

reason to believe had been in blocked countries and by refusing to grant licenses authorizing collection of payment of such checks and drafts. To this end, General Ruling No. 5 was issued on July 7, 1943.

General Ruling 5A prohibited, except pursuant to a license referring to the license, the export of any checks, drafts, bills of exchange, promissory notes, security or currency from the United States directly or indirectly to any blocked country, with the exception of China and members of the generally licensed trade area. The export prohibition was meant to implement and consolidate the export controls which had been previously announced in Public Interpretation No. 6.

General Ruling No. 5A also prohibited, except pursuant to a license referring to the ruling, importation, after August 25, 1943, any checks, drafts, bills of exchange or promissory notes which had been within or which there was reason to believe had been within any blocked country, except China or members of the generally licensed trade area. In order to make the import prohibition effective, the ruling also imposed a complete prohibition in respect to all dealings in checks or drafts which had been in such countries and imported into the United States on or after August 25, 1943. The ruling required that any checks and drafts imported into the United States after August 25 be sent to the Federal Reserve Bank of New York, where they were held indefinitely since it was not our policy to license the release of such checks and drafts except in very unusual circumstances. The ruling further established a procedure whereby travelers entering or departing from the United States were required to report to the Customs authorities checks, drafts, etc., subject to General Ruling 5A. So far as imports by travelers were con-

cerned, it was also required that any financial instruments subject to the ruling should be surrendered to the Collectors of Customs who were directed to forward all such instruments to the Federal Reserve Bank of New York together with a copy of the report filed by the traveler concerning such instruments. State Department requested the Missions in all foreign countries to publicize General Ruling 5A. In this way it was hoped to secure the cooperation of persons in other parts of the Western Hemisphere in discontinuing the practice of sending dollar checks and drafts to blocked countries. It was also hoped that banks and other persons in blocked countries would refuse to accept or negotiate dollar checks and drafts, thereby rendering valueless such instruments as may be sent to blocked countries. Communications were sent to United States censorship stations and British censorship stations providing for the condemnation of checks and drafts whenever found. This condemnation did not mean destruction but that the instruments were detained for the duration in the censorship files. A special procedure was adopted at the request of the State Department to permit United States employees in blocked countries to make payments by check to payees in the United States and to obtain needed supplies of local currency through the encashment of checks drawn on their checking accounts in the United States. The Missions in blocked countries were authorized to make arrangements with local banks whereby United States Government employees would be able to cash personal checks payable to the order of such banks. The banks with which arrangements were made endorsed the checks over to their correspondent banks in the United States and forwarded them through

the facilities of the State Department. The Missions were also authorized to transmit to the United States by pouch checks drawn by United States Government employees on their accounts in the United States which were made payable to persons in the United States, in order that government employees could pay such obligations as life insurance premiums, etc. In either case, the checks were examined by the State Department before being transmitted to the addressees in the United States and were stamped in such a manner as to waive the provisions of General Ruling No. 5A if the checks conformed with the established requirements.

(c) Hearings for unblocking - General Ruling No. 13.

It has already been indicated above that the new Executive Order reposed in the Secretary of the Treasury tremendous powers when it gave him the power to block on an ad hoc basis even American citizens if he found they were acting for or on behalf of a blocked country. It has also been pointed out that in the initial exercise of this power the Secretary proceeded with considerable caution. However, with the onset of the war and emotions running high it was fair to say that the power was exercised with less restraint and American citizens were blocked as German nationals without providing such persons with an opportunity to prove otherwise. In effect, therefore, by blocking the accounts of an American citizen as those of a German we could be criticized for depriving such person of important rights without due process of law.

Although it was recognized that the exigencies of war demanded certain extreme measures, certain Treasury officials were cognizant of the

fact that administrative processes should be handled with great caution even during the war; that American citizens should not be labelled as German; that they should not have all their funds tightly frozen without some adequate measures being provided to such persons to explain certain of their activities to appropriate Treasury officials before too much damage was done.

Six months after the war Treasury officials proceeded to develop a program to insure the protection of the inalienable rights of American citizens. During that time, many American citizens were blocked and one in particular, an American citizen in California, sued the Secretary of the Treasury after he was blocked as a German national. Although the case actually was settled out of court to the satisfaction of the Treasury, Treasury officials were convinced by the position taken by the American citizen in this case. One of the main arguments he made was that it was unconstitutional for the Treasury not to have provided for a procedure entitling him to a hearing to determine whether or not his accounts should be unblocked. Although Section 5(b) did not provide for a hearing and some courts have held that the statute must make provision for such a hearing before a person can maintain he is entitled to such a hearing, there are other decisions that provide that a statute does not necessarily have to provide for a hearing under these circumstances.

Treasury officials, however, felt that it would be most expedient and in the interest of sustaining the administrative law process to make some provision permitting a person, affected by a Treasury blocking order, a hearing permitting him to show why he should be unblocked. To this end a very simple ruling, General Ruling No. 13, was issued on May 22, 1942, merely providing that certain forms were available with the Treasury Department

to persons who desired to apply for a hearing on an application to be unblocked on the ground that he is not a national of a blocked country. This was a tremendous step forward in the administrative procedures of Foreign Funds Control and made the exercise of the ad hoc blocking power sustainable in the United States courts.

In the case of *Hartmann v Federal Reserve Bank of Philadelphia*, (U.S.D.C, E.D. Pa) the plaintiff, an American citizen, brought an action for injunctive relief against the Federal Reserve Bank of Philadelphia challenging the validity of the action of the Treasury Department in ad hoc blocking his assets. Hartmann alleged that inasmuch as he was a citizen and resident of the United States, he was not a national of a foreign country and that the action of the Treasury Department effected through the instrumentality of the Federal Reserve Bank deprived him of his property without due process of law. He further alleged that the defendant acted without authority "whether acting as an agency of the United States or otherwise" to "block" his bank account. The Federal Reserve Bank moved to dismiss the complaint on the ground that the Secretary of the Treasury is an indispensable party to an action of this kind and also on the ground that the plaintiff could not resort to judicial review until he had exhausted his administrative remedy, provided by the Secretary of the Treasury in General Ruling No. 13.

The court agreed with the defendant on both counts and dismissed the complaint holding that "the motion to dismiss the complaint on the ground that the Secretary of the Treasury is an indispensable party must be granted" and that since he "may be sued only in the District of Columbia. . . he cannot be made a party in this jurisdiction." The court agreed with the contention

of the defendant that its functions were of a ministerial character and that "the Secretary of the Treasury alone and exclusively is empowered to 'determine' who is a 'national' and to block accounts, and the defendants here simply performed a ministerial function in advising the plaintiff and his bank of the Secretary's determination and action."

Although the conclusion of the court on the question of indispensable party made it academic to consider the other point raised by the defendant, the court added "It must be stated that this point is well taken by the defendant and would of itself warrant a dismissal of the complaint." The court pointed out that the defendant "asserts however, and properly so, that judicial review may not be had until the remedies prescribed by General Ruling No. 13 have been exhausted. The Secretary of the Treasury has provided a means whereby an administrative review may be had of this action, with full opportunity for hearing. . . . Here the plaintiff made no attempt to explore the administrative remedy which is available to him and that failure is fatal to his present action."

(d) Regulations with respect to unlicensed transfers - General Ruling 12.

General Ruling No. 12 which was issued on April 21, 1942 was a basic Treasury document and like General Ruling 11 directly implements the freezing control. In effect it provides that no transfer with respect to blocked property is valid without a Treasury license. In order to understand fully the implications of General Ruling 12 it is important to outline at the outset one of the principal cases with which Foreign Funds Control was faced early in its war operations — the Polish Relief case (Commission for Polish Relief, Ltd. v. Banca Nationale a Rumaniei (National Bank of Rumania), (1942) 288 N.Y. 332, 43 N.E. (2d) 345).

In October, 1939, the Central Bank of Poland delivered gold of the value of about \$3,000,000 to the Central Bank of Rumania in Rumania. At that time Poland had been overrun by the Germans. Rumania was still a neutral country in spirit as well as in letter. The Rumanians took the Polish gold in order to prevent it from falling into the hands of the Axis. In April 1940, the Polish bank transferred its interest in the gold to a so-called American company which was really a commission set up to provide Polish relief. In May 1940, the Polish Relief Organization demanded the gold from the Rumanian Bank and such demand was refused. In December 1940, the Polish Relief Commission sued the Bank of Rumania for the conversion of the gold and attached some \$4,000,000 in Rumanian gold which was on deposit in several New York banks.

The Rumanian Bank moved to vacate the attachment contending that under Executive Order No. 8389 its deposits with New York banks were wholly unattachable and in the absence of a license by the Secretary of the Treasury, there could be no jurisdiction acquired by a New York court. The lower court in New York up-held the Polish relief organization's right to attach these assets. In doing so, the lower court reasoned that since the Rumanian Government could assign such gold, the plaintiff might attach it.

It was the implications of this position which caused the Government to appear in the case amicus curiae. If the court in New York stated that assets blocked in the United States were subject to attachment because they might be assigned without license, it meant, in effect, that persons under the domination of the Axis in Europe could be forced to assign their assets in Europe, either to the Axis or more probably to neutral cloaks; as a result, although we might keep assets technically blocked, the beneficial interest in such assets might be wrested from the true owners in occupied countries and

flow to the benefit of the Axis. This went right to the heart of the freezing control.

Actually, we were concerned with this problem as early as June 1940 when a general ruling along the following lines was drafted:

"Notice is hereby given that no license authorizing the transfer of property directly or indirectly by an invaded country or national thereof to an invading country or national thereof will be issued under Executive Order 8389, as amended. The United States will not recognize any such attempted transfer but will treat the same as being null and void."

A memorandum was prepared to the President at the same time stating this ruling was consistent with the announcement that he had made that the United States would not recognize any transfer of any Western Hemisphere possession from one non-American power to another. This ruling was not issued.

The problem, however, continued to concern Treasury officials. The Polish relief case tended to increase our fears. It was recognized that the decision of the lower court in this case could certainly have given rise to hopes on the other side, at least, that the courts of the United States might recognize that such assignments were valid and that the beneficial interests in the assets could be transferred. The case was appealed to the Court of Appeals in New York, and at that time, the Government decided to appear Amicus curiae and plead our position.

One thing that bothered a number of persons in the Treasury in arguing the case was that under Section 5(b), as amended, the Government had express power to declare transfers null and void. That power had not been

expressly used by the Treasury Department and instead we were apparently going into the court and arguing that the fact that the transfer was not licensed by this government made it void. Many felt that we should exhaust the powers of the government in making such transactions void and then go to the court with the proposition that the Executive and the Congress had done everything in their power to make these transfers void and that it was up to the court, in effect, to back us up. That was in general, the position we took when we issued General Ruling 12 the day before we filed our brief in the case as amicus curiae.

General Ruling 12 provided that (1) any attempt to assign or otherwise transfer interest in an account that is blocked is void, (2) any transfer made after the effective date of the Order, even before an account was blocked, was unenforceable with respect to property in a blocked account. In other words, once the account had been blocked, even a transfer prior to the blocking was unenforceable unless licensed by Foreign Funds Control; and (3) licenses were required to validate transfers made before the effective date of the Order unless the person to whom the transfer was effected had written notice of the transfer before the effective date of the Order. In addition, the ruling provided that if a transfer was licensed either before or after the fact that transfer is just as good as though General Ruling 12 or the freezing control had never been issued. A further provision in the ruling provided that the judgment a person obtained gave that person no greater right than the owner of that blocked property could give such person voluntarily without a license. In other words the judgment as far as the freezing control was concerned was put in precisely the same position as an ordinary payment order.

