The Organized Criminal Activities of the Bank of Credit and Commerce International: Essays and Documentation

In Memoriam David Whitby

Edited by Alan A. Block

Springer-Science+Business Media, B.V.

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In memoriam David Whitby

Edited by

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Introduction

Dedicated to David Whitby (1931–1999)

My friend DAVID WHITBY died in the late spring of 1999 in Somerset, England. Left unfinished was his manuscript on British banking regulation, or more often non-regulation, called *The Blind Old Lady*. David had laboured long and hard on this project and had asked me to work with him in 1996. I was desultory, he was not. I did finally give him a rather long chapter dealing with certain bankers who were also oil traders, members of what I dubbed the "Serious Crime Community." However, I was of the opinion that David's work was unique in style and tone, and that mine jarred with his. Nonetheless we kept at it for a while. My wife, Constance Weaver, and I stayed with David in his place in Devon several times. He stayed at our home in State College, Pennsylvania, for five weeks in the spring of 1997. He was the most extraordinary man – funny, irreverent, kind, interesting, wordly, tough and generous.

For well over four years I saw England through David's eyes as we travelled far and wide usually in his small old car with his elderly King Charles Cavalier Spaniel, Holly, curled up in the back, stopping often at splendid pubs for David was often dry. David became my best friend and a teacher of matters arcane. I miss him every day and thought to share some of his work with readers of this journal. This is not simply sentiment gone awry. David had much to say about banking around the world including the BCCI scandal and the failure of the Bank of England's regulatory responsibilities among others. His primary interests included the following:

- The Bank of England (the "Blind Old Lady") and the flakey performance of the most secretive department within the Bank – the Banking Supervision and Surveillance Division. The Bank's role in law enforcement and intelligence gathering in the context of international organised crime, money laundering, and offshore banking.

- The conspiracy between the British Government (HM Treasury and the Foreign Office) and the Bank of England to conceal the financing of British and foreign government exports of arms to Iran-Iraq etc. through the London money market.

- The failure of the US Justice Department, the Serious Fraud Office, and the Bank of England to investigate or prosecute leading members of the international crime community linked with the CIA, MI6, and other foreign intelligence agencies.
- The cover-up surrounding the Bank of England's handling of recent international banking scandals – notably the closure of the Bank of Credit and Commerce International S.A. ("BCCI"), in July 1991; and the collapse of Barings Bank in February 1995.

The Whitby prologue and précis

I was born in April 1931, in the same year as Boris Yeltsin, Mikhail Gorbachev, Rupert Murdoch, and Bishop Desmond Tutu. In the same year, Thomas Edison, the inventor of the modern telephone, died. In that year, also, Oswald Mosley broke away from the British Labour Party to form his "New Party," soon to be modelled on Adolf Hitler's Nazi Party. At the cinema, Charlie Chaplin played in "City Lights," and Boris Karloff appeared as the monster in "Dr Frankenstein"; and, at Wembley Stadium, West Bromwich Albion beat Birmingham City, 2–1, in the F.A. Cup Final.

On May 11th, that same year, the bankruptcy of Credit Anstalt, Austria's biggest and most secretive bank – owned by the Rotschild family – heralded the financial collapse of Central Europe and opened the doors for Adolf Hitler. In late September, Britain abandoned the "gold standard" and the £pound fell, against the US dollar, from $4.86 to $3.49 while the German tabloids gloated "Die Bank fon England ist kaput." Little did I know then, that, a quarter of a century later, I would be working in the "discount market," one of the more arcane City banking institutions that had helped save the Bank of England from imminent disaster.

As part of the 1931 rescue package, the discount houses (about a dozen, in all) formed an "association," in other words – an insider dealer's ring – to underwrite the weekly issue of Treasury bills, and to make a market in short-dated British Government funds ("gilts"). In return, they were given certain privileges at the Bank, including "lender of last resort" borrowing facilities. The discount houses visited *all* the banks in the City "square mile" on their morning rounds, whose representatives wore the once-familiar black top-hats as a form of identity badge. Apart from supplying the banks' liquidity needs, repaying money lent overnight and discountting bills, the visits provided not only a forum for market gossip but also, a source of intelligence gathering. Suspicious behaviour and crooked trading, or perhaps a new bank hanging up its shingle, would be promptly reported back to the Bank's Discount Office – the fore-runner of the present day Banking Supervision and Surveillance division that failed so abysmally in its supervision of BCCI and Baring Brothers.

It was much easier to detect City white-collar crime in those days when banks only lent money against "good security," and the banks knew their own customers. The Stock Exchange jobbers and the discount houses conducted their business face-to-

face. As my old boss when I joined the discout market – who had worked as a "bond-salesman" on Wall Street during the "Great Crash" of 1929, through the Credit Anstalt crash, and served in British military intelligence during the Second World War – always used to say: "Remember! The telephone is *not* a secure instrument."

During the 1960s, foreign banks had flooded into London in pursuit of Eurodollar deposits. Arabs were spending their new found oil wealth in West End casinos. Exchange Control regulations were tight. In 1971, when our story begins, new "banks" on the fringe took advantage of the property boom, fuelled by Tory Chancellor Barber's first Budget. The discount houses (whose functions and special privileges at the Bank were soon arcane) became active traders in US dollar and foreign currency paper, and took stakes in the new money brokers (or "barrow boys," as the snobs called them, since the sharpest brokers were mainly Cockney Eastenders). While the "gentleman's club" was quickly being replaced by the fast growing "interbank swaps" market (now LIFFE), the discount houses had found a new role to play – opening representative offices overseas (Gillett Brothers, where I was then chairman, in Southern Africa, UAE, Australia and Singapore, with brokering subsidiaries in Europe, Far East, and North America) – gathering market intelligence around the world, as the invisible "eyes and ears" of the Bank of England.

From 1979 until the return of a new Labour Government in May 1997, the Bank of England has been statutorily responsible for the licensing and supervision of all banks and deposit-taking institutions operating within UK jurisdiction. Overall responsibility for UK banking supervision has recently been removed from the Bank and vested in the Financial Services Authority, a new super-regulatory body headed by Howard Davies, who had been brought in from outside as Deputy Governor of the Bank following the collapse of Barings Bank in February 1995.

Formerly the province of the Bank's Discount Office, UK banking and money market supervision took on an international dimension in April 1971 with the introduction of "Competition and Credit Control" in the Chancellor's Budget. These new measures fringe operators and property speculators, licensed by the Department of Trade, to compete for sterling and foreign currency deposits with UK banks and City institutions on a level playing field.

The "fringe bank crisis" years of 1973–75 that followed were accompanied by an influx of foreign consortium banks and financial institutions – among them the infamous Bank of Credit and Commerce International S.A. from Luxembourg, backed by the Bank of America and a consortium of Arab investors including the Ruler of Abu Dhabi, Sheikh Zayed bin Sultan Al-Nahyan, and the former head of Saudi Intelligence, Sheikh Kamal Adham.

In 1974, at the height of the crisis, one of the Bank's oldest and most valued customers – the Crown Agents – collapsed, leading to a far-reaching Tribunal Inquiry that was highly critical of the Bank's performance as a regulator.

In Europe, the crash of Bankhaus Herstatt in Germany; the Vatican Bank scandal in Italy; and in the United States, the collapse of Franklin National Bank; gave early

examples of the penetration of the international banking system by a network of secretive financiers, with political influence and links to organised crime. These events were monitored and documented at the Bank of England, by the Economic Intelligence Division, and by the Discount Office.

In 1975, the Discount Office was reorganised and a new and enhanced Banking and Money Market Supervision division was set up under George Blunden who, nine years later became Deputy Governor. The abolition of UK Exchange Control regulations, and the introduction of the first Banking Act, in 1979, meant that the Bank of England effectively became the global centre of international banking and money market intelligence in addition to its statutory powers as lead regulator responsible for UK banking supervision. London, by default if not by definition, became the most important money centre for trading in sterling; foreign exchange; eurocurrency deposits; and "petrodollars," generated from Arab oil royalties, and invested through the London "interbank" market.

As new financial centres developed in the oil rich Gulf sheikhdoms – Bahrain, Kuwait, the Sultanate of Oman, and the United Arab Emirates – the new monetary authorities and currency boards were modelled on British lines. Likewise, in the Far East, the monetary control and banking supervision of former British dependencies such as Brunei, Hong Kong, Malaysia, and Singapore, stayed closely tied to the Bank. In conjunction with the Foreign Office, the Bank of England still continues to run regular training courses in London and exchange student programmes with other foreign central banks around the world.

On many occasions in the past, the Bank has been called in to act as adviser, or asked to procure expatriate senior bankers, often seconded from its own foreign exchange and money market staff, and provides technical support to emerging foreign central banks and third-world governments facing geo-political change. In this respect, the Bank of England is the "central banker's banker" and performed (until 1998) an international role in the supervision and surveillance of the international banking system.

The Bank (until 1998) monitored the controlling shareholders, directors, and senior officers of every listed bank in the *Bankers Almanac*, and kept a register of "fit and proper persons" (and records of people known or suspected of financial criminal activity) involved in the banking secotr. In this respect, the Bank of England was unlike any other central bank or banking authority – including the US Federal Reserve Board, the German Bundesbank, the Banque de France, and the Japanese Ministry of Finance.

The Bank's confrontation with the Thatcher Government over its handling of the Johnson Matthey Bankers fraud in 1984 led to the establishment of the Board of Banking Supervision, and to the second Banking Act of 1987 which followed the deregulation of the securities and financial markets – the so-called "Big Bang." The Bank was deeply involved in the Big Bang. One change was the replacement of the old-style gilt trading method – the jobbing system – in which the Bank (as issuer and

manager of government debt) had dealt, via the Government Broker, with a handful of specialist traders – the jobbers – on the floor of the Stock Exchange. It also spelt the death of the old-style market – the "eyes and ears" of the Bank, and the City's intelligence grapevine.

.....

Six weeks or so before David died, we spent three fairly riotous days together in Somerset. At that time, David gave me a long and exceptionally important document from Luxembourg concerning the allegedly corrupt behaviour of BCCI's auditors Price Waterhouse. What follows, therefore, is a chapter from David's manuscript and the Luxembourg document.

Alan A. Block
Editor

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The Tennessee Bankers

DAVID WHITBY†

Among the countless US regional banks that I visited for Gillett Brothers, the most fondly remembered must be the Union Planters National Bank of Memphis, Tennessee. By American standards, this was an old bank – established in 1869 as a merger between Union Bank and Planters Bank, but dating back much earlier to the slave trade with the Liverpool cotton merchants. The vaults were stuffed with defunct Mississippi government loans and Confederate bonds from the Civil War. The bank' board of directors were "good old boy" Tennessee establishment figures. As far as most of them were concerned, the Civil War was still going on – the modern enemy now being the Wall Street Sharks and "Ivy League" Washington fixers from the North.

The concept of a London discount house, or "merchant bank", trading in bills of exchange was quite familiar to these back-woodsmen – many of them Southern baptists – who had been brought up by their forefathers to recognise the value of good security. Until the "Great Crash" of 1929, the commercial bill had enjoyed almost equal status with the US dollar bill and, in England, the "Bill on London" was "as good as gold."

Commercial bills of exchange are normally drawn for payment 91 days after acceptance, but sometimes they are drawn for longer periods up to 180 days. The romantic notion seems to be that the tea clippers, such as the Cutty Sark, took six months to return from the Far East – this is a fallacy, for the homeward journey did not take so long. There is another more sinister, though perhaps more likely theory, that the tenor of the bills was extended to accommodate the slave traders – the Holts of Liverpool, and the Hervey's of Bristol. First port of call would be the Gold Coast to load up with African slaves; then across to New Orleans to reload with cotton; back to Opporto and Bordeaux to load up with fine wines, and then back to England. The British have long destroyed most of the incriminating records, but the French have kept on permanent display, in the maritime museum at Nantes, the ship's log book of a captured Liverpool slaver – and some documents endorsed by the Planters Bank in Memphis.

When William M. Matthews Jr. took over as chairman and chief executive of Union Planters, in mid-1974, the bank was facing extinction. Reeling from recessionary pressures, and riddled with fraudulent loans approved by senior

managers who were taking kick-backs, Matthews went ruthlessly to work. Within a few months, more than two dozen top men had been fired, eleven indicted, and several wound up in prison. Within the next four years, the bank had been completely purged and restructured. Matthews had installed in the bank two massive Amdahl 470 V-8 mainframe computers, that dwarfed the largest IBM models of the day, launching "Annie the Anytime Teller" machines and novem computer data processing services.

By 1979, Union Planters had bought a discount brokerage business,[1] and become one of the most profitable investment banking and commercial organisations to be found anywhere in the United States. People were beginning to take note of Bill Matthews, but few could say they knew him well, and there were fewer still that liked him. I had met Matthews only briefly on a previous visit to Memphis. He had struck me as a cold fish with a sly oily smile, and "something of the night" about his features.[2]

In April that year, I had accompanied the British Invisibles[3] on a mission to Atlanta and Miami to promote the financial services of the City of London. The mission was led by Lord O'Brien, former Governor and now chairman of the Saudi International Bank. Together with O'Brien and a French banker called Jean-Pierre Fraysse[4] – who shortly afterwards joined Bank Leu in Nassau, and became embroiled in an insider trading scam – we lunched at one of the Atlanta banks.[5] Over lunch they told us that the National bank of Georgia, a small bank with a rather poor reputation which had previously belonged to Bert Lance,[6] "had now been completely taken over by the Arabs." Later that afternoon, I decided to call on Francisco da Costa Lobo,[7] a Portuguese banker and a fried from my Gillett days, who was now working at the National Bank of Georgia. "Cico" told me that he would shortly be leaving Atlanta and moving to Houston (Texas), and confirmed that Arab investors had bought the bank. I thought no more about it at the time, and continued on my travels.[8]

On Wednesday 27th June, our old fried Mr Padiyar – the advisor to BCCI (Overseas) in London – gave me lunch at the Marine Club restaurant near Plantation House. Over the brandy and cigars, Padiyar suggested that I might like to come and work for BCCI on a part-time basis. "I have told Mr Abedi about you. He has asked me to invite you to join our team of international advisers – Mr Sen Gupta from the Bank of Baroda, the former governor of the Central Bank of Iran, and of course the Bank of America – all very well recommended people by the Bank of England," he said. I would be paid the same salary I had been getting as chairman of Gillett Brothers (£25,000 p.a. – which makes one shudder when you compare it with present day salaries!) and would not be expected to come in every day. Padiyar then went to mention a Mercedes car and other fringe benefits that I might succumb to. Not wishing to embarass Padiyar, I told him that I would would have to ask the Bank's

permission first. "There is no hurry", he had replied, "the offer will always be open to you."

On the following Saturday afternoon, I happened to see Rodney Galpin (from the Bank) at a social function. I mentioned Padiyar's offer. Rodney laughed: "It sounds very tempting. If you were an old man like Sen Gupta, I would say go ahead and risk it. At your age, if BCCI went wrong, you could never work in the City again. It would blight your career."

In late October, Bill Matthews came to London, accompanied by two senior vice presidents from Union Planters and a large friendly man, with a deep Southern accent, who had "just come along for the ride". They were staying at the Hyde Park Hotel, and I went round to meet them on the Sunday evening. The large man was introduced as Wise Swepston Jones. "Just call me Wise," he said, looking for some more ice to put in his Bourbon.

Matthews had come to London to pay a courtesy visit on the Bank of England, and to report that Union Planters was now in much better shape. There were still some dubious investments, including ownership of a small Parisian bank[9] where the manager had absconded, leaving a large hole in the accounts. Union Planters also owned a branch in Hong Kong which had long ceased to be operational. On the Tuesday, I had taken the party to see Jasper Hollom, the deputy governor, and John Kirbyshire, the Governor's North American adviser. Afterwards, we repaired to a City wine bar to discuss tactics.

It appeared that Union Planters had acquired the moribund bank in Paris on the whim of the previous chairman's wife whom Bill Matthews had ousted. The good lady, it seems, was shoppy nearby, and had seen the bank's splendid premises in the Avenue George V, with a large "For Sale" notice in the ground-flour window. She had looked inside, admired the furnishings, and persuaded her husband (who was very rich) to buy the bank – rather like the man that sells electric razors on the television. Matthews was aiming to sell the lease on the building, and to keep the second floor as a branch office for Union Planters. When this had been accomplished, Albert Misrahi – a friend of Roger Tamraz, who had worked for Citicorp in Beirut – became the branch manager of Union Planters' Paris office.

Wise Swepton Jones had been born and raised in Arkansas, just over the other side of the Mississippi river from Memphis. A totally different character to the wily and devious Matthews, we quickly struck a bond. Wise was a deal maker, loosely described in American terms as an "investment banker". He was on a scouting mission looking for European pension funds and Arab petrodollars to invest in real estate projects throughout the State of Tennessee.

One of his projects was associated with Ned Cook, a wealthy commodities trader[10], who was building new tower block offices for the Union Planters

Bank in east Memphis – later to become the headquarters for the Union Planters Investment Banking Group. Cook was then a substantial shareholder in Arbuthnot Latham, which at the time owned 20 per cent of Oryx Investments in Dubai.[11]

Ned Cook's investment in Arbuthnot Latham, one of the dozen or so elite members of the Accepting Houses Committee, caused the Bank of England some concern. Cook was known to be a big gambler and, eventually, came unstuck in the Bunker Hunt silver ramp. Dow Scandia Bank[12], whose London Board chairman was H.A. Hitchcock DFC, the former head of International Westminster Bank's foreign exchange division at the time of the Herstatt crash, then took over Arbuthnot Latham, and bought out Ned Cook's shares.

Wise was also leading a consortium to finance the construction of a new Hyatt-Regency hotel complex in Knoxville (Tennessee). One of the banks in his consortium was the Valley Fidelity Bank & Trust Company, a family-owned bank in Knoxville. Two years later, the directors of Valley Fidelity had woken up one day to find that some unknown Arab investors had secretly bought a 37 per cent stake in their bank. The same Arabs – whom Wise had not yet identified – were said to be in league with a venerable US Senator[13] and a former US Defence Secretary under President Johnson who was now head of a slick Washington law firm.[14] The entire scenario had all the makings of a John Grisham novel.

The Arabs had already bought control of several banks in other States, which had raised no objections from the authorities – apart from the New York State banking commissioner, Muriel Siebert, a formidable lady who, in 1976, had stopped BCCI (then controlled by the Bank of America) from buying two small banks in up-state New York. One of these banks – the almost eponymous, but otherwise unrelated, Bank of Commerce – had then been secretly acquired by the same "First Arabian" consortium that was fronting BCCI's take-over of First American Bank in Washington. We did not learn about these developments until the summer of 1982.

Over the next few years, Bill Matthews came back and forth to Europe, and established a good rapport with the Bank of England. Union Planters bought a 33 per cent stake in Finacor S.A., the French money brokers, and I became "European adviser" to Union Planters Investment Banking Group in east Memphis. Meanwhile, Wise Jones, who kept an office suite on the 10th floor in the Union Planter's downtown headquarters, had sold outt his commercial real estate holdings just before the US economy turned sour in early 1981. He had now turned his attention to the new opportunities in the banking sector, brought about by financial deregulation and recent changes in Federal legislation – the US "Big Bang".

In May 1982, Wise write from Memphis, pointing out in a long and detailed letter,[15] that small to medium-sized US regional banks and insurance companies were coming under intense pressure, and that there were several investment opportunities he had identified that could be profitably explored. In essence, an individual (or a group of individuals) was not restricted in making bank acquisitions by reason of geographical limitation, as was the case for banks and bank holding companies. Thus an individual was able to purchase a bank in any location without the prior approval of the Federal Comptroller of the Currency.

For a bank or bank holding company, gaining approval to acquire another bank was a lengthy and frustrating process, and frequently the application was turned down. Not so for individuals, who simply had to file a change of ownership with the "F.D.I.C."[16] under the requirements of the "Change in Bank Control Act 1978". An individual could then proceed with a tender offer for the shares of a target bank, and complete the take-over, "as long as the F.D.I.C. *does not* raise any objection within a specified time period."

Thus, the individual members of the First Arabian consortium would not actually have been in breach of Federal regulations in acquiring isolated banks in several States, as indeed they did, provided the F.D.I.C. did not raise any objection at the time. The problem arises when an individual seeks to merge these banks into a one-bank holding company – which *does* require the approval of the Comptroller of Currency.

Using research provided by Union Planters, Wise had targeted a number of medium-sized banks in the South-East for potential acquisition. The intention would be to convert each acquisition into a one-bank holding company; effect economies of scale and commonalty of ownership; employ the advanced technologies and services of Union Planters using their Amdahl computers; develop brokerage and financial services facilities; and consolidate the whole into one large multi-bank holding company serving the Southern States. Wise aimed to provide serious competition for the major investment banking houses and thus gain independence from Wall Street.

In London, Archie Clowes, a retired stockbroker from Sheppards & Chase[17] who had joined Samuel Montagu, had teamed up with a bank-stock analyst who had recently left Salomon Brothers to set up a dollar-based offshore fund, based in the Channel Islands, investing in US bank stocks and financial institutions. The intention would be to attract US non-resident and Arab investment into the fund, and also to provide financing for Wise Jones' acquisitions during the conversion period into one-bank holding companies.

I flew down to Memphis on 24 June 1982, having attended another seminar organised by "British Invisibles", this time in Vancouver. Wise met me at the airport, and took me to the Peabody Hotel – famous for the daily ceremony

of the ducks. At 11.00 a.m. each day, a trumpet sounds, a red carpet is rolled out, and about half a dozen ducks emerge from the elevator. The ducks waddle in file along the red carpet, and jump into the fountain in the middle of the reception area. At 5.00 p.m., the process is reversed. The ducks disappear into the elevator, and go back to their quarters on the roof. Later, we dined at the Memphis country club with Bill Matthews.

The next day, Wise told me that he had selected two banks as initial targets, but both of them presented some difficulties. The first bank, American Bank & Trust, was in New Orleans where state legislation has remained under the "Code Napoleon". The bank had been run for many years by the Roussel family, who had been closely associate with the corrupt Governor Huey Long and the local *Mafia* boss Carlos Marcello.

American Bank & Trust were official bankers to the State of Louisiana, which represented 55 per cent of the bank's total deposit base. The total assets of the bank were approximately $425 million. The problems of unsavoury management, and the volatile deposit base, would make the bank "possibly unsuitable for a conservative UK investor but could appeal to Latin American and/or Middle East investors, since it offers a unique opportunity to get into New Orleans as a centre for tourism and oil service industries."[18]

Touche Ross (the accountants, later BCCI Liquidators) had recently attempted to purchase American Bank & Trust on behalf of Altajir Bank, based in the Cayman Islands. They had been turned down flat by the owners, who instead had now offered Wise Jones "first refusal" to buy 100 per cent control of the bank for $49 million[19] for a quick answer. The asking price was rather less than Touche Ross had been prepared to offer, so we surmised that the Louisiana authorities would have withdrawn all their deposits from the bank if the owners had sold out to the Arabs. What we did not know, at the time, was that First Arabian (now only Tamraz) had secretly sold its remaining shares in Edward Bates to Mahdi al-Tajir[20] and the Allied Arab Bank, in London.[21]

The second target bank, the Valley Fidelity Bank & Trust, was in Knoxville, some two hundred miles to the east, with the advantage of being in the same jurisdiction as Memphis. First we needed to identify the Arab shareholders controlling the bank holding company which owned 37 per cent of Valley Fidelity Bank's stock – Financial General Bankshares in Washington. This could involve a tricky negotiation with FGB's chairman, Clarke Clifford.[22]

Wise had gone to Washington, and after much forestalling by a barrier of bossy secretaries, he had finally got to see Clifford. Clifford had been arrogant and evasive in his answers. He refused to disclose the identity of the Arabs owning a large stake in Valley Fidelity, and he denied that they had

any influence over the running of Financial General. I agreed to make further enquiries in London.

One the flight back, I read an article in the *Wall Street Journal* saying that Muriel Siebert, the New York banking superintendent, was putting pressure on Financial General to dispose of their stockholding in Bank of Commerce. The reason given being that Financial General had refused to disclose the identity of the foreign investors who owned a controlling stake. I was struck by the similarity in the names, between Bank of Commerce (New York) and Bank of Credit & Commerce (London), although in fact they turned out to be wholly unconnected. Had it not been for this similarity, neither the Bank of England nor the US Federal Reserve Board would have been alerted that BCCI, in partnership with the First Arabian consortium, had secretly acquired what later became the First American Bank, in Washington. The penny did not drop, however, until six years later.

The following week, by sheer coincidence, I was approached by a head-hunter who had been asked, by BCCI, to find them a "top man" to head up an international money broking division that BCCI was aiming to set up.[23] On the Friday, I had lunch with Mr Padiyar, to ask him whether there was any connection between BCCI and Financial General in Washington. I wrote back to Wise Jones on 5 July, enclosing a copy of a memo on BCCI that I had prepared for the head-hunter.

[My letter to Wise Jones reads as follows:]
. . . I thought it might be useful for you to have some of the names of personaliies etc. in writing, which may otherwise get distorted on the trans-Atlantic telephone:

A. Financial General Bankshares (FGB)
The "Arabs" in FGB are believed to be four Bahraini barristers fronting for nominees from among the numerous shareholders of the Bank of Credit and Commerce International S.A. (BCCI). BCCI is a substantial institution with world-wide branches, including sixty branches in the UK, mainly in the darker areas such as Bradford (Yorks.). The management is largely Pakistani, and their principal shareholder and major source of deposits is Sheikh Zayed, Ruler of Abu Dhabi.

Mainly because of their unstable deposit base (over 50% from Arab sources) the Bank of England have not allowed them recognised banking status in the UK. They are regarded as rather sharp people by the City establishment.

My contact (Mr Padiyar) at BCCI is trying to discover whether the four Bahrainis (B) would be prepared to sell all or a sufficient part of their 37% interest in Valley Bank, and at what price. I suggested that P. might tactfully persuade B. that the block on FGB with Muriel Siebert could be considerably eased if they got out of Tennessee, where Arabs are not entirely welcome! I am afraid that this may take some time to bear fruit as they move very *slowly in the East. However, it may be possible for us to*

by-pass Clarke Clifford and Senator Symington if/when B. are prepared to negotiate terms.

B. Altajir Bank
who attempted to buy out Roussell, are Cayman based with an office in London (not full banking status). They are quite respectable, controlled by Mahdi al-Tajir – reputed to be one of the wealthiest private individuals in the world.

C. Cayman National Bank[24]
... Peter Tomkins (ex Barclays Bank) tells me that "captive insurance" business has been flocking to the Cayman Islands, due to the bad political situation in Bermuda.

D. American Bank & Trust
... hoping to put together a proposal to form a joint-Venture Capital Company with you, to provide funds for investment in selected US banks stocks from overseas institutional and US non-resident sources. Clive Hardcastle has successfully done a somewhat similar exercise for privately held US Oil & Gas stocks, which raised approximately $100 million from UK institutions ... Structuring a joint venture is going to take time, and it may not be possible for us to get "cash up front" in time for the Roussel bid. The AB&T stock could presumably be purchased on short-term loans, and in due course transferred into the Ventury Capital Company portfolio – to be included in the prospectus?

Memo to Wise Jones: "Private & Confidential": 5 July 1982

BCCI
Their general standing in the City is not high. This is mainly due to non-acceptance by the Bank of England. The bank has LDT[25] *status only, notwithstanding they have wider international and domestic banking facilities in UK than any other foreign bank, and with more branches overseas than any of the UK clearing banks.*

Two reasons for this are frequently mentioned:

1. *The chairman (and founder) Mr Abedi – not to be confused with the London manager with the same name but unrelated – is highly unconventional, and describes himself as a "banking visionary".*
2. *The bank itself had an unstable deposit base in the past, with more than 60% of deposits from one source alone (Sheikh Zayed, Abu Dhabi). I am informed that the deposit base has broadened very considerably, and that their loan book is well spread. There are reported to be approaching £1 billion deposits from UK sources alone.*

... I have known the bank from its beginning, both in London and the Middle East. Many of their London staff are ex-Habib Bank and are competent bankers. They employ a number of senior advisers, including governors of the Central Banks of Bangladesh and Iran. They even approached me to join them, soon after I left Gillet Brothers!

Personally, I like the management who are straight forward to deal with. I would, in certain circumstances, be prepared to reconsider working for them as I believe their continued reputation as "unstable bankers" is unjustified. (I might possibly be able to help them with the "establishment"). I have been shown their confidential figures. The maturities and spread on their loan book appear very conservative (no loans to Argentina or Poland!)[26]

To attact high grade European management they have to pay a premium, and it is unlikely that anyone employed by BCCI could ever return to a conventional UK institution. I understand that you [the head-hunter] have been asked to find them a "top man" to head up an international money broking division they are setting up. Anyone who takes this on must realise that he will have burnt his boats with the establishment, so that the remuneration would have to be very high indeed.

No doubt there are several money brokers available from the general fall-out from Marshalls. Exco, Fulton etc., but I cannot think of any *money broker (except possibly John Barkshire, or John Gunn!)*[27] *that would have the necessary management skills, or toughness, or tact, to handle this type of assignment. There may be an ambitious but frustrated chief dealer in one of the banks that could be head-turned. Alternatively, someone like Peter Hambro*[28] *(for example, if he is not already fixed up) who* has *burnt his boats...*

Looking back fifteen years later, it is apparent that by mid-1982 BCCI was already making plans to set up their own money broking organisation in association with CIA and Saudi intelligence operatives. This became the notorious Capcom Financial Services that laundered Colombian drug cartel money and brokered illegal arms deals to Iran and Iraq. The two major shareholders in Capcom were Sheikh Kamal Adham, and Sheikh Abdel-Raouf Khalil – the former ex-chief, and the later ex-deputy chief, of Saudi Intelligence.[29]

On 29th July 1982, I wrote to Wise Jones again:

... I am still trying to get a response from the Pakistanis [BCCI]. We discovered that the man behind FGB is probably Ghaith Pharaon who owns National Bank of Georgia. It may be difficult to persuade Pharaon to sell his minority stake in Valley Fidelity, unless we can put up an alternative investment in another State where he could acquire majority/control. This could perhaps be a bank that could be purchased outright, that did not fit our own investment criteria, or that was immediately available (e.g. American Bank & Trust)? ...

I wrote again on the 24th August:

... So far I have not had very much success in finding a prospective buyer for American Bank & Trust, and have had no response from BCCI in regard to their approach to Financial General. I enclose a clip from "Arab Banking and Finance", and see that FGB have been requested to sell Bank of Commerce, New York. Could

you perhaps stimulate the State authorities in Tennessee to put similar pressure on FGB to sell their 37% in Valley Fidelity? Then we might perhaps negotiate for them to purchase 100% of American Bank & Trust to give us a profit on the deal? The name would "fit" well into First American Bankshares! . . .

Wise Jones wrote back, on 1st September, with a proposal authorising me to negotiate with BCCI on his behalf.[30] I delivered the proposal to Mr Padiyar at BCCI on 14th September. Padiyar promised to forward it immediately to his president, Agha Hasan Abedi, with copies sent to the Bahraini lawyers fronting for the Saudi and Kuwaiti investors, and to Sheikh Zayed's office in Abu Dhabi. We had just missed Abedi, who had left for Pakistan a few days earlier.

Wise Jones flew to London, arriving on Sunday 10th October and staying at the Hyde Park Hotel. On the Monday, we met Geof Field for a drink at the Overseas Bankers Club, in Lothbury – a favourite watering hole for senior bankers from the foreign exchange market. Geof had worked for Alef Bank, and the Saudi European Bank, in Paris during the previous year, whose shareholders included the ubiquitous Sheikh Kamal Adham and the Saudi oil minister, Sheikh Zaki Yamani. Around the bar, were Hilton Clarke – now the non-executive chairman of Exco money-brokers, and "Spud" Bater – retired chairman of Gray Dawes Bank, which had recently been taken over by BAII.[31] Later, we paid a quick courtesy call on the Bank.

On the Tuesday, we had a long meeting with Padiyar in his office, in the basement of Cunard House – adjacent to BCCI's premises at 100 Leadenhall Street. We came away feeling frustrated that no decisions would be made before Abedi returned. On the Thursday afternoon, we flew to Paris for a meeting with Albert Misrahi, a Lebanese banker who had worked for Citibank in Abu Dhabi before moving to Paris, where he was now running the European representative office of Union Planters Bank. Misrahi claimed to be a close personal fried of Abedi, and told us we were wasting our time with Padiyar. "Mr Padiyar is just a public relations officer, Mr Abedi will not pay any attention to him." He struck us as being a slippery character, but nevertheless persuaded us that he could open doors that were closed to Padiyar. Misrahi promised to deliver the proposal to Abedi in person, in return for a half-share in the fees that would amount to $4 million dollars if the deal was successfully concluded.

On his return to Memphis, Wise Jones wrote to Misrahi on 22nd October:
. . . Please find enclosed . . . [formal proposals] respecting the two subject matters covered in our letter today; i.e. (1) the purchase of the stock of Valley Fidelity Bank & Trust Company held by Financial General Bankshares Inc., and (2) the

sale/acquisition of the American Bank & Trust Company, New Orleans, Louisiana, U.S.A. . . .

A week later, I got a letter from Wise to say that Albert Misrahi had phoned from Paris. Abedi was presently in Pakistan with Sheikh Zayed and his entourage, and Albert had been invited to join them on a hawking expedition.
. . . I anticipate hearing from Misrahi, respecting Valley Fidelity shares on or about November 2nd, and respecting American Bank & Trust on or about November 9th. . .

We never saw or heard another word from Albert Misrahi again. The deadline passed so the purchase option on Valley Fidelity shares lapsed. We later discovered that Misrahi had double-crossed us. First American Bankshares, backed by BCCI and First Arabian nominees through a holding company in the Dutch Antilles,[32] increased the tender price so that they ultimately gained 100 per cent control of Valley Fidelity.

Sheikh Mohammed Bedrawi, was heard to boast that First Arabian Corporation now controlled the First American Bank in Washington DC, and that he and "Uncle Kamal" were now the largest single shareholders in First American, after BCCI.

On 10 May 1981, when Agha Hasan Abedi, founder of BCCI, heard that François Mitterand had been elected the first Socialist President of France, he told the bank's chief executive Swaleh Naqvi: "This is a 'holocaust'. You *have* to go to America . . ."[33]

Notes

1. US discount brokers provide a cut-price "execution only" brokerage service – not to be confused with the functionss of the London discount houses [described in the first chapters].
2. Anne Widdecombe MP's famous "put-down" of Michael Howard (Tory Home Secretary at the time of the Bingham and Scott Inquiries).
3. Then known as the "Committee on Invisible Exports", sponsored by the Foreign and Commonwealth Office (FCO) and Bank of England.
4. J.-P. Fraysse, m.d. Banque Louis Dreyfus (Paris, then c.e.o. Guinness Mahon (London). 1980 m.d. Bank Leu (Zurich), Nassau branch. Became involved with Harry Levine <? Kidder Peabody trader who fronted for Ivan Boesky>.
5. Trust Company Bank of Georgia, Atlanta. Known as the "Coca-Cola bank".
6. Bert Lance: director of the Office of Management and Budget in President Carter's administration.
7. Francisco da Costa Lobo, Pancada Moraês, Lisbon merchant bankers, moved to Atlanta.
8. My itinerary began in New York on 23th April, where I met with Harry Taylor (then vice chairman Manufacturers Hanover) and Denis Weatherstone (then c.e.o. Morgan Guaranty). Both Taylor and Weatherstone were independent members of the Bank of England's Board of Banking Supervision at the time of BCCI closure (1991) and collapse of Baring

Brothers (1995). On 24 April, I visited a couple of banks in Charlotte N.C. 25 April, in Washington D.C., and then on to Miami Fla. to join up with British Invisibles mission 26–28 April, and Atlanta Ga. 30 Apr.–2 May. On 3 May, I flew to Bogota (Colombia) for meetings with Banco de la Republica, British Embassy, Interbancos Ltda. ("government money broker") 3–8 May; then Grand Cayman 9–13 May; returning to London via Philadelphia (visiting Philadelphia National Bank – RAM shareholder) on 15 May.

9. Banque Gadic.
10. See *Masters of Grain*, by Dan Morgan (Viking Press US 1979).
11. ???
12. Dow Scandia, London board chairman, H.A. Hitchcock (see Sindona). Dow Scandia was a merger between a Swedish insurance company and Dow Banking Corporation – the Swiss banking arm of Dow Chemical (US).
13. Senator Stuart Symington.
14. Clarke Clifford.
15. 6 May, 1982, "RE: Banking opportunities in the U.S.A." – copy provided to Bingham Inquiry.
16. FDIC: Federal Deposit Insurance Corpn.
17. Sheppards & Chase (SE money brokers), was taken over by BAII (Yves Lamarche).
18. Contemporary note (DW), Memphis, 24 June 1982.
19. 1.47 times book value.
20. Mahdi al-Tajir, UAE Ambassador in Britain, and owner of Altajir Bank.
21. Allied Arab Bank shareholders incl. 20% Barclays, 6% Sheikh Kamal Adham.
22. Memorandum (DW) 5 July 1982:
    WJ could acquire 51% but would need 66$^{2}/_{3}$% under Tennessee law to consolidate. 37% of Valley stock is held by Financial General Bankshares, Washington, which in turn is controlled by a "group of Middle Eastern investors" represented by Senator Stuart Symington and Clark Clifford (ex Secretary of Defence, Lyndon Johnson). Valley (total assets $190m.) is the third largest bank in Knoxville but has higher earnings than the larger banks. The largest bank (United American) is controlled by Jake Butcher – WJ "would not touch him with a ten foot pole". Butcher ran as Governor of the State and is a close colleague of Bert Lance (National Bank of Georgia = Arab controlled.) The City of Knoxville (WJ built their luxury hotel) does not welcome Arab shareholders in their banks, and would life if possible to remove Financial General or reduce their interest in Valley Fidelity. The problem is to identify the Arab shareholders and to make them an offer. Clifford has not been helpful.*
23. This enterprise must have been what later became Capcom Financial Services.
24. Visited, weekend 25 June 1982.
25. Licences Deposit Taker (LDT), under provisions Banking Act 1979.
26. Annual P&L accounts, audited Price Waterhouse/Ernst & Whinney.
27. John Barkshire, founder LIFFE, chairman Mercantile House, resigned after brother-in-law insider dealing scandal. John Gunn, chairman Exco, which took over British & Commonwealth Merchant Bank – which later failed. Abbas Gokal (gaoled 14 years for BCCI fraud convictions) attempted to take-over BCMB after it collapsed.
28. Peter Hambro, ex-m.d. Marc Rich's trading operation in London ("Richco"). Hambro resigned after Rich had become US fugitive/tax exile living in Zug, Switzerland.
29. After BCCI was closed down by the Bank of England, Capcom was allowed to remain operative – regulated only by the Law Society, whose understanding of compliance, and

* On 1 July 1982, Padiyar told me Financial General = BCCI.

the complexities of derivatives trading, is restricted to dealing with crooked solicitors. Capcom has never been properly investigated, either by the Bingham Inquiry or the Serious Fraud Office. Nor did the Scott Inquiry[29] examine the manner in which illegal arms sales to Iraq were financed through broking intermediaries such as Capcom. Nor are the recommendations of the Nolan Committee into MP's outside interests, if they are ever fully implemented by the new Labour Government, likely to reveal the offshore commissions paid through Capcom and BCCI's Swiss affiliate in Zurich, to reward MP "consultants" on the Saudi al-Yamamah arms project.

30. *Memphis: September 1st 1982.*
Re: Acquisition of Shares, Valley Fidelity Bank & Trust Company, Knoxville, Tennessee, U.S.A. (From: Financial General Bankshares)
[Dear David:]
Please accept this letter as your authority to represent us with all appropriate parties in determining the availability of an price asked for the total block of shares held by Financial General Bankshares in Valley Fidelity Bank & Trust Company, Knoxville, Tennessee, U.S.A. We should like to acquire the subject block of shares in order that we may then make a public tender offer to acquire the balance of the bank's outstanding shares...
It is our understanding that First American (previously Financial General) owns approximately thirty seven per cent (37%) of the total outstanding shares of the subject bank, and that the new principal parties in interest of First American are residents of Saudi Arabia, Kuwait and the United Arab Emirates. It should be noted that several months prior the writer tendered a firm, unconditional, and written offer to purchase the subject block of shares from Financial General. This offer was tendered to Mr Clark Clifford, who, at that time of ownership transition, was acting as legal counsel to the in-coming principal parties of Financial General. Due to the status of ownership transition and the sensitivities surrounding their negotiations with certain regulatory agencies, the offer could not be considered.
Now that regulatory negotiations have been completed and the transition of ownership from Financial General to First American is nearly complete, we should like you [DW] to make discreet enquiries, and to pursue direct negotiations through the principal parties in First American with a view to purchasing their shares in Valley Fidelity.
The writer is holding himself available to discuss these proposals at any time or location that would be convenient to the principal parties in First American...
[Signed: Wise Swepston Jones]
31. BAII: chairman, Yves Lamarche.
32. CCAH: Credit & Commerce American Holdings.
33. Abedi Spoke in Urdu. The remark was translated by Naqvi for the benefit of English-speaking BCCI senior executives.

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Conspiracy and cover-up

DAVID WHITBY

Eight years after the Gulf War, there is no doubt that there was a massive conspiracy, by the "authorities" on both sides of the Atlantic, to conceal the manner in which arms sales to Iran-Iraq were financed through the banks and brokering intermediaries, associated with BCCI and its affiliates throughout the world.

Justifiable criticism was made of the Bank of England, in the Bingham[1] and the Kerry[2] reports, for the Bank's inept supervision of BCCI. But whereas Lord Justice Bingham had only focused on the parochial issues of the Bank's supervision, Senator Kerry's committee had carried out a far more detailed investigation – examining the global links between US and foreign intelligence services, and the international bankers and financiers intimately associated with BCCI's covert activities in financing embargoed arms and dual purpose goods to Iran-Contra forces and Saddam Hussein.

The collapse of the Matrix Churchill trial in November 1992 – when Paul Henderson, an MI6 informant was acquitted of illegally exporting arms-making equipment to Iraq – barely a month after Bingham had reported to Parliament, led to the setting up of the Scott Inquiry.[3] Bingham had looked into the involvement of British and foreign intelligence agencies in BCCI but confined his findings to a separate appendix that may remain unpublished until October 2042.

The Scott Inquiry, although shown the Bingham appendix, only concerned itself with banned materials exported to Iraq (and Iran) manufactured in Britain and did not examine how foreign manufactured weapons and technology – French "Exocet" missiles, surplus materials from the Falklands war, Chilean cluster bombs, and embargoed goods from countries such as South Africa – were all financed by international banks in London.

Nor did Scott investigate the "commissions" paid to consultants and middlemen, with political influence in the right quarters. Scott was heard to complain, in private: "I am as anxious as the next man to know where Mark Thatcher's money comes from. I'm given my little ball to play with, and that is what I am doing."[4]

The Bingham Inquiry was constrained by its terms of reference from examining money laundering as an adjunct to arms dealing, except in relation to the Bank of England's role as BCCI's lead regulator. The Scott Inquiry was

similarly constrained, but for different reasons, from examining the extreme ease with which funds associated with arms and drugs trafficking – often inter-related – can be moved around the world through the banking system, without detection. This was BCCI's particular speciality.

On the 4th of August 1989, just one year before the Iraqi invasion of Kuwait, the FBI raided the hitherto anonymous Atlanta, Georgia, branch of BNL (Banca Nazionale del Lavoro – Italy's largest bank). They discovered what was, until overtaken by the BCCI case, the most substantial case of bank fraud in U.S. history. BNL's Atlanta branch, managed by the resourceful Christopher Drogoul[5], was found to have extended $270 million in "credits" backed by the US Agricultural Department's guarantees program, and a further $4 billion in unsecured loans to Iraq. Likewise, through their London broker (Capcom), and BNL's branch in Atlanta, BCCI laundered billions of dollars for Saddam Hussein's war machine, trading in commodity futures and "derivatives," moving funds into diverse accounts in Switzerland and other offshore banking centres. The main conduits for these transactions were the Banque de Commerce et de Participations ("BCP") in Zurich, controlled by Dr Alfred Hartmann[6], and BCCI's branch in Paris, which shared the same address and telex number with Banque Arabe et Internationale d'Investissement ("BAII"), controlled by Yves Lamarche.

Shipments of embargoed goods to Iraq, as we learned from the Matrix Churchill case, were closely monitored by the intelligence agencies. To get past the eagle eye of HM Customs, the goods required an "end user certificate," issued by the country where the goods were destined, and authorised by the Ministry of Defence.

In the case of UK and foreign exports in transit by sea, "end user certificates," and documentary letters of credit, were freely negotiable currency in Dubai (UAE). It mattered little from which country the goods originated, or whether the final destination was Iran or Iraq. If the goods were embargoed, BCCI's Dubai office – run by Ashraf Nawabi[7] – would arrange to switch documents, arrange countertrade against oil cargoes, and launder blocked currency through the legitimate banking system.

In order to monitor these activities, it was necessary for British intelligence to glean inside information from expatriate bankers and businessmen, working in the Gulf area. By limiting the scope of the Bingham Inquiry, the Government was able to limit the damage to already sensitive relations with our Arab allies in the Gulf War. Furthermore, the huge Al-Yamamah[8] defence contracts in Saudi Arabia, negotiated by the Thatcher Government, could have been in jeopardy if criminal charges were brought against any of the influential Arab sheikhs, implicated in the BCCI fraud.[9]

The Tory Party kept a "slush fund"[10] at Rothschild Bank A.G. in Zurich, whose chairman Dr Alfred Hartmann also happened to be chairman of Lavoro Bank – the Swiss cousin of the notorious BNL branch in Atlanta, through which US and UK arms shipments to Iraq were financed. Lord Justice Scott omits to mention these connections in his 1800 page report.

The good doctor rates one line from Bingham – attending a "highly-charged" meeting with BCCI's auditors four months before the closure – but fails to mention that Hartmann[11] was in fact chairman of BCCI's international audit committee in Luxembourg, and chairman of Banque de Commerce et de Placements (BCP) in Zurich, and sat on the board of Inter Maritime Bank in Geneva – controlled by Bruce Rappaport, and used by Col. Oliver North to launder Iran-Contra funds. When the Bank of England closed down BCCI, BCP was quietly sold off to the Turkish Qukurova Group.[12]

In the House of Commons debate that heralded the Scott Inquiry,[13] Michael Heseltine, the DTI President, replying to a question, said that it appeared from unpublished figures that from January 1987 to August 1990, Britain's visible exports of defence equipment to Iraq was less than 2 per cent of the estimated £11.3bn. goods supplied, whereas France appeared to have supplied roughly 25 per cent of the total. France, had sold Mirage 2000 and Super Etendard aircraft – used to launch Exocet missiles during the Falklands War – to Saddam Hussein[14], and quietly slipped through the "ring fence"[15] before the Bank of England closed down BCCI on 5 July 1991.

To estimate the real value of Britain's arms trade with Iraq, it would have been necessary to calculate the figures for UK "invisible exports" from banking services and trade finance, including re-exports of defence equipment and dual use goods to Iraq via Saudi Arabia, and other legitimate end-user countries, financed through the City over the same period. Britain is in fact the second largest arms dealer in the world. France comes third.

Who then were Saddam Hussein's bankers? BCCI's founder and evil genius, Agha Hasan Abedi, has taken his secrets to the grave. In his lifetime, he was too clever ever to commit anything in writing. One man holds the key to these secrets. His name is Syed Ziauddin Ali Akbar. He is the man that laundered money for BCCI's "black network" of arms dealers and drug traffickers around the world, who paid bribes and commissions to middlemen and politicians. Akbar cut a deal with the Serious Fraud Office, pleading guilty in return for a light sentence to keep his mouth shut. Akbar faced extradition to the United States to stand trial on blackmail charges, and, but for the deliberate procrastination of the Home Office,[16] would most likely have received a very lengthy sentence.

Lord Justice Scott did not seek to interview Ziauddin Akbar. Others who gave testimony at the Inquiry – such as Gerald James[17] whose business had

been ruined by HM Government's duplicity – were treated with aloof contempt.

Deceit from the Home Office, and a cover-up by the Foreign Office, brought a major confrontation between Robert Morgenthau – the crusading New York District Attorney – and the Serious Fraud Office. The Saudi spymaster, Sheikh Kamal Adham, was heavily fined in the US – based on the Grand Jury testimony of Imran Imam, a junior officer who worked in BCCI's Leadenhall Street headquarters. Adham has diplomatic immunity in Britain, and was a regular visitor at the Bank of England and No. 10 Downing Street in the days of Margaret Thatcher.

