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Bank of Montreal and the Jefferys: A Special Deal that Went Sour

The Bank of Montreal tried to make inroads into the banking business of the wealthy Jeffery family of London, Ontario — and of London Life Insurance Company, which the Jefferys control — by approving in 1977 a loan it considerd of dubious merit to an unrelated company in which one of the Jeffery brothers was involved. The bank is now trying to recover the loan, which was to something called Context Systems Inc., through bankruptcy proceedings and a court action. Context was owned by members of another prominent London family, the Mitches, and the apparent principal promoter, lawyer George Mitches, was working on the project with one of the Jeffery brothers, A. Edgar (Ted) Jeffery. The bank couldn't completely figure out Ted Jeffery's reasons for being involved, but it advanced the loan, of about $2 million, based largely on what it thought was his guarantee. The bank took court action to recover the loan last October, after Ted and his brother Alexander Jeffery denied the authenticity of signatures of their names on the guarantee and another document on which the bank apparently relied.

Following the disappearance and death of George Mitches last October, bankruptcy proceedings against his estate were also taken by the Bank of Montreal, and it was disclosed Mitches had unsecured creditor claims against him of about $1.4 million over and above the bank's claim for $2.2 million, against known assets of $50,000 worth of encumbered real estate.

The bank also initiated bankruptcy proceedings against Context and another Mitches company, Proto Investments Ltd.

The bank's dealings with Context are disclosed in the bankruptcy proceedings.

In July of 1976, preceding the Context loan, the Bank of Montreal had advanced $8.1 million to a real estate project called London Towers, under the name of Aeolian Construction Corp., a project of the Jeffery family. But the bank had been paid out very quickly, and the London branch of the Bank of Montreal was anxious to continue to try to "promote the relationship" between the bank and the Jeffery family. The Aeolian loan was paid out in September 1976, and in October the first approaches to the bank were made for the Context loan. In December 1976 the London branch sent this background information to head office:

"The advances to this (earlier) Jeffery family project were retired in September and the relative credit cancelled. The source of the payout was the Toronto-Dominion Bank, where brother, Captain Joseph Jeffery, Chairman of the Board of London Life, is a director. Appreciation of our assistance with the Aeolian project when it was needed most was expressed personally and in writing on several occasions. It is our impression that the Jeffery family recognize the rather substantial work content to the Aeolian application in relation to the rather abrupt payout. Notwithstanding the directorship ties between Mr Joseph Jeffery (London Life) and our competitor, the Bank of Montreal continues to enjoy a close affinity with London Life and it is our keen desire to promote this relationship through other connections of the Jeffery family, at every opportunity."

The new "opportunity" in question was the Context loan application, which was for a project for development and marketing of a computer soft-ware program for text retrieval. On its own, the proposal didn't meet the bank's critieria for a loan. A head office memo to the London branch put it this way:

"As recognized by you, the company's financial condition clearly indicates bank support cannot properly be justified from a credit standpoint, and notwithstanding the bank's strong desire to increase its share of business from the influential and important Jeffery family, it seems to us it may be in the best interests of all concerned to stand aside. In essence, the numerous unfavourable aspects of the application, including the lack of a firm source of takeout and owners equity, also the unproven viability of the product, clearly places the request outside of the guidelines of lending policy. . . .

"We, of course, readily recognize your reasons for supporting the request and if you are strongly of the opinion that special consideration by the bank is fully warranted we would be prepared to review the matter further," on receipt of further information.

The additional information included further information on the net worth of Ted Jeffery, and particularly on Thames Valley Investments Ltd, the Jeffery family holding company, 25% of which constituted the greater part of Ted Jeffery's net worth. The bank also was supplied with a so-called Memorandum of Awareness, purporting to be signed by Ted and his brother Alexander Jeffery, on behalf of the Thames Valley company. It acknowledged the four Jeffery directors were aware of a purported $2 million guarantee of the Context loan by Ted Jeffery, and went on: "It is understood and agreed that in the event that a call on this guarantee becomes necessary that the officers, directors and shareholders of Thames Valley would facilitate liquidation of all or any portion of the guarantor's interest in Thames Valley Investments Ltd to satisfy the bank's claim."

