

United States v. Frederic Bourke  
S2 05 Cr. 518 (SAS)

Transcript of the Audio Recording on Government Exhibit 4-A

Participants:

Frederic "Rick" Bourke (BOURKE)  
Richard "Dick" Friedman (FRIEDMAN)  
William "Bill" Benjamin (BENJAMIN)  
Jay Colvin (COLVIN)

Abbreviations:

I/A (Inaudible)  
U/I (Unintelligible)  
sic (Spoken as Heard)

[Start of Recording]

BOURKE: --only way that we think is the way to, for us to do this. If we don't do this soon, uh, eh, you know, you're going to find, uh, Fleck has gone on the b--, board, and Clayton and Cooperman have, and then he's going to look at us and think we're a bunch of jerks.

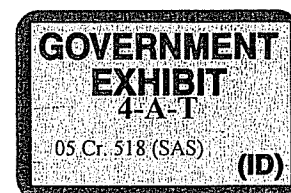
FRIEDMAN: Right now.

BOURKE: Yeah. No, no, so I think we need to come up with a vehicle that we all agree is the--, really the only way to go about doing this that gives us the protection that we all want.

FRIEDMAN: Wh--, wh--. The question is: Why does Cooper--, why do Cooperman and, uh, and Clayton Lewis want to be on this board. That's, let's ask ourselves that question.

BOURKE: Well, they want to be on the board because they, uh, they want to be involved with, uh, the purchasing of these, uh, companies as they, uh, get privatized. But they don't need to be on the board. Uh, you know, Viktor's asked them to come on the board, and I think if we get them to agree they'd do what we want to do, that protects all of us, I think we're in a lot better shape.

FRIEDMAN: What about if we stay on the board of Minaret but get off Oily Rocks? Minaret is, in fact, the company that provides--. Minaret has a, has the document. No, we're not sinking any capital in Minaret. Uh, we have a document that Minaret does not, uh, have any kind of, uh, relationship with any foreign people, it doesn't



split the money, blah-blah-blah, it advises Oily Rocks, something like that. How does that work?

BOURKE: I think, uh, I think we're, we're still running the same risk here, that, uh, Viktor, Viktor, you know, owns and operates Minaret the way he wants to, to do all kinds of deals all over, uh, Central Asia.' And I have no idea how they're doing it. I, I don't know, I-I mean, look. If they do a deal in Iran, I don't know if they paid somebody, uh, ten million bucks to do it.

FRIEDMAN: Did they do a deal in Iran?

BOURKE: Well, uh, I mean they're talking about doing a deal in Iran. They got an offer from Iran. But let's say they do a deal in Iran. Maybe they blackmailed somebody or bribed them, I mean, with, uh, ten million bucks. I, I mean, I'm not saying that's what they're going to do, but suppose they do that. And-

BENJAMIN: Another whole potential, uh, rats' nest from the U.S. legal point of view with any deal in, with Iran.

BOURKE: Okay, well, uh, we don't have to take Iran - take Turkmanistan [sic] or Kazakhstan -

FRIEDMAN: No but, no but, this gives us, this is, this is colorful for us, uh, or at least with respect to the Minaret Group, why we can't be involved with it.

BOURKE: But I think, uh, my gut is, is Minaret's doing twenty-five deals. Uh, you know, I have no idea how they get those deals. And, and I'm not saying, it may be all on the up-and-up. I'm just saying I don't know. I don't know how you conduct business in Kazakhstan or Georgia or Iran, uh, or Azerbaijan and if they're bribing officials, uh, and that comes out, uh, and let's say, you kn--. Let's say at dinner one night, you know, uh, one of the guys at Minaret, you know, says to you, Dick, you know, "We know we're going to get this deal. You know, we've taken care of this minister of finance, or this minister of this or that." What are you going to do with that information?

COLVIN: I guess another twist to it is Hans, uh, described Minaret as an investment bank with, uh, various subsidiary banks. I have a little bit of concern, Rick, also with, uh, with banking laws in various countries.

BOURKE: Yeah.

COLVIN: And your being associated with that. Uh, that's probably more regulated than the voucher area right now, except insofar as they're might be FCPA violations.