Regina v. Imam

On the 29th July 1994 Imran Imam was convicted at the Old Bailey on four counts of conspiracy to conceal documents and information from BCCI's auditors (Price Waterhouse).

The prosecution case was based on evidence, given by Price Waterhouse, that BCCI gave guarantees to the Saudi owned National Commercial Bank[18] as to the repayment of loans from NCB to Ghaith Pharaon. These guarantees resulted in BCCI bearing the ultimate risk if Pharaon were to default – which of course he did. The prosecution was able to prove, to the jury's satisfaction, that Imam knew of the guarantees which he never disclosed to the auditors, and thus they were given a false picture of the BCCI Group's exposure to Pharaon. Imam had given the auditors a summary of BCCI's exposure to Pharaon, which made no mention of the guarantees.

Imam's defence was that he had been told by Swaleh Naqvi[19] that BCCI and NCB were engaged in merger discussions, and that Khalid bin Mahfooz, NCB's chairman, was taking over responsibility for Pharaon's loans – in which event BCCI would no longer be liable under their guarantees. Mr Naqvi had told Imam that he would personally deal with the auditors in relation to this matter. Imam had therefore told the auditors that they must ask Mr Naqvi about the status of BCCI's exposure to Pharaon. As a junior officer in the bank, he was not authorised to give them this information.

The prosecution also alleged that Imam had played a central role in diverting two loans, totalling $256 million, made by NCB ostensibly for the benefit of the ruler of Fujairah[20] and a Kuwaiti citizen[21] that had in fact been used to repay loans to Sheikh Kamal Adham. The loans had been secured by the pledge of BCCI's Netherland Antillean nominee company (CCAH[22]) shares to NCB.

The Judge[23] heard statements in mitigation that Imam had given invaluable assistance to the American Authorities – the Federal Reserve Board, the

District Attorney of New York, and the Department of Justice. This had led to the recovery of about $750 million in fines levied on Sheikh Kamal Adham, Khalid bin Mahfooz, and others.

Imam was sentenced to 3 years imprisonment, and served 18 months at Ford Open Prison. While at Ford, he made a visit to the United States after being released on special licence[24] to give further assistance to the US authorities, and studied for an Open University degree in higher mathematics.

Imran Imam was born in Lucknow (India) in 1952, and comes from an old aristocratic family that claims descent from Sufi mystics who came to India in the 13th century. Imran's family has lived in London since the 1960s, and took British citizenship. Imran's father went to Cambridge (Trinity College), and Imran, himself, took a master's degree in physics at London University.

On his father's side of the family, Imran's great grand-father was a Law Member of the Viceroy's Executive Council (Sir Ali Imam KCSI) who represented India at the League of Nations. His mother is the daughter of the last Raja of Mahmudabad and Bilehra. The present Raja is Imran's uncle, and a Cambridge educated astro-physicist. Imran's brother is engaged in post doctoral research in cancer, and lives in Rotterdam.

Agha Hasan Abedi, BCCI's founder, was born in 1922, and grew up on the Mahmudabad estate where Abedi's father served the Raja (Imran's grandfather) as chief revenue collector. Abedi's family had been courtiers at the Raja's palace for several generations. The young Abedi nursed a growing chip on his shoulder against the "social class" system, and those that held power and influence only by an accident of birth.

Over the years, while Abedi's fortunes prospered, the Raja and his relatives had fallen upon hard times. The Mahmudabad estates – at the time of his birth, the second (or third) largest princely state in northern India – had disintegrated. The palace, with its gold and silver throne-room – where oil portraits of Queen Victoria and the bejewelled rajas of Mahmudabad "stared out on darkened halls, swathed in dust."[25]

In 1977, Imran, fresh out of university, was offered a job as a graduate trainee at BCCI – returning a favour to the family. Abedi would keep a fatherly eye on his progress. The old Raja, Imran's grandfather, had helped the young Abedi find his first job at Habib Bank.

In 1979, Imran's uncle, known as "Uncle Raja," sold the family textile mill for 20 million rupees (roughly £938,000 at that time). The money was given to Abedi to invest. The mill manager, HM Kazmi,[26] joined ICIC in London, managing the secret nominee loan accounts of BCCI's private clients held in the Cayman Islands.[27]

The Mahmoudabad family silver, portrait miniatures, Imran's mother's and his aunt's jewellery were given to Abedi to keep in safe custody. BCCI

gave loans (totalling approximately £800,000 including rolled up interest) to Imran's family, to enable them to buy a flat in Central London, and a house in Hendon, secured on the proceeds of the mill and family heirlooms. Abedi and his accomplice Kazmi, promptly embezzled the money from the mill. Abedi gave the jewellery to his wife, which had been deposited in a safe deposit box in Knightsbridge.

For those of us living in a western society, it is hard to relate to the different culture that existed within a bank such as BCCI. This was a very deferential society and it was simply "not done to question the motives or actions or instructions of those higher up the scale."[28] Abedi was revered and respected by the Asian staff around him. He operated a system of enlightened nepotism, employing some 150 relatives and "family friends" who trusted him totally. At the same time, Abedi was aloof and remote. Abedi was feared. Only Swaleh Naqvi was allowed to approach him directly – and Naqvi always addressed him as "Agha Sahib."

In 1984, Imran was made Abedi's "special assistant" – a rather grand title for a dogs-body job, taking hats and coats from visiting VIP's, fetching cups of tea, arranging limousines, and getting people on the phone before Abedi would speak to them. Imran's desk was in an open plan office, on the 4th floor at 100 Leadenhall Street – a few feet away from Abedi and Naqvi's private office. The hours were long, the pay was low.

Abedi would call Imran from his home in Harrow-on-the-Hill, at all hours of the day and night, giving instructions to find people that Abedi wanted to contact. Imran kept a list of telephone numbers in his diary that Abedi might ask for. At his trial, the SFO prosecution counsel[29] made great play on the significance of this diary – reasoning that Imam must have been privy to Abedi's secrets and therefore an important accomplice in the BCCI conspiracy, not just a junior officer as he maintained.

The list of names contained the private numbers of various sheikhs and political figures (including Lord Callaghan, and ex-President Jimmy Carter – whom the SFO did not mention).

In 1985, Imran was given the title of "coordinating officer" with limited responsibility for keeping records of loan balances on the CCAH and Pharaon accounts – reporting to Swaleh Naqvi. His duties included keeping a "suspense account" file for entering cash payments to important customers visiting the bank, which he would hand to his immediate boss, Mohammed Azmatullah,[30] in a plain brown envelope. Imran recalls one such occasion, in 1988, when James Callaghan was lunching at BCCI with the directors. Azmatullah summoned him to his office: "We need to withdraw £25,000 cash for Lord Callaghan's research project."[31] Imran sent the payment instruction down to the cashier on the ground floor. He received the money from the cash-

ier, in £20 and £50 new notes, inside a large brown envelope. Imran handed the envelope to Azmatullah, who gave it to John Hillbery – managing director of BCCI's international division. Hillbery took the envelope and rejoined the party where James Callaghan was closeted with Swaleh Naqvi in the fourth floor suite.[32]

On 9 February 1988, while in Pakistan, Abedi had a heart attack. Two weeks later he suffered a second more serious attack. He was flown to the UK, and on 9 March had a heart transplant at Harefield Hospital.[33] Thereafter he remained a virtual invalid returning to Pakistan in December 1990, where he stayed until he died five years later. Swaleh Naqvi, whom Abedi had always treated like a favoured son, took over command of a sinking ship.

Since May 1986, the US Customs authorities had been investigating General Noriega's links with Colombian drug cartels, in an undercover sting operation code-named "Operation C-Chase." Attention was focused on BCCI and eventually led to the arrest of seven BCCI officials by the FBI in Tampa (Florida), between 8–10 October 1988. Ziauddin Akbar, the "rogue trader" controlling BCCI's Capcom operations, and named in the indictment, was later arrested in London.

Ziauddin Akbar

Syed Ziauddin Ali Akbar – to give him his full name – was in charge of BCCI's "central treasury" from 1982 until late 1985 when his Leeson-like trading in commodity futures and derivatives created a huge black hole in BCCI's balance sheet. According to Price Waterhouse,[34] Akbar managed to conceal his losses from the auditors, and even from Abedi and Swaleh Naqvi, for three years. By his own admission, years later, the treasury had accumulated a loss of $633 million, but others now estimate that Akbar was obliged to divert as much as $1.3 billion from ICIC accounts in the Cayman Islands, in order to plug the hole.[35] Price Waterhouse audit partners in Grand Cayman knew the actual extent of BCCI's treasury losses but conspired with Akbar to conceal them.

Akbar had joined BCCI in Oman in 1975, as chief foreign exchange dealer at the National Bank of Oman.[36] In Oman he became an "asset" for Saudi and Pakistani intelligence agencies. A year later he moved to London as head of BCCI's foreign exchange department, which he quickly dominated. "His glowering look, neatly cropped beard and curt conversation made him a remote, intense figure."[37]

The similarity between Akbar and Nick Leeson of Barings (Singapore) rogue trading operation is remarkable: Akbar was told by the BCCI board to limit his "proprietary trading" activity to a maximum loss exposure of

$100m. This limit soon became meaningless. Akbar and his team – Mohammed Saghir in Chicago, and Sushma Puri in London – were hopeless traders, and had lost large sums from the outset.

Akbar quickly resorted to fraud to cover up the mounting losses. He used now familiar techniques. First: he sold enormous, and ever increasing, quantities of interest rate options contracts – booking the proceeds as "profit." By end-1985, his open positions in the market had reached $11bn. Then: he ran two sets of accounts. One set consisted of normal treasury operations. The other set, called "No.2" accounts, were run by dealers at a different group of desks – supposedly trading on behalf of BCCI's private clients. In reality, BCCI was plundering the bank's depositors. One victim, the Faisal Islamic Bank in Cairo, for example, was found to have lost nearly $400m. down the treasury's black hole, when the final day of reckoning came $5^1/_2$ years later.

Like Leeson, Akbar called for ever increasing funding from the bank to finance his trading positions. Akbar's treasury operation was located on the ground floor of Cunard House, in the next door building to BCCI's main office at 100 Leadenhall Street.

Unlike Leeson, however, Akbar was not a lone "rogue trader" acting on his own. His trading operations were monitored by other divisions and committees within the bank. Chairman of BCCI's international audit committee was none other than Dr Alfred Hartmann. The vice chairman of the committee, Yves Lamarche, the president of BAII, and two other main board directors – John Hillbery and Johan Diderik van Oenen – had all been recruited from the Bank of America. Funding for the "No.2" accounts, for instance a margin call for $23m. on LIFFE for General Zia al-Huq[38], was arranged by HM Kazmi, on the 7th floor in the main building, and SM Akbar (no relation) in the Cayman Islands. $150m. was stolen from the ICIC[39] staff benefit fund, a Cayman charity, that provided pensions for BCCI staff employees.

Johnson Matthey Bankers

The losses in BCCI's central treasury division originated in Abu Dhabi. In January 1981, Abdullah Darwish, the director of the Ruler's Office of Private Affairs resigned after the discovery that $96m. had been stolen from Sheikh Zayed's account, and used to finance speculative trading in copper futures. Darwish was placed under house arrest, and his assistant – a man called Aslam, who had come from BCCI – received a long jail sentence. Darwish's trading had been executed through Ziauddin Akbar, who was then still working for the National Bank of Oman, in Muscat.

Akbar was also speculating heavily in Nigeria, trading in oil and commodities for the Gokal brothers and Marc Rich. His dealings in London

were passed through an obscure "licensed deposit taker" in Bayswater called Bremar Holdings, and Johnson Matthey Bankers ("JMB") in the City. Bremar had been one of the banks used to conceal the BCCI and CCAH[40] shareholders' identity from the US authorities, and provide loans to Ghaith Pharaon's National Bank of Georgia (NGB), in the secret take-over of Financial General Bankshares – which later became First American Bank in Washington.

JMB collapsed, in September 1984, when fraudulent loans to Nigerian businessmen were discovered. Two days before the collapse the Bank of England quietly removed Bremar's banking licence.[41] Loans to the National Bank of Georgia, that had been booked through Bremar, were swiftly repaid by BCCI – thereby robbing Peter to pay Paul. BCCI also paid back two "interest free" loans of $5m. each that Bremar had made to Swaleh Naqvi and Dildar Rizvi[42] for services rendered.

The failure of Johnson Matthey Bankers led to a full frontal conflict between the Governors at the Bank[43] and Nigel Lawson, who had recently been appointed Chancellor of the Exchequer.[44] Ostensibly, JMB's problems had arisen from making fraudulent loans to corrupt Nigerian businessmen, but they had also been involved with Ziauddin Akbar in a money-laundering exercise, operating through the gold bullion market in London. The Bank feared that, if JMB were not rescued in a "lifeboat" operation, the greater part of the London gold market would be lost to Zurich.[45]

Bingham[46] merely notes that "Price Waterhouse[47] were engaged by the Bank to investigate JMB's loan book and ascertain its true position ... Much of its lending was to traders in Pakistan, the Middle East, and Nigeria. Its two largest exposures were to loosely associated groups of companies run by businessmen from Pakistan, one of them a shipping group ..." – the Gulf Shipping Group, owned by the Gokal family.

But Price Waterhouse were also BCCI's auditors in the Cayman Islands, and facing a dilemma as to whose client interests they were serving. Two PW Cayman partners accepted bribes, paid in cash and sexual favours while visiting London. One of the partners,[48] Richard Fear, was later paid $100,000 by Capcom Financial Services – BCCI's secret money broker, set up by Ziauddin Akbar.

The Bank was not told of the massive losses in BCCI's central treasury operation that Akbar was concealing until nearly eighteen months later. In 1986, Price Waterhouse became BCCI's sole auditor and substantially increased their fees. The conflict of interest had been resolved.

There were three ring leaders in the JMB fraud: a Bangladeshi jute trader, Rajendra Sethia; the general manager of Punjab National Bank branch in London, Amarjit Singh; and Ian Fraser, a director of JMB, who covered up for Sethia and was later sent to gaol. Sethia was a big punter, who had

made a fortune in Poseidon shares[49] in 1967. His profits were wiped out by disastrous trading in sugar futures, and he went bankrupt a few years later. He then set up the Esal Group – a government procurement agency in Nigeria. Through BCCI's connections, Sethia gained access to President Shagari, and Alhaji Umaro Dikko[50] who dished out the government contracts. Edward Bates (Nigeria) – whose connections dated back to the Liverpool slave trade – became part of the Esal Group. Dikko is now living in London, enjoying the $5 billion fortune he allegedly ripped off during his term of office.

After the collapse of the Crown Agents in 1974, British military sales to Nigeria were handled through International Military Services (IMS). Sir John Cuckney[51] who had led the rescue operation for Crown Agents was now the chairman of IMS.[52] Back handers, paid to Dikko and other Nigerian government officials, were routed through BCCI. Senator John Kerry[53] describes BCCI's activities in Nigeria as "so profoundly and overwhelmingly corrupt ... where few European or American businesses would have been able to do business without making one or another form of pay-off to Nigerian officials during the 1980."

Amajit Singh, the crooked manager of Punjab National Bank, had "window dressed" the bank's end year accounts for 1983, concealing his vast exposure to the Esal Group, with an unauthorised loan from the Allied Arab Bank.[54] Sethia had bought himself an expensive freehold property near the Royal Exchange buildings, partly financed by the Hinduja brothers.[55]

The balloon went up when Allied Arab Bank, supported by Barclays Bank,[56] enforced a Mareva injunction backed up by an "Anton Piller" search order to freeze Esal Group's world wide bank accounts, and seek disclosure of Sethia's private funds concealed in offshore banks. Events moved swiftly and inevitably from there.

On 18th June, the City Fraud Squad raided Punjab National Bank's offices in Moor House. On 6th September, an abortive rescue attempt was made at a meeting with Esal's creditors, in Sethia's absence. Amarjit Singh, representatives from Allied Arab, Barclays, and the other creditor banks, tentatively "approved" a rescue scheme, blissfully ignoring the fact that both JMB and Bremar had gone down the tubes a few days earlier, but confident that they had been given the Bank of England's tacit support.

But unbeknown, a detective inspector from the Metropolitan Fraud Squad had already targeted Abdul Shamji, Sethia's accomplice, whom they believed responsible for corrupting Nigerian officials and causing JMB's losses. Shamji was arrested two weeks later. Amarjit Singh was charged, but quickly skipped the country back to India. Rajendra Sethia entered the "Guinness Book of Records," going bankrupt for £168m. – the biggest personal bankrupt since William Stern, of Crown Agents' fame, ten years earlier.

Ziauddin Akbar had already seen the writing was on the wall for JMB and Esal Group. To cover his mounting losses, and as the means for continuing his nefarious plans, he activated BCCI's money broker – Capcom Financial Services.

Capcom

In April 1984, Akbar registered a "shelf company" called Hourcharm at his home address in London. The company was renamed Capital Commodity Dealers, from which Capcom Financial Services was funded with £1m. capital "loaned" from BCCI's central treasury. Following the collapse of JMB, Capcom took on the trading activities of the Esal Group and rapidly increased its share capital to £25m. The new capital was provided by Sheikhs Kamal Adham and Abdul-Raouf Khalil[57] the former Saudi intelligence chiefs. Adham and Khalil joined the Capcom board, along with Ghaith Pharaon's brother Hattan. Khalil became chairman.

In the same year, Akbar registered "Capcom Bankers" in Vanuatu, an obscure tax haven in the former British Solomon Islands. Vanuatu, unlike the Cayman Islands, has no close ties with the Bank of England. Other nominee companies were formed as required in convenient centres for his criminal activities, such as Liberia and Panama, where there is no banking supervision.

Capcom also formed a US subsidiary company, "Capcom Futures," which became a member of the CFTC[58] in Chicago. Akbar recruited Mohammed Saghir, a colleague from the National Bank of Oman, to run the Chicago operations. Khalil brought in two American investors who became directors on the main Capcom board: Bob Magness, the founder and chairman of Tele-Communications Inc. (TCI) – the largest cable company in U.S., holding a 21 per cent stake in Turner Broadcasting System, which owns Cable News Network (CNN); and Larry Romrell, TCI senior vice-president – who became chairman of Capcom Futures.[59]

By the middle of 1985, Capcom was running positions in excess of £100 million for customers and had been given an official credit line by BCCI's main board audit committee – chaired by Dr Hartmann. The size of its trading drew complaints from other money brokers, and banks that had given up doing options business for BCCI because they appeared to be taking too many risks – channelling all their business through an unknown broker.[60] The Bank passed these complaints on to the IML[61] – BCCI's lead regulator in Luxembourg – but otherwise did nothing.

In October 1985, the IML ("unknown, it appears to the Bank")[62] caused BCCI to commission Price Waterhouse[63] to review the investment activities of the central treasury operation in London, whose transactions were all

booked in the Cayman Islands. Happily for Akbar, his two old friends – Messrs. Fear and Harris – had been commissioned to make the review. The losses attributed were grossly understated, and put down to "errors made by unsophisticated amateurs venturing into a highly technical and sophisticated market."[64]

Akbar resigned – for cosmetic reasons – and was told to lie low for a while. He was paid three months salary, and allowed to keep his Mercedes car, but otherwise nothing excessive was paid that might otherwise draw attention to the invisible link that remained. Naqvi, BCCI's chief executive, had told him "it wouldn't look nice if you were seen to be still working for us."[65] Ostensibly, BCCI closed their account with Capcom and the credit line was cancelled. In reality, an amount of $68m. was paid by BCCI to "Brenchase Ltd." (a nominee company controlled by Akbar), and two further payments of $50m. were made directly to Capcom in the following year.

The payments to Capcom were routed through the State Bank of India, booked in the Cayman Islands, and recorded in the name of the "Ruler of Fujairah."[66] BCCI provided promissory notes and a non-recourse loan agreement (total $98m.), signed by the ruler for audit purposes. In London, the ruler's loan account was treated as part of the CCAH loan portfolio kept by Imran Imam – later accused of concealing this information from Price Waterhouse.

A few weeks later, Akbar went to see Naqvi at his home in Hampstead Garden Suburb, and told Naqvi that he was being blackmailed. Akbar asked BCCI for a loan to pay off certain people that could harm the bank, and reward others that might be helpful in "overcoming the present difficulties." Abedi told Naqvi to give Akbar whatever he needed to get the auditors off their backs. On this occasion, BCCI gave Akbar around $7 million.

While the dust settled, Akbar busied himself in a solicitor's office in the same building as Capcom – quietly setting up a string of nominee companies to control the vast pool of "off balance sheet" funds that had been raided from BCCI's private clients. He was now able to supplement his not inconsiderable income from Capcom through blackmailing Messrs. Abedi and Naqvi on a regular basis. Swaleh Naqvi would later describe Akbar, in his confessional statement to the FBI after his extradition to the United States, as "the real crook that brought the bank down."

At first, the Price Waterhouse partners in London, responsible for consolidating the various BCCI (Overseas) accounts for the Luxembourg authorities[67] had been satisfied that Akbar had merely been guilty of overtrading.

Now they had found that Akbar had booked fictitious deals with unidentified third-parties, and fraud was suspected. Simon Cowan (PW) called Masihur Rahman[68] at his home to break the bad news. On the following morning,

Rahman met with Cowan, Fear, Harris, and two other auditors from Price Waterhouse, in the BCCI board room. They were later joined by Abedi and Naqvi. Explanations followed that Akbar had been fired when the losses were first discovered, and that it would damage the bank's standing at the Bank of England if news leaked out about the fraud in addition to the heavy losses sustained.

Two officials from the Bank had in fact paid an informal visit to Mr Padiyar[69] in December, to thank him for the generous Christmas gifts that had come from Harrods, with BCCI's compliment slips enclosed – several large hampers packed with goodies.[70] Padiyar had shown the visitors round the central treasury dealing room, decked with festive decorations and devoid of Akbar. Later, they would tell Bingham that they had "received no inkling of the losses then being made" and "felt a particular sense of betrayal."[71]

By mutual agreement, no mention of the fraud was made in Price Waterhouse's report, and only the existence of the losses quantified as $285m. in total was reported to Ernst & Whinney, BCCI group auditors, and the Luxembourg authorities. Abedi himself agreed to tell the Bank, but did nothing more about it.

After the meeting, Richard Fear remained in London and lost no time in covering tracks for Akbar – now trading from Capcom. On 20 January, a letter was sent from Ernst & Whinney to Price Waterhouse in Cayman requesting information for the end year (1985) audit of BCCI (Overseas) for Luxembourg to be sent to E&W in London. On the 30th, Fear wrote to PW's office in Miami, coordinating the Cayman audit, countermanding E&W's instructions. Fear told Miami that nothing must go to E&W. All information must be sent direct to Fear in London. This diversion enabled Fear to control any information supplied to BCCI group auditors, and falsify BCCI accounts to conceal the central treasury losses.

Fear returned to Grand Cayman. A few weeks later he resigned from Price Waterhouse joining Morgan Grenfell as managing director of their local office. From his home, near Rum Point, he kept in touch with Akbar and the BCCI branches in Cayman and Miami. He was now on Capcom's payroll. Morgan Grenfell, owned by Deutsche Bank, did not wake up to Fear's villainy until 21 November 1991 – nearly five months after BCCI's closure – when he was summarily dismissed after the discovery that he had been paid $100,000 by Akbar, through one of Capcom's nominee companies.[72] Kerry is fulsome about Fear's role in covering up Akbar's "losses" whereas Bingham remains strangely silent.

The Bank first became aware of the treasury losses in mid-May 1986, as the result of a casual remark made to Brian Gent[73] by his opposite number at the IML[74] at a meeting in Brussels. The IML man expressed some surprise

that the Bank had not been told. Returning to London, Gent found a rumour circulating in the City that BCCI had lost $200m. in a computer fraud. He telephoned BCCI's UK General Manager[75] who denied the rumour but admitted that BCCI could have lost around $400 million – nearly half their net worth – in unauthorised foreign exchange dealings. The dealer concerned had been dismissed, and the losses made good by a capital injection from the group's shareholders.

On 22 May, Abedi and Naqvi, accompanied by the UK General Manager, were summoned to a meeting at the Bank where Gent conveyed the Bank's extreme anger and concern that they had not been kept informed. At a further meeting with Abedi and Naqvi a month later, Rodney Galpin, the Bank's executive director with overall responsibility for banking super-vision, reinforced Gent's message.

In early June, a meeting at the Bank chaired by Brian Quinn – Head of Banking Supervision – decided against revoking BCCI (S.A.)'s UK banking licence on the grounds that there appeared to be no immediate danger to depositors. Besides, the closure of 45 UK branches would cause substantial political and diplomatic problems.[76] Quinn was satisfied that the treasury losses had been made good and the groups controls were under review by Price Waterhouse.

On 23 September, a telex came to BCCI's Miami branch from their representative office in Barbados, confirming that a loan of BD$400,000 had been made to two PW partners in Barbados with the possibility of them opening a money market account with BCCI's Miami branch.

In early November, BCCI moved their entire central treasury operation to Abu Dhabi. The Bank was annoyed that they had only been told ten days previously, but relieved that it now distanced this part of BCCI's operation from the UK, and, likewise removed the Bank's responsibility for its supervision. In the meantime, Capcom – sponsored by Rudolf Wolff, an old established firm of commodity traders – had become a "club" member of AFBD[77] enabling Akbar to continue trading in futures and options as though he was still head of BCCI's central treasury operation in London.

In reality, BCCI's treasury operation had merely relocated in Capcom's offices at 107 Grays Inn Road on the fringe of the City. There, on the ground floor, Akbar installed a forex trading desk with fifteen dealing positions and direct lines to brokers in all the major money centres, and BCC's office in Abu Dhabi. Many of the senior dealers had come with him from Cunard House[78] – notably Mohammed Saghir, who ran Capcom's operation in Chicago, and AK Puri whose wife, Sushma (Akbar's mistress), would later destroy more than a hundred cartons of sensitive documents after receiving a tip off from MI6 when BCCI was closed down.[79]

Capcom dealt as a principal on its own account, disguising the names of its "clients" – arms dealers, government officials, intelligence agencies, and shady middlemen – through nominee companies sheltered in Geneva and Liechtenstein.[80] Capcom also acted as an agency broker so that funds tainted by BCCI's name could be passed through its client's nominee accounts and co-mingled with tradable prime bank names in the interbank market. Sensitive transactions were further disguised using other brokers to execute the different legs of the deal – Rudolf Wolff and Exco in London; Deak Perera in New York; Bierbaum in Frankfurt; Finacor in Paris; Drexel Burnham in Los Angeles; Tullett & Tokyo in Abu Dhabi and the Far East; among others.

Two senior derivatives traders from Wolff joined Akbar's team – one of them, Jess Tigar, had previously been an ace forex dealer at the Bank of England. Akbar now spent much of his time travelling, commuting vigorously between BCCI and Capcom's various outposts around the globe and keeping very close to his patron – Sheikh Khalil.

Akbar first met Sheikh Khalil in 1976, when he was working in Oman. Khalil was then director general of the Saudi Ministry of Communications and deputy chief of Saudi Intelligence, with extensive interests in the US electronics industry through his connections with Romrell and Magness of Telecommunications Inc. (TCI). Also in the Capcom loop were two other Americans – Kerry Fox and Robert Powell.

Kerry Fox had been vice-president and general manager of communications and electronics at Martin Marietta, and president of two of Rockwell International's subsidiaries, when he met Khalil while doing business with the Saudi government. Later, in 1985, he set up his own company – American Telecommunications Corporation – and put Akbar on the board to manage the finances. In a witness statement to the Kerry Committee,[81] Fox describes Akbar as being "absolutely honest, trustworthy, and very honorable. He is a man of the highest integrity, having a strict code of high morals and business ethics." Two years later Kerry invited Fox to appear before the Committee and testify in person. Through his attorney he pleaded the "fifth amendment."[82]

Robert Powell was a director of Capcom. A Californian businessman, who has always denied his CIA connections, Powell had met Sheikhs Adham and Khalil in the late 1960s, and decided to settle in Saudi Arabia where he became managing director of Global Chemical and Maintenance Systems – a company owned by Khalil. In 1976, Global Chemical opened an office in Oman – from where Capcom has its genesis.

On 23 April 1981, Khalil gave a brief description of his background to officials of the Federal Reserve Board seeking information in connection with BCCI's covert take-over of Financial General Bankshares.[83] "I have been involved," he said, in answer to a question, "in some business ventures

with American and British manufacturers for the installation of electronic and computer equipment in Saudi Arabia."[84] Khalil did not elaborate further.

Over the next four years, prior to the formation of Capcom but funded through BCCI central treasury, the Khalil-Romrell consortium installed the very latest state-of-the-art electronics and communications in the Saudi military command centre in Riyadh. Similar installations were set up in Oman, and at Sheikh Mohammed al-Maktoum's[85] top-secret establishment at Port Rashid in Dubai.

There was supposedly a "Chinese wall" between BCCI's global banking operations, controlled from the 4th floor of the bank's London headquarters, and the operations of its "Category A" licensed bank – BCCI (Overseas) Ltd. – in the Cayman Islands. In reality, the Cayman banking operations were controlled from the 7th floor in the London building, and coordinated from the BCCI (Luxembourg) representative office in New York.

The "Chinese wall" is a system of artificial barriers that supposedly separate the various functions performed within a bank – retail banking, private banking, fund management, etc. – so that conflicting interests are avoided and confidentiality protected. In a well ordered bank it is the responsibility of the compliance officer to see that these barriers are maintained. In BCCI's case, the system was openly abused and became a regulator's nightmare.

The main parts of BCCI's complex organisational structure were a Luxembourg holding company, which controlled a bank incorporated in Luxembourg (BCCI S.A.), a bank in Grand Cayman (BCCI Overseas), and a number of locally incorporated banks and affiliates around the world. An important part of the BCC network was the ICIC (International Credit and Investment Company) Group, which consisted of holding companies and a bank incorporated in Grand Cayman, subsidiaries, charitable foundations, and a staff benefit fund. Management control of ICIC was exercised by a small team of top BCCI executives, reporting directly to Abedi and Naqvi in London.[86]

In London, the "nerve centre" for controlling BCCI's global operations – known as the "Central Administration" – was located on the 4th floor at 100 Leadenhall Street. Here there was an inner sanctum, containing Abedi's private suite, a board room, and a conference room; and a large open plan outer office adjoining Naqvi's private office. In the outer office sat fifteen or more "account officers" (clerks and secretaries) – quietly beavering away at their desks – keeping the ledgers for the bank's largest customers, and reporting to a senior general manager[87] on the floor above. One of these account officers was Imran Imam, and another – Askari Khan[88] – who sat nearest to Naqvi's office.

The account officers were never given the full picture, and would in any case have been too respectful to ask questions from their seniors. Swaleh

Naqvi himself controlled the funds of the Abu Dhabi ruling family, engaging a cousin – Arjmand Naqvi[89] – to keep the ledgers and carry out payment instructions on their accounts.

On the 7th floor in the main building,[90] there was HM Kazmi, and a small staff, managing the funds controlled by ICIC in the Cayman Islands. Kazmi took instructions only from Abedi and Naqvi, moving funds through Akbar's central treasury operations (and later Capcom) housed on the ground floor of the adjoining building – Cunard House. Kazmi kept a complete set of "mirror image" accounts for all BCCI transactions booked in Cayman. The auditors, Price Waterhouse, made no more than a cursory inspection of ICIC's London operations until early 1990, satisfied it appears that all investment decisions were made in Cayman.

In theory, offshore centres such as Cayman insist that fund management decisions and all dealing instructions are made by independent trust managers, acting on "recommendations" received from their clients abroad. In practice, the local agents and representatives are merely puppets, carrying out orders as instructed by coded telex.

Before the days of satellite communications, strict observance of local banking regulations sometimes caused problems. There was an occasion in Guernsey, when NM Rothschild in London were "window dressing" their year end accounts – a cross-channel ferry cut through the mainland telex cable, causing two Guernsey directors to make a perilous sea journey across to Sark so that board documents could be signed and sealed in another jurisdiction. Such corporate loyalty and commitment is rare in the City these days.

As we have already noted, banking supervision in the Cayman Islands is based on British practice, and similar in that respect to the Channel Islands. When criminal activities are discovered in a bank, the regulatory authorities – under advice from the Bank of England – will automatically revoke the offending bank's licence. It is a bank auditor's duty (in BCCI's case, Price Waterhouse) to report any infringement of Cayman banking regulations to the "Inspector of Banks," to take appropriate action where necessary. In BCCI's case, this did not happen. The fraud conspiracy plans had been hatched in London.

In the case of BCCI (Overseas), which held a full Cayman banking licence, the bank was closed down at 6.00 p.m. local time on Friday 5 July 1991, in synchronisation with the Bank of England in London. The premises were subsequently searched by the Royal Cayman Islands Police.

No documents of any significance relating to ICIC (which held an unrestricted offshore banking and trust company license) were found on its premises located in another building. These had mostly been removed to

Abu Dhabi in April 1990 at the time Naqvi made his confession that he had stolen the ruler's funds. Highly sensitive files containing lists of nominee names, payment instructions, numbered bank accounts, and details of funds plundered from clients' accounts, were kept locked away by the general manager – SM Akbar – who was married to Naqvi's sister.[91]

SM Akbar had quietly left Cayman, two days before the BCCI closure, taking with him a large briefcase containing all his "top-secret" files. He told the staff that he was going to Pakistan to attend his daughter's wedding, and would be returning in about ten days time. He flew via Heathrow, spending the night in a hotel near the airport, before flying on to Karachi. No attempt was made to prevent him leaving Britain, although Special Branch and the SFO had already been alerted. Nor did HM Customs search his baggage.

Notes

1. Lord Justice Bingham: Inquiry into the Supervision of BCCI (pub. Oct. 1992).
2. Senator John Kerry: US Senate Foreign Relations Sub-Committee (pub. Sept. 1992).
3. Lord Justice Scott: Report finally published Feb. 1996 (CD-Rom, July 1996).
4. According to Ari Ben-Menashe (*Profits of War*, Sheridan Square Press, 1992), Mark Thatcher was an established arms dealer in Chile, and had begun to do business with South Africa in 1983.
5. Christopher Drogoul: gaoled for 3 years 1 month. [*Arming Iraq*, Mark Phythian, Northeastern University Press, Boston, 1997].
6. Dr Alfred Hartmann: director of Swiss Military Intelligence, former general manager of Union Bank of Switzerland and later chairman of Hoffman-La Roche. Hartmann resigned from La Roche following a price-fixing scandal involving the European Community. Main board director Rothschild family bank holding companies, and general manager Rothschild A.G. (Zurich). Resigned after "Juerg Heer" scandal involving payments to the alleged assassins of Roberto Calvi (Banco Ambrosiano). Hartmann had been a director of Banco Ambrosiano's holding company in The Bahamas. Also chairman of Lavoro Bank A.G. (BNL's Swiss bank in Zurich), director Inter Maritime Bank (Bruce Rappaport), Royal Bank of Scotland (Switzerland). Hartmann was chairman of BCCI's international audit committee (Luxembourg) but has never been investigated by the SFO or FBI.
7. Ashraf Nawabi: BCCI general manager in Dubai, bitter rival of Zafar Iqbal in Abu Dhabi.
8. Al-Yamamah: see Scott Report.
9. Sheikh Kamal Adham, former Saudi Intelligence chief; Sheikh A-R Khalil, former deputy chief.
10. Business Age.
11. Dr Hartmann: gen.mgr. UBS in the 1960s, was one of the "gnomes of Zurich" (Harold Wilson, 1965).
12. Cukurova Group: owns two small banks, prosecuted for laundering drugs money. (Thesaurus Group, Zurich), owned by UBS, have kept a minority stake in BCP. Only BCCI's shareholding was sold to Cukurova.
13. Hansard. 23 Nov. 1992.
14. Time Magazine (Larry Gurwin), 9 Sept. 1996.

15. BCCI Liquidators (Touche Ross) failed to "ring fence" assets in almost every jurisdiction where BCCI operated. UK, US, Luxembourg, Canada, and Cayman Islands excepted.
16. Michael Howard, Home Secretary.
17. Gerald James: chairman Astra. <DG has input>.
18. Khalid bin Mahfooz: NCB chairman.
19. Swaleh Naqvi: BCCI chief executive.
20. Fujairah (UAE): Sheikh Hamad al-Sharqi.
21. Faisal Saud al-Fulaij: chairman of BCCI's subsidiary "finance company" KIFCO. The Kuwaiti authorities did not allow BCCI to open a branch.
22. CCAH: Credit and Commerce Antillean Holdings NA.
23. Judge Henry Pownall QC.
24. The licence application was supported by a letter from Alan Greenspan, chairman of the Federal Reserve Board, to Eddie George, Governor of the Bank of England.
25. International Herald Tribune (4 Oct. 1991).
26. Hasan Mahmood Kazmi: alleged to be the mastermind behind BCCI's secret takeover of First American Bank in Washington. Gaoled in Abu Dhabi, now living in Sharjah.
27. ICIC (International Credit and Investment Co.: BCCI's "bank within a bank," located on 7th floor, 100 Leadenhall Street.
28. Judge Pownall: Summing up, *R. v. Imam*, 26 July 1994.
29. Mr Anthony Evans QC: SFO prosecutor.
30. Mohammed Azmatullah: jailed Abu Dhabi.
31. Taped interview with DW and Tim Sebastian. [*Observer* 3 Nov. 1996 refers to "Mr X"].
32. John Hillbery: (ex-Bank of America) head of BCCI international division.
33. Bingham 2.99.
34. Price Waterhouse: BCCI's global auditors, after Ernst & Whinney resigned as BCCI (Overseas) and ICIC auditors in the Cayman Islands.
35. Bank of England did not learn about BCCI treasury losses until mid-May 1986, reported as being £400m. (Bingham 2.60).
36. National Bank of Oman (NBO): Jointly owned BCCI, Bank of America, and Sultan of Oman.
37. "Behind Closed Doors" (FT Nov. 1991).
38. Bankers draft on NatWest provided by sterling money desk <private source>.
39. ICIC: International Credit & Investment Company – BCCI's secret "Class B" bank in Cayman.
40. Credit & Commerce Antillean Holdings (CCAH), registered in Curacao, set up to accommodate Sheikh Zayed's family interests and other Arab investors, fronting for BCCI in North America.
41. Brian Gent (died 1992): Bank of England, BCCI supervisor – advised Governor Richardson to close down BCCI in 1983 when Bremar was in difficulties. Overruled by Brian Quinn (Head of Banking Supervision, later succeeded Rodney Galpin as exec. director with overall responsibility for banking supervision) and the new Governor (Leigh-Pemberton) after consulting with Foreign Office (Sheikh Kamal Adham).
42. Dildar Rizvi: m.d. BCCI International (Hongkong), one of the founding "conspirators." Highly influential figure in political sleaze circles – "not available for prosecution" in US or UK. Helped Jeffery Archer find German buyer for Monet painting. <taped interview>.
43. Deputy Governor: (Sir) Kit McMahon.
44. Nigel Lawson (Lord Lawson of Blaby) – See Appendix Note 8A.
45. Gold played an integral part in BCCI's money-laundering operations. Much of the business came from New York, and Los Angeles. BCCI gold dealings, for Colombian drug

cartels, were passed through BCP in association with Rothschild A.G. in Zurich (Dr Alfred Hartmann).
46. Bingham report 1.36, 1.37.
47. Price Waterhouse: BCCI (Overseas) auditors in Cayman.
48. Richard Harris was the other PW partner.
49. Poseidon: Australian mining share that rose from 25p to £120, then collapsed to £5 (1967/68).
50. Alhaji Dikko was later kidnapped by Mossad agents, and discovered in a packing case at Stansted airport.
51. Sir John Cuckney, as he was then, became Lord Cuckney of Millbank.
52. Jonathan Aitken MP was also an IMS director for a short while.
53. Kerry Report: p. 129–135.
54. Sami Shukri, gen.mgr. Allied Arab Bank, was fired.
55. Hinduja brothers: Implicated in Bofors arms deal (Scott). No. 10 dinner guests (Thatcher / Major).
56. Allied Arab Bank: Sheikh Kamal Adham, and other Arab investors 80%, Barclays 20%. Name changed to Allied Trust Bank, when Barclays took 100%. Barclays later sold out to Ansbacher.
57. Sheikh AR Khalil was deputy chief of Saudi intelligence, and Saudi Minister of Communications.
58. Chicago Futures Trading Association.
59. Kerry report p. 728–775; New York Magazine 19 Aug. 1991 (Christopher Byron).
60. Bingham 2.56.
61. IML: Institut Monetaire Luxembourgeois.
62. Bingham 2.58.
63. PW, at that time, were solely BCCI (Overseas) auditors in Grand Cayman. Not appointed global group auditors until 1987.
64. Bingham ibid.
65. Affidavit: Robert Mazur, US Customs undercover agent (Kerry report).
66. Sheikh Hamad al-Sharqi. Fujairah (UAE), next door to Sultanate of Oman.
67. Ernst & Whinney audited the mainstream bank, BCCI (S.A.), whereas Price Waterhouse audited BCCI (Overseas) Ltd. Cayman accounts. Following the discovery of Akbar's losses in BCCI's central treasury, Ernst & Whinney resigned and Price Waterhouse became auditor for the BCCI group worldwide.
68. Masihur Rahman: BCCI chief financial officer.
69. Y.D. Padiyar: "Advisor," BCCI (Overseas).
70. Eddie George: then deputy chief cashier (Gilts), and Tony Coleby (Money Markets), were among the recipients of these hampers <Source>.
71. Bingham 2.61.
72. "Brenchase."
73. Brian Gent (decd.): BCCI supervisor. Also supervisor Bremar Holdings.
74. Institut Monetaire Luxembourgeois.
75. VH Abidi: UK General Manager (BCCI).
76. Bingham 2.62.
77. AFBD: Association of Futures Brokers and Dealers.
78. Cunard House: adjoining BCCFs main building (100 Leadenhall St.).
79. Kerry p. 764. *Independent* (Nick Fielding) 11/8/91.
80. Geneva: Mme Cecile Ringenburg. Liechtenstein: Dr Franz Pucher.
81. Kerry Fox: Witness statement to Kerry Committee 19 Sept. 1990.

82. Ibid. 27 July 1992.
83. Financial General became First American Bank, with Clark Clifford (former US Secretary of Defence) as chairman, in 1982 – by which time the relationship with BCCI had become known to the Fed. (FRB).
84. Transcript, FRB Hearing (Kerry footnote: 1600).
85. Sheikh Mohammed bin Rashid al-Maktoum: UAE Minister of Defence.
86. Accounting for Fraud: Auditors' Ethical Dilemmas in the BCCI Affair (Nikos Passas. 1996).
87. Mohammed Azmatullah: gen.mgr Central Administration – later moved to Abu Dhabi.
88. Askari Khan was knocked down and killed by a heavy truck in Abu Dhabi, while on police bail.
89. Arjmand Naqvi: Arrested in Abu Dhabi. Died in detention (diabetic coma) – AD police delayed getting him to hospital.
90. <see Floor Plan and Vertical Plan: 100 Leadenhall St. and Cunard House = Appendix>.
91. SM Akbar: general manager BCCI (Overseas), Grand Cayman. Married to Naqvi's sister; not to be confused with Ziauddin Akbar (no relation).

Crime, Law & Social Change **35:** 43–140, 2001.

Price Waterhouse: Summons before the Civil Court, Luxembourg

This 28th day of September, 1998

At the request of:

1) First American Corporation ("FAC") and 2) First American Bankshares, Inc. ("FAB"), which are corporations organized under the laws of the State of Virginia, United States of America, with their principal place of business at 1420 New York Avenue, N.W., Washington, D.C. 20005, U.S.A., represented by Charles McC. Mathias, Chairman of the Boards.

Represented by Lydie LORANG, attorney-at-law registered on List (I), residing in Luxembourg, whose law offices FAC and FAB have chosen as domicile.

I, the undersigned, Pierre BIEL, server of process, residing in Luxembourg, registered with the court of the district of Luxembourg, have served to:

(1) **PricewaterhouseCoopers**, a worldwide partnership or other association represented by its partners and carrying on business in Luxembourg and elsewhere in the world, with principal places of business at 1301 Avenue of the Americas, New York, NY 10019, U.S.A., and 1 Embankment Place, London WC2N 6; PricewaterhouseCoopers is successor partnership and successor-in-interest to Price Waterhouse, which was also a worldwide partnership; it is Price Waterhouse's misconduct with respect to FAC and FAB that is at issue in this action.

(2) (a) **Price Waterhouse s.à.r.l.**, a limited liability partnership (*société à responsabilité limitée*) with its registered office at 24–26 avenue de la Liberté L-1930 Luxembourg and represented by its current managers which was initially created as a stock corporation (*société anonyme*) and which is successor-in-title to Price Waterhouse, a partnership (*société civile*), under the terms of the articles of incorporation of Frank BADEN, notary, dated March 21, 1990 and published in *Mémorial* C no. 353 of September 28, 1990; it is Price Waterhouse, S.A. and Price Waterhouse's misconduct with respect to FAC and FAB that is at issue in this action.

(b) and if necessary **PricewaterhouseCoopers s.à.r.l.**, a limited liabilty partnership (*société à responsabilité limitée*), with its registerd office at 16, rue Eugène Ruppert, L-1014 Luxembourg and represented by its current managers,

(3) **PricewaterhouseCoopers**, an unlimited liability partnership formed under English law, with its registered office at 1 Embankment Place, London WC2N 6NN, represented by its partners or by the current representative body provided for in the by-laws; PricewaterhouseCoopers is the successor partnership to the U.K. firm of Price Waterhouse; Price Waterhouse was also an unlimited liability partnership formed under English law; it is Price Waterhouse's misconduct with respect to FAC and FAB that is at issue in this action.

(4) **PricewaterhouseCoopers**, an ordinary limited partnership governed by the laws of the Cayman Islands, with its registered office in George Town, Grand Cayman, British American Center, represented by its partners; PricewaterhouseCoopers is the successor partnership to Price Waterhouse, which was an unlimited liability partnership formed under the laws of the Cayman Islands; it is Price Waterhouse's misconduct with respect to FAC and FAB that is at issue in this action.

(5) **PricewaterhouseCoopers LLP**, a limited liability partnership formed under the laws of the State of New York, with its registered office at 1301 Avenue of the Americas, New York, NY 10019, U.S.A., represented by its chairman and senior partner; PricewaterhouseCoopers is the successor partnership and successor-in-interest to Price Waterhouse LLP, which was also a limited liability partnership formed under the laws of New York; it is Price Waterhouse LLP's, with respect to FAC and FAB, misconduct that is at issue in this action.

(6) **Mr. Christopher COWAN**, accountant, residing at Ballards, Ballards Lane, Limpsfield, Surrey, RH8 OSN, England;

(7) **Mr. Edward HOULT**, accountant, residing a 2, Lichfield Road, Kew Richmond, Surrey, TW 3JR, U.K.,

(8) **Mr. Richard FEAR**, accountant, residing at Little Savannah, Newlands, Grand Cayman, P.O. Box 284, Savannah, Grand Cayman;

The PricewaterhouseCoopers entities referred to above in subparagraphs (1) through (5) are served in their capacity as former consultants, advisers, accountants, and auditors to the BANK OF COMMERCE AND CREDIT INTERNATIONAL ("BCCI"), and the related affiliates that used that name from BCCI's creation until July 5, 1991, the date of its collapse.

The individuals referred to above in subparagraphs (6) and (7) are served in their personal capacity as present or former partners liable for PRICEWATERHOUSECOOPERS and Price Waterhouse, the U.K. partnerships referred to above in subparagraph (3).

The individual referred to above in subparagraph (8) is served in his personal capacity as a former employee liable for PRICEWATERHOUSECOOPERS and Price Waterhouse, the Cayman partnerships referred to above in subparagraph (4).

The individuals referred to above in subparagraphs (6) through (8) are also served as professional consultants, advisors, accountants and auditors, acting either individually or under the "PRICEWATERHOUSECOOPERS" or the "PRICE WATERHOUSE" name.

The individual and legal persons referred to above in subparagraphs (1) through (7) held themselves out as partners in the worldwide Price Waterhouse partnership, and are therefore estopped from denying its existence. All the entities and individuals referred to above are hereafter, collectively, "PRICE WATERHOUSE."

