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UNITED STATES DEPARTMENT OF JUSTICE

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COMMENDATIONS

United States Attorney JAMES C. CISSELL and First Assistant United States Attorney ANTHONY WILLIAM NYKTAS, JR., Southern District of Ohio, received letters of appreciation from F.B.I. Director William H. Webster for their efforts resulting in conviction of Bruce Nelson Baltzer in a case involving an insanity defense.

Assistant United States Attorney JAMES D. JENSEN, Northern District of Ohio, has been commended by Harry H. Ellis, Regional Counsel, for his handling of the case U.S. v. One 1976 Toyota Corolla and Three Firearms.

Assistant United States Attorney MARY ELLEN KRIS, Southern District of New York, has been commended by Paul A. Scanlon, Secret Service Special Agent in Charge, for her superior effort and accomplishment in United States v. Marvin Bennett.

Assistant United States Attorneys STEPHEN MARKSTEIN and PATRICIA WILLIAMS, Southern District of New York, have been commended by the Honorable Kevin Thomas Duffy, United States District Judge for the Southern District of New York, for their superlative handling of the case U.S.A. v. Rivera, et al.

Assistant United States Attorney DOSITE H. PERKINS, JR., Western District Louisiana, has been commended by FBI Special Agent in Charge Thomas M. Johnson, for his extraordinary efforts in a case involving conspiracy to transport fraudulently obtained securities in interstate commerce.

Assistant United States Attorney SHIRA SCHEINDLIN, Eastern District of New York, has been commended by Bruce E. Jensen, Chief, DEA Task Force, New York Regional Office, for her professional skill and perseverance in the prosecution of two task force cases.

Assistant United States Attorney NASH W. SCHOTT, Eastern District of Virginia, has been commended by Stanley Spockin, Director, Division of Enforcement, SEC, for outstanding prosecution of federal crimes relating to the sale of more than 3.3 million shares of unregistered stock of Research Homes, Inc. to more than 600 investors in twenty-five states and twelve foreign countries.

Assistant United States Attorney THOMAS H. SEAR, Southern District of New York, has been commended by the Honorable Thomas P. Thornton, United States District Judge for the Eastern District of Michigan, for his outstanding work in U.S. v. Robinson, et al.

Assistant United States Attorney RONALD J. STIDHAM, Northern District of Ohio, has been commended by John C. Chernauskas, Director, Marketing Division, Department of Agriculture, for his excellent efforts leading to a successful conclusion of the case United States v. Euclid-Race Dairy and Ice Cream Company.

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POINTS TO REMEMBER

DELEGATION OF SETTLEMENT AUTHORITY: CFR CORRECTION

28 CFR §0.160, which delegates settlement authority to the Assistant Attorneys General, has been corrected to include claims in which the amount of the proposed settlement does not exceed $500,000. See 44 Fed. Reg. 70, p. 21261 (April 10, 1979). The CFR section authorized settlements of only $250,000.

(Civil Division)

LEGAL RESEARCH - JURIS

Fast computer-assisted LEGAL RESEARCH continues to be available from the Executive Office for U.S. Attorneys.

All U.S. Attorneys' offices without their own JURIS terminals are encouraged to use this service by calling Sandra Jewell Manners at FTS 633-4024.

Telephone requests for information are now being answered by phone within several days of receipt, although same day service is available for many requests. Note however, that requests should be made early enough to allow for mailing the printed results of lengthy searches to your office.

(Executive Office)

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CIVIL DIVISION
Assistant Attorney General Barbara Allen Babcock

