

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - -X

UNITED STATES OF AMERICA :
 :
 -v.- : INDICTMENT
 :
 MICHAEL L. DOMEcq, : 00 Cr. 907
 :
 Defendant. : Filed: September 5, 2000
 :
 :

- - - - -X

COUNT ONE

The Grand Jury charges:

Conspiracy

The Relevant Parties and Entities

1. Except as otherwise noted, at all times relevant to this Indictment:

a. Domecq Importers, Inc. ("Domecq Importers") was a corporation incorporated under the laws of the State of New York. Domecq Importers imported and distributed several brands of alcoholic beverages, including Sauza tequila and Presidente brandy. Domecq Importers had its headquarters in Larchmont, New York until approximately January 1991, when it moved them to Old Greenwich, Connecticut.

b. Before on or about May 18, 1994, Domecq Importers was directly owned by MICHAEL DOMEcq, the defendant, and by two entities controlled by members of the Domecq

family. On or about May 18, 1994, Allied-Lyons PLC ("Allied-Lyons"), a multi-national corporation based in England, purchased Domecq Importers and other related companies. Later in or about 1994, Allied-Lyons changed its name to Allied Domecq PLC ("Allied Domecq"). Allied Domecq Spirits & Wines was the North American corporate branch of Allied Domecq. Following its acquisition by Allied-Lyons, Domecq Importers remained a separate corporation, which was operated as part of Allied Domecq's North American branch.

c. MICHAEL DOMEcq, the defendant, was the president and chief executive of Domecq Importers until approximately 1995, when he became the president of Allied Domecq Spirits & Wine, Latin America. MICHAEL DOMEcq was a resident of Greenwich, Connecticut. As president and chief executive of Domecq Importers, MICHAEL DOMEcq was responsible for selecting and contracting with wholesalers, distributors, bottlers, vendors of advertising and display materials and services, and vendors of other services. Along with other executives at Domecq Importers, MICHAEL DOMEcq controlled funds that Domecq Importers had allocated for the sale and for the marketing and promotion of its various brands.

The Tax Conspiracy

2. From in or about 1989 up to and including on or about October 15, 1995, in the Southern District of New York and elsewhere, MICHAEL DOMEQ, the defendant, together with co-conspirators Gabriel Sagaz, Thomas Kaminsky, and Alfredo Valdes, not named as defendants herein, and other persons known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to defraud the United States of America, and an agency thereof, to wit, the Internal Revenue Service ("IRS") of the United States Department of Treasury, and to commit offenses against the United States, to wit, violations of Sections 7201, 7206(1), and 7206(2) of Title 26, United States Code.

The Objects of the Tax Conspiracy

3. It was a part and an object of the conspiracy that MICHAEL DOMEQ, the defendant, and his co-conspirators, would and did defraud the United States and the IRS by impeding, impairing, defeating, and obstructing the lawful governmental functions of the IRS in the ascertainment, evaluation, assessment, and collection of income taxes due from MICHAEL DOMEQ, other individuals, and various entities by (a) impeding and impairing scrutiny by the IRS of the true nature of payments made by Domeq Importers to certain third

parties; and (b) impeding and impairing scrutiny by the IRS of the true nature of payments made by certain third parties to numerous entities controlled by MICHAEL DOMEQC and his co-conspirators.

4. It was a further part and an object of the conspiracy that MICHAEL DOMEQC, the defendant, and his co-conspirators, would and did attempt to evade and defeat a substantial part of the income tax due and owing to the United States by MICHAEL DOMEQC and others, in violation of Title 26, United States Code, Section 7201.

5. It was a further part and an object of the conspiracy that MICHAEL DOMEQC, the defendant, unlawfully, willfully, and knowingly would and did make and subscribe to U.S. Individual Income Tax Returns, Forms 1040, for the tax years 1989, 1990, 1991, 1992, 1993, and 1994, which returns contained and were verified by written declarations that they were made under penalties of perjury, and which income tax returns MICHAEL DOMEQC did not believe to be true and correct as to every material matter, insofar as each return substantially understated the true total income of MICHAEL DOMEQC and his spouse, and also denied that MICHAEL DOMEQC and his spouse had any interest in any foreign bank accounts, in violation of Title 26, United States Code, Section 7206(1).

