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Copyright Lawsuit: CROSS-EXAMINATIONS confirm that the case is not authentic - 2010-09-04

Date: Saturday, 2010, September 4

Heritage News has obtained the cross-examination transcripts, and they contain many revelations. First impression from Heritage News is that the three people who allegedly represent the Imam in this case seem to confirm everything that the defendants have been saying! The defendant's position comes out even clearer and stronger! - But you be the judge once the transcripts are available.

Mr Gray's questions show his lack of knowledge of the Imam, the Ismaili Faith and the Institutions. His questions instead, undermine the Imam!

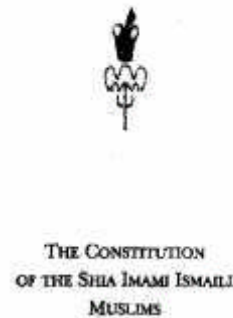
Mr Sachedina's answers go against the main principle of Ismaili Faith and undermine the value of the Word of every hereditary Imam, a value which has been central to Ismaili Tariqah right from the beginning. Mr Sachedina's answers also confirm that all evidence in this case originates from him.

Mr Bhaloo has no input to give on the matters of importance in this case, and has appeared only at the request of Mr Sachedina. He refuses to answer simple questions and contradicts Mr. Sachedina.

Mr Tajdin's answers show that he has maintained a good relationship with Dr. Sachedina and Mr. Bhaloo, and that he has had many opportunities to approach the Imam, but that he has never crossed boundaries due to the code of conduct prescribed to Ismailis. He asks many of the same questions that the worldwide Jamat has about this Lawsuit, and pinpoints contradictions.

Mr Jiwa asks clear questions requiring precise answers that show the holes in the plaintiff's case as well as whether the witness is making up a story. Mr. Jiwa's answers show that he had nothing to do with the publication of the Golden Edition KIZ and appears in this Lawsuit due to a confusion by Mr Sachedina between Mr Jiwa's private mailing list and Mr Tajdin's public website.

Both defendants reaffirmed under oath that they will stop all infringing activities if they have an authentic instruction from the Imam Himself to do so, no matter the legal recourses available to them. Stay tuned to this section for Transcripts!



Copyright Lawsuit: CROSS_EXAMINATIONS

Table of Contents - 2010-09-04

Here is a detailed table of contents of the cross-examinations for the Motions for Summary Judgement in the Copyright Lawsuit allegedly filed by the Aga Khan. We tried to include everyone's burning questions.

Are Farmans to be followed?

Mr Sachedina says that Farmans that we hear in Didars are not actually Farmans and are not to be followed. He maintains throughout his testimony that only the written edited versions sent by ITREB are actually Farmans. Later, Mr Sachedina has to admit that Farmans come from the Noor, the Light of God. Mr Bhaloo says that Talikas containing blessings are not Farmans.

Are Ginans to be followed?

Mr. Sachedina maintains that Ginans are just devotional poetry and are not meant to be followed.

Are Previous Imams' Farmans to be Followed?

Mr Sachedina maintains that he does not follow Farmans of previous Imams.

Has an Official Farman Book Publication Been Approved?

LIF's announcement in January 16, 2010, informed the jamats as follows: *"The Jamat will be pleased to be informed that Mawlana Hazar Imam has already approved that the Jamati institutions should formally publish a volume containing the approved text of his farmans, including those made for the Golden Jubilee."*

Is this announcement accurate? Mr Sachedina cannot pinpoint whether or when the approval for this official Farman book was given, and does not indicate that any work is under way to produce an official Farman book.

Over 80% of ismailis have NO access to Farmans.

Mr Sachedina helps to establish that despite there being a few thousand Jamatkhanas, the circumstances of the worldwide ismaili Jamat are such that over 80% of ismailis do not have access to Jamatkhanas or to Farmans.

Does Imam Think in French and Speak in English?

Mr Sachedina admits twice to saying that the Imam thinks in French and speaks in English.

Health and Age of the Imam - Gray Keeps bringing this up.

Mr Gray tried to establish that the Imam is aging and in bad health. It was refuted by everyone.

Did Sachedina and Bhaloo discuss their Affidavits with the Imam?

Bhaloo and Sachedina did not discuss their Affidavits with the Imam.

Did the Imam ask Sachedina and Bhaloo to be His witnesses in this case?

Mr. Sachedina is the one who asked Mr Bhaloo to be a witness. No word on who decided that Mr Sachedina should be a witness.

Initiation of the Lawsuit

Sachedina says that only 2 people were involved in the issuing of the Statement Of Claim: Sachedina and Manji. Sachedina has a hard time pinpointing when the Imam gave the go-ahead to proceed with the Statement of Claim.

Whether Gray has spoken to the Imam

Gray tried to show that he has spoken to the Aga Khan by producing a group photograph including him and The Aga Khan Taken at the Aga Khan Museum Foundation Ceremony.

Are defendants insisting to meet the Imam?

Defendant Nagib Tajdin is often in close proximity but never addresses the Imam. The defendants are not insisting to meet the Imam, they are insisting on getting any authentic direct instruction from the Imam so that they know whether to continue or not.

Meeting the Imam: Defendant's Alternatives

Defendants present some alternatives that the Imam had to make them stop their activities without needing to meet them.

Meeting the Imam: Gray's Alternatives

Gray knows that the Lawsuit will end if the Imam says in person "Nagib Stop.", yet he tried many times to find alternatives to producing the Imam. None of his alternatives seem to show that he has access to the Imam.

