

## Other issues

### *Bank of Credit and Commerce International (BCCI)*

#### **Q: What was the involvement of Khalid Bin Mahfouz in the BCCI affair in 1991?**

A: Khalid Bin Mahfouz was an investor in BCCI and for a time a non-executive director. At no stage did he hold an executive position in the bank. When BCCI collapsed, Khalid Bin Mahfouz, together with others, was indicted in New York State on the grounds that he had withdrawn sizeable investments in the bank just before its collapse. Khalid Bin Mahfouz vigorously contested the allegations because he had acquired the right to "put" his shares in BCCI at the time he made his investment, and had legitimately exercised that right.

In 1993, after protracted litigation, the criminal case against Khalid Bin Mahfouz was dropped, as was an investigation being undertaken by the Federal Reserve Board into the acquisition of First American Bank. In settling all pending matters, Khalid Bin Mahfouz jointly agreed with Haroon Kahlon, another defendant, to pay approximately US \$225 million, the vast bulk of which was used by BCCI's court appointed liquidators in settling claims of depositors and creditors who had suffered loss through the BCCI collapse.

#### The key facts in this matter are:

- The indictment by the New York State grand jury was for a technical violation of law, similar to a "preferred distribution" prior to a bankruptcy. While categorized a "fraud", there was no "theft" committed or "false statements" made or alleged i.e. this was not a crime of "moral turpitude".
- Unlike the other defendants, Khalid Bin Mahfouz did not plead guilty to any "lesser offence" e.g. a misdemeanour.
- The December 1993 settlement agreement with the State of New York and the Federal Reserve made it clear that Khalid Bin Mahfouz had admitted no wrong doing or liability with respect to any allegations or claims.
- The indictment against Khalid Bin Mahfouz was dismissed.
- Khalid Bin Mahfouz was never accused of engaging in the various illegal activities purportedly associated with BCCI, such as money laundering, drug trafficking and arms dealing.
- Khalid Bin Mahfouz was convicted of neither a crime nor misdemeanour and is free to travel to and do business in the USA.

*Ireland*

**Q: Do the family have Irish citizenship?**

A: In 1990, Khalid Bin Mahfouz availed himself of the opportunity under the laws of the Republic of Ireland to obtain Irish citizenship for himself and other members of his family.

*Sedco*

**Q: What is the SEDCO group?**

A: SEDCO is owned by Khalid Bin Mahfouz's brothers and their families. SEDCO is principally engaged in passive investments through managed funds but because Khalid Bin Mahfouz and his immediate family are not involved with SEDCO, we are not in a position to answer any more detailed questions.

*IIRO (International Islamic Relief Organisation)*

**Q: Is there a connection between IIRO and Khalid Bin Mahfouz and/or his family?**

A: There is no connection other than IIRO and Muwafaq may have occasionally worked together in the same countries.

*IDF*

**Q: What is the International Development Foundation?**

A: We understand that IDF was an entity in Oxford, England of which a co-founder was Mohamed Bin Mahfouz, a brother of Khalid Bin Mahfouz. Neither Khalid Bin Mahfouz nor any member of his immediate family had any other information about this entity.

*SAAR*

**Q: Is there a connection between the SAAR Foundation and the Khalid Bin Mahfouz family?**

A: The Khalid Bin Mahfouz family has never had anything to do with SAAR and has never made any contribution to that foundation.

*Hybridon*

**Q: Is there a connection between Hybridon Inc and the Khalid Bin Mahfouz family?**

A: At one time, Khalid Bin Mahfouz's elder son, Abdulrahman Bin Mahfouz, was an investor in the company. He sold his shareholding in 1997.

*Delta*

**Q: Was there a connection between Khalid Bin Mahfouz and/or his family and Delta Oil?**

A: We understand that Delta Oil Company Limited ("Delta") is a private company founded by a Saudi national, Mr. Badr M. Al-Aiban. Neither Khalid Bin Mahfouz nor his family ever had any ownership interest in Delta.

