

**REQUEST FOR GRAND JURY INVESTIGATION**

1. Reg. control number	2. Date prepared 07/18/2002	3. Field Office Atlanta
4. In reference to: (See attachment for all entities) Name GERARD C. MARCHELLETTA JR.	Investigation number <b>REDACTED</b> Address <b>REDACTED</b> SSN/EIN <b>REDACTED</b>	5. Type of request <input type="checkbox"/> a. Service initiated <input checked="" type="checkbox"/> b. Government attorney <input type="checkbox"/> c. OCDETF <input type="checkbox"/> d. Target Expansion
6. a. Is there currently an ongoing Grand Jury investigation?		<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
b. If yes, does this request include Grand Jury material?		<input checked="" type="checkbox"/> yes <input type="checkbox"/> no
If yes, assure that the U.S. Attorney's request for our participation includes authorization to disclose information to Service officials.		
If no, assure that U.S. Attorney's request states that no Grand Jury information was reviewed.		
7. a. Law enforcement agencies participating United States Customs Service, IRS		
b. Probable non-tax criminal charges 31 USC 5316		
8. Reasons for IRS participation and deterrent effect of anticipated investigation(s) (Include justification for the need of a Grand Jury)		
Although the owners of the Circle entities may have an affiliation with organized crime, there is currently no evidence that they are not a legitimate business. However, several interviews with an informant (a former employee) indicate that a substantial amount of revenue is going to offshore accounts in the Bahamas and Turks and Caicos for the purpose of tax evasion and to avoid reporting requirements to Customs. Analysis of corporate bank accounts subpoenaed thus far indicate that funds moving through the accounts far exceed revenues reported on the Corporate Forms 1120, thus a grand jury expansion to include a criminal tax investigation is warranted. In addition, Marchelletta's lifestyle is not commensurate with the salary/income on his Forms 1040. A grand jury is needed to avoid duplication of obtaining evidence to prove both Customs and IRS violations, as much of the evidence is required for both investigations. Many of the employees and other witnesses, if not all, may not be willing to cooperate and grand jury subpoenas may be necessary to obtain their testimony. It is anticipated that several co-conspirators are involved in both investigations, and a grand jury will expedite the development and expansion of the additional targets. This investigation involves entities and individuals in the Atlanta metropolitan area, thus the venue for this investigation lies in the Northern Judicial District of Georgia.		
9. a. Contemplated IRS charge(s) 26 USC 7206(1) for Individual Tax Returns and 26 USC 7206(1), 26 USC 7206 (2) for Corporate Income Tax Returns		
b. Tax periods to be investigated 1999 2000 2001 9903 0003 0103		

10. a. Letter from U.S. Attorney	Exhibit number 1
b. Separate summary of Grand Jury facts	Exhibit number 2
c. Summary of returns and return information.	Exhibit number 3
d. Summary of financial and other relevant information	Exhibit number 4
e. Copies of tax returns at issue	Exhibit number 5
11. Grand Jury Access List	Exhibit number 6

12. a. Does this request include out of region targets?  yes  no
- b. If yes, identify the areas and field offices.
- c. Target expansions and OCDETF requests (was out of area concurrence received?)  yes  no
- d. (For area use only)  
Out of area concurrence received?  yes  no

13. If Service initiated, also include
- a. Progress of the administrative investigation to date Exhibit number
  - b. Brief summary of administrative summonses issued Exhibit number
  - c. Status of any civil action by examination, collection, etc. Exhibit number
  - d. Summary/copy of pre-referral advice Exhibit number
  - e. Additional evidence or testimony to be sought through the Grand Jury Exhibit number

Special Agent *Patricia G. Bergstrom* <sup>E</sup> Date  
07/18/2002

14. Reviewing officials (If this request is approved, necessary staffing will be made available)	Telephone	Date
Supervisory Special Agent, CI <i>Michael Durand</i> <sup>E</sup>	404-338-9403	08/12/2002
Concurrence		
Special Agent in Charge, Criminal Investigation <i>C. Andre Martin</i> <sup>E</sup>	404-338-7500	09/19/2002
Concurrence		
Director of Field Operations		
Concurrence/approval		
Chief, Criminal Investigation		
Concurrence		

**Note:**  
Target expansion requests on existing Title 26 Grand Juries are forwarded from the Special Agent in Charge to the U.S Attorney's office with an information copy to Criminal Tax, Department of Justice.

