



2. The Travel Act, 18 U.S.C. § 1952, was enacted by Congress for the purpose of, among other things, making it unlawful for United States persons and businesses to travel in interstate or foreign commerce or use the mail or any facility in interstate commerce to promote, manage, establish, carry on, or facilitate the promotion, management, establishment or carrying on of certain unlawful activity, including violations of the Foreign Corrupt Practices Act.

### **BACKGROUND**

#### **Azerbaijan and Privatization**

3. The Republic of Azerbaijan ("Azerbaijan") is located in the Caspian Sea region in southwestern Asia and borders Russia, Georgia, Armenia, Iran, and the Caspian Sea. Formerly a Republic within the Soviet Union, Azerbaijan has been a sovereign nation since 1991, with its capital in Baku. Azerbaijan has substantial deposits of oil and natural gas within its territory. Azerbaijan's oil and gas reserves, as well as its oil and gas exploration, production, and refining facilities, were held by the State Oil Company of the Azerbaijan Republic ("SOCAR"), which was owned by the Government of Azerbaijan.

4. In the 1990s, Azerbaijan undertook to privatize certain of its state-owned enterprises. The privatization process in Azerbaijan was governed principally by the State Privatization Program from 1995 to 1998, which specified the

state-owned companies that would be privatized and how those companies would be privatized. The privatization process was administered principally by Azerbaijan's State Property Committee (the "SPC"). By law, certain industries, such as the oil industry, were deemed strategic enterprises that could only be privatized at the direction of the president of Azerbaijan. Thus, SOCAR was one of the state-owned companies that could only be privatized with a special decree from the president of Azerbaijan.

5. As part of Azerbaijan's privatization program, each of its citizens received at no cost a voucher booklet comprised of four voucher coupons. The voucher booklets and coupons were bearer instruments, meaning they were not registered to particular owners, but were owned by whoever held them. The voucher booklets and coupons were freely tradable, and could be used to bid for shares of privatized enterprises at auction. Typically, some shares of an enterprise that was being privatized were sold for vouchers at auction, other shares were sold for cash at auction, and still other shares were reserved for sale to the enterprise's employees. Foreigners intending to participate in privatization or use vouchers at auction were required to purchase instruments called "options" – specifically, one option for each voucher coupon held. The SPC sold options at an official government price. Vouchers and options typically were

bought and sold using United States currency.

**THE RELEVANT PARTIES, ENTITIES AND OTHER INDIVIDUALS**

**The Investment Consortium**

6. Viktor Kozeny, a co-conspirator not named as a defendant herein, was a Czech national, an Irish citizen, and a resident of the Bahamas. Kozeny held the following positions: (1) President and Chairman of the Board of Oily Rock Group Ltd. ("Oily Rock"); and (2) President and Chairman of the Board of Minaret Group Ltd. ("Minaret"). Kozeny was, through various investment vehicles, also a shareholder in Oily Rock, and the principal owner of Minaret. Kozeny exercised effective control over Oily Rock and Minaret. In connection with an investment in Azeri privatization vouchers and options, Kozeny was an agent of Oily Rock's shareholders and Oily Rock's and Minaret's co-investors, most of whom were American citizens and "domestic concerns." As a result, Kozeny was an agent of "domestic concerns," as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1)(A).

7. FREDERIC BOURKE, JR., the defendant, was a United States citizen and investor with Viktor Kozeny in Azeri privatization. In or about March and July 1998, BOURKE twice invested and organized investments in Oily Rock through an investment vehicle, Blueport International, Ltd. ("Blueport International"). Blueport International was a corporation

organized under the laws of the British Virgin Islands in which BOURKE was the principal shareholder. Other shareholders in Blueport International were BOURKE's family members and friends. Blueport International invested approximately \$8,000,000 in Oily Rock shares, approximately \$5,300,000 of which BOURKE invested personally. BOURKE was a "domestic concern," as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1)(A).

8. Oily Rock was a corporation organized under the laws of the British Virgin Islands with its principal place of business in Baku, Azerbaijan. Oily Rock invested in Azeri privatization vouchers and options for the primary purpose of acquiring at auction a controlling interest in SOCAR and, to a lesser extent, several other valuable Azeri State assets. Oily Rock was created by Viktor Kozeny in approximately July 1997. Thereafter, Oily Rock issued shares of its stock to various individuals, including FREDERIC BOURKE, JR., the defendant, and entities. Oily Rock also entered into co-investment agreements with institutional investors (hereafter the "co-investors"), whereby the parties agreed to pursue a joint investment strategy in acquiring, safeguarding, and exercising at auction Azeri privatization vouchers and options for the primary objective of acquiring a controlling interest in SOCAR and, to a lesser extent, other valuable Azeri State assets.

