

Stories from the publication Offshore Alert

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Until sentencing, Barry and co-defendant James "Andy" Collins, who is a former Texas prison chief, are out on bail.

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Although the Houston Chronicle newspaper reported that jurors were excited by the attendance of Ali, who is a friend of Barry's, they took just over one hour to reach guilty verdicts on August 20.

It is the second time that Barry, who is reportedly a reformed drug-user, has been convicted of a major crime. In 1982, a Canadian court sentenced him to six years in prison for extorting \$82,000 from John R. McConnell, who was the son of a newspaper publisher in Montreal.

"The crime, committed in 1972, involved Barry's use of a prostitute in a scheme to deceive McConnell into believing he had to pay blood money to a Mafia kingpin from New Jersey for having seduced the mobster's wife," reported the Montreal Gazette in 1998.

"At the time, McConnell was Barry's partner and the financial backer of the record company McConnell Records Ltd."

He began calling himself Yank Barry in 1979, although his birth name was Gerald Falovitch, reported the newspaper.

In 1987, he declared personal bankruptcy under both names, with the bankruptcy enabling him to avoid paying \$284,000 to McConnell relating to their record business venture.

Barry has ties to the widely-discredited Global Prosperity Group, which organizes dubious offshore investment seminars, and he is a former promoter of the First International Bank of Grenada.

Barry's firm Global Village Market International Inc., which is supported by Ali and other celebrities, was actually listed on the sham World Investors' Stock Exchange that was part of the FIBG group.

A list of purported shareholders of St. Vincent-registered Global Village Market International that has been obtained by OffshoreAlert shows that Global Prosperity Group principal Zo Lamantia and his wife Kay are listed under the names "Kay & Lorenzo Milano" of The Galt Group, with an investment of \$50,625.

Also listed as a shareholder is Brian Verbeek, of Bryden Investment Group. Both Verbeek and Bryden are defendants in a civil lawsuit alleging fraud that was filed in the United States on May 21, 2001 by clients of Cambridge International Bank & Trust, a failed sub-bank of FIBG.

In 1998, an investigation by the Montreal Gazette accused Global Village Market of misrepresenting the number of meals that it claimed to have donated to Third World countries.

The newspaper reported that it could find documentation to support just five per cent of GVM's claim to have donated 30 million meals – a claim that has since gone up to 260 million.

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The U. S. Government has filed a motion asking a federal judge to sentence Yank Barry, an offshore promoter, and James Collins, a former Executive Director of the Texas Department of Criminal Justice.

More than 28 months after they were both convicted of conspiracy, bribery and money laundering at federal court in Houston, Texas on August 20, 2001, Barry and Collins have still not been sentenced.

On October 10, 2003, the U. S. Government asked the judge to sentence Barry and Collins before prosecutor Gary L. Cobe started a six-month stint as a Colonel in the Army Reserves on October 18.

However, that date came and went without any ruling from Judge Lynn N. Hughes who, apart from granting motions allowing Collins to travel, has issued no decisions for more than 12 months.

Still pending before the court are motions by the defendants for a judgment of acquittal or, in the alternative, a new trial, which were both filed as long ago as July 22, 2002.

"As the Court is aware, the original transcript of the trial in this action was not produced until more than eight months after the conclusion of the trial," stated Barry's motion.

"When the transcript was finally produced, it was riddled with errors, some of which were obvious and some of which – such as a missing portion of Defendant Barry's cross-examination – were apparent only on close examination."

Despite an order from the court that the transcript be corrected, "approximately one third" was still uncorrected and there were "significant errors in that portion that was corrected", it was claimed.

Barry claims he is entitled to a new trial "because the corrected trial transcript is not a substantially verbatim record of the trial".

In its response, the government said Barry "seeks to make a farce" out of the system.

"The government has never agreed that consultation with the transcription of the court reporter's notes was required to resolve unspecified 'post-trial motions'," stated prosecutors in a document filed in 2002.

