Maru"
(6)	wire transfer to AG of \$5,141,709.00 by WTM from the "pot"	February 23, 1981	"Romo Maersk"
(7)	wire transfer to Highams of \$1,215,000.00 by WTM from the "pot"	May 4, 1981	"Philip of Macedon"

The Listo "Pot"

(i) In and around September 1980, the defendants and their co-racketeers would and did agree with Listo Petroleum Corporation ("Listo"), a crude oil reseller in Houston, Texas, to a scheme which was essentially a duplicate of the WTM scheme set forth above, in order to conceal profits of the defendant

INTERNATIONAL from sales of domestic crude oil by retaining the defendant INTERNATIONAL 's profits on the books and records of Listo. Just as with the WTM scheme, the defendants and their co-racketeers referred to these monies as the "pot." As with the WTM scheme, these huge profits were moved from the books of Listo offshore to foreign bank accounts of defendant AG and its foreign subsidiaries through a series of sham foreign loss transactions wherein Listo would incur pre-arranged losses to the defendant AG and its foreign subsidiary Rescor on the purchase and sale of foreign crude oil. Also as with the WTM scheme, these transactions included deals in which Listo would buy crude oil from the defendant AG and then immediately resell the same oil back to Rescor for a \$3 per barrel loss.

(j) In or about August 1980, the defendants MARC RICH and PINCUS GREEN on behalf of the defendant INTERNATIONAL, negotiated with representatives of Atlantic Richfield Company ("Arco") to purchase controlled barrels of Alaskan North Slope ("ANS") oil. After a series of negotiations, the defendants MARC RICH and PINCUS GREEN for the defendant INTERNATIONAL agreed to purchase from Arco approximately 18 million ANS controlled barrels to be delivered in 1980 and 1981. The defendants MARC RICH and PINCUS GREEN subsequently informed Arco that Listo, rather than the defendant INTERNATIONAL, would be the contracting party with Arco on the deal. The ANS barrels from the Arco deal comprised the majority of barrels from which the "pot" monies were collected for the defendants on the books of Listo.

(k) As with the WTM scheme, the defendant CLYDE MELTZER for Listo agreed to acquire for the defendant INTERNATIONAL stripper ANS barrels at prices far below the world market price. As with the WTM scheme, Listo agreed ostensibly to sell the stripper ANS barrels to the defendant INTERNATIONAL at the higher market price, thereby purportedly reflecting huge profits on Listo's books.

(l) To further conceal the scheme, the defendants and their co-racketeers would and did cause Listo to prepare and mail invoices to the defendant INTERNATIONAL which falsely indicated that Listo had sold the stripper barrels at the high world market price, when in truth and in fact the defendant INTERNATIONAL was paying a far lower price upon Listo's agreement to secretly kickback to the defendants the huge profits kept by Listo for the defendants in the "pot."

(m) In 1980 and 1981, the defendants moved and caused to be moved in excess of \$47 million offshore to the defendant AG from the Listo "pot".

(n) The defendants MARC RICH and PINCUS GREEN regularly met in New York with the defendant CLYDE MELTZER to discuss the Listo "pot". At these meetings, the defendant CLYDE MELTZER would give the defendants MARC RICH and PINCUS GREEN records accounting for monies currently in the "pot".

(o) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-racketeers would and did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, various telexes, telefaxes, and wire and cable transfers of monies, including wire transfers of monies from the "pot" sent by Listo from the United States to foreign bank accounts of the defendant AG resulting from transactions involving oil tankers, as set forth below:

<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE TRANSFER</u>	<u>NAME OF VESSEL(S)</u>
(8) wire transfer to AG of \$32,950,790.78 by Listo (including \$4,131,620.24 from the "pot")	December 5, 1980	"Montessa"
(9) wire transfer to AG of \$4,259,844.00 by Listo from the "pot"	December 15, 1980	"Universe Explorer"
(10) wire transfer to AG of \$18,605,470.63 by Listo (including \$2,241,743.45 from the "pot")	December 23, 1980	"Alnair II"
(11) wire transfer to AG of \$19,946,909.84 by Listo (including \$2,266,694.30 from the "pot")	December 31, 1980	"Lamyra"
(12) wire transfer to AG of \$5,291,409.82 by Listo from the "pot"	January 27, 1981	"Artic Star"
(13) wire transfer to AG of \$3,349,660.34 by Listo from the "pot"	January 30, 1981	"Ionian Commander"

<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE TRANSFER</u>	<u>NAME OF VESSEL(S)</u>
(14) wire transfer to AG of \$1,873,584.45 by Listo from the "pot"	February 2, 1981	"Jeci"
(15) wire transfer to AG of \$6,396,202.22 by Listo from the "pot"	February 11, 1981	"Keiyoh Maru"
(16) wire transfer to AG of \$5,315,478.50 by Listo from the "pot"	March 3, 1981	"White Gardenia"
(17) wire transfer to AG of \$9,452,307.00 by Listo from the "pot"	May 5, 1981	"Jamunda" and "Norse King"
(18) wire transfer to Rescor of \$3,000,000.00 by Listo from the "pot"	May 14, 1981	"Philip of Macedon" and "Okinoshima Maru"

The Charter False Deductions

(p) In and around May 1980, the defendants and their co-racketeers entered into a transaction with Charter Crude Oil Company ("Charter") wherein Charter agreed to sell the defendant INTERNATIONAL domestic controlled barrels and the defendant AG agreed to sell Charter's Bahamian subsidiary foreign crude oil at substantial discounts from the world market price. The transaction called for the delivery of controlled barrels to the defendant INTERNATIONAL and the delivery of foreign barrels from the defendant AG to Charter's Bahamian subsidiary on a monthly basis from June 1980, through at least December 1980. The vast majority of the controlled barrels delivered by Charter to the defendant INTERNATIONAL were sold by the defendants to WTM in "daisy chain" transactions, and the defendant INTERNATIONAL realized substantial profits.

(q) Subsequently, in or about late summer 1980, the defendants prepared fraudulent invoices in order illegally to transfer much of the defendant INTERNATIONAL's profits from these transactions offshore to the defendant AG. The defendant AG invoiced the defendant INTERNATIONAL for \$31,106,273.08, charging the defendant INTERNATIONAL for the difference between the discounted price (the price that the defendant AG had sold the foreign crude oil to Charter's Bahamian subsidiary) and the purported world market price for the crude oil. These invoices and the subsequent entries on the defendant INTERNATIONAL's books falsely purported that the defendant INTERNATIONAL had purchased the foreign crude oil from the defendant AG at its "fair market value" and subsequently sold the foreign crude oil to Charter's Bahamian subsidiary at a substantial discount, when in truth and in fact the defendant INTERNATIONAL had never purchased the foreign crude oil from the defendant AG or sold it to Charter's subsidiary. The defendant MARC RICH instructed the comptroller for the defendant INTERNATIONAL to notify his counterpart at the defendant AG in Zug, Switzerland, to prepare these fraudulent invoices. As a result, the defendant INTERNATIONAL fraudulently reduced the amount of the defendant INTERNATIONAL's taxable income for 1980 by \$31,106,273.08 and transferred most of that sum offshore to the defendant AG.

(r) In and around September 1980, in order to make the invoices further appear as if there had been an actual contract between the defendant AG and the defendant INTERNATIONAL, the defendant AG sent the defendant INTERNATIONAL new invoices which

read "contract price" rather than "fair market value." The old invoices were destroyed and the new invoices were placed in the defendant INTERNATIONAL's records.

(s) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-racketeers would and did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, various telexes, telefaxes, and wire and cable transfers of monies, including the wire transfers of monies sent by the defendant INTERNATIONAL from the United States to foreign bank accounts of the defendant AG resulting from transactions involving oil tankers, as set forth below:

<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE</u>	<u>NAME OF VESSEL(S)</u>
(19) wire transfer to AG of \$29,157,628.90 by International	September 29, 1980	"Luna Mar", "Devali," "World Scholar" and "Ratna Jayshree"
(20) wire transfer to AG of \$1,659,472.80 by International	April 7, 1981	"Santamar"

The Arco False Deduction

(t) In or about the Fall of 1980, the defendants and their co-racketeers would and did cause a fraudulent invoice to be prepared wherein Rescor invoiced the defendant INTERNATIONAL for \$2,716,510.00. This invoice concerned a non-existent contract between Rescor and the defendant INTERNATIONAL concerning the sale of foreign crude oil to Rescor by the defendant INTERNATIONAL. The fraudulent invoice made it appear that the defendant INTERNATIONAL

had a contract with Rescor to sell it foreign crude oil. The fraudulent invoice made it further appear that the defendant INTERNATIONAL had failed to provide the oil under this purported contract and that consequently Rescor had had to purchase a similar quantity of oil from Arco at five dollars per barrel above the purported contract price between Rescor and the defendant INTERNATIONAL. As a result, the defendants fraudulently reduced the amount of the defendant INTERNATIONAL's taxable income for 1980 by \$2,716,510.00 and transferred that sum offshore to the defendant AG.

(u) Just as with the fraudulent Charter invoices, the defendant MARC RICH instructed the comptroller of the defendant INTERNATIONAL to notify his counterpart at the defendant AG in Zug, Switzerland to prepare this fraudulent invoice for Rescor to be delivered to the defendant INTERNATIONAL.

(v) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-racketeers would and did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, various telexes, telefaxes, and wire and cable transfers of monies, including the wire transfer from the defendant INTERNATIONAL to Rescor for a shipment on the oil tanker "Wind Escort," as set forth below:

<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE TRANSFER</u>	<u>NAME OF VESSEL(S)</u>
(21) wire transfer to Rescor of \$2,716,510.00 by International	August 27, 1981	"Wind Escort"

The Scheme to Defraud The
Department of Energy

26. It was part of said scheme and artifice to defraud the DOE that the huge profits of the defendant INTERNATIONAL held on the books of Listo and WTM were derived by the defendants through a deliberate attempt to violate and circumvent the price control and markup regulations of the DOE.

Method and Means

27. Among the methods and means employed by the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL and their co-racketeers to carry out the scheme and artifice to defraud described in Paragraph 11(ii) and Paragraph 26 above, were the following:

(a) The defendants and their co-racketeers would and did cause forms ERA-69 for the defendant INTERNATIONAL to be prepared and filed with the DOE for the months September 1980, through January 1981, which falsely failed to reflect the approximately \$71 million of profits of the defendant INTERNATIONAL kept in the WTM and Listo "pots." These forms ERA-69 fraudulently stated that the defendant INTERNATIONAL was losing money on its crude oil sales for these months and that its average markup for crude oil sales was within its 20¢ per barrel permissible average markup.

(b) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-racketeers would and did place and cause to be placed in a post office and authorized depository for mail matter and did cause to be delivered by mail according to directions thereon mail matter to be sent and delivered by the United States Postal Service as set forth below:

<u>MAIL COMMUNICATION</u>	<u>APPROXIMATE DATE OF MAILING</u>
(22) ERA-69 for September 1980 sent by Express Mail to DOE	December 1, 1980
(23) ERA-69 for November 1980 sent by Express Mail to DOE	January 30, 1981
(24) ERA-69 for December 1980 Sent by Express Mail to DOE	January 27, 1981
(25) ERA-69 for January 1981 sent by Express Mail to DOE	March 31, 1981

The Scheme to Defraud The Department
of Treasury Regarding Prohibited
Iranian Deals

28. It was a part of the scheme and artifice to defraud the Department of Treasury and its Office of Foreign Assets Control that during the American hostage crisis in Iran the defendants MARC RICH and PINCUS GREEN -- both United States citizens -- would and did in violation of federal law cause

United States dollars to be paid through banks in the United States to the National Iranian Oil Company to purchase crude oil and fuel oil which the defendants MARC RICH and PINCUS GREEN had pre-sold from the United States to third parties.

Methods and Means

29. Among the methods and means employed by the defendants MARC RICH, PINCUS GREEN, AG and INTERNATIONAL and others known and unknown to the grand jury, to carry out the scheme described in Paragraph 11(iii) and Paragraph 28 above, were the following:

(a) On November 4, 1979, Iranian nationals invaded the U.S. Embassy in Teheran, Iran. Thereafter, 53 American citizens were held hostage for over 14 months until their release on January 19, 1981.

(b) On November 14, 1979, President Carter, under the International Economic Emergency Powers Act of 1977, issued Executive Order # 12170 to block and freeze all property and interests in property of the Government of Iran and any of its instrumentalities and controlled entities, including the National Iranian Oil Company ("NIOC"), which were or became subject to the jurisdiction of the United States or which were or came within the possession or control of persons subject to the United States.

(c) On November 15, 1979, the Department of Treasury through its Office of Foreign Assets Control issued regulations to implement President Carter's Executive Order # 12170. The effect of the regulations was that various transactions with Iran and its controlled entities were prohibited in the absence of a license from the Department of Treasury.

(d) On April 7, 1980, President Carter issued Executive Order # 12205 under the International Emergency Economic Powers Act which imposed a trade embargo on Iran. On April 9, 1980, the Department of Treasury through its Office of Foreign Assets Control issued regulations to implement President Carter's Executive Order # 12205.

(e) On April 17, 1980, President Carter issued Executive Order # 12211 to expand the provisions of Executive Orders # 12170 and # 12205 by prohibiting the payment or transfer of any funds from the United States to any Iranian person as well as the Government of Iran or any of its controlled entities, such as NIOC, as had been previously prohibited without license by Executive Order # 12170. On April 21, 1980, the Department of Treasury through its Office of Foreign Assets Control issued regulations which implemented President Carter's Executive Order # 12211.

(f) The various regulations required every individual and entity engaging in any transaction subject to the prohibitions to keep records to be available for examination by the Office of Foreign Assets Control.

(g) During the hostage crisis, the defendant AG entered into contracts with the National Iranian Oil Company ("NIOC") to purchase Iranian crude and fuel oil, including contract # 244 on April 30, 1980, for the purchase of crude and fuel oil from May 1, 1980, through September 30, 1980. The terms of the contracts gave the defendant AG sixty days after the date of delivery to make payment to NIOC in American dollars through letters of credit posted by the defendant AG in favor of NIOC.

(h) Beginning on or about May 1, 1980, prior to the delivery of this Iranian crude oil and fuel oil under the contracts the defendant AG had with NIOC, the defendants MARC RICH and PINCUS GREEN -- both United States citizens -- negotiated from the offices of the defendant INTERNATIONAL in New York, New York, with the principal of Transworld Oil, Bermuda, the sale of approximately 6,250,000 barrels of Iranian crude oil and fuel oil for approximately \$202,806,291.00. The defendants MARC RICH and PINCUS GREEN would and did cause payment to be ultimately effected to NIOC with American dollars by using commercial credit arrangements involving United States banks and United States branch offices of foreign banks located in New York, New York, all in violation of the various Executive Orders of President Carter and the underlying regulations. These payment arrangements for the Iranian oil, which were effected through banks

located in New York, New York, were consummated by "back to back" letters of credit wherein Transworld Oil would make payment to the defendant AG in United States dollars, normally within thirty days of delivery, and the defendant AG would then in turn make payment to NIOC in United States dollars within sixty days of delivery.

(i) To further the scheme, the defendants and their co-racketeers did not disclose to these banks in the United States -- which were also prohibited from knowingly transferring any funds to Iran -- that the ultimate beneficiary of the United States dollars was NIOC.

(j) To further the scheme, in or about July 1980, the defendants and their co-racketeers devised a secret code for interoffice cable communications when referring to the illegal Iranian transactions, in order to disguise the participation of NIOC. Telexes containing this secret code were maintained in the New York records of the defendant INTERNATIONAL which, pursuant to the regulations, were subject to examination by the Department of Treasury's Office of Foreign Assets Control.

(k) For the purpose of executing the scheme and artifice to defraud and attempting to do so, the defendants and their co-racketeers would and did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, certain telexes and wire and cable transfers of monies, as set forth below:

WIRE COMMUNICATION

APPROXIMATE DATE
OF WIRE COMMUNICATION

- | | |
|--|--------------------|
| (26) wire transfer of \$8,239,385.90
from New York to Zurich, Switzerland | July 7, 1980 |
| (27) wire transfer of \$56,187,197.00
from New York to Zurich, Switzerland | July 7, 1980 |
| (28) wire transfer of \$56,356,234.00
from New York to Paris, France | July 14, 1980 |
| (29) wire transfer of \$8,408,685.00
from New York to Paris, France | July 17, 1980 |
| (30) wire transfer of \$7,745,185.00
from New York to Paris, France | August 1, 1980 |
| (31) wire transfer of \$4,671,022.50
from New York to Paris, France | September 2, 1980 |
| (32) wire transfer of \$4,844,487.50
from New York to Paris, France | September 11, 1980 |
| (33) wire transfer of \$56,463,649.00
from New York to Paris, France | September 30, 1980 |
| (34) Telex # NYC 143 from Pincus Green
in New York to AG (London)
and AG (Zug) | May 1, 1980 |
| (35) Telex # NYC 171 from Marc Rich
in New York to AG (London)
and AG (Zug) | May 7, 1980 |
| (36) Telex # NYC 138 from Pincus Green
in New York to AG (London) | May 7, 1980 |
| (37) Telex # NYC 139 from Pincus Green
in New York to AG (London) and
AG (Zug) | May 7, 1980 |
| (38) Telex # NYC 174 from Marc Rich
in New York to AG (London)
and AG (Zug) | May 8, 1980 |
| (39) Telex # NYC 042 from Marc Rich
in New York to AG (London)
and AG (Zug) | May 12, 1980 |
| (40) Telex # NYC 146 from Pincus
Green in New York to AG (London) | August 14, 1980 |

(Title 18, United States Code, Section 1962(d).)

COUNT TWO

RACKETEERING

The Grand Jury further charges:

30. Each and every allegation contained in Paragraphs 1 through 8 and 11 through 29 of Count One of this Indictment is realleged and incorporated by reference herein as if fully set forth.

31. From on and about January 1, 1980, up to and including the date of filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, the defendants, being individuals and entities employed by and associated with an enterprise, as defined in 18 U.S.C. § 1961(4), engaged in and the activities of which affect interstate and foreign commerce, to wit, AG and its wholly-owned subsidiaries, the defendant INTERNATIONAL, Rescor and Highams, unlawfully, wilfully and knowingly, did conduct and participate, directly and indirectly, in the conduct of the affairs of the enterprise through a pattern of racketeering activity, as defined in 18 U.S.C. § 1961(5), consisting of the racketeering acts set forth in Paragraphs 12 through 29, and all of the subparts contained therein, of Count One of this Indictment, in violation of Title 18, United States Code, Section 1962(c).

32. It was part of the pattern of racketeering activity that MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, the defendants, together with others known and unknown to the

grand jury ("co-racketeers"), unlawfully, wilfully, and knowingly would and did devise and intend to devise schemes and artifices to defraud the United States, and its agencies thereof, to wit:

(i) The Internal Revenue Service, and in so doing committed the 21 Acts of Racketeering set forth below, and also set forth in detail in Paragraph 11(i), Paragraphs 12 through 15 and Paragraph 25 of Count One;

(ii) The Department of Energy, and in so doing committed the 4 Acts of Racketeering set forth below, and also set forth in detail in Paragraph 11(ii) and Paragraphs 26 and 27 of Count One; and

(iii) The Department of Treasury, and in so doing committed the 15 Acts of Racketeering set forth below, and also set forth in detail in Paragraph 11(iii) and Paragraphs 28 and 29 of Count One.

I. THE SCHEME TO DEFRAUD IRS

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANT</u>
	WTM "Pot"		
(1) wire transfer to AG of \$12,507,818.40 (including \$1,786,831.00 from the "pot") by WTM: "Arctic Star"	October 21, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(2) wire transfer to AG of \$4,050,000.00 by WTM from the "pot": "Norse King"	October 23, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International

	<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANT</u>
(3)	wire transfer to AG of \$5,384,217.00 by • WTM from the "pot": "Olympic Bond"	January 5, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(4)	wire transfer to AG of \$5,000,000.00 by WTM from the "pot": "Nia Rocco Piaggio" and "Okinoshima Maru"	January 30, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(5)	wire transfer to AG of \$1,199,974.00 by WTM from the "pot": "Okinoshima Maru"	February 9, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(6)	wire transfer to AG of \$5,141,709.00 by WTM from the "pot": "Romo Maersk"	February 23, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
(7)	wire transfer to Highams of \$1,215,000.00 by WTM from the "pot": "Philip of Macedon"	May 4, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International
. Listo "Pot"				
(8)	wire transfer to AG of \$32,950,790.78 (including \$4,131,620.24 from the "pot") by Listo: "Montessa"	December 5, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(9)	wire transfer to AG of \$4,259,844.00 by Listo from the "pot": " Universe Explorer"	December 15, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(10)	wire transfer to AG of \$18,605,470.63 (including \$2,241,743.45 from the "pot") by Listo: "Alnair II"	December 23, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(11)	wire transfer to AG of \$19,946,909.84 (including \$2,266,694.30 from the "pot") by Listo: "Lamyra"	December 31, 1980	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANT</u>
(12) wire transfer to AG of \$5,291,409.82 by Listo from the "pot": "Arctic Star"	January 27, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(13) wire transfer to AG of \$3,349,660.34 by Listo from the "pot": "Ionian Commander"	January 30, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(14) wire transfer to AG of \$1,873,584.45 by Listo from the "pot": "Jeci"	February 2, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(15) wire transfer to AG of \$6,396,201.22 by Listo from the "pot": "Keiyoh Maru"	February 11, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(16) wire transfer to AG of \$5,315,478.50 by Listo from the "pot": "White Gardenia"	March 3, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(17) wire transfer to AG of \$9,452,307.00 by Listo from the "pot": "Jamunda" and "Norse King"	May 5, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International
(18) wire transfer to Rescor of \$3,000,000.00 by Listo from the "pot": "Philip of Macedon" and "Okinoshima Maru"	May 14, 1981	18 USC §§ 1343 and 2	Rich, Green, Meltzer, AG and International

Charter False Deductions

(19) wire transfer to AG of \$29,157,628.90 by International: "Luna Mar", "Devali," "World Scholar" and "Ratna Jayshree"	September 29, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(20) wire transfer to AG of \$1,659,472.80 by International: "Santamar"	April 7, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANT</u>
	Arco False Deduction		
(21) wire transfer to Rescor of \$2,716,510.00 by International: "Wind Escort"	August 27, 1981	18 USC §§ 1343 and 2	Rich, Green, AG and International

II. THE SCHEME TO DEFRAUD THE DOE

(22) ERA-69 for September 1980 Sent by Express Mail to DOE	December 1, 1980	18 USC §§ 1341 and 2	Rich, Green, AG and International
(23) ERA-69 for November 1980 Sent by Express Mail to DOE	January 30, 1981	18 USC §§ 1341 and 2	Rich, Green, AG and International
(24) ERA-69 for December 1980 Sent by Express Mail to DOE	January 27, 1981	18 USC §§ 1341 and 2	Rich, Green, AG and International
(25) ERA-69 for January 1981 Sent by Express Mail to DOE	March 31, 1981	18 USC §§ 1341 and 2	Rich, Green, AG and International

III. THE SCHEME TO DEFRAUD THE DEPARTMENT
OF TREASURY REGARDING PROHIBITED
IRANIAN DEALS

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANT</u>
(26) wire transfer of \$8,239,385.90 from New York to Switzerland	July 7, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(27) wire transfer of \$56,187,197.00 from New York to Switzerland	July 7, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(28) wire transfer of \$56,356,234.00 from New York to Paris, France	July 14, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(29) wire transfer of \$8,405,685.00 from New York to Paris, France	July 17, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(30) wire transfer of \$7,745,185.00 from New York to Paris, France	August 1, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(31) wire transfer of \$4,671,022.50 from New York to Paris, France	September 2, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(32) wire transfer of \$4,844,487.50 from New York to Paris, France	September 11, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(33) wire transfer of \$56,463,649.00 from New York to Paris, France	September 30, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(34) Telex #NYC 143 from Pincus Green in New York to AG (London) and AG (Zug)	May 1, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International

<u>RACKETEERING ACT</u>	<u>APPROXIMATE DATE</u>	<u>VIOLATION</u>	<u>DEFENDANT</u>
(35) Telex #NYC 171 from Marc Rich in New York to AG (London) and AG (Zug)	May 7, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(36) Telex #NYC 138 from Pincus Green in New York to AG (London)	May 7, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(37) Telex # NYC 139 from Pincus Green in New York to AG (London) and AG (Zug)	May 7, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(38) Telex #NYC 174 from Marc Rich in New York to AG (London)	May 8, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(39) Telex #NYC 042 from Marc Rich in New York to AG (London) and AG (Zug)	May 12, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International
(40) Telex #NYC 146 from Pincus Green in New York to AG (London)	August 14, 1980	18 USC §§ 1343 and 2	Rich, Green, AG and International

(Title 18, United States Code, Sections 1962(c) and 2).)

FORFEITURES

33. Each and every allegation contained in Count One and Count Two of this Indictment is hereby realleged and incorporated by reference herein as if fully set forth for the purpose of alleging forfeitures pursuant to the provisions of Title 18, United States Code, Sections 1963(a)(1) and 1963(a)(2).

34. The defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL a/k/a "Clarendon A.G. (Ltd., S.A.)," its purported successor in interest, have acquired and maintained interests from violations of Title 18, United States Code, Section 1962, and have interests in, securities of, claims against and property and contractual rights affording each defendant a source of influence over the enterprise, which enterprise each defendant established, operated, controlled, conducted and participated, directly and indirectly, in the conduct of through a pattern of racketeering, and conspired to do so, in violation of Title 18, United States Code, Section 1962(c) and (d), thereby making all such interests, securities of, claims against, property and contractual rights, wherever located, in whatever names held, subject to forfeiture to the United States as of the date they were acquired, maintained and utilized.

35. The interests of the defendants MARC RICH, PINCUS GREEN and CLYDE MELTZER, subject to forfeiture to the United States, include any interests and proceeds therefrom each defendant has acquired and maintained from violations of Title 18, United States Code, Section 1962, including but not limited to:

- (a) dividends, salaries, bonuses, and pension benefits paid by any of the corporate entities comprising or associated with the enterprise; and
- (b) any interests purchased or obtained with the monies set forth in subparagraph (a) above including, but not limited to personalty, real estate, and investments, wherever located and in whatever names;

and any interests in, securities of, claims against, property, contractual rights and rights of any kind affording a source of influence over the enterprise, including but not limited to all stock, securities, notes, rights, warrants, and options, wherever located and in whatever names, and all offices and titles, in any of the corporate entities comprising or associated with the enterprise.

36. The interests of the defendant AG subject to forfeiture to the United States include any interests and proceeds therefrom that the defendant AG has acquired and maintained from violations of Title 18, United States Code, Section 1962, including but not limited to:

- (a) all monies received and specified in this Indictment, including monies paid to Rescor, Inc. and Highams Consultants, AG's wholly-owned subsidiaries, and

(b) all assets, interests and investments, including loans and receivables, wherever located and in whatever names, purchased or obtained with the monies set forth in subparagraph (a) above and profits derived therefrom, including in excess of \$37 million owed to the defendant AG by Guam Oil and Refining Company and the interests of Richco Holdings, B.V. in TCF Holdings, Inc.;

and any interests in, securities of, claims against, property, contractual rights and rights of any kind affording a source of influence over the enterprise, including but not limited to:

(a) all stock, securities, notes, rights, warrants and options, wherever located and in whatever names, in the defendant INTERNATIONAL, Rescor, Inc. and Highams Consultants and any and all of their subsidiaries, including but not limited to Century Chartering Co., Inc.;

(b) all assets, wherever located and in whatever name, of the entities set forth in subparagraph (a) above, including but not limited to:

1. bank accounts
2. accounts receivables
3. securities, stock, notes,
rights, warrants and options
4. contracts
5. leaseholds, including the
leasehold at 650 Fifth Avenue,
New York, New York
6. inventory
7. office equipment, furnishings
and fixtures
8. interests in realty and
minerals, including oil and gas
properties described in a
Mortgage, Security Agreement,
Financing Statement and Assign-
ment dated August 4, 1983, by
Clarendon Ltd. and Century
Chartering Co., Inc. to and in
favor of the United States of
America.

9. Proceeds of any purported sale of any interest in the defendant INTERNATIONAL, including proceeds of a purported sale of the defendant INTERNATIONAL to Alexander Hackel and others on June 30, 1983.

37. The interests of the defendant INTERNATIONAL subject to forfeiture to the United States include any interests and proceeds therefrom that the defendant INTERNATIONAL has acquired and maintained from violations of Title 18, United States Code, Section 1962, including but not limited to

- (a) all monies received and specified in this Indictment; and
- (b) all assets, interests and investments, including loans and receivables, wherever located and in whatever names, purchased or obtained with the monies set forth in subparagraph (a) above and profits derived therefrom or purchased or obtained with monies that were due and owing to the United States of America as a consequence of the violations of law set forth in this Indictment;

and any interests in, securities of, claims against, property, contractual rights and rights of any kind affording a source of influence over the enterprise, including but not limited to, all stock, securities, notes, rights, warrants and options, wherever located, in whatever names, in all subsidiaries, including but not limited to Century Chartering Co., Inc.

(Title 18, United States Code, Section 1963.)

THE INCOME TAX EVASION COUNTS

COUNT THREE

Tax Evasion for 1980

The Grand Jury further charges:

37. Each and every allegation contained in Paragraphs 12 through 25, and all its subparts contained therein, of Count One of this Indictment is realleged and incorporated by reference herein as if fully set forth.

38. On or about September 17, 1981, in the Southern District of New York, MARC RICH, PINCUS GREEN, CLYDE MELTZER, and INTERNATIONAL, the defendants, together with AG, not named as a defendant in this count, unlawfully, wilfully and knowingly did attempt to evade and defeat a large part of the income tax due and owing by the defendant INTERNATIONAL to the United States of America for the calendar year 1980, by preparing and causing to be prepared and by filing and causing to be filed a false and fraudulent income tax return for the defendant INTERNATIONAL,

which return stated that the taxable income for said calendar year was \$1,091,431.00 and that the amount of income tax due and owing thereon was \$413,374.00, whereas, as the defendants then and there well knew, the true taxable income of, and the true income tax due and owing by the defendant INTERNATIONAL to the United States for said calendar year were substantially in excess of the amounts reported on said return, to wit, the defendant INTERNATIONAL's true taxable income for said calendar year was at least \$53,650,947.07, upon which there was due and owing to the United States an income tax of approximately \$24,590,751.65.

(Title 26, United States Code, Sections 7201 and 2.)

COUNT FOUR

Tax Evasion for 1981

The Grand Jury further charges:

39. Each and every allegation contained in Paragraphs 12 through 25, and all of its subparts contained therein of Count One of this Indictment is realleged and incorporated by reference herein as if fully set forth.

40. On or about September 22, 1982, in the Southern District of New York, MARC RICH, PINCUS GREEN, CLYDE MELTZER, and INTERNATIONAL, the defendants, together with AG, not named as a defendant in this count, unlawfully, wilfully and knowingly did attempt to evade and defeat a large part of the income tax due

and owing by the defendant INTERNATIONAL to the United States of America for the calendar year 1981, by preparing and causing to be prepared and by filing and causing to be filed a false and fraudulent income tax return for the defendant INTERNATIONAL, which return stated that the taxable income for said calendar year was \$2,424,172.00 and that the amount of income tax due and owing thereon was \$235,525.00, whereas, as the defendants then and there well knew, the true taxable income, and the true income tax due and owing, by the defendant INTERNATIONAL to the United States for said calendar year were substantially in excess of the amounts reported on said return, to wit, the defendant INTERNATIONAL's true taxable income for said calendar year was at least \$55,043,714.33, upon which there was due and owing to the United States an income tax of approximately \$24,440,514.59.

(Title 26, United States Code, Section 7201 and 2.)

THE MAIL AND WIRE FRAUD COUNTS

COUNTS FIVE THROUGH TWENTY-FOUR

The Scheme to Defraud the IRS

The Grand Jury further charges:

40. Each and every allegation contained in Paragraphs 12 through 25, and all its subparts contained therein, of Count One of this Indictment is realleged and incorporated by reference herein as if fully set forth.

41. From in or about January 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL, the defendants, together with other co-schemers, unlawfully, wilfully and knowingly would and did devise and intend to devise a scheme and artifice to defraud the United States and its agencies thereof, to wit, the Internal Revenue Service, in its lawful governmental service of administering and overseeing the collection of taxes in the United States, and to obtain money and property by false and fraudulent pretenses, representations and promises.

42. For the purposes of executing said scheme and artifice to defraud and attempting to do so, on or about the dates set forth below, the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG, and INTERNATIONAL unlawfully, wilfully and knowingly, did transmit and cause to be transmitted by means of wire, radio and television communication, in interstate and foreign commerce, certain telexes, telefaxes and wire transfers of monies, all as more particularly set forth in Counts Five through Twenty-Four herein below:

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
		<u>WTM "pot"</u>	
5	wire transfer to AG of \$12,507,818.40 (including \$1,786,831.00 from the pot) by WTM: "Arctic Star"	October 21, 1980	Rich, Green, AG and International
6	wire transfer to AG of \$4,050,000.00 by WTM from the "pot": "Norse King"	October 23, 1980	Rich, Green, AG and International
7	wire transfer to AG of \$5,384,217.00 by WTM from the "pot": "Olympic Bond"	January 5, 1981	Rich, Green, AG and International
8	wire transfer to AG of \$5,000,000.00 by WTM from the "pot": "Nia Rocco Piaggio" and "Okinoshima Maru"	January 30, 1981	Rich, Green, AG and International
9	wire transfer to AG of \$1,199,974.00 by WTM from the "pot": "Okinoshima Maru"	February 9, 1981	Rich, Green, AG and International
10	wire transfer to AG of \$5,141,709.00 by WTM from the "pot": "Romo Maersk"	February 23, 1981	Rich, Green, AG and International

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE TRANSFER</u>	<u>DEFENDANT</u>
		<u>Listo "Pot"</u>	
11	wire transfer to AG of \$32,950,790.78 (including \$4,131,620.24 from the pot) by Listo: "Montessa"	December 5, 1980	Rich, Green, Meltzer, AG, and International
12	wire transfer to AG of \$4,259,844.00 by Listo from the "pot": " Universe Explorer"	December 15, 1980	Rich, Green, Meltzer, AG, and International
13	wire transfer to AG of \$18,605,470.63 (including \$2,241,743.45 from the "pot") by Listo: "Alnair II"	December 23, 1980	Rich, Green, Meltzer, AG, and International
14	wire transfer to AG of \$19,946,906.84 (including \$2,266,694.30 from the "pot") by Listo: "Lamyra"	December 31, 1980	Rich, Green, Meltzer, AG, and International
15	wire transfer to AG of \$5,291,409.80 by Listo from the "pot": "Arctic Star"	January 27, 1981	Rich, Green, Meltzer, AG, and International
16	wire transfer to AG of \$3,349,660.34 by Listo from the "pot": "Ionian Commander"	January 30, 1981	Rich, Green, Meltzer, AG, and International
17	wire transfer to AG of \$1,873,584.45 by Listo from the "pot": "Jeci"	February 2, 1981	Rich, Green, Meltzer, AG, and International
18	wire transfer to AG of \$6,396,202.22 by Listo from the "pot": "Keiyoh Maru"	February 11, 1981	Rich, Green, Meltzer, AG, and International
19	wire transfer to AG of \$5,315,478.50 by Listo from the "pot": "White Gardenia"	March 3, 1981	Rich, Green, Meltzer, AG, and International

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE TRANSFER</u>	<u>DEFENDANT</u>
20	wire transfer to AG of \$9,452,307.00 by Listo from the "pot": "Jamunda" and "Norse King"	May 5, 1981	Rich, Green, Meltzer, AG, and International
21	wire transfer to Rescor of \$3,000,000.00 by Listo: "Philip of Macedon" and "Okinoshima Maru"	May 14, 1981	Rich, Green, Meltzer, AG, and International
<u>Charter False Deductions</u>			
22	wire transfer to AG of \$29,157,628.90 by International: "Luna Mar", "Devali," "World Scholar" and "Ratna Jayshree"	September 29, 1980	Rich, Green, AG and International
23	wire transfer to AG of \$1,659,472.80 by International: "Santamar"	April 7, 1981	Rich, Green, AG and International
<u>Arco False Deduction</u>			
24	wire transfer to Rescor of \$2,716,510.00 by International: "Wind Escort"	August 27, 1981	Rich, Green, AG and International

(Title 18, United States Code, Sections 1343 and 2.)

COUNTS TWENTY-FIVE THROUGH TWENTY-EIGHT

The Scheme to Defraud the DOE

The Grand Jury further charges:

43. Each and every allegation contained in Paragraphs 12 through 27, and all of its subparts contained therein, of Count One of this Indictment is realleged and incorporated by reference herein as if fully set forth.

44. From in or about January 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL, the defendants, together with other co-schemers, unlawfully, wilfully and knowingly would and did devise and intend to devise a scheme and artifice to defraud the United States and its agencies thereof, to wit, the Department of Energy, in its lawful governmental service of administering and overseeing the laws and regulations which provided for price controls and markup requirements for the sale of crude oil produced in or imported into the United States, and to obtain money and property by false and fraudulent pretenses, representations and promises.

45. For the purposes of executing such scheme and arfitice to defraud and attempting to do so, on or about the dates set forth below, the defendants MARC RICH, PINCUS GREEN, CLYDE MELTZER, AG and INTERNATIONAL unlawfully, wilfully and

knowingly, did place and cause to be placed in a post office and authorized depository for mail matter and did cause to be delivered by mail according to the directions thereon certain mail matter to be sent and delivered by the United States Postal Service, all as more particularly set forth in Counts Twenty-Five through Twenty-Eight herein below.

<u>COUNT</u>	<u>MAIL COMMUNICATION</u>	<u>APPROXIMATE DATE OF MAILING</u>	<u>DEFENDANT</u>
25	ERA-69 for September 1980 Sent by Express Mail to DOE	December 1, 1980	Rich, Green, Meltzer, AG and International
26	ERA-69 for November 1980 Sent by Express Mail to DOE	January 30, 1981	Rich, Green, Meltzer, AG and International
27	ERA-69 for December 1980 Sent by Express Mail to DOE	January 27, 1981	Rich, Green, Meltzer, AG and International
28	ERA-69 for January 1981 Sent by Express Mail to DOE	March 31, 1981	Rich, Green, Meltzer, AG and International

(Title 18, United States Code, Sections 1341 and 2.)

COUNTS TWENTY-NINE THROUGH FORTY-THREE

The Scheme To Defraud the Department
of Treasury Re: Iranian Deals

The Grand Jury further charges:

46. Each and every allegation contained in Paragraphs 28 and 29, and all of its subparts contained therein, of Count One of this Indictment is realleged and incorporated by reference herein as if fully set forth.

47. From in or about January 1980, up to and including the date of the filing of this Indictment, in the Southern District of New York and elsewhere, MARC RICH, PINCUS GREEN, AG and INTERNATIONAL, the defendants, unlawfully, wilfully and knowingly would and did devise and intend to devise a scheme and artifice to defraud the United States and its agencies thereof, to wit, the Department of Treasury and its Office of Foreign Assets Control, in its lawful governmental service of administering and overseeing the laws and regulations which prohibited commercial transactions and credit transactions involving Iran during the American hostage crisis, and to obtain money and property by false and fraudulent pretenses, representations and promises.

48. For the purpose of executing such scheme and artifice to defraud, and attempting to do so, on or about the dates set forth below, the defendants MARC RICH, PINCUS GREEN, AG and INTERNATIONAL unlawfully, wilfully and knowingly, did transmit and cause to be transmitted by means of wire, radio and

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television communication, in interstate and foreign commerce, certain telexes, telefaxes and wire transfers of monies, all as more particularly set forth in Counts Twenty-Nine through Forty-Three herein below.

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
29	wire transfer of \$8,239,385.90 from New York to Zurich, Switzerland	July 7, 1980	Rich, Green, AG and International
30	wire transfer of \$56,187,197.00 from New York to Zurich, Switzerland	July 7, 1980	Rich, Green, AG and International
31	wire transfer of \$56,356,234.00 from New York to Paris, France	July 14, 1980	Rich, Green, AG and International
32	wire transfer of \$8,408,685.00 from New York to Paris, France	July 17, 1980	Rich, Green, AG and International
33	wire transfer of \$7,745,130.00 from New York to Paris, France	July 31, 1980	Rich, Green, AG and International
34	wire transfer of \$4,671,022.50 from New York to Paris, France	September 2, 1980	Rich, Green, AG and International
35	wire transfer of \$4,844,487.50 from New York to Paris, France	September 11, 1980	Rich, Green, AG and International
36	wire transfer of \$56,463,649.00 from New York to Paris, France	September 30, 1980	Rich, Green AG and International
37	Telex #NYC 143 from Pincus Green in New York to AG (London) and AG (Zug)	May 1, 1980	Rich, Green, AG and International
38	Telex #NYC 171 from Marc Rich in New York to AG (London) and AG (Zug)	May 7, 1980	Rich, Green, AG and International

<u>COUNT</u>	<u>WIRE COMMUNICATION</u>	<u>APPROXIMATE DATE OF WIRE COMMUNICATION</u>	<u>DEFENDANT</u>
39	Telex #NYC 138 from Pincus Green in New York to AG (London)	May 7, 1980	Rich, Green, AG and International
40	Telex # NYC 139 from Pincus Green in New York to AG (London) and AG (Zug)	May 7, 1980	Rich, Green, AG and International
41	Telex #NYC 174 from Marc Rich in New York to AG (London)	May 8, 1980	Rich, Green, AG and International
42	Telex #NYC 042 from Marc Rich in New York to AG (London) and AG (Zug)	May 12, 1980	Rich, Green, AG and International
43	Telex #NYC 146 from Pincus Green in New York to AG (London)	August 14, 1980	Rich, Green, AG and International

(Title 18, United States Code, Sections 1343 and 2.)

TRADING WITH IRAN COUNTS

COUNTS FORTY-FOUR THROUGH FIFTY-ONE

49. Each and every allegation contained in Paragraphs 28 and 29, and all of its subparts contained therein, of Count One of this Indictment is realleged and incorporated by reference as if fully set forth herein.

50. During a period from in or about April 1980, up to and including January 19, 1981, in the Southern District of New York and elsewhere, at the time when United States citizens were being held hostage in Iran, MARC RICH and PINCUS GREEN, the defendants, who were United States citizens subject to the jurisdiction of the United States, unlawfully, wilfully and

knowingly, in transactions involving Iran, an Iranian governmental entity, and an enterprise controlled by Iran and an Iranian governmental entity, did make and cause to be made payments, transfers of credit, and other transfers of funds and other property and interests to persons in Iran, to wit, the defendants MARC RICH and PINCUS GREEN caused United States dollars from banks located in the United States to be transferred to the National Iranian Oil Company ("NIOC") to pay for crude oil and fuel oil which AG had purchased directly from NIOC and which the defendants MARC RICH and PINCUS GREEN had pre-sold from the offices of INTERNATIONAL in the United States to third-party companies as more specifically set forth below:

<u>Count</u>	<u>Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold</u>	<u>Third Party Purchaser</u>	<u>Description of Payment to NIOC</u>	<u>Date of Payment to NIOC</u>
44	53,129 metric tons of fuel oil	TransWorld Oil	US \$8,233,544.40 by Letter of Credit issued in favor of NIOC by Union Bank of Switzerland (UBS), Switzerland, covered through a bank in New York, New York to Bank Markazi, Iran acct. at UBS, Switzerland	July 7, 1980

<u>Count</u>	<u>Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold</u>	<u>Third Party Purchaser</u>	<u>Description of Payment to NIOC</u>	<u>Date of Payment to NIOC</u>
45	1,531,658 barrels of crude oil and 5990 metric tons of fuel oil	TransWorld Oil	US \$56,186,536.00 by Letter of Credit issued in favor of NIOC by UBS, Switzerland, covered through a bank in New York, New York to Zurich, Switzerland to Bank Markazi, Iran Acct. at Midland Bank, London, England	July 7, 1980
46	1,568,430 barrels of crude oil and 3158 metric tons of fuel oil	TransWorld Oil	U.S. \$56,356,234.00 by Letter of Credit issued by Banque de Paris et des Pays-Bas, Paris, covered through a bank in New York, New York to Banque de Paris et des Pays-Bas, Paris, France to Bank Markazi, Iran account at Midland Bank, London, England	July 14, 1980
47	370,418 barrels of fuel oil	TransWorld Oil	US \$8,334.40500 by Letter of Credit issued in favor of NIOC by UBS, Switzerland, covered through a bank in New York, New York, to Societe Generale, Paris, France, to UBS, Zug, Switzerland to Bank Markazi, Iran account at Midland Bank, London, England	July 17, 1980

<u>Count</u>	<u>Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold</u>	<u>Third Party Purchaser</u>	<u>Description of Payment to NIOC</u>	<u>Date of Payment to NIOC</u>
48	52,098 metric tons of fuel oil	TransWorld Oil	US \$7,745,130.00 by Letter of Credit issued in favor of NIOC by Credit Lyonnais, Paris covered through a bank in New York New York to Credit Lyonnais, Paris to Bank Markazi, Iran account at Midland Bank, London, England	July 31, 1980
49	31,367 metric tons of fuel oil	TransWorld Oil	US \$4,671,022.50 by Letter of Credit issued in favor of NIOC by Banque de Paris et des Pays Bas, France covered through a bank in New York, New York, to Bank Markazi, Iran acct. at Banque Nationale de Paris, France	September 2, 1980
50	31,614 metric tons of fuel oil	TransWorld Oil	US \$4,844,487.50 by Letter of Credit issued in favor of NIOC by Banque de Paris et des Pays Bas, France covered through a bank in New York, New York, to Bank Markazi, Iran Acct. at Banque Nationale de Paris, France	September 11, 1980

<u>Count</u>	<u>Quantity of Iranian Crude Oil or Fuel Oil Purchased and Sold</u>	<u>Third Party Purchaser</u>	<u>Description of Payment to NIOC</u>	<u>Date of Payment to NIOC</u>
51	1,607,887 barrels of crude oil	TransWorld Oil	US \$56,463,649.20 by Letter of Credit issued in favor of NIOC by Societe General, France, covered through a bank in New York, New York, to Bank Markazi, Iran Acct. at Banque Nationale de Paris, Paris, France	September 30, 1980

(31 CFR §§ 535.206(a)(4), § 535.208, 535.701; Title 50,
United States Code, Section 1705; and Title 18, United
States Code, Section 2.)

GRAND JURY FOREPERSON

RUDOLPH W. GIULIANI
United States Attorney

Memorandum



ADIC *[initials]*
DADIC *[initials]*
SAC 1 _____
SAC 2 _____
SAC 3 _____
SAC 4 _____
ASAC 1 _____
ASAC MN-2 *F*
ASAC OC-2 _____
ASAC BQ-2 _____
ASAC NR-2 _____
ASAC 3 _____
ASAC 4 _____
SPM *1662* *[initials]*
SUPR _____

To : SAC, II (196A-1774) (P) (M-1)

Date 9/6/83

From : *W* SUPV.

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b7C

Subject : MARC RICH, DBA;
MARC RICH AND COMPANY INTERNATIONAL
LTD.; AKA
CLARENDON, LTD.;
MARC RICH AND COMPANY A.G.;
PINCUS GREEN;

FBW - ENERGY RELATED
(OO: NY)

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Attached - rough draft copy of 45 count indictment anticipated to be filed week of 9/12/83.

During week of 9/12/83, it is anticipated a joint press conference will be given following filing of attached indictment. Participants in conference will include: USA, SDNY, AUSA , SAC - U.S. Customs and representative from Internal Revenue Service (IRS). FBI participation requested at SAC level or higher.

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Summary of indictment consists of following: Marc Rich, Pincus Green, Marc Rich & Co. International, aka "Clarendon Ltd.", and Marc Rich & Co., A.G. are being indicted with: One count - RICO (T18, USC, 1962(c) - 20 yrs. \$25,000 fine and forfeitures); one count - RICO - Conspiracy (T18, USC, 1962(d) - 20 yrs. \$25,000 fine and forfeitures); four counts - Mail Fraud (T18, USC, 1341 - 5 years \$1,000 fine); 31 counts - Wire Fraud (T18, USC 1343 - 5 yrs., \$1,000 fine); Two counts - Tax Evasion (T26, USC 7201 & 2 - 5 yrs \$10,000 fine, and Six counts - Trading with Enemy Act (T 50, USC 1705 - 10 yrs. \$50,000 fine). Total exposure of 285 years and \$405,000 in fines.

- 1 -ASAC
- 1 - Supv. M-1
- 1 - Press Office
- 1 - 196A-1774

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MEB:mms
(#)

DATE OF
CONF now SET
F.A. wk of 9/19/83.
EV
9/15/83

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/mj

197A-1774-150

M-JF JF

P

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NY 196A-1774
MEB:mms

With RICO forfeiture clause, Government is expected to recover in excess of \$100 million. It should also be noted that indictment is expected to be superceded to include approximately an additional \$200 million obtained by captioned using charged racketeering scheme.

[redacted] will be included in superceding indictment.

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For background, captioned investigation began in October, 1981. With help of cooperators an elaborate scheme to defraud public and Government out of millions of illegally generated oil profits was uncovered. As investigation developed, IRS and Customs violations surfaced. Scheme is explained in detail in attached indictment, however, put simply, captioned generated millions of dollars of profits by changing certifications of oil transactions. These profits were moved off-shore and subsequently U.S. taxes were avoided.

Currently, approximately [redacted] from captioned are [redacted]. Further investigation expected to show captioned purchased arms for Iranian Government during hostage crisis and an additional \$600 million of U.S. income moved off-shore. A portion of this income was used to purchase 50% interest in 20th Century Fox Movie Studios.

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FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription September 7, 1983

[redacted]
[redacted]
[redacted] was contacted at his place of employment.

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He was informed of the identity of the interviewing Agent. [redacted] was served a Grand Jury subpoena duces tecum, issued by the Southern District of New York, directed to [redacted]. The subpoena commands an appearance and the production of certain records [redacted] Room 1401, U.S. Courthouse, Foley Square, in the Borough of Manhattan, City of New York.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/mx

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Investigation on August 30, 1983 at [redacted] Houston: 196B-881
by Special Agent [redacted] : md File # August 30, 1983
by [redacted] Date dictated ny 196A-1274-151

FEDERAL BUREAU OF INVESTIGATION

1

Date of transcription September 7, 1983

[redacted]
[redacted]
[redacted] was contacted at his place of employment.

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He was informed of the identity of the interviewing Agent. [redacted] was served a Grand Jury subpoena duces tecum, issued by the Southern District of New York, directed to [redacted]. The subpoena commands an appearance and the production of certain records [redacted] Room 1401, U.S. Courthouse, Foley Square, in the Borough of Manhattan, City of New York.

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JLM/maj

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b3Investigation on August 30, 1983 at [redacted]

Horton: 196B-881

Special Agent [redacted]

: md

August 30, 1983

by

Date dictated

B

Received 8/30/83.

Served 8/30/83

attny. for

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NY 196A-1774-152

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TO

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GREETINGS:

WE COMMAND YOU that all business and excuses being laid aside, you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, on the [redacted] to testify and give evidence in regard to an alleged violation of:

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and not to depart the Court without leave thereof, or of the United States Attorney, and that you produce at the time and place aforesaid the following:

For the period of [redacted]

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And for failure to attend and produce [redacted] you will be deemed guilty of contempt of Court and liable to penalties of law. b3

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/11/01 BY SP5 JC/may

Dated: New York, N.Y.
August 29, 1983

Rudolph W. Giuliani
RUDOLPH W. GIULIANI
United States Attorney for the
Southern District of New York.

Raymond F. Burghardt
Clerk.

NOTE: REPORT AT ROOM 767. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 767, upon each day on which you attend Court as a witness.

[redacted]
Assistant United States Attorney
Telephone: [redacted]

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b7C

Room [redacted]
One St. Andrew's Plaza
New York, New York 10007

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

Date 9/7/83

TO: ADIC, NEW YORK (196A-1774)(M-1)

FROM: SAC, HOUSTON (196B-881) (RUC)

MARC RICK,
 dba
 MARC RICH AND COMPANY
 FBW - ENERGY RELATED

Re NY airtel to HO dated 8/29/83.

Enclosed for New York is one facsimile, executed
 Grand Jury subpoena, directed to [REDACTED]
 Also enclosed for New York is the original and one
 copy each of FD-302 regarding [REDACTED]
 [REDACTED]

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ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/21/01 BY SP5 X my

②-New York (Encs. 3)
 1-Houston
 LBS/md
 (3)

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Approved: DA

Transmitted

(Number)

196A-1774-153

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 19 1983	
Per [Signature]	
RK [Signature]	

AIRTEL

9/7/83

TO: ADIC, NEW YORK (196A-1774)(M-1)

FROM: SAC, HOUSTON (196B-881) (RUC)

MARC RICK,
dba
MARC RICH AND COMPANY
FBW - ENERGY RELATED

Re NY airtel to HO dated 8/29/83.

Enclosed for New York is one facsimile, executed
Grand Jury subpoena, directed to [REDACTED]
Also enclosed for New York is the original and one
copy each of FD-302 regarding [REDACTED]
[REDACTED]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/MP

(2)-New York (Encs.3)
1-Houston
LBS/md
(3)

-1*-

196A-1774-153

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 19 1983	
FBI - NEW YORK	

[Handwritten signature]

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FBI

TELETYPE

IMMEDIATE

UNCLAS

9/19/83

IMMEDIATE

NEW YORK (196A-1774) (P) (M-I)

IMMEDIATE

DIRECTOR FBI (196B-2848)

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES

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BT

UNCLAS

MARC RICH, DBA MARC RICH AND COMPANY, PINCUS GREEN, [REDACTED]
FBW-ENERGY RELATED, OO:NY.

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RENYTEL TO BUREAU, DATED SEPTEMBER 19, 1983 AND NYTELCAL TO
BUREAU, SEPTEMBER 19, 1983.

THE PURPOSE OF THIS COMMUNICATION IS TO KEEP FBIHQ ADVISED OF
CAPTIONED.

ON SEPTEMBER 19, 1983 AT APPROXIMATELY 3:00 PM THE FOLLOWING

ALL INFORMATION CONTAINED
HEREIN IS UNCLAS
DATE 2/21/01 BY SP5 JCL/mj

MEB
1 - New York
1 - Supervisor M-I
MEB:kvk063V1
(2)

KVK 064

Approved: LFY/gf

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NOTE: AFTER APPROVAL, PLEASE ROUTE THIS DOCUMENT BACK TO THE WORD
PROCESSING SUPERVISOR, NOT TO THE TELETYPE ROOM.

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PRESS RELEASE WAS COMMUNICATED TO VARIOUS NEWSPAPERS AND TELEVISION CHANNELS:

"OUTLINE OF INDICTMENT" — UNITED STATES V. MARC RICH, ET AL.

"A FEDERAL GRAND JURY IN MANHATTAN TODAY RETURNED A 51-COUNT INDICTMENT AGAINST MARC RICH, PINCUS GREEN, CLYDE MELTZER, MARC RICH AND COMPANY A.G. ("AG"), AND MARC RICH AND COMPANY INTERNATIONAL LTD., AKA "CLARENDON LTD." ("INTERNATIONAL") FOR VIOLATING THE RACKETEER INFLUENCED AND CORRUPT ORGANIZATION ("RICO") STATUTE AND MARC RICH AND PINCUS GREEN FOR ACTIONS TAKEN TO FACILITATE OIL TRANSACTIONS WITH IRAN DURING THE HOSTAGE CRISIS IN VIOLATION OF FEDERAL LAW. MARC RICH, PINCUS GREEN, CLYDE MELTZER AND INTERNATIONAL ARE ALSO CHARGED WITH EVADING TAXES IN CONNECTION WITH INTERNATIONAL'S 1980 AND 1981 CORPORATE INCOME TAX RETURNS. EACH OF THE DEFENDANTS ARE FURTHER CHARGED WITH MULTIPLE MAIL AND WIRE FRAUD VIOLATIONS.

RUDOLPH W. GIULIANI, UNITED STATES ATTORNEY FOR THE SOUTHERN DISTRICT OF NEW YORK, EXPLAINED THAT THE RACKETEERING CHARGES INVOLVE CONCEALING IN EXCESS OF \$100 MILLION IN TAXABLE INCOME FROM

CRUDE OIL DEALS OF INTERNATIONAL --- IN LARGE PART EARNED ILLEGALLY IN VIOLATION OF FEDERAL ENERGY LAWS --- BY DIVERTING THE INCOME THROUGH SHAM TRANSACTIONS OFFSHORE TO AG, A FOREIGN CORPORATION WHICH DOES NOT FILE UNITED STATES INCOME TAX RETURNS. AS A RESULT OF THIS SCHEME, THE INDICTMENT CHARGED, THE DEFENDANTS CAUSED DEFENDANT INTERNATIONAL TO EVADE DURING CALENDAR YEARS 1980 AND 1981 IN EXCESS OF \$48 MILLION IN FEDERAL TAXES --- MAKING THIS THE LARGEST TAX EVASION SCHEME EVER PROSECUTED. THE CHARGES RELATING TO IRAN INVOLVE THE PURCHASE OF APPROXIMATELY 6,250,000 BARRELS OF CRUDE AND FUEL OIL FROM THE NATIONAL IRANIAN OIL COMPANY, AN ENTITY OF THE GOVERNMENT OF IRAN. THE OIL PURCHASES WHICH EXCEEDED \$200 MILLION WERE ALL MADE AFTER THE NOVEMBER 4, 1979 SEIZURE OF THE AMERICAN EMBASSY IN TEHRAN AND AFTER IT HAD BEEN DECLARED ILLEGAL TO TRADE WITH IRAN.

MORRIS WEINBERG, JR., THE ASSISTANT UNITED STATES ATTORNEY IN CHARGE OF THE CASE, FURTHER EXPLAINED THE ALLEGATIONS SET FORTH IN THE INDICTMENT. EACH DEFENDANT WAS CHARGED WITH HAVING CONSPIRED TO OPERATE AND WITH HAVING OPERATED AN ENTERPRISE, HE SAID, THROUGH A PATTERN OF RACKETEERING ACTIVITY BY ENGAGING IN SCHEMES TO DEFRAUD THE INTERNAL REVENUE SERVICE, THE DEPARTMENT OF ENERGY AND THE

DEPARTMENT OF TREASURY, THROUGH ITS OFFICE OF FOREIGN ASSETS CONTROL. AS PART OF THE SCHEME, FOR EXAMPLE, DEFENDANTS MARC RICH AND PINCUS GREEN WOULD CAUSE INTERNATIONAL TO PURCHASE BARRELS OF DOMESTICALLY "CONTROLLED" OIL WHICH, UNDER THE APPLICABLE DEPARTMENT OF ENERGY PRICE CONTROLS, COULD BE RESOLD ONLY AT FIXED AND CONTROLLED PRICES. INTERNATIONAL WOULD THEN CAUSE THE CONTROLLED OIL TO PASS THROUGH THE HANDS OF NUMEROUS OIL RESELLERS IN WHAT IS KNOWN AS "DAISY CHAIN" TRANSACTIONS ALL WITH THE OBJECTIVE OF MAKING IT EASIER FALSELY TO ALTER THE CERTIFICATES OF THE BARRELS TO "UNCONTROLLED" OIL SO THAT INTERNATIONAL COULD REPURCHASE THE BARRELS AND RESELL THEM AT MUCH HIGHER UNEFIXED PRICES THEREBY REALIZING HUGE ILLICIT PROFITS. EVENTUALLY, THE DEFENDANTS RECOGNIZED THAT HAVING INTERNATIONAL EARN THESE HUGE ILLEGAL PROFITS BY SELLING THE FALSELY CERTIFIED "UNCONTROLLED" BARRELS MEANT THAT INTERNATIONAL WOULD PAY LARGE AMOUNTS OF FEDERAL TAX ON THE ILLEGAL PROFITS. TO AVOID THE FEDERAL TAX -- ADDING THE "INSULT" OF TAX EVASION TO THE "INJURY" OF DELIBERATE VIOLATIONS OF THE FEDERAL OIL PRICE CONTROLS -- THE DEFENDANTS DEVISED A SCHEME WHEREBY THIRD PARTY OIL RESELLERS, SUCH AS THE DEFENDANT CLYDE MELTZER OF LISTO PETROLEUM (HOUSTON, TEXAS) AND WEST TEXAS MARKETING (ABILENE, TEXAS), WOULD OSTENSIBLY SELL THE FALSELY CERTIFIED "UNCONTROLLED".

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MR. WEINBERG ALSO EXPLAINED THAT DURING THE HOSTAGE CRISIS THE DEFENDANTS MARC RICH AND PINCUS GREEN -- BOTH UNITED STATES CITIZENS AT THE TIME -- PRE-SOLD FROM THE UNITED STATES IRANIAN CRUDE OIL

WHICH AG WAS BUYING DIRECTLY FROM THE NATIONAL IRANIAN OIL COMPANY. IN THOSE DEALS, UNITED STATES BANKS WERE UNWITTINGLY USED BY THE DEEDANTS TO TRANSFER OVER 200 MILLION UNITED STATES DOLLARS OUT OF THE UNITED STATES TO THE NATIONAL IRANIAN OIL COMPANY TO PAY FOR THE CRUDE OIL PURCHASED BY AG. AT THE TIME, THERE WERE TIGHT RESTRICTIONS AGAINST THE TRANSFER OF ANY FUNDS TO IRAN BY AMERICAN CITIZENS OR UNITED STATES BANKS.

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FBIHQ WILL BE KEPT ADVISED.

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FM FBI NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR FBI (196B-2848) IMMEDIATE

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES

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UNCLAS SECTION 1 OF 2

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/91 BY SP5 JC/mj

MARC RICH, DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

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FBW-ENERGY RELATED, OO:NY.

RENYTEL TO BUREAU, DATED SEPTEMBER 19, 1983 AND NYTELAL TO
BUREAU, SEPTEMBER 19, 1983.

THE PURPOSE OF THIS COMMUNICATION IS TO KEEP FBIHQ ADVISED OF
CAPTIONED.

ON SEPTEMBER 19, 1983 AT APPROXIMATELY 3:00 PM THE FOLLOWING

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FBI-NEW YORK	

PAGE TWO DE NY 0130 UNCLAS SECTION 1 OF 2

PRESS RELEASE WAS COMMUNICATED TO VARIOUS NEWSPAPERS AND TELEVISION CHANNELS:

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PAGE THREE DE NY 0130 UNCLAS SECTION 1 OF 2

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PAGE FOUR DE NY 0130 UNCLAS SECTION 1 OF 2

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PAGE FIVE DE NY 0130 UNCLAS SECTION 1 OF 2

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PAGE SIX DE NY 0130 UNCLAS SECTION 1 OF 2

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TO DIRECTOR FBI (196B-2848) IMMEDIATE

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UNCLAS SECTION 2 OF 2

ASSETS CONTROL, AND THE UNITED STATES CUSTOMS SERVICE. IN MAKING THIS ANNOUNCEMENT TODAY, MR. GIULIANI PRAISED ALL THOSE INVOLVED IN THIS PAINSTAKING INVESTIGATION FOR THEIR CONSCIENTIOUS AND DILIGENT EFFORTS.

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PAGE TWO DE NY 0131 UNCLAS SECTION 2 OF 2

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CITIZENSHIP IN FAVOR OF SPANISH CITIZENSHIP."

FBIHQ WILL BE KEPT ADVISED.

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☒ Teletype
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☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

Date 9/19/83

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FM NEW YORK (196A-1774) (P) (M-1)

TO ~~DIRECTOR~~-(IMMEDIATE)

ATTENTION: SUPV. [REDACTED] FINANCIAL CRIMES

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UNCLAS

MARC RICH, DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

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[REDACTED] FBW - ENERGY RELATED (OO:NY)

THE PURPOSE OF THIS COMMUNICATION IS TO KEEP FBIHQ
 ADVISED OF DEVELOPMENTS OF CAPTIONED.

ON SEPTEMBER 19, 1983, THE GRAND JURY FOR THE SDNY CONCURRED
 IN THE FINDING OF A 51-COUNT INDICTMENT CHARGING: MARC RICH,
 PINCUS GREEN, CLYDE MELTZER, MARC RICH AND COMPANY, AG AND MARC
 RICH AND COMPANY INTERNATIONAL, LTD., AKA "CLARENDON A.G. (LTD.,
 S.A.)", ITS PURPORTED SUCCESSOR IN INTEREST WITH VIOLATIONS OF
 TITLE 18, U.S. CODE, SECTIONS 1962(C) - ONE COUNT RACKETEERING,
 1962(D) - ONE COUNT RACKETEERING CONSPIRACY, 1341 - FOUR COUNTS
 MAIL FRAUD, 1343 - 35 COUNTS WIRE FRAUD; TITLE 26, U.S. CODE,
 SECTION 7201 - TWO COUNTS TAX EVASION; AND TITLE 50, U.S. CODE,

1 - NEW YORK
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PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE TWO

NY 196A-1774

UNCLAS

SECTION 1705; AND 31 CODE OF FEDERAL REGULATIONS, SECTION 535.206

(A) (4) - EIGHT COUNTS TRADING WITH ENEMY.

MARC RICH AND PINCUS GREEN FACE THE MAXIMUM EXPOSURE OF
325 YEARS AND \$509,000 FINES.

CLYDE MELTZER FACES RICO CHARGES, MAIL FRAUD CHARGES,
TAX EVASION CHARGES AND 11 COUNTS OF WIRE FRAUD. MAXIMUM EXPOSURE
125 YEARS AND \$85,000 FINES.

PURSUANT TO TITLE 18, U.S.C., SECTION 1963(A), THE GOVERNMENT
WILL SEEK SUBSTANTIAL FORFEITURES PROVIDED FOR IN THE RICO STATUTE.

