UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- X

UNITED STATES OF AMERICA

- v. -

THOMAS FARRELL,

Defendant.

- X

INFORMATION

03 Cr.

COUNT ONE

(Conspiracy)

The United States Attorney charges that:

General Allegations

1. The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, *et seq.*, was enacted by Congress for the purpose of, among other things, making it unlawful for United States persons, businesses, and residents, directly or indirectly through an agent, to use any means or instrumentality of interstate or foreign commerce, including the United States mails, in furtherance of an offer, promise, authorization, or payment of money or anything else of value to a foreign government official to obtain or retain business for, or direct business to, any person.

Background

2. The Republic of Azerbaijan ("Azerbaijan") is located in the Caspian Sea region in southwestern Asia and borders on Russia, Georgia, Armenia, Turkey, and the Caspian Sea. Formerly a republic within the Soviet Union, Azerbaijan has been a sovereign nation since 1991, with its capital in Baku. Azerbaijan has substantial deposits of oil within its territory, both on land and offshore under the Caspian Sea. Azerbaijan's oil wealth is held by the State Oil Company of the Azerbaijan Republic ("SOCAR"), an "instrumentality" of the Government of the Republic of Azerbaijan, as that term is used in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(2)(A).

3. At all times relevant to this Information, Azerbaijan was undertaking a program to privatize certain of its state-owned enterprises. The privatization process in Azerbaijan was governed by the State Program of State Property Privatization for 1995-1998, and a number of related decrees and regulations. Privatization was administered principally by Azerbaijan's State Property Committee (the "SPC"), an "instrumentality" of the government of the Republic of Azerbaijan, as that term is used in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(2)(A). Each of Azerbaijan's citizens received at no cost a voucher booklet of four voucher coupons. The vouchers were bearer instruments, freely tradable, and could be used to bid for

shares of privatized enterprises at auction. Typically, some shares of an enterprise that was being privatized were sold for vouchers at auction, some shares were sold for cash at auction, and some shares were reserved for sale to the enterprise's employees. Foreigners intending to participate in privatization and exercise vouchers at auction were required to purchase instruments called "options" - - specifically, one option for each voucher coupon held. Options were sold by the SPC at an official government price. By Azeri law enterprises of oil and gas production and processing - - such as SOCAR - - could only be privatized upon a special decision of the President of Azerbaijan.

4. At all times relevant to this Information, Oily Rock Group Ltd. ("Oily Rock") was a corporation organized under the laws of the British Virgin Islands, and having its principal place of business in Baku, Azerbaijan. Oily Rock was established to participate in Azeri privatization generally, and in particular to acquire and safeguard Azeri privatization vouchers and options in order to acquire privatized assets at auction. Oily Rock issued shares of its stock to various investors. Oily Rock also entered into co-investment agreements with various institutional investors, whereby the parties agreed, among other things, that (a) Oily Rock would acquire and safeguard vouchers and options on behalf of the investors; and (b) the parties would

pursue a joint investment strategy in acquiring, safeguarding, and exercising Azeri privatization vouchers and options.

5. At all times relevant to this Information, The Minaret Group Ltd. ("Minaret") was a corporation organized under the laws of the British Virgin Islands, and having its principal place of business in Baku, Azerbaijan, with additional offices throughout Central Asia and the Caspian region. The business of Minaret was investment banking.

6. At all times relevant to this Information, an unnamed co-conspirator, hereafter referred to as "John Doe", was a Czech national, an Irish citizen, and a Grenadian passport holder. Doe held the positions of (1) President and Chairman of the Board of Oily Rock; and (2) President and Chairman of the Board of Minaret. Doe was also a shareholder in Oily Rock and the principal owner of Minaret. Doe (along with Oily Rock, Minaret, and various of their employees) was an agent of Investor #1, Investor #2, Investor #3, each described further below, and of various shareholders in Oily Rock and co-investors of Oily Rock and Minaret not named herein, who were American citizens or otherwise domestic concerns, in connection with the purchase of Azeri privatization vouchers and options and, as such, was an agent of a "domestic concern," as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and (B).

7. At all times relevant to this Information, THOMAS FARRELL, the defendant, was a citizen of the United States and, as such, was a "domestic concern," as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A). FARRELL directed the voucher purchasing and safeguarding operation of Oily Rock and held the position of Co-Managing Director of Minaret. As such, FARRELL was an agent of Investor #1, Investor #2, Investor #3, each described further below, and of various shareholders in Oily Rock and co-investors of Oily Rock and Minaret not named herein, who were American citizens or other domestic concerns, in connection with the purchase of Azeri privatization vouchers and options and, thus, was an agent of a "domestic concern," as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and (B).

