MINORITY STAFF REPORT
FOR
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
HEARING ON
PRIVATE BANKING AND MONEY LAUNDERING:
A CASE STUDY OF OPPORTUNITIES AND VULNERABILITIES
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Because of their central role in drug trafficking and organized crime, money laundering activities have been the subject of eight prior investigations of the Permanent Subcommittee on Investigations. Despite increasing international attention and stronger anti-money laundering controls, some current estimates are that $500 billion to $1 trillion in criminal proceeds are laundered through banks worldwide each year, with about half of that amount moved through United States banks.

This report summarizes the Minority Subcommittee staff investigation to date into U.S. private banks and their vulnerability to money laundering. The investigation has found that the products, services and culture of the private banking industry present opportunities for money launderers, and that without sound controls and active enforcement, private banking services have been and will continue to be used by those intent on laundering money.

Subcommittee Investigation

To date in this investigation, the Subcommittee staff has conducted almost one hundred interviews and reviewed tens of thousands of pages of documents. The interviews have included meetings with almost 50 private bank personnel, including private bankers, their supervisors, compliance personnel, auditors, senior bank management and board members. The staff has interviewed and obtained information from more than two dozen government agencies and organizations, including the United States Departments of State, Treasury and Justice, the Federal Reserve, Securities and Exchange Commission, International Monetary Fund, World Bank, and law enforcement personnel in Mexico, France and other countries. The Subcommittee staff has also spoken with private bank clients, and with banking and anti-money laundering experts in academic, regulatory and law enforcement circles.

The documents reviewed by the Subcommittee staff include a wide range of materials, from reports on the private banking industry, to reports on money laundering trends, to SEC filings, legal pleadings, private bank audits, bank examination materials, and numerous documents related to specific private bank accounts and transactions. The Subcommittee has issued subpoenas to over half a dozen financial institutions and entities.

The information gathered by the Subcommittee's investigation falls into three categories: (1) the anti-money laundering obligations of all banks, including private banks; (2) the elements of private banking that make it vulnerable to money laundering; and (3) four case histories at the Citibank private bank illustrating a range of issues related to money laundering.

Anti-Money Laundering Obligations

Two laws lay out the basic anti-money laundering obligations of all United States banks. First is the Bank Secrecy Act which, in section 5318(h) of Title 31 in the U.S. Code, requires all banks to have anti-money laundering programs. This law states the following.

"*In order to guard against money laundering through financial institutions, the Secretary [of the Treasury] may require financial institutions to carry out anti-money laundering programs, including at a minimum -- (A) the development of internal policies, procedures, and controls, (B) the designation of a compliance officer, (C) an ongoing employee training program, and (D) an independent audit function to test programs.*"

The Bank Secrecy Act also authorizes the Treasury Department to require financial institutions and other businesses to file reports on currency transactions and suspicious activities, again as part of U.S. efforts to combat money laundering.

The second key law is the Money Laundering Control Act of 1986, which was enacted partly in response to hearings held by this Subcommittee in 1985. This law was the first in the world to make money laundering a crime. It prohibits any person from knowingly engaging in a financial transaction which involves the proceeds of a "specified unlawful activity." The law provides a list of specified unlawful activities, including drug trafficking, fraud, theft and bribery. Most are crimes under U.S. law; only a few foreign crimes, such as drug trafficking, kidnapping, and foreign bank fraud, are currently listed as predicate offenses for a money laundering prosecution in the United States.

The aim of these two statutes is to enlist U.S. banks in the fight against money laundering. Together they require banks to refuse to engage in financial transactions involving criminal proceeds, to monitor transactions and report suspicious activity, and to operate active anti-money laundering programs. Both statutes have been upheld by the Supreme Court.

Private Banking Industry

Private banks are banks, or operational units within banks, which specialize in providing financial services to wealthy individuals. Often portrayed as a specialty of the Swiss whose private banks are the largest in the world, the private banking industry actually has a long history in many countries, including the United States. For example, private banks have long been in operation at Bank of America, Bank of New York, Bankers Trust, Chase Manhattan, Citibank, J.P. Morgan and many other U.S. financial institutions. Today, the largest U.S. private bank handles as many as 100,000 clients; and a single U.S. private bank may have assets exceeding $100 billion. The worldwide total for assets currently under management by private banks has been estimated at $15.5 trillion.

Today, private banks are a growth area at many U.S. financial institutions. Banks report increasing clientele, assets under management, and revenues. A report prepared by the General Accounting Office for the Subcommittee states:

"*Domestic and foreign banks operating in the United States have been increasing their private banking activities and their reliance on income from private banking. The target market for* *private banking -- individuals with high net worth -- is also growing and becoming more sophisticated with regard to their product preferences and risk appetites*."

One key reason for the growth in private banking in the United States is an increasing number of individuals with great personal wealth, providing an expanding client base for private bank operations. Another key reason is profits. Federal Reserve officials told the Subcommittee staff that private banking has become a "profit driver" for many banks, offering returns twice as high as many other banking areas. Private banks interviewed by the Subcommittee staff have confirmed rates of return in excess of 20 percent.

In general, private banking seeks to provide financial and related services to wealthy individuals, primarily by acting as a financial advisor, estate planner, credit source, and investment manager. As one senior bank official put it during a Subcommittee interview, the very wealthy have "peculiar" financial needs, and private banks are intended to address those needs. Consumer banking, in contrast, provides financial services to individuals regardless of wealth. Corporate banking provides financial services to businesses.

To open an account in a private bank, prospective clients usually must deposit a substantial sum, often $1 million or more. In return for this deposit, the private bank assigns a "private banker" or "relationship manager" to act as a liaison between the client and the bank, and to facilitate the client's use of a wide range of financial services and products. These products and services often span the globe, enabling a client to make use of a variety of corporate, investment and trust vehicles, estate and tax planning, and other financial services. In essence, private banks seek to provide global wealth management for the wealthy. Private banks typically charge fees based upon the amount of client "assets under management," and the particular products and services used by the client. These fees can exceed $1 million per client each year.

While many of the products and services offered by a private bank are also available through retail banking operations, there are at least two key differences. First, private banks offer an inside advocate the private banker whose mission is to help his or her clients make easy use of the bank's products and services. For example, many retail banks provide wire transfer services, but a private banker will routinely arrange complex wire transfers for a client who simply calls in by phone to request them. Retail banks may offer offshore services, but a private banker is an expert in facilitating the creation of offshore trusts and corporations, opening accounts for them, and arranging transactions on their behalf. Retail banks will allow clients to open multiple accounts, but a private banker will not only create these accounts for a client, but also keep track of the assets in each account and arrange transactions among them.

A second key difference is that a private bank provides its clients with a team of specialists under the coordinated direction of the private banker. These specialists include investment managers, trust officers, estate planners, and other financial experts, all prepared to act in concert. The private banker orchestrates their services with a degree of coordination that is often difficult or impossible to achieve in retail banking.

Why Private Banking is Vulnerable to Money Laundering

For some time now, evidence has been accumulating that private banks are vulnerable to money laundering. The 1994 conviction of a private banker from American Express was an early wake-up call. The 1995 Salinas scandal raised a second set of troubling questions. The 1998 Casablanca undercover money laundering operation resulted in the indictment of several private bankers in Mexico.

Bank regulators have shown a growing concern. Three years ago, the Federal Reserve Bank of New York reviewed private banking activities at 40 U.S. and foreign financial institutions operating in the New York area. In 1997, it conducted followup reviews at four financial institutions which it had identified had deficiencies needing correction, and issued a publication entitled, "Sound Risk Management Practices Governing Private Banking Activities" to provide private banks "with guidance regarding the basic controls necessary to minimize reputational and legal risk and to deter illicit activities, such as money laundering."

In 1998, the Federal Reserve reviewed an additional six financial institutions, as well as conducting a third review of the Citibank private bank. The General Accounting Office reports that this 1998 study found that "internal controls and oversight practices over private banking activities were generally strong at banks with high-end domestic clients," but "seriously weak at banks with higher risk Latin American and Caribbean clients." Also in 1998 two new examination manuals were issued, a Federal Reserve manual designed solely to evaluate private banks' controls, and a revised bank examination manual on money laundering used by all U.S. bank regulators which includes a section identifying private banking as an area meriting special attention. The 1998 International Narcotics Control Strategy Report, issued by the State Department, observes that "[p]rivate banking facilities continue to be vulnerable to money laundering."

Five Factors Creating Money Laundering Vulnerabilities

Five factors in private banking increase its vulnerability to money laundering: the role of private bankers as client advocates, a powerful clientele which discourages tough questions, a corporate culture of secrecy, a corporate culture of lax controls, and the competitive nature of the industry.

Private Bankers As Client Advocates. Private bankers are the linchpin of the private bank system. They are trained to service their clients' needs and to set up accounts and move money around the world using sophisticated financial systems and secrecy tools. Private banks encourage their bankers to develop personal relationships with their clients, visiting the clients' homes, attending weddings and graduations, and arranging their financial affairs. The result is that private bankers may feel loyalty to their clients for both professional and personal reasons, leading them to miss or minimize warning signs. In addition, private bankers may use their expertise in bank systems to evade what they may perceive as unnecessary "red tape" hampering the services their clients want, thereby evading controls designed to detect or prevent money laundering.

Powerful Clients. Private bank clients are, by definition, wealthy. Many also exert political or economic influence which may make banks anxious to satisfy their requests and reluctant to ask hard questions. If a client is a government official with influence over the bank's in-country operations, the bank has added reason to avoid offense. As we will see in the case histories that follow, government officials and other powerful clients can minimize bank inquiries simply by virtue of their stature. For example, when asked why he never questioned a client about certain funds, one private banker told the Subcommittee staff that, because the client was a head of state, he felt constrained by "issues of etiquette and protocol."

Moreover, verifying information about a foreign client's assets, business dealings, and community standing can be difficult for U.S. banks. The Federal Reserve found in its private banking review that foreign clients were particularly difficult for private bankers to assess due to a lack of independent databases of information, such as credit reports. One senior bank official told the Subcommittee staff that a key problem is developing tools to detect when clients may be misrepresenting their personal assets or business dealings, or supplying inaccurate documentation. While private banks routinely claim that their private bankers gain intimate knowledge of their clients, the case histories demonstrate that too often isn't true. For example, in one case, a private banker was unaware for more than three years that he was handling the accounts of the sons of an African head of state.

Culture of Secrecy. A culture of secrecy pervades the private banking industry. Numbered accounts at Swiss banks are but one example. There are other layers of secrecy that private banks and clients routinely use to mask accounts and transactions. For example, private banks routinely create shell companies and trusts to shield the identity of the beneficial owner of a bank account. Private banks also open accounts under code names and will, when asked, refer to clients by code names or encode account transactions.

For example, in the case of Raul Salinas, Citibank's private bank created a trust that was known only by a number and a shell company called Trocca, Ltd. to serve as the owner of record for accounts benefitting Mr. Salinas and his family. The private bank hid Mr. Salinas' ownership of Trocca by omitting his name from the Trocca incorporation papers and naming still other shell companies as the shareholders, directors, and officers. Citibank consistently referred to Mr. Salinas in internal bank communications by the code name "Confidential Client Number 2" or "CC-2." The private bank's Swiss office opened a special name account for him under the name of "Bonaparte." These are just some of the steps that the private bank took to meet Mr. Salinas' requests for extreme secrecy in the handling of his accounts.

Secrecy Jurisdictions. In addition to shell corporations and codes, a number of private banks also conduct business in secrecy jurisdictions such as Switzerland and the Cayman Islands, which impose criminal sanctions on the disclosure of bank information related to clients and restrict U.S. bank oversight. The secrecy laws are so tight, they even restrict internal bank oversight. For example, if a bank's own employee uncovers a problem in an office located in a secrecy jurisdiction, that employee is barred from conveying any client-specific information to colleagues in the United States, even though they are part of the same banking operation. The bank's auditors and compliance officers operate under the same restrictions; any audit or compliance report sent out of the country must first be cleansed of client-specific information.

If a bank employee in the United States wants more information about a problem in a secrecy jurisdiction involving specific clients, he or she has to fly to the secrecy jurisdiction to discuss the matter in detail or review documentation. Even then, the restrictions continue. For example, before allowing an employee to travel to Switzerland, private banks such as J.P. Morgan and Citibank require their employees to sign a non-disclosure statement, reminding them that Swiss law bars disclosing client information acquired in Switzerland to anyone, even their fellow bankers in the United States.

If a U.S. private bank were to tell its Swiss office that an individual is suspected of money laundering and to close any accounts related to that individual, Swiss law bars the Swiss office from disclosing the existence of any such accounts. Then, if U.S. bank personnel wanted to confirm the closure of any accounts, someone from the private bank would have to fly to Switzerland to do so. Upon returning, the private bank official could not, without breaking Swiss law, communicate any specific account information to senior bank management in the United States or to U.S. bank regulators. The bottom line, then, is that private bank personnel cannot have a frank discussion in the United States about what the private bank is doing in Switzerland without breaking Swiss law.

Secrecy Restrictions on U.S. Bank Regulators. U.S. bank regulators operate under similar restrictions. The General Accounting Office report to the Subcommttee provides comparative information about the bank secrecy laws in 20 jurisdictions, identifying those that prohibit the disclosure of client-specific bank information to U.S. bank regulators or bar U.S. regulators from conducting on-site examinations of U.S. bank operations. GAO concludes:

"[T] he key barriers to U.S. regulators' oversight of offshore banking activities are secrecy laws that restrict access to banking information or that prohibit on- site examinations of U.S. bank branches in offshore jurisdictions. An important challenge that confronts efforts to combat money laundering is the extent to which such secrecy laws will continue to be barriers to U.S. and foreign regulators."

Once a matter becomes the subject of a criminal investigation, many secrecy jurisdictions provide a disclosure exception for law enforcement inquiries. But that exception may be invoked only by law enforcement personnel, acting in an official capacity through designated channels; it cannot be used by bank regulators.

Private banks not only choose to conduct business in these secrecy jurisdictions, some also build secrecy into their U.S. operations by restricting the client information that can be kept in the United States. For example, one former private banker told the Subcommittee staff that he was prohibited by his bank from keeping any records in the United States linking shell corporations to their owners. He said that he had 30 - 40 clients, each of which had up to fifteen shell corporations and, to keep track, he and other colleagues in the private bank used to create private lists of their clients' shell companies. He said that he and his colleagues had to hide these "cheat sheets" from bank compliance personnel who, on occasion, conducted surprise inspections to eliminate this information from bank files. When asked why the bank would destroy information he needed to do his job effectively, the former private banker simply said that it was bank policy not to keep this information in the United States.

During its review of the private banking industry, one of the issues addressed by the Federal Reserve was to determine whether U.S. private banks holding accounts in the name of shell companies were aware of the companies' owners and had conducted sufficient due diligence to determine whether their funds were of suspicious origin. However, many of the private banks resisted providing information on their shell company accounts.

For example, in an exchange of letters in 1998, Bankers Trust initially declined providing any information to Federal Reserve examiners. After several discussions, the bank agreed to set up a database linking shell companies with information about their beneficial owners, and promised to consult this database in the event of a U.S. regulatory inquiry or subpoena. But the catch was that Bankers Trust located the database on the Isle of Jersey. When the Federal Reserve asked if Bankers Trust would use the database to provide regulators with information about the owner of a shell company with a U.S. bank account, Bankers Trust responded that it would have to check with Jersey courts on a case-by-case basis. The point here is that no one forced Bankers Trust to establish its database on the Isle of Jersey the bank could have used the state of New Jersey. The fact that Bankers Trust instead chose a foreign jurisdiction which routinely restricts access to information is another example of how a culture of secrecy raises money laundering concerns by impeding regulatory review of client accounts.

Money laundering, of course, thrives on secrecy. Shell companies, code names and offices in secrecy jurisdictions are one more set of factors that make private banks attractive to money launderers.

Culture of Lax Anti-Money Laundering Controls. In addition to a culture of secrecy, private banking operates in a corporate culture that is at times indifferent or resistant to anti-money laundering controls, such as due diligence requirements and account monitoring.

The problem begins with the private banker who, in most private banks, is responsible for the initial enforcement of anti-money laundering controls. It is the private banker who is charged with researching the background of prospective clients, and it is the private banker who is asked in the first instance to monitor existing accounts for suspicious activity. But it is also the job of the private banker to open accounts and expand client deposits. John Reed, co-chairman of Citigroup with 30 years of banking experience, told the Subcommittee staff that, over time, private bankers tend to become advocates for their clients and lose the detachment needed to monitor their transactions. He also observed that private bankers often don't have the temperament or discipline needed to ask clients detailed questions about their funds and transactions and to record the information provided on the proper forms.

The fundamental problem is that private bankers are being asked to fill contradictory roles -- to develop a personal relationship with a client and increase their deposits with the bank, while also monitoring their accounts for suspicious activity and questioning specific transactions. Human nature makes these contradictory roles difficult to perform, and anti-money laundering duties often suffer.

Private banks have dealt with this problem by setting up systems to ensure that private banker activities are reviewed by third parties, such as supervisors, compliance personnel or auditors. The Subcommittee staff investigation has found, however, that while strong oversight procedures exist on paper, in practice private bank oversight is often absent, weak or ignored.

Two examples of lax oversight came to light last year, when private bankers at two different banks were discovered to have evaded bank controls to commit years-long, multi-million dollar frauds. In one case, the head of the New York office of the BankBoston private bank, Ricardo Carrasco, apparently embezzled $60 million, by setting up multiple accounts which the private bank did not realize were related, allowing them to accumulate loans and overdrafts for 4 years, and then absconding with the funds. Carrasco is currently a fugitive. The second case involves a Citibank private banker with 10 years of experience, Carlos Gomez, who pleaded guilty in 1998 and is now serving a 4-year prison term, for defrauding the private bank of more than $23 million. He committed his fraud by issuing multi-million dollar loans to fictitious private bank clients secured by funds from existing accounts whose owners were not informed of the security arrangements. Gomez invested the loan proceeds, kept the earnings, and repaid the loans. He successfully evaded bank controls for a number of years, including loan limits, overdraft limits, signature requirements, account reviews, and audits.