A memo to head office from the London branch says: "The matter of having the signatures supported by the corporate seal was reviewed with the branch solicitor, and it was the general opinion that the seal carries evidentiary value only and did not further support the undertaking." Head office replied, "We confirm the memorandum is acceptable."

The two signatures of that memorandum, and the signature of the purported $2 million guarantee are denied by the Jeffery brothers.

The bank was never too clear on why Ted Jeffery was involved in the Context project, which appears to have been wholly-owned by the Mitches family. Queried by head office on this point, the London branch replied: "Motives for assisting and any side agreements with Mr Jeffery for his involvement in Context Systems? The response to this inquiry was somewhat vague; however, they went back to identify the initial involvement of Mr Jeffery and Mr Mitches developing a book on the subject matter of the computer retrieval programme and it evolved into a monstrous prototype in its present state. The book was never completed; however, much of the information is still in raw text format."

In any event, the loan was approved "as a special matter." The memo from head office granting this approval reads as follows:

"Having in mind assistance is required largely to consolidate borrowings utilized for research and development of computer programming, and that the borrower owns little by way of tangible assets, the guarantee of Mr Jeffery would represent primary security for at least $1 million of advances, representing the portion of credit in excess of the net value of collateral mortgage security from the Mitches. Additionally, as viability of the operations of the

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Bank of Montreal

company has not been evidenced on the basis of sales to date, it may well become necessary to call on the guarantors to repay Bank advances and it would be important to ensure Mr Jeffery could liquidate sufficient of his assets to honour his guarantee. In this latter connection, the memorandum of awareness signed by the proposed guarantor on behalf of the holding company does not clearly indicate the brothers would permit the liquidation of company assets to enable A. E. Jeffery to redeem his guarantee." (The revised memorandum of awareness quoted above was supplied as a result).

"Notwithstanding the foregoing," the memo goes on, "while credit should ordinarily be turned aside, in view of the prominence and wealth of the Jefferys, also your repeated recommendation, we are prepared to go along as a special matter in the interests of gaining inroads into the family business including that of London Life. Accordingly, it will be in order to record approval of credit as outlined on the understanding the family holding company provides the bank with a letter signed by authorized signing officers of the company, preferably under seal, formally acknowledging the bank is reliant on the guarantee of Mr A.E. Jeffery for borrowings up to the limit established and, as an important part of his worth is represented by his portion of the equity in the holding company, the company would permit him to redeem a portion or all of his equity to settle the indirect liability, if necessary. Kindly provide us with a copy of the letter in due course. Additionally, we note from the appraisals, certain of the properties listed . . . are owned by companies, assumably controlled by the Mitches, and no doubt you will arrange to have all owners of the properties involved join in the guarantees, under enabling resolution in the case of a limited company.

"Incidentally, there is no indication any of the Mitches family are customers of the bank, and, as the law business of Mitches and Mitches could represent substantial deposit business, no doubt you will take advantage of the opportunity to endeavour to acquire this additional business."

Neither side in the bankruptcy proceedings appears to know exactly how the monies were disbursed once the credit was granted. Records of Context and a corporate guarantor of the loan, Mitches family holding company Proto Investments Ltd, are in the hands of the crown attorney's office.

The crisis began August 16, 1978, when Ted Jeffery wrote to the bank: "I have been made aware of a form of guarantee of the indebtedness of Context Systems Inc., dated January 26, 1977 in the amount of $2 million purporting to bear my signature and a confirming Memorandum of Awareness of that guarantee also dated January 26 1977 purporting to bear my signature on behalf of Thames Valley Investments Ltd. I would advise you that neither signature is mine, they were not placed on the documents with my authority and have never been adopted by me as my signatures. I deny any liability that may arise out of or flow from these documents." And the bank got similar letters from Thames Valley and Alexander Jeffery with respect to the signatures of the Memorandum of Awareness.

