

# United States District Court

FOR THE  
NORTHERN DISTRICT OF CALIFORNIA  
CRIMINAL DIVISION

VENUE: SAN FRANCISCO  
*CR 00-284 MJS*

UNITED STATES OF AMERICA,

v.

PAVEL IVANOVICH LAZARENKO,  
a/k/a "Pavlo Ivanovych Lazarenko,"

DEFENDANT.

01 JUL 19 PM 12:37  
CLERK: U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
*[Signature]*

## INDICTMENT

A true bill.

*Cary L. Wilhoit*  
Foreman

Filed in open court this 19<sup>th</sup> day of

*July*  
*B. Tolbert*  
Clerk

Bail, \$ *no power*  
*[Signature]*

MARIA-ELENA JAMES  
UNITED STATES MAGISTRATE JUDGE

FILED

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ROBERT S. MUELLER, III (CSBN 59775)  
United States Attorney

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v )  
 )  
PAVEL IVANOVICH LAZARENKO, )  
a/k/a "Pavlo Ivanovych Lazarenko," )  
 )  
Defendant. )

No. CR 00-0284-MJJ  
  
VIOLATIONS: Title 18, United States Code, § 1956(h) – Conspiracy to Commit Money Laundering; Title 18, United States Code, § 1956(a) – Money Laundering; Title 18, United States Code, § 1343 – Wire Fraud; Title 18, United States Code, § 2314 – Transportation of Stolen Property; Title 18, United States Code, Section 2 – Aiding and Abetting  
  
SAN FRANCISCO VENUE

SECOND SUPERSEDING INDICTMENT

I. INTRODUCTION

1. At all times relevant to this indictment, Pavel Ivanovich Lazarenko, a/k/a/ "Pavlo Ivanovych Lazarenko" (hereafter "Lazarenko"), was a citizen and resident of Ukraine.
2. From March of 1992 through June of 1994, Lazarenko was a Representative of the President of Ukraine in the Dnepropetrovsk District of Ukraine.
3. From June of 1994 through July of 1995, Lazarenko was the Chairman of the Dnepropetrovsk District Council of People's Deputies.
4. From July of 1995 through September of 1995, Lazarenko was the Head of the

1430

1 Dnepropetrovsk District government.

2 5. From September of 1995 through May of 1996, Lazarenko was the First Vice Prime  
3 Minister of Ukraine.

4 6. On May 28, 1996, Lazarenko became the Prime Minister of Ukraine, a position he  
5 held until July 1, 1997.

6 7. After July 1, 1997, Lazarenko became a member of the Ukrainian Parliament and the  
7 head of the Hromada Party.

8 8. At all times relevant to the charges herein, Peter Nikolayevich Kiritchenko  
9 (hereinafter "Kiritchenko") was a citizen of Ukraine.

10 9. On December 14, 1990, Kiritchenko formed, among other enterprises, a Poland-  
11 based firm named Agrosnabsbyt, also known by its English acronym, ASS, Ltd.  
12 ("Agrosnabsbyt/ASS"), which engaged in business in Ukraine, Poland, and elsewhere.

13 10. In 1991, Kiritchenko incorporated ABS Enterprises, Inc., in Delaware, and, in  
14 1994, incorporated ABS Trading, Inc. in California, which he merged with ABS Enterprises, Inc.  
15 ("ABS"). Since 1994 ABS has been wholly owned by Agrosnabsbyt/ASS and engaged in  
16 business in the United States, Ukraine, and elsewhere.

17 11. ABS maintained its offices in San Francisco, California until August 1997, when it  
18 moved its offices to Sausalito, California.

19 12. Since approximately March 1995, Kiritchenko has been a resident of California and  
20 the United States.

21 13. On September 14, 1995, Kiritchenko was named an advisor to Lazarenko, who at  
22 the time was First Deputy Prime Minister, by Directive No. 586 of the Ukrainian Cabinet of  
23 Ministers.

24 14. On July 12, 1996, Kiritchenko was named as an advisor to then-Prime Minister  
25 Lazarenko by Ukrainian Cabinet of Ministers Directive 596. He served as an advisor until he  
26 and Lazarenko were dismissed by Ukrainian Cabinet of Ministers Directive 677 on July 3, 1997.

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1 COUNT ONE: (18 U.S.C. § 1956(h) -- Conspiracy to Commit Money Laundering)

2 15. The allegations set forth in Paragraphs One through Fourteen of this Second  
3 Superseding Indictment are hereby incorporated by reference.

4 16. On or about and between January 1992 and June 1999, both dates being  
5 approximate and inclusive, in the Northern District of California, and elsewhere, the defendant

6 PAVEL IVANOVICH LAZARENKO,  
7 a/k/a "Pavlo Ivanovych Lazarenko,"

8 together with Peter Nickolayevich Kiritchenko and others, did knowingly and intentionally  
9 conspire to conduct and attempt to conduct financial transactions affecting interstate and foreign  
10 commerce, which transactions involved the proceeds of specified unlawful activity, to wit –  
11 extortion as specified in 18 U.S.C. § 1956(c)(7)(B)(ii); wire fraud in violation of 18 U.S.C.  
12 § 1343 and § 1346; and receipt and transfer of property that was stolen, unlawfully converted,  
13 and taken by fraud in violation of 18 U.S.C. § 2314 and § 2315 – knowing that the transactions  
14 were designed in whole or in part to conceal and disguise the nature, location, source, ownership,  
15 and control of the proceeds of the specified unlawful activity, and while conducting and  
16 attempting to conduct such financial transactions knowing that the property involved in the  
17 financial transactions represented the proceeds of some form of unlawful activity, in violation of  
18 18 U.S.C. §1956(a)(1) and (2).

19 II. THE MANNER AND MEANS OF THE CONSPIRACY

20 17. It was part of the conspiracy that Lazarenko, as a government official in Ukraine,  
21 would engage in various acts of extortion and fraud, and would receive funds that had been  
22 stolen, converted and taken by fraud, and would transfer the proceeds of this activity into bank  
23 accounts in Switzerland, Antigua, Poland, the United States, and elsewhere.

24 18. It was further part of the conspiracy that Lazarenko induced Kiritchenko to assist  
25 Lazarenko to open bank accounts in Switzerland, Antigua, Poland, and the United States, and to  
26 transfer the proceeds of fraud and extortion into and out of these bank accounts in an effort to  
27 conceal and disguise the nature, location, source, ownership, and control of the proceeds of the  
28 specified unlawful activity.

1 A. The Extortion and Frauds

2 1. The Extortion

3 19. It was part of the conspiracy that Lazarenko, while a government official in  
4 Ukraine, obtained property, including money and ownership interests in certain companies, from  
5 individuals and entities, with their consent, induced by wrongful use of actual or threatened fear  
6 of economic harm, and under color of official right.

