

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : INDICTMENT

- v. - :

DAVID B. CHALMERS, JR., : S1 05 Cr. 59 (DC)
JOHN IRVING, :
LUDMIL DIONISSIEV, :
BAYOIL (USA), INC., and :
BAYOIL SUPPLY & TRADING LIMITED, :

Defendants. :

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COUNT ONE

(Conspiracy to Commit Wire Fraud and to Engage in
Prohibited Financial Transactions with Iraq)

The Grand Jury charges:

THE OIL-FOR-FOOD PROGRAM

1. On or about August 6, 1990, approximately four days after the Iraqi army invaded Kuwait, the United Nations imposed economic sanctions on the Government of Iraq. These sanctions prohibited member states of the United Nations from, among other things, trading in any Iraqi commodities or products. The United Nations continued to enforce these sanctions up to and including in or about 2003.

2. On or about April 14, 1995, the Security Council of the United Nations adopted Resolution 986, which authorized the Government of Iraq to sell oil under certain conditions – principally, that the proceeds of all sales of Iraqi oil were to be deposited into an escrow bank account monitored by the United

Nations and used only to purchase various humanitarian goods for the benefit of the Iraqi people. The Government of Iraq agreed in writing to the terms of Security Council Resolution 986 after more than a year of negotiations over the particular methods of implementing this arrangement.

3. The United Nations Office of Iraq Programme, Oil-for-Food (the "Oil-for-Food Program") was subsequently established to administer, among other things, the sale of oil and purchase of humanitarian goods by Iraq. A special bank account was established at a bank in Manhattan (the "Oil-for-Food Bank Account") to handle these sales and purchases. The United Nations' economic sanctions on Iraq remained in place for all trade and transactions not authorized by the Oil-for-Food Program.

4. During the operation of the Oil-for-Food Program, federal law prohibited United States companies and individuals from executing contracts or engaging in a variety of transactions with the Government of Iraq unless they received a license issued by the Department of Treasury's Office of Foreign Assets Control.

5. The Government of Iraq began selling oil pursuant to the Oil-for-Food Program in or about December 1996. Between in or about December 1996 and December 2002, the Security Council of the United Nations adopted a series of resolutions that re-authorized the Oil-for-Food Program for approximately thirteen 180-day phases of operation. Throughout each of these phases, the price at which

Iraqi oil was sold under the Oil-for-Food Program – known as the Official Selling Price (“O.S.P.”) – was established in Manhattan by a rotating group of United Nations oil overseers, who attempted to set the price at the highest rate bearable by the market in order to maximize the revenue generated by the Oil-for-Food Program. This, in turn, would increase the amount of humanitarian goods that could be purchased through the Oil-for-Food Program for the Iraqi people.

6. Under the Oil-for-Food Program, the Government of Iraq alone had the power to select the companies and individuals who received the rights to purchase Iraqi oil. During every phase of the Oil-for-Food Program, officials at the highest levels of the Government of Iraq selected a group of companies and individuals to receive the rights to purchase certain quantities of Iraqi oil at a certain price per barrel (frequently referred to as “allocations” of oil). These companies and individuals – many of whom were not otherwise involved in the oil industry – were able to reap large profits by selling their allocations of Iraqi oil to brokers and/or companies capable of transporting the oil to a refinery.

7. From at least in or about 2000, up to and including in or about March 2003, officials of the Iraqi Government conditioned the distribution of allocations of oil under the Oil-for-Food Program on the recipients’ willingness to pay a secret surcharge to the Government of Iraq (hereinafter, the “Surcharge

Scheme"). The Government of Iraq directed that these surcharges – representing a percentage of the total amount of each oil contract and totaling at least several hundred million dollars – be paid to front companies and/or bank accounts under the control of the Iraqi Government in various countries in the Middle East and elsewhere.

THE DEFENDANTS

8. At all times relevant to this Indictment, DAVID B. CHALMERS, JR., the defendant, was a citizen of the United States, a resident of Houston, Texas, and the sole shareholder of BAYOIL (USA), INC., the defendant, which was an oil company based in Houston, Texas, and incorporated in the State of Delaware.

9. At all times relevant to this Indictment, DAVID B. CHALMERS, JR., the defendant, was the sole shareholder of BAYOIL SUPPLY & TRADING LIMITED, the defendant, which was a company based in Nassau, Bahamas, and incorporated in the Bahamas. At all times relevant to this Indictment, accounting, business, and other affairs for BAYOIL SUPPLY & TRADING LIMITED were conducted from the Houston offices, and by the employees, of BAYOIL (USA), INC., the defendant (collectively, the "BAYOIL COMPANIES").

