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R E P O R T

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OF THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

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CASE HISTORIES 8, 9 & 10

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Case History No. 8
SWISS AMERICAN BANK
SWISS AMERICAN NATIONAL BANK

Swiss American Bank Ltd. ("SAB") and Swiss American National Bank Ltd. ("SANB") are two banks with the same ownership that were licensed in Antigua and Barbuda in the early 1980's. Throughout their history, these banks have been troubled by controversial leadership, questionable practices by bank officials, and accounts that were repositories of funds from major financial frauds and other illegal activities. This case study shows how major U.S. banks that served as correspondents to these institutions were at times unaware of even high profile frauds and controversies associated with the banks and were slow to take action on the accounts, at times maintaining the accounts for years after they knew and were concerned about suspicious account activities and management problems that afflicted the SAB and SANB.

The following information was obtained from documents provided by the government of Antigua and Barbuda, Bank of America, Bank of New York, Chase Manhattan Bank, court pleadings, interviews of government officials and other persons in Antigua and Barbuda, the United Kingdom, and the United States, and other materials. Key sources of information were interviews with John Greaves, former General Manager of Swiss American Banking Group (1988-1995), conducted on July 24 and 25, 2000; Brian Stuart-Young, Chairman and Managing Director of Swiss American Bank, conducted on October 11, 2000; relationship managers and other officials from Bank of America (conducted July 10, 11 and 31 and October 24, 2000), Bank of New York (conducted August 10 and 30, 2000), and Chase Manhattan Bank (conducted August 2, 3, and 4, 2000). The investigation greatly benefitted from the cooperation and assistance provided by a number of officials of the Government of Antigua and Barbuda, particularly the Executive Director of the International Financial Sector Regulatory Authority and the Director of the Office of Drugs and Narcotics Control Policy.

A. THE FACTS

(1) Ownership and Management

SAB and SANB were part of a financial group in Antigua and Barbuda called the Swiss American Banking Group. It included the two banks and a trust company, Antigua International Trust. SAB is an offshore bank with a physical presence in Antigua and Barbuda. It was licensed to do business as an offshore bank in April 1983; as an offshore bank it is prohibited from doing business with citizens of Antigua and Barbuda. SANB is a domestic Antiguan bank, licensed in May 1981 to do business with citizens of Antigua. All three entities had the same ownership, the same board, a common General Manager and for many years both banks shared the same facilities and the same staff.

When they were licensed, the owner of both SAB and SANB was listed as Swiss American Holding Company, a Panamanian company. The license application for SAB noted that Swiss American Holding Company was wholly owned by Inter Maritime Bank of Geneva, Switzerland, and Home State Financial Services, Inc. of Cincinnati, Ohio. Each entity is listed as

controlling a 50% share of the holding company and the banks.

Inter Maritime Bank in Geneva, founded in 1966, was part of a group of companies active in banking, shipping and the petroleum industry. It was initially created to serve as the in-house bank for shipping and other financial activities undertaken by its affiliates. The founder and owner of Inter Maritime Bank is Baruch ("Bruce") Rappaport.[1] Rappaport is an Israeli citizen who became very active in the economic and political life of Antigua. He also owned 50% of the West Indies Oil Company which owned a refinery in Antigua. In December 1997, Rappaport was named as Antiguan Ambassador to the Soviet Union. In 1989, the Bank of New York purchased 19.9% of Inter Maritime Bank. At that time, Inter Maritime's name was changed to Bank of New York-Inter Maritime Bank. In July 1996 Bank of New York increased its ownership of Inter Maritime to 27.9%. Bank of New York reported in February 2000 that Rappaport continued to hold the remaining shares Inter Maritime.[2] The remainder of this report, except when quoting material, will refer to Inter Maritime Bank by its current name, Bank of New York-Inter Maritime Bank ("BNY-IMB").

Home State Financial Services, Inc. was owned by Marvin Warner, who served as U.S. Ambassador to Switzerland in the mid-late 1970's. In 1986, Home State Financial Services, Inc. was placed in bankruptcy due to financial problems encountered by one of its subsidiaries, Home State Savings Bank. Warner pleaded guilty to misapplication of funds and securities violations for the role he played in the financial downfall of Home State Savings Bank. As part of the bankruptcy proceedings, the state of Ohio assumed control of Home State Financial Services, Inc. and, as a result, its holdings in the Swiss American entities. BNY-IMB subsequently purchased Home State's holdings in the Swiss American entities from the state of Ohio.

Documents made available to the Subcommittee suggest that BNY-IMB owned Swiss American Holding Company and controlled SAB and SANB at least until 1993.[3] The current

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[1]It is uncertain whether Rappaport was the sole owner of Inter Maritime when SAB and SANB were formed. In 1978, two internal memoranda of the Bank of New York, which established a relationship with Inter Maritime in 1969, reported that Inter Maritime officials stated that the Gokal brothers, Pakistani businessmen who later became heavily involved in the BCCI scandal, invested between $6 million and $8 million Swiss Francs in Inter Maritime for 20% of the bank. Subsequent memos about Inter Maritime and the Swiss American banks do not mention the Gokal brothers, and a memo in 1983 states that "almost all shares [of Inter Maritime] are owned or controlled by Bruce Rappaport."

[2]According to a 1983 internal Bank of New York memorandum, Rappaport held 7.5% of Bank of New York stock and increased that percentage of ownership through the purchase of additional shares in 1983.

[3]BNY-IMB's ownership interest in Swiss American Holding Company remains uncertain. Recently BNY-IMB was dismissed from a case brought against it, SAB, and SANB by the U.S. government to recover drug/terrorist related assets that had been forfeited to the U.S. government. BNY-IMB was dismissed due to lack of jurisdiction. BNY-IMB claimed it had divested itself of Swiss American Holdings in 1988:

ownership of the Swiss American entities is structured through a series of International Business Corporations (IBCs) and trusts. Swiss American Holding Company is currently owned by Carlsberg (or Carlsburg), S.A, a Bermuda corporation, which in turn is owned by a charitable trust controlled by Rappaport. Two of the U.S. correspondents of SAB and SANB that were interviewed by the Minority Staff did not know the name of the charitable trust, and the Bank of New York thought the name of the charitable trust is the Inter Maritime Foundation, but it was not certain. The Chairman and Managing Director of SAB was not able to tell the Minority Staff the name of the charitable trust, either. The lack of information by the correspondent U.S. banks with respect to the details of the ownership of SAB and SANB is troubling.

(2) Financial Information and Primary Activities

SAB has about 4000 clients with 5000 accounts and total assets of $111 million (of which $103 million are deposits). The bank's main function is private banking, providing wealth management services to its clients. According to SAB officials, approximately 4500 of its 5000 accounts currently have less than $50,000 in value. Its customers are largely from Europe, and bank officials estimate that less than 15% of their customers are from the United States. Bank officials have told Minority Staff that they are attempting to phase out their business in the United States Bank records indicate that in recent years a significant portion of SAB's business has been generated by Internet gambling companies or entities that provided cash transfer services for Internet gambling facilities. This issue is discussed in more detail later in the report.

SANB provides retail banking services to individuals and companies in Antigua and Barbuda and other Eastern Caribbean nations. It also provides international banking services such as foreign currency exchange and letters of credit. It was recently sold to Antigua Barbuda Investment Bank ("ABIB"), and will soon become part of ABIB. ABIB, another domestic bank licensed to do business in Antigua and Barbuda, is affiliated with Antigua Overseas Bank, an offshore bank.

"On December 28, 1987, BNY-IMB sold all of its shares of SAHC to an unrelated entity in which BNY-IMB had no interest or control, in a transaction in which all of the obligations of the parties were completed by December 15, 1988. ... Since the end of 1988, BNY-IMB has not owned any shares or held any interest in SAHC." USA v. Swiss American Bank, L., Swiss American Holding Company S.A. of Panama, and Inter Maritime Bank, Geneva (U.S. District Court for the District of Massachusetts, C.A. No. 97-CV-12811 (RWZ)), Motion of Bank of New York-Inter Maritime Bank, Geneva to Dismiss or, in the Alternative, for Summary Judgment, April 1, 1998.

Yet, in correspondence submitted to both Bank of America and Nations Bank in March of 1993, David McManus, the Deputy General Manager of the Swiss American Banking Group wrote that BNY-IMB controlled the Swiss American Banking Group, which directly contradicts what was reported in the BNY-IMB filing in April 1998: "Swiss American Banking Group consists of Swiss American Holdings, SA, a Panamanian company which owns 100% of Swiss American Bank Ltd., Swiss American National Bank of Antigua Ltd. and Antigua International Trust Ltd. Swiss American Holdings SA is wholly owned by the Inter Maritime Group in Geneva."

(3) Correspondents

Correspondent banks of SAB in the United States have included Nations Bank, Bank of America and Chase Manhattan Bank. Correspondent banks of SANB in the United States have included Citizens Bank and Southern International Bank (which later merged with Sovran Corporation and then with NCNB National Bank to become Nations Bank), NCNB National Bank (which later merged with C&S/Sovran Corporation to become Nations Bank), Bank of America (which later took over Nations Bank), Irving Trust Company (which was later taken over by Bank of New York), Bank of New York (which inherited the account from Irving Trust), and Chase Manhattan Bank.

SAB and SANB currently have no correspondent relationships with U.S. banks; SAB has correspondent banking relationships with United Kingdom, Dutch and Canadian banks which presumably have correspondent relationships with U.S. banks. Through these nested correspondent relationships, SAB still maintains access to U.S. banks. As noted above, SANB has been sold to Antiua Barbuda Investment Bank.

(4) Operations and Anti-Money Laundering Controls

SAB officials told the Minority Staff that they have been making efforts to improve the bank's anti-money laundering controls. According to SAB materials provided the Minority Staff, the bank has established a series of account opening requirements for personal and corporate accounts. To open personal accounts, according to the materials, clients are required to provide verified signatures, proof of residence, proof of identity, a current bank reference, proposed average monthly deposit value and information on the anticipated source of funds. According to the SAB materials, applicants for corporate accounts are required to provide verified signatures, certificate of incorporation, memorandum and articles of association and a current certificate of good standing if the entity is more than a year old, proof of identity and at least one current bank reference on each shareholder/director and authorized signatory. Proof of the corporation's registered office, proposed account activity including anticipated average monthly deposit and anticipated source of funds is also required, according to the materials. In the case of bearer share companies, SAB says it requires an attestation by the directors to identify true beneficial ownership. SAB officials told the Minority Staff that in keeping with statutes enacted in Antigua in early 1999, the bank has not accepted deposits in cash or in bearer negotiable instruments since April 1999.

SAB officials told the Minority Staff that as part of its ongoing monitoring program, all staff receives anti-money laundering training and management attends anti-money laundering conferences in the United States. SAB officials said that the bank has invested in computer monitoring software to track trasactional activity. According to officials, the program is designed to monitor for suspicious activity in a way that would be compliant with U.S. government anti-money laundering controls.

The Chairman and Managing Director told the Minority Staff that they know the beneficial owners of 90% of the accounts and that they have not received enough information on the beneficial ownership of about 3% of the accounts.

(5) Regulatory Oversight

SAB is regulated by the government of Antigua and Barbuda's International Financial Sector Regulatory Authority which was created in 1998. To date, no examination of the bank has been conducted. The bank is required to submit an annual audited financial statement to the International Financial Sector Regulatory Authority.

SANB is regulated by the Eastern Caribbean Central Bank, which includes an annual bank examination.

(6) Money Laundering and Fraud Involving SAB/SANB

SAB and SANB have been identified as repositories of illicit funds from several illegal operations. Such incidents were not isolated events. They have occurred on a continual basis throughout the life of the institutions. In addition, bank officials engaged in misdeeds and questionable activities. With respect to some frauds and questionable activities that occurred through the accounts at the banks, top officers knew or should have known what was occurring; yet they were slow to act to halt the activity or failed to act. This succession of problems and questionable leadership (in addition to SAB's offshore license and lack of any examination by regulatory authorities) qualifies SAB and SANB as high risk institutions. The following items illustrate these points.

(a) Controversial Leadership

The leadership of Swiss American Banking Group (the group that includes SAB and SANB) has a history of involvement in controversial and questionable financial dealings and banking activities.

First, the history of controversial dealings involving Baruch Rappaport, the beneficial owner of SAB and SANB, has been well chronicled. It includes a series of oil tanker deals with Indonesia's government-owned oil company, Pertimina, which contributed to the nation's economic problems in the mid-1970's; an oil deal with Gabon (completed after one of Rappaport's banks loaned money to the President of Gabon, Omar Bongo, and the Oil Minister) that had such highly favorable terms for Rappaport's company that the government won a subsequent arbitration award of $25 million; his role as middleman in an effort to build an oil

pipeline through Iraq; and business associations with some key figures associated with BCCI.[4]

Two members of the Board of Directors for SAB, Marvin Warner and Burton Bongard, were connected with Home State Financial Services, Inc. which initially was a 50% owner of SAB. Warner owned Home State Financial Services, Inc.; Bongard was President of Home State Savings Bank, a Cincinnati savings and loan that was owned by Home State Financial Services. In 1986, Home State Financial Services Inc. was placed in bankruptcy due to financial problems encountered by Home State Savings Bank. In March 1987, Warner was convicted of 6 state criminal charges of misapplication of funds and 3 securities violations for illegal activities that caused the collapse of Home State Savings Bank. He was sentenced to 3-1/2 years in prison and ordered to pay $22 million in restitution. Bongard was convicted of 41 counts of willful misapplication of funds and 41counts of unauthorized acts. He was sentenced to10 years in prison and ordered to pay $114 million in restitution costs. In addition, he subsequently pleaded guilty to 4 federal felony counts of misapplication of funds and was sentenced to 6 years in federal prison.[5]

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[4] "Seeking Testimony in Pipeline Case: Immunity Given to a Secretive Swiss" New York Times (March 6, 1988) Jeff Gerth and Stephen Engelberg; "Untangling what Pertamina owes – and to whom" Business Week (February 7, 1977); "Key Player in BCCI fraud loses appeal" **Guardian** (March 12, 1999) Dan Atkinson; "Pak millionaire appeals verdict in BCCI case" Hindustan Times (March 10, 1999)

[5] In 1985, the SEC closed ESM Government Securities Inc., of Fort Lauderdale, Florida, because it had an undisclosed debt of over $300 million. The closure of ESM caused problems for Home State Savings Bank and American Savings and Loan Association of Miami, Florida. (Warner owned 28% of American Savings and Loan and loan and served as its Chairman). Both Home State and American funneled millions of dollars worth of government securities into EMS, ostensibly as collateral for loans from ESM. However, the government securities were worth far more than what had been borrowed. ESM then raised cash by borrowing against the securities. At the time of ESM collapse, Home State Savings Bank had over-collateralized its loans by about $144 million and American had over-collateralized its loans by approximately $50 million. Those institutions lost money when ESM was closed, and that caused a run on Home State that led the Governor of Ohio to shut down the bank. The collapse of the bank also exhausted all of the funds in a thrift-owned insurance fund, causing a statewide crisis that resulted in a three day closure of all state-chartered savings and loans.

The owners of ESM pleaded guilty or were convicted in state and federal courts on fraud charges. Warner was charged and pleaded guilty to misapplication of funds and securities violations for the role he played in the financial downfall of Home State Savings Bank.

As a result of these events, Warner declared bankruptcy. As part of the liquidation of Home State Financial's assets to repay the state of Ohio for bailing it out, the bank's 50% share in Swiss American Bank was sold back to BNY-IMB. See "Michigan Jury Clears Home State's Warner of 18 Federal Charges" National Thrift News Inc. (June 29, 1987) Sharon Moloney; "Early Warnings About Home State Pushed Aside" Business First of Columbus Inc. (August 5, 1985) Dick Kimmins; "Risky Business: The Story of Home State" Business First of Columbus Inc. (May 27, 1985) Mark Heschmeyer; "Final Suit Brings First Loss in ESM Fraud Case" South Florida Business Journal, Inc. (January 22, 1990) Melinda Sisser; "Warner, Two Guilty on ESM" National Thrift News Inc. (March 9, 1987) Sharon Moloney; "Jury Returns Verdict in Case Stemming from Ohio's Thrift Crisis" Associated Press (March 2, 1987) Bill Vale; "Securities Firm Boss Gets 30 Years in Fraud" Chicago Tribune (October 18, 1986) Associated Press.

Another SAB board member, Steven Arky was a son-in law of Warner, and counsel to ESM Government Securities. Clients of his law firm, Arky, Freed, Steams, Watson, Greer, Weaver & Harris, lost millions of dollars that they had invested in ESM. They subsequently sued the firm, contending that the firm knew that ESM was insolvent and that the clients' investment could be lost and yet failed to advise the clients of that fact.

William Cooper, discussed previously in this report, signed SAB's license application as the organizer of the corporation and as Vice-President of Swiss American Holding Company. Cooper was also listed as a member of the Board of Directors. Cooper served as General Manager of Swiss American Banking Group from approximately 1981 to1984. In 1992 Cooper became owner of American International Bank which is discussed in another chapter of this report. Cooper is now under U.S. indictment for money laundering activities associated with the operations of Caribbean American Bank, a rogue bank that operated through American International Bank.

Another long time member of SAB's Board of Directors is Burton Kanter, a controversial tax attorney from Chicago. The current Chairman and Managing Director of Swiss American Bank estimated that Kanter has been a member of the Board for approximately 12 years. For the past 25 years, Kanter or his clients have been the subject of numerous criminal and civil investigations and complaints alleging tax evasion, money laundering, and securities fraud.[6] All of these matters generally involved offshore banks and offshore trusts structured to "avoid" U.S. taxes. Yet, as of 2000, SAB, in a communication to another bank, still designated Kanter as one

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[6] In December 1999, a special trial judge for the U.S. Tax Court determined that Kanter and a number of his clients had engaged in a scheme to hide kickback payments that the clients had received (some of which were paid to Kanter) and underpaid their taxes as a result. The court's 300 plus page decision contains a section entitled "Kanter's Fraud," which includes the following:

> ...Kanter was the architect who planned and executed the elaborate scheme with respect to the kickback income payments received. . .In our view, what we have here, purely and simply, is a concerted effort by an experienced tax lawyer and two corporate executives to defeat and evade the payment of taxes and to cover up their illegal acts so that the corporations, Prudential and Travelers, and the Federal Government would be unable to discover them.
>
> ...Kanter created a complex money laundering mechanism made up of sham corporations and entities. . .to receive, distribute, and conceal his income, as well as [the other defendants'] income. . .Kanter's use of the various sham entities made it difficult and sometimes impossible to trace the flow of the money and is substantial evidence of his intent to evade tax.

In addition, a number of trust arrangements structured by Kanter for his clients have been challenged by the IRS and have resulted in settlements, with the defendants paying millions of dollars to the IRS.

Kanter was also associated with an entity called Castle Bank and Trust Company, Inc., a Bahamian Bank that was the subject of a concentrated IRS investigation in the mid-70's as one of the early Caribbean-based offshore banks for criminal accounts and tax evasion activities. Castle Bank served as the trustee and repository for many of the entities established by Kanter for his clients.

of the "[i]ndividuals responsible for the bank."[7]

The General Manager of the Swiss American Banking Group from 1984 to 1987 was Peter Herrington. Herrington established and personally serviced the accounts of John Fitzgerald (discussed below in this report). These accounts were seized by both the U.S. and Antiguan governments because the accounts contained funds related to drug sales and the Irish Republican Army.

John Greaves, General Manger of Swiss American Banking Group from 1988 to 1995, was involved in a number of controversial matters during his tenure at Swiss American Banking Group and was in the leadership of two other banks and a management firm that were engaged in a number of controversial activities, described in other parts of this report.

(b) The Fitzgerald Case - Drugs and Terrorist Money

From 1985 to 1997, SAB and SANB were significantly involved in a money laundering case involving a man named John Fitzgerald. The involvement began when Fitzgerald, a money launderer acting on behalf of the Murray brothers, leaders of a drug organization in Boston, deposited, between 1985 and 1987, approximately $7 million into accounts that had been established at SAB and SANB. [8] Four of the accounts were in the name of bearer share IBCs, that is, corporations whose ownership was vested in the individuals who controlled the certificates of the shares of the corporation. Two of the accounts (one at SAB and the other at SANB) were in the name of Guardian Bank, a bank licensed in Anguilla in 1986. Those two Guardian Bank accounts eventually became the repository for most of the funds deposited by Fitzgerald and other members of the drug organization. Three bearer share IBCs were listed as the owners of that bank.

The General Manager of the Swiss American Banking Group at the time was Peter Herrington who assisted Fitzgerald with the formation of all of the IBCs and the management of the accounts at SAB and SANB. The formation of the accounts was handled by Antigua International Trust. Herrington served as Director of all of the IBCs and Guardian Bank and performed transactions in the SAB and SANB accounts.

Most of the funds were initially deposited into accounts at SAB and then transferred into other accounts at SAB and SANB. By mid-1987, the $7 million Fitzgerald accounts in the name of Guardian Bank constituted approximately one third of all deposits at SAB. SAB owner

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[7] However, the Chairman and Managing Director of SAB told the Minority Staff that Kanter was a non-executive director, and that he didn't have any role in the day to day management of the bank.

[8] It has been reported to the Subcommittee staff that the Murray brothers and Fitzgerald were also involved in the sale of weapons to IRA terrorists and that some, or even all, of the funds deposited into the accounts at SAB and SANB were associated with the IRA.

Rappaport, concerned that an unknown party controlled one-third of Swiss American Banking Group's deposits, asked Herrington to identify the beneficial owner(s) of Guardian Bank. When Herrington refused to do so, he was immediately suspended and was dismissed from his position one month later (June 1987). Between the time of Herrington's suspension and his termination, he notified Fitzgerald of Rappaport's concerns.

At that time, Herrington resigned as the director of Guardian and the IBC. When efforts to resolve the matter failed, the attorney who claimed to be the new director of Guardian Bank filed a lawsuit in Antigua and Barbuda requesting the court to recognize him as the director of Guardian and to authorize the withdrawal of funds in the Guardian Bank accounts at SAB and SANB which held Fitzgerald's money. At that same time, Swiss American Banking Group officials began to investigate the accounts opened by Herrington and hired an auditor to review the accounts. The review identified a number of irregularities. In addition, the Group learned from law enforcement officials that the funds may be tied to drug and arms trafficking. They contacted the Antiguan government and in June 1990 the Minister of Finance for the government of Antigua and Barbuda instructed Swiss American Banking Group to freeze the funds. In December 1990, the High Court of Antigua ruled that Guardian Bank's director did not have the proper corporate authority to file the suit, and the funds remained frozen at SAB/SANB.[9]

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[9] This description is drawn from pleadings filed by the Department of Justice in association with USA v. Swiss American Bank, LTD. et al. (op. cit.)and documents and correspondence related to that matter.

An October 1989 report by the Special Branch of the Royal Bermuda Police Force and the U.S. grand jury indictment issued against Fitzgerald provide a description of the trail of the funds that is instructive as to how the international banking system is used to move and launder illicit funds. In early 1985, Fitzgerald established a St. Lucian corporation by the name of "Halcyon Days Investments, Ltd." and opened an account in that corporation's name at the Canadian Imperial Bank of Commerce in St. Lucia. Between January and March 1985, Fitzgerald and other members of the drug organization deposited $3 million into the account. In May 1985, the account was closed and all of the funds (in excess of $3 million), were transferred to the Guinness Marn and Company Bank in the Cayman Islands through a bank check issued to the Guinness Bank. The total in the account subsequently grew to $5 million. In the fall of 1985, the $5 million in funds were wire transferred from the Guinness Bank account to Philadelphia to Manufacturers Hanover Bank in New York to the Bank of Bermuda and on to SAB. The wire transfer of $5 million was divided equally between two accounts at SAB (Rosebud Investments and White Rose investments). The funds were subsequently transferred into the accounts of Guardian Bank (one at SAB and one at SANB). According to the police report, "not only is this path murky, but subsequently Guinness Marn sold their subsidiary in Cayman because of their embarrassment at the management. Regrettably Guinness Marn have chosen not to reveal why they were embarrassed or the source of the money."

The Special Branch report also detailed the irregularities and lack of controls attendant to the accounts and the operations of SAB/SANB during Herrington's tenure:

> One of the accounts (Rosebud investments) received $450,000 in cash from the Bank of Bermuda. The funds appear to have come from a safety deposit box at the Bank of Butterfield. In October 1985 Herrington used Swiss American's relationship with the Bank of Bermuda to influence the staff there to accept the cash deposit. When the funds were transferred to the account at Swiss American, they were "held" until Herrington made the book entries.

In May 1993, Fitzgerald was indicted for racketeering conspiracy and money laundering, and in August 1993 he pleaded guilty to the charges. As part of the agreement, he forfeited all of the proceeds of those illicit activities that had been deposited in the accounts at SAB and SANB. A final order of forfeiture was issued in May 1994. In early 1994, U.S. authorities approached Antiguan officials to seek their assistance in freezing the funds, providing public notice of the forfeiture action and to facilitate the return of the funds once the forfeiture notice was final. Negotiations lasted for nearly two years.[10] Finally, in November 1995, Washington, D.C. counsel for the Antiguan government informed U.S. authorities that nearly one year before - sometime between December 1994 and January 1995 -- approximately $5 million of the Fitzgerald funds were transferred to the Antiguan government by officials from the Swiss American Banking Group. Counsel informed the U.S. officials that the funds in the Fitzgerald accounts had been transferred to the Antiguan government, which had spent the funds to pay pending debts and therefore the money was no longer available. At first, Antiguan officials maintained that the Swiss American Banking Group had unilaterally transferred the funds. In January 1998 Antigua wrote:

Another account (Jones Enterprises) was used as a "feeder" account for some of the other Fitzgerald accounts. According to the police report, "[l]arge cash deposits were made into the account and later diverted to others but as the clients' statements are missing it is not possible at this stage to say where the cash originated."

Banks slips were written up as 'cash' and 'deposit' when money was being transferred from one account to another as a way to disguise its destination. Only by checking other banking records can the accountants identify whether true cash was handed over and frequently it was not.

Many of the loans made by the banks are to companies c/o AIT and no other details are available.

Documents related to the companies associated with the accounts were missing.

The source of many deposits was unknown, as was the ownership of the companies.

Over $500,000 in cash was deposited directly into the accounts at Swiss American Bank. Another $500,000 came through a cash deposit at the Bank of Bermuda.

The police report also captures what appears to have been a general lack of concern about illicit activities on the part of bank officials. The report notes that the Assistant Manager of the Swiss American Banking Group, MacAllister Abbott, who with Peter Herrington was a signator on the corporate accounts set up for Fitzgerald "thought Guardian was established to hide the profits skimmed from casino operations. He thought Jack Fitzgerald had a controlling interest and also thought that Herrington maintained a second set of books on behalf of the company. Abbott has been described as a person who would turn a blind eye to tax evasion but appears to have no knowledge of drug involvement." Mr. Abbott is currently General Manager of Antigua Overseas Bank.

[10]Although the U.S. had been asking Antigua to freeze the funds since early 1994, it wasn't until November 1996 that Antigua informed the U.S. that the funds had been frozen on its (Antigua and Barbuda) order in June of 1990.

> In 1994, prior to the payment, but after the U.S. Court order, the Banks and the Government discussed the appropriate disposition of these funds. While the Banks initiated these discussions, the Government understood all of the facts and circumstances regarding this account and acting in the public interest of Antigua and Barbuda released the freeze order on the funds and approved the disposition of the funds in a manner agreed by the Banks and approved by the Government.

Swiss American Banking Group officials claim the $5 million were transferred on January 23, 1995. The Antiguan government claimed the transfer occurred on December 28, 1994. The U.S. government was later informed that the remaining $2 million of Fitzgerald funds had been retained by the bank. It is unclear whether the funds were retained as a set off against outstanding Antiguan loans or whether they were retained to cover expenses incurred by the bank.

Moreover, the Minority Staff received a copy of a letter written in early 2000 that alleged that $880,000 of the Fitzgerald funds were "transferred between January 22-25, 1995, to Inter Continental Bulk Traders S.A. account #4763751 at Bank of Bermuda, Hamilton." The Minority Staff confirmed that the account does exist at Bank of Bermuda and that a transfer of $880,000 did occur in the January 22-25, 1995, time period. It has been reported to the Minority Staff that those funds were paid upon a resolution of the Swiss American Banking Group board as payment against a series of invoices submitted by a number of people who, at the request of Rappaport, had engaged in a review of SAB. One explanation offered to the Minority Staff regarding the transfer was that Inter Continental Bulk Traders was an account controlled by Rappaport and the funds were transferred to that account rather than directly paying those who submitted the invoices, because Rappaport engaged the services of those people to provide an independent review of the accounts at Swiss American Banking Group, which he controls. However, the ownership of the Inter Continental Bulk Traders account has not been confirmed, and that does not explain why the payments would be made through the Inter Continental Bulk Traders account rather than directly to those who performed the services. Moreover, it has been reported to the Minority Staff that the funds were transferred out of the account at the Bank of Bermuda in two tranches, which seems inconsistent with the contention that payments were made to a number of individuals. Without confirmation from the Bank of Bermuda on the ownership of the account and what happened to the funds in question, the fate of the $880,000 remains unclear.

For the next two years - November 1995 to December 1997- the U.S. government continued to press for a detailed explanation and accounting of the transfer of the funds, and records relating to each of the Fitzgerald accounts. Although the Antiguan government identified the source of the funds that were transferred from SAB and SANB, it informed the U.S. that the records of the accounts were not available because they had been destroyed in a hurricane.[11]

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[11]It has been alleged that the funds transferred to the Antiguan government were returned to the Swiss American Banking Group as repayment for outstanding debts that the government of Antigua and Barbuda owed to

In December 1997, the U.S. Department of Justice filed a civil complaint alleging that SAB, SANB, Swiss American Holdings S.A. and BNY-IMB intentionally seized and converted the $7 million in illicit proceeds located in accounts at SAB and SANB that had been forfeited to the U.S. Government.

In September 2000, the Federal District Court judge presiding over the case dismissed the U.S. Government's claim for lack of personal jurisdiction over the defendants. The government is going to appeal the matter.

SANB. This included millions of dollars of promissory notes that the Antiguan Government had issued to an enterprise called Roydan Ltd. Roydan Ltd. was the company that owned and operated a melon farm in Antigua called Roydan Farms, that used a high-technology tropical irrigation system. The operation was owned by an Israeli named Maurice Sarfati, and is discussed at length in a report, "Guns for Antigua" by the Commission of Inquiry established by the Governor-General of Antigua and Barbuda to look into the circumstances surrounding the shipment of arms from Israel to Antigua. The report was issued in 1990 by Louis Blom-Cooper QC, the appointed Commissioner. According to the report, Sarfati received governmental approval for his agricultural project in August 1984, and operation on the farm commenced in 1985. Throughout its inception and operation, the enterprise borrowed heavily for startup and operation costs. Sources of funds included the U.S. Overseas Private Investment Corporation and SANB and SAB. The Government of Antigua and Barbuda issued a series of promissory notes to Roydan Farms. In addition, SANB had extended an overdraft facility to Roydan Ltd., and has allowed it to escalate to over $1 million without any board resolution or any collateral agreement. In March of 1988, a receiver was placed in control of the venture at the insistence of OPIC and the two Swiss American banks. By July 1988, Roydan Ltd. was $8 million in debt. At the request of the Antiguan cabinet, the banks agreed to conditionally revoke the receivership for 90 days. By February 1989, Roydan Ltd. was no longer in existence.

However, its owner, Sarfati, was at the same time in the midst of brokering a deal for the shipment of Israeli arms through Antigua to the Medellin drug cartel. The linkage was discovered after a raid on the Columbian farm of Medellin Cartel leader Jose Ganzalo Rodriguez Gacha in December 1989. It was also discovered that one of the weapons included in the shipment was used to assassinate Colombian Presidential candidate Luis Carlos Galin.

The Commission of Inquiry was critical of Roydan's management and the influence Sarfati was able to exert within the Antiguan government:

> ..[A] lucrative market around the world was quickly jeopardised by the management structure of Roydan to enable it to service its loans, especially from an agency of the U.S. government, the Overseas Private Investment Corporation (OPIC). ... Throughout 1986 Roydan experienced continuous cash flow crises due to lack of management cost control systems and the use of antiquated accounting procedures. Financial statements were tardily produced and reflected a superficial financial picture.
>
> . . .[A] report in 1987 to a U.S. Congressman stated that 'because of its demonstrated helter-skelter system of spending, without any type of fixed controls, Roydan's credit history is devastating, both in the USA and in Antigua.'(p.51)
>
> . . . The story of the melon farm trail, and other incidental events, discloses a tale of insinuation and influence of a man with a remarkable talent for getting from a vulnerable administration in Antigua almost anything he desired. (p. 121)
>
> One of Commissioner Blom-Cooper's recommendations was:
>
> "A judicial inquiry should be set up to investigate the dealings in 1985-1987 between Maurice Sarfati and the Government of Antigua. The enquiries currently being undertaken by a firm of U.S. Attorneys are welcome but do not meet the justifiable demands of an inquiring public in Antigua and abroad. This should include the administration of Roydan Ltd and the issue of promissory notes." (p.132)

(c) The Gherman Fraud

Henry Gherman served as a financial adviser to individuals and medical practice pension funds in the Miami area. Between 1982 and 1988, while claiming to make purchases of Certificates of Deposit for his clients, Gherman transferred client funds to his corporate accounts which he controlled. The funds were wired to other accounts or used for the benefit of Gherman and his family members.[12]

In February 1989, he pleaded guilty to the charges and received a 30 year sentence and was required to make payments of $12.9 million in restitution to the victims of his fraud. Authorities testified that Gherman never accounted for approximately $1 million of the funds he embezzled.

A private investigator hired by some of Gherman's victims discovered that Gherman had established an account at SAB. On August 31, 1988, two of Gherman's victims petitioned the High Court of Antigua and Barbuda and secured a freeze of all assets in any accounts controlled by Gherman. The court-appointed receiver for Gherman's assets also filed an action before the High Court on November 4, 1988, requesting that he be recognized by the Court as the receiver for Gherman and to enjoin and require the turnover of all funds, related documents and other assets in the possession of SAB or its affiliates. However, because of Antigua's bank secrecy laws, when the victims filed with the High Court, they were unable to confirm how many accounts Gherman held, how much was in any account or even whether Gherman did hold accounts at the bank. At that time, SAB neither confirmed nor denied the existence of any accounts that belonged to Gherman. Cordell Sheppard, the counsel for SAB stated:

> We are willing to do anything we can, if we can do it without breaking the law. If we do have any documents, and that is not to say we do, we are prohibited by law from disclosing them.

After his arrest in Japan, Gherman wrote to SAB on December 6, 1988, and requested that the bank release all records of all of the accounts at the bank that he controlled. He also requested that all funds in the bank that he controlled be forwarded to the court-appointed receiver in the United States.

The efforts by law enforcement officials, Gherman's victims and the receiver resulted in a

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[12] On August 8, 1988, Gherman left the country leaving notes to his clients apologizing for his actions. Shortly before his departure, Gherman withdrew $4.4 million in cash from his corporate accounts at Commerce bank in Miami. On August 10, 1988, 25 creditors (some of Gherman's victims) petitioned the Dade County Circuit Court and secured the appointment of a receiver and a freeze of Gherman's corporate assets and the assets of his family. On August 28, 1988, the federal government filed a criminal complaint against Gherman, charging him with wire fraud and the embezzlement of $9.8 million. A warrant for Gherman's arrest was issued on August 29, 1988. In October 1988, Gherman was arrested in Japan after having been expelled from Taiwan.

review of Gherman's account at SAB. As part of his fraud, Gherman had established an Antiguan IBC called Chaska Trading and opened an account for the IBC at SAB, which was used to launder the funds that Gherman had stolen from his clients. Records and court testimony indicate that in a period of approximately one month - between July and August 1988 - $3.2 million in embezzled funds were deposited into the Chaska account at SAB. Gherman told law enforcement officials that all of the deposits into the Chaska account at SAB were made with cash that he or his brother personally carried to Antigua. Apparently, SAB had no concern that a client would deposit $3.2 million into an account within a one month time period. About $2.2 million of those funds were subsequently transferred into an account established in the name of Chaska Trading at Prudential Bache Securities.