AT APPROXIMATELY 3:00 P.M. ON INSTANT DATE, A JOINT PRESS
CONFERENCE WILL RELEASE ABOVE INFORMATION.

THE GOVERNMENT HAS ALSO RECENTLY RECEIVED INFORMATION THAT
MARC RICH HAS SOUGHT TO RENOUNCE HIS AMERICAN CITIZENSHIP IN
FAVOR OF SPANISH CITIZENSHIP.

FBIHQ WILL BE KEPT ADVISED.

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FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (IMMEDIATE)

A TTENTION: SUPV. [REDACTED] - FINANCIAL CRIMES

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UNCLAS

MARC RICH, DBA MARC RICH AND COMPANY; PINCUS GREEN; [REDACTED]

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[REDACTED] FBW - ENERGY RELATED (OO:NY)

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DATE 2/21/11 BY SP5 JC/mag

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SECTION 1705; AND 31 CODE OF FEDERAL REGULATIONS, SECTION 535.206

(A) (4) - EIGHT COUNTS TRADING WITH ENEMY.

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FBIHQ WILL BE KEPT ADVISED.

BT

Trading Oil in a 'Daisy Chain'

One of the principal charges contained in the indictment announced yesterday against Marc Rich, the international commodities trader, is that companies that he controlled conspired to violate Federal laws covering the pricing and allocation of domestically produced crude oil. These laws, enacted in 1973, were gradually phased out in the late 1970's and ended in January 1981.

In its indictment, the grand jury charged the Rich interests with engaging in what it termed a "daisy chain" to fraudulently sell controlled crude at uncontrolled prices.

In recent years, several small oil producers in the Southwest have been charged with similar schemes. But no large oil producers or trading companies have been found guilty of the charges.

The Government's price controls were intended to set a low price ceiling on oil that was inexpensive to produce. They effectively set limits on crude prices that ranged from \$5 a barrel for "old" oil, from wells that went into production before 1972, to \$30 for oil from "stripper" wells, which usually produce less than 10 barrels a day, or from wells that were especially expensive to operate.

The indictment charges Marc Rich & Company International, Mr. Rich's principal trading company in New York, with conspiring with two Texas companies, the West Texas Marketing Corporation and Listo Petroleum Inc., to implement the fraud.

Texas Concerns Not Indicted

The Texas concerns were not indicted, but the indictment did cover Clyde Meltzer, former vice president in charge of crude oil trading at Listo Petroleum.

According to the indictment, Mr. Rich and Mr. Green wove an elaborate maze of oil trades aimed at selling controlled oil at decontrolled prices. Attempting to baffle Government regulators on their trail, the men earned millions of dollars in profit, then illegally reduced their Federal income taxes by shifting part of the profits overseas — again in a covert, complex scheme, the indictment said.

It charges that, in several transactions involving the Texas companies, the Rich interests bought inexpensive "old" oil and then resold in a series of paper transactions involving third parties.

These transactions were designed

to "facilitate illegal alteration of the certificates on controlled barrels in stripper barrels," the indictment said. After the daisy chain was complete, Mr. Rich's New York company would regain title to the same volume of oil it had originally purchased at low price, but that oil was by then classified as uncontrolled under Federal price guidelines, according to the indictment.

Each of the third parties that participated in the transactions would have received "a small profit," the indictment stated. But it added that Mr. Rich's company would have received "enormous profits" by reselling the oil.

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HEREIN IS UNCLASSIFIED
DATE 2-24-01 BY SP5 JC/nm

196A-1774-156

1983

U.S. Asserts It Can Prove Marc Rich & Co. Evaded Taxes if It Gets Data From Swiss

By ROGER LOWENSTEIN and STEVE MURPHY
Staff Reporters of THE WALL STREET JOURNAL

NEW YORK—Attorneys for the U.S. government asserted that they could prove Marc Rich & Co. AG evaded more than twice the \$48 million in U.S. taxes already alleged if they could obtain company documents being held by the Swiss government.

As reported, those internal documents of the Zug, Switzerland-based commodities trading firm were seized recently by the Swiss government on the ground that releasing them to U.S. authorities would violate Swiss secrecy laws. Negotiations between the two countries over release of the documents have been going on but appear to be at an impasse.

On Monday, a federal grand jury here indicted Marc Rich, its U.S. unit, and its two principal officers, Marc Rich and Pincus Green, for tax evasion, wire and mail fraud and racketeering. The indictment said the defendants evaded taxes on more than \$100 million of income.

Though federal government attorneys concede an impasse over obtaining the documents, they hope to get their hands on Mr. Rich and Mr. Green, both currently residing in Switzerland.

At the hearing, Lawrence B. Pedowitz, chief of the criminal division of the U.S. Attorney's Office for the Southern District of New York, said the government will seek to extradite the two men. "I am hopeful" the Swiss government will cooperate, Mr. Pedowitz said.

The Swiss government has said it won't extradite people on tax evasion charges but is willing to examine the other charges

against the defendants as a basis for extradition. "It's premature" to predict what the response will be, a Swiss government spokesman said.

Mr. Pedowitz also said yesterday that the government might seek a "superseding indictment." He didn't elaborate, but sources close to the case said such an indictment might be tailored to Swiss extradition policy. Under Swiss law, a person can be extradited if the alleged offenses are also punishable in Switzerland.

Though U.S. government officials haven't seen the documents in Switzerland's possession, they have been given lists describing the papers. Based on a review of those lists, the government believes it could prove a much higher level of tax evasion than already alleged, these officials said.

Mr. Pedowitz, the government prosecutor, told the court yesterday that those documents included papers describing plans to defraud the U.S. government. "These documents are golden nuggets," he said.

Since the indictment, neither the defendants nor their attorneys have returned phone calls. Previously, company officials denied any wrongdoing.

The indictment capped an 18-month investigation of Marc Rich. Yesterday's hearing had long been scheduled to deal with some of the remaining issues outstanding in that investigation.

Among other things, Marc Rich is being fined by the court \$50,000 a day for failing to turn over subpoenaed documents. At yesterday's hearing, Judge Leonard B. Sand said he would consider ending those fines given the refusal of the Swiss government to turn over the documents. A hearing on that question was set for Oct. 3.

Marc Rich Tax Case Is Tip of the Iceberg But Unlikely to Lead to Rash of U.S. Suits

By WILLIAM M. CARLEY
And ROBERT B. TAYLOR

Staff Reporters of THE WALL STREET JOURNAL

NEW YORK—The indictment of Marc Rich and his companies for tax evasion is but the tip of the iceberg in a long and bitter dispute over taxation of multinationals.

The Marc Rich case, however, isn't likely to signal a rash of Justice Department prosecutions. Such cases are complex, extremely difficult to prosecute on the criminal level, and even difficult to pursue as civil cases, lawyers say.

In the Rich case, the Justice Department has already run into a roadblock in the Swiss government, which refuses to turn over certain Rich documents the Justice Department says it needs.

The long-festering dispute over taxing multinationals involves so-called transfer pricing, in which goods are transferred among a company's various subsidiaries. This may be done legally, but it is illegal, however, for a subsidiary based in the U.S. to, for example, to pay inflated prices for goods it buys from another subsidiary based in Switzerland. This moves the profits from the U.S. to Switzerland and results in evasion of U.S. taxes.

In Mr. Rich's case, he is charged with having his U.S. company transfer profit to a Swiss affiliate by having the U.S. unit buy oil at artificially high prices. In this way, it's alleged, Mr. Rich evaded taxes on more than \$100 million of revenues, making it the biggest tax evasion case in history.

But except for its magnitude, the Rich case isn't unique. "It's a perfect example of the games people play with transfer pricing," says Thomas Field, executive director of Tax Analysts, a Washington-

and the ship. The intermediate subsidiary just happened to be in a very low tax situation. In a civil case, the Justice Department attacked this arrangement and won.

Sometimes it is not the U.S. government that feels cheated. Citibank, according to a Securities and Exchange Commission study, transferred profit from France, Switzerland and other European countries by executing "sham" foreign exchange transactions with a Citibank unit in Bermuda. A European Citibank unit would simultaneously sell currency to the Bermuda unit at a low price and buy it back at a high price, thus moving the profit to Bermuda. While the SEC took no action, European countries forced Citibank to pay nearly \$11 million in extra taxes and penalties.

Few cases, however, are prosecuted. One reason, according to a recent General Accounting Office study, is that transactions between company units are perfectly legal if they are at arm's length prices. But the GAO report found, because of fluctuations and other factors, it is quite difficult to prove prices are inflated.

When there is a dispute over transfer prices, it hardly ever gets to court, says one tax lawyer. "The question is usually settled in haggling between the Internal Revenue Service and the company," he says. Prosecuting a criminal case, in which intent must be proved, is even tougher. "You need a tipster or documentary evidence," says a former Justice Department official.

The U.S. Attorney in New York evidently feels he has documentary evidence

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Swiss affiliate by having the U.S. unit buy oil at artificially high prices. In this way, it's alleged, Mr. Rich evaded taxes on more than \$100 million of revenues, making it the biggest tax-evasion case in history.

But except for its magnitude, the Rich case isn't unique. "It's a perfect example of the games people play with transfer pricing," says Thomas Field, executive director of Tax Analysts, a Washington-based tax research group.

The game has been played a long time. In the late 1960s and the 1970s the Justice Department began trying to crack down. One case involved U.S. Gypsum Co. Strange things were happening to the price of gypsum rock the company mined in Canada and shipped to the U.S.

The Canadian subsidiary mined the rock and placed it on a conveyor belt at a dock. As the rock fell off the conveyor, the Canadian unit sold the rock to an intermediate U.S. Gypsum subsidiary at a low price. That kept profit and taxes of the Canadian subsidiary quite low. As the gypsum rock fell through the air, the price rose dramatically, and as it hit the hold of a ship, it was sold to the U.S. company at a very high price. That kept profit and taxes of the U.S. company lower than otherwise.

In effect, says Mr. Field of Tax Analysts, U.S. Gypsum was siphoning the profit from the transaction into the intermediate U.S. Gypsum subsidiary, which owned the rock only while it was falling through the air between the conveyor belt

When there is a dispute over transfer prices, it hardly ever gets to court, says one tax lawyer. "The question is usually settled in haggling between the Internal Revenue Service and the company," he says. Prosecuting a criminal case, in which intent must be proved, is even tougher. "You need a tipster or documentary evidence," says a former Justice Department official.

The U.S. Attorney in New York evidently feels he has documentary evidence in the Rich case. The indictment charges, for example, that Mr. Rich "instructed the comptroller (for the U.S. Rich company) to notify his counterpart at the (Swiss company) to prepare . . . fraudulent invoices. . . . The false invoices were to disguise sham transactions, the indictment alleges."

As tough as it may be to crack down on international tax evaders, there are indications the IRS is going to try harder. Last month the IRS issued an edict to its agents establishing higher priorities for checking individual and partnership tax-haven schemes, foreign tax-credit manipulation and potentially unreported income shown on foreign documents. The IRS also plans to boost the number of agents who work full time on international tax examinations to 364 from 297 and to increase training of all IRS agents on tax-haven abuses.

And for the man in the street, there will be an extra check. While individuals have been asked on tax returns only if they have a foreign bank account, in the future they will also be asked, "In what country?"

Marc Rich Indicted in Big Tax Case

Continued From Page A1

years old, formerly vice president in charge of crude oil trading at Lisco Petroleum Inc. of Houston, with 28 counts of tax evasion, racketeering and fraud. According to the indictment, Mr. Meltzer, hired in 1982 as an oil trader for Mr. Rich, participated in a conspiracy to evade about \$33 million of the \$48 million.

None of the accused men could be reached for comment. Mr. Meltzer, who lives in Manhattan, did not answer his telephone. Mr. Rich and Mr. Green, longtime friends who have gained a reputation as among the wealthiest commodity traders in the world, have refused all requests for interviews. But a statement issued in Zug, Switzerland, where Marc Rich A.G. has its headquarters, said the men considered themselves innocent.

Although warrants were issued yesterday morning for the arrest of both men, Mr. Giuliani said he had been informed by the State Department that Mr. Rich was seeking to renounce his United States citizenship to become a citizen of Spain.

But John P. Caulfield, spokesman for the State Department's Bureau of Consular Affairs, said such a move would not extinguish Mr. Rich's criminal liability in the United States.

It was also unclear if Mr. Rich or Mr. Green could be extradited from Switzerland to the United States. Although the United States has a treaty with Switzerland to extradite criminals, a Swiss official said yesterday that the pact did not cover tax matters because tax evasion was not a crime in Switzerland. Nor, the official added, does the treaty cover the act of trading with an enemy.

"If there are other crimes that Mr. Rich and Mr. Green are accused of that fall under the treaty, the Swiss will cooperate," said Josef Aregger, Swiss Consul in New York. But, he said, it would be "most unlikely" that the Swiss would extradite the commodity traders on the basis of allegations of tax evasion or trading with Iran. The treaty calls for cooperation only in cases of murder, robbery, burglary, counterfeiting, forgery, embezzlement, and breach of trust involving a fiduciary.

Citing their secrecy laws, Swiss Justice Ministry officials have said that to produce the papers subpoenaed would violate the privacy of firms, with which Marc Rich does business. The Swiss have also accused the United States of failing to follow established diplomatic procedures to obtain the documents.

Yesterday Swiss officials said they would take additional action to protect the documents subpoenaed from Marc Rich A.G. in Switzerland. In Washington, Swiss Embassy officials said they would hold a news conference this afternoon at the United Nations to explain their position.

According to yesterday's indictment, Mr. Rich and Mr. Green in effect sold oil that was under price controls in the United States at free-market prices. The men then shifted millions of dollars in illegal profits overseas, the indictment said, and concocted \$33 million in illegal tax deductions by falsifying invoices of transactions between Marc Rich A.G. and its foreign subsidiaries.

The oil trading scheme was executed with the help of Lisco Petroleum, Mr. Meltzer's firm, and the West Texas Marketing Corporation of Abilene, Tex., according to the indictment. Neither was indicted, although Mr. Meltzer was. He has until next Thursday to appear in Federal court

for arraignment, prosecutors said. Prosecutors seemed particularly pleased by the grand jury indictment, which followed months of hearings. In an unusual public display, they invited reporters and cameramen into the law library of the United States Attorney's Office, where they read parts of the indictment aloud.

Seated at a dais, the prosecutors, joined by agents of the Federal Bureau of Investigation, the Treasury Department and the United States Customs Service — all participants in the investigation — then fielded questions on the outlook for Mr. Rich, Mr. Green and their business interests.

Under United States law, neither of the men can be tried without being in court. But prosecutors said yesterday they could hold a court proceeding against the two Marc Rich companies even if the owners were not present.

And if prosecutors succeed in convicting the firms, they could, under a new Federal racketeering law, seek to seize their domestic assets. This

could lead to a Government seizure of the 50 percent share in the 20th Century-Fox Film Corporation that is held by one of the Marc Rich entities under indictment. In Los Angeles, Jerry Greenberg, a spokesman for Fox Film, declined to comment on this possibility.

The charge of trading with an enemy relates to purchases by Marc Rich firms of more than 6 million barrels of crude from the Iranian National Oil Company, according to the indictment.

The purchases, which cost more than \$200 million, led to the outflow of hundreds of millions of dollars from United States banks to the Iranian company when the United States was seeking to sever economic relations with Iran, the indictment said. It was unclear how these funds could have flowed to Iran; at the time, banking channels from the West to Teheran were virtually shut.

Weekend is where the fun is

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Marc Rich Indicted in Vast Tax Evasion Case

By ERIC N. BERG

Marc Rich, one of the world's leading commodity traders, was indicted yesterday by a Federal grand jury on charges that he and a partner had evaded \$48 million in income taxes. Prosecutors said it was the biggest tax-fraud indictment in history.

The two men were also accused of buying oil from Iran after trade with that nation had been declared illegal in response to the Nov. 4, 1979, seizure of American hostages.

Mr. Rich, a reclusive multimillionaire, and his partner, Pincus Green, were charged with 51 counts of tax evasion, racketeering and fraud. Through a spokesman, both men declared themselves innocent.

At a news conference at the United States Court House in lower Manhattan, Rudolph W. Giuliani, the United States Attorney for the Southern District of New York, said Mr. Rich and Mr. Green had concealed \$100 million in oil-trading revenues in 1980 and 1981.

"It is the largest income-tax evasion indictment ever returned by a grand jury," Mr. Giuliani said. He said he had confirmed this with the Internal Revenue Service.

The 51 counts in the indictment carry penalties ranging from 5 years in jail and a \$1,000 fine to 20 years and a \$25,000 fine. If the defendants are convicted and given consecutive sentences, they could serve life terms, prosecutors said. Mr. Rich is 48 years old; Mr. Green is 49.

For more than a year, Federal prosecutors have tried to show that Mr. Rich and Mr. Green used a complex oil-pricing scheme to illegally reduce their Federal income taxes.

In March 1982, a Federal grand jury subpoenaed documents from Marc Rich & Company A.G., a Swiss commodity trading firm owned by Mr. Rich and Mr. Green. The jury also sub-

poeaned documents from Marc Rich & Company International of New York. Marc Rich A.G.'s United States trading arm.

Although Marc Rich International relinquished many of the documents, Marc Rich A.G. contended that as a foreign concern, it did not have to comply. It began paying fines of \$50,000 a day after being held in contempt, and eventually paid more than \$2 million before reaching a settlement with the court.

Mr. Rich and Mr. Green, meanwhile, who according to prosecutors conspired to disobey the subpoena, have failed to appear in court. Prosecutors say the two men are fugitives in Switzerland. Both had been living in New York.

The indictment names both men as co-defendants, as well as Marc Rich A.G. and Marc Rich International.

It also charged Clyde Meltzer, 38,

Congratulations Al Hampel and D'Arcy MacManus & Masius New York on the Buckingham appointment—your little brother downtown Poppe Tyson Inc.—ADVT.

Continued on Page D9, Column 1.

*New York Times - Front Page
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Deficit Estimate By U.S. Shrinks About \$10 Billion

New Fiscal '83 Forecast Brings Gap to Under \$200 Billion; '84 Projection Is Narrowed

By KENNETH H. BACON

Staff Reporter of THE WALL STREET JOURNAL
WASHINGTON—Treasury officials said that the deficit for the current fiscal year could be less than \$200 billion, about 10 billion narrower than official estimates July.

Treasury Secretary Donald Regan said in an interview that the narrower deficit projections are based on preliminary receipts and outlay information for fiscal 1983, which began Sept. 30. In addition, he said that Treasury estimates for fiscal 1984 indicate that the deficit could be \$165 billion to \$170 billion. This would be smaller than the \$177 billion the Office of Management and Budget estimated in July.

Referring to the fiscal 1983 budget, Mr. Regan said, "There's a good possibility that deficit could be in the \$200 billion area or we're lucky, slightly less." In fact, according to some internal Treasury estimates, the year-end cash balance, the fiscal 1983 deficit could be as narrow as \$114 billion, an official said. However, he emphasized this estimate is subject to revision as Treasury gathers more information.

Recovery Is Cited

Secretary Regan said that the improved outlook for this year reflects the effect of the economic recovery on corporate receipts and on taxes withheld from employers' pay. "There's no doubt that final accounts are coming in stronger than we'd expect" because of increases in production, sales and employment, Mr. Regan said in response to a question about reports of king deficits.

Economic growth surged last quarter and Regan said he expects strong growth next quarter as well. He said that gross national product, the value of the nation's output of goods and services, would grow at an average annual rate of 7.5% to 8% after adjusting for inflation in the current quarter. If such growth would be less than the increase in the second quarter, it would be higher than many analysts are predicting. The Commerce Department is scheduled to release a preliminary third-quarter GNP estimate tomorrow.

Regan noted that he and his Treasury colleagues have been more optimistic than administration officials in projecting a recovery that would help shrink the deficit. As a result, Mr. Regan has expressed less concern about the large deficits than the nation than Martin Feldstein, an advisor of President Reagan's Council of Economic Advisors.

for Deficit Reductions

U.S. Charges Marc Rich With Concealing \$100 Million in Income From Oil Trading

By ROGER LOWENSTEIN
AND STEVE MUKHLIN

Staff Reporters of THE WALL STREET JOURNAL
NEW YORK—A federal grand jury here charged Marc Rich & Co. AG and its two principal officers with concealing more than \$100 million in taxable income from oil-trading activities in 1980 and 1981.

The grand jury indictment said the actions by the huge commodities trading firm and its two officers, Marc Rich and Pincus Green, resulted in the evasion of more than \$49 million in taxes. At a news conference, Rudolph W. Giuliani, U.S. Attorney for the southern district of New York, said this is the biggest tax-evasion case ever brought by the federal government.

The 51-count indictment also charges the defendants with mail and wire fraud, racketeering and buying Iranian crude oil in violation of a U.S. trade ban while Iran was holding 52 American hostages. The defendants are also charged with reaping what Mr. Giuliani termed "exorbitant" profit by violating federal controls on oil prices before they were revoked in 1981.

If convicted, Mr. Rich and Mr. Green could each face prison sentences totaling 325 years. They and their company also could face millions of dollars of fines and the confiscation of assets.

Lawyers for the defendants refused to comment on the charges.

Sources close to the case said it is unlikely Mr. Rich or Mr. Green will return voluntarily to the U.S. Three months ago the two left this country and moved to Zug, Switzerland, where the company is based. Yesterday, Mr. Giuliani said "the government has recently received information that Marc Rich has sought to renounce his U.S. citizenship in favor of Spanish citizenship."

Mr. Giuliani said the U.S. would seek to extradite the two men from Switzerland, and added that arrest warrants for them have been issued here.

Juerg Leutert, legal adviser to the Swiss embassy in Washington, said Switzerland has never granted extradition on a tax-evasion case. He said Switzerland would consider extradition on the other charges if they are also punishable offenses in Switzerland.

Mr. Giuliani said that even if Mr. Rich and Mr. Green don't return to the U.S., the federal government would still try the company and its U.S. subsidiary. That suit was sold earlier this year to one of Marc Rich's principals and renamed Clarendon Ltd.

If the company is convicted, Mr. Giuliani said the U.S. would seek to seize the company's U.S. assets, which, he said, total "hundreds of millions of dollars." One asset it would seek is the half-interest in Twentieth Century-Fox Film Corp. owned by a Marc Rich affiliate, he added.

The indictment climaxes a year-and-a-

half federal investigation. As reported, Marc Rich has strongly resisted government subpoenas for information. The company has already paid \$3.8 million in fines for refusing to comply with subpoenas and is still being assessed \$50,000 a day under a federal court order. The U.S. government is still trying to get Marc Rich documents from the Swiss government, which recently seized them under Swiss secrecy laws to keep the papers out of the hands of U.S. prosecutors. A court hearing on those documents is scheduled here today.

The 48-year-old Mr. Rich, who was born in Belgium, first made his mark trading oil for Philipp Brothers Inc., the giant commodities trading arm of Phibro-Salomon Inc. In 1974, Mr. Rich and his longtime colleague Mr. Green left Philipp Brothers and formed Marc Rich & Co.

At its peak, Marc Rich traded \$10 billion a year in commodities. Its business, however, has been severely squeezed since the U.S. investigation became public.

According to the indictment, Marc Rich's U.S. unit diverted income through "sham transactions," by buying oil at artificially high prices from the Swiss parent, which doesn't file U.S. income-tax returns.

The indictment also charged the U.S. unit purchased domestic crude oil under federal price controls and then passed that oil through a "daisy chain" of other oil traders with Marc Rich eventually repurchasing the barrels and reselling them at illegally high prices.

To avoid taxes on the profits from those sales, Marc Rich set up another series of transactions in which the company would be billed by other traders for much higher prices than they actually paid, the indictment said. The profits were then siphoned to Marc Rich's overseas operations, it said. Clyde Meltzer, an oil trader, was named as a defendant in the indictment for his alleged role in these deals. Mr. Meltzer, currently employed by Clarendon, failed to return phone calls.

Western Union Postal Agency To Expand

By a WALL STREET JOURNAL
UPPER SADDLE RIVER, N.J., Nov. 19—Western Union Corp. and the Postal Service agreed to terms which they provide plan to continue program may even expand it.

The contract, with Western Union's graph Co. unit agreed to a four-year prior not to become effective.

It is expected that the contract will be terminated ahead of Sept. 1. A Mailgram sent to a post office's address and delivery carrier.



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Insurance Squeeze

Independent Agencies
Dwindle in Importance
As Competition Grows

Their High Operating Costs
And Rise of New Rivals
Endanger Their Survival

Newest Threat: Deregulation

By MARY WILLIAMS

Staff Reporter of THE WALL STREET JOURNAL
After 33 years in the insurance business, the Pennsylvania agent is afraid of losing his job. "It's outrageous! It's unbelievable!" he sputters. Continental Insurance Cos., after reviewing his 1982 sales record, has told him to double his volume within two years or forget about selling its policies. He says he can't possibly meet the new quota. "It's another way of telling you they aren't interested in small agents," he says.

In Kalamazoo, Mich., Leon Miller's old agency in a suburban basement has folded, but he has opened another in the middle of a shopping mall. Now he sells insurance from a kiosk and hopes that his three-man operation will gain some of the same benefits from the mall that giant Allstate Insurance gets from its tie-in with Sears. "I look at it as my last chance to succeed," Mr. Miller says.

Independent property-casualty agents, middlemen who match up the owners of cars, cars and businesses with the various insurance companies that want to cover them, are eyeing the future with particular caution these days.

Specialized Service

Typically the agent is a small-business guy down the street who will show you three in the morning to console and cheer you over the charred ruins of your car or who will help you with the paper work on your son's auto coverage. Not an easy job, certainly, but one that seeks to help entrepreneurs and the free

market, with deregulation shaking up the financial-services industry, the market is threatening to crush the few remaining independent agencies will last out the decade, many predict.

Hard times have begun to take insurance companies that sell corporate liability television or through schools of "captive" agents—the direct writers—have taken a hit from homeowners' and

What's News—

Business and Finance

FISCAL 1983'S DEFICIT could be less than \$200 billion, some \$10 billion narrower than estimated in July, Treasury Secretary Regan said. Treasury estimates for fiscal 1984 indicate the deficit could be in the range of \$165 billion to \$170 billion.

(Story on Page 3)

✓ **Marc Rich & Co. AG** and two top officers were charged with concealing more than \$100 million in taxable earnings in 1980 and 1981. The 51-count federal indictment asserted that the actions resulted in evasion of over \$12 million in U.S. taxes.

(Story on Page 2)

Housing starts rose 0.4% in August to an annual rate of 1,925,000 units, despite this summer's rise in mortgage rates. Last month's level was the strongest since December 1978. But a drop in building permits may portend a slowdown in construction.

(Story on Page 2)

Victor Technologies is expected to lay off another 200 employees today, to pare overhead costs. The layoffs, and expected efforts to consolidate operations, will contribute to a third-period loss that the company says will be about the same size as its \$11.1 million second-quarter deficit.

(Story on Page 4)

Insurance regulators who control six Baldwin-United units said their plan to "rehabilitate" the units would pay annuity holders interest rates as low as 3.6% and forbid complete withdrawals for at least 3½ years.

(Story on Page 4)

Northwest Energy asked the New York Stock Exchange to delay opening of its stock pending an announcement. The request came amid indications that Northwest was seeking peace with its high-flying but hostile acquirer, Williams Cos.

(Story on Page 2)

World-Wide

U.S. NAVAL GUNS WERE USED to help Lebanon's army defend Saida el-Gharb. It was the first time the U.S. has fired on targets to help support the Lebanese army. It also represented a significant expansion of U.S. involvement in the war. Officials have described two earlier instances of U.S. naval shelling as a defense of American personnel. (Story on Page 2)

The State Department emphasized that the naval firing didn't represent a change in the U.S. position on using firepower when Marines are threatened.

A revised plan for covert U.S. actions in Nicaragua will be considered today by the Senate Intelligence panel. It plans to vote quickly on whether to approve the proposal and suggest further funding. The CIA has been working on the plan showing why the U.S. has helped armed rebels fighting Nicaragua's government. (Story on Page 5)

Nicaraguan troops fought Honduras-based rebels trying to seize three provinces in eastern Nicaragua, the military said. It said 75 rebels were killed and 123 others captured. In El Salvador, heavy fighting was reported in Usulután province.

The U.S. won't block U.N. members who want to move headquarters out of the U.S. On the eve of the 38th annual General Assembly, U.S. delegate Charles Lichenstein said, "The U.S. mission will be down at the docks waving you farewell." Russia accused the U.S. of preventing Foreign Minister Gromyko from attending the session.

The South Korean jetliner shot down Sept. 1 formed part of a U.S. spy mission, Moscow charged. The Tass news agency also charged that the Boeing 747 was delayed 40 minutes during a refueling stop in Alaska so that an orbiting U.S. spy satellite would be in position to monitor the plane's intrusion over Soviet nuclear installations.

Polish officials warned of 20% to 40% increases in food prices. A Communist Party official in Warsaw confirmed reports of panic hoarding in some provinces.

Washington Public Power supporters in the Senate dropped a plan designed to help the project raise construction funds. Foes were prepared to filibuster the plan or to amend it substantially.

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Oil-Trade Tycoon In \$48-M Tax Rap

Marc Rich, LI Commodities Whiz, Indicted

Page 2



The destroyer John Rodgers, one of two U.S. ships that shelled Druse positions off Beirut's coast.

U.S. Ships Shell Druse Posts To Support Lebanese Forces

Page 5

U.S. Accuses Oil-Trade Kingpin Of \$48-Million Tax Fraud Plot

By Pete Bowles
and Barbara Fischkin

Marc Rich, the architect of a \$10-billion international commodities empire, yesterday was charged with evading \$48 million in federal taxes and illegally buying oil from Iran during the hostage crisis in what was described as the largest U.S. tax fraud plot ever prosecuted.

According to a 51-count indictment handed up in U.S. District Court in Manhattan, Rich, 48, two of his business associates, Marc Rich & Co. AG, their Swiss company, and Marc Rich & Co. International, its American subsidiary, concocted a scheme to conceal more than \$100 million in income during 1980 and 1981.

"They were able to do this by diverting profits on crude oil transactions out of the country to foreign corporations, including Marc Rich's Swiss company, the indictment said. The profits, characterized as 'huge' by federal prosecutors, were allegedly made by selling 'price-controlled domestic oil at uncontrolled prices."

Rich, on the Forbes Magazine's list of the 400 wealthiest Americans, also is the target of separate federal Energy Department investigation, looking at charges that his American subsidiary sold crude oil at illegally high prices, including Nigerian crude, sold to Atlantic Richfield during the Iranian crisis.

Rich, his business partner, and longtime friend, Pincus Green, 49, and an associate, Clyde Melitzer, 38, and the two companies are charged with violating the Racketeer-Influenced Corrupt Organizations Act. Under that statute, the government can collect triple damages. With that in mind, the defendants' assets, which include \$35 million in real estate and a major share of 20th Century-Fox Film Co., have been frozen.

Arrest warrants have been issued for Rich and Green, both of whom are believed to be in Zug, Switzerland, areas where their company headquarters are located. Each of the defendants also is charged with numerous mail and wire fraud violations. The defendants face terms of 20 years and \$25,000 fines on the racketeering charges and anywhere from 5 to 10 years on each of the other charges.

The indictment says that during the Iranian hostage crisis, Rich and Green purchased \$2 million barrels of crude and fuel oil from National Iranian Oil Co. after the Nov. 8, 1979, seizure of the American embassy in Tehran. After the hostage-taking, trade with Iran was declared illegal.

U.S. Attorney Rudolph Giuliani, who characterized the case as the largest U.S. tax fraud scheme, added that U.S.

banks were unwittingly used to transfer more than \$200 million out of the country to the Iranian oil company. The oil had been pre-sold in the United States. And, in a prepared statement, the U.S. Attorney's office said the defendants had been "adding the insult of tax evasion to the injury of deliberate violations of the federal oil price controls." Price controls ended in January, 1981.

Marc Rich International, which is now called Clarendon International, according to the indictment, arranged that barrels of "price-controlled oil" passed through the hands of numerous oil resellers in what is known as "daisy-chain" transactions, all with the objective of making it easier to falsely alter the certificates of the barrels to uncontrolled oil. The indictment charges that this enabled International to buy the oil back and sell it at higher, "unfixed" prices.

According to Giuliani's statement, the use of third-party oil resellers and "sham oil transactions" enabled the defendants to make it seem as if the profits belonged to the Swiss parent company which does not pay American income taxes. The defendants are also charged with arranging more than \$33 million in fraudulent tax deductions.

The indictment stems from a 1½-year investigation by a federal grand jury which until now has gained worldwide publicity from its partially successful attempts to obtain business documents from the Rich empire.

This summer, the Swiss government seized a number of the documents in question, saying it wanted to make sure that Rich would not be breaking the country's "economic espionage" law by handing them over. That move led to speculation that Rich, whose company is a large Zug taxpayer, was in cahoots with the Swiss government. After the documents were seized, Rudolf Moesmann, the prosecutor for the Canton of Zug, and a director of Marc Rich AG, temporarily stepped down from his position as prosecutor.

Marc Rich AG has been paying a \$50,000-a-day fine levied when it refused to produce all the documents. And in what prosecutors view as an attempt to stymie the legal process, Rich used his own company and sold his American subsidiary to some of his foreign partners. This summer, one of his employees was caught trying to fly two trunks of documents to Switzerland.

Rich, who has refused a half dozen requests for interviews, could not be reached. Meanwhile, the Belgium-born commodities trader, who speaks English, French and Spanish, reportedly had tried to become a Spanish citizen.



The secretive Marc Rich outside his home recently in Zug, Switzerland.

Millionaire Who Doesn't Look It

By Barbara Fischkin

Lido Beach — Marc Rich's name may be his most ostentatious trapping. At 48, he is one of the foremost oil traders in the world, with a personal fortune reported to be about \$100 million.

His two-story oceanfront home in Lido Beach cost only \$250,000. And his fiber-glass boat, with an inboard motor, is only 20 feet long. Says neighbor Al Hersh: "One day, I saw him picking up trash. I didn't know he was one of the richest men in the world."

Rich, a balding family man, has spent the past few summers at his home here with his wife, Denise, and their three daughters. This summer, he is reported to be at his company headquarters in Zug, Switzerland, a picturesque provin-

dial capital that looks up at the fruit-tree covered slopes of the Zugspitze, a 9,365-foot mountain.

But wherever he goes in the world, he seems to leave the same impression. Says London businessman John Hughes: "You wouldn't know him from a 190,000-a-year bank executive."

And that's the way Mary Rich likes it. In less than 10 years, he turned a fledgling firm into an international money-making conduit for more than \$10 million in commodities — a financial feat one analyst calls "rare if not unprecedented." One of his companies was the silent partner in the purchase of 20th Century-Fox Film Corp. The story that circulated in the commodities market was that...

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Vegas Thieves Had the Right Pull

Las Vegas (UPI) — Ill-told criminals who triggered a \$1 million world-record slot-machine jackpot may have purchased a similar machine and planned the job for several years before staging the crime in a busy casino's manufacturing executive suggested yesterday.

International James Technology manufactured the slot machine targeted for a jackpot that Aug. 18 at Harrah's hotel-casino in Lake Tahoe. The firm's vice president, Ray Pike, said

a news conference yesterday. "Once you have purchased one of these machines, there are devices, not inexpensive, that assist in working on and analyzing these machines."

Pike stopped short of saying organized criminals actually purchased a machine similar to the one on which Gus Econopoulas, 61, a retired San Francisco warehouse worker, won the record jackpot last month. It occurred at the same time a surveillance camera at Harrah's broke down.

But Pike said company records showed that 2,000 to 3,000 such machines have been sold to individuals in Nevada over the past several years.

This operation probably took five years to plan and cost \$400,000, said Pike.

Econopoulas collected only the first \$200,000 of the \$1,701,935 jackpot before Nevada Gaming Control Board agents discovered the plot to cheat the casino.

The Gaming Control Board said last

week that a plot cheating gang had rigged the machine through sophisticated electronic manipulation. Gaming agents told Harrah's not to pay off the remainder of the jackpot. State agents said Econopoulas admitted taking part in the scheme. No charges have been filed against Econopoulas.

"There are several ways to alter a machine," Pike said. "He did not discount the possibility that the computer program was bypassed by a sophisticated method."

...he said, for about \$350,000 worth of roadway and parking lot improvements. — Tom Ichniowski

Rich Maintains a Modest Exterior

—Continued from Page 3

was that Rich bought his share by writing a \$200 million check.

His world is one in which corporations treat governments like fallow corporations. When Nigeria was selling its crude oil to American companies in the wake of the Iranian embargo, the middleman was Marc Rich.

"We had never had any relationship with the Nigerian government," says Richard Morse, an attorney for Atlantic Richfield Co., which was losing 200,000 barrels of crude oil a day during the crisis. "We had tried several times. The Nigerian government was one which liked to deal with people it knew. It had dealt with Rich and knew him. So we were finally unsuccessful in being able to persuade them to sell us crude oil when we had made attempts to do so directly."

But until recently, Rich himself generated as much publicity as a middle-level manager in his worldwide company, which deals in a broad range of commodities, particularly petroleum and metals. Then a federal investigation — which first made headlines this year and resulted in yesterday's indictments — thrust Rich into the kind of spotlight shunned by the international fraternity of traders.

Rich has refused repeated requests for interviews, but business associates, investigators and others who know him have provided the following details.

He was born in Belgium on Dec. 18, 1934, and later fled to the United States to escape the Nazis. By the time he was 16, his father, David, who worked for Alarose Bag and Burlap Co. in Manhattan, had made enough money to send him to the Rhodes School for his senior year.

"He might have been a business genius but an academic genius he was not," says Donald Nickerson, headmaster of the school. He said Rich was a "B" student but "people thought very highly of him. He got very top ratings for seriousness, initiative, concern for others, responsibility, emotional stability."

The young Rich then went on to New York Univer-

sity's School of Commerce. But he left after a year for a more practical education: a job in the "rates and roots" department of Philip Brothers Inc., a large metals trading house. He learned the business the way almost every other trader did — from the bottom up. It was Rich's job to find the cheapest, quickest routes for cargo. The clerks who showed expertise at this were promoted to assistant trader and later to trader. Rich distinguished himself so well that he became the protégé of Ludwig Jesselson, who was then the company's chairman and chief executive.

Traders who knew Rich during the two decades he worked for the company, now part of Phibro-Salemon Inc., remember the deft way he parlayed one contact into another. In one case, he used the connections he had in the chromium trade in Iran as his entree to oil suppliers there. By the early 1970s, he had made the company supreme among oil traders.

But in 1974, when the company refused to pay him a \$1.5 million commission, Rich quit. Along with other investors and several traders lured away from Phibro, he formed a new company. His co-founders included former Phibro trader Pinchas Green, who also was indicted yesterday. Rich was serious. Green craved good jokes. The business community once credited them with singlehandedly jacking up the worldwide price of oil.

Rich had an uncanny ability to see a great deal before anyone else, evidenced by the way he cornered Nigerian crude months before any other trader or even imagined there would be an embargo on Iranian oil.

"It was a stroke of luck and guts," says one former business associate. "He signed the contract as we understand it, prior to anything happening in Iran. For three or four months prior to that he lost what I would consider a lot of money. But a supply of crude you can count on. Long term you'll make money on it, but you'll have to be able to handle the bad times. I think the man was a genius." He has almost a sixth sense about the oil business.

"They were tough," says Ronald Herman, a scrap dealer who has done business with Rich and Green. "They got into the business and they were able to lure some of the better scrap traders. I found them to be hard, not easy to deal with. But I had a couple of pieces of business where I made some money with them. There was nothing that they did that was ever unethical. They were just very tough."

And they kept their dealings to themselves. "In commodities trading, if you're not secretive, you're dead," says analyst Arthur Carp.

"Nobody wants to sell at the bottom. Nobody wants to buy at the top. And that's why information is so zealously guarded."

Fellow commodity traders — who share Rich's penchant for privacy — are rattled by one particular element of the current investigation. The U.S. government has been making a relentless effort to obtain documents that could reveal the workings of Rich's firm and set precedents to obtain similar papers from other international traders.

To Rich and many other traders the investigation amounts to interference; they believe they are working on a world stage beyond the jurisdiction of any one nation.

Alexander Hackel, chief executive officer of Marc Rich AG, has written in court papers that the company is "a Swiss corporation neither doing business within nor subjecting itself to the authority of the United States." He characterizes the courts' attempt to prove jurisdiction over the company as "an unjustified extension of the power... which should be shunned because of the harm it may do to the interest of the international business community."

Paul Erdman, a former Swiss banker who now writes novels about international business, says the high stakes traders of the commodities market do not consider themselves obligated to any particular nation. "What they have is an international floating crap game and there are no rules governing international floating crap games."

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Marc Rich's Recipe for Hiding \$100 Million: First, Get a Big Pot . . .

The federal indictment outlines a complex scheme by which Marc Rich and Pincus Green, prosecutors contend, earned \$71 million in illegal profits from the U.S. operations of Marc Rich & Co. International Ltd. and later diverted the income offshore to International's Swiss parent, Marc

Rich & Co. AG. The pair allegedly hid another \$33 million from U.S. tax authorities through sham crude oil transactions designed to register huge losses on Marc Rich International's books. The Marc Rich "recipe" for the scheme, as described in the indictment, called for three steps:

Step 1: Illegal Profits

Marc Rich International moved cheap, price-controlled oil through a "daisy chain" of resale deals from which it emerged, mislabeled, as high-priced, uncontrolled crude. It sold the oil into the chain through West Texas Marketing Corp., a domestic crude oil trader, which promised to sell it back to Marc Rich as uncontrolled oil for a fraction of the market price. Marc Rich International reaped huge profits when it sold the mislabeled oil at world market prices, despite federal regulations limiting the average markup for crude oil resales to 20 cents a barrel.

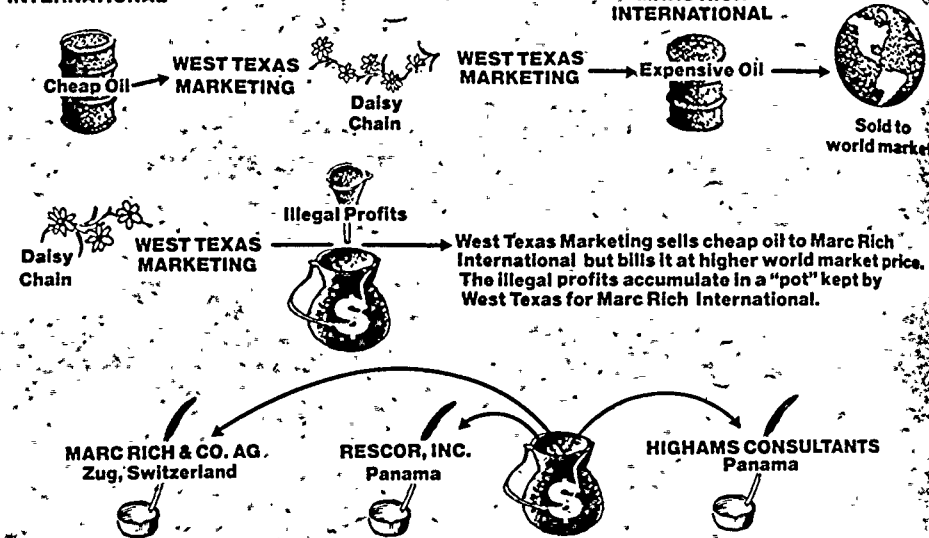
Step 2: Filling the Pot

When Rich and Green realized that Marc Rich International would be forced to file a U.S. tax return on the illegal profits, they added a new wrinkle to their deal with West Texas Marketing. West Texas would bill Marc Rich International at the higher world market price for the mislabeled crude, but agreed to kick back the difference between the low, controlled price and the invoice price. As a result, none of the profits ended up on Marc Rich International's books. Instead, they accumulated in a "pot," the Texas company maintained for it. More than \$23 million in illegal profits went into the West Texas "pot" between October 1980 and May 1981. A similar arrangement between Marc Rich International and another Texas oil reseller, Liso Petroleum, netted \$47 million for a separate "pot."

Step 3: Moving the Profits Overseas

To ladle profits from the "pots" to Marc Rich AG's foreign bank accounts, the traders engineered a series of sham transactions. In these deals, Marc Rich AG first would sell foreign crude oil to West Texas and Liso and on the same day the Texas companies supposedly would resell it, at a \$3-a-barrel loss, to Marc Rich's Panamanian subsidiaries, Rescor Inc. and Highams Consultants. A total of \$71 million moved offshore to Marc Rich AG in Switzerland in this way, ostensibly to pay for the foreign crude. Separately, Marc Rich fabricated invoices to transfer another \$33.7 million in profits from New York to Switzerland.

MARC RICH INTERNATIONAL



Forging Links in the Chain

The Justice Department's Case Against Marc Rich

By JAYE SCHOLL and LAWRENCE J. TELL

UNFATHOMABLE crimes unsettle the mind. They leave questions and no resolutions. For a while, the crimes that the Justice Department says Marc Rich and his partner, Pincus Green, committed seemed just that, unfathomable. Both men are fabulously wealthy. Why would they risk a reckless route to ruin by evading U.S. income taxes?

The answer became stinging clear when they were indicted last week. If the government's charges are true, Rich and Green had no choice. They couldn't pay millions of dollars they owed in taxes because their profits were illegal. It was the same problem any cocaine dealer or gun-runner faced, except Marc Rich and Pincus Green probably made more money than the best-connected drug dealer. In just two years, Rich and Green had such staggering illegal profits that they evaded more than \$100 million in taxes owed, not income, by shifting money to their foreign companies. They allegedly reaped the enormous profits by trading cheap oil at high prices in violation of the Department of Energy's price controls. And once they had the profits, they had to find a way to hide them, and ultimately, get them out of the country.

How they supposedly did that makes the indictment intriguing reading. It may make a powerful case, too. But there are some hurdles. Rich reportedly listened to news of his indictment as a "guest" of Switzerland. Yet, a year and a half ago, about the time the grand jury issued its first subpoena, Marc Rich

started lining up a more permanent refuge in Spain, where he has owned a villa for more than a decade. Last month, he renounced his American citizenship and asserted his new Spanish nationality, according to Spanish and American sources.

Spain not only has the glorious, sun-drenched Costa del Sol, but one of the best extradition treaties with the U.S. for a person in Marc Rich's predicament. That's because Spain apparently won't extradite a new citizen who committed crimes before becoming Spanish. Many other countries will. A quick assessment of the extradition treaty looks like "Spain does the trick" for Rich, as a State Department official put it. Since Marc Rich and Pincus Green can't be tried unless they are in the U.S., the question of whether Marc Rich, at least, will be extradited may soon switch from Switzerland to Spain. As far as is known, Green still remains a U.S. citizen.

The indictment says Rich and Green devised a scheme to stash illegal profits in "pots" hidden for them by two small oil companies. The two companies tended the two pots, holding \$71 million, and then ladled the illegal profits into the coffers of Panamanian and Swiss companies owned by Rich and Green. They did that in a series of sham transactions, arranged by Rich, by buying crude oil from Rich and Green's Swiss company and on the same day, reselling it to Rich and Green's Panamanian subsidiaries at a loss. Rich and

Green's foreign companies racked up huge profits, all of which were untouchable by the IRS, but more important, hidden from the Department of Energy whose oil price-control laws they had violated. U.S. Attorney Rudolph Giuliani called this double affront—making illegal profits and then not paying taxes on them—an act of adding "insult to injury."

In a separate scheme outlined by *Barron's* last week, Marc Rich International rerouted another \$33 million directly to its Swiss parent company, buying oil from the Swiss company and selling it at a loss in the U.S. Those two schemes, which put more than \$100 million income beyond the reach of the IRS, makes this the biggest tax evasion case the Justice Department has ever prosecuted. It's unlikely that record will be broken for a long, long time, especially since the Justice Department is about to amend the indictment and accuse them of evading twice as much as in the original indictment.

That's enough, but that's not all Marc Rich and Pincus Green did, insists the government. The level of indignation rose in Assistant U.S. Attorney Morris Weinberg Jr.'s voice during a press conference last week, as he charged that the pair traded oil with the National Iranian Oil Co. during the Iranian hostage crisis. With traces of his Chattanooga, Tenn., accent surfacing, "Sandy" Weinberg emphasized that Rich and Green were "American citizens doing business in the United States," but

who nevertheless "traded with the enemy"—sending \$200 million that should have been frozen in U.S. banks to the Ayatollah Khomeini.

For these and numerous other alleged crimes, the two 49-year-old men each face 325 years in prison if convicted. Those are big numbers and not very likely to stick. But they do make it easy to understand the U.S. Attorney's Office's aplomb when Rich and Green's lawyers tried plea-bargaining for four to five years in jail for their clients in exchange for dropping the investigation. The offer was rejected, as reported by *Barron's* last week. (A third man, Clyde Meltzer, was also indicted. Meltzer, who faces only 140 years in prison if convicted, is a vice president for one of the two small oil companies tending the pots. Sometime this summer, Meltzer moved from Texas to New York because he got a new job: he trades crude oil for Clarendon Ltd., a Marc Rich & Co. spin-off company.)

Rich and Green's scheme might have gone unnoticed forever if Atlantic Richfield Oil Co. had not supplied information, according to those familiar with the investigation. ARCO dealt frequently with Marc Rich & Co. International during the second oil crunch in 1980. With a large part of its daily oil requirements cut off by the Iranian revolution, ARCO turned to Marc Rich International, which held huge supplies of Nigerian crude oil under contract. ARCO got its oil, but it paid dearly for it.

ARCO denies that it was the catalyst for the uncovering of the alleged design of deceit, but acknowledges it supplied information to the grand jury about its transactions with Marc Rich and that some of its employees testified after being subpoenaed. So far, that's the extent of ARCO's involvement.

Exxon Corp., Mobil Corp. and Shell Oil Co. also supplied documents to the government, company spokesmen said, but Mobil's records weren't subpoenaed.

The young team of attorneys—Weinberg is 33 and Jane Parver, the chief of the major crimes unit, is in her mid-thirties—applied the no-nonsense "Racketeer Influenced and Corrupt Organization" statute, a law that has sent shivers through more than one accused. The dimensions of the alleged crimes are so enormous, so complex that the Justice Department required 56 pages to outline them. There are 51 counts. Marc Rich and Pincus Green—were charged with all 51: racketeering conspiracy, racketeering, tax evasion, mail fraud, wire fraud and trading with the enemy. Meltzer was charged with 22 counts. The only thing he failed to do, according to the indictment, was trade with the enemy. The two companies, Marc Rich & Co. AG and Marc Rich & Co. International, were also indicted on 41 counts of racketeering, racketeering conspiracy and mail and wire fraud. Marc Rich International was also charged with two counts of tax evasion.

Some of the charges arise from small actions. For example, once a month, for four months in late 1980 and early 1981, according to the indictment, Rich, Green and Meltzer used the U.S. Postal Service's Express Mail to send false statements about their profits to the Department of Energy. That netted the defendants four counts of mail fraud.

Other counts tell of more sophisticated schemes. When Rich and Green bought oil from Iran during the hostage crisis, they devised a secret code, according to the indictments, and used it for their communications. Coded telexes were kept in their New York office, the government maintains.

The heart of the indictments, however, alleges a complex scheme by which Marc Rich and Pincus Green earned \$71 million in illegal profits from the U.S. operations of Marc Rich & Co. International Ltd. and later diverted the income offshore to International's Swiss parent, Marc Rich & Co. AG. The two men allegedly hid another \$34 million from U.S. tax authorities through sham crude oil transactions designed to register huge losses on Marc Rich International's books.

The indictment is remarkable in its breadth. Reading it, it's understandable why the

Continued on Next Page

Why ZWEIG's key rule for survival and success says...

STOP!

STOP your losses quickly but let your profits run. Here's exactly how Zweig does it:



Martin E. Zweig, Editor,
The Zweig Forecast

Let's face it. No one is smarter than the market all of the time. Even that Wall Street "legend," Bernard Baruch, went broke early in his career...and the greatest speculator ever, Jesse Livermore, made a \$1 million or more four different times only to lose it all back every time.

But Livermore was truly brilliant and he learned enormously from his mistakes. Indeed, Livermore's own words of more than 60 years ago say it all: "A loss never bothers me after I take it. I forget it overnight. But being wrong—not taking the loss—that is what does the damage to the pocketbook and to the soul. Of all speculative blunders there are few greater than trying to average a losing game. Always sell what shows you a loss and keep what shows you a profit."

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I'm pretty proud of my own record. I got my subscribers out of just about all stocks before the October Massacres of 1978 and 1979, the huge selloff in February-March 1980 and the big drop in the summer of 1981...during which I even showed profits on some short sales. And after each of those market breaks I put subscribers back into stocks, making money every time. (Do not assume, however, that future results will match past or be profitable.)

But suppose I go wrong on the market? Or, at the least, let's say out of the dozens of stocks I recommend, some of them head south. What then? When any one of my stocks buckles, you'll know exactly what to do...and more importantly, you'll keep the bulk of your bankroll intact. How? By following my suggested **STOP** points on every single recommendation I make.

WHAT IS A STOP?

A Stop order can be placed directly with the specialist through your broker. It directs the specialist to sell your stock "at the market" the moment it hits your Stop point...or "trigger price." Or, for OTC stocks (where there is no specialist) or on the Amex where Stop rules are a bit different, you may want to use "mental" Stops. That is, when the price falls to your trigger point, you have your broker sell you out right away.

The purpose of a Stop is to stay consistent with Jesse Livermore's rules...to let your profits run but to cut your losses short. If you buy a stock at say \$20, you won't be too badly hurt Stopping yourself out at say \$17 for a 15% loss. You'll still have the bulk of your capital left. But if you stay paralyzed while your stock drops to say \$10, you've got big financial problems. Once your stock is cut in half, it takes a double just to get you even again. Do you know how hard it is to find stocks that double? Worse, if your \$20 stock falls to \$5 (a 75% loss), you'll need a 300% climb to break even. So, it's sheer folly to let losses get out of hand. Remember: **YOUR FIRST LOSS IS YOUR BEST LOSS!**

LOCKING IN PROFITS

So, I always use **STOPS** in my advisory letter, **THE ZWEIG FORECAST**. After I pick a stock, I typically set Stops about 10% to 20% below the buy price. The exact level depends on my own analysis of the stock's trading pattern and the experience I've gained from my more than 20 years in the market. If the stock drops right away—which is about the worst thing that can happen—I'm Stopped out with a moderate loss...but I've got most of my money left. That gives me the opportunity to find a better stock. That's right: A small loss, when realized, becomes an opportunity for profit elsewhere. It gives you the chance to turn a liability into an asset, instead of just sitting there, and praying that your old stock will come back.

If my stock goes up, I raise the Stop to lock in profits. The more the stock rises, the more I raise the Stop (though I might give the Stop a bit more distance than at first). In other words, I try to let my profits ride...but with the protection of the trailing Stop. Finally, when the market turns down, I'll be taken out with my Stop, sometimes with big profits. But I'll be back in gear with the tape. By using Stops, I let the market tell me what to do. And I sleep a lot better at night knowing that my Stops will keep losses from getting out of hand and that the Stops will lock in nice gains on any stocks on which, fortunately, I may have big paper profits.

PHONE SERVICE FOR STOPS

You don't have to use my exact Stop points. But my Stops should be useful guides for you if you're following my stock selections. Also, I don't keep you hanging between issues of *The Zweig Forecast* in these days of wildly gyrating markets. I have a **PHONE SERVICE** which is included with your subscription. For no extra charge, you get our unlisted phone number (it changes every two months) which hooks up to all of our 48 private phone lines. At least twice a week, plus on any day when the market is "hectic" you'll hear a 2-3 minute recording which I make personally. I give you the latest update on my market indicators, pick new stocks, sell off older ones, and most importantly, change Stop points on current holdings. So, as prices quickly change, you can update my suggested Stop points by simply dialing the phone.

In sum, I try to do what's best for my valued subscribers, even when I'm wrong. Remember, when you use Stops, you can cut your losses short and keep enough money to come back again. It's downright senseless to get buried in a stock because you or your advisor gets stubborn when it falls. I keep a list in every issue of all recommendations not yet sold out. The list includes the initial buy price, the percentage change since bought, my own computer rating on the stock and above all, the suggested Stop point. And, of course, between issues my **PHONE SERVICE** keeps you abreast of all changes in Stops, your insurance.

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FORGING LINKS.

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government's investigation took a year and a half.

The government says Marc Rich International launched its scheme through a "daisy chain," a benign-sounding label for a scam to circumvent federal price controls on so-called "old" oil. Old oil sold cheap under the controls, but "stripper" oil from wells that produced less than 10 barrels a day wasn't controlled. So the chain amounted to a series of resale deals designed to transform low-priced "old" oil into expensive "stripper" oil. Marc Rich

International allegedly played one daisy chain by selling "old" oil to West Texas Marketing Corp., a domestic crude oil firm in Abilene, Texas, which promised to sell it back to Marc Rich for a fraction of the market price. Cheap crude that Marc Rich International sent through the chain emerged, courtesy of West Texas, with labels falsely identifying it as high-priced, uncontrolled crude. When Marc Rich International sold the mislabeled oil at world market prices, the government charges, it reaped huge profits.

The same deal was cut with a Houston-based company,

Listo Petroleum, according to the indictment. To fuel the Listo daisy chain, Marc Rich bought 18 million barrels of Alaskan North Slope oil from Arco. Later, Rich and Green told Arco to switch the contract directly to Listo.

So much money rolled in through the two schemes—\$71 million, according to the indictment—that Rich and Green soon faced a unique, if not totally unpleasant, problem. The daisy-chain profits were earned in violation of federal law, first because the crude's origins had been disguised and second, because crude resellers normally could add only 20 cents a barrel as their markup. Since Mark

Rich International would be forced to file a U.S. tax return on the illegal profits, Rich added a new wrinkle to his deal with West Texas and Listo. The Texas companies would bill Marc Rich International at the higher world market price for the mislabeled crude but agreed to kick back the difference between the low, controlled price and the invoice price. As a result, none of the profits ended up on Marc Rich International's books but accumulated instead in a "pot" the Texas companies maintained for it. More than \$23 million in illegal profits went into the West Texas Marketing "pot" between October 1980 and May 1981. Justice cal-

culates that another \$47 million ended up in a separate pot that Listo tended for Marc Rich International.

To move funds from the "pots" to Marc Rich AG's foreign bank accounts, the traders allegedly engineered a series of sham crude oil transactions. As the government tells it, in these deals, Marc Rich AG first would sell foreign crude oil to West Texas and Listo and later that same day the Texas companies would supposedly resell it, at a \$3-a-barrel loss, to Marc Rich's Panamanian subsidiaries, Rescor Inc. and Highams Consultants. Eighteen separate sham transactions, which even named the tankers carrying the same-day crude, were used to move a total of \$71 million offshore to Marc Rich AG in Switzerland.

Separately, it is charged, Marc Rich fabricated invoices to transfer another \$31 million in profits from New York to Switzerland. The Swiss company, Marc Rich AG, sold foreign crude at deep discounts to Charter Crude Oil Co.'s Bahamian subsidiary while Marc Rich International in the U.S. bought controlled domestic oil from Charter. The controlled barrels went into the West Texas daisy chain and Marc Rich International again earned tremendous profits. The government contends that, to send them offshore, Marc Rich ordered his comptroller to draw up phony invoices that made it appear that Marc Rich AG actually made the profit on the Charter deals. The invoices were later destroyed and replaced by new ones, sent from Switzerland, that looked more authentic.

All of the details behind these alleged schemes won't emerge until the trial.

But all of that is a long way off. The government's investigation continues. Prosecutors already have in hand enough evidence to double the ante against Marc Rich by charging that he and his companies evaded another \$48 million in taxes through similar crude-oil scams. What other companies and individuals their net will haul in remains to be seen. The trial may take months. Meltzer apparently is still in New York, but Rich and Green were last heard from in Zug, Switzerland, a small Swiss tax haven and the headquarters for Marc Rich & Co. AG. The arraignment is set for this Thursday in New York.

If Rich finds sanctuary in Spain, the next question is whether Switzerland will extradite Green. Or will Green extricate himself from a haven so foreign from the close-knit Brooklyn Jewish community in which he felt so much at home? Though both men have deep ties to New York, Pincus Green is less likely than his more urbane, Belgian-born partner to relish the life of an international fugitive from U.S. justice.

Even if neither man returns, voluntarily or otherwise, to an-

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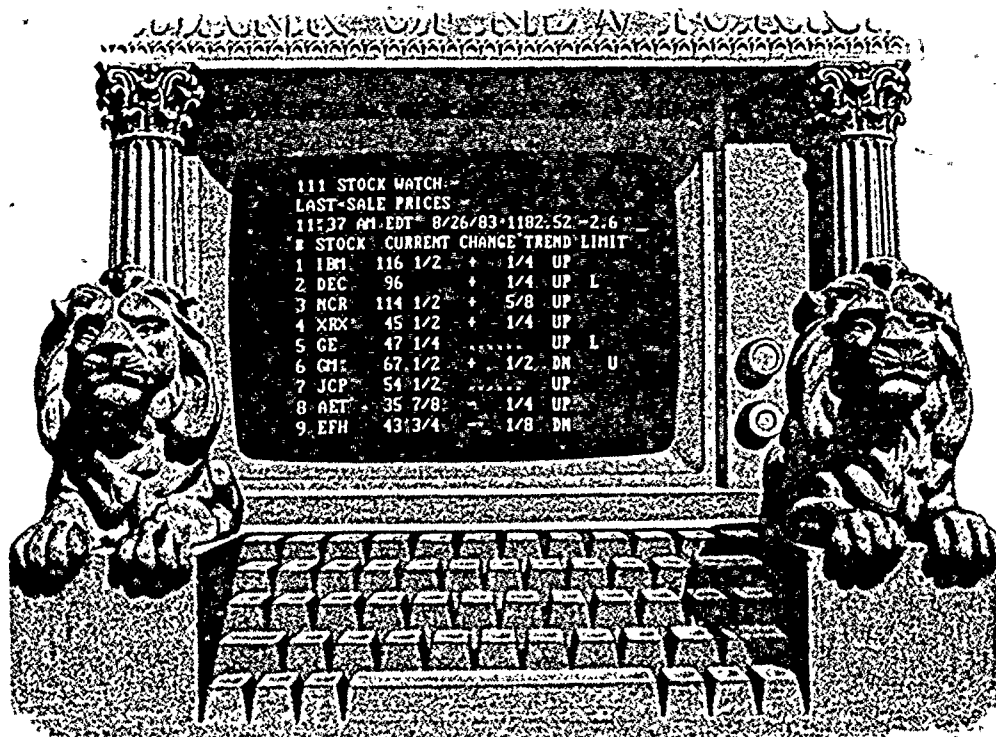
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FORGING LINKS

Continued from Page 32

swer the charges, the government is prepared to move to trial against their two companies, Marc Rich International and Marc Rich AG. Both firms face racketeering counts that could force the seizure of their considerable U.S. assets. That includes 50% of 20th Century-Fox Film Corp., which Rich obtained in 1981 as the silent partner of Denver oil tycoon Marvin Davis. Court orders freezing "hundreds of millions of dollars" in Marc Rich assets were obtained last week hours before the indictments were disclosed.

If the companies are convicted, the government could end up with more than enough cash to satisfy the multimillion-dollar tax bill Marc Rich and Pincus Green left behind. And the two commodities traders would surely see the destruction of the business empire that made them fantastically wealthy fugitives from their homes.

Extradition is problematic at this point, if only because goodwill between the U.S. and Switzerland has suffered lately in a tug-of-war over Marc Rich & Co.'s corporate records in Zug. The Swiss have balked at the

U.S. government's style in requesting them. To the Swiss, it comes down to manners. They would release the documents, but in effect, they want the U.S. government to say, "please."

Having looked over the documents in Zug, Swiss authorities "have concluded that there is a case of tax fraud," according to Juerg Leutert, legal attache to the Swiss Embassy in Washington. In any case, U.S. authorities don't even have to prove tax fraud, to get the Swiss to release the documents, Leutert insists. All they must do, he claims, is show probable cause under a request for "mutual assistance," and Switzerland

could have the documents turned over to the U.S. "in three weeks."

Not good enough, the Justice Department argues. The documents that the Swiss would turn over would have the names of third parties blocked out and hence can't be admitted into court as evidence. The Justice Department believes that a request for documents without the names blocked out would thus delay the case for months, if not years. And furthermore, it adds, the Swiss' reasons for protecting the documents are simply wrong. The Swiss think Marc Rich AG is a Swiss-based corporation that did no business in

the U.S., and is therefore not subject to U.S. subpoenas. An American delegation flew to Bern, the Swiss capital, in early September in an attempt to persuade the Swiss that Marc Rich AG did, in fact, do business in the U.S., so there was no justification for protecting the documents. And last week, even the lawyers for Marc Rich AG withdrew affidavits from the court record which swore that Marc Rich AG never did business in the U.S.

"The issue of whether Marc Rich AG does business in the U.S. is irrelevant to us," counters Leutert. "The point is that a foreign nation cannot subpoena a Swiss entity. Only Swiss authorities can do that." But a larger problem for the Swiss looms here. The tax haven business is one of Switzerland's largest industries. And there are dozens of countries ready, willing and able to offer a home to corporations if the fabled Swiss wall of secrecy suddenly seems penetrable.

The U.S. State Department is caught in a delicate bind. It wants to help the Justice Department, but needs to tread lightly in dealing with the Swiss. Although a neutral country, Switzerland has been considered a friendly country, if not an allied one, to the U.S. Furthermore, the documents aren't crucial. The prosecutors could try the case they laid out thus far without them. But if they had them, they could try the much larger tax evasion scheme more easily, as well as possibly discover more names and companies involved in the alleged scams.

