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United States District Court JAN 14 2004 ☆

FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

AT SEATTLE
BY U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
DEPUTY

BERTRAM SACKS,

SUMMONS IN A CIVIL CASE

Plaintiff,

CASE NUMBER: **CV04 108 C**

v.

**OFFICE OF FOREIGN ASSETS CONTROL,
UNITED STATES DEPARTMENT OF THE
TREASURY,**

Defendant,

TO: (Name and address of defendant)

Office of Foreign Assets Control
U.S. Department of the Treasury
c/o David Aufhauser, General Counsel
Treasury Annex
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Attn: Licensing Division

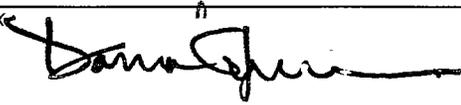
YOU ARE HEREBY SUMMONED and required to serve upon PLAINTIFF'S ATTORNEY (name and address)

Donald B. Scaramastra
GARVEY SCHUBERT BARER
1191 Second Avenue, 18th Floor
Seattle, WA 98101-2939

an answer to the complaint which is herewith served upon you, within sixty days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you or the relief demanded in the complaint. You must also file your answer with the Clerk of this Court within a reasonable period of time after service.

BRUCE RIFKIN

CLERK



(BY) DEPUTY CLERK

JAN 14 2004

DATE

RETURN OF SERVICE		
Service of the Summons and Complaint was made by me ¹	DATE	
NAME OF SERVER (PRINT)	TITLE	
<i>Check one box below to indicate appropriate method of service</i>		
<input type="checkbox"/> Served personally upon the defendant. Place where served: _____ _____		
<input type="checkbox"/> Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein. Name of person with whom the summons and complaint were left: _____ _____		
<input type="checkbox"/> Returned unexecuted: _____ _____ _____		
<input type="checkbox"/> Other (specify): _____ _____ _____		
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on _____ Date Signature of Server</p> <p style="text-align: right;">_____ Address of Server</p>		

¹ As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

1 DONALD B. SCARAMASTRA, WSBA #21416
2 GARY D. SWEARINGEN, WSBA # 24483
3 GARVEY SCHUBERT BARER
4 Eighteenth Floor
1191 Second Avenue
Seattle, Washington 98101-2939
(206) 464-3939

5 Attorneys for Plaintiff
6 Bertram Sacks

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7 *Court Use only above this line.*

8 UNITED STATES DISTRICT COURT
9 FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

10 BERTRAM SACKS,
11 Plaintiff,

12 vs.

13 OFFICE OF FOREIGN ASSETS CONTROL,
14 UNITED STATES DEPARTMENT OF THE
TREASURY,

15 Defendant.

NO. **CV04 108C**
**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

16
17 Plaintiff Bertram Sacks alleges:

18 **I.**
19 **PARTIES**

20 1. Plaintiff Bertram Sacks is a citizen of the State of Washington. He resides in
21 Seattle, Washington, in the Western District of Washington. This case arises from Mr. Sacks's
22 journeys to Iraq. On each trip, Mr. Sacks has brought medicine and medical supplies for use in
23 civilian hospitals there. He has done so to publicize and ameliorate the effect of economic
24 sanctions imposed by the government of the United States. These sanctions have led to
25 widespread suffering and death of Iraqi civilians, especially children.

26 2. Defendant Office of Foreign Assets Control ("OFAC") is an agency of the

COPY

1 government of the United States government. In furtherance of, and as part of, economic
2 sanctions, OFAC has promulgated regulations that prohibit certain transactions in Iraq.
3 Purporting to act under those regulations. OFAC has announced its intention to impose a
4 \$10,000 civil penalty on Mr. Sacks for traveling to Iraq with medical supplies.

5 3. OFAC's fine, and the regulations under which OFAC imposed that fine, violate
6 statutory law, executive orders, international law, and the United States Constitution. Mr.
7 Sacks seeks injunctive relief, and declaratory relief under 28 U.S.C. § 2201, that will stop
8 OFAC's unlawful enforcement of an alleged \$10,000 civil penalty against Mr. Sacks.

9 **II.**
10 **JURISDICTION AND VENUE**

11 4. This Court has jurisdiction of the subject matter under 28 U.S.C. §1331, as this
12 case arises under the laws of the United States. This Court also has subject matter jurisdiction
13 under 28 U.S.C. § 1337, as this case arises under an Act of Congress regulating commerce.
14 This Court further has subject matter jurisdiction under 28 U.S.C. § 1346(a)(2), as this is an
15 action against the United States for an amount not exceeding \$10,000 and founded upon the
16 Constitution, Acts of Congress, and regulations promulgated by the defendant. This Court
17 further has subject matter of this action, as it has jurisdiction of the underlying claims by OFAC
18 against Mr. Sacks under 28 U.S.C. §§ 1331, 1337, and 2461(a).

19 5. Venue in the Western District of Washington is proper under 28 U.S.C.
20 § 1391(e), as Mr. Sacks resides therein and no real property is involved in this action.

21 **III.**
22 **OPERATIVE FACTS**

23 **A. Background.**

24 6. On August 2, 1990, Iraq invaded Kuwait. In response, then-President George
25 H.W. Bush declared a "national emergency" pursuant to Executive Order 12722. That
26 "national emergency" remains in effect to the present day. Executive Order 19890 (July 31,
2003). In Executive Order 12722 and in Executive Order 12724 dated a week later, President

1 Bush authorized the imposition of economic sanctions on Iraq.

2 7. Iraq's invasion led to the First Gulf War. A coalition led by the United States
3 defeated Iraq after an extensive bombing campaign.

4 8. Immediately after the conclusion of the First Gulf War, in March 1991, the
5 United Nations reported on the extensive damage to Iraqi infrastructure caused by the U.S.-led
6 bombing campaign. Then-Secretary-General Javier Perez de Cuellar dispatched a mission
7 headed by Under-Secretary-General Martti Ahtisaari to assess the situation in Iraq. The Under-
8 Secretary-General reported:

9 I and the members of my mission were fully conversant with
10 media reports regarding the situation in Iraq and, of course, with
11 the recent WHO/UNICEF report on water, sanitary, and health
12 conditions in the Greater Baghdad area. It should, however, be
13 said at once that nothing we had seen or read had quite prepared
14 us for the particular form of devastation which has now befallen
15 the country. The recent conflict has wrought near-apocalyptic
16 results upon the economic infrastructure of what had been, until
17 January 1991, a rather highly urbanized and mechanized society.
18 Now, most means of modern life support have been destroyed or
19 rendered tenuous. Iraq has, for some time to come, been
20 relegated to a pre-industrial age, but with all the disabilities of
21 post-industrial dependency on an intensive use of energy and
22 technology.

23 The report recommended an immediate end to the embargo on imports of food and other
24 essential supplies to prevent "imminent catastrophe."

25 **B. OFAC's Regulations in Response to the "National Emergency."**

26 9. In January 1991, OFAC first promulgated regulations to enforce economic
sanctions against the people of Iraq. Those regulations appear at 31 CFR Part 575.

