

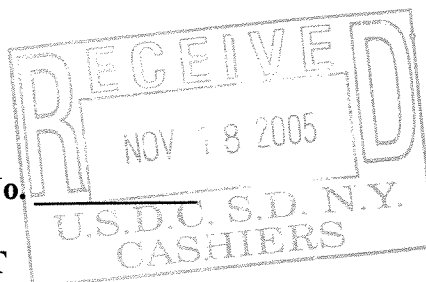
IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

\_\_\_\_\_)  
**FUNDACIÓN PRESIDENTE ALLENDE**)  
 Calle Zorrilla nº 11 )  
 1º derecha )  
 28014 MADRID Spain )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
**BANCO DE CHILE** )  
 535 Madison Avenue )  
 Ninth Floor )  
 New York, NY 10022 )  
 )  
 Hernán Donoso-Lira )  
 4808 Aaron Drive, )  
 Antiich, Tenn., 37013 )  
 )  
 Oscar Custodio Aitken Lavanchy )  
 Av. Américo Vespucio )  
 Sur Nº 406 Oficina 71 )  
 Las Condes, SANTIAGO, Chile )  
 )  
 Defendants. )  
 \_\_\_\_\_)

Civil Action No.

COMPLAINT

ECF CASE



Plaintiff Fundación Presidente Allende (“Plaintiff”), by and through undersigned counsel, brings this Complaint against Defendants Banco de Chile, Hernán Donoso-Lira, and Oscar Custodio Aitken Lavanchy (collectively “Defendants”), and allege as follows:

**INTRODUCTION**

1. This action involves a complex international scheme to defraud Plaintiff and numerous individuals, masterminded by Augusto Pinochet Ugarte (“Pinochet”) and executed by him, certain of his family members, and others, including, *inter alia*, Oscar Custodio Aitken Lavanchy (“Aitken”) and Banco de Chile acting at times through its former New York branch

manager Hernán Donoso-Lira (“Donoso”) and other officers, managers, employees, and agents of the Banco de Chile.

2. The complex international scheme carried out by Pinochet and Defendants arose out of Pinochet’s seizure of power in Chile on September 11, 1973. Pinochet and his lieutenants, following seizure of power in a bloody coup, orchestrated domestic and international reigns of terror that included murder, torture, kidnapping, and expropriation of property. Pinochet and his lieutenants engaged in numerous acts of fraud, money laundering, forgery, receipt of bribes, and embezzlement in order to amass a personal fortune through their exercise of the dictatorial powers they had seized. Upon information and belief, Pinochet illegally misappropriated monies from the Chilean national treasury and/or received bribes totaling at least \$27 million, and possibly much more, through abuse of his public position. At times during the execution of the scheme, offshore corporate entities controlled by Pinochet and used by him to conceal his illegally obtained wealth had net holdings of between \$50 and \$100 million dollars. Defendant Aitken participated in this scheme as Pinochet’s primary known financial agent. In order to conceal Pinochet’s theft of funds, Aitken orchestrated a scheme designed to distribute and conceal Pinochet’s assets through a complex web of Chilean entities and international financial institutions. Aitken accomplished this goal with the participation and through the assistance of others, including Defendants Banco de Chile and Donoso, who executed orders from Pinochet to move funds into various offshore and other accounts and secrete them there, and to engage in other illegal or suspicious financial transactions, all in furtherance of the scheme to enrich Pinochet and to avoid detection by the Chilean government and potential creditors. The frequency and scope of these activities escalated after Pinochet lost direct control of the Chilean government in 1990 and began to face charges from Chilean and international tribunals of

massive human rights abuses. Investigations conducted by among others the Chilean government established that Pinochet directly oversaw the murder, torture, kidnapping, and disappearance of thousands of Chileans and implicated Pinochet in assassinations and terrorist activities outside Chile. In July 1996, Plaintiff, along with other organizations and individuals, brought civil and criminal lawsuits in Spain to obtain justice for Pinochet's many thousand victims. A detailed inquiry by the Spanish courts confirmed the findings from earlier investigations and an arrest warrant and international asset freeze order were issued against Pinochet on October 16 and 19, 1998, respectively. In direct response to the arrest warrant and freeze order, Pinochet and Defendants took additional actions to conceal Pinochet's illegally procured monies in order to protect them from claims by his victims.

3. The private banking relationship between Pinochet and Banco de Chile was not an ordinary-course banking relationship. Banco de Chile personnel, including senior management in both Chile and New York, took actions at the behest of Pinochet either directly or through his agents in violation of internal bank procedures and U.S. and Chilean banking laws and regulations with respect to accounts held by or on behalf of Pinochet. Banco de Chile's New York branch, and Defendant Donoso, circumvented established policies, violated United States banking laws and regulations, and obstructed examinations by federal regulators by intentionally misleading bank examiners in order to conceal the purpose, existence, and true funding source of certain suspicious accounts and loans maintained by Banco de Chile's New York branch for or on behalf of Pinochet. Banco de Chile through its senior officials accorded preferential status to Pinochet based on his position and routinely ignored internal bank policies and United States and Chilean laws designed to prevent bank fraud, money laundering, concealment of assets, and other illegal acts. Banco de Chile utilized its New York branch to permit Pinochet to conceal

assets from the Chilean government and from Pinochet's creditors, including Plaintiff. Banco de Chile facilitated these actions by permitting Pinochet to ignore even the most rudimentary procedures and policies for writing and cashing checks, moving funds internationally, and ensuring the correct identification of individuals involved in foreign transactions denominated in United States currency.

4. Defendants' scheme unjustly enriched all members of the conspiracy at the expense of Plaintiff and the victims of Pinochet represented by and through Plaintiff.

5. Banco de Chile took the actions detailed herein with full knowledge that it was participating in a scheme to conceal assets and was by doing so violating United States laws. United States regulators have determined that Banco de Chile through its New York and Miami branches violated anti-money laundering program requirements of the Bank Secrecy Act and regulations issued pursuant to the Act. United States regulators have also determined that Banco de Chile violated the suspicious activity reporting provision of the Bank Secrecy Act and regulations issued pursuant to the Bank Secrecy Act. By Order dated October 12, 2005, Banco de Chile was fined \$3,000,000 for these violations by the Financial Crimes Enforcement Network of the Department of the Treasury. Banco de Chile personnel located in Chile have stated in sworn testimony that senior bank officials, including Defendant Donoso, were aware of the illegal transactions undertaken by or at the direction of Pinochet and instructed Banco de Chile personnel in Chile and the United States to take steps to solve problems for Pinochet, including acts constituting bank fraud, money laundering, and concealment of assets.

#### **JURISDICTION AND VENUE**

6. This Court has jurisdiction pursuant to 18 U.S.C. §§ 1961, 1962, 1964(a) and (c), 28 U.S.C. § 1331, and supplemental jurisdiction under 28 U.S.C. § 1367.

7. Venue is appropriate pursuant to 18 U.S.C. § 1965(a) and 28 U.S.C. § 1391 (c) and (d).

### PARTIES

8. Plaintiff Fundación Presidente Allende (“Foundation”) is a Spain-based non-profit organization officially recognized by the Spanish Ministry of Education and Culture’s Registry of Foundations. The Foundation was formed in 1990 in conformity with the Spanish Ministry of Education and Sciences Decree 2.930/1972 and is subject to government oversight. The Foundation promotes human rights and freedom of the press in Spain and South America, and seeks to redress wrongs related to the dictatorial rule of Chile from 1973 to 1990 by Augusto Pinochet Ugarte, in part through the prosecution of legal claims. On July 4, 1996, the Foundation initiated a criminal “acción popular” (popular action) against former Chilean dictator Pinochet on behalf of all victims of Pinochet’s crimes against humanity, including genocide, terrorism, and torture, committed between September 11, 1973 and March 11, 1990. As described below, the “acción popular” has been consolidated with “particular actions” brought against Pinochet by individual victims of Pinochet’s crimes against humanity. By operation of Spanish law, the Foundation itself is a Plaintiff in the civil action adjunct to the criminal prosecutions against Pinochet and is entitled to recover money damages to compensate the victims of Pinochet’s crimes against humanity.

9. Defendant Banco de Chile is a foreign bank as defined in section 3101(7) of the International Banking Act (12 U.S.C. § 3101(7)) with its principal place of business in Santiago, Chile. Banco de Chile maintains branches in the United States in New York City and Miami, Florida. Banco de Chile’s United States-based operations as a whole, along with its New York-

based branch operations, are overseen by the Office of the Comptroller of Currency. Banco de Chile's Miami-based branch operations are regulated by the Federal Reserve Bank of Atlanta.

10. Defendant Hernán Donoso was from 1987 until 2002 manager of Banco de Chile's New York branch. In 2002, Mr. Donoso was promoted to Country Manager of Banco de Chile's United States operations. In 2004, Banco de Chile terminated Mr. Donoso's employment with the Bank. As New York Branch Manager and Country Manager, Mr. Donoso was responsible for cultivating and maintaining the Bank's relationship with Mr. Pinochet. In that capacity, Mr. Donoso was personally responsible for facilitating transactions that had the purpose and effect of concealing funds on behalf of Pinochet.

11. Defendant Oscar Custodio Aitken Lavanchy is a citizen and resident of Chile. For the past twenty years, Defendant Aitken was the financial agent and personal attorney for Pinochet. In that capacity, Aitken worked closely with Pinochet and certain offshore entities of his in establishing bank accounts and secreting assets to defraud creditors. Aitken worked closely with Pinochet for a period of years, from at least 1999 through 2004, and regularly conducted and transacted business in New York and committed tortious and criminal acts in New York as more fully alleged herein.

## **BACKGROUND**

### **Pinochet's Rise to Power and Reign of Terror**

12. Pinochet served as the self-appointed dictator of Chile from September 11, 1973, when a junta under his command violently overthrew the democratically elected government of Salvador Allende. As part of the coup and in the years following the junta, Pinochet engaged in a concerted program with the military and governmental officials of violent repression. Thousands of people who were supportive of the re-establishment of the representative form of

Government in Chile were arrested, tortured, executed, and disappeared, and individuals considered to be political enemies by the right-wing junta lived in constant danger. These human rights violations principally took place between 1973 and 1977, but many continued throughout the period of military rule. During this time period, people were kidnapped by State Officers from the street, their places of employment, and their homes. Those that survived torture were often executed. Pinochet commanded, caused, and oversaw these crimes against humanity.