"Transfer" was defined broadly to include "any actual or purported act or transaction, the purpose, intent, or effect of which was to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing included the making, execution, or delivery of any assignments.

In issuing the General Ruling the Secretary of the Treasury stated that "unlicensed transfers of blocked assets always have been void and unenforceable under the freezing orders and that today's ruling serves the purpose of emphasizing this fact for the benefit of any of the public who may have overlooked this aspect of freezing control."

In the brief, specific reference was made to General Ruling No. 12. We took the position that any unlicensed transfer was void; that, however, we did not object to the attachment actions so long as any judgment resulting therefrom would confer upon the party obtaining the judgment no right greater than the owner of the blocked account might voluntarily transfer, which right we said was nothing, unless we licensed it. In other words, we said that the owner of a blocked account can transfer no interest in that account, unless the transfer is licensed by the Treasury; that a Treasury license permits the transfer of any interest in the blocked account which we have licensed. We then said that a judgment against blocked assets can confer no greater right than could be obtained if the owner of the blocked account had voluntarily attempted to transfer the assets to the judgment creditor, which means that the judgment transfers no real interest unless the Treasury licenses the transfer.

The Court of Appeals handed down a very interesting decision. The Court held, in effect, that no transfer was valid without a license. However, it further indicated that there was an attachable interest in the gold but that

the interest or whatever was acquired would be subject to a license by the Treasury Department. The dissenting opinion categorically said that the assets were not attachable.

It was always the view of the Treasury that the Court of Appeals unequivocally decided the issue presented in this case in favor of the government's position that an attachment of the blocked funds was prohibited by Executive Order 8389 except pursuant to Treasury license. The point on which the Court differed was the question as to whether an attachment subject to license, which would create or transfer an interest in the attached property only as the appropriate license were forthcoming, could serve as a basis for jurisdiction over the non-resident defendant. The majority of the court thought it could. Pointing out that the New York banks unquestionably owed debts to the defendant, the Rumanian Bank, which could serve as a *res* sufficient to confer jurisdiction over the defendant, it said:

"The Executive Order did not prohibit attachment of the conceded interest of the defendant in the credits upon which the levies were made. For all we know, payment of the blocked accounts to the credit of this action can be permitted consistently with the purpose of the Order. We are not to presuppose that this will inevitably be refused in event of a judgment for the plaintiff. The *lein* of an attachment is always hypothetical in some degree. A 'seizure subject to license' was, we think, sufficient for the purpose of jurisdiction *in rem* over the deposits in question."

The dissenters thought it could not. Thus, Judge Finch said: "No effective levy can be made where the right which is sought to be attached is not a right *in praesenti* or *in futuro*, but

is merely a right based upon a contingency which may or may not happen in the future."

"What the plaintiff is seeking here is a res sufficiently illusory not to fall within the all-inclusive prohibition of the Executive Order and at the same time to be sufficiently substantial to afford a basis for jurisdiction. In my opinion such inconsistency seeks the impossible. Hence within the authorities no attachment is possible."

That this issue of the nature of an attachable interest on the New York law was the only issue on which the court differed is made plain by the following further statement of Judge Finch:

"If I understand the difference of opinion in this court, it is that (the majority) take the position that a transfer by attachment may be made conditioned upon a subsequent releasing of the deposits by the Secretary of the Treasury."

Both the majority and the dissenting opinions in the Polish Relief case thus rejected the view that a transfer of ownership in blocked property could be made without a Treasury license. Both opinions regarded the attachment as "hypothetical" and "subject to license" in the sense that it would create no lien and transfer no interest except with the license of the Treasury Department. The majority regarded such an attachment as affording a sufficient basis for the exercise of jurisdiction, while the dissenters thought it was not. In short, there was no real difference of opinion as to the effect of the freezing regulations; the majority and the dissenters differed only on the question of the sort of interest needed to permit the courts of New York to exercise by attachment jurisdiction over a non-resident defendant.

The implications of General Ruling No. 12 were again raised in 1944 in the *Singer v. Yokohama Specie Bank*, 293 N.Y. 542, 58 N.E. 2d 726 (1944).

The *Singer* case arose out of the attempt of the Standard Vacuum Oil Company in Japan to remit money to its New York head office. After Executive Order 8389 became effective for Japan, Standard delivered yen to the Yokohama Specie Bank in Japan with instructions to pay the dollar equivalent to Standard in New York. The Yokohama Specie Bank instructed its New York agency accordingly, and the New York Agency acknowledged receipt of those instructions to Standard in New York. Upon the outbreak of war with Japan, the New York Agency of the Bank was placed in liquidation pursuant to Section 606 of the New York banking law and the plaintiff, as Standard's assignee, files a claim under that section. Under Section 606 only creditors of the Bank whose claims arose out of the transaction had by it with the New York agency were entitled to share in the New York assets of the Bank. The Court of Appeals held the facts alleged in the affidavits before it served to create an obligation in favor of Standard enforceable against the New York Agency. The Court further held the fact that Federal regulations governing transactions in foreign exchange "prevented the payment to Standard until a Treasury license was procured did not make conditional this obligation of the New York Agency to make the payment to Standard."

Actually, therefore, on the face of the opinion itself that the Court did not purport to pass upon the question whether an assignment by a "national" of a blocked country of property held in a blocked account in a domestic bank is effective to create an interest in such property. The *Singer* decision, according to Treasury officials, must accordingly be read as assuming that no transaction was there presented which was prohibited

by Executive Order 8389 or General Ruling No. 12, and that therefore the granting of a license was not a prerequisite to an unqualified judgment in favor of Singer, but was merely a condition to the payment of that judgment.

To further qualify the Treasury position in General Ruling 12 it issued in August, 1946 Public Circular No. 31. This Circular attempted to further crystallize the Treasury view with respect to/attachments against blocked property. It emphasized in the first instance that under Paragraph 1 of General Ruling No. 12, interests in blocked property cannot be acquired, transferred, or created by unlicensed "transfers". It was further indicated that an unlicensed transfer may not be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any blocked property. It pointed out specifically that an attachment constituted a "transfer" under General Ruling No. 12, and provided that an unlicensed attachment could not operate to transfer or create any interest in blocked property. The Circular further emphasized the significance of Paragraph 4 of General Ruling No. 12 which indicated that the Treasury had no desire to interfere with the orderly consideration of cases by the Court provided that the results of court proceedings were subject to the same policy consideration from the point of view of freezing control as those arising from voluntary action of the parties. In this connection, it pointed out that this paragraph did not constitute a license authorizing the seizure or creation of any interest in blocked property by attachment proceedings or other legal process. Thus, the Treasury did not desire to interfere with such litigation provided it was understood that the judicial process cannot without a license or other authorization from the Secretary of the Treasury, operate to transfer or create any interest in blocked property. Subsequently, in the case of *Markham v. Taylor*, 70 f. Supp. 202 (1947), the Treasury's position with respect to

General Ruling No. 12 was further clarified. In this case, the Alien Property Custodian had bested "all right, title and interest" of AEM, an Austrian cooperative society, in certain funds held by ASCAP, an American association. One question before the court was whether Propper, by his appointment after the effective date of Executive Order 8389 as permanent receiver of ASCAP, had acquired title to the funds prior to the issuance of the Custodian's vesting order. The court held that in the absence of a license by the Secretary of the Treasury, Propper's appointment as receiver gave him no interest in the funds. After setting out applicable provisions of Executive Order 8389, the court said:

"Clearly, under the language of this Order, any unlicensed transfer of the AEM funds held by ASCAP was expressly prohibited. And this prohibition was as applicable to a transfer by judicial process as to a transfer by voluntary act. Even if there were any doubt on that subject, which I do not entertain, this doubt was completely removed by the interpretative General Ruling No. 12 issued by the Secretary of the Treasury on April 21, 1942. Under this Ruling it was provided in Section (1) that any unlicensed transfer of funds, such as involved in the present action, was "null and void"; and in Section (4) that no transfer of such funds by judicial process created a greater right than the owner of the funds could have conferred by voluntary act prior to the issuance of a license. In view of these prohibitions of the Executive Order I do not think that the defendant Propper obtained any title to the AEM funds held by

ASCAP on his appointment as permanent receiver on September 29, 1941.

The issue was again presented in 1947 in *Leeds v. Katzeinstein*, where the plaintiff claimed a right to the deposit and securities in the name of the defendant based on an alleged assignment to him by the defendant after the effective date of the Order and without Treasury license. The Lower Court in New York held for the plaintiff and ordered the defense stricken and that the defendant was incapable of passing title to the blocked property since the assignment had never been licensed by the U. S. Treasury.

(e) Disclosure of beneficial interest in security accounts - General Ruling No. 17.

Every banker knows that 99 percent, if not all, of the securities held by American bankers in accounts in the names of foreign banks and other financial institutions are the property, not of such foreign banks, but of their customers. The TFR-300 reports filed by American bankers testify that there are very few instances in which the American banks know the name and nationality of the customer to whom the securities actually belong. Under these circumstances it soon became clear to officials of Foreign Funds Control that the freezing control was ineffective in an important area, in that foreign banks and other financial institutions could freely transfer on their books securities held in blocked accounts in their names in the United States.

For example, let us suppose that Mr. Dupont, a Frenchman in Paris, had 1000 shares of Bethlehem Steel with a Geneva Bank and that the 1000 shares had been deposited by the Geneva bank in an account in its own name in a

New York bank. The Geneva Bank's account with the New York bank was blocked in June, 1941. However, the New York bank knows nothing of Dupont's ownership of the 1000 shares of Bethlehem Steel in the account of the Geneva bank and there was nothing prior to the provisions made by General Ruling No. 17 which would effectively stop the Geneva bank from accepting instructions from Dupont to transfer ownership of the 1000 shares of Bethlehem Steel on its books. Thus, Dupont was "free" to instruct the Geneva bank to transfer his Bethlehem Steel shares on its book to Hans Schmidt, a resident of Germany, and there was nothing in the Control to stop the Geneva bank from complying with such instructions. Once the securities were transferred to Schmidt on the books of the Geneva bank, Schmidt was in a position to sell those securities to any Swiss, Spaniard or Portuguese. Thus, securities held in blocked accounts of foreign banks offered the Germans a means of securing foreign exchange or any other commodity that was available and needed.

General Ruling No. 17, promulgated on October 30, 1943, was directed precisely toward preventing this situation, that is, the unlicensed transfer on the books of a foreign bank or other financial institution located in a foreign country held in the name of such bank or other financial institution with an American bank. The General Ruling proceeded upon the assumption that freezing meant freezing of ownership in a particular person.

The basic prohibition of General Ruling No. 17 was against the effectuation of any transfer with respect to securities in a blocked account of a foreign bank or other financial institution unless the American bank with whom the securities were deposited knew the name and nationality of the beneficial owner of the securities and of all transfers with respect to

such securities since April 8, 1940 or since the date of the deposit of the securities into the account, whichever was later. The prohibition went to the sale and purchase of securities and to the receipt of dividends, interest and other income on securities. If this prohibition had been left without exception, there would be no transaction or very few transactions in blocked securities accounts. Recognizing that in many cases it was not politic for the name and nationality of a particular beneficial owner of securities in its account, the ruling provided for a certification procedure whereby a foreign bank in whose name securities were held could certify that no person in a blocked country has or has had an interest in those securities since April 8, 1940 or since the date on which the securities were placed into the account, whichever was later, and that books and records of the certifying bank would be made available upon request to the consular or diplomatic officers of the United States in support of such certification. When such certification was made, securities could be bought and sold and dividends and income thereon equally as though the American bank had full knowledge at hand.

In order to avoid creating additional burdens for domestic coupon and dividend paying agents and to minimize possible losses where neither such information or certification was available the ruling also permitted sales of securities and receipt of dividends and interest thereon provided the proceeds were deposited in a General Ruling No. 6 account.

The General Ruling contained several reporting requirements including a requirement that when an American bank gets information with respect to the ownership of securities which was not reported before it must file an appropriate new or amended TFR-300 report even though no previous TFR-300 report was required.

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The new regulations exempted from their operation every transaction effected under the general licenses extended to Portugal, Spain, Sweden, or Switzerland or to their central banks. These general licenses contained restrictive provisions similar to those incorporated into the new regulations. The Swedish Government, sometime prior to the issuance of the ruling had arranged to segregate the securities held in the United States in accounts of Swedish financial institutions, owned by nationals of other countries from those owned only by Swedish nationals. With respect to the latter the Swedes certified operations under the Swedish general license and thus their nationals were not inconvenienced by the ruling insofar as their legitimate and bona fide transactions were concerned. The Swiss, however, had never made such a segregation. Moreover they had always been unwilling to take the responsibility of certifying any transactions under the Swiss general license, except those which were solely for government or central bank accounts.

Essentially, General Ruling No. 17 was a Swiss problem. This was due to the Swiss secrecy law under which Swiss institutions were either unable or unwilling to furnish the information or to obtain it from their clients.

In 1944 a group of Swiss bankers conferred with Treasury officials in Washington to explore possibilities of working out a substitute for General Ruling No. 17, a procedure for facilitating the unblocking of Swiss assets.

They explained the "Convention G.B." which was sponsored by the Swiss Bankers Association and accepted by the British as a basis for payment

of income on Sterling securities — certain banks, designated as Class A and comprising seventy of the largest banks, could certify in affidavit form the non-enemy character, since September 1939, of Sterling investments. Class B banks, about sixty in number, could likewise sign such affidavit forms but the affidavit does not become valid until counter-signed either by the Swiss Bankers Association or a Class A bank.

In addition, the Swiss Bankers Association promulgated unilaterally Convention A and Convention L. Convention A was applicable to all foreign securities traded in Switzerland. Under this convention, a bank certified that since a certain date, generally September 2, 1939, the securities have been continuously held by Swiss nationals permanently residing in Switzerland, or by corporations which had been determined as Swiss corporations by the Swiss Bankers Association. The purpose was to facilitate the marketability of such securities and enable prospective purchasers to be assured to a certain extent, that he was buying a "clean" security. This convention covers more than the 130 banks under the "Convention G.B." since practically all firms which were members of the Swiss Bank Association, which included practically all banks, could validly sign such affidavits on their own signature.

Affidavits under Convention L were in two forms and had a more limited purpose than those made under Convention A. Affidavits under Convention merely certified that the securities had been in Switzerland on or before June 1, 1944 and since that date belonged to a Swiss resident or a recognized Swiss corporation. Another form of this affidavit could certify that the securities had been deposited since September 2, 1939, or perhaps some later date, but did not make any representation as to the nationality or residence of the owner.

Under the standards imposed by the Swiss Bankers Association, a corporation was a Swiss corporation if it had a predominant Swiss interest. Fifty-one percent would suffice for that purpose, although the delegation sought to assure us that generally the percentage was much greater. The delegation felt that if it suited the British, perhaps they could find a common meeting ground with us.

Many of the defects of these affidavit conventions were self-evident — even those in Convention G.B. The Swiss banks, by virtue of possession of the security to be verified, took the position that they could thus prove at any time from their own books the correctness of the affidavit. Knowing the Swiss predilection for family trusts, holding companies, retention of bearer stock by notaries, attorneys and the like, the use of fides comi, safety deposit boxes, all under the protection of the Swiss secrecy laws, it was difficult to understand how a Swiss bank could determine from its own books whether the ostensible owner was or was not a cloak for an enemy. Under all of these conventions, no one could examine or inspect the books of the Swiss banks to determine the accuracy of any declaration. None of the conventions applied to cash accounts or the proceeds of securities. Certain of the conventions did not even make any representation with respect to ownership. Even Convention G.B. did not do more than permit the Swiss bank to collect income on Sterling securities. Despite our persistent inquiry, the delegation could not satisfy us that Swiss banks were in a position, in view of the secrecy law, to go behind the bank's record of nominal title.

Accordingly, the delegation was advised that any procedure as Convention G.B. or any adaptation thereof was not acceptable in view of their intention to comply strictly with and to leave unchallenged their secrecy laws. Responsibility for determining Swiss ownership under these self-imposed limitations could not be left by this Government to a private association of bankers. If the Swiss Government or any organization acting as its agency, would not certify to a transaction, this Government could not be expected to accept any lesser form.

The Swiss showed no disposition on their part to free their hands by recommending to their own Government any modification of their self-imposed limitations under the secrecy law. Since the Swiss did not seem willing to solve this problem on their own, it seemed incumbent upon this Government, in enforcing its own regulations, to strengthen the ruling to force disclosure of accurate information. Thus, it was considered that both certifications and identifications should be verified by the financial institution involved and should be backed up by a pledge to produce satisfactory documentary evidence to this Government, notwithstanding any secrecy law, and if the beneficial owner was alleged to be "pure Swiss", the certification and identification could be further supported by affidavit and documentary evidence of such owner. In the absence of such certification or identification, the ruling should provide that no transaction of any kind may take place in such an account.

The Swiss secrecy law in its operation was further facilitated by the device of the omnibus account. The omnibus account is merely the account which one financial institution maintains in its own name with another financial institution in which are kept funds and securities of its own, together with

those of its customers. It may be one account which is only broken down on the books of the depositing institution, or it may be sub-divided into various sub-accounts or rubric accounts. In order to combat the cloaking aspects of the use of an otherwise normal banking procedure, especially as employed by neutral countries, it was also considered desirable in strengthening General Ruling No. 17 to require a complete sub-division of the omnibus account so that each sub-account would represent not only the security but also the cash of each customer of the bank in whose name the omnibus account is maintained. This would make concealment not only expensive, to the customer, but, unless they desired to risk violation of our laws and attendant criminal penalties, impractical. Not only would a breakdown of cash, as well as security account, have forestalled concealment and forced disclosure of non-Swiss assets already here, but it would have furnished an example to the other United Nations who had experienced a flight of capital to Switzerland, in illustrating to them how they might uncover this flight and enable it to force its subjects to reverse the procedure. Concealment in other countries, as well as the United States, would become quite unattractive and would result in the deflation of Switzerland as an international haven and banking center.

There was considerable doubt as to whether, if the Swiss Government should commence to utilize General License No. 50 for securities transactions, we should allow such practice to continue. Under General License 50, it would be necessary only to show a "pure Swiss" interest in a transaction since June 14, 1941; there was not requirement on the part of the Swiss Government or the Swiss National Bank to reveal the names of the parties involved (which to a certain extent is even required under the Convention G.B.)

nor to furnish the evidence upon which the certification was based. If it should develop that the Swiss Government was prepared to undertake certifications for securities transactions, there remained the problem as to whether the Swiss Government should then be advised not to utilize General License No. 50 for that purpose and that a separate more stringent security certification license would be issued.

During the period of discussions with the Swiss respecting their desires to alleviate the effects of General Ruling No. 17 on their operations, Treasury officials were ^{explaining} ways and means of tightening up on General Ruling No. 17 to defeat Swiss banking practices to the extent they conflicted with our national security. It was the feeling of certain Treasury officials that the Swiss banking structure was entirely out of proportion to the economy of the country; that the Swiss have been able to build up their banking business to a large extent through the device of the omnibus account surrounded by laws assuring secrecy; that by destroying the omnibus account we would not only be reducing Swiss holdings but would also be serving notice on other countries that they cannot, by using the same device, develop an unwarranted position in international finance; and that other countries would be shown that they too could break down the omnibus account to protect their monetary system and prevent flight of capital.

An amended General Ruling No. 17 was, in fact, drafted, with a view to defeating the Swiss banking practices. Although it never was issued, it would be useful to describe the main points of this proposed ruling.

- (1) Securities. Securities in omnibus accounts could not be purchased or sold and income could not be received unless the securities had been

identified or certified and the domestic bank had deposited the securities (in case of purchase), or the proceeds of sale, or the securities and the income received thereon, in a sub-account. When securities were identified the sub-account was required to be in the name of the beneficial owner or owners; where the securities were certified, the sub-account was required to be identified by the number given to the certification. The foreign bank was required to arrange for one certification number for all transactions effected by a domestic bank for the same owner.

Requirements for identification. The foreign bank or other financial institution in whose name the account was maintained was required to furnish the name, address, citizenship and nationality, as defined by the Order, of the beneficial owners of the securities since April 8, 1940, or the date the securities were received into the account, whichever was later. In addition, the foreign bank was required to certify that it would submit satisfactory evidence to substantiate this information. If the identified owner was a national of a country which was not a member of the United Nations, the foreign bank was required to further certify that it possessed a verified statement signed by the owner which declared that no other person had any interest, direct or indirect in the securities and that such owner would submit satisfactory evidence to substantiate that statement and the information submitted with respect to ownership.

Requirements for certification. The foreign bank or other financial institution in whose name the account is maintained was required to certify that no person who was a national of a blocked country other than the country in which such bank or institution was located, and that no person on the Proclaimed List had an interest in the securities since April 8, 1940, or the date such securities were received into the account, whichever was later. The foreign bank would thereby agree to furnish a verified statement of ownership, and, upon request, satisfactory evidence substantiating the same. If the certified owner of the securities was a national of a country which was not a member of the United Nations, the foreign bank or other financial institution was required also to certify that it possessed a verified statement signed by the owner which declared that no other person had any interest, direct or indirect, in the securities and that such owner would upon request submit satisfactory evidence to substantiate that statement and the information submitted with respect to his ownership.

General Ruling No. 6 accounts. Securities, as well as income (when income is received) and proceeds of sale, if no certification or identification is secured, must be placed in a General Ruling No. 6 account.

(ii) Sub-accounts for cash. On or before four (or six) months from the date of the issuance of the amended ruling, the foreign bank or other financial institution in whose name any account or accounts were maintained with domestic banks, were required to instruct the domestic banks to credit to sub-accounts a total amount equivalent to the total balance

in all dollar accounts maintained, as of the date of the amendment, with such foreign banks or other financial institution. A separate sub-account was required to be established in an amount equal to the balance in each dollar account maintained with the foreign bank. Each sub-account was required to be in the name of each person who had a beneficial interest in the corresponding dollar account and accompanied by pertinent information as to address, citizenship and nationality under the Order. The foreign bank was also required to submit to the Treasury Department, on or before four (or six) months from the date of the issuance of this amendment a verified statement disclosing the total balance in each dollar account maintained with it as of the date of this amendment so that we could, if we chose, correlate and check the information which the domestic banks would receive.

Enforcement and regulation of sub-accounts. All dealings in securities and all debits to cash accounts were to be prohibited after the four (or six) month period unless the domestic bank had received the necessary instructions from the foreign bank, had set up sub-accounts as instructed, and, in addition, had received a certification from the foreign bank that it would produce satisfactory evidence to substantiate the information submitted.

(iii) Non-recognition of interest. The creation of sub-accounts was separately authorized with the proviso that no property interest or transactions in violation of the freezing control would be recognized thereby.

(iv) Reporting. No reports on Form TFE-300, including the original series, were required.

(v) Application of Ruling to Argentina. Argentina was to be considered a blocked country for the purpose of the amended general ruling.

Actually, no progress was made in securing Swiss compliance with General Ruling No. 17. However, the matter was finally resolved by instituting the defrosting procedure for Switzerland which will be described in the following chapter.

