

[COMMITTEE PRINT]

**THE PENN CENTRAL FAILURE AND THE  
ROLE OF FINANCIAL INSTITUTIONS**

**PART IV**

**PENN CENTRAL LOSES FOUR MILLION DOLLARS:  
A STORY OF INTERNATIONAL INTRIGUE**

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**STAFF REPORT OF THE  
COMMITTEE ON BANKING AND CURRENCY  
HOUSE OF REPRESENTATIVES**

**92d Congress, First Session**



**MARCH 11, 1971**

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(II)

## LETTER OF TRANSMITTAL

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*To the Members of the Committee on Banking and Currency:*

Transmitted herewith for use of the Banking and Currency Committee and the Congress is Part IV of the staff report on *The Penn Central Failure and the Role of Financial Institutions*. The title of this part of the report, *Penn Central Loses Four Million Dollars: A Story of International Intrigue*, hints at the magnitude and nature of the bizarre events resulting in the misappropriation of corporate funds.

The history of Penn Central's ill-fated and illegal attempt to control the air carrier, Executive Jet Aviation, was detailed in Part II of the staff report. A reading of that document is sufficient to comprehend just how fast and loose the high level financial officers of Penn Central were playing with the assets of the nation's largest transportation corporation. The episode recounted in this part is further dramatic evidence, if it were needed, of the decay that had infected the Penn Central management. It is not surprising that the incompetence resulted in the collapse of the railroad on June 21, 1970.

While there is no evidence to indicate that any Penn Central officer personally profited from the improperly seized funds, it is evident that the misappropriation could not have taken place without the aid of David Bevan, former chief financial officer of the railroad. Why and how David Bevan proceeded to place Penn Central loan funds in a place where former European associates in the EJA venture could obtain access to the money, is a tale of financial chicanery rarely matched in the annals of the business world.

The following is the staff's summary of the contents of Part IV of the study:

The Penn Central Transportation Company in 1969 lost \$4 million of a \$10 million loan, obtained from a consortium of German banks, to a Mr. Fidel Goetz, a German national operating his far-flung business ventures out of the tiny European state of Liechtenstein.

The intriguing story of how this incredible event happened is detailed in this part of the staff's investigation of the financial collapse of the Penn Central Transportation Company. It illustrates, among other things, how tangled the personal, financial and corporate affairs of Penn Central and its management became, thus contributing ultimately to the collapse of the Penn Central.

Fidel Goetz became involved with Executive Jet Aviation's plans in 1967 and 1968 to develop a worldwide air transportation system. The involvement of Penn Central, and particularly David Bevan, its chief financial officer, in the EJA adventure, including its dreams of worldwide operation, were outlined in detail in Part II of this report. Fidel Goetz was an important part of the scheme, having invested substantial amounts of money in a number of foreign airline which EJA controlled or attempted to control.

David Bevan, while publicly contending that neither he nor Penn Central played any major role in the EJA debacle, attempted to protect himself from embarrassing disclosures threatened by Goetz concerning Bevan's involvement with EJA by permitting Goetz to utilize the interest-earning power of \$4 million of the \$10 million European bank loan.

Extremely dissatisfied with the large sums of money he had lost in the EJA venture, Goetz devised a plan not only to earn the interest on the \$4 million, but to gain possession of the entire \$4 million to compensate himself for losses allegedly incurred in his EJA dealings. In devising this plan, Goetz used as participants Joseph and Francis Rosenbaum, two attorneys practicing in a partnership in Washington, D.C. The Rosenbaum firm had acted as Goetz's attorney in the United States for many years. In addition, Joseph Rosenbaum had dealt with similar financial arrangements concerning the financing of Penn Central railroad car repairs and had helped secure the \$10 million German bank loan for Penn Central.

Francis Rosenbaum, during the period that this loan was being arranged, was desperately in need of Fidel Goetz's assistance to avoid conviction under Federal indictment for fraud in connection with a multi-million dollar U.S. Navy procurement contract. Goetz had also played a role in this procurement fraud, and Francis Rosenbaum believed Goetz was the only person who could, or would, help him avoid serving a long prison sentence.

Through an elaborately conceived plan, outlined in detail in this report, Francis Rosenbaum allowed himself to be falsely represented by Goetz as an "authorized attorney" of Penn Central, without having such authority. Francis Rosenbaum, under pressure from Goetz, filed legal papers making himself, along with his brother Joseph, the owners of a shell Liechtenstein corporation. Francis Rosenbaum and Fidel Goetz using these fraudulent devices, caused the payment of over \$4 million of Penn Central funds to be transferred to the control of Goetz in the space of two hours.

Joseph Rosenbaum facilitated the transfer of funds to this newly created Liechtenstein company through his close contacts with high level financial officers in the Penn Central and his role in securing the \$10 million German bank loan for Penn Central.

Subsequent to the events described above, it was discovered that Joseph Rosenbaum not only was co-owner of the shell Liechtenstein corporation which was used to transfer the \$4 million of Penn Central funds to Fidel Goetz, but it was also found that Joseph Rosenbaum was made sole owner of this same corporation after Francis Rosenbaum was given a 10 year prison sentence.

It is clear from this analysis that by permitting Penn Central to become so intimately involved in Executive Jet Aviation's illegal ventures, the disclosure of which would have proven extremely embarrassing to both Penn Central and himself, David Bevan placed himself in a position where

men far more expert in the art of international financial manipulation were able to misappropriate \$4 million of Penn Central funds. To describe David Bevan's actions as grossly negligent would be generous indeed.

I am this day transmitting a copy of this report to appropriate Federal and State law enforcement agencies requesting a complete investigation to determine whether there have been violations of any laws or regulations for whose enforcement they are responsible.

The views and conclusions found in this staff report do not necessarily express the views of the Committee or any of its individual members.

A handwritten signature in cursive script, reading "Wright Patman". The signature is written in black ink and is positioned above the printed name.

WRIGHT PATMAN, *Chairman.*



# CONTENTS

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	<b>Page</b>
Letter of transmittal.....	III
Introduction.....	1
Goetz's financial involvement with EJA.....	2
The Berliner bank loan.....	4
"Authorized attorney" of Penn Central.....	6
Discovery of missing funds.....	9
Closing comment.....	13

(vii)

# THE PENN CENTRAL FAILURE AND THE ROLE OF FINANCIAL INSTITUTIONS

## PART IV

### PENN CENTRAL LOSES FOUR MILLION DOLLARS: A STORY OF INTERNATIONAL INTRIGUE

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#### INTRODUCTION

In Part II of the staff report on *The Penn Central Failure and the Role of Financial Institutions, Case Study of a Penn Central Subsidiary: Executive Jet Aviation*, the broad outline of a transaction resulting in the loss of over \$4 million of Penn Central funds was described. At that time, many of the details surrounding this loss of funds were not known. Further investigation has uncovered some startling information involving many of the participants in the ill-fated Executive Jet Aviation (EJA) venture.

As detailed in Part II of the staff report, the Civil Aeronautics Board (CAB) found the Pennsylvania Railroad (subsequently renamed the Penn Central Transportation Company upon merger with the New York Central Railroad in February 1968) engaged in an illegal attempt to control an air carrier, i.e., Executive Jet Aviation, and was fined \$65,000 by the CAB for 13 separate violations of the Federal Aviation Act. Included in the CAB order was the finding that the Pennsylvania Railroad (PRR) was intimately involved in an attempt by EJA to acquire a worldwide network of air carriers. One of the chief operatives in this foreign airline acquisition program was a Mr. Fidel Goetz, a German national conducting many of his business operations in Liechtenstein, a tiny European state noted in financial circles for laws allowing businesses to operate in almost complete secrecy.

How Fidel Goetz managed to compound Penn Central's losses through its involvement in the EJA venture has all the elements of a film script of international financial intrigue. The story includes attempts to quiet certain parties with the use of corporate funds, attorneys falsely representing themselves as authorized to act on behalf of another party while under criminal indictment, transferring of funds to the bank account of a non-existent company, and other equally bizarre activities. The stakes for Penn Central were high, as the railroad had already invested over \$20 million in EJA, as well as obtaining \$18 million in bank loans to finance EJA activities when these loan funds were desperately needed by the railroad itself. Considering what was at stake, it is no small wonder that this game of international intrigue was played in earnest.

(1)

## GOETZ'S FINANCIAL INVOLVEMENT WITH EJA

Fidel Goetz had in 1967 and 1968 loaned money and contributed investment capital to EJA for a number of acquisitions of foreign airlines; they included Transavia, International Air Bahamas, Sudflug and Sudwestflug (later renamed German Air). Goetz was to be the owner of these airlines pending EJA's acquisition of the Johnson Flying Service supplemental airline certificate, which would have permitted EJA to acquire them outright. The CAB's refusal of EJA's request to acquire Johnson Flying Service short-circuited these plans.

The exact amount of money that Fidel Goetz invested in EJA related airlines is not entirely clear. The CAB found that Fidel Goetz loaned \$650,000 to EJA for which he received a note bearing warrants for 40,000 shares of EJA common stock, exercisable at \$10 per share. In addition, Goetz invested various amounts of money in Sudflug as well as Sudwestflug, but the exact sum is not ascertainable. The vehicle through which Goetz made most of these investments was an entity called Finanz A.G., one of many of Goetz's companies involved in this episode. It is reasonable to assume that Goetz was in total control of all these companies.

A letter dated June 26, 1967, reproduced below, from Francis Rosenbaum, a Washington D.C. attorney who represented Goetz on these and other matters, to General Charles Hodge, Chairman of the Executive Committee of Gloré Forgan, Wm. R. Staats Inc. (Gloré Forgan), with a copy going to Bruce Sundlun, then EJA's general counsel, indicates that Finanz A.G. put up at least \$200,000 in connection with the Sudflug acquisition.

JUNE 26, 1967.

Gen. CHARLES J. HODGE  
Gloré Forgan, Wm. R. Staats, Inc.  
New York, N.Y.

DEAR GENERAL: I am attaching the statement I received from Finanz AG for interest on \$200,000 at 8 percent for the period April 10 through June 16, 1967, in connection with the Sudflug matter. This amounts to \$2,933.33. I would appreciate it if you would advise me how you wish to handle this, as well as the participation you feel Joe and I should take, which we will be glad to do.