Contradiction: April 2010 Announcement - No Consultation?

Brian Gray tries to establish with Nagib that the April Announcement was written in consultation with all the LIF. Sachedina later contradicts this point of view and establishes that in fact the draft of the second announcement was not circulated to anyone in the leadership before it was read out in Jamatkhanas as being from the LIF, Councils, ITREB etc on the same evening that it was written by a couple of persons including Sachedina.

Contradiction: Did Nagib Tajdin's letter really reach Aiglemont on Jan 20?

Sachedina, in his affidavit, says that Nagib's letter to the Imam Reached Aiglemont on January 20, 2010. Sachedina's email to Nagib on January 10 said that Aiglemont had no trace of Nagib's letter. Nagib produced a letter from the Kenya Council, as well as a confirmation from DHL that the letter actually reached Aiglemont on January 8th.

Contradiction: Drafting of the February 18th letter purportedly by the Imam

Mr Sachedina told Mr Jiwa that the Imam showed Mr Sachedina a draft of the second letter before signing it. Mr Sachedina told Mr. Tajdin that the Imam was away travelling when he drafted the second letter.

Did Sachedina convey to Imam that some of the points in the forged letter needed clarification?

Mr Sachedina did not convey to the Imam that Mr Tajdin had responded to the first letter with a request for clarifications.

Has Imam spoken to LIF, or is there a huge conspiracy against the defendants?

Gray tried to show that if the defendants are to be believed, then it would mean that there is a huge conspiracy of dozens of corrupt leaders, staff, and that this is unbelievable.

Sachedina's cross-examination showed that the misinformation can be pinpointed to very few individuals. Even the LIF Chairman, Lakhani, has not been contacted by the Imam about this issue, the LIF was briefed by Sachedina, and the announcements were written by only a couple of people, not by the whole ismaili leadership as they seem to imply or as Mr Gray seems to think by looking at his questions to Tajdin and Jiwa.

This confirms that all evidence in this case originates from Mr Sachedina.

Where the Farman Dissemination Policy of March 2010 Comes From

The Farman Dissemination Policy document of March 2010, submitted to court by the Plaintiff party, does not come from the Imam or from Aiglemont, it comes from Mohamed Manji.

Can anyone else sign for the Imam?

Mr. Sachedina dispels the rumours that someone else is allowed to sign for the Imam.

Can Imam's Farman supercede the Constitution?

This is a simple question, but Mr. Bhaloo, although he has been swearing to protect the constitution for decades, refused to answer the question on the grounds that he is not a constitutional expert.

Is there a breach of the Ismaili constitution?

Obviously, if there was a clear breach of the ismaili constitution, then this case would have been in the Arbitration board.

Discussions about the constitution have revolved around the specific clauses about Farmans that were included in previous constitutions but that have been removed from the newer constitution since 1986. Older constitutions distinguished between religious publications and Farmans. The clauses about Farmans were removed by the Imam, but the clauses about the other religious publications remained intact.

Sachedina maintains that the constitution has been breached and that in the case of Farmans, only the Imam can Publish or authorize publication, Not Itreb, not the Council. However, if the [current constitution](#) is to be relied on to prove the breach, then article 14.1c lets the Ismaili Council authorize publications (and this is how Mr Gray seems to understand it), and Article 8.4d gives the ITREB's the responsibility to publish. Neither article reserves the right for the Imam. This leaves us with Farmans to follow which say that Imam makes Farmans FOR Jamats.

Who Can Print Farmans

It is the Imam's prerogative to decide who can print Farmans, and it can be anyone.

How long did Defendants know about the Forgery before making it public?

It turns out that in order to protect the trust that Jamati institutions have with the Jamat, the defendants had not publicized their knowledge of forgery until after the Lawsuit was filed when they no longer had the choice.

What is Mr Sachedina's actual role at Aiglemont

Mr Sachedina's role as head of the department of jamati institutions is not a constitutional position, and the department of Jamati institutions cannot give new directions to institutions. Ismaili Institutions do not report to Mr. Sachedina. He coordinates their work, but ultimately, the institutions are answerable to the Imam.

What is the relationship between Defendants and Sachedina and Bhaloo?

Both Sachedina and Bhaloo agree that they are not in bad terms with the defendants. In the Case of Alnaz Jiwa, they don't recall ever interacting with him. In the case of Nagib Tajdin, they claim cordial, even warm relations with him, admit that he has never acted unrespectfully against either of them, and that his family was well-respected until the Announcements and the Lawsuit.

Why is Alnaz Jiwa included in the Lawsuit?

It turns out that Alnaz has no role in the publication and a minimal role in the distribution of the KIZ Farman book series. The reason he was included in the lawsuit seems to be due to a confusion on Mr Sachedina's part.

Are Farmans made Available to Non-Ismailis?

ITREB is manned 100% by ismailis who have taken the ismaili oath of office. The IIS is manned at all levels by many non-ismailis who are not bound by the constitution. Why then, are Farmans asked to be sent to IIS and not ITREB?

Contradiction: Did Sachedina give Nagib's address to Michelle Parkes?

Sachedina started saying that he had nothing to do with Miss Parkes' correspondence with Mr Tajdin. However, he was not able to stick to that story.

Contradiction: Imam's criticism of Leaders in London

Mr Sachedina maintains that the Imam's comment about Leaders in London during Golden Jubilee was incomplete. This statement is shown to be false.

