

IN THE CIRCUIT COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT, IN AND
FOR PALM BEACH COUNTY, FLORIDA

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Mohammad Anwar Farid Al-Saleh,

Plaintiff,

Case No.:

-vs.-

① Harry Sargeant, III, Mustaf^②a Abu-Naba'a,
and International Oil Trading Company,
LLC, ②

Defendants.

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COMPLAINT FOR DAMAGES

Plaintiff, Mohammad Anwar Farid Al-Saleh sues Defendants Harry Sargeant, III, Mustafa Abu-Naba'a and International Oil Trading Company, LLC ("IOTC USA"), by and through his undersigned counsel, and alleges on personal knowledge as to his own acts and on information and belief as to all other matters, as follows:

SUMMARY OF THE ACTION

1. This is an action against Defendants Harry Sargeant, III, Mustafa Abu-Naba'a and IOTC USA for common law fraud, conspiracy to commit fraud, aiding and abetting fraud, declaratory judgment and violations of Jordanian law.

2. Defendants Harry Sargeant and Mustafa Abu-Naba'a conspired to swindle their partner, Mohammad Al-Saleh, the brother-in-law of the King of Jordan and Plaintiff in this action, out of one-third of the profits from the group's valuable contracts with

the Government of the United States, through the Defense Energy Support Center ("DESC") based in Fort Belvoir, Virginia, for the shipment of oil across Jordan for use by the United States military in Iraq. The three partners were only able to obtain the benefits from these contracts because of Plaintiff's efforts, including, among other things, his ability to obtain authorization from the Government of Jordan to permit the shipment of the oil across Jordan. Without such authorization, the contracts could not have been awarded to the partners or to the company they jointly established to execute the contracts.

3. In short, Plaintiff and Defendants Sargeant and Abu-Naba'a agreed to pursue the oil contracts with the U.S. on the basis that each person would receive one-third of the profits. In 2004, together as equal partners, they established International Oil Trade Center (Jordan) ("IOTC") as a registered Offshore Limited Liability Company in accordance with Jordanian law.¹ The purpose of establishing IOTC was to enable the three men to bid on contracts offered by the U.S. Government for the shipment of oil to the U.S. troops in Iraq, starting in 2004 and continuing for several years thereafter.

4. Plaintiff's connections and early efforts were essential to building IOTC's capability and obtaining the U.S. Government contracts. Yet, while IOTC operated, Defendants Sargeant and Abu-Naba'a, acting in concert, were busy putting into motion their scheme to wrest Plaintiff's interest in the business and benefits from the oil contracts from him and into their own pockets. They did so, unbeknownst to Plaintiff, by, among other things, using the "IOTC" name and forming in 2005 IOTC USA, upon information and belief, a Florida company under Defendants Sargeant and Abu-Naba'a's joint ownership and control. As a further aid to

¹ IOTC was registered on January 25, 2004 in accordance with the Jordanian Companies Law of 1997. Its registered office is at Queen Rania Street, opposite the Ministry of Agriculture, Adnan Hussein Building, 3rd Floor, PO Box 91001, Amman, Jordan 1191 Alwaibdeh post office.

their plan, Defendants Sargeant and Abu-Naba'a then established additional IOTC entities, also without Plaintiff's knowledge.

5. After Defendants Sargeant and Abu-Naba'a had implemented their scheme and had begun diverting to IOTC USA operations, management and money stemming from the then-operative DESC contract ("Contract No. 497"), Plaintiff inadvertently discovered evidence of Defendants Sargeant and Abu-Naba'a's new IOTC entities. In response to Plaintiff's subsequent questioning, Defendants Sargeant and Abu-Naba'a lied to Plaintiff, stating that they were faithfully protecting his interests and that all of these other companies were designed solely to enhance their joint one-third stakes in the enterprise. Their false explanations, made individually and on behalf of IOTC USA, induced Plaintiff to trust Defendants and to procure a new authorization letter from the Government of Jordan enabling the partners to obtain a new contract ("Contract No. 483") from the U.S. Government in 2007. But, contrary to their representations, Defendants continued their deceitful actions to Plaintiff's detriment, including diverting to IOTC USA the U.S. Government's payments for the work done under the contracts.

6. Defendants have since refused to pay Plaintiff over \$13 million in profits owed to him under Contract No. 497 unless he surrenders his partnership rights and any claims he may have against his partners stemming from their misconduct. In connection with their demand, Defendants have denied Plaintiff the right to inspect the books and records of any of the companies other than IOTC. In addition, having wrongfully deprived Plaintiff of his share of the profits, they have used their fraudulent conduct as a sword; essentially contending that because Plaintiff accepted their reassurances and did not act to stop their misconduct sooner, he no longer has a one-third interest in the profits – both those already received (but not paid to

Plaintiff) and those to be obtained in the future (under the current contract, Contract No. 483).

Defendants assert that they alone are entitled to share those profits as they see fit.

7. Defendants' conduct violates both the laws of the State of Florida and the Hashemite Kingdom of Jordan. Accordingly, Plaintiff has filed this suit to obtain relief, including, among other things, payment of profits already owed him, a declaration of his entitlement to one-third of the profits from the current contract with the DESC, and a constructive trust over all payments to be made by the Government of the United States pursuant to that contract.

THE PARTIES

8. Plaintiff Mohammed Anwar Farid Al-Saleh is a citizen of Jordan who resides in Amman, Jordan. Plaintiff is married to Princess Alia Al Hussein, a half-sister of the current King of Jordan, King Abdullah II. Plaintiff owns one-third of the capital shares of IOTC.

9. Defendant Harry Sargeant, III, is an American citizen residing in Florida and owns one-third of the capital shares of IOTC. Upon information and belief, Defendant Sargeant is or has been a manager of IOTC USA, a limited liability company formed on January 25, 2005 and registered and doing business under the laws of the State of Florida, with a mailing address of 3020 North Military Trail, Suite 100, Boca Raton Florida, 33431. Defendant Sargeant, upon information and belief, owns a one-half interest of IOTC USA.

10. Defendant Mustafa Abu-Naba'a is, upon information and belief, a Dominican national with an address in Florida at 3020 North Military Trail, Suite 100, Boca Raton Florida, 33431. Defendant Abu-Naba'a has been IOTC's general manager at all relevant times, and owns one-third of the capital shares of IOTC. Upon information and belief,

Defendant Abu-Naba'a also owns a one-half interest of IOTC USA and is a manager of the company.

11. Defendant IOTC USA is, upon information and belief, a Florida limited liability company formed on January 25, 2005 by Defendants Sargeant and Abu-Naba'a and registered and doing business under the laws of the State of Florida, with a mailing address of 3020 North Military Trail, Suite 100, Boca Raton Florida, 33431.

JURISDICTION AND VENUE

12. This is a civil action for damages in excess of \$15,000.00 and this Court has jurisdiction over the causes of action set forth in this complaint pursuant to the Florida Constitution Art. V §§ 5(b) and 20(c)(3), and Florida Statute § 26.012 (2)(a).

13. Venue is proper in Palm Beach County pursuant to Florida Statute § 47.011.

FACTUAL ALLEGATIONS

A. History of the Parties and Their Relationship

14. Plaintiff incorporates and re-alleges the foregoing paragraphs 1-13, and states:

15. Plaintiff and Defendant Abu-Naba'a became friends while attending school together in the 1970's, and remained good friends thereafter. In the 1990's Defendant Abu-Naba'a introduced Plaintiff to Defendant Sargeant in Florida.

16. Following the commencement of the United States' military operations in Iraq in 2003, the U.S. Government established a program to expedite the supply of oil products to U.S. forces in Iraq. The U.S. Government offered contracts through the Virginia-based DESC, the entity responsible for, among other things, procuring contractors to supply refined

oil products to U.S. forces in Iraq on behalf of the Department of Defense and other government agencies.

17. Defendants Sargeant and Abu-Naba'a, who had previously done business together, wished to get involved in the business of transporting oil products to Iraq for the U.S. Government. Needing a means of gaining both the authority and capability to transport the oil across Jordan, Defendants Sargeant and Abu-Naba'a first approached Plaintiff about the possibility of doing business together and bidding on the DESC contracts, worth hundreds of millions of dollars, during a visit to Defendant Sargeant's residence in Florida, where Plaintiff also maintains a home.

18. On many occasions following their first meeting, Plaintiff met in Florida with Defendants Sargeant and Abu-Naba'a (sometimes with only one) to discuss their partnership's business, including the DESC oil shipment contracts.

