

Helen Garlick
First
For the Defendant
Dated: 31 January 2008

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

CO/1567/07

B E T W E E N :-

THE QUEEN
on the application of
(1) CORNER HOUSE RESEARCH
(2) CAMPAIGN AGAINST ARMS TRADE

Claimants

- and -

THE DIRECTOR OF THE SERIOUS FRAUD OFFICE

Defendant

- and -

BAE SYSTEMS PLC

Interested Party

WITNESS STATEMENT OF 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 an Assistant Director of the Serious Fraud Office ("the SFO"). I make this witness statement in support of the Defendant's case. 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. Throughout the relevant period Matthew Cowie the Case Controller on this investigation reported to me as his Head of Division. Because of the importance of this case I took a close interest in it, so that all the

correspondence and other documents that bear his name and that are referred to by me or Robert Wardle or exhibited by him were approved by me and for the most part, produced in consultation between us.

3. I have read Robert Wardle's first and second witness statements and I can confirm that, insofar as the matters to which he refers are within my knowledge, those statements entirely accord with my recollection.
4. In particular, I can confirm that the competing public interests were matters that the Director discussed with me and Matthew Cowie. It was always clear to me from our discussions that he was fully conscious of the importance of investigating serious allegations of corruption, the importance of maintaining the credibility of the SFO and the law of corruption, and the importance of acting within the rule of law.
5. I have reviewed our files of correspondence and internal notes and memos. In addition to the matters referred to by the Director in his two witness statements, and the documents exhibited to his statements, I refer to the following matters as indicative of the stance that the SFO took throughout this investigation:
 - Matthew Cowie, in consultation with me, continued to press the company for compliance with the 5th Notice and I refer in particular to a letter dated 15 November from Matthew Cowie to Allen and Overy [RW4/10-12] He made it clear that whilst we were prepared to consider representations concerning the public interest, we felt that we could "confidently discount" representations based on economic considerations as irrelevant.
 - At all times we had regard to the terms of Article 5 of the OECD Convention. We also challenged whether the assertions made by the company amounted to a lawful excuse for failing to comply with the Notice served in October 2005. We recognised that the company might seek to avail themselves of the statutory defence of

reasonable excuse by asserting that they were compelled to refuse us the information by reason of public interest considerations, particularly as the Permanent Under Secretary of State at the MOD had expressed the view that the public interest needed to be considered. We wished to be able to inform the company that their public interest claim had been fully investigated with all relevant authorities and that we were satisfied that there were no sustainable grounds for failing to comply. Accordingly, we considered it necessary to seek the Attorney General's advice, and ask him to commence the Shawcross process, in order to enable us to enforce the Notice.

- On 27th October 2006 I wrote to Jonathan Jones at the Attorney General's Office in response to the second Shawcross exercise [RW4/25-26]. I believe this letter demonstrates that we did not unquestioningly accept the public interest representations. The Director and I discussed the need to treat with some scepticism the representations as to the possible consequences of continuing the investigation, bearing in mind the possible self-interest of some of those in the Saudi regime. This was a factor that the SFO drew attention to in questioning the likelihood of the representations being acted upon. The Director was not himself in a position to predict the actions of a foreign state, or the effect of such actions and so he sought advice. I believe that my letter of 27 October 2006 demonstrates that we subjected the public interest representations to proper scrutiny and we sought guidance and briefing on the substance of the threat and the risk to national security. Following my letter, as the Director has explained, he saw a copy of the Prime Minister's minute of 8 December 2006 on 11 December 2006, and the two documents that were attached to it. We also had three opportunities to raise questions and discuss our concerns with the Ambassador. My scepticism as to the likelihood of damage to UK national security being inflicted was dispelled by the advice the SFO received from the Ambassador.

6. I attended the meeting on 13 December 2006 at 3pm, at which the Director made his preliminary decision. I made a File Note of that meeting [RW4/27-28]. This records that the Attorney General also asked my view as to the balance of public interest. I expressed the view, having regard to the compelling representations that we had received, that I did not think that we could say that the public interest in pursuing the investigation, which might or might not result in a successful prosecution, outweighed the risk to national security. I also discussed the matter further with the Director that evening. I have no doubt that the considerations I have referred to above were matters that he weighed in the balance when he took his decision on 13 and 14 December 2006.

Statement of Truth

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

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Helen Garlick

Date: