

October 28, 2010

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VIA HAND DELIVERY

The Honorable Dennis Moore
Chairman, Subcommittee on Oversight and Investigations
Committee on Financial Services
United States House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Judy Biggert
Ranking Member, Subcommittee on Oversight and Investigations
Committee on Financial Services
United States House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Re: September 28, 2010 Subcommittee Hearing,
A Review of Current and Evolving Trends in Terrorism Financing

Dear Chairman Moore and Ranking Member Biggert:

I write on behalf of my client, Maan Abdul Wahed Al-Sanea, a citizen of the Kingdom of Saudi Arabia, in connection with the above-captioned hearing. During the hearing, you generously offered that any party named during the proceedings could make a submission to the House Financial Services Committee, Subcommittee on Oversight and Investigations (the "Subcommittee") for inclusion in the hearing record. This letter is such a submission and I respectfully request that it be included in the record of proceedings for the above-captioned hearing.

We regret that we are burdening the Subcommittee with this submission, but find ourselves obliged to do so in light of testimony given at the hearing by Eric Lewis, Esq., who is the lead counsel in the United States and global legal coordinator for Ahmad Hamad Algozaibi & Brothers Company ("AHAB"), a Saudi Arabian partnership company that has filed legal actions against Mr. Al-Sanea in venues around the world. We understand that Mr. Lewis is also coordinating AHAB's global litigation and media campaigns, and, it appears, is trying to make use of his appearance before the Subcommittee to advance his client's financial prospects by influencing the outcome of ongoing commercial litigation between these two private parties.

At the outset, let us make clear that Mr. Al-Sanea vigorously denies AHAB's and Mr. Lewis' allegations. It is inappropriate for AHAB's litigation counsel to ask Congress to intervene in

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this civil dispute between two Saudi business enterprises. It is also self-serving and out of step with the facts underlying this matter. In an attempt to present the matter in a more balanced context, we offer the following:

1. Mr. Lewis is a paid advocate advancing AHAB's agenda in seeking to avoid its substantial, outstanding debts to several banks around the world;
2. Courts in the United States and overseas have dismissed AHAB's claims against Mr. Al-Sanea in favor of proceedings in Saudi Arabia, including an ongoing investigation currently being conducted by Saudi authorities;
3. No court in any jurisdiction has entered a judgment against Mr. Al-Sanea upholding any of AHAB's allegations;
4. Criminal authorities to whom AHAB has presented its allegations have declined to prosecute them, and no charges or indictments have been filed against Mr. Al-Sanea;
5. There is no evidence or even allegation that Mr. Al-Sanea has any ties to terrorist financing of any kind, nor that the transactions at issue had any connection to any terrorist financing activities, and Mr. Al-Sanea categorically denies having any ties to any terrorist organization; and
6. AHAB's representatives appear to have sought to exploit the fact of Mr. Lewis' testimony before the Subcommittee to fuel a misleading media campaign against Mr. Al-Sanea in the Middle East.

Taken together, these points highlight the opportunistic and pretextual manner in which AHAB's advisors have sought to insinuate themselves into congressional activities in order to further AHAB's private interests.

Indeed, Mr. Lewis has repeatedly sought to involve the governmental authorities of various international jurisdictions in what is, at its core, a Saudi Arabian dispute between two of Saudi Arabia's most prominent families—the AlGosaibis, who own AHAB, on the one hand, and Mr. Al-Sanea's family, on the other—and to make inflammatory allegations about Mr. Al-Sanea in the international press. Viewed in this context, it is apparent that Mr. Lewis' testimony to the Subcommittee concerning my client was not at all germane to the very serious concerns that were the subject of the September 28, 2010 hearing.

Although Mr. Lewis promotes himself as an expert in major financial fraud cases, he is not an impartial observer who is disinterested in the allegations contained in his testimony.

