



BRION D. TRAVIS
CHAIRMAN

DIVISION OF PAROLE

87 CENTRAL AVENUE
ALBANY, NEW YORK 12208

MARTIN CIRINCIONE
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Martin Cirincione, Executive Director
Division of Parole

FROM: James V. Murray, Director
Executive Clemency Bureau

RE: Status: Bankers Trust

DATE: October 12, 1999

Sullivan and Cromwell is sending me data on the remaining \$36 million. Upon reception, a final report can be done.

Total amount "inappropriately" taken was \$55.1 million. The plea deal covered \$19.1 million.

From the opening stance of minimizing and avoidance, they have moved to full cooperation.

(Really the same as other cases: burglar does 20 jobs but pleads to one event.)

The facts should be cleaner, the issue clearer, and the decision simpler and in line with more common Board decisions. (What did you do, what do you need Certificate for, what safeguards are in place.)

JVN:crc

**STATE OF NEW YORK
COUNTY OF WESTCHESTER ss:
SURROGATE'S OFFICE**

I, JOHN W. KELLY, Chief Clerk of the Surrogate's Court of the County of Westchester, do hereby certify that I have compared the foregoing copy of the MEMORANDUM, DATED OCTOBER 12, 1999, FROM DIVISION OF PAROLE;

Re: The Estate of RALPH P. MANNY, DECEASED.

FILED: FEBRUARY 9, 2005

with the original thereof now remaining in this office and have found the same to be a correct transcript therefrom, and of the whole of such original.

Dated and Sealed FEBRUARY 10, 2005



John W. Kelly
CHIEF CLERK of the SURROGATE'S COURT

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BUSINESS/FINANCIAL DESK

INTERNATIONAL BUSINESS; Deutsche Bank Seals Bankers Trust Deal

By TIMOTHY L. O'BRIEN (NYT) 655 words
Published: June 5, 1999

Deutsche Bank A.G., sealing its position as the world's largest bank, completed its acquisition of the Bankers Trust Corporation yesterday and effectively put an end to the Bankers Trust brand name.

Deutsche said it planned to stop using or gradually phase out that name in almost all businesses except private banking. Deutsche will temporarily maintain the name of the Bankers Trust investment banking unit, BT Alex. Brown, as Alex. Brown for some of the merged company's investment banking activities in the United States.

A round of layoffs also began at Bankers Trust yesterday, with the announcement of large job cuts in the bank's fixed-income business. Though some were concerned that a disproportionate share of the layoffs would fall on Bankers Trust employees in this country, Deutsche said that its previously announced plan to lay off 5,500 people from both companies over a three-year period remained unchanged.

A Deutsche spokeswoman said those layoffs, which represent nearly 6 percent of the combined company's work force, would reflect the strengths and weaknesses of Deutsche's and Bankers Trust's various units and were agreed upon by management teams from both companies.

With \$817 billion in assets, Deutsche is a legendary powerhouse in European banking but has had less success making inroads into the highly competitive and highly entrepreneurial world of investment banking. In addition, Deutsche has been regarded by many analysts as somewhat lumbering in a world in which financial services are rapidly changing.

Deutsche's chief executive, Rolf E. Breuer, said in an interview that he believed the \$9 billion takeover of Bankers Trust would give Deutsche a "shot in the arm" and make it a more competitive player in European mergers and acquisitions -- a market that is expected to heat up in the next few years as the European economy and European companies consolidate.

Although Dr. Breuer said he was "interested in advising on megadeals" in the United States, he also said he had no intention of competing head on with the firms that already have a lock on that business -- Goldman, Sachs, for example, and Merrill Lynch and Morgan Stanley Dean Witter.

The New York Times

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NYTimes

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MONEY AND BUSINESS/FINANCIAL DESK

The Deep Slush at Bankers Trust

By TIMOTHY L. O'BRIEN (NYT) 3222 words

Published: May 30, 1999

PORING over records at the Bankers Trust Corporation in early 1994, New York State auditors discovered something strange: Millions of dollars in unclaimed customer funds had disappeared.

For two years, the auditors' repeated requests for an explanation were ignored. But they pressed ahead, and what they found left them aghast. The bank, one of the nation's largest, was using the money to inflate its sagging profits.

"They were moving it back and forth between so many other parts of the bank that they lost track of the money," said one auditor, who spoke only on condition that his name was not revealed. "I'd never seen anything on this scale before."

Bankers Trust, an investment and commercial bank that is the nation's eighth-largest, finally faced the music two months ago. It pleaded guilty in March to criminal charges of illegally diverting \$19.1 million in cash and other assets that the law requires to be turned over to states.

But a closer look at the scheme reveals that it goes well beyond the transgressions the bank owned up to.

Bankers Trust said it uncovered the fraud in 1996 and quickly alerted Federal authorities. In fact, several senior executives learned that the state auditors were asking questions two years before that. And it was pressure from senior executives, Federal prosecutors said, that spawned the fraud in the first place.

Moreover, the extent of the diversion is much greater than has been publicly disclosed, according to individuals investigating the bank. New York State alone has identified more than \$41 million owed to it -- more than twice as much as the bank has acknowledged.

And while the bank says its difficulties with unclaimed funds ended in 1996, at least two other states, Georgia and Illinois, are currently examining whether it has shortchanged them since then. An official in Georgia said Bankers Trust had turned over only \$663.63 in unclaimed funds between 1996 and 1998, including a check for just \$9.08 in 1996. That is so far below the minimum \$500,000 that an institution of Bankers Trust's size would ordinarily turn over, he said, that the state has initiated an audit to discover why.

Bankers Trust declined to comment on most aspects of the fraud, citing a continuing Federal investigation that is looking at the roles of former bank executives in the diversion of funds. A spokesman said the company was unaware of audits by other states but would cooperate fully. "Bankers Trust has worked diligently to cooperate with regulators and law enforcement authorities," said the spokesman, William McBride. "We have strengthened controls to help prevent the recurrence of these problems."

Bankers Trust has agreed as part of a settlement with Federal and New York State authorities to pay \$63.5 million in fines and to return the \$19.1 million it acknowledged diverting. But it is not the first bank to run into trouble over unclaimed customer funds. Last year, the Bank of America Corporation agreed to pay \$187.5 million to settle California charges that it had mishandled hundreds of millions of dollars over more than 15 years.

Bank of America, which was acquired last year by Nationsbank but retained its name, declined to comment on whether it was currently complying with laws governing unclaimed funds. But nine of the country's other largest banks and trust companies, including Bankers Trust, said they were.

Analysts expect the problems at Bankers Trust and Bank of America to compel regulators to increase their scrutiny of the handling of unclaimed customer funds. Unclaimed funds are bank accounts left dormant for a few years; the money must be turned over to states, which are then responsible for trying to find the owners.

While the Bankers Trust scheme rose to the unusual level of a criminal fraud, huge sums of money owed to consumers, retirees and large public and private institutions may be lying fallow in the vaults of banks and other financial services firms, banking experts say.

"There appears to be a lot of indifference to the issue of unclaimed funds by banks and regulators," said Robert Landau, a former Bankers Trust executive who is now a consultant and a leading authority on unclaimed funds. "But I think they'd be damn fools to keep hiding their heads in the sand now that the problem has come out."

There was nothing indifferent about the way a humble cast of New York State auditors dug into the books at Bankers Trust. The abuses they uncovered drew the Federal Reserve, the Federal Bureau of Investigation and the United States Attorney's office in Manhattan into the investigation, and they continue to invite scrutiny of a long-overlooked part of the banking business.

A Banker's Climb In a Quiet Corner

Bruce J. Kingdon enjoys all the trappings of wealth. He lives in a handsome, \$1.5 million waterfront home in Oceanport, N.J., with a pool in

the yard and a BMW and a Lexus in the driveway. He also owns a castle in Ireland and two young thoroughbreds, Crafty Card and Ring by Spring, that he races in New Jersey.

Like his horses, Mr. Kingdon, 48, once occupied the fast track. He joined Bankers Trust in 1982 and became a managing director four years later. In 1993, he was tapped by Eugene B. Shanks, then the bank's president, to run a lucrative unit known as global assets, which oversaw corporate trust accounts, administered pensions and kept an eye on unclaimed funds. Known to acquaintances as B. J., he reported directly to Mr. Shanks and also held a prized seat on the bank's 12-member operating committee.

Mr. Shanks and Charles S. Sanford, the bank's chief executive, had reshaped Bankers Trust during the late 1980's and early 1990's into one of Wall Street's most innovative shops. Once known as just another stodgy corporate lender, Bankers Trust developed an expertise in computer-driven trading and in the creation of newfangled financial hybrids known as derivatives.

Mr. Kingdon's unit was a humdrum corner of this flashy institution, but analysts estimated that it accounted for about 15 percent of Bankers Trust's 1993 profit of \$1.1 billion.

In 1994, though, Bankers Trust's highfliers were grounded by scandal. The bank, one of the most loosely managed on Wall Street, came under fire from clients and regulators who accused it of misleading customers about its risky derivative products. Tape recordings, later made public in court hearings, captured the bank's sales force snickering about the naivete of the clients. The fallout was brutal. In just a year, the bank's earnings plummeted to \$686 million; a Federal investigation eventually concluded that senior management had suppressed efforts by compliance officers to rein in questionable practices.

Before the Government's investigation was completed, Mr. Shanks and Mr. Sanford, both of whom declined to comment for this article, retired. Frank N. Newman, a former Treasury Department official, was appointed the new chief executive -- a switch engineered by the New York Federal Reserve to help restore the bank's credibility.

But while derivatives were making headlines, trouble was quietly brewing in Mr. Kingdon's domain. It was also in 1994 that three New York state auditors started asking questions about the bank's unclaimed-funds accounts, setting off a chain of events that led to Mr. Kingdon's resignation in early 1997 -- and the bank's guilty plea two months ago.

Within a few days of Mr. Kingdon's resignation, which Mr. Newman at the time attributed to personal reasons, Bankers Trust said it would add \$20 million to its reserves to reconcile "accounting differences" in the global assets unit.

Federal prosecutors had a harsher term, however, for what went on under Mr. Kingdon's watch. In court papers filed in March, they declared that the bookkeeping irregularities were part of a criminal conspiracy.

The prosecutors said several executives in Mr. Kingdon's unit, whom they declined to identify, treated unclaimed accounts like a vast slush fund. And far from being a rogue operation to fill their own pockets, the prosecutors said in a statement in March, the Bankers Trust scheme

was initiated because senior executives "placed severe pressure" on underlings to enhance the bank's dismal performance from 1994 to 1996.

According to lawyers and Bankers Trust employees familiar with the Federal investigation, Mr. Kingdon, although not named in court papers, orchestrated the fraud.

Mr. Kingdon, who is the chief target of the Federal investigation, declined repeated requests for an interview. His lawyer, Stanley Arkin, has not disputed Mr. Kingdon's involvement in the scheme, but argues that his client's actions did not amount to a criminal fraud. Laws governing unclaimed funds are murky, Mr. Arkin said, adding that Mr. Kingdon would contest any charges filed against him.

Officials in the United States Attorney's office said that when the bank's management first alerted Federal investigators to the scam, it played down the involvement of Bankers Trust employees.

In response, Bankers Trust said it minimized its executives' culpability at first because it did not realize the scope of the fraud. What it has not said, however, is that state auditors were pressing it for answers to questions about a possible conspiracy two years before the bank notified Federal authorities.

Stumbling Blocks On a Paper Trail

Auditors at the New York State Comptroller's office -- which audits banks for unclaimed funds originally owned by New York residents or institutions -- are known to be unusually dedicated, yet loath to see their names in print. True to their reputation, none of those involved in the Bankers Trust investigation would comment for attribution.

When the auditors noticed in 1994 that Bankers Trust's unclaimed-funds accounts had dropped from \$10.2 million in 1993 to \$3.9 million in 1994, they asked for records explaining the plunge. But despite repeated requests, the documents were not forthcoming. Because banks were ordinarily quick to assist them, the auditors were bothered by the fact that Bankers Trust was not.

"The bank initially wasn't very cooperative and indicated that records couldn't be located," Comptroller H. Carl McCall said in an interview. Bankers Trust's diversion of unclaimed funds "is one of the more egregious abuses my auditors have uncovered," he added.

Again and again, for more than two years, the auditors were told that the records had been transferred from New York to a warehouse in Nashville. The audit moved ahead slowly, partly because the auditors' resources were stretched thin but also because they failed to use stronger measures available to them, like issuing subpoenas or fining the bank, in the hope that it would cooperate.

Remarkably, even as the state auditors were in the bank raising questions about unclaimed funds, several Bankers Trust executives were blatantly foraging through those same accounts to locate money they could withhold from the state, according to allegations in an unsuccessful civil lawsuit filed in 1996 by Let W. Lee, a managing director who reported to Mr. Kingdon, against Bankers Trust in Federal court in Manhattan.

In the spring of 1995, Mr. Lee asked two of his employees, Harvey Plante and Gerard Callaghan, to identify unclaimed funds that could be kept on the bank's books, according to the lawsuit. The suit said Mr. Lee and Mr. Callaghan directed Mr. Plante to set up a reserve account for unclaimed funds -- the same account that Federal prosecutors would later label a slush fund.

The suit said Mr. Kingdon and Paula C. Gabriele, head of Bankers Trust's retirement services business, knew about the reserve account. It also said Mr. Lee cleared all of his actions, which he believed to be legal, with Bankers Trust's compliance officers. (The bank's compliance officers notify senior management of routine requests like Mr. Lee's only if they believe a problem has arisen, according to a bank spokesman.)

Mr. Lee's suit, which claimed that the bank libeled him in a disclosure to Federal authorities, was dismissed by an appeals court in February, on technical grounds; Bankers Trust was never called upon to respond to its allegations.

In all, Bankers Trust said 13 employees involved in the diversion of unclaimed funds resigned between 1996 and 1997.

Messrs. Kingdon and Plante, along with Kenneth Goglia, a former managing director for financial controls who worked for Mr. Kingdon, have all been formally notified that they are under investigation by Federal authorities, according to lawyers and Bankers Trust employees involved in the matter. Lawyers for Messrs. Goglia, Plante and Lee declined to comment. Ms. Gabriele's lawyer said she was not a target of the investigation and had left the bank on good terms. Mr. Callaghan, also not a target and still employed by Bankers Trust, declined to comment.

Late in 1996, with their paper trail still incomplete, the auditors decided to go over the heads of the Bankers Trust managers with whom they were dealing and to complain to more senior officials. (The auditors declined to identify any of the individuals they spoke with at the bank.)

"Oh, we were just going to call you," one of the auditors paraphrased a Bankers Trust senior official as telling the audit team in 1996. "We realize we have a problem."

That position struck one of the auditors as odd, since he had been examining the bank for more than two years. Bankers Trust declined to comment on anything having to do with the auditors' activities, including exactly who in the bank's upper ranks knew about the questions the auditors were asking.

In an interview, however, a bank spokesman said Bankers Trust had first heard about problems with unclaimed funds in an exit interview with a departing employee in early 1996 -- more than two years after the state auditors began pestering it for records. The bank said it was the exit interview that caused it to begin an internal investigation of unclaimed funds and to alert Federal authorities to the problem.

A Guilty Plea, But No Closure

In 1997, the state auditors finally demanded access to Bankers Trust's records. One of the auditors took advantage of a business trip to

Nashville to make a detour to the records center there. This time, the bank cooperated -- and only then, the auditors said, did they begin to understand the full dimensions of what was happening.

But while they were the first to ferret out the problems at Bankers Trust, they were not the ones who brought the investigation to a head.

After plugging away in 1997 and 1998, the auditors were asked last October by the F.B.I., the Manhattan United States Attorney's office and the Federal Reserve to turn over thousands of pages of documents. A month later, representatives of those agencies met with the auditors and told them they were taking over the investigation.

In March, Bankers Trust pleaded guilty to criminal charges of diverting the funds. Because most companies and investors are forbidden to do business with convicted felons, Bankers Trust's admission could have put the bank out of business had it not already agreed in November 1998 to be acquired by the German banking giant Deutsche Bank A.G.

Bankers Trust informed employees in an internal memo in March that it was working closely with regulators to make sure there was no recurrence of unclaimed-funds problems. But it is not clear that those problems have actually ended.

In Georgia, Larry Griggers, director of the state Department of Revenue, said there were questions about the tiny sum in unclaimed funds turned over by Bankers Trust between 1996 and 1998: "We feel that it definitely should be larger than that, and we've initiated an audit."

The cupboards appear to have been bare even longer in Illinois. Over 34 years, the Illinois Department of Financial Institutions said, Bankers Trust has turned over just \$2,400 in unclaimed funds. The state said it had begun its own audit of Bankers Trust last summer.

Regulators in Washington, including officials from the Fed and the Comptroller of the Currency's office, say that outright theft of unclaimed funds is rare, and not something that bank customers should worry about. Some state regulators add that ignorance of the law, rather than criminal intent, is often to blame.

David Epstein, a Boston lawyer specializing in abandoned-property law, said the Federal and state governments had already collected about \$30 billion in unclaimed funds from banks and other companies -- but that consumers and institutions had yet to claim that money. States can make use of the funds once they receive them, but they must turn over the money whenever a rightful owner steps forward.

Still, no one seems to know how much money remains uncollected from banks. Mr. Landau, the banking consultant, said that while only a small percentage of bonds held by 30 banks he surveyed in 1996 were still unclaimed a year after they had matured, their value "could be billions."

Mr. Epstein, however, said unclaimed funds still held by banks "don't approach the staggering amounts suggested by some." But, he added, "the amounts are quite large."

Photo: A Bankers Trust unit headed by Bruce J. Kingdon, second from left, was under investigation by auditors as he celebrated a win at the Meadowlands in 1996 by his horse Crafty Card. He resigned from the bank in 1997. (Equi-Photo)(pg. 11)

Graph "Prompting an Inquiry" plots unclaimed funds sent to New York State by Bankers Trust since 1992. (Source: New York State Comptroller's Office responding to Freedom of Information request)(pg. 1)

Chart: "How Bankers Trust Strayed"

SEPTEMBER 1993 -- Bruce J. Kingdon is named head of Bankers Trust's global assets division, which is in charge of unclaimed customer funds.

EARLY 1994 -- New York State auditors notice that unclaimed customer funds have dwindled. They ask for additional documents from the bank, but the bank does not produce them.

SPRING 1995 -- Let W. Lee, who reports to Mr. Kingdon, asks two of his employees to find unclaimed funds that do not have to be turned over to the state, according to a lawsuit filed by Mr. Lee.

OCT. 20, 1995 -- Frank N. Newman, a former Treasury official, is named chief executive of Bankers Trust in an attempt to clean up the bank after a derivatives scandal.

MARCH 1996 -- According to the bank, an employee discloses in an exit interview with Bankers Trust management that unclaimed funds are being diverted.

LATE 1996 -- In conversations with New York state auditors, senior executives of the bank acknowledge that something is wrong.

EARLY 1997 -- Mr. Kingdon resigns. A few days later the bank says there were accounting differences in his division.

SEPTEMBER 1997 -- Frustrated by the bank's failure to produce the documents they requested, New York State auditors demand access to the missing records. The bank produces them.

NOVEMBER 1998 -- The Federal Bureau of Investigation, the Manhattan United States Attorney's office and the Federal Reserve take over the investigation from the state auditors.

MARCH 1999 -- Bankers Trust pleads guilty to criminal charges of illegally diverting \$19.1 million in unclaimed funds. It agrees to repay the money and pay \$63.5 million in fines.

Earnings, in millions of dollars

'93 -- \$1,084

'94 -- \$686

'95 -- \$311

'96 -- \$766

'97 -- \$866

'98 -- -\$73

(pg. 11)

FROM :

07/30/99 11:04 FAX 212 554 3324

PHONE NO. :

SMX 123 2471 5

NOV 15 2009 11:50PM P1

JUL 30 1999 9:00AM

U.S. ATTORNEYS OFFICE, P10

NO. 638 P 2



*United States Attorney
Southern District of New York*

FOR IMMEDIATE RELEASE
JULY 26, 1999

CONTACT: U.S. ATTORNEY'S OFFICE
MARVIN SMILON, HERBERT HADAD
PUBLIC INFORMATION OFFICE
(212) 637-2600

ALEX YOUNG K. OR
(212) 637-2218

ANDREA LIKOWNIK WEISS
(212) 637-2194

PRESS RELEASE

MARY JO WHITE, the United States Attorney for the Southern District of New York, announced that BANKERS TRUST COMPANY ("BANKERS TRUST"), was sentenced today by United States District Judge JOHN G. KOEHLER to a \$60 million criminal fine for its role in a scheme by high-ranking officials at BANKERS TRUST to enhance the bank's financial performance by falsely recording approximately \$19.1 million in unclaimed customer funds as the bank's income and reserves.

BANKERS TRUST pled guilty on March 11, 1999, pursuant to a plea and cooperation agreement with the Government, to three counts of making false entries in bank books and records. The charges against BANKERS TRUST resulted from an investigation into a scheme carried out by high-level employees in the Client Processing Services division of BANKERS TRUST ("CPS"), to divert unclaimed funds -- which should have been held for customers

07/30/99 FRI 09:18 (11/RI NO 9015)

FROM :

07.30.99 11:04 FAX 212 534 3383

PHONE NO. :
SEC 125 31FL A

Nov. 15 2009 11:50PM P2
12/01/99

JUL 30 1999 9:01AM U.S. ATTORNEYS OFFICE, P.O.

NO. 638 - P. 3

and/or should have been escheated to states as abandoned property -- and record such funds as the bank's income and reserves in order to falsely enhance the division's financial performance. During the period from 1989 to 1996, BANKERS TRUST employees falsely recorded approximately \$19.1 million in unclaimed customers funds as the bank's income and reserves.

In addition to paying the \$50 million criminal fine, BANKERS TRUST has reversed and returned approximately \$17.85 million of the approximately \$19.1 million unlawfully recorded as the bank's income and reserves to their rightful owners, including customers and state abandoned property departments. BANKERS TRUST's plan to return the remaining balance of the \$19.1 million will be supervised by the Federal Reserve Bank of New York.

On July 14, 1999, a 27-count indictment was filed charging BRUCE J. KINGDON, a former Partner and Managing Director in charge of CPS, KENNETH GOGLIA, a former Managing Director and Controller of CPS, and HARVEY R. PLANTE, a Vice President in CPE, with conspiracy, misapplication of bank funds, making false entries in bank books and records, and conversion from employee benefit plans in connection with the same scheme. The case is pending before United States District Judge RICHARD M. BERMAN. The charges contained in that indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

FROM : [REDACTED] PHONE NO. : [REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

JUL 20 1999 9:01AM U.S. ATTORNEYS OFFICE, P.O.

NO. 632 F 4

Ms. WHITE praised the outstanding investigative efforts of the Federal Reserve Bank of New York and the FBI.

Assistant United States Attorney ALEX YOUNG K. OH and ANDREA LIKWORNIK WEISS are in charge of the prosecution.

99-132

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U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Seaboard Plaza
New York, New York 10007

March 11, 1999

BY HAND

Samuel W. Seymour, Esq.
Sullivan & Cromwell
125 Broad Street
New York, New York 10004

Carey R. Dunne, Esq.
Davis Polk & Wardwell
450 Lexington Avenue
New York, New York 10017

Re: United States v. Bankers Trust Company
99 Cr. ____

Dear Messrs. Seymour and Dunne:

1. On the understandings specified below, the Office of the United States Attorney for the Southern District of New York (the "Office") will accept a guilty plea from BANKERS TRUST COMPANY ("BANKERS TRUST") to Counts One through Three of the above-referenced Information. Counts One through Three each charge BANKERS TRUST with making false entries in bank books and records, in violation of Title 18, United States Code, Section 1005.

2. It is understood and agreed that BANKERS TRUST's allocation at the time of the plea shall include, *in haec verba*, the statement included as Exhibit A hereto, the accuracy of which BANKERS TRUST hereby affirms. BANKERS TRUST agrees that the total amount of unclaimed funds unlawfully recorded as BANKERS TRUST's income or reserves, including an unlawful transfer of \$1.3 million in outstanding customer checks in 1989, is \$19.1 million. Any additional statements by BANKERS TRUST shall be consistent in all material respects with the statements contained in Exhibit A.