I would like, if possible, to have your thoughts regarding the Bavarian Airline this week as I expect to be in Europe visiting with Mr. Gotz [sic] next week.

Sincerely yours,

FRANCIS ROSENBAUM

The reply letter, appearing below, from Charles Hodge's secretary to Colonel Joseph Rosenbaum, Francis' brother and partner in the law firm of Goodwin, Rosenbaum, Meacham & White, enclosed a check for the interest on the \$200,000. What is curious about this is that the check is not made out to Finanz A.G. but rather to Agencia Industrial c. por A, another of Goetz's business entities, and that General Hodge paid the interest charges, implying the loan was in favor of General Hodge.

GLORE FORGAN, WM. R. STAATS, INC.,  
New York, N.Y., July 18, 1967.

Col. JOSEPH H. ROSENBAUM,  
*Goodwin, Rosenbaum, Meacham & White*  
Washington, D.C.

DEAR COL. ROSENBAUM: As requested over the telephone this morning by your secretary, you will find a check drawn to the order of Agencia Industrial e. por A in the amount of \$2,933.33 covering interest on \$200,000 at 8 percent for the period April 10 through June 16, 1967, in connection with the Sudflug matter.

Kind regards.  
Sincerely,

MARTHA FONNER,  
*Secretary to Charles J. Hodge, Chairman, Executive Committee.*

From these and other documents in the possession of the staff, it can be stated that Fidel Goetz, represented by Francis and Joseph Rosenbaum, invested in numerous supplemental air carriers as part of EJA's "worldwide operating rights program." These investments were undertaken with the advice and consent in each case of either Charles Hodge of Glore Forgan, David Bevan, chief financial officer of the PRR, or General O. F. Lassiter, President of EJA, but ratified at a later time by all three gentlemen.

The brothers Rosenbaum represented Fidel Goetz for the time period 1966 to 1969, when Goetz invested in these air carriers. In this same time span, the Rosenbaum law firm received \$2.5 million from Vileda Anstalt, another of the seemingly endless Fidel Goetz entities, which figures most prominently in subsequent events. While there is no explanation given why this large amount of cash was sent by Goetz to the Rosenbaum law firm, it is fair to assume that this money was to be invested in EJA related companies since Goetz later claimed as much. These payments were merely described as "open security deposits to be repaid upon demand."

In January 1969, EJA withdrew their application from the CAB for the Johnson Flying Service certificate, thereby signaling the end of the "worldwide operating rights program" envisioned by EJA. By that time it was obvious to David Bevan, chief financial officer of Penn Central, and his assistant William Gerstnecker, that it was necessary to disassociate themselves from any of the former attempts to gain control of these foreign air carrier rights. Fidel Goetz was still the principal investor at that time of a number of these foreign air carriers which no longer fit into the plans of EJA. All of them, including Transavin and International Air Bahamas, were eventually sold to other parties.

According to the account given by David Bevan to attorneys representing the Penn Central Trustees, in the summer of 1969 Fidel Goetz communicated his extreme discontentment with the eventual disposition of his air carrier interests, and told David Bevan that he would like to be recompensed for his losses. David Bevan was at this time negotiating with the CAB on the final wording of their cease and desist order involving Penn Central control over EJA, and was, of course, very sensitive to any implied suggestions that Fidel Goetz would make public any of the various transactions in which Bevan utilized Goetz as a financial associate of EJA. The manner in which

these transactions were conducted in contravention of the Federal Aviation Act would have substantially damaged Penn Central's stance before the CAB.

As related to representatives for the Trustees, David Bevan met Volker Goetz, said to be Fidel Goetz's son, in August of 1969 in New York to discuss his father's losses in connection with the air carrier acquisition. At this meeting, David Bevan allegedly told Volker Goetz that he would make his father whole for his efforts on behalf of EJA. To put it bluntly, Bevan desired to silence Goetz while the EJA controversy was still before the CAB.

#### THE BERLINER BANK LOAN

In the summer of 1969, Joseph Rosenbaum, along with William Strub of R. W. Pressprich Overseas, Ltd., were seeking to obtain a commitment from certain German banks to furnish loan funds to Penn Central Transportation Company to finance the rehabilitation of used railroad equipment. This was not an unusual transaction for Joseph Rosenbaum, since he had put together a similar loan in May of 1969, receiving a fee from Penn Central for his services. In fact, the May 1969 loan agreement involved a conditional sales agreement with American Investors Company having the same address as the Rosenbaum law firm. Joseph Rosenbaum, acting as both principal and agent of American Investors Company, had been quite active in soliciting qualified investors in four previous conditional sales agreements for the rehabilitation of PRR railroad equipment. Joseph Rosenbaum told staff investigators previously that he, as well as Charles Hodge, beneficially owned some of this conditional sales paper.

