

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

ENTESAR OSMAN KASHEF, *et al.*,

Plaintiffs,

-against-

BNP PARIBAS S.A., BNP PARIBAS NORTH  
AMERICA, INC., and DOES 1-10,

Defendants.

Civil No. 1:16-Civ-03228-AJN

Hon. Alison J. Nathan

**DECLARATION OF TAYEB HASSABO**

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I, Tayeb Hassabo, declare the following pursuant to 28 U.S.C. § 1746:

### PART I

1. This Expert Report is presented in six Parts. Part I provides a summary of my professional experience and expertise and the scope of this report. Part II provides some brief background on the Sudanese legal system. Part III describes general rules governing tortious liability in Sudan. Part IV describes Sudanese law governing direct and indirect tortfeasors. Part V describes provisions of Sudanese law that bar liability for the exercise of lawful rights. Part VI analyzes whether Sudanese law equivalents exist for various theories of direct liability asserted in the Complaint, and, if so, what the elements of those claims would be under Sudanese law.

#### **Brief Resume:**

2. I submit this declaration as a Sudanese lawyer and practitioner of private and commercial law.

3. My name is **Eltayeb Hassabelrasoul Abdalla Said (Tayeb Hassabo)**. My law office is located in Building No. 15, Block 12, 39<sup>th</sup> Street Elamarat, off Airport Road, Khartoum, Republic of Sudan (attached as Exhibit A is a copy of my CV).

4. I received an LLB from the Faculty of Law, University of Khartoum, in 1986. My education there included both Common Law and Shari'a Law. I am a founding partner of Aztan Law Firm, Sudan. I am also currently the Managing Partner of Aztan Law Firm, and Head of the Business and Corporate Section at three offices: Aztan Law Firm, Sudan; Al-gharib and Associates, Dubai, United Arab Emirates; and Aztan, Sulaf and Associates, Republic of South Sudan.



5. I have extensive experience in litigation, arbitration, and business and corporate matters under Sudanese law. I also have significant experience handling court claims, arbitration, and advising on business and corporate transactions. In addition, by virtue of my long experience handling court claims, advising on business and corporate transactions, and managing an international law practice, I am qualified and experienced in the laws of the United Arab Emirates.

6. Publications: I authored the Sudanese chapter on Arbitration Law and Practice in M/s. Excelencia FZ LLC of Dubai (2009). I co-authored the Sudanese chapter on "Arbitration Law and Practice," International Comparative Legal Guides (7th ed. 2014).

7. Prior Experience as Expert Witness: In 2014, I rendered a legal opinion on compensation and damages under Sudanese law on behalf of Chang Law, International Dispute Resolution, a Los Angeles arbitration and dispute resolution firm. This opinion was submitted to an arbitration panel seated in Kenya.

8. Fees: I am being compensated at the rate of \$600/hr for my work on this expert opinion.

**Examined Documents:**

9. In delivering this expert opinion (the "**Opinion**"), I have examined (i) the Second Amended Complaint (the "**Complaint**" or "**Compl.**") filed in the United States District Court for the Southern District of New York on January 20, 2017 by Kashel, et al (the "**Plaintiffs**") against BNP Paribas S.A., BNP Paribas S.A. New York Branch and BNP Paribas North America, Inc. ("**BNPP**"), (ii) Exhibit "A" to the Complaint, which is the Information, filed July 9, 2014 with the U.S. District for the Southern District of New York, (iii) Exhibit "B" to the Complaint, which is the Letter from Preet Bharara et al. to Karen Patton Seymour, June 27, 2014, (iv) Exhibit "C" to the Complaint, which is the Stipulated Statement of Facts between BNP Paribas S.A. and the U.S. Department of Justice, dated June 28, 2014, (v) Exhibit "D" to the Complaint, which is the Plea Agreement by BNP Paribas S.A. with the District Attorney for New York County, dated June 28, 2014, (vi) Exhibit "E" to the Complaint, which is Exhibit A to the Plea Agreement by BNP Paribas S.A. with the District Attorney for New York County, dated June 28, 2014, (vii) Exhibit F to the Complaint, which is the Cease and Desist Order by the Board of Governors of the Federal Reserve System and the Autorité de Contrôle Prudentiel et de Résolution, of June 30, 2014, (viii) Exhibit G to the Complaint, which is the Order to Cease and Desist and Order of Assessment by the Board of Governors of the Federal Reserve System, dated June 30, 2014, (iv) Exhibit "H" to the Complaint, which is the Settlement Agreement between BNP Paribas S.A. and the U.S. Office of Foreign Asset Control, (x) Exhibit I to the Complaint, which is the Consent Order Under New York Banking Law § 44 by the New York State Department of Financial Services, dated June 29, 2014, (xi) Exhibit J to the Complaint, which is the Press Release of the New York State Department of Financial Services of June 30, 2014, (xii) Exhibit K to the Complaint, which is the May 1, 2015 press release from the Department of Justice, Office of Public Affairs, and (xiii) Exhibits L-O to the Complaint, which are maps of Sudan and South Sudan.



**Examined Sudanese Laws:**

10. In conducting the necessary legal research, I have consulted the following Sudanese statutes: (i) the Civil Transactions Act 1984 (the "CTA"), (ii) the Civil Procedures Act 1983, (iii) the Evidence Act, (iv) the abolished Civil Code 1971, and (v) the abolished Prescription Act 1928. I have also reviewed the judicial precedents cited in the Table of Cases hereinabove and in the text of this Expert Opinion.

11. In addition to the above, I have reviewed the writings of the Sudanese, Egyptian, and Islamic jurists referred to in different parts of this Opinion.

**Scope of this Expert Opinion:**

12. This Expert Opinion is confined to addressing the following issues:

**Substantive Sudanese Law:**

- a. The elements of the claims under Sudanese law that are the closest analogues to the claims Plaintiffs attempt to plead in the Complaint, and which elements Plaintiffs would need to prove in order to prevail on those claims under Sudanese law, or an explanation that such claims are not recognized under Sudanese law. Those claims include:
  - i. Aiding and abetting and conspiring to commit battery carried out by the Government of Sudan and its agents (collectively, "GOS")
  - ii. Aiding and abetting and conspiring to commit battery carried out by the GOS in performance of public duty or authority
  - iii. Aiding and abetting and conspiring to commit assault carried out by the GOS
  - iv. Aiding and abetting and conspiring to commit false arrest and false imprisonment carried out by the GOS
  - v. Aiding and abetting and conspiring to commit conversion - wrongful taking carried out by the GOS
  - vi. Aiding and abetting and conspiring to commit conversion - "wrongful detention, use or disposal where possession lawfully obtained" carried out by the GOS
  - vii. Aiding and abetting and conspiring to commit wrongful death caused by intentional murder carried out by the GOS
  - viii. Negligence per se
  - ix. Intentional/reckless infliction of emotional distress

- x. Negligent infliction of emotional distress
  - xi. Commercial bad faith
  - xii. Unjust enrichment
- b. Specifically, requirements of knowledge and/or causality in proving the relevant tort claims

**Reservations:**

13. All quotations written in *italics* are translated by my law firm from Arabic into English. These are not official translations.