At Gherman's sentencing hearing his brother, Warren Gherman testified that he (Warren Gherman) deposited funds into Henry Gherman's SAB account shortly before Henry Gherman left the country by delivering the funds to a bank officer at SAB:

Q. Now, Mr. Gherman, on August 5th of 1988 you made a trip to Antigua, did you not?
A. Yes, sir.

****

Q. Now, you didn't walk down there – I' am sorry – you didn't travel down there with a cashier's check, did you?
A. No, sir.

Q. In fact, you had a suitcase full of money, is that correct?
A. I said this, yes.

Q. Could you describe how you made the deposit, who you met with down there?
A. A bank officer. I don't believe – I believe his name was Reeves (phonetic).

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Q. Did you declare the money when you left?
A. No, sir.

Q. Why didn't you declare the money?
A. I didn't put any thing down. I just signed -- I travel around the country and outside the country, and I just normally sign the document that I –where they ask you to sign on the paper.

Q. I am sorry. When you left the United States you didn't declare any Customs form that you were transporting $500,000 in cash?
A. No, sir.

Q. Did you read the Customs form?
A. I said I didn't.

At the time of Gherman's deposit, John Greaves was General Manager of the Swiss American Banking Group. He informed Minority Staff that he did not recall any employee at SAB who had a name like "Reeves" or a name that sounded like "Reeves." And, although Greaves' name sounds like "Reeves," Greaves told the staff that he had no recollection of receiving $500,000 in cash from Warren Gherman, noting that he would have remembered if he received such an amount. Greaves noted that at the time the deposit took place - August 5, 1988 - it was legal to accept cash deposits in Antigua.

On April 28, 1989, the trustee received $787,271.84 from SAB, representing the balance of unrecovered funds that Gherman had deposited in the bank, less amounts withheld by SAB as attorney fees and handling charges. The trustee recalled that SAB charged a rather large amount ($50,000 - $100,000) as its costs.

(d) The DeBella Fraud

Between September 1986, and May 1990, Michael Anthony DeBella was President and Chairman of the Board of Directors of United Bank International ("UBI") and owner of 45,000 out of 50,000 shares of UBI stock. UBI was an offshore "Class B" bank located in The Valley, Anguilla. Its "Class B" license was an offshore license that allowed it to conduct banking business with customers other than citizens or temporary residents of Anguilla.

UBI was not a real bank. According to an attorney who investigated the bank on behalf of a client, it was nothing but a storefront office with one or two employees and a fax machine. The true purpose of UBI was to serve as a front for financial frauds. Through UBI, DeBella and his accomplices defrauded prospective borrowers by issuing fraudulent letters of credit, lines of credit and loans in return for the payment of advance fees. These advance fees ranged from one to twelve percent of the face value of the amount sought by the particular borrower. DeBella represented to various victims that UBI had assets of $12,000,000 and deposits totaling $16,000,000. Although pieces of paper purporting to be banking instruments were issued, UBI never produced any actual financing. Between 1986 and 1990, DeBella and his accomplices defrauded victims of approximately $2 million. At the sentencing hearing for one of DeBella's accomplices, an IRS investigator stated that he was not aware of any legitimate business whatsoever conducted by UBI. "I believe it was a front for a fraudulent enterprise," he stated. "I am not aware of any successful transaction." The presiding judge stated, in accordance with the investigator's statements, "This is not an example of a legitimate business that had one or two fraudulent acts, but the whole business from beginning to end is permeated with fraud. The business itself was the mechanism to perpetuate the fraud."[13]

To add to the legitimacy of UBI, DeBella and his accomplices claimed that UBI had

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[13] U.S. v. Michael A. Debella, Jr., et al., (U.S. District Court for the Southern District of Florida, Case No. 93-6081-CR-Hurley), Superceding Indictment and Transcript of Sentencing Hearing, 12/18/95.

correspondent relationships with other major banks. UBI had an account at SANB which had a correspondent account at Irving Trust Company. DeBella and his accomplices directed victims to wire transfer advance fees to the SANB correspondent account at Irving Trust Company (which was subsequently taken over by Bank of New York). These funds were then credited to UBI's account at SANB.

Testimony by the U.S. IRS agent who investigated the fraud provided a description of how criminals used offshore banks in secrecy jurisdictions to hide the trail of the funds they had stolen. According to the agent, the money "would be wired from the victim's bank account to the Bank of New York where Swiss American National Bank had an account. From there, the funds would be wired down to Swiss American National Bank and placed in the account of United Bank International." After the funds reached the UBI account in SANB, "within a short period, the funds would be wired back from Swiss American Bank up to the Bank of New York, and placed into one of the accounts controlled by Mr. DeBella."

DeBella established companies in the United States and elsewhere and held accounts in the names of those corporations in banks in Florida and Connecticut. Those accounts were used to move funds acquired through the frauds in and out of the United States and further hide the trail of those funds.[14]

In addition to the advance fee for loan frauds, DeBella also used UBI to commit a theft involving approximately $800,000 worth of shrimp. DeBella represented that UBI would finance the shipment of shrimp from a company in China (China Foreign Trade, a company that was, at least in part, owned by the Chinese government) to a company in the United States (Imported Meats, Inc.). As a result of this agreement, China Foreign Trade shipped the shrimp to the United States and Imported Meats, Inc. made seven wire transfers totaling $873,762.54 to SANB's correspondent account at the Bank of New York for further credit to UBI between December 18, 1989, and February 23, 1990. DeBella sent only $77,000 to China Foreign Trade.[15]

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[14]For example DeBella was the president and director of Atlantic Capital Corporation, a corporation chartered in the state of Florida, and was also the director of Atlantic Capital Corporation, Ltd., a corporation chartered in St. Johns, Antigua, British West Indies. DeBella held an account at Commonwealth Savings and Loan Association of Florida under the name of "Atlantic Capital." DeBella also operated an unincorporated business known as Marlborough Village, a mobile home park located in Marlborough, Connecticut, and held and account People's Savings Bank, West Hartford, Connecticut, under the name of Marlborough Village.

[15] The wire transfers totaled $873,762.54. On November 21, 1989, DeBella prepared a UBI cashier's check in the amount of $935,225.61, payable to China Foreign trade. However, on December 18, 1989, UBI stopped payment on the cashier's check. On December 22, 1989, UBI wired only $77,014.08 from the account of Swiss American National Bank at the Bank of New York to the account of China Foreign Trade at Citibank, Shenzen, China. On December 27, 1989, China Foreign Trade transmitted a copy of a telex from Shenzen, China to UBI refusing UBI's payment. After this date, UBI made no further payments to China Foreign Trade. However it continued to receive wire transfer payments from Imported Meats, Inc. through SANB's correspondent account at

An attorney was retained by China Foreign Trade to recover the $800,000 in funds owed to it by UBI. He discovered that UBI was nothing more than a storefront operation, as described above. He also discovered that UBI's banking license was revoked by Anguillan Ministry of Finance on May 29, 1990. In the Notice of Intended Revocation, issued on April 4, 1990, the Minister of Finance declared that the license was being revoked because UBI was "carrying on business in a manner detrimental to the public interest." The revocation notice identified nine separate frauds that had been perpetrated through UBI by its owners between 1987 and 1989.

After his discovery, the attorney contacted the General Manager of the SAB, John Greaves. The attorney told Greaves about the fraud that had been perpetrated against his client by UBI and DeBella. The attorney also informed Greaves that UBI's license had been revoked by the Government of Anguilla. The attorney followed up the phone conversation with a letter to Greaves at SAB and a letter to Rappaport at the headquarters of his Swiss Bank, BNY-IMB in Switzerland.

On June 25, 1990, Greaves responded to the attorney's letters. He wrote:

> "In reply to your letter 22nd June, addressed to Mr. Bruce Rappaport, could you please take note that neither Mr. Bruce Rappaport nor the Inter Maritime Bank in Geneva has any connection with the Swiss American group, either as shareholders or directors and that future enquiries or correspondence should be addressed directly to the undersigned at the address below.
>
> To now refer to your enquiry, the bank in question did have a small banking relationship with us, and during the course of this relationship, we, on occasions, effected transfers out through our correspondent banking network on their behalf and received payments in. The turn over on the accounts has never exceeded a low five-figure."

There were a number of misstatements and misleading information contained in the portions of Greaves' letter cited above. As noted in an earlier portion of this report, Rappaport was the owner of Swiss American Banking Group. However, the ownership chain was hidden through a series of offshore corporations and trusts. In addition, he was directly involved in the operations of the banks.[16] The paragraph left the impression that Rappaport had no ownership or control of the Swiss American Banking Group when, in fact, he clearly did. Greaves told Minority Staff that Rappaport had directed that similar language be included in all letters addressing the issue of his relationship to the Swiss American Banking Group because Rappaport

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the Bank of New York. U.S. v. Michael A. Debella, Jr., et al., (U.S. District Court for the Southern District of Florida, Case No. 93-6081-CR-Hurley), Superceding Indictment.

[16]Rappaport personally hired Greaves as Herrington's replacement. Greaves told Minority Staff that he would regularly fly to Geneva to meet with Rappaport and discuss the operations of the Swiss American Banking Group.

did not want his association with the group to be known.

In addition, records obtained by the U.S. government show that Greaves' characterization of UBI's account at SANB was incorrect. The letter stated that UBI "did have a small banking relationship" with SANB. In fact, although the letter referred to the account in the past tense, the account was still active during and after the date of Greaves' letter.

Greaves also told the attorney that "the turnover on the accounts has never exceeded a low five-figure." The records obtained by the Subcommittee related to UBI's activity that took place through its account at SANB shows that between early 1987 and late 1990, UBI received deposits totaling over $1.1 million, including some transfers that were greater than $100,000. The record of UBI's activity through SANB's correspondent account at Irving Trust and Bank of New York shows that between April 1989 and September 1990 UBI had 25 outgoing wire transfers totaling over $400,000, with 4 transactions of $50,000 or more. These figures are more than the "low five figure" amount cited in Greaves' letter.

Even after Greaves and SANB had been advised of the fraud against China Trade and that UBI's license had been revoked by the Government of Anguilla, SANB allowed the UBI account to remain open, and processed transactions - including withdrawals - through it. Records show that SANB processed 11 transactions worth over $160,000 involving UBI after June 22, 1990.

Moreover, officials at the Swiss American Bank Group allowed DeBella and one of his accomplices to open three additional accounts at SAB after receiving notification of the China Foreign Trade fraud and the revocation of UBI's license. One of the accounts was in the name of Commonwealth Investment Corporation. This account served a conduit through which DeBella defrauded additional victims after he abandoned the UBI scheme.

In one of the frauds run through the Commonwealth Investment Corporation account, DeBella defrauded one victim of $600,000. In February 1993, a criminal complaint was sworn out against DeBella and his accomplices for their activities related to the frauds committed through UBI in the late 1980's and 1990. DeBella was taken into custody in February 1993. In April 1993, DeBella falsely represented to an English engineer by the name of Anthony Craddock that DeBella's company, Atlantic Capital Corporation, Ltd., had received, in its capacity as a fiduciary, $120,000,000 from the Nigerian government, which had been deposited into the Commonwealth Investment Corporation account at SAB. DeBella represented to Craddock that he could release the funds after a payment of $600,000 in disbursement fees. On April 13, 1993 Craddock wire transferred $600,000 into the Commonwealth Investment account at SAB.[17] However, no funds were ever disbursed to Craddock, nor were the "fees" repaid to

[17] On April 13, 1993, the funds were incorrectly wired to SANB for credit to the account of Commonwealth Investments Corporation. Bank officials realized the account was actually at SAB and credited the account at that bank on April 14, 1993. Another $50,000 from another fraud was wired into the SAB account in

him. Between April 15 and April 20, 1993, DeBella withdrew most of the $600,000.

On May 6, 1993, DeBella and two accomplices (Sandra Ann Siegel, also known as "Sandy DeBella," and Joseph Macaluso) were indicted on a range of offenses related to the advance fee for loan fraud, including conspiracy, mail fraud, wire fraud, money laundering, bank fraud, and tax evasion. A superseding indictment was filed on January 6, 1994 ,to incorporate the Craddock fraud.

The Atlantic Capital and Commonwealth Investment accounts at SAB were closed between the months of July and September, 1993. DeBella was convicted of the charges in May 1995. In December 1995 he was sentenced to 51 months in prison and ordered to pay $600,000 in restitution to Craddock and $69,500 to the IRS.

In his continuing efforts to recover the $600,000 he paid to DeBella, Craddock wrote to SAB seeking return of his funds and filed a claim against the bank in the Antigua High Court of Justice in 1996. Craddock also wrote to SAB's correspondent bank, the Bank of New York, about the fraud. When the Bank of New York inquired about the matter in 1996, SAB provided the following response:

> Michael DeBella , a U.S. citizen, has been jailed in the US for, among other things, defrauding Craddock of $600,000. It would appear that in a Nigerian-type scam DeBella promised Craddock a handsome share of $120 million from the Nigerian Ministry of Finance if he participated in whatever the deal was. This in itself does not speak well for Craddock.
>
> In any event, Mr. Craddock has been bombarding our board members and management with numerous letters requesting the return of his funds (which we do not have) and, only yesterday, we sent copies of his correspondence to an attorney in the USA for him to examine and determine whether there is sufficient cause for a cease and desist order.
>
> Unfortunately, because of local offshore banking legislation, we are not in a position to advise Mr. Craddock whether or not any part of the funds he is trying to trace is on deposit with us as that would probably put an end to the matter."

SANB's reply to the Bank of New York did not mention the fact that SAB opened accounts and processed transactions for DeBella long after its General Manager, Greaves, had been made aware of frauds that DeBella perpetrated through UBI and that the license of

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March 1993. Anthony J. Craddock, Craddock (UK) Limited v. Michael A. Debella, Jr., Atlantic Corporation Limited, Commonwealth Investment Corporation and Swiss American Bank Ltd. (In the High Court of Justice, Antigua and Barbuda, Suit No. 213/1996), Affidavit of Brian Stuart Young, and Exhibits, March 18, 1997. U.S. v. Michael A. Debella, Jr., et al., (U.S. District Court for the Southern District of Florida, Case No. 93-6081-CR-Hurley), Superceding Indictment.

DeBella's bank, UBI, had been revoked for activity detrimental to the public interest.

Minority Staff asked Greaves about the inconsistencies in his June 1990 letter and why SAB would open and service additional accounts for DeBella after learning of the frauds DeBella perpetrated through UBI and that UBI's license had been revoked for activity detrimental to the public interest. Greaves informed the staff that "mistakes had been made" at Swiss American, including mistakes at the senior management level and including mistakes by himself. He would not elaborate further on the case of DeBella and Swiss American's role in it.

(e) The Fortuna Alliance Fraud

The Fortuna Alliance was a Ponzi scheme that attracted its victims by marketing over the Internet.[18] Labeled as a multi-level marketing plan, the scheme promised investors large returns on their initial investment as new members were recruited into the program. For example, promoters told investors that they would receive $5,200 for a one-time investment of $250. Higher investments would earn even higher monthly returns according to the promoters. The program operated between November 1995 and May 1996, when the Federal Trade Commission secured a court order halting the program. The FTC estimated that during its operation, the Fortuna Alliance scheme collected over $7.5 million from victims. The FTC documented that the perpetrators of the fraud had established two accounts at SAB in Antigua in the name of two trusts - the Fortuna Alliance Trust and the Prosper Trust[19] - and had forwarded at least $5.5 million of victims' funds into those accounts between March and May 1996, utilizing SAB's correspondent account at Chase Manhattan Bank.[20] The perpetrators of the fraud also used credit

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[18] This fraud was examined as part of the Subcommittee's investigation into Internet fraud. See "Fraud on the Internet: Scams Affecting Consumers," Hearing before the Permanent Subcommittee on Investigations, February 10, 1998 (S. Hrg. 105-453).

[19] According to U.S. enforcement personnel, the Prosper Trust was a holding account for a number of clients that were trusts. Presumably the assets of each trust was held in a separate sub-account. In June 2000, the Minority Staff discovered a Web site for an entity called the Prosper International League Ltd. ("PILL"), a Bahamian entity offering Belize offshore trusts called Prosper Trusts, stressing the secrecy and the tax evasion potential of the trusts. The organization also markets a Ponzi investment scheme similar to that offered by the Fortuna Alliance. It is owned by individuals operating out of Florida. Material included on its web site indicates the organization has been in existence at least since 1994. The web site for PILL states that the trust funds are held by Swiss American Bank in Antigua. It may be the case that PILL controlled a large account at SAB, and the Prosper Trust account beneficially owned by the principles of the Fortuna Alliance was actually a sub-account of the larger Prosper Trust account.

[20] The FTC's estimate was based on records obtained from wire transfer requests originating from Whatcom State Bank in Washington, where the Fortuna Alliance held an account. The Minority Staff reviewed the monthly statements of SAB and SANB's account at Chase Manhattan Bank. The staff identified $6 million that had been sent from the Whatcom State Bank, by order of the Fortuna Alliance, to Fortuna's two accounts at SAB during the March - May time period. Another $1.65 million had been sent from the Whatcom State Bank, by order of the Fortuna Alliance, to a Prosper Trust account at SANB. During that same period, an additional $424,000 was

cards issued by SAB that drew from the Fortuna Alliance Trust account.

The FTC filed its complaint against the Fortuna Alliance and 4 perpetrators of the scheme - Augustine DelGado, Libby Gustine Welch, Donald R. Grant and Gail Oliver - in the U.S. District Court for the Western District of Washington on May 23, 1996. The court issued a temporary restraining order on May 24 and a preliminary injunction on June 12. Both orders prohibited further marketing of the scheme or any related program, froze Fortuna's assets, appointed a receiver for Fortuna and ordered the defendants to "direct that Swiss American Bank of Antigua transfer to Fortuna Alliances's bank account at Whatcom State Bank all funds previously transferred by or from Fortuna Alliance, Augustine Delgado or Libby Gustine Welch to that bank."

At the same time that the FTC sought to obtain a restraining order in Washington, the Department of Justice filed a claim in the High Court of Antigua to freeze the funds in the accounts controlled by the Fortuna Alliance and its principles. On May 29, 1996, the High Court issued an order freezing the two Fortuna Alliance accounts and all other related accounts.

The principals of the Fortuna Alliance failed to return the funds that they had forwarded to the two SAB accounts. On June 12, 1996, the U.S. District Court for the Western District of Washington issued a contempt citation against the defendants for failing to return the funds from SAB and refusing to provide an accounting of the funds. When they continued to defy the court's initial order in the preliminary injunction, the court issued civil arrest warrants against three of the defendants on June 27, 1996.

Although SAB officials told Minority Staff that they cooperated with the U.S. efforts to secure the return of the funds, the bank appears to have been less than cooperative. The U.S. government had named SAB as a neutral party in the freeze petition. This is a normal occurrence in seizure actions in the United States, and the banks that are named in such suits generally cooperate with the court order. SAB, however, actively fought the United States in the recovery process. According to U.S. government officials negotiating a return of the funds in the SAB accounts, SAB officials were initially uncooperative in negotiations. SAB officials would not tell U.S. representatives how much money was in the accounts, citing Antigua's bank secrecy laws. This made it difficult for the government to know the exact amount of money in the accounts because additional funds may have been wired into the account from different banks, and principals of the Fortuna Alliance had been drawing down against one of the accounts to pay credit card bills. SAB officials also demanded that the U.S. government pay the bank $1 million of the funds in compensation for the costs the bank had absorbed in dealing with the issue, the damage to its reputation caused by the suit, and the interest lost from the account because it was frozen.

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wired into the SAB accounts at Chase for further credit to the Prosper Trust from other U.S. and foreign banks. SAB officials told Minority Staff that they eventually secured a cease and desist order against PILL.

On September 10, 1996, SAB joined with some of the principals of the Fortuna Alliance and asked the court to remove the freeze. In its filing, SAB claimed that it was an innocent third party; that if the freeze continued, it would affect SAB's normal course of business; that the U.S. government had failed to provide any evidence that any of the funds in the Fortuna Alliance accounts were in fact those of the principals, that the principals were signatories of the account, or that the assets were at the disposal of the principals.

On October 22, 1996, Delgado, the owner of Fortuna Alliance, wrote to the manager of SAB and expressed his deep frustration with the continued freeze of his funds. In the letter, Delgado admitted that he was a beneficiary of the accounts that had been frozen and claimed that SAB had accepted additional funds for the Fortuna Alliance accounts after the freeze was imposed by the High Court of Antigua and SAB was on notice of questionable activities by the beneficiaries of the account:

> As you are aware I am a beneficial party for certain funds held in Fortuna Alliance trust. ... In addition to these there are other funds held in suspense that have come to your bank after the injunction (August 9th from the Netherlands).
>
> I am formally requesting that you arrange a loan to me collateralized by these funds held by you that does not violate your banks policies or the injunctions.

The SAB manager's response included the following:

> Management has given serious review to the circumstances related to your request, and guided by fiduciary responsibilities and relevant legalities, we are unable to register as security for a credit facility the funds held either in the Trust account or for the Trust account.
>
> We appreciate the grave concerns raised in your letter to us, and have sought to identify legal means by which we could respond to your request. On the one part, we are bound by order of the Court and, on the other part, the fact that funds are held for a trust account carry further responsibility for the bank to ensure that there is no breach of trust. The only authority for the custody of the funds is the stated trust, and a Trustee has no implied power to borrow.
>
> At this time we have no means to respond to your request, we will however continue to press for the legal resolution of this matter. We share your concerns over the length of time taken to address the matter and the adverse impact it has on your business. We are powerless to influence these events of the court, and can only act in compliance with its orders.
>
> Please contact us if you wish to meet further on these matters.

Finally on February 24, 1997, the FTC and the Fortuna principals entered into a settlement agreement providing for the return of $2.8 million from SAB and requiring the Fortuna principals to make additional funds available to pay all claims. According to U.S. officials, even after the principals of the Fortuna Alliance agreed to the settlement, SAB officials balked at sending the funds back to the United States , insisting that they be paid part of the funds. SAB eventually settled for $50,000.

By May 1, 1998, the FTC had refunded approximately $5.5 million to over 15,000 victims in 70 countries throughout the world.[21] However there were still $2.2 million in additional claims that were outstanding. Under the terms of the February 1997 settlement, Fortuna was obliged to pay those additional funds. However, the defendants refused to fulfill their obligations and did not supply additional funds. Instead, Delgado and other members if the original Fortuna Alliance opened another Ponzi operation similar to the first scheme, called Fortuna Alliance II. On June 5, 1998, the U.S. District Court for the Western District of Washington issued a civil contempt order against Fortuna Alliance and its owner, Delgado, for failure to make the payments as required under the settlement agreement and for failure to abide by the agreement not to engage in similar activities.

Bank records reviewed by the Minority Staff indicate the Fortuna Alliance wired at least $7.6 million into its SAB and SANB accounts, but the settlement agreement called for only $2.8 million to be returned from SAB and SANB. After the $2.8 million had been returned to the U.S. government, it is likely that substantial sums still remained in the accounts and presumably were available to the principals of Fortuna Alliance, perhaps to perpetrate their second Ponzi scheme.

(f) Other Frauds/Questionable Accounts

In 1997 or 1998, Robert Burr, an accomplice in the Cook fraud (described in the appendix to this report), opened two accounts in the name of two foreign trusts (Right Hand Investments and Silver Search International) at SAB. Burr instructed SAB that all funds transferred into the Right Hand Investments account should be immediately be transferred into the Silver Search International account. Given the bank secrecy laws of Antigua and Barbuda, the mechanism employed by Burr would effectively hide the trail of his funds. An investigator working with the SEC appointed receiver attempting to recover the funds stolen by Cook told the Minority Staff that it has been established that Burr attempted to use these trusts to prevent law enforcement officials from seizing assets he acquired through the fraud.

Peter Berney, a U.S. citizen who has been indicted in both New York and Nevada for stock fraud and money laundering apparently ran millions of dollars through an account at SAB during 1999.

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[21] The sources of the $5.5 million are as follows: $2.2 million in uncashed checks returned to investors; $2.8 million returned from accounts at SAB; $350,000 in assets frozen in U.S. banks.

The issues discussed above raise serious questions about the adequacy of the initial due diligence and ongoing monitoring conducted by both Swiss American banks. In some instances, these frauds evidence possible complicity of SAB and SANB bank employees or officials. SAB officials have told Minority Staff that they have recognized past problems and have made a concerted effort to improve their management and anti-money laundering policies. One law enforcement official also reported improved performance. However, over the past few years SAB has taken on accounts from entities involved with Internet gambling activities, which raise additional money laundering and legal concerns for correspondent banks.

(g) Internet Gambling/Sports Betting

Antigua is one of a number of countries that have legalized Internet gambling, and it has become one of the most popular locations for such enterprises. For a licensing fee between $100,000 and $75,000, an Internet gambling operation can purchase a license in Antigua and Barbuda.. Approximately 100 Internet gambling licenses have been issued by Antigua and Barbuda. As noted in another section of this report, Internet gambling is vulnerable to money laundering, and it is illegal in the United States. This has caused some U.S. banks to refuse accounts from Internet gambling clients and correspondent relationships with foreign banks that accept such clients. When offshore banks with Internet gambling clients open correspondent accounts with U.S. based banks, the money laundering vulnerability of the correspondent bank is increased, because it is not just dealing with unknown customers of the client bank, it is also handling the customers of the Internet gambling establishments who have access at the client bank. Moreover, the correspondent bank is in the position of facilitating a possible crime by accepting funds for activities that are illegal when carried out within the United States.

SAB services a large number of Internet gambling accounts. A brief search of the Internet disclosed hundreds of Internet gambling entities that advertised SAB as their bank and directed clients to wire funds to their SAB accounts through one of SAB's U.S. correspondent banks. In 1998 and 1999, wire transfers directed to Internet gambling entities flowing through SAB correspondent accounts grew to millions of dollars each month. The Internet gambling clients of SAB included World Sports Exchange, whose co-owner Jay Cohen was recently convicted and sentenced to 21 months in prison in the United States for violation of the Federal Wire Act, which prohibits interstate or foreign gambling via telephone or telegraph.

In addition to SAB's U.S. based correspondent accounts, SAB's correspondent accounts at non-U.S. based banks, such as Toronto Dominion in Canada and BNY-IMB in Geneva were also advertised as places where gamblers could send funds for SAB's gambling clients.

Moreover, the money laundering vulnerabilities of correspondent accounts that are compounded by the combination of correspondent banking and Internet gambling clients are further magnified through the proliferation of E-cash operations such as Totalnet, Intersafe Global, Ecashworld, Electronic Financial Services. E-cash operations are intermediaries for the transfer of funds between consumers and merchants. Many Internet gambling operations are

using such services. Individual bettors are instructed to open accounts at, and send their funds to, the E-cash intermediary, which then deals with the gambling company. This further hides the origin of funds.

The Web sites of a number of on line casinos contained the exact same description of one of the E-cash companies, "InterSafe Global," and described how the casinos utilized its services:

> InterSafe Global LLC is a Nevada based company that operates the E-cash service for Casino on Net. InterSafe specializes in secure Internet transaction processing. They provide a vital link between Internet customers and merchants. When our clients want to make a deposit to their casino bankroll, this is done through InterSafe. The credit card is charged to InterSafe Global LLC, and this is the name that will appear on your credit card statement."

The Internet casinos using InterSafe instruct clients who wish to make wire transfers into their casino account to forward the transfers to "InterSafe Global LLC, Account number 1641101, Swiss American Bank."

These intermediaries further obscure the source and extent of Internet gaming that may be taking place through a bank that services such accounts, and makes it even more difficult for correspondent banks to know which and how many gambling entities may be using one of their client banks. The gambling entities are nested within the E-cash company account.

SAB recently announced it would no longer use its U.S.-based correspondent accounts for Internet gambling clients. However, it is not clear whether SAB will continue to service the accounts of, and accept wire transfers for, the E-cash companies that accept deposits for Internet gambling companies.

(7) Correspondent Accounts at U.S. Banks

(a) Bank of New York

SANB established a correspondent relationship with Irving Trust Company in December 1981. The relationship was continued by Bank of New York ("BNY") when it acquired Irving Trust Company in 1988-1989 and was terminated in June 1999. Little information is available about the structure and operating procedures of Irving Trust's correspondent banking department at that time. A December 1981 memo by the relationship manager indicates that Irving Trust was introduced to SANB through its courier in Antigua and Barbuda, who was the brother-in-law of SANB's Assistant Manager, McAllister Abbott.

Minority Staff interviewed the BNY relationship manager who was responsible for the account from October 1993 through its termination in April 1999, and the head of the Latin American Division who has held that position since 1990.

The Correspondent Banking Department is located within the International Sector Division, headed by the Vice-Chairman of the bank. The International Sector is divided into 4 geographical regions - Europe, Asia, Middle East/Africa and Latin America. The Latin American Division is headed by a Division Head, a Senior Vice President of the bank. The Division is divided into two Districts. The Caribbean Region is located in District Two. District Two has two relationship managers and a District Manager. The Latin American Division has 4 representative offices in the region. The duty of the relationship managers is to sell products and services to clients. However, relationship managers are also responsible for following the activities of their clients and events in the countries in which they operate. The administrative, back office activities are handled by a group called deposit services. The Latin America Division has 200-225 correspondent banking relationships, with a total of 480 accounts. The relationship manager who handled the SANB account had 30-35 clients with 40-45 accounts.

Representatives of BNY told Minority Staff that to open a correspondent account at BNY, a bank must submit a request in writing; provide a letter from its regulatory authority that it is licensed to do business; 3 letters of reference including a letter from the Central Bank of the country and if possible two from U.S. banks, and a list of all of the owners, directors and management; identify the type of products and services it would like to use; and indicate the expected volume of activity. Relationship managers are required to visit the site of the bank. The relationship manager, the District Manager and the Division Head review the application and make the decision whether to accept the account. If a potential client plans to conduct business with, or utilize services of, some other division of the bank, representatives of that division will also be in on the review process. The Compliance Division for the bank is a separate unit, but a compliance officer is assigned to the International Services Sector.

BNY representatives told Minority Staff that as part of BNY's ongoing monitoring program, relationship managers in the Caribbean Division have a goal of visiting clients at least once a year and in highly sensitive areas the District Manager is required to meet with the clients. After returning from a site visit, relationship managers are required to write a country report and a client visit report. Client banks are required to supply audited financials annually. Monthly statements are not reviewed. However, BNY has a monitoring system that can follow trends in account activity and produce monthly reports on unusual activity. Relationship managers are required to review the reports and provide a written explanation of the activity in question.

According to the client contact memos produced by BNY, which include Irving Trust memos from the beginning of the account, the relationship managers did not identify any serious problems or concerns with the SANB account until about 1995. Significant frauds that utilized SANB were not addressed by the relationship managers. For example, when Peter Herrington was dismissed in 1987 as General Manager of the Swiss American Banking Group for involvement in the Fitzgerald matter noted above, the reports from the relationship manager stated: "Peter Herrington has left and Andrew Barnes is the new G.M. (Apparently Herrington did not leave on very amiable terms)." The relationship manager apparently did not obtain any information regarding the Fitzgerald case. Similarly, although the SANB account at Irving Trust

Company and then BNY were the conduit for the flow of funds involving the DeBella fraud in 1989 and 1990, there is no mention of the matter in any of the files provided to the Subcommittee. IRS agents had subpoened account records from BNY during its investigation, discussed the account with BNY representatives and addressed the matter in the trial and sentencing of DeBella, which lasted through 1995. There is no indication that BNY relationship managers were advised of this issue by other divisions within BNY, or that relationship managers made any inquiries of SANB to understand SANB's role in the matter. As noted in the review of the DeBella fraud contained above, documents and information made available to the Subcommittee indicate that the General Manager of the Swiss American Banking Group, John Greaves, continued to allow DeBella to utilize SANB accounts after he had been provided with information and documentation alleging DeBella's involvement in fraudulent activity. The Division Head and the Relationship manager interviewed by Minority Staff indicated that the account was quiet until about 1995.

In 1995, BNY memos indicate that personnel began to notice questionable transactions occurring in the account. In 1993, SANB issued and BNY confirmed two standby letters of credit to Banco de la Union in Costa Rica.[22] Ostensibly, the letters of credit guaranteed the capital reserves the bank was required to maintain. In April 1994, Banco de la Union authorized another bank to collect on the letters of credit. However, SANB instructed BNY not to pay. In late 1994, attorneys for Banco de la Union threatened to sue BNY. Yet, for a long period of time, SANB failed to respond to numerous requests by BNY for SANB to explain its position on the matter, and to provide the name of its legal counsel in New York

Around the same time as BNY confirmed the letter of credit in 1993, Bank of America (BOA) (at that time, a correspondent for SAB) received a similar request to confirm a standby letter of credit that SAB wanted to issued to Banco de la Union. The stated purpose of the standby letter was the same as the letter of credit backed by BNY: to serve as a guarantee for the capital requirements that bank was required to possess in order to meet Costa Rican licensing requirements. Although BNY backed the standby letter, BOA refused. In an internal memo, the BOA credit manager expressed his concerns:

> I am not in favor of our issuing this SBLC in support of a client establishing a bank in Costa Rica for the following reasons;
> - We don't know the client or the type of bank we are guaranteeing.

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[22]A standby letter of credit is a financial guarantee against non-performance. It is similar to a surety bond. Generally when such an instrument issued by a offshore bank or a bank that is not internationally known, the party who is relying on the standby letter will demand that a larger, better known financial institution "commit to," or back, the letter. Often, the small bank will ask its correspondent bank to commit to the standby letter of credit. Committing to the letter places the bank at risk if the small bank does not honor the letter. Generally, to eliminate its exposure, the correspondent bank will require the respondent bank requesting the commitment to provide collateral equal to the value of the pledge that the correspondent bank is making. Thus, the correspondent bank has no risk of loss. This is what BNY did with its standby letter of credit arrangements with SANB.

- This is not trade related.
- This is not a specific transaction in the sense that client is going to have this SBLC as long as it continues business in Costa Rica and we are going to be asked to continually renew.
- The pricing of 50 BPS is not attractive

The principle reason of those above is that we would be guaranteeing and support liquidity needs of a bank we don't even know and don't know that we would want our name associated with that entity or its principals. Therefore, from a policy perspective this is turned down.

Documents associated with SANB's correspondent account at Nations Bank also raise questions about Banco de la Union and the wisdom of approving a letter of credit for Banco de la Union.[23]

Additionally, SANB reported to BNY that a number of forged checks totaling $53,000 had been written against SANB's account at BNY. Nine months after the checks had been cleared, SANB informed BNY of the forgeries and asked that its account be credited $53,000. The relationship manager discussed these matters with John Greaves, the General Manager of Swiss American Banking Group during a visit to SANB in April 1995. According to the relationship manager, SANB officials refused to tell him who it was that issued the checks and the circumstances surrounding their issuance. BNY did not press SANB on the matter. The relationship manager and the Division Head stated that these incidents raised concerns about the account.

By 1996, Swiss American Banking Group had replaced Greaves with a new General Manager and the SANB account was of such concern to the BNY Division Head that she

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[23] Material obtained from the SANB correspondent account at Nations Bank indicate that in 1993 Nations Bank became involved in a controversy with the Deputy General Manager of the Swiss American Banking Group, David MacManus, that revealed more information about Banco de la Union and raised questions about the bank and the individuals associated with it. A letter and memorandum from a Nations Bank Vice President described the matter. Two foreign insurance companies that were clients of SANB were attempting to expand their businesses into the United States and were looking for a U.S. Trustee to hold funds to pay insurance claims filed by U.S. citizens. McManus recommended the companies to Nations Bank. Before Nations Bank ever made a decision about accepting the trust fund, McManus sent Nations Bank 2 million shares of a Nevada corporation to be used to fund one of the insurance companies. In performing due diligence on that company, Nations Bank discovered that the owner/recordholder of the stock was Banco de la Union; the company whose stock was sent to Nations Bank had its charter terminated nearly 6 months earlier; the stock was a restricted offering that under U.S. securities laws was required to be held outside the United States, and a Ronald Seale, who identified himself as a financial advisor to the insurance company, told Nations Bank that he was a shareholder of Banco de la Union and in that capacity had allowed the insurance company to use the name of the bank to hold title to the stock. Seale had eight separate complaints filed against him in Florida for selling discounted letters of credit related to oil business ventures. It turns out that the BNY documents on the Banco de la Union issue reveal that Seale had been a minority shareholder in Banco de la Union; became its President in August 1993; and was involved in the letter of credit controversy that involved BNY and the SANB correspondent account.

discussed the matter with other BNY officials, including the head of credit policy. A decision was made to have a set of meetings with SANB to pursue the issues more aggressively. There was some discussion of closing the account, but the new Swiss American Banking Group General Manager made the representation that he had a mandate to improve operations at the bank and requested the help of BNY to do so. BNY made a decision to give him the opportunity to improve the condition of SANB.