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Rather, he is the lead U.S. litigation counsel—and global legal coordinator—for the Alghosaibi family in matters relating to their allegations against Mr. Al-Sanea. The Alghosaibis are a powerful, established Saudi family and are currently seeking to avoid payment of approximately \$9.2 billion in bank debt owed by their AHAB conglomerate. Mr. Lewis' work for the Alghosaibi family has involved both AHAB's efforts to litigate its claims against Mr. Al-Sanea in multiple jurisdictions around the world, and its efforts to advance those claims in connection with ongoing negotiations with AHAB's creditors, all aimed at convincing those creditors not to pursue legal action against the Alghosaibis.

Among those legal matters is a third-party complaint AHAB filed against Mr. Al-Sanea in the Supreme Court of the State of New York last year, in the matter captioned *Mashreqbank v. Ahmad Hamad Alghosaibi & Bros.*, Index No. 601650/2009. This Firm represents Mr. Al-Sanea in connection with that litigation. The New York court recently refused to consider AHAB's allegations against Mr. Al-Sanea and dismissed AHAB's complaint on the ground that its dispute with Mr. Al-Sanea would be more appropriately resolved in a Saudi Arabian (or other Middle Eastern) forum. Similarly, the Grand Court of the Cayman Islands recently stayed all proceedings in an action AHAB brought against Mr. Al-Sanea there, suggesting that AHAB ought pursue relief in Saudi Arabia. See *Ahmad Hamad Alghosaibi and Brothers Company v. Saad Investments Company Limited, et al.*, Grand Court of the Cayman Islands, Cause No. 359 of 2009.

Mr. Lewis also neglected to disclose that Simon Charlton, the "forensic investigator" whose testimony Mr. Lewis submitted to the Subcommittee, also is a paid advisor to the Alghosaibis. Mr. Charlton is a partner in a Big Four accounting firm that has been engaged by the Alghosaibis in connection with AHAB's litigation campaign against Mr. Al-Sanea. He has submitted affidavits on AHAB's behalf in both the New York and Cayman proceedings commenced by AHAB.

Mr. Lewis further failed to disclose the fact that the dispute between AHAB and Mr. Al-Sanea is being examined in detail by a select Committee of high-ranking Saudi government officials, which was established by His Majesty King Abdullah of Saudi Arabia for that very purpose after the Alghosaibis lodged complaints about Mr. Al-Sanea with the Saudi government in May 2009. Mr. Al-Sanea has cooperated fully with that Committee's investigation, and its intensive work has been ongoing now for some seventeen months.

Courts in the United States and abroad have deferred to Saudi Arabia's adjudicative processes in connection with this dispute, but Mr. Lewis and the Alghosaibis have been relentless in seeking to avoid the findings and rulings of this Saudi Committee, even though it is the Alghosaibis who originally sought the intervention of the Saudi authorities. Mr. Al-

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Sanea has made clear his view that it is the authorities of Saudi Arabia who are best equipped and best situated to resolve the parties' dispute.

This dispute between members of the Algosaiibi family and Mr. Al-Sanea is a personal and commercial dispute between two diversified, multi-billion dollar, family-run business conglomerates headquartered within two miles of each other in Al Khobar, a city located in Saudi Arabia's Eastern Province. It pits AHAB, which is owned by several members of the Algosaiibi family, against Mr. Al-Sanea's Saad Group of companies. The dynamics of the dispute are colored by the fact that Mr. Al-Sanea is married to one of the partners of AHAB and, in previous years, was personally close to the former Chairmen of AHAB—members of a previous generation of the Algosaiibi family who have since passed on, leaving control of the family businesses to their heirs (who currently oversee AHAB's affairs).

Both AHAB and the Saad Group were, at times, highly leveraged business operations. In the wake of the global credit crisis, both entities experienced liquidity problems and ultimately defaulted on some of their obligations to creditors. Although AHAB's managing partners (all members of the Algosaiibi family) initially acknowledged their debts to creditors, some of those same Algosaiibis now claim that Mr. Al-Sanea is responsible for AHAB's insolvency. Specifically, they allege that Mr. Al-Sanea somehow wielded control over AHAB's business affairs, for a period of many years, without the knowledge or authorization of AHAB's principals, and that he caused AHAB to borrow billions of dollars that he supposedly then diverted to his own companies and used for his own purposes.

