UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- X

UNITED STATES OF AMERICA

- v. -

CLAYTON LEWIS,

Defendant.

- X

SUPERSEDING INFORMATION

S1 03 Cr. 930 (NRB)

COUNT ONE

Conspiracy to Violate the Foreign Corrupt Practices Act

The United States Attorney charges:

GENERAL ALLEGATIONS

1. The Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-1, *et seq.* (the "FCPA"), 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

Azerbaijan and Privatization

2. The Republic of Azerbaijan ("Azerbaijan") is located in the Caspian Sea region in southwestern Asia and borders 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 assets are held by the State Oil Company of the Azerbaijan Republic ("SOCAR").

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"). By Azeri law, enterprises of oil and gas production and processing -- such as SOCAR -- could only be privatized at the will of the president of Azerbaijan. As part of Azerbaijan's privatization program, each of its citizens (approximately 7 million in 1995) 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, other shares were sold for cash at auction, and still other shares were reserved for the enterprise's employees. Foreigners intending to participate in privatization or use vouchers at auction were required to purchase instruments called "options" -- specifically, in the ratio of one option for each voucher coupon held. The SPC sold options at an official government price.

The Investment Consortium

4. At all times relevant to this Information, Oily Rock Group, Ltd. ("Oily Rock"), a corporation organized under the laws of the British Virgin Islands and having its principal place of business in Baku, Azerbaijan, invested in Azeri privatization vouchers and options for the primary purpose of acquiring at auction a controlling interest in SOCAR. Oily Rock was created in approximately July 1997, and thereafter issued shares of its stock to various individual and corporate investors and, eventually, an Azeri government official (hereafter collectively the "shareholders"). Oily Rock also entered into co-investment agreements with various investors (hereafter the "co-investors"), whereby the parties agreed to pursue a joint investment strategy in acquiring, safeguarding, and exercising at auction Azeri privatization vouchers and options for the primary purpose of

acquiring a controlling interest in SOCAR.

5. At all times relevant to this Information, Minaret Group, Ltd. ("Minaret"), a corporation organized under the laws of the British Virgin Islands and having its principal place of business in Baku, Azerbaijan, engaged in various investment banking activities, including the acquisition and safeguarding of Azeri privatization vouchers and options on behalf of Oily Rock, its shareholders, and its co-investors. To this end, Minaret was a party to the co-investment agreement between Oily Rock and the co-investors. Minaret was created in approximately July 1997, along with Oily Rock. (Oily Rock, Minaret, Oily Rock's shareholders, and the co-investors collectively will be referred to herein as the "investment consortium.")

6. At all times relevant to this Information, Omega Advisors, Inc. was a corporation organized under the laws of Delaware and having its principal place of business in New York, New York. On or about March 24, 1998, Omega Advisors, Inc. entered into a letter of intent with Oily Rock and Minaret. On or about April 30, 1998, Omega Advisors, Inc. entered into a co-investment agreement with Oily Rock and Minaret. Omega Advisors, Inc. initially invested through Omega Group Holdings Ltd., Pine Street Investment Ltd., and Pharos Finance Ltd.; on or about June 8, 1998, through a subsidiary and affiliate called Pinford Portfolio, Inc.; and on or about September 30, 1998, through

subsidiaries and affiliates called Telos Finance Investment Ltd. and Helendale Trading Corp. Omega Advisors, Inc. and various of its subsidiaries and affiliates, namely Omega Group Holdings Ltd., Pine Street Investment Ltd., Pinford Portfolio, Inc., Telos Finance Investment Ltd., Helendale Trading Corp., Ossian Overseas Ltd., Hilgore Overseas Inc., Shireton Financial Corp., Clifftop Invest Ltd., Conak International Inc., Babson Invest S.A., Villisham Holding Corp., Kays Holdings S.A., Kaypark Enterprises Corp., Reno Financial Inc., and Penasco Business Inc. acted primarily through their agents in New York, New York. The above-mentioned subsidiaries and affiliates were formed for the purpose of effecting investments by Omega Advisors, Inc. in Azeri privatization vouchers and options. As such, Omega Advisors, Inc. and the above-mentioned subsidiaries and affiliates (hereafter referred to collectively as "Omega") were each a "domestic concern", as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(1)(B). Between on or about March 20, 1998 and on or about July 23, 1998, Omega purchased a total of approximately $126 million in Azeri privatization vouchers and options through its letter of intent and co-investment agreement with Oily Rock and Minaret. Between on or about March 27, 1998 and on or about June 11, 1998, Omega wired funds from New York, New York to Switzerland for such purchases.