The persons referred to above in subparagraphs (1) through (8) are to appear before the court sitting in civil matters represented by an attorney (avocat liste I) within the period set forth by law, which is fifteen days for the person referred to in subparagraph (2); this period of fifteen days is increased by one month for the persons referred to in subparagraphs (1), (3), (6) and (7), and by two months for the persons referred to in subparagraphs (4), (5) and (8), before the court of the district of Luxembourg, sitting in civil matters at the Palace of Justice of Luxembourg, second Floor, Room 35, at 9 a.m.

with declaration that if notification of the present writ is handed over to the defendant personally and if the defendant does not give notice of appearance, the judgment to occur shall be deemed a defended judgment and no opposition proceedings shall be admitted (art 80 of the New Code of Civil Proceedings)

and with declaration that the present claim is based on the documents which are listed in the list attached to the present deed which list is to be considered as being part of the present deed.

The plaintiff expressly reserves its night to serve in due course any other legal or natural person who has acted under the "PRICE WATERHOUSE" name.

1. Introduction

1. This case arises out of the acquisition by the notorious Bank of Credit and Commerce International ("BCCI") of a secret and illegal ownership and controlling stock interest in plaintiffs First American Corporation and First American Bankshares, Inc. (collectively "First American"). Beginning not later than February 1987, Price Waterhouse, which was BCCI's long-term advisor, consultant, and auditor, knew about and fraudulently concealed BCCI's ownership and controlling stock interest in First American. Price Waterhouse also knew about and fraudulently concealed many other frauds and crimes perpetrated by BCCI.

2. As a result of BCCI's secret investment, which violated U.S. banking law, First American suffered losses of approximately $1.5 billion and was eventually placed into liquidation. First American filed lawsuits in Washington, D.C. against various parties who assisted in or fraudulently concealed BCCI's illegal ownership interest, and increased by $400 million the amount

available to BCCI's victims. In this action, First American seeks recovery of $1.1 billion in damages from Price Waterhouse.

A. Price Waterhouse fraudulently concealed and assisted BCCI's acquisition of an illegal ownership and controlling stock interest in First American

3. In the early 1990's, First American was one of the leading financial institutions in the Washington, D.C. area, with assets of approximately $11 billion. Beginning in 1978, however, BCCI secretly acquired a substantial illegal Interest in Credit and Commerce American Holdings, N.V. ("CCAH"), a Netherlands Antilles bank holding company that was First American's ultimate corporate parent. To conceal its illegal ownership interest in First American, BCCI fraudulently booked that interest as a series of phony loans to record shareholders of CCAH. BCCI's Illegal ownership of controlling stock interest in First American through CCAH violated United States banking law.

4. Price Waterhouse knew that the phony CCAH loans were marked by pervasive evidence of fraud. The "borrowers" were not obligated to repay either principal or interest on their loans, and Price Waterhouse knew they rarely did so. Price Waterhouse knew that the balances owed by the "borrowers" on the phony CCAH loans had increased rapidly throughout the 1980s because, although the "borrowers" almost never paid any "interest," BCCI had routinely recognized the accrued "interest" on these non-performing "loans" as income to BCCI, and then rolled that "interest" into the "principal" owed by the "borrowers." For example, Price Waterhouse knew that between 1982 and 1989, BCCI recognized as "income" more than $570 million of unpaid interest and fees on the CCAH-related "loans." Moreover, Price Waterhouse knew that this amount was many times greater than BCCI's stated profits for that entire period.

5. Price Waterhouse repeatedly acknowledged that most of the CCAH loans lacked even basic loan documentation. In March 1987, Price Waterhouse admitted that BCCI's credit files lacked "[a]udited accounts of the borrowers;" in November 1987 that BCCI's loan documentation "was insufficient;" in May 1988 that "the adequacy of credit files" was a particular area of concern;" in June 1988 that "[t]here continues to be significant deficiencies in loan documentation;" and in February 1989 that BCCI held no promissory notes or loan agreements for a majority of its large CCAH-related loans, and that BCCI could provide little information about the purported borrowers.

6. Price Waterhouse knew that the purported security arrangements for the CCAH loans were irregular. Although the borrowers had allegedly pledged the CCAH shares, Price Waterhouse knew that the pledges were not formally recorded on CCAH's books; that many of the CCAH shares were "cross-pledged" by one shareholder to support loans to another borrower,

without any evidence of consent from the parties; that the cross-pledging of these shares lacked any commercial rationale; and that the CCAH shares were almost worthless as security to BCCI because U.S. law prohibited BCCI from holding its secret interest in CCAH.

7. Price Waterhouse knew that the CCAH-related loans were routinely increased without satisfying, even BCCI's limited internal controls. Price Waterhouse knew the loans usually exceeded BCCI's internal loan exposure limits; that the excess over limits was frequently not approved by the directors, and that there was little or no evidence of authorization from the alleged borrowers. Price Waterhouse knew that BCCI had repeatedly promised to correct these various problems, and that BCCI had repeatedly broken those promises.

8. Because the CCAH loans had none of the attributes of real loans, Price Waterhouse concluded that BCCI owned a substantial interest in First American. In February 1987, Price Waterhouse concluded that the CCAH loans were not made on "normal commercial terms," and that the "CCAH accounts were effectively an investment and not a loan." In October 1989, a senior BCCI executive confirmed to Price Waterhouse that the purported CCAH-related borrowers "held their shares as nominees for BCCI" and were receiving annual payments for doing so, and stated that the nominees had letters from BCCI releasing them from any liability on the "loan." In February 1990, the Chief Executive Officer of BCCI confirmed to Price Waterhouse that BCCI had engaged in fraud in connection with the CCAH loans, and Price Waterhouse again concluded that CCAH was a BCCI investment.

9. In the late 1980s, Price Waterhouse was specifically asked by U.S. lawyers for BCCI itself whether allegations of BCCI's ownership of First American were true, and Price Waterhouse falsely claimed there was no evidence of such ownership.

10. Price Waterhouse deceived banking regulators about the illegal relationship. Although Price Waterhouse knew that BCCI's secret ownership of First American violated U.S. law, and that the United States Federal Reserve was being lied to about First American, Price Waterhouse worked with BCCI to continue deceiving, the Federal Reserve in 1990 and 1991. It refused to turn over critical audit reports to the Federal Reserve and to a New York prosecutor. Price Waterhouse also deceived the Institut Monetaire de Luxembourg ("IML") and the Bank of England. For example, in an April 21, 1989 meeting among Price Waterhouse, BCCI, and the IML, Price Waterhouse remained silent while BCCI fraudulently stated to the IML that it had "proved to Price Waterhouse" that the CCAH-related loans were genuine and performig. At a later meeting including the same parties, the Bank of England, and other regulators, Price Waterhouse remained silent while BCCI fraudulently stated

that interest on the CCAH loans had been substantially paid. In each of these meetings, Price Waterhouse knew that CCAH was an "investment" of BCCI and that "interest" on the purported CCAH loans had not been and would not be paid.

11. Price Waterhouse deceived the public about the illegal relationship. Price Waterhouse knew that because BCCI owned a substantial interest in First American, International Accounting Standard 3 required disclosure that CCAH was an "associated company," and International Accounting Standard 24 required disclosure that BCCI and CCAH were "related parties." Price Waterhouse knew that BCCI had never made these disclosures, and Price Waterhouse itself repeatedly and fraudulently stated that BCCI's accounts complied with International Accounting Standards.

12. Price Waterhouse had substantial incentives to conceal BCCI's illegal ownership of First American. In early 1987, at the same time that Price Waterhouse concluded that the CCAH-related "loans" were in fact BCCI's investment, Price Waterhouse was actively campaigning to replace Ernst & Whinney as BCCI's lead worldwide auditor. On March 10, 1987, despite its earlier conclusion, Price Waterhouse fraudulently certified BCCI accounts that completely concealed BCCI's investment in CCAH. On March 16, 1987, just days later, Price Waterhouse formally solicited an appointment as BCCI's lead worldwide auditor, and in April 1987, to reward Price Waterhouse for its assistance in concealing, BCCI's fraud, BCCI retained Price Waterhouse as its lead worldwide auditor.

13. Another incentive was to protect Price Waterhouse from the consequences of its own past misconduct. As discussed below, Price Waterhouse in 1985–86 wrongfully certified BCCI accounts that masked approximately $1 billion in trading losses, and it acquiesced in much of BCCI's criminal conduct. Price Waterhouse knew that the most effective way of protecting itself was to ensure that BCCI continued as a going, concern, and that Price Waterhouse continued as BCCI's lead auditor. Price Waterhouse also knew that one of the most dangerous threats to BCCI's existence was disclosure of BCCI's illecal interest in First American, for that criminal violation could not be rectified by any accounting or financial maneuver. Consequently, even in 1990–91, when BCCI was rapidly unraveling, Price Waterhouse continued to conceal BCCI's felony from U.S. authorities and from First American.

14. United States officials finally learned of BCCI's illegal ownership of First American in early 1991. As a result, criminal charges were filed against BCCI, which pled guilty and forfeited its majority interest in First American. Because of BCCI's great notoriety at that time, First American received disastrous publicity and suffered catastrophic damages as a result. A

Trustee to administer the liquidation of First American was appointed in June 1992.

B. Price Waterhouse fraudulently concealed and assisted BCCI's various other frauds

1. Trading losses

15. Between 1981 and 1985, BCCI engaged in a scheme of reckless and manipulative options and futures trading designed to generate fictitious profits for BCCI and huge commissions for its related brokers. The scheme involved trades of at least $130 *billion*, and it produced losses possibly exceeding $1 billion. By early 1986, the scheme had depleted most of BCCI's worldwide capital base and had completely bankrupted BCCI (Overseas), which conducted the trades through its Central Treasury.

16. Price Waterhouse bean concealing the extent of the trading losses no later than its fraudulent certification of BCCI (Overseas)'s 1984 accounts. Price Waterhouse knew that these accounts concealed BCCI (Overseas)'s use of an improper options accounting policy; its manipulative year-end trading, which was designed to inflate stated profits by over 100 per cent; and the existence of a $75 million liability on BCCI (Overseas)'s open options positions.

17. In January 1986, Price Waterhouse was retained to prepare a Special Report for the IML about the trading operations of BCCI (Overseas). In preparing the Special Report, Price Waterhouse knew that BCCI's "very survival was in doubt because of the [Treasury] losses," and that the bank could go "belly up" or "collapse like a house of cards." Price Waterhouse thus recognized that an honest treatment of the Treasury losses "would be certain to cause a substantial loss of confidence in the BCCI Group" and would "severely affect the future of the Group, possibly leading to its collapse." It also knew that if BCCI failed, Price Waterhouse would be sued, and so it immediately contacted its own lawyers. To protect a lucrative client from bankruptcy, and to cover up its improper certification of BBCI (Overseas)'s 1984 accounts, Price Waterhouse submitted a fraudulent Special Report to the IML in March 1986.

18. The Special Report concealed from the IML Price Waterhouse's own conclusions that BCCI had been "gambling" with its deposits, that BCCI's trading had been "reckless" and "excessive," and that Price Waterhouse itself had never encountered such wild trading. Price Waterhouse concealed from the IML that BCCI was engaged in a fraudulent scheme to manufacture an ever-increasing stream of fictitious profits in order to cover up mounting actual losses. Price Waterhouse concealed from the IML the fact that BCCI

had falsified or suppressed material information, and that BCCI had absurdly claimed to have engaged in trades exceeding $72 billion for a single client.

19. Price Waterhouse affirmatively assisted BCCI in concealing the financial impact of the trading losses. In 1986, to recapitalize BCCI (Overseas) after these losses, BCCI management made an improper and uncompensated transfer of $150 million from the ICIC Staff Benefit Fund, a BCCI-controlled pension fund, to BCCI. Price Waterhouse publicly certified accounts that treated this transfer as ordinary operating income to BCCI (Overseas) for 1985, despite knowing that it should have been treated as an extraordinary capital contribution for 1986. Indeed, Price Waterhouse knew that the $150 million transfer was an accounting gimmick designed solely "to preserve confidence in the BCCI Group."

20. Price Waterhouse also affirmatively assisted BCCI in falsely characterizing the source of the $150 million transfer as a "contribution" to BCCI from outside shareholders. This deception succeeded when the financial community concluded that BCCI's trading losses had been "quickly neutered" by contributions from wealthy outside shareholders such as the Abu Dhabi ruling family.

Had Price Waterhouse disclosed BCCI's Treasury frauds in 1986, much of the injury that BCCI was to cause First American could have been avoided.

2. Cayman operations

21. Beginning in 1975, BCCI created a series of Cayman Islands entities designed to hide fraudulent transactions behind the bank secrecy laws of that Jurisdiction. Price Waterhouse recommended the Caymans as an offshore banking location because of their "lax licensing requirements and general absence of reserve requirements, income taxes, and lending limitations."

22. The most important of these Cayman entities were BCCI (Overseas) and International Credit and Investment Company ("ICIC") (Overseas). BCCI used BCCI (Overseas) to hide its worst loans and most fraudulent transactions, and it used ICIC (Overseas) to disguise transfers of funds, to mask the actual shareholders of BCCI and related companies, to hide problem loans, and to otherwise manipulate accounts. Although held out as a purportedly independent company, ICIC (Overseas) in fact was controlled by BCCI, which privately admitted that ICIC (Overseas) was its "bank within a bank."

23. As a frequent consultant to BCCI, and as the sole auditor of BCCI (Overseas) and ICIC (Overseas) from their creation in the mid-1970s, Price Waterhouse had longstanding knowledge that BCCI controlled ICIC (Overseas) and related ICIC entities. As early as 1986, Price Waterhouse knew that BCCI had compelled an ICIC entity to make an uncompensated transfer of $150 million to BCCI (Overseas). In March 1987, Price Waterhouse admitted

that the relationship between BCCI and ICIC (Overseas) was "very close." And in November 1987, Price Waterhouse admitted that ICIC was "under the effective control of senior management of BCCI."

24. Price Waterhouse also knew that BCCI used ICIC, particularly ICIC (Overseas), as an instrument of fraud. Price Waterhouse knew that BCCI diverted deposits to BCCI without customers' knowledge or approval, that ICIC loans were improperly secured by shares of BCCI Holdings, and that ICIC pursued no business objective independent of BCCI's. Indeed, the frauds involving First American shares and ICIC were related because BCCI channeled many of the fraudulent CCAH loans, by which BCCI secretly acquired and capitalized First American, through ICIC (Overseas) and nominee agreements existed between ICIC and the record shareholders of CCAH.

25. In late 1989, Price Waterhouse prepared an extensive draft report explaining both the relationships between BCCI and ICIC and BCCI's use of ICIC as an instrument of fraud. However, BCCI complained about the report and improperly requested that Price Waterhouse keep the report "totally confidential." Price Waterhouse did so.

26. Price Waterhouse knew that, because BCCI controlled ICIC, International Accounting Standard 24 ("IAS 24") required disclosure that BCCI and ICIC were "related parties." Price Waterhouse knew that neither BCCI nor ICIC had ever made this disclosure, and Price Waterhouse itself repeatedly and fraudulently stated that the accounts of BCCI complied with IAS 24. Price Waterhouse began deliberately violating IAS 24 on behalf of BCCI no later than March 1987; one month later, BCCI selected Price Waterhouse to replace Ernst & Whinney as its lead worldwide auditor.

3. Criminal conduct

27. Price Waterhouse knew that BCCI was involved in criminal conduct throughout the world, including money laundering, exchange control violations, and tax evasion. Price Waterhouse acknowledged its duty to report such violations to local regulators, but it repeatedly breached that duty.

28. During the mid 1980s, BCCI became involved in extensive money laundering, for such individuals as Panamanian dictator Manuel Noriega, for whom BCCI laundered over $20 million. Between 1988 and 1991, BCCI was indicted three times in the United States for money laundering and related offenses. Following its third indictment, BCCI pleaded guilty to charges that, among other things, it "knowingly offer[ed] a full range of services to drug importers, suppliers, and money launderers." These indictments caused BCCI to acquire a well-deserved reputation in the United States as a vast criminal enterprise.

29. Price Waterhouse actively sought to conceal BCCI's rampant criminal activity. In mid-1987, for example, the BCCI Audit Committee retained Price Waterhouse to conduct a comprehensive review of BCCI's entire system of internal controls, in order to assure the Board of Directors that BCCI was "complying with legal requirements and central bank regulations." After the Tampa indictments, however, Price Waterhouse urged the Audit Committee to abandon its review, stating that a draft report "should not be finalised or even circulated in draft form." Similarly, at a November 1, 1989 meeting with the United States Federal Reserve Board, Price Waterhouse concealed its knowledge that BCCI was diverting criminal transactions away from the U.S. because of strict U.S. money laundering regulations.

30. Even as evidence of BCCI's crimes and frauds worsened, Price Waterhouse continued to obstruct investigations of BCCI throughout the world. For example, Price Waterhouse repeatedly withheld information and made misrepresentations to the IML and the Bank of England. Lord Justice Bingham later described this conduct as both "puzzling" and "very unfortunate." Price Waterhouse also withheld information from the U.S. Federal Reserve in order to protect its "client relations" with BCCI, and it agreed to "stonewall" a criminal investigation regarding BCCI's illegal ownership of CCAH.

C. Price Waterhouse's misconduct caused severe damage to First American

31. By fraudulently concealing BCCI's illegal ownership interest in First American, Price Waterhouse caused grave damage to First American. If Price Waterhouse had made timely disclosures recrardincy the illegal BCCI-First American relationship, First American could have separated itself from BCCI long before BCCI's illegal interest required the liquidation of First American. That would have greatly minimized the damages that First American ultimately suffered.

32. Similarly, if Price Waterhouse had promptly disclosed BCCI's other frauds and improprieties, banking regulators would have reformed or shut down BCCI much earier. Instead, each unreported BCCI fraud led to a more serious one: the early Treasury derelictions led to the massive trading losses; the Treasury losses led to increased fraud in the CCAH loans and to BCCI's money laundering; the money laundering led to the Tampa indictment and to more pressure on the BCCI's finances, and the ever-growing First American fraud ultimately led to BCCI's seizure and still more indictments. By the time of BCCI's collapse, the spiral of fraud had increased to a level literally unprecedented in banking history, and when BCCI's illegal interest in First American was finally revealed, First American could not escape the taint of BCCI's criminality. As BCCI's principal auditor, Price Waterhouse

could have broken the chain of frauds and thus minimized First American's damages.

33. After BCCI's illecal ownership of First American was publicly revealed, and First American was publicly associated with BCCI's criminal enterprises, First American's market value fell precipitously. In 1990, the value of First American exceeded $1 billion. After BCCI's illegal ownership was disclosed, First American was forced to sell its assets by June 1993 in order to comply with court orders; that sale yielded a net of approximately $300 million, or at least $700 million less than its 1990 value. This loss in value was caused by the taint of BCCI's ownership, as well as by a run-off of &1.8 billion in core deposits from First American after the massive negative publicity about BCCI's seizure by bank regulators worldwide.

34. First American was also damaged by the increased operating costs and decreased profits that resulted from its control by BCCI. BCCI caused First American to make substantive investments in National Bank of Georgia and in First American Bank-New York, even though those investments only benefited BCCI. Damages flowing from the National Bank of Georgia transactions amounted to approximately $427 million, and damages flowing from the First American Bank of New York transactions totaled approximately $380 million.

II. Principal parties

A. First American

35. Plaintiff First American Corporation ("FAC") is a corporation organized under the laws of the State of Virginia, U.S.A., with its principal place of business In Washington, D.C., U.S.A. At all relevant times, FAC was wholly owned by Credit and Commerce American Investment, B.V. ("CCAI"), a Netherlands corporation, which in turn was wholly owned by Credit and Commerce American Holdings, N.V. ("CCAH"), a Netherlands Antilles corporation. CCAI and CCAH had no employees and no substantial assets other than the stock they held. On June 23, 1992, the United States District Court for the District of Columbia appointed a Trustee to hold FAC's stock.

36. Plaintiff First American Bankshares, Inc. ("FAB") also was, at all relevant times, a Virginia corporation, with its principal place of business in Washington, D.C. FAB is wholly owned by FAC. Prior to 1982, FAB was known as Financial General Bankshares, Inc. ("FGB"). FAB directly or indirectly owned banks located in the states of Florida, Georgia, Maryland, New York, Tennessee, and Virginia, and in the District of Columbia.

37. FAB and FAC are referred to herein as, collectively, "First American."

B. BCCI

38. At all relevant times, three principal entities conducted business within the group of companies known as BCCI: (1) Bank of Credit and Commerce International S.A. ("BCCI S.A."), a bank incorporated in Luxembourg in 1972; (2) Bank of Credit and Commerce International (Overseas), Limited ("BCCI (Overseas)"), a bank incorporated in the Cayman Islands in 1975; and (3) BCCI Holdings (Luxembourg), S.A. ("BCCI Holdings"), a bank holding company incorporated in Luxembourg in 1974 and the sole shareholder of both BCCI S.A. and BCCI (Overseas). BCCI's frauds were concentrated in BCCI (Overseas), which was audited at all times by Price Waterhouse.

39. In 1976, BCCI incorporated in the Cayman Islands the two principal entities that conducted business under the name International Credit and Investment Company ("ICIC"): (1) International Credit and Investment Co. (Overseas), Limited ("ICIC (Overseas)"), a bank; and (2) International Credit and Investment Co. (Holdings), Limited ("ICIC Holdings"), a bank holding company and the sole shareholder of ICIC (Overseas). ICIC (Overseas) was created as an instrument of fraud: it pursued no business objectives independent of BCCI, it was completely controlled and dominated by BCCI management, and it was used by BCCI to conceal and disguise its account manipulation and other frauds. ICIC (Overseas) was audited at all times by Price Waterhouse.

C. Price Waterhouse

40. PricewaterhouseCoopers is a new global partnership that was formed by the 1998 merger of Price Waterhouse and Coopers & Lybrand. Price Waterhouse was a global partnership that performed accounting, consulting, and auditing services for clients throughout the world. Only the activities of the former Price Waterhouse partnership are at issue in this action. Accordingly, defendants are collectively referred to as "Price Waterhouse." At all relevant times, the individual defendants were Price Waterhouse partners or employees.

41. Price Waterhouse partners shared profits on a worldwide basis. Accordingly, Price Waterhouse was in fact a single worldwide partnership. The partners of PricewaterhouseCoopers similarly share profits on a worldwide basis. Accordingly, PricewaterhouseCoopers is also a single worldwide partnership.

42. At all relevant times, Price Waterhouse held itself out as a single worldwide partnership. In brochures and advertisements, Price Waterhouse identified itself as a single organization VAth a worldwide network of offices and with uniform standards throughout the world. In correspondence with

BCCI, Price Waterhouse referred to "Price Waterhouse" as BCCI's "sole auditors," and it identified geographic locations as Price Waterhouse "offices" – not as separate partnerships or entities. Price Waterhouse carried on its operations through a number of branch offices, some of which purported to be individual partnerships or corporations, including offices in Luxembourg, Grand Cayman, the United Kingdom, and the United States. Partners and employees from one Price Waterhouse office were often transferred to other Price Waterhouse offices. Price Waterhouse partners routinely used the stationery of other Price Waterhouse offices, or signed correspondence, reports, and accounts not in the name of any distinct geographic entity, but simply as "Price Waterhouse." Consequently, PricewaterhouseCoopers is estopped from denying that Price Waterhouse was a single worldwide partnership.

43. BCCI repeatedly retained Price Waterhouse to perform consulting and other professional services. In 1983, BCCI retained Price Waterhouse to review the Central Treasury of BCCI (Overseas) and to prepare a Commodity Operations Report. In 1986, BCCI retained Price Waterhouse to prepare a Special Report for the IML on the trading operations of the Central Treasury of BCCI (Overseas), and also a Credit Risk Investigation of the loan portfolio of BCCI (Overseas). In August 1986, Price Waterhouse undertook another review, specially commissioned by BCCI (Overseas), of the activities of its Central Treasury. In December 1986, Price Waterhouse conducted a review of the relocation of BCCI (Overseas)'s Treasury operations to Abu Dhabi. In mid-1987, Price Waterhouse carried out a comprehensive re iew of BCCI's entire system of internal controls. In March 1989, Price Waterhouse was retained to examine the illegal transactions for which BCCI had been indicted in Tampa, Florida. Price Waterhouse's work concerning the Tampa indictment was subsequently broadened to encompass an investigation of BCCI's money laundering, and other criminal activities throughout the world. Finally, Price Waterhouse repeatedly provided tax advice to BCCI.

44. Price Waterhouse audited the financial accounts of BCCI (Overseas) for each financial year from 1975 through 1989, and audited the financial accounts of BCCI Holdings and BCCI S.A. for each financial year from 1987 through 1989. Price Waterhouse certified all of these accounts without significant qualification.

45. Price Waterhouse audited the accounts of ICIC (Overseas) for each financial year from 1976 through 1989. During this time, Price Waterhouse also audited the accounts of several other ICIC entities, including the ICIC Foundations, the ICIC Staff Benefit Trust, and the ICIC Staff Benefit Fund. With few exceptions, Price Waterhouse certified these accounts without qualification.

46. The Price Waterhouse partners and employees principally responsible for its BCCI work were Richard Harris and Richard Fear, both of the Cayman branch of Price Waterhouse, and Timothy Hoult, Christopher Cowan, and Simon Chapman, all of the U.K. branch of Price Waterhouse.

III. Price Waterhouse fraudulently concealed BCCI's illegal interest in Frist American

A. BCCI's secret and illegal investment in financial general bankshares, First American's predecessor

47. Because BCCI was a dollar-based bank, it believed it would eventually need a strong presence in the U.S. in order to become a significant worldwide bank. Beginning in 1978, BCCI assembled a group of Middle Easterners and other BCCI agents to acquire Financial General Bankshares ("FGB"), the predecessor to First American. Although the purchasers publicly claimed to be acting independently of BCCI and of each other, in reality BCCI advanced the group the funds used to acquire the FGB shares. The funds to purchase FGB were channeled through BCCI (Overseas) and ICIC, which were audited at all times by Price Waterhouse.

48. Under U.S. banking law, any person or group of persons acting in concert that acquires 10% or more of a U.S. bank must file detailed reports with the Federal Reserve. Because the BCCI group had collectively acquired approximately 18% of FGB's shares, but never filed the requisite reports, the Federal Reserve began an investigation.

49. FGB also brought a lawsuit in Washington, D.C. against BCCI, BCCI executives, the Middle Eastern nominees, and others alleging that they violated various federal securities laws. Through that lawsuit, FGB obtained a preliminary injunction prohibiting BCCI and the other defendants from acquiring any additional FGB stock or soliciting proxies. In granting the injunction, the U.S. Court found that FGB would likely succeed on its claim that BCCI was illegally coordinating the purchase. The Court did not, however, prohibit the defendants from making a tender offer for all of FGB's shares, because by the time of the Court's decision, BCCI and the other defendants had signed a consent decree with the U.S. Securities and Exchange Commission that permitted them to make such an offer if they accurately completed the requisite regulatory filings.

50. In 1978, BCCI formed a new holding company with a strikingly similar name, Credit and Commerce American Holdings ("CCAH"), which applied to the Federal Reserve to purchase all of the shares of FGB. In its application, CCAH asserted that the funds for the acquisition would come

from individuals or financial institutions unaffiliated with BCCI (except for a small loan from a BCCI affiliate in Kuwait). CCAH made similar fraudulent misrepresentations in a further application to the Federal Reserve filed in October 1980. In 1981, the Federal Reserve approved CCAH as the ultimate bank holding company for FGB, and in 1982 CCAH purchased FGB for approximately $185 million. Unknown to the Federal Reserve, the purchase was financed primarily by BCCI.

51. BCCI and ICIC entered into a variety of agreements with certain of CCAH's record shareholders to acquire effective ownership of CCAH, and hence First American. BCCI purportedly loaned the CCAH shareholders the funds to purchase their CCAH shares, both in 1982 and throughout the 1980s as First American expanded; BCCI took custody of and treated the shares as collateral for the "loans;" BCCI agreed that the shareholders would have no liability to repay interest or principal; and in most cases BCCI reserved for itself any profits from any future sale of CCAH shares. The record shareholders who signed these agreements received substantial payments for agreeing, to serve as BCCI nominees.

52. Because BCCI held an ownership and controlling stock interest in more than 25% of CCAH (and therefore First American), it was required under United States banking law to disclose and obtain approval for that ownership interest. Before 1991, BCCI never made the required disclosure.

B. The CCAH loans were characterized by pervasive evidence of fraud

53. Price Waterhouse knew that the CCAH loans, which grew from $137 million in 1982 to $1.3 billion in 1990, exhibited overwhelming evidence of fraud. Most importantly, Price Waterhouse knew that the purported "borrowers" rarely if ever paid any interest on the purported "loans."

54. Price Waterhouse knew that although interest and fees on the CCAH loans were never actually paid, BCCI reported the imputed "interest" as income to the bank. This practice allowed BCCI to book between $40 million and $134 million as income from the CCAH loans each year. Price Waterhouse knew that BCCI became heavily dependent on the "income" generated by the CCAH loans, especially after the $1 billion in Treasury losses in 1985–86. Between 1982 and 1989, BCCI recognized as income more than $570 million of unpaid interest and fees on the CCAH-related loans. This amount was many times greater than BCCPs stated profits for that entire period, and without this phantom income, BCCI would have been properly declared insolvent years before it actually was.

55. Price Waterhouse knew that the "income" from the CCAH loans was high because the "interest and fees" charged on the CCAH loans was exorbitant. Each year BCCI would charge each CCAH borrower 12–20% of

his loan balance as interest and fees on the loans, even thouch such "interest" charges were well above market rates, particularly for individuals whose net worth was as great as BCCI reported. BCCI purported to justify these charges with the unsupported assertion that it provided special attention and services to its large international "borrowers," but Price Waterhouse knew that BCCI did not even have contact with some of the CCAH borrowers for years at a time.

56. Price Waterhouse knew that because the accrued interest was never paid, BCCI added or "rolled" the unpaid interest into the loan principal. That caused the loan balances to grow at a compound rate of 12–20%. For example, between September 1986 and October 1990, the CCAH "loan" balances increased from $377 miUlon to $1.33 billion, largely because of the unpaid interest. BCCI depended on these illusory "assets" to disguise its underlying insolvency.

57. Price Waterhouse knew the CCAH "loans" were not legally enforceable and were largely undocumented. Price Waterhouse knew that there were no promissory notes or loan agreements for most of the loans; that BCCI could provide no credit reports or cash flow statements about the purported borrowers; that BCCI had violated its internal procedures by increasing credit limits to these purported borrowers without approval by the BCCI Credit Committee or the BCCI Boards of Directors; that BCCI's concentration of risk to the purported borrowers was dangerously high; that BCCI regularly broke its promises to rectify these problems; and that it was not possible to corroborate management representations about the loans or to satisfy its duty to investigate them.

58. Price Waterhouse knew that the purported security arrangements were particularly irreaular. Some of the CCAH "shareholders" had not signed formal pledges, but only blank share transfer deeds, and Price Waterhouse knew or should have known that no pledges were recorded on the share register of CCAH. Price Waterhouse also knew that a number of shares owned by one borrower had supposedly been "cross-pledged" against loans in the name of a different borrower. It knew that such highly unusual arrangements – even if they truly existed – lacked any commercial rationale. If the CCAH shares had been properly pledged and recorded on CCAH's share register, First American would have become formally aware of those loans and would have made appropriate disclosures to U.S. bank regulators.

59. Moreover, Price Waterhouse had detailed knowledge of the problems concerninor each CCAH borrower.

1. Sheikh Kamal Adham

60. Sheikh Kamal Adham was one of BCCI's largest purported borrowers and one of the principal co-conspirators through whom BCCI illegally acquired CCAH. Sheikh Adham was one of the original record shareholders of CCAH, and BCCI designated him as the purported "lead" shareholder of the CCAH group.

61. In 1992, Sheikh Adham pled guilty to fraudulently assisting BCCI in acquiring First American, in violation of New York state banking law. As part of his plea agreement, Sheikh Adham agreed to pay $105 million to the Federal Reserve Bank of New York and to the New York County District Attorney's Office.

62. Price Waterhouse knew that even though Sheikh Adham's purported loans totaled $152 million as early as 1986, BCCI could not document loan agreements, loan requests, or (until late 1989) formalized repayment terms.

63. In November 1987, Price Waterhouse knew that the purported loans to Sheikh Adham exceeded authorized limits by $43 million. In 1989, Price Waterhouse knew that BCCI purportedly loaned Sheikh Adham an additional $18 million – all of it unauthorized.

64. Price Waterhouse knew that Sheikh Adham's purported loan balances had increased to $152 million in 1986, to $270 million in 1988, and to $313 million in 1989. Price Waterhouse knew that Sheikh Adham's CCAH-related "loans" had increased from $44 million in 1986 to $105 million in 1989, and that his other purported loans had increased from $108 million to $208 million during the same interval.

65. Price Waterhouse knew that at least $114 million of BCCI's purported loans to Sheikh Adham were completely unsecured. Price Waterhouse knew that, despite this huge unsecured exposure, BCCI had obtained no net worth statement or other evidence of Sheikh Adham's ability or willingness to pay.

66. Price Waterhouse knew that some of the CCAH shares recorded in Sheikh Adham's name had been cross-pledged to "secure"purported "loans" to other CCAH shareholders. Price Waterhouse knew that these cross-pledges lacked any commercial rationale and that the cross-pledging was expressly designed to deceive the Federal Reserve and the public about who the purported shareholders of CCAH actually were.

67. As early as November 1987, Price Waterhouse knew that Sheikh Adham was paying neither interest nor principal on his purported loans.

68. In September 1988, Price Waterhouse admitted that BCCI's purported loans to Sheikh Adham exhibited a number of glaring problems:

> Large unsecured exposure. Poor interest repayment performance. No evidence of long term repayment schedule. Approval for new borrowings in excess of limits have not yet been seen.

69. In March 1990, Price Waterhouse recognized numerous deficiencies in BCCI's dealings with Sheikh Adham:

> There are no loan agreements with the customer or formalised repayment terms . . .
> New drawdowns in 1989 of $18 million were not approved by the Board before drawdown even though limits had been exceeded . . .
> [M]anagement represented to us that they would take further action to ensure that the mortgage over Sh[eikh] Karnal Adham's property in Saudi Arabia was enforceable. This has not happened . . .
> We have been informed both during the course of the 1988 audit and during the 1989 audit that a net worth statement would be drawn up by a firm of auditors to confirm the worth of Sh[eikh] Kamal Adham. This has not been forthcoming.
> On 6 November 1989 we were informed that the overall balance of Sh[eikh] Kamal Adham's account would be reduced to the 1988 level by the year end. At 31 December 1989 it exceeded the prior year by $17 million.

70. Despite these problems, Price Waterhouse never attempted to obtain confirmation directly from Sheikh Adham that his purported loans were legitimate.

2. Sheikh Hamad Bin Mohammed Al-Sharqi

71. Sheikh Hamad Bin Mohammed Al-Sharqi ("Sheikh Sharqi") is the Ruler of Fujeirah, one of the emirates comprising the United Arab Emirates. Sheikh Sharqi's relationship with BCCI was established by the early 1980s, when he gave BCCI $2.6 million to invest. Later during the 1980s, BCCI used Mashriq Holding Co. ("Mashriq"), a Luxembourg holding company to secretly and illegally acquire CCAH shares worth several hundred million dollars, fraudulently claiming they did so on behalf of Sheikh Sharqi.

72. Price Waterhouse knew or should have known that BCCI, as early as 1985, could not document an alleged request from Sheikh Sharqi for a purported $17.6 million loan. In early 1989, a senior Price Waterhouse manager concluded that there was inadequate documentation to establish that the purported loans to Sheikh Sharqi were recoverable.

73. Price Waterhouse also knew that BCCI could not document the irregular cross-pledges that purportedly secured these "loans." Price Waterhouse knew as early as 1987 that Sheikh Sharqi's "loans" purportedly were secured in part by CCAH shares owned by Sheikh Adham. Price Waterhouse admitted that such cross-pledging "is only appropriate with the consent (or indeed under the instructions) of the shareholder and the borrower." Price Waterhouse

admitted that there was "no evidence of any agreement" between Sheikhs Sharqi and Adham to justify the cross-pledge. Price Waterhouse also knew that the cross-pledging was designed to deceive the Federal Reserve and the public about who the shareholders of CCAH actually were.

74. Price Waterhouse knew that Sheikh Sharqi's purported loan balances had increased to $81.2 million by September 1986, to $123.9 million by December 1987, to $138 million by September 1988, and to over $186 million by December 1989.

75. Price Waterhouse knew that BCCI promised in 1988 that it would receive $8 million in interest on these loans, but that no such payments were ever made.

76. Price Waterhouse never once attempted to obtain a loan confirmation directly from Sheikh Sharqi or from Mashriq before January 1990. When Price Waterhouse finally contacted Sheikh Sharqi directly, he denied any CCAH-related indebtedness to BCCI. He later testified: "It was a complete shock to me to find that I have loans in hundreds of million and I don't have loans."

3. Abdul Raouf Khalil

77. Abdul Raouf Khalil, who was heavily involved in BCCI (Overseas)'s Treasury trading, also held shares of CCAH as a BCCI nominee. To disguise its investment in those shares, BCCI created fraudulent loans in Mr. Khalil's name.

78. Price Waterhouse knew that BCCI had received "no signed loan agreements" and "no net worth statements or cash flow information" from Mr. Khalil – despite purported loan balances of $79 million as early as 1985. In early 1989, a senior manager of Price Waterhouse concluded that there was inadequate evidence to determine whether the purported loans to Mr. Khalil were genuine. Mr. Khalil later admitted that they were fraudulent.

79. Price Waterhouse knew that Mr. Khalil's purported loan balances increased from $79 million in 1985 to $150 million in 1989. It knew that this increase was largely attributable to BCCI's recognition of unpaid "interest" on these purported loans as "income." In 1990, it admitted that "[i]nterest and charges of at least $45 million have not been serviced duning the last five years."

80. Price Waterhouse knew that these exploding balances also were attributable to the "exorbitant" interest rates that BCCI purportedly charged Mr. Khalil. In 1988, for example, it knew that BCCI listed Mr. Khalil's account as generating $21.4 million in interest on a loan balance of $111 million – an effective interest rate of 19.2 per cent. Price Waterhouse knew that there was no evidence that Mr. Khalil had agreed to pay such a rate and that if Mr.

Khalil was as wealthy as BCCI had represented, there was no commercial reason for him to pay such rates. In 1988, Price Waterhouse admitted that BCCI's recognition of unpaid "interest" on Mr. Khalil's purported loans as income was improper.

81. Price Waterhouse knew that, despite these huge "loan" balances and "interest" rates, BCCI had "little, or no, direct contact with" Mr. Khalil between 1985 and 1989. Price Waterhouse admitted that "[t]here is no correspondence with the customer." In 1990, it recognized that Mr. Khalil's purported loans had "not been confirmed in four years."

82. Price Waterhouse knew that BCCI had made repeated misrepresentations about its purported loans to Mr. Khalil. It knew that BCCI repeatedly had broken promises to obtain confirmations of Mr. Khalil's purported loan balances, to eliminate unsecured exposures, and to establish a formal repayment schedule.

83. During mid-1989, Price Waterhouse stated with regard to Mr. Khalil that "unless substantial progress is made by 31 December [1989], it will be necessary to consider interest suspension and provisions." Price Waterhouse knew that no such progress was ever made, and that BCCI nonetheless continued to recognize the purported loans as assets, and the unpaid interest as income.

84. Price Waterhouse never attempted to obtain confirmation directly from Mr. Khalil that his purported loans were legitimate. Mr. Khalil stated that if Price Waterhouse had ever contacted him to confirm the purported loans, he would have "refused to accept any responsibility for them."

4. Faisal Saud Al Fulaij

85. Faisal Saud Al Fulaij was chairman of the Kuwait International Finance Company S.A.K. ("KIFCO"), a company 49 per cent owned by BCCI, and had been chairman of Kuwait Airways. Mr. Fulaij received regular fees for acting as a BCCI nominee.

86. As early as 1987, Price Waterhouse knew that Mr. Fulaij paid no interest on his purported loans. Price Waterhouse knew that BCCI nonetheless recognized $4.6 million of "interest" on these purported loans as "income."

87. Price Waterhouse knew that, as a result of this practice, BCCI's exposure to M. Fulaij had increased to $70.5 million in 1987, to $83 million in 1988, and to $148 million by 1989. It knew that these exposures included $113 million in "loans" purportedly booked through BCCI and an additional $35 million in "loans" purportedly booked through ICIC Overseas.

88. Price Waterhouse never attempted to obtain direct confirmation from Mr. Fulalij that his purported loans were genuine.

5. Ali Mohammed Shorafa

89. Ali Mohammed Shorafa was the Director of the Presidential Court for the United Arab Emirates between 1973 and 1995. Beginning in 1982, BCCI purchased substantial shares in CCAH in Mr. Shorafa's name. The funds for BCCI's investments were disguised as phony "loans" from BCCI to Mr. Shorafa, and the "loans" purportedly were "secured" by CCAH shares supposedly owned by Mr. Shorafa. BCCI paid Mr. Shorafa between $500,000–$1,800,000 for his services in this regard, and it agreed to assume all risk of loss on the underlying CCAH investments.

90. In subsequent litigation, Mr. Shorafa explained his role in BCCI's fraud:

A: I told them "What is it?" They said "We are planning to buy you some shares and to – I told them "I don't have money. How are you going to arrange that?" They said "We will create a loan and we will sell the shares in the market to recover the shares, and you will have" – I don't know – "$200,000," "$250,000," I don't know how much exactly, "every year." So it is a beautiful proposal – especially when it comes from such people on the top of the management of the bank, with their experience, with their presence in the world money market; they know everything legal and the procedures. I wouldn't have thought for one minute doubtful, that these people they are going to do something wrong. And that is why I accepted their proposal . . .

Q: And they promised to give you $250,000 a year?

A: Something like that. I'm not sure about the figure, $250,000, $300,000, I'm not sure. There is between $200,000 to $300,000, something like that.

Q: Your understanding was that you would not have to put any of your own money in to buy these shares – is that correct?

A: Yes, because I don't have – I told them clearly "I don't have the money." They said "We can create a loan." I told them "Who is going to create the loan?" They said "We will sell the shares and profitable, the market, and we will recover." So somebody expert, I have to believe him, because he knows the whole game of the monetary exchange and so on.

Q: So when you say you asked him "Who will pay the loan?" you wanted to make sure that you didn't have to repay this loan, is that correct?

A: Yes, and I wanted to make sure that I'm not making something wrong. They said "OK, we are the bankers. We can arrange for everything in the proper way."

Q: And you understood at this meeting that you were not going to have to repay this loan, is that correct?

A: Yes . . .

Q: You believed them when they told you "Don't worry. You won't have to pay this money back."?
A: Yes, yes of course.
Q: Did they tell you how much money they were going [to] borrow?
A: Never mentioned.
Q: Never?
A: Never mentioned, neither money nor shares, nothing – just sign. "The most important thing is that your profit, we will transfer it to your account." As simple as that.
Q: "Just sign here and we will pay you $250,000 or $300,000 a year."
A: Whatever it is, and –
Q: And that's it?
A: That's it . . .
Q: You called this a beautiful proposal.
A: Of course it is a beautiful proposal.

91. Price Waterhouse knew that Mr. Shorafa had not submitted to BCCI any loan application, financial statement, evidence of creditworthiness, or other basic documentation.

92. Price Waterhouse knew that Mr. Shorafa's purported loan balances had increased to $45 million by 1985, to $52 million by December 1987, to $87 million by September 1988, to $115 million by September 1989, and to $123 million by December 1989.

93. Price Waterhouse knew that BCCI, in September 1988, had falsely claimed that the CCAH shares purportedly held as "security" on these "loans" were worth $93 million. Price Waterhouse itself believed that the purported "security" was worth only $55 million.

94. By late 1988, Price Waterhouse knew that the CCAH shares purportedly owned by Mr. Shorafa had been cross-pledged to secure borrowings by other large CCAH shareholders, including Mr. Khalil. Price Waterhouse knew that these cross-pledge arrangements on their face lacked any apparent commercial rationale, but still accepted BCCI's unsupported representation that "Sheikh Kamal Adham and Sheikh [sic] Ali Shorafa act as principal coordinators among the shareholders. Whenever there is cross-pledge of shares, it has always been with the consent of these principal coordinators."

95. Price Waterhouse never attempted to obtain confirmation directly from Mr. Shorafa that his purported loan and cross-pledge agreements were legitimate. In fact, Price Waterhouse "never had any kind of contact" with Mr. Shorafa.

6. Mohammed Hammoud

96. Until his death in 1990, Mohammed Hammoud was a Lebanese merchant with ties to several United States political figures. Mr. Hammoud was

the record owner of thousands of CCAH shares and 2.6 million shares of BCCI Holdings, both of which he held as a nominee for BCCI.

97. Price Waterhouse knew or should have known that Mr. Hammoud was an extremely poor credit risk. In 1985, Mr. Hammoud had refused to pay either principal or interest on a 1 nullion franc loan made to him by BCCI/Parls. BCCI wrote off that loan in its entirety.

98. In order to conceal the extent of its exposure to Mr. Hammoud, BCCI booked fraudulent loans to two purportedly independent companies recommended to BCCI by Mr. Hammoud: Mid-Gulf Trading Co. ("Mid-Gulf") and Rubstone Trading Corp., S.A. ("Rubstone"). Price Waterhouse, however, knew that Mr. Hammoud owned these companies.

99. Price Waterhouse knew that BCCI's exposure on "loans" relating to Mr. Hammoud had increased to $85.8 million by 1989, including $24.9 million in "loans" purportedly booked through BCCI and an additional $60.9 million in "loans" purportedly booked through ICIC. It knew that most of these loans were nonperforming.

100. Price Waterhouse never attempted to obtain direct loan confirmations from Mr. Hammoud.

7. Sheikh Humaid Bin Rashid Al-Nuaimi

101. Sheikh Humaid Bin Rashid Al-Nuaimi ("Sheikh Nuaimi") is the Ruler of Ajman, the smallest of the United Arab Emirates. Like Fujeirah, Ajman is a non-oil producing Emirate and is heavily dependent on Abu Dhabi. In 1983, Sheikh Nuaimi invested $2.5 million with BCCI, allegedly in shares of CCAH. Over the next few years, BCCI booked millions of dollars in fraudulent CCAH-related "loans" to Sheikh Nuaimi.

102. Price Waterhouse knew or should have known that BCCI could not document an $18.7 million "loan" purportedly made to Sheikh Nuaimi in 1985.

103. Price Waterhouse knew that BCCI's purported loans to Sheikh Nuaimi were not even properly authorized within BCCI. In September 1988, Price Waterhouse knew that these phony "loans" exceeded amounts approved by the BCCI Boards of Directors by $35 million.

104. Price Waterhouse knew that BCCI's phony loans to Sheikh Nuaimi had increased to $39.7 million by September 1986, to $73 million by December 1988, and to $86 million by December 1989.

105. In early 1989, a senior manager of Price Waterhouse concluded that there was inadequate documentation to conclude that the purported loans to Sheikh Nuaimi were genuine.

106. Price Waterhouse never once obtained a loan confirmation directly from Sheikh Nuaimi before February 1990. When Price Waterhouse finally

contacted Sheikh Nuaimi directly, he denied any CCAH-related indebtedness to BCCI:

> Q: What was your reaction . . . when you received [documentation] regarding, what BCCI had done?
> A: I protested how come these loans and I don't have them and I wrote "I refuse to confirm."
> Q: Did you feel deceived by BCCI?
> A: Of course, it is deceit.

C. Price Waterhouse knew that BCCI held an illegal ownership and controlling stock tnterest in First American

107. Faced with such massive evidence that the CCAH "loans" were not real, Price Waterhouse was forced to recognize that the loans were actually a BCCI investment in First American.

108. BCCI openly discussed with Price Waterhouse its intent to merge First American and BCCI's operations. In a February 24, 1986 meeting, Swaleh Naqvi, a senior BCCI executive, told Price Waterhouse that:

> [t]he strategic plan for CCAH was that it should have a shareholdincy structure similar to BCCI Holdings so that a merging of the two organisations could be effected with minimal alteration to the present structure of BCCI Holdings. SN [Naqvi] said that the merger was a key part of *the bank*'s overall plans during the short/medium term. (Emphasis added).

109. Price Waterhouse knew that BCCI was capitalizing CCAH. On December 3, 1986, Price Waterhouse met with BCCI and asserted that the $900 million of loans made to BCCI shareholders should be disclosed as related party transactions in the 1986 accounts. Price Waterhouse believed that this was "especially" necessary with respect to the "loans made for the acquisition of shares of CCAH, National Bank of Georgia and Independence Bank." In minutes to that meeting, BCCI concluded that Price Waterhouse "showed much understanding especially when evaluating, the value of the shares of the American banks with regard to collateral for the credits granted for their purchase."