To be clear, Mr. Al-Sanea categorically denies having engaged in any fraud or misconduct concerning AHAB's affairs. It bears noting again that, to date, no court, tribunal, or other government authority anywhere in the world has upheld any of the Algosaiibis' claims against Mr. Al-Sanea on the merits. Moreover, AHAB's efforts to avoid debts owed to third parties by claiming that those obligations derived from fraudulent activity by Mr. Al-Sanea have thus far foundered on the merits. For example, a Bahraini tribunal recently held that AHAB and its partners failed to offer any proof to substantiate the claim that a debt AHAB owed to a Bahraini bank was actually the product of an alleged forgery by Mr. Al-Sanea. *See BMI Bank v. Ahmed Hamad Al-gosaibi & Brothers Co., et al.*, Bahrain Chamber for Dispute Resolution Case No. 1/2010. Mr. Lewis, we gather, chose not to advise the Subcommittee of the failing status of AHAB's worldwide legal proceedings.

Mr. Lewis thus neglected to make full disclosure to the Subcommittee that the Algosaiibis have tried—but uniformly failed—to convince prosecutors and other authorities in the United States and other jurisdictions to file charges or indictments against Mr. Al-Sanea, or to grant them relief against Mr. Al-Sanea on the merits. Put simply, the claims that Mr.

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Lewis asserted as matters of fact in his testimony to the Subcommittee have never been proven in any court of law or other appropriate tribunal.

AHAB's strategy has been to press its claims in a series of coordinated proceedings in other jurisdictions around the world, in order to attack Mr. Al-Sanea on multiple flanks. Mr. Al-Sanea has maintained from the outset of the Algosais' global litigation campaign that the parties' dispute should be resolved by the Committee convened by the King of Saudi Arabia, or by the Saudi courts, as it concerns the affairs of two of Saudi Arabia's most prominent, family-owned commercial enterprises, and allegations of misconduct that would have transpired, if at all, on Saudi soil. The Algosais' allegations of fraud and misconduct have been made in civil courts in New York, the Cayman Islands, Bahrain, England, and Saudi Arabia. The Algosais have also sought the intervention of criminal authorities in Bahrain, Switzerland, the United States, and perhaps other jurisdictions. Those matters are slowly winding down and, to date, no charges have been filed in any jurisdiction. Although the Cayman and English courts granted provisional ex parte freezing orders to AHAB (orders that could not be had in the United States), no court anywhere has accepted the Algosais' allegations at trial. Apparently having failed elsewhere at judicial, prosecutorial, and administrative levels, the Algosais have now turned to Congress in a further effort to advance their claims.

Our client has reason to believe that Mr. Lewis and AHAB's other representatives are actively seeking to exploit the fact of Mr. Lewis' testimony to the Subcommittee in the press to make it appear as if the U.S. Congress has endorsed AHAB's allegations and is actively engaged in an investigation of AHAB's claims against Mr. Al-Sanea. Of course, that is contrary to the Subcommittee's actual purpose in holding the September 28, 2010 hearing, as the Chairman's remarks on the record acknowledged: "There are some allegations in the written testimony where parties not present are named and accused. We're not a court of law and we cannot engage in fact finding in this setting." Interestingly, however, an excerpt from the video transcript of the September 28, 2010 hearing containing Mr. Lewis' testimony (but virtually none of the other testimony or remarks from the hearing) was recently posted to the YouTube.com video-hosting web site from an account registered to the username "ahabnews." The excerpt, which omits the Chairman's clarifying remarks entirely, opens with a title page not contained in the archived webcast available on the Financial Services Committee's web site (yet bearing the official seal of the House of Representatives) captioned "Eric Lewis testifies on the approximately \$1 trillion that flowed through the US financial system unchecked since September 11." See <http://www.youtube.com/user/ahabnews>. This video clip—which presumably was posted by AHAB's representatives or, perhaps, by a sympathetic third party—has also been posted in a version featuring Arabic subtitles.