9. Minaret was a corporation organized under the laws of the British Virgin Islands with its principal place of business in Baku, Azerbaijan. Minaret engaged in various investment banking activities, including the acquisition and safeguarding of Azeri privatization vouchers and options on behalf of Oily Rock, its shareholders, and its co-investors. To this end, Minaret was a party to the co-investment agreements between Oily Rock and the co-investors. Minaret was created by Viktor Kozeny in approximately July 1997. Kozeny was the President and Chairman of the Board of Minaret, as well as Minaret's principal owner, and he exercised effective control over Minaret. Together, Oily Rock, Minaret, Oily Rock's shareholders, and the co-investors will be referred to hereafter as the "investment consortium."

10. Omega Advisors, Inc. was a hedge fund, organized as a corporation under the laws of Delaware with its principal place of business in New York, New York. Omega Advisors, Inc. entered into a co-investment agreement with Oily Rock and Minaret through various of its subsidiaries and affiliates. Omega Advisors, Inc. and its subsidiaries and affiliates (hereafter referred to collectively as "Omega") were "domestic concerns," as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1)(B).

11. Pharos Capital Management, L.P. was an investment fund organized as a limited partnership under the laws of

Delaware with its principal place of business in New York, New York, until in or about September 1998, and thereafter in Red Bank, New Jersey. Pharos Capital Management, L.P. was in the business of investing in emerging markets. Pharos Capital Management, L.P. entered into a co-investment agreement with Oily Rock and Minaret through various of its subsidiaries and affiliates. Pharos Capital Management, L.P. and its subsidiaries and affiliates (hereafter referred to collectively as "Pharos") were "domestic concerns," as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h) (1) (B).

12. Clayton Lewis, a co-conspirator not named as a defendant herein, was a United States citizen and a principal of Omega Advisors, Inc. until in or about August 1998, and was the sole principal of Pharos. During his tenure with Omega Advisors, Inc., Lewis and others negotiated Omega's and Pharos' Letters of Intent and Co-Investment Agreements with Oily Rock and Minaret. Lewis and others oversaw Omega's investment with Viktor Kozeny, Oily Rock, and Minaret. During the same period, Lewis also managed Pharos' investment with Kozeny, Oily Rock, and Minaret. Lewis was a "domestic concern," an officer, director, and shareholder of a "domestic concern," and an agent of a "domestic concern," as those terms are defined in 15 U.S.C. § 78dd-2(h) (1) (A) & (B).

13. Thomas Farrell, a co-conspirator not named as a

defendant herein, was a United States citizen and an employee of Oily Rock and Viktor Kozeny. Farrell worked in Oily Rock's offices in Baku, Azerbaijan, and reported directly to Kozeny. Farrell supervised the purchase of privatization vouchers and options for the investment consortium, and was responsible for maintaining the security of the purchased vouchers and options in a vault controlled by Minaret. Farrell was an agent of various members of the investment consortium, including FREDERICK BOURKE, JR., the defendant, and Omega. As such, Farrell was a "domestic concern" and an agent of "domestic concerns," as those terms are defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1)(A) & (B).

14. Hans Bodmer, a co-conspirator not named as a defendant herein, was a Swiss citizen and a lawyer with the Swiss law firm von Meiss Blum & Partners. Bodmer represented Viktor Kozeny, as well as Omega Advisors, Inc. and various other investors in connection with their investments in Azeri privatization vouchers and options with Kozeny, Oily Rock, and Minaret. As the lawyer and agent of Omega Advisors, Inc. and various other members of the investment consortium, Bodmer was an agent of a "domestic concern," as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(1)(A).

15. Hyposwiss Bank ("Hyposwiss") was a bank chartered under the laws of Switzerland with bank offices located in

Switzerland and in Jersey, Channel Islands. Von Meiss Blum & Partners maintained operating and escrow accounts with Hyposwiss which were utilized for the receipt of moneys, primarily in the form of United States currency, from members of the investment consortium, including United States citizens and institutional investors, and transfer of such moneys into Azerbaijan for the purpose of purchasing privatization vouchers and options.

16. American International Group, Inc. was a corporation organized under the laws of Delaware with its principal place of business in New York, New York. American International Group, Inc. was a United States based international insurance and financial services organization. American International Group, Inc. entered into a co-investment agreement with Oily Rock and Minaret. American International Group, Inc. and its subsidiaries and affiliates (hereafter referred to collectively as "AIG") were "domestic concerns," and AIG's subsidiaries and affiliates were also "agents of domestic concerns," as those terms are defined in the FCPA, 15 U.S.C. § 78dd-2 (h) (1) (B).