In February 1996, the relationship manager addressed a number of frauds and suspicious transactions (including those addressed in the April 1995 meeting) with the new General Manager. These included $90,000 in forged checks in 1993; a fraud involving the Bank of Scotland and a SANB client; efforts to wire cash deposits made at BNY to SANB; and the $600,000 stolen by DeBella in 1993. The issues were discussed at the meeting and the Swiss American General Manager followed up with a letter to BNY addressing the matters.

Once again, the answers from SANB were incomplete and some, as the relationship manager described, were "total contradictions." For example, SANB acknowledged that the $53,000 in forged checks involved the SANB employee who was responsible for reconciling the checks (i.e., confirming that the checks debited to the SANB account matched the record of disbursements in the SANB ledger), but would provide no additional information to BNY. SANB told BNY that the individual who controlled the account involved in the attempted fraud against the Bank of Scotland had been incarcerated and the account number had been re-issued to another party. The re-issuance of the account number was described as "unusual" and "something I didn't like" by the relationship manager. In discussing the DeBella fraud, SANB acknowledged that DeBella had been for defrauding a number of people, but SANB made no mention of the long and extensive use that DeBella made of accounts at SANB to perpetrate his frauds even after SANB was on notice that DeBella was involved in questionable activities.[24] Regarding the attempt to wire transfer cash deposits to SANB, BNY asked SANB to confirm that the account no longer existed and provide the closure date. SANB officials refused to provide BNY with any details of the entity whose account was in question except to write that "we have no account, nor have we ever had an account in the name [of the account in question]." The General Manager of Swiss American Banking Group then proceeded to suggest that the matter involved an account at SAB, and was being handled by Bank of America, which was a correspondent for SAB. No additional information was provided. The relationship manager described this response as "total contradictions," adding that it was one more factor in the process that led to the decision to eventually close the account.

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[24]In 1995, after DeBella was convicted in Federal Court, Craddock, the victim of a $600,000 swindle perpetrated by DeBella in 1993, wrote to BNY, advised the bank of the conviction and asked for assistance in securing the return of his money. BNY wrote back to Craddock and informed him that the funds had been deposited though Barclays Bank and did not involve SANB's relationship with BNY. However, there is no indication that BNY made any connection between this matter and the DeBella frauds that earlier used the SANB account at Irving Trust and BNY. Although BNY questioned SANB about the Craddock funds, it made no inquiries about the SANB relationship with DeBella.

When asked by Minority Staff why BNY did not press to receive more complete answers to these maters, the relationship manager noted that in the early 1990's banks were more concerned with credit risk than anything else. There was not much of that type of business in the Caribbean. Security and money laundering were not the high priority because BNY was not involved with a lot of offshore banks. He noted that when banks talked of exposure and risk, they were more concerned with losing money. The relationship manager noted that the nature of banking is changing and the international efforts to battle money laundering has shifted the focus of the banks. Meanwhile, however, BNY's relationship with SANB continued.

During this period of time, SANB had been BNY's largest revenue producer in Antigua for a number of years. However, both the relationship manager and the Division Head stated that SANB was a relatively small account, and that its revenue position would not influence any decision whether to close the account. The relationship manager noted that BNY officials told him they would support a decision to close the account if that was his decision. He noted that in 1996, he wrote a memo recommending that BNY not accept additional accounts in some areas because of weak regulatory controls and it was approved by his superiors. The relationship manager reiterated that he wanted to give the new Swiss American General Manager an opportunity to improve operations at the bank.

In May 1996, the Division Head again met with senior officers of the bank to alert them to activities and issues related to SANB. She recognized the matter could be a sensitive issue because of the position of Rappaport as a major shareholder of BNY and the sole owner of Swiss American. According to the Division Head, upper management supported her approach and the relationship with Rappaport did not factor into the decisions affecting SANB. Rather, the decision was made to treat the SANB relationship at arms length and not give it any special treatment.

The Division Head asked the relationship manager to provide a summary of all of the cases involving SANB. The memo noted that "all the subpoenas and check forgeries are really concentrated between 1993 and 1995." After reviewing the cases, the relationship manager concluded by writing:

> Clearly, all these cases at Swiss American occurred during the administration of Mr. John Greaves the former General Manager. Who resigned last summer September and still resided on the island. . . ..[T]he new GM, has been brought by the Board of Directors to clean the record of the institution.
>
> Even though this relationship has been very frustrating during the past three years we should try to extend a grace period to Mr. Fisher and his new team.

He informed Minority Staff that he believed the new General Manager was making an effort to improve the situation at SANB. At that point, the Division Head instructed the relationship manager to continue to follow the situation and keep her informed.

In November 1996, the Division Head and the relationship manager again met with the General Manager of Swiss American Banking Group. The Division Head informed Minority Staff that she had a lot of issues she wanted to discuss and hear from the General Manager in detail on each of the items. The Division Head wanted to stress to the General Manager that these matters were receiving the attention of senior management at BNY and that "we have to get to the bottom of this." The Division Head also wanted to size up the General Manager and estimate the prospects of his ability to improve matters at SANB.

The report of the meeting prepared by the relationship manager underscored the serious tone of the meeting:

> Taking in consideration all the problems The Bank of New York has been experiencing with this relationship, our meeting went very well."
>
> Ken told us that his priority was to review and clear the institution of all of its problems and finally bring back Swiss American to profitability. He mentioned that most of the problems were due to the mismanagement of the previous administration. Problems ranged from, as he said to [sic] 'under-reported or mis-reported' non performing assets to the Board of Directors and the Eastern Caribbean Central Bank to suspicious offshore accounts at Swiss American National Bank.
>
> . . . [The Division Head] strongly restated to Mr. Fisher that we would close the account if there was no improvement in the way Swiss American conducts its businesses. The Bank of New York received five subpoenas regarding Swiss American from various U.S. agencies, during the past sixteen months.
>
> The memo concluded by noting, "We will keep monitor[ing] the account very closely."

When asked by Minority Staff why BNY continued to maintain the relationship in light of the concerns it had, the Division Head said it was due to a number of factors: the new General Manger appeared to be trying to turn things around and she felt BNY was having some success with him and that he was making progress; as a professional courtesy, BNY wanted to help him succeed; no one likes to terminate a client; and BNY faced some potential losses if the account was terminated and BNY wanted his help to mitigate those.

The Division Head informed the Minority Staff that around the same time as the November meeting, the SANB account was put on the "refer" list, meaning the wire transfer and cash letter transactions of the SANB received more monitoring and manual intervention, and credit activity (such as clearing large checks or wire transactions when funds may not be immediately available to cover the amount of the transaction) had to receive the approval of the relationship manager.

BNY was unable to locate any documents (other than monthly statements) that addressed the relationship during 1997. There are no documents to indicate any knowledge or inquiries by BNY of the Fortuna Alliance fraud that affected both SAB and SANB, despite the wide attention it received. However, in February 1998, BNY was notified that the U.S government had sued SAB, SANB and BNY-IMB for recovery of funds related to the Fitzgerald case. Both the Division Head and the relationship manager were surprised by the news of the civil action and concerned. The Division Head was upset that SANB had not advised BNY of what was a long term controversy. As the Division Head noted, it became a major topic during BNY's visit to SANB a few weeks later. According to the relationship manager, the BNY representatives received another surprise when they arrived at SANB. They learned that the General Manager of Swiss American Banking Group had left and SANB had a new General Manager. BNY had not been advised of the change. According to the relationship manager, the new General Manager "sounded the same" as the previous GM as he laid out his mandate for the BNY officials.

Regarding the lawsuit filed against the banks, the new General Manger told the BNY representatives that SAB was not at fault. He provided the history of the funds and noted that SAB and SANB were caught between conflicting demands of the Antiguan and the U.S. government. According the report of the meeting written by the relationship manager, the General Manager concluded his presentation of the Fitzgerald funds by saying "currently nobody knows where these funds are!! The Antiguan Government claims they do not have them anymore!!!" [emphasis included in original]

The Division Head offered a similar account to the Minority Staff and characterized the claim as "highly improbable." The Division Head was upset that SANB did not notify BNY of the lawsuit, but noted that the General Manager explained that he thought BNY would have known of the suit because of its part ownership of BNY-IMB. Clearly, the BNY Correspondent Banking Department had not been notified by its own bank, either. The Division Head indicated that as a result of the matter and the way it was handled by SANB, she was seriously considering terminating the relationship.

Other information presented by the General Manager at the meeting raised additional concerns for the BNY representatives. The Relationship manager's meeting report describes another controversial mater raised by the SANB General Manager:

> 10.) [The General Manager] see [sic] future growth in Antigua is in Internet Gambling. This new industry in Antigua works as follows:
>
> 1. When there is a sport event - boxing, football, soccer, etc especially in the US.
> 2. People will place their bet through the Internet to an offshore company in Antigua.
> 3. Wire funds to Antigua via remittance company, Western Union, for example.
> 4. The company will mail checks to the winner - these checks issue by local

banks are usually drawn on U.S. banks (BNY, Nations Bank, etc)

Another offshore activity which will generate a lot of questions on the part of the U.S.[25]

The Division Head told the Subcommittee staff that BNY had already been hearing a lot about Internet gambling, she wanted no involvement with Internet gambling proceeds being processed through the BNY account, and she made that very clear to the General Manager. Although the General Manager responded that the activities were being conducted through the offshore banks and not the domestic banks in Antigua and Barbuda, she was concerned that it would be difficult for the Swiss American Banking Group to limit the activity to its offshore bank because of the tie in ownership between SAB and SANB.

The relationship manager told the Minority Staff that when the General Manager spoke about Internet gambling, he made up his mind to recommend that the account be closed. Before he could process his recommendation, Swiss American Banking Group installed another General Manager, and then BNY identified a series of suspicious checks that had been written against the SANB account.

When the Division Head returned from the February 1998 trip to SANB, she wrote up a memo and had a discussion with the Head of the International Banking sector and an Executive Vice President of the Bank. The Division Head's intention was to bring her concerns - including the lawsuit - to the attention of the Executive Vice President. Her inclination was to close the account. She wanted the Executive Vice President to discuss the matter with more senior members of the bank and the BNY Board members who also sat on the BNY-IMB Board. The Division Head and the relationship manager then waited for some response for senior management. In October 1998, the Swiss American Group hired another General Manager, the third in a one year period.

In December 1998, nearly ten months after the meeting in Antigua at which the U.S. lawsuit and Internet gambling were discussed, the relationship manager reported to the BNY compliance department that SANB had issued six checks in series, two for $9,900 and four for

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[25]Another issue raised by the General Manager also raised concerns. According to the Relationship manager's report:

> SANB is still lending to the Antiguan government, financing its deficit. However, [the general manager] told us confidentially, all of these loans to the government are guaranteed by the West Indies Oil Company the local company owned 50% by the government and the rest by SANB's principal shareholder. A percentage of the taxes paid by the consumers on each gallon is allocated to SANB [confidential]

According to the Division Head, this raised another question about Rappaport's involvement with the bank and the Antiguan government. Although BNY officials had been told that Rappaport was distancing himself from Antigua, the information supplied by the SANB General Manger contradicted that. The information also raised concerns that Rappaport may be using financial institutions under his control to further his own interests.

$9,000 each. All of the checks were drawn on SANB's account with BNY. The Relationship manager wrote:

> Even though Swiss American authorized the payment, we believe, like California Bank and Trust, that these drafts are highly suspicious and must be reported to the proper authorities. We are almost sure the negotiating bank will do the same soon.

According to both the Division Head and the relationship manager, this was the event that triggered the closure of the account. In addition, SANB had again failed to notify BNY that a new General Manager had been hired. According to the Division Head, she discovered the change when SANB submitted a notice to the administrative office that it wanted to add the signature of the new General Manager to the authorized signature card for its account. At that point, the Division Head notified the Executive Vice President of her intention to close the account and also, as a courtesy, told the BNY Board member who sat on the BNY-IMB Board of her intentions.

In reviewing the account to determine a how long the termination period should last, the relationship manager wrote the following :

> I conducted a preliminary survey of SANB relationship with The Bank of New York , and I have to admit to you the relationship has been more extensive than we thought. BNY is subject's primary clearing bank in the US. It is going to take more than 60 days to close it down, especially SANB has currently two stand by letters for $500,000 and $300,000 assigned to Visa and Mastercard.
>
> These slc's [standby letters of credit] guaranteed SANB's credit cards in the Caribbean Region. In addition, SANB has an average of 300 checks issued and drawn on BNY floating around the market, a monthly average of 250 payments going through the account and finally they send 3,000 cash letters every month.

On January 9, 1999, the relationship manager wrote the new General Manager and informed him that BNY would close SANB's correspondent account effective March 31, 1999. SANB did not transfer out the balance of its account by the closing date of March 31. On April 8, the Division Head wrote the General Manager :

> Even though a three month deadline to March 31, 1999, was extended for an orderly transition to another US Commercial Bank, to date no actions have been taken by your staff to reduce the number of payments and checks in your account and the transfer of the Visa and Master Card Standby letters of credit.

The Division Head told the General Manager that within 10 days BNY would cease clearing any checks; would not process any payment instructions; and would notify Master and Visa Cards that BNY would not renew the stand by letters of credit when they expire.

The Division Head instructed the General Manager to "Take all appropriate measures to transfer the balance of your account by Friday, April 23, 1999."

The account was closed on June 1, 1999. The memo closing out the account stated:

> Latin America & The Caribbean Division closed the accounts of Swiss American National Bank as a result of a series of suspicious transactions and payments during 1997, 1998 and 1999. The division actually received 5 subpoenas during this period from the US Government concerning different cases of money laundering and other illegal activities.
>
> The Caribbean Desk decided to close the account at the end of 1998, when **50** [sic] checks were issued for $9900 each in favor of one individual.

Both the Division Head and the relationship manager told the Minority Staff that they should have closed the account sooner. When asked why no decision was made until December 1999, nearly a year after the meeting in Antigua, the relationship manager told the Staff that he didn't know what to say, that it was a lapse on his part. He said closure of the account was definitely something he should have done in 1998. The Division Head said that in hindsight, the account should have been closed down sooner, right after she returned from the February trip to SANB.

There were other aspects of the SANB operation that BNY did not pursue. In two of the meeting reports, the relationship manager wrote that the General Manager noted that Swiss American Banking Group board members were from New York and Chicago. When asked if they knew who the board members were, the relationship manager and the Division Head told the Minority Staff that the general managers never gave the names of the board members. Eventually, BNY learned the name of the board member in New York. When asked if they ever learned the name of the board member in Chicago, the Division Head told the Minority Staff that she and the relationship manager were never given the name of that board member. The relationship manager asked for the name a number of times and the Division Head kept telling the relationship manager to go back to SANB and get the name. She said that the situation was frustrating and that BNY should have known the name of the board member and SANB should have told BNY when asked. The board member from Chicago is the controversial tax attorney Burton Kanter.

In addition, BNY was not sure of all of the entities in the ownership chain of SANB. Internal memos describe the ownership of SAB and SANB as: "Swiss American Holdings (Panama), which is owned by Carlsberg (Bahamas), which is owned by a private Trust controlled by Rappaport." BNY informed the Subcommittee that it believes the name of the private trust is the Inter Maritime Foundation, but it is not sure. Although BNY knew the true owner of the bank, it did not have a complete understanding of the entities that comprise the ownership chain.

BNY records related to the SANB correspondent relationship reveal a number of visits and exchanges, starting in mid-1995 and continuing through 1998, in which BNY representatives questioned SANB management about a number of specific suspicious transactions and other controversial incidents involving the bank. In some cases, SANB officials failed to share all of the information they had on a matter with the BNY representatives. In some instances, SANB did not provide an accurate description of the transactions. Both the relationship manager and the Division Head told Minority Staff that these events and SANB's response raised concerns about the bank and its management. Yet, for a prolonged period of time, even though BNY closely monitored the account and its problems, and was concerned about the relationship, it allowed SANB to continue to maintain a correspondent relationship.

(b) Bank of America

SANB established a correspondent relationship with Bank of America in April 1987. The account was terminated in June 1991 when it was replaced by an account in the name of SAB. The SAB account was closed in June 1999. This section focuses on SAB's correspondent relationship with BOA.

The structure of BOA's International Banking Department and its Caribbean division, and its due diligence policies and ongoing monitoring programs are detailed in the case study on American International Bank. Minority Staff interviewed the BOA relationship manager who was responsible for the SANB and the SAB accounts from 1990 through the termination of the SAB account in July 1999, and senior officials from the correspondent banking and compliance departments of BOA.

Prior to establishing a relationship with SAB, BOA records show that it had concerns about its correspondent relationship with SANB as far back as 1990. In August 1990, the relationship manager for the account wrote a call memo (a report on a visit with or call to the client bank) which stated: "This is a privately owned bank with poor financials and obvious operating problems. . ..Followup: . . .Nothing more until financials improve measurably." When asked why BOA kept the account if it had the problems described, the relationship manager stated that BOA only performed transactional business for SANB, and the memo only meant that BOA needed to keep an eye on the account, not that SANB had violated any laws.

In 1991, BOA established an automatic investment account for SANB, which allowed SANB to receive more interest on assets on deposit in its account. In the memo establishing the account, the administrative officer who handled the account noted, "As per Tom Wulff watch this bank very carefully." The relationship manager explained that he was notifying the administrative officer that the bank was not well managed and should be watched, but that he did not believe that the bank was engaged in anything illegal. He believed that SANB was not sharp operationally and wanted the administrative officer to watch the account to make sure SANB did not do anything to hurt BOA.

A few months later, in June 1991, SANB wrote to the account's administrative officer in New York:

> Confirming our recent conversation, we wish to close out the account of Swiss American National Bank of Antigua and initiate a new account in the name of Swiss American Bank Ltd. . . .
>
> We are making this change because the time has come to better divide the activities of the two entities and as the transactions that have been handled through Bank of America traditionally have been more oriented towards Swiss American Bank Ltd., we feel that we should have the account in that name.

SANB included Articles of Association, financial statements and approved signatory lists for itself and SAB. No additional account opening material accompanied the letter and the relationship manager observed that it appears as if the SAB account was opened without anyone at BOA first making a determination if they wanted SAB to open an account. Yet, as an offshore bank, SAB potentially had a much different clientele and engaged in different banking activities than SANB, which was a domestic, commercial bank and it was regulated by a different authority. Domestic banks (such as SANB) are regulated by the Eastern Caribbean Central Bank. Offshore banks (such as SAB) are regulated by the jurisdiction licensing the bank. To the extent that the two institutions shared anything in common, it was the management and administration, about which BOA had already expressed concerns.

The 1989 audited financial statements for SAB contained the following auditor's comment:

> A number of the Bank's depositors have given written instructions that correspondence should not be sent by the Bank. Consequently, we did not attempt to obtain confirmation of customer accounts totalling [sic] $1,931,627 credit and $71,972 debit.

A similar disclaimer was included in SAB's audited financial statement for 1990. A BOA senior official agreed those disclaimers should have raised questions, noting that the amount cited in the 1989 financial statements ($1,931,627) represented approximately 20% of all deposits. There was no indication in the documents provided to the Subcommittee that the BOA relationship manager at the time noted or followed up on this matter.

Another cautionary call memo was written in July 1991:

> The private ownership of this bank is known to be legitimate although General Manager David McManus was recently linked to a minor bank scandal in Anguilla when he made calls there with clients of the bank later found to be of questionable reputation.
>
> . . . [T]here is an ongoing investigation by the Gov. General's office in Anguilla

concerning alleged questionable banking practices by their client. Reportedly, the issue relates to the unauthorized solicitation of funds. David understood and agreed that until these issues are officially resolved, it would not be prudent to explore further business opportunities between our banks.

The next day, the relationship manager sent a message to the account officer in New York, stating: "I am sending you a separate copy of my 7-18-91 call memo on this bank. We need to keep an eye on the activity in this account."

When asked by Minority Staff if he was concerned that BOA was getting involved in a banking relationship that it did not want to be in, the relationship manager noted that it was a long standing relationship, that it was not obvious that SAB was a different bank from SANB, and that the change in bank accounts was just a bookkeeping matter.

Again in 1992, the relationship manager commented on the problems of SAB:

This remains an outwardly unimpressive, disorganized and cluttered operation, plagued by turnover and seemingly weak management.

The bank is nevertheless liquid, and frequently keeps very good CD balances with BINY [Bank of America International New York].

It remains to be seen, however, if they can generate sufficient volumes to attain profitability on what must have been an extremely expensive start-up operation.

When asked why BOA kept the account after recognizing ongoing problems at the bank for a number of years, the relationship manager replied: "Why not? It was not a problem for me. They needed someone to clear for them. We were set up to do that. We had been doing that since 1987. Those [problems addressed in the call reports] weren't aspects of the bank that we were concerned with." When asked if the problems identified in the memos could lead to other kinds of problems, the manager noted that is why he asked the administrative officer to keep an eye on the account -- that the problems were not illegal activities, but operational difficulties.

In 1993, the relationship manager sought approval to establish a small revolving line of credit for SAB that would be used to issue commercial letters of credit and standby letters of credit on behalf of private banking customers. The credit line would be collateralized by certificate of deposits placed with BOA. The credit manager denied the request, noting:

- We know little about the parentage of this bank. The structure appears designed to isolate the real owners and to take advantage of tax and regulatory havens in Panama and Antigua.
- Our borrower is designed to serve an offshore market of private banking clientele.
- Who controls or monitors activities?

> - We are being asked to issue SBLCS guaranteeing activities of their private banking clients. We don't know these clients. We don't know the beneficiaries. We don't even know at this point what kinds of loans or non payments we would be guaranteeing. Our standby's could be all over the place. . . .
>
> The potential for being blind-sided is quite pronounced and I am not in favor of the presentation. If we knew more about the parentage, respectability, integrity of the bank I would be willing to consider trade finance but I would continue to believe we should not extend credit to service their private banking clients.

The relationship manager stated that although he disagreed with some of the comments made by the credit officer he did not file a reply because the issue was not worth fighting. He did confirm that BOA knew that the bank was owned by Rappaport.

In 1993 and 1994, the relationship manager's call memos indicate that SAB appeared to turn the corner financially (although not operationally) and maintained good balances with BOA. At the same time, BOA began to receive reports of questionable activities involving accounts at SAB. BOA records show that between 1993 and 1995, SAB accounts were associated with fraudulent bills of exchange, sports betting activities, and suspicious wire transfer activity. Then in March 1995, a member of BOA's control and compliance department sent the relationship manager a fax with the message: "This afternoon additional evidence of another scam where Swiss American Bank name is used in conjunction with their account at BINY." The information included in the fax related to a pyramid scheme operating through accounts established at SAB that encouraged victims to send funds to SAB's correspondent account at BOA. A notation on the fax cover sheet signed by the relationship manager states: "Discussed closure of account with John Greaves, i.e. ceasing of ck writing and cash letters. He agreeable - will give progress ck tomorrow." In May 1995 the relationship manager reported to the Vice President of BOA's International Deposit Services that major services provided to the SAB account were being terminated:

> I met with this bank [Swiss American] last week. They are well underway to replacing all of our facilities with Chase, and agreed that May 31 would be the deadline for the discontinuance of drafts drawn on us, cash letters to us, and Microwire and telex transfers outgoing.

Other than the documentation cited above, there was no documentation on the reasons for, or the processes that led to, the decision to terminate the services or close the account. The relationship manager told the Minority Staff that he believed that the basis for the action was the discovery of the pyramid scheme. A senior BOA official told the Minority Staff he believed that the decision was less related to money laundering and more related to sloppy banking, which, in his opinion, may explain why BOA moved more slowly on completely closing the account. As a result of the actions take, the account services offered to SAB were significantly reduced, as was the flow of funds through the account.

Less than two weeks later, the relationship manager authored another negative memo about SAB:

> Since our decision a month ago to ask Swiss American to find another correspondent bank, their operation appears, if anything, to have worsened.
>
> . . . This poorly managed bank which seemed to be especially lacking in controls on new relationships, was constantly preyed upon by con artists and during the visit, it was noted that their account balance was inflated by approx $250M in checks apparently being returned unpaid, and this was rectified with BINY.

At the same time, another issue presented itself when representatives of an entity called European Union Bank, an Internet bank licensed in Antigua that subsequently defrauded depositors of millions of dollars, approached BOA about opening a correspondent account. The relationship manage's call memo reported:

> This bank had written asking for an account relationship and during the visit, provided extensive documentation attesting to their status as a duly authorized offshore bank in Antigua. Ownership, however, was referred to as a group in the Bahamas on which they had no readily available information, quarters were new, unfinished and occupied mostly by computers and their customers are mostly 'European investors' who they reach thru 'International publications' and the Internet. This appears to be an example of what we do not want to get near.

The material presented to BOA by European Union Bank representatives indicated that it had a correspondent account with SAB. This apparently did not result in any further inquiries or cause any further reevaluation of BOA's relationship with SAB.[26] The account manager doesn't recall if it caused additional concerns, noting that he already had enough reason to terminate the relationship with SAB. A senior BOA official commented that BOA simply failed to make the connection between European Union Bank, its relationship with SAB and, as a result, its connection with BOA.

Approximately one year later, in July 1996, the SAB account was still with BOA and still the object of negative assessments by the relationship manager:

> It has been a year since we requested Swiss American to find another correspondent as the result of their continued operational problems, and they have at least finally managed to redirect their cash letter and payments business, although they still maintain a sizeable demand balance and are the recipients of a considerable volume of in-transfers. We

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[26] The current Chairman and Managing Director of SAB told the Minority Staff that while European Unino Bank had a corporate account at SAB, it never had a never had a correspondent account at SAB.

> agreed to 90 days for them to notify remitters and close the account totally as we clearly did the right thing in getting rid of this relationship although again, we cannot move too abruptly lest we be accused of damaging their business without apparent cause.
>
> . . . [T]hey also admitted to problems with their ECCB [Eastern Caribbean Central Bank] audit which resulted in their petitioning that bank for some relief, citing their previous management problems and steps to clean up in the meantime. Problems apparently included mis-classification and hidden loans, complicated by inadequate followup.

The relationship manager noted the situation showed that with banks that have a high volume of activity, it is difficult to stop the flow of funds from clients. He noted that the termination of check clearing and wire transfer services stopped the potentially most harmful activities and that the volume of funds through the account was very low. However, the account remained open.

In August 1997, more than two years after BOA had asked SAB to find another correspondent, the relationship manager wrote a more favorable memorandum about the client:

> Swiss American seems to have made great strides in getting their house in order with this, their offshore bank, now physically separated from the local bank and the previous management now long departed.
>
> . . . At our insistence as a result of some past dubious transactions which passed through their account, they also long ago discontinued their cash letter and electronic payments business with us and have since maintained just a deposit account through which they receive approximately 50 incoming payments monthly, and for which they are very appreciative. This seems to be a reasonable compromise as I had been hesitant to force them to totally close their account as we really had no defensible grounds.

There is no evidence in the documentation related to the SAB account that BOA was aware of the major frauds involving accounts at Swiss American Bank, such as the Fortuna Alliance fraud, which was receiving a great deal of public attention at the time. The relationship manager told Minority Staff that in retrospect he had to admit some bad judgment at the time he wrote the memorandum cited above. He said he should not have been so easy on SAB and that it was not a sharp operation, but he never thought the bank had done anything that was illegal.

In February 1998, BOA learned of the complaint filed against SAB by the U.S. government regarding the Fitzgerald account. At first, the relationship manager once again agreed to continue the relationship with SAB:

> This is an old issue going back to the 1980's, also includes the Antiguan Government. As we have done in other cases, it was my intention to tell him to go find another correspondent bank, explaining that it would be in our mutual interest to avoid the

possibility of later embarrassments should compliance issues, etc. arise. Also as before, it is difficult to be more forceful as no guilt has been proven, etc.

Stewart Young [the Manager of Swiss American Bank] was totally cooperative while describing this situation as something which occurred long ago before the bank purged its management, includes heavy involvement of the local government which largely initiated the problem and is an issue in which the current bank is cooperating fully and hopeful will be shortly resolved.

The bank has totally changed management and has managed its DF account with us in an entirely satisfactory manner for the past 2-3 years. It uses us only for limited transactions not including cash letter or funds transfers and has been totally cooperative with respect to the clean up of earlier processing problems. I therefore agreed to table this issue for now, while making it a matter of record.

The relationship manager said that it was the first illegality involving SAB that he encountered and sympathized with the position of SAB, seemingly caught between conflicting orders of two governments. A senior BOA official pointed out that at that time it was BOA practice to rely heavily on the judgment of the relationship manager. With an account for a small bank, such as SAB, BOA gave great discretion to the relationship manager, and there would not be a lot of other people looking at, or asking questions about, the account. He told the Minority Staff that is one reason why BOA was revamping its policies and practices.

In March 1998, the relationship manager received a memo from the BOA legal department detailing a number of inquiries that BOA had received about SAB and its clients. According to the relationship manager it was then that he realized that "we had a mess beyond operational problems." At that point, he reported that he had asked SAB to close its account with BOA:

"I had long ago required Swiss American to discontinue their cashletter (clearings) and wire transfer (Microwire) activities with us as some transactions appeared suspect, although seemingly as the result of poor management. With a complete change of management and cessation of those activities, their DF account had remained open to facilitate in-transfers. We now have the 1/98 issue of Money Laundering Alert describing a possible precedent settling civil lawsuit by the US authorities against Swiss American Bank and others, involving the Antiguan Government, and accusing collaboration with money launderers. As above, Mr. Stewart-Young has today been asked to close their BA New York branch DF account.

The same day, the relationship manager sent a memo to the administrative officer in New York:

I have copied you on call memos noting that I today asked each of the banks above to

> close their accounts with us at their earliest convenience. Please monitor these balances accordingly and let me know if they do not close within 30 days. As per the memos, this is the result of continued money laundering related inquiries.

Yet, in July 1998 the relationship manager reported that the account was still open:

> The last of our overseas bank relationships in Antigua, Swiss American will now be transferring the remainder of their deposit balances with us to their existing Chase account, as per my earlier request. Although a very bland US $73MM balance sheet reflecting little more than the arbitrage of local deposits to offshore and a relationship otherwise satisfactory, the bank had been involved in some litigation between the US government and the local authorities concerning the ownership of funds in a situation which although not necessarily wrong, was typical of the offshore industry in Antigua and we had elected to terminate this account relationship. Stewart-Young was understanding and admitted he had been slow to move as he had enjoyed the benefits of reciprocity.

In June 1999, the account was still open. The relationship manager, meanwhile had retired from BOA. He told Minority Staff that when he retired he thought the account had been closed. However, it had not been closed and the merger with Nations Bank brought in an account that SAB had with Nations Bank, so the size of the account had grown, although the limitations on account services remained in place.

Throughout the 1990's BOA appears to have been unaware of the frauds and controversies (such as those described at the beginning of this case study) that plagued the Swiss American Banking Group. The relationship manager noted that the history of the account does show that when he became aware of problems, he did try to stop them. A senior BOA official noted that the decision to completely terminate the relationship with SAB in 1999 did not involve the relationship manager and was more of a business decision and was not based on the problems previously discussed. According to the official, the account had little activity, was not generating much income for BOA and there was no reason to bear the time and expense of keeping it open. He indicated that it should have been closed a long time ago, and was not the type of account that BOA wanted.

On June 16, 1999, the account was finally terminated.

This is another example of a bank that was slow to terminate a correspondent relationship even when it had questions about the client. The records of BOA's relationship with SAB show that over many years, BOA representatives had ongoing concerns about the management and organization of the bank. Serious questions about the ownership and purpose of SAB were raised by the credit department early in the relationship. Yet even after being confronted with questionable account activity and other controversial incidents, BOA curtailed but did not terminate the relationship; instead, it was allowed to continue for another four years.

(c) Chase Manhattan Bank

SANB established a correspondent relationship with Chase Manhattan Bank ("Chase") in October 1981; however, BNY was the main correspondent for SANB. SAB established a correspondent relationship with Chase in April 1995. Chase was a major correspondent for SAB. This section focuses on Chase's correspondent relationship with SAB. Both accounts were terminated in 2000, during the Minority Staff's inquiry into the account.

The structure of Chase's International Banking Department and its Caribbean Division, and its due diligence policies and ongoing monitoring programs are detailed in the case study on American International Bank. Since the debt crisis that affected Latin America in the early 1980's, Chase did not pursue credit relationships in many Latin American and Caribbean nations. In those areas Chase often did not assign relationship managers to serve as point of contact for the financial institutions in those areas. Instead, the countries were served by sales teams that marketed non-credit, cash management products. Between 1994 and 1996, the unit assigned to cover Antigua as well as some other Caribbean and Latin American countries was headed by a credit risk management official who supervised one and then a second account officer. Two of the accounts handled by the unit were SAB and SANB. After 1996, the credit official left the unit and the account officers worked under the direction of a sales team leader. Sale representatives sell services and products to clients but do not act as a relationship manager for an account. As a result, there was no main contact who was responsible for coordinating all of the responsibilities associated with the SAB account. The credit risk manager continued to monitor the account and, for nearly four years, raised questions about the relationship. However, the vacuum created by the lack of a single relationship manager for the SAB account delayed a coordinated and informed assessment of the SAB relationship.

The account opening documentation for SAB contained little information on the institution other than the annual report supplied by SAB. Even though SAB was designed to be a completely different type of bank than SANB, with different clientele and a different regulatory authority (local Caribbean banks are regulated by the Eastern Caribbean Central Bank and offshore banks are regulated by the jurisdiction that licensed the bank) , the sales representative relied on Chase's existing relationship with SANB to justify establishing a relationship with SAB. He wrote: "Given that there is a DDA already opened in our books in n/o Swiss American National Bank of Antigua (DDA #001-1-87985), no further account justification comments are included."[27]

In September 1995, the credit risk manager asked one of the account administrators to

[27]The sales representative told the Minority Staff that the reason for so little justification in the memo may have been the fact that Chase had an existing relationship with SANB. He also speculated that there may be a missing call memo because SAB was an offshore bank and he usually would have questions on financials and fund flows and would have put the information in a memo. However his memo cited above indicates that he relied on the existing relationship.

initiate a daily item-by item review of all debits and credits to the accounts of SAB and SANB, including all cash letters. By October, the review identified what the credit manager described as deposits that did not seem consistent with the business of a private offshore bank - deposits more appropriately deposited into SANB, the onshore bank. In October, the credit manager issued a memo that the Legal Department was considering filing a criminal referral with the U.S. government on the matter.

As a result, the sales representative informed the Minority Staff that on his next visit to SAB in January 1996, he asked about the banks' anti-money laundering policies. He wrote:

> During our meeting, I raised the subject of money laundering and asked what procedures SAB had in place to deter it. They said this matter was of utmost concern to them, and cited requirements embedded in account conditions delivered to every new customer (in fact, they provided me with a copy). They also said this subject is covered in internal guidelines to marketing officers. In general, I found that the threat of money laundering is explicitly recognized and guarded against by Antiguan bankers. They tend to put it in the context that it is not worth risking the legitimate offshore business: tax avoidance and asset protection, for the huge downside of taking on the illegitimate offshore business: drug-related.

The sales representative who managed the SAB and SANB accounts from 1995 through September 1996 and again from February 1999 through their closure in 2000, stated that issue was the only questionable activity he had heard of regarding the SAB accounts during the 1995 - 1996 period.

The sales representative told the Minority Staff that to him money laundering always had the connotation of money from drug trafficking. He viewed offshore activity as a means for individuals to set up entities (IBCs, trusts) and accounts that would enable them to deposit funds so that they would be immune to foreign exchange violations.