The extradition question is tricky. Arrest warrants have been issued for both men, but the Swiss will not extradite people unless the crimes they committed in their own countries are crimes in Switzerland, and even then extradition isn't automatic. Tax evasion, a case of not reporting income, is not a crime in Switzerland, so that's out. Tax fraud, a case in which a person supplies false information to bolster false income tax returns, is a violation in Switzerland, but not an extraditable one. So that's out. Under a 1900 treaty, forgery is an extraditable offense, but not if the forgery was done just to commit tax fraud. So that's out. Or is it?

Remember that Rich and Green's first alleged crime was trading oil at illegally high prices. In the process, they had to falsify transactions. They did this to escape detection by the Department of Energy, not the IRS. Under Swiss law, submitting false invoices for the purposes of hiding illegal profits counts as forgery and would be an extraditable offense, according to Leutert. So far, the Swiss and the U.S. have not met to discuss extradition procedures.

The unfolding international drama in the Marc Rich case will move to yet another locale if Marc Rich flees to Spain. The young prosecutors had better be prepared to follow. ■

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Date (9/22/83)

009

FM NEW YORK (196A-1774) (M-1) (P)

TO ~~DIRECTOR (196B-2848) (ROUTINE)~~

BT

UNCLAS

MARC RICH; PINCUS GREEN; [REDACTED] MARC RICH & CO., A.G.,

MARC RICH & CO., INTERNATIONAL, LTD.; AKA "CLARENDON A.G.";

RICO - FBW - MF - TAX EVASION - "TRADING WITH ENEMY" (OO: NY)

PURPOSE OF COMMUNICATION TO KEEP FBIHQ ADVISED OF DEVELOPMENTS
 IN CAPTIONED.

AS OF [REDACTED]

[REDACTED]

JUDGE SAND WILL HOLD A HEARING ON THE QUESTION

WHETHER [REDACTED]

[REDACTED]

IN A HEARING BEFORE JUDGE SAND, [REDACTED]

THE

1 - NEW YORK
 1 - SUPV. M-1

MEB:mms

(2)

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196A-1774-162 3

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PAGE TWO

NY 196A-1774

UNCLAS

GOVERNMENT STATED THAT THE GRAND JURY IS CONTINUING TO INVESTIGATE:

[Redacted]

b3

REGARDING THE

[Redacted]

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PAGE THREE

NY 196A-1774

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ON SEPTEMBER 29, 1983, ARRAIGNMENT FOR CAPTIONED WILL BE HELD.
RICH AND GREEN NOT EXPECTED TO ATTEND.

BT

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MARC RICH; PINCUS GREEN; [REDACTED] MARC RICH & CO., A.G.,

b6
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MARC RICH & CO., INTERNATIONAL, LTD.; AKA "CLARENDON A.G.";

RICO - FBW - MF - TAX EVASION - "TRADING WITH ENEMY" (OO: NY)

PURPOSE OF COMMUNICATION TO KEEP FBIHQ ADVISED OF DEVELOPMENTS
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AS OF [REDACTED]

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JUDGE SAND WILL HOLD A HEARING ON THE QUESTION

WHETHER [REDACTED]

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IN A HEARING BEFORE JUDGE SAND, [REDACTED]

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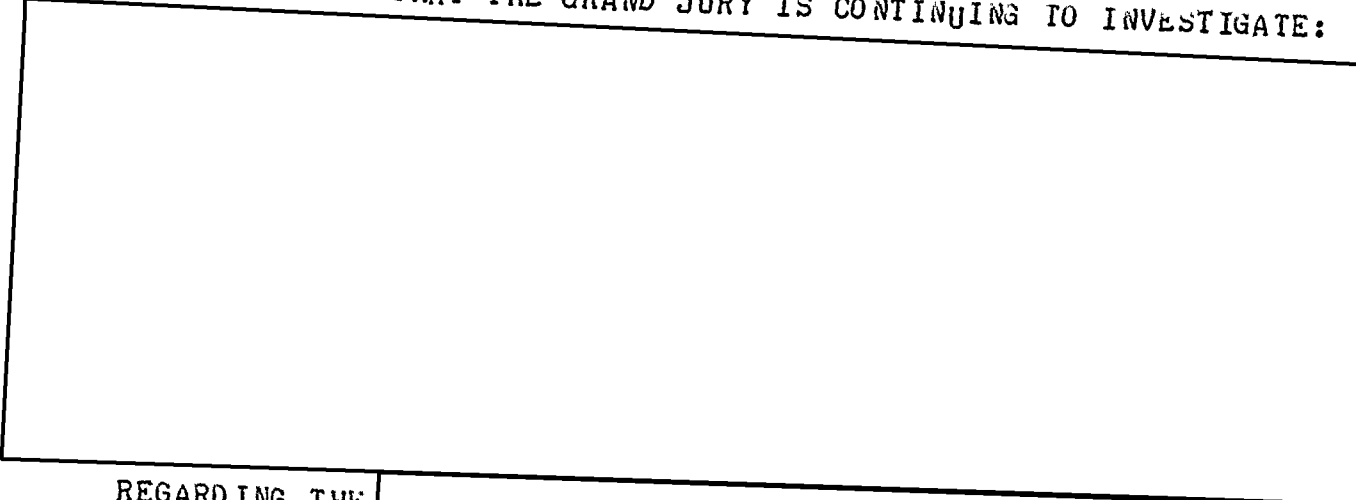
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PAGE TWO

NY 196A-1774

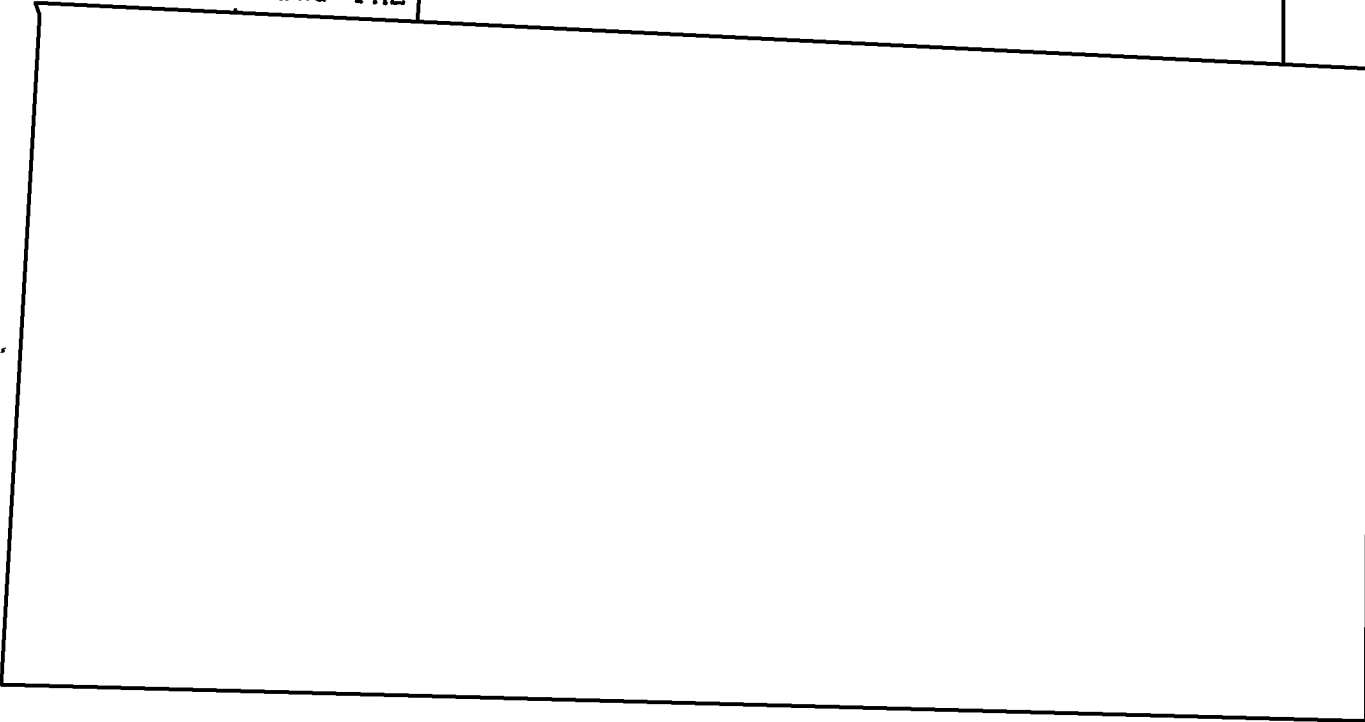
UNCLAS

GOVERNMENT STATED THAT THE GRAND JURY IS CONTINUING TO INVESTIGATE:



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REGARDING THE



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PAGE THREE

NY 196A-1774

UNCLAS

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ON SEPTEMBER 29, 1983, ARRAIGNMENT FOR CAPTIONED WILL BE HELD.
RICH AND GREEN NOT EXPECTED TO ATTEND.

BT

9/23/83

Date _____

TO: DIRECTOR, FBI

196B-2848

Bureau File Number

NEW YORK

FROM: SAC
SUBJECT: MARC RICH,
PINCUS GREEN.

196A-1774

Field Office File Number

M-1

Squad or RA Number

☐ - X if a joint FBI/DEA (or other Federal Agency **) operation.

☐ if case involves corruption of a public official (Federal, State or Local).

Investigative Assistance or Techniques Used

Were any of the investigative assistance or techniques listed below used in connection with accomplishment being claimed? ☒ No ☐ Yes - If Yes, rate each used as follows:

- 1 = Used, but did not help
2 = Helped, but only minimally
3 = Helped, substantially
4 = Absolutely essential

1. Acctg Tech Assistance	Rating	6. ELSUR - Title III	Rating	11. Lab Div Field Support	Rating	16. Show Money Sqd Asst Usage
2. Aircraft Assistance		7. Hypnosis Assistance		12. Pen Registers		17. Surveill. Sgd Asst
3. Computer Assistance		8. Ident Div Assistance		13. Photographic Coverage		18. SWAT Team Action
4. Consensual Monitoring		9. Informant Information		14. Polygraph Assistance		19. Telephone Toll Records
5. ELSUR - FISC		10. Lab Div Exams		15. Search Warrants Executed		20. Undercover Operation
						21. Visual Invest - Analysis (VIA)

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MARC RICH & CO., AG
MARC RICH AND CO.
INTERNATIONAL;
RICO; MF; FBW -
TAX EVASION - TRADING
WITH ENEMY (OO:NY)

A. Preliminary Judicial Process (Number of subjects)	Complaints	Informations	Indictments	D. Recoveries, Restitutions, Court Ordered Forfeitures or Potential Economic Loss Prevented (PELP)				
B. Arrests, Locates, Summonses & Subpoenas (No. of subjects)	Subject Priority (See Reverse)			Property or PELP Type Code *	Recoveries	Restitutions	Court Ordered Forfeitures	Potential Economic Loss Prevented
	A	B	C					
	FBI Arrests -							
	FBI Locates -							
Number of Subjects of FBI Arrests Who Physically Resisted _____								
Number of Subjects of FBI Arrests Who Were Armed _____								
Criminal Summonses _____ Subpoenas Served _____								
C. Release of Hostages: (Number of Hostages Released)				E. Civil Matters				
Hostages Held By Terrorists _____; All Other Hostage Situations _____				Amount of Suit		Government Defendant		Government Plaintiff
				Settlement or Award				
								Enter AFA Payment Here

b3

F. Final Judicial Process: Judicial District _____ (Use two letter state abbreviations per U.S. Post Office Guide. For Example - The Northern District of Texas as ND TX; The District of Maine as ME in the state field only.)

Subject 1 - Name -

Subject's Description Code *

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine	
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos		

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Subject 2 - Name -

Subject's Description Code *

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			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos		

Subject 3 - Name -

Subject's Description Code *

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine	
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos		

Attach additional forms if reporting final judicial process on more than three subjects.

Remarks: _____

b3

2 - Bureau

2 - Field Office

* See codes on reverse side. Subject description codes in Section F are required only when reporting a conviction.

** Identify the other Federal Agency(ies) in the Remarks Section.

Supv. M-1)

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FBI/DOJ

Date 9/23/83

TO: DIRECTOR, FBI

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196B-2848

Bureau File Number

FROM: SAC, NEW YORK

SUBJECT: MARC RICH, PINCUS

196A-1774

Field Office File Number

GREEN;

MARCE RICH & CO., A.G., M-1

MARC RICH & CO. IN-

TERNATIONAL; RICO -

FBW; MF - TAX EVASION

TRADING WITH ENEMY

(OO:NY)

Squad or RA Number

☐ X if a joint FBI/DEA (or other Federal Agency **) operation.

☐ X if case involves corruption of a public official (Federal, State or Local).

Investigative Assistance or Techniques Used

Were any of the investigative assistance or techniques listed below used in connection with accomplishment being claimed? ☒ No ☐ Yes - If Yes, rate each used as follows:

- 1 = Used, but did not help
2 = Helped, but only minimally
3 = Helped, substantially
4 = Absolutely essential

1. Acctg Tech Assistance	Rating	6. ELSUR - Title III	Rating	11. Lab Div Field Support	Rating	16. Show Money Usage	Rating
2. Aircraft Assistance		7. Hypnosis Assistance		12. Pen Registers		17. Surveill Sqd Asst	
3. Computer Assistance		8. Ident Div Assistance		13. Photographic Coverage		18. SWAT Team Action	
4. Consensual Monitoring		9. Informant Information		14. Polygraph Assistance		19. Telephone Toll Records	
5. ELSUR - FISC		10. Lab Div Exams		15. Search Warrants Executed		20. Undercover Operation	
						21. Visual Invest - Analysis (VIA)	

A. Preliminary Judicial Process (Number of subjects)		Complaints	Informations	Indictments	D. Recoveries, Restitutions, Court Ordered Forfeitures or Potential Economic Loss Prevented (PELP)				
				1	Property or PELP Type Code *	Recoveries	Restitutions	Court Ordered Forfeitures	Potential Economic Loss Prevented
B. Arrests, Locates, Summonses & Subpoenas (No. of subjects)		Subject Priority (See Reverse)							
		A	B	C					
FBI Arrests -									
FBI Locates -									
Number of Subjects of FBI Arrests Who Physically Resisted _____									
Number of Subjects of FBI Arrests Who Were Armed _____									
Criminal Summons _____		Subpoenas Served _____							
C. Release of Hostages: (Number of Hostages Released)					E. Civil Matters				
Hostages Held By Terrorists _____; All Other Hostage Situations _____					Government Defendant		Government Plaintiff		
					Amount of Suit		\$		
					Settlement or Award		\$		
							Enter AFA Payment Here		

F. Final Judicial Process:		Judicial District	1	(Use two letter state abbreviations per U.S. Post Office Guide. For Example - The Northern District of Texas as ND TX; The District of Maine as ME in the state field only.)								
Subject 1 - Name -		District	State	Subject's Description Code *								
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			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	
												\$
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Subject 2 - Name -		Subject's Description Code *										
<input type="checkbox"/> Pretrial <input type="checkbox"/> Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction		In-Jail Term		Suspended		Probation		Fine	
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	
												\$
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Subject 3 - Name -		Subject's Description Code *										
<input type="checkbox"/> Pretrial <input type="checkbox"/> Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction		In-Jail Term		Suspended		Probation		Fine	
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	
												\$
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Attach additional forms if reporting final judicial process on more than three subjects.

Remarks:

Captioned indicted on 9/19/83, 51-count count indictment charging:
one count - Racketeering, one count - Racketeering Conspiracy; two
counts - Tax Evasion; four counts - Mail Fraud; 35 counts - Wire
Fraud and eight counts - Trading with Enemy. 1983

2 - Bureau

2 - Field Office

(1) 0 196A-1774) (1 - 66-8492) (1- IAU) (1 - Supv.

* See codes on reverse side. Subject description codes in Section F are required only when reporting a conviction.
** Identify the other Federal Agency(ies) in the Remarks Section.

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FBI/DOJ

Memorandum



To : ADIC (80-217)

Date 9/26/83

From :

JV

SA

[Redacted]

(PIO)

b6

b7C

Subject : COOPERATION WITH THE MEDIA

On 9/19/83, SAC THOMAS L. SHEER, Division II, participated in a press conference at the office of the US Attorney, SDNY, regarding the return of a 51 count indictment against MARC RICH.

FBIHQ authorization granted.

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1-DADIC
1-SAC SHEER
1-NEW YORK (80-221)
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1-NEW YORK (196A-1774)
1-PIO

JV:sst
(7)

196A-1774-163

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196A-1774-164

FILED
JUN 1983
FBI-NEW YORK

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Marc Rich's Road to Riches

A wily oil trader is charged with America's biggest tax fraud.

Only a year ago, hardly anyone outside the close-knit world of commodities trading would have recognized the name Marc Rich. Obsessively reclusive, Rich kept his billion-dollar business behind frosted glass. But now Rich is on his way to becoming infamous as a white-collar fugitive. After 18 months of investigation, a grand jury in Manhattan last week accused Rich and some of his associates of evading at least \$48 million in U.S. income taxes. U.S. attorneys called the case "the largest tax-evasion scheme ever prosecuted."

Government investigators filed 51 separate criminal charges against Rich and his partner, Pincus ("Pinky") Green, both 49. The men face long prison terms if found guilty on all counts. But the two may first have to be extradited in order to stand trial. Rich and Green fled New York City about three months ago and are believed to be living near the Alpine town of Zug, Switzerland, the headquarters of their commodities firm, Marc Rich & Co. AG.

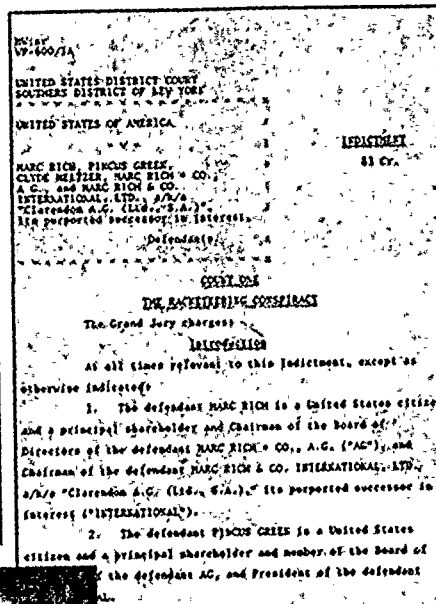
Justice Department attorneys say Rich and Green created a racket in which their company earned at least \$71 million by selling crude oil at several times the Government-regulated price during 1980 and '81. Then they allegedly shipped the money out of the U.S. to escape income taxes. The 1981 tax return for their U.S. subsidiary, for example, declares profits of only \$2.4 million, but the Government estimates its earnings were at least \$50 million more. While sifting through hundreds of thousands of Rich's business records, federal agents also uncovered evidence to accuse Rich and Green of violating a presidential embargo by purchasing oil from the Khomeini regime during the 1980 hostage crisis.

The formal charges of racketeering, conspiracy, tax evasion, mail fraud, wire fraud and trading with the enemy could earn Rich and Green prison sentences totaling 325 years each, fines of more than \$500,000 and confiscation of millions of dollars in assets. One of Rich's holdings is a co-ownership in 20th Century-Fox, which his company controls jointly with Denver Oilman Marvin Davis.

Marc Rich is one of the shrewdest and most successful commodity traders in the world. Acquaintances estimate his personal fortune at up to \$1 billion. After starting his own firm in 1974 with about

\$5 million in seed money, Rich built a group of companies that last year traded some \$10 billion worth of such commodities as oil, gold, aluminum, sulfur and sugar.

Rich, who is married and has three daughters, came to the U.S. as a child, fleeing Nazi persecution of Jews in Belgium. His father David worked in a Manhattan burlap-bag factory to put Rich through the private Rhodes School, where



The trader in Zug, the indictment

he earned a B-minus average and presided over the French club. An indifferent student at New York University, Rich quit to pursue commodities trading for the Philipp Bros. firm.

Rich proved himself a prodigy at buying and selling grains and metals. One of his biggest

market coups came during the Arab oil embargo of 1973-74, when he used his Middle Eastern contacts to circumvent the embargo and buy crude oil from Iran and Iraq. After purchasing the crude for roughly \$12 per bbl., Rich doubled the price and sold it to supply-starved U.S. oil companies. Successes like that inflated Rich's already ample ego, and in 1974 he and Co-Worker Green set up their own company.

While the two men are close business partners, they have widely differing styles. Rich, the more urbane, until recently maintained a Park Avenue apart-

ment and a house on Long Island, while Green lived in a white stucco house in the Flatbush section of Brooklyn.

Rich and Green built their company into a trading empire with an estimated 1,000 employees in 40 offices around the world, and their market exploits continued apace. In 1981, for example, Rich reportedly helped the Malaysian national tin company mastermind a scheme to boost the price of the metal by buying up much of the world's supply and stockpiling it. The ploy proved to be a roller coaster. Initially it reaped huge profits for Rich, then it brought him losses when the U.S. Government sold tin from its stockpiles and forced down the price.

From the time Rich went on his own, commodity-trading insiders were suspicious. For one thing, he broke an industry taboo by wantonly raiding his former employer for dozens of traders. For another, he put his headquarters in discreet Switzerland while actually operating mainly out of his New York City subsidiary. Says one trader: "In the business, we felt there was some hanky-panky under way."

According to the indictment, crimes indeed took place. In 1980 and '81, Rich's domestic company and two Texas firms, West Texas Marketing of Abilene and Listo Petroleum of Houston, carried out an oil-laundering and profit-hiding scheme. In the first step of the process, Rich allegedly went to domestic producers and bought crude oil that had Government-controlled prices as low as \$5 per bbl. Rich then supplied the oil to the Texas firms at the legal price. The Texas companies, according to federal officials, laundered the crude through a series of purchases so that it was difficult for Government regulators to trace the oil's origin. Then the Texans sold it back to Marc Rich's New York subsidiary at a profit as high as \$20 per bbl. Marc Rich then sold the laundered crude to American oil companies at the higher price. Finally, according to the indictment, a secret arrangement required the two Texas companies, after taking their cut, to return more than \$70 million in illegal profits to Marc Rich's headquarters in Switzerland.

One of the most serious charges against Rich and Green in last week's indictment is that during the hostage crisis in Iran they bought 6.2 million bbl. of crude worth \$200 million from the National Iranian Oil Co.

Apparently tipped off to the oil-shuffling scheme by Texas traders, the FBI

began looking into Marc Rich's dealings in late 1981. As the case progressed, two key officials emerged: Federal Judge Leonard Sand, an imposing, white-bearded figure who has repeatedly been outraged at Rich's maneuvers, and Assistant U.S. Attorney Morris Weinberg Jr., who leads a prosecuting team comprising agents of the FBI, Treasury Department, Internal Revenue Service and Customs Service.

In April 1982, Rich refused to comply with a grand jury's request for documents from his headquarters, arguing that as a Swiss company, the firm was immune to the order. After more than a year of endless motions and appeals, Judge Sand retaliated in late June by ordering Rich to pay a \$50,000-a-day contempt fine. Before payments were suspended two weeks ago, Rich's company had paid \$3.8 million in fines. In an apparent ploy to escape further fines, Rich and Green in early August secretly sold their U.S. subsidiary to other officers in the firm and changed its name to Clarendon Ltd.

When the sale became known, a furious Judge Sand threatened to freeze \$55 million worth of the company's assets in the U.S. Rich then promised to deliver the contested documents. But only three days later, U.S. Customs officers, apparently acting on a tip from a mole inside the Marc Rich subsidiary, stopped a

Swissair jet just as it was taxiing to take off from New York's John F. Kennedy Airport for Zurich. Aboard the plane were two steamer trunks full of Rich's documents.

The Rich case has been complicated by an ongoing struggle between U.S. courts and Switzerland. Judge Sand has insisted that the courts had the right to Rich's documents, but Swiss officials said that they were protected by that country's famed business-secrecy laws. After the U.S. attempted to get the Rich documents, Swiss officials seized many papers at Rich's headquarters in Zug to keep them from the Americans. Justice Department attorneys claim that the documents contain "golden nuggets" that would enable them to prove twice as much tax evasion as is currently charged. The Swiss have yet to decide whether they will extradite Rich and Green.

Even if they cannot get Rich and Green, U.S. attorneys plan to prosecute Rich's Swiss and U.S. companies and one of Rich's associates in the Listo scheme, Clyde Meltzer, 38, of New York City. Meltzer is expected to appear in court for arraignment this week.

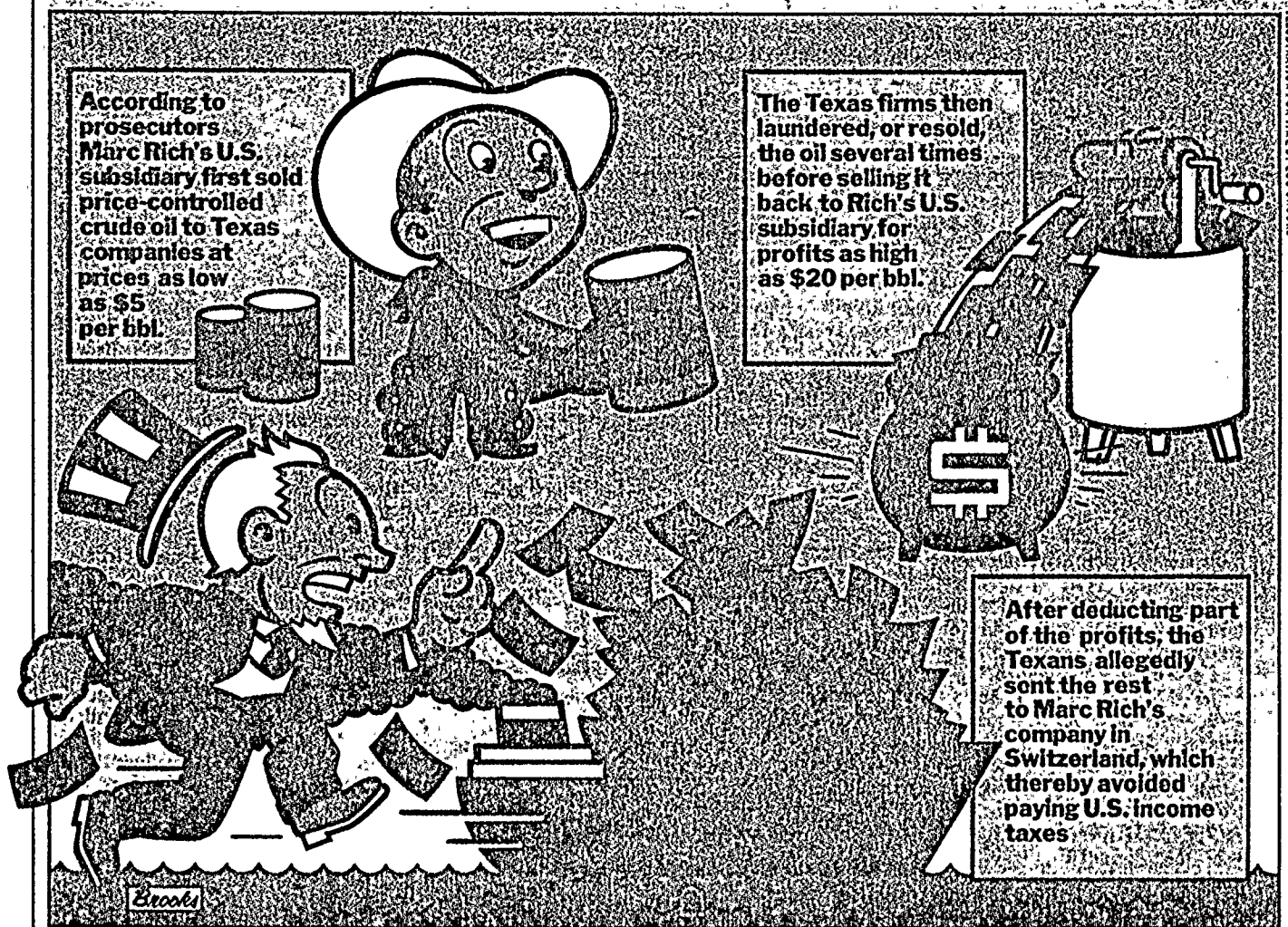
For the time being, Rich and Green apparently remain in the corporate-tax-haven canton of Zug. Rich's company is well known there for its blue-tinted,

steel-and-glass structure, which has been nicknamed "the Dallas building" after the American TV show. Zug's business community, which resents U.S. meddling, has shown some sympathy for Rich.

U.S. commodities traders, on the other hand, are less understanding. Some believe the Rich episode may arouse popular support for more Government scrutiny of their industry. Says Stefan Eliel, vice president of Associated Metals & Minerals: "Most of the commodities merchants in the U.S. were traditionally looked upon as something close to shysters. Marc Rich has already been a serious setback to us all, particularly as that image had improved."

Rich, though, has more things to consider than just his image. Hoping to return to the U.S., he reportedly tried without success recently to plea bargain with federal officials for a prison term of four to five years in exchange for a halt to the probe. The Justice Department turned down the deal. Now U.S. officials believe Rich may be preparing to abandon the U.S. forever. The globetrotting trader, who once lived in Madrid, is believed to have sought Spanish citizenship. But Spain might provide only temporary refuge. Eventually Rich may have to decide whether to face U.S. authorities or to spend his life on the run.

—By Stephen Koepp. Reported by Bruce van Voorst/New York



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Marc Rich's \$48 Million Audit

It was an impressive array of federal legal talent. Seated on the dais at the law library of the U.S. attorney's office in Manhattan last week was a team of federal prosecutors and FBI, Treasury and Customs Service agents, all of whom had struggled for 18 months trying to get the goods on reclusive commodities trader Marc Rich. Now they were convinced that they had succeeded. U.S. Attorney Rudolph Giuliani announced that a federal grand jury had indicted Rich, his partner, Pincus Green, and his trading firm, Marc Rich & Co., for evading \$48 million in U.S. income taxes in 1980 and 1981. Later, government lawyers said the cheating might eventually prove to be more than twice that amount. "It is the biggest tax-fraud case ever brought in U.S. history," said Giuliani. The defendants were also

remains out of reach. His company has already been fined \$3.8 million by an American judge for failing to produce all the subpoenaed papers the court wants, and the fines continue to be assessed at the rate of \$50,000 a day. The Feds also say they will try the Rich company in any event and if they win they could seize Rich's U.S. assets, including a 50 percent holding in Twentieth Century-Fox Film Corp., an investment that movie sources say is worth about \$375 million.

'Daisy Chains': Last week's indictment charges that the defendants had parlayed one serious offense into another. It said they began by selling oil at higher prices than they were entitled to under federal controls and then escaped taxes on the profits by

and he approved restraining orders that prevented the transfer of Rich assets and the payment of \$55 million in bills owed the company by others. Rich finally agreed to turn over the subpoenaed documents—but days later federal agents confiscated two steamer trunks full of the papers from a jet headed for Zurich. Rich lawyers said the documents were being sent to Switzerland for a review before being given to the court. The next week, the Swiss government seized other subpoenaed documents from Rich's Zug offices, saying their submission would violate Swiss corporate-secrecy laws.

Giuliani said these records are the "golden nuggets" that would prove that the defendants evaded a total of about \$100 million in taxes. His chief of criminal investigations, Lawrence Pedowitz, said that the Swiss could safely turn over the additional papers because the United States already knew what was in them—through documents already seized. Swiss legal attaché Juerg Leutert refused to buy that argument. "It is up to Swiss authorities to determine whether Swiss law is violated or not," he said. Still, the Swiss said the documents could be turned over in three weeks if the United States would only ask for them formally under the provisions of a U.S.-Swiss mutual-assistance treaty. But the Americans refused, saying that their request could be held up legally for a year or two by third parties named in the papers.

Secrecy: To critics, it seemed like a familiar story of Swiss secrecy laws standing in the way of justice. "I've been involved in a lot of different cases in which the Swiss government has concealed records of drug dealers and income-tax evaders and swindlers," said Giuliani. Many experts agree with Giuliani, pointing out that the Swiss have drawn funds into their country by assuring depositors that their records will be kept secret. But U.S. officials admitted Switzerland has been far more cooperative in recent years. Since a new treaty was signed in 1977, the United States has asked for records needed in cases 250 times and has been turned down only twice. And last year the Swiss agreed for the first time to provide the Securities and Exchange Commission with information in insider-trading cases. "This change in attitude is not cosmetic," says Cass Weiland, chief counsel of the investigations unit of the Senate Government Affairs Committee. "The days of ironclad Swiss secrecy are clearly past."

The Americans now have hopes of completing a new extradition treaty with the Swiss covering tax-fraud cases. But their chances of extraditing Rich and Green rest on their ability to prove some other kind of fraud. A possibility: the alleged daisy chains of fake oil transactions. How the Swiss respond to this particular effort may be a clue to just how far they will go to remove the old barriers.

DAVID PAULY with CONNIE LESLIE in New York and CHRISTOPHER MA in Washington

1979: United States charges a West German citizen with filing fraudulent U.S. tax returns from Switzerland. Swiss decline extradition, but four years later convict defendant of fraud and forgery.

1981: United States court demands documents regarding insider trading during Seagram's unsuccessful bid to buy St. Joe Minerals. Swiss reluctantly comply, but case is still pending.

1982: United States asks Switzerland for information about insider trading during Kuwait's takeover of Santa Fe International. Swiss authorities refuse, but United States resubmits request and awaits further response.

1983: United States indicts Marc Rich for income-tax evasion, charging he transferred profits earned in the United States to Switzerland. Swiss block American efforts to obtain corporate records.



Gamma-Liaison

Slow-motion justice: Marc Rich, the focus of latest U.S.-Swiss dispute

charged with violating U.S. oil-price controls, which ended in 1981, and with buying Iranian oil during the hostage crisis when all trade with Iran was banned.

The Feds will need every bit of firepower in their arsenal to gain a total victory, however. Rich and Green have already denied the charges against them. And the two traders, both American citizens, left the United States for Switzerland in June. If they don't appear for arraignment this week, the United States will begin extradition proceedings, but that process is likely to be a sticky one. The Swiss still do not extradite people charged with tax fraud, and the Americans and the Swiss—who had been working to resolve their many legal differences—are now at odds over U.S. efforts to subpoena the Rich documents still being held in Switzerland.

But Marc Rich stands to lose even if he

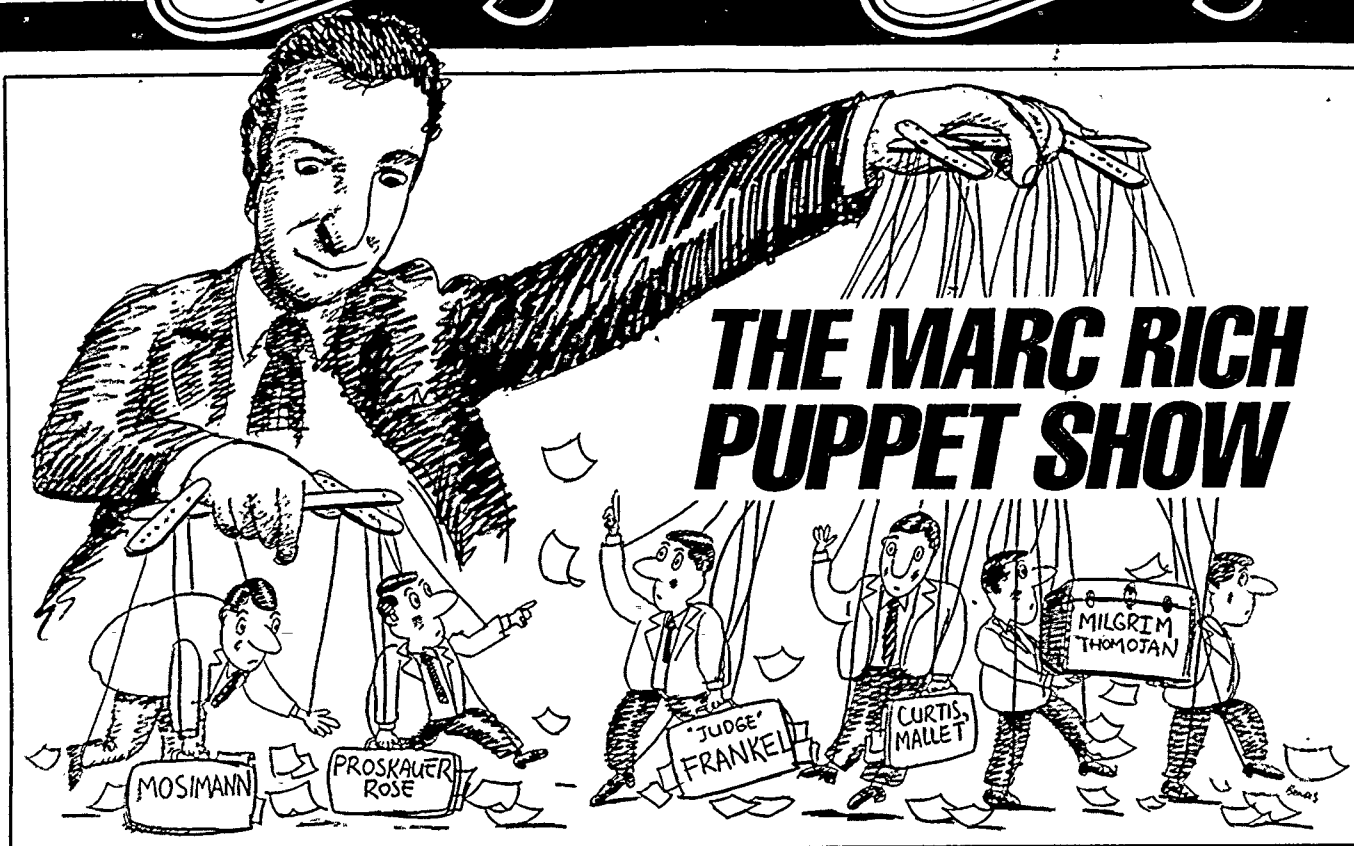
shifting the money to the books of Marc Rich & Co. in Zug, Switzerland. The oil scheme was said to have been pulled off through "daisy chains" of sham sales among Rich and several oil dealers; during the process, certificates covering the oil were allegedly altered to show, falsely, that the oil could be sold at high free-market prices rather than low controlled prices. The indictment said that part of the illegal transfer of money overseas was accomplished through the generation of more than \$33 million in fraudulent tax reductions by fabricating invoices between Rich and its since sold American subsidiary, Marc Rich & Co. International, making it appear that the U.S. firm was losing money.

The Rich investigation had been a plodding one until early August when federal Judge Leonard B. Sand began cracking his whip. He ordered the daily fines to begin

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HEADNOTES BY STEVEN BRILL Once upon a time there lived and worked in New York and Switzerland a commodities trader named Marc Rich. Beginning in 1974, when he left the Philipp Brothers trading company to build what became a multi-billion-dollar commodities dealership bearing his name, Rich became known far and wide for his talent at making money. But when the tax man began inquiring after Rich's money, it soon became clear that he had another rare talent: making very good lawyers look very bad.

Rich, it came to pass, was a kind of Jim Jones of the big-money bar. Something about the shrewd, secretive 49-year-old oil and metals broker mesmerized the likes of former federal district court judge Marvin Frankel, the New York lawyer who is best known from his bench days for his eloquent lecture on over-advocacy to a lawyer who had withheld subpoenaed documents in the Kodak antitrust trial. Under Rich's spell, Frankel and other paragons of the bar seemed willing to do, and argue for, all kinds of ridiculous things in order to protect Rich from a subpoena issued by a federal grand jury investigating an alleged tax-evasion scheme involving transfers of oil trading profits from the Rich subsidiary in New York to his parent company in Switzerland.

In Rich's cause, the lawyers made representations in court about the American subsidiary's willingness and ability to pay contempt-of-court fines—13 days after all of the American assets of the subsidiary had secretly been sold to the non-American principals of the same company. And, in (continued on page 105)

GETTING BACK TO BASICS

The Fifth Annual Summer Associates Survey

SPECIAL PULL-OUT SUPPLEMENT BY JAMES B. STEWART, JR. ► P. 31

Inside The West Empire _____ P.90

West Publishing has spent the last century quietly making itself indispensable and its obscure owner-managers extremely rich. Can they keep it up?

David Schulte, Workout Ace _____ P.97

How a lawyer-turned-investment-banker runs Salomon's corporate emergency room.

War Is Hell. It's Also A Good Defense. _____ P.100

Why 12 jurors swallowed their doubts and bought the Vietnam stress defense.

Stealing The Show In Dallas _____ P.11

Tom Luce has taken Hughes & Hill from 4 to 80 lawyers in a decade. Now he's working on a merger that could make his Dallas upstart the biggest firm in the state.

The Marc Rich Puppet Show

(continued from page 1) his cause, again in court, they then called the sale—a 40-line, two-page agreement involving more than a billion dollars' worth of assets transferred, essentially, to the same parties under a different name—a totally arms-length transaction.

In Rich's cause, the lawyers misrepresented the nature of the Marc Rich companies' operations and control, developing a series of vaudeville-like routines for explaining who ran what that were so inconsistent and so dependent on the argument needed for a particular brief or court colloquy that at times the lawyers themselves had trouble keeping straight faces.

In Rich's cause, the lawyers invoked the state terror campaigns in Bulgaria and Guatemala as examples of what was likely to happen in America if the government's case against Rich went unchecked.

In Rich's cause, the lawyers developed a wonderful new concept: "voluntary" payment of contempt-of-court fines. In his cause, 18 months after the subpoenas had been issued, they secretly tried to send a paralegal off to Switzerland with two steamer trunks full of subpoenaed documents—and then claimed that this had been done to facilitate the speedy delivery of the papers to the grand jury in New York.

And, in Rich's cause, two Swiss lawyers proved that Rich's knack for making lawyers look like puppets is as international as his trading empire. One brought a suit on behalf of Rich personally against Rich's own company, a suit that this lawyer now says was without merit and that he hoped to lose. The sec-

ond Swiss lawyer, counterclaiming on behalf of the Rich company but against its board of directors, of which this lawyer is a member, ended up suing himself.

In early 1982 prosecutors in the United States Attorney's office of the Southern District of New York, working on an informant's tip, began investigating alleged tax evasion by Marc Rich & Co. International Ltd., the New York subsidiary of Swiss-based Marc Rich & Co., AG. According to documents on file in the resulting subpoena litigation, the prosecutors believe, as one government affidavit puts it, that "International diverted during 1980 a minimum of \$20 million of its taxable income to AG" in order to avoid American corporate income taxes. International achieved the alleged tax evasion, prosecutors have claimed, by making a series of crude-oil deals with AG that were designed to make money for AG at International's expense.

Soon after the investigation began, Marc Rich and his principal deputy in the company, Pincus Green, both of whom are New Yorkers (and American citizens), retained Edward Bennett Williams to represent them personally. Marc Rich International, the American subsidiary, also retained Williams and his firm, Washington's Williams & Connolly. Also involved was Robert Thomojan and his small, highly regarded midtown New York firm, Milgrim Thomojan Jacobs & Lee, which counts International among its key clients. As for Marc Rich AG, the Swiss parent

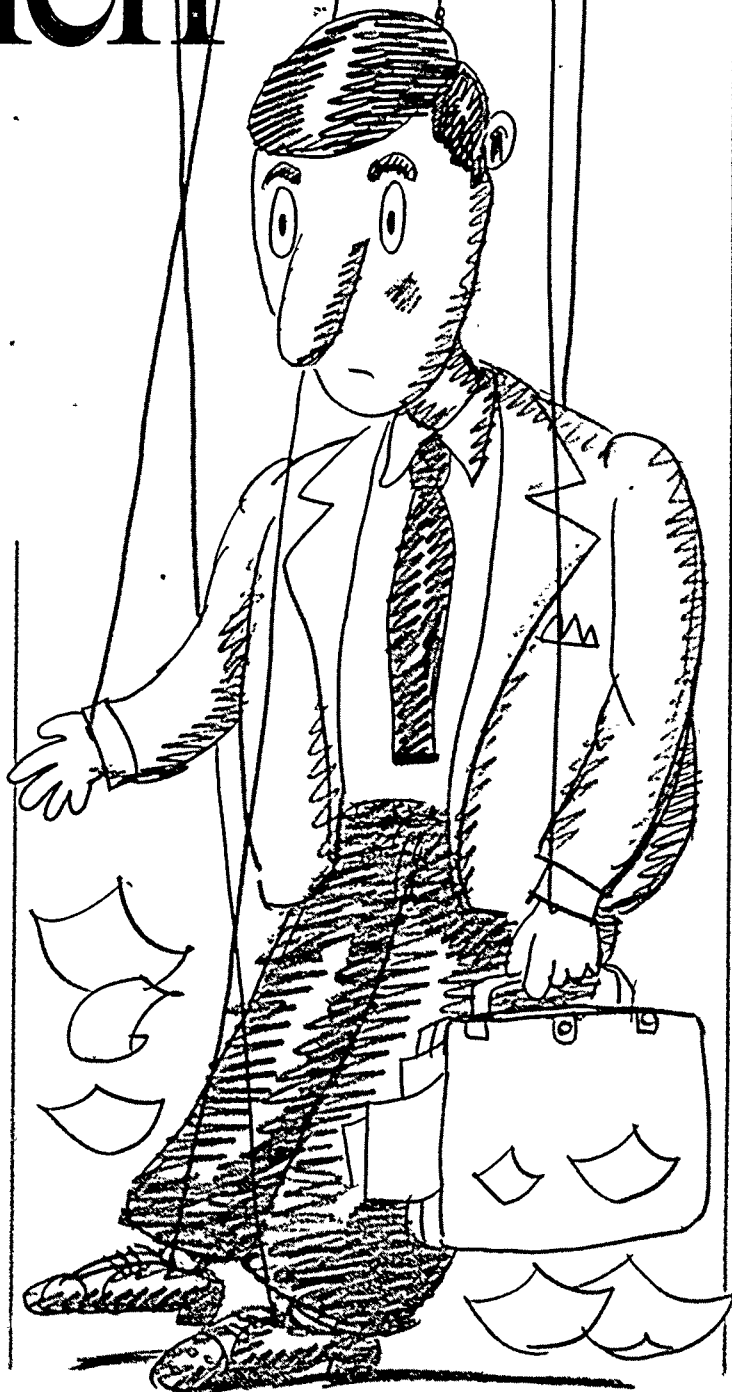


ILLUSTRATION BY KEITH BENDIS

turned to its regular New York counsel, Proskauer Rose Goetz & Mendelsohn, where then-partner Marvin Frankel took the lead.

In the spring of 1982 the subpoenas came, demanding all documents relating to 1980 and 1981 crude-oil transactions between International and AG. The first was served on International in March. According to a Swiss source involved in the Marc Rich defense, when the lawyers told Rich that sooner or later International would have to comply, he demanded that he or two of his top executives review the key documents first. As a result, although this subpoena was never formally resisted, as of this past August (17 months after its issuance), tens of thousands of documents called for under the subpoena had not been produced.

A second subpoena, served in April 1982 and seeking Marc Rich AG's records, was contested from the start. According to three sources in positions to know, Frankel assured Rich and AG secretary Josef Guggenheim that AG could resist because it was a Swiss corporation. Therefore, as long as it could be established that International, the American subsidiary, was independent of AG and made decisions on its own according to its best interests rather than AG's, then AG would not be considered to be doing business in the United States and, thus, would not be subject to *in personam* jurisdiction. (It was a line of argument that Williams, representing the individuals and looking ahead to possible defenses to an indictment, readily appreciated; for if International's independence could be established, then its alleged collusion with AG in a scheme to shift profits overseas would, almost by definition, be disproved.)

"The judge [Frankel] told us we'd have little problem getting rid of the subpoena," says one Marc Rich official. "He had a way of talking that just made you sure he was right."

Rich told Frankel and the Proskauer firm to fight the AG subpoena all out. What he didn't tell them was that he and other Rich company executives were going to give Frankel and his team information about the relationship between the two companies that was inaccurate and utterly inconsistent with what the prosecutors would find in the International documents they would soon gain through their subpoena of International. Moreover, what Rich apparently told none of the lawyers is that in anticipation of Frankel's victory in resisting the AG subpoena, Rich had directed company employees to shift cartons upon cartons of documents that seemingly belonged to International into AG's custody. And on top of that, he had demanded that documents in International's custody be transported to Switzerland, apparently with the thought that Swiss secrecy laws governing disclosure of financial documents might protect these documents (as well as AG's) if all else failed.

There was one problem with Frankel's resistance to the subpoena on the basis of International's independence from AG: the facts. For starters, AG and International had exactly the same shareholders and board of directors. Nonetheless, based on information he got from Rich, chairman of both companies; from AG chief executive officer Alexander Hackel; and from Peter Ryan, International's chief financial officer, as well as on long affidavits from Hackel and Ryan, Frankel argued before federal district judge Leonard Sand that AG's dealings with International were infrequent



MARVIN FRANKEL

BY WITHHOLDING ESSENTIAL INFORMATION, RICH SET FRANKEL UP FOR AN EMBARRASSING COURT APPEARANCE. FRANKEL RESPONDED BY SHYING AWAY FROM HIS CLIENT AND THE CASE.

and insignificant and that the two were wholly separate entities.

For Morris Weinberg, Jr., the 33-year-old assistant U.S. attorney running the Rich case, Frankel's argument was easy game. In oral argument before Judge Sand on July 6, 1982, he demolished Frankel's two-entity scenario with information he had already received in discovery from International itself.

For example, Weinberg noted that in 1980 AG had sold International \$345 million worth of oil and that International had lost more than \$110 million on those purchases. "I think it is significant," Weinberg said, "regardless of what Mr. Frankel says, that those facts were not disclosed in the affidavits of Mr. Hackel and Mr. Ryan. . . . Marc Rich was well aware what records the government had in this investigation." Weinberg continued, "and yet there was an effort to completely ignore 1980, which is one of the two years that was sought in the original grand jury subpoena."

Lawyers associated with Frankel at Proskauer say he was surprised at Weinberg's information. Accordingly, his answer in court that day was a nonanswer. "When you reach back two years or more as the government has done,"

Frankel said, "without meeting our factual showing, I say that the legal position remains the same and I say, whether I am right or wrong, there has never been the kind of trivial and stupid effort to mislead the court that Mr. Weinberg insists on undertaking to detect."

"I listened with . . . bemusement to Mr. Weinberg's charges of deceit . . . which he then explains were revealed . . . by the papers that International produced to the government," Frankel noted, "and I just leave it to the court whether sophisticated people who are indeed related would be engaging in . . . an effort to deceive the court knowing that the adversary . . . was in possession of papers . . . that disclose a misrepresentation."

In fact, the answer to that was one that would plague Frankel and the other Rich lawyers in the months to come. No, Frankel hadn't deliberately deceived anyone. He'd been set up by his client. By adamantly insisting that the various lawyers' functions be kept strictly separate, Rich had enabled Frankel to proceed with his motion to quash without knowing anything about the contradictory evidence that was being discovered from International.

Not that Frankel's advocacy, even at

this stage, was totally ingenuous. He was happy to rely on the affidavit of a Swiss lawyer attesting to the fact that a section of the penal code expressly forbids AG from complying with the subpoena, despite the fact that this affidavit did not refer, even by way of distinguishing it, to another section of the penal code that seemingly allows compliance. And at one point in oral argument, blithely invoking his prestige as a former judge, he asserted that the government's use of an *ex parte* affidavit (describing an informant's information about the two companies' intermingled operations) to defeat the motion to quash the subpoena "was a very extraordinary kind of step to take, one that I, at least, have never seen." He apparently did not expect Judge Sand to respond as he did—that such *ex parte* affidavits, intended to protect the integrity of ongoing investigations, are "quite common," which is in fact the case.

On August 25, 1982, Sand denied Frankel's motion to quash. According to Rich officials, Frankel quickly advised his clients that they had a good chance to win an appeal, advice which even the lawyers at the U.S. Attorney's office agree was not unwarranted, given that the combination of issues and facts involved made the case unique and that Sand's opinion had seemed to apply to a New York State long-arm statute when federal law was clearly relevant.

Frankel appealed to the Second Circuit and got Sand to stay the subpoena pending the outcome. In his appeal he explicitly waived as an issue the supposed prohibition under Swiss law of compliance with the American subpoena. On the Rich side, all the American lawyers considered the Swiss statute—which dealt with disclosures that could be termed "economic espionage"—the kind of throw-in argument that was a sure loser, certainly not worthy of the Second Circuit's consideration. But what they probably didn't know was that Rich and his Swiss lawyers had decided to forego an appeal on the issue so they could revive it later. "Some of the AG people kept talking about it, but, oddly, they told us we need not appeal it," says one lawyer involved in the Rich case. "Later, of course, we saw why."

It took the Second Circuit until May 4, 1983, to uphold Sand's decision, but its ruling was unanimous. (The three-judge panel, however, ditched Sand's long-arm statute in favor of a more logical approach rooted in federal procedural law; even the government had conceded in its appeal brief that Sand's approach had been wrong.)

Frankel quickly applied to the Supreme Court for *certiorari*, again getting Sand to stay the subpoena. But on June 27, 1983, the Supreme Court denied *cert* without dissent. Thus, as the government would later point out, "by June 27, 1983, AG had avoided compliance with the instant grand jury subpoena for more than a year without incurring any sanctions, and had litigated the subpoena's validity through every level of the federal judiciary without persuading a single judge of the merits of its arguments."

The battle was hardly over.

By this time Frankel had quit Proskauer in favor of a more senior partnership, including his name on the door, at the smaller midtown firm of Kramer, Levin, Nessen, Kamin & Frankel. Although publicly Frankel's departure from Proskauer had been amicable enough, such divorces are rarely con-

summated without some hard feeling and tension, and this one was no exception. One of the subjects of intense discussion between Frankel and his former partners reportedly had to do with what would happen with the Rich case. Marc Rich AG was an important Proskauer client, and the firm wanted to keep it that way. It was decided, therefore, that Frankel would continue to be lead man on the case but that the associates who had worked on it at Proskauer—chiefly John Ritchie, a 1979 graduate of Brooklyn Law School—would continue to staff it for him.

On the afternoon of June 27, the day that the Supreme Court denied *cert*, Ritchie, not Frankel, appeared in Sand's robing room seeking a show-cause order aimed at again staying the government's subpoena. His purported grounds for the motion were, to say the least, a surprise to the judge and to prosecutor Weinberg. On May 9, Ritchie explained in an affidavit, Swiss lawyer Bruno Becchio, representing the individuals Marc Rich and Pincus Green, had gone into court in Zug, Switzerland, and sued Marc Rich AG to get AG to comply with the subpoena. Then, on May 10, another lawyer, Rudolf Mosimann, who purportedly represented AG, had counterclaimed and demanded the Swiss equivalent of an injunction forbidding everyone on the AG board, including Mosimann himself, from complying with the American subpoena because, Mosimann maintained, the Swiss "economic espionage" statute forbade the disclosure of information of the type sought by the subpoena. The Swiss court, Ritchie explained, had granted the injunction asked for in the counterclaim. In fact, Becchio, the lawyer representing Rich and Green, had not even replied to Mosimann's counterclaim.

In other words, Marc Rich, having vehemently opposed the subpoena, had now sued the company he controlled to get it to comply, precipitating a counterclaim from the company that went unanswered and resulted in a court order not to comply.

"This is in essence a suit by AG seeking an injunction against itself," an exasperated Weinberg charged at the robing-room session. "It is really a contemptuous act. This is an issue that was litigated almost a year ago in front of Your Honor, that is the [Swiss] penal statute issue. . . . That issue was not preserved on appeal. It was waived. . . . All they're attempting to do is further delay and litigate an issue that has already been litigated. It amounts to nothing more than pure contempt. . . . If this isn't a contrived and concocted piece of litigation, I don't know what is."

The judge asked Ritchie about Weinberg's point that AG wasn't bound by the injunction because, as the moving party, it could easily ask the Swiss court to withdraw it. Ritchie replied, "I cannot speak for sure on Swiss law." Asked how long it would be before the Swiss courts followed up this preliminary injunction with a final decision, he also pleaded ignorance. And, asked why the Swiss government had not intervened in the case if its interests were at stake, Ritchie could only say that he expected it might do so soon. Sand nonetheless agreed to sign Ritchie's order to show cause, delaying the enforcement of the subpoena against AG—but only until a hearing he set for 2:00 P.M. the next day, June 28.

Why hadn't Frankel told the district court or the Supreme Court (where the

cert petition had been pending) of this six-week-old Swiss litigation? And why hadn't he shown up for the hearing in Sand's robing room on June 27?

Frankel declines all comment on the AG litigation, except to explain that he was in Albany trying a case on June 27 and 28 and to note, cryptically, "that I always thought Judge Sand was right about the inapplicability of the Swiss statute." But lawyers close to him report that he did not know about the May 9 and 10 action in Swiss court until after it had been undertaken, a point that Mosimann, AG's key Swiss lawyer (and the man who sued himself), says "is probably true. Why tell him?"

Friends of Frankel's who have talked to him about his case say that although he had been told about the Swiss suit by about the beginning of June, he was upset at not having been told about it beforehand and was sensitive to its flimsy appearance. Having been burned by bad publicity surrounding his avid representation of Michele Sindona when Sindona feigned a kidnapping, Frankel now seemed inclined to shy away from Rich a bit, one friend asserts. On the other hand, according to two Proskauer lawyers involved in Marc Rich matters, Frankel also wanted to hold onto this client; thus, he did not want a Proskauer partner getting involved in the case.

Proskauer litigation head Jacob Imberman, acting as a spokesman for the firm, says he will not comment on the Marc Rich case—including the question of why the 72-partner firm left so much of the matter in the hands of an associate—except to note that Ritchie is considered to be extremely mature and capable.

Whatever the reason, Frankel and the Proskauer firm let Ritchie prepare the show-cause order for submission if and when the Supreme Court denied *cert*, and Frankel decided to stay in Albany rather than seek an adjournment or get substitute counsel for the administrative hearing he was involved in there.

Thus, on June 28, while Frankel re-

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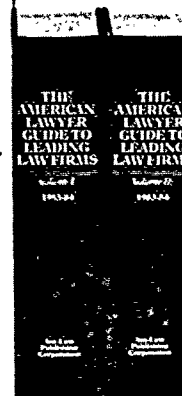
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maintained in Albany, it was again Ritchie who appeared, with first-year Proskauer associate Susan Brooks, to argue this extraordinary motion before Judge Sand. Ritchie brought with him an affidavit stating that he'd been advised by Swiss counsel that the Swiss court's final decision would not come until September—after its summer vacation. Asked how long the appeal process might take after that, Ritchie said he had no idea. As for whether AG could dissolve the injunction on its own, Ritchie, whose firm has 200 lawyers and a London branch office, said he still didn't know the answer to that one.

Weinberg insisted that AG could get the injunction it had sought dissolved. "In other words," Weinberg reiterated, "the company has filed a lawsuit against itself . . . seeking to enjoin itself from complying with the judge's order. . . . It sounds like Abbott and Costello," he continued, "but I can't explain it any better. If you look at the papers, what has happened is even more ludicrous than that."

Just as Sand was announcing a ruling in Weinberg's favor, the Swiss government arrived—in the person of Arnold & Porter partner Joseph Guttentag and Juerg Leutert, the legal adviser to the Swiss embassy in Washington. Guttentag and Leutert, noting that they had just been informed of the case the week before, asked the judge to delay his decision two weeks so they could "look into the case" to see if it was necessary and possible to work out some kind of a settlement of the issue with American diplomatic authorities.

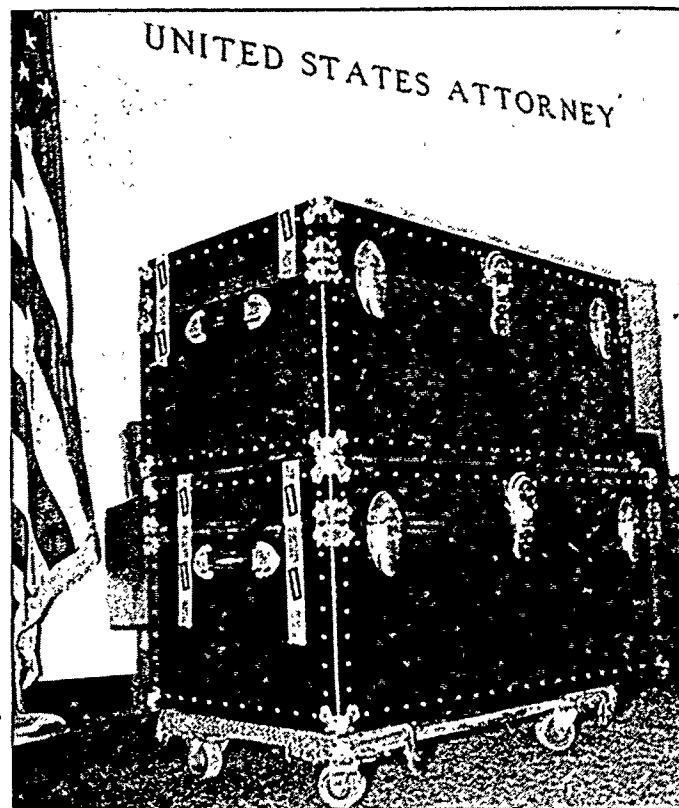
Sand asked each if they knew whether AG could obviate the supposed conflict of laws by getting the injunction withdrawn. Both Guttentag and the embassy lawyer said they were not familiar with what this reporter later found to be a simple procedural point of Swiss law.

Expressing skepticism at their vague plea for a delay, Sand ruled against AG and ordered that the \$50,000-per-day fine he had set for noncompliance begin at the end of the next day if the subpoenaed documents were not delivered.

In fact, not even Weinberg knew fully how ludicrous the Swiss suit was. Klaus Weber, the Swiss cantonal court judge who issued the injunction, says he was "embarrassed by it. Here were people suing themselves. But in a motion like this you would have to go ahead until the other side contests it. . . . Of course it can be lifted," he adds. "You just ask." Or, as Weinberg found in preparing a defense of Frankel's subsequent appeal of Sand's final order, the moving side can simply not pay the court costs assessed in the order; if it doesn't pay on time, the order automatically lapses.

Bruno Becchio, the Zug lawyer retained by Rich and Green to sue their company, says, "I thought I should lose and hoped that I would. This was done so that the Swiss statute [purportedly prohibiting compliance] would be enforced. I think that is a very important law, even if you Americans don't," adds the lawyer who filed papers seeking to have the law set aside. And Becchio's "opponent" in the case, Mosimann, notes that he could, indeed, have gotten the order lifted had he wanted to.

After Sand issued his June 29 order holding AG in contempt, Frankel, now back from Albany and seemingly recharged for battle, filed another notice of appeal to the Second Circuit, this time based on the Swiss injunction. Meantime the \$50,000-a-day contempt fine began to toll, but AG didn't pay. Ac-



AN ANONYMOUS TIPSTER FOILED RICH'S
ATTEMPT TO SEND THESE CRATES OF
DOCUMENTS TO AG'S SWISS HEADQUARTERS.

cording to court papers, on July 6 Weinberg called Frankel and asked if AG was going to pay the fine. Frankel replied, "We won't be able to tell you until Monday." On Monday, July 11, Ritchie was given the task of calling Weinberg to tell him that "AG does not intend to pay the fines voluntarily."

On July 13 Weinberg moved for a separate order directing AG to pay the \$750,000 in fines already due. Although he had not sought a stay pending his new appeal, Frankel now argued that Sand lacked jurisdiction to levy the fine until this appeal was decided. He also argued that the government's push to have the fines paid immediately was contentious and unnecessary, saying, "the proposed urgency of having a judgment come in at this time is not visible to me at all." On July 15 Sand responded, directing payment of \$1 million by July 18 and \$200,000 and \$150,000 each Friday and Monday thereafter.

But a week later, at a hastily convened hearing on July 22, Weinberg was back in court with what he called a "startling" discovery: On June 30, the day after Sand's contempt order had taken effect and 13 days prior to Frankel's protestation that there was no urgency in enforcing the contempt judgment, AG had sold International—its sole U.S. asset—to a group of its own European shareholders, who were now calling themselves Clarendon, Ltd. "As we understand it," Weinberg excitedly told Sand, "not only has this only [AG] asset in the United States been liquidated but . . . the purpose of the liquidation . . . was to avoid the confiscation of assets to satisfy this contempt judgment. . . . Marc Rich and Pincus Green, who for the last number of years have been based in New York and have

been running . . . the operations of Marc Rich International, are not employees of this new company," Weinberg noted. "[T]hey are in Switzerland and are running Marc Rich AG."

"Now, we believe," Weinberg continued, "that there has been in addition to this Swiss litigation, [which] on its face was utterly contrived and concocted . . . a much more egregious deception . . . on this court [and] on the Court of Appeals, because no disclosure [of this sale] has been made to them even though the appellants have recently filed their briefs. . . ."

Predictably perhaps, Ritchie, not Frankel (who had just left for a five-week vacation in Italy), was in court to respond. He glumly told Sand that he, too, hadn't known of the sale until the day before—three weeks after it had occurred. (Frankel, without being specific, says, "Anything I knew in this case after I left Proskauer was limited to what Proskauer's lawyers were told.")

Sand responded that "in light of the fact that the principals of these entities have chosen not to reveal to their counsel in this proceeding the very significant facts and developments," he would sign Weinberg's proposed order serving restraining notices on various banks doing business with any Rich-related entity (including the new one, Clarendon) preventing any further liquidation of assets by any of these entities by requiring each bank to preserve for the government's possible confiscation millions of dollars of any monies owed to any Rich entity.

In fact, no American lawyer had known about the sale of International to Clarendon; the deal was consummated on two typewritten pages for 50 million Swiss francs and an undetermined balance to be paid to AG five years later.

RICHARD SANDLER/THE NEW YORK TIMES

But there would be lots of lawyers—from Williams & Connolly to Clarendon's new "separate" counsel, a team from New York's Curtis, Mallet-Prevost, Colt & Mosle—who would soon be ready and willing to call it a bona fide sale to a separate entity.