6. It was a further part and an object of the conspiracy that MICHAEL DOMEQCQ, the defendant, and his co-conspirators, unlawfully, willfully, and knowingly would and did aid and assist in, procure, counsel, and advise the preparation and presentation under, and in connection with matters arising under the Internal Revenue laws, of Domecq Importers' U.S. Corporation Income Tax Returns, Forms 1120, for tax years 1989 through 1994, that were false and fraudulent as to material matters, in violation of Title 26, United States Code, Section 7206(2).

The Means and Methods of the Tax Conspiracy

Among the means and methods by which MICHAEL DOMEQCQ, the defendant, and his co-conspirators, would and did carry out the conspiracy were the following:

7. At some time prior to in or about 1989, MICHAEL DOMEQCQ, the defendant, met with Alfredo Valdes, Domecq Importers' chief financial officer, and agreed to divert money from Domecq Importers as additional income to themselves which they would conceal from the IRS. Later they enlisted the assistance of one or more entities that did business with Domecq Importers, including wholesalers, distributors, bottlers, vendors of advertising and display materials and

services, and vendors of other services (collectively the "Outside Vendors").

8. In or about 1990, MICHAEL DOMEQCQ, the defendant, and Valdes invited Gabriel Sagaz and Thomas Kaminsky to join the scheme. Sagaz was Domecq Importers' vice president for marketing, and Kaminsky was Domecq Importers' vice president for sales. Sagaz and Kaminsky agreed to participate.

9. MICHAEL DOMEQCQ, the defendant, participated in this scheme from in or about 1989 until in or about September 1995. During that period, MICHAEL DOMEQCQ and the three other senior executives of Domecq Importers who participated in this scheme diverted approximately \$14.6 million out of Domecq Importers and into accounts under the conspirators' control. All, or substantially all, of such funds were concealed from the IRS.

10. MICHAEL DOMEQCQ, the defendant, and his co-conspirators Valdes, Sagaz, and Kaminsky (hereinafter the "Executive Co-Conspirators") employed several methods to divert money out of Domecq Importers, and to conceal the money from the IRS. Among these methods were the following:

a. From in or about 1989 up to and including in or about September 1995, MICHAEL DOMEQCQ, the defendant, and the Executive Co-Conspirators arranged for certain Outside

Vendors to receive funds in the form of checks or wire transfers from Domecq Importers. At the direction of MICHAEL DOMEQC and the Executive Co-Conspirators, the Outside Vendors then disbursed the funds, or a portion thereof, by mailing or otherwise delivering either to MICHAEL DOMEQC or to one of the Executive Co-Conspirators checks made payable to fictitious third-party entities controlled by MICHAEL DOMEQC and the Executive Co-Conspirators, or transferring funds by wire directly to the fictitious third-party entities. To make these transactions appear to relate to the legitimate business of Domecq Importers and the Outside Vendors, MICHAEL DOMEQC and the Executive Co-Conspirators caused Domecq Importers and the Outside Vendors to issue various false and fraudulent documents, including false purchase orders and invoices. These documents were designed to make it appear that the Outside Vendors had purchased goods and services from the fictitious third-party entities and then resold those goods and services to Domecq Importers. In fact, however, neither the Outside Vendors nor the fictitious third-party entities actually provided any goods or services in relation to these transactions. MICHAEL DOMEQC and the Executive Co-Conspirators caused the funds that the Outside Vendors paid to the fictitious third-party entities to be deposited into

offshore bank accounts they controlled for personal purposes. MICHAEL DOMEQC and the Executive Co-Conspirators then shared in the proceeds.

