



Criminal Division

JEH:RT:CLF:JMB:jmb

182-12894 (please repeal when responding)

Washington, DC 20530

BY TELEFAX; ORIGINAL BY AIRMAIL

MAY 23 2001

Giorgio Bomic, Esquire
Central Authority for U.S. Requests
Division of International Legal Assistance
Federal Office for Police Matters
Bundesrain 20
3003 Bern
Switzerland

Dear Mr. Bomic:

Re: Second Supplemental Request to Switzerland for Assistance
in the Investigation of James H. GIFFEN, et al.

Enclosed is a second supplemental request for assistance on behalf of the U.S. Attorney's Office for the Southern District of New York and the U.S. Department of Justice, Criminal Division, Fraud Section and Organized Crime and Racketeering Section pursuant to the Treaty between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters (entered into force January 23, 1977). A French translation of this request will be provided as soon as possible.

If you have any questions concerning this matter, please contact me at 41-22-789-2646 or Jonathan Breyan, the paralegal assigned, at (202) 514-6188. Thank you for your assistance in this matter.

Sincerely,

John E. Harris
Acting Director
Office of International Affairs
Criminal Division

By: *Judith Friedman*

Colette L. Ford
Senior Trial Attorney
P.O. Box 27330
Washington, D.C. 20038-7330

Enclosure

cc w/ enclosure:

Miriam Banks
Assistant Chief
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Mary Mulligan
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U.S. Attorney's Office
One Saint Andrew's Plaza
New York, NY 10005

TO: The Central Authority of Switzerland

SUBJECT: Second Supplemental Request for Assistance in the Investigation of James H. Giffen, et al.

The Central Authority of the United States again requests the assistance of the appropriate authorities in Switzerland pursuant to the Treaty on Mutual Assistance in Criminal Matters. The Southern District of New York, the Organized Crime and Racketeering Section, and the Fraud Section of the United States Department of Justice (collectively referred to as the "SDNY"), continue to investigate James H. Giffen, a U.S. citizen and the chief executive officer of the Mercator Corporation ("Mercator"), and others for violations of U.S. law involving the alleged use of U.S. banks to funnel funds belonging to certain oil companies through Swiss bank accounts and shell companies in Switzerland and the British Virgin Islands for ultimate transfer to present and former high-ranking officials of the Republic of Kazakhstan. In connection with this matter, the SDNY is investigating whether Giffen and others paid bribes and made illegal payments to Kazakh officials in connection with the sale of rights in the Tengiz field as well as other oil and gas concessions located in the Republic of Kazakhstan.

The prosecutors now seek bank records believed to be in Geneva, Switzerland, concerning certain transactions involving Dundy Trading Corp., a B.V.I. corporation, for the economic benefit of a Kazakh government official, who held a senior position in the Oil and Gas Ministry for the Republic of Kazakhstan from 1994 to 1997. The prosecutors seek bank records also located in Geneva, Switzerland, concerning certain transactions involving Alqui Holdings Ltd. at Credit Agricole Indosuez, Geneva. Alqui Holdings Ltd. is an offshore corporation for the benefit of a former executive at Mobil who participated in the purchase of Mobil's rights in the Tengiz field.

On June 12, 2000, a formal request for assistance in the above-referenced matter was sent to the Swiss Central Authority pursuant to the Treaty on Mutual Assistance in Criminal Matters. On August 21, 2000, a clarification letter was sent to the Swiss Central Authority providing additional information concerning the investigation. Thereafter, a supplemental request for assistance was submitted to the Swiss Central Authority on April 26, 2001. We incorporate by reference the facts, offenses, subjects and the procedures to be followed set forth in the June 12, 2000, request for assistance, the additional facts in the August 21, 2000, clarification letter and the facts of the April 26, 2001, supplemental request for assistance.

The prosecutor further requests that any funds traceable to the subject matter of this request as well as the April 26, 2001, supplemental request for assistance be frozen to prevent their removal or dissipation and as a preliminary step to forfeiture under United States law subject to the operation of Swiss law. Should Switzerland initiate proceedings pursuant to its law to forfeit these proceeds, the United States will use its best efforts to provide assistance, in accordance with the treaty, to facilitate those proceedings.

SUPPLEMENTAL FACTS

A. Tengizchevroil

In or around May 1996, the Mobil Corporation ("Mobil") acquired a 25% direct partnership interest in the Tengizchevroil joint venture from the Republic of Kazakhstan. In connection with the Tengizchevroil transaction, the Ministry of Oil and Gas of the Republic of Kazakhstan (the "Ministry") retained Mercator as an official advisor. During 1995 through 1996, Mobil paid Mercator a total of \$51 million supposedly for services that Mercator rendered to the

Ministry as follows: (1) \$5 million to Mercator on or around August 3, 1995, in connection with the signing of the Heads of the Agreement; (2) \$5 million to Mercator on or about October 20, 1995, in connection with the signing of a Memorandum of Understanding, and (3) \$41 million to Mercator on or about May 17, 1996, upon the signing of the Final Sale and Purchase Agreement.