Sand's restraining notice against the American banks that do business with International/Clarendon was the first real blood Weinberg drew. It quickly took its toll. Rich and his cohorts might have engineered the Clarendon "sale" to free the lucrative Marc Rich American operation from the legal cloud placed over it by AG's defiance of the subpoena, but their gambit had triggered a reaction that had just the opposite effect. Commodities trading works on lines of credit and the fast, free flow of funds. Now, thanks to Sand's orders, all of that had been gummed up. Some banks even refused to dip into their Marc Rich International—now Clarendon—accounts at all.

On July 28, AG—now represented by junior Proskauer partner Bruce Fader as well as by Ritchie and first-year associate Brooks (Frankel was still vacationing)—and Clarendon, represented by Curtis, Mallet's Eliot Lauer, appeared with Weinberg and Carolyn Simpson, another assistant U.S. attorney, before Judge Sand. Fader carried a check for \$1,350,000, the amount of the fine then due. He offered it to the judge, along with a promise to bond AG for another \$1 million in fines, the amount likely to toll before the Second Circuit acted on the new appeal. In return, he and Curtis, Mallet's Lauer—who maintained, with a straight face, that Clarendon really wasn't a party to any of these proceedings and should therefore not be victimized by the bank restraints—wanted the restraints lifted. Sand, hearing Simpson's objection that the government had no assurance that future fines would be paid, refused.

By August 1, lawyers for AG and Clarendon had begun negotiating with Weinberg, Simpson, and their two supervisors, major crimes unit chief Jane Parver and criminal division head Lawrence Pedowitz. After five days and nights of talks—between these four government lawyers, Fader and the others from Proskauer, and a crew from Curtis, Mallet led by Peter Fleming Jr.—a deal was struck on Friday night, August 5. AG would agree to drop all of its appeals, including the one in the Second Circuit tied to the Swiss court action, and deliver all the AG subpoenaed documents by August 19. In addition, AG would pay fines through August 19; in short, it agreed to pay \$700,000 for two weeks' more time to comply with the 17-month-old subpoena—a point that probably should have made the government lawyers worry that there was more to come in this saga.

In return, the government would immediately lift its restraining order against the banks doing business with International/Clarendon but would execute attachments and mortgages against various Clarendon and Marc Rich-related properties in the U.S. worth \$55 million, including 20th Century-Fox, the movie studio that one of Rich's personally owned companies had bought in concert with millionaire Marvin Davis. The attachments had been drawn up chiefly by Pedowitz, a former partner at the New York takeover-fighting firm of Wachtell, Lipton, Rosen & Katz, for whom all-night negotiations aimed at locking up or transferring corporate assets are second nature.

At a Monday morning press conference called to explain the deal, U.S. Attorney Rudolph Giuliani called it "totally one-sided." Yet it did allow International/Clarendon to resume business as usual. Thus, Peter Ryan, AG's chief financial officer (who became Clarendon's chief financial officer after the sale), offered reporters this unsentimental explanation of his company's decision to obey the law: "They [AG] have now concluded it is in their interest, from a financial and reputational point of view, to comply."

Indeed, the agreement preserved AG's major U.S. asset, International/Clarendon, by freeing it to continue to do business. But this was something the prosecutors wanted, too; they are contemplating RICO as well as tax-evasion indictments against the Marc Rich companies. Had they driven Clarendon out of business, they'd have nothing to recover under RICO.

The story seemed to have ended on August 5 with the negotiated agreement. But on Monday evening, August 8, the government received word that a paralegal from Milgrim Thomojan, the small, prestigious New York firm supposedly coordinating International's subpoena compliance, had boarded a jet at Kennedy Airport with two steamer trunks full of subpoenaed documents. The tip to the government reportedly came indirectly from an employee at Milgrim Thomojan who, knowing of the Marc Rich controversy, saw the documents being crated, heard of the paralegal's mission, and became concerned that something illegal was afoot. At the direction of U.S. Attorney Giuliani, customs agents stopped the plane, served a search warrant on the paralegal, and confiscated the trunks.

In Judge Sand's chambers and in court hearings the next two mornings, Curtis, Mallet's Fleming carefully preserved the legal fiction by noting that he was standing in for Edward Bennett Williams as a representative of International and was not there in his capacity as Clarendon's lawyer. He explained that however bad it looked, it was "all innocent": Robert Thomojan of Milgrim Thomojan had been in Zug coordinating AG's compliance with its subpoena but, because he was also responsible for International's compliance, he had asked that the crates of International documents be shipped to him for review for attorney-client privilege prior to their being produced in New York.

Why could only one lawyer, Thomojan, look through all these documents—which were mostly oil-trade invoices—for a simple and unlikely attorney-client privilege problem? Why couldn't other lawyers at Thomojan's firm or Williams & Connolly do it? Why was the review of International documents only now taking place, when that subpoena, issued 17 months earlier, had never been contested? And how, if AG and International had been separate entities, could they have the same lawyer doing the subpoena compliance review for both companies?

The evening after the second steamer-trunk hearing, Milgrim Thomojan partner Robert Meister, who had appeared on his firm's behalf with Fleming at the first hearing but whose firm had then been dismissed from the case at the insistence of the U.S. Attorney's office, explained to me, incredibly, that "everyone knows that Clarendon and International are really one and the same."

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and that Thomojan, contrary to what Fleming had asserted and contrary to what everyone still involved in the case maintains, had "not done any work for AG." If so, why was he in Switzerland since, after all, International and Clarendon are New York companies? Meister declined comment, as did lawyers at Proskauer and officials at Marc Rich. Frankel was still vacationing and did not appear at the subsequent hearings.

But the judge seemed convinced that something was wrong. On Wednesday, August 10, two days after the steamer trunks had been intercepted on the Kennedy runway, he readily acceded to a government motion, made by major crimes unit chief Parver, that all International documents be delivered by the following Monday, ignoring persistent pleas by Fleming and by Williams & Connolly's Richard Cooper, that the necessary photocopying would take ten days.

"I know it looks terrible," said Clarendon president Willy Strothotte of the steamer-trunk episode in an interview the next day. "But it's just that Mr. Thomojan thought he would do two things at once. I had no idea he was having the documents shipped. It was foolish of him."

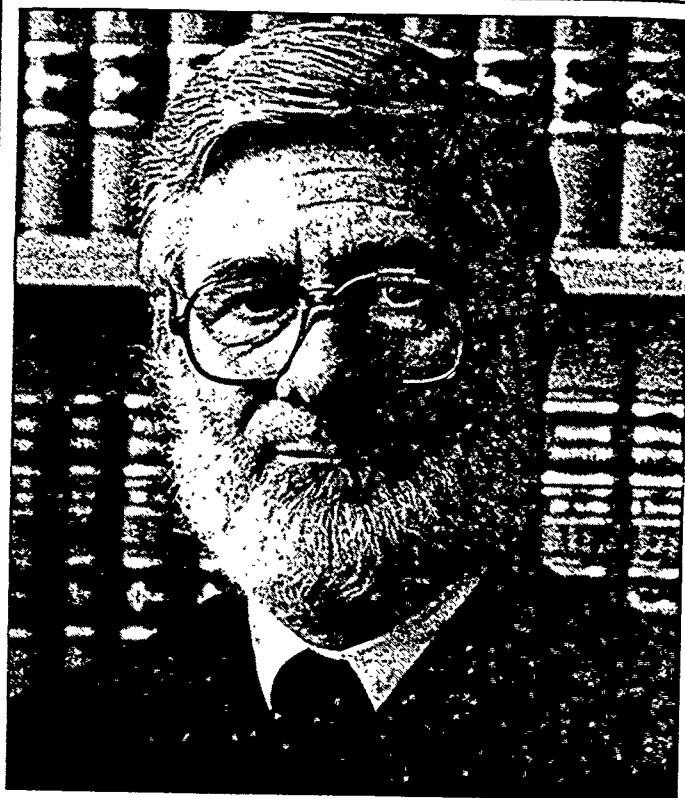
Yet a source at Marc Rich AG in Switzerland says that there had been several shipments of International documents to Switzerland before this. It was done, this source says, "at Mr. Rich's insistence. He wanted his people over there to review the documents . . . where he thought they would be immune from American sanctions if they don't give them up or if they lost some of them."

"Rich also kept promising," the source adds, "that if all this failed it might be possible to get the Swiss officials to intercede and seize the documents in order to keep them secret." This same source says that Thomojan had traveled to Switzerland "to convince the Swiss AG people to be forthcoming, because the federal investigation will be able to spot [gaps] in [the documents produced] anyway." Thomojan declines all comment.

Whatever Rich's reasoning, on August 12 officials of the Swiss federal prosecutor's office did in fact seize hundreds of pages of supposed AG documents at the AG office in Zug. At a hearing the next Monday morning, Sand—clearly boiling over at all that had happened—questioned whether the "steamer-trunk caper," as he called it, had been a deliberate attempt to get documents back to Switzerland where they, too, might be seized. Weinberg agreed, adding he wanted Sand to request Rich and Green to appear personally to explain what was being produced and what had been seized.

"As Your Honor had said before," Weinberg added, "and we will reiterate, there are some very good and honorable law firms involved in this litigation, and in no way does anything that the government says now reflect on the integrity of those law firms, but under all of the circumstances, the government is requesting that the individuals that are in control and in charge of these companies be required to appear personally. . . ."

On the heels of all the disastrous publicity the case was getting, AG's lawyers now suddenly included Proskauer partners Morton Maneker, Gerald Silbert, and Jeffrey Mishkin, but not Ritchie. They were reportedly deployed because Rich had complained about Frankel's absence and the absence of any Proskauer partner to replace him at the highly



JUDGE LEONARD SAND

**WHEN SAND REALIZED THAT
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TO HOLD ON TO MILLIONS OF
DOLLARS OF RICH ASSETS. IT
WAS THE FIRST REAL BLOOD
THAT THE GOVERNMENT DREW.**

charged proceedings. Also, Proskauer litigation chief Imberman is said by one of his partners to have wanted the partners involved as a damage-control measure aimed at salvaging the firm's reputation.

Sand pushed lawyers for AG for assurances that 100 percent of the documents would be delivered on August 19, as had been agreed. Maneker, citing the seizure of some of the documents, said this couldn't be guaranteed anymore.

Noting that the man who had answered for AG when the Swiss officials had arrived to seize the AG documents was Alec Hackel—whom the court had been told was the new president of Clarendon and had nothing to do with AG—Weinberg renewed all the questions about legitimacy of the entire AG/International/Clarendon separation. He then voiced his suspicion about which AG documents had been seized, as compared to what Maneker said were the 200,000 already shipped to the U.S.:

"... [T]hese are the reasons . . . that the government has asked and hopefully the court will order the individuals,

Mr. Rich, Mr. Green, and Mr. Hackel to be present and accountable in the United States before this court to clarify what it is that has actually gone on over there and what is the status of compliance, whether it's ninety-nine or a hundred percent, whatever it is, because the government demands a hundred percent compliance in this case with these outstanding grand jury subpoenas. Certainly we can't rely on representations that these documents were at the bottom of the pile. They may well be golden nuggets that were left behind in Switzerland. It has certainly crossed the government's mind that we would work a swap. We would swap the ninety-nine percent for the one percent that was left," he concluded.

Sand, obviously angry, set a hearing for August 22 to cover the issues of what documents had been seized and whether AG had violated its August 5 agreement. He even threw in the question of whether the International sale to Clarendon was legitimate, which at this point was irrelevant.

By now the Swiss government had

taken a position thoroughly in support of Rich's noncompliance. Swiss embassy adviser Leutert, who had told me a week before that his government's interest was "vague" and "passive," now told the press that the U.S. could only get the AG documents through a negotiated arrangement consistent with a treaty that had been ratified several months after the subpoena had been issued and which seemingly had nothing to do with documents of the kind being sought. And in Switzerland, the prosecutor's office and diplomatic officials were telling Americans representing the State and Justice Departments that the espionage statute—which even Leutert had conceded to me in an August 15 interview didn't apply—was the operative law in this case, and that, therefore, the production of the documents was prohibited.

Why, then, didn't the Swiss seize all the documents? Why had they waited and taken only a fraction? And who had divided up the documents, determining which ones were left and which were shipped? Were they merely the ones at the bottom of the pile, as the Proskauer lawyers had claimed? And, more generally, why had the Swiss changed their tune so suddenly?

These and other questions were not answered on August 22, because the U.S. Attorney's office and Marc Rich's American lawyers agreed on August 18 to postpone the hearing until September 19 (which follows our press date), with Rich delivering \$50,000 in fines for each day of the new delay up to September 12. "We just felt that if we had that hearing, everything would be so acrimonious that the Swiss would dig in and we'd never see those documents," says one Justice Department official. "Those were the signals we got."

One signal the prosecutors didn't get until after they had postponed the hearing was that Rich had a special connection to the Swiss authorities: Mosimann—the Marc Rich AG lawyer who sued himself in the injunction proceeding—is also the part-time public prosecutor of the canton of Zug. Says a key Justice Department source: "We got a tip from a European journalist about Mosimann's being a prosecutor, but it was after we agreed to postpone the hearing. Hearing or not, I'd say it looks doubtful that we'll ever see those documents, or at least all of them."

"I know this may look bad to you Americans," says Mosimann, "but it's totally innocent. . . . It was the federal prosecutor in Berne who ordered the documents seized, not we in Zug." Had he had any contact with the federal prosecutor? "Everybody wants to know that," Mosimann says. "But I can tell you that I had no direct contact. But even if you have contact with people it is not possible to deal in the sense that you suggest by your question. This would not be easy to arrange. . . . We are not a republic of bandits."

Forgotten in the frenzy of the negotiated settlement, the steamer-trunk caper, and the Swiss document seizure was the Second Circuit appeal. Scheduled to be argued on August 9—Frankel says he'd have returned from Italy for that session—the case was dropped after the settlement. Yet the appeal briefs on each side remain good reading.

Indeed, Frankel's argument in his July 18 brief (that the Swiss injunction against compliance with the American subpoena tied Marc Rich's hands) makes even better reading in light of AG's purported capitulation to the subpoena on August 5. If, as Frankel wrote,

the Swiss government had now "spoken" and enjoined the compliance and if the injunction could not be withdrawn by AG, how could Marc Rich lawyers have made that August 5 deal to comply with the subpoena? It turns out that on July 22—unknown to the federal authorities (who were negotiating on the basis that AG had at least a prima facie claim pending in the court of appeals based on the Swiss court action) and unknown to the district or appellate courts—Swiss judge Weber, who apparently had not gone on vacation, had rendered his final decision in the case and declared that since the AG board had itself voted, before the Swiss litigation had been initiated, not to comply with the subpoena, there was no need for his court order. "I decided that the whole thing was silly and unnecessary. It made the court look bad," said the judge in an August 12 interview. "Yes, they could easily have gotten my order lifted, too," he added. "Just by asking me."

Was this July 22 Swiss court decision another case of the lawyers withholding vital information from Judge Sand and their adversaries? Yes and no. The information had been withheld, but from the lawyers as well. "Why should we tell them [the America lawyers] that," asks Mosimann. "They had their job to do, and we had ours."

"You could say that the coordination of the lawyers in this office has not been the best," notes Strothotte, the Clarendon president.

When Frankel notified Weinberg in July that his client was again appealing to the Second Circuit, this time based on the supposed Swiss injunction, Weinberg's preliminary reaction was to file a motion calling the appeal "utterly frivolous" and demanding double attorneys' fees against AG and its counsel.

Frankel's subsequent appeal brief was 46 pages long. He spent 11 pages on an introduction and statement of facts and 14½ pages invoking the supposed Swiss prohibition. But he reserved his heaviest artillery, 17 pages, to rebut Weinberg's demand for double attorneys' fees to punish the former judge's supposedly frivolous appeal. And in these 17 pages we see Frankel trying to have it both ways—trying to seem to put on a case for his client while also hinting to the court and to other sophisticated observers his disdain for the position he'd found himself in. "This was obviously Marvin's 'fuck you' brief to Marc Rich," says one lawyer who knows Frankel well.

Frankel spent not a word of his 17 pages arguing against imposition of attorneys' fees against his client; he only defended himself. And he offered a long discussion of how the judge ought to decide the issue if he assumed that Frankel had thought the appeal unmeritorious and had argued to his client against making it.

In his reply, Weinberg dispensed with this and other Frankel chops at his client in a footnote: "The intimation that counsel advised against filing this appeal, dissuaded AG from seeking a further stay, and were not advised by AG of its effort to shelter its American assets, to the extent that they argue against assessment of damages against counsel, emphasizes all the more AG's lack of good faith."

Frankel concluded his appeal brief as follows: "While this is a time to eschew exaggeration (of which there is already too much on this appeal), the prosecutor's effort to penalize counsel as a means of controlling the client inevita-

bly brings to mind painful analogies elsewhere in the world. A favored device of the executive in countries where human rights are not cherished is to punish or frighten lawyers defending causes the prosecutors deem hateful. The obvious purpose, too often successful in our time, is to suppress or control an inconveniently independent bar. Free nations and people who want to be free rightly condemn that sort of state terrorism. Considering the interests at stake, it is not too much to say that a righteous, intemperate prosecutor is now proposing to this court a first step in that direction. The proposal should be rejected in con-dign terms."

Frankel, a leader in the New York bar's human rights activities abroad, footnoted this paragraph with references to State Department reports concerning human rights violations in Bulgaria, Guatemala, and six other countries.

Weinberg limited his reply on this point to another footnote: "AG's comparison of the government's motion to the police-state tactics of the Bulgarian Commissars and Guatemalan Colonels," he wrote, "says far more about counsel's sense of proportion than about the state of civil liberties in the United States."

It could be said, of course, that all Marc Rich lawyers in this case lost their sense of proportion, that they all went too far. But the American contingent at least might argue that they simply got stuck serving a difficult client who wouldn't level with them, and that they could prove that point convincingly if only they could reveal what they told the client to do and not to do.

Yet these lawyers did have another option. They could easily, and ethically, have resigned from Rich's employ—when he brought the absurd Swiss action, when he sold off the International assets (in both instances without telling his American lawyers), when he refused to pay the fines, or, as now seems likely, when he made sure documents were shipped to Switzerland to be "seized" by the Swiss authorities, with whom AG's own lawyer is connected. At any of these points, and probably at others, the lawyers could have decided to opt out of what seems to be their client's anything-goes approach to the American legal process.

A top Rich executive says his company has recently sounded out former U.S. attorney Robert Fiske, Jr., of Davis Polk & Wardwell and former federal district judge Harold Tyler, Jr., of New York's Patterson, Belknap, Webb & Tyler about taking over the representation of AG because, he says, "we want someone new, with a totally clean image." Both lawyers, however, turned the case down. Tyler notes Rich had "called me two or three times from Zug," but says he bowed out because of other commitments.

These renewed efforts to shore up the Rich legal team notwithstanding, some prosecutors involved in the case speculate that Rich has now decided to abandon the U.S. altogether in order to avoid prosecution; he is probably not extraditable from Switzerland on tax charges. But if the case goes on, there are likely to be more acts in what has become the Marc Rich puppet show. It's only a question of which of Rich's lawyers, present or future, having seen his disregard for the legal process and for the officers of the court sworn to uphold its integrity, will regain their sense of proportion—and decide to cut the strings. □

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PURPO SE OF THIS COMMUNICATION IS TO KEEP FBIHQ ADVISED OF
DEVELOPMENTS OF CAPTIONED.

ON SEPTEMBER WON QOIE AN ARRAIGNMENT BEFORE VINCENT L.
BROADERACK , [REDACTED] MARC RICH AND CO., A.G. AND MARC
RICH AND CO., INTERNATIONAL PLEAD NOT GUILTY. MARC RICH AND
PINCUS GREENE WERE NOT PRESENT AND, ACCORDINGLY, ARE CONSIDERED
FUGITIVES. JUDGE CRAM WAS ASSIGNED TO THE CRIMINAL PROCEEDING.
FBIHQ WILL BE KEPT ADVISED.

FD-65 TO BE SUBMITTED SEPARATELY.

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JG/may

b6
b7C

196A-1774-167

ff ff

[REDACTED] B

Fortune October 17, 1983

196A-1774-169

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5-JC/may

SEARCHED	INDEXED
SERIALIZED <i>jt</i>	FILED <i>jt</i>
OCT 3 1983	
FBI-NEW YORK	

LOPPED OFF

Sumitomo's deal with Dunlop

■ A new deal between Sumitomo Rubber Industries and ailing Dunlop Holdings PLC represents the biggest Japanese investment in the U.K. since Sony started making TV sets there in 1977. For \$123 million, Sumitomo (1982 sales: \$811 million) is buying Dunlop's British and West German tire operations. As part of the package Sumitomo also gets back the 40% of its stock Dunlop acquired 20 years ago when Sumitomo bought Dunlop's tire company in Japan. Last year Dunlop's U.K. tire business lost \$23 million, and the West German operation broke even. Sumitomo thinks it can improve them.

By dumping a portion of its deflating tire business, Dunlop, which makes everything from tennis rackets to pipes for drilling oil, hopes to improve its game. Last year it lost \$140 million on sales of \$2.7 billion.

Marc Rich, 1976 (top);
Assistant U.S.
Attorney Morris
Weinberg Jr. at New
York City's federal
courthouse



CRUDE DEALINGS

Marc Rich is indicted

■ In the largest tax evasion case ever brought by the U.S. government, Marc Rich and his partner Pincus Green, both 49, were indicted on charges of concealing more than \$100 million in income, on which \$48 million of taxes should have been paid. Also indicted was Swiss-based Marc Rich & Co. AG, the giant commodities firm in which the two were principals. The indictment charges that profits from the U.S. subsidiary of Marc Rich & Co. AG were diverted to two Texas companies and then, through "sham transac-

tions," to the Swiss parent. According to Morris Weinberg Jr., 33, the assistant U.S. attorney leading the investigation, documents subpoenaed from the Swiss firm—but not delivered, on orders of the Swiss government—may reveal that the parent siphoned from the U.S. subsidiary another \$100 million. Rich and Green are also charged with trading with the enemy, chiefly by buying Iranian crude in violation of a ban imposed while Americans were held hostage.

If found guilty, Rich and Green could be jailed for life. In recent months they have been living in Switzerland, which does not extradite people for tax evasion. The two could be extradited, however, for other offenses. If Rich and Green won't come to court, says Weinberg, the government will try their companies, and if they are found guilty, seize their U.S. assets. Among them: a 50% holding in TCF Holdings, which owns 20th Century-Fox Film Corp. Fox, or somebody, would be smart to seize the rights to this whole saga.

SPECIAL DELIVERY

MCI's electronic mail service

■ Now MCI Communications Corp. wants to be your postman. The upstart that took on AT&T to win long-distance telephone customers is aiming at the U.S. Postal Service as well as the market created by speedier mail deliverers, such as Federal Express, and the burgeoning market in electronic mail.

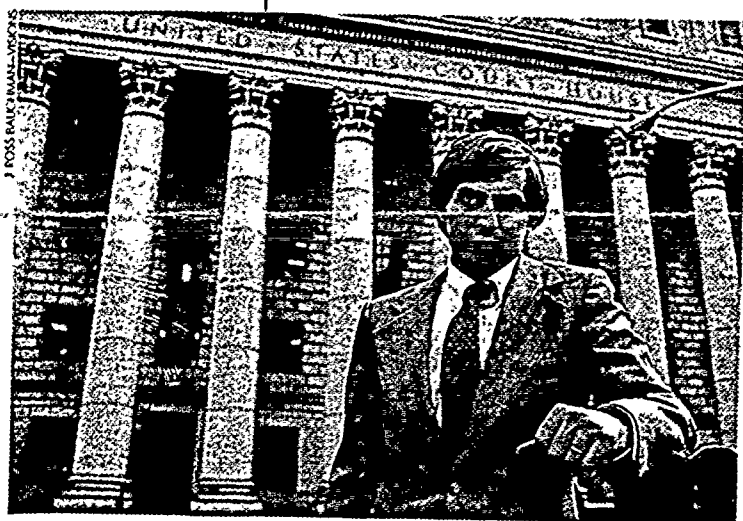
Anyone with a computer terminal, telex, electronic typewriter, or word processor can send messages through MCI's new network, provided the user also has a modem—the gadget that hooks electronic devices into telephone lines. Recipients pay MCI nothing, and senders pay no fees other than "MCI postage," computed by the "MCI ounce": 7,500 characters, or roughly four pages of text. If the recipient has a terminal and modem, delivery is both instantaneous and cheap: \$1 per ounce. If not, service is costlier. The slowest messages, "MCI letters," go electronically to a post office near the recipient and are delivered by postmen, usually a day later (\$2 for the first ounce). MCI guarantees "overnight letters" (\$6) will be delivered the next day by Purolator Courier. "Four-hour letters" (\$25) will also be delivered by Purolator. In all categories, extra ounces cost \$1 each.



TWO-STEP

A chip to beat the megabit

When it comes to random-access memory chips, the commercial successes have advanced in quadruple time. The 1K chip—the K stands for 1,024 bits of information—came to market in 1971. After that came the 4K, the 16K, and the 64K. Now 256K chips are just beginning to go on sale, and companies around the globe are striving to be first to market a megabit (256 x 4) chip. But since that won't happen for several years, IBM slowed to double time and in mid-September announced the development of a 512K chip (above, actual size). If it can be produced before the megabit bows, IBM will be a beat ahead of its competitors.



FBI

TRANSMIT VIA:

☒ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☒ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

Date 9/29/83

24

FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848) PRIORITY

BT

UNCLAS

b6
b7C

ATTENTION: [REDACTED] FINANCIAL CRIMES

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]

MARC RICH AND COMPANY, A.G.; MARC RICH AND COMPANY

INTERNATIONAL, LTD, AKA "CLARENDON, A.G."; RICO - FBW - MF;

TAX EVASION (OO: NY)

THE PURPOSE OF THIS COMMUNICATION IS TO KEEP FBIHQ
 ADVISED OF DEVELOPMENTS IN CAPTIONED.

BASED ON CONVERSATIONS WITH AUSA [REDACTED] INTERNAL REVENUE
 SERVICE (IRS) WITHIN NEXT ONE TO TWO DAYS, WILL MAKE A JEOPARDY
 ASSESSMENT FOR ALL TAXES DUE AND OWING THE U.S. GOVERNMENT (INCLUDING
 PENALTIES AND INTEREST). ACCORDINGLY, TAX LIENS AND LEVIES WILL
 BE PLACED ON ALL MARC RICH U.S. ASSETS (VALUE TO EXCEED \$300
 MILLION).

b6
b7C

IT IS NOT DETERMINED WHETHER IRS WILL CLOSE DOWN ALL U.S.
 OPERATIONS COMPLETELY OR ALLOW OPERATIONS TO CONTINUE UNDER A

① - NEW YORK
 1 - SUPV, M-1

MEB:mms
 (2)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/21/01 BY SP5 JC/mjs

Approved: L/

Transmitted

(Number)

(Time)

Per

91-A-1774-112

b6
b7C

P

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE TWO

NY 196A-1774

UNCLAS

PAYMENT SCHEDULE.

JEOPARDY ASSESSMENT WAS NECESSITATED OUT OF A FEAR THAT COLLECTION OF TAX LIABILITY WAS IN DOUBT. PRIMARY UNDERLYING REASONS: RICH AND GREEN - FUGITIVES, NO NEW BUSINESS IS BEING CONDUCTED IN U.S., AND U.S. OPERATIONS WERE BEING LIQUIDATED.

ON SEPTEMBER 30, 1983, IRS [REDACTED] REQUESTED BRIEFING REGARDING CAPTIONED BY WASHINGTON OFFICE OF IRS.

FBIHQ WILL BE KEPT ADVISED.

BT

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b7C

Approved: _____ Transmitted _____ Per _____
(Number) (Time)

#

NY0666 2722340

PP HQ

FE NY 024

P 292030Z SEP 83FM NEW YORK (196A-1774) (P) (M-L)

TO DIRECTOR (196B-2848) PRIORITY

BT

UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/mg

ATTENTION: [REDACTED] FINANCIAL CRIMES

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE V [REDACTED]

MARC RICH AND COMPANY, A.G.; MARC RICH AND COMPANY

INTERNATIONAL, LTD, AKA "CLARENDON, A.G."; RICO - FBW - MF;

TAX EVASION (OO: NY)

THE PURPOSE OF THIS COMMUNICATION IS TO KEEP FBIHQ
ADVISED OF DEVELOPMENTS IN CAPTIONED.

BASED ON CONVERSATIONS WITH AUSA [REDACTED] INTERNAL REVENUE
SERVICE (IRS) WITHIN NEXT ONE TO TWO DAYS, WILL MAKE A JEOPARDY
ASSESSMENT FOR ALL TAXES DUE AND OWING THE U.S. GOVERNMENT (INCLUDING
PENALTIES AND INTEREST). ACCORDINGLY, TAX LIENS AND LEVIES WILL
BE PLACED ON ALL MARC RICH U.S. ASSETS (VALUE TO EXCEED \$300
MILLION).

IT IS NOT DETERMINED WHETHER IRS WILL CLOSE DOWN ALL U.S.
OPERATIONS COMPLETELY OR ALLOW OPERATIONS TO CONTINUE UNDER A

196A-1774-168

jt - jt

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b7C

b6
b7C

b6
b7C

PAGE TWO

NY 196A-1774

UNCLAS

PAYMENT SCHEDULE.

JEOPARDY ASSESSMENT WAS NECESSITATED OUT OF A FEAR
THAT COLLECTION OF TAX LIABILITY WAS IN DOUBT. PRIMARY UNDERLYING
REASONS: RICH AND GREEN - FUGITIVES, NO NEW BUSINESS IS BEING
CONDUCTED IN U.S., AND U.S. OPERATIONS WERE BEING LIQUIDATED .

ON SEPTEMBER 30, 1983, IRS [REDACTED] REQUESTED
BRIEFING REGARDING CAPTIONED BY WASHINGTON OFFICE OF IRS.

b6
b7C

FBIHQ WILL BE KEPT ADVISED.

BT

SEO 002

RR NY

DE SE

R 050540Z OCT 83

FM SEATTLE (29A-2948) (P)

TO NEW YORK (196-1774) (M-1) ROUTINE

BT

UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC /mon

[REDACTED]
[REDACTED] THE SEATTLE FIRST NATIONAL BANK, SEATTLE,
WASHINGTON; BF&E, OO: SEATTLE.

b6
b7C

RE SEATTLE TELEPHONE CALL TO [REDACTED] NEW YORK,
OCTOBER 3, 1983.

INVESTIGATION IN ABOVE CAPTIONED CASE INVOLVES PROBLEM LOANS
IN THE SEATTLE FIRST NATIONAL BANK (SFNB), SEATTLE, WASHINGTON,
WHICH WAS SUBSEQUENTLY PURCHASED BY AN OUT-OF-STATE BANK TO
AVOID CLOSURE. ONE OF THE MAJOR PROBLEMS LEADING TO THE FAILURE
OF SFNB INVOLVED PERSONAL AND ENERGY RELATED LOANS NEGOTIATED
BY THE SFNB ENERGY DIVISION. ONE SUCH CUSTOMER WAS LISTED ON
BANK RECORDS AS BEING LISTO PETROLEUM, INC., HAVING AN ADDRESS OF
2200 SOUTHWEST FREEWAY, SUITE 500, HOUSTON, TEXAS, AS OF

196A-1774-170

b6
b7C

19-1
[REDACTED] B

PAGE 2 SE 29A-2948 UNCLAS

NOVEMBER 20, 1981. THE [REDACTED] OF

LISTO PETROLEUM WAS LISTED AS [REDACTED]

POSSIBLY CONNECTED WITH LISTO PETROLEUM ARE [REDACTED]

b6
b7C

[REDACTED]

INFORMATION AT SEATTLE REFLECTS THAT MARC RICH AND/OR
PINCUS GREEN AND THEIR DOMESTIC COMPANY MAY HAVE CARRIED OUT
AN OIL LAUNDERING AND PROFIT HIDING SCHEME WITH TEXAS COMPANIES,
ONE OF WHICH BEING LISTO PETROLEUM IN HOUSTON, TEXAS.

NEW YORK AT NEW YORK, NEW YORK: FURNISH SEATTLE WITH
SUMMARY OF ANY INVESTIGATION INVOLVING LISTO PETROLEUM COMPANY,
ALONG WITH ANY INFORMATION ON ABOVE NAMES POSSIBLY RELATED TO
LISTO PETROLEUM COMPANY.

BT

SFO

RR NY

TE SE

A 050540Z OCT 87

FM SEATTLE (204-2040) (P)

TO NEW YORK (100-1070) (P) ROUTINE

BT

UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/mj

[REDACTED]
[REDACTED] THE SEATTLE FIRST NATIONAL BANK, SEATTLE,
WASHINGTON; RECY, OO: SEATTLE.

b6
b7C

RE SEATTLE TELEPHONE CALL TO [REDACTED] NEW YORK,
OCTOBER 3, 1987.

INTERESTIGATION IN ABOVE CAPTIONED CASE INVOLVES PROBLEM LOANS
IN THE SEATTLE FIRST NATIONAL BANK (SFNB), SEATTLE, WASHINGTON,
WHICH WAS SUBSEQUENTLY PURCHASED BY AN OUT-OF-STATE BANK TO
AVOID CLOSURE. ONE OF THE MAJOR PROBLEMS LEADING TO THE FAILURE
OF SFNB INVOLVED PERSONAL AND ENERGY RELATED LOANS NEGOTIATED
BY THE SFNB ENERGY DIVISION. ONE SUCH CUSTOMER WAS LISTED ON
BANK RECORDS AS BEING LISTED PETROLEUM, INC., HAVING AN ADDRESS OF
2220 SOUTHWEST FREEWAY, SUITE 200, HOUSTON, TEXAS. AS OF

196A-1774-170

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 13 1987	

[REDACTED]

b6
b7C

PAGE 2 SE 89A-840 UNCLAS

NOVEMBER 26, 1981. [REDACTED]

LISCO PETROLEUM WAS LISTED AS [REDACTED]

POSSIBLY CONNECTED WITH LISCO PETROLEUM ARE [REDACTED]

b6
b7C

[REDACTED]

INFORMATION AT SEATTLE REFLECTS THAT MARC RICH AND/OR
RICHES GREEN AND THEIR DOMESTIC COMPANY MAY HAVE CARRIED OUT
AN OIL LAUNDERING AND PROFIT HIDING SCHEME WITH TEXAS COMPANIES,
ONE OF WHICH BEING LISCO PETROLEUM IN HOUSTON, TEXAS.

NEW YORK AT NEW YORK, NEW YORK: FURNISH SEATTLE WITH
SUMMARY OF ATE INVESTIGATION INVOLVING LISCO PETROLEUM COMPANY,
ALONG WITH ANY INFORMATION ON ABOVE NAMES POSSIBLY RELATED TO
LISCO PETROLEUM COMPANY.

BT

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 9/30/83

TO: ADIC, NEW YORK (196A-1774)

FROM: SAC DALLAS (196B-1291) (RUC)

MARC RICH, dba
 Marc Rich and Company,
 Et Al
 FBW - ENERGY RELATED
 OO: NY

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/21/01 BY SPS JK/mj

Re New York facsimile to Abilene, Texas RA,
 9/9/83.

Enclosed for New York is one copy of subpoena,
 indicating service on [redacted]
 [redacted] on 9/12/83.

On 9/15/83, [redacted] advised he had sent subpoenaed
 documents air express directly to AUSA [redacted]

Dallas considers matter RUC.

② - New York (Enc.1)
 1 - Dallas
 DLR:hn
 (3)

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 b7C

b6
 b7C
 b3

b6
 b7C
 b3

Approved: _____

Transmitted _____ (Number) (Time)

996A-1774

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 4 1983	

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ AIRTEL

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date 9/30/83

TO: ADIC, NEW YORK (196A-1774)

FROM: SAC, DALLAS (196B-1291) (RUC)

MARC RICH, dba
 Marc Rich and Company,
 Et Al
 FBW - ENERGY RELATED
 OO: NY

Re New York facsimile to Abilene, Texas RA,
 9/9/83.

Enclosed for New York is one copy of subpoena,
 indicating service on [redacted]
 [redacted] on 9/12/83.

On 9/15/83, [redacted] advised he had sent subpoenaed
 documents air express directly to AUSA [redacted]

Dallas considers matter RUC.

② - New York (Enc.1)
 1 - Dallas
 DLR:hn
 (3)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/21/01 BY SP5 JC/mj

b6
 b7C
 b3

b6
 b7C
 b3

Approved: _____ Transmitted _____
 (Number) (Time)

196A-1774-121

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 4 1983	
FBI - NEW YORK	

FBI

TRANSMIT VIA:

☒ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☒ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS
Date 10/4/83

FM NEW YORK (196A-1774) (P) (M-1)

~~TO DIRECTOR (196B-2848) PRIORITY~~ 2033

ATTENTION: SUPV. [REDACTED] FINANCIAL CRIMES

b6
b7C

BT

UNCLAS

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]

MARC RICH & CO., A.G.; MARC RICH AND COMPANY, INTERNATIONAL
 LTD, AKA "CLARENDON, A.G."; RICO - FBW - MF - TAX EVASION -
 TRADING WITH ENEMY (OO:NY)

b6
b7C

PURPOSE OF COMMUNICATION TO KEEP FBIHQ ADVISED OF
 DEVELOPMENTS IN CAPTIONED.

ON [REDACTED]

JUDGE SAND [REDACTED]

b3

FBIHQ WILL BE KEPT ADVISED.

BT

① - NEW YORK
 1 - SUPV. M-1

MEB:mms
 (2)

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/21/01 BY SP5 JC/mz

Approved: C/A

Transmitted _____

(Number)

(Time)

Per _____

b6
b7C

[REDACTED]

NY0901 2772032

PP HQ -

DE NY PQW

P 042000Z OCT 83FM NEW YO RK (196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848) PRIORITY

ATTENTION: SUPV. [REDACTED] FINANCIAL CRIMES

b6
b7C

BT

UNCLAS

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]
M ARC RICH & CO., A.G.; MARC RICH AND COMPANY, INTERNATIONAL
LTD, AKA "CLARENDON, A.G."; RICO A FBW - MF - TAX EVASION -
TRADING WITH ENEMY (OO:NY)

b6
b7C

PURPOSE OF COMMUNICATION TO KEEP FBIHQ ADVISED OF
DEVELOPMENTS IN CAPTIONED.

ON [REDACTED]

JUDGE SAND [REDACTED]

b3

FB IHQ WILL BE KEPT ADVISED.

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JCT/mj

196A-1774-172

b6
b7C

[REDACTED] B

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

AIRTEL

October 19, 1983

TO : SAC, SEATTLE (29A-2948) (P)

FROM : ADIC, NEW YORK (196A-1774) (P) (M-1)

SUBJECT: [REDACTED]
[REDACTED] OF THE ENERGY DIVISION
OF SEATTLE FIRST NATIONAL BANK
SEATTLE, WASHINGTON;
BF&E
(OO:SE)

b6
b7C

ReSEtel to NY, dated 10/5/83.

Enclosed for Seattle is a copy of a 51 count indictment returned, 9/19/83, regarding NY 196A-1774.

For information of Seattle, enclosed indictment includes a summary of the investigation involving Listo Petroleum Company. Pages 14-17 explains Listo's involvement. [REDACTED] was

b6
b7C

[REDACTED] Listo
Petroleum, Houston, Texas.

[REDACTED] were subpoenaed by
the Federal Grand Jury, SDNY. Currently, [REDACTED]
[REDACTED]

b6
b7C
b3

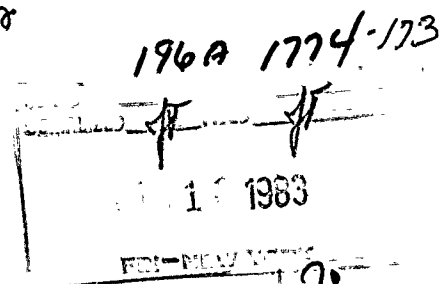
The following individuals have testified before the
Grand Jury regarding [REDACTED]
[REDACTED]

b6
b7C
b3

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SP5 JC/mag

MEB
2 - Seattle (Encl.)
1 - New York

MEB:nec
(4)



NY 196A-1774

All of the above individuals and others listed in referenced teletype are believed to be residing in the [redacted] area.

[redacted] can be reached at telephone number [redacted] and according to AUSA [redacted] knows the current whereabouts of [redacted] former employees.

b6
b7C
b3

NY was not aware of details surrounding referenced [redacted]

NY would be interested in any information developed regarding [redacted] involvement in captioned.

Federal Bureau of Investigation

AIRTEL

To: Director, FBI
Att: Criminal Investigative Division
Fugitive Unit

Date:

OCT 19 1983

From: ADIC, NEW YORK (196A-1774) (M-1) INSTRUCTIONS - Reverse side

NOTE: Priority "A" and "B" Fugitives - With initial submission, set forth a synopsis of crime on reverse side.

Subject: MARC RICH-FUGITIVE;
PINCUS GREEN-FUGITIVE;b6
b7CMARC RICH AND COMPANY A.G.;
MARC RICH AND COMPANY INTERNATIONAL, LTD., aka
"Clarennoon A.G."
RICO; FBW;
MF-TAX EVASION
(OO:NY)☒ Initial Submission☐ Supplements FD-65 dated _____

Indicate Fugitive Priority

☒ A☒ B☐ C

Caution <input type="checkbox"/>	MKE	Name	PINCUS GREEN		NAM	Sex	SEX	Race	RAC			
						M		W				
Place of Birth		Brooklyn, New York		POB	Birth Date	DOB	Height	HGT	Weight	WGT		
							5'10"		180			
Eye Color	EYE	Hair Color	HAI	FBI No.	FBI	Skin Tone	SKN.					
		Gray										
Scars, Marks, Tattoos, etc.									SMT			
NCIC Fingerprint Classification		FPC	Other Identifying Number		MNU	Social Security #		SOC				
Operator's License Number		OLN	Operator's License State		OLS	Year Expire		OLY				
Offense Charged OFF Racketeering-Racketeering Consp.-Mail Fraud-Wire Fraud-Tax Evasion												
U. S. Code, Title and Section 18, 1962 (c) (d), 1341, 1343-26, 7201-31, 535.206 (a) (4)												
Warrant Issued By		USDJ		on		9/19/83		DOW	F. O. File #	OCA		
Date PBV or Bond Default Case Referred to Office								NY 196A-1774				
Miscellaneous Including Bond Recommended					MIS Fingerprint Classification (Henry System)							
If encountered, contact U.S. Customs Agent [] or FBI SA [] (212) 553-2700					ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 2/21/01 BY SP5 JC/mj							
LICENSE PLATE AND VEHICLE INFORMATION												
License Plate Number		LIC	State	LIS	Year Expires	LIY	License Plate Type		LIT			
Vehicle Identification #		VIN	Year	VYR	Make	VMA	Model	VMO	Style	VST	Color	VCO
Aliases		Additional Identifiers										
NCIC #		[]										

b6
b7Cb6
b7Cb6
b7Cb6
b7C

2 - FBIHQ (1 - Fugitive Unit)

① - New York

MEB:mr mr (M-1)

1 - Supervisor M-1 rec'd 12/5/83 in huc msk

FBI/DOJ

PRIORITY "A" and "B" FUGITIVES - Synopsis of Crime.

Pincus Green indicted 9/19/83 for utilizing an enterprise to wire transfer over \$100 million illegal profits generated by trading oil, thereby evading over \$48 million in taxes. Also, he caused over \$200 million U.S. dollars to be transferred to Iran during embargo.

Green entered NCIC by U.S. Customs 9/19/83.

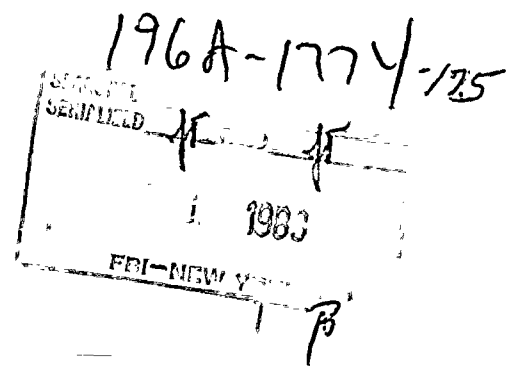
INSTRUCTIONS

1. Caution (MKE) - Insert "C" in block if caution statement indicated. Basis for caution statement must appear in Miscellaneous block, e.g. armed and dangerous.
2. Name (NAM) - Place name in this block. Aliases are not to be entered in this block but are to be placed in Aliases block.
3. Sex (SEX) - Sex will be designated by one letter, M (male) or F (female).
4. Race (RAC) - Race will be described by one letter, W (white), N (Negro), I (Indian), C (Chinese), J (Japanese), O (all other). Mexicans who are not definitely Indian or other nonwhite should be described as "W".
5. Place of Birth (POB) - Indicate city and state or, if foreign born, city and country. Where multiple birthplaces are reported, list verified birthplace or that which appears most logical in this block.
6. Birth Date (DOB) - Enter as month, day and year. Where multiple birth dates are reported, enter verified birth date or that which appears most logical in this block. Place other dates of birth in Additional Identifiers block.
7. Height (HGT) - Express in feet and inches, e.g. 6' 0". Round off fractions to nearest inch. 322 500 ()
8. Weight (WGT) - Express in pounds. Omit fractions. 160 160 ()
9. Eye Color (EYE) - Use appropriate three character symbol.
10. Hair Color (HAI) - Use appropriate three character symbol.
11. Skin Tone (SKN) - Use appropriate three character symbol.
12. Scars, Marks, Tattoos, etc. (SMT) - Place in this block only appropriate NCIC coding for scars, marks, tattoos, birthmarks, deformities, missing body parts and artificial body parts as defined in NCIC Operating Manual. If more than one SMT is to be entered, use Additional Identifiers block for additional appropriately coded items. Use Miscellaneous block to describe all scars, marks, tattoos, etc. which are not defined in the NCIC Operating Manual and to more fully describe SMT's which have been entered in SMT block. For example, an appendectomy scar, not being readily visible, would be described in the Miscellaneous block. A tattoo on right arm, shown as TAT R ARM in block, might be further described in Miscellaneous block as a rose tattoo on inside of lower right arm.
13. NCIC Fingerprint Classification (FPC) - Enter NCIC fingerprint classification.
14. Other Identifying Number (MNU) - Miscellaneous numbers may be entered with appropriate identifiers (prefixes). For first miscellaneous identifying number, use MNU block. When military service number is in fact Social Security Account Number, the number should be entered in both MNU and SOC blocks. Additional identifying numbers are placed in Additional Identifiers block. The identifier (prefix) should precede the number and be separated from the number by use of a hyphen. See NCIC Operating Manual, Part 9, page 26 for appropriate agency identifiers.
15. Fingerprint classification (Henry System) - The Henry System fingerprint classification is to be placed in this block, when available. Do not enter in NCIC.
16. Social Security Number (SOC) - Place subject's Social Security Account Number in this block.
17. Operator's License Number - Place subject's operator's license number in OLN block. Also show licensing state (OLS) and year license expires (OLY).
18. Warrant Issued By On (DOW) - In Escaped Federal Prisoner cases enter date of escape in DOW block.
19. Miscellaneous (MIS) - Enter additional pertinent information in this block. If caution statement used, basis for statement must be set forth as first item in this block.
20. License Plate and Vehicle Information - Place information concerning license plate and/or vehicle known to be in the possession of subject in appropriate blocks under License Plate and Vehicle Information heading.
21. Additional Identifiers - Enter information concerning additional license plates (number, state, year expires, and where applicable, type); Social Security Numbers; operator's license number, state and year expires; vehicle information (VIN, VYR, VMA, VMO, VST, VGO); MNU's (see list in item 14 above); visible scars, marks, tattoos, etc.; and dates of birth. Clearly identify what data is being set forth; e.g. Social Security # 423-56-3294; Michigan operator's license 234567; expires 1972; DOB's 4/5/32, 5/3/32, etc.
22. Changes and deletions should be so indicated in the appropriate blocks.

FDIC: FBI: ZONY (7001-111) (1-1)

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FBI
ALL INFORMATION CONTAINED
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DATE 2/21/01 BY SP SC [signature]



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TO

[Redacted]

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Attention:

[Redacted]

GREETINGS:

WE COMMAND YOU that all business and excuses being laid aside, you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, on the [Redacted] to testify and give evidence in regard to an alleged violation of

[Redacted]

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and not to depart the Court without leave thereof, or of the United States Attorney, and that you produce at the time and place aforesaid the following:

[Redacted]

b3

And for failure to attend and produce [Redacted] you will be deemed guilty of contempt of Court and liable to penalties of law.

b3

Dated: New York, N.Y.

September 8, 1983

Rudolph W. Giuliani
RUDOLPH W. GIULIANI
United States Attorney for the
Southern District of New York.

Raymond F. Burghardt
Clerk.

NOTE: REPORT AT ROOM 767. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 767, upon each day on which you attend Court as a witness.

[Redacted]
Assistant United States Attorney
Telephone: [Redacted]

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Room [Redacted]
One St. Andrew's Plaza
New York, New York 10007

Transmit attached by Facsimile - UNCLAS

Precedence

PriorityTo: SAC, DALLAS (196B-1291) →
ATTN: ABILENE RA

Date: 9/9/83

From: ADIC, New York (196A-1774) (m-1)

Time: Transmitted - 10:25

Subject: MARC Rich dba
MARC Rich and Company
et al
FBI - energy related

Initials -

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received BW☐ Fingerprint Photo☐ Fingerprint Record☐ Map☐ Newspaper clipping☐ Photograph☐ Artists Conception☒ OtherSubpoena

Special handling instructions:

Please serve subpoena ASAP - FF background is needed
Call SA [] - New York EXT. 2943.ALL INFORMATION CONTAINED
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Date 10/19/83

33

FM NEW YORK (196A-1774) (P) (M-1)

TO ~~DIRECTOR (196B-2848) PRIORITY~~ *0210*

ATTN: SUPERVISOR [REDACTED] FINANCIAL CRIMES UNIT, DIV. 6

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MARC RICH-FUGITIVE; PINCUS GREEN-FUGITIVE; [REDACTED]

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MARC RICH AND COMPANY AG; MARC RICH AND COMPANY INTERNATIONAL LTD., AKA "CLARENDON A.G.", RICO; FBW; MF; TAX EVASION; TRADING WITH THE ENEMY, OO:NY.

FOR INFORMATION OF BUREAU, ON OCTOBER 18, 1983,

(S) (U) A VERY RELIABLE AND EXTREMELY SENSITIVE SOURCE

DEVELOPED HIGHLY SINGULAR INFORMATION REGARDING CAPTIONED

MATTER. SOURCE LEARNED THAT [REDACTED]

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(3) NEW YORK

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1 - SUPERVISOR M-1

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WILL BE IN PHYSICAL DANGER, (S)(U)

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BUREAU WILL BE KEPT APPRISED OF DEVELOPMENTS.

ADMINISTRATIVE

INFORMATION FROM [REDACTED] (S)(U) IS OF A HIGHLY SINGULAR NATURE AND DISCLOSURE WOULD REVEAL SOURCE'S IDENTITY.

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TO DIRECTOR (196B-2848) PRIORITY

ATTN: SUPERVISOR [REDACTED] FINANCIAL CRIMES UNIT, DIV. 6

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MARC RICH-FUGITIVE; PINCUS GREEN-FUGITIVE; [REDACTED]

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MARC RICH AND COMPANY AG; MARC RICH AND COMPANY INTERNATIONAL

LTD., AKA "CLARENDON A.G.", RICO; FBW; MF; TAX EVASION;

TRADING WITH THE ENEMY, OO:NY.

(U) FOR INFORMATION OF BUREAU, ON OCTOBER 18, 1983,

[REDACTED] A VERY RELIABLE AND EXTREMELY SENSITIVE SOURCE

DEVELOPED HIGHLY SINGULAR INFORMATION REGARDING CAPTIONED

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NEW YORK CONCURS WITH SOURCE'S ASSESSMENT. SOURCE
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NEW YORK WILL ADVISE SDNY OFFICIALS OF INFORMATION FROM SOURCE AND WILL INSURE SDNY OFFICIALS ARE AWARE OF THE NEED TO PROTECT SOURCE. NEW YORK AND SDNY OFFICIALS WILL DEVELOP ANOTHER AVENUE TO PURSUE THIS INFORMATION.

BUREAU WILL BE KEPT APPRISED OF DEVELOPMENTS.

ADMINISTRATIVE

INFORMATION FROM [REDACTED] (~~S~~) (U) IS OF A HIGHLY SINGULAR NATURE AND DISCLOSURE WOULD REVEAL SOURCE'S IDENTITY.

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IDENTITY, IF REVEALED, WILL POSITIVELY LEAD TO PHYSICAL DANGER TO SOURCE AND FAMILY.

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Date 10/20/83

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~~TO DIRECTOR (196B-2848) ROUTINE~~ 0115

ATTENTION: SUV. [REDACTED] FINANCIAL CRIMES.

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BT

UNCLAS

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]

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MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD.,
 AKA "CLARENDON A.G."; RICO - FBW - MF- TAX EVASION - TRADING
 WITH ENEMY (OO:NY)

THE FOLLOWING IS PROVIDED FOR INFO OF FBIHQ.

ON OCTOBER 19, 1983, AUSA [REDACTED] ADVISED [REDACTED]

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JUDGE

SAND [REDACTED]

SAND [REDACTED]

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Date _____

PAGE TWO

NY 196B-1774

UNLCAS

AUSA [] ADVISED SEPTEMBER 30, 1983, INTERNAL REVENUE SERVICE (IRS) DECLARED A JEOPARDY ASSESSMENT ON MARC RICH & CO. INTERNATIONAL, LTD., AKA "CLARENDON A.G." IN THE AMOUNT OF \$90 MILLION. THIS REPRESENTS BACK TAXES, PENALTIES AND INTEREST. AS OF OCTOBER 19, 1983, IRS COLLECTED \$22 MILLION AND CONTINUES SEARCH FOR ADDITIONAL FUNDS. IF IT IS EVENTUALLY FOUND CLARENDON DOES NOT OWE ADDITIONAL TAXES, THE MONEY WOULD BE RETURNED WITH INTEREST.

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IRS CAN DECLARE JEOPARDY ASSESSMENT WHEN IT BELIEVES ULTIMATE COLLECTION OF A LEVY MIGHT BE JEOPARDIZED. ASSESSMENT WAS DECLARED BECAUSE OF PATTERN OF EVASIVENESS AND BECAUSE CLARENDON MIGHT BECOME INSOLVENT.

~~FD-515S TO FOLLOW BOTH ITEMS.~~

~~FBIHQ WILL BE KEPT ADVISED.~~

*Corrected
on card*

COLLECTION OF \$22 MILLION BY IRS AROSE OUT OF 51 COUNT INDICTMENT FILED SEPTEMBER 19, 1983 TO WHICH FBI CONTRIBUTED SUBSTANTIALLY. INVESTIGATION INVOLVED RICO SCHEME WHEREIN MYRIAD OF WIRE TRANSFERS WERE UTILIZED BY MARC RICH TO TRANSFER OFF-SHORE ILLEGALLY GENERATED OIL PROFITS ON WHICH U.S. TAXES WERE NOT PAID.

Approved: _____ Transmitted _____ Per _____
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FD-515S TO FOLLOW BOTH ITEMS.

FBIHQ WILL BE KEPT ADVISED DEVELOPMENTS IN THIS CASE.

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FM NEW YORK (196B-1774) (P) (M-1)

TO DIRECTOR (196B-2848) ROUTINE

ATTENTION: SUV. [REDACTED] FINANCIAL CRIMES

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MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]
MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD.,
AKA "CLARENDON A.G."; RICO - FBW - MF- TAX EVASION - TRADING
WITH ENEMY (OO:NY)

THE FOLLOWING IS PROVIDED FOR INFO OF FBIHQ.

ON OCTOBER 19, 1983, AUSA [REDACTED] ADVISED [REDACTED]

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AUSA [] ADVISED SEPTEMBER 30, 1983, INTERNAL REVENUE SERVICE (IRS) DECLARED A JEOPARDY ASSESSMENT ON MARC RICH & CO. INTERNATIONAL, LTD., AKA "CLARENDON A.G." IN THE AMOUNT OF \$90 MILLION. THIS REPRESENTS BACK TAXES, PENALTIES AND INTEREST. AS OF OCTOBER 19, 1983, IRS COLLECTED \$22 MILLION AND CONTINUES SEARCH FOR ADDITIONAL FUNDS. IF IT IS EVENTUALLY FOUND CLARENDON DOES NOT OWE ADDITIONAL TAXES, THE MONEY WOULD BE RETURNED WITH INTEREST.

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IRS CAN DECLARE JEOPARDY ASSESSMENT WHEN IT BELIEVES ULTIMATE COLLECTION OF A LEVY MIGHT BE JEOPARDIZED. ASSESSMENT WAS DECLARED BECAUSE OF PATTERN OF EVASIVENESS AND BECAUSE CLARENDON MIGHT BECOME INSOLVENT.

COLLECTION OF \$22 MILLION BY IRS AROSE OUT OF 51 COUNT INDICTMENT FILED SEPTEMBER 19, 1983 TO WHICH FBI CONTRIBUTED SUBSTANTIALLY. INVESTIGATION INVOLVED RICO SCHEME WHEREIN MYRIAD OF WIRE TRANSFERS WERE UTILIZED BY MARC RICH TO TRANSFER OFF-SHORE ILLEGALLY GENERATED OIL PROFITS ON WHICH U.S. TAXES WERE NOT PAID.

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FD-515S TO FOLLOW BOTH ITEMS.

FBIHQ WILL BE KEPT ADVISED DEVELOPMENTS IN THIS CASE.

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VIRGINIA TAX REVIEW

VOLUME 1, NUMBER 2

FALL 1981

OPERATING A BUY-SELL CONTROLLED FOREIGN CORPORATION WITH A FIXED PLACE OF BUSINESS IN THE UNITED STATES

*Roy Albert Povell & L. Frank Chopin**

A foreign base company is a foreign corporation organized by United States interests—a U.S. citizen, resident, or domestic entity—for the purpose of conducting foreign business operations. A principal motivation for the use of a foreign base company is the avoidance of direct U.S. income taxation (at the company level) and the deferral of indirect U.S. income taxation (at the U.S. shareholder level). This benefit inures because, unlike foreign branches of domestic corporations, foreign corporations are taxed in the United States only on certain income which has its source in the United States or which is effectively connected with a trade or business carried on in the United States.¹ This allows such companies, assuming they are based in low or no tax jurisdictions, not only to avoid tax in the first instance but to accumulate and reinvest their earnings while continuing to defer U.S. income taxation until such time as the earnings are actually distributed to the United States shareholders. Obviously, this result is not available to every foreign corporation and to the extent that such a corporation is a “controlled foreign corporation” and receives certain “tainted” income, the tax benefits just described will be lost.²

This article will consider in general terms the methodology for, and U.S. tax consequences of, utilizing a tax haven based company

* Mr. Povell is a partner in the firm of Cadwalader, Wickersham & Taft in New York, New York and in Palm Beach, Florida. Mr. Chopin is an attorney with the firm of Cadwalader, Wickersham & Taft, Palm Beach, Florida.

¹ See notes 17-41.1 *infra* and accompanying text.

² See notes 87-139 *infra* and accompanying text.

to engage in international sales transactions.³ More specifically, it will focus on the treatment of the corporation as a separate taxable entity and as the true earner of its income; the direct United States taxation of foreign corporations; and the difficulties posed by United States anti-avoidance legislation.

I. BACKGROUND

A. Recognition of the Corporate Entity

As noted, a primary objective of the foreign base company is U.S. income tax deferral. The successful achievement of this objective depends in the first instance on having the corporation treated as a taxable entity separate from its shareholders. Stated differently, the foreign base company must have substance, at least such substance as will prevent it being treated as a sham or conduit.

The basic test applied by courts in determining whether the separate existence of a corporation should be given effect for tax purposes was phrased by the United States Supreme Court in *Moline Properties, Inc. v. Commissioner*⁴ as follows:

The doctrine of corporate entity fills a useful purpose in business life. Whether the purpose be to gain an advantage under the law of the state of incorporation or to avoid or to comply with the demands of creditors or to serve the creator's personal or undisclosed convenience, so long as that purpose is the equivalent of business activity or is followed by the carrying on of business by the corporation, the corporation remains a separate taxable entity.⁵

The test appears to be an alternative one, requiring the corporation to have either business purpose or business activity. In applying *Moline*, however, some cases have held that the corporation should cease to be regarded as a separate entity once its business activities have been discontinued.⁶

³ Care must be exercised so that the company's income is not subject to a high rate of taxation by a foreign government. Tax consequences arising in jurisdictions outside the United States as well as planning techniques for repatriation of accumulated foreign income are beyond the scope of this discussion.

⁴ 319 U.S. 436 (1943).

⁵ *Id.* at 438-39 (emphasis added).

⁶ See, e.g., *National Investors Corp. v. Hoey*, 144 F.2d 466 (2d Cir. 1944) (subsidiary formed to hold securities to facilitate a consolidation treated as a separate corporation only as long as plan of consolidation proceeding, but not after plan abandoned); *Minnesota Farm*

Moline does not specify the quantum of business activity required of a corporation to ensure its taxability as a separate entity; subsequent cases, however, indicate that it may be very small.⁷ As one commentator suggests, "[m]inimal activity, such as signing leases, issuing a mortgage, [or] maintaining a bank account will be enough to constitute 'business activity'."⁸ In *Moline*, the corporation was created to hold realty previously owned by its sole shareholder. The corporation's existence was recognized because it had assumed a mortgage, entered into a short term net lease of property, and sold property it held.⁹

When corporations are availed of only for tax avoidance purposes and have no business purpose or engage in little or no activity, they will be disregarded for U.S. income tax purposes.¹⁰ A general tax avoidance motive will not be sufficient, however, in the face of business purposes and/or business activity to strip a corporation of its separately taxable status. As the Tax Court noted:

The test, however, is not the personal purpose of a taxpayer in creating a corporation. Rather, it is whether that purpose is intended to be accomplished through a corporation carrying out substantive business functions. If the purpose of the corporation is to carry out substantive business functions, or if it in fact engages in substan-

Bureau Sec., Inc. v. United States, 63-1 U.S.T.C. ¶ 9138 (D. Minn. 1962) (subsidiary originally formed to raise funds for parent held a "conduit" not separately taxable in a later "year of passive business purpose").

⁷ See, e.g., *Britt v. United States*, 431 F.2d 227, 237 (5th Cir. 1970). See also *Baker & Rothman, Nominee and Agency Corporations: Grasping For Straws*, 33 N.Y.U. INST. FED. TAX. 1255, 1281-84 (1975); *Kronovet, Straw corporations: when will they be recognized; what can and should be done*, 39 J. TAX. 54 (1973).

⁸ *Kronovet, supra* note 7, at 55.

⁹ See 319 U.S. at 437-38. For additional cases which have required only minimal corporate activity to find a separate taxable entity, see *Britt v. United States*, 431 F.2d 227 (5th Cir. 1970) (investing in a partnership); *Paymer v. Commissioner*, 150 F.2d 334 (2d Cir. 1945) (obtaining a secured loan, even where there is no office or bank account); *Photocircuits Corp. v. United States*, 74-2 U.S.T.C. ¶ 9558 (Ct. Cl. 1974) (handling the licensing of patent rights by a dummy director who acted solely on the instructions of affiliated corporations); *Stillman v. Commissioner*, 60 T.C. 897 (1973) (holding a lease on behalf of a partnership); *Bolger v. Commissioner*, 59 T.C. 760 (1973), acq. 1976-1 C.B. 1 (financing the purchase of and leasing property immediately transferred to shareholders subject to lease and mortgage for no consideration); *Bass v. Commissioner*, 50 T.C. 595 (1968) (holding an undivided working interest in oil and gas leases subject to operating agreements); *Siegel v. Commissioner*, 45 T.C. 566 (1966), acq. 1966-2 C.B. 7 (investing in a joint venture). See also *Cukor v. Commissioner*, 27 T.C.M. (CCH) 89 (1968).

¹⁰ See *Noonan v. Commissioner*, 52 T.C. 907 (1969), *aff'd per curiam*, 451 F.2d 992 (9th Cir. 1971); *Davis v. Commissioner*, 29 T.C.M. (CCH) 749 (1970).

tive business activity, it will not be disregarded for Federal tax purposes.¹¹

An additional factor in determining corporate viability, one which is at best difficult to evaluate, is the observance of corporate formalities. If the corporation maintains an office and a bank account, keeps separate and adequate books and records, holds whatever director or other meetings as are required and files U.S. and foreign tax and informational returns, the fact that it does so can only assist its efforts to achieve separately taxable status.¹² However, such formalities alone are not controlling and it would seem unlikely that a corporation adhering to them but lacking in business purpose and activities could withstand a challenge.

B. True Earner Principles

A basic premise of U.S. tax law is that income is taxed to the person or entity that actually earns it. Once established as a separately taxable entity, the corporation must still demonstrate that it is the true earner of the income.¹³ Income is considered earned by the corporate entity if, through its employees and agents, it performs significant business functions which generate the income.¹⁴ However, if an individual forms a corporation merely for the purpose of channeling income to it and the corporation does not perform any significant income generation functions, income can be allocated to its true earner either under general assignment of income principles¹⁵ or pursuant to section 482 of the Internal Reve-

¹¹ Bass v. Commissioner, 50 T.C. 595, 601 (1968).

¹² Compare Bass v. Commissioner, 50 T.C. 595, 598-99 (1968) with Ross Glove Co. v. Commissioner, 60 T.C. 569, 580-82 (1973), acq. 1974-2 C.B. 4.

¹³ A finding that a corporation is a separately taxable entity does not preclude reallocation of income. See Wilson v. United States, 530 F.2d 772, 778 (8th Cir. 1976); Philipp Bros. Chem., Inc. (Md.) v. Commissioner, 52 T.C. 240, 251 (1969), acq. 1973-2 C.B. 3, *aff'd in part sub nom.* Philipp Bros. Chem., Inc. (N.Y.) v. Commissioner, 435 F.2d 53 (2d Cir. 1970).