In both instances, the private bankers were able to exploit vulnerabilities in their banks' internal controls to commit frauds. A 40-page Federal Reserve report dated April 6, 1998, details the lack of controls at BankBoston which, in response, replaced the head of its private bank, removed a number of other officers, and revamped its procedures. The Gomez fraud was followed by a five-month compliance review and an action plan with multiple recommendations for tighter controls. These two cases show just how weak the internal controls were at these private banks, even in 1998.

All of the private banks interviewed by the Subcommittee staff described a renewed effort, following the Federal Reserve's 1996 review of the private banking industry, to improve their due diligence documentation for clients. The key documents, variously called "client profiles," "know-your-customer files," or "due diligence reports," describe a client's financial background, source of funds, and expected transactions. The evidence shows, however, that in many instances, the private bankers either delayed or resisted improving the documentation. One private bank supervisor, asked why it was taking years to upgrade the documents, explained that private bankers viewed the documents as "time consuming" to complete and worried that listing a client's sources of wealth raised "confidentiality concerns." He said it was like "pulling teeth" to get them to complete the required forms. Another supervisor told the Subcommittee staff that the bank's auditors did not understand how complicated and difficult it was to obtain the level of information they wanted. A private banker told the Subcommittee staff he viewed the effort to upgrade his client profiles as a paperwork exercise, akin to having "a teacher grade his homework." Another told us that no one took the directives seriously until bonuses were threatened. Audits, compliance reviews, repeated deadlines and bonus threats are just some of the tools private banks have used over the past two years to coax their private bankers to improve the due diligence information in client files. The level of effort expended is itself proof of a culture of lax compliance with anti-money laundering controls.

Competition and Profitability. A final factor creating money laundering concerns is the ongoing competition among private banks for clients, due to the profitability of the business. A 1997 Federal Reserve report on private banking states: "As the target market for private banking is growing, so is the level of competition among institutions that provide private banking services." Private banks interviewed by the Subcommittee staff confirm that the market remains highly competitive; most also reported plans to expand operations. The dual pressures of competition and expansion are disincentives for private banks to impose tough anti-money laundering controls that may discourage new business or cause existing clients to move to other institutions.

Private Banking Products And Services

In addition to the general factors cited above, the actual products and services offered by the private bank also create opportunities for money laundering.

Multiple Accounts. A striking feature of the private bank accounts examined is their complexity. Private bank clients often have many accounts in many locations. Some are personal checking, money market or credit card accounts. Others are in the name of one or more shell companies. Multiple investment accounts are common, including mutual funds, stocks, bonds and time deposits. One private banker said it was common for his clients to have multiple shell companies, each with one or more accounts.

In addition, no private bank currently has a database which automatically aggregates all of the information related to a single client. A few banks are in the process of installing systems that will attempt to centralize client information and identify related accounts using different names, but even these systems will be heavily dependent upon private banker updates. In addition, information on accounts in secrecy jurisdictions may be excluded or not fully integrated into the database due to those jurisdictions' secrecy laws.

The reality right now is that private banks allow clients to have multiple accounts in multiple locations under multiple names and do not aggregate the information. This approach creates vulnerabilities to money laundering by making it difficult for banks to have a comprehensive understanding of their own client's accounts. In addition, it complicates regulatory oversight and law enforcement, by making it nearly impossible for an outside reviewer to be sure that all private bank accounts belonging to an individual have been identified.

Secrecy Products. Most private banks offer a number of products and services that shield a client's ownership of funds. They include offshore trusts and shell corporations, special name accounts, and codes used to refer to clients or fund transfers.

All of the private banks interviewed by the Subcommittee staff made routine use of shell corporations for their clients. These shell corporations are often referred to as "private investment corporations" or PICs. They are usually incorporated in jurisdictions such as the Cayman Islands or Channel Islands which restrict disclosure of a PIC's beneficial owner. Private banks then open bank accounts in the name of the PIC, allowing the PIC's owner to avoid identification as the accountholder.

It is not unusual for private bank clients to have multiple PICs and use these PICs to hold accounts and conduct transactions. Some private banks will open accounts only for PICs they incorporate and manage, while others will do so for PICs incorporated and managed by someone else, such as the client. These so-called "client-managed PICs" create additional money-laundering risks, because the private banks do not control and may not even know the activities, assets and complete ownership of the PIC holding the account at the private bank. Some private banks go a step further and open accounts for client-managed PICs whose ownership is determined by whomever has physical possession of the PIC's shares. These so-called "bearer-share PICs" pose still greater money-laundering risks because, unless a bank maintains physical possession of the shares, it is impossible to know with certainty who, at any given moment, is the PIC's true owner. While most private banks interviewed by the Subcommittee staff did not have any accounts held by bearer-share PICs, the Chase Manhattan private bank indicated it had accounts for about 1500 bearer-share PICs. As part of its industry-wide review, the Federal Reserve identified bearer-share PICs as an area of concern and asked private banks to develop a list of these accountholders, to review the due diligence on record for them and their beneficial owners, and to consider closing the accounts in favor of PICs with documented ownership.

The case histories to be examined today include many examples of shell corporations functioning as accountholders for clients, including Trocca, M.S. Capricorn Trading, Tendin Investments, and Morgan Procurement. The case histories also include special name accounts such as "Bonaparte," "OS," and "Gelsobella." Three of the four case histories also had code names or systems for encoding fund transfers.

Movement of Funds. Client account transactions at private banks routinely involve large sums of money. The size of client transactions increases the bank's vulnerability to money laundering by providing an attractive venue for money launderers who want to move large sums without attracting notice. In addition, most private banks provide products and services that facilitate the quick, confidential and hard-to-trace movement of money across jurisdictional lines. For example, private banks routinely facilitate large wire transfers into, out of and among client accounts, in multiple countries. Several private bankers told us that many of these transfers take place with minimal or no notice from the client and sometimes involve parties and accounts with which the private banker is unfamiliar. It is a situation that invites money laundering.

Some private banks move funds for clients through concentration or suspense accounts, which are accounts established by private banks for administrative purposes to hold funds from various destinations prior to depositing them into the proper accounts. Client funds which come into a private bank may pass through a concentration account on the way to the client's own account. The problem arises when a private bank allows clients to move funds through the bank's concentration account and onto another destination, without ever passing through an account belonging to the client. When that happens, the funds are never associated in bank records with a particular client. The Federal Reserve has warned against this practice, stating:

"[I]t is inadvisable from a risk management and control perspective for institutions to allow their clients to direct transactions through the organization's suspense accounts(s). Such practices effectively prevent association of the clients' names and account numbers with specific account activity, could easily mask unusual transactions and flows, the monitoring of which is essential to sound risk management in private banking, and could easily be abused."

The Citibank private bank used a concentration account to move over $80 million for Raul Salinas. Citibank has since prohibited its private bank from using its concentration account for client transactions, but other private banks continue to do so.

Credit. Another common private bank service involves the extension of credit to clients. Several private bankers told the Subcommittee staff that private banks urge their private bankers to convince clients to leave their deposits in the bank and use them as collateral for large loans. This practice enables the bank to earn a fee not only on the deposits under their management, but also on the loan. This practice also, however, creates vulnerabilities for money laundering, by allowing a client to deposit questionable funds and replace them with "clean" money from a loan. In addition, because the client loans are fully collateralized by assets on deposit with the bank, the bank may not scrutinize the loan purpose and repayment prospects as carefully as for a conventional loan, and may unwittingly further a money launderer's efforts to hide illicit proceeds behind seemingly legitimate transactions. The Federal Reserve has warned private banks about this practice from a risk management perspective:

"If credit is extended based on collateral, even if the collateral is cash, repayment is not assured. For example, collateral derived from illicit activities may be subject to government forfeiture. Accordingly, when extending secured private banking loans, institutions should be satisfied as to the source and legitimacy of the client's collateral, the borrower's intended use of the proceeds and the source of repayment."

Citibank Private Bank Case Histories

Four case histories illustrate the vulnerability of private banks to money laundering. The case histories are drawn from Citibank, the largest bank in the United States with over $700 billion in assets. Citibank operates one of the country's largest private banks. It has over $100 billion in client assets in private bank offices in over 30 countries, which is the largest global presence of any U.S. private bank. It is continuing to expand. Citibank's private bank is also no stranger to controversy. From the Salinas scandal in 1995, to the Zardari scandal in 1997, to the Carlos Gomez fraud in 1998, if any private bank has had reason to review its anti-money laundering controls, Citibank has. Of the 40 private banks reviewed by the Federal Reserve during its industry wide examination of private banking, only one -- Citibank -- was reviewed in detail by Federal Reserve examiners three years in a row. It is a private bank that has struggled with a wide range of anti-money laundering issues.

Citibank private bank has implemented policies, internal systems, and employee training programs to combat money laundering. But its record during the 1990s is marked by years of poor audits, three consecutive years of regulatory criticism, and repeated difficulties related to troubled accounts. Citibank's experience underscores the fact that even private banks with ample resources may have inadequate anti-money laundering controls.

Citibank Private Bank During the 1990s

The Citibank private bank has been in existence for many years in various forms. During the 1990s, it has experienced steady growth, and today has thousands of employees and hundreds of private bankers in over 30 locations throughout the world. The Citibank private bank has also changed leadership four times in ten years, with the newest chief executive having taken office last month.

During the 1990s, the private bank has operated with four divisions: the Western Hemisphere Division which includes the United States, Canada and Latin America; the EMEA Division which includes Europe, the Middle East and Africa; the Japan Division; and the Asia/Pacific Division which includes Hong Kong and Singapore. The private bank has also operated in tandem with four affiliated trust companies, called "Cititrust" in the Bahamas, Cayman Islands, and the Isle of Jersey; and "Confidas" in Switzerland. These trust companies help establish and administer trusts and shell corporations for Citibank private bank clients.

During the first half of the 1990s, the private bank's headquarters were located in Switzerland, and the four divisions operated fairly independently. After the Salinas scandal in 1995, the headquarters moved from Switzerland to New York, and the private bank began an effort to centralize management of its divisions under a single set of policies.

Anti-Money Laundering Program. During the 1990s, the primary elements of the private bank's anti-money laundering program have remained the same, although particular policies, procedures and systems have been clarified or strengthened over time. The primary elements include: (1) obtaining due diligence information on a client prior to opening an account, recording that information on a "client profile," and updating the client profile annually based upon contacts during the year; (2) establishing a client transaction profile with anticipated levels of activity, and monitoring the account for unusual activity; and (3) reporting any suspicious activity internally and, if appropriate, to the U.S. government through a Suspicious Activity Report.

The private banker with primary responsibility for a client is charged with meeting the due diligence requirements. These requirements include ascertaining the true identity of the client, obtaining references, and determining the client's background and source of funds. The private bank has also specified several categories of "high risk accounts" requiring added due diligence and monitoring. These categories include clients in high risk geographic areas, such as countries identified by the U.S. State Department as at high risk of drug trafficking; clients engaged in high risk businesses, such as casinos or currency exchanges; clients who are "public figures"; and clients who become the subject of adverse rumors or media stories. In addition, the private bank has engaged in training, and has implemented internal audit procedures designed to test compliance with its anti-money laundering controls.

Audit Results. During the 1990s, the private bank was subjected to repeated criticisms in internal audits and regulatory reviews. Citibank's own auditors provide audit ratings on a scale of 1 to 5, with 1 being the worst score and 5 the best. In 1995 and 1996, these internal audits gave a number of private bank units in the United States, Europe and Asia ratings of "2" and "3," which private bank personnel told the Subcommittee staff are failing scores. Many of the audits identified anti-money laundering deficiencies, including noncompliance with bank anti- money laundering policies, inadequate client information, and inadequate monitoring of client transactions.

For example, a 1995 audit of nine European offices found that the office managers had "not enforced the development and implementation of compliance programs" required by the private bank. A 1995 audit of a U.S. unit responsible for establishing and administering client trusts did "not perform effective [know-your-customer] procedures before accepting account referrals from Private Bankers. As a result, customers attempting to launder money may not be identified." A 1995 audit of the Singapore private bank office found major control and documentation problems, including a lack of training and oversight and inadequate compliance with know-your-customer policies. A 1995 audit of the Monaco private bank office found that "80% of the Unit's client base [is classified] 'high risk' using the Legal Affairs Office criteria for money laundering. Although the unit has established 'Know Your Customer' policies, there is no effective transaction profile monitoring for high risk clients."

A 1996 audit of private bank offices handling Latin American clients found four "major deficiencies" which "increase[d] the exposure to money laundering schemes and internal fraud." The audit stated that it "seems the Unit's priority was to focus on customer service, even when it meant that internal controls would be compromised." A 1996 audit criticized the Bahamas and Cayman Islands trust companies for failing to obtain "adequate Know Your Customer (KYC) information from Private Bankers to enable them to assess money laundering risk and suitability." The audit report stated: "This concern is heightened by the confidential nature of the off-shore business and exposes [the trust companies] ... to civil penalties, criminal charges, and negative publicity. ... [A]lmost all (92%) existing, Private Banker-linked accounts tested were missing one or more key elements of KYC documentation."

The bank auditors were particularly critical of the private bank's headquarters in Switzerland, giving it failing "2" audit ratings in several audits. In December 1995, due to continued deficiencies, the auditors assigned the office a rating of "1," the only 1 audit rating given to any private bank unit in recent years. A cover memorandum stated, "Such a rating indicates this office is operating in a severe[ly] deficient manner, with a lack of policy and procedure implement[ation] as well as ... less than acceptable internal controls."

Regulatory Reviews. The private bank's poor audit ratings caught the attention of the Federal Reserve during its review of the private bank in 1996. The result was that the Federal Reserve conducted three consecutive audits of the private bank, the only one of 40 banks which received that level of attention. In 1996, a Federal Reserve examiner noted in an internal review document that the private bank's Swiss headquarters had received the "worst possible audit rating" in December 1995, and wrote that it appeared poor audit scores were "not taken seriously" within the private bank, although the bank was trying to change.

In 1997, Federal Reserve examiners stated in internal documents that the Citibank private bank lagged behind other private banks they had reviewed. One examiner wrote that, compared to its peers in the second district, Citibank private bank's policy "meets standards [and] it is more detailed ... [but] practice lags behind the pack." The examiner wrote that the private bank is "getting started later, [its] control environment is weaker, and [its] risk tolerance is greater." The examiner noted that, within Citibank itself, "the private bank ... significantly lags behind the rest of corporation in achieving acceptable audit ratings." The examiner wrote:

> *"The auditors are a key asset of [the private bank]. The problem is that for years audit has been identifying problems and nothing ahs been done about it. In 1992 [the private bank had] 66% favorable audits in 1997 the percentage of favorable audits was 62%. ... It appears that there are no consequences for bad audits as long as [the private bank] meets their financial goals."*

With respect to anti-money laundering issues, the examiner wrote in 1997 that, "In spite of the progress made since the prior inspection, significant KYC deficiencies have not yet been addressed. Management must ensure that appropriate measures are taken to complete the client profiles, document sources of wealth, monitor transactions and identify suspicious account activity."

The Federal Reserve examiners also commented unfavorably in 1997, on the private bank's Swiss headquarters. One examiner wrote:

> *"Historically [the private bank] was very decentralized with the marketing heads having a lot of autonomy, and [the] head office was located in Switzerland. Under this structure the corporate culture of the [private bank] did not foster 'a climate of integrity, ethical conduct and prudent risk taking' by U.S. standards."*

The examiner stated that, with respect to Switzerland, "historical control problems remain unresolved, resulting in unacceptable audit ratings. The internal audit ratings for the Swiss Front Office and Swiss Investment Services have been unacceptable since 1992 and 1994, respectively." In another 1997 document, an examiner reported being told that Citibank's "Swiss bankers think that the US KYC effort is an attempt to undermine Swiss banking," and that the Swiss office "thinks they do not need to comply with the control policies because they only deal with the very rich and their clients are above reproach." After the Swiss office received two additional "2" audit ratings for certain operations in 1997, the Federal Reserve examiner attributed the continuing "bad audits" in the Swiss office "in part to the fact that senior management responsible for these problems are still in charge." The examiner said that, when asked about the continued presence of these managers, private bank personnel responded, "'ask the Chairman why they still work there.'"

During the same period, 1996-1997, Citibank's primary regulator, the Office of the Comptroller of Currency (OCC) also reviewed the private bank and expressed many of the same concerns as the Federal Reserve and Citibank's own auditors. The multi-million dollar fraud committed by the private banker Carlos Gomez, which came to light in early 1998, raised additional regulatory concerns about weak controls and inadequate management oversight in the private bank. February 1998, during their regular annual meeting with Citibank board members, the Federal Reserve and OCC discussed their concerns about the private bank. According to talking points prepared for the meeting, the Federal Reserve indicated that the private bank had "significant weaknesses in internal controls that expose Citibank to excessive legal and reputational risk." It also conveyed concern about the "length of time" the private bank was taking to correct deficiencies and the "relative slowness of progress [which is] out of keeping with management's decisive reaction to other control weaknesses." The Federal Reserve recommended that Citibank conduct a "fundamental review" of the private bank by mid-1998, and that the Board's Audit Committee review private bank issues on a quarterly basis.

Senior Bank Management Oversight. Poor audit results, ongoing regulatory reviews, and the Salinas and Zardari scandals elevated the private bank's problems to the attention of Citibank's senior management. The Chairman of the Audit Committee of Citibank's Board of Directors, Robert Shapiro, an outside director who is also chief executive officer of Monsanto, told the Subcommittee staff that, during his tenure as committee chairman from 1996 until 1998, the private bank became one of a handful of issues he focused on. He said that he was troubled not only by the repeated low audit scores, but also by the private bank's repeated failure to meet deadlines for corrective action. He said that he personally talked to Citicorp's CEO John Reed about the need to take action. He said that Mr. Reed responded by taking a personal interest in addressing the private bank problems.

