

STATEMENT OF FACTS (final report)

Ferrari VIN #0799GT: The Spanish Episode

PHASE ONE 1991 – 1993: The trap

Relevant crimes: defraud and forgery of documents

Year 1991

1. Reconstruction of happenings:

Mr. Bernhard Friedli, a Swiss citizen and entrepreneur of the city of Thun, was a member of the board of the Swiss Post and of ARAL Oil Company. Mr. Friedli was an honorable and wealthy man when he died in 1996. Mr. Friedli owned a real estate property in Spain and owned six Ferrari cars. In the beginning of the 1990ies he decided to sell the real estate property in Spain. In the course of the negotiations he had met several dubious Italians (most probably members of the organized crime), which pretended to be interested in buying his real estate property in Spain. I am not informed in details what happened in the process of this deal, but I know that Mr. Friedli and his family lost a lot of money in this respect. I suppose that the Italians accomplished the transfer of the real estate property together with a notary public, but never paid the granted price. I am informed that the Friedli was involved in civil trials in Spain until 1999 in this respect. Additionally, I know that a certain Mr. Felice Cultrera (the boss of the Italians) and a Mr. Gianni Meninno, represented by an Attorney called Juan Ramirez, were also involved in that real estate deal. Regarding the criminal conduct and the modus operandi of Mr. Felice Cultrera, Gianni Meninno and Juan Ramirez I am referring to the newspaper articles according to attachment 32-38 of my “request for seizure” from July 2008.

During the negotiations regarding the real estate deal Mr. Friedli met the Italians Mr. G. Giudice and Gianni Meninno. They had a meeting at the house of Mr. Giudice in Marbella in July 1991. During this meeting Mr. Friedli mentioned his Ferrari cars and told the Italians, that he would be interested in selling four Ferrari cars for USD 2.1 millions. Mr. Giudice pretended to buy all four cars for USD 1.9 million. They had a verbal agreement on the price of USD 1.9 million, no written sales contract was concluded. Mr. Giudice assigned Mr. Friedli to deliver the four Ferrari cars to a garage called “Motorauto Marbella”

(in Marbella/Spain) which was managed by Mr. Kelvin Fisher. Mr. Friedli and Dr. Gerber never met Mr. Kelvin Fisher personally (except at court later on). Mr. Friedli had to cover costs of transportation and insurance personally. On the other hand, Mr. Giudice paid customs. Mr. Giudice asked Mr. Friedli to transport the cars with pro forma invoices for the customs declaring lower car prices (the Italians probably wanted to save on VAT). So Mr. Friedli did. As it will be shown later this was a trap.

To underline his interest and to convince Mr. Friedli, Mr. Giudice presented a letter of credit (bank order) in favor of Mr. Friedli at the Italian Consulate in Malaga/Spain on 18 July 1991 in the presence of the alleged Italian Vice-Consul. The letter of credit had a stamp of the Italian Consulate on it. It was agreed to deposit that document at the Italian Consulate in Malaga/Spain on the name of Mr. Friedli. It was Mr. Gianni Meninno, who was in charge to obtain the mentioned letter of credit on behalf of Mr. Giudice. As it will be shown later no money was ever paid to Mr. Friedli (and his family) or to Dr. Gerber until this day.

- Evidence**
1. Mr. Friedli's note regarding his negotiations with Mr. Giudice and Mr. Gianni Meninno in German and Spanish (Spanish version: 12 November 1991 / German version with fax date: 19 March 1992) **No. 1**
 2. Mr. Friedli's note concerning his problems and negotiations with Mr. Meninno and Attorney Juan Ramirez, August 29, 1991 **No. 2**
2. Mrs. Friedli and Mr. Gerber agreed on transporting the Ferrari VIN 0799GT to Marbella/Spain in order to sell the car. Ferrari 0799 was transported to Spain along with the three other Ferrari cars (VIN 1893GT, 365GT13811, 2925GT) which belonged to Mr. Friedli. The four cars were transported from Berne, Switzerland, to Marbella, Spain on 26 July 1991 by the carrier "Somatra AG" in 3001 Bern, Switzerland. The four cars were transported with three Swiss registrations certificates and four reports, confirming the take over of the cars by the carrier "Somatra AG". For the transport of the cars, and only for its transport, an insurance policy was concluded. The insured value was CHF 2.926 millions (about USD 2 millions); the insurance premium was fixed at CHF 13,167 (about USD 8,800).

According to the instruction of Mr. Giudice, Mr. Friedli declared the following prices at the customs which were far below market value. Dr. Gerber was not informed about these declarations:

Ferrari VIN 0799:	USD 180,000
Ferrari VIN 13811:	USD 40,000
Ferrari VIN 2925:	USD 40,000
Ferrari VIN 1893:	USD 90,000

Remark:

According to Ferrari expert Marcel Massini, proforma-invoices are only used for customs declarations. Furthermore, proforma-invoices cannot be qualified as a title.

- Evidence**
1. Insurance policy (and bill) of the carrier "Somatra", CH-3001 Bern, dated 7 August 1991 **No. 3**
 2. Bill of lading "Somatra AG", Bernhard Friedli / Kelvin J. Fisher, August 28, 1991 **No. 4**
 3. "Certificate of Insurance for car only", regarding Ferraris VIN 1893GT, 0799GT, 365GT13811, 2925GTE, issued by the carrier "Somatra AG", Bern, Switzerland, July 26, 1991 **No. 5**
 4. Three Swiss registration certificates, Ferrari 1893GT, 2925GTE, 365GT13811 **No. 6**
 5. Pro forma invoice regarding all four Ferraris, signed by Mr. Friedli on July 23, 1991, declaring a price below market value for Ferrari VIN 0799: USD 180,000 instead of approximately USD 1.15 million **No. 7**

3. After the delivery of the cars to Spain, Mr. Friedli noticed that no money had been paid to him. Therefore, his Spanish lawyer, Attorney Torrabadella, instructed Mr. Kelvin Fisher by fax message dated 16 August 1991 not to hand over the Ferrari cars to Mr. Giudice or to any other person.

On 21 August 1991 Attorney Marc Stucki from Berne, Switzerland, (Mr. Bernhard Friedli's Swiss Lawyer) was informed by Attorney Torrabadella (Mr. Friedli's Spanish Lawyer in Marbella) on the phone, that the latter had serious doubts concerning the seriousness of Mr. Kevin Fisher (the manager of "Motorauto Marbella") and Mr. G. Giudice. Attorney

Marc Stucki and Attorney Torrabadella planned to bring the cars to a safe place according to a file note of the former, dated 21 August 1991.

The reason for this caution was a remark of Mr. Kelvin Fisher, who told Attorney Torrabadella and Mr. Friedli, that he would have the right to sell the four Ferrari cars to anyone, because the cars were not explicitly designated to Mr. Giudice. Mr. Fisher threatened furthermore to sell the four Ferrari cars for the too low price of USD 350'000 according to the transport documents (pro forma invoice), to deduct his expenses and then to transfer the rest of the money to Mr. Friedli's bank account. Even Attorney Juan Ramirez, the lawyer of Mr. Kelvin Fisher (and a family member of the Marbellan Judge Pilar Ramirez) told Attorney Torrabadella, that Mr. Kelvin Fisher could not be considered as a serious businessman (!) and recommended to bring the cars to a safe place.