14. This Opinion is confined to the laws and judicial practice of Sudan. I am not expressing any opinion on the laws and judicial practice of any jurisdiction other than those of Sudan, and in particular express no opinion with respect to the laws of the United States.

**PART II**

**Historical Development of Sudanese Laws**

15. The laws and practice in Sudan passed through three major eras. These are as follows:

**The Common Law Era:**

16. Historically, Sudan is a Common Law country, and is in fact the only Arab country that applies Common Law. Most laws in Sudan were enacted during the British rule of the country (1898-1956). However, there was no separate codified civil transactions law. Instead, the British adopted many of the statutory laws applicable in England. In 1971, Sudan enacted a civil code mainly derived from and similar to the Jordanian and Egyptian codes. However, this civil code was abolished after only one year. Thereafter, the English Common Law and English judicial precedents were applied again.

17. Sudanese courts are courts of equity rather than courts of law. Judges have wide discretionary powers regarding the interpretation and application of the codified laws and the principles of general theory. The English principles of equity, justice and good conscience are recognized, well established and applied by the courts. Section 6/1 of the Civil Procedure Act 1983 provides that "*in the absence of a procedural provision governing a certain issue, the court shall apply what would constitute justice.*" Section 6/2 of the same Act provides that "*in the absence of a provision governing a certain issue, the court shall apply the principles of Shari'a (Islamic laws), the principles laid down by judicial precedent, custom, equity, justice and good conscience.*"



**The Islamic Laws Era:**

18. In 1983, Sudan announced the adoption of Islamic laws. That was the second time the country had enacted a civil transactions law. With the exception of the aforesaid law, most of the laws remained as they were, with certain Islamic principles added thereto.

19. Sources of law since 1983 include Shari'a, as well as the principles laid down by precedent, custom, equity, justice and good conscience. Shari'a is the main source of legislation in the country. No legislation in Sudan may contradict the Shari'a, as the Shari'a principles are considered to be matters of public policy. To be clear, Shari'a is not a codified law, but rather an Islamic jurisprudence consisting primarily of four schools of thought. These schools are (i) Malikia School, (ii) Hanafia School, (iii) Shafia School, and (iv) Hanbalia School, and this Opinion draws on this jurisprudence as appropriate. It is assumed that no law may contradict the Shari'a principles.

During the era of the Caliphate in Turkey (approximately 1517-1924), Sultan Abdulmajeed instructed a committee of Islamic jurists to produce a codification of Islamic laws. The sixteen volumes of the Justice Judgments Journal (the "JJJ") were completed in 1876, and became the first and most important code of Islamic jurisprudence. Since then, it has become the main source of legislation of civil codes (especially with respect to the law of tort) in Egypt, Jordan, Syria, Iraq, the United Arab Emirates, Kuwait and most other Islamic countries. In 1984, it formed the basis for the enactment of Sudan's Civil Transactions Act (the "CTA"). Ali Haider's well-known and universally-recognized book, "Dorar Al-Hokam," provides an authoritative source of commentary on the JJJ, as well as illustrative examples based on the daily life of people.

20. The CTA is the primary legal source governing the issues in the instant case. The CTA was derived from the Jordanian and Egyptian codes, which, as described above, were in turn derived from the JJJ. For interpretation of the CTA, the main authorities are "Rules of Tortious Liability under Sudanese Laws," authored by the Sudanese judge and jurist Dr. Mohammed Eltayeb Sarour ("Sarour"), which was published in 2009, and "El-Waseet in Interpreting the Civil Code," Part 1 of the 2007 edition ("Elwaseet"), authored by the famous Egyptian jurist Mr. Abdulrazaq Elsanhoori ("Elsanhoori"). Elwaseet is the primary reference in all Arab countries that have adopted similar civil codes. There are two other Sudanese jurists whose comments on the CTA are relevant to this Opinion. One of them is Mr. Obaid Haj Ali ("Obaid"), ex-Chief Justice of Sudan, who published a text entitled "Tortious Liability, Sudan Experience" in 2006. The other is Mr. Mohammed Salih Ali ("Ali"), a Sudanese Supreme Court Judge who published a text entitled "Interpretation of the Sudanese Civil Transactions Act" in 2010.

**The Mixed Era:**

21. The abovementioned sudden changes in the laws in 1983 resulted in significant confusion among practitioners, and in particular among judges. This state of uncertainty continued for approximately two or three years. Thereafter (and as of this writing), Sudanese courts apply the CTA, cite Sudanese recent precedents (as well as those established during the Common Law Era), and, in the absence of a Sudanese precedent, rely on English precedents.





Currently, the Sudanese judiciary exists in what is called the “*Mixed Era*,” because both English precedent and Egyptian jurists’ interpretation of Egyptian civil code are used to aid in Islamic interpretation of the CTA.

### PART III

#### Rules of Tortious Liability

22. Plaintiffs’ Complaint asserts primary as well as secondary claims against BNPP. This report first describes general principles of Sudanese tort law in Part III. Then, those principles are discussed in connection with the Secondary Allegations in Part IV. Part V describes provisions of Sudanese law that bar liability for the exercise of lawful rights. The purported Primary Allegations are addressed thereafter in Part VI. The primary liability claims are: Negligence Per Se, Outrageous Conduct Causing Emotional Distress, Negligent Infliction of Emotional Distress (Bystander/Zone of Danger Theory), Commercial Bad Faith and Unjust Enrichment (the “**Primary Allegations**”). The *secondary*<sup>1</sup> allegations are aiding, abetting and conspiring with GOS to commit battery, battery in performance of public duty or authority, assault, false arrest and false imprisonment, conversion – wrongful taking, conversion – wrongful detention, use or disposal where possession was lawfully obtained, wrongful death, and wrongful death caused by intentional murder (the “**Secondary Allegations**”).