¹⁴ See Ross Glove Co. v. Commissioner, 60 T.C. 569, 594 (1973), acq. 1974-2 C.B. 4. A series of relatively recent cases, however, seems to indicate that, if a controlling shareholder's services generate income far in excess of compensation paid for those services, the Service may reallocate income to that shareholder under § 482. See Foglesong v. Commissioner, 621 F.2d 865 (7th Cir. 1980); Rubin v. Commissioner, 429 F.2d 650 (2d Cir. 1970). See generally Fuller, *Section 482 Revisited*, 31 Tax. L. Rev. 475 (1976).

¹⁵ See, e.g., Shaw Constr. Co. v. Commissioner, 323 F.2d 316, 320 (9th Cir. 1963); American Sav. Bank v. Commissioner, 56 T.C. 828, 839 (1971), acq. 1972-1 C.B. 1; Aldon Homes, Inc. v. Commissioner, 33 T.C. 582, 604-05 (1959). In practical effect, the application of the assignment of income doctrine and corporate entity analysis are closely connected, particu-

nue Code.¹⁶

C. Direct Taxation of a Foreign Corporation

A foreign corporation may be subject to either of two different regimens of U.S. federal income taxation depending on whether it is engaged in a trade or business in the United States and whether it receives certain categories of U.S. source passive income.¹⁷ Moreover, it can be subject to both such regimens of direct taxation in the same taxable year. For U.S. tax purposes, the gross income of a foreign corporation includes only: (1) gross income effectively connected with the conduct of a trade or business within the United States; and (2) gross income, derived from sources within the United States, which is not effectively connected with a U.S. trade or business.¹⁸

Whether a foreign corporation is engaged in the conduct of a trade or business within the United States is a question of fact; the answer depends upon the nature and extent of the corporation's economic contacts with the United States.¹⁹ Historically, "trade or

lary since "true earner" issues often turn on the extent of an entity's business activity. See B. BITTKER & J. EUSTICE, *FEDERAL INCOME TAXATION OF CORPORATIONS AND SHAREHOLDERS* § 15.07 (4th ed. 1979) [hereinafter cited as BITTKER & EUSTICE].

¹⁶ I.R.C. § 482. See *Foglesong v. Commissioner*, 621 F.2d 865 (7th Cir. 1980); *Philipp Bros. Chem., Inc. (N.Y.) v. Commissioner*, 435 F.2d 53 (2d Cir. 1970). Section 482 grants the Service considerable authority to reallocate gross income, credits, and deductions between or among controlled taxpayers to prevent tax evasion or "clearly to reflect income." See I.R.C. § 482. The clear reflection of income standard is premised on an "arm's length transaction" which, for sales of tangible property, is determined in the regulations by reference to one of three pricing methods: comparable uncontrolled price, cost plus, and resale price. See *Treas. Reg. § 1.482-2(e)(2) to -2(e)(4)*. See generally R. RHOADES & M. LANGER, *INCOME TAXATION OF FOREIGN RELATED TRANSACTIONS* §§ 7.11-.14 (rev. ed. 1981). If none of the three methods can reasonably be applied, or if some other method is clearly more appropriate, another pricing method can be used. See *Treas. Reg. § 1.482-2(e)(1)(iii)*. Such other method has been employed by at least one court to permit an "economically reasonable" reallocation. See *E. I. Du Pont de Nemours & Co. v. United States*, 608 F.2d 445, 456 (Ct. Cl. 1979), *cert. denied*, 445 U.S. 962 (1980). Such an expansive reading, however, has not followed in every case. See *United States Steel Corp. v. Commissioner*, 617 F.2d 942 (2d Cir. 1980).

¹⁷ See I.R.C. §§ 881(a), 882(a); *Treas. Reg. § 1.881-1(a) to -1(b)*.

¹⁸ See I.R.C. § 882(b).

¹⁹ See *Spermacet Whaling & Shipping Co. S/A v. Commissioner*, 30 T.C. 618, 631 (1958), *aff'd*, 281 F.2d 848 (6th Cir. 1960). The point at which business with the United States becomes business within the United States appears to be a function of: (1) where production activities are located; (2) where management and control exists; (3) where distribution, purchasing, and financial functions take place; and (4) the relationship of the parties within the corporate structure, such as parent-subsidary or main office-branch office. See BITTKER

business" has meant progressive, continuous, or sustained activity.²⁰ While the Code does not define the activities necessary to constitute a trade or business, it does provide, subject to a minor exception,²¹ that personal services performed within the United States at any time during the taxable year constitute a U.S. trade or business.²² Since a corporation is not a natural person but a juridical entity, and thus can only act through its agents and employees, it can engage in a U.S. trade or business only through the activities of its employees or agents performing services on its behalf within the United States.²³ Consequently, regular and continuous activity, beyond mere clerical functions, performed by a foreign corporation's agents or employees in the United States probably would cause the corporation to be engaged in a trade or business within the United States.²⁴

The U.S. branch office of a foreign corporation that serves as a domestic purchasing office on a regular and continuing basis and which provides certain storage, managerial, and clerical functions with respect to property sold abroad by the corporation's foreign office is engaged in a U.S. trade or business. As a result, it is subject to direct U.S. federal income taxation on all of its income which is deemed "effectively connected" with its sales activities.

The income of a foreign corporation which is effectively connected with the conduct of a U.S. trade or business is taxed at

& EUSTICE, *supra* note 15, at ¶ 17.02. See generally Garelik, *What Constitutes Doing Business Within the United States by a Non-Resident Alien Individual or a Foreign Corporation*, 18 TAX L. REV. 423 (1963).

²⁰ See *Commissioner v. Spermacet Whaling & Shipping Co., S/A*, 281 F.2d 646, 651-52 (6th Cir. 1960); *Lewellyn v. Pittsburgh, B. & L.E. R.R.*, 222 F. 177, 185-86 (3d Cir. 1915).

²¹ The exception is the performance of personal services for a foreign employer by a non-resident alien temporarily present in the United States for 90 days or less for compensation not exceeding \$3,000. See I.R.C. § 864(b)(1). See also *id.* § 861(a)(3).

²² See *id.* § 864(b); Treas. Reg. § 1.864-2(a).

²³ See *de Vegvar v. Commissioner*, 28 T.C. 1055 (1957), *acq.* 1958-1 C.B. 4. See also *Le Beau Tours Inter-American, Inc. v. United States*, 547 F.2d 9 (2d Cir. 1976), *cert. denied*, 431 U.S. 904 (1977); *Tipton & Kalmbach, Inc. v. United States*, 480 F.2d 1118 (10th Cir. 1973); *Commissioner v. Hawaiian Philippine Co.*, 100 F.2d 988 (9th Cir.), *cert. denied*, 307 U.S. 635 (1939); Rev. Rul. 60-65, 1060-1 C.B. 270.

²⁴ See *Lewellyn v. Pittsburgh, B. & L.E. R.R.*, 222 F. 177, 185 (3d Cir. 1915) (addressing the question of "engaged in trade or business" for state law purposes); Rev. Rul. 55-182, 1955-1 C.B. 77, 79. The activities and residence of shareholders not otherwise agents or employees of the corporation, however, is not a factor in determining whether the corporation is engaged in a U.S. trade or business. See *de Vegvar v. Commissioner*, 28 T.C. 1055, 1060-61 (1957). See also Rev. Rul. 55-182 *supra*.

regular U.S. corporate rates.²⁶ Effectively connected income may include U.S. source "fixed or determinable annual or periodical" (FDAP) income,²⁶ capital gains,²⁷ other U.S. source income,²⁸ and certain types of foreign source income.²⁹

Two statutory tests exist to determine whether U.S. source FDAP income or U.S. source capital gains (or losses) are effectively connected with the conduct of a U.S. trade or business by a foreign corporation without a U.S. office.³⁰ If either test is satisfied, the income or gain is effectively connected. The first is the "asset-use" test. If the income or gain is derived from assets used in, or held for use in, a U.S. trade or business conducted in the United States, it is effectively connected.³¹ The second is the "business activities" test. If the activities of a U.S. trade or business are a material factor in the realization of the income or gain, such income or gain is effectively connected.³² If a foreign corporation without a U.S. office is engaged in a trade or business in the United States, all other classes of its U.S. source income, such as income derived from the sale of inventory, are automatically classified as effectively connected income.³³

If a foreign corporation does not have an office or other fixed place of business in the United States, only U.S. source income is eligible for characterization as effectively connected income.³⁴ However, if a foreign corporation has an office within the United States, certain classes of foreign source income attributable to that office are treated as effectively connected income.³⁵ These classes of income include income derived from the sale of inventory

²⁶ See I.R.C. § 882(a)(1).

²⁷ See *id.* § 864(c)(2). FDAP income includes interest (other than original issue discount), dividends, rents, salaries, and annuities which are paid in predetermined amounts at periodic intervals. See *id.* § 881(a)(1); Treas. Reg. §§ 1.881-2(b), 1.1441-2(a).

²⁸ See I.R.C. § 864(c)(2).

²⁹ See *id.* § 864(c)(3). Section 864(c)(3) is a broad provision which draws in all other U.S. source income once a company is engaged in a trade or business within the United States. The income need not be effectively connected to any particular trade or business; it is deemed to be. See *id.*; Treas. Reg. § 1.864-4(b), Ex. 3.

³⁰ See I.R.C. § 864(c)(4).

³¹ See *id.* § 864(c)(2).

³² See *id.* § 864(c)(2)(A); Treas. Reg. § 1.864-4(c)(1), -4(c)(2).

³³ See I.R.C. § 864(c)(2)(B); Treas. Reg. § 1.864-4(c)(1), -4(c)(3).

³⁴ See I.R.C. § 864(c)(3); Treas. Reg. § 1.864-4(b).

³⁵ See I.R.C. § 864(c)(4)(A); Treas. Reg. § 1.864-5(a).

³⁶ See I.R.C. § 864(c)(4)(B)-(C); Treas. Reg. §§ 1.864-5, -6.

outside of the United States through a domestic office.³⁸

Certain items of U.S. source income, if not effectively connected with the conduct of a trade or business within the United States, are taxed on a gross basis (without the benefit of deductions) at a thirty percent rate, unless a lower treaty rate is applicable.³⁹ This category of income consists of U.S. source FDAP income⁴⁰ and certain miscellaneous forms of income, such as original issue discount and special types of income or gains otherwise accorded capital treatment.⁴¹ In the usual case, the tax liability of a foreign corporation in respect of its U.S. source FDAP income is satisfied through withholding at the income source.⁴²

Historically, capital gains of a foreign corporation not effectively connected with a U.S. trade or business have not been subject to direct U.S. federal income taxation.⁴³ Gain from the disposition of a United States real property interest after June 18, 1980, however, is now treated as being effectively connected with the foreign corporation's U.S. trade or business even if such corporation otherwise has no U.S. trade of business.^{44,1}

II. DIRECT TAXATION OF INTERNATIONAL SALES TRANSACTIONS

To avoid direct U.S. federal income taxation of its international sales income, a foreign corporation otherwise engaged in a trade or business in the United States must observe the following three constraints. First, the property it resells—inventory items or property held for sale in the ordinary course of business—must be sold to a foreign purchaser outside of the United States. If the property

³⁸ See I.R.C. § 864(c)(4)(B)(iii). Other types of foreign source income that may be treated as effectively connected income if attributable to a U.S. office include rents, royalties, and gains (or losses) from intangible property, see *id.* § 864(c)(4)(B)(i); and dividends, interest, and gains (or losses) from the sale or exchange of stocks or notes, bonds, or other evidences of indebtedness, and either derived from the active conduct of a banking business within the United States or received by a corporation the principal business of which is trading in stocks and securities for its own account. See *id.* § 864(c)(4)(B)(ii). Excluded from a foreign corporation's foreign source effectively connected income are dividends, interest, or royalties paid by a related corporation, see *id.* § 864(c)(4)(D)(i), and the subpart F income (as defined in § 952(a)) of a controlled foreign corporation. See *id.* § 864(c)(4)(D)(ii).

³⁹ See *id.* §§ 881(a), 894.

⁴⁰ See note 26 *supra*.

⁴¹ See I.R.C. § 881(a)(2)-(4).

⁴² See *id.* §§ 1441-1464.

⁴³ See *id.* § 881; Treas. Reg. §§ 1.881-1(h)(2) to -2(a)(1).

^{44,1} See I.R.C. § 897(a)(1).

were resold within the United States, the entire income derived from such sales would be U.S. source effectively connected income.⁴² Second, the foreign corporation's foreign office must participate materially in the sales. Third, the products must be sold for use, consumption, or disposition outside the United States. These three constraints are examined below. It should be noted that a domestic corporation, other than a Domestic International Sales Corporation, is subject to direct U.S. federal income taxation on its worldwide income, regardless of place of sale, participation of a foreign office, or place of consumption of the goods sold.

A. Source of Income

In general, the place of sale of personal property determines the source of the income derived from the sale.⁴³ Thus, "gains, profits, and income derived from the purchase of personal property within the United States and its sale or exchange without the United States" are treated as income from sources without the United States.⁴⁴ Though subject to varying interpretations by courts and the Internal Revenue Service in the past,⁴⁵ the Code and present regulations define the place of sale as the place where rights, title, and interest pass from the seller to the buyer.⁴⁶ Artificially arranged transactions designed primarily for tax avoidance purposes, however, may fall within another rule that requires consideration of all the factors of a transaction to determine "where the sub-

⁴² See *id.* §§ 861(a)(6), 882(a)(1).

⁴³ See *id.* §§ 861(a)(6), 862(a)(6).

⁴⁴ *Id.* § 862(a)(6). See Treas. Reg. § 1.862-1(a)(6). Similarly, personal property purchased without the United States and sold within the United States yields U.S. source income. See I.R.C. § 861(a)(6). Section 863(b)(2) (relating to allocation of income between U.S. and foreign sources) is only applicable if the foreign corporation is manufacturing property within the United States and selling it without.

⁴⁵ Compare *Compania General de Tabacos de Filipinas v. Collector*, 279 U.S. 306 (1929) and G.C.M. 8594, 1930-2 C.B. 354 with *Commissioner v. East Coast Oil Co. S.A.*, 85 F.2d 322 (5th Cir. 1934), *cert. denied*, 299 U.S. 608 (1936) and G.C.M. 25131, 1947-2 C.B. 85, *declared obsolete*, Rev. Rul. 69-45, 1969-1 C.B. 313.

⁴⁶ See Treas. Reg. § 1.861-7(c). The regulation provides in relevant part:

[A] sale of personal property is consummated at the time when, and the place where, the rights, title, and interest of the seller in the property are transferred to the buyer. Where bare legal title is retained by the seller, the sale shall be deemed to have occurred at the time and place of passage to the buyer of beneficial ownership and the risk of loss.

stance of the sale occurred."⁴⁷

B. Foreign Office and Material Participation

Assuming that the international sales take place outside the United States, income derived therefrom will be foreign source income. This income still may be subject to direct U.S. income tax, however, under the general Code rule that foreign source income derived from sales made through a foreign corporation's U.S. office is effectively connected with that corporation's U.S. trade or business.⁴⁸ An exception to this rule provides that income derived from the sale of inventory is not considered effectively connected if a foreign office of the foreign corporation participates materially in the sale.⁴⁹ Therefore, it is essential that the foreign corporation maintain a foreign office and that the office participate materially in the international sales transactions.

In determining whether a foreign corporation has an "office" in a particular country for U.S. tax purposes, United States rather than foreign law is controlling.⁵⁰ The regulations define an office (or other fixed place of business) in terms of physical space, agency, and activity.⁵¹ In determining whether a foreign corporation has a U.S. or foreign office, due regard must be given to all the facts and circumstances, particularly the nature of the corporation's business.⁵²

The general definition of an office is "a fixed facility . . . through which . . . a foreign corporation engages in a trade or business."⁵³ A fixed facility may be considered an office whether or not continuously used.⁵⁴ If a foreign corporation sometimes uses another person's office, however, that office will not be considered an office of the foreign corporation "if the trade or business activities of the . . . foreign corporation in that office . . . are relatively sporadic or infrequent, taking into account the overall needs and

⁴⁷ *Id.*

⁴⁸ See I.R.C. § 864(c)(4)(B).

⁴⁹ See *id.* § 864(c)(4)(B)(iii).

⁵⁰ See Treas. Reg. § 1.864-7(n)(3).

⁵¹ See *id.* § 1.864-7(b) to -7(d).

⁵² See *id.* § 1.864-7(a)(2).

⁵³ *Id.* § 1.864-7(b)(1).

⁵⁴ See *id.*

conduct of that trade or business."⁵⁵

The office of a dependent agent may be considered to be the office of a foreign corporation if the agent has and regularly exercises the authority to negotiate and conclude contracts in the name of the foreign corporation or if the agent has a stock of merchandise belonging to the foreign corporation from which orders are regularly filled.⁵⁶ However, the office of an independent agent, such as a general commission agent acting in the ordinary course of his business,⁵⁷ will not constitute an office of the foreign corporation irrespective of such agent's scope of authority and activity.⁵⁸

Special rules apply with respect to employee activity. If an employee regularly conducts business activities for his employer from an office of his employer, such facility will constitute an office of the foreign corporation.⁵⁹ If the employer does not maintain the office, however, the rules relating to dependent agents apply.⁶⁰

Once the existence of a foreign office is established, that office must participate materially in the international sales because material participation is the key element in determining whether a sale made through the U.S. office is attributable to that office or to the foreign office. If the foreign office participates materially in a sale made through the corporation's U.S. office, and the property is sold for use, consumption, or disposition outside the United States, then the U.S. office will not be considered to be a material factor in the realization of income from such sale.⁶¹ Hence, the income will not be effectively connected and will not be subject to direct U.S. federal income taxation.⁶² The regulations specifically provide that a foreign corporation's foreign office will be considered to have participated materially in a sale made through the corporation's U.S. office if the foreign office "actively participates in soliciting the order resulting in the sale, negotiating the contract of sale, or performing other significant services necessary for the consummation of the sale which are not the subject of a separate

⁵⁵ *Id.* § 1.864-7(b)(2).

⁵⁶ *See id.* § 1.864-7(d)(1).

⁵⁷ *See id.* § 1.864-7(d)(3)(i).

⁵⁸ *See id.* § 1.864-7(d)(2).

⁵⁹ *See id.* § 1.864-7(e).

⁶⁰ *See id.*; note 56 *supra* and accompanying text.

⁶¹ *See* Treas. Reg. § 1.864-6(b)(3)(i).

⁶² *See* I.R.C. §§ 664(c)(4)(B)(iii), 882(b).

agreement between the seller and buyer."⁶³ In other words, the foreign office must significantly contribute to, and must be an essential element in, the realization of the income derived from the international sales transaction.⁶⁴ The foreign office, however, is not required to be the "major," as opposed to a "material" factor in the production of such income.⁶⁵

The regulations provide that a foreign corporation's foreign office will not be considered to have participated materially in a sale solely by reason of any or all of the following activities:

- (a) the sale is made subject to the final approval of such office . . . ,
- (b) the property sold is held in, and distributed from such office . . . , (c) samples of the property sold are displayed (but not otherwise promoted or sold) in such office . . . , (d) such office . . . is used for purposes of having title to the property pass outside the United States, or (e) such office . . . performs merely clerical functions incident to the sale.⁶⁶

Therefore, for a foreign corporation's foreign office to be treated as having participated materially in international sales transactions, such office should solicit the sales order, negotiate the terms and contract of sale, and perform any other significant services necessary for the consummation of the sale. If the foreign corporation's foreign office performs all of these functions it will be considered to have participated materially in the international sales transaction,⁶⁷ whether or not the U.S. office conducts any or all of the following activities: purchasing the property sold in the international transaction; holding or distributing such property; displaying samples, but otherwise not promoting or selling such property; exercising final approval over the international sales; performing clerical functions incident to such sales; and effecting occasional and unsolicited casual sales (so long as the U.S. office is not held out as the place where such orders should be sent).⁶⁸

The regulations thus provide a format for avoiding characterization of income derived from international sales transactions as ef-

⁶³ Treas. Reg. § 1.864-6(b)(3)(i).

⁶⁴ See *id.* § 1.864-6(b)(1).

⁶⁵ See *id.*

⁶⁶ *Id.* § 1.864-6(b)(3)(i).

⁶⁷ See *id.*

⁶⁸ See *id.* § 1.864-6(b)(2)(iii).

fectively connected income. The emphasis of the regulations is on economic reality: The foreign office must make a significant economic contribution to the sale. Because such contributions may be evidenced only by objective criteria, it is essential to establish and promote the foreign office as a viable ongoing sales office.⁶⁹ ^A

C. *Country of Use, Consumption, or Disposition*

Assuming that a foreign corporation structures its international sales transactions so that the place of sale is not within the United States and its foreign office participates materially in each sale, a third constraint still must be observed to avoid direct U.S. income tax on international sales income. The property a foreign corporation sells must be sold for use, consumption, or disposition outside of the United States. If the property is sold for use, consumption or disposition within the United States, the income derived from such sales will be deemed to be effectively connected with a U.S. trade or business.⁷⁰

To determine whether property is sold for such ultimate use, consumption, or disposition outside of the United States, the regulations provide one set of rules applying to sales to unrelated persons and another set for sales to related persons. Personal property sold to an unrelated person is presumed to have been sold for use, consumption, or disposition in the property's country of destination.⁷¹ A temporary interruption in shipment occurring in a different country will not cause that country to be considered the country of destination.⁷² There is, however, an exception to the general rule. If at the time of sale the foreign corporation knew or should have known, from the facts and circumstances surrounding the transaction, that the property would not be used, consumed, or disposed of in the country of destination, the foreign corporation must determine the country of ultimate use, consumption, or dis-

⁶⁹ If a foreign corporation is found not to have a foreign office or such office is found not to have participated materially, the amount of income allocable to the foreign corporation's U.S. office and subject to direct U.S. federal income taxation cannot exceed the amount which would be treated as income from sources within the United States if the foreign corporation had sold the goods or merchandise in the United States. See I.R.C. § 864(c)(5)(C); Treas. Reg. § 1.864-6(c)(2). See also *id.* 1.864-6(c)(3), Ex. 2.

⁷⁰ See I.R.C. § 864(c)(4)(B)(iii); Treas. Reg. § 1.864-6(b)(3)(i).

⁷¹ See Treas. Reg. § 1.864-6(b)(3)(ii)(a).

⁷² See *id.*

position. If such determination is not made, the property is presumed to have been sold for ultimate use, consumption, or disposition in the United States.⁷³

Personal property sold to a related person is presumed to have been sold for use, consumption, or disposition in the United States unless the foreign corporation establishes the use made of the property by the related person.⁷⁴ If the foreign corporation can establish that the related corporation has disposed of the property, the rules with respect to sales to unrelated persons apply at the first stage of distribution at which a sale is made by a related person to an unrelated person.⁷⁵ A person is related to another person if either person owns or "controls" the other, either directly or indirectly, or if any third person(s) owns or "controls" both, either directly or indirectly. "Control" includes any kind of control, whether or not legally enforceable and however exercised or exercisable.⁷⁶

A foreign corporation that sells personal property to any person, related or unrelated, whose principal business consists of selling inventory to retail outlets outside of the United States may assume at the time of such sale that the property will be used, consumed, or disposed of outside the United States.⁷⁷

A special rule applies to sales by a foreign corporation of property which, because of its fungible nature, cannot be specifically traced through secondary purchasers to countries of ultimate use, consumption, or disposition. The rule applies only when "the [foreign corporation] knew, or should have known from the facts and circumstances surrounding the transaction, the manner in which the first purchaser disposes of property from the fungible mass."⁷⁸ In such instances, unless it establishes a different disposition as being proper, the foreign corporation must treat the property as sold for ultimate use, consumption, or disposition in those countries and to those other purchasers in the same proportions in which property from the fungible mass of the first purchaser is

⁷³ See *id.*

⁷⁴ See *id.*

⁷⁵ See *id.*

⁷⁶ See *id.*

⁷⁷ See *id.*

⁷⁸ *Id.* § 1.864-6(b)(3)(ii)(b).

sold in the ordinary course of business by such first purchaser.⁷⁹ No apportionment, however, is required to be made on the basis of sporadic sales by the first purchaser.⁸⁰

If a foreign corporation structures its international sales activities so that its sales take place without the United States, a foreign office participates materially in the sales, and the goods are sold for use, consumption, or disposition outside the United States, the income derived from such sales will be treated as foreign source income not effectively connected with a U.S. trade or business and thus not subject to direct U.S. income taxation. If, however, the foreign corporation fails to observe any of the above constraints with respect to its transactions, the income derived from such transactions will be treated as effectively connected income and will be subject to direct U.S. income taxation at regular corporate rates.

D. Caveats

If a foreign corporation plans to take advantage of the available tax benefits, it must conduct its affairs so that it is recognized as a viable corporation and the true earner of the income derived from its international sales transactions.⁸¹ In particular, it should hold annual shareholders' and directors' meetings; keep its own books, records, and bank accounts outside the United States; conduct its day to day business activities from an office outside the United States; file both foreign and domestic informational and tax returns where necessary; comply with all locally imposed exchange control regulations; conduct business in its own name and for its own benefit; and adhere to all other corporate formalities.⁸² If efforts are not made to constitute the foreign corporation as a viable and ongoing business entity, its income could be reallocated to those of its shareholders or affiliates which actually earned the

⁷⁹ See *id.*

⁸⁰ See *id.*

⁸¹ See notes 4-16 *supra* and accompanying text.

⁸² The foreign corporation should also have corporate stationery, invoices, telephone and telex numbers; take title to property in its own name and assume the benefits and burdens of ownership; negotiate all transactions in its own name; have its own employees and agents; enter into written employment contracts with its employees, containing reasonable compensation terms and covenants not to compete; and reimburse employees for expenses personally incurred in connection with their employment.

income.

In addition, any U.S. source income or effectively connected foreign source income of the foreign corporation may be subject to the accumulated earnings tax.⁵³ The accumulated earnings tax is an additional tax imposed on a corporation "formed or availed of for the purpose of avoiding the income tax with respect to its shareholders or the shareholders of any other corporation, by permitting earnings and profits to accumulate instead of being divided or distributed."⁵⁴ The tax may be applicable to a foreign corporation if any of its shareholders are subject to direct U.S. federal income tax as citizens or residents of the United States, or if its shareholders are foreign corporations in which a beneficial interest is owned, directly or indirectly, by any U.S. person.⁵⁵

If a foreign corporation derives no income subject to direct federal income taxation, it will not be subject to the accumulated earnings tax. A foreign corporation may become subject to the tax, however, if, for example, it derives effectively connected income with respect to its international sales transactions because its foreign office did not participate materially in the sales, or if it has U.S. source investment income.⁵⁶ Thus, if care is not taken in conducting a foreign corporation's international sales activities, its income could become subject not only to direct U.S. federal income taxation at the regular corporate rates but also to the accumulated

⁵³ See I.R.C. §§ 531-537; Treas. Reg. § 1.532-1(c).

⁵⁴ I.R.C. § 532(a). The rate of tax is 27½% of the first \$100,000 of a corporation's "accumulated taxable income" and 38½% of any amount of such income in excess of \$100,000. See *id.* § 531.

⁵⁵ See Treas. Reg. § 1.532-1(c). The tax, however, does not apply if the foreign corporation is either a personal holding company or a foreign personal holding company. See *id.* § 1.532-1(b). Neither the personal holding company nor the foreign personal holding company provisions apply if no group of five or fewer individuals owns more than 50% of the value of the foreign corporation's stock, either directly or indirectly. See I.R.C. §§ 542(a)(2), 552(a)(2).

Whether the accumulated earnings tax applies to publicly-held corporations is somewhat unclear. Compare *Trico Prods. Corp. v. McGowan*, 169 F.2d 343 (2d Cir.), cert. denied, 335 U.S. 899 (1948) and *Trico Prods. Corp. v. Commissioner*, 137 F.2d 424 (2d Cir.), cert. denied, 320 U.S. 799 (1943) with *Golconda Mining Corp. v. Commissioner*, 58 T.C. 139 (1972), rev'd, 507 F.2d 594 (9th Cir. 1974). The Service has taken the position that the tax is applicable to publicly-held corporations. See Rev. Rul. 75-305, 1975-2 C.B. 228.

⁵⁶ See Treas. Reg. § 1.535-1(b). If a foreign corporation is subject to the accumulated earnings tax but fails to file a U.S. tax return, neither the accumulated earnings credit nor any other deductions will be allowed in computing the accumulated earnings tax due. See *id.*

earnings tax on the undistributed amounts of its income.

III. INDIRECT TAXATION OF UNITED STATES SHAREHOLDERS

While a foreign corporation may escape direct U.S. taxation at the corporate level on its income earned from international sales transactions, United States persons who are shareholders of a foreign corporation may be exposed to U.S. tax on the corporation's earnings even though they have not received a dividend distribution. This can occur if the corporation is a controlled foreign corporation or a foreign personal holding company. The following material discusses the central elements of the controlled foreign corporation and foreign personal holding company provisions and how they might be avoided by a foreign corporation engaged in international sales transactions.

A. Controlled Foreign Corporation Status

A controlled foreign corporation (CFC) is any foreign corporation in which more than fifty percent of the total combined voting power of all classes of stock entitled to vote is actually or constructively owned by United States shareholders on any day during the corporation's taxable year.⁸⁷ A United States shareholder is any U.S. citizen, resident, partnership, corporation, estate, or trust that actually or constructively owns ten percent or more of the total combined voting power of a foreign corporation.⁸⁸ Thus, largely or wholly-owned foreign subsidiaries of domestic corporations and many "closely held" foreign corporations are classified as CFCs.

A CFC's United States shareholders are generally required to include the corporation's net subpart F income plus the corporation's increase in earnings invested in United States property in their gross income whether or not such amounts were actually distributed by the CFC.⁸⁹ Thus, care must be exercised in monitoring the

⁸⁷ See I.R.C. § 957. If the United States shareholders exercise effective control, the foreign entity may still be characterized as a CFC, even though the more than 50% ownership threshold may not be satisfied. See Treas. Reg. § 1.957-1(b)(2). See also *Koehring Co. v. United States*, 583 F.2d 313 (7th Cir. 1978).

⁸⁸ See I.R.C. §§ 951(b), 957(d). The constructive stock ownership rules governing subpart F appear in § 958. See *id.* § 958.

⁸⁹ See *id.* § 951(a). United States shareholders of a CFC are taxable only if: (1) the corporation is a CFC for an uninterrupted period of 30 or more days during the taxable year; and (2) such shareholders actually or constructively own stock in the corporation on the last day

CFC's activities so that its income is not characterized as subpart F income or as an increase in investments in United States property.

B. Amounts Includable in United States Shareholders' Income

The shareholders of a CFC that engages in international sales transactions have three areas of concern with respect to corporate earnings which may be includable in their income. These areas include two types of foreign base company income: foreign base company sales income and foreign personal holding company income.⁹⁰ The third area is the increase in investment in United States property.⁹¹

1. Foreign Base Company Income

The sale or purchase of personal property involving a related person may give rise to foreign base company sales income (FBCSI).⁹² A person is a related person if such person is one of the following: an individual, partnership, trust, or estate which controls the CFC; a corporation which controls or is controlled by the CFC; or a corporation which is controlled by the same person or persons that control the CFC.⁹³ For this purpose, "control" means the ownership, whether direct, indirect, or constructive, of more than fifty percent of the total combined voting power of the corpo-

during the taxable year in which it is a CFC. *See id.*

The amount of the increase in earnings invested in United States property that is includable in the shareholders' incomes is subject to certain limitations. *See, e.g., id.* §§ 952(c); 956(a)(1); 959(a)(2), (b). *See also* Rev. Rul. 76-538, 1976-2 C.B. 230 (subpart F income not again includable in the income of United States shareholders as an increase in investment in United States property).

Includable income is subject to direct U.S. federal income tax at rates up to 70%. *See* I.R.C. § 1. The rate is reduced to 50% for taxable years beginning after 1981. *See* Economic Recovery Tax Act of 1981, Pub. L. No. 97-34, § 101, 95 Stat. 172. Section 962 allows United States shareholders who are individuals to elect to be taxed at corporate rates. *See* I.R.C. § 962.

⁹⁰ Foreign base company income is in turn a component of subpart F income. *See* I.R.C. § 952(a)(2).

⁹¹ For purposes of this discussion, it is assumed that the CFC will not participate in international boycotts, pay illegal bribes, or engage in any other activities which produce subpart F income in any other categories. *See id.* § 952(a)(3)-(4).

⁹² *See id.* § 954(d).

⁹³ *See id.* § 954(d)(3).

ration.⁹⁴ If neither the manufacturing corporation nor the purchasing foreign corporation is a related party and the "branch rule"⁹⁵ does not apply, the CFC will not realize FBCSI from its international sales transactions.

Generally, a CFC may derive FBCSI where a related person is any of the following: (1) the person from whom the CFC purchases the property which it sells; (2) the person on whose behalf the CFC sells the property; (3) the person to whom the CFC sells the property which it purchases; or (4) the person on whose behalf the CFC purchases the property.⁹⁶ However, even if a related person is involved in the sales transaction, FBCSI will not arise in the following three situations: if the personal property is considered to be manufactured, produced, grown, or extracted within the country in which the CFC is created or organized;⁹⁷ if the property is sold for use, consumption, or disposition within that country;⁹⁸ or if the CFC manufactures or produces the property.⁹⁹ These general principles for recognition and nonrecognition of FBCSI also apply within the context of the "branch rule."

Although rarely, if ever, raised by auditing agents because of its esoteric and complex nature, the "branch rule" must also be considered in planning for international sales transactions. The rule, contained in section 954(d)(2) of the Code¹⁰⁰ and delineated more explicitly in the regulations,¹⁰¹ may cause a CFC's selling or purchasing branch located outside of the CFC's country of incorporation to be deemed a wholly-owned subsidiary of the CFC and therefore a related person with respect to the CFC.¹⁰² The branch rule applies if, by reason of the separation of selling or purchasing activities through the use of a branch, substantial tax savings are

⁹⁴ See *id.* Because the relevant ownership rules are broad, see *id.* § 958, care must be taken in determining whether a corporate buyer or seller is related. Note that non-U.S. individuals or entities may be related persons. See Treas. Reg. § 1.954-1(e).

⁹⁵ See I.R.C. § 954(d)(2). See also notes 100-09 *infra* and accompanying text.

⁹⁶ See I.R.C. § 954(d)(1). In the last situation, no sale of the property by the CFC is required. Presumably this situation arises when a CFC receives commissions as a purchasing agent for a related person.

⁹⁷ See Treas. Reg. § 1.954-3(a)(2).

⁹⁸ See *id.* § 1.954-3(a)(3).

⁹⁹ See *id.* § 1.954-3(a)(4).

¹⁰⁰ I.R.C. § 954(d)(2).

¹⁰¹ See Treas. Reg. § 1.954-3(b).

¹⁰² A separate rule applies to manufacturing branches. See *id.* § 1.954-3(b)(1)(ii).

obtained in the CFC's home jurisdiction.

T. determine whether the requisite tax savings exist, the effective rate of tax imposed on the income allocated to a branch under certain rules is compared to the tax rate that would be imposed on such income if it were taxed in the CFC's country of incorporation. If a branch's income is effectively taxed at a rate less than ninety percent of, and at least five percentage points less than, the rate of tax which would have been imposed if the income were sourced in the CFC's country of incorporation, the requisite tax savings theoretically exist, and the branch could be deemed a separate, wholly-owned subsidiary of the CFC for purposes of determining FBCSI.¹⁰³ In the case of multiple branches, the comparison is applied to each branch separately.¹⁰⁴

The branch rule does not apply if the CFC is incorporated in a country with no income tax, as no tax savings would result from establishing a purchasing or selling branch outside that country. Accordingly, absent other pertinent considerations, these "tax haven" jurisdictions probably should be selected if branching activities are contemplated. For example, the Bahamas, Bermuda, the Cayman Islands, and Vanuatu currently impose no income taxes and may be suitable as a CFC's home jurisdiction. In contrast, Costa Rica, Hong Kong, Liberia, Panama, and many other jurisdictions, although possibly preferable for other reasons, may well cause branch rule difficulties because their varying income tax systems may produce differences in effective rates of tax which satisfy the regulatory criteria of the branch rule, even though they are not extraterritorial in effect for revenue purposes.

Assuming the branch rule is applicable, income derived by a sales branch ultimately will constitute FBCSI only if sales are made for use, consumption, or disposition outside the country in which the sales branch is located.¹⁰⁵ Similarly, a branch located outside the country of incorporation and utilized only for purchasing property from either related or unrelated parties on behalf of the CFC for resale by the selling branch may, by operation of the branch rule, be deemed to derive FBCSI from commission or service fees in connection with such purchases, only if it purchases

¹⁰³ See *id.* § 1.954-3(b)(1)(i).

¹⁰⁴ See *id.* § 1.954-3(b)(1)(i)(c).

¹⁰⁵ See *id.* § 1.954-3(b)(2)(ii)(c), -3(a)(3).

property manufactured outside the country in which such purchasing branch is located.¹⁰⁶

The branch rule is applied solely for the purpose of determining FBCSI of the CFC, which forms one component of subpart F income to be included in the income of United States shareholders.¹⁰⁷ The provisions of sections 954(b)(3) and 954(b)(4) of the Code apply separately to each branch and to the remainder of the CFC.¹⁰⁸ For all other purposes, the branches are not treated as separate corporations.¹⁰⁹

A CFC engaged in international sales activities can take several steps to eliminate or minimize FBCSI. It should refrain from dealing with, or on behalf of, related persons, except when the property purchased or sold is manufactured or is sold for ultimate use, consumption, or disposition within the country in which the CFC is organized. If the CFC intends to establish selling or purchasing branches, it should be located in a jurisdiction with no or very low income tax so that its branches will not be deemed to be wholly-owned subsidiaries and related parties under the branch rule.

A second category of foreign base company income is foreign personal holding company income (FPHCOI).¹¹⁰ This is generally income of a passive nature such as dividends, interest, or gain from the sale or exchange of stock or securities.¹¹¹ Although an international sales company ordinarily will derive its income primarily from its sales activities and reinvest its profits in the business, care must be taken in monitoring income from investments of excess cash.

In the event that a CFC does receive FBCSI or FPHCOI, it may be able to reduce or eliminate the tax consequences of such income under the "10-70 rule"¹¹² or under the provisions relating to foreign corporations not availed of to reduce tax.¹¹³ The 10-70 rule excludes de minimis amounts of foreign base company income, such as FBCSI or FPHCOI, from classification as subpart F in-

¹⁰⁶ See *id.* § 1.954-3(b)(2)(ii)(e), -3(a)(2).

¹⁰⁷ See *id.* § 1.954-3(b)(3).

¹⁰⁸ See *id.*

¹⁰⁹ See *id.*

¹¹⁰ See I.R.C. § 954(c).

¹¹¹ See *id.*

¹¹² See *id.* § 954(b)(3).

¹¹³ See *id.* § 954(b)(4).

come, if, in the aggregate, the foreign base company income amounts to less than ten percent of a CFC's gross income. Conversely, foreign base company income in excess of seventy percent of a CFC's gross income causes all of the gross income for that year to be treated as subpart F income.¹¹⁴

For example, assume that a CFC derives \$91 of income which is not foreign base company income and \$9 of FBCSI from its transactions in a taxable year. None of its income in that year is treated as subpart F income.¹¹⁵ Conversely, assuming \$100 of gross income, if \$71 is FPHCOI, then all of the CFC's gross income for the taxable year, including the \$29 of other income, is treated as subpart F income.¹¹⁶ If a CFC derives an amount of foreign base company income which is ten percent or more of its gross income, but less than seventy percent, then a proportionate amount of income is treated as subpart F income after reduction by the amount of deductions properly allocable thereto.¹¹⁷

In addition, a CFC can reduce or eliminate its FBCSI, if any, if the countries in which it is incorporated and in which its branch or branches are set up are chosen so as to fall within the exception regarding foreign corporations not availed of to reduce tax.¹¹⁸

A CFC and its shareholders will not be subject to both a direct and an indirect U.S. federal income tax on the same income because U.S. source business income derived by a CFC is excluded from classification as subpart F income¹¹⁹ and because foreign source income effectively connected with the conduct of a U.S. trade or business which is classified as FBCSI or FPHCOI is subject to taxation indirectly under subpart F but is not directly taxed to the CFC.¹²⁰ Thus, if the CFC either does not maintain a foreign office or the foreign office does not materially participate in the international sales transactions, and either the CFC deals with re-

¹¹⁴ See *id.* § 954(b)(3). With respect to sales transactions, gross income means gross receipts minus cost of goods sold. See Treas. Reg. § 1.952-2(c)(4).

¹¹⁵ See I.R.C. § 954(b)(3)(A).

¹¹⁶ See *id.* § 954(b)(3)(B).

¹¹⁷ See *id.* § 954(a)(1)-(2). This example assumes that none of the other exclusions, exceptions, or limitations of subpart F are applicable. See, e.g., *id.* §§ 951(a)(1), (d); 952(b)-(d); 954(b)(2), (4).

¹¹⁸ See *id.* § 954(b)(4). See also Treas. Reg. § 1.954-1(b)(4); Rev. Rul. 72-357, 1972-2 C.B. 456; Pvt. Ltr. Rul. 7850033 (Sept. 14, 1978).

¹¹⁹ See I.R.C. § 952(b).

¹²⁰ See *id.* § 864(c)(4)(D)(ii).

lated persons or the branch rule applies, the priority rules eliminate the threat of double taxation that would otherwise result. However, the deferral of tax on the CFC's profits is lost.

2. Investments in United States Property

The United States shareholders of a CFC may be taxable on the increase in the CFC's investment of earnings in United States property.¹²¹ The taxable increase is computed by comparing the amount of the United States property investment at the end of the current year with the corresponding amount at the end of the preceding year.¹²² A CFC may increase its investment in United States property without tax consequence only so long as it does not own or hold such property on the last day of its taxable year.¹²³

Because United States property includes tangible property located in the United States,¹²⁴ a CFC should avoid owning or being treated as owning such property. Therefore a CFC should lease rather than purchase its U.S. office and equipment. The office lease should not be for an unduly long term in order to insulate the lease from classification as realty.

United States property also includes stock or obligations of a United States shareholder of the CFC, as well as stock or obligations of a domestic corporation if, immediately after acquisition by the CFC, twenty-five percent or more of the domestic corporation's voting stock is owned or is considered as owned, by United States shareholders of the CFC.¹²⁵ Thus a CFC should not invest in or make loans to related United States persons or guarantee or pledge property to secure an obligation of one or more of its shareholders.¹²⁶

¹²¹ See *id.* § 951(a)(1)(B).

¹²² See *id.* § 956(a). The amount of the increase in investment in United States property that is includable in the income of a CFC's United States shareholders is limited to an amount which "would have constituted a dividend" if distributed. See *id.* § 956(a)(1). Further, any amounts previously included in a United States shareholder's income under subpart F are not required to be included again as an investment in United States property. See *id.* § 959(a).

¹²³ See *id.* § 956(a)(1). See also Treas. Reg. § 1.956-1(a), -1(c)(2), Ex. 1.

¹²⁴ See I.R.C. § 936(b)(1)(A).

¹²⁵ See *id.* § 956(b)(1)(B)-(C), (2)(F). See also *id.* § 958 (rules for determining stock ownership).

¹²⁶ See *id.* § 956(c). A United States shareholder, however, might pledge his stock in a CFC to secure his or her personal indebtedness without adverse consequences under § 956

United States property does not include the following items: (1) obligations of the United States;¹²⁷ (2) money;¹²⁸ (3) deposits with persons carrying on the banking business;¹²⁹ (4) property located in the United States which is purchased in the United States for export to or use in foreign countries;¹³⁰ (5) obligations of United States persons arising in connection with the sale or processing of property if the amount of such obligation never exceeds an amount which is ordinary and necessary to carrying on the trades or businesses of the transacting parties;¹³¹ and (6) stock or obligations of a domestic corporation which is neither a United States shareholder of the CFC nor a domestic corporation twenty-five percent or more of the total combined voting power of which, immediately after the acquisition of its stock by the CFC, is owned or is considered as owned by the United States shareholders in the aggregate.¹³² Thus, a CFC may

Compare Ludwig v. Commissioner, 68 T.C. 979 (1977), *nonacq.* 1978-2 C.B. 4 with Rev. Rul. 76-125, 1976-1 C.B. 204. *But see* Treas. Reg. § 1.956-2(c)(2) (a pledge made after Sept. 8, 1980 by a shareholder of at least 25% of the total combined voting power of all classes of stock entitled to vote is considered an obligation of the corporation under § 956(c)).

¹²⁷ See I.R.C. § 956(b)(2)(A).

¹²⁸ See Rev. Rul. 72-454, 1972-2 C.B. 457; Rev. Rul. 71-14, 1971-1 C.B. 218.

¹²⁹ See I.R.C. § 956(b)(2)(A).

¹³⁰ See *id.* Deposits that serve directly or indirectly as a pledge or guarantee for an obligation of a United States person are treated as United States property. See Treas. Reg. § 1.956-2(b)(1)(i), -2(c)(2). If the amount deposited is subsequently loaned to a CFC's shareholders in a "back-to-back" transaction, however, it may be deemed an investment in United States property. See Rev. Rul. 76-192, 1976-1 C.B. 205.

To the extent that income derived from the deposits is not effectively connected with a U.S. trade or business, it will be treated as foreign source income not subject to direct U.S. federal income taxation. See I.R.C. § 861(a)(1)(A), (C).

¹³¹ See I.R.C. § 956(b)(2)(B); Treas. Reg. § 1.956-2(b)(1)(iv).

¹³² See I.R.C. § 956(b)(2)(C). Whether an amount is ordinary and necessary is determined by considering all the facts and circumstances. See *Greenfield v. Commissioner*, 60 T.C. 425 (1973), *aff'd*, 506 F.2d 972 (5th Cir. 1975); Treas. Reg. § 1.956-2(b)(1)(v).

An "obligation" of a United States person, other than an indebtedness arising in connection with a sale or processing of property, does not include an indebtedness which is collected within one year from the time it is incurred, or matures within one year from the time it is incurred but is not collected within such period solely because the debtor is unwilling or unable to pay. See Treas. Reg. § 1.956-2(d)(2)(ii). A failure to collect an indebtedness within the one year period will not be attributable to inability or unwillingness on the part of the debtor to make payment unless the creditor clearly establishes that he has made reasonable efforts to collect the indebtedness within the year. See *id.* See also *Dougherty v. Commissioner*, 60 T.C. 917 (1973). Abuse of this technique may yield unfavorable results.

¹³³ See I.R.C. § 956(b)(2)(F). U.S. source interest and dividends will be subject to withholding at the source under § 1442 unless effectively connected with the conduct of the

own any of these types of property at the end of the taxable year without adverse tax consequences to its United States shareholders.

B. Foreign Personal Holding Company Status

The applicability of the foreign personal holding company (FPHCO) provisions is contingent upon satisfying both an ownership and an income test. The ownership test is met if more than fifty percent in value of the outstanding stock of a foreign corporation is owned directly or indirectly at any time during the taxable year by or for not more than five individuals who are citizens or residents of the United States.¹³⁴ The income test is met if at least sixty percent of a foreign corporation's gross income qualified as FPHCOI.¹³⁵ If the corporation was a FPHCO in a prior year, under certain circumstances fifty percent FPHCOI is sufficient to meet the income test in subsequent years.¹³⁶

If a foreign corporation meets both the ownership and income tests, its United States shareholders¹³⁷ will be deemed to have received a dividend equal to the amount of the corporation's undistributed FPHCOI.¹³⁸ Such income is subject to U.S. federal income taxation at rates up to seventy percent (fifty percent for years beginning after 1981).¹³⁹ A corporation can avoid the FPHCO rules if it maintains a high level of gross income from its international

CFC's U.S. trade or business. The impact of U.S. withholding taxes and the potential inclusion of the interest and dividends in a United States shareholder's gross income under the controlled foreign corporation or foreign personal holding company provisions must be considered before making any such investment. Moreover, if the CFC is not a foreign personal holding company, such income could cause it to qualify as a personal holding company if the stock ownership requirement is met. See notes 134-39 *infra* and accompanying text.

¹³⁴ See I.R.C. § 552(a)(2). See also *id.* § 554 (constructive ownership rules).

¹³⁵ See *id.* § 552(a)(1).

¹³⁶ See *id.* Note that the definition of FPHCOI is broader under the FPHCO provisions than it is for purposes of subpart F. See *id.* § 954(a).

¹³⁷ For purposes of the FPHCO provisions, a United States shareholder is a citizen or resident of the United States, a domestic corporation, a domestic partnership, or an estate or trust which is a shareholder in a FPHCO. See *id.* § 551(a).

¹³⁸ See *id.* §§ 551-552. Undistributed FPHCOI is defined in § 556 to be the taxable income of the FPHCO after applying the adjustments enumerated in § 556(b) and subtracting the deduction allowed by § 561 for dividends paid. See *id.* § 556.

The accumulated earnings tax provisions do not apply to foreign personal holding companies. See *id.* § 532(b)(2).

¹³⁹ See *id.* § 1; note 89 *supra*.

sales activities. The rules can present problems, however, if sales activities decline, and the corporation has a high level of investment income. The monitoring of income sources should be undertaken to ensure that a foreign corporation does not qualify as a FPHCO.

IV. CONCLUSION

A controlled foreign corporation can be utilized to achieve deferral of U.S. income taxation. The central elements for successful deferral are the creation of a viable corporation, the minimization of effectively connected foreign source income, and the avoidance of subpart F income and the foreign personal holding company rules. Deferral can be achieved by careful planning patterned after the guidelines set forth by the courts and the regulations.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TO [redacted]

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GREETINGS:

WE COMMAND YOU that all business and excuses being laid aside, you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, on the [redacted] to testify and give evidence in regard to an alleged violation of;

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and not to depart the Court without leave thereof, or of the United States Attorney, and that you produce at the time and place aforesaid the following:

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And for failure to attend and produce the said documents you will be deemed guilty of contempt of Court and liable to penalties of law.

Dated: New York, N.Y.
October 24, 1983

RUDOLPH W. GIULIANI
United States Attorney for the
Southern District of New York.

Raymond F. Burghardt
Clerk.

NOTE: REPORT AT ROOM 767. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 767, upon each day on which you attend Court as a witness.

[redacted]
Assistant United States Attorney
Telephone: [redacted]

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Room [redacted]
One St. Andrew's Plaza
New York, New York 10007

RJM:mpm

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On September 28, 1983, [redacted] advised Special Agent (SA) [redacted] of the New Rochelle Metropolitan Resident Agency (NRMRA), New York Division, as follows:

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Source advised that this [redacted]

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1983

Clarendon Official Says Credit Access Is Being Reduced

By ROGER LOWENSTEIN
Staff Reporter of THE WALL STREET JOURNAL

NEW YORK—Marc Rich & Co. AG's former U.S. unit has been losing access to some of its bank credit over the past several months because of a federal criminal investigation, the unit's chief financial officer said in federal court here.

Peter Ryan said the company, Clarendon Ltd., had been advised by Chase Manhattan Bank that the bank wants "a very substantial reduction" in its credit line to the company.

In addition, he said, Credit Lyonnais has indicated a desire "to have Clarendon repay its debt." Mr. Ryan also confirmed previous reports that Chemical Bank "severed its relationship" with Marc Rich and its then U.S. unit last January.

Mr. Ryan said the commodity trading

firm, whose independence from Marc Rich is being contested by the government, has been seeking to obtain a new \$250 million revolving credit from all of its banks to replace its credit lines with individual banks, which also total \$250 million. So far, he said, Clarendon hasn't been able to obtain the revolving credit.

To pacify its bankers, he said, the company has recently paid down about \$100 million of its debt. He didn't say how much debt remained outstanding.

Mr. Ryan's testimony provides further evidence of the deepening financial problems of Clarendon. The company is currently being assessed by the Internal Revenue Service for \$90 million. Though Clarendon is contesting that charge—the hearing yesterday was part of that dispute—the IRS has already seized \$22 million from the company. Clarendon has said that if the IRS seizes the full amount the firm won't be able to continue its business.

As reported, Marc Rich, its two principals, and its former unit were indicted last month for tax evasion, racketeering, fraud and other charges.

Mr. Ryan said Clarendon has been struggling to retain its bankers since early in 1983, long before its troubles with U.S. investigators became public. Late in 1982, he said, the company warned its banks that it

anticipated an indictment after learning of a federal grand jury investigation.

"We were concerned that other banks might sever their relationships with us," Mr. Ryan said. "Banks don't like surprises."

Mr. Ryan said that Clarendon could continue doing business within its current credit lines and that the firm's solvency wasn't threatened until the IRS levied its assessment. However, under pressure from the indictment, constrained credit and the IRS levy, Clarendon's business has nearly ground to a halt.

A restriction of credit from Chase would be a severe blow to Clarendon. Chase has been Marc Rich's lead bank since the company was formed in 1974. Mr. Ryan was Chase's chief commodity lending officer before joining Marc Rich in 1980.

The hearing is scheduled to be continued Monday.

Nissan on British Site

TOKYO—Katsuji Kawamata, chairman of Nissan Motor Co., has withdrawn his opposition to building an auto plant in Britain. Asahi Shimbun, a Japanese newspaper, said. The chairman had opposed the long-debated project. Nissan has said it will decide on the project by the end of the year.

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The New York Times

Outlining The Charges Against Marc Rich's Companies

The Government's case
against Marc Rich as
outlined in the
Federal Indictment

GENERATING ILLEGAL PROFITS

The Government contends that Marc Rich International (now Clarendon Ltd.), a United States-based oil trading company, sought to circumvent Government regulation of oil prices with the aid of two Texas-based oil trading concerns, both now bankrupt.

The two Texas companies, Listo Petroleum and West Texas Marketing, bought price-controlled oil from Marc Rich. They then promised to sell the same oil back to Marc Rich as oil that was not subject to price controls — at a fraction of the price it would command on world markets.

In order to accomplish this, West Texas Marketing and Listo, acting separately, bought and sold the controlled oil several times, obscuring its origin. Oil that was first described as price-controlled, and therefore cheap, came to be described as decontrolled, and therefore expensive.

HIDING THE PROFITS

However, by buying the oil back from the Texas concerns at an artificially low price and selling it for much more, Marc Rich would have generated profits that were subject to United States taxes and that might have attracted Government scrutiny.

Therefore, Marc Rich International arranged to buy the oil at a low price but to be billed for it at a much higher price. Under this bookkeeping procedure, the profits accrued to the two Texas companies.

MOVING THE PROFITS OUT OF THE COUNTRY

According to the indictment, the first step in moving the profits abroad involved a series of sham transactions, in which Marc Rich & Company A.G., parent company of Marc Rich International, sold foreign crude oil to the two Texas companies. Those companies simultaneously sold crude oil at a loss to Marc Rich & Company's

Panamanian subsidiaries, Rescor Inc. and Highams Consultants.

These losses had the effect of depleting the "pot" of profits held by West Texas Marketing and Listo Petroleum and transferring them to Marc Rich & Company in Switzerland, beyond the reach of United States taxes.

RICHCO SUGAR

Peter F. Ryan, chief financial officer of Clarendon Ltd. and president of Richco Sugar. Both companies are a part of the Marc Rich group and are at 650 Fifth Avenue.



Rich Case Snares Clarendon

I.R.S. Freeze Hurts Trader

By YLA EASON

The décor is bright and bold but the mood is somber at the offices at 650 Fifth Avenue of Clarendon Ltd., the commodity trading concern once owned by Marc Rich, who is now a fugitive.

At least 30 employees have received pink slips and many of the remaining 140 or so had concluded by yesterday that their days were also numbered.

"Oh, lots of people have gone," said one employee, shaking his head in disbelief. For Clarendon was once a bustling company, with assets of at

least \$1 billion last March, a vital part of the Marc Rich's \$10 billion international commodity trading network. Now, as a result of its much publicized prosecution on Federal charges of tax evasion, the Internal Revenue Service controls all of the company's money.

Late Tuesday, Federal District Judge Richard Owen, in Manhattan, upheld the I.R.S.'s move to freeze all of Clarendon's assets. Federal tax officials said they were afraid they would not be able to collect the \$90.4 million in back taxes they calculated that Clarendon owed as a result of what they charged were illegal oil profits made by the company in 1980 and 1981.

The revenue service, therefore, on Sept. 30, issued a "jeopardy assessment" against Clarendon. The judge agreed that the company, whose assets dropped to \$261 million, from \$1 billion, in four months, was attempting to place its funds beyond the reach of the Government.

Peter F. Ryan, Clarendon's chief financial officer, and president of Richco Sugar, a trading company owned by the same group of people who own Marc Rich A.G. in Switzerland, denied this and told the court that "only because of the jeopardy assessment" was his company "in any peril of insolvency." And a Clarendon trader, who did not want to be identified, said, inside the courtroom, "If this jeopardy assessment goes through, we're out of business."

The problems of Clarendon, the domestic arm of the Marc Rich network, were the result of a 56-page, 51-count indictment against Marc Rich and his companies for tax evasion, racketeering and trading with Iran at a time when a boycott was in effect. According to the Government, "it all began with an elaborate scheme to avoid price controls on crude oil, a product on which Mr. Rich built his trading career."

In 1973 the Emergency Petroleum

Continued on Page 38

Marc Rich Oil Trading Case Ensnares Clarendon

Continued From First Business Page

Allocation Act was created. It set price controls on all crude oil produced in or imported into the United States. The legislation also allowed the Department of Energy to limit the price that could be charged for domestic crude oil.

Under the regulations, the price varied for different categories of oil, based on the type of well from which the oil was pumped and when the well began production. It was these categories in the regulation that Mr. Rich exploited, the Government charges.

The Energy Department set up three oil groups — old, new and stripper. Old oil was any crude oil from a well at or below a 1972 level of production. Crude oil discovered since 1973 or oil from wells pumping in excess of the 1973 production level was labeled new. Stripper oil, the highest priced, was oil from wells producing an average of less than 10 barrels a day.

Only the stripper oil was free from price regulations. The Government asserts that the Marc Rich network in effect reclassified the old and new oil as stripper oil and sold it at premium, uncontrolled prices.

\$15 to \$20 More a Barrel

The profit in relabeling oil was clear. Stripper oil could be sold at world market prices, at times as much as \$15 to \$20 more a barrel than old and new oil. The domestic company, Marc Rich International, realized as much as \$100 million in unreported profits from this sham, the Government charges.

As a reseller, Marc Rich International bought and sold oil without processing it into products such as gasoline or heating oil. Shortly before Sept. 1, 1980, the Department of Energy told the company and the other resellers that their average markup on old and new oil would be limited to 20 cents a barrel. It was this limit, the Government says, that plunged the Marc Rich companies into the deceptive practices described in the indictment.

To get around the limit, the Government says, two oil-trading concerns in Texas — both now bankrupt — were enlisted to form a trading network that was sufficiently convoluted — the Government calls it a daisy chain — to make the relabeling of price-controlled oil possible.

"This was not understood to be a common practice in the industry," said John Rathje, an attorney at the Atlantic Richfield company in Los Angeles. "Obviously it was a possible practice if someone wanted to violate the law. But it's like any law that's being violated — there was no feeling that this was widespread or intelligent."

Sold Several Times

Nevertheless, the Government says, the original brokerage concern, Marc Rich International, would sell low-priced, controlled oil to a member of the group that would then sell it again several times. At the end of the chain, Marc Rich International would buy back the same oil that had been sold into the chain, except that it was by then described as stripper oil. The

company could then sell this stripper oil at the higher market prices and reap enormous, but illegal, profits.

"I don't think it's easy to change a barrel of oil from controlled to uncontrolled," said Martin Volandt, senior vice president, supply and coordinating, with Atlantic Richfield. He added that the entire accounting procedure would have to be altered since the oil was accounted for beginning at the well from which it originated.

The Government says that the two Texas crude oil resellers, Listo Petroleum in Houston and West Texas Marketing of Abilene, were utilized to hide profits from the Department of Energy and the I.R.S. According to the indictment, the profits accumulated in what the Marc Rich network referred to as the "pot." Each company had its own pot, the Government says, which at one point totaled \$70 million.

Billed for Stripper Oil

The indictment charges that West Texas and Listo emptied their pots by billing Marc Rich International, now Clarendon, for high-priced stripper oil. Marc Rich would have paid a lower, controlled price for the oil it was selling into the Texas daisy chain. But, the Government charges, that the two Texas brokers would kick back to Rich the difference in prices.

The indictment also says that periodically the profits that had been transferred in this way would be moved out of the United States through a series of false transactions to foreign bank accounts of Marc

Trading Halted By Bullion Unit

LONDON, Oct. 23 (Reuters) — Richco Bullion, a London bullion and foreign exchange dealer and part of the Marc Rich group, is withdrawing from trading as a result of the legal proceedings brought against the parent company, a Richco spokesman said today. Its closing follows the shutdown of Richco Capital, an affiliated dealer in New York.

The spokesman said that the Rich group would continue trading in oil and other metals through its London office, but that some press treatment of the Rich developments had destroyed the reputation in which bullion dealing had to be based.

Rich's Switzerland-based parent company, Marc Rich A.G., and its wholly owned subsidiaries, Rescor Inc. and Highams Consultants, both in Panama.

The Government says, for example, that false invoices that included the names of the oil tankers supposedly involved would show that Marc Rich A.G. had sold crude oil to West Texas Marketing at uncontrolled world prices. On the same day, West Texas Marketing would ostensibly

sell the same oil to Rescor for \$3 a barrel less than West Texas paid for the oil.

From October 1980 to May 1981, the Government charges, more than \$23 million was moved abroad to Marc Rich A.G. and its subsidiaries through such transactions with West Texas. During the same time period, another \$47 million was moved abroad through a similar arrangement with Listo, the Government says. Another \$31 million was moved out of the country, the Government adds, when Marc Rich A.G. invoiced Marc Rich International for an oil transaction that never occurred.

Trading Agent Indicted

Clyde Meltzer, the Listo trading agent at the time and now an employee of Clarendon, was indicted. He is expected to stand trial in January. Dave Snodgrass, an attorney with Gardere Wynne & Jaffee in Dallas and the trustee for West Texas Marketing, said that while he was not "around when things happened," he was told by former officers of the company that "none of that happened."

In any case, Stanley C. Ruchelman, partner in the accounting firm of Touche Ross & Company, said this case seemed to be unusual because "the Government is looking at a pattern of intercompany dealing to allege that the dealings rose to a level of intent to defraud the Government of its rightful tax." He added that the indictment charged "that the fraud was so blatant that it wasn't civil tax fraud, it was criminal tax fraud."

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/21/01 BY SPS-SC/mmm

196A-1774-
182

TO: DIRECTOR, FBI

FROM: SAC, ADIC, NEW YORK
SUBJECT: MARC RICH-FUGITIVE;
PINCUS GREEN-FUGITIVE;
MARC RICH & CO. A.G.;

(CON'T ON PAGE 2)

196B-1774
Field Office File Number

M-1

Squad or RA Number

- ☐ - X if a joint FBI/DEA (or other Federal Agency **) operation.
- ☐ - X if case involves corruption of a public official (Federal, State or Local).

Investigative Assistance or Techniques Used ~ ~ ~

Were any of the investigative assistance or techniques listed below used in connection with accomplishment being claimed? ☒ No ☐ Yes - If Yes, rate each used as follows:

- 1 = Used, but did not help
2 = Helped, but only minimally
3 = Helped, substantially
4 = Absolutely essential

16. Show Money Rating Usage

1. Acctg Tech Assistance	Rating	6. ELSUR - Title III	Rating	11. Lab Div Field Support	Rating	17. Surveil. Sqd Asst
2. Aircraft Assistance		7. Hypnosis Assistance		12. Pen Registers		18. SWAT Team Action
3. Computer Assistance		8. Ident Div Assistance		13. Photographic Coverage		19. Telephone Toll Records
4. Consensual Monitoring		9. Informant Information		14. Polygraph Assistance		20. Undercover Operation
5. ELSUR - FISC		10. Lab Div Exams		15. Search Warrants Executed		21. Visual Invest - Analysis (VIA)

A. Preliminary Judicial Process (Number of subjects)		Complaints	Informations	Indictments	D. Recoveries, Restitutions, Court Ordered Forfeitures or Potential Economic Loss Prevented (PELP)				
B. Arrests, Locates, Summonses & Subpoenas (No. of subjects) FBI Arrests - _____ FBI Locates - _____ Number of Subjects of FBI Arrests Who Physically Resisted _____ Number of Subjects of FBI Arrests Who Were Armed _____ Criminal Summons _____ Subpoenas Served _____		Subject Priority (See Reverse)			Property or PELP Type Code *	Recoveries	Restitutions	Court Ordered Forfeitures	Potential Economic Loss Prevented
		A	B	C					
C. Release of Hostages: (Number of Hostages Released) Hostages Held By Terrorists _____; All Other Hostage Situations _____					E. Civil Matters Amount of Suit Settlement or Award		Government Defendant		Government Plaintiff
Enter AFA Payment Here									

[illegible][illegible]

Attach additional forms if reporting final judicial process on more than three subjects.

Remarks: Pursuant to

196A-1774-183

b3

2 - Field Office 1 - (66-8492)

* See codes on reverse side. Subject description codes in Section F are required only when reporting a conviction.

• • Identify the other Federal Agency(ies) in the Remarks Section.