3. This Agreement is contingent upon the sentencing judge accepting this Agreement. Should the Court reject the terms of this Agreement, this Agreement shall be void, and neither this Office nor BANKERS TRUST shall be bound by its terms. It is further understood and agreed that the parties will request that the Court accept the terms of this

Samuel W. Seymour, Esq.
Carey R. Dunne, Esq.

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March 11, 1999

Agreement pursuant to Fed. R. Crim. P. 11(c)(1)(C), 11(e)(2), 11(e)(3), and Sentencing Guidelines § 6B1.2(c).

4. The parties have reached a stipulation concerning the appropriate amount of the criminal fine in this case pursuant to United States Sentencing Guidelines §§ 8C2.3, 8C2.4, 8C2.5, 8C2.6 and 8C2.8. This Office and BANKERS TRUST therefore stipulate pursuant to Sentencing Guidelines § 6B1.4 that Sixty Million dollars (\$60,000,000) is the appropriate sentence and fine in this case.

5. It is understood and agreed that the Court: (i) will impose a total criminal fine of Sixty Million dollars (\$60,000,000) pursuant to Fed. R. Crim. P. 11(e)(1)(C); and (ii) will retain jurisdiction to enforce the terms and conditions of this Agreement. The parties understand that this Agreement reflects the particular facts of this case and is not intended as precedent for other cases.

6. It is understood and agreed that BANKERS TRUST shall pay the sum of Sixty Million dollars (\$60,000,000) to the Federal Reserve Bank of New York as escrow agent within 48 hours of the entry of its guilty plea, which shall then be wire transferred to the United States, as directed by this Office, on the date of imposition of sentence. All of this amount shall constitute a criminal penalty payable to the United States. It is further understood and agreed that, thereafter, under no circumstances shall BANKERS TRUST be entitled to a refund of any monies paid pursuant to this Agreement. BANKERS TRUST shall also pay a special assessment of \$200 per count at sentencing.

7. The parties agree to sentencing without preparation of a Presentence Report. It is further understood and agreed that the parties will seek a finding from the Court pursuant to Fed. R. Crim. P. 32(b)(1) and the policy statement set forth in Sentencing Guidelines § 6A1.1 that the information in the record, including the allocation of BANKERS TRUST attached hereto as Exhibit A, is sufficient to enable the Court to exercise its sentencing authority meaningfully under Title 18, United States Code, Section 3553, and that the preparation of a Presentence Report pursuant to Fed. R. Crim. P. 32 is not necessary. BANKERS TRUST has requested, and the Office agrees to, a two-month adjournment of sentencing in order to permit other regulatory agencies to evaluate BANKERS TRUST's request for regulatory approval to continue to engage in certain businesses. The parties also agree that sentencing will proceed on or before May 12, 1999, unless the Government consents to a further extension.

8. It is understood that BANKERS TRUST will continue to cooperate in connection with the Government's investigation of this and related matters. This cooperation requires that BANKERS TRUST (a) shall truthfully and completely disclose, to the extent permitted by law, all information with respect to the activities of BANKERS TRUST and its officers and employees concerning all matters about which this Office inquires of BANKERS

Samuel W. Seymour, Esq.
Carey R. Dunne, Esq.

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March 11, 1999

TRUST, which information can be used for any purpose; (b) shall cooperate fully with this Office, the Federal Bureau of Investigation, the Federal Reserve Bank of New York ("Federal Reserve") and any other government agency designated by this Office; (c) shall develop a plan within 30 days from the date of this plea, which shall be subject to the approval of the Federal Reserve, to make full restitution of all moneys derived from the conduct described in paragraph 9 below; (d) shall submit to the Federal Reserve for its review and approval, within 30 days of the date of this plea, the written internal compliance procedures which the bank already has implemented for the strengthening and maintenance of its records, systems, and internal audit and controls, in order to ensure that such misconduct will not recur in the future; (e) shall attend all meetings at which this Office requests BANKERS TRUST officers' and employees' presence; (f) shall provide to this Office, upon request, any document, record, or other tangible evidence relating to matters about which this Office or any designated law enforcement agency inquires of BANKERS TRUST, to the extent permitted by law; (g) shall truthfully testify before the grand jury and at any trial and other court proceeding with respect to any matters about which this Office may request BANKERS TRUST officers' and employees' testimony; (h) shall bring to this Office's attention all crimes which BANKERS TRUST has committed, all criminal proceedings, investigations, or prosecutions in which BANKERS TRUST has been or is a subject, target or party, and all administrative proceedings in which BANKERS TRUST is likely to be charged for misconduct; and (i) shall commit no further crimes whatsoever. Moreover, any assistance BANKERS TRUST may provide under this Agreement to federal criminal investigators shall be pursuant to the specific instructions and control of this Office and designated investigators.

9. It is understood that this Office cannot, and does not, agree not to prosecute BANKERS TRUST for criminal tax violations. However, if BANKERS TRUST fully complies with the understandings specified in this Agreement, no testimony or other information given by BANKERS TRUST (or any other information directly or indirectly derived therefrom) will be used against BANKERS TRUST in any criminal tax prosecution. Moreover, if BANKERS TRUST fully complies with the understandings specified in this Agreement, neither BANKERS TRUST nor any of its corporate affiliates will be further prosecuted criminally by this Office for any crimes, except for criminal tax violations, concerning (A) the activities, from 1986 to 1996, of BANKERS TRUST officers and employees in the Client Processing Services division relating to: (i) the wrongful conversion of unclaimed customer funds and/or funds that were escheatable in due course to various states as abandoned property; or (ii) the false and misleading recording of such unclaimed funds in BANKERS TRUST's books and records as income or reserves; or (B) any statements that were made or any conduct that occurred in the course of this Office's and the Federal Reserve's investigation in 1996, to the extent that BANKERS TRUST has disclosed the specified activities in paragraph 9(A) and 9(B) to this Office as of the date of this Agreement. This Agreement does not provide any protection against prosecution for any crimes except as set forth above and does not provide any protection for any natural persons against prosecution for any crimes, including those specified in this paragraph.

Samuel W. Seymour, Esq.
Carey R. Dunne, Esq.

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March 11, 1999

10. It is understood and agreed that the Office shall be free to prosecute BANKERS TRUST or any of its corporate affiliates for the conduct set forth in paragraph 9 above: (i) should the Court reject this Agreement, including the stipulated fine of Sixty Million dollars (\$60,000,000); (ii) should the allocation of BANKERS TRUST fail to incorporate, *in haec verba*, Exhibit A; (iii) should the Court not accept the plea of guilty of BANKERS TRUST; (iv) should any motion to withdraw the plea of guilty, or to attack collaterally a conviction based upon such a plea, be granted and become final; (v) should BANKERS TRUST fail to pay the criminal fine in accordance with this Agreement; or (vi) should BANKERS TRUST violate any other provision of this Agreement. BANKERS TRUST agrees to waive any and all defenses based upon the passage of time that might exist with respect to the matters enumerated in paragraph 9, including, but not limited to, the statute of limitations with respect to any such prosecutions that are not time-barred on the date this Agreement is signed by BANKERS TRUST.

11. It is understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office. This Office will, however, bring the cooperation of BANKERS TRUST to the attention of other prosecuting offices, if requested by BANKERS TRUST.

12. It is understood that, should BANKERS TRUST commit any further crimes or should it be determined that BANKERS TRUST has given false, incomplete, or misleading testimony or information, or should BANKERS TRUST otherwise violate any provision of this Agreement, BANKERS TRUST shall thereafter be subject to prosecution for any federal criminal violation of which this Office has knowledge, including obstruction of justice. Any such prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against BANKERS TRUST, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

13. It is understood that in the event that it is determined that BANKERS TRUST has committed any further crimes, given false, incomplete, or misleading testimony or information, or otherwise violated any provision of this Agreement, (a) all statements made by BANKERS TRUST and its officers and employees to this Office or other designated law enforcement agents, and any testimony given by BANKERS TRUST and its officers and employees before a grand jury or other tribunal, whether prior to or subsequent to the signing of this Agreement, and any leads from such statements or testimony shall be admissible in evidence in any criminal proceeding brought against BANKERS TRUST; and (b) BANKERS TRUST shall assert no claim under the United States Constitution, any statute, Rule 11(e)(6) of the Federal Rules of Criminal Procedure, Rule 410 of the Federal Rules of Evidence, or any other federal rule that such statements or any leads therefrom should be suppressed. It is

Samuel W. Seymour, Esq.
Carey R. Dunne, Esq.

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March 11, 1999

the intent of this Agreement to waive all rights in the foregoing respects.

14. This Agreement supersedes any prior understandings, promises, or conditions between this Office and BANKERS TRUST. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

Very truly yours,

MARY JO WHITE
United States Attorney

By:

Alex Young
ALEX YOUNG K. DE
Assistant United States Attorney
(212) 637-2218

APPROVED:

Mark F. Pomerantz
MARK F. POMERANTZ
Chief, Criminal Division

AGREED AND CONSENTED TO:
BANKERS TRUST COMPANY

David D. Brown, IV
By: DAVID D. BROWN, IV

Pursuant to Authority Conveyed
By Resolution of the Board of
Directors of BANKERS TRUST COMPANY

March 11, 1999
DATE

APPROVED:

Samuel W. Seymour, Esq.
SAMUEL W. SEYMOUR, ESQ.
Counsel to BANKERS TRUST

DATE

APPROVED:

Carey R. Dunne
CAREY R. DUNNE, ESQ.
Counsel to BANKERS TRUST

3/11/99
DATE

EXHIBIT A

Rule 11(e)(6) Plea Discussions

Bankers Trust Company Allocation

Bankers Trust Company, which I will refer to as "the Bank," has authorized me to enter a plea of guilty to three counts of 18 U.S.C. § 1005 on the Bank's behalf. The Bank is a "member bank" within the meaning of 18 U.S.C. § 1005.

The transactions that are the subject of the information occurred in what was called the Client Processing Services ("CPS") business of the Bank. CPS was an organizational unit of the Bank that provided processing, fiduciary and trust services to the clients and customers of the Bank. At any given time, there is a small percentage of the funds processed by CPS that are unclaimed or whose rightful owners are unidentified.

From January 1994 through March 1996, a group of executives and employees of the Bank, who are no longer employed by the Bank, unlawfully, willfully and knowingly caused a number of false entries to be made in the books and records of the Bank with the intent of concealing the nature and source of transactions from, and to deceive, the Bank's auditors and regulators, including the Federal Reserve Bank of New York. Their purpose in doing so was to falsely enhance the financial performance of CPS, which had the effect of making the Bank's financial performance appear better than it actually was. In certain instances, these individuals acted contrary to the express legal advice of the Bank's outside counsel. Although this group of employees included the senior manager and the controller of the business unit, the Bank believes that a small number of CPS employees were involved in the knowing falsification of the Bank's records.

As I will describe in more detail in a moment, the falsification of the Bank's

records arose in connection with improper transfers of unclaimed funds to reserve accounts and to the Bank's income. These funds may with the passage of time become abandoned property subject to the escheatment laws of the state of New York and other states. The false entries that are the subject of the Information relate to certain of these funds that belonged to customers or other third parties or were escheatable. This conduct occurred, in part, in the Southern District of New York.

The transactions described in the Information occurred in three business units within CPS. The first such business was the Corporate Trust and Agency Group ("CTAG"), which provides paying agent services to the issuers of securities. In the course of this business, CTAG issued checks to securities holders. Some checks were never presented for payment by the payee. The second unit was the Retirement Services Group ("RSG"), which provided a wide variety of services to employee benefit plans, including employee benefit payment services. In the course of this business, RSG issued checks to plan beneficiaries. Some checks were never presented for payment by the payee. The third unit, Global Securities Services ("GSS"), provided custodial services to a wide range of customers. In the course of this business, GSS received credits on behalf of customer accounts, in its capacity as a domestic or global custodian of assets. Some credits in GSS were unidentified or irreconcilable to corresponding customer accounts.

With respect to Count One of the Information, on or about June 30, 1994, employees of CPS unlawfully, willfully and knowingly caused approximately \$2.4 million of aged outstanding checks issued by CTAG as paying agent to be transferred from liability accounts to the Bank's income and reserves. These transactions were falsely recorded as "movement of funds," causing the books and records of the Bank to be

inaccurate. The employees who recorded these entries did so with the intent to conceal the nature and source of the transferred funds from the Bank's auditors and regulators.

With respect to Count Two, in or about May 1995, employees of CPS unlawfully, willfully and knowingly caused approximately \$946,610.48 of aged outstanding checks from the RSG business to be transferred from outstanding liability accounts to a reserve account of the Bank. These transactions were falsely recorded as "OCS reclass," causing the books and records of the Bank to be inaccurate. The employees who recorded these entries did so with the intent to conceal the nature and source of the transferred funds from the Bank's auditors and regulators.

With respect to Count Three, on or about February 9, 1996, employees of CPS unlawfully, willfully and knowingly caused approximately \$3.9 million of aged credits arising from transactions in the GSS business to be transferred from outstanding liability or suspense accounts to reserve accounts. These transactions were falsely recorded as "reserve funds" or "beginning reserve balance," causing the books and records of the Bank to be inaccurate. The employees who recorded these entries did so with the intent to conceal the nature and source of the transferred funds from the Bank's auditors and regulators.

In moving various funds to Bank reserves, the CPS employees acted with the purpose and expectation that these funds would later be used to falsely enhance the financial performance of CPS, which had the effect of falsely enhancing the Bank's financial performance.

The total amount of unclaimed funds unlawfully recorded as the Bank's income or reserves from 1994 through early 1996, including an unlawful transfer of \$1.3

million in outstanding customer checks in 1989, is \$19.1 million.

The Bank acknowledges the violations of U.S. criminal law to which it is pleading guilty. The Bank accepts responsibility for these transactions and the conduct of its employees. It deeply regrets that its former employees engaged in such transactions. In doing so, they violated the Bank's policies and procedures as well as the Bank's commitment to its clients. As the Bank learned of these transactions beginning in March 1996, it promptly reported the conduct to the Department of Justice, the Federal Reserve Bank of New York and the New York State Banking Department. The Bank also, with the assistance of outside counsel and Arthur Andersen, LLP, conducted a complete forensic review of the transactions involved. The Bank has cooperated with the government's investigation into these matters and will continue to cooperate under the Cooperation and Plea Agreement executed by the Bank today. The Bank has reversed all of the transactions and has, or is in the process of, compensating any customers or third parties affected by these transactions and complying with its escheatment obligations relating to these funds.

When the Bank discovered and reported these transactions beginning in March 1996, it substantially changed the management of Global Institutional Services, which includes the former CPS businesses, and adopted a comprehensive system of controls designed to prevent recurrence of the conduct underlying the transactions. These controls include new policies and procedures regarding the handling of unclaimed property. The Bank has implemented a thorough training program for all the employees in Global Institutional Services regarding these new policies and procedures.

To put this conduct in context, the Bank's earnings were \$615 million in

1994 and \$215 million in 1995. In 1994-1995, CPS employed over 4,500 people. In 1995, CPS administered approximately \$422 billion of debt and held \$1.4 trillion dollars in assets under custody. On a daily basis, approximately \$400 billion was processed by the CPS unit. The Bank takes very seriously its responsibility to preserve and protect the assets of its clients, and the vast majority of funds processed by CPS were handled correctly and in accordance with our clients' instructions.

March 11, 1999

CLOSED

**U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CRIMINAL DOCKET FOR CASE #: 1:99-cr-00250-JGK-1**

Case title: USA v. Bankers Trust Co.

Date Filed: 03/11/1999

Date Terminated: 07/26/1999

Assigned to: Judge John G. Koeltl

Defendant (1)

Bankers Trust Company
TERMINATED: 07/27/1999

represented by **Carey R. Dunne**
Davis, Polk & Wardwell
450 Lexington Avenue
New York, NY 10128
(212) 450-4000
TERMINATED: 07/27/1999
LEAD ATTORNEY
Designation: Retained

Samuel W. Seymour
Sullivan & Cromwell
125 Broad Street
New York, NY 10004-2498
(212) 558-4000
TERMINATED: 07/27/1999
LEAD ATTORNEY
Designation: Retained

Pending Counts

18:1005.F BANK ENTRIES,
REPORTS AND TRANSACTIONS
(MAKING FALSE ENTRIES IN
BANK BOOKS AND RECORDS)
(1-3)

Disposition

The defendant shall pay a fine of
\$60,000,000.00.

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

None

Disposition**Plaintiff****United States of America**

represented by **Alex Young Kyong Oh**
 Paul, Weiss, Rifkind, Wharton &
 Garrison, LLP (DC)
 2001 K Street, N.W.
 5th Floor
 Washington , DC 20006
 (202) 223-7334
 Fax: (202) 223-7474
 Email: aoh@paulweiss.com
LEAD ATTORNEY

Date Filed	#	Docket Text
03/11/1999	1	WAIVER OF INDICTMENT by Bankers Trust Co. (bh) (Entered: 03/15/1999)
03/11/1999	2	SEALED INFORMATION as to Bankers Trust Co. (1) count(s) 1-3 (bh) (Entered: 03/15/1999)
03/11/1999	3	NOTICE of Appearance for Bankers Trust Co. by Attorney Samuel Seymour (bh) (Entered: 03/15/1999)
03/11/1999	4	NOTICE of Appearance for Bankers Trust Co. by Attorney Carey R. Dunne (bh) (Entered: 03/15/1999)
03/11/1999		Arraignment as to Bankers Trust Co. held. Deft pres w/atty Carey Dunne and Samuel Seymour pres, AUSA Alex Oh pres. Deft pleads not guilty Bankers Trust Co. (1) count(s) 1-3 before Magistrate Judge Michael H. Dolinger. Case assigned to Judge Koeltl for all purposes. (bh) (Entered: 03/15/1999)
03/11/1999		ORAL ORDER as to Bankers Trust Co. , Unsealing Information (Entered by Judge John G. Koeltl) (bh) (Entered: 03/16/1999)
03/11/1999		Change of Plea Hearing as to Bankers Trust Co. held. Defendant Bankers Trust Company present with attorneys Samuel Seymour and Cary Dunne. AUSA's Alex Oh and Andrea Weiss. Reporter Steven Griffing present. Defendant changes plea of not guilty and pleads guilty to count 1 through 3 of information. Sentence date set for 5/12/99 at 5:00 pm. (mr) (Entered: 03/17/1999)
03/11/1999		Change of Not Guilty Plea to Guilty Plea by Bankers Trust Co. Bankers Trust Co. (1) count(s) 1-3 (mr) (Entered: 03/17/1999)

03/11/1999		PLEA entered by Bankers Trust Co. . Court accepts plea. Guilty: Bankers Trust Co. (1) count(s) 1-3 (Terminated motions -) (mr) (Entered: 03/17/1999)
03/11/1999		Sentencing set for 5:00 5/12/99 for Bankers Trust Co. , Bankers Trust Co. (1) count(s) 1-3 (mr) (Entered: 03/17/1999)
05/13/1999	5	TRANSCRIPT of record of proceedings as to Bankers Trust Co. filed before Judge Koeltl for dates of 3/1 1/99. (sac) (Entered: 05/13/1999)
06/04/1999	6	ORDER as to Bankers Trust Co., The Court received the enclosed correspondence that was not copied to all parties. It is therefore attached. The action seeks a Government inquiry and no action is called for by the Court. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 06/10/1999)
06/17/1999	7	ORDER as to Bankers Trust Co., The Court forwards to the parties the attached letter from Mr. Supinski because it is not clear that the letter was sent to both parties. No action is called for from the Court. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 06/24/1999)
07/12/1999	8	ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 07/13/1999)
07/26/1999		Sentencing held Bankers Trust Co. (1) count(s) 1-3 (mr) (Entered: 07/29/1999)
07/27/1999	9	FILED JUDGMENT in a CRIMINAL CASE. Defendant present with attorney Samuel Seymour. The defendant Bankers Trust Co. (1) pleaded guilty to count (s) 1-3. The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. The defendant shall pay a fine of \$60,000,000.00. The fine shall be payable, together with interest, by thursday, 7/29/99 from the funds already in Escrow with the Federal Reserve Bank of New York. The Court imposes no restitution because fashioning and order of restitution will unnecessarily prolong and complicate the sentencing process. Statement of reasons attached. Judgment and Commitment issued to U.S. Marshal (Signed by Judge John G. Koeltl); [Docketed as a Judgment #99,1797 on 7/30/99.] (mr) Modified on 08/02/1999 (Entered: 07/29/1999)
07/28/1999	10	ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) (Entered: 07/29/1999)
07/31/1999		Payment of Fine in the amount of \$61,025,852.75 by Bankers Trust Co. Date received: 7/30/99 (bw) (Entered: 08/04/1999)
08/20/1999		Payment of Fine in the amount of \$60,600,000.00 by Bankers Trust Co. Date received: 7/30/99 (sl) (Entered: 08/20/1999)
09/10/1999	11	TRANSCRIPT of record of proceedings as to Bankers Trust Co. for dates of 7/26/99 before Judge Koeltl. (mr) (Entered: 09/10/1999)

10/06/1999	12	ORDER as to Bankers Trust Co. The Court forwards to the parties correspondence dated September 28, 1999. (Signed on 10/4/99 by Judge John G. Koeltl); Copies mailed. (bw) (Entered: 10/07/1999)
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PACER Service Center			
Transaction Receipt			
10/21/2009 14:58:57			
PACER Login:	us5070	Client Code:	
Description:	Docket Report	Search Criteria:	1:99-cr-00250-JGK
Billable Pages:	2	Cost:	0.16

CERTIFIED AS A TRUE COPY ON

THIS DATE 10-21-09

BY Edward J. [Signature]

Clerk
 Deputy

CLOSED

U.S. District Court
Southern District of New York - Civil Database (Foley Square)

CRIMINAL DOCKET FOR CASE #: 99-CR-250-1

USA v. Bankers Trust Co.
Case Assigned to: Judge John G. Koeltl
Dkt# in other court: None

Filed: 03/11/99

BANKERS TRUST COMPANY
defendant
[term 07/27/99]

Samuel W. Seymour
[term 07/27/99]
[COR LD NTC ret]
125 Broad Street
New York, NY 10004-2498
(212) 558-4000

Carey R. Dunne
[term 07/27/99]
[COR LD NTC ret]
Davis, Polk & Wardwell
450 Lexington Avenue
New York, NY 10128
(212) 450-4000

Pending Counts:

Disposition

1005.F BANK ENTRIES,
REPORTS AND TRANSACTIONS
(MAKING FALSE ENTRIES IN
BANK BOOKS AND RECORDS)
(1 - 3)

The defendant shall pay a fine
of \$60,000,000.00.
(1 - 3)

Offense Level (opening): 4

Terminated Counts:

NONE

Complaints:

NONE

U. S. Attorneys:

Alex Young K. Oh
[COR LD NTC]
Assistant United States

Proceedings include all events.
1:99cr250-1 USA v. Bankers Trust Co.

Attorney
Mary Jo White, United States
Attorney
Criminal Division
One St. Andrew's Plaza
New York, NY 10007
USA
(212) 791-1991

Proceedings include all events.

99cr250-1 USA v. Bankers Trust Co.