23. According to the Complaint, the relations between the parties of this case, i.e., Plaintiffs, BNPP and GOS, can be described as follows:

Faced with a compelling need for access to the U.S. financial system to develop its oil resources and maximize its profits, a need for dollar-denominated letters of credit, and a need for dollars to acquire goods, the GOS sought to evade the U.S. sanctions, and BNPP agreed and conspired with the GOS to allow it to evade the impact of the sanctions and to enrich GOS. BNPP’s agreement and conspiracy with the GOS were intended to provide the means to the GOS to continue and to increase its exploitation of its oil resources that was, and was understood to be, part and parcel of the GOS’s atrocities and campaign of human rights abuses. BNPP did so to make money, out of greed and desire for profits, even as it knew that its services were in support of a terrorist, human-rights abusing regime.

Compl. ¶ 101.

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<sup>1</sup> I believe the term “Secondary” could be equivalent to the term “Indirectly” used by our legal system.

### **The Elements of Tort Liability Under Sudanese Law:**

24. I shall herein address, in brief, the elements of tort liability under Sudanese law. In Sudan, tort liability arises from Section 138 of the CTA, which states:

*Any act that causes injury to another shall oblige the actor to compensate such injury, even if the actor lacks legal capacity.*<sup>2</sup>

25. This provision is similar to Section 19 of the JJJ, Section 163 of the Egyptian law, Section 256 of the Jordanian law, Sections 163 and 165 of the Syrian law, and Sections 204 and 218 of the Iraqi law.

### **The Act:**

26. Sudanese law and Sudanese Supreme Court precedents require that three elements be met for commission of a tort: an act, an injury and causation. The law of Egypt and Jordan, which are often influential in interpreting Sudanese law, apply the same basic elements. For instance, the Egyptian Civil Code requires that three elements be met before tort liability can attach: “a wrongdoing, injury, and causation between the wrongful act and the injury.”<sup>3</sup>

27. The Sudanese Supreme Court differentiates Section 138 of the CTA from the Egyptian Civil Code, however, by stating: “Contrary to the previous civil code which provides for ‘wrongful act’ as an element of tortious liability, the tortious act under [the CTA] is wider and more comprehensive than the term wrongful act; this is the difference between the CTA and Egyptian law.”<sup>4</sup>

### **The Injury:**

28. To establish tort liability, the CTA requires that a legally cognizable injury must be proven. The injury usually takes the form of physical harm to a person or to property. If the tortious act does not result in an injury, then there will be no liability. In other words, the failure of a person to exercise reasonable care is not enough; such failure must result in actual damages to the plaintiff.

29. While it is true that the injury usually takes the form of physical harm to a person or to property, injuries are not limited to bodily and property harms. Emotional, economic, or reputational injuries are also recognized.

30. The right to compensation for the latter types of injuries was laid down by the Sudanese Supreme Court in the landmark case of *Administratrix of Costas Zis v. German & Swiss Eng. & Contracting Comp. & Phoenix Assurance Comp.*, which awarded damages for

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<sup>2</sup> CTA, Section 138.

<sup>3</sup> Elsanhoori, “El-Waseet in Interpreting the Civil Code,” Part 1 (7th ed. 2007).

<sup>4</sup> Blue Nile Constr. Corp. v. Ikhlas Elsadiq Dao Elbait, Supreme Court - S.L.J.R. 2000, at 129, 132 (“Ikhlas Case”).



"loss of expectation of happiness" and "pain and suffering" as well as the more typical "medical fees and funeral expenses."<sup>5</sup>

#### **Causation:**

31. At issue in the instant case is whether, under Sudanese law, there are particular requirements that Plaintiffs need to satisfy to establish a causal relationship between BNPP's conduct and Plaintiffs' injuries.

32. Primarily, in all claims asserted by Plaintiffs, the question to be answered is whether, under Sudanese law, the acts carried out by BNPP (as described in the Complaint) could be found to be the cause of the injuries alleged to be suffered by Plaintiffs?

33. Section 152 of the CTA adopts the "*substantial factor*" formula for determining whether legal causation exists in a given scenario. Under Section 152, in order to establish causation between the act and the injuries, such injuries should not only be (i) direct, but must also (ii) be a natural consequence of that act. In Rules of Tortious Liability under Sudanese Laws, Sarour states that "*according to this theory, the requirement of direct injury entails that injuries not directly connected with the defendant's tortious acts should be excluded.*"<sup>6</sup> In *Yassin Abbas v. Hassan Babikir*, S.L.J.R. 1975, at 50, the Supreme Court held that causation could only be found where a defendant "*directly caused the injury.*" "Incidental" causes of injury typically do not meet the "substantial factor" standard.<sup>7</sup>

34. Thus, the occurrence of a tortious act and the injury are not enough standing alone to establish liability here. A heavy burden lies on Plaintiffs to show not only that (i) their injuries were a direct consequence of BNPP's act, but also (ii) that such injury was a natural consequence of that act. The CTA provides that: "*The Court shall determine the amount of compensation in accordance with the injury caused to the injured party in the light of all the circumstances, and provided that the injury caused to the injured party was the natural consequence of the tortious act.*"<sup>8</sup>

35. The standard for what constitutes a "natural consequence," however, is quite narrow. A classic example is *Hamza Ali Mokhtar v. Mohammed Hassan*,<sup>9</sup> in which the defendant made deep excavations on his property that resulted in damage to the wall of the plaintiff's property on an adjacent lot. The court found that the excavations carried out by the defendant damaged the wall of the plaintiff, and found that causation between the act of the defendant and the injury was established.

<sup>5</sup> *Administratrix of Costas Zis v. German & Swiss Eng. & Contracting Comp. & Phoenix Assurance Comp.*, S.L.J.R. 1960, at 142.

<sup>6</sup> Mohammed Eltayeb Sarour, "Rules of Tortious Liability under Sudanese Laws," at 161 ("Sarour").

<sup>7</sup> Sanhoury refers to a judgment of the Egyptian Supreme Court, which stated that "*The causation element in tortious liability is based on the substantial factor that caused the damage, not incidental factors, which are defined as acts that usually do not result in such injury, regardless of its coincidental contribution in the instant case.*" C.A. No. 247, judicial year 51, 1982, at 818.

<sup>8</sup> CTA, Section 152.

<sup>9</sup> S.L.J.R. 1956, at 74.

36. In the above case, the chain of causation is very clear. The damage to the wall was a direct and natural consequence of the deep excavations.

37. In addressing the boundaries of “natural consequence” causation, however, Obaid cited the English precedent *Lambert vs. E. Nat’l Omnibus*.<sup>10</sup> In that case, a married woman who suffered a facial injury filed a court case against the individual responsible, claiming that her husband deserted her because of these injuries. The court rejected the woman’s claim, because it was not established before the court that her husband’s desertion arose as a natural and direct result of the accident. Thus, the woman in this case failed to establish “natural consequence” causation between the tortious act and the injury.

38. Obaid further describes that legal causation under Sudanese law may not be found where the overt acts of a defendant, even if coupled with a specific and malicious intent, are nonetheless interrupted by an intervening independent act:

*The causation between the act and the injury means there should be a direct relation between the act and the damage caused to the injured party. Causation is an element independent from the other two elements of tortious liability, because the act and injury may both take place, yet no causation links them. For instance, somebody may poison the drink of another; however, before the poison takes effect on the victim, a third party fired on the poisoned person and killed him. Hence, there is an act, i.e., poisoning the drink, injury, death, but no causation.*<sup>11</sup>

39. The “substantial factor” test of causation is thus satisfied only in cases where the injury is a “natural consequence” of the defendant’s actions and where the chain of causation is not interrupted by intervening independent actions.

40. I will address the question of “directness” in the following section.

#### PART IV

##### Direct and Indirect Tortfeasors

41. The principles governing the acts of direct and indirect tortfeasors are the closest rules and principles that could be applicable to the Secondary Allegations in the Complaint. These principles are regulated by the provisions of Section 5(t), (u) and (v) of the CTA, which are mainly derived from the JJJ and historical Shari’a jurisprudence.<sup>12</sup> During the current Mixed Era, judges of the same bench, handling the same case, may cite Shari’a principles as well as Sudanese and/or English precedents. Sections 5(t) and 5(u) of the CTA establish the framework for the Secondary Allegations by setting out the standards for liability of direct and indirect

<sup>10</sup> “Tortious Liability, Sudan Experience,” at 113 (2006) (citing *Lambert vs. E. Nat’l Omnibus* (1954), 1 W.L.R. 104 (Eng.), at 113).

<sup>11</sup> “Tortious Liability, Sudan Experience,” at 148.

<sup>12</sup> These subsections of the CTA are identical to the following provisions of the JJJ as follows: CTA 5(t) arises from Section 92 of the JJJ; CTA 5(u) arises from Section 93 of the JJJ; and Section 5(v) arises from Section 90 of the JJJ. In practice, commentary on equivalent provisions of the JJJ are considered to be persuasive in interpreting the CTA.

tortfeasors. Section 5(v) establishes that where there are both identifiable direct and indirect tortfeasors, as is the case here according to the Secondary Allegations, only the direct tortfeasor will be liable where the act of the direct tortfeasor is necessary to cause the alleged injury. In addition, judges sitting in Sudan would be likely to apply Section 28 of the CTA, which legitimizes the lawful exercise of a person's rights even if such exercise results in damage.

#### **Section 5(t) of the CTA: Liability of "Direct" Tortfeasors**

42. As a background matter, I shall briefly address the legal position of the *direct* tortfeasor under Sudanese law. The position of the *indirect* tortfeasor shall be addressed in (2) below.

43. Section 5(t) of the CTA states that "*He who directly commits the tortious act shall be liable even if he didn't intend to commit it.*" This provision is derived from Shari'a principles, and is identical to the civil codes of Sudan, Egypt, Jordan, United Arab Emirates and most other Islamic countries. The Islamic Jurist Mr. El-kasani construes Section 92 of the JJJ (which is identical to Section 5(t) of the CTA) to require "*damage resulting from contact between 'the machine' and the damaged object.*"<sup>13</sup> This is traditionally interpreted to refer to a direct touch between the tortfeasor and the damaged object, or between the tortfeasor's instrumentality and the damaged object. In other words, the tortfeasor must have committed the tortious act without the intervention or influence of any intermediary.

44. Other Shari'a schools of thought and influential commentators have defined this principle of "directness" as, alternately, "*he who has effect on and did the damage.*"<sup>14</sup> and where "*damage occurred without intermediary.*"<sup>15</sup> Dr. Ibrahim El-disoogi stated that "*The direct tortfeasor is the person who directly committed the injury and exercised the tortious action by himself.*"<sup>16</sup> In Sudan, Sarour stated that "[t]he [direct] tortfeasor shall be liable regardless of whether he intended the damage or not."<sup>17</sup>

45. The common factor in these interpretations is that liability for injuries caused without any intent by the alleged tortfeasor to cause such injuries shall only be established where the causation is "direct," in that there is no "intermediary" cause or actor, and the damage arises as a "natural consequence" of the act in question.

46. Applying this analysis to the Secondary Allegations in the Complaint, under Sudanese law, GOS is the alleged direct tortfeasor under Counts III-XIV and XIX-XX because it directly inflicted the injuries alleged in those Counts.

#### **Section 5(u) of the CTA: Liability of "Indirect" Tortfeasors**

47. The standard by which liability may attach to a party that indirectly causes harm to a plaintiff differs, however. Section 5(u) of the CTA provides the applicable standard. This

<sup>13</sup> El-kasani, "Badye El-sanaye," 243 (Dar El-Ikr Printing Press, Beirut, Lebanon 1st ed. 1996).

<sup>14</sup> JJJ, at 877.

<sup>15</sup> Hashiat Elshargawi Ali, at 99, (Dar El-ma'rifa Printing Press, Beirut, Lebanon).

<sup>16</sup> Dr. Ibrahim El-disoogi, El-Daman in Islamic Jurisprudence 74 (Ali El-khateef [1971]).

<sup>17</sup> Sarour, at 91.

section states that *"He who indirectly commits the tortious act shall not be liable unless he premeditatedly intentionally does it."* As with Section 5(t), this provision is derived from Shari'a principles, and is identical to Section 93 of the JJJ (as well as similar to equivalent provisions in the civil codes of Jordan, Iraq, United Arab Emirates and most other Islamic countries). Section 5(u) provides the standard in Sudanese law that is most closely analogous to the principle of secondary liability as articulated in U.S. law.