#### **The Azeri Government Officials**

17. Members of the investment consortium made a series of corrupt promises, payments, and offers of payments to senior officials of the Government of Azerbaijan in order to enable the investment consortium to purchase vouchers and options and to bid

at auction for interests in SOCAR and other valuable Azeri State assets, and protect the investment consortium's ability to do so. These senior officials were: (a) a senior official of the Government of Azerbaijan (the "Senior Azeri Official"); (b) a senior official of SOCAR, Azerbaijan's national oil company (the "SOCAR Official"); and (c) two senior officials of the SPC ("SPC Official #1" and "SPC Official #2," respectively, and together, the "SPC Officials"). Each of these senior officials of the Government of Azerbaijan was a "foreign official" as that term is defined in the FCPA, 15 U.S.C. § 78dd-2(h)(2)(A). These four senior Azeri government officials collectively shall be referred to herein as the "Azeri Officials."

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**OVERVIEW OF THE CONSPIRACY TO BRIBE**

18. Beginning in or about August 1997 and continuing until in or about 1999, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, offered, paid and caused to be paid bribes to the Azeri Officials and/or their designees to induce the Azeri Officials to allow the investment consortium, among other things, to receive favored treatment in its participation in privatization, to ensure the privatization of SOCAR and other valuable Azeri State assets, and to permit the investment consortium to acquire a controlling interest in all or part of SOCAR and other valuable Azeri State assets.

19. Beginning in or about July 1997 up to and including in or about July 1998, various individual investors including FREDERIC BOURKE, JR., the defendant, purchased shares of Oily Rock. BOURKE made his initial investment in Oily Rock, as well as a subsequent investment, based in part on his understanding that Viktor Kozeny had offered, paid, authorized the payment of, and would pay bribes to the Azeri Officials to ensure Oily Rock's and the investment consortium's successful acquisition through privatization of SOCAR.

20. Beginning in or about March 1998 up to and including in or about September 1998, Omega, Pharos and AIG entered into various agreements, direct and indirect, with Oily Rock and Minaret in order to participate in Azeri privatization. Omega, Pharos and AIG funded their respective investments in privatization vouchers and options through and in concert with Oily Rock and Minaret.

21. Viktor Kozeny, acting on his own behalf and as an agent of FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, Omega, AIG, and others known and unknown to the Grand Jury, offered, paid, and authorized the payment of bribes to the Azeri Officials to ensure Oily Rock's and the investment consortium's successful acquisition through privatization of all or part of SOCAR.

22. The bribes offered, paid and authorized to be paid

to the Azeri Officials took numerous forms, including the following:

- direct cash payments and wire transfers of millions of dollars to the Azeri Officials, members of their families, and associates;
- the promise of two-thirds of the profits realized by Oily Rock from the privatization of SOCAR and other valuable Azeri State assets, for the benefit of the Azeri Officials;
- the transfer of two-thirds of Oily Rock's vouchers and options to the Azeri Officials;
- an agreement to purchase vouchers from SPC Official #2 and his designees, including a relative of SPC Official #2;
- the issuance of approximately \$300,000,000 worth of Oily Rock shares to the Azeri Officials; and
- assistance in arranging and paying for medical care, travel, and lodging in New York, New York for the SPC Officials.

### **THE BRIBERY SCHEME**

#### **I. Background**

23. In or about May 1997, while traveling through a number of countries that were former republics of the Soviet Union, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Thomas Farrell, Hans Bodmer, and others known and unknown to the Grand Jury, identified an investment opportunity in Azerbaijan, specifically, an investment in privatization vouchers.

24. Beginning in or about July 1997, Viktor Kozeny directed Thomas Farrell, and others known and unknown to the Grand Jury, to purchase privatization vouchers and options on

behalf of Oily Rock and Minaret. Thereafter, Farrell, and others known and unknown to the Grand Jury, made voucher and option purchases principally using United States currency that was flown into Azerbaijan either on Kozeny's private jet or on planes chartered by Kozeny.

## **II. The "Two-Thirds Transfer"**

25. Viktor Kozeny and Oily Rock employed several Russian nationals in Baku, Azerbaijan, for the purpose of purchasing vouchers and options and providing security services to safeguard vouchers and options. In or about August 1997, an employee was arrested by Azeri authorities while making a purchase of vouchers. At the time of this arrest, the Azeri authorities seized approximately \$1,000,000 in United States currency and approximately \$1,000,000 worth of vouchers.