10. At all times relevant to this Indictment, JOHN IRVING, the defendant, was a citizen of the United Kingdom, a resident of London, England, and an oil trader. Between at least in or about 2000, up to and including in or about March 2003, IRVING and DAVID B. CHALMERS, JR., the defendant, worked together

to purchase Iraqi oil on behalf of the BAYOIL COMPANIES, the defendants.

11. At all times relevant to this Indictment, LUDMIL DIONISSIEV, the defendant, was a citizen of Bulgaria, a legal permanent resident alien of the United States, a resident of Houston, Texas, and an oil trader. Between at least in or about 2000, up to and including in or about March 2003, DIONISSIEV and DAVID B. CHALMERS, JR., the defendant, worked together to purchase Iraqi oil on behalf of the BAYOIL COMPANIES, the defendants.

MEANS AND METHODS OF THE CONSPIRACY

12. At all times relevant to this Indictment, DAVID B. CHALMERS, JR., the defendant, directed, arranged for, and supervised the purchase of Iraqi oil by the BAYOIL COMPANIES, the defendants, from recipients of oil allocations under the Oil-for-Food Program or from brokers working on behalf of those recipients. In purchasing these allocations of Iraqi oil, CHALMERS and the BAYOIL COMPANIES followed the typical industry practice by agreeing to pay (a) the O.S.P. (Official Selling Price) to the Oil-for-Food Bank Account, and (b) a commission to the allocation-holder and/or broker. The commissions represented, in theory, a portion of the price above O.S.P. that the oil market could bear.

13. After allocations of Iraqi oil were purchased in the manner described above, representatives of the BAYOIL COMPANIES, the defendants, arranged through facsimile and electronic mail

transmissions, and telephone calls, for cargo ships to lift the oil from Iraq and transport it to downstream purchasers (usually, larger oil companies with their own refineries). Typically, after successfully lifting the oil from Iraq, a representative of BAYOIL (USA), INC. would cause the appropriate funds to be wired to the Oil-for-Food Bank Account in Manhattan, and to the allocation-holder and/or broker.

14. On a regular basis from at least in or about 1997, up to and including in or about March 2003, DAVID B. CHALMERS, JR., the defendant – on behalf of the BAYOIL COMPANIES, the defendants – offered advice about market conditions to the United Nations oil overseers in Manhattan and to officials of the Government of Iraq in Baghdad in an effort to influence the overseers' selection of an O.S.P. CHALMERS offered this advice through facsimile transmissions and face-to-face meetings in both Manhattan and Baghdad. LUDMIL DIONISSIEV, the defendant, joined CHALMERS in Baghdad on at least one occasion for this purpose, among others, and DIONISSIEV and JOHN IRVING, the defendant, both assisted CHALMERS in disseminating market information to Iraqi officials via facsimile.

15. The Government of Iraq began implementing the Surcharge Scheme in or about mid-2000. Iraqi Government officials indicated to co-conspirators not named as defendants herein that any companies or individuals refusing to participate in the

Surcharge Scheme would be barred from further participation in the Oil-for-Food Program. In addition, at various times relevant to this Indictment, the Government of Iraq required the payment of unauthorized fees before cargo ships would be permitted to lift oil from Iraqi ports. Payment of these so-called "port fees" was unauthorized by and concealed from the United Nations Oil-for-Food Program.

16. From in or about mid-2000, up to and including at least in or about late 2001, DAVID B. CHALMERS, JR., the defendant, on behalf of the BAYOIL COMPANIES, the defendants, worked with officials of the Government of Iraq and other co-conspirators not named as defendants herein to lobby the United Nations overseers to select a deflated O.S.P. in order to permit the Government of Iraq to collect its illegal surcharges more easily. By obtaining a lower O.S.P., recipients of oil allocations would be in a better position to collect higher commissions on the sales of their allocations, and thereby pay the surcharge and still retain a profit for themselves. CHALMERS sent faxes from Houston to Baghdad and Manhattan in furtherance of this effort to influence the selection of a lower O.S.P.