48. Section 5(u) has been widely interpreted to mean that, if the indirect tortfeasor's acts were not premeditated, or not done with intent to achieve the harmful result of the tortious act, then he is not liable.<sup>18</sup> One prominent commentator states that *"the reason why the Sudanese Legislature required that premeditation or intention be established in order to hold an indirect actor liable was that otherwise, attribution of the plaintiff's injury to that indirect actor would not be sufficiently definite."*<sup>19</sup> Haider's commentary on the JJJ's equivalent provision includes the following illustrative example: *"If a plaintiff's livestock is frightened by the defendant, and the livestock escapes as a result, the defendant is not liable unless he intended to frighten the animal."*<sup>20</sup>

49. Furthermore, where harm is caused by two indirect actors, one of whom is acting with premeditation or intent, and the other of whom is acting without premeditation or intent, only the former shall be liable.<sup>21</sup>

50. Haider's commentary on the JJJ's equivalent provision provides the following illustrative example:

*If somebody ties his horse inside his stable, and then, independently of one another, two further individuals (a) cut the rope, and (b) open the door of the stable where the horse was tied, only the latter person shall be liable to the owner if the horse escapes.*<sup>22</sup>

51. Applying this analysis to the allegations in the Complaint, a Sudanese court would consider whether BNPP was an indirect tortfeasor based on the allegations in Counts III-XIV and XIX-XX. In order to establish BNPP's liability under the "indirect tortfeasor" prong of the CTA, Plaintiffs would be required not only to prove that BNPP's acts indirectly caused the harms Plaintiffs allege, but also to prove either that BNPP's acts were premeditated to cause the harm alleged, or that BNPP intended the harm alleged. However, for the reasons described below, even if BNPP were found to be an indirect tortfeasor, liability would still be attributed solely to GOS under Section 5(v), because Plaintiffs allege their injuries can be traced to an identifiable direct tortfeasor, GOS, and the alleged act of the direct tortfeasor, GOS, is necessary to cause the injury alleged.

<sup>18</sup> Sarkhasi, El-mabsoot Part 26, 22 (1989).

<sup>19</sup> Sarour, at 99.

<sup>20</sup> Ali Haider, "Dorar Al-Hokam" 94 (2003).

<sup>21</sup> Sanhoury at 772; see also Section 3 discussing Section 5(v) of the CTA.

<sup>22</sup> Ali Haider, "Dorar Al-Hokam" 94 (2003).



Section 5(v) of the CTA: Joint Tortfeasors

52. This portion of the Opinion is intended to address how a Sudanese court would interpret under Sudanese law the type of claim of liability that is made in the Complaint, where BNPP is alleged to be an indirect tortfeasor and GOS is alleged to be a direct tortfeasor, as established in the preceding sections. In such a case, Sudanese law would attribute liability solely to GOS.

53. The respective liability of direct and indirect tortfeasors is governed by Section 5(v) of the CTA, the wording of which is identical to the wording of Section 90 of the JJJ. It has been addressed in detail by both Islamic and Sudanese jurists, and interpreted by a decision of the Sudanese Supreme Court. It reads as follows: *"Where there is a combination between direct and indirect tortfeasors, the liability shall be attributed to the direct tortfeasor."*<sup>23</sup>

54. Thus, where acts by both direct and indirect actors contribute to a plaintiff's damages, *"only the direct actor shall be liable."*<sup>24</sup> This is the case even where an indirect tortfeasor premeditated or intended the plaintiff's injury, provided that, as discussed in Part IV(2) above, the premeditated act of the indirect tortfeasor is interrupted by the act of the direct tortfeasor. Each of the four schools of thought comprising Islamic jurisprudence apply this same rule.<sup>25</sup> Haider defined the direct actor as being the *"person from whose act the damage occurred without interruption from the act of another."* Interpreting this rule, Ali Haider stated that *"where the direct and indirect tortfeasors contribute to the damage, and if the contribution of the indirect tortfeasor would not result in the damage unless followed by the act of the direct tortfeasor, the damage shall be attributed to the direct tortfeasor, and not to the indirect one."*<sup>26</sup> Haider's commentary to this provision provides the following illustrative example:

*If one defendant drilled a well on public land, and a second defendant pushed the plaintiff's animal inside the well, only the second defendant is liable, because the first defendant's action would not necessarily have resulted in this harm. However, if the animal falls by itself inside the well and the well was drilled without the permission of the competent authority, then the person who drilled the well is liable.*<sup>27</sup>

55. The rule set forth in Section 5(v), and the interpretations provided, were recently re-affirmed in a landmark judgment by a three-judge panel of the Sudanese Supreme Court, known as the "Naiyma Case." The salient facts of this case are as follows:

*A woman who owned a plot of land obtained an Ownership Certificate from the Omdurman Lands Registry (the "Registry") confirming that her land was free of all encumbrances. Based on this confirmation, she sold the land to the Respondent. It turned*

<sup>23</sup> CTA, Section 5(v).

<sup>24</sup> The Rules of Islamic Jurisprudence, Abu Elfaraj Abulrahman Elhanbali, at 307.

<sup>25</sup> Sarour, at 102.

<sup>26</sup> Ali Haider, "Dorar Al-Hokam" 91 (2003).

<sup>27</sup> Ali Haider, "Dorar Al-Hokam" 94 (2003).

*out later that the confirmation of the Registry was not accurate, because the land was subject to proceedings before a competent court. Hence, the Respondent could not register the land in her name. The Respondent filed a case against the seller based on breach of contract, and won that case. Then, the Respondent filed this case against the Registry on the grounds of tortious liability. The court of first instance held the Registry liable and awarded compensation to the Respondent, and the Court of Appeal upheld that judgment. The Registry filed this Application by way of Cassation against the judgment of the lower courts.<sup>28</sup>*

56. Supreme Court Judge Ahmed El-Bashier M. El-Hadi (who wrote the first opinion) stated the following:

*In this subject matter we notice that the appealed judgment is issued with complete ignorance of the general principles stated in Section (5) of the CTA, which are fundamental principles for the application of the rules of this Act. As such, they are considered as public policy which this court has the right to invoke. Section 5(v) states that, where there is a combination between the direct and indirect tortfeasors, the Legislator's decision is that liability shall be attributed to the direct tortfeasor.<sup>29</sup>*

57. Concurring with the above finding, another judge stated that:

*I concur with the first conclusion reached by the writer of the first opinion [...] The first opinion writer is correct about the seller being a direct actor and the Lands Registry the indirect actor. Section 5(v) of the CTA, read together with Sections 5(t) and 5(u), of the CTA is applicable. Subsection (t) provides that he who directly commits the tortious act shall be liable even if he didn't intend to commit it. Subsection (u) provides that he who indirectly commits the tortious act shall not be liable unless he intended it. Therefore, no liability attaches to the Lands Registry in the absence of intent to cause damage to the purchaser.<sup>30</sup>*

58. Thus, when harm is caused by both an identifiable indirect actor and an identifiable direct actor, the "joint tortfeasor" rule of Section 5(v) must be applied in combination with the "indirect tortfeasor" rule of Section 5(u). The statutory requirement that a direct actor must bear sole liability preempts any finding of liability for contributing indirect actors. In other words, *"only the direct actor shall be liable."*<sup>31</sup> This is so even when the indirect

<sup>28</sup> Omdurman Lands Registry v. Naiyma Ismail Hassan, Supreme Court (2000) S.I.J.R., at 129 ("Naiyma Case").