26. In or about August 1997, following the arrest of the employee, Viktor Kozeny, Thomas Farrell, and others known and unknown to the Grand Jury, participated in a series of meetings with the SOCAR Official and the SPC Officials. Over the course of those meetings, Kozeny and these Azeri Officials reached a corrupt agreement whereby Kozeny agreed to transfer two-thirds of Oily Rock's vouchers and options to the Azeri Officials and to give the Azeri Officials two-thirds of the profits arising from the investment consortium's participation in the privatization of SOCAR and other valuable Azeri State assets. Kozeny also agreed

to pay an up-front "entry" fee specified by SPC Official #2. Kozeny further agreed to acquire a minimum of 1,000,000 voucher booklets (i.e., 4,000,000 voucher coupons) and 4,000,000 corresponding options. Finally, Kozeny agreed to make voucher purchases from individuals identified by SPC Official #2, including a relative of SPC Official #2, resulting in profits and commissions for SPC Official #2 and members of his family. In return, the Azeri Officials agreed through SPC Official #2, among other things, to allow Kozeny's and Oily Rock's continued acquisition of privatization vouchers and options, and to permit Kozeny and the investment consortium to acquire a controlling interest in SOCAR upon its privatization. This arrangement will be referred to hereafter as the "two-thirds transfer."

27. In order to effect the two-thirds transfer, Viktor Kozeny directed Hans Bodmer, and others known and unknown to the Grand Jury, to distribute Oily Rock's vouchers and options evenly among 45 holding companies and to transfer beneficial ownership of 28 of those 45 companies to three parent companies (the "Three Parent Companies") -- Cudina Financial SA, Estoria Portfolio SA, and Enkrigde Holding Inc. -- to be placed under the control of the Azeri Officials.

28. Viktor Kozeny and the Azeri Officials also entered into a sham credit arrangement designed to conceal the transfer of beneficial ownership of the 28 holding companies and the

vouchers and options held by those companies to the Azeri Officials. To implement this sham arrangement, Kozeny directed Hans Bodmer, and others known and unknown to the Grand Jury, to cause an entity called Jemur Corp. to enter into three \$100,000,000 credit facility agreements, one with each of the Three Parent Companies. Each agreement provided that the full loan amount plus interest was to be repaid by the earlier of June 30, 1998 or 30 days after the conversion of privatization vouchers into shares of a privatized enterprise. Kozeny also directed Bodmer to execute separate side letter agreements suspending the payment of any interest on the loans.

### **III. Requiring The Purchase Of Two Million Voucher Booklets**

29. In or about December 1997, SPC Official #2 informed Thomas Farrell, and through him, Viktor Kozeny, that the Azeri Officials had doubled, from 1,000,000 to 2,000,000, the minimum number of voucher booklets that Oily Rock had to acquire before bidding for SOCAR or other valuable Azeri State assets, as originally agreed during negotiations over the two-thirds transfer.

### **IV. Recruitment Of Investors In The United States**

30. From in or about December 1997 up to and including in or about April 1998, Viktor Kozeny, Hans Bodmer, and others known and unknown to the Grand Jury, met with individual American investors in Aspen, Colorado, New York, New York, and elsewhere,

and with representatives, including Clayton Lewis, of various institutional investors including Omega, Pharos, and AIG, for the purpose of soliciting additional investment in Oily Rock and in Azeri privatization.

31. From in or about February 1998 through in or about July 1998, FREDERIC BOURKE, JR., the defendant, recruited additional American investors to invest in Oily Rock through BOURKE's investment vehicle, Blueport International.

**V. Board Positions And The United States Advisory Companies**

32. In or about March 1998 through in or about May 1998, on behalf of Oily Rock, Viktor Kozeny and Hans Bodmer invited FREDERIC BOURKE, JR., the defendant, Clayton Lewis, and others known and unknown to the Grand Jury, to serve as members of Oily Rock's Board of Directors and its Executive Committee. As noted earlier, Oily Rock was incorporated in the British Virgin Islands and had its principal place of business in Baku, Azerbaijan.

33. In or about March 1998 through in or about May 1998, on behalf of Minaret, Viktor Kozeny and Hans Bodmer invited FREDERIC BOURKE, JR., the defendant, Clayton Lewis, and others known and unknown to the Grand Jury, to serve as members of Minaret's Board of Directors and its Executive Committee. As noted earlier, Minaret was incorporated in the British Virgin Islands and had its principal place of business in Baku.