In 1994 Nimir Petroleum Company Limited ("Nimir"), a Bermuda company founded in 1991 and at the time wholly-owned by Abdulrahman Bin Mahfouz and Sultan Bin Mahfouz (Khalid Bin Mahfouz's sons), acquired a 50% interest in a 15% participation that Delta owned in an oil exploration field in Azerbaijan that was being developed by Unocal Corporation. Specifically, the 15% interest was in the Azeri and Chirag Fields and the Deepwater Portion of the Gunashli Field. A joint venture company called Delta Nimir Khazar Limited ("DNKL"), owned 50% each by Delta and Nimir, became the owner of the 15% participation in the Unocal exploration rights.

In 1998, Delta advised Nimir that Delta had a buyer for DNKL's interest in the Unocal rights, which was Amerada Hess. In September 1998 Nimir sold its 50% interest in DNKL back to DNKL itself so that, thereafter, Delta became the sole owner of DNKL and subsequently sold the underlying interest in the Unocal rights to Amerada Hess.

See Africa Energy Intelligence of 15.12.2004 on [Corrections](#).

**Q: Was Khalid Bin Mahfouz and/or his family involved in the Central Asia Gas Pipeline project?**

A: Neither Nimir, its affiliates, its owners, nor Khalid Bin Mahfouz had any interest in this project. According to a press release issued by Unocal Corporation on October 27, 1997 ( [www.unocal.com/uclnews/97news/102797a.htm](http://www.unocal.com/uclnews/97news/102797a.htm) ) Unocal, five other international companies, including Delta, and the government of Turkmenistan formed a consortium called "CentGas" to construct a pipeline linking Turkmenistan's natural gas reserves to Pakistan.

See Sunday Express (UK) of 06.07.2003 on [Corrections](#).

See [US civil](#) suits re Dismissal of Nimir from Burnett case

**Q: Does the bin Mahfouz family still own Nimir Petroleum?**

A: No. In October 2004, Nimir Petroleum and Nimir Chemicals were bought from Abdulrahman and Sultan bin Mahfouz in a MBO by former Nimir directors and senior executives. The companies are now called Knightsbridge Petroleum and Knightsbridge Chemicals.

*Harken Energy*

**Q: Was Khalid Bin Mahfouz an investor in Harken Energy? Did Khalid Bin Mahfouz fund Abdullah Taha Bakhsh or any other individual or entity to invest in Harken Energy?**

A: The answer to both questions is the same: No.

*The Golden Chain*

**Q: What is the Golden Chain list and was there a connection to Khalid Bin Mahfouz?**

A: The Golden Chain list, supposedly drawn up in 1988, contains the names of 20 prominent Saudi Arabian businessmen including that of a 'Bin Mahfouz' (no first name prefixed) and it is asserted by the plaintiffs in the *Burnett* suit that those named all made or intended to make donations to Al Qaeda.

Originally, the document is understood to have been seized by Bosnian police during searches of the offices of Benevolence International Foundation in Sarajevo in March 2002.

The list was first mentioned in the Indictment of Enaam Arnaout on 9 October, 2002 (02 CR 892) and was subsequently presented by the US government as Exhibit 5 in the Department of Justice "Government's Evidentiary Proffer Supporting the Admissibility of Co-conspirator Statements" in the case of USA v. Arnaout (USDC, Northern District of Illinois, Eastern Division) filed on 29 January, 2003. The Evidentiary Proffer was subsequently ruled inadmissible.

Two recent judgments in the High Court of England have raised major questions about the provenance and meaning of the list:

- It is unclear as to whether it is a list of donors or a list of those who might be approached for funding; there is nothing in the list to suggest that the individuals have made donations, rather than that they are potential donors.
- It is unclear who created the document or when it came into existence; its author is unknown as is the source of the author's information.
- The list has been dated by Mr. Brisard to 1988 at which time Osama Bin Laden was engaged in resisting the Soviet incursions into Afghanistan with the approval of Western governments. (The plaintiffs in the *Burnett* suit plead that "at least since **August 1996**, Osama Bin Laden has been named as a financier and promoter of Islamic extreme terrorist activities...")

- There is nothing to link the list to Al Qaeda.

In 1988, the year of origin accorded by Mr. Brisard to the list, Khalid Bin Mahfouz was approached for a contribution to the Afghan resistance movement by his close friend, Salem Bin Laden, Osama Bin Laden's eldest brother. In line with many other prominent Saudi Arabians and in accordance with US Government foreign policy at that time, Khalid recalls making a donation of approximately \$270,000 at some point before Salem's death in a plane crash in May 1988.