Among other actions, in May 1997, Mr. Reed replaced the head of the private bank. He selected Shaukat Aziz, a longtime Citibank executive not previously associated with the private bank. He told the Subcommittee staff that he charged Mr. Aziz with improving what Mr. Reed called the private bank's "lousy audits." He indicated that he also asked Mr. Aziz to review the private bank's handling of public figures accounts, and to initiate the "fundamental review" of the private bank requested by bank regulators. In a November 1997 letter to the Board of Directors, Mr. Reed wrote the following:

"I spent a day being interviewed by the Department of Justice on the Salinas affair. As a legal issue, I continue to think that we are on very solid ground. However, I am more than ever convinced that we have to rethink and reposition the Private Banking business. ... Much of our practice that used to make good sense is now a liability. We live in a world where we have to worry about 'how someone made his/her money' which did not used to be an issue. Much that we had done to keep Private Banking private becomes 'wrong' in the current environment. The business itself is very highly attractive and there is no reason why we cannot pursue it in a sound way but it will take an adjustment." [CS7463]

That adjustment apparently has not been a smooth one and is still underway. In July 1998, Mr. Aziz presented a new private bank strategy to the Citibank Audit Committee, recommending among other measures that the bank move away from "secrecy" and instead emphasize producing good investment returns for its clients. He also recommended taking steps to change the private bank's culture of lax internal controls. These controls were a sensitive matter throughout 1998, not only because of the Carlos Gomez fraud in January, but also because, in May 1998, ten days after Citibank had agreed to purchase Banca Confia in Mexico, that Mexican bank was indicted by the United States Justice Department for engaging in money laundering.

After receiving approval of the Audit Committee and senior bank management of the proposed 1998 strategy, Mr. Aziz began making personnel changes at the private bank, including firing a longtime senior manager in Switzerland, Phillipe Holderbeke, and altering the private bank's leadership team. On the issue of public figure accounts, in late 1998 and early 1999, over the objection of some longterm private bank employees, he ordered a number of longstanding public figure accounts to be closed.

In October 1999, after accepting an appointment as finance minister of Pakistan, his home country, Mr. Aziz left the private bank. He was replaced by Todd Thomson, a former Travelers Group executive.

Four Case Histories

It is against this backdrop of growth, leadership and organizational change, poor audits and increasing regulatory and management oversight, that the four case histories involving accounts at the Citibank private bank should be analyzed. These case histories span the years 1992 to the present. They involve private bank clients in Latin America, Asia, and Africa.

Each case history involves either a head of state or a close relative clients who fall into a category which the private bank calls "public figures." Public figure accounts, by longstanding policy, are subject to the private bank's highest levels of scrutiny, including requirements for senior management approval prior to opening an account, heightened monitoring, and annual reviews of account developments by the private bank head. The private bank's policy does not specify the criteria to be used in evaluating prospective or existing public figure clients, but instead requires each account to be handled on a case-by-case basis. These four case histories will help convey a sense of the private bank's practices over time and how issues of due diligence, secrecy and anti-money laundering controls were actually handled. The case histories convey issues related not only to Citibank's policy and practice, but also to inherent problems in the private banking industry -- the difficulty of evaluating clients, monitoring their transactions, and creating a private banking culture sufficiently sensitive to money laundering.

(1) Raul Salinas Case History

The Facts

The first case history involves Raul Salinas, brother of the former president of Mexico, Carlos Salinas. Raul Salinas was trained as a civil engineer. For five years during the late 1980s, he was director of planning for Conasupo, a state-run agency that regulated certain agricultural markets, with an annual salary of up to $190,000. From 1990 until mid-1992, Salinas was a consultant at an government antipoverty agency, called Sedesol.

In January 1992, Carlos Hank Rhon, a prominent Mexican businessman and longtime client of Citibank private bank, telephoned his private banker, Amy Elliott, and asked her to meet with him and Raul Salinas that same day. Ms. Elliott was Citibank's most senior private banker in New York handling Mexican clients. She handled only seven or eight accounts personally, while supervising other private bankers in the New York office handling Mexican clients.

At the meeting in New York, which was attended by Ms. Elliott and a more senior private bank manager Reynaldo Figueiredo, Mr. Hank provided the bank with a strong personal reference for allowing Mr. Salinas to open an account. In May 1992, Ms. Elliott flew to Mexico and obtained Mr. Salinas' signature on account opening documentation. She proposed accepting him as a client without investigating his employment background, financial background or assets, and waiving all references other than the one provided by Mr. Hank. The head of the Western Hemisphere Division in the private bank, Edward Montero, approved opening the account. The private bank's country head in Mexico, Albert Misan, was not consulted, and apparently did not learn of the account until 1993. In June 1992, Ms. Elliott wrote in a monthly business report that Salinas accounts had "[p]otential in the $15-$20MM range."

Structure of the Relationship. After accepting him as a client, the private bank opened multiple accounts for Mr. Salinas and his family. The New York office opened 5 accounts for Mr. Salinas and his family members. The private bank's trust company in Switzerland, Confidas, talked to Mr. Salinas about opening additional accounts in the name of a shell corporation. A Confidas employee wrote in June of 1992:

> *"[T]he client requires a high level of confidentiality in view of his family's political background. ... This relationship will be operated along the lines as Amy's 'other' relationship; ie she will only be aware of the 'Confidential accounts' and not even be aware of the names of the underlying companies. ... [P]lease note for the record that the client is extremely sensitive about the use of his name and does not want it circulated within the bank. I believe Amy's 'other' client has a similar arrangement. In view of this client's background, I think we'll need a detailed reference from Amy with Rukavina's sign-off for our files."*

The detailed reference was never provided, nor was Mr. Rukavina's sign-off obtained, but Cititrust in the Cayman Islands activated a Cayman Islands shell corporation called Trocca Ltd. to serve as the owner of record for private bank accounts benefitting Mr. Salinas and his family. Cititrust used three additional shell companies, sometimes called "nominee companies," to function as Trocca's board of directors Madeline Investments SA, Donat Investments SA, and Hitchcock Investments SA. Cititrust used three more nominee companies to serve as Trocca's officers and principal shareholders Brennan Ltd., Buchanan Ltd. and Tyler Ltd. Cititrust controls all six of these nominee companies, and routinely uses them to function as directors and officers of shell companies owned by private bank clients. Approximately one year later, Cititrust also established a trust, identified only by a number (PT-5242), to serve as the owner of Trocca.

The result of this elaborate structure was that the Mr. Salinas' name did not appear anywhere on Trocca's incorporation papers. Separate documentation establishing his ownership of Trocca was maintained by Cititrust in the Cayman Islands, under secrecy laws restricting its disclosure.

The private bank did not disclose the name of the Salinas shell company to any private bank personnel other than Cititrust and Confidas personnel who administered the company, and Swiss bank personnel required by Swiss law to know the beneficial owner of a Swiss account. Even Ms. Elliott did not know the name of the shell corporation. In addition, the private bank did not use Mr. Salinas' name in bank communications about his accounts, but instead referred to him as "Confidential Client Number 2" or "CC-2." "CC-1" was the code used to refer to Carlos Hank Rhon.

After Trocca was established, the private bank opened investment accounts in London and Switzerland in the name of Trocca. The private bank personnel managing the investment accounts in London were not told who owned Trocca. Later, in 1994, the private bank opened a special name account in Switzerland for Mr. Salinas and his wife under the name of "Bonaparte." During the meeting with Mr. Salinas to establish the Bonaparte account, Confidas personnel again noted Mr. Salinas' extreme concern about secrecy. A memo written about the meeting included the following:

"*During the meeting the client made several remarks addressing his concern for 'confidentiality', so we offered him comfort by reminding him of our procedures and the nature of our business*."

The private bank did not open any accounts for Mr. Salinas in Mexico.

Movement of Funds. After his accounts were first opened, Mr. Salinas made an initial 1992 deposit of $2 million. The funds were deposited through two wire transfers from an account belonging to Mr. Hank, who told Ms. Elliott the funds had been given to him by Mr. Salinas for a business deal which did not go forward. The funds were divided between the Salinas accounts in New York and the Trocca investment accounts in London and Switzerland.

In May 1993, Ms. Elliott met with Mr. Salinas and his fianc,, Paulina Castanon, at Mr. Salinas' home in Mexico. She told the Subcommittee that Mr. Salinas said he had decided to move funds out of Mexico to his London and Swiss accounts to avoid the financial volatility that traditionally accompanied Mexican elections, then scheduled in 1994. She said that he also told her he did not want anyone to know he was moving funds out of the country, because the information might negatively impact his brother and the Salinas administration. She said that Mr. Salinas informed her that he wanted to use cashiers checks and asked if Citibank could accommodate that request. Ms. Elliot informed the Subcommittee that for greater confidentiality it was decided that Ms.

Castanon would present the checks to the Mexico City office of Citibank using her middle names, Patricia Rios.

Ms. Elliott told the Subcommittee that she agreed to talk to Citibank's personnel in Mexico about these arrangements, since she had not had other clients use cashiers checks to move funds to New York. The type of cashiers check at issue was a check written by a bank on its own account, so that the bank itself served as the payor of the amount. Ms. Elliott said she checked with the private bank's Mexico country head, Albert Misan, who worked in the Mexico City office, about using the cashiers checks, and he approved the arrangements. Mr. Misan later told the Subcommittee that Ms. Elliott did not clear the arrangements with him beforehand, but he learned of them later and allowed them to continue.

Ms. Elliott then arranged a meeting between a service officer in the Mexico City office and Ms. Castanon, whom Ms. Elliott introduced as Patricia Rios. Ms. Elliott directed the service officer to accept cashier checks from Ms. Rios, convert them from pesos into U.S. dollars, and then wire transfer the funds to Ms. Elliott's attention using the New York concentration account. The concentration account is an account which the New York private bank uses for administrative purposes, commingling funds from various sources prior to transferring them to other accounts. This account was not designed to be used by clients.

Although Ms. Elliott indicated that these arrangements were established in May 1993, six months earlier two cashier checks totaling about $1 million had been converted from pesos to dollars in Mexico, and sent to the New York concentration account to the attention of Ms. Elliott. Some of the funds were forwarded to Trocca accounts in London and Switzerland, setting the pattern for the 1993 and 1994 checks. In May and June 1993, in a period of less than 3 weeks, seven cashiers checks were presented to Citibank's Mexico City branch, totaling $40 million. This amount far exceeded Ms. Elliott's initial estimate of the account's potential size; however, the account documentation contains no evidence of any inquiry to check on the source of funds. By the end of June 1994, the total funds in the Salinas accounts originating from Mexican cashiers checks had reached $67 million. In a June 29, 1993 email, Ms. Elliott wrote to a colleague in Switzerland: "This account is turning into an exciting profitable one for us all[.] [M]any thanks for making me look good." [CB022908.]

Additional cashier checks followed throughout 1993 and 1994. In a two week period in January 1994, for example, four cashiers checks totaling $19 million were transferred from Mexico through the New York concentration account to the Trocca accounts in London and Switzerland. Altogether, between October 1992 and October 1994, about $67 million was moved from Mexico using Mexican bank cashiers checks and the New York concentration account. In excess of $20 million was transferred to Salinas accounts through other means, for a grand total in excess of $87 million.

All of the cashiers checks used in Mexico named Citibank as the payee, rather than Mr. Salinas, Paulina Castanon or Patricia Rios. When asked whether the private bank was aware of the origin of the funds used to obtain these cashiers checks, Ms. Elliott indicated that no one had made the necessary inquiries. Both Ms. Elliott and Mr. Misan informed the Subcommittee that the private bank did not attempt to determine if Mr. Salinas had accounts at the banks that issued the checks or whether any accounts that existed at the banks were large enough to support the size of the checks presented to Citibank.

When asked why the private bank used this method to transfer the Salinas funds, Ms. Elliott explained that she was attempting to meet Mr. Salinas' request for the confidential movement of his funds from Mexico. The GAO report states that the method, in fact, "effectively disguised the funds' source and destination, thus breaking the funds' paper trail." This break in the paper trail was due primarily to three factors: (1) the cashiers checks named only banks as the payor and payee; (2) the cashiers checks were handled by Citibank in Mexico for a non-account holder using an alias; and (3) the funds passed through the private bank's concentration account in New York, bypassing any specific client account and further obscuring the true source and ultimate destination of the funds. The GAO report states:

"*Citibank ... acknowledged that the fund transfers could have been wired to the Salinas checking account in Citibank New York or directly to Citibank London or Citibank Switzerland, thus retaining a paper trail. The [Citibank] representative stated, however, that Citibank had believed that the movement of the funds could be expedited by having them deposited first to the Citibank concentration account. When asked, the Citibank representative could not explain how the transfers were thus expedited.*"

In addition to moving funds from Mexico, the private bank also performed other services for Mr. Salinas. In 1994, the private bank issued him a loan of $3 million, secured by his deposits. The private bank also provided bill payment services and credit cards. In 1994, it activated a second shell company, Birchwood Heights, Ltd. to hold real estate that Mr. Salinas had acquired in the U.S. through another Bahamian PIC. In January 1995, the private bank agreed to Mr. Salinas' request to transfer $5 million to an account at Julius Baer Bank, "through another bank" to disguise the origin of the funds. [CB023414] Citibank routed the funds first through its own New York concentration account and then to Julius Baer Bank's correspondent account at Chase Manhattan Bank in New York. [CB023412-13.]

Citibank has calculated it received over $2 million in fees associated with the Salinas accounts, from 1992 to 1996. [CB021344] Additional fees have accumulated since then.

Due Diligence. In early February 1995, the Mexican press reported that Mr. Salinas was under suspicion of being involved with the murder of his former brother-in-law, Ruiz Massieu, a leading Mexican politician. According to Ms. Elliott, in a meeting previously scheduled to discuss other matters, she asked Mr. Salinas about the allegation. He described it as politically motivated and denied any involvement. On February 28, 1995, Mr. Salinas was arrested and imprisoned in Mexico on suspicion of murder.

On the day following the arrest, a number of telephone conversations took place between private bank personnel in New York, London and Switzerland. The telephone conversations to London were recorded on an automatic taping system. The tape transcripts indicate that the private bank's initial reaction to the arrest was not to assist law enforcement, but to determine whether the Salinas accounts should be moved to Switzerland to make discovery of the assets and bank records more difficult. This suggestion was made by the head of the private bank at the time, Hubertus Rukavina, and discussed by several employees. It was not acted upon, apparently because it was agreed that London bank records would disclose the funds transfer to Switzerland. Private bank employees also tried to determine whether to require immediate repayment of an outstanding $3 million loan that had been made to Trocca, so that if the funds in the Trocca accounts were frozen by authorities, Citibank funds would not be at risk.

Citibank transcripts indicate that after Mr. Salinas' arrest, Citibank officials responsible for the account in Europe asked Ms. Elliott to prepare a more detailed analysis of the origin of client's funds so that they "could be more comfortable about it." Ms. Elliot said that one step she took to comply with the request was to review the client profile for the account in the private bank's client database, known as the Client Account Management System or CAMS. The private bank's due diligence policies required private bankers to include information in the client profile about the client's business background and source of wealth. Ms. Elliott told the Subcommittee staff that when she reviewed the Salinas profile, she discovered that in the three years the accounts had been open in clear violation of bank policy she had never completed the required information on his business background or source of wealth. The profile was blank. She said she added the information to the client profile on the day that she discovered the omission, using the information that she had at hand.

The absence of any information in the Salinas profile nearly three years after the account had been established is striking because during this same period, 1992 until 1995, top leadership in the Western Hemisphere Division had sent numerous, strongly worded memoranda urging, and ultimately ordering, its private bankers to complete and update information on their client account profiles. Several internal audits had specifically identified incomplete client profiles as a problem. As the supervisor of the Mexican team in New York, Ms. Elliott was responsible for implementing Division policy and corrective action plans responding to audit findings.

When Ms. Elliott filled out the client profile, she wrote that Mr. Salinas was a civil engineer, a "member of the Mexican political and social elite," and was "known to have owned a construction company ... until some time late 1992 or early 1993, and to have participated in major construction projects." Ms. Elliott acknowledged to the Subcommittee staff that neither she nor anyone else at the private bank had ever verified the existence of the construction company or the projects it had handled. Ms. Elliott said that Mr. Salinas had told her of a construction company he was thinking of selling, and Mr. Hank had told her that the sale had gone through and Mr. Salinas had "done very well." She admitted, however, that she did not know the company's name, to whom it was sold, when the sale took place, the amounts involved or the profits realized nor had she made any effort to obtain that information.

On March 3, 1995, Ms. Elliott sent a memorandum to her Division head, Mr. Montero, explaining "the basis for the acceptance of this account, during 1992." [CB7178] The memorandum describes her initial meeting with Mr. Salinas and Mr. Hank, and reports a statement by Mr. Salinas that "he had several banking relationships, including a 'sizeable account at a Swiss bank.'" The memorandum notes that Mr. Salinas was the member of a prominent Mexican family "known to be wealthy," had business dealings with Mr. Hank, and was married to Paulina Castanon who was "known to have received a large cash settlement after her divorce." The memorandum makes no mention of a construction company.

In her interview with Subcommittee staff, Ms. Elliott indicated that she listed the Salinas family wealth as a possible source of the funds in the accounts, because Mexican families have a tradition of bestowing some portion of the parents' wealth on their children, and she thought that might have happened in this instance. However, there is no evidence that she attempted to verify through Mr. Salinas or by any other means that family funds were a source of the funds in the Salinas accounts.

Ms. Elliott told the Subcommittee staff that, in early 1995, her superiors seemed satisfied with the way she had opened and managed the Salinas accounts, but a decision was also made, due to the arrest, to turn over management of the accounts to the private bank's legal department.

Closing the Account. According to Ms. Elliott, three to four weeks after Mr. Salinas had been arrested, the issue was still generating a great deal of publicity. Mr. Montero, Mr. Misan and the private bank attorney for the Western Hemisphere Division, Sandra Lopez Bird, informed Ms. Elliott they had decided to ask Ms. Salinas to close the Salinas Citibank accounts and move the funds elsewhere. They asked her to speak with Ms. Salinas about that matter. Although Ms. Elliott initially resisted the decision, she eventually agreed to speak to Ms. Salinas. However, Ms. Elliott did not discuss this matter with Ms. Salinas until early October 1995.

Ms. Elliott said that Ms. Salinas indicated during the October conversation, which took place in Mexico, that she could not transfer her funds to a certain Swiss bank, because that bank had frozen her account and was not accepting additional funds. Ms. Elliott said she reported this information to her superiors in New York. On November 14, 1995, Ms. Salinas met with bank personnel in Switzerland to begin the process of closing the Salinas accounts at the private bank. According to a November 14, 1995 Confidas memo, when Ms. Salinas met with Confidas staff to make plans to close the accounts she informed Citibank personnel:

> *"[S]he had discussed this with Amy Elliott who told her that because Citibank was a U.S. institution with a global presence the Mexican government might more easily demand information for political reasons under U.S.-Mexican treaties than with a non- U.S. bank."*

According to the memo, Ms. Salinas also denied that any funds had been blocked by a Swiss bank; that authorities were alleging that Mr. Salinas was involved in corruption; or that the Salinas funds were in any other way allegedly involved in crime.