110. Price Waterhouse was explicitly told and acknowledged that BCCI owned CCAH. On February 16, 1987, Price Waterhouse concluded that the CCAH accounts were not "normal commercial" loans, but instead were BCCI's investment:

> SN [Naqvi] then explained the relationship between the bank and CCAH to us. He said that the loans were adequately secured on the shares of CCAH which

had been valued at 2.75 times the net asset value. He said that *the bank* had received offers for the CCAH shares at values of between 3 and $3^1/_2$ times net asset value from Mellon Bank, Chemical and a US broker, He explained that *the bank* did not wish to realise this asset as It was planned that it would eventually be merged with BCCI. SN said that the projected profits of the CCAH group, after inclusion of NBG in 1987 would be $70 million.

CIC [Christopher I. Cowan, the lead Price Waterhouse partner] asked whether if it was the intention to merge CCAH into the group, how the loan accounts would be repaid. SN said that this would be done by raising capital to purchase the shares and repal repaying the loans. The capital issue would be the rights issue for $300 million and an issue of capital notes for $300 million. He confirmed that these would paid [sic] in cash and would not be subject to new loans within the bank or ICIC. He said that an alternative way of bringing CCAH in would be an exchange of shares.

CIC expressed concern that the bank had recognized income of $58 million in respect of the CCAH loans, however this asset was effectively an investment by nature rather than aperforming loan. SN noted that interest had not been serviced on the accounts but said that this could be corrected if the bank had paid more attention to it. He acknowledged CIC's point that there may be a small dilution in earnings once the results of CCAH were brought into the group, however he felt that this would be insignificant in relation to a total group profit capacity of $325 million. On this point he suggested that CIC should discuss the 1987 budget with Mr. Mashir Rahman. (Emphases added).

Mr. Naqvi did not deny Mr. Cowan's conclusion that the CCAH loans were a BCCI investment, and there was no discussion whatever of what the "shareholders" – who purportedly owned the stock – intended to do.

111. In testimony in the United States, Naqvi confirmed that Price Waterhouse took the position that the CCAH loans were a BCCI investment:

Q: Now, these points that we just discussed about the interest not being serviced and the loans increasing, and the use of the loans to finance the rights offerings, were those the reasons that Price Waterhouse offered to tell you that [the CCAH loans] should be treated as an investment?

A: In summary, yes.

. . .

Q: They made the point it was their judgment this should be carried as an investment?

A: Yes.

112. On March 10, 1987, however, just after Price Waterhouse had concluded that the CCAH loans were a BCCI investment, it fraudulently certified accounts of BCCI (Overseas) that continued to treat the investment as loans. In April 1987, one month after that fraudulent certification, Price Waterhouse displaced Ernst & Whinney as BCCI's worldwide auditor.

113. Price Waterhouse's conclusion in early 1987 was reinforced by later events. In a May 1987 meeting, between BCCI and Price Waterhouse, Mr. Naqvi referred to "FAB" (First American Bankshares) as part of the BCCI "group" of banks. During the 1988 audit, at least one senior Price Waterhouse auditor, Loretta Keane, who was responsible for all large international BCCI loans, explicitly recognized that many of the CCAH loans were not valid. During her review, Ms. Keane was informed that BCCI had not been in contact with one "borrower," Khalil, for years. Moreover, Sayed Jawhary, another purported CCAH record shareholder, never paid interest on his purported loans. She found that there was insufficient evidence to conclude that $208 million of CCAH-related loans were genuine and recoverable assets, and therefore recommended writing off some or all of the loans. She was overruled, however, by her Price Waterhouse superiors, Mr. Cowan and Mr. Chapman, who the next day certified that the $208 million was fully recoverable.

114. In April 1989, Price Waterhouse knew or should have known – as a consultant hired to assist BCCI's U.S. legal team in defending the October 1988 money laundering indictment, as well as from various press reports – that a BCCI official had been caught on tape informing an FBI undercover agent that BCCI owned a bank in Washington "called the First American Bank" and that the listed shareholders were "just nominee shareholders."

115. In October and November 1989, a senior executive of BCCI, Ashwaf Nawabi, again confirmed the existence of the illegal relationship. He stated that the purported CCAH-related borrowers held their shares as nominees for BCCI; that they would refuse to confirm their indebtedness to Price Waterhouse, and that they had received hold-harmless letters indemnifying them against any loss.

116. In November 1989, implicitly acknowledging that the CCAH-related "loans" were in fact an investment, Price Waterhouse stated to the BCCI Audit Committee that any shortfall on the sale of CCAH shares "would need to be borne by BCC unless the shareholders are prepared to finance this deficit."

117. In late 1989, BCCI supplied the capital for a CCAH share rights offering, even though the CCAH "shareholders" had not even purported to exercise any of their preemptive rights to purchase such shares. Imran Imam, a mid-level BCCI employee responsible for administering the CCAH loans, refused

to explain to Price Waterhouse what was going on, referring the auditors to Naqvi.

118. In February 1990, Sheikhs Sharqi and Nuaimi refused to confirm the balances and the terms of their purported CCAH-related loans. They thus rejected any liability on "loans" that together exceeded $270 million.

119. On February 28, 1990, Mr. Naqvi again informed Price Waterhouse that the investment in CCAH belonged to BCCI, not the purported CCAH "shareholders," and that BCCI would be liable for any losses on these loans:

> The meeting then returned to the whole CCAH position, and Chris Cowan said that the documentation which, following an early meeting with Mr. Naqvi, had now been provided to Mr. John Guy was seriously deficient. In view of the disagreed confirmation requests it was of fundamental importance that we revisit the whole CCAH position and obtain a proper understanding of the arrangements. Tim Charge said that there were a substantial number of inconsistencies in terms of, for example, the 1989 Rights Issue, number of shares pledged etc. which needed clarification.
>
> There was then some discussion as to whether the Rulers of Fujeirah and Ajman really understood that any loss on realisation of CCAH would be for their own account. Mr. Naqvi again said that we had to understand that the bank had recommended these investments to these particular individuals, who were part of a group, and clearly did not expect to realise a loss on realisation. Tim Charge asked whether Mr. Ncaqvi was essentially saying that BCCI had given indemnities to these individuals. *Mr. Naqvi said that he had not and would prefer to put the position this way – if BM had lent money on a property and the account became delinquent, the resolution would be for the property to be sold: if there was a loss the bank would have to book it.*
>
> *Tim Charge said that effectively Mr. Naqvi was saying that these CCAH shareholders, (i.e. Ajman and Fujeirah) would not therefore bear any loss on realisation of CCAH.* Mr. Naqvi hoped there would not be a loss to anyone. If there was, he hoped that either the other members ofthe group would "bale out" these individuals, or the bank would have to suffer a loss. *Mr. Naqvi accepted that this was true.* (This effectively means that the attempt to obtain further confirmation letters from Fujeirah and Ajman is now really academic. *Given that it appears now clear that the economic risk in respect of CCAH shareholding is not with the shareholders but with the bank, it is clearly inappropriate for the bank to have been taken income in respect of the CCAH accounts.* Such income during 1989 is well over $100M and has been material in previous years also).
>
> . . .

> (Again [Naqvi] seemed not to understand the seriousness of his admission in respect of the CCAH arrangements, in particular that we had clearly been misled in the past; that *the substance appeared to be that this was the bank's investment (albeit not in a strict legal sense)* and that the taking of income was not appropriate. *It also seems to cast seriously into doubt any representations given to the Federal Reserve in respect of BCCI's relationship with CCAH).*

Mr. Cowan has admitted in sworn testimony that he knew as of this date that the CCAH arrangements "were not true loans," but instead were a BCCI investment.

120. Recognizing that BCCI's fraud was now likely to result "in the closure of BCCI, Price Waterhouse took steps to protect itself. It recommended that BCCI appoint an internal "Task Force" to investigate BCCI's problem loans, including the CCAH loans, and it provided the Task Force with a written briefing on the CCAH loans. After investigating the CCAH-related loans, the Task Force agreed with Price Waterhouse that the CCAH "loans" were nominee arrangements. It found "little doubt" that "there must be some 'Interlocking' arrangements between the shareholders of both BCCI Holdings and CCAH whereby in several cases 'nominee' routes" were taken.

121. On April 30, 1990, despite overwhelming and uncontradicted evidence that the CCAH loans were a BCCI investment, Price Waterhouse fraudulently certified the financial statements of BCCI. Those statements continued to conceal the CCAH investment as loans, and continued to recognize the unpaid interest and fees as income.

D. Price Waterhouse deceived First American and regulatory authorities about BCCI's ownership

122. Despite the plain evidence that BCCI owned a substantial interest in First American, Price Waterhouse never fulfilled its duty to describe the relationship accurately. Instead, it obstructed or deceived any party which sought to obtain information about BCCI's ownership of First American, especially First American and U.S. regulatory authorities. Price Waterhouse concealed the illegal BCCI/First American relationship because it knew that disclosure of the criminal violation would result in the closure of BCCI and in massive liability for Price Waterhouse. Price Waterhouse knew that while BCCI's financial problems could be remedied by an infusion of capital from Abu Dhabi, the one fraud that could not be cured by Abu Dhabi's money was BCCI's illegal ownership interest in CCAH. Consequently, Price Waterhouse worked with BCCI to conceal the crime.

123. In 1988–90, Price Waterhouse withheld the truth about BCCI's illegal investment from U.S. attorneys who were investigating whether BCCI owned First American.

124. Durincy one of the first meetings between BCCI's U.S. counsel, Ray Banoun, and Christopher Cowan, 1989, Cowan mentioned an audit or similar report prepared by Price Waterhouse, and Banoun asked for a copy. Cowan refused to provide it to him, stating that it "covers a lot more things than what you're retained to handle for the bank." After several telephone calls to Naqvi and Cowan, Banoun was provided with a redacted version of the report with certain sections of the second half of the report literally scissored out, including material relating to CCAH loans. At the same or the next meeting, Banoun asked Cowan about the relationship between BCCI and First American. Cowan's response was that "they [Price Waterhouse] had never seen a document that showed that BCCI owned First American, they have no records which indicates that any shareholder of BCCI is acting as a front or whatever for BCCI as a shareholder of First American who was also a shareholder of BCCI.' Cowan told Banoun that he was familiar with rumors that BCCI owned First American, but said there was nothing to substantiate any of them.

125. At the request of Robert Altman, who was President of FAC, another U.S. attorney for BCCI, Lawrence Wechsler, met with Cowan in late 1989 or early 1990 to discuss CCAH and allegations about BCCI's use of nominees:

> A: There was a time when I talked with Chris Cowan at Price Waterhouse, because Mr. Altman had some inquiry from Mr. Ryback at the Fed. And the inquiry related to loans to FAB shareholders for the acquisition of First American shares. And I remember meeting with Chris Cowan in an effort to find out whether there was any information that he had on that issue and he told me that there were loans to First American shareholders –
>
> Q: Who is he?
>
> A: Chris Cowan – but they were after the acquisition of the First American shares, not before, but there were not long thereafter. And I asked if there was any evidence or information that those loans had been used to acquire the shares and he said, nothing in the records. I reported that to Altman who apparently reported it to Ryback.

Wechsler's account of Cowan's statement concerning CCAH was confirmed by another BCCI attorney, Kim Gagne.

126. At a meeting in the spring of 1990, Banoun and Wechsler met with Cowan and probably Chapman to discuss the CCAH loans. According to Banoun's sworn testimony, Cowan stated that "there were some loans to First

American Shareholders, they were not for the tender offer, they were subsequent to the initial purchase but he could not tie the loan to the purchase of the shares, these were very, very wealthy Arabs with a lot of money and a lot of interest, financial interest and various things, and he could not tie the loan to the actual purchase of shares . . . [Banoun] pressed him on this . . . [Cowan] said that there was absolutely no evidence, no documentary evidence that he had seen at BCCI regarding any loans to First American shareholders for the Tender Offer and, again, that he could not tie even the loans to purchase of the shares," and that "no one can prove the nominee theory because there are no records." Price Waterhouse also stated that the loans "were proper, that they were not bad debts, bad loans . . . that they were not non-performing loans."

127. Wechsler stated that in the first half of 1990, Wechsler had a separate conversation with Cowan, who told him: "that there were loans to shareholders; [but that] they were not before the original acquisition, and not to finance the original acquisition; they were shortly after the acquisition; the paperwork seemed to be in order; and there really wasn't any support in the record for any kind of nominee theory."

128. Finally, Banoun testified that up until the very last time he met with Price Waterhouse in November 1990, Price Waterhouse maintained that there was no evidence that BCCI owned First American or had given money to First American shareholders to buy shares of First American. Thus, Price Waterhouse deliberately concealed from First American all of its extensive evidence concerning BCCI's illegal ownership interest in First American.

129. Price Waterhouse knew that BCCI was deceiving the Federal Reserve about First American. Price Waterhouse acknowledged: "At present any direct involvement in CCAH by BCCI would be precluded by regulatory constraints." On March 3, 1989, Chapman questioned Naqvi about the "cross pledges" of CCAH shares and Naqvi confirmed that the cross-pledges were another device to deceive the Federal Reserve. He stated that he did not want to inform the Federal Reserve – as required by U.S. law – because he "did not wish to cause additional alarm or difficulty with the forthcoming CCAH sale by making the market aware of these changes." In February 1990, as noted above, after Naqvi again confirmed BCCI's ownership interest in First American, Price Waterhouse explicitly admitted that it knew the Federal Reserve was being deceived. However, Price Waterhouse never informed the Federal Reserve of BCCI's lies.

130. Indeed, Price Waterhouse tried to block attempts by the Federal Reserve to uncover the truth. Late in 1990, the Federal Reserve learned that Price Waterhouse's October 1990 report to BCCI's audit committee contained "explosive" information about the purported CCAH "loans." In a draft of that report, Price Waterhouse had admitted that the loans were "more in the nature

of an investment in CCAH itself rather than advances to individual shareholders and should be reflected as such in the 1990 financial statements." Banoun stated that if the Federal Reserve read the report, BCCI's "U.S. operations would be closed."

131. The Federal Reserve requested the October report from Price Waterhouse, but Price Waterhouse flatly refused to provide it. It claimed that it needed to protect its client relations with BCCI and to "consider [Price Waterhouse's] interests in this matter," and that it was inappropriate to release the report because Price Waterhouse "did not prepare the report for the Federal Reserve or with it in mind."

132. In response to Price Waterhouse's obstruction, the Federal Reserve threatened to bar Price Waterhouse from auditing *any* U.S. bank. Faced with so serious a threat to its own business interests, Price Waterhouse quickly complied. After the Federal Reserve finally reviewed a copy of the report, it immediately opened an official investigation. Within a few months, BCCI's U.S. operations were shut down.

133. Price Waterhouse also obstructed an attempt by a New York prosecutor to learn the truth about BCCI. In August 1989, the New York District Attorney asked Price Waterhouse for copies of BCCI's Financial statements, audit reports, and other information. On August 10, 1989, Price Waterhouse Informed Banoun that it would "stonewall" the District Attorney. Price Waterhouse did, in fact, refuse to provide the prosecutor with the requested information.

134. Price Waterhouse deceived other regulators. In a December 1989 meeting, with the IML, at which Price Waterhouse was present, BCCI stated that it had received substantially all of the "interest" due on the purported CCAH-related loans. BCCI also claimed to have raised its limits for excess exposures only rarely and only in small amounts. Price Waterhouse knew that these statements were false but nonetheless remained silent, thus allowing BCCI to deceive the IML.

135. Despite Price Waterhouse's obstruction, U.S. authorities soon learned the truth. In 1991, BCCI was indicted for its illegal ownership of CCAH by the U.S. government and by the State of New York, and it pleaded guilty to both indictments. It was required to forfeit all of its U.S. assets, including its ownership interest in CCAH, to the U.S. government.

E. Price Waterhouse's fraudulent accounting treatment of BCCI's investment in First American

136. Price Waterhouse knew that International Accounting Standards required BCCI to disclose that CCAH was an associated company and a re-

lated party, to disclose the transactions between them, and to treat the CCAH "loans" as an investment.

137. International Accounting Standard 3.04, which addresses consolidated financial statements, included the following relevant definitions:

> An *associated company* is an investee company that is not a subsidiary and in respect of which
>
> (a) investor's interest in the voting power of the investee is substantial, and
>
> (b) the investor has the power to exercise significant influence over the financial and operating policies of the investee, and
>
> (c) the investor intends to retain its interest as a long-term investment
>
> *Significant influence* is participation in the financial and operating policy decisions of the investee but not control of those policies. An investor may exercise significant influence in several ways, usuafly by representation on the board of directors, but also by participation in policy making processes, material intercompany transactions, interchange of managerial personnel, or dependency on technical information.

138. Price Waterhouse knew that CCAH easily met the three criteria of IAS 3.04. First, BCCI owned and had the power to vote more than 25% of CCAH shares – a substantial interest. Second, BCCI exercised significant influence over CCAH through the provision of most of CCAH's capital, which was a material intercompany transaction. Without BCCI's provision of capital to CCAH, CCAH would have lacked the financial resources to fulfill its operating plan to grow significantly. Third, BCCI intended to retain its illegal interest in CCAH as a long-term investment; indeed, BCCI repeatedly informed Price Waterhouse that BCCI intended to merge CCAH into its world-wide operations.

139. Price Waterhouse knew that because CCAH was an "associated company," to BCCI, IAS 3.21 and IAS 3.40 required BCCI to treat the transactions as an investment. Price Waterhouse also knew that IAS 3.47 required BCCI to disclose its association with CCAH. Neither BCCI nor Price Waterhouse ever made these disclosures.

140. Price Waterhouse knew that CCAH was a "related party" to BCCI under International Accounting Standard 24. IAS 24.03 explicitly requires companies and their auditors to focus on the substance of a relationship:

> [I'n considering each possible related party relationship, attention is directed to the substance of the relationship, and not merely the legal form.

Accordingly, Price Waterhouse was required to ignore any legal constructs intended to deflect attention from BCCI's substantial ownership interest in CCAH.

141. Price Waterhouse knew that CCAH met the definition of a related party set forth in IAS 24.05:

> Related Party – parties are considered to be related if one party has the ability to control the other party or exercise significant influence over the other party in making financial and operating decisions. Significant Influence (for the purpose of this Standard) – participation in the financial and operating; policy decisions of an enterprise, but not control of those policies. Significant influence may be exercised in several ways, usually by representation on the board of directors, but also by, for example, participation in the policy making process, *material intercompany transactions*, interchange of managerial personnel or dependence on technical information. Significant influence may be gained by share ownership, statute or agreement. (Emphasis added).

The definition was satisfied because BCCI had the ability to exercise "signIficant influence" over CCAH through the provision of CCAH's capital.

142. Price Waterhouse knew that CCAH was also "related" to BCCI under IAS 24.03, which provides that:

> .03 This Standard deals only with those related party relationships described in (a) to (e) below:
>
> (a) Enterprises that directly, or indirectly through one or more intermediaries, control, or are controlled by, or under common control with the reporting enterprise. (This includes holding companies, subsidiaries, and fellow subsidiaries);
>
> . . .
>
> (b) Associate companies (see International Accounting Standard 3, Consolidation of Financial Statements);
>
> (c) Individualsl owning, directly or indirectly, an interest of the voting power of the reporting enterprise that gives them significant Influence over the enterprise, and close members of the family of any such individual;
>
> . . .
>
> (e) Enterprises in which a substantial interest of the voting power is owned, directly or indirectly, by any person described in (c) or (d) or over which such person is able to exercise significant influence. This includes enterprises owned by directors or major shareholders of the reporting enterprise and enterprises that have a number of key management in common with the reporting enterprise.

143. First, because CCAH was "associated" with BCCI under IAS 3.04, it was also clearly "related" to BCCI under IAS 24.03(b). Second, BCCI

and CCAE were related through a combination of IAS 24.03(c) and (e). Under subparagraph (c), BCCI's executives, particularly Abedi and Naqvi, indirectly owned and controlled a substantial interest in BCCI through their captive Cayman entities, ICIC, as discussed below, and they obviously exercised significant influence over BCCI. Under subparagraph (e), CCAH was another enterprise over which the same BCCI executives exercised significant influence by providing most of CCAH's capital. Thus, because Abedi and Naqvi exercised significant influence over both CCAE and BCCI, they were related companies.

144. Price Waterhouse knew that IAS 24.22 and 24.23 required BCCI to disclose that BCCI and CCAH were related to disclose the transactions between them:

> .22 If there have been transactions between related parties, the reporting enterprise should disclose the nature of the related party relationships as well as the types of transactions and the elements of the transactions necessary for an understanding of the financial statements.
>
> .23 The elements of transactions necessary for an understanding of a financial statement would normally include:
>
> (a) an indication of the volume of the transactions, either as an amount or as an appropriate proportion;
> (b) amounts or appropriate proportions of outstanding items; and
> (c) pricing policies.

Thus, BCCI should have disclosed that BCCI had a substantial interest in CCAH, that BCCI had provided most of CCAH's capital through nominee loans, that the amount of the shareholder loans was very substantial, and that the loans were provided to the "shareholders" on non-commercial terms that did not include payment of interest or principal.

145. Price Waterhouse knew that BCCI's investment in CCAH was illegal and therefore was subject to forfeiture in the United States. Price Waterhouse knew that a proper valuation of the CCAH shares held as "collateral" needed to take that possibility into account.

146. Price Waterhouse knew that because the CCAH "loans" were not loans at all, the exorbitant interest and management fees being accrued were not real income to BCCI, and thus were shown improperly as income in BCCI's financial statements.

147. Price Waterhouse fraudulently concealed BCCI's violation of these rudimentary accounting and disclosure provisions from banking regulators, the pubfig and First American. Even worse, Price Waterhouse repeatedly and fraudulently certified that BCCI's accounts had been prepared in accordance with International Accounting Standards, despite knowing that they had not,

and repeatedly and fraudulently certified that BCCI's accounts provided a true and fair view of BCCI's financial condition, despite knowing that they did not.

IV. Price Waterhouse's knowledge of other BCCI frauds

148. BCCI's frauds directly involving CCAH were only a portion of BCCI's frauds and criminal enterprises. Price Waterhouse knew of and in some cases worked with BCCI to cover up many of those other frauds, just as it was aware of and concealed the CCAH frauds. If Price Waterhouse had disclosed any of the frauds or criminal activities on a timely basis, BCCI would have been shut down much earlier, and the damages to First American would have been greatly reduced.

A. Early warning signs

149. Price Waterhouse knew that BCCI had incorporated its critical entities in the Cayman Islands, which affords a high degree of bank secrecy but has limited regulatory and enforcement resources. Price Waterhouse further knew that BCCI was one of the first banks to straddle international boundaries, thus creating an even greater risk that its activity would escape effective regulatory scrutiny. In fact, BCCI's corporate structure was created for the very purpose of concealing fraud.

150. Price Waterhouse knew that BCCI had repeatedly used nominees in illegal attempts to acquire banks in jurisdictions, such as the U.S., where it was not authorized to do business. In 1976, for example, Price Waterhouse advised BCCI during its secret and illegal attempt to acquire Chelsea National Bank, a New York bank, through nominees. New York authorities identified the nominee relationship and prohibited the acquisition because BCCI was not centrally regulated and did not issue consolidated reports, thus making it impossible to evaluate BCCI's financial condition. Price Waterhouse knew or should have known that BCCI, as noted above, attempted to illegally acquire FGB in 1978.

151. Price Waterhouse knew that BCCI was experiencing significant difficulties with the IML and the Bank of England. In 1978, the Bank of England refused to allow BCCI S.A. to open new branches in the U.K. because of doubts about BCCI's internal controls and its questionable lending practices. In 1980, the Bank of England refused to grant BCCI S.A. a full bank license, citing concerns about BCCI's reliance on a small number of shareholders for funds and its lack of a central regulatory authority. Between 1981 and 1985, the IML repeatedly voiced concerns about BCCI's insufficient loan loss pro-

visions, incomplete loan files, growing loan concentration, and undisclosed transactions with its shareholders and affiliates. In 1982 and 1983, the Bank of England raised further questions about BCCI's inadequate controls and imprudent practices.

152. Price Waterhouse knew or should have known that Bank of America, the most important early investor in BCCI, concluded in 1977 that BCCI had committed several frauds and was lacking essential internal controls. Bank of America discovered "a variety of loans ... to 'associates' or 'employees,' acting as nominees of BCCI, to own shares in countries where BCCI Holdings is not authorized to operate;" bribes to government officials; inadequate procedures for approving loans or procedures not followed; insufficient loan security; a dangerous concentration of risks a substantial number of undocumented and unapproved loans; investments disguised as loans; profits overstated by 40 per cent; and loan loss reserves understated by more than 450 per cent. Because of such shoddy management and unethical practices, Bank of America decided to sell its interest in BCCI.

153. Price Waterhouse knew that BCCI had a remarkably poor reputation throughout the banking community. In October 1978, a British merchant bank told Price Waterhouse that its impression of BCCI was so "unfavourable" that it "would not encourage [its] clients to have dealings with the Group." Also in 1978, at least six major New York banks declined to establish correspondent banking relationships with BCCI, citing concerns about its banking reputation and financial stability. In 1978, Lloyds Bank questioned BCCI's rapid growth, its high profit levels, and the possibly illegal status of the U.K. branches of BCCI S.A. In 1979, Midland Bank expressed similar concerns about BCCI's rapid growth, uncontrolled lending practices, and inadequate reserves.

154. Price Waterhouse knew that BCCI's reputation was equally bad in the financial press. In 1978, the Financial Times reported that BCCI was viewed "with suspicion" by the banking community, which did not believe it was possible for a professedly "conservative" bank to achieve such rapid growth. The Financial Times also questioned how BCCI could safely have loan loss reserve rates of less than half the rates used by established banks. In May 1978, Forbes remarked that the rapid growth of BCCI had "caused doubts about its quality." In July 1978, Euromoney noted that BCCI was widely perceived as a "cowboy bank." And in September 1978, The Economist questioned the propriety of BCCI's accounting for transactions with affiliated companies.

155. As early as 1980, Price Waterhouse admitted that BCCI's willingness "to ignore conventional/conservative practice in order to attract valuable business" was a "major problem arising out of the objective of the Group to be recognized as the largest and most influential bank in the Third World." Price Waterhouse knew that BCCI's reckless business practices – and its re-

peated willingness to engage in illegal conduct, as discussed below – created a heightened risk of fraud, and a need for closer scrutiny of its affairs.

B. Price Waterhouse deliberately chose to forego direct confirmation of client balances

156. Despite knowledge of these problems, Price Waterhouse routinely agreed, in performing its various consulting and auditing engagements for BCCI, to forego any independent confirmation of many large client accounts that were placed off limits by BCCI management. By 1978, for example, Price Waterhouse had agreed to forego direct confirmation of purportedly "confidential" deposit accounts of ICIC (Overseas). By 1979, Price Waterhouse had agreed to forego direct confirmation of purportedly "confidential" loan and deposit accounts of BCCI (Overseas). These accounts included, but were not limited to, the fraudulent "loan" accounts through which BCCI secretly and illegally acquired CCAH.

157. Price Waterhouse knew how important independent confirmations were. It conceded that "the safest and most reliable way of confirming the existence and proper statement of assets and liabilities on a bank's balance sheet is through seeking and receiving direct confirmation of those balances with the customer concerned." Price Waterhouse described confirmation procedures as "one of the most powerful and most efficient audit procedures" and stated that direct confirmations "constituted, in our view, extremely important audit evidence." It also knew that foregoing independent confirmations increased the risk of fraud: "Given the confidential nature of many of the deposits and the method of obtaining confirmation of balances via account officers, balances could be misstated by the officers concerned."

158. By abandoning direct audit confirmations, Price Waterhouse allowed BCCI to shield large portions of its accounts from any effective independent scrutiny. For example, the loans that BCCI designated as "confidential" or "established," which Price Waterhouse agreed not to investigate, ultimately totaled almost $1.5 billion – over 15 per cent of BCCI's entire loan portfolio and far more than the bank's total capital. Not surprisingly, BCCI's fraud flourished as a consequence of Price Waterhouse's decision not to obtain confirmations.

159. Price Waterhouse knew that BCCI had misrepresented the scope and adequacy of its own internal control procedures for confidential accounts. It knew that BCCI claimed to have implemented "special systems and procedures" to ensure internal confirmation of the purportedly confidential accounts, but that few such "special systems and procedures" were in place. In 1984, Price Waterhouse admitted that "the formalized control procedures in respect to confidential accounts are not always being followed." Indeed, Price Wa-

terhouse knew there was usually no evidence that accounts claimed to be confidential were in fact confidential. Despite knowing about BCCI's inadequate internal controls, and about BCCI's misrepresentations regarding such controls, Price Waterhouse continued to forego independent confirmation of client balances.

160. Price Waterhouse knew that BCCI management had given spurious reasons for why direct client confirmations were unnecessary. BCCI often stated that such confirmations were inappropriate because the customers concerned were wealthy and powerful rulers of Arab states. Some of these customers, however, were neither wealthy nor powerful. Moreover, most of them were not rulers of sovereign states, but ordinary businessmen.

161. Price Waterhouse knew that other professionals recognized the need to disclose these improper and unjustified restnictions. In 1978 and 1979, Whinney Murray, Price Waterhouse's predecessor as BCCI's lead worldwide auditor, strongly protested BCCI's request to forego independent confirmations. Whinney Murray explained that such a policy was completely unjustified, and it threatened to quafify any future reports unless it was permitted to contact customers directly:

> It is an accepted audit practice the world over to request independent confirmation of third party balances. The restriction of our right to this procedure represents a limitation on the scope of our audit. We are not prepared to accept such a limitation in filture years without mentioning it in our formal audit report in which we give our opinion.

Whinney Murray insisted that independent confirmations must be sent by the auditor, and that Whinney Murray would accept no restrictions on its ability to seek independent confirmations, "except in those cases where there are clear customer instructions prohibiting the dispatch of mail." Price Waterhouse, by contrast, accepted whatever restrictions BCCI saw fit to impose.

162. Price Waterhouse knew that it would be improper, in light of the severe restrictions that BCCI had imposed on direct client confirmations, to certify any BCCI or ICIC accounts without qualification. On October 18, 1985, Price Waterhouse noted that it had been unable to confirm a number of confidential ICIC (Overseas) accounts; consequently, it qualified its certification of the 1985 accounts of ICIC (Overseas) to note "adjustments that might have been necessary had we been able to extend our examination of customer deposits beyond the amounts recorded." Even though comparable restrictions applied to all BCCI and ICIC entities throughout the 1970s and 1980s, Price Waterhouse did not similarly qualify dozens of other audit certifications for those entities.

163. Price Waterhouse's decision to forego independent confirmations was particularly improper given its longstanding knowledge that BCCI had frequently and illegaly used nominees, that BCCI suffered severe documentation and internal control problems, and that BCCI's business practices had been recklessly aggressive. Price Waterhouse's decision was even more improper given the number of loan and deposit accounts deemed "confidential" or "established" by BCCI. Under the circumstances, Price Waterhouse's decision *not* to independently confirm such accounts constituted a conscious disregard to BCCI's massive and ongoing frauds.

164. Price Waterhouse's failure to obtain independent client confirmations was similarly egregious in the context of its regulatory compliance engagements. For example, in preparing its 1986 Special Report to the IML, Price Waterhouse knew that the IML was relying upon it to investigate specific concerns about BCCI's reckless and manipulative options trading (discussed in detail below). Similarly, in performing its criminal compliance work after the Tampa indictments, Price Waterhouse knew that U.S. and other regulatory authorities were relying upon it to investicyate specific criminal charges against BCCI. Nonetheless, Price Waterhouse repeatedly relied upon undocumented representations about purportedly "confidential" or "established" accounts made by BCCI, the very company that Price Waterhouse had been charged with investigating.

165. Price Waterhouse continued to forego direct client confirmations even after it learned during the mid-1980s that BCCI secretly and illegally owned CCAH, that BCCI controlled ICIC and used it for illegal purposes; that BCCI's loan portfolio was permeated with hundreds of millions of dollars of fraudulent and uncollectible loans; and that BCCI had engaged in rampant criminal activity as reflected by the Tampa indictments and by BCCI's own admissions. At this point, Price Waterhouse's refusal to obtain independent confirmations constituted knowing assistance in the various frauds.

166. Price Waterhouse finally attempted to obtain direct client confirmations of the confidential CCAH loans only after August 1989, when it was contacted directly by U.S. authorities conducting a criminal investicration into BCCI. At that point, Price Waterhouse's efforts were designed not to discover the truth, but to create the false impression that it had been acting as an honest and diligent investigator, consultant, and auditor.

167. Throucrh the simple step of requesting client confirmations from two purported CCAH borrowers, Price Waterhouse was confronted with incontrovertible evidence of $270 million in fraudulent loans. An honest investigator, consultant, or auditor would have obtained that evidence years earlier.

C. Price Waterhouse fraudulently concealed BCCI (Overseas)'s massive trading losses

168. Between the early 1980s and 1986, the Central Treasury of BCCI (Overseas), which managed the liquid funds of the entire BCCI Group, engaged in at least $130 billion of trading, in high-risk securities, commodities, and options. By 1986, BCCI had sustained losses estimated at between $900 million and $1.2 billion. In comparison, the reported capital base of BCCI (Overseas) was $302 million in 1984 and $424 million in 1985, and the reported capital base of BCCI Holdincrs was $1.190 billion in 1985. Thus, by the end of 1985, the Treasury losses had bankrupted BCCI (Overseas) and had eliminated most or all of BCCI's entire capital.

169. In 1985 and 1986, Price Waterhouse played an integral role in concealing various aspects of the Treasury losses. Price Waterhouse misrepresented the amount, the cause, and the significance of the Treasury losses in its 1986 Special Report to the IML and in its deceitful certifications of the 1984 and 1985 accounts of BCCI (Overseas). It thus deceived the international financial community – including First American, bank regulators, potential investors, and the public.

1. Price Waterhouse accepted uncontrolled trading likely to produce fraud

170. In the early 1980s, BCCI (Overseas)'s Treasury began trading foreign currencies, and financial and commodities futures. The trading grew rapidly; in 1984, BCCI (Overseas) engaged in over $35 billion of such trading. At the end of 1985, BCCI (Overseas) had options open on more than $13.1 billion in underlying assets, and its options trading had generated $1.1 billion of gross revenues during that year. Despite such gross revenues, however, its net losses were hundreds of millions of dollars.

171. Price Waterhouse knew that BCCI (Overseas) had virtually no internal control over its trading operations. Price Waterhouse admitted that there was a "lack of internal controls;" that the controls in place were "not particularly prudent," and "clearly not adequate," and that the "control systems had clearly not worked." Nonetheless, until 1986, Price Waterhouse provided unqualified audit opinions to BCCI, and it never informed the IML of the disastrous inadequacy of the Treasury controls.

172. Price Waterhouse recognized the improprieties and inadequate internal controls in the Treasury operations beginning in 1982. In a 1982 memorandum, Price Waterhouse acknowledged that the accounting systems and controls for foreign currency and commodity trading were so "inadequate" that it had been forced to effect an "almost complete reconstruction of the 1981 transactions." Price Waterhouse recognized that BCCI's trading was a "very specialised and high-risk activity" and that BCCI lacked the "expertise"

to advise clients about such trading. Price Waterhouse further acknowledoed "the importance of imposing strict control over trading activities."

173. In 1982, Price Waterhouse admitted that the accounts of BCCI (Overseas) failed to provide for unrealised and uncovered losses on open positions at the end of 1981. Price Waterhouse knew that BCCI (Overseas) should have valued these open positions at market prices, but that it did not do so.

174. Price Waterhouse knew that BCCI had never implemented essential internal controls. In late 1982, for example, Price Waterhouse was unable to complete an interim examination of BCCI (Overseas)'s Treasury because of the "incomplete nature of commodity trading records and reconciliations." In 1983, it knew that the BCCI Board of Directors had never approved the large Treasury trading positions.

175. In October 1983, Price Waterhouse completed a special investigation of the Treasury operations of BCCI (Overseas), which gave Price Waterhouse a detailed understanding of the flaws in those operations. In its October 1983 report, Price Waterhouse admitted that BCCI's method of accounting for options, which failed to recognize large liabilities on BCCI's open option positions, was improper. Price Waterhouse stated:

> Prudence dictates that all unrealised losses should be recognised as soon as they are foreseen, but that anticipated profits should not be recognised until realised . . .
>
> *The correct accounting treatment* would seem therefore to recognise both unrealised losses and unrealised profits on open positions in contracts and options and on holdings of warrants and equities. (Emphasis added).

Price Waterhouse further acknowledged that this "correct accounting treatment" should be "implemented with immediate effect." Price Waterhouse knew that BCCI did not implement the "correct" accounting treatment until after the IML forced the disclosure of BCCI's disastrous losses in early 1986.

176. In its October 1983 report, Price Waterhouse admitted that BCCI (Overseas)'s Treasury was continuing to operate without many essential internal controls:

> We noted that at present traders are not subject to formalised trading limits. The bank is therefore exposed to the risk of excessive trading losses or of losses from a broker defaulting . . .
>
> . . .
>
> Within account functions we consider that the segregation of duties is inadequate to ensure that all processing errors are immediately detected and rectified . . .
>
> . . .

> Confirmation of deals allows errors to be corrected before they give rise to losses. Confirmation by persons other than the trader who executed the deal increases the value of the check.
>
> . . .
>
> Not only does this reduce the chance of the deal being inadvertently misconfirmed, but it makes it difficult for a trader to suppress the record of a deal for whatever reason.

177. In terms that were prophetig Price Waterhouse acknowledged that the grossly inadequate Treasury controls encouraged fraud, because if someone "wishes for some reason or other to falsify the recording of a transaction, he knows that his falsification is unlikely to be detected."

178. Price Waterhouse knew that BCCI never implemented many of its 1983 recommendations for improved controls. In internal memoranda, BCCI claimed that improved controls were not "practical" and that the problem was simply "a question of negotiation with" Price Waterhouse.

179. The same types of problems continued through late 1983 and early 1984. Price Waterhouse again acknowledged that "the Treasury Committee should regularly review the set limits for treasury positions;" that "the monthly reconciliation of broker's statements, with the respective general ledger balances" should be "reviewed and initialed by a senior official who is not involved in their preparation," and that "the book-keeping and accounting functions of the Treasury Division" should be structured with one person being in overall control. On important recommendations, BCCI made only vague commitments to Price Waterhouse, stating that certain controls were not "convenient," or that "[w]e are looking into your recommendation;" or that "we have noted your recommendation."

180. Price Waterhouse concealed the severity of these problems from the IML, other regulators, the financial community, and the publig thereby supporting BCCI's ongoing efforts to falsely portray itself as an honest bank whose financial statements had been duly certified by Price Waterhouse.

2. Price Waterhouse concealed BCCI (Overseas)'s improper accounting and fraudulent manipulation of options trading

181. In 1984 and 1985, Price Waterhouse knew that BCCI (Overseas) was using an undisclosed and improper options accounting policy, and that it was manipulating its options trades to generate illusory short-term income, to cover-up past losses, and to create a false appearance of current profitability. Under this scheme, BCCI (Overseas) wrote a huge number of options near the end of the year, recognizing the resulting cash premiums as current income, but not recognizing any of the related liabilities.

182. For example, if a certain stock were trading, at $35 per share December, BCCI (Overseas) would sell or "write" an option agreeing to sell the stock at any time within the next year at $40 per share. In return, BCCI would receive a cash premium of $2 per share, which it would immediately book as revenue. By writing options in this manner, BCCI generated instant revenue, as Price Waterhouse knew.

183. BCCI recognized only some of the liabilities associated with this scheme, however. In the above example, if the price of the underlying stock rose to $43, the buyer would likely exercise his option. An option in this position is "in the money" and would have an "intrinsic value" of $3. If the option were exercised, BCCI (Overseas) would have to buy the stock at $43, and then resell it to the option holder at $40 – resulting in a loss to BCCI (Overseas) of $3. To create a false appearance of prudence, BCCI (Overseas) valued options that were "in the money" at year end by "marking-to-market," that is, by booking liabilities for those options.

184. BCCI failed to recognize other related liabilities, however. In the example, if the price of the $35 stock rose only to $38, the option was "out of the money" and was unlikely to be exercised *at that time*. Nonetheless, the option still could result in a loss, for the price of the stock often would rise above $40 before the option expired. In fact, as Price Waterhouse knew, the market precisely values the liability associated with "out of the money" options; this is described as the "time value" of options. However, BCCI did not value options that were "out of the money" at year end by "marking-to-market;" that is, it did not book liabilities for the time value of "out of the money" options. Thus, BCCI (Overseas)'s accountincr treatment until early 1986 was a *partial* "mark-to-market" accounting policy, which recognized liabilities *only* for options that were "in the money" at the end of the year.

185. Because options are typically "out of the money" when written, virtually all of the options written by BCCI (Overseas) in November or December would remain "out of the money" at the end of that year. By increasing the number of options written in November and December, BCCI (Overseas) recognized large cash premiums as immediate revenue, but failed to record as liabilities the time value of these options at year end. BCCI (Overseas)'s use of the partial mark-to-market policy thus allowed it to manipulate trades in order to fraudulently inflate its stated profits.

186. Price Waterhouse's fraud with respect to the Treasury losses began not later than its certification of the 1984 accounts of BCCI (Overseas). Price Waterhouse stated that those accounts presented a "true and fair view" of BCCI (Overseas)'s financial condition as of December 31, 1984. In several respects, Price Waterhouse knew they did not.

187. Price Waterhouse knew that the 1984 financial statements did not disclose BCCI (Overseas)'s use of the partial "mark-to-market" accounting method. Note 2 to the 1984 statements purported to disclose "the significant accounting policies" used by BCCI (Overseas). Note 2 did *not*, however, disclose BCCI (Overseas)'s use of the partial mark-to-market accounting policy. Price Waterhouse knew that this policy was "significant," for BCCI had used it to avoid recognizing a 1989 year-end liability of $75 million.

188. Price Waterhouse also knew that BCCI's accounting, policy was neither prudent nor generally accepted. This poficy prematurely recognized revenue when cash was received, rather than over the option period when the revenue was actually earned. BCCI did not follow, and Price Waterhouse did not insist upon, the generally accepted principle of accrual accounting: that revenue must be recognized over the period when it is earned. Rather, it used a cash basis for out-of-the-money options, resulting in both an understatement of liabilities and overstatement of revenues.

189. Price Waterhouse repeatedly acknowledged that the partial "mark-to-market" policy used by BCCI (Overseas) was improper. In 1983, Price Waterhouse admitted that "the correct accounting treatment" for options was the full mark-to-market approach. In 1986, it conceded:

> In the case of options trading a *significant* distortion in the results has occurred in that the premiums on options written were taken to profit when received with no corresponding provision being made for the cost of closing out the positions. Thus there was a mismatching of income and expense. (Emphasis added.)

It further admitted that BCCI's accounting policy, which it had examined during the 1984 audit, caused a "significant misstatement of results," and that "profits" from BCCI's options trading were to some degree "illusory." Indeed, it characterized BCCI's arguments in support of the policy as "fallacious."

190. Price Waterhouse has admitted that the options accounting policy was "flawed," "inappropriate," and "not particularly prudent."

191. When the huge liabilities generated by this policy could no longer be ignored, BCCI (Overseas) adopted the correct method, and the change was attributed to a recommendation made in an issues paper released by the American Institute of Certified Public Accountants ("AICPA"). That paper confirmed that BCCI's accounting policy was unacceptable. After considering four possible methods of accounting for options, the AICPA recommended the use of the full mark-to-market method. Of the four possible methods that the AICPA evaluated, *none* recognized revenue for premiums when cash was received. BCCI's method was beyond the pale.

192. Price Waterhouse knew that BCCI (Overseas), by writing, a huge number of options at the end of 1984, used its undisclosed and improper

accounting policy to fraudulently inflate its stated 1984 profits by $75 million. Price Waterhouse knew that BCCI (Overseas) averaged only $13.5 million per month in net options premiums for the first eleven months of 1984, but that it generated $45.6 million in net premium income in December 1984.

193. Price Waterhouse knew that if BCCI (Overseas) had used "the correct accounting treatment" – the full mark-to-market accounting method – its liability in 1984 for open options positions would have increased by $75 Million, and its stated profits would have decreased from $145 million to $70 million. Price Waterhouse thus knew that the partial mark-to-market method, combined with the manipulative December trading, fraudulently inflated BCCI (Overseas)'s stated profits for 1984 by 105 per cent. Price Waterhouse knew that the 1984 accounts concealed the fact that BCCI (Overseas)'s stated profits had been so dramatically and fraudulently inflated.

194. Even if the accounts had disclosed BCCI (Overseas)'s use of the partial mark-to-market options accounting policy, and even if that policy had been acceptable, Price Waterhouse knew that the existence of the substantial $75 million liability should have been disclosed at least in a note to the accounts. It knew that the 1984 accounts completely and fraudulently concealed that substantial liability.

195. Price Waterhouse knew that BCCI (Overseas) was planning to continue this fraudulent and manipulative trading scheme in 1985. It knew or should have known that in late 1985, BCCI (Overseas) had over 15,000 outstanding Standard & Poor price index options alone at the Chicago Mercantile Exchanae – over three times the exchange limit. It knew that, once again, BCCI (Overseas)'s premium receipts in December were much higher than in previous months. And it knew that BCCI (Overseas), through manipulative options trading, was hoping to inflate stated 1985 profits by at least an additional $70 million. Only the IML's intervention prevented this fraud from continuing.

196. Price Waterhouse concealed all of this information from banking regulators, and from the financial community, including; First American, thereby supporting BCCI's ongoing, efforts to falsely portray itself as an honest bank whose financial statements had been duly certified by Price Waterhouse.

3. The IML intervention

197. The trading of BCCI (Overseas)'s Treasury was so reckless that at least one broker stopped doing business with BCCI, and a number of others reported the scale of the trading to the IML and the Bank of England.

198. On October 31, 1984, the IML inquired about BCCI's trading of metal and bond options. On November 5, 1984, BCCI denied that there were any extraordinary transactions and indicated that the transactions were largely

for the accounts of customers. Those statements were false, for BCCI (Overseas) had lost over $168 million in silver trading on the London Metal Exchange during 1984.

199. On February 14, 1985, the IML again inquired about BCCI's metals trading, citing information "from a source in the market" that BCCI was "dealing in exceptionally high precious metal operations, particularly in New York." BCCI replied that there were no outstanding positions in client accounts at the end of 1984. This statement also was false.

200. On June 27, 1985, an "anxious" IML demanded a "detailed and precise explanation" of BCCI's trading activities.

201. In July 1985, the IML expressed concern about BCCI's "exceptionally large" placement of commodity transactions through CapCom (a broker that was improperly owned and controlled by a BCCI employee).

202. On October 21, 1985, the IML took the extraordinary step of ordering BCCI Holdings to engage an outside firm to report on the organization, investment profile, and foreign exchange position of the Treasury Division of BCCI (Overseas). In January 1986, Price Waterhouse was retained to investigate BCCI (Overseas)'s Treasury and to prepare a Special Report pursuant to the IML's order.

4. Price Waterhouse agreed to cover up the Treasury losses

203. Price Waterhouse's investigation of BCCI (Overseas)'s Treasury in early 1986 triggered a "drastic" chanae in its treatment of the BCCI account. The investication was conducted by banking and other specialists from Price Waterhouse's London office, who recognized that its Cayman personnel had wrongfully certified the 1984 accounts. From that point on, Price Waterhouse's work for BCCI was directed out of its London office by Christopher Cowan, Timothy Hoult, and Richard Kilsby, and the Cayman personnel who had worked on the BCCI account, Richard Harris and Richard Fear, "fell into the background." Mr. Fear left Price Waterhouse in August 1986, and there is evidence that he later received blackmail payments from BCCI.

204. Price Waterhouse's London partners immediately recognized the disastrous situation faced by both BCCI and Price Waterhouse. One of the partners, an expert in commodity and similar trading, admitted that BCCI's level of trading was staggering and unprecedented:

> He had never seen option dealing activity or exposures of such a scale in any other entity with which he had been connected. Moreover, he estimated that the bank's activities on the Chicago Board Options Exchange was sufficient in 1985 to account for approximately 75% of that Exchange's total activity.

