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DEPARTMENT OF HOMELAND SECURITY ICE		TECS ACCESS CODE (b)(2)high	
REPORT OF INVESTIGATION		PAGE 1	
		CASE NUMBER (b)(2)high	
TITLE: CIRCLE GROUP LIMITED			
CASE STATUS: DISP PENDNG			
REPORT DATE 010902	DATE ASSIGNED 031601	PROGRAM CODE (b)(2)high	REPORT NO. 003
RELATED CASE NUMBERS:		(b)(2)high	
COLLATERAL REQ:			
TYPE OF REPORT: INVESTIGATIVE FINDINGS			
TOPIC: PETITION FOR REMISSION INVESTIGATION			

SYNOPSIS:

On March 16, 2001, a joint OI/OFO team at the FedEx International Hub in Memphis, Tennessee seized a FedEx parcel containing three negotiable checks totaling \$1,515,523.13 USD going from Alphretta, Georgia to Nassau, Bahamas.

The Fines, Penalties and Forfeiture Officer in New Orleans, Louisiana forwarded a Petition for Remission from the attorneys representing CIRCLE GROUP, the shipper of the negotiable instruments. The results of the RAIC Memphis petition investigation is contained herein.

DISTRIBUTION: RACME SACNO PFFNO	SIGNATURE: (b)(6),(b)(7)(C)	SENIOR SPEC AGENT
	APPROVED: (b)(6),(b)(7)(C)	RAC - RES. AGENT IN C
	ORIGIN OFFICE: ME MEMPHIS - RAC	TELEPHONE: 901 544 (b)(6),(b)(7)(C)
		TYPIST: (b)(6),(b)(7)(C)

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DEPARTMENT OF HOMELAND SECURITY  
ICE

PAGE 2

REPORT OF INVESTIGATION  
CONTINUATION

CASE NUMBER (b)(2)high

REPORT NUMBER: 003

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DEPARTMENT OF HOMELAND SECURITY ICE	PAGE 3
REPORT OF INVESTIGATION CONTINUATION	CASE NUMBER (b)(2)high
	REPORT NUMBER: 003

## DETAILS OF INVESTIGATION:

On March 16, 2001, a joint OI/OFO team (RAIC Memphis Tennessee National Guard) at the FedEx International Hub in Memphis, Tennessee seized a FedEx parcel containing three negotiable checks totaling \$1,515,523.13 USD going from Alphretta, Georgia to Nassau, Bahamas. Air Waybill 8194-5676-8731 contained the following information:

SHIPPER: (b)(6),(b)(7)(C)  
CIRCLE GROUP, LLC  
2555 Marconi Drive  
Alphretta, GA 30005  
Telephone: (678)356-1000

CONSIGNEE: Zarina FITZGERALD  
H&J CORPORATE SERVICES  
Shirlaw House, Shirley St., Box SS 19084  
Nassau, Bahamas

The content of the package was manifested on the air waybill as "Document" with a value of "\$1.00 declared. The negotiable checks were seized for violation of 31 USC 5316 and 31 USC 5317.

The checks are drawn on First Union National Bank in Jacksonville, Florida. The checks are Harborside At Atlantis Development Limited, US \$ Project Account, P.O. Box N-4777, Nassau, Bahamas company check numbers 1206, 1240 and 1265. The account number is (b)(4). The checks are made payable to CIRCLE GROUP LIMITED, 18 Miramar, Garden Street, P.O. Box N-8877, Nassau, Bahamas. The back of the checks are endorsed with an illegible signature. Check number 1206 is dated January 12, 2001 and is for \$29,193.03. The attached statement indicates the check is for payment of invoice number 00001626 dated 12/21/00. Check number 1240 is dated February 15, 2001 and is for \$387,324.45. The attached statement indicates the check is for payment of invoice 00000090 dated 1/19/01 and invoice 00002377 dated 1/31/01. Check number 1265 is for \$1,099,005.65. The attached invoice indicates the check is payment for invoice 00000194 dated 9/30/00.

Also included in this shipment were two letters. The first, dated March 12, 2001, was from FITZGERALD to (b)(6),(b)(7)(C) which stated: "Further to our telephone conversation of today, we forward herewith Cheque Nos. 1240 and 1260 in favour of Circle Group Limited, as requested, for endorsement. Please acknowledge receipt of the cheques by signing and returning the attached copy of the letter to us." The second from (b)(6),(b)(7)(C) to FITZGERALD which stated: "Enclosed please find the endorsed checks for deposit into Turks and Caicos account. Just for your information, we have not been paid in full on contract

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DEPARTMENT OF HOMELAND SECURITY ICE  REPORT OF INVESTIGATION CONTINUATION	PAGE 4
	CASE NUMBER (b)(2)high
	REPORT NUMBER: 003

as (b)(6),(b)(7)(C) has informed Central Banking. I will contact you regarding the other wire transfer that is due Circle. I have also enclosed checks for your invoices 203195,203161,203202, and 203162. Cash them while you can !!!!!!! I will begin to address the profile data sheets with Jerry and (b)(6),(b)(7)(C) As always, thank you for your assistance."

On April 24, 2001, the Fines, Penalties and Forfeiture Officer in New Orleans, Louisiana forwarded a Petition for Remission from, Wilson, Brock and Irby, the law firm representing CIRCLE GROUP, the shipper of the negotiable instruments. The Petitioner offered the following in support of their request for relief:

1-CIRCLE GROUP, L.L.C. of Alpharetta, Georgia is the sole owner of CIRCLE GROUP BAHAMAS, LTD. of Paradise Island, Bahamas. CIRCLE GROUP BAHAMAS, LTD. was formed to pursue sub-contracting jobs in the Bahamas. To insure the company's compliance with any relevant Bahamian laws, CIRCLE GROUP BAHAMAS, LTD. hired Zarina M. FITZGERALD, a Bahamian attorney.

2-The aforementioned negotiable checks were issued to CIRCLE GROUP BAHAMAS, LTD. by the Atlantis Hotel for construction work performed on the hotel. The Petitioner alleges that CIRCLE GROUP BAHAMAS, LTD. had closed their Bahamian office causing Atlantis to mail the payments to FITZGERALD.

3-FITZGERALD forwarded two of the three checks to CIRCLE GROUP in Georgia with instructions to have the checks endorsed and returned to the Bahamas. The Petitioner further alleges that FITZGERALD is unfamiliar with the laws and regulations of the United States. Atlantis sent the third check directly to CIRCLE GROUP in Georgia.

The Petitioner offered the following mitigating factors in their request for relief:

1-No intent or knowledge existed due to a reasonable belief that the funds were not being exported. The Petitioner's attorney states, in relevant part, "...the Petitioners reasonably believed that the funds never entered the United States and that there was no transfer of any funds between the two countries because the transactions were between two Bahamian entities and the checks were issued on a Bahamian account, for work performed entirely in the Bahamas."

2-Inexperience. The Petitioner alleges that both Gerald MARCHELLETTA, JR., the owner of CIRCLE GROUP and (b)(6),(b)(7)(C) are inexperienced with imports and exports from the United States.

3-Legitimate Source of Funds. The Petitioner states that the funds were

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DEPARTMENT OF HOMELAND SECURITY ICE	PAGE 5
REPORT OF INVESTIGATION CONTINUATION	CASE NUMBER (b)(2)high
	REPORT NUMBER: 003

related to a construction project in the Bahamas.

Special Agent (b)(6),(b)(7)(C) investigation into the Petitioner's claims in the Petition for Remission revealed the following:

In regards to point 1, the Petitioner provided convincing documentation proving the existence and ownership of CIRCLE GROUP BAHAMAS, LTD. and that FITZGERALD is the registered agent for CIRCLE GROUP BAHAMAS, LTD.

In regards to point 2, the Petitioner provided convincing documentation as to the source of the seized funds. This was further confirmed by (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) vice president of Sun International, the main contractor for the Atlantis Hotel project.

In regards to point 3, the Petitioner provided a copy of the FITZGERALD letter requesting the endorsement and return of the seized checks. However, investigation by SAIC Atlanta S/A (b)(6),(b)(7)(C) revealed that FITZGERALD arrived or departed from the United States on 22 separate occasions. Further, Zarina FITZGERALD or (b)(6),(b)(7)(C) on her behalf, filed 14 Currency Transaction Reports for deposits made to First Union Bank account (b)(4)

S/A (b)(6),(b)(7)(C) investigation into the Petitioner's claims of mitigating factors in the Petition for Remission revealed the following:

In regard to point 1, that the Petitioner reasonably believed that the funds did not enter the United States; why would the Petitioner care if the funds entered the United States or not, if as they assert above that they had no knowledge of the reporting requirements?

In regard to point 2, the investigation revealed numerous foreign arrival and departures for FITZGERALD. The SAIC Atlanta investigation also revealed 10 foreign arrivals or departures for (b)(6),(b)(7)(C) and 13 foreign arrivals or departures for MARCHELLETTA, thus exposing them to the United States currency reporting requirements.

In regards to point 3, the Petitioner provided convincing documentation showing the legitimacy of the funds. This was further confirmed by (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) vice president of Sun International, the main contractor for the Atlantis Hotel project.

No additional mitigating or aggravating factors apply in this matter.

NOTE: Prior to issuing a final decision in this matter, FP&F should determine the status of the SAIC Atlanta's investigation in order to avoid any

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DEPARTMENT OF HOMELAND SECURITY ICE	PAGE 6
REPORT OF INVESTIGATION CONTINUATION	CASE NUMBER (b)(2)high
	REPORT NUMBER: 003

legal issues.

No additional action is required of the RAIC Memphis at this time, therefore this case will be placed in pending status until a final decision on the FP&F case.

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