Legal Proceedings. The next day, November 15th, Ms. Salinas was arrested in Switzerland at Banque Pictet, where she and Raul Salinas had approximately $84 million in accounts under the name Juan Guillermo Gomez Gutierrez, a false identity Mr. Salinas had used at that bank. On November 16th, Swiss police issued an order freezing Salinas accounts at several Swiss banks, including Citibank. Approximately $132 million was frozen, including about $27 million at the Citibank private bank offices in Switzerland. A British court later froze the Salinas accounts in London.

On November 17th, Citibank filed a Criminal Referral Form on Raul Salinas and Paulina Castanon with U.S. law enforcement officials. The form mentioned the Salinas accounts in New York which held less than two hundred thousand dollars, but not the Trocca accounts in London or Switzerland holding the bulk of the Salinas money then nearly $50 million.

On November 21st, in response to a request for information on the Salinas accounts relayed by a Swiss colleague on behalf of "requesting authorities" [CB009449], private bank personnel in New York including Ms. Elliott, Mr. Misan, and Sandra Lopez Bird reviewed the Salinas client profile and jointly redrafted the information that Ms. Elliott had provided in March regarding Mr. Salinas' source of wealth. The new description emphasized his construction company, his family's wealth and cited Ms. Salinas' divorce settlement. The document containing the edits was marked "Attorney-Client privilege." [CB21433]

Ms. Salinas was released from Swiss prison in December 1995. Ms. Elliott said that Ms. Salinas telephoned her and spoke briefly about the Salinas accounts, stating for the first time that some of the funds had come from other individuals who had given Mr. Salinas millions of dollars to invest on their behalf. Ms. Elliott indicated to the Subcommittee staff that Mr. Salinas had never told her that; it was inconsistent with her understanding of the sources of the funds in the accounts; and it caused her concern about whether the Salinases had been completely forthcoming about their funds.

In October 1998, a Swiss federal court ordered civil forfeiture of $114 million frozen in the Salinas accounts, as illegal proceeds related to narcotics trafficking. The forfeiture order was based upon a nonpublic report by the Swiss Attorney General, summarizing a three-year investigation which concluded that Mr. Salinas had received substantial funds from narcotics traffickers. In July 1999, the highest Swiss court invalidated the seizure order on procedural grounds, holding that the proceedings should have been brought by local "cantonal authorities" rather than federal authorities, like the Attorney General. The court also ordered the Salinas funds to remain frozen, while Swiss cantonal authorities considered further proceedings.

In Mexico, in January 1999, after a lengthy trial, a court convicted Mr. Salinas of murder. In July 1999, the murder conviction was upheld on appeal. Two years earlier, in July 1997, another Mexican court dismissed money laundering charges against Salinas, on the grounds that no prior court ruling had determined that the $21 million in dispute had been illegally obtained. That dismissal was upheld by an appeals court in May 1998. Mexican law enforcement officials informed the Subcommittee staff that the Mexican government has nearly completed its investigation into the sources of Mr. Salinas' funds and plans to file charges of illicit enrichment and money laundering against Mr. Salinas in the near future.

In the United States, the U.S. Attorney for the Southern District of New York initiated an investigation into whether the Citibank private bank or any of its employees should be charged with money laundering in connection with the Salinas accounts. No indictments have been brought, and the five-year statute of limitations may soon bar any prosecution of these matters.

The Issues

The Salinas case history raises issues involving due diligence, secrecy and the application of anti-money laundering controls to accounts belonging to a public figure.

Lack of Due Diligence. A private bank is obligated by law to take steps to ensure that its clients do not involve the bank in money laundering. To meet its anti-money laundering obligations, the Citibank private bank has developed detailed policies and procedures requiring its private bankers to conduct due diligence in opening and managing client accounts. Ms. Elliott was asked to testify as an expert government witness in a 1994 money laundering case about the obligation of private bankers to obtain adequate information on their clients. She testified that, "'[K]now your client,' at least in our bank, is part of the culture. It's part of ... the way you do things. It's part of the way you conduct yourself." She also testified that it is an ongoing responsibility.

In the Salinas matter, the private bank accepted Mr. Salinas as a client without any specific review of his background and without determining the source of the funds that would be deposited into his accounts. Ms. Elliott admits that, in place of conducting a due diligence review, she relied on the verbal reference provided by Mr. Hank and her general knowledge of the reputation and wealth of the Salinas family. She admits that she did not investigate Mr. Salinas' employment, financial background, or assets.

It also important to note that her superiors did not find fault with her performance. No one asked her to find out more or to write up what she knew until after Mr. Salinas had been arrested. The suggestion of a Confidas employee in Switzerland to obtain a more detailed reference and the approval of the EMEA Division head was not acted upon. Instead, the Western Hemisphere Division head approved opening the account on the scant information provided. Nor did management realize that the Salinas client profile was missing required background information for three years running, despite a series of management initiatives to improve client profiles, internal audits criticizing incomplete profiles, and a compliance review which specifically identified Ms. Salinas' profile as being incomplete.

As Ms. Elliott acknowledged at the American Express trial, due diligence requirements do not end when a decision is made to open an account. They are an ongoing responsibility. The failure to perform due diligence prior to opening the Salinas accounts was compounded when Mr. Salinas began depositing tens of millions of dollars into his shell company's offshore accounts, which quickly reached an aggregate balance far above the $20 million account potential that Citibank had projected in 1992. Just three weeks in 1993 saw $40 million in deposits, with more after that. The Subcommittee investigation has determined that no one questioned Mr. Salinas about the origin of these funds. Far from expressing concern or questioning the source of the funds, Ms. Elliott wrote to her colleagues in June 1993, that the Salinas account "is turning into an exciting profitable one for us all[.] [M]any thanks for making me look good." [CB022908.] Ms. Elliott was not alone in her inaction. There is no evidence that other private bank personnel charged with monitoring client accounts for suspicious transactions raised any questions about the Salinas accounts. Our investigation has uncovered no other auditor or compliance officer in Mexico, New York, London or Switzerland who questioned the Salinas account activity in 1993 and 1994. The individual in the New York office responsible for monitoring client transactions told the Subcommittee staff that he was unaware of the increase in the Salinas accounts at the time. Because the funds were moved through the New York concentration account, the transactions were not registered with any client account, effectively bypassing the monitoring system in place.

There is one document prepared in 1995, after the Swiss police had frozen the Salinas funds, which suggests that one or more Citibank employees in Mexico may have expressed concerns about the Salinas transfers while they were going on. A draft memorandum prepared by the financial controller in Citibank's Mexico City office, in anticipation of a briefing of Mexican bank regulators on the Salinas matter, states the following.

"To open an account for all of its clients, Citibank requires a thorough Customer Profile which demonstrates the client's personal data as well as his source of wealth. ... Routinely the Officer [of Citibank N.Y.] would call and advise Mexico that a transaction would be initiated. ... Mexico became concerned about the frequency and size of the transactions. Mexico was reassured by Citibank N.Y. that the 'Know your Customer' guidelines were in place, had been followed, and that the volume of the transactions were consistent with the client's profile. Given this reassurance, it was concluded that the transactions were not of a suspicious nature and that no issue existed."

When questioned, neither the author of the memorandum nor others could identify who called New York or who provided assurances about the Salinas account. What is clear is that, at the time of the transfers, little effort was expended to determine the source of the millions of dollars flowing from Mexico to New York to London and Switzerland. When questioned about his lack of intervention on this matter, Mr. Misan, then the private bank's Mexico Country head, stated that when he took his position his superiors, Mr. Figueiredo and Mr. Montero, informed him that there were some Mexican client accounts that he should not supervise. Mr. Misan told the Subcommittee staff that, as a result, he did not supervise the Salinas accounts.

An added factor is that allegations of corruption involving Mr. Salinas existed at the time. The chief executive officer of Citicorp, John Reed, told Subcommittee staff of a conversation he had with Mexican businessmen in 1993 or 1994 about Raul Salinas' "inserting himself in local business deals inappropriately" and potentially embarrassing his brother, then president of Mexico. A 1992 press report in a Mexican publication called El Pais, characterized Conasupo, the agency Mr. Salinas headed, as an agency "sadly famous for its corruption, including accusations of impropriety against Raul Salinas ... during his period as a public official." An August 1993 article from a California newspaper, the Sacramento Bee, reported unsubstantiated rumors "flying in government circles and among the national press that members of the Salinas family ... are taking advantage of the president's office to build massive personal fortunes. ... According to some of the stories, Salinas' siblings are involved in a wide variety of unsavory business deals, peddling their influence, using other people as phony fronts and generally throwing their weight around in their commercial dealings. ... [O]ff the record, such stories are the talk of the town."

Private bank personnel uniformly told the Subcommittee staff that they were unaware of such press reports and rumors until February 1995, when Ms. Elliott confronted Mr. Salinas about the murder allegations and he was subsequently arrested. Whether or not the private bank was aware of the allegations in this particular case, the larger issue is what a private bank should do with such information when it arrives. None of the private banks interviewed by the Subcommittee staff, including Citibank, had standards spelling out how negative media reports or indictments involving a private bank client should be handled. The danger is the allegations turn out to be correct, and a financial institution finds itself having participated in transactions which in the Salinas case may have involved large-scale money laundering.

Secrecy. A second issue raised by the Salinas case history involves how far a private bank should go in accommodating client requests for secrecy. In the Salinas matter, the private bank not only established a shell company with layers of disguised ownership, but also permitted a third party using an alias to deposit funds into the account, accepted multi-million dollar cashiers checks without knowing the origin of the funds, and moved the funds out of the country through a Citibank concentration account that hid the origin and destination of the client's wire transfers. It is one thing for a private bank to provide reasonable levels of confidentiality; it is another for a private bank to provide the means for an individual to deposit millions of dollars in Swiss accounts in ways that even auditors would find difficult to detect. When products and services are structured to satisfy a client's demand for secrecy, they become much more vulnerable to money laundering.

The Salinas matter also highlights the tension that exists between a bank's obligations to its clients and its obligations to combat money laundering. After Mr. Salinas was arrested, Mr. Rukavina, the head of the Citibank private bank at that time, suggested that the Salinas accounts in London be transferred to Switzerland because they would be afforded more secrecy there. Similarly, according to Ms. Salinas, Ms. Elliott advised her that it might be wise to move the Trocca accounts out of Citibank because it might be more difficult for Mexican authorities to obtain account information from a non-U.S. bank. A former Citibank private banker told the Subcommittee staff that, after the Salinas incident, private bankers in New York were instructed to review their client files and "purge" information connecting the clients to offshore PICs or trusts.

After Mr. Salinas' arrest in February 1995, private bank officials and attorneys restricted activities in the Trocca account, put it under the control of the legal department, made a decision to terminate the relationship and secured repayment of an outstanding loan out of concern that the bank's funds would be at risk if a government froze the assets in the accounts. Yet, it was not until six months later after Ms. Salinas' arrest that Citibank filed a criminal referral on the Salinas accounts. That referral made no mention of the Trocca accounts, even though it was Trocca that held almost all of the clients' assets and was the subject of all the Citibank actions six months earlier.

Anti-Money Laundering Controls and Public Figures. The Salinas case history also raises questions about what steps a private bank should take when the person asking the bank to move millions of dollars to offshore accounts is a senior government official or close relative. Citibank and other private banks have long taken the position that senior government officials, politicians and other public figures merit heightened scrutiny. Citibank's public figure policy requires the approval of the private bank head to open an account and annual reviews of account activity. Other private banks have established even more specific standards for reviewing public figures. One prohibits acceptance of a government official as a client unless the official has "verifiable nonpolitical sources of income." Another prohibits acceptance of any government official who wants to "open accounts in jurisdictions outside their home country."

At each of the private banks interviewed by the Subcommittee staff, when asked for an analysis of the Salinas matter, the response was that the private bank should have begun asking tougher questions when millions of dollars began flowing out of Mexico. The consensus view was that corruption was a known problem in Mexico, and Mr. Salinas' post as a government official for five years and his relationship to his brother raised concerns that should have been addressed. Citibank's current public figure policy includes close relatives in the definition of a public figure, but in 1992, it was an open question as to whether relatives were covered. In the Salinas matter, some private bank documentation deemed him a public figure, while other documentation did not. After his arrest, private bank personnel discussed his status and determined he was not a public figure by virtue of his relationship to Carlos Salinas. Apparently, no one in the private bank then knew that Raul himself had held a government post in Mexico.

As a top official of Confidas remarked on the day that Mr. Salinas was arrested:

"What we need to be preparing to do is to say why we thought it was okay to have the relationship with this customer when we knew who the brother was. I mean, Amy Elliott can say all she wants that the money came from, you know making roads in, in Mexico or something like that but the big question is [going to] be why didn't we think, or why didn't we question, or did, did, didn't we care?"

Pattern of Poor Account Management. Many of the actions taken with respect to the Salinas account were the subject of criticisms in audits of the private bank. For example, a 1996 audit of private bank offices handling Latin American clients during 1995, focusing primarily on the relationships managed and serviced in New York, gave the offices an audit rating of "2" a failing score. Acknowledging that the Latin American Account Offices were the largest and most profitable segment of the private bank's Western Hemisphere Division, the audit concluded that major deficiencies "increase[d] the exposure to money laundering schemes and internal fraud." Among the weaknesses discussed in the audit were the following practices, all of which were employed in the servicing of the Salinas account:

* "New clients are accepted before performing fundamental KYC procedures." The office "continues to accept new clients without complete identification and reference checks. As a result, the Bank and individual employees are exposed to significant civil penalties and criminal charges because customers attempting to launder money may not be detected."

* Waivers [of KYC requirements] are granted too frequently."

* The Latin America office "does not effectively monitor the transactions of all clients, especially those that may require increased scrutiny because of political affiliations, cash-based businesses or special name arrangements."

* "Confidentiality is behind use of the [concentration] account. . .The use of the concentration account for this purpose is inappropriate because of the heightened concerns over money laundering."

These audit findings suggest that Ms. Elliott's conduct in the Salinas matter was far from unique. The 1996 audit concluded by saying that "[It] seems the Unit's priority was to focus on customer service, even when it meant internal controls would be compromised. Recent discussions with employees in the unit indicate this philosophy has not changed."

(2) Asif Ali Zardari Case History

The Facts

The second case history involves Asif Ali Zardari, the husband of Benazir Bhutto, former Prime Minister of Pakistan. Ms. Bhutto was elected Prime Minister in 1988, dismissed by the President of Pakistan in August 1990 for alleged corruption and inability to maintain law and order, elected Prime Minister again in October 1993, and dismissed by the President again in November 1996. At various times, Mr. Zardari served as Senator, Environment Minister and Minister for Investment in the Bhutto government. Inbetween the two Bhutto administrations, he was incarcerated in 1990 and 1991 on charges of corruption; the charges were eventually dropped. During Ms. Bhutto's second term there were increasing allegations of corruption in her government, and a major target of those allegations was Mr. Zardari. It has been reported that the government of Pakistan claims that Ms. Bhutto and Mr. Zardari stole over $1 billion from the country.

During the period 1994 to1997, Citibank opened and maintained three private bank accounts in Switzerland and a consumer account in Dubai for three corporations under Mr. Zardari's control. There are allegations that some of these accounts were used to disguise $10 million in kickbacks for a gold importing contract to Pakistan.

Structure of Private Bank Relationship. Mr. Zardari's relationship with Citibank began in October 1994, through the services of Kamran Amouzegar, a private banker at Citibank private bank in Switzerland, and Jens Schlegelmilch, a Swiss lawyer who was the Bhutto family's attorney in Europe and close personal friend for more than 20 years. According to Citibank, Mr. Schlegelmilch represented to Mr. Amouzegar that he was working for the Dubai royal family and he wanted to open some accounts at the Citibank branch office in Dubai. Mr. Schlegelmilch had a Dubai residency permit and a visa signed by a member of the Dubai royal family. Mr. Amouzegar agreed to introduce Mr. Schlegelmilch to a banker in the Citibank branch office in Dubai.

According to Citicorp, Mr. Schlegelmilch told the Citibank Dubai banker that he wanted to open an account in the name of M.S. Capricorn Trading, a British Virgin Island PIC. The stated purpose of the account was to receive money and transfer it to Switzerland. The account was opened in early October 1994.

According to Citibank, Mr. Schlegelmilch informed the Dubai banker that he would serve as the representative of the account and the signatory on the account. Under Dubai law, a bank is not required to know an account's beneficial owner, only the signatory. Citibank told the Subcommittee staff that Mr. Schlegelmilch did not reveal to the Dubai banker that Mr. Zardari was the beneficial owner of the PIC, and the account manager never asked him the identity of the beneficial owner of the account. Instead, according to Citibank, she assumed the beneficial owner of the account was the member of the royal family who had signed Mr. Schlegelmilch 's visa.