10 10. OFAC purported to act under 50 U.S.C. §§ 1701(a) & 1702. These statutes
11 grant the President certain powers to deal with an "unusual and extraordinary threat" posed by
12 a "national emergency" declared by the President. Among those powers is the power to
13 regulate certain financial transactions. These powers "may only be exercised to deal with an
14 unusual and extraordinary threat with respect to which a national emergency has been declared

1” 50 U.S.C. § 1701(b).

2 11. OFAC’s regulations prohibit the importation of goods into Iraq. The regulations
3 include “donated foodstuffs in humanitarian circumstances, and donated supplies intended
4 strictly for medical purposes” unless those imports are “specifically licensed” by OFAC. 31
5 CFR § 575.205. OFAC’s regulations do not state the criteria by which OFAC grants such
6 licenses. Nor do the regulations impose any deadline on OFAC to grant such licenses. Hence,
7 OFAC has reserved to itself the unrestricted and unfettered power to keep food and medical
8 supplies from reaching people in Iraq who need them.

9 12. OFAC has also prohibited travel to Iraq, including travel for the purpose of
10 bringing food and medical supplies to the Iraqi people. 31 CFR § 575.207 provides in relevant
11 part, and subject to very limited exceptions, that “no U.S. person may engage in any transaction
12 relating to travel by any U.S. citizen or permanent resident alien to Iraq, or to activities by any
13 U.S. citizen or permanent resident alien within Iraq.” OFAC also prohibited “[a]ny transaction
14 by a U.S. person relating to transportation to or from Iraq.” 31 CFR § 575.208.

15 **C. Enter Bert Sacks.**

16 13. Bert Sacks has traveled to Iraq nine times. On each trip, Mr. Sacks has brought
17 medicine and medical supplies and distributed them to civilians, many of them children, in
18 civilian hospitals in Iraq. In 1997, he helped bring roughly \$40,000 worth of medicine into Iraq
19 for the purpose of relieving human suffering. Mr. Sacks also brought medicine and medical
20 supplies to Iraq to publicize the effect of economic sanctions on the people of Iraq, especially
21 children.

22 14. While in Iraq, Mr. Sacks has visited medical clinics and pediatric hospitals. He
23 has seen the children who are dying there. Mr. Sacks has met with other U.S. citizens in Iraq to
24 highlight the effects of U.S. policy there. Probably the best known among them is United
25 States Representative Jim McDermott, who traveled to Iraq in 2002.

26 15. Mr. Sacks’ November 1997 trip to Iraq was covered in the national news media.

1 In response to this particular trip, OFAC sought to punish Mr. Sacks. On December 3, 1998,
2 OFAC sent a written "Prepenalty Notice" to Mr. Sacks and others. A true and correct copy of
3 the Prepenalty Notice is attached hereto as Exhibit 1. In the Prepenalty Notice, OFAC claimed
4 Mr. Sacks had violated its regulations enforcing economic sanctions during his 1997 trip to
5 Iraq. The Prepenalty Notice contained ten "counts," only one of which, Count 6, was directed
6 at Mr. Sacks. Count 6 made the following charge:

7 Between on or about [sic] November 21-30, 1997, Messrs.
8 Handelman, Mullins, Sacks, and Zito, engaged in currency travel-
9 related transactions to/from/within Iraq absent prior license or
10 other authorization from OFAC. These currency transactions
11 included, but are not limited to, the purchase of food, lodging,
12 ground transportation, and incidentals.

13 OFAC proposed a penalty of \$10,000 for Mr. Sacks "for Count 6" and invited written
14 comments within thirty days.

15 16. On December 28, 1998, Mr. Sacks wrote back to OFAC:

16 I appreciate that you must see yourselves as doing your job to
17 uphold US sanctions laws against Iraq, which I have violated.
18 However I want to explain here, as I would to any personal
19 friends of mine, why I have done this

20 You are correct to say in your prepenalty letter (12/3/98) that I
21 brought "medical supplies and toys to Iraq" absent prior OFAC
22 approval. We all recognize, I hope, that the \$40,000 of
23 medicines we brought to Iraq --- despite the lives it saved --- was
24 essentially a symbolic act: it lasted the 22 million people of Iraq
25 about 15 minutes, given their pre-sanctions needs of \$1,000,000
26 of imported medicines per day. Further, we brought nothing
 towards the \$10,000,000 of food imports Iraqis need per day.
 And we brought nothing towards the \$22,000,000,000 of
 essential repairs for the life-supporting infrastructure needed to
 stop the water-borne epidemics in Iraq. These numbers long ago
 convinced me that the human crisis in Iraq cannot be solved by
 humanitarian aid --- but only by an end of economic sanctions.

 The decision to turn to civil disobedience to end sanctions, in
 public defiance of the laws you are entrusted with enforcing, was
 not a natural one for me. I first spent two years of research,
 writing, and contacting people about the situation, but this failed
 to cast any significant public attention on the thousands of Iraqi
 children who were dying every month because of the bombed
 civilian infrastructure (unsafe drinking water) and sanctions (lack

1 of food and medicines). In deciding to publicly violate sanctions,
2 two events and two people played an important role for me.

3 The first is knowing that 150 years ago it was the highest law of
4 the United States of America that runaway slaves from the South
5 were legally "stolen property" of their owners. Anywhere in this
6 country, an American was breaking the law to help such a slave
7 escape via the "underground railroad." The people I greatly
8 admire from this terrible era in our history were not law-abiding
9 citizens, but those who broke the law to help slaves. . . .

10 The second event influencing me is the deaths of millions of
11 innocent civilians during WWII. I visited Auschwitz one year
12 ago, just before my trip to Iraq. At both places over a million
13 innocent civilians have died. I greatly admire the people who
14 took personal risks to help Jews, against prevailing indifference
15 and prejudice. . . .

16 These two events are certainly not identical with events in Iraq,
17 but the example of people motivated by high moral
18 considerations to "break the law" has given me encouragement to
19 do the same. . . .

20 17. After writing this letter, Mr. Sacks continued his work to call attention to the
21 effect of economic sanctions, and the regulations through which OFAC seeks to enforce them,
22 on the people of Iraq. Those sanctions have deprived many Iraqi civilians, especially children,
23 of the food, clean water, and medicine they need to survive.

24 **D. Economic Sanctions Contribute To the Deaths of Thousands of Young Children in**
25 **Iraq Every Month.**

26 18. Economic sanctions have prevented Iraq from rebuilding water treatment plants
destroyed in the First Gulf War. Water treatment facilities were fairly widespread in Iraq until
many were bombed during the First Gulf War, along with virtually all of the country's
electrical-generating plants that powered Iraq's water and sewage treatment facilities. The
resulting lack of potable water has led to the outbreak of severe diarrhea among young children,
which is often fatal in the absence of medical treatment. OFAC regulations, however, have
prevent people like Mr. Sacks from bringing medicine and medical supplies to Iraq. OFAC
regulations also effectively prohibit the importation of the amount of food needed to feed the
children of Iraq.