7 a. Beginning sometime in 1992, when Lazarenko was a Representative of the  
8 President of Ukraine in Dnepropetrovsk, he met with Kiritchenko and by threat of economic  
9 harm and under color of official right induced Kiritchenko to transfer to a relative of Lazarenko's  
10 a 50% interest in Agrosnabsbyt/ASS, which was doing business in Ukraine, and to pay  
11 Lazarenko 50% of the profits of the business.

12 1) In approximately January 1993, Kiritchenko transferred a 50%  
13 interest in Agrosnabsbyt/ASS to Ekaterina S. Karova, a relative of Lazarenko, and transferred  
14 \$40,000 to an account controlled by Lazarenko.

15 2) Thereafter, Kiritchenko transferred 50% of the profits of the business  
16 to accounts controlled by Lazarenko as Lazarenko's "share" of the profits of Kiritchenko's  
17 business in Ukraine.

18 b. Beginning sometime in 1993, when Lazarenko was a Representative of the  
19 President of Ukraine in Dnepropetrovsk, he met with Alexei Alexandrovich Dityatkovsky  
20 (hereinafter "Dityatkovsky"), who at that time was a resident of Ukraine, and by threat of  
21 economic harm and under color of official right induced Dityatkovsky to transfer to Lazarenko a  
22 50% interest in his business activity in Ukraine and to pay Lazarenko a percentage of the profits  
23 of the business.

24 1) Dityatkovsky thereafter registered a company, called Dneproneft, and  
25 gave Lazarenko a 50% interest in that company, which interest was held in the name of  
26 Lazarenko's former driver and associate, Leonid Gadyatsky.

27 2) Thereafter, Dityatkovsky transferred a percentage of the profits of his  
28 business to accounts controlled by Lazarenko.





1 United States, including a transfer of \$1,800,000 on July 1, 1994 to an account at Bank of  
2 America in San Francisco, California.

3 e. Between 1992 and 1994, Agafonov, on behalf of Naukovy State Farm,  
4 entered into a series of agreements with Van der Ploeg for the purchase of cattle and other related  
5 supplies by Naukovy State Farm, pursuant to which the cattle and other related supplies were to  
6 be paid for in part with Ukrainian government funds and in part from the proceeds of the sale of  
7 metal products and raw materials from state enterprises exported from Ukraine.

8 f. Between 1992 and 1994, approximately \$38,000,000 of the proceeds from the  
9 sale of metals and raw materials, which were sold by or on behalf of Naukovy State Farm, were  
10 deposited into Van der Ploeg's ABN Amro account.

11 g. Between 1992 and 1994, Agafonov expended approximately \$13,000,000 of  
12 these proceeds to purchase cattle and other supplies for Naukovy State Farm.

13 h. Between 1992 and 1994, Agafonov transferred a portion of the proceeds of  
14 the sale of metals and raw materials into accounts controlled by Lazarenko. The transfers to  
15 Lazarenko included a transfer on January 24, 1994 of \$2,972,000 and on March 8, 1994 of  
16 \$4,000,000 to an account in Zurich, Switzerland; and a transfer on November 22, 1994 of  
17 \$6,014,000 to an account in Geneva, Switzerland, which was subsequently transferred to another  
18 account in Switzerland controlled by Lazarenko.

19 i. Beginning in 1993, Agafonov asked Rienz Van der Ploeg to sign false  
20 contracts written in Russian which falsely represented the value of cattle supplied by Van der  
21 Ploeg to Naukovy to be approximately \$2,400 per head, whereas in fact the actual value of the  
22 cattle was approximately \$1,300 per head, and which falsely represented that Naukovy had  
23 purchased millions of dollars of other goods, whereas in fact such goods had not been purchased.  
24 These contracts were subsequently kept in the files of Naukovy State Farm, thereby falsely  
25 representing that money received from the sale of metals and raw materials had been spent to  
26 acquire cattle and other goods for Naukovy State Farm, when in fact the money had been paid to  
27 Agafonov, Lazarenko, and others.

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2) The UESU Frauds

1  
2 22. It was further part of the conspiracy that Lazarenko, when he was the First Vice  
3 Prime Minister and the Prime Minister of Ukraine, received and transferred money that had been  
4 stolen, converted and taken by fraud in connection with the distribution of natural gas in Ukraine,  
5 as follows:

6 a. In approximately September 1995, Lazarenko, as First Vice Prime Minister  
7 of Ukraine, became responsible for the energy section in the Ukrainian government.

8 b. Beginning in approximately December 1995, a Ukrainian company called  
9 United Energy Systems of Ukraine ("UESU"), which was created on November 20, 1995 by  
10 Yulia Tymoshenko, an associate of Lazarenko's, was designated by the Ukrainian government as  
11 one of several companies to supply natural gas to Ukraine. UESU was given the authority to  
12 distribute natural gas to the Dnepropetrovsk region of Ukraine.

13 c. From approximately December 1995 until sometime in 1997, UESU received  
14 deliveries of natural gas from RAO Gazprom pursuant to contracts entered on December 29,  
15 1995 and December 31, 1996 between RAO Gazprom, UESU, and others.

16 d. Beginning in approximately January 1996, UESU fraudulently conveyed title  
17 to the imported natural gas to United Energy International, Ltd. ("UEIL"), an 85% shareholder of  
18 UESU that was created on October 17, 1995, in London, England by a Turkish national named  
19 Ercument Aksoy, at the direction of Yulia Tymoshenko, and fraudulently diverted to foreign  
20 bank accounts belonging to UEIL the payments from Ukrainian customers for the natural gas  
21 delivered by UESU.

22 e. Between April 8, 1996 and December 31, 1996, rather than pay RAO  
23 Gazprom for the delivered gas with the money that had been transferred to UEIL, UEIL  
24 transferred approximately \$140,000,000 to Somolli Enterprises, a Cypriot company that was  
25 registered in Cyprus on October 8, 1992, and was controlled by Yulia Tymoshenko and others.

26 f. Between April 1996 and June 1997, Somolli Enterprises and UESU  
27 transferred a total of approximately \$97,000,000 into accounts that were controlled by  
28 Kiritchenko in Switzerland, Poland, and the United States, including transfers totaling



1 approximately \$13,000,000 to bank accounts in the Northern District of California.

2 g. Between February of 1996 and September of 1997, the money from Somolli,  
3 along with other funds, totaling more than \$120,000,000 was transferred from Kiritchenko's  
4 accounts into accounts controlled by Lazarenko in Switzerland and Antigua.

5 h. Thereafter, Lazarenko transferred portions of these funds from Switzerland  
6 into bank accounts in the Northern District of California, including two transfers of \$14,000,000  
7 each on August 1, 1997.

8 3) The PMH/GHP Fraud

9 23. It was further part of the conspiracy that Lazarenko, while he was the Prime  
10 Minister of Ukraine, received and transferred money that had been stolen, converted and taken by  
11 fraud by GHP Corporation, as follows:

12 a. GHP Corporation was incorporated in Panama on June 14, 1996, and was  
13 controlled by Lazarenko and by Kiritchenko pursuant to a power of attorney.