On 21 August 1991 Mr. Friedli gave Mr. Fisher the clear instruction by fax message not to hand out his cars to anybody except to his lawyer Mr. Jaime Torrabadella or to himself. Mr. Friedli had – as already mentioned – severe doubts about the seriousness of Mr. Fisher and his potential client Mr. Giudice. The same instruction was expressed by Attorney Torrabadella to Mr. Kelvin Fisher on 21 August 1991 via registered mail.

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| Evidence | 1. File note of Attorney Marc Stucki on 21 August 1991 | No. 8 |
| | 2. Letter of Attorney Torrabadella to Mr. Kelvin Fisher, dated 16 August 1991, instructing the latter not to move the cars | No. 9 |
| | 3. Fax message of Mr. Bernhard Friedli to Mr. Kelvin Fisher, dated 21 August 1991, instructing the latter not to dispose any of Mr. Friedli's cars | No. 10 |
| | 4. Letter / fax message from Mr. Kelvin Fisher / Attorney Jaime Torrabadella, dated 21 August 1991, claiming that the former would be allowed to sell the cars to anyone and not just to Mr. Giudice | No. 11 |
| | 5. Letter (registered mail) and fax message from Attorney Torrabadella to Mr. Kelvin Fisher, dated 21 August 1991, instructing the latter not to move the cars | No. 12 / 13 |

Attorney Torrabadella tried to store the four Ferrari cars at a safe place. Mr. Kelvin Fisher illegally refused to hand over the cars to Attorney Torrabadella. On 28 August 1991 Attorney Jaime Torrabadella filed a criminal complaint on behalf of Mr. Bernhard Friedli against Mr. Kelvin Fisher and probably against Giuseppe Giudice and Ugo Giannino at the Police Commissariat in Marbella/Spain. The reasons for this legal step were the manipulations by

Mr. Kelvin Fisher, Mr. Giudice and Mr. Giannino regarding the purchase price and the unlawful appropriation / retention of the cars. Attorney Jaime Torrabadella additionally requested the Instruction Judge No. 2 to deposit the four Ferrari cars at a safe place. The criminal complaint of 28 August 1991 is difficult to read. A fax message in French dated 29 August 1991 from Attorney Torrabadella to Attorney Marc Stucki informs about the undertaken legal steps and also mentions the missing confidence in Mr. Kelvin Fisher. Attorney Torrabadella told Attorney Marc Stucki in this fax message, that he worries about the insurance policy, which only covered the risks *during the transport* from Switzerland to Spain, *but not any further risk or potential damage, which could happen after the transport*. Nevertheless, Attorney Torrabadella recommended Mr. Friedli to “keep” his insurance policy, because of the obvious missing confidence in Mr. Kelvin Fisher.

Additionally, Attorney Torrabadella wrote a letter to Attorney Juan Ramirez (who is representing Mr. Kelvin Fisher) on 6 September 1991. In this letter Attorney Torrabadella complains about the illegal behavior of Mr. Kelvin Fisher (especially about the retention of the cars) and about the manipulation of the car prices/values. He asked Attorney Juan Ramirez to provide the claimed authorization, which would have given Mr. Fisher the right to negotiate and sell the cars.

Attorney Diego Jimenez Balboteo (also representing Mr. Fisher and cousin of Attorney Juan Ramirez) replied on 6 September 1991, that no car will be given to anyone without previous payment. No authorization document was provided by Attorney Balboteo to legitimate the claimed right of Mr. Fisher to sell the cars.

Attorney Torrabadella informed Attorney Diego Jimenez Balboteo in a fax message on 8 September 1991 clearly, that Mr. Fisher is not legitimated to sell or dispose any of the cars and herewith asked to the return the cars.

- Evidence**
1. Criminal complaint of Attorney Torrabadella, filed against Mr. Kelvin Fisher and Motorauto Marbella at the commissariat of Marbella, dated 28 August 1991 (including summon of 23 August 1991 written by Attorney Torrabadella) **No. 14 / No. 14a**
 2. Fax message from Attorney Torrabadella to Attorney Stucki and Dr. Bratschi (in French) on 29 August 1991 mentioning the missing confidence in Mr. Kelvin Fisher and the obvious insurance problems **No. 15**

3. Fax message from Attorney Torrabadella to Attorney Juan Ramirez (representing Mr. Kelvin Fisher) on 6 September 1991 complaining about the illegal retention of the cars and about the manipulation regarding the car values **No. 16**
4. Fax message of Attorney Diego Jimenez Balboteo (also representing Mr. Kelvin Fisher) to Attorney Torrabadella on 6 September 1991 **No. 17**
5. Fax message of Attorney Torrabadella to Attorney Diego Jimenez Balboteo (representing Mr. Kelvin Fisher) on 8 September 1991 **No. 18**
6. Statement of Mr. Fisher at the Notary Public on 22 August 1991 **No. 19**
7. Fax message from Attorney Torrabadella to Mr. Kelvin Fisher, warning the latter, on 27 August 1991 **No. 20**
8. Letter from Mr. Kelvin Fisher to Attorney Torrabadella on 28 August 1991 **No. 21**
9. Statement of Attorney Torrabadella at the Notary Public on 30 August 1991 **No. 22**

4. Manipulations at the Italian Consulate in Malaga/Spain

Prior to the transport of the Ferraris from Switzerland to Spain a letter of credit (bank order of USD 1.9 million) was allegedly issued by the “Banca d’America d’Italia” in Rom. As mentioned before, this document was presented to Mr. Friedli by the Italians Mr. Giuseppe Giudice and Mr. Gianni Meninno to emphasize (and pretend) their interest “in buying” the Ferrari cars and to convince (and trap) Mr. Friedli. It was agreed to deposit this letter of credit at the Italian Consulate in Malaga/Spain on the name of Mr. Friedli. This letter of credit was one of the traps set out for Mr. Friedli by Mr. Giudice and his partners. After the delivery of the four Ferraris to Spain, Mr. Friedli went to the Italian Consulate to pick up his letter of credit on 14 August 1991. At the Italian Consulate he noticed that there was indeed a sealed envelope deposited for him, but the said letter of credit was not in there! The lawyer of Mr. Friedli, Dr. Bratschi (from Berne, Switzerland) contacted the Italian Vice-Consul in Malaga (who should have legalized the bank orders) in order to find out, what had exactly happened. It later turned out that the bank orders presented to Mr. Friedli were forged. Later Mr. Friedli found out that the man, whom the Italians (Mr. Giudice) presented to him as the Italian Vice-Consul, was in fact not a real consul, but the secretary of the Mafia boss Mr. Felice Cultrera, called Mr. Ugo Giannino;

he was only “playing” a vice-consul. How and why they had access to the Italian Consulate in Malaga/Spain remains unclear.

- Evidence**
1. Letter from Attorney Dr. Peter Bratschi (representing **No. 23** Mr. Friedli) to the Italian Vice Consul in Malaga/Spain on 12 September 1991
 2. Letter from the Italian Vice-Consul to Attorney Dr. Peter **No. 24** Bratschi on 23 September 1991 (in Italian)
 3. Declaration of Mr. Friedli to the Instruction Judge No. 2, **No. 34** Marbella, on 12 December 1991

5. No money was ever paid (but a lot of false promises were made) to Mr. Friedli. This is the reason, why Mr. Friedli asked Mr. Kelvin Fisher to return the cars, which the latter illegally refused as mentioned above. On October 23, 1991, the Instruction Judge No. 2 of Marbella ordered to deposit and to seal all four Ferrari cars at the official Mercedes garage/agency in San Pedro de Alcantrara, Marbella, Spain. Mr. Friedli was informed about this judicial order by his other Spanish Attorney Javier Febregat (Madrid), who sent a fax message to Attorney Dr. Peter Bratschi (Swiss lawyer of Mr. Friedli, besides Attorney Marc Stucki) on 23 October 1991.