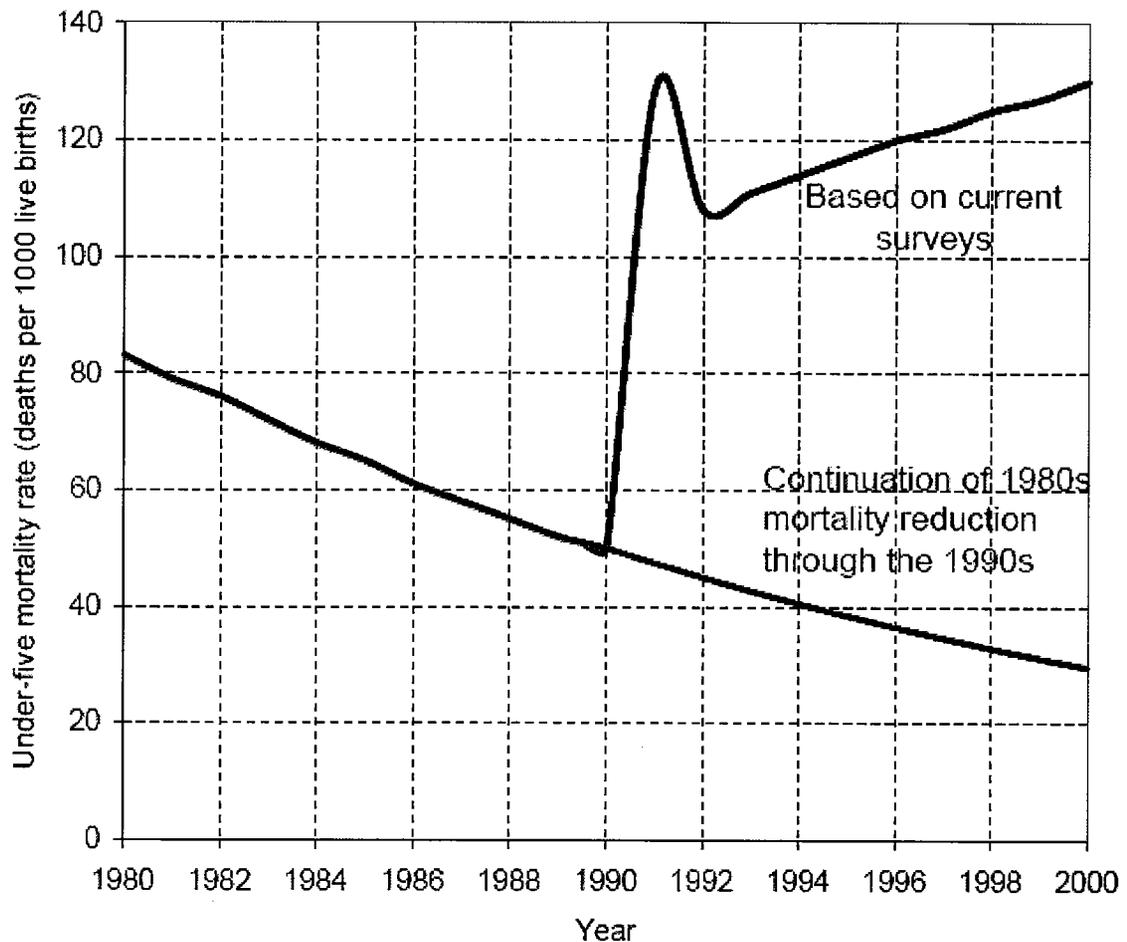
1 19. Each month, economic sanctions have helped cause the deaths of three to six
2 thousand children in Iraq under five years of age. In 1992, the New England Journal of
3 Medicine put the figure at 5,862 deaths per month for the first eight months of 1991 alone.
4 (This does not include adults who have died in Iraq as a consequence of economic sanctions.)

5 20. In 2000, UNICEF issued a report entitled "UNICEF in Iraq." The report
6 warned: "Mounting evidence shows that the sanctions are having a devastating humanitarian
7 impact on Iraq." It quoted a 1997 report by the UN Human Rights Committee, which stated:
8 "the effect of sanctions and blockades has been to cause suffering and death in Iraq, especially
9 to children."

10 21. According to former UNICEF Director Carol Bellamy, sanctions imposed by the
11 United States through the UN Security Council have reversed a decades-long decline in infant
12 mortality in Iraq. Ms. Bellamy cites UNICEF reports that between 1991 and 1998, this reversal
13 contributed to the deaths of half a million children under the age of five. One such UNICEF
14 report appears at <http://www.unicef.org/reseval/pdfs/irqu5est.pdf>. It contains graphs such as
15 the following, which depict the upsurge in child mortality in Iraq after 1990, the year economic
16 sanctions were first imposed:

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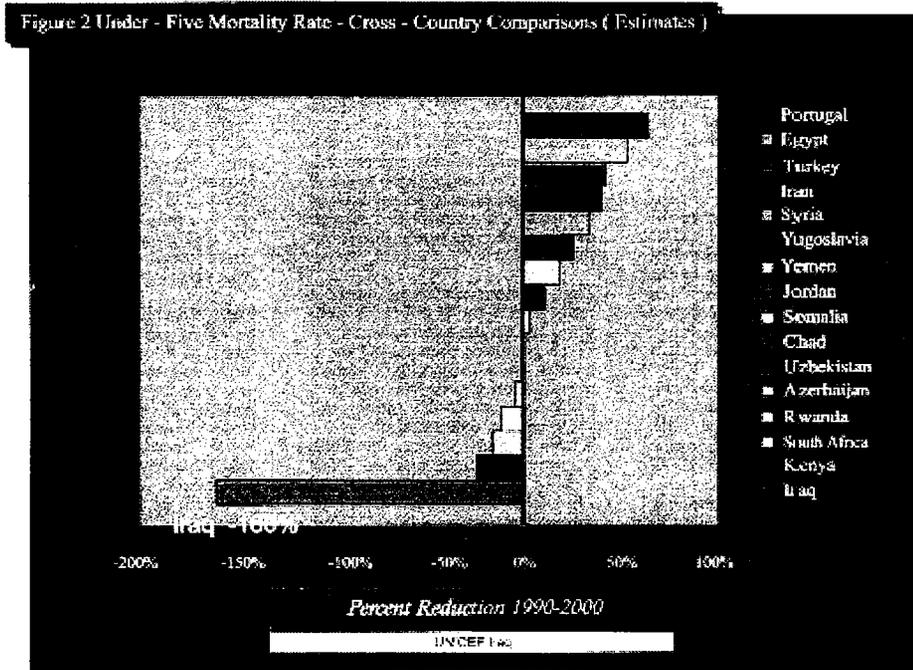
Chart 2: Iraq - under-five mortality rate disparities



The chart shows the large disparity between the mortality rates based on recent surveys and what would have been the situation if the mortality trend in the 1980s had been continued through the 1990s.