London City Police were requested by the Jefferys to investigate, and police first met with George Mitches on August 29. The bank was advised by the investigating officer that "Mitches appeared very co-operative . . ." As well, Mitches requested the bank to hold off until September 30, to give him time to liquidate assets. Mitches continued to meet with the police, and a bank memo said, "At the request of Mr G. Mitches, a further meeting between himself and the police is scheduled for 19th October 1978, although its specific purpose is not known." It was to be Mitches last meeting with the police.

Meanwhile, the bank requested a determination from its law firm, Ivey and Dowler, what the bank's position would be if action was taken against George Mitches and not against A. E. Jeffery, and whether a meeting could be arranged between the bank and A. E. Jeffery. The law firm advised that "while legally we could proceed against all guarantors excluding A. E. Jeffery, the firm's recommendation was to proceed against all parties by way of a demand letter from Ivey and Dowler. If after receipt of same a meeting was requested by A. E. Jeffery, then such should be granted, however, should not be sought otherwise." As well, a bank officer "committed to apprise Corporate Banking of the situation and would then advise Joe Jeffery providing Corporate Banking agreed, that the bank would be proceeding under their guarantee. It was the general feeling that the actions taken and to be taken showed the bank to have acted in an extremely fair manner, and not be open to criticism by the Jefferys."

Mitches again requested the bank to hold off. A bank officer's letter to Ivery and Dowler, dated October 24, said "George Mitches advised that increased mortgage financing over residential properties assigned to the bank, would be sought to satisfy liability under the guarantees. While the proposed action would, of course, satisfy the bank requirements, our experience with Mr Mitches is that he is fully aware of the bank's requirements and, therefore, promises same voluntarily. Unfortunately, however, completion of same is not always as timely; therefore, the writer places no great faith in Mr Mitches' promises."

On October 24, George Mitches disappeared from his London law office, and on November 8 he was found dead in one of the Mitches-owned buildings in London. He had died from a bullet-wound to the head, and he was found holding a gun.

At a coroner's inquest in London last February, reported extensively in the London *Free Press*, it was disclosed the police hadn't dusted the gun for fingerprints until November 25, 17 days after the body was found, a period of time in which fingerprints can disappear. The police identification officer didn't know where Mitches' blood-stained trench coat was, and it had apparently been destroyed without being tested. Police said they didn't take prints earlier, and didn't test the coat at all, because they had already decided it was a suicide. Mitches' brother, who had found the body, testified he found it in a different position from that photographed by a police identification officer.

Mitches was reported missing to police on October 25, but police testified they virtually left it up to the family to look for him.

The investigating officer testified he was aware of the concurrent investigation into the Context loan guarantee, but that he had not been part of it. He said he had heard a report of George Mitches' possible involvement with loan-sharks, but he had uncovered no evidence of any creditors other than those listed against his estate.

The *Free Press* reported that coroner John Merritt took just 35 seconds to charge the jury. He told them it would be "a travesty of justice and an utter waste of time to everyone involved" if they did not find that Mitches "died of a self-inflicted gunshot wound to the head." After two hours of deliberation, the jury agreed it was suicide.

At stake were $900,000 in potential payments on insurance policies on George Mitches' life, that don't have to be paid in a case of suicide. The policies were with London Life. Lawyer Lorne Morphy of Toronto was granted standing to represent London Life at the inquest.