CLM

3/11/99 1 WAIVER OF INDICTMENT by Bankers Trust Co. (bh)
[Entry date 03/15/99]

3/11/99 2 SEALED INFORMATION as to Bankers Trust Co. (1) count(s)
1-3 (bh) [Entry date 03/15/99]

3/11/99 3 NOTICE of Appearance for Bankers Trust Co. by Attorney
Samuel Seymour (bh) [Entry date 03/15/99]

3/11/99 4 NOTICE of Appearance for Bankers Trust Co. by Attorney
Carey R. Dunne (bh) [Entry date 03/15/99]

3/11/99 -- Arraignment as to Bankers Trust Co. held. Deft pres w/atty
Carey Dunne and Samuel Seymour pres, AUSA Alex Oh pres.
Deft pleads not guilty Bankers Trust Co. (1) count(s) 1-3
before Magistrate Judge Michael H. Dolinger. Case assigned
to Judge Koeltl for all purposes. (bh) [Entry date 03/15/99]

3/11/99 -- ORAL ORDER as to Bankers Trust Co. , Unsealing
Information (Entered by Judge John G. Koeltl) (bh)
[Entry date 03/16/99]

3/11/99 -- Change of Plea Hearing as to Bankers Trust Co. held.
Defendant Bankers Trust Company present with attorneys
Samuel Seymour and Cary Dunne. AUSA's Alex Oh and Andrea
Weiss. Reporter Steven Griffing present. Defendant changes
plea of not guilty and pleads guilty to count 1 through 3
of information. Sentence date set for 5/12/99 at 5:00 pm.
(mr) [Entry date 03/17/99]

3/11/99 -- Change of Not Guilty Plea to Guilty Plea by Bankers Trust
Co. Bankers Trust Co. (1) count(s) 1-3 (mr)
[Entry date 03/17/99]

3/11/99 -- PLEA entered by Bankers Trust Co. . Court accepts plea.
Guilty: Bankers Trust Co. (1) count(s) 1-3 (Terminated
motions -) (mr) [Entry date 03/17/99]

3/11/99 -- Sentencing set for 5:00 5/12/99 for Bankers Trust Co. ,
Bankers Trust Co. (1) count(s) 1-3 (mr)
[Entry date 03/17/99]

5/13/99 5 TRANSCRIPT of record of proceedings as to Bankers Trust Co.
filed before Judge Koeltl for dates of 3/11/99. (sac)
[Entry date 05/13/99]

6/4/99 6 ORDER as to Bankers Trust Co., The Court received the
enclosed correspondence that was not copied to all parties.
It is therefore attached. The action seeks a Government
inquiry and no action is called for by the Court. (Signed
by Judge John G. Koeltl); Copies mailed. (mr)
[Entry date 06/10/99]

Proceedings include all events.
1:99cr250-1 USA v. Bankers Trust Co.

5 /99 7 ORDER as to Bankers Trust Co., The Court forwards to the parties the attached letter from Mr. Supinski because it is not clear that the letter was sent to both parties. No action is called for from the Court. (Signed by Judge John G. Koeltl); Copies mailed. (mr) [Entry date 06/24/99]

7/12/99 8 ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) [Entry date 07/13/99]

7/26/99 -- Sentencing held Bankers Trust Co. (1) count(s) 1-3 (mr) [Entry date 07/29/99]

7/27/99 9 FILED JUDGMENT in a CRIMINAL CASE. Defendant present with attorney Samuel Seymour. The defendant Bankers Trust Co. (1) pleaded guilty to count(s) 1-3. The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. The defendant shall pay a fine of \$60,000,000.00. The fine shall be payable, together with interest, by thursday, 7/29/99 from the funds already in Escrow with the Federal Reserve Bank of New York. The Court imposes no restitution because fashioning and order of restitution will unnecessarily prolong and complicate the sentencing process. Statement of reasons attached. Judgment and Commitment issued to U.S. Marshal (Signed by Judge John G. Koeltl); [Docketed as a Judgment #99,1797 on 7/30/99.] (mr) [Entry date 07/29/99] [Edit date 08/02/99]

7/28/99 10 ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) [Entry date 07/29/99]

7/31/99 -- Payment of Fine in the amount of \$61,025,852.75 by Bankers Trust Co. Date received: 7/30/99 (bw) [Entry date 08/04/99]

8/20/99 -- Payment of Fine in the amount of \$60,600,000.00 by Bankers Trust Co. Date received: 7/30/99 (sl) [Entry date 08/20/99]

9/10/99 11 TRANSCRIPT of record of proceedings as to Bankers Trust Co. for dates of 7/26/99 before Judge Koeltl. (mr) [Entry date 09/10/99]

10/6/99 12 ORDER as to Bankers Trust Co. The Court forwards to the parties correspondence dated September 28, 1999. (Signed on 10/4/99 by Judge John G. Koeltl); Copies mailed. (bw) [Entry date 10/07/99]

cket as of August 4, 2000 3:38 pm

Page 4

Certified as a true copy on
this date 8-4-02

By [Signature]
() Clerk
(X) Deputy

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CRIMINAL

Designation form to be used by the United States Attorney to indicate the Category of the offense for the purpose of Assignment to the Appropriate Calendar.

This section to be completed by the Clerk's Office

DOCKET NO. **99CRIM 0250** DATE OF ASSIGNMENT: 3/11/99
 DATE OF FILING: 3/11/99 ASSIGNED JUDGE: Koehl
 SUPERSEDING INDICTMENT? (Y/N)

UNITED STATES OF AMERICA	In	Interp.	Deft's	Deft's
- v -	Custody	Lang.	Counsel	D.O.B.
1. BANKERS TRUST COMPANY			Samuel W. Seymour, Esq.	
			Carey Dunne, Esq.	

WHEEL: C COUNTY OF OFFENSE: New York SPEEDY TRIAL ACT TIME
 BEGINS ON: Filing

- Place an (x) in ONE category, ONLY () Misc. Motions
- | | | |
|--------------------------|-----------------------------------|--------------------|
| 1. () Larceny and Theft | 5. (X) Fraud (other than 3 or 4) | 9. () Imm. Laws |
| 2. () Embezzlement | 6. () Forgery and Counterfeiting | 10. () Antitrust |
| 3. () Income Tax | 7. () Narc. & Controlled Drugs | 11. () Sel. Serv. |
| 4. () Securities laws | 8. () Bribery | 12. () All others |

The United States Attorney designates the particular offense or offenses charged to have been violated as follows:

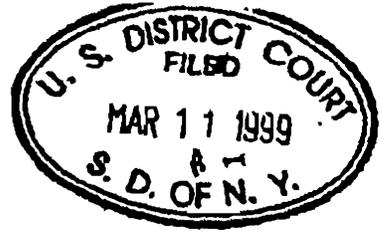
U.S. Code Title and Section	No. of Counts	Description of Offense	Maximum Penalty
1. 18 U.S.C. § 1005	3	Making false entries in bank books and records	Max. fine: twice gross pecuniary gain; max term of probation of 5 yrs; \$200 S.A.

Sentencing Guidelines apply to Count(s) All

MARY JO WHITE
UNITED STATES ATTORNEY
SOUTHERN DISTRICT OF NEW YORK

By: Alex Young
 ALEX YOUNG / K. OH
 Assistant United States Attorney
 Telephone: (212) 637-2218

8/4/00
R-Y



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

BANKERS TRUST COMPANY,

Defendant.

JUDGE KOELTL

INFORMATION
99 CRIM. 0250

COUNTS ONE THROUGH THREE

(False Entries in Bank Books and Records)

The Grand Jury charges:

Introduction

1. At all times relevant to this Information, the defendant BANKERS TRUST COMPANY ("BANKERS TRUST") was a bank chartered under the laws of the State of New York. BANKERS TRUST was headquartered in New York, New York, and provided a full range of financial and fiduciary services to institutional and individual customers through offices located throughout the United States. As a state member bank, BANKERS TRUST was subject to periodic examinations by the Federal Reserve Board ("Federal Reserve") and required to file periodic reports of its banking activities and financial condition with the Federal Reserve. BANKERS TRUST was a wholly-owned subsidiary of Bankers Trust New York Corporation ("Bankers Trust Corp."), a publicly-held bank holding company incorporated in New York, New York.

2. At all times relevant to this Information, Client

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Processing Services, which was also sometimes known as Global Assets or Global Institutional Services ("CPS") was one of the organizational units within the defendant BANKERS TRUST, through which BANKERS TRUST provided processing, fiduciary and trust services to institutional and individual clients. CPS employed approximately 4,500 people, which constituted approximately one-third of BANKERS TRUST's total personnel. CPS generated a substantial portion of Bankers Trust Corp.'s income; for example, in 1995, CPS generated more than one-third of Bankers Trust Corp.'s income.

3. At all times relevant to this Information, CPS was headed by one of the defendant BANKERS TRUST's senior Managing Directors who was also a Partner (the "Partner") of BANKERS TRUST. The Partner reported directly, at various times, to the President, Vice-Chairman, and the Chairman of Bankers Trust Corp. Another Managing Director of BANKERS TRUST was the Controller of CPS (the "Managing Director"). The Managing Director reported directly to the Partner, and at times, indirectly to the Chief Financial Officer of Bankers Trust Corp.

4. At all times relevant to this Information, the Federal Reserve was responsible for, among other things, maintaining the safety and soundness of banks located in the United States. Among its other responsibilities, the Federal Reserve conducted periodic examinations of the defendant BANKERS TRUST's accounts, records, and financial condition in order to

evaluate BANKERS TRUST's safety and soundness.

5. At all times relevant to this Information, by law and by rules and regulations of the Federal Reserve, the defendant BANKERS TRUST was required to maintain in safekeeping all customer funds and to maintain accurate books and records of all customer transactions. BANKERS TRUST was not entitled to convert customer funds to its own use and benefit.

6. To ensure that the defendant BANKERS TRUST was complying with all rules and regulations of the Federal Reserve relating to, among others, banking and fiduciary services, examiners of the Federal Reserve periodically inspected BANKERS TRUST's books and records.

7. At all times relevant to this Information, the New York State Banking Department was responsible for supervising banking institutions licensed by the State of New York. Among its other responsibilities, the New York State Banking Department conducted examinations of the accounts, records, and financial condition of state banks.

Background

Unclaimed Funds in CPS

8. At all times relevant to this Information, the CPS area of the defendant BANKERS TRUST generated revenues by providing, among other things, custodial, trust and processing services for institutional and individual customers. CPS was subdivided into various business units, including: (i) the

Corporate Trust and Agency Group ("CTAG"), which provided, among other things, paying agent and fiduciary services to issuers of securities; (ii) the Retirement Services Group ("RSG"), which provided, among other things, custodial, trust administration and asset management services to employee benefit and pension plans of corporations, governments and their agencies; and (iii) Global Securities Services ("GSS"), which provided, among other things, custodial, processing and clearing services to purchasers and sellers of securities. The fees that CTAG, RSG and GSS earned from providing these services were a significant component of the overall income earned by BANKERS TRUST.

9. From time to time, the custodial, trust and processing services performed in CPS generated certain credits and unclaimed customer funds ("unclaimed funds") as reflected on the defendant BANKERS TRUST's books and records. For example, in CTAG, BANKERS TRUST, as paying agent for issuers of securities, issued checks to securities holders that reflected distributions of dividends and interests earned on such securities. From time to time, securities holders did not cash these checks ("CTAG checks"). Similarly, in RSG, as administrator of various employee benefit and pension plans, BANKERS TRUST issued benefit checks on behalf of such plans to plan beneficiaries. From time to time, these benefit checks went uncashed ("RSG benefit checks"). Similarly, in GSS, BANKERS TRUST from time to time was overpaid for the clearing, settling and agent bank functions that

it performed relating to securities transactions. The overpayments ("GSS credits") generated in connection with these securities transactions remained on BANKERS TRUST's books and records as credits. BANKERS TRUST was required to maintain such GSS credits in suspense or trust accounts until such time as their rightful ownership was determined.

10. At all times relevant to this Information, as set forth in more detail in paragraphs 11 and 12 below, the defendant BANKERS TRUST was not permitted to convert such unclaimed funds - - including CTAG checks, RSG benefit checks and GSS credits -- to BANKERS TRUST's own use and benefit. This was so even where it appeared that certain customers might never come forward to claim their money.

BANKERS TRUST's Obligations Under
State Abandoned Property Laws

11. At all times relevant to this Information, under New York State law, the defendant BANKERS TRUST was required under certain circumstances to escheat to New York State unclaimed funds, including funds comprising CTAG checks, RSG benefit checks and GSS credits. Specifically, where, after three years, (1) the rightful owner of unclaimed funds, including funds underlying CTAG checks, RSG benefit checks and GSS credits had not asserted a claim to such funds, and (2) the requirement of New York State jurisdiction over such unclaimed funds were met, BANKERS TRUST was obligated by New York law to escheat such unclaimed funds to New York as abandoned property.

12. At all times relevant to this Information, where the requirements of New York State jurisdiction over unclaimed funds were not met, the defendant BANKERS TRUST was required by various states' laws and by its own stated policies to maintain such unclaimed funds on its books and records as liabilities. This requirement recognized the possibility of future claims to these funds either by customers or by another state or states that demonstrated their entitlement to such funds as abandoned property. BANKERS TRUST was obligated by law and by rules and regulations of the Federal Reserve and the New York State Banking Department to maintain in safekeeping all unclaimed funds and to maintain accurate books and records of unclaimed funds. Certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, received legal advice that unclaimed funds could not be converted, or taken into BANKERS TRUST'S own income.

13. To ensure that the defendant BANKERS TRUST was properly escheating unclaimed funds to the State of New York, auditors from the State Office of Unclaimed Funds periodically audited BANKERS TRUST'S books and records relating to abandoned property.

The Pressure to Meet
Financial Targets in 1994 and 1995

14. In 1994 and 1995, the defendant BANKERS TRUST'S income declined significantly, due to a number of negative market developments. In order to compensate for this decline in income

in 1994 and 1995 and also to reduce expenses, the management of BANKERS TRUST put significant pressure on all areas of its business, including CPS, to generate additional revenues and to lower expenses. In response to this pressure, the Partner and the Managing Director, in turn, put significant pressure on CPS officers and employees to meet revenue goals established by BANKERS TRUST for CPS for the years 1994 and 1995.

The Unlawful Diversion of
Unclaimed Funds to Meet Financial Targets

15. From in or about January 1994 through in or about March 1996, the defendant BANKERS TRUST, the Partner, the Managing Director and certain other officers and employees of BANKERS TRUST in CPS, participated in an unlawful scheme to convert unclaimed funds -- which belonged to customers and/or were escheatable in due course to various states other than New York -- for the purpose of meeting revenue and expense targets imposed by BANKERS TRUST. These officers and employees also sought to conceal their fraudulent enhancement of BANKERS TRUST's financial performance from the public, outside auditors and regulators by making false and deceptive entries in BANKERS TRUST's books and records.

16. From in or about January 1994 to in or about September 1995, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, transferred approximately \$4.27 million in outstanding CTAG checks from liabilities accounts on BANKERS TRUST's books and

records and transferred the funds to BANKERS TRUST's income and reserve accounts. These funds were used by these officers and employees to falsely enhance BANKERS TRUST's revenues and offset BANKERS TRUST's expenses.

17. In or about May 1995, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, transferred approximately \$1.65 million in outstanding RSG benefit checks from liabilities accounts on BANKERS TRUST's books and records to BANKERS TRUST's reserve accounts. These funds were used by these officers and employees to falsely enhance BANKERS TRUST's revenues and offset BANKERS TRUST's expenses.

18. From in or about January 1994 to in or about September 1995, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, transferred approximately \$11.92 million in GSS credits from trust or suspense accounts on BANKERS TRUST's books and records to BANKERS TRUST's income and reserve accounts. These funds were used by these officers and employees to falsely enhance BANKERS TRUST's revenues and offset BANKERS TRUST's expenses.

19. From in or about May 1995 to in or about March 1996, certain officers and employees of the defendant BANKERS TRUST, including the Partner and the Managing Director, engaged in a search for additional unclaimed funds to be transferred from various liabilities, trust or suspense accounts on BANKERS

TRUST's books and records to BANKERS TRUST's income and reserve accounts, to be used to falsely enhance BANKERS TRUST's revenues and to offset BANKERS TRUST's expenses.

20. At all times relevant to this Information, the defendant BANKERS TRUST and certain of its officers and employees, including the Partner and the Managing Director: (i) falsely enhanced BANKERS TRUST's financial performance by applying converted unclaimed funds to BANKERS TRUST's income or expense accounts; and (ii) concealed the true source of the funds enhancing BANKERS TRUST's financial performance from the public, outside auditors and regulatory examiners by referring to these misappropriated unclaimed funds on the records supplied to outside auditors and regulatory examiners in misleading and false terms, such as "reserves," "reclassified" funds or "movement of funds."

Means and Methods of the
Unlawful Diversion Of Unclaimed Funds

21. Among the means and methods used by the defendant BANKERS TRUST and certain of its officers and employees, including the Partner and the Managing Director, to implement the unlawful scheme to misappropriate unclaimed funds, were the following:

a. Certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, devised a scheme to unlawfully divert unclaimed funds in various accounts, including customer accounts, and to use these funds for BANKERS

TRUST's benefit.

b. Certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, first identified unclaimed funds in various accounts, deeming these funds "opportunities," for falsely enhancing BANKERS TRUST's income.

c. Once unclaimed funds were identified as "opportunities," certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, unlawfully extinguished the unclaimed funds from BANKERS TRUST's books and records as liabilities and transferred the funds to BANKERS TRUST's income or expense accounts. These income and expense accounts ordinarily were funded by BANKERS TRUST's own income.

d. From time to time, certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, unlawfully extinguished the unclaimed funds from BANKERS TRUST's books and records as liabilities and transferred the funds to BANKERS TRUST's reserve accounts, where the funds became commingled with BANKERS TRUST's own funds.

e. Once unclaimed funds were transferred to BANKERS TRUST'S reserve accounts, the reserve accounts were used as a "slush fund" by certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, to supplement income or to offset expenses as needed at the end of a financial reporting period, thereby falsely enhancing BANKERS

TRUST's financial results for that period.

f. In order to conceal the fraudulent enhancement of BANKERS TRUST's financial performance through the unlawful conversion of unclaimed funds from the public, outside auditors and regulatory examiners, certain officers and employees of BANKERS TRUST, including the Partner and the Managing Director, made or caused to be made certain false and misleading entries in BANKERS TRUST's books and records, including: (i) the labeling of transfers of unclaimed funds from liabilities, trust or suspense accounts to BANKERS TRUST's income, expense and reserve accounts as "movement of funds" and "reclass" of funds; and (ii) the labeling of unclaimed funds unlawfully transferred to BANKERS TRUST's reserve accounts generally as "reserve" funds, rather than as outstanding liabilities.

The Statutory Charge

22. On or about the dates set forth below, in the Southern District of New York and elsewhere, the defendant BANKERS TRUST, a state member bank, unlawfully, wilfully and knowingly did make, and cause to be made, the corresponding false entries set forth below in the books, reports, and statements of BANKERS TRUST with the intent to injure and defraud its customers and bodies politic, and to deceive the Board of Governors of the Federal Reserve System and its agents and examiners appointed to examine the affairs of BANKERS TRUST:

<u>COUNT</u>	<u>APPROX. DATE</u>	<u>FRAUDULENT ENTRY</u>
ONE	June 30, 1994	Automated Journal Ticket reflecting the cancellation of approximately \$2.4 million in outstanding CTAG checks as "movement of funds."
TWO	May 24, 1995	Journal Ticket identifying the cancellation and movement to a BANKERS TRUST reserve account of \$946,610.48 in outstanding RSG checks as "OCS Reclass."
THREE	February 9, 1996	Reserve account schedule reflecting \$3.9 million in GSS credits as "beginning reserve balance."

(Title 18, United States Code, Sections 1005 and 2.)

Mary Jo White

MARY JO WHITE
United States Attorney

3/11/99 DEFT BANKERS TRUST COMPANY PRES & OFFYS SAMUEL SEYMOUR & CAREY DUNNE.

① AUSA'S ALEX OH X ANDREA WEISS, REPORTER STEVEN BRIFFING.

DEFT BANKERS TRUST COMPANY CHANGES PLEA OF NOT GUILTY

AND PLEADS GUILTY TO COUNTS ONE THROUGH THREE OF
INFORMATION. SENTENCE DATE 5/12/99 AT 5:00PM.

INFORMATION ORDERED UNSEALED.

- JUDGE ROGLER

(MR)

7/26/99 DEFT BANKERS TRUST COMPANY PRES & OFFYS

① SAMUEL SEYMOUR & CAREY DUNNE.

AUSA ALEX OH. REPORTER JOANNE MANCARI.

DEFT BANKERS TRUST COMPANY FINED

\$60,000,000, WITH INTEREST, PAYABLE BY

7/29/99. FINE IS CONCURRENTLY ON ALL 3 COUNTS.

- JUDGE ROGLER

(MR)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

BANKERS TRUST COMPANY,

Defendant.

INFORMATION

99 Cr.

(Title 18, United States Code,
Sections 1005 and 2.)

MARY JO WHITE

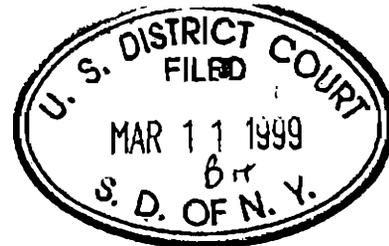
United States Attorney.

3/11/99

Filed Inf + waiver of Ind. ALUSA sh
per Lett Bankers Trust CO per w/inf
Carey R. Rinne + Samuel Seymour Lett
Pls. N/G to Inf. This case is assigned
to Judge Koelt for all purposes. M.J. White

(M)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA
against
BANKERS TRUST COMPANY

(Alias) _____

Please PRINT Clearly

99cn 250
DOCKET NO. ASSIGNED
JUDGE OR MAGISTRATE JUDGE

**NOTICE OF
APPEARANCE**

TO: JAMES M. PARKISON, CLERK

SIR: YOU ARE HEREBY NOTIFIED THAT I APPEAR FOR THE DEFENDANT INDICATED ABOVE IN THE ENTITLED ACTION.

I AM APPEARING IN THIS ACTION AS (Please check one)

- 1. CJA
- 2. RETAINED
- 3. PUBLIC DEFENDER (Legal Aid)

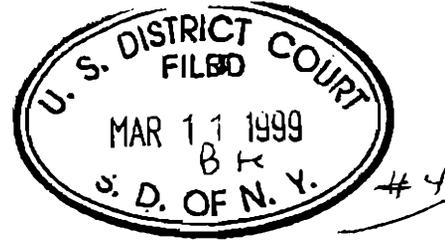
ADMITTED TO PRACTICE IN THIS COURT NO YES - IF YES GIVE YOUR DATE OF ADMISSION. MO. _____ YR. _____

I DO HEREBY CERTIFY THAT I HAVE FILED OR WILL FILE A CERTIFICATE OF GOOD STANDING FROM THE New York STATE COURT, PURSUANT TO CRIMINAL RULE 1 OF THE LOCAL RULES FOR THE SOUTHERN AND EASTERN DISTRICTS OF NEW YORK.

DATED: NEW YORK, NEW YORK

SIGNATURE
 PRINT THE FOLLOWING INFORMATION CLEARLY
~~SAM~~ SAMUEL W. SEYMOUR
 Attorney for Defendant
Sullivan + Cromwell
 Firm name if any
125 Broad Street
 Street address
NY NY 10004
 City State Zip
212-558-3476
 Telephone No

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



UNITED STATES OF AMERICA
against
Bankers Trust Company

(Alias) _____

Please PRINT Clearly

97 ER 250
DOCKET NO. ASSIGNED
JUDGE OR MAGISTRATE JUDGE

NOTICE OF
APPEARANCE

TO: JAMES M. PARKISON, CLERK

SIR: YOU ARE HEREBY NOTIFIED THAT I APPEAR FOR THE DEFENDANT INDICATED ABOVE IN THE ENTITLED ACTION.

I AM APPEARING IN THIS ACTION AS (Please check one)

- 1. CJA
- 2. RETAINED
- 3. PUBLIC DEFENDER (Legal Aid)

ADMITTED TO PRACTICE IN THIS COURT NO YES - IF YES GIVE YOUR DATE OF
ADMISSION. MO. 6 YR. 85

I DO HEREBY CERTIFY THAT I HAVE FILED OR WILL FILE A CERTIFICATE OF GOOD STANDING FROM THE New York STATE COURT, PURSUANT TO CRIMINAL RULE 1 OF THE LOCAL RULES FOR THE SOUTHERN AND EASTERN DISTRICTS OF NEW YORK.