In March 1996, the credit officer wrote a memo to the sales representative regarding the owner of SAB:

> My sources tell me that "international financier" Bruce Rappaport, the alleged owner of Swiss American, is an Israeli shipowner who established Maritime Bank in Switzerland, now BONY-Maritime with Rappaport still the Chairman. We once had credit lines to Maritime, but we became "uncomfortable" and canceled them (this all happened before BNY bought into the operation).
>
> Rappaport is a controversial figure - his supporters would probably characterize him as aggressive, innovative and entrepreneurial. His detractors would probably choose far less kind words to describe him. As best as I can tell, however, he could be called a "Donald Trump type", but not a "Robert Vesco type", i.e. he's a wheeler-dealer but has no known

> involvement with any truly nefarious activities (e.g., drugs). Obviously, our colleagues at BNY seem to consider him a respectable partner.

The sales representative stated that he probably knew that Rappaport was the owner of SAB when he called on the bank in 1995, but he would not have known the significance of the name. He stated that he probably noted in a call report who the owner was, but if no one reading the memo knew anything about Rappaport, it would have had no bearing on the decision to open the account. The sales representative who was responsible for the account from September 1996 through February 1999 said she learned of Rappaport's ownership of SAB during a meeting with Business Development Manager of Swiss American Banking Group in October 1997.

In June 1997, Chase received a subpoena for documents and statements related to the SAB and SANB accounts. When the credit risk manager learned of the subpoenas in October of that year, he again raised questions about the client to the compliance officer and operation risk manager for cash management services:

> You may remember that we recently closed the DDA of American International Bank, Antigua, and I was surprised that there was no concurrent government investigation of Swiss American (which was the inspiration for American Int'l).
>
> Looks like somebody is interested.
>
> Do you know if Swiss American ever comes up in your meetings with Legal re suspicious transactions?

The credit risk manager told the Minority Staff that he recalled that AIB was closed because of the general nature of its activities. He understood that AIB was started by former SAB people trying to replicate SAB and he thought SAB would also be investigated because of its size and similarity of marketing strategy. He noted that although he had no specific responsibility for the SAB accounts at that time, in addition to the subpoena, he had heard of some incidents over a period of years where SAB was mentioned as having been involved in situations where their customers were alleged to have been involved in questionable activities, and used SAB accounts as repositories for illicit funds. He said the incidents involved a fraud, an investment scheme, a theft of funds from a U.S. Bank, and an incident involving German customs. The credit risk manager observed that he could not state whether the incidents were significant given SAB's size, but he was trying to be pro-active.

The sales representative who took over the SAB and SANB accounts in September 1996 was copied on the internal e-mail regarding the subpoenas, but did not recall the matter and did not perform any follow up on the issue. Other than the credit risk manager's memo cited above, there is no indication that the subpoenas occasioned any review of the SAB accounts or any follow up with the client.

In 1996 and 1997, the Fortuna Alliance fraud received national attention. Millions of dollars taken in the fraud moved through SAB's account at Chase. In fact, in the months of April and May 1996, the amount of funds wired by the Fortuna Alliance into the SAB account at Chase represented 31% and 18%, respectively, of all deposits into the SAB account ($3.4 million of $10.7 million in April and $1.6 million of $8.8 million in May). Yet, there is no indication in any of the documents provided to the Subcommittee by Chase that indicate that the that those responsible for the account were aware of the fraud or that anyone in Chase followed up with SAB on the matter.

In August 1998, a member of Chase's fraud prevention unit wrote to the sales representative to report that he was informed by another U.S. bank that a client of SAB had fraudulently transferred money out of the U.S. bank and into its account at SAB. The U.S. bank contacted Chase to see if Chase could assist in obtaining a return of the funds from SAB. He concluded his message with the following:

> Our records show that Swiss American has been suspected of money laundering. Can you tell me whether this is an account that Chase will continue to maintain.

The sales representative told Minority Staff that she was not aware of any records that showed that SAB had been suspected of money laundering and said there was no specific proof that SAB was involved in money laundering with respect to the funds that were transferred out of the U.S. bank and into SAB. The sales representative reported that SAB claimed the funds were already gone and had liability concerns about returning the funds to the U.S. bank. She also wrote to the credit risk manager:

> I explained to [the member of the Fraud Prevention Unit] that SAB may not necessarily be consciously money laundering but was used as a conduit by their customer just as some Mexican banks recently involved in money laundering had used Chase as a conduit. In addition, I explained that the revenue from this account was at least $100k per annum and we are not going to make a rush to judgement to close the account immediately.

The credit risk manager noted that revenue of $100,000 is moderately attractive but not huge and that if someone had truly challenged and substantiated shortcomings in the integrity of a customer, he could not imagine that any of his colleagues would use revenue as a reason to keep the client if trust had been broken.

In October 1998, Chase officials initiated a follow up on the U.S. Government's legal action against SAB regarding the Fitzgerald case. The U.S. Government filed a complaint against SAB and some of its related entities in December 1997. By February 1998, the news of the case had been widely circulated and, as described above, BNY and BOA, began to follow up with SAB on the matter. Chase did not respond until later. The sales representative told the Minority Staff that SAB's business manager notified her of the matter in June 1998. She told the Subcommittee staff that she decided to wait for the outcome of the case and see what needed to

be done at that time. She noted that the matter did not really involve Chase. As a result, she did not pass the matter on to legal investigations. The August 8 memo by a Fraud Prevention official alluding to allegations of money laundering (cited above) may reflect an awareness of SAB's connection to the Fitzgerald case, but it is not certain. However, there are no indications in the documents supplied to the Subcommittee that Chase had pursued the issue with SAB until October 1998, about 10 months after the legal action was initiated.

According to the sales representative, the credit risk manager called her in October, after a Wall Street Journal article announced the case had been dismissed. At that point, the credit risk manager began to look at the matter, and called the sales representative.

The credit risk manager recalled that he first became aware of the matter when he learned that the case against SAB had been dismissed.[28] It also drew the attention of his superiors. He noted it was not clear whether SAB was unjustly accused or still under suspicion, and he asked the sales representative for some underlying information. According to the sales representative, this request coincided with one of her periodic trips to SAB and she questioned the Managing Director about the incident when she visited the bank in November 1998. She reported that the Managing Director told her that the United States tried to collect the funds from SAB after it had unsuccessfully tried to collect the money from the Antiguan Government. However, SAB turned the funds over to the Antiguan Government at the request of the government.[29] The sales representative reported that the Managing Director provided documentation to her and she forwarded it to risk management. According to the sales representative, there was no additional action taken by Chase after the information was received from the Managing Director.

Notes from the sales team leader, written in November 1998, state:

> "Call 11/15/98 Ken Brown ... his boss is furious about the news published in the Wall Street J. on the US Gov't losing the case against SAB for lack of merit ... He wants to close the account. I tell him no unless we have a universal policy in the region, but it is up to them. ... A couple of days later the boss reluctantly relented. Fr the time, at least, they are ok. ... The pressure from the US Gov't is likely to keep increasing, so these kind of accounts are very likely to die any time soon, anyway, because of the cost of complying with rules, if nothing else."

The credit risk manager stated that he received SAB's explanation from the sales

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[28] The credit risk manager told the Subcommittee staff that he believed that the date when he first learned of the issue was in July 1998, when the case had been dismissed. However, the case was not dismissed until October, and this is when the sales representative recalls being contacted by the credit risk manager. So it may be that the credit risk manager did not learn of the issue until October 1998.

[29] This account is not accurate. As described above, SAB initiated the transfer to the government of Antigua and Barbuda. It was not ordered to do so.

representative, and it appeared to him as if SAB had stepped in and saved the funds and that the situation was another case of a fraud perpetrated by customers but nothing to suggest any complicity on the part of the SAB. When he conveyed that information to his superior, the account was allowed to remain open.

When asked if Chase should have known about this incident earlier than it did, the credit manager told the Minority Staff that if the relationship with SAB had been a been a credit relationship, or there was a relationship manager for the account, the information would have conveyed earlier and Chase would have expected SAB to pass the information on earlier. Since it was a non-credit relationship and there was no relationship manager, it was not a situation where Chase would expect SAB to give it news. Since there was no relationship manager, the sales representative was the logical contact point but it was not her job to be the focal point for the relationship.

In November 1998, the credit risk manager made a series of internal inquiries about the SAB account. He told Minority Staff that because there was no relationship manager for the account and he was the credit risk manager, he was receiving a lot of piecemeal information about the SAB account, some of which identified incidents involving SAB. He told the Minority Staff that concern about the relationship was growing because it had to be viewed from a big picture. The account had been solicited under circumstances and a marketing strategy that no longer existed at Chase. Chase solicited the client and SAB had terminated or reduced relationships with other U.S. banks because of the interest that the Chase sales force showed to it. According to the credit risk manager, because of that Chase could not in good conscience just terminate the account because of unease with the relationship if SAB was making reasonable efforts to make sure its clients were appropriate. The credit risk manager stated that when the account was opened, Chase knew that SAB would have to take extra precautions because of the nature of its business and the potential clients it would attract. Chase had been led to believe that SAB was extra cautious, but the growing number of incidents led him to question if SAB was taking the precautions. He decided to take the responsibility to coordinate the collection of information on SAB to pull together a more compete picture of the client and the relationship

The credit risk manager made inquiries in a number of Chase departments about the account. One hand written note of a conversation with the fraud prevention and investigations unit reads:

"Generally bad rep. But not on anybody's hit list."

He also asked the fraud department to identify instances where the SAB account had caused some concern. The official in the fraud department who followed up on the credit risk manager's request wrote the following memo:

> Inquiry initiated upon request of [credit risk manager], Treasury Solutions, who was undertaking a review of our relationship with captioned bank in light of recent publicity

> regarding laundered money being turned over to the government of Antigua and Barbuda by Swiss American. Inquiry revealed that captioned bank has come to official attention as a suspected repository of proceeds of con games; however, there is no present indication that the bank is currently considered a money laundering institution. We are aware that in several instances, phony wire transactions have designated customers of Swiss American as beneficiaries, and in at least one such instance, the beneficiary was suspected of operating a scam in the past. Considering the difficulties in determining actual ownership of the bank, its location, the operating environment of these offshore banks, and the questions raised above, recommend that we exercise especial caution dealing with this entity if a decision is made to continue our relationship at all. [Credit risk manager] advised.

According to the credit risk manager, the response he received identified incidents that were small relative to other frauds, and not in the major league swindle category, that Chase has seen. According to the credit risk manager there was nothing to indicate that SAB had been anything but an innocent victim. He noted it did not have a perfect system to screen account holders, but no one did. Chase was aware that SAB was soliciting business broadly and that it had accepted a lot of clients who were not from Antigua and it was difficult to obtain references on such clients. The issue was whether SAB had been less than prudent in accepting clients. He concluded that nothing he saw suggested the bank had been less than honorable.

He stated that at the time he considered sending the results of his research to the sales representative with instructions to get all of the information on the relationship collected and out in the open so that an informed and coordinated decision could be made on the account. However, he said at the time it did not seem illogical to conclude that SAB met Chase's standards, so he did not go to the sales representative. Eventually, he did take that step.

However, the reports provided to the credit risk manager did not address some of the major controversies involving SAB, such as the involvement SAB officers in money laundering and frauds such as the DeBella case. Nor did it mention the Fortuna Alliance fraud which did involve the Chase correspondent account.

Other issues began to arise with respect to SAB. During a site visit to SAB in November 1998 (when the U.S. legal action against SAB was discussed), the sales representative learned that SAB was serving Internet gambling accounts. She told Minority Staff that she had noticed that there was an increase in the volume of checks issued by SAB each month and when she inquired about the matter she learned of the gambling accounts. In her call memo, this issue was discussed as part of a proposal to supply SAB with a new service to speed the issuance of checks:

> -CPS - Check Print - Proposal was sent prior to the visit. ... Check issue is now close to 2,000 per month and likely to double in 1999. Part of the volume is coming from checks issued to winners of the virtual casino players on the Internet; their customers instruct

> payee to be paid via fax and an indemnification is provided. Virtual casino is licensed in Antigua. An article from the Interactive Gaming Council titled "Congress Strips Internet Gaming Prohibition From Final Budget Bill" dated October 21, 1998 was given to us (dated October 21, 1998).

The sales team leader who accompanied the sale representative on the visit also noted SAB's Internet gambling accounts:

> The reason behind the increase in transactions with us, mainly paper checks, is because they are conducting the payments for casinos in the island, especially those that use the Internet. They are very careful to send winners' checks immediately, via mail, directly from the island to the beneficiary, as soon as they are so requested, to avoid damaging the casino's image. The way this works is that the gaming occurs by debiting a credit card, and winners get a refund of winnings the same day as the original debt; any positive balance, or wins over current account, are sent via check.

As noted in a previous section that discusses Internet gambling, it is illegal in the U.S. to place wagers by the Internet. In addition to the questions of legality, there is an increased risk of money laundering. The sales representatives who handled the SAB accounts were not aware of these issues. The sales representatives who learned of SAB gambling related accounts in 1998 told the Minority Staff that she did not know the activity was illegal, that it was based on licensed Antiguan entities, and she never received any feedback from her superiors that gambling related accounts were a problem or a concern. She noted that the General Manager of SAB had provided her with notice that Congress had defeated attempts to make Internet gambling illegal. When asked if it raised concerns from a money laundering perspective, the sales representative said no because it was legal in Antigua and not illegal under U.S. law.

The sales representative who took over the SAB account in February 1999 learned that SAB was servicing gambling related accounts when he took over the account and read the memo of the sales team leader. He told Minority Staff that he did not discuss the issue with SAB because he believed that everything Chase needed to know about the matter was already on record and he did not think Internet gambling was illicit. The sales representative said it did not cause any concerns for him, the information had been recorded by his boss (the sales team leader), and if it didn't cause his boss any concern he didn't see why it should raise a concern for him.

He also did not recall anyone raising a concern about Chase being a correspondent for a bank that serviced gambling related accounts. He was unaware that Internet gambling companies were instructing their clients to forward their funds through SAB's correspondent account at Chase. However, he said that even if he was aware of that activity, it would not have caused a concern for him unless he had prior knowledge that the activity was illegal, and he did not know that.

The credit risk manager believed that he became aware that SAB was servicing gambling related accounts in early 2000, when he assisted in answering an inquiry about why SAB was projecting that it would use 10,000 checks per month and it was determined that the increased volume was related to issuing checks to customers of gambling institutions.[30] He didn't receive or read the sales representative's November 1998 memo on the matter. He noted that he is still unaware if anything SAB did with respect to Internet gambling is illegal, and he presumed it to be legal. He did not recall discussing with anyone whether it was legal or not and doesn't know if anyone had made an inquiry on that matter. He did not recall discussing the issues of reputational risk or money laundering because so many of the checks were small and there didn't seem to be any substantial movement of money.

He noted that one of the duties of a relationship manager would have been to follow all customer activities and put all of the pieces of the puzzle together. Because the SAB account did not have a relationship manager, this did not happen.

From the responses of the Chase personnel and the lack of any attention to this matter in the account documents provided to the Subcommittee by Chase, it appears that the legal and money laundering issues associated with Internet gambling received little, if any attention. Yet, there was clear evidence that this activity represented a significant part of SAB's business and the SAB correspondent account at Chase was a major vehicle for the flow of those funds. As noted above, both the sales representative and the sales team leader identified Internet gambling as the reason behind SAB's increased transactions through the Chase account; inquiries about payments made through the SAB account identified Internet gambling activity and accounts at SAB in 1998; and in 1999, Chase was advised that SAB's monthly use of checks would expand significantly due to Internet gambling related payments.

Beyond those items already noted, the size of the monthly statement for the SAB account at Chase suddenly expanded from approximately 50 pages per month to about 150 pages per month. By late 1998 the size of the monthly statements had grown to approximately 400-450 pages and over 500 pages long by the end of 1999. A significant portion of the increase appears due to the increased number of transactions related to collection and payments of funds related to Internet gambling activities. The Subcommittee staff reviewed five monthly account statements from 1998 and 1999. The amount of funds deposited into the SAB account for further credit to entities that were clearly identified as Internet gambling enterprises were $ 1.5 million (January 1998); $938,000 (May 1998); $3.1 million (November 1998); $6.3 million (May 1999); and $6.9

[30]It is possible that the credit risk manager first learned of the gambling connection in late 1999. In November 1999, Chase noticed a series of payments going to several Antiguan concerns that appeared to be gambling establishments. It was subsequently confirmed that the entities were gambling institutions. The credit risk manager was involved in the effort to identify the institutions. In March 2000, there was an inquiry regarding SAB's projections that it would need 10,000 checks per month. It was determined that the volume was due to gambling-related payments. The credit risk manager was also involved in that inquiry.

million (September 1999).[31] These figures represent 10%, 5%, 20%, 30% and 22%, respectively, of the total deposits into the SAB correspondent account at Chase during those months. In March 1998, the U.S. Attorney for the Southern District of New York indicted 21 owners, managers and employees of 11 Internet sports betting firms for collecting wagers from U.S. citizens over the Internet. One of those indicted was Jay Cohen, one of the owners of World Sports Exchange ("WSE"), an Internet sports betting operation. Cohen was tried and convicted in Federal District Court in New York in 1999 for criminal violation of the federal wire act for engaging in gambling over the Internet. WSE was a client of SAB. Many transactions processed through the SAB account at Chase were for the WSE. Chase records were subpoenaed for the trial and a Chase employee provided testimony at the trial about check and wire transfer activity in the SAB account at Chase that involved WSE. In July and August 2000, the Minority Staff searched the Internet and identified hundreds of Internet gambling sites that instructed clients to wire funds to the SAB account at Chase Manhattan Bank.

Yet, there is no evidence that any of these incidents caused any concerns or raised any questions within Chase or resulted in any question of SAB activity or clients until the account was finally terminated in August 2000.

In early August 2000, the Minority Staff informed Chase personnel of recent U.S. federal and state court determinations that betting over the Internet is a violation of U.S. law, and that the staff had identified hundreds of Internet gambling web sites that instructed customers to forward funds through the SAB account at Chase. On August 18, 2000, the sales team leader wrote to the General Manager of the Swiss American Banking Group to reaffirm that the Swiss American accounts at Chase would be closed on September 14. In that letter he also wrote:

> Moreover, it has come to our attention that customers of yours have created websites on the Internet, numbering in the hundreds, in which they advertise Internet gambling services, and in some instances plainly link these sites to sites offering pornographic materials, and include Chase's name and at times incorrectly identify Chase as your affiliate. This unauthorized use of Chase's name on public websites is unacceptable, and we insist that you inform your customers who operate such sites to remove Chase's name from them. More importantly, Chase has learned that at least one U.S. federal court has recently determined that conducting Internet gambling operations within the United States is a criminal violation of U.S. law. I am sure that in light of this you agree with me that it would be inappropriate for your accounts with us to continue to be used by your customers who operate Internet gambling sites to either receive funds from or send funds to persons within the United States, and we expect that you will immediately advise your

[31] The credits totaled for each month were only the credits that were registered for the benefit of entities that the Subcommittee could clearly identify as being related to Internet gambling. There may have been additional gambling related deposits not included in these totals because the name of the beneficiary of the funds was not clearly identifiable as an Internet gambling entity. Monthly debits were more difficult to total because many of the pay outs were to the individual bettors, not to the gambling firms.

customers who conduct Internet gambling operations of that fact and that such transmissions will cease.

In September 1999, the credit risk manager learned that the Chase compliance department had been using the flow of the Fitzgerald funds through SAB and SANB as an illustration of a money laundering scheme in its training materials. The illustration involved SAB and SANB and noted the relationships between the two banks as well as Rappaport. When asked if the fact that the banks were used as examples in Chase's anti-money laundering training raised additional concerns about the bank's correspondent relationship with Chase, the credit risk manager noted that the SAB had been cleared of the case used in the training illustration and no one in compliance had told him that SAB was doing something wrong and should not be a client.

In the Fall of 1999, two events occurred that caused the credit risk manager to conduct another review of the SAB and SANB relationships. SAB asked Chase to open foreign currency accounts for SAB and SANB in London.[32] Because the accounts allowed withdrawals in

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[32]In addition to the request by SAB and SANB to open foreign exchange accounts in London, the credit risk manager saw newspaper accounts that reported on possible ties that Rappaport and his bank, BNY-IMB, had with some of the individuals and companies associated with the flow of billions of dollars of Russian money through BNY, some of which may have passed through Rappaport's bank, BNY-IMB. The press attention also focused on past controversies involving Rappaport. As a result of such reports, the credit risk manager sent a memo to a Chase employee in Europe who followed the BNY-IMB correspondent account at Chase. He wrote asking what actions, if any, Chase might be taking with respect to the BNY-IMB account. He noted that Chase was reviewing the relationship with SAB/SANB:

> It is rather crucial as Swiss American is seeking to open additional DDAs and expand business with CMB. We would obviously be "influenced" by CMB-Switzerland's perspective.

The credit risk manager later reported to colleagues that the employee in Switzerland reported that she expected the account to be closed. At the same time, the credit risk manager asked the sales representative to ask SAB about its ownership and relationship with BNY-IMB. When asked why Chase did not already possess such information about a client, the credit risk manager told Minority Staff that the information is something Chase would ask for when opening a relationship, but it is not something it would ask for during a relationship because there is no annual review of a non-credit relationship.

The sales representative reported back that SAB and SAB were owned by Swiss America Holdings Company and that Swiss America Holdings Company was owned by Carlsberg. However there was no mention of the charitable trust that owned Carlsberg.

The sales representative also reported some information on the relationship of Rappaport to BNY-IMB, but some of the information he reported was incorrect. He concluded his memo to the credit risk manager by writing:

> My conclusion is that we MAY have some indirect, common ownership by Rappaport in Swiss American and Intermaritime. However, whereas his ownership of Swiss American is full and unquestionable, it is unclear whether he even has principal or controlling interest in Intermaritime-Bank of New York. Brian Stuart-Young can address the Swiss American ownership details, but it would be unreasonable for me to press hm for details on the Intermartime side of the ledger.

Thus, basic information about the ownership structure of its correspondents SAB and SANB, and important information about other banking interests of the owner of SAB/SANB were not fully known to Chase years after it established relationships with SAB and SANB, and the sales representative was reluctant to inquire about them.

different currencies, there was a possibility that the account could be overdrawn. This type of account required a credit rating and approval by a separate credit risk group. In an attempt to avoid writing up a new memo, the sales representative asked the credit risk manager to vouch for the account. The sales representative told Minority Staff that he realized that Chase was reaching a new juncture with the account and would have to make a decision whether to move ahead with it. He believed that if the credit risk manager signed off on the new account, the credit risk group would also approve it. He also believed that the credit risk manager wanted a strong recommendation from the sales team. If that was provided, the sales representative believed that the credit risk manager would sign off on the expansion of the account. He wrote to his sales team manager seeking advice;

> I spoke with the on-shore affiliate [SANB] [in the] morning, and they asked me to open FX accounts in London. Then, now in the afternoon, . . . the offshore [SAB] also asked me to open up the same. . . .
> What I see coming at Chase is a situation similar to [another account], where we operate with no eventuality with what exists, but when it comes to open a new account[s], there are complications, since they require that Risk Management approve, etc. I don't know what the [credit risk manager in London] will ask, but he will certainly want something from the client manager (???), and whom will we ask to guarantee the name?

Also in the fall of 1999, the credit risk manager notified his colleagues that there were "numerous accounts of Caribbean and other non-U.S. banks" that had been established by Chase divisions, other than the division that normally handled correspondent banking relationships. He noted that two Antiguan banks - Antigua Overseas Bank and Worldwide International Bank - had been opened by the United Nations Branch of Chase. In a follow up memo, he noted:

> Just wanted everyone to be aware that there are **DDA**'s residing elsewhere in CMB which are outside my Team's "jurisdiction" and thus not subject to our screening or monitoring. [emphasis in original]

One colleague replied:

> Obviously, "know your customer" policies, presumably have been covered off and someone looks after them. Also, I believe that the SCO's [senior credit officers] should be aware of corporate and institutional names in their respective countries.

Another colleague wrote:

> My own unscientific rating of certain geographic locations includes the presumption (biased, obviously) that anything from Antigua or Tortola is probably diseased and contagious and should be avoided like mosquitos in Queens. I hope that KYC criteria have been followed here - as the UN branch has dealt with int'l accounts for a long time, hopefully they were on the ball in these cases. Meanwhile, my head is going back into the sand on this one.

Chase officials told the Minority Staff that the individual who wrote the memo meant that because Antigua Overseas Bank and Worldwide International Bank were not in his department, they were not his responsibility and he didn't know anything about them.

> What should we do? [A Swiss American official] is going to be in Miami . . . . Is it time to tell him frankly that opening a new account would give us a lot of problems? . . . [W]hich makes me think . . . I just sent them a proposal [for a check disbursement account]. Now I'm asking myself if [the credit risk manager] will authorize <u>that</u> account? What do you recommend?
>
> (Just recently [the credit risk manager and someone from compliance] have been asking about the nature of a client at SAB, because of a series of MO's [money orders] that had passed through the account and whose name they did not recognize).

The sales team manager responded:

> Talk with [the credit manager] and suggest the theory that as long as Chase doesn't decide otherwise, they are a "client in good standing" and there's no reason to deny them service. I will speak with [another Chase official] on Tuesday if it's not going well. If [the credit risk manager] says no (I don't see why he would be more papist than the people) you and I will talk to hin together on Tuesday, what do you think?

The sales representative told the Minority Staff that he realized that the account was at that time "wounded." It had been tainted because of some of the previous incidents and attention given to it. When asked if he wanted to keep the account open, the sales representative told the Minority Staff that the account was important to him "revenue wise". It was important for him to get clear direction from his boss to close it, and he said that he was getting the opposite - SAB was a citizen in good standing, so why close it. He then pressed the credit risk manager for a memo vouching for the account. In late December 1999, the credit risk manager responded:

> PRIVATE / CONFIDENTIAL / OFF THE RECORD
>
> SAB is getting too much bad press - it's even used as a Case Study in our Money Laundering Training. It **must** be rigorously examined without further delay. If Credit raises the issue, they're "under attack" from the outset. If **you** raise the issue ("the best defense is a good offense"), you may still have a shot. [And if we all do nothing, we will all look like idiots, plus **any** request for new accounts/services will most probably be denied.]
>
> Here's what I suggest:
>
> A) Lay out the background on SAB
> B) Describe what you want to do, and
> C) Describe how you propose to "police" them.
>
> D) Get Skea's support (since Ken Lay is lame duck at this point)
> E) Seek concurrence of John Stevens & Chris Carlin

By "background", I mean a succinct but honest listing of the pluses and minuses, such as (not necessarily complete):

PLUSES:
We solicited them, not them/us.
DDA has been conducted properly - no issue whatsoever.
Good revenue generator
I've reviewed their Cash Letters - nothing suspicious.
To best of our knowledge, their strategy (soliciting PBI types via Frequent Flyer magazines and Website) is completely legal - probably no different from our own PBI activities.
Per their statement, customer base is about 80% US/Canadian; 20% European; only 2% Latin American (i.e., not the Medellin Cartel).
Only 15 customers have accounts > $500M; only 4-5 > $1MM (again, not exactly major drug dealer profile).
Management completely open with us.
They themselves have been quick to pull the plug on suspicious customers.

MINUSES:
Not a "strategic" customer.
Their domicile (Antigua) lax.
They've been drawn into several frauds/money laundering incidents but were cleared.
Their strategy undoubtedly attracts individuals evading taxes in **their** home countries.
Ownership (Bruce Rappaport) is controversial.

By "what you want to do" I mean:
Absolutely no credit facilities (I presume)
Maintain existing business plus accept new accounts (I presume)

By "how do you police them" I mean:
CMB visits
Other conditions, controls, informational requirements, etc (for example, continuing to review Cash Letters, getting info on customer base, etc on a periodic basis)

The credit risk manager told the Minority staff that there were individuals throughout the organization who were expressing concern about the relationship (and he would even include himself in that group). He told the sales representative that without a relationship manager to handle the account, the sales representative should assume the responsibility to pull all of the information about the account together have a comprehensive analysis of the relationship. The credit risk manager felt if Chase officials could satisfy themselves that SAB was an innocent victim, then they might be convinced that it was still an acceptable client. The credit risk manager felt that it was necessary to achieve some consensus on the account.

The sales representative told the Minority Staff that after the credit risk manager's memo was issued, there was no need for the sales team manager to speak with the credit risk manager. Instead, he need to speak to more senior officials in sales. It was clear that the credit risk manager wanted the sales team to sign off. The sales manager said he encouraged the sales team leader to speak to more senior sales officials, but the sales team never signed off.

In early January 2000, the sales representative spoke with an official of SAB and noted that he told the SAB official that,

> "[W]e will not move to open FX accounts for them in London until we are able to re-position SAB internally as regards risk management."

The sales representative told the Minority Staff that opening new accounts would require introducing a whole new set of people at Chase to SAB and the history of the account and would require a whole new initiative and the support to do that did not exist at the current time. He told the SAB official that they could revisit the issue in 6 months.

In March 2000, a new check disbursement account was opened for SAB. The sales representative told the Subcommittee staff that, unlike the new accounts discussed in December and January, the checking disbursement account was an offshoot of the existing DDA account that SAB held in New York. He told Subcommittee staff that he was not required to go through a new account opening process for that service (as he was with the foreign exchange accounts discussed above) and he was not sure that he was required to go through risk management. He noted that it appeared that the credit risk manager was not sure either. He said that the fact that news of the new service never got to the credit risk manager until after it was opened is a function of how custom service felt it had to route the program to get it into the system.

He said the credit risk manager never spoke to him about the issue, nor did he ever hear that the credit risk manager was concerned or frustrated that the account had been opened up.

The credit risk manager agreed that additional accounts for U.S. corporate names can be opened by the sales representatives without additional sign off from the risk management department. He noted that the sales representative had mentioned the new service a few months earlier and advised it would provide Chase with greater control over the disbursement of checks. The credit risk manager believed it was a logical explanation, but had advised the sales representative to complete the analysis he outlined in his December 21 memo before any new accounts were opened. When he learned that a new account had been opened, the credit risk manager told the Minority Staff that he felt he had asked that the future of the SAB account be discussed before any new account were opened. However, he did not feel that the sales representative was trying to go around him, since he would inevitably receive notice that the new account was being established.

As noted above, however, the opening of the account did draw the attention of Chase

officials when it was noted on the account form that SAB was projecting a monthly volume of 10,000 checks. [33]

The credit risk manager told the Minority Staff that it was during 2000 that Chase officials from the credit, sales and compliance/risk divisions discussed the SAB and SANB accounts. The concern was that given the publicity around the account and the man hours that Chase had devoted to the relationship, it was no longer a good fit for Chase. The officials decided to terminate the relationship.

On April 28, 2000, the sales representative wrote to Swiss American Banking Group and informed it that Chase was going to terminate its accounts due to a "lack of strategic fit." The sales representative told the Minority Staff that he did not participate in any conversations that presumably led to the decision to terminate the accounts. He was asked to communicate the decision to the client and wrote the letter. He noted that he had a general conversation with the sales team leader about the terminations of the accounts and the leader noted that they could not defend the account any longer, the pressure was building.

Initially, Chase asked SAB to close the account within 30 days. According to the credit risk manager, SAB retained counsel who approached Chase and informed Chase that SAB was trying hard to find a new correspondent, but could not meet the 30 day deadline. The counsel suggested that if Chase shut down the account before SAB could locate elsewhere, SAB might sue Chase. The sales team leader told Chase officials that SAB was working to find a new correspondent and should be able to close the account within a matter of weeks. Chase told SAB that if it ceased all activity in the account, it would extend the account to clear outstanding checks.

In August 2000, the account was still open. On August 14, the sales team leader wrote to SAB and told bank officials that Chase would close the accounts by September 14 unless they were closed sooner by SAB. SAB requested a 30 day extension of the September 14 date. Chase refused and the accounts were closed on October 5, 2000.

Efforts were made by the credit risk manager to monitor the relationship with SAB. However, his efforts were hampered by a number of factors. Because of the non-credit nature of the relationship, there was not a single individual who served as the relationship manager or central point of contact for the account. SAB was slow to convey information to Chase. Sales representatives did not closely monitor the relationship and at times did not act on important information that they received. The bank was unaware of controversial activities that were

[33] The sales representative told the Minority Staff that he is not sure where the projected monthly volume of 10,000 checks originated. He was not sure that was the number he gave to the administrator. He said that based on earlier conversations with SAB, the number 10,000 would be a lot and he questioned the validity of the 10,000 figure.

associated with the account, and was slow to respond to the proliferating account activity related to Internet gambling. These factors precluded a complete and coordinated review of the relationship. As a result, the relationship was maintained until late in the summer of 2000.

B. THE ISSUES

SAB and SANB have had a long history of controversial leadership, questionable activity by corporate officers, accounts that served as repositories for funds from frauds and other illicit activities, and a reluctance to fully cooperate with efforts of enforcement officials to seize the proceeds of illicit activities that were in the bank. More recently, SAB has serviced accounts that are related to Internet gambling, an activity that is vulnerable to money laundering and illegal in the United States.

Despite this history, until recently SAB and SANB have been able to maintain correspondent accounts at some of the largest and most prestigious U.S. banks, including Bank of New York, Bank of America, and Chase Manhattan Bank. These relationships can be characterized by failure of the U.S. correspondents to respond more quickly and decisively to patterns of problems and questionable activities in the relationship and inadequate due diligence and ongoing monitoring.

Throughout their relationship with SAB and SANB, the U.S. banks were continually confronted with, or making inquiries about, problems and questionable activities associated with the SAB/SANB accounts. Yet, the relationships were allowed to continue for long periods of time - even years - after the problems began to surface. One bank - BNY - even experienced occasions when SANB was slow, or simply refused, to provide information relevant to important issues related to the correspondent banking relationship. The relationship managers for BOA and BNY stated that they should have terminated the relationships earlier than they did.

The banks' failure to act more quickly and decisively stemmed in part from what appears to have been a general convention throughout the correspondent banking field - a reluctance to sever a relationship once it is established. This reluctance stems from both a sense of customer loyalty and a concern about liability for damages that may result from severing a relationship. When a correspondent account is also a significant revenue generator, there is even more incentive to give the client an opportunity to correct its problems before terminating a relationship. While there is no indication that the banks in these relationships knowingly ignored illegal behavior, these factors will often cause correspondent banks to repeatedly give their client the benefit of the doubt and to continue relationships in the hope that clients will correct problems, or repeatedly extend termination dates to allow clients time to find new correspondents. While this practice may be changing as the nature of international finance and the business strategies of major banks shift, it was certainly a factor in the SAB and SANB relationships.

Chase was slow to address SAB about the large amount of Internet gambling proceeds that were flowing through SAB's correspondent account at its New York branch, even when numerous Internet gambling firms were indicted by U.S. government officials and a Chase employee was called to testify at a criminal prosecution involving one of the Internet gambling establishments that used the SAB correspondent account.

BNY apparently did little or no follow up on illegal activities through the SANB correspondent accounts at its New York branch, even though their personnel were directly contacted by prosecutors involved in the DeBella case.

BOA made a determination to terminate its correspondent relationship with SAB in1995. While it significantly reduced the services it offered to the bank at that time, the relationship continued for an additional 4 years after that decision was made.

BNY-IMB, a foreign affiliate of BNY, has been serving as a conduit for SAB's Internet gambling clients, even though BNY does not want to service Internet gambling business.

All three U.S. banks accepted SAB and SANB's account of their dispute with the U.S. government regarding the Fitzgerald affair, with little or no effort to independently verify the facts.

The history of the relationships with SAB and SANB also reveal weaknesses in the due diligence and ongoing monitoring practices of the U.S. correspondents. Fundamental issues regarding the management and structure of the banks appear to have been unknown to the relationship managers. While all three banks reviewed in this case study followed up on matters that came to their attention and one bank attempted to be pro-active in reviewing the relationship, initial due diligence and ongoing monitoring failed to identify key issues and major problems and controversies that involving SAB and SANB, resulting in an incomplete information base from which to assess the relationship.

Chase and BOA initiated a correspondent relationship with SAB with little or no due diligence, relying on their previous connections with SANB. The banks failed to recognize the fact that SAB was an entirely different type of bank than SANB, with different clientele, different purposes and a different regulator. It presented a potentially different type of correspondent relationship from SANB and a different set of money laundering vulnerabilities.