22. In 2003 UNICEF published another report, entitled "The Situation of Children in Iraq." See http://www.unicef.org/publications/pub_children_of_iraq_en.pdf. That report

1 states that a country like Iraq, which had an infant mortality rate of 40-60 deaths per 1,000 live
 2 births in 1990, should have had a rate of 20-30 by now. *Id.* at 13. Instead, the infant mortality
 3 rate in southern and central Iraq climbed to 107 deaths per 1,000 live births by 1999. *Id.* The
 4 under-five mortality rate, meanwhile, rose from 56 deaths per 1,000 live births in 1985-89 to
 5 131 in 1995-99. *Id.* The report contains the following chart, which compares the 160%
 6 increase in childhood mortality in Iraq to the (generally improving) trend in other countries:



18 *Id.* at 14. UNICEF attributes the increase in childhood mortality in Iraq to economic sanctions.
 19 *Id.* at 13.

20 23. In 1999, the Seattle Post-Intelligencer sent a team to Iraq to report on conditions
 21 there. The resulting articles, which are available on-line, document the deaths of Iraqi children
 22 due to the absence of medical supplies. *See* <http://seattlepi.nwsourc.com/iraq/life1.shtml>.

23 24. The situation has not improved since the end of the Second Gulf War.
 24 UNICEF's website (<http://www.unicef.org/infobycountry/iraq.html>) currently reports:

25 Even before the most recent conflict began, many children were highly
 26 vulnerable to disease and malnutrition. One in four children aged under five is
 chronically malnourished. One in eight children die before their fifth birthday.

1 25. Members of the United States government have publicly deemed these
2 widespread deaths of infants and children in Iraq to be “worth it.” In 1996 former Secretary of
3 State (and then U.S Ambassador to the UN) Madeleine Albright was asked: “We have heard
4 that a half million children have died. I mean, that's more children than died in Hiroshima. And,
5 you know, is the price worth it?” Ms. Albright responded, “I think this is a very hard choice,
6 but the price--we think the price is worth it.” Ms. Albright has later expressed regret for this
7 statement, but has insisted that sanctions are justified notwithstanding the “starvation” and
8 “horrors” experienced by the Iraqi people. She claimed sanctions did not preclude food from
9 reaching civilians in Iraq.

10 **E. Humanitarian Exemptions to Economic Sanctions Have Not Stopped Children**
11 **From Dying As a Result of Those Sanctions.**

12 26. In theory, OFAC regulations allow food and medicine to be imported into Iraq.
13 Food has also been brought into Iraq under the so-called “oil-for-food program,” which began
14 in 1996. But widespread sanctions-related infant and child mortality remain.

15 27. As a result, the first two directors of the oil-for-food program both resigned from
16 the UN in protest. The first director, Denis Halliday, served as United Nations Assistant
17 Secretary General and Humanitarian Coordinator in Iraq from September 1, 1997 until the end
18 of September 1998. He later explained:

19 Malnutrition is running at about 30 percent for children under 5 years old. In
20 terms of mortality, probably 5 or 6 thousand children are dying per month. This
21 is directly attributable to the impact of sanctions, which have caused the
22 breakdown of the clean water system, health facilities and all the things that
23 young children require. . . . I do not want to administer a program that results in
24 these kind of figures.

25 A month after resigning, Mr. Halliday warned: “We are in the process of destroying an entire
26 society. It is as simple and terrifying as that.”

 28. Mr. Halliday was succeeded by Hans von Sponeck, who served as UN Assistant
Secretary General and Humanitarian Coordinator for Iraq. Mr. Von Sponeck served until

1 February 2000, when he, too, resigned. Mr. von Sponeck stated, "I increasingly became aware
2 that I was associated with a policy of implementing an oil-for-food program that could not
3 possibly meet the needs of the Iraqi people." He, too, cautioned, "If we continue this policy
4 when we fully recognize its consequences, we move toward genocide."

5 29. UNICEF reports confirm that the oil-for-food program "stopped the
6 humanitarian situation from deteriorating, but did not greatly improve conditions for most
7 Iraqis. This is partly because revenue has not been sufficient to comprehensively rehabilitate
8 the country's infrastructure." This assessment is confirmed by recent events. In 1996, the oil-
9 for-food program was set up to allow \$2 billion of oil to be exported every 180 days. Yet L.
10 Paul Bremer, currently the U.S. civilian administrator for Iraq, has publicly estimated that
11 rebuilding Iraq will cost \$100 billion. The oil-for-food program never made capital of this kind
12 available to the people of Iraq.

13 UNICEF's 2003 report, cited above, concludes:

14 [S]ince the introduction of the Oil for Food Programme, the
15 nutritional status of children has not improved. One in five
16 children in the south and centre of Iraq remain so malnourished
that they need special feeding, and child sickness rates continue
to be alarmingly high.

17 See UNICEF, THE SITUATION OF CHILDREN IN IRAQ (2003) at 11.

18 **F. International Law Does Not Allow States To Deprive Civilians, Especially**
19 **Mothers, Infants, and Young Children, of Food, Medicine, and Other Necessities.**

20 30. International law is the supreme law of the land under the United States
21 Constitution. Accordingly, to the extent OFAC regulations are inconsistent with international
22 law, they are unconstitutional.

23 31. International custom and general principles of law recognized by civilized
24 nations do not allow states to deprive civilians, especially mothers, infants, and children under
25 the age of fifteen, of food, medicine, and other necessities of life.

26 32. Several treaties signed by the United States reflect or embody these principles of

1 international law. Perhaps the best known of these is the Geneva Convention Relative to the
2 Protection of Civilian Persons in Time of War. Article 23 of the Geneva Convention states that
3 even in war, parties to the treaty:

4 shall allow the free passage of all consignments of medical and
5 hospital stores and objects necessary for religious worship
6 intended only for civilians of another High Contracting Party,
7 even if the latter is its adversary. It shall likewise permit the free
8 passage of all consignments of essential foodstuffs, clothing and
9 tonics intended for children under fifteen, expectant mothers and
10 maternity cases.

11 The Geneva Convention codifies international custom and general principles of law
12 recognized by civilized nations and applies those principles of law to the exigencies of
13 wartime. Civilized nations recognize that depriving civilians, especially mothers and children,
14 of the necessities of life is illegal and immoral, even (but not especially) during war.

15 33. Other treaties to which the United States is a party also codify or reflect these
16 general principles of international law. One is the Convention on the Prevention and
17 Punishment of the Crime of Genocide. Article II of the Convention defines genocide to include
18 killing or causing serious bodily or mental harm to members of a group as well as deliberately
19 inflicting conditions of life calculated to bring about the partial or total physical destruction of
20 the group. Legal scholars have suggested that economic sanctions against Iraq may have risen
21 to the level of genocide within the meaning of the Convention.