Contradiction: Recall all books or just the Golden Edition?

Would the Imam ask Mr Tajdin to undertake an impossible task?

Contradiction: Who mentioned Nagib Tajdin's Name?

Sachedina's Affidavit says that the Imam mentioned Nagib Tajdin's activities to Sachedina. His earlier testimony says he knew nothing of Nagib's actions before he started working at Aiglemont. Now, Sachedina says that he is the one who mentioned Nagib's name to the Imam.

In 1998 Did sachedina and Bhaloo take the Farman Book Draft to the Imam?

The Draft that Nagib Gave for the Imam in 1998 is still in Bhaloo's house.

Is the Imam concerned about the website?

Mr Sachedina states that there is a general concern about the contents of ismaili websites, and a review is pending, however, he also says that Mr. Tajdin himself has been part of the solution.

Significance of Mehmani

A murid is quite entitled to speak to his Imam during Mehmani. Imam does listen, interact with and guide Murids during Mehmanis. Although reluctant, even Mr Bhaloo came around to this conclusion.

Significance of Talika

Talikas and Farmans are not regular speeches, they are treated with the greatest respect and special ceremonies as Divine words for the Ismaili community.

2010-08-09 CROSS-EXAMINATIONS for Summary Judgement Motions

4 people were cross-examined on the week of August 9, 2010 for the Summary Judgement Motions in the context of the Copyright Lawsuit allegedly by the Aga Khan.

First, both defendants Nagib Tajdin and Alnaz Jiwa were examined on Monday August 9th, 2010 by the Plaintiff's Lawyer Brian Gray.

Then, Shafik Sachedina was examined by both defendants on August 12, 2010 and Aziz Bhaloo was examined by both defendants on August 13, 2010.

Mr Gray opted to examine the defendants' forensic expert Graham Opsreay the following week.

Main subjects are highlighted below, and full transcripts will be linked in this section.

The Following News Event and News Item Summarize these Cross-Examinations:

[Copyright Lawsuit: CROSS-EXAMINATIONS confirm that the case is not authentic - 2010-09-04](#)

[Copyright Lawsuit: CROSS EXAMINATIONS Table of Contents - 2010-09-04](#)

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Sachedina #301:

Cross-Examination by Mr Jiwa.

Q. ... Would you agree with me, sir, and you said this earlier, that the jamats are obligated to follow the Imam's farmans and the Constitution?

A. Just as farmans that he has authorized for release to the jamat. Not any farmans. Absolutely what he had given for the jamat, which he has authorized for the jamat, and once he is the one who approves those farmans.

Sachedina #542 - #545:

Cross-Examination by Mr Jiwa.

Q. ... My question to you was that before Mr. Tajdin started distributing these farmans, there were many farmans that were not released by ITREB to the jamat khanas -- to local ITREBs to be read; correct?

A. Because Mowlana Hazar Imam had not authorized the release of those farmans through the process.

Q. So the answer is yes to that?

A. Yes. It was not released because he did not authorize the release.

Q. So you said earlier, if I understand correctly, that the farmans become definite after they are authorized by the Imam?

A. Absolutely. That's my understanding.

Q. And that by His Highness not authorizing, he doesn't want those farmans to be followed; correct?

A. Because they are not farmans. Actually, those farmans have not been authorized or released. That means they don't become effective, and, therefore, they are no longer farmans. They are not made as farmans.

Sachedina #511 - #514:

Cross-Examination by Mr Jiwa.

Q. Now, His Highness, it appears from what you are saying, when he makes his farman, his oral

farman, he comes to the jamat khana --

A. Extempore.

Q. Extempore.

--- Off-the-record discussion.

Q. And you are saying that after he approves and finalizes, then it becomes definitely farman?

A. Yes.

Q. Are jamats expected to follow the farman that he has already made, or do they wait until he has authorized the final version?

A. To me, the version that he has authorized become the farmans that are conveyed to the jamat with his authority. So even in my view, and it is my opinion, that even if you had been made aware of a farman to the jamat, the text that he releases after his review are the authorized farmans. Because they have gone the review process by the Imam himself, and he has therefore completed this where there have been -- no, he has reviewed them. If he requires anything, whatever he requires is done, and then in most cases, as I say, he goes through this process and then gets them released. So those are the only ones that are the farmans.

Sachedina #622 - #628

Cross-Examination by Mr Tajdin.

Q. It's still read in jamat khanas usually 11th of July, the day of the Imam --

A. Yes. That's the farman of the Imam.

Q. It's a farman which is a recognized farman; right? Can you confirm to me if 'Noor' means 'the Light'? And there is a surah in the Koran, a chapter in the Koran, about the Noor?

A. Yes.

Q. Is it the same Light?

A. The Light, yes.

Q. The Light. It's the Light of God --

A. Yes.

Q. -- which guides materially and spiritually?

A. The Noor of Allah, the Noor of God.

Q. Which guides materially and --

A. Yes.

Q. And this is guided through the Imam's love that Noor is guiding us. And since we are all from the same religion, we all believe in this; right?

A. (Deponent nods head up and down).

Bhaloo #143:

Cross-Examination by Mr Tajdin.

Q. You would accept that the talika is a written farman?

A. Sometimes the talikas are blessings, not farmans.

Q. Oh, blessings are not farmans?

A. I told you that talikas are sometimes blessings given by the Imam to the individuals, but not instructions in farmans.