In this fax message Attorney Febregat also informed Dr. Bratschi (and Mr. Friedli) about the other legal procedures regarding the problems of the sale of Mr. Friedli’s real estate property in Spain (probably to the Ramirez group). The “Ramirez Group” was also holding the bogus company “Motorauto Marbella S.L”. The family Ramirez was very powerful in the 1990ies in Marbella. A member of this family (and family holding) was the dean of the Marbella court (Mr. Pilar Ramirez), as well as Attorney Juan Carlos Ramirez, who was representing Mr. Kelvin Fisher. Thus, there was a direct link between the Court of Marbella and the bogus company “Motorauto Marbella S.L”. The criminal activities of the family Ramirez and the corruption in Marbella will be shown in a separate document.

It is important to know, for any future procedures, that the original car documents like the Swiss registration documents (which were transported together with the cars from Switzerland to Spain) were kept by Mr. Kevin Fisher. During the procedure lead by the Instruction Judge No. 2, Mr. Kelvin Fisher (represented by Attorney Diego Jimenez) started (to the surprise of Mr. Friedli) to claim, that the company “Motorauto Marbella S.L.” would “own” the four Ferraris and that he would be willing to pay the (ridiculous low) price of

USD 350'000.00 according to the custom documents (the market price of the four cars was according to an expertise about USD 2 millions / the cars were insured for 2,926 millions Swiss Francs during the transport from Switzerland to Spain). In fact, Mr. Kelvin Fisher's job was only to receive and to store the Ferraris as agreed with Mr. Giudice. Mr. Fisher's claim to buy or to have bought the cars for USD 350,000.00 was the result of a trap, set out for Mr. Friedli, when the latter was instructed by Mr. Giudice to fix the car value too low in the customs documents.

Remark 1:

Dr. Gerber never gave an approval to sell Ferrari 0799 to a concrete buyer as such one was never presented to him or to Mr. Friedli.

Remark 2:

According to Ferrari Expert Marcel Massini it is the practice in the old-timer community (not only in the Ferrari scene) to sign the car title in order to transfer the car from the seller to the buyer and to confirm that the car is free from any liens or encumbrances. Mr. Friedli and Dr. Gerber never signed any title or car registration document and thus never approved a transfer of the cars (see evidence No. 31).

Remark 3:

The Swiss car registration certificate is not comparable to the US title to a motor vehicle. The Swiss car registration certificate only lists the holder of the car, who is not necessarily the owner. Additionally the Swiss registrations certificates were not valid anymore as the stamp "ungültig" and "annuliert" proves.

In order to counter the argument of Mr. Kelvin Fisher regarding the manipulated value/price of the cars (USD 350'000), Mr. Friedli ordered an expertise about the value of the cars. This expertise was conducted by the Ferrari garage "Graber Automobile AG", in Wichtrach, Switzerland, on 11 December 1991. This expertise was notarized by Martin Ruefennacht (Notary Public of the Canton Berne) on 6 January 1992. The maximum value of all four cars was estimated at 2,180,000.00 Swiss Francs (about USD 1,450,000.00). The market prices for Ferrari cars already started to drop due to the overheated Ferrari market.

The reason why Dr. Gerber was not involved as plaintiff in this criminal procedure, initiated by Mr. Friedli against Mr. Kelvin Fisher (and probably against Mr. Giuseppe Giudice), was to avoid delays and unnecessary complications of this criminal procedure.

On the other hand, Dr. Gerber and his lawyer, Dr. Reto Ruoss from Zurich, were constantly informed about the proceedings in Spain by Dr. Bratschi and Mr. Marc Stucki (Swiss Attorneys of Mr. Friedli).

- Evidence**
1. Judge Order, Instruction Judge No. 2 from Marbella, **No. 25**
23 October 1991, instructing the deposit and sealing of all four Ferrari cars at the official Mercedes garage at San Pedro de Alcantara, Marbella/Spain
 2. Fax message from Attorney Javier Febregat (Madrid) to Dr. Peter Bratschi (Berne, Switzerland), both representing Mr. Friedli, dated 23 October 1991, informing about the judge's order of 23 October 1991 **No. 26**
 3. Notarized expertise regarding the real value of the cars, "Graber Automobile AG, Wichtrach, Switzerland, dated 11 December 1991 (legalized by notary Martin Ruefenacht) **No. 27**
 4. Letter from Mr. B. Friedli to Attorney Torrabadella, dated 12 September 1991, sending him the copy of the Ferrari Swiss registration documents and informing the latter, that the original Swiss registration documents are in the hands of Mr. Kelvin Fisher **No. 28**
 5. Translated (erroneous) statement of Attorney Diego Jimenez, (cousin of Attorney Juan Ramirez who is representing Mr. Kelvin Fisher), dated 20 September 1991. Attorney Jimenez claims that Motorauto Marbella would be the owner of the four Ferraris and that the agreed price would be USD 350'000 **No. 29**
 6. Fax message from Attorney Torrabadella to Dr. Bratschi and Mr. Stucki (in Berne/Switzerland), all of them representing Mr. Friedli's interests, dated 24 September 1991, explaining the erroneous statements of Attorney Diego Jimenez **No. 30**

6. Court proceeding (criminal procedure) in Marbella / interrogations and declarations:

Mr. Bernhard Friedli made a declaration to the Instruction Judge No. 2 (police commissariat) in Marbella on 26 September 1991. In this declaration, Mr. Friedli describes the criminal conduct and manipulations of Mr. Fisher and Mr. Giudice. The most important statements are underlined in the translated text. During this interrogation Mr. Friedli made it clear, that he

was still the owner of the cars and no transfer (of ownership) had happened due to the fact, that no payment was ever made to him. He stated explicitly at court: *“but without signing the transfer because the purchase price/amount was not paid yet”* (*“sin firmar la transferencia porque todavia no ha percibido el importe de la venta”*; see evidence No. 31, page 2). He also made clear, that the cars were in perfect condition and no restoration was needed as Mr. Fisher claimed.

Another declaration was done by Mr. Friedli to the Instruction Judge No. 2 in Marbella on 12 December 1991. In this statement, Mr. Friedli explained the manipulations regarding the letter of credit at the Italian Consulate in detail.

Mr. Kelvin Fisher declared his point of view to the Instruction Judge No. 2 of Marbella on 12 December 1991. He made a lot of false allegations during this interrogation. When it came to delicate questions, Mr. Fisher often did not answer the question or claimed not to know anything, although he was the manager of “Motorauto Marbella” as he claimed.

Furthermore, Mr. Antonio Moreno Canovas made a declaration to the Instruction Judge No. 2 of Marbella on 12 December 1991. Mr. Antonio Moreno Canovas was the manager of the official Mercedes garage, where the four Ferraris were deposited, based on the judge’s order on 23 October 1991.

The Italians, Mr. Giuseppe Giudice and Mr. Ugo Giannino, did not attend this interrogation.

District Attorney Don Guillermo Leal Aragoncillo requested the Instruction Judge No. 2 of Marbella on 19 December 1991 to order an interrogation of the Italian Vice-Consul of Italy in Malaga, Mr. Jimenez. According to my information this interrogation of the Italian Vice-Consul curiously never took place.

