

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

B E T W E E N:

(1) KHALID SALIM A BIN MAHFOUZ
(2) ABDULRAHMAN K S BIN MAHFOUZ
(3) SULTAN K S BIN MAHFOUZ

Claimants

- and -

(1) DR RACHEL EHRENFELD
(2) BONUS BOOKS INC.

Defendants

SUMMARY OF THE JUDGMENT OF MR JUSTICE EADY GIVEN ON 3 MAY 2005
[Made pursuant to paragraph 3.2 of the Order of Mr Justice Eady dated 3 May 2005]

1. **The parties:** The Claimants are well known Saudi businessmen. Until recently, the Second and Third Claimants were the ultimate owners of an oil company with its headquarters in London. The First Defendant is an author, and the Second Defendant a US publisher.
2. **The defamatory publication:** The Defendants have published a book entitled "*Funding Evil, How Terrorism is Financed – And How to Stop it*" (**the Book**). The Book has been sold in England and Wales via online retailers. The first chapter of the Book has also been published globally via the ABC News website.
3. The Book makes allegations of the most serious and defamatory kind about the Claimants. It alleges that the Bin Mahfouz family is one of the main sponsors of Al Qaeda and other terrorist organisations; that NCB, which was owned by the Bin Mahfouz family, was used as a conduit for financing Al Qaeda; and that in 1999 the Saudi government audited both NCB and Khalid Bin Mahfouz and revealed that over a ten-year period NCB had channelled money to charities acting as fronts for Al Qaeda.



29.7.05

4. ***The proceedings:*** In December 2003 the Claimants learned that the Book was being published in England and Wales. The Claimants' solicitors wrote to the Defendants setting out the nature of the complaint on 23 January 2004 and indicating that the Claimants were prepared to dispose of their complaint on the basis that the Defendants were to provide certain undertakings. No satisfactory response was received and the Claimants issued libel proceedings in the High Court on 30 June 2004. The Defendants did not acknowledge service of the proceedings and judgment in default was entered on 7 December 2004. The Claimants applied for summary disposal under s.8-10 of the Defamation Act 1996.

5. ***The remedies granted by the High Court:*** On 3 May 2005 the High Court declared that the allegations the Defendants made about the Claimants in the Book were defamatory and false. The Defendants were ordered to pay to each of the Claimants £10,000 in damages, the maximum permitted under the summary disposal regime, and their costs of the proceedings (with an interim payment of £30,000). The Court continued an injunction to prevent the Defendants from making any further publication of similar defamatory words about the Claimants. The Defendants were also ordered to publish a correction and apology and in the absence of agreement on that, this summary of its judgment.

6. ***The High Court's findings:*** In giving judgment, Mr Justice Eady noted that it would have been a complete defence to a libel action in England to show that the defamatory allegations were substantially true but that, unsurprisingly, no one, including the Defendants, had ever put forward such a defence or any material capable of substantiating a plea of justification. He stated that the Defendants had had every opportunity to defend these proceedings. The Judge reviewed in detail such material as had been referred to by the Defendants in correspondence and elsewhere as apparently supporting the truth of what had been written in the Book, in order to demonstrate the lack of merit to the allegations made against the Claimants.

7. The Judge referred to the earlier libel actions brought by the Claimants in England in order to vindicate their reputations and to the numerous corrections and apologies made in respect of allegations that the Claimants supported, funded or assisted terrorism in any way. He also noted the substantial damages already awarded to the Claimants in respect of such defamatory allegations.

8. The Judge addressed Ms Ehrenfeld's allegations, made to the US District Court for the Southern District of New York in the course of her US action against Sheikh Khalid Bin Mahfouz, that by this action he was abusing the English legal process and hiding behind English libel law to conceal the truth of his acts. The Judge described those statements by Ms Ehrenfeld as tendentious and misrepresenting the true position, namely that the Claimants were perfectly willing to meet the Defendants, and others, head on as to the merits of the claims made against them. The Judge said that these proceedings represented the only steps open to the Claimants in this jurisdiction when those who had made allegations about them failed to respond to their approaches. He noted that nevertheless the Claimants were not depending on the presumption of falsity under English libel law, but had provided witness statements which roundly denied the allegations made about them.
9. The Judge also rebutted any suggestion by Ms Ehrenfeld that the Claimants were "forum shopping" in bringing the action in England, and referred to their significant connections within England.
10. The Judge noted that the Defendants had not made any attempt to comply with the order made against them on 7 December 2004, which included an injunction to prevent further publication of the defamatory allegations. Instead the Defendants had brought out a new cheaper paperback version of the Book and appeared to be trying to cash in on the fact libel proceedings had been brought against them in England without being prepared to defend those proceedings on their merits.
11. The Judge also noted articles written by the First Defendant seeking to disparage English libel law as being unfair and making it almost impossible for her to win a libel action. He drew attention to the fairly obvious purpose of such articles, namely to give the impression that any judgment of the English Court was of little significance and does nothing to establish that the allegations made by the Defendants are false. In rebutting that impression, the Judge went through such allegations as had been made against the Claimants at length to demonstrate their lack of merit. Having regard to the seriousness of the allegations and the fact that nothing had been done to mitigate the effect of the original publications, the Judge therefore made Orders as set out in paragraph 5 above.

This summary of the Judgment was approved by Mr Justice Eady on 27 July 2005.