22 34. The Universal Declaration of Human Rights, adopted by the United Nations
23 General Assembly in 1948, likewise springs from principles of international law that condemn
24 state deprivation of food, medicine, and other necessities. Article 25(1) of the Universal
25 Declaration states that

26 Everyone has the right to a standard of living adequate for the
health and well-being of himself and of his family, including
food, clothing, housing and medical care and necessary social
services

Article 25(2) provides that “[m]otherhood and childhood are entitled to special care and

1 assistance.” Civilized nations thus recognize that depriving people – particularly mothers,
2 infants, and young children – of “food, clothing, housing and medical care and necessary social
3 services” constitutes a deprivation of their human rights.

4 35. Another treaty, the Convention on the Rights of the Child, also springs from
5 these principles and affirms that states may not deprive children of their means of subsistence.
6 Article 24 of the Convention on the Rights of the Child, for example, “recognize[s] the right of
7 the child to the enjoyment of the highest attainable standard of health and to facilities for the
8 treatment of illness and rehabilitation of health.” The Convention states that nations “shall
9 strive to ensure that no child is deprived of his or her right of access to such health care
10 services.” Accordingly, the Convention requires countries to “take appropriate measures: (a)
11 To diminish infant and child mortality; (b) To ensure the provision of necessary medical
12 assistance and health care to all children with emphasis on the development of primary health
13 care; (c) To combat disease and malnutrition, including within the framework of primary health
14 care, through, inter alia, the application of readily available technology and through the
15 provision of adequate nutritious foods and clean drinking-water, taking into consideration the
16 dangers and risks of environmental pollution; [and] (d) To ensure appropriate pre-natal and
17 post-natal health care for mothers.”

18 36. OFAC regulations, and the economic sanctions they enforce, violate
19 international law and the Constitution because they deny civilians, particular mothers and
20 young children, of food, medicine, and other necessities of life. OFAC, therefore, may not
21 constitutionally prevent individuals like Mr. Sacks from bringing food or medical supplies to
22 civilians in Iraq.

23 37. Congress has implicitly recognized that international law does not allow states
24 to deprive civilians, especially mothers and children, of food, medicine, and other necessities.
25 Accordingly, Congress imposed several limits on OFAC’s power to impose economic
26 sanctions.

1 38. 50 U.S.C. § 1702(b)(2), for example, provides that the “authority granted to the
2 President by this section does not include the authority to regulate or prohibit, directly or
3 indirectly . . . donations, by persons subject to the jurisdiction of the United States, of articles,
4 such as food, clothing, and medicine, intended to be used to relieve human suffering.” The
5 only exceptions are for donations that: (1) would “seriously impair” the President’s “ability to
6 deal with any national emergency”; (2) are in response to “coercion against the proposed
7 recipient or donor”; or (3) would endanger U.S. armed forces that “are engaged in hostilities or
8 are in a situation where imminent involvement in hostilities is clearly indicated by the
9 circumstances.

10 39. 50 U.S.C. § 1702(b)(4) provides: “The authority granted to the President by this
11 section does not include the authority to regulate or prohibit, directly or indirectly . . . any
12 transactions ordinarily incident to travel to or from any country, including importation of
13 accompanied baggage for personal use, maintenance within any country including payment of
14 living expenses and acquisition of goods or services for personal use, and arrangement or
15 facilitation of such travel including nonscheduled air, sea, or land voyages.”

16 40. OFAC’s regulations exceed the authority Congress granted it.

17 **G. OFAC Enforces Its Sanctions Regulations to Quash Conscientious Objectors.**

18 41. Notwithstanding restrictions on OFAC’s power imposed by international law, by
19 the Constitution, and by Congress, OFAC has persisted in its efforts to punish Mr. Sacks and
20 others who bring food and medicine to civilians in Iraq. Nearly four years after Mr. Sacks
21 responded to OFAC’s “Prepenalty Notice” in 1998, OFAC sent a written “Penalty Notice” to
22 Mr. Sacks. A true and correct copy of the Penalty Notice, which is dated May 17, 2002, is
23 attached hereto as Exhibit 2. In it, OFAC informed Mr. Sacks:

24 You admitted the [initial Prepenalty] Notice’s allegation in Count
25 6 that you exported goods to Iraq absent prior OFAC approval
26 and also stated that you decided to violate the U.S.-Government’s
 economic sanctions against Iraq as an act of civil disobedience.
 OFAC notes that you have admitted to Count 6 alleged in the

1 Notice. The allegations included your currency travel-related
2 transaction to/from/within Iraq absent prior license or other
3 authorization from OFAC. . . . Accordingly, OFAC finds that
4 you have violated the Regulations as alleged in Count 6 of the
5 Notice.

6 The Penalty Notice concluded that a \$10,000 penalty was appropriate.

7 42. Mr. Sacks responded to the notice and noted (correctly) that he had not admitted
8 the charges set forth in Count 6; he had only admitted to bringing medicine to Iraq. As Mr.
9 Sacks explained:

10 Count 6 [in your letter to us of December 3, 1998] deals only
11 with "travel-related transactions ... the purchase of food, lodging,
12 ground transportation and incidentals." I have never admitted to,
13 nor supplied information about, any such transactions.

14 43. OFAC regulations theoretically allow a license to be granted to bring medicine
15 to Iraq. But the regulations do not say how, when, or under what circumstances, OFAC will
16 grant such a license. OFAC has accepted no restrictions on its power to deny such licenses.

17 44. In late 2002, Mr. Sacks sent a written request to OFAC under the Freedom of
18 Information Act to assess OFAC's willingness to grant licenses to U.S. citizens to travel to Iraq
19 with medical supplies. In his request, Mr. Sacks asked OFAC to provide, among other things:

20 1. All internal or external summaries of requests to the
21 Office of Foreign Assets Control since January 1991 by any
22 individual, organization or business for license to travel to Iraq
23 for the purpose of supplying medicine, health supplies,
24 foodstuffs, and materials and supplies for essential civilian needs
25 of the Iraqi population, including but not limited to summaries
26 that show the final determination or status of those requests.

2. All requests to the Office of Foreign Assets Control since
January 1991 by any individual, organization or business for
license to travel to Iraq for the purpose of supplying medicine,
health supplies, foodstuffs, and materials and supplies for
essential civilian needs of the Iraqi population.

3. All requests to the Office of Foreign Assets Control since
January 1991 by any individual, organization or business for
license to export to Iraq medicine, health supplies, foodstuffs, and
materials and supplies for essential civilian needs of the Iraqi
population.

1 4. All responses by the Office of Foreign Assets Control to
2 those requests numbered 2 and 3 above, including but not limited
3 to a denial or granting of a license, or a request for further
4 information.

5 Mr. Sacks has sent two follow-up letters seeking a response to his request. To date, OFAC has
6 not responded to this request, which has been pending for nearly a year.

7 45. OFAC has targeted other alleged violators of its ban on travel and importation of
8 medical supplies to Iraq. Several people who traveled to Iraq with medical supplies have also
9 received civil penalty notices (including the other individuals named in the Prepenalty Notice
10 to Mr. Sacks). So did Voices in the Wilderness, an organization that, like Mr. Sacks, seeks to
11 publicize the effects of U.S. economic sanctions and bring an end to their use.