8. At all times relevant to this Information, one participant in Azeri privatization, referred to hereafter as "Investor #1", was a corporation organized under the laws of Delaware and having its principal place of business in New York, New York. Investor #1, through various subsidiaries and affiliates, entered into a co-investment agreement with Oily Rock and Minaret. Investor #1 and its relevant subsidiaries and affiliates each had their principal place of business in New York, New York, and had officers, directors, employees, and agents in common. Investor #1 and its subsidiaries and affiliates (hereafter referred to collectively as "Investor #1")

were "domestic concerns," as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(1)(B).

9. At all times relevant to this Information, another participant in Azeri privatization, referred to hereafter as "Investor #2", was a limited partnership organized under the laws of Delaware and having its principal place of business in New York, New York, until approximately September 1998, and in Red Bank, New Jersey, thereafter. "Investor #2", through various subsidiaries and affiliates, entered into a co-investment agreement with Oily Rock and Minaret. The relevant subsidiaries and affiliates of Investor #2 each had their principal place of business in New York, New York, until approximately September 1998, and in Red Bank, New Jersey, thereafter. Until approximately September 1998, Investor #2 and its relevant subsidiaries and affiliates had officers, directors, employees, and agents in common. Moreover, until in or about August 1998 the sole principal of Investor #2 was also a principal of Investor #1. At all relevant times, Investor #2 and its subsidiaries and affiliates (hereafter referred to collectively as "Investor #2") were "domestic concerns," as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(1)(B).

10. At all times relevant to this Information, yet another participant in Azeri privatization, referred to hereafter

as "Investor #3", was a corporation organized under the laws of Delaware and having its principal place of business in New York, New York. Investor #3, through various subsidiaries and affiliates, entered into a co-investment agreement with Oily Rock and Minaret. The relevant subsidiaries and affiliates of Investor #3 each had their principal place of business in New York, New York. Investor #3 and its relevant subsidiaries and affiliates had in common officers, directors, employees, and agents. Investor #3 and its subsidiaries and affiliates (hereafter referred to collectively as "Investor #3") were "domestic concerns," as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(1)(B).

11. At all times relevant to this Information, the intended recipients of the corrupt payments were senior officials of the Government of the Republic of Azerbaijan, specifically: (a) a senior official of the Government of the Republic of Azerbaijan; (b) a senior official of the State Oil Company of the Azerbaijan Republic ("SOCAR"), Azerbaijan's national oil company (the "SOCAR official"); and (c) two senior officials of the State Property Committee (the "SPC") (together, the "SPC officials"). Each of these senior officials of the Government of the Republic of Azerbaijan were "foreign officials" as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(2)(A). Collectively, these four senior Azeri government

officials shall be referred to as the "Azeri officials" in this Information.

Statutory Allegations

12. From in or about July 1997, up to and including in or about January 1999, in the Southern District of New York and elsewhere, THOMAS FARRELL, the defendant, and others known and unknown, unlawfully, wilfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit an offense against the United States, to wit, to violate the Foreign Corrupt Practices Act, as amended, Title 15, United States Code, § 78dd-2, *et seq.*

13. It was a part and object of the conspiracy that THOMAS FARRELL, the defendant, and others known and unknown, unlawfully, wilfully, and knowingly, would and did use and cause the use of the mails and of other means and instrumentalities of interstate commerce, corruptly in furtherance of an offer, payment, promise to pay, and authorization of the payment of money and other things of value to officials of the Government of the Republic of Azerbaijan, each of whom was a foreign official, as that term is used in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(2), while knowing that all or a portion of such money and such things of value would be offered, given and promised, directly and indirectly, to said foreign officials, for the purposes of (a) influencing acts and decisions

of such foreign officials in their official capacities; (b) inducing such foreign officials to do and omit to do acts in violation of the lawful duty of such officials; and (c) inducing such foreign officials to use their influence with a foreign government and instrumentalities thereof to affect and influence acts and decisions of such government and instrumentality. THOMAS FARRELL, the defendant, and others known and unknown, did the foregoing in order to assist John Doe, Oily Rock, Minaret, Investor #1, Investor #2, Investor #3, Oily Rock's shareholders, and Oily Rock's and Minaret's co-investors in obtaining and retaining business, and directing business to themselves, in connection with Azerbaijan's privatization program, in violation of Title 15, United States Code, Sections 78dd-2(a)(1).

