

FILED
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JAN 15 1993
AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA, :
Plaintiff :
v. :
AMERICAN TOTALISATOR COMPANY, :
INC. :
Defendant :

Civil No. S-93-161

...000...

COMPLAINT FOR PERMANENT INJUNCTION

Plaintiff, United States of America, for its complaint herein alleges as follows:

1. Defendant American Totalisator Company, Inc. has engaged in acts and practices which constitute violations of Section 104(a) of the Foreign Corrupt Practices Act of 1977 ("Act"), as amended, 15 U.S.C. § 78dd-2(a).
2. The plaintiff brings this action to enjoin such acts and practices pursuant to Section 104(d) of the Act, 15 U.S.C. § 78dd-2(d).
3. The Court has jurisdiction of this action pursuant to Section 104(d) of the Act, 15 U.S.C. § 78dd-2(d).
4. The defendant will, unless restrained and enjoined, continue to engage in the acts and practices set forth in this complaint and in acts and practices of similar purport and object.
5. The acts and practices constituting the violations herein have occurred within the District of Maryland and elsewhere.

6. The defendant, American Totalisator Company, Inc., a Delaware corporation, is engaged in the manufacture and sale of totalisator systems and maintains its principal place of business in Hunt Valley, Maryland. American Totalisator Company, Inc. is a wholly owned subsidiary of General Instrument Corporation, a Delaware corporation which maintains its principal place of business in Chicago, Illinois. American Totalisator Company, Inc. is a "domestic concern" as that term is defined in 15 U.S.C. § 78dd-2(h)(1)(B).

Violation of 15 U.S.C. § 78dd-2(a)

7. Paragraphs 1 through 6 are hereby realleged and incorporated herein by reference.

8. The defendant, American Totalisator Company, Inc., has engaged in business with the Horse Races Administration of Greece ("ODIE"), an instrumentality of the Greek government, located in Athens, Greece, in connection with the sale of a totalisator system and spare parts for the Phaleron racetrack in Athens, Greece.

9. Beginning in or about 1985 and continuing through the present, the defendant, American Totalisator Company, Inc., in the District of Maryland and elsewhere, corruptly used means and instrumentalities of interstate commerce, in furtherance of the offer, payment, promise to pay, and authorization of the payment of money, to a person, to wit, its Greek agent, while knowing that all or a portion of such money would be offered, given, or promised, directly or indirectly, to a foreign official, for purposes of: influencing the acts and decisions of such foreign official in his

official capacity or; inducing such foreign official to do or omit to do any act in violation of the lawful duty of such foreign official or; inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality, in order to assist the defendant, American Totalisator Company, Inc., in obtaining and retaining business in connection with its contract for the sale of a totalisator system and spare parts to ODIE, all in violation of Section 104(a)(3) of the Act, 15 U.S.C. § 78dd-2(a)(3).

10. By reason of the activities described in paragraphs 1 through 9 above, the defendant, American Totalisator Company, Inc., directly and indirectly, violated and may continue to violate Section 104(a) of the Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. § 78dd-2(a).

WHEREFORE, the plaintiff, United States of America, respectfully prays and demands a Final Judgment of Permanent Injunction restraining and enjoining the defendant American Totalisator Company, Inc., its agents, servants, employees, assigns, attorneys in fact, affiliates and subsidiaries, and those persons in active concert or participation with them, from violating Sections 104(a)(1), (2), and (3) of the Foreign Corrupt Practices Act of 1977, as amended, 15 U.S.C. §§ 78dd-2(a)(1), (2), and (3), directly or indirectly, by using the mails, or any means or instrumentalities of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization

of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to:

(1) any foreign official for purposes of --

(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist the defendant, American Totalisator Company, Inc., its officers, directors, agents, servants, employees, successors, assigns, attorneys in fact, affiliates and subsidiaries, and those persons in active concert or participation with them, in obtaining or retaining business for or with, or directing business to, any person; or

(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of --

(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate, or

(B) inducing such party, official, or candidate to use its or his influence with a foreign government or

instrumentality thereof to affect or influence any act or decision of such government or instrumentality, in order to assist the defendant, American Totalisator Company, Inc., its officers, directors, agents, servants, employees, successors, assigns, attorneys in fact, affiliates and subsidiaries, and those persons in active concert or participation with them, in obtaining or retaining business for or with, or directing business to, any person; or

(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of --

(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,


in order to assist the defendant, American Totalisator Company, Inc., its officers, directors, agents, servants, employees, successors, assigns, attorneys in fact, affiliates and subsidiaries, and those persons in active concert or participation with them, in obtaining or retaining business for or with, or directing business to, any person.