DATED: NEW YORK, NEW YORK

3/11/99

SIGNATURE _____
PRINT THE FOLLOWING INFORMATION CLEARLY

CAROL R. DUNNE
Attorney for Defendant

DAVIS POLK & WARDWELL
Firm name if any

450 Lexington Ave
Street address

NY NY 10017
City State Zip

212-450-4000
Telephone No

8/4/99
R.Y.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

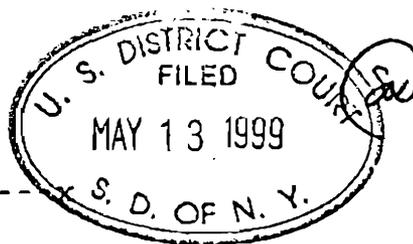
UNITED STATES OF AMERICA,

v.

99 Cr. 250 (JGK)

BANKERS TRUST COMPANY,

Defendant.



March 11, 1999
7:15 p.m.

Before:

HON. JOHN G. KOELTL

District Judge

APPEARANCES

MARY JO WHITE

United States Attorney for the
Southern District of New York

BY: ALEX YOUNG K. OH

ANDREA WEISS

Assistant United States Attorney

SAMUEL W. SEYMOUR

DENIS McINERNEY

Attorneys for the Defendant

CAREY R. DUNNE

Attorney for Defendant

1 (Case called)

2 (In open court)

3 MS. OH: Alex Oh for the government. With me at
4 counsel table is Andrea Weiss. Good evening, your Honor.

5 MR. SEYMOUR: Good evening, your Honor. For the
6 defendant Bankers Trust Company, my name is Samuel Seymour
7 of Sullivan & Cromwell. I'm here with David Brown of
8 Bankers Trust.

9 MR. DUNNE: Also for Bankers Trust Company, my
10 name is Carey Dunne from Davis Polk & Wardell.

11 MR. MCINERNEY: Denis McInerney from Davis Polk
12 as well, your Honor.

13 THE COURT: All right. Good evening, all. I
14 understand that there is an application for me.

15 MR. SEYMOUR: There is an application, your
16 Honor. On behalf of Bankers Trust Company, the bank would
17 like to withdraw its previously entered plea of not guilty
18 to a three-count information filed in this court today, and
19 we are prepared to proceed through Mr. Brown pursuant to
20 formal resolution of the board of directors of Bankers
21 Trust.

22 THE COURT: All right. And you wish to enter a
23 plea of guilty to all three counts of the information?

24 MR. SEYMOUR: The bank does indeed, your Honor.

25 THE COURT: All right. And is this pursuant to a

1 plea agreement?

2 MR. SEYMOUR: It is pursuant to a written plea
3 agreement, your Honor, which I believe has been submitted to
4 the Court.

5 THE COURT: All right. I have a March 11, 1999
6 letter to yourself, Mr. Seymour, and to Mr. Dunne. It is
7 signed by Ms. Oh, Mr. Pomerantz and appears to be signed by
8 Mr. Brown, yourself and Mr. Dunne today, March 11. Is that
9 the plea agreement?

10 MR. SEYMOUR: That is the plea agreement, your
11 Honor, and it should incorporate as Exhibit A a proposed
12 allocution.

13 THE COURT: Yes, it does. I have marked that as-
14 Court Exhibit 1. Mr. Fletcher, would you please swear
15 Mr. Brown, the corporate representative.

16 DAVID BROWN, sworn.

17 THE DEPUTY CLERK: Please state your full name
18 for the record.

19 MR. BROWN: David Brown. I'm a managing director
20 and counsel of Bankers Trust Company.

21 THE COURT: All right. Mr. Brown, do you
22 understand that you are now under oath and that if you
23 answer any of my questions falsely your false or untrue
24 answers may later be used against you in another prosecution
25 for perjury or making a false statement?

1 MR. BROWN: Yes, I do, your Honor.

2 THE COURT: Tell me your full name.

3 MR. BROWN: David Daniel Brown IV.

4 THE COURT: How old are you?

5 MR. BROWN: 40 years old.

6 THE COURT: How far did you go in school?

7 MR. BROWN: I graduated from law school.

8 THE COURT: Are you able to speak and understand
9 English?

10 MR. BROWN: Yes.

11 THE COURT: Are you now or have you recently been
12 under the care of a doctor or a psychiatrist?

13 MR. BROWN: No, your Honor.

14 THE COURT: Have you ever been treated or
15 hospitalized for any mental illness or any type of
16 addiction, including drug or alcohol addiction?

17 MR. BROWN: No, your Honor.

18 THE COURT: In the past 24 hours, have you taken
19 any drugs, medicine or pills, or have I drunk any alcohol?

20 MR. BROWN: No, your Honor.

21 THE COURT: Is your mind clear today?

22 MR. BROWN: Yes.

23 THE COURT: Are you feeling all right today?

24 MR. BROWN: Yes.

25 THE COURT: You are appearing today on behalf of

1 MR. BROWN: Yes, I am.

2 THE COURT: The plea agreement describes a
3 substantial fine. Is the corporation financially able to
4 pay that fine?

5 MR. BROWN: Yes, your Honor.

6 THE COURT: All right. Do either counsel have
7 any doubt as to Mr. Brown's authorization and his competence
8 to enter a plea on behalf of Bankers Trust at this time?

9 MS. OH: I do not, your Honor.

10 MR. SEYMOUR: Defense counsel does not, your
11 Honor.

12 THE COURT: All right. Mr. Brown, Mr. Seymour,
13 the lawyer for Bankers Trust, has advised me that on behalf
14 of Bankers Trust you wish to enter a plea of guilty to
15 Counts 1, 2 and 3 of the information. Does Bankers Trust
16 wish to do that?

17 MR. BROWN: Yes, your Honor.

18 THE COURT: Have you had a full opportunity to
19 discuss your case with Mr. Seymour and to discuss the
20 consequences of entering a plea of guilty?

21 MR. BROWN: I have.

22 THE COURT: Are you satisfied with Mr. Seymour
23 and his representation of you?

24 MR. BROWN: Yes, your Honor.

25 THE COURT: On the basis of Mr. Brown's responses

1 to my questions, my observations of his demeanor, the
2 documents that are before me, the responses by counsel, I
3 find that he is fully authorized and competent to enter an
4 informed plea on behalf of Bankers Trust at this time.

5 Now, Mr. Brown, before I accept any plea from you
6 on behalf of Bankers Trust, I am going to be asking you
7 certain questions. My questions are intended to satisfy me
8 that you on behalf of Bankers Trust wish to plead guilty
9 because Bankers Trust is in fact guilty, and that the bank
10 fully understands the consequences of the plea, and that
11 there is a basis in fact for the plea and that the plea is
12 being entered knowingly and voluntarily. Do you understand
13 that?

14 MR. BROWN: Yes, your Honor.

15 THE COURT: I am now going to describe to you
16 certain rights that the bank has under the Constitution and
17 laws of the United States, which rights the bank will be
18 giving up if it enters a plea of guilty. Please listen to
19 me very carefully. If there is anything that I say that you
20 don't understand, please ask me to stop and either I or
21 Mr. Seymour will explain it to you more fully. All right?

22 MR. BROWN: Yes, your Honor.

23 THE COURT: Under the Constitution and laws of
24 the United States you -- and when I refer to you I mean you
25 on behalf of the bank -- have a right to a speedy and public

1 trial by a jury on the charges against you which are
2 contained in the information. Do you understand that?

3 MR. BROWN: Yes, your Honor.

4 THE COURT: If there were a trial, you would be
5 presumed to be innocent and the government would be required
6 to prove you guilty by competent evidence and beyond a
7 reasonable doubt. You would not have to prove that you were
8 innocent at trial. Do you understand that?

9 MR. BROWN: Yes.

10 THE COURT: If there were a trial, a jury
11 composed of 12 people selected from this district would have
12 to agree unanimously that you were guilty. Do you
13 understand that?

14 MR. BROWN: Yes.

15 THE COURT: If there were a trial, you have a
16 right to be represented by a lawyer, and if you could not
17 afford a lawyer, a lawyer would be provided to you free of
18 cost. Do you understand that?

19 MR. BROWN: Yes, your Honor.

20 THE COURT: If there were a trial, you would have
21 a right to see and hear all of the witnesses against you and
22 your attorney could cross-examine them, you would have a
23 right to have your attorney object to the government's
24 evidence and offer evidence on your behalf if you so
25 desired, and you would have the right to have subpoenas

1 issued or other compulsory process used to compel witnesses
2 to testify in your defense and you would not be required to
3 testify. Do you understand all of that?

4 MR. BROWN: Yes, your Honor.

5 THE COURT: If there were a trial, you would have
6 the right to testify if you wanted to, but no one could
7 force you to testify if you didn't want to and, furthermore,
8 no inference or suggestion of guilt could be drawn if you
9 chose not to testify at trial. Do you understand that?

10 MR. BROWN: Yes, your Honor.

11 THE COURT: Do you understand each and every one
12 of the rights that I have described to you?

13 MR. BROWN: Yes.

14 THE COURT: Do you have any questions about any
15 of those rights?

16 MR. BROWN: No, your Honor.

17 THE COURT: Do you understand that by entering a
18 plea of guilty today you are giving up each and every one of
19 those rights, that you are waiving those rights and that you
20 will have no trial?

21 MR. BROWN: I understand that, your Honor.

22 THE COURT: Do you understand that you can change
23 your mind right now and refuse to enter a plea of guilty?
24 You don't have to enter this plea if you don't want to for
25 any reason at all. Do you understand that completely?

1 MR. BROWN: Yes, your Honor.

2 THE COURT: Mr. Brown, Bankers Trust has received
3 a copy of the information against the bank, is that correct?

4 MR. BROWN: That's correct, your Honor.

5 THE COURT: And have you read the information?

6 MR. BROWN: Yes, I have.

7 THE COURT: Did you discuss the information with
8 your lawyer?

9 MR. BROWN: Yes, your Honor.

10 THE COURT: Do you understand what the bank is
11 charged with in the information?

12 MR. BROWN: I do, your Honor.

13 THE COURT: I also have before me a waiver of
14 indictment and agreement to proceed by information. Was
15 there an allocution with respect to the waiver in Part I?

16 MR. SEYMOUR: Yes, there was, your Honor.

17 MR. BROWN: Yes, your Honor.

18 THE COURT: Mr. Brown, do you understand that the
19 bank has a constitutional right to be charged by an
20 indictment rather than an information, and that an
21 indictment would be by a grand jury and not like this
22 information, simply a charge by the prosecutor?

23 MR. BROWN: Yes, your Honor.

24 THE COURT: Do you understand that the bank has
25 waived the right to be charged by an indictment and that the

1 bank has consented to being charged by an information by the
2 government?

3 MR. BROWN: Yes, your Honor.

4 THE COURT: Did the bank waive that right
5 knowingly and voluntarily?

6 MR. BROWN: Yes.

7 THE COURT: You told me that you have a copy of
8 the information, you have reviewed it with your lawyer, that
9 the bank understands what it has been charged with. Just so
10 I am clear that the bank understands, let me just read a
11 portion of the information.

12 The statutory charge: On or about the dates set
13 forth below, in the Southern District of New York and
14 elsewhere, the defendant Bankers Trust, a state member bank,
15 unlawfully, willfully and knowingly did make, and cause to
16 be made, the corresponding false entries set forth below in
17 the books, reports, and statements of Bankers Trust with the
18 intent to injure and defraud its customers and bodies
19 politic, and to deceive the Board of Governors of the
20 Federal Reserve System and its agents and examiners
21 appointed to examine the affairs of Bankers Trust.

22 Then Count 1 is June 30, 1994, Automated Journal
23 Ticket. Then each count is listed with a number and
24 approximate date and a fraudulent entry.

25 Count 1, June 30, 1994: Automated Journal Ticket

1 reflecting the cancellation of approximately \$2.4 million in
2 outstanding CTAG checks as "movement of funds."

3 Count 2, May 24, 1995: Journal Ticket
4 identifying the cancellation and movement to a Bankers Trust
5 reserve account of \$946,610.48 in outstanding RSG checks as
6 "OCS Reclass."

7 Count 3, February 9, 1996: Reserve account
8 schedule reflecting \$3.9 million in GSS credits as
9 "beginning reserve balance."

10 This was all in violation of Title 18 U.S.C.,
11 Sections 1005 and 2.

12 You understand that that's what you are charged
13 with in the information?

14 MR. BROWN: Yes, your Honor.

15 THE COURT: And do you understand that if the
16 bank did not plead guilty, the government would be required
17 to prove each and every part or element of the charges
18 against the bank which are contained in the information
19 beyond a reasonable doubt at trial?

20 MR. BROWN: Yes, your Honor.

21 THE COURT: The statute involved provides in
22 part, "Whoever makes any false entry in any book, report or
23 statement of such bank, company, branch, agency or
24 organization, with intent to injure or defraud such bank,
25 company, branch, agency or organization, or any other

1 company, bodies politic or corporate entity or any
2 individual person, or to deceive any officer of such bank,
3 company, branch, agency or organization, or the Comptroller
4 of the Currency or the Federal Deposit Insurance
5 Corporation, or any agent or examiner appointed to examine
6 the affairs of such bank, company, branch, agency or
7 organization or the Board of Governors of the Federal
8 Reserve System shall be guilty of a crime."

9 Do you understand that the government would be
10 required to prove each and every part or element of a
11 violation of that statute beyond a reasonable doubt at
12 trial?

13 MR. BROWN: Yes, your Honor.

14 THE COURT: Do you understand that at trial, if
15 the bank did not plead guilty the government would be
16 required to prove beyond a reasonable doubt that the
17 defendant made the entry or caused it to be made in the
18 books, reports, and statements of the bank as charged; that
19 the entry was false; that the defendant acted willfully,
20 with the intent to injure or defraud the bank or deceive its
21 officers or, rather, with the intent to in this case injure
22 or defraud the customers of the bank and bodies politic and
23 the Board of Governors of the Federal Reserve System and its
24 agents and examiners appointed to examine the affairs of the
25 bank, and that the bank's deposits were insured by the

1 Federal Deposit Insurance Corporation?

2 Do you understand that the government would be
3 required to prove all of that beyond a reasonable doubt at
4 trial?

5 MR. BROWN: Yes, your Honor.

6 THE COURT: Do you understand that the maximum
7 penalty for the crime to which you are entering a plea of
8 guilty is a maximum fine of \$1 million on each count, or
9 twice the gross pecuniary gain or twice the gross pecuniary
10 loss from the offense on each of the counts; and a \$200
11 special assessment on each of the counts?

12 MR. BROWN: Yes, your Honor.

13 THE COURT: And do you understand that the bank
14 will be separately sentenced on each of the counts, and that
15 the fines may be aggregated or added together on each of the
16 counts and that the special assessment must be added
17 together on each of the counts?

18 MR. BROWN: Yes, your Honor.

19 THE COURT: Mr. Brown, do you understand that if
20 I accept the bank's guilty plea and adjudge the bank guilty,
21 that adjudication can have collateral consequences for the
22 bank?

23 MR. BROWN: I understand that, your Honor.

24 THE COURT: And that those collateral
25 consequences can be collateral consequences with various

1 regulatory agencies?

2 MR. BROWN: I understand that, your Honor.

3 THE COURT: Mr. Brown, under current law there
4 are sentencing guidelines that judges must follow in
5 determining a sentence. Do you understand that?

6 MR. BROWN: Yes.

7 THE COURT: And have you discussed the sentencing
8 guidelines with your lawyers?

9 MR. BROWN: Yes, your Honor.

10 THE COURT: Do you understand that I as the
11 sentencing court will not be able to determine the guideline
12 sentence until I have had an opportunity to study the
13 guidelines, to study the materials that are presented to me
14 by your counsel and by the government?

15 MR. BROWN: Yes, your Honor.

16 THE COURT: Do you also understand that even
17 after it is determined what guideline range applies, I have
18 the authority in some circumstances to impose a sentence
19 that is higher or lower than the sentence that is called for
20 by the guidelines?

21 MR. BROWN: Yes, your Honor.

22 THE COURT: I have been given the plea agreement
23 which I have marked as Court Exhibit 1, which is the March
24 11, 1999 letter to Mr. Seymour and Mr. Dunne, which appears
25 to be signed by Ms. Oh, approved by Mr. Pomerantz and signed

1 by yourself today, and approved by Mr. Seymour and Mr. Dunne
2 today. Is that the plea agreement?

3 MR. BROWN: Yes, your Honor.

4 THE COURT: Have you signed the plea agreement?

5 MR. BROWN: Yes, I have.

6 THE COURT: Did you read the agreement before you
7 signed it?

8 MR. BROWN: I did, your Honor.

9 THE COURT: Were you authorized on behalf of the
10 bank to sign it?

11 MR. BROWN: Yes, your Honor.

12 THE COURT: Did you discuss the plea agreement
13 with your lawyers before you signed it?

14 MR. BROWN: I did.

15 THE COURT: Did the bank fully understand the
16 agreement before you signed it?

17 MR. BROWN: It did, your Honor.

18 THE COURT: Does this letter agreement constitute
19 the complete and total understanding of the entire agreement
20 between the government, your lawyers and the bank?

21 MR. BROWN: Yes, your Honor.

22 THE COURT: Is everything that the bank
23 understands about the plea and the sentence contained in
24 this agreement?

25 MR. BROWN: Yes, your Honor.

1 THE COURT: Has anything been left out?

2 MR. BROWN: No, your Honor.

3 THE COURT: Has anyone offered the bank any
4 inducements, or threatened the bank or forced the bank to
5 plead guilty or to enter into this plea agreement?

6 MR. BROWN: No, your Honor.

7 THE COURT: The plea agreement provides that
8 there is a specific fine of \$60 million. It also provides
9 that the sentence is to be determined by the Court and that
10 the Court must approve this sentence agreement, and that if
11 the Court does not approve the sentence, you would have the
12 opportunity to withdraw the plea of guilty. Do I understand
13 the plea agreement correctly?

14 MR. BROWN: Yes, you do.

15 THE COURT: Do I also understand that if the
16 Court approved the sentence that has been agreed to in this
17 plea agreement, at the time of sentence the bank under those
18 circumstances would not have the opportunity to withdraw its
19 plea of guilty?

20 MR. BROWN: Yes, your Honor.

21 THE COURT: Mr. Seymour, do you know of any valid
22 defense that would prevail at the trial of the bank?

23 MR. SEYMOUR: I do not, your Honor.

24 THE COURT: Do you know of any reason why the
25 bank should not be permitted to plead guilty?

1 MR. SEYMOUR: I do not, your Honor.

2 THE COURT: All right. Mr. Brown, tell me what
3 the bank did in connection with the crimes to which the bank
4 is entering a plea of guilty.

5 MR. BROWN: Yes, your Honor. And I will read
6 from the allocution which is attached as Exhibit A to the
7 plea agreement.

8 Bankers Trust Company, which I will refer to as
9 "the Bank," has authorize me to enter a plea of guilty to
10 three counts of 18 U.S.C. 1005 on the bank's behalf. The
11 bank is a "member bank" within the meaning of 18 U.S.C.
12 1005.

13 The transactions that are the subject of the
14 information occurred in what was called the Client
15 Processing Services or "CPS" business of the bank. CPS was
16 an organizational unit of the bank that provided processing,
17 fiduciary and trust services to the clients and customers of
18 the bank. At any given time, there is a small percentage of
19 the funds processed by CPS that are unclaimed or whose
20 rightful owners are unidentified.

21 From January 1994 through March 1996, a group of
22 executives and employees of the bank, who are no longer
23 employed by the bank, unlawfully, willfully and knowingly
24 caused a number of false entries to be made in the books and
25 records of the bank with the intent of concealing the nature

1 and source of transactions from, and to deceive, the bank's
2 auditors and regulators, including the Federal Reserve Bank
3 of New York. Their purpose in doing so was to falsely
4 enhance the financial performance of CPS, which had the
5 effect of making the bank's financial performance appear
6 better than it actually was. In certain instances these
7 individuals acted contrary to the express legal advice of
8 the bank's outside counsel. Although this group of
9 employees included the senior manager and the controller of
10 the business unit, the bank believes that a small number of
11 CPS employees were involved in the knowing falsification of
12 the bank's records.

13 As I will describe in more detail in a moment,
14 the falsification of the bank's records arose in connection
15 with improper transfers of unclaimed funds to reserve
16 accounts and to the bank's income. These funds may with
17 passage of time become abandoned property subject to the
18 escheatment laws of the state of New York and other states.
19 The false entries that are the subject of the information
20 relate to certain of these funds that belong to customers or
21 other third parties or were escheatable. This conduct
22 occurred, in part, in the Southern District of New York.

23 The transactions described in the Information
24 occurred in three business units within CPS. The first such
25 business unit was the Corporate Trust and Agency Group or

1 "CTAG," which provides paying agent services to the issuers
2 of securities. In the course of this business, CTAG issued
3 checks to securities holders. Some checks were never
4 presented for payment by the payee. The second unit was the
5 Retirement Services Group, or "RSG," which provided a wide
6 variety of services to employee benefit plans, including
7 employee benefit payment services. In the course of this
8 business, RSG issued checks to plan beneficiaries. Some
9 checks were never presented for payment by the payee. The
10 third unit, Global Securities Services, or "GSS," provided
11 custodial services to a wide range of customers. In the
12 course of this business, GSS received credits on behalf of
13 customer accounts, in its capacity as a domestic or global
14 custodian of assets. Some credits in GSS were unidentified
15 or irreconcilable to corresponding customer accounts.

16 With respect to Count 1 of the Information, on or
17 about June 30, 1994, employees of CPS unlawfully, willfully
18 and knowingly caused approximately \$2.4 million of aged
19 outstanding checks issued by CTAG as paying agent to be
20 transferred from liability accounts to the bank's income and
21 reserves. These transactions were falsely recorded as
22 "movement of funds," causing the books and records of the
23 bank to be inaccurate. The employees who recorded the
24 entries did so to conceal the nature and source of the
25 transferred funds from the bank's auditors and regulators.

1 With respect to Count 2, in or about May 1995,
2 employees of CPS unlawfully, willfully and knowingly caused
3 approximately \$946,610.48 of aged outstanding checks from
4 the RSG business to be transferred from outstanding
5 liability accounts to a reserve account of the bank. These
6 transactions were falsely recorded as "OCS reclass," causing
7 the books and records of the bank to be inaccurate. The
8 employees who recorded these entries did so with the intent
9 to conceal the nature and source of the transferred funds
10 from the bank's auditors and regulators.

11 With respect to Count 3, on or about February 9,
12 1996, employees of CPS unlawfully, willfully and knowingly
13 caused approximately \$3.9 million of aged credits arising
14 from transactions in the GSS business to be transferred from
15 outstanding liability or suspense accounts to reserve
16 accounts. These transactions were falsely recorded as
17 "reserve funds" or "beginning reserve balance," causing the
18 books and records of the bank to be inaccurate. The
19 employees who recorded these entries did so with the intent
20 to conceal the nature and source of the transferred funds
21 from the bank's auditors and regulators.

22 In moving various funds to bank reserves, the CPS
23 employees acted with the purpose and expectation that these
24 funds would later be used to falsely enhance the financial
25 performance of CPS, which had the effect of falsely

1 enhancing the bank's financial performance.

2 The total amount of unclaimed funds unlawfully
3 recorded as the bank's income or reserves from 1994 through
4 early 1996, including an unlawful transfer of \$1.3 million
5 in outstanding customer checks in 1989, is \$19.1 million.

6 The bank acknowledges the violation of U.S.
7 criminal law to which it is pleading guilty. The bank
8 accepts responsibility for these transactions and the
9 conduct of its employees. It deeply regrets that its former
10 employees engaged in such transactions. In doing so, they
11 violated the bank's policies and procedures as well as the
12 bank's commitment to its clients. As the bank learned of
13 these transactions beginning in March of 1996, it promptly
14 reported the conduct to the Department of Justice, the
15 Federal Reserve Bank of New York and the New York State
16 Banking Department. The bank also, with the assistance of
17 outside counsel and Arthur Andersen, LLP, conducted a
18 complete forensic review of the transactions involved. The
19 bank has cooperated with the government's investigation into
20 these matters and will continue to cooperate under the
21 cooperation and plea agreement executed by the bank today.
22 The bank has reversed all of the transactions and has, or is
23 in the process of, compensating any customers or third
24 parties affected by these transactions and is complying with
25 its escheatment obligations relating to these funds. 2

1 When the bank discovered and reported these
2 transactions beginning in March of 1996, it substantially
3 changed the management of Global Institutional Services,
4 which includes the former CPS businesses, and adopted a
5 comprehensive system of controls designed to prevent the
6 recurrence of the conduct underlying the transactions.
7 These controls include new policies and procedures regarding
8 the handling of unclaimed property. The bank has
9 implemented a thorough training program for all the
10 employees in Global Institutional Services regarding these
11 new policies and procedures.