The George Mitches estate was petitioned in bankruptcy by the Bank of Montreal in November, claiming debt of $2.2 million relating to the Context guarantees. According to the Trustee's Report on Preliminary Administration by the bank's nominee Warren Paddon of the firm of Ernst and Ernst, "It appears from various records and documents which we have examined, that George T. Mitches invested significant funds in Context Systems Inc. The Law Society of Upper Canada has been investigating the affairs of the law practice. I do not have a report on this investigation. The Crown Attorney has seized many of the books and records of the law practice as well as company records of Context and Proto. The affairs of the estate are very difficult to determine . . ."

As well, the estate of a former federal cabinet minister appears to have lost about $400,000 under George Mitches' administration. A lawyer for the estate of the Honourable George E. Halpenny, a minister under Diefenbaker in the early 1960s, said in the bankruptcy proceedings that a loan of $233,090 from the estate to Context Systems, secured by a debenture, was discovered after Mitches' disappearance. Mitches didn't register the debenture under the Corporation Securities Act when it was executed in 1975, and the Halpenny estate lost an application to permit late registration and be considered a secured creditor of Context. Mitches was president of Context, the sole executor of the estate, and also the solicitor for the estate.

The Halpenny estate lawyer said, "The value of the estate of Halpenny at the time of his death (in May 1974) was $473,000. At the time of the disappearance of George Mitches on or about October 24 1978, the value of the estate had decreased to about $61,000."

Context was adjudged bankrupt on January 31, but the petition against Proto Investments, the Mitches family firm and one of the loan guarantors, hasn't been heard yet. The Mitches family, disputing the petiton, says, "The alleged guarantee of Proto Investments was but a part of an entire arrangement whereby the bank agreed to advance money to Context on the basis that all of A. Edgar Jeffery, Proto and certain of the other defendants provide guarantees, and the court cannot effectually and completely adjudicate upon the questions involved except in the pending civil action." In the Context bankruptcy, the Mitches said the bank in advancing the money "knew or at the very least ought to have known that Context Systems Inc. was then insolvent. . . ."

Through all the proceedings, the lawyers never lose their laconic charm. Here are Fasken and Calvin for Proto followed by Ivey and Dowler for the bank:

— We want to know where the funds went (in the bank's loan to Context).

— Yes, that is a very common instinct. □

Contempt of Court
A Law without a Definition

This is the third in Bimonthly Reports' press-law series.

One branch of the doctrine of contempt of court has a powerful effect daily on deletions and ommissions from news stories reported by the Canadian media. It is the *sub judice* or "before the courts" principle. Widely thought of as a rule against attempts to influence a court through comment on its proceedings, the rule in Canadian law is in fact much broader. It is a rule against publishing matter that, in a judge's opinion, does or might influence proceedings before him, regardless of the intent, or even, in some cases, the effect of the publication. And secondly the published matter doesn't have to bear directly on the court proceedings, but can extend to anything with sufficient relevance for a judge to make a finding of contempt. And the cases in Canadian law don't establish any definition of what that relevance has to be.

Decisions on whether or not to publish in such cases, press lawyers agree, is essentially a matter of trying to predict the judge's reaction. In some cases the material clearly should not be published, and in others it is pretty clear there is no danger, but a great many editorial decisions fall into the undefined area of simply being relevant in some way to some court proceeding, and decisions not to publish are often taken in such cases.

No one knows with certainty what relationship the published material has to have to the court matter to be in danger of contempt, and definitions differ widely. One legal writer says, "Articles of a factual nature . . . without suggestion as to the anticipated verdict, have been held not to be productive of a prejudicial effect warranting the court's intervention;" while another authority includes in the potentially contemptuous publications: "even perfectly true matters, not argument, because some of the facts you are publishing may not be admissible in court, and the juryman or potential juryman in the community will be reading in the newspaper something that they are not by law entitled to know."

The situation has in fact led to serious internal censorship within newspaper organizations. A senior press lawyer told me that some Ontario newspapers have a firm policy that if their lawyer expresses the opinion that there could be, or might be, a "contempt" problem, then the editor has no further discretion and must delete the possibly offending material.