b. MICHAEL DOMEQC, the defendant, and the Executive Co-Conspirators also diverted money from Domecq Importers by entering into arrangements with one or more of the Outside Vendors that bottled alcoholic beverages for Domecq Importers (the "Bottlers"). Under these arrangements, MICHAEL DOMEQC and certain of the Executive Co-Conspirators instructed the Bottlers to charge Domecq Importers an additional per case "fee." MICHAEL DOMEQC and the Executive Co-Conspirators then caused Domecq Importers to pay this additional "fee" to the Bottlers, and instructed the Bottlers to pay a corresponding "commission" to fictitious third-party entities that MICHAEL DOMEQC and the Executive Co-Conspirators designated. The fictitious third-party entities did not provide any goods or services in relation to these transactions. MICHAEL DOMEQC and the Executive Co-Conspirators caused the majority of the "commissions" generated in this manner to be deposited into offshore bank accounts they controlled for their personal purposes.

c. MICHAEL DOMEQC, the defendant, and the Executive Co-Conspirators also diverted money from Domecq

Importers by causing Domecq Importers to send funds to one of its bottlers and to one of its wholesale distributors, on the false and fraudulent pretense that these funds would be used to promote Domecq Importers' brands in compliance with regulations issued by the Bureau of Alcohol, Tobacco & Firearms. MICHAEL DOMEQC and the Executive Co-Conspirators then directed the bottler and the wholesale distributor to issue their own checks to fictitious third-party entities that MICHAEL DOMEQC and the Executive Co-Conspirators controlled. In fact, the bottler and the wholesale distributor did not provide any promotional services to Domecq Importers in connection with these transactions. Rather, MICHAEL DOMEQC and the Executive Co-Conspirators caused much of the "promotional" money received from the bottler and the wholesale distributor to be deposited into offshore bank accounts they controlled for their personal purposes.

Tax Consequences of the Fraud

11. Through the creation of fraudulent, inflated, and fictitious invoices, and the use of offshore bank accounts, MICHAEL DOMEQC, the defendant, and his co-conspirators impeded and impaired the IRS's scrutiny of (a) the U.S. Individual Income Tax Returns, Forms 1040, filed by MICHAEL DOMEQC, the defendant, and the Executive Co-

Conspirators, as well as the U.S. Corporation Income Tax Returns, Forms 1120, filed by Domecq Importers; (b) the true nature of payments made by Domecq Importers to certain third parties; and (c) the true nature of payments made by certain third parties to a variety of entities controlled by MICHAEL DOMEQCQ, the defendant, and the Executive Co-Conspirators. Moreover, MICHAEL DOMEQCQ, the defendant, did not report his receipt of any portion of the money diverted out of Domecq Importers on his and his spouse's U.S. Individual Income Tax Returns, Forms 1040, and the Executive Co-Conspirators did not report their receipt of most, if not all, of the money diverted out of Domecq Importers on their U.S. Individual Income Tax Returns. In addition, the tax returns of Domecq Importers improperly deducted as business expenses the amounts of the fraudulent transactions with the Outside Vendors. As a result, these tax returns substantially underreported the taxable income and the correct amount of tax due and owing from the corporation, MICHAEL DOMEQCQ, the defendant, and the Executive Co-Conspirators.

Overt Acts

12. In furtherance of the conspiracy and to effect its illegal objects, MICHAEL DOMEQCQ, the defendant, and his

co-conspirators committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about February 21, 1990, one of the Executive Co-Conspirators received from an Outside Vendor a check made payable to "Warwick Inc." in the amount of \$54,037.

b. On or about December 28, 1993, an Outside Vendor located in New York, New York, sent one of the Executive Co-Conspirators a check made payable to "The Winston Group" in the amount of \$44,550.

c. On or about September 8, 1994, MICHAEL DOMEQ, the defendant, and his spouse filed a U.S. Individual Income Tax Return, Form 1040, for the calendar year 1993, which failed to report all of his 1993 income from the scheme described in this Count, and thereby substantially underreported the correct tax due and owing.