12 To put this conduct in context, the bank's
13 earnings were \$615 million in 1994 and \$215 million in 1995.
14 In 1994-1995, CPS employed over \$4,500 people. In 1995 CPS
15 administered approximately \$422 billion of debt and held
16 \$1.4 trillion dollars in assets under custody. On a daily
17 basis approximately \$400 billion was processed by the CPS
18 unit. The bank takes very seriously its responsibility to
19 preserve and protect the assets of its clients, and the vast
20 majority of funds processed by CPS were handled correctly
21 and in accordance with our clients' instructions.

22 THE COURT: All right. Am I correct that part of
23 the conduct in each of the three counts in the indictment
24 occurred here in Manhattan?

25 MR. BROWN: Yes, your Honor.

1 THE COURT: One thing which I should have
2 indicated earlier is that in addition to the maximum
3 penalties which I set out, the fine and the special
4 assessment, I can also order restitution to any person
5 injured as a result of the bank's criminal conduct. Do you
6 understand that?

7 MR. BROWN: Yes, your Honor.

8 THE COURT: All right. Ms. Oh, does the
9 government want me to make any further inquiry?

10 MS. OH: No, your Honor.

11 THE COURT: Would you explain to me what the
12 government's evidence at trial would be.

13 MS. OH: Your Honor, based on testimonial and
14 documentary evidence, the government would prove that during
15 the time period from 1994 to March 1996 certain officers and
16 employees of the defendant Bankers Trust Company CPS
17 business, including a Bankers Trust partner and a managing
18 director who headed the business line, engaged in a scheme
19 to divert unclaimed customer funds and customer credits that
20 were generated in the business line, which in due course
21 were either escheatable to various states as abandoned
22 property or should have been held in perpetuity awaiting
23 claims by their rightful owners, and during this time period
24 they converted approximately \$17.8 million into the bank's
25 income or reserves to falsely enhance the division's

1 performance, which had the effect of enhancing the bank's
2 overall financial performance. Also the relevant conduct
3 that the government would prove includes \$1.3 million in
4 customer unclaimed checks in 1989, which were reported
5 falsely as income.

6 THE COURT: All right. Mr. Brown, how does the
7 bank plead to the charge against it in Count 1 of the
8 information? Guilty or not guilty?

9 MR. BROWN: Guilty, your Honor.

10 THE COURT: How does the bank plead to the charge
11 against it in Count 2 of the information? Guilty or not
12 guilty?

13 MR. BROWN: Guilty.

14 THE COURT: How does the bank plead to the charge
15 against it in Count 3 of the information? Guilty or not
16 guilty?

17 MR. BROWN: Guilty.

18 THE COURT: Is the bank pleading guilty because
19 it is in fact guilty?

20 MR. BROWN: Yes, your Honor.

21 THE COURT: Is the bank pleading guilty
22 voluntarily and of its own free will?

23 MR. BROWN: Yes.

24 THE COURT: Mr. Seymour, before I accept the
25 bank's plea, are there any further inquiries that you want

1 me to make of Mr. Brown?

2 MR. SEYMOUR: No, your Honor.

3 THE COURT: Is there any reason that you know of
4 that I should not accept the bank's plea?

5 MR. SEYMOUR: No, your Honor.

6 THE COURT: Ms. Oh, before I finally accept the
7 bank's plea, are there any further inquiries that the
8 government wishes me to make?

9 MS. OH: No, your Honor.

10 THE COURT: Is there any reason that the
11 government knows of that I should not accept the bank's
12 plea?

13 MS. OH: None, your Honor.

14 THE COURT: All right. Mr. Brown, because you on
15 behalf of the bank acknowledge that the bank is guilty as
16 charged in the information, because I find that the bank
17 knows its rights and is waiving them knowingly and
18 voluntarily, because I find that the bank's plea is entered
19 knowingly and voluntarily, and is supported by an
20 independent basis in fact containing each of the essential
21 elements of the offense, I accept the bank's guilty plea and
22 I adjudge the bank guilty of the offenses to which the bank
23 has pleaded.

24 Do the parties want to suggest to me an
25 appropriate time for sentence? I would like a suggestion

1 from the parties, but it would seem to me that the parties
2 should submit to me some papers explaining to me why the
3 provisions of the sentence and the plea agreement are in
4 fact the appropriate sentence in this case.

5 MR. SEYMOUR: The defense would be pleased to do
6 so, your Honor. And I point out that in the plea agreement,
7 paragraph seven, the parties have agreed to a two-month
8 adjournment of sentencing and have suggested May 12, 1999,
9 if that were convenient for the Court as a sentencing date.

10 THE COURT: Okay. May 12 at 5 p.m. I won't set
11 a specific time for sentencing submissions at this point.
12 You should get them to me sufficiently in advance of
13 sentence. The defense and the government should talk about
14 a neutrally convenient submission to me sufficiently in
15 advance of the date of sentence.

16 MR. SEYMOUR: We will do so, your Honor.

17 THE COURT: Okay. Anything further?

18 MR. SEYMOUR: No, your Honor.

19 MS. OH: Nothing, your Honor. Thank you.

20 The government requests that the information in
21 the former proceedings in this matter be unsealed.

22 THE COURT: Yes, Mr. Seymour?

23 MR. SEYMOUR: No objection.

24 THE COURT: They will be unsealed.

25 (Adjourned to May 12, 1999 at 5:00 p.m.)

United States District Court

Southern District of New York

Doc # 9

UNITED STATES OF AMERICA
v.
BANKERS TRUST COMPANY

JUDGMENT IN A CRIMINAL CASE
(For Offenses Committed On or After November 1, 1987)

Case Number: 1:99CR00250-001

SAMUEL W. SEYMOUR ALEX YOUNG K. OH, AUSA

Defendant's Attorney

DUCKETED AS

A JUDGMENT # 99-1777

ON 7/30/99

THE DEFENDANT:

pleaded guilty to count(s) ONE, TWO AND THREE OF THE INFORMATION

pleaded nolo contendere to count(s) _____
which was accepted by the court.

was found guilty on count(s) _____
after a plea of not guilty.

<u>Title & Section</u>	<u>Nature of Offense</u>	<u>Date Offense Concluded</u>	<u>Count Number(s)</u>
18 U.S.C. ' 1005, 2	FALSE ENTRIES IN BANK BOOKS AND RECORDS	06/30/1994	1
18 U.S.C. ' 1005, 2	FALSE ENTRIES IN BANK BOOKS AND RECORDS	05/24/1995	2
S.C. ' 1005, 2	FALSE ENTRIES IN BANK BOOKS AND RECORDS	02/09/1996	3

The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

The defendant has been found not guilty on count(s) _____

Count(s) _____ (is)(are) dismissed on the motion of the United States.

IT IS FURTHER ORDERED that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid.

Defendant's Soc. Sec. No.: _____

07/26/1999

Defendant's Date of Birth: _____

Date of Imposition of Judgment

Defendant's USM No.: _____

Defendant's Residence Address: _____

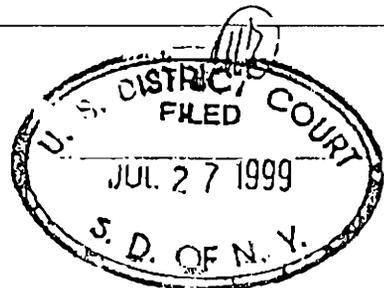
John G. Koeltl
Signature of Judicial Officer

JOHN G. KOELTL, UNITED STATES DISTRICT JUDGE

Defendant's Mailing Address: _____

Name & Title of Judicial Officer

7/27/99
Date



JUL 29 1999

5:00 AM

97qhbank

Det # 11 8/4/99
Original

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
-----x

3 UNITED STATES OF AMERICA,

4 v.

99 Cr. 250 (JGK)

5 BANKERS TRUST COMPANY,

6 Defendant.

7 -----x

Sentence

8 July 26, 1999
9 4:15 p.m.

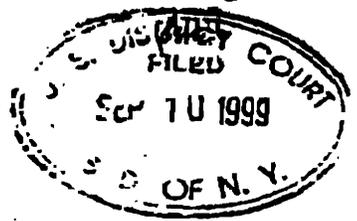
10 Before:

HON. JOHN G. KOELTL,

District Judge

APPEARANCES

13 MARY JO WHITE
United States Attorney for the
14 Southern District of New York
15 ALEX YOUNG K. OH
Assistant United States Attorney



16 SULLIVAN & CROMWELL
Attorneys for Defendant

17 SAMUEL W. SKYMOUR

18 - and -

19 DAVIS POLE & WARDELL
Attorneys for Defendant

20 CAREY R. DUNNE

21 - and -

22 TROLAND S. LINK,
General Counsel

23 ALSO PRESENT:
24 DAVID D. BROWN

25

1 (In open court)

2 THE DEPUTY CLERK: United States v. Bankers Trust
3 Company.

4 All parties please state who they are for the record.

5 MS. OH: Alex Oh for the government.

6 MR. SEYMOUR: For defendant Bankers Trust Company, my
7 name is Samuel Seymour of Sullivan & Cromwell, and I will have
8 the others introduce themselves.

9 MR. LINK: I am Troland Link, general counsel of
10 Deutschebank North America, and since last week general
11 counsel to Bankers Trust Company.

12 MR. BROWN: I am David Brown here for Bankers Trust
13 Company.

14 MR. DUNNE: Carey Dunne from the law firm of Davis
15 Polk & Wardwell, also counsel to Bankers Trust Company.

16 THE COURT: Good afternoon all.

17 For purposes of the sentencing, who is the
18 representative of Bankers Trust?

19 MR. SEYMOUR: That would be Mr. Link, your Honor.

20 THE COURT: Mr. Link?

21 MR. SEYMOUR: Yes.

22 THE COURT: Mr. Link, could you spell your last name?

23 MR. LINK: Yes, your Honor. It is L-I-N-K.

24 THE COURT: Thank you, sir.

25 Has Mr. Link been authorized by the bank to speak on

1 behalf of the bank for purposes of sentencing?

2 MR. SEYMOUR: Yes, he has, your Honor.

3 THE COURT: I have reviewed the cooperation agreement
4 dated March 11, 1999, the government's letter in connection
5 with sentencing dated July 15, 1999, and the defense letter
6 dated July 21, 1999.

7 I have a couple of initial questions before I call on
8 counsel and the parties to ask what they would like to tell me
9 in connection with sentence.

10 First, in the government letter dated July 15, 1999,
11 in footnote 4, the base offense level for the offense pursuant
12 to Section 8C2.3(a) and Section 2F1.1 is listed as 27. It was
13 not clear to me why that was true or whether it was a typo and
14 was intended to be 21.

15 MS. OH: Let me see if I can walk the court through
16 that. That was a base offense level of 2F1.1(a) of six, and
17 add 15 because the loss amount exceeded 10 million but was
18 less than 20 million, two levels for more than minimal
19 planning, and then 2F1.1(b) (6) (A), if the offense
20 substantially jeopardized the safety and soundness of a
21 financial institution, so we added an additional four points,
22 which brings us to 27.

23 THE COURT: 19.1 million substantially jeopardized
24 the safety and soundness of Bankers Trust?

25 MS. OH: Your Honor, not just the impact of the

1 offense itself but the consequent results of a guilty plea in
2 this court. The government's position is that we would have
3 advocated that the additional four points is necessary.

4 However, the court need not reach that issue because we have
5 worked with the gross gain to the defendant from the offense.

6 THE COURT: No, I know that, and I appreciate that.
7 There would be a question -- the answer to which I don't
8 know -- whether 7B would be more appropriate, plainly affected
9 a financial institution, and the defendant derived more than
10 \$1 million in gross receipts from the offense. The issue
11 would be whether the financial institution could be the
12 defendant under 7B. Certainly 7B doesn't require any showing
13 that it jeopardized the safety and soundness of a financial
14 institution.

15 MS. OH: That is correct, your Honor.

16 THE COURT: But you are right, it doesn't make a
17 difference because ultimately the parties turn to the 19.1
18 million being the appropriate base fine because it is higher
19 than the fines that are otherwise provided for with an offense
20 level of 27 or less.

21 Does the defendant want to be heard on that issue at
22 all?

23 MR. SKYMOUR: No, your Honor. We agree with the
24 government that under any calculation of the base offense
25 level it is still 2.4(a)(2) that controls because the 19.1

1 million is larger.

2 THE COURT: The second issue that simply wasn't clear
3 to me from the correspondence is what the parties' positions
4 are with respect to restitution. I appreciate that the
5 defendant has entered into an agreement with respect to
6 restitution and has adopted a plan of restitution which has
7 been approved by the Federal Reserve Bank of New York,
8 approved by the U.S. Attorney's Office, but what was not clear
9 to me is whether for purposes of sentence there is any
10 agreement between the parties with respect to whether the
11 judgment should include an order of restitution.

12 MS. OH: Your Honor, unless the court is dissatisfied
13 with the language submitted by the government, the
14 government's position is that a restitution order is certainly
15 not required by statute in this case and that it is not
16 necessary given the fact that the plan with respect to the
17 remaining money has been approved by the Fed, the bank's
18 regulatory agency.

19 THE COURT: So the government doesn't believe that
20 the judgment in the case should include an order of
21 restitution if the court is satisfied, based upon the
22 submissions of the parties, of the fact that the bank has made
23 the substantial restitution already and that the remainder of
24 the restitution is provided for in the plan that has been
25 approved by the Federal Reserve Bank of New York.

1 MS. OH: That's correct, your Honor.

2 THE COURT: To avoid any question, it would appear to
3 me that it is appropriate for the court to find that it is
4 unnecessary to order any restitution in this case because
5 fashioning an order of restitution would unnecessarily
6 complicate and delay sentencing, and the purposes of
7 sentencing are not served by any order of restitution in this
8 case because of the provision of restitution that the bank has
9 already made and the additional restitution that the bank has
10 agreed to with the Federal Reserve Bank of New York.

11 Does the defendant want to be heard on that?

12 MR. SEYMOUR: We agree with that finding, your Honor.

13 THE COURT: I will so find, and I will not include an
14 order of restitution in the sentence.

15 The next question is, the parties have both submitted
16 that a fine of \$60 million is appropriate. It wasn't clear to
17 me from the parties' submissions what the parties' views were
18 with respect to the timing of the payment of the fine.

19 MS. OH: Your Honor, the \$60 million fine has already
20 been placed into escrow by the defendant, I believe, as of
21 March 11, 1999. The Federal Reserve Bank of New York, which
22 is acting as the escrow agent, will be making the wire
23 transfer under the court's direction. We only ask that it be
24 allowed until this Thursday to make the necessary wire
25 transfers.

1 THE COURT: So the judgment would read that the
2 defendant is ordered to pay a fine of \$60 million from the
3 funds already in escrow with the Federal Reserve Bank of New
4 York by Thursday, July 29.

5 MS. OH: Your Honor, if I could just point out, it
6 should be \$60 million and interest in escrow.

7 THE COURT: All right. Has that money already been
8 accruing interest with the Federal Reserve?

9 MS. OH: Yes, your Honor.

10 THE COURT: Do you agree with that, Mr. Seymour?

11 MR. SEYMOUR: Yes, that is all agreeable to the bank,
12 your Honor.

13 THE COURT: Mr. Seymour, I will listen to defense
14 counsel for anything that defense counsel wishes to tell me in
15 connection with sentence, anything at all that you'd like to
16 tell me.

17 MR. SEYMOUR: Only this, your Honor: Our position is
18 set out in the letter of July 21 that your Honor has referred
19 to. We ask that your Honor impose the sentence of \$60 million
20 set out in the plea agreement. Other than that, the bank
21 chooses to rest on statements previously made at the time the
22 plea was entered on March 11th.

23 THE COURT: All right. Mr. Link, I will recognize
24 you as the representative of the bank for anything that you
25 would like to tell me in connection with sentence, anything at

1 all you'd like to tell me.

2 MR. LINK: No, your Honor, I have nothing to add to
3 what is in the record, the previous statements that have been
4 made.

5 THE COURT: Ms. Oh, I will recognize you for anything
6 that the government would like to tell me in connection with
7 sentence, anything at all that the government would like to
8 tell me.

9 MS. OH: Your Honor, the government's position is
10 fully set forth in the July 15, 1999 letter. We would only
11 ask that the court make a finding on the record that pursuant
12 to Rule 32(b)(1) of the Federal Rules of Criminal Procedure
13 that the information contained in this record is sufficient
14 for the court to impose judgment and that no presentence
15 report is necessary.

16 THE COURT: I find that there is sufficient
17 information in the record to enable the court to exercise its
18 sentencing authority meaningfully under 18 U.S.C., Section
19 3553. I have reviewed the cooperation agreement and its
20 attachment explaining the offense. That information, together
21 with the submissions by both the defendant and the government,
22 have provided the court sufficient information to sentence, in
23 light of the factors set forth in 18 U.S.C., Section 3553,
24 without a presentence report. Both parties agree that the
25 court has sufficient information and the court finds that it

1 has sufficient information to sentence without a presentence
2 report. I further find that a fine of \$60 million is the
3 appropriate sentence in this case.

4 Based on the information provided by the government,
5 the appropriate fine range under the guidelines is \$38.2
6 million to \$76.4 million. Under the defendant's calculations,
7 the fine range is between \$30.56 million and \$61.12 million.

8 It is unnecessary to resolve the difference between
9 the two sets of calculations because, in any event, the fine
10 of \$60 million is the appropriate fine. It is approximately
11 three times the gain to Bankers Trust from the offenses. It
12 reflects the seriousness of the offense, including the
13 substantial amount of money involved and the involvement of
14 high-level personnel. It reflects the seriousness of the
15 false records that were involved in the case and the duration
16 of the scheme. It also reflects the need for deterrence. On
17 the other hand, it takes into account the exposure of the bank
18 to collateral consequences. It also takes into account the
19 bank's cooperation in the investigation and the remedial
20 measures taken by the bank.

21 I will not enter an order of restitution in this case
22 because fashioning an order of restitution would unnecessarily
23 complicate and delay sentencing and it is unnecessary for the
24 purposes of sentencing in view of the restitution already made
25 by the bank and the plan for further restitution approved by

Sentence

1 the Federal Reserve Bank of New York.

2 I have already listened to all of the parties in
3 connection with sentence:

4 Is there anything further that any of the parties
5 wish to tell me before I actually impose sentence?

6 Mr. Seymour.

7 MR. SEYMOUR: No, your Honor.

8 THE COURT: Mr. Link.

9 MR. LINK: No, your Honor.

10 THE COURT: Ms. Oh.

11 MS. OH: No, your Honor.

12 THE COURT: Pursuant to the Sentencing Reform Act of
13 1984, it is the judgment of this court that the defendant,
14 Bankers Trust, is hereby ordered to pay a fine of \$60 million,
15 plus interest. The fine is payable from the funds already in
16 escrow with the Federal Reserve Bank of New York and is to be
17 paid by Thursday, July 29, 1999.

18 It further ordered that the defendant shall pay to
19 the United States a special assessment of \$600, which shall be
20 due immediately. That is, \$200 on each count.

21 The fine of \$60 million is imposed concurrently on
22 each of the three counts of the information.

23 I have already explained the reasons for the
24 sentence.

25 Does either counsel know of any legal reason why the

1 sentence should not be imposed as I have so stated it?

2 MS. OH: No, your Honor.

3 MR. SEYMOUR: The defendant does not, your Honor.

4 THE COURT: I will order the sentence to be imposed
5 as I have so stated it for all the reasons that I have
6 explained.

7 Mr. Link, Bankers Trust has the right to appeal the
8 sentence. If the bank cannot pay the cost of appeal, the bank
9 has the right to apply for leave to appeal *in forma pauperis*.
10 If you request, the clerk will prepare and file a notice of
11 appeal on your behalf immediately.

12 Do you understand?

13 MR. LINK: I understand, your Honor.

14 THE COURT: The correspondence indicates that despite
15 the right of the defendant to appeal and despite the provision
16 of the rule that requires that I instruct the defendant as to
17 the right to appeal, the defendant in this case, according to
18 the defense counsel's letter to the court, has waived the
19 right to appeal.

20 Is that correct, Mr. Seymour?

21 MR. SEYMOUR: That is correct, your Honor.

22 THE COURT: Do either counsel want me to make any
23 further inquiry about that?

24 MS. OH: No, your Honor.

25 MR. SEYMOUR: I don't think it is required, your

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Business

Bankers Trust Corp. fined \$60 million in profit scam

The Associated Press

NEW YORK — Bankers Trust Corp. was sentenced Monday to pay \$60 million in fines in a plea deal that settled criminal charges alleging the company boosted profits by pocketing unclaimed customer accounts.

The sentencing by U.S. District Judge John G. Koeltl came less than two weeks after three former bank executives were indicted on charges they converted \$16.8 million in unclaimed customer funds and credits into bank profits. The scheme allegedly took place between 1987 and 1996.

Lawyers for Bankers Trust had entered a guilty plea on behalf of the company to charges that it made false entries in bank books and records to create the profits.

The money from unclaimed customer accounts should have continued to have been held for the customers or been returned

to states as abandoned property, according to a release from U.S. Attorney Mary Jo White.

In June, Bankers Trust and Germany's Deutsche Bank merged, creating the world's largest commercial financial institution.

Deutsche Bank said in a release Monday that it had already paid the \$60 million fine.

It also said it was "pleased to have these proceedings behind us."

"We believe that the remedial measures taken by Bankers Trust prior to the acquisition, combined with Deutsche Bank's culture and controls, assure that the conduct which was the subject of the proceeding will not occur again," the company said.

Besides the fine, Bankers Trust has reversed and returned nearly all of the \$19.1 million unlawfully recorded as the bank's income, prosecutors said.

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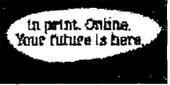
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Its management unit is fined \$750,000 for its actions in HP-Compaq merger vote.

From Associated Press

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Deutsche Asset Management neglected to tell its clients that the company's investment banking division was working for HP during its proxy fight against dissident director Walter Hewlett, the Securities and Exchange Commission said.

HP paid Deutsche Bank \$1 million for "market intelligence" during the proxy fight, with an additional \$1 million contingent on the deal's success.

At first, Deutsche Asset Management voted 17 million HP shares held by its clients against the Compaq acquisition. But the votes were switched in favor of the deal after a last-minute pitch by HP's top two executives.

The SEC said HP's pitch came after senior executives in Deutsche Bank's investment banking arm contacted top members of the asset-management division, who then agreed to hear HP's side again. When Deutsche asset managers were reconsidering their vote, they were told about the investment banking unit's relationship with HP, the SEC said.

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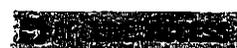
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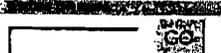
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"The message is that the process matters," said Helene Morrison, district administrator for the SEC's San Francisco office.

Deutsche Bank agreed to pay the \$750,000 fine but did not admit or deny the SEC's findings. The firm said in a statement that "even before today's settlement, we voluntarily strengthened our policies regarding information barriers to ensure that proxies will continue to be cast in the best interests of our advisory clients."

HP's purchase of Compaq was approved 51% to 49%, making it one of the closest proxy contests in years. The winning margin was 45 million votes, so Deutsche's switch did not affect the outcome.

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By Ariana Eunjung Cha
 Washington Post Staff Writer
 Wednesday, August 20, 2003; Page E01

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Bob Wayman, and after the conference announced that it had switched sides.

At the time, Deutsche Bank's investment-banking division was working for HP. It received \$1 million for "market intelligence" and was also promised an additional \$1 million if the HP-Compaq deal were to close -- facts not disclosed to clients of the asset-management division, the SEC said.