Are Ginans to be followed?

Mr. Sachedina maintains that Ginans are just devotional poetry and are not meant to be followed.

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Sachedina #140

Cross-Examination by Mr Jiwa.

Q. Must abide by, yes. And would you also agree with me that the jamat is also asked to obey and follow what's preached in the Ginans, g-i-n-a-n-s, so long as they are not contradicted by a current Imam?

A. Ginans are devotional poetry, and thus as poetry, it is not in a way incumbent for anybody to follow the ginans in the way that you describe. Ginans are, as I say, devotional poetry.

SS#892-895

Cross-Examination by Mr Tajdin.

Q. Okay. But you agreed that the Usul-e-deen farman, which is very well known in the community, says that farmans and ginans are the same?

A. As I said to you, this was by the past Imam, the 48th Imam.

Q. Is it valid or not?

A. As I said to you, my interpretation, and it is my personal interpretation, that I follow the guidance given by the present Imam always.

Are Previous Imams' Farmans to be Followed?

Mr Sachedina maintains that he does not follow Farmans of previous Imams.

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Sachedina #885 - #889:

Cross-Examination by Mr Tajdin.

Q. Can I ask you to look at the second page of this. Have you heard of a farman that people refer to as the Usul-e-deen farman --

A. Yes.

Q. In the, not the last paragraph but just before that paragraph, I want to point to this: 'My Farmans themselves are the Ginans!' The Usul-e-deen farman is quite widely circulated in our jamat; do you agree with that?

A. This is -- again, I keep coming back, these are farmans from Sultan Muhammad Shah, and I always -- as I said to you, it is my position very clear, and it's my believe, that every time we look at, first of all, the farmans of the present Imam, they take precedence over any previous farman. And the Imam of the Time is the one -- the farmans that are, from our point of view, in our tariqa. We look at the present Imam's farmans.

Q. That's very good. Mr. Sachedina, would you agree that any farman which has not been superseded is still valid?

A. By the Imam -- living Imam.

Q. So let's say on July '57 the living Imam became Shah Karim, the present Imam. So the farman made two weeks ago by the previous Imam are no longer valid; is that what you are saying?

A. What I'm saying to you is our -- the farmans of -- Imam is Imam, is the present living Imam, and we, as the jamat Ismaili community, follow always the Imam of the Time. So those farmans are the ones that guide our life because he is the present Imam and he makes the farman. It is his farmans that we follow because we have given the bayat to the Imam of the Time.

Q. Thank you for this theological discourse. Now, let me tell you -- isn't it true that the Imam, when he became Imam, the present Imam said 'follow the farman of my grandfather' who was the previous Imam'; right? Isn't it true that he said that in his very first farmans?

A. Well, as I say, I cannot respond to that.

Sachedina #892 - #893:

Cross-Examination by Mr Tajdin.

Q. Okay. But you agreed that the Usul-e-deen farman, which is very well known in the community,

says that farmans and ginans are the same?

A. As I said to you, this was by the past Imam, the 48th Imam.

Q. Is it valid or not?

A. As I said to you, my interpretation, and it is my personal interpretation, that I follow the guidance given by the present Imam always.

Has an Official Farman Book Publication Been Approved?

LIF's announcement in January 16, 2010, informed the jamats as follows: *'The Jamat will be pleased to be informed that Mawlana Hazar Imam has already approved that the Jamati institutions should formally publish a volume containing the approved text of his farmans, including those made for the Golden Jubilee.'*

Is this announcement accurate? Mr Sachedina cannot pinpoint whether or when the approval for this official Farman book was given, and does not indicate that any work is under way to produce an official Farman book.

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Sachedina #390 - #402:

Cross-Examination by Mr Jiwa.

Q. 'The jamat would pleased to be informed that Molwana Hazar Imam has already approved that the Jamati Institution should formally publish a volume containing the approved text of his farmans.' [as read] Do you know when did he formally approve this?

A. The principal. This is an approval of the principle to publish. That does not mean you can publish tomorrow. It is the principle that he has agreed. The principle to approve, that he has approved the principle of being able to publish the farmans at his time. He has not made a decision that tomorrow you will publish this. He has given his -- here, as I say to you, 'approve the jamat to formally this.' So he has given his agreement to publish. Now the process has got to be gone through.

Q. Okay, so what I'm saying -- my question was: When did he give this approval?

A. This was during the -- this discussion has been on the table with Hazar Imam for a number of years.

Q. No, this --

A. Listen to me, please. I have also.

MR. GRAY: Let him finish his --

THE DEPONENT: I have to be able to give you the context of this. It is my right to give you a context to this. And, therefore during the Jubilee there were a -- during the Golden Jubilee of the Imam, there were a number of projects, and one of them was -- there's one to do with the speeches of the Imam, and this one also is the farmans of the Imam. And these were issues that were discussed by -- with Hazar Imam, and he has, as I said, given in principle his agreement to do this. The question is going to be the timing in when this will happen and the process has to -- due process will have to be gone through

before they are released to the jamat.

BY MR. JIWA:

Q. So my question is when -- when the final approval was given?

A. About the...?

Q. When you say 'has already approved'?

A. I told you during the meeting with the leaders -- at the time of the Golden Jubilee, this proposal was --

Q. No, it would be nice if you would say what month, what year?

A. During the Golden Jubilee when we -- leaders of the jamat periodically meet Hazar Imam, and there were meetings with Hazar Imam about what will be the outputs that we will do before the Jubilee, during the Jubilee, and the post-Jubilee. And the farmans would be the compilation also of -- all the farmans of the Golden Jubilee would be included in this. So this was something that came out of the Golden Jubilee.

Q. So you cannot point to the month that he gave --

A. This was done in the context of the principle of -- agreement by approval by Hazar Imam to do certain things. And this was informed to the jamat that that approval has been given by Imam to do this. But, as I say to you, there's a process to follow, which Hazar Imam will have to be -- his guidance will have to be sought.

MR. GRAY: Excuse me just for a second.

--- Off-the-record discussion.

--- Recess taken at 11:59 AM.

--- Upon resuming at 12:09 PM.

BY MR. JIWA:

Q. Now, Mr. Sachedina, your announcement --

A. Yes.

Q. You were talking about this already approved and you explained that. Now, to your knowledge has His Highness, prior to his Golden Jubilee approval, has he ever approved prior to that for the publication of the farmans?

A. The principle to publish?

Q. What do you mean 'the principle'?

A. Because the fact is that, you know, there is no publication at the present time. There is no publication of farmans authorized by any institution actually at the present time which is there. So this will be something that is in the process. It was in the process, principle was agreed with Hazar Imam.

Q. Right.

A. And now it's being looked at. Because I -- so that you should be aware, I had raised this matter with Hazar Imam of the Time of my meetings with Nagib at that time about this whole issue, that we will need to make sure that there's a publication available.

Q. Did he give you an approval at that time? Did you ask him for approval at that time?

A. No, he had said that -- we are very, very clear on this matter, that whatever it is you prepare, submit, and then we will make a decision once I have reviewed the material.

Q. Right. And so he said that in 1998 to you?

A. He said the principle about this is something I'm willing to consider and I'm willing to look at. And that's why I was very satisfied that this is where the direction we will end up at some point in time, but only after he has given his authority ###.

Over 80% of ismailis have NO access to Farmans.

Mr Sachedina helps to establish that despite there being a few thousand Jamatkhanas, the circumstances of the worldwide ismaili Jamat are such that over 80% of ismailis do not have access to Jamatkhanas or to Farmans.

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Sachedina #606-#614:

Cross-Examination by Mr Tajdin.

Q. Now, as the head of Jamati Affairs, you have a list of how many jamat khanas there are which are in contact with the Imamati?

A. Yes.

Q. Approximately how many?

A. Of the number of murids or in the global number of countries?

Q. No. Jamat khanas.

A. Oh, jamat khanas. Well, we have in excess of nearly over 5,000-7,000 jamat khanas.

Q. 7,000. And some are in remote areas where there are small villages and few people?

A. Absolutely.

Q. So on the average, that would cover about 2, 3 million Ismailis?

A. Well, yes, possibly. Even more.

Q. There are jamat khanas where there are a thousand people that can sit, and there are some where there are a hundred people that can sit; am I right?

A. There are different size of jamat khanas.

Q. Okay. So if we have to be very generous that about 2, 3 million people have access to jamat khanas, would you agree that not all the people who have access to jamat khanas go to jamat khanas?

A. Access to jamat khanas is out of choice of people being able to go because of their lives, whether they are able to go to the jamat khanas, the proximity of the jamat khanas, the distances people have to travel to jamat khanas. So there are many factors that determine for any member of the community to go to jamat khanas. There could be a jamat khana but they can't get to it because of the distance, whatever it may be. There are many reasons for that.

Q. Okay. Out of 15 million Ismailis, if you have 2 or 3 million at the most who have access -- let's say they all go to jamat khanas, would you agree that 80 per cent of the people do not have access to jamat

khanas in our community; they live in regions where there are not yet either a jamat khana or --

A. I'm not able to make that judgment to say to you for sure that is the case. But there is a large proportion, and you know that the Imam of the Time has said that there are many places in the world that there are no jamat khanas, which he will at the time -- at the time of the Golden Jubilee it was one of the goals, was to establish jamat khanas in parts of the world where there has been no access to the jamat khanas. And that is his goal. And therefore he -- there are many, many places in that region of the world where there's a large population and they do not have access to jamat khanas.

Q. Okay. Now, would you agree that people who do not have access to jamat khanas do not have access to farmans?

A. Yes, because -- they would not have access simply that there are no structures, even institutional structures, in some of these places.

Q. True.

A. There has been no constitutional bodies in many of these countries. In fact, till today I can tell you most of these countries do not have constitutional bodies.

Q. Yes. In fact, the Imam mentioned in a farman that there are no constitutional bodies in many, many places where Ismaili --

A. In those parts of the world where there are large jamats, there are in some of these countries what I call the jamats that we are mentioning, majority of the jamats do not have jamati institutional structures. You know, I can give you Russia, central Asia, Afghanistan only just started, western China -- all of these places have a large population, but these are areas of the world where jamat khanas have not been established because there are no constitutional bodies or just about beginning to be established. So it's under the constitutional bodies that jamat khanas -- and there are no traditions in some of these places to have jamat khanas.

Does Imam Think in French and Speak in English?

Mr Sachedina admits twice to saying that the Imam thinks in French and speaks in English.

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Sachedina #252- #257:

Cross-Examination by Mr Jiwa.

Q. And you told Mr. Tajdin that Imam 'thinks in French, speaks in English, and makes mistakes, so we edit them, we correct them'?