According to Citibank, the account manager actually performed some due diligence on the royal family member whom she believed to be the beneficial owner of the account.
Shortly after opening the account in Dubai, Mr. Schlegelmilch signed a standard referral agreement with Citibank Switzerland private bank guaranteeing him 20% of the first three years of client net revenues earned by the bank from each client he referred to the private bank .
On February 27, 1995, Mr. Schlegelmilch, working with Mr. Amouzegar, opened three accounts at the Citibank Switzerland private bank. The accounts were opened in the name of M.S. Capricorn Trading, which already had an account at Citibank's Dubai branch, as well as Marvel and Bomer Finance, two other British Virgin Island PICs established by Mr. Schlegelmilch, according to Citibank. Each private bank account listed Mr. Schlegelmilch as the account contact and signatory. Citibank informed the Subcommittee that the Swiss Form A, a government-required beneficial owner identification form, identified Mr. Zardari as the beneficial owner of each PIC.
Lack of Due Diligence. The decision to allow Mr. Schlegelmilch to open the three accounts on behalf of Mr. Zardari, according to Citibank, involved officials at the highest levels of the private bank. The officials were: (a) Mr. Amouzegar, the private banker; (b) Deepak Sharma, then head of private bank operations in Pakistan; (c) Phillipe Holderbeke, then head of private bank operations in Switzerland (who became head of the Europe, Middle East, Africa Division in February 1996); (d) Salim Raza, then head of the EMEA Division of the private bank; and (e) Hubertus Rukavina, then head of the Citibank private bank. Mr. Rukavina told the Subcommittee staff that when he was asked about opening the Zardari accounts, he did not make the decision to open them, but rather directed that the matter be discussed with Mr. Sharma. According to Mr. Rukavina, he never heard whether the accounts were ultimately opened. Mr. Rukavina left the private bank in 1996 and left Citibank in 1999.
Citibank informed the Subcommittee staff that the private bank was aware of the allegations of corruption against Mr. Zardari at the time it opened the accounts in Switzerland. However, Citibank reasoned that if the charges for which Mr. Zardari had been incarcerated for two years had any merit, they would not have been dropped. Bank officials also believed that the family wealth of Ms. Bhutto and Mr. Zardari was large enough to support a large private bank account, even though Citibank was not able to specify what actions were taken to verify the amount and source of their wealth. Citibank said that bank officials were also aware of the M.S. Capricorn Trading account in Dubai, and they were comforted by the fact that there had been no problems with that account. According to Citibank, Mr. Amouzegar informed his superiors that Mr. Zardari was the beneficial owner of the Capricorn account in Dubai when they were considering the request to open the accounts in Switzerland. Inexplicably, however, the Dubai account manager was apparently still operating under the assumption that the beneficial owner of the Dubai Capricorn account was a member of the Dubai royal family. Subcommittee staff have been unable to determine whether Citibank officials were unaware of or inattentive to the serious inconsistency between Citibank Switzerland and Citibank Dubai with respect to the Capricorn Trading account. Citibank also informed the Subcommittee staff that bank officials had some concerns that if they turned down the accounts, their actions may have implications for the corporation's operations in Pakistan; however, they said they never received any threats on that issue.
Citibank told the Subcommittee staff the private bank decided to allow Mr. Schlegelmilch to open the three accounts for Mr. Zardari on the condition that the private bank would not be the primary accounts for Mr. Zardari's assets and the accounts would function as passive investment

accounts. Citibank told the Subcommittee staff that Mr. Holderbeke signed a memo delineating the restrictions placed on the accounts, including a $40 million aggregate limit on the size of the three accounts, and transaction restrictions requiring the accounts to function as passive, stable investments, without multiple transactions or funding pass-throughs. None of the Citibank personnel interviewed by Subcommittee staff could identify any other private bank account with these types of restrictions. Other private banks interviewed by the Subcommittee staff were asked if they had ever accepted a client on the condition that certain restrictions be imposed on the account. The banks all said they had not. One bank representative explained that if the bank felt that it needed to place restrictions on the client's account, it didn't want that type of client. The existence of the restrictions are in themselves proof of the private bank's awareness of Mr. Zardari's poor reputation and concerns regarding the sources of his wealth.

Movement of Funds. Citibank told the Subcommittee staff that, once opened, only three deposits were made into the M.S. Capricorn Trading account in Dubai. Two deposits, totaling $10 million were made into the account almost immediately after it was opened. Citibank records show that one $5 million deposit was made on October 5,1994, and another was made on October 6, 1994. The source of both deposits was A.R.Y. International Exchange, a company owned by Abdul Razzak Yaqub, a Pakistani gold bullion trader living in Dubai.

According to the New York Times, in December 1994, the Bhutto government awarded Mr. Razzak an exclusive gold import license. In an interview with the New York Times, Mr. Razzak acknowledged that he had used the exclusive license to import more than $500 million worth of gold into Pakistan. Mr. Razzak denies, however, making any payments to Mr. Zardari. Citibank could not explain the two $5 million payments. Ms. Bhutto told the Subcommittee staff that since A.R.Y. International Exchange is a foreign exchange business, the payments did not necessarily come from Mr. Razzak, but could have come from a third party who was merely making use of A.R.Y.'s exchange services. The staff invited Ms. Bhutto to provide additional information on the M.S. Capricorn Trading accounts, but she has not yet done so.

On February 25, 1995, a third deposit of $8 million was made into the Dubai M.S. Capricorn Trading account. Records show that the payment was made through American Express, with the originator of the account listed as "Morgan NYC." Citibank indicated it does not know who Morgan NYC is, nor does it know the source of the $8 million.

All of the funds in the Dubai account of M.S. Capricorn Trading were moved to the Swiss accounts in the Spring of 1995. On March 6, 1995, $8.1 million was transferred; and on May 5, 1995, another $10.2 million was transferred. Both transfers involved U.S. dollars and were routed through Citibank's New York offices. Citibank informed the Subcommittee staff that M.S. Capricorn Trading closed its Dubai account shortly after the last transfer was completed.

Citibank has indicated that significant amounts of other funds were also deposited into the Swiss accounts. As described below, the $40 million cap was reached, and millions of additional dollars also passed through those accounts. However, Swiss bank secrecy law has prevented the Subcommittee from obtaining the details on the transactions in the Zardari accounts.

Account Monitoring. Citibank told the Subcommittee staff that, in 1996, the Swiss office of the private bank conducted a number of reviews of the Zardari Swiss accounts, finally deciding in October to close them.

The first review was allegedly in early 1996, triggered by increasing publicity about allegations of corruption against Mr. Zardari. Citibank told the Subcommittee staff that Messrs. Holderbeke, Raza, Sharma and Amouzegar participated in the review, and apparently concluded that the allegations were politically motivated and that the accounts should remain open. The

Subcommittee staff was told that the review did not include looking at the accounts' transaction activity.

In March or April, 1996, Mr. Amouzegar asked that the overall limit on the Zardari accounts be increased from $40 million to $60 million, apparently because the accounts had reached the previously imposed limit of $40 million. Citibank told the Subcommittee staff that Mr. Holderbeke considered the request, but declined to increase the $40 million limit.

In June, press reports in the United Kingdom that Mr. Zardari had purchased real estate in London triggered still another review of the Zardari accounts. Citibank private bank told the Subcommittee staff that its Swiss office internally discussed the source of the funds for the property purchase. Mr. Amouzegar and Mr. Raza then met with Mr. Schlegelmilch, who allegedly informed them that funds had been deposited into the Citibank accounts, transferred to another PIC account outside of Citibank and used to purchase the property. Mr. Schlegelmilch allegedly indicated the funds had come from the sale of some sugar mills and were legitimate. Citibank told the Subcommittee staff it is not sure if anyone at the private bank attempted to validate the information about the sale of the sugar mills. In addition, even though this account activity violated the condition imposed by Citibank that the accounts were not to be used as a pass through for funds, the accounts were kept open.

Closing the Accounts. In July 1996, after Mr. Amouzegar left the private bank to open his own company, another private banker, Cedric Grant, took over management of the Zardari accounts. Citibank told the Subcommittee staff that Mr. Grant began to review the Zardari accounts about one month later to familiarize himself with them. He also reviewed the transactions that had taken place within the accounts.

In September and October 1996, press accounts in Pakistan repeatedly raised questions about corruption by Mr. Zardari and Ms. Bhutto, as Ms. Bhutto's re-election campaign increased its activities prior to a February election date. In September, Ms. Bhutto's only surviving brother, Murtaza Bhutto, was assassinated, and Ms. Bhutto's mother accused Ms. Bhutto and Mr. Zardari of masterminding the murder, because the brother had been leading opposition to Ms. Bhutto.

In October, Mr. Grant completed his review of the Zardari accounts and provided a written analysis to Messrs. Holderbeke, Sharma and Raza, according to Citibank. Mr. Grant had found numerous violations of the account restrictions imposed by Citibank, including multiple transactions and funding pass-throughs. Citibank told the Subcommittee staff that the accounts had functioned more as checking accounts than passive investment accounts, directly contrary to the private bank's restrictions. Apparently, well over $40 million had flowed through the accounts, though Subcommittee staff were unable to ascertain the actual amount because Swiss bank secrecy law prohibits Citibank from sharing that information with the Subcommittee. Citibank indicated that Mr. Amouzegar had either ignored or did not pay attention to the account activity. Mr. Grant recommended closing the accounts, and they were closed by January 1997.

Legal Proceedings. On September 8, 1997, the Swiss government issued orders freezing the Zardari and Bhutto accounts at Citibank and three other banks in Switzerland at the request of the Pakistani government. Since Citibank had closed its Zardari accounts in January 1997, it took no action nor did it make any effort to inform U.S. authorities of the accounts until late November 1997. Citibank contacted the Federal Reserve and OCC about the Zardari accounts in late November, in anticipation of a New York Times article that eventually ran in January 1998, alleging that Mr. Zardari had accepted bribes, and that he held Citibank accounts in Dubai and Switzerland. On December 8 and 11, 1997, Citibank briefed the OCC and the Federal Reserve, respectively, about the accounts and the steps it had taken as a result of the Zardari matter. These steps included: closing all of the accounts that had been referred by Mr. Schlegelmilch to the private bank and terminating his referral agreement; reviewing all of the accounts opened in the Dubai office; and tightening up account opening procedures in Dubai, including requiring the Dubai office to identify the beneficial owner of all Dubai accounts. Citibank did not identify any changes made or planned for the Swiss office, even though the majority of the activity with respect to the Zardari accounts had taken place in Switzerland.

On December 5, 1997, Citibank prepared a Suspicious Activity Report on the Zardari accounts and filed it with the Financial Crimes Enforcement Network at the U.S. Department of Treasury. The filing was made fourteen months after its decision to close the Zardari accounts; thirteen months after Mr. Zardari was arrested a second time for corruption in November 1996; and nearly two months after the Swiss government had ordered four Swiss banks (including Citibank Switzerland) to freeze all Zardari accounts.

In June 1998, Switzerland indicted Mr. Schlegelmilch and two Swiss businessmen, the former senior executive vice president of SGS and the managing director of Cotecna, for money laundering in connection with kickbacks paid by the Swiss companies for the award of a government contract by Pakistan. In July 1998, Mr. Zardari was indicted for violation of Swiss money laundering law in connection with the same incident. Ms. Bhutto was indicted in Switzerland for the same offense in August 1998. A trial on the charges is expected.

In October 1998, Pakistan indicted Mr. Zardari and Ms. Bhutto for accepting kickbacks from the two Swiss companies in exchange for the award of a government contract. On April 15, 1999, after an 18-month trial, Pakistan's Lahore High Court convicted Ms. Bhutto and Mr. Zardari of accepting the kickbacks and sentenced them to 5 years in prison, fined them $8.6 million and disqualified them from holding public office. Ms. Bhutto, who now lives in London, denounced the decision. Mr. Zardari remains in jail. Additional criminal charges are pending against both in Pakistani courts.

On December 11, 1997, Citicorp's Chairman John Reed wrote the following to the Board of Directors:

"*We have another issue with the husband of Ex-Prime Minister Bhutto of Pakistan. I do not yet understand the facts but I am inclined to think that we made a mistake. More reason than ever to rework our Private Bank.*"

Mr. Reed told the Subcommittee staff that it was the combination of the Salinas and Zardari accounts that made him charge Mr. Aziz, the new private bank head, with taking a hard look at the bank's public figure policy and public figure accounts.

The Issues

The Zardari case history raises issues involving due diligence, secrecy and public figure accounts. The Zardari case history begins with the Citibank Dubai branch's failure to identify the true beneficial owner of the M.S. Capricorn Trading account. As a result, the account officer in Dubai performed due diligence on an individual who had no relationship to the account being opened. In Switzerland, Citibank officials opened three private bank accounts despite evidence of impropriety on the part of Mr. Zardari. In an interview with Subcommittee staff, Citigroup Co-Chair John Reed informed the Subcommittee staff that he had been advised by Citibank officials in preparation for a trip to Pakistan in February 1994, that there were troubling accusations concerning corruption surrounding Mr. Zardari, that he should stay away from him, and that he was not a man with whom the bank wanted to be associated. Yet one year later, the private bank opened three accounts for Mr. Zardari in Switzerland. Mr. Reed told the Subcommittee staff that when he learned of the Zardari accounts he thought the account officer must have been "an idiot."

Citibank has been unable to confirm that bank employees verified that Mr. Zardari had a level of wealth sufficient to support the size of the accounts that he was opening. In addition, the Swiss private banker took no action to validate the legitimacy of the source of the funds that were deposited into the account. For example, there was no effort made to verify the claims that some of the funds derived from the sale of sugar mills.

Citibank also performed no due diligence on the client owned and managed PICs that were the named accountholders. Because the PICs were client-created, the bank's failure to perform due diligence on the PICs meant that it had no knowledge of the activities, assets or entities involved with the corporations. One of the PICs, Bomer Finance, has been determined to have been a repository for kickbacks paid to Mr. Zardari, and those kickbacks tainted funds deposited at the Geneva branch of Union Bank of Switzerland. Documentation has not been made available to determine whether Bomer Finance also used its Citibank account for illicit funds.

Another due diligence lapse was the private bank's failure to monitor the Zardari accounts to ensure that the account restrictions imposed on them were being followed. When officials were presented with evidence in 1996 that the restrictions were being violated, they nevertheless allowed the accounts to continue.

The Zardari accounts in Switzerland were opened one day before Raul Salinas was arrested. The account was repeatedly reviewed in 1996, after the Salinas scandal became public. Yet there is no evidence that anyone in the private bank had been sensitized to the problems associated with handling an account of a person suspected of corruption.

The Zardari example also demonstrates the practical consequences of secrecy in private banking. Citibank claims that its decisionmaking in the Zardari matter cannot be fully explained or documented, since all Citibank officials are subject to Swiss secrecy laws prohibiting discussion of client-specific information. In light of the fact that U.S. banks are supposed to oversee their foreign branches and enforce U.S. law, including anti-money laundering requirements, this inability to produce documentation related to a troubling case again highlights the problems with U.S. banks choosing to operate in secrecy jurisdictions.

Pattern of Poor Account Management. The Zardari case history took place during a series of critical internal and federal audits between 1992 and 1997 of the Swiss office which, during most of that time, served as the headquarters of the private bank. The shortcomings identified in the audits included policies, procedures, and problems that affected the management of the Zardari accounts. They included:

* failure of the "corporate culture" in the Swiss office to foster " 'a climate of integrity, ethical conduct and prudent risk taking' by U.S. standards";

* inadequate due diligence;

* "less than acceptable internal controls";

* lack of oversight and control of third party referral agents such as Schlegelmilch; and

* inadequate monitoring of accounts;

all of which resulted in "unacceptable" internal audit ratings. In December 1995, the Swiss office received the lowest audit score received by any office in the private bank during the 1990s. These audit scores indicate the office's poor handling of the Zardari accounts was part of an ongoing pattern of poor account management.

(3) El Hadj Omar Bongo Case History
The Facts

The third case history involves El Hadj Omar Bongo, the elected president of Gabon since 1967. President Bongo has been a client of the Citibank private bank since 1970, although his accounts are now in the process of being closed.

Gabon is located on the west coast of Africa. It is a country about the size of Colorado, with a population of over 1 million. It is the third largest oil producing state in Africa. Gabon declared its independence from France in 1960, but continues strong ties with that country and has adopted French as its official language. El Hadj Omar Bongo (then Albert Bernard Bongo) was first elected Vice President in 1967. He assumed the office of Presidency later that year, when the President died in office from illness. He has been elected President of Gabon five times, in elections held in 1975, 1979, 1986, 1993 and 1998.

Structure of the Private Bank Relationship. President Bongo became a Citibank client in 1970. Over the years, he and his family developed an extensive relationship with the Citibank private bank. They have had multiple consumer and private bank accounts at Citibank offices in Bahrain, Gabon, the Isle of Jersey, London, Luxembourg, New York, Paris and Switzerland. These accounts have included checking, money market, time deposit, and investment accounts. Most of the private bank accounts managed out of New York have been held in the name of Tendin Investments, Ltd., a Bahamian shell corporation which Cititrust assigned to President Bongo in 1985. Certain private bank accounts managed in Paris have been held in the name of a second shell corporation, Leontine, Ltd. In addition, in 1995, the New York office opened a special name bank account under the name "OS" a word which is simply the title of the account and not a corporation or other legal entity.

President Bongo's relationship with the private bank in the United States began in 1985, when he transferred about $52 million from his accounts at Citibank Bahrain to newly opened accounts in New York for Tendin Investments. The total funds in the Tendin accounts have since fluctuated over time from about $28 million to about $72 million, including withdrawals of about $67 million. President Bongo's OS account has fluctuated over time from about $5 million down to $1 million, and the Leontine accounts in Paris have had at least $7.5 million. Additional accounts are in Switzerland; however, the private bank has not provided any information about the account totals due to Swiss secrecy laws. Altogether, the records reviewed by the Subcommittee staff indicate that funds moving through the Bongo private bank accounts since 1985 have exceeded $130 million.