14 b. During 1997, as Prime Minister of Ukraine, Lazarenko exercised his official  
15 authority in favor of GHP Corporation by ensuring that the Ukrainian Cabinet of Ministers  
16 entered a contract with GHP Corporation for the purchase of six prefabricated homes.

17 c. On January 24, 1997, GHP Corporation entered into a contract with Pacific  
18 Modern Homes ("PMH") of Elk Grove, California, in which GHP Corporation agreed to  
19 purchase six prefabricated homes for a total price of \$524,763, to be shipped to the Ukrainian  
20 Cabinet of Ministers by PMH.

21 d. On January 27, 1997, GHP Corporation entered into a contract with the  
22 Ukrainian Cabinet of Ministers in which GHP Corporation agreed to sell to the government of  
23 Ukraine six prefabricated homes for a total price of \$1,416,000.

24 e. When the homes were delivered to Ukraine, representatives of GHP  
25 Corporation presented false invoices to the Kiev Regional Customshouse to make it appear as  
26 though GHP Corporation was the shipper of the homes and had paid \$1,416,000, as provided in  
27 the contract between GHP Corporation and the Ukrainian Cabinet of Ministers, when in fact  
28 PMH had shipped the homes and the homes actually cost only \$524,763.

1 f. To pay for the homes, two wire transfers were made from Ukrainian  
2 government accounts to a GHP account in Switzerland, the first on January 30, 1997 and the  
3 second on March 18, 1997, for \$708,000 each, or \$1,416,000 total.

4 g. One half of the difference of \$889,749 between the price paid for the homes  
5 by GHP Corporation and the price paid for the homes by the Ukrainian Cabinet of Ministers was  
6 transferred to accounts controlled by Lazarenko.

7 b. Lazarenko Devised a Scheme and Artifice to Defraud, to Obtain Money by False and  
8 Fraudulent Pretenses, and to Deprive the People and Government of Ukraine of Their Right to  
9 his Honest and Faithful Services

10 24. It was further part of the conspiracy that Lazarenko, while a government official in  
11 Ukraine, devised a scheme and artifice to defraud and to obtain money and property by means of  
12 false and fraudulent pretenses, and to deprive the people and government of Ukraine of their right  
13 to his honest and faithful services as more fully set forth below in Paragraphs Thirty-Two  
14 through Thirty-Eight, and knowingly caused wire transfers of funds into bank accounts in the  
15 Northern District of California, as set forth below in Paragraph 40, and thereafter conducted  
16 financial transactions involving the proceeds of this fraud.

17 B. The Means of Disguising and Concealing Payments of Money

18 25. It was further part of the conspiracy that Lazarenko, while a government official in  
19 Ukraine and continuing until 1999, devised a means of disguising and concealing the money he  
20 was receiving from extortion and fraud including, but not limited to, the payments described  
21 above, by creating and causing the creation of various shell corporations and bank accounts into  
22 which he would deposit or direct the deposit of money from individuals and businesses in  
23 Ukraine, and from which he would transfer or direct the transfer of money to himself or to  
24 entities he controlled.

25 1. The Swiss Bank Accounts

26 a. In March 1993, Lazarenko opened Account No. 502.607.60L at Union Bank  
27 of Switzerland in Fribourg, Switzerland in the name of LIP Handel A.G.

28 b. Beginning sometime in 1994, Kiritchenko, upon Lazarenko's instructions,

1 opened and/or managed bank accounts Kiritchenko and Lazarenko established in Switzerland  
2 and Poland to receive and transfer the money Lazarenko received from extortion and fraud,  
3 including, but not limited to, the payments described above, in order to conceal and disguise the  
4 nature, origin, location, source, ownership and control of the money that was paid for the benefit  
5 of Lazarenko.

6 c. The accounts opened and managed by Kiritchenko included: accounts in the  
7 name of GHP Corporation at Banque SCS Alliance (Account No. 5452) and at Banque Populaire  
8 Suisse (Account No. 823896-2); accounts in the name of ORPHIN, SA at American Bank in  
9 Poland (Account No. 61310) and at Banque Populaire Suisse (Account No. 21383); an account in  
10 the name of Bainfield Company, Ltd. at Banque SCS Alliance (Account No. 5383); an account in  
11 the name of WILNORTH, Inc. at Banque SCS Alliance (Account No. 5451); and an account in  
12 the name of PADDIX INDUSTRIES at Credit Suisse (Account No. 0251-875709-7).

13 d. Beginning in 1994, Lazarenko caused money to be deposited into  
14 Kiritchenko's accounts, and thereafter directed Kiritchenko to transfer into accounts controlled  
15 by Lazarenko the money Lazarenko received from extortion and fraud, including, but not limited  
16 to, the payments described above, in order to conceal and disguise the nature, origin, location,  
17 source, ownership and control of the money that was paid for the benefit of Lazarenko.

18 e. The accounts opened and controlled by Lazarenko included: an account in  
19 the name of KATO-82 at Credit Lyonnais (Suisse) (Account No. 08-05785-3); an account in the  
20 name of CARPO-53 at Banque SCS Alliance (Account No. 5353); an account in the name of  
21 NIHPRO at Banque Populaire Suisse (Account No. 21768), and later at Credit Suisse (Account  
22 No. 988882-52); an account in the name of Lady Lake at Bank SCS Alliance (Bahamas)  
23 (Account No. 20171); and an account in the name of Fairmont Group, Ltd. at Bank SCS Alliance  
24 (Bahamas) (Account No. 20170).

## 25 2. European Federal Credit Bank in Antigua

26 f. Between May and August of 1997, Kiritchenko and Lazarenko began  
27 negotiations to purchase and purchased a majority share of European Federal Credit Bank in St.  
28 John's, Antigua (hereinafter "Eurofed") in order to facilitate the transfers of money and to further

1 conceal and disguise the nature, origin, location, source, ownership and control of the money that  
2 was paid for the benefit of Lazarenko.

3 g. Between May and September 1997, Lazarenko transferred or caused the  
4 transfer of approximately \$95,000,000 that Lazarenko had previously received from extortion  
5 and fraud including, but not limited to, the payments described above, into accounts he and  
6 Kiritchenko controlled at Eurofed. These accounts were used in part to conceal and disguise the  
7 nature, origin, location, source, ownership and control of the money paid for the benefit of  
8 Lazarenko and these accounts included: an account controlled by Kiritchenko in the name of  
9 ORPHIN (Account No.151897); an account controlled by Lazarenko in the name of Lady Lake  
10 (Account No. 132907); an account controlled by Lazarenko in the name of Fairmont (Account  
11 No. 134936); an account controlled by Lazarenko in the name of Guardian Investments Group,  
12 Ltd. (Account No. 119648); an account controlled by Lazarenko in the name of Nemuro  
13 Industrial Group, Ltd. (Account No. 196317); an account controlled by Lazarenko in the name of  
14 Firstar (Account No. 133923); and a personal account of Lazarenko's (Account No. 137978).