Chrysler Corp. v. Brown, No. 77-922 (Sup. Ct., April 18, 1979)
DJ 145-15-790

Supreme Court Decides "Reverse Freedom of Information Act" Case

A government contractor brought suit to enjoin the Government from complying with an FOIA request for disclosure of certain materials which it had furnished the contracting agency. The Supreme Court accepted our argument that the FOIA is primarily a disclosure statute and thus the exemptions from disclosure specified in the statute are permissive and do not furnish a basis to enjoin voluntary disclosure by the government. The Supreme Court also accepted our argument that no private cause of action is created by the Trade Secrets Act, 18 U.S.C. 1905, and that a suit to enjoin disclosure must be based upon the APA. Finally, the Court accepted our argument that the Trade Secrets Act does not apply where an agency has promulgated valid regulations authorizing disclosure. The Supreme Court, however, rejected our argument that the Secretary of Labor's disclosure regulations at issue here constitute the valid "authorization by law" contemplated by the Trade Secrets Act, because (1) there was insufficient Congressional authorization for such disclosure regulations and (2) the "substantive" rules involved here were not promulgated in accordance with APA rulemaking procedures. The Supreme Court accordingly vacated the court of appeals' decision and remanded for a determination of whether the contemplated disclosures would violate the Trade Secrets Act.

Attorney: Paul Blankenstein (Civil Division)
FTS 633-4102

Bramer v. United States, No. 76-2131 (9th Cir., April 16, 1979)
D.J. 157-12C-707

Federal Tort Claims Act: Government Held Not Liable In FTCA Case Because Under New Mexico Law Employer Not Liable For Torts Of Independent Contractor Performing Inherently Dangerous Work

In this action under the Federal Tort Claims Act, the Ninth Circuit affirmed a judgment in favor of the United States where an employee of an independent contractor had been injured in a radiation accident at the Los Alamos Scientific Laboratory. The Ninth Circuit based its decision upon New Mexico law, noting that the New Mexico courts had recently held that an employer

who engages a contractor in inherently dangerous work is not liable for the torts of that contractor.

Attorney: Thomas G. Wilson (Formerly of the Civil Division)

City of Santa Barbara v. United States, No. 77-2502 (9th Cir., April 11, 1979) DJ 61-12C-361

Suits In Admiralty Act: Action For Negligent Dredging Of Harbor Was Under Suits In Admiralty Act, Not Tort Claims Act

The Ninth Circuit has affirmed the dismissal of a suit by the City of Santa Barbara against the United States, arising from the allegedly negligent dredging of its harbor by a privately-owned vessel under contract to the Army Corps of Engineers. The court of appeals held that since the Army had a duty to perform the dredging, the vessel was "operated for" the United States within the meaning of the Suits in Admiralty Act. Furthermore, the court held that since the suit was the type of maritime claim that could have been brought against a private defendant in similar circumstances, it was cognizable against the United States solely under the Suits in Admiralty Act. Since the City had sued under the Federal Tort Claims Act, and had failed to file its complaint within the two-year limitations period of the Suits in Admiralty Act, the court of appeals accepted our argument that the suit was time-barred.

Attorney: Neil Koslowe (Civil Division)
FTS 633-4770

Hampton v. Hanrahan, Nos. 77-1698, 77-1210, 77-1370 (7th Cir., April 23, 1979) DJ 146-7-6336-9

Seventh Circuit Remands Black Panther Shooting Case For New Trial

This suit was brought by members of the Black Panther Party and the mothers of two deceased party members against state law enforcement officers and FBI agents. The suit sought damages for deprivation of civil rights arising out of a gun battle between the Black Panthers and the state authorities in 1969. After what is reputed to be the longest trial in history, the district court directed judgments as to all defendants. The Seventh Circuit has just reversed and remanded the cause for a new trial. The court found that the plaintiffs had established a prima facie case of conspiracy and deprivation of civil rights, and consequently the case had warranted submission to the jury. The court further held that the trial judge had made erroneous

rulings concerning discovery. The court also ordered that on remand the trial court should consider the imposition of sanctions against the federal defendants and their trial counsel for delays in the discovery process. The court awarded defendants attorneys fees in connection with the appeal pursuant to the Civil Rights Attorney's Fees Awards Act. Judge Pell dissented.