BOURKE: What happens if they break a law in, uh, in, uh, you know, Kazakhstan, or they bribe somebody in Kazakhstan and we're at dinner and, uh, you know, uh, one of the guys says, "Well, you know, we paid some guy ten million bucks to get this now." I don't know, you know, if somebody says that to you, I'm not part of it, I didn't, I didn't endorse it. But let's say, uh, they tell you that. You got knowledge of it. What do you do with that? I mean, do y--; and do you think, I, I'm just saying to you in general, do you think business-

FRIEDMAN: I think you've got us convinced.

BOURKE: No, but do you think business is done at arm's length in this part of the world?

FRIEDMAN: No, uh, the g--, the guy at Hale & Dorr who I talked to this morning on Foreign Corrupt Policy [sic] Act says ninety-five percent of his questions that he gets these days on this Act is about the former Russian, former USSR area. [Laughter]

BOURKE: Yeah.

FRIEDMAN: Did, uh, um, uh - Bill, did Jay get back to you?

BENJAMIN: No, he hasn't.

FRIEDMAN: Look, let, let, let's, let's, let's figure out a way that gives us, uh, comf-, you know, this is, for all of us, it's too middle-aged to take this. We've just got to figure out-

BOURKE: Okay, but, but Dick, you know, uh, you, uh, I don't mean to tie up everybody while we talk. But, Dick, it, it would help me, because I talked to Clayton last night, I talked to him this morning. It would help me if you talked to Clayton. He's heard some of this from me.

FRIEDMAN: I will. I'm going to call Clayton right now, but-

BOURKE: You got his number at the office.

FRIEDMAN: Yeah. But let's, let's talk for a second about whether or not our, our, um, genius legal minds we have here on

the phone with us can figure out some way that we could give, uh, a creative solution that would give Viktor. We, we, uh, we've [U/I] that on [U/I]. We said, at least from my perspective, I'm willing to take the P.R. hit, the reputational hit -- John Hamilton was worried about -- you know, if this thing blows up, that's okay. I, 'cause I can say, "Hey, look. I invested money, I made a bad investment, I, I went in with some bad people. Not the first time I went in with bad people. It may be the last. [Laughter]. Uh, you know, look at my reputation now with Clinton. Everybody thinks I'm fucking Lewinsky..

BOURKE: Yeah. [Laughs.]

FRIEDMAN: So, so, uh, I don't ca--, I mean, I care about that, but that's, that's, I'm willing to be associated with Viktor. I know him. Um. Without telling you anything, Rick, I've, I've checked Viktor out in a, in a, wi--, in a very careful way.

BOURKE: Yeah.

FRIEDMAN: And I got very good stuff.

BOURKE: Yeah, yeah, yeah. He's a great guy.

FRIEDMAN: No, I mean, aside from great guy, I've done some actual checking.

BOURKE: Yeah.

FRIEDMAN: He comes up fine.

BOURKE: Yeah.

FRIEDMAN: I'm not going to tell you what I did.

BOURKE: Okay. Well, I can tell you, you know, uh, I've spent three years checking him out. But it, it still doesn't completely-

FRIEDMAN: Well, I'm saying, I'm, I'm willing to live with the reputational thing. Let's-

BOURKE: Yeah.

FRIEDMAN: --let's got ourselves out of the civil and criminal liability, Oily Rocks/Minaret--

BOURKE: Okay.

FRIEDMAN: --and try to figure out a mechanism by which we--

BOURKE: Okay.

FRIEDMAN: --are associated publicly with him, give him that benefit and that pleasure.

BOURKE: Okay, but, uh, let's leave that up to Bill and Jay. These guys, uh, I, I'd like to think can come up with a, uh, a scheme, that will, uh, uh, get us out of the, uh, the criminal and civil liability issues, but it can make us look as though we're associated with it. But again, Dick, I don't mean to dwell on it, but Aaron's on board with us. He's not doing anything 'til he gives [U/I].

FRIEDMAN: I will call Clayton right now.

BOURKE: Okay. He's the one, and George will do anything I suggest. So, we need to, the, the big guy who's got two hundred million bucks over there is Clayton. We need to get Clayton-- Cooperman will do whatever Clayton says. I've been with, uh, Lee. But, uh, we need to get Clayton on board with us, because, and you ought to ask him, you know, "You don't have any money in Oily Rocks. Why not, uh, stay outside that and, uh, and be on a different company board that, you know, gives Viktor the appearance we're all involved?"