15 3. Transfers Into The United States

16 26. Between 1994 and 1999, Kiritchenko and Lazarenko transferred approximately  
17 \$114,000,000 that Lazarenko had received from extortion and fraud, including, but not limited  
18 to, the payments described above, into bank and brokerage accounts in the United States for the  
19 purpose of concealing and disguising the nature, origin, location, source, ownership and control  
20 of the money that was paid for the benefit of Lazarenko. These accounts included accounts  
21 located in the Northern District of California at Commercial Bank of San Francisco; Pacific  
22 Bank; Merrill, Lynch, Fenner & Smith; WestAmerica Bank; Bank of America; Fleet Boston  
23 Robertson & Stephens; and Hambrecht & Quist.

24 All in violation of Title 18, United States Code, Section 1956(h).

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1. COUNTS TWO THROUGH FIVE: (18 U.S.C. § 1956(a)(2) -- Money Laundering)

2. 27. The allegations in Paragraphs One through Fourteen and Seventeen through  
 3. Twenty-Six of this Second Superseding Indictment are hereby incorporated by reference.

4. 28. On or about the specific dates set forth below, in the Northern District of California  
 5. and elsewhere, the defendant

6. PAVEL IVANOVICH LAZARENKO,  
 7. a/k/a "Pavlo Ivanovych Lazarenko,"

8. did transport, transmit, and transfer, and attempt to transport, transmit and transfer, funds from a  
 9. place in the United States to or through a place outside the United States, and to a place in the  
 10. United States from or through a place outside the United States, that is, the wire transfers of  
 11. money as set forth below, knowing that the funds involved in the transportation, transmission,  
 12. and transfers represented the proceeds of some form of unlawful activity, and knowing that such  
 13. transportation, transmission, and transfers were designed in whole or in part to conceal and  
 14. disguise the nature, source, ownership and control of the proceeds of specified unlawful activity,  
 15. to wit: receipt and transfer of property that was stolen, unlawfully converted, and taken by fraud  
 16. in violation of 18 U.S.C. § 2314 and § 2315; extortion as specified in 18 U.S.C. §  
 17. 1956(c)(7)(B)(ii); and wire fraud in violation of 18 U.S.C. § 1343 and § 1346:

<u>COUNT</u>	<u>DATE</u>	<u>FINANCIAL TRANSACTION</u>
2	7/11/94	Wire transfer of \$1,510,000 from ABS Trading Bank of America account number 0337-6948 in San Francisco, CA, to CARPO-53 account number 5353 at Banque SCS Alliance in Geneva, Switzerland
3	8/18/94	Wire transfer of \$968,000 from ABS Trading Bank of America account number 0337-6948 in San Francisco, CA, to CARPO-53 account number 5353 at Banque SCS Alliance in Geneva, Switzerland
4	12/12/94	Wire transfer of \$1,963,000 from ABS Trading Bank of America account number 0337-6948 in San Francisco, CA, to CARPO-53 account number 5353 at Banque SCS Alliance in Geneva, Switzerland

26. //  
 27. //  
 28. //

1 5 1/4/95 Wire transfer of \$2,210,000 from ABS Trading  
 2 Bank of America account 0337-6948 in San  
 3 Francisco, CA to NIHPRO account number 21678  
 4 at Banque Populaire Suisse in Geneva, Switzerland

5 All in violation of Title 18, United States Code, Sections 1956(a)(2) and 2.

6 COUNTS SIX THROUGH EIGHT: (18 U.S.C. § 1956(a)(1)(B) – Money Laundering)

7 29. Paragraphs One through Fourteen and Seventeen through Twenty-Six of this  
 8 Second Superseding Indictment are hereby incorporated by reference.

9 30. On or about the specific dates set forth below, in the Northern District of California  
 10 and elsewhere, the defendant

11 PAVEL IVANOVICH LAZARENKO,  
 12 a/k/a "Pavlo Ivanovych Lazarenko,"

13 did knowingly conduct and attempt to conduct financial transactions affecting interstate and  
 14 foreign commerce, that is, the financial transactions set forth below, which transactions involved  
 15 the proceeds of a specified unlawful activity, to wit: receipt and transfer of property that was  
 16 stolen, unlawfully converted, and taken by fraud in violation of 18 U.S.C. § 2314 and § 2315;  
 17 extortion as specified in 18 U.S.C. § 1956(c)(7)(B)(ii); and wire fraud in violation of 18 U.S.C. §  
 18 1343 and § 1346, knowing that the transactions were designed in whole or in part to conceal and  
 19 disguise the nature, source, ownership and control of the proceeds of the specified unlawful  
 20 activity, and knowing that the property involved in the financial transaction as set forth below  
 21 represented the proceeds of some form of unlawful activity:

<u>COUNT</u>	<u>DATE</u>	<u>FINANCIAL TRANSACTION</u>
6	11/21/97	Wire transfer of \$6,000,000 from European Federal Credit bank account number 1752902 at Commercial Bank of San Francisco to European Federal Credit Bank account number H10-6694904 at Hambrecht & Quist
7	8/31/98	Cashier's check for \$6,745,000 drawn on Dugsbery, Inc.'s WestAmerica Bank account number 0506368505, deposited into First American Title Co. escrow account for the purchase of a residence located at 100 Obertz Lane, Novato, California

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A transfer of \$2,300,000 from the Dugsbery, Inc. WestAmerica bank account number 0506368505 to Dugsbery, Inc. account number 34-567156 at Bank Boston Robertson Stephens

All in violation of Title 18, United States Code, Sections 1956(a)(1)(B) and 2.

COUNTS NINE THROUGH THIRTY: (18 U.S.C. § 1343 and § 1346 -- Wire Fraud)

31. The allegations in Paragraphs One through Fourteen and Seventeen through Twenty-Six of this Second Superseding Indictment are hereby incorporated by reference.

The Scheme to Defraud

32. On or about and between January 1992 and June 1998, in the Northern District of California and elsewhere, the defendant

PAVEL IVANOVICH LAZARENKO,  
a/k/a "Pavlo Ivanovych Lazarenko,"

did knowingly devise, attempt to devise, and aid and abet in devising, a scheme and artifice to defraud the people of Ukraine, to obtain money and property by means of false and fraudulent pretenses, representations, and promises, and to deprive the people of Ukraine of his honest and faithful services, in violation of Title 18, United States Code, Sections 1343, 1346 and 2.

33. It was part of the scheme to defraud that Lazarenko, while a government official in Ukraine, received an ownership interests in certain companies doing business in Ukraine and with Ukrainian state enterprises, including, but not limited to, the following companies:

- a. In approximately 1993, when he was the Representative of the President of Ukraine in the Dnepropetrovsk, Lazarenko obtained an ownership interest in Agrosnabsbyt/ASS.
- b. In approximately 1993, when he was the Representative of the President of Ukraine in the Dnepropetrovsk, Lazarenko received an ownership interest in Dneproneft.
- c. In approximately 1994 Lazarenko received an ownership interest in GHP Corporation.