A. That's his words, not mine.

Q. And you never said that?

A. I didn't say about mistakes. What I said was, and I want to really put it on properly, is that Imam himself had told me that when he makes farmans, he makes extempore farmans. And extempore farmans, when he makes them, he thinks in French, and the farmans are made in English. And it is absolutely correct in my view that farmans of any -- from my point of view any Imam from that point of view, the Imam has his right to review those farmans because the spoken word and then text have to be compared and be satisfied that that is what he wished to be released.

Q. Would you agree with me that that's your opinion?

A. No. It is what the Imam has told me personally.

Q. That he what?

A. That he has made -- it's a long tradition absolutely going back through many, many years.

Q. When you say 'many years,' so Sultan also had the same policy as well?

A. I'm not -- I'm talking about this Imam. I wasn't present with the 48th Imam. I was not working for him. But I can only tell you that Imam reviews this material himself for the last many, many years since I have been working, and he releases it only when he is satisfied with it.

Q. Now, do you have any, either a farman -- right? -- or an article in the Constitution that says that the Imam edits farmans or has to edit farmans or has to approve farmans before they are released for distribution?

A. There's a very clear constitutional mandate. If you read article -- the only people that are authorized to do that are constitutional board. If you look at the article, very clearly article 14 of the Constitution, 14.1(c) clearly says that it is only the Imam who -- it's very clear on -- 14.1 article C is absolutely clear.

Sachedina #263:

Cross-Examination by Mr Jiwa.

Q. I'll come back to that in a second. I just want to focus on the question that I asked you. My question, and I'm going to repeat it again: Is there any article in the Constitution or is there any farman that says before any farman that has been made by the Imam, before it is distributed to the jamats, has to be edited and approved by the Imam? That's my question.

A. Not in the way that you describe.

Sachedina #617 - #618:

Cross-Examination by Mr Tajdin.

Q. Okay, that's fine. I'm referring to tab D of -- 3(d) -- now you have to bear with me. It's the first time that I am doing an examination. And Shafik, honestly, I think in French, I speak in English.

A. Yes.

Q. So sometimes --

A. Thank you very much. I am grateful. That is first time on record somebody can say that. I thought I was the only one saying that.

MR. GRAY: That's okay. I think probably it's the first time Mr. Sachedina has been examined.

Health and Age of the Imam - Gray Keeps bringing this up.

Mr Gray tried to establish that the Imam is aging and in bad health. It was refuted by everyone.

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N. Tajdin #268:

Cross-Examination by Mr Gray.

Q. I see. Okay. And did you tell this Mr. Ospreay the age of the Aga Khan?

A. No, I did not.

Q. Can you produce for me your instructions to Mr. Ospreay?

A. It was a verbal instruction.

Q. You didn't ask him in writing?

A. No.

Q. Did you tell him...you follow what the Aga Khan...his life, don't you?

A. I follow it very closely.

Q. Very closely. And are you aware of the fact that he had a skiing accident in 2008?

A. Yes, he has had several of those.

Q. He had several accidents in 2008?

A. Yes.

Q. And they were in 2008, weren't they?

A. Yes. In fact, I met, in 2008, or 2009, Dr. Sachedina in Ivory Coast, and he told me that we have fixed completely properly the shoulder of His Highness, and he is like before.

Q. Right. So, you were aware that the skiing accident hurt his shoulder?

A. Yes, I was aware.

Q. And which shoulder was that?

A. Probably the right shoulder.

Q. Right, and are you also aware that the Aga Khan, His Highness, is right-handed?

A. Yes, I am aware.

Q. Okay. Did you tell Mr. Ospreay that His Highness had had a skiing accident in 2008?

A. No, I did not, because he was already back to normal, and that was confirmed to me by Dr. Sachedina in Abidjan during the Golden Jubilee for His Highness.

Q. Did you tell any of the other experts that you retained about the Aga Khan's age?

A. No.

Q. Did you tell any of the other experts about the skiing accident in 2008?

A. No.

Jiwa #282 - #284

Cross-Examination by Mr Gray.

Q. I take it that you also follow events...I take it you also follow events in His Highness' life?

A. I do somewhat, yes. But the accident was publicly known. So even if you are not following, you knew.

Q. So you knew?

A. Yes.

Q. You knew there was an accident in 2008?

A. Yes.

Sachedina #586 - #599,

Cross-Examination by Mr Tajdin.

Q. And the Imam travels extensively; right?

A. Yes.

Q. I would think he travels all the time. I think he mentioned somewhere that he lives in a suitcase or something, or a briefcase. And I remember a very old interview that he sent that he spent so many hours working in a plane, that's why maybe he made this comment. He's also a sportsman; right? He does ski?

A. Yes.

Q. He drives his own car?

A. He loves.

Q. He loves. I have seen his movie with Princess Zahra on a horse. So the horse --

A. That is his hobby. I don't get involved with any of this.

Q. I just want to make sure that we agree that the Imam is in better shape than you and me. If I can refer to that Imam, I was just looking few days ago at the Pamir Mountains and the Imam is climbing the mountain. It looks very fresh. And I think you are 300 meters behind the Imam trying also to go up the same mountain. Is that a university that he's building in the Pamirs?