AND, for such further relief as this Court deems appropriate under the circumstances.

Respectfully submitted,

RICHARD D. BENNETT
United States Attorney

By:


Juliet A. Eurich
Assistant United States Attorney
Bar No. 420, Local Counsel
820 U.S. Courthouse
101 West Lombard Street
Baltimore, Maryland 21201
(410) 962-9929

88600

Elizabethanne C. Stevens
Trial Attorney
U.S. Department of Justice
Criminal Division, Fraud Section
P.O. Box 28188, Central Station
Washington, D.C. 20038
(202) 514-0248

DATE: January 12, 1993

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS

UNITED STATES OF AMERICA

DEFENDANTS

AMERICAN TOTALISATOR COMPANY
11126 McCormick Road
Hunt Valley, Maryland 21031

LOGGED
ENTERED
RECEIVED
JAN 15 1993
AT BALTIMORE
CLERK U.S. DISTRICT COURT
DISTRICT OF MARYLAND
DEPUTY

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Baltimore
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

RICHARD D. BENNETT, U.S. ATTORNEY
JULIET A. EURICH, ASST. U.S. ATTORNEY

(See Attached)

ATTORNEYS (IF KNOWN)

RICHARD E. DUNNE, III, ESQUIRE
HOGAN & HARTSON, Suite 1600
111 South Charles Street
Balto., Md. 21202 (410)659-2700

II. BASIS OF JURISDICTION

(PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item II)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Complaint for Permanent Injunction for violations of Foreign Corrupt Practices Act of 1977 (15 USC 78dd-2)

5-93-161

V. NATURE OF SUIT

(PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 Habeas Corpus: General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

Check YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 1/13/93

SIGNATURE OF ATTORNEY OF RECORD

Juliet A. Eurich
Juliet A. Eurich
Asst. U.S. Attorney

FOR THE PLAINTIFF, UNITED STATES OF AMERICA:

RICHARD D. BENNETT
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GERALD E. MCDOWELL,
Chief
ELIZABETHANNE C. STEVENS
Trial Attorney
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Criminal Division
U.S. Department of Justice
10th and Constitution NW
Washington, D.C. 20530
202/514-0831

AMERICAN TOTALISATOR COMPANY, INC.

ACTION OF DIRECTORS BY UNANIMOUS WRITTEN CONSENT

The undersigned, being all of the members of the Board of Directors of American Totalisator Company, Inc., a Delaware corporation (the "Corporation"), consent to the adoption of the following Resolutions and the recording of said Resolutions among the minutes of proceedings of the Board of Directors.

RESOLVED, that this Corporation, expecting to be named as a defendant in a civil action brought by the United States of America in the United States District Court for the District of Maryland in the United States of America, consents to a settlement of that action encompassing the entry of a Final Judgment of Permanent Injunction against American Totalisator Company, Inc. and the execution of a Consent and Undertaking in substantially the form reviewed by this Board of Directors at this meeting; and

RESOLVED FURTHER, that the President of this Corporation, be, and he hereby is, authorized to execute such Consent and Undertaking of American Totalisator Company, Inc. on behalf of this Corporation substantially in such form as reviewed by this Board of Directors at this meeting.

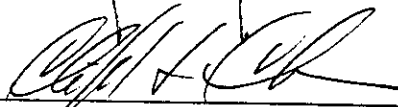
WITNESS the signatures of the undersigned directors this 7th day of January, 1993.



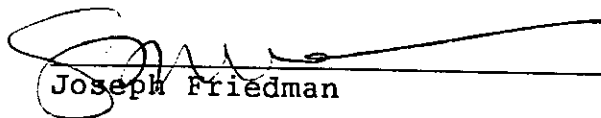
Wesley O. Hoffman



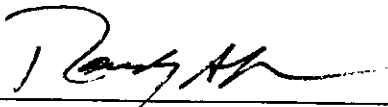
Sidney B. Landman



Clifford L. Chillemi



Joseph Friedman



Randy A. Hudson