In addition to accounts with substantial deposits, President Bongo has had an extensive credit relationship with the private bank. From 1989 until 1996, he obtained multiple loans from the private bank, collateralized by his deposits. Documents indicate that many of these loans were issued under a complex arrangement, in which the private bank allowed President Bongo's accounts at Citibank Gabon to incur multi-million dollar overdrafts, which were immediately covered by transfers from Bongo accounts in Paris, which were in turn covered by transfers from offshore accounts belonging to Tendin. This three-step process may have been designed to avoid

direct transfers from the Tendin offshore accounts into the President's accounts in Gabon, and minimize the chance that Gabon bank personnel would learn the name of President Bongo's PIC. The private bank loans peaked in 1994 at about $50 million. According to the credit approval documentation, the loan proceeds were used for "local liquidity needs." Account documentation in 1996 states that the loans were "used to finance last reelection campaign," referring to President Bongo's successful re-election to office in December 1993, but the private banker who wrote that description has since said his remarks were based on speculation rather than facts, and that he did not have specific information on how the loan proceeds were used. In 1995, President Bongo began repaying the loans, completing repayment in 1996 with a final transfer of $31 million. In 1997 and 1998, credit reports indicated an outstanding loan balance of just $1 million.
In addition to providing President Bongo with multi-million dollar loans, the private bank in New York performed other services for him and his family. These services included, for example, converting a 1995 wire transfer for $1.6 million into cash which the Bongo family used during a visit to New York in connection with a celebration of the United Nations' 50th anniversary. On another occasion, the private bank cashed a $69,000 check for the President's daughter and wired the funds to her in Gabon to enable her to avoid a three-week delay that would have resulted if she had presented the check to Citibank in Gabon. On still another occasion, the private bank allowed a cash withdrawal of $100,000 to a third party whom the private bank was told would be bringing the funds to the President's son.
The documentation indicates that, in return for these and other services, the Bongo account generated substantial fees for the private bank. One document indicates that client net revenue exceeded $1 million per year. [X4318] A client profile prepared in London describes the Bongo accounts as an "[e]xtremely profitable relationship for the [private bank] and other centres." [X6303]
The Relationship Managers. Since 1985, the New York office has been the primary private bank unit handling the Bongo accounts. Since 1992, the primary account manager has been Alain Ober, the only private banker in New York specializing in clients from Africa. Mr. Ober manages about 100 clients altogether; the Bongo accounts are his largest relationship. His predecessor on the Bongo accounts was William Owen.
Mr. Ober's immediate supervisor until 1995 was Salvatore Mollica, and then Muwaffak Bibi. Mr. Ober told the Subcommittee staff that he also reviewed the account at least once per year in person with the Western Hemisphere Division head in New York, Edward Montero. Mr. Montero, however, told the Subcommittee staff that he was unfamiliar with the account.
Another key Citibank employee handling the Bongo accounts is Christopher Rogers, a longtime private bank employee specializing in Africa. Mr. Rogers was employed in Paris until last year and now works for Citibank in South Africa.
Secrecy. The documentation indicates that President Bongo requested and his private bankers provided secrecy in its handling of his accounts. For example, the account documentation states in a section entitled, "Operational Considerations/ Cautions": "Secrecy is v[e]ry important." [X2454] In 1995, President Bongo requested and the private bank proposed a code to describe his account transactions, based upon the phrases "NEW YORK USA" and "Fort Knox Securities" [X2374], although it is unclear whether this code was used. An internal email dated August 30, 1990, from a Citibank private bank official in Africa states that he does "not have any problems with the large deposits held in New York by J1 [referring to President Bongo], providing information concerning them is kept completely confidential." [770]

Secrecy was provided in part through the private bank's standard practice of establishing client accounts in another name, here the shell corporations, Tendin and Leontine, and the special name account, OS. Loans were also issued with precautions to ensure secrecy. In 1986, for example, a document recommending a loan to President Bongo states, "This is a highly confidential transaction given the identity of the borrower. It is therefore recommended that this package not be circulated as usual by the Credit Department, but directly reviewed by" certain senior private bank personnel. The document goes on:

"The only risk really associated with this credit is the so-called 'political' one, i.e. the supposedly negative consequences which may result from a public knowledge of the credit transactions. ... A stigma is more likely to be attached to the large deposits the client has with us overseas if this were to be known. A credit relationship does not have the same impact. ... [T]he U.S. press would give political disturbances very limited coverage." [851]

Loans issued from 1989 through 1994 also incorporated secrecy protections by using a Citibank Gabon overdraft facility to make the loans and routing repayment through two offshore accounts.

Due Diligence and Account Monitoring. These and other arrangements kept knowledge of the Bongo accounts within a small circle in the private bank, until a 1996 inquiry by the Federal Reserve Bank of New York in connection with its review of the private banking industry in the United States.

One goal of the Federal Reserve's industry review was to determine how private banks monitor client accounts for suspicious activity. In the case of Citibank, the private bank gave the examiners a "Sensitivity Hot Sheet" listing more than 80 accounts which the staff had flagged for additional analysis. The examiners selected 10 accounts from the list for further review, including a Tendin Investments account.

The Sensitivity Hot Sheet stated that the Tendin account had been added to the list in March 1996 due to "Large amounts of Wire Transfers In and Out of account." On October 21, 1996, a private bank compliance officer had sent a memorandum to the private banker, Mr. Ober, asking about the "unusual wire transfer activity." An 8-page document forming the basis for the inquiry showed that, in less than 6 months, from March until August 1996, about $49 million had been deposited into and $51 million withdrawn from two Tendin accounts in New York. On December 4, 1996, Mr. Ober provided a handwritten response explaining that the wire transfers occurred in connection with a $31 million loan payoff which then triggered a liquidation of "various portfolios" and a complete restructuring of the "client's overall portfolio."

The Federal Reserve examiners noted that five weeks had elapsed between the compliance inquiry and Mr. Ober's response, observing, "It does not appear that responding to these requests is a priority for the private bankers." The examiners also took a closer look at Tendin's beneficial owner, President Bongo, evaluating the bank's due diligence efforts, specific account transactions, and loans.

The client profile at the time, dated August 12, 1996, provided the following explanation of President Bongo's business background and source of wealth:

"Head of State for over 25 Years ... Source of Wealth/business Background: Self-made as a result of position. Country is oil producer." [x2448; converted from all capitals in original text]

In separate interviews with the Subcommittee staff, the private banker, his immediate supervisor, and a Division head acknowledged that this description was wholly inadequate, and could not explain why this profile had not been improved by 1996, given the private bank's heightened awareness of due diligence requirements after the Salinas scandal.

The Federal Reserve examiners were also dissatisfied. When the examiners requested more information about the source of the original $52 million deposit, Mr. Ober sent the following email dated December 10, 1996, to his colleague, Mr. Rogers:

"[T]he Federal Examiners are auditing the Tendin Account. ... [T]here is one major issue which remains unresolved .... You may remember that this account was opened in 1985 at [the private bank in New York] with $52MM coming from a time deposit at Citibank Bahrain which was opened by Citibank Libreville on behalf of our client. ... Bill indicated that the $52MM were accumulated over several years at the Branch at the time you were there. Neither Bill nor myself ever asked our client where this money came from. My guess, as well as Bill's is that ... the French Government/French oil companies (Elf) made "donations" to him (very much like we give to PACs in the US!). ... [D]o you remember specifically were [the monies] came from ...?" [X2283]

Mr. Ober told the Subcommittee staff that he could not recall Mr. Rogers' response. Citibank later found a copy of the email Mr. Rogers sent in response on December 11, 1996. It stated in part:

"Gabon resembles a Gulf Emirate in that Oil ... accounts for 95 pct of revenues for a population of less than 1 million. It is clear therefore that Tendin Investments draws most of its wealth from oil, but we have no way of being more specific."

The Federal Reserve examiners concluded that they "were not satisfied with the explanation of the source of wealth/funds and the use of loan proceeds." They also noted a comment by the private bank's legal counsel who said that, in the summer of 1996, "Citibank had consider[ed] ending the relationship ... but they were concerned for the safety of the country officer in [Gabon], so the account remains open."

OCC Inquiry. In February 1997, the Federal Reserve alerted Citibank's primary regulator, the Office of the Comptroller of the Currency (OCC), to its concerns about the Bongo accounts. The OCC followed with a 4-month, in-depth review. The OCC examiner told the Subcommittee staff that, after collecting account documentation, he prepared a list of specific transactions and issues he wanted to discuss and scheduled a meeting at Citibank for April 10, 1997.

By then, the client profile for the Bongo accounts had been revised. The new profile contained the following description of President Bongo's business background and source of wealth:

"Self-made[.] President of African oil producing country for 30 years. Wealth created as a result of position and connection to French oil companies (Elf) since country is major oil [supplier] to France. Wealth invested in real estate locally and in financial instruments overseas. It is believed that subject through affiliated [entities] retains ownership in many oil related ventures in the

country which over the past 30 years resulted in significant accumulation of wealth estimated at $200MM." [x4328; converted from all capitals in original text]

The OCC examiner told the Subcommittee staff that a preliminary review of the accounts indicated that the private bank had virtually no supporting documentation for this description of President Bongo's financial background. He said, for example, that the private bank had no documentation of the President's oil interests and no information on either the oil companies involved or the nature of the President's dealings in the industry. He told the Subcommittee staff that, prior to the April 10th meeting, he had informed the private bank that a key concern was for them to provide appropriate documentation for the source of the funds in the accounts.

Two documents indicate the private bank's efforts to respond to the OCC. The first is a 3-page email dated April 9, 1997, the day before the OCC meeting. [X4315] It is an email from Mr. Rogers to Mr. Ober and four other persons in the private bank entitled, "Tendin cash flow." The email describes "a lengthy meeting" that Mr. Rogers had "with a senior Gabonese civil servant, a consultant to the President." In it, Mr. Rogers states, "I was pretty direct in my probing and the answers I received, although not comprehensive, give a better picture of Gabonese public finances as they relate to the Presidency."

The email then addresses two topics, "Official State Budget" and "Oil Receipts." With respect to the Gabon budget, the email states:

"*Every year, an overall allocation, loosely referred to as 'security' or 'political' funds, is voted into the budget across the operating and investment categories. Although not spelled out for obvious reasons, these funds are understood to be used at the discretion of the Presidency.*"

It then lists four budget categories in the 1995 Gabon budget, totaling $111 million or 8.5% of the overall budget for the year. The second part of the email discusses Gabon's 1995 oil receipts. It refers to Elf Gabon, which is a subsidiary of the largest oil company in France, Elf Aquitaine. The email states that Elf Gabon is "the largest company in Gabon" and "is 58% owned by Elf parent, 25% by the Republic of Gabon ... and 17% by private investors, ... which almost certainly [includes] President Bongo. ... I will try and obtain more information on the President's equity holding in the company."

The second document is dated April 11, 1997, the day after the OCC meeting on the Bongo accounts. [X6694] It is a one-page memorandum to the file by Mr. Ober referencing the Tendin accounts. It states the following:

"*Christopher L. Rogers, our African marketing head based in Paris, recently had a meeting with a very high ranking government official of our client's country. ... The main purpose of the meeting was to determine the amount of funds put at our client's disposal in the national budget of his country.*"

The memorandum states that certain funds "are understood to be used at the discretion of our client," and then lists the same four Gabon budget categories in the April 9th Rogers email, and the same total of $111 million, "representing 8.5%" of the [Gabon] Budget for1995." It states that "[w]e can assume the same level of allocations exist in the 1996 Budget ... and the 1997 Budget." A later version of this memorandum, dated April 14, 1997, was given by the private bank to the

OCC. [693] The wording is almost identical to the April 11th version, except that it characterizes the $111 million in the 1995 Gabon budget as funds which "are at the disposal of the Presidency, without any limitation."

The plain meaning of these documents is that the private bank was identifying Gabon government funds as a primary source of the funds in the Bongo accounts. The OCC examiner told the Subcommittee staff that was his understanding from the April 10th meeting and the April 1997 memorandum. He told the Subcommittee staff that he accepted the information as accurate, because it was his understanding that President Bongo had "carte blanche" authority over government revenues. He also told the Subcommittee staff that, because the $111 million in Gabon government funds was sufficient to account for all of the monies in the Bongo accounts, he did not press the private bank to obtain documentation of the President's oil interests or determine the source of particular deposits, such as $5 million paid into the OS account during 1995, and $21.9 million paid into the Tendin accounts in 1997.
On June 18, 1997, after consulting with senior OCC officials, the OCC examiner completed a memorandum describing his review of the Bongo accounts and concluding that the Citibank private bank had corrected certain deficiencies in its handling of the accounts and was not required to file a Suspicious Activity Report. The memorandum includes the following statements:

"*We agree with the [Federal Reserve] that no documents exist to detail the wealth source or future wealth expectations. ... [P]resent KYC expectations strongly encourage banks to complete a thorough analysis of clients, including documenting their attempts to find out the original source of wealth. ... Mr. Ober states that President Bongo does not provide sufficient information to identify the source of wealth except to say it is from his position as Head of State and revenues from oil businesses. However, as a proxy for source of wealth, Citibank - Paris performed an analysis of Gabon's last published budget (1995) and found that President Bongo had approximately $111 million, or 8.5% of the total 1995 budget of Gabon, at his disposal. It is the understanding of bank management that these funds are available to the Presidency, without limitation. According to Mr. Ober, President Bongo has substantial oil interests in Gabon and other African countries. When combined, these factors serve as support for the source of Tendin Investments funds.*"
The memo concludes:

"*Based on our review of the information in all related files and interviews with Mr. Ober, we conclude that this relationship and related transactions do not meet the level of suspicion expected for filing a Suspicious Transaction Report because of the following reasons: President Bongo receives 8.5% of Gabon's annual budget for the Presidency's unrestricted use. In 1995, that totaled $111 million. ... Based on the interview with Mr. Ober, the transactions conducted through Citibank NA are the sort of transactions that the customer has historically been making and are normal for the Head of State of an African country.*"
Although this memorandum was not shown to the private bank, the OCC examiner met with the private bank's top compliance officer and legal counsel and conveyed its conclusions.

In separate interviews conducted by the Subcommittee staff, Mr. Ober and the OCC examiner each stated that he did not attempt to verify the information provided about the Gabon budget in the April 9th Rogers email. Mr. Ober told the Subcommittee staff that he did not see the 1995 Gabon budget papers, speak directly with the Gabon government official, or ask President Bongo about the information to confirm its accuracy. The OCC examiner told the Subcommittee staff that he did not speak directly with Mr. Rogers or the Gabon official, or request the 1995 Gabon budget documents. The OCC examiner pointed out that no regulations currently spell out the types of documentation banks must obtain to establish the source of funds in a client's account. He explained that his responsibility was to ensure that a bank was taking reasonable steps and had adequate systems and procedures in place to evaluate their clients, monitor their accounts, and report suspicious activity. He said that, with respect to the particular documents in the Bongo accounts, it was not his responsibility to "validate" them, but instead to ensure the documents were on file so that, if questions arose about the account, others could evaluate them.

The Subcommittee staff did attempt to verify the information provided to the OCC. After obtaining copies of the 1995, 1996 and 1997 Gabon budgets, the Subcommittee staff met with Gabon budget experts from the International Monetary Fund (IMF). In addition, a Library of Congress expert on African law evaluated the budget documents and spoke with Gabon budget experts from World Bank.

The Gabon budget experts at the IMF and World Bank were unanimous in their rejection of the assertion that President Bongo received $111 million or 8.5% of the 1995 Gabon budget for his personal use, or received similar amounts in 1996 and 1997. The Gabon budget experts indicated that no recent Gabon budget authorizes the Gabon President to make personal use of government funds. Further, they said that the four budget categories allegedly set aside for the President's personal use refer to general budget categories responsible for funding a wide range of expenses associated with the Gabon Presidency and other governmental bodies. They indicated that, with respect to the Presidency, only about $13 million was allocated to pay for expenses related to the Presidency, such as expenses associated with the Cabinet, Presidential staff, and operation of the Presidential offices. They indicated that, as a practical matter, these staff and operational expenses had to be and were paid for with budgeted funds in 1995, 1996 and 1997, so that it was implausible to suggest that the funds were wholly diverted for the President's personal use.

The Gabon budget experts indicated that, if anyone had attempted to verify the budget items, they should have easily been able to determine that the assertion that these budget items openly authorized a $111 million set-aside for the President's personal use was inaccurate, implausible, and plainly contrary to Gabon's budget policy and actual spending.

The IMF Gabon budget experts also told the Subcommittee staff that, during 1997 and 1998, the Gabon government engaged in extensive "extrabudgetary expenditures" on items not specified in Gabon's enacted budgets. They said that these expenditures exceeded 136 CFA (the currency used in Gabon) or about $62 million. They said that, as a result, the IMF had stopped authorizing loan disbursements to Gabon in October 1998. The IMF indicated that an independent accounting of Gabon's actual budget expenditures in 1997 and 1998 is now underway, and that no additional loan disbursements would be made until the existing budget questions were resolved.

In addition to obtaining this information about the Gabon budget, the Subcommittee staff interviewed Mr. Ober about the memorandum he authored in 1997. When asked whether he had determined that Gabon government funds were a primary source for the funds in the Bongo accounts, Mr. Ober said that he had "never made that determination." Mr. Ober maintained this position despite 1997 and 1998 client profiles he drafted which list government funds as one of President Bongo's "Sources of Wealth": "As Head of State, in excess of US$100mm of the state budget (=8%) are put at OB's disposal on a yearly basis to cover all expenses related to the Presidency." [X6302; X6698]

When asked, if not government funds, what the source of funding was, Mr. Ober said that the funds in the Bongo accounts derived primarily from the $52 million deposit made in 1985. When asked about those funds, Mr. Ober said the deposit took place before he was employed by the private bank, the funds had been with the bank for many years, and since the private bank was "comfortable" with the funds, he was comfortable with them. He told the Subcommittee staff that he did not ask President Bongo directly where the funds came from "for reasons of etiquette and protocol" and because he was "not sure what the reaction would have been."

Multi-Million Dollar Deposits. When asked about deposits made while he was managing the accounts, including $5 million deposited into the OS account in 1995, $3 million deposited into the Tendin accounts in 1996, and $21.9 million deposited into the Tendin accounts in 1997, Mr. Ober told the Subcommittee staff he had little specific information about the funds, other than that they were related to President Bongo's oil interests. The Subcommittee staff found Mr. Ober's lack of information with respect to these deposits troubling, since they were made on his watch, during the time he had primary responsibility for monitoring the account activity. The deposits totaled almost $30 million over three years.

The $5 million deposit was made in 1995, to President Bongo's newly opened special name account, OS. Mr. Ober indicated that this account had been set up for the express purpose of receiving payments from oil companies, and that President Bongo had made his chief oil adviser, Samuel Dossou, a signatory with power of attorney over the account. Oil revenues are a particularly sensitive matter in Gabon, because oil revenues provide the largest source of government funds, and there are longstanding rumors of government corruption involving the oil industry, including government officials' diverting oil revenues from the public treasury and receiving bribes from oil companies. For these reasons, the secretive name of the OS account, its intended use as an account to receive oil company payments, and involvement of the President's oil advisor all raise questions about why the private bank did not take additional steps to review the source and nature of the deposits. The timing of the OS account is also noteworthy, because it opened in late 1995, around the same time that the IMF completed a new loan agreement with Gabon imposing new restrictions on oil revenues and greater accounting controls.