<sup>29</sup> *Id.*, opinion of Judge Ahmed El-Bashier M. El-Hadi.

<sup>30</sup> *Id.*, concurring opinion of Judge Amira Yousif Ali Bilal.

<sup>31</sup> Rules of Islamic Jurisprudence, Abu Elfaraj Abulrahman Elhanbali, at 307.



actor acts with premeditation or intent, as long as the act of the direct tortfeasor is necessary to cause the alleged injury.<sup>32</sup>

59. Applying the above provisions, the Supreme Court's precedent, and influential treatises and commentary on this topic, the status of BNPP in this case is similar to the status of the Lands Registry in the Naiyma case. As the sole direct tortfeasor, liability should attach to GOS alone, and no indirect liability can attach to BNPP.

## PART V

### Lawful Exercise of Rights

60. Under Section 28 of the CTA, *"the lawful exercise of one's own right does not create liability, even if damage ensues from that exercise."*<sup>33</sup> This is a principle of general application, and not limited to the law of tort. In practice, interpretation of this provision makes reference to its equivalent in the JJJ.<sup>34</sup> Interpreting the lawful use of a right, Haider states that *"[I]f somebody does what he has a legal right to do, and damage results from his act, he is not liable."* His commentary provides the following example:

*If a defendant drills a well on his own property, and the plaintiff's animal falls in that well, the defendant is not liable, because his use of his property is not restricted by any requirement that he guard against dangers to others.*<sup>35</sup>

61. With four exceptions, described below, the exercise of a right to conduct activity that is lawful under Sudanese law, such as the provision of financial services to Sudanese banks, shall not create any liability even if damage resulted therefrom.<sup>36</sup> Thus, if the activities described in the Complaint are lawful under Sudanese law, and do not meet any of the exceptions described below, BNPP may not be held liable for them.

62. In Sudan, an act is presumptively a "lawful exercise" if it does not constitute a violation of Sudanese law.<sup>37</sup> Section 13 of the Regulating Banking Transactions Act 2004 entitles banks to engage in financing transactions and all other banking transactions.<sup>38</sup> Any such transaction is lawful, as long as it doesn't violate the provisions of the Anti-Money Laundering and Combating Terrorism Act of 2014. Accordingly, Article 28 protects BNPP from any liability based on later conduct by the recipients of financial services that BNPP lawfully provided.

63. However, as noted, there are certain limited exceptions to this principle. *"The Legislature enumerated in Section 29 of the CTA the instances of unlawful exercise of right as follows: (i) premeditated intentional trespass, (ii) if the targeted benefit from the lawful exercise*

<sup>32</sup> "Tortious Liability, Sudan Experience," at 148.

<sup>33</sup> CTA, Section 28.

<sup>34</sup> JJJ, Section 91.

<sup>35</sup> Haider, at 93.

<sup>36</sup> CTA, Section 29.

<sup>37</sup> CTA, Section 28, and 91 JJJ.

<sup>38</sup> Regulating Banking Transactions Act of 2004, Pub. L. No. 91-508, 84 Stat. 1114-4 (1970).

is not in itself lawful, (iii) if the targeted benefit from the lawful exercise is not commensurate with the damage, and (iv) if it exceeds established customs and norms.”<sup>39</sup>

(i) Premeditated/intentional trespass.

64. “The Sudanese Legislature requires premeditation for trespass to serve as a basis for liability . . . that use of one’s right was intended for nothing but to cause the trespass . . . that the primary intention was to trespass, even if incidental or casual benefit shall be realized to the tortfeasor.”<sup>40</sup> Furthermore, “[i]t is difficult to establish the intention of trespassing, as it is a subjective test, so the court shall extract such intention from the surrounding circumstantial evidence.”<sup>41</sup>

65. Egyptian law is similar to Sudanese law on this point. With respect to a complaint against a tortfeasor exercising a lawful right under Egyptian law, “[t]he injured party must prove that the tortfeasor intended the injury.”<sup>42</sup>

66. Applying the above to the instant case, Plaintiffs would be required to establish that BNPP, in completing financial transactions with the Banks, was not seeking a commercial benefit, but was intending only to cause the injuries alleged by Plaintiffs. However, in paragraph 501 of the Complaint, Plaintiffs allege that BNPP “took such willful actions for their own benefit and enrichment.” Thus, BNPP would not be liable under this provision.

(ii) The targeted benefit from the lawful exercise of a right is not in itself lawful.

67. “This includes the situation where the intention of the user of the right is to achieve an unlawful benefit. Such benefit will be unlawful if achieving it will be contrary to the law, morals, or public policy.”<sup>43</sup>

68. For Plaintiffs to hold BNPP liable under Sudanese law, they would be required to establish that BNPP’s intended benefit was either unlawful under Sudanese law, or contrary to its morals or public policy. Because (1) Section 13 of the Regulating Banking Transactions Act 2004 entitles banks to engage in financing transactions and all other banking transactions,<sup>44</sup> (2) the receipt of fees in connection with lawful financial transactions is a part of these transactions recognized by the Central Bank,<sup>45</sup> and (3) any such transaction is lawful as long as it does not violate the provisions of the Anti-Money Laundering and Combating Terrorism Act of 2010, the transactions described in the June 2014 Agreements are not contrary to Sudanese norms or public policy. Further, there is no precedent or commentary indicating that the transactions conflict with Sudanese morals. Thus, BNPP would not be liable under this provision.

<sup>39</sup> Sarour, at 106.

<sup>40</sup> Sarour, at 133.

<sup>41</sup> *Id.*

<sup>42</sup> Elsanhoori, at 957.

<sup>43</sup> Sarour, at 133.

