BCCI plea bargain: an asset grab by U.S. banking system

by Edward Spannaus

On Dec. 19, the U.S. Department of Justice announced that the Bank of Credit and Commerce International (BCCI) had entered into a plea agreement through which BCCI pled guilty to racketeering and a variety of other charges, and agreed to forfeit all of its assets in the United States.

There is less here than meets the eye. The plea agreement was a "sweetheart" deal worked out with the court-appointed trustees; the actual owners and operators of BCCI were not even consulted, and had nothing to do with the "guilty" plea. The plea was entered on behalf of BCCI by Brian Smouha, a London-based accountant employed by Touche Ross, and other court-appointed liquidators.

Other than an opportunity for the U.S. Justice Department to put out self-serving press releases, the real significance of plea bargain is that it permitted the U.S. government to obtain a much larger share of BCCI's assets than it otherwise could have. Half of BCCI's $550 million in U.S. assets became available to prop up BCCI-affiliated banks in the United States, thus bandaging up one danger point in the crumbling U.S. banking system.

Foreign creditors object

On Jan. 24, the BCCI plea agreement was approved by federal Judge Joyce Hens Green in Washington, D.C. The approval came over the objections of foreign creditors and central banks, who claimed that they were being unfairly cut out of the agreement, under which the $550 million in BCCI assets in the United States are subject to criminal forfeiture. Some U.S. banks also objected on the grounds that BCCI assets which they hold may be subject to claims from other countries. The U.S. government said that they could not raise their claims until after the criminal case was decided.

Some background on how the plea bargain was arranged was provided in the Jan. 24 *Washington Post*. The principal negotiators were Touche Ross's Smouha, and the U.S. Department of Justice (DoJ), represented by acting Deputy Attorney General George Terwilliger. (Smouha had previously spent four years "untangling the affairs" of Banco Ambrosiano in the early 1980s.) Also brought into the negotiations were New York District Attorney Robert Morgenthau and the U.S. Federal Reserve.

On Nov. 14, Smouha and Terwilliger met at the DoJ. Smouha had been negotiating with the Fed over the screening process—how to "separate the bank's good depositors from the crooks." This was in the context of the Fed's civil proceedings against BCCI. But then the DoJ "upped the ante," announcing that BCCI would soon be subject to criminal charges, and that it might have to forfeit *all* of its U.S. assets, since criminal proceedings would take priority over civil proceedings. "The shock showed on Smouha's face," according to participants in the meeting interviewed by the *Washington Post*. Terwilliger said that any settlement would have to include BCCI (i.e., the liquidators) pleading guilty to charges under the Racketeering Influenced and Corrupt Organization Act (RICO), paying substantial fines, and cooperating with the investigation of individuals.

Averting bank collapses

Obviously the liquidators had no problem with the guilty plea, nor with cooperating with prosecutors by turning over documents and waiving the attorney-client privilege, among other privileges. (They did, however, balk at waiving the attorney-client privilege in any way that might be used against themselves in future civil suits.) The only issue was how to divide up the pie. According to the *Washington Post* analysis, "All the parties, it seems, ultimately got what they wanted." The Justice Department got a RICO guilty plea—good public relations after the many charges of DoJ inaction and coverup. The U.S. banking system got half of the assets to be used to bail out First American and other BCCI-controlled banks in the United States. Morgenthau got a guilty plea and a $10 million fine (the amount of the fine having been "literally picked out of the air"). The liquidators got $275 million for a fund for foreign creditors (a real pittance, given the fact that there are $30 billion in claims against about $2 billion in assets). By using the criminal forfeiture weapon, the U.S. got far more than its share out of the whole deal, at the expense of foreign banks and creditors.

On Jan. 30, U.S. banking regulators decided to close the

Independence Bank of Encino, California. Independence Bank, one of the three U.S. banks illegally owned by BCCI, was on the verge of collapse, due to bad real estate loans and inadequate capital. The Federal Deposit Insurance Corp. will be reimbursed by the BCCI forfeiture fund for any payments it makes to depositors. The real concern of bank regulators is First American Bankshares, which operates a major banking network in Washington, D.C., Maryland, and Virginia. A collapse of First American would have significant economic and political fallout in Washington, and thus it was First American which was the focus of the BCCI special fund, according to sources quoted in the *Washington Post*.