13. Most of these human rights violations were executed through the Chilean military, which Pinochet directly commanded and controlled and by Pinochet's secret police, Chilean National Intelligence Directorate ("DINA"), and its successor entity, the National Information Center ("CNI"). These clandestine organizations carried out campaigns of terror and murder directed at Pinochet's political enemies. Pinochet was also the leader of "Operation Condor," an international terrorist organization, headquartered in Chile, which has been implicated in multiple acts of assassination and terrorism throughout the world, including in the United States. Pinochet used Operation Condor and DINA to extend his reign of terror outside of Chile by ordering the execution, torture, kidnapping, and disappearance of Chileans and other people living outside of Chile. Operation Condor is linked to the September 21, 1976, assassination of Orlando Letelier, a former minister in the Salvador Allende government, and his U.S. aide, Ronni Karpen Moffitt in Washington, D.C. The assassins were tried and convicted in the United States.

14. In 1978, Pinochet arranged, for himself and other leaders of his military government, blanket amnesty from prosecution. In 1990, Pinochet resigned his nominal post as President of Chile, after being defeated in a plebiscite and upon the condition of remaining chief of the Army until 1998 and then being appointed a "Senator for Life" to the Chilean legislature.

These changes in titles and formal legal authority did not occur in a vacuum. Pinochet's 17 years of repressive dictatorial rule had seen the systematic murder and torture of tens of thousands of his political opponents, affecting an estimated 12 percent of the Chilean adult population, and had extended its reach internationally to murders and assassinations in Europe, the United States, and other South American countries. As Chile was expected to proceed to a more democratic form of government after Pinochet's departure from office in 1990, with concomitantly regularized judicial process, Pinochet sought to insulate himself from the inevitable redress that would be sought by his victims. His first step was to include in the formal legal documents accompanying his new post as Senator-for-Life an enforceable permanent immunity from suit in Chile. Pinochet was fully aware in 1990 that he was likely to be sued by his victims. Pinochet was also well aware of the fact that the first criminal complaint against him was filed by the Foundation outside Chile, in Spain, in July 1996, and accordingly took further steps to conceal his assets by placing them beyond the reach of his victims and beyond the grasp of a freeze order entered in 1998 and freezing his assets worldwide.

15. After the resumption of civilian rule in Chile in 1990, the Chilean government undertook official investigations into the human rights abuses of the Pinochet regime. In 1991, the "Rettig Report" resulting from this investigation was the first public document to establish that the dictatorial regime and instrumentalities created by Pinochet "had as their firm goal the physical elimination, the disappearance, kidnapping, before which there was a generalized practice of torture[,] of thousands of persons." A second investigation, conducted by a national commission called the "Corporation for Reparation and Reconciliation," published its findings in 1996, adding 899 cases of murder or forced disappearance to the 3,197 established by the Rettig Commission. These two official Chilean investigative bodies, operating between 1990 and 1996,



identified 4,096 individual cases of murders or “forced disappearances” perpetrated by Pinochet’s government. In 2004, a third official Chilean investigative body, the Valech Commission, identified more than 30,000 survivors of severe torture for political reasons. Each victim identified by these three official Commissions is represented by Plaintiff in the Spanish and Chilean Courts. Overwhelming evidence developed in Spanish, Chilean, and other courts has confirmed that Pinochet and individuals under his control were directly responsible for these crimes and for the murder or disappearance of more than a thousand other individuals and an additional several thousand survivors of severe torture, who could not be accounted for in the official reports. Since 1996, Pinochet and former members of his security apparatus have been the subject of criminal and civil lawsuits in the United States, Spain, the United Kingdom, Chile, France, Belgium, Argentina, Italy, and several other countries, seeking reparations for atrocities and human rights abuses, including assassinations and acts of state sponsored terrorism, committed during Pinochet’s rule in Chile. The criminal and civil legal actions filed against Pinochet and his subordinates have been the subject of extensive publicity throughout the world, including in Chile and the United States. These investigations and lawsuits were widely publicized and known to Chilean businesses and individuals and the Chilean community in the United States, including senior Banco de Chile management and the individual Defendants.

16. Pinochet has also been directly implicated in criminal prosecutions for acts of terror carried out by DINA. The United States government has asserted jurisdiction over the underlying crimes that occurred in the United States. In 1978, the United States government prosecuted individuals responsible for the assassination of Orlando Letelier, former government minister to Chilean President Allende, and Letelier’s co-worker, Ronni Karpen Moffitt. A DINA agent named Michael Townley and others were convicted and jailed for their role in the crime.

Townley testified in the United States District Court for the District of Columbia that he built the bomb used in the assassination after various meetings with Chilean army and DINA officials. The assassination involved intricate surveillance, fake identities, and travel documents procured by officials associated with the Chilean government. A U.S. Court found that “employees of the Republic of Chile, acting within the scope of their employment and at the direction of Chilean officials who were acting within the scope of their office, committed tortious acts of assault and battery and negligent transportation and detonation of explosives that were the proximate cause of the deaths of Orlando Letelier and Ronni Moffitt.” *Letelier v. Republic of Chile*, 502 F. Supp. 259, 266 (D.D.C. 1980).

17. During his tenure as President of Chile, Pinochet held himself out as a man of modest means and sought to portray himself as an individual of financial integrity. Pinochet, however, used his consolidated powers over the Chilean military and governmental apparatus for personal profit and both diverted millions of dollars from the Chilean treasury and illegally profited from his position as dictatorial head of state and of the Chilean military. Pinochet, with the aid and assistance of Defendants and others, actively concealed this illegal diversion and accumulation of wealth and transferred funds both into and out of Chile through a network of individuals and banks, including Defendants, utilizing accounts and concealed interests in multiple entities located around the world. The purpose of these transfers was first and foremost to enrich Pinochet, and secondarily to launder and conceal the monies stolen from the Chilean government and illegally obtained from other sources, and to conceal the existence of these monies from and to place them beyond the reach of those who had a claim to them, including the victims represented by Plaintiff. Pinochet and his agents and advisors, including Defendants,

undertook a series of actions over the course of several decades to further this scheme through the seizure, diversion, and concealment of ill-gotten assets.

18. Pinochet used his public position to enrich himself and his family through a variety of fraudulent actions. Pinochet's abuse of public trust for personal benefit included arrangements with defense companies which deposited millions of dollars into, and/or laundered money through, offshore accounts controlled or maintained by Pinochet and his allies, including Defendants Aitken and Banco de Chile who actively participated in the transfer and concealment of ill-gotten gains that were never reported to the Chilean government. These acts of concealment of these ill-gotten gains have been uncovered in investigations conducted by Chilean judicial authorities and in other investigations, including that of the United States Senate, establishing that Pinochet received payments from various governmental and other sources that were concealed in offshore accounts in order to avoid detection by the government of Chile. These abuses of office for personal financial gain and diversion of funds from governmental entities constitute crimes under Chilean law.

19. Pinochet joined together with Defendants and others in a scheme to conceal the source and ownership of the funds he obtained through abuse of his public position. Aitken served as Pinochet's principal deputy in directing the operation of a network of financial institutions and offshore entities to further Pinochet's efforts to use his position of absolute power in Chile to both enrich himself and conceal the source, existence, and location of his resulting wealth. In that capacity, Aitken actively recruited others sympathetic to Pinochet, including Defendants, to participate in the scheme by engaging in multiple acts of money laundering and fraud in order to assist Pinochet in concealing his funds. The entities and individuals who participated in the scheme to conceal the source and ownership of Pinochet's

wealth, including Defendants, were fully aware that they were engaged in financial transactions that had the result of concealing money for direct or beneficial use by Pinochet. Banco de Chile was aware of the level of income publicly claimed by Pinochet and that the funds it transferred or held for him were well in excess of his publicly claimed income. Banco de Chile was likewise aware of Pinochet's involvement in transactions that disregarded restrictions designed to avoid the laundering of bank funds and the concealment of assets.

### **Victims Seek Justice Through Spanish Proceedings**

20. Pinochet is the subject of an ongoing criminal prosecution and resulting civil claims in the judicial system of Spain. In July 1996, the Spanish Progressive Union of Prosecutors (*Unión Progresista de Fiscales*) filed in Valencia, Spain, a "denunciation" against individual former leaders of the Chilean military junta, including Pinochet, alleging crimes against humanity, including genocide and terrorism, relating to the disappearance and murder of Spanish citizens who were residents of Chile between 1973 and 1990.

21. On July 4, 1996, Plaintiff Fundación Presidente Allende filed a criminal complaint against individual former leaders of the Chilean military junta, including Pinochet, before the *Audiencia Nacional*, a special national court sitting in Madrid with jurisdiction over international crimes such as terrorism, genocide, and torture that occur outside of Spanish territory. Through an acción popular, the Foundation has prosecuted the rights of Pinochet's victims to justice and damages for all of those crimes, regardless of the victim's nationality. By operation of Spanish law, the Foundation represents all victims, both known and unknown, of Pinochet's crimes against humanity, including the crimes of murder, kidnapping, disappearance, torture, and state-sponsored terrorism. The number of victims represented by Plaintiff in the

Spanish “acción popular” for asset concealment and money laundering exceeds 30,000 individuals.

22. Plaintiff’s Spanish action is consistent with Spanish law which provides for the initiation of criminal actions by individuals or organizations without the participation of the public prosecutor’s office. The Constitution of Spain, article 125, provides that “Citizens may exercise popular action and participate in the Administration of Justice. . .” The Spanish Law of Criminal Procedure, article 101, provides that “The criminal action is public. All Spanish citizens may exercise it in accordance with the Law.” Article 270 of the Spanish Law of Criminal Procedure provides that “[a]ll Spanish citizens, whether or not they are victims of the crime, may file an action, by exercising the popular action established in article 101 of this Law.” These principles of universal jurisdiction have been ratified by the Constitutional Court of Spain. Under a 1958 Spanish-Chilean treaty of dual nationality, any Chilean who is the victim of a crime, whether a resident of Spain or not, may file suit in Spanish court with the same rights as any Spanish citizen to become a private prosecutor (“acusación particular”).

23. The Prosecution Ministry issued in July 1996, a report supporting jurisdiction over Plaintiff’s action, which was accepted by Judge Manuel Garcia-Castellon of the Central Instructing Court Number 6 of the *Audiencia Nacional*. In October 1998, the criminal proceedings against Pinochet were transferred to Judge Baltasar Garzon of the Central Instructing Court Number 5 of the *Audiencia Nacional*. Criminal jurisdiction over Pinochet was sustained by an unappealable decision of the *Audiencia Nacional*, sitting en banc, in a ruling dated November 5, 1998, and by the Supreme Court of Spain in a decision dated March 8, 2004. After conducting a detailed investigation, Judge Garzon held that during the period Pinochet ruled Chile, he oversaw and directly controlled organizations that had “as their firm goal the

physical elimination, the disappearance, [and] kidnapping,” along with a “generalized practice of torture,” all aimed at Pinochet’s perceived political enemies in Chile and elsewhere.