17. From in or about April 2001, up to and including at least in or about September 2001, DAVID B. CHALMERS, JR., the defendant, on behalf of the BAYOIL COMPANIES, the defendants, agreed to pay, did pay, and caused to be paid millions of dollars

in secret illegal surcharges to the Government of Iraq. These secret illegal surcharge payments covered oil purchased from in or about mid-2000, up to and including in or about early 2001 by CHALMERS and the BAYOIL COMPANIES from a foreign company that was operated by co-conspirators not named as defendants herein (the "Foreign Company") and whose operations were funded almost exclusively by CHALMERS and the BAYOIL COMPANIES. To conceal these illegal surcharge payments, CHALMERS agreed to pay the Foreign Company inflated commission prices on the original oil transactions, with the knowledge and expectation that the Foreign Company would then make the surcharge payments to the Government of Iraq. Based on instructions from Iraqi officials, representatives of the BAYOIL COMPANIES sent these illegal surcharge payments via wire transfers through the Foreign Company to a bank account of Al Wasel and Babel General Trading (L.L.C.), a front company for the Government of Iraq located in the United Arab Emirates.

18. With knowledge of the Surcharge Scheme, from in or about 2001, up to and including in or about March 2003, DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, and the BAYOIL COMPANIES, the defendants, continued to purchase Iraqi oil under the Oil-for-Food Program. During this time, on numerous occasions, all of the defendants negotiated via facsimile transmissions and telephone calls – and eventually paid and caused to be paid via wire transfer – the payment of inflated commissions to sellers of

Iraqi oil allocations with the knowledge and expectation that the sellers would use some portion of those inflated commissions to satisfy their illegal surcharge obligations to the Government of Iraq. By participating in this Surcharge Scheme and bypassing the Oil-for-Food Program, DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, and the BAYOIL COMPANIES, diverted funds from the Oil-for-Food Bank Account that otherwise would have been available to purchase humanitarian goods under the Oil-for-Food Program.

THE VIOLATION

19. From at least in or about mid-2000, up to and including in or about March 2003, in the Southern District of New York and elsewhere, DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, BAYOIL (USA), INC., and BAYOIL SUPPLY & TRADING LIMITED, the defendants, and others 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, to violate Sections 1343 and 2332d of Title 18, United States Code.

20. It was a part and an object of the conspiracy that DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, BAYOIL (USA), INC., and BAYOIL SUPPLY & TRADING LIMITED, the defendants, and others 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 by means of false and

fraudulent pretenses, representations, and promises, would and did transmit, and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

21. It was a further part and an object of the conspiracy that DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, BAYOIL (USA), INC., and BAYOIL SUPPLY & TRADING LIMITED, the defendants, and others known and unknown, at least one of whom was a United States person, and knowing and having reasonable cause to know that Iraq was a country designated under section 6(j) of the Export Administration Act of 1979 as a country supporting international terrorism, would and did unlawfully and knowingly engage in financial transactions with the government of that country without complying with the licensing and authorization requirements of the Iraqi Sanction Regulations, in violation of Section 2332d of Title 18, United States Code.

OVERT ACTS

22. In furtherance of the charged conspiracy and to effect the illegal objects thereof, the following overt acts, among others, were committed in the Southern District of New York and elsewhere:

- a. In or about December 2000, the Foreign Company

received an allocation of approximately 37 million barrels of oil from the Government of Iraq.

b. In or about December 2000, DAVID B. CHALMERS, JR., the defendant, on behalf of the BAYOIL COMPANIES, the defendants, contracted with the Foreign Company to purchase the oil allocation described above in Paragraph 22(a).

c. In or about December 2000, DAVID B. CHALMERS, JR., the defendant, on behalf of the BAYOIL COMPANIES, the defendants, sent a letter via facsimile to officials of the Government of Iraq in which CHALMERS proposed a pricing mechanism that could be used to seek a lower O.S.P. for Iraqi oil – thereby decreasing the funds deposited into the Oil-for-Food Bank Account for the benefit of the Iraqi people – in order to allow the Government of Iraq to collect illegal surcharges on sales of that oil.

d. From in or about April 2001, up to and including in or about September 2001, representatives of the Foreign Company located outside the United States faxed invoices to representatives of the BAYOIL COMPANIES, the defendants, in Houston, Texas, requesting funds with which to pay illegal surcharges to Al Wasel and Babel General Trading (L.L.C.).

e. On or about August 13, 2001, representatives of the BAYOIL COMPANIES, the defendants, sent via wire transfer approximately \$1,287,771.60 to a bank account in Switzerland

controlled by a representative of the Foreign Company.

