



*United States Attorney  
Southern District of New York*

FOR IMMEDIATE RELEASE  
APRIL 2, 2003

CONTACT: U.S. ATTORNEY'S OFFICE  
MARVIN SMILON, HERBERT HADAD,  
MICHAEL KULSTAD  
PUBLIC INFORMATION OFFICE  
(212) 637-2600

**AMERICAN BUSINESSMAN CHARGED  
WITH \$78 MILLION IN UNLAWFUL PAYMENTS TO KAZAKH  
OFFICIALS IN 6 OIL TRANSACTIONS; FORMER MOBIL CORP.  
EXECUTIVE INDICTED FOR TAX EVASION IN KICKBACK SCHEME**

JAMES B. COMEY, the United States Attorney for the Southern District of New York, announced the return of two Indictments in the ongoing investigation relating to corruption in Kazakhstan. First, the Grand Jury today returned an Indictment charging JAMES H. GIFFEN with making more than \$78 million in unlawful payments to two senior officials of the Republic of Kazakhstan in connection with six separate oil transactions, in which the American oil companies Mobil Oil, Amoco, Texaco and Phillips Petroleum acquired valuable oil and gas rights in Kazakhstan. Second, in a separate Indictment returned today, the Grand Jury charged former senior Mobil Oil executive J. BRYAN WILLIAMS with evading taxes on a \$2 million kickback he received in connection with Mobil's oil business in Kazakhstan.

## The Giffen Indictment

The Giffen Indictment charges JAMES H. GIFFEN, the Chairman of Mercator Corporation, a small merchant bank with offices in New York and the Republic of Kazakhstan, with making illegal payments to senior Kazakh officials in connection with the following transactions in which Giffen represented the Republic of Kazakhstan:

- 1) Mobil Oil's 1996 purchase of a 25% share in the Tengiz oil field;
- (2) Mobil Oil's 1995 agreement to finance the processing and sale of gas condensate from the Karachaganak oil and gas field;
- (3) Amoco's 1997 purchase of a share in the Caspian Pipeline Consortium;
- (4) Texaco and other oil companies' purchase of a share in the Karachaganak oil and gas field in 1998;
- (5) Mobil and other oil companies' 1998 purchase of exploration rights in the Kazakh portion of the Caspian Sea, and;
- (6) Phillips Petroleum's 1998 purchase of Caspian Sea exploration rights.

According to the indictment and the complaint unsealed earlier this week, GIFFEN and Mercator were advisors to the Kazakh government on strategic planning, development of foreign investment and the negotiation of priority investment projects

relating to the exploration, development, production, transportation, and processing of oil and gas. GIFFEN had the title of counselor to the president. According to the charges, in connection with its acquisition of rights to the Tengiz oil field, Mobil oil agreed to pay the success fees owed by Kazakhstan to Giffen and Mercator, and out of those fees, Giffen made unlawful payments of \$22 million dollars to secret Swiss accounts beneficially owned by two high level Kazakh officials ("Ko-1" and "K0-2").

In addition, according to the Indictment, between 1995 and 2000, JAMES H. GIFFEN, the defendant, caused approximately \$70 Million paid by various oil companies into escrow accounts at Banque Indosuez, a Swiss bank and its successor, Credit Agricole Indosuez ("CAI") in connection with the purchase of oil and gas rights in Kazakhstan to be diverted into secret Swiss bank accounts under his control. These transfers were purportedly for the purpose of paying CAI and Banque Indosuez's fees for the transactions. However, the Indictment alleges that CAI and Banque Indosuez entered into a series of sham agreements pursuant to which approximately 90% of their fees were transferred to secret accounts controlled by Giffen. Giffen then used this money to make additional unlawful payments of approximately \$55 million to the two senior officials of the

Kazakh Government KO-1 and KO-2 By transferring money into secret Swiss accounts they beneficially owned.

The Indictment alleges that KO-1 and KO-2 used these funds for a variety of personal purposes. Among other things, the Indictment alleges that KO-1 used the funds unlawfully provided by GIFFEN to purchase more than \$180,000 in jewelry and to pay for a stay at a Swiss spa, and KO-2 paid \$45,000 to the Exclusive Swiss High School attended by his daughter. The Indictment also alleges that GIFFEN himself kept a portion of the funds diverted from the oil transactions, and spent some of the funds on luxury items, including millions of dollars in jewelry. The Indictment also alleges that GIFFEN purchased luxury items like an \$80,000 Donzi speedboat for a Kazakh official.