24. After conducting an investigation, the Spanish *Audiencia Nacional* issued an arrest warrant on October 16, 1998, stating that Pinochet was primarily responsible for coordinating “an international organization that conceived, developed and carried out a systematic plan of illegal detentions (abductions), tortures, forcible transfers of persons, murders and/or disappearances of many people, including citizens from Argentina, Spain, the United Kingdom, the U.S., Chile and other countries.” On November 3, 1998, Judge Garzon issued a separate arrest order and request for extradition against Pinochet. Press coverage of events surrounding the Spanish judicial proceeding and the issuance of arrest and extradition warrants against Pinochet was widespread and notorious throughout the world and upon information and belief was known to all Defendants.

25. In conjunction with the arrest order issued in October 1998, Judge Garzon also issued on October 19, 1998, an attachment order freezing all bank accounts held directly or indirectly by Pinochet, his family members, or third parties in any country, including the United States, Chile, and the British Virgin Islands. The order freezing all of Pinochet’s assets was transmitted to United States authorities by the Spanish government with the expectation and intent that it would be enforced in the United States. There was widespread media coverage of the issuance of the freeze order in Europe, South America, Chile and the United States, including articles circulated in the United States business and banking communities. The freeze order was intended to protect the interests of Plaintiff and other claimants to monetary relief from Pinochet in the case before Judge Garzon and upon information and belief was known to all Defendants.

26. The Spanish criminal action against Pinochet is currently pending. On December 10, 1998, the Investigating Judge, Baltasar Garzon, formally indicted Pinochet for the crimes of terrorism, genocide, and torture. The 285-page formal criminal indictment listed thousands of victims of Pinochet's "fierce repression" and "diabolical" acts of mass murder, torture, and terrorism. The indictment held Pinochet provisionally liable to his victims represented by Plaintiff for undetermined civil damages stemming from the criminal charges. The indictment also ratified the attachment or freeze order against Pinochet's assets. The international warrant of arrest, the order to freeze all his assets, and his indictment remain in full force.

27. Pinochet's plan to illegally profit from his consolidated dictatorial power and his scheme to conceal those profits from potential claimants including his victims represented by Plaintiff took on added significance following these Spanish judicial actions. With full knowledge of the Spanish freeze order in 1998, Pinochet with the assistance of various Banks with which he had close relationships, and the aid, complicity, and assistance of Defendants, engaged in a pattern of fraudulent and illegal activities designed to protect his assets by placing them out of the reach of his creditors.

28. By a writ dated February 25, 2005, the Spanish Court entered a final order quantifying the civil liability of Pinochet for the crimes set forth in the indictment of October 12, 1998, in the amount of 1,445,530,116 Euros. By operation of Spanish law, all the victims identified in the original July 4, 1996, complaint filed by the Foundation against Pinochet are entitled to recover that amount as damages. Additionally, those victims identified by the 2004 Valech Commission are also entitled to recover damages.

**Victims Assert Their Rights to Pinochet's Assets Despite Pinochet's Continued Efforts to Avoid the Claims of His Creditors by Concealing his Assets**

29. Defendant Banco de Chile and its United States-based branch operations, along with various personnel, both known and unknown, including Defendant New York branch manager Hernán Donoso, from 1973 through 2004, directly and knowingly assisted Pinochet in concealing substantial sums of money, which he had illegally obtained as a result of his exercise of dictatorial power, thereby seeking to hinder, delay, and defraud the Plaintiff from collecting on the civil judgment entered against Pinochet, and by evading the effect of a court-ordered freeze of Pinochet's assets, including assets held by and through Banco de Chile, thereby dissipating assets in which Plaintiff has a legal interest. Pinochet's victims have suffered additional injury at the hands of the third parties and financial institutions, including Defendants, who worked in concert to help Pinochet conceal his ill-gotten assets in avoidance of the freeze order and existing claims. Those actions were orchestrated by Pinochet and implemented by Aitken who acted directly pursuant to his orders and control. Aitken, in turn, utilized Banco de Chile and Donoso to assist his efforts to conceal Pinochet's assets from his victims.

30. Banco de Chile's United States operations are regulated by both the Office of the Comptroller of Currency ("OCC") and the Federal Reserve Bank of Atlanta. In 2004, after learning of the Pinochet-related accounts, the OCC initiated an extensive review of the Bank's anti-money laundering procedures and identified a host of deficiencies. The Federal Reserve Bank of Atlanta identified extensive deficiencies at the Bank's Miami branch. In addition, the U.S. Treasury Financial Crimes Enforcement Network has conducted an investigation into Banco de Chile's failure to comply with banking laws related to its relationship with Pinochet. Prior to 2004, and in furtherance of the scheme to conceal Pinochet's assets, Banco de Chile repeatedly failed to disclose to regulators the existence of current Pinochet accounts at its United



States branch operations, despite knowledge of senior bank officials that the accounts described below were held by or for the benefit of Pinochet.

31. On February 1, 2005, Banco de Chile and its New York branch entered into a comprehensive Stipulation of Consent to the Issuance of a Consent Order with the OCC. The Consent Order recounts that the OCC through an examination of activities of the New York branch and through an internal examination conducted by outside counsel retained by the Audit Committee of Banco de Chile, identified deficiencies in Banco de Chile's internal controls, particularly in the area of Bank Secrecy Act and Anti-Money Laundering compliance. The Consent Order requires, *inter alia*, that Banco de Chile and the General Manager of the New York branch develop plans to (i) cease and desist from destroying, altering or removing documents, books, and records which cannot be regenerated; (ii) cease and desist from actions that directly or indirectly conceal transactions from the OCC or that hinder the OCC's examination process; (iii) correct incomplete or inaccurate statements, documents, books, and records, including those filed with or provided to U.S. Government agencies, including those related to the accounts or transactions of Augusto Pinochet or Oscar Aitken, Pinochet's personal attorney; (iv) implement a program requiring all New York branch officers and employees to be truthful, candid, and forthright to all personnel of the OCC; (v) establish internal controls to ensure that no depository account or loan is held or wire transfer or other transaction is made or accepted under the name of someone other than the true owner; (vi) implement programs to ensure compliance with Bank Secrecy Act and Suspicious Activity Report requirements; (vii) establish in the New York branch a "Compliance Department" to ensure compliance with the Consent Order and its directives; (viii) obtain written legal opinions from external counsel that it has closed all accounts related to or for Augusto Pinochet and Oscar Aitken; and (ix) institute

procedures to ensure that the New York branch will not enter into any future business relationships with Augusto Pinochet or Oscar Aitken. The consent order was the direct result of irregularities with the Bank's activities directly related to its dealings with Pinochet and Aitken, acting on behalf of Pinochet.

32. Also on February 1, 2005, Banco de Chile entered into a "Cease and Desist Order Issued Upon Consent Pursuant to the Federal Deposit Insurance Act, as Amended," requiring the Miami branch of Banco de Chile to address regulatory deficiencies regarding its failure to comply with applicable federal laws, rules and regulations relating to anti-money laundering policies and procedures, including the Currency and Foreign Transactions Report Act, 31 U.S.C. § 5311 et seq. ("Bank Secrecy Act"), and regulations issued thereunder, and suspicious activity reporting requirements. The Cease and Desist Order required, *inter alia*, that Banco de Chile, its Miami branch, and their "institution-affiliated parties (i) submit within 90 days to the Federal Reserve Bank of Atlanta an acceptable written anti-money laundering policy designed to ensure the Miami branch's compliance with the Bank Secrecy Act and rules and regulations issued there under, which at a minimum would provide for enhanced internal controls in the area of account opening and transaction monitoring, regular comprehensive compliance audits, appointment of a qualified compliance officer, and effective training for all branch personnel; (ii) submit to the Federal Reserve Bank of Atlanta an acceptable written customer due diligence program designed to reasonably ensure the identification and timely, accurate, and complete reporting of all known or suspected violations of law against or involving the Miami branch and suspicious transactions at the Miami branch, including a methodology for assigning risk levels to the Miami Branch's customer base; (iii) to complete a review of all account activity from January 1, 1999 to the date of the Order for accounts of current or former customers identified by the Miami branch as a

“senior foreign political figure, a member of a senior foreign political figure’s immediate family, or a close associate of a senior foreign political figure”; (iv) submit to the Federal Reserve Bank of Atlanta acceptable written policies and procedures governing accounts and transactions involving the persons referenced in paragraph (iii) above, including ensuring identification of accounts in which such persons have an interest, are beneficial owners, and enhancing due diligence; (v) submit to the Federal Reserve Bank of Atlanta acceptable procedures for information sharing and coordination between the Bank’s New York and Miami branches to ensure full compliance with federal law and consistent adherence to internal policies and procedures; (vi) submit to the Federal Reserve Bank of Atlanta an acceptable written plan designed to ensure the Miami branch’s compliance with the regulations of the U.S. Department of the Treasury’s Office of Foreign Assets Control, as well as any guidelines issued or administered by that office, including at a minimum, procedures to ensure maintenance of a regularly updated list of entities and individuals whose transactions or assets are required to be blocked, frozen, or monitored; and (vii) submit to the Federal Reserve Bank of Atlanta acceptable written policies and procedures that govern the conduct of Miami branch personnel and emphasize the importance of full cooperation with bank regulators and ensure that Miami branch personnel provide prompt, complete, and accurate information to banking regulators. The order was the direct result of irregularities with the Bank’s activities directly related to its dealings with Pinochet and Aitken acting on behalf of Pinochet. These regulatory sanctions by the Banco de Chile’s regulators in the United States were designed to curtail its activities in assisting Pinochet in the execution of his scheme to launder and conceal his ill-gotten gains.

33. On March 15, 2005, the Permanent Subcommittee on Investigations released a “Supplemental Staff Report on U.S. Accounts Used by Augusto Pinochet” (“Supplemental

Report”). The Supplemental Report found that Banco de Chile and particularly its United States-based branches took steps consistent with assisting Pinochet in evading legal proceedings related to his bank accounts, including the Spanish freeze order. The Supplemental Report, coupled with the Consent Decrees described in paragraphs 31 and 32 above, establish that Banco de Chile and its top New York official knowingly: (i) solicited business from Mr. Pinochet, a notorious dictator associated with assassinations, death squads, drug trafficking, arms sales, and corruption; (ii) facilitated the establishment and operation of offshore accounts in order to assist Mr. Pinochet in secreting his assets and evading court orders freezing all of Mr. Pinochet’s bank accounts, including those maintained by Banco de Chile; (iii) concealed the identification of Mr. Pinochet’s accounts in order to further assist him in secreting assets and evading court freeze orders; (iv) transferred funds to Mr. Pinochet using cashier’s checks in a manner that permitted Pinochet to ensure that his assets could not be traced; (v) misled bank regulators and judicial and law enforcement authorities by failing to identify the existence of the Pinochet accounts in required documents or in response to asset freeze orders; and (vi) concealed and destroyed records and other evidence revealing the extent of Banco de Chile’s complicity in assisting Mr. Pinochet to secret assets and evade legal process.