34. In or about May and June 1998, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, and others known and unknown to the Grand Jury, informed Viktor Kozeny that they would instead prefer to serve as board members and officers of advisory and consulting companies to be affiliated with Oily Rock and Minaret and to be created in the United States. BOURKE, Lewis, and others known and unknown to the Grand Jury, adopted this approach in an effort to shield themselves from liability under the FCPA and to insulate themselves from responsibility for corrupt payments made by Kozeny, Oily Rock and Minaret.

35. On or about July 7, 1998, Oily Rock U.S. Advisors, Inc. ("ORUSA") was incorporated in the State of Delaware. On or about July 22, 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, and others known and unknown to the Grand Jury, agreed to serve as members of the Board of Directors of ORUSA. Kozeny agreed to serve as Chairman, and BOURKE and Lewis agreed to serve as Vice-Presidents of the Board of Directors of ORUSA.

36. On or about July 7, 1998, Minaret Group U.S. Advisors, Inc. ("MGUSA") was incorporated in the State of Delaware. On or about July 22, 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, agreed to serve as members of the Board of Directors of MGUSA. Kozeny agreed to serve as Chairman, and BOURKE as

Vice-President of the Board of Directors of MGUSA.

**VI. Share Capital Increase for the Benefit of the Azeri Officials**

37. In or about June 1998, Viktor Kozeny and Hans Bodmer advised FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, that an additional 300,000,000 shares of Oily Rock would be issued, and that these shares would be transferred to one or more of the Azeri Officials.

38. On or about June 26, 1998, Oily Rock shareholders approved an increase of Oily Rock's authorized share capital from \$150,000,000 to \$450,000,000, to provide for the additional shares to be issued to the Azeri Officials.

39. On or about July 8, 1998, at an ORUSA board meeting in New York, New York, Hans Bodmer advised FREDERIC BOURKE, JR., the defendant, Clayton Lewis, and others known and unknown to the Grand Jury, that an additional 300,000,000 shares of Oily Rock had been authorized and would be issued.

**VII. Other Bribes**

**Cash and Wire Transfers**

\_\_\_\_\_40. From in or about September 1997 through in or about September 1998, bribes totaling more than \$10,000,000 were paid to the Azeri Officials as follows:

- in United States currency that was hand-delivered to SPC Official #2 in his SPC office; and

- through wire transfers as directed by SPC Official #2 for the benefit of the Azeri Officials, their family members, and others.

### **Shopping Spree**

41. On or about June 3, 1998, at the request of SPC Official #2, Viktor Kozeny, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, caused Oily Rock to wire approximately \$1,000,000 into a bank account for the benefit of the Senior Azeri Official's relative, for the purpose of funding a shopping spree in London for the Senior Azeri Official's relative.

### **Medical and Related Expenses**

42. In or about March 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, assisted in arranging and paying for medical care, travel, and lodging for SPC Official #1 during a visit by SPC Official #1 to New York, New York.

43. In or about May 1998, and in or about August through September 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, assisted SPC Official #2 in arranging and paying for medical care, travel, and lodging for SPC Official #2 during visits by SPC Official #2 to New York, New York.

**STATUTORY ALLEGATIONS**

44. From in or about May 1997, up to and including in or about 1999, in the Southern District of New York and elsewhere, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, unlawfully, willfully, and knowingly combined, conspired, confederated, and agreed together and with each other to commit offenses against the United States; to wit, violations of (a) the FCPA, Title 15, United States Code, Section 78dd-2; and (b) the Travel Act, Title 18, United States Code, Section 1952(a)(3)(A).

45. It was a part and object of the conspiracy that Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, being American citizens and "domestic concerns," as that term is defined in the FCPA, and officers, directors, and agents of "domestic concerns," and stockholders thereof acting on behalf of such "domestic concerns," would and did make use of the mails and means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of moneys, offers, gifts, promises to give, and authorizations of the giving of things of value to foreign officials for purposes of (a) influencing acts and decisions of such foreign officials

in their official capacity, (b) inducing such foreign officials to do and omit to do acts in violation of the lawful duty of such officials, and (c) inducing such foreign officials to use their influence with a foreign government and instrumentalities thereof to affect and influence acts and decisions of such government and instrumentality, in order to assist Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, in obtaining and retaining business for and with, and directing business to, any person, in violation of Title 15, United States Code, Section 78dd-2.

46. It was a further part and object of the conspiracy that Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, unlawfully, willfully, and knowingly, would and did travel in interstate and foreign commerce and use the mail and facilities in interstate and foreign commerce, with intent to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of an unlawful activity, namely, violations of the anti-bribery provisions of the FCPA, 15 U.S.C. § 78dd-2, and thereafter would and did perform and attempt to perform acts to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on, of

such unlawful activity, in violation of Title 18, United States Code, Section 1952(a)(3)(A).