Mr. Ober's lack of information about the 1996 deposits of $3 million and 1997 deposits of $21.9 million deposits is even more troubling. These deposits were made about six months after President Bongo had paid off his private bank loans with $31 million drawn from his accounts, and the Tendin account totals dropped to a 10-year low of $28 million. Mr. Ober told the OCC and the Subcommittee staff that President Bongo resolved to "replenish" the Tendin accounts. Bank records indicate the President started to do so in the fourth quarter of 1996, with the $3 million in deposits, followed by the deposits of $21.9 million during the first quarter of 1997.

Mr. Ober told the Subcommittee staff during his interview that he could not provide specific information about these deposits, even when shown an email he sent on February 26, 1997, indicating that three recent deposits into the Tendin accounts, for $12 million, $3 million and $5 million, were "proceeds from the sale of some investments in the oil business in South Africa." [X4314] Mr. Ober stated that he could not recall, and did not think he ever knew, the particular oil companies involved, the nature of the investments in South Africa, the transactions involved, or why there were three payments of varying amounts.

Subsequent to his interview, Citibank provided the Subcommittee with additional documents related to these deposits. One set of documents involves a $1.9 million deposit made in December 1996 through a wire transfer from the State Treasurer of Gabon. [X7063] When asked to confirm the source of the funds, a Gabon Citibank employee stated in a December 26, 1996 email: "Funds have come from the state treasury. The treasurer called me to advise that the payment is by order of the 'patron.'" On January 7, 1997 Mr. Ober sent an email to the Cititrust trust officer in the Bahamas administering Tendin's accounts, stating: "On 12-24-96, we received a transfer for $1,886,792.45 for Tendin (by order of the State Treasury via Citibank Gabon). Thus, we must invest this amount ...." [X7064]

About one month later, in emails dated February 18 and 19, 1997, Mr. Ober informed his colleagues, including the Bahamas trust officer, that he had returned from a visit with President Bongo in Africa with an additional $15 million to invest. [X7065] The emails indicated that the funds had been wire transferred from three Swiss banks at the direction of President Bongo's oil advisor, Samuel Dossou, and "the money comes from the sale of investments in South Africa in the oil sector." These were the investments about which Mr. Ober had no specific information. Two weeks later, apparently after learning that none of the recently received funds had been invested, Mr. Ober sent the Bahamas trust officer a lengthy fax which included the following statements:

"This is a follow up to our phone conversation of today during which you indicated that you were unable to send me instructions to invest the $15.3 MM for Tendin since the Trust company has compliance concerns with these funds. ... If you want to return the funds, the sooner the better ... I am also amazed that your office has problems with the 12/96 $1.9MM received from the State Treasury of our client's country. No one so far has expressed any concerns to me about it. ... [T]he Federal Examiners earlier this year ... had no problem ... (neither do I). .... Mr. Muwaffak Bibi (head of EMEA in NY) [and] Mr. Salim Raza, head of PBG Emerging markets (including Africa) ... are satisfied with the source of these monies. ... Please send me your instructions ASAP."

By the end of March 1997, $21.9 million had been invested on Tendin's behalf.

Mr. Ober's internal struggle to invest the $21.9 million took place during the same month that the OCC initiated its review of the Bongo accounts. The questions that the bank's own trust and compliance personnel raised about the source of funds were repeated by the OCC examiner, who apparently was not told of the compliance concerns being raised within the bank. The OCC examiner told the Subcommittee staff that he requested but never learned the source of the $20 million increase in the Bongo accounts in 1997. He said that he finally decided not to press the private bank about the deposits because it had already identified sufficient government funds to explain all of the monies in the Tendin accounts.

French Criminal Investigation. The compliance concerns in early 1997 over the $21.9 million in deposits were not the only development affecting the Bongo accounts during the OCC review. In April 1997, a number of articles appeared in the press describing an unfolding criminal investigation by French authorities into corruption allegations involving the French oil company, Elf Aquitaine, and its subsidiary Elf Gabon, over bribes to government officials.

In April 1997, five articles in the major French paper, Le Monde, raised questions about President Bongo's role in the scandal. One headline stated: "Omar Bongo Could be Implicated in the Elf Affair." Among other allegations, the articles reported that two Swiss bank accounts containing millions of dollars in allegedly improper payments by Elf had been frozen by Swiss authorities at the request of French criminal investigators. One account was in the name of a shell corporation called Kourtas Investment, while the other was a special name account called Colette both were linked to President Bongo through his oil advisor Samuel Dossou. The articles also reported that President Bongo had sent an angry letter to French President Jacques Chirac on March 18, 1997; telephoned him late at night on March 29th; and canceled a state visit to France planned for April, to protest the ongoing criminal probe. Other major papers carried similar articles, such as the April 8th article in the London Guardian entitled, "Gabon Chief Threatens Oil Deals After Fraud Charges." On August 6, 1997, Le Monde reported that the Swiss prosecutor defending the freeze on the Kourtas account declared in open court that President Bongo was "the head of an association of criminals."

Mr. Ober told the Subcommittee staff that he was aware of the Le Monde articles and the allegations against President Bongo, but said that because his colleagues in Gabon expressed doubt about their credibility, he did not attempt to find out more and did not discuss the matter with his supervisors. However, subsequent to this interview, Citibank provided the Subcommittee with a copy of an April 28, 1997 email from Mr. Rogers, head of the private bank's African market, to Mr. Ober and several supervisors in the private bank about the press coverage. Mr. Rogers wrote:

"[Francois] Herve [then head of the Paris office] and I feel quite strongly that all of us need to be very thoughtful and selective about the press coverage we choose to interpret and share about our top customers. In the case at hand, the information which has come to light recently is part of an ongoing controversy which stretches back well into last year, and which largely transcends the sole question of our customer's personal and financial dealings. I am unable to interpret the current press allegations insofar as they might touch upon the Bank but would not be tempted to try because of the doubts it could raise in people's minds about our own relationship with our customer. ... [W]e ought to be extremely careful about sharing such information with regulatory authorities, because we can't answer for it. ... [W]e should stay as far away as possible from this mess, unless and until any one of us has firm or verifiable evidence which would lead us to suspect the Bank's interests are at risk." [X7054-55; emphasis added]

This email was also forwarded to the private bank's legal counsel. [X7076]

In addition, without Mr. Ober's knowledge or participation, someone determined that the head of the private bank should be made aware of the articles and allegations. Documents prepared for an October 1997 annual review by the private bank head of public figure accounts in the EMEA Division, state in the entry for President Bongo: "Newspaper reports 4/1997 claim he has accepted bribes from ELF-Aquitaine." [CS1889]

1997 Public Figure Review. President Bongo's accounts were formally reviewed in October 1997, through the annual public figure review process, by Mr. Aziz, then head of the private bank. The decision was to leave them open. This decision was made despite the private bank's awareness of the bribery allegations and criminal probe, despite the criminal probe's focus on suspect funds in bank accounts linked to President Bongo through his oil advisor Mr. Dossou in arrangements mirroring the OS account, and despite bank regulators' expressing concerns about the Bongo accounts. The Subcommittee's investigation indicates that no one in the private bank asked, in connection with the 1997 review, any questions about the $21.9 million, the largest payment into the Bongo accounts in ten years. No one asked questions even though Mr. Ober had let it be known through his February emails that the money related to President Bongo's dealings in oil, the very subject of the criminal probes.

The accounts were also left open throughout 1998, despite a renewed focus in the private bank on public figure accounts and continued press reports on President Bongo's frozen bank accounts in Switzerland, including a third account in the name of Davenport Associated SA, again linked to President Bongo through Mr. Dossou, and again frozen by Swiss authorities at the request of the French. In January 1998, an internal quality assurance review of the Bongo client profile determined that additional information was needed on the source of the funds in the accounts. [X2478,3415] Mr. Ober told the Subcommittee staff that he revised the profile in response to the quality assurance requests. In addition to referencing Gabon government funds and oil interests, including shares in Elf Gabon, the profile was revised to include references to President Bongo's ownership of real estate in Gabon and France, and ownership of shares in a French bank, car dealership, and salt and rice distribution companies. Mr. Ober told the Subcommittee that he did not obtain this information directly from the client, but from public sources and other Citibank offices doing business with President Bongo. There is no evidence in the account documentation, however, that any of the funds in the Bongo accounts at the Citibank private bank actually came from real estate investments or the named businesses.

Closing the Accounts. In late 1998, the private bank head began an intensive review of all of the public figure accounts at the private bank. Accounts which had passed muster for years began to be questioned. The private bank compliance head told the Subcommittee staff that the Bongo accounts were the subject of several discussions in late 1998.

Subsequent to the interviews provided by the private bank staff, Citibank provided a copy of a November 6, 1998 email from Christopher Rogers to Salim Raza and others warning of the consequences of closing the Bongo accounts. [X7045] Mr. Rogers wrote:

"We ought to ensure that we face this issue and its possible implications with our eyes wide open. Whatever internal considerations we satisfy, the marketing fallout is likely to be serious. ... Sam [Dossou] gets his marching orders from Tendin. ... Tendin has been vitally instrumental in our franchise's success over the years. ... Sam helped the Branch considerably over the last two years to obtain a more reasonable and rightful share of public sector deposits, with Tendin's blessing. The probability of this support being reversed indefinitely should be weighed seriously. ... Tendin's family and friends extend far. ... The impact on [private bank] marketing in Francophone Africa will be serious. Beyond this, there would be legitimate grounds for concern in many people's minds about whether Citibank was abandoning this part of the Continent."

On December 21, 1998, Mr. Ober sent an email to Mr. Rogers indicating he'd received "an impromptu visit" from the private bank head, Mr. Aziz, and Western Hemisphere Division head, Mr. Montero, who brought up the Bongo accounts and discussed closing them. [X7048] On December 24, Mr. Rogers sent an email to Mr. Raza stating that, after lengthy discussions with Mr. Ober and others, he'd like to make the following proposal:

"It is possible ... we could [i]nduce Tendin to maintain a completely transparent relationship .... The idea of setting new target and acceptance criteria for top public figures who are whistle-

clean and agree to total transparence in exchange for the privilege of banking with us might be compelling to Saukat [Aziz] and others. We would be adapting to the times instead of jettisoning quality assets .... In extremis, we could demonstrate to anyone that our customer is not bleeding a poor country because all balances and sources of funds would have been vetted by us at the source."

In January 1999, when the Bongo accounts came up for formal review, Mr. Aziz decided to close them. When asked why, the private bank's top management told the Subcommittee staff that the accounts had inspired too many questions, required too much paperwork, and incurred too many "incremental costs." The compliance head told the Subcommittee staff the account "just wasn't worth keeping open." Neither he nor the private bank head made any mention of the ongoing criminal investigation into President Bongo or the Colette, Kourtas and Davenport bank accounts which had been frozen by Swiss authorities for suspect funds.

In early 1999, the private bank developed an exit strategy to close the accounts, allowing President Bongo to move his funds in an orderly fashion to other financial institutions. As of October 1999, while millions of dollars had been moved out of the accounts, millions of dollars still remain in the accounts at Citibank private bank. Private bank personnel told the Subcommittee staff they expect the accounts to be completely closed sometime in the year 2000.

The Issues

The 1997 due diligence questions raised about the Bongo accounts arose after the problems with the Salinas and Zardari accounts. Unlike the Salinas and Zardari matters, the Bongo accounts did not escape the attention of regulators. In 1996, the Federal Reserve identified the account as troublesome. In 1997, the OCC began asking hard questions about the source of funds and required the private bank to respond. The private bank's response was marked by customer deference and a lack of sensitivity to due diligence problems. President Bongo apparently provided little information or documentation about the source of his funds, and the private bank was reluctant to ask him for information, not only because he was a longstanding client, but also because he was a head of state. So to obtain the file documentation requested by regulators, the private bank decided to manufacture the appropriate documentation itself. The one-page file memorandum it produced relied on second-hand information gathered in a short period of time, without supporting documentation and without client verification.

More striking than these procedural deficiencies is the substantive result of the bank's due diligence efforts the determination that a primary source of the funds in the Bongo accounts was over $100 million in Gabon government funds each year.

Mr. Ober maintains he never made that determination. One of the supervisors on the account, Salvatore Mollica, told the Subcommittee staff that it was highly unusual for government funds to be cited as a client's source of wealth. Yet the $111 million figure appears in every Bongo profile after April 1997. Even when faced with comments such those in the Rogers email that the President's control over the $111 million was "not spelled out for obvious reasons," no one in the private bank seemed to realize that their own due diligence efforts were raising troubling questions about the source of the client's funds. Compliance concerns raised about specific deposits, the $1.9 million from the Gabon Treasurer and the $20 million from Swiss bank accounts, were apparently resolved without any conducting any investigation into the sources of the funds.

Even when the private bank's top management was informed of a criminal probe into corruption allegations involving President Bongo during an October 1997 review of his accounts, there appeared to be no realization of any risk the private bank was taking in maintaining his accounts.

When the private bank decided to close the accounts in 1999, management told the Subcommittee staff that the decision was made because of the costs incurred in answering questions about them, rather than because of any concerns about President Bongo's conduct or reputational risk to the bank.

The private bank's lack of concern over the Bongo accounts in October 1997 can be attributed in part to the actions of regulators. Four months earlier, the OCC had told the private bank that its file memorandum was enough to establish the source of funds in the Bongo accounts and there was no need to file a Suspicious Activity Report. The OCC offered no criticism of the file memorandum for lacking supporting documentation or client verification. There was no criticism of the client's lack of cooperation. There was no insistence that the private bank obtain specific information about President Bongo's oil interests or the $21.9 million just deposited. The OCC expressed no concern over the two alleged sources of funds in the Bongo accounts government funds and oil revenues even after being told by the private bank, as recorded in handwritten meeting notes, about the Elf criminal investigation into matters related to President Bongo. Instead, the OCC gave its approval to the private bank's management of the Bongo accounts.

In defense of the OCC's decision, it must be noted that there is currently no statutory, regulatory or industry guidance on what is adequate due diligence. In addition, there is the dilemma of how far a regulator can go in compelling a private bank to get information from a head of state, senior government official, or relative.

(4) Abacha Sons Case History

The Facts

The fourth and final case history involves Citibank private bank accounts belonging to Mohammed, Ibrahim, and Abba Sani Abacha. These three individuals are sons of General Sani Abacha, who was the military leader of Nigeria from 1993 until his death in 1998, and who is widely condemned as responsible for one of the most corrupt and brutal regimes in Africa. The private bank had decided in early 1999 to close the accounts, but was prevented from doing so by a court order freezing the funds.

Background. Nigeria is located in western Africa. It is the continent's most populous state, with 107 million people. Since declaring its independence from Britain in 1960, Nigeria has undergone frequent internal conflict and military coups. In June 1993, Nigeria held its first election in almost a decade, which was believed to have been won by Chief Moshood K.O. Abiola, a Yoruba businessman. Military leaders annulled the election, and in November 1993, General Abacha took power. He remained in office until his death due to a sudden heart attack in June 1998. His tenure was frequently criticized for human rights abuses and corruption. For example, a 1999 Nigeria Human Rights Report describes the Abacha administration as involving "years of terror and brutality" in which "extra-judicial killings, torture, assassinations, imprisonment and general harassment of critics and opponents was commonplace." The September 1999 CRS Issue Brief on Nigeria states that Western officials believe General Abacha "may have stolen over $3.5 billion over the course of his five years in power" and describes severe problems caused by "large-scale theft from the now almost bankrupt Nigerian treasury."

After General Abacha's death, General Abdulsalam Abubakar took control of the country, initiating political, economic and social reforms. Elections were held in February 1999, and former military leader General Olusegun Obasanjo, imprisoned for three years under the Abacha regime, became the new President of Nigeria.

According to press reports, a few weeks after General Abacha's death in 1998, his wife Maryam was stopped at a Nigerian airport with 38 suitcases "stuffed full of foreign currency"; and a son was "caught with about $100 [million] on him." Within a few months, the Nigerian government announced that it had recovered $750 million from the Abacha family through these and other seizures, and requested the assistance of the United States and other countries in recovering additional funds believed to have been illegally obtained and transferred abroad by the Abacha family and associates. The United States agreed to provide this assistance, and the Swiss have already done so, issuing orders on October 14, 1999, freezing accounts held by Abacha family members and associates at five Swiss banks, pending legal filings by the government of Nigeria. In addition, Nigeria has arrested Mohammed Abacha, along with five others, for the murder of Kudirat Abiola, wife of the late opposition politician, Moshood Abiola.

Structure of Private Bank Relationship. Abacha sons Mohammed and Ibrahim first became clients of the Citibank private bank in 1988. They began by opening accounts in the London office, which grew in number over time, including a special name account called "Navarrio" opened in 1994, and accounts opened in 1995 in the name of a shell corporation, Morgan Procurement Corporation. These accounts were used, according to account documentation, for commodity trading, pharmaceutical company commissions, petroleum proceeds, and other business transactions, as well as personal investments. [CS2937; CS3252; CS3277] The funds in the London accounts fluctuated considerably over time but increased overall, with records showing overall totals of $18.5 million in 1996 [CS1893]; $45 million in 1997 [CS1890]; and $60 million in 1998 [CS2137].

After General Abacha's death in June 1998, and the initiation of a government investigation into bank accounts held by him and his family, the Abacha sons made an urgent request to the Citibank private bank in September 1998, to move $39 million out of their London accounts. The funds were then in a time deposit that would not mature for two weeks and which, if the deposits were withdrawn prematurely, would result in a hefty penalty. The Abacha sons asked and the private bank agreed to allow them to incur an $39 million overdraft secured by the time deposit and transfer the $39 million out of Citibank immediately. The bank then satisfied the loan when the time deposit matured two weeks later. In this way, the Abacha sons were able to move $39 million out of their accounts in the face of an ongoing government investigation into their funds, without even incurring a financial penalty. The London account totals then dropped to about $17.5 million.

The Abacha sons' relationship with the private bank in the United States began in 1992, when Mohammed and Ibrahim opened a special name account in New York called "Gelsobella." The account was opened, according to account documentation, to handle funds associated with an airline business the sons were starting through their company Selcon Airlines, to operate flights between New York and Lagos, Nigeria. A third signatory on the account was Yaya Abubakar, a "business partner." [CS4787] In 1994, after a third party attempted fraudulently to gain access to funds in the Gelsobella account, the sons allowed the account to go dormant and opened a second special name account in New York called "Chinquinto." In January 1996, after Ibrahim Abacha died in an airplane accident, Mohammed added another brother, Abba, to the accounts. However, the New York accounts were rarely used after Ibrahim's death and closed in late 1997.