- Evidence**
1. Declaration of Mr. Friedli to the Instruction Judge No. 2, **No. 31**
Marbella, 26 September 1991
 2. Declaration of Mr. Kelvin John Fisher to the Instruction **No. 32**
Judge No. 2, Marbella, 12 December 1991
 3. Declaration of Mr. Antonio Moreno Canovas to the Instruc- **No. 33**
tion Judge No. 2, Marbella, 12 December 1991
 4. Declaration of Mr. Friedli to the Instruction Judge No. 2, **No. 34**
Marbella, 12 December 1991
 5. Statement and Request of the District Attorney to the In- **No. 35**
struction Judge No. 2 of Marbella, 19 December 1991

Year 1992

7. Mr. Friedli and his Attorney Jaime Torrabadella tried to reinsure the four Ferrari cars in Spain. According to a fax message from Attorney Torrabadella to Mr. Friedli on 28 January 1992 it was impossible to insure the four cars in a satisfying way in Spain. The insurance companies required an alarm system, which had to be connected to the police. Attorney Torrabadella recommended Mr. Friedli to contact his Swiss insurance in order to reinsure the four Ferraris.

Additionally, Attorney Torrabadella reminded Mr. Friedli in this fax message in a very clear way not to forget that **they were dealing with “gangsters”** (regarding the case against Mr. Kelvin Fisher and the Italians).

- Evidence**
1. Fax message from Attorney Torrabadella to Mr. Friedli, **No. 36** 28 January 1992 (in French), informing about the search regarding a new insurance policy
 2. Fax message of the Insurance Company “Lloyd Adriatico **No. 37** España” to Attorney Vicente Ortiz Alvarez (also representing Mr. Friedli), dated 4 March 1992

8. In a fax message from 12. March 1992 to Attorney Marc Stucki, Attorney Vicente Ortiz Alvarez is referring to the letter of the Italian Vice-Consul in Malaga. This letter was not helping to clarify the happenings at the Italian Consulate in respect to the manipulated/forged “bank order”.

On March 17, 1992 a new court hearing and confrontation between Mr. Friedli and Mr. Kelvin Fisher took place at the Instruction Judge No. 2 of Marbella. During this hearing the “magic trick” with the empty envelope (as Attorney Marc Stucki calls it) at the Italian Consulate in Malaga was examined in detail. The Instruction Judge No. 2 had the opinion, that this incident with the empty envelope had such an importance, that the competent court would be the one in Malaga instead of the court in Marbella. Nevertheless, the Instruction Judge No. 2 of Marbella continued the procedure and did not transfer the case to the court of Malaga (*where the family Rodriguez could probably not have controlled respectively influenced the court proceeding anymore*). During this court hearing, Mr. Friedli also tried to convince the judge, that the true value of the four cars is about CHF 2 millions and not USD 350,000 as claimed by Mr. Fisher. For that purpose, he obtained a document from the Tax Administration of the Canton Berne, Switzerland, (con-

firming the car values of CHF 2 millions in 1992) and insurance papers regarding the transport insurance policy (car values of CHF 2,926 millions in 1991).

In a fax message from 12 April Attorney Vicente Ortiz Alvarez replies to the letter of Marc Stucki from 20 March 1992 (and not 20 April 1992 as Mr. Alvarez falsely wrote). In this fax message Attorney Alvarez explains the possible course of the criminal procedure as well as the civil procedure, which was to be started.

The confirmation of the Tax Authority was translated into Spanish and legalized by the Chancellery of the Canton Berne with the Apostil according to the Den Hague convention on 5 May 1992/5 June 1992. The VIN number of Ferrari 0799GT was written incorrectly in this confirmation of the Tax Authority (Nr. 0/99 GT instead of 0799 GT). This evidence was important in the criminal procedure, in order to prove the manipulations of Mr. Giudice and Mr. Fisher. It was also necessary to show to the investigative Judge, that the claim of Mr. Fisher/the Italians regarding the allegedly agreed price of USD 350,000.00 was wrong and stands in no relation to the real value of the four Ferrari cars.

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| Evidence | <ol style="list-style-type: none">1. Summon of the Instruction Judge No. 2 of Marbella, regarding the court hearing on 17 March 1992 (dated 5 March 1992) No. 382. Fax message from Attorney Vicente Ortiz Alvarez to Attorney Marc Stucki, dated 12 March No. 38a3. Fax message of Attorney Vicente Ortiz Alvarez (representing Mr. Friedli) to Attorney Marc Stucki, informing about the new court hearings (dated 5 March 1992) No. 394. Letter from Attorney Marc Stucki to Attorney Vicente Ortiz Alvarez (representing Mr. Friedli), dated 20 March 1992 No. 405. Fax message from Attorney Vicente Ortiz Alvarez to Attorney Marc Stucki, dated 12. April 1992, referring to the letter of Marc Stucki from 20. March 1992 (and answering his questions) No 40a6. Confirmation of the head of the Tax Authority (Mr. H. Zuercher) of the Canton Berne, Switzerland, dated 5 Mai 1992, stating that the <u>correct value of all four Ferraris was fixed at ca. CHF 2,000,000.</u> The confirmation was legalized by the Chancellery of the Canton Berne on 6 May 1992. The confirmation was also translated into Spanish No. 41 |
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7. Fax message from Attorney Stucki to Attorney Rafael **No. 42** Cortabarría (partner of Attorney Torrabadella) dated 6 May 1992 commenting the real value of the cars

9. In a fax message from Attorney Torrabadella (who was still working for Mr. Friedli) on 22 April 1992 the latter expressed his concerns to Attorney Dr. Peter Bratschi about his impression, that the Instruction Judge No. 2 may not continue the criminal procedure anymore and cease it in favor of the "Italians". Attorney Torrabadella therefore recommended Attorney Dr. Peter Bratschi to lodge a civil action and to request the retention of the seizure of the four cars. Attorney Torrabadella asked Attorney Mr. Rafael Cortabarría to take care of this civil matter.

According to a fax message from Attorney Dr. Peter Bratschi to Mr. Friedli (in German), the former expressed his concern about the criminal procedure and the criminal complaint in Marbella, which was at risk to end in talk. Attorney Dr. Bratschi also realized, that Attorney Juan Ramirez (Attorney of Mr. Fisher and Mr. Giudice) had excellent contacts to the court of Marbella, which were much better than the ones of Mr. Friedli's Spanish lawyers. This was a serious problem for Mr. Friedli. Attorney Bratschi therefore proposed to Mr. Friedli to file the suggested civil action and to charge Attorney Vicente Ortiz Alvarez with this mandate.

- Evidence**
1. Fax message from Attorney Jaime Torrabadella to Attorney **No. 43** Dr. Bratschi, 22 April 1992
 2. Letter from Attorney Bratschi (p.p. Marc Stucki) to Mr. **No. 44** Friedli, 23 April 1992

10. Attorney Dr. Peter Bratschi was told, that Attorney Ortiz Alvarez (Mr. Friedli's Spanish lawyer) also represented Mr. Felice Cultrera earlier, who was the (Mafia) boss of the opposing party (the Italian gangsters). Due to this potential conflict of interests Dr. Bratschi decided to terminate the mandate given to Attorney Ortiz Alvarez and charged Attorney Rafael Cortabarría with the defense of Mr. Friedli's interests in Spain.