B. IOTC History

19. At the time that Plaintiff and Defendants Sargeant and Abu-Naba'a agreed to establish their partnership, IOTC was owned by Defendant Abu-Naba'a and his brother, Hazem Abu-Naba'a. Nevertheless, Plaintiff and Defendants Sargeant and Abu-Naba'a chose to use IOTC as the vehicle through which they would operate their partnership, submit bids to the DESC and divide the net profits derived from the contracts equally among themselves.

20. So that the three partners could achieve the desired ownership structure reflecting their equal shares in the partnership, Hazem Abu-Naba'a transferred his interest in IOTC back to the company and, on January 25, 2004, Plaintiff and Defendants Sargeant and Abu-Naba'a restructured IOTC so that each of them (excluding Hazem Abu-Naba'a) owned a one-third interest in the company.

21. On that same day, IOTC was registered in Jordan as an Offshore Limited Liability Company in accordance with the Jordanian Companies Law of 1997. The objective stated in the registration was for IOTC to trade in oil and petrol derivatives outside of Jordan.

22. Plaintiff and Defendants Sargeant and Abu-Naba'a each paid \$900,000 into IOTC and gave IOTC a guarantee for an additional \$900,000. This provided the capitalization needed to bid on the DESC contracts. Plaintiff and Defendants Sargeant and Abu-Naba'a were thus equal partners, and each owned (and still own) one-third of the capital shares in the company as follows:

- a) Defendant Sargeant -- 23,333 shares.
- b) Defendant Abu Naba'a -- 23,334 shares.
- c) Plaintiff -- 23,333 shares.

23. At the General Assembly meeting of IOTC held on January 25, 2004, Defendant Abu Naba'a was elected as the general manager of the company.

C. The First Contracts

24. In 2004, based on IOTC's authorization from the Government of Jordan and capitalization by the three partners, the partners submitted a bid to the DESC, based in Fort Belvoir, Virginia, in the name of IOTC and TRIGEANT Ltd. ("Trigeant"), upon information and belief, a company owned by Defendant Sargeant, for a contract to transport oil to be purchased by the DESC from the Gulf of Aqaba, where IOTC would offload and store the oil, to U.S. military forces in Iraq.

25. Plaintiff played an essential role in establishing IOTC's ability to perform, ultimately enabling the partners to get the DESC business. Plaintiff's role included the following:

a) He arranged for the Jordanian Ministry of Energy and Mineral Resources to issue a letter of authorization to IOTC to transport oil across Jordan to the final destination in Iraq, a prerequisite to the DESC awarding the contract.

b) Through his connections and influence, he negotiated a deal with the National Resource Development Company, a company connected to the Jordanian Army, to ensure that the cargo arriving by ship from Saudi Arabia at the Jordanian port of Aqaba would be offloaded from the ships and placed into storage without interference, bureaucratic or otherwise; and

c) He brokered a deal with a trucking company to transport the fuel from the Gulf of Aqaba to the U.S. troops in Iraq, thus demonstrating to the DESC that IOTC could manage the transportation of the oil products.

26. The DESC first awarded a contract to IOTC in early 2004. The contract was in IOTC's name and Trigeant was named parenthetically as the prime contractor. IOTC, working with Trafigura, which, upon information and belief, is an international company engaged in trading crude oil and refined products and which provides storage and transportation facilities for such commodities, performed the services called for by the DESC contract. Profits under this initial contract were to be divided 75% for IOTC and 25% to Trafigura. When political circumstances led to the cancellation of this contract, the DESC accepted bids on a new contract.

27. The partners successfully submitted a bid for this new contract to the DESC in Virginia in IOTC's name and the DESC awarded IOTC the contract. This contract called for IOTC additionally to transport aircraft fuel, increasing the profitability of the venture.

28. As with the prior contract, IOTC performed the work called for by the DESC in partnership with Trafigura under the same 75%-25% profit sharing arrangement.

29. Pursuant to the structure of IOTC, the profits and losses earned under the contract were to be divided among Plaintiff and Defendants Sargeant and Abu-Naba'a equally, in accordance with each person's ownership of one-third of IOTC's shares.

D. Defendants Sargeant and Abu-Naba'a Create IOTC USA in Florida to Direct Business Away From IOTC

30. Upon information and belief, on January 25, 2005, Defendants Sargeant and Abu-Naba'a created IOTC USA, a limited liability company organized under the laws of the State of Florida. Defendants Sargeant and Abu-Naba'a did not tell Plaintiff that they were creating IOTC USA, and Plaintiff was not and has not been given an opportunity to participate in the management, operations, or ownership of IOTC USA.

31. In addition to IOTC USA, Defendants Sargeant and Abu-Naba'a subsequently created other entities, beginning in 2005, which are similar in name to IOTC (collectively, the "Other IOTC Entities"), including International Oil Trading Free Zone Company ("IOTC Dubai"). Upon information and belief, IOTC Dubai was formed on March 15, 2005, Defendants Sargeant and Abu-Naba'a are joint members of IOTC Dubai, and Defendant Sargeant is the company manager.

32. Defendants Sargeant and Abu-Naba'a did not tell Plaintiff that they were creating any of the Other IOTC Entities, and Plaintiff has not been given an opportunity to participate in the management, operations or ownership of any of the Other IOTC Entities.

33. Upon information and belief, IOTC USA, at the direction of Defendants Sargeant and Abu-Naba'a, has, among other things: been substituted as the named contracting party with the DESC, notwithstanding that IOTC's name appears on the letter of authorization;

received the payments made by the U.S. Government under the DESC contracts; and set up accounts to which monies rightfully belonging to IOTC and Plaintiff have been diverted. Also, upon information and belief, Defendants Sargeant and Abu-Naba'a have used the Other IOTC Entities to aid in these efforts and divert partnership funds into foreign bank accounts attempting to put them out of Plaintiff's reach. In doing so, they have directly interfered with, and have in fact stolen, Plaintiff's interest in the partnership business.

E. Defendants Sargeant and Abu-Naba'a Substitute IOTC USA for IOTC on DESC Contracts

34. Upon information and belief, at some point in 2005 after Defendants Sargeant and Abu-Naba'a formed IOTC USA, they, along with IOTC USA, submitted a bid for a DESC contract ("Contract No. 497"), substituting IOTC USA (with a Boca Raton address) as the named party in the bid. In or around May 2005, the DESC awarded Contract No. 497 to IOTC USA. Contract No. 497 was subsequently extended by the DESC and fully expired in or around June 2007. Plaintiff received some payments, but is still owed over \$13 million in profits under Contract No. 497, which Defendants have wrongfully refused to distribute to him.

35. While Contract No. 497 was still in effect, Plaintiff first heard rumors that Defendants Sargeant and Abu-Naba'a had formed IOTC USA and some of the Other IOTC Entities and also inadvertently came across certain documents in IOTC's offices bearing the IOTC USA name.

36. Shortly thereafter, Plaintiff confronted Defendants Sargeant and Abu-Naba'a and asked them about IOTC USA and the Other IOTC Entities.

37. As a result of Plaintiff's questioning and protests after learning of the substitution of IOTC USA as the named contracting party, a General Assembly meeting of IOTC was held on June 29, 2006. Plaintiff and Defendant Sargeant, among others, attended this

meeting, but Defendant Abu-Naba'a did not attend in person. Instead, upon information and belief, he authorized Defendant Sargeant to act as his agent at the meeting.

38. As reflected in the minutes of that meeting, in an effort to assure Plaintiff that he would not be affected adversely by the existence of the Other IOTC Entities or by IOTC USA's substitution as the named party on Contract No. 497 or on the anticipated bid that IOTC USA would submit for a new DESC contract in 2007 ("Contract No. 483"), Defendant Sargeant explained the roles of and relationships between IOTC, IOTC USA, and the Other IOTC Entities then in existence as follows:

- a) IOTC USA was established to make IOTC more competitive when applying for bids.
- b) IOTC would handle management of the contracts, with profits being distributed quarterly to each partner on the basis of the percentage of the capital shares each partner held in IOTC.
- c) IOTC Dubai was to report profits of the contracts in their financial statements after paying the expenses of IOTC and after paying service revenue for IOTC for managing the project and for its role in distributing the profits.
- d) IOTC was described as fully independent from IOTC Dubai with respect to contract management.

39. This explanation reaffirmed Plaintiff's understanding that IOTC was the vehicle through which the DESC business was to be conducted and that any business developed in connection with any DESC contracts would benefit the three partners equally based on each partner's one-third interest in IOTC.

40. Notwithstanding this explanation that all of the entities were designed to benefit the three partners in IOTC, who would continue to share all profits equally, in an effort to get Plaintiff to relinquish his rights Defendants Sargeant and Abu-Naba'a presented Plaintiff with a purported Consultancy Agreement. Under the Consultancy Agreement, Plaintiff would have become a consultant employed by IOTC Dubai with an entitlement to one-third of the net profits of IOTC USA. The Consultancy Agreement contained a release of all claims against Defendants connected with the parties' venture.

41. At the time Plaintiff was presented with the Consultancy Agreement, Defendant Sargeant had already signed the document on behalf of IOTC USA and IOTC Dubai.

42. Plaintiff refused to sign the Consultancy Agreement and never approved Defendants Sargeant and Abu-Naba'a's actions in forming IOTC USA or any of the Other IOTC Entities. Plaintiff has never acknowledged the existence of any sort of consultancy agreement, signed or otherwise, between himself and IOTC USA or any of the Other IOTC Entities.

43. At the beginning of 2007, as the deadline for submitting bids to the DESC for Contract No. 483 approached, Defendants Sargeant and Abu-Naba'a asked Plaintiff to assist in procuring another necessary letter of authorization from the Jordanian government so that their bid to the DESC could be submitted on time in Virginia.

44. Relying on their prior agreement, course of conduct (including the continued payment to Plaintiff of his one-third share of the partnership profits), and the representations given to him at the June 29 General Assembly meeting, Plaintiff complied with this request and obtained another letter of authorization from the Jordanian Ministry of Energy and Mineral Resources. This authorization letter was issued in the name of IOTC.

45. In this regard, Defendants Sargeant and Abu-Naba'a promised to ensure that IOTC ultimately became the named party to the contract.

46. The three partners then discussed and negotiated the possibility of forming a company in a neutral tax jurisdiction to which all proceeds of the contract would be assigned, though this plan was never completed.

47. In early 2007, Defendants Sargeant and Abu-Naba'a and IOTC USA submitted the bid to the DESC in Virginia for Contract No. 483 in the name of IOTC USA, and in April or May, the DESC awarded Contract No. 483 to IOTC USA to commence on July 1, 2007, with the possibility of the term of the contract lasting three years if all options were exercised.

48. Payments under Contract No. 483 were to be made by the Defense Finance and Accounting Service based in Columbus, Ohio, to IOTC USA in Boca Raton, Florida.

49. On May 3, 2007, after being awarded Contract No. 483, Defendant Sargeant continued to represent to Plaintiff that they were partners together in the new contract, each entitled to his one-third share. Defendant Sargeant sent Plaintiff a text message stating, "You have the business again sir and please be assured I will never let you down congrats."

50. Notwithstanding their promise to do so, Defendants Sargeant and Abu-Naba'a have never replaced IOTC USA with IOTC as the named party to Contract No. 483.

F. **Defendants Refuse to Pay Plaintiff For Profits Owed Under Contract 497 Because He Will Not Sign a Release Absolving Them of Wrongdoing**

51. Following the award of Contract No. 483 to IOTC USA by the DESC, the payments to Plaintiff of his one-third share of the contract profits under Contract No. 497 essentially ceased.

52. In August 2007, Plaintiff was informed by Defendants Sargeant and Abu-Naba'a that unless Plaintiff agreed to sign a Release Agreement (the "Release"), he would not receive any further payments under the contracts. The Release presented to Plaintiff purported to be a full and final settlement of all amounts due and payable under all DESC contracts and a release of all claims that any party (which was defined to include, among others, Plaintiff, Defendants, and IOTC) may have had against any other party.

53. As with the proposed Consultancy Agreement, Plaintiff refused to sign the Release (and has not done so since). Plaintiff has not received any further payments since that time.

54. Accordingly, Plaintiff is now being deprived of the more than \$13 million still owed under Contract No. 497, his one-third share of the profits under Contract No. 483 and all of his beneficial interest in the parties' business venture.

55. Matters of Jordanian law referenced in this complaint are based on the report of Mohammad Beiruti, a copy of which is attached to this complaint and incorporated by reference.

COUNT I

Common Law Fraud (Against All Defendants)

56. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

57. Defendants Sargeant and Abu-Naba'a fraudulently concealed from Plaintiff their establishment of IOTC USA and the Other IOTC Entities and their use of these entities to divert management and funds away from IOTC. To this day, they have refused to grant Plaintiff access to the books and records of IOTC USA and the Other IOTC Entities.

58. IOTC held a General Assembly meeting on June 29, 2006, which Plaintiff attended.

59. Defendant Sargeant also attended the meeting on his own behalf and, upon information and belief, as the authorized agent for Defendant Abu-Naba'a, who did not attend the meeting in person.

60. At the meeting, Defendant Sargeant, responding to questions raised by Plaintiff regarding the relationship between, and roles of, IOTC, IOTC USA, and the Other IOTC Entities, on his own behalf and on behalf of Defendant Abu-Naba'a, made the following representations:

- a) IOTC USA was established to make IOTC more competitive in the bidding process.
- b) IOTC would continue to handle the management of any DESC contracts.
- c) Profits from the DESC contracts would be distributed quarterly to each partner (*i.e.* – Plaintiff, Defendant Sargeant and Defendant Abu-Naba'a) based on the capital shares each held in IOTC.
- d) IOTC was a fully independent entity from IOTC Dubai with respect to the management of the contracts and from a financial perspective.
- e) IOTC Dubai's role was to report profits of the DESC contracts in its financial statements after paying all expenses of IOTC and paying servicing revenue to IOTC for its management of the DESC contracts and its role in distributing the profits.

61. Thereafter, at Defendants Sargeant and Abu-Naba'a's request, Plaintiff obtained another letter of authorization for IOTC to comply with the requirements for bidding

on Contract No. 483. Defendants nevertheless submitted the bid for the contract to the DESC in the name of IOTC USA, instead of IOTC. Despite promising to do so, they have never rectified the situation.

62. On May 3, 2007, after the DESC awarded Contract No. 483 to IOTC USA, Defendant Sargeant represented to Plaintiff, via text message, that "you [Plaintiff] have the business again sir and please be assured I [Defendant Sargeant] will never let you down congrats."

63. Each of the representations described in paragraphs 60-62 was not true.

64. In summary, the true state of affairs is that all profits under Contract No. 483 have been paid to IOTC USA in Florida; Plaintiff has not been paid on the basis of his one-third interest in the parties' venture or in IOTC; Plaintiff has not received his full share of the profits under Contract No. 497; IOTC USA was the named contracting party for Contracts No. 497 and No. 483 even though the letters of authorization were in IOTC's name; and Defendants have reaped all the benefits of the business for themselves.

65. At the time the representations were made, Defendants Sargeant and Abu-Naba'a were also acting as agents for IOTC USA.

66. At the time the representations were made, Defendants knew them to be false. The representations were made with the intent to deceive Plaintiff and to induce him to believe that he would continue to receive his one-third share of the profits based on his ownership interest in IOTC.

67. At the time the representations were made, Plaintiff did not know the true facts and believed that the representations were true.

68. Thereafter, Plaintiff relied upon these representations to his detriment by not taking any action to prevent IOTC USA from taking the business or to further protect his rights, including his one-third interest in the profits earned under Contract No. 497 and under Contract No. 483. Plaintiff further relied to his detriment by securing the renewed authorization letter and delivering it to the Defendants Sargeant and Abu-Naba'a to be used by Defendants in connection with submitting a bid under IOTC USA's name to the DESC in Virginia, thereby being deceived into assisting the Defendants to further their scheme.

69. As a result, Plaintiff has been and is continuing to be damaged by being deprived of his share of the profits from Contracts No. 497 and No. 483 and of the value of his one-third interest in the profits he is entitled to receive in the parties' ongoing business.

COUNT II

Conspiracy to Commit Fraud (Against Defendants Sargeant and Abu-Naba'a)

70. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

71. Defendants Sargeant and Abu-Naba'a agreed with each other to commit fraud to deceive Plaintiff into believing that he would continue to receive profits from the DESC contracts based on his one-third interest in IOTC.

72. In furtherance of this conspiracy, Defendants Sargeant and Abu-Naba'a together, and without informing Plaintiff, secretly formed IOTC USA on January 25, 2005, and the Other IOTC Entities at later dates. Upon information and belief, the purpose of IOTC USA and the Other IOTC Entities was to usurp IOTC's business dealings with the DESC.

