

NYTimes JUL 3 1974
**CONSPIRACY LAID
TO ARNHOLT SMITH**

**Attempt Charged to Misuse
\$170-Million From Bank
He Formerly Controlled**

By United Press International

WASHINGTON, July 2—A Federal grand jury today indicted C. Arnholt Smith, the California financier, on a charge of having conspired to misuse \$170-million in funds from a defunct bank he formerly controlled.

The Justice Department announced a 25-count indictment returned in Federal District Court in San Diego, which also charged Mr. Smith with having made false statements to Federal bank examiners and having falsified bank records.

Mr. Smith, who is 75 years old, was formerly president and board chairman of the United States National Bank of San Diego and president and board chairman of the Westgate-California Corporation. Westgate-California has been in bankruptcy proceedings since March 1.

Mr. Smith is a long-time

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friend of President Nixon and has contributed to his political campaigns.

United States National failed last October, and the Federal Deposit Insurance Corporation is liquidating about 400-million in bank loans, the Justice Department said.

The grand jury also indicted Philip A. Toft, one of Mr. Smith's associates, on a charge of bank funds and having made false statements to the Government.

Mr. Toft, of the San Diego suburb of Jamul, was formerly later president of Westgate-California.

The indictment charged Mr. Smith and Mr. Toft with having conspired since January, 1969, to use the borrowing power of Westgate-California and its sub-

idiaries to get fraudulent loans from the United States National Bank for the benefit of themselves and other companies.

The indictment said Mr. Smith and Mr. Toft had falsely stated the purposes of the loans and methods of repayment, concealing the fact that the loans would be used for purposes other than the benefit of the listed borrowers.

In addition, the indictment said, they prepared false financial statements to support the loans.

The indictment listed 97 loans totaling about \$170-million that allegedly were made to various businesses with Mr. Smith's approval as part of a conspiracy.

Special bank accounts that did not appear on the books of the listed borrowers were set to serve as channels for movement of the borrowed money, the indictment said.

Westgate-California was described as a conglomerate involved in food processing and the operation of taxicabs, hotels and other businesses.

The indictment contained 13 counts charging Mr. Smith and Mr. Toft with having misapplied \$27.5-million of United States National Bank funds, and six counts charging that they had made false statements to Federal bank examiners about loans involving \$5.6-million.

Watergate Complex Cited

One count charged that Mr. Smith and Mr. Toft had made a false statement to bank examiners that certain loans were for investment in the Watergate building complex in Washington when they knew the funds were not for that purpose.

Mr. Smith was charged in two counts with having made false entries in the United States National's books. The indictment said he had obtained a \$3.5-million loan from the Chemical Bank of New York for a corporation he controlled.

This corporation owned the San Diego Padres baseball team. The indictment said Mr. Smith had made an entry in his bank's records showing that the Padres had \$1.25 million on deposit when there was no such deposit.

Mr. Smith also was charged with three other counts of having made false statements to Federal examiners.

Attorney General William B. Saxbe said the indictment had resulted from a long investigation by the Federal Bureau of Investigation and a grand jury inquiry conducted by Warren P. Rees, Chief Assistant United States Attorney in San Diego.

The Justice Department said the maximum penalty on conviction for each count of misapplication of bank funds, false statements to Federal bank examiners and false entries in bank records was five years in prison and a \$5,000 fine, and for conspiracy, five years in prison and a \$10,000 fine.



Associated Press

C. Arnholt Smith