Although the banks knew that Rappaport was the beneficial owner of SAB and SANB, they did not know the identity of all of the entities in the ownership chain, nor did any inquire why the ownership of the bank was structured through a series of trusts and IBCs that were formed in secrecy jurisdictions.

The banks apparently were unaware of the controversial history and activities of a number of board members of SAB and SANB, and made no inquiries about them.

Banks appear to have been unaware of many of the major frauds and other illegal activities that used SAB or SANB as repositories for illicit funds, even when their own institutions had been used as the conduit for the flow of funds from a particular fraud to SAB or SANB.

Chase was unaware that hundreds of web sites of Internet gambling clients of SAB were instructing customers to send wagers through the correspondent account at its bank, even though Internet gambling in the United States is illegal under U.S. law.

Interviews with the correspondent banks related to the SAB and SANB relationships once again highlighted a pattern present in many of the case studies included in this report: non-credit foreign bank relationships do not receive the same level of attention and scrutiny as credit relationships, contributing to lapses and oversights in the due diligence and ongoing monitoring process.

For example, the credit risk manager at Chase stated that the monitoring of non-credit relationships is generally reactive. Even when an attempt was made to be pro-active in the monitoring of the SAB account, because of the non-credit nature of the relationship there was not a single person who served as the focal point for the relationship. The result was that Chase did not receive timely information from its client, questionable activities and frauds associated with the account were not identified and the effort to conduct a coordinated and fully informed review of the relationship was hindered.

The relationship manager at BNY explained that the bank did not press SANB to get more information about questionable account activity because in the early 1990's banks were more concerned with credit risk than vulnerability to money laundering.

The discrepancy in the level of scrutiny given to the different types of relationships is underscored by the memo written by a BOA credit manager in response to a request to extend a fully collateralized revolving line of credit to SAB. His memo raised questions about the ownership, structure and purpose of the bank and who controls and monitors its activities. This reflected a level of scrutiny and evaluation that was often missing in the non-credit relationships that existed between SAB and SANB and their U.S. correspondent banks.

Case Histories Nos. 9 and 10
M.A. BANK
FEDERAL BANK

M.A. Bank of the Cayman Islands and Federal Bank of the Bahamas are two offshore banks affiliated with larger commercial operations in Argentina. Federal Bank's license was suspended on February 13, 2001, by the Bahamian government after 9 years of operation; M.A. Bank remains open for business after nearly 10 years of operation. Both banks were shell banks: they had no physical office for conducting banking business with customers, and they existed through their correspondent relationships. Neither bank had an Argentinian banking license despite cultivating an Argentinian clientele and Argentinian banking activities and neither ever underwent an examination by any banking regulator. Yet both offshore shell banks were able to open U.S. dollar accounts at Citibank New York, obtain Citibank automated systems for sending international U.S. dollar wire transfers, and move more than a billion dollars through their U.S. accounts. $7.7 million of that was illegal drug money in the case of M.A. Bank and $ 1 million was bribe money in the case of Federal Bank.

This case history examines the due diligence and monitoring failures of their U.S. correspondent bank, Citibank, which enabled these two high risk foreign banks to gain entry to the U.S. banking system. They include Citibank's failure to realize that both banks were essentially operating in Argentina without a license, its failure to realize that a $7.7 million seizure order for M.A. Bank targeted illegal drug proceeds from a Mexican drug cartel, its failure to realize that M.A. Bank operated without basic fiscal controls and far outside the parameters of normal banking practice, its failure to learn that Federal Bank had no anti-money laundering program, and its failure to provide accurate and complete answers to Argentinian bank regulators' questions about the ownership and activities of Federal Bank.

Information pertaining to M.A. Bank was obtained from documents provided by the government of the United States and Citibank, court pleadings, interviews of government officials and other persons in Argentina, Mexico, the United States and the Cayman Islands, and other materials. Key sources of information were interviews with an official from the U.S. Federal Reserve Board of Governors (March and November 2000), relationship managers and other officials from Citibank (May and October 2000), and copies of interviews of the principals of M.A. Bank conducted by agents of the U.S. Customs Service in June 1999. The U.S. Customs Service conducted an investigation of MAB and M.A. Casa de Cambio as a follow up to an undercover drug operation. The investigation included interviews, in June 1999, with the principals of MAB and regulators in Argentina. Much of the Minority Staff's understanding of the operations of MAB was gained from the records of those interviews. The investigation also sent written questions to MAB officials, but they declined to provide any information.

Information pertaining to Federal Bank was obtained from the bank records of Banco Republica, Federal Bank, and American Exchange Company, provided by Citibank pursuant to subpoena; interviews with Citibank officials; interviews with two Members of the National Congress of the Argentine Republic, Elisa Carrio and Gustavo Gutierrez, and their staffs; and copies of audits of Banco Republica conducted by the Central Bank of Argentina, one commenced in 1996, concluded in 1997,

and reported on in July 1998 and the other commenced in July 1998 and dated August 1998. The Minority Staff invited the owners of Federal Bank, both directly (by letter on September 15, 2000, to Jorge Maschwitz, attorney for the bank in Uruguay) and through their agents (by letter on January 8, 2001, to the bank's registered agent, Winterbotham Trust Company Ltd., of Nassau, Bahamas) to provide any information with respect to the bank and to answer Subcommittee questions. There has been no response. The Bahamas Central Bank revoked the license of Federal Bank Ltd. on February 13, 2001.

A. THE FACTS

M.A. BANK

M.A. Bank is a shell bank licensed by the Cayman Islands with no physical office anywhere. M.A. Bank has never been examined by a regulatory body of any jurisdiction. The owners and officers of M.A. Bank ("MAB") exploited the gaps in the regulation of offshore banks to structure a banking operation with poor controls and operating procedures that are an invitation for money laundering and tax evasion. This case study shows how inadequate due diligence and ongoing monitoring by M.A. Bank's correspondent bank enabled M.A. Bank to utilize its correspondent relationship to access the U.S. financial network and engage in highly suspicious financial transactions for more than one and one-half years after assets in its account were seized for illegal activity.

(1) M.A. Bank Ownership and Management

M.A. Bank is part of a group of Argentine finance, investment and currency exchange entities, collectively known as Mercado Abierto Group ("the M.A.Group").[34] The M.A.Group is owned and managed by three individuals: Miguel Iribarne, Aldo Luis Ducler and Hector Scasserra. These individuals also hold positions as officers in other entities of the M.A. Group, including M.A. Bank. All three are former government officials. Iribane worked in the Ministry of Economy for 14 years, attaining the position of Undersecretary for the Economy. Scasserra was the Director of the National Development Bank, Minister of the Interior and also worked in the Ministry of Economy. Ducler is a former Secretary of Finance.

According to its financial statements, MAB was registered in the Cayman Islands on September

[34] Entities that are part of the M.A. Group include: Mercado Abierto S.A., an over-the-counter securities broker-dealer that functions primarily as an asset management company, which is the major owner of all of the other entities in the M.A. Group; M.A. Casa de Cambio, a currency exchange house; M.A. Valores Sociedad de Bolsa, an entity that operates within the Buenos Aires stock market; M.A. Capital Markets, a merchant bank that deals with mergers and acquisitions. Mercado Abierto, S.A. owns the entities in the following proportions: MAB (60%); M.A. Casa de Cambio (97%); M.A. Valores Sociedad de Bolsa (97%); M.A. Capital Markets (97%). Source: "Basic Information Report," supplied by Citibank, translated from Spanish by CRS; M.A. Bank Limited Financial Statements and Independent Auditors' Report for 1998; and Mercado Abierto, S.A., Annual Report and Financial Statements as of June 30, 1998.

23, 1991 as Petra Investments Bank, but one day later it changed its name to M.A. Bank. It was issued a Category "B" banking license (an offshore banking license) on October 22, 1991. M.A. Bank's main activities are listed as those related to securities trading and the administration of investment portfolios for its own accounts and its customers' accounts.

In its financial statements, M.A. Bank reports that it is owned by Mercado Abierto, S.A., one of the entities that is part of the Mercado Abierto group, and Sigma Financial Corporation. During interviews of Ducler, Scassera and Iribarne conducted by agents of the U.S. Customs Service in June 1999, a review of MAB's articles of incorporation showed that 60% of MAB is owned by Mercado Abierto, S.A. and the remaining 40% is owned by Sigma Financial Corporation. Upon questioning by a Customs agent, Iribarne revealed that Sigma Financial Corporation, a Cayman Islands company, was owned by Iribarne, Scasserra and Ducler. According to the Customs interview, Iribarne said that this structure was created for "tax purposes." Customs agent notes from the interview state:

> Miguel Iribarne explained that the Cayman Islands have rules about the amount of capital M.A. Bank must have in relation to deposits. Over the years M.A. Bank has increased their amount of capital. This makes the profits subject to taxation in Argentina. So, they received authorization from the Cayman authorities to establish another corporation that owns 40% of M.A. Bank. This reduces their taxes in Argentina by 40%. Miguel Iribarne stated that Sigma Financial is only in the Caymans, so they do not have to pay the taxes in Argentina.

Minutes of a Sigma Board of Director's meeting lists a former Mercado Abierto employee as the sole director of Sigma. According to the Customs interviews, Iribarne told the Customs agent, "They did this for "tax purposes" so none of their names would appear on the documents for Sigma Financial."

MAB's administrative agent in the Caymans is Coutts and Company; MAB has no physical presence and conducts no business from the Cayman Islands. MAB also has a representative in Uruguay, Elenberg-Guttfraind & Associates.

(2) Financial Information and Primary Activities

The stated primary purpose of MAB is to provide offshore banking and investment services to clients of Mercado Abierto. As described above, the main activities of MAB are trading securities and the management of investment portfolios. MAB offers clients access to international markets for the acquisition of bonds or other investments that they could not acquire through Argentine-regulated investment firms and provides a vehicle for depositing funds outside of Argentina. According to Citibank officials, because of Argentine financial regulations, financial institutions that are licensed in Argentina are limited in the securities and bonds they can offer to clients. Therefore, most financial institutions, in order to provide their clients with a full range of international investment opportunities, establish foreign banking entities that are licensed in a jurisdiction other than Argentina and are therefore able to offer clients a broader range of investment opportunities. The MAB's 1998 financial statement reported that it had $ 37 million in assets and $ 26 million in deposits at the end of 1998. The bank did not respond to a request for information about its primary activities and the number of clients and

> . . . they [MAB] do not need a license [in Argentina] because [MAB] is an offshore bank. Miguel Iribarne told [the Customs agent] that the administrative offices for M.A. Bank are located in Montevideo, Uruguay . . . When [the Customs agent] asked, why do they do this? Miguel Iribarne responded that M.A. Bank is an offshore bank, if they had offices in Argentina they would be subject to regulation by the Central Bank.

MAB has an administrative office in Uruguay at the an auditing/consulting firm called Elenberg-Gutfraind & Associates. According to the principals of Elenberg-Gutfraind, the firm is registered with the Central Bank of Uruguay as a representative of MAB. However, it does not appear that any type of administrative activities related to banking or customer services takes place at that office. In a letter to the Minority Staff, the principals of Elenberg-Gutfraind explained that their relationship with the M.A.Group (including MAB), included consulting advice and technical assistance related to audits of the bank. Essentially, the firm "received and sent documents and correspondence which are essential for the fulfillment of the audit." From the information provided, it appears as if MAB's administrative office in Uruguay is a representative or agent office that may maintain documents or records. Neither the principals of MAB nor the principals of Elenberg-Gutfraind made any suggestion or offered any information that MAB was licensed in, or regulated by, Uruguay.

A Special Examiner from the U.S. Federal Reserve Board of Governors who accompanied a U.S. Customs agent during their interviews of MAB owners and officials in June 1999 told the Minority Staff that the investigation established that MAB did not have a physical presence anywhere other than Argentina. According to the Special Examiner, "M.A. Bank is nothing more than an account holder at Citibank." The examiner noted that through that account, MAB can receive and make wire transfers, deposits and withdrawals. According to the examiner, its account is no different from any checking or savings account an individual would set up, and through that account MAB could process transactions for all of its customers.

(6) Money Laundering and Fraud Involving M.A. Bank

(a) Laundering of Drug Proceeds through M.A. Bank

In May 1998, the Department of Justice announced the conclusion of a 3 year undercover drug operation called "Casablanca." In the undercover operation, U.S. Customs agents infiltrated the Amado Carillo Fuentes drug organization ("the Juarez cartel"), posing as money launderers. As part of the operation, the agents laundered money for the cartel through a number of Mexican and Venezuelan banks. As an outgrowth of the original operation, the agents also collected cash from cartel drug operations in the region of Chicago and laundered the money back to foreign banks and money houses through correspondent accounts maintained at banks operating in the United States. Over a period of one year (May 1997-May 1998), $43 million was wire transferred to specific accounts identified to the

(5) Regulatory Oversight

MAB is licensed as a Class B (offshore) bank in the Cayman Islands. Other than its registered agent, it has no physical presence in the Cayman Islands, and it is prohibited from doing business with residents of the Cayman Islands.[36] Offshore banks are required to submit annual audited financial statements to the Cayman Islands Monetary Authority ("CIMA"), the governmental entity that regulates banks in the country, but offshore banks are not required to keep their records in the Cayman Islands.

In 1991, when M.A. Bank first received its offshore banking license, the Cayman Islands still permitted the licensing of a bank which was not a branch or subsidiary of another bank, which planned to keep its employees and banking records outside of the Cayman Islands, and which planned to have no physical presence on the island other than a mailing address at a local registered agent. The Cayman Islands has since discontinued issuing such bank licenses, but has allowed its existing offshore shell banks to retain their Cayman licenses. In 2000, for the first time, Cayman banking authorities began a bank examination process which requires bank examiners, acting on behalf of the government, to conduct an independent inspection of the bank records and operations of Cayman licensed banks. Prior to this program, Cayman banking authorities oversaw Cayman banks primarily by analyzing information submitted by those licensed banks or their auditors. The new Cayman examination program requires an independent review of records and includes sending Cayman examiners to conduct on-site visits of Cayman banks that keep employees and records outside of the Cayman Islands.[37] However, M.A. Bank, despite nearly 10 years of operation, has yet to undergo any bank examination or site visit by any bank regulator, whether from the Cayman Islands, Argentina or any other country.

MAB is required to have an agent that represents it in the Cayman Islands, and is responsible for accepting notices from CIMA and providing information required or requested by the regulatory authorities. MAB is represented by Coutts and Company. The Coutts official who handles the MAB account told the Minority Staff that Coutts' only function is to serve as a point of contact for government officials. Coutts does not maintain any records, nor does it perform any activities with respect to MAB's banking activities.

Although the M.A. Group operates out of Argentina, MAB is not licensed to operate in Argentina and is not regulated by the Central Bank of Argentina. According to the Customs interviews, one of the principals told the U.S. Customs agent that:

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[36] M.A. Bank's representative in Uruguay, Elenberg-Gotfraind & Assoc., informed the Minority Staff that MAB has a "physical and legal presence and address in Georgetown, Grand Cayman (Coutts & Co. Cayman Ltd). " However, this is nothing more than an agent's office. M.A. Bank has no office or staff in the Cayman Islands, and in interviews with the Customs Service, one of the owners of M.A. Bank stated that MAB had no offices in the Caymans.

[37] For a general description of the status of anti-money laundering efforts in Argentina, see the Regulatory Oversight section in the Federal Bank discussion.

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undercover agents by members of the Juarez cartel.[38]

The U.S. government filed seizure warrants for the drug-related funds in those accounts in May 1998. Among the affected accounts were two accounts in the New York branch office of Citibank. One belonged to M.A. Bank; the other belonged to M.A. Casa de Cambio. According to a government undercover agent, $7.7 million in drug proceeds had been deposited in the account of M.A. Bank and $3.9 million had been transferred into the account of M.A. Casa de Cambio.

Between August 12, 1997, and January 7, 1998, a total of $3.983 million was transferred into the M.A. Casa de Cambio account at Citibank New York in eight separate transactions by U.S. Customs undercover agents acting under instructions from representatives of the Juarez cartel. Between August 12, 1997, and April 1, 1998 a total of $7.768 million was transferred into the M.A. Bank account at Citibank New York in 18 separate transactions by U.S. Customs undercover agents acting under instructions from representatives of the Juarez cartel. In seven of the eight transfers to the Citibank M.A. Casa de Cambio account and in nine of the 18 transfers to the Citibank M.A. Bank account, the wire instructed that the funds were for the benefit of Nicholas DiTullio. DiTullio is a real estate agent in Argentina and an account holder at M.A. Bank. His account was opened on July10, 1997, approximately one month before the drug-related transfers started.[39]

When the U.S. government presented seizure warrants for the accounts in question, only $1.569 million remained in the MAB account and $234,000 remained in the M.A. Casa De Cambio account. The remainder of the drug deposits had been wired transferred out of the accounts to Argentina. After the seizure of the $1.8 million remaining in the accounts on May 18, 1998, MAB sought return of this money, based on the defense that it was an innocent bank.[40]

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[38]Records obtained from the Customs Department indicate that Jose Alvarez Tostado, a lieutenant in the Juarez cartel, had telefaxed the undercover agents a list of banks and accounts that had been established to receive the transfer of the funds. The fax identified 10 different accounts, including two accounts at Citibank.

[39] According to the Complaint for Forfeiture filed by the U.S. Government, the account was opened up after DiTullio was approached by two individuals, named Jorge Iniguez and Jaime Martinez-Aryon, who wanted assistance in acquiring real estate in Argentina. Iniguez is a former Group Supervisor of the Mexican Federal Judicial Police. While in that position, he became involved in the distribution of marijuana in Mexico. In 1991 he was arrested in California and eventually convicted on federal charges of conspiracy to import 800 pounds of marijuana into the United States. In order to facilitate the transfer of funds for the purchase of properties, DiTullio offered to open an account through which Mr. Iniguez could transfer funds from the U.S. to Argentina. DiTullio recommended that an account be opened with MAB and/or M.A. Casa de Cambio and arranged a meeting between himself, Ducler and Iniguez. The account was opened in Mr. DiTullio's name because Ducler would not open an account in Mr. Iniguez' name because of the source of the funds to be laundered through the account. Instead, Ducler suggested that one or more accounts be opened in DiTullio's name, and that those accounts be used to transfer the funds to Argentina. Complaint for Forfeiture (U.S. District Court for the Central District of California, Western Division, No. cv 00-01493), 2/10/00.

[40] Under current law, the funds deposited into a correspondent bank account do not belong to the depositor but to the bank. Therefore, the government cannot seize the funds based on the wrongdoing of the

The U.S. Customs Service carried out an investigation of MAB and M.A. Casa de Cambio which included interviews, in June 1999, with the principals of MAB and regulators in Argentina. As a result of the investigation, on February 10, 2000, the U.S. government filed a complaint to seize the funds in the accounts of MAB and M.A. Casa de Cambio on the grounds that the officials of the bank and the Casa de Cambio were aiding the laundering of funds. The complaint alleged in part:

> . . .Ducler caused to be opened one or more accounts at M.A. Bank, M.A. Casa de Cambio and/or Mercado Abierto in the name of DiTullio. It was understood by Ducler, DiTullio and Iniguez that said accounts would be used to transfer drug proceeds from the United States to Argentina, and that said proceeds would then be paid out of the account(s) to DiTullio for delivery to Iniguez. The government is informed and believes and thereon alleges that the opening of the account(s) in DiTullio's name was designed to disguise the nature, source and ownership of the drug proceeds that were to be filtered through the account(s), and that Ducler was aware of the true nature and source of the funds, i.e., drugs. In opening the account(s), Ducler intentionally dispensed with virtually all of the standard internal controls and processes generally required to open accounts with M.A. Bank and/or M.A. Casa de Cambio.
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> . . .Drug proceeds belonging to the Juarez Cartel would be picked up in Chicago, as set forth in paragraph 16 above, and then wire transferred to the Citibank accounts of M.A. Casa de Cambio and M.A. Bank, as set forth in paragraphs 17 (a) and (b) above. The monies would then be credited and paid by M.A. Casa de Cambio and M.A. Bank to DiTullio.
>
> . . .Despite the various names given as the beneficiaries of the money transfers listed above, all of the transferred funds were in fact paid by M.A. Bank and M.A. Casa de Cambio to Nicolas DiTullio ("DiTullio"), either in U.S. currency or by cashier's check. The government alleges that DiTullio, Ducler, Iniguez and Martinez-Ayon, among others, were participants in a money laundering conspiracy, the object of which was to convert drug proceeds from the Chicago pickups into currency and checks issued by M.A. Bank and M.A. Casa de Cambio in Argentina.
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> . . .Based upon the above facts, there is probable cause to believe that M.A. Bank and M.A. Casa de Cambio knowingly used the Citibank accounts referred to in paragraphs 17 (a) and (b) to launder money in violation of 18 U.S.C. §§ 1956 (a) (1), 1956 (b) and 1957. Accordingly, there is further probable cause to believe that funds contained in the above-referenced accounts are subject to seizure and forfeiture to the United States pursuant to 18 U.S.C. § 981(a) (1). Additionally, to the extent that the specific funds contained in the accounts are not the same monies that were involved in the money laundering transactions, there is probable cause to believe that those funds have merely replaced identical property previously on deposit in the accounts (which identical property was in fact involved in money laundering) and are therefore

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depositor. In order to seize the money from the bank's correspondent account, the government must show that the bank was facilitating the laundering of illicit gains. Otherwise the bank has an "innocent bank" defense. The only way for the government to seize the illicit funds, without proving culpability by the bank, is to file a complaint in the jurisdiction where the depositor has his account, and this is often a foreign jurisdiction.

subject to seizure and forfeiture to the United States pursuant to 18 U.S.C. § 984.

On June 9, 2000, the U.S. government and the owners of the M.A. Group reached a settlement on the disposition of $1.8 million in seized funds. The U.S. government retained $1.2 million and the owners of the M.A. Group received $600,000. Subsequent to the settlement, Aldo Ducler, one of the owners of the M.A. Group and MAB, placed a full page advertisement in the Argentine newspaper, La Nacion. The advertisement, entitled, "The Truth of the Facts" portrayed the settlement agreement with the United States as a vindication of the actions of MAB and its owners.[41]

On December 26, 2000, the Acting Director of the Office of International Affairs of the U.S. Department of Justice sent a letter to Dr. Jose Nicasio Dibur of the Ministry of Justice in Argentina concerning the resolution of the action taken by the United States against MAB and its owners and refuting the claim of vindication by Ducler . In the letter, the Acting Director wrote:

> It was agreed that the consent judgement did not constitute an admission of liability or wrongdoing on the part of the claimants. *Id.* At lines 3-6. At the same time, however, the consent judgement did not constitute an agreement by the United States that the claimants committed no illegal acts, or that the claimants lacked guilty knowledge of the illegal acts described in the complaint.

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[41]It, in part, stated:

The conclusions of this exhaustive investigation (by the U.S. Government) resulted in the signing of a bilateral agreement between the United States, the Department of Justice, and the Department of Treasury of the United States, and our entities and directors, signed June 9, 2000 and stamped (registered) in the judicial district of California June 18 by Judge Spencer. Under this agreement the Government of the United States desists of any judicial action, and expressly clarified that there was no culpability or fault by any side. More specifically it eliminates the possibility of any new legal claim in this case. In addition it implies the recognition and acceptance by the United States that:

- The director of M.A. at all times acted within compliance of all legal applicable laws and with absolute good faith.

-The lack of existence at all times of any knowledge or suspicion on our side about the alleged illicit origin of the funds, which came in all cases from first rate U.S. banking institutions operating within the territories of the United States.

-The collaboration we gave with our lawyers since the beginning of the investigations, collaboration that has been underscored and duly appreciated by the United States. This was shown in a letter that [Assistant U.S. Attorney] Steven Welk sent our lawyer, in which (naming us explicitly) he transmitted to us his appreciation for the attention received in Buenos Aires and our cooperation in the investigation. This language in a letter that has a letterhead of the U.S. Justice Department and with a signature of who is acting in the name of the [U.S. Attorney for the Central District of California] (Alejandro Mayorkas) would be unthinkable if the government of the U.S. did not have the conviction that it had been dealing with honorable people that don't have anything to do with money laundering.

. . . The essential purpose of the consent judgement was to divide the seized funds while leaving open the question of whether the claimants committed or, were knowledgeable of, the illegal acts described in the complaint. This is not particularly unusual.

. . . In essence, the parties "agreed to disagree" concerning that question. That being said, it should be noted that this office would not have entered into the consent judgement unless it believed that there was a valid factual basis for the forfeiture of the funds.

. . . The consent judgement applied only to the civil forfeiture case in which it was entered. It did not provide for immunity for any party (corporate or individual) with respect to potential criminal conduct. The United States made no representations whatsoever about the further investigation or prosecution concerning the criminal conduct described in the complaint.

. . . However, the consent judgement is not evidence that the United States exonerated the M.A. entities or their principals or that the government believed that the allegations or the complaint were not true.

(b) Unsound and Illegal Banking Practices

In June 1999, representatives of the U.S. Customs Service and the U.S. Federal Reserve Board of Governors traveled to Argentina and interviewed officials of the Argentine Central Bank ("BCRA"), MAB, and Nicolas DiTullio. MAB officials described to the Customs agent how MAB serviced its clients' accounts and, in particular, how it handled transactions of DiTullio. The explanations offered by the MAB owners reveal banking practices that were highly vulnerable to money laundering and far outside the parameters of normal banking practice.

M.A.Group officials said that M.A.Bank had KYC procedures similar to those at U.S. banks and that individuals can only open accounts at MAB if they are referred from an existing client, are already an investment client of M.A.Group, or are known to the officers of MAB. DiTullio was not required to provide references or undergo a credit check because his name was well known in the real estate field, and he was a long-time acquaintance of Ducler, Iribarne and Scasserra.

Operation in violation of Argentine banking law. According to the Customs agent's interviews, officials of the BCRA stated MAB is not licensed to operate as a bank in Argentina. They said it can operate as a client of another bank (an account holder like anyone else), but it is not allowed to conduct banking business in Argentina: it cannot take in deposits or dispense withdrawals. Yet, it appears that MAB did accept deposits and dispense withdrawals to its customers in Buenos Aires at the offices of the M.A.Group.

During a tour of the Mercado Abierto offices, a Customs agent asked Iribarne, one of the owners and the President of MAB, if the teller window and the vault in the M.A. Casa de Cambio section of the offices was the place he, as a customer of MAB, would bring funds and have MAB wire the money somewhere else. According to the Customs interviews:

> Iribarne said yes that is correct. They, M.A. Bank, would keep the money in the vault until they could transport it to the bank, after which they would transport the money.
>
> . . . [The Customs agent] also asked if he received money from the United States as a customer of M.A. Bank, would someone from Mercado Abierto pick up the cash at the bank in Argentina, bring it to Mercado Abierto and place the money in the vault, and would he receive the money at the windows right here. Iribarne said that is correct.

During the interviews, the Special Examiner from the Federal Reserve Board of Governors asked MAB officials how a customer could receive money in Argentina if MAB did not have a branch or an account in Argentina. According to the Customs record of the interview, Iribarne explained how the process worked:

> 1) For example, Nicolas DiTullio sends the M.A. Bank account at Citibank in the United States $100,000.
>
> 2) If Mercado Abierto has the cash in their vault in Argentina, Nicolas DiTullio comes into the Mercado Abierto offices and they would give him the $100,000 in cash at the teller window. Nicolas DiTullio signs the receipt and leaves.
>
> 3) If Mercado Abierto does not have the cash, they contact a licensed bank or Cambio in Argentina that has a branch in the U.S. (For example purposes, Bank Boston). They tell Bank Boston that they (M.A. Bank) are going to wire $100,000 to the Bank Boston Branch in the U.S. Bank Boston receives the wire in the U.S. and holds the funds in a temporary account for M.A.Group Bank. Then someone from M.A. Bank officer [sic] goes into Bank Boston in Argentina. Bank Boston, Argentina, checks to make sure they have received the wire in the U.S. and then releases the $100,000 in cash to the M.A.Bank officer. The officer takes the cash back to Mercado Abierto and places the money in the vault until Nicolas DuTullio arrives to receive the $100,000.

An MAB officer and accountant told the Customs agent that there is no account for MAB in Argentina, so they always use other institutions. When a Customs agent asked if records are kept for all MAB transactions of $10,000 or more, as required by the BCRA, Iribarne, according to the interview records, responded that:

> They do not have to report any of the M.A. Bank transactions to the Central Bank or keep a record . . . because the money does not come into Argentina . . . if a bank is licensed in Argentina they would have to report the transaction and keep the log, but an offshore bank like M.A. Bank does not. This is because the wire transfer activity takes place offshore using 'undeclared' funds. The report would be the responsibility of Bank Boston, if and when they transferred the $100,000 to Argentina to cover the withdrawal.

The account officer told the U.S. Customs agent that the financial transactions of all of M.A.Group's subsidiaries were run through a central treasurer's office. All transactions for all of the

entities in the M.A.Group are conducted in bulk during the day and one company can lend money to another company as needed to help it meet commitments. At the end of the day the treasurer records the transactions in the proper set of books.

The U.S. government also obtained documentary evidence that M.A. Bank was conducting banking operations in Argentina. According to the Special Examiner from the Federal Reserve Board of Governors, the U.S. government received material from MAB that included deposit and withdrawal tickets all signed by DiTullio. According to the examiner, when the examiner asked the MAB principals if they had a license to operate MAB in Argentina, they told the examiner that performing the transactions was a service they provided to their clients.

Pseudonym accounts. Many of the wire transfers made to DiTullio's account at MAB were sent to MAB's correspondent account at Citibank. The affidavit of a Custom's agent, submitted in support of the seizure warrant for funds in MAB's account at Citibank New York, disclosed that many of the wire transfers that were credited to DiTullio's account at MAB identified entities other than MAB as the beneficiary of the transfer, and the entity identified in the "for the benefit of" column often was someone other than DiTullio. Oftentimes, the only correct information on the wire transfer documentation was MAB's correspondent account number. Despite these inaccuracies, Citibank did not reject the transfers or return the money to the originator but credited the funds to MAB's account. MAB then credited them to DiTullio's account.

When the Customs agent asked the owners of MAB how they knew to credit the transfers to DiTullio's account and not to someone else's, Iribarne said that DiTullio had advised them in advance of the amounts that would be sent. When asked again by the Customs agent how the bank knew to credit DiTullio's account when the name of the party to be credited on the wire was a different name from DiTullio's, Iribarne said they were able to match the date and time of the transfers with letters DiTullio sent to M.A. Bank notifying the bank of incoming funds. Yet, the report of the Customs agent noted that the letters notifying MAB of forthcoming wire transfers to be sent by DiTullio were provided several days before the undercover operation wired the funds, and the letters did not list a date when the transfers would occur. These omissions raise a question of how the M.A. Bank officials knew to credit the DiTullio account.

Moreover, MAB owners indicated that such transactions were regular occurrences at the bank. According to the Customs interviews, the owners of MAB stated that they regularly received "fantasy names" on wire transfers and used the amount and date to match them to client deposit notices:

> Iribarne went on to explain that they (M.A. Bank) normally receive many 'fantasy names' on the wire transfers they receive, so they just use the amount and date to match them to the proper client. When [the Customs agent] asked about these 'fantasy names,' Miguel Iribarne said clients do this so the funds are not 'regulated.' Miguel Iribarne also explained that it is also normal for clients to wire transfer money to M.A.Bank and leave the beneficiary information completely off the wire transfer instruction, and M.A.Bank still matches the money to the client.

According to the Special Examiner from the Federal Reserve Board of Governors, the practice described by the MAB owner violates normal banking practice. The examiner noted that if a bank received a wire transfer on which the name of the party to be credited was a different name from the name of the account holder who told the bank a wire transfer would be made to their account, the bank would generally call the account holder to confirm where the funds are to be credited. The bank would also ask the account holder why a third party would have money transferred into their account.

Servicing illicit funds. In discussing how they handled accounts of DiTullio and others when the wire transfer contained incorrect or no beneficiary information, the bank owners were very clear that they believed that the clients were doing this to avoid taxes. According to the Customs interviews:

> [The customs agent] asked, what if two clients claim the same amount of money, or some client claims that money had been sent and M.A.Bank could not find the transfer amid all the similar transfers? Miguel Iribarne said they have never had this problem. Miguel Iribarne stressed that their clients trust the bank, 'especially the non-declared funds.' [The customs agent] inquired if the funds were non-declared for tax purposes, and Miguel Iribarne said yes.

At one point, Iribarne told the Customs agent that he believed that all offshore accounts belonged to people avoiding taxes and that the money may sometimes come from other illegal sources as well:

> [The Customs agent] mentioned the offshore, unregulated funds. Miguel Iribarne told [the Customs agent] that he believes that all offshore accounts belonged to people avoiding taxes. Miguel Iribarne said maybe the money sometimes comes from other illegal activities as well. [The Customs agent] asked him if he thought M.A.Bank's clients were hiding money to avoid taxes? Miguel Iribarne said sure, most of the customers have overseas account [sic] so they do not have to report income. Miguel Iribarne said he does not care. The customers are the ones not reporting, not him.

Falsification of withdrawal records. One of the ways DiTullio withdrew money from M.A.Bank was in cash. According to Iribarne, DiTullio would call and tell M.A.Bank he would be coming in to withdraw money, and then he would show up and sign a withdrawal receipt when he withdrew the money. The owners of MAB provided the Customs agent with copies of the withdrawal slips that had been completed and signed by DiTullio. The Minority Staff received a copy of one of those slips. The form appeared as follows:

October 29, 1997

We have RECEIVED today from M.A. Bank Ltd., Grand Cayman, the amount of USD 10,100.00

Ten Thousand One Hundred and 00/100 United States Dollars

Please debit such amount from Account # 25913
in name of Nicolas A. Di Tullio
with yourselves.

by Account # 25913

Nicolas A. Di Tullio
APODERADO DE EURO-AMERICA FINANCE NY

As can be seen from the form, while MAB's name and address is included in the typewritten statement on the form, it is not imprinted on the form itself. The withdrawal slip is not a preprinted slip that banks generally produce and make available to all customers. Rather, it is a form that appears to have been produced on a typewriter or printer with places to insert the amount received and the name and account number of the client.

In reviewing the withdrawal receipts signed by DiTullio, the Customs agent asked why the receipts looked different from the M.A.Casa de Cambio receipts, which appeared more official. According to the Customs interviews:

> Iribarne said that the M.A.Bank receipts are a private receipt. The transactions are not reportable to the government, so they can generate them any way they want. [The Customs agent] asked, why is Euro-American Finance printed on the receipts (it looks like a receipt Nicolas DiTullio generated)? Miguel Iribarne said the form is in the computer; Nicolas DiTullio can ask to have anything put on the receipt and they would do it, they did not care. [The Customs agent] asked about Euro-American Finance. Hector Scassera [one of the other owners of MAB] said Nicolas DiTullio did not want the local tax authorities to know about, and tax him on, the money coming from the U.S. Euro-American is a company name Nicolas DiTullio uses to avoid the tax authorities.

According to the Special Examiner from the Federal Reserve Board of Governors, several

aspects of the withdrawal process described by the owner of MAB were not in accordance with standard banking practices. According to the examiner, typically the institution's name, address and other information about the bank would be preprinted on a withdrawal form. No such information was on the withdrawal forms signed by DiTullio. The form was simply a typewritten note. Apparently, MAB had no withdrawal slips. The Minority Staff learned that the examiner asked someone at the teller window at M.A.Group's offices for some deposit/withdrawal tickets and was told that they did not have any. The examiner also noted that in the case of DiTullio, the form was printed in English, even though DiTullio spoke only Spanish.

The Special Examiner also noted that the forms were signed by DiTullio as if he were an individual authorized by the company, Euro-American Finance, to make withdrawals. This leaves the impression it is Euro-American Finance that has the account at MAB and is the entity making the withdrawal. However, the examiner pointed out and the owners of MAB acknowledged, that the funds were being withdrawn by DiTullio from his own account. The examiner stated that this was not typical banking practice, noting that in the United States, individuals do not sign withdrawal slips on behalf of an organization that does not have an account at the bank. The examiner said: "it just isn't done." The examiner said that DiTullio told the Customs agent that he had signed a number of the withdrawal forms in advance of any withdrawal.

