

Congress continues BNL probe despite Justice Department coverup

by Edward Spannaus

U.S. congressional leaders are vowing to continue the investigation of the Banca Nazionale del Lavoro (BNL) case, despite the whitewash report issued by the Justice Department's so-called independent counsel Frederick Lacey on Dec. 9. Lacey's report to Attorney General William Barr presented the remarkable conclusion that there was no evidence of a coverup, and no evidence that the CIA or anyone else had deliberately withheld evidence.

Rep. Henry Gonzalez (D-Tex.), who was singled out for attack by Lacey, said that he and the House Banking Committee which he chairs will continue to investigate the scandal. Gonzalez said also that he will ask Bill Clinton to broaden the scope of the "Iraqgate" inquiry to include the providing of false testimony to Congress by members of the Bush administration, and also what he calls the illegal arming of Iraq. The chairmen of the House and Senate Judiciary Committees, Rep. Jack Brooks (D-Tex.) and Sen. Joseph Biden (D-Del.), both said that they will continue to seek appointment of a special prosecutor.

A not-so-independent counsel

On Oct. 16, Attorney General Barr appointed Lacey as an in-house independent counsel to investigate whether there had been criminal violations in the BNL case. Barr's action was taken only under enormous pressure, after the country had been treated to the spectacle of the CIA, FBI, and Department of Justice (DOJ) all accusing each other of withholding evidence and providing misleading information to the court hearing the case.

Rather than seek the designation of a court-appointed special prosecutor, Barr instead appointed Lacey under DOJ internal regulations. Had Barr applied to a judicial panel as provided by the now-expired Ethics in Government Act, he would not have been able to choose or control any independent counsel whom the court appointed.

The background of the case is as follows: BNL's Atlanta branch had provided \$4-5 billion in "off the books" loans and credits to Iraq during the period 1985-89. Allegedly, a significant amount of this was used by Iraq for military procurement. Despite evidence that BNL's Rome headquarters was aware of the loans, as were the Bush administration and U.S. intelligence agencies, the DOJ built its case around the theory that the loans were all "unauthorized" and done

by one individual, BNL Atlanta branch manager Christopher Drogoul. Once the Bush administration had discovered, in 1990, that Iraq's Saddam Hussein was "the new Hitler," it scrambled to cover up its own embarrassing involvement in the BNL affair.

Whitewash

In his Dec. 9 report, Lacey went to great lengths to exonerate those DOJ and CIA officials involved in the BNL coverup. In fact, the report reads like a defense lawyer's brief, not a neutral assessment of the facts. Just as a defense lawyer has to take the evidence against his client and explain it away, or else interpret it in the most favorable light, Lacey tries to put the most favorable construction on the evidence that a coverup occurred.

Given Lacey's ties to the FBI and the intelligence community, it is not surprising that he adopted the role of an advocate on behalf of the very government agencies which he was charged with investigating. For example, Lacey often simply relies on self-serving statements from high-level officials as proof of their intentions. How does he know that they had no "corrupt intent," or that they had made no effort to improperly influence prosecutors or to mislead the judge involved in the BNL Drogoul case? Why, because they told him so!

Lacey's most glaring omission is with respect to the CIA's role in the scandal. One of the major allegations of the BNL scandal was that intelligence information was withheld from the judge and local prosecutors by the CIA and/or the DOJ. Lacey deals with this in Part II of his report, which is classified "Top Secret—Codeword." He devotes all of seven out of 190 pages in the public part of his report to the CIA issue.

His method here, as throughout the report, is to ask DOJ and CIA officials what they were thinking at the time, and then draw his conclusions from these self-serving statements. Much of this section is devoted to rebutting charges made by Gonzalez. Gonzalez had aired charges of a CIA coverup in connection with a DOJ letter indicating that the CIA had only "publicly available information" suggesting that BNL's Rome headquarters knew of the Atlanta loan scheme—omitting any reference to CIA private source information.

After Gonzalez made his charges, DOJ and CIA attorneys met, and decided not to make any changes in the DOJ letter. Says Lacey: "Neither the DOJ nor the USAO [Atlanta U.S.

Attorney's Office] thought that the letter was misleading or inaccurate at the time." The CIA then wrote up a statement which was to be included in a DOJ press release. This idea was quashed by a top DOJ official, Robert Mueller. Says Lacey: "Mueller did not believe he was concealing important information by withholding a statement he viewed as inaccurate."

There are certainly many inmates in federal prisons today who would not be there, had the government offered such a generous interpretation of the evidence as Judge Lacey offers here!

'The loan assassin'

The Bush administration's handling of the BNL case is reminiscent of other coverups which have revolved around finding a "lone assassin" on whom the blame could be dumped, and then labeling any critics of his approach as loony "conspiracy theorists." In this case, the scapegoat was Christopher Drogoul, the local branch manager, who has charged that he is being made to "shoulder the burden for BNL, the Iraqi government, and U.S. foreign policy."

There are actually two issues involved in the BNL scandal: 1) the so-called "loan scheme" of off-the-books loans made by BNL-Atlanta to various Iraqi entities, and 2) the Bush administration's embarrassment over its involvement in encouraging the loans and assistance to Iraq prior to the 1990-91 Persian Gulf war.

Despite all the hoopla in the press about "illegal loans to Iraq," there was in fact nothing inherently illegal about what BNL-Atlanta was doing—except for the non-reporting of the loans to U.S. and Italian regulatory authorities. The federal prosecutors constructed their case around the theory that Drogoul was defrauding BNL-Rome by carrying out an unreported loan scheme.

BNL-Atlanta was able to extend billions of dollars of loans, allegedly without the knowledge of BNL-Rome, by taking advantage of BNL-Rome's AAA credit rating; this enabled BNL-Atlanta to go to the money markets directly and borrow Interbank Funds at or below the London Inter-Bank Offering Rate (LIBOR) on a daily basis. These funds were transferred to BNL-Atlanta's holding accounts at Morgan Guaranty Trust Co., and then re-lent as uncollateralized loans to Iraqi entities at profitable rates, but in violation of BNL's own internal regulations.

The official version of events is that two employees of BNL-Atlanta went to U.S. law enforcement authorities and told them of the scheme. Federal Reserve officials regarded the matter as presenting a "threat to the stability of the world's monetary markets" (according to Lacey), and the shutdown of BNL-Atlanta by the FBI was then carried out in close coordination with U.S. and Italian central bank officials.

That is the origin of the BNL matter as a criminal case. The political-intelligence side of the matter is more interesting. Israel, which regarded Iraq as its principal threat in the Middle East, had conducted a covert and overt campaign

against western military aid to Iraq since the mid-1980s. Some elements in the U.S. government believed they were "tilting" toward Iraq in the mid-1980s to prevent Iraq's defeat by Iran and to prevent the spread of the greater evil of Islamic fundamentalism. The CIA was deeply involved in providing military and other assistance to Iraq from at least 1982 on.

But the deeper level of the story came out during the London trials in the Matrix-Churchill case a few months ago: that top levels of the British establishment believed that it was in their interest to arm *both* Iran and Iraq, and let them bleed each other to death.

The Israelis, having a slightly more parochial view, didn't so much mind the sale of conventional arms to Iraq, but they objected to more sophisticated weapons systems. Thus, the Israelis had begun to threaten, blackmail, and even assassinate arms dealers and scientists involved in Iraqi weapons programs. They also orchestrated a propaganda campaign against Iraqi weapons procurement in the press. The London *Financial Times* was one of the key instruments of this, starting in 1988. BNL was an early target of *Financial Times* reporter Alan Friedman.

Thus, after the outbreak of the Gulf war, the Bush administration was in effect hoisted on its own petard. Anxious to deflect charges that it had armed "the Beast of Baghdad," it sought to cover its own tracks and hide its own involvement in perfectly legal assistance to Iraq.

Lacey has successfully played on these weaknesses. For example, he offers the conclusion that the delays in issuing the indictments against Drogoul and his local co-defendants were not due to a coverup, but rather to disagreements between DOJ officials in Washington and local prosecutors in Atlanta. Prior reports had already indicated that some officials at DOJ headquarters suspected the involvement of BNL-Rome and wanted to investigate the complicity of BNL headquarters. Not surprisingly, the officials who were pressing to go after BNL-Rome were some of the most notorious Israeli agents-of-influence in the DOJ, such as Theodore Greenberg and Mark Richard.

Lacey is thus able to present his case that there was no coverup, just honest differences of opinion as to whether BNL-Rome was the "victim" of the loan scheme or a partner in it. In order to reach his conclusion, Lacey provided a point-by-point refutation of the findings of Judge Marvin Shoob, the federal judge hearing the BNL case in Atlanta, who had accused the DOJ and CIA of misleading him. The day after the Lacey report was issued, Judge Shoob told the *New York Times* he was "disappointed" in the report, and that he still believes he was misled by the CIA and the Department of Justice.

Lacey even disputed the findings of the Italian parliamentary commission investigating the matter. And more recently, Italian prosecutors preparing their case against top BNL officials have concluded that BNL-Rome was shipping arms to both Iraq and Iran in violation of Italian law.