

DEPARTMENT OF THE TREASURY UNITED STATES CUSTOMS SERVICE		1. TECS ACCESS CODE 3	
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		3. CASE NUMBER AT02FRO1ME0012	
4. TITLE: CIRCLE GROUP LIMITED			
5. CASE STATUS: INTERIM RPT			
6. REPORT DATE	7. DATE ASSIGNED	8. CLASS	9. PROGRAM CODE
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		10. REPORT NO. 004	
11. RELATED CASE NUMBERS:			
12. COLLATERAL REQ:			
13. TYPE OF REPORT: INVESTIGATIVE FINDINGS			
TOPIC: INTERVIEW OF KOTTWITZ: CIRCLE GROUP CONTROLLER			
14. SYNOPSIS: On March 16, 2001, a joint Office of Investigations/Office of Field Operations team at the Federal Express International Hub in Memphis, Tennessee seized a Federal Express (FedEx) package that contained three negotiable checks valued at \$1,515,523.13. Also seized were two non-negotiable checks and documentation related to the checks. The negotiable checks were seized for violations of 31 USC 5316 and 31 USC 5317. TERESA KOTTWITZ (KOTTWITZ), CIRCLE GROUP LLC, (CIRCLE), 2555 Marconi Drive, Alpharetta, Georgia 30005 shipped the package. The package was addressed to Zarina FITZGERALD, H&J CORPORATE SERVICES, Shirlaw House, Shirley Street, Box SS 19084, Nassau, Bahamas. On July 25, 2001 an interview was conducted with the sender of the FedEx package, KOTTWITZ. This report of investigation documents details of the interview with KOTTWITZ.			
15. DISTRIBUTION: SACAT RACME SACNO		16. SIGNATURE: SELLERS KIMBERLY S SPECIAL AGENT	
		17. APPROVED: WIEST GREGORY L ASAC - ASSISTANT SAC	
		18. ORIGIN OFFICE: AT ATLANTA - SAC	
		19. TELEPHONE: 770 994 4218	
		20. IY PIST: SELLER S	

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C O N T I N U A T I O N

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CASE PROGRAM CODES:

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DETAILS OF INVESTIGATION

On March 16, 2001, a joint Office of Investigations/Office of Field Operations team at the Federal Express International Hub in Memphis, Tennessee seized a Federal Express (FedEx) package that contained three negotiable checks valued at \$1,515,523.13. Also seized were two non-negotiable checks and documentation-related to the checks. The negotiable checks were seized for violations of 31 USC 5316 and 31 USC 5317. TERESA KOTTWITZ (KOTTWITZ), CIRCLE GROUP LLC, (CIRCLE), 2555 Marconi Drive, Alpharetta, Georgia 30005 shipped the package. The package was addressed to Zarina FITZGERALD, H&J CORPORATE SERVICES, Shirlaw House, Shirley Street, Box SS 19084, Nassau, Bahamas.

On July 25, 2001 an interview was conducted with the sender of the FedEx package, KOTTWITZ. This report of investigation documents details of the interview with KOTTWITZ.

The interview was conducted at The CIRCLE GROUP LLC, (CIRCLE), 2555 Marconi Drive, Alpharetta, Georgia 30005. Present during the interview was: Ms. Terri KOTTWITZ, CIRCLE and Ms. Marianne Boston, Wilson Brock & Irby, LLC, Attorneys at Law, 2849 Paces Ferry Road, Suite 700, Atlanta, GA 30339. Ms. Boston represents CIRCLE. Also present were Special Agent Kimberly Sellers, and Special Agent Victor Williams. The interview began at approximately 2:15 PM. KOTTWITZ and Ms. Boston were cooperative and appeared forthcoming at all times during the interview. To begin the interview, KOTTWITZ was asked to provide general background information on CIRCLE, herself, and her employment at CIRCLE.

Theresa (Terri) KOTTWITZ is employed as a controller/office manager for CIRCLE. She began working for Jerry MARCHELLETTA in New York in 1989 in a similar capacity. In 1999, KOTTWITZ relocated to Georgia and continued working for MARCHELLETTA.

