

JONES DAY

51 LOUISIANA AVENUE, N.W.
WASHINGTON, D.C. 20001-2113

STEPHEN J. BROGAN
MANAGING PARTNER

TELEPHONE: 202-879-3939
FACSIMILE: 202-626-1700
WRITER'S DIRECT NUMBER:
202-879-3926

January 16, 2004

VIA HAND DELIVERY

Chairman Charles E. Grassley
Committee on Finance
United States Senate
135 Hart Senate Office Building
Washington, D.C. 20510

Honorable Max Baucus
Committee on Finance
United States Senate
511 Hart Senate Office Building
Washington, D.C. 20510

Re: December 22, 2003 Inquiry Letter to the Office of Foreign Assets Control

Dear Chairman Grassley and Ranking Member Baucus:

I am writing as counsel to Mr. Khalid Bin Mahfouz to respond to statements concerning Mr. Bin Mahfouz made in your letter of December 22, 2003 to Mr. Richard Newcomb, Director of the Office of Foreign Assets Control ("OFAC"). Mr. Bin Mahfouz is a well-known and well-regarded businessman and citizen of Saudi Arabia, who formerly served as Chairman of Saudi Arabia's largest bank, the National Commercial Bank of Saudi Arabia. He has publicly condemned terrorism, particularly the terrible events of September 11, and has never supported or had any relationship whatsoever with Osama bin Laden or terrorism of any kind.

Your letter, nevertheless, inquires why OFAC has not designated Mr. Bin Mahfouz as a terrorist supporter when, according to a recent article, it has "already listed" an organization that Mr. Bin Mahfouz either had "created, chaired, ran or [was] otherwise associated with." Your inquiry is based upon an article in a newsletter titled Money Laundering Alert by Ms. Moyara Ruehsen, which is in turn based upon a purported "United Nations Security Council report" written by Mr. Jean-Charles Brisard.¹

¹ M. Ruehsen, *Little-noticed UN report cites alleged Saudi terrorist financing*, 14 Money Laundering Alert No. 12, at 4 (October 2003), citing Jean-Charles Brisard, *Terrorism Financing: Roots and trends of Saudi*

Chairman Charles E. Grassley
Honorable Max Baucus
January 16, 2004
Page 2

In fact, neither the United Nations, the United States nor any other government has ever identified Mr. Bin Mahfouz or any organization with which he is affiliated as a supporter of terrorism in any report or list. The report by Mr. Brisard on which Ms. Ruehsen relied is in fact not a United Nations document at all. Rather, it is simply the personal views of Mr. Brisard – who serves as the “lead investigator” for Mr. Ronald Motley and other plaintiffs’ trial lawyers who have brought a lawsuit claiming “in excess of One Trillion Dollars” on behalf of victims of September 11 against a broad array of individuals and entities, including Saudi Arabian government officials and prominent Saudi citizens, like Mr. Bin Mahfouz.² The cited report was apparently tendered by Mr. Brisard to the U.N., but it was neither requested by the U.N., nor is it considered by the U.N. to be an official United Nations document.³ Moreover, the U.N. has not accepted Mr. Brisard’s arguments that various individuals and charities that had not previously been named as terrorism supporters should be deemed primary sponsors of al-Qaida.⁴ Mr. Brisard has falsely claimed his document to be a United Nations report in order to lend legitimacy to his views and to Mr. Motley’s lawsuit.

Mr. Brisard has sought to publicly vilify Mr. Bin Mahfouz and other defendants to Mr. Motley’s action through a series of misstatements intended to be sensational in several publications and forums. Mr. Brisard has previously attempted to use the United States Senate to publicize his misrepresentations through testimony submitted to the Committee on Banking on October 22, 2003. Attached (as Exhibit 1) is my letter of October 30, 2003 detailing and responding to the misrepresentations concerning Mr. Bin Mahfouz made in that testimony.

To cite one example which may be of interest to Sen. Grassley, Mr. Brisard has repeatedly and falsely stated that Mr. Bin Mahfouz is the brother-in-law of Osama bin Laden.⁵

(continued...)

terrorism financing (Dec. 19, 2002), found at www.jcbconsulting.com (JCB research on terrorism financing: publications).

² The lawsuit is titled *Burnett v. Al Baraka Investment and Development Corporation*, No. 1:02CV01616(JR) (D.D.C., filed Aug. 15, 2002).

³ This information was conveyed to counsel for Mr. Bin Mahfouz by the Security Council Committee established pursuant to U.N. Resolution 1267 (1999), which is also known as the Al Qaeda and Taliban Sanctions Committee.