- Approved for forwarding to Counsel  
 Disapproved

Regional Commissioner Date

ATTACHMENT TO FORM 9131

Additional entities for line 4

Name

EI #

Circle Industries USA  
Circle Group LLC

**REDACTED**

Tax periods for line 9B

Circle Industries USA (Form 1120): 9903, 0003, 0103

Circle Group LLC (Form 1120): 2000

Gerard C. Marchelletta Jr. (Form 1040): 1999, 2000, 2001

FORM 9131 (Exhibit 2)

**SUMMARY OF GRAND JURY FACTS**

ALLEGATIONS/BACKGROUND

In March 2001, the U.S. Customs Service initiated an investigation on The Circle Group LLC and related entities and Gerard (Jerry) Marchelletta Jr. for allegedly failing to report the transportation of monetary instruments outside the United States as required by 31 USC Section 5316. The investigation ensued after Customs seized a Fed Ex package that contained three checks (endorsed by Marchelletta) valued at \$1,515,523.13, all paid to the order of the Circle Group Limited, a related Bahamian entity. The checks were seized for violation of 31 USC Section 5316. (See Exhibit 4 for a separate summary of the seizure as well as documents and correspondence provided by attorneys representing the Circle entities). The matter was referred to the Customs Atlanta Field Office for further investigation, as the shipper of the seized Fed Ex package, The Circle Group LLC, was located in Alpharetta, GA. The Customs investigation developed further information that Marchelletta was also allegedly involved in the evasion of income tax for revenues generated by the Circle entities, thus in January 2002, Criminal Investigation was approached about joining the investigation.

Interview at The Circle Group LLC

On July 25, 2001, U.S. Customs Special Agent Kim Sellers interviewed Teresa Kottwitz, the Controller of The Circle Group LLC (in the presence of attorney Marianne Boston) to investigate the particulars of the package seized by Customs in March 2001. Following is a synopsis of certain background information provided:

Circle Industries USA (Circle) is a family owned business started in New York in or about 1990 by Jerry Marchelletta Sr. and Gerard (Jerry) Marchelletta Jr. (herein referred to as Marchelletta). Kottwitz described the business as a drywall subcontractor for major construction projects such as hotels, stadiums and hospitals. In 1993, tired of New York, and searching for new growth opportunities, Marchelletta Jr. relocated to the Atlanta area.

Circle is comprised of three separate entities: Circle Industries USA, The Circle Group LLC and The Circle Group Limited (Ltd.), all which share the same owners. Circle Industries USA is a construction contractor that specializes in drywall installation. The Circle Group LLC, also a drywall subcontractor, is formerly known as Circle Industries and is located in Alpharetta, GA. The Circle Group Ltd., a Bahamian entity, was formed in July 2000 for the sole purpose of providing drywall construction for the Atlantis Hotel/Casino under construction on Paradise Island in the Bahamas.

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During the course of the interview the attorney representing Circle asked S/A Sellers several times if she was going to contact the IRS about this matter.

Interview with Informant

As part of her investigation, S/A Sellers located and interviewed a former employee of Circle through her contacts with an Atlanta FBI Agent. (The individual was also being used as an informant in the ongoing Gold Club investigation). Following is a synopsis of the information obtained during the interview:

The employee, a/k/a "Big Sean", was a former Atlanta Police Officer (APD) and also worked part-time as a security guard at the Gold Club Strip Bar in Atlanta, GA. During his employment at the Gold Club, he became acquainted with the Marchellettas as well as others involved in the Circle Group business, i.e., Frank Gorman, all of whom frequented the Gold Club. In or about late 1997, he quit the APD and the Gold Club and began to work full-time for Circle as a bodyguard for the Marchellettas and their families as well as a personal assistant to Circle.