34. On April 15, 2005, the OCC obtained through a Stipulation and Consent Order an Order for Prohibition prohibiting Defendant Donoso from participating in any manner in the operation of a federally regulated banking institution. This drastic measure was based on “the gravity of the violations, the history of previous violations and such other matters as justice may require, as required by 12 U.S.C. § 1818(i)(2)(G).” The same Stipulation and Consent Order required Donoso to pay a civil money penalty in the amount of \$200,000. These actions were

directly related to Donoso's dealings with Pinochet and Aitken acting on behalf of Pinochet in laundering and concealing his ill gotten gains at Banco de Chile.

35. On October 12, 2005, the United States Department of Treasury, Financial Crimes Enforcement Network ("FINCEN") issued an Assessment of Civil Money Penalty against Banco de Chile for violation of anti-money laundering and suspicious activity reporting provisions of the Bank Secrecy Act, 31 U.S.C. §§ 5311 et seq., and regulations promulgated thereunder. Specifically, FINCEN found that Banco de Chile's New York and Miami branches were deficient in three anti-money laundering program requirements: 1) internal controls; 2) audit and testing; and 3) designation of a person or persons to ensure adequate compliance with the Bank Secrecy Act and its implementing regulations. FINCEN found that "Banco de Chile-New York personnel, including the General Manager at the time [Defendant Donoso], authorized transactions by, for, or on behalf of at least one high profile Chilean politically exposed person [Pinochet] that allowed such person to engage in apparent money laundering through the Branch. Senior New York Branch management was found to have circumvented established policies, violated laws and regulations, and obstructed examinations by intentionally misleading examiners in order to conceal the purpose, existence and true funding source of certain suspicious accounts and loans maintained by Banco de Chile-New York." FINCEN additionally found that due to their failure to implement adequate anti-money laundering controls, Banco de Chile's New York and Miami branches violated the Bank Secrecy Act by failing to report numerous suspicious large dollar transactions, involving millions of dollars, made by or on behalf of Pinochet, Defendant Aitken, and a Pinochet family member. Based on the seriousness of Banco de Chile's violations of the Bank Secrecy Act, FINCEN imposed a civil penalty on Banco de Chile in the amount of \$3,000,000.

**Pinochet's Close Relationship with Banco de Chile Facilitates Further Asset Concealment from Creditors**

36. Pinochet became a Banco de Chile customer as early as 1973. Pinochet became a customer of Banco de Chile's New York branch no later than 1995. Banco de Chile's New York and Miami branches provide its customers with access to the United States financial system. Banco de Chile's United States branch operations dealt openly with Mr. Pinochet, who they were aware was a former president and well known figure in Chile. The bank was familiar with Pinochet, his dictatorial rule and the proceedings against him in Spain and elsewhere. The first three accounts the bank opened for Mr. Pinochet in the United States bore his name in an open and transparent manner.

37. Upon information and belief, Pinochet began in the 1990s to move increasing amounts of his assets out of Chile in response to investigations and inquiries in Spain into widespread crimes and human rights abuses carried out at his instruction. Upon information and belief, Pinochet used his substantial influence as dictator of Chile to obtain special treatment from Banco de Chile, including its United States operations, and to induce them to violate regulatory obligations, including "know your customer" requirements, bank secrecy laws, and money laundering prohibitions in order to launder and conceal his ill-gotten gains. Defendant Aitken served as Pinochet's legal and financial advisor and worked with Banco de Chile to coordinate the violations of law necessary to conceal the identity of Pinochet as the true owner of the assets held through Banco de Chile. As was confirmed through an internal review conducted by Banco de Chile, both Pinochet and Aitken were treated as important clients by Banco de Chile's New York office, whose General Manager, Hernán Donoso, "greatly respected" Pinochet and personally handled many of his accounts. As was further confirmed by Banco de Chile's internal review, the Bank and its top officials were fully aware that certain accounts, including

those held in the names of offshore entities, were in fact dummy accounts set up to hold or transfer Pinochet funds and thus conceal the identity of Pinochet as the true owner of the accounts. Similarly, Mr. Aitken, with Banco de Chile's knowledge, served as a front man for Pinochet in order to further conceal from those outside of the Bank the true ownership and control of Pinochet's accounts. Banco de Chile, invoking Chilean law, refused to cooperate with the U.S. Senate's investigation concerning its relationship with Pinochet in Chile.

38. Banco de Chile through its United States-based operations opened at least 24 separate accounts and CDs that contained Pinochet's funds. These accounts were opened either by Pinochet himself, in the names of his immediate family members or ostensibly unrelated third parties, and in one case in the name of a foundation named for, and operated for the benefit of, Pinochet. Banco de Chile through its United States operations established at least 11 third-party accounts, all but one in the name of an offshore shell corporation, for Pinochet funds. The offshore corporations were set up and controlled by Oscar Aitken, an individual known by Banco de Chile to be Pinochet's attorney and financial advisor, for Pinochet's benefit. The third-party accounts were held in the name of corporations controlled by Aitken for Pinochet's benefit. These corporations include British Virgin Islands ("BVI") corporations Abanda Finance Ltd., Belview International Inc., Cornwall Overseas Corporation, Eastview Finance S.A., GLP Limited, and Tasker Investments Ltd., and a Chilean corporation, Sociedad de Inversiones Belview, S.A. As was confirmed by an internal review conducted by Banco de Chile, the Bank knew that corporations controlled by Aitken were used to hold or transfer Pinochet funds. These third-party accounts were used to move funds across international lines, often leaving a minimal audit trail for investigators to follow.

39. From 1995 to 2004, Pinochet maintained or controlled multiple bank accounts (in some cases as joint accounts with his wife), investment accounts, and certificates of deposit (“CDs”) with Banco de Chile through its United States operations. These accounts were established to assist Mr. Pinochet to conceal and disguise his assets and to hinder, delay, and defraud creditors, including Plaintiff. Upon information and belief, Banco de Chile opened, maintained, deposited monies into, and received monies from at least the following accounts for the direct or indirect benefit of Mr. Pinochet, as described in greater detail below:

Account or Deposit No.	Period Open or Issued	Description
442506/321	August 29, 1995 to March 18, 1999	Account opened in name of Maria Lucia Hiriart Rodriguez and Augusto Jose Ramon Pinochet Ugarte
401892/321	June 24, 1996 to March 23, 1999	Account opened in name of Maria L. Hiriart Rodriguez and Augusto Jose R Pinochet Ugarte
401892/331/001/002/01	May 29, 1998 to November 9, 1998	Account was opened in the name of “Pinochet Joint Miami TD” to establish a CD
401323/321	September 27, 1995 to December 2000	Account was opened in the name of Mr. Pinochet’s daughter, Jacqueline Marie Pinochet Hiriart
401323/301	December 14, 2000 to January 14, 2002	Account was opened in the name of Jacqueline Marie Pinochet Hiriart
340/204013231	December 14, 2000 to early 2005	Account was opened in the name of Jacqueline Marie Pinochet Hiriart
23000690	January 2, 2003 to early 2005	Account was opened in the name of Mr. Pinochet’s grandson Alejandro Ponce Pinochet
21014466	August 30, 2004 to early 2005	Account was opened in the name of Mr. Pinochet’s granddaughter, Francisca Lucia Ponce Pinochet
101136/345/011/002/01-04	November 10, 1997 to	Account for CDs was opened in



	March 24, 1999	the name of Eastview Finance S. A.
101136/335/001/002/01-04	November 10, 1997 to August 9, 1999	Account was opened in the name of Eastview Finance S. A.
101136/335/001/003/01	July 10, 1998 to August 31, 1998	Account was opened in the name of Eastview Finance S.A.
310/105033261 (503326/325)	November 5, 1998 to January 8, 2003	Account was opened in the name of Eastview Finance S.A.
503326/335/001/002/01	January 7, 1999 to August 30, 2001	Account was opened in the name of Eastview Finance S.A.
310/105033831 (503383/324)	January 8, 1999 to December 14, 2004	Account was opened in the name of the Pinochet Foundation
310/102114411 (211441/305)	November 15, 1999 to December 31, 2002	Account was opened in the name of Abanda Finance Ltd.
310/011001328	July 17, 2002 to November 8, 2002	Account was opened in the name of Sociedad de Inversiones Belview Int S.A.
310/012002183	July 23, 2002 to September 20, 2004	Account was opened in the name of Belview International Inc.
310/011004478	November 19, 2002 to September 16, 2004	Account was opened in the name of GLP Ltd.
310/021005635	July 26, 2003 to September 15, 2004	Account was opened in the name of Tasker Investment Ltd.
743-13165-17-765	August 29, 2002 to November 26, 2002	Account was opened in the name of Belview International Inc. at Lehman Brothers
742-13374-14765	November 21, 2002 to May 18, 2004	Account was opened in the name of GLP Ltd. at Lehman Brothers
0AJ 022418	February 24, 2004 to February 11, 2005	Account was opened in the name of GLP Ltd. at Pershing Securities
743-15017	July 30, 2003 to April 19, 2004	Account was opened in the name of Tasker Investments Ltd. S.A. at Lehman Brothers
0AJ 002392	February 24, 2004 to January 3, 2005	Account was opened in the name of Tasker Investments Ltd. S.A. at Pershing Securities

40. From 1995 through 2004, Banco de Chile and its officers received Pinochet's money into the accounts listed in the prior paragraph and others, transferred funds among these accounts, and transferred some funds through third parties in a manner that permitted Banco de

Chile to hide the identify of the originators of the funds, all with the intent and knowledge that these actions were assisting Pinochet to conceal and move funds in order to hinder, delay, and defraud creditors, including the Plaintiffs in the Spanish legal proceedings, and to conceal and launder the illegal proceeds of his criminal activities. Upon information and belief, the aggregate funds transferred into and among Pinochet's United States-based accounts with Banco de Chile totaled over \$7 million, and may have been much higher.

**Banco de Chile Actively Assisted Pinochet's Concealment of Assets  
In and Around the Time Pinochet Is First Indicted for Crimes Against Humanity**

41. By 1995, there was widespread and notorious publicity throughout the world, and particularly in Chile, concerning investigations into the crimes committed by Pinochet during his rule over Chile. By 1996, as increasing numbers of civil and criminal actions were initiated against Pinochet's subordinates and himself alleging and seeking criminal and civil redress for their crimes, it became evident that Pinochet would be held civilly and criminally accountable for his crimes. Following the 1996 Spanish suit, additional claims were filed in Chile, France, Belgium, Switzerland, and other countries.