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But, he said, a firm's clients have a right to know what conflicts may exist so they can decide whether they still want the firm to vote the proxies on their

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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

IN THE MATTER OF THE APPLICATION OF
BANKERS TRUST COMPANY OF NEW YORK :
(f.k.a. DEUTSCHE BANK TRUST COMPANY) and
BANKERS TRUST COMPANY, :

Index No. 99 | 121823

VERIFIED PETITION

Petitioners, :

NYS SUPREME COURT
RECEIVED

For substitution of fiduciary relationships pursuant to :
New York Banking Law §154. x

OCT 29 1999

I. A. S. MOTION
SUPPORT OFFICE

Bankers Trust Company of New York and Bankers Trust Company, by their attorneys, White & Case LLP, for their Verified Petition (the "Petition"), allege as follows upon information and belief:

1. Petitioner Bankers Trust Company of New York ("Trust Co.") (f.k.a. Deutsche Bank Trust Company) is a trust company organized under the laws of the State of New York with its principal place of business at 31 West 52nd Street, New York, New York 10019. Trust Co. is authorized to carry on trust activities pursuant to Section 100 of the New York Banking Law ("NYBL"). A copy of the authorization certificate issued to Deutsche Bank Trust Company (as Trust Co. was then known) by the New York State Banking Department is attached hereto as Exhibit A.

2. Trust Co. is, and since its inception has been, an indirect wholly owned subsidiary of Deutsche Bank AG ("Deutsche Bank"), a banking corporation organized under the laws of Germany with its principal place of business at Taunusanlange 12, D-60325 Frankfurt am Main, Germany. Deutsche Bank, with consolidated assets of approximately \$755 billion (as of

June 30, 1999), is the largest banking organization in the world in terms of assets. Deutsche Bank has over 2,300 offices located in more than 60 countries, including offices in the City and County of New York, and employs in excess of 90,000 employees.

3. Petitioner Bankers Trust Company (“BTCo”) is a bank chartered under the laws of the State of New York with its principal place of business at 130 Liberty Street, New York, New York 10006. Among other things, BTCo is authorized to carry on trust activities pursuant to Section 100 of the NYBL.

4. BTCo is a wholly owned subsidiary of Bankers Trust Corporation (“Bankers Trust”), a bank holding company established under the laws of the State of New York with its principal place of business at 130 Liberty Street, New York, New York 10006. Bankers Trust has consolidated assets of approximately \$127 billion (as of March 31, 1999), making it one of the largest banking organizations in the United States in terms of assets, with offices in more than 50 countries, including offices in the City and County of New York, and more than 20,000 employees worldwide.

5. On June 4, 1999, Deutsche Bank completed the acquisition of all of the outstanding shares of Bankers Trust pursuant to an Agreement and Plan of Merger dated as of November 30, 1998 (the “Acquisition Agreement”). As set forth in the Acquisition Agreement, Circle Acquisition Corporation, a subsidiary of Deutsche Bank, merged with and into Bankers Trust, with Bankers Trust remaining as the surviving corporation and thereby itself becoming an indirect, wholly owned subsidiary of Deutsche Bank.

NYBL Section 154

6. Section 154(1)(a) of the NYBL provides that a “subsidiary trust company” may apply by verified petition to the Supreme Court, in and for the county in which its principal

office is located, requesting that it be substituted for affiliated trust companies specified in the petition “(i) in every existing fiduciary capacity designated therein and (ii) in the case of the first such petition, in every fiduciary capacity which may take effect after the date of the hearing” Each such specified affiliated trust company is required to join in the petition. NYBL Section 154 further sets forth the procedure and requirements for, and legal effect of, those substitutions, including that for notice to the persons interested in the subject fiduciary relationships and an opportunity to object to the transfer of those relationships by way of substitution.

7. For purposes of Section 154 of the NYBL, Trust Co. and BCo are affiliated trust companies. Pursuant to NYBL Section 154, Petitioners seek to have Trust Co. substituted for BCo in each of the existing fiduciary relationships hereinafter identified, and in every fiduciary capacity relating to estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and/or fiduciary agencies established by or pursuant to instructions of one or more individuals (as opposed to corporate entities) which may take effect after the date of the hearing on the Petition.

BCo and the Business to be Transferred to Trust Co.

BCo

8. Bankers Trust has three major banking subsidiaries, BCo, Bankers Trust (Delaware), a bank organized under the laws of the State of Delaware, and Bankers Trust Florida, N.A., a national bank organized under the laws of the United States, in addition to a number of limited purpose trust companies and nonbanking subsidiaries.

9. BCo, Bankers Trust’s principal banking subsidiary, is a leading commercial bank which also is authorized to exercise trust powers. BCo provides a wide range

of banking, fiduciary, record keeping, custodial, brokerage, asset management and investment services to corporations, institutions, governments, employee benefit plans, governmental retirement plans and private investors worldwide.

10. BTCo was founded in 1903 to provide trust services to a consortium of domestic commercial banks. With the establishment of the Federal Reserve System in 1914, BTCo expanded into the commercial banking business while maintaining its identity as a trust institution. After World War II, BTCo continued to grow and gradually developed into a wholesale bank. By the 1970's, BTCo transacted business in more than 30 countries. In the 1980's, BTCo developed its business in the area of leveraged buy-outs and the trading of structured instruments, and in the late 1990's initiated several acquisitions to strengthen the bank's franchise in traditional investment banking. Throughout this time, BTCo retained its personal fiduciary services business as a natural complement to private banking services for private companies, individuals and their families.

11. Today, BTCo divides its businesses into three primary segments: (i) Global Institutional Services ("GIS"); (ii) Commercial Lending; and (iii) Private Banking.

12. GIS provides services in the institutional market place. These include Global Cash Management (i.e., cash clearing, deposit services, corporate cash management and financial institution export services), Global Custody (i.e., foreign and domestic income collection and security clearing services), Investor Services (i.e., corporate retirement services (including trustee services), securities lending, investment administration, strategic advisory services, discount brokerage and performance measurement services), and Corporate Trust and Agency Services (i.e., services for structured and unstructured debt securities in the domestic and international markets, and acting as a depository bank).

13. Commercial Lending functions as the booking center for new leveraged and structured loans, and also handles that portion of the commercial loans portfolio which remains on BTCo's books.

14. Private Banking provides services to individuals and families, family owned companies, and selected institutions (primarily charitable). Private Banking services customarily are divided into five business lines: Personal Fiduciary Services (described below); Investment Management (i.e., investment management or advisory services for fixed income accounts, balanced accounts and equity accounts, among others); Custody Services (i.e., services including safekeeping, record keeping, income collection and security clearing services); Lending Services (i.e., the provision of secured loan facilities and mortgages); and Banking Services (i.e., checking and savings accounts for clients with other relationships within the Private Bank).

The Business to be Transferred

15. Petitioners seek to transfer from BTCo to Trust Co. that part of BTCo's Private Banking business known as Personal Fiduciary Services ("PFS") (sometimes referred to as the Fiduciary Services Division). PFS consists of approximately 60 employees who administer approximately 2,500 fiduciary accounts (i.e., estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and fiduciary agencies) with total assets of approximately \$7 billion. PFS's fiduciary accounts are generally established by individuals for the benefit of individuals, although a number of account beneficiaries are charitable organizations or other qualified organizations selected by BTCo as trustee. PFS also is responsible for marketing lifetime fiduciary services, seeking will appointments and maintaining "will files" for clients who have named BTCo in a testamentary fiduciary capacity.

16. Pursuant to various servicing agreements, PFS provides administrative services to BTCo's trust company affiliates in Connecticut, Florida, California and Delaware in connection with fiduciary accounts where such affiliates are the named fiduciaries. These fiduciary accounts will not be transferred to Trust Co. upon the substitution of Trust Co. for BTCo as sought herein. It is anticipated that the trust company affiliates, in their respective fiduciary capacities, will make independent judgments whether to outsource administrative services to Trust Co., to continue to utilize BTCo (less PFS), or to utilize some combination thereof. Pursuant to the above-mentioned servicing agreements, BTCo trust affiliates may also administer as agent for BTCo certain accounts that name BTCo as the fiduciary, but where the situation of the beneficiaries or other conditions render it more beneficial and efficient to have such accounts administered in these locations. These latter accounts are included among those sought to be transferred to Trust Co. and, if transferred, Trust Co. expects to continue to maintain these administrative services agreements with the BTCo trust company affiliates.

17. PFS is divided into five groups: (i) Trust Administration; (ii) Tax Production; (iii) Wealth Planning Strategies; (iv) Property and (v) Fiduciary Accounting. Trust Administration consists of three teams responsible for client relationships and the administration of fiduciary accounts, which includes, among other things, assuring that the terms of governing instruments are carried out and that discretionary distributions are considered and executed in accord with will or trust agreement terms, maintaining client records, addressing client questions and concerns, and advising on wealth planning opportunities. Tax Production prepares federal and state fiduciary income tax returns, provides tax record keeping support and handles client tax information reporting. Wealth Planning Strategies works with clients and their advisors to achieve clients' succession planning and charitable objectives and provides sophisticated technical

support to units throughout the Private Bank. The Property group is responsible for managing oil and gas properties in estates and trusts, as well as real estate properties and assets without ready markets such as partnership interests and securities in closely held companies. Finally, Fiduciary Accounting is responsible for reviewing and at times preparing formal and informal accountings rendered on trusts, estates and other fiduciary accounts, and for addressing various fiduciary accounting questions as they arise.

18. PFS receives portfolio management support from the Private Bank's Investment Advisory Division, and custody, securities clearance and settlement, and other operational support from the Technology and Operations Division. It also interacts with other areas of the Private Bank, including marketing and sales.

**The Criminal Proceedings Relating
to BTCo's Client Processing Services**

19. On March 11, 1999, the United States Attorney for the Southern District of New York filed a three-count felony information (the "Information") against BTCo alleging violations of 18 U.S.C. § 1005. The Information charged BTCo with making false entries on its books and records during 1994-1996 as a result of the conduct of certain employees in its Client Processing Services ("CPS") business. The false entries were alleged to have been made to conceal the transfer to BTCo reserve accounts and income of aged credit items from accounts which held funds BTCo had unsuccessfully sought to distribute to various payees to whom they were owed, or whose rightful owners BTCo was unable to identify. The accounts which were the subject of the Information were maintained by BTCo's (i) Corporate Trust and Agency Group, which provided paying agent and fiduciary services to issuers of securities, (ii) Retirement Services Group, which provided custodial, trust administration and asset management services to

employee benefit and pension plans of corporations, governments and their agencies, and (iii) Global Securities Services, which provided custodial, processing and clearing services to purchasers and sellers of securities. These business units are now part of GIS. On the same day the Information was filed, BTCo entered a plea of guilty to the charges in the Information and agreed to pay a \$60 million fine. Sentencing in accordance with this plea agreement was held on July 26, 1999. In addition, pursuant to a letter of commitment with the New York State Banking Department, BTCo paid an agreed upon payment of \$3.5 million to the State of New York.

20. In early 1996, BTCo learned of the potential misuse of certain unclaimed funds which it promptly reported to the United States Department of Justice, the Federal Reserve Bank of New York and the New York State Banking Department. BTCo has cooperated and will continue to cooperate with all investigations by governmental agencies. In addition, with the assistance of counsel and Arthur Andersen LLP, BTCo conducted a comprehensive forensic review of the CPS transactions involved. BTCo has reimbursed, or is in the process of reimbursing, any affected customers or third parties that can be identified. Any funds that could not be returned to the proper owner have been or will be escheated to the appropriate abandoned property authority, or distributed pursuant to a plan approved by the Federal Reserve Bank of New York.

21. After BTCo discovered and reported the transactions beginning in March 1996, it implemented substantial changes to the management of GIS, which includes the former CPS businesses, and adopted a comprehensive system of controls designed to prevent recurrence of the wrongful conduct. These controls include new policies and procedures regarding the handling of unclaimed property, and training programs for all employees in GIS. The individuals

that BTCo determined to be responsible for the conduct that gave rise to the Information and plea are no longer in BTCo's employ.

22. As described above, CPS is a business division of GIS and the conduct that is the subject of the Information and plea involved the accounting, processing and custody operations of BTCo. PFS, on the other hand, is a business division of Private Banking, a wholly separate business activity and organization. Neither PFS, nor any of its client accounts, were implicated or involved in any way in the conduct underlying the Information and plea.

Reasons for the Requested Substitution

23. Section 707 of the Surrogate's Court Procedure Act ("SCPA") provides, inter alia, that letters of administration, executorship and trusteeship may not be issued to a person who is a "felon." Similarly, Section 711 of the SCPA provides that any interested person may seek to have a fiduciary's letters suspended, modified or revoked if the person subsequently becomes ineligible or disqualified to act as a fiduciary, and Section 719 of the SCPA provides that such action may be taken by a court where a fiduciary has been "convicted of a felony." Generally, under the judicial interpretations of these statutory provisions, a conviction of a federal crime is considered a felony conviction for purposes of the SCPA if the offense is a felony under the law of the State of New York.

24. Petitioners do not believe that BTCo would be considered a "felon" for purposes of the SCPA because, among other things, the New York state offense most analogous to 18 U.S.C. § 1005 is NYBL § 672, which applies only to individuals, not to corporate entities. In addition, the only other arguably analogous statute is New York Penal Law § 175.05, which provides for felony and misdemeanor convictions under circumstances where business records are

falsified with an intent to defraud. 18 U.S.C. § 1005 on its face is most closely analogous to the misdemeanor provision of Penal Law § 175.05.

25. It is possible, however, that in individual instances persons might request that such letters be denied or revoked under SCPA §§ 707, 711 or 719, or comparable statutes in other states from whose courts BTCo has obtained or may seek to obtain letters. There is no assurance that the courts faced with such requests will uniformly rule in a manner consistent with petitioners' position. In light of this uncertainty, and in order to avoid the diversion of management and the potential for piecemeal litigation over events that have absolutely no relevance to the PFS business, Petitioners seek to remove this "cloud" via a substitution of Trust Co. for BTCo in the PFS fiduciary accounts and capacities designated herein.

26. Petitioners also seek such a substitution to derive the benefits of a separate stand-alone entity for the marketing and provision of discrete services or product lines to customers and clients, as demonstrated by the other trust affiliates of Bankers Trust and the experience of Deutsche Bank and their global competitors. A separate corporate entity dedicated to the provision of fiduciary services to non-institutional clients of BTCo and Trust Co. brings focus, undiluted management attention, marketing, personnel retention and other demonstrable benefits to an important segment of the financial and fiduciary services business.

**Trust Co. is Thoroughly Qualified
and Capable of Providing the
Necessary Services to BTCo's PFS Clients**

27. Deutsche Bank's international banking business currently employs more than 1,000 employees at over 100 locations in 34 countries. In the Americas region alone, over \$8.1 billion is administered as trust assets by Deutsche Bank. Trust Co. will be part of this extensive international network. Following the substitution of Trust Co. for BTCo as requested

herein, and prior to the transfer of any accounts, Trust Co. will be capitalized at a level satisfactory to the New York State Banking Department.

28. Upon the Court's approval of the requested substitution, the current BTCo PFS staff of approximately 60 employees will become employees of Trust Co. This includes the PFS employees in Trust Administration, Wealth Planning Strategies, Fiduciary Accounting, Property and Tax Production. William J. Wilkie, who currently has overall management responsibility for PFS, will retain that responsibility with Trust Co. The policies and procedures for Trust Co. will be substantially those of PFS. During the transition period leading up to the June 4, 1999 acquisition, Trust Co. decided to move its operations (which had been serviced by third party servicers) to BTCo. Thus, PFS, like its current stand-alone trust company affiliates, will retain in place the operational support that it receives from other business segments of BTCo's Private Bank (e.g., custody, cash and securities movements, securities settlements, information technology, risk management, audit/compliance, legal and financial controlling). This will be implemented through the utilization of service agreements between Trust Co. and BTCo (less PFS). Accordingly, PFS, as part of Trust Co., will continue to operate its business as it does now (i.e., the transition should be relatively seamless).

The Required Notices

29. On August 19, 1999, notice of the filing of this Petition was provided to the New York Superintendent of Banks, in accordance with NYBL Section 154(1)(a). Notice was also provided to the Office of the Attorney General of the State of New York, as representative of all charitable beneficiaries.

30. A list of each and all of the fiduciary relationships existing as of the date of this Petition for which Petitioners request that Trust Co. be substituted for BTCo, and the names,

last-known addresses and interests of all persons entitled to receive notice of this Petition pursuant to NYBL Section 154(l)(b), is attached hereto as Exhibit B.

31. Exhibit B was prepared using PFS's "AIMS" system, an in-house accounting system where all account and client information is maintained. The AIMS database links clients to an account using relationship codes which identify the capacity in which the clients are associated with a particular account (e.g., beneficiary, remainderman, co-fiduciary, donor, etc.). Administrative officers assigned to each account are responsible for maintaining and periodically updating the AIMS database. A further and systematic review and updating of the database occurs during the periodic accountings for common trust funds required by NYBL Section 100-c. (Many of BTCo's fiduciary accounts including accounts subject to this proceeding participate in one or more of the common trust funds administered by BTCo. The common trust funds themselves will continue to be administered by BTCo and accounts for which Trust Co. is substituted will continue to be eligible to participate in such funds.)

32. In addition to reliance on the AIMS database, PFS administrative officers reviewed each trust or other governing document to (i) confirm the accuracy all of the interested party information in the database, (ii) add names where necessary and (iii) ascertain whether there are persons required to be notified who might not have been included in the AIMS system as a matter of course (e.g., persons with the power to revoke, amend or remove a trustee).

33. Those persons entitled to receive notice of this Petition (those listed on Exhibit B) include:

- (i) where BTCo is acting with one or more co-fiduciaries in respect to such fiduciary relationship, each such co-fiduciary;

- (ii) in the case where the instrument creating such fiduciary relationship so provides, each person who alone or together with others is empowered to revoke, terminate or amend such instrument or to remove the corporate fiduciary;
- (iii) in the case of any fiduciary relationship not specified in subparagraph (ii) above, each beneficiary currently receiving income and any other beneficiary interested in the income, and any person presumptively entitled to share in distributions of principal were such fiduciary relationship terminated at the date of this Petition;
- (iv) in the case of any fiduciary relationship, including those specified in subparagraphs (i), (ii) and (iii), above, which is an estate of a deceased person or which is a guardianship or conservatorship, the clerk of the court in which such estate, guardianship or conservatorship matter is pending, together with a statement that notice has been, or is being, given to the persons specified in such subparagraphs; and
- (v) in the case of any person specified in subparagraphs (i), (ii) or (iii) above who is known to petitioners to be an infant or an incompetent, the guardian or committee, as the case may be, of his or her property.

34. A list of all persons entitled to notice of this Petition whose whereabouts are unknown is attached hereto as Exhibit C.

35. NYBL Section 154(l)(b)(iv) provides that the Court may in its discretion appoint one or more guardians *ad litem* to represent in this proceeding any one or more such persons listed in Exhibit C, or any others whose interests should be represented. If one or more guardians *ad litem* is appointed, notice of this Petition shall be given to such appointees.

36. NYBL Section 154(2) provides that at least twenty-five days prior to a hearing date to be fixed by this Court, a Notice of Petition will be mailed by first class mail to each person identified in this Petition as being entitled to receive notice and to any guardian appointed by the Court. The Notice of Petition will be mailed to each such person's last known address, and, in addition, a copy of the Notice of Petition shall be published in a newspaper of general circulation in New York County to be designated by the Court at least once a week for three successive weeks preceding the hearing date, the first such publication to be at least twenty-five days prior to the hearing date. A form of the Notice of Petition, prepared in accordance with NYBL Section 154(3), is attached hereto as Exhibit D. The Service List for the Notice of Petition is attached hereto as Exhibit E.

37. Pursuant to the provisions of NYBL § 154(4), any person who is entitled to receive notice of this proceeding will have the right to object to the transfer of the fiduciary relationship in which he or she is interested and to have that objection promptly heard by this Court. Such a prompt resolution of any objections is manifestly in the interest of all concerned.

Relief Requested

38. Petitioners have filed, contemporaneously with this Petition, an Order to Show Cause approving the form of the Notice of Petition described in the foregoing paragraph 36, setting a date and time for the hearing, and appointing a guardian *ad litem* for persons whose whereabouts are unknown and others whose interests should be represented.

39. The New York Superintendent of Banks has acknowledged that it will not object to the substitution of Trust Co. for BTCo as requested herein. A copy of this acknowledgment is attached hereto as Exhibit F.

40. Petitioners have made no previous application for the relief requested herein.

WHEREFORE, Petitioners respectfully request that this Court:

- (1) enter the Order to Show Cause:
 - (a) approving the form of the Notice of Petition;
 - (b) setting a date and time for the hearing on the Petition; and
 - (c) in the Court's discretion, appointing a guardian *ad litem* to represent persons whose whereabouts are unknown and others whose interests should be represented;
- (2) enter an Order upon the hearing on the Petition:
 - (a) determining that sufficient notice of the Petition has been provided to all those entitled to receive notice; and
 - (b) granting Petitioners' request, pursuant to NYBL Section 154, that Trust Co. be substituted for BTCo in each and every existing fiduciary capacity designated herein (for which no objection has been filed) and in every fiduciary capacity relating to estates, guardianships, executorships, conservatorships, committeeships, testamentary trusts, inter vivos trusts, IRA rollover trusts, supplemental needs trusts and/or fiduciary agencies established by or pursuant to instructions of one or more individuals (as opposed

to corporate entities) which may take effect after the date of the hearing; and

- (3) enter an Order, upon a further hearing on any objections, granting Petitioners' request that Trust Co. be substituted for BTCo in the fiduciary capacities which are the subject of such objections.

Dated: New York, New York
September 28, 1999

WHITE & CASE LLP

By: 

Philip H. Schaeffer

Cyrus Benson III

David G. Hille

1155 Avenue of the Americas

New York, New York 10036-2787

(212) 819-8200

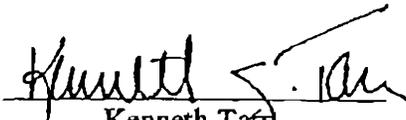
Attorneys for Petitioners Bankers Trust Company of
New York (f.k.a. Deutsche Bank Trust Company)
and Bankers Trust Company

VERIFICATION

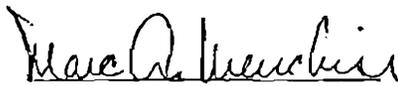
STATE OF NEW YORK)
 : ss:
COUNTY OF NEW YORK)

Kenneth Tarr, being duly sworn, deposes and says:

That he is Chairman and Chief Executive Officer of Bankers Trust Company of New York (f.k.a. Deutsche Bank Trust Company) ("Trust Co."), one of the petitioners herein; that he has read the foregoing verified petition; that the same is true as to his own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, he believes it to be true; that the basis for his knowledge, information and belief is the books, records and papers of Trust Co.; and that the reason why this verification is not made by Trust Co. is that Trust Co. is a trust company organized under the laws of the State of New York.


Kenneth Tarr

Sworn to before me this
29 day of September, 1999.


Notary Public

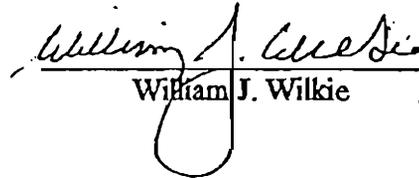
MARC A. MENCHISE
Notary Public, State of New York
No. 00000000000000000000
Qualified by the State of New York
Certificate No. 00000000000000000000
Commission Expires May 13, 2000

VERIFICATION

STATE OF NEW YORK)
 : ss:
COUNTY OF NEW YORK)

William J. Wilkie, being duly sworn, deposes and says:

That he is Managing Director of Bankers Trust Company ("BTCO"), one of the petitioners herein; that he has read the foregoing verified petition; that the same is true as to his own knowledge, except as to matters therein stated to be alleged upon information and belief, and as to those matters, he believes it to be true; that the basis for his knowledge, information and belief is the books, records and papers of BTCO; and that the reason why this verification is not made by BTCO is that BTCO is a bank organized under the laws of the State of New York.



William J. Wilkie

Sworn to before me this
28th day of September, 1999.