Attorney: Harland F. Leathers (Civil Division)
FTS 633-4747

Maiorana v. MacDonald, No. 78-1424 (1st Cir., April 18, 1979)
DJ 157-36-1619

Summary Judgment Utilized In Qualified Official Immunity Case

In an action seeking money damages from individual government employees for deprivation of constitutional rights, the district court granted the defendants' motion for summary judgment on the basis of their claim to qualified official immunity. The First Circuit has just affirmed. The court stressed the Supreme Court's admonition in Butz v. Economou, 98 Sup. Ct. 2894, 2911, that suits concerning constitutional violations may be decided on summary judgment, and firm application of the Federal Rules of Civil Procedure is necessary to assure that Federal officers are not harassed by frivolous lawsuits. Consequently, the First Circuit noted that the traditional judicial reluctance to grant summary judgment in cases involving state of mind (e.g. the defendants' claim of good faith) was counterbalanced by the need not to discourage officials from taking necessary and decisive action. Examining the affidavits before it from this perspective, the court of appeals concluded that summary judgment was proper.

Attorney: Carolyn Grace (Assistant United States Attorney, Boston, Mass.)
FTS 223-3181

Providence Journal Company v. Federal Bureau of Investigation, et al., Nos. 79-1056, 79-1067 (1st Cir., February 20, 1979)
DJ 145-12-3370

FOIA: Stays Of FOIA Disclosure Orders Requires Only Limited Showing Of Probable Success On The Merits

In this case under the Freedom of Information Act, the district court had ordered the disclosure of numerous records based on the FBI's electronic surveillance of certain conversations taking place in an individual's business office and had denied a stay pending appeal. The court of appeals, in a published memorandum order, granted the requested stay, emphasizing the fact that, in the absence of a stay, this controversy would become moot. Relying on Washington Metropolitan Area Transit Commission v. Holiday Tours, 559 F. 2d 841 (D.C. Cir. 1977), the appellate court ruled that, in view of the irreparable injury that would result from mootness, appellants need only make a limited showing of probable success on the merits in order to obtain a stay pending appeal.

This decision should be helpful in obtaining stays of disclosure orders under the FOIA from the district courts and courts of appeals.

Attorney: Michael Jay Singer (Civil Division)
FTS 633-3159

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CIVIL RIGHTS DIVISION
Assistant Attorney General Drew S. Days, III

United States v. Thevis, et al and United States v. Kennerson, et al. DJ Nos. 144-19-1575, 144-53-474

18 U.S.C. Sections 241 and 242

On April 12, 1979, indictments were returned in these two cases being handled by United States Attorneys. In Thevis, the multi-count indictment includes one count of violation of 18 U.S.C. Section 241 which charges Michael G. Thevis, a major pornography entrepreneur and others, with conspiring to kill a federal witness, a former business associate, who was to testify against him. In Kennerson, a federal grand jury in Rochester, New York, returned an indictment charging the five defendants with violations of 18 U.S.C. Sections 241 and 242. The defendants, detectives with the Monroe County Sheriff's Department, are charged with conspiracy to fabricate false evidence and to secure false evidence in litigation concerning the local Mafia.

Attorneys: Brian McDonald (Civil Rights Division)
FTS 633-4071
David Adler (Civil Rights Division)
FTS 633-2734

United States v. City of Philadelphia, CA No. 74-400 (E.D. Pa.) DJ 170-62-29

Title VII

On April 18, 1979, the United States filed two motions: a Motion for Contempt or, In the Alternative, for Supplemental Relief; and a second Motion for Supplemental Relief. In the first of these motions, we ask the Court to find the City and Police Commissioner Joseph F. O'Neill in contempt of the provision of its February 14, 1979, Order which requires that the City refrain from engaging in any act or practice with respect to the assignment of police officers in the Philadelphia Police Department which has the purpose or effect of discriminating because of an individual's sex. In the second of these motions, we ask for supplemental relief with respect to the City's refusal to consider female officers who are medically disabled for reasons relating to pregnancy for restricted duty

assignments on an equal basis with other disabled employees.