205. Price Waterhouse knew that BCCI's losses were not caused by amateurish trading, incompetence, or bad luck, but by excessive and reckless trading conducted in a desperate attempt to increase stated profits. Price Waterhouse admitted that BCCI "had effectively been 'gambling' on options over indices, metals and Treasury bonds" (and "gambling" was Price Waterhouse's own choice of words), that BCCI had a tendency "to go for profits at all costs contrary to prudential banking policies;" and that the trading operations "had not been conducted on a commercial or prudent basis."

206. Price Waterhouse recognized that BCCI had been engaged in a classic fraud – a Ponzi scheme. On February 28, 1986, Mr. Cowan acknowledged that "new options had been written at the time when old ones had crystallized and losses had been taken" and that "there had been a 'clear pattern' of writing new business to cover losses arising."

207. Price Waterhouse also learned of rampant fraud within BCCI. It discovered that Ziauddin Akbar, a leading BCCI trader, had suppressed or falsified information given to the Treasury Committee. It knew that Masihur Rahman, a senior financial officer at BCCI, had deliberately withheld information from the auditors in late 1985. It knew of evidence that BCCI traders had suppressed and substituted brokers' telexes, and that trading transactions often had suspiciously different settlement prices.

208. Because of the Treasury losses and the frauds, Price Waterhouse feared a run on the bank, "the bank's going 'belly-up' " or a "collapse." In 1986, Price Waterhouse admitted that "the bank's very survival was in doubt because of losses they had incurred in the treasury." Price Waterhouse "felt that the dealings with shareholders were 'very disturbing' " and that, as a result, BCCI could "collapse like a pack of cards."

209. Price Waterhouse knew that if BCCI collapsed, Price Waterhouse would "probably [be] sued" because it had certified BCCI (Overseas)'s fraudulent 1984 accounts. In a February 1986 meeting with Mr. Naqvi, Price Waterhouse expressed "anxiety" about "their having been responsible for approving this [Treasury accounting] practice during 1984." Price Waterhouse knew that it would be held responsible for concealing the manipulative and reckless trading, and for the inevitable and staggering losses. Price Waterhouse immediately consulted its own attorneys.

210. Price Waterhouse knew that a thorough investigation into and an honest presentation of BCCI (Overseas)'s fraud and disastrous trading losses would aggravate the risk of BCCI's "collapse," and thus reveal Price Waterhouse's past deceit in certifying previous accounts. Price Waterhouse had "profound concern about the . . . ability of the [BCCI] group to withstand any adverse financial impact arising from the publication of accounts containing details of the Treasury matter." Draft minutes of a March 26, 1986 meeting of

the Board of Directors of BCCI Holdings reflect the fears of Price Waterhouse and BCCI:

> It would be obvious to the Board that *the effects of the losses, for the current year, together with the prior year adjustment, on the accounts of Overseas would be very detrimental to, and virtually eliminate the capital of, Overseas and significantly reduce the capital of the BCCI Group, including [BCCI Holdings].* Moreover, the effect of the losses in the year to December 31, 1985 and the prior year adjustment on the results of [BCCI Holdings] and its subsidiaries and affiliates on a consolidated basis would be to show a negligible profit . . . and the effect on the operating results of Overseas would be a loss of U.S. $131M approximately. *It would clearly be impossible for the BCCI Group to present consolidated accounts in such a form to shareholders or for public consumption, since to do so would be certain to cause a substantial loss of confidence in the BCCI Group and thereby severely affect the future of the Group, possibly leading to its collapse* since none of the central banking authorities to which the Group was subject would be likely to step in and support the Group; *many of the shareholders who were significant depositors with the Group would be likely to withdraw their deposits, further accelerating these results.* (Emphases added.)

211. Price Waterhouse and BCCI agreed not to investigate the Treasury losses thoroughly. They further agreed to devise accounting gimmicks designed "solely" to mislead the public about the financial health of BCCI. As reported in the draft minutes:

> Discussions had . . . taken place with Price Waterhouse as auditors of Overseas . . . to determine whether any form of accounting treatment could be adopted *solely for the purpose of presentation of the accounts to shareholders and the public* and so to preserve confidence in the BCCI Group and, in particular, Overseas . . .
>
> [T]he accounting treatment given to this subvention payment, as reflected in the Profit and Loss account presented before the Board, i.e., by setting, off the subvention payment received against the exceptional loss in the heading "Income on Investment and other Dealing Assets" was *purely for commercial reasons and better presentation from marketing points of view.*
>
> *[T]he accounts show a net profit for the year solely for the purpose of presentation to the public.* (Emphases added.)

Price Waterhouse extensively reviewed these draft minutes.

212. After Price Waterhouse and BCCI recognized that these naked descriptions of their deceptive intent were unwise, they were deleted from the final minutes. To further reduce their exposure, BCCI later moved its "risky" Treasury operations from the U.K. to Abu Dhabi, with Price Waterhouse's tacit acceptance that the move was made in order to escape supervision by the Bank of England.

5. Price Waterhouse issued a fraudulent special report and knowingly certified fraudulent 1985 accounts

213. In its Special Report to the IML and its unqualified certification of the 1985 accounts of BCCI (Overseas), Price Waterhouse knowingly misstated the amount of the Treasury losses, the cause of the Treasury losses, and the source of funds purportedly used to restore BCCI's capital base. Price Waterhouse deceived the IML, other regulators, and the financial community – including First American.

A. Price Waterhouse concealed the extent of the trading and the amount of the losses

214. BCCI's 1985 accounts reported that the Treasury losses totaled only $285 milllon: $75 million for 1984, $150 million for 1985, and $60 million early in 1986. Price Waterhouse's Special Report described similar losses. In fact, the total losses were much higher – between $900 million and $1.2 billion.

215. BCCI concealed most of the unreported losses – between $600 and 900 million – in its client trading accounts. Despite knowing of pervasive irregularities and evidence of fraud in those accounts, Price Waterhouse deliberately refused to investigate them.

216. Price Waterhouse knew that BCCI asserted the transparently false claim that, between 1983 and 1985, it had engaged in trades exceeding *$72 billion* on behalf of a *single* client, A.R. Khalil (who was also a CCAH nominee shareholder). Price Waterhouse also knew of glaring irregularities in Mr. Khalil's accounts. It knew that on June 26, 1985, $47 million was withdrawn from one of his accounts without authorization. Price Waterhouse knew that BCCI's purported estimates of Mr. Khalil's alleged net worth were wildly inconsistent, ranging from $52.8 million in December 1980 to $442.5 million in 1983.

217. Price Waterhouse knew that the security arrangements for Mr. Khalil's trading were improper. It knew that most of Mr. Khalil's alleged assets were unconventional or unvalued assets, such as a museum in Saudi Arabia purportedly valued at $310 million, and real properties in Saudi Arabia purportedly valued at $47 million. It knew that these properties were not even

specifically identified, much less professionally assessed. Price Waterhouse knew that, on October 30, 1984, at the height of the options trading allegedly in his name, Mr. Khalil was granted a $325 million loan purportedly fully secured by a lien on deposits or securities, but that Mr. Khalil's BCCI deposits, as of January 21, 1985, totaled less than $4 million.

218. In 1985, Price Waterhouse knew that there was virtually no documentation for Mr. Khalil's accounts. It knew that there were few or no loan agreements, account opening forms, or signature cards. It knew that there was inadequate on the purpose of the loans and inadequate information on the nature of Mr. Khalil's business. And it knew that Mr. Khalil had rarely repaid principal or interest on most of his loans.

219. Despite this evidence of fraud, Price Waterhouse made no attempt to contact Mr. Khalil or to investigate his alleged trading. Mr. Khalil himself noted the absurdity of Price Waterhouse's decision not to contact him:

> Having looked at these statements of account and briefly examining them I can only ask the question "why did no auditor or anybody else looking into the bank contact me?" From what I have seen it appears that the entire bank was being financed by someone called A.R. Khalil and the turnover on these accounts runs billions of dollars. I cannot understand why no one ever contacted me but I can now understand why Mr. Abedi and Mr. Naqvi were so desperate for me to retain my deposits in BCCI.

220. In these circumstances, Price Waterhouse's refusal to thoroughly investigate the purported trading by Mr. Khalil and other clients amounted to willful blindness. BCCI could not have concealed $600–$900 million in unreported losses in its client accounts without the tacit agreement of Price Waterhouse, which deliberately refused to ask questions that would have bankrupted BCCI and, in the process, exposed its own past negligence and deceit.

B. Price Waterhouse concealed the cause of the 1985 losses

221. Price Waterhouse concealed from regulators and the financial community – including First American – the actual causes of the disastrous losses. Among other things, Price Waterhouse continued to conceal evidence that BCCI's top management had been "gambling" with the bank's deposits; that BCCI (Overseas)'s Treasury trading had been "excessive," "imprudent," and "reckless," and that BCCI had fraudulently inflated year-end profits.

222. Price Waterhouse withheld evidence of BCCI's year-end manufacture of fictitious profits. In a draft of the Special Report dated March 13, 1986, Price Waterhouse included a month-by-month analysis of option premium income in 1984 and 1985. This clearly showed that BCCI, in an attempt

to cover past losses, had tripled its options premium from $345 million in 1984 to $1.1 billion in 1985. The analysis also clearly showed the year-end ramping: net options premium income increased from $25 million to $77 million between November and December 1984, and from $84 million to $249 million between November and December 1985. Price Waterhouse deleted that damaging evidence from its next draft. Similarly, the March 13 draft stated that BCCI's accounting practice made it "possible to provide significant additional income with the corresponding expense at a later date." Price Waterhouse also deleted that statement from its next draft.

223. When BCCI (Overseas) was finally compelled to adopt the full mark-to-market accounting method in early 1986, Price Waterhouse knew that this accounting, change did not affect the total amount of the losses, but only the timing of their recognition. Price Waterhouse knew that the losses themselves – which were inevitable under any accounting method – in fact were caused by BCCI's scheme of reckless and manipulative trading. Price Waterhouse concealed that fact.

224. Price Waterhouse allowed BCCI management to mislead the public about the cause of the losses. As BCCI (Overseas)'s auditor, Price Waterhouse had a duty under International Auditing Guideline 14 ("IAG 14") to ensure that information accompanying BCCI's financial statements, such as representations in its Annual Report, were accurate. Price Waterhouse violated that duty by remaining silent while BCCI falsely characterized the trading losses.

225. In BCCI Holdings' 1985 annual report, which included the BCCI (Overseas) financial accounts certified by Price Waterhouse, BCCI falsely referred to the Treasury losses as an "exceptional and one-off loss," and claimed they had been "fully compensated" by a shareholder. Price Waterhouse knew that the losses were neither "exceptional" nor "one-off," because they were normal trading losses extending over at least three accounting years, and that BCCI had not been "fully compensated." Despite its knowledge of these misrepresentations, and its affirmative duties under IAG 14, Price Waterhouse did nothing. It thus knowingly assisted BCCI in deceiving banking regulators, potential investors, and the financial community, including First American.

C. Price Waterhouse used a "subvention" to further disguise the 1985 losses

226. In order to disguise the Treasury losses and restore the capital base of BCCI (Overseas), Price Waterhouse concocted a highly misleading accounting gimmick. In 1986 BCCI confiscated $150 million from the ICIC Staff Benefit Fund – an employee benefit fund that BCCI controlled – and transferred the funds to BCCI Holdings, which in turn transferred them to BCCI (Overseas). Price Waterhouse misleadingly characterized this confiscation as a "subvention," a transfer made without any legal consideration.

The accounting treatment for the subvention was "the suggestion" of Price Waterhouse, and BCCI merely "acted upon" that suggestion.

227. Price Waterhouse's treatment of this $150 million "subvention" was misleading in several respects. First, Price Waterhouse improperly included the $150 million subvention in the 1985 accounts of BCCI (Overseas), rather than the 1986 accounts. Price Waterhouse knew that, because the decision to make the subvention was not made until 1986, tts recognition in 1985 was a violation of International Accounting Standard 10, which provides that financial statements should *not* be adjusted to take account of "conditions that arose subsequent to the balance sheet date."

228. Price Waterhouse also improperly treated the "subvention" as revenue rather than capital. In 1985, International Accounting Standard 18 defined revenue:

> *Revenue* is the gross inflow of cash, receivables or other consideration arising in the course of the ordinary activities of an enterprise from the sale of goods, from the rendering of services, and from the use by others of enterprise resources yielding interest, royalties and dividends.

Price Waterhouse knew that this definition excludes contributions from shareholders.

229. Price Waterhouse further improperly treated the "subvention" as operating income, despite knowing that it arose outside the ordinary course of business. As a result, Price Waterhouse offset the subvention against the Treasury's ordinary trading losses, and thus falsely reported that BCCI (Overseas) showed a 1985 profit of $32.2 million, rather than its actual loss of $117 million. This offset would have been impossible if Price Waterhouse had treated the subvention either as a capital contribution, as it should have, or even as non-operating income.

230. Neither Ernst & Whinney nor BCCI's London attorneys agreed with Price Waterhouse. They recognized that there was a "total distinction between the [Treasury] loss, arising from the normal activities of the company, and the receipt by way of grant, gift, or subvention of $150m from a shareholder which we consider to be unrelated to the ordinary activities of the bank and therefore essentially extraordinary in nature." The 1985 accounts of BCCI Holdings, which Ernst & Whinney audited, therefore characterized the "subvention" as non-operating income.

231. Price Waterhouse knew that the purpose of treating the subvention as operating income was to deceive the public. A draft resolution from the March 26, 1986 meeting of BCCI Holdings' Board of Directors revealingly states:

> the contribution of $150,000,000 to be made by the Company to Overseas [will] be described in the accounts of Overseas as having been made to "alleviate the detrimental effect of the Central Treasury losses on Overseas' operating results" in order that in the accounts the contribution be netted off against income from investments and other dealing assets.

This was done even though "the purpose of the contribution was to restore public confidence in the Group as a whole *and more particularly to restore the capital base of Overseas.*" Price Waterhouse knew that its mischaracterization was designed so that "the accounts [would] show a net profit for the year *solely for the purpose of presentation to the public.*" (Emphasis added).

232. Finally, Price Waterhouse and BCCI deceived banking regulators and the financial community, including First American, about the ultimate source of the subvention. The accounts of BCCI (Overseas) described the source of the payment as BCCI Holdings, and the accounts of BCCI Holdings, the BCCI Annual Report, and a draft Special Report to the IML identified the source only as a "shareholder" or "shareholders." Although Price Waterhouse was the auditor of both the "shareholder" that made the subvention (the ICIC Staff Benefit Fund) and the ultimate recipient of the subvention (BCCI (Overseas)), and although Price Waterhouse had a duty under IAG 14 to ensure that statements by BCCI management related to BCCI (Overseas)'s accounts were not misleading, it never disclosed that the "shareholder" was a benefit fund wholly controlled and dominated by BCCI.

233. By concealing the true source of the subvention, Price Waterhouse assisted BCCI in creating a false impression that the funds reflected a visible expression, of support from one of its wealthy outside shareholders, such as Sheikh Zayed, the ruler of Abu Dhabi. This was critical because BCCI, which lacked a lender of last resort, needed potential customers to believe that it would always be supported by wealthy Mideast interests.

234. The deception of the financial community was successful. The Financial Times reported that the threat to BCCI caused by the Treasury losses "was quickly neutered by a subvention from a major shareholder. He was generally assumed to have been a member of the ruling family of Abu Dhabi." The Middle Eastern Economic Digest stated that the Treasury losses "were paid off by an anonymous shareholder, believed to be Abu Dhabi's ruling family." Even Mr. Rahman, a senior financial officer at BCCI, believed the subvention payment "was coming from Sheikh Zayed or somebody from Abu Dhabi."

235. Price Waterhouse's fraudulent concealment relating to the Treasury losses had serious ramifications for First American. Had Price Waterhouse made the disclosures that it was legally and professionally obligated to make, BCCI would have been quickly shut down in 1986, long before First Amer-

ican became unwillingly associated in the public's eye with BCCI's burgeoning criminal activities. But because the closure of BCCI would also have resulted in liability for Price Waterhouse, Price Waterhouse kept silent.

D. Price Waterhouse fraudulently concealed the relationship between BCCI and ICIC

236. A critical element in BCCI's frauds was its use of secretly controlled entities. Chief among these entities was ICIC (Overseas), which BCCI created as an instrument of fraud and which BCCI itself described as a "bank within a bank." BCCI used ICIC (Overseas) as a vehicle to disguise transfers of funds, to mask the actual shareholders of BCCI and related companies, to hide problem loans, and to otherwise manipulate accounts. The frauds facilitated by ICIC included, but were not limited to, BCCI's secret and illegal takeover of CCAH.

237. By routing loans through ICIC (Overseas), BCCI sought to conceal the dangerous concentration of loans from BCCI to individual customers, usually BCCI's own shareholders or purported shareholders, and to conceal the true extent of its liabilities. BCCI also used ICIC, the purported owner of large blocks of BCCI stock, to fraudulently increase BCCI's apparent capitalization, to create the appearance of a market for BCCI Holdings' shares, and to create an inflated value for those shares.

238. Price Waterhouse worked as a frequent consultant to BCCI and was the sole auditor of ICIC (Overseas) from its creation in 1975 until its collapse in 1991. Price Waterhouse also was the sole auditor of the other principal ICIC entities, including the ICIC Foundation (U.K.), the ICIC Foundation (Cayman), the ICIC Staff Benefit Trust, and the ICIC Staff Benefit Fund. These entities were at various times the owners of large blocks of BCCI Holdings' shares.

239. Price Waterhouse knew that BCCI dominated and controlled the ICIC entities. In particular, it knew that the so-called banking operations of ICIC (Overseas) remained under the day-to-day control of the BCCI; that BCCI, in order to conceal its huge Treasury losses, compelled the ICIC Staff Benefit Fund to make an uncompensated transfer of $150 million to BCCI Holdings; that two-thirds of ICIC (Overseas)'s large loans were to shareholders of BCCI Holdings; that ICIC (Overseas) held deposits of $500 to $600 million from shareholders of BCCI Holdings; that ICIC (Overseas) pursued no business objective independent of BCCI's; that ICIC (Overseas)'s loans usually were secured by shares of BCCI Holdings, including $206 million of such loans at the end of 1986; that ICIC (Overseas) held pledges of 21 per cent of the shares of BCCI Holdings; that the same managers worked for both ICIC and BCCI; that ICIC (Overseas) employed only a few employees controlled and super-

vised by BCCI; and that various ICIC entities were principal shareholders of BCCI Holdings between 1976 and 1991.

240. Swaleh Naqvi, former CEO of BCCI, has confirmed that he and Abedi, BCCI's founder and first CEO, controlled ICIC concerning shareholder transactions, such as the CCAH loans.

A: . . . I clarify it for you, so that, ICIC group was established and created by Mr. Abedi. He was a founder of it. And in the beginning, it had very small operations, and they were being directed by Mr. Abedi and being looked after by one of the executives in ICIC. I also remained associated with that. I had a power of attorney from ICIC Overseas, but as the years, as the years went by, and, well, the volume of work increased in ICIC, and also there were questions raised by the regulators as to the overlapping management between ICIC Overseas and BCCI. Mr. Abedi decided that gradually to, the two managements should be separated. It was at that time that this structure of general manager, et cetera, was created. Now, even then, in certain areas, like dealings with the shareholders of BCCI, the directions were given by BCCI to Mr. Abedi, or myself, and that situation existed until the last.

Q: So they took their orders from you with respect to these loans and these –

A: Yes, sir.

241. Price Waterhouse knew that BCCI had long refused to provide outsiders with any meaningful information about the relationship between BCCI and ICIC. As early as 1977, Price Waterhouse knew or should have known that Bank of America stated that "information on the purpose of loans to ICIC was rarely provided in any meaningful way." In 1980, Price Waterhouse knew that the Bank of England refused to recognize BCCI S.A. as a bank, in part because BCCI had refused to disclose adequate information about the shareholding of ICIC.

242. Price Waterhouse knew that ICIC (Overseas), like BCCI (Overseas), operated in the Cayman Islands under conditions of considerable secrecy and limited regulatory oversight; that the existence of a parallel banking organization to BCCI, under control of BCCI's senior management, could readily be used to manipulate accounts; and that the technical separation of BCCI and ICIC prevented any independent entity – except Price Waterhouse – from obtaining a complete view of the transactions between BCCI and ICIC. As an experienced professional consultant and auditor, Price Waterhouse knew that fraud was the most credible explanation for the obscure and suspicious relationships between BCCI and ICIC.

243. Despite its knowledge that BCCI controlled ICIC and used it for improper purposes, Price Waterhouse played an integral role in concealing this relationship from banking regulators and the financial community, including First American.

244. Beginning with the 1985 financial year, Price Waterhouse purported to prepare the accounts of BCCI (Overseas) in accordance with International Accounting Standards. As explained above, IAS 24 governs "related party relationships." Parties are "related" under IAS 24 if "one party has the ability to control the other party or to exercise significant influence over the other party in making financial or operating decisions." IAS 24 applies to:

> enterprises that directly, or indirectly through one or more intermediaries, control, or are controlled by, or are under common control with, the reporting enterprise. (This includes holding companies, subsidiaries, and fellow subsidiaries).

IAS 24 also applies to "enterprises that have a member of key management in common with the reporting enterprise." IAS 24 requires that "[i]n considering each possible related party relationship, attention is directed to the substance of the relationship, and not merely legal form."

245. IAS 24 requires two forms of disclosure. First, it requires disclosure of all transactions between the "related" parties. Second, "[i]n order for a reader of financial statements to form a view about the effects of related party relationships on a reporting enterprise, it is appropriate to disclose the related party relationship where control exists, irrespective of whether there have been transactions between the related parties."

246. Price Waterhouse knew that BCCI and ICIC were "related parties" under IAS 24. Price Waterhouse admitted this knowledge on several occasions. On February 17, 1987, Price Waterhouse stated to BCCI that one of its "principal concerns" was "[e]ffective control by [BCCI] management of related banking entity, ICIC, which provides finance for BCCI shares and to other major customers to the bank." On March 9, 1987, Price Waterhouse admitted that the ICIC Staff Benefit Fund and the ICIC Foundation were "considered to be controlled by BCCI management," and that the relationship between BCCI and ICIC was "very close and one which may well fall within the category of a related party under . . . IAS 24." Price Waterhouse further admitted that a "strict interpretation" of IAS 24 required that these related party arrangements be disclosed.

247. Price Waterhouse never made the required disclosures to the IML, to Ernst & Whinney (the group auditors), or to the financial community, including First American. BCCI improperly asked Price Waterhouse "not to raise the ICIC issue with group auditors," and Price Waterhouse improperly com-

plied. Moreover, on March 10, 1987, Price Waterhouse fraudulently certified that the 1986 accounts of BCCI (Overseas), which completely concealed the relationship between BCCI and ICIC, had been prepared "in accordance with International Accounting Standards."

248. Price Waterhouse purported to justify its concealment of the relationship between BCCI and ICIC by stating that "widespread implementation" of IAS 24 was "unlikely" in 1986 and that IAS 24 would apply only if "the shareholders to whom [ICIC] loans were made exercised significant influence over BCCI." Price Waterhouse knew that these purported justifications were specious. First, regardless of whether the "implementation" of IAS 24 was "widespread," Price Waterhouse knew that BCCI's accounts had *not* been prepared "in accordance with International Accounting Standards." Second, regardless of the degree of "influence" by BCCI shareholders, Price Waterhouse knew that BCCI completely controlled the day-to-day operations of ICIC, that a "related party relationship" was therefore present, and that disclosure of that relationship, and of the transactions between BCCI and ICIC, was therefore required.

249. Price Waterhouse repeatedly deceived the IML. On March 9, 1987, Price Waterhouse admitted that "the consolidated banking supervisor should be made fully aware of the nature of the lending in ICIC (Overseas)." One month later, however, Price Waterhouse filed with the IML a report that not only concealed the relationship between BCCI and ICIC, but also fraudulently stated, once again, that BCCI's accounting policies "comply with International Accounting Standards."

250. Price Waterhouse also assisted BCCI management in deceiving the boards of directors. On March 10, 1987, Mr. Abedi reported to the boards of BCCI Holding's and BCCI (Overseas) that ICIC (Overseas) was not a related party because it had different shareholders and business purposes; because its day-to-day operations were carried out by different people; and because its relationships with third parties were independent of the relationships between BCCI and those same parties. Although Price Waterhouse knew that Mr. Abedi had lied to the directors, it did nothing to alert them.

251. On March 9, 1987, BCCI promised Price Waterhouse to "restructure ICIC (Overseas) in 1987" so that ICIC was "*no longer* a related party" (emphasis added). Although Price Waterhouse knew that the promised restructuring never took place, it continued to conceal from the regulators and the financial community the relationship between BCCI and ICIC.

252. In November 1987, Price Waterhouse again admitted that ICIC (Overseas), the ICIC Foundation, and the ICIC Staff Benefit Fund "are under the effective control of senior management of BCCI." Price Waterhouse admitted that disclosure of the relationship was therefore "required."

253. In January 1988, Price Waterhouse admitted that ICIC should be treated as a related party "until it funds its own identity." Price Waterhouse knew that ICIC had never done so.

254. On January 22, 1988, Price Waterhouse admitted that "the ICIC situation needed to be disclosed to the supervisors" and that "the supervisors should be fully appraised of the ICIC relationships." On March 10, 1988, Price Waterhouse admitted that the relationship between BCCI and ICIC "will have to be" reported to the IML. In a draft report to the IML, Price Waterhouse stated that the relationship between BCCI and ICIC was "close" and that "any significant downturn in the value placed on BCCI shares would adversely affect the financial position of the ICIC entities and may well have repercussions for BCCI." Price Waterhouse further stated:

> In view of the close relationship between the two entities it is clearly important to have an understanding of the deposit taking and investment activities of ICIC when considering the capital adequacy of the Group. We have discussed these matters at length with senior BCC management who are taking steps to distance ICIC from the Group.

On May 27, 1988, however, Price Waterhouse submitted to the IML a report that omitted this language entirely, that continued to fraudulently conceal the relationship between BCCI and ICICI and that further concealed the importance of ICIC's financial stability to the capital base of BCCI.

255. By 1989, Price Waterhouse knew with certainty that BCCI management was using ICIC to manipulate accounts. In October 1988, Price Waterhouse admitted that BCCI was operating at least one significant account at ICIC (Overseas) and that ICIC (Overseas) had accepted a number of substantial BCCI deposits without permission from the customer. In November 1989, Price Waterhouse knew that ICIC (Overseas) was diverting BCCI deposits to ICIC without the customers' knowledge.

256. In 1989, Price Waterhouse refused to certify the accounts of the ICIC Foundation without disclosing aspects of the relationship between BCCI and ICIC. However, Price Waterhouse showed its qualification only to BCCI, and it concealed this qualification from banking regulators and from the financial community. Moreover, Price Waterhouse continued to certify accounts of other BCCI and ICIC entities that fraudulently concealed the relationship between BCCI and ICIC.

257. In November 1989, Price Waterhouse produced an extensive draft report detailing the relationship between BCCI and ICIC and BCCI's use of ICIC to commit various frauds. In the draft report, Price Waterhouse admitted that ICIC was wholly dependent on BCCI because "its principal assets [were] shares in BCCI;" that one of the principal purposes of ICIC was to

"facilitate the purchase and sale of BCCI shares either directly or through an intermediary;" that ICIC would "be able to repay its obligations only through the disposal of its BCCI shares;" that $562 million – 69 per cent of ICIC's assets – depended on the continuing success of BCCI; that 35 per cent of ICIC (Overseas)'s loans were loans to BCCI shareholders secured by BCCI shares; that BCCI, since at least 1986, had shifted deposits to ICIC without customer authorization; that ICIC received above-market rates of return for investments made through the Central Treasury of BCCI, with no corresponding benefit to BCCI; that BCCI, because it obviously controlled ICIC, could easily be found to be acting as an implied guarantor for ICIC's obligations; and that BCCI and ICIC, by using inflated values of BCCI shares, had overstated the value of ICIC's net assets by over $189 million, or more than 700 per cent.

258. In December 1989, Price Waterhouse admitted that ICIC's deteriorating financial position was caused primarily by its increasing "dependence upon BCCI shares held as security for loans." It further acknowledged that ICIC must "obtain security which does not result in such a high degree of concentration of exposure to one entity or related entities." In the end, it admitted doubts as to "whether [ICIC] Overseas and Holdings [were] going concerns." As the Chief Financial Officer of BCCI Holdings later explained, "the purpose and the use of the money was so irregular that it wasn't even commercial banking."

259. In December 1989, Price Waterhouse sent copies of its draft report to ICIC. In January 1990, ICIC complained to Price Waterhouse that it had not requested the report, and it demanded that the report should "remain a draft for your files and totally confidential." Price Waterhouse agreed with this improper request to suppress the report, and it concealed the report from banking regulators and the financial community, including First American.

260. On April 18, 1990, Price Waterhouse again admitted that "[a]lthough ICIC entities are organised as separate legal bodies they are in substance under the control of BCCI management." Despite this express admission that ICIC was a related party under IAS 24, Price Waterhouse continued to conceal the relationship and even fraudulently stated, only twelve days later, that BCCI's 1989 accounts had been prepared "in accordance with International Accounting Standards."

261. Price Waterhouse's concealment of ICIC's related party status harmed First American because BCCI used ICIC to conceal the true source of funds for BCCI's initial illegal investment in FGB. Of the $137 million paid during CCAH's initial tender offer, approximately $70 million came from ICIC. Similarly, BCCI used ICIC to conceal the ultimate source of fiinds for some of the subsequent capitalization of First American through various rights issues. If Price Waterhouse had properly disclosed BCCI's dominance and

control over ICIC, First American or bank regulators could have prevented or sought to undo BCCI's illegal takeover of First American through ICIC, long before First American became unwillingly associated in the public's eye with BCCI's vast criminal enterprise.

E. Price Waterhouse was handsomely rewarded for its misconduct

1. Price Waterhouse replaced Ernst & Whinney

262. In 1986 and early 1987, while helping BCCI to conceal the extent and impact of the Treasury losses, and to conceal its relationships with CCAH and ICIC, Price Waterhouse also sought to replace Ernst & Whinney as the BCCI Group auditor. In April 1987, BCCI terminated its relationship with Ernst & Whinney and made Price Waterhouse the auditor for almost all of the BCCI Group, including BCCI Holdings. BCCI chose Price Waterhouse because it was more compliant than Ernst & Whinney, and less likely to expose BCCI's continuing frauds.

263. The movement to terminate Ernst & Whinney began in 1986, when Ernst & Whinney objected to the accounting gimmicks proposed by Price Waterhouse to cover up the Treasury losses. BCCI expressed displeasure with Ernst & Whinney's unwillingness to follow Price Waterhouse's lead in suppressing the truth about the Treasury losses. Ernst & Whinney responded by questioning the quality of BCCI's management, and stating that its confidence in BCCI had been "severely shaken as a result of the Treasury matter."

264. After settling the 1985 accounts, Ernst & Whinney re-evaluated its professional relationship with BCCI. In May 1986, Ernst & Whinney informed BCCI that it would no longer agree to split the audit responsibility with Price Waterhouse, and would not accept reappointment for 1987 unless BCCI made significant reforms. Ernst & Whinney insisted on "a marked improvement in the financial and managerial controls exercised throughout the group," greater "accountability by all levels of management,' and a loan loss provision that "must be quantified without regard for its effect on the group results." Ernst & Whinney further stated that "financial and managerial control has not progressed to the level necessary to safeguard adequately the financial integrity of the institution;" that "weakened accountability [had] led to some decisions being taken which were expedient and only for the short term;" and that "the flow of information to the Directors ... is insufficient." It demanded more board involvement and management accountability.

265. In light of these problems, Ernst & Whinney expressed "serious concerns about [its] ability to discharge [its] responsibilities as group auditors.' Accordingly, it issued an ultimatum:

> [I]f we are unable to agree between us [on] group audit coverage, improvements to financial and managerial controls and the role of the Board of Directors, we would not be prepared to allow our name to go forward for reappointment in respect of 1987.

BCCI's reaction was one of "hostility."

266. In August 1986, after reviewing Ernst & Whinney's letter, the BCCI Audit Committee asked Price Waterhouse whether it would be interested in more business. Price Waterhouse jumped at the opportunity, stressing that it would not report anything to any banking authority – including the IML – without first informing the Directors of the Bank. The Audit Committee noted that this meeting was held in an "extremely agreeable atmosphere and all comments indicated that Price Waterhouse had endeavored to assist the Bank in its development by cooperating with management in a most constructive way." In December 1986, after another meeting with Price Waterhouse, the Audit Committee expressed its appreciation for Price Waterhouse's assistance in using the fraudulent CCAH loans to manufacture assets for BCCI:

> The meeting with Price Waterhouse took place in a very constructive atmosphere. The two external auditors showed much understanding especially when evaluating the value of the shares of the American banks with regard to collateral for the credits granted for their purchase.

267. Ernst & Whinney, by contrast, continued to criticize BCCI's performance and procedures throughout 1986. During, an Audit Committee meeting that year, Ernst & Whinney stated that BCCI's credit analysis was "not yet satisfactory," and it complained that BCCI had not responded to audit report criticisms. It expressed concern about BCCI's dangerous concentration of loans, as well as the number of loans exceeding authorized limits. It questioned BCCI's treatment of unpaid interest as income. Additionally, Ernst & Whinney stepped up its criticism of BCCI's large loans, and demanded details on loans from BCCI (Overseas) to large BCCI shareholders. Finally, because the past Treasury losses had proved so "dramatig" Ernst & Whinney felt compelled to be more "critical and provocative" in the future.

268. Most importantly, Ernst & Whinney, which had questioned the integrity of BCCI's "sharp" business practices, directly challenged the credibility and fitness of BCCI management. Ernst & Whinney told the BCCI Audit Committee that it no longer believed representations by management that operating conditions would improve the future. Ernst & Whinney was well aware of the risk of its approach.

> [BCCI] management may feel that after the hard line we have taken with them this year in regards to disclosure of losses and provision for UK tax exposure that a quieter life with Price Waterhouse could be attractive.

269. In response, BCCI complained that Ernst & Whinney would give the IML the "wrong impression" and that its reports had become "overwhelmingly negative and unbalanced." BCCI stated that Ernst & Whinney's "attitude was not the same as in 1984. They have started raising doubts about the quality of management also. They seem to be acting more like supermanagers – maybe this attitude is for their own safety and protection of themselves under the new regulatory environment."

270. The timincy of events just prior to Price Waterhouse's appointment as group auditor is particularly important. In February 1987, Price Waterhouse concluded that the "CCAH accounts were effectively an investment and not a loan." On March 9, 1987, Price Waterhouse concluded that BCCI and ICIC were related parties. On March 10, 1987, however, Price Waterhouse fraudulently certified the 1986 accounts of BCCI (Overseas), which completely concealed BCCI's relationships with both CCAH and ICIC.

271. On March 16, 1987, just days after concealing BCCI's relationship to CCAH and ICIC, Price Waterhouse formally solicited an appointment as BCCI's group auditors. In stark contrast to Ernst & Whinney's critical stance, Price Waterhouse fawningly extolled the achievements of BCCI's "innovative and committed management team" and praised the bank's "aggressive marketing skills," which it characterized as "the envy of many competitors." Price Waterhouse also reaffirmed its promise to "continue to adopt the positive attitude already applied in our audit of BCCI Overseas" – an obvious reference to its past cooperation in disguising BCCI's Treasury losses and concealing its relationships with ICIC and CCAH.

272. Ernst & Whinney, for its part, fully expected to be fired for its repeated efforts to reform BCCI. On April 10, 1987, it stated:

> [W]e entirely accept that as a result of the position which we have taken, we may not be associated with the group in the future . . . If the Board cannot accept our views and wishes to appoint another firm, Ernst & Whinney will not stand for reelection as group auditors for 1987 and will not wish to make any further representations to the Board or shareholders.

In April 1987, BCCI terminated Ernst & Whinney and selected Price Waterhouse as the primary auditor of the BCCI group. That decision was the culmination of Price Waterhouse's campaign to usurp Ernst & Whinney's position by always satisfying BCCI management, even at the expense of its professional responsibilities. It was also the lucrative nature of this engagement that in part motivated Price Waterhouse to withhold its knowledge of

BCCI's illegal investment in CCAH from international bank regulators and the financial community, including First American.

2. Price Waterhouse received various bribes, loans, and payments from BCCI

273. In 1991–92, the United States Subcommittee on Terrorism, Narcotics and International Operations investigated the relationship between BCCI and Price Waterhouse. It reported:

> One especially troubling aspect of BCCI's relationship to its accountants was its practice of providing them with loans. While the Subcommittee has not been able to determine the complete extent of this practice, the Subcommittee has received documentation of at least two such instances – the first involving a 1987 loan of BDS $587,000 to Price Waterhouse's partners in Barbados, the second involving a loan of $17,000 to Price Waterhouse's partners in Panama in 1984, increased to $50,000 a year later.

Even within BCCI, this practice was controversial. When Price Waterhouse applied for the Panama loan, BCCI official A.M. Akbar wrote Ajmad Awan, then head of BCCI's Panama branch, to express his concern about the propriety of lending money to one's auditors:

> The firm is our auditors and we do not consider it proper to sanction or enhance the limit of USDLR 50,000.00 to our own auditor. However, we shall re-exam the matter on receipt of your justification as well as your confirmation that local laws does not prohibit loans & advances to the company's auditors. In response, Awan advised Akbar that "there are no restrictions about advances to company auditors."

Separately, regulatory reviews of the books and records of CapCom Financial Services Ltd., BCCI's commodities trading affiliate, showed payments of $100,000 by CapCom to former Price Waterhouse Grand Caymans partner Richard Fear in the 3 years since he left Price Waterhouse in 1986. Fear had previously handled audits of the books of BCCI in the Grand Caymans, the location of many of the worst frauds at BCCI.

Both CapCom's head, Ziauddin Akbar, and former Price Waterhouse partner Fear, had been held at fault in connection with BCCI's massive trading losses in 1985, described above, which were discovered in 1986. At the time, Akbar was the head of BCCI's Treasury, and therefore held responsible for the losses, and Fear was the principal person responsible for insuring the propriety of BCCI Grand Cayman's books and records.

In late June, 1992, at the behest of the Serious Fraud Office of the United Kingdom, Royal Cayman Islands police conducted dawn raids of Price Wa-

terhouse officers in the Grand Caymans, as well as the home of Fear and a second Price Waterhouse partner there, as well as the office of Price Waterhouse's local Grand Cayman's attorney, conducting searches for records.

In late February, the Subcommittee requested copies of any reports or memoranda created by Price Waterhouse concerning Fear and BCCI, and related documents. Price Waterhouse refused to provide the documents requested, stating that in its view it was "inappropriate to produce the work product of its lawyers for examination by any governmental or private third-party," and that in any case, "Mr. Fear's participation [in PW's investigation] was predicated upon implicit understandings of confidentiality." However, despite the "implicit understandings of confidentiality" Price Waterhouse reached with Fear, Price Waterhouse did advise the Subcommittee that it had concluded Fear was innocent of wrongdoing in accepting funds from BCCI's affiliate, CapCom.

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In sworn testimony before the Subcommittee on July 30, 1992, Akbar Bilgrami, formerly head of BCCI's Latin American and Caribbean, region and convicted in the Tampa money laundering case, stated that he had been informed by other BCCI officials that Price Waterhouse in the Grand Caymans had been "taken care of." Bilgrami said he did not have details as to how the auditors had been taken care of, other than that it was his understanding that BCCI had provided one or more of them with the use of a villa.

274. Since the Senate Investigation, it has been learned that Mr. Fear was paid $80,000 out of blackmail funds that Mr. Z. Akbar had received from BCCI. On Friday, August 12, 1988, BCCI's subsidiary Credit and Finance Corp. purportedly "loaned" $15,000,000 to Mr. Akbar. This was a blackmail payment authorized by Mr. Naqvi to keep Mr. Akbar from providing any information to the Senate investigators. The $15,000,000 was deposited into an account controlled by Mr. Akbar and designated as "TWOY2." On Monday, August 15, 1988, Mr. Akbar transferred $80,000 out of the TWOY2 account to Richard Fear.

F. Price Waterhouse fraudulently concealed BCCI's rampant criminal activity

275. Price Waterhouse had long known that BCCI was involved in illegal activities throughout the world. It knew that BCCI aided and abetted customer violations of tax and foreign exchange regulations. It knew that BCCI made

illegal acquisitions through nominees. It knew that BCCI accepted deposits from clients, such as Panamanian dictator Manuel Noriega, that could only be the fruit of corruption, drug sales, or other illegal activity.

276. Price Waterhouse knew that it had an obligation to report these illegal activities. Mr. Cowan stated in sworn testimony:

> Our responsibility would obviously be if we came across breaches of the laws where the companies were doing business which we were aware of to inform the regulators concerned.

Price Waterhouse never reported BCCI's illicit activities, however, thus allowing BCCI to expand its criminal conduct for years.

1. Tax and exchange control violations

277. Price Waterhouse was aware that BCCI knowingly aided customer violations of tax and exchange control laws. On February 16, 1987, BCCI explained to Price Waterhouse:

> [M]any of the Bank's customers were operating in extremely sensitive areas and in order to circumvent exchange controls and local tax regulations, it was often necessary for their funds to be routed through a number of different vehicles offshore. He [Naqvi] acknowledged that many of the companies with which they dealt were involved in reinvoicing and noted that the margins could sometimes be as high as 50% on this.

Similarly, on October 20, 1988, BCCI informed Price Waterhouse that some clients were "operating in countries where there were exchange control restrictions or heavy tax charges which they wish to avoid." Price Waterhouse also knew that BCCI operated hold mail accounts for depositors who were citizens of countries with exchange controls, in violation of local law. Price Waterhouse knew that BCCI engaged in all of this illegal activity because the profits were "extremely good" and the business was so "attractive."

278. Price Waterhouse knew that BCCI's assistance of such criminal violations could cause legal and financial problems for BCCI. In a comic understatement, Price Waterhouse admitted that such business did not represent "very good quality earnings of the bank." In fact, Price Waterhouse knew that loans to companies that violated tax or exchange control laws could prove unrecoverable. For example, in addressing loans to the Gulf Group entities, BCCI's single largest purported borrower, Price Waterhouse stated in 1990:

> We understand, however, many of these accounts may be in breach of Indian or Pakistani exchange control regulations and recovery will thus be dependent on the extent to which the beneficial owners have offshore assets outside India or Pakistan.

279. Price Waterhouse knew that BCCI had made fraudulent misrepresentations about its widespread criminal conduct. In March 1988, for example, BCCI stated to Price Waterhouse that:

> [T]here have been no significant breaches of income tax regulations or central bank regulations in any of the countries in which the bank operates which could have a detrimental effect on the results or operations of the bank.

Price Waterhouse knew that this representation was false.

280. Although Price Waterhouse was aware that BCCI knowingly aided its customers in violating tax, exchange control, and other laws, did nothing to alert the appropriate regulatory authorities in any country where BCCI was violating such laws, such as India and Pakistan. Price Waterhouse's failure to act directly impacted First American. Had Price Waterhouse promptly alerted the appropriate authorities, BCCI would have been shut down much earlier, and First American would not have been tainted by BCCI's three indictments in the U.S.

2. Use of nominee relationships

281. As detailed above, Price Waterhouse knew that BCCI's CCAH-related "loans" were "effectively an investment by nature rather than a performing loan," and it knew that this "investment" was "precluded by [U.S.] regulatory constraints." Price Waterhouse also knew or should have known of other instances when BCCI used nominees to evade local laws.

282. Price Waterhouse advised BCCI in its aborted and illegal attempt to purchase Chelsea Bank through nominees in 1977, and Price Waterhouse knew or should have known – as Bank of America readily discovered – that beginning in the 1970s BCCI used nominees to evade local laws in the Middle East.

283. Price Waterhouse knew or should have known that BCCI, as explained below, also used Ghaith Pharaon as a nominee to secretly and illegally acquire U.S. banks other than First American. Price Waterhouse questioned "whether Pharoan acts for himself or for BCCI in major transactions, for example, the purchase [of] Independence Bank."

284. Although Price Waterhouse knew or should have known that BCCI repeatedly used nominees to evade local laws, it concealed its knowledge from all regulatory authorities. Had Price Waterhouse promptly alerted the appropriate authorities of these violations, which began in the 1970s, First Amenican could have prevented BCCI's secret and illegal ownership interest. Moreover, the fraudulent nature of BCCI's operations would have been revealed much earlier, BCCI would have been closed much sooner, and First

American would have been much less damaged by any unwilling association with BCCI and its network of criminal enterprises.

3. Money laundering activity

285. In 1986, BCCI became involved in extensive laundering of profits from the sale of illegal drugs. Between 1986 and 1988, BCCI opened about 30 branches in Colombia, actively courted noted drug kingpins, and accepted millions of dollars of cash deposits, some of which arrived at the bank in suitcases.

286. BCCI provided extensive banking services to such individuals as Panamanian dictator Manuel Noriega. Noriega was subsequently convicted in the U.S. for drug and money laundering offenses. Noriega made cash deposits at BCCI of up to $1 million at once, and his total BCCI deposits were approximately $22 million. Most of Noriega's deposit accounts were audited by Price Waterhouse.

287. In October 1988, BCCI Holdings, some of its subsidiaries, and nine BCCI officers were indicted on money laundering charges by a federal grand jury in Tampa, Florida. BCCI laundered approximately 40% of the money at issue through First American. In January 1990, BCCI (Overseas) and BCCI S.A. pleaded guilty to the money laundering and fraud charges. Five of the officers stood trial and were convicted. A sixth later pleaded guilty, and two others were subsequently prosecuted and convicted on related charges in the U.K.

288. In 1991, a grand jury in New York issued a second money laundering indictment, which went far beyond the 1988 Tampa indictment. The New York indictment charged that the New York agency of BCCI S.A. had unlawfully laundered money from "the overseas branches of BCCI group, including but not limited to, branches of BCCI in Lahore, Pakistan and Dhaka, Bangladesh." After BCCI pleaded guilty to this charge, Justice McQuillan of the New York Supreme Court was moved to remark: "The magnitude of the crimes charged in this indictment boggle the mind."

289. Following a third indictment, BCCI pleaded guilty to still more money laundering offenses, including charges that BCCI "encourag[ed] placements of funds from the proceeds of drug sales;" that BCCI "would knowingly offer a full range of services to drug importers, suppliers, and money launderers;" that BCCI conducted transactions with drug proceeds "with the intent to conceal and disguise the nature, location, source and ownership of these drug proceeds;" and that BCCI "maintain[ed] a system of secret banking services designed to attract bank deposits of" U.S. taxpayers "who intended to and did conceal foreign bank accounts and unreported taxable income from the Internal Revenue Service." BCCI further admitted that it had used certificates

of deposit held at foreign branches to offset cash deposits made in the U.S.; that it had credited "counter-balancing loan proceeds" to foreign corporate bank accounts designated by drug traffickers; and that it had used false names, codes, and counter-surveillance techniques against law enforcement officials.

290. BCCI's criminal activity caused U.S. bank regulators to severely criticize its internal controls. In response, BCCI signed consent orders with the U.S. Federal Reserve Board and with banking authorities in New York, California, and Florida. The orders required BCCI to revise its loan policies to require: complete loan documentation, current credit information, timely recognition of identified losses, timely renewal of loans, adequate monitoring and accurate reporting of matured and past due loans, and an effective loan review function. Price Waterhouse had, of course, known of BCCI's fundamentally deficient banking procedures for years.

291. Price Waterhouse assisted BCCI in concealing its criminal activity from the regulators. BCCI retained Price Waterhouse purportedly to investigate the fourteen illegal transactions underlying the Tampa indictment, to establish an international compliance program, and to "regularise BCCI's internal control systems and regulatory compliance." In fact, the purpose of these engagements was to forestall wider criminal investigations and to convince bank regulators that no further enforcement was necessary.

292. BCCI stressed to the regulators the supposed breadth of these Price Waterhouse engagements. BCCI's U.S. counsel reassured the Federal Reserve that Price Waterhouse was retained to conduct "a thorough review of the bank's business policies and procedures" and that "a comprehensive review of existing accounts was undertaken in the United States and other significant locations worldwide to detect and prohibit suspicious activity."

293. Despite the advertised breadth of its engagements, however, Price Waterhouse failed to discover – or chose not to report – any of the criminal activity that later prompted the 1991 indictments. Any honest investigation would have uncovered most of this activity.