MEB:jf (5)

Remarks Section.
(1)-196A-1774

1963

FBI/DOJ

Property Type Codes*

Code No	Description
1	Cash (U.S. and foreign currency)
2	Stock, Bonds or Negotiable Instruments (checks, travelers checks, money orders, certificates of deposit, etc)
3	General Retail Merchandise (clothing, food, liquor, cigarettes, TVs, etc)
4	Vehicles (autos, trucks, tractors, trailers, campers, motorcycles, etc)
5	Heavy Machinery & Equipment (heavy equipment, computers, etc)
6	Bulk Materials (grain, fuel, raw materials, metals, wire, etc)
7	Jewelry (including unset precious and semiprecious stones)
8	Precious Metals (gold, silver, silverware, platinum, etc)
9	Art, Antiques or Rare Collections
10	Dangerous Drugs
11	Weapons or Explosives
12	Businesses or Assets Forfeited
20	All Other Recoveries (not falling in any category above)

Potential Economic Loss Prevented (PELP) Type Codes *

Code No	Description
21	Blank Negotiable Instruments or Tickets
22	Counterfeit Stocks, Bonds, Currency or Negotiable Instruments
23	Counterfeit or Pirated Sound Recordings or Motion Pictures
24	Bank Theft Scheme Aborted
25	Ransom, Extortion or Bribe Demand Aborted
26	Theft From, or Fraud Against, Government Scheme Aborted
27	Commercial or Industrial Theft Scheme Aborted
30	All Other Potential Economic Loss Prevented (not falling in any category above)

*The case file must contain an explanation of the computation of the recovery value or loss prevented. An explanation airtel must accompany this report if the recovery is \$1 million or more, or if the PELP is \$5 million or more.

Subject Description Codes *

- Enter Description Code Only When Reporting a Conviction -

Organized Crime Subjects:

- 1A Boss, Underboss or Consigliere
- 1B Capodecina or Soldier
- 1C Possible LCN Member or Associate
- 1D OC Subject Other Than LCN

Known Criminals (Other Than OC Members):

- 2A Top Ten or I.O. Fugitive
- 2B Top Thief
- 2C Top Con Man

Foreign Nationals:

- 3A Legal Alien
- 3B Illegal Alien
- 3C Foreign Official Without Diplomatic Immunity
- 3D U.N. Employee Without Diplomatic Immunity
- 3E Foreign Students
- 3F All Others

Terrorists:

- 4A Known Member of a Terrorist Organization
- 4B Possible Terrorist Member or Sympathizer

*If a subject can be classified in more than one of the categories, select the most appropriate in the circumstance.

Union Members:

- 5A International or National Officer
- 5B Local Officer
- 5C Union Employee

Government Official Or Employees:

- 6A Federal - Elected Official
- 6B Federal - Nonelected Executive Level
- 6C Federal - All Other
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- 6F State - All Other
- 6G Local - Elected Official
- 6H Local - Nonelected Executive Level
- 6J Local - All Other

Bank Officers Or Employees:

- 7A Bank Officer
- 7B Bank Employee

All Others:

- 8A All Other Subjects (not fitting above categories)

Instructions

Subject Priorities for FBI Arrest or Locates:

- A - Subject wanted for crimes of violence (i.e. murder, manslaughter, forcible rape, robbery and aggravated assault) or convicted of such crimes in the past five years.
- B - Subjects wanted for crimes involving the loss or destruction of property valued in excess of \$25,000 or convicted of such crimes in the past five years.
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Claiming Convictions Other Than Federal:

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Rule 20 Situations:

The field office that obtained the process (normally the office of origin) is the office that should claim the conviction, not the office where the subject enters the plea in cases involving Rule 20 of the Federal Rules of Criminal Procedures.

Investigative Assistance or Techniques (IATs) Used:

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NY 196A-1774

MARC RICH & CO. INTERNATIONAL LTD, akd
"Clarendon A.G."

RICO; FBW; MF; TAX EVASION; TRADING WITH ENEMY
(OO:NY)

Date _____

Bureau File Number

Field Office File Number

M-1

Squad or RA Number

☐ - X if a joint FBI/DEA (or other Federal Agency **) operation.

☐ - X if case involves corruption of a public official (Federal, State or Local).

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5. ELSUR - FISC		10. Lab Div Exams		15. Search Warrants Executed		21. Visual Invest - Analysis (VIA)

A. Preliminary Judicial Process (Number of subjects)				D. Recoveries, Restitutions, Court Ordered Forfeitures or Potential Economic Loss Prevented (PELP)				
B. Arrests, Locates, Summonses & Subpoenas (No. of subjects)				Property or PELP Type Code *	Recoveries	Restitutions	Court Ordered Forfeitures	Potential Economic Loss Prevented
Subject Priority (See Reverse)								
A B C								
FBI Arrests -				1	\$ 22,000,000		\$	\$
FBI Locates -					\$	\$	\$	\$
Number of Subjects of FBI Arrests Who Physically Resisted _____					\$	\$	\$	\$
Number of Subjects of FBI Arrests Who Were Armed _____					\$	\$	\$	\$
Criminal Summons _____ Subpoenas Served _____					\$	\$	\$	\$
C. Release of Hostages: (Number of Hostages Released)				E. Civil Matters		Government Defendant		Government Plaintiff
Hostages Held By Terrorists _____; All Other Hostage Situations _____				Amount of Suit		\$		\$
				Settlement or Award		\$		\$
								Enter AFA Payment Here

F. Final Judicial Process:		Judicial District			(Use two letter state abbreviations per U.S. Post Office Guide. For Example - The Northern District of Texas as ND TX; The District of Maine as ME in the state field only.)		Enter ARX Payment Here	
Subject 1 - Name -		District	State			Subject's Description Code *		

[illegible]

Subject 2 - Name -		Subject's Description Code -											
<input type="checkbox"/> Pretrial <input type="checkbox"/> Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal		- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine
				Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	
													\$
													\$
													\$
													\$

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/20/13 BY SP5-JC/KMG

[illegible]

Attach additional forms if reporting final judicial process on more than three subjects.

Remarks: As a result of 9/30/83, Jeopardy Assessment by IRS on Clarendon in the amount of \$90 million as of 10/19/83, IRS collected \$22 million. This arises out of 51-count indictment Field on 9/19/83, in which FBI contributed substantially in investigation of RICO scheme where numerous wire transfers off-shore were utilized by Rich to evade Federal income taxes.

2 - Bureau

2 - Field Office]

* See codes on reverse side. Subject description codes in Section F are required only when reporting a conviction.

• • Identify the other Federal Agency(ies) in the Remarks Section.

MEB:jf (5)

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①-196A-1774

FBI/DOJ

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NY 196A-1774

MARC RIGH & CO. INTERNATIONAL, LTD; aka
"Clarendon A.G."

RICO; FBW; MF; TAX EVASION; TRADING WITH ENEMY
(OO:NY)

QFBC WENT
5852

FILE 5

:MKE/* :ORI/NYFBINY00:NAM/RICH, MARC :SEX/M
:RAC/W:DOB/121834:SID/* :COH/*:SOC/496343075
:POB/B3:HGT/510:WGT/180:EYE/XXX:HAI/XXX:SKI/*
:LCD/ :LCT/F:OFF/2608:EXT/Z:RCV/*:PFL/*:VIC/*:RSP/*
:OCA/QFBC5851 :ETP/1:WAR/* :DKT/* :DOW/091983
:NIS/RICO/TAX EVASION/MAIL FRAUD/IF ENCOUNTERED CONTACT USC SA
[REDACTED] OR FBI SA [REDACTED] AT 212 553 2700
:FBI/* :MNU/* :SMT/* :FPC/*
:OLN/* b6 :OLS/* :OLY/*
:LIC/* b7c :LIS/* :LIY/* :LIT/*
:VIN/* :VYR/* :VMA/* :VMO/* :VST/* :VCO/*

N 1035-1035 10/31/83 0396243 QFBC03292
NYIS WENT QFBC
ACK 05852

NYFBINY00

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/22/00 BY SP3 JCL/mr

DCJS & NCIC ENTRY RESULTS

ENTERED ON BOTH FILES
NAM/RICH, MARC :OCA/QFBC5851 :WPR/0302454 :NIC/W321531799

NCIC RELATED WANT

MKE/WANTED PERSON
ORI/NYUSC4201 NAM/RICH, MARC SEX/M RAC/W POB/B3 DOB/121834 HGT/510
WGT/160 EYE/XXX HAI/BLK
NIC/W313412622
NYFBINY00
SOC/496343075 OFF/TAX REVENUE DOW/091983 OCA/Q583NY003
NIS/WANTED INCOME TAX EVASION TRADING WITH ENEMY IF ENCOUNTERED CALL
SA [REDACTED] 212 466 2910
NIC/W313412622

b6
b7c

196A-1774-185

R

Federal Bureau of Investigation

AIRTEL

To: Director, FBI
 Att: Criminal Investigative Division
 Fugitive Unit

Date: OCT 28 1983

From: ADIC, NEW YORK (196A-1774) (M-1) INSTRUCTIONS - Reverse side
 SAC

NOTE: Priority "A" and "B" Fugitives - With initial submission,
 set forth a synopsis of crime on reverse side.

Subject: MARC RICH-FUGITIVE;
 PINCUS GREEN-FUGITIVE;

b6
 b7C

☒ Initial Submission☐ Supplements FD-65 dated _____

MARC RICH AND COMPANY A.G.;
 MARC RICH AND COMPANY INTERNATIONAL, LTD., aka
 "Clarenoon A.G."
 RICO; FBW;
 MF-TAX EVASION
 (OO:NY)

Indicate Fugitive Priority

☐ A☒ B☐ C

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/21/01 BY SP5-16/00

Caution <input type="checkbox"/>	MKE	Name	NAM		Sex	SEX	Race	RAC
		MARC RICH			M		W	
Place of Birth		POB	Birth Date	DOB	Height	HGT	Weight	WGT
Antwerp, Belgium			12/18/34		5'10"		180	
Eye Color	EYE	Hair Color	HAI	FBI No.	FBI	Skin Tone	SKN	
Scars, Marks, Tattoos, etc.								SMT
NCIC Fingerprint Classification		FPC	Other Identifying Number		MNU	Social Security #		SOC
						496-34-3075		
Operator's License Number		OLN	Operator's License State		OLS	Year Expire		OLY
Offense Charged OFF Racketeering-Racketeering Consp.-Mail Fraud-Wire Fraud-Tax Evasion								
U. S. Code, Title and Section 18, 1962 (c) (d), 1341, 1343-26, 7201-31, 535.206 (a) (4)								
Warrant Issued By		USDJ		b6	on	9/19/83	DOW	F. O. File #
								OCA
Date PBV or Bond Default Case Referred to Office				b7C	196A-1774			
Miscellaneous Including Bond Recommended			MIS	Fingerprint Classification (Henry System)				
If encountered, contact U.S. Customs Agent [] or FBI SA [] (212) 553-2700			b6 b7C					
LICENSE PLATE AND VEHICLE INFORMATION								
License Plate Number		LIC	State	LIS	Year Expires	LIY	License Plate Type	
Vehicle Identification #		VIN	Year	VYR	Make	VMA	Model	VMO
Aliases				Additional Identifiers				
FBI-6318412622				196A-1774-187				
NCIC #				NIC				
W318412622-Customs #				W318412622-Customs #				

2 - FBIHQ (1 - Fugitive Unit)
 ① - New York
 MEB:mr mr (M-1) MEB
 (4)

1 - Supervisor M-1

FBI/DOJ

Marc Rich indicted 9/19/83 for utilizing an enterprise to wire transfer over \$100 million illegal profits generated by trading oil; thereby, evading over \$48 million in taxes. Also, caused over \$200 million U.S. dollars to be transferred to Iran during embargo.

Rich entered NCIC by U.S. Customs on 9/27/83.

INSTRUCTIONS

1. **Caution (MKE)** - Insert "C" in block if caution statement indicated. Basis for caution statement must appear in Miscellaneous block, e.g. armed and dangerous.
2. **Name (NAM)** - Place name in this block. Aliases are not to be entered in this block but are to be placed in Aliases block.
3. **Sex (SEX)** - Sex will be designated by one letter, M (male) or F (female).
4. **Race (RAC)** - Race will be described by one letter, W (white), N (Negro), I (Indian), C (Chinese), J (Japanese), O (all other). Mexicans who are not definitely Indian or other nonwhite should be described as "W".
5. **Place of Birth (POB)** - Indicate city and state or, if foreign born, city and country. Where multiple birthplaces are reported, list verified birthplace or that which appears most logical in this block.
6. **Birth Date (DOB)** - Enter as month, day and year. Where multiple birth dates are reported, enter verified birth date or that which appears most logical in this block. Place other dates of birth in Additional Identifiers block.
7. **Height (HGT)** - Express in feet and inches, e.g., 6' 0". Round off fractions to nearest inch.
8. **Weight (WGT)** - Express in pounds. Omit fractions.
9. **Eye Color (EYE)** - Use appropriate three character symbol.
10. **Hair Color (HAI)** - Use appropriate three character symbol.
11. **Skin Tone (SKN)** - Use appropriate three character symbol.
12. **Scars, Marks, Tattoos, etc. (SMT)** - Place in this block only appropriate NCIC coding for scars, marks, tattoos, birthmarks, deformities, missing body parts and artificial body parts as defined in NCIC Operating Manual. If more than one SMT is to be entered, use Additional Identifiers block for additional appropriately coded items. Use Miscellaneous block to describe all scars, marks, tattoos, etc. which are not defined in the NCIC Operating Manual and to more fully describe SMT's which have been entered in SMT block. For example, an appendectomy scar, not being readily visible, would be described in the Miscellaneous block. A tattoo on right arm, shown as TAT R ARM in block, might be further described in Miscellaneous block as a rose tattoo on inside of lower right arm.
13. **NCIC Fingerprint Classification (FPC)** - Enter NCIC fingerprint classification.
14. **Other Identifying Number (MNU)** - Miscellaneous numbers may be entered with appropriate identifiers (prefixes). For first miscellaneous identifying number, use MNU block. When military service number is in fact Social Security Account Number, the number should be entered in both MNU and SOC blocks. Additional identifying numbers are placed in Additional Identifiers block. The identifier (prefix) should precede the number and be separated from the number by use of a hyphen. See NCIC Operating Manual, Part 9, page 26 for appropriate agency identifiers.
15. **Fingerprint classification (Henry System)** - The Henry System fingerprint classification is to be placed in this block, when available. Do not enter in NCIC.
16. **Social Security Number (SOC)** - Place subject's Social Security Account Number in this block.
17. **Operator's License Number** - Place subject's operator's license number in OLN block. Also show licensing state (OLS) and year license expires (OLY).
18. **Warrant Issued By - On (DOW)** - In Escaped Federal Prisoner cases enter date of escape in DOW block.
19. **Miscellaneous (MIS)** - Enter additional pertinent information in this block. If caution statement used, basis for statement must be set forth as first item in this block.
20. **License Plate and Vehicle Information** - Place information concerning license plate and/or vehicle known to be in the possession of subject in appropriate blocks under License Plate and Vehicle Information heading.
21. **Additional Identifiers** - Enter information concerning additional license plates (number, state, year expires, and where applicable, type); Social Security Numbers; operator's license number, state and year expires; vehicle information (VIN, VYR, VMA, VMO, VST, VCO); MNU's (see list in item 14 above); visible scars, marks, tattoos, etc.; and dates of birth. Clearly identify what data is being set forth; e.g. Social Security # 423-56-3294; Michigan operator's license 234567; expires 1972; DOB's 4/5/32, 5/3/32; etc.
22. Changes and deletions should be so indicated in the appropriate blocks.

ENCLOSURE (7-8-1-1) (1-1)

196A-1774-188

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/22/01 BY SP5 JC/mjs

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 14 1983	
FBI-NEW YORK	

Has Marc Rich become the Bunker Hunt of the copper market? Hardly, but he's certainly shaking it up.

The 60,000-ton bath

By Priscilla S. Meyer

IN THE SIX WEEKS prior to the end of October, despite the U.S.' continuing strong economic recovery and threats of war, the price of copper plunged 15%, to less than 62 cents a pound.

Here, in part, is why: Clarendon Ltd., formerly Marc Rich International, was dumping 60,000 tons of refined copper on an already weak market, unloading it on any other metals companies and trade sources Clarendon could find.

Neither FORBES nor the U.S. gov-

ernment has succeeded in finding Marc Rich. He's said to be hiding in Switzerland or Spain or Panama or—your guess is as good as anybody's—while the government tries to collect \$90 million in unpaid U.S. taxes he or his trading ventures allegedly owe. But traders for Rich's old companies do confirm the copper tale, although Clarendon officials decline to discuss it. It's known, moreover, that the Rich companies had large stocks of other metals, including silver, gold, platinum and base metals, hedged by sales of futures contracts on New York's Comex and elsewhere. The

possibility that these holdings, too, are being dumped helps explain why prices for the metals (which had fallen for reasons that go beyond Rich's troubles) have remained weak.

The 60,000 tons of copper that were sold were equal to 15% of all copper held in vaults approved by Comex. On Sept. 30 the IRS issued a jeopardy assessment, amounting to a lien against Clarendon, which technically had just been sold by Rich to the firm's key managers. But the jeopardy assessment was sustained by a federal court in New York City only on Oct. 25. That legally froze Clarendon's assets. Its sales of copper had begun before the Sept. 30 IRS assessment and apparently were concluded by the Oct. 25 federal court order. Three days later Richco Bullion, a Rich firm in London that speculated in gold and silver, announced it was halting its trading as a consequence of the court order. Richco Bullion's U.S. operation, Richco Capital, also stopped trading.

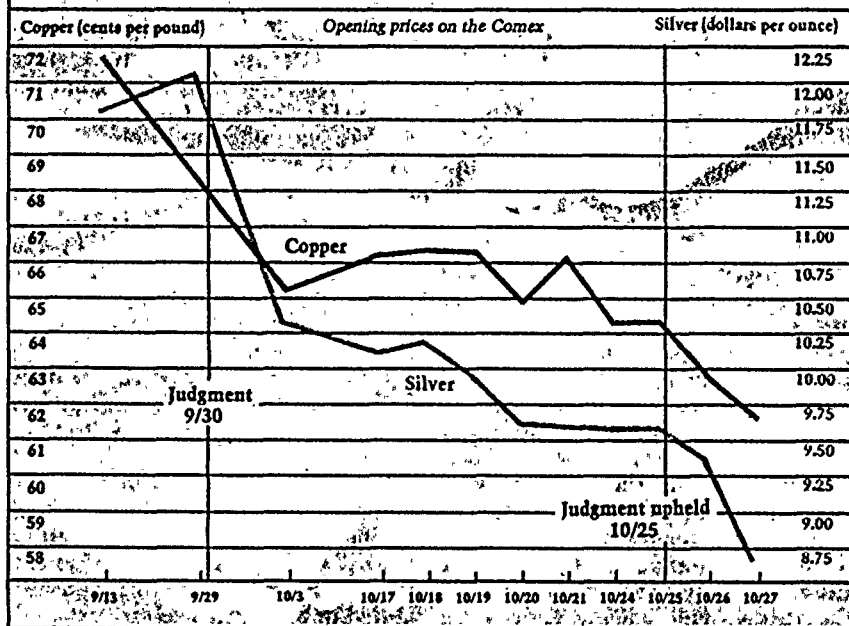
Unlike Rich's speculative operations, Clarendon had come by its large physical holdings of metals as a conventional trader. Clarendon bought raw ore from copper mining companies, contracted out the processing, stored copper and by-products and sold the metals to industrial users. To protect itself against declines in price before the copper was actually sold to a user, Clarendon sold copper futures on Comex. Thus it guaranteed itself a minimum profit, the difference between its cost of copper and the price for which the futures contracts sold.

Now the freeze on Clarendon's assets casts considerable doubt on the metal trading company's ability to maintain its positions in New York and European futures markets. If the company was forced to repurchase its futures sales contracts, or if metal prices went up, requiring payment of funds to Comex against the short positions, where would the money come from? Supposedly, it's frozen by the U.S., and there is even some danger of bankruptcy. Peter Ryan, chief financial officer of Clarendon, argued in court that his company is in "danger of insolvency" only because of the IRS' jeopardy assessment.

As for the status of the trading firm's collateral, Comex won't comment. But the exchange is known to have voiced concern to Clarendon and to be pleased with its decision to liquidate the physical copper. One thing is sure: Look for choppy waters in the metals markets for a while. ■

Copper and silver tumble with Rich's empire

Metal-selling by Rich's old companies triggered price declines in the copper and silver markets—already soft from months of selling by producers, among them Chile and Peru. "It's psychological," some say.



FBI

TRANSMIT VIA:

☒ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

Date 11/14/83

009

FM NEW YORK (196A-1774) (P) (M-1)

TO ~~DIRECTOR (196B-2848) ROUTINE~~ 2028

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES.

BT

b6
b7C

UNCLAS

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/22/01 BY SP5 JCL/MB

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]

b6
b7C

MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD.,

AKA "CLARENDON, A.G."; RICO; FBW; MF; TAX EVASION -

TRADING WITH ENEMY (OO:NY).

RENYTEL TO BUREAU, OCTOBER 19, 1983.

THE FOLLOWING IS PROVIDED FOR INFO OF FBIHQ.

ON OCTOBER 14, 1983, AUSA [REDACTED]

SDNY, ADVISED

b6
b7C
b3[REDACTED]
[REDACTED]
[REDACTED] ARTICLE APPEARING IN FORBES,b7D
b7F

① - NEW YORK
 1 - spv. m-1

MEB:mms
 (2)

Approved: [Signature]

Transmitted

(Number)

(Time)

Per [Signature]

196B-1774-189

b6
b7C

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE TWO

NY 196A-1774

UNCLAS

NOVEMBER 21, 1983, ISSUE WHERE MARC RICH WAS DUMPING 60,000 TONS OF REFINED COPPER ON AN ALREADY WEAK MARKET. THE SALES BEGAN BEFORE THE SEPTEMBER 30, 1983 IRS JEOPARDY ASSESSMENT AND APPARENTLY WERE CONCLUDED BY THE OCTOBER 25, 1983 FEDERAL COURT ORDER SUSTAINING THE ASSESSMENT. AS A RESULT OF THE DUMPING, THE PRICE OF COPPER PLUNGED 15%, TO LESS THAN 62 CENTS PER POUND. THE 60,000 TONS OF COPPER THAT WERE SOLD WERE EQUAL TO 15% OF ALL COPPER HELD IN VAULTS APPROVED BY COMEX (COMMODITIES EXCHANGE).

CLARENDON HAD COME BY ITS LARGE PHYSICAL HOLDINGS OF METALS AS A CONVENTIONAL TRADER. BUYING RAW ORE FROM COPPER MINING COMPANIES, CONTRACTED OUT THE PROCESSING, STORED COPPER AND BY-PRODUCTS AND SOLD THE METALS TO INDUSTRIAL USERS. TO PROTECT ITSELF AGAINST DECLINES IN PRICE BEFORE THE COPPER WAS ACTUALLY SOLD, CLARENDON SOLD COPPER FUTURES ON COMEX. THUS, IT GUARANTEED ITSELF A MINIMUM PROFIT, THE DIFFERENCE BETWEEN ITS COST OF COPPER AND THE PRICE FOR WHICH FUTURES CONTRACTS SOLD.

THE IRS JEOPARDY ASSESSMENT FROZE ALL ASSETS THEREBY

Approved: _____ Transmitted _____ Per _____
(Number) (Time)

FBI

TRANSMIT VIA:

- ☐ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

- ☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

- ☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE THREE

NY 196A-1774

UNCLAS

COSTING CONSIDERABLE DOUBT ON THE COMPANY'S ABILITY TO
MAINTAIN ITS POSITIONS IN NY AND EUROPEAN FUTURES MARKETS.
IF THE COMPANY WAS FORCED TO REPURCHASE ITS FUTURES SALES
CONTRACTS, OR IF METAL PRICES WENT UP, REQUIRING PAYMENT
OF FUNDS TO COMEX AGAINST THE SHORT POSITIONS, WHERE WOULD
THE MONEY COME FROM? [REDACTED]

[REDACTED] NY WILL

INVESTIGATE THIS MATTER RELATIVE TO OBSTRUCTION OF JUSTICE,
IN THAT IF MARC RICH A.G. PAID ANY SUCH MARGIN CALL, A
POSSIBLE OOJ VIOLATION COULD OCCUR.

FBIHQ WILL BE KEPT ADVISED.

BT

b7D
b7F

Approved: _____ Transmitted _____ Per _____
(Number) (Time)

NY0436 3182028

RR HQ

DE NY 009

NOV 14 83 2025Z

FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848) ROUTINE

b6
b7C

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES.

BT

UNCLAS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/22/01 BY SP5 JLC/mj

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]
MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD.,
AKA "CLARENDON, A.G."; RICO; FBW; MF; TA EVASION -
TRADING WITH ENEMY (OO:NY).

b6
b7C

RENYTEL TO BUREAU, OCTOBER 19, 1983.

THE FOLLOWING IS PROVIDED FOR INFO OF FBIHQ.

ON OCTOBER 14, 1983, AUSA [REDACTED] SDNY. ADVISED

b6
b7C
b3

b7D
b7E

ARTICLE APPEARING IN FORBES, 196B-1774-189

SEARCHED
SERIALIZED
INDEXED
FILED
OCT 19 1983
FBI - NEW YORK
12

PAGE TWO

NY 196A-1774

5

UNCLAS

NOVEMBER 21, 1983, ISSUE WHERE MARC RICH WAS DUMPING 60,000 TONS OF REFINED COPPER ON AN ALREADY WEAK MARKET. THE SALES BEGAN BEFORE THE SEPTEMBER 30, 1983 IRS JEOPARDY ASSESSMENT AND APPARENTLY WERE CONCLUDED BY THE OCTOBER 25, 1983 FEDERAL COURT ORDER SUSTAINING THE ASSESSMENT. AS A RESULT OF THE DUMPING, THE PRICE OF COPPER PLUNGED 15, TO LESS THAN 62 CENTS PER POUND. THE 60,000 TONS OF COPPER THAT WERE SOLD WERE EQUAL TO 15 OF ALL COPPER HELD IN VAULTS APPROVED BY COMEX (COMMODITIES EXCHANGE).

CLARENDON HAD COME BY ITS LARGE PHYSICAL HOLDINGS OF METALS AS A CONVENTIONAL TRADER. BUYING RAW ORE FROM COPPER MINING COMPANIES, CONTRACTED OUT THE PROCESSING, STORED COPPER AND BY-PRODUCTS AND SOLD THE METALS TO INDUSTRIAL USERS. TO PROTECT ITSELF AGAINST DECLINES IN PRICE BEFORE THE COPPER WAS ACTUALLY SOLD, CLARENDON SOLD COPPER FUTURES ON COMEX. THUS, IT GUARANTEED ITSELF A MINIMUM PROFIT, THE DIFFERENCE BETWEEN ITS COST OF COPPER AND THE PRICE FOR WHICH FUTURES CONTRACTS SOLD.

THE IRS JEOPARDY ASSESSMENT FROZE ALL ASSETS THEREBY

PAGE THREE

NY 196A-1774

UNCLAS -

COSTING CONSIDERABLE DOUBT ON THE COMPANY'S ABILITY TO
MAINTAIN ITS POSITIONS IN NY AND EUROPEAN FUTURES MARKETS.
IF THE COMPANY WAS FORCED TO REPURCHASE ITS FUTURES SALES
CONTRACTS, OR IF METAL PRICES WENT UP, REQUIRING PAYMENT
OF FUNDS TO COMEX AGAINST THE SHORT POSITIONS, WHERE WOULD
THE MONEY COME FROM? [REDACTED]

[REDACTED] NY WILL

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IN THAT IF MARC RICH A.G. PAID ANY SUCH MARGIN CALL, A
POSSIBLE OOJ VIOLATION COULD OCCUR.

FBIHQ WILL BE KEPT ADVISED.

BT

b7D
b7F

Transmit attached by Facsimile - UNCLAS

Precedence *Priority*To: SAC - New York 196A-1774
From: SAC - Seattle 29A-2942 (P)

Date: 11/14/83

Time: Transmitted -

Subject: b6
b7C

Initials -

*EE: 21
BF: E
OO: SE*☐ Fingerprint Photo☐ Fingerprint Record☐ Map☐ Newspaper clipping☐ Photograph☐ Artists Conception☒ Other*Subpoena*Special handling instructions: *N.Y. requested to serve on*
so records can reach
Seattle by Nov. 22, 1983. Any questions are to be directed
to AUSA *in Seattle.*Approved: *[Signature]*

FBI/DOJ

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE *3-1-01* BY *SP3 SCB/N*

196A-1774-190

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 15 1983	
FBI - NEW YORK	

[Signature]

SUBPOENA TO TESTIFY BEFORE GRAND JURY

United States District Court	DISTRICT WESTERN DISTRICT OF WASHINGTON
NO. 	SUBPOENA FOR <input type="checkbox"/> Person <input checked="" type="checkbox"/> Document or Object
ATTN: 	b3 b6 b7C

YOU ARE HEREBY COMMANDED to appear in the United States District Court at the location, date, and time specified below to testify before the Grand Jury in the above entitled case.

PLACE United States Courthouse 3rd Floor 5th & Madison Seattle, Washington	COURTROOM Room 311 DATE AND TIME <div style="border: 1px solid black; width: 100px; height: 30px; margin: 5px;"></div>
--	---

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):⁽¹⁾

Records and documents as requested on Page 2 of this subpoena.

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 2/22/01 BY SP5 JLC/may

☐ Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK BRUCE RIPPIN	DATE <div style="border: 1px solid black; width: 150px; height: 60px; margin: 5px;"></div>
(BY) DEPUTY CLERK <div style="border: 1px solid black; width: 250px; height: 40px; margin: 5px;"></div>	b3 b6 b7C
This subpoena is issued on application of the United States of America by:	NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY <div style="border: 1px solid black; width: 150px; height: 30px; margin: 5px;"></div> AUSA

⁽¹⁾ If not applicable, enter "none."

SUBPOENA TO TESTIFY BEFORE GRAND JURY

continued

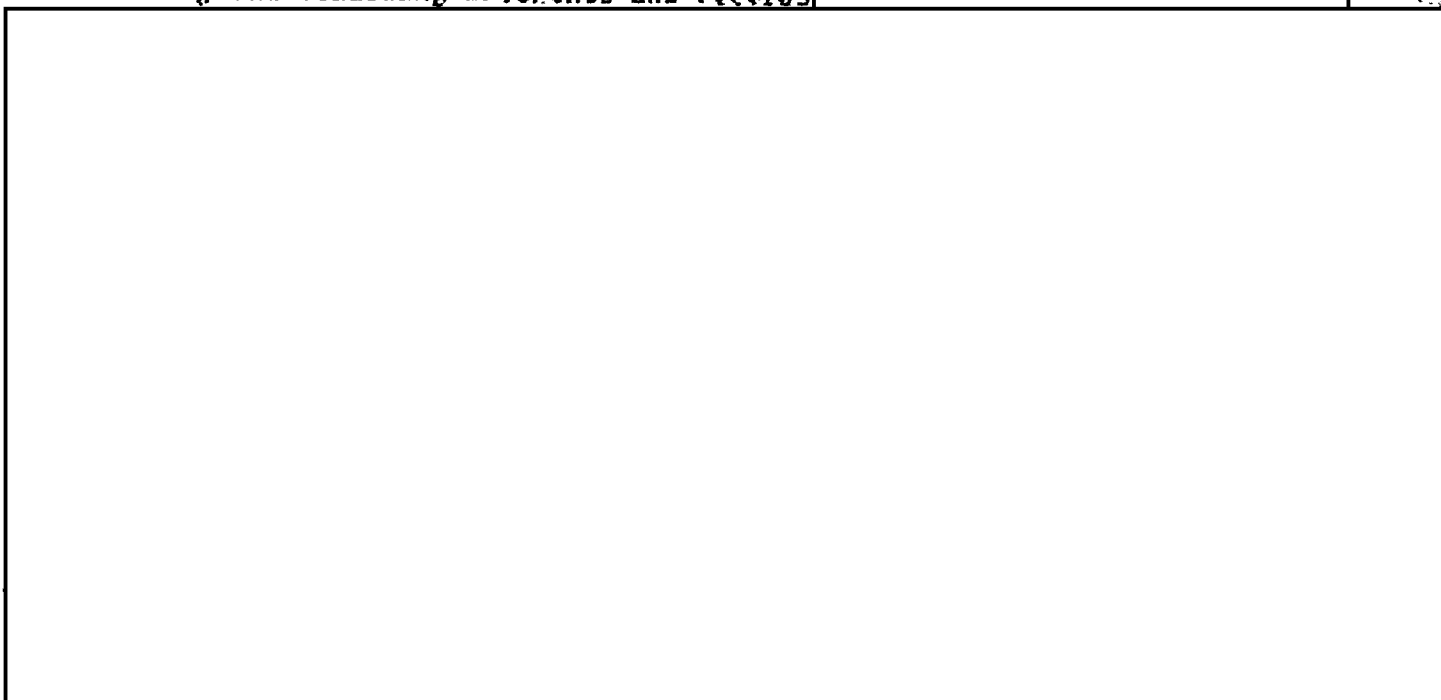
Page 2 of 2



b3

b3

Please bring the following documents and records



RETURN OF SERVICE⁽²⁾

RECEIVED BY SERVER	DATE 11/14/83	PLACE New York, New York
SERVED	DATE 11/15/83	PLA

SERVED ON (NAME)		b6 b7C b3
------------------	--	-----------------

SERVED BY		TITLE SA FBI
-----------	--	-----------------

STATEMENT OF SERVICE FEES

TRAVEL N/A	SERVICES N/A	TOTAL N/A
---------------	-----------------	--------------

DECLARATION OF SERVER⁽³⁾

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date

Signature of Server

Address of Server

ADDITIONAL INFORMATION

INFORMATION REGARDING DUCES TECUM SUBPOENAS

The documents requested in the attached Dues Tecum subpoena are to be delivered to the Grand Jury; and, if it would be of greater convenience to you, in lieu of personal delivery to the Grand Jury, the documents may be mailed to:

Foreperson of the Grand Jury

c/o

Assistant United States Attorney
3600 Seafirst Fifth Avenue Plaza
800 Fifth Avenue
Seattle, Washington 98104

b6
b7C
b3

Should you elect to mail the documents, said mailing should be accomplished in a timely fashion to insure that the documents can be provided to the Grand Jury on the prescribed date.

NOV 17 1983

Date

TO: DIRECTOR, FBI

196B-2848

Bureau File Number

FROM: SAC, ADIC, NEW YORK
SUBJECT:

196A-1774

Field Office File Number

SEE ATTACHED

M-1

Squad or RA Number

- ☒ - X if a joint FBI/DEA (or other Federal Agency **) operation
- ☐ - X if case involves corruption of a public official (Federal, State or Local)

Investigative Assistance or Techniques Used

Were any of the investigative assistance or techniques listed below used in connection with accomplishment being claimed? ☒ No ☐ Yes - If Yes, rate each used as follows:

- 1 = Used, but did not help
2 = Helped, but only minimally
3 = Helped, substantially
4 = Absolutely essential

1. Acctg Tech Assistance	Rating	6. ELSUR - Title III	Rating	11. Lab Div Field Support	Rating	16. Show Money Rating Usage
2. Aircraft Assistance		7. Hypnosis Assistance		12. Pen Registers		17. Surveill. Sqd Asst
3. Computer Assistance		8. Ident Div Assistance		13. Photographic Coverage		18. SWAT Team Action
4. Consensual Monitoring		9. Informant Information		14. Polygraph Assistance		19. Telephone Toll Records
5. ELSUR - FISC		10. Lab Div Exams		15. Search Warrants Executed		20. Undercover Operation
						21. Visual Invest - Analysis (VIA)

A. Preliminary Judicial Process (Number of subjects)	Complaints	Informations	Indictments	D. Recoveries, Restitutions, Court Ordered Forfeitures or Potential Economic Loss Prevented (PELP)				
B. Arrests, Locates, Summonses & Subpoenas (No. of subjects)	Subject Priority (See Reverse)			Property or PELP Type Code	Recoveries	Restitutions	Court Ordered Forfeitures	Potential Economic Loss Prevented
FBI Arrests	A	B	C					
FBI Locates								
Number of Subjects of FBI Arrests Who Physically Resisted								
Number of Subjects of FBI Arrests Who Were Armed								
Criminal Summons								
Subpoenas Served								
C. Release of Hostages: (Number of Hostages Released)				E. Civil Matters				
Hostages Held By Terrorists				Amount of Suit		Government Defendant		Government Plaintiff
All Other Hostage Situations				Settlement or Award				
								Enter AFA Payment Here

F. Final Judicial Process: Judicial District _____ (Use two letter state abbreviations per U.S. Post Office Guide. For Example - The Northern District of Texas as ND TX; The District of Maine as ME in the state field only.)

Subject 1 - Name - _____ Subject's Description Code - _____

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	
												\$
												\$
												\$
												\$

Subject 2 - Name - _____			Subject's Description Code - _____									
<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	
												\$
												\$
												\$
												\$

Subject 3 - Name - _____			Subject's Description Code - _____									
<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos	
												\$
												\$
												\$
												\$

Attach additional forms if reporting final judicial process on more than three subjects.

Remarks:

Pursuant to

2 - Bureau
3 - Field Office

Case involved joint investigation of FBI, IRS and U.S. Customs 1983

* See codes on reverse side. Subject description codes in Section F are required only when reporting a conviction.

Identify the other Federal Agency(ies) in the Remarks Section

(1-66-8492) (1-IAU Unit)

MEB:wyh (6)

196A-1774

FBI-NEW YORK

MWP/boj

196A-1774-191

NY 196A-1774

SUBJECT: MARC RICH-FUGITIVE;
PINCUS GREEN-FUGITIVE;

[REDACTED]

b6

b7C

MARC RICH & CO. A.G.;

MARC RICH & CO. INTERNATIONAL, LTD.;

aka "Clarendon A.G."

RICO; FBW; MF; TAX EVASION;

TRADING WITH ENEMY.

(OO: NY)

FBI

TRANSMIT VIA:

☒ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☒ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS
Date 11/21/83

19

FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848) PRIORITY

LOUISVILLE (196A-NEW) PRIORITY

BT

UNCLAS

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES UNIT.

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]

MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD., AKA
 "CLARENDON, A.G."; RICO- FBW - MF - TAX EVASION - TRADING WITH
 ENEMY (OO:NY)

FOR INFO OF LOUISVILLE ABOVE-CAPTIONED HAS RECEIVED MASS
 MEDIA COVERAGE AS A RESULT OF 51-COUNT RICO INDICTMENT FILED
 SEPTEMBER 19, 1983 IN SOUTHERN DISTRICT OF NEW YORK (SDNY).
 CASE BASICALLY INVOLVED OFF-SHORE TRANSFER OF MILLIONS OF
 DOLLARS OF ILLEGALLY GENERATED PROFITS FROM THE SALES OF OIL.

ON OCTOBER 20, 1983, AN INDIVIDUAL IDENTIFYING HIMSELF AS

[REDACTED] AND STATED THAT HE COULD CAUSE
 ALL CIVIL AND CRIMINAL MATTERS AGAINST CAPTIONED TO BE DROPPED

b6
 b7C

- ① - NEW YORK
 1 - SUPV. M-1

MEB:mms
 (2)

196A-1774-192

Approved: [Signature]

Transmitted _____

(Number)

(Time)

Per [Signature]

[REDACTED]

b6
 b7C

FBI

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☐ *

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE TWO

NY 196A-1774

UNCLAS

FOR A FEE OF [REDACTED]

STATED THAT HE WAS THE [REDACTED]

[REDACTED] KENTUCKY

b6
b7C

[REDACTED] WHERE A CERTIFIED CHECK IN THE AMOUNT OF [REDACTED] WAS
 TO BE SENT. [REDACTED] STATED HE KNOWS CERTAIN OFFICIALS IN D.C. WHO
 WOULD RESOLVE THIS MATTER.

TELEPHONIC CONTACT WITH POST OFFICE IN [REDACTED] KENTUCKY
 PROVIDED THAT THE OWNER OF [REDACTED] WAS A [REDACTED] AND
 WAS OPENED ON [REDACTED]

ALSO LISTED WAS PRIOR BACKGROUND IN [REDACTED]

LOUISVILLE AT [REDACTED] KENTUCKY. 1. WILL CONDUCT INDICES
 SEARCH OF [REDACTED]

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2. ATTEMPT TO IDENTIFY IF [REDACTED] IS A LEGITIMATE
 BUSINESS;

3. ATTEMPT TO IDENTIFY [REDACTED] (NY
 BELIEVES THEM TO BE ONE IN THE SAME);

4. CONDUCT CRIMINAL SEARCH OF [REDACTED]

5. SUTEL RESULTS BY NOVEMBER 23, 1983 AS [REDACTED] PLACED
 DEADLINE BY NOVEMBER 30, 1983.

IT SHOULD BE NOTED THAT SDNY WILL ISSUE ARREST WARRANT,
 IF APPROPRIATE.

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ABOVE PROVIDED TO FBIHQ FOR INFO.

Approved: _____ Transmitted _____ Per _____
 BT (Number) (Time)

NY0974-3260207

PP HQ LS

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P 212345Z NOV 83FM NEW YORK 7196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848) PRIORITY

LOUISVILLE (196A-NEW) PRIORITY

BT

UNCLAS

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES UNIT.

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]

MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD., AKA
"CLARENDON, A.G."; RICO- FBW - MF - TAX EVASION - TRADING WITH
ENEMY (OO:NY)

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FOR INFO OF LOUISVILLE ABOVE-CAPTIONED HAS RECEIVED MASS
MEDIA COVERAGE AS A RESULT OF 51-COUNT RICO INDICTMENT FILED
SEPTEMBER 19, 1983 IN SOUTHERN DISTRICT OF NEW YORK (SDNY).
CASE BASICALLY INVOLVED OFF-SHORE TRANSFER OF MILLIONS OF
DOLLARS OF ILLEGALLY GENERATED PROFITS FROM THE SALES OF OIL.

ON OCTOBER 20, 1983, AN INDIVIDUAL IDENTIFYING HIMSELF AS
[REDACTED] AND STATED THAT HE COULD CAUSE
ALL CIVIL AND CRIMINAL MATTERS AGAINST CAPTIONED TO BE DROPPED

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/22/01 BY SP5 JC/mg

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FOR A FEE OF [REDACTED]

STATED THAT HE WAS THE [REDACTED]

[REDACTED] KENTUCKY

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[REDACTED] WHERE A CERTIFIED CHECK IN THE AMOUNT OF [REDACTED] WAS
TO BE SENT. [REDACTED] STATED HE KNOWS CERTAIN OFFICIALS IN D.C. WHO
WOULD RESOLVE THIS MATTER.

TELEPHONIC CONTACT WITH POST OFFICE IN [REDACTED] KENTUCKY
PROVIDED THAT THE OWNER OF [REDACTED] WAS A [REDACTED] AND
WAS OPENED ON [REDACTED]

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ALSO LISTED WAS PRIOR BACKGROUND IN [REDACTED]
LOUISVILLE AT [REDACTED] KENTUCKY. 1. WILL CONDUCT INDICES
SEARCH OF [REDACTED]

b6
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2. ATTEMPT TO IDENTIFY IF [REDACTED] IS A LEGITIMATE
BUSINESS;

3. ATTEMPT TO IDENTIFY [REDACTED] (NY
BELIEVES THEM TO BE ONE IN THE SAME);

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4. CONDUCT CRIMINAL SEARCH OF [REDACTED]

5. SUTEL RESULTS BY NOVEMBER 23, 1983 AS [REDACTED] PLACED
DEADLINE BY NOVEMBER 30, 1983.

IT SHOULD BE NOTED THAT SDNY WILL ISSUE ARREST WARRANT,
IF APPROPRIATE.

ABOVE PROVIDED TO FBIHQ FOR INFO.

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NOV 22 1993

TO: SAC, SEATTLE (29A-2948) (P)
FROM: ADIC, NEW YORK (196A-1774) ~~(P)~~ (M-1)
SUBJECT: [REDACTED] b6
ET AL; b7C
BF&E:
(OO: SE)

ReSeattle subpoena transmitted by facsimile to New York on 11/14/83.

Enclosed for Seattle is the original subpoena (which was transmitted by facsimile) for return of service.

On 11/15/83, a copy of the above referenced subpoena was served on [REDACTED]

[REDACTED] telephone number [REDACTED]
[REDACTED] was advised that any questions should be directed to Assistant United States Attorney (AUSA) [REDACTED]
telephone number [REDACTED]

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New York considers this matter completed.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/22/00 BY SP5 JC/mj

2 - Seattle (Encls. 1)
1 - New York
1 - Supervisor (M-1)
MEB:pam
(4)

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FM LOUISVILLE (196A-744) (RUC)
TO NEW YORK (196A-1774) ROUTINE
BT

ALL INFORMATION CONTAINED
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DATE 2/22/01 BY 3876/mg

UNCLAS

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED] b6
MARC RICH & COMPANY, A.G.; MARC RICH & COMPANY INTERNATIONAL b7C
LIMITED, AKA "CLARENDON, A.G."; RICO - FRAUD BY WIRE MAIL FRAUD
TAX EVASION - TRADING WITH THE ENEMY; OO: NEW YORK.

RE NEW YORK TELETYPE TO BUREAU, DATED NOVEMBER 21, 198 .

LOUISVILLE INDICES NEGATIVE RE [REDACTED]

[REDACTED] KENTUCKY. THERE ARE

NUMEROUS REFERENCES TO [REDACTED]

BUT NONE APPEAR TO BE IDENTICAL. b6
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CONTACT WITH LOCAL AND STATE AUTHORITIES REVEAL NO INFORMATION ABOUT

[REDACTED] BEING A LEGITIMATE BUSINESS, AND BALLARD COUNTY

SHERIFF, JACK STEPHENS, WHO RESIDES IN [REDACTED] KENTUCKY, HAS NO

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KNOWLEDGE OF [REDACTED]

[REDACTED] IS UNKNOWN TO LOCAL AUTHORITIES. [REDACTED]

FORMERLY WAS EMPLOYED AS [REDACTED] AND IS BELIEVED TO HAVE RETIRED.

ACCORDING TO POSTAL AUTHORITIES IN [REDACTED] KENTUCKY, [REDACTED]

[REDACTED] RENTED [REDACTED]

AND CURRENTLY RESIDES IN THE

[REDACTED] COMMUNITY IN [REDACTED]

KENTUCKY. HE WAS FORMERLY [REDACTED]

NO CRIMINAL RECORD LOCATED FOR [REDACTED] IF ADDITIONAL
INVESTIGATION REQUESTED BY THE NEW YORK DIVISION, THEY SHOULD
ADVISE THE LOUISVILLE DIVISION.

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FM LOUISVILLE (196A-744) (RUC)
TO NEW YORK (196A-1774) ROUTINE
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UNCLAS

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]
MARC RICH & COMPANY, A.C.; MARC RICH & COMPANY INTERNATIONAL
LIMITED, AKA "CLARENDON, A.C."; RICO - FRAUD BY WIRE - MAIL FRAUD -
TAX EVASION - TRADING WITH THE ENEMY; OO: NEW YORK.

RE NEW YORK TELETYPE TO BUREAU, DATED NOVEMBER 21, 1981.

LOUISVILLE INDICES NEGATIVE RE [REDACTED]

[REDACTED] KENTUCKY. THERE ARE

NUMEROUS REFERENCES TO [REDACTED] BUT NONE APPEAR TO BE IDENTICAL.
CONTACT WITH LOCAL AND STATE AUTHORITIES REVEAL NO INFORMATION ABOUT
[REDACTED] BEING A LEGITIMATE BUSINESS, AND BALLARD COUNTY
SHERIFF, JACK STEPHENS, WHO RESIDES IN [REDACTED] KENTUCKY, HAS NO

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/22/01 BY 595-176/m

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FM DIRECTOR FBI (196-2848)

TO FBI NEW YORK (196A-1774) (M-1) ROUTINE

BT

UNCLAS

MARK RICH-FUGITIVE; PINCUS GREEN-FUGITIVE; [REDACTED] MARC
RICH AND COMPANY A.G.; MARC RICH AND COMPANY INTERNATIONAL, LTD,
AKA "CLARENDON A.G."; RICO; FBW; ME; TAX EVASION-TRADING WITH
ENEMY; OO: NEW YORK

RENYTEL TO THE DIRECTOR DATED NOVEMBER 29, 1983.

REQUESTED TRAVEL OF SUPERVISOR [REDACTED] AND

SAS [REDACTED] TO FBIHQ IN WASHINGTON,

D.C., ON DECEMBER 5, 1983 IS APPROVED.

BT

#0112

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2/22/01 BY SP5 JZ/mj

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to Mexico to Panama. It would probably end up sacrificing lives: American and Latin American. The U.S. would gain nothing from giving in to the ambitions of the military in Central America. Neither democracy nor social progress is to be had in this way.

Peace through negotiations is the only real, politically enduring, and politically self-interested solution. There are dangers and there are costs. But these are infinitely lower than those assured by the recourse to war.

Throughout the region, including Mexico, Colombia, and Venezuela, young people are talking of forming brigades to join the Sandinistas in case of outright conflict. These brigades would catch (are catching) the imagination of many unemployed youths. There would be death counts of Mexican, Colombian, and Venezuelan boys on Mexico City, Bogotá, and Caracas TV.

Peace through negotiations would enhance the standing of the United States in the nations committed to the negotiating process: Mexico, Venezuela, Colombia, and Panama. These governments are serving your interests better than you serve them yourself. They are not being supported in their efforts by the administration in Washington. Gunboat diplomacy is felt as a danger not only in Managua, but in all four Contadora capitals. The issues for negotiation have been spelled out clearly and tacitly approved by all concerned, except the United States. These issues include: no Soviet bases or armed capabilities in Central America; border patrols; no passage of arms; no foreign military advisers; progressive demilitarization; strict respect for the internal processes of each nation.

The success of negotiations would isolate the Soviet Union from the process of change in Central America and bring in the plural forces of Western Europe, Japan, and the multilateral organizations. I would not go as far as to suggest that the United States, in the name of its own origins, should embrace the revolutionary movements in Latin America and love them to death.

But since the United States obviously cannot influence the status quo, why doesn't it attempt to influence change... for a change?

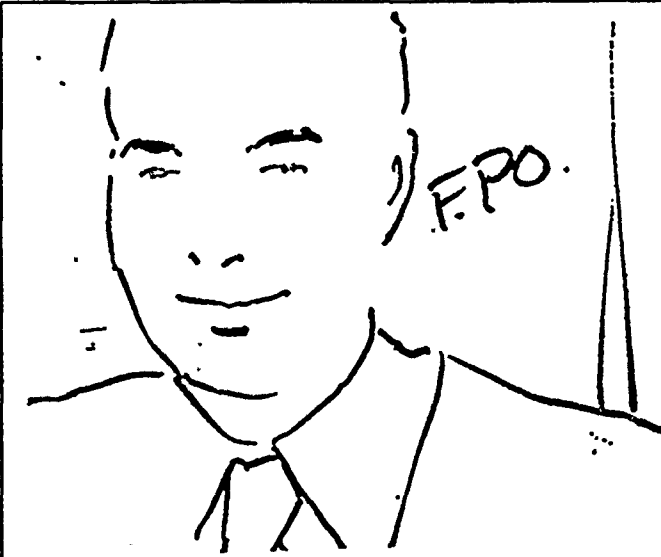
REVOLUTIONS in Latin America pose challenges to American diplomatic imagination. Lessons from the past have not been learned. The problem for the future is how to achieve some balance between the nationalist fervor, the anti-American rhetoric, and the internal transformation, on the one hand, and, on the other, normal diplomatic relations, cool-headedness in dealing with provocation, and constant political action through the multilateral organizations, the major Latin American nations, Japan, and Western Europe.

The revolution's early recriminatory and radical stages must be endured calmly. Instead of cutting off aid, blocking loans from the Inter-American Development Bank, and taking other spiteful actions, behave coolly, let the aid flow from other quarters, multiply the ties of the new revolution with institutions and nations free from the stigma of past American actions in Central America.

Perhaps no other great power in recent history is as well prepared, because of its internal texture, institutions, and origins, to live with cultural difference. Latin America is the great challenge to the very *raison d'être* of the United States: can you learn to live with the other, with the complexity and intractability of different cultures?

Recently Robert Mugabe, the prime minister of Zimbabwe, visited the White House. I remember the situation in his country five years ago. The bloodbath, the fatalism, the sense that Rhodesia had no solution, the characterization of Mugabe as a Marxist, Soviet stooge. Lord Carrington and Christopher Soames proved that this problem did have a solution and that the solution was diplomatic negotiations. Perhaps today the United States might be willing to take a page from the book of British diplomacy and apply it to Central America.

CAPITALISM OBSERVED



HOW THE BARBARIANS DO BUSINESS

by A. Craig Copetas

Marc Rich made money the old-fashioned way.

ON OCTOBER 11, 1983, guests at London's distinguished Grosvenor House who frequent the hotel because it is one of the few remaining bastions of proper innkeeping were either behind bolted doors or at the front desk complaining about the howls that ricocheted through the pale green lobby. Pranksters had piled furniture into corners; entire floors had become hospitality suites, wildernesses of fast-flowing bars populated by tuxedo-clad men downing bomber doses of bonded bourbon. It was metal week in London,

A. Craig Copetas is at work on a book about Marc Rich and the world of the commodities markets.

and Grosvenor House was the site of the annual dinner of the London Metal Exchange, an influential commodities market. Until dawn 2,000 metal buyers and sellers from Boston to Beijing—some of the industrial world's wealthiest and most powerful men—reveled like a convention of Moose Lodgers. The hotel staff, accustomed to the yearly dinner and all-night cocktail party, handled the behavior they had come to expect with true Tory breeding and dispatch. They calmly defused the South African gold trader who tried, unsuccessfully, to drive a truck into the lobby, and they tamed the roaming packs of communist-bloc executives who flashed fat rolls

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of dollars in front of any woman with the tenacity to remain in the open after midnight.

"This is cirrhosis week, a very trying and difficult time for all of us," chuckled the group's chairman, Michael Brown, before going in to the formal dinner. "There are plenty of barbarians involved with the London Metal Exchange."

The "barbarians" at the exchange's blowout are part of a tightly knit tribe of capitalists who generate trillions of dollars by quietly controlling the buying and selling of the earth's crust. The drama of their lives is centered on the cost and the availability of metals like copper, tin, and tantalum, strange-sounding lumps of earth called ferro-molybdenum, chambishi cobalt, and wolfram-trioxide; their edge on life is a canny understanding of how to make hundreds of millions of dollars while paying a minimum amount of taxes.

The men who traveled to this year's conclave to toast their prodigious wealth, however, radiated the tawny hues of fear. Their craftiest colleague, Marc Rich, had been slapped with a fifty-one-count indictment by the U.S. government. He was accused of racketeering, mail and wire fraud, and violating a trade ban with Iran. One of the world's greatest metal traders had been charged under the Racketeer Influenced and Corrupt Organization (RICO) statutes, laws that were enacted specifically to handcuff businessmen like Al Capone, and he was now liable to pay the IRS a back tax bill of \$90,433,574.39. All in all, the air in Grosvenor House that October evening was reminiscent of a Chicago speakeasy, with patrons who would make excellent witnesses for the prosecution.

It was not the staggering amount of money Rich owed in back taxes for a handful of deals conducted within the space of three years that concerned these dinner-jacketed gentlemen. Their fear arose from the fact that one of their own had somehow allowed the secret world of financial shadows to be breached, to be put on public display in the

seedy confines of Manhattan courtroom number 128.

STOMACHS churned out of control from the moment Rich was subpoenaed last June, and traders must have been consuming a bottle of Maalox a day in August after the world press gleefully reported that customs agents at Kennedy Airport had stopped a plane meant to ferry two large steamer trunks chock-full of secret corporate documents from Rich's New York office to the safety of Swiss vaults. One London aluminum trader, upon hearing of the seizure, was said to have urinated in his trousers while walking off the floor of the Exchange. "Everyone in this business has dealt with Marc Rich," said a metal broker who has executed millions of dollars' worth of deals with him. "The last thing we want is the U.S. poring over records that might outline our activities. We do not want people to *understand* how we operate."

Ironically, Marc Rich was the most secretive of all the metal merchants. He kept a low public profile while personally orchestrating the hour-to-hour activities of a \$10-billion-a-year corporate trading giant that dealt in metals, oil, weapons, sugar, and grain. He speculated on prices, juggled metals like casino chips, and gambled billions to seize control of large caches of strategic commodities essential for manufacturing goods as disparate as cereal and jet fighters. Marc Rich, say those who worked with him, wanted to be a cartel.

Rich knew about the velocity of money, about keeping your money in a state of perpetual motion in the world's financial markets in order to make more money. Those who know him joke that lists of the world's richest men exclude him only because they have no formula with which to gauge his total worth. They also say that he is so self-confident that he was not in the least disturbed when in July he had to flee the United States to Switzerland in order to avoid indictments that could lead to a jail sentence of

325 years. People who have dined with him, his wife, and their three daughters at his Park Avenue apartment, which once belonged to Helena Rubinstein, say that he did not even blink over paying \$4 million in government fines, at the rate of \$50,000 a day, to prevent a federal court from gaining access to his sensitive corporate files.

The government admits that it doesn't know where all the assets of Marc Rich are buried, despite digging through 200,000 pages of subpoenaed documents. And even if it did have a treasure map to Rich's domestic fortune there would be no way to design fines that would shut down his operations in Europe, Southeast Asia, Russia, the Middle East, Africa, the Caribbean, and Latin America. It's not easy to track down billions and billions of dollars when the money remains in one place for as little as twenty-four hours to take advantage of a particular bank's one-quarter-percent interest increase over another bank.

MARC RICH's empire operates through an international hydra of traders, revolving Swiss bank accounts, and cleverly sculpted Panamanian corporations with nonsense names like Highams Consultants and Rescor Incorporated. In nine years he managed to nurture a global business colossus that may sell more oil than Kuwait, more copper than Chile, and enough aluminum to wrap the British Isles in foil. He owns 50 percent of 20th Century-Fox and controls GORCO, an oil refinery in Guam that sells jet fuel to the U.S. Air Force and petroleum products to the entire Seventh Fleet. His myriad of international corporations control thousands of acres of real estate, mineral rights, and mines. He sells arms to the Third World and trades commodities to such diverse groups as Iran's Revolutionary Guard and African tribal Marxists.

Rich's vast holdings are headquartered in the tallest office building (which he owns) in the center

of the tiny Swiss canton of Zug, a village reputed to be a hideout for trading firms and multinational corporations seeking cheap taxes. Over 8,000 companies have been lured to Zug by lucrative tax concessions and the promise that they could be considered Swiss firms if they simply screwed a brass nameplate into the wooden door of a local law office. But Rich came to Zug in force and took great pains to shape every nuance of his private financial nation. The canton's chief public prosecutor, Dr. Rudolph Mosimann, served on the board of Marc Rich AG. The canton's finance director, Georg Stucky, publicly proclaimed to the Swiss newspapers that Rich was being "blackmailed" by the United States. In Switzerland he was a local hero and became one of the country's leading employers, while in the United States he was branded an international lout who had been paid millions by the Iranians during the months that Americans were rotting in a Teheran basement.

It was a classically sweet deal: American citizen Marc Rich was headquartered in Switzerland, but conducted his business activities from a U.S. corporation nestled in the penthouse of Manhattan's Piaget building. The U.S. corporation Marc Rich International was in essence a subsidiary of Marc Rich & Co. AG, the Swiss parent. Although Rich paid U.S. taxes on Marc Rich International, the structure of his corporate juggernaut allegedly allowed him to defer boxcar loads of American-made profits to Zug. So much money, in fact, that the Justice Department believes Rich could be assessed for over \$200 million in back taxes if the Swiss would allow it to subpoena his overseas records.

Rich's 1,400 employees in forty offices in thirty countries are forbidden to mention his name in public; all meetings with the press, social or otherwise, are forbidden. Even those who have left his company in the wake of the U.S. indictments gingerly refuse to give details of Rich's activities for the record because, according to sources once close to the firm, its bonus scheme

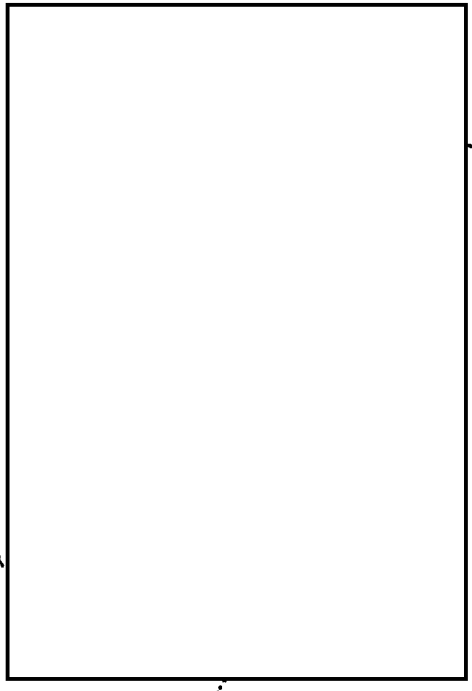
is structured to extend payments over a period of years, and former employees don't want to be cut off for collaborating with government or journalistic probes.

MARC RICH's life is shrouded in secrecy, and the details of even his early years are hard to pin down. He is the only son of a man who is believed to have made burlap bags and dealt diamonds before he fled Antwerp for America to escape the Nazi persecution of the Jews. David Rich moved the family to Kansas City in 1944 and then to New York City in 1950. He raised enough money to put his son through the private Rhodes School, from which, according to school records, Marc graduated in 1952.

Marc Rich then studied marketing at New York University for two years. Somewhere between his graduation from Rhodes and his dropping out of NYU he made the acquaintance of Steven Dale, a former British commando who was the

tungsten expert at the trading firm of Deroy & Co., an enterprise managed by Philip Brothers, the largest tungsten firm in the world. It was the closest thing to a mentor. "If you want to come a trader, then start your business from a tungsten dealer," the mentor said. "The metal is so scarce that it's used in everything from a bullet to a light bulb. It's the only item of value between China and the West. With power, the political power of the trading world is in that little piece of metal." It was that Dale convinced Rich to become a trader and had him get a junior position at Philip Brothers.

The bottom-line was the grooming of the man who would one day be the target of the largest tax evasion case in U.S. history, provided by a group of mostly German-Jewish immigrants at Philip Brothers.



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Phibro-Salomon, the company remains the world's largest and perhaps most influential commodities firm, trading everything from South African platinum to Dakota wheat. It's the kind of company that metal merchants like to say has the ability to "create a situation." Phibro's stockpiles of raw commodities are so vast that its dealers can create a worldwide shortage or glut of any particular commodity by simply transmitting a Telex to purchase or dispose of material.

The company's former chief executive, Ludwig Jesselson, treated Rich like a son. Under Jesselson's tutorship Rich learned to tame the volatile world of tin prices, for instance, by going to Bolivia to deal with the military junta and coca-leaf-chewing peasants. Rich traveled the world for Jesselson, and made dozens of friends in the international industrial community. He would visit factories and drink with managers in an endless succession of hotel bars. He would never forget an anniversary or a birthday, and made sure that the Christmas envelopes were fat. Soon Jesselson placed Rich in charge of the firm's Madrid office, a strategic location that allowed Rich to work his trading magic on Europe, Africa, and the Middle East. His personality, associates say, put Rich ahead of the hundreds of other traders who agonized over what the Swedish steel industry would need in the way of nickel or what Poland's future copper requirements would be. Rich learned how to get his hands on shiploads of Zambian cobalt, Moroccan copper, Russian chrome, and Yugoslav bismuth. He also learned about oil.

In the late 1960s and early 1970s the OPEC nations began gobbling up oil fields from the big petroleum companies. Jesselson figured that his company, by virtue of its friendly and profitable associations with the OPEC cartel, could easily move in as a middleman between OPEC and the West. The move would bring Phibro into an area that had been almost exclusively controlled by the oil giants. It was high-risk, but the money that stood to be

gained made it worth a roll of the dice.

Jesselson contacted Rich in Madrid and the two men decided that Iran would be the first target in their oil gambit. Rich developed his contacts with Iranian chrome dealers into access to large tracts of Iranian crude. The payoff was swift. During the 1973 Arab oil embargo Rich's ability to work the Middle East generated huge profits that propelled Phibro into the world's largest spot oil trader.

Rich's work made him due for a bonus of over \$1 million, the largest bonus in Phibro's history, according to traders familiar with the company. Jesselson was outraged over the figure and implored Rich to forget about the bonus since he was heir apparent to Jesselson's own job. But Rich, say those who know him, became livid. He flew to Switzerland, where Jesselson was on a skiing holiday, and demanded the bonus. Jesselson told Rich to go back to the office. "The story may be somewhat apocryphal as to exactly what Rich did next," a London trader explained. "It's generally believed that Rich went to a coin box in the Zürich airport, phoned Madrid, and closed an oil deal on his own that netted him \$10 million. He then phoned Pinky Green [another Phibro employee] and told him to quit that afternoon because they had enough capital to start their own company. From that point on Marc Rich became obsessed with destroying Phibro. He had only one goal in mind: grind Phibro into oblivion at whatever cost."

RICH'S FORTUNES bloomed. He continued to travel the world, buying copper, lead, tin, zinc, oil, sugar, aluminum, and rice from producing nations and quickly selling them to consumers. His own network of traders were given huge incentive bonuses. They would purchase the titles to materials that had yet to enter the harbor. They sold metal to foundries and developed their own system to sell oil to refineries.

Rich's new outfit, Marc Rich &

Company, began guerrilla raids on Phibro. He hired away dozens of traders and their secretaries. His senior staff was instructed to do whatever necessary to pound a spike through Phibro. Marc Rich secretaries were dispatched to "date" Phibro traders; industrial moles were recruited in Phibro offices. "Anything was possible if it screwed Phibro," said a trader who had an opportunity to observe one raiding party. "Rich wanted to get his hands on a Jamaican aluminum trader who had some sort of Phibro connection. The trader was flown from Kingstom to London, driven to his penthouse hotel suite in a Rolls, and arrived to find naked hookers prancing around the room. "Women, cocaine, cash—it didn't matter as long as Phibro was put out of business."