Attorneys: John Gadzichowski (Civil Rights Division)
FTS 633-4134
Sandra Hughes (Civil Rights Division)
FTS 633-3862

Debra P. v. Turlington, No. 78-892 (M.D. Fla., filed Oct. 16, 1978) DJ 169-17M-45

Student Assessment Program

On April 9, the Court denied our April 5 motion for leave to participate as amicus curiae. This suit challenges the Florida Statewide Student Assessment Program. The program requires high school students, beginning with the class of 1979, to demonstrate "satisfactory performance in functional literacy" as a condition of receiving the traditional diploma. The two administrations of the test so far have produced dramatic disparities in passing rates of black vis-a-vis white students. As a "litigating amicus," we intended to assist the Court in deciding two issues: (i) whether the test is "content valid," i.e., whether the items on the test are related to the content of instruction in the schools, and (ii) whether the test results among black students are attributable to remaining vestiges of unlawful school segregation. With trial scheduled to commence April 30, the Court concluded that our motion was untimely, the limited discovery sought by the Government would be a burden on the parties at this late date, and that the parties were capable of addressing the significant issues without the Government's assistance.

Attorney: Donald Lewis (Civil Rights Division)
FTS 633-3807

United States v. County of Fairfax, CA No. 78-862-A (E.D. Va.) DJ 170-79-81

Revenue Sharing & Crime Control Acts, Title VII

We think the district court erred and are considering an appeal of Judge Bryan's April 20 opinion and order. The court found that the County had violated the recordkeeping and access requirements of the Revenue Sharing and the Crime Control Acts and Title VII; that the County had purposefully discriminated against blacks in 1976 and 1977 in the protective service category and that the County had discriminated against women in the service maintenance category for the past five

years. The court refused to issue any injunctive relief, however, save for a general injunction against sex discrimination in the service maintenance category.

Attorneys: James Angus (Civil Rights Division)
FTS 633-3835
Ellen Wayne (Civil Rights Division)
FTS 633-3861
George Henderson (Civil Rights Division)
FTS 633-3895

LAND AND NATURAL RESOURCES DIVISION
Assistant Attorney General James W. Moorman

Alexander v. United States Dept. of Housing and Urban Development; Harris v. Cole, ____ U.S. ____, Nos. 77-874 and 77-1463 (S.Ct. April 15, 1979) DJ 90-1-4-1110

Uniform Relocation Assistance and Real Property Acquisition Policies Act

Affirming the Seventh Circuit and reversing the D.C. Circuit, the Supreme Court unanimously held that tenants in HUD financed housing projects, who are forced to move when the mortgagor defaults and HUD subsequently terminates the project, are not "displaced persons" within the meaning of the Uniform Relocation Assistance and Real Property Acquisition Policies Act and are, therefore, not entitled to relocation benefits under the Act. The Court construed the Act to contemplate property acquisition for a federal program or project, not "default acquisition."

Attorneys: Robert L. Klarquist and Charles E. Biblowit (Land and Natural Resources Division) FTS 633-2731/2956 and William Bryson (Solicitor General's Staff)

Laden v. Andrus, ____ F.2d ____, No. 77-1638 (9th Cir. April 2, 1979) DJ 90-1-18-1023

Railroad Grants

The Ninth Circuit upheld the Secretary's determination denying patent to purchasers of a land tract selected by a railroad in 1895. The railroad's tract selection had been denied in 1915, after the railroad had already conveyed away the tract, because the land was mineral in character and not available for selection under statute. Heirs of the railroad's purchaser were not now entitled to patent, since the original grantee, aware of the land's mineral character, had not been an "innocent purchaser for value." The Transportation Act of 1940, 49 U.S.C. 65(b) provided that patents could be issued for lands sold by the railroads to "innocent purchasers for value." The court of appeals distinguished the tests for proving "mineral in character" and "discovery," and concluded

there was substantial evidence that the tract had been mineral in character at the time of purchase from the railroad.