294. Price Waterhouse knew that BCCI never reformed its control deficiencies, and that these deficiencies would be unacceptable to the regulators. On May 26, 1989, Price Waterhouse admitted to BCCI's U.S. lawyers that there were "widespread" problems regarding inadequate documentation of BCCI transactions. On September 28, 1989, Price Waterhouse informed BCCI's U.S. attorneys that "we will have real trouble with banking regulators when they see all rules we imposed are being violated;" "that despite introduction of manuals, bank not in compliance;" that "the Fed will be furious;" and that "the Fed will hit b[ac]k on this."

295. Furthermore, Price Waterhouse knew that BCCI, in response to increased scrutiny within the U.S., simply shifted its money laundering to bran-

ches outside the U.S. Before BCCI began its purported U.S. compliance program, there were 150 wire transfers per day through BCCI's U.S. branches; the number dropped to three per day after the program was implemented. On September 28, 1989, Price Waterhouse admitted knowledge of this "problem," noting that "the regulators wouldtake a dim view of other branches outside the U.S. not complying with [Bank Secrecy Act procedures]" and that "[t]his could result in significantly increased regulatory pressures and sanctions against BCC branches in the U.S."

296. Price Waterhouse concealed these problems from the Federal Reserve and New York banking officials. For example, at a November 1, 1989 meeting to discuss the status of BCCI's purported compliance, Price Waterhouse failed to mention any of the problems it had noted on September 28, 1989.

297. On February 13, 1990, BCCI certified to the Federal Reserve that it had reformed its control deficiencies and was operating "in full compliance" with the law. BCCI stated:

> [T]he BCCI Group senior management directed its attorneys and internal auditors to undertake, in coordination with its outside auditing firm, a review of open and closed accounts, based on criteria established by the external attorneys and auditors, in order to ferret out any questionable account. The review was also conducted in order to ensure that . . . the accounts were being operated *in full compliance with the laws and regulations of the countries where they were maintained* as well as in accordance with the Bank's strengthened policies and procedures. (Emphasis added).

BCCI further stated that "the Bank's attorneys, with the assistance of Price Waterhouse, have taken an active role in the review of new compliance manuals by the internal Compliance Group. These manuals are intended to ensure strict adherence to such new laws." Price Waterhouse knew or should have known that BCCI had lied to the Federal Reserve and had invoked its name in so doing; Price Waterhouse nonetheless remained silent, and thus allowed BCCI to continue its deception of the Federal Reserve.

298. Price Waterhouse even suppressed internal reports commissioned by the BCCI Audit Committee. In 1987, the BCCI Audit Committee engaged Price Waterhouse to conduct a comprehensive review of BCCI's entire system of internal controls, to determine whether BCCI was "complying with legal requirements and central bank regulations." At the urging of BCCI management, however, Price Waterhouse declined to investigate them, and it delayed preparing even a draft summary of its report until December 1988. Following the Tampa indictments, Price Waterhouse urged the Audit Committee to abandon its review, stating that the report "should not be finalised or even circulated in draft form."

299. Price Waterhouse's prolonged assistance in concealing BCCI's criminal activity from regulators directly harmed First American. Had Price Waterhouse revealed BCCI's criminal conduct and basic control deficiencies, BCCI could not have continued to engage in widespread money laundering through First American's accounts. Had Price Waterhouse reported any of BCCI's criminal conduct in its meetings with the Federal Reserve and New York banking officials in 1989, BCCI would have been closed before 1991, and First American could have disassociated itself from BCCI earlier, and thus avoided some of the damages that it ultimately suffered.

G. Price Waterhouse fraudulently concealed BCCI's illegal interest in the National Bank of Georgia and its forced sale of NBG to First American

300. In 1978, BCCI secretly and illegally acquired the National Bank of Georgia ("NBG"), a U.S. bank headquartered in Atlanta, Georgia. BCCI acquired NBG through its nominee relationship with Ghaith Pharaon, a corrupt Saudi Arabian businessman. Mr. Pharaon also acted as a nominee to conceal BCCI's secret and illegal purchase of the Independence Bank of California, and ICIC's secret purchase of Attock Oil Company, Limited. To finance these purchases, BCCI created a series of fraudulent loans in Mr. Pharaon's name.

301. In May 1986, BCCI and Mr. Pharaon agreed to forcibly sell NBG to First American. First American informed BCCI that a purchase price of $160–175 million would be too high. Nonetheless, through its secret and illegal ownership of CCAH, BCCI forced First American to acquire NBG for a purchase price of $227 million. Because of NBG's financial weakness, First American was later forced to provide NBG with over $50 million of additional capital, for a total investment of approximately $278 million. In 1993, First American sold NBG for only $70 million. Thus, its losses from the forced purchase and resale of NBG were approximately $208 million. In addition, First American's capital could have been used much more profitably in other areas. First American's opportunity costs from decreased profits from the NBG transactions were approximately $219 million.

302. Price Waterhouse audited many of BCCI's fraudulent loans to Mr. Pharaon. By the late 1980s, Price Waterhouse plainly knew that these loans were fraudulent and that Mr. Pharaon was acting as a BCCI nominee. Price Waterhouse never revealed its knowledge regarding these frauds to regulators or to the financial community, including First American.

303. Price Waterhouse knew that BCCI's exposure to Mr. Pharaon had increased to $212 million by September 1988, to $260 million by September 1989, and to over $288 million by December 1989. Price Waterhouse knew that ICIC purportedly had loaned an additional $27.8 million to Mr. Pharaon by December 1989.

304. Price Waterhouse knew that BCCI's purported loans to Mr. Pharaon were undocumented. In March 1990, Price Waterhouse admitted that "[t]here are no loan agreements, promissory notes or correspondence with the customers at either BCCI Overseas or ICIC Overseas." It knew that BCCI created a purported $5.4 million loan to Mr. Pharaon in December 1989 without receiving any instructions from him, and without ever recording the "loan" in its registry.

305. Price Waterhouse knew that BCCI's purported loans to Mr. Pharaon exceeded approved limits by $52 million in November 1986, by $83 million in November 1987, by over $130 million in September 1989, and by over $100 million in December 1989. Price Waterhouse admitted that "no details were available evidencing Board approval of new lending in excess of limits."

306. Price Waterhouse knew the Pharaon lending was inadequately secured. As early as December 1987, Price Waterhouse admitted that BCCI's unsecured exposure to Mr. Pharaon was "significant" and was "substantially less secure than at the prior year end." Price Waterhouse knew that BCCI's unsecured exposure to Mr. Pharaon had increased to at least $130 million by December 1989.

307. Price Waterhouse knew that BCCI repeatedly had broken its promises to bring its purported loans to Mr. Pharaon under control. Price Waterhouse knew that BCCI had promised to reduce its total exposure to Mr. Pharaon to $144 million by the end of 1987, and to cut its unsecured exposure in half. It knew that, despite these promises, BCCI permitted both exposures to more than double.

308. Price Waterhouse knew that BCCI's unsecured exposure to Mr. Pharaon alone exceeded 12 per cent of the capital base of BCCI (Holdings), and that its gross exposure exceeded 26 per cent of BCCI (Holdings)'s capital. It knew that such exposures far exceeded any reasonable limit.

309. Price Waterhouse never once obtained direct confirmations from Mr. Pharaon that his purported loans were legitimate. As early as December 1987, Price Waterhouse admitted that not even BCCI had obtained confirmations to Mr. Pharaon.

310. If Price Waterhouse had audited the Pharaon loans honestly and competently, and disclosed the true nature of the relationship between Pharaon and BCCI, BCCI would not have been able to foist the purchase of NBG upon First American, and thus First American would not have suffered $427 million of its damages.

H. Price Waterhouse deceitfully certified BCCI's 1989 accounts

311. By April 30, 1990, when it certified the 1989 accounts, Price Waterhouse had acquired irrefutable evidence that BCCI was engaged in massive

fraud. Among other things, Price Waterhouse knew that BCCI illegally owned CCAH; that BCCI controlled ICIC and used it to commit fraud; that much of BCCI's major loan portfolio was fraudulent and unrecoverable; and that BCCI was engaged in widespread criminal activity. Nonetheless, Price Waterhouse certified that BCCI's 1989 accounts, which disclosed none of these frauds, presented a 'true and fair' view of its financial condition. In doing so, Price Waterhouse once again committed deceit.

312. As noted above, in October 1989 a senior BCCI executive informed Price Waterhouse that many of BCCI's major loans were fraudulent. He stated that the purported CCAH-related borrowers held their shares as nominees for BCCI; that they had received hold-harmless letters from BCCI indemnifying them against loss; that they would refuse to confirm their indebtedness, that BCCI had engaged in improper transactions with several entities, including ICIC; and that BCCI's large Gulf Group loans were a "joke."

313. In a belated attempt at self-protection, Price Waterhouse began an attempt to make itself appear as an honest and competent auditor. For example, Price Waterhouse finally sent audit confirmation requests directly to a few of the large purported borrowers, an action that it should have taken years earlier. As detailed above, in February 1990, Sheikhs Sharqi and Nuaimi refused to confirm the terms of their purported CCAH-related loans, which together exceeded $270 million. On February 28, 1990, Mr. Naqvi confirmed that BCCI had fraudulently misrepresented the terms of its purported CCAH "loans," and that BCCI, not the purported CCAH "shareholders," would be liable for any losses on these loans. By then, Price Waterhouse has admitted that it knew beyond doubt that the CCAH arrangements "were not true loans," but instead a BCCI investment.

314. BCCI also informed Price Waterhouse that it had prepared false and fraudulent documentation regarding, transactions in Bahrain used to service nonperforming loans in the United Arab Emirates. On March 5, 1990, Price Waterhouse acknowledged that BCCI had booked a number of fraudulent and irregular transactions in Grand Cayman, Bahrain, and elsewhere; that BCCI had told material lies and engaged in large-scale concealment; that BCCI had booked circular transactions to conceal the extent of its exposure to the Gulf Group; that, because of the exorbitant "interest" charcres, the purported CCAH borrowers could not have obtained an economic return on their purported investment; and that Price Waterhouse could not assess the full extent of BCCI's fraud.

315. Even then, Price Waterhouse continued to assist BCCI's ongoing frauds and obstructions. In response to the March 5, 1990 admissions, Price Waterhouse suggested that BCCI "blame" its 1989 results on the Tampa in-

dictment and on the recession, despite knowing that neither event had caused BCCI's mounting losses.

316. On March 13, 1990, BCCI created a so-called "Independent Task Force" to investigate the rapidly unravelling fraud. Price Waterhouse insisted on such a task force, after BCCI's explicit admission of widespread fraud, in another belated attempt to appear honest.

317. Price Waterhouse admitted to the Task Force its detailed knowledge of BCCI's huge, fraudulent and uncollectible loans. With regard to the CCAH-related loans generally, Price Waterhouse admitted that BCCI's exposure had increased to $856 million; that there was "no real control of these facilities;" that written promissory notes existed for only $270 million of the loans; that "sparse" files reflected "a general lack of third party evidence or customer acknowledgement;" that "cross pledges exist whereby one borrower's shares are pledged against another's loans;" that the purportedly pledged CCAH "security" was worth only between $620–720 million; that disposal of the "security" was "unlikely to be achieved easily;" that $35 million had been recently loaned without approval by the Board of Directors; that there were $42 million of improper additional loans without customer instructions in 1989 alone; and that Sheikhs Sharqi and Nuaimi had refused to confirm in excess of $270 million in CCAH-related loans.

318. With regard to Sheikh Adham, Price Waterhouse admitted that BCCI's exposure stood at $313 million; that there was no net worth statement; that there were "no loan agreements . . . or formalised repayment terms;" and that BCCI, in 1989 alone, had booked in Sheikh Adham's name an additional $18 million in unauthorized lending. Price Waterhouse also questioned the "[r]ellability of management representations" about Sheikh Adham, noting that BCCI management had broken its past promises (i) to obtain an independent net worth statement, (ii) to reduce Sheikh Adham's balance to its 1988 level of $296.3 million, (iii) to finalize a repayment agreement, and (iv) to ensure that a mortgage on Sheikh Adham's Saudi property was enforceable.

319. With regard to Mr. Khalil, Price Waterhouse admitted that BCCI's exposure stood at $150.3 million, that there were "no signed loan agreements," "no correspondence," and "no net worth statements or cash flow information;" that Mr. Khalil had not confirmed his loans "in four years" (since 1985) or paid any interest "in five years" (since 1984); and that Mr. Khalil's account balance had increased by over $70 million since 1984, "mainly through the application of interest." Price Waterhouse questioned whether BCCI management was lying when they claimed that they had established a repayment schedule with Mr. Khalil in November 1989.

320. With regard to Mr. Fulaij, Price Waterhouse admitted that BCCI's exposure stood at $112.9 million, and ICIC's at $35 million; that "[t]here are generally no loan agreements;" that "[t]here has been very little performance on any of these accounts in recent years," and that "exposures have been increasing through the application of interest and charges."

321. With regard to Mr. Hammoud, Price Waterhouse admitted that BCCI's exposure stood at $48.8 million and ICIC's at $60.9 million, that it had seen no "evidence of beneficial ownership of any of the companies purportedly owned by Mr. Hammoud;" and that "there is generally little evidence to support drawdowns and ongoing communication with the customer." Price Waterhouse expressed concern about Mr. Hammoud's pledge of CCAH shares as security for no apparent consideration, and it noted "the conflicting management comments concerning his exposures."

322. With regard to Mr. Pharaon, Price Waterhouse admitted that BCCI's exposure stood at $288.3 million and ICIC's at $103.2 million; that Mr. Pharaon's balance exceeded loan limits by $100 million and exceeded 10 per cent of BCCI's capital base; that "[t]here are no loan agreements, promissory notes, or correspondence with these customers;" and that "[d]raw downs are not supported by requests from the customers."

323. In April 1990, the Task Force completed a report concluding that there had been a widespread and longstanding pattern of fraud within BCCI, and that Price Waterhouse had been reckless or worse in failing to report that fraud. The Task Force noted that Price Waterhouse had "full access to all [BCCI] locations' records and documents" and "an extensive understanding of the operations of BCCI globally over the past several years;" that "more or less all" of the problem loans "related wholly to the Grand Cayman branches of BCCI (Overseas) or ICIC (Overseas) both of which had been audited by Price Waterhouse from their inception;" and that Price Waterhouse's extensive work for BCCI (Overseas) "should have easily detected and corrected such haphazard transactions several years ago."

324. Addressing the problem loans generally, the Task Force concluded that BCCI's files "had very inadequate supporting documents," with shortconuings that included an "absence of written requests from the shareholders or clients" and "often no written report of the purpose for the loans/transactions and in quite a few cases not even year end confirmation of balances."

325. With reaard to the CCAH-related loans, the Task Force found "little doubt" that "there must be some 'interlocking' arrangements between the shareholders of both BCCI Holdings (Lux) SA and CCAH whereby in several cases 'nominee' routes" were taken.

326. The Task Force strongly criticized Price Waterhouse's failure to identify the problem loans. With regard to the Gulf Group, it stated:

> It took the Task Force only a few days to note that nearly each of these cases had common patterns of initiation, activity, fund flow, weak documentation and vague explanations from the concerned account officers which any reasonable audit process should have tracked down, identified and stopped forthwith. That it extended over so many years is a great disappointment to the Task Force – particularly since their initiations was [sic] all from the same source in Grand Cayman (and London).

With regard to Mr. Khalil, the Task Force remarked that "[t]he review of this loan account makes really sorry reading" and that Price Waterhouse "should have sought better clarification and documentary proofs in earlier years than [were] received by them."

327. On April 30, 1990, Price Waterhouse deceitfully certified without qualification that BCCI's 1989 accounts presented a "true and fair view" of BCCI's financial condition. That certification was deceitful in at least five different respects.

328. First, Price Waterhouse knew that BCCI's fraud was so pervasive, and its internal controls so inadequate, that the books and records could not possibly present a "true and fair view" of BCCI's financial condition. Among other things, Price Waterhouse knew that BCCI had falsified records from as far back as 1985; that BCCI effectively owned CCAH as an "investment;" that BCCI controlled ICIC and used it to manipulate accounts; and that at least $300 million of BCCI's purported lending, to another large borrower, the Gulf Group, was also fraudulent. Price Waterhouse admitted that BCCI management's "credibility has gone," and that it was "unable to assess the real situation." Similarly, it admitted that it was impossible to know whether all problem transactions had been identified.

329. Second, Price Waterhouse knew that the accounts did not disclose BCCI's illegal ownership interest in CCAH, as required by International Accounting Standards. As explained above, althouah Price Waterhouse had known that BCCI owned an illegal interest in CCAH at least since 1987, that conclusion became irrefutable in early 1990.

330. Third, Price Waterhouse knew that the accounts concealed BCCI's control of ICIC, and its use of ICIC to commit widespread fraud. By May 1990, Price Waterhouse had repeatedly admitted that BCCI completely controlled ICIC, and it knew that ICIC was "the answer" to many of BCCI's frauds.

331. Fourth, Price Waterhouse knew that the accounts listed as assets at least $2.1 billion of loans that were largely fraudulent and unrecoverable. In mid-April of 1990, Price Waterhouse admitted that a provision of at least $1.2 billion was required for these loans. It knew, however, that the final accounts included provisions of only $600 million. Although Price Waterhouse

drafted for BCCI a representation that several of its large problem loans "will prove substantially realisable," Price Waterhouse could not have believed that representation. In yet another transparent attempt at self-protection, Price Waterhouse drafted the letter based solely on unsupported representations by the same BCCI management whose "credibility," according to Price Waterhouse itself, "has gone."

332. Fifth, Price Waterhouse acquiesced in several deceptive statements made by BCCI in its 1989 Annual Report. For example, following Price Waterhouse's advice, the 1989 Annual Report blamed BCCI's losses on "deteriorating economic conditions" and on the Tampa indictments. Price Waterhouse knew, however, that the losses resulted from multiple frauds stretching back over several years, and from its own extended concealment of those frauds.

333. The Annual Report also asserted that BCCI had performed an "exhaustive" analysis of its loans, resulting in loan loss provisions characterized as "prudent" and "conservative." Price Waterhouse knew, however, that the analysis had not been exhaustive, and the loss provisions of $600 million were far less than the $1.2 billion that Price Waterhouse itself had admitted would be necessary.

334. Price Waterhouse reviewed the Annual Report before its publication, and knew that it was false and misleading. Nonetheless, despite its affirmative duty under IAG 14 to correct material inconsistencies and misstatements, Price Waterhouse remained silent and continued to conceal the truth. Price Waterhouse thus assisted and enabled BCCI's further deceptions.

335. In making its fraudulent certification, Price Waterhouse also knew and intended that other banks such as First American would rely upon them. Price Waterhouse had previously admitted that:

> The bank's annual report is widely available to shareholders, correspondents, customers and the public, including the financial press. As a result it is a document which provides an excellent forum for conveying financial and other information which demonstrates the development, strength and diversity of the banks' operations.

I. Price Waterhouse obstructed investioations while attempting to appear honest

336. Price Waterhouse's improper certification of BCCI's accounts was not an isolated act of fraud. In fact, between 1989 and 1991 Price Waterhouse repeatedly assisted BCCI in deceiving and obstructing investigations by various banking regulators. At the same time, Price Waterhouse attempted to engineer

a financial rescue of BCCI by Abu Dhabi, and to create a false impression that it was acting honestly and independently.

337. As detailed above, in 1989–91 Price Waterhouse deceived or obstructed First American and the various regulatory authorities about BCCI's illegal relationship to First American.

338. On April 11, 1990, Price Waterhouse stated to the Bank of England that BCCI "probably was not" insolvent, despite knowing that it was.

339. On April 18, 1990, Price Waterhouse presented a report on BCCI's financial condition to the BCCI Boards of Directors. The report concealed much of the information disclosed by Price Waterhouse to the management's purportedly "independent" Task Force. For example, the report failed to disclose any of the evidence that BCCI illegally owned CCAH; that the purported CCAH borrowers had signed notes for only $270 million; and that the purported CCAH security was "flawed." The report also failed to disclose that BCCI faced an aggregate exposure of over $855 million to Sheikh Adham, Mr. Khalil, and Mr. Pharaon, and that the purported loans to those individuals were fraudulent.

340. On April 20, 1990, Price Waterhouse told the IML and the Bank of England that the CCAH shares were good security; that the Task Force had been created because BCCI was preoccupied with the Tampa indictments and thus unable to provide Price Waterhouse with information, and that they had already informed the regulators about all of BCCI's problems. Price Waterhouse knew, however, that all of these statements were false.

341. In an April 25, 1990 letter to the Abu Dhabi government, Price Waterhouse withheld critical information from BCCI's largest shareholder. The letter concealed that BCCI owned CCAH, and it failed to disclose Price Waterhouse's knowledge of the full extent of BCCI's other frauds, as well.

342. On November 21, 1990, Price Waterhouse falsely claimed that it had "discovered" purportedly "secret" files maintained by BCCI, which confirmed that it had engaged in massive fraud, including the use of nominees and bribes. In fact, Price Waterhouse had long known about the existence and precise location of the purportedly "secret" files, which were kept at BCCI's headquarters in London. At one point, a Price Waterhouse auditor, angry with Imran Imam, a BCCI employee, threatened to audit the purportedly "secret" files. Mr. Imam invited him to "go ahead," but Price Waterhouse never did so. It could have asked to see the files at any time, but preferred to remain willfully blind to their contents.

343. In an October 1990 report to the BCCI Audit Committee, Price Waterhouse finally informed the directors that BCCI management "may have colluded with some of its major customers to misstate or disguise the underlying purpose of significant transactions." The Board of Directors of BCCI

Holdings asked Price Waterhouse for "full details at your earliest convenience." Price Waterhouse, however, refused to provide any further details.

344. Mr. Cowan deceived his own New York partners. Andrew Nolan, a New York Price Waterhouse partner, learned of the October audit report and called Mr. Cowan to reassess Price Waterhouse's relationship with BCCI. Mr. Cowan refused to tell Mr. Nolan what the report said about CCAH. Mr. Cowan also characterized BCCI as "a worthy client."

345. In January 1991, Mr. Cowan again lied to Mr. Nolan about the contents of the October audit report. Mr. Cowan falsely stated to Mr. Nolan that the report addressed conditions created by "former management" and that "such conditions no longer exist." Mr. Cowan again stated that BCCI was a "suitable client." Mr. Nolan pressed, but Mr. Cowan "never revealed the truth." Mr. Cowan thus deliberately concealed from his U.S. partners critical evidence of BCCI's frauds on the U.S. government.

346. On December 17, 1990, Zafar Iqbal, who succeeded Mr. Naqvi as the chief executive of BCCI, confirmed to Price Waterhouse still more of BCCI's fraud. Among other items, Mr. Iqbal stated that BCCI had stolen unrecorded deposits of almost $440 million; that BCCI had created fraudulent loans in the names of several individuals who "were not aware of the existence of these loans;" that BCCI had "recycled" approximately $1.2 billion by manipulating loans and deposits; and that BCCI had stolen client deposits in order to inflate the value of its investment portfolios. Price Waterhouse concealed this information from banking regulators and from the financial community, including First American.

347. On January 4, 1991, Price Waterhouse met with the Bank of England to discuss BCCI's unrecorded deposits, but continued to conceal its extensive knowledge of BCCI's various other frauds. In particular, Price Waterhouse continued to conceal the fact that BCCI controlled both ICIC and CCAH, that many of BCCI's largest loans were fictitious, and that Mr. Naqvi supposedly had concealed a cadre of "secret" files.

348. On January 19 and 20, 1991, Mr. Naqvi described for Price Waterhouse extensive details of BCCI's frauds concerning the non-shareholder status of "record" CCAH shareholders and other borrowers, the Central Treasury activities, the relatlonship between BCCI and ICIC, the Gulf Group loans, the movement of funds to service delinquent loans, and extortion payments made to employees. Price Waterhouse concealed this information from banking regulators and from the financial community, including First American.

349. On March 1, 1991, as BCCI's various frauds were being publicized in front-page articles around the world, Price Waterhouse finally presented to the BCCI Boards of Directors an extended account of the bank's wrongdoing. Three of the outside directors – Yves Lamarche, J.D. Van Oenen, and Dr

Alfred Hartmann – angrily complained that they had not been informed of pertinent developments, and thus had been prevented from taking appropriate corrective action.

350. Price Waterhouse met with the Bank of Enaland on March 1, 12, and 20, 1991. On each occasion, it failed to provide the same kind of briefing that it had provided to the BCCI Boards of Directors. Lord Justice Bingham, who led an official U.K. inquiry into the BCCI disaster, stated that Price Waterhouse failed to provide the "full disclosure" that "should have been made." In particular, Price Waterhouse continued to conceal BCCI's illegal ownership of CCAH, which it knew was the most serious threat to BCCI's survival.

351. Price Waterhouse continued to conceal information even after BCCI had been shut down. In late 1991, the United States Senate Subcommittee on Terrorism, Narcotics, and International Operations, which was then investigating the BCCI debacle, requested copies of Price Waterhouse reports relating to BCCI. Price Waterhouse refused to provide any of its reports to the Senate.

V. Price Waterhouse's misconduct severely injured First American

352. BCCI's secret and illegal ownership and controlling stock interest in First American injured First American in two ways. First, when the illegal relationship with BCCI and its criminal enterprises was disclosed, First American experienced a run on its deposits and a precipitous drop in its market value. Second, BCCI's control of First American caused it to enter into investments in Georgia and New York that were intended to benefit BCCI and further its interests, not First American's. Together, these damages totaled $1.5 billion.

353. As a correspondent bank of BCCI's, First American regularly scrutinized BCCI's published financial statements from at least 1984 until 1990. These reviews involved a detailed, segment-by-segment, note-by-note analysis of the financial statements so that First American could determine an appropriate level of credit exposure to BCCI. Had Price Waterhouse not fraudulently concealed BCCI's illegal investment interest in CCAH in BCCI's financial statements, First American would have immediately learned of that relationship, alerted regulatory authorities, and moved to dissociate itself from BCCI years before BCCI's highly publicized collapse in 1991. Moreover, as explained above, First American directly questioned Price Waterhouse about whether BCCI owned CCAH, and Mr. Cowan in response falsely stated that it did not. But for Price Waterhouse's derelictions, First American would have acted to protect itself and minimize its losses, years before it did.

354. Price Waterhouse's concealment of BCCI's various other frauds, such as the Treasury losses and ICIC, also directly harmed First American. Had

Price Waterhouse not concealed these frauds, banking regulators would have reformed or shut down BCCI years before they actually did, and First American would have avoided most or all of the harms caused by the shocking and highly-publicized 1991 revelations.

355. In 1991, when BCCI's illegal ownership of First American became publicly known, First Amefican suffered irreparable harm to its business reputation. First Amenican's deposits declined to just over $7 billion, including a loss of more than $1 billion in deposits in the third quarter of 1991 alone, and its assets dropped to under $9 billion. That deposit runoff caused First American damages of $94 million. In addition, First American's credit rating was reduced by Moody's Investors Services as a consequence of its relationship to BCCI, raising First American's cost of doing business.

356. The revelation of BCCI's illegal ownership of First American caused First American's value as a going concern to drop from more than $1 billion to $300 million. In 1989 and 1990, First American received initial offers to be acquired for over $1 billion. At the time of those inquiries, First American held assets of over $11 billion, total loans of $6.9 billion, total deposits of $9 billion, and shareholder's equity of $844 million. It was the largest banking corporation headquartered in Washington, D.C., and the forty-ninth largest banking organization in the Unlited States. In 1992–93, however, First American's assets were sold for $500 million, and First American retained approximately $200 million in liabilities. That left a net value of $300 million, or at least $700 million less than First American was worth in 1990.

357. In addition to the damages caused by the deposit runoff and the drop in market value, BCCI's illegal ownership and control of First American caused other losses to First American. In furtherance of BCCI's secret agenda to create a world bank headquartered in New York City, BCCI caused First American to embark on a costly and unprofitable expansion of its operations in New York City. The expansion was ill-suited to First American's customer base and expertise, and was pursued only to further BCCI's interests. The expanded New York operations constituted an enormous drain on First American's financial resources.

358. A significant part of that drain stemmed from the lease for First American's New York office. BCCI caused First American to enter into an excessively expensive lease in New York because BCCI intended ultimately to establish the headquarters of a merged BCCI/First American in New York. The space was far larger and more extravagant than was justified by First American's small New York operations, driving its occupancy cost to nearly double those of comparably sized New York banks.

359. BCCI's New York plan cost First American substantial amounts in rent subsidies, additional capital contributions, and other expenses. Between

1982 and 1992, First American invested approximately $145 million in its New York operations, but recouped only $14 million of that amount upon liquidation in 1993. First American incurred other costs, principally opportunity costs from decreased profits, amounting to approximately $250 million. Thus, First American's total losses from BCCI's New York plan were approximately $380 million. Had Price Waterhouse promptly reported BCCI's secret and illegal investment, First Amenican would never have suffered those losses.

360. Finally, the BCCI-engineered purchase of NBG by First American also caused substantial damages to First American. As explained above, First American paid $227 million for NBG and was required to provide additional capital infusions of over $50 million, raising the total cost of the compelled acquisition to approximately $278 million. First American sold NBG in 1993 for $70 million, producing losses of $208 million. First American incurred opportunity costs from decreased profits of $219 milhon. If Price Waterhouse had audited the Pharaon loans honestly and competently, First American would not have been forced to acquire NBG, and it would never have suffered the losses of $427 million.

361. The total damages to First American from Price Waterhouse's misconduct are approximately $1.5 billion. Since then, First American has reached settlements with various parties responsible for the BCCI frauds valued at over $400 rrdllion, so that its uncompensated damages now total approximately $1.1 billion.

VI. First American's causes of action against PricewaterhouseCoopers

362. As a result of the acts that are described in detail above, the Defendants have committed deceit and/or fraud and/or negligence and/or gross negligence in the course of fulfilling their duties as special reporters, auditors, accountants and consultants. Their wrongful and/or grossly negligent acts have directly caused harm to First American, which incurred substantial operating costs and opportunity costs, and whose market value fell dramatically as a result of its association with BCCI and its disastrous collapse, even though First American itself acted properly at all times. Had the Defendants withheld their active support from BCCI, or had they intervened to prevent BCCI from commiting further fraudulent acts, or had they not committed negligence themselves, BCCI would not have been in a position to maintain its secret and illegal ownership interest in CCAH and Plaintiffs would therefore not have been harmed.

363. The Defendants are therefore liable for the results of their tortious or quasi-tortious acts, and the Plaintiffs therefore seek judgment against them as compensation for the damages they have suffered.

The Plaintiffs therefore request that this Court:

a. declare that this Complaint presents a valid claim;
b. declare that the Plaintiffs' claim against the Defendants is valid on the merits;
c. declare that each of the Defendants is jointly, or alternatively severafly, or alternatively individually, liable to the Plaintiffs for the entire amount, or alternatively for a particular proportion, of the damages suffered by the Plaintiffs which damages are increased operating costs, opportunity costs, and the loss in market value of the Plaintiffs' assets following the collapse of the BCCI group, pursuant to article 1382 or article 1383 of the Luxembourg Civil Code, or in the alternative pursuant to article 1384, line 3 of the Luxembourg Civil Code, or in the further alternative pursuant to the laws of tort or quasi-tort;
d. order each of the Defendants jointly, or alternatively severally, or alternatively individually, to pay to the Plaintiffs the entire amount, or alternatively a particular proportion, of the damages it has suffered by reason of the actions described above in the amount of US $1,100,000,000 (one thousand one hundred million) with interest at the legal rate from the date of the sale of the Plaintiff's assets, or alternatively from the date of this Complaint until payment in full, plus the costs of these proceedings, all converted into Luxembourg Francs as of the date of judgment, or alternatively as of the date of payment;
e. acknowledge that for the purposes of these proceedings the Plaintiffs estimate that its demand for damages is in the amount of Luf 39,600,000,000 (thirty nine thousand six hundred million);
f. order each of the Defendants jointly, or alternatively severally, or alternatively individually, to pay to the Plaintiffs all or part of an amount for security for costs of these proceedings in the amount of Luf 8,000,000 pursuant to article 131-1 of the Code of Civil Procedure, on the grounds that it is in the interests of equity to compensate it for this portion of its attorneys' fees and other costs and expenses;
g. order the defendants jointly, or alternatively severally, or alternatively individually, to pay all or part of the costs and expenses of these proceedings.

The Plaintiffs reserve their rights to assert other claims or causes of action.

Plaintiffs First American Corporations and First American Bankshares, Inc., Schedule of Exhibits

Minutes, Notes, etc.		
FAB exhibit Number	Date D/M/Y	Description
FA/CW 0502	03/12/1986	Minutes of Meeting of the BCCI (○) Audit Committee with Price Waterhouse
FA/CW 0508	21/04/1989	Transcript of IML/PW/BCC Meeting
FA/CW 1514	10/08/1989	Banoun's Handwritten Notes of Telephone Call from Nolan
FAB/FAC 0708	01/12/1989	Minutes of Meeting at Bank of England
FAB/FAC 1115	28/09/1989	Handwritten Notes of Banoun
FAB/FAC 1289	26/03/1986	Memorandum Presented to the Board of Directors of BCCI (○) Limited on 26th March 1986
FAB/FAC 1374	01/12/1989	Draft Minutes of Meeting with Bank of England
FAB/FAC 1843	24/11/1986	Meeting with Rogers and Chapman of Price Waterhouse on 21 November 1986 re: CCAH
FAB/FAC 1857	10/11/1987	Minutes of Audit Committee Meeting held in Zurich on 10 November 1987
FAB/FAC 1859	15/02/1987	Handwritten Notes of a Meeting at Inn on the Park with Hartmann, Hoult, Cowan and Naqvi
FAB/FAC 1860	00/05/1987	Handwritten Notes on Points Discussed with Price Waterhouse
FAB/FAC 1967	10/03/1988	Minutes of Meeting of the Audit Committee
FAB/FAC 1877	21/02/1986	Handwritten Notes re: Priority Work
FAB/FAC 1890	11/08/1986	Minutes of Meeting of the Audit Committee with Price Waterhouse (London)
FAB/FAC 1894	06/11/1986	Minutes of Meeting of the Audit Committee in Zurich
FAB/FAC 2058	31/01/1985	Notes of Meeting with Stone
FAB/FAC 3859	05/03/1990	Handwritten Notes of Points Raised by Cowan of Price Waterhouse
FAB/FAC 4791	28/02/1990	Notes of a Meeting Held on 28 February 1990
FAB/FAC 4804	24/02/1986	Minutes of Meeting on 24 February 1986
FAB/FAC 5122	26/03/1986	Minutes of Meeting of the Board of Directors of BCCI Holdings (Luxembourg)
FAB/FAC 5123	28/08/1986	Minutes of Meeting of Audit Committee on 11 August 1986
FAB/FAC 5124	12/08/1986	Minutes of Meeting, with IML
FAB/FAC 5125	17/04/1986	Draft Minutes of Meeting of Board of Directors of BCCI (Overseas) of 26 March 1986
FAB/FAC 5126	14/04/1986	Draft Minutes of Meeting of the Board of Directors of BCCI Holdings (Luxembourg) of 26 March 1986
FAB/FAC 5127	10/04/1986	Ernst & Whinney's Comments on Notes of Conference with Mr. Sykes
FAB/FAC 5128	24/03/1986	Minutes of Meeting between Abedi and Ernst & Whinney
FAB/FAC 5129	01/04/1986	Notes of a Conference of 27 March 1986 attended by Sykes and BCCI Holdings (Luxembourg)

Minutes, Notes, etc.		
FAB exhibit Number	Date D/M/Y	Description
FAB/FAC 5130	05/09/1986	Minutes of Meeting of Audit Committee
FAB/FAC 5131	17/01/1987	Notes of a Meeting, between S. Naqvi, T. Hoult and C. Cowan
FAB/FAC 5132	12/01/1988	Notes of Meeting with Mr. Hoult
FAB/FAC 5133	27/01/1991	Minutes of a Meeting Between S. Naqvi, S. Akbar, N. Blair, M. Armour, M. Hunter and J. Guy on 24 January 1991
FAB/FAC 5134	17/12/1990	Notes of a Meeting on 17 December 1991 with Z. Iqbal, M. Armour and S. Chapman
FAB/FAC 5135	23/05/1990	Notes of a Meeting, between ICIC and Price Waterhouse
FAB/FAC 5136	20/04/1990	Handwritten Notes on Points Raised by Auditors
FAB/FAC 5137	23/08/1989	Notes of Meeting between C. Cowan and T. Charge
FAB/FAC 5138	28/02/1989	Notes of Meeting Concerning Lending to Liberian Companies
FAB/FAC 5139	05/12/1988	Minutes of Meeting of the Audit Committee
FAB/FAC 5140	03/12/1986	Minutes of Meeting of the Audit Committee and Price Waterhouse
FAB/FAC 5141	03/10/1988	Meeting Minutes for a Meeting between Hussain and Jawhary
FAB/FAC 5142	23/07/1985	Memorandum of Telephone Conversation between S. Naqvi and A. Phillipe
FAB/FAC 5143	08/11/1987	Minutes of Meeting dated 8 November 1987 with Price Waterhouse

Pleadings		
Date D/M/Y	Title	Proceeding
03/05/1994	Points of Defence	Liquidators v. Price Waterhouse
13/08/1998	Opinion and Order	FAC v. Zayed
04/02/1988	Indictment	United States v. Noriega
19/12/1991	Plea Agreement	United States v. BCCI
00/00/1990	Sentencing Memorandum	United States v. Awan
29/07/1991	Indictment	People v. BCCI
01/01/1989	Superseding Information	United States v. BCCI
05/06/1989	Order Issued on Consent Pursuant to the Federal Deposit Insurance Act as Amended	In re: BCCI Holdings (Luxembourg)
04/03/1993	Consolidated Statement of Claim	Liquidators v. Price Waterhouse
17/03/1978	Consent and Undertakings of Adham	SEC v. BCCI
03/05/1994	Amended Defence Schedules	Liquidators v. Price Waterhouse
09/05/1995	Settlement Agreement	FAC v. Zayed
27/04/1978	Memorandum and Order	FGB v. Lance
19/12/1991	Superseding Information	United States v. BCCI
05/05/1993	Declaration of Stephen Clive H. Jennings	United States v. BCCI
17/03/1978	Consent and Undertakings of Sultan	SEC v. BCCI
29/07/1991	Summary of Charges Before the Board of Governors of The Federal Reserve	In re: BCCI Holdings (Luxembourg)
21/01/1994	Settlement Agreement and Mutual Release	FAC v. Zayed
13/08/1998	Opinion and Order	FAC v. Zayed
00/02/1994	Settlement Agreement	FAC v. Zayed
07/07/1994	Settlement Agreement	FAC v. Zayed
06/05/1995	Settlement Agreement	FAC v. Zayed
03/05/1994	Reamended Points of Defence	Liquidators v. Price Waterhouse

Miscellaneous

FAB exhibit Number	Date D/M/Y	Title
		12 U.S.C. §1841 (d) (1998) 12 U.S.C. §1841 (a)(2) (1990)
FA/CW 1701	22/04/1987	Application to the Board of Governors of the Federal Reserve System by CCAH, CCAI, FAC, FAB for Prior Approval to Acquire NBGFC and NBG
FAB/FAC 1038	20/10/1988	Washington Post Article, To Management's Chagrin, Bank Holding Company Is Facing Guilt By Association
FAB/FAC 1248	31/03/1989	Memorandum of Understanding (New York State Banking Department)
FAB/FAC 1885	12/07/1986	Middle East Economic Digest Article – MEED Has Reported on BCCI
FAB/FAC 1886	05/01/1987	Financial Times Article, A New Look at Doomsday Book
FAB/FAC 2024	15/01/1990	Summary of Arrangement for Sharqi
FAB/FAC 3623	08/01/1990	Consents of Directors in Lieu of Directors' Meeting
FAB/FAC 4110	18/10/1978	Application of Board of Governors by CCAH & CCAI
FAB/FAC 4283	15/05/1978	Forbes Article, Banking: Who Gets The Petromoney?
FAB/FAC 4838	22/10/1992	Return to an Address of the Honourable the House of Commons dated 22 October 1992 for the Inquiry into the Supervision of the Bank of Credit and Commerce International (Bingham Report)
FAB/FAC 4983	06/01/1987	Summary of Arrangement
FAB/FAC 4985	13/03/1987	Summary of Arrangement
FAB/FAC 5007	28/02/1986	Z. Akbar Report
FAB/FAC 5008	06/03/1986	American Institute of Certified Public Accountants, Issues Paper, Accounting for Options
FAB/FAC 5015	21/11/1991	Washington Post Article, First American Deposits Decline $1 Billion
FAB/FAC 5017	09/04/1992	Reuters Newswire Article, Noriega Guilty on Drug Charges
FAB/FAC 5020	16/08/1991	Wall St. Journal Article, Washington Wire
FAB/FAC 5021		American Stock Exchange, Inc., Characteristics and Risks of Standardized Options
FAB/FAC 5029	06/10/1983	Price Waterhouse, A Guide for Foreign Banks in the United States
FAB/FAC 5032	23/05/1995	Reuters Business Report Article, Cayman Court Ruling May Help BCCI Creditors
FAB/FAC 5037	10/04/1992	United Press International Article, Noriega Verdict Clears Way for Miami Civil Case
FAB/FAC 5039	13/08/1991	Wall St. Journal Article, Credit Ratings: Moody's Lowers Ratings on First American Units
FAB/FAC 5045	22/04/1989	Financial Times Article, Who Cleans the Dirty Washing?
FAB/FAC 5046	24/07/1991	Financial Times Article, The BCCI Shutdown: Gokal "Fronted" and Attempted to Buy US Bank
FAB/FAC 5049	15/01/1990	Summary of Arrangement
FAB/FAC 5053	08/08/1988	MHTC Transaction Advice
FAB/FAC 5055		Debit Instructions

Miscellaneous		
FAB exhibit Number	Date D/M/Y	Title
FAB/FAC 5057	20/11/1991	American Banker Article, First American Lost Billions in Deposits After Scandal
FAB/FAC 5058	21/08/1991	Wall St. Journal Article, Internal BCCI Report Says Bank Aided Merchant in Smuggling Coffee to the US
FAB/FAC 5059	13/11/1991	Financial Times Article, BCCI Behind Closed Doors
FAB/FAC 5061	06/09/1989	Goldman Sachs & Co., Presentation to Constitution
FAB/FAC 5091	28/08/1998	Krabill Report
FAB/FAC 5167	24/01/1984	Agency Agreement between BCCI Finance International, Ltd. And the National Bank of Georgia
FAB/FAC 5171	28/06/1993	Legal Times Article, Manhattan D.A. Gave Generously to Keep Key BCCI Witness Aboard
FAB/FAC 5174	06/09/1989	Goldman Sachs Handwritten Notes
FAB/FAC 5175		International Accounting Standard 24

Letters, Memoranda, etc.			
FAB exhibit number	Date D/M/Y	Author	Addressee
CA Ryback 03	26/11/1990	Price Waterhouse	Iqbal
FA/CW 0181	29/03/1988	Sanders	File
FA/CW 0466	16/08/1989	Kerr	File
FA/CW 0481	13/02/1990	Palkhiwala	Ryback
FA/CW 0488	06/11/1990	Ryback	Pezzuti
FA/CW 0503	03/10/1990	Price Waterhouse	Chairman of the Audit Committee, BCCI Holdings (Luxembourg) SA
FA/CW 0606	02/07/1990	O'Sullivan	Files
FA/CW 0608	25/04/1990	Price Waterhouse	Suwaidi
FA/CW 0609	00/03/1990	Price Waterhouse	Files
FA/CW 0887	12/06/1990	Troccoli	Altman
FA/CW 0915	02/04/1988	Adham	ICIC (Overseas)
FA/CW 0918	16/02/1985	Fulaij	ICIC (Overseas)
FA/CW 0919	31/07/1985	Shorafa	ICIC (Overseas)
FA/CW 1636	08/05/1986	Altman	Naqvi
FAB/FAC 0045	02/04/1988	Adham	ICIC (Overseas)
FAB/FAC 0046	00/04/1988	Adham	ICIC (Overseas)
FAB/FAC 0047	06/04/1988	Adham	ICIC (Overseas)
FAB/FAC 0048	00/04/1988	Adham	ICIC (Overseas)
FAB/FAC 0103	01/10/1980	Abedi	Sharqi
FAB/FAC 0104	01/10/1980	Abedi	Sharqi
FAB/FAC 0117	31/07/1985	Sharqi	ICIC
FAB/FAC 0136	15/01/1990	Sharqi	Price Waterhouse
FAB/FAC 0137	15/01/1990	Sharqi	Price Waterhouse
FAB/FAC 0188	02/09/1983	Nuaimi	ICIC
FAB/FAC 0327	23/02/1988	Sanders	File
FAB/FAC 0362	08/03/1989	Price Waterhouse	Altman, Wechsler, Banoun and Barcella
FAB/FAC 0389	13/02/1990	Palkhiwala	Ryback
FAB/FAC 0435	31/07/1985	Shorafa	ICIC (Overseas)
FAB/FAC 0436	31/07/1985	Shorafa	ICIC (Overseas)
FAB/FAC 0437	31/07/1985	Shorafa	Abedi
FAB/FAC 0440	31/07/1985	Shorafa	ICIC (Overseas)
FAB/FAC 0441	31/07/1985	Shorafa	ICIC (Overseas)
FAB/FAC 0448	31/07/1985	Shorafa	ICIC (Overseas)
FAB/FAC 0471	11/10/1985	BCCI	Shorafa
FAB/FAC 0474	11/10/1985	BCCI	Shorafa
FAB/FAC 0478	21/11/1988	BCCI	Shorafa
FAB/TAC 0481	01/03/1989	Imam	Shorafa
FAB/FAC 0613	02/04/1988	Jawhary	ICIC (Overseas)
FAB/FAC 0653	21/09/1989	Keane	Akbar
FAB/FAC 1026	21/11/1989	Maitra	File
FAB/FAC 1116	13/10/1989	Nolan	Files
FAB/FAC 1117	13/10/1989	Nolan	Files
FAB/FAC 1118	14/11/1989	Shockey	Files
FAB/FAC 1129	17/01/1991	Nolan	Files
FAB/FAC 1130	04/12/1990	Nolan	Files
FAB/FAC 1247	14/02/1989	BCCI	California State Banking Department

Letters, Memoranda, etc.			
FAB exhibit number	Date D/M/Y	Author	Addressee
FAB/FAC 1304	12/08/1988	CFC	Security Pacific Bank
FAB/FAC 1724	12/12/1977	Poort and Trueblood	Orth
FAB/FAC 1773	08/04/1976	Rahman	Naqvi
FAB/FAC 1821	14/12/1979	Fulaij	ICIC
FAB/FAC 1824	22/11/1982	Naqvi	Fulaij
FAB/FAC 1825	22/11/1982	Naqvi	Fulaij
FAB/FAC 1827	22/11/1982	Naqvi	Fulaij
FAB/FAC 1830	16/02/1985	Fulaij	ICIC (Overseas)
FAB/FAC 1837	22/11/1982	Naqvi	Fulaij
FAB/FAC 1861	14/02/1990	Cowan	Naqvi
FAB/FAC 1862	09/03/1987	Hoult	Abedi
FAB/FAC 1869	11/12/1989	Cowan	Kazini
FAB/FAC 1870	09/01/1990	Jafree	Cowan
FAB/FAC 1878	06/02/1979	BCCI (Overseas)	Price Waterhouse
FAB/FAC 1880	29/05/1986	Godfrey	Abedi
FAB/FAC 1882	16/03/1987	Price Waterhouse	Directors of BCCI
FAB/FAC 1883	10/04/1987	Stone	Naqvi
FAB/FAC 1896	13/02/1989	Keane	File
FAB/FAC 2065	14/02/1990	Cowan	Naqvi
FAB/FAC 2068	30/04/1990	Hafeez, Iqbal, Rahman and Chaudhry	Price Waterhouse
FAB/FAC 2167	22/11/1982	Naqvi	Fulaij
FAB/FAC 2168	22/11/1982	Naqvi	Fulaij
FAB/FAC 2169	22/11/1982	Naqvi	Fulaij
FAB/FAC 3477	06/04/1988	Adham	ICIC (Overseas)
FAB/FAC 3851	14/02/1990	Cowan	Naqvi
FAB/FAC 3910	29/09/1986	Fulaij	ICIC (Overseas)
FAB/FAC 4109	05/03/1978	Altman and Pope	Clifford
FAB/FAC 4329	13/12/1978	van Oenen	Abedi and Naqvi
FAB/FAC 4637	11/06/1979	van Oenen	Abedi and Naqvi
FAB/FAC 4825	03/04/1990	Price Waterhouse	BCCI
FAB/FAC 5065	11/05/1987	Naqvi	Stone
FAB/FAC 5066	03/05/1990	McColl	Clifford
FAB/FAC 5068	30/06/1985	ICIC (Overseas)	Sharqi and Mashriq
FAB/FAC 5069	15/09/1983	Board of Directors of BCCI Holdings	Schaus and Jaans
FAB/FAC 5070	23/04/1987	Naqvi	Hoult
FAB/FAC 5071	10/03/1987	Abedi	Hoult
FAB/FAC 5072	29/09/1986	ICIC (Overseas)	Fulaij
FAB/FAC 5073	05/08/1986	Board of Directors, BCCI (Overseas)	Price Waterhouse
FAB/FAC 5074	07/03/1986	Directors, BCCI (Overseas)	Price Waterhouse
FAB/FAC 5075	03/11/1987	Abedi	Sharqi
FAB/FAC 5076	21/10/1985	Board of Directors, BCCI Holdings	IML
FAB/FAC 5078	20/06/1985	BCCI (Luxembourg)	IML
FAB/FAC 5079	04/04/1985	Simon	Hussain
FAB/FAC 5080	26/02/1985	IML	BCP

Letters, Memoranda, etc.			
FAB exhibit number	Date D/M/Y	Author	Addressee
FAB/FAC 5081	14/02/1985	Board of Directors, BCCI Holdings	Phillipe
FAB/FAC 5082	05/11/1984	Phillipe	Naqvi
FAB/FAC 5083	01/01/1984	Nuaimi	ICIC (Overseas)
FAB/FAC 5084	01/01/1984	ICIC (Overseas)	Jawhary
FAB/FAC 5085	01/01/1984	BCCI	Jawhary
FAB/FAC 5086	08/11/1985	Akbar	Roman
FAB/FAC 5087	08/12/1989	Adams	Gagnon
FAB/FAC 5088	25/03/1989	Banoun	BCCI UK File
FAB/FAC 5089	10/06/1983	Banking Commissioner, Luxembourg	Abedi
FAB/FAC 5092	20/02/1991	ICIC (Overseas)	Naqvi
FAB/FAC 5093	09/10/1990	LaMarche	Hoult
FAB/FAC 5094	05/10/1990	Hoult	LaMarche
FAB/FAC 5094	11/05/1987	Stone	Naqvi
FAB/FAC 5096	01/01/1990	Nuaimi	Price Waterhouse
FAB/FAC 5097	01/12/1986	Naqvi	Price Waterhouse
FAB/FAC 5098	14/11/1989	Shockey	Files
FAB/FAC 5099	20/10/1989	Akbar	Guy
FAB/FAC 5100	16/08/1989	Kerr	File
FAB/FAC 5101	11/07/1989	Altman	Price Waterhouse
FAB/FAC 5102	26/05/1989	Banoun	Nolan
FAB/FAC 5103	08/05/1989	Price Waterhouse	Banoun and Weschler
FAB/FAC 5104	10/04/1989	Keane	File
FAB/FAC 5105	08/12/1988	Comptroller of the State of Florida	BCCI
FAB/FAC 5111	11/12/1990	Naqvi	Price Waterhouse
FAB/FAC 5107	12/03/1986	Akbar	
FAB/FAC 5108	15/03/1983	Akbar	Matcheswala
FAB/FAC 5110	28/09/1978	Price Waterhouse (Cayman)	Naqvi and Burney
FAB/FAC 5111	28/09/1978	Price Waterhouse	Naqvi
FAB/FAC 5112	28/03/1979	General Manager, BCCI (Overseas)	Whinney & Murray
FAB/FAC 5113	01/04/1979	Abedi	Middleton
FAB/FAC 5114	23/12/1982	Naqvi	Harris
FAB/FAC 5115	02/03/1982	ICIC (Overseas)	Adham
FAB/FAC 5116	01/01/1982	Nuaimi	ICIC (Overseas)
FAB/FAC 5117	01/01/1983	Nuaimi	ICIC (Overseas)
FAB/FAC 5118	01/02/1983	White	Austin
FAB/FAC 5120	01/05/1979	Abedi	Hillbery
FAB/FAC 5121	01/07/1983	Sharqi	Mashriq
FAB/FAC 5156	23/08/1989	Shafi	Karim
FAB/FAC 5157	23/01/1997	Swinson	
FAB/FAC 5161	28/09/1978	ICIC (Overseas)	Price Waterhouse (Cayman)
FAB/FAC 5164	11/06/1987	Shafi	Karim

Letters, Memoranda, etc.			
FAB exhibit number	Date D/M/Y	Author	Addressee
FAB/FAC 5165	15/08/1985	Shafi	Karim
FAB/FAC 5166	06/02/1979	BCCI (Overseas)	Price Waterhouse (Cayman)
FAB/FAC 5172	11/04/1989	BCCI	Price Waterhouse
Peoples 647A(2)	29/09/1986	ICIC (Overseas)	Fulaij
Peoples 657D(2)	31/07/1985	Shorafa	ICIC (Overseas)
RESPONDENTS Adham 29	02/04/1988	Adham	ICIC (Overseas)
RESPONDENTS Adham 30	06/04/1988	Adham	ICIC (Overseas)
RESPONDENTS Naqvi 142	31/07/1985	Shorafa	ICIC (Overseas)
RESPONDENTS Naqvi 145	02/04/1988	Adham	ICIC (Overseas)
RESPONDENTS Naqvi 146	06/04/1988	Adham	ICIC (Overseas)
SM 12	14/02/1990	Cowan	Naqvi

Financial Reports, Records, etc.

