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SANZ-ARRIBAS & CID

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TELEFAX
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Fecha: 02/02/95
Date:

Nº Total páginas (incluyendo ésta): 2
Nº of Pages (including this cover):

DE: DON EDUARDO SANZ MARQUEZ
FROM:

PARA: DON HANS BERNHARD FRIEDLI
TO:

Nº DE FAX:
DESTINATION FAX NUMBER: 07/41/33 23 3855

MENSAJE:
MESSAGE:

Dear Mr. Friedli:

Regarding the civil procedure being carried out at the Marbella Law Courts number 5 in which the Ferrari cars are involved, and since next February 11th the necessary documentary evidence is to be produced, it is why I kindly ask you to send me as much evidence as possible out of the items mentioned below:

- 1) Original papers together with translation and Hague Apostille on the insurance taken for the transportation of the cars by Somatra, A.G. in Bern. Notarial certification if possible, of the company who transported the cars stating their perfect condition.
- 2) Photographs of the cars as well as a Notarial certification if possible stating the date the photographs were taken.
- 3) Original document or copy certified by Notary Public together with its translation and Hague Apostille of the contract by means of which you purchased the cars from Elite Car Diffusion as well as the insurance established with the said Company. If possible a statement certified by Notary Public of an expert appraiser and representative of the said Company including the estimated value of the cars.

----- of the insurance established with the said
Company. If possible a statement certified by Notary Public of an expert appraiser and representative of the said Company including the estimated value of the cars at the time you purchased them and their value in July-August 1991. SEITE 02-02 &

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TELEFAX
FACSIMILE TRANSMISSION

Fecha: 20/04/95
Date:

Nº Total páginas (incluyendo ésta): 2
Nº of Pages (including this cover):

DE: DON EDUARDO SANZ MARQUEZ
FROM:

PARA: DON PETER BRATSCHI
TO:

Nº DE FAX: 07/41/31-311 95 38
DESTINATION FAX NUMBER:

MENSAJE:
MESSAGE:

Dear Mr. Bratschi,

According to Mr. Friedli's requirements I am pleased to inform you about the legal actions carried out to the present date in relation to the Ferrari cars.

A) As a result from the undue taking of the vehicles by Motorauto Marbella, S.L. and the swindle done by the Italians a complaint was lodged which caused the "diligencias penales 1451/-C" before Marbella Law Courts nº 2.

The vehicles were seized by the Law Courts, but the penal proceedings were filed (because the Judge thought no offence was committed), and according to the Spanish Law the cars were to be kept at the Law Courts disposal during a period of three months within which a civil complaint was to be lodged.

In that way the cars would not disappear. However, although the civil complaint was started within the legal settled term, the Law Courts gave the vehicles to the Italians who made them disappear.

Due to this enormous carelessness of the Law Courts, we have lost the cars and we believe we are facing a supposed irresponsibility of the Department of Justice to whom a compensation could be claimed.

B) Because of the disappearance of the cars, which took place when the Law Courts, at last and late, decided to store the vehicles once the penal proceedings were stayed and the civil ones started, a new complaint was lodged before the Marbella Law Court nº 5 as "diligencias previas nº 677/93".

There seems to be problems regarding a rogatory commission sent to Portugal in order to intercept the vehicles (which we believe to be in Portugal), since it was sent more than a year ago and so far an answer has not been obtained.

C) Preliminary Trial Proceedings.- The aforementioned proceedings were given in order to keep the vehicles stored in the Law Courts once the penal proceedings were filed.

D) "Juicio Declarativo Ordinario de Mayor Cuantía nº 334/93-Bis" before the Marbella Law Courts nº 5.

The lawsuit mentioned in this item is the main one, and by means of it we are going to try to recover the cars or in case they do not appear (which is most likely), to make Mr Friedli to be reimbursed the amount of 1,900,000 U.S. \$.

At present, this lawsuit is within the pleadings period once the "Demanda, Contestación y Reconvención, Réplica y Contestación a la Reconvención, Dúplica y Proposición de Medios de Prueba" have taken place.

Should you require any documents please do not hesitate to contact us and we will then mail you any copies you might need.

Yours sincerely,



Eduardo Sanz Márquez

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REICHENBACH & PARTNER
RECHTSANWÄLTE

MITGLIEDER DES SCHWEIZ. ANWALTSVERBANDES

DR. FRANZ REICHENBACH 01 221 26 53
DR. CURT TUCHSCHMID 01 221 38 25
DR. DONALD REICHENBACH 01 212 44 77
DR. ALFRED MEILI 01 211 70 07
DR. AUGUST SCHUBIGER 01 211 96 20
DR. RETO THOMAS RUOSS 01 211 96 22
DR. FELIX ZULLIGER 01 212 14 15
DR. ANDREAS HAFFTER 01 221 04 70
THOMAS HÄLG 01 212 23 84
HANSPETER KASPAR 01 212 44 77
PIO RUOSS 01 211 96 22

TELEFAX 01 211 96 18

TALACKER 50
8001 ZÜRICH

26. April 1995 /RR/pc

Herr
Peter Keller
Fürsprecher
Bratschi Emch & Partner
Bollwerk 15
3001 Bern

Dr. Andreas Gerber / Bernhard Friedli

Sehr geehrter Herr Kollege

Namens meines Mandanten komme ich zurück auf unsere Besprechung von gestern, mit welcher wir unsererseits unpräjudizierlich um weiteren Aufschluss über die von Ihrem Klienten eingeleiteten Verfahren ersuchten und andererseits Ihnen eine Mitteilung über den Verbleib des im Miteigentum unserer Klientschaften stehenden Fahrzeugs machten.

Wie Ihnen gestern in Aussicht gestellt, erhalten Sie nachfolgend noch die genauen Angaben, welche mein Klient erst kürzlich über private Kontakte in Erfahrung bringen konnte, wobei er für die Richtigkeit dieser Angaben keinerlei Gewähr übernehmen kann:

1. Der Ferrari 0799 GT soll im letzten Sommer von einem Italiener namens Mennino in Bologna zum Kauf angeboten worden sein. Wo sich das Fahrzeug damals befand und ob es Mennino je nach Italien einführte, ist nicht bekannt.
2. Direkt oder über weitere Zwischenstationen ging der Verkauf des Wagens dann an eine Classic Coach Ltd., bei der ein gewisser Herr Joe Triarcy tätig sein soll. Ob diese Gesellschaft das Fahrzeug tatsächlich übernommen und jemals besessen hat, ist ebenfalls nicht bekannt. Sofern es meinem Mandanten

Seite 2

gelingt, die Adresse dieser Classic Coach Ltd. ausfindig zu machen, wird er Ihnen diese direkt mitteilen.

3. Endabnehmer und offenbar heutiger Besitzer des Ferrari 0799 GT soll ein gewisser Dr. Scott Rosen sein. Er ist Zahnarzt und Sammler von exklusiven Wagen. Seine genauen Daten lauten: 182 Succabone, Bedford, New York, USA, Tel. G: 001 516 489 3300; Tel. P: 001 201 564 8524; Fax G: 001 516 489 0204; Mobiltelefon: 001 516 384 7112. Der von Dr. Rosen für das Fahrzeug bezahlte Preis soll USD 300'000.-- betragen haben.

Wie ich Ihnen gestern bereits erklärte, wäre es wohl sinnvoll, durch einen amerikanischen Kollegen abklären zu lassen, ob die Rechtsposition von Dr. Rosen unanfechtbar ist und, falls nicht, eventuell vorsorglich eine Blockierung des Wagens zu erreichen. Dies, um allenfalls verhindern zu können, dass das Fahrzeug wieder verschwindet, sollte Dr. Rosen von den Bemühungen von Interpol etc. Kenntnis erhalten.

Abschliessend halte ich sodann wieder einmal fest, dass die Wiederbeschaffung des gemeinsamen Fahrzeugs in die ausschliessliche Verantwortung Ihres Klienten fällt und aus der mit diesen Informationen geleisteten Hilfestellung keinerlei Mitverantwortung meines Mandanten für das Verschwinden oder die Genehmigung der bisher unternommenen Massnahmen zur Wiederbeschaffung abgeleitet werden kann. In diesem Sinne steht es denn auch im alleinigen Entscheid Ihres Klienten, welche Schritte er unternehmen will; sie sind - wie allfällige Unterlassungen - von ihm allein zu verantworten.