"And this case is not a 'circumstantial evidence' case: Barry himself admits the acts alleged; he faults proof of a mens rea. He faults government reliance upon direct testimony of Barry's accomplice-in-crime.

"It is highly unusual for a defendant to successfully detour the sentencing process by moving to postpone sentencing to secure a trial record.

"It is likewise incredible for Barry to rest upon the necessity of consulting the record to justify the now-year long delay when he continues to be represented by the same pair of trial attorneys who participated in the proceedings ab initio and he raises the same or new-fangled theory/theories of relief.

"The government demonstrated in its response to Barry's separate motion for a new trial based upon trial transcript error that Barry identifies no factual or legal errors to the record, as corrected.

"Despite having a full year to mark and identify any omission or exclusion of portions of the record that are substantial and significant, Barry resorts to general invective and inflammatory language that is nothing more than conclusory."

As previously reported in OffshoreAlert, the proceedings against Barry and Collins, have been highly unusual.

The jury took just over one hour to convict them of a scheme in which Collins was bribed to award a US\$33.7 million prison food contract to Barry's firm VitaPro Foods.

Then, even though they were facing up to 20 years in prison, Judge Hughes freed them on bail and even allowed Barry to leave the country so that he could continue living in the Bahamas.

In March, 2003, Jackie Smith – the court reporter for Barry's trial – served seven days of a ten-day prison sentence for contempt of court for failing to deliver trial transcripts in a timely manner or at all for several cases.

Apart from his bribery and money laundering conviction in Texas, Yank Barry has previously been convicted of extortion in Canada and has been involved in several offshore scams, including the First International Bank of Grenada and the Imperial Consolidated Group.

Bahamas-based conman Yank Barry and his wife, Yvette, are being sued in the United States for allegedly failing to pay the full invoice to a company that installed a pool at their condo in Manatee County, Florida.

Plaintiff Acme Pool Services & Supply LLC, a Florida-domiciled entity doing business as Adventure Hot Tubs & Pools, claims that the Barrys still owe \$6,238 on a \$28,640 invoice.

Adventure Hot Tubs installed a fiber glass pool at Lot 12, Block B, El Conquistador Village IIA between August 16, 2010 and September 2, 2010, according to the complaint.

"Due to unforeseen conditions of the ground and underground that was discovered during excavation, additional costs were incurred, and further approved by the Defendant and pursuant to the terms of the Contract said additional costs will be the responsibility of the Defendant," it was stated.

"There remains an outstanding balance of \$6,238, plus interest, due and owing to Adventure Hot Tubs for work completed pursuant to the Contract.

"Despite demand for payment, Adventure Hot Tubs has not received payment from Defendant for the sums due and owing for the work performed."

The plaintiff filed a lien against the condo on September 15, 2010, according to the complaint.

As previously reported by OffshoreAlert, Barry has a long track record involving dishonesty and indebtedness. One of his most repeated lies is that he was the lead singer of The Kingsmen, who had a hit in 1963 with the song 'Louie Louie' when, in reality, he has never been even in the band. He has criminal convictions for extortion in Canada in 1982, for which he was sentenced to six years in prison, and for conspiracy, bribery and money laundering at the U. S. District Court for the Southern District of Texas in 2001, the latter conviction later being overturned by a judge in bizarre and suspicious circumstances. Barry filed for personal bankruptcy in Canada in 1987 and, in 2007, a judgment for \$3 million was entered at Bahamas Supreme Court against him and his 'charity', Global Village Market Holdings Ltd., in favor of First Capital Investments Mercantile Inc., which was controlled by Jay Gotlieb. Global Village was exposed as a fraud by the Montreal Gazette newspaper in 1998.