f. On or about August 24, 2001, a representative of the Foreign Company sent approximately \$1,092,345 via wire transfer, which passed through a bank in Manhattan, to a bank account of Al Wasel and Babel General Trading (L.L.C.), located in the United Arab Emirates.

g. In or about August 2001, a co-conspirator not named as a defendant herein ("CC-1") received an allocation of approximately two million barrels of oil from the Government of Iraq under the Oil-for-Food Program.

h. In or about August 2001, LUDMIL DIONISSIEV, the defendant, in conjunction with DAVID B. CHALMERS, JR., the defendant, and on behalf of the BAYOIL COMPANIES, the defendants, negotiated a contract with a representative of CC-1 to purchase the oil allocation described above in Paragraph 22(g).

i. On or about October 4, 2001, pursuant to the contract described above in Paragraph 22(h), representatives of the BAYOIL COMPANIES, the defendants, paid CC-1 a commission of approximately \$839,368.40 via wire transfer, and CC-1 thereafter conveyed approximately \$629,526.30 of this commission to representatives of the Government of Iraq.

j. In or about September 2001, a co-conspirator not named as a defendant herein ("CC-2") brokered a sale to DAVID B. CHALMERS, JR., and the BAYOIL COMPANIES, the defendants, of an

allocation of approximately one million barrels of oil awarded to another co-conspirator not named as a defendant herein ("CC-3") by the Government of Iraq under the Oil-for-Food Program.

k. In or about September and October 2001, JOHN IRVING, the defendant, in conjunction with DAVID B. CHALMERS, JR., the defendant, and on behalf of the BAYOIL COMPANIES, the defendants, negotiated with CC-2 a contract to purchase CC-3's oil allocation described above in Paragraph 22(j).

l. On or about October 4, 2001, pursuant to the contract described above in Paragraph 22(k), representatives of the BAYOIL COMPANIES, the defendants, sent to CC-3 a commission of approximately \$450,885.45 via wire transfer, and CC-3 thereafter conveyed approximately \$300,000 of this commission to representatives of the Government of Iraq.

m. In or about March 2002, another co-conspirator not named as a defendant herein ("CC-4") caused a letter to be sent to a high-ranking official of the Government of Iraq in Baghdad in which CC-4 outlined a plan to settle the illegal surcharge obligation owed by CC-4 as a result of an oil transaction brokered in or about 2000 by JOHN IRVING, DAVID B. CHALMERS, JR., and the BAYOIL COMPANIES, the defendants.

n. On or about July 21, 2002, a representative of the Foreign Company delivered to officials of the Government of Iraq a letter that was drafted in consultation with DAVID B.

CHALMERS, JR., the defendant, and that proposed a payment plan for certain illegal surcharges owed by CC-4 and others.

(Title 18, United States Code, Sections 371 & 1349.)

COUNT TWO

(Wire Fraud)

The Grand Jury further charges:

23. Paragraphs One through Eighteen and Twenty-Two of this Indictment are realleged, repeated, and incorporated by reference as if fully set forth herein.

24. From at least in or about mid-2000, up to and including in or about March 2003, in the Southern District of New York and elsewhere, DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, BAYOIL (USA), INC., and BAYOIL SUPPLY & TRADING LIMITED, the defendants, and others 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 by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, CHALMERS, IRVING, and DIONISSIEV attempted to and did employ facsimile transmissions and wire transfers of money on behalf of BAYOIL (USA), INC. and BAYOIL SUPPLY & TRADING LIMITED to

arrange the purchase of Iraqi oil, which arrangements and purchases were designed to and did allow the sellers of such oil to make secret payments to the Government of Iraq unauthorized by and concealed from the United Nations' Oil-for-Food Program, and CHALMERS, DIONISSIEV, and IRVING offered advice via facsimile transmissions to Iraqi officials in Baghdad and United Nations' oil overseers in Manhattan regarding the Official Selling Price for Iraqi oil under the Oil-for-Food Program, which advice was designed to aid the success of the Surcharge Scheme.

(Title 18, United States Code, Sections 1343, 1349, and 2.)

COUNT THREE

(Prohibited Financial Transactions with Iraq)

The Grand Jury further charges:

25. Paragraphs One through Eighteen and Twenty-Two of this Indictment are realleged, repeated, and incorporated by reference as if fully set forth herein.