<sup>44</sup> Regulating Banking Transactions Act of 2004, Pub. L. No. 91-508, 84 Stat. 1114-4 (1970).

<sup>45</sup> *Id.*

(iii) The benefit from lawful conduct that directly harms the plaintiff is not commensurate with the damage caused.

69. *"It may be difficult to gauge an intent to trespass on the part of the tortfeasor. In that case, we can evaluate whether the acts in question conform with the normal attitude of the reasonable man, as the reasonable man will not use his right in a manner that, while achieving minor benefits to him, causes severe damage to another. This criterion was adopted by the Sudanese Legislature in Section 518, and gives an owner the right to use his property in the manner he deems fit, provided he does not cause grave injury to others or acts in a way contrary to the laws relating to health, public policy, or private interest."*<sup>46</sup>

70. To meet the above exception, Plaintiffs must establish a damage that is "directly" caused by BNPP, and that arises as a "natural consequence" of BNPP's actions, and then prove that such damage is not commensurate with the benefit targeted by the bank. While the damages alleged by Plaintiffs in this instance are unquestionably considerable, the "directness" requirement is not met (for reasons described in Part IV), and accordingly, the exception does not apply.

(iv) The exercise of lawful rights by defendant exceeds the established customs and norms.

71. *"The customs referred to in this paragraph are not only those binding customs, but also the non-binding habitual customs recognized by people, because the mere existence of such a custom indicates the attitude of a reasonable man. . . . The Sudanese Legislature adopted this principle when regulating restrictions on ownership provided for in Section 520/2 of the CTA, which states that prevention of the free flow of light and air to a neighbor is deemed to be a grave injury – no person is allowed to construct a building which tends to close up the windows of his neighbor in a manner which obstructs this light or air, and in order to remedy such injury, the neighbor may apply for the demolition of such a building."*<sup>47</sup>

72. A review of precedents and jurisprudence does not reveal any relevant customs or norms that restrict the provision of financial services in Sudan or that discuss any similar questions to those posed by this case. Thus, in the absence of precedent establishing that the provision of financial services can exceed customs and norms, it is my opinion that a Sudanese court would find this exception inapplicable.<sup>48</sup>

73. In sum, BNPP's lawful provision of financial services to Sudanese banks constitutes "lawful exercises of right" under Sudanese law. Furthermore, none of the exceptions to this rule apply. Thus, it is my opinion that BNPP's alleged acts were exercises of lawful rights under Sudanese law, in accordance with Section 28 of the CTA, and accordingly, BNPP would not be held liable vis-à-vis Plaintiffs in a Sudanese court.

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<sup>46</sup> Sarour, at 135.

<sup>47</sup> *Id.*

<sup>48</sup> Regulating Banking Transactions Act of 2004, Pub. L. No. 91-508, 84 Stat. 1114-4 (1970).

## PART VI

Theories of Primary Liability

74. Counts I-II and XV-XVIII of the Complaint assert various other theories of liability against BNPP, which are discussed below.

- a. **Negligence Per Se:** In Counts I and II, Plaintiffs assert that the United States' federal sanctions regime and New York Penal Law provide duties of care. The essence of Counts I-II is that the United States' federal sanctions and the New York Penal Law create statutory duties of care on the part of BNPP, and that the negligent violations of such duties of care create liability on the part of BNPP.

Plaintiffs assert in Count I that there was negligence per se on the part of BNPP when it violated the following laws: (i) the U.S. International Emergency Economic Powers Act ("**IEEPA**") (codified At Title 50, United States Code, Section 1701 et seq.), and Executive Orders and regulations issued thereunder, and (ii) the U.S. Trading With The Enemy Act ("**TWEA**") (codified at Title 50, United States Code Appendix, Section 1 Et Seq.), Executive Orders 13067, 13400, and 13412, and regulations issued thereunder. In Count II, Plaintiffs assert that there was negligence per se on the part of BNPP when it violated New York Penal Law §§ 175.05 and 175.10.

Plaintiffs allege that the above laws give rise to a duty of care that was violated by BNPP. Compl. ¶¶ 260 ("The U.S. Sanctions collectively and severally define the standard of conduct and due care that reasonable individuals and entities in the United States[...] must observe with respect to trading, doing business, and/or offering financial services to the GOS and SDNs."), 259 ("The three Executive Orders were expressly design to implement the IEEPA and TWEA by imposing legal duties and standards of care [...]").

In Sudan, a duty of care must be defined by a specific statute. Applying Sudanese and English principles to the instant case, the Plaintiffs must prove the existence of a statutory duty of care and that BNPP has violated such duty. Failing that, a court of law in Sudan would decline to hear allegations such as those made by the Plaintiffs.

In one landmark case, the decedent plaintiff, a former employee of defendants, was killed when he walked over plates covering the sump of a boiler in a yard of defendants' premises. In violation of Workshops and Factories Regulations 1952, r. 9., defendants had failed to guard or properly secure the plates, which collapsed when the plaintiff walked across them. This statute created a duty on the part of defendants to guard against this eventuality, and it was their breach of this duty that resulted in liability.<sup>49</sup>

<sup>49</sup> Heirs of Rahamtalla Ahmed El Medina v. Sudan Light and Power Co, 1964 S.L.J.R., at 76.

Unless a Sudanese statute provides an express duty that was breached by BNPP, it may not be held liable for negligence per se as described in the Complaint. Without alleging a Sudanese statutory source of this duty, Plaintiffs fail to allege a viable claim for negligence per se under Sudanese law.

- b. **Outrageous Conduct Causing Emotional Distress:** As stated in paragraph 29 above, emotional, economic, or reputational injuries are recognized by Sudanese law. As also mentioned herein, the financial services provided by BNPP are lawful acts and do not violate any Sudanese law. Intent is the backbone of any tort claim made against a defendant exercising a right acknowledged by Sudanese law. Unless Plaintiffs establish that BNPP's sole intent was to commit the alleged tortious acts, their claims fail under Sudanese law. *See supra* Part V(i).
- c. **Commercial Bad Faith:** I understand that, under applicable New York law, a claim of commercial bad faith generally involves "fraud in the making and cashing of checks," and was created as an "exception to the general rule that a bank is absolved of liability for a check made out to a fictitious payee when the maker knows that the payee is fictitious." *Lerner v. Fleet Bank, N.A.*, 459 F.3d 273, 293 (2d Cir. 2006). I also understand that such a claim requires a showing that "the bank have 'actual knowledge of facts and circumstances that amount to bad faith, thus itself becoming a participant in a fraudulent scheme.'" *Id.* (quoting *Prudential-Bache Sec., Inc.*, 73 N.Y.S.2d 263, 275 (N.Y. 1989)).

