



VIA: AIR  
(Specify air or sea pouch)

Dispatch No. ECGA 90943

**SECRET**  
CLASSIFICATION

To : Chief, EE

Date 15 July 1957

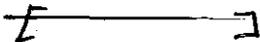
FROM : Chief of Station, Germany

Info: BOB

SUBJECT: GENERAL— Operational GADORY  
SPECIFIC— ECGASSOCK

Forwarded as S/C Attachment A is a Memo for the Record detailing the substance of the 29 May Fran/Bob discussion re legalization and funding of ECGASSOCK. Since it is often difficult and time consuming to do justice to certain project developments in normal dispatches or cables, we felt that this Memo could serve a useful informative function in giving the Branch desk officers a sample presentation of the complexities facing us in putting GADORY projects on a complete legal basis in sovereign Germany.

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APPROVED: 

**Distributions:**

- 3 - EE (USC Attachment A)
- 2 - BOB (USC Attachment A)

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### ROUTING AND RECORD SHEET

SUBJECT: (Optional)

S.C. Attach. "A"

FROM:

RI/AN

NO.

EGQA-90943-126-24/1

DATE

24 JUL 1957 32E 15 July

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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31 JUL 57

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LC Cassock -  
Dandy + Blawie

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RMF

Cassock

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RI/FI

← Please file with  
15 July 57  
EG 126-24/1

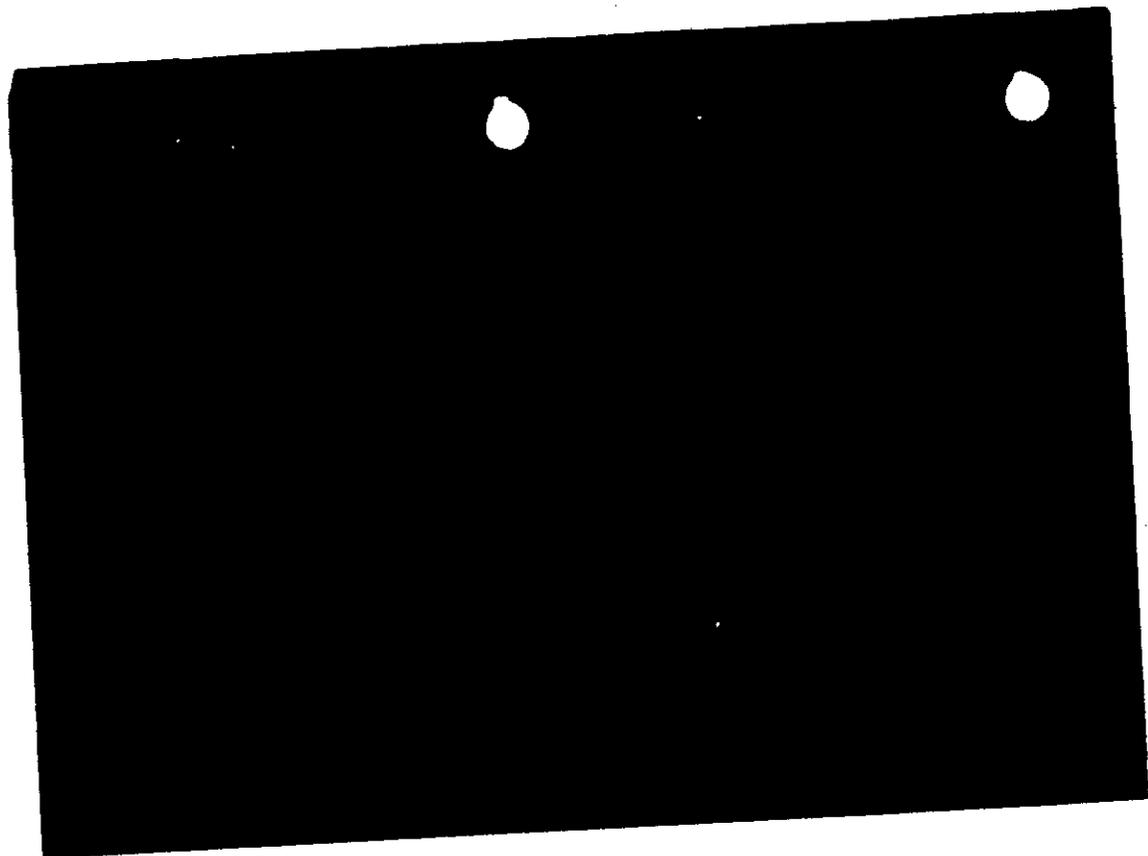
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- 2 -