According to Sean, Circle is a huge company, and is one of only four or five companies in the U.S. that provide drywall installation for major construction projects. Marchelletta Sr. started the business in New York. Marchelletta Jr. moved the business to Atlanta in the 1990's and ran the day-to-day operations of the business. Sean became familiar with some of the Circle projects through conversations with the Marchellettas at the Gold Club, and later while employed at Circle. Some of the projects Circle had contracts with included: a hotel/casino in San Juan, Puerto Rico; a major hotel in Charleston, SC located on Mt. Pleasant Road; numerous hospitals in Arkansas; Turner Field in Atlanta, GA; the Charlotte, NC stadium where the NFL team Carolina Panthers play; the football stadium in Jacksonville, Florida; the large Sun International Casino in the Bahamas; The Mall of Georgia; and Beau Rivage Hotel/Casino in Mississippi. Circle also had contracts for the construction of numerous Marriott Hotels throughout the country. At one time, there were plans to build a large mall in Saudi Arabia through a deal with the Bin Laden Construction Company, however, the deal fell through for unknown reasons.

One of Sean's duties at Circle was to deliver payoffs to the CEO's of these major construction projects in order for Circle to be awarded the project. Specifically, he delivered payoffs to CEO's for the football stadiums in Jacksonville, FL and Charlotte, NC. He also delivered a kickback to city officials in Charlotte, NC for the stadium contract. He would transport the respective CEO/official to a certain destination and have an envelope containing \$100,000 in cash laying on the back seat of the car. When the person left the car at the destination, they would take the envelope with them.

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the period March 1 through March 30, 2001 showed that check #1206 for \$29,193.03, check #1240 for \$387,324.45 and check #1265 for \$1,099,005.65 were paid on March 23, 2001 (See Exhibit 2A, page 3). (The checks were paid because Customs negotiated the checks to seize the funds.)

The statement for the same account for the period September 1 through September 29, 2000 showed check #1085 for \$664,197.10 (See Exhibit 2B, page 3). This check was deposited into the Bahamas account for Circle Industries at ScotiaBank, Paradise Island Branch (See Exhibit 4, Attachment F, page 2). It is possible that a combination of other checks written from this account comprise the \$2,099,974.42 deposited into the Circle Industries account on September 14, 2000 (Attachment F, page 1), however, the checks have not yet been provided to the grand jury.

#### ScotiaBank

A grand jury subpoena was issued to ScotiaBank as a correspondent bank to obtain any U.S. dollar wire transfers through New York to or from the known bank accounts at ScotiaBank in the Bahamas. Two wire transfers were provided. On March 23, 2001, a wire in the amount of \$1,000,000.00 was wired from the ScotiaBank account of Circle Group Bahamas Ltd. to the account of TCG Holdings Ltd. at the Turks and Caicos Banking Company Ltd. (See Exhibit 2C). On January 22, 1999, \$10,000.00 was wired from a NationsBank account of Circle Industries USA at 3000 Northwoods Parkway, Suite 235, Norcross, GA, to the ScotiaBank account of Circle Industries Ltd. in the Bahamas (See Exhibit 2D).

#### NationsBank/Bank of America

A grand jury subpoena was issued to Bank of America to obtain all known bank accounts of the Circle entities. The response to the grand jury identified four bank accounts of Circle Industries USA, three of which were operating accounts and one a payroll account.

Account # [REDACTED]: This operating account was opened on September 10, 1996 and was closed on February 28, 1999. A total of \$9.2 million was deposited into this account. Exhibit 2E summarizes the monthly deposits and withdrawals into this account.

Account # [REDACTED]: This operating account was opened on July 31, 1998 and closed on January 31, 2000. A total of \$76 million was deposited into this account from July 1998 through December 1999. Exhibit 2F summarizes the monthly deposits and withdrawals into this account.

Account # [REDACTED]: This operating account was opened on July 15, 1999 and is still currently active. A total of \$2 billion was deposited into this account

from July 1999 through December 30, 2001. Exhibit 2G summarizes the monthly deposits and withdrawals into this account.