73. After they formed IOTC USA and IOTC Dubai, and after Plaintiff discovered the existence of these entities, Defendants Sargeant and Abu-Naba'a, in an effort to

further their illicit goal of taking the business away from Plaintiff and to hide their true intentions from Plaintiff, represented to Plaintiff at the General Assembly meeting of IOTC held on June 29, 2006, that he had nothing to worry about because he would continue to be paid regularly on the basis of his one-third interest in IOTC and that IOTC USA and IOTC Dubai were formed to make IOTC more competitive. Defendants Sargeant and Abu-Naba'a represented to Plaintiff that IOTC was a wholly independent entity, and that IOTC USA and IOTC Dubai were essentially formed to benefit IOTC.

74. Based on these misrepresentations, Plaintiff did not inquire further into the actions being taken by or the motivations of Defendants Sargeant and Abu-Naba'a in forming and operating IOTC USA and IOTC Dubai.

75. After IOTC USA was awarded Contract No. 483 (in part based on Defendants Sargeant and Abu-Naba'a presenting to the DESC the letter of authorization obtained by Plaintiff for IOTC), Defendant Sargeant furthered the goal of the conspiracy by fraudulently misrepresenting to Plaintiff via text message that the DESC business was Plaintiff's again.

76. As a result of this false reassurance from Defendant Sargeant that his interest was protected, Plaintiff reasonably believed that he did not need to take any further action at the time (and in fact did not) to protect his right to receive one-third of the profits due to him under the contracts based on his one-third interest in IOTC.

77. As a result of this conspiracy between Defendant Sargeant and Defendant Abu-Naba'a to secretly create companies that would usurp IOTC's business, and the actions of Defendants Sargeant and Abu-Naba'a in committing fraud to prevent Plaintiff from discovering their true intentions, Plaintiff has been damaged by being deprived of his share of the profits

from Contracts No. 497 and No. 483 and of the value of his one-third interest in the profits he is entitled to receive in the partners' ongoing business.

COUNT III

Aiding and Abetting Fraud
(Against Defendants Abu-Naba'a and IOTC USA)

78. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

79. The factual allegations recited above and incorporated herein demonstrate that a fraud was perpetrated upon Plaintiff through the conduct of Defendants.

80. Defendants Abu Naba'a and IOTC USA, at all times relevant to this complaint, had knowledge of the fraud.

81. Defendant Abu Naba'a provided substantial assistance to advance the commission of the fraud by:

- a) Playing an active role in establishing IOTC USA and the Other IOTC Entities and then concealing the existence of these entities from Plaintiff after their formation.
- b) Playing an active role in using IOTC USA and the Other IOTC Entities to divert assets of IOTC into the accounts of IOTC USA.
- c) Acquiescing in the fraudulent explanation given by Defendant Sargeant to Plaintiff regarding the purpose of and relationship to IOTC of IOTC USA and the Other IOTC Entities.

82. Defendant IOTC USA provided substantial assistance to advance the commission of the fraud by submitting bids for Contracts No. 497 and No. 483 to the DESC in IOTC USA's name and by accepting payments under these contracts.

83. Through this conduct, Defendants Abu-Naba'a and IOTC USA aided and abetted in the commission of a fraud and are liable for causing damages to Plaintiff by depriving Plaintiff of his share of the profits from Contracts No. 497 and No. 483 and of the value of his one-third interest in the profits he is entitled to receive in the parties' ongoing business.

COUNT IV
Declaratory Judgment

84. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

85. Pursuant to Florida Statutes §§ 86.011 and 86.021, Plaintiff seeks a declaratory judgment regarding his rights under Contracts No. 497 and No. 483.

86. Specifically:

a) Plaintiff seeks a declaration that he is entitled to receive one-third of the profits earned under Contract No. 483 based on his status as a partner and/or as a one-third shareholder in IOTC.

b) Plaintiff seeks a declaration that the payments he received thus far under Contract No. 497 were made based on his status as a partner with defendants and/or as a one-third shareholder in IOTC, and not pursuant to any consultancy agreement, and furthermore, that no such consultancy agreement exists, either in writing or based on an oral understanding.

c) Plaintiff seeks a declaration that he is entitled to a quantum of money to be determined at trial which is still owed to him under Contract No. 497 based on his status as a partner and/or a one-third shareholder in IOTC.

d) Plaintiff seeks a declaration that he is entitled to a one-third share of the proceeds of all business activities of IOTC, IOTC USA and the Other IOTC Entities henceforth and forevermore.

COUNT V

Breach of Fiduciary Obligations Under Jordanian Law **(Against Defendants Sargeant and Abu-Naba'a)**

87. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

88. Under the Jordanian Civil Code and the Jordanian Companies Law, directors and partners who manage the affairs of a company are required to avoid harming the company and, among other things, are not permitted to compete with the company or participate in a competing entity.

89. The duties of a director in a company such as IOTC flow not only to the company, but also to the partners in the company.

90. In violation of their duty owed to Plaintiff, Defendant Abu-Naba'a, as partner of IOTC, who held the position of general manager at all relevant times, and Defendant Sargeant, a partner participating in the management of IOTC,² have:

a) Formed several companies in multiple jurisdictions using names similar or nearly identical to IOTC (the Other IOTC Entities) with the apparent purpose of

² The terms "partner" and "shareholder" are interchangeable under Jordanian law with respect to a company such as IOTC. Similarly, there is no legal difference between a "director" and a "partner who has the right to manage the affairs" of the company.

competing for and benefiting from DESC contracts that replaced contracts originally awarded to IOTC.

b) Bid on DESC contracts in the name of IOTC USA, despite using authorization letters issued to IOTC, thus converting IOTC's property for use by their competing entities.

c) Made false statements to Plaintiff about the purpose and role of these other entities.

d) Refused to pay Plaintiff his one-third share of the profits from all the DESC contracts.

91. By taking IOTC's business opportunities and transferring them to their other companies, and by withholding money owed to Plaintiff, Defendants Sargeant and Abu-Naba'a have violated their fiduciary duties.

COUNT VI

Tortious Injury Under Jordanian Law **(Against Defendants Sargeant and Abu-Naba'a)**

92. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

93. Under Article 256 of the Jordanian Civil Code, "every injurious act shall render the person who commits it liable for damages even if he is a non-discerning." And under Article 259 of the Civil Code, "if any person deceives another he shall be liable for the damages resulting from that deceit."

94. Furthermore, as described in Article 265 of the Civil Code, liability in tort is several among joint tortfeasors, and the Court may assign liability jointly or may apportion liability among the parties.

95. Defendants Sargeant and Abu-Naba'a conspired to and did tortiously injure Plaintiff by agreeing to unfairly compete with IOTC by operating competing entities under similar names, causing confusion and deception.

96. Defendants Sargeant and Abu-Naba'a conspired to and did tortiously injure Plaintiff by agreeing to deprive IOTC of the benefits of Contracts No. 497 and No. 483, and to exploit the name, capabilities, resources, and customers of IOTC to that end.

97. Defendants Sargeant and Abu-Naba'a also conspired to and did tortiously injure Plaintiff by agreeing to use IOTC's authorization letters to help other entities obtain DESC Contracts; by bidding for Contracts No. 497 and No. 483 on behalf of IOTC USA instead of IOTC; and by making false statements to Plaintiff at the General Assembly meeting of June 29, 2006.

98. As a direct result of these tortious acts and omissions, Plaintiff has been denied his one-third share of the benefit of DESC Contracts No. 497 and No. 483, which should have been obtained for IOTC.

COUNT VII

**Breach of Unfair Competition and Trade Secrets Law Number 15
of the Year 2000 Under Jordanian Law
(Against Defendants Sargeant and Abu-Naba'a)**

99. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

100. Under Article 2(A) of Jordan's Unfair Competition and Trade Secrets Law Number 15 of 2000, "any competition conflicting with honest practices in industrial or commercial matters shall be considered an act of unfair competition, especially ... acts which

by nature create confusion with the establishment of a competitor and the ... commercial activity of the same."

101. Article 3 further provides that "each person with an interest may claim for compensation any damages caused by unfair competition."

102. Defendants Sargeant and Abu-Naba'a committed acts of unfair competition, and thereby damaged Plaintiff, by:

- a) Forming and operating entities with names similar to the name of IOTC, which led to confusion and deception;
- b) Exploiting the name, capabilities, resources, and customers of IOTC for the benefit of their other companies;
- c) Seizing the benefit of the DESC Contracts from IOTC in favor of their other companies; and
- d) Using the authorization letters issued to IOTC for the benefit of IOTC USA.