(7) Correspondent Account at Citibank

MAB maintained an account with Citibank from September 1994 through March 2000. During that time period, $1.8 billion moved through its account. Citibank had maintained a relationship with the M.A.Group since 1989. Over the years, various subsidiaries of the M.A.Group had established accounts at Citibank. In addition to MAB, other M.A.subsidiaries, including Mercado Abierto, M.A.Casa de Cambio and M.A.Valores, had accounts at Citibank New York. All of the accounts with the M.A.Group and its subsidiaries were terminated in March 2000. The MAB account with Citibank in New York was limited to non-credit, electronic banking services.

Citibank Organization for Correspondent Accounts in Argentina. Correspondent banking activities at Citibank are located in the Financial Institutions Group. Correspondent accounts in Argentina are located in the division covering Central and Eastern Europe, the Middle East, Africa, the Indian subcontinent and Latin America ("CEEMEA") which is responsible for overseeing and administering correspondent banking relationships including support services in connection with wire transfer operations. According to the marketing head for the Latin American Unit in the Financial Institutions Group in New York, in the 1980s Citibank instituted the Troika system for account management to improve coordination and communication. Under that approach, responsibility for an account opened in the United States by a financial institution in a foreign country was shared between (1) an account officer in the country where the client institution is located, (2) an account officer in the New York office and (3) a service account officer in New York.

The lead for the account is the country account officer in the country where the client is located. That officer is responsible for account opening, including due diligence and KYC information, and

maintaining contact with the customer to ensure that the relationship is operating smoothly and to market new products and services. According to the marketing head, the New York officers focused on customer service, product information, and administration of account activities. In addition, it was the responsibility of the New York office to look at overdrafts and credit issues associated with the account. Such issues were supposed to be reported to the country account officer, who had the authority to approve overdrafts and credit. According to the marketing head, it was not the responsibility of the New York office to check monthly statements or verify transactions.

Monitoring for money laundering and suspicious activity was the responsibility of the anti-money laundering unit in Tampa. As with overdraft and credit issues, any money laundering or suspicious activity issues are communicated to the country account officer, and the Financial Institutions compliance officer in New York might be notified and brought into the matter; the New York service officers may not hear of such matters. The anti-money laundering unit in Tampa had systems to identify high risk countries and generic high risk institutions, but not specific clients. According to the marketing head, until about one year ago, Citibank did not have a system in place to determine if correspondent clients should be classified as high risk. Citibank is now developing account profiles to identify high risk customers, who will be subjected to tighter monitoring and controls.

According to an investigator assigned to Citibank's anti-money laundering unit in Tampa, the unit reviews U.S. dollar based fund transfers that fall within parameters that Citibank establishes regarding dollar amounts, high risk countries and institutions that may be indicative of money laundering. All wire transfer activities falling within the parameters are sent to Tampa for review. The transactions are then sorted by different categories and reviewed for anomalous behavior. Tampa receives records of approximately 400,000 wire transfers per month that fall within the general parameters. They are then reviewed by 2 people for certain characteristics that would indicate anomalous behavior. When such behavior is identified and it is determined that further investigation is warranted, the unit will develop an investigative file. Investigative files may also be created if other events or activities cause the unit to decide to conduct a review of a client account.

The unit head for Financial Institutions in Argentina told the Minority Staff that the bank in Argentina is divided into products and relationships. The relationship manager team is responsible for the coordination of the sale of products and has the primary responsibility for marketing products. The relationship managers also have responsibility for credit and KYC issues. The relationship managers report to the unit head for Financial Institutions. The unit manages approximately 70 relationships with financial institutions whose main offices are located in Argentina. It also covers relationships with another 30 institutions located in Argentina whose main offices are in other foreign countries. (In those cases, the Citibank office in the country where the client's main office is located has the lead on the relationship). The largest number of relationships is with insurance companies and the second category of relationships is with banks.

Daily operations of the client correspondent accounts are handled by the cash management and customer service units in Argentina, with assistance from Citibank in New York. Marketing and decisions on accepting and expanding relationships are the responsibility of the Argentine relationship

managers, with approval from the unit head and the compliance department.

According to the Financial Institutions unit head, the primary document reflecting the due diligence information for a client is the Basic Information Report ("BIR"), which contains information on the history and nature of the institution, its ownership and its financial condition. In addition, a client folder will contain a checklist of items or information that must be obtained. The Financial Institutions unit head said that Citibank also takes into consideration other, more qualitative factors that do not appear on any checklist and are not firm requirements, such as the institution's reputation, and expectation of a minimum of 5 years of operating history in the market, audited balance sheets, certain minimum amounts of equity and whether the institution is known to some senior Citibank officials.

Ongoing monitoring consists of annual updates of the BIR and visits with the client both over the telephone and in person. However, the Financial Institutions unit head told Minority Staff that Citibank Argentina does not review monthly account statements of the clients, that Citibank New York monitored the accounts. The market head in Citibank New York disagreed with that observation. He told Minority Staff that Citibank New York only monitored the account for overdrafts and credit issues, and Citibank New York did not monitor the monthly accounts. He said the Citibank office in Tampa was responsible for money laundering oversight. The head of the Financial Institutions unit in Citibank Argentina told the Minority Staff that he estimated that the relationship manager for MAB may have met personally with MAB officials four times per year and spoken with them over the telephone many other times. He noted that the amount of attention given to a client was related to the size of the relationship. He indicated MAB was a rather small client because it had only one product, electronic banking services.

Citibank Policy on Shell and Offshore Correspondent Accounts. When Citibank was asked in the Minority Staff survey of correspondent banking whether Citibank would "as a policy matter, establish a correspondent relationship with a bank (a) that does not have a fixed physical presence in any location, such as a shell bank," Citibank's response was:

> The GCIB [Global Corporate and Investment Bank] does not establish relationships with customer banks that have no fixed physical presence in a particular location or with banks whose licenses require them to operate exclusively outside the jurisdiction in which they are licensed.

When Citibank was asked in the survey whether Citibank would "establish a correspondent relationship with a bank (b) whose only license requires the bank to operate outside the licensing jurisdiction," Citibank's response was:

> The GCIB does not open bank accounts for banks that have no fixed physical presence in a particular location or with banks whose licenses require them to operate exclusively outside the jurisdiction in which they are licensed. However the GCIB may open a bank account for an existing customer bank's off-shore subsidiaries or affiliates.

When asked how Citibank Argentina could have accepted the correspondent account of MAB (which is not an affiliate or subsidiary of a bank but of a securities firm) in light of Citibank's policies a

expressed in its survey response prepared by its Vice President and Director of Compliance for the Global Corporate and Investment Bank, the Financial Institutions unit head said he did not know if what the Vice President reported as Citibank policy was correct. He noted that the opening of the MAB account was approved by the Citibank Compliance Department. Citibank representatives at the meeting also noted that as a subsidiary of M.A, MAB activities were included as part of M.A.Group's report to its Argentine regulators. However, the Minority Staff pointed out that the regulatory agency for a securities firm is different from a regulatory agency for a bank, and such reporting cannot guarantee an examination of the critical and potentially vulnerable areas of a banking operations.[42]

Four months after this issue was discussed and Minority Staff had asked for a clarification of the policy, legal counsel for Citibank wrote to the Minority Staff on September 29, 2000, to re-state Citibank's policy. Legal counsel informed Minority Staff that the policy presented in Citibank's survey response was "incomplete and had created a misunderstanding about the circumstances under which Citbank has account relationships with offshore banks." Citibank's counsel went on to describe a modified policy with respect to offshore banks that have no physical presence in the offshore jurisdiction:[43]

> I indicated that our response to question 11 (as well as question 10) should have made clear that Citibank would and does open accounts for off-shore subsidiaries or affiliates of existing customer *financial institutions,* not just existing customer *banks* as our response indicated, and that these off-shore relationships could be established without regard to whether the offshore entity had a fixed physical presence in the off-shore location. M.A. Bank fits this scenario, as Mercado Abierto, S.A., an Argentine financial institution that has had an account with Citibank since 1989, is the parent of M.A. Bank. . .
>
> . . .We remain uncertain about whether attaching significance to physical presence is meaningful when one considers the nature of offshore banks.
>
> . . .Offshore affiliates typically service the existing customers of the parent institution; they do not do business with residents of the offshore jurisdiction or transact business in the local offshore currency, or seek to establish an independent customer base. Their function it is to serve as registries or booking vehicles for transactions arranged and managed from onshore jurisdictions. Accordingly, there is little need for a staff or physical facility and there is nothing inherently suspicious about the failure of an offshore affiliate to have a physical presence in the

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[42] Approximately one month after this interview with the head of the Financial Institutions unit, an employee at Citibank in Argentina wrote the Vice President of Financial Institutions in New York that the Argentina office was implementing a strategy for all of its Financial Institution customers. The letter stated that Citibank Argentina was beginning to close all accounts for offshore vehicles that were not consolidated under a local bank, and consequently not regulated by the Central Bank of Argentina.

[43] The concern expressed by the Minority Staff was with respect to banks that have no physical presence anywhere and are not branches or subsidiaries of another bank with a physical presence in another jurisdiction.

offshore jurisdiction.

Of course these vehicles are to be distinguished from banks with offshore licenses that are not affiliated with an onshore financial institution. For such banks, physical presence may be an indicator of a legitimate operation (and the absence of a physical presence may suggest that further inquiry into the legitimacy of such a bank's operations is warranted).

In Citibank's view, the key to ensuring the viability and reputability of an offshore bank that is an affiliate of a financial institution is fulsome Know Your Customer due diligence with regard to the financial institution group. Regulatory oversight by offshore jurisdictions is uneven and cannot be relied on uniformly. Further, although financial institutions generally report the activities of their affiliates, including offshore affiliates, in consolidated financials that typically are presented to regulators, in cases where the parent financial institution is not a bank the oversight by the banking regulator in the onshore jurisdiction may not occur in these circumstances, although non-banking regulators may provide some limited oversight. For these reasons, careful review of the reputation and management of the parent or affiliated institution is likely to be the most important indicator of a legitimate offshore operation. And for these reasons it is Citibank's policy to avoid account relationships with offshore entities that are incorporated by an individual or entity that is unaffiliated with a larger, reputable bank or financial institution.

Offshore entities that are primarily booking entities requiring minimal personnel or physical operations often are managed from a location that is closer to the jurisdiction of the parent institution than the offshore jurisdiction. Your staff have indicated skepticism about the legitimacy of such "back offices" and inquired about the kinds of activity in which one might expect them to engage. Indeed, there seems to be some sense that a test of legitimacy might be whether a back office has the capacity to print and mail statements. The need to print and mail statements will depend on the customer base of the offshore and the nature of the business, and may defeat the purposes of offshore banking – confidentiality and tax planning. Mailing statements for activity in the private bank account of a customer, for example, risks breaches in the confidentiality as well as triggering a taxable event. Private bank customers often do not receive regular statements but rather rely on the personal relationship with the private banker for information about the status of their account.

In sum, local banks and financial institutions establish offshore affiliates for a number of legitimate purposes. Where the affiliate is a booking vehicle, the transactions may be managed from an onshore jurisdiction and there may be no need for a physical presence in the offshore jurisdiction. Thus, in Citibank's view, instead of looking to the existence or non-existence of a physical presence to determine the legitimacy of the offshore entity, it is more useful to look to the character and conduct of the larger institution with which it is affiliated.

Opening the M.A.Bank account. When the MAB account was opened in 1994, Citibank had an existing relationship with MAB's parent, M.A.Group, since 1989. The Financial Institutions unit

head told the Minority Staff that because of the existing relationship with M.A.Group, Citibank had relied on the due diligence and existing knowledge of the parent company to substitute for some of the due diligence it would normally perform on a new account. For example, Citibank did not ask MAB for references for its previous correspondent bank. It did not enforce the 5 year operating requirement because, as the head of the Financial Institutions unit explained, the requirement is designed to ensure the potential client has experience in the market place, and since MAB's parent had been in operation since 1983, that was fulfilled. The Financial Institutions unit head was not sure if Citibank received a copy of MAB's license. He explained that Citibank had received an audited financial statement that contained a note stating that MAB was incorporated in, and had a license from, the Cayman Islands.

It is unclear whether Citibank fully understood the nature of MAB's operations. The July 1994 Basic Information Report filled out for MAB contains the statement: "The entity appears in Mercado Abierto balance sheet as a subsidiary so it is regulated by Argentine Central Bank." However, an official of the Argentine Central Bank ("BCRA") told U.S. Customs agents that MAB was not licensed in Argentina, it was not regulated by the BCRA, and it was not authorized to operate in Argentina. MAB's President, Iribarne, told Customs agents the same thing. Moreover, as the unit head had explained to the Minority Staff, MAB was specifically created as an entity that was not regulated by the Argentine authorities so that it could sell international securities and bonds that it would be precluded from purchasing and selling if it were subject to Argentine regulations.

In light of Mr. Iribarne's statements to the Customs agents that indicated that MAB was operating out of M.A's headquarters in Buenos Aires, the Minority Staff asked the head of the Financial Institutions unit if Citibank believed that MAB had authority to operate in Argentina. The Financial Institutions unit head told the Minority Staff that he was not sure, that it was a legal matter. However he said he did not think that anyone at Citibank ever believed that MAB operated as a bank in Argentina.

When asked if he knew or believed that MAB operated as a bank somewhere else, the Financial Institutions unit head stated that MAB operated with Argentine clients, but not in Argentina. He said that since he was not involved in the detailed matters of accounts he really did not know, but he believed MAB had a back office operation in Uruguay. He noted that most Argentine financial institutions have back office operations in Uruguay for their Cayman Island facilities. He said the main reason for banks selecting Uruguay is that it would be too expensive to license a bank in Argentina if banking was not the principle purpose of the financial institution, and operating out of the Cayman Islands would be too far from the customers. He said it was a matter of cost and proximity that attracted banks to Uruguay.

The Financial Institutions unit head said he was not sure if anyone at Citibank had confirmed that MAB had a real operation in Uruguay. When asked, the Financial Institutions unit head stated that no one visited an MAB office in Uruguay as part of the initial due diligence on the bank. He said the decision makers of MAB were in Buenos Aires, so he did not think it made sense to look at a back office. Instead, Citibank had contact with the decision makers of the parent company.

When asked if anyone from Citibank had ever gone to Uruguay to confirm that MAB had a back office operation in that country, the Financial Institutions unit head said "no." The Minority Staff asked

that Citibank try to confirm the existence of such an office, but Citibank never did so.[44]

Citibank's Response to Seizure Warrants. As noted above, in May 1998 the U.S. Customs Service presented Citibank New York with seizure warrants for funds in the accounts of MAB and M.A.Casa de Cambio. $1.8 million was seized on May 18, 1998. The order was for the seizure of funds existing in the accounts at the time. There was no requirement or request for Citibank to freeze or close the accounts.

Citibank documents show that at the time of the seizure, Citibank New York informed Citibank Argentina of the seizure, and Citibank Argentina asked MAB about the matter. According to the Financial Institutions unit head in Argentina, Citibank did not connect the seizure warrant with illegal activity. When Citibank representatives in Argentina spoke to MAB officials at the time, the MAB officials indicated that they were surprised by the action and did not know why the funds were seized.[45]

According to the marketing head in New York and the Financial Institutions unit head in Argentina, neither Citibank New York nor Citibank Argentina learned that illegal funds were the basis for the seizure until November 1999, nearly 1-1/2 years after the seizure took place.

In August 1999, the Subcommittee subpoenaed Citibank records and statements of the MAB and M.A.Casa de Cambio accounts. As a result of the subpoena, the market head in New York called the Financial Institutions unit head in Argentina and reported that Citibank lawyers in New York were asking about the possibility of closing the MAB account because of the seizure in 1998. The market head in New York called Argentina to inquire about the account and why the Subcommittee would be subpoenaing its records. The Financial Institutions unit head in Argentina told the Minority Staff that as a result of the call from New York, he instructed the relationship manager of the MAB account to find out more about the seizure action. At that point both the market head in New York and the unit head in Buenos Aires were still unaware that the seizure was related to an undercover drug operation.

In late October, MAB presented Citibank Argentina with a two page letter report on activities associated with the seizure. In the letter, MAB stated: "Customs is investigating financial transactions within the United States which are thought to be related with illegal activities." MAB identified DiTullio as the client responsible for the transfers of the funds that were seized, but did not specifically mention that the activity was related to drug trafficking. MAB noted that it had met with and was cooperating with the U.S. Customs Service.

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[44] The market head from New York told the Minority Staff that when Citibank installed computer equipment for MAB to enable MAB to use certain Citibank banking services, the equipment was installed in Argentina. This could be a further sign that there was no back office operation in Uruguay.

[45] The marketing head in New York told the Minority Staff that although records indicate that he, along with personnel in Argentina, were informed of the seizure shortly after it occurred in 1998, he did not recall being advised of the seizure at that time.

Subsequent to the receipt of the report from MAB, Citibank Argentina sent an e-mail to the market head in New York . The e-mail recounted the details of the seizure and passed on information that apparently been received from MAB - that it had cooperated with the Customs Service, the matter was at that time an administrative not a judicial proceeding, and that a resolution was expected soon. The memo concluded with an offer to close the account:

> Notwithstanding this and even knowing that the shareholders are very well known in the market and the company has strict anti-money laundering control, we would be prepared to close the DDAs if you consider it necessary.

A decision was made not to close the accounts. According to the Financial Institutions unit head in Argentina, Citibank had a long relationship with M.A.Group and there were never any problems with the account or the entities involved, M.A.Group had a good reputation in Argentina, and Citibank did not believe that the organization or its officials would knowingly be involved in illegal activities.

The head of Financial Institutions in Argentina told the Subcommittee staff that he subsequently discussed the matter with two of his superiors in Argentina who instructed him to further investigate the matter and find out what the illegal activity was and what banks were involved. In November 1999, 18 months after the seizure warrant was served on Citibank, Citibank Argentina asked MAB for a copy of the wire transfers that were under investigation and asked MAB to prepare a copy of all of their documents relating to the entire mater. The head of the Financial Institutions unit in Argentina informed the Minority Staff that when Citibank Argentina received the copies of the transactions, he reviewed them and noticed that the names of the parties involved in the transactions seemed to him to be strange names for investors in Argentina. He told the Minority Staff that combined with the information he already had that illegal activity had been involved, he decided to inform the client that Citibank was going to close the MA accounts in mid-November. At that time, he still did not know that the transfers in question were related to drug trafficking.

Upon hearing that news, MAB and its attorneys asked to meet with Citibank officials. On the day of the meeting, Citibank Argentina finally received the information on the case from MAB, which revealed that the transactions in question were related to drug trafficking. At the meeting MAB requested Citibank to keep the account open and to keep the information confidential because closing the account or releasing the information to the public would harm their reputation and business. MAB officials also said that they were negotiating the sale of MAB to a European bank and any news on the closing of the correspondent account or the Customs investigation would damage the prospects for the sale. The Financial Institutions unit head asked for the name of the European bank, but MA officials would not provide it. MAB requested a meeting with Citibank New York. Citibank held off on closing the account. The Financial Institutions unit head responded that the issue was a compliance matter for the bank and he could not make a decision. Although initial efforts were made to arrange the meeting with Citibank New York, it never took place.

On December 2, 1999, a few days after Citibank received the materials from MAB and held the meeting with its principals, newspaper articles revealed that MAB accounts were frozen because of drug

trafficking. According to the head of the Financial Institutions unit the action taken by Citibank Argentina at that time was to send the material to New York and place the matter in the hands of compliance in New York. Although the Financial Institutions unit head told the Minority Staff that he had previously made the decision to close the account, that action was not taken.

On December 2, 1999, the Financial Institutions unit head sent a memorandum to the head of compliance for Argentina. The memorandum recounted the history of the MAB case and the steps that had been taken by Citibank Argentina; it suggested that the closing of the account was delayed to allow public attention to dissipate. The memo included the following:

> From the standpoint of process Citibank Buenos Aires cannot exercise control over accounts at Citi New York. The follow-up of that is the task of AML [anti-money laundering] and we have never received any communication in that regard. The amounts involved are not very significant because these are individual transfers of US 500,000, insignificant in the movements of the client.
>
> The closing of the account is already decided but the present situation obliges us to wait a few days until the issue ceases to be public. The subject is being aired publicly because letters rogatory have come from the Mexican authorities seeking to recover properties purchased with these funds, since the funds apparently come from Mexican Banks.
>
> This case can be used politically to pressure the Congress for prompt passage of laws on money laundering
>
> We still believe that MA acted in good faith in this case, but the public character it has taken on will mean hardship for that entity to the extent of having to close its operations.

On December 3, Citibank formally blocked the MA accounts and its legal staff conducted an investigation of all of the MA accounts. Also, on December 3, 1999, the MAB relationship manager in Argentina e-mailed the New York marketing officer who handled the MAB account. Her communication included the following:

> As I anticipated yesterday, this issue has become public. We are in the middle of an ARR which will ask us about the following points:
>
> 1) What AML [anti-money laundering] control procedures does Citibank New York have? Do we know that there is an AML unit that controls the transactions, among others those sent under PUPID. At the appropriate time the BIR of the client in which the average movements of each of the accounts is shown was sent. Are there such controls? Is the AML unit in Tampa the one in charge of doing it or each division in New York?

The next day, Citibank New York responded:

> I have placed a call to [the investigator], AML Unit, Florida for confirmation of what aspects of AML they monitor.
>
> Citibank NY is currently in the process of establishing an AML procedure for your FI [Financial Institution] accounts located in New York. I will forward correspondence separately to you today to initiate this process.

According to the head of the Financial Institutions unit, Citibank Argentina was told to close the accounts in February 2000, nearly 21 months after the seizure took place. Between the time the seizure warrant was served on Citibank in1998 and September 1999, MAB moved $304 million through its correspondent banking account at Citibank.

Between the service of the seizure warrant in May 1998 and October 1999, Citibank did not follow up on information and communications available to it that would have revealed that the activities being investigated were related to drug trafficking. The seizure warrant served on Citibank in May of 1998 indicated the seizure was related to money laundering. Citibank informed the Minority Staff that it did not notice that information when the warrant was served. The press gave widespread attention to the indictments and warrants served on numerous U.S. and foreign banks as a result of Operation Casablanca. Citibank was identified as a recipient of some warrants. Apparently, those reports did not result in any review or investigation inside of Citibank, otherwise the connection with the MAB seizure warrant would have been discovered. In June 1998, MAB wrote to Citibank and asked that Citibank:

> furnish us a report on the origin, cause [and] authority acting on the attachment order received, as well as all actions taken by you whose objective was to make disposition of funds in our current account No. 361111386, as far as possible, providing us an exact copy of the documentary evidence attesting to the existence of such judicial order and of the transfers or other actions taken by you as a consequence thereof.

Citibank can find no communications that responded to MAB's inquiry. The preparation of a response to MAB would likely have informed Citibank that the seizure warrant was related to money laundering associated with drug trafficking.

In 1998 and early 1999, MAB raised the issue of the seizure several times in communications and meetings with Citibank. In May 1998, Scassera and Iribarne told the relationship manager that they did not know who ordered the transfers and were hiring an attorney in the United States to represent them in the investigations. In June Citibank received notice from MAB that the U.S. Customs Service would be requesting monthly statements and all related documentation from the MAB account. On four subsequent occasions (August, September and October 1998 and March 1999) MAB informed Citibank of its communications and contacts with the Customs Service. None of these contacts caused Citibank to make additional inquiries or learn what the nature of the action was and why the Customs Service was so interested in the account.

According to the Financial Institutions unit head, Citibank never made a connection that the

involvement of the Customs Service suggested that there might be illegal activity involved. Moreover, he told the Minority Staff that he had asked the relationship manager to find out what was involved in the situation, but the client never told her what was really going on. He noted that in March MAB officials informed the relationship manager that they expected the money to be returned soon.

When asked by the Minority Staff why Citibank did not threaten to close the account if MAB was not being responsive to its inquiries, the unit head remarked that the client was someone Citibank totally trusted and therefore never thought the seizure was related to anything illegal. Also, he told the Minority Staff that MAB told Citibank that the investigation involved one of it clients. He said under such circumstances he would have thought the warrant was related to a commercial matter.

After MAB told Citibank in October 1999 that the Customs investigation involved financial transactions related to illegal activities, it took Citibank nearly one additional month to get the information that provided details on the matter.

Additionally, Minority Staff informed Citibank counsel in late September or early October 1999 that the basis for the Minority Staff's interest in the matter was because the funds seized were the result of drug transactions related to Operation Casablanca. Apparently this information was not passed on to the market head in New York and the head of the Financial Institutions unit in Argentina, because in late October Citibank personnel in New York and Argentina still did not know the reason for the seizure.

In September 2000, legal counsel for Citibank wrote a letter to Minority Staff to explain the bank's response to the seizure warrant. In the letter Citibank informed the Minority Staff that:

> Although there was nothing on the face of the warrants that linked the seizures to narcotics proceeds, the warrants did contain statutory references to 18 U.S.C. Secs. 981 and 984 and to 18 U.S.C. Secs. 1956 and 1957.
>
> ...The legal personnel who received the warrants apparently did not recognize that they were related to money laundering allegations and simply processed them without pursuing further inquiries.
>
> . . . Neither did the business people in New York recognize the statutory citations in the warrants as related to money laundering. Without the benefit of the affidavit, they assumed these seizure warrants, like the vast majority of those received by Citibank, were related to a civil dispute, which would not trigger an in-depth account review.
>
> ...Citibank did not appreciate until late September 1999 that the seizure warrants were linked to narcotics trafficking.
>
> ...in response to this letter, members of the Minority Staff shared with Citibank counsel either a summary of the information contained in Agent Perino's affidavit or the affidavit itself.

. . . Citibank lawyers made inquiries to the business people about the status of the M.A.Bank account.

. . . However, ... neither Mr. Norena or Mr. Lopez was informed that the inquiry related to allegations that the M.A.Bank account had been used to launder proceeds of narcotics trafficking. Mr. Lopez, who thought the seizure warrant was routine, did not understand the basis for the renewed interest in the seizure or the implication that the seizure should have triggered an account review.

..Mr. Lopez. . . initiated an inquiry with the principals of Mercado Abierto who informed him of the allegations that M.A.Bank had been used to launder drug money and, on November 19, 1999, provided him with Agent Perino's affidavit. Thereafter, Mr. Lopez recommended that Citibank terminate all of its relationships with the Mercado Abierto group, even though the Mercado Abierto principals appeared to be cooperating with the Customs Service investigation and believed that the allegations that had led to the seizure of the accounts would be quickly resolved in their favor.

...Citibank itself was not in a position to confirm that any suspicious account activity or pattern was in fact related to the laundering of drug money. The Mercado Abierto accounts were blocked on December 3, 1999, and were formally closed as of February 21, 2000.

...In deciding to open the correspondent banking accounts that were the subject of May 18, 1998 seizure warrant, Citibank was dealing with an established customer who enjoyed and excellent reputation as a long-established and significant member of the Argentine financial community.

...Mercado Abierto today manages an investment portfolio worth $400 million and in April of this year ranked seventh among brokers in the Buenos Aires stock exchange. Further, in the course of performing its Know Your Customer due diligence, Citibank reviewed anti-money laundering policies that had been adopted by Mercado Abierto.

...But what may have happened here, as the Customs Service's Forfeiture Complaint speculates is that one of the principals 'intentionally dispensed with virtually all of the standard internal controls and processes generally required to open accounts with M.A.Bank and/or M.A.Casa de Cambio.'

...In circumstances like these, in which a principal is alleged to have subverted his own institutions internal controls the most careful scrutiny by Citibank may not be enough to prevent an unscrupulous principal from attempting to abuse the correspondent banking system once a correspondent account has been established.

...Although we believe that the opening of the M.A.bank account was appropriate, Citibank's failure to undertake a complete account review in May 1998, when the seizure warrant was first received was not. As a result of the lessons learned from this episode, Citibank has adopted new

procedures to process those seizure warrants that affect its relationships with correspondent banks in emerging markets, like the seizure warrants that Citibank received for M.A.Bank and M.A.Bank Casa de Cambio.

In March 2000, after the MA accounts had been closed, an investigator in Citibank's anti-money laundering unit conducted a self-initiated review of all of the MA group accounts. The investigation was undertaken after the investigator saw an article about MAB in a local newspaper. In June he produced a report which included the following:

> According to an article taken from the Miami Herald dated March 1, 2000, Alejandro Ducler, [sic] a former vice minister of finance for Argentina, allegedly transferred $1.8 million in drug cartel proceeds. Dulcer [sic] is one of the owners of the Argentine financial holding firm known as Mercado Abierto, which owns M.A.Casa de Cambio, M.A.Valores S.A. and M.A.Bank Limited. All four held accounts with Citibank. . . . After reviewing the funds transfer activity of the aforementioned from April 1997 through March 2000, a total of $84,357,473.21 were transferred to the entities mentioned below. The consecutive whole dollar amounts transferred and the nature of the business contributed to the rise in suspicious activity and ongoing monitoring."

The entities identified in that report include some that were engaged in a significant amount of transactions with MAB. Citibank representatives informed Minority Staff that it was not accurate to conclude that the $84 million in transactions identified in the AML review were suspicious. According to Citibank representatives, the review identified those transactions that involved dollar amounts and institutions that fell within parameters established by the anti-money laundering unit. Those parameters are based on information obtained through U.S. government advisories and other expert opinion on where the bulk of money laundering occurs. According to Citibank representatives, the determination of whether the $84 million worth of transactions falling within those parameters were anomalous or suspicious would require more investigation and analysis. That was not performed. The Minority Staff has since learned that Citibank did file a Suspicious Activity Report on the $84 million in transactions.

FEDERAL BANK

(1) Grupo Moneta and Banco Republica

Grupo Moneta, an economic group in Argentina, was, according to Citibank records, established in December 20, 1977. According to Citibank documents[46], Grupo Moneta was owned equally (33% each) by Argentinians Raul Moneta, Benito Lucini, and Monfina, S.A., an entity owned by the members

[46] See organizational charts from 1997 and 1999 at the end of this chapter.

of the Moneta family.[47] In October 1983 the Central Bank of Argentina approved the establishment of a wholesale bank in the group, Banco Republica. In March 1992 the Bahamas approved the establishment of an offshore bank in the group, Federal Bank Ltd. Federal Bank was understood by Citibank officials to be an offshore vehicle for customers of Banco Republica, and its correspondent relationship was handled by Citibank in that context.

Grupo Moneta was described in a Citibank memorandum in November 1996 as "one of the most important groups in the country [of Argentina] with consolidated assets of approximately $500 million." According to Citibank documents, it owned at various times a number of financial entities in addition to Banco Republica and Federal Bank. These entities which were owned either directly or through other companies included Adamson Inc.; Republica Holdings,[48] which, along with Citibank, owned stock in CEI Citicorp Holdings, a company which owns stock in various telecommunications and media companies in Argentina; Citiconstrucciones, a construction company unrelated to Citibank; and International Investments Union, Ltd. Banco Republica also owned a percentage of CEI Citicorp Holdings and several other entities, including a controlling percentage in two consumer banks, Banco Mendoza and Banco de Prevision Social.

Citibank had a long-term relationship with Grupo Moneta and the families of its owners, Raul Moneta and Benito Lucini. This relationship had two primary components: Citibank's correspondent relationship with Banco Republica, which included both cash management and credit services; and Citibank's ownership interest, together with Grupo Moneta, in CEI Citicorp Holdings. Citibank also maintained accounts for other Grupo Moneta entities, including its correspondent account with Federal Bank. The financial institutions division of Citibank Argentina, which had responsibility for correspondent relationships in Argentina, treated its relationship with Banco Republica and its relationship with Grupo Moneta in tandem and almost interchangeably, often including an assessment of the Grupo Moneta relationship as a whole when addressing the status of Banco Republica. Federal Bank was analyzed by Citibank as a subset of the Grupo Moneta and Banco Republica relationship.

(2) Federal Bank Ownership

According to the Central Bank of the Bahamas, Federal Bank was licensed in July1992 "to conduct unrestricted banking business from within The Commonwealth of The Bahamas."[49] However the 1999 annual statement of Federal Bank says its license is restricted to "conduct banking and trust business with non-residents," making it an offshore bank. This discrepancy was not explained, but the

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[47]Monfina S.A. according to Citibank records is owned equally by Raul Moneta, Fernando Moneta, Alejandra Moneta de Moim, and Alicia Moneta de French. Jorge Rivarola held a 1% interest in Grupo Moneta as well.

[48] The name of Republica Holdings prior to January 28, 1998, was United Finance Company, or UFCO.

[49] Letter dated September 7, 2000, from the Manager of the Bank Supervision Department of the Central Bank of the Bahamas to the Subcommittee.

evidence is clear that Federal Bank did not act as a domestic bank in the Bahamas but confined itself to offshore banking activities. The Bahamas Central Bank said the registered office of the bank and the managing agents of the bank are the Winterbotham Trust Company, Limited, of Nassau.

The Central Bank of the Bahamas provided the Subcommittee with a document claiming to show the ownership of Federal Bank. The owners on the document were identified as Abraham Butler, George Knowles, and Philip Beneby, each listed as a banker in Nassau, Bahamas. Butler is shown as holding 50,000 shares; Knowles as holding 1,650,000 shares; and Beneby as holding 3,300,000. When the Minority Staff inquired as to the identity of these three persons, the Central Bank said that each of the individuals is an employee of Lloyds TSP Bank in the Bahamas, which acted as Federal Bank's managing agent prior to the Winterbotham Trust Company. The Central Bank explained that Bahamas law used to allow individual officers of the registered agent to serve as nominee owners of the bank being managed. The Central Bank said that there was no good reason for this practice, it effectively disguised bank ownership, and the Bahamas no longer allows it. The Central Bank told the Minority Staff they expect that by the end of the year, the law will require bank records to reflect the names of the actual beneficial owners of all banks licensed in the Bahamas that conduct business with the public.[50]

In a telephone conversation with the head of the Central Bank of the Bahamas, the Central Bank confirmed to the Minority Staff that the actual ownership of Federal Bank is similar to that reported by Citibank for Grupo Moneta, with 33% of the shares owned by Raul Moneta; 33% owned by the members of the Moneta family; 30% owned by Benito Jaime Lucini; 3% owned by Paulo Juan Lucini; and 1% owned by Jorge Rivarola. But for the 3% ownership by Paulo Lucini, this information comports with the ownership information contained in the Citibank documents for Grupo Moneta.[51]

In a claim directly contradicted by the information provided by Citibank and the Central Bank of the Bahamas to the Minority Staff, Raul Moneta is reported as having recently denied any ownership in Federal Bank in an interview with The Miami Herald. [52]

(3) Financial Information and Primary Activities

In a December 1998 analysis of Banco Republica by Citibank, in a document entitled a "Commercial Bank Individual Analysis," the Resident Vice President of Citibank Argentina described the sources of Banco Republica's funding as follows:

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[50] When asked why Federal Bank's nominee owners had such a wide disparity in the number of shares each is recorded as owning, the Central Bank said it did not understand the reason for the records reflecting the differences in shares.

[51] Banco Republica did not itself have any direct ownership interest in Federal Bank. Both banks were entities owned by Grupo Moneta.

[52] "Miami Banks Used for International Money Laundering, Investigation Reveals," by Andres Oppenheimer, February 5, 2001.

> The principal source of funding for BR is its base of deposits, which represents 55% of its funding. Within the composition of its deposits, we find that the principal type of BR deposit is CD's of individuals with substantial assets who trust Raul Moneta [one of the owners of Banco Republica]. This represents a change with respect to the past, since the number of deposits of institutional investors has decreased.
>
> Second, 45%, is the lines of credit with foreign banks, which BR uses frequently for foreign trade transactions. In addition, BR has lines of credit with local banks such as Galicia, Deutsche, and Sudameris.[53]

Martin Lopez, Citibank's relationship manager for Grupo Moneta entities from 1995 to 2000, told the Subcommittee that his understanding of Banco Republica was that it was a wholesale bank in Argentina that dealt with corporate customers and private bank customers in Argentina. He described Federal Bank as an offshore vehicle "to help private banking customers" of Banco Republica.[54] He added that Federal Bank was created to replace American Exchange Company, another offshore vehicle of Grupo Moneta incorporated in Panama with an office in Uruguay. American Exchange Company is discussed later in this chapter.