A Bank of America official identified the three above operating accounts as "sweep" accounts. The official described a sweep account as a legitimate tool for large companies for use in controlling large quantities of funds received from multiple sources. Each deposit into the sweep accounts may actually comprise multiple deposits from various sources. The official added that it is not unusual that the funds are withdrawn immediately to then use for the operations of the business. It is simply a tool that large companies use to identify and track corporate funds.

### Results of Primary Tax Investigation

#### Forms 1040

Marchelletta's lifestyle has increased significantly since 1999, yet his salary has remained essentially the same. In 1997, he owned a modest home in Kennesaw, GA that he sold in September 1997 for \$166,000. Simultaneously, he purchased a new home in Suwanee, GA for \$266,000. In April 1999, on a salary of \$148,000.00, he purchased an eight acre residential lot in the estate subdivision of Tullamore in Alpharetta, GA for \$400,000. He must have purchased the property with cash as there was no lien filed on the property after he purchased it. In December 1999, he obtained a \$660,000.00 construction loan to build a home on the vacant lot. Marchelletta's new Alpharetta home has just been completed and is valued in excess of \$1 million (See photos in Attachment A). His 2000 salary decreased to \$145,500. He has not yet filed his 2001 Form 1040 and the 2001 IRP information is not yet available, so his 2001 salary is still unknown.

On September 5, 2001, Marchelletta sold his Suwanee home to one of his employees for \$255,000 (an \$11,000 loss). On the same day, he took out two additional loans totaling \$400,000 on the Alpharetta home still under construction, encumbering the property with over \$1 million in loans. It may be possible that Marchelletta intentionally put additional liens on the property to absorb any equity in the event of another government seizure. Coincidentally or not, one of Marchelletta's close business associates, Frank Gorman, quit claim his \$245,000 home in Suwanee, GA to his wife, Kendra Gorman on September 4, 2001 (simultaneous with Marchelletta's property transactions). All of the above property transactions are potential overt acts in reaction to the Customs seizure in March 2001.

Marchelletta's 1999 and 2000 Forms 1040 claim he had no signature authority on any foreign bank accounts. However, there is evidence to suggest that Marchelletta had offshore bank accounts since at least 1997. The informant stated that Marchelletta had offshore bank accounts during his employment in

1997 through 1999. The Bahamas Certificate of Incorporation for Circle Group Ltd. states that the directors are Jerry Marchelletta Sr. and Jr. (Exhibit 4, Attachment D). In addition, Marchelletta Jr. signed the three checks seized by Customs, providing evidence that he had authority and control over the Bahamas Corporation.

#### Circle Industries USA Forms 1120

The gross receipts reported on the Forms 1120 for 9903, 0003, and 0103 were \$25,505,696.00, \$27,560,856.00, and \$26,341,459.00 respectively. Exhibits 2E, F, and G summarize the deposits and withdrawals into the three operating accounts of Circle Industries USA. Exhibit 2H summarizes a comparison of deposits to the Circle Industries USA Operating Bank Accounts to revenues reported on Forms 1120, indicating that substantial revenues are not being reported. Although not all of the deposits are revenue, the total of \$1.7 billion deposited into the accounts over the three-year tax period in comparison with only \$75 million reported for the same time period indicates a significant shortfall. However, until the funds deposited into the accounts can be traced and identified, it is not possible to determine the amount of unreported revenue or tentative criminal tax amount.

The 9903 Form 1120 claims no affiliation with foreign bank accounts. However, a wire transfer of \$10,000 was made in January 1999 from Circle Industries USA to Circle Group Ltd. in the Bahamas (See wire transfer in Exhibit 2D). Without seeing the original 0003 and 0103 Forms 1120, it remains unknown if the same claim is being made in those years. It can be concluded that in 1999, Circle Industries USA was disguising the fact that they were using offshore bank accounts.

Marchelletta signed the 9903 Form 1120 for Circle Industries USA. He is listed on the return as a 70% shareholder and President. (The 0003 and 0103 Forms 1120 have not yet been received from the IRS Service Center, therefore, it is not certain if Marchelletta signed those returns.) The 9903 Form 1120 states that he devotes 100% of his time to the business. According to Sean, the former employee, Marchelletta is the head of all the Circle businesses.