34. It was further part of the scheme to defraud that Lazarenko, while a government official in Ukraine, exercised his official authority and influence in favor of, and to induce the grant of certain government benefits and privileges to, these and other entities doing business in

1 Ukraine and with Ukrainian state enterprises, by taking certain official action, including, but not  
2 limited to, the following:

3 a. In 1994, when he was the Representative of the President in Dnepropetrovsk,  
4 Lazarenko signed the "Direction by the Representative of the President of Ukraine of March 22,  
5 1994, No. 100," pursuant to which various entities, including Agrosnabsbyt, Dneproneft,  
6 Naukovy State Farm, and "Cube," a company owned and controlled by Yulia Tymoshenko,  
7 received the right to export valuable state-owned commodities from Ukraine.

8 b. In 1995, when he was the First Vice Prime Minister in charge of the energy  
9 sector, Lazarenko exercised his official authority to advance the business interests of UESU so  
10 that UESU obtained the right to sell and distribute natural gas to certain commercial and state  
11 enterprises in the Dnepropetrovsk region of Ukraine.

12 c. On December 31, 1996, when he was the Prime Minister of Ukraine,  
13 Lazarenko signed an authorization allowing Government Minister Anatoly Minchenko to execute  
14 on behalf of the government of Ukraine a \$200,000,000 guaranty in favor of RAO Gazprom for  
15 delivery of natural gas by UESU to Ukraine, thereby causing the Ukrainian government to pledge  
16 to use state funds to repay the debts of UESU to RAO Gazprom.

17 35. It was further part of the scheme to defraud that between 1993 and 1997 while a  
18 public official in Ukraine, Lazarenko received over \$200,000,000 from various companies doing  
19 business in Ukraine and with Ukrainian state enterprises including, but not limited to, the  
20 following approximate amounts:

21 a. In 1996, Lazarenko received at least \$84,000,000 from Somolli Enterprises.

22 b. In 1996, Lazarenko received at least \$65,000,000 from UEIL.

23 c. Between 1994 and 1998, Lazarenko received at least \$30,000,000 from  
24 Agrosnabsbyt/ASS.

25 d. In 1996, Lazarenko received at least \$25,000,000 from Itera Corporation.

26 e. Between 1993 and 1994, Lazarenko received at least \$14,000,000 from  
27 Naukovy State Farm.

28 f. In 1997, Lazarenko received at least \$13,000,000 from UESU.



1           g. Between 1993 and 1996 Lazarenko received at least \$5,000,000 from  
2 Dneproneft.

3           h. In 1997, Lazarenko received at least \$400,000 from GHP Corporation.

4           i. In 1994, Lazarenko received at least \$375,000 from Nakosta.

5           36. It was further part of the scheme to defraud that Lazarenko established various off-  
6 shore bank accounts under coded names into which he deposited money he received from the  
7 entities doing business in Ukraine and with Ukrainian state enterprises, including, but not limited  
8 to, the bank accounts described in Paragraph Twenty-Five, and he failed to disclose the existence  
9 of these accounts or his control of the funds in these accounts to the people of Ukraine in  
10 violation of the laws of Ukraine.

11           37. It was further part of the scheme to defraud that Lazarenko, while he was a public  
12 official in Ukraine, failed to disclose to the people of Ukraine that he had an ownership interest  
13 in and was receiving money and property from companies described above in Paragraph Thirty-  
14 Five by making false representations about his ownership interest in companies and the income  
15 he received, in violation of the laws of Ukraine, including, but not limited to, the following false  
16 representations:

17           a. On or about November 20, 1997, Lazarenko falsely represented to the people  
18 and government of Ukraine that his total income for the year 1996 was 9,397 hryvni (the  
19 Ukrainian national currency), or approximately \$5,040, that he had no income from any business  
20 activities, and that he had no money in any banks or other financial institutions, when in fact he  
21 had ownership interests in companies doing business in Ukraine and in 1996 he received more  
22 than \$165,000,000 into bank accounts that he controlled.

23           b. On or about January 6, 1998, Lazarenko falsely represented to the people and  
24 government of Ukraine that his total income for the year 1997 was 10,386 hryvni (the Ukrainian  
25 national currency), or approximately \$5,570, that he had no income from any business activities,  
26 and that he had no money in any banks or other financial institutions, when in fact in 1997 he  
27 received more than \$15,000,000 into bank accounts that he controlled.

28           38. As a result of the scheme to defraud, the people of Ukraine were deprived of money

1 and of their right to Lazarenko's honest services as a Ukrainian public official.

2 The Wire Communications

3 39. The allegations in Paragraphs One through Fourteen, Seventeen through Twenty-  
 4 Six, and Thirty-Two through Thirty-Eight of this Second Superseding Indictment are hereby  
 5 incorporated by reference.

6 40. On or about the dates set forth below, in the Northern District of California and  
 7 elsewhere, the defendant

8 PAVEL IVANOVICH LAZARENKO,  
 9 a/k/a "Pavlo Ivanovych Lazarenko,"

10 for the purpose of executing the scheme and artifice to defraud set forth above, and attempting to  
 11 do so, did knowingly transmit and cause to be transmitted by means of wire communication in  
 12 interstate and foreign commerce, the following wire transfers:

<u>COUNT</u>	<u>DATE</u>	<u>WIRE COMMUNICATION</u>
9	5/26/97	Wire transfer of \$2,998,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
10	5/28/97	Wire transfer of \$1,662,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
11	5/29/97	Wire transfer of \$394,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
12	6/3/97	Wire transfer of \$1,530,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to

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13 6/2/97

European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897

Wire transfer of \$2,200,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897

14 6/4/97

Wire transfer of \$500,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897

15 6/5/97

Wire transfer of \$170,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897

16 6/6/97

Wire transfer of \$1,000,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897

17 6/9/97

Wire transfer of \$510,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897

18 6/10/97

Wire transfer of \$2,000,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent

1			account number 645039 at Pacific Bank in the Northern District of California for credit to
2			European Federal Credit Bank account number
3			151897
4	19	6/11/97	Wire transfer of \$1,036,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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8	20	6/23/97	Wire transfer of \$1,400,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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12	21	7/7/97	Wire transfer of \$4,500,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 1752902 at Commercial Bank of San Francisco in the Northern District of California for credit to European Federal Credit Bank account number 151897
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16	22	7/11/97	Wire transfer of \$3,050,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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20	23	7/11/97	Wire transfer of \$2,602,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 1752902 at Commercial Bank of San Francisco in the Northern District of California for credit to European Federal Credit Bank account number 151897
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24	24	7/30/97	Wire transfer of \$8,200,000 from GHP Corporation account number 5452 at Banque SCS Alliance in Geneva, Switzerland to European Federal Credit Bank account 270-0148 at Merrill Lynch Fenner & Smith in the Northern District of California
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27	25	8/1/97	Wire transfer of \$14,000,000 from CARPO-53 account number 5353 at Banque SCS Alliance in Geneva, Switzerland to European Federal Credit
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1			Bank correspondent account number 645039 at Pacific Bank in the Northern District of California
2			for credit to European Federal Credit Bank account
3			number 151897
4	26	8/1/97	Wire transfer of \$14,000,000 from CARPO-53
5			account number 5353 at Banque SCS Alliance in
6			Geneva, Switzerland to European Federal Credit
7			Bank correspondent account number 1752902 at
8			Commercial Bank of San Francisco in the Northern
9			District of California for credit to European Federal
10			Credit Bank account number 151897
11	27	11/24/97	Wire transfer of \$24,000,000 from European
12			Federal Credit Bank account number 562927 at
13			Credit Suisse in Geneva, Switzerland to European
14			Federal Credit Bank account number H10-6694904
15			at Hambrecht & Quist in the Northern District of
16			California
17	28	7/24/98	Wire transfer of \$9,000,000 from Lady Lake
18			account number 20171 at Banque SCS Alliance
19			(Bahamas) to European Federal Credit Bank
20			account number 1752902 at Commercial Bank of
21			San Francisco in the Northern District of California.
22	29	8/5/98	Wire transfer of \$5,300,000 from Lady Lake
23			account number 20171 at Banque SCS Alliance
24			(Bahamas) to Dugsbery, Inc. account number
25			506361809 at WestAmerica Bank in the Northern
26			District of California
27	30	8/11/98	Wire transfer of \$4,000,000 from European Federal
28			Credit Bank account number 7372101 at Bankas
			Hermis in Vilnius, Lithuania to Dugsbery, Inc.
			account number 506361809 at WestAmerica Bank
			in the Northern District of California

All in violation of Title 18, United States Code, Sections 1343, 1346, and 2.

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COUNTS THIRTY-ONE THROUGH FIFTY-THREE: (18 U.S.C. § 2314 -- Transportation of Stolen Property)

41. The allegations in Paragraphs One through Fourteen, Seventeen through Twenty-Six, and Thirty-Two through Thirty-Eight of this Second Superseding Indictment are hereby incorporated by reference.

42. On or about the dates set forth below, in the Northern District of California and elsewhere, the defendant

PAVEL IVANOVICH LAZARENKO,  
a/k/a "Pavlo Ivanovych Lazarenko,"

did cause to be transported, transmitted, and transferred in interstate and foreign commerce, money of the value of \$5,000 or more, in the approximate amounts set forth below, knowing the money to have been stolen, converted, and taken by fraud:

<u>COUNT</u>	<u>DATE</u>	<u>ITEM TRANSFERRED</u>
31	7/1/94	Wire transfer of \$1,800,000 from LIP Handel account number 502.607.60L at Union Bank of Switzerland in Geneva, Switzerland to ABS Trading account number 0337-6948 at Bank of America in the Northern District of California
32	5/26/97	Wire transfer of \$2,998,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
33	5/28/97	Wire transfer of \$1,662,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
34	5/29/97	Wire transfer of \$394,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number

1			151897
2	35	6/3/97	Wire transfer of \$1,530,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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6	36	6/2/97	Wire transfer of \$2,200,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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11	37	6/4/97	Wire transfer of \$500,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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15	38	6/5/97	Wire transfer of \$170,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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20	39	6/6/97	Wire transfer of \$1,000,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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24	40	6/9/97	Wire transfer of \$510,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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1	41	6/10/97	Wire transfer of \$2,000,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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5	42	6/11/97	Wire transfer of \$1,036,000 from First Trading Bank's correspondent account number 500802948 at Commercial Joint Stock Bank Slaviansky to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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10	43	6/23/97	Wire transfer of \$1,400,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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14	44	7/7/97	Wire transfer of \$4,500,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 1752902 at Commercial Bank of San Francisco in the Northern District of California for credit to European Federal Credit Bank account number 151897
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18	45	7/11/97	Wire transfer of \$3,050,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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22	46	7/11/97	Wire transfer of \$2,602,000 from ORPHIN American Bank in Poland account number 61310 to European Federal Credit Bank correspondent account number 1752902 at Commercial Bank of San Francisco in the Northern District of California for credit to European Federal credit Bank account number 151897
23			
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26	47	7/30/97	Wire transfer of \$8,200,000 from GHP Corporation account number 5452 at Banque SCS Alliance in Geneva, Switzerland to European Federal Credit Bank account 270-0148 at Merrill Lynch Fenner & Smith in the Northern District of California
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1	48	8/1/97	Wire transfer of \$14,000,000 from CARPO-53 account number 5353 at Banque SCS Alliance in Geneva, Switzerland to European Federal Credit Bank correspondent account number 645039 at Pacific Bank in the Northern District of California for credit to European Federal Credit Bank account number 151897
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5	49	8/1/97	Wire transfer of \$14,000,000 from CARPO-53 account number 5353 at Banque SCS Alliance in Geneva, Switzerland to European Federal Credit Bank correspondent account number 1752902 at Commercial Bank of San Francisco in the Northern District of California for credit to European Federal Credit Bank account number 151897
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9	50	11/24/97	Wire transfer of \$24,000,000 from European Federal Credit Bank account number 562927 at Credit Suisse in Geneva, Switzerland to European Federal Credit Bank account number H10-6694904 at Hambrecht & Quist in the Northern District of California
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13	51	7/24/98	Wire transfer of \$9,000,000 from Lady Lake account number 20171 at Banque SCS Alliance (Bahamas) to European Federal Credit Bank account number 1752902 at Commercial Bank of San Francisco in the Northern District of California
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16	52	8/5/98	Wire transfer of \$5,300,000 from Lady Lake account number 20171 at Banque SCS Alliance (Bahamas) to Dugsbery, Inc. account number 506361809 at WestAmerica Bank in the Northern District of California
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19	53	8/11/98	Wire transfer of \$4,000,000 from European Federal Credit Bank account number 7372101 at Bankas Hermis in Vilnius, Lithuania to Dugsbery, Inc. account number 506361809 at WestAmerica Bank in the Northern District of California
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All in violation of Title 18, United States Code, Sections 2314 and 2.

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1 FORFEITURE ALLEGATION: (18 U.S.C. § 982 -- Criminal Forfeiture)

2 43. The allegations contained in Counts One through Eight of this Second Superseding  
3 Indictment are hereby realleged and by this reference fully incorporated herein for the purpose of  
4 alleging forfeitures pursuant to the provisions of Title 18, United States Code, Section 982(a)(1).

5 44. As a result of the offenses alleged in Counts One through Eight, Pavel Ivanovich  
6 Lazarenko shall forfeit to the United States all property, real and personal, involved in such  
7 offense, or any property traceable to such property, including but not limited to, approximately  
8 \$21,696,000, constituting the laundered proceeds of foreign extortion, wire fraud, and interstate  
9 transportation of stolen property, including, but not limited to the following:

10 a. Real property and improvements located at 100 Obertz Lane, Novato,  
11 California, and more particularly described in Attachment 1, hereto; and,

12 b. All funds seized from account number 34-567156 at Bank Boston Robertson  
13 Stephens, in the approximate amount of \$266,307.20.

