

proffer.

THE INDICTMENT

The indictment charges that Stroh was involved in an extremely large-scale international money laundering conspiracy involving the proceeds generated from the sale of cocaine in the United States. His alleged co-conspirators are Szion Abenhaim ("Abenhaim"), David Vanounon, Adi Tal and Raymond Chochaia.

According to the indictment, Stroh, in partnership with Abenhaim, was a currency broker from May, 1986 to April, 1990. As such, he arranged for the exchange of U.S. currency generated from the sale of cocaine in the U.S., for Colombian pesos. He received a commission on each currency transaction. As a broker, he negotiated the terms for the currency exchange with numerous intermediaries representing various factions of the Cali cartel who had control over the cash generated from drug trafficking in the U.S. To effectuate the currency exchanges, Stroh would provide the intermediaries with beeper numbers and code names of individuals in the U.S. to contact for pick up of the U.S. currency that had been received from the sale of cocaine. Stroh's coconspirators would then convert the cash to checks, money orders and wire transfers that could be transferred within and without the U.S. The transactions were structured in a way that would avoid the U.S. Treasury's currency reporting requirements for transactions exceeding \$10,000.

To further their money laundering enterprise, Stroh caused Nalvador, S.A. to be incorporated in Panama in May 1986. In May, 1987, he incorporated Palier Group, Inc., as a Panamanian corporation. These entities were shell corporations that were used to open bank accounts at Banco Cafetero and Banco de Occidente in Panama. Stroh then caused funds from the cocaine trafficking to be transferred to and through these corporations' bank accounts. This was done by purchasing official bank checks from numerous banks in Connecticut and elsewhere with cash from the drug sales. The checks, money orders and wire transfers were made out to one of the Panamanian corporations and were in amounts less than \$10,000.

Stroh and his coconspirators also participated in money laundering activities in New York and New Jersey in 1987 through 1990. In 1990, one of his coconspirators caused fraudulent checks to be issued in exchange for more than \$2,265,000 cash that had been received from the Cali cartel for laundering. The indictment alleges that as a result of this fraud, the enterprise lost \$2,265,000 of Cali cartel funds. This caused Stroh to advise Abenheim in or about April, 1990, that he "was leaving their partnership and was leaving to Abenheim the responsibility for paying back to the Cali cartel" the \$2,265,000 debt.

Thereafter, Abenheim continued the money laundering conspiracy to pay off the \$2,265,000 debt that he and Stroh had

incurred to the Cali cartel. Specifically, Abenheim arranged for illegal wire transfers of the proceeds of drug trafficking on December 30, 1991, January 17, 1992, January 22, 1992, and July 13, 1992. The total amount of these wire transfers was \$1,490,000.

DISCUSSION

Stroh maintains that reasonable conditions can be set to assure his presence at trial. The government contends that Stroh presents a grave risk of flight and that no conditions can assure his presence at trial.

Where the issue is risk of flight, the Bail Reform Act permits the court to order pretrial detention if it finds by a preponderance of the evidence that (1) the defendant does, in fact, present a risk of flight, and (2) that no condition or combination of conditions could reasonably assure the defendant's presence at trial. See 18 U.S.C. § 3142(e); United States v. Jackson, 823 F.2d 4 (2d Cir. 1987). In making this determination, the court is to consider the nature and circumstances of the offense charged, the weight of the evidence against the defendant, and the history and characteristics of the defendant. See 18 U.S.C. § 3142(g); United States v. Jackson, 823 F.2d at 6. In connection with the history and characteristics of the defendant, the inquiry focuses on the defendant's character, physical and mental condition, family

ties, employment, financial resources, length of residence in the community, ties to the community and past conduct. See United States v. Jackson, 823 F.2d at 5.

A. Nature and Circumstances of the Offense

Stroh is charged with a sophisticated and extensive money laundering conspiracy involving the proceeds of the Cali cartel's drug trafficking in the United States. The indictment alleges that, according to Stroh's ledger book, he and his coconspirators laundered more than \$129 million in one year alone. The maximum sentence Stroh could receive if he is convicted is 240 months. This substantial period of incarceration is even more onerous when, considering Stroh's current age, it means that he could possibly spend the rest of his life in prison.

Moreover, although money laundering is not a narcotics offense that gives rise to the statutory presumption that no conditions will reasonably assure the defendant's presence, see 18 U.S.C. § 3142(e), the crime is an integral part of narcotics trafficking. The same factors which create an unusually high risk of flight in narcotics offenses are present in money laundering--the business is extremely lucrative and the individuals involved often have substantial ties outside the United States. See United States v. Botero, 604 F. Supp. 1028, 1033 (S.D. Fla. 1985) (denying bail to a Colombian citizen charged with a money laundering scheme involving \$57 million).

"Thus, persons involved in money laundering, just as those involved in narcotics trafficking, have the resources and foreign contacts to escape to other countries to avoid prosecution." Id.

B. Weight of the Evidence

The weight of the government's evidence against Stroh is strong. Indeed, his alleged partner Abenhaim pleaded guilty to the same charges based on the same evidence, and two of the other coconspirators fled to Israel rather than face the charges. Now, Abenhaim and possibly one other alleged coconspirator will testify against Stroh at trial. According to the government's proffer, Abenhaim's testimony, the testimony of a government informant and a Panamanian banking official with whom Stroh dealt in connection with his money laundering transactions, will establish that Stroh was the mastermind of the enormously lucrative money laundering operation. In addition, the government will introduce Stroh's ledger book, which indicates that the conspiracy laundered narco-dollars totaling more than \$129,000,000 in 1987 alone.¹ The government also has records of Stroh's bank accounts in other countries, including one in Israel showing assets in 1988 of \$13 million.

Indeed, Stroh does not argue that the substance of the government's case against him is weak. His only claim is that the indictment is time barred. However, as set forth in the

¹The government asserts that Abenhaim represented that 1987 was a "bad" year for the enterprise.

court's ruling on his motion to dismiss the indictment, which is being filed simultaneously with this ruling, Stroh's statute of limitations claim does not support dismissal of the indictment before trial. Rather, it must be decided by the jury based on the totality of the evidence. In addition, the government has indicated that it is considering reindicting Stroh for recent money laundering activities.

Thus, the strength of the government's evidence, as well as the possibility of new charges and the fact that his hopes for pre-trial dismissal of the present indictment have now been dashed, give Stroh a strong incentive to "jump bail" and flee the jurisdiction.

C. Personal Characteristics

Stroh is a Colombian citizen of apparently enormous wealth. The government's proffer suggests that he has huge sums of money in foreign bank accounts. Stroh has a history of extensive international travel. He has strong ties to Israel. He and his family lived in Israel in the past and his parents presently live there. He made numerous trips to Israel in the past few years and apparently has large sums of money in Israeli banks. The government asserts that he engaged in money-laundering activities from Israel in the recent past. Moreover, it appears that Stroh would not be subject to extradition from Israel because the extradition treaty between the United States and Israel does not

list money laundering as an extraditable offense.² See Art. II, Convention Relating to Extradition, 14 U.S.T. 1701 (1963). In addition, extradition from his country of citizenship, Colombia, is highly problematic. These facts indicate that Stroh has the resources, skill and foreign connections to enable him to flee to a foreign country and evade prosecution.

In addition, Stroh successfully avoided arrest and prosecution on the present charges for almost four years. Although Stroh denies knowledge of the indictment, he does not provide a plausible explanation for why he made inquiry of Interpol to learn whether there were any notices for his apprehension. Further, the government maintains, and the court is inclined to agree, that the facts show that Stroh's claim of lack of knowledge is incredible and that it is more likely than not that he knew of the indictment. The fact that he knew, but made no effort to voluntarily surrender is strong evidence of his reluctance to now face the charges against him. See United States v. Shakur, 817 F.2d 189, 198-201 (2d Cir. 1987).