42. From 1990 until 1996, Banco de Chile allowed Pinochet to move about \$650,000 from accounts opened under the names of Chilean military officers at Riggs Bank to Pinochet-related accounts at Banco de Chile. These transactions used one of Pinochet's aliases or the name of his personal assistant, Maria Ananias Kuncar, as the designated recipient of the funds. The single largest of these transfers occurred in March 1996, when a \$287,000 wire transfer sent funds from a Miami-based Riggs account opened in the name of Chilean military officer Juan Ricardo Mac Lean Vergara to "Monica Anania" at a Banco de Chile account in Chile.

43. From 1990 until 1997, Banco de Chile allowed Pinochet to move about \$1.3 million from Chile to the United States through the use of cashier's checks issued by one of the

Bank's branches in Chile but drawn on the bank's U.S. dollar account in New York. The Bank refused to reveal to the Senate Subcommittee the identity of the individuals who provided the underlying funds, consistent with the Bank's efforts to permit Pinochet to hide the source of monies being moved into the United States. In each case, the cashier's checks were deposited in one of Pinochet's accounts maintained in the United States.

44. On November 10, 1997, Banco de Chile provided a \$500,000 loan to Pinochet under unusual circumstances. The loan was issued to Pinochet personally, but loan collateral was accepted from Eastview Finance, S.A., an offshore corporation controlled by Mr. Aitken. The loan thus provided Banco de Chile with clear evidence of a direct connection between Mr. Aitken and Pinochet, a fact that was in any event well-known to Mr. Donoso and others at Banco de Chile. The collateral for the loan was the loan itself. The same \$500,000 pledged through the loan was initially withdrawn from Banco de Chile by a check payable to Coutts & Co. (USA) International ("Coutts") and then was returned to Banco de Chile's Miami office by Coutts a few days later. Acting on instructions from Mr. Aitken, Banco de Chile's Miami office established 4 CDs in the name of Eastview Finance, S.A., which CDs were pledged as collateral for the original loan. The size of the loan and the odd circumstances surrounding it should have triggered Banco de Chile to comply with federal laws requiring inquiry into suspicious activities.

45. The timing of the Spanish indictment and Banco de Chile's actions to conceal Pinochet assets through the use of accounts in the names of third persons or offshore shell corporations is not coincidental. It was widely reported that investigatory personnel in Spain were seeking to indict Pinochet several months before the first criminal complaint was filed on July 4, 1996. The actions to conceal Pinochet's assets were in direct response to this new, serious criminal and civil damages threat in Spain.

**Banco de Chile and Pinochet Take Further Active Steps to Conceal  
Pinochet Deposits After Pinochet Is Arrested**

46. As previously alleged, on October 16, 1998, the Spanish Judge presiding over the Pinochet investigation, Judge Garzon, issued an international warrant against Pinochet seeking his arrest for torture, murder, hostage-taking, and genocide. Pursuant to that warrant, Pinochet was arrested that same evening at a London hospital by British law enforcement agents. Pinochet's arrest and resulting legal proceedings in the United Kingdom received widespread media coverage in the United States and worldwide.

47. Pinochet challenged his extradition from the United Kingdom to Spain for trial. However, after various legal proceedings, on March 24, 1999, the British Law Lords (the highest court in the United Kingdom) ruled that the Spanish extradition request should continue its regular path and set an extradition hearing to determine whether Pinochet should be transferred to Spanish custody for trial.

48. The British extradition proceedings against Pinochet continued for approximately one year. On October 8, 1999, the Bow Street Magistrates Court ruled that Pinochet could be extradited to Spain. On November 16, 1999, while Pinochet was under house arrest in the United Kingdom, Banco de Chile facilitated a transaction with the purpose of disguising Pinochet's ownership of real property. The transaction involved the transfer of an apartment owned by Pinochet to Abanda Finance Ltd. ("Abanda"), a BVI corporation controlled by Aitken. The transaction was designed so that it appeared that Abanda paid \$400,000 for the apartment, but in fact no money ever changed hands and the funds were returned to their original account at Banco de Chile's New York branch the next day. Upon information and belief, Banco de Chile officials were aware that funds used to facilitate the sham transaction were held in the name of an offshore entity for the benefit of Pinochet. A complaint filed by Banco de Chile in this Court,

Civil Action 1:05-cv-04658-GBD, acknowledges that “the reason that Pinochet transferred the apartment to Abanda was so that it would not appear in his name, although he would continue to be the beneficial owner. In other words, the transfer could help Pinochet avoid the Spanish court’s freeze order and deceive Pinochet’s creditors.”

49. Additional transactions occurring during the period of Pinochet’s arrest and detention provide clear evidence that Banco de Chile was fully aware of Pinochet’s use of its United States branch operations to transfer funds into and out of the United States in order to launder and conceal assets. In 1999, an account was established at the New York branch in the name of the “Pinochet Foundation.” Persons with signatory authority for the “Pinochet Foundation” account include members of Pinochet’s immediate family and former members of the Pinochet regime. Deposits to the Pinochet Foundation’s New York account exceeded \$2.2 million from the time it was opened in 1999 until it was closed in 2004 in response to an OCC investigation of the Bank’s relationship with Pinochet. Substantial transfers out of the account went primarily to pay for Pinochet’s legal counsel during his detention in the U.K.

50. Aitken fully intended that these transactions would deprive Plaintiff of its ability to identify and recover Pinochet’s assets. Aitken has acknowledged, in a September 5, 2004 interview with the Chilean publication El Mercurio, that Abanda was created in direct response to Judge Garzon’s issuance of an asset freeze: “[Abanda was created in response to] the writ of Baltasar Garzon. That was the period of the arrest in London and the Spanish judge was cudgeling him penally and in relation to his assets. [Pinochet] protected himself in that way. The proprietor now is a foreign company.”

**As International Authorities Begin to Discover Pinochet Accounts,  
Banco de Chile Continues Assisting Pinochet in Concealing His Assets**

51. On April 20, 2001, the Plaintiffs in the Spanish proceedings asked the Spanish Court to send Letters Rogatory to the governments of Canada and Bermuda requesting that they enforce the freeze order against specific assets of Pinochet's that the Spanish Court had identified as possibly existing in those countries. On May 15, 2001, law enforcement officials in Bermuda announced that they had seized several bank accounts apparently controlled by Pinochet pursuant to the Spanish court's freeze order. As authorities were closing in on the Pinochet money trail, Pinochet, acting through Aitken and Banco de Chile, undertook an intricate scheme whereby Pinochet could obtain cash from his accounts without his creditors knowing. On that same day, Riggs Bank issued 10 cashier's checks, in \$50,000 increments, totaling \$500,000, to Pinochet. Riggs Bank then personally delivered these checks to Pinochet in Chile. All parties involved took extra steps to provide secrecy for Pinochet. First, in order to fund the cashier's checks they took Pinochet funds and deposited them into Riggs Bank's own concentration account, and then issued the checks from those accounts. As a result, any initial tracing of funds would be far less likely to identify Pinochet as the source of funds for those cashier's checks. Second, Riggs Bank made these checks payable to "Maria Hiriart and/or Augusto P. Ugarte," thus eliminating the word "Pinochet" and making it less likely that the funds would attract attention. These checks were then cashed at Banco de Chile by a third party associated with Pinochet, and then American dollars were converted to Chilean pesos. The checks were cashed to a third party despite the fact that the name of the beneficiary on the check was a different name. This scheme was undertaken by Pinochet, with the assistance of Banco de Chile, to evade and defraud Pinochet's creditors, including Plaintiff.

52. In October 2001, Pinochet arranged a scheme through Riggs Bank and Banco de Chile whereby Pinochet could obtain cash through an elaborate misuse of cashier's checks issued

by one bank and cashed through the other. Riggs Bank issued to Pinochet 10 cashier's checks, each in the amount of \$50,000. This \$500,000 was again moved through the Riggs Bank concentration account. These checks were sent by overnight mail to Pinochet in Chile. In April 2002, Riggs Bank issued to Pinochet 10 cashier's checks, again with Banco de Chile's knowledge, each in the amount of \$50,000. This \$500,000 was delivered by overnight mail to Pinochet in Chile. These checks were made payable to "L. Hiriart and/or A.P. Ugarte" in an attempt to conceal to whom the checks were being issued. Again, as part of this scheme to evade creditors, the checks were cashed at Banco de Chile.

53. From August 2000 to August 2003, Chilean branches of Banco de Chile cashed 36 of the 40 cashier's checks, for a total of \$1.8 million. Banco de Chile refused to provide the Senate Subcommittee with any documentation whatsoever concerning who presented the cashier's checks and whether that person was paid in cash. According to a Chilean appeals court finding, the checks were cashed at Banco de Chile "by a third party, despite the fact that they were nominative. Then various amounts of the cash in dollars were changed to cash in Chilean pesos on the informal market so that said transaction would not be reported to the [Chilean] Central Bank." Banco de Chile thereby permitted Pinochet to conceal assets in violation of Chilean banking laws.

**Banco de Chile Launderers and Conceals Additional Monies for Pinochet**

54. In July 2002, after the OCC raised money laundering concerns about Pinochet's accounts at Riggs Bank, Riggs closed the accounts it held for Pinochet. The closed accounts include accounts in the names of off-shore sham entities Ashburton Co. Ltd. and Althorp Investment Co. Ltd. and an account for Pinochet's wife in the name of "Maria Lucia Hiriart Rodriguez." The funds from these three accounts, totaling about \$6 million, were deposited by wire transfer into an account at the New York branch of Banco de Chile nominally controlled by

Sociedad de Inversiones Belview S.A. ("Belview"), a Chilean corporation controlled by Aitken for the benefit of Pinochet. The Belview account was opened by Banco de Chile on an expedited basis for the sole purpose of receiving the funds from the closed Riggs accounts. Aitken personally requested that this new account be opened on an "urgent" basis, making the request only one day before the wire transfer. Banco de Chile complied with this request, despite the fact that it violated internal bank rules and federal anti-money laundering, know your customer, and Bank Secrecy Act laws. Specifically, the money was deposited on July 17, 2002, even though the "Customer Application Form" was dated July 23, 2002 and the required Head Office approval to open the account is dated July 19, 2002. The amount at issue significantly exceeded Banco de Chile's estimate of Aitken's net worth, which should have triggered a close inquiry of the transaction under know your customer, anti-money laundering, and Bank Secrecy Act regulations. Aitken orally informed the New York branch that the \$6 million was associated with Pinochet. Only a few weeks earlier, the OCC had asked Banco de Chile whether it had any Pinochet accounts and the Bank declined to provide any, despite the fact that some of the transferred funds were from a Riggs account controlled by Pinochet's wife using the same name she had used in accounts held at Banco de Chile.