d. On or about January 4, 1994, an Outside Vendor located in New York, New York, sent one of the Executive Co-Conspirators a check made payable to "The Winston Group" in the amount of \$129,600.

e. On or about October 15, 1995, MICHAEL DOMEQ, the defendant, and his spouse filed a U.S. Individual Income Tax Return, Form 1040, for the calendar year 1994, which failed to report all of his 1994 income from the scheme

described in this Count, and thereby substantially underreported the correct tax due and owing.

f. On or about February 18, 1995, an Outside Vendor sent one of the Executive Co-Conspirators a check made payable to "Grupo Veracruz" in the amount of \$143,325.

g. On or about August 29, 1995, an Outside Vendor sent one of the Executive Co-Conspirators a check made payable to "Premiere Maldonado" in the amount of \$288,997.50.

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

COUNT TWO

The Grand Jury further charges:

Conspiracy to Defraud Allied Domecq

13. Paragraphs 1 and 7 through 10 of this Indictment are repeated, reincorporated, and realleged as if fully set forth herein.

14. From on or about May 18, 1994, through and including in or about September 1995, in the Southern District of New York and elsewhere, MICHAEL DOMEcq, the defendant, together with co-conspirators Gabriel Sagaz, Thomas Kaminsky, and Alfredo Valdes, not named as defendants herein, and other persons known and unknown, unlawfully, willfully, and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the

United States, to wit, violations of Sections 1341 and 1346 of Title 18, United States Code.

**The Objects of the Conspiracy
to Defraud Allied Domecq**

15. It was a part and object of the conspiracy that MICHAEL DOMEcq, the defendant, and his co-conspirators, unlawfully, willfully, and knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property from Allied Domecq by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice, and attempting to do so, would and did place in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposit such matters and things to be sent and delivered by private and commercial interstate carriers, and take and receive therefrom such matters and things, and knowingly cause such matters and things to be delivered by mail and such carriers according to the directions thereon, in violation of Title 18, United States Code, Sections 1341 and 1346.

**The Means and Methods of the
Conspiracy to Defraud Allied Domecq**

Among the means and methods by which MICHAEL DOMEcq, the defendant, and his co-conspirators, would and did carry out the conspiracy were the following:

16. Initially, the diversion of funds from Domecq Importers by MICHAEL DOMEcq, the defendant, and the Executive Co-Conspirators, described in Paragraphs 9 and 10 of Count One of this Indictment, was carried out with the knowledge and approval of one or more senior executives within the worldwide Domecq organization, including members of the Board of Directors of Domecq Importers. However, from on or about May 18, 1994, when Allied-Lyons acquired Domecq Importers, the diversion of funds by MICHAEL DOMEcq and his co-conspirators, as described in Paragraphs 9 and 10 above, was done without the knowledge and consent of the public shareholders of Allied Domecq or the majority of the Board of Directors of Allied Domecq, although the diversion of funds was known and approved by at least one member of that Board. The total amount of funds fraudulently diverted by MICHAEL DOMEcq and his co-conspirators after on or about May 18, 1994, in the course of the scheme charged in Count One of the Indictment, was approximately \$3.1 million.

17. The mails or a commercial interstate carrier were used in several ways to further the above-described

scheme. For example, the mails were used in connection with the diversion of funds from Domecq Importers in that fraudulent purchase orders issued by Domecq Importers to the Outside Vendors and fraudulent invoices issued by the Outside Vendors to Domecq Importers were sent through the mails. Moreover, Domecq Importers regularly mailed checks to the Outside Vendors in payment of the fraudulent invoices. In addition, a commercial interstate carrier was used to convey checks made payable to one of the fictitious third-party entities from the Outside Vendors either to MICHAEL DOMEcq, the defendant, or one of the Executive Co-Conspirators, and to convey checks either from MICHAEL DOMEcq or one of the Executive Co-Conspirators, to the First National Bank of Aruba.