26. From at least in or about mid-2000, up to and including in or about March 2003, in the Southern District of New York and elsewhere, DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, BAYOIL (USA), INC., and BAYOIL SUPPLY & TRADING LIMITED, the defendants, at least one of whom was a United States person, and knowing and having reasonable cause to know that Iraq was a country designated under section 6(j) of the Export Administration Act of 1979 as a country supporting international

terrorism, did unlawfully and knowingly engage in financial transactions with the government of that country without complying with the licensing and authorization requirements of the Iraqi Sanction Regulations, to wit, CHALMERS, IRVING, DIONISSIEV, and the BAYOIL COMPANIES engaged in financial transactions with recipients of allocations of Iraqi oil, which transactions were designed to and did allow those recipients to make payments to the Government of Iraq unauthorized by and concealed from the United Nations' Oil-for-Food Program.

(Title 18, United States Code, Sections 2332d and 2.)

COUNT FOUR

(Violation of the International Emergency Economic Powers Act)

The Grand Jury further charges:

27. Paragraphs One through Eighteen and Twenty-Two of this Indictment are realleged, repeated, and incorporated by reference as if fully set forth herein.

28. Title 50, United States Code, Section 1701, et seq., known as the International Emergency Economic Powers Act ("IEEPA"), grants the President the authority to, among other things, "investigate, . . . prevent or prohibit, any acquisition, holding, withholding, use, transfer, withdrawal, transportation, importation or exportation of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any

interest by any person, or with respect to any property, subject to the jurisdiction of the United States" 50 U.S.C. § 1702(a)(1)(B). Section 1701 grants the President the power to exercise this authority upon declaration of a national emergency.

29. In Executive Order Number 12722, signed on August 2, 1990, President George H.W. Bush declared that "the policies and actions of the Government of Iraq constitute an unusual and extraordinary threat to the national security and foreign policy of the United States," and declared "a national emergency to deal with that threat." On August 9, 1990, following passage of United Nations Security Council Resolution Number 661 (which dealt, in part, with sanctions placed on Iraq) on August 6, 1990, the President issued Executive Order Number 12724. Executive Order Number 12724 took "additional steps with respect to Iraq's invasion of Kuwait and the national emergency declared in Executive Order Number 12722." Executive Orders No. 12722 and 12724, prohibited certain trade-related activities with Iraq at all times relevant to this Indictment.

30. Executive Order Numbers 12722 and 12724 (the "Executive Orders") imposed economic sanctions, including a complete trade embargo, on Iraq. The Executive Orders prohibited, among other things, the export to Iraq of any goods, technology, or services from the United States and the performance by any United States person of any contract in support of an industrial,

commercial, public utility or government project in Iraq. The Executive Orders also prohibited other activities relating to Iraq. For instance, Executive Order 12724 prohibited "any transaction by a United States person relating to travel by any United States citizen or permanent resident alien to Iraq, after the date of this order, other than transactions necessary to effect (i) such person's departure from Iraq, (ii) travel and activities for the conduct of the official business of the Federal Government or the United Nations, or (iii) travel for journalistic activity by persons regularly employed in such capacity by a news-gathering organization." In addition, both of the Executive Orders specifically prohibited "[a]ny transaction by any United States person that evades or avoids, or has the purpose of evading or avoiding, any of the prohibitions set forth in this order." The Executive Orders defined the term "United States person" as "any United States citizen, permanent resident alien, juridical person organized under the laws of the United States (including foreign branches), or any person in the United States, and vessels of U.S. registration."

31. From in or about 1990 through all times relevant to this Indictment, the President continued, on an annual basis, the national emergency with respect to Iraq. These successive Executive Orders authorized the Secretary of Treasury, in consultation with the Secretary of State, "to take such actions,

including the promulgation of rules and regulations, as may be necessary to carry out the purposes" of the Executive Orders.

32. Pursuant to this authority, the Office of Foreign Assets Control ("OFAC"), the office within the Department of Treasury charged with the responsibility of administering sanctions against foreign entities, promulgated regulations to implement the Executive Orders. The relevant regulations are located in Section 575 of Title 31 of the Code of Federal Regulations, and state, in part:

- a. "no property or interests in property of the Government of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported withdrawn or otherwise dealt in," and "any other dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of Iraq and held within the possession or control of a U.S. person is prohibited," without first obtaining a license from OFAC. 31 C.F.R. § 575.201. By virtue of these prohibitions against dealing with Iraqi government property, and securities or interests therein, "[a] U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is an Iraqi government entity unless the entity is licensed by the Office of Foreign Assets Control to conduct such transactions with U.S. persons." 31 C.F.R. § 575.408(c)(2);
- b. "no goods, technology (including technical data or other information), or services may be exported from the United States, or, if subject to U.S. jurisdiction, exported or reexported from a third country to Iraq, to any entity owned or controlled by the Government of Iraq, or to any entity operated from Iraq," without first obtaining a

license from OFAC. 31 C.F.R. § 575.205;

- c. Except in circumstances not applicable here, "no U.S. person may deal in property of Iraqi origin exported from Iraq after August 6, 1990, property intended for exportation to Iraq, or property intended for exportation from Iraq to any other country, nor may any U.S. person engage in any activity that promotes or is intended to promote such dealing," without first obtaining a license from OFAC. 31 C.F.R. § 575.206;
- d. "no U.S. person may engage in any transaction relating to travel by any U.S. citizen or permanent resident alien to Iraq, or to activities by any U.S. citizen or permanent resident alien within Iraq," without first obtaining a license from OFAC. 31 C.F.R. § 575.207;
- e. "no U.S. person may perform any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Iraq," without first obtaining a license from OFAC. 31 C.F.R. § 575.209;
- f. "no U.S. person may commit or transfer, directly or indirectly, funds or other financial or economic resources to the Government of Iraq or any person in Iraq" without first obtaining an OFAC license. 31 C.F.R. § 575.210; and
- g. "any transaction that has the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this subpart is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in transactions prohibited by this part is hereby prohibited." 31 C.F.R. § 575.211.

33. From in or about mid-2000, up to and including in or about March 2003, in the Southern District of New York and elsewhere, DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, BAYOIL (USA), INC., and BAYOIL SUPPLY & TRADING LIMITED, the

defendants, at least one of whom was a United States person, unlawfully and knowingly violated IEEPA, and the regulations promulgated thereunder, as described above, to wit, without obtaining the required OFAC approval, CHALMERS, IRVING, DIONISSIEV, and the BAYOIL COMPANIES engaged in financial transactions with recipients of allocations of Iraqi oil, which transactions were designed to and did allow those recipients to make payments to the Government of Iraq unauthorized by and concealed from the United Nations' Oil-for-Food Program, and traveled to and from Iraq.

(Title 50, United States Code, Section 1701, et seq.; Public Law 101-513, Section 586E (November 5, 1990); Executive Orders 12722 and 12724; Title 31, C.F.R. Section 575.201, et seq.; and Title 18, United States Code, Section 2.)

FORFEITURE ALLEGATION

34. As a result of committing one or more of the conspiracy, wire fraud, and IEEPA offenses alleged in Counts One, Two, and Four of this Indictment, in violation of 18 U.S.C. §§ 371, 1343, and 1349, and 50 U.S.C. § 1701, et seq., DAVID B. CHALMERS, JR., JOHN IRVING, LUDMIL DIONISSIEV, BAYOIL (USA), INC., and BAYOIL SUPPLY & TRADING LIMITED, the defendants, shall forfeit to the United States pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, any and all property, real and personal, that constitutes or is derived from proceeds traceable to the commission of the offense, and all property traceable to such property, including but not limited to: a sum of money equal to at least \$100 million in United States currency, representing the amount of proceeds

obtained as a result of the offenses charged in Counts One, Two, and Four of this Indictment, for which the defendants are jointly and severally liable.

Substitute Assets Provision

35. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third person;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 21 U.S.C. § 853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property, including, but not limited to, all right, title, and interest of the respective defendants in those lots or parcels of land, together with their buildings, appurtenances, improvements, fixtures, attachments, and easements located at:

1. 2205 Kingston Street, Houston, Texas, 77019; Parcel #0560140000029, Harris County, Texas; Purchased by DAVID B. CHALMERS, JR., and another buyer on or about June 11, 1998;
2. 3965 Del Monte Drive, Houston, Texas, 77019; Parcel #0601620890002 in Harris County, Texas; Purchased by DAVID B. CHALMERS, JR. on or about August 19, 1999; and

3. 5936 Deerwood Road, Houston, Texas, 77057;
Parcel #0871770000009 in Harris County, Texas;
Purchased by LUDMIL DIONISSIEV and another
buyer on or about September 23, 1991.

(Title 18, United States Code, Section 981, and
Title 28, United States Code, Section 2461.)

Foreperson

DAVID N. KELLEY
United States Attorney