FRIEDMAN: Yeah, no, I'd like, but I'd like to h--, I'd like to, when I go to him, do, do, do you lawyers, without, you want to talk with each other and, and, uh, come up with an, an idea? Or, or should I just say to Clayton, "Look. We think there ought to be some ways that we can be on a board that is not directly affiliated, you know, and it's a, it's a, you know-

BENJAMIN: No, of a, of a different entity that's not controlled by Viktor, but is associated with Oily Rock and maybe has the name Oily Rock.

BOURKE: And the other thing, Bill -

COLVIN: And if we can get around the foreign-controlled corporation, uh, problem, uh, perhaps, uh, Viktor contributes some of his interest in Oily Rock to your company. And he'll hold a majority of it outside, whether it's through his BVI trust or his Ireland interest, or whatever he wants to do. And, uh, he can be a partner of yours and a minority stakeholder in the same entity.

FRIEDMAN: Can I ask a question? Uh, we don't know why, why Clayton and Cooperman are doing this. But could, could this entity have, um, some right to appro--, some right of approval over investments that Oily Rocks makes? Is--, isn't it likely that that's mostly what Cooperman wants out of this, is some control over whether or not they--, a say on whether they, they-

BENJAMIN: [Aside: --is not getting that being one on a seven or eight]

BOURKE: Yeah, and, and I'm gonna tell you. Cooperman, I, I'm just telling you, I, I met with Lee, spent an hour with him. And we're, we're talking on the phone. Cooperman doesn't know what the shit's going on. Uh, he, he is relying one hundred percent on Clayton. Cooperman has no fucking idea what's going on.

FRIEDMAN: Okay.

BOURKE: You know, and you, you know what he asked me? Three separate times, in one hour I was with him, he said, "Rick, am I going to be able to write this asset up by December 31st?", so that he can take his twenty percent pay. You know, he's got a hundred million, he said, "Am I going to be able to write this up by fifty percent?", which gives him a hundred and fifty million, and he gets twenty percent of the fifty million. That's--, he asked me that three separate times. He didn't ask me, "Is there any liability?" or "Anything wrong going on here?", or, you know, he didn't ask me, "Are we going to make twenty times our money?" He wanted to know if we could write it up by December 31st.

FRIEDMAN: This is a good question, don't you think?

BOURKE: I, I couldn't believe it. [Laughter]

FRIEDMAN: Um, I will, uh, I will in my, uh, I will try to, uh, scare Clayton sufficiently that he does nothing, uh, right now. And let's let Jay and, uh-

BOURKE: Okay.

FRIEDMAN: --Bill talk.

BOURKE: Bill, my comment was, I don't know, uh, Jay has suggested, uh, and I don't know who was talking a few minutes ago about this, but, uh, putting all of our investments in this company, etcetera. But I, I, I

just think that's a little bit of window dressing. I think we can all say to anybody that we meet on behalf of Viktor that we're his partners.

BENJAMIN: Yeah.

BOURKE: I mean, we are his partners. George Mitchell can say, and look, you know, President Aliyev-

FRIEDMAN: What's a--, let me ask a question. Suppose we have a company called Oily Rocks Partners, which is all of us Americans and Viktor as partners in a, in a partnership. Which takes, you know, I don't know, five perc-, five, five percent of Oily Rock Corp or Group.

BOURKE: Yeah.

FRIEDMAN: Now we have a partnership. You know, a general partnership, I guess, but we're not -- would that work, guys?

BOURKE: Well, I, I, all I'm saying is, I think we can have a company that just us Americans are in, and we can, and, and George Mitchell and you and I can say to any banker and look him straight in the eyes with no problem and say, "We're Viktor's partners", because we are investing and are partners in Oily Rocks. We've invested with Viktor.

FRIEDMAN: So, so we have Oily Rocks U.S. Corp, a blank corporation, which we are directors. Which, and it has a contract with Oily Rocks Group to provide advice on strategic matters, um, capital forma-- you know, whatever --

BOURKE: Yeah.

FRIEDMAN: --as requested, and, uh, you know, it will report to the Oily Rocks people, you know-

BOURKE: Quarterly.