#### The Circle Group LLC Form 1120

Marchelletta is also a partner of The Circle Group LLC and signed the 2000 Form 1120A. The 2000 Form 1120A was designated an initial (but inactive) tax return that reported \$0 income and only \$5,000 in assets. Similar to all other tax returns affiliated with Marchelletta, the 2000 Form 1120A states that there is no affiliation with a foreign bank account. The checks seized by Customs were for payment due for the drywall construction of the Bahamas Hotel/Casino and were being sent to The Circle Group LLC in Alpharetta, GA for endorsement. At this point, a presumption can be made that the Circle Group LLC is a U.S. entity that



was related to the construction of the Bahamas Casino project. The project was completed at the end of 2000, yet The Circle Group LLC reported \$0 income for 2000. The Circle Group LLC is on a percentage of completion method of accounting, thus the income should have been recognized in 2000.

#### Tentative Tax Computation

Due to the size of the business and the extraordinary amount of funds moving through the corporate bank accounts, it is not possible to compute either a tentative personal or corporate tax computation at this time.

#### Results/Recommendations

Based on the investigation to date, there is probable cause that Marchelletta is not reporting substantial legal income earned by Circle Industries USA and Circle Group LLC and is also diverting unreported corporate income to his personal use. The comparison between the gross revenue on the corporate tax returns and the funds in the corporate accounts indicate that unreported revenues (and resulting tax) are potentially substantial. The investigation thus far has disclosed a corporate practice of diverting income offshore and has identified numerous offshore bank accounts (from subpoena and volunteered) which document deposits to those accounts. In addition, Marchelletta's lifestyle far exceeds the salary he is drawing from Circle Industries USA. Sufficient evidence exists to conduct a criminal investigation on Gerard Marchelletta Jr. for filing false Forms 1120 in violation of 26 USC Section 7206(1) and assisting in the preparation of false Forms 1120 in violation of 26 USC Section 7206(2) for the tax years 9903, 0003, 0103 for Circle Industries USA and tax year 2000 for Circle Group LLC. There is also sufficient evidence that Marchelletta is diverting corporate funds to his personal use, therefore it is recommended that Marchelletta be investigated for filing false Forms 1040 in violation of 26 USC 7206 (1) for the tax years 1999, 2000, and potentially 2001.

Marchelletta is the primary target of a tax investigation. However, as further information develops, it is anticipated that several co-conspirators are also involved. A grand jury request to expand the investigation to include the additional targets will be submitted at that time.

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Marchelletta/Circle had offshore accounts in the Bahamas, Barbados, and Turks and Caicos. Marchelletta told Sean that he sent funds offshore to evade taxes. Marchelletta "constantly" talked about evading U.S. income taxes. Marchelletta would frequently ask, "Why should we pay 45% to the government?" The accountants used by the Circle companies assisted in the tax evasion schemes. In addition, Marchelletta told Sean he placed assets in his children's names in order to evade taxes. Sean claimed that Marchelletta "laundered" millions in Circle funds to evade taxes. According to Sean, the Marchellettas were not involved in any illegal activity, and that all the money they "laundered" was Circle money generated from the drywall business.

Marchelletta did not like to wire funds to the offshore accounts because it left a paper trail. Circle sent cash offshore via Federal Express every week. Sean personally saw \$500,000 a week shipped via Federal Express to offshore bank accounts. Sean would cash checks payable to Circle from general contractors and give it to Marchelletta. A banker at the NationsBank branch on Buford Highway would cash the checks and not issue CTR's. The banker was eventually fired, and became an employee of one of the Circle companies. Sean also saw endorsed checks being sent via Federal Express to the same offshore accounts.

In 1999, Saul Kirshner, the owner of several Bahamas casinos was making money "hand over fist", and personally paid Marchelletta \$1.5 million for his role in the upcoming construction of another hotel/casino project in the Bahamas.

During the course of his employment at Circle, Sean witnessed Marchelletta, Sr. in public with notorious Mafia figures (names undisclosed) in the New York area. However, he has no knowledge of the Marchellettas or Circle being involved in any organized crime activities.

