IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

GOLD ANTI-TRUST ACTION COMMITTEE, INC., Plaintiff,	)	
v.	)	Civil Action No. 09-02436 (ESH)
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, Defendant.	)	

DECLARATION OF CHRIS POWELL

1. My name is Chris Powell. I am managing editor of the Journal Inquirer newspaper in Manchester, Connecticut. http://www.journalinquirer.com/. I also serve as secretary-treasurer and co-founder of Gold Anti-Trust Action Committee Inc., also known as GATA, the plaintiff in this action. http://www.gata.org/. Additionally, I serve on the board of directors of the Connecticut Council on Freedom of Information.

2. As a journalist and as a student of the history of gold and central banking for many years, I have researched the ways governments have sought to suppress the price of gold. It is my belief that the U.S. Government — through the U.S. Department of the Treasury (and its Exchange Stabilization Fund[1]) and the Federal Reserve System — continue to intervene in supposedly free markets to suppress the price of gold through various mechanisms, prominent among which are "**gold swaps**." Gold swaps are exchanges of gold between central banks

[1] http://www.ustreas.gov/offices/international-affairs/esf/ ("The legal basis of the ESF is the Gold Reserve Act of 1934 [which provides] 'the Secretary …, with the approval of the President, may deal in gold, foreign exchange, and other instruments of credit and securities.'")

allowing one central bank to intervene in the gold market on behalf of another central bank, generally to give anonymity to the central bank that wants to undertake the intervention. Based on my study, it is inconceivable that the Board of Governors of the Federal Reserve System, the Federal Reserve Board ("FRB"), and the Federal Reserve Bank of New York have no records relating to "gold swaps" other than those disclosed or identified in the Vaughn index in this case or previously released to GATA relating to use of this technique for central bank intervention in gold markets. However, it is not unexpected that the FRB would not want the public to be aware of these practices. Some history of how governments have sought to control the price of gold helps explain the basis for my belief that such records exist and that the FRB, at the center of the U.S. banking system and dealings with foreign central banks, must have them.

3. During the later part of the 19th Century, the United States operated under a **gold standard**. It was abandoned during World War I, restored briefly in the 1920s, and then abandoned again during the Great Depression. Under a gold standard, governments fix the price of gold to a precise value in their currencies, a price at which governments exchange their currencies for gold, currencies that are backed by gold.

4. Throughout the 1960s the United States and Great Britain attempted to hold the price of gold at $35 per ounce in a public arrangement of the dishoarding of U.S. gold reserves. This arrangement came to be known as the **London Gold Pool**. As monetary inflation rose, the London Gold Pool was overwhelmed by demand and was shut down abruptly in April 1968.

5. Three years later, in 1971, the United States **repudiated the remaining convertibility of the dollar into gold** — convertibility for foreign government treasuries that wanted to exchange dollars for gold. At that moment currencies began to **float** against each other and against gold — or so the world was told. For since 1971 the **gold price suppression scheme** has been undertaken largely surreptitiously, seldom acknowledged. But aspects of this surreptitious government program have been revealed from time to time, as this declaration will demonstrate.

6. The gold price suppression scheme became a matter of public record when the minutes of the January 1995 meeting of the Fed's Federal Open Market Committee were released. During that meeting, the general counsel of the U.S. Federal Reserve Board, **J. Virgil Mattingly**, explained that the consensus among White House/Treasury/Fed lawyers was that the "gold swaps" entered into by the U.S. Treasury Department's Exchange Stabilization Fund were lawful:

> MR. MATTINGLY. It's pretty clear that **these ESF** [Exchange Stabilization Fund] **operations are authorized**. I don't think there is a **legal** problem in terms of the **authority**. The statute is very broadly worded in terms of words like "credit" — **it has covered things like the gold swaps** — and it confers broad authority. Counsel at the White House called the Treasury's General Counsel today and asked "Are you sure?" And the Treasury's General Counsel said "I am sure." Everyone is satisfied that a legal issue is not involved, if that helps.[2] [Emphasis added.]

