

**MONEY LAUNDERING AND FOREIGN CORRUPTION:
ENFORCEMENT AND EFFECTIVENESS
OF THE PATRIOT ACT**

HEARING

BEFORE THE

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

OF THE

COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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JULY 15, 2004
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The profile estimates the owner's current annual income at \$100,000, and his net worth at \$5 million. The chart requesting a list of "related accounts" is, again, left blank, although the profile states at another point: "Beneficial owner has other investment company with Riggs." The profile is signed by Sean Terry and an illegible signature.

Like the 1998 profile, the 1999 client profile makes no reference to Mr. Pinochet's status as a controversial political figure. Nor does it mention the proliferating litigation pending against him, including a 1998 world-wide attachment order in Spain seeking to freeze his bank accounts. The 1998 and 1999 profiles are the only KYC information produced by Riggs for the accounts held by the two offshore shell corporations.

In 2001, Riggs Bank prepared a list of the accounts related to Mr. Pinochet as of May 2nd, and another list as of September 12th.⁷³ It is unclear whether these lists were prepared as KYC documents or for another purpose. Both are written in Spanish, and the name "Pinochet" appears in handwriting at the top of the September list.⁷⁴ Both lists identify nearly \$8 million in assets, including a personal account "in Washington" with about \$23,000; three Ashburton accounts (including one CD) with nearly \$6 million; and two Althorp accounts (including one CD) with a combined total of about \$1.9 million. These listings establish that the bank was aware of the various accounts controlled by Mr. Pinochet.

Finally, Riggs provided a "KYC Profile" prepared by Riggs & Co. in March 2002, for Mr. Pinochet's personal money market account.⁷⁵ This profile notes that the account had been opened three years earlier, in March 1999. It marks the client as a "High Profile Customer," and states that a memorandum is attached, although none was provided to the Subcommittee. At a later point, the profile states: "Additional information on file with Group Head." The form also states that a list of all related accounts is held in the "Vault."

The profile states that the Pinochet relationship came to the International Private Banking Department "though Riggs Embassy Division due to our close professional relationship with the Chilean Embassy in the US." It describes Mr. Pinochet as a "retired Army General," and says the source of his initial wealth was "profits & dividends from several business[es] family owned." It states that the source of his current income is "investment income, rental income, and pension fund payments from previous posts." It estimates his annual income at \$300,000 to \$500,000, and leaves blank his estimated net worth. It predicts wire transfers of up to \$250,000, but an average account balance of only \$20,000, suggesting an expectation that the account would be used as a quick pass through for large sums.

The form is signed by Fernando Baqueiro in the International Private Banking Department, Sean Terry, then head of International Banking, and Richard Dunbar, Head of Operations for International Private Banking.

As with the earlier profiles, this 2002 profile contains no reference to or acknowledgment of the ongoing controversies and litigation associating Mr. Pinochet with human rights abuses, corruption, arms sales, and drug trafficking. It makes no reference to attachment proceedings that took place the prior year, in which the Bermuda government froze certain assets belonging to Mr. Pinochet pursuant to a Spanish court order – even though, as explained further below, senior Riggs officials obtained a memorandum summarizing those proceedings from outside legal counsel in May 2001.

In 2002, Riggs created for the first time a personal KYC client profile for Mr. Pinochet and attempted to document the sources of his wealth. In an interview, the Embassy Banking account

⁷³ Riggs document entitled, "Resumen," (9/12/01), Bates RNB 029982-85; Riggs document prepared by the International Private Banking Department (5/2/01), Bates RNB 029986-88.

⁷⁴ A version of the May 2001 list contained in OCC files states at the bottom: "Riggs - pinochet.max." Riggs document prepared by the International Private Banking Department (5/2/01), Bates OCC 0000490713-15.