In August of 1969, Joseph Rosenbaum and William Strub were successful in securing a 40 million Deutsche Mark (DM) loan (approximately \$10 million) from a consortium of German banks headed by the Berliner Bank Aktiengesellschaft in favor of the American Contract Company (ACC), a 100 per cent owned subsidiary of Penn Central Transportation Company. The German banks were principally interested in lending money to the railroad itself and desired a promissory note to evidence the debt. However, a note of the railroad company would have required Interstate Commerce Commission (ICC) approval, while a note from American Contract Company would not. Therefore, the conditional sales agreement between ACC and the Transportation Company was assigned to the Berliner Bank and was guaranteed by the Transportation Company. The loan was to be repaid in 8 semi-annual installments (7 for DM2,500,000 and the last one for DM22,500,000) starting on March 15, 1970 and ending September 15, 1973 with interest at 8 per cent at an issue price of 98, thereby yielding to Penn Central DM39,200,000. In effect, American Contract Company was the entity borrowing the money from the German banks, but there is no question that it was the Transportation Company to which the German banks would look for satisfaction of the loan.

Through the brothers Rosenbaum, who were privy to information from both Penn Central and Fidel Goetz, an understanding was reached whereby Bevan agreed to place the \$10 million in a Liechtenstein trust under Goetz's control, allowing investment of the money prior to withdrawing the funds when the railroad equipment was ready

for rehabilitation. It is customary to invest loan funds for conditional sales agreements while the used equipment is being gathered together. It is not normal operating procedure, however, to put the money in a Liechtenstein trust. Bevan agreed to this arrangement in the hope that it would satisfy Goetz for the time being.

Pursuant to David Bevan's instructions, the American Contract Company entered into an agreement on September 12, 1969, the same date the other loan documents were signed, with First Financial Trust of Liechtenstein whereby the latter was to hold the DM40,000,000 in trust and to invest it for Penn Central's account. The letter giving these instructions to First Financial Trust is reproduced below. It is quite significant that the address on the letter is that of Fiedl Goetz, necessitated by the fact that as of September 12, 1969, an entity having the name First Financial Trust did not exist, as will be more fully explained later.

AMERICAN CONTRACT CO.,  
Philadelphia, Pa., September 12, 1969.

FIRST FINANCIAL TRUST, REG.,  
Comerzhaus,  
Vaduz, Liechtenstein.

GENTLEMEN: We have directed the Berliner Bank, from whom we are borrowing DM40,000,000, to credit the proceeds of this loan to your account. By your signature below, you are evidencing your agreement that such funds are to be held in trust and invested and reinvested for our account, to the extent not advanced to us for the rehabilitation of equipment to be leased to Penn Central Transportation Company or for the payment of principal or interest on the aforesaid loan.

It is understood between us that, while the responsibility for investment decision is yours, the investments are intended not merely to provide a return on the funds but also to protect us insofar as possible against the possibility of revaluation of the deutsche mark. We will, moreover, keep you fully informed in advance of the progress of our equipment rehabilitation program, so that you may plan your investment program accordingly.

For your services and expenses you are to receive 25% of the amount by which the income on the funds so invested exceeds the interest rate on the aforesaid loan, applicable to that portion of the funds.

Very truly yours,

EARL DERMOND,  
President.

Agreed:

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FIRST FINANCIAL TRUST, REG.

In addition to the September 12 instructions given in the letter to First Financial Trust, American Contract Company sent two letters on September 12, 1969, to the Berliner Bank directing it to disperse the proceeds of the DM40,000,000 loan to two different places. One letter instructed the Berliner Bank to transfer the money directly to First Financial Trust of Liechtenstein, but obviously the Berliner Bank informed American Contract Company orally that they would not do this. The reason given by the attorneys for the Berliner Bank is that they did not normally transfer loan funds to anyone but a bank with which the borrower had an account. A second letter was then written directing the Berliner Bank to transfer the money to the Allgemeine Bank Gesellschaft A. G. of Frankfurt, Germany, which was both a correspondent bank of the Berliner Bank and Chemical Bank of New York. In this way, the funds could be remitted to an account of the borrower in the Allgemeine Bank, since Penn Central already had an existing account there.

Then a phone call was made from the Penn Central offices to the Chemical Bank of New York requesting them to transfer the funds from their correspondent Allgemeiner Bank in Frankfurt to the First Financial Trust of Liechtenstein. The officer of Chemical Bank insisted that this request be put in writing and that the funds be deposited in Chemical's correspondent bank in Liechtenstein. This Chemical bank officer told staff investigators that before he would transfer the funds he required written confirmation, because Penn Central's request was an unusual one, and that he was familiar with the reputation of Liechtenstein business entities.

All of the above transactions took place within a few days, and on September 18, 1969, the Penn Central Treasurer sent a letter, reproduced below, requesting the transfer of funds, with a copy going to Joseph Rosenbaum.

PENN CENTRAL TRANSPORTATION Co.,  
Philadelphia, Pa., September 18, 1969.

Mr. PETER K. SCHUMANN,  
Corporate Finance Division, Chemical Bank,  
New York, N.Y.

DEAR MR. SCHUMANN: This will confirm our telephone conversation in which we have instructed you to transfer from the Chemical Bank's account with Allgemeine Bankgesellschaft, Frankfurt, DM39,200,000 to the Bank in Liechtenstein, Vaduz, Liechtenstein, for account of the First Financial Trust, Reg., Comerzhaus, Vaduz, Liechtenstein, today.