7. At all times relevant to this Information, Pharos Capital Management, L.P. was a limited partnership organized under the laws of Delaware and having its principal place of business in New York, New York until in or about September 1998, and in Red Bank, New Jersey, thereafter. Pharos Capital Management, L.P. was in the business of providing investment advice on emerging markets. On or about March 24, 1998, Pharos Capital Management, L.P. entered into a Letter of Intent with Oily Rock and Minaret. On or about April 30, 1998, Pharos Capital Management, L.P. entered into a co-investment agreement with Oily Rock and Minaret. Pharos Capital Management, L.P. initially caused investments to be made through a subsidiary and affiliate called Pharos Finance Ltd., and on or about June 8, 1998, through a subsidiary and affiliate called Pinford Portfolio, Inc. Relevant subsidiaries and affiliates of Pharos Capital Management, L.P., namely Pharos Finance Ltd. and Global Securities Investor Ltd., acted primarily through their agents in New York, New York until in or about September 1998, and through their agents in Red Bank, New Jersey, thereafter. Other relevant subsidiaries and affiliates of Pharos Capital Management, L.P., namely Pinford Portfolio, Inc., Villisham Holding Corp., and Kays Holding S.A. acted primarily through their agents in New York, New York. The above-mentioned subsidiaries and affiliates were formed to effect investments by Pharos Capital Management, L.P.

in Azeri privatization vouchers and options. Until in or about August 1998, the sole principal of Pharos Capital Management, L.P., CLAYTON LEWIS, the defendant, was also a principal of Omega Advisors, Inc. At all relevant times, Pharos Capital Management, L.P. and its subsidiaries and affiliates (hereafter referred to collectively as "Pharos") 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).

8. At all times relevant to this Information, CLAYTON LEWIS, the defendant, was an American citizen and the principal of Pharos. Until in or about August 1998, LEWIS was also a principal of Omega Advisors, Inc. During his tenure with Omega Advisors, Inc., LEWIS and others known and unknown to the Grand Jury negotiated Omega and Pharos' letter of intent and co-investment agreement with Oily Rock and Minaret, and LEWIS and others known and unknown to the Grand Jury oversaw Omega's investment with Oily Rock and Minaret in privatization. During the same period and continuing after his departure from Omega Advisors, Inc. in or about August 1998, LEWIS also managed Pharos' investment with Oily Rock and Minaret in privatization. Given his position and responsibilities at Omega and Pharos, LEWIS was an officer, director, and shareholder of a "domestic concern," as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(1)(B). LEWIS was

also an agent of a "domestic concern," as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and (B). In addition, as a United States citizen, LEWIS was a "domestic concern," as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(1)(A). Between on or about March 20, 1998, and on or about June 10, 1998, Pharos purchased a total of approximately $25 million in Azeri privatization vouchers and options through its letter of intent and co-investment agreement with Oily Rock and Minaret. Between on or about March 27, 1998, and on or about May 8, 1998, Pharos wire-transferred funds to make those purchases.

The Azeri Government Officials

9. At all times relevant to this Information, the recipients of the corrupt payments were senior officials of the Government of Azerbaijan, specifically: (a) a senior official of the Government of Azerbaijan (the "Senior Azeri Official"); (b) a senior official of SOCAR, Azerbaijan's national oil company (the "SOCAR Official"); and (c) two senior officials of the SPC (SPC Official #1 and SPC Official #2, respectively, and together, the "SPC Officials"). Each of these senior officials of the Government of Azerbaijan was a "foreign official" as that term is defined in the Foreign Corrupt Practices Act of 1977, 15 U.S.C. § 78dd-2(h)(2)(A). (These four senior Azeri government officials collectively shall be referred to as the "Azeri Officials.")

Overview of the Conspiracy to Bribe

10. Beginning in or about August 1997 and continuing until in or about 1999, CLAYTON LEWIS, the defendant, and his co-conspirators paid bribes, authorized the payment of bribes, and made payments to associates of SPC Official #2, including a relative, knowing that all and a portion of those payments would be given directly or indirectly to Azeri Officials for the purpose of inducing the Azeri Officials to (a) allow the investment consortium's continued participation in privatization, (b) privatize SOCAR, (c) permit the investment consortium to acquire a controlling interest in SOCAR, and (d) privatize other valuable Azeri assets.

11. Beginning in or about March 1998 up to and including in or about September 1998, Omega and Pharos entered into various agreements in order to participate in Azeri privatization, and between in or about March 1998 and in or about June 1998, funded their respective investments in privatization vouchers and options, alongside and in concert with Oily Rock and Minaret. CLAYTON LEWIS, the defendant, and others known and unknown to the Grand Jury recommended and caused Omega and Pharos to fund substantial investments with Oily Rock and the investment consortium in privatization -- and caused various employees to administer those investments -- based in part on the understanding of LEWIS and his co-conspirators that persons

associated with Oily Rock paid bribes to the Azeri Officials to ensure the privatization of SOCAR and to ensure that Oily Rock and, later, the investment consortium, acquired control of SOCAR through privatization.