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[2] http://www.federalreserve.gov/monetarypolicy/files/FOMC19950201meeting.pdf, p. 69. Later, FRB Chairman Alan Greenspan and the General Counsel of the Federal Open Market Committee, Virgil Mattingly, vigorously denied to two U.S. senators, who had inquired of the FRB on GATA's behalf, that the FRB had gold swap arrangements. http://www.gata.org/node/1181

7. The gold price suppression scheme was again a matter of public record in July 1998, when Federal Reserve Chairman **Alan Greenspan** told Congress:

> Central banks stand ready to **lease gold** in increasing quantities should the price rise.[3] [Emphasis added.]

In this testimony, Greenspan contradicted the usual central bank explanation for leasing (swapping) gold — which was supposedly to earn a little interest on a dead asset — and admitted that gold leasing is all about suppressing the price.

8. The **Washington Agreement on Gold**, made by the European central banks in 1999, was another admission — even a proclamation — that central banks were working together to control the gold price. The central banks making the Washington Agreement claimed that, by restricting their gold sales and leasing, they meant to prevent the gold price from falling too hard. But even if you believed that explanation, it was still collusive intervention in the gold market.[4]

9. **Barrick Gold Corporation**, then the largest gold-mining company in the world, confessed to the gold price suppression scheme in U.S. District Court in New Orleans on February 28, 2003. That is when Barrick filed a motion to dismiss Blanchard & Co.'s anti-trust lawsuit against Barrick and its bullion banker, JPMorganChase, for rigging the gold

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[3] Greenspan's admission is still posted at the Fed's website: http://www.federalreserve.gov/boarddocs/testimony/1998/19980724.htm That testimony is historically significant for another reason as well — it is credited for having persuaded Congress not to regulate the sort of financial derivatives that have since devastated the world financial system.

[4] http://www.reserveasset.gold.org/central_bank_agreements/cbga1/. This agreement has been renewed twice, in 2004 and in 2009.

market. Barrick's motion virtually admitted that it was acting as an agent of central banks by borrowing gold from central banks through Morgan Chase and selling it, but could not be sued alone, without joining foreign central banks in the lawsuit.[5] While the lawsuit was settled confidentially, simultaneously Barrick announced that it would stop hedging its gold production — that it would stop borrowing gold against the company's future production and selling it to raise cash — the activity at the heart of the lawsuit.

10. The **Reserve Bank of Australia** confirmed the gold price suppression scheme in its annual report for 2003:

> Foreign currency reserve assets and **gold** are held primarily to support **intervention** in the foreign exchange market.[6] [Emphasis added.]

11. Perhaps the most brazen admission of the Western central bank scheme to suppress the gold price was made by the head of the monetary and economic department of the **Bank for International Settlements** ("BIS"), William S. White, in a speech to a BIS conference in Basel, Switzerland, in June 2005. There are five main purposes of central bank cooperation, White announced, and one of them is:

> the provision of international credits and joint efforts to **influence asset prices (especially gold** and foreign exchange) in circumstances where this might be thought useful.[7] [Emphasis added.]

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[5] http://www.gata.org/files/BarrickConfessionMotionToDismiss.pdf

[6] The bank's report is still posted at its website: http://www.rba.gov.au/publications/annual-reports/rba/2003/pdf/2003-report.pdf

[7] http://www.gata.org/node/4279

12. In January 2009 a remarkable 16-page memorandum was discovered in the archive of the late Federal Reserve Chairman **William McChesney Martin**. The memorandum is dated April 5, 1961, and is titled "U.S. Foreign Exchange Operations: Needs and Methods." It reveals a detailed plan of surreptitious intervention to rig the currency and gold markets to support the dollar and to conceal or obscure U.S. government records and reports **so that the rigging might not be discovered**.[8]

13. In August 2009 the international journalist Max Keiser reported an interview he had with the **Bundesbank**, Germany's central bank, in which he was told that all of Germany's gold reserves were held in New York.[9] GATA consultant Rob Kirby of Kirby Analytics in Toronto then pressed the **Bundesbank** for clarification. On August 24, 2009, the Bundesbank replied to Kirby by e-mail with a supposed denial of Keiser's report that actually confirmed its essential accuracy.

> The Deutsche Bundesbank keeps a large part of its gold holdings in its own vaults in Germany, while **some** of its gold is also **stored with the central banks located at major gold trading centers**. This has historical and market-related reasons, the gold having been transferred to the Bundesbank at these trading centers. Moreover, the Bundesbank needs to hold gold at the various trading centers **in order to conduct its gold activities**.[10] [Emphasis added.]