Da indessen auch mein Klient selbstredend an einer Wiederbeschaffung des Ferrari interessiert ist, wünscht er unpräjudizierlich, über die von Ihrem Mandanten unternommenen Schritte zeitgerecht und so vollständig wie möglich orientiert zu sein, weshalb ich Sie bitte, den bisher sehr spärlichen Informationsfluss zu verbessern.

Gerne stehe ich Ihnen für allfällige Fragen zur Verfügung und verbleibe

mit freundlichen,
kollegialen Grüssen

sig. Dr. Reto Thomas Ruoss

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ADVOKATURBUREAU
BRATSCHI EMCH & PARTNER

DR. PETER BRATSCHI
DR. URS EMCH
DR. CHRISTIAN SCHMID M.C.L.
DR. MARKUS HÜNIG
FRANZ SZOLANSKY
URS GASCHÉ
DR. CHRISTOPH BORN
DR. JÜRGEN BRÖNNIMANN
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Sanz-Arribas & CID
Abogados
attn. Mr. José Luis Sanz Arribas
Ricardo Soriano 50-3, 3
E - 29600 Marbella

Berne, April 27, 1995 PK/nm

Bernhard Friedli / Ferraris

Dear Mr. Sanz Arribas

Please find enclosed a copy of the fax letter of Dr. Reto Thomas Ruoss, which we received yesterday.

As you know Mr. Friedli bought the Ferrari 0799 GT together with Dr. Andreas Gerber. However, only Mr. Friedli was engaged for the sale of the vehicle. Dr. Andreas Gerber believes to know that the mentioned Ferrari is located at the moment with Dr. Scott Rosen in New York. We do not know whether this information is right or not.

We thank you for taking note of this letter.

Yours sincerely



Peter Keller, Esq.

Encl.: Fax letter Dr. Gerber of 26.4.1995
cc. client

This letter is sent by fax first: 0034 52 77 43 37

ADVOKATURBUREAU
BRATSCHI EMCH & PARTNER

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DR. URS EMCH
DR. CHRISTIAN SCHMID M.C.L.
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FAX MESSAGE

Fax-No.: 001 212 888 7587

No. of pages: 3

Mr. Peter Briger
300 Park Avenue
24th floor
New York

May 11, 1995 PK/rs

Dear Sir,

Dr. Peter Bratschi suggested I might contact you in the following matter.

We are the legal advisors of Mr. Bernhard Friedli-Mühlénen living in Switzerland, near Thun. For several years, Mr. Friedli has owned an apartment in Marbella (Spain). In the late eighties, he also invested money in real estate at the Costa del Sol. When he wanted to sell one of his Spanish properties in July 1991, Italian "businessmen" showed a keen interest. The deal was supposed to include furthermore four Ferrari oldtimers (built between 1957 and 1970) with a market value of about SFr. 3 mio at the time.

The property and the cars were formally transferred to the Italiens, the latter, however, never paid the amount due. Consequently, upon request of Mr. Friedli the four cars were officially taken into custody; the place, however, a local garage, was designated by the Italiens according to Spanish law. He handed in a bank guarantee to the Court of Justice and expected to shortly get his cars back. Matters dragged on, however. When his Spanish lawyer wanted to have a look at the cars in June 1993, the supposedly secured cars had mysteriously disappeared.

According to the subsequent investigations of Interpol Marbella, the four Ferraris were transported to Lisbon on July 7, 1993. At the local "Ritz", the car keys shall have been given to Mr. Renato Poyares, a well-known Portuguese dealer of luxury cars and oldtimers.

Due to his private investigations, an acquaintance of our client's got the following information about one of the missing cars:

- Ferrari 230 GT Spider. (built in 1957), chassis no. 0799

In the summer of 1994, this car was offered in Bologna by an Italian called Mennino. Where the car was at the time or whether Mennino ever imported it to Italy at all is unknown.

Directly or by some intermediaries, the car was then sold to a company called Classic Coach Ltd., which employs a certain Joe Triarcy. Whether the company was ever in possession of the car is not known. We do not have the address of Classic Coach Ltd. either.

This Ferrari was finally sold to a Dr. Scott Rosen, who still seems to be in possession of the car today. Dr. Rosen, who lives at 182 Succabone, Bedford NY (T: 516 489-3300, F: 516 489-0204), is a dentist and a collector of exclusive cars having reportedly paid USD 300'000.- for the Ferrari.