Barry habitually does business with other dubious characters. He has been involved in one capacity or another with the First International Bank of Grenada, whose sham offshore stock exchange listed the shares of Barry's St. Vincent & the Grenadines-domiciled Global Village Market International Ltd.; Imperial Consolidated Group, and the Global

Prosperity Group, all of which committed multi-million dollar frauds, and, in his criminal case in Texas, \$200,000 of sureties for his release from custody were provided in 1999 by Mark Colosi and Rex Judd, who were described as "business associates". The following year, Colosi and Judd were accused in a civil complaint filed by the Federal Trade Commission at the U. S. District Court for the Western district of New York of making false and/or misleading statements in order to induce the public to buy home-based business opportunities. Colosi and Judd settled the action in December, 2000 by agreeing to pay a civil penalty of \$22,000, jointly and severally with two affiliated companies and a third individual defendant, and not to make any further false promotional statements.

In 2002, The Young Presidents' Organization in the USA withheld payment of \$150,000 in contributions that it raised at a Barry-sponsored fund-raiser after it learned that the recipient 'charity' – the Russian Children's Relief Fund Inc., which was operated from a luxury condo in Miami by Gordon Stula – did not even legally exist anymore, having been dissolved the year before.

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## KEYWORDS

- [Yank Barry](#)
- [Yvette Barry](#)
- [Adventure Hot Tu](#)

Bahamas resident Yank Barry will face a new trial on charges of money laundering and bribery following an adverse ruling by a federal appeals court in the United States.

In a decision delivered on July 23, 2007, the U. S. Court of Appeals for the Fifth Circuit overturned a lower court judge's decision to acquit Barry and co-defendant James Collins after they had been convicted by a jury. However, the appeals court stopped short of allowing the convictions to stand, as the prosecution requested, and, instead, ordered a new trial for Barry, as CEO and President of VitaPro Foods, and co-defendant James Collins, who awarded VitaPro a \$33.7 million contract to supply prison food while he was the executive director of the Texas Department of Criminal Justice. Collins accepted payments of \$20,000 from VitaPro while still employed with the TDCJ, which prosecutors claimed were bribes and the defendants claimed were consulting fees. Further, Collins accepted a \$1,000 per day consultancy position with VitaPro immediately after leaving his employment with the TDCJ, according to the prosecution.

A jury sitting at the U. S. District Court for the Southern District of Texas had convicted Barry and Collins of money laundering and bribery in 2001 but U. S. District Judge Lynn Hughes, who had released both men immediately following the verdict and then refused repeated prosecution requests to sentence them, issued an order of acquittal in 2005 on the grounds that i) the government's key witness [Patrick Graham, a convicted felon] offered contradictory and unfounded testimony; ii) the jury was confused by the introduction of extraneous and irrelevant testimony, and iii) no substantially verbatim transcript of the trial exists due to problems with the court stenographer, who later served a short prison-term for contempt for failing to produce various trial transcripts.

In overturning the judgment of acquittal, Circuit Judges Jolly, Clement and Owen stated that: "After reviewing the record and considering the parties' arguments as presented in the briefs and at oral argument, we find that the district court erred in granting the defendants' motion for a judgment of acquittal."

"The evidence presented at trial, viewed in the light most favorable to the verdict, was sufficient to permit a rational juror to find Collins and Barry guilty beyond a reasonable doubt," they stated in their decision. "The district court reached its contrary conclusion by choosing to disregard entirely the testimony of the government's key witness, Patrick Graham." However, Judge Hughes' "independent assessment of Graham's credibility was impermissible" under Rule 29 of the Federal Rules of Criminal Procedure, which requires judges to defer to the jury's "reasonable construction ... of the evidence", stated the appeals judges.

"The jury was presented with substantial evidence of Graham's poor character and was made aware of the contradictions in his testimony, but still the jury found that the Government had proven Collins and Barry guilty beyond a reasonable doubt. No one suggests that the evidence is insufficient, if Graham's testimony is permitted, and if the jury chose to credit it, which it apparently did. The district court erred in substituting its own judgment for that of the jury to conclude that Graham's testimony should be disregarded. We therefore reverse the judgment of acquittal under Rule 29."

When Judge Hughes threw out the jury verdict, he also ruled that, in the event his decision was successfully appealed by the prosecution, the defendants should have a new trial. The appeals court judges agreed.