It isn't possible to quantify the effect this state of affairs has on the Canadian press for many reasons, not the least of which is that reporters learn to stay away from topics where they know there is pending litigation, or where the topic of contempt is raised, whether or not the eventual danger of influence is a serious one.

But it is possible to illustrate the situation. One part of the contempt rule — which has to be gleaned from the cases, since the rule is not contained in any statute — is that material reflecting unfavorably on a litigant or a defendant could be viewed in this light, that it is discouraging him from asserting his rights in court, and the court may protect him via contempt. And the contempt penalty may apply quite apart from the question whether libel applies. Taken together with the general lack of definitions in the area of contempt, the rule places a very broad blanket of unceratinty over areas where litigation or criminal proceedings are common. And this uncertainty becomes, for some newspapers, an absolute bar to publication.

Another branch of the rule goes this way. There may be no danger of influencing any proceedings at all, but there may be a danger that the public will think there is such an effect, or that the "image" of the administration of justice might otherwise be impaired by a publication. As one Canadian authority writes: "It must be borne in mind that the *sub judice* rule has other purposes in addition to avoiding the possibility of influence. Even if it were proved absolutely impossible to influence a judge (sitting without a jury) under any circumstances, the rule should nevertheless be maintained in order to protect the public image of the administration of justice and to maintain the concept of a neutral and impartial system of justice."

Another key element in the contempt situation that isn't widely appreciated is this. The procedure in contempt hearings is "summary," meaning that the normal rules of due process don't have to be observed by the judge conducting the contempt hearing. And one of the rules that can be dispensed with is the solicitor and client privilege of confidentiality. So a solicitor advising on a possible contempt situation knows that judges will not have to respect the privilege of confidentiality, and that means the lawyer himself may be cited for contempt, because of his advice to his client.

So the legal advice is almost always cautious, the editor's response is often preordained by newspaper policy, and the underlying law is about as vague as it can be.

For example, since 1974, Sidney Rosen has been charged with no less than six business-oriented crimes in Ontario and one in Quebec. This is an unusual and newsworthy situation for many reasons, but no Toronto newspaper has reported on the Rosen matter as a whole, and it is because of the *sub judice* rule, because if one of the cases is to be tried, then the mention of the others could be found in contempt of that to be tried. Some experts say such instances are only a problem if you "tie in" one case with another case yet to be tried. But others say even if you don't, reporting on one case could be found to be in contempt of another case before the courts if the facts are related in some way. The *sub judice* rule may or may not have had some effect on the fact that not one of the completed Rosen trials was reported in any detail by any of the Toronto dailies.

The lawyers stress that in such instances timing is important.

What it boils down to is that knowing what to print in controversial situations, or where there are court proceedigns anywhere, is in effect a subtle art practiced by the press lawyers, and in order to avoid the uncertainty, the newspapers' response is to stay away from the areas altogether.

And since *sub judice* contempt is a criminal offence with no statutory definition, there is no maximum penalty. As one lawyer said, "In a libel situation you can predict what will happen even if you are sued and lose, but you can't predict what the judge will do to you (in a contempt citation)."

The same state of affairs doesn't exist in the United States where the contempt rule is enunciated in a US Supreme Court decision. It held that a publication, to be in contempt, must be "an imminent, not merely a likely, threat to the administration of justice. The danger must not be remote or even probable. It must immediately imperil."

The Law Reform Commission of Canada, in a 1977 Working Paper, proposed defining contempt as a "serious risk" of influence. The proposed definition is this: "Anyone who, wilfully or through recklessness, publishes or allows to be published anything that constitutes a serious risk of obstructing or influencing the impartial development of a judicial proceeding is guilty of an offence."

The proposal has gained no noticeable support from Canadian publishers.

The Law Reform Commission proposal is remarkably similar to a 1968 proposal by the American Bar Association, who were concerned about the other extreme. They too proposed that the offence should involve statements "wilfully designed by that person to affect the outcome of the trial, and that seriously threaten to have such an effect."