These funds are deposited with the First Financial Trust Company for account of Penn Central Company. Will you please furnish us with the appropriate credit advices.

Sincerely yours,

J. N. SHAFER, *Treasurer*.

"AUTHORIZED ATTORNEY" OF PENN CENTRAL

Meanwhile, back in Liechtenstein, Fidel Goetz was feverishly preparing a welcoming party for Penn Central's DM40,000,000. Fidel Goetz, pursuant to his understanding with David Bevan that the proceeds from this German bank loan were to be put into one of his Liechtenstein entities pending the draw down for the equipment rehabilitation, decided to convert a dormant corporation into an entity that would be capable of receiving these funds.

Since Francis Rosenbaum, as well as his brother Joseph, play such an important role in this whole matter, it is necessary to describe their relationship with Fidel Goetz. The Rosenbaum brothers had been attorneys for Fidel Goetz since approximately 1961. Francis Rosenbaum was also a director of Chromcraft Corporation and AlSCO, Inc., the former being merged into the latter in May of 1966. These companies were the prime contractor for the Navy Department for millions of dollars of rocket launchers. Dummy companies were set up in the United States as subcontractors which were supplied fraudulent invoices from dummy European firms. The Navy Department was thereby charged for materials that were never ordered or shipped. By paying off the phony European bills, Francis Rosenbaum was able to siphon off funds to secret Swiss bank accounts. Some of these funds were funnelled through Finanz A.G., a Goetz entity, and Goetz would take a percentage of these funds and remit separate funds back into the United States. (See hearings on *Foreign Bank Secrecy and Bank Records*, before the Committee on Banking and Currency,

House of Representatives, 91st Congress, 1st Session, on H.R. 15073.) According to a civil suit filed in the U.S. District Court, Eastern District of Missouri, relating to this case, John Seabrook, a director of Penn Central, was alleged to have been in charge of investing the funds Finanz A.G. sent back to the United States cleansed of their association with the rocket launcher procurement fraud.

In the summer of 1968 the Justice Department secured indictments against Mr. Francis Rosenbaum and a number of other people involved in the Chromcraft case. As the case developed, Francis Rosenbaum believed his only possible chance of avoiding conviction would be to show that the funds that came back into this country from Finanz A.G. were in fact Mr. Goetz's own funds and not those derived from the fraudulent procurement contract with the United States government. In order to obtain evidence on this point, Francis Rosenbaum, in early September of 1969, traveled to Liechtenstein at least twice to try to obtain from Fidel Goetz an affidavit attesting to this fact. For Fidel Goetz, the timing of these visits could not have been better, since it allowed him to learn of the details of the Berliner Bank loan and permit him to prepare all the necessary papers.

Upon his arrival in Liechtenstein on his second trip, Francis Rosenbaum was taken by Goetz to the law offices of Dr. Peter Marxer, a very influential man in Liechtenstein affairs. Dr. Marxer and his partner, Adolf Goop, often acted as agents for people doing business in Liechtenstein. Fidel Goetz introduced Francis Rosenbaum as an "authorized attorney" of Penn Central and asked that Francis Rosenbaum sign all the papers, already prepared under Goetz's direction, designating Francis Rosenbaum as the owner of First Financial Trust of Liechtenstein, a corporation born on September 15, 1969. This was three days after Penn Central ordered the funds transferred from Frankfurt to First Financial Trust of Liechtenstein. Dr. Marxer, who was not present at this meeting, and Mr. Goop were appointed as sole agents for Francis Rosenbaum and Joseph Rosenbaum, who were listed as co-principals with full rights of disposition over funds in First Financial Trust of Liechtenstein.

Goetz also had Francis Rosenbaum, represented by Goetz as Penn Central's attorney, instruct Dr. Marxer and Mr. Goop to pay over to Vileda Anstalt, a Goetz company, the sum of DM16,800,000 out of the monies soon to be coming from Penn Central. Vileda Anstalt was owed this money, said Goetz, because of his losses in the various EJA ventures. An accounting of these alleged losses was signed by Francis Rosenbaum, acting as owner of First Financial Trust, indicating to Marxer and Goop that it was a true accounting since Francis Rosenbaum was also advertised as Penn Central's attorney. The accounting also contained an agreement stating that First Financial Trust would assume all obligations under these air carrier transactions. So not only would Goetz obtain the money he claimed was due to him, but he would also be relieved of any potential liability thereunder.

This entire series of transactions allowing Goetz to obtain complete control of over \$4 million of Penn Central funds took no more than two hours to complete.

When the money was received by First Financial Trust of Liechtenstein in a bank account hurriedly opened in the Bank of Liechtenstein, the bank suggested by the Chemical Bank, the DM16,800,000

were immediately paid over to Vileda Anstalt, controlled by Goetz, pursuant to the instructions given Marxer and Goop by Francis Rosenbaum. Since the deutsche mark was revalued shortly after September 12, 1969, this represented a loss to Penn Central of well over \$4,600,000.