Citing case law, the appeals judges stated: "In our capacity as an appellate court, we must not revisit evidence, reevaluate witness credibility, or attempt to reconcile seemingly contradictory evidence .... Instead, we must simply concern ourselves with whether or not the district court's ultimate decision in granting or denying the motion for a new trial constituted a clear abuse of its discretion."

They added: "In this particular case, we cannot conclude that the district court's ultimate decision to grant a new trial constituted an abuse of discretion. The court found that the testimony of the government's key witness, who provided the only direct evidence of wrongdoing, was unfounded and perjured; that the integrity of the verdict was called further into question by the introduction of irrelevant evidence that had no relationship to the charged misconduct, and that confused the jury; and that no substantially verbatim transcript of the trial exists to support proper appellate review. Although each of these findings might not, standing alone, be sufficient to support a new trial, given the totality of the circumstances of this case, we cannot conclude that the district court's ruling was an abuse of discretion. We therefore affirm the district court's alternative ruling granting a new trial."

While the appeals court's decision to reverse the judgment of acquittal was unanimous, its decision to grant a new trial, rather than let the verdict stand, was by a majority of two to one. In her dissenting opinion, Circuit Judge Edith Brown Clement stated: "While I concur in the reversal of the judgments of acquittal, I respectfully dissent from the majority's holding that the district court did not abuse its discretion when it granted the defendants a new trial. Setting aside the jury's verdict and granting a new trial in the interest of justice is appropriate "where the evidence brought forth at trial may tangentially support a guilty verdict, but in actuality, preponderates sufficiently heavily against the verdict such that a miscarriage of justice may have occurred." There is no question that the evidence here, which included Collins's own financial records, testimony from Lori Lero [Patrick Graham's daughter], and testimony from multiple Texas Department of Criminal Justice employees, fully supported a guilty verdict for both defendants.

"The majority relies on three factors to justify its holding. Even in combination, these factors are insufficient to justify the district court's decision to grant a new trial. First, the majority states that the district "court found that the testimony of the government's key witness, who provided the only direct evidence of wrongdoing, was unfounded and perjured." This factor merely restates the district court's disagreement with the jury's verdict and credibility determinations. The evidence before the jury was both substantial and compelling, even apart from Patrick Graham's disputed testimony.

"Barry claimed that he did not know that Collins was still employed by TDCJ when he began to make payments to Collins in late 1995, but TDCJ employees testified that Barry visited the TDCJ offices in December 1995, when Collins helped him obtain an identification card by introducing him as an entertainer. Graham's daughter Lori Lero, an

attorney, testified that she set up the corporation Certified Technology Consultants ("CTC") with Collins's knowledge and that she was told to do so in order to facilitate payments to Collins from Barry's company, VitaPro. CTC's financial records revealed thousands of dollars in wire transfers from VitaPro to CTC, and Collins's personal financial records showed deposits that matched the amounts VitaPro transferred to CTC. In short, there was substantial evidence of wrongdoing by Collins and Barry that did not depend directly on Graham's testimony.

"Perhaps more importantly, Collins and Barry failed to present credible evidence to counter the government's case. For example, to explain thousands of dollars in cash deposited into Collins's bank account, Collins testified that he was "a voracious change saver" and that the money came from change he had collected over the years.

"Second, the evidence that the district court called irrelevant and confusing was in fact both relevant and helpful and did not justify a new trial. The allegedly confusing cash transactions corroborated Graham's testimony and provided evidence of a corrupt agreement between Collins and Barry. The detailed financial analysis of CTC's and Collins's bank accounts, another allegedly confusing matter, was necessary to properly trace the funds transferred to CTC from VitaPro. The allegedly confusing and irrelevant evidence regarding misuse of a social security number indicated that Barry knew that Collins was still employed by TDCJ during December 1995, contrary to Barry's testimony. This was evidence of Barry's guilty knowledge that he was paying Collins while Collins was still employed at TDCJ. The evidence of Collins's financial transactions and Barry's misuse of the social security number was neither irrelevant nor unduly confusing and did not justify granting a new trial.