In a fax message on 6 May 1992 Dr. Bratschi expresses his concern about the influence of Attorney Juan Ramirez (representing the opposing party) in Marbella and how everyone is connected somehow in Marbella. Dr. Bratschi was told by Attorney Torrabadella

that the penal judge, under the influence of Attorney Ramirez, would probably not pursue the criminal case anymore.

Remark 1:

This fax message proves that Mr. Friedli filed a criminal complaint (through Attorney Ortiz Alvarez) against Kelvin Fisher in Spain. The Swiss criminal complaints are therefore not a scheme of Dr. Gerber. Independently from Dr. Gerber, Mr. Friedli filed criminal complaints in Spain.

Remark 2:

This fax message proves the difficulties of Mr. Friedli receiving a fair trial in Marbella. It is odd that the Italian Vice-Consul was not interrogated at court. The criminal procedure also reveals the connections between lawyers and the court of Marbella, first signs of corruption and the lacking independence of the Investigative Judge No. 2 of Marbella. It is to point out that Attorney Torradabella knew in advance, that the Investigative Judge No. 2 in Marbella may declare the case as a civil matter only and cease the criminal procedure. In no state under the rule of law, such information about a future ruling can be received in advance. The Court of Marbella was obviously influenced (most probably by Attorney Juan Ramirez who was working behind the scene) and not behaving with integrity.

Evidence Fax message from Attorney Dr. Peter Bratschi to Attorney **No. 45**
Rafael Cortabarría on 6 Mai 1992

11. Dr. Bratschi received a fax message from Attorney Javier Febregat (the lawyer of Mr. Friedli in Madrid) on 11 May 1992. Attorney Febregat recommended Dr. Bratschi to charge Attorney Andrés Olivia with the case instead of Attorney Rafael Cortabarría. He considered Rafael Cortabarría's influence in the court of Marbella as not sufficient. Attorney Rafael Cortabarría had his law office in the city of Bilbao with the consequence that his access to the court of Marbella was limited.

Additionally, the fax message of Attorney Febregat reveals how the court of Marbella worked in the beginning of the 1990ies. One phrase of Attorney Febregat must be emphasized:

Remark 1:

It is important to point out, that the order of the Investigative Judge No. 2 of Marbella to choose the “summary procedure” and to order a term of five days to hand in the applications and accusations was not notified to Attorney Rafael Cortabarría, the official Attorney of Mr. Friedli. Only the Prosecutor was informed about this court order, notified on 30 October 1992. Without the orientation of Attorney Torrabadella, Mr. Friedli would have missed this term. This lack of notification of the court order on 30 October 1992 to Mr. Friedli’s lawyer, underlines the doubtfulness of the Court of Marbella.

Remark 2:

The court of Marbella was proceeding contradictorily. In a first phase the Investigative Judge No. 2 realized the weight of the manipulations, which took place at the Italian Consulate in Malaga/Spain (forgery of documents). For that reason, he first considered the court of Malaga as competent. Later the Investigative Judge decided, not to transfer the case to the court of Malaga and to continue the investigations in Marbella himself. Lastly, the Investigative Judge decided to apply the summary procedure (procedimiento abreviado) and implicitly declared the case of minor importance. It is obvious, that the criminal procedure was influenced behind the scene.

- Evidence**
1. Fax message from Attorney J. Torrabadella to Mr. Friedli, **No. 47**
3. November 1992 (in French)
 2. Letter from Mr. Friedli to Attorney Torrabadella, 29. October 1992 **No. 47a**
 3. Fax message from Attorney J. Torrabadella to Mr. Friedli, **No. 48**
3 November 1992 (in French)
 4. Fax message from Attorney Marc Stucki to Attorney Rafael Cortabarría, 3 November 1992 (in English) **No. 49**
 5. Fax message from Attorney Marc Stucki to Attorney Rafael Cortabarría, 3 November 1992 (in English) **No. 50**
 6. Fax message from Attorney Marc Stucki to Attorney Rafael Cortabarría, 3 November 1992 (in English) **No. 51**
 7. Fax message from Attorney Marc Stucki to Attorney Rafael Cortabarría, 4 November 1992 (in English) **No. 52**
 8. Fax message of Attorney Marc Stucki to Attorney Rafael Cortabarría, 4. November 1992 (in English) **No. 52**

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13. On 23 March 1993 Mr. Friedli was informed by Mr. Moreno, the owner of the garage (in San Pedro de Alcantara, Spain), where the four Ferraris were deposited, and that he had received a judge order to hand out the Ferraris to Mr. Kelvin Fisher.

Mr. Friedli and his lawyers in Switzerland (Marc Stucki) became very nervous. Most probably the Spanish lawyers of Mr. Friedli had not been informed – again – by the Investigative Judge No. 2 of Marbella about the mentioned court order to hand out the cars to Mr. Kelvin Fisher.

In two fax messages on 23 and 24 March 1993 Attorney Marc Stucki asked Attorney Rafael Cortabarría and F. Fabregat about the actual situation of the procedure in Marbella. In this fax message he also told Attorney Rafael Cortabarría and F. Fabregat his doubts regarding Attorney Torrabadella, who was always informed *in advance* about the tendencies regarding the Ferrari case.

Attorney Rafael Cortabarría informed Attorney Stucki clearly in a fax message on 25 March 1993 (5 pages) about the status of the procedure and about the legal questions. It became true that the Investigative Judge No. 2 of Marbella ordered to hand out the Ferrari cars to Mr. Kelvin Fisher. Pursuant to the explanations of Attorney Cortabarría, the Investigative Judge No. 2 had according to Spanish law no other choice than to return the cars to the place and to the person, in which possession they were at the moment when the criminal complaint was filed. The speculations of Attorney Marc Stucki, that Attorney Cortabarría might have failed to inform the investigative Judge No. 2, turned out to be incorrect. Mr. Friedli trusted in Attorney Cortabarría.

The consequences of the court order of the Investigative Judge No. 2 on 20 March 1993 was, that the cars remained judicially seized, but had to be deposited at the garage “Motorauto Marbella” of Mr. Kelvin Fisher. Additionally, a term of three months started to run, during which the parties could file a civil action, in order to maintain the seizure of the cars or to request for its return.

Nevertheless, it is not understandable why the prosecuting procurator (“Fiscal”) did not consider the behavior of Mr. Kelvin Fisher and the Italians as an obvious crime. Attorney Marc Stucki expresses his lack of understanding about the Spanish law enforcement in the fax message on 25 March 1993 (in fine). In this fax message Attorney Marc Stucki

also informs Attorney Cortabarría, that Mr. Kelvin Fisher is being accused for having built false engines into old-timer cars and afterwards having sold them as original cars.