Documents in the possession of the staff show that Goetz, through Vileda Anstalt, actually submitted an accounting to First Financial Trust showing \$729,000 in additional losses resulting from his EJA ventures, and asked that an additional \$729,000 be transferred to Vileda Anstalt. Payment was asked for prior to December 31, 1969, but all evidence indicated this additional money was never forthcoming. It appears the only reason the additional \$729,000 was not paid over to Vileda Anstalt was that it would not have left enough money remaining in the account for the \$6 million to be paid over to Penn Central.

Francis Rosenbaum also authorized payment of \$30,000 to a Swiss attorney, Gerald Henry, for his services in allegedly procuring the DM40,000,000 loan, although there is no documentary evidence showing that Henry had anything to do with securing this loan.

Even though Francis Rosenbaum cooperated completely with Goetz, Goetz subsequently refused to supply the affidavit desperately needed by Francis Rosenbaum in order to avoid conviction. With no alternative, Francis Rosenbaum pleaded guilty in October of 1969 to nine counts of the thirty count indictment and was sentenced to ten years in the Federal penitentiary.

#### DAVID BEVAN'S ACCOUNT OF THE TRANSACTION

As stated previously, David Bevan was anxious to placate Fidel Goetz in view of the damaging story he could tell about Bevan's EJA ventures. Bevan, according to the lawyers for the Penn Central Trustees, contends that the money was placed in First Financial Trust as a "compensating balance" to Fidel Goetz, although the term "compensating balance" is generally used for the amount of money kept on deposit with the entity that lends the funds. It would have been more apt to describe funds left in the Berliner Bank prior to its draw down for equipment rehabilitation as a compensating balance, if that were the case. Since the agreement with First Financial Trust of Liechtenstein only provided for a 25 per cent fee for accrued interest above 8 per cent per annum, the most Goetz figured to realize from interest earnings was \$10,000 per month, assuming Goetz could invest the funds at a generous 20 per cent per annum. This hardly would have made Goetz "whole" if he claimed to have lost over \$4 million in the EJA related ventures.

Six million dollars was paid out to Penn Central's account in the Chemical Bank of New York by First Financial Trust in October of 1969, to be utilized to rehabilitate certain railroad equipment and \$6 million of conditional sales paper was received by the Berliner Bank as security. During the winter of 1969-70 lower level financial officers of Penn Central inquired of Bevan when the additional \$4 million was to be drawn down. The answer was that the equipment was not quite ready and that they should wait a couple of weeks or so. These same financial officers have informed staff investigators that Bevan was asked about the \$4 million at least four times and they were given the same answer—be patient. The clear implication is that Bevan intended to leave the money with Goetz as long as possible to

more fully compensate Goetz for his efforts on Penn Central's behalf, and, of course, to keep him mute.

#### DISCOVERY OF MISSING FUNDS

The first party to realize that the additional \$4 million was never utilized under the conditional sales agreement was the Berliner Bank after the news of the bankruptcy of the Penn Central Transportation Company hit the newspapers in Europe. In attempting to ascertain what security the Berliner Bank had, along with the other banks in the syndicate for this loan, it was discovered that only \$6 million of the conditional sales paper was being held as security for the loan. The Berliner Bank proceeded to contact the Penn Central Transportation Company which, according to the Berliner Bank, was ignorant of this fact, and this started an investigation which has been in progress since then.

After an examination of the records at Penn Central, the Trustees undertook to determine what exactly happened to the money. On July 21, 1970, the following cablegram was sent to First Financial Trust, the address still being that of Mr. Goetz.

FIRST FINANCIAL TRUST, Reg.,  
Comerzhaus,  
Vaduz, Liechtenstein.

Pursuant to our cable of September 10, 1969 and our subsequent correspondence, there was deposited with your bank by the Berliner Bank the sum of about DM40,000,000 of which about DM24,000,000 has been disbursed leaving a balance on deposit with you of about DM16,000,000 which was to be invested for our account.

Please confirm exact present amount of funds including income accrued to date.

J. E. DERMOND,  
American Contract Co., Wilmington, Del.

Rather than responding directly, Dr. Marxer immediately contacted Joseph Rosenbaum to get his instructions on how to answer this cablegram. The reason Joseph Rosenbaum was contacted at this time, rather than Francis, is obvious, since Francis Rosenbaum had already begun his prison sentence and all rights and duties in First Financial Trust had been transferred to Joseph Rosenbaum. This came about in March of 1970 when Dr. Marxer wrote to Joseph Rosenbaum telling him that he and Adolf Goop no longer could act as agents for Francis Rosenbaum, since they had learned of his problems with the Federal authorities in this country. Below is the letter of March 10, 1970 to this effect:

MARCH 10, 1970.

MR. JOSEPH H. ROSENBAUM,  
Goodwin, Rosenbaum & Meacham,  
Washington, D.C.

DEAR MR. ROSENBAUM: My partner, Mr. Adolf Peter Goop, and myself are members of the Board of First Financial Trust reg.

Under the Contract of Agency you and Mr. Francis N. Rosenbaum are entitled to give the instructions. These instructions may be given singly.