Giffen is also charged with making false statements on his personal tax returns by failing to disclose his interest in and control over foreign bank accounts.

The Indictment charges that in making these unlawful payments Giffen also defrauded the people of Kazakhstan out of the honest services of its officials, defrauded the Republic of Kazakhstan out of millions of dollars from these oil transactions, and laundered money to promote and conceal his crimes. Giffen is charged with committing: 1 count of conspiring to violate the Foreign Corrupt Practices Act ("FCPA") and to

commit mail and wire fraud; 13 counts of violating the FCPA; 8 counts of wire fraud, 1 count of mail fraud, 1 count of conspiring to commit money laundering, 33 counts of money laundering, and 3 counts of filing false personal income tax returns.

The Indictment also seeks forfeiture from GIFFEN of \$84.33 million including the contents of various bank accounts here and abroad.

If convicted, GIFFEN faces the following punishments:

Statute	Counts	Description	Punishment per count
18 USC 371	1	conspiracy to commit mail and wire fraud, and to violate the Foreign Corrupt Practices Act ("FCPA")	5 years imprisonment, \$250,000 fine (or twice the gross gain or loss from the offense), 3 years s.r., \$100 s.a.
15 USC 78dd-2	13	violation of the FCPA	5 years imprisonment, \$250,000 fine (or twice the gross gain or loss from the offense), 3 years s.r., \$100 s.a.

18 USC 1343	8	Wire fraud	5 years imprisonment, \$250,000 fine (or twice the gross gain or loss from the offense), 3 years s.r., \$100 s.a.
18 USC 1341	1	Mail fraud	5 years imprisonment, \$250,000 fine (or twice the gross gain or loss from the offense), 3 years s.r., \$100 s.a.
18 USC 1956(h)	1	Money laundering conspiracy	20 years imprisonment, \$500,000 fine (or twice the value of the funds laundered), 3 years s.r., \$100 s.a.
18 USC 1956(a)(2)(A)	8	Money laundering	20 years imprisonment, \$500,000 fine (or twice the value of the funds laundered), 3 years s.r., \$100 s.a.
18 USC 1956(a)(b)(ii)	19	Money Laundering	20 years imprisonment, \$500,000 fine (or twice the value of the funds laundered), 3 years s.r., \$100 s.a.

18 USC 1957	8	Money Laundering	5 years imprisonment, \$250,000 fine (or twice the gross gain or loss from the offense), 3 years s.r., \$100 s.a.
26 USC 7206	3	Filing false tax returns	3 years imprisonment, \$100,000 fine, 3 years s.r., \$100 s.a.

**The Williams Indictment**

J. BRYAN WILLIAMS, a former senior Mobil executive, is charged with conspiring to defraud the United States, tax evasion, and five counts of filing false tax returns.

According to the Indictment, WILLIAMS was sent by Mobil's Chairman to finalize the negotiations with Kazakhstan regarding Mobil's purchase for approximately \$1 billion of a 25% interest in the Tengiz oil field in 1996. According to the WILLIAMS Indictment, after the Tengiz deal closed, Mobil paid \$41 million to a New York merchant bank that represented the Republic of Kazakhstan in the transaction. According to the WILLIAMS Indictment, the merchant bank's President kicked back \$2 million of that payment to WILLIAMS, by transferring money through a secret Swiss bank account he controlled into a secret Swiss bank account WILLIAMS controlled. According to the WILLIAMS

indictment, WILLIAMS failed to report this payment to the IRS or pay taxes thereon, and filed false tax returns failing to disclose his ownership of the offshore account.

WILLIAMS faces five years' imprisonment on each count of conspiring to defraud the United States and tax evasion, and a fine on each count of the greater of \$250,000 or twice the gross gain or loss; and three years imprisonment, and a fine of the greater of \$100,000 or twice the gross gain or loss on each of the five counts of filing false tax returns.

Mr. COMEY praised the efforts of the FBI in conducting this investigation, which began in 2000 and thanked the Swiss authorities for their outstanding cooperation in this case.

Mr. COMEY said the investigation is continuing.

Assistant United States Attorney PETER G. NEIMAN and Special Counsel for International Litigation PHILIP UROFSKY from the Department of Justice's Fraud Section are in charge of the prosecution.

The charges contained in the Indictments are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

03-75

###