When this donation was put forward by the defendants in *Al Rajhi Banking v. Wall Street Journal*, the Court ruled that "this does not demonstrate or provide reasonable grounds to suspect funding of Osama Bin Laden or Al Qaeda."

On 18 January 2005 the Opinion and Order of the United States District Court Southern District of New York relating to *Burnett Plaintiffs v. Mohammed Bin Abdullah Al-Jomaith* stated: "Their (the Plaintiffs) theory of jurisdiction rests almost entirely on a document with serious foundational flaws. Even assuming, as the Court must, that the 'Golden Chain' refers to Mr. Aljomiah, with no indication of who wrote the list, when it was written, or for what purpose, the Court cannot make the logical leap that the document is a list of early al Qaeda supporters." In the same Opinion in the case of *Burnett Plaintiffs v. Sheikh Hamad Al-Husani*, the court stated that the Golden Chain is "only a list of names found in a charity's office." Motion to dismiss the Burnett complaint was granted in both cases.

Khalid Bin Mahfouz never knowingly made any donation to Al Qaeda or to any organization or person acting on Al Qaeda's behalf or to any other terrorist organisation.

See:

[Al Rajhi Banking Investment Corporation v The Wall Street Journal Europe](#)

[Hartwell Plc v Times Newspapers Limited](#)

*JCB Report*

**Q: Was Jean-Charles Brisard commissioned by the President of the United Nations Security Council to prepare a report on the financing of terrorism?**

A : No, he was not.

The so-called 'UN' report prepared by Jean-Charles Brisard and JCB Consulting, was published on a web site in late December 2002. Mr Brisard claimed that the report,

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entitled 'Terrorism Financing: Roots and trends of Saudi terrorist financing', had been prepared at the request of the President of the UN Security Council in December 2002 and briefed journalists accordingly. In his written evidence to the U.S. Senate Committee on Banking on 22 October 2003, Mr. Brisard drew the attention of that committee to 'my report to the UN'.

Despite Mr Brisard's assertions that he was commissioned by the President of the United Nations Security Council to prepare a report on terrorism financing, this is in fact 'completely false'. The then President of the UN Security Council, Alfonso Valdivieso, has confirmed in two letters dated 12 March 2004 ([click here to read](#)) and 26 April 2004 ([click here to read](#)). He stated that it is 'completely false that I in my capacity as President of the Security Council or as President of the 1267 (Terrorism) Committee or in any capacity within that Organization had commissioned him on a personal or official basis to write a Report on terrorism. He [Jean-Charles Brisard] had no role whatsoever with the United Nations Security Council during the period in which I occupied the Presidency'. Senor Valdivieso has also confirmed that Mr Brisard's report was unsolicited; that he does not believe it was taken seriously by anyone at the UN; or that the UN took any step or action as a result of being sent the report. He added that 'Mr Brisard's conduct and attitude is totally deceitful and marked by the intention to mislead'.

The Al Qaeda Taliban Sanctions Committee established by the UN Security Council pursuant to UN Resolution 1267 (1999) has also confirmed that the status of the JCB report as follows:

- The JCB report was never commissioned by the President or any member of the UN Security Council or any subsidiary body or indeed any UN body. Therefore the report has no official status within the UN.
- The JCB report has never been published by the UN Security Council or any other UN agency.
- Any member of the public is entitled to submit a document to the UN. The JCB report was received on the same basis as any other unsolicited document sent to the UN.

The JCB report contains a number of grave and unfounded allegations about Khalid bin Mahfouz and is currently being contested by him in the UK courts. ([See Litigation](#)).

*UK libel actions*

### **Why Did Mr. Bin Mahfouz bring libel actions in England?**

A : Though citizens of Saudi Arabia, Khalid Bin Mahfouz and his family have maintained residences and held business and investment interests in England for decades. The Bin Mahfouz family are well known in business and financial circles in London, both for their international business activities and as the former owners and operators of the National Commercial Bank of Saudi Arabia, that country's largest bank, prior to the sale of their interests in 1999.