By the mid-1970s Rich seemed to appear like a Saudi sheik wherever there was an oil deal to be made, often to the embarrassment of the American oil companies. Big Oil, which was used to purchasing crude directly from the producing countries, squirmed when dealing with Rich. He had become a prickly thorn it could not remove because of the nationalization of foreign wells. When Exxon wanted access to oil in Marxist-controlled Angola in the mid-1970s, executives set up a meeting with the country's oil agents. Expecting to receive a politburo of Angolan officials, senior Exxon executives were stunned when the "communist" representative turned out to be Pinky Green.

Rich's deals did, however, sometimes spiral out of control. In 1979, for example, he was involved in a multimillion-dollar oil deal in Ecuador. To ensure an edge on the competition he also began providing weapons to the Ecuadoran government, acting as an agent for a manufacturer. The man who brokered the deal was Edmund Mantell, the executive in charge of Rich's Southeast Asian operation from offices in Bangkok. The situation became explosive for Rich because he was also purchasing oil from Peru, which at that time was involved in

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urchasing oil from Peru,
at time was involved in

a border war with Ecuador. But Mantell, a German who sources assert also brokered arms for Rich throughout the Third World, managed to stabilize the sensitive situation through promises and payoffs. "It was just a little border skirmish that was easily contained," a British oil broker explained. Mantell's life, however, was more difficult to contain. He was found bludgeoned to death in a Monte Carlo alleyway last August. Police said he had been tortured. Mantell's associates said that the murder was not random, and that it was probably linked to some deal war.

MANTELL was the kind of aggressive executive Rich liked to surround himself with to maintain a grip on hundreds of different metal markets. He had proved his worth on more than one occasion. In 1981 he assisted Rich in pounding out an agreement to represent Malaysia's state-controlled tin company, the Malaysian Mining Corporation. They sculpted a curious arrangement with the country's prime minister to buy all of Malaysia's tin, stockpile it in Hong Kong, and push up world prices. It sounded like a good deal, since tin prices had been evaporating and Malaysia was feeling the drought. The deal went down in June 1981 and prices skyrocketed from a low of \$4.33 a pound to over \$7. But in less than a year prices dropped and Rich took a \$60 million bath because he had neglected to sell. The Malaysians lost \$150 million and ended up with somewhere in the neighborhood of 60,000 tons of unwanted tin.

"Rich's feeble attempt to corner the world tin-market by trying to buy all of Malaysia was a dumb move but not a real disaster," a veteran Southeast Asian metal trader explained. "People in this business are stuck with tons of unwanted metal every day. Rich made a deal, like a lot of us do, that didn't work. What's important is that he made a deal, and a rather large one. This business is about creating situations and that's exactly what Rich knows

how to do. If you think that the money is what's important, you're wrong. The deal is what's really important. You can always find money. But you have nothing unless you have a deal to go along with it." "It's kind of sad that he got caught," laughed a trader with a shrug of his shoulders. "Now you're going to want to know how we all get away with it."

GARRETED away two flights above a greasy spoon on London's Tudor Street is the consulate of the Republic of Panama. Paint is peeling from the walls of the office and the stench of burned bacon and oil-fried eggs hangs heavy, but this foul-smelling place is Lourdes to those who refer to themselves as "international traders." It is to this dilapidated room that they flock to be cured of the affliction known as taxation.

Sitting behind an old wooden desk, underneath a tattered map of the Republic of Panama, is an attractive secretary with the ability to exorcise the demons of the IRS. The liturgy is simple: "May I please have information outlining the formation, operation, and taxation of corporations under the laws of the Republic of Panama?" one asks.

The secretary hands you a thirteen-page document and says: "You can choose your own name to be incorporated or I can provide you with a selection of titles already incorporated in Panama. When you make your decision please return with \$1,650."

"Will you take a check?"
"Cash only," she says.

The U.S. government believes that Marc Rich was a frequent visitor to numerous Panamanian consultates around the world, establishing dozens of "Sociedades Anónimas" structured to prevent anyone from following the movement of his money. "We all have Panamanian corporations," said a metal trader who funnels millions of dollars his U.S. company earns overseas into Swiss and Dutch banks through two So-

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ciudades Anónimas and a similar corporate scheme offered by Liberia. "It's just smart business practice to avoid paying money that the U.S. has no business asking for," he said.

If someone has a Panamanian corporation, he can conduct legal business transactions in any country, have a small percentage of his profits declared as taxable income (to avoid government scrutiny), and pay the rest to the corporation, whose owners are considered sacredly secret under the laws of Panama. The corporate money can then be filtered into any number of foreign banks whose by-laws also ensure secrecy. Panamanian corporate law is particularly helpful to a businessman with deals in several different countries. Any Panamanian corporation that operates outside of Panama is not required to file financial reports or tax returns and may maintain its books in any manner it desires in any part of the world. This permits a procedure generally known as laundering. For a billion-dollar metal dealer like Marc Rich, it's quite the bargain at \$1,650 plus a \$50 annual franchise tax.

Corporate frameworks similar to that of Panama are aggressively marketed to metal traders by the governments of Switzerland, Singapore, Uruguay, the Bahamas, and the Cayman Islands. "The trick to establishing a successful metal trading business that can operate worldwide is to ensure that a substantial amount of your capital is hidden," advised a metal trader who was then being assisted in camouflaging potentially taxable income in Switzerland by Arthur Moussalli, the managing director of Geneva's Business Advisory Service, which peddles Swiss secrecy laws to businesses. "Our deals involve so much money and so much speed that we could not afford to conduct a substantial portion of our business without having a perfectly legal foreign banking and corporate structure to cushion us from prohibitive tax rates," he added. "Since many of the companies we do business with also have secret foreign accounts and corporations, a portion of the pay-

ment we receive can be exchanged between two secret accounts to avoid taxation. Depending on the circumstances involved, another portion of that money can be exchanged on a different set of books established for purposes of American, British, or whatever country's taxation."

A MORE expensive and complex swizzle is to go out and buy a bank. A few days before this year's LME dinner, at a time when every metal trader in the world was wandering around London figuring out ways to avoid being baked in the afterglow of Marc Rich, a large ad appeared on the business page of the *International Herald Tribune*. The ad had been placed by a man who said his name was Josephson. He offered a "Tax Haven Bank... priced for quick sale at \$60,000." Josephson, who claimed to be an American, held court in the bar of Knightsbridge's Basil Street Hotel, a sleepy place usually reserved for wealthy tourists. But the characters who streamed into the lobby during metal week were not simply Americans in search of the autumn sales at Harrods.

"Privacy is the primary purpose of owning a bank," Josephson hector while nursing a tall scotch and water. "The U.S. does not afford privacy to its citizens. Whose damn business is it how much money Marc Rich had? Whose damn business is it how much money anybody in any business has?"

Josephson had traveled to London to dispose of a bank void of any currency or ownership controls that he had established in the Cayman Islands. It was a bank like any other bank, with the ability to issue checks, letters of credit, or cash from a street-corner money machine. The Cayman Islands, he explained, would allow anyone to open a bank if he could produce initial deposits of \$250,000. Once the structure was established, however, the owner could pull out his \$250,000 and sell the bank to the highest bidder. And the bidders for Jo-

sephson's bank were flocking to the Basil Street Hotel like cardinals to the Sistine Chapel to elect a new pope.

"Even in international business it takes days to clear checks of millions of dollars," Josephson explained excitedly. "Nobody in the world can use that money while it is being cleared except the bank. With your own bank you can keep the money working for you and you alone.... You can create your own impenetrable world!"

MARC RICH spent his life brewing deals that percolated money throughout layers of secret accounts, private banks, and corporations protected by foreign governments. He owed no loyalty to any country. His world had become a prism; he could refract and displace billions upon billions of dollars through dozens of countries and companies until they, like light, finally disappeared from view. After leaving Phibro in 1974 he rode the metal bandwagon, sidestepping the politics of nations by acting as a maverick middleman between producers and consumers. But the tightly spun global network he created with a phone call from the Zürich airport could not prevent the oldest and most simplistic of all criminal investigation techniques from unraveling his labyrinthine corporate mysteries. Marc Rich, in the end, was caught because the government found a snitch—a former business associate of Rich's who had himself been indicted for shady business practices and who offered up information on Rich in return for reduced charges for himself.

In 1980 and 1981 Rich and his partner Pinky Green allegedly created an oil racket that deposited over \$71 million in Switzerland to avoid domestic taxes. The bamboozle, according to the U.S. government, consisted of two separate deals that provided a bonanza of profits for the two men. The first deal was amazingly simple. Rich purchased \$200 million worth of oil from Iran with money he had in bank accounts in London, Paris,

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and Zürich. The transactions took place at a time when American companies were forbidden to deal with Iran because of the hostage crisis. Rich operated out of New York, but the money flowed to Iran from Switzerland.

London traders say that Rich would probably have gotten away with his alleged 6.2-million-barrel backdoor oil deal had it not been for a second blatantly illegal scheme. While he was dealing with Iran Rich also scooped up oil from old domestic wells, oil that was under strict price controls at roughly \$5 a barrel. He then supplied the oil to West Texas Marketing of Abilene and Listo Petroleum of Houston. Both companies, the government contends, were in cahoots with Rich. West Texas Marketing and Listo Petroleum sent the \$5-a-barrel oil on a daisy chain, a process that propelled the cheap oil through dozens of shady transactions that ended with the controlled oil selling at upward of \$20 a barrel. The daisy chain was so complicated that it seemed unlikely that a government agency could trace the oil's passage.

When the price of the oil reached its ceiling, the Texans sold it back to Rich's New York company. The New York company then middlemanned the \$20-a-barrel daisy-chained oil to a host of domestic petroleum companies at the highest possible spot price. The agreement between Rich and the Texans, according to the government, required West Texas Marketing and Listo to return \$70 million in pumped-up controlled-oil profits to Zug after taking a cut. The taxes on the profits were effectively evaded when the Texans transferred them to Rich's Swiss parent company, a foreign concern protected by Swiss secrecy laws.

Rich's double oil deal was one of many shuffles conducted by commodity traders every day of the year in every commodity imaginable. Traders explain that there exists a built-in risk factor whenever such deals are forged, inherent problems that the smart trader will finesse. So when the Justice Department concluded its eighteen-month investiga-

tion into the activities of Marc Rich International, Rich and his sidekick Pinky Green eluded the federal collar simply by buying two first-class tickets to Switzerland, leaving a zealous team of U.S. prosecutors to wrangle with the problems of extra-territoriality. "You Americans have a tendency to consider firms that are controlled by Americans but domiciled in foreign countries to be under U.S. jurisdiction," explained Matthias Kraft, a Swiss official. "For us, Marc Rich is a Swiss entity under Swiss jurisdiction. We cannot accept that an American authority has the right to compel a company located in Switzerland to provide information to the U.S. government."

The Swiss were further outraged by the Justice Department's roughshod attempts to spirit Rich away from the protection afforded him in Zug. The U.S. was so bent on having Rich behind bars that it failed to invoke two treaties that would possibly have allowed prosecutors access to Rich and his documents. The failure of the Justice Department to put these treaties into action alarmed and offended the Swiss to such an extent that the Bern government said that release of the papers would now constitute "economic espionage" by the United States.

MARC RICH, his friends and colleagues will tell you, was a good citizen. He paid taxes, just not enough of them. He was a true American. Money delighted his soul but paying governments for his enjoyment made him angry. At times he may have outraged his colleagues, but he was a force to be admired and reckoned with because he built a company that delivered on time. And the metal men knew that Rich could create a situation. Rich's ultimate situation may well be the fact that he is now a Spanish citizen, ironically welcomed with open arms into a socialist country whose former dictatorial regime he helped support through lucrative oil and metal deals. "I'd love to know,"

said a trader in rhodium, "how he set that deal up."

Even in his own world Rich remains an enigmatic figure. Some people believe that he was driven by his hatred of Phibro, others that it was simply the power money buys that fueled him. But once the tales true and apocryphal are removed, the froth of indictments and accusations whisked away, you are left with a simple scrap merchant—a rag and bone man, as the British call their junk dealers. It's a profession born in the back streets of the Industrial Revolution, in the effluence of factories, where tired immigrants pulled junk-laden wooden carts with the hope of making a few cents selling discarded metal to a furnace in another town. Rich simply traded in the rickety wooden cart for a Telex machine. He mastered the rough-and-tumble realities of junkyard deals, heavy-mannered, bare-knuckled business techniques not offered in the Harvard Business School prospectus.

Traders admired Rich because he was able to dismantle the sticky web of mercantilist regulations and restrictions that hobble the wealth of nations and their corporations. Like the old junk dealers who left no garbage heap unturned in their search for discarded lead batteries, zinc cathodes, or copper pipes, Rich explored, and took advantage of, every opportunity that would add to his power, influence, and prosperity. "Only a scrap dealer would have the guts to take on the U.S. government over what is his and what is theirs," a metal trader who comes from three generations of rag and bone men boasted. "If Rich ultimately wins he's a hero. If he loses he's a martyr."

"The man is still trading millions of dollars every day," another trader said in amazement. "Can you comprehend that? We're all scared of maybe going down with him but we're still trading with him. He has to trade." In the metal world trading is a process no individual or government can contain with laws or prison cells. There will always be another deal, another situation.

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TO: SAC:

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Date

11-21-83

RE: *Marc Rich, Fugitive*
RICO / Tax Evasion / Mail Fraud

Validate NCIC Record
Modify to Include FPC

- ☐ Enclosed is subject's identification record. FBI #
- ☐ Enclosed is identification record of an individual who may or may not be identical with subject. Endeavor to determine and advise whether these individuals are identical. FBI #
- ☐ If identical to fugitive, submit supplemental FD-65.
- ☒ A search of the name files of the Identification Division did not disclose a fingerprint record for the above-named fugitive. Endeavor to develop any additional data that will identify this individual with a fingerprint record.
- ☐ Identification record consists only of military fingerprints. Fugitive notice being maintained ☐ identical or ☐ may be identical with FBI # _____
- ☐ Enclosed is information extracted from identification record FBI # _____ as requested in urlet _____
- ☐ Photographs and negatives transmitted herewith. ☐ No photograph available.
- ☐ Photograph may be obtained from _____
- ☐ Original photograph from _____
- ☐ FBI number _____ pertains to one _____

NCIC CLASSIFICATION:

FINGERPRINT CLASSIFICATION:

Enc.

AUTOMATED SEARCH

DATE.....NOV-28-1983

Posting Section
Identification Division

film and will be furnished upon request

Modify NCIC record.

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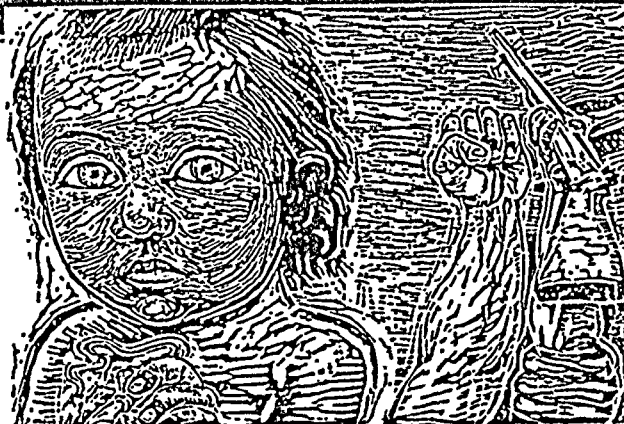
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Harper's

January 1984 \$2.00

Are You Listening, Henry Kissinger?

An open letter to Washington's
tourist in Central America,
by Carlos Fuentes.



How the Barbarians Do Business

Marc Rich made money the
old-fashioned way, by A. Craig Copetas.

TIP-ON MUST NOT
GO ABOVE THIS
LINE

Where American Conservatives Come From

And where they are going,
by John Lukacs.

War on the Final Frontier

Reagan's Star Wars fantasy
will soon come true, by William E. Burrows.



The Moral Transformation of the Dog

And other thoughts on the
animals among us, by Vicki Hearne.



Richard Grenier at the U.N. . . . T. D. Allman
on the Monroe Doctrine . . . Melvyn
Krauss goes to the opera.

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1983

FBI-NEW YORK

Memorandum



To : SAC II (196A-1774)(P)(M-1) Date 11/29/83

From : SA [REDACTED]

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Subject : MARC Rich - Fugitive ;
Anius Green - Fugitive ;
et al
Rico - FBW - MF - TAX EVASION
OO:NY

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Attached subpoena was served on [REDACTED]
[REDACTED]

During the course of document Review of records [REDACTED]

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United States District Court
SOUTHERN DISTRICT OF NEW YORK

TO

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GREETING:

WE COMMAND YOU that all and singular business and excuses being laid aside, you and each of you appear and attend before the GRAND INQUEST of the body of the people of the United States of America for the Southern District of New York, at a District Court, to be held at Room 1401 in the United States Courthouse, Foley Square, in the Borough of Manhattan, City of New York, in and for the said Southern District of New York, on the

to testify and

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give evidence in regard to an alleged violation of Sections

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on the part of the United States, and not to depart the Court without leave thereof, or of the United States Attorney.

And for failure to attend you will be deemed guilty of contempt of Court and liable to penalties of the law.

DATED: New York, N. Y.

b3

Raymond F. Bingham

Clerk.

RUDOLPH W. GIULIANI
United States Attorney for the
Southern District of New York

NOTE: Report at Room 767. In order to secure your witness fees and mileage, it is necessary that you retain this Subpoena and present the same at the United States Attorney's Office, Room 767, upon each day on which you attend Court as a witness.

Assistant
Tel.:

Room

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FPI-MAR-4-26-78

U. S. ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK
ONE ST. ANDREW'S PLAZA
NEW YORK, NEW YORK 10007

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Served subpoena on

Return made

TO AVSA

196A-1774

FBI

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☒ Teletype
☐ Facsimile
☐ _____

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☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

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☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS
Date 11/28/83

FM NEW YORK (196A-1774) (P) (M-1)

TO ~~DIRECTOR (196B-2848)~~ ROUTINE 0145

LOUISVILLE (196A-744) ROUTINE 2246

BT

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ALL INFORMATION CONTAINED
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 DATE 2/22/01 BY SP5 JC/mj

ATTN: SUPV. [REDACTED] FINANCIAL CRIMES.

MARC RICH - FUGITIVE; PINCUS GREENE - FUGITIVE; [REDACTED]

MARC RICH & CO., A.G.; MARC RICH & CO.; RICO - FBW - MF - TAX
 EVASION - TRADING WITH THE ENEMY (OO:NY).

RENYTELETYPE TO BUREAU, NOVEMBER 21, 1983; AND LOUISVILLE
 TELETYPE TO NEW YORK, NOVEMBER 25, 1983.

ON NOVEMBER 28, 1983, AUSA [REDACTED] (SDNY), ADVISED
 THAT ARREST OF [REDACTED] IS NOT APPROPRIATE AT THIS TIME;
 HOWEVER, [REDACTED] SHOULD BE INTERVIEWED REGARDING INFORMATION IN
 REFERENCED NY TELETYPE TO BUREAU, NOVEMBER 21, 1983.

LOUISVILLE AT [REDACTED] KENTUCKY. 1. ATTEMPT TO LOCATE

[REDACTED] AND CONDUCT INTERVIEW TO DETERMINE: IF [REDACTED]

[REDACTED] ON OCTOBER 20, 1983; WHO [REDACTED]

KNOWS IN D.C. THAT CAN "FIX" THE MARC RICH CASE.

1 - NEW YORK
 1 - SUPV. M-1

MEB:mmis

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Approved: [Signature]

Transmitted _____

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(Time)

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[Signature]

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PRECEDENCE:

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Date _____

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2. IF [] IS INTERVIEWED AND ADMITS []

[] HE SHOULD BE MADE TO UNDERSTAND THAT HIS ACTIONS COULD
BE VIEWED AS EXTORTION AND HE COULD FACE SERIOUS CONSEQUENCES
IF HE MAKES FURTHER ATTEMPTS TO ASK FOR MONEY TO "FIX" THE MARC
RICH CASE.

LOUISVILLE IS REQUESTED TO SUTEL THE RESULTS TO NYO.

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TO DIRECTOR (196B-2848) ROUTINE

LOUISVUKLLE (196A-744) ROUTINE

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ATTN: SUPV. [REDACTED] FINANCIAL CRIMES.

MARC RICH - FUGITIVE; PINCUS GREENE - FUGITIVE; [REDACTED]

MARC RICH & CO., A.G.; MARC RICH & CO.; RICO - FBW - MF - TAX
EVASION - TRADING WITH THE ENEMY (OO:NY).

RENYTELETYPE TO BUREAU, NOVEMBER 21, 1983; AND LOUISVILLE
TELETYPE TO NEW YORK, NOVEMBER 25, 1983.

ON NOVEMBER 28, 1983, AUSA [REDACTED] (SDNY), ADVISED
THAT ARREST OF [REDACTED] IS NOT APPROPRIATE AT THIS TIME;
HOWEVER, [REDACTED] SHOULD BE INTERVIEWED REGARDING INFORMATION IN
REFERENCED NY TELETYPE TO BUREAU, NOVEMBER 21, 1983.

LOUISVILLE AT [REDACTED] KENTUCKY. 1. ATTEMPT TO LOCATE
[REDACTED] AND CONDUCT INTERVIEW TO DETERMINE: IF [REDACTED]
[REDACTED] ON OCTOBER 20, 1983; WHO [REDACTED]
KNOWS IN D.C. THAT CAN "FIX" THE MARC RICH CASE.

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2. IF [] IS INTERVIEWED AND ADMITS []

[] HE SHOULD BE MADE TO UNDERSTAND THAT HIS ACTIONS COULD
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IF HE MAKES FURTHER ATTEMPTS TO ASK FOR MONEY TO "FIX" THE MARC
RICH CASE.

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LOUISVILLE IS REQUESTED TO SUTEL THE RESULTS TO NYO.

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PRECEDENCE:

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CLASSIFICATION:

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Date 11/29/83

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FM NEW YORK (196A-1774) (P) (M-1)

~~TO DIRECTOR (196B-2848) ROUTINE~~

(ATTN: SUPV. [REDACTED] - FINANCIAL CRIMES)

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 CDR # 01-081

U N C L A S

MARK RICH-FUGITIVE; PINCUS GREEN-FUGITIVE; [REDACTED]

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MARC RICH AND COMPANY A.G.; MARC RICH AND COMPANY INTERNATIONAL,
 LTD, AKA "CLARENDON A.G."; RICO-FBW-MF-TAX EVASION-TRADING
 WITH ENEMY; OO: NEW YORK

RETELAL FROM NEW YORK SUPV. [REDACTED] TO
 BUREAU SUPV. [REDACTED] NOVEMBER 29, 1983.

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IN REFERENCED TELCAL NEW YORK REQUESTED A CONFERENCE
 AT FBIHQ RELATIVE TO CAPTIONED. REPRESENTATIVES FROM
 DIVISIONS FIVE, SIX AND NINE ARE REQUESTED TO ATTEND. THE
 CONFERENCE SHOULD TAKE PLACE EARLY IN THE WEEK OF
 DECEMBER 5, 1983.

BUREAU IS REQUESTED TO AUTHORIZE TRAVEL FOR SUPV.

①-NEW YORK
 1-SUPV. M-1

DSR:ab
 (2) *ar*
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Corr made on card

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Approved: *[Signature]*

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PRECEDENCE:

- ☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

- ☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☐ UNCLAS

Date _____

PAGE TWO NY 196A-1774 U N C L A S

 AND SAS

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Approved: _____ Transmitted _____ Per _____
(Number) (Time)

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HEREIN IS UNCLASSIFIED
DATE 2/22/01 BY SP5 JC/mj

FM NEW YORK (196A-1774) (P) (M-1)

TO DIRECTOR (196B-2848) ROUTINE

(ATTN: SUPV. [REDACTED] - FINANCIAL CRIMES)

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BT

U N C L A S

MARK RICH-FUGITIVE; PINCUS GREEN-FUGITIVE; [REDACTED]

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MARC RICH AND COMPANY A.G.; MARC RICH AND COMPANY INTERNATIONAL,
LTD, AKA "CLARENDON A.G."; RICO-FBW-MF-TAX EVASION-TRADING
WITH ENEMY; OO: NEW YORK

RETEL CAL FROM NEW YORK SUPV. [REDACTED] TO

b6
b7C

BUREAU SUPV. [REDACTED] NOVEMBER 29, 1983.

IN REFERENCED TELCAL NEW YORK REQUESTED A CONFERENCE
AT FBIHQ RELATIVE TO CAPTIONED. REPRESENTATIVES FROM
DIVISIONS FIVE, SIX AND NINE ARE REQUESTED TO ATTEND. THE
CONFERENCE SHOULD TAKE PLACE EARLY IN THE WEEK OF
DECEMBER 5, 1983.

BUREAU IS REQUESTED TO AUTHORIZE TRAVEL

196A-1774-200

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 30 1983	
FBI-NEW YORK	

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PAGE TWO

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FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1218760-0

Total Deleted Page(s) = 2
Page 5 ~ Referral/Direct;
Page 6 ~ Referral/Direct;

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INVESTIGATIVE SUPPORT INFORMATION SYSTEM (ISIS)

SERIAL FORM

(SER FORMAT)

File (5ch)	Serial (5ch)	Comm-Type (3ch)	Main-Comm-Type (3ch)	Comm-Date (mm-dd-yy 8ch)
Comm-Ofc (2ch)	Home-Ofc (2ch)	Ag't-Init (4ch)		
Event-Date (mm-dd-yy 8ch)				
<input type="checkbox"/> R-To-Lead (1ch)	R-To-Comm-No (14ch)			

Summary -

Memorandum



To : SAC II 1968-1774

Date OCT 21 1981

From : *W* SUPV. [redacted] (M-1)

b6
b7C

Subject : MARC RICH
DBA MARK RICH AND COMPANY
[redacted]

FBW - ENERGY RELATED
DO:NY

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On OCT 21 1981, Supv. M-1 authorized, in accordance with the Attorney General's Guidelines on ~~Criminal~~ Investigations of Individuals and Organizations, a (General Crimes) (Preliminary) (Racketeering Enterprise) investigation based upon:

(a) The following facts or circumstances, or

(b) the facts and circumstances contained in the attached documents.

SA [redacted] MEMO 10/20/81

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DATES OF SUBSEQUENT REVIEW OF JURISDICTION:

W 10/30/81

W 10/26/82

W 8/11/83

W 2/2/82

W 12/16/82

W 10/20/83

W 4/22/82

W 3/18/83

W 8/3/82

W 6/25/82

MAINTAIN AS TOP SECRET

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DE MM

R 0080110Z EDEC 83

FM [REDACTED] b7D
b7F

TO NEW YORK (196A-1774) ROUTINE

BT

UNCLAS E F T O

MARC RICH; FBW; OO: NEW YORK.

[REDACTED] FCI-CUBA; OO: MIAMI.

[REDACTED] TRAVELING TO [REDACTED]

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2-20-01 BY [REDACTED]

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196A-1774-202

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[REDACTED]

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HEREIN IS UNCLASSIFIED
DATE 2-20-01 BY

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100-100000-202

1983
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Transmit attached by Facsimile - UNCLAS

Precedence immediate

To: SAC, ST. LOUIS

Date: 12/6/83

From: ADIC, NEW YORK (196A-1774) (M-1)

Time: Transmitted - 1200

Subject: MARC Rich - Fugitive;
Pincus Green - Fugitive;
ETAL
Rico - MF - FBW
OO: NYInitials - je☐ Fingerprint Photo☐ Fingerprint Record☐ Map☐ Newspaper clipping☐ Photograph☐ Artists Conception☒ Other FD-356

Special handling instructions:

Provide a photographic copy of Rich's Military
Fingerprint card by 12/9/83. IT is needed
situation. Original will followALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2-20-01 BY Approved: [Signature]b6
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FBI-NEW YORK	

FBI/DOJ

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(M-1)

EXT 2943

271-0300

INSTRUCTIONS

1. Submit form in duplicate (unless used only to request check of State automated motor vehicle records).
2. This form may be submitted in legible HAND PRINTING.
3. Use separate form for each person on whom record is requested.
4. Date & place of birth imperative for passport check.
5. Indicate office for reply in lower left corner. Also list in same corner all offices which should receive copies of reply. Include carbon for each office receiving copies.
6. With regard to military records this form does not apply to deserters.
7. Reverse side of form may be used for recording results, if needed.

TO: SAC, <input type="checkbox"/> Alexandria <input type="checkbox"/> San Antonio RE: <input type="checkbox"/> CIA <input type="checkbox"/> Other		Date
<input type="checkbox"/> Baltimore <input checked="" type="checkbox"/> St. Louis <input type="checkbox"/> INS		12/6/83
<input type="checkbox"/> Denver <input type="checkbox"/> WFO <input checked="" type="checkbox"/> MILITARY		
<input type="checkbox"/> Indianapolis <input type="checkbox"/> <input type="checkbox"/> PASSPORT		
Name MARC RICH		Aliases:
Alien Reg. Number	Social Security Number 496-34-3075	Date of Birth 12/18/34
Passport Number	Service Number	Place of Birth Antwerp, Belgium Naturalized 2/14/47-New York
Address		Race W
		Sex M
		Complexion
		Height 5'10"
		Weight
		Hair
		Eyes
Other pertinent information: - He is currently residing in Switzerland and is a Federal Fugitive.		FOR REPLY ONLY
Specific information desired: - Photographic copy of original Fingerprint card if served in military.		<input type="checkbox"/> On basis of information furnished, unable to identify: <input type="checkbox"/> Military <input type="checkbox"/> Passport <input type="checkbox"/> INS <input type="checkbox"/> CIA <input type="checkbox"/> No pertinent identifiable information <input type="checkbox"/> Available information attached <input type="checkbox"/> Photo: <input type="checkbox"/> Attached <input type="checkbox"/> Unavailable <input type="checkbox"/> Handwriting specimen attached Inquiry made by: _____ Date: _____
Also furnish: <input type="checkbox"/> Photo <input type="checkbox"/> Handwriting specimens		Block Stamp and Notations
Return reply to: SAC New York (196A-1774) Attention SA (M-1) File No.		ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 2-20-01 BY
Send copies to: b6 b7C		

Transmit attached by Facsimile - UNCLAS

Precedence

immediate

To: SAC, ST. LOUIS

Date: 12/6/83

From: ADIC, NEW YORK (196A-1774) (M-1)

Time: Transmitted - 1215

Subject: MARC Rich - Fugitive;
Pinus Green - Fugitive;Initials - DR☐ Fingerprint Photo☐ Fingerprint Record☐ Map☐ Newspaper clipping☐ Photograph☐ Artists Conception☒ Other FD-356

Special handling instructions:

Provide photographic copy of GREEN's Military
Fingerprint card by 12/9/83. IT IS needed for an
arrest situation. Original will follow

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FBI-NEW YORK	

FBI/DOJ

Approved: [Signature]b6
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196A-1774-204

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2-20-01 BY [Redacted]

INSTRUCTIONS

1. Submit form in duplicate (unless used only to request check of State automated motor vehicle records).
2. This form may be submitted in legible HAND PRINTING.
3. Use separate form for each person on whom record is requested.
4. Date & place of birth imperative for passport check.
5. Indicate office for reply in lower left corner. Also list in same corner all offices which should receive copies of reply. Include carbon for each office receiving copies.
6. With regard to military records this form does not apply to deserters.
7. Reverse side of form may be used for recording results, if needed.

TO: SAC, ☐ Alexandria ☐ San Antonio RE: ☐ CIA ☐ Other
☐ Baltimore ☒ St. Louis ☐ INS
☐ Denver ☐ WFO ☒ MILITARY
☐ Indianapolis ☐ PASSPORT

Date

12/6/83

Name

PINCUS GREEN

Aliases:

"Pinky" GREEN

Alien Reg. Number

Social Security Number

Date of Birth

Place of Birth

New York

Passport Number

Service Number

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Race

W

Sex

M

Complexion

Height

5'9"

Weight

Hair

Eyes

Other pertinent information:

- He has served in the U.S. Army.

- He is currently residing in [redacted] and is a Federal Fugitive

FOR REPLY ONLY

☐ On basis of information furnished, unable to identify:

☐ Military ☐ Passport ☐ INS ☐ CIA

☐ No pertinent identifiable information

☐ Available information attached

☐ Photo: ☐ Attached ☐ Unavailable

☐ Handwriting specimen attached

Inquiry made by:

Date:

Specific information desired:

A photographic copy of original Fingerprint CARD.

Also furnish: ☐ Photo

☐ Handwriting specimens

Return reply to:

SAC New York (196A-1774)

Attention SA [redacted]

File No.

(M-1)

Send copies to:

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Block Stamp and Notations

ALL INFORMATION CONTAINED
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DATE 2-20-01 BY [redacted]

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196A-1774

205

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R

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 In Re:

4 MARC RICH & CO., A.G.,
5 a Swiss Corporation,

M 11-188

6 Contemnor.

7
8 September 20, 1983
10:00 a.m.

9 Before:

10 HON. LEONARD B. SAND,

11 District Judge

12 APPEARANCES

13 RUDOLPH W. GIULIANI,
14 United States Attorney for the
15 Southern District of New York,
16 LAWRENCE W. PEDOWITZ,
JANE W. PARVER,
MORRIS WEINBERG, JR.,
Assistant United States Attorneys

17 PROSKAUER ROSE GOETZ & MENDELSON,
18 Attorneys for Marc Rich & Co., A.G.
19 MORTON MANEKER,
BRUCE E. FADER,

Of Counsel

20 CURTIS MALLET-PREVOST COLT & MOSLE,
21 Attorneys for Clarendon, A.G.
22 T. BARRY KINGHAM,

Of Counsel

23 ALL INFORMATION CONTAINED
24 HEREIN IS UNCLASSIFIED
25 DATE 2-20-01 BY [REDACTED]

1 (In open court)

2 THE COURT: Good morning.

3 Mr. Weinberg.

4 MR. WEINBERG: Yes, your Honor. Morris
5 Weinberg, Jr. for the United States, your Honor.

6 We first wanted to formally advise you that
7 yesterday the grand jury returned an indictment against Mr.
8 Marc Rich, Mr. Pincus Green, Clyde Meltzer, and the two
9 companies, Marc Rich & Company, A.G. and Marc Rich &
10 Company International Ltd., which now goes by the name of
11 Clarendon.

12 The indictment charges them with various counts
13 of racketeering and racketeering conspiracy.

14 THE COURT: Let me just give you the benefit of
15 knowing what is uppermost in my mind, and that is I am
16 acutely aware of the fact that what is before me had its
17 origin in a motion to quash a grand jury subpoena and the
18 matters which ensued as a result of that motion and the
19 court's directives.

20 Now that there is an indictment, and the
21 criminal case will be assigned pursuant to the rules of the
22 court to a judge who will have responsibility for the
23 criminal aspects arising out of the indictment, what if
24 anything is there that remains before me in this proceeding?

25 MR. WEINBERG: Yes, your Honor. It is our

1 position that Marc Rich & Company, A.G. continues to be in
2 civil contempt of this court's previous orders with regard
3 to production of documents under the A.G. subpoena.

4 Now, I should first advise your Honor that in no
5 way has the investigation, the grand jury investigation,
6 concluded as a result of yesterday's indictment. Indeed,
7 the grand jury is continuing to investigate tax evasion
8 schemes involving amounts that are equal to or maybe even
9 larger than the \$100 million amount set forth in
10 yesterday's indictment.

11 It is also continuing to investigate the areas
12 that your Honor wanted to conduct a hearing on or suggested
13 that he would want to conduct a hearing on. The grand jury
14 is investigating the sale of International that took place
15 the day after your Honor imposed a \$50,000 a day fine. It
16 made it into the name Clarendon. We are investigating back
17 to determine whether or not there was an obstruction of
18 justice there.

19 The grand jury is continuing to investigate the
20 steamer trunk affair to determine whether there was
21 obstruction of justice there.

22 The grand jury is continuing to investigate
23 whether or not any individuals or the companies were
24 involved in the seizure in any way of the Swiss documents
25 by the Swiss authorities.

1 The fourth area that your Honor had indicated
2 that you would like to inquire into in a hearing was the
3 idea of whether or not Marc Rich A.G. was doing business in
4 the United States. We had suggested to your Honor that
5 affidavits had been filed over a year ago by principals of
6 Marc Rich & Company, A.G. and Marc Rich & Company
7 International which had, under sworn affidavits, indicated
8 that Marc Rich A.G. was not doing business here, and
9 further than that, that the principals and employees of
10 International here in the United States never acted as
11 agents for A.G. in deals from the United States. You had
12 asked to look into that.

13 I am here to tell you this morning that I
14 believe, I have been advised by the new counsel for
15 International -- they were counsel that were not in this
16 case when affidavits were filed over a year ago -- but we
17 have been advised by the new counsel that those affidavits,
18 which we believe to be perjurious and false, will be
19 withdrawn. So that that issue I believe, as a result of
20 that, is eliminated as an issue that your Honor would want
21 to look into in the way of a hearing.

22 With regard to the hearing, therefore, we
23 believe that it would be more appropriate and it would be
24 fairer to all of the parties involved to allow the grand
25 jury to continue in the normal secrecy of its proceedings

1 to investigate these three areas, that is, the Swiss
2 seizure, the steamer trunk affair and the International
3 sale, rather than conduct a public hearing at this time.
4 If you, however, wish to proceed, we are ready to proceed,
5 and we believe that the first witnesses that should be
6 called are Mr. Rich and Mr. Green.

7 So that where we are left, your Honor, one, we
8 request that we not proceed with this hearing for the
9 reasons that I have set forth. However, your Honor, we
10 take the position that a number of documents that are
11 subject to the subpoena have not been produced, both for
12 advertent and, according to counsel for A.G., inadvertent
13 reasons.

14 We believe, therefore, that until A.G. can come
15 before your Honor by way of sworn affidavit to address the
16 questions as to whether, one, it had anything to do with
17 the Swiss seizure, and two, as to its current ability to
18 produce these documents, that they continue to be in
19 contempt and the case continues to be before you.

20 I should say at this time that Mr. Pedowitz,
21 Larry Pedowitz, the chief of the Criminal Division of our
22 office, is here. When we had last left you had directed us
23 to make an effort to resolve this Swiss question with the
24 Swiss authorities. Mr. Pedowitz is here to fill you in on
25 all of the efforts that have been made.

1 I should further tell your Honor that an
2 official of the Swiss government, Mr. Leutart, and his
3 lawyer, Mr. Herzstein from the Arnold & Porter firm, are in
4 the courtroom today, and I understand that they are
5 available to answer any questions if your Honor has any
6 questions of them.

7 THE COURT: And I should note that I received
8 yesterday by hand a letter from His Excellency, the
9 Ambassador of Switzerland, which I will mark as Court
10 Exhibit A and make a part of the court record in this case,
11 setting forth the position of the government of Switzerland.

12 (Court's Exhibit A was marked for
13 identification)

14 THE COURT: Before we deal with the matter of
15 the relative positions of the United States and Switzerland
16 to the extent, if any, that it's appropriate to deal with
17 them, let's deal with the question of a hearing, which is,
18 of course, the purpose for which this matter was calendared.

19 You mentioned new counsel. Who is it now who
20 speaks for the respondent here?

21 MR. WEINBERG: When I said new counsel, Barry
22 Kingham is here today from the Curtis Mallet firm, but I
23 wanted to make it clear to the court that the Curtis Mallet
24 firm, for which Peter Fleming is the lead counsel, was not
25 representing the Marc Rich group back in June of 1982, when

1 those affidavits that were filed in front of the court,
2 which the government believes were false, were done.

3 THE COURT: Your position is that we are dealing
4 with conduct, at least insofar as the individuals are
5 concerned, of United States citizens in the United States
6 in violation of American law, and that insofar as an issue
7 had been raised with respect to whether or not the Swiss
8 entities were or were not doing business in the United
9 States, that issue is no longer in dispute.

10 MR. WEINBERG: Right. When those affidavits are
11 withdrawn the Marc Rich group will be formally withdrawing
12 or these individuals will be withdrawing their sworn
13 statements that in effect Marc Rich A.G. was not doing
14 business here, which is contrary, we believe, to all of the
15 evidence in the case.

16 THE COURT: Is there any counsel for any entity
17 interested in these proceedings who quarrels with the
18 suggestion by the government that the court not conduct an
19 evidentiary hearing with respect to the issues previously
20 stated and that those matters be deferred to permit the
21 grand jury to complete its inquiries in the usual manner in
22 which grand juries conduct investigations, that is, in
23 secrecy? Is there anyone who believes that that would be
24 inappropriate and who takes the position that the court
25 should hold such an evidentiary hearing?

1 All right. I will grant then, without
2 opposition, the government's application that an
3 evidentiary hearing not be held, but that those matters be
4 deferred pending the conclusion of the grand jury
5 investigation.

6 Now, you were about to tell me or Mr. Pedowitz
7 was about to tell me what actions have been taken pursuant
8 to the directive of this court that the United States
9 respond to the then outstanding letter of the government of
10 Switzerland and that every effort be made to resolve
11 expeditiously and in a consensual fashion the disagreements
12 between the government of the United States and the Swiss
13 government.

14 Mr. Pedowitz.

15 MR. PEDOWITZ: Thank you, your Honor. Your
16 Honor, when we did last appear before you you did, of
17 course, suggest to us that we communicate as soon as
18 possible with the Swiss government in order to open up
19 lines of communication with that government. We did do
20 that on a very, very prompt basis. A number of informal
21 meetings took place in which representatives of the
22 Department of Justice, including myself, and
23 representatives of the State Department met with Swiss
24 officials in the United States, and we met with, among
25 other people, Mr. Leutart, who is here this morning, the

1 First Secretary of the Swiss Embassy.

2 During our earliest of meetings Mr. Leutart on
3 behalf of his government invited a delegation from the
4 United States to travel to Switzerland to discuss with the
5 Swiss government ways of obtaining prompt access to these
6 documents. Mr. Leutart on behalf of his government at that
7 time suggested that he was quite confident that these
8 meetings would be fruitful. Unhappily, he was wrong. The
9 Swiss government, though at all times entirely courteous to
10 the representatives of the United States, have not been at
11 all helpful in suggesting means of our obtaining prompt
12 access to those very important documents.

13 At the urging of the Swiss a delegation from the
14 United States, including myself, flew to Switzerland and we
15 met in Berne, the capital of that country, with Swiss
16 representatives on September 7 and September 8.

17 I know, your Honor, that you have described this
18 morning a letter which was delivered to you last night, a
19 letter written by the Swiss ambassador, and that that
20 letter provides a rendition of some of the discussions
21 which we had in Switzerland. The Swiss ambassador was not
22 present at those meetings. I was, and I think that there
23 are a number of matters that are not discussed in that
24 letter that should be if a full record is to be made of our
25 meetings with the Swiss government and the positions of our

1 two government's.

2 First, it should be entirely clear that the
3 United States government has made clear at all times to the
4 Swiss government how important the Marc Rich case is to
5 this government.

6 We have explained to the Swiss government that
7 this is the largest tax evasion scheme ever investigated,
8 now ever prosecuted, in the United States. We have
9 explained that the case involves Trading with the Enemy Act
10 violations. We have explained that the case involves
11 racketeering violations. And we have done that pursuant to
12 your Honor's order, a 5(e) order permitting us to discuss
13 in great detail with the Swiss authorities the details of
14 our investigation.

15 Second, we made it entirely clear to the Swiss
16 government that we know a great deal about the documents
17 that they have seized and that those documents are
18 extremely important to the government's ongoing
19 investigation of the Marc Rich enterprises and the
20 individuals that run those companies.

21 I should explain that we insisted when we worked
22 out arrangements with Marc Rich A.G. that we be provided a
23 list of the documents that were seized, as detailed a list
24 as they were capable of providing us. Our ability to
25 obtain that list has permitted us to know a great deal

1 about what is contained in the documents which the Swiss
2 have. We know a great deal about the oil transactions
3 which are discussed in those documents.

4 We advised the Swiss in our discussions that
5 based on our investigation we believe that those documents
6 might well provide evidence of still further tax evasion
7 violations, which Mr. Weinberg has described this morning
8 as at least as great as the tax evasion violations which
9 are described in the indictment which was returned
10 yesterday.

11 In short, we believe, as we suggested the last
12 time we appeared in this court before your Honor on this
13 matter, that these documents are indeed golden nuggets.

14 Third, we made it clear to the Swiss government
15 that if they wished to cooperate in this case to help us to
16 gain access to the documents quickly we believed that there
17 were very simple ways of them doing so, and one way I would
18 like to explain, because it is discussed in the
19 ambassador's letter, and I think it deserves some
20 clarification.

21 The Marc Rich A.G. documents which were seized
22 by the Swiss prosecutor pursuant to an investigation of
23 possible violations of Article 273 of the Swiss criminal
24 law were, of course, documents that were under subpoena
25 from this court. Article 273 is a Swiss criminal law

1 provision prohibiting the making of business secrets
2 accessible to, among other people, foreign governments.

3 The Swiss prosecutor seized these documents not
4 because it had determined already that the documents
5 violated 273, that they indeed contained business secrets,
6 but rather because they were investigating whether 273
7 applied to the documents.

8 Our delegation in Berne, including
9 representatives of the State Department and the Department
10 of Justice and the Swiss Embassy in Berne, suggested that
11 there were numerous reasons for believing that 273 did not
12 apply to these documents and that if the Swiss prosecutor
13 would expedite his investigation we believe the documents,
14 or at least the vast majority of them, could promptly be
15 returned to Marc Rich A.G. and they in turn could promptly
16 be turned over to the United States government pursuant to
17 its subpoena or pursuant to the agreement which Marc Rich
18 A.G. had entered into previously with the United States
19 government on August 5, 1983.

20 Let me explain a few of the reasons for
21 believing that 273 does not apply to these documents. And
22 all of these, I might add, and others, were explained to
23 the Swiss delegation in full.

24 First, Swiss legal advisers in their very
25 delegation advised us that 273 does not apply to documents,

1 such as telexes, that have been transmitted from one
2 country to another. The first five boxes seized by the
3 Swiss government were, we were advised by Marc Rich A.G.,
4 telexes sent from London to Switzerland.

5 Second, the only business secrets that we could
6 see that were being protected by the assertion of 273 in
7 this case were how to defraud the United States government,
8 something that we have already learned all about. This we
9 did not think was worthy of Swiss governmental protection.

10 The A.G. documents, the Marc Rich A.G. documents --
11 I am going to back up for a moment.

12 The Swiss government has taken the position that
13 with respect to Marc Rich International, the company
14 allegedly doing business in the United States, and
15 concededly doing business in the United States, now called
16 Clarendon, are not subject to 273. The theory the Swiss
17 have advanced to us, the explanation for this, is that
18 since Clarendon or International does business in the
19 United States, it would be understood, of course, that any
20 party doing business with that entity would not expect the
21 protections of 273 to apply, a Swiss statute.

22 We explained to the Swiss that Marc Rich A.G.
23 likewise does business in the United States, that
24 notwithstanding affidavits which have previously been
25 submitted in this case by representatives of Marc Rich A.G.

1 and Marc Rich International, it was entirely false that
2 Marc Rich A.G. did not do business in the United States.
3 Indeed, Marc Rich and Pincus Green conducted the very
4 transactions on behalf of A.G. that are discussed in the
5 indictment out of Marc Rich A.G.'s office in New York City.

6 We therefore advised the Swiss prosecutor and
7 the delegation that in our view it was not consistent for
8 them to take the position that 273 did not apply to
9 Clarendon while taking the position that it did apply to
10 Marc Rich A.G..

11 We were given an opportunity to meet briefly
12 with a representative of the Swiss prosecutor's office. He
13 had not been part of the Swiss delegation and never became
14 part of the Swiss delegation, though we had requested that
15 he be made a part.

16 During that meeting the Swiss prosecutor told us,
17 in response to a question which I asked, that 273 would not
18 apply to the documents which had been seized vis-a-vis the
19 United States government if the United States government
20 already knew the business secrets which were contained in
21 those documents, such as the names, the third names, of the
22 parties to the oil transactions which were in the folders
23 which he had in his possession.

24 We advised the Swiss prosecutor that I was in a
25 position to explain to him, since I had a great deal of

1 information about the very oil transactions he had files
2 concerning in his possession, what all of the legitimate
3 business secrets were in those files. I proceeded to do
4 this with respect to one of the more important files that
5 he had in his possession.

6 We were then told by representatives of the
7 Swiss government that it would not be helpful for the Swiss
8 to receive this information.

9 Our delegation explained to the Swiss delegation
10 that this was a Catch 22. Not all of them initially
11 understood what we meant by that term. We explained to
12 them what Joseph Heller had in mind. How could their
13 prosecutor tell us that 273 would not apply to the
14 documents if we already had the business secrets and then
15 tell us that he was not interested in hearing from us what
16 we knew about the business secrets in those documents? We
17 were never given an answer.

18 We also asked how the Swiss prosecutor could
19 conduct an investigation of violations of 273 without
20 knowing what documents had been produced in the United
21 States already and what our government knew previously from
22 other subpoenas, such as subpoenas to American oil
23 companies in this country and to International, which
24 concededly was not covered by 273, about the very documents
25 he had in his possession.

1 We invited the Swiss pro~~sec~~utor to the United
2 States to review our documents and to show him what we knew
3 about the legitimate business secrets that he had in his
4 files. He declined our invitation.

5 Our delegation left the meeting in Berne
6 convinced that 273 was being used as a blocking statute, a
7 word of art now -- there are blocking statutes in place in
8 a number of countries, such as France; there is no blocking
9 statute that we are aware of in Switzerland at present --
10 that that statute is being employed as a blocking statute
11 by the Swiss and that it would be so be used in future
12 cases to frustrate subpoenas of United States courts for
13 documents located in Switzerland.

14 A word about the Swiss view of the subpoena
15 issued in this case, because I think it is important for
16 the court to understand that.

17 The Swiss have explained to us that they view
18 the subpoena which has been enforced by this court as
19 having an impermissible extraterritorial effect in that it
20 reaches documents in Switzerland held by a party, Marc Rich
21 A.G., that does no business in the United States.

22 We explained to the Swiss that this court, the
23 Second Circuit and the Supreme Court of the United States
24 had an opportunity to pass on this question of the validity
25 of the subpoena and that the subpoena was held valid.

1 Accordingly, while we respected the views of the
2 Swiss government, we also explained to them that we had
3 sworn duties as well and that we had final rulings from
4 this country's judiciary that the subpoena was in fact
5 valid.

6 More importantly, we explained to the Swiss that
7 their view of the subpoena as having an extraterritorial
8 effect was based on an incorrect factual premise. The
9 Swiss had assumed, as Marc Rich A.G. had portrayed in this
10 court, that Marc Rich A.G. did no business in the United
11 States and that it only did business in this country
12 through a wholly owned subsidiary, Marc Rich International
13 A.G. Ltd., now named Clarendon. They therefore felt that
14 A.G.'s documents could not be reached through a subpoena to
15 A.G. because A.G. was not present in the United States.

16 We explained to the Swiss -- and this apparently
17 has not reached the ambassador -- that this factual belief
18 was based on affidavits submitted by A.G. and International
19 that the United States government was now in a position to
20 prove were false. Mr. Weinberg inadvertently said
21 perjurious earlier. We believe the affidavits are false.

22 There may also have been a suggestion that the
23 lawyers had some role in this. We do not believe that to
24 be true at all. We believe that the client is wholly
25 responsible for the submission of those affidavits and

1 those affidavits are palpably false.

2 In fact, Marc Rich A.G. does business through
3 Marc Rich, did business through Marc Rich and Pincus Green
4 in New York City, in International's office in New York
5 City, in connection with the very transactions that are
6 described in the indictment, and those affidavits, we are
7 informed by counsel for Marc Rich International, now
8 Clarendon, are to be withdrawn.

9 We therefore explained to the Swiss that this is
10 a case where the Swiss company doing business in the United
11 States, controlled by United States citizens, was served in
12 the United States with a subpoena for documents that were
13 fortuitously housed in Switzerland. We told them that this
14 did not seem to us to be a case of extraterritoriality, and
15 certainly not the case of extraterritoriality that the
16 Swiss had posited to us when we began the negotiations.

17 The present Swiss position is quite simple. The
18 subpoena, they say, is extraterritorial, without any
19 discussion of the fact that Marc Rich A.G. did and does
20 business in the United States, and they do not like that
21 subpoena. They tell us that the only way to gain access to
22 the documents is to make a treaty request or a request for
23 mutual assistance.

24 Our delegation explained, our full delegation,
25 representatives of the State Department, again, as well as

1 the Department of Justice, that in our view such a request
2 in this case would not be an appropriate way of gaining
3 access to the documents.

4 First, if we proceed under a treaty request or a
5 mutual assistance request third party appeals concerning
6 the names that are contained in those documents could tie
7 us up for months, if not years, in our attempts to obtain
8 those documents. That is precisely the experience which we
9 have had in other cases which the Justice Department has
10 investigated.

11 THE COURT: Do you have any information, any
12 statement you would like to make concerning the
13 ambassador's observation on page 3 of his letter, "The
14 Swiss delegation answered that according to information it
15 had received it is unlikely that Marc Rich & Co., A.G.
16 would file an appeal."

17 MR. PEDOWITZ: I believe that is correct, your
18 Honor. I think it is unlikely that Marc Rich A.G. would
19 file an appeal.

20 The problem is quite simple. The problem is
21 that under the treaty provisions and under the mutual
22 assistance provisions any third party who is referenced in
23 the documents has a right to take an appeal through the
24 Swiss courts.

25 THE COURT: So the number of possible appellants

1 includes a number of other people.

2 MR. PEDOWITZ: They are numerous, your Honor,
3 very numerous.

4 THE COURT: Let me ask you this. I am satisfied
5 that the direction of the court that the United States
6 communicate with the government of Switzerland and that
7 efforts be made to resolve this matter have been
8 implemented, and I regret that there remain differences
9 between the United States and Switzerland, and I would
10 certainly encourage that efforts to resolve those
11 differences be pursued.

12 Obviously, this court is not in a position to
13 issue any orders or directives to the government of
14 Switzerland. Even if it had the power to do so, it would
15 not lightly entertain that.

16 What if anything is there that you want this
17 court to do?

18 MR. PEDOWITZ: Your Honor --

19 THE COURT: And the other question is, which
20 either you or Mr. Weinberg can answer -- the purpose of
21 this proceeding is to compel compliance by the parties
22 served with the grand jury subpoena -- what is there that
23 you believe that Marc Rich can do, has the power to do,
24 which makes appropriate the continuation of this matter
25 before me, and as a related question, makes appropriate the

1 continued imposition of any sanctions against Marc Rich,
2 especially the fine? What is the status with respect to
3 the fine?

4 MR. PEDOWITZ: Your Honor, as I understand it,
5 payments were made through the 12th of September of \$50,000
6 a day during the interim period. As I understand it,
7 additional moneys were due on Friday, since we now returned
8 to the payment schedule under your order, and it is my
9 understanding that that payment has not been made.

10 Your Honor, your second question was what is our
11 position with respect to continued contempt by Marc Rich
12 A.G. We would like to address that issue with you in your
13 chambers or outside the presence of the public. We suggest
14 that for reasons which we will explain to you in detail
15 when we can see you. We would be delighted to have the
16 lawyers, of course, for the parties present. But we think
17 that some of our suggestions could be frustrated if we did
18 not have an opportunity to speak with you in private about
19 this.

20 Your Honor, if I may, I would like to conclude
21 my remarks, because I do not want the Swiss government left
22 with any misimpressions as to what our position is, and I
23 just have a moment or two more.

24 THE COURT: Yes.

25 MR. PEDOWITZ: Your Honor, I have not responded

1 to all of the points in Ambassador Hegner's letter. I
2 think it is appropriate that we do so, and that we do it in
3 writing, and we intend to do that.

4 I should add that I believe we proposed a number
5 of innovative solutions in Berne to these problems that
6 would, I believe, have accommodated each government's
7 interests. Unfortunately, we were unable to convince the
8 Swiss government of that.

9 I should underscore that our representatives
10 have at all times been treated with the utmost courtesy by
11 the Swiss government. We are two friendly nations that are
12 at the moment in disagreement. We are hopeful, as is the
13 State Department, that we will as yet be able to work out
14 an accommodation with the Swiss concerning their position
15 on these documents.

16 Your Honor, on a related subject, very briefly,
17 we are hopeful that the Swiss government will cooperate
18 with us in securing the presence of Mr. Rich and Mr. Green
19 in the United States. The Swiss government has been
20 extremely cooperative in the past with our government in
21 processing our extradition requests.

22 We have every reason to believe that Mr. Rich
23 and Mr. Green, based on their conduct in recent months,
24 will become fugitives from justice. We anticipate seeking
25 extradition on this indictment or on a superseding

1 indictment that may make it easier to secure extradition.

2 We also hope that the Swiss may assist us, as
3 they have in the past, in using other means to help us
4 secure Mr. Rich's and Mr. Green's presence in the United
5 States. As I understand it, Mr. Rich and Mr. Green are
6 effectively guests of the Swiss government at present in
7 Swiss territory. They may be determined to be unwanted
8 guests.

9 Your Honor, at this point we really have nothing
10 further, other than our suggestion that we see you, if
11 possible, outside of open court.

12 THE COURT: First, is there anybody who wishes
13 to be heard in open court?

14 And second, is there any anyone who objects to
15 the government's suggestion that I see the parties not in
16 open court?

17 I acknowledge the fact that although all
18 unspoken, the media objects to that.

19 I grant the request with some reluctance, but
20 grant it nevertheless. I will see counsel and the reporter
21 in the robing room.

22 (In the robing room)

23 MR. MANEKER: I would like a little
24 clarification before I participate, Judge.

25 Obviously if there is some restriction on me as

1 to what I may say about this outside this room my presence
2 here serves no purpose, and I just want to know what the
3 ground rules are.

4 THE COURT: I have no idea what the purpose of
5 this proceeding not in open court is. I granted the
6 request because I thought that I was going to hear from the
7 government some suggestion as to a procedure which perhaps
8 had already been discussed with counsel for Marc Rich and
9 to some extent was agreed upon.

10 MR. WEINBERG: Maybe I can just outline --

11 THE COURT: Before you do that, I think Mr.
12 Maneker is entitled to a response to his question to know
13 the ground rules of this conference, and specifically he
14 wants it made clear that he will be under no inhibitions
15 with respect to any statements that he might wish to make
16 concerning what is discussed in this room. He is entitled
17 to a response to that from the court, and prior to making
18 such a response I would want to hear from the government,
19 although I do have some question as to why we are not in
20 open court if that is going to be the case.

21 MR. WEINBERG: Maybe I can explain.

22 THE COURT: Yes.

23 MR. WEINBERG: Basically, your Honor, we may
24 well at the end of this request an order from the court
25 prohibiting Marc Rich & Company, A.G. and any of its

1 representatives from communicating to the Swiss government
2 what it is that we discuss today in the way of hopefully
3 attempting to have produced to the government those
4 documents that we believe are responsive to the subpoena.

5 THE COURT: You know, I am getting more and more
6 apprehensive as to the appropriateness of this, and maybe
7 we should just go back into open court and maybe you should
8 request an adjournment of these proceedings for all
9 purposes in order to enable the suggestions that the
10 government has to be explored in private discussions with
11 counsel, perhaps embodied in an order submitted to me for
12 signature.

13 The sense that I have from the expressions both
14 by Mr. Maneker and now by you, Mr. Weinberg, is perhaps
15 this simply isn't right. Unless there would be some reason
16 not to do that, I would think the preferable procedure
17 would be simply to adjourn this matter for an interval of
18 time which you believe would be appropriate, which both the
19 government and Mr. Maneker believes is appropriate, that I
20 schedule it again. That will give you ample opportunity,
21 as privately or as publicly as the respective parties deem
22 appropriate, to seek to advance a resolution of this.

23 MS. PARVER: Your Honor, just so the record is
24 clear, the overriding reason why we requested this be done
25 in camera was because in order to explain to you why we

1 believe that Marc Rich & Company, A.G. is still in contempt
2 with respect to production under the grand jury subpoena we
3 have to discuss the grand jury documents, and the
4 government is restricted, pursuant to Rule 6(e) of the
5 Rules of Criminal Procedure, from doing so in open court.
6 We would have to discuss specific documents and why we
7 believe those are responsive to the subpoena.

8 THE COURT: What is the government's position
9 with respect to the court's suggestion that we simply
10 adjourn this matter?

11 MR. PEDOWITZ: I think, your Honor, that we will
12 be back to see you shortly. I am going to suggest one
13 other procedure.

14 THE COURT: Yes.

15 MR. PEDOWITZ: The court's order, of course, is
16 still in place, the contempt order. It requires payments I
17 believe on Mondays and Fridays. The payment was not, as I
18 understand it, made on Friday. I do not know whether that
19 was inadvertent or deliberate.

20 It would be helpful to have some clarification
21 of what the position is of Marc Rich A.G. if we are to
22 adjourn this morning.

23 MR. MANEKER: The last agreement entered into
24 between A.G. and the government provided for the payment of
25 daily fines from August 20, 1983 through September 12, 1983.

1 On September 13, 1983, in the morning, I
2 telephoned Mr. Pedowitz, along with one or two of my
3 partners, I believe -- there were several of us on the
4 phone -- and called his attention to the fact that the
5 daily fine ended the day before and there would be no
6 further payments.

7 Mr. Pedowitz expressed I believe some surprise
8 at not recalling the particular date, but said he would
9 check the agreement. We said if he had any problem would
10 he let us know, and we have not heard.

11 THE COURT: If I adjourn this matter for ten
12 days, if that seems to be an appropriate period of time, is
13 Marc Rich agreeable to striking September 12 and
14 substituting a date ten days from today and making the
15 payments which would be appropriate with that altered date?

16 MR. MANEKER: No, your Honor. I would point out
17 that if the government does wish to contend, despite what
18 you hear in the courtroom, there is some continuing act on
19 the part of A.G. that constitutes a contempt of this court,
20 that should be heard and determined before payments are
21 made.

22 I would appreciate that there is some concern
23 whether money is forthcoming, is available to meet those
24 fines, were you at some future date to determine that they
25 have accrued, and would point out that under the agreement --

1 THE COURT: I am anxious to get back into open
2 court and it seems to me that all that I am hearing now I
3 could as well be hearing in open court.

4 Let me simply ask you, with respect to such a
5 hearing, when would you want it to be held?

6 MR. PEDOWITZ: Your Honor, our position is --
7 and this should be very clear. I listened to Mr. Maneker.
8 I understood what he said. There may be some
9 misunderstanding between us.

10 My understanding was the question was whether or
11 not the payments are going to be made every day or on a
12 different basis. Your Honor's order is clearly in place.
13 The agreement speaks to payments thereafter not on a daily
14 basis, after the 12th. I do not understand how Marc Rich
15 A.G. can take the position that they are not presently in
16 contempt under the court's order.

17 MS. PARVER: This is the agreement, your Honor.

18 MR. PEDOWITZ: Paragraph 3, your Honor. Of
19 course, your Honor's order is as plain as it can be.

20 MR. MANEKER: You had that information for a
21 week and this is the first time we hear such an objection.

22 THE COURT: Let's return to open court.

23 MR. KINGHAM: Your Honor, may I make a
24 suggestion before we do?

25 THE COURT: Yes.

1 MR. KINGHAM: I represent Clarendon with respect
2 to these proceedings and I have some knowledge with respect
3 to this that I would appreciate being taken up in the
4 robing room and not in open court.

5 THE COURT: Very well.

6 MR. KINGHAM: As your Honor knows, in connection
7 with the indictment there was an order of restraints and
8 prohibitions which was consented to both by A.G. and by
9 Clarendon. It is very similar and, indeed, identical in
10 many respects to the existing restraints which your Honor
11 imposed, again, pursuant to agreement. So there are many
12 restraints running from Clarendon and from A.G. to the
13 government.

14 When we first proposed to the government last
15 week, that is, counsel for Clarendon, that some arrangement
16 be made along those lines we inquired about the \$50,000 a
17 day and were told by counsel for the government that that's
18 a matter that would be taken care of at a later point.
19 That was fine and we didn't raise it again and we didn't
20 discuss it with the government again. That was last
21 Tuesday or Wednesday.

22 I might make the suggestion that your Honor put
23 the matter over for ten days, particularly because, as I
24 understand it, A.G. has retained new counsel. Arthur Liman
25 has been asked to represent A.G., is in the process of

1 making a final commitment to do so. Upon resolving a
2 conflict, which I understand has been resolved, they just
3 have to sign off on it.

4 THE COURT: My preference would be to do exactly
5 that, to defer the hearing for ten days, that is, the
6 hearing as to whether or not Marc Rich is in contempt,
7 making appropriate the imposition and collection of the
8 \$50,000 a day fine. It would seem to me that would be in
9 everybody's best interest.

10 The government is raising the point that by
11 virtue of the inconsistency or the disagreement between the
12 parties as to the interpretation of that provision the
13 \$50,000 a day fine is not being paid, so that that
14 procedure would incur a degree of risk of collection on its
15 part.

16 MR. MANEKER: I was about to say -- and I am
17 perfectly willing to do this in open court -- but there is
18 security of many millions of dollars which would cover some
19 great multiple of ten day's fines.

20 THE COURT: Do you have an objection to putting
21 \$50,000 a day from the period of the last payment into some
22 separate escrow account?

23 MR. MANEKER: Yes, your Honor. We do not think
24 we should be paying contempt fines when we are not in
25 contempt. We have put up security, as I say --

1 THE COURT: Are you prepared to hold the hearing
2 on whether or not you're in contempt at the earliest
3 available time on the court's calendar?

4 MR. KINGHAM: Your Honor, may I speak with Mr.
5 Maneker for two minutes?

6 MR. MANEKER: As Mr. Kingham pointed out, within
7 a matter of a very few days I do not expect to continue to
8 be counsel.