**MEANS AND METHODS OF THE CONSPIRACY**

47. Among the means and methods by which Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Hans Bodmer, Clayton Lewis, Thomas Farrell, and others known and unknown to the Grand Jury, carried out the objects of the conspiracy were the following:

a. FREDERIC BOURKE, JR., the defendant, Hans Bodmer, Clayton Lewis, Thomas Farrell, and others known and unknown to the Grand Jury, identified an investment opportunity in the Republic of Azerbaijan under a state program to privatize industries, potentially including the state oil company SOCAR.

b. Viktor Kozeny, and others known and unknown to the Grand Jury, in order to ensure Kozeny's and others' ability to participate in and realize profits from Azeri privatization of SOCAR by corruptly influencing the president of Azerbaijan to issue a decree privatizing SOCAR, negotiated a deal with the Azeri Officials that provided to the Azeri Officials, members of their families, and associates: (i) a 2/3 interest in the investment and its profits; (ii) financial benefits from the sale of privatization vouchers and realization of commissions and profits from those sales; and (iii) cash, assistance in arranging and in paying for medical care, travel, lodging, and other things

of value.

c. Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, and others known and unknown to the Grand Jury, traveled on multiple occasions to Azerbaijan to review the investment opportunity.

d. Viktor Kozeny informed FREDERIC BOURKE, JR., the defendant, Clayton Lewis, and others known and unknown to the Grand Jury, that Kozeny had given the Azeri Officials a personal financial interest in Kozeny's privatization investment.

e. Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Hans Bodmer, Clayton Lewis, Thomas Farrell, and others known and unknown to the Grand Jury, wired and caused to be wired money from various financial institutions in New York, New York, and elsewhere to accounts at Hyposwiss for the purchase of vouchers and options in Azerbaijan.

f. Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Hans Bodmer, Clayton Lewis, Thomas Farrell, and others known and unknown to the Grand Jury, caused money deposited in Hyposwiss accounts to be converted to United States currency and flown by Kozeny, Bodmer, and others known and unknown to the Grand Jury, from Switzerland to Azerbaijan by private and charter jets for the purpose of, among other things, purchasing vouchers and options.

g. Viktor Kozeny, FREDERIC BOURKE, JR., the

defendant, Hans Bodmer, Clayton Lewis, Thomas Farrell, and others known and unknown to the Grand Jury, purchased and caused to be purchased privatization vouchers from SPC Official #2 or individuals designated by SPC Official #2, resulting in profits and commissions for SPC Official #2 and members of his family.

h. Viktor Kozeny, Thomas Farrell, and others known and unknown to the Grand Jury, paid or caused to be paid millions of dollars in United States currency to SPC Official #2 in his office at the SPC as part of an effort to bribe SPC Official #2 and the Azeri Officials generally.

i. Viktor Kozeny, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, directed and caused funds to be wired to various bank accounts, including accounts in Switzerland and the Netherlands, for the benefit of the Azeri Officials, members of their families, and their associates.

j. Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, provided and caused to be provided medical care, travel, lodging, and other items of value to the Azeri Officials and members of their families.

OVERT ACTS

48. In furtherance of said conspiracy and to effect the illegal objects thereof, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. In or about May 1997, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Thomas Farrell, and others known and unknown to the Grand Jury, traveled together to Baku, Azerbaijan to explore investment opportunities in Azerbaijan.

b. In or about July 1997, Viktor Kozeny and Thomas Farrell paid a middleman approximately \$10,000 in United States currency to arrange a meeting with an Azeri government official regarding privatization, and then met with an individual in the Presidential Apparatus Building in Baku to discuss Kozeny's participation in privatization in Azerbaijan.

c. In or about August 1997, Viktor Kozeny, and others known and unknown to the Grand Jury, traveled with potential investors to Baku to discuss further investment in privatization in Azerbaijan.

d. In or about August 1997, Viktor Kozeny, Thomas Farrell, and others known and unknown to the Grand Jury, met in Baku with the SOCAR Official and the SPC Officials.

e. In or about the Fall of 1997, Viktor Kozeny instructed Thomas Farrell, and others known and unknown to the Grand Jury, to deliver millions of dollars of United States currency to SPC Official #2 in his government office.

f. In or about December 1997, Viktor Kozeny hosted a party in Aspen, Colorado, at which he solicited and recruited American investors.