In or about May 1995, the Dundy Trading Corp., a B.V.I. corporation, was established. A Kazakh government official, who held a senior position in the Ministry of Oil and Gas for the Republic of Kazakhstan, was the President and Treasurer of Dundy Trading Corp. However, the business activity of Dundy Trading Corp. was conducted through its U.S. registered agent. On or about September 1, 1995, less than one month after Mobil paid \$5 million to Mercator, Dundy Trading Corp. purchased a house located at 53 Sheffield Road in Newton, Massachusetts, for approximately \$910,000, in which the Kazakh officials's wife and children subsequently lived. The U.S. registered agent for Dundy Trading Corp. made several payments concerning the house, including the initial cash purchase. It appears that no mortgage was taken on the property. After the house was purchased, many expenses incurred in connection with the upkeep of the house, including real estate taxes, repairs, and landscaping were paid by Mercator or James H. Giffen. In addition, James H. Giffen and Mercator paid the U.S. registered agent for some of the services he rendered to Dundy Trading Corp. The Newton house was sold in or around July 2000, apparently, after the allegations of corrupt practices by Giffen, Mercator and current and former Kazak officials were raised by Swiss and American authorities.

In addition to purchasing the house in Newton, Massachusetts, for the Kazakh official's family, Dundy Trading Corp. made several substantial transfers of money to his wife. For example, on or about January 31, 1997, and February 4, 1997, Dundy Trading Corp. transferred

approximately \$10,000 and \$240,000 respectively, from account number 04024587 at BOE
Bruxelles Lambert Geneva via Banker's Trust in New York to account number 794-87414 in the
name of the Kazakh official's wife at Bank of Boston in Boston, Massachusetts. These funds
were used by the Kazakh official's family for personal expenses, including, among other things,
the payment of college tuition and the purchase of expensive clothing and other luxury items.
Finally, it appears that the Kazakh official's salary earned during 1995 and 1997 was not
sufficient to provide for the \$910,000 purchase price of the house located at 53 Sheffield Road
and the \$250,000 transfer of money to his wife.

B. Payments to A Former Mobil Executive

The April 26, 2001, supplemental request contained evidence suggesting that a former
executive of Mobil who participated in the negotiation of the Tengizchevroil transaction may have
received illegal payments in violation of U.S. law and deposited those proceeds in bank accounts
located in Geneva, Switzerland. Since that time, information has been received that the former
Mobil executive was the beneficial owner of bank accounts numbers 1017446T and 1017445L, in
the name of Alqui Holdings Ltd, at Credit Agricole Indosuez, Geneva. Nichem, a company that
was previously identified in the April 26, 2001, supplemental request as having a fee-sharing
relationship with Mercator in connection with the Tengizchevroil transaction, and its beneficial
owner, transferred substantial sums of money into bank accounts numbers 1017446T and
1017445L for the benefit of the former Mobil employee.

REQUEST FOR FREEZE

The prosecutor requests that any funds traceable to the subject matter of this request as well as to that of the April 25, 2001, supplemental request for assistance be frozen to prevent their removal or dissipation and as a preliminary step to forfeiture under United States law, subject to the operation of Swiss law. Should Switzerland initiate proceedings under its law to forfeit these proceeds, the United States will use its best efforts to provide assistance, in accordance with the treaty, to facilitate those proceedings.

ADDITIONAL EVIDENCE REQUESTED

Please provide copies of any and all records relating to:

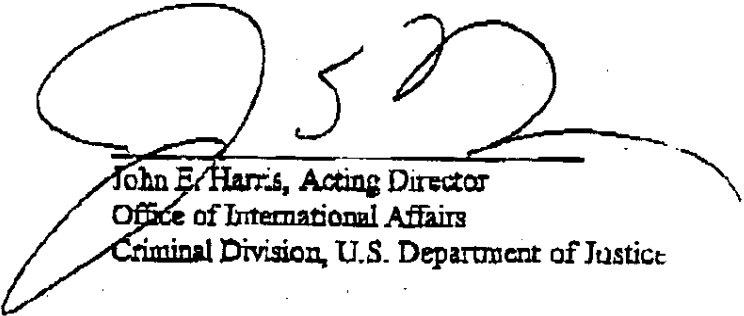
1) account number 04024587 at BQE Bruxelles Lambert, Geneva, in the name of or for the benefit of Dundy Trading Corp. for the period 1995 to the present; and

2) account numbers 1017446T and 1017445L at Credit Agricole Indosuez, Geneva, in the name of or for the benefit of Alqui Holdings Ltd. for the period from which the account was opened to the present.

PROCEDURES TO BE FOLLOWED

Please provide business records certifications as set out in the original request of June 12, 2000.

Given the sensitive nature of this investigation, it is again requested that the Swiss authorities not disclose any information contained herein to any third parties, without first consulting the U.S. Central Authority.



John E. Harris, Acting Director
Office of International Affairs
Criminal Division, U.S. Department of Justice