9 THE COURT: I am going to declare a five-minute
10 recess so that you can discuss that matter with the
11 attorney who will have the ongoing burden, because I am put
12 in this position: I am put in the position of a request
13 for a delay which would, among other things, enable
14 incoming counsel to acquire familiarity with the matter and
15 a position taken by the outgoing counsel which might propel
16 an immediate hearing.

17 Now, the client has to speak with one voice. I
18 will take a five-minute recess to enable counsel for Marc
19 Rich, incoming, outgoing, or whatever, to confer with each
20 other, and then I will hear their position in open court.
21 We will resume in open court.

22 (Recess)

23 THE COURT: All right. We can resume.

24 Let me say, in answer to an inquiry that has
25 been made, the letter from the Ambassador of Switzerland is

1 a public document and will be filed with the clerk and is
2 available to any interested party.

3 Let me simply say in open court that what
4 occurred in the robing room is what not infrequently occurs
5 in the robing room, and that is there was a preliminary
6 discussion as to what was appropriate to be dealt with in
7 the robing room as distinguished from open court and what
8 agreements if any would exist with respect to other
9 statements made by any of the parties outside of the robing
10 room with respect to what transpired in the robing room,
11 and since there was some disagreement with respect to that
12 it was the court's view that the matter had best be dealt
13 with in open court, and so nothing of a substantive nature
14 in fact has taken place since the last open court
15 proceeding.

16 Now, as I view the situation, the only matter
17 which is currently before me and which requires my
18 attention is whether Marc Rich & Co. is presently in
19 contempt of the subpoena and the court's outstanding orders,
20 and that is whether there is something which Marc Rich &
21 Co. can do, has been ordered to do, and is not doing. That
22 is the question as to which the parties are in fact in
23 disagreement and is an issue which would require resolution
24 by this court after hearing from the parties and perhaps,
25 if necessary, taking evidence. The question that next

1 arises is when such a hearing should be held.

2 Mr. Weinberg or Mr. Pedowitz, what is the
3 government's position, A, with respect to the accuracy of
4 the court's statement that that is the only immediate
5 matter before me, and two, with respect to the government's
6 position with respect to timing.

7 MR. PEDOWITZ: Your Honor, I think your
8 statement is entirely accurate. There was some mention in
9 the robing room of a ten-day adjournment to determine that
10 issue. That is acceptable to the government if we are able
11 to work out satisfactory arrangements with respect to the
12 \$50,000 a day fine which is presently pending.

13 Your Honor had requested of counsel for Marc
14 Rich A.G. to determine what their position would be with
15 respect to that fine. As I understand it, they are not in
16 a position to presently communicate with their client. The
17 client, of course, is in Switzerland, and while reachable
18 by phone, having dealt recently with flesh and blood
19 clients, I understand their difficulty in being able to
20 obtain a response, an immediate response.

21 What I would suggest, your Honor, is that we
22 adjourn that particular issue, what is to be done with
23 respect to the \$50,000 fine, until sometime early tomorrow
24 afternoon, during which time the government hopes to be
25 able to work out with attorneys for Marc Rich A.G.

1 appropriate arrangements with respect to that \$50,000 a day
2 fine.

3 THE COURT: Is that arrangement agreeable?

4 MR. MANEKER: Yes, it is, your Honor.

5 THE COURT: All right. We will adjourn then
6 until 4:30 tomorrow the question of the interim payment of
7 the fine at the rate of \$50,000 a day from the date of the
8 last payment until the resolution of the matter which will
9 be the subject of the hearing.

10 If that is worked out consensually, and subject
11 to resolution of that matter, we will adjourn for ten days,
12 that is, until -- well, we are going to run into the
13 Judicial Conference, I believe -- until October 3 at 4:30
14 the hearing on the question whether Marc Rich & Co. is
15 presently in contempt and subject to continuing sanctions,
16 and the perhaps subsumed question of whether that contempt
17 has been continuous at all relevant times.

18 Is there anything further?

19 Very well. We are adjourned then until 4:30
20 tomorrow.

21 (Court adjourned)

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Marc Rich Ex-Unit Has \$22 Million Seized by the IRS

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—The Internal Revenue Service seized approximately \$22 million from Clarendon Ltd., the former subsidiary of Marc Rich & Co.

The money was seized as part of a "jeopardy assessment" by the IRS. As reported, the agency is seeking to collect \$90 million it contends it is owed in back taxes, penalties, and interest.

Although the IRS was cleared by a federal court judge more than a week ago here to seize the money, it wasn't known whether the agency had actually taken the action. The \$22 million figure was disclosed in recently filed court papers.

At a hearing related to the IRS action held in federal court here yesterday, lawyers for Clarendon and the government said the IRS was able to find only \$22 million in Clarendon bank accounts. IRS officials are continuing to search for additional funds, they added. If it is eventually found that Clarendon doesn't owe additional taxes, the money would be returned with interest.

The IRS seizure arises out of a 51-count indictment of Marc Rich, two of its principal officers and others on charges of tax evasion, racketeering and fraud.

The IRS can declare a jeopardy assessment when it believes that ultimate collection of a levy might be jeopardized. In a hearing in federal district court yesterday, Anthony Amoruso, an IRS group manager, said the IRS declared an assessment because of "a pattern of evasiveness" by the giant Swiss-based commodities trader and a fear that Clarendon might become insolvent.

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FRIEDRICH KRUPP GmbH

Altendorfer Str. 103,
D-4300 Essen 1,
Germany

Summary *Krupp is one of the oldest and largest German steel companies. The company is integrated forward into mechanical engineering and shipbuilding. In 1978 the extensive trading and transport activities and plant engineering and construction accounted for half of total sales. Foreign investments, mainly in steel fabrication in Brazil, are not consolidated.*

Structure

Friedrich Krupp GmbH is a holding company. Activities are divided into the five sectors described below. Within these sectors, operating responsibility rests with large, organizationally independent incorporated and unincorporated subsidiaries of the holding. Each of these large operating units is responsible for its foreign operations.

Products**Steelmaking**

Activities are under control of Friedrich Krupp Huttenwerke AG (FKH) and its subsidiaries and affiliates. The FKH group produced 5.1 million metric tons of crude steel in 1978. Part of the iron ore requirements are supplied from an interest in a Liberian joint venture while a 6% share in Ruhrkohle AG secures coal for the group. Abroad, FKH has minority interests in a large Brazilian foundry and specialty steel producers in Argentina and Mexico. Principal products include: special steels, high-grade steels, tonnage steels; rolled steel products; processed steel products; shop products; by-products; forged products; consulting, planning and managerial services for the production and processing of iron and steel.

Mechanical Engineering

Products include diesel engines; marine radar and other navigation systems; sonar systems; radio monitoring systems; spinning machines and systems; *WIDIA* tools; Krupp magnetic materials; Krupp dental products; special forgings; iron castings; titanium products; leaf springs for automobiles; wear parts for agricultural machines; vehicle components, etc.

Plant Engineering and Construction

Activities are managed by Krupp Industrie- und Stahlbau, Maschinenfabrik Buckau R. Wolf AG, Polysius AG, Krupp Atlas Maschinenbau and Krupp-Koppers GmbH. Their main products include: mining, bulk-handling and production plant engineering; plantmaking; structural engineering; mechanical engineering; cranes; project management; system studies; plants and equipment for handling metallic and non-metallic minerals; steel structures and machines; plants and machinery for the plastics industry, sugar industry, cement industry, chemical industry, etc.; desalination plants; petroleum refineries; coal gasification plant, and many more.

Shipbuilding

AG Weser, one of the largest German shipyards, builds ocean-going vessels while Ruhrorter Schiffswerft, part of Krupp Reederei und Brennstoffhandel, builds vessels for inland waterways. AG Weser's main products are: container ships; cargo vessels; oil tankers; refrigerated cargo vessels; steam turbines; tugs and barges; mooring systems; pollution control systems; ship repairs; consulting, planning and management services for ocean and inland shipping, shipbuilding and fishing, and many more.

Trading and Services

Krupp Stahlhandel trades mainly in steel products, sanitary and heating equipment and a wide range of industrial and building equipment. Krupp Reederei und Brennstoffhandel manages trade in solid and liquid fuels as well as ocean and inland shipping. Krupp also has a number of service subsidiaries engaged in printing, R&D, data processing, housing and insurance.

In addition to the five business sectors, Krupp has minority shares in the following important companies:

- VFW- Fokker, the large Dutch-German aerospace company
- Rheinische Kalksteinwerke GmbH: limestone
- Elektrowerk Weisweiler GmbH: ferro-chromium.

Product Sales %	1979	1978	1977	1976	1975
Steelmaking	37	34	36	28	25
Trading & Services	27	26	27	29	28
Plant Engineering & Construction	22	24	20	23	27
Mechanical Engineering	11	11	10	12	12
Shipbuilding	3	5	7	8	8
Total %	100	100	100	100	100
Total Sales Welt (DM million) (incl. intra-co.)	14,266	13,320	12,648	11,138	10,683

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Background

The company's origins date back to 1811 when Friedrich Krupp founded a factory in Essen to manufacture cast steel and derived products. Under his son Alfred the company expanded rapidly based on the production of railway and military equipment. Krupp was the first company to introduce the Bessemer and open hearth steelmaking processes on the Continent. By the 1860s the company was vertically integrated from coal and iron ore mining to metal working. The company was also a pioneer in providing benefits to its employees, such as health insurance, pensions and housing. In the 1880s and 1890s Krupp expanded through horizontal integration and also acquired the large Germania shipyards. During World War I the company was Germany's major arms' supplier. During the 1920s Krupp, under the direction of Gustav Krupp von Bohlen und Halbach, developed its non-military business in locomotives, motor vehicles, farm machinery, plate fabrication and chemical process equipment. In 1926 the company introduced its 'Widia' sintered carbide which revolutionized the machining of metals. During World War II, Krupp was again a major arms supplier. The AG Weser shipyards were acquired in 1941. Alfred Krupp, who had taken over the company during the war, was sentenced in the Nuremberg trials but was released and took over the management of the firm again in 1953. The coal and steel assets were separated under an Allied divestment order which was repealed in 1968. At that time the coal-mining activities were transferred to Ruhrkohle AG and the company assumed its present form. Shortly before his death in 1967 Alfred Krupp transferred ownership of the company from the family to a foundation. After the war the main strategy was to re-build the company and consolidate its interests in fabrication, trading and engineering. Limited foreign investments were made in the 1950s and 1960s, mainly in Brazil. Since the company regained its steel assets in 1968, operations were further streamlined with the creation of five business sectors. Steel capacity was strengthened with the acquisition of Stahlwerke Südwestfalen in 1974.

FRIEDRICH KRUPP GmbH

Financial year: 31 December

FIVE-YEAR SUMMARY (DM million)

Currency: DM

	1979	%	1978	%	1977	%	1976	%	1975	%
Total Net Sales Welt	12,787		11,899		11,169		9,734		9,318	
Konzern	11,673		10,986		10,413		9,016		8,583	
By Foreign Subs (incl. exports)		40		40		41		38		44
Industrialized Countries		17		16		17		16		18
LDCs		14		12		11		15		19
OPEC		4		7		9		4		4
Comecon		4		5		5		3		4
By Foreign Subs		11		10		9		8		9
Exports Welt		29		30		32		30		35
Net Profit Konzern	64		(19)		3		1		(61)	
Foreign Net Profit										
Foreign Exchange Gains/(Losses)										
Total Assets Welt	9,056		8,723		8,495		7,272		7,072	
Konzern	8,298		7,965		7,815		6,664		6,502	
Foreign		12								
Shareholders' Equity ¹ Welt	2,161		2,092		1,763		1,328		1,324	
Konzern	2,034		1,978		1,633		1,211		1,182	
Foreign Net Assets		15								
Long-Term Debt ² Konzern	1,959		1,922		2,181		1,808		1,919	
Capital Expenditure Konzern (fixed assets only)	410		264		303		435		465	
Abroad										
R&D Expenditure										
Abroad										
Total Employees Welt	86,200		84,700		86,600		76,200		78,900	
Domestic		89		90		91		90		90
Abroad		11		10		9		10		10

Notes Consolidation: 'Welt' refers to the accounts of the parent company and its majority-owned domestic and foreign subsidiaries; 'Konzern' includes the parent company and 42 majority owned domestic subsidiaries.

- 1 Shareholders' equity = capital + general reserves + minority interests in consolidated subsidiaries + special reserves + reserves for risks on receivables. 2 LTD = four years or longer.

Current Situation

Since 1974 the company's performance has been severely affected by the worldwide recession in the steel and shipbuilding industries and increasing competition from government-subsidized companies in these sectors. To counter this threat Krupp has reacted by rationalizing production and orienting it towards high quality grades; and by shifting investment to the engineering, trading and fabrication areas. Due to the lack of profits, cash flow is almost entirely borne by depreciation and capital expenditures had to be reduced in 1977 and 1978, but increased in 1979 with return to profitability. Plastics machinery interests extended with 1 January 1980 purchase of Gildemeister Corpoplast Maschinen GmbH, and forgings expanded with acquisition of Gerlach-Werke GmbH.

Major Shareholders

As of 31 December 1979, Alfred Krupp von Bohlen und Halbach-Stiftung, a foundation, owned 74.99% of the capital and the Government of Iran 25.01%.

Principal Subsidiaries (wholly owned unless otherwise stated)

STEELMAKING

Germany:

- Fried. Krupp Hüttenwerke AG (70%).¹
- Schmiedewerk Christine GmbH.¹
- Siegener Rohstoff-Verwertungsgesellschaft mbH.¹
- Zapp-Fortuna GmbH.¹
- Federnwerke Paul Plate GmbH.
- Krupp Hüttenwerke Wohnungsbau GmbH.²
- 'Fried. Krupp Hüttenwerke' Unterstützungs-Gesellschaft mbH.²
- Gerlach-Werke GmbH (58.2%).²
- Vacmetal Gesellschaft für Vakuum-Metallurgie mbH (50%).²
- Krupp Stahltechnik GmbH (the other 50% are held by Fried. Krupp GmbH) (50%).¹
- Martin & Pagenstecher GmbH (34%).²
- K.M.R. 'Seereederei Frigga'—Beteiligungsgesellschaft mbH (33.3%).²
- Veba Wohnstätten AG (20.9%).
- Rohstoffhandel GmbH (30%).²
- Liberiaerz-Beteiligungsgesellschaft mbH (28.5%).²
- Rheinisch-Westfälische Wohnstätten AG (20%).²
- Ruhrkohle AG (6.2%).²
- Krupp Stahlwerke Südwestfalen AG (99%).¹
- Stahlwerke Brüninghaus GmbH, Schwerte-Westhofen.¹
- Hüttenkonsum Geisweid GmbH.¹
- Betriebsunterstützungskasse Brüninghaus Thomee GmbH.²
- Argentina: Aceros Fortuna SA (43.7%).²
- Austria: Fortuna Edelstahl Vertriebsges. mbH.²
- Belgium: S.P.R.L. Aciers Fortuna PVBA.²
- Brazil: Forjaria São Bernardo SA (33.3%).²
- France: Aciers Fortuna SARI.²
- Italy: Acciai Fortuna SpA (85%).²
- Mexico: Aceros Fortuna SA (41.4%).²
- Netherlands: Smitfort Staal BV (40%).² Ertsoverslagbedrijf Europoort CV (30%).²
- UK: Fortuna Special Steel Co. Ltd.²
- USA: Fortuna Specialty Steel Corp.²

SHIPBUILDING

- Germany: Aktien-Gesellschaft 'Weser' (86.5%).¹ Bremer Hotelgesellschaft mbH (73.8%).²

PLANTMAKING

Germany:

- Krupp Industrie- und Stahlbau.
- Krupp Stahltechnik GmbH (the other 50% are held by Fried. Krupp Hüttenwerke AG) (50%).¹
- Kautex Maschinenbau GmbH.¹
- GST Gesellschaft für Systemtechnik mbH.¹

¹ Consolidated subsidiaries.

² Non-consolidated subsidiaries.

Principal Subsidiaries (Plantmaking)—continued

Esch GmbH.¹
 Esch-Werke KG (90%).¹
 Krupp-Reifenhäuser GmbH (75%).¹
 Krupp Polysius AG (82.5%).¹
 Polysius Wohnungsbau GmbH.²
 Polysius-Hilfe GmbH.²
 Krupp Atlas Maschinenbau.
 Maschinenfabrik Buckau R. Wolf AG (82%).¹
 Stahlwerk Augustfehn AG.¹
 Zeitzer Eisengießerei und Maschinenbau AG (ZEMAG).
 Walther & Cie. AG (99%).¹
 Franz Robertz GmbH.¹
 Robert Reichling & Comp. GmbH.¹
 Intercontinental Montage GmbH.²
 EVT Energie- und Verfahrenstechnik GmbH (33.3%).²
 Krupp-Koppers GmbH.¹
 Koppers Maschinen- und Apparatebau GmbH.²
 Koppers Wohnungs GmbH.²
 Koppers Export GmbH.²
 Gesellschaft für Meß- und Regeltechnik mbH.²
Australia: Krupp (Australia) Pty Ltd (99.9%).²
Belgium: Ateliers Louis Carton SA (99.9%).²
Brazil: Koppers Projetos Industriais Ltda;² Krupp Industrias Mecanicas Ltda (60%).²
Canada: Krupp Industries (Canada) Ltd.²
Colombia: H.B. Estructuras Metalicas SA (26.5%).²
France: S.T.R. Strasbourg Entreprises SA (49.9%);² Walther France SARL;² Polysius SA (99.9%);² Koppers France SA.²
India: Buckau-Wolf New India Engineering Works Ltd (49.9%).²
Japan: Nippon Koppers Yugen Kaisha.²
Mexico: Nomon SA (68.5%).²
South Africa: Polysius (Pty) Ltd (99.9%).²
Spain: Krupp Iberica SA;² Prensas Riba SA (50%);² Polysius SA;² Koppers Española SA.²
UK: Polysius Ltd (99.9%).²
USA: Polysius Corp.²

MECHANICAL ENGINEERING
Germany:
Krupp MaK Maschinenbau GmbH.

MaK Maschinenbau GmbH.¹

MaK Wohnungsbaugesellschaft mbH.²

Krupp Atlas-Elektronik.

C. Plath GmbH—Nautisch-Elektronische Technik (51%).¹

MUG Marine-Unterwasserregelanlagen-Planungsgesellschaft mbH (40%).²

MEG Marine-Elektronik-Planungsgesellschaft mbH (16.7%).²

Krupp Widia.

Krupp Metall und Schmiedewerke.

Belgium: Widia Belgium SA.²

Brazil: Krupp Metalurgica Campo Limpo Ltd (60%).²

Denmark: Widia Skandinavien A/S.²

France: Widia France SA (99%);² MaK Méditerranée SARL (74%);² Laboratoires Odonica SA (70%).

India: Widia India Ltd (52.4%).²

Italy: Krupp Widia Italia SpA (99.2%).²

Japan: Krupp Widia Japan Ltd (60%).²

Netherlands: Machinefabriek Bolier BV (33.9%);² Widia Nederland BV.²

Norway: Atlas Marin & Industri A/S (99.9%).²

Singapore: Widia S.E. Asia (Pte) Ltd.²

Spain: Widia Iberica SA.²

Sweden: Amlab AB (50%).²

Switzerland: Meturit AG (99.9%);² Widia (Schweiz) AG (99%).²

UK: Krupp International UK Ltd (99.9%);² Krupp Widia UK Ltd.²

1 Consolidated subsidiaries.

2 Non-consolidated subsidiaries.

TRADING AND SERVICES

Germany:

Krupp Stahlhandel.

Horbach & Schmitz GmbH.¹

Horbach & Schmitz GmbH (95%).¹

Horbach & Schmitz GmbH (93%).¹

Aloverzee Handelsgesellschaft mbH.¹

Stahlrohr-Import GmbH (25%).²

Krupp Grafische Anstalt.

Krupp Forschungsinstitut.

Krupp Gemeinschaftsbetriebe.

Westdeutsches Assekuranz-Kontor GmbH.¹

Krupp Wohnungsbau gGmbH (99.9%).²

Krupp Reederei und Brennstoffhandel.

Stefan Keith GmbH.¹

Helene-Amalie Kohlenhandelsgesellschaft mbH.¹

Oberhausener Kohlen- und Eisenhandelsgesellschaft mbH.¹

Mineralöl-Handelsgesellschaft F. Kuhl mbH.¹

Panopa Verkehrs-Gesellschaft mbH.¹

'Shiptraco' Ship & Transport Consultants GmbH.¹

Asikos GmbH, Strahlmittel zur Oberflächenbehandlung & Co. KG (50%).²

Krupp Steag Strahlmittel GmbH (50%).²

Frankfurter Brennstoff-Umschlags-Gesellschaft mbH (50%).²

Rhein-Weser Tankschiffahrtsgesellschaft mbH (45%).²

Polchemie GmbH (40%).²

France: Société Franco-Allemande d'Importation et d'Exportation SA (49.9%).²

Liberia: Transatlantic Bulk Carriers Inc.²

USA: Krupp Steel Products Inc.;² Diversified Steel Services Inc.²

GROUP HEADQUARTERS

Germany:

Terrasond-Grundbau GmbH.

Krupp Bauplanung GmbH.

Gesellschaft für Industriebeteiligungen mbH.

Carl Chr. Gossenberg & Co. i L.

Hansa-Rohstoffverwertung GmbH (50%).

VFW-Verwaltungsgesellschaft mbH (35.2%).

Rheinische Kalksteinwerke GmbH (25%).

Electrowerk Weisweiler GmbH (20%).

Canada: Krupp Canada Ltd (99.9%).

Iran: Krupp Iran GmbH.

Japan: Fried. Krupp (Japan) Ltd (99.9%).

South Africa: Krupp South Africa (Pty) Ltd (99.9%).

Switzerland: Iran-Krupp Investment AG (50%).

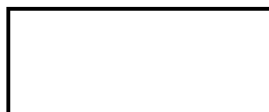
USA: Krupp International Inc.

1 Consolidated subsidiaries.

2 Non-consolidated subsidiaries.

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COMMUNICATIONS SECTION



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FOR SALES - NEW YORK TO NEW YORK

KRONOS TITAN-GMBH

Postfach 100720, D-5090 Leverkusen
Tel: (02172) 3561
Cable: Titan Leverkusen
Telex: 08510823

Chairman: Dr Hermann Pauls

PRINCIPAL ACTIVITIES: Manufacture and sale of titanium dioxide

Trade Names: Kronos, Bentone, Oncor

Principal Bankers: Deutsche Bank; Dresdner Bank; Chase Manhattan Bank; Sal Oppenheim jr & Cie; Westdeutsche Landesbank

Financial Information:

	DM'000
Sales turnover	329,000
Authorised capital	100,000

No of Employees: 1,400

KRUPP BRÜNINGHAUS GMBH, WERDOHL

Im Ohl 3, 5980 Werdohl

Tel: Werdohl (02392) 561, Westhofen (02304) 6891

Telex: Werdohl 826447 kd b; Westhofen 8229615 kb d

Supervisory Board: Dr Alfons Gödde (Vorsitzender), A Reinhardts, W Becker, H Crummenerl, Dr G Fleckenstein, Dr G Gassner, F Klee, Dr Ing R Kunz, F Stemmer, B Stock, Dr Stepp, L Zimmermann

Management Board: Ing (grad) Horste Korte (Sprecher),

Dipl-Kfm Kurt Hendrich,

Dipl-Soz Rudolf Küchmeister

Senior Executives: H Bölling (Verkaufsleitung),

H Klee (Leiter kfm. Verwaltung),

H Pütter (Einkaufsleiter),

H Rieck (Verkauf Federn),

Dr Hegemann (Betriebschef Federnwerk),

H Klünker (Betriebschef Schmiede),

H von Estorff (Forschung und Entwicklung)

PRINCIPAL ACTIVITIES: Steel processing

Parent Company: Krupp Stahl AG, Bochum

Subsidiary Companies: Federnwerke Paul Plate GmbH;

Lärmschutz Biergans GmbH & Co., KG

Principal Bankers: Merck, Finck & Co; LZB; Deutsche Bank;

Dresdner Bank; Commerzbank

Financial Information:

	1979	1980
	DM'000	DM'000
Sales	368,000	390,000
Share capital	8,000	8,000

No of Employees: Werdohl: 1,800 Westhofen: 870

KRUPP, FRIED, GMBH

Altendorfer Str 103, Postfach 10, 4300 Essen 1

Tel: (0201) 188 1

Cable: Krupp Essen

Telex: 0857385 fkes d

Chairman of Supervisory Board: B Beitz
Chairman of Executive Board: H Petry

Directors: H Geldmacher, Dr A Luka, Dr E Reusch, H Metzger

PRINCIPAL ACTIVITIES: Iron and steel industry, mechanical engineering and plant construction; ship building

Subsidiary/Associated Companies: Fried Krupp Hüttenwerke AG; Schmiedewerk Christine GmbH; Vereinigte Drahtindustrie GmbH; Martin & Pagenstecher GmbH; Ruhrkohle AG; SPRL Aciers Fortuna Stalen PVBA; Acciai Fortuna SpA; Fortuna Spezial Steel Co Ltd; Aciers Fortuna Sarl; AG Weser; Bremer Hotelges mbH; Krupp Industrie-und Stahlbau; Mak Maschinenbau and many other subsidiary and associated companies worldwide

Financial Information:

Sales turnover

DM13,320,000,000

No of Employees: 84,713

KRUPP, FRIED, HÜTTENWERKE AG

Alleestr 165, 4630 Bochum 1

Tel: (0234) 63-1

Telex: 825831 fkhv d

Chairman of Supervisory Board: Heinz Petty
Chairman of Managing Board: Dr Wilhelm Schneider

Directors: Dr Günter Fleckenstein (Finance),

Otmar Günther (Personnel),

Dr Rudolf Kunz (Engineering),

Reinhard Lenzner (Sales, Cast Iron),

Dr Alfred Randak (Metallurgy and Process Engineering),

Fritz Stämmér (Sales, Rolled Steel),

Dr Deiter Barich (Purchasing)

PRINCIPAL ACTIVITIES: Steel production including semi-finished products, girders, wire, reinforced concrete, brand steel, steel plate, galvanised steel cast steel, hammered parts, rails, railed vehicles, general steel and plate constructions

Trade Names: Sigma, Nirosta, Ferrotherm, Galvatect, Novonit etc

Subsidiary/Associated Companies: Krupp Stahlwerke Südwestfalen AG (98.9%); Stahlwerke Brüninghaus GmbH; Schmiedewerk Christine GmbH; Gerlach-Werke GmbH (58.2%); VACMETAL Ges f Vakuum-Metallurgie mbH (50%); Krupp Stahltechnik GmbH (50%); Siegenger Rohstoff-Verwertungsges mbH; Ruhrkohle AG (6.2%); Ertsoverslagbedrijf Europoort CV (30%) (Netherlands); Martin & Pagenstecher GmbH (34%); KMR 'Seereederei Frigga' Beteiligungsges mbH (33.3%); Rohstoffhandel GmbH (30%); Hohenlimburger Kleinbahn AG (30.3%); Exploration und Bergbau GmbH (8%); Friedrich Thomée Handellsges mbH; Smittfort-Staal BV (40%) (Netherlands); Fortuna Special Steel Co Ltd (UK); Acciai Fortuna Spa (85%) (Italy); SPL Aciers Fortuna Stalen PVBA (Belgium); Aciers Fortuna SARL (France); Fortuna Edelstahl Vertriebsges mbH (Austria); Fortuna Specialty Steel Corp, USA; Rheinisch Westfälische Wohnstätten AG (20%); Krupp Hüttenwerke Wohnungsbau-GmbH; Westfälische Wohnstätten AG (3%) and others in Mexico, Argentina, Brazil and Liberia

Principal Bankers: Bank für Gemeinwirtschaft AG; Berliner Handels und Frankfurter-Bank; Commerzbank AG; Deutsche Bank AG; Dresdner Bank AG; Hardy Stöman Bank GmbH; Landesbank Rheinland-Pfalz Girozentrale; Landeszentralbank in NRW; Sal Oppenheim jr & Cie; Schliep & Co; Simonbank AG; Sparkasse, Bochum; Stadtparkasse, Düsseldorf, Hagen-Hohenlimburg; Trinkaus & Burkhardt; Vereinsbank eG; Westdeutsche Landesbank Girozentrale; Westfalenbank AG; Bankhaus Merck Finck & Co

Financial Information:

	DM'000
Sales turnover	4,437,000
Paid-up capital	573,000

No of Employees: 37,573

KRUPP MAK MASCHINENBAU GMBH

Falckensteiner Str 2-4, Postfach 9009, 2300 Kiel 17

Tel: (0431) 381-1

Cable: Mak Kiel

Telex: 0299877 mad d; 0299878 mak d

Chairman: Dipl Kfm Horst Harling

Directors: Dipl Psych H-O Brockmeier, Dr-Ing U Degenhardt, Dr Jur G Holtmeier, Dr-Ing H-R Lembcke

PRINCIPAL ACTIVITIES: Engineering; railway vehicles and rolling stock, marine engineering; defence and armaments

Parent Company: Part of the Fried Krupp GmbH Group

Principal Bankers: Landeszentralbank

Financial Information:

	1979
	DM'000
Sales turnover	500,000
Authorised capital	40,000
No of Employees: 3,800	

KRUPP POLYSIUS AG

Graf-Galan-Str 17, Postfach 2340, 4720 Beckum
 Tel: (02525) 711
 Cable: Polysius Beckum
 Telex: 089481 polbk d

Chairman of Management Board: Hans-Joachim Scharfenberg
 Directors: Wolfgang Reeder, Dr Paul Weber, Dr Horst Ritzmann,
 Tyark Allers

Senior Executives: H Frischbier, W Holdt, Dipl-Ing H Mollenkopf,
 Dipl-Ing H Henne, E Pichler, H Schlichtherle, Dipl-Ing G
 Schultz, Dipl-Ing N Lenhart, Ing grad A Reese, Dipl-Ing E
 Lankes, Dipl-Volksw G Köhler, Dipl-Volksw Schubert, Klaus
 Templin, Dipl-Ing N Ahrens, Dipl-Ing J G Lohmann, Dipl-Ing W
 Staffhorst, Dr J Hollunder, W Schroder, Ing grad K Wagner,
 Ing grad W Riffelmann, Dipl-Ing P Tiggesbäumker, Ing grad O
 Haberhauer, Dipl-Ing W Goldmann, Dipl-Ing H J Engel,
 Dipl-Ing E W Schneider, J Suesse, Ing grad H Birkmann, G
 Warmuth

PRINCIPAL ACTIVITIES: Machinery and installations for cement
 works; electrical installations; automatic processing equipment

Subsidiary Companies: Polysius Ltd., UK; Polysius S.A., France;
 Polysius S.A., Spain; Ateliers Louls Carton S.A., Belgium;
 Polysius Corp., USA and others in South Africa, Mexico and
 Brazil

Principal Bankers: LZB; Dresdner Bank; Deutsche Bank;
 Commerzbank; Chase Bank; Bayerische Vereinsbank;
 Sparkasse Beckum-Wadersloh; Westdeutsche Landesbank;
 Trinkhaus & Burkhardt; Volksbank Neubeckum; Norddeutsche
 Landesbank Girozentrale; Postscheck Dortmund

Financial Information:

	1979	1980
	DM'000	DM'000
Sales	552,055	394,749
Net profit before tax	20,208	28,230
Net profit after tax	12,806	21,341
Share capital	21,000	21,000
Retained profit and reserves	6,203	6,203
Shareholders funds	27,203	27,203
Earnings per share	30DM	51DM

No of Employees: 1,560

KRUPP-KOPPERS GMBH

Postfach 10 22 51, MoltkestraBe 29, D-4300 Essen 1
 Tel: (0201) 2208-1
 Telex: 08 57 817 kruppkoppers

Management Board: Hans-Jürgen Herbst, Dipl.-Chem. Dr rer.
 nat. Karl L Schmid, Dipl.-Volkswirt Klaus Ternirsen, Dipl.-Ing.
 Richard Wenderoth

Senior Executives: E Spindler (Manager, Sales Division),
 H Strothe (Manager Procurement Division)

PRINCIPAL ACTIVITIES: Engineers and contractors for the
 construction of industrial plants in the fields of coke and ore;
 coal and gas; refineries, petrochemicals and chemicals

Parent Company: Fried. Krupp GmbH, Essen

Subsidiary Companies: Koppers France S.A.; Koppers Espanola
 S.A. Spain, and another in Japan

Financial Information:

	DM'000
Sales (average for the last three years)	300,000
Shareholders funds	10,000

No of Employees: 1,200

KRUPS, ROBERT

Heresbachstr 29, D-5650 Solingen 19
 Tel: (02122) 3871
 Cable: Krups Solingen
 Telex: 9514817 rks d

President of Advisory Board: Dr Karl Körner
 Directors: Fritz Krups (President of Board of Management),
 Dr Kurt J Frowein

PRINCIPAL ACTIVITIES: Production and distribution of
 household electrical goods and scales

Trade Names: Krups, 3 Mix

Principal Bankers: Commerzbank AG; Dresdner Bank AG;
 Westdeutsche Landesbank

Financial Information:

Sales turnover	DM218,000,000
No of Employees: 2,601	

KUEHNE & NAGEL AG & CO

Raboisen 40, D-2000 Hamburg
 Tel: (40)30 10 1
 Cable: haku
 Telex: 02 162542 knh

Chairman of Supervisory Board: Klaus-Michael Kuehne, Rudoef
 Lueck (stellv. Vorsitzender)

Directors: Guenther Arberg (Sprecher),
 Peter Stoess,
 Bernd Wrede

PRINCIPAL ACTIVITIES: Freight forwarding; transport;
 warehousing

Parent Company: Kuehne & Nagel Speditionen-AG, Bremen

Principal Bankers: DG Bank

Financial Information:

	1978	1979
	DM'000	DM'000
Sales	1,187,000	1,262,000
Gross profit	166,000	174,000
Shareholders funds	38,741	40,764

No of Employees: 8,500

KÜHNLE, KOPP & KAUSCH (AG)

Hessheimer Str. 2, D-6710 Frankenthal/Pfalz
 Tel: (06233)851
 Cable: Turbomaschinen Frankenthalpfalz
 Telex: 04-65221 kkkf d

Chairman: RA Karl Gustf Ratjen

Directors: Heinz Buttgeriet (Administration Director),
 Dipl.-Ing. Gerd Jaeger (Sales and Marketing Director),
 Dipl.-Ing. Helmut Pickert (Technical Director)

Senior Executives: Dipl.-Ing. Herbert Koch (Head of Turbine
 Department),

Dipl.-Ing. Siegfried Maier (Head of Turbocharger Department),

Dipl.-Ing. Fritz Rübel (Head of Fan and Compressor
 Department),

Helmut Schneider (Head of Material Procurement)

PRINCIPAL ACTIVITIES: Exhaust gas turbochargers; fans and
 compressors; steam turbines

Principal Bankers: Dresdner Bank AG; Deutsche Bank AG;
 Commerzbank AG; Georg Hauck & Sohn; Landeszentralbank
 in Rheinland/Pfalz; Postscheckamt Ludwigschafen/Rhein

FBI

TRANSMIT VIA:

☒ Teletype
☐ Facsimile
☐ _____

PRECEDENCE:

☐ Immediate
☐ Priority
☒ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ UNCLAS E F T O
☒ UNCLAS

Date 12/16/83

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FM NEW YORK (196A-1774) (P) (M-1)

TO: BUREAU (196-2848)

BT

UNCLAS

ATTENTION: SUPV. [REDACTED] FINANCIAL CRIMES UNIT.

MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED]

MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD, AKA
 "CLARENDON A.G."; RICO; FBW - MF - TAX EVASION - TRADING WITH
 ENEMY (OO:NY).

THE FOLLOWING IS PROVIDED FOR INFO OF FBIHQ:

ON DECEMBER 15, 1983, AUSA [REDACTED] SDNY, ADVISED

THAT [REDACTED]

[REDACTED]

[REDACTED] FD-

515S WILL BE SUBMITTED. [REDACTED]

[REDACTED]

FBIHQ WILL BE KEPT ADVISED.

BT

① - NEW YORK
 1 - SUPV.M-1

MEB:mms
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Approved: LPL/mms3

Transmitted

(Number)

(Time)

Per: [REDACTED]

Q

[REDACTED]

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ALL INFORMATION CONTAINED
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 DATE 2-20-01 BY [REDACTED]

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R 162230Z DEC 83FM NEW YORK (196A-1774) (P) (M-1)

TO BUREAU (196-2848) ROUTINE

BT

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ATTENTION: SUPV. [REDACTED], FINANCIAL CRIMES UNIT.

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MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [REDACTED];

MARC RICH & CO., A.G.; MARC RICH & CO. INTERNATIONAL, LTD, AKA

"CLARENDON A.G."; RICO; FBW - MF - TAX EVASION - TRADING WITH

ENEMY (OO:NY LM

THE FOLLOWING IS PROVIDED FOR INFO OF FBIHQ:

ON DECEMBER 15, 1983, AUSA [REDACTED] SDNY, ADVISED

THAT [REDACTED]

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FD-

515S WILL BE SUBMITTED. [REDACTED]

FBIHQ WILL BE KEPT ADVISED.

BT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 2-20-01 BY [REDACTED]

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196A-1774-209

R

Date 12/15/83

TO: DIRECTOR, FBI

196-2848

Bureau File Number

FROM: SAC ADIC, NEW YORK

196A-1774

Field Office File Number

SUBJECT: MARC RICH-FUGITIVE;
PINCUS GREEN-FUGITIVE;

M-1

Squad or RA Number

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MARC RICH & CO.A&G;
MARC RICH & CO. INTERNATIONAL
aka CCARENOON A.G.
RICO-FBW-MF-TAX EVASION-TRADING
(OO: NY) WITH ENEMY

Investigative Assistance or Techniques Used

Were any of the investigative assistance or techniques listed below used in connection with accomplishment being claimed? ☒ No ☐ Yes - If Yes, rate each used as follows:

- 1 = Used, but did not help
2 = Helped, but only minimally
3 = Helped, substantially
4 = Absolutely essential

1. Acctg Tech Assistance	Rating	6. ELSUR - Title III	Rating	11. Lab Div Field Support	Rating	16. Surveil. Sqd Asst	Rating
2. Aircraft Assistance		7. Hypnosis Assistance		12. Pen Registers		17. SWAT Team Action	
3. Computer Assistance		8. Ident Div Assistance		13. Photographic Coverage		18. Telephone Toll Records	
4. Consensual Monitoring		9. Informant Information		14. Polygraph Assistance		19. Undercover Operation	
5. ELSUR - FISC		10. Lab Div Exams		15. Show Money Usage		20. Visual Invest - Analysis (VIA)	

A. Preliminary Judicial Process (Number of subjects)	Complaints	Informations	Indictments	D. Recoveries, Restitutions, Court Ordered Forfeitures or Potential Economic Loss Prevented (PELP)				
D. Arrests, Locates & Summonses (Number of subjects)	Subject Priority (See Reverse)			Property or PELP Type Code *	Recoveries	Restitutions	Court Ordered Forfeitures	Potential Economic Loss Prevented
	A	B	C					
	FBI Arrests -							b3
	FBI Locates -							
	Criminal Summons							
Number of Subjects of FBI Arrests Who Physically Resisted _____								
Number of Subjects of FBI Arrests Who Were Armed _____								
C. Release of Hostages: (Number of Hostages Released)				E. Civil Matters				
Hostages Held By Terrorists _____; All Other Hostage Situations _____				Amount of Suit		Government Defendant		
				Settlement or Award		Government Plaintiff		
						Enter AFA Payment Here		

F. Final Judicial Process: Judicial District _____ (Use two letter state abbreviations per U.S. Post Office Guide For Example - The Northern District of Texas as ND TX; The District of Maine as ME in the state field only.)

Subject 1 - Name -

Subject's Description Code *

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine	
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos		

Subject 2 - Name -

Subject's Description Code *

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine	
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos		

Subject 3 - Name -

Subject's Description Code *

<input type="checkbox"/> Pretrial Diversion <input type="checkbox"/> Dismissal <input type="checkbox"/> Acquittal	- Convictions - Enter conviction and sentence data in space at right. If more than four sections are involved, limit to the four most relevant.	<input type="checkbox"/> Felony <input type="checkbox"/> Misdemeanor <input type="checkbox"/> Plea <input type="checkbox"/> Trial	Conviction			In-Jail Term		Suspended		Probation		Fine	
			Title	Section	Counts	Yrs	Mos	Yrs	Mos	Yrs	Mos		

Attach additional forms if reporting final judicial process on more than three subjects.

Remarks:

Pursuant to 8/5/83

101A-1774-210

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2 - Bureau
2 - Field Office

**Case involves a joint investigation between FBI, IRS & U.S. Customs

* See codes on reverse side. Subject description codes in Section F are required only when reporting a conviction.

1-IVA 1-Supv., M-1

1-66-8492

①-196A-1774

FBI/DOJ

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FD-36 (Rev. 5-22-78)

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FBI

TELETYPE PRIORITY

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1/6/84

~~ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
EXCEPT WHERE SHOWN
OTHERWISE~~

PRIORITY

NEW YORK (196A-1774) (P) (M-1)

PRIORITY

DIRECTOR FBI (196B-2848)

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MARC RICH - FUGITIVE; PINCUS GREEN - FUGITIVE; [redacted] MARC
RICH AND COMPANY; MARC RICH AND COMPANY INTERNATIONAL, LIMITED, ALSO
KNOWN AS "CLARENDON A. G.;" RICO; FBW; MF; TAX EVASION; TRADING WITH
THE ENEMY; OO: NEW YORK

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1 - New York

1 - [redacted]

1 - Supervisor M-1

WMM:mej030V1

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CLASSIFIED BY [redacted]~~

~~REASON: 1.5 (cd)~~

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Approved: [signature]

Transmitted 121/619

Per [signature]

NOTE: AFTER APPROVAL, PLEASE ROUTE THIS DOCUMENT
PROCESSING SUPERVISOR, NOT TO THE TELETYPE ROOM.

WP Initials: [signature]

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THE FOLLOWING IS CLASSIFIED "~~SECRET~~" ~~IN ITS ENTIRETY.~~

REFERENCE BUREAU CONFERENCE REGARDING CAPTIONED MATTER,
DECEMBER 5, 1983, AND NUMEROUS TELEPHONE CALLS BETWEEN BUREAU AND
NEW YORK, DECEMBER 6-20, 1983.

THE PURPOSE OF THIS TELETYPE IS TO PROVIDE THE NEW YORK
OFFICE'S (NYO) [REDACTED]

[REDACTED]
[REDACTED] WITHOUT RISKING COMPROMISE
TO A HIGHLY SENSITIVE AND VERY VALUABLE [REDACTED] SOURCE [REDACTED]

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CIRCUMSTANCES DICTATE, A HIGHLY SENSITIVE SOURCE [REDACTED]

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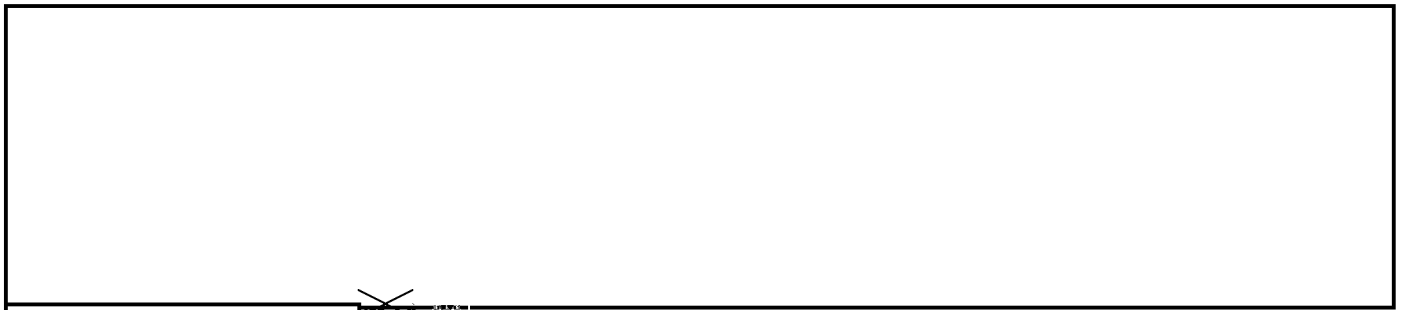
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FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-01-2017 BY:

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PP HQ

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FM FBI NEW YORK (196A-1774) (M-1)

TO DIRECTOR FBI (196B-2840) PRIORITY

BT

~~SECRET~~ SECTION 1 OF 2

MARC RICH - FUGITIVE; PINGUS GREEN - FUGITIVE; MADE
PICH AND COMPANY; MARC RICH AND COMPANY INTERNATIONAL, LIMITED, ALSO
KNOWN AS "CLARENDON A. G.;" PICO; FBW; ME; TAX EVASION; TRADING WITH
THE ENEMY; OO: NEW YORK

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THE FOLLOWING IS CLASSIFIED "~~SECRET~~" IN ITS ENTIRETY.

REFERENCE BUREAU CONFERENCE REGARDING CAPTIONED MATTER,
DECEMBER 5, 1983, AND NUMEROUS TELEPHONE CALLS BETWEEN BUREAU AND
NEW YORK, DECEMBER 6-20, 1983.

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PAGE TWO DE NY 0121 ~~SECRET~~ SECTION 1 OF 2

THE PURPOSE OF THIS TELETYPE IS TO PROVIDE THE NEW YORK

OFFICE'S (NYO) [REDACTED]

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[REDACTED] WITHOUT RISKING COMPROMISE

TO A HIGHLY SENSITIVE AND VERY VALUABLE [REDACTED]

SOURCE [REDACTED]

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AS NOTED IN REFERENCED CONFERENCE, [REDACTED] WAS, AS

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PAGE FOUR DE NY 0121 ~~SECRET~~ SECTION 1 OF 2

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PAGE SIX DE NY 0121 ~~SECRET~~ SECTION 1 OF 2

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FM FBI NEW YORK (196A-1774) (M-1)

TO DIRECTOR FBI (196B-2848) PRIORITY

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Memorandum



To : SAC II (196A-1774) (P) (M-1)

Date JAN '9 1984

From : SA [REDACTED] b6
b7C

Subject : MARC RICH-FUGITIVE;
PINCHUS GREEN-FUGITIVE; b6
[REDACTED] b7C
MARC RICH AND COMPANY, A.G.;
MARC RICH AND COMPANY
INTERNATIONAL, LIMITED;
AKA "CLARENDON A.G."
RICO-FBW-MF-TAX EVASION-
TRADING WITH ENEMY
(OO:NY)

In order to better understand the fraud scheme in captioned case, writer will outline the crude oil price control regulations which were in effect in the United States from May, 1973 through January 28, 1981.

The Department of Energy's (DOE's) regulations created three major categories of crude oil: "Old" (also called "Lower Tier"), "New" (also called "Upper Tier") and "Stripper". These categories correspond to price control categories and were not based on any physical or chemical characteristics of the oil. A barrel of domestic crude oil with a new oil or old oil component was referred to as a "controlled barrel". Stripper oil was referred to as "uncontrolled".

Old oil had the lowest maximum lawful selling price. New oil had a higher maximum selling price. Stripper oil was

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exempt from price controls and could be sold at the market price which was far in excess of the prices for old and new oil. At relevant times, a stripper barrel would sell for in excess of \$20.00 more than a barrel of old oil and \$15.00 more than a barrel of new oil of like quality.

Each oil reseller was required to certify in writing to the purchaser the respective amounts and prices of old oil, new oil, and stripper oil contained in crude oil being sold. To determine compliance with the regulations and to prevent overcharging, the DOE periodically audited and reviewed the records of resellers of crude oil, which records were required to be kept by law.

If a certification was illegally changed from old oil or new oil to stripper, it would enable a company to sell at world market prices rather than the far lower controlled prices (in 1980, \$35.00 per barrel as opposed to \$6.00 to \$14.00 per barrel) thereby enabling the reseller to make huge illegal profits at the expense of his customers and the American Public.

DOE statistics indicate that millions of controlled barrels simply disappeared during the period of price controls. The only explanation is that certifications on controlled barrels were altered to reflect uncontrolled barrels. This illegal process was facilitated by passing the crude oil through a large number of resellers known as a "daisy chain". The original reseller of the controlled oil would receive a like amount of crude oil falsely certified as uncontrolled at drastically discounted prices. The original reseller made a huge profit and each of the other "daisy chain" companies shared a smaller profit.

NY 196A-1774

For example, Company A would agree to sell 100,000 controlled barrels to Company B for \$6.00 per barrel, in return for Company B's agreement to sell Company A 100,000 barrels of uncontrolled oil at \$9.00 per barrel. Company B would run the oil through a "daisy chain" wherein someone would change the certifications from controlled to uncontrolled. Company B and the other companies would profit from the \$3.00 differential between \$6.00 and \$9.00. Company A would sell the falsely certified uncontrolled oil for \$35.00 and reap huge illegal profits.

MARC RICH and PINCUS GREEN used International to participate as the original reseller of controlled oil into a "daisy chain".

Under the DOE regulations, resellers such as International were restricted in the prices they could charge their customers for crude oil. Effective 9/1/80, International and other resellers were permitted only a \$.20 profit or mark-up per barrel of oil it sold in the controlled category. In the event a reseller's average mark-up or profit, computed on a monthly basis, exceeded \$.20 per barrel, the excess profits were illegal and were required to be refunded to its customers

Resellers such as International were required by law to submit each month forms ERA-69 to the DOE setting forth their actual average mark-up per barrel for crude oil sales and specifying any overcharges to customers so that they could be immediately refunded.

U.S. Attorney Steering Office in New Directions

By SELWYN RAAB

Last summer, soon after he was sworn in as the United States Attorney for the Southern District of New York, Rudolph W. Giuliani made four unpublicized visits to the Lower East Side.

His purpose, he said, was to get a first-hand look at the drug trafficking that has been openly conducted on the streets there for years.

Those visits, Mr. Giuliani said, led to a new strategy of encouraging Federal agents to arrest low-level drug dealers and prosecuting the dealers in the Federal courts. Previously, Federal authorities concentrated on middle- and high-level traffickers and left the smaller dealers to the city's Police Department and state criminal courts. Any sale of narcotics is both a Federal and a state violation.

Preview of Administration

Many of the 131 assistant United States attorneys in the Southern District welcomed the antinarcotics campaign as a preview of Mr. Giuliani's administration. They saw his efforts as indicating that he would be an energetic, innovative prosecutor who was certain to attract much attention to the office, which is considered one of the most important agencies in the Federal law enforcement system.

Because Manhattan is a hub for

major criminal and civil cases, Mr. Giuliani's post is one of the most coveted Federal law enforcement jobs in the country. In accepting President Reagan's appointment last June, Mr. Giuliani gave up the No. 3 job in the Justice Department, that of the associate attorney general. For two years in that post he supervised all 93 United States Attorneys in the country, including the Southern District's.

The 39-year-old Mr. Giuliani was born and reared in New York City. He was an assistant United States attorney in the Southern District from 1970 to 1975. In those years he acquired a reputation as a successful prosecutor in several publicized political and police corruption trials. Lawyers and colleagues ranked him as a master of cross-examination.

Now, six months after being sworn in as United States Attorney, Mr. Giuliani works in a cluttered office in the Justice Department Building at 1 St. Andrew's Plaza, just off Foley Square in lower Manhattan. He sits besides an American flag and with a portrait of Thomas Jefferson propped up on a bureau and wall behind him.

Major Policy Changes

Since Mr. Giuliani's appointment 8 new attorneys have been added to the narcotics unit, raising the total to 21. In addition to an increased emphasis on drugs, Mr. Giuliani said these were his other major policy changes:

¶More and quicker prosecutions of tax-evasion cases, which he said now often take as long as two years before indictments are obtained. His office and the Internal Revenue Service are developing a plan to uncover major violators and speed up prosecutions.

¶The assignment of a special assistant to oversee public corruption cases and to insure that information obtained by different sections of the office is properly coordinated. He defended "Abscam-type" undercover operations as "very necessary at getting at boardroom, Congressional and executive branch corruption."

¶More appointments of prosecutors from city district attorneys' offices as temporary assistant United States attorneys to increase cooperation with local law enforcement agencies. Eight assistant district attorneys have been "cross-designated" as assistant Federal attorneys by Mr. Giuliani in an effort to reduce "rivalry and jurisdictional problems that can be very destructive," he said.

¶The opening of an office in White Plains last November, the first outside of lower Manhattan in the district, which comprises Manhattan, the Bronx and six counties north of the city. Mr. Giuliani said he wanted to initiate more investigations in the suburbs and to allow grand juries to meet there instead of only in Manhattan.

¶Seeking larger fines and more seizures of property from companies that violate civil laws. Mr. Giuliani noted that the Government had obtained \$8 million in fines in the last five years from New York subsidiaries of the General Electric Company for its financial records. He said he was investigating for

"That fine has

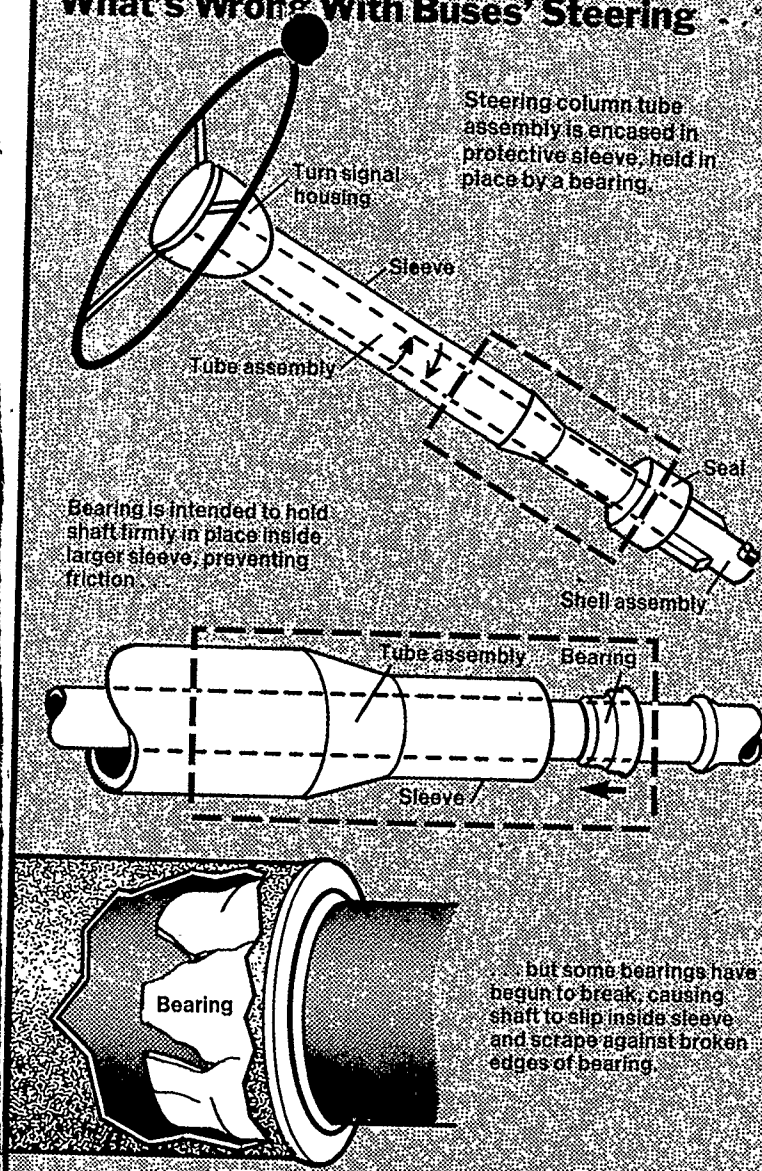


The New York Times, Edward H. Rutter

Rudolph W. Giuliani

Cont

What's Wrong With Buses' Steering



The New York Times / Jan. 9, 1984

steering problems with the buses.

Mr. Perfall also said that the Metropolitan Suburban Bus Authority, a subsidiary of the M.T.A. that runs buses on Long Island and provides bus service from there to subways in Far Rockaway, Flushing and Jamaica, Queens, checked its 125 Grumman Flexible buses this weekend. That agency has 60 buses.

Mr. Perfall said no problems had been found in the Long Island buses.

The Authority has alerted the private bus companies in the city, which use about 300 Grumman buses, of the problems. Mr. Perfall said The Flexible Corporation would alert all other bus companies in the country that use this model bus. About 5,000 of the buses are in use outside the city, he said.

Science at Rockefeller U. Is Continual Experiment

Continued From Page B1

ing for disease-causing viruses, bacteria and cancer cells to kill.

Dr. Nathan's job is to learn what he can about how the macrophage kills invading cells. To do this, he often uses chemicals found in the body in minute amounts — but made with recombinant DNA techniques in great quantities — to stimulate the macrophage's killing activity.

While working on an experiment, Dr. Nathan often sits at a long table fitted with a sink, a stool, shelves overhead and covered underneath. The table, known as the "bench," is used for basic research. Sometimes, Dr. Nathan is covered with test tubes and note pads, and cleaned off in between experiments.

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cell differentiation, the study of plant genes that regulate photosynthesis, the study of skin diseases, and the study of diseases caused by parasites, which is one of the world's leading health problems outside of the United States and developed countries.

Study of Canaries

Another Rockefeller scientist, Dr. Fernando Nottebohm, is studying how canaries learn to sing. According to Dr. Lederberg, his research is an example of how basic scientific study can unexpectedly provide insights and potential applications in other fields.

When Dr. Nottebohm began studying songbirds in the early 1960s, he was more interested in the birds than their brains. But soon he became interested in how canaries learn to sing, and whether their brains changed when they learned.

He found that the birds' brains did indeed change. In fact, Dr. Nottebohm and his colleagues discovered that during the year when a canary changes its old song and learns a new one, the parts of the brain that control song change.

U.S. Attorney Steering Office in New Directions

Continued From Page B1

half the total budget of \$14 million for this office," he explained. "Drug dealers and white-collar criminals, instead of the public, should have to pay the costs of funding the system of criminal justice."

Narcotics, organized crime, white-collar crimes and public corruption were cited by Mr. Giuliani as his four investigative priorities. The priorities will be "balanced," he said, adding:

"You have to keep the ball in the air in each one of these areas. That is the way to create general deterrence and to dispel cynicism about law enforcement by showing we treat everyone alike, whether you are a major criminal or a low-level drug pusher."

Criticism From Some Quarters

The shift in narcotics strategy, however, has been criticized by some of the attorneys on Mr. Giuliani's staff and several Federal judges. They have said privately that the office and the Federal District Court in Manhattan lack the resources to prosecute large numbers of low-level drug dealers in the city and that the narcotics campaign would impede more vital matters.

The attorneys and judges said Mr. Giuliani might have been seeking favorable publicity by announcing the narcotics crackdown and by personally appearing in court last month to ask for

long prison terms for the first two convicted dealers.

Mr. Giuliani, in a recent interview, said he was aware of the criticism. But he emphasized that new narcotics policy was "long overdue" and was the opening move on his part to make his office "more relevant" to the needs of the community.

'Elite Attitude by Attorneys'

"I know there is a certain resistance among some of the judges and an elite attitude by attorneys that God put us here to do only important cases," he said. "They have got to stop sitting in ivory towers and deciding on their own what is important. One of the problems this city has is drug dealing on the Lower East Side and if the city can't handle that problem because it is overwhelmed by other crime problems than we have a responsibility to help."

Last July after watching heroin sales along Eldridge and Rivington Streets and Avenues A and B, Mr. Giuliani encouraged the Federal Drug Enforcement Administration to crack down on street sales on the Lower East Side.

He said his decision was also influenced by Mayor Koch, who in a meeting with his staff complained that Federal officials were chiefly interested in "big cases" and had ignored drug dealers in such areas as the Lower East Side.

So far, Federal agents have arrested

more than 20 suspects for narcotics sales on the Lower East Side and 12 have been convicted in the Federal District Court in Manhattan, most of them for the sale of heroin. They have received sentences ranging from probation to 10 years in prison.

Mr. Giuliani said he would keep the pressure on the Lower East Side for at least two years. "That neighborhood had become an area of immunity for drug dealers, affecting the lives of tens of thousands of people," he said. "The dealers also are supplying heroin for the rest of the city and the Northeast. Sure, we can't catch all of them, but we want to send a message to them; when we catch you, you go away for a long time."

According to Mr. Giuliani, the public and news organizations "have a more benign view of organized crime and white-collar criminals than they should," because they wrongly view such criminals as having committed victimless offenses.

His own family, Mr. Giuliani said, was victimized by an organized-crime group at the turn of the century when his immigrant grandfather was forced to closed several cigar stores in the city rather than pay "protection money" to gangsters.

Organized crime and white-collar criminals, who usually are involved in frauds and corruption, he said, "unhinge the law for everybody and en-

courage other people directly and indirectly to commit crimes of violence."

Since his appointment, Mr. Giuliani said he was aware of "gossip and rumors" that he took the post in the hope that the attention it brought would help him begin a political career. "I have no such plans," he said, "although it is impossible to convince some people of that."

He declined to comment on suggestions that he planned personally to conduct the courtroom prosecution soon of a major organized-crime figure. Last September, F.B.I. officials said they expected that Federal indictments of key organized-crime leaders would be announced this year in Manhattan.

"There are a couple of cases I am thinking about," Mr. Giuliani said, refusing to be specific. "Part of the excitement of this job is being able to try a few cases."

LOTTERY NUMBERS

Jan. 8, 1984

New York Numbers — 149

New York Win 4 — 3130

Jan. 7, 1984

New York Lotto — 11, 12, 28, 41, 43, 7; supplementary, 19

...nomies began.
Henry Stern has been selling neckties in this way for a number of years. At dinners. At lunches. In hallways. At every possible occasion.

Henry Stern is, in fact, in the business of selling neckties with his partner, Deputy Mayor Robert F. Wagner Jr. They have made more than \$35,000 selling their neckties, although Mr. Wagner gives most of the credit to Mr. Stern.

All the money goes to benefit New York City. Once, they turned over \$7,000 for libraries. Another time they donated \$500 to City Harvest, a food program for the needy. They now turn

the money over to the New York Community Trust, where they have \$28,893 invested in money market funds, according to a spokesman for that foundation. The Community Trust gives grants to a variety of groups that supply services in health, education and the arts.

Even though Mr. Wagner will be leaving the city government this month to take a fellowship at Harvard University, he said the tie partnership would remain intact. He said he would continue to refer customers to Mr. Stern.

It all started in 1976, during the city's fiscal crisis, when Mr. Stern and Mr.

Wagner were Councilmen at Large. "Mayor Lindsay had ties made up which he gave to executives in his administration," Mr. Stern recalled. "We said why can't we sell them or people to wear, and we can make money to help alleviate the fiscal crisis."

They designed a dark blue polyester necktie with the city seal emblazoned in gold (the burgundy tie was added recently). The label Stern & Wagner was sewn in. The cost of each tie was \$4.25, and they sold them for \$8.10. Sales mushroomed.

By the next year, they had made \$7,000 in profits, which they decided to present to Mayor Abraham D. Beame.

Mayor Beame said he was too busy to see the two Councilmen, who had been critical of his administration. The money was finally presented to Comptroller Harrison J. Goldin. Mayor Beame said later that he had not realized the two Councilmen wanted to turn money over to him.

One thing led to another. When Mr. Stern became Parks Commissioner last year, he said he was appalled to find that a Parks Department tie — navy blue with green maple leaves — was being sold at cost, for \$10 each. He went immediately to his own distributor, struck a deal in which the ties would be produced in polyester for \$5 a tie and is now making a \$5 profit on each tie, which will go for the benefit of parks.

The park ties are only available to people who are involved with the city's parks. The city ties can be purchased by anyone at 61 Chambers Street or from Commissioner Stern all over town.

The recycling ceremony the other day was held under threatening skies, and Mr. Stern was wearing an orange slicker with Department of Parks, New York City, lettered across the back. Park workers wear them in the rain. Sanitation Commissioner Norman Steisel remarked that it was a nice-looking rain slicker.

"A lot of people have said that," Mr. Stern replied happily. "We're thinking of marketing it for the public."

'Red Caps' Fighting Arson in the Northwest Bronx

By DAVID W. DUNLAP

The Red Caps have come to the northwest Bronx. And with the arrival of the Fire Department's special arson-fighting squad, the city has moved north of Fordham Road in its efforts to keep arsonists from further devastating the borough.

"The message of the Red Caps is, 'No more South Bronx anywhere in New York City,'" Mayor Koch proclaimed last week, acknowledging that a problem once confined to the southernmost part of the borough now endangered a far larger area.

"The arsonists are moving north, nibbling away at our residential and commercial sections," said Thomas W. Wooding, vice president of the Northwest Bronx Community and Clergy Coalition, a group that lobbies heavily for better fire protection.

area, according to Fire Department figures. There were 139 fires of suspicious origin in the first 10 months of last year; in all of 1980, there were 137 such fires in the area.

Since the Red Cap program began in 1981, it has been credited with cutting the number of arson fires and increasing arson arrests in small areas around the city. The marshals have twice before been stationed in the Bronx — in the west and central portions of the borough, south of Fordham Road.

Last year, when they worked in the East Tremont section of the Bronx, suspicious fires dropped to 122, compared with 169 in the corresponding period of 1982.

Fires Where People Live

What concerns Thomas M. Sweetman, the deputy chief of fire marshals,

ings in the hope the city will move them to better apartments.

"The occupied building is obviously a much more dangerous place for a fire," he said, "but it's also a much bigger well to tap in terms of community information."

Local cooperation is part of the marshals' simple strategy. They are visible, they saturate an area and they investigate every fire — not just those later declared suspicious. Getting on the scene quickly, they find witnesses who might vanish and evidence that might be lost.

Eager to Share Credit

A wide assortment of officials and local leaders — all eager to share credit for the Red Caps' success — were on hand in a chilly fire house at 2222 Boston Avenue