The Bundesbank did not specify those "gold activities" and those "trading centers." But those "activities" can mean only that the Bundesbank is or recently has been surreptitiously active in

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8 http://fraser.stlouisfed.org/docs/historical/martin/23_06_19610405.pdf

9 http://www.youtube.com/watch?v=EzVhzoAqMhU

10 http://www.gata.org/node/7713

the gold market, perhaps at the behest of others — like the United States, likely the largest custodian of German gold outside that country.

14. In September 2009 a New York financial market professional and student of history, Geoffrey Batt, posted at the Zero Hedge website three declassified U.S. government documents involving the gold market. The first was a long cable dated March 6, 1968, from someone named Deming at the U.S. Embassy in Paris to the State Department in Washington.[11] The cable described the strains on the London Gold Pool, the gold-dishoarding mechanism established by the U.S. Treasury and the Bank of England to hold the gold price to the official price of $35 per ounce. The London Gold Pool was to last only six months after this cable. The cable is a detailed speculation on what would have to be done to control the gold price and particularly to convince investors "that there is no point any more in speculating on an increase in the price of gold" and "to establish beyond doubt" that the world financial system "is immune to gold losses" by central banks. The cable recommends creation of a "new reserve asset" with "gold-like qualities" to replace gold and prevent gold from gaining value. To accomplish this, the cable proposes "monthly or quarterly reshuffles" of gold reserves among central banks — what the cable calls a "reshuffle club" that would apply gold where market intervention seemed most necessary. These "reshuffles" sound like the central bank gold swaps of recent years. The idea, the cable says, is for the central banks "to remain the masters of gold."

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[11] http://www.zerohedge.com/article/declassified-state-dept-data-highlights-global-high-level-arrangement-remain-masters-gold

15. Also in September 2009, Zero Hedge's Geoffrey Batt disclosed a memorandum from the Central Intelligence Agency dated December 4, 1968, several months after the collapse of the London Gold Pool. The CIA memo said that to keep the dollar strong and prevent "a major outflow of gold," U.S. strategy would be:

> – To isolate official from private gold markets by obtaining a pledge from central banks that they will neither buy nor sell gold except to each other….
>
> -- To bring South Africa to sell its current production of gold in the private market, and thus **keep the private price down**.[12] [Emphasis added.]

16. The third declassified U.S. government document published by Geoffrey Batt at Zero Hedge, also in September 2009, was written on June 3, 1975, four years after the last bit of official fixed convertibility of the dollar and gold had been eliminated. At that point the world had been told that currencies henceforth would float against each other and gold would be free trading. The document is a seven-page memorandum from Federal Reserve Board Chairman Arthur Burns to President Gerald Ford. It is all about controlling the gold price through foreign policy and defeating any free market for gold. Burns tells the president:

> I have a secret understanding in writing with the Bundesbank, concurred in by Mr. Schmidt [Helmut Schmidt, West Germany's Chancellor at the time] that Germany will not buy gold, either from the market or from another government, at a price above the official price of $42.22 per ounce…. I am convinced that by far the best position for us to take at this time is to resist

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[12] http://www.zerohedge.com/article/cia-chimes-gold-control-highlights-historical-gold-foreign-holdings-shortfunding

> arrangements that provide wide latitude for central banks and governments to purchase gold at a market-related price.[13]

17. In the instant case, GATA's Freedom of Information Act ("FOIA") litigation with the FRB, records have been denied to GATA on the grounds that disclosure would compromise certain private proprietary interests under FOIA exemption 4 ("trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential...."). A denial based on proprietary interests suggests that the U.S. gold reserve has been placed, at least partly, in private hands.

18. GATA brought an appeal of the FRB's denial of its 2009 FOIA request, and this appeal was directed to a full member of the FRB, Vice Chairman Kevin M. Warsh, formerly a member of the President's Working Group on Financial Markets, nicknamed the Plunge Protection Team. Mr. Warsh denied GATA's appeal on September 17, 2009, and let slip an admission at odds with FRB's position in this litigation:

> In connection with your appeal, I have confirmed that the information withheld under Exemption 4 consists of confidential commercial or financial information relating to the operations of the Federal Reserve Banks that was obtained within the meaning of exemption 4. This includes **information relating to swap arrangements with foreign banks** on behalf of the Federal Reserve System and is **not the type of information that is customarily disclosed** to the public. This information was properly withheld from you.[14] [Emphasis added.]