The recent CBC *Connections* program further illustrates the Canadian predicament. Several of the key figures in that program have pending criminal cases — not just the one that was studied by the Ontario Attorney General for a possible contempt citation. Many and perhaps all the major Canadian newspapers would not have printed such stories for fear that the unfavorable reflection on the future defendant would be found in contempt of the court proceeding, even if the court proceeding was not mentioned.

In the words of the Canadian press-law authority quoted earlier, potential jurors "will be reading in the newspaper something that they are not by law entitled to know." The author of that description of potential contempt areas was John Robinette, speaking to a gathering of newspapermen in the 1960s, and it is still cited today. I asked Robinette about it and he said, "That's far too broad." He was only trying to indicate, he said, *potential* problem-areas. But the definition that is "far too broad" has become in practice the general newspaper rule, and the Canadian Daily Newspaper Publishers Association, of which Robinette is general counsel, has done nothing to change it. □

Fair Comment

Some progress should be reported to the May 3 annual meeting of the Canadian Daily Newspaper Publishers Association on an attempt to organize an interprovincial lobby for the amendment of the provincial Press Laws relating to fair comment. The initiative was taken after the release of a Supreme Court of Canada decision in a case earlier this year (reported in Bimonthly Reports No. 7). Association counsel John Robinette was to contact representative publishers in the various provinces. □

Banking with Handels Kredit: Preliminary Inquiry

The preliminary hearing into theft and false prospectus charges relating to Chemalloy Minerals Ltd, now International Chemalloy Corp., began in January with two weeks of testimony. Former Chemalloy president David Winchell and lawyer Enver Hassim are charged in connection with two debentures issued by Chemalloy to Handelskredit Bank AG, Zurich, one for $3 million in 1971, and one for $5 million in 1973. The hearing, before Judge Joseph Addison, will continue for a two-week period in July, and further time needed to complete the inquiry will be scheduled then. Financial adviser Samuel Ciglen faces the same charges, but the proceedings against him await the outcome of a dispute with the Ontario Legal Aid Plan and the Attorney General's Ministry about Ciglen's legal fees.

The crown's allegation is that contrary to the Chemalloy financial statements and other announcements, the Handelskredit Bank did not buy the debentures or pay Chemalloy money for them, but merely acted as custodian for the debentures, crediting them to its Chemalloy "Blocked Assignment Account," which Chemalloy bookkeepers and auditors erroneously treated as a cash account.

Some money was received by Chemalloy from the debenture issue, but the crown alleges that there was a substantial discrepancy, and that some of the unpaid-for debentures were used for non-corporate purposes. Evidence was heard that some of the 1973 debenture had to be used to support the market in Chemalloy stock.

Debentures were released from the bank to Chemalloy associates in Toronto without payment, the crown says. They were what are called "convertible debentures," meaning they were exchangeable for Chemalloy shares, at the rate of one share for each $2.50 worth of the 1973 debentures.

At the time the 1973 debenture was being arranged, Chemalloy stock was trading in the $3.50 to $4 range on the Toronto Stock Exchange, and rising, former stock salesman Gerald Mandel testified. Mandel was looking after the Chemalloy market, and taking his instructions from Chemalloy president Winchell. After a compulsory 6-month holding period during which the debentures could not be converted or sold, Mandel said the Chemalloy stock was under heavy pressure and declining. He was arranging purchases to try to arrest the market decline, he said. When the first block of debentures was released and converted to stock, Mandel said he had to deliver much of it to various brokerage accounts in which Chemalloy purchases had been made on margin — that is, with only part cash or other security — where more security was needed to keep the brokers from selling out the stock. Other blocks of converted stock were needed to provide additional security for various corporate borrowings.

Mandel said he spoke to Winchell about some qualms he had about the procedure, and Winchell always told him the same thing: once the company's projects proved out as they were going to, and the stock-price rose again, "Everything will be made whole."