No further information is available on the other three cars:

- a Ferrari 250 GT Spider II, (built in 1960), chassis no. 1893
- a Ferrari 250 GTE Coupé 2+2, (built in 1961), chassis no. 2925
- a Ferrari 365 GT Coupé 2+2, (built in 1970), chassis no. 13811.

In this context, we should like to find out:

1. Who is the official owner of the Ferrari 230 GT: Dr. Scott Rosen, Mr. Friedli or somebody else?
2. Has our client, Mr. Friedli, a right to get back his Ferrari from Dr. Rosen
 - a) without paying the USD 300'000.-- that Dr. Rosen paid for it?
 - b) if he agrees to pay the USD 300'000.--?
3. Can the Ferrari be seized in the State of New York?
4. Does it make sense to take legal action in the State of New York and what would be the appropriate steps? What are the chances that Mr. Friedli is successful and - last but not least - what costs would he have to expect, if he takes the appropriate legal action in the State of New York?

We would very much appreciate your looking into the matter and sending us your short estimate concerning your fees at your earliest convenience. If there are any questions, please do not hesitate to contact us.

Looking forward to hearing from you, we remain

sincerely yours,



Peter Keller, Esq.

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DATE: May 23, 1995

SENDER'S NAME: Peter L. Briger

ATTENTION: Peter Keller, Esq.

COMPANY: Bratschi Emch & Panner

CITY, STATE: Zurich, Switzerland

TELECOPIER NO: 011-41-1-211-1660

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May 23, 1995

VIA TELECOPIER

Peter Keller, Esq.
Bratschi Emch & Partner
Bahnhofstrasse 108
Postfach 7689
8023 Zurich, Switzerland

Re: Bernhard Friedli-Mühlencn

Dear Mr. Keller:

Thank you for your fax dated May 11, 1995, requesting our advice regarding the rights of Mr. Friedli in the 1957 Ferrari 230 GT Spider now in the possession of Dr. Scott Rosen in New York.

Assuming that Dr. Rosen purchased the vehicle from Classic Coach Ltd. in New York (or elsewhere in the United States), his interest in the vehicle would be determined under the Uniform Commercial Code (the "UCC"). Under the UCC, a purchaser of goods acquires from the seller only such title as the seller had in the goods.¹ A thief does not have title to property he has stolen and thus cannot convey title to another through a sale or otherwise. The rightful owner of the property thus retains rights to the property superior to someone who purchased the property from the thief.

¹The one exception to this rule applies when goods are entrusted to a merchant who deals in goods of that kind. In such a case, UCC §2-403 gives the merchant the power to transfer all rights of the entruster to a buyer in the ordinary course of business. However, even under this provision, because the merchant can convey only the rights of the entruster, if stolen property is entrusted to a merchant by the thief (or someone else not having title), the merchant cannot convey to a buyer in the ordinary course title superior to that of the rightful owner.

Priger & Associates

Peter Keller, Esq.
Page 2

May 23, 1995

It appears from your fax, however, that this may not be a simple case of determining ownership in stolen property. In this respect, your fax states that the subject vehicle was "formally transferred" by Mr. Friedli to the Italians, but that the Italians then failed to pay the purchase price. This raises an important issue regarding Mr. Friedli's rights to the vehicle under the UCC, namely, whether, under Spanish law, the Italians obtained title to the vehicle, notwithstanding their non-payment of the purchase price, leaving Mr. Friedli only with a cause of action for damages from their breach of contract.²

If the Italians did obtain title to the vehicle, they could transfer such title to a purchaser and that purchaser could thus "cut off" the rights of Mr. Friedli. On the other hand, if the Italians did not acquire title to or rights in the vehicle, then Mr. Friedli would have the superior claim. Before we can answer your first question regarding whether Mr. Friedli or Dr. Rosen now owns the vehicle, the issue of the rights acquired by the Italian purchasers under Spanish law must be answered.

If it is determined that Mr. Friedli has title to the vehicle, he would be entitled to return of the vehicle without having to make any payment to Dr. Rosen. To obtain possession of the vehicle, Mr. Friedli would have to bring an action for conversion against Dr. Rosen. The fact that Dr. Rosen's conduct may have been wholly innocent in that he purchased the vehicle in good faith without knowledge that it was stolen would not be a defense to such an action. Provided Mr. Friedli could establish that he was the true owner of the vehicle and that the vehicle was stolen from him, Dr. Rosen would be a converter and liable to return the vehicle to Mr. Friedli or, if elected by Mr. Friedli, to pay him the fair value of the vehicle at the time and place of its conversion. Dr. Rosen's remedies would be against his seller, Classic Coach Ltd.