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[13] http://www.gata.org/files/FedArthurBurnsOnGold-6-03-1975.pdf

[14] Complaint ¶19 and Exhibit D. http://www.gata.org/files/GATAFedResponse-09-17-2009.pdf

Of course FRB Governor Warsh did not say that the FRB had swapped gold lately, only that it has arrangements to do so — and, just as important, that the FRB does not want the public and the markets to know about those arrangements, and does not want the public and the markets to know about the disposition of U.S. gold reserves.

19. GATA has had help in publicizing government manipulation of the gold market. First, in 2004 **Sprott Asset Management** in Toronto issued a comprehensive report written by Sprott's chief investment strategist, John Embry, and his assistant, Andrew Hepburn, titled "Not Free, Not Fair — the Long-Term Manipulation of the Gold Price."[15]

20. Then, in 2006, the **Cheuvreux brokerage house of Credit Agricole**, the major French bank, issued its own report confirming GATA's findings of manipulation in the gold market entitled "Remonetization of Gold: Start Hoarding."[16]

21. In 2007, **Citigroup** published a report titled "Gold: Riding the Reflationary Rescue," written by its analysts John H. Hill and Graham Wark, declaring:

> Gold undoubtedly faced headwinds this year from resurgent **central bank selling**, which was clearly timed **to cap the gold price**.[17] [Emphasis added.]

22. It is widely acknowledged that **annual world gold production** has been about 2,400 tonnes, that **annual net world gold demand** has been about 3,400 tonnes, that gold production has been falling as demand has been rising, and that the thousand-tonne gap

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15 http://www.sprott.com/docs/PressReleases/20_not_free_not_fair.pdf

16 http://www.gata.org/files/CheuvreuxGoldReport.pdf

17 GATA can provide a copy of this report to the Court upon request.

between production and net demand has been filled mainly by central bank dishoarding and leasing. Without this central bank intervention supplying more than a quarter of annual demand, it is beyond question that the price of gold would be much higher. Certainly not all dishoarding was innocent management of a foreign exchange reserve portfolio.

23. For years the **International Monetary Fund**, the central bank of the central banks, has been openly intervening in the gold market by threatening to sell gold. The IMF said its intent in selling gold was to raise money to lend to poor nations. This explanation was ridiculous on its face, though the IMF has never been challenged about it in the financial press. Indeed, the financial press seems quite willing to tell the world that central banks, which lately have effortlessly conjured into existence fantastic amounts of money in many currencies, could find a little money to help poor countries only by selling gold. Of course, the intent of the IMF and its member central banks was not to help poor countries but to intimidate the gold market and control the gold price. That the IMF intimidated the gold market so long with this threat of gold sales was all the more remarkable because the IMF probably has never had any gold to sell in the first place. In April 2008 I wrote to the managing director of the IMF, Dominque Strauss-Kahn, with five questions about the IMF's gold. I copied the letter to the IMF's press office by e-mail, and quickly began to get some answers from one of its press officers, Conny Lotze.

a. My first question to the IMF was: "Your Internet site says the IMF holds 3,217 metric tons of gold 'at designated depositories.' Which depositories are these?" Conny Lotze of the IMF replied, but not specifically. She wrote: "The fund's gold is distributed across a number of official depositories." She noted that the IMF's rules designate the United States, Britain, France, and India as IMF depositories.

b. My second question was: "If you would prefer not to identify the depositories for security reasons, could you at least identify the national and private custodians of the IMF's gold and the amounts of IMF gold held by each?" Conny Lotze replied, again not very specifically: "All of the designated depositories are official."

c. My third question was: "Is the IMF's gold at these depositories allocated — that is, specifically identified as belonging to the IMF — or is it merged with other gold in storage at these depositories?" Conny Lotze replied, still not very specifically: "The fund's gold is properly accounted for at all its depositories."