COUNT VIII
Declaratory Judgment

103. Plaintiff incorporates and realleges paragraphs 1-55 of this complaint as though set forth in their entirety.

104. Pursuant to Florida Statutes §§ 86.011 and 86.021, Plaintiff seeks a declaratory judgment regarding his rights under Contracts No. 497 and No. 483.

105. Specifically:

- a) Plaintiff seeks a declaration that under Jordanian Law, a "de facto partnership" exists between Plaintiff and Defendants Sargeant and Abu-Naba'a to obtain and

perform the contracts entered into with the DESC for the shipment of oil across Jordan for use by the U.S. military in Iraq.

b) Plaintiff seeks a declaration that pursuant this de facto partnership, he is entitled to one-third of all profits earned by the de facto partnership, including profits earned under Contracts No. 497 and No. 483.

c) Plaintiff seeks a declaration that he is entitled to examine the documents and records of the entities that form the de facto partnership pursuant to Article 596 of the Jordanian Civil Code.

WHEREFORE, Plaintiff requests that judgment in his favor and against Defendants Sargeant and Abu-Naba'a be entered as follows:

A. Awarding compensatory damages representing the full amount of money due and owing to Plaintiff by Defendants Sargeant and Abu-Naba'a under Contract No. 497, including interest in an amount to be determined at trial;

B. Awarding compensatory damages representing the full amount of money due and owed to Plaintiff by Defendants Sargeant and Abu-Naba'a to date under Contract No. 483, including interest;

C. Awarding punitive damages as determined by the Court;

D. Imposing a constructive trust on all payments to be made by the DESC in connection with Contract No. 483, including any extensions and renewals thereof;

E. Granting the declaratory relief sought in Counts IV and VIII of this complaint;

F. Awarding attorneys' fees, prejudgment interest, post-judgment interest and the costs of this action as permitted by law; and

G. Such other and further relief as the Court deems just and equitable.

Dated: April 10, 2008

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Farid Al-Saleh*

IN THE CIRCUIT COURT FOR THE
FIFTEENTH JUDICIAL CIRCUIT, IN AND
FOR PALM BEACH COUNTY, FLORIDA

----- x
Mohammad Anwar Farid Al-Saleh,

Plaintiff,

Case No.:

-vs.-

Harry Sargeant, III, Mustafa Abu-Naba'a,
and International Oil Trading Company,
LLC,

Defendants.
----- x

REPORT OF MOHAMMAD S. BEIRUTI

I. Preliminary Matters

1. You have requested my opinion on certain issues of Jordanian law in connection with the rights of Mr. Mohammad Anwar Farid Al-Saleh.
2. I am licensed in Jordan and am partner in the law firm of Beiruti Attorneys and Counselors at Law and practice in their office in Amman, Jordan. A copy of my resume is attached as appendix A.
3. In preparation of this opinion, I have reviewed the documents listed in appendix B.
4. I have been asked to provide my opinion as to whether, under Jordanian law, Mr. Al-Saleh has a claim against Messrs. Mustafa Abu-Naba'a and/or Harry Sargeant, III in connection with the profits from contracts for the shipment of oil across the Hashemite Kingdom of Jordan to US troops in Iraq, performed by International Oil Trade Center company ("IOTC") and/or other related entities.

5. My opinion, as set out in more detail below, is that Mr. Al-Saleh has several compelling claims under Jordanian law.¹

II. Overview of Relevant Facts

6. In preparing this opinion, I have proceeded from the basis of the factual background as set forth below.
7. Following the commencement of the US military operations in Iraq in 2003, the US government offered contracts to expedite the supply of oil products to US forces through the US government's Defense Energy Support Center ("DESC").
8. Messrs. Abu-Naba'a and Sargeant approached Mr. Al-Saleh and proposed that all three men work together to bid on DESC contracts.
9. At that time, IOTC was owned by Mr. Abu-Naba'a and his brother, Hazem Abu-Naba'a. Messrs. Al-Saleh, Mustafa Abu-Naba'a and Sargeant decided to use IOTC as the vehicle through which they would structure their business and through which they would submit their bids to the DESC.
10. To this end, Hazem Abu-Naba'a transferred his interest in IOTC back to the company. On 25 January 2004, IOTC was restructured so that each of Messrs. Al-Saleh, Mustafa Abu-Naba'a and Sargeant owned a one-third interest in IOTC which was then registered as an Off-Shore Limited Liability Company in accordance with the Jordanian Companies Law of 1997 ("Companies Law"). The stated objective of IOTC was to trade in oil and petrol derivatives outside of Jordan.
11. Messrs. Al-Saleh, Mustafa Abu-Naba'a and Sargeant are equal partners, each owning one-third of the capital shares in IOTC as follows:
- i. i. Mr. Sargeant owns 23,333 shares.
 - ii. ii. Mr. Abu-Naba'a owns 23,334 shares.
 - iii. iii. Mr. Al-Saleh owns 23,333 shares.
12. Mr. Abu-Naba'a was elected general manager of the company.
13. In 2004, the three partners submitted a bid to the DESC in connection with a DESC contract to transport from the Gulf of Aqaba the oil to be purchased by the DESC from Saudi Arabia. IOTC would offload, store and then transport the oil to Iraq.

¹ I reserve the right to update and modify my opinions as additional facts become available.

14. Mr. Al-Saleh played a central role in obtaining DESC contracts, including by arranging for the Jordanian Ministry of Energy and Mineral Resources to issue a letter of authorization to IOTC to transport oil across Jordan to Iraq, a prerequisite to the DESC awarding the contract.
15. In early 2004, DESC awarded the contract to IOTC with TRIGEANT Ltd, a company, upon information and belief, owned by Mr. Sargeant listed parenthetically as the prime contractor. The services called for by DESC were performed by IOTC and Trafigura, upon information and belief, an international company that trades commodities such as crude oil and refined products and provides the ships and facilities to store and transport the commodities. Profits under this contract were to be shared on the basis of a 75% to 25% profit sharing arrangement between IOTC and Trafigura, respectively.
16. In 2005, Messrs. Abu-Naba'a and Sargeant established IOTC USA, a limited liability company organized under the laws of the State of Florida. IOTC USA was used by Messrs. Abu-Naba'a and Sargeant to, among other things, bid on DESC Contract No. 497 in early 2005 in lieu of IOTC.
17. Messrs. Abu-Naba'a and Sargeant also created several other entities, which are similar in name to IOTC (collectively, the "Other IOTC Entities"), including International Oil Trading Free Zone Company ("IOTC Dubai"), having its business address at B16403A62, Jebel Ali free zone, Dubai, United Arab Emirates. This entity was formed by Messrs. Abu-Naba'a and Sargeant as a Dubai free zone company with limited liability on 15 March 2005. Mr. Sargeant is the company manager of IOTC Dubai.
18. Following Mr. Al-Saleh's queries about the purpose of IOTC USA and the Other IOTC Entities and protests about IOTC USA's name on the then-current DESC contract, a General Assembly meeting of IOTC was held on 29 June 2006. During this meeting, Mr. Sargeant explained that IOTC USA and the Other IOTC Entities were formed to benefit IOTC's partners, as these entities would help IOTC coordinate and maximize the profitability of the DESC contracts, and that the contract profits would be shared equally among Messrs. Al-Saleh, Abu-Naba'a and Sargeant. During the meeting, Mr. Sargeant, speaking on behalf of himself and of Mr. Abu-Naba'a, described IOTC's relationship with, and the purpose of, IOTC USA and the Other IOTC Entities then in existence as follows:
 - i. IOTC USA was established to make IOTC more competitive when applying for bids.
 - ii. IOTC was to handle management of the contracts, and the profits from the contracts were to be distributed quarterly to each partner on the basis of the percentage of shares each holds in IOTC.

