

Helen Garlick
Second
For the Appellant
Dated: 9 June 2008

IN THE HOUSE OF LORDS

ON APPEAL FROM THE DIVISIONAL COURT

R (on the application of)

(1) CORNER HOUSE RESEARCH
(2) CAMPAIGN AGAINST ARMS TRADE

Respondents

- and -

DIRECTOR OF THE SERIOUS FRAUD OFFICE

Appellant

- and -

BAE SYSTEMS PLC

Interested Party

HELEN GARLICK

I, Helen Garlick, Assistant Director of the Serious Fraud Office, Elm House, 10-16 Elm Street, London WC1X 0BJ, SAY AS FOLLOWS:

1. I am the Assistant Director of the Serious Fraud Office (“the SFO”). I make this statement, further to my witness statement dated 31 January 2008 in these proceedings, to address one particular matter that was referred to in the judgment of the Divisional Court. The contents of this witness statement are within my knowledge or belief unless otherwise stated, and are true to the best of my knowledge and belief.

2. The Divisional Court said at paragraph 87 of their judgment that there was “no evidence whatever that any consideration was given as to how to persuade the Saudis to withdraw the threat, let alone any attempt made to resist the threat. The Director did not himself consider this issue.” As the judgment records, Philip Sales QC, Counsel for the Director, explained to the Divisional Court during the course of the hearing that this was not an issue the Director had come to court to meet and it would be unfair to assume that such consideration had not been given.
3. In fact, the SFO did consider whether the Saudi Arabian Government could be persuaded to withdraw the threat. I recall discussing what I considered to be the illogicality of their stance in at least one of the meetings that I attended in late 2006 with the Director and the Attorney General and his staff regarding the question whether the Al Yamamah investigation should continue or not. I remember making the point myself that it seemed irrational for the Saudi Arabian Government to seek to punish the UK Government for the actions of the SFO, because they should surely understand that in the UK the criminal justice system was independent of government.
4. In my letter to Jonathan Jones, the Legal Secretary to the Law Officers, dated 27 October 2006 (see paragraph 5, third bullet point, in Robert Wardle’s second witness statement, RW4/25-26), in which I commented on the Cabinet Secretary’s letter of 29 September 2006, in one of the redacted passages I stated: “No reference is made to any risk analysis as to why the Saudi government would allow the personal interests of [senior figures in Saudi Arabia] to result in damage that extends far beyond the AY contract and other UK commercial interests, to wider bilateral and geo political interests” (I am advised that it is necessary to make the redaction shown in this quotation for reasons of diplomatic sensitivity). Again, therefore, the SFO did draw specific attention to this issue.
5. This concern of the SFO culminated in the Director and me seeking to test HM Ambassador to Saudi Arabia (“the Ambassador”) on this point at one of the three

meetings we attended with him during late November and early December 2006. We discussed the fact that the Saudi view was that the Al Yamamah investigation was itself a breach of the confidentiality agreement with the UK. I asked the Ambassador whether he could not simply explain to the officials of the Saudi Arabian Government that the SFO was independent of the UK Government. The Ambassador responded that this would not be a viable approach. The Saudis had a very different understanding of criminal justice systems and despite a great deal of experience in dealing with the West, the Saudis would find it difficult to accept, in comparison with their own system, that the UK Government and the Prime Minister could not stop the investigation if they chose to do so.

6. The Director and I were both well aware that, in giving his view that trying to persuade the Saudi Arabian Government to withdraw the threat was not viable, the Ambassador was speaking with the benefit of his own very considerable experience of Saudi Arabia and his personal acquaintance with members of the Saudi Arabian Government.

7. From the many discussions that I had with the Director at the time, it was abundantly apparent to me that Director took the decision to discontinue the Al Yamamah investigation because he believed that, no matter what efforts might be made to try to dissuade the Saudi Arabian Government, if the investigation continued they would carry out their threat to cease counter-terrorism cooperation with the UK.

Statement of Truth

I believe that the facts set out in this statement are true.

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Helen Garlick

Dated: