



*United States Attorney  
Southern District of New York*

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FOR IMMEDIATE RELEASE  
OCTOBER 6, 2005

CONTACT: U.S. ATTORNEY'S OFFICE  
HERBERT HADAD, MEGAN GAFFNEY  
HEATHER TASKER, BRIDGET KELLY  
PUBLIC INFORMATION OFFICE  
(212) 637-2600

**U.S. ANNOUNCES CHARGES IN MASSIVE SCHEME TO BRIBE  
SENIOR GOVERNMENT OFFICIALS IN THE REPUBLIC OF AZERBAIJAN**

MICHAEL J. GARCIA, the United States Attorney for the Southern District of New York, ALICE S. FISHER, Assistant Attorney General in Charge of the Criminal Division, and MARK J. MERSHON, the Assistant Director In Charge of the New York Field Office of the FBI, announced that VIKTOR KOZENY, FREDERIC BOURKE, JR. and DAVID PINKERTON have been indicted by a federal grand jury in Manhattan for allegedly participating in a massive scheme to bribe senior government officials in Azerbaijan to ensure that those officials would privatize the State Oil Company of the Azerbaijan Republic ("SOCAR") and allow KOZENY, BOURKE, PINKERTON, and others to share in the anticipated profits arising from that privatization. Each of the defendants is charged with conspiracy to violate the Foreign Corrupt Practices Act ("FCPA"), which makes it a crime to offer to pay, or to pay, foreign government officials in order to obtain or retain business. The defendants are also charged with related crimes, including money laundering.

KOZENY was arrested yesterday by law enforcement authorities in The Bahamas, where he resides, pursuant to a provisional arrest request made by the U.S. government. He will appear today before Bahamian court. The U.S. government intends to make a formal request for KOZENY's extradition under the Extradition Treaty Between the Government of the United States of America and the Government of the Commonwealth of The Bahamas.

BOURKE and PINKERTON, meanwhile, voluntarily surrendered to the FBI's offices in Manhattan this morning and are scheduled to be arraigned today in front of United States District Judge RICHARD C. CASEY at 1:00pm.

Mr. GARCIA, Ms. FISHER, and Mr. MERSHON also announced that three other individuals, THOMAS FARRELL, CLAYTON LEWIS and HANS BODMER, previously pleaded guilty in connection with their participation in this bribery scheme.

### **Background**

According to the twenty-seven count Indictment unsealed today (the "Indictment"), VIKTOR KOZENY controlled two companies, Oily Rock Ltd. ("Oily Rock") and Minaret Ltd. ("Minaret"), which participated in a privatization program in Azerbaijan. Under that privatization program, Azeri citizens could use free government-issued vouchers to bid for shares of state-owned industries that were to be privatized. Privatization vouchers were bearer instruments that were freely tradable, and they

typically were bought and sold using United States currency. Foreigners could also participate in Azerbaijan's privatization program and own vouchers, but only if they purchased a government-issued "option" for each voucher they held.

The Indictment alleges that beginning in July 1997, KOZENY directed others to purchase vouchers and options on behalf of Oily Rock and Minaret. According to the Indictment, these vouchers and options were purchased using millions of dollars of cash that was flown into Azerbaijan on KOZENY's private jet and on planes he chartered.

The Indictment further alleges that various individuals and institutions invested together with KOZENY in privatization vouchers and options. Among the individual investors was FREDERIC BOURKE, JR., who made two investments in Oily Rock totaling approximately \$8 million, on behalf of himself and family members and friends. The institutional investors included American International Group ("AIG"), which invested approximately \$15 million under a co-investment agreement with Oily Rock and Minaret. DAVID PINKERTON, a Managing Director of AIG in charge of AIG's private equity group, was responsible for supervising AIG's investment in Azeri privatization. In addition to AIG, other institutional investors in this privatization venture included the Wall Street hedge fund Omega Advisors, Inc. ("Omega") and its affiliated investment fund Pharos Capital

Management, L.P. ("Pharos"), which together purchased approximately \$151 million in vouchers and options.

The Indictment alleges that KOZENY and the individual and institutional investors (collectively, "the investment consortium") made their investments with the intent to acquire a controlling interest in SOCAR upon its anticipated privatization. The Indictment further alleges that, beginning in August 1997 and continuing until 1999, KOZENY, BOURKE, PINKERTON, and others paid or caused to be paid millions of dollars worth of bribes to Azeri government officials to ensure that the investment consortium would gain a controlling interest in SOCAR and be able to reap huge profits from its ultimate resale in the market.

#### **The Bribery Scheme**

The Indictment charges that KOZENY, acting on his own behalf and as an agent of BOURKE, PINKERTON, and other members of the investment consortium, made a series of corrupt payments and promises to pay to a senior official of the Government of Azerbaijan (the "Senior Azeri Official"); a senior official of SOCAR (the "SOCAR Official"); and two senior officials of the State Property Committee or "SPC" (the "SPC Officials"), the agency that was responsible for administering the privatization program. Collectively, the four officials alleged to have been bribed are referred to as the "Azeri Officials."

According to the Indictment, the corrupt promises and

payments to the Azeri Officials took a number of forms. For example, in August 1997, KOZENY is alleged to have promised to transfer to the Azeri Officials two-thirds of the vouchers and options Oily Rock purchased, and to give the Azeri Officials two-thirds of all of the profits arising from the investment consortium's participation in SOCAR's privatization. In return for this "two-thirds transfer," the Indictment alleges that the Azeri Officials agreed to permit the investment consortium to acquire a controlling interest in SOCAR upon its privatization.