Notary Public

MARC A. MENCHISE
Notary Public, State of New York
No. 01MES907174
Qualified in Bronx County
Certificate Filed in New York County
Commission Expires May 18, 2000

CLOSED

U.S. District Court
Southern District of New York - Civil Database (Foley Square)

CRIMINAL DOCKET FOR CASE #: 99-CR-250-1

USA v. Bankers Trust Co.
Case Assigned to: Judge John G. Koeltl
Dkt# in other court: None

Filed: 03/11/99

BANKERS TRUST COMPANY
defendant
[term 07/27/99]

Samuel W. Seymour
[term 07/27/99]
[COR LD NTC ret]
125 Broad Street
New York, NY 10004-2498
(212) 558-4000

Carey R. Dunne
[term 07/27/99]
[COR LD NTC ret]
Davis, Polk & Wardwell
450 Lexington Avenue
New York, NY 10128
(212) 450-4000

Pending Counts:

Disposition

18:1005.F BANK ENTRIES,
REPORTS AND TRANSACTIONS
(MAKING FALSE ENTRIES IN
BANK BOOKS AND RECORDS)
(1 - 3)

The defendant shall pay a fine
of \$60,000,000.00.
(1 - 3)

Offense Level (opening): 4

Terminated Counts:

NONE

Complaints:

NONE

U. S. Attorneys:

Alex Young K. Oh
[COR LD NTC]
Assistant United States

Proceedings include all events.
1:99cr250-1 USA v. Bankers Trust Co.

CLOSED

Attorney
Mary Jo White, United States
Attorney
Criminal Division
One St. Andrew's Plaza
New York, NY 10007
USA
(212) 791-1991

Proceedings include all events.

1:99cr250-1 USA v. Bankers Trust Co.

CLOSED

3/11/99	1	WAIVER OF INDICTMENT by Bankers Trust Co. (bh) [Entry date 03/15/99]
3/11/99	2	SEALED INFORMATION as to Bankers Trust Co. (1) count(s) 1-3 (bh) [Entry date 03/15/99]
3/11/99	3	NOTICE of Appearance for Bankers Trust Co. by Attorney Samuel Seymour (bh) [Entry date 03/15/99]
3/11/99	4	NOTICE of Appearance for Bankers Trust Co. by Attorney Carey R. Dunne (bh) [Entry date 03/15/99]
3/11/99	--	Arraignment as to Bankers Trust Co. held. Deft pres w/atty Carey Dunne and Samuel Seymour pres, AUSA Alex Oh pres. Deft pleads not guilty Bankers Trust Co. (1) count(s) 1-3 before Magistrate Judge Michael H. Dolinger. Case assigned to Judge Koeltl for all purposes. (bh) [Entry date 03/15/99]
3/11/99	--	ORAL ORDER as to Bankers Trust Co. , Unsealing Information (Entered by Judge John G. Koeltl) (bh) [Entry date 03/16/99]
3/11/99	--	Change of Plea Hearing as to Bankers Trust Co. held. Defendant Bankers Trust Company present. with attorneys Samuel Seymour and Cary Dunne. AUSA's Alex Oh and Andrea Weiss. Reporter Steven Griffing present. Defendant changes plea of not guilty and pleads guilty to count 1 through 3 of information. Sentence date set for 5/12/99 at 5:00 pm. (mr) [Entry date 03/17/99]
3/11/99	--	Change of Not Guilty Plea to Guilty Plea by Bankers Trust Co. Bankers Trust Co. (1) count(s) 1-3 (mr) [Entry date 03/17/99]
3/11/99	--	PLEA entered by Bankers Trust Co. . Court accepts plea. Guilty: Bankers Trust Co. (1) count(s) 1-3 (Terminated motions -) (mr) [Entry date 03/17/99]
3/11/99	--	Sentencing set for 5:00 5/12/99 for Bankers Trust Co. , Bankers Trust Co. (1) count(s) 1-3 (mr) [Entry date 03/17/99]
5/13/99	5	TRANSCRIPT of record of proceedings as to Bankers Trust Co. filed before Judge Koeltl for dates of 3/11/99. (sac) [Entry date 05/13/99]
6/4/99	6	ORDER as to Bankers Trust Co., The Court received the enclosed correspondence that was not copied to all parties. It is therefore attached. The action seeks a Government inquiry and no action is called for by the Court. (Signed by Judge John G. Koeltl); Copies mailed. (mr) [Entry date 06/10/99]

proceedings include all events.
1:99cr250-1 USA v. Bankers Trust Co.

CLOSED

6/17/99 7 ORDER as to Bankers Trust Co., The Court forwards to the parties the attached letter from Mr. Supinski because it is not clear that the letter was sent to both parties. No action is called for from the Court. (Signed by Judge John G. Koeltl); Copies mailed. (mr) [Entry date 06/24/99]

7/12/99 8 ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) [Entry date 07/13/99]

7/26/99 -- Sentencing held Bankers Trust Co. (1) count(s) 1-3 (mr) [Entry date 07/29/99]

7/27/99 9 FILED JUDGMENT in a CRIMINAL CASE. Defendant present with attorney Samuel Seymour. The defendant Bankers Trust Co. (1) pleaded guilty to count(s) 1-3. The defendant is sentenced as provided in pages 2 through 4 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984. It is ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. The defendant shall pay a fine of \$60,000,000.00. The fine shall be payable, together with interest, by thursday, 7/29/99 from the funds already in Escrow with the Federal Reserve Bank of New York. The Court imposes no restitution because fashioning and order of restitution will unnecessarily prolong and complicate the sentencing process. Statement of reasons attached. Judgment and Commitment issued to U.S. Marshal (Signed by Judge John G. Koeltl); [Docketed as a Judgment #99,1797 on 7/30/99.] (mr) [Entry date 07/29/99] [Edit date 08/02/99]

7/28/99 10 ORDER as to Bankers Trust Co., The Court has received the attached letter which is being forwarded to the parties. (Signed by Judge John G. Koeltl); Copies mailed. (mr) [Entry date 07/29/99]

7/31/99 -- Payment of Fine in the amount of \$61,025,852.75 by Bankers Trust Co. Date received: 7/30/99 (bw) [Entry date 08/04/99]

8/20/99 -- Payment of Fine in the amount of \$60,600,000.00 by Bankers Trust Co. Date received: 7/30/99 (sl) [Entry date 08/20/99]

9/10/99 11 TRANSCRIPT of record of proceedings as to Bankers Trust Co. for dates of 7/26/99 before Judge Koeltl. (mr) [Entry date 09/10/99]

10/6/99 12 ORDER as to Bankers Trust Co. The Court forwards to the parties correspondence dated September 28, 1999. (Signed on 10/4/99 by Judge John G. Koeltl); Copies mailed. (bw) [Entry date 10/07/99]

Docket as of August 4, 2000 3:38 pm

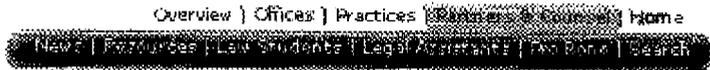
Page 4

Certified as a true copy on

this date 8-4-00By [Signature]

() Clerk

17 Deputy



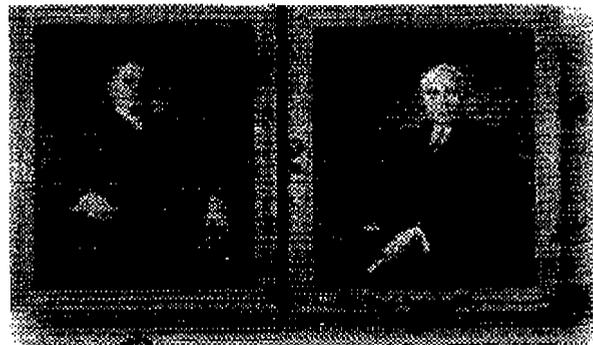
[click for Timeline](#)

History of Firm

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The Partnership of J. DuPratt White and George B. Case

On May 1, 1901, on Manhattan's Wall Street, two young attorneys contributed \$250 each to launch White & Case, creating what has become one of the world's preeminent global law firms. At the time of the firm's founding, J.



J. DuPratt White and George B. Case

At the time of the firm's founding, J. DuPratt White, 31, had only apprenticed at a law firm and never attended law school; George B. Case, 28, had graduated from Columbia Law School only four years earlier. DuPratt White and George Case founded their law firm with a strong mutual trust, and no partnership agreement.

The firm prospered immediately as a result of its

founders' dedication, legal acumen and strategic business relationships. DuPratt White and George Case's friendship with J.P. Morgan financier Henry P. "Harry" Davison enabled much of the firm's early success. Davison, who was second-in-command to Morgan himself and a rising star on Wall Street, encouraged the young lawyers to form their law firm. He also retained White & Case to represent a series of banking ventures and provide legal services to many of the companies financed by J.P. Morgan in the beginning of the century, including the Morgan firm itself.

White & Case clients during its formative years were sophisticated companies which required the highest level of excellence and reliability from their lawyers. The work ethic and skill required to meet the demands of these clients became deeply ingrained in the firm, shaping the culture and areas of law practiced by White & Case for the next century.

Bankers Trust: An Enduring Client

Bankers Trust epitomized the prominent early clients of White & Case. The relationship between Bankers Trust and White & Case is one of the great enduring client relationships in the history of the legal profession. White & Case represented Bankers Trust for 96 years until its acquisition in 1999 by another White & Case client, Deutsche Bank, which is still a client of the firm today.

White & Case was centrally involved in the formation of Bankers Trust in 1903. The complex concept of a trust company for bankers was novel in the early 20th century. At that time, federally chartered commercial banks were barred from engaging in trust business; however, state chartered trust companies were allowed to conduct most commercial banking activities. When commercial banks referred clients to state-chartered trust companies, they risked losing their clients to these competitive trusts. Since trust companies loaned only against secure collateral, their risks were lower, allowing them to pay higher interest rates on deposits. By welcoming trust accounts referred by commercial banks and publicly pledging not to engage in any aspect of commercial banking,

Bankers Trust became the first trust company for bankers.

For White & Case, its work in helping organize and build Bankers Trust, as well as its early work for a number of other banking institutions – including First National Bank, Liberty National Bank, American Exchange National Bank, New Netherlands Trust Company and Astor Trust Company – established a pattern. Although the firm today has an array of practice areas across the spectrum of corporate law, it is still well known for its leadership in banking law, representing more than 100 banks around the world.

Even though White & Case built its early reputation in banking law, it was not solely a banking firm. White & Case's banking clients often recommended that their own clients retain the firm. There are many examples of this – from the firm's early practice in examining corporate indentures, such as the Denver & Rio Grande Railroad Equipment Trust Agreement of 1903 (of which Bankers Trust was trustee), to its representation beginning in the 1920s of the Pennsylvania coal companies controlled by the Kemmerer and Bowring families (who were referred to White & Case by First National Bank).

White & Case's relationship with Federal Paper Board, which became one of the nation's leading manufacturers of the paperboard used for cereal boxes and other products, began with a referral from Guaranty Trust Company. White & Case represented Federal at its incorporation, and continued to represent the company for its entire 80-year history until it was acquired by International Paper Company in 1996. Throughout the eight-decade relationship with Federal, White & Case represented the company in acquisitions, litigation, its initial public offering in 1953, other equity and debt financings, defenses against hostile takeover attempts, and the sale of the company to three of its senior executives.

White & Case moved into the Bankers Trust headquarters at 14 Wall Street in 1909. At that time, the 35-story building was the most expensive piece of real estate in the world and the



world's tallest structure. White & Case remained at 14 Wall Street until 1984 when it moved to midtown Manhattan, where the firm's New York offices are today.



The World War I Years and the Great Depression

During World War I, the firm conducted critical work for J. P. Morgan & Co., which had been hired by the British and French governments to purchase war materials in the United States on their behalf. White & Case handled all the legal work, including the writing of contracts with nearly 1,000 U.S. suppliers. By the war's end, some \$3 billion of armaments had been channeled to the British and French military through the program, representing nearly half of all U.S. supplies sold to the Allies during the war. After the war, the French government made DuPratt White a Chevalier of the French Legion of Honor in recognition of the firm's contributions to this massive undertaking, which helped win the war for the Allies.

By the late 1920s, White & Case clients included United States Steel Corporation, Armour & Company, McGraw-Hill, Inc., New York Shipbuilding Corporation, Swift & Co., West Virginia Coal and Coke Company, and Combustion Engineering Corporation, among many others.

In 1926, White & Case's international expansion began in France with the opening of an office in Paris on the Place Vendome. The Paris office, White & Case's first office outside of New York, serviced the firm's many banking clients, as well as the International Red Cross. The firm had taken an active role in transforming the Red Cross from a small charity into a national institution during World War I. Harry Davison, who oversaw the Red Cross at the request of President Woodrow Wilson, appointed George Case to the Red Cross "War Council." White & Case's pro bono work for the Red Cross initiated a long-standing commitment to pro bono service still practiced and held in high esteem at White & Case today.

White & Case's growth continued through the 1920s;

but then came the Great Depression of the 1930s. Although many companies had to tighten their purse strings by laying off employees and scaling back operations, demand for White & Case's services kept growing. In the 1930s, White & Case added many new clients, including Swiss Bank Corporation and The Seagram Company Ltd. of Canada. Seagram retained the firm on the eve of Prohibition's repeal, as it was charting plans to enter the U.S. spirits market. White & Case partner Ezra Cornell, great-grandson of the founder of Cornell University, was the cornerstone of this important client relationship, which endured for 35 years.

These years saw a substantial increase in federal legislation that fundamentally changed how businesses operated and were financed. New federal statutes such as the Securities Act of 1933, the Securities Exchange Act of 1934, the National Labor Relations Act of 1935, the Public Utility Holding Act of 1935, the Social Security Act of 1935 and the Trust Indenture Act of 1939 all bolstered demand for legal services. In addition, bankruptcies and corporate reorganizations were a major source of work throughout the 1930s.

To keep pace with the needs of its clients, the firm hired an average of six new attorneys each year during the Depression and took additional space in the Bankers Trust building. However, despite the expansion of White & Case's business during these tumultuous years, the firm had to take some cost-cutting measures during this time. Associates earned less in 1937 than they had in the beginning of the decade: In 1930 their salaries were \$200 per month; they earned \$175 per month in 1937.

The U.S. Steel Relationship

U.S. Steel was one of the first companies to register a public offering and the pioneering task of determining how to comply with the newly enacted Securities Act of 1933, including the necessary due diligence, fell largely to White & Case. In 1938, U.S. Steel was confronted by highly contentious Congressional antitrust hearings. White & Case, as U.S. Steel's special counsel, defended the company effectively in the hearings. Overshadowed by the nation's entry into

World War II, the Congressional antitrust efforts faded away without much impact on U.S. Steel.

The relationship with U.S. Steel was so strong that two White & Case partners, Irving Olds and Roger Blough, eventually served as chairman and CEO of the company. Irving Olds had served as U.S. Steel's special counsel for the antitrust hearings 1938. Two years later he was invited by the U.S. Steel board of directors to become chairman and CEO. Olds served in this capacity for 12 years while continuing as a partner of the firm, but withdrawing from active involvement. In 1942, Olds recruited White & Case associate Roger Blough to be U.S. Steel's solicitor general. Irving Olds retired from U.S. Steel in 1952 and returned full-time to White & Case.

Meanwhile, Blough moved ahead rapidly at U.S. Steel and became its CEO in 1955. He led the company for the next 14 years and melded its scattered operations into a unified business. Roger Blough returned to White & Case in 1969. Despite his accomplishments, he is primarily remembered for his run-in with President Kennedy in 1962 over the price of steel. When U. S. Steel raised its average price by \$6 a ton, the president reacted with fury, insisting the company should restrain its prices because the United Steelworkers union had previously accepted only a modest wage increase. The president derided Blough publicly and threatened an antitrust investigation, price controls and other actions unless the company relented. Although Blough defended the price increases as necessary to finance plant modernizations, he eventually rescinded them under pressure from the president.

The World War II Years and the Relationship with Saudi Aramco

World War II and the postwar years witnessed renewed economic expansion for the United States and

securities offerings and important issues of corporate governance.

One of the most significant antitrust cases during this period involved Saudi Aramco. Aramco, Saudi Aramco's predecessor before its purchase by the Saudi government, held an exclusive concession to develop and produce Saudi Arabia's massive oil reserves. Faced with a federal grand jury subpoena related to an investigation of alleged worldwide oil cartels, Aramco heeded the advice of U.S. Senator Taft of Ohio and contacted White & Case for representation. No action against the company resulted from those grand jury proceedings, and an enduring relationship between Aramco -- and later Saudi Aramco -- and White & Case had begun.

White & Case continued to provide counsel to Aramco in matters ranging from arbitration against Greek shipping magnate Aristotle Onassis in 1954 to the sale of the company's assets to the Saudi government in the 1970s and 80s, creating Saudi Aramco. Most notably, in 1988 the firm advised Saudi Aramco in the formation of a \$16 billion tripartite joint venture between Saudi Aramco, Texaco Inc. and Shell Oil Company, called Motiva Enterprises LLC. The venture not only markets those brands in the eastern United States, but also owns and operates four major U.S. refineries -- three previously operated by Star Enterprise (a joint venture of Saudi Aramco and Texaco) and one previously operated by Shell Oil. This transaction was one of the most innovative downstream oil products restructurings in the history of the industry.

Another landmark transaction for White & Case was one of the largest real estate transactions in New York City history. In 1954, White & Case



represented the sellers in the \$51.5 million sale of the Empire State Building. Also in New York, the firm began to work in the 1950s with many cultural institutions, including the Metropolitan Opera,

Carnegie Hall, the Simon Guggenheim Trust and the Guggenheim Museum.

1960s: The Salad Oil Scandal and Hostile Takeovers

The 1960s at White & Case were punctuated by two seminal matters, the "salad oil scandal" and the defense of tire manufacturer B.F. Goodrich Company against a hostile takeover.

The *Wall Street Journal* dubbed the 1963 salad oil scandal "one of the biggest swindles in history." The scandal involved a vegetable oil dealer who defrauded customers and lenders, including a subsidiary of American Express that had issued warehouse receipts certifying the existence of oil, when, in fact, that oil did not exist. The dealer had used the receipts to finance his inventories with Continental Illinois, Chase Manhattan Bank, several other banks and vegetable oil exporters. Not only would the dealer move oil between tanks so that the same oil would be counted twice, but he also installed cylinders in the tops of some tanks and filled them with oil, creating the impression that the entire tank was full. White & Case represented Continental Illinois National Bank & Trust Co., the largest creditor in the matter, with \$20 million of outstanding loans. Facing novel legal issues in this case, White & Case employed innovative tactics to cause American Express to honor the warehouse receipts issued by its subsidiary. The case resulted in one of the largest financial settlements in history at the time, in which American Express agreed to pay its creditors \$57.9 million in cash and up to \$30 million of recoveries from insurance and other sources.

The representation of B.F. Goodrich paved different paths for White & Case. In the mid-60s, as the number of mergers and acquisitions began to skyrocket, White & Case was at the forefront of both friendly and hostile takeovers. In 1969 it defended B.F. Goodrich Company against a hostile takeover by Northwest Industries. Hostile takeovers were uncommon at this time and White & Case's legal strategies on behalf of Goodrich led to Northwest eventually letting its bid for Goodrich expire.

At the time of the Goodrich defense, federal antitrust enforcement was being tightened. White & Case took advantage of this political climate and sought to have the government block the Northwest takeover on antitrust grounds. Both the Justice Department and Representative Wilbur Mills, the powerful chairman of the House Ways and Means Committee, became involved in the case. Mills, concerned about the economic impact of mergers involving conglomerates, introduced legislation that severely limited the tax deductibility of interest on debentures issued for stock in takeovers, thus threatening to destroy the acquisition currency of conglomerates and thereby inhibiting growth. Mills' proposal sent shock waves through the stock market, causing the share prices of many conglomerates - including Northwest - to plummet. Mills' legislation became the basis for the Tax Reform Act of 1969, which helped bring the conglomerate movement to an end.

Expanding Globally and Domestically in the 1960s and 70s

Propelled by Europe's economic integration following the 1957 Treaty of Rome and the European expansion of White & Case client Bankers Trust, the firm made great strides in its global expansion in the 1960s and 1970s. The firm's Paris office, which had reopened in 1961 after closing at the beginning of World War II, advised many U.S. industrial companies that were investing in Europe and U.S. banks that had established operations in Paris. In 1971 the firm opened an office in London, just as that city was establishing itself as a global financial center, impelled in part by the U.S. interest equalization tax. The tax drove many foreign borrowers to Europe, resulting in the creation of the eurodollar loan market in London. White & Case was an innovator in this market, writing many of the earliest eurodollar loan agreements from its office in New York.

The next phase in the firm's globalization involved its sovereign-related practice. Led by Jim Hurlock, White & Case represented Indonesia in the mid-1970s in connection with a financial crisis involving the state-owned Indonesian oil company Pertamina. Over the

next two decades, the firm provided representation to Indonesia in many of the major public sector industrial projects implemented in Indonesia, including numerous oil and gas, mining, power generation and other infrastructure projects, as well as the construction of many different types of process plants.

Indonesia was the starting point in the development of the firm's sovereign practice, which became increasingly important to White & Case in the 1980s and 1990s. White & Case has represented more countries in sovereign-related projects and commercial activities than any other law firm. In addition to Indonesia, the firm has represented dozens of sovereigns, including Abu Dhabi, Albania, Algeria, Belarus, Cameroon, Costa Rica, Croatia, Gabon, Guinea, Honduras, Ivory Coast, Mexico, Morocco, Peru, Poland, Thailand, Tunisia, and Turkey.

In 1978, White & Case opened an office in Hong Kong, in part to place lawyers closer to Indonesia.

White & Case's domestic practice burgeoned as the firm's international presence grew. The firm continued to work for a broad range of clients in the United States during the 1970s, such as Prudential Insurance Company, General Electric Company, Chemical Bank and Arthur Young & Company. It successfully defended U.S. Steel in a major product liability case in which the Tennessee Valley Authority and Allis-Chalmers Corporation alleged that the failure of a stay-ring made from T-1 steel had caused massive delays in the construction of a hydroelectric project. The firm also represented a group of New York banks in the city's 1974-1975 fiscal crisis, playing an important role in negotiating a solution to the city's then-huge budget deficits. The crisis nearly resulted in the city's bankruptcy, but was ultimately resolved through a series of steps, including tighter budget controls and the issuance of bonds guaranteed by the state.

In 1974, the firm opened an office in Washington, D.C., primarily at the initiative of Roger Blough, who had dealt extensively with elected officials and government agencies while head of U.S. Steel. Blough correctly predicted that Washington would take on ever-increasing importance to the businesses

represented by White & Case, such as Bankers Trust.

An historic effort – beginning in the 1970s and continuing through the 1980s and into the late 1990s – was to help Bankers Trust break down the barriers of the Depression-era Glass-Steagall Act, which prohibited banks from engaging in certain activities considered risky. This effort is a prime example of working closely with a client over an extended period to help that client achieve its business objectives and, in the process, help reshape and modernize the business terrain of a key global industry. In 1999, Congress passed the Gramm-Leach-Bliley Act, which repealed the Glass-Steagall Act's restrictions on banks and securities firms.

A New Era Begins



James B. Hurlock

The 1980s began with the election of James B. Hurlock as chairman of the Management Committee of White & Case. He led the firm for 20 years until his retirement from management in 2000. Hurlock shaped White & Case into a truly global law firm long before other U.S. and English firms responded to the globalization of their clients' businesses. Under Hurlock's leadership in the 1980s, White & Case added offices in Singapore, Jakarta and Stockholm in 1983; Ankara and Istanbul in 1985; Los Angeles in 1986; Miami and Tokyo in 1987; and Jeddah in 1989. In many countries, White & Case was one of the first U.S. firms – if not *the* first – to establish a beachhead.

During Hurlock's tenure the firm also became dominant in international project finance, privatization and international dispute resolution, in addition to building sizable antitrust, taxation and intellectual property practices. The firm's banking, securities, and mergers and acquisitions practices, three of the firm's core practice areas, also continued to thrive.