"Third, the district court found that "no substantially verbatim transcript of the trial exists to support proper appellate review." This finding is at odds with this court's precedent regarding incomplete trial transcripts, which looks more skeptically on missing transcripts than on otherwise complete transcripts which contain errors. Compare *United States v. Neal*, 27 F.3d 1035, 1044 (5th Cir. 1994) (holding that a more than 150-volume trial transcript containing over 300 errors was not "unreasonably incomplete or substantially inaccurate" when these errors "were primarily of a typographical nature"), with *United States v. Selva*, 559 F.2d 1303, 1306 (5th Cir. 1977) (remanding for a new trial when all of the closing arguments were missing from the transcript).

"The present case is much more like *Neal* than *Selva*. Collins and Barry's trial was transcribed in full, and the vast majority of the errors verified in the corrected transcript were typographical in nature. In addition, 71.55% of the transcript was compared to audiotape backup and corrected to make those portions verbatim. I would hold that the transcript is sufficiently complete to permit appellate review.

"As the majority noted, the district court must not "set aside a jury's verdict because it runs counter to [the] result the district court believed was more appropriate." *Maj. Op.* at 4 (quoting *Tarango*, 396 F.3d at 672). That is exactly what happened here. None of the district court's stated reasons are individually sufficient to justify a new trial, and they do not gain additional merit via aggregation. For these reasons I would reverse the district court and remand with instructions to reinstate the jury's verdict."

Barry, a Canadian national born Gerald Falovitch, has a checkered past. In 1972, a Canadian court sentenced him to six years in prison for extorting money from a business partner; in 1987, he declared personal bankruptcy; and, more recently, he listed one of his companies on a sham stock exchange operated by the fraudulent First International Bank of Grenada group.

Bahamas-based businessman Yank Barry, who is a twice convicted criminal, will be the subject of an investigative Canadian television program due to air at 10 PM EST, Sunday, April 21, 2002.

Barry will be featured on CTV's 'W-Five' program, which is Canada's equivalent of '60 Minutes' in the United States.

Among those interviewed for the program were Barry, legendary former boxer Muhammad Ali and David Marchant,



publisher of OffshoreAlert.

Barry is currently awaiting sentencing in Texas after being convicted last August of money laundering and bribery. He has a previous conviction for extortion in Canada in 1982.

He was also involved in the First International Bank of Grenada group, which went into liquidation in January, 2001 with estimated liabilities of \$473 million.

Further information about the program can be viewed at

[http://www.ctv.ca/servlet/HTMLTemplate/CTVShowsNews?tf=ctv/generic/hubs/ctvShows.html&cf=ctv/generic/hubs/ctvShows.cfg&this\\_site=CTVShowsNews&title=new\\_wfive](http://www.ctv.ca/servlet/HTMLTemplate/CTVShowsNews?tf=ctv/generic/hubs/ctvShows.html&cf=ctv/generic/hubs/ctvShows.cfg&this_site=CTVShowsNews&title=new_wfive).

Controversial businessman Yank Barry, who hails from Montreal in Canada, has been given his passport back by Judge Lynn Hughes sitting in the US District Court for the Southern District of Texas, where Barry is awaiting trial on eight counts of bribery, fraud and money laundering. From the day he surrendered his passport on February 10, 1999 until it was given back to him following a ruling on September 22, 2000, Barry had to apply to the court each time he wanted to travel overseas and had indeed been given such permission on several occasions to fly to the Bahamas and Grenada, where his business affiliations include such dubious entities as the First International Bank of Grenada group, whose bogus stock exchange listed his firm's shares; the Global Prosperity Group, at which Barry has spoken; and the Imperial Consolidated Group, whose investments he promotes. Now Barry will be able to travel freely until a jury decides whether to lock him up for the second time in his life, having previously served time in Canada many years ago after being criminally convicted for a racketeering-related offense under his real name of Gerald Falovitch...