A. Yes, there is a University of Central Asia, which is the university in that region, in Kyrgstan, Tajikistan and Kazakhstan. It's --

Q. It's a three-country --

A. Three countries.

Q. And it's a mountain university?

A. Under the treaty of --

Q. Okay.

A. Under the treaty between the Imam and the three presidents of the three countries.

Q. There is no choice but to climb the mountain. Because that's where the campus are; right?

A. In remote areas.

Q. In remote areas.

A. In isolated areas.

Q. Very good. Now, he is also a graduate from Harvard, so he's not like the average person --

MR. GRAY: Please stop here a second. I see the reporter is looking for -- off the record.

BY MR. TAJDIN:

Q. So I guess he probably is using some gadget. I saw you were using a Blackberry. Is the Imam also using a Blackberry?

A. I'm not aware of that.

Q. You are not aware if the Imam --

A. Blackberry, I don't know about the Blackberry.

Q. I will not ask his phone number, promise. But he uses some kind of telephone where you can send messages. I understand he send some messages. So he's quite a modern person in that way?

A. He's an Imam of the Time.

Sachedina #834 - #839

Cross-Examination by Mr Tajdin.

Q. ...So that day we met in Abidjan.

Q. Yes. That was during the Golden Jubilee; right? Right?

A. Yes.

Q. I guess this is a yes. We talked about the Imam, and you said that his shoulder was completely restored. You remember that conversation?

A. You asked me how Hazar Imam was, and I said to you he's fine. And you said is he all right, and I said yes, he's fine.

Q. Did we talk of his shoulder?

A. You talked to me, as I say, about his accident.

Q. Yes.

A. You asked me the question and I responded.

Q. And you said he was fixed now?

A. Right shoulder is a shoulder injury, that's why.

Did Sachedina and Bhaloo discuss their Affidavits with the Imam?

Bhaloo and Sachedina did not discuss their Affidavits with the Imam.

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Sachedina #28 - #33:

Cross-Examination by Mr Jiwa.

Q. Now, you said you have reviewed Mr. Bhaloo's Affidavit?

A. Yes.

Q. And did you review it when it was drafted right initially, or after it was sworn by him?

A. The Affidavit itself?

Q. Yes.

A. I had seen a situation from before, what he was saying in his own Affidavit, and it was actually the counsel who actually sent me the final copy of it.

Q. After it was signed?

A. Yes. Of course I have seen a draft before that, but it actually was signed by -- and I was sent, really, the copy of it.

Q. Now, your Affidavit as well as Mr. Bhaloo's Affidavit, the draft version, did you review that with His Highness?

A. I didn't review it myself. I didn't review it. The counsel had, but I certainly didn't personally give it to His Highness myself.

Q. And did you discuss with His Highness the contents of your Affidavit or Mr. Bhaloo's Affidavit?

A. Not with him personally.

Sachedina #830 - #833:

Cross-Examination by Mr Tajdin.

Q. Okay. Have you seen Mr. Bhaloo's Affidavit before he signed it?

A. Sorry?

Q. Have you seen Mr. Bhaloo's Affidavit before he signs it?

A. Mr. Bhaloo's Affidavit before he signed this? I saw a version of it.

Q. Okay. A draft?

A. Yes, there was a draft that was -- he had prepared, but, as I say, he then himself dealt with it

because, as I say --

Q. That's fine.

A. It's not my responsibility. But he did say that he was just making sure that I find my -- as far as I'm concerned, my own visit dates and what you have already said is here, now all is in there.

Bhaloo #6:

Cross-Examination by Mr Jiwa.

Q. When this Affidavit was drafted, did you discuss what contents to put in, what to mention, with anybody else?

A. No, I did not.

Did the Imam ask Sachedina and Bhaloo to be His witnesses in this case?

Mr. Sachedina is the one who asked Mr Bhaloo to be a witness. No word on who decided that Mr Sachedina should be a witness.

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Sachedina #25 - #26:

Cross-Examination by Mr Jiwa.

Q. With respect to this litigation, whose decision was it that you and Mr. Bhaloo should be giving evidence?

A. The decision for -- whose decision it was?

Q. Yes.

A. I realized that some of the facts require Mr. Bhaloo, who was present at only one of the meetings that I know of, and then he was also present, I believe, at the -- or he was in the leadership at the time of one of the other --

Initiation of the Lawsuit

Sachedina says that only 2 people were involved in the issuing of the Statement Of Claim: Sachedina and Manji. Sachedina has a hard time pinpointing when the Imam gave the go-ahead to proceed with the Statement of Claim.

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Sachedina #515 - #519:

Cross-Examination by Mr Jiwa.

Q. When did His Highness tell you that he has decided to issue this Statement of Claim?

A. When did?

Q. When did he tell you?

A. In fact, he discussed this matter the -- after the letter was sent, the second letter was sent, he did speak to me and the president, Mohamed Manji that --

Q. Together?

A. No. He spoke to me and I believe he spoke to Mohamed separately, and then he sent us, you know, from his point of view a message to speak with -- you know, in the sense that there were discussions that we should also discuss amongst ourselves on this matter.

Q. So who discussed?

A. Mohamed and me were only involved, two people, because His Highness wanted to know whether what had happened so far, what are the actions that have happened so far, the fact that these farmans there has been no reaction, that these farmans have not been withdrawn in the sense that these books have not been withdrawn from circulation, so he was concerned.

Q. By the time that you --

A. And he wanted -- sorry. And he wanted to understand whether he continues in this Imam/murid relationship, which is what he wanted to do. And second letter, he felt after the second letter that he had done what is expected of the Imam in his way, and he was rather concerned that there was no action from the other side, from the murids, and he wanted to protect the integrity of his farmans.