g. On or about January 9, 1998, Viktor Kozeny instructed Hans Bodmer and Thomas Farrell to wire \$1,000,000 to a bank account in the Netherlands for the benefit of an individual identified by SPC Official #2.

h. In or about January 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, traveled with potential investors to Baku to discuss further investment in privatization in Azerbaijan.

i. In or about February 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, traveled with potential investors to Baku to discuss further investment in privatization in Azerbaijan.

j. In or about March 1998, FREDERIC BOURKE, JR., the defendant, and members of his family and personal friends, invested approximately \$7,000,000, through BOURKE's company, Blueport International, in Oily Rock.

k. In or about March 1998, Viktor Kozeny,

FREDERIC BOURKE, JR., the defendant, Thomas Farrell, and others known and unknown to the Grand Jury, assisted in arranging and paying for medical care, travel, and lodging for SPC Official #1 in New York, New York.

l. In or about April 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, met in Baku for the official office opening of Minaret and to discuss further privatization in Azerbaijan.

m. In or about May 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, traveled with potential investors to Baku to discuss further investment in privatization in Azerbaijan.

n. From in or about May 1998 to in or about June 1998, Viktor Kozeny, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, wired and caused to be wired approximately \$6,900,000 from bank accounts in Switzerland to bank accounts in other locations for the benefit of the SPC Officials and their relatives.

o. In or about May 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, assisted in arranging and paying for medical care, travel, and lodging for SPC Official #2 in New York, New York.

p. In or about July 1998, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, and others known and unknown to the Grand Jury, participated in an ORUSA board meeting, hosted from Omega and Pharos' offices in New York, New York, wherein Bodmer advised the participants that the issuance of an additional 300,000,000 Oily Rock shares had been authorized.

q. In or about July 1998, FREDERIC BOURKE, JR., the defendant, and members of his family and his personal friends, invested an additional approximately \$1,000,000, through BOURKE's company, Blueport International, in Oily Rock.

r. In or about July 1998, Clayton Lewis, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, formed Oily Rock Investment, L.P.

s. On or about July 22, 1998, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, attended a meeting in New York, New York, of the Board of Directors of Oily Rock Investment, L.P., at which BOURKE was appointed Chairman.

t. In or about August 1998, Hans Bodmer, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, participated in a meeting, conducted by conference call, of the board of directors for ORUSA.

u. In or about August 1998, Thomas Farrell, and others known and unknown to the Grand Jury, assisted SPC Official #2 in securing for his son graduate school admission in the United States.

v. In or about August and September 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and Thomas Farrell, and others known and unknown to the Grand Jury, assisted SPC Official #2 in arranging and paying for medical care for SPC Official #2 in New York, New York.

w. In or about October 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, traveled to Baku, Azerbaijan.

x. On or about November 5, 1998, Minaret U.S. Advisers, Ltd. paid Dewey Square Group \$5,201 for consulting and lobbying activities.

y. On or about November 6, 1998, Minaret U.S. Advisers, Ltd. paid and reimbursed FREDERIC BOURKE, JR., the defendant, \$7,500.

z. In or about January 1999, Thomas Farrell traveled from Russia to Baku to meet with SPC Official #2 in connection with the privatization investment.

aa. In or about February 1999, FREDERIC BOURKE, JR., the defendant, and others known and unknown to the Grand Jury, traveled from New York, New York, to Baku to meet with the

Senior Azeri Official and the SPC Officials in connection with the investment in privatization.

(Title 18, United States Code, Section 371.)

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**COUNT TWO**

**(Money Laundering Conspiracy)**

The Grand Jury further charges:

49. Paragraphs one (1) through forty-three (43) and forty-seven (47) through forty-eight (48) are repeated and realleged as if set forth in full herein.

50. From in or about March 1998, up to and including in or about September 1998, in the Southern District of New York and elsewhere, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, unlawfully, willfully, and knowingly did combine, conspire, confederate and agree together and with each other to violate Title 18, United States Code, Section 1956(a)(2)(A).

51. It was a part and an object of the money laundering conspiracy that Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, in an offense involving and affecting interstate and foreign commerce, unlawfully, willfully, and knowingly would and did transport, transmit, and transfer, and attempt to transport, transmit, and

transfer, monetary instruments and funds from a place in the United States to and through a place outside the United States, with the intent to promote the carrying on of specified unlawful activity; to wit, felony violations of the FCPA, in violation of Title 18, United States Code, Section 1956(a)(2)(A).