FAB exhibit number	Date D/M/Y	Title
FA/CW 0504	03/10/1990	Price Waterhouse Report to the Audit Committee, BCCI Holdings (Luxembourg) SA
FA/CW 0505	18/04/1990	Price Waterhouse Report to the Board of Directors, BCCI Holdings (Luxembourg) SA
FA/CW 0605	11/11/1989	Price Waterhouse Report to the Audit Committee, BCCI Holdings (Luxembourg) SA
FA/CW 0610	00/04/1990	Executive Summary of Findings of the BCCI Executive Task Force
FA/CW 0611	00/04/1990	Report of the BCCI Executive Task Force on Selected International Loans and Transactions
FA/CW 0612	14/03/1990	Price Waterhouse Briefing Note for Independent Task Force on BCCI Holdings (Luxembourg) SA International Loans and Advances
FA/CW 0613	0/04/1990	Price Waterhouse Supplementary Briefing Paper for Independent Task Force on Problem Loans and Related Issues
FA/CW 1261	11/04/1989	BCCI Holdings (Luxembourg) SA Consolidated Financial Accounts and Notes, 31 December 1988
FA/CW 1381	25/11/1977	Credit Examination Report of BCCI Group by Bank of America
FAB/FAC 0625	30/09/1988	BCCI International Loans Summary of Interim Credit Review by Price Waterhouse Price Waterhouse Discussion Paper on Information Contained in the Annual
FAB/FAC 1864	30/11/1987	Report, BCCI Holdings (Luxembourg) SA
FAB/FAC 1865	31/12/1988	BCCI Holdings Annual Report and Accounts 1989
FAB/FAC 1866	31/12/1987	BCCI (○) Annual Report and Accounts 1987
FAB/FAC 1871	00/11/1989	ICIC Group Report – November 1989
FAB/FAC 1891	03/12/1986	Price Waterhouse Report to the Audit Committee of BCCI (○)
FAB/FAC 1895	02/03/1987	Price Waterhouse Report to the Audit Committee of BCCI (○)
FAB/FAC 3844	22/06/1991	Draft Report on Sandstorm SA Under Section 41 of the Banking Act 1987
FAB/FAC 3959	28/04/1986	Price Waterhouse Internal Control Report Recommendations for BCCI (Overseas), Ltd.
FAB/FAC 4133	29/01/1988	First American Bankshares Annual Report 1987
FAB/FAC 4599	28/06/1991	First American Bankshares Financial Statements 1990
FAB/FAC 4967	31/12/1984	BCCI Holdings (Luxembourg) SA Annual Report 1984
FAB/FAC 4968	31/12/1985	BCCI Holdings (Luxembourg) SA Annual Report 1985
FAB/FAC 4980	14/03/1986	Price Waterhouse Report to the IML on Review of Treasury Activities
FAB/FAC 4981	01/12/1986	Price Waterhouse Report to the Audit Committee for BCCI (Overseas)
FAB/FAC 4982	31/12/1986	Price Waterhouse Report to the IML, Commentary on the Independent Examination of the Accounts of BCCI (Overseas) for the Year Ended 31 December 1986

Financial Reports, Records, etc.

FAB exhibit number	Date D/M/Y	Title
FAB/FAC 4984	10/03/1987	Statement of Condition of BCCI (Overseas), Ltd.
FAB/FAC 4986	23/04/1987	Price Waterhouse Commentary on the Independent Examination of the Accounts of BCCI (Overseas)
FAB/FAC 4987	05/11/1987	Price Waterhouse Report to the Audit Committee of BCCI Holdings (Luxembourg)
FAB/FAC 4988	31/12/1983	BCCI Treasury Division Balance Sheet
FAB/FAC 4989	01/12/1987	Price Waterhouse Audit Report on Large Exposures
FAB/FAC 4990	13/03/1986	Draft Report of Treasury Activities
FAB/FAC 4991	01/01/1988	Annual Report for ICIC Foundation (Cayman) for 1988
FAB/FAC 4992	18/10/1985	Report of the Auditors to the Members of ICIC (Overseas) for the Year Ended 30 June 1985
FAB/FAC 4993	01/01/1988	Annual Report and Accounts for BCCI Holdings (Luxembourg) for 1988
FAB/FAC 4994	01/01/1988	Annual Report and Accounts for BCCI (Overseas) for 1988
FAB/FAC 4995	04/02/1985	Revised Revaluation of Treasury Investment as on 31 December 1984
FAB/FAC 4996	31/12/1983	Price Waterhouse Audit Instructions for the Year Ending 31 December 1983 To Local Auditors for BCCI (Overseas)
FAB/FAC 4997	01/01/1984	Annual Report and Accounts for BCCI (Overseas) for 1984
FAB/FAC 4998	24/07/1984	BCCI's Response to Price Waterhouse's Report on the Accounting Procedures and Controls
FAB/FAC 4999	31/12/1984	Analysis of Premiums Along with Commissions for 1984
FAB/FAC 5000	01/01/1985	Annual Report and Accounts for BCCI (Overseas) for 1985
FAB/FAC 5001	01/01/1985	Annual Report and Accounts of BCCI Holdings (Luxembourg) for 1985
FAB/FAC 5002	24/01/1985	Central Treasury Division's Summary of Profit/Loss for Nov./Dec. 1984
FAB/FAC 5003	10/03/1986	Draft Analysis of Treasury Results for the Year Ended 31 December 1984
FAB/FAC 5004	31/12/1985	Central Treasury Division Exposures as of 31-12-85
FAB/FAC 5005	21/01/1988	Price Waterhouse Review of Internal Controls and Procedural Systems for BCCI Holdings (Luxembourg)
FAB/FAC 5006	01/01/1986	Annual Report and Accounts of BCCI (Overseas) for 1986
FAB/FAC 5009	07/03/1986	Draft Treasury Report
FAB/FAC 5016	21/01/1988	Draft Comments on Internal Controls for Comments
FAB/FAC 5018	07/08/1987	Price Waterhouse Review of Internal Controls and Procedural Systems for BCCI
FAB/FAC 5023	25/11/1977	Bank of America Credit Examination Report of BCCI Group
FAB/FAC 5024	01/02/1978	Price Waterhouse Report of the Auditors to the Members of BCCI (Overseas)

Financial Reports, Records, etc.		
FAB exhibit number	Date D/M/Y	Title
FAB/FAC 5025	01/01/1981	Annual Report for BCCI Holdings (Luxembourg) SA
FAB/FAC 5026	31/12/1981	Price Waterhouse Memorandum on Internal Accounting Controls for the Year Ended 31 December 1981
FAB/FAC 5027	01/01/1983	Annual Report for BCCI Holdings (Luxembourg) SA
FAB/FAC 5030	28/10/1983	Review of Commodity Operations
FAB/FAC 5031	01/12/1983	BCCI Treasury Division Profit and Loss Account
FAB/FAC 5033	18/05/1988	Price Waterhouse Draft Report on Results and Operations for the Year Ended 31 December 1987 for BCCI Holdings (Luxembourg) SA
FAB/FAC 5034	01/01/1989	Annual Report and Accounts for BCCI, SA
FAB/FAC 5035	01/01/1989	Annual Report for ICIC Foundation (Cayman) for 1989
FAB/FAC 5036	01/01/1989	Interim Audit 1989 Draft Report
FAB/FAC 5038	30/09/1988	Federal Reserve Bank of New York Report of Examination of BCCI, SA
FAB/FAC 5040	01/12/1988	Draft Summary of Recommendations Arising from Internal Controls Review
FAB/FAC 5041	16/06/1988	Price Waterhouse Internal Control Memorandum for the Year Ended 31 December 1987
FAB/FAC 5042	11/04/1989	Annual Report for BCCI Holdings (Luxembourg) SA for 1988
FAB/FAC 5043	01/05/1988	Price Waterhouse Draft Report on Results and Operations for the Year Ended 31 December 1987
FAB/FAC 5041	30/04/1990	Price Waterhouse Report of the Auditors to the Shareholders of BCCI Holdings
FAB/FAC 5047	30/09/1989	Price Waterhouse Loans Summary of Interim Credit Review
FAB/FAC 5048	01/10/1989	Price Waterhouse Review of Interim Financial Information
FAB/FAC 5050	30/04/1990	Price Waterhouse Consolidated Group Accounts for BCCI Holdings (Luxembourg) SA
FAB/FAC 5051	28/03/1988	Price Waterhouse Report on Results and Operations for BCCI Holdings (Luxembourg) SA
FAB/FAC 5052	22/06/1991	Draft Report on Sandstorm SA Under Section 41 of the Banking Act 1987
FAB/FAC 5054	22/08/1990	Auditors' Report to the Members of ICIC Foundation
FAB/FAC 5056	30/11/1987	Price Waterhouse Discussion Paper on Information Contained in the Annual Report
FAB/FAC 5060	01/01/1986	Annual Report and Accounts for BCCI Holdings (Luxembourg) for 1986
FAB/FAC 5062	29/04/1994	First American Corporation Financial Statements for 1993
FAB/FAC 5063	30/04/1990	Annual Report and Accounts of BCCI (Overseas), Ltd. For 1989
FAB/FAC 5064	30/04/1990	Annual Report and Accounts of BCCI Holdings (Luxembourg) SA for 1989
FAB/FAC 5149	18/10/1990	FABNY Credit Department, BCCI Holdings (Luxembourg) SA

Financial Reports, Records, etc.		
FAB exhibit number	Date D/M/Y	Title
FAB/FAC 5151	31/12/1989	First American Bankshares, 1989 Report
FAB/FAC 5152	31/12/1987	Price Waterhouse Audit Report on Large Exposures
FAB/FAC 5155	05/10/1988	BCCI Holdings (Luxembourg) SA Annual Review for Renewal of Lines of Credit
FAB/FAC 5158	14/03/1986	Price Waterhouse Draft Report on Review of Treasury Activities
FAB/FAC 5159	30/09/1988	Price Waterhouse Summary of Interim Credit Review for BCCI
FAB/FAC 5163	16/07/1987	FANY Credit Department, Review of BCCI Holdings SA Subsidiaries/Affiliates
FAB/FAC 5169	07/03/1985	Annual Report and Accounts for BCCI (Overseas), Ltd. For 1984
NZ 046	00/04/1990	Report of the Task Force to Review and Report On Selected International Loans and Transactions

Testimony, Depositions and Interviews		
Date D/M/Y	Witness	Proceeding
29/10/1997	S. Jawhary	FAC v. Zayed
01/11/1997	S. Naqvi	FAC v. Zayed
17/10/1997	D. Krabill	FAC v. Zayed
22/07/1997	S. Naqvi	FAC v. Zayed
24/07/1997	S. Naqvi	FAC v. Zayed
19/07/1997	S. Naqvi	FAC v. Zayed
30/07/1997	S. Naqvi	FAC v. Zayed
31/07/1997	S. Naqvi	FAC v. Zayed
25/06/1997	A. Nolan	FAC v. Zayed
28/01/1998	I.M.A. Imam	FAC v. Zayed
29/01/1998	I.M.A. Imam	FAC v. Zayed
30/01/1998	I.M.A. Imam	FAC v. Zayed
02/02/1998	I.M.A. Imam	FAC v. Zayed
23/10/1996	L. Keane	FAC v. Zayed
04/03/1998	I.M.A. Imam	FAC v. Zayed
04/10/1997	S. Jawhary	FAC v. Zayed
30/10/1997	S. Jawhary	FAC v. Zayed
31/10/1997	S. Jawhary	FAC v. Zayed
27/04/1997	M. Maktoum	FAC v. Zayed
23/07/1997	S. Naqvi	FAC v. Zayed
IS/09/1997	S. Naqvi	FAC v. Zayed
19/09/1997	S. Naqvi	FAC v. Zayed
20/09/1997	S. Naqvi	FAC v. Zayed
21/09/1997	S. Naqvi	FAC v. Zayed
25/09/1997	S. Naqvi	FAC v. Zayed
27/09/1997	S. Naqvi	FAC v. Zayed
28/09/1997	S. Naqvi	FAC v. Zayed
30/10/1997	S. Naqvi	FAC v. Zayed
20/06/1991	C. Clifford	FAC v. Zayed
03/02/1998	I.M.A. Imam	FAC v. Zayed
31/05/1996	W. Ryback	Clifford v. FAC
11/11/1996	C. Cowan	Regina v. Gokal
18/06/1996	L. Wechsler	FAC v. Zayed
05/05/1994	C. Cowan	Regina v. Imam
09/02/1988	J. Blandon	Senate Subcommittee
30/07/1992	Senate Subcommittee	FAC v. Zayed
01/08/1997	R. Banoun	In re: Clifford and Altman
16/05/1997	L. Wechsler	In re: Clifford and Altman
03/04/1981		Transcript of Meeting of Federal Reserve Regarding Application of CCAH and CCAI to Acquire FGB
21/12/1994	J. Guy	Regina v. Gokal
17/06/1996	P. Adams	Clifford v. FAC
18/06/1996	R. Altman	Clifford v FAC
19/06/1996	R. Altman	Clifford v FAC
16/11/1996	L. Keane	FAC v. Zayed
28/05/1996	L. Barcella	Clifford v. FAC
02/11/1997	S. Naqvi	FAC v. Zayed
23/01/1995	K.I. Adham	FAC v. Zayed

Testimony, Depositions and Interviews		
Date D/M/Y	Witness	Proceeding
19/12/1997	R. Altman	FAC v. Zayed
02/08/1997	R. Banoun	Clifford v. FAC
12/06/1997	M. Baumann	FAC v. Zayed
12/11/1997	G. Davis	FAC v. Zayed
09/04/1997	C. Gagne	FAC v. Zayed
24/11/1997	J. Gilkes	FAC v. Zayed
05/01/1998	I.M.A. Imam	FAC v. Zayed
06/01/1998	I.M.A. Imam	FAC v. Zayed
07/01/1998	I.M.A. Imam	FAC v. Zayed
08/01/1998	I.M.A. Imam	FAC v. Zayed
09/01/1998	I.M.A. Imam	FAC v. Zayed
03/10/1997	S. Jawhary	FAC v. Zayed
21/06/1996	R. Banoun	Clifford v. FAC
04/10/1996	S. Jawhary	FAC v. Zayed
31/10/1997	S. Naqvi	FAC v. Zayed
02/12/1996	S. Chapman	Regina v. Gokal
16/12/1996	T. Stone	Regina v. Gokal
17/12/1996	T. Stone	Regina v. Gokal
19/03/1998	A. Awan	FAC v. Zaved
18/03/1992	N. Chinoy	US Senate Hearings
09/09/1988		Taped Conversation Between R. Musella and A. Awan
13/04/1995	Q. Malik	In re BCCI Holdings (Luxembourg) SA
07/04/1995	M. Qayyum	In re BCCI Holdings (Luxembourg) SA
20/12/1991	Court Transcript	People v. BCCI
24/06/1996	W. Ryback	Clifford v. FAC
25/11/1996	J. Guy	Regina v. Gokal
24/03/1998	S. Jawhary	BCCI v. Clifford
22/11/1996	J. Guy	Regina v. Gokal
28/10/1992	S. Jawhary	Serious Fraud Office
29/06/1993	S. Jawhary	NY v. Altman
24/01/1995	K.I. Adham	FAB v. Zayed
20/10/1979	K.I. Adham	Fulaij v. Middendorf
18/02/1985	K.I. Adham	Berg v. FAB
10/03/1992	K.I. Adham	Serious Fraud Office
24/06/1993	K.I. Adham	NY v. Altman
21/09/1978	K.I. Adham	FGB v. Lance
22/09/1978	K.I. Adham	FGB v. Lance
11/12/1997	A. Rice	FAC v. Zayed
21/11/1997	L. Benveniste	FAC v. Zayed
30/06/1993	S. Jawhary	NY v. Altman
28/06/1993	K.I. Adham	NY v. Altman
25/01/1993	S. Naqvi	Interview of S. Naqvi by Arthur Andersen
06/02/1993	S. Naqvi	Interview of S. Naqvi by Arthur Andersen
19/11/1997	S. Naqvi	FAC v. Zayed
20/11/1997	S. Naqvi	FAC v. Zayed

Testimony, Depositions and Interviews		
Date D/M/Y	Witness	Proceeding
21/11/1997	S. Naqvi	FAC v. Zayed
08/08/1996	A.M. Shorafa	FAC v. Zayed
19/01/1991	S. Naqvi	Interview of S. Naqvi by Price Waterhouse
14/05/1991	S. Naqvi	Interview of S. Naqvi by Price Waterhouse
23/05/1991	J. Heimann	Senate Committee on Banking, Housing and Urban Affairs, Subcommittee on Consumer and Regulatory Affairs
08/08/1991	M. Rahman	Hearings on the BCCI Affair Before the Subcomm. on Terrorism, Narcotics and Int'l Operations of the Committee on Foreign Relations
19/08/1991	S. Chapman	Serious Fraud Office
12/03/1992	S. Jawhary	Serious Fraud Office
30/12/1992		A Report to the Senate Committee on Foreign Relations
22/01/1993	A.R. Khalil	Serious Fraud Office Witness Statement
29/11/1996	S. Chapman	Regina v. Gokal
31/01/1993	S. Naqvi	Interview of S. Naqvi by Arthur Andersen
29/04/1997	K.I. Adham	In re: Clifford and Altman
03/03/1993	S. Naqvi	Interview of S. Naqvi by Arthur Andersen
14/05/1993	R. Stevens	NY Altman
06/05/1994	C. Cowan	Regina v. Imam
06/07/1994	I. Imam	Regina v. Imam
21/09/1995	Sharqi	FAC v. Zayed
23/09/1995	Nuaimi	FAC v. Zayed
29/06/1996	M. Hall	Clifford v. FAC
07/08/1996	A. Shorafa	FAC v. Zayed
03/10/1996	S. Jawhary	FAC v. Zayed
11/11/1996	C. Cowan	Regina v. Gokal
12/11/1996	C. Cowan	Regina v. Gokal
14/11/1996	C. Cowan	Regina v. Gokal
15/11/1996	S. Chapman	Regina v. Gokal
30/01/1993	S. Naqvi	Interview of S. Naqvi by Arthur Andersen

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Overseeing and overlooking: The US federal authorities' response to money laundering and other misconduct at BCCI

NIKOS PASSAS & RICHARD B. GROSKIN

Abstract. This article examines evidence from the case of the Bank of Credit and Commerce International (BCCI) affair, one of the largest international financial frauds in history, to illustrate the effects of a crime-facilitative environment in the international banking community. We argue that the official response to BCCI-related law violations was hampered by (1) A fragmented and compartmentalized approach to regulation and law enforcement; (2) conflicting political and policy objectives among different government agencies; (3) the ability of corporations to buy influence and affect official controls; (4) legal restraints undermining the ability to control transnational offenders. None of these problems has been effectively addressed in the aftermath of the scandal. The chances that such affairs will happen again are therefore quite high.

Introduction

The Justice system is being increasingly challenged by serious and highly costly white-collar offenses. Among them, financial institution crimes feature prominently, particularly since the early 1990s; the number of FBI referral for such crimes rose to over 35,000 in fiscal year 1992 from 25,000 in fiscal year 1991[1]. Despite the allocation of more resources to handle financial institution fraud, the governmental intervention has been found wanting by the General Accounting Office, which has noted the lack of a cohesive strategy and the lenience of penalties. From 1988 through 1992, less than 7 percent of the fraud convictions involving savings and loan and bank losses of $100,000 or more received prison sentences of 60 months or more. At the same time, less than 5 percent of the nearly $850 million in fines and restitutions ordered in these cases had been collected through mid-1992, while most of the balance appeared to be uncollectible[2]. The justice system seemed to be unable to cope with complex financial crimes and undermined by structural problems[3].

Questions about the adequacy of the government's action and of the sentences imposed on convicted bankers have also been raised in connection with the handling of the Bank of Credit and Commerce International (BCCI) affair, one of the largest international financial frauds in history. Critics' charges against the Department of Justice (DoJ) have ranged from mismanagement to cover-up[4]. The prosecution of BCCI in Tampa, Florida, for money laundering

in particular received the lion's share of criticism. Ironically, the same case has been claimed by the DoJ as a significant success, because record-setting monetary penalties were achieved and the case represented the first time a major international bank was convicted of such a crime[5].

As BCCI became the most investigated bank, unusually strong and reliable evidence has surfaced providing thus a rare opportunity to look into the causes and control of bank crimes[6]. Yet, the frequent mixture of facts with suspicions, speculations and rumors in this politically sensitive affair could potentially diminish the value of the BCCI case. The aim of this paper is to establish the facts beyond media sensationalism and political rhetoric and to gain insight into the hurdles faced by controllers of financial institutions.

A number of important questions have not been answered satisfactorily so far. Were blind eyes turned to BCCI-related criminal activities, so that other (larger) US policy objectives could be achieved? Was the BCCI scandal a result of gross incompetence on the part of regulatory and law enforcement organizations? Was the effectiveness of social controls reduced by symbiotic interfaces among criminal actors and legitimate organizations?[7] Were BCCI and its operations being protected by persons in positions of power who preferred to see BCCI continue to function? If so, what motivated their actions, or lack of actions, on behalf of BCCI? While it is not possible to answer all these questions completely in one article, we seek to pave the ground for further theoretical and policy studies by means of extensive interviews and a critical examination of the available documentary evidence.

The BCCI case illustrates a crime-facilitative environment in the banking sector as it highlighted (1) a fragmented and compartmentalized approach to regulation and law enforcement; (2) conflicting political and policy objectives among different government agencies; (3) the ability of corporations to buy influence and affect official controls; (4) legal restraints undermining the ability to control transnational offenders.

Data and methods

Limited or totally blocked access to reliable data due to the secrecy that surrounds powerful and organizational offenders[8] and their activities makes case studies a valuable and irreplaceable means to study deviance and crimes of the powerful.[9] The insight obtained from our detailed narrative, qualitative case study is intended to complement knowledge acquired through survey or experimental studies. "Establishing the phenomenon" one seeks to explain is a *conditio sine qua non*[10] for endeavors directed at theory-building and sound policy construction.[11] Particularly when the focus is on contemporary events that continue to unfold, as in the BCCI case, this method is most appropriate.[12]

Our data include audit reports, indictments, court documents, bank memoranda and correspondence, press reports, Congressional hearings and reports, other public record information and a number of books written by investigative reporters. In addition, we have interviewed investigators, officials, defendants, their lawyers and reporters who contributed to the uncovering of the facts about BCCI in the US and Britain. No event is reported here unless information was confirmed by at least two independent sources. The identities of some interviewees have been withheld to protect confidential sources.

Although more than two thousand legal cases and investigations followed the close-down of the bank, many documents and key persons involved in this affair are still beyond reach. Also, national security issues have been raised and many important documents that could shed light on relationships among players in the BCCI saga have not been disclosed. Consequently, what we know about BCCI in general is probably outweighed by what we do not know. On the other hand, the money-laundering case that we focus on is closed and most of its aspects are documented in public records.

Drugs, money laundering and financial institutions

Drug abuse and narcotics trafficking represent more than just crime or health problems that destroy young lives. The accumulation of economic power and influence by drug traffickers also gives rise to violence, corruption, the undermining of legitimate institutions, the overthrow of governments and strains in international relations.[13] By defining the illegal drug trade as a serious threat to national security, intelligence and defense-related agencies are increasingly being drawn in to assist law enforcement agencies in the "war on drugs", as past efforts have failed to significantly reduce the supply of cocaine coming into the US.[14]

There are several problems that one must address before launching an all-out campaign armed with the tools at the disposal of national security organizations. One of these is the potential for conflicts faced by such organizations when they pursue foreign policy, domestic security and law enforcement objectives.[15] In this regard we must ask to what extent is the war on drugs fought in a consistent fashion and whether the principals have the political will to win it. For some developing countries, engaging in a full-scale war on narcotics trafficking is fraught economic and political hazards.[16] Many have pointed to turf battles and suggested that extraneous interests frequently get in the way of criminal investigations.[17] Conflicts over priorities, the allocation of resources, policy and programmatic objectives and political considerations can contribute directly or indirectly to the drug problem.[18] Some government agencies have turned a blind eye toward drug traffickers and drug traffick-

ing organizations that are viewed as making some useful contribution to the achievement of foreign policy objectives or because attempts to investigate and prosecute their crimes might reveal sensitive information.[19]

Financial institutions to date have played mainly collaborative supporting roles in international narcotics trafficking but, on occasion, have had a direct involvement in planning and implementing counter law enforcement measures. Financial institutions help perpetrators disguise the sources of illegal income and move vast amounts of funds undetected across national borders. A number of Congressional reports[20] have pointed out this problem, particularly concerning widespread violations of the Bank Secrecy Act[21], and recommended better regulation of the banking system. Still not well understood are the more dramatic and proactive role banks and other financial institutions have played in furthering other illicit operations[22], such as international arms trafficking, that may also serve undeclared government policies.

Enter BCCI

The Bank of Credit and Commerce International (BCCI), S.A. was chartered in Luxembourg in 1972. Its founder, Agha Hasan Abedi, promoted it as a bank that was there to help "little people" and "little countries" avoid colonial banks, to provide friendly and "full services" to its customers and to be there when others refused needed services. Also in 1972, Abedi obtained approval of the Cayman Islands government for a charter to operate the Bank of Credit and Commerce International (Overseas) Limited. In 1974 BCCI Holdings, S.A. was chartered in Luxembourg, to serve as the bank holding company for BCCI financial institutions. We refer to these three entities collectively as BCCI. In fifteen years BCCI grew to become the world's seventh largest private bank with assets of $23 billion and operations in 72 countries.[23]

During that period BCCI gained control of other financial institutions in many countries. The story of BCCI's takeover of First American Bank in Washington D.C., Independence Bank in California, the National Bank of Georgia and involvement in Miami-based CenTrust Savings and Loan are the most publicized instances in the U.S.[24] However, it must be impressed that the chief victims of the BCCI debacle are citizens in other countries, especially in the Third World where losses were devastating.[25]

The main beneficiaries of BCCI's services were powerful customers, lawyers and shareholders, such as Panamanian dictator Manuel Noriega, the Gokal brothers (BCCI borrowers and owners of the failed Gulf Group that cost more than $1 billion to the bank), prominent Arab businessmen (e.g. Ghaith Pharaon), American lawyers (e.g. Clark Clifford and Robert Altman), Colombian drug lords and Western intelligence agencies.[26] BCCI curried fa-

vor with the rich and powerful, balancing altruistic motives with strategies for acquiring cash deposits (e.g., "no questions asked" policy – in line with many other banks to this day).[27] The high level of public attention and number of public inquiries have unveiled an astonishing range of crimes committed by or through the bank and exposed several regulatory weaknesses. BCCI as an organization, its officers, employees and clients have been convicted of a variety of criminal offenses and found to be accomplices in many civil and regulatory infractions. BCCI has admitted its institutional participation in such crimes as money laundering, bribery, tax fraud, accounting frauds and illegal ownership of U.S. banks[28] (it is fair to add, though, that most of these admissions were made on behalf of BCCI by the appointed liquidators, Touche Ross). In addition, it has been implicated in public corruption and capital flight, while it offered banking services to international terrorist groups, arms trafficking and transfer of nuclear technology.[29]

Regulatory anaesthesia

Professionals in the banking industry have long had concerns about BCCI and its customers but, apparently, such concerns were not well known or given much credence by regulatory and law enforcement agencies until the late 1980s.[30] A theme throughout the BCCI saga has been the failure of controllers to look into allegations of irregularities, improprieties and criminal conduct at and through BCCI.

Federal enforcement and regulatory agencies failed to heed early warning signals

The Department of Justice first took criminal action against BCCI in October of 1988. However, BCCI had long been suspected of criminal activity, particularly money laundering and came to the attention of U.S. law enforcement agencies as early as 1978.[31] In fact, law enforcement agencies' files contained hundreds of references to BCCI that "... reflect a pattern of drug trafficking, arms smuggling and money laundering ..."[32] The Chairman of the House Judiciary Subcommittee on Crime and Criminal Justice charged federal law enforcement officials (from DoJ, FBI, DEA, the Treasury Department, IRS and the Customs Service) with compiling an index of matters or references to BCCI from a review of investigative files. The FBI identified 167 retrievable references to BCCI, of which 105 were designated as classified and were not shared with the Subcommittee. Of the other references, the earliest dates back to August 1978. The DEA provided a list of 379 references involving 134 BCCI matters identified through an intelligence file

review. Again, the first reference is dated August 1978. The IRS identified 23 "separate matters" which made "substantive reference" to "suspected illegal activities that involved or implicated BCCI, its officers or employees and or customers of BCCI branches operating in the United States".[33] One of these early references concerns a former BCCI employee, Aziz Rehman, who came forward in 1984 offering information and assistance in dealing with money laundering activities by BCCI. Rehman initially contacted the Federal Reserve and the FBI, finally finding an interested ear on the part of IRS special agents in Miami, Florida. He told IRS-Miami personnel in 1984 about bags of cash that BCCI was attempting to launder through U.S. financial institutions. He also outlined for IRS-Miami investigators how BCCI hid the true source of large amounts of cash through a series of paper deposits made to a "phantom" BCCI Nassau branch (it did not exist during the period 1982 through 1984).[34] Repeated efforts by an IRS agent for approval of an undercover operation in 1985/1986 were frustrated by her superiors.[35] Rehman remained in contact with other federal investigators assigned to "Operation Greenback" until 1988 and eventually came to the attention of "Operation C-Chase" team members in late 1987.[36] This instance illustrates the extreme difficulties line agents repeatedly had in gaining permission to target BCCI for criminal investigation.

The Customs Service provided a summary information on 23 Customs cases that clearly "... established that Customs had knowledge of BCCI and BCCI's customers prior to the C-Chase case...".[37] One of these references to BCCI involved the Banca Nazionale del Lavoro (BNL) in the case of Christopher Drogoul, the manager of BNL's branch in Atlanta, Georgia, who arranged U.S loans guaranteed under agricultural commodities programs. These were used for the purchases of military materiel by Saddam Hussein's government (Iraq-Gate). Later it was found that there were ties between BCCI and BNL as well as with figures in the Iran-Contra Affair (e.g., M. Gorbanifar, Adnan Kashoggi and Arif Durrani).[38]

Regulatory agencies that were approached by BCCI in the late 1970's to obtain permission to engage in banking services in the U.S. discovered that BCCI had an unsavory reputation and took steps to block BCCI's overt attempts to gain a foothold in the U.S.[39]

As a result of persistent pounding by Congressional committees, the CIA was forced to acknowledge that it had early knowledge of BCCI's criminal money laundering activities since late 1983 or early 1984. In fact, hundreds of intelligence reports had been produced between 1979 and 1991 that implicated BCCI in a number of criminal activities. These were distributed to other federal agencies, mainly the DEA and the FBI, but also to the Secretary of the Treasury.[40] Most disturbing of all was the revelation in August of 1991

that the CIA had maintained accounts with banking institutions operated or controlled by BCCI.[41]

Alarms about BCCI also sounded on Capitol Hill as early as 1984 when Sen. Paula Hawkins acquired information about BCCI involvement in narcotics trafficking.[42] Testimony presented before Congress in 1988 suggested that BCCI's Panama branch was dealing with drug traffickers.[43] This information was supplemented later with revelations that BCCI's China branch serviced heroin smugglers.[44]

Law enforcement targets BCCI: OPERATION C-Chase

BCCI became a target for investigation in the United States as a result of an undercover sting led by the Customs Service to gather evidence against narcotics traffickers by setting up a money laundering operation to follow the money trail from the US to Central and South America and elsewhere. Code named "Operation C-Chase", it stands out as the first investigation in the US that resulted in a criminal conviction of an international bank.

C-Chase was envisioned as a sting that would involve agents posing as investment fund managers who would offer professional money laundering services to drug traffickers. A joint investigative team composed of Customs and IRS-CID Special Agents was funded and operated under a special anti-narcotics program (Organized Crime and Drug Enforcement Task Force Program or OCDEF). It was designed to facilitate coordination and sharing of law enforcement resources across organizational boundaries to overcome the usual turf battles. Based in Tampa, Florida, the OCDEF Task Force was led by the US Attorney's Office for the Middle District of Florida. Ultimately, C-Chase came to involve the FBI and the DEA, as well as a number of foreign, state and local agencies.[45] However, the role and contributions of the FBI and DEA in C-Chase were inconsequential, other than possibly in monitoring what Customs and IRS were doing.

Robert Mazur, the main u/c agent, established a business front with a variety of investment interests. Through an informant, Mazur approached members of a Medellín drug ring to see whether they might be interested in money laundering services his organization could provide. Gradually, drug traffickers came to trust Mazur and provided him with a few million dollars to launder. Officially, the selection of BCCI to facilitate the u/c scheme was accidental. However, this is not the most plausible version. Other banks were also approached for assistance, but were openly told that this was an u/c operation. This did not happen with BCCI, which appears to have been the target of the investigation at an early stage, even though high-level officials may not have known about it.[46]

Mazur opened a checking account with BCCI in the name of a Panamanian shell corporation for the purpose of transferring funds acquired as drug proceeds from narcotics traffickers operating in the US. The money was wired from a U.S. bank through BCCI offices in the US to BCCI branches offshore. For example, during October through December of 1987, Mazur used BCCI to wire transfer funds from a Tampa branch of Florida National Bank, to a BCCI branch in Panama deposited to an account in the name of a Panamanian corporation. Criminal enterpreneurs preferred using blank signed checks provided to them by Mazur, so that they could directly withdraw the funds from the BCCI Panama account.[47] Overtime, these signed, blank checks were cashed by representatives of drug trafficking organizations at other BCCI branches in Latin America and Colombia in particular.[48]

Although BCCI bank officials were told about the illegal source of the money, they assisted in transactions that enhanced anonymity and confidentiality. De facto, their suggestions helped circumvent U.S. laws.[49] In December 1987, BCCI officials persuaded Mazur to follow their advice and recommended that he and his Latin American associates use BCCI's international network of affiliated financial institutions and multiple financial instruments. Typically, certificates of deposit (CDs) would be purchased with illegal funds wire-tranferred to offshore banks. The CDs would then be used as collateral for loans of equal amount authorized by or drawn against another BCCI branch located in another country (e.g., in Europe.) The loan proceeds were then distributed by wire into bank accounts and made available to drug trafficker clients.[50] One early variation of this method involved wire transfers from the Tampa bank via a New York bank to a foreign bank where the funds were deposited in 60 or 90-day CDs. BCCI officials would prepare documents showing that loans had been made to Mazur by BCCI's Panama branch. The money received from the "BCCI Panama loan" was then deposited in Mazur's BCCI Panama account. Check recipients would then fill in an amount on the blank, signed bank drafts received from Mazur and present them for payment out of Mazur's BCCI Panama account.

Eventually, more complex schemes were developed. For example, investigators tried to piece together a system of transactions in which institutional clients and sham business partners used offsetting ("back-to-back") letters of credit issued by BCCI to shell corporations with offices in places like the Cayman Islands. Then BCCI entities, such as ICIC (International Credit and Investment Company), buried the source of the funds in a complex series of sham commodities transactions through which institutional clients, posing as investors, could write off the fictitious loss. By late Spring of 1988, other BCCI officials from Europe became involved and even more elaborate meth-

ods were devised involving "... various combinations of nine corporations ...established in four different haven countries...".[51]

During an 18-month period, C-Chase u/c agents laundered about $14 million through BCCI. At that time, BCCI was finding itself under considerable strain due to massive losses in its treasury department and substantial non-performing loans imprudently concentrated to a small number of borrowers.[52] Under pressure to present a healthier picture to controllers, organizational processes were in motion to encourage deposits by all means. According to the indictment, "On or about June 28, 1988...AMJAD AWAN and AKBAR A. BILGRAMI [BCCI officials] advised an undercover operative that they had solicited other clients to place funds on deposit with the bank in order to enhance the bank's financial condition".[53]

Gradually it became clear that these money laundering activities constituted but a small piece of a gigantic jigsaw puzzle of illegalities. As the case progressed, agents learned that BCCI handled significant numbers of transactions for persons and organizations operating in the US and had influential clients and friends in high places. One person who helped enlighten officials was a BCCI employee, Amjad Awan, who served as the personal banker to the Panamanian dictator Manuel Noriega. The u/c investigators did not know it at the time, but it was later confirmed by Congressional investigators that BCCI had relations with a variety of agencies from the intelligence community and also played a role in the Iran-Contra affair by financing several arms deals to Iran.[54] Awan also mentioned to Mazur that BCCI (illegally) owned First American Bank, a fact hidden from the public by top-level BCCI executives. The same executives were involved in an illegal acquisition of other US banks and massive accounting frauds. BCCI officials also assisted in coffee smuggling operations and tax evasion.

C-Chase closed down in October 1988 with the arrests and indictment of eleven BCCI officials and other participants in the scheme. Defense counsel for the individual defendants tried to negotiate a plea, arguing that the amount of money laundered was relatively small and that the BCCI officials involved were low-level, white-collar offenders with no prior record. However, the lead prosecutor was adamant that they are no better than "dopers" and should be treated as such.[55] The defense team filed a motion alleging outrageous government misconduct, that BCCI was "selectively prosecuted" because of its Arab ownership. The prosecution responded with a superseding indictment, which broadened the charges and included BCCI's "full range of services" to drug traffickers and money launderers.[56] Because a drug conspiracy charge was lodged against BCCI, an amount of funds equivalent to that laundered through BCCI was declared forfeit. The Tampa prosecutors during negotiations with counsel for BCCI, believed they could sustain this charge and

rejected offers to a plea that would lead to any monetary penalty lower than $14 million.[57] The first Tampa case ended with a plea bargain agreement with the bank and conviction of five BCCI officials who received prison sentences of from 37 to 144 months and three years of supervision upon release from confinement; Awan also received a fine of $100,000.[58]

Plea agreement received with mixed feelings

The bank agreed to plead guilty to the money laundering charges, to forfeit the seized amount plus accrued interest (which amounted to just over $15 million) and to cooperate with the authorities in forthcoming trials and investigations. BCCI was also placed on probation for five years and agreed to observe the terms of a Federal Reserve June 1989 cease-and-desist order. In return, the government agreed to drop the top count, drug conspiracy and not to charge BCCI in the Middle District of Florida with "...committing any other federal criminal offenses under investigation or known to the government at the time of the execution of this agreement or relating in any manner to the charges that were the subject of the instant prosecution..."[59] The judge in the case had reservations about evidence supporting the count charging BCCI with conspiracy to traffic in narcotics. There was some confusion over whether other criminal cases could be brought against BCCI in other Federal judicial districts. As it turned out, this clause did not impede subsequent cases.

Some have argued that the plea agreement was too lenient and this "has the possibility of undermining deterrence of other financial institutions from laundering drug money".[60] Sen. Kerry, expressing strong disapproval of the agreement, said that banks which knowingly engage in money laundering should be shut down.[61] Kerry co-sponsored the so-called "death penalty for banks" legislation, which was reported out by the Senate Banking Committee but failed to garner sufficient votes in full Senate for passage at that time. Some credit Sen. Orin Hatch's speech on the floor of the U.S. Senate in defense of BCCI and his praise of the plea agreement with contributing to the failure of this bill.[62]

Frontline Customs and IRS agents ultimately accepted the inevitability of some of the concessions made in the plea agreement, particularly in light of a court ruling that would have resulted in the release of the forfeited money.[63] They supported the terms of the plea agreement as the best that was likely to be obtained under the circumstances.[64] But others, such as former Customs Commissioner William Von Raab and former Senate investigator Jack Blum testified that they were "upset", "outraged" and "infuriated" when they heard of this "shameless agreement".[65] This was partly because of the failure of

agencies to connect the dots and realize that this was more than a money laundering case.

Our analysis below suggests that the disappointing results are attributable to

- intra- and inter-organizational conflicts
- lack of timely investment in investigative resources
- lack of coordination and sharing of information about BCCI's lawbreaking as far back as 1978
- BCCI's power, ability to persuade and buy influence in domestic and international political arenas and
- legal constraints inherent in (international) financial institution fraud cases (e.g., limitations on access to BCCI records and officials outside the U.S. and who were "unavailable" to be interviewed.)

Inter-agency conflicts, mis-communications and organizational inertia

There are advantages to a decentralized approach in detecting complex financial crimes and identification of offenders. However, with about 30 different agencies involved in the drug war, clashes of interests are inevitable. This is especially true of u/c operations which cut across jurisdictional and organizational boundaries. Differences in mandates and competing claims of jurisdiction repeatedly have been shown to impair the smooth exchange of information between governmental agencies.[66] For example, the DoJ would not disclose information obtained from criminal investigations before they are completed and is prohibited under Rule 6 (E) of the Federal Rules of Criminal Procedure from revealing grand jury information for other than criminal law enforcement purposes.

Thus, C-Chase was made an OCDEF Task Force case to ensure consistent focus and application of appropriate resources and to preempt conflicts over turf.[67] Apparently the OCDEF Task Force system was unable to bridge the gap between law enforcement agencies' "need-to-know" and information on BCCI in the hands of intelligence agencies. For example, a 1986 CIA report on BCCI was not disseminated to law enforcement personnel who could have benefited from this information, such as Customs, IRS, FBI, or DEA.[68] A declassified version of a 1985 CIA report[69] on BCCI involvement in various illegal activities indicates that the Secretary of the Treasury did not ask the CIA to do anything further with the information it had on BCCI.[70] The same report suggests that Treasury officials considered the CIA report as "not surprising" and they saw the focus of ongoing enforcement efforts as directed primarily at money laundering.

Questions that remain to be satisfactorily answered are why top level CIA officials at first denied the existence of the CIA reports on BCCI. Why did it take so much persuading and constant delays until persons such as Sen. Kerry could gain access to any of them?[71] The CIA took the position that documents are classified not only on the basis of their contents, but also to protect sources and methods of gathering information. Congress was told, on the other hand, that hundreds of CIA reports were passed on to law enforcement agencies, which discussed BCCI's involvement in illegal monetary transactions, connections to terrorist groups and other illegal activities.[72] In any event, it is clear from testimony by C-Chase team members that they were not provided with intelligence information on BCCI. Sen. Kerry emphasized that C-Chase did not start as a result of these CIA reports.[73]

Compartmentalization of tasks and mis-communication of vital information from such sources prevented investigators from linking certain facts together that would have added significance to early leads. Within law enforcement, things did not function much better. Witnesses interviewed by one agency were told not to share that information with other agencies.[74] Organizational inertia and lack of support from top level management officials also contributed to the general level of ignorance on the part of federal law enforcement as to the scope of BCCI-related illegal activities.[75]

Perhaps it was because C-Chase initially was defined as a money laundering case directed at narcotics traffickers, rather than the financial institutions they employed, that Customs management officials were too preoccupied with procedural steps they felt had to be taken in order to make the drug-related money laundering charges stick.[76] Other forms of BCCI officials or their clients' misconduct illuminated by C-Chase were not of central interest to Customs management. And these concerns are reflected in the events leading up to Mazur's resignation from the Customs Service. He had written memoranda to his superiors pointing to lines of investigation uncovered during C-Chase that he believed warranted attention. But the Special Agent in Charge (SAC) of Customs in Tampa said that "... it just wasn't something that I wanted to pursue. ...There was nothing there for us to pursue. Our case was complicated enough in trying to sink the bank..."[77]

The record is replete with instances of overlapping jurisdiction and breakdowns in cooperation between the C-Chase team, Customs top management and other law enforcement groups. At an operational level we can observe how lack of coordination between regional offices of the same federal law enforcement agency affected the timing of the take-down (arrest of suspects) by the C-Chase team. Some interviewees alleged darker motives behind actions which undercut line investigators' efforts to broaden the case and uncover the full extent of BCCI-related illegalities.