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The criminal proceedings in Texas involving Bahamas-based businessman Yank Barry continue to drag on. Barry was indicted on January 15, 1998 and convicted of conspiracy, bribery and money laundering on August 20, 2001 by a jury that took just 45 minutes to reach a verdict, despite the appearance in the court-room of boxing legend Muhammad Ali to support Barry, who is his friend and business associate. Even though he is facing up to 65 years in prison, the court allowed Barry to return to live in the Bahamas pending sentencing and, eight months after the verdict, he has still not been sentenced. It is the same story with James Collins, the former Executive Director of the Texas Department of Criminal Justice who was convicted alongside Barry. Sentencing has next been set for June 7, 2002. Meanwhile, on April 21, 2002, Barry was the subject of an investigative television program called 'W-Five', which is broadcast in Canada by CTV. The program, which featured interviews with Muhammad Ali and OffshoreAlert publisher David Marchant, can be viewed over the Internet by going to <http://www.ctvnews.com/index.html> and clicking on 'W-Five' and then 'Yank Barry: Saint or Sinner?'. Barry has appeared in previous editions of OffshoreAlert

due to his ties to the Global Prosperity Group and the First International Bank of Grenada. He uses celebrities to raise money for his 'charity', Global Village Market, which he claims has distributed "272 million meals to date". However, he cannot provide evidence to support his claims and various journalists have questioned GVM's legitimacy. One of the so-called charities that Barry helped raise \$150,000 for earlier this year at a Young President's Organization event in the United States was the Russian Children's Relief Fund Inc. (Proprietor Gordon P. Stula, of Miami, Florida), which didn't even exist at the time, having been struck off the Florida corporate register on March 16, 2001. According to 'W-Five', the YPO withheld payment after being alerted to what was going on. Barry boasts he was once the lead singer of the musical group "The Kingsmen" – which had a smash hit in the 1960s with the song "Louie Louie". However, a spokesman for the band's official web-site told OffshoreAlert on April 22, 2002 that Barry has never been a member of the band, let alone lead singer. A list of all group members over the years, sans Barry, can be viewed at [www.louielouie.org/bandinfo.html](http://www.louielouie.org/bandinfo.html). When questioned about his apparent lie by 'W-Five', Barry claimed that he had once belonged to a "splinter" group after the existing band broke up. Barry's past includes a conviction for extortion in 1982 and a bankruptcy in 1987, both in Canada. His birth name is Gerald B. Falovitch...

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The long-awaited criminal trial of Bahamas resident Yank Barry in Texas on charges that he bribed a prison governor to secure a lucrative contract for his soy-based food firm called VitaPro is due to start on August 7, 2001 following previous delays. Barry and co-defendant James Collins were indicted as long ago as January 15, 1998. If convicted, Barry will almost certainly go to prison for a second time in his highly dubious business career. In 1982, Barry was sentenced to six years in prison for extortion in Canada and, in 1987, he declared personal bankruptcy. VitaPro now operates under the name Global Village Market, an international arm of which was registered in St. Vincent & The Grenadines. The company claims to have donated millions of meals to help feed the world's poor, although The Montreal Gazette has reported that Global Village Market has not donated anywhere near the number of meals that it claims. Shares of Global Village Market International were listed on the sham World Investors' Stock Exchange,

which was part of the First International Bank of Grenada group, whose products Barry promoted. A brochure for GVMI in the possession of OffshoreAlert shows that the Chairman and CFO of GVMI was Azie Taylor Morton, who was the 36th Treasurer of the United States under President Jimmy Carter, while Andrew Young, former Mayor of Atlanta, Georgia, was also a director. Other officers and directors included Michael Reznick, President/CEO; Jason Taite, Vice President and COO; Rubin Fogel, Treasurer; and Yank Barry's wife, Yvette, Secretary. Barry has also been linked with the operations of the Imperial Consolidated Group in Grenada. In addition, Barry has been a speaker at conferences organized by the widely-discredited Global Prosperity Group...