an equity holder as soon as we can get our control position in order. The 30% CADRIER figure represented a tentative compromise from the 49% figure which [ ] indicated Berlin had thought should be CADRIER's ultimate equity position. [ ] suggested that instead of 49-51, it might be proper for KUBARK to take a larger slice. I stated my position was a consistent one in this and all similar projects--that I, given a choice, would take 100% of the equity for KUBARK and reward the principal agents (PA) by some other means, such as profit sharing or increased compensation, as their services warranted. I stated that we should recognize that whatever share is given the PA as his minority share represents that percentage of the value of KUBARK assets upon project liquidation which was going into the pocket of the PA as a "bonus" at that time. This fact, stated in those terms, aroused some surprise among the participants. Although we have talked equity assignment and PA's retention of minority shares in LCPAGAN and LCCASSOCK, and more theoretically in other projects, it had not been clearly brought to the fore that giving the PA a certain minority share meant just that. In deciding upon a percentage at this time, we were giving away at the time of liquidation that many dollars' worth of assets created from KUBARK funds. I conceded that this point had not been presented as such in previous communications on the subject, but that it was, at least to me, clearly implicit in the arrangement. Under the present status, the assets of these projects do not belong to us in any legally enforceable manner and, quite the contrary, belong to the heirs of either the equity holders, as in the case of LCPAGAN, or of the sole proprietor, as in the case of LCCASSOCK. [ ] thought that this should be clearly pointed up before we went any further in granting the PA a minority share in either project, and I agreed to do so by dispatch.

b. The problem of how to bring the present fixed assets, valued in the June 1956 inventory at DM 84,000, into the GmbH without jeopardizing the personal tax status of CADRIER was discussed. ~~present capital assets, held under~~ either the name of the [ ] or the [ ], i.e., if the tax authorities would ever stop to [ ] about it, the personal property of CADRIER. In no logical way, from the taxable compensation which has been paid and reported, could he have ever accumulated these as business assets. This might be forcibly brought to the attention of the tax authorities to his personal detriment and our ultimate "indemnification" liability, if they are brought into a GmbH as a capital contribution. Similarly it would not make sense, either from a bookkeeping or tax investigation standpoint, to bring them into the GmbH without showing them at something like their reasonable market value on the books, particularly with respect to such items as automobiles, the

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- 4 -

relevance in this instance. We agreed that, other than the problem of bringing the fixed assets into the GmbH which, if they are brought in at their market value, would require a minimum logical capitalization of DM 100,000, there would be no reason for capitalizing at an amount in excess of DM 20,000. We agreed that we could not make a final decision on this point until we decided how to handle the fixed assets.

e. Collateral to the determination of the amount of capitalization and directly germane to the issue of whether to move ahead with incorporation before commencing funding, was my position that the amount necessary for the original capitalization should come as the first grant of the overt sponsor, because the incorporators do not personally have this kind of money--tax wise--and if we can later establish that the money used to incorporate came from the sponsors, we can spare them tax embarrassment in re where they got the money. This understandably leads us to another consideration, which, insofar as I can see, is incapable of solution if we are to maintain our equity control through a Deviseninlaender cut-out. To spare the Deviseninlaender from personal tax problems, my proposal to utilize the original funds transferred by the Devisenauslaender sponsor runs theoretically, if not actually, into conflict with the currency control requirement that Divisenauslaender investments within Germany be made with Liberalized Marks. I conceded that in both LCCASSOCK and in the LCPAGAN equity assignment proposals this was a flaw to which I have been unable to find an answer.

f. Where are the draft proposed articles of incorporation prepared by the former LCCASSOCK legal counsel?

[ ] replied that a copy had been forwarded about a year ago, but were probably obsolete now and should be re-drafted by the new counsel. He stated that a copy would be forwarded to me. I suggested on this point that, before these articles moved very far, we should carefully review them to avoid damaging language such as that placed in the LCPAGAN articles relating to equity holders' shares going to their heirs upon their deaths.

## 5. TAX STATUS

a. Umsatzsteuer. I suggested that we should start action to obtain a 1% Umsatzsteuer rate on the grants received from the PBPRIME sponsor concurrent with the request for the BdL license. This preferential rate took us many months to obtain on LCPAGAN and then only through the intervention of [ ] I suggested that we might first try to have Steuerberater Krebs

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- 6 -

Geschenksteuer. This presupposes our presumption that obtaining the preferential Umsatzsteuer rate will be one of the slower items to get cleared up because once an Umsatzsteuer determination is made, it logically by definition excludes the payment of Geschenksteuer on the same funds.

b. We discussed the who, when, and sequence problems of applying for a BdL license and the license amount which should be requested. I said that I thought this would probably take 3-4 weeks and that we should remember that the application was forwarded by the BdL to the [redacted] for prior approval. Logically, if the funds for [redacted] are to come from the first transmittal, the application for the BdL license would be the first outside step taken. We agreed that the logical party to carry this ball would be the same lawyer who is to be used for incorporation. We also agreed that we should ask for a sufficiently high license amount approval to avoid a subsequent requirement to amend the license to increase the ceiling, because very application for a license involves attorneys' fees. However, on this point, I reminded the group that the higher the amount applied for, the higher the original attorney's fees, because the fees are predicated on the amount of money involved. It is expected that LCCASSOCK will spend approximately \$[redacted] in the next fiscal year, and we tentatively discussed a license application for \$[redacted]. [redacted] is going to discuss this matter in Berlin and arrive at a figure not far in excess of our anticipated maximum.