Out of several newspapers we have read the different articles concerning Mr. Francis N. Rosenbaum. Under these circumstances we would like to cancel our Contract of Agency with Mr. Francis N. Rosenbaum. In the future it is only possible for us to remain as members of the Board, if we receive full information who the beneficial owner of the Founder-Rights of First Finance Trust reg. is and for whom you are acting.

We are sure, you will understand our request.

Looking forward to your earliest reply, we remain

Very sincerely,

Dr. PETER MARXER.

Joseph Rosenbaum wrote to Dr. Marxer agreeing that the contract of agency with Francis Rosenbaum be cancelled. Additional papers were prepared making Joseph Rosenbaum the sole principal for First Financial Trust. His letter of March 20, 1970 to Dr. Marxer contains the following statement:

The beneficial owner of the founder rights of First Financial Trust, Reg. is myself, and any and all profits arising from this transaction will belong solely to me and to no one else. There are no third parties involved.

Joseph Rosenbaum was now in complete control of First Financial Trust, and accordingly sent the following letter giving instructions on how to respond to a now impatient American Contract Company:

JULY 22, 1970.

Dr. PETER MARXER,  
Vaduz,  
Liechtenstein.

DEAR DR. MARXER: With reference to the cable to the client, First Financial Trust, I would recommend that it be answered as follows:

"We offset the \$4,000,000.00 in Deutsche Marks against amounts owed by Penn Central. An accounting follows by letter."

As soon as possible I will get the necessary data from our clients and forward it to you so that First Financial Trust can write a letter setting forth the information.

Very truly yours,

J. H. ROSENBAUM.

After receiving Dr. Marxer's July 30, 1970 reply per Joseph Rosenbaum's instructions, American Contract Company immediately sent another cable with the following wording:

Has a letter accounting for DM4,000,000 promised in your cablegram of July 30 been sent yet? If not, when can we expect it to be sent—urgent we receive prompt reply.

It was now Mr. Goop's turn to write to Joseph Rosenbaum asking for his instructions to the above cable. Joseph Rosenbaum then wrote to Adolf Goop telling him that he should reply by stating that an account is being prepared and that it should be mailed within the next two weeks.

Finally, on October 5, 1970, after a delay of about 5 weeks, American Contract Company received the following accounting from First Financial Trust:

FIRST FINANCIAL TRUST REG., VADUZ,  
Vaduz, 5. Oktober 1970.

Mr. J. E. DERMOND,  
American Contract Co.,  
Wilmington, Del.

DEAR MR. DERMOND: You have asked for an accounting of the DM 39,200,000 transferred to us on September 19th, 1969.

*As you know*, the accounting is as follows: (italic supplied)

Date		Debit	Credit
Sept. 22, 1969			39,200,000.00
Do	To Vileda Anstalt	16,800,000.00	
October 21, 1969	To Chemical Bank, Main-Office New York i. favour of Penn-Central office (U.S.- dollar 6 Mio. to an exchange rate of 3.7290)	22,374,000.00	
October 27, 1969	Interest		14,000.00
do	do		2,722.20
do	do		12,444.45
do	do		2,800.00
do	do		20,533.30
November 25, 1969	To Gerald Henry, 72, Blvd. Saint-Georges, 1205 Geneva	73,695.75	
December 15, 1969	Charges	4.80	
do	do	1.80	
March 21, 1970	Fee, Dr. Peter Marxer	4,774.10	
June 19, 1970	Charges	8.40	
do	do	1.50	
	Balance	14.00	
		39,252,499.95	39,252,499.95

Very sincerely,

FIRST FINANCIAL TRUST REG.

The lawyers for the Trustees of the Penn Central Transportation Company were astounded by this reply and immediately responded by contending that there had been a breach of contract and that the \$4 million should be returned to Penn Central Company immediately.

The reply from First Financial Trust on October 19, 1970, was:

Our American lawyers confirm our view that there has been no breach of contract of 15 September 1969 between American Contract Company and First Financial Trust, Reg. All actions taken by us done on instructions page 2 of authorized attorney of Penn Central and known by Penn Central management. Happy to discuss situation with you in Vaduz but insist we under no duty to send money to you.

The lawyers for the Trustees responded to this October 19 cable with the following:

OCTOBER 20, 1970.

DR. PETER MARXER,  
Domar,  
Vaduz, Liechtenstein.

Your cable from Paris received Philadelphia 9:30 AM October 19. Doctor Muller your representative stated to us in Philadelphia that First Financial Trust held remaining proceeds of loan from Berliner Bank amounting to not less than sixteen million eight hundred thousand DM in trust for account of American Contract Company and trustees of Penn Central Transportation Company. Neither Doctor Muller nor you in our telephone conversation of October 15 claimed you were holding these funds for anyone else. At that time, Doctor Muller, David Bevan and Colonel Joseph Rosenbaum confirmed in my presence that no authorization existed permitting diversion of trust funds other than in accordance with original loan from Berliner Bank in favor of American Contract and Penn Central. Demand is made upon you for disclosure of person or entity for whom you hold funds contrary to our direction for immediate remittance. In particular, disclosure is demanded of you as trustee of circumstances attending deposit of funds with Vileda Anstalt and of any transactions or affiliations you have or have had with interests connected with Fidel Goetz. I am only attorney authorized to act for Penn Central in respect of this trust and there is no evidence to support your reference to page two of any instructions.