(f) Census of American Property Abroad - TFR-500

As the area of the Control widened, particularly after the commencement of war, the government's need of detailed knowledge of American interests and relationships abroad constantly increased. Such information was required not only for the operations of Foreign Funds Control but for the work of other governmental agencies which involved economic financial and commercial relations with foreign countries and their nationals.

The Treasury, under Special Regulation No. 1, required reports on Form TFR-500 with respect to all property in foreign countries in which any person subject to the jurisdiction of the United States had an interest on May 31, 1943. This report applied not only to tangible property but to all intangible property issued or created by foreign countries or by persons within such countries, as, for example, bonds issued by a foreign government whether or not payable in dollars. Also currency or coin, financial securities and negotiable instruments issued or created by the United States or any agency or person within the United States, came within the scope of this census whenever such property was situated in a foreign country or held in the custody of a person in a foreign country on the reporting date.

As a result of the census on Form TFR-500, information was received on the size and scope of American-owned assets in foreign countries. The

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total of foreign assets owned in the United States on May 31, 1943 as reported on TFR-500's was \$13,542,000. It was widely distributed throughout the country and held by all types of persons. More than 215,000 individuals, corporations and other organizations in the United States reported the ownership of foreign assets. Of 168,000 individuals reporting, 27,000 were citizens of foreign countries and two-thirds of these came to this country after 1937. Individuals owned \$3,570,000 of assets in foreign countries; approximately 12,000 corporations and other profit organizations reported ownership of \$8,866,000 of assets, while estates and trusts and non-profit organizations owned \$1,106,000.

(g) Directive Licenses

Title III of the First War Powers Act contained a grant of power not encompassed in the Trading with the enemy Act of 1917. This was the power to issue directive licenses, which enabled the Secretary of the Treasury, under the President's delegation of authority, to direct any person or institution holding blocked property to dispose of it.

Detailed data were accumulated by Foreign Funds Control with respect to ownership, location, and strategic value of millions of dollars worth of merchandise held for foreign account, stranded in the United States largely because of the interference of the war in shipping plans. It was found that much of this property was of a strategic nature in the war effort, but could not be sold by the person having custody thereof, as he lacked the authority to make such a sale. Under the directive license without liability upon this holder the property was placed, through sale, in normal commercial channels. Particular property went directly to the Army or Navy or to persons having immediate need for it in the war effort. Also the moving of

material, which could not otherwise have been sold, had the advantage of making space available in warehouses and on docks to meet the increased demands for the war effort. Not infrequently, it was found that a payment out of blocked property or a sale was in the interest of the national who was the owner. Proceeds from a sale was placed in a blocked account to the credit of the national having an interest in the property.

Pursuant to a strong request from the War Production Board, a license was issued in February, 1941, directing (a) the destruction of a large abandoned industrial plant in New Castle, Pennsylvania, which was owned by suspect Dutch and French interests, and (b) the sale of scrap materials derived therefrom to the government for its scrap pile. It was indicated that this procedure would provide a rich supply of scrap materials badly needed in the war effort. Another unusual directive called for the sale of a number of long wall coal cutters which had been manufactured early in 1941 for shipment to Algeria. Past efforts to interest domestic buyers were unsuccessful due to the fact that this particular type of coal cutter was not designed to operate under American mining methods. The directive was revoked but efforts to interest a buyer were continued with the result that Lend Lease developed an interest in the machinery. In accordance with their request, the directive was reinstated in order that shipment might be made to North Africa.

The directive licensing power was cautiously used by Foreign Funds Control. The one instance, however, where it was used to further a foreign policy decision of our government deserves some comment.

It will be recalled that in August, 1943 when the President issued his statement with respect to the establishment of the French Committee of

National Liberation, he gave it very limited recognition, stating that he recognized it as functioning within specific limitations. In no event was it to be construed as a recognition of the De Gaulle Government.

In November, 1943, the French Committee, then functioning in North Africa, issued instructions to the French American Banking Corporation to transfer \$2,400,000 from the account of Tresorier General Aux Etats Unis en Comite Francaise de la Liberation Nationals - General Account to J. P. Morgan and Co. Inc. to service requirements of the French Government 7% dollar bonds, due 1947. Advice on the action to be taken on this application was referred to the Department of State.

The Department of State requested the Treasury to deny the application, and instead to issue a directive license for the transfer from official funds of the former French Government this \$2,400,000 required for the service of the French 7's. The Treasury Department was reluctant to exercise this power in this case.

In this connection, the State Department indicated that at that time the foreign policy of this government would be best served by the issuance of this directive license in this case.

By December, 1942, over 600 directives had been issued covering goods valued at approximately \$5,000,000. Of this number over 200 directives were executed involving sales of goods valued at \$1,100,000, one-third of which included iron and steel materials critically needed in the war effort.

In February, 1943, it was determined that directives would no longer be issued in respect to European neutral owned goods — unless such goods were of a strategic nature, occupied strategic warehouse space, as the issuance of a directive was formally requested by another agency of the

Government. Directives covering enemy-owned goods were henceforth issued only after consultation with the Alien Property Custodian. In fact, after February, 1943, the directive licensing power was little used as a consequence of the generally eased storage situation in the country and the further fact that the requisition technique on the part of other government agencies had been perfected to a degree which permitted expeditious replacement of distressed materials.

(h) Import Controls over Art Objects - T. D. 51072.

In 1944 the Treasury Department issued regulations extending import controls to art objects. A Treasury license was required for the release from Customs' custody of art objects worth \$5,000 or more or were of an artistic or historic nature irrespective of material value. Licenses for release were not granted unless satisfactory evidence was submitted as to the origin and prior ownership of such art objects.

This action was taken to prevent the disposition in the United States of art objects which may have been looted by the enemy. This action was taken by Treasury in cooperation with the American Commission for the Protection and Salvation of Artistic and Historic Monuments in War Areas, which was created by the President for the purpose of salvaging those art objects looted by the Axis powers.

(i) Limitation on acquisition of securities for blocked accounts - Public Circular No. 14.

To prevent blocked nationals from acquiring a substantial interest in American corporations during the war, Foreign Funds Control issued Public Circular 14 on February 3, 1942, which initially prohibited the purchase without special license for any blocked account of more than one percent of the outstanding shares of any one class of any corporation. The Circular was subse-

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quently amended in 1944 to raise the restriction on these investments to no more than three percent of the outstanding securities of any American corporation.

(j) Blocking of German and Japanese Assets - General Ruling 11A.

It will be recalled that in 1942 jurisdiction over enemy assets was divided between the Treasury and the Office of Alien Property. The Treasury did not vest any property but relied on its blocking controls, while the Custodian vested the major portion of the assets subject to his jurisdiction. When the division of functions was made it was felt that the liquid enemy assets left within the jurisdiction of the Treasury should be left undisturbed until the basic policy of this government with regard to the ultimate treatment of enemy countries could be clarified. In the spring of 1945, policies were formulated looking toward the elimination of all excess German and Japanese interests in the United States in order to reduce the ability of Germany and Japan to reveal their war potential and to deter future aggression.

In line with this decision, the vesting order was drafted, conferring on the Custodian full power to vest all German and Japanese property including the liquid assets heretofore under the jurisdiction of the Treasury, leaving to the Treasury the responsibility for developing over-all procedures to insure that enemy assets held in the names of nationals of liberated or neutral blocked countries would not be released under the freezing control program.

Further in line with this program, Treasury issued General Ruling 11A which limited withdrawals from blocked German and Japanese accounts pending vesting by the Alien Property Custodian. Specifically, the General Ruling provided that no license or other authorization then outstanding unless expressly referred to in General Ruling 11A was deemed to authorize any payment, transfer or withdrawal from any blocked account if the person with whom

the account was maintained had reasonable cause to believe that any of the following had an interest in the account: (1) the Government of Germany and Japan or any agent, instrumentality or representative of either government; (2) any individual who is a citizen or subject of Germany or Japan, or who at any time on or since December 7, 1941, had been within the territory of either country, or within any other territory while it was designated as "enemy territory" under General Ruling No. 11. (3) Any partnership, association, corporation or other organization which was organized under the laws of or which at any time on or since December 7, 1941 had its principal place of business in any territory of Germany or Japan; and (4) any partnership, association, corporation or other organization situated within any foreign country which was a national of Germany or Japan by reason of the interest therein of any government or person vested by above.

In August, 1946, when the Treasury took action by amending General License No. 42 to unblock all persons in the United States who were not in a blocked country on October 5, 1945, or any organization blocked because of the interest of such an individual. It specifically provided by an amendment to General Ruling 11A that the provision of this new General License No. 42 would not apply to German or Japanese citizens or subjects who on or since December 7, 1941 had been within Germany and Japan or within any other territory while it was occupied by those countries.

On March 4, 1947, General Ruling 11A was further amended to include only Germans and Japanese who had been within Germany, Japan, Italy, Hungary, Bulgaria or Roumania on or since December 1, 1946, instead of the date December 7, 1941. This modification was made since there was no evidence that

any substantial number of Nazis or Japanese left Germany or Japan prior to January 1, 1945 and the former date had had the effect of imposing restrictions on the accounts of bona fide refugees who had fled from Germany prior to that time.

C. Enforcement in United States

It has already been indicated that the legislative and executive authority for Foreign Funds Control provided it with the tools for waging an aggressive economic warfare program. It is not surprising, therefore, that with the onset of the war these tools were utilized to their fullest. This trend was represented in the enforcement operations of the Control which became the pivotal point of

the Control's activities during the entire war period. In this connection, it is important to point out that although a positive enforcement program was developed and executed by the Control in addition to licensing operations, the licensing operations themselves always constituted, in and of themselves, the basic enforcement mechanism of the Control. Licenses were approved or denied only after they had been evaluated in the light of the standard "how much a particular transaction might help or defeat the Allied war effort." In this section, however, the discussion will be restricted primarily to a description of the positive steps, exclusive of the licensing operations taken by the Control to enforce this Government's economic warfare program.

1. Ad Hoc Blocking Program

(a) American citizens

From time to time in the above discussion reference was made to the ad hoc blocking power of the Secretary reposed in him by Executive Order 8389, as amended. It will be recalled that it was recognized early in the June-December, 1941, period that this was a wide grant of power which, if exercised to its fullest, could reach the funds and operations of American citizens in the United States.

The war provided the Treasury with the proper justification for utilizing this power to the fullest. This does not mean, however, that the Treasury was capricious in its exercise. It does mean, however, that where there was any reasonable cause to believe that a person should be controlled to avoid a threat to the Allied war effort that person was subjected to the blocking controls.

At the peak of the program approximately 2000 persons in the United States were blocked on an ad hoc basis by the Secretary of the Treasury. Although we do not have figures concerning the extent of the assets held by these so-called "ad hoc blockees" the aggregate amount thereof must have been considerable as viewed in the light of the following: When the number of "ad hoc blockees" were reduced, in April, 1946, to 360, their assets amounted to some \$57,000,000. Of this amount, \$17,000,000 represented assets belonging to 245 individuals and the balance \$40,000,000 represented the assets of 115 business enterprises.