In the wake of the events of September 11, 2001, the Bin Mahfouz family were subject to a variety of false allegations linking the family and their bank to the funding of terrorism, primarily through their support of Islamic charities. The intensive "war on terror" and terror funding conducted by the United States and many other countries throughout the world made legal confrontation of these claims a practical necessity for the Bin Mahfouz family. However unfounded, these accusations of complicity with terrorism are profoundly damaging and disruptive to international business activities. If true, the allegations would mean that the Bin Mahfouz family were criminals and enemies of the United Kingdom and many other countries, subject to a range of sanctions, including regulatory seizure of assets and criminal prosecution.

To dispel these extremely damaging allegations, Mr. Bin Mahfouz, his two sons, and an oil company based in London that they owned brought libel actions in London against six publications. The Bin Mahfouz parties were fully successful in every case. In fact, no defendant ever produced any evidence to support any of the allegations and all defendants except Dr. Rachel Ehrenfeld retracted and apologized before trial. These defendants included Associated Newspapers, Inc. and Cambridge University Press, large, well funded organizations who, together with their prominent libel counsel, concluded that these allegations were baseless. Dozens of other media outlets that had printed these allegations voluntarily retracted and apologized without litigation.

### **Why did the English libel court exercise jurisdiction over Dr. Rachel Ehrenfeld?**

A: In her work *Funding Evil*, Dr. Ehrenfeld made particularly defamatory claims that Mr. Bin Mahfouz and other prominent citizens of Saudi Arabia were funders of terrorism. Though the book was published primarily in the United States, the offending chapter was made available on the ABCnews.com website that was viewed by over 100,000 English viewers per month. The book was also sold into England over the internet. Though the counsel for Mr. Bin Mahfouz had no way of knowing total English sales, he was able to confirm the sale of at least 23 books to third parties in England.

Dr. Ehrenfeld has publicly claimed that she never intended the book to be sold in England, and that the large bulk of the publication occurred in the United States. If so, she could have raised a substantial challenge to the exercise of jurisdiction.

Prospective defendants have the right to challenge the Court's jurisdiction in a threshold proceeding and argue that another country's courts would provide a more appropriate forum. In determining whether to accept jurisdiction, the English courts will consider a number of relevant factors-the jurisdictional contacts of all parties, the location of witnesses, convenience, expense, and the scale of publication occurring in different possible jurisdictions-to determine where "*the case may be tried most suitably for the interests of all the parties and for the ends of justice.*" (See *Chadha v. Dow Jones & Co* [1999] E.M.L.R. 724, 730 (SA61) (quoting *Spiliada Maritime Corp v Cansulex Ltd* [1987] AC 460)). Dr. Ehrenfeld declined, however, to raise a challenge to English jurisdiction, and accepted a default judgment.

Dr. Ehrenfeld could also have avoided the risk of English jurisdiction by specifically excluding England from those territories for which authority to publish was given in her contract with her publisher. The claimant has the burden to prove that the defendant authorized publication in the English jurisdiction. A U.S. author would not be held liable by the English Court for subsequent publication of a book in England by the publisher, whether deliberate or accidental, if no authority for publication of the book in England had been given.

#### **What was the judgment and order entered against Dr. Ehrenfeld?**

A: The Court issued a Declaration of Falsity in favour of Mr Bin Mahfouz and his sons, which reviewed and found baseless the defamatory claims made in *Funding Evil*, after conducting a detailed examination of pre-trial correspondence from Dr. Ehrenfeld's English counsel and evidence that had been submitted by the Claimants. Mr Justice Eady noted that the Claimants have ["addressed the potential merits, such as they may be, of a potential plea of justification...they are not content simply to sit back upon the presumption of falsity."](#)

The Court also awarded Mr. Bin Mahfouz and his two sons £10,000 each in damages against Dr. Ehrenfeld and her publisher. The Court subsequently issued an award against Dr. Ehrenfeld and her publisher for attorneys fees and costs in the amount of £114,000. No attempt has ever been made to enforce these judgments.

The Court further enjoined Dr. Ehrenfeld from repeating her libel in England but imposed no burdens on her speech in the United States. Dr. Ehrenfeld, in fact, used the English action to publicize a new edition of her book which declares on its cover that it is "The book the Saudis don't want you to read."

The Court did not order that Dr. Ehrenfeld's book be destroyed, as has been suggested in various commentaries on this matter. Nor does the Court's judgment in any way restrict Dr. Ehrenfeld's ability to travel to the UK or in the European Community, as she has sometimes claimed.