Overt Acts

18. In furtherance of the conspiracy and to effect its illegal objects, MICHAEL DOMEcq, the defendant, and his co-conspirators committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about August 24, 1994, an Outside Vendor, located in New York, New York, sent to one of the Executive Co-Conspirators, via a commercial interstate

carrier, a check made payable to "The Winston Group" in the amount of \$102,600.

b. On or about February 18, 1995, an Outside Vendor sent to one of the Executive Co-Conspirators, via a commercial interstate carrier, a check made payable to "Grupo Veracruz" in the amount of \$143,325.

c. On or about August 29, 1995, an Outside Vendor sent to one of the Executive Co-Conspirators, via a commercial interstate carrier, a check made payable to "Premiere Maldonado" in the amount of \$288,997.50.

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

COUNT THREE

The Grand Jury further charges:

Mail Fraud Against Allied Domecq

19. Paragraphs 1, 7 through 10, and 16 and 17, of this Indictment are repeated, reincorporated, and realleged as if fully set forth herein.

20. From on or about May 18, 1994, through and including in or about September 1995, in the Southern District of New York and elsewhere, MICHAEL DOMEcq, the defendant, together with co-conspirators Gabriel Sagaz, Thomas Kaminsky, and Alfredo Valdes, not named as defendants herein, and other persons known and unknown, unlawfully, willfully, and

knowingly, having devised and intending to devise a scheme and artifice to defraud and for obtaining money and property from Allied Domecq by means of false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice, and attempting to do so, did place or cause to be placed in post offices and authorized depositories for mail matter, matters and things to be sent and delivered by the Postal Service, and deposit or cause to be deposited such matters and things to be sent and delivered by private and commercial interstate carriers, and take and receive therefrom such matters and things, and knowingly cause such matters and things to be delivered by mail and such carriers according to the directions thereon, to wit, MICHAEL DOMEcq, the defendant, and his co-conspirators, by causing the use of the mails and commercial interstate carriers fraudulently diverted approximately \$3.1 million from Allied Domecq into personal accounts controlled by the defendant and his co-conspirators.

(Title 18, United States Code, Sections 1341 and 1346 and 2.)

COUNT FOUR

The Grand Jury further charges:

Money Laundering Conspiracy

21. Paragraphs 1, 7 through 10, and 16 and 17, of this Indictment are repeated, reincorporated, and realleged as if fully set forth herein.

22. From on or about May 18, 1994, until in or about September 1995, in the Southern District of New York and elsewhere, MICHAEL DOMEQ, the defendant, together with co-conspirators Gabriel Sagaz, Thomas Kaminsky, and Alfredo Valdes, not named as defendants herein, and other persons known and unknown, unlawfully, willfully, 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 Section 1956 of Title 18, United States Code.

23. It was a part and object of the conspiracy that MICHAEL DOMEQ, the defendant, and his co-conspirators, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions represented the proceeds of some form of unlawful activity, unlawfully, willfully, and knowingly would and did conduct and attempt to conduct such financial transactions which in fact involved the proceeds of specified unlawful activity, to wit, the mail fraud scheme to defraud Allied Domecq, as described in Count Two of this Indictment, with intent to engage in conduct constituting violations of

Sections 7201, 7206(1), and 7206(2) of the Internal Revenue Code of 1986, in violation of Section 1956(a)(1)(A)(ii) of Title 18, United States Code,

24. It was a further part and an object of the conspiracy that MICHAEL DOMEQC, the defendant, and his co-conspirators, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions represented the proceeds of some form of unlawful activity, unlawfully, willfully, and knowingly would and did conduct and attempt to conduct such financial transactions which in fact involved the proceeds of specified unlawful activity, to wit, the mail fraud scheme to defraud Allied Domecq, as described in Count Two of this Indictment, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity, in violation of Section 1956(a)(1)(B)(i) of Title 18, United States Code.