No criterion were established in advance for determining the basis for subjecting individuals or business enterprises to ad hoc blocking. As indicated above, on an ad hoc basis persons were subjected to this specific control because they were persons whose funds the Treasury found it desirable to control to further the war effort. In retrospect, however, it was found that persons blocked on an ad hoc basis fell into one of the following categories: (1) purchasers of \$10,000 or more of Ruckwanderer marks since September 1, 1939; (2) dealers in food package business involving blocked countries and nationals thereof; (3) persons remitting to blocked countries; (4) members of German American Bund who expressed pro-Nazi ideals or engaged in pro-Nazi activities; (5) persons arrested, indicted or convicted for espionage or treason; (6) persons guilty of violating the Trading with the enemy Act, Selective Service Act or Foreign Agents Registration Act; (7) persons with respect to whom denaturalization proceedings had been effected or with respect to whom such proceedings were pending; (8) questionable organizations considered to be subversive in character; (9) persons in managerial affiliations with such large German-controlled enterprises as General Aniline & Film;

(10) persons suspected of cloaking enemy assets; (1) persons who might serve as media for economic penetration in this country; (12) persons affiliated with persons on the Proclaimed List; and (13) persons who had been the subject of internment proceedings.

It is fair to state that the action against blocked nationals in depriving them of the privileges of general licenses was taken where there may have been only a suspicion of wrong doing.

In the initial exercise of this power and during the early periods of the war the administrative procedure for blocking persons on an ad hoc basis was practically nil. Advice was sent to a Federal Reserve Bank to block the accounts of an individual or firm. No notice was sent to the individual. No effort was made to find all the banks where he might be holding accounts. No steps were taken to insure that the person had available funds to carry on his day-to-day living or operations. In other words, there were no procedures set up to give either the individual adequate protection or this government adequate controls over the subject concerned. It will be recalled that as a result of this lack of administrative procedures the Secretary of the Treasury was sued by an American citizen who had been blocked on an ad hoc basis early in the war. In this connection, as described above, Public Ruling No. 13 was promulgated to insure that the individual was given a fair hearing with a view to showing why he should be unblocked.

In addition, in the spring of 1942, a procedure was clearly defined to guide the Control and the Federal Reserve Banks in the exercise of this ad hoc blocking power. In the first instance the Federal Reserve Banks were given detailed information on the assets of the person subject to the blocking.

The Federal Reserve Banks were instructed to advise the persons subject to the blocking restrictions that they were being blocked; that permission was being made simultaneously for providing them with a living expense license or a business operating license, whichever was appropriate, to permit such person to carry on his daily operations subject to Treasury controls. Moreover, he was advised of his rights under Public Ruling No. 13. Thus, not only was the Government afforded with the means for exercising adequate controls over all the funds of the persons to be controlled but in turn the procedure recognized the rights and privileges of an American citizen or a national of a blocked country living in the United States by permitting them the means for immediate livelihood until he had an opportunity to explain the facts questioned by the Treasury.

The Federal Reserve Banks were instructed to send one form of letter to the banks with which the ad hoc blockee's accounts were held and one form of letter to the blocked person himself. Both letters specified that (1) the Treasury has "reasonable cause to believe" that the principal is a national of a foreign country designated in the Executive Order within the provisions of Section 5(b) of the Trading with the enemy Act; (2) assets held by or on behalf of him were assets in which a national of a foreign country designated in the Order had an interest; (3) assets in which the principal had a direct or indirect interest were to be blocked; (4) no payment transfer or withdrawals could be made except pursuant to a Treasury license; (5) the principal was being deprived of the privileges of certain general licenses; (6) TFB-300's were required to be filed by both banking institutions and the person blocked. In addition, the person blocked was instructed to place in a blocked account in a domestic bank all current

available funds in excess of \$50 and all funds in excess of \$50 per month thereafter received by the principal from any source whatever. Finally, the ad hoc blocked person was advised he could request a hearing pursuant to General Ruling No. 13 if he believed the blocking action to be unwarranted.

Although, as a customary practice, the blocking instructions were usually directed toward freezing all the funds of the persons involved there were some cases where the blocking instructions were drafted to meet specific situations. For example, the instructions went so far as to request the complete liquidation of a firm. In other cases operating licenses were given to the firm only under close supervision of a Treasury representative. In some cases only specific transactions were blocked and stillⁱⁿ/other cases persons were deprived of the privileges of a general license and were only given so that the living expenses were limited to \$200 per month.

Sometime during the latter part of 1944 and even prior to the defeat of Germany we began a rapid review of each of our ad hoc blocked cases in order to ascertain whether we were carrying a lot of "dead wood" and whether the list of ad hoc blocked persons could be reduced in the light of the then prevailing conditions.

The study covered some 890 ad hoc blocked persons. On the basis of this review we were able to unblock some 315 persons because they (a) had purchased or dealt in ruckwanderer marks; (b) had carried on direct or indirect food package business with foreign countries blocked under the Order; (c) were minor Bund officials or Bund members; (d) had merely expressed pro-Nazi sympathies or their pro-Nazi activities were minor in scope; and (e) the Department of Justice had instituted denaturalization proceedings.

In May 1945, following the downfall of Germany, it was decided that those who were ad hoc blocked primarily because of Selective Service Act convictions or because of Foreign Agents Registration Act convictions or because they were denaturalized or denaturalization proceedings were pending against them, should be unblocked if the persons involved held assets of less than \$10,000 each. On this basis an additional 25 persons were unblocked.

In addition to the 340 persons unblocked we deleted 235 persons from this list as a result of the following: 149 cases were transferred to the category of definitionally blocked nationals; 18 were found to have been released to the Alien Property Custodian; and 68 were incorrectly treated as ad hoc blocked persons.

Thus, as of the fall of Japan, there were 315 persons remaining on the ad hoc list. During the following year, vigorous efforts were made to reduce this list as rapidly as possible consistent with our national security so that by June 1946 the ad hoc list contained only the hard core cases and represented the persons who were convicted of espionage and sabotage activities and aided and abetted German economic penetration in this country, or who had been suspected of holding funds for or on behalf of the enemy. In June, 1946, almost a year after the termination of hostilities, it was considered appropriate that the changed circumstances with respect to national security made it possible to lift these special controls with respect to these persons. The revocation of these special restrictions was effected on a blanket basis without regard to the merit of the cases involved. Blocking restrictions were maintained in effect only with respect to the accounts of those persons who the Department of Justice and the Office of Alien Property considered should be subject to these controls in order not to prejudice any of the interests of the

United States Government since these persons were actively involved in pending litigation of this Government.

It was not the practice of the Control to publicize the names of persons blocked by specific action of the Treasury. It adhered to the view that persons dealing with residents of the United States may assume that such residents are not blocked unless they are affirmatively on notice to the contrary.

(b) Internees.

A different procedure was adopted for blocking on an ad hoc basis persons interned by the Government during the war. Initially, the War Department had jurisdiction over the internees. In October, 1942, the Treasury, in conjunction with the War Department formulated the procedure for regulating the utilization and disposition of property owned by civilians interned for the duration of the war. Upon internment, a person was handed a document entitled "Treasury Notification to Civilian Internees of Blocking of Assets and Instructions for Preparation of Financial Report". In effect, this Treasury notification advised the internee that: (a) under the provisions of Section 5(b) of the Trading with the enemy Act and Executive Order 8389, as amended, he was found to be a national of a blocked country; (b) his assets, wherever located, were blocked; (c) payments, transfers, withdrawals or other dealings therein required a Treasury license; (d) all cash and securities other than those in the custody of a commanding officer were transferred to a blocked account; and (e) they were required to file a simplified property report TFR-30; and (f) they were deprived of the following general licenses: General License No. 11 (living expense license); General Licenses Nos. 32, 33, and 75 (relating to remittances abroad) and General Licenses Nos. 28 and 42

(referring to generally licensed national status for American citizens and others). Although internees were deprived of General License No. 11 they were under certain conditions allowed living expenses of not more than \$180 per month, of which \$30 per month was allowed for personal expenses in the internment camp and \$150 per month was allowed for use to support dependents outside the camp and to meet current obligations outside the camp, such as insurance premiums and mortgage payments. If the internees had occasion to require more than \$180 per month he was required to file special applications which were generally referred for action to Washington. In a few cases, such as where the internee wanted to have camp expenditures of more than \$30 per month the appropriate Federal Reserve Bank could take the final action on such applications provided the application was also approved by the camp commander.

The internee program got off to a slow start. By January 2, 1943 only 602 internees were blocked. By May, 1943, a total of 4,174 were blocked. By November, 1946, a total of 5,165 were blocked. Although only 5,165 internees were blocked, approximately 7,000 internees filed financial reports on TFR-30. Of the 2,000 internees who were not blocked but who filed TFR-30's, one-half represented persons brought up from Latin America to the States for internment and they indicated "no assets" in the United States. The balance of 1,000 were not blocked because they had assets of less than \$500 and it was considered advisable to avoid a heavy administrative responsibility in blocking these persons.

The fact that TFR-30 financial reports were received from approximately 7,000 internees does not mean that these were the only persons interned during the war. Actually, it was estimated that over 16,000 persons were

interned in the United States during the war. This figure included the 3,500 persons brought up from Latin America but does not include some 1,400 Hawaiians brought to the mainland for internment; nor does it include some 5,000 renunciants, that is, American born citizens of Japanese origin who renounced their American citizenship. Thus, approximately 5,000 internees did not file TFR-30's. This is probably due to the fact that many were released before our internee blocking program was put into effect and many were wives and children of respective internees. In others it was the case of recalcitrants. But the Treasury did not exert any particular pressure over such persons since it was felt that they were under strict supervision and would constitute little actual threat to the security of our country.

Actually, the assets of the internees were very small. Two sample studies were made by Foreign Funds Control, one in August, 1943, covering 904 financial reports (no renunciants appeared to have been involved); and one in 1946 covering approximately 1,500 financial reports of internees (for interned renunciants exclusively). The first study furnished the following data:

<u>Assets</u>	<u>Percent</u>
0 - \$1,000	54
\$1,000 - 5,000	31
Over 5,000	<u>15</u>
	<u>100</u>

The second study in 1946 for renunciants showed:

<u>Assets</u>	<u>Percent</u>
Under \$ 500	83
\$500 - 1,000	5
1,000 - 5,000	0
Over 5,000	<u>3</u>
	<u>100</u>

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Clearly, the assets held by renunciants were considerably smaller in value than those held by other internees. This can be explained chiefly by the fact that renunciants were represented primarily by persons of younger ages.

2. Investigative Program

(a) Investigative Organization.

Effective enforcement of the freezing demanded "on the spot" investigations of persons and business enterprises which were or might be subject to the Executive Order. In this connection it will be recalled that a small investigative staff was established within Foreign Funds Control after the Executive Order was extended in June, 1941. During this period the investigations were of a routine character, concerning such things as acts purportedly done pursuant to general or special licenses; applications for licenses; reports under general and special licenses; whether a person is a blocked national; where he has his accounts and whether his accounts have been blocked. The staff which operated only out of New York was very small, consisting of investigators assigned to the Control by other investigative agencies of the Treasury.

By September, 1941, it was recognized that the investigations required more than, for example, routine checking of one's operations under a license. For adequate enforcement of the freezing control it was important to conduct exhaustive investigations of enterprises known to be or suspected of being partly or wholly owned or controlled by nationals of blocked countries. This required analysis of their corporate holdings, their banking and financial transactions, the nationality of their owners, and their transactions with nationals of blocked countries. Accordingly, Foreign Funds Control embarked on a recruiting of investigators who had comprehensive knowledge of accounting.

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experience in banking and finance, and general investigative experience.

Immediately after Pearl Harbor, the field investigative work received its real impetus. Field offices were opened in San Francisco and Los Angeles. In January, an office was opened in Chicago. These three new offices, together with the office in New York were headed by Mr. Erwin May, a former Customs man, who reported directly to the Director of Foreign Funds Control.

Subjects for investigations came from various sources. "Tips" given the Director were pursued; suspicions reflected in censorship dispatches were investigated; the licensing division often referred questionable applications for investigation. In addition, as a result of close cooperation between Foreign Funds Control and the other investigative agencies such as the F.B.I., Navy Intelligence, Army Intelligence, the Control was supplied with endless numbers of clues for investigating questionable financial transactions involving blocked assets, or involving persons who might be acting for or on behalf of blocked nationals.