Mandel said he traded Chemalloy stock in anywhere between twelve and twenty brokerage accounts. He said on a typical day he would check with brokers prior to the market opening "as to the balance of buyers and sellers" for that day. From time to time, Mandel said, there were anticipated buy orders through certain brokers. "Certain people were responsible for creating buying and I had to keep track of their buying." Mandel explained most of the brokerage accounts he traded in were "nominees of the office," and he said there was generally a commingling of funds between Chemalloy and other companies and accounts.

In answer to a question from Judge Addison, Mandel said the basic purpose of his trading was "to create a dollar position in terms of working capital."

Mandel picked up the first batch of debentures at Zurich in August 1973, six months almost to the day after the deal had closed, he testified. The second batch came in October. Mandel said to the best of his recollection these were picked up at Zurich by others, but he signed the receipt "for bookkeeping purposes." Asked why $1 million in debentures were required at that time, Mandel said it was the same reason: "lack of support and market pressure."

"The evidence will indicate," Hunt said, "that in total the only funds received by Chemalloy either at Handelskredit Bank or in Toronto with respect to the debenture was $1.46 million, and that includes the $825,000 received at the bank." This left a substantial discrepancy at year-end 1973 between the debentures issued — and released — and the funds actually received. In the year-end financial statements for 1973, Hunt said, there was an erroneous entry under "source of funds" of $5 million, and in addition he said various assets were described incorrectly or in a misleading way, to hide the discrepancy. For example, he said the auditors were told Chemalloy had used debenture proceeds to purchase a $1.9 million "letter of credit" — in effect, a note indicating funds held by the bank on a stand-by basis — but in fact, Hunt said, the letter of credit was based entirely on a promise by Chemalloy itself to pay the bank $2 million by November 1974 or the "credit" agreement would lapse.

A further misstatement, Hunt said, was the treatment of $400,000 advanced to Chemalloy by Intraholding Establishment, Liechtenstein, as a loan. The $400,000 was also treated on the company's books as proceeds from the sale of the debenture, Hunt said.

A further $300,000 in sundry disbursements, also part of the alleged discrepancy, will be explained by the auditors, Hunt said.

The auditors, Thorne Gunn and Co., now Thorne Riddell and Co., had a representative attending the sessions as an observer, as did the law firm of McCarthy and McCarthy, who, in the person of Gerald Hayden, were corporate counsel to Chemalloy. Also observing the proceedings was a lawyer for Clarkson Co., now the trustees in receivership of Chemalloy.

Mandel also said in evidence that Winchell told him he would be in charge of "mergers and acquisitions" for Chemalloy for which funds would be available. But as Mandel put it, "within the office, there was a constant need for dollars, and I was from time to time giving cheques to Chemalloy from the Mandel in trust account." So he had to concentrate on stock-trading to provide funds for the company.

Mandel also testified about the Chemalloy involvement of Toronto investors Louis Sherkin and the DelZottos. He said a Winchell associate of long standing named Sidney Lebow first suggested Sherkin as a person who might be interested in Chemalloy stock. He described Sherkin as a businessman with a manufacturing company in the reclaimed rubber business who gets involved in the stock market "in a large fashion," and who had a lot of land and property holdings. Mandel said Sherkin ultimately became a substantial Chemalloy investor.

Angelo and Elvio DelZotto, the Toronto apartment developers, were brought to Chemalloy through Sherkin, Mandel said, again as potential investors. He said the DelZottos were known as affluent businessmen of good repute, who had been known to participate in public companies. "A lot of investors," Mandel said, "followed what the DelZottos were involved in when it became known." A group was put together to invest in Chemalloy stock and debentures. Mandel said as far as he knew, "the DelZotto group" was headed by Toronto lawyer Rudolph Bratty, but Angelo DelZotto acted as negotiator for the group. Other members of the group weren't named. □