White & Case was involved in many landmark transactions in the 1980s. Two notable matters were

the representation of U.S. Steel in the 1982 acquisition of Marathon Oil for \$5.9 billion and the representation of banks in the 1988 leveraged buyout of RJR Nabisco for \$24.5 billion. In an unusually complex transaction, the firm represented General Electric in its 1984 sale of two natural resource subsidiaries to Broken Hill Proprietary Company of Australia for \$2.4 billion, at that time the largest takeover in Australian history.

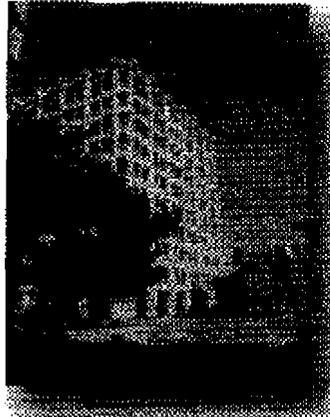
Moreover, in the mid-1980s, long before the Internet revolution and the heightened value of intellectual property, White & Case became the first major law firm to establish a significant intellectual property practice, which until then was an area dominated by smaller boutique firms.

1990s: Serving Clients in a Complex Business Environment

Throughout the 1990s, White & Case was one of the fastest-growing law firms in the world, continuing to add clients, attorneys and offices. Continuing its global expansion, White & Case opened 17 new offices in the last decade of the 20th century: Budapest, Mexico City, Moscow, Prague and Warsaw in 1991; Helsinki in 1992; Bangkok and Riyadh in 1993; Almaty, Bombay and Hanoi in 1994; Johannesburg in 1995; Ho Chi Minh City and São Paulo in 1997; and Bratislava, Frankfurt and Palo Alto in 1999. It also expanded operations in the two world centers of business regulation by merging with McClure, Trotter & Mentz in Washington in 1995 and with Forrester, Norall & Sutton in Brussels in 1998.

As has been true throughout its history, the firm was involved in some of the decade's most important transactions and events – from the privatization of companies around the world, to the restructuring of sovereign debt, from the representation of clients in complex merger and acquisition negotiations, to an involvement in significant issues of multinational antitrust law. The expanding network of offices around the globe allowed White & Case to build its European Union practice and develop innovative financing structures in the Middle East consistent with Islamic law.

Additionally, White & Case's global presence has enabled the firm to provide representation in many cross-border transactions. Noteworthy examples include Dutch grocery retailer Royal Ahold's acquisition of the U.S.-based Giant Foods, which involved White & Case attorneys in New York, Washington, London and Brussels, and the Deutsche Bank/Bankers Trust merger in 1999.



Palo Alto Office

Over the years White & Case's intellectual property practice continued to attract a blue-chip roster of clients. In 1999, White & Case became the first U.S. law firm in London to recruit an intellectual property group made up of English-law qualified practitioners. Later that year, the firm further strengthened its IP practice with the opening of an office in Palo Alto, California, as a focal point for providing litigation, patent prosecution, licensing and general corporate services to the information technology industry.

A notable matter on which White & Case's IP group has recently worked involved genetically engineered corn. White & Case provided representation for Novartis Seeds, both as a plaintiff and defendant, in 10 different patent litigation cases in district courts throughout the United States. The matters concerned genetically engineered corn and were part of the seeds patent war that has engulfed the entire corn seed industry after the first genetically engineered corn product, *Bt* corn, came on the market in 1996.

The firm's international project finance practice thrived in the 1990s and White & Case was consistently one of the top-ranked firms in the world. During the 1990s, White & Case was also active in leveraged finance transactions and, among other things, helped take the technique outside the United States to Latin America. The firm represented Morgan Stanley in providing financing for the 1996 purchase of a 50-year concession to operate Mexico's 2,455-mile Northeast

Rail Line, involving a U.S.-style leveraged financing done in connection with a privatization.

In 1998, in a move that transcended the normal tax practice, White & Case formed the NPC Safe Harbor Coalition to seek a legislative or regulatory change that would permit certain foreign persons to trade in U.S. securities derivatives without becoming subject to U.S. taxation. The coalition included the Securities Industry Association; Morgan Stanley; Credit Suisse First Boston; Salomon, Smith Barney; Merrill Lynch; E D & F Man Inc.; and Stockton Reinsurance Limited. As a result of these efforts, the U.S. Treasury issued a regulation basically adopting the coalition's recommendations.

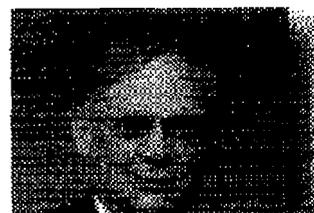
Also that year, the firm represented the Electricity Generating Authority of Thailand (EGAT) in an innovative financing that enabled the authority to raise funds on favorable terms in the midst of the Asian economic crisis.

In 1999, White & Case served as regulatory counsel in Deutsche Bank's \$9 billion acquisition of Bankers Trust and was involved in numerous other mergers and acquisitions, many across national borders, such as representing Netherlands-based Royal Ahold in its \$1.8 billion acquisition of Stop & Shop Companies in the United States.

Also in 1999, White & Case represented British Cable & Wireless plc in its public tender offer for Japan's International Digital Communications, Inc., a long-distance carrier. This was the first successful contested acquisition in the Japanese market, and the success of the transaction may have fundamentally changed the nature of the Japanese securities markets.

A New Century Begins with New Management

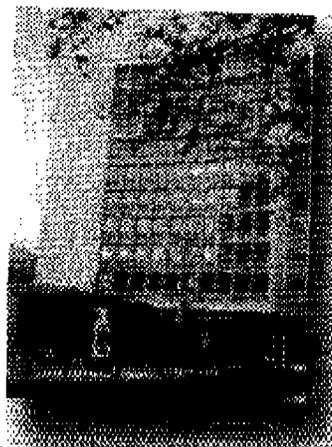
Jim Hurlock's 20 years as head of the firm ended on April 1, 2000. A new management team led by Duane Wall as Managing Partner assumed office on that date and moved quickly to



demonstrate its commitment to maintain the firm's position as one of the leading global law firms.



Duane D. Wall



Berlin Office

During 2000, the firm added to its English law capability by more than doubling the size of its London office and positioned itself to play a major role in the expanding merger and acquisition business in Germany by merging with Feddersen, Laule, Ewerwahn, Scherzberg, Finkelnburg, Clemm a leading German law firm with 160 lawyers in offices in Berlin,

Dresden, Düsseldorf, Frankfurt and Hamburg.

Although White & Case has had a presence in Singapore since 1983, it was not allowed to practice local law until last year. In response to new rules in Singapore opening its legal services market to foreign firms in 2000 through joint ventures, White & Case and Colin Ng & Partners, a leading Singapore law firm, formed a joint venture law firm that began operating on January 1, 2001. The firm, known as White & Case, Colin Ng & Partners, is one of only seven such ventures approved by the Singapore government. The seven licensed firms may be viewed as an elite "magic circle" among the city-state's law firms and are expected to play an important role in Singapore's legal community.

On January 1, 2001, White & Case also opened offices in Rome and Milan through integration with the noted Italian firm Varrenti e Associati. The joint entity, called Studio Legale White & Case Varrenti e Associati, added intellectual property and capital markets lawyers to its merger and acquisition practice soon after formation.



Milan Office

A Look Behind, A Look Ahead

On May 1, 1901, J. DuPratt White and George B. Case joined forces to form the partnership that has never had a name other than White & Case. Superb lawyers and sound business counselors, Messrs. White and Case worked hard and thought creatively on behalf of clients.

On May 1, 2001, one hundred years after it opened with two U.S. lawyers in a two-room office on Nassau Street in lower Manhattan, White & Case has more than 1,400 lawyers of more than 50 nationalities in 39 offices in 27 countries. Along with its name, two fundamentals have never changed: the powerful combination of talented lawyers and a client base composed of major financial institutions and corporations; and the continued tradition of hard work and creative thought by White & Case lawyers on behalf of clients.

* * *

All of us at the firm wish to thank the clients, alumni, colleagues and friends who have been invaluable in making White & Case @ 100 a major global law firm in which we may all take great pride.

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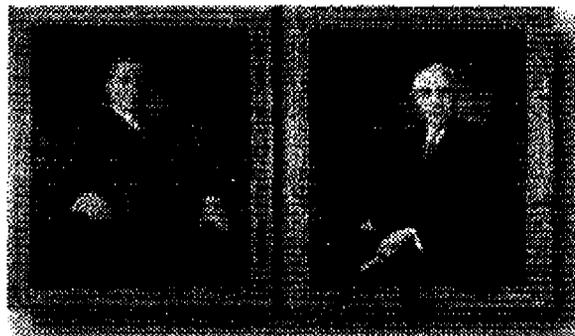
VIEHANNHAGEN

White & Case Celebrates Its 100th Birthday on May 1

Firm Receives New York State Bar Association's Special Recognition Award for its Pro Bono Service on its 100th Anniversary

New York, May 1, 2001 ... White & Case LLP, the 1400 lawyer international law firm, turned 100 years old on May 1, 2001. The same day, the Firm was honored by the New York State Bar Association for its decades of pro bono service. White & Case received the Bar Association's Special Recognition Award, an award given on infrequent occasions to mark special or enduring pro bono service.

White & Case, which now has offices in 27 countries, was formed a century ago in New York City by two young attorneys, J. DuPratt White, then 31, and George B. Case, then 28, at the urging of some of the titans of finance of their time. Within a few years, White and Case had formed Bankers Trust Company, were representing the leading New York banks and were advising many of the emerging business giants of the 20th century.



click for History of Firm

The first major American law firm to embark upon a global strategy of client service and expansion, White & Case is now one of the leading international law firms in the world. Its lawyers concentrate in cross-border corporate and financial transactions and dispute resolution.

"We live in fascinating times as the global marketplace and the promise

White & Case Celebrates its 100th Birthday on May 1

Page 2 of 4

of the firm. "We at White & Case embrace the future still well guided by the example of two extraordinary and intrepid young lawyers from 100 years ago."

White & Case highlights of the last century

The Early Years

- Forming Bankers Trust Company; representing New York's leading banks and industrial entities formed by JP Morgan & Company; clients include New Netherlands Trust Company, Newmont Mining Corporation, New York Shipbuilding Corporation, Armour & Co. and Swift & Company. Structuring the financing and acquisition of war supplies for the Allies.

1920s

- Advising the lenders and corporations pacing the boom in corporate America; representing McGraw Hill, U.S. Steel, Federal Paper Board; opening our first foreign office, in Paris

The Depression and World War II

- Dealing with copious new regulations of business, bankruptcies and reorganizations; establishing our relationship with Swiss Bank Corporation; advising New York's cultural institutions - Metropolitan Opera, Carnegie Hall, the Simon Guggenheim Trust and the Guggenheim Museum; partner Irving Oids becomes CEO of US Steel.

Postwar Growth and Change

- Advising on landmark tax cases, mergers and acquisitions, securities offerings and issues of corporate governance; defending major cases for U.S. Steel, General Electric, Eastman Kodak, Aramco and McGraw-Hill.
- Representing the sellers of the Empire State Building - at \$51.5 million - a huge real estate deal!
- Representing the buyer, Alleghany Corporation, in the country's first "hostile takeover", the proxy fight to acquire the New York Central Railroad.

1960s: Antitrust Litigation, M&A Work and Other Major Cases

- Reopening the Paris office, opening a new office in Brussels
- Recovering for the lenders against American Express in the "salad oil scandal," one of the biggest swindles of all time

- Defending Federal Paper Board and B. F. Goodrich against hostile takeovers, U.S. Steel in antitrust cases, Douglas Aircraft in class action lawsuits
- Restructuring of the banking industry and creating bank holding companies
- Arguing the Texas Gulf Sulphur case before the Supreme Court - decision expands the scope of Securities Act of 1933

1970s: New Directions

- Expanding to London, Hong Kong, Washington, D.C.
- Financing the Trans-Alaska Pipeline
- Restructuring New York City's finances; restructuring the debt of Indonesia and then other sovereigns around the world.

1980s: Creating a Global Firm

- Structuring new financing products and services; assisting banks to expand into securities businesses; financing and structuring acquisitions and buyouts, defending hostile takeovers
- Working with banks and the Federal Reserve Board on terms to provide liquidity when stock market crashes
- Advising newly independent governments when the Iron Curtain falls
- Expanding the practice to protect the intellectual property of clients

1990s: Serving Clients in a Global Business Environment

- Privatizing state entities and creating legal systems; structuring commercial transactions throughout the formerly communist world
- Advising foreign investors investing in the burgeoning economies of Asia and Latin America
- Expanding our resources in the world's two leading centers of business regulation, Washington DC and Brussels
- Handling major cross-border and multijurisdictional transactions and disputes
- Advising on the merger of two long-time clients, Deutsche Bank and Bankers Trust
- Earning awards for the firm's pro bono efforts
- Advising Cable & Wireless in the first contested takeover in Japan
- Developing innovative financing structures in the Middle East to comply with Islamic law
- Restructuring the finances and assets of the Tung Group in China
- Adapting legal regimes to the cyber-world

2000 - Build-out in Key World Centers

- Expanding in Western Europe with mergers in Germany and Italy; growth in London; a joint venture in Singapore
- Anticipating and building for the needs of clients in the global century

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4

O U T F O R N T

Sept. 30, 1999. It stuck by its core business, betting incorrectly that buying 20 small distributors in two years would keep it afloat. After filing for Chapter 11 in April, CHS proposed selling off its European subsidiaries and becoming a Web-based emporium of hardware and infrastructure products. But in May it dropped the plan; CHS will liquidate this summer. As for MicroAge, which lost \$160 million on 12-month trailing revenues of \$6.1 billion, it is gasping for new life selling networking equipment and servers online.

Radical reinvention may be the only cure. The survivors have vastly expanded their range of products and services. Ingram Micro (sales: \$29 billion) is now using a fee-based system to assemble, ship and, when necessary, hold

MicroAge is gasping for life selling servers and networking equipment.

inventory for PC makers, and is getting into e-commerce fulfillment in a big way. Tech Data (\$17 billion) wholesales 75,000 different products, from Cisco routers to Palm devices.

Still, diversification is no guarantee of survival. Merisel (which lost \$54 million on 12-month trailing revenues of \$5.1 billion) looks vulnerable. Facing a falloff in business, Merisel consolidated U.S. and Canadian operations, eliminating 400 positions. A new unit—selling and servicing resellers of Sun Microsystem products—now accounts for one-third of the company's revenues this year, up from 20% in 1999. But that rate may not continue, since Merisel recently lost a few key customers it declines to name. Its shares can be had for 91 cents.

There's a whiff of mortality about Dallas-based CompuCom, too. While it's moving to a more service-based model, a disproportionate amount of its \$3 billion in revenues still comes from PC products. Its stock is down 80% in the past year to \$1.50. **F**

White Shoes, Black Shirts

SCANDALS | U.S. prosecutors say White & Case and KPMG helped hide dirty doings at MGM and Crédit Lyonnais.

BY DAVID MCCLINTICK

A SCATHING 215-PAGE REPORT from the U.S. Department of Justice sets out how one of the world's leading law firms, Wall Street's White & Case, together with the equally renowned global accounting firm KPMG, played a role in helping to conceal fraud, forgery and other crimes allegedly committed by Crédit Lyonnais, the once grand, now decimated Paris bank (*FORBES*, Dec. 13, 1999).

The highly unusual private report, marked "Distribution Limited," was prepared by two Justice Department prosecutors in Los Angeles for French authorities conducting their own investigation of the bank. While the report does not say that White & Case or KPMG themselves committed criminal acts, its embarrassingly detailed contents could well attract the attention of bar associations and accounting regulatory groups.

Richard Holwell, a senior White & Case partner, vigorously rejected the report's characterizations of his firm's actions, and firmly denied any wrongdoing. A spokesman for KPMG said the firm hadn't yet seen the report and thus couldn't comment.

The report focuses on the two firms' roles in the 1990 acquisition of MGM/UA by Giancarlo Parretti and Florio Fiorini, two Italian businessmen now under house arrest in Italy awaiting extradition to Los Angeles to face U.S. criminal charges. As is now known, Parretti and Fiorini bribed officials of Crédit Lyonnais to get more than \$2 billion with which to buy a number of properties, including MGM, from which



The man who started it all:
Giancarlo Parretti.

they subsequently looted millions of dollars.

According to the new Justice Department report, KPMG and White & Case both played roles in several pivotal transactions involving the misrepresentation by Parretti and Fiorini of how much debt they owed Crédit Lyonnais through one of their companies. Pathé Communications, whose stock was traded on the New York Stock Exchange. Under U.S. law, the amount of money a public company owes is material information that must be disclosed accurately.

Pathé, KPMG's client, had another requirement. Under a prior agreement with the Securities & Exchange Commission, Pathé was prohibited from engaging in "related party transactions"—transactions between Pathé and its executive officers, directors and other individuals and entities associated with the company—without approval of an independent

AP/WIDE WORLD PHOTOS (2)

committee of the board.

Parretti and Fiorini concocted a scheme by which a company called Cinema 5, purportedly controlled by Italian media mogul Silvio Berlusconi, purchased a group of Pathé's movie theaters in England and Holland for \$185 million. Pathé purportedly used the money to pay down its debt owed to a Crédit Lyonnais subsidiary. In fact, Cinema 5 was a shell created by Fiorini, with the knowledge of Crédit Lyonnais officials, for the sole purpose of deceiving regulators, including the SEC. The money didn't come from Silvio Berlusconi. The signature of one of Berlusconi's aides was forged on a document to make it appear that it did, when in fact the money came from Crédit Lyonnais. Parretti and Fiorini's overall debt to the bank rose rather than declining.

According to the Justice Department report, a KPMG partner in Amsterdam, Henk Lafebre, was "highly suspicious" that the Cinema 5 transaction was not an arms-length deal. Lafebre expressed his concerns to

► Widening Scandal

Prosecutors have termed the MGM-Crédit Lyonnais affair a global fraud case of "unprecedented complexity."

Two Crédit Lyonnais bankers pocket bribes from Parretti, an Italian with a long criminal record.

Parretti and his partner Fiorini acquire MGM with bribe-oiled Crédit Lyonnais loans.

Criminal investigations of Crédit Lyonnais, Parretti and Fiorini gear up in the U.S. and France.

Parretti and Fiorini are placed under house arrest in Italy to await extradition to Los Angeles.

Federal prosecutors criticize White & Case and KPMG for their roles in key MGM transactions.

François Gille, a top Crédit Lyonnais official, refused to identify Cinema 5's owners, citing "bank secrecy" concerns, KPMG signed off on the newly named MGM-Pathé's 1990 annual 10-K report to the SEC, a document the Justice Department has since concluded was "materially false and misleading." At about the same time, a newly installed chief financial officer at MGM-Pathé, Thomas Carson, tried to fire KPMG as MGM-Pathé's auditors. But he was overruled by François Gille, who himself had been a partner at a predecessor firm to KPMG Peat Marwick. It was Carson's impression that KPMG's first loyalty was to Crédit Lyonnais, not MGM-Pathé.

Concerned about looting at MGM-Pathé, Crédit Lyonnais launched its own probe, dispatching a team of bankers to its Dutch subsidiary, which had lent most of the money to the Italians. In a briefing to his Paris colleagues, Yves Gouzerh, the bank's chief investigator, burst into tears when describing the frauds he had discovered.

By then it was too late. Fiorini tried to protect himself by going behind Parretti's back to aid Crédit Lyonnais

in its probe. In February 1991, Fiorini wrote a note to a White & Case partner, acknowledging that the Cinema 5 transaction hadn't been at arm's length.

But White & Case did nothing to change the public characterization of the deal. In fact, according to the Justice Department report, the White & Case Paris office later helped Crédit Lyonnais hide relevant documents from Swiss authorities who were investigating the bank, seriously impeding the investigation. Says Holwell: "There's nothing wrong in keeping central control over documents."

As counsel for Crédit Lyonnais, White & Case played a key role in deciding how to report the Cinema 5 transaction to the investing public through SEC documents. But because the firm represented many of the key participants in the Cinema 5 transaction, the Justice Department concluded there were "numerous conflicts of interest which seriously undermined any ability White & Case had" to be thorough, complete and independent.

The firm, for instance, submitted a memorandum to French authorities for transmittal to the SEC which "deliberately ignored substantial [incriminating] evidence of which the bank was aware." Example: White & Case knew of a forgery by Fiorini but did not bring it to the attention of the SEC. "Ultimately," the report says, "the SEC did not take any action ... largely in reliance on representations made by White & Case."

Retorts Holwell: "I don't think anybody can charge that anybody was dishonest with the SEC." To the contention that White & Case had conflicts of interest investigating Cinema 5, Holwell says: "Baloney."

It is not too much to read into the report from Justice the damning implication that, had White & Case and KPMG exercised reasonable diligence, the MGM deal would have collapsed and the legendary studio would never have been looted.

■



Florio Fiorini's many talents include forgery.

partners in the Los Angeles office, which bore final responsibility for auditing Pathé.

But the Los Angeles partner in charge of the account, James Weir, did not credit the warnings, or those of Douglas Flint, an audit partner for KPMG in London. Despite the fact that



Corruption threatens "soul and fabric" of U.S.: FBI

Tue, Dec 8 2009

By Pascal Fletcher

BOCA RATON, Florida (Reuters) - Corruption, whether in the form of crooked officials, financial fraudsters or even philandering sports stars, is tearing at the fabric of U.S. society and is the country's No. 1 criminal threat, a senior FBI agent said on Tuesday.

Addressing businessmen in Florida, where financial fraud cases jumped by 42 percent in the last year, FBI Miami Division Special Agent in Charge John Gillies said failures in personal ethics and integrity sowed the initial poisonous seeds of corruption in a society.

Gillies said transgressions by high-profile public servants and even perceived social role models, like top golfer Tiger Woods, currently embroiled in allegations that he had extramarital affairs, sent the signal to young Americans that cheating and stealing were acceptable.

"Where do our children learn this? They see us, their elected officials, their sports stars, they see how they act and they figure, 'well it's OK,'" he said, citing the case of Woods, whose early morning car accident in Florida last month triggered a storm of media questioning of his clean-living reputation.

"Money can't buy everything," Gillies said in a speech to the West Boca Chamber of Commerce in Boca Raton, Florida. The special agent, who manages high-profile cases in Florida, the Caribbean and Latin America, in no way suggested Woods had committed any criminal offenses.

Florida police issued Woods a ticket for careless driving last week and said no criminal charges would be filed. He quickly paid the \$164 fine, his lawyer said. Police also said no allegations of domestic violence were leveled.

Gillies, a 27-year veteran of the FBI, called corruption in all its multiple forms, whether in law enforcement or in the judicial system, or involving tax cheats and fraudsters, "our number one criminal threat" in the United States.

"It really gets at the soul and fabric of the United States when people are out there corrupting ... it all starts with simple ethics violations," Gillies said.

FOLLOW THE MONEY

He said public corruption investigations by the FBI were "huge" and had increased by more than 20 percent in the last five years, while financial scams -- from securities and hedge fund frauds to Ponzi schemes -- had jumped by more than 25 percent nationwide in the last year alone.

These cases involved hundreds of millions and even billions of dollars.

Florida in particular has been rocked by a number of high-profile Ponzi schemes this year, including fallout from the cases surrounding convicted Wall Street swindler Bernard Madoff and accused Texas financier Allen Stanford.

Gillies' FBI team last week arrested a flamboyant Fort Lauderdale attorney, Scott Rothstein, and charged him with bilking investors out of \$1.2 billion in a Ponzi scheme that funded his luxury lifestyle and political largess.

Rothstein, now disbarred, has pleaded not guilty.

Asked why the "Sunshine State" of Florida appeared to be so increasingly prone to financial scams, Gillies told Reuters the concentration of money in the wealthy Southeast state was "the number one" factor.

He said a high concentration of out-of-state Americans and foreigners was also a factor.

In his speech, Gillies also cited the economic recession as a contributing feature, as many victims were -- often blindly, often out of greed -- seeking to improve returns on money and investments in hard financial times.

He said offers of 15, 20, 25 percent returns in a recession should be an automatic "red flag" of possible fraud.

For those frustrated by diminished earnings eroded by the crisis the FBI veteran offered the following caveat against temptation: "The worst day at work is still better than the best day in jail."

(Editing by Jim Loney and Howard Goller)



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