However, it was found early in the war that the types of investigative work carried on by the field investigative staff did not satisfy the requirements for an adequate enforcement of the freezing control. Apparently the personnel of the staff did not receive the guidance to make the requisite comprehensive studies of business enterprises which were subject of investigation. Their investigations were more in the nature of interrogations without any reference to actual books, records, correspondence, etc., the essential ingredients of an adequate investigation. Instead, however, of giving the staff the necessary guidance, new investigative staffs were created in fact, although not in theory. They consisted in the most part of members of the General Counsel's office. Groups of lawyers were, from time to time, sent out

to do a complete investigative job in a particular business enterprise. For example, a group of lawyers were sent in to investigate General Aniline & Film, a job which took over 6 months of field study; another group were sent into American Bosch Corporation to investigate its operations with particular reference to its relationship with Robert Bosch, Stuttgart, Germany. In addition, as Foreign Funds Control itself began to hire personnel with a more selective background and training, it commenced to send out small groups to make investigations of business enterprises.

From the above it is apparent that the organization for the investigative work of Foreign Funds Control was not of the best during the early part of the war. In fact, not only were there these miscellaneous groups operating in the same field, which produced much confusion, lack of coordination and therefore duplication, but the field staff itself was found to be engaging in investigations which were both unproductive and unnecessary. This condition was not permitted to continue for too long.

In the spring of 1942, a reorganization was effected within the Enforcement Division. In the first instance the field staff was made a part of a Section in the Enforcement Division which was charged with the responsibility of not only determining the investigations to be made, but of executing the investigations through the use of the field staff. The determination of investigations to be made and enforcement action to be taken rested with a committee composed of a representative of the Licensing Division, the Enforcement Division and the General Counsel's Office. To this Committee facts were presented and enforcement action to be taken was carefully canvassed by the Committee. As a result, matters to be investigated were carefully selected, objectives of investigations were crystallized;

a method of operation was defined to guide the field staff. When necessary, a representative was sent from Washington to supervise the field staff in the execution of the investigation. As a result no longer were three or four separate groups within Foreign Funds Control operating independently on investigations; no longer were banks or an individual business enterprise approached on the same problem by three or four separate Foreign Funds Control investigative groups; no longer was the staff working on cases which would not be most productive from the enforcement point of view of the Control. Investigations of minor violations were handled in some cases by letters from the Washington office; in other cases they were actually ignored as too petty to deserve further consideration. Emphasis was placed on objectives to be accomplished.

Minutes were kept of the meetings of the Committee on Investigation and Enforcement so that there was always a record available on any cases considered by the Committee, the action recommended, and the reasons for such action.

We cannot discuss the Control's investigative program without referring to the program instituted by Foreign Funds Control in cooperation with the Board of Economic Warfare (subsequently known as FEA) to avoid duplication of investigations by the two agencies. Although the objectives of investigations by the two agencies were different, a single investigative staff could often accomplish the objectives of both agencies. For the most part the cases in this category were precipitated by the censorship dispatches which both agencies examined.

The following is a description of the machinery created to effect this cooperative venture:

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(1) Cases discovered by Foreign Funds Control, which were of primary interest to Foreign Funds Control, were referred to the Foreign Funds Control investigative staff, together with a summary of all relevant information available. At the time Foreign Funds Control decided to make an investigation it sent to BEW a card informing BEW that an investigation was being made of this case. If BEW also had an interest in the matter, they were to inform Foreign Funds Control of their interest and ask that a copy of the investigator's report be sent to them. If BEW and Foreign Funds desired to proceed jointly in dealing with a violation, representatives of the two offices mapped out a plan of joint action.

(2) Cases of violations discovered by Foreign Funds Control, which were deemed to be of primary interest to Export Control or BEW, were referred to BEW with the suggestion that they investigate and keep Foreign Funds Control advised. BEW, at their discretion, assigned the cases to Customs or any other appropriate agency for investigation.

(3) In cases discovered by BEW which they proposed to investigate (except cases in which Foreign Funds Control had no interest), BEW sent to Foreign Funds a card indicating that they were making an investigation. If Foreign Funds had an interest in the outcome of any particular case, they requested BEW to inform them of the results of the investigation.

(4) In cases discovered by BEW which were of interest to both BEW and Foreign Funds Control, BEW submitted the case to Foreign Funds with a request for an investigation. Foreign Funds would then check its records to ascertain whether an investigation of the particular case had already been initiated. If no investigation had been initiated by Foreign Funds, or if investigation had been initiated by Foreign Funds Control, Foreign Funds and

Customs conferred and determined which agency should conduct the investigation or whether a joint investigation should be made.

(b) Sample Investigations

It is impossible to itemize the hundreds of investigations undertaken and the results obtained. However, in 1944 a survey was made of investigations for the period January 1, 1943 to July 1, 1943, to appraise their value. The origins of these investigations, the violations suspected, the amount of funds involved, and the action taken were classified. Of the 258 investigations approved during the period, 31 were pending at the time the study was made and the classification was based on 227 completed cases. It was found that the largest number of cases arose from intercepts, followed by cases referred by the Licensing Division. The other important sources were the Federal Reserve Bank of New York, the Field Staff and other Government Agencies, such as the former OEW and State Department. Approximately 24 percent of the investigations were made solely for informational purposes, as distinguished from those in which violations were suspected. The following is the disposition of those cases in which violations were suspected.

No violation	51.0%
Blocking Action	23.0%
Violations found and no action	16.7%
Reports referred to other agencies for action	6.6%
Miscellaneous action	2.7%

There were 10 business enterprises blocked as a result of these investigations, the total net worth of which was considerably over a million dollars. In addition it was found that some of these enterprises held approximately \$500,000 for blocked nationals which had not been blocked prior to the investigations. The funds held by individuals and blocked nationals amounted to approximately \$700,000.

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The following are a few cases to show the subjects of investigation and results obtained:

Hoffman La Roche, Inc., Nutley, New Jersey

Hoffman La Roche is a subsidiary of a large Swiss chemical company of similar name. The American company had total assets of approximately \$25,000,000. In an endeavor to cloak the ownership of the American company, a Panamanian company known as Sapac was formed and shares were transferred to it, and from Sapac they were transferred to Mr. Bobst, president of the Nutley corporation, who was one of the voting trustees. Thorough investigation was made of this company as it was suspected their activities might possibly be of great assistance to the Germans, inasmuch as they had one of their largest plants in Germany very near the border of Switzerland and that there was a possibility information might be sent to the Swiss company which could have been transmitted to the plant in Germany for their use. It was also suspected that the company had not been operating in accordance with the various rules and regulations of Foreign Funds Control.

The investigation disclosed that the company had in effect been completely indifferent to the Executive Order 8389, and had continued to operate in any manner that it saw fit. Mr. Barell, the head of the Swiss company, had arrived in the United States and had taken over active direction of the American company. It was found that the American company had been running its subsidiary, Roche-Organon, manufacturers of hormones, without reporting to the Control the foreign ownership; that it had been operating without a license for many months; that it had been cooperating closely with Schering, an American subsidiary of a German company. Moreover, investigation disclosed that the American company had been attempting to hold the South

American markets for its parent organization to the possible detriment of American chemical manufacturers.

Inasmuch as the subject was manufacturing material for the War Department, it was difficult to decide what action should be taken, since issuing more restrictive licenses or closing the company down would interfere with the war effort. It was decided, however, that the company should post a substantial guarantee in the form of government bonds that its representations with respect to the majority ownership of the Swiss company as Swiss were correct, and that the company would commit no violations of Foreign Funds Control regulations. In addition, a new vice president was appointed through whom was channelled all matters pertaining to the company's activities and its relations with Foreign Funds Control.

Ernesto F. Allu. et al

It has already been indicated that in order to prevent the Nazis from disposing of looted United States currency, stringent import regulations were issued. It was known that some looted currency had found its way to South America and it was necessary to exercise vigilance to prevent any currency smuggling from that area. A smuggling case which resulted in the arrest and conviction of three seamen was that of Ernesto F. Allu, the purser of a Chilean steamship, and two other individuals who were chief stewards of Chilean ships.

The three seamen were employed on vessels plying between North and South American ports. At the time they were apprehended, they confessed that they had smuggled over \$30,000 in United States currency into the United States on their latest trip. This currency had been converted into cashier's checks

and traveler's checks which were seized by the Customs authorities as the seamen were about to depart. Subsequent investigation, both in the United States and in Chile, indicated that these individuals were part of an organized ring which had attempted to smuggle large amounts of currency into this country.

The three seamen were convicted on the charge of violating the Trading with the Enemy Act, as amended, and Executive Order 8389, as amended, and were sentenced to the time served from the date of their arrest to the date of sentence plus an additional thirty days.

Conviction of Kenji Iki

Through the combined efforts of Foreign Funds Control and the Bureau of Customs, evidence was developed which led to the conviction and sentencing of Kenji Iki in the U. S. District Court at Seattle to nine years imprisonment and a \$5,000 fine. Iki, the manager of a Japanese concern, United Ocean Transport Company, pleaded guilty to charges of concealing \$15,000 in U.R. currency and \$515,000 face value of Japanese bonds and failure to report these holdings as required by the Order.

Viktor Bator

An example of how various Axis groups attempted to hide their funds in the United States is that of a group of leading Balkan industrialists who attempted to cloak their assets in the United States, worth millions of dollars, through an Hungarian attorney of international reputation who came to the United States in 1939. Ostensibly no taint was attached to this attorney. However, when he was requested to explain the source of substantial assets deposited in his accounts with a leading New York bank, and ^{to} give proof as to the ownership thereof his explanations were vague

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and made little sense. Therefore, a thorough investigation was made with respect to the attorney and the funds which he held.

It was discovered that in addition to the assets held in his own account he had set up four holding corporations under the laws of the State of New York under American titles and had transferred thereto millions of dollars in cash and securities. The attorney, after exhaustive interrogation, finally admitted that these funds not only belonged to himself but also to various Swiss holding companies but he stated that he did not know the

ultimate beneficiaries of the assets held in the name of the Swiss holding companies. However, subsequent investigations made by the Control led to the belief that the ultimate beneficiaries of these assets, at least in part, were Balkan industrialists who were collaborating with the Nazis. It was ultimately ascertained that this belief was correct; that the great portion of the assets that had been held by the attorney or transferred to the various corporations by his direction belonged to leading Hungarian industrialists who were engaged in the manufacture of munitions, airplanes and steel for the Hungarian and Nazi war machine. These assets were frozen by specific direction of the Control and, thus, they were rendered impotent for any use contrary to the interests of the United States.

Comet Tools Inc.
Schimmel & Company Inc.
Heine & Co.

One phase of the enforcement work of the Control involved the discovery of German interests in United States corporations, ostensibly American owned, which were formed to act as exclusive agents for German corporations. It was suspected that such ownership was a facade and that the real interest continued to be German in spite of many and devious transactions consisting of transfers of stock, increased capitalization, cancellation of outstanding indebtedness, etc., which sought to cloak the German interest.

Illustrative of this cloaking are the cases of Comet Tools, Inc., Schimmel & Company Inc., and Heine & Co. Each of these companies had the exclusive agency in the United States to distribute the products of German companies.

Comet Tools Inc.