Attorneys: Maryann Walsh and Dirk D. Snel (Land and Natural Resources Division) FTS 633-4168/2769

United States v. Lindsey, ____ F.2d ____ (9th Cir. April 11, 1979) DJ 90-1-0-1124

Public Lands

The Ninth Circuit reversed dismissal of the government's criminal complaint and agreed that the Forest Service can regulate activities on state-owned land within a National Forest. Without a permit, the Lindseys had built a camp and campfire below the ordinary high water mark of the Snake River in Hells Canyon which is part of the Wild and Scenic River System. The court of appeals concluded that the Property Clause grants the United States power to regulate conduct on nonfederal land when reasonably necessary to protect adjacent federal property or navigable waters. The Forest Service and Interior had expressed substantial concern over this case, because of the presence of state-owned land within or adjacent to numerous national forest and Wild and Scenic River areas.

Attorneys: Neil T. Proto and Edward J. Shawaker (Land and Natural Resources Division) FTS 633-2956/2813

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OFFICE OF LEGISLATIVE AFFAIRS
Assistant Attorney General Patricia M. Wald

SELECTED CONGRESSIONAL AND LEGISLATIVE ACTIVITIES

APRIL 17 - MAY 1, 1979

Ethics Amendments. The House Judiciary Committee on April 25, after two days (7 hours) of debate, ordered reported S. 869, the Senate passed Administration amendments to the Ethics Act. The Committee adopted only one amendment to S. 869 - deletion of the change which would make the provisions of §207(c) apply only to military ranks of 09 and above. There were many amendments offered and defeated on close votes:

A) McClory Amendment to postpone effective date of §207 to January 1, 1980 (defeated 16-12).

B) Moorehead Amendment to repeal §207(c)(the one year ban on agency contacts)(defeated 17-12).

C) Moorehead Amendment to exclude independent regulatory agencies from any §207(c) one year ban on agency contacts as long as their contact is put on the record (defeated only by 15-12).

D) Kindness Amendment to exempt from §207(c) employees who take jobs with local or state governments (defeated 16-12). Note, Chairman Rodino spoke in favor of this amendment, but "passed" on the vote.

LEAA Reauthorization. On Wednesday, April 24, the Senate Judiciary Committee reported out the LEAA bill by a vote of 17-0 after about five minutes of debate. The proposed version contains a large number of technical and symbolic amendments. Among several substantial amendments were: Deletion of the transfer of LEEP to the Department of Education; a requirement that the President rather than the Attorney General nominate the members of the National Institute of Justice Advisory Board; and a proposed authorization of $28 million for NIJ and $22 million for BJS out of a total $825 million authorization. The Conyers House Judiciary Subcommittee is still marking up a bill; the deadline for both Judiciary Committees is May 15.

LEAA Budget. Senator Kennedy's amendment to restore the $100,000,000 LEAA cut in the Senate Budget resolution was defeated on April 25 by a vote of 46 to 38.

Magistrates. On April 23, the Senate Judiciary Committee ordered favorably reported S. 237, the proposed Magistrates Act. There was a minimum of discussion and debate because previous areas of controversy had been resolved through compromise provisions that were developed as a result of informal discussions between staffers for key committee members and representatives of OLA and OIAJ. The most significant new compromise revision would alter the civil appellate route so that an appeal from a magistrate's decision would go to the cognizant Circuit Court of Appeals unless the parties agreed

at the time a case was referred to the magistrate that any appeal would go to the District Court. In its prior form S. 237 directed that an appeal from a magistrate's decision in a civil case must go to the District Court unless the parties agree in advance that any appeal shall be to the Circuit Court of Appeals. This approach was unsatisfactory to Senator Heflin because he questioned the objectivity of a District Court in ruling on appeals from a magistrate appointed by and under the supervision of that same District Court. On the other hand, committee members from rural states did not want to eliminate altogether the option of appealing to the District Court since an appeal to the Circuit Court of Appeals could be particularly expensive and time-consuming in states such as Wyoming and Montana. By the same token Senator Simpson objected to an earlier provision in S. 237 which specified that part-time magistrates engaged in the practice of law could not be designated to exercise the expanded civil jurisdiction provided for in the bill. Since Wyoming does not have a full-time magistrate, civil litigants in that state would not have the option of having their case heard by a magistrate. Senator Simpson's objection has been obviated by a compromise provision under which a part-time magistrate engaged in the practice of law may try a civil case if the parties specifically request such a magistrate in writing.