12. Beginning in or about July 1997 up to and including in or about September 1998, persons associated with Oily Rock, known and unknown to the Grand Jury, acting on their own behalf and as agents of Omega and Pharos, agreed to pay and authorized the payment of bribes, directly and indirectly, to the Azeri Officials. In furtherance of the conspiracy, CLAYTON LEWIS, the defendant, and others known and unknown to the Grand Jury caused various wire transfers to be made.

13. The bribes offered and/or paid to the Azeri Officials took numerous forms, including (a) cash payments of millions of dollars; (b) a share of profits from the privatization of SOCAR; (c) the transfer of Oily Rock's vouchers and options; (d) wire transfers of millions of dollars; (e) Oily Rock stock; (f) the purchase of vouchers from SPC Official #2 and his designees; and (g) gifts of things of value and other favors.

STATUTORY ALLEGATIONS

14. From in or about May 1997, up to and including in or about 1999, in the Southern District of New York and elsewhere, CLAYTON LEWIS, the defendant, and others known and unknown to the Grand Jury unlawfully, willfully, and knowingly

combined, conspired, confederated, and agreed together and with each other to commit offenses against the United States, to wit, violations of Title 15, United States Code, Section 78dd-2.

15. It was a part and an object of the conspiracy that CLAYTON LEWIS, the defendant, and others known and unknown to the Grand Jury, being American citizens and "domestic concerns" as that term is defined in the Foreign Corrupt Practices Act, and being officers, directors, employees and agents of "domestic concerns," would and did make use of 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 and persons, while knowing that all and a portion of such money and thing of value will be offered, given, and promised, directly or indirectly, 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 LEWIS, the defendant, and others known and unknown to the

Grand Jury in obtaining and retaining business for and with, and directing business to, any person, in violation of Title 15, United States Code, Section 78dd-2.

Pharos and Omega Investments

16. On or about February 27, 1998, persons known and unknown to the Grand Jury met with representatives of Omega to solicit Omega's investment in Azeri privatization.

17. While conducting due diligence on behalf of Omega and Pharos, CLAYTON LEWIS, the defendant, and others known and unknown to the Grand Jury learned that Oily Rock and persons associated with Oily Rock known to the Grand Jury had entered into a corrupt relationship with Azeri officials, including the Senior Azeri Official, in connection with Oily Rock's investment in Azeri privatization, and had obtained non-public information regarding the Azeri government's intended privatization of SOCAR, including the timing of that privatization.

18. On or about March 24, 1998, Omega, Pharos, Oily Rock and Minaret executed a letter of intent in connection with investments by Omega and Pharos in Azeri privatization. Then, on or about April 30, 1998, Omega, Pharos, Oily Rock and Minaret executed a co-investment agreement governing investments by Omega and Pharos in Azeri privatization and the acquisition by Omega and Pharos of privatization vouchers and options.

19. Between on or about March 20, 1998 and on or about July 23, 1998, Omega purchased a total of approximately $126 million in Azeri privatization vouchers and options through its letter of intent and co-investment agreement with Oily Rock and Minaret. Between on or about March 27, 1998, and on or about June 11, 1998, Omega wired funds to make such purchases.

20. Between on or about March 20, 1998, and on or about June 10, 1998, Pharos purchased a total of approximately $25 million in Azeri privatization vouchers and options through its letter of intent and co-investment agreement with Oily Rock and Minaret. Between on or about March 27, 1998 and on or about May 8, 1998, Pharos wired funds to make such purchases.

MEANS AND METHODS OF THE FCPA CONSPIRACY

21. Among the means and methods by which CLAYTON LEWIS, the defendant, and others known and unknown to the Grand Jury carried out the objects of the conspiracy were the following:

a. LEWIS and others known and unknown to the Grand Jury learned of an investment opportunity in the Republic of Azerbaijan under a government program to privatize state-owned industries, including the national oil company SOCAR.

b. Persons known and unknown to the Grand Jury negotiated a deal with the Azeri Officials which, in return for influence over certain of the officials' acts and decisions with

respect to privatization, provided to the Azeri Officials: (1) a 2/3 interest in Oily Rock's investment; (2) participation in the sale of privatization vouchers and realization of commissions and profits therefor; and (3) cash and gifts to the Azeri Officials and members of their families.

c. LEWIS, on behalf of Omega and Pharos, and others known and unknown to the Grand Jury invested in or along with Oily Rock and Minaret in Azerbaijan's privatization program based in part on an understanding that things of value had been offered and paid to Azeri government officials in return for influence over certain of the officials' acts and decisions with respect to privatization.