55. The intent of Banco de Chile and certain of its employees to hide the existence of Pinochet accounts is further established by evidence that Banco de Chile lied to OCC investigators concerning the \$6 million transfer. On July 27, 2004, the Federal Reserve Bank of Atlanta made a routine visit to Banco de Chile in Santiago. The Federal Reserve Bank inquired whether Banco de Chile had any Pinochet accounts in its branches at the United States. Banco de Chile informed the Federal Reserve Bank that Pinochet was "no longer a customer in the United States," but that the Bank was conducting an internal investigation. The Bank did not



disclose the \$6 million transfer from Riggs in 2002, despite the fact that a senior Banco de Chile official in Santiago had been informed earlier that month of a request by Aitken to move the Pinochet funds out of the United States “without a trace.” Aitken made this request the very same day, July 15, 2004, that the Senate Subcommittee released its initial report disclosing its investigation into Pinochet funds at Riggs. Mr. Aitken, with the assistance of Banco de Chile, transferred the \$6 million to a brokerage account and then deposited the income stream from that brokerage account into an account at the New York Branch of Banco de Chile. Mr. Aitken then used this income stream to supply Mr. Pinochet with cash or checks.

56. Pinochet, his agents and associates, and Defendants were successful in their efforts to conceal assets from the Plaintiff in this case. As a result, the Plaintiff did not learn of the Defendants’ conduct in receiving fraudulent transfers from Pinochet, and in assisting him in his efforts to hinder, delay, and defraud his creditors until recently. Wrongful conduct and conspiracy involving the concealment of Pinochet funds first came to light on July 15, 2004, with the release of the initial Senate Report. The Senate Report and Spanish attachment order expressly concluded that Pinochet utilized banking relationships to conceal his assets. Based on its findings, the Senate Subcommittee conducted an additional investigation into wrongful conduct and conspiracy involving the concealment of Pinochet funds at United States banks. That investigation resulted in the Supplemental Report, issued on March 15, 2005. Only a subcommittee of the United States Senate, with its investigative and oversight powers, was able to uncover the conduct of Banco de Chile. Even then the discoveries came only after a two-year investigation (1999-2001) into money-laundering activities in U.S. private banking operations generally, followed by a years-long targeted case-study investigation (2003-2005) into illegal activities at U.S. banks on behalf of Pinochet. As the Senate Report and Supplemental Report

make clear, even the OCC and Federal Reserve Bank, with their oversight powers and regulatory authority, were not able to prevent widespread violation of U.S. and international banking laws undertaken to assist Pinochet in the concealment of his assets.

57. The unlawful activity that Defendants engaged in was self-concealing. Banco de Chile, *inter alia*, falsely reported to bank regulators that they did not have any accounts owned by Pinochet, permitted funds to be held in the names of offshore shell corporations and opened accounts in the names of those corporations to disguise Pinochet's ownership of account funds, failed to file Suspicious Activity Reports or other regulatory filings that would have disclosed to bank regulators the existence of Pinochet's accounts at Banco de Chile, failed to comply with internal know your customer requirements, and hid behind Chilean bank secrecy laws to conceal Mr. Pinochet's movement of funds both into and out of the United States.

58. Plaintiff had no knowledge of the unlawful conduct alleged in this Complaint, or of any of the facts that could or would have led to the discovery thereof, until it became public via the Supplemental Report.

59. Because the Defendants employed acts and techniques that were calculated to wrongfully conceal the existence of their illegal conduct, Plaintiff could not have discovered the existence of the unlawful conduct alleged in this Complaint any earlier than its public disclosure in March 2005.

60. Due to Defendants' fraudulent concealment, any applicable statute of limitations or statutes of repose affecting or limiting the rights of action by Plaintiff has been tolled during the period of such fraudulent concealment, and this action has been commenced within one year of the time at which the transfers could reasonably have been discovered.

COUNT I  
(Against Banco de Chile Only)

Fraudulent Conveyance (N.Y. Debtor and Creditor Law §§ 270-281 (Consol. 2005))

61. The allegations of paragraphs 1 through 60 of this Complaint are incorporated herein by reference.

62. As described above, Defendant Banco de Chile received funds from Pinochet and entities owned or controlled by him as part of transfers that were done with the intent to hinder, delay, or defraud Plaintiffs in violation of the Uniform Fraudulent Conveyance Act (the "Act"), N.Y. Debtor and Creditor Law §§ 270-281 (Consol. 2005).

63. Under the Uniform Fraudulent Conveyance Act, as enacted in the state of New York, transfers and conveyances to or for the benefit of one seeking to avoid an asset freeze order establish an intent to hinder, delay, or defraud.

64. Banco de Chile acting by and through Defendant Donoso and with the assistance of Aitken knowingly: (1) solicited business from Pinochet despite their awareness of his identity as a notorious dictator associated with extensive human rights violations and other crimes; (ii) facilitated the establishment and operation of offshore accounts in order to assist Pinochet in secreting his assets and evading court orders freezing all of Pinochet's bank accounts worldwide; (iii) concealed the identification of Pinochet's accounts to assist him in secreting his assets and evading court freeze orders; (iv) transferred funds to Pinochet using cashier's checks and other means in a manner that permitted Pinochet to ensure that his assets could not be traced; (v) misled banking regulators as to the existence of Pinochet accounts; and (vi) concealed and destroyed records and evidence revealing the extent of Banco de Chile's complicity in assisting Pinochet in secreting assets and evading legal process.

65. Banco de Chile was the immediate and/or mediate transferee of property and assets of Pinochet through accounts held by or on behalf of Pinochet through his immediate

family members, associates, and third-party entities including shell-corporations such as Ashburton Co. Ltd., Althorp Investment Co. Ltd., Abanda Finance, Ltd., Belview International, Inc., Cornwall Overseas Corporation, Eastview Finance, S.A., GLP Limited, Tasker Investments Ltd., and Sociedad de Inversiones Belview, S.A., and the Pinochet Foundation, including (i) deposits made into and withdrawals out of the bank through accounts described above, (ii) funds used to purchase, and funds received upon the expiry of, certificates of deposit described above, and (iii) funds placed in money market and investment accounts described above.

66. All transfers of funds by or on behalf of Pinochet into accounts and certificates of deposit at Banco de Chile were made with the intent to hinder, delay, or defraud Pinochet's creditors, including, after October 1998, to evade the Spanish attachment order. Those creditors were thousands of victims who are plaintiffs in the legal proceedings in Spain seeking to recover damages from Pinochet, as well as governmental authorities.

67. The private banking relationship between Pinochet and Banco de Chile was not an ordinary-course banking relationship. Banco de Chile treated Pinochet differently from its other customers. As alleged in paragraph 3 and set forth more fully herein, Banco de Chile personnel, including Defendant Donoso, took actions with respect to Pinochet funds and accounts based on authorizations from Pinochet made either directly or through his agents, including Defendant Aitken, that Defendants knew to be in violation of internal bank policies and U.S. and Chilean banking laws and regulations.

68. Banco de Chile's actions and dealings with Pinochet constituted bad faith. Banco de Chile provided services to Pinochet outside of normal course business relations, including creating accounts, transmitting funds, and concealing records in violation of internal bank procedures and United States banking laws and regulations. The actions were in violation of the

Bank Secrecy Act and its implementing regulations which imposed upon Banco de Chile an affirmative obligation to report any transaction of at least \$5000 that the bank knows, suspects, or has reason to suspect involves funds derived from illegal activities or is intended or conducted in order to hide or disguise funds or assets derived from illegal activities.

69. Banco de Chile actively solicited Pinochet's business and knowingly received and transmitted Pinochet's funds in an effort to hinder, delay, and defraud Pinochet's creditors, including evading the Spanish attachment order. Banco de Chile actively participated in Pinochet's scheme to hinder, delay, and defraud creditors, including evading the Spanish attachment order.

70. Banco de Chile knew of the Spanish court's attachment order after such order was entered, and actively assisted Pinochet in evading that order. The attachment order was widely publicized in Chile and senior Banco de Chile management in Chile and New York were aware of developments in legal proceedings against Pinochet. Despite affirmative obligations imposed by the Bank Secrecy Act, Banco de Chile failed to respond to reports of alleged criminal activity by Pinochet and failed to gather and analyze information from accounts held by or on behalf of Pinochet in order to assess the potential for suspicious activity or to report potentially illegal transactions. These actions by Banco de Chile also constituted a fraud on the Spanish court.

71. Banco de Chile failed to disclose to regulators the existence of current Pinochet accounts, including a July 2002 six million dollar wire transfer from Riggs Bank after Riggs closed its Pinochet accounts, despite the knowledge of senior bank officials, including Defendant Donoso, that the accounts were held for the benefit of Pinochet and that Pinochet was the subject of criminal and civil investigations. Banco de Chile misled OCC investigators and

violated its own internal bank rules and federal anti-money laundering, know your customer, and Bank Secrecy Act laws in opening an account on an expedited basis to facilitate this transfer.

72. From 1990 through 1996, Banco de Chile allowed Pinochet to move \$650,000 from accounts under the names of Chilean military officers to Pinochet-related accounts at Banco de Chile.

73. From 1990 through 1997, Banco de Chile facilitated the movement of \$1.3 million from Chile to the United States in the form of cashier's checks issued by one of the Bank's branches in Chile, yet drawn on the Bank's United States dollar account in New York.

74. On November 10, 1997, Banco de Chile made a suspicious personal loan to Pinochet in the amount of \$500,000, despite the fact that the collateral came from a shell corporation controlled by Pinochet's personal lawyer, and did not notify regulators or file the appropriate suspicious transaction paperwork even though the transaction had no business or apparent lawful purpose. [31 C.F.R. § 103.21 (1998), now 103.18]

75. On November 16, 1999, while Pinochet was under house arrest in the United Kingdom, Banco de Chile facilitated a sham transaction, in the form of the sale of an apartment building, to disguise Pinochet's ownership of real property.

76. In 1999, Banco de Chile was aware that Pinochet used its U.S. branch operations to assist in the transfer of funds into and out of the United States. Banco de Chile established an account in its New York Branch in the name of the "Pinochet Foundation." Deposits into this account exceeded \$2.2 million from 1999 through 2004 and the money was used principally to pay for Pinochet's legal expenses.

77. From August 2000 through August 2003, the Chilean branches of Banco de Chile cashed 36 of 40 cashier's checks, totaling \$1.8 million, issued by Riggs after the Spanish court freeze order to assist Pinochet in concealing his assets.

78. The Plaintiff represents victim/creditors of Pinochet or individuals who are legal representatives of such persons' rights in the legal proceedings in Spain. There is a large disparity of wealth between the victim/creditors, on the one hand, and Banco de Chile and the other Defendants, on the other hand. In the aggregate the Plaintiff and the victim/creditors it represents have been adjudged to be entitled to damages and other monetary remedies from Pinochet in excess of \$1 billion.

79. Upon information and belief, the aggregate funds transferred into and among Pinochet's United States-based accounts with Banco de Chile totaled over \$7 million, and may have been much higher.