The funds in the New York accounts fluctuated over time. For the first two years, the monthly account balances generally stayed under $2 million [CS1961], which was in line with the expectations for the account [CS4787]. Then, for about six months, deposits increased dramatically, jumping to $15 million at the end of 1994, and a high of $35 million in early 1995. The deposits then dropped just as suddenly, falling to $400,000 by the end of the year, and

$5,000 by 1996. Altogether, about $47 million went through the New York accounts, almost all of which moved through the accounts during a six-month period in late 1994 and early 1995. The account documentation refers to still another account in the Isle of Jersey [CS3285], but no additional information on the nature of this account or the amounts involved was provided.
In addition to checking, money market, time deposit and investment accounts, the private bank extended credit to the Abacha sons through several mechanisms, including letters of credit, trade financing arrangements, overdraft facilities, and multiple credit cards. On one occasion in 1997, the private bank facilitated the cash purchase of a London apartment for about œ 363,000. [CS3171, 3179, 3189] In another instance in 1998, already described, the private bank permitted the sons to incur a $39 million overdraft, which the bank repaid when an existing time deposit matured a few days later.
The private bank also worked with other parts of Citibank to move millions of dollars for the Abacha sons accounts across national boundaries. Account documents indicate, for example, that Citibank moved $10 million for Morgan Procurement in April 1996, from London through New York [CS2955]; moved $4.5 million for the Navarrio account in April 1997, from London to New York [CS2969]; and $39 million in four transfers in September 1998, from London to various beneficiaries in Switzerland and elsewhere [CS2995-96].

The Abacha sons requested and the private bank provided a number of measures to ensure secrecy. Three special name accounts were established Navarrio, Gelsobella, and Chinquinto as well as accounts in the name of a shell corporation, Morgan Procurement. The London profile for the account states: "Do not telephone Client in Nigeria." [CS2734] In 1994, after the attempted fraud on the Gelsobella account, the private bank established codes to refer to fund transfers affecting the accounts. The New York office began using one set of codes in 1994 [CS19667, 1970-71], while the London office was given another set in 1995 [CS3157].
The Relationship Managers. The London office was considered the primary account manager for the relationship. The London accounts were opened in 1988 by Michael Mathews, a private banker specializing in African clients. He did most of the work on the accounts until 1996, when Melanie Walker and Naveed Ahmed began handling them as well. The New York accounts were opened and managed by Alain Ober, the New York specialist in African clients. He told the Subcommittee staff that he only had a few Nigerian clients, of which this was the largest relationship.
Mr. Ober's New York supervisor on the Abacha accounts was Salvatore Mollica, who told the Subcommittee staff that he did not recall either the accounts or the client names. Mr. Mollica indicated that he did not recall meeting any of the account signatories, even though he travelled to Nigeria with Mr. Ober while the accounts were open.
Due Diligence and Account Monitoring. The account documentation indicates that both Mr. Mathews and Mr. Ober performed due diligence reviews prior to accepting the Abacha sons as clients, but it is unclear whether either realized they were managing accounts for the sons of the Nigerian head of state, until sometime in 1996. The London accounts were opened in 1988, and the New York accounts were opened in 1992, prior to General Abacha's assumption of power in Nigeria in November 1993.
Prior to opening the New York accounts, Mr. Ober obtained two bank references for the Abacha sons and also asked Mr. Mathews for a reference. In an email dated March 3, 1992, Mr. Mathews wrote the following:

"Ibrahim and Mohamed Sani are the son and adopted son of Zachary Abacha, a well-connected and respected member of the Northern Nigerian community. He has given his sons power to operate his accounts, and for the last three years they have been trading commodities through us, and the account has operated entirely satisfactorily, although balances have fluctuated wildly. In contrast to other Nigerians we have dealt with, I have found Ibrahim and Mohamed unfailingly charming, polite and, above all, reliable .... [T]hey are clearly target market by association, and the section of the Nigerian community that we should be dealing with." [CS2071]

This description is important for two reasons. First, it suggests that it was Mr. Mathews' understanding that the funds in the London accounts actually belonged to the father of the sons, who were "target market by association." Second, his description makes no reference to General Abacha's military status, and it is unclear whether Mr. Mathews was aware of it at the time. Certainly, he did not convey it to Mr. Ober.

Mr. Ober has told the Subcommittee staff that he was unaware for the first three years he handled the accounts that Mohammed and Ibrahim were the sons of the Nigerian military leader. He said that they used "Sani" as their last name, rather than "Abacha," and he believed them to be ordinary Nigerian businessmen, rather than relatives of a public figure. He indicated that he first discovered their relationship to General Abacha when a Citibank colleague mentioned it to him by chance a few weeks before Ibrahim's death in January 1996.

Mr. Ober told the Subcommittee staff that he later asked Mr. Mathews whether he had known of the connection to General Abacha, and was uncertain from Mr. Mathews' response whether he did. A document which suggests that Mr. Mathews did not know is a May 1996 public figure review list which describes the London accounts as belonging to "Muhamed Sani[,] Son of Minister for Youth and Sport." [CS1893] Contrary to this description, in 1996, Mohammed's father was, in fact, the Nigerian head of state. The 1997 public figure review list describes the same accounts as belonging to "Muhamed Sani[,] Son of Nigerian President .... Account opened several years before father became President."

The fact that the New York private banker did not know, for more than three years, that he was dealing with the sons of the Nigerian head of state is a critical lapse in due diligence. A second due diligence problem involves the account documentation he provided indicating that the primary source for the funds in the New York accounts was the sons' airline business. Publicly available documentation from the U.S. Department of Transportation indicates that the relevant U.S.- Lagos flights were active for only one year, 1992-1993. In 1993, after the United States declared the Lagos airport unsafe, U.S. carriers halted all flights to that airport. These flights produced no revenue after 1993, and, based on records we have, could not be responsible for the $47 million deposited into the New York accounts from December 1994 until June 1995, more than two years after the U.S. - Lagos flights had stopped.

The account documentation does not acknowledge until 1997, that the U.S.- Lagos flights had stopped producing revenue. Nor does it explain the source of the funds in the account after 1993, other than by making general references to plans by the Abacha sons to expand their airline business, including beginning charter flights to Mecca in 1993. The documents provided to the Subcommittee contain no evidence of the number of Mecca flights planned, the cities involved, or the years in which the Mecca flights actually took place. Nor could the Subcommittee staff find evidence of these charter flights to Mecca in U.S. Department of Transportation airline records. In addition, airline experts with the Congressional Research Service and an air charter company told Subcommittee staff that, if the Mecca flights had taken place, it was extremely unlikely that they could generate $47 million in six months. While there may be other explanations for these funds, none appears in the New York account documentation for 1994 or 1995.

The account documentation also indicates that, at times, private bank personnel expressed concerns about whether they were being told complete information about the accountholders' business activities. For example, a memorandum dated January 18, 1995, by Luella Gentles, a service officer working with Mr. Ober in the New York office, describes receiving a request to transfer $5 million from the Chinquinto account to the benefit of "A. Bagudu." [CS1953-55] Due to their unfamiliarity with this name and need for caution after the attempted fraud on the Gelsobella account, the private bank delayed the transfer request until they obtained more information from the accountholders. The memorandum states that Yaya Abubakar and Ibrahim Sani telephoned from Tripoli, Libya, to approve the transfer, and the following conversation took place.

"Ibrahim explained that Mr. A. Bagudu ... was an associate of theirs, and he had transacted some business on their behalf. ... Sal [Mollica] and I questioned Ibrahim as to the nature of the business and the purpose of the funds. He assured us that it was straightforward and legitimate, but he could not go into details from the hotel telephone in Tripoli.

"I inquired of Ibrahim whether his visit to Libya was to expand his airline business into that country. He stated that he, Yaya and Mr. Bagudu had accompanied the Ambassador of Nigeria to Libya for a conference with some [Libyan] businessmen with the hope of establishing business in Libya.

"Sal and I thanked Ibrahim for his openness and explained why we had to question the movement of such a large sum of money under circumstances which were not in keeping with their normal request. Ibrahim assured us that he is not engaged in any political activity and all transactions are directly on terms of his business contracts.

"My concern is heightened with the knowledge that he was with the Nigerian Ambassador in Libya plus the recent increase in the flow of funds into the account. For the two months Dec. 1994 and Jan 1995, we have received in excess of $21 MM.

"Sal states that I should inform Alain [Ober] of this conversation with the client and have Alain speak with Ibrahim again when he is able to speak more freely and openly."

At the top of the memorandum is a handwritten notation: "Source of funds/Libya."

This memorandum indicates that, in January 1995, private bank personnel were aware of and were concerned about the sudden influx of more than $20 million funds into the New York accounts, the transfer of $5 million to an unfamiliar person, and the discovery that the Abacha sons were conducting business in Libya, which had no apparent connection to the airline supposedly generating the funds in the accounts. These transactions were out of line with the account history. Mr. Ober told the Subcommittee staff that he assumes he spoke with Ibrahim Abacha after this event, but could not recall what was said other than he must have received sufficient assurances to take no further action.

Mr. Ober's supervisors also took no action on the account. Mr. Mollica, then head of Europe, Middle East and African accounts in New York, told the Subcommittee staff that he could not even recall the accounts, much less any problems with them. The private bank compliance officer assigned to monitor client transactions in New York also could not recall the accounts. He told the Subcommittee staff that these accounts did not come to his attention even though the 1994-1995 transactions were out of line with prior transactions; account balances jumped from $2 million to $14 million to $35 million in two months; millions of dollars were deposited and withdrawn within days; and Nigeria had been identified by the private bank as a high risk country for money laundering.

It is unclear whether the private bank personnel handling the Abacha sons' accounts in London were ever made aware of the $47 million influx of funds in New York; however, they too became concerned about the business activities of the Abacha sons during 1995. [CS3190-96; 3211-12]

During the summer of 1995, the Abacha sons apparently asked the private bank to guarantee a $55 million advance payment by the Nigerian Federal Ministry of Women Affairs to its shell corporation, Morgan Procurement, to supply vaccines at a later date. Documents suggest the bank personnel were uncomfortable with the vaccine contract, which was only two pages in length, and with guaranteeing a huge advance payment for vaccines to be delivered in partial shipments at a later time.

An email dated August 3,1995, from David Hightower in London states the following:

"*Claudia, I need your help pinpointing the issues that concern you with this APG [Advance Payment Guarantee]. The client is a prominent and longstanding Nigerian customer and therefore we need to be specific, clear and diplomatic in the way we present our concern about potential money laundering scams to which we feel he may be at risk*."

The reply email dated August 4, 1995, from Claudia Nazer states:

"*I just do not feel right about this deal, it has 'typical' characteristics of a 419 a women's group in Nigeria apparently has USD 210MM to spend on vaccines and is prepared to pay USD 55MM up front against a guarantee issued by Citibank, the value of the guarantee will reduce as goods are shipped sound like a rum one to you?*

Bank personnel were still working on the transaction in 1996, and it is unclear whether it actually went forward.

What is clear is that, beginning in 1996, the funds in the London accounts began climbing rapidly. The funds more than doubled from $18.5 million in 1996, to $45 million in 1997, and increased another 30% in 1998 to $60 million. These account balances do not capture the additional funds that were passing through the accounts during these years. Yet the private bankers managing the accounts do not, in the account documentation provided to the Subcommittee, identify the sources of the new funds.

At the same time the funds were increasing, the client profiles for the London accounts twice failed reviews by compliance personnel evaluating the due diligence efforts of the private bankers. A review conducted in June 1997 found the London client profile deficient in every category tested, from source of wealth to business background to source of funds used to open the account. [CS3281] A September 1998 review states, "Lack of detail in Source of Wealth on these profiles. ... [A]greed to pass QA [Quality Assurance review] on basis that we are exiting these relationships."

The client profiles in New York also do not inspire confidence. No profiles were provided for the accounts during 1994 and 1995, during the $47 million influx. In fact, the only profiles provided are from 1997, a few months before the New York accounts were closed. The 1997 Gelsobella client profile provides this information:

"Source of Wealth/Business Background: Charter airline co owned by two sons of President of Nigeria, General Sani Abacha (Ibrahim and Mohamed) and Yaya Abubakar, a pilot. Wealth comes from father who accumulated wealth as head of state of major oil producing country. ... Please refer to profile under 'Chi[n]quinto'."[CS7182; converted from all capitals in original text]

The 1997 Chinquinto client profile adds the following information:

"Special name a/c opened ... to cover activities of charter airline (Selcon Airline Co.) Nigeria/US and Mecca flights. Wealth comes [from] father in connection with oil industry (NNPC) since Nigeria is major oil producing country. ... A/c currently dormant pending reactivation of U.S. business (flights U.S.-Nigeria with American Transair). ... General Sani Abacha is the current military ruler of Nigeria where there is a lot of corruption in connection with the petroleum industry. However, our past experience with the signers of Chinquinto has been good and very professional .... A/c was used mostly to pay American Transair and bills connected to plane usage." [CS7163; converted from all capitals in original text]

Both profiles identify the charter airline company as a key source of funds, without providing any information on its operations or revenues, other than to note the U.S.- Lagos flights were then dormant. The only other source of wealth identified is General Abacha's oil industry connections, "where there is a lot of corruption." The profile discounts the corruption risks by stating that the private bank's past experience with the Abacha sons has been "good," omitting the concerns and account fluctuations in 1995. The profile also states that the New York accounts were used mostly to pay bills associated with American Transair, the U.S. company that actually operated the U.S.-Lagos flights. The profile fails to note that American Transair operated those flights for only one year, from 1992-1993, and those flight revenues do not explain the six-month influx of $47 million in 1994 and 1995.

Mr. Ober told the Subcommittee staff that he had long been aware that corruption was a problem in Nigeria and had, as a result, stopped traveling to the country to solicit business. He said that he was aware of the events in 1998, when General Abacha's wife was stopped with 38 suitcases full of cash and son was stopped with $100 million in cash. He said that he had not, however, discussed these events with his colleagues or supervisors.

Closing the Accounts. In the first quarter of 1999, in connection with its new public figures policy and renewed focus on public figure accounts, the private bank decided to close the Abacha sons' accounts. None of the persons interviewed by the Subcommittee staff provided a specific rationale for this decision. None cited the corruption allegations or concerns with the source of funds in the accounts.

Before the private bank actually closed the accounts, a London court issued an order in a civil suit in March 1999, freezing all accounts related to General Abacha at several London banks, including Citibank. The civil suit had been filed by a Swiss company seeking funds from the Abacha estate relating to a $2.5 billion debt buy-back transaction involving a Nigerian steel plant. The suit claims monies owed to the company were diverted from the Nigerian Central Bank into accounts controlled by General Abacha and others. The suit cites, in particular, fund transfers in October 1996, through Citibank AG Frankfurt and Citibank New York. As a result of the court order, the Abacha sons' accounts at the Citibank private bank were and remain frozen. In October 1999, the Swiss government issued an order freezing all Swiss bank accounts related to General Abacha, his family and certain associates. It also opened an investigation into money laundering.

The Issues

The Abacha sons' accounts again raise issues of due diligence, secrecy and the application of money laundering controls to public figure accounts. The private banker handling the accounts in New York was unaware for more than three years that his clients were the sons of the Nigerian dictator. He attributed the funds in the accounts to revenues from U.S.- Lagos airline flights which had ended after one year. He asked no questions about $47 million passing through the New York accounts in six months. He never discussed with his supervisors press reports that one of the accountholders was caught with $100 million in cash, amid allegations of corruption. His London counterparts did no better, even moving $39 million in late 1998, amid a Nigerian government investigation into allegedly corrupt funds belonging to General Abacha, his family and associates. The private bank's senior management, compliance personnel and auditors allowed the accounts to continue for 10 years, until Mr. Aziz made the 1999 decision to close them -- a closing that has since been halted by freeze orders.

Conclusion

These case histories are four of hundreds of public figure accounts at the Citibank private bank. On paper, these public figure accounts were supposed to be subject to the highest level of scrutiny provided by the Citibank private bank. In practice, the public figure accounts reviewed by the Subcommittee staff were characterized more by customer deference than due diligence.

FOOTNOTES

1. See 18 U.S.C. 1956-57.
2. 1998 internal private bank document, citing Booz Allen & Hamilton analysis.
3. Compare, e.g., CB24613 and CB24614.
4. These allegations were also discussed in the press. See, e.g., "The Troubled Reign of Bhutto II," Los Angeles Times (5/17/94)("Many Pakistanis blame Bhutto's abrupt removal in August, 1990, on the unsavory reputation acquired by her husband, Asif Zardari, a polo-playing contractor dubbed 'Mr. Ten Percent' for the rake-off he was said to take from government contracts.")
5. See "Swiss Investigators Seize Gabon President's Bank Account, " AFX News (8/29/98); "President of Gabon's Appeal against Account Block Rejected," AP Worldstream (11/2/98).
6. Facts in this paragraph are taken from CRS Issue Brief No. IB98046, "Nigeria in Political Transition" (9/24/99).
7. This 182-page report was produced by the Lagos-based Constitutional Rights Project with the

assistance of the National Endowment for Democracy.
8. "How the grand lootocracy beggared Nigeria's people," The Observer (11/22/98).
9. See, e.g., "Nigeria seeks help in tracing billions 'taken' by former military leaders," Financial Times (7/23/99); "Abacha family returns more dollars,"AP Worldstream (11/10/98).
10. "Swiss freeze accounts of Nigeria's Abacha," Reuters (10/14/99)
11. Abubakar Attiku Bagudu, a former minister in the Abacha administration, is allegedly named in the Swiss order freezing bank accounts of persons associated with General Abacha; however, it is unclear if he is the person referred to in the memorandum. See "Swiss freeze accounts of Nigeria's Abacha," Reuters (10/14/99)
12. The profile's section on source of wealth is not reproduced due to heavy redactions. [CS2735-36]
13. Compagnie Noga D'Importation et D'Exportation SA v. Australia and New Zealand Banking Group Ltd., 1999 Folio No. 404, High Court of Justice, Queen's Bench Division, Commercial Court, Judge Colman.
14. See, e.g., "London Court freezes accounts of late Nigerian ruler," Agence france presse (6/3/99); "Nigeria seeks help in tracing billions 'taken' by former military leaders," Financial Times (London)(7/23/99).