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ENVOYÉ PAR FAX  
SENT BY FAX  
DE / FROM MONTREAL

LE / ON 22 APR. 2013

April 22, 2013

Via E-mail

Honourable Justice Daniele Tremblay-Lamer  
Federal Court of Canada  
30, McGill St.  
Montreal (Quebec) H2Y 3Z7

Our reference  
01020560-0001

Dear Madam Justice Tremblay-Lamer,

**RE: His Highness Prince Karim Aga Khan vs. Nagib Tajdin and Alnaz Jiwa  
Federal Court File No. T-514-10**

This correspondence relates to the hearing that was held before you on Monday, April 15, 2013 and responds to the correspondence and draft order sent April 19, 2013 to the Court by Me Gervais, the solicitor for the Defendants.

It is unfortunate that Me Gervais did not feel able to provide his Draft Order to me for review prior to forwarding it to the Court, although I requested him to do so numerous times during the week. Obviously we have a difference of views as to what was ordered but some discussion with him might have increased the area of common ground. As a result we enclose a draft order which incorporates our comments.

In essence what was before the Court was a list of ten questions, two of which related to Mr. Jiwa and eight of which related to Mr. Tajdin. The Court ordered one of them to be answered, number 6, which related to the document attached to this letter for reference. This document is apparently a chart prepared by Mr. Tajdin, from records which are apparently now destroyed. We have therefore revised the draft order to refer to the specific question and document in issue. This order reflects the wording of the question in the Prothonotary's Order.

The Court will see, as I pointed out at the hearing, that the chart to which the question refers reveals that books were directly shipped from the printer to people (possibly distributors), some of whom received (or bought we don't know which) in some cases 100, 200, 300, 400, 600, 1000 copies. The Prothonotary understood that it would not make sense for Mr. Tajdin to pick the ten names that he would provide because it is those persons who received large quantities of books that are of most interest to the Plaintiff and can likely provide the most useful information.

The Court can also see that from the chart that the distribution was apparently worldwide with Canada, the USA, the UK, Africa and Russia mentioned as destinations. I mention this because His Highness has picked to advise him about this matter, those persons who lead institutions

Madam Justice Tremblay-Lamer

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which are responsible for the publication of his works which are the subject of this matter, worldwide and will be in the best position to advise him about whatever information is obtained. I mention this also because part of the book included an MP 3 player that was manufactured in China, so the enquiry extend not just to Canada, but potentially worldwide.

The request from the Defendants to know the names of the persons whom the information will be shared is unusual. It is the Defendants who are supposed to be the subject of the investigation. Normally the Plaintiff in a Reference for damages would be entitled to explore wherever the evidence may lead, subject to the implied undertaking the Plaintiff may only use the information provided for the purpose of this reference.

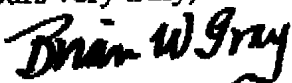
In this respect the attempt by the Defendants to further circumscribe what questions the Plaintiff might ask or what course of enquiry they might follow is also unwarranted and unnecessary. As Mr. Justice Russell determined, because all original financial records (and even almost all e-mails) in the possession of Mr. Tajdin have been destroyed, all that is left is our ability to ask questions of third parties.

On the one hand, we have endeavoured to make the order more specific in two areas, by referring to the specific question the Court ordered answered and by providing a practical way of dealing with confidentiality, a way which has been repeatedly recognized by this Court. If the Defendants require a more elaborate confidentiality order, they have been invited by the Court to seek such an order numerous times during both the liability phase and reference phase of this proceeding. As I mentioned at the hearing, in fact the Defendants did bring such a motion the day before the refusals motion, almost one year ago. This motion was deferred by the Prothonotary and is still before the Prothonotary. The Defendants have taken no steps in almost a year to bring this motion on, although I have invited them to do so. If the Defendants want a more elaborate confidentiality order let them demonstrate the need for it on proper evidence.