- iii. IOTC Dubai's role was to report profits of the contracts in their financial statements after paying all expenses of IOTC and paying service revenue for IOTC for the management of the project and its role in distributing the profits.
 - iv. IOTC was fully independent from IOTC Dubai with respect to the contract management. (Exhibit 1)
19. The General Assembly meeting thus reaffirmed Mr. Al-Saleh's understanding that any business developed in connection with any DESC contracts would benefit the three partners equally as one-third partners in IOTC.
 20. At the beginning of 2007, as the deadline for submitting bids to the DESC for a new contract ("Contract No. 483") approached, Messrs. Abu-Naba'a and Sargeant asked Mr. Al-Saleh to again assist in procuring the necessary letter of authorization from the Jordanian Ministry of Energy and Mineral Resources so that the bid to the DESC could be submitted on time.
 21. Mr. Al-Saleh complied with this request and obtained a new letter of authorization. This authorization letter was issued in the name of IOTC.
 22. The three partners then envisaged and negotiated the possibility of constituting a company in a neutral tax jurisdiction to which all proceeds would be assigned.
 23. In early 2007, Messrs. Abu-Naba'a and Sargeant submitted a bid for Contract No. 483 in IOTC USA's name and in the spring of 2007, the DESC awarded Contract No. 483 to IOTC USA.
 24. On 3 May 2007, after being awarded Contract No. 483, Mr. Sargeant sent Mr. Al-Saleh a text message stating "You have the business again sir and please be assured I will never let you down congrats." (Exhibit 2)
 25. Following the award of Contract No. 483 to IOTC USA, the payment to Mr. Al-Saleh of his one-third share of the contract profits under Contract No. 497 essentially ceased.
 26. In the meantime, Mr. Al-Saleh found out that Messrs. Abu-Naba'a and Sargeant have diverted to foreign bank accounts monies rightfully belonging to IOTC.
 27. In August 2007, Mr. Al-Saleh was informed by Messrs. Abu-Naba'a and Sargeant that unless he agreed to sign a release agreement, he would not receive any further payments. The release agreement purported to be a full and final settlement of all amounts due and payable under all DESC contracts and a release of all claims any party (which was defined to

include among others Messrs. Al-Saleh, Abu-Naba'a and Sargeant, IOTC, IOTC Dubai and IOTC USA) may have had against any other party.

28. Mr. Al-Saleh refused to sign the release agreement and has not signed it since.
29. Since that time, Mr. Al-Saleh has not received any further payments from the venture, including the amount of more than \$13,000,000 owed under Contract No. 497, his one-third share of the profits under Contract No. 483, and all of his beneficial interest in the venture.

III. De Facto Partnership

30. Under Jordanian law, a company or partnership "is a contract whereby two or more persons undertake to contribute in a financial project by providing a share of money or labor to develop this project and share the resulting profits and losses" (Article 582 of the Jordanian Civil Law No. 43 of 1976 the "Civil Code").
31. A company's contract does not have to be in writing under Jordanian law. Article 584 of the Civil Code specifies:
 - (2) If the contract is not in writing, this shall not affect the rights of third parties. As to the partners themselves, the contract shall be deemed valid unless one of the partners requests that the contract be considered invalid. This shall apply to the contract from the date of commencement of legal proceedings.
32. Under Article 584 of the Civil Code, the contract shall be deemed invalid only as of the date of commencement of the legal proceedings by the partner to invalidate the unwritten contract. The contract will be deemed valid throughout the period prior to the commencement of such legal proceedings. (See, Court of Cassation, Case No. 1043/2002 of 6/10/2002)
33. Similarly, a company exists under Jordanian law even if it is not registered with the Companies Register. Article 583 of the Civil Code provides that the company is deemed to be a legal person upon its constitution, and Article 15 of the Companies Law further specifies:
34. Failure to comply with the registration procedures set forth at Articles 11, 13 and 14 of this law would not preclude a declaration that a company actually exists, a declaration that changes were made to the benefit of third parties, or a declaration that the company or the changes made to the benefit of third parties are null and void. Such failure shall not benefit any of the partners, and each partner shall be considered jointly liable with the company and the other partners towards third parties for any damages resulting therefrom.

35. Under Jordanian law, a company or partnership that is not registered with the Companies Register is "a de facto partnership". Jordanian courts and commentators confirm that a de facto partnership may be proven by all means (*see, e.g.*, Court of Cassation, Case No. 748/99 of 3/8/1999) and that such partnership exists, *inter alia*, when some persons act as partners albeit without intending to create a company *per se*.
36. For example, in Case No. 24/81, the Court of Cassation found that a de facto partnership existed by virtue of the joint conduct of business by the parties and noted the long-standing position of Jordanian case law that, "the conduct of business by two or more persons jointly in one place, means that they are conducting the business as a company," (Court of Cassation, Case No. 24/81 of 4/2/1981). The same reasoning was adopted by the Court of Cassation in Case No. 1697/05, in which the court confirmed the findings of the Court of Appeal that the defendants had formed a de facto partnership as a result of their joint management of a store and their appearance as partners in the eyes of third parties (Court of Cassation, Case No. 1697/05 of 10/10/2005).
37. Similarly, in Case No. 36/82, the Court of Cassation found that a de facto partnership was created as a result of the joint performance by two companies of a development project with the aim of sharing the resulting profits and losses (Court of Cassation, Case No. 36/1982).
38. The foregoing shows that, under Jordanian law, a de facto partnership exists when two or more persons or entities act as partners, even if such persons or entities do not intend to create a company *per se*.
39. In the present case, it is my opinion that Messrs. Al-Saleh, Abu-Naba`a and Sargeant have formed a de facto partnership to obtain and perform the contracts entered into with the DESC for the shipment of oil across the Hashemite Kingdom of Jordan for use by the US in Iraq.
40. The existence of such a de facto partnership among Messrs. Al-Saleh, Abu-Naba`a and Sargeant is confirmed by the minutes of the General Assembly meeting of IOTC of 29 June 2006 during which Mr. Sargeant explained that all of IOTC USA and the Other IOTC Entities were designed to benefit the three partners who would continue to share all profits equally as described above.
41. Further evidence of the existence of a de facto partnership among Messrs. Al-Saleh, Abu-Naba`a and Sargeant is the negotiations with respect to establishing a new company in a neutral tax jurisdiction to which all proceeds resulting from the DESC contracts would be assigned, rather than to IOTC. Whilst my understanding is that the idea of establishing such a new company was not taken forward, these negotiations are clear proof of the existence of a de facto partnership among Messrs. Al-Saleh,

Abu-Naba'a and Sargeant to perform the DESC contracts and share in their proceeds.

42. The existence of a de facto partnership is further demonstrated by Mr. Sargeant's short text message of 3 May 2007 in which he wrote to Mr. Al-Saleh, in relation to Contract No. 483 awarded by the DESC to IOTC USA, "You have the business again sir and please be assured I will never let you down congrats." (Exhibit 2)
43. Similarly, the fact that the debt owed by IOTC to IOTC Dubai is penciled-in IOTC's financial statements as "dues to related entities" evidences that IOTC Dubai (like IOTC USA and the Other IOTC Entities) is a company within the same de facto partnership.
44. In light of the foregoing, my view is that a de facto partnership exists between Messrs. Al-Saleh, Abu-Naba'a and Sargeant.
45. The profits of the de facto partnership shall be distributed among the partners according to their agreement, which in the case of Messrs. Al-Saleh, Abu-Naba'a and Sargeant is one-third each.
46. The minutes of the General Assembly meeting of 29 June 2006 confirm the parties' agreement to divide the profits from the DESC contracts on the basis of the parties' shareholding in IOTC, namely, one-third for each partner. Mr. Sargeant indeed confirmed during that meeting that "[m]anagement of the contracts with DESC would be handled by IOTC, [] where profits of the contract will be distributed to each partner based on the capital shares in IOTC [] for each of them starting from end of January of each year on a quarterly basis." (Exhibit 1)
47. Accordingly, Mr. Al-Saleh is entitled to one-third of the profits of any activity relating to the shipment of oil across Jordan for use by the US in Iraq, carried out by any of IOTC, IOTC USA or the Other IOTC Entities, or any related entity, including Contracts Nos. 497 and 483.
48. In this context, Mr. Al-Saleh is also entitled to examine the documents and records of the entities that form the de facto partnership pursuant to Article 596 of the Civil Code which grants the partners of a partnership, including a de facto partnership, the rights to examine its records and documents.

IV. Other Claims

49. In my view, the parties formed a de facto partnership encompassing all of the IOTC entities, including IOTC and IOTC USA, and related activities, entitling Mr. Al-Saleh to his one-third share in the profits of each of the entities.

50. If, however, the court does not find that a de facto partnership exists and that the three partners were partners only in IOTC, then under Jordanian law, Messrs. Abu-Naba'a and Sargeant plainly violated their fiduciary duties towards Mr. Al-Saleh and IOTC under the Companies Law, and they committed torts and violations of Jordan's Unfair Competition and Trade Secrets Law No. 15 of the year 2000.