The House version of the proposed Magistrates Act, H.R. 1046, is tentatively scheduled to come before the full Judiciary Committee at the May 22 markup session. The bill was reported out of Representative Kastenmeier's Courts Subcommittee unanimously and without amendments. H.R. 1046 is identical to the magistrates provisions which passed the House in the 95th Congress.

Graymail. Our graymail legislative proposal, to provide procedures for the handling of classified information in court cases, has been sent to OMB for the clearance process. We have been talking with appropriate committee staff members. The proposal will probably go to the Edwards Subcommittee in the House and the Biden Subcommittee in the Senate.

Attorney Fees. On April 20, Deputy Assistant Attorney General Raymond Calamaro (Office of Legislative Affairs) testified before the Senate Judiciary Subcommittee on Improvements in Judicial Machinery on attorney fees. Calamaro opposed S. 265, a Domenici-DeConcini-Nelson bill which would require the award of attorney fees against the United States whenever we lost agency adjudications and civil actions, unless the government could show that its position was "substantially justified." He profferred an alternative to S. 265, which would permit liability for fees in similar types of cases, but only when the prevailing party could demonstrate that the position of the government was "arbitrary, frivolous, unreasonable, or groundless." We estimated that our bill could cost as much as $100,000,000 less per year than S. 265.

We are currently working to obtain sponsorship for our proposal and anticipate that it will be introduced in the near future.

Fair Housing. Representatives from OLA and the Civil Rights Division are continuing to meet with White House and Hill staffers, as well as members of interested civil rights organizations, to discuss the Edwards-Drinan, Bayh-Mathias fair housing bills. We recently discussed the problems encountered by

the handicapped in housing rentals and sales. The Civil Rights Division is currently drafting language to give the handicapped some measure of fair housing protection.

Criminal Code. The Drinan Subcommittee continues to meet daily. The Senate plans to introduce its bill in early June. It is unknown whether the House version - when it emerges - will be based on S. 1437 or a different scheme (i.e., Brown Commission version).

Institutionalized Persons. The House bill H.R. 10 was scheduled to go to the Rules Committee on April 24, but the vote was postponed. It was granted a rule on April 26 and should go to the floor during the week of April 30. The main problem will be a proposed amendment to exclude jails and prisons. In the Senate, the bill is pending in Senator Bayh's Subcommittee.

Speedy Trial. Senate hearings to be chaired by Biden are scheduled for May 2. There is expected opposition to the 180 day bill from several Senators who will push for a delay in sanctions instead.

Competitive Procedural Improvements Amendments. The Administration-sponsored amendments to fine-tune the Antitrust Act are expected to pass early at the next Senate Judiciary Committee meeting.

NOMINATIONS:

On April 24, 1979, the Senate confirmed the following nominations:

Robert M. Parker, to be U.S. District Judge for the Eastern District of Texas.

Harold B. Sanders, Jr., to be U.S. District Judge for the Northern District of Texas.

Martin F. Loughlin, to be U.S. District Judge for the District of New Hampshire.

David O. Belew, Jr., to be U.S. District Judge for the Northern District of Texas.

Mary Lou Robinson, to be U.S. District Judge for the Northern District of Texas.

On April 30, 1979, the Senate received the following nominations:

Reynaldo G. Garza, of Texas, to be U.S. Circuit Judge for the Fifth Circuit.

Jon O. Newman, of Connecticut, to be U.S. Circuit Judge for the Second Circuit.

Carolyn D. Randall, of Texas, to be U.S. Circuit Judge for the Fifth

Circuit.

Patricia M. Wald, of Maryland, to be U.S. Circuit Judge for the District of Columbia Circuit.

Marvin E. Aspen, of Illinois, to be U.S. District Judge for the Northern District of Illinois.

Valdemar A. Cordova, of Arizona, to be U.S. District Judge for the District of Arizona.

Curtis W. Guyette, of Pennsylvania, to be U.S. Marshal for the Middle District of Pennsylvania.