⁷⁵ "Riggs & Co. KYC Profile," (3/24/02), Bates RNB 029979.

manager who handled the Pinochet accounts told the Subcommittee that while she had reviewed extensive financial documentation in previous meetings with Mr. Pinochet, she did not collect copies of this documentation until 2002, when she assembled a number of materials for the 2002 client profile.⁷⁶ These materials included his Chilean tax returns from 1998-2001, indicating an annual income of about \$90,000 per year,⁷⁷ an unsubstantiated chart summarizing certain travel and commissions allegedly owed to Mr. Pinochet,⁷⁸ and two formal statements by Mr. Pinochet, dated 1973 and 1989, in which he attested to his own assets.⁷⁹ The Embassy Banking account manager told the Subcommittee staff that Mr. Pinochet had also realized significant gains in the Chilean stock market, but did not substantiate these gains in the 2002 KYC profile.⁸⁰ When the OCC reviewed the assembled documentation as part of its 2002 examination of the Pinochet accounts, it determined that the information was insufficient to establish the source of Mr. Pinochet's wealth and noted that Mr. Lund from Riggs had agreed with this assessment.⁸¹

Evading Detection. In addition to opening multiple accounts for Mr. Pinochet in the United States and London, Riggs took several actions consistent with helping Mr. Pinochet evade a court order attempting to freeze his bank accounts and escape notice by law enforcement.

In October 1998, a Spanish magistrate issued two international arrest warrants for Mr. Pinochet for murder, torture, hostage-taking, and genocide.⁸² On October 17, 1998, pursuant to those warrants, Mr. Pinochet was arrested at a London hospital where he was recuperating from back surgery. Months of litigation ensued in both Spanish and British courts.

Among other actions, a Spanish magistrate issued an attachment order in October 1998, against all bank accounts held directly or indirectly by Mr. Pinochet, his family members, or third parties in any country.⁸³ On November 5, 1998, Spain's highest criminal court, the Audiencia Nacional, affirmed criminal jurisdiction over Mr. Pinochet, and on December 10, 1998, ratified the attachment order against Pinochet bank accounts.⁸⁴ In the United Kingdom, on November 25, 1998, the British Law Lords denied Mr. Pinochet's claim of diplomatic immunity to prosecution, then set aside that determination on December 17, 1998.⁸⁵ On March 24, 1999, the Law Lords authorized an extradition hearing to determine whether Mr. Pinochet should be transferred to Spain.⁸⁶

⁷⁶ Interview of Carol Thompson (6/23/04).

⁷⁷ "Riggs & Co. KYC Profile," (3/24/02), Bates OCC 0000045842-49.

⁷⁸ *Id.* at Bates OCC 0000045835-36. No proof of these assets is provided.

⁷⁹ *Id.* at Bates OCC 0000045850-52. No proof of these assets is provided.

⁸⁰ Interview of Carol Thompson (6/23/04). The International Banking Group head stated that Riggs independently confirmed that, over the relevant time period, the Chilean stock market had increased in value, and it was plausible that an investor could have earned a large profit. However, the bank made no specific inquiry into Mr. Pinochet's claimed profits. Interview of Ray Lund (7/7/04).

⁸¹ OCC document, "Targeted Examination: Accounts related to Mr. Augusto Pinochet" (7/9/02), Bates OCC 0000517600.

⁸² See copies of the two international arrest warrants at <http://www.derechos.org/nizkor/chile/juicio/dili.html> (as of 6/25/04); and <http://www.derechos.org/nizkor/chile/juicio/recurso6.html> (as of 6/25/04).

⁸³ See attachment order, Auto del Juzgado Central de Instrucción No. 5 (10/19/98); copy of appellate court decision ratifying this attachment order at <http://www.derechos.net/doc/pino/proceso.html> (as of 6/25/04); Fulbright & Jaworski memorandum by Andres Rigo to Steven B. Pfeiffer regarding "Attachment of bank accounts: status and background," (5/21/01), Bates OCC 0000045921.

⁸⁴ For a copy of the court decisions, see <http://www.derechos.org/nizkor/chile/juicio/audi.html> (as of 6/25/04); <http://www.derechos.net/doc/pino/proceso.html> (as of 6/25/04).

⁸⁵ *Regina v. Bartle*, 37 I.L.M. 1302 (U.K. House of Lords, 11/25/98); *In re Pinochet*, 237 N.R. 201 (U.K. House of Lords, 12/17/98).

⁸⁶ *Regina v. Bartle*, 38 I.L.M. 581 (U.K. House of Lords, 3/24/99) at 582.