Means and Methods of the Conspiracy

14. Among the means and methods by which THOMAS FARRELL, the defendant, and his co-conspirators would and did carry out the conspiracy were the following:

a. It was a part of the conspiracy that in or about August and September 1997, John Doe and THOMAS FARRELL, the defendant, participated in a meeting with the SOCAR official and a series of meetings with the SPC officials. Over the course of those meetings, Doe agreed to give a senior Azeri official two-thirds of the profits arising from the privatization of SOCAR in return for the Azeri officials permitting John Doe, Oily Rock, and their

consortium of shareholders and co-investors to purchase sufficient privatization vouchers to acquire control of SOCAR at auction, and to successfully exercise those vouchers at auction to acquire a controlling interest in SOCAR.

b. It was a further part of the conspiracy that on various occasions in 1997 and 1998, at the direction of John Doe, THOMAS FARRELL, the defendant, and others caused payments to be wire transferred to bank accounts identified by one of the SPC officials, and for the benefit of the senior Azeri officials, including to bank accounts in Switzerland, the Netherlands, and the United Arab Emirates.

c. It was a further part of the conspiracy that in or about May 1998, THOMAS FARRELL, the defendant, at John Doe's direction, delivered several million dollars in cash to one of the SPC officials at his office at the SPC in Baku, Azerbaijan.

d. It was a further part of the conspiracy that THOMAS FARRELL, the defendant, John Doe, and others known and unknown, acting on their own behalf and as agents of Oily Rock, Minaret, Investor #1, Investor #2, Investor #3, Oily Rock's shareholders, and Oily Rock's and Minaret's co-investors, knew of and agreed to make payments and offers of payments worth in excess of $300 million to officials of the Republic of Azerbaijan to induce them to use their influence to assist John Doe and Oily Rock's consortium of shareholders and investors in obtaining control of

SOCAR and other privatized assets.

e. It was a further part of the conspiracy that THOMAS FARRELL, the defendant, John Doe, and others known and unknown, transported a total of approximately $180 million in U.S. currency from Switzerland to Azerbaijan by private jet and charter aircraft for the purposes of (1) acquiring vouchers and options; and (2) making corrupt payments to the Azeri officials.

f. It was a further part of the conspiracy that one of the SPC officials directed that John Doe, Oily Rock, Investor #1, Investor #2, Investor #3, Oily Rock's shareholders, and Oily Rock's and Minaret's co-investors purchase vouchers exclusively from people identified by that official, including from someone identified as that official's brother.

g. It was a further part of the conspiracy that Oily Rock and its co-investors acquired a total of approximately three million vouchers.

h. It was a further part of the conspiracy that Oily Rock acquired a total of approximately 15.7 million options.

Overt Acts

15. In furtherance of said conspiracy and to effect the objects thereof, THOMAS FARRELL, the defendant, and others known and unknown, committed the following overt act in the Southern District of New York and elsewhere:

a. On or about March 20, 1998, THOMAS FARRELL, the defendant, sent or otherwise transmitted from Baku, Azerbaijan to Investor #1's and Investor #2's offices in New York, New York a trade confirmation confirming the purchase of Azeri privatization vouchers for a specified amount of money.

(Title 18, United States Code, Section 371.)

COUNT TWO

(Violation of the Foreign Corrupt Practices Act)

The United States Attorney further charges:

16. Paragraphs one through ten are repeated and realleged as though set forth in full herein.

17. On or about March 20, 1998, in the Southern District of New York and elsewhere, THOMAS FARRELL, the defendant, a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A), and an agent of "domestic concerns," as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and (B), did use and cause to be used the mails and other means and instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay and authorization of the payment of any money, and offer, gift, promise to give, and authorization of the giving of anything of value to foreign officials for purposes of (a) influencing acts and decisions of such foreign officials in their official capacity, (b) inducing such foreign officials to do and omit to do acts in violation of

the lawful duty of such officials, and (c) inducing such foreign officials to use their influence with a foreign government and instrumentalities thereof to affect and influence acts and decisions of such government and instrumentalities, in order to assist FARRELL and others known and unknown in obtaining and retaining business for and with, and directing business to, any person, to wit, FARRELL participated in paying senior officials of the Government of the Republic of Azerbaijan, as described in Count One above, and in furtherance thereof, caused the mailing and transmission by facsimile from Baku, Azerbaijan to Investor #1's and Investor #2's offices in New York, New York of a trade confirmation confirming the purchase of Azeri privatization vouchers for a specified amount of money.

(Title 15, United States Code, Sections 78dd-2(a)(1) and 78dd-2(g)(2)(A) and Title 18, United States Code, Section 2.)

JAMES B. COMEY SNH
United States Attorney