7. After discussing these specifics, we returned to the issue of sequence of action, and there was general agreement that, even though incorporation could be almost immediately effected, it was undesirable to go ahead with this aspect without tying it in to the funding and the tax consequences of the funding. We agreed to return to our original proposal of many months ago, wherein the first step would be to obtain a license, that incorporation would follow from funds received under this license, and that concurrent with the application for the license, action would be taken to obtain a preferential Umsatzsteuer rate. We then discussed how we could proceed on any of this with as many considerations as were involved on each aspect without cleared local counsel.

8. I suggested that we could do this perhaps by revising our overt correspondence to incorporate in the sponsor's letter many of the technical questions raised in our discussions and that these overt letters could be taken to the lawyer or Steuerberater Krebs by CAUTERY/1. [redacted] thought not. He felt that some of the questions which we discussed could be raised immediately by CAUTERY/1 with the necessary individuals, but that our next step should be to request Headquarters for a clearance on the lawyer to enable us to get in direct contact.

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- 7 -

He did not see how we are going to work out all of these aspects without that contact--nor do I. The result was general agreement that a cable should be sent indicating that the necessary field measures required in the implementation of the incorporation and funding were contingent upon the lawyer's POA. This cable is BRLN 1548.

9.                    will raise many of the points discussed above with CAUTERY/1 and advise us of what they learn.

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Distribution:  
Orig & 1 - AD/W  
2 - Legal

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### ROUTING AND RECORD SHEET

SUBJECT: (Optional)

S. C. Attach. "B" to

FROM:

RI/AN

NO.

EGQA-90943

DATE

26 JUL 1957

TO: (Officer designation, room number, and building)

DATE

OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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EE/G / East/5 (RMF)

*[Handwritten initials]*

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no p - E/S - 26 July 57

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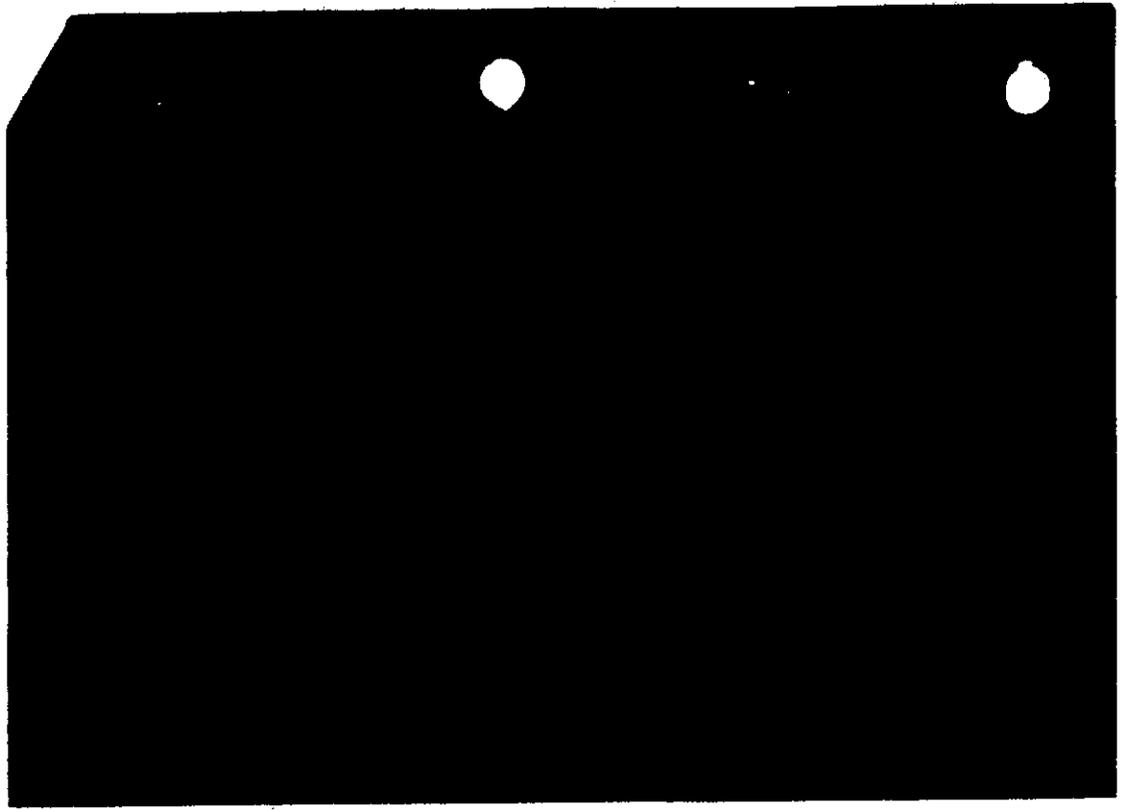
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EQQA 90943

**SEPARATE COVER ATTACHMENT "B"**

**Identity List**

1. AQUATOR Verlag .....Identity One
2. Cramer Werbung .....Identity Two
3. Kaiser Ministry.....Identity Three

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