On the other hand, we have endeavoured to make the order simpler by removing the unnecessary, self-serving and inaccurate recitals which seem to be an attempt to pre-judge the issues which are before the Prothonotary. Surely a simpler Order in this area is better. The Prothonotary is tasked with the role of Referee in this reference and will be reviewing all of the evidence arising from the discovery to make her findings.

We thank the Court for its consideration of this letter. We are available to the Court to provide whatever assistance is requested.

Yours very truly,



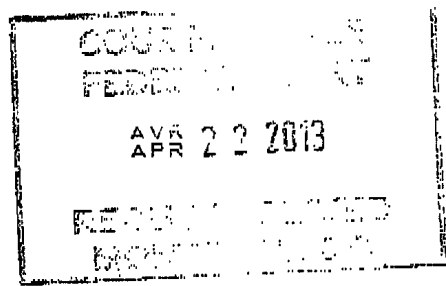
Brian W. Gray

Enclosure:

Copy(ies): Mr. Jean-Philippe Gervais







ID#362

Date: 201304

Docket: T-514-10

Montréal (Québec), April 2013.

PRESENT: The Honourable Danièle Tremblay-Lamer

BETWEEN:

HIS HIGHNESS PRINCE KARIM AGA KHAN

Plaintiff

vs.

NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO. and all other persons or entities unknown to the plaintiff who are reproducing, publishing, promoting and/or authorizing the reproduction and promotion of the Infringing Materials

Defendants

ORDER

UPON MOTION by the Defendants Nagib Tajdin and Alnaz Jiwa, pursuant to Rule 51 of the Federal Court Rules appealing the Order of Prothonotary Milczynski made October 29, 2012.

AND UPON reviewing all materials filed and hearing counsel for both parties.

THIS COURT ORDERS THAT:

- 1. The Motion is granted in part and the appeal is allowed in part.
2. The Order of the Prothonotary is set aside, with the sole exception that the Court orders the Defendants to answer the questions represented by point 6 of the Order of Prothonotary Milczynski dated October 29, 2012 namely that the Defendant Mr. Tajdin shall answer the questions represented by Item Nos. 14

to 22 on the Revised summary chart of refusals by producing the names of ten people who ordered books, as indicated on the "Golden Edition Shipping Spreadsheet" (Exhibit 2, Tab 8 of the Discovery Transcript of Mr. Tajdin taken November 8, 2011, Plaintiffs Motion Record at pages 181-182). The Plaintiff is entitled to select the ten names it wishes to have produced by Mr. Tajdin from this spreadsheet. If Mr. Tajdin does not have names in connection with the shipping orders identified by the Plaintiff, then Mr. Tajdin is to produce any customer names he has in connection with this spreadsheet.

3. The information obtained in the response to this question shall be used for the sole purpose of this litigation and shall be subject to the obligation of confidentiality required by the implied undertaking rule.
4. The Court further orders, as a condition, of making this Order, that information will be given to the Plaintiff His Highness Prince Karim Aga Khan and Plaintiff's legal counsel and the Plaintiff shall share this information only with the following named representatives of the Plaintiff; each of whom is the Chairman of the Ismaili Tariqah and Religious Education Board (ITREB) in his or her respective country:

**Alijah Dr. Mohamud Amirali Karim (Canada)**  
**Huzur Mukhiani Shahinour Nathoo (France)**  
**Alijah Saheba Gulnar Riyaz Makaney (India)**  
**Alijah Hassan Noorali Chatur Popat (Kenya)**  
**Huzur Mukhi Azzim Gulamhussen (Portugal)**  
**Rai Abdulaziz Akberali Lalani (Tanzania)**  
**Alijah Saheba Arzina Riyaz Kurji (Uganda)**  
**Huzur Mukhiani Salima Gowerali Bhatia (United Kingdom)**  
**Alijah Al-Karim Sadruddin Alidina (United States of America)**

to be used solely for the aforementioned purpose.

5. The whole without costs.

Honourable Danièle Tremblay-Lamer, Judge