Independence was "not viable," said a source quoted by the *Washington Post*. "It may be better to close it and compensate the depositors. Then First American goes on," he stated.

As *EIR* has previously reported, the method of the international BCCI shutdown was considered by the central bankers as a "coup" for the Basel, Switzerland-based Bank for International Settlements (BIS) and its Committee on Bank Supervision, known as the "Cooke committee." Cooke committee officials bragged that they had been able to close a $20 billion bank without "even a ripple" in the international financial markets.

However, a report distributed by the United Nations Center on Transnational Transactions in early February was highly critical of the method by which BCCI was seized and shut down by western central bankers. According to the U.N. report, the abrupt shutdown of the 70-nation banking system, which financed $18 billion in trade (much of which was legitimate trade) hit certain Third World countries the hardest. The economic damage was most severe in Nigeria, Bangladesh, and Zambia, according to the report, which has not been made public.

Will BCCI scandal hit Bush?

While BCCI has been touted as the "Bank of Crooks and Criminals," there is massive evidence in the public domain that BCCI was an instrument of western intelligence agencies. The CIA, British and Israeli intelligence were all major players in BCCI's dirty deals—which is why no major breaks in the BCCI scandal are expected as long as George Bush remains in the White House.

In a Senate hearing on Feb. 19, Sen. John Kerry (D-Mass.) reported that a sensitive 1986 CIA memo concerning BCCI had "disappeared" from both the Treasury Department and the CIA. Kerry said he was "very disappointed" in the lack of cooperation from the CIA, which first had said that no memoranda on BCCI existed and then claimed that only two documents existed. Kerry has discovered that several hundred memos had been created.

"We have been told that the CIA had a very limited relationship with BCCI, but over the weekend we learn that a former head of the CIA, Richard Helms, who headed the agency when BCCI was founded, aided BCCI in its attempt to take over First American in 1978," said Kerry. He released a copy of a 1978 telex from Helms to BCCI shareholder Rahim Irvani, promising to indemnify Irvani if he gave a power of attorney to Clark Clifford's law firm for the First American takeover.

Kerry did not say it, but Helms and Irvani were business partners at that time in various Iranian ventures. Also mentioned in the telex is Roy Carlson, then of the Bank of America, reportedly also a business partner of Helms, who later went to work for BCCI frontman Ghaith Pharaon.

A number of news stories linking Bush to the BCCI scandal have also surfaced recently, including disclosures that Bush's new deputy campaign manager, James Lake, was paid over $200,000 as a public relations adviser to the Abu Dhabi Investment Co., the largest shareholder in BCCI.

On Feb. 25, the *New York Post* ran a prominent article by Jack Newfield entitled "BCCI Scandal Points Toward White House," highlighting the BCCI involvement of Bush's son, George W. Bush, and also of Sen. Orrin Hatch (R-Utah), in the scandal. The story of the younger George Bush pertains to his role as a director and consultant to Harken Energy, which has substantial BCCI ties. The *New York Post* also reported that PBS's "Frontline" news program is preparing a documentary to be aired in early April "that will zero in on the Bush administration's role in the coverup."

And on Feb. 24, the *Wall Street Journal* reported on an NBC News story that William Casey, the CIA director during the Reagan-Bush administration, had secretly met with BCCI head Agha Hasan Abedi, probably in connection with CIA aid funneled to Contra and Afghan rebels.

Only Third World targeted

So far, the Justice Department's efforts have only targeted the Third World owners and operators of BCCI. The only exception to date is the recent indictment of David L. Paul, the former head of the failed CenTrust of Miami. Press reports have played up Paul's involvement with Democratic Party candidates. But other reports received by *EIR* suggest that Paul's financial dealings also reach deeply into the Bush administration.

According to one source, transfers and payoffs to Kissinger Associates were also made through CenTrust. Kissinger Associates has already been implicated in the coverup of $32 million in drug money from Colombia's Medellín Cartel by BCCI's branch in Tampa, Florida. Documents obtained by *EIR* (see *EIR*, Dec. 6, 1991, "Kissinger Caught in Web of Lies on BCCI Ties") show that Henry Kissinger personally recommended that Kissinger Associates assist BCCI in a "public relations offensive" immediately after the Tampa BCCI branch and nine of its employees were indicted on money-laundering charges.