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AHAB's tactics demonstrate that this dispute is a commercial matter that, despite AHAB's efforts to exploit the hearing process, has nothing whatsoever to do with this Subcommittee's very real and serious concerns about potential financing of terrorist activities – concerns shared by my client. Mr. Al-Sanea is a long-standing friend of the United States and other Western states—who has been lauded by numerous Western institutions and officials for his humanitarian efforts and other accomplishments—and an enemy of terrorists and all that they stand for. Indeed, Mr. Al-Sanea and his family businesses have been subjected to terrorist attacks by anti-Western extremists in Saudi Arabia. In May 2004, Al-Qaeda operatives stormed a residential compound developed by Mr. Al-Sanea and his family to accommodate foreign expatriates and others doing business in his home city of Al Khobar. Twenty-two people were killed during the attack, including several of Mr. Al-Sanea's employees. Mr. Al-Sanea himself was present when the raid occurred (his family's primary residence is located across the street from the compound that was attacked) and he personally took up arms to defend against the attackers; he also helped to evacuate survivors (including prominent American military advisors in residence at his compound) and arranged treatment for the wounded at a nearby hospital facility owned by his family.

The Algosais' effort to fashion a link between its dispute with Mr. Al-Sanea and potential terrorist financing activities is therefore both unfounded and deeply offensive. It suggests that the Algosais and their Western advisors are willing to exploit, in the most cynical and opportunistic way possible, very serious and legitimate matters of public concern in an effort to convert this private dispute into a political issue that might advance the Algosais' position in litigation both here in the United States and abroad. Mr. Al-Sanea has never been accused of any involvement in the financing of terrorist activity—and neither the Algosais nor Mr. Lewis has claimed, or credibly could claim, that any of the business transactions at issue in this dispute were in any way connected to the financing of terrorist activity.

Despite its efforts to do so in several venues, nor has AHAB ever established that Mr. Al-Sanea is responsible for any allegedly unauthorized transactions undertaken in AHAB's name. For many years, the AHAB and Al-Sanea businesses have both maintained correspondent bank accounts in the United States to enable them to engage in dollar-denominated international transactions (transactions that were entirely routine for business entities of that financial scale). Neither AHAB nor Mr. Al-Sanea has any business operations in the United States, nor is any misconduct alleged to have taken place here.

We are also limited in our ability to comment on Mr. Lewis' allegations regarding transactions involving an account at Bank of America. That is because the account at issue actually belongs to AHAB, not Mr. Al-Sanea—although Mr. Lewis' testimony is silent on that fact.

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At a minimum, however, Mr. Al-Sanea wishes to note that the figures cited in Mr. Lewis' testimony are almost certainly misleading, in that they likely count recurring (and fully performed) short-term financing transactions multiple times over the course of years, aggregating the same financing lines each time they rolled over. This tactic was employed in the case AHAB filed against Mr. Al-Sanea in New York, for example, where Mr. Lewis' firm counted both legs of a series of fully performed exchange transactions in order to allege that a case concerning AHAB's failure to make payment on one leg of a single \$150 million exchange transaction somehow concerned a \$5 billion "fraud."

* * *

Although Mr. Lewis' submission to the Subcommittee contains many factual misstatements and mischaracterizations, Mr. Al-Sanea, out of respect for this body, will not attempt to litigate here his dispute with AHAB. The record of these proceedings ought to reflect, however, that AHAB's counsel has presented unproven and misleading allegations to the Subcommittee in the guise of established facts, and without acknowledging the ongoing nature of the adjudicative process concerning the parties' dispute. We respectfully submit that Mr. Lewis' attempts to mislead Congress further about this Saudi dispute between Saudi families should not be countenanced.

Mr. Al-Sanea is confident that he will be fully vindicated at the conclusion of the special committee's examination in Saudi Arabia, and he takes exception to Alghosaibis' efforts to make use of the Congress' public hearing process for their own private ends. Saudi Arabia, not the United States Congress, is the proper forum to resolve this Saudi dispute.

We thank the distinguished Chairman and Members of the Subcommittee for their consideration of this submission.

Respectfully,



Robert F. Serio

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