

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,
:
-vs.-
:
Harry Sargeant, III, Mustafa Abu-Naba'a,
and International Oil Trading Company,
LLC,
:
Defendants.
:
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2008 CA 010187 XXXX MB
Case No.:

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CIRCUIT CIVIL DIVISION

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.