14 45. By virtue of the commission of the felony offense charged in Counts One through  
15 Eight of this Second Superseding Indictment by Pavel Ivanovich Lazarenko, any and all interest  
16 that Pavel Ivanovich Lazarenko has in the above-described property is vested in the United States  
17 and is hereby forfeited to the United States pursuant to Title 18, United States Code, Section  
18 982(a)(1).

19 46. If any of the property described herein as being subject to forfeiture, as a result of  
20 any act or omission of the defendant –

- 21 a. cannot be located upon the exercise of due diligence;
- 22 b. has been transferred or sold to or deposited with, a third person;
- 23 c. has been placed beyond the jurisdiction of the Court;
- 24 d. has been substantially diminished in value; or
- 25 e. has been commingled with other property which cannot be subdivided  
26 without difficulty;

27 any and all interest Pavel Ivanovich Lazarenko has in other property shall be vested in the United  
28 States and forfeited to the United States pursuant to Title 18, United States Code, Section

1 982(b)(1), up to approximately \$21,696,000.

2 All in violation of Title 18, United States Code, Sections 2314, 1956(h), and 1956(a)(2).

5 DATED:

A TRUE BILL.

6 7-19-01

*Carol Wilbourn*  
FOREPERSON

8 ROBERT S. MUELLER, III  
9 United States Attorney

10  
11 *Susan Badger*  
12 DAVID W. SHAPIRO  
Chief, Criminal Division

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14 (Approved as to form: *[Signature]*)  
AUSA BOERSCH

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COMMENCING at the Northwesterly corner of Lot 439 and being the most Easterly corner of Lot 434 of said 16 Maps 92 witnessed by a found 3/4" Iron Pipe tagged R.C.E. 11629; thence along the line of Lot 434 North 88° 20' 55" West 170.00 feet to a found 3/4" Iron Pipe tagged R.C.E. 11629 being the true point of beginning; thence South 62° 24' 01" West 287.72 feet to the common corner of Lots 433, 434 and 435 of said 16 Maps 92; thence along the Westerly line of said Lot 434, North 51° 18' 30" West 233.39 feet to the Northwesterly corner of said Lot 434 being a point on the Southerly right-of-way of Burning Tree Drive, also being a point on a curve concave to the Southeast, having a radius of 280.00 feet and a central angle of 15° 58' 30"; a radial line through which bears North 51° 18' 30" West; thence continuing Northeasterly along said curve and said Southerly right-of-way of Burning Tree Drive 78.07 feet to a point of reverse curve, concave to the Northwest having a radius of 160.00 feet and a central angle of 23° 10' 00"; thence Northeasterly along said curve 64.69 feet to a point of reverse curve, concave to the Southeast having a radius of 100.00 feet and a central angle of 52° 00' 00"; thence Northeasterly along said curve 90.76 feet to a point of reverse curve, concave to the Northwest having a radius of 160.00 feet and a central angle of 59° 19' 00"; thence Northeasterly along said curve 165.64 feet to a point of reverse curve, concave to the Southeast having a radius of 60.00 feet and a central angle of 54° 44' 02"; thence Northeasterly along said curve 57.32 feet to the Northeasterly corner of said Lot 434, a radial line through which bears North 11° 04' 56" West, witnessed by a found 3/4" Iron Pipe tagged R.C.E. 11629; thence leaving said Southerly right-of-way of Burning Tree Drive along the Easterly line of said Lot 434 the following courses South 11° 04' 56" East 140.00 feet to a found 3/4" Iron Pipe tagged R.C.E. 11629; thence South 23° 17' 34" East 163.71 feet to a found 3/4" Iron Pipe tagged R.C.E. 11629 and being the true point of beginning.

BEARINGS are based on found street monuments of said 16 Maps 92, having a radius of 105.00 feet, a central angle of 190° 57' 00", an arc length of 349.93 feet, bearing North 88° 50' 30" East 209.04 feet.

**PARCEL THREE:**

THAT PORTION of Marin County Open Space District lands as described by Deed recorded under Document Number 87-56606 and that portion of Marin County Open Space District lands as described by Deed recorded under Document Number 95-043609 being a portion of Lot 439 as shown on Map of Marin Golf and Country Club Estates Unit No. 7, recorded in Volume 16 of Maps, at Page 92, Marin County Records, being more particularly described as follows:

COMMENCING at the Northeasterly corner of said Lot 439, said point witnessed by a set 3/4" iron pipe; thence North 50° 23' 44" East 55.00 feet to the Southwesterly right-of-way of Burning Tree Drive, witnessed by a set 3/4" iron pipe on a curve concave to the North, having a radius of 125.00 feet and a central angle of 123° 46' 09", a radial line through which bears North 81° 59' 27" East being the true point of beginning; thence Southeasterly 270.04 feet along said curve and said Southerly right-of-way of Burning Tree Drive to a set 3/4" iron pipe; thence leaving said right-of-way South 28° 53' 06" West 24.57 feet to a set 3/4" iron pipe; thence South 22° 11' 36" West 45.26 feet to a set 3/4" iron pipe; thence South 49° 02' 12" East 26.93 feet to a set 3/4" iron pipe; thence North 54° 04' 43" East 70.91 feet to a set 3/4" iron pipe; thence South 74° 04' 50" East 62.38 feet to a set 3/4" iron pipe; thence South 40° 16' 27" East 70.47 feet to a set 3/4" iron pipe; thence South 63° 46' 32" East 70.69 feet to a set 3/4" iron pipe; thence South 58° 17' 04" East 39.13 feet to a set 3/4" iron pipe; thence South 32° 45' 23" East 55.12 feet to a set 3/4" iron pipe; thence South 03° 29' 54" East 30.35 feet to a set 3/4" iron pipe; thence South 61° 35' 45" West 105.66 feet to a set 3/4" iron pipe; thence South 73° 03' 40" West 71.20 feet to a set 3/4"

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iron pipe; thence South 52° 54' 41" West 54.81 feet to a set 3/4" iron pipe; thence South 30° 20' 41" West 170.44 feet to a set 3/4" iron pipe; thence South 54° 42' 03" West 103.61 feet to a set 3/4" iron pipe; thence South 59° 23' 06" West 56.94 feet to a set 3/4" iron pipe; thence South 29° 08' 30" West 122.87 feet to a set 3/4" iron pipe; thence South 38° 23' 40" West 44.93 feet to a set 3/4" iron pipe; thence South 67° 32' 58" West 86.88 feet to a set 3/4" iron pipe; thence North 28° 33' 57" West 237.93 feet to a set 3/4" iron pipe; thence North 11° 08' 36" East 289.34 feet to a set 3/4" iron pipe; thence North 06° 38' 17" West 224.22 feet to a found 3/4" iron pipe tagged R.C.E. 11629 marking the Northwest corner of said Lot 439 and being the most Easterly corner of Lot 434 of said 16 Maps 92; thence along the Northerly line of Lot 439 North 64° 30' 00" East 124.97 feet; thence along the Northerly line of Lot 439 North 50° 23' 44" East 40.62 feet to a set 3/4" iron pipe marking the Northeasterly corner of Lot 439; thence continuing North 50° 23' 44" East 55.00 feet to a set 3/4" iron pipe marking the true point of beginning.