Means and Methods of the Money Laundering Conspiracy

a. MICHAEL DOMEQC, the defendant, received a portion of the approximately \$3.1 million in diverted corporate funds and "commissions" from the Outside Vendors in the form of checks and wire transfers made payable to

fictitious third-party entities controlled by MICHAEL DOMEQ and the Executive Co-Conspirators. The payments by the Outside Vendors were made to accounts in the name of the Winston Group, Grupo VeraCruz ("VeraCruz"), Premier Maldonado ("Maldonado") and Baja Sur. The "commission" payments from the Bottlers were made to accounts in the name of Fortraco International ("Fortraco"). Each of these fictitious third-party entities maintained an offshore bank account. The Winston Group maintained account number 752500 at the First National Bank of Aruba (the "Winston Group Account"). VeraCruz and its successor Maldonado maintained account number 797021 at the First National Bank of Aruba (the "VeraCruz Account"). Baja Sur maintained account number 797022 at the First National Bank of Aruba (the "Baja Sur Account"). Fortraco maintained account number 371050 at the First National Bank of Aruba (the "Fortraco Account").

25. In the course of the conspiracy to defraud Allied Domecq outlined in Count Two of this Indictment, the Outside Vendors mailed or sent by commercial interstate carrier many of their checks either to MICHAEL DOMEQ, the defendant, or to another of the Executive Co-Conspirators, who in turn sent the checks by mail or by commercial interstate carrier to the First National Bank of Aruba. There, bank

officers who were designated agents of the fictitious third-party entities endorsed the checks and deposited them into the relevant accounts. At various times, one of the Executive Co-Conspirators withdrew monies from these accounts for his own use and for distribution to MICHAEL DOMEQ and among the Executive Co-Conspirators. To this end, the monies were usually transferred into other offshore accounts controlled by MICHAEL DOMEQ or by the Executive Co-Conspirators.

Overt Acts

26. In furtherance of the conspiracy and to effect the illegal objects thereof, MICHAEL DOMEQ, the defendant, and his co-conspirators, committed the following overt acts, among others, in the Southern District of New York and elsewhere:

a. On or about June 6, 1994, an Executive Co-Conspirator caused a check in the amount of \$208,300, which check had originally been mailed or sent by commercial interstate carrier from New York, New York, to be deposited into the Fortraco Account.

b. On or about June 13, 1994, an Executive Co-Conspirator caused a check in the amount of \$200,760 to be deposited into the Winston Group Account.

c. On or about June 28, 1994, an Executive Co-Conspirator caused a check in the amount of \$200,000 to be deposited into the Fortraco Account.

d. On or about June 28, 1994, an Executive Co-Conspirator caused a check in the amount of \$68,720 to be deposited into the Fortraco Account.

e. On or about June 29, 1994, an Executive Co-Conspirator caused \$200,000 to be withdrawn from the Fortraco Account, which funds were distributed to MICHAEL DOMEQ, the defendant, and the Executive Co-Conspirator.

f. On or about August 24, 1994, an Outside Vendor mailed or sent by commercial interstate carrier from New York, New York, a check in the amount of \$102,600 to an Executive Co-Conspirator who caused that check to be deposited into the Winston Group Account.

g. On or about September 12, 1994, at the direction of an Executive Co-Conspirator, an Outside Vendor, located in New York, New York, wire transferred \$122,800 into the Winston Group Account.

h. On or about September 15, 1994, an Executive Co-Conspirator caused \$220,000 to be withdrawn from the Winston Group Account, which funds were distributed to MICHAEL

DOMECQ, the defendant, and two of the Executive Co-Conspirators.

i. On or about September 22, 1994, an Executive Co-Conspirator caused a check in the amount of \$41,200 to be deposited into the Veracruz Account.

j. On or about September 23, 1994, an Executive Co-Conspirator caused a check in the amount of \$61,653 to be deposited into the Fortraco Account.