**MEANS AND METHODS OF THE MONEY LAUNDERING CONSPIRACY**

\_\_\_\_\_52. Among the means and methods by which Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Hans Bodmer, Clayton Lewis, Thomas Farrell, and others known and unknown to the Grand Jury, carried out the object of the money laundering conspiracy were the following:

a. Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, invested and caused to be invested more than \$100,000,000 in the purchase of vouchers and options as part of the privatization program in Azerbaijan.

b. Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Clayton Lewis, Hans Bodmer, Thomas Farrell, and others known and unknown to the Grand Jury, transmitted and caused to be transmitted investment funds by wire transfer directly from bank accounts in New York, New York, and elsewhere in the United States, or through correspondent banks in New York, New York, and elsewhere in the United States, to bank accounts in Zurich, Switzerland and Jersey, Channel Islands, for the purpose of

purchasing vouchers and options in Azerbaijan.

**OVERT ACTS**

\_\_\_\_\_53. In furtherance of said conspiracy and to effect the illegal object thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

a. In or about March 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Hans Bodmer, and others known and unknown to the Grand Jury, caused approximately \$7,000,000 in investment funds to be wire transferred from a bank account in the British Virgin Islands, through a bank account in New York, New York, to a bank account in Zurich, Switzerland, under the control of Kozeny and Bodmer.

b. In or about July 1998, Viktor Kozeny, FREDERIC BOURKE, JR., the defendant, Hans Bodmer, and others known and unknown to the Grand Jury, caused approximately \$1,000,000 in investment funds to be wire transferred through a bank account in New York, New York to a bank account in Zurich, Switzerland, under the control of Kozeny and Bodmer.

c. In or about August 1998, Viktor Kozeny, Hans Bodmer, and others known and unknown to the Grand Jury, caused approximately \$1,000,000 in investment funds to be wire transferred from a bank account in Boston, Massachusetts, to a bank account in Jersey, Channel Islands, under the control of

Kozeny and Bodmer.

(Title 18, United States Code, Section 1956(h).)

**COUNT THREE**

**(False Statements)**

The Grand Jury further charges:

54. Paragraphs one (1) through forty-three (43), forty-seven (47) through forty-eight (48), and fifty-two (52) through fifty-three (53) are repeated and realleged as if set forth in full herein.

55. Between on or about April 26, 2002, and on or about May 23, 2002, in the Southern District of New York, FREDERIC BOURKE, JR., the defendant, unlawfully, willfully and knowingly did make materially false, fictitious and fraudulent statements and representations in a matter within the jurisdiction of the executive branch of the Government of the United States; to wit, in an interview conducted on four separate days with, among others, a Special Agent of the Federal Bureau of Investigation, BOURKE falsely stated in substance that he was not aware that Viktor Kozeny had made various corrupt payments, transfers and gifts to Azeri government officials, when in fact, BOURKE well knew and believed that Kozeny had made various corrupt payments, transfers, and gifts to the Azeri Officials.

(Title 18, United States Code, Section 1001.)

**FORFEITURE ALLEGATION**

56. As the result of committing the money laundering offense in violation of 18 U.S.C. § 1956, alleged in Count 2 of the Indictment, FREDERIC BOURKE, JR., the defendant, shall forfeit to the United States pursuant to 18 U.S.C. § 982, all property, real and personal, involved in the money laundering offense and all property traceable to such property, including but not limited to a sum of money equal to \$100,000,000 in United States currency, in that such sum in aggregate is property that was involved in the money laundering offense or is traceable to such property, for which the defendant is jointly and severally liable.

Substitute Assets Provision

b. If any of the above-described forfeitable property, as a result of any act or omission of the defendant(s):

(i) cannot be located upon the exercise of due diligence;

(ii) has been transferred or sold to, or deposited with, a third party;

(iii) has been placed beyond the jurisdiction of the court;

(iv) has been substantially diminished in value;  
or

(v) has been commingled with other property which

cannot be divided without difficulty;

it is the intent of the United States, pursuant to 18 U.S.C. § 982(b), to seek forfeiture of any other property of said defendant(s) up to the value of the forfeitable property described above, including but not limited to the following:

(i) Any and all right, title, and interest in the real property and appurtenances known as 17 Fort Hill Lane, Greenwich, Connecticut;

(ii) Any and all right, title, and interest in the real property and appurtenances known as 2131 Red Mountain Road SE, Aspen, Colorado 81611; and

(iii) Any and all right, title, and interest in the real property and appurtenances known as 181 Peabody Drive, Seal Harbor, ME 04675.

(Title 18, United States Code, Sections 982 and 1956.)

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FOREPERSON

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LEV L. DASSIN  
Acting United States Attorney