A. Breach of Fiduciary Duties

51. Under Jordanian law, directors of a company, as a general principle, have a fiduciary duty to the company and may not act or omit to act in any manner that would cause damages to the company, and may not compete with the company. By taking IOTC's business opportunities, through a variety of means, and transferring them to other companies, Messrs. Abu-Naba'a and Sargeant violated their duties to IOTC and to Mr. Al-Saleh.

52. Directors and partners who manage the affairs of a company are required by Jordanian law to avoid harming the company. Article 597 of the Civil Code states that "the partner who has the right to manage the interests of the partnership ... shall refrain from any action which causes damages to the partnership or is in conflict with the objective for which the partnership was formed." Article 593(3) further states that "if the director acts beyond his powers he shall be liable for every damage inflicted upon the company as a result thereof."²

53. Additionally, directors of a company are not permitted to compete with the company or participate in a competing entity. As set out in Article 63 of the Companies Law, absent approval by a vote of not less than 75% of the company's shares, a director is not permitted to:

- i. Assume any position in any other company with objectives similar to or competitive with the company's businesses;
- ii. Practice any business similar to the company's businesses; or
- iii. Participate in managing another company having objectives similar to or competitive with those of the company.

54. As described in Article 61 of the Companies Law, the duties of a director in a company such as IOTC flow not only to the company, but also to the partners and shareholders in the company: "the director of a limited liability company, whether the sole director or any of the board members shall be responsible before the company, the partners therein and third

² Jordanian law makes no distinction between a "partner" and a "shareholder" in a company like IOTC. Further, references to a "director" and a "partner who has the right to manage the interests of the partnership" are interchangeable.

parties for any violation of the provisions of this Law, the regulations issued in pursuance thereof, the company's articles and memorandum of association and resolutions of the general assembly or board of directors."

55. In my opinion, the acts of Mr. Abu-Naba'a, as partner of IOTC, who held the position of general manager at all relevant times, and Mr. Sargeant, as a partner participating in the management of IOTC who, for example, represented himself and Mr. Abu-Naba'a and provided management's responses to Mr. Al-Saleh's questions about the operations of the entity, constitute a material breach of their fiduciary duties under Jordanian law.
56. Messrs. Abu-Naba'a and Sargeant formed several companies in multiple jurisdictions using names similar or nearly identical to IOTC with the apparent purpose of competing for and benefiting from DESC contracts that replaced the DESC contracts originally won by IOTC.
57. Messrs. Abu-Naba'a and Sargeant did not bid on Contracts Nos. 497 and 483 on behalf of IOTC and instead caused IOTC USA to bid for those contracts. In order to do so they used the authorization letters issued to IOTC by the Jordanian Ministry of Energy and Mineral Resources, thereby converting IOTC's property for use by their competing entities.
58. When Mr. Al-Saleh learned of the existence of IOTC entities other than IOTC and inquired about them at the 29 June 2006 General Assembly meeting of IOTC, Mr. Sargeant made false statements (on his behalf and on behalf of Mr. Abu-Naba'a) in order to deceive Mr. Al-Saleh about the purpose and role of IOTC USA and IOTC Dubai.
59. Mr. Al-Saleh has not received his share of any profits from the DESC contracts since August 2007, and has been specifically deprived of his share of the profits of Contracts Nos. 497 and 483.

B. Tort

60. Messrs. Abu-Naba'a and Sargeant are also plainly liable in tort for conspiring and causing injuries and losses to IOTC and to Mr. Al-Saleh.
61. Tort is one of the three main sources of obligation under Jordanian law (the others being law and contract). A tort action requires three elements:
 - i. An injurious act or omission in violation of the general duty not to injure others.
 - ii. Damages.
 - iii. A direct relation between the act/omission and the damages.

62. Under Article 256 of the Civil Code, "every injurious act shall render the person who commits it liable for damages even if he is a non-discerning." This applies equally to acts of deceit, as Article 259 states, "if any person deceives another he shall be liable for the damages resulting from that deceit."
63. Jordanian law entitles the victim of a tort to recover an estimate of their actual damages, including lost profits. Article 266 of the Civil Code explains: "damages shall in all cases be estimated by the amount of the damage inflicted on the injured person and his loss of profit provided that the same shall be a natural result of the injurious act."
64. Furthermore, as described in Article 265 of the Civil Code, liability in tort is several among joint tortfeasors, and the court may assign liability jointly or may apportion liability among the parties.
65. Messrs. Abu-Naba'a and Sargeant tortiously injured Mr. Al-Saleh by unfairly competing with IOTC, and by operating competing entities under similar names, causing confusion and deception.
66. Messrs. Abu-Naba'a and Sargeant tortiously injured Mr. Al-Saleh by conspiring to deprive IOTC of the benefits of Contracts Nos. 497 and 483, and by exploiting the name, capabilities, resources, and customers of IOTC to that end.
67. Messrs. Abu-Naba'a and Sargeant tortiously injured Mr. Al-Saleh by conspiring to use IOTC's authorization letters issued by the Jordanian Ministry of Energy and Mineral Resources to help other entities obtain DESC contracts.
68. Messrs. Abu-Naba'a and Sargeant tortiously injured Mr. Al-Saleh by not bidding for Contracts No. 497 and No. 483 on behalf of IOTC.
69. Mr. Sargeant, and Mr. Abu-Naba'a through Mr. Sargeant as his agent, tortiously injured Mr. Al-Saleh by giving false statements at the General Assembly meeting of 29 June 2006 to deceive Mr. Al-Saleh regarding the purpose and role of IOTC USA and IOTC Dubai.
70. As a result of these tortious acts and omissions, Mr. Al-Saleh has been denied his one-third share of the benefit from Contracts Nos. 497 and 483, which should have been obtained for IOTC.
71. In light of the fact that IOTC had successfully bid on the previous DESC contracts and IOTC's application for Contract No. 483 would have been virtually identical to the winning IOTC USA application, which relied on IOTC's letter of authorization, there is no doubt that Mr. Al-Saleh's damages were directly caused by the tortious acts and omissions by

Messrs. Abu-Naba'a and Sargeant, and the damages incurred by IOTC and Mr. Al-Saleh are evident.

C. Breach of Unfair Competition and Trade Secrets Law No. 15 of the Year 2000

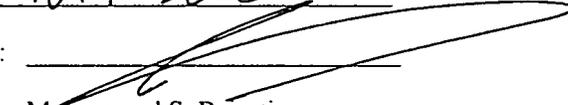
72. The acts by Messrs. Abu-Naba'a and Sargeant described herein also constitute unfair competition under Jordan's Unfair Competition and Trade Secrets Law No. 15 of the year 2000.
73. Article 2(A) provides that "any competition conflicting with honest practices in industrial or commercial matters shall be considered an act of unfair competition, especially ... [a]cts which by nature create confusion with the establishment of a competitor and the ... commercial activity of the same."
74. Article 3 further provides that "[e]ach person with an interest may claim for compensation any damages caused by unfair competition."
75. Messrs. Abu-Naba'a and Sargeant committed acts of unfair competition by forming and operating entities with names similar to the name of IOTC, which led to confusion and deception.
76. Messrs. Abu-Naba'a and Sargeant committed acts of unfair competition by exploiting the name, capabilities, resources, and customers of IOTC for the benefit of other companies and themselves.
77. Messrs. Abu-Naba'a and Sargeant committed acts of unfair competition by seizing the benefit of the DESC Contracts from IOTC in favor of other companies and themselves.
78. Messrs. Abu-Naba'a and Sargeant committed acts of unfair competition by using the authorization letters issued by the Jordanian Ministry of Energy and Mineral Resources to IOTC for the benefit of other companies and themselves.

V. Mr. Al-Saleh Has the Right to Bring All of these Claims Directly on His Own Behalf

79. Pursuant to Article 3 of Jordan Civil Procedure Law No. 24 of 1988, the acceptance of any claim is conditional upon the existence of a legitimate interest to the claimant in such claim.
80. It is evident that the acts and omissions of Messrs. Abu-Naba'a and Sargeant would impact on the interests of Mr. Al-Saleh. He is thus entitled under Jordanian law to bring claims directly on his own behalf.

81. Moreover, in filing these claims, Mr. Al-Saleh is exercising the rights given to him under Jordanian law as described in Sections (II) and (IV) above.
82. In my opinion, Mr. Al-Saleh as a partner in the de facto partnership and in IOTC has an existing legitimate interest to preserve his rights in the partnership and to preserve the interests of IOTC from being prejudiced by Messrs. Abu-Naba'a and Sargeant. (See Court of Cassation, Case No. 896/02 of 1/7/2002).