⁴ Brisard’s purported U.N. report, dated 19 December 2002, named seven persons and six charities as principal financial supporters of al-Qaida. Two of the persons and three of the charities named by Brisard had already been listed by the U.N. prior to his report, while the other five persons and three charities accused by Brisard have never been listed before or since he sent the U.N. his report.

⁵ On the CNN television program Moneyline on January 5, 2004, Sen. Grassley stated that although the United Nations and the European Union had frozen the assets of “bin Laden’s brother-in-law,” OFAC had failed to do so, despite freezing the assets of an organization “that bin Laden’s brother-in-law was connected with.” It is not clear whether Sen. Grassley was referring to Mr. Bin Mahfouz based on Mr. Brisard’s false allegations, or to Sa’d

Chairman Charles E. Grassley
 Honorable Max Baucus
 January 16, 2004
 Page 3

Mr. Brisard is well aware that this mistaken allegation arose from Congressional testimony given in September 1998 by former director of CIA, James Woolsey, who stated that the sister of “Mr. Hafuz [sp.], the chairman of the national commercial bank of Saudi Arabia” was married to Osama bin Laden. Mr. Brisard also knows that Mr. Woolsey has repeatedly and publicly clarified that he did not mean to refer to Khalid bin Mahfouz: “I don’t know what to say other than that there was some confusion, but I never meant to refer to Bin Mahfouz’s sister.”⁶ Just last month Mr. Woolsey again retracted the “brother-in-law” allegation in sworn testimony given to a British court: “I have answered to the press on a number of occasions precisely as I am answering here, that there was confusion in the information that was given me and the identity of the individual, but that it was not Mr. Mahfouz and I had said to the press on a number of occasions that [my testimony] is not referring to Mr. Mahfouz.”⁷ Statements claiming that Mr. Bin Mahfouz was related to Osama bin Laden have been retracted and corrected by several publications, including the Wall Street Journal and the Washington Post.⁸ Nevertheless, Mr. Brisard has continued to misrepresent in his various reports and statements (including his Senate testimony⁹) that Mr. Bin Mahfouz is the brother-in-law of Osama bin Laden, demonstrating his complete lack of credibility.

To defend himself against Mr. Brisard’s attempts to connect him to terrorism, Mr. Bin Mahfouz has brought defamation actions in the United Kingdom and Belgium against Mr. Brisard, as well as Mr. Guillaume Dasquie, the co-author of a book containing these claims (titled *Forbidden Truth: U.S.-Taliban Secret Oil Diplomacy and the Failed Hunt for Bin Laden*). In the U.K. action, Mr. Dasquie chose not to defend against the suit and, on August 22, 2003, the High Court in England ordered judgment to be entered against him and enjoined him from

(continued...)

Al-Sharif, whom your December 22 letter states is bin Laden’s brother-in-law, and whose assets have been frozen by the U.N. and the EU.

⁶ “Top Investigator in 9/11 Victims’ Lawsuit Faces Libel Action,” Los Angeles Times (Feb. 26, 2003).

⁷ Attached as Exhibit 2. This testimony was given by Mr. Woolsey via video link on December 15, 2003 before Mr. Justice Eady in the High Court in London in the libel case of *Jameel v. Wall Street Journal Europe*.

⁸ Corrections, Wall Street Journal (May 29, 2002) at A21 (“A May 1 [2002] . . . story . . . relied on Senate testimony in stating that a sister of Khalid Bin Mahfouz . . . is married to Osama bin Laden. None of Khalid Bin Mahfouz’s sisters is, or ever has been, married to Osama bin Laden.”); Corrections, Washington Post (March 3, 2002) at A02 (“A Feb. 17 [2002] article about the use of gold in al Qaeda and Taliban financing reported incorrectly that a Saudi banker, Khalid Bin Mahfouz, is a brother-in-law of Osama bin Laden.”). Copies of the Washington Post and Wall Street Journal corrections, as well as other corrections and retractions, can be found on the Bin Mahfouz family website, www.binmahfouz.info, which deals with many of the erroneous statements about Mr. Bin Mahfouz and his family.

⁹ See attached letter to Senators Shelby and Sarbanes at 3-4.