Finally, Stroh has few, if any ties to the U.S. Neither his wife nor his children are citizens. His wife is only residing here temporarily. Although two of his children are presently

²Although the extradition treaty with Israel allows extradition for crimes relating to dangerous drugs, the issue of whether money laundering is such an offense would be determined by the courts in Israel. The government asserts that the Israeli courts have already rejected such an argument.

attending college here, they could accompany or follow Stroh to Israel or any other country and continue their education there.³ His other child currently resides in Colombia. His only next of kin in the U.S. is a sister who lives in Florida, but it is not known if he is close to her in any way. Stroh has never lived here himself, has never been employed here, and owns no property here.

These personal characteristics, together with the nature of the offense with which he is charged and the strength of the government's case against him, convince the court that Stroh presents a real and serious risk of flight.

D. Stroh's Bail Package

Stroh has proposed a combination of conditions in support of his pretrial release, including a \$5,000,000 bond secured in part by personal sureties and in part by approximately \$1.5 million equity in real property that is owned by his and his wife's relatives, and two accounts in his name, one at Lehman Brothers in the amount of \$900,000, and one in a Swiss bank in the amount of \$100,000. In addition, Stroh offers to submit to home confinement and electronic monitoring. Finally, Stroh offers to execute an irrevocable waiver of extradition from any jurisdiction, including Colombia and Israel.

It is significant that Stroh's bail package does not include

³Stroh states that his children attended school in Israel in 1988-89 and that they are fluent in Hebrew.

any of his own assets. His offer to pledge the Lehman Brothers and the Swiss account is illusory in light of the fact that the Lehman Brothers account has been seized and is the subject of a forfeiture proceeding in this court and the Swiss account has been frozen by the Swiss government. Because Stroh has no control over these accounts, it is not clear how he could pledge them as security for his appearance. Indeed, Stroh has acknowledged that he has no control over assets that have been frozen. In connection with other alleged foreign bank accounts, he asserts that because they have been frozen, they "obviously" would not be available to him and could not be used by him for any purpose. See Stroh's Reply Mem. in Further Support of Pre-Trial Release, Doc. # 54, at 4-5. It is also not clear how the possibility that he could lose these assets if he fled would provide incentive for him to remain in this jurisdiction.

Although Stroh's and his wife's relations would face the loss of the equity in their property if he fled, Stroh could easily repay them from the money he allegedly has in foreign bank accounts. Indeed, this would be a small price for Stroh to pay for his freedom.

Moreover, the amount of the security that Stroh proposes is insignificant when compared to the enormous sums of money that allegedly are involved in this case. See United States v. Londono-Villa, 898 F.2d 328, 329 (2d Cir. 1990) (reversing

district court's finding that defendant was not a risk of flight and finding that the amount of money involved or potentially involved in the offense alleged dwarfed the \$1 million bail proposed by the defendant).

In addition, the home confinement and electronic monitoring suggested by Stroh is not a condition that would reasonably assure his presence at trial. These restrictions can easily be circumvented. See United States v. Orena, 986 F.2d 628, 632 (2d Cir. 1993) (noting that surveillance systems can be circumvented by the "wonders of science and of sophisticated electronic technology," and that monitoring equipment can be rendered inoperative) (citing United States v. Gotti, 776 F. Supp. 666, 672-73 (E.D.N.Y. 1991)).

Finally, it appears that there is a substantial legal question as to whether any country to which he fled would enforce any waiver of extradition signed under the circumstances presented in this case. At any event, extradition from Israel (or any other country) would be, at best, a difficult and lengthy process and, at worst, impossible.

Given the grave and serious risk of flight posed by Stroh's personal characteristics, the nature of the offense charged and the strength of the government's case, the court finds that neither the bond package proposed by Stroh, nor any other condition or combination of conditions will reasonably assure his

presence at trial. The amount of time that remains before trial during which Stroh will be detained as a result of this ruling is not significant or excessive. Jury selection will be held on December 5, 2000, and trial will commence on December 6, 2000.

CONCLUSION

For the foregoing reasons, Stroh's motion for pretrial release [doc. # 42] is DENIED.

SO ORDERED this day of November, 2000, at Bridgeport, Connecticut.

Alan H. Nevas
United States District Judge