Sean quit in October 1999, after one of Marchellettas associates tried to hire him to murder a businessman in Dallas, TX.

#### INITIATION OF GRAND JURY

S/A Sellers initiated a grand jury investigation on the matter in January 2002. Her initial actions included the issuance of grand jury subpoenas to First Union Bank, Scotia Bank and Bank of America. Following is a synopsis of the grand jury responses:

#### First Union Bank

The purpose of the subpoena was to obtain the bank records of the account from which the seized checks were issued. The checks seized by Customs were written on a First Union Account in the name of Harborside Atlantis Development Ltd., 8801 Vistana Centre Drive, Orlando, FL 32821. The account statement for

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MARCHELLETTA, GERARD JR.  
Investigation #580220049

EXHIBIT 3

SUMMMARY OF RETURNS AND RETURN INFORMATION

**Jerry & Sandy Marchelletta Jr. (Forms 1040)**

<u>Year</u>	<u>Due Date</u>	<u>Date Filed</u>	<u>Statute</u>	<u>W-2 Wages</u>	<u>Taxable Income</u>	<u>Tax</u>
1999	04/15/2000	12/18/2001	12/18/2007	\$148,838.00	\$127,897.00	\$29,715.00
2000	04/15/2000	12/18/2001	12/18/2007	\$145,500.00	\$94,753.00	\$20,536.00
2001	04/15/2002	Not yet filed				

**Circle Industries USA (Forms 1120)**

<u>Year</u>	<u>Due Date</u>	<u>Date Filed</u>	<u>Statute</u>	<u>Gross Income</u>	<u>Taxable Income</u>	<u>Tax</u>
9903	06/15/1999	08/30/1999	08/30/2005	\$2,611,072.00	\$520,386.00	\$176,931.00
0003	06/15/2000	12/18/2000	12/18/2006	\$3,285,496.00	\$564,476.00	\$191,922.00
0103	06/15/2001	12/06/2001	12/06/2007	\$4,381,328.00	\$1,090,354.00	\$370,720.00

**Circle Group LLC (Forms 1120)**

<u>Year</u>	<u>Due Date</u>	<u>Date Filed</u>	<u>Statute</u>	<u>Gross Income</u>	<u>Taxable Income</u>	<u>Tax</u>
2000	03/15/2001	08/24/2001	08/24/2007	\$0.00	\$0.00	\$0.00
2001	03/15/2002	Not yet filed				

FORM 9131 (Exhibit 4)

**SUMMARY OF U.S. CUSTOMS SEIZURE/OTHER INFORMATION**

On March 15, 2001, Teresa Kottwitz of The Circle Group LLC, located at 2555 Marconi Drive, Alpharetta, GA 30005 mailed a package via air Federal Express to H & J Corporate Services Ltd., located in the Bahamas. The International Air Waybill was marked as containing a "Document" valued at \$1.00. The next day, on March 16, 2001, prior to shipment to the Bahamas, the package was opened for inspection by U.S. Customs at the Federal Express International Hub at the Memphis, TN International Airport. The package contained three endorsed checks valued at \$1,515,523.13, all paid to the order of the Circle Group Limited. The package also contained a letter to Zarina Fitzgerald at H & J Corporate Services Ltd., with instructions to "find the endorsed checks for deposit into Turks and Caicos account" (See Attachment A for seized documents). U.S. Customs seized the package and deposited the three checks into a Customs holding account before the payor could stop payment on the checks. The package was seized for violation of 31 USC Section 5316, failure to report the transportation of monetary instruments outside the United States. The matter was referred to the Customs Atlanta Field Office for further investigation, as the shipper, The Circle Group LLC, was located in Alpharetta, GA.