Lopez explained that the purpose of Federal Bank was to help private banking customers of Banco Republica who wanted to keep their deposits out of Argentina for fear of the country's economic instability. He said domestic banks like Banco Republica, in order to compete with international banks, set up these kind of offshore banks. Lopez described Federal Bank as a small offshore bank with not more than 200 or 250 customers. He said the deposits in Federal Bank belong to customers of Banco Republica and that Grupo Moneta used these deposits to provide loans through Federal Bank to another Grupo Moneta entity, Republica Holdings.[55]

In a memo dated February 6, 1997, Lopez described the elements of the Federal Bank role in Grupo Moneta:

> The existence of this vehicle is justified in the group's strategy because of the purpose it serves:
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> a) To channel the private banking customers of Banco Republica to which they provide back-to-backs and a vehicle outside Argentina where they can channel their savings, which are then re-

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[53] Translated from Spanish by the Congressional Research Service.

[54] By private banking customers, Lopez meant wealthy individual seeking wealth management services from the bank.

[55] Republica Holdings, according to Lopez, has three holdings itself: Grupo Moneta's CEI shares, Telephonica Argentina shares, and Telecom shares. He added that sometimes when Republica Holdings has to pay interest on its money, it gives its shares in these entities to Federal Bank as collateral and Federal Bank loans Republica Holdings the money it requires.

placed in Banco Republica by Federal Bank, constituting one of the bank's most stable sources of funding (approximately USA$ 34 MM). (b) To channel the cash flow of the partners of Banco Republica and serve, with these deposits and the assets of Federal Bank, as a bridge, financing loans aimed at companies associated with CEI. c) To finance UFCO[56] through swaps of their share positions giving it financing against the most liquid shares (Telefonica, Telecom) for US $20 MM which, in turn, Federal matches with banks abroad.[57]

The financial statement for Federal Bank for the year ending 1999 shows total assets in 1998 of almost $252 million and in 1999 of almost $133 million. The main liabilities included about $50 million in deposits and $40 million due to banks each year; $64 million in 1998 and $8 million in 1999 owed to creditors for purchases of securities; and $66 million in 1998 and $4 million in 1999 as "forward sales of securities." The 1999 financial statement describes Federal Bank's "line of business" as "placing short-term deposits with members of the international banking community and making loans to customers either in currencies or securities and trading in securities."

The Minority Staff reviewed the monthly statements of Federal Bank for its correspondent account at Citibank and determined that during the course of Federal Bank's correspondent account at Citibank New York, from November 1992 through May 2000, over $4.5 billion[58] moved through the account. This figure exceeds any other offshore bank examined by the Minority Staff for that period.

(4) CEI

Citibank was not only the correspondent bank for Banco Republica and Federal Bank, Citibank was also a partner with Grupo Moneta and Banco Republica, and – for a brief time – with Federal Bank, in a holding company called CEI Citicorp Holdings, S.A. (originally named Citicorp Equity Investments, S.A.), referred to hereafter as CEI. To understand the correspondent banking relationships, it is necessary to also be familiar with this business collaboration.[59]

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[56] UFCO changed its name to Republica Holdings in January 1998.

[57] Translation from Spanish provided by the Congressional Research Service.

[58] The Minority Staff calculated that the total amount of money deposited in the Federal Bank correspondent account at Citibank New York from November 1992 through May 2000 was $4,317,646,934, excluding 5 months for which the monthly statements are missing. When estimated amounts for the missing five months are added to the total, the result exceeds $4.5 billion.

[59] See "Remarks Grupo Republica," dated 2/6/97, by Citibank, PS018310. "This association (CEI) means, both for Grupo Moneta and Citibank, a long-term strategic alliance which requires, because of the amount of the investment and the relative weight of Grupo Moneta therein, a very strong interrelationship between both and a commitment by both to maintain that relationship." (Translated from Spanish by the Congressional Research Service.) The Minority Staff's account of the ownership and operation of CEI is based on a briefing provided by Citibank attorneys.

Citibank started CEI as a company to hold and manage the stock of companies in Argentina which Citibank came to own as a result of defaults on loans and conversion of its Argentinian bonds, using debt for equity swaps. Citibank owned its interest in CEI through a Delaware corporation Citibank established called International Equity Investments (IEI). Citibank's purchase of equity in Argentinian companies through its ownership of IEI and, in turn, CEI, was approved by the Office of the Comptroller of the Currency(OCC) in 1992,[60] with the condition that Citibank reduce its ownership of CEI over time. For example, the OCC said Citibank could hold no more than 40% of CEI's shares by the end of 1997, at which time CEI was to be managed by a third party, and Citibank would, by a time certain, have to completely divest itself of any ownership interest in the company. The OCC also imposed a number of other relevant conditions on Citicorp's activities relative to CEI.

In 1992, when Citibank was in need of capital and pursuant to its agreement with the OCC, it looked for a purchaser of some of its CEI stock. It found that purchaser in Raul Moneta and his financial organization Grupo Moneta. While it is difficult to piece together exactly how the Grupo Moneta's shares in CEI were purchased and distributed, it appears that in July 1992 Citibank sold approximately 10% of its CEI stock to Grupo Moneta through United Finance Company Limited (UFCO); UFCO purchased an additional percentage of CEI in December 1992.[61] Out of its shares of CEI stock, UFCO sold a 4.27% interest in CEI to Banco Republica. Citibank loaned UFCO a substantial percentage of the funds it needed to purchase the CEI stock.

In 1998 Citibank sold additional shares of CEI stock to Grupo Moneta, and Grupo Moneta increased its overall ownership to 39.9%.[62] Over time the ownership of CEI changed, and as of May 31, 2000, according to the June 30, 2000, annual report filed with U.S. Securities and Exchange Commission, the principal shareholders of CEI were Ami Tesa Holdings Ltd. (ATH) (67.7%) and Citibank New York (23%). Hicks, Muse, Tate and Furst, Inc. held approximately 40% of the ATH stock, and approximately 27% of the ATH stock was held in escrow by Citibank for Republica Holdings and IIU, both owned by Grupo Moneta.

In its June 2000 report, CEI described itself to the Securities and Exchange Commission as "a holding company primarily engaged through controlled companies and joint venture companies in the telecommunications business, the cable television business, and the media business in Argentina."

(5) Correspondent Account at Citibank

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[60] Interpretive Letter No. 643, July 1, 1992, Frank Maguire, Acting Senior Deputy Comptroller.

[61] Citibank's attorney wrote to the Subcommittee on February 25, 2001, after reviewing a draft of this report and said that the sale to UFCO in December 1992 was an additional 10% of CEI. Documents in Citibank files, however, suggest that the 1992 sale was larger than 10%.

[62] This increase in CEI shares for Grupo Moneta was accomplished through the purchase of the shares by Republica Holdings, formerly UFCO. It is uncertain when the Central Bank of Argentina became aware of the fact that UFCO or Republica Holdings was owned by Grupo Moneta.

Citibank opened its correspondent account for Banco Republica in 1989.[63] It opened a correspondent account for Federal Bank in 1992. The Banco Republica account stayed open until 1999, and the Federal Bank account stayed open until 2000, when both accounts were closed due to the collapse of Banco Republica because of a "run" on the bank in 1999. The "run," according to Lopez was due to the publication in the Argentine press of information that Banco Republica had received a CAMEL rating of 4 from the Central Bank of Argentina. CAMEL ratings are used to grade the financial stability, safety and soundness of a banking institution. The ratings range from 1 to 5, with 5 being the worst. A CAMEL rating of 4 is considered very poor, and both Lopez and Carlos Fedrigotti, President of Citibank Argentina, told the Subcommittee they would not open an account for a bank with a CAMEL rating of 4.

The account opening documentation produced by Citibank for the Banco Republica account is limited. It consists of a Legal Agreement dated August 30, 1989, regarding use of Citibank's Global Electronic Financial Network, the list of account numbers (there appear to be two), an account opening checklist that appears to be a reminder for sending information to various departments within Citibank, several apparently minor messages, an information sheet creating the accounts, and what appears to be a letter of request to Citibank Argentina to open an account signed by Jorge Maldera and Pablo Lucini, both directors of Banco Republica. The account opening documentation produced for the Federal Bank account is even less; it consists of a single signature card signed by Jorge Maschwitz as Director of Federal Bank. There is no documentation in the Citibank account opening records for either bank with respect to: ownership, an audited financial statement, references from regulators or others about the bank's reputation, or a copy or discussion of anti-money laundering procedures.

Although Federal Bank is a shell bank with an offshore license, Citibank told the Subcommittee that it had a correspondent relationship with Federal Bank because Federal Bank was part of the larger financial enterprise of Grupo Moneta and was the offshore vehicle for Banco Republica, the owners of which Citibank said they knew very well. For example, one Citibank document written in March 1997 states: "There is a close relationship between our Senior Management and R. Moneta. This, added to the association that exists between this group and CEI, means that Citibank has profound knowledge of the corporate structure, details of its organization, and the operation of Grupo Moneta and Banco Republica." Another Citibank document states that Raul Moneta "has easy access to our Senior Management (John Reed, Bill Rhodes, Paul Collins, etc.)."[64]

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[63] It also opened an account for American Exchange Company at the same time. It appears Citibank used a common account opening document for both institutions.

[64] Several Citibank reports on Grupo Moneta and Banco Republica note specifically the close relationship Citibank Argentina has with the owners of Grupo Moneta. A credit report from August 1997 states: "We have excellent contacts at the Senior level...This close relationship gives us access to confidential internal Bank information." And a Commercial Bank Analysis of Banco Republica dated December 1998 states: "The bank's Senior Management has a strong relationship with Raul Moneta, who is No. 1 in this group. The relationship came about as a result of the 'shareholder' relationship Citibank has with Grupo Republica in CEI (Citicorp Equity

Although Federal Bank was an offshore shell bank licensed in a country known for weak banking and money laundering controls, Citibank documentation does not indicate any steps taken to ensure enhanced scrutiny of this bank. To the contrary, Citibank appeared to ignore even basic due diligence requirements it had in place for correspondent accounts. For example, although Citibank normally requires an on-site annual visit to its bank clients, Lopez said that as the relationship manager for Federal Bank, he never visited it and doesn't know anyone from Citibank who has. When asked where the bank is located, Lopez said he "has a feeling" it is in Uruguay in the offices of "some representative or attorney." When asked about the absence of a physical location for its customers, Lopez said it is like M.A.Bank; "they only need a booking unit that receives deposits and could make loans."

Lopez said that he knew Federal Bank was not permitted to conduct banking business in Argentina and that it did not have any other correspondent accounts other than Citibank, apart from its correspondent relationship with Banco Republica. Since Federal Bank is a shell bank and thus totally dependent upon its correspondent relationships, it appears that all of Federal Bank's transactions were conducted either through its correspondent account at Citibank or its correspondent account at Banco Republica.

(6) Regulatory Oversight

The regulatory authority for Banco Republica is the Central Bank of Argentina, also known as BCRA. According to Carlos Fedrigotti, the President of Citibank Argentina, the BCRA "gets good reviews" from both the banking industry in Argentina and outside parties such as the World Bank and the International Monetary Fund. Fedrigotti said the BCRA has "done a good job in cleaning up" the banking industry in Argentina and that the industry is far safer than it was 6 or 7 years ago. Fedrigotti said Citibank Argentina gets audited on an annual basis; and the Minority Staff learned that Banco Republica was subject to two audits that took place from 1996 through 1999.

The Financial Action Task Force on Money Laundering ("FATF") and the U.S. State Department's most recent International Narcotics Control Strategy Report ("INCSR 2000") report indicate that Argentina's anti-money laundering efforts are mixed. Argentina did not have a comprehensive anti-money laundering law until the year 2000.[65] Based upon passage of this new law, FATF recognized Argentina as a full member for the first time in 2000. However, FATF's latest annual report (2000) states:

Investment). Raul Moneta has easy access to our Senior Management (John Reed, Bill Rhodes, Paul Collins, etc.)." John Reed is the former Chairman of Citibank; Bill Rhodes is a Vice Chairman, and Paul Collins is a retired Vice Chairman.

[65]The Minority Staff has been advised that the effective date of the new anti-money laundering law (law 25.246) was actually February 7, 2001, because it was awaiting the approval of the President of Argentina before it could be implemented.

Recent high-profile investigations have shown evidence that drug cartels are active in Argentina, and underlined fears that it could become a growing international money laundering center. While there was no indication of other sources of illegal proceeds, it is believed that bribery and contraband could also contribute to the money laundering which occurs in Argentina.

The regulatory authority for Federal Bank is the Central Bank of the Bahamas. In June 2000 the Bahamas was one of 15 countries named by FATF for weak anti-money laundering controls and inadequate cooperation with international anti-money laundering efforts. The INCSR 2000 report describes the Bahamas as a country of "primary" money laundering concern due to "bank secrecy laws and [a] liberal international business company (IBC) regime [which] make[s] it vulnerable to money laundering and other financial crimes." While banking and money laundering experts interviewed by the Minority Staff described the Bahamas as having good intentions and making important improvements, during the 1990s it provided weak oversight and inadequate resources to regulate its more than 400 offshore banks.

Because Federal Bank and Banco Republica were both owned by Grupo Moneta, Federal Bank might also be expected to be subject to oversight by the Central Bank of Argentina as an affiliate of Banco Republica. As Citibank Argentina President Fedrigotti told the Subcommittee, if Federal Bank had been linked to Banco Republica, it would have been reviewed by BCRA But that link was not made, however, because Banco Republica did not directly own Federal Bank, and, although Citibank knew that Federal Bank was owned by the same persons who owned Banco Republica (Grupo Moneta), the Central Bank of Argentina did not.

Ironically, in fact, Citibank officials expressed concern internally about the weak regulatory oversight of Federal Bank, because they knew the Central Bank of Argentina was not aware of the common ownershhip of Federal Bank and Banco Republica. In an internal memo,[66] Lopez, the relationship manager for Grupo Moneta entities, wrote, "Its [Federal Bank's] existence is not reported as linked to BCRA despite being a banking vehicle (offshore category D in our policy), which makes it a risky vehicle per se because of having only the control of the Central Bank of the Bahamas." Yet, as discussed later, when the Central Bank asked Citibank about Federal Bank's ownership, Citibank chose to keep silent about the offshore bank's links to Banco Republica and Grupo Moneta. In addition, Citibank failed to give any heightened scrutiny to what its own relationship manager characterized as "a risky vehicle per se."

(7) Central Bank of Argentina Concerns

Resolution No. 395/96. The Central Bank of Argentina has established limits with respect to the amount of stock a bank can hold in a company to which it is related and the amount of

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[66]See "Remarks on Grupo Republica" dated 2/6/97, PS018309. "Federal Bank Ltd.: Located in the Bahamas with US $25 MM in capital. Its existence is not reported as linked to BCRA [Central Bank] despite being a banking vehicle (offshore category D in our policy), which makes it a risky vehicle per se because of having only the control of the Central Bank of the Bahamas."

loans a bank can make to related companies. In 1996 the Central Bank became concerned about the extent of Banco Republica's ownership (4.27%) in CEI. That amount represented more than 15% of Banco Republica's computable equity, which is the limit previously established by the Central Bank. Banco Republica asked the Central Bank for a waiver of the 15% limit for three years. The Central Bank granted that waiver on the condition that Banco Republica "refrain from carrying out any transaction that involves, even temporarily, directly or indirectly increasing the financing of CEI or assuming any risk connected with said company." It went on to require that Banco Republica not "increase its stake in other companies, except those that may eventually be associated with Banco de Mendoza S.A.," a retail bank Banco Republica was in the process of purchasing.[67]

During the 1996/7 audit, the Central Bank expressed concern that Banco Republica had increased its shares of CEI. The auditors referred to a conflict between what it was being told by Banco Republica, that the bank owned 4.27% of CEI, and what it had learned from the media and another inspection, that Banco Republica owned 33-35% of CEI. The references in the news media to a larger share of CEI are likely the ownership interest of UFCO (discussed above), also owned by Grupo Moneta. It is uncertain whether the Central Bank at the time of the 1996/7 audit knew that UFCO was owned by Grupo Moneta. The Central Bank appears to suggest that another entity linked to Banco Republica may hold the CEI shares, but it does not mention UFCO in that context. The Central Bank apparently tried to resolve the discrepancy by asking CEI for the ownership information directly, but it appears that at the time of the audit, it did not have a response from CEI. The Central Bank put as its first item for its next inspection, "Fullfillment of Resolution No. 395/96".

In August 1998, according to Citibank documents,[68] Grupo Moneta "increased its stake in CEI to 39.9% . . . and at the same time Raul Moneta was named president of CEI . . ." The 1998 increase in shares in CEI was, it appears, in the name of Republica Holdings (formerly UFCO). If the Central Bank were to treat affiliated ownership as subject to the restrictions of Resolution 395/96, then, this increase in CEI ownership by Grupo Moneta would be a violation of the Central Bank's Resolution 395/96.

In addition, under the Resolution it appears Banco Republica was prohibited from lending money to CEI related entities. Yet in the Citibank internal documents assessing the activities of Federal Bank, Citibank notes that one of the purposes of Federal Bank is "(t)o channel the cash flow of the partners of Banco Republica and serve, with these deposits and the assets of Federal Bank, as a bridge, financing loans aimed at companies associated with CEI." This activity appears to be an end-run around the conditions imposed on Banco Republica by the Central Bank Resolution. Since Banco Republica is apparently prohibited from loaning money to companies associated with CEI, it appears Grupo Moneta was using Federal Bank to do what Banco Republica could not do. But because the Resolution prohibits Banco Republica loans "directly or indirectly" to CEI related companies, it may reach the activity of Federal Bank, as an affiliated entity, as well.

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[67] See Resolution No. 395, Buenos Aires, August 28, 1996, Central Bank of Argentina.

[68] See FITS Argentina memo dated April 1997.

Audits. In 1996/7 and 1998, the Central Bank of Argentina conducted audits of Banco Republica, and copies of these audits were made available to the Subcommittee. These audits identify numerous concerns by the Central Bank about the management and operations of Banco Republica, and both resulted in a CAMEL rating of 4 for the bank. Although Citibank had, according to its records, "access to confidential internal bank information" about Banco Republica and had "profound knowledge" of its structure, organization and operation, Citibank said it was unaware until 1999 that Banco Republica had been given a CAMEL 4 rating by the Argentine Central Bank. A comparison of the information obtained by the Central Bank during these audits with the information Citibank Argentina had as a result of its correspondent relationship raises additional serious discrepancies and questions about the effectiveness of Citibank's due diligence and ongoing monitoring.

a. Operations and Anti-Money Laundering Controls. Citibank Argentina repeatedly notes in its analyses of Banco Republica that the bank has an anti-money laundering program. In a FITS memo (a brief financial analysis of a bank with which Citibank Argentina has a credit relationship) of April 1997, Citibank notes: "BR has internal procedures to prevent money laundering, including KYC policies. This matter is overseen by Banco Central de la Republica Argentina. We have no evidence or information from third parties that BR was or is carrying out illict money laundering transactions with the knowledge of its management or shareholders." But in the BCRA audit of 1998, the BCRA notes with concern: "The entity under examination [Banco Republica] does not have a manual containing the programs against laundering money from illicit activities," despite early requirements that it do so and "despite the fact that the internal Auditor, in his report on the work performed between July 1997 and June 1998, pointed out that 'It is necessary to set up a manual of rules and procedures regarding precautionary measures with respect to laundering...'"

The Subcommittee asked Lopez whether he had obtained from Banco Republica a copy or documentation of Banco Republica's anti-money laundering program. Lopez said he discussed the anti-money laundering program with Banco Republica management during his annual reviews and was told by the management that Banco Republica had such a program. He said he was satisfied with that response and assumed the same program would apply to Federal Bank. Lopez said he had not seen the BCRA report prior to his preparation for the Subcommittee interview, that it "was disturbing" and "shocking" to see the BCRA finding that no written procedures existed and that Banco Republica "never disclosed" to Citibank Argentina that they had a problem with the BCRA. Lopez said that sometimes his office asks to see a bank's anti-money laundering manual and sometimes they "trust the customer." He noted Citibank had a 20 year relationship with Grupo Moneta, and that "now I see a customer of 20 years can lie to you."

When asked about the extent to which Citibank Argentina reviewed the anti-money laundering policies of Federal Bank, Lopez said that because Federal Bank had the same management as Banco Republica, Citibank assumed they had the same procedures. When asked whether Citibank had ever asked Federal Bank about its anti-money laundering procedures, Lopez said he did and that is reflected, he said, in the comments in the annual reviews when discussing Grupo Moneta as a whole. The Subcommittee was not able to find any reference in the Citibank documents to the anti-money laundering program or procedures of Federal Bank.

b. Federal Bank Transactions with CEI Related Companies. Resolution 395/96 appears to prohibit Banco Republica not only from increasing its ownership in CEI, but also from loaning money to CEI related entities. From Citibank documents, however, it appears that Banco Republica used Federal Bank as a way to get around that limitation and that Citibank was aware of this effort. An October 23, 1995, call memorandum from Lopez describes the utility of Federal Bank to Banco Republica. It says, "Strategically, the group needs a vehicle to which to channel its private banking and to create for it a nexus between its investment in CEI booked in UFCO and Banco Republica's financial activity." In describing the assets of Federal Bank, Lopez writes that $30 million of Federal Bank's assets are "deposits of the Banco Republica members themselves, which are lent to target-name customers of Banco Republica and to businesses linked to CEI whose loans cannot be processed through Banco Republica."

In a September 1996 memo on Banco Republica Lopez writes that the significance of Federal Bank to Banco Republica is to, "[c]hannel the liquidity of the shareholders of Banco Republica and, with these deposits and the assets of Federal Bank, support the acquisitions or grant loans to CEI companies..."

The Minority Staff was not able to determine whether the BCRA regulations prohibit a bank from using an entity with common ownership as a vehicle to do what BCRA has prohibited the regulated bank from doing, but such an activity appears to be at odds with the import of BCRA's restrictions on Banco Republica in Resolution 395/96.

c. Witholding Information from the Central Bank. The Central Bank also made several observations in the 1998 audit that information requested of Banco Republica about certain issues regarding Federal Bank was not provided despite repeated requests. The Central Bank said in the 1998 audit: "...everything related to the Federal Bank Limited, Republica Propiedades S. A., CEI Citicorp holdings S.A., among others, had to be claimed several times via memos or directly to the officers in several meetings held during the inspection and afterwards. It must be stated that the information given in those cases was contradictory or kept back and had to be requested over again."[69]

d. Misleading the Central Bank as to the Ownership of Federal Bank. The 1998 audit suggests that the Central Bank was not aware at the time that Federal Bank was actually owned by Grupo Moneta, which also owned Banco Republica. The Central Bank's discussion of Banco Republica's operations with Federal Bank does not mention the common ownership, and in fact in its closing paragraph[70] of that discussion it seems to indicate that it was told by Banco Republica officials that "Federal Bank Limited had discontinued its operations with Banco Republica S.A."

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[69] Annex I of 1996 Audit, Folio 28.

[70] 1996 Audit. Folio 133.

In 1997 and 1998 according to the audit documents, Federal Bank applied to the Central Bank for the opportunity to open an office in Argentina. The Central Bank appeared to be very concerned about the fact that Federal Bank was licensed in the Bahamas and was without any consolidated banking supervision system. Again, the Minority Staff could find no mention of the bank's common ownership with Banco Republica. The Central Bank, in the end, denied the request by Federal Bank.

In the 1998 audit, the Central Bank investigators reported, "At a meeting on November 17, 1998, with Pablo Lucini, [one of Citibank's principal contacts at Banco Republica] he denied any 'economic group' relationship between BR [Banco Republica] and Federal B.L. [Bank Limited]."

This apparent misinformation by Pablo Lucini to the Central Bank of Argentina was compounded when the Central Bank specifically asked Citibank Argentina in April of 1999 to provide the Central Bank with any information Citibank Argentina had with respect to the ownership of Federal Bank.[71] Despite repeated references in their own documents and records to the fact that Federal Bank was 100% owned by Grupo Moneta,[72] and that it knew Grupo Moneta so well, Citibank Argentina responded to the Central Bank that their "records contain no information that would enable us to determine the identity of the shareholders of the referenced bank."[73]

The Subcommittee asked relationship manager Martin Lopez to explain Citibank's response to the Central Bank. Lopez said he did not see the letter before it went out, but he knew the Central Bank was looking for information about Federal Bank. He said he had the impression that the Central Bank "was trying to play some kind of game," that it was "trying to get some legal proof of ownership." When the Subcommittee asked why he thought the request for information about Federal Bank's owners from the Central Bank was a "game," Lopez said because one of the signers of the letter had previously been a relationship manager or unit head of financial institutions in Bank of Boston, and he must have known the owners of Federal Bank. Lopez said he thought maybe the Central Bank was put in an "awkward position" and was "looking for legal proof." At one point he said, "We [Citibank Argentina] don't have information in Argentina; it's in New York." However, the Subcommittee was later told that the annual reports on Banco Republica containing the organizational structure and ownership were, in fact, maintained in Citibank Argentina. Lopez also said he had a conversation with the counsel for Citibank Argentina and with the Chief of Staff to Fedrigotti about how to respond to the letter. Lopez said he told them he did not think Citibank should respond. He said following the conversation, Fedrigotti wrote the letter and sent it. He said Fedrigotti definitely knew at the time that Federal Bank was owned by Grupo Moneta. At the same time, Lopez argued that the letter is "technically true," because Citibank Argentina did not have any "legal" documents showing the ownership of Federal Bank

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[71] See the exchange of letters on this subject at the back of this chapter.

[72] See, for example, Citibank Basic Information Reports for November 1996, August 1997, and May 1999, reporting that Federal Bank as owned 100% by Grupo Moneta.

[73] May 1999 letter from Carlos Fedrigotti, CEO of Citibank Argentina to the Central Bank.

and that any such information would have been kept in Citibank New York. When asked whether he called Citibank New York to ask them or let them know of the request, he said he did not and he did not know if anyone else did.

The Minority Staff also asked Citibank Argentina President Carlos Fedrigotti about Citibank's response. Fedrigotti said he got the letter from the Central Bank in April 1999 and that the letter was "within the context of what I knew was going on out in the market," referring to the restructuring of Banco Republica and Grupo Moneta at that point in time. He said he read it, understood the gist of what was being requested, and handed it to his deputy. He said he told his deputy to consult with Citibank Argentina General Counsel and to prepare a response. He said a few days later a response was prepared for his signature; he said he looked at it quickly, and he did not consult the original letter. He said he saw the first paragraph, asked if it was accurate, and was told it was. He said he looked at the second paragraph that referred BCRA to Citibank in New York because that "is where the Federal Bank account was domiciled." He said he was satisfied with the content, approved it, and spent no more than fifteen seconds on it.

Apparently nothing occurred with respect to the BCRA request and Citibank Argentina's response for more than a year, according to Fedrigotti. Then in July 2000, when the Subcommittee requested information with respect to Federal Bank from Citibank, "another review of the documents and papers was made." Fegrigotti said the question was asked, "how is this letter (Citibank's response to BCRA) consistent with information in Citibank files." He said it was brought to his attention, and he got involved. He said he was told the response to BCRA was in keeping with the policy at the bank that if information is requested for an account in another jurisdiction, the person making the request should be referred to that jurisdiction. In this case, Fedrigotti said, although Citibank Argentina handled all of the due diligence and day-to-day relationships with Federal Bank, the actual account was held at Citibank New York. Fedrigotti said that it was also true that the ownership information sought by the BCRA that Citibank Argentina had was "rebuttable" – that is, it "wasn't information that could legally demonstrate the ownership" of Federal Bank and so the "letter was legally correct."

Lopez said that he now knows Citibank should have answered the letter "in a different way," that Citibank "should have done more." He said in July of 2000 when Citibank New York learned about the letter as a result of the Subcommittee's investigation, the "compliance people were very upset" with the answer provided in the letter. Once Citibank New York decided the first response was "a mistake," Lopez said, then a second letter was drafted and sent telling the Central Bank that Citibank has "information prepared internally by our [Citibank] institution regarding Federal Bank Limited [that] includes references to the identify of its [Federal Bank's] shareholders." The second letter is dated July 27, 2000.

Fedrigotti said that during his review of the matter in July 2000, "having myself been exposed more deeply to the type of information that was contained and nature of informal working papers that reflected our understanding of the connection between these entities, and keeping with our policy with being fully open with our regulators, I took the step to give information to the regulators." Fedrigotti added that he wanted to make clear that in doing so, he was not "invalidating the legality" of the first

letter. He said, "We were supplementing the [earlier] information." But even in this second letter, Citibank Argentina does not provide complete and accurate information. For example, the Citibank letter does not acknowledge to the Central Bank that Citibank New York has a correspondent account with Federal Bank that was initiated and managed by Citibank Argentina, and it tells the Central Bank that Citibank Argentina has no account with Federal Bank.

When asked whether he remembered any conversation with Citibank officials with respect to the BCRA request about "playing games," Fedrigotti said he did not. He added that it was "not a fair assumption" to say the BCRA was "playing games."

After receiving information about Federal Bank's ownership from Citibank Argentina, Fedrigotti said that BCRA recently (February 7, 2001) asked Citibank Argentina to "justify the apparent discrepancy" between Citibank Argentina's first letter and its second letter, and Fedrigotti did so.

c. Other Central Bank Concerns. The Central Bank audits identify other concerns about the operation and management of Banco Republica. The Central Bank claimed that Banco Republica was providing financing with preferential conditions for "their linked clients" both with respect to interest rates and terms. The Central Bank was concerned that there was no organization manual for Banco Republica and that the procedure manuals for the bank had not been approved by the Board of Directors. It questioned a 10-year rental contract with Citibank for office property that it said was possibly prohibited by Argentine law. It said the work done by the external auditors of Delloite & Touche for Banco Republica was "'insufficient' regarding both the depth of the developed procedures and the level of the conclusions which do not accord with the observations and verifications determine in the inspection." It said the controls put in place from the bank's internal audit "are not totally appropriate" because "the procedures implemented lack the necessary depth." In the 1998 audit, the Central Bank said, "To sum up, the present structure of the business is impossible." As a result of its audits, the Central Bank in the 1996/7 audit and in the 1998 audit assigned a CAMEL rating to Banco Republica of 4.

During this same time, Citibank Argentina analyzed Banco Republica quite differently. Citibank gave Banco Republic an internal rating of "IA." "I" is the highest rating a bank in a credit relationship can get from Citibank and "IV" is the worst. "IA," according to Lopez, means Citibank recognizes some potential risk in the customer which requires more frequent follow ups. But Lopez and the Citibank Argentina team saw Banco Republica as a normal banking operation with apparently limited matters of concern. In a 1996 Basic Information Report, Lopez noted that Banco Republic was a "leading wholesale bank," that it had "shareholders' financial soundness," and that it was "managed with recognized record and experience."

Citibank New York closed its correspondent account with Banco Republica on September 27, 1999, after Banco Republica's collapse. Citibank closed its correspondent account with Federal Bank in June 2000. When asked why there was a lengthy delay between the closing of the two accounts, Lopez told the Subcommittee that Federal Bank had requested the extended opening in order to clear out its account.

(8) American Exchange Company

American Exchange Company, according to Martin Lopez and Citibank documents, was created by Grupo Moneta prior to Federal Bank and was the first offshore vehicle of Grupo Moneta. Its account with Citibank was opened at the same time the correspondent accounts with Banco Republica were opened. At that time, Lopez said, Grupo Moneta did not need an offshore bank, because the intended activity was only to trade securities and conduct foreign exchange for customers; the offshore entity, according to Lopez did not need to hold deposits. Most of the activities of American Exchange, Lopez told the Subcommittee, were absorbed by Federal Bank over the years. He said it was his understanding that American Exchange continued after Federal Bank came into existence but with little activity.

American Exchange Company, although referred to in Citibank documents several times as an offshore bank, is not a bank, according to Lopez, but "more like an asset management and brokerage house." It is, according to Lopez, incorporated in Panama, with a representative in Uruguay and owned by Grupo Moneta. Citibank's monthly statements for American Exchange show its address to be in Punta Del Este, Uruguay. Lopez said he does not know how many employees American Exchange has but that maybe the company needs "one person to administer the book entries." He said the same people he worked with from Grupo Moneta represented American Exchange to Citibank Argentina. Lopez did not know whether American Exchange is licensed to do business in Argentina.

When asked who regulates American Exchange, Lopez said no one does, because American Exchange does not hold deposits. He said the money placed with the company does not stay in American Exchange for more than one or two days.

With respect to the extent of an anti-money laundering program at American Exchange, Lopez said Citibank Argentina believed American Exchange had the same program and procedures as the other entities in the Moneta Group. The Subcommittee has learned from reviewing the Central Bank audits, however, that Banco Republica, and other entities owned by Grupo Moneta, did not have any anti-money laundering program.

The Subcommittee subpoenaed Citibank for its documents with respect to American Exchange. The results were limited. One account opening document appears to be a signature card with the name Jorge Videla. Lopez said he did not know the identity of Videla and there was no due diligence information on him in the file. A second document appears to assign an account number to American Exchange. A third document appears to provide basic data on American Exchange, such as country of location and provides several codes apparently internal to Citibank. The investigation was unable to locate any customer profile or substantive information on American Exchange in the Citibank records.

The American Exchange account was closed on June 30, 2000. The closing appears to be part of a policy established by Citibank in the spring of 2000 to close all demand deposit accounts for offshore vehicles of Argentinian financial entities "that are not consolidating under a local bank, and

consequently regulated by the Local Central Bank."[74]

(9) Suspicious Activity at Federal Bank

Money Laundering and the IBM Scandal. In January 1994 IBM Argentina made a successful bid on a contract in Argentina to install software and provide training for Banco Nacion, a government owned bank. The amount of the bid was $300 million. It turned out that $37 million of that amount was for a nonexistent subcontractor, Computacion y Capacitacion Rural S.A. or CCR, for the purpose of providing kickbacks to Argentine public officials involved in the contract. To date it appears IBM paid approximately $21 million of the $37 million, half of which has been traced to Swiss bank accounts of Argentine officials. The scandal has been called "one of the biggest political-financial scandals" in Argentina's history.[75] Part of that bribe money moved through Federal Bank. On May 10, 1994, Compania General De Negocios, a bank in Uruguay, ordered $1 million to be taken from its Credit Suisse account and deposited in Federal Bank's correspondent account at Citibank. The $1 million proved to be part of the $21 million payoff from the IBM kickback scandal.

Movement of Money. In its1998 audit, the Central Bank expressed concern about the volume of the transactions taking place between Banco Republica and Federal Bank. In the 1998 audit, the Central Bank noted that "the operation carried out by [Banco Republica] with the Federal Bank Ltd. presents peculiar characteristics due to its close relationship to the companies linked to the bank..." The 1996/7 audit noted that "during November and December 1996, 8.88% and 13.53% respectively"of the money moving through Banco Republica's correspondent account in Citibank New York "were accredited by the Federal Bank Limited." The Central Bank said that while the amounts were not significant, it was worth noting that the majority of such money was "related to operations with companies linked with Banco Republica..." The 1998 audit concluded with the suggestion that the next inspection do an "analysis of the operations with Federal Bank Limited."

The Central Bank also noted transactions through Banco Republic and Federal Bank with respect to four offshore companies created in the Bahamas on the same date, March 18, 1997. The Central Bank noted that these companies have the same representative, and they have the same address in Uruguay as Federal Bank. These four companies are: Ludgate Investments Ltd., South Wark Asset Management Ltd., Lolland Stocks Ltd., and Scott & Chandler Ltd. The Banco Republica monthly statements from the Citibank New York correspondent account show the movement of millions of dollars each month between the accounts of these entities at Federal Bank and the accounts at Banco Republica. Out of its concern for the transactions involving these four companies, the Central Bank auditors apparently recommended obtaining more information about them from the Central Banks of the Bahamas and Uruguay.

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[74] E-mail dated 6/16/2000 from Martin Ubierna to James A Forde, et al. CA001371.

[75] "IBM Scandal That Rocked Argentina Far From Resolved," The Miami Herald, May 16, 1999, by Andres Oppenheimer.