When commencing his lawsuit against Dr. Rosen, if Mr. Friedli could establish that there existed a risk that Dr. Rosen might assign, dispose of, hide or remove the vehicle from New York before the lawsuit could be concluded, Mr. Friedli would likely be able to obtain a prejudgment order of attachment on the vehicle and/or a temporary restraining order and preliminary injunction prohibiting Dr. Rosen from moving or transferring the vehicle. The local sheriff could then seize the vehicle or a temporary receiver could be appointed to hold the vehicle upon such conditions as the court would direct.

* * *

²Your statement that the vehicle was not returned to Mr. Friedli in 1991, when the Italians defaulted, but placed in "official custody," and that Mr. Friedli had to post a bond (in the form of a bank guarantee) in favor of the Italians, suggests to us that the Italians may have acquired an ownership interest in the vehicle.

Briger & Associates

Peter Keller, Esq.
Page 3

May 23, 1995

It is hoped that the foregoing answers your questions. As soon as you can advise us of the legal consequences of the Spanish transaction between Mr. Friedli and the Italians, we would be better able to give you an estimate of the likelihood of success and the approximate costs.

Sincerely,

Peter L. Briger

Peter L. Briger

PLB/sw

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TELEFAX
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Fecha: 23/06/95

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Nº Total páginas (incluyendo ésta): 11

Nº of Pages (including this cover):

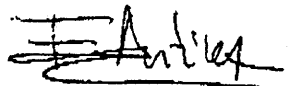
DE: FERNANDO ANTUNEZ
FROM:**PARA: SR. D. HANS BERNHARD FRIEDLI**
TO:**Nº DE FAX: 07- 41-33-23 38 55**
DESTINATION FAX NUMBER:

MENSAJE:
MESSAGE:

Estimado Sr. Friedli:

Para su conocimiento y el del Sr. Bratschi le adjunto, siguiendo instrucciones de D José Luis, las traducciones (no oficiales ni certificadas) que hemos efectuado de la declaración prestada por Pedro Poyares y del Informe de la Policía de Lisboa en relación al asunto de los Ferraris.

Un cordial saludo,


Fernando Antunez

MINISTERIO DE JUSTICIA
POLICIA JUDICIAL

NUIPC 11065/93.OJDLSB
Sección 7ª, Brigada 3ª

ACTA DE INTERROGATORIO DE IMPUTADO

Fecha de la diligencia: 28/3/94

Hora: 11

Lugar: Jefatura de Lisboa

Autoridad que preside la diligencia: Dr. Alfredo Esberard, Inspector de la Sección 7ª

Funcionario que la ejecuta: Filipe Cardia, Agente

Abogado defensor (de oficio/designado) Declara que prescinde de abogado defensor.

Iniciado el acto, fue advertido de que la falta o falsedad de la respuesta sobre su identidad y sobre sus antecedentes penales lo hará incurrir en responsabilidad penal.

Igualmente le fue comunicado que debe considerarse imputado en estos autos, habiéndole sido indicados y explicados sus derechos y deberes de conformidad con el art. 61 del Código de Procedimiento Penal.

El imputado se identificó de la forma siguiente:

Nombre: Pedro Manuel Poiars Serra;

Hijo de: Francisco Jorge Poiars Serra y Maria Eugénia Francisco Poiars Serra

Natural de la parroquia de Lousa; municipio de Lousa.

Nacionalidad: portuguesa; Fecha de nacimiento: 16/4/61

Estado civil: soltero; Profesión: Comerciante de automóviles

Domicilio: Avda. Columbano Bordalo Pinheiro, nº 108-6ºD. 1000 Lisboa

Tel: 7271102

Lugar de trabajo: su domicilio

D.N.I.: no lo presenta

En cuanto a sus antecedentes penales manifiesta:

Que compareció ante el Tribunal de la Boa-Hora en 1987 por el delito de falsificación de vehículos, habiendo sido absuelto.

Que en 1982 compareció ante el Tribunal Judicial de Oeiras por el delito de difamación, habiendo sido condenado al pago de una multa por importe de 12.000 escudos.