BEARINGS are based on found street monuments of said 16 Maps 92, having a radius of 105.00 feet, a central angle of 190° 57' 00", an arc length of 349.93 feet, bearing North 88° 50' 30" East 209.04 feet. All set 3/4" iron pipes are tagged L.S. 5970.

**PARCEL FOUR:**

THAT portion of Marin County Open Space District lands as described by Deed recorded under Document Number 95-043609 being a portion of Lot 439 as shown on Map of Marin Golf & Country Club Estates Unit No. 7, recorded in Volume 16 of Maps at Page 92, Marin County Records, being more particularly described as follows:

BEGINNING at the Northwesterly corner of said Lot 439 and being the most Easterly corner of Lot 434 of said 16 Maps 92 witnessed by a found 3/4" iron pipe tagged R.C.E. 11629; thence along the Westerly line of Lot 439 the following courses South 31° 54' 53" West 105.56 feet to a found 3/4" iron pipe tagged Marin County Surveyor; thence South 10° 19' 02" East 79.75 feet to a point on a curve concave to the Southeast having a radius of 36.00 feet and a central angle of 137° 14' 22"; thence Westerly and Southerly 86.23 feet along said curve to a point of reverse curve, concave to the West having a radius of 54.00 feet and a central angle of 58° 49' 25"; thence Southerly 55.44 feet along said curve to a point of reverse curve, concave to the East having a radius of 95.00 feet and a central angle of 10° 09' 48"; thence Southerly 16.85 feet along said curve; thence South 10° 38' 00" West 142.50 feet to the beginning of a curve concave to the East having a radius of 115.00 feet and a central angle of 47° 49' 00"; thence Southerly 95.97 feet along said curve; thence South 37° 16' 42" East (South 37° 11' 00" East) 267.55 feet to a set 3/4" iron pipe, said point witnessed by a found 3/4" iron pipe tagged R.C.E. 11629 at the Southwest corner of Lot 439 bearing South 37° 16' 42" East 64.51 feet (South 37° 11' 00" East 64.53 feet); thence leaving the Westerly line of Lot 439 North 02° 53' 03" West 22.55 feet to a set 3/4" iron pipe; thence North 28° 33' 57" West 237.93 feet to a set 3/4" iron pipe; thence North 11° 08' 36" East 289.34 feet to a set 3/4" iron pipe; thence North 06° 38' 17" West 224.22 feet to the point of beginning.

BEARINGS are based on found street monuments of said 16 Maps 92, having a radius of 105.00 feet, a central angle of 190° 57' 00", an arc length of 349.93 feet, bearing North 88° 50' 30" East 209.04 feet. All set 3/4" iron pipes are tagged L.S. 5970.

continues on the following page.....

**PARCEL FIVE:**

THAT portion of the lands of Charles R. and Sun P. Stephens as to a 96% interest and Michael Brian Stephens as to a 4% interest as described by Deed recorded under Document Number 93-112189 being a portion of Lot 434 as shown on that certain Record Map recorded in Book 16 of Maps, at Page 92, Marin County Records, being more particularly described as follows:

COMMENCING at the Northwestern corner of Lot 439 and being the most Easterly corner of Lot 434 of said 16 Maps 92 witnessed by a found 3/4" Iron Pipe tagged R.C.E. 11629; thence along the line of Lot 434 North 88° 20' 55" West 170.00 feet to a found 3/4" Iron Pipe tagged R.C.E. 11629 being the true point of beginning; thence South 62° 24' 01" West 287.72 feet to the common corner of Lots 433, 434 and 435 of said 16 Maps 92; thence along the Westerly line of said Lot 434, North 51° 18' 30" West 233.39 feet to the Northwestern corner of said Lot 434 being a point on the Southerly right-of-way of Burning Tree Drive, also being a point on a curve concave to the Southeast, having a radius of 280.00 feet and a central angle of 15° 58' 30"; a radial line through which bears North 51° 18' 30" West; thence continuing Northeasterly along said curve and said Southerly right-of-way of Burning Tree Drive 78.07 feet to a point of reverse curve, concave to the Northwest having a radius of 160.00 feet and a central angle of 23° 10' 00"; thence Northeasterly along said curve 64.69 feet to a point of reverse curve, concave to the Southeast having a radius of 100.00 feet and a central angle of 52° 00' 00"; thence Northeasterly along said curve 90.76 feet to a point of reverse curve, concave to the Northwest having a radius of 160.00 feet and a central angle of 59° 19' 00"; thence Northeasterly along said curve 165.64 feet to a point of reverse curve, concave to the Southeast having a radius of 60.00 feet and a central angle of 54° 44' 02"; thence Northeasterly along said curve 57.32 feet to the Northeasterly corner of said Lot 434, a radial line through which bears North 11° 04' 56" West, witnessed by a found 3/4" Iron Pipe tagged R.C.E. 11629; thence leaving said Southerly right-of-way of Burning Tree Drive along the Easterly line of said Lot 434 the following courses South 11° 04' 56" East 140.00 feet to a found 3/4" Iron Pipe tagged R.C.E. 11629; thence South 23° 17' 34" East 163.71 feet to a found 3/4" Iron Pipe tagged R.C.E. 11629 and being the true point of beginning.

BEARINGS are based on found street monuments of said 16 Maps 92, having a radius of 105.00 feet, a central angle of 190° 57' 00", an arc length of 349.93 feet, bearing North 88° 50' 30" East 209.04 feet.

EXCEPTING THEREFROM all that portion as described in the Deed from Stephens Properties, Inc., to Kurt Petrie, et al, as Trustees recorded March 18, 1998 as Recorder's Serial No. 98-016835, Marin County Records, described as follows:

COMMENCING at the Northeasterly corner of said Lot 434 said point witnessed by a found 3/4" Iron Pipe tagged R.C.E. 11629; thence along the Easterly line of said Lot 434 South 11° 04' 55" East 140.00 feet to an angle point witnessed by a found 3/4" Iron Pipe tagged R.C.E. 11629 said point being the True Point of Beginning; thence South 18° 31' 05" West 125.55 feet to a set 3/4" Iron Pipe tagged L.S. 5970; thence South 73° 20' 02" East 109.20 feet to a found 3/4" Iron Pipe tagged R.C.E. 11629 marking an angle point in the Easterly line of said Lot 434; thence along the Easterly line of said Lot 434 North 23° 17' 43" West 163.71 feet to the True Point of Beginning.