k. On or about September 23, 1994, an Executive Co-Conspirator caused a check in the amount of \$220,000 to be deposited into the Fortraco Account.

l. On or about October 13, 1994, an Executive Co-Conspirator caused \$275,000 to be withdrawn from the Fortraco Account, which funds were distributed to MICHAEL DOMECQ, the defendant, and the Executive Co-Conspirator.

m. On or about October 14, 1994, an Executive Co-Conspirator caused a check in the amount of \$173,355, which check had originally been mailed or sent by commercial interstate carrier from New York, New York, to be deposited into the Winston Group Account.

n. On or about October 28, 1994, an Executive Co-Conspirator caused \$170,000 to be withdrawn from the Winston Group Account, which funds were distributed to MICHAEL

DOMECQ, the defendant, and two of the Executive Co-Conspirators.

o. On or about December 16, 1994, an Executive Co-Conspirator caused a check in the amount of \$19,500 to be deposited into the Veracruz Account.

p. On or about December 18, 1994, an Executive Co-Conspirator caused a check in the amount of \$250,000 to be deposited into the Fortraco Account.

q. On or about December 18, 1994, an Executive Co-Conspirator caused a check in the amount of \$66,096 to be deposited into the Fortraco Account.

r. On or about January 6, 1995, an Executive Co-Conspirator caused \$310,000 to be withdrawn from the Fortraco Account, which funds were distributed to MICHAEL DOMECQ, the defendant, and the Executive Co-Conspirator.

s. On or about March 7, 1995, an Executive Co-Conspirator caused a check in the amount of \$143,325 to be deposited into the VeraCruz Account.

t. On or about April 5, 1995, an Executive Co-Conspirator caused a check in the amount of \$323,700 to be deposited into the Fortraco Account.

u. On or about April 18, 1995, an Executive Co-Conspirator caused a check in the amount of \$42,300 to be deposited into the Veracruz Account.

v. On or about April 21, 1995, an Executive Co-Conspirator caused a check in the amount of \$210,000 to be deposited into the Fortraco Account.

w. On or about April 21, 1995, an Executive Co-Conspirator caused a check in the amount of \$92,364 to be deposited into the Fortraco Account.

x. On or about April 25, 1995, an Executive Co-Conspirator caused \$210,000 to be withdrawn from the Fortraco Account.

y. On or about July 20, 1995, an Executive Co-Conspirator caused a check in the amount of \$54,560 to be deposited into the Fortraco Account.

z. On or about July 24, 1995, an Executive Co-Conspirator caused a check in the amount of \$150,000 to be deposited into the Fortraco Account.

aa. On or about July 24, 1995, an Executive Co-Conspirator caused a check in the amount of \$73,978 to be deposited into the Fortraco Account.

bb. On or about September 3, 1995, an Executive Co-Conspirator caused a check in the amount of \$288,997.50, which check had originally been mailed or sent by commercial interstate carrier from New York, New York, to be deposited into the VeraCruz Account.

cc. On or about September 13, 1995, an Executive Co-Conspirator caused \$285,000 to be withdrawn from the VeraCruz Account, which funds were distributed to MICHAEL DOMEQC, the defendant, and two of the Executive Co-Conspirators.

(Title 18, United States Code, Section 1956(h).)

COUNT FIVE

The Grand Jury further charges:

Money Laundering

27. Paragraphs 1, 7 through 10, 16, 17, 25, and 26 of this Indictment are repeated, reincorporated, and realleged as if fully set forth herein.

28. From on or about May 18, 1994, until in or about September 1995, in the Southern District of New York and elsewhere, MICHAEL DOMEQC, the defendant, together with co-conspirators Gabriel Sagaz, Thomas Kaminsky, and Alfredo Valdes, not named as defendants herein, and other persons known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions represented the proceeds of some form of unlawful activity, unlawfully, willfully, and knowingly did conduct, attempt to conduct, and cause others to conduct such financial transactions which in

fact involved the proceeds of specified unlawful activity, to wit, the mail fraud scheme to defraud Allied Domecq, as described in Count Two of this Indictment, with intent to engage in conduct constituting violations of Sections 7201, 7206(1), and 7206(2) of the Internal Revenue Code of 1986. (Title 18, United States Code, Sections 1956(a)(1)(A)(ii) and 2).