12 46. In June 2003, OFAC sued Voices in the Wilderness to recover a civil penalty.
13 Voices in the Wilderness consists of many individuals who oppose economic sanctions in Iraq.
14 Several of these individuals have, like Mr. Sacks, brought medicine and medical supplies to
15 Iraq.

16 47. Then, in early August, 2003, an organization called Ocwen Federal Bank called
17 Mr. Sacks to advise that it was attempting to collect the civil penalty on behalf of the federal
18 government. Mr. Sacks subsequently received an August 11, 2003 letter from Ocwen Federal
19 Bank, a true and correct copy of which is attached hereto as Exhibit 3. That letter advised that
20 Ocwen was attempting to collect Mr. Sacks' alleged "debt" to OFAC for the civil penalty.

21 48. OFAC clearly intends to sue to collect the civil penalty it claims Mr. Sacks
22 owes. Consequently, a case of actual controversy now exists concerning Mr. Sacks' alleged
23 obligation to pay such a penalty. Moreover, because Mr. Sacks has traveled to Iraq since the
24 1997 trip for which he was fined, a case of actual controversy exists as to OFAC's authority to
25 impose further penalties for these other trips.

26 49. Notwithstanding the fact that Mr. Sacks is the plaintiff in this cause, Mr. Sacks
does not waive his right to have OFAC carry its burden of proving its entitlement to collect a

1 civil penalty or any other matter on which OFAC has the burden of proof.

2 **IV.**
3 **CAUSES OF ACTION**

4 50. OFAC's attempts to collect a civil penalty are unlawful and unauthorized.

5 51. OFAC's Prepenalty and Penalty Notices state that OFAC is seeking to collect an
6 civil penalty from Mr. Sacks for "currency transactions," namely "the purchase of food,
7 lodging, ground transportation, and incidentals." Yet OFAC lacks the statutory authority to do
8 so. 50 U.S.C. § 1702(b)(4) expressly denies OFAC "the authority to regulate or prohibit,
9 directly or indirectly . . . any transactions ordinarily incident to travel to or from any country,
10 including importation of accompanied baggage for personal use, maintenance within any
11 country including payment of living expenses and acquisition of goods or services for personal
12 use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land
13 voyages."

14 52. To the extent OFAC seeks to impose a penalty for the importation of medicine
15 or medical supplies to Iraq, OFAC lacks the statutory authority to do so. 50 U.S.C.
16 § 1702(b)(2) expressly denies OFAC the authority to *regulate* or prohibit, directly *or indirectly*
17 . . . (2) donations, by persons subject to the jurisdiction of the United States, of articles, such as
18 food, clothing, and medicine, intended to be used to relieve human suffering." OFAC's
19 demand that Mr. Sacks obtain a license to donate medicine constitutes a prohibited attempt to
20 directly or indirectly regulate (if not outright prohibit) those donations.

21 53. To the extent OFAC seeks to impose a penalty for the importation of medicine
22 or medical supplies to Iraq, OFAC lacks the constitutional authority to do so. Government
23 efforts to withhold food and needed medical supplies from innocent civilians, particularly
24 mothers, infants, and young children, violate international law. This international law, to which
25 the United States has acceded, is the supreme law of the land under the Supremacy Clause set
26 forth in Article VI of the United States Constitution ("all Treaties made, or which shall be

1 made, under the Authority of the United States, shall be the supreme Law of the Land”).
2 OFAC may not punish Mr. Sacks in violation of international law and the Constitution of the
3 United States.

4 54. According to OFAC’s Prepenalty Notice, its claim for a civil penalty arises from
5 conduct by Mr. Sacks that took place “on or about November 21-30, 1997.” To the extent
6 OFAC seeks a civil penalty for such conduct, it is untimely and is barred by the five-year
7 statute of limitations that applies to the collection civil fines and penalties. 28 U.S.C. § 2461
8 provides:

9 Except as otherwise provided by Act of Congress, an action, suit
10 or proceeding for the enforcement of any civil fine, penalty, or
11 forfeiture, pecuniary or otherwise, shall not be entertained unless
commenced within five years from the date when the claim first
accrued.

12 By its own admission, OFAC’s claim for a civil penalty first accrued over five years ago.

13 **V.**
14 **RELIEF REQUESTED**

15 WHEREFORE Bert Sacks requests the following relief:

16 1. A declaration that OFAC is not entitled to collect a civil penalty from him for all
17 of the following reasons:

18 a. OFAC lacks the statutory authority to regulate Mr. Sacks or others who
19 seek to donate food and medicine to civilians in Iraq, and OFAC lacks the authority to prohibit
20 Mr. Sacks or others from doing so;

21 b. OFAC lacks the statutory authority to regulate Mr. Sacks or others who
22 seek to travel to Iraq for the purpose of donating food and medicine to civilians in Iraq, and
23 OFAC lacks the authority to prohibit Mr. Sacks or others from doing so;

24 c. OFAC lacks the constitutional authority to prohibit Mr. Sacks or others
25 from bringing food and medical supplies to Iraqi civilians, as international law to which the
26 United States has acceded forbids the United States government from killing civilians,

1 especially mothers, infants, and young children; and

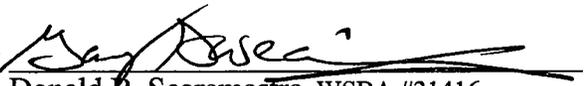
2 d. OFAC's claims, to the extent they arise from conduct that took place five
3 or more years ago, are untimely and barred by the statute of limitations.

4 2. An order enjoining OFAC from further efforts to collect civil penalties from
5 individuals who seek to travel to Iraq or donate food or medicine to civilians there; and

6 3. Such other and further relief as this Court deems just and proper.

7 DATED this 14th day of January, 2004.

8 GARVEY SCHUBERT BARER

9
10 By 
11 Donald B. Scaramastra, WSBA #21416
12 Gary D. Swearingen, WSBA #24483
13 Attorneys for Plaintiff Bertram Sacks



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

DEC 03 1998

OFAC Nos. IQ-162016 and IQ-162433

PREPENALTY NOTICE

Dear Ms. Kelly and Messrs. Handelman, Mullins, Sacks, and Zito:

The Office of Foreign Assets Control ("OFAC") has reasonable cause to believe that you and Voices in the Wilderness ("VW") have engaged in certain prohibited transactions, detailed below, relating to the embargo against Iraq in 1997. Inasmuch as no license or approval had been issued by OFAC prior to such transactions, they violated the Iraqi Sanctions Regulations, 31 CFR Part 575 (the "Regulations"), and underlying statutes and Executive Orders. See, specifically, §§ 575.204-.207 and 575.211 of the Regulations.