The Minority Staff reviewed the monthly statements of Banco Republica, Federal Bank and American Exchange Company. In many instances large sums of money moved on the same day from Banco Republica's correspondent account at Citibank New York to American Exchange's correspondent account at Citibank New York, and then to Federal Bank's correspondent account at Citibank New York. Other amounts moved in the reverse direction, from Federal Bank to American Exchange to Banco Republica. All of the accounts through which the money moved were U.S. dollar accounts in Citibank New York. The first chart, below, shows just a few of the many instances of the movement of such sums in these accounts. It summarizes some of the activity in 1995 and in January and February of 1996. The second chart shows a similar movement of money in 2000 after Banco Republica had collapsed. In lieu of Banco Republica it appears the money began moving to or through Eurobanco.

MOVEMENT OF MONEY THROUGH
BANCO REPUBLICA, AMERICAN EXCHANGE, AND FEDERAL BANK
1995 and 1996

1995

DATE	AMOUNT	FROM	TO	TO
January 31	$ 3,000,000	Banco Republica	American Exchange	Federal Bank
October 12	$ 5,000,000	Banco Republica	American Exchange	Federal Bank
December 14	$ 500,000	Banco Republica	American Exchange	Federal Bank
December 18	$ 1,000,000	Banco Republica	American Exchange	Federal Bank
December 20	$ 700,000	Banco Republica	American Exchange	Federal Bank

1996

January 23	$ 500,000	Banco Republica	American Exchange	Federal Bank
January 25	$ 300,000	Federal Bank	American Exchange	Banco Republica
January 31	$ 600,000	Banco Republica	American Exchange	Federal Bank
February 1	$ 200,000	Federal Bank	American Exchange	Banco Republica
February 6	$ 200,000	Federal Bank	American Exchange	Banco Republica
February 7	$ 200,000	Federal Bank	American Exchange	Banco Republica
February 26	$ 549,778	Verwaltungs	American Exchange	Key West Ltd.
February 28	$ 600,000	Federal Bank	American Exchange	Banco Republica
February 29	$ 200,000	Federal Bank	American Exchange	Banco Republica

Prepared by the Minority Staff of the Permanent Subcommittee on Investigations. February 2001

MOVEMENT OF MONEY THROUGH
FEDERAL BANK, AMERICAN EXCHANGE AND EUROBANCO
2000

DATE	AMOUNT	FROM	TO	TO
January 27	$ 300,000	Federal Bank	American Exchange	Eurobanco
February 9	$ 300,000	Federal Bank	American Exchange	Eurobanco
February 29	$ 300,000	Federal Bank	American Exchange	Eurobanco
March 3	$ 300,000	Federal Bank	American Exchange	Eurobanco
March 15	$ 200,000	Federal Bank	American Exchange	Eurobanco
March 27	$ 200,000	Federal Bank	American Exchange	Eurobanco
April 3	$ 200,000	Federal Bank	American Exchange	Eurobanco
May 23	$ 292,343	Federal Bank	American Exchange	Eurobanco
May 23	$ 50, 250	Federal Bank	American Exchange	Eurobanco

Prepared by the Minority Staff of the Permanent Subcommittee on Investigations. February 2001

As the 1995/1996 chart shows, for example, on January 31, 1995, $3 million was wired from Banco Republica's correspondent account in Citibank New York to the account in Citibank New York of American Exchange Company. It was then, on that same day, wired from the Citibank New York account of American Exchange to the Citibank New York correspondent account of Federal Bank. On October 12, 1995, $5 million was wired following the same route.

These same-day transactions appeared to be at their height in 1996. For example, it happened some 17 times in the first two months of 1996. The Minority Staff consulted several experts with respect to wire transfers and money laundering and not one of the five persons consulted could explain a reasonable business justification for this pattern of transfers. All five suggested that the only reason for the transactions going through American Exchange was to layer the transactions, since all of the accounts involved were dollar accounts in the United States.

Contrary to Lopez' description of Federal Bank taking the place or business of American Exchange Company for Grupo Moneta, the monthly statements of Federal Bank and American Exchange Company show years of activity involving tens of millions of dollars going back and forth between the two entities.

Lopez told the Subcommittee that Citibank Argentina in general, and he as relationship manager in particular, never saw the monthly statements of Federal Bank or Banco Republica. He said the monthly statements were handled by Citibank New York which held the correspondent account. Lopez said it would be Citibank New York's responsibility to monitor the movement of money through the Banco Republica and Federal Bank accounts. Yet Citibank New York told the Subcommittee it did not have that responsibility. The market head in New York told Minority Staff that Citibank New York only monitored the account for overdrafts and credit issues, and New York did not monitor the monthly accounts. He said the Citibank office in Tampa was responsible for money laundering oversight.

While the Central Bank of Argentina was concerned about the movement of money between Federal Bank and Banco Republica, and the movement of money involving the four Bahamanian companies established in 1997, the Subcommittee found no written evidence in the materials subpoenaed from Citibank that Citibank New York or any Citibank office noticed or expressed any concern with respect to either issue. Nor was there any documentation expressing any concern about or observation of the same-day movement of money through the three accounts of Banco Republica, American Exchange and Federal Bank.

Citibank's failure to question the transactions and unusual movements of money through the Federal Bank, American Exchange, and Banco Republica accounts is even more troubling in light of the large sums involved. Movements of $200,000, $500,000, even $3 million in even sums were routine. In one exceptional transaction occurring on April 29, 1994, one transfer of $28 million occurred. This was four to five times the size of even the larger transactions among these accounts.

In the 9 years of monthly statements reviewed by the Minority Staff, deposits of hundreds of thousands of dollars were common; the largest month saw total deposits of over $173 million. The

magnitude of these monthly statements far exceeds any other offshore bank reviewed by the Minority Staff investigation. Yet Citibank asked few questions why a shell offshore bank in the Bahamas would have access to such sums and chose to move its funds in the patterns it did.

B. THE ISSUES

M.A.Bank and Federal Bank are shell offshore banks, licensed in jurisdictions that have had weak anti-money laundering controls. Citibank accepted both banks as correspondent clients because they were affiliated with large commercial operations in Argentina. In the case of M.A.Bank, Mercado Abierto was a large financial institution that was a customer of Citibank; with Federal Bank, the relationship was even stronger. Citibank was a business partner with Grupo Moneta and had been doing business with Grupo Moneta entities for a number of years. Citibank reported in its internal analysis of these entities that the principals of both groups were persons with excellent reputations.

What Citibank overlooked or failed to see was that no past or current relationship with, and no level of confidence in the reputations of, these financial groups can replace the need for independent regulatory oversight. And as shell offshore banks, neither of these banks was subject to that oversight. With respect to M.A.Bank, Citibank failed to address the fact that the financial entity of which M.A.Bank was a part was not subject to any bank regulatory authority. Mercado Abierto, because it was a securities firm and not a bank, was not subject to oversight by the Central Bank of Argentina, and hence, M.A.Bank, as an affiliate, was never brought within the Central Bank's purview. In the case of Federal Bank, Citibank's conduct is more disturbing, because it was both aware of and concerned about the fact that the Central Bank of Argentina did not know Federal Bank was owned by Grupo Moneta, and yet it misled the Central Bank about Federal Bank's ownership when it was asked for information. Had the Central Bank known that Federal Bank was also owned by Grupo Moneta, Federal Bank, as an affiliate, might have come under the purview of the Central Bank.

These shell offshore banks appear to have achieved exactly what they set out to do – avoid independent regulatory oversight, and the structure they used to do so should have set off alarm bells at Citibank. In fact, M.A.Bank's owners acknowledged as much when they said that M.A.Bank set up administrative operations in Uruguay to avoid regulation. At least two banking experts have indicated to Minority Staff that any institution set up in a manner similar to M.A.Bank would raise red flags, and they would expect that the bank would be reviewed very closely before a correspondent relationship was established.

M.A.Bank. MAB employed banking practices that were characterized by a Special Examiner for the Federal Reserve Board of Governors as inconsistent with typical banking operations and not indicative of safe and sound banking practice. These practices were highly vulnerable to money laundering and, as revealed by the investigation by the U.S. Customs Service, facilitated the concealment and movement of illicit funds. These practices included accepting deposits and dispensing withdrawals in Argentina, in violation of Argentine banking law; accepting deposits from unidentified sources for unknown destinations; and using withdrawal forms that did not contain the name of the bank.

The practices implemented by MAB - with the full knowledge of the owners of the bank - appear to have violated Argentine banking law, violated anti-money laundering principles and created an environment that facilitated money laundering and tax evasion. In restating its policy regarding opening accounts for shell banks, Citibank noted that "the character of the institution" is "key." The description of MAB's structure and banking practices that Iribarne provided to the U.S. Customs agent shows the questionable character and conduct of both MAB and the larger financial institution with which it is affiliated. Yet, there were no examinations and reviews of MAB's practices and policies, and the due diligence and ongoing monitoring by Citibank in the case of MAB was poor.

* There was confusion at Citibank over the appropriate roles of the account managers that created a lack of coordination with respect to ongoing monitoring and lack of attention to activities in the MAB account. The Financial Institutions unit head in Argentina told the Minority Staff that New York was responsible for monitoring the account. The market head in New York said that the New York office only monitored for credit and overdraft issues. As of December 1999, the account officers in both New York and Argentina were uncertain about what, if any, review of the account was being conducted by the anti-money laundering unit in Florida. It appears that Citibank did not have in place account profiles to identify high risk customers that should be subjected to tighter monitoring. One was established for the Argentina financial institution accounts only after the bank learned that the assets seized in the MAB account were related to drug trafficking. The anti-money laundering unit in Tampa did not initiate a review of the M.A entities until late 1999 or early 2000, more than 1-1/2 years after the assets in the account were seized. At that point, it discovered a series of possible suspicious transactions that spanned nearly three years of account activity.

* Citibank was slow to follow up on the seizure warrant and did not firmly press its client for answers to obvious issues related to the seizure of the accounts' assets. Customs issued a seizure warrant on the M.A.Bank correspondent account at Citibank for the Casablanca drug money in August 1998. Citibank, however, never took any action to review the account in light of the seizure, nor did it require its client to explain the reason for the seizure. Consequently, it was nearly 16 months before Citibank learned the reason for the seizure and began to take action. During that time period - June 1998 through September 1999 - over $300 million moved through the M.A.Bank correspondent account at Citibank.

Federal Bank. With respect to Federal Bank, Citibank remained acutely aware throughout the correspondent relationship of the fact that Grupo Moneta was a partner with Citibank in CEI. The extent to which this colored Citibank's judgment in opening and monitoring the three correspondent accounts discussed in this case history cannot be isolated, but it clearly had some effect. Citibank Argentina, which had responsibility for the due diligence in opening correspondent accounts in Argentina and in maintaining the correspondent relationships, accepted Grupo Moneta's oral assurances that it had an anti-money laundering program in place. It did not attempt to confirm that by requesting a copy of the program or the anti-money laundering requirements. No one at Citibank apparently identified any of the activity in the accounts or among the accounts as suspicious or worthy of further review, despite the many same-day transaction among Federal Bank, Banco Republica, and American Exchange Company.

But most troubling is Citibank's participation in keeping from the Central Bank information on the ownership of Federal Bank. Citibank's files are replete with references to Grupo Moneta's ownership of Federal Bank. In fact, Citibank's stated rationale for opening the account with Federal Bank, which is an offshore shell bank, and therefore an exception to Citibank's policy, is specifically because Federal Bank was part of a larger financial group with what Citibank thought was a good reputation. Citibank has told the Subcommittee that it would avoid any correspondent account with an offshore shell bank not connected with a larger financial institution with which Citibank already had a relationship. So, Federal Bank's ownership was not only something with which Citibank was totally familiar; it was central to Citibank's relationship with Federal Bank.

At the time Citibank received the request from the Central Bank for "all information" Citibank Argentina "may have about Federal Bank Limited, especially the identify of its shareholders," Citibank knew the Central Bank did not know Federal Bank was connected to Grupo Moneta and Banco Republica. If it had known, the Central Bank might have included the Federal Bank in its audits, perhaps due to its common ownership with Banco Republica. The fact that such audits were not taking place was noted by Martin Lopez, the relationship manager, in 1996 as making Federal Bank "a risky vehicle per se because it is controlled only by the Central Bank of the Bahamas." Yet in 1999 when the Central Bank of Argentina specifically asked the President of Citibank Argentina, Carlos Fedrigotti, for "all information" about Federal Bank, Fedrigotti said "our records contain no information that would enable us to determine" who owns Federal Bank.

Because of this unusual response, the question arises as to why Citibank would be less than forthright in answering the Central Bank's inquiry. One answer may be it was responding to a request from Grupo Moneta to maintain confidentiality about its activities. Another answer may be that since, according to Citibank internal documents Federal Bank was being used by Grupo Moneta to loan money to CEI related entities, it was helping Grupo Moneta avoid sanction from the Central Bank for violating the Central Bank's limitations on lending to related entities. A third answer may be that Citibank did not want to trigger Central Bank oversight of Federal Bank. The reason for Citibank's misleading response to the Central Bank of Argentina remains a troubling mystery.

For both of these banks, perhaps the biggest failing for Citibank was that Citibank did not believe the nature of these banks - an offshore bank with no physical presence and no regulation - was an important factor. Therefore it did not give the banks heightened scrutiny or attention, where more timely and thorough reviews of their operations and transactions may have identified the unsound practices and suspicious transactions that occurred in the accounts, much earlier than when they were finally discovered.

EXHIBITS

M. A. BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK
February 1995 - December 1996

DATE	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
February 1995	($681)	$162,283	$148,296	$13,304
March 1995	$13,304	$4,187,984	$4,151,288	$50,000
April 1995	$50,000	$5,080,782	$5,001,453	$129,328
May 1995	$129,328	$4,387,155	$4,466,484	$50,000
June 1995	$50,000	$8,113,597	$8,113,597	$50,000
July 1995	$50,000	$11,998,916	$11,998,916	$50,000
August 1995	$50,000	$17,161,739	$17,132,380	$79,359
September 1995				
October 1995	$50,000	$10,536,298	$10,536,298	$50,000
November 1995	$50,000	$12,374,605	$12,324,187	$100,418
December 1995	$100,418	$31,905,451	$31,955,869	$50,000
Total 1995		**$105,908,810**	**$105,828,768**	
January 1996	$50,000	$15,435,676	$15,435,676	$50,000
February 1996	$50,000	$18,288,394	$18,244,033	$94,361
March 1996	$94,361	$29,737,386	$29,781,747	$50,000
April 1996	$50,000	$27,652,732	$27,652,732	$50,000
May 1996	$50,000	$70,351,181	$70,351,181	$50,000
June 1996	$50,000	$113,705,149	$113,690,140	$65,008
July 1996	$65,008	$56,838,539	$56,861,922	$41,625
August 1996	$41,625	$77,623,351	$77,804,976	($140,000)
September 1996	($140,000)	$67,787,876	$67,597,876	$50,000
October 1996	$50,000	$74,085,484	$74,085,484	$50,000
November 1996				
December 1996	$50,000	$59,039,012	$59,059,759	$29,252
Total 1996		**$610,544,780**	**$610,565,526**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee on Investigations, February 2001.
Blanks indicate missing or illegible statements.

M. A. BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK
February 1995 - December 1996

DATE	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
February 1995	($681)	$162,283	$148,296	$13,304
March 1995	$13,304	$4,187,984	$4,151,288	$50,000
April 1995	$50,000	$5,080,782	$5,001,453	$129,328
May 1995	$129,328	$4,387,155	$4,466,484	$50,000
June 1995	$50,000	$8,113,597	$8,113,597	$50,000
July 1995	$50,000	$11,998,916	$11,998,916	$50,000
August 1995	$50,000	$17,161,739	$17,132,380	$79,359
September 1995				
October 1995	$50,000	$10,536,298	$10,536,298	$50,000
November 1995	$50,000	$12,374,605	$12,324,187	$100,418
December 1995	$100,418	$31,905,451	$31,955,869	$50,000
Total 1995		**$105,908,810**	**$105,828,768**	
January 1996	$50,000	$15,435,676	$15,435,676	$50,000
February 1996	$50,000	$18,288,394	$18,244,033	$94,361
March 1996	$94,361	$29,737,386	$29,781,747	$50,000
April 1996	$50,000	$27,652,732	$27,652,732	$50,000
May 1996	$50,000	$70,351,181	$70,351,181	$50,000
June 1996	$50,000	$113,705,149	$113,690,140	$65,008
July 1996	$65,008	$56,838,539	$56,861,922	$41,625
August 1996	$41,625	$77,623,351	$77,804,976	($140,000)
September 1996	($140,000)	$67,787,876	$67,597,876	$50,000
October 1996	$50,000	$74,085,484	$74,085,484	$50,000
November 1996				
December 1996	$50,000	$59,039,012	$59,059,759	$29,252
Total 1996		**$610,544,780**	**$610,565,526**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee on Investigations, February 2001.
Blanks indicate missing or illegible statements.

AFTER SERVICE OF THE SEIZURE WARRANT

June 1998 - September 1999

DATE	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
June 1998	$1,033	$88,437	$83,915	$5,555
July 1998	$5,555	$809,708	$803,435	$11,828
August 1998	$11,828	$477,493	$487,567	$1,754
September 1998	$1,754	$13,864,214	$13,851,106	$14,862
October 1998	$14,862	$17,297,364	$17,271,129	$41,098
November 1998	$41,098	$25,007,496	$25,041,389	$7,205
December 1998	$7,205	$22,307,275	$22,285,826	$28,654
January 1999	$28,654	$15,456,337	$15,465,042	$19,949
February 1999	$19,949	$12,091,326	$12,022,305	$88,971
March 1999	$88,971	$24,896,503	$24,878,009	$107,465
April 1999	$107,465	$30,695,291	$30,752,757	$50,000
May 1999	$50,000	$17,330,081	$17,344,307	$35,773
June 1999	$35,773	$37,675,161	$37,672,550	$38,384
July 1999	$38,384	$13,204,280	$13,227,554	$15,109
August 1999	$15,109	$32,415,839	$32,380,949	$50,000
September 1999	$50,000	$40,784,536	$40,809,836	$24,699
TOTAL		**$304,401,341**	**$304,377,676**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee on Investigations, February 2001.

FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK
November 1992-December 1994

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
November 1992	$0	$5,330,633	$5,328,982	$1,650
December 1992	$1,650	$14,368,856	$14,285,770	$84,736
January 1993	$84,736	$19,293,049	$19,376,530	$1,255
February 1993	$1,255	$11,915,523	$11,917,691	($912)
March 1993	($912)	$41,857,850	$41,851,575	$5,362
April 1993	$5,362	$12,360,188	$12,329,939	$35,611
May 1993	$35,611	$36,299,282	$36,339,371	($4,477)
June 1993	($4,477)	$37,703,801	$37,699,349	($25)
July 1993	($25)	$88,234,741	$88,251,972	($17,256)
August 1993	($17,256)	$52,691,342	$52,682,873	($8,787)
September 1993	($8,787)	$73,444,093	$73,438,767	($3,461)
October 1993	($3,461)	$51,118,708	$51,126,460	($11,213)
November 1993	($11,213)	$149,155,112	$149,143,898	$0
December 1993	$0	$79,902,823	$79,917,429	($14,605)
January 1994	($14,605)	$119,180,140	$119,170,186	($4,652)
February 1994				
March 1994	($1,079)	$128,860,126	$128,874,553	($15,506)
April 1994	($15,506)	$173,589,317	$173,582,384	($8,573)
May 1994				
June 1994				
July 1994	($2,376)	$75,126,638	$75,154,291	($30,029)
August 1994	($30,029)	$104,071,925	$104,095,369	($53,474)
September 1994	($53,474)	$104,015,463	$103,973,061	($13,130)
October 1994				
November 1994				
December 1994	($24,173)	$131,987,104	$131,953,077	$9,853
TOTAL		**$1,510,506,794**	**$1,510,493,527**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.
Blanks indicate missing or illegible statements.

FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK
January 1995-December 1996

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1995	$9,853	$77,902,327	$77,812,083	$100,097
February 1995	$100,097	$37,320,409	$37,420,510	($2)
March 1995	($2)	$40,146,626	$40,128,623	$18,000
April 1995	$18,000	$64,907,222	$64,925,222	$0
May 1995	$0	$66,135,773	$66,135,773	$0
June 1995	$0	$53,132,809	$53,132,809	$0
July 1995	$0	$38,592,158	$38,498,750	$93,407
August 1995	$93,407	$35,547,949	$35,535,402	$105,954
September 1995	$105,954	$36,033,726	$36,056,731	$82,950
October 1995	$82,950	$24,221,051	$24,304,001	$0
November 1995	$0	$36,479,258	$36,479,258	$0
December 1995	$0	$113,992,702	$113,992,702	$0
January 1996	$0	$54,200,617	$54,129,753	$70,864
February 1996	$70,864	$62,305,676	$61,707,140	$669,400
March 1996	$669,400	$75,194,172	$75,778,277	$85,295
April 1996	$85,295	$48,112,851	$48,125,529	$72,617
May 1996	$72,617	$56,509,422	$56,555,268	$26,771
June 1996	$26,771	$55,312,054	$55,314,825	$24,000
July 1996	$24,000	$53,429,086	$53,436,486	$16,600
August 1996	$16,600	$63,314,748	$63,331,348	$0
September 1996	$0	$39,876,070	$39,876,070	$0
October 1996	$0	$46,031,435	$45,979,735	$51,700
November 1996	$51,700	$58,088,719	$58,140,419	$0
December 1996	$0	$81,790,876	$81,741,676	$49,200
TOTAL		**$1,318,577,736**	**$1,318,538,390**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.

FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK
January 1997-December 1998

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1997	$49,200	$43,274,452	$43,323,652	$0
February 1997	$0	$52,501,155	$52,501,155	$0
March 1997	$0	$61,630,109	$61,630,109	$0
April 1997	$0	$72,857,583	$72,853,383	$4,200
May 1997	$4,200	$62,792,675	$62,796,875	$0
June 1997	$0	$75,546,117	$75,546,117	$0
July 1997	$0	$97,272,324	$97,272,324	$0
August 1997	$0	$85,765,292	$85,765,292	$0
September 1997	$0	$74,203,479	$74,203,479	$0
October 1997	$0	$51,146,255	$51,008,730	$137,525
November 1997	$137,525	$70,438,211	$70,575,736	$0
December 1997	$0	$80,512,574	$80,512,574	$0
January 1998	$0	$31,683,853	$31,683,853	$0
February 1998	$0	$57,012,817	$57,012,817	$0
March 1998	$0	$69,827,366	$69,827,366	$0
April 1998	$0	$22,084,470	$22,084,470	$0
May 1998	$0	$61,855,635	$61,841,635	$14,000
June 1998	$14,000	$58,670,711	$58,663,711	$21,000
July 1998	$21,000	$43,087,986	$42,220,686	$888,300
August 1998	$888,300	$71,361,949	$71,873,449	$376,800
September 1998	$376,800	$55,974,848	$56,334,848	$16,800
October 1998	$16,800	$25,500,166	$25,489,966	$27,000
November 1998	$27,000	$8,989,479	$9,014,979	$1,500
December 1998	$1,500	$22,857,608	$22,859,108	$0
Total		**$1,356,847,114**	**$1,356,896,314**	

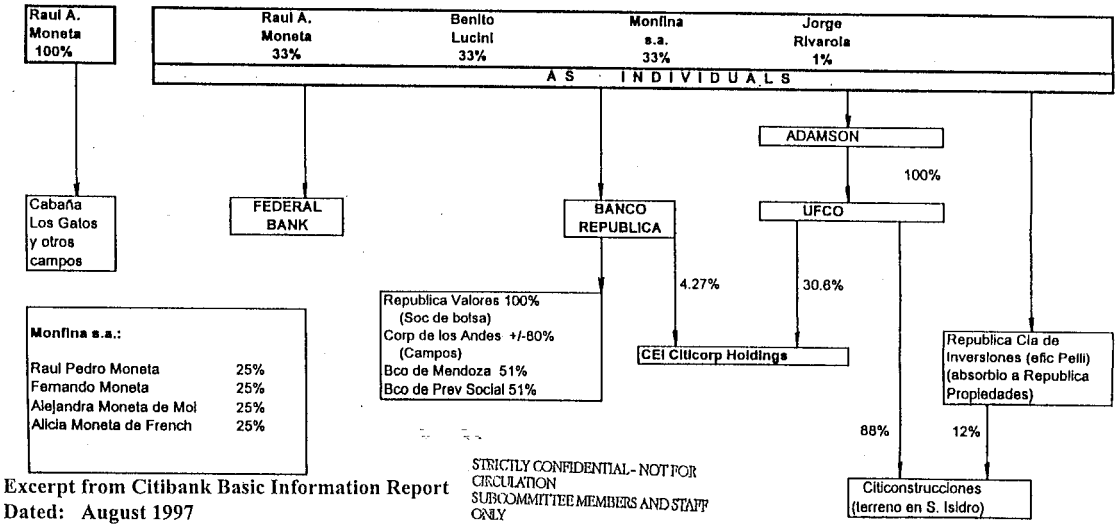
Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.

FEDERAL BANK MONTHLY ACCOUNT ACTIVITY AT CITIBANK
January 1999-May 2000

MONTH	OPENING BALANCE	DEPOSITS	WITHDRAWALS	CLOSING BALANCE
January 1999	$0	$35,205,145	$35,205,145	$0
February 1999	$0	$19,695,910	$19,695,910	$0
March 1999	$0	$22,251,472	$22,251,472	$0
April 1999	$0	$8,226,070	$8,226,070	$0
May 1999	$0	$12,425,893	$12,424,393	$1,500
June 1999	$1,500	$3,045,581	$3,047,081	$0
July 1999	$0	$2,905,798	$2,905,798	$0
August 1999	$0	$7,559,454	$7,559,454	$0
September 1999	$0	$813,164	$813,164	$0
October 1999	$0	$1,902,299	$1,902,299	$0
November 1999	$0	$3,780,819	$3,779,819	$1,000
December 1999	$1,000	$1,313,588	$1,314,588	$0
January 2000	$0	$344,609	$344,609	$0
February 2000	$0	$797,156	$797,156	$0
March 2000	$0	$1,372,541	$1,372,541	$0
April 2000	$0	$6,386,905	$6,386,905	$0
May 2000	$0	$3,688,886	$3,660,165	$28,721
TOTAL		**$131,715,290**	**$131,686,569**	

Prepared by the Minority Staff, U.S. Senate Permanent Subcommittee of Investigations, February 2001.

MONETA GROUP: SUBSIDIARIES and OWNERSHIP



Monfina s.a.:

Raul Pedro Moneta	25%
Fernando Moneta	25%
Alejandra Moneta de Mol	25%
Alicia Moneta de French	25%

Excerpt from Citibank Basic Information Report
Dated: August 1997

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SUBCOMMITTEE MEMBERS AND STAFF ONLY

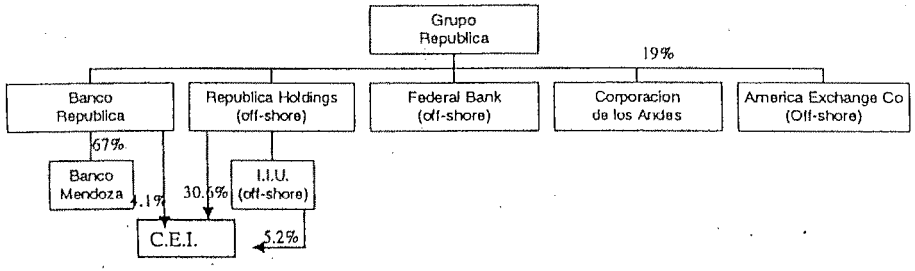
PS018276

Management Information:

Ownership:

Owner Name	%
Raul Moneta	33
Benito Lucini	33
Monfina(Raul (25%),Fernando(25%), Alejandra(25%) y Alicia (25%) Moneta)	33
Jorge Rivarola	1

If this company is a Financial Group or is part of an Economic Group, please provide an organizational chart of its structure:



PS000832

Excerpted from a Citibank Basic Information Report
Dated: 5/17/99

Sirvase citar: 540/38/99

Banco Central de la República Argentina

Buenos Aires,

Al RESPONSABLE DE LA ADMINISTRACION de
CITIBANK N.A. (SUCURSAL ARGENTINA),
Sr. CARLOS MARIA FEDRIGOTTI GONGORRA,
Bartolomé Mitre 530,
(1036) CAPITAL FEDERAL

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Nos dirigimos a Ud. con relación a un procedimiento para determinar si existe algún tipo de vinculación económica entre entidades financieras sujetas al control de esta Superintendencia y *Federal Bank Limited*, una sociedad constituida el 9.3.92 de acuerdo con las leyes del Estado de las Bahamas, con domicilio legal en Bolam House, King & George Streets, PO Box N° 4843, Nassau, Bahamas.

Mediante transferencias desde y hacia Federal Bank Limited las entidades financieras argentinas reciben y pagan depósitos de residentes en el exterior. Las transferencias se realizan con débitos y créditos en la cuenta de Federal Bank Limited en Citibank New York, *número 36017146*.

En vista de la importancia de las transferencias citadas, esta Superintendencia solicita toda información que pudiera tener esa Sucursal sobre Federal Bank Limited, especialmente la identidad de sus accionistas. En igual orden, también solicitamos su intercesión ante la casa en Nueva York, a fin de que su Matriz provea la información requerida.

El tratamiento será confidencial, ya que las informaciones que obtiene la Superintendencia en el ejercicio de sus facultades tienen carácter secreto, de acuerdo con el artículo 53 de la Ley 24.144.

Sin otro particular, saludamos a Ud. muy atentamente.

BANCO CENTRAL DE LA REPUBLICA ARGENTINA
Superintendencia de Entidades Financieras y Cambiarias

PS018229

ELBA CASTAÑO
GERENTE DE SUPERVISION
DE ENTIDADES FINANCIERAS
Grupo D

JUAN CARLOS E. NOUGUÉS
SUBGERENTE GENERAL DE SUPERVISION
SUPERINTENDENCIA DE ENTIDADES

PS018229

To the OFFICER IN CHARGE OF ADMINISTRATION
OF CITIBANK N.A. (ARGENTINA BRANCH)
Mr. CARLOS MARIA FEDRIGOTTI GONGORRA
Bartolomé Mitre 530
(1036) CAPITAL FEDERAL

This is in reference to a proceeding to determine if there is any sort of economic link between financial entities subject to the control of this Superintendence and *Federal Bank Limited*, a company established on March 1992, under the laws of the Commonwealth of the Bahamas, with legal domici at Bolam House, King & George Streets, PO Box 4843, Nassau, Bahamas.

By means of transfers from and to Federal Bank Limited, the Argentine financial entities receive and pay deposits of residents abroad. The transfers a made with debits and credits to the account of Federal Bank Limited in Citibar New York, *number 36017146.*

In light of the importance of the aforementioned transfers, this Superintendence requests all information that Branch may have about Federa Bank Limited, especially the identity of its shareholders. Likewise, we also request your intercession with the house in New York so your headquarters w provide the requested information.

The matter will be treated confidentially, since the information obtainec the Superintendence in the exercise of its authorities is confidential in accordance with Article 53 of Law 24,144.

Sincerely,

Translated from the Spanish by
the Congressional Research
Service

N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

541/329-1290
Fax
541/329-1032

Carlos M. Fedrigotti
Presidente

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CITIBANK

Señora y Señor
Elba Castaño y Juán Carlos E. Nougués
Banco Central de la República Argentina
Reconquista 266
(1003) Buenos Aires, Argentina

De nuestra consideración:

RE: FEDERAL BANK LIMITED

De acuerdo a lo solicitado en su carta del 20 de abril de 1999, les informamos que no obra en nuestros registros información que nos permita determinar la identidad de los accionistas del banco de la referencia.

Respecto a la solicitud de intercesión ante Citibank N.A. New York, cumplimos en señalar que la información deberá ser requerida a ésta directamente, por via de la rogatoria de estilo a ser cursada a la autoridad local competente, para que ésta, autorice y disponga la entrega de la información solicitada. Ello debido a que Citibank N.A., New York es una entidad diferente a Citibank N.A., Sucursal Buenos Aires, sujeta a jurisdicción y leyes aplicables distintas a las de ésta última

No duden en contar con nuestra colaboración a los efectos de agilizar la mencionada intercesión ante Citibank N.A., New York, una vez efectuados por Uds. los pasos señalados en el párrafo anterior.

Sin otro particular, saludamos a Uds. muy atentamente.

PS018230

PS018230

CITIBANK [logo]

Elba Castaño and Juan Carlos E. Nougués
Banco Central de la República Argentina
Reconquista 266
(1003) Buenos Aires, Argentina

Dear Sir and Madam:

RE: FEDERAL BANK LIMITED

Pursuant to the request in your letter of April 20, 1999, this is to advise that our records contain no information that would enable us to determine the identity of the shareholders of the referenced bank.

With respect to the request to intercede with Citibank N.A. New York, please be advised that the information must be requested from that entity directly, by standard letter rogatory to be issued to the local competent authority so that it may authorize and order that the requested information be turned over. This is because Citibank N.A., New York is an entity different from Citibank N.A., Buenos Aires Branch, subject to applicable jurisdiction and laws different from those of the latter.

Please be assured of our cooperation for purposes of facilitating the aforementioned intercession with Citibank N.A., New York, once you have taken the steps specified above.

Very sincerely,

Translated from the Spanish by
the Congressional Research Service

Citibank N.A.

Bartolomé Mitre 530
1036 Buenos Aires
Argentina

541/329-1290
Fax
541/329-1032

Carlos M. Fedrigotti
Presidente

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SUBCOMMITTEE MEMBERS AND STAFF ONLY

CITIBANK

27 de julio de 2000.-

Señores
Elba Castaño/Dr. Juan Carlos Barale
Banco Central de la República Argentina
Edificio San Martin , 2do. Piso, Of. 200
(1003) Buenos Aires, Argentina

De mi consideración:

RE: FEDERAL BANK LIMITED

Tenemos el agrado de dirigirnos a Uds. haciendo relación a la carta que bajo referencia 540/38/99 y con referencia al Federal Bank Limited, que esa Superintendencia nos dirigiera y la contestación que a la misma este banco brindara.

Este banco ha tomado conocimiento de una investigación que está siendo llevada a cabo en los Estados Unidos de América sobre algunas cuestiones relativas al Federal Bank Limited, lo que nos ha llevado a revisar nuevamente la información existente en esta entidad y que está relacionada con el Federal Bank Limited. En este sentido nos parece apropiado darles a conocer que en la información elaborada internamente por nuestra institución sobre Federal Bank Limited, existe información que incluye referencias sobre la identidad de sus accionistas. Ella no tiene relación con transacciones realizadas por Citibank Argentina, puesto que Federal Bank Limited no es ni ha sido cliente de esta entidad en la Argentina.

Si están interesados en la información indicada, les rogamos nos lo hagan saber y pondremos la misma a vuestra disposición.

Carlos M. Fedrigotti
Presidente

BANCO CENTRAL DE LA REPUBLICA ARGENTINA
GERENCIA DE PRIMER GRADO
31/X/00
STELLA MARIS CERANA
SECRETARIA
GERENCIA DE PRIMER GRADO DE ENTIDADES FINANCIERAS

PS018231

27

PS018231

July 27, 2000

Elba Castaño / Dr. Juan Carlos Barale
Banco Central de la República Argentina
Edificio San Martin, 2do Piso, Of. 200
(1003) Buenos Aires, Argentina

Dear Sir and Madam:

RE: FEDERAL BANK LIMITED

This is in connection with the letter which, under reference 540/38/99 regarding Federal Bank Limited, that Superintendence sent us, and the answer this bank provided.

This bank has become aware of an investigation being carried out in the United States of America regarding certain questions relative to Federal Bank Limited, which has caused us to re-review the information existing in this entity which is connected with Federal Bank Limited. In this regard, we feel it is appropriate to advise you that the information prepared internally by our institution regarding Federal Bank Limited includes references to the identity of its shareholders. That has no connection with transactions carried out by Citibank Argentina, since Federal Bank Limited is not and has not been a customer of this entity in Argentina.

If you are interested in the aforementioned information, please let us know and we will make it available to you.

[illegible signature]

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the Congressional Research
Service