COUNT SIX

The Grand Jury further charges:

Money Laundering

29. Paragraphs 1, 7 through 10, 16, 17, 25, and 26 of this Indictment are repeated, reincorporated, and realleged as if fully set forth herein.

30. From on or about May 18, 1994, until in or about September 1995, in the Southern District of New York and elsewhere, MICHAEL DOMEQC, the defendant, together with co-conspirators Gabriel Sagaz, Thomas Kaminsky, and Alfredo Valdes, not named as defendants herein, and other persons known and unknown, in an offense involving and affecting interstate and foreign commerce, knowing that the property involved in certain financial transactions represented the proceeds of some form of unlawful activity, unlawfully, willfully, and knowingly did conduct, attempt to conduct, and

cause others to conduct such financial transactions which in fact involved the proceeds of specified unlawful activity, to wit, the mail fraud scheme to defraud Allied Domecq, as described in Count Two of this Indictment, knowing that the transactions were designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of specified unlawful activity.

(Title 18, United States Code, Sections 1956(a)(1)(B)(i) and 2).

COUNT SEVEN

The Grand Jury further charges:

Income Tax Evasion

31. Paragraphs 1 and 7 through 10 of this Indictment are repeated, reincorporated, and realleged as if fully set forth herein.

32. From in or about January 1, 1994 through on or about October 15, 1995, in the Southern District of New York and elsewhere, MICHAEL DOMEQC, the defendant, did unlawfully, willfully, and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his spouse to the United States of America for the calendar year 1994, by various means, including among others, preparing and causing to be prepared, signing and causing to be signed, a false and

fraudulent joint U.S. Individual Income Tax Return, Form 1040, for the calendar year 1994, which was filed with the Internal Revenue Service, on which return MICHAEL DOMEQC failed to report as income his share of the proceeds of the scheme described in Count One of this Indictment, whereas, as MICHAEL DOMEQC then and there well knew and believed, the true and correct joint taxable income for that calendar year was substantially in excess of the specific sum reported, upon which additional taxable income there was due and owing to the United States of America substantial additional income tax.

(Title 26, United States Code, Section 7201.)

COUNT EIGHT

The Grand Jury further charges:

Income Tax Evasion

33. Paragraphs 1 and 7 through 10 of this Indictment are repeated, reincorporated, and realleged as if fully set forth in this Count.

34. From on or about January 1, 1993, through on or about September 8, 1994, in the Southern District of New York and elsewhere, MICHAEL DOMEQC, the defendant, did unlawfully, willfully, and knowingly attempt to evade and defeat a large part of the income tax due and owing by MICHAEL DOMEQC and his spouse to the United States of America for the calendar year

1993, by various means, including, among others, preparing and causing to be prepared, signing and causing to be signed, a false and

fraudulent joint U.S. Individual Income Tax Return, Form 1040, which was filed with the Internal Revenue Service, on which return MICHAEL DOMEQ failed to report as income his share of the proceeds of the scheme described in Count One of this Indictment, whereas, as MICHAEL DOMEQ then and there well knew and believed, the true and correct joint taxable income for that calendar year was substantially in excess of the specific sum reported, upon which additional taxable income there was due and owing to the United States of America substantial additional income tax.

(Title 26, United States Code, Section 7201.)

_____/s/_____
Foreperson

_____/s/_____
JOEL I. KLEIN
Assistant Attorney General
Antitrust Division

_____/s/_____
MARY JO WHITE
United States Attorney
Southern District of New York

_____/s/_____
RALPH T. GIORDANO
Chief, New York Office
Antitrust Division
U.S. Department of Justice