FEDERAL RULES OF CRIMINAL PROCEDURE

Rule 8(a). Joinder of Offenses and of Defendants. Joinder of Offenses.

Rule 13. Trial Together of Indictments or Informations.

The defendant was indicted on sixty-eight counts of making false claims against the Government in violation of 18 U.S.C. §§287 and 2; sixty-eight counts of making false, ficticious and fraudulent statements to H.E.W. in violation of 18 U.S.C. §§1001 and 2; and three related counts of mail fraud. Eight months later, a different grand jury indicted him for tax evasion.

On appeal, the defendant successfully argued that the district court committed reversible error by granting the Government's motion, over defense objections, to try together the Medicaid fraud charge and the income tax evasion indictment. Although the Court recognized that the decision to order two indictments tried together is within the district court's discretion, the Court concluded that the two indictments were improperly joined under Rule 13 because the offenses could not have been joined in a single indictment. The Government had argued that the indictments arose out of "connected" transactions and therefore could have been charged in a single indictment under Rule 8(a). The Court, however, held the Government had made an insufficient showing that the unreported income in the tax evasion indictment were the same funds involved in the fraud indictment. The Government also argued that the two indictments charged offenses that were "of the same or similar character" as provided for under Rule 8(a). In rejecting this contention the Court held the proper rule is to "requir[e] a severance of offenses that are purportedly of the "same or similar character" unless evidence of the joined offenses would be mutually admissible in separate trials or, if not, unless the evidence is sufficiently "simple and distinct" to mitigate the dangers otherwise created by such a joinder. See, Drew v. United States, 331 F.2d 85 (1964).

(Reversed.)

United States v. Irwin Halper, 590 F.2d 422 (2nd Cir., December 11, 1978).

FEDERAL RULES OF EVIDENCE

Rule 803(24). Hearsay Exceptions; Availability of Declarant Immaterial. Other Exceptions.

The defendants were convicted of one count of conspiracy to import cocaine and two counts of importation of cocaine. On appeal they contended, inter alia, that the district court erred in admitting documents which were summaries rather than the original records of the defendants' travel to and from Chile. These summaries were prepared by Chilean immigration authorities. The Trial court found the documents admissible under Rule 803(24), the "catch-all" exception to the hearsay rule.

The Court of Appeals held that the trial court's decision admitting evidence under Rule 803(24) will not be overturned except for an abuse of discretion and affirmed. The Court found the documents were offered as evidence of a material fact; that the evidence was otherwise unobtainable; that the evidence was reliable since it had guarantees of trustworthiness equivalent to other admissible hearsay evidence; and, that the interests of justice were served by the admission of the statements into evidence.

(Affirmed.)

United States v. Allan Friedman, et al., ___ F.2d ___, No. 77-2131, 77-2148, 77-2208 and 77-2155 (9th Cir., March 15, 1979).

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ADDENDUM

UNITED STATES ATTORNEYS' MANUAL--BLUESHEETS

There have been no Bluesheets sent to press in accordance with 1-1.550 since the last issue of the Bulletin.

(Executive Office)

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UNITED STATES ATTORNEYS' MANUAL--TRANSMITTALS

The following United States Attorneys' Manual Transmittals have been issued to date in accordance with USAM 1-1.500. This monthly listing may be removed from the Bulletin and used as a check list to assure that your Manual is up to date.

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14	8/02/78	7/19/78	Revisions to Ch. 41,69,71, 75,76,78, & 79
15	8/17/78	8/17/78	Revisions to Ch. 11
16	8/25/78	8/2/78	Revisions to Ch. 85,90,100, 101, & 102
17	9/11/78	8/24/78	Revisions to Ch. 120,121,122, 132,133,136,137, 138, & 139
18	11/15/78	10/20/78	Revisions to Ch. 2
19	11/29/78	11/8/78	Revisions to Ch. 7
20	2/1/79	2/1/79	Revisions to Ch. 2
21	2/16/79	2/5/79	Revisions to Ch. 1,4,6,11, 15,100
22	3/10/79	3/10/79	New Section 9-4.800