

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BURGAN EXPRESS FOR GENERAL
TRADING AND CONTRACTING CO.,
et al.,

Plaintiffs,

-VS-

Case No. 2:12-CV-041

MARK ANTHONY ATWOOD, *et al.*,

Judge Marbley
Magistrate Judge King

Defendants.

DECLARATION OF MARK ANTHONY ATWOOD

I, Mark Anthony Atwood, do hereby state as follows:

1. I retired after 22 ½ years as a non-commissioned officer – rank of First Sergeant (E-8) – in the United States Army shortly before the terrorist attacks of September 11, 2001. Feeling called to continue serving, but unable to return to the military, I took a job as a civilian contractor doing logistics work for our troops, and arrived in Kuwait in 2002.
2. Once the Iraq War began, I was approached by the United States Marine Corps, looking for a civilian company that was equipped and willing to accept a dangerous contract assignment to support troops in Anbar province in Iraq. Larger, established civilian security contractors such as KBR and other logistics service support companies refused to operate within certain outlying Forward Operating Bases (FOBs) in Anbar Province at the time, deeming it too dangerous. However, the Marine Corps was having problems preserving the bodies of fallen service members in the extreme heat conditions. I had experience with refrigeration units and their

MAA

necessary generators, and formed Wolfpack as a logistics company capable of addressing this issue.

3. Wolfpack was in the business of providing refrigeration units to troops stationed at FOBs throughout Iraq. The units were used for a variety of needs including, at one time, preserving the remains of the fallen. Wolfpack was awarded several contracts from the Marine Corps for this work, and used the money to purchase vehicles, generator equipment, weapons, and to pay its mechanics, refrigerator technicians, and security personnel.

4. Plaintiff Hajia Khajah ("Khajah") was a Kuwaiti businessman referred to me as a potential source of start-up funding for Wolfpack. Khajah and I discussed the possibility of entering into a Joint Venture Agreement. However, Khajah *refused* to sign any agreement, and opted instead to serve as a lender to Wolfpack. Specifically, rather than taking an ownership interest in the company, Khajah made a series of periodic payments to Wolfpack, which were each then repaid by Wolfpack, with interest.

5. Khajah ceased making loans to Wolfpack sometime in 2003. However, I continued making principal and interest payments on Wolfpack's debt to Khajah thereafter. However, due to disputes between Khajah and I, and after Khajah had been repaid in full, we decided to part ways in 2005. On October 30, 2005 and November 6, 2005 I published notices required under Kuwaiti law in a local newspaper, stating that the business relationship between Wolfpack and Burgan Express was terminated.

6. Almost immediately thereafter, Khajah filed a lawsuit against me ("the First Action"). As part of this filing, I was required to appear at the Jabriya Police Station, where I was subjected to intense interrogation about the details of my business arrangement with Khajah, who alleged that



he was still owed money by Wolfpack. During this interrogation however, at which Khajah was present, Khajah admitted both that he never signed a Joint Venture Agreement with me, and that he had been repaid everything he was owed, as illustrated in the Wolfpack Payment Ledger.

7. Despite this, the lawsuit against me moved forward. Between November 2005 and June 30, 2006, myself, my representative, Bader Al-Barazi ("Bader"), and an attorney secured by Bader, Mr. Al-Otaibi, attended hearings before an Expert Committee appointed by the Kuwaiti Court. I never spoke, but was told the hearings were investigating the nature of my business relationship with Khajah, and whether Wolfpack and/or I owed monies to Khajah. After 25-30 meetings, I was informed by my Kuwaiti counsel that the Expert Committee had found in my favor, and that the case was over.

8. I continued on with my life and my business for the next several months, and was actively trying to obtain court documents to verify the dismissal of the First Action, until I received word from Bader and his Kuwaiti counsel that a new action had been filed against me on the same facts ("the Second Action") and a new Expert Committee appointed. Bader told me that Khajah had "paid off the judges" with a sum equal to several hundred thousand dollars U.S. to secure the reopening of the case.

9. The Second Action was entirely different than the First. Instead of 25-30 hearings, the Committee held approximately 3. I was actively prohibited from speaking, and everything took place in a small meeting room. At no point did I set foot in an actual courtroom, and at no point was I able to appear before a judge. After these perfunctory hearings, the Expert Committee found against me, and as a result, the Kuwaiti Court of First Degree issued a verdict against Wolfpack and I on May 29, 2007.

A handwritten signature in black ink, appearing to be 'MBA', is located in the lower right quadrant of the page.

10. I fled Kuwait in fear for the lives of my family and I in June of 2007, following death threats made by Khajah and his associates. I had prepaid for all legal services to be rendered by my Kuwaiti Counsel once I was gone, and entrusted them to continue defending him and prosecuting necessary appeals in his absence.

11. However, upon information and belief, Kuwaiti counsel ceased working on my behalf once I left the country. No appeals were filed. Documents suggest that judgment was entered against me in the Second Action on December 31, 2008, and that the Court of First Instance upheld this judgment on July 9, 2009. The Court's sentence was \$20 million and 3 years in prison – for an alleged business debt.

12. Again, my Kuwaiti counsel filed no appeal. Therefore, documents supplied by Plaintiff state that on June 14, 2010, the High Court of Appeal in Kuwait entered final judgment against Wolfpack and I. It was not until the summer of 2010 that I was informed by Bader that a judgment had been entered against me. Bader stated to me at this time that “You were an American in a Muslim court system in the Middle East – what did you expect?”

13. Upon information and belief, while Wolfpack was still operating in Kuwait in 2007, U.S. military personnel seized the company's equipment in Al Asad, Iraq, pursuant to an order by the Kuwaiti court system, on behalf of Khajah to satisfy his judgment. The equipment seized included vehicles, weaponry, generators, and other equipment, with a value of \$3.5 million.

14. In the entire course of Wolfpack's operations, the company's profits totaled approximately \$5 million, far from the \$20 million sought in this action. Khajah's lawsuit sought 50% of the value of Wolfpack, which the Expert Committee in the Second Action appears to

have included was \$20 million. It is unclear from documents available how the Expert Committee arrived at such an amount.

15. I have encountered significant difficulty in obtaining documents from the Kuwaiti Courts to verify and pinpoint dates and events that occurred in this Kuwaiti litigation. Towards this end, Defendants recently retained new Kuwaiti Counsel, who has reviewed the history of these cases. It is their opinion that I was not represented in numerous proceedings, and that this malpractice and failure to appeal is grounds for reopening the case and staying the judgment.

I declare under penalty or perjury that the foregoing is true and correct. Executed on May 15, 2012.

A handwritten signature in cursive script, appearing to read "Mark Anthony Atwood".

Mark Anthony Atwood