80. Banco de Chile through its United States-based operations opened at least 24 separate accounts and CDs that contained Pinochet funds. These accounts were opened and held in the names of Pinochet himself or his family members, unrelated third parties, and a foundation named for and operated for the benefit of Pinochet.

81. By its outrageous and grossly and wantonly fraudulent and bad-faith conduct, including its willful violations of and disregard for its obligations under the Bank Secrecy Act and implementing regulations, as well as its own internal regulations, Banco de Chile demonstrated an intent to injure the Plaintiff and other creditors of Pinochet and a willful disregard for Plaintiff's rights and orders of the Spanish court.

82. This Court should award the Plaintiff damages in the amount of all funds sent by Pinochet to Banco de Chile, an amount not less than \$7 million.

83. Regardless of the actual damages, the Plaintiff is also entitled to punitive damages of not less than \$100 million.

COUNT II  
(Against All Defendants)  
Aiding and Abetting Fraudulent Conveyance

84. The allegations of paragraphs 1 through 83 of this Complaint are incorporated herein by reference.

85. As alleged above, Defendants engaged in transfers and transactions of assets in violation of N.Y. Debtor and Creditor Law §§ 270-281 (Consol. 2005).

86. All of the Defendants knowingly and intentionally assisted Pinochet, through Banco de Chile, to create and implement fraudulent schemes and transfers that were intended to hinder, delay, and defraud Pinochet's creditors.

87. The Plaintiff and Pinochet's victim/creditors were at all relevant times creditors of Pinochet, and at all times after October 1998 they were secured creditors of Pinochet, based on the Spanish attachment order and the indictment of Pinochet issued on December 10, 1998.

88. All the Defendants knowingly aided and abetted the fraudulent conveyances and/or transfers described in this Complaint.

89. Banco de Chile knew of the Spanish court's attachment order at all times after such order was entered, and actively assisted Pinochet in evading that order. The attachment order was widely publicized in Chile and senior Banco de Chile management in Chile and New York were aware of developments in legal proceedings against Pinochet. Despite affirmative obligations imposed by the Bank Secrecy Act, Banco de Chile failed to respond to reports of alleged criminal activity by Pinochet and failed to gather and analyze information from accounts held by or on behalf of Pinochet in order to assess the potential for suspicious activity or report



potentially illegal transactions. These actions by Banco de Chile also constituted a fraud on the Spanish court.

90. The Plaintiff represents victim/creditors of Pinochet or the individuals who are the duly authorized legal representatives of such persons. There is a large disparity of wealth between the victim/creditors and the Defendants. In the aggregate the Plaintiff and the victim/creditors have been adjudged to be entitled to damages and other monetary remedies from Pinochet in excess of \$1 billion.

91. At all times after 1996, Banco de Chile held millions of dollars of funds that were originally transferred from Pinochet. Upon information and belief, funds were deposited from time to time, and the total funds deposited into Pinochet accounts and certificates of deposit exceeded \$7 million and may have been much higher.

92. By their outrageous and grossly and wantonly fraudulent and bad-faith conduct, including their willful violations of and disregard for obligations under the Bank Secrecy Act and implementing regulations, as well as the Bank's internal procedures, each of the Defendants demonstrated an intent to injure the Plaintiff and other creditors of Pinochet and a willful disregard for Plaintiff's rights and the orders of the Spanish court.

93. This Court should award the Plaintiff damages in the amount of all funds sent by Pinochet to Banco de Chile with the assistance of the Defendants, an amount not less than \$7 million.

94. Regardless of the actual damages, the Plaintiff is also entitled to punitive damages from the Defendants of not less than \$100 million.

COUNT III  
(Against All Defendants)  
Conspiracy To Commit Fraud and To Engage in Fraudulent Conveyance

95. The allegations of paragraphs 1 through 94 of this Complaint are incorporated herein by reference.

96. By their actions, as described above, the Defendants, acting in concert, conspired to defraud the Plaintiff by attempting to unlawfully conceal the assets of Pinochet, and to hinder, delay, and defraud the attachment or freezing of Pinochet's assets held by Banco de Chile. Upon information and belief, Defendants agreed to take actions and withhold information as necessary to assist Pinochet to among other things evade legal process and to otherwise prevent legal authorities from discovering the fact that Pinochet maintained assets with Banco de Chile.

97. The Defendants, acting in concert, furthered the conspiracy by executing certain documents and taking certain actions, as follows:

- a. Solicited business from Pinochet;
- b. Facilitated the establishment and operation of offshore accounts in order to assist Pinochet in secreting his assets and evading court orders freezing all of Pinochet's bank accounts, including those maintained by Banco de Chile;
- c. Concealed the identification of Pinochet's accounts in order to further assist him in secreting assets and evading court freeze orders;
- d. Transferred funds to Pinochet using cashier's checks in a manner that permitted Pinochet to ensure that his assets could not be traced;
- e. Misled bank regulators and judicial and law enforcement authorities by failing to identify the existence of the Pinochet accounts in required documents and reports or in response to asset freeze orders; and

f. Concealed and destroyed records and other evidence revealing the extent of Banco de Chile's complicity in assisting Pinochet to secret assets and evade legal process.

98. As a result of this conspiracy to defraud, the Plaintiff suffered actual damages, including the inability to attach Pinochet's assets on deposit with Banco de Chile, and other pecuniary losses.

99. By their outrageous and grossly and wanton fraudulent conduct, including their willful violations of and disregard for obligations under the Bank Secrecy Act and implementing regulations, and other applicable bank regulatory laws and regulations Defendants demonstrated an intent to injure Plaintiff and a willful disregard for Plaintiff's rights.

COUNT IV  
(Against All Defendants)  
Violation of 18 U.S.C. § 1962(c)

100. Plaintiff realleges paragraphs 1 through 99, above.

101. Each Plaintiff is a "person" under 18 U.S.C. §§ 1961(3) and 1962(c).

102. Each of the Individual and Corporate Defendants is a "person" under 18 U.S.C. §§ 1961(3) and 1962(c).

**The RICO Pinochet Asset Concealment Enterprise**

103. At all relevant times, an enterprise existed within the meaning of 18 U.S.C. § 1961(4). The Pinochet Asset Concealment Enterprise constitutes an association-in-fact enterprise within the meaning of 18 U.S.C. § 1961(4) and 1962(c), which enterprise was engaged in activities affecting interstate commerce at all times relevant to this Complaint.

104. This association-in-fact enterprise consisted of Pinochet, Aitken, Banco de Chile, Donoso and other individuals under Pinochet's control and supervision.

105. The purpose of the association-in-fact enterprise is set forth in detail in ¶¶ 1, 2, 3, 17, 18, and 19.

### **Continuity and Structure**

106. Each of the Defendants was and is associated with the enterprise and has conducted or participated, directly or indirectly, in the conduct of the affairs of that enterprise or has agreed to conduct or participate in the affairs of the enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1)(B), 1961(5) and 1962(c).

107. Pinochet seized control in Chile and orchestrated a reign of terror over his countrymen while unlawfully accumulating personal wealth through the seizure and diversion of the assets of his country and other criminal acts, including torture, murder, and/or kidnapping. Knowing that his gains were ill gotten, Pinochet took elaborate steps to conceal his assets from potential claimants.

108. Pinochet enlisted his attorney and advisor, Aitken, to assist him in the process of concealing his assets. In his capacity as principal architect of the enterprise, Aitken solicited individuals, like Donoso, who were sympathetic to Pinochet's politics, and banks willing to assist Pinochet in this overall scheme.

109. The decisions were made by Pinochet, who then communicated his desire to conceal his assets to Aitken. Aitken in turn structured international financial transactions through sympathetic banks and bank managers who assisted him in concealing Pinochet's assets and placing his illegally obtained profits outside of the reach of potential creditors. To achieve this goal, the banks structured international wire transfers and engaged in elaborate money laundering schemes. The enterprise continued in this endeavor well after the Spanish Order was entered in 1998 freezing Pinochet's assets.

110. The activities of the Enterprise continued over a number of years as alleged herein. Pinochet served as the leader of the Enterprise and arranged, either directly or through the actions of his subordinates in the Enterprise, for the inclusion or substitution of new participants as necessary to continue the Enterprise's affairs.

#### **Pattern of Racketeering Activity**

111. The Defendants participated in the operation and management of this enterprise and conducted its affairs through their pattern of unlawful activity, including execution of their scheme or artifice to hinder, delay, and defraud the Plaintiff and Pinochet's victims from recovering assets owed to them as a result of the Spanish proceedings for human rights violations suffered by them or their loved ones at the hands of Pinochet through his dictatorial regime. This scheme or artifice to defraud consisted of Pinochet's plan to personally profit from his seizure of power, to conceal those profits from his victims, and to evade the Spanish court's efforts to identify and attach the concealed assets.

112. Defendants engaged in a pattern of unlawful activity consisting of predicate acts of mail fraud in violation of 18 U.S.C. § 1341, wire fraud in violation of 18 U.S.C. § 1343, and money laundering in violation of 18 U.S. § 1956 and 1957 to wit:

- a. Multiple, repeated, and continuous instances of mail fraud and wire fraud in violation of 18 U.S.C. § 1341 and 18 U.S.C. § 1343, respectively. In executing or attempting to execute this scheme to seize, divert, and conceal assets, the Pinochet Fraudulent Enterprise used the United States and interstate mails and wire communications, as set forth below:
  - i. From 1990 until 1997, on at least 13 occasions, Banco de Chile issued cashier's checks drawing upon the Bank's U.S. dollar account in New

York to enable the check amount to be paid out in U.S. dollars. The checks were ultimately deposited into Pinochet accounts at Riggs Bank by means of wire communications in interstate or foreign commerce.

- ii. In November 1999, Pinochet and Aitken purported to transfer real property Pinochet owned in Chile (an apartment in Vina del Mar) to Abanda Finance Ltd. (an offshore company controlled by Mr. Aitken) with the assistance of Banco de Chile. The purpose of the “transfer” was to disguise Mr. Pinochet’s ownership of property while he continued to serve as the property’s beneficial owner, despite the freeze order. As part of this transaction, Mr. Aitken sent multiple letters of instruction utilizing the United States mails to the New York branch of Banco de Chile.
- iii. This transfer helped Pinochet avoid the freeze order because his name would not appear as owner of the apartment. To effectuate this purpose, on November 15, 1999, Aitken opened a direct deposit account in the name of Abanda at Banco de Chile’s New York Branch. On that same day, with Banco de Chile’s knowledge and assistance, Aitken drew \$200,000 from his personal line of credit with the Bank. Aitken then transferred the \$200,000 into an account at Banco de Chile for an offshore enterprise which he controlled. Then, Aitken transferred \$400,000, consisting of the \$200,000 loan proceeds from his line of credit and another \$200,000 of Pinochet’s money that was

already in the same account to Abanda. Aitken next transferred the \$400,000 from the Abanda account to a Chilean broker-dealer. The next day, Aitken reversed the transactions so that he was able to repay his \$200,000 line of credit and return \$200,000 to Pinochet's account. These transfers utilized wire communications in interstate or foreign commerce.