d. LEWIS traveled to Azerbaijan on multiple occasions with others known and unknown to the Grand Jury, in connection with the investment opportunity.

e. LEWIS and others known and unknown to the Grand Jury caused money to be wired from various financial institutions in New York, New York and elsewhere to accounts at Hyposwiss Bank in Switzerland.

f. LEWIS and others known and unknown to the Grand Jury caused money deposited in the Hyposwiss bank accounts to be converted to United States currency and transported by persons known and unknown to the Grand Jury from Switzerland to Azerbaijan by private and charter jets.

g. LEWIS and others known and unknown to the Grand Jury caused these moneys to be used for the purchase of privatization vouchers in Azerbaijan.

h. LEWIS and others known and unknown to the Grand Jury caused privatization vouchers to be purchased by Omega and Pharos, a majority of which were purchased from individuals designated by SPC Official #2, generating profits and commissions to SPC Official #2.

i. Persons known and unknown to the Grand Jury paid and caused to be paid millions of dollars in United States currency to SPC Official #2 in SPC Official #2's office at the SPC in Azerbaijan.

j. Persons known and unknown to the Grand Jury directed and caused to be directed that funds be wired to various bank accounts, including accounts in Switzerland, the Netherlands, and the United Arab Emirates, for the benefit of the Azeri Officials and members of their families.

k. Persons known and unknown to the Grand Jury provided and caused to be provided gifts of expensive jewelry; medical care and services; first class and private jet travel; and other items of value to the Azeri Officials and members of their families.

OVERT ACTS

22. In furtherance of said conspiracy and to effect the objects thereof, CLAYTON LEWIS, the defendant, and others known and unknown to the Grand Jury committed the following overt acts in the Southern District of New York and elsewhere:

a. On or about March 17, 1998, LEWIS traveled to Baku -- and stayed until on or about March 20, 1998 -- to conduct due diligence on behalf of Omega and Pharos for an investment in Azeri privatization with Oily Rock and Minaret.

b. From on or about March 27, 1998 through on or about June 11, 1998, LEWIS caused persons acting on behalf of Omega and Pharos to fax or otherwise send payment instructions from Omega and Pharos' offices in New York, New York, to two banks located in New York, New York and one bank located in Bermuda. In total, Omega and Pharos wire-transferred funds totaling in excess of $150,000,000 for purchases of privatization vouchers and options into Swiss bank accounts.

c. On or about August 11, 1998, LEWIS participated in a series of meetings in Washington, D.C. regarding, among other things, the investment consortium, Azerbaijan, and the privatization of SOCAR.

d. On or about August 27, 1998, LEWIS participated in a telephone conference call with members of the investment consortium regarding, among other things, the August

11, 1998 meetings in Washington, D.C.

(Title 18, United States Code, Section 371 and Title 15, United States Code, Sections 78dd-2(g)(2)(A) and (B).)

COUNT TWO

(Violation of the Foreign Corrupt Practices Act)

The United States Attorney further charges:

23. Paragraphs one through thirteen and sixteen through twenty-two of this Information are repeated and realleged as though set forth in full herein.

24. On or about May 11, 1998, in the Southern District of New York and elsewhere, CLAYTON LEWIS, the defendant, a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A); an officer, director, and shareholder of a "domestic concern," as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(B); and an agent of a "domestic concern," as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(A) and (B), made use of 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 wit, profits and commissions generated from the purchase of privatization vouchers from an individual designated by SPC Official #2, to persons while knowing that all and a portion of such money and thing of value will be offered, given, and promised, directly or indirectly, 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 LEWIS and others known and unknown to the Grand Jury in obtaining and retaining business for and with, and directing business to, any person, to wit, LEWIS caused Omega and Pharos to purchase privatization vouchers from an individual designated by SPC Official #2, and in connection with and to fund such transactions caused persons acting on behalf of Omega and Pharos to transfer by wire approximately $36 million in investment funds from bank accounts in New York, New York to bank accounts in

Zurich, Switzerland, a percentage of which went to SPC Official #2 as profits and commissions.

(Title 15, United States Code, Sections 78dd-2(a)(3) and 78dd-2(g)(2)(A) and (B), and Title 18, United States Code, Section 2.)

David N. Kelley

DAVID N. KELLEY
United States Attorney

Index No. **Year**

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v -

CLAYTON LEWIS,

Defendant.

SUPERSEDING INFORMATION

S1 03 Cr. 930 (NRB)

Mark F. Mendelsohn
Special Assistant United States Attorney
Tel. No.: (202) 307-6389

DAVID N. KELLEY
United States Attorney
Attorney for the USA

Due service of a copy of the within is hereby admitted.

Dated: New York, New York

_____
Attorney for

To:

_____
Attorney for