This corporation was organized in 1937 in New York to distribute tools manufactured by Komet Stahlhalter und Werksengfabrik. The owner of the German company furnished the corporation's total working capital and exercised considerable control over its activities. The trade mark used by Comet Tools is the property of Komet Stahlhalter and was registered in the name of the American company with the understanding that it was to be assigned to the German concern at a subsequent date. In addition to the working capital, the machinery and equipment used in its activities were supplied by the owner of the German company. Comet Tools represented to the trade that its factory and offices in Germany had opened a branch office and shop in New York. At the time Germany was blocked, the stock of Comet Tools was held by two naturalized American citizens who are officers of the company.

This corporation was found to be a national within the definition of the Executive Order and was consequently blocked.

Schimmel & Company Inc.

This firm was organized as a wholly owned subsidiary of Schimmel & Company, A. G. of Germany in 1934. Until April, 1940, the German company held all of the American company's issued stock, at which time the shares were transferred to an American attorney as nominee. Thereafter, and up to the blocking date of Germany, June 14, 1941, numerous transactions involving this stock resulted in the transfer of the bulk of these shares to American citizens, on payment to the German company from Reichmarks accounts in Germany. The investigation disclosed communication between the nominee and his principal

which established clearly that methods had been discussed to conceal the beneficial ownership of Schimmel and Company, and there was reasonable cause to believe that the payment for the stock was a device to conceal the continuing German interest in this company. The American company which had been restricted by agreement from carrying on any business in Latin America, solicited the business of former Schimmel A.G. agents in Latin America after the beginning of the war, and it appeared that this was done with the knowledge and approval of Schimmel A.G. as a means of preserving its Latin American markets.

Schimmel and Company, Inc. was found to be a national within the definition of the Order and was blocked.

Heine & Company

This corporation was organized in New York in 1908 by Heine & Co. A.G. of Germany for the purpose of distributing its products in America. During World War I, 300 shares of the capital stock of Heine & Co., held by Heine, A.G., was seized by the Alien Property Custodian. An equal amount of stock was held by an American citizen. After the war the shares of Heine A.G. were returned to the American company and were retired, and since that time all of the stock of Heine & Co. has been held by an American citizen, Paul Schulze-Berge. In this case, it was clear that the beneficial ownership was American, but it appeared that the American company was indebted to Heine A.G., in an amount which exceeded its assets. This indebtedness was evidenced by three notes, payable at sight, and was secured by the delivery of the capital stock of the company as collateral. Payment of the notes of the corporation was guaranteed by Schulze-Berge, the present owner. Until the outbreak of the war in 1939, Heine & Co. imported materials from

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the German company and payment therefor was remitted to the German company.

It was found that Heine & Co. was a national within the definition of the Order and was blocked.

It would not be fair to a history of the Control not to refer to some of the more elaborate investigations conducted into the agencies of the Swiss banks operating in the United States and the agencies of Swiss insurance companies.

Large groups of investigators worked at the agencies of the Swiss banks, Swiss Bank Corporation, Credit Suisse and Swiss American Corporation for several months to determine to what extent and by what device Swiss banks were able to conceal assets of blocked nationals in the United States. It was as a result of this investigation that we obtained a comprehensive knowledge of the Swiss banking operations which subsequently constituted the basis for the Treasury promulgating General Ruling No. 17 which was described in greater detail above. Specifically, the investigation disclosed the following: That the New York Agency of the Swiss Bank Corporation had information in at least 74 instances concerning the ownership of accounts or the ownership of certain securities and accounts, which information had not been reported on Form TFR-300. In 42 additional cases it appeared that the Swiss Bank Corporation's agency was advised of the facts of such ownership after the TFR-300 filing date as to which no supplemental TFR-300's were filed. In 35 additional cases information appeared on index cards held in the licensing department of the Swiss Bank but no other evidences of ownership was found. In these cases also, no TFR-300 reports were filed in the names of the parties listed. Some of this information was gained from non-enemy declarations filed with the Canadian authorities, which information was

not transmitted to the Treasury Department. In the case of the Credit Suisse, New York Agency, the pattern was somewhat similar. The number of accounts held by Credit Suisse was small. In the case of the Swiss American Corporation, 54 violations were found, including failure to report contents or possession of sealed envelopes.

The agencies of the Swiss insurance companies were investigated since it had long been suspected that insurance companies could be used as vehicles for transmitting vital information to the enemy. An investigation was made of the manner in which Swiss Reinsurance Company handled information relating to ship movements and ship losses. It was found that strategic information, received regularly by such company from authoritative sources, became available to a large number of persons, including other than company employees, in the process of handling of insurance and reinsurance of merchandise shipments. An investigation of European General Reinsurance Company Ltd. revealed that it had information of a strategic character relating to most of the important munitions and war development projects in the United States, and subject to practically no supervision. As a result of these discoveries, standards were set up by the War Department to guide insurance companies in handling information made available to them in connection with insurance risks.

In anticipation of a more vigorous policy with respect to France and before our invasion of North Africa, the Control investigated the French Line early in 1942. It was found that since 1940 the French Line had been guided entirely by instructions from Vichy which, in turn, came from the German Weisbaden Commission, and that the key personnel of the French Line were over-zealous in carrying out their German inspired instructions.

Accordingly, in November 1942 when the Allied troops landed in North Africa the Control was in a justifiable position to revoke the license under which the French Line operated and stop payment of salaries to the top staff pending further clarification of United States-French relations.

One cannot discuss investigations carried on by the Control without referring to the elaborate investigation made of General Aniline and Film Corporation. Immediately after Pearl Harbor a group of Treasury personnel was sent to the General Aniline & Film Corporation to supervise its operations and investigate it thoroughly. The investigation soon developed evidence that General Aniline & Film was being used by the German Government. 25 of the key executive personnel, including the president and chairman of the board, and all department heads were dismissed on orders of the government early in January, 1942. By February 16, 1942, sufficient evidence was obtained in the investigation to justify the Treasury vesting 95% of the outstanding shares of this corporation, which shares were held by corporations domiciled respectively in one neutral country and in one allied country. Following the vesting the Treasury removed the remaining undesirable executive personnel and replaced them with executives of proven loyalty, chosen from the American chemical industry. Eventually, all employees with any past connection with I. G. Farben were dismissed.

The Control explored all possible sources of information to obtain some over-all picture with reference to freight forwarders and the extent to which they might have represented Axis interests in this country. In this connection representatives of the Control participated in a hearing being conducted by the Maritime Commission on the general practices of freight

forwarders. At the same time we conducted a field investigation of freight forwarders operating under Treasury license. As a result of this investigation we discovered that the Draeger Shipping Company was serving as a front for an organization beneficially owned by the German Government. As a result of this finding Draeger Shipping Company's operating license was revoked and, upon the Control's recommendation, the firm was vested by the Alien Property Custodian for liquidation.

It is apparent from the above that the subjects of investigations covered a wide field with a view to accomplishing varied objectives. Hundreds of investigations were made of American fronts for enemy funds. Some were liquidated; others vested by the Alien Property Custodian; still others were initially supervised by the Treasury and thereafter transferred to the jurisdiction of the Alien Property Custodian. Persons were investigated on the suspicion that they filed incorrect reports of the assets they held for foreign nationals. Corrected reports were filed; funds which should have been blocked were required to be blocked; funds which were actually owned by or on behalf of the enemy were recommended to, and were vested by, the Alien Property Custodian.

Regardless of the object of investigation, the techniques required to discover the actual facts demanded persistent and thoroughness in execution, ingenuity in approach, and selectivity of subject matter. It was immediately recognized that what ever the purpose, be it sinister or innocent, the varied devices used to conceal assets and activities which should be subject to the freezing control were limited only by the ingenuity of frightened business or unscrupulous Axis agents, as the case might be. Whether for the economic

defense of the United States, which would include the protection of the property interests of those who could not protect themselves, or for economic warfare, to injure the Axis wherever possible, the Government was forced to look through the device, whatever it might be, and act in accordance with the findings of beneficial ownership. The following are merely a few of the devices used to conceal assets of blocked countries and which were ultimately unravelled through the investigative work of Foreign Funds Control:

The Trust Device - The technique in the trust device was to place stock ownership in trust with American citizens, but the apparent beneficial ownership was in citizens of neutral countries. In some instances the trust was of the spend thrift variety, in order to give a greater semblance of completely divorcing control from beneficial ownership. The ostensible beneficial owners within neutral countries might, in turn, be mere nominees for others unknown. Beneficiaries might shift, and new ones spring into existence upon the happening of certain events or upon appropriate declarations by the trustee.

The Unregistered Share Device was probably the most common device employed for large holdings. The technique used was to transfer to holding companies in various countries shares of stock frequently representing majority ownership and control of American corporations. The stock of the holding companies usually consisted of bearer shares. Thus, any record of the ultimate ownership was not available. Moreover, trading in such shares between the various holding companies was frequent, resulting in further confusion and concealment. In many cases the corporation in question never did have sufficient assets to purchase the American shares. In some instances, where the shares of the holding company were themselves held by another holding

company, the shares of the first corporation were of partly paid variety common in European corporate finance, and the second neutral corporation did not and never was intended to have sufficient assets to meet a call if made on such shares.

The Second Generation Device. The technique here was to place, in the name of a person born in the United States of foreign parents, the property belonging to the parents or in which they had an interest. Young children, but American citizens because they were born within the United States, were found to have held nominal control over substantial organizations. This device was almost exclusively used to conceal Japanese interest in American operated business enterprises.

Control by Personal Dealing or Relationship. The buying and selling of shares in American corporations by and between groups of persons all having blood or financial relations with certain other groups, which, in turn, controlled foreign corporations, was another pattern. This device appeared to have been common in the chemical industry where the blocked foreign interest was primarily German. There was frequently no relation between the value at which these shares were sold on these "resh" sales, and the market or book value thereof.

The Option Device. Corporate shares, particularly of newly formed corporations were optional to some foreign person or corporation, so that, though the record ownership might remain wholly American, the power of the optionee was the principal factor in the conduct of the business.

3. Treatment of Business Enterprises.

From its experience in the last war, Germany learned that the most effective way of providing a means for paying for the costly operations of the

war was to possess within the Western Hemisphere a substantial network of business, financial, and commercial organizations supposedly engaged in ordinary commercial and business operations but controlled either by head offices in Germany or persons on the spot sympathetic to and working for the Axis war effort. Financial and business enterprises provide a ready and continuing source of funds to be used for financial warfare operations. Friendly financial and business enterprises can, as long as persons cooperating with an enemy occupy positions with power and importance, provide funds where they are needed and assure that they are paid out in a manner that can be camouflaged as an ordinary business transaction. Friendly operating companies facilitate espionage. Such companies which have large payrolls can have spies placed on them. Their operations can be covered by giving them jobs which facilitate their operations, such as by sending them throughout the hemisphere as salesmen, placing them in positions where they can analyze blueprints and plans for new installations, giving them access to figures and production of critical materials, etc. During World War II the enemy could not use, because of the regulations of Foreign Funds Control, their free business enterprises in this country to get the money to carry on disruptive operations within this country. In fact it will be recalled in this connection the saboteurs who landed on our coast during the war, and who were subsequently apprehended and executed, brought with them substantial sums of United States currency. Friendly operating companies, if uncontrolled, can support newspapers, publications and radio programs which spread pro-Axis -- Anti-American propaganda by the placing of advertising, supporting of broadcasts, assistance in procuring critical materials and outright domination.

Finally, friendly operating companies afford the best cover for transmitting information obtained through espionage back to enemy countries.

An important objective of enforcement work involved the purging of business enterprises within the United States of their Axis influences. The following are some of the enforcement techniques used to this end:

(a) Liquidation - Forced Sale of Assets.