Was the C-Chase investigation forced to end prematurely?

Federal law enforcement executives generally believe that when u/c operations get too long, they facilitate too much crime. And, as the stress level of agents increases, there are increased chances that mistakes will be made. The longer the operation, the greater the risk of being discovered. Some even have argued that u/c agents left too long in a field setting become emotionally attached to those they have associated with, resulting in a loss of effectiveness. Customs management officials have stated that prolonging the u/c phase of C-Chase would have placed agents' lives in jeopardy without commensurate gains. However, a review of events surrounding (1) the take down decision in the winter months of 1987–88 and (2) a series of mis-steps in the handling of collateral investigations suggests either gross incompetence or that deliberate efforts were made to force the u/c phase of C-Chase to a conclusion. The fact is that Mazur and his colleagues were effectively prevented from following the trail of evidence leading to BCCI higher executives and possibly uncovering relationships between them and government officials, including those in the intelligence community.

Promotion of regional interests over C-Chase, unpleasant rivalries, press leaks surrounding the seizure of a truckload of drugs in Detroit and "straight ahead" law enforcement practices in three other cities engendered considerable suspicion of Mazur by Medellín drug traffickers. In the Detroit case, information developed by C-Chase u/c agents about a large shipment of cocaine destined for Detroit was shared with federal agents in Detroit who saw an opportunity to get credit for a sizeable drug bust. C-Chase personnel from Tampa made it clear to Detroit Customs agents at the outset that extraordinary precautions needed to be taken in the manner by which arrests were made. There should be no disclosures of information that could compromise the u/c identities of C-Chase personnel. Tampa C-Chase personnel believed that an agreement had been reached with Customs Detroit office to have the drugs interdicted through a routine stop and inspection by the Agriculture Department's Animal and Plant Inspection Service just north of the U.S. border, rather than by personnel in Detroit, but with Detroit staff still getting the credit. C-Chase agents surmised that if the seizure of the drug shipment did not appear to be the result of such a chance event, drug traffickers eventually would be able to determine how the drug shipment's route became known to Detroit law enforcement. This knowledge would jeopardize the lives of C-Chase personnel and effectively close down the operation. The Customs Special Agent in Charge (SAC) in Tampa told the Customs SAC in Detroit that she had no objections to Detroit Customs going ahead and making the "bust" (seizure) in the Detroit metropolitan area. As a result, arrest warrants were filed in June 1988 in the Detroit case, which contained information[78]

that effectively revealed the existence of C-Chase u/c activities. Court records in the Detroit case, although sealed, also identified Mazur by both his u/c and true names. This is but one of several incidents that reflected conflicts between C-Chase u/c team members and Customs management officials in Tampa.

There were other incidents involving disagreements, some of which drew into conflict Commissioners of Customs in different regions of the U.S., prosecutors in Tampa and personnel from other U.S. Attorney's Offices, DEA, as well as other components of the DoJ. For example, in New York City, Mazur's affiliation with law enforcement was nearly confirmed by drug traffickers, who spotted a disproportionately large number of law enforcement personnel engaged in aggressive surveillance at or near the sight of a scheduled pick up of $10 million in drug proceeds involving Mazur. As a result, a Medellín "enforcer" suspicious of Mazur[79] told him that he better not be a cop or "... there is no place on earth where you will be safe...".[80] There were at least two other incidents, one in Philadelphia and one in Houston, that also threatened to compromise u/c efforts in Tampa and Miami and lent support to arguments voiced in Washington D.C. and in Tampa for the cessation of the u/c phase before the end of the summer of 1988. By this time, even ardent supporters of C-Chase were concerned that the time had come for the takedown. One prosecutor said he thought this was inevitable and that they were lucky it did not happen earlier.[81]

On the other hand, once the decision is made to close down an operation, it becomes very difficult to extend the u/c period, even when there is a realistic prospect of reaching higher-ups in a criminal enterprise. Of course one must consider that the longer an u/c investigation lasts, the greater the risk to u/c officers' lives. Yet, Customs agents most directly involved were willing to take that risk and were able to show potentially high payoff in investigative results. Due to the arbitrarily imposed deadline, however, Mazur had to forego planned meetings with BCCI managers and two narco-traffickers close to Pablo Escobar.[82]

Further, high level Customs officials were directly involved in orchestrating television coverage of the take-down that resulted in leaks to the press about C-Chase at least a month prior to the take-down date.[83] U/c personnel interviewed by Congressional investigators three years later were still quite unhappy with the cavalier attitude displayed by their superiors in divulging the existence of this sensitive u/c operation to the media. They feel their lives were in comparably greater danger from Customs management officials' desire for publicity than that posed by continuing the u/c investigation a few more months. There is also a report about strains between C-Chase members and Customs senior management, over such issues as the need to travel

overseas and Customs Headquarters' concern about being overshadowed by DEA's Operation Polar Cap, which was expected to result in the seizure of more money and apprehension of key Medellín figures.[84]

There is also some controversy over when the decision on the shut-down date was actually made. Some have reported that it was made at Customs Headquarters in December 1987. Customs field agents believe that the take-down decision was made at least as early as January 1988 when the newly promoted SAC was due to take over the Tampa Field Office of the U.S. Customs. According to Customs agents, the new SAC told others that her top priority was to close C-Chase down. The takedown time frame was openly discussed as a "done deal" in a series of meetings involving OCDEF Task Force members in February 1988.

At any rate, the decision to terminate the u/c phase and move into the prosecutive phase was made *before* the Detroit arrests brought the C-Chase team increased exposure. Moreover, the actual decision was made without consulting the u/c team, which is a deviation from standard practice in such cases.[85] It is in this light that we ought to evaluate arguments that the closedown date was determined by concern over agents' lives and botched surveillance.

Some have speculated that it was more than mere coincidence that a major drug case was scheduled to conclude just before the presidential elections. Given the potential notoriety surrounding Manuel Noriega's contacts and involvement in BCCI, it seems odd that there was no publicity about the bank's relationship with him. It has been suggested that such facts were omitted to avoid questions being raised about Noriega's long term association with the CIA, which went all the way back to before the time George Bush was Director of the CIA.[86] Others claim that the government was concerned that its case against Noriega would be weakened if the General's ties to BCCI were to become prematurely public. Taking this a step further, some speculated that the Government slowed down the BCCI case in order to secure possible evidence it needed in its case against Noriega. We have not found much documentary evidence to support this last contention.

However, we are unable to fully explain why leads developed prior to and during the initial stages of the BCCI investigation that were presented to a grand jury remained unaddressed during a nearly 12-month period (from October 1989 to September 1990). Prosecutors cited a lack of "... other available leads and the press of the upcoming trial..." as reasons for the delay.[87]

Congressional inquiries into international narcotics trafficking added complications that increased the pressure on the C-Chase team during the summer of 1988. In conjunction with an inquiry into South American drug trafficking, Senate investigator Jack Blum, was prevented from issuing subpoenas before

July 1988 because of legitimate concerns that C-Chase would be jeopardized.[88] He offered to produce witnesses who could assist Customs and DoJ in selecting and pursuing leads in the case. For whatever reasons, they did not pursue the matter aggressively enough and Blum decided to take his information to New York County District Attorney Robert Morgenthau who launched his own investigation into the BCCI affair.[89]

Internal strife was another factor working against the continuation of C-Chase. Mazur clashed with the SAC Tampa over many issues regarding the operation and ultimately resigned from Customs in April 1989 because of his concerns about the handling of the case. In his letter to the Customs Commissioner, Mazur referred to "... deplorable conditions ...", a "... leadership guided predominantly by personal agendas ..." and the undermining of their work by "... personnel who are well known in the Customs Service to have allowed their actions to be corrupted...." He went on to observe that "... the debilitating condition in Tampa has grown to unmanageable proportions and now threatens the ethics, morality and legality of the Customs Service in North Florida...".[90] He also pointed out that these problems are not atypical: "Unfortunately, *my experiences in Tampa are customary*. In good conscience, I can't disserve the public by developing another BCCI type case within such dysfunctional... leadership...".[91]

A Congressional report noted the "internal warfare" that went on until 1991: "Whether this was in fact a "personality clash" between the Agent and the supervisor in Tampa or the consequence of decisions by other higher-level Customs officials is unclear at this point..."[92] Based on the available evidence, the true motives for the early conclusion of the u/c phase are still unclear.

Resources devoted to BCCI case were inadequate

C-Chase was hampered by a lack of adequate resources needed by C-Chase members.[93] Customs and DoJ did not accord the BCCI case sufficient priority by allocating people with the necessary expertise and skills to accomplish a number of tasks at critical stages in the case following the take down. For example, in preparing for trial, there was a tremendous amount of tape recorded material that had to be translated and transcribed (e.g., some documentation was in Urdu). Many of the tapes would have to be entrusted to outside agencies for transcription. Out of about 1,900 telephonic recordings, only 16 of the transcriptions made were proof-read and in final typed form by April 1989. DoJ officials later invoked security as the reason why the tapes were not transcribed.[94] Over 16,000 documents obtained from an individual defendant and over 100,000 documents retrieved from BCCI were not sub-

jected to systematic analysis. Some were "at best glanced at."[95] However, this did not prevent defense counsel from gaining access to these records.[96] Much of this work was not done at all and what was accomplished was often late in coming. Moreover, because the primary C-Chase team members had to assume this workload, they were not able to check out "hundreds" of leads.[97]

Also, there were a number of important documents that investigators and prosecutors would have liked to obtain, but they were not subpoenaed. Tampa prosecutors argued that they had other important cases to handle at the same time.[98] Thus, it would appear BCCI was not considered to be a high priority case. Consequently there were too many loose ends and much of the evidence that could have been applied was not thoroughly examined and linked up.[99] In January of 1991, the lead Tampa prosecutor, Mark Jakowski, in anticipation of moving to another prosecutor's office, wrote a "road map memo", to assist his colleagues. He recommended an immediate and thorough review of all records seized in October 1988 which provided concrete leads to other drug traffickers and money launderers. However, as of 8/30/91 such an examination had yet to be completed.[100] It was not until February of 1992 that even a crude subject index (non automated) had been constructed by Customs personnel for use as an inventory of 10 percent of the records from BCCI's Miami and Boca Raton offices.

Had the Treasury and Justice Departments accorded the BCCI case higher priority and devoted adequate resources, hundreds of millions of dollars in drug proceeds may have been available to be seized as a consequence of having been laundered through BCCI.[101]

At the close of 1992, the Assistant Attorney General proudly pointed to the fact that "... 37 federal prosecutors, supported by dozens of agents and supervisory and support personnel, are conducting or supporting investigations nationwide..." and interviewing witnesses in many countries.[102] But, these resources were allocated only after the Federal Reserve took firm action and imposed high civil penalties, New York District Attorney Robert Morgenthau's indictment against BCCI was imminent and newspapers ran front-page stories about BCCI following its dramatic closure worldwide in July of 1991.[103]

New York DA pursues BCCI

Robert Morgenthau initially experienced little cooperation from the DoJ in conjunction with his office's investigation into BCCI money laundering and other offenses.[104] The U.S. Attorney in Tampa and headquarters officials at the DoJ refused to furnish documents and respond within reasonable time frames to his requests for information. Morgenthau's office was told, for instance, that a witness they wanted to interview "should be available in a

year".[105] It was not until long after the completion of the Federal case against BCCI in Tampa, Florida and the worldwide closure of BCCI operations in July of 1991 that Morgenthau was able to report that there had been an improvement in cooperation on the part of federal officials.

Some argued that the same type of money laundering charges brought by Morgenthau against BCCI in 1991, could have been brought by the DoJ in 1988.[106] While it is true that DoJ did not have access to a key 1990 audit report prepared by Price Waterhouse, which was obtained by New York prosecutors and provided many smoking guns,[107] that report had little relevance to money laundering activities.

BCCI'S power: A typical big corporation

Federal prosecutors' limited resources were further strained by having to contend with the power and influence of BCCI, a well connected international organization able to command an army of lawyers to defend it. This was in line not only with BCCI's corporate philosophy, strategies and operating principles, but also with widespread corporate policies by US and foreign organizations. That is, to foster and develop associations with respected and powerful individuals and organizations around the world, including politically connected power brokers in the USA. BCCI could hardly find more influential lawyers to represent it than Clark Clifford, a widely respected and extremely influential adviser of Presidents from Truman to Carter, a former Secretary of Defense and consummate Washington insider called the "wise man".[108] With able assistance from his protegé Robert Altman, Clifford helped build BCCI's defense team of white-collar crime specialists. The team consisted of over 50 reputable lawyers, including former federal prosecutors, from 20 different law firms, at a cost of over $45 million.[109] While it is neither unusual nor illegitimate to try to get the best defense counsel for a corporation and its employees,[110] federal prosecutors were massively outgunned in the legal resources deployed in the Tampa BCCI case.[111] Also, the defense team's "scorched earth" strategy made the prosecutor's tasks even tougher. They filed so many motions[112] that the court found the "number and length of the documents filed by defense counsel to constitute a general abuse of motion practice".[113] BCCI hindered investigations by not producing subpoenaed documents, denying their existence, transferring the banker who handled Noriega's accounts to Paris while he was under subpoena to testify in Congress and by urging unsavory customers to move their accounts from New York, Miami and Panama to other BCCI branches.[114] In addition, in July 1991 a fire destroyed a London warehouse containing BCCI records.[115]

In October 1991, a British investigator and an accountant were arrested for "... removing, destroying or defacing BCCI-related evidence."[116]

It remains an open question whether the dozens of attorneys brought in to represent BCCI knew whom and what they were really defending. At any rate, respected people, knowingly or not, worked for BCCI and achieved delays in the case, thereby stretching out the government's resources. The BCCI saga highlighted the nature and seriousness of systemic and regulatory vulnerabilities *arising from common and legal practices*, such as lobbying, campaign contributions, the "revolving doors", etc.[117] Given that such cases seldom come to light because of the powerful shields that people and organizations are able to manipulate, one may reasonably wonder how many other BCCIs remain to be discovered.

Influence peddling

BCCI had the capability to reach out to highly placed public officials to get what it wanted done. Thus, it is not surprising that serious allegations have been made concerning BCCI's use of "high-priced anesthesia" and concerted lobbying campaigns to soften the resolve of senior government officials.[118] Many millions of dollars were withdrawn by Medellín drug traffickers just before the Tampa arrests. Some believe that this was the result of a leak that may have originated from US political or intelligence circles or from inside the US government.[119]

It is hard enough to detect and prove complex international fraudulent and money laundering schemes under ordinary circumstances, but when highly paid operatives launch campaigns of disinformation and hundreds of thousands (possibly millions) of dollars are paid to reach the "right people," it becomes all the more difficult.[120]

Accusations have been made that BCCI successfully reached Treasury and DoJ figures.[121] For example, there are persistent references to Senator Orin Hatch's efforts on behalf of BCCI. There is also some evidence that his former staffer and member of the top-secret 208 Committee,[122] Michael Pillsbury, may have interceded in BCCI's behalf with respect to the Tampa indictment and advised on how to deal with the Kerry investigation[123] After a meeting with BCCI lawyers, Hatch defended on the Senate floor the DoJ's handling of the Tampa case and the plea agreement. He also went on to praise BCCI's top management.[124] A GAO inquiry into allegations of BCCI influence peddling was unable to establish the veracity of the more serious matters, due to a lack of access to records and documentation.[125] An earlier, but limited inquiry by staff of a House Judiciary Subcommittee noted: "If there was any 'conspiracy,' it would necessarily have to be confirmed by witnesses or documents not yet made available to the subcommittee staff."[126] The point, though, is

that, even if no illegal conduct can be proved on the part of those representing BCCI's interests, their stature and reputation made officials more cautious, hesitant and undoubtedly occasioned distractions and delays.[127]

Is it possible that someone was sending signals to lower-level officials when the Customs Commissioner, Von Raab, was removed from the case by someone "at the highest level" of the Treasury Department? Was this event part of a pattern in which BCCI took steps to isolate people who were "hot" on the case?[128] For instance, BCCI hired a firm to investigate the C-Chase investigators and a private citizen who collaborated with them.[129] Negative rumors were spread about the role and motives of Jack Blum.[130] Also, threats against the lives of C-Chase agents were made to appear as if they were coming from the Colombian traffickers.

Who used BCCI and why?

Another set of factors that may have influenced the course of investigative and prosecutorial efforts against BCCI in the Tampa case concern BCCI's utility to other government agencies in the US and elsewhere. The role of intelligence agencies' interest in and concern about BCCI in the early 1980s warrants further inquiry into BCCI's usefulness to a variety of different government authorities. We find the sequence of events that led to the revelations of CIA involvement with BCCI to be quite instructive in this respect.

Initially the CIA denied knowledge of BCCI's criminal activities. As we have seen, it was only gradually, reluctantly and after much prodding that the CIA publicly acknowledged that there had been hundreds of CIA reports, documents and references concerning BCCI and that the CIA had accounts at BCCI.[131]

BCCI's attractiveness to intelligence organizations is not all that odd. Intelligence agencies have admitted that they found BCCI useful in providing a window through which the nature and extent of various international criminal activities and groups could be gauged. BCCI's services extended to a wide array of criminals of interest to national security and law enforcement bodies. By examining financial transactions which BCCI was party to or had record of, they could keep an eye on some interesting BCCI customers who included drug traffickers, arms dealers, traders in nuclear technology, tax evaders and terrorists, such as the Abu Nidal Organization. Some have argued that there was greater potential value in letting BCCI continue to operate so that intelligence personnel could keep track of such offenders until it became imperative that law enforcement prosecute them. From this perspective, it could be argued that the value of this information outweighed the benefits of bringing BCCI's operations to a halt.[132]

In addition to using BCCI as an observation post, BCCI's functionality appears to have had more direct and tangible benefits. Because of its international connections and structure, BCCI was viewed as a vehicle through which governments could channel funds for the conduct of covert operations, as it has done in the past on behalf of British, French, Swiss and other intelligence agencies which were served by BCCI and its people.[133]

The CIA admitted that it had accounts at First American Bank, a bank the Agency knew was owned by BCCI.[134] It appears that the CIA used BCCI for several operations, including payments to Afghan rebels, Pakistani military officials and about 500 British CIA contacts in London.[135] Allowing BCCI to continue to operate therefore would make good sense to the intelligence community.

It would also make good sense for the intelligence officials to slow down and possibly deflect the course of criminal investigations and prosecutions that were coming too close to BCCI records or personnel involved in sensitive activities of their own. Because of the scope of BCCI's involvement in a vast array of illegal activities, aggressive investigation and prosecution of BCCI could lead to embarrassing disclosures, some of which might severely harm international relations. People with BCCI ties established for legitimate intelligence purposes might be haunted by such disclosures. Prosecutors could find themselves "gray-mailed" by criminal defendants who could threaten to expose national security matters, should the DoJ wish to pursue actions against them. Other concerns might be about compromising intelligence sources, methods and covert operations, both sanctioned and unsanctioned.[136] There are a number of high level and well-known figures who could be damaged by such revelations and they come from many different political, ideological, geographical, racial and economic groups. They include former US Presidents, CIA and other intelligence heads,[137] ambassadors,[138] high-level politicians,[139] heads of foreign governments,[140] and influential business people and bankers.[141]

One possible example that has been discussed publicly is Manuel Noriega who was indicted in 1987 for his role in the drug trade. His prosecution looked unlikely while he was ruling Panama. The Noriega case was not considered a high priority by many at the DoJ.[142] But this attitude changed dramatically after the US decided to invade (or needed a justification for invading) Panama. It took a considerable period of time after Noriega was brought to Florida for authorities to act on information that he had extensive dealings with BCCI. In 1991, concern was expressed in Congress that the value of the cooperation of BCCI officials enlisted as government witnesses against Noriega did not outweigh the importance of vigorously pursuing the criminal case against BCCI. It has also been suggested that BCCI may have been seen as a de-

pository of evidence against Noriega worthy of a "reasonable plea bargain" with BCCI and its key executives.[143] Also, mainly due to Noriega's assistance in their operations, senior government officials[144] and some agencies, like the DEA,[145] were not keen on Assistant U.S. Attorney Richard Gregorie's efforts to bring a case against Noriega. After the publicity generated by the invasion and Sen. Kerry's investigation, all the relevant agencies jumped into the BCCI case. According to Von Raab, the DoJ later "sacrificed" the Tampa case against BCCI in order to preserve the evidence needed to successfully convict Noriega.[146] This theory is rejected by BCCI-Tampa prosecution team members, who denied that there was any such outside pressure.[147] Jack Blum made the logical argument that the government could have obtained evidence demonstrating Noriega's involvement in narco-money laundering through his involvement and use of BCCI by pursuing the BCCI case earlier on.

Regulation v. criminal prosecution

Another puzzling facet of the BCCI case involves an apparent communication snafu between a highly placed DoJ official and bank regulators in three states regarding the federal government's desire to keep BCCI operating, in order to track evidence against a variety of offenders who had accounts with BCCI. After the initial plea agreement was reached with BCCI in January of 1990, the Chief of the Narcotics and Dangerous Drugs Section of the Criminal Division of the DoJ sent a letter to bank regulators in Florida, California and New York, which they interpreted as a request for consideration that BCCI be permitted to continue to operate in their jurisdictions. Later, it was learned that there was a meeting between BCCI's lawyers and staff from the Florida Comptroller's Office concerning BCCI's pending request to renew its state charter in Florida. At that meeting, one of the attorneys representing BCCI informed the bank regulators that they would be receiving a letter from the DoJ requesting just such a consideration. The letter from the DoJ's Narcotics Section chief arrived by fax in the Comptroller's Office that very day.[148] When one of the Tampa prosecutors called the DoJ to request an explanation, he was told that "... as part of their cooperation, we want to use them...".[149] Within three days, a second letter was sent explaining that he only wished to "indicate that, if you allow BCCI to continue in business, there may be occasions where the Department of Justice may request BCCI... to make or continue a banking relationship with customers who are subjects of criminal investigation..."[150] Some still have reservations about the circumstances surrounding this incident. At a minimum, one must admit that this incident was symptomatic of the confusion surrounding the BCCI case in Tampa and suggests that coordination even within the DoJ was poor.[151]

Legal constraints

Strong evidence was required for the criminal prosecution of BCCI and its closure.[152] The Government's argument that such evidence was lacking at the time of the plea agreement must be assessed in light of what has been said and the factors below. The prosecutors' problems were compounded by bank secrecy laws, the Privacy Act and Internal Revenue Code provisions which restricted their access to information.[153] Further, many violations were committed outside their jurisdiction.[154] Many important witnesses were overseas and extradition treaties were lacking (e.g., host country did not define money laundering as a crime), with countries where suspects or defendants were residing.[155] Also, secrecy laws in other countries prohibited their banking institutions from sharing confidential information.[156] Not all governments were willing to cooperate and some foreign government officials may also have had a stake in BCCI or may have been influenced by BCCI's representatives or criminal clientele.[157] Given BCCI's world-wide network, these hurdles seriously impede efforts to form a more complete picture of BCCI-related improprieties.

In 1989 there was a critical court ruling that severely undermined the Tampa prosecutor's bargaining position; BCCI could not be charged both with money laundering and drug trafficking conspiracies on the same evidence.[158] Because only gross receipts from money laundering (i.e. $250,000) could be forfeited (and not the amount allegedly laundered), the $14 million that was seized would have to be released. Although the maximum fine upon conviction for the remaining charges could have amounted to up to $28 million, the highest penalty ever paid for money laundering by a financial institution (for far more serious money laundering charges than BCCI's) was $5 million. Moreover, the Tampa judge had a reputation for being lenient to white-collar offenders. Prosecutors reasoned that BCCI's penalty in the form of a fine would have been probably lower than the forfeiture of $14 million that BCCI agreed to relinquish under the terms of the plea agreement.[159]

Was the BCCI Tampa's plea agreement a "Slap on the wrist?"

With all these adversities, limitations and shortcomings in mind, the government's agreement in January of 1990 not to charge BCCI with any other offenses that might come to light as a result of the Tampa investigation, seems with hindsight to have been unwise. With much of the evidence unreviewed, unsought, hidden away or destroyed, prosecutors could not be sure they knew all that they needed to know. The clause about non-prosecution on other charges would have made more sense if the government's inquiries were nearing their conclusion and if BCCI was cooperating and helping the

prosecution team with the finishing touches. But this was not the case.[160] In fact, the BCCI saga was just beginning.

Was the criminal penalty ($15 million) imposed on BCCI sufficient and proportionate to the gravity of BCCI's offense? For a multi-billion dollar international bank, it was not a major setback. It could have stained BCCI's reputation more seriously, were it not for the damage control efforts of BCCI's network of legal counsel and the public relations firm it retained (Hill and Knowlton).[161] Many were persuaded that since the Tampa case was an isolated incident – the work of a few low-level bank employees – they did not need to avoid doing business with BCCI. Former President Carter, whose innocent association with BCCI lent it respectability, was allegedly told by a top BCCI executive that, according to his DoJ sources, there were no further charges and no pending investigations of the bank.[162] In short, BCCI was quickly "rehabilitated". When it was eventually shut down, it had $900 million booked in the US, suggesting no irreparable damage from the conviction in Tampa.[163]

Stiffer penalties were precluded under criminal law.[164] However, racketeering charges (under RICO statutes), could have been brought against the bank.[165] C-Chase memoranda clearly indicate that this was the original intent. The decision not to do so was taken in order to avoid over-complicating the case for the jury.[166] The mere threat of using RICO charges, however, is a powerful weapon in the hands of prosecutors given that it combines criminal with civil provisions and, thus, lowers the required standard of proof. More importantly, under RICO, BCCI assets could have been seized much earlier. This would have placed far more pressure on BCCI to cooperate and reach a better deal for the government.[167] At that time, it would have been the first time to use RICO statutes against a major international bank.[168] Of course, RICO was used much later, after the case was in the public eye.

In a sense, the DoJ appeared to engage in "up side down enforcement"; it plea bargained with the bank to get its cooperation and convict individual defendants of lesser prominence and influence with respect to BCCI's organizational culpability in criminal activities. Normally, the strategy followed by prosecutors in drug money-laundering and conspiracy cases is in the form of a pyramid, also called "flipping," in which smaller players in a criminal enterprise flip over and cooperate with the government and are permitted to plead to less serious charges in exchange for information used to go after higher-ups in the organization.[169]

The unprecedented long prison sentences received by the BCCI employees, which sent shock waves through the banking circles, made some observers think that they were scape-goated at the time for the bank's and its clients' higher sins.

Should regulators have shut down BCCI after the Tampa conviction in 1990?[170] On what basis? There was no statute in place providing the equivalent of the criminal death penalty for banks. Given what we know about other money laundering cases, some could argue that BCCI had been dealt with rather harshly for laundering just the $14 million that was admitted. Another bank, Banco de Occidente,[171] allegedly dealt directly with the Medellín traffickers with the knowledge of senior management and laundered $1 billion in cash. It has only had to forfeit $5 million and that amount was payable over 4 years. Other U.S. banks that have been implicated in money laundering schemes have been dealt with via civil proceedings.[172]

The fact that DoJ officials view the Tampa case as a success is hardly surprising given the record-setting penalties handed out for BCCI, heavy sentences for its employees and BCCI's cooperation on other cases. Some see the sanctions imposed against BCCI as rather negligible in light of the wide scope of the bank's misconduct. Higher BCCI officials were indicted much later. But this happened only after intense publicity surrounded the bank and too late to ensure trial of all those indicted, given that they reside overseas.

Conclusion

The BCCI case lies at the intersection of organizational and political factors that have been shown to impede the supervision of the international banking industry and to reduce the effectiveness of legal processes against complex financial crimes. A number of lessons may be drawn for policy makers.

Competition between national security and law enforcement goals and inconsistencies in implementing policy objectives contributed to inattention and unwarranted delays in responding to several early warning signals about BCCI. The disjointed pursuit of the leads growing out of this case reflect a fragmented approach to regulation and social control, inter- and intra-agency conflicts, organizational inertia and management myopia.

DoJ and law enforcement officials may wish to be evaluated on the basis of what they have achieved. We do not discount the importance of the Tampa BCCI case and the work of many dedicated professionals. But, it can be argued that there is another standard against which the government's performance in the BCCI affair may be judged: what could and should have been achieved? As an interviewee put it, "it is not so much what the Feds did, so much as what they didn't do". Many of the difficulties faced by the authorities were self-inflicted. Repeatedly, opportunities to observe, detect and stop criminal activities at BCCI were squandered. The central point is that regulatory and enforcement systems failed to prevent the commission of many

harmful and costly acts. Both regulatory anaesthesia and legal limitations confronted those investigating a power elite.

The BCCI experience confirmed how powerful and corrosive an impact international criminal and legal organizations can have by means of transactions and institutions that take advantage of the international regulatory patchwork, find holes in the system of checks and balances, blind the oversight process and deflect application of the law. The alarm has not sounded loud enough to make clear the dangers inherent to the networks of relationships uncovered by this scandal. The more powerful the actors who employ the services of international financial institutions, the greater is the institutions' ability to court attention, purchase influence and outspend control agencies. Most importantly, to the extent that such institutions become instrumental to the attainment of covert legitimate or illegitimate operations/objectives of the US or other governments, the effectiveness of control agencies cannot be expected to reach the desired level.

Even in the case of BCCI, with thousands of legal cases following its closure and scores of criminal investigations, only a few Pakistanis ended up behind bars for some years. The beneficiaries of serious crimes by, through and against BCCI have largely escaped unscathed. If the most investigated and prosecuted bank in the world produces no convictions for bribed government officials, corrupt businessmen, unethical lawyers and accountants, or big-time smugglers of all sorts of commodities, this is no case to celebrate. Given the unabated demand for the banking services offered by BCCI, this case gives us plenty of cause for grave concern and pessimism.

Most of the problems surfaced in the BCCI case are systemic and structural, not personal and situational. Shocking as the whole BCCI affair is, none of the crimes it perpetrated is uncommon, if examined separately.[173] This became clear as money laundering and other financial crimes continue to be revealed at institutions such as Citibank, Daiwa, Barings, Sumitomo and the Bank of New York. All this points to stronger international regulation of banks and transparency, particularly with respect to private banking departments. The problems unveiled by the BCCI case, however, cannot be merely regulated or legislated away. Attention to the structural problems and conflicts that the BCCI affair and its handling reflect is urgently needed; else, the next BCCI-type of scandal will be hard to avoid.

A valuable contribution of qualitative case studies is to provide fresh material for theoretical elaboration.[174] The BCCI affair lends itself for further case studies assessing and elaborating theories on public corruption, the makings and effects of scandal, organizational deviance, the importance of culture conflict between Islamic and Western banking practices, law-making and regulation in a comparative perspective. A great deal of careful analysis of the

data that are still being generated is indispensable to clear away the noise that accompanies political and business scandals, such as rumors, unsubstantiated allegations, unverifiable and unfounded conspiracy theories, etc.[175] Our modest ambition here has been to contribute to this endeavor by establishing as objectively as possible the record on one small chapter of this unprecedented global scandal. Undoubtedly, much more remains to be done.

Notes

1. GAO, 1992b.
2. Ibid.
3. Pontell, Calavita and Tillman, 1994.
4. Beaty and Gwynne, 1991; Lacayo, 1991; US HJC, 1991; US SFR 1992a, c.
5. US SFR, 1992c.
6. Passas, 1995.
7. Vaughan, 1983.
8. Braithwaite, 1989; Yeager and Kram, 1990.
9. Geis, 1991.
10. Merton, 1987.
11. Vaughan, 1992.
12. Yin, 1984.
13. US SFR, 1989.
14. GAO, 1991c.
15. See Passas and Blum, 1998.
16. See Lee, 1989. For example, if anti-narcotics efforts do not have a broad base of popular support coupled with viable economic development alternatives for displaced workers, efforts to attack and neutralize drug cultivation, processing and transport may be short-circuited, law enforcement and public officials corrupted and indigenous local economies weakened.
17. GAO, 1991b: 43–45; Levine, 1990; US SFR, 1989: 123; US SFR, 1990: 16; the Financial Crime Enforcement Network (FinCEN) has been established to address such problems, GAO, 1991a.
18. Henman et al., 1985; McCoy, 1972.
19. Bullington, 1991; Bullington and Block, 1990; Chambliss, 1989; Cockburn, 1987; Lupsha, 1991: 56–57; Marshall, 1991; Scott and Marshall, 1991.
20. US SFR, 1989, 1990.
21. Levi, 1991; US SGA, 1985.
22. Block, 1991; Blum, 1984; Kwitny, 1979; Lernoux, 1984; Naylor, 1987.
23. US SBC, 1992: 87.
24. Albright Report, 1999; GAO, 1992c; Truell and Gurwin, 1992.
25. Adams and Frantz, 1992; Bingham Report, 1992; Passas, 1993.
26. Adams and Frantz, 1992; *Financial Times*, 11.9–17.1991 (series entitled "Behind Closed Doors"); Kerry Report, 1992; Passas, 1993, 1995, 1996; Truell and Gurwin, 1992; US SFR, 1992a, b, c, d.
27. More recent scandals at Citibank (with Raul Salinas, the brother of a former president of Mexico) and the ongoing investigation of the Bank of New York (on money laundering

on behalf of Russian criminal enterpreneurs) demonstrate that BCCI was far from unique in this regard.

28. *US v. BCCI Holdings (Luxembourg) SA et al.*, 1991- Crim. No. 91-0655 (JHB); *NY v. BCCI Holdings (Luxembourg) SA et al.*, 1991 – Ind. 8090–91; Plea Agreement of 12/13/91; see also US HBC 1992a, b, c; US SFR, 1992a-f.
29. Bingham Report, 1992; Kerry Report, 1992; Truell and Gurwin, 1992.
30. Ibid.
31. US HJC, 1992.
32. Schumer, 1992: 2.
33. US HJC, 1992: 8.
34. US HJC, 1992: 8; US SFR, 1989a: 613–5, 622.
35. Adams and Frantz, 1992: 256; US HJC, 1991: 5.
36. US SFR, 1989a: 624.
37. US HJC, 1992: 12.
38. Friedman, 1992; Hedges, 1992; Kerry Report, 1992; Safire, 1992; US HJC, 1992; Truell and Gurwin, 1992. We should note that the Walsh Report (1994) made no allegation that BCCI's banking services in that operation were illegal. Ironically, BCCI was later found to be accused of participation in Iran-Contra, while those who broke the law (e.g., Oliver North) eventually enjoyed positive publicity and financial gains from the experience.
39. U.S. SBC, 1992: 153; U.S. HBC, 1992b: 99ff.; U.S. SFR, 1992a: 87.
40. Kerry Report, 1992: 289ff.; US SFR, 1992c: 582, 585, 587, 793; US SFR, 1992d: 360–363.
41. The full extent of relations among BCCI, CIA and other intelligence agencies and personnel is still unknown as there are a number of contradictions between CIA's official record and BCCI's reconds and testimony by individuals involved; see Kerry Report, 1992; Truell and Gurwin, 1992.
42. US SFR, 1992c: 45.
43. US SFR, 1989: 81.
44. US SFR, 1992a: 59.
45. US SFR, 1992c: 667ff.
46. Personal interviews. Adams and Frantz (1992) also point out that, in a years-long invetsigation, nothing is left to chance and everything is planned in detail.
47. *Congressional Record*, 10/14/88, pp. S16026-S16027; US SBC, 1992: 219.
48. US SFR, 1992c: 678–679.
49. Technically, the laundering of money took place at cooperating US banks where the cash was deposited and then wire transferred to BCCI. BCCI did not have to report wire transfers. However, bank managers were repeatedly told by Mazur that his clients were drug traffickers.
50. US SBC, 1992: 220–221; US SFR, 1992c: 679–680.
51. *Congressional Record*, 10/14/88, p. S16027; further details on BCCI's international money laundering techniques, drawing on Government Exhibits from the Tampa trial, are also found in *US v. Awan et al.*, 966 F.2nd 1415 (11th Cir. 1992).
52. Bingham Report, 1992; Kerry Report, 1992; Passas, 1995.
53. *US v. Awan et al.*, second superseding indictment filed May 4, 1989, Middle District of Florida, Case #30-330-Cr-T-13(B), para.153, p. 41; emphasis added.
54. Kerry Report, 1992; Truell and Gurwin, 1992; US SFR 1992a, b, c, d; *Financial Times*, 10/24/91.
55. Adams and Frantz, 1992: 272; US SFR, 1992c: 776–777.

56. *US v. Awan et al.*, second superseding indictment filed May 4, 1989, Middle District of Florida, Case #30-330-Cr-T-13(B).
57. US HJC, 1991.
58. *US v Awan et al.* 966 F.2d 1415 (11 Cir. 1992) at 1423. In February of 1992, the sentences of three BCCI officials were reduced in exchange for their cooperation with authorities (*Financial Times*, 2/5/92: 1). The conviction of one of them was later reversed (*US v Awan et al.* 1992).
59. Plea agreement, 1.16.90, 1[f].
60. US SFR, 1990: 19.
61. US SBC, 1992; US SFR, 1990: 19–21, 35.
62. Adams and Frantz, 1992: 283–284; Truell and Gurwin, 1992.
63. See below under "Legal Constraints".
64. US HJC, 1991.
65. US SFR, 1992a.
66. GAO, 1991b: 44.
67. US SFR, 1992c: 677ff.
68. Kerry Report, 1992: 298; US SFR, 1992c: 793, 802.
69. "The original report is missing and has not been located by the CIA" (Kerry Report, 1992: 293).
70. He would have to do this in order for such information to come to the attention of the Attorney General and the Chairman of the Federal Reserve; see Kerry Report, 1992: 293–297; US SFR 1992d: 362–363.
71. US SFR, 1992a, c: 569–70. "It just seems like nobody wanted to respond, for whatever reasons" stated Kerry (US SFR, 1992c: 604; see also US SFR, 1992a: 78). "We were fighting the Justice Department every inch of the way. They did not like anything we were doing. It was just cats and dogs every inch of the way..." said former Senate investigator Jack Blum (*Legal Times*, April 15, 1991 vol. 13(46): 20).
72. US SFR, 1992c: 572ff.
73. US SFR, 1992a: 78; US SFR, 1992c: 604. It is conceivable, however, that low-level Customs agents received informal hints from intelligence sources that BCCI would be a good target (personal interviews). As noted later, BCCI was quite helpful to US intelligence. However, after the Cold War, the end of the Afghani civil war and internal problems at BCCI, rendered this bank expendable (see Passas, 1996).
74. Personal interviews.
75. US SFR, 1992c: 754–755, 758.
76. US SFR, 1992c: 781.
77. Adams and Frantz, 1992: 227.
78. Intended as evidentiary support for probable cause.
79. *US v. Awan et al.*, second superseding indictment filed May 4, 1989, Middle District of Florida, Case #30-330-Cr-T-13(B): para.170, 177 at pp. 43–45.
80. Personal statement to Congressional investigator.
81. Adams and Frantz, 1992: 214–216; US SFR, 1992c: 693, 699.
82. US HJC, 1991.
83. US SFR, 1992c: 740, 779–781.
84. Adams and Frantz, 1992: 232–233.
85. US HJC, 1991; US SFR, 1992c: 781–782.
86. Adams and Frantz, 1992: 256; Scott and Marshall, 1991. Aside from the political fallout from such a connection there was also the threat posed to the prosecution team of having

to contend with a national security-style defense, which we now know to have been one of the key strategies considered by Noriega's defense attorneys; but, that is another story.

87. US SFR, 1992c: 741.
88. US SFR, 1992a.
89. US SFR, 1992a: 33; personal interviews.
90. US SFR, 1992c: 711–712.
91. US SFR, 1992c: 713; emphasis added.
92. US HJC, 1991: 19.
93. US HJC, 1991: 12–13; US SFR, 1992c: 691.
94. US SFR, 1992c: 753.
95. US HJC, 1991: 16–17.
96. US SFR, 1992a: 33, 75; US SFR, 1992c: 696, 753–755.
97. US SFR, 1992c: 696–698; Kerry Report, 1992.
98. US SFR, 1992c: 753.
99. US SFR, 1992a: 73–74.
100. US HJC, 1991: 19; US SFR, 1992c: 746.
101. US SFR, 1992c: 697–698, 705–706, 712.
102. US SFR, 1992c: 788, see also at 775.
103. US SFR, 1992c: 796–797.
104. US SBC, 1992: 163.
105. US SBC, 1992: 167.
106. US SFR, 1992a: 76.
107. PW Report of 3 October, 1990; US SFR, 1992c: 750 where mention is, we believe incorrectly, to a PW November 1990 audit report; see also at 774, 804–805. Noteworthy is that the Bingham Report discusses 1989–90 contacts between US and British authorities. While John Moscow, from Morgenthau's office and the Federal Reserve are reported to have been pursuing the report with some persistence, no mention is made of any contact with US federal law enforcement agency.
108. *National Public Radio*, Julie McCarthy, Aug 26, 1991; Albright Report, 1999; Frantz and McKean, 1995.
109. US HBC 1992a: 107–109, 326; US SFR, 1992a: 52; US SFR, 1992c: 555–556; 268–270. Altman and Clifford did not participate in this case and their fees for organizing the team were paid separately. Also, there is a dispute over how much money went to pay the expenses of auditors, investigators and other costs. One analysis suggests that about $22 million of the $45 million went toward payment of these types of expenses (US SFR, 1992d: 398–415).
110. Kerry Report, 1992; US HBC 1992a: 108–109; US SFR, 1992a: 52; Naylor, 1987: 100–101.
111. US SFR, 1992a: 46ff.; US SFR, 1992b: 633ff.; US SFR, 1992c: 691.
112. US SBC, 1992: 299.
113. Order of Dec. 5, 1989: 2.
114. US HBC, 1992a: 796ff.;US SFR, 1992a: 31, 34, 44, 46ff., 68, 70–71; US SFR, 1992b: 636; US SFR, 1992c: 697, 702–704, 707, 747.
115. US SFR, 1992a: 55–56; US SFR, 1992b: 23.
116. *Financial Times*, Oct. 21 and 22, 1991; both have been convicted.
117. Kerry Report, 1992.
118. US SFR, 1992a: 49–50, 74–75; Kerry Report, 1992.
119. *Financial Times*, 28/10/91: 4; Kogan and Whittington, 1991; US SFR, 1992c: 702; personal interviews.

120. US SBC, 1992; US SFR, 1992c: 84.
121. US SFR, 1992c; US SFR, 1992d: 676.
122. This is an inter-agency group that oversees CIA covert operations for the President of the USA.
123. Truell and Gurwin, 1992.
124. Potts et al., 1992; US SFR, 1992d: 648–672.
125. GAO, 1992c.
126. US HJC, 1991: 13, 23.
127. US SFR, 1992c: 700–701.
128. US SFR, 1992a: 62, 74–75.
129. US SFR, 1992c: 692.
130. *Legal Times*, vol.13(46): 20; US SFR, 1992a: 54.
131. Kerry Report, 1992; US SFR, 1992c.
132. On such ironies of social control, see Marx, 1981.
133. Kerry Report, 1992; Kogan and Whittington, 1991: 124; Potts et al., 1992; Truell and Gurwin, 1992.
134. US SFR, 1992c: 570ff., 590.
135. *Financial Times*, 24/10/91; Kogan and Whittington, 1991: 128; US SFR, 1992b: 494ff.; US SFR, 1992c: 39–41, 45, 570.
136. We have already mentioned BCCI's involvement in transactions and persons who were involved in the Iran-Contra Affair as one example; US HJC, 1992, *Financial Times* 7.29.91: 12, 24/10/91; Kogan and Whittington, 1991: 221–223; Lacayo, 1991; US SFR, 1992a: 36ff.; US SFR, 1992b: 528ff.; US SFR, 1992c: 45, 571, 595, 610ff.
137. e.g., Jimmy Carter, Richard Helms, William Casey; *Financial Times*, 26–27/10/91; Kerry Report, 1992; US SFR, 1992b: 632; US SFR, 1992c: 569ff., 700–701. Among others, Truel and Gurwin (1992: 427) have pointed out that "Both President Bush and his Democratic rival, Governor Bill Clinton of Arkansas, were surrounded by people with ties to BCCI".
138. e.g., Andrew Young, Sergio da Costa of Brazil: Kerry Report, 1992; US SFR, 1992c: 233ff.
139. e.g., Sen. Orrin Hatch: Kerry Report, 1992; Kogan and Whittington, 1991: 220–221; Truell and Gurwin, 1992; US SFR, 1992c: 46–47.
140. e.g., James Callaghan of Britain, Alan Garcia of Peru *Financial Times*, 11.9–17.1991 series "Behind Closed Doors"; US SFR, 1992b; US SFR, 1992c: 291.
141. e.g. Bob Magness, founder of the cable company TCI, David Paul, Democratic fund-raiser and owner of the failed S&L Centrust, Jackson Stephens, Arkansas banker and backer of Bill Clinton; US SFR, 1992c: 44, 318–320; Kerry Report, 1992; Truell and Gurwin, 1992.
142. US SFR, 1989.
143. US SFR, 1992a: 49. He had at least seven accounts in London (US SFR, 1992c: 504–505; see also Adams and Frantz 1992; Potts et al., 1991; US SFR, 1992a: 17).
144. Noriega also obliged with his assistance to the Nicaragua Contras (US SFR, 1992c: 2).
145. See letters of commendation in US SFR, 1988b: 391ff; Noriega was paid by BCCI check drawn on 1st American, but this would not have raised any eyebrows at the time (i.e. in 1986), because in "1987, the US Government was writing letters to Noriega telling him what a fine job he was doing. We wouldn't have reacted to that" (US HBC, 1992c: 68). During the 1980's, CIA's payments to Noriega may have been deposited at BCCI accounts (Scott and Marshall, 1991: 67).
146. US SFR, 1992a: 76–78.
147. Adams and Frantz, 1992: 283.

148. US SFR, 1992c: 766–769.
149. US SFR, 1992c: 768.
150. US HJC, 1991: 30.
151. US HJC, 1991.
152. According to a US Treasury official, "We'd get blasted for going against a third-world institution that is trying to represent the little people" (*Christian Science Monitor*, 8.9.91: 2).
153. GAO, 1991b: 45; US SBC 1992: 158.
154. US SFR, 1992c: 762.
155. US SFR, 1992c: 790ff.
156. US SBC 1992: 158, 166.
157. US SFR, 1992a: 69–70.
158. A 1986 law that made money laundering a separate offense. The judge dismissed the drug conspiracy charges against the individual defendants.
159. US HJC, 1991: 22–23.
160. US SFR 1992a: 51, 76.
161. Kerry Report, 1992; US SFR, 1992a: 87.
162. US SFR, 1992c: 49.
163. US SFR 1992a: 76; US HBC 1992a: 111.
164. The Federal Reserve imposed a *civil* fine of $200m on BCCI in July 1991.
165. US HJC, 1991.
166. US SFR, 1992c: 763.
167. The Tampa prosecutor made the argument that it would be too punitive to go after the bank again; his goal was to get people in jail (US SFR, 1992c: 760–761). This argument illustrates the general problem of disparity in treatment for organizations compared to individuals.
168. The prosecutors thought that the forfeiture of the laundered money was sufficient punishment for the bank and did not anticipate losing it after the court ruling mentioned above (US SFR, 1992c: 765). Other legal issues, such is dirty money losing its character after a series of transactions in many countries (US SFR, 1992c: 764–765) is without merit: a defense motion on that issue was rejected by the court (Order of Dec. 5, 1989: 19–21.)
169. US SFR, 1992a: [ms. 43–1], 50; US SFR, 1990: 20.
170. Under criminal law, such a sanction was not available to the Department of Justice.
171. O'Brien, 1990.
172. US SFR, 1992a: 35, 40; US SFR 1992c: 729; See also factsheet sent from former US prosecutor Lawrence Barcella to Senator Dennis de Concini reprinted in US SFR, 1992d: 645.
173. see Cornwell, 1984; Gurwin, 1983; Intriago, 1991; Kerry Report, 1992; Kwitny, 1987; Lernoux, 1984; Levi, 1991; Naylor, 1987; O'Brien, 1990; Passas, 1993; US SFR, 1992a: 25–26.
174. Vaughan, 1992.
175. Passas, 1995.

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