According to KOTTWITZ, CIRCLE is a family owned business that began in 1990 as CIRCLE INDUSTRIES, USA in New York. Jerry MARCHELLETTA, and Jerry MARCHELLETTA, JR, own CIRCLE. In 1993, tired of New York, and searching for new growth opportunities, MARCHELLETTA relocated CIRCLE to the Atlanta, Georgia area. CIRCLE is involved in the construction industry as a subcontractor that provides drywall services. CIRCLE's projects consist of major construction endeavors such as hospitals and hotels. KOTTWITZ also explained that CIRCLE is comprised of three different entities, THE CIRCLE GROUP, THE CIRCLE GROUP, LTD, and THE CIRCLE GROUP, LLC, some of which share the same owners. KOTTWITZ explained that the MARCHELLETTA's like the name CIRCLE and the business was organized to keep the CIRCLE name as the organization expanded. According to KOTTWITZ, THE CIRCLE GROUP is a construction subcontractor that specializes in drywall work, THE CIRCLE GROUP

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LLC is located in Alpharetta, GA and is formerly known as CIRCLE INDUSTRIES, and THE CIRCLE GROUP LTD is located in the Bahamas for the sole purpose of the SUN INTERNATIONAL project.

According to KOTTWITZ, THE CIRCLE GROUP, LTD (CIRCLE LTD) is located in the Bahamas. It began on 04/07/00, and was encumbered by the government of the Bahamas on 04/12/01. CIRCLE LTD is a subcontractor to the general contractor, SUN INTERNATIONAL. SUN INTERNATIONAL is developing THE ATLANTIS RESORT on Paradise Island. CIRCLE LTD was formed to facilitate compliance with Bahamian law, and took approximately six months to set up.

CIRCLE LTD hired H & J CORPORATE SERVICES (H & J) to perform legal work on their behalf. ZARINA FITZGERALD (FITZGERALD) has worked with CIRCLE LTD since 1999. KOTTWITZ believed that MARCHELLETTA originally hired FITZGERALD. CIRCLE began their business relationship with FITZGERALD while she was previously employed by another Bahamian law firm, HARRY B. SANDS (SANDS). According to KOTTWITZ, SANDS is the largest law firm in the Bahamas, and is widely known and respected for its accounting and legal expertise. When FITZGERALD left SANDS in December 2000, for another law firm, H & J, she took the CIRCLE LTD account with her. CIRCLE LTD continued their business relationship with FITZGERALD for many reasons, primarily convenience. KOTTWITZ stated that when FITZGERALD left SANDS, SANDS harbored hard feelings against FITZGERALD for her departure.

According to KOTTWITZ, the contract with SUN INTERNATIONAL was CIRCLE's first attempt at conducting business in the Bahamas and it proved to be challenging. The regulations imposed by the Bahamian government were stringent, and often changed without notice. To meet requirements imposed by the Bahamian government, a ratio of four Bahamian workers to every one non-Bahamian worker was required and payment had to be conducted in Bahamian dollars. CIRCLE LTD maintained two separate bank accounts in the Bahamas to meet this requirement. The first bank account was comprised of Bahamian currency, and the second, separate bank account was comprised of US currency. KOTTWITZ also stated the Bahamian government would freeze CIRCLE LTD's accounts; upon one occasion, there were near riots among their workers when the workers didn't receive their paychecks. The bank accounts were established to correspond with the life of the projects and were to be closed out on March 31, 2001, as required by Bahamian law.

CIRCLE LTD was contracted to complete their work in one year, from approximately March 2000 through March 2001. CIRCLE LTD was granted permission by the Bahamian government to work for this time period only. CIRCLE LTD was given a sum of money (called mobility money) up front from SUN INTERNATIONAL to establish the project. In approximately March 2000, CIRCLE LTD began work on the project. The billing cycle usually ran every 30 -45

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days. CIRCLE LTD would complete a segment of work, then bill SUN INTERNATIONAL for that work. KOTTWITZ stated that SUN INTERNATIONAL was slow to pay CIRCLE LTD's, often disputed the validity of CIRCLE LTD's work and didn't live up to the contractual obligations established with CIRCLE LTD.

CIRCLE LTD's work was supposed to be completed in March 2001. To date, the project is approximately 90% finished. (It is in the "punch list" phase). According to KOTTWITZ, this is a common occurrence within the construction industry, but has posed problems to CIRCLE LTD. CIRCLE LTD has received several extensions from the Bahamian government to continue their operations in the Bahamas. In March 2001, CIRCLE LTD received an extension until May 2001.

At the height of the project, CIRCLE had 20 - 40 or 50 workers in the Bahamas, many of whom were Canadian. Today, only one foreman (from CIRCLE in Georgia) remains along with three or four workers, and SUN INTERNATIONAL still owes CIRCLE LTD money. According to KOTTWITZ, CIRCLE LTD experienced other problems operating in the Bahamas as well. On two or three occasions, the Bahamian government froze CIRCLE LTD's bank accounts with little to no notification to CIRCLE LTD of this action.