Violations

The violations of the Regulations and underlying statutes and Executive Orders for which this Notice is issued concern your and VW's exportation of donated goods, including medical supplies and toys, to Iraq absent specific prior authorization by OFAC and transactions relating to travel to Iraq and activities in Iraq. Additionally, the violations involve transactions for the purpose of, or which have the effect of, evading or avoiding, or which facilitate the evasion or avoidance of any of the prohibitions of the Regulations, as well as a conspiracy formed for the purpose of engaging in transactions prohibited by the Regulations. In this regard, VW has organized members to deliver goods to Iraq in violation of the embargo and made express statements of the organization's knowledge of its violative actions. As to Messrs. Handelman and Mullins, the violations also concern the importation of goods and services of Iraqi origin. Specifically, the violations are as follows:

1. In March 1996, VW exported goods, including medical supplies, valued at approximately \$18,000, to Iraq absent prior specific license or other authorization issued by OFAC;
2. In August 1996, VW exported goods, including medical supplies, valued at approximately \$8,000, to Iraq absent prior specific license or other authorization issued by OFAC;
3. In November 1996, VW exported goods, including medical supplies, valued at approximately \$10,000, to Iraq absent prior specific license or other authorization issued by OFAC;
4. In November 1997, VW exported goods, including medical supplies and toys, valued at approximately \$30,000-40,000, to Iraq absent prior specific license or other authorization issued by OFAC;

EXHIBIT 1

5. On or about November 21, 1997, Mr. Handelman exported film and videotape to Iraq, through Jordan;

6. Between on or about November 21-30, 1997, Messrs. Handelman, Mullins, Sacks and Zito, engaged in currency travel-related transactions to/from/within Iraq absent prior license or other authorization from OFAC. These currency transactions included, but are not limited to, the purchase of food, lodging, ground transportation, and incidentals;

7. On December 3, 1997, Mr. Handelman imported goods and/or services of Iraqi origin, including photographic and video graphic services, into the United States at Detroit, Michigan. Upon entry of the goods, the United States Customs Service ("USCS") seized them (District Case Nos. 98-3801-000235). The goods included an Iraqi water-bottle label, an Iraqi stamp, photographic film, video and audio tapes and/or cassettes, postcards, and assorted papers;

8. On December 3, 1997, Mr. Mullins imported goods and/or services of Iraqi origin, including photographic and/or video graphic services, into the United States at Detroit, Michigan. Upon entry of the goods, USCS seized them (District Case No. 98-3801-00238). The goods included a necklace, a wooden drum, audio tapes, a computer disc, notebooks, pictures, and miscellaneous papers and cards;

9. In July 1998, VW exported goods to Iraq absent prior specific license or other authorization issued by OFAC; and

10. In September 1998, VW exported goods, including medical supplies, to Iraq absent prior specific license or other authorization issued by OFAC.

Proposed Penalty

Section 206 of IEEPA, 50 U.S.C. § 1705, provides, in part, for a civil penalty not to exceed \$10,000 per violation. Section 586E of the Iraq Sanctions Act of 1990, PL.101-513, 104 Stat. 2049, provides, in part, for a civil penalty not to exceed \$250,000 for each violation occurring after November 5, 1990.¹ See, Regulations § 575.701. Pursuant to § 575.702 of the Regulations, you are hereby notified that OFAC intends to issue a claim against each of you and VW for a monetary penalty in the amounts set forth below:

As to VW: \$120,000, computed at \$20,000 for each of Counts 1-4, 9 and 10

As to Mr. Handelman: \$12,000, computed at \$1,000 for each of Counts 5 and 7, plus \$10,000 for Count 6

¹ Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub.L. 101-410, 104 Stat. 890, 28 U.S.C. 2461 note), as amended by the Debt Collection Improvement Act of 1996 (Pub.L. 104-134, sec. 31001(s)1), Apr. 26, 1996, 110 Stat. 1321-373 -- jointly, the "FCPIA"), requires each Federal agency with statutory authority to assess civil monetary penalties ("CMPs") to adjust CMPs for inflation according to a formula described in § 5 of the FCPIA. Accordingly, on October 23, 1996, OFAC published in the Federal Register the required amendment, effective October 21, 1996, to the Regulations adjusting its CMP to \$275,000. See 61 FR 54936 at 54939.

As to Mr. Mullins: \$11,000, computed at \$1,000 for Count 8, plus \$10,000 for Count 6

As to Mr. Sacks: \$10,000, for Count 6

As to Mr. Zito: \$10,000 for Count 6

With respect to the disposition goods seized in the above-cited USCS District Cases from Messrs. Handelman and Mullins, we recommend that, inasmuch as such goods have been involved in the violation of U.S. law by U.S. persons, such goods be forfeited to the United States in accordance with USCS procedures.

Election of Proceedings

1. You have the right to make a written presentation to FAC within thirty (30) days of the mailing of this Notice. Such written presentation in response to this Notice need not be in any particular form, but it should contain a response to the allegations herein, and set forth the reasons why the penalty should not be issued, or if issued, why the amount should be less than that proposed in this Notice. Such response should be addressed to the Office of Foreign Assets Control (Attention: Civil Penalties), U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220.

2. In the event that you elect not to respond, OFAC will conclude that you have decided not to submit any new facts or explanations for our consideration. In such instance, OFAC will issue a Penalty Notice in accordance with § 575.704(b) of the Regulations, finding a violation and assessing a penalty generally in the amount proposed herein.

3. Should you elect to resolve this matter informally absent any final agency finding of violation, you may initiate settlement negotiations by telephoning the OFAC staff member named below under "Contact Person" at any time before you are issued a Penalty notice. If the negotiations result in settlement, you are not required to make a written response to this Notice, which will be withdrawn without a formal determination of violation, provided settlement occurs within the time period set in this Notice.

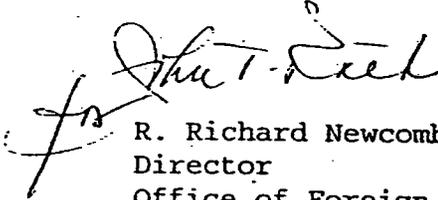
Collection

Section 575.705 of the Regulations provides that this matter shall be referred to the United States Department of Justice for collection if the penalty is not paid within thirty (30) days of the mailing of a Penalty Notice, should one be issued imposing a penalty pursuant to § 575.704 of the Regulations. Prior to such referral, OFAC may undertake administrative collection through the Office of Financial Management of the U.S. Treasury Department.

Contact

In view of the short response time, if you have any questions concerning this matter, please feel free to contact the appropriate member of my staff, Mrs. B.S. Scott, Chief, Civil Penalties Program, at telephone number (202) 622-6140.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Richard Newcomb". The signature is written in dark ink and is positioned above the typed name.

R. Richard Newcomb
Director
Office of Foreign Assets Control

This electronic version will be amended
with a copy of the original letter.

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

FAC No. IQ-162016 and IQ-162433 MAY 17 2002

PENALTY NOTICE

Dear Mr. Sacks:

A Prepenalty Notice ("Notice") dated December 3, 1998, was issued to you, by the Office of Foreign Assets Control ("OFAC") for having engaged in certain prohibited transactions relating to Iraq, as detailed in the Notice. No license or approval was issued by OFAC for these transactions. Accordingly, such transactions violated the Iraqi Sanctions Regulations, 31 CF.R Part 575 (the "Regulations"), promulgated pursuant to the International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq. ("IEEPA") and underlying statutes and Executive Orders. See §§ 575.207 and 515.211 of the Regulations.