Your failure to honor demand for transmittal of funds constitutes breach of trust for which you will be held to strict account including notice to appropriate government authorities. We have made full disclosure of our demand and your breach to attorneys for Berliner Bank for their appropriate action as creditor against all involved parties. Demand for immediate remittance reiterated.

EDWIN P. ROME  
Philadelphia, Pa.

While this international cable battle was going on, Joseph Rosenbaum wrote the following letter to Adolf Goop:

AUGUST 31, 1970.

DR. ADOLF PETER GOOP,  
FL 9490,  
Vaduz, Liechtenstein.

DEAR DR. GOOP: In connection with the First Financial Trust matter, I would like to have your legal opinion on one phase of the transaction.

In the letter of September 12, 1969, between the American Contract Company and the First Financial Trust it provides that the funds are to be held in trust and invested and re-invested for the account of the American Contract Company. I have no doubt that the offset of the \$4,000,000 accomplished between First Financial Trust and Vileda Anstalt legally complied with the terms of the above-mentioned letter.

Would you be kind enough to write me your legal opinion that under the laws of Liechtenstein the action taken by First Financial Trust in making this payment to Vileda was legal and proper in all respects and complied with the terms of the letter of September 12, 1969. Any legal authorities or citations you can furnish me to back up this opinion would be helpful.

Sincerely,

J. H. ROSENBAUM.

The last paragraph of this letter is very interesting, to say the least, in that Joseph Rosenbaum wanted assurances from Marxer and Goop that what they were instructed to do by himself and his brother Francis had been legal under Liechtenstein law. As far as can be determined, no reply was ever sent.

It should also be pointed out that during the Penn Central Trustees' attempts to recover the \$4 million, Joseph Rosenbaum played a dual role. In dealing with the Penn Central attorneys he and his attorneys made the appearance of cooperating completely in trying to obtain from Goetz a return of the money. But it is clearly seen from Rosenbaum's correspondence with Marxer and Goop that he was instructing them to justify to Penn Central the transactions by which Goetz obtained the funds through the Rosenbaums' own shell corporation.

After all the information was gathered, the lawyers for the Trustees discussed the situation with the lawyers for the Berliner Bank and decided to conditionally affirm the full \$10 million conditional sales agreement with the Berliner Bank, but with the proviso that it would be subject to change if the money was not recovered. This allowed remittance of the September 15, 1970, payment to the Berliner Bank under the loan agreement. The Trustees correctly reasoned that since the first payments were small, no great liability was being borne by the Trustees in conditionally affirming the full \$10 million.

The lawyers for the Trustees and Berliner Bank met and agreed to investigate the entire situation. This included trips to Liechtenstein and visits to the principal parties involved in the transaction. An interview was even had with Francis Rosenbaum, now in the custody of the Federal authorities. Every attempt was made to have the money returned without the institution of suit. Pursuant to that end discussions were held with David Bevan, Joseph Rosenbaum, Fidel Goetz and his representatives in Liechtenstein, Dr. Marxer and Adolf Goop. At one time, it appeared that there was an agreement to return the money to Penn Central without the necessity of instituting legal action. This turned out not to be the case and the final settlement offered by Fidel Goetz was a tiny fraction of the entire sum misappropriated.

## CLOSING COMMENT

David Bevan obviously believed he had the ability to succeed in establishing control for the PRR of a major international air carrier without going through all the cumbersome steps required by law. Not only did he not achieve his objective, but he also found out that there were people more adept at playing this game than he was.

Fidel Goetz was quite willing to assist David Bevan when there were the prospects of great profit arising out of the EJA venture, but when it all turned sour Goetz was not willing to bear the loss. This can partially be explained by the fact that it was Goetz's own money he was investing, while for David Bevan it was the assets of a large corporation and the credit acquiring power of that corporation that were being drained.

Assuming that David Bevan never believed Fidel Goetz could permanently appropriate the 4 million plus dollars, his decision to divert corporate funds from normal banking channels to attempt to compensate Mr. Goetz for keeping quiet about his financial efforts with an illegal venture was grossly negligent. Any interest these funds earned should have inured to the account of Penn Central and none other. That he stalled the withdrawal of these funds in order to provide Goetz a greater return from Penn Central's investment is ample evidence of his intent.

The staff attempted to contact David Bevan through his attorney Mr. Edward German, but learned that he was not available during the period of investigation for interview. His attorney did confirm that David Bevan's account of his role in this whole matter was given to the attorneys for the Trustees of Penn Central, from whom the staff received information.

As for the brothers Rosenbaum, a visit was made to the Rosenbaum law firm to hear Joseph Rosenbaum's account of the matter. Mr. Rosenbaum refused to answer any questions, contending that he acted as Fidel Goetz's attorney throughout, and any information he had was protected by the attorney-client privilege. But the question must be asked, was Joseph Rosenbaum also acting as Fidel Goetz's attorney in arranging for the \$10 million loan for Penn Central from which Goetz seized \$4 million? And was Joseph Rosenbaum Fidel Goetz's attorney when acting as co-principal for First Financial Trust?