- Evidence**
1. Statement and request of the Prosecuting Attorney to the Investigation Judge No. 2 of Marbella, 28 January 1993 **No. 53**
 2. Court order, Investigative Judge No. 2 of Marbella, Spain, 20 March 1993 **No. 54**
 3. Court order, Investigative Judge No. 2 of Marbella, Spain, 20 March 1993 **No. 55**
 4. Urgent fax message from Attorney Marc Stucki to Attorney R. Cortabarría and F. Febregat, 23 March 1993 **No. 56**
 5. Fax message from Attorney Marc Stucki to Attorney R. Cortabarría and F. Febregat, 24 March 1993 **No. 57**
 6. Fax message from Attorney R. Cortabarría to Attorney Marc Stucki, explaining the judge order and the legal situation, 25 March 1993 **No. 58**
 7. Fax message from Attorney Marc Stucki to Attorney R. Cortabarría, 25 March 1993, wondering why the Spanish law enforcement does not consider the behavior of Kelvin Fisher and the Italians as an obvious crime! **No. 59**

14. On 28 April 1993 Attorney Jose Luis Sanz Arribas filed an extensive application to the Court of First Instance of Marbella as a response to the negative judge order dated 20 March 1993 of Investigative Judge No. 2 (see evidence no. 55). This application was aimed to have the cars returned or at least stored at a safe place, which was obviously not the case at the garage “Motorauto Marbella”. The application of Attorney Sanz Arribas gives a good overview about the criminal behavior of the involved people of the adverse party. He made it clear that Mr. Giudice, according to newspaper articles, was involved in illicit traffic of vehicles. Attorney Sanz Arribas also pointed out that Mr. Ugo Giannino (or Gianino), the administrator of “Motorauto Marbella”, (who pretended to be the Italian Vice-Consul and who was the secretary of Mafia boss Felice Cultrera) as well as Attorney Juan Ramirez were in jail because of alleged crimes of stolen car sales. Attorney Sanz Arribas underlined additionally, that it was a grave risk to have the cars returned to Mr. Fisher and he expressed his serious doubts and fears in this respect. The following paragraph of Attorneys Sanz Arribas’ application is to be pointed out:

“In this situation, and with these precedents (background), we have serious doubts and fears on whether the vehicles given to Mr. Fisher can be found or not in the Motorauto Marbella SL establishment , and that’s the reason for which we request with urgency the exhibition of said movable goods (personal property), that is, of the vehicles that have, undoubtedly, been obtained, and it would be more correct to say stolen by evil means from my principal (mandatory), and that so that the declarative lawsuit (clarifying statement, certification, petition for declarative judgment) for their recovering can be effective.

Because of the same reasons we request the deposit of the vehicles, because of the risk to disappear if they continue in the power of what appears to be a true organized gang, and there is evidence to think that Motor Marbella SL and Mr. Fisher are links of this chain.”

In a letter on 5 May 1993 from Attorney Marc Stucki to Attorney Dr. Reto Ruoss (representing Dr. Gerber) the former informed Dr. Gerber about the situation in Spain. He informed Attorney Ruoss, that a civil action was being prepared and that all four Ferraris remained judicially seized, until it was decided about the civil claims.

Attorney Marc Stucki also informed in this letter about newspaper articles in Spain. According to the latest news, several members of the organized crime were arrested in Marbella. For example, Mr. Juan Ramirez (Attorney of Kelvin Fisher and judicial officer at the Marbellan Court who is related to a Marbellan judge) and Mr. Ugo Giannino were arrested. Mr. Ugo Giannino was also involved in the criminal procedure regarding the Ferraris. According to Attorney Marc Stucki, Mr. Ugo Giannino was involved in several professionally organized car crimes (and he was the administrator of “Motorauto Marbella”!).

- Evidence**
1. Letter from Attorney Marc Stucki to Attorney Dr. Thomas Ruoss, 5 May 1993 **No. 60**
 2. Application of Attorney Jose Luis Sanz Arribas to the Court of First Instance of Marbella, on 28. April 1993 **No. 60a**

15. Court Order from 17 Mai 1993 / prolongation of deposit / bank guarantee

Although Mr. Friedli did not trust Attorney Jaime Torradadella, the latter was much more successful than Attorney Rafael Cortabarria.

On 17 May 1993 Marbella Judge “Itma Torres Donaire” ordered the prolongation of the deposit of the four Ferrari cars (which were still seized and judicially deposited at “Motorauto Marbella”). This judgment was not ruling on the civil legal questions. In order to have this court order executed, Mr. Friedli had to provide a bank guarantee of 12 millions Pesetas (= ca. USD 97,920). The required bank guarantee of 12 millions Pesetas is modest, considering the value of the cars. This modest bank guarantee manifested signals in favor of Mr. Friedli.

In two fax messages of Attorney Torrabadella (in French), on 9 June 1993, he informed Mr. Friedli and Attorney Marc Stucki about this new and positive development and about how to provide the required bank guarantee to the court of Marbella. Attorney Torrabadella also warned Mr. Friedli to be careful, *because Attorney Juan Ramirez would still be dangerous, even if he is in prison!*

On 11 June 1993 Dr. Bratschi (Mr. Friedli’s lawyer) advised the Swiss Bank Union in Berne/Switzerland to issue a bank guarantee. For that purpose, Dr. Bratschi sent a Spanish bank guarantee form (which he received from Attorney Torrabadella) to the Swiss Bank Union in Berne. The Swiss Bank Union issued the bank guarantee, most probably already on 11 June 1993. In a fax message from Dr. Bratschi to Attorney Torrabadella (on 11 June 1993), the former confirmed the bank guarantee issued by the Swiss Bank Union, which came into effect on 14 June 1993.

Mr. Friedli has thus respected all judicial requirements in order to get his cars deposited, most probably in a garage of his choice. For reasons which I don’t know, the cars remained in the garage “Motorauto Marbella” until July 1993.

- | | | |
|-----------------|---|---------------|
| Evidence | 1. Judge order of 17 May 1993, Marbella Court, ordering the exhibition of the four Ferrari cars to Mr. Friedli and ordering a bank guarantee of 12 millions Pesetas (= USD 97’920) | No. 61 |
| | 2. Fax message from Attorney Torrabadella to Mr. Friedli, 9 June 1993, informing about the judgment of 17 May 1993 | No. 62 |
| | 3. Fax message from Attorney Torrabadella to Attorney Marc Stucki, 9 June 1993, informing about the judgment of 17 May 1993 and about the bank guarantee to be provided and warning of the danger of Attorney Juan Ramirez, even though he was in prison. | No. 63 |

4. Fax message from Attorney Dr. Bratschi to Swiss Bank Union, on 11 June 1993, referring to a phone call and asking for the discussed bank guarantee in accordance to the Spanish form **No. 64**
5. Spanish form regarding the bank guarantee (provided by Attorney Torradabella on 10 June 1993 by fax) **No. 65**
6. Fax message from Attorney Dr. Bratschi to Attorney Torradabella, dated 11 June 1993, confirming the issuance of the bank guarantee by the Swiss Bank, coming into effect on 14 June 1993 **No. 66**

PHASE TWO: July 1993 - 1999

The theft

16. On 20 July 1993 Attorney Torradabella checked the depot of the garage “Motorauto Marbella S.L.” and had to notice, that all four Ferrari cars had disappeared. He immediately informed Attorney Marc Stucki. In a letter to Attorney Torradabella (on 21 July 1993) Attorney Stucki suggested to inform all judges of Marbella about the defalcation (and theft) of the Ferrari cars by the Italians, which was also an act against an official order of the Court of Marbella.

Attorney Stucki and his Spanish partners noticed that the garage “Motorauto Marbella” was shut down from one day to another and that Mr. Kelvin Fisher had disappeared. The Marbellan police was immediately informed about the theft of the cars.

A second criminal complaint was lodged at the Police Commissariat of Marbella on 21 July 1993. Attorney Jaime Torradabella declared at the Police that the four Ferrari cars, property of his client, had disappeared and that they were deposited by order of the Investigative Court No. 2 at its disposal at the firm “Motorauto Marbella”.