Foreign Funds Control forced the liquidation of many business enterprises where activities were found to be inimical to the defense of the Western Hemisphere, where such business enterprises were not essential to the war effort and where their continued operation was not deemed necessary to the public interest. Included among the types of enterprises which were so liquidated were enterprises controlled, directly or indirectly, by Germany, Italy or Japan or persons within such countries, irrespective of the technical legal ownership of the enterprises; and enterprises which were acting on behalf of or for the benefit of Germany, Italy or Japan or persons within such countries, irrespective of the technical legal ownership of the enterprises; including business enterprises which were attempting to hold foreign markets for such countries or persons.

Business enterprises were forced to liquidate through the following procedure: In view of the fact that such a business enterprise was a blocked national, any and all property of such business enterprises were blocked. It would not be dealt in without a license; it could not engage in any financial or commercial transactions except pursuant to license. Accordingly, when it was determined that such business enterprise was to be liquidated, any operating license which may

have been outstanding in connection with such enterprise was revoked and a license was issued which permitted only those transactions which were designed for the speedy liquidation of the enterprise and the disposition of its assets to desirable individuals and concerns. Usually, at the time of the issuance of such a liquidating license, representatives of Foreign Funds Control were placed on the premises of the enterprise to supervise the liquidation process. These representatives had instructions to control access to the premises of these business enterprises and to prevent any person from removing or destroying any property of such business enterprises, including books and records.

Through the liquidation procedure, the business and assets of such business enterprise were reduced to cash, creditors were paid off, and the remaining funds were placed in blocked accounts, subject to vesting by the Alien Property Custodian.

More than 500 business enterprises were liquidated by Foreign Funds Control. Included among these were foreign banks and insurance companies operating within the United States and controlled from within Germany and Italy. In administering this phase of the Control the Treasury Department obtains the full cooperation of the state banking and insurance departments.

(b) Vesting Action

In certain cases it was found that the liquidation of business enterprises whose activities were detrimental to the security of the Western Hemisphere was not feasible because the continuation of the business enterprise was in the public interest. In such cases, the interests held or controlled by undesirable influences in the particular

business enterprise, or in related enterprises were vested in the Alien Property Custodian under the authority granted by the First War Powers Act of 1941.

(c) Supervision

In addition to supervisors being placed in liquidating business enterprises, representatives of Foreign Funds Control were placed in many operating business enterprises in order to supervise their activities and assure compliance with their business operating licenses.

Besides supervising the activities of the enterprises, it was the function of the government representatives to obtain full information concerning the structure, activity and background of such enterprises, including information as to the actual controls of the enterprises and as to their officers and employees; to determine whether there is any Axis influence in connection with the organization, control or operation of such enterprises; and, if so, to make recommendations as to what steps should be taken to purge the enterprise of such Axis influence.

The Treasury representatives may have determined that any one of the following acts should be taken with respect to the enterprise: (1) The vesting of the stock or other interest of an undesirable individual or concern in such enterprise; (2) the liquidation of such concern; (3) the discharge of certain officers or directors, or of certain employees; (4) the severance of certain undesirable contractual relationships, including patent arrangements and the like; and (5) the prevention of certain trade activities, including dealings with undesirable customers and the use of undesirable trademarks.

It should be noted in this connection, that it was not intended in most cases where supervisors were used, that they should be permanent attachments to such enterprises. The objective in their use was to destroy effectively the Axis influence in connection with the organization, control or operation of the business enterprise. With that end in view, if the enterprise were not liquidated or vested, it was so reorganized that it could safely be permitted to operate without Government supervision.

(d) Restrictive Licensing.

It was not always necessary to place supervisors in blocked enterprises in order to purge such enterprises of undesirable influences. It was possible to accomplish this result in a few cases through the issuance of conditional operating licenses, which permitted the business enterprise to conduct its activities under certain terms and conditions. For example, a business operating license was conditioned on the enterprise involved making certain changes in its organization, including the dismissal of certain officers and employees; or that the firm completely sever all relationship with undesirable customers. Generally speaking, the mere use of the licensing technique was not found to be sufficient in order to reorganize Axis business enterprises.

The blocking of a business enterprise and the issuance of a limited operating license to it did serve, however, as a useful function as a preliminary step in controlling such business enterprises. An illustration of the use of the licensing technique as a preliminary step to prevent undesirable transactions was the case of Schering Corporation of Bloomfield, New Jersey. This corporation, prior to the outbreak of war, was restricted

by a cartel contract with Schering A.G. of Berlin to the United States market. After the outbreak of the war, Schering of Bloomfield formed a subsidiary corporation without objection from Schering A.G. of Berlin, the sole function of which was to export goods to other markets in the world which had formerly been supplied by Schering A.G. of Berlin. These transactions were subject to the provisions of Executive Order No. 8389, as amended. Foreign Funds Control denied all export applications. This action prevented Schering A.G. of Berlin from acquiring substantial amounts of local currency which would otherwise have been available to the Axis Government for propaganda and subversive activities in countries in which the sales were made. Subsequently, the German-owned stock of Schering Corporation and its subsidiaries were vested by the Alien Property Custodian.

(e) Reorganization Without Blocking.

It was not always necessary to block a business enterprise to purge it of undesirable influences. It was possible in some instances to induce the enterprise to undergo a reorganization or to change its trade practices.

For example, a reorganization was effected in Sterling Products, Inc. without blocking. Approximately 25,000 American citizens had a stock interest in Sterling Products; the foreign ownership was small. However, from 1920 until 1941 Sterling Products, Inc. have very close commercial ties with I. G. Farbenindustrie. There was considerable exchange of personnel and information. In 1923 Sterling Products, Inc. and I. G. Farbenindustrie entered into a cartel agreement which split the drug markets of the world between them.

The officers and directors of Sterling Products, Inc. cooperated with the Treasury, and with other interested government agencies, such as Justice and State, in removing undesirable personnel and breaking undesirable ties. Representatives of the Government consulted with officers of Sterling Products, Inc., studied the Sterling situation for many months, and thereafter drew up a set of so-called representatives which Sterling then submitted to the Government. These representatives provided for a termination of all contractual relationships with I. G. Farbenindustrie, the abandonment of trademarks with German connotation, the establishments of new trademarks, the reporting on all personnel with an agreement to dismiss personnel deemed undesirable by the Government, and an undertaking to compete actively with I. G. Farbenindustrie and to report monthly all sales and the use of advertising media.

After the reports of personnel were submitted, the Government studied the background of all executive personnel and technical personnel. 42 of such persons were recommended for immediate dismissal. Some technical personnel who had undesirable background, who were deemed indispensable, were retained temporarily; they were dismissed as suitable successors were obtained for them. The president and the chairman of the board of the corporation were among the first dismissed and the Treasury, together with other interested agencies participated in the selection of their successors and of all other personnel in important executive posts.

(f) Contingent Vesting Account

It became clear to certain officials of the Control that it would not always redound to the national interest to deprive generally licensed nationals of this status if they had violated Executive Order No. 8389, as amended. At least, it was clear that the benefits to be derived from such

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action would not be commensurate with the problems created thereby for the Control.

In such cases, which actually were few in number, the technique of the "contingent vesting account" was applied. Each offender subject to the treatment was required to deposit a certain sum of money in cash and Government bonds, other than war savings bonds, to be agreed upon by the Treasury and the person concerned, with the Federal Reserve Bank as fiscal agent of the United States. The fund was subject to the following terms and conditions: (1) no part of the funds deposited were subject to release during the continuance of the war and for six months after the termination of the war or except upon a license issued by the Treasury Department which referred to such contingent vesting account; and (2) if the Treasury Department should find, after notice and opportunity for hearing, that the depositor engaged in a transaction in violation of Executive Order No. 8389, as amended, or the rules, regulations or general rulings promulgated thereunder, or otherwise prohibited pursuant to Section 5(b) of the Trading with the enemy Act of 1917, as amended, since the opening of this account, the Secretary of the Treasury may, in his discretion, vest the account or any portion thereof under Section 5(b) of the Trading with the enemy Act of 1917, as amended, in the manner provided in Executive Order No. 9193.

4. Collation and Use of Financial Intelligence

(a) Relation to Office of Censorship

(i) Background

The success in the enforcement of the freezing control was in large part due to the close relationship which existed between the Office of Censorship and Foreign Funds Control.

Foreign Funds Control from its inception worked closely with the British Ministry of Finance. Immediately upon its establishment it established a close liaison with the British Ministry of Finance and, in turn, gained experience of the British Ministry of Finance cooperation in censorship. From this relationship it became apparent that the British economic warfare operations were largely improved as a result of a close-knit arrangement between British Censorship and the British Ministry of Finance. The British had recognized, that an examination of mail was important not only to detect military espionage but to provide information necessary to an effective financial and economic blockade against the enemy. They recognized that the Axis powers used the mails and cables as a means of transmitting strategic economic and financial information. In fact, the British had found during the early stages of World War II that considerably more than one-half of the more valuable information derived from censorship related to economic warfare or financial pressure; less than one-quarter to "security" or police matters; and approximately 10 percent consisted of information valuable to naval or military services.

Initially, before we were in the war, and thus before we had our own censorship controls, the British furnished Foreign Funds Control with despatches of excerpts of the mail they censored which might be of use to our operations. In this way, from the very early days of Foreign Funds Control, it was geared to make complete use of censorship facilities for providing valuable information and for policing economic and financial regulations of this Government.

With the entry of the United States into the war Treasury was immediately consulted in preliminary discussions relating to a proposed bill to establish the Office of Censorship. When the Office of Censorship was established the Treasury was represented on the censorship policy board. Initially, the Censorship operations of this Government were under the supervision of the Army and Navy — the postal operations being in charge of the Army; the telecommunications in charge of the Navy. However, it soon became apparent that if the economic and financial information as reflected in the mails and cables was to be used for the greatest benefit of this Government it should be handled by persons familiar with those fields.

(11) Function of Censorship Relations Section.

Early in the spring of 1942, under the encouragement of the Treasury Department, a finance division was established in the Office of Censorship devoted to the examination of mails dealing with financial and economic warfare problems. Representatives of Foreign Funds Control were placed in the most important postal censorship stations; New York, Miami, New Orleans, and San Antonio, to guide the Censorship examiners in the selection of materials which would be useful for the economic warfare interests of this Government. At the same time, a section was set up within the Enforcement Division of Foreign Funds Control which was primarily charged with working out a close coordination between Foreign Funds Control and Censorship's finance division.

Specifically, the so-called Censorship Relations Section in the Enforcement Division was charged with the responsibility of (1) maintaining liaison with the Office of Censorship on all Foreign Funds Control

problems; (2) assisting in the formulation of instructions relative to the handling by the Office of Censorship of certain types of communications of a financial or commercial nature; (3) advising the Office of Censorship as to the type of information desired by Foreign Funds Control to assist in performing its functions; (4) advising the Office of Censorship as to the disposition of specific intercepted communications of a financial or commercial nature; (5) explaining and interpreting to the Office of Censorship the policies and regulations of Foreign Funds Control; and, (6) assisting in the formulation of the policy of Foreign Funds Control with respect to the licensing policy of Foreign Funds Control with respect to the licensing of communications with enemy nationals.

In actual operation, the Censorship Relations Section carried out the following as a complement to the enforcement operations of the freezing Control. It made available to Foreign Funds Control personnel all pertinent information on file at the Office of Censorship either by arranging for the inspection of censorship files or by obtaining copies of the desired information. On some occasions the Censorship Relations Section even acted with respect to communications which there was reason to believe would pass through Censorship channels. For example, in the course of an investigation by Foreign Funds Control it was learned that two letters were to be sent from Rio to New York. Censorship was advised to be on the watch for them. Within several days thereafter the Control was advised that one of the letters was being held by the Trinidad censorship station (British) and the other by the Miami censorship station (American).