Additional Contacts/Records provided by Circle

On April 21, 2001, Ms. Boston, the attorney representing The Circle Group LLC and The Circle Group Ltd., submitted a petition for relief to U.S. Customs, in an attempt to recover the seized funds (See Attachment B). The petition provided a written explanation of the circumstances surrounding the seized checks as well as copies of a Certificate of Incorporation for The Circle Group Ltd. in the Bahamas (See Attachment C), and a Certificate of Incumbency showing the Directors of Circle Group Ltd. as Jerry Marchelletta Sr. and Jerry Marchelletta Jr. (See Attachment D). The petition claimed grounds that there was no intent or knowledge that the funds ever entered the United States and that there was no transfer of funds between the two countries, as the checks were written on a Bahamian bank account for work performed in the Bahamas (Attachment B, page 4). The petition also claimed grounds that both H & J and The Circle Group LLC and Ltd. were inexperienced with imports and exports from the United States and claimed that this export was the first of this kind made by either company (Attachment B, page 5). The letter also stated that the three endorsed checks seized by Customs were the first time Circle ever attempted the export of a monetary instrument.

In a further attempt to further convince Customs that Circle was a legitimate business, Ms. Boston provided various documents to explain why the endorsed checks were being sent offshore. On August 22, 2001, via a cover letter (Attachment E), she provided Bahamian bank statements for Circle Industries

Bahamas Ltd. and Circle Industries (See Attachments F & G). In addition, she provided the January 2001 bank statement for a Turks & Caicos Banking Limited account for TCG Holdings Limited d/b/a Circle Group Ltd. (See attachment H). The bank statement is in the name of TCG Holdings Limited, Terri Kottwitz, 2555 Marconi Drive, Alpharetta, GA 30005. In the cover letter, Ms. Boston represented that "no other funds have been deposited or withdrawn from this account." However, Exhibit 2C contains a grand jury subpoena response from Scotia Bank showing a wire transfer of \$1,000,000 from Circle Group Ltd. in the Bahamas to the same account of TCG Holdings (The Circle Group) at Turks & Caicos Banking Company Limited. The wire transfer took place two months after the attorneys claimed that the account was inactive. Coincidentally or not, the funds were moved to TCG Holdings within a week of the Customs seizure.

Ms. Boston also provided copies of bank statements for Bahamas bank accounts for Circle Industries, Circle Group Ltd., and TCG Holdings Ltd. (Attachments F, G, & H). The cover letter (Attachment E) claimed that the accounts for Circle Industries and Circle Group Ltd. were used for the construction of the casino, and that two accounts were used because Circle Industries worked on phase one of the project and Circle Group Ltd. worked on phase two of the project.

During the July 25, 2001 interview with S/A Sellers, Kottwitz claimed that the account for TCG Holdings at Turks and Caicos Banking Limited was established for fear of the Bahamian government seizing the Circle bank accounts. Review of the bank statements provided showed that the funds were in the Bahamian accounts the entire time. Funds were deposited into the account of Circle Industries on September 14, 2000 and September 19, 2000 in amounts of \$2,039,974.42 and \$664,197.10. The majority of the balance was transferred to the account for Circle Group Ltd. on October 26, 2000. The funds remained in the account for Circle Group Ltd. until March 23, 2001, at which time \$1.6 million was withdrawn. \$1 million of the \$1.6 million was transferred to the TCG Holdings Account at the Turks and Caicos Banking Limited (Exhibit 2C). It is unknown where the remaining \$600,000 went. If there were a fear of the Bahamian government, the money would have been transferred immediately, instead, there was almost \$2 million in the accounts during the five-month time frame. The funds were not moved until immediately after the Customs seizure.

As a final point, when H & J shipped the three checks to Circle Group LLC for endorsement, for security reasons, the checks should have been deposited into a U.S. bank account and wired to the Turks and Caicos bank account. Sending endorsed checks through the mail is the same as sending cash, and is not an ordinary business practice.

In 2002, Circle hired Dick Abbey (the former Chief Counsel of U.S. Customs) to assist in the petition for the early release of the \$1.5 million seized from Circle. In early May 2002, Mr. Abbey telephoned S/A Sellers directly in an attempt to determine if IRS was involved in the investigation. On July 2, 2002, Abbey

telephoned Brooks Thomas, U.S. Customs Counsel, in another attempt to determine if IRS was involved in the investigation.