Chairman Charles E. Grassley
 Honorable Max Baucus
 January 16, 2004
 Page 4

publishing in England the portions of *Forbidden Truth* defamatory to Mr. Bin Mahfouz.¹⁰ Mr. Brisard has offered a defense to that action, not on the merits of the claim, but alleging merely that he never authorized publication of the book in the U.K. Mr. Bin Mahfouz filed another lawsuit against Mr. Brisard in the U.K. on October 9, 2003, this one arising out of Mr. Brisard's publication on his website of documents and reports he authored – including the one he sent to the U.N. – that reiterate his baseless allegations that Mr. Bin Mahfouz was a supporter or associate of Osama bin Laden.

Mr. Bin Mahfouz also filed a defamation action against a British newspaper, *The Mail On Sunday*, for publishing an article that repeated some of Mr. Brisard's allegations. Though Mr. Brisard submitted a witness statement in that action to support the publication, *The Mail On Sunday* has recently conceded that the statements made in the article were false, it has offered a formal apology in Court, and it has agreed to pay “substantial damages” and to print the following apology in its January 18, 2004 edition:

On October 27, 2002, we wrongly alleged that Sheikh Khalid Bin Mahfouz had funded terrorism and was the brother-in-law of Osama Bin Laden. We also incorrectly suggested that Sheikh Khalid was formerly Chief Operating Officer of the discredited Bank of Credit and Commerce International and was dismissed from the National Commercial Bank of Saudi Arabia for suspected illegal funding of monies to Islamic charities supporting terrorism following an audit which uncovered that funding.

We accept that there is no truth whatsoever in any of these serious allegations. Sheikh Khalid is not the brother-in-law of Osama Bin Laden and has never supported terrorism. We accept that Sheikh Khalid and his family abhor terrorism in every way. We apologise to Sheikh Khalid Bin Mahfouz for the distress and embarrassment we have caused. We have agreed to pay him substantial damages which the Sheikh is donating to charity, together with a contribution to his legal costs.^[11]

There is also no truth whatsoever in Ms. Ruehsen's suggestion in Money Laundering Alert that Mr. Bin Mahfouz “created, chaired or ran” an organization that has been designated by OFAC. Mr. Brisard and Mr. Motley have alleged in the *Burnett* case that Mr. Bin Mahfouz provided support to terrorist organizations through his role as Chairman of the National

¹⁰ See Order of Mr. Justice Treacy of Aug. 22, 2003, *Mahfouz v. Brisard*, Case No. HQ03X01283 (High Court, Queen's Bench Division), attached as Exhibit 3.

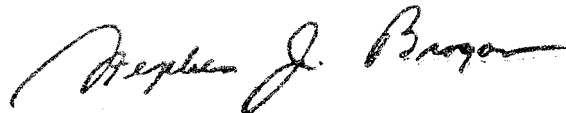
¹¹ The order implementing the settlement of the case, which includes a statement made to the Court by the attorneys for *The Mail on Sunday* and the form of the published retraction, is attached at Exhibit 4.

Chairman Charles E. Grassley
Honorable Max Baucus
January 16, 2004
Page 5

Commercial Bank of Saudi Arabia and through his donations to the Muwafaq ("Blessed Relief") charitable foundation. But neither of these organizations — nor any other entity or organization that Mr. Bin Mahfouz created, chaired or ran — has ever been designated by OFAC as an organization that supports terrorism.

I certainly understand and support the urgency of your concern that OFAC make every possible effort to end financing of terrorism. I would urge you, however, to take care to avoid reliance on misinformation on this topic that has been printed in the media, since repetition of erroneous allegations can be extremely damaging to individuals like Mr. Bin Mahfouz. Indeed, one would be hard-pressed to imagine a more damaging false claim in our current global climate than the allegation that Mr. Bin Mahfouz, a Saudi Arabian citizen and a Muslim, is a supporter of Osama bin Laden and international terrorism.

Sincerely,

A handwritten signature in black ink that reads "Stephen J. Brogan". The signature is written in a cursive, flowing style.

Stephen J. Brogan

Enclosure

cc: Mr. Richard Newcomb, Director, Office of Foreign Assets Control

Exhibit 1: see [binmahfouz.info/litigation/"The Forbidden Truth"/last para](http://binmahfouz.info/litigation/)

Exhibit 2: see binmahfouz.info/FAQs/Khalid bin Mahfouz/Is Khalid bin Mahfouz related by marriage to Osama bin Laden?/A:/para 3

**Exhibit 3: Order of Mr.Justice Treacy of Aug 22, 2003
Mahfouz v. Brisard (Click here to read)**

Exhibit 4: see [binmahfouz.info/litigation/Mail on Sunday \(UK\)](http://binmahfouz.info/litigation/Mail on Sunday (UK))

[Back to litigation](#)