According to KOTTWITZ, the situation regarding the negotiable instruments in the FedEx shipment arose when the project manager, Anthony CONTRINO suddenly separated from his employment with CIRCLE LTD in November 2000 due to "ego" conflicts with MARCHELLETTA. As project manager, CONTRINO had signatory authority regarding checks. According to KOTTWITZ, this left no one in the Bahamas with signatory authority. Prior to his departure, he was authorized to and would issue checks with a rubber stamped signature for MARCHELLETTA. MARCHELLETTA is on the Board of Directors for CIRCLE LTD. As there was no one from CIRCLE LTD with signatory capabilities, the checks were forwarded to FITZGERALD by SUN. FITZGERALD then forwarded the checks and directed MARCHELLETTA's signature for endorsement. Also enclosed in the package were two checks for FITZGERALD from CIRCLE LTD for payment for her services received.

The purpose of CIRCLE LTD conducting business in the Bahamas was to gain international exposure for CIRCLE LTD in expectation of receiving additional projects. CIRCLE LTD was paid \$ 5,000,20,000.00 for the project and anticipated a profit of 10% (\$500,000.00). To date, CIRCLE LTD has been paid \$4,000,000.00 by SUN.

CIRCLE LTD also has a location in the Turks and Caicos. It was opened in anticipation of future hotel/resort to be constructed in this area, and has some of the same owners as CIRCLE LTD. In the correspondence seized from the FedEx package, KOTTWITZ directed FITZGERALD to deposit the endorsed checks into a Turks and Caicos account. KOTTWITZ was asked about this reference.

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KOTTWITZ answered that this reference was made solely due to fears that the CIRCLE LTD's Bahamian bank account would be frozen yet again by the Bahamian government and CIRCLE LTD would be unable to pay their workers. The interview concluded at approximately 4:30 PM.

The funds in question appear to be from a legitimate source. CIRCLE LTD provided documentation in their petition submitted through Ms. Boston to substantiate CIRCLE LTD as a legitimate business, and also to substantiate the relationship between CIRCLE LTD and SUN. The documentation copies provided were submitted as Exhibits attached to the Petition for Release that was submitted to US Customs Office of Fines, Penalties and Forfeitures, New Orleans, Louisiana. They include:

Exhibit D: A Certificate of Incorporation issued by the Commonwealth of the Bahamas on April 7, 2000, and a Certificate of Incumbency certifying the Directors of CIRCLE LTD to be: Jerry MARCHELLETTA, Sr. and Jerry MARCHELLETTA, Jr. The same certificate declares the Officers of CIRCLE LTD to be: Zarina FITZGERALD, Secretary, and Gwyenth V. SAUNDERS, Assistant Secretary.

Exhibit E: A Standard Form of Agreement Between Owner and Contractor (AIA Document A101-1997) between HARBORSIDE AT ATLANTIS DEVELOPMENT (owner) and THE CIRCLE GROUP BAHAMAS LTD (contractor). This verified the time frame for the construction and the money to be paid to CIRCLE LTD. The documentation also included a copy of contractor's partial waiver and release.

Exhibit F: A Certificate of Organization issued by the Secretary of State, Atlanta, GA, establishing THE CIRCLE GROUP, LLC as a Georgia Limited Liability Company. The effective date was 07/14/2000.

KOTTWITZ and Ms. Boston also provided a copy of the non-endorsed checks intended for H & J CORPORATE SERVICES for payment for their services rendered. The checks had been seized from the FedEx package, and were returned to CIRCLE LTD from FP & F, New Orleans. Ms. Boston also offered a copy of CIRCLE LTD's entire contract that was quite voluminous. S/A Sellers declined the offer, but reserved the opportunity for future use.

A number of follow through steps is warranted including verification of Bahamian banking laws and practices, and verification of Bahamian laws and regulations regarding operation of a business in the Bahamas. The investigation continues.

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081101

TECS II - LIST OF RELATED RECORDS

PAGE 1

TN007062

8 RECORDS ARE RELATED TO BASE RECORD
 ROI CAT SELLERS K 081101

AT02FR01ME0012004

P9826739800CAT KOTTWITZ THERESA L F 101157
 SO SUSPECT, OTHER SUB-SOURCE

P9826747400CAT FITZGERALD ZARINA
 SO SUSPECT, OTHER SUB-SOURCE

P9840564100CAT MARCHELLETTA GERARD W 061065
 SO SUSPECT, OTHER SUB-SOURCE

P9840566100CAT GORMAN GEORGE W M 112163
 SO SUSPECT, OTHER SUB-SOURCE

P9840569900CAT RISHER CRISTOBAL 102565
 SO SUSPECT, OTHER SUB-SOURCE

X9802726700CAT H&J CORPORATE SERVICES
 SO SUSPECT, OTHER SUB-SOURCE

X9805642100CAT CIRCLE GROUP INTERNATIONAL
 SO SUSPECT, OTHER SUB-SOURCE

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 CIRCLE GROUP LIMITED

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