Main ExhibitWORK AND FINANCIAL ACTIVITIES OF
AUGUSTO PINOCHET UGARTE

1. FROM 1936 TO 1998 ACTIVE DUTY OFFICER OF THE ARMY OF THE REPUBLIC OF CHILE.
—FROM 1973 TO 1998 COMMANDER IN CHIEF OF THE ARMED FORCES.
2. FROM 1998 TO DATE: SENATOR EMERITUS FOR LIFE OF THE REPUBLIC OF CHILE
3. FROM March 11, 1998, RETIRED FROM NATIONAL DEFENSE
4. INVESTOR, BUYING AND SELLING FOR PROPERTY
5. FROM 1973 TO 1990—PRESIDENT OF THE REPUBLIC OF CHILE
6. BUYING AND SELLING OF STOCK (EQUITIES)
7. ROYALTIES: HAVE WRITTEN VARIOUS BOOKS WHICH ARE PUBLISHED AND SOLD, SOME OF WHICH HAVE BEEN TRANSLATED INTO ENGLISH, FRENCH, AND OTHER LANGUAGES
8. SAVINGS IN VARIOUS FINANCIAL INSTITUTIONS
9. PERSONAL LIBRARY: 100,000 VOLUMES OF BOOKS
10. COMMISSIONS FROM SERVICE AND TRAVEL ABROAD: VARIOUS IN DIFFERENT PHASES OF LIFE

Hand written note (in his personal handwriting per C. Thompson): Payment of "reserved income" as President of the Republic 48,000,000 (Chilean money = approx. USD 100,000) returned to the Treasury May, 1998.

NOTE: COMMISSIONS, FEES AND HONORARIUM FOR WORK PERFORMED ON SPECIAL PROJECTS (MILITARY AFFAIRS) OUTSIDE OF CHILE THROUGHOUT THE MILITARY YEARS IN VARIOUS COUNTRIES AS A HIGH RANKING MILITARY ARMY OFFICER, AS COMMANDER-IN-CHIEF OF THE CHILEAN ARMY AND AS PRESIDENT OF THE REPUBLIC. THIS ITEM IS THE LARGEST WITH MORE THAN \$5,300,000.00 ACCUMULATED FROM 1956 TO 1997. (As listed in Exhibit I)

Exhibit I

Note: This document summarizes all foreign travel by the client. The Documents referred to in the first column correspond with the official number stamped on the actual travel orders, some of which (not all) are included in this package. This document was prepared by the Ministry of Defense.

Republic of
Chile
Ministry of National
Defense
Subsecretary of War

Commission from Service
Abroad

Docu- ment	Date	Country	Date of Commission	End of Commission
166	3/22/56	Ecuador	4/1/56	6/30/59
276	12/18/64	USA	Dec-64	Jan-65
211	12/29/67	USA	Dec-68	Feb-68
202	8/29/72	Mexico	9/10/72	9/24/72
	1974	Brazil US \$800,000		
	1974	Paraguay \$1,500,000		
	1976	USA US \$3,000,000		
		Argentina US \$500,000		
		Spain US \$1,000,000		
		Philippines		

	5/6/91	visit to military installations and Factories in : Brazil Portugal, UK
375	8/12/93	Brazil, Hong Kong, China South Africa, Thailand Switzerland
495	10/13/93	Brazil to visit XX Conference of Commanders of US Forces
191	4/15/94	Czech Republic, Switzerland US: Visit to military factories
370	9/21/95	UK, Malaysia, Brazil: Invitation from Chief of Defense Forces and Foreign corporations \$3,000,000
423	10/31/95	Argentina
392	9/25/96	UK Invitation "Military Industry"
370	8/19/97	Brazil: Invitation of the Chief Of Staff of the Army
452	9/23/97	UK, China Invitation from Royal Industrial ordinance and President of the Central Military Commission of the People's Republic of China \$2,500,000
577	11/19/97	Ecuador. Participate on

1018

the
XXII Conference of
Commanders
of Militaries in the
Americas

From
10/21/88
to 3/3/00

U.K.

1019

Exhibits II through V are basic travel orders explaining the purpose of the trips, all participants, fiscal data, etc. The number in the top left corresponds to the Document Number listed on the Commission From Service Abroad Chart.

All exhibits contain official stamps and signatures and were issued by the Ministry of Defense/ War Office and seem to be in proper order.