This concept is not recognized in Sudan's legal system, and I hereby confirm that such an issue has not been addressed by the Supreme Court or the Court of Appeal.

- d. **Unjust Enrichment:** I understand that a claim for unjust enrichment under applicable New York law requires a plaintiff to allege: (1) the other party was enriched, (2) at that party's expense, and (3) that it is against equity and good conscience to permit the other party to retain what is sought to be recovered.

The closest analogue in Sudanese law is that set forth in Section 164 of the CTA:

*(1) Without prejudice to any related criminal proceedings, any person, even a minor, who is enriched at the expense of others without lawful cause, . . . shall compensate the other person for any loss caused to him. Such liability remains even if the enrichment subsequently vanishes, the relationship between the enriched person and the other was terminated or the enriched person died.*

*(2) For the purposes of sub-section (1), the term "others" include legal as well as natural persons.*

Section 165 elaborates the standard for determining whether enrichment is "lawful" under Section 164:



*Without prejudice to the generality of Section 164, every enrichment shall be deemed to be unlawful enrichment if it results in extorting the money of another, obtaining it through a void contract, or in contravention of the law. In particular, it shall be unlawful enrichment to obtain property:*

*(1) by theft, extortion, robbery, cheating, embezzlement, bribery, smuggling, forgery or gross deceit in manufactured goods, foods, or trade or by committing any unlawful act or an act unacceptable to good conscience.*

75. The general rule with respect to unjust enrichment may be found in the suffix of Section 165(1) above, i.e., enrichment of the defendant with property of the plaintiff, where the enrichment results from *any unlawful act or an act unacceptable to good conscience* that is committed by the defendant.

76. After a thorough review of published judicial precedent, I was unable to locate any cases addressing the tort of unjust enrichment – nor have I located any Sudanese jurisprudence addressing this matter. As the wording of Section 164 is similar to the wording of Section 179 of the Egyptian Civil Code, Elsanhoori's comments on it are instructive. He states that,

*The money, property or rights of a person can be transferred to another person in only two cases: an agreement between them for such a transfer, or by operation of law. If transferred for any reason other than those two ways, they must be returned to their owner, and this is the unjust enrichment rule.*<sup>50</sup>

77. The essence of both the Sudanese and Egyptian provisions is that, if there is a lawful basis for a transfer of property, the person who was enriched shall not be compelled to return anything to a claimant.<sup>51</sup>

78. Because BNPP's provision of financial services to Sudanese banks was lawful under Sudanese laws, Plaintiffs cannot establish a claim for unjust enrichment (please refer to Part VI above).

79. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 19<sup>th</sup> day of March, 2017



TAYEB HASSABO



<sup>50</sup> Elsanhoori, at 963.

<sup>51</sup> *Id.* at 987.



# EXHIBIT A

**EXHIBIT A**

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**Professional Experience:**

- Al-Gharib & Associates, In-House Counsel, 2014 to present
- Aztan Law Firm, Managing Partner, Sudan, 2005 to present
  - o Specializes in litigation and business law, corporate matters and arbitration. Drafts memoranda for courts, handles infrastructure transactions, international procurement agreements, telecommunication projects, distribution and agency agreements, acquisition and merger of companies, and arbitrates local and international disputes.
- Sayed Siddig Law Office, Dubai, U.A.E., 2002-2005
  - o Specialized in litigation, business and corporate law and practice in U.A.E.
- Ali Al-Aidarous Attorneys & Counselors at Law, Dubai, U.A.E., 1994-2002
  - o Gained extensive experience in the laws of U.A.E. In particular, did extensive work in litigation, consulting on real estate, construction, infrastructure projects, arbitration, international procurement contracts, BOT, BOOT, Turnkey and similar contracts, telecommunications, commercial agencies and franchises.
- Al Faqieh Legal Consultancy Office, Muscat, Sultanate of Oman, 1992-1994
  - o In-house lawyer involved in litigation and rendering legal services to a considerable number of domestic and international companies active in business and investment.
- Law Office of Advocate Kamal Khalil, Khartoum, Sudan, 1986-1989
  - o Served as Trainee.

**Selected Representations:**

- Lafarge, a large French cement company, in five claims before different courts with a total value of \$18 million, since 2006.
- ED & F Man of United Kingdom in multiple court proceedings, one of which sought \$1.8 million.
- Suzuki Motor Corporation in a pending court claim.
- Korea Exchange Bank in a pending court claim.
- Industrial Bank of Korea in a pending court claim.
- K-Sure, a major Korean insurance company, in a pending court claim.
- Zanadus, a well-known business company in Korea, in a pending court claim.
- Canar Telecom, which is an affiliate of Etisalat, a major telecom operator in the U.A.E., since 2005.
- Japan Tobacco International (JTI), led the team in JTI's landmark acquisition of HCTF Co. Ltd. in Sudan for \$450 million in October 2011 and continues to advise JTI in its new business in Sudan.
- MTN Telecom, which is an affiliate of MTN South Africa, since 2010.
- Qatar Islamic Bank.
- Huawei Telecom of China.
- Arab Fund for Economic and Social Development of Kuwait, whose last transaction in Sudan closed in 2013.
- Syngenta International AG of Switzerland.
- Unilever Mashreq, since 2009.
- Badr Aviation of Sudan, since 2010.

- Lucky Export of India, a cross-border investment company, from 2009 up until their exit from Sudan in 2014.
- PetroSA, the petroleum company of South Africa, until their exit from Sudan in 2010.
- Dnata Sudan, the ground handling arm of Emirates Airlines.

**Prior Expert Opinions:**

- Sudanese Law: Retained as an expert in 2014 on the laws of Sudan by Erich Z. Chang of EZC Law, an international arbitration law firm based in Los Angeles, to render a legal opinion on compensation and damages under Sudanese laws. This opinion was required to be submitted to an arbitration panel seated in Kenya, which concerned a major dispute between a contracting company and the Government of South Sudan. I was responsible for drafting all written submissions and the arbitration award was based on my memoranda.
- U.A.E. Law: Retained in 2003 by Anik Trudel of Stikeman Elliott LLP, a major Canadian corporate law firm, to render an expert opinion on the laws of the U.A.E.

**Education:** L.L.B. in Common Law from the University of Khartoum, 1986

**Languages:** Fluent in Arabic and English