Section 206 of IEEPA, 50 U.S.C. § 1705, provides, in part, for a civil penalty not to exceed \$10,000 for each such violation. Section 586E of the Iraq Sanctions Act of 1990, PL.IO1-S13, 104 Stat. 2049, provides, in part, for a civil penalty not to exceed \$250,000 for each violation occurring after November 5, 1990.¹ Pursuant to §§ 575.702 of the Regulations, the Notice proposed a penalty against you in the amount of \$10,000. You were advised of your right to make a written presentation to OFAC setting forth reasons why the penalty should not be issued or, if issued why the amount should be less than that proposed. Such written response was required to be made within thirty (30) days of the mailing of the Notice.

OFAC mailed the Notice to you on December 3, 1998. Delivery is evidenced by a signed United States Postal Service Form 3811, Domestic Return Receipt.

By a response received at OFAC January 8, 1999, you made a written presentation setting forth reasons why you engaged in certain prohibited transactions relating to the embargo against Iraq. You admitted the Notice's allegation in Count 6 that you exported goods to Iraq absent prior OFAC approval and also stated that you decided to violate the U.S.-Government's economic sanctions against Iraq as an act of civil disobedience.

OFAC notes that you have admitted to Count 6 alleged in the Notice. The allegations included your currency travel-related transactions to/from/within Iraq absent prior license or other authorization from OF AC. The Regulations prohibit persons subject to United States jurisdiction from engaging in any transaction relating to travel to Iraq. See § 575.207 of the Regulations. Accordingly, OFAC finds that you have violated the Regulations as alleged in Count 6 of the Notice.

EXHIBIT 2

After a careful review of the entire file, it is determined that you did violate IEEPA and the Regulations. It is further determined that, while some relief is warranted to take into account the fact that the instant violation was your first offense on record at OFAC, such relief must be balanced against aggravating factors present, specifically your willful violation of the Regulations.

Accordingly, the proposed civil penalty in the amount of \$10,000 is hereby imposed upon you pursuant to § 575.704 of the Regulations.

A check payable to the "U.S. Treasury" in the amount of \$10,000 should be sent within 30 days of the mailing of this Penalty Notice to the Office of Foreign Assets Control, (Attention: Civil Penalties), U.S. Treasury Department, 1500 Pennsylvania Avenue. N.W., Washington, D.C. 20220. Please note that interest, administrative charges and late fees will commence to accrue after 30 days of the mailing of the Penalty Notice. Under Public Law 97-365, 31 U.S.C. § 3717, interest at an annual rate inter of 5% and an administrative charge of \$12.00 will be added monthly if the amount is not paid by the due date. Should the amount not be paid within ninety (90) days, an additional late charge of 6% will be added.

Please note that § 575.705 of the Regulations provides that this matter shall be referred for administrative collection measures or to the United States Department of Justice for collection if the penalty is not paid within 30 days of the mailing of the Penalty Notice.

Please further note that 31 U.S.C. § 7701 requires that a person assessed a penalty by a Federal agency furnish a taxpayer identification number/Social Security Number and also requires the agency to disclose that we intend to use such number for the purposes of collecting and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

Sincerely,

(signed)
Richard Newcomb
Director
Office of Foreign Assets Control

Mr. Bertram Sacks
127 NW Bowdoin Place, #103
Seattle, Washington 98107

cc: U.S. Customs Service
Fines, Penalties & Forfeitures Office
(Attn: Mr. Don Zainea)
Patrick V. McNamara Bldg.
477 Michigan Avenue. Rm 200
Detroit, Michigan 48226



Office Hours (EST)
Monday through Thursday: 8:00 AM to 9:00 PM
Friday: 8:00 AM to 5:00 PM
Saturday: 8:00 AM to 12:00 PM
Sunday 12:00 Noon to 9:00 PM

August 11, 2003

Ocwen Federal Bank FSB Account #: 506780
Federal Agency: DEPARTMENT OF THE TREASURY - DEPARTMENTAL OFFICES
U.S. Department of the Treasury-FMS Account #: CB0916868
Name: Bertram Sacks
Balance due as of August 9 2003 is \$13767.08

Please be advised that Ocwen Federal Bank FSB ("Ocwen") has been engaged by the U.S. Department of the Treasury-Financial Management Service on behalf of the above named Federal agency to resolve your delinquent debt. Please make your bank check or money order payable to U.S. Department of Treasury - FMS and mail to:

**U.S. Department of the Treasury - FMS
Ocwen Federal Bank
PO Box 530289
Atlanta, GA 30353-0289**

Our Toll Free Telephone Number is 888-778-2696

NOTICE UNDER FAIR DEBT COLLECTION PRACTICES ACT

1. The amount of the debt as of August 9 2003 is \$13767.08.
2. The name of the creditor to whom the debt is owed is the above named Federal agency.
3. Unless you, within thirty (30) days after receipt of this notice, dispute the validity of the debt, or any portion thereof, the debt will be assumed to be valid by Ocwen Federal Bank FSB.
4. If you notify Ocwen in writing within thirty (30) days after receipt of this notice, that the debt or any portion thereof, is disputed, Ocwen will obtain verification of the debt or a copy of a judgment against you, whichever the case may be and a copy of such verification or judgment will be mailed to you by Ocwen.
5. Upon written request within thirty (30) days after receipt of this notice, Ocwen will provide you with the name and address of the original creditor, if different from the current creditor.

Mail correspondence to: Ocwen Federal Bank FSB, Central Florida Research Parkway
PO Box 780549
Orlando, FL 32878-0549

This is an attempt to collect a debt by a debt collector. Any information obtained will be used for that purpose.

Sincerely,
Ocwen Federal Bank, FSB

Ocwen, Ocwen Federal Bank, FSB, and the Ocwen logo are registered service marks of Ocwen Financial Corporation, and are used here under license © 1996-2002 Ocwen Federal Bank, FSB. All rights reserved.

10NOCWN014001

Detach Lower Portion and Return with Payment

PO Box 780549
Orlando, FL 32878-0549

ADDRESS SERVICE REQUESTED

	Account Number _____	Exp Date _____
	Card Holder Name _____	\$ _____
	Signature of Card Holder _____	Pmt Amt _____
	Debtor Identification Number: <u>CB0916868-000908243</u>	Date _____
	Amount Enclosed: \$ _____	

Date	Amount Due	Due Date
8/11/2003	\$13767.08	August 9 2003

#BWNHRMD 10678 33256
#0811 0920 0033 2565# 506780-4001



Bertram Sacks
127 NW Bowdoin Pl Apt 103
Seattle WA 98107-4964

U.S. Department of the Treasury - FMS
Ocwen Financial
PO Box 530289
Atlanta GA 30353-0289



EXHIBIT 3