Date: 10.4.2008

Signed: 

Mohammad S. Berruti

NOT A CERTIFIED COPY

APPENDIX A

NOT A CERTIFIED COPY

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Years with Firm: 15

Education: LLB holder since 1993

University of Zakaziq, Arab Republic of Egypt

Member in the Jordanian Bar Association since 1993

Key Qualifications:

- Arbitration and Litigation (*Civil and Commercial Disputes*)
- Banking and Finance
- Construction
- Corporate
- Energy
- Mergers & Acquisitions
- Securities

Professional Record:

Current Position

Partner - Beiruti Attorneys and Counselors at Law, one of the leading law firms in Jordan established since 1962, and provides full range of business and litigation legal services, and conducts a national and international general legal practice.

Previous Position:

- **Associate:** Beirut Attorneys and Counselors at Law (1995 – 1999).
- **Trainee:**
- Beirut Attorneys and Counselors at Law (1993 – 1995)

Relevant Experience:

- Representing high profile litigants in many civil and commercial disputes.
- Team leader for innumerable legal assignments that involve private and public sectors as well as international clients.
- Submitted a number of legal opinions on several applications of Jordanian Law to local and international clients.
- Providing legal advice to governments, ministries, and public institutions.
- Drafting and negotiations contracts of mega infrastructure projects in Jordan.
- Advising local, regional, and international Banks, financial institutions and corporations.

Languages:

Arabic: Mother Tongue

English: Fluent

APPENDIX B

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Report of Mohammad S. Beiruti
Appendix B: List of Documents Reviewed

Item	Description
1	DESC Contract 483
2	Material inspection and receiving report of DESC contract 506
3	IOTC registration application and company founding contract and articles of association
4	IOTC registration certificate
5	Information by Florida Department of State Division of Corporations regarding registration details of IOTC USA
6	Letter of the Jordanian Ministry of Energy and Mineral Resources of 20 May 2004
7	IOTC financial statements and auditors report for the year ended 31 December 2004
8	Draft consultancy agreement
9	IOTC financial statements and auditors report for the year ended 31 December 2005
10	IOTC General Assembly meeting minutes of 29 June 2006
11	IOTC financial statements and auditors report for the year ended 31 December 2006
12	Letter of the Jordanian Ministry of Energy and Mineral Resources of 15 January 2007
13	Email of 31 January 2007 sent by Mr. Sargeant to Mr. Al Saleh
14	SMS message from Harry Sargeant, III to Mohammad Al Saleh of 3 May 2007
15	Draft release agreement of August 2007
16	To Whom it May Concern letter issued by Companies Controller of 4 February 2008 in respect of IOTC
17	Independent Oil Trading Co. certificate of registration of 4 February 2008
18	To Whom it May Concern letter issued by Companies Controller of 4 February 2008 in respect of Independent Oil Trading Co.

EXHIBIT 1

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**INTERNATIONAL
OIL TRADE CENTER**

**International Oil Trade Center
General Assembly Meeting
29 June 2006**

Subject: Minutes of Meeting for the Year Ended 31 December 2005

Attendees

Mr. Harry Sargeant ("HS"), Partner
Mr. Mustafa Abu Nab'a ("MAN"), Partner (MAN Authorized HS)
Mr. Mohamed Al Saleh ("MSA"), Representative of a Partner
Mr. Majdi Bustami ("MB"), Authorized General Manager
Mr. Maher Shelleh ("MSH"), Finance Manager
Mr. Adnan Bani Ahmed ("ABA"), the Lawyer
Mr. Luay Hanania ("LH"), Audit Manager, KPMG Correspondence, Jordan

Attendance and meeting conduction

MB conducted the meeting asking the partners to sign off for their attendance. HS signed off for himself and on behalf of Mr. Mustafa Abu Nab'aa (Partner) where the latter authorized the former in writing, to attend on his behalf.

Board of Directors nominations

HS was nominated as a head for the meeting and LH as a rapporteur by the board of directors members.

Management Report

MB read the management report in Arabic and handled the English version of it to HS to read it. The management report is summarized as follows:

- **Profits and Growth:** As promised in 2004, the management overcame all difficulties and risks and achieved great profits and growth in the net worth of owners in the year 2005.

M.A. 

Managerial Capabilities: The management was very successful in utilizing its expertise and obtaining financial sources to get the bids awarded to the company.

- **New Financing Sources:** The new financing sources aforementioned cut down the financing cost bared by the company.

- **Operations:** the management was very efficient in meeting the DESC sales orders with no defaults.

- **Transportation field:** Expansion of its fleets of heads and trailers enabled the company to exceed the maximum limits agreed upon. Using an agent for transportation and increasing the number of special tankers reduced the cost of transportation.

- **Customer satisfaction:** the concuring contract was extended to additional 6-month-supply renewable for the same period.

- **Plan for 2006:**

1. Maintain and develop the company's investments.
2. Develop projects' implementation performance.
3. Work towards maintaining competition to be the only party executing any projects for selling and transporting oil to the neighboring countries.
4. Maintain and develop the transportation fleet.
5. Continue to assemble and organize the special transportation fleet.
6. Concentrate on human resources development, which would greatly affect development of company's performance.
7. Built trust by diversifying the company's investments.

HS comments on the company's performance

- HS stressed that he is happy about the company's operational and financial management performance and profitable results for the year. He also thanked MB and MSH for their efforts and nominated MSH as the General Director for the transportation activities in addition to his current responsibilities as a finance manager.

- HS focused on the role of Jordan in buying fuel from Iraq as what Syria did.

- HS focused on the efforts that should be made to collect the claim of the USD 17 million from DESC.

MA.

HS expressed his optimistic view for the company in 2006 to carry on achieving profits and highlighted two main objectives for the management to achieve. The first was maximizing profits by getting all the contracts and not leaving hope for competitors. The second to cut down costs.

- HS stressed on the customer satisfaction where the company's profit are made from.

Escort

HS mentioned that he can facilitate for Escort and is currently looking for arrangements.

The relationship between IOFC, Dubai and IOFC, Jordan (a question raised by MSA and ABA)

- HS answered that IOFC, USA was established to make the company competitive when applying for bids.

- Management of the contracts with DESC would be handled by IOFC, Jordan where profits of the contract will be distributed to each partner based on the capital shares in IOFC, Jordan for each of them starting from end of January of each year on a quarterly basis taking into consideration that cash at bank at any time must have a balance of USD 6 million in addition to any forecasted payments determined by the management. In addition the directors agreed that IOFC, Jordan is fully independent from IOFC, Dubai as an entity and with regards to the contracts management from both managerial and financial perspectives.

- The roles of IOFC, Dubai are to report profits of the contracts in their financial statements after paying all expenses of IOFC, Jordan and paying service revenue for IOFC, Jordan for their management of the project and their role in distributing profits as aforementioned.

Auditors Nomination for 2006

Accredited Auditors; a new correspondence for KPMG was nominated by the board of directors members to provide audit services for the year ended 31 December 2006.

Approval

Board of directors members approved and signed off the draft audited financial statements for the year ended 31 December 2005.

Meeting Closure

HS expressed again his happiness for the performance of the company and appreciated the efforts of the management and the meeting was closed.

The general assembly, personally, by proxy and unanimously, ratified all items listed on the agenda of the meeting and the details incorporated therein.

President of the meeting
General Assembly Member
Harry Sargeant III

General Assembly Member
Mohammad Anwar Al Saleh

General Assembly Member
Mustafa Abu Naba'a
Harry Sargeant III Authorized by Mustafa Abu Naba'a

Secretary to the meeting
Luay Hananta

EXHIBIT 2

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Text message 2: Harry to Mohammad Jordan number
Number: +19546478280
Message centre: +12063130004
Sent on 03-05-2007
Time 01:05:58pm

Text of message

*"You have the business again sir and please be assured I will never let you down
congrats"*

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R E C E I P T

PALM BEACH CTY CIR CT JISPROD

Receipt Number: CAMB208333

Date: 10-APR-2008

Cashier: KBUTLER

Payor: BOIES SCHILLER AND FLEXNER LLP

Addr:

Violation/Docket	Description	Amount
Case: 2008CA010187 - MOHAMMAD AL-SALEH V HARRY SARGEANT		
Party: MOHAMMAD ANWAR FARID AL-SALEH		
CAFF		256.00
	CHECK RECEIVED GENERAL ACCT	-256.00
	Total Fees:	256.00
	Total Payment:	256.00

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