In addition to this "two-thirds transfer," the Indictment alleges that in June 1998, Oily Rock's shareholders approved an increase in Oily Rock's authorized share capital from \$150 million to \$450 million, and that the additional \$300 million worth of Oily Rock shares was transferred to one or more of the Azeri Officials as a further bribe payment.

The Indictment further charges that a number of other bribes were paid to the Azeri Officials. KOZENY and others acting under his direction allegedly paid more than \$11 million in total to the Azeri Officials in May and June 1998, of which approximately \$6.9 million was wire transferred to accounts held for the benefit of certain of the Azeri Officials and their family members, and millions of additional dollars in cash were hand-delivered to one of the SPC Officials in his government office.

KOZENY is also alleged to have arranged for a representative of the London jeweler Asprey & Garrard to travel to Azerbaijan in May 1998 to deliver several gifts of jewelry and other luxury items to the SPC Officials, who in turn selected the gifts to present to the Senior Azeri Official on his birthday. According to the Indictment, the total value of these gifts was more than \$600,000, which Minaret paid.

KOZENY and BOURKE are also charged with arranging for both of the SPC Officials to travel to New York City on different occasions in 1998 to receive medical treatment, for which Oily Rock and Minaret paid. KOZENY, through Oily Rock and Minaret, also paid for the SPC Officials' hotel, meal and other expenses on these trips, as well as shopping expenses for one of the SPC Officials at a high-end department store in the New York area.

#### **The Charges in the Indictment**

The Indictment contains a total of twenty-seven counts. All three defendants are charged with conspiracy to violate the FCPA and the Travel Act. As stated above, the FCPA makes it illegal to offer to pay or to pay money or anything of value to a foreign government official to obtain or retain business. The Travel Act makes it illegal to travel or use the mails or other interstate facilities to carry on certain unlawful activity, including violations of the FCPA's anti-bribery provisions.

The Indictment also contains twelve separate counts of

violations of the FCPA, of which KOZENY is charged in all twelve, BOURKE in five, and PINKERTON in one. There are also seven counts of violations of the Travel Act, of which KOZENY is charged in six, and BOURKE and PINKERTON in one count each.

Each of the defendants is further charged with money laundering conspiracy, based on wire transfers of millions of dollars to purchase Azeri vouchers and options, which in turn promoted violations of the FCPA. There are also four separate substantive money laundering violations, of which KOZENY is charged in all four, BOURKE in two, and PINKERTON in one.

BOURKE and PINKERTON are also each charged with making false statements in interviews with the FBI. The false statement charge against BOURKE alleges that, in an interview conducted in April and May 2002, he falsely stated that he was not aware that KOZENY had made payments to the Azeri Officials, when BOURKE knew that KOZENY had paid bribes to those officials. The false statements count against PINKERTON alleges that, in an interview conducted in February and March 2002, he falsely claimed that he was not aware that the Senior Azeri Official had a financial interest in KOZENY's investment in Azeri privatization, when PINKERTON knew that the Senior Azeri Official had such a financial interest.

The conspiracy to violate the FCPA and Travel Act count, the substantive counts of violations of the FCPA and the

Travel Act, and the false statements counts each carry a maximum penalty of five years in prison and a maximum fine of \$250,000 or twice the gross gain or loss resulting from the alleged violations. The money laundering conspiracy and substantive counts each carry a maximum penalty of 20 years in prison and a maximum fine of \$500,000 or twice the value of the laundered funds. Finally, the Indictment contains a Forfeiture Allegation seeking the forfeiture by the defendants of \$174 million that was involved in the charged money laundering offenses.

KOZENY, 42, resides in Lyford Cay, The Bahamas.

BOURKE, 59, resides in Greenwich, Connecticut.

PINKERTON, 44, resides in Bernardsville, New Jersey.

Mr. GARCIA praised the investigative efforts of the FBI, and he said the investigation is continuing.

Mr. GARCIA added, "Corrupt payments to foreign officials, such as the ones charged in this Indictment, are a global threat to democratic institutions and fair competition. We will vigorously prosecute those who make illegal payments to corrupt foreign officials."

Ms. FISHER stated, "Representatives of American businesses overseas cannot be allowed to bribe their way into lucrative contracts or illegally purchase the favor of foreign government officials. Business conducted abroad must be done with honesty and integrity. Those who violate U.S. law in their



financial dealings, here or in other countries, will face serious consequences."

**Announcement Concerning Related Cases**

As stated above, THOMAS FARRELL, CLAYTON LEWIS and HANS BODMER have pleaded guilty in connection with their participation in this bribery scheme. FARRELL, who directed voucher purchases for Oily Rock, pleaded guilty before United States District Judge RICHARD M. BERMAN on March 10, 2003 to two-counts charging him with conspiracy to violate the FCPA and violating the FCPA.

LEWIS, who was a principal of Omega and Pharos and who oversaw Omega's and Pharos's investments with Oily Rock and Minaret, pleaded guilty before United States District Judge NAOMI REICE BUCHWALD on February 10, 2004 to the same two charges.

Finally, BODMER, a Swiss lawyer who represented Oily Rock, Minaret, Omega and other investors in connection with their investments in Azeri privatization, pleaded guilty before United States Magistrate Judge FRANK MAAS on October 8, 2004 to a charge of money laundering conspiracy.

The case against KOZENY, BOURKE and PINKERTON and the related cases against FARRELL, LEWIS and BODMER are being handled jointly by the United States Attorney's Office for the Southern District of New York and the Fraud Section of the United States Department of Justice. Assistant United States Attorney JONATHAN S. ABERNETHY, Fraud Section Deputy Chief MARK F. MENDELSON, and

Fraud Section Assistant Chief ROBERTSON PARK are in charge of the prosecution.

The charges contained in the Indictment are merely accusations, and the defendants are presumed innocent unless and until proven guilty.

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