The police found out that the cars were transported to Lisbon by the tow truck’s owner Mr. Alvaro Ferreira Texeira on 6 July 1993. The person who ordered the transport was **Mr. Antonio Eladio Amaral de Santos** (Mr. Amaral was the administrator of the com-

pany **Milauto** in Marbella, which belonged to the group and family holding of Judge Pilar Ramirez, the sister of Attorney Juan Ramirez, the latter was representing Mr. Fisher. "Milauto" was managed by the Mafioso Gianni Meninno. According to the Spanish Police the company "**Milauto**" was involved in an international net of sales of luxury cars, which had been stolen in European countries (see my report on corruption in Marbella in this respect). Mr. Amaral is a Portuguese who was detained for a short time by the Marbellan Police. The Marbellan Police then had the impression that Mr. Amaral's participation was of minor importance, as he apparently hired the tow truck **as a favor to and on order of his friend Mr. Kelvin John Fisher.**

The tow truck's owner Mr. Alvaro Ferreira Texeira declared at the Marbellan Police, that he had received a phone call from Motorauto Marbella on 5 July 1993 from one of the three associates of the enterprise "Motorauto" to transport four vehicles to Portugal. His son then collected the four Ferrari cars and transported them to Lisbon, where they were handed over to Mr. Pedro Poyares (Poiares) at the Hotel Ritz. The company "Pierre Motors", belonging to Mr. Texeira, charged 425,000 Pesetas (ca. USD 3,500) for this transport. Mr. Texeira was able to provide the bill for "Motorauto Marbella" (dated 7 July 1993) to the Spanish Police. Mr. Kelvin John Fisher could not be localized by the Spanish Police according to the criminal complaint.

According to a fax message from Attorney Torrabadella (on 30 July 1993) Interpol Madrid was asked for help as well as Interpol Lisbon on 29 July 1993. Additionally, the Spanish Embassy in Lisbon intervened at the Minister of Internal Affairs of Portugal.

Attorney Marc Stucki contacted Attorney J. P. Concalves Comes in Lisbon by fax (on 11 August 1993) and asked him to represent the interests of Mr. Friedli in Portugal. In this fax message Attorney Stucki informed Attorney Comes about the investigations of Interpol. A criminal complaint and penal claim to be filed at the Criminal Court of Lisbon was being prepared.

Letter to the Swiss Ambassador in Lisbon / 11 August 1993

In a letter on 11 August 1993 the Swiss Ambassador in Lisbon was contacted by Attorney Marc Stucki and asked for help. This letter gives a good overview about the happenings

in Marbella during the last two years. The letter of Attorney Stucki will, therefore, be summarized hereafter:

- Firstly, Attorney Stucki described in this letter the problems regarding the real estate property of Mr. Friedli in Spain. Mr. Friedli was the owner of a real estate property of 120'000m² at the "Costa de Sol". Its value was officially estimated at CHF 17 millions (about USD 11 millions). This real estate property was sold to the Italians in July 1991 (the ownership transferred in the cadastral register) but the purchase price was never paid by the Italians.
- A similar modus operandi was used with the Ferrari cars.
- In 1991 Mr. Friedli realized that the Italians were members of the Sicilian Mafia clan "Santapaolo". A first criminal complaint was filed in October 1991.
- The justice of Marbella was - probably due to bribery and threats by the Mafia - completely corrupted. The people of Marbella demonstrated several times against the Court of Marbella already. Despite of the intervention from "Sevilla" and from Madrid and despite of the arrests of several judges, the situation had not been improved.
- The Mafiosi were not satisfied in just not paying the purchase prices, but they also accused our client at court and used forged documents and self-produced contracts.
- Besides of our client, about a dozen of well honorable people from Spain and from abroad became the victim of the same gangsters, which often used a comparable modus operandi.
- The local newspapers informed about the activities of the organized crime in Marbella under the headline of "El Trama de Marbella".

Additionally, Attorney Stucki informed Ambassador Erich Lang, that the four Ferrari cars were judicially deposited at a garage from where they had got stolen. Mr. Friedli was right before receiving his cars back, after depositing a bank guarantee at the court of Marbella.

Based on first investigations by Interpol Marbella, the cars were stolen on 7 July 1993. The same night they were transported to Lisbon, where a Mr. Renato Poyares took them over. The keys of the cars were handed over to him in the Hotel Ritz in Lisbon. Mr. Poyares is

supposed to be a famous dealer for luxury cars. Attorney Stucki then asked the Ambassador for help.

Letter from Attorney Stucki to Attorney Dr. Ruoss (representing Dr. Gerber), on 12 August 1993:

- In this letter Attorney Stucki informed Dr. Gerber's Attorney about the negative development in Spain. Again he pointed out, that the Ferrari cars were judicially deposited and that Mr. Friedli was right before about getting his cars back (after depositing a bank guarantee at the Court of Marbella).
- On 20 July 1993 the correspondent attorney (Attorney Torrabadella) noticed in the depot of "Motorauto Marbella", that all four cars had disappeared. The garage "Motorauto Marbella" was shut down from one day to another.
- The arrest and interrogation of a former employee of the garage "Motorauto Marbella" did not provide new information (about the theft).
- Further on, Attorney Stucki informed Dr. Ruoss, that he was trying by all means – together with his correspondent attorney – to find the cars and to get them back. He told Attorney Ruoss, that Interpol Lisbon and Marbella had been activated and that they were also examining possible claims against the State of Spain.
- Attorney Stucki additionally explained the problems regarding the bribable judges in Marbella, against whom people and journalists of Marbella were demonstrating in the streets several times. Attorney Stucki mentioned that it was very difficult to achieve good results with legal measures in a legal process in Marbella.

Letter from Attorney Stucki to Attorney Torrabadella, on 12 August 1993

Attorney Stucki informed Attorney Torrabadella that the theft was an offence liable to public prosecution in Portugal (and that the criminal procedure would also be addressed against the Spanish Justice), therefore it would be sufficient to inform the Portuguese police in order to initiate a public action. In order to put the judges of Marbella under pressure (to localize the cars) and to accelerate the legal assistance on diplomatic level, Attorney Stucki advised At-

torney Torrabadella to announce a liability suit against the Marbellan Judges (to the court of Marbella).

Remark:

Because of the planned liability suit of Mr. Friedli against judges of the Marbellan Court (due to the lack of diligence when handing over the cars to the Italian criminals and to “Motorauto Marbella” on 20 March 1993), the Court of Marbella and the judges had their very own interests, not to consider the happenings in Marbella as a crime and as relevant for civil claims. Another motive of the Marbellan Court and its judges to possibly deny a crime was the ongoing criminal procedure in Portugal which was also focusing on Marbellan judges.

Letter from the Swiss Ambassador of Portugal to Attorney Marc Stucki / 6 September 1993:

The Ambassador (represented by his assistant Stephan Nellen) recommends Attorney Stucki a lawyer called José Barros Sales in Lisbon. Additionally, he informed that the name Renato Poiares is written with an “l” and not with a “y”. The Embassy was not able to localize Renato Poiares in Lisbon.