FRIEDMAN: --quarterly.

BOURKE: And on top of that, we have--independently of that company--we have all invested in Viktor's company Oily Rocks.

FRIEDMAN: Correct.

BOURKE: And we are partners.

FRIEDMAN: Right.

BOURKE: I don't know what more he can ask for. Then, then, we are, uh, we're, we're associated with him, uh, and we are totally independent of anything that he does. Do you think, Bill?

BENJAMIN: Not, not, not totally, but, uh, much more so than under the, uh, original-

BOURKE: Why do you say, "Not totally"?

BENJAMIN: Well, because you're clearly associated with him, and, uh, the political risks that Dick alluded to earlier-

BOURKE: Oh, yeah, yeah. But we aren't going to be, uh, civilly liable-

BENJAMIN: From, from a legal point of view, I think you've successfully distanced yourself from, uh, the existing company.

FRIEDMAN: Is it a problem for us to take the name Oily Rocks, uh, U.S., Bill?

BOURKE: Okay, but, we have, we are, we are no longer involved, uh, we are no longer at risk civilly or criminally for anything that the company or Viktor does.

BENJAMIN: Not if, not if you're not directly participating in it in some way, in terms of authorizing it or-

FRIEDMAN: No, we're not going to-

BENJAMIN: --conceiving it or implementing it.

BOURKE: Yeah. Uh, what was the first one?

COLVIN: Authorizing?

BENJAMIN: Authorizing.

BOURKE: Yeah.

FRIEDMAN: What, what we do, Rick, is we say that we're going to give this advice in turn for, uh, maybe a one percent interest in the company, or some kind of, you know, something.

BOURKE: Well, whatever. We can talk to Hans about that. Uh, but I think Viktor is talking about paying each of the directors, uh-

FRIEDMAN: No, no, I understand the directors' fees. I just think that Oily, that-

BOURKE: Oh, I see.

FRIEDMAN: --the purpose of this business, has got, there's got to be a, a purpose, there's got to be a business in this, in this, for this thing. It's not-

BOURKE: Well, no, no, you take the directors' fees --

BENJAMIN: You're all investors in the, the other company.

BOURKE: No but also, though, Dick, you take the total directors' fees is going to be paid. Let's say it's going to be a half a million a year. So the, the company gets a half million dollar consulting agreement.

FRIEDMAN: Right.

BOURKE: I mean, so he's paying --

[Three beeps]

BOURKE: --[U/I] he pays all the expenses, uh-

FRIEDMAN: And we'll-

BOURKE: --travel expenses.

FRIEDMAN: --go to meetings, and we'll cons--. That's, that, that's a great idea. Umm, let me try to reach Clayton right now-

BOURKE: Okay.

FRIEDMAN: --and, um, uh, Bill and Jay, if you guys can chat. And what's your sch--, Rick, you're in, in, um-

BOURKE: I go back to, uh, uh, Connecticut, uh, tomorrow. I'm here tonight and tomorrow morning. Probably leave here, I don't know, around twelve o'clock.

FRIEDMAN: Jay, have you ever talked to, to Hans?

COLVIN: Yes.

BOURKE: No, Jay has not. David Hempstead has.

COLVIN: No, I've talked to Hans.

BOURKE: Jay fell asleep. [Laughter]. You there, Jay?

COLVIN: I'm here, Rick. I'm sorry. I had you on mute for a minute. They're moving some shelves out of my office.

BOURKE: Okay, no problem. [Laughter]

COLVIN: Uh, yeah, I've talked to Hans.

BENJAMIN: I, I think I'm-

[clicking noises]

FRIEDMAN: --if you want I'll call him [U/I]--

BOURKE: Yeah, sure.

FRIEDMAN: I don't have a problem with that.

BOURKE: Okay.

FRIEDMAN: Uh, I can tell him we've been chatting, and this is our, our conclusion.

BOURKE: Yeah.

FRIEDMAN: Um, and if you lawyers could talk, I, I, uh, Bill, I'm going to take a redeye home tonight. I'm in Las Vegas right now.

BENJAMIN: Okay.

FRIEDMAN: I'll be in the office by nine in the morning.

[Beep]

**[End of Recording]**