- iv. From August 2000 until April 2002, Riggs Bank issued 38 cashier's checks, each for \$50,000, in four batches and from August 2000 until August 2003, Chilean branches of Banco de Chile cashed 36 of these Riggs cashier's checks, for a total of \$1.8 million. All checks were made payable to Augusto Pinochet and/or Maria Hiriart. Utilizing wire communications in interstate or foreign commerce, the checks were cashed in the Banco de Chile and Bank Boston in Chile by a third party, Monica Ananias Kuncar. Upon cashing, various sums of cash were converted from American dollars to Chilean pesos in the informal market, so as to conceal this plan from the Central Bank. As a result of these transactions, the Pinochets received an optimal exchange rate and the funds were not declared on their tax statements.
- v. In an undated letter which was received by Riggs Bank through the United States mails on July 11, 2002, and signed by Augusto Pinochet Ugarte and Maria Lucia Hiriart de Pinochet, Pinochet instructs Riggs to "revoke the [Ashburton] Trust and ... deposit the principal and accumulated income as follows: ABA No. 026005652, Banco de Chile

New York, Account No. 011001328, Sociedad de Inversiones Belview International S.A.”

- vi. On July 17, 2002, after Riggs Bank closed its Pinochet accounts, Riggs sent three wire transfers to Banco de Chile’s New York branch by means of wire communications in interstate or foreign commerce depositing a total of approximately \$6 million into the new Sociedad de Belview account.
- vii. \$23,666.73 was transferred by wire from Riggs Bank Account No. 76-835-282 on July 17, 2002 by means of wire communication in interstate or foreign commerce after the account was closed to Account No. 11001328, maintained by Inversiones Belview Internacional S.A. at Banco de Chile New York.
- viii. Upon information and belief, on July 18, 2002, Ashburton Company LTD wrote and mailed a letter to Riggs International Private Banking Division through United States mails instructing Riggs to “break the above Certificate of Deposit, liquidate the assets in the Rimco Account and transfer the total proceeds along with all the funds in the Money Market Account as follows: Banco Chile of New York, ABA No. 026005652 for credit to: Account No. 011001328 Sociedad de Inversiones, Belview International S.A.”
- ix. Upon information and belief, on July 18, 2002, Althorp Investment Company Limited wrote and mailed a letter to Riggs International Private Banking Division through the United States mails instructing



Riggs to “break the above Certificate of Deposit and transfer the total proceeds along with all the funds in the Money Market Account as follows: Banco Chile of New York, ABA No. 026005652 for credit to: Account No. 011001328 Sociedad de Inversiones, Belview International S.A.”

- x. Upon information and belief, on July 19, 2002, Mr. Aitken sent by facsimile wire instructions to Riggs Bank by means of wire communications in interstate or foreign commerce instructing them to wire transfer \$23,666.73 from Account No. 663582 to the account for Sociedad de Inversiones Belview International S.A. at Banco de Chile New York. The letter states “Please, I beg you to follow the next instructions to amend it... Please send a swift to Banco de Chile New York changing the beneficiary... I already instructed Banco de Chile New York in order to accept and fulfill your swift.”
  - xi. On August 9, 2002, that same amount of money, \$23,666.73 was wire transferred from the Belview account to Account No. 430462 maintained by Aitken at Banco de Chile New York by means of wire communication in interstate or foreign commerce for the beneficial use of Pinochet. The same amount of cash was then given to Lucia Hiriart Rodriguez.
- b. Multiple, repeated, and continuous instances of money laundering in violation of 18 U.S.C. § 1956 and 1957. In executing or attempting to execute this scheme to seize, divert, and conceal assets, the participants in the Pinochet

Asset Concealment Enterprise engaged in money laundering as discussed in the factual background section, above (*see* ¶¶ 17-19, 29, 37-40, 43-45, 48-49, and 51-55), and as set forth below:

- i. Each of the Defendants engaged in monetary transactions involving criminally derived property in amounts greater than \$10,000 within the meaning of 18 U.S.C. § 1957(a)(d)(1), that was derived from specified unlawful activity.
- ii. Each of the Individual and Corporate Defendants engaged in financial transactions, knowing that the proceeds were obtained through some form of unlawful activity, to conceal the source of the funds and/or avoid transaction reporting requirements. Each of the Individual and Corporate Defendants conducted or attempted to conduct said financial transactions, involving the proceeds from specified unlawful activity (such as fraud, or a scheme or attempt to defraud, by or against a foreign bank; or the misappropriation, theft, or embezzlement of public funds by or for the benefit of a public official). 18 U.S.C. § 1957(c)(7)(B)(iii); U.S.C. § 1957(c)(7)(B)(iv).
- iii. In reference to the transactions described in ¶¶ 37-40, 43, 45, 48-49, and 51-55, each transfer from the brokerage account to the Banco de Chile New York Branch account and each transfer out of the New York branch account constituted money laundering in violation of 18 U.S.C. §§ 1956 and 1957.

iv. In reference to the transactions described in ¶¶ 17-19, 29, 37-40, 42-45, 48-49, and 51-55, each transfer involved monies unlawfully derived from the misappropriation, theft, or embezzlement of public funds in Chile and therefore subsequent transfers of those proceeds into and out of Banco de Chile constituted money laundering transactions in violation of 18 U.S.C. §§ 1956 and 1957.

113. The foregoing predicate acts constitute a pattern of unlawful activity.

Defendants' conduct constitutes a pattern in that there is both relationship and continuity of the predicate acts. The acts are related in that they are connected to one another as part of a scheme to accomplish a uniform purpose. Their continuity is established by both the repeated nature of the conduct during the period of the scheme and the threat of similar conduct occurring in the future. This threat is established by the continuing and ongoing nature of the conduct.

114. Each of the Individual and Corporate Defendants knew the basic object of the scheme was the seizure, diversion, accumulation, and concealment of ill-gotten assets through a pattern of racketeering activity.

115. Each of the Individual and Corporate Defendants knowingly and willfully committed at least two predicate acts of racketeering activity, such as money laundering, mail and wire fraud, as described above.

116. Each of the Individual and Corporate Defendants knowingly and willfully agreed to conduct or participate in the conduct of the affairs of the enterprise through this pattern of racketeering activity, as discussed above.

117. The Plaintiff and Pinochet's victim/creditors suffered injury to their business or property within the meaning of 18 U.S.C. § 1964(c) by reason of the violation of 18 U.S.C. § 1962(c) committed by the Individual and Corporate Defendants.

118. The Plaintiff and Pinochet's victims, as intended victims of the scheme to conceal and defraud were cheated out of the ability to be compensated pursuant to a court order for the human rights violations they suffered at the hands of Pinochet and his evil regime. They are injured in that their entitlement to Pinochet's funds has been diminished by the enterprise's active concealment of his assets.

COUNT V  
Conspiracy in Violation of 18 U.S.C. § 1962(d) to Violate 18 U.S.C. § 1962(c)  
(Against All Defendants)

119. Plaintiff realleges paragraphs 1 through 118 above.

120. Each Plaintiff is a "person" under 18 U.S.C. §§ 1961(3) and 1962(c).

121. Each of the Individual and Corporate Defendants is a "person" under 18 U.S.C. §§ 1961(3) and 1962(c).

122. The Pinochet Asset Concealment Enterprise constitutes an "enterprise" within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c), which enterprise was engaged in activities affecting interstate commerce at all times relevant to this Complaint.

123. Each of the Individual and Corporate Defendants was and is associated with the enterprise and has agreed and conspired to conduct or participate, directly or indirectly, in the conduct of the affairs of that enterprise through a pattern of racketeering activity within the meaning of 18 U.S.C. §§ 1961(1)(B), 1961(5) and 1962(c) to wit:

- a. Multiple, repeated, and continuous instances of mail fraud in violation of 18 U.S.C. §§ 2 and 1341, as discussed in Count IV, above;

- b. Multiple, repeated, and continuous instances of wire fraud in violation of 18 U.S.C. §§ 2 and 1343, as discussed in Count IV, above;
- c. Multiple, repeated, and continuous instances of money laundering in violation of 18 U.S.C. § 1956 and 1957, as discussed in Count IV, above;

124. Each of the Individual and Corporate Defendants participated in or has agreed to participate in the operation or management of the enterprise and directly or indirectly directed the affairs of the enterprise.

125. The Plaintiff and Pinochet's victim/creditors suffered injury to their business or property within the meaning of 18 U.S.C. § 1964(c) by reason of the violation of 18 U.S.C. § 1962(d) committed by the Individual and Corporate Defendants.

126. The Plaintiff as an intended victim of the scheme to conceal and defraud was cheated out of the ability to be compensated pursuant to a court order for the human rights violations the victims suffered at the hands of Pinochet and his evil regime. The Plaintiff and Pinochet's victim/creditors are injured in that their entitlement to Pinochet's funds has been diminished by the enterprise's active concealment of his assets.

#### PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court to:

- (1) Enter judgment in favor of Plaintiff Foundation and against Defendants;
- (2) Award Plaintiff damages in an amount equal to all amounts deposited or transferred to or from Banco de Chile by or on behalf of Pinochet and his shell companies;
- (3) Award Plaintiff damages suffered by reason of injury to its property and that of the individuals it represents as a result of Defendants' violations of 18 U.S.C. § 1962 ("RICO") in excess of \$7 million;

- (4) Award treble damages for Defendants' RICO violations;
- (5) Award Plaintiff punitive damages, jointly and severally, in an amount to be determined at trial, although in no event less than \$100,000,000 in punitive damages;
- (6) Award Plaintiff for attorneys fees and costs; and
- (7) Award such other relief as is the Court may deem just and appropriate.

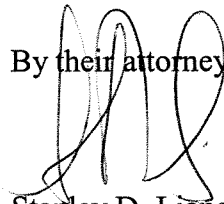
JURY TRIAL

Plaintiff demands a trial by jury.

Dated:           New York, New York  
                  November 18, 2005

FUNDACIÓN PRESIDENTE ALLENDE

By their attorneys,



Stanley D. Liang (SL3090)  
ROPES & GRAY LLP  
1251 Avenue of the Americas  
New York, New York 10020  
(212) 596-9000  
(212) 596-9090 (fax)  
Stanley.liang@ropesgray.com

Samuel J. Buffone (#161828)  
Thomas W. Beimers (#468691)  
Melissa J. Stofko  
ROPES & GRAY LLP  
One Metro Center  
700 12th Street N.W.  
Washington DC 20005  
(202) 508-4600  
(202) 508-4650 (fax)