- Evidence**
1. Fax message from Attorney Marc Stucki to Attorney Torrabadella, 21. July 1993 **No. 67**
 2. Criminal complaint, Police Commissariat of Marbella, 21 July 1993 **No. 67a**
 3. Fax message from Attorney Torrabadella to Attorney Marc Stucki, informing about the criminal Poyares and the police investigations, 30 July 1993 **No. 68**
 4. Fax message from Attorney Marc Stucki to Attorney J.P. Concalves Comes, 11 August 1993, asking him to represent the interests of Mr. Friedli in Portugal **No. 69**
 5. Letter from Attorney Marc Stucki to Ambassador Erich Lang, Swiss Embassy in Portugal, 11 August 1993, informing the latter about Mr. Friedli’s nightmare in Spain and asking for support **No. 70**
 6. Letter of Attorney Marc Stucki to Attorney Dr. Ruoss (representing Dr. Gerber) informing the latter about the theft of the cars, about the ongoing criminal procedures and about the corruption and the Mafia-activities in Marbella **No. 71**
 7. Letter of Attorney Marc Stucki to Attorney Torrabadella, 12 August 1993 **No. 72**

8. Letter from the Swiss Embassy in Portugal to Attorney Marc Stucki, 6 September 1993 **No. 73**

17. In a fax message (on 16 September 1993) from Attorney Marc Stucki, Attorney Torrabadella was informed about a new court hearing in Marbella. Mr. Friedli was told that the “Italians” had offered to pay the amount USD 350,000.00 for the cars and that they were intending to deduct USD 100,000.00 as their “fees”.

Attorney Stucki qualified this offer as ridiculous and dangerous, especially if considering that the Italians had already stolen the cars. Attorney Stucki therefore gave the instruction to Attorney Torrabadella to make it very clear to the judge, that the value of the car was estimated between CHF 1,500,000.- and CHF 2,180,000.-. He also pointed out that the “pro-forma-invoices” were only designated for customs and would not reflect a contract between the parties.

Additionally, Attorney Stucki made it clear in that fax message, that the offer of the Italians would be an insult to the authority of the judge, after the Italians had ignored the court order and defalcated the four cars. He gave Attorney Torrabadella the instruction to speak in a “clear language” to the judge.

Evidence Fax message from Attorney Marc Stucki to Attorney Torrabadella, 16 September 1993 **No. 74**

18. On 17 September 1993 Attorney Marc Stucki contacted Attorney José Barros Sales (who speaks German) in Lisbon by fax and asked him to represent the interests of Mr. Friedli. In this message Attorney Stucki explained the history of the case and details about the theft of the cars. He also mentioned the corruption among the Marbellan Judges and the activities of the organized crime in Marbella. Further on, Attorney Stucki mentioned the name of two Portuguese police officers (one from Interpol Lisbon), who were investigating the case in Portugal. The names of these police officers are Joaquin Augusto Perreira and Alfredo Esverde (Chief Commissioner of Interpol Lisbon).

Evidence Fax message from Attorney Marc Stucki to Attorney Dr. José Sales, 17 September 1993 **No. 75**

20. During the rest of the year 1993 no progress could be achieved regarding the stolen Ferraris. Most of the documents I have found for this period of time are of less importance and concern the empowering of Attorney Dr. Sales and the payment of the lawyer's fees. I am not in the possession of any other document from the Court of Marbella regarding the period of September 1993 – December 1993.

YEAR 1994

21. Most of my documents from 1994 concern the investigations of the Portuguese police about which Attorney Dr. José Barros informed Attorney Marc Stucki some few times. When reading the documents, I have had the impression that the Portuguese police and Attorney Dr. José Sales were not very ambitious in solving the Ferraris' case.

In a letter from Attorney José Sales (dated 6 January 1994) to Attorney Marc Stucki, the former asked several questions about the theft of the cars. Police officer Esberardo asked for this information for the interrogation of Mr. Poiares. Attorney José Sales wanted to know from Attorney Stucki, how he had received the information about the date of the theft, how Mr. Friedli was informed about the handing over of the car keys in the Hotel Ritz, how the cars were transported to Lisbon and who had transferred the car keys to Mr. Poiares.

Attorney Stucki answered the questions of Attorney José Sales in a letter on 11 January 1994 as follows:

- (1) Mr. Friedli had received all information from the Police Commissariat in Marbella.
- (2) The date of the transport of the cars was written on the bill of lading of the company "Pierre Motors", located on Carretera de Almeria 21, in Motril (Grenada), which belongs to Mr. Alvaro Perreira Teixeira.
On the bill of lading it was only written "Ferrari cars, various matriculations", the carrier *knew exactly why not to mention the VIN's of the cars!* The price of the transport was 425'000.00 Pesetas.
- (3) The carrier (Mr. A. Perreira) was interrogated at the Police Commissariat in Motril/Spain on 21 July 1993 at 17:00h (5 pm). The case numbers are 16.277 and 26.855.

(4) The criminal complaint (a new one) filed at the Police Commissariat of Marbella has the file number 14.349.

(5) It was the carrier Mr. A. Perreira who told the police that he had handed the car keys over to Mr. Pedro Poyares (correctly written Poiares). The contact phone number 07-351-1-457.39.97 was given to him.

When Mr. Perreira arrived in Lisbon on 8 July 1993 (with his truck and the Ferrari cars) he called the mentioned number at the Hotel Ritz and a Mr. Pedro Poyares answered the call.

(6) The receptor of the cars was probably Mr. Poyares himself; Attorney Marc Stucki was not sure about this element.

- Evidence**
1. Letter from Attorney José Sales to Attorney Marc Stucki on 6 January 1994 **No. 76**
 2. Fax message from Attorney M. Stucki to Attorney J. Sales, 11 January 1994 (answering the question of Mr. Sales) **No. 77**

22. On 28 January 1994 Attorney Marc Stucki provided more detailed information to Attorney José Sales by fax message. He informed him about the detailed chassis number as well as about the statements of the carrier Mr. Perreira (or Pereira) at the Police in Marbella. When asked about the orderer of the transport of the cars, Mr. Perreira (Pereira) said to the Police, that it was one of the three associates of the company "Motorauto". He could not specify, if the associate was a Portuguese or an Italian.

Attorney Marc Stucki commented these statements of Mr. Pereira. He had the impression that the Mafioso and Kelvin Fisher had knowingly presented an auxiliary person (Mr. Pereira) in order to blur their own traces.

- Evidence**
- Fax message from Attorney M. Stucki to Attorney J. Sales, 28 January 1994 **No. 78**

23. In a letter on 7 March 1994 Attorney Sales confirmed the reception of the above mentioned information from Attorney Stucki. Furthermore, Attorney Sales wrote to have forwarded

this information to the Portuguese Police, which was undertaking further steps. The concrete investigations of the Portuguese Police remain unclear in this letter.

Evidence Letter from Attorney José Sales to Attorney Marc Stucki on **No. 79**
7 March 1994

24. On 19 August 1994 Attorney Marc Stucki asked Attorney Sales by fax message for an update regarding the case. On 3 October 1994 (!) Attorney Sales answered and informed Attorney Marc Stucki having talked to the responsible Police Officer of this case. This Police Officer told him, that he had forwarded the case to the responsible prosecuting Attorney and its decision must be awaited.

On 30 November 1994 Attorney Peter Keller (replacing Mr. Stucki) asked Attorney Sales for a new update, which he did not receive in the year 1994 anymore.

Evidence

1. Fax message from Attorney M. Stucki to Attorney J. Sales, **No. 80**
19 August 1994
2. Letter from Attorney José Sales to Attorney Marc Stucki **No. 81**
from 3 October 1994
3. Fax message from Attorney Peter Keller (replacing Mr. **No. 82**
Stucki) to Attorney J. Sales, 30 November 1994