d. My fourth question was: "Do the IMF's member countries count the IMF's gold as part of their own national reserves, or do they count and identify the IMF's gold separately?" Conny Lotze replied a bit ambiguously: "Members do not include IMF gold within their reserves because it is an asset of the IMF. Members include their reserve position in the fund in their international reserves." This sounded to me as if the IMF members were still counting as their own the gold that supposedly belongs to the IMF — that the IMF members were just listing the gold assets in another column on their own books.

e. My fifth question to the IMF was: "Does the IMF have assurances from the depositories that its gold is not leased or swapped or otherwise encumbered? If so, what are these assurances?" Conny Lotze replied: "Under the fund's Articles of Agreement it is not authorized to engage in these transactions in gold." The response addressed only whether the

IMF itself was swapping or leasing gold, not whether the custodians of the IMF's gold were swapping or leasing it.

f. This prompted me to raise one more question for Conny Lotze: "Is there any audit of the IMF's gold that is available to the public? I ask because, if the amount of IMF gold held by each depository nation is not public information, there does not seem to be much documentation for the IMF's gold, nor any documentation for the assurance that its custody is just fine. Without any details or documentation, the IMF's answer seems to be simply that it should be trusted — that it has the gold it says it has, somewhere." And that was the last I heard from Conny Lotze. She did not answer me again. I had spoken a word that is increasingly unspeakable in the gold section of central banking: audit.

24. Lately central bankers often have complained about what they call "imbalances" in the world financial system. That is, certain countries, particularly in Asia, run big trade surpluses, while other countries, especially the United States, run big trade deficits and consume far more than they produce, living off the rest of the world. These complaints by the central bankers about "imbalances" are brazenly hypocritical, since these imbalances have been caused by the central banks themselves, caused by their constant interventions in the currency, bond, and commodity markets to prevent those markets from coming into balance through ordinary market action lest certain political interests be disturbed. When markets balance themselves they often do it brutally, causing great damage to many of their participants. The United States enacted a central banking system in 1913 because for almost 150 years, the country had suffered a catastrophic deflation every decade or so. Central

banking was created in the name of preventing those catastrophic deflations. The problem with central banking has been mainly the old problem of power — it corrupts.

25. Central bankers are supposed to be more capable of restraint than ordinary politicians, and maybe some are, but they are not always or even often capable of the *necessary* restraint. One market intervention encourages another, and another, and increases the political pressure to keep intervening to benefit special interests rather than the general interest — to benefit especially the financial interests, the banking and investment banking industries. These interventions, subsidies to special interests, increasingly are needed to prevent the previous imbalances from imploding. And so we have come to an era of regular market interventions by central banks — so much so that the main purpose of central banking now is to prevent ordinary markets from functioning at all.

26. By manipulating the value of money, central banking controls the value of all labor, services, and real goods, and yet it is conducted almost entirely in secret — because in choosing winners and losers in the economy, advancing infinite amounts of money to some participants in the markets but not to others, administering the ultimate patronage, central banking cannot survive scrutiny. Yet the secrecy of central banking now is taken for granted even in nominally democratic countries. What other agency of a democratic government could get away with the principle that was articulated on national television in the United States in 1994 by the vice chairman of the Federal Reserve, Alan Blinder? Blinder declared: "The last duty of a central banker is to tell the public the truth."[18]

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[18] PBS Nightly Business Report, 1994, quoted at: http://www.opednews.com/articles/THE-FED-INDEPENDENCE-SCA-by-Kent-Welton-0911

27. Although some take government secrecy in central banking for granted, even as the evidence of market intervention and manipulation explodes all around them, GATA does not.[19]

28. I believe that FRB, in refusing to furnish substantial records reflecting gold swap transactions, actual and/or proposed, during the period 1990 through 2009, as GATA requested, either (i) has not conducted an adequate search for these records, or (ii) is not being forthcoming with this Court. It is inconceivable, for example, that the FRB would not have records reflective of the various specific incidents described above which occurred during the nearly 20-year period (January 1, 1990 — April 14, 2009) for which records were requested.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed, this 22nd day of September, 2010.

Chris Powell

12-826.html.

[19] Such acceptance of secrecy is reminiscent of the bumbling police detective played by Leslie Nielsen in the "Naked Gun" movies admonishing the assembled public — "move on, nothing to see here, please disperse."
http://www.youtube.com/watch?v=rSjK2Oqrgic