Sachedina #523 - #527:

Cross-Examination by Mr Jiwa.

Q. So do you know -- I mean I'm going to ask you as precise as you can be in terms of date or day?

A. I'll try.

Q. Is when did he tell you that he has now decided to issue a Statement of Claim?

A. I think and I can probably -- this letter was in February. I think indications were that he was seriously now, all the avenues were -- he had exhausted the avenues from his perspective, which were that if an imam writes to a murid and a murid does not respond, or at least then went and accused for forgery, that was a serious matter for him. And he felt that if that was the case, then this was a matter of serious concern to him and that to protect the integrity of his works, his moral rights, he wanted to ensure that this, therefore, would have to go where legal recourse would have to come. Because before that we had said, both Mohamed and me, that we would try and resolve this as Imam -- between the Imam and the murid because that was the relationship between the murid and the Imam, that he wanted in the privileged setting to resolve this matter.

Q. Now, I was trying to get --

A. Yes.

Q. -- the date?

A. I think probably towards the end of March or April that he was thinking about -- towards end of March, I think.

Q. That he said he wanted to issue the Claim?

A. Well, that's the time he said, well, look, I think, you know, he would have to deal with it from a legal perspective.

Sachedina #766 - #767:

Cross-Examination by Mr Tajdin.

Q. Mr. Sachedina, the first announcement which we have already talked about was already talking of legal steps?

A. I -- at least not from my --

Q. That was --

A. The first announcement, as far as I'm concerned, doesn't talk about any legal steps at all, at least in the --

Sachedina #771,:

Cross-Examination by Mr Tajdin.

Q. Okay, I'm just referring to the last sentence where it talks of copyright laws.

MR. GRAY: It says --

THE DEPONENT: Yes, but this practice constitutes a breach of the Ismaili Constitution as well as copyright laws, and appropriate steps have been taken to ensure that the unauthorized circulation of copies of these unauthorized publication ceases.

Whether Gray has spoken to the Imam

Gray tried to show that he has spoken to the Aga Khan by producing a group photograph including him and The Aga Khan Taken at the Aga Khan Museum Foundation Ceremony.

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N. Tajdin #481

Cross-Examination by Mr Gray.

Q. I am showing you a picture, a photograph.

A. Yes?

Q. Do you recognize anybody in that photograph?

A. Yes.

Q. Okay. Who do you recognize there?

A. The Aga Khan.

Q. That is the Aga Khan?

A. Yes, it is the...

Q. Who is that next to...do you recognize me there, next to the Aga Khan?

A. Yes.

Q. Does that look like me?

A. Yes.

Q. Brian Gray?

A. Yes.

Q. Do you recognize anybody else in the photograph?

A. I think...is that not the architect Maki?

Q. That is the architect, yes.

A. And I think from the back, I see Mohamed Manji.

Q. You see Mohamed Manji behind the Aga there?

A. Yes.

Q. He is the president of the Ismaili Council for Canada?

A. Yes.

Q. And you see the person at the bottom?

A. This is the foundation ceremony of the Jamatkhana Museum, right?

Q. Yes.

A. Yes.

Q. And you see the other person at the left there; do you know who that is?

A. Who is the other person on the left?

Q. The Aga Khan's right, to the left of the photograph.

A. Aga Khan's right.

Q. To the left, next to the architect.

A. who... There is a lady. I am not sure

Q. Yes, I can tell you that is Bev Oda, the Minister of International Cooperation?

A. Yes, yes.

Q. Do you recognize her now?

A. Yes, I recognize her.

Q. Okay. So, I am standing next to the Aga Khan...

A. Yes.

Q. ...at the foundation ceremony; am I not?

A. Yes.

Q. Okay.

A. There are so many pictures of so many people like that. I collect them.

Q. You collect them?

A. If you should not mind, I would like to get a copy.

Q. You can have a copy. I will give you a copy right now.

A. Thank you.

Q. There you go, here is a copy. Now, how do you explain that, if I have not spoken with the Aga Khan, or have access to him? people...

A. Mr. Gray, I can produce you so many

Q. Sorry?

A. I can produce so many people who are in photographs with the Aga Khan who have not spoken to him.

Q. I see.

A. It doesn't mean anything. Come on.

Q. It means nothing?

A. On that occasion, so many pictures were taken, probably a couple of thousand.

Q. Okay.

A. So many people wanted to have a photograph with the Aga Khan.

Q. So, along with the ten million people that won't convince you, a photograph is not going to convince you?

A. A photograph where you stand near the Aga Khan, I could have been standing there. So what?

MR. GRAY: Okay. Can we mark that as the next exhibit? Number 12. It is a photograph of Brian Gray, the Aga Khan, Bev Oda and an unnamed architect.

Q. Maki?

A. Yes.

Q. Yes, Mr. Maki, at the foundation ceremony of the Aga Khan...

A. Museum, Jamatkhana.

Q. ...Museum in Toronto.

A. He is the architect of the museum.

Q. Okay. It was taken around May...at the time of the ceremony in May of 2010?

A. Yes, end of May.

Q. End of May?

A. Yes.

Jiwa #126:

Cross-Examination by Mr Gray.

Q. You saw the photograph of me standing next to the Aga Khan? Did you see that photograph?

A. I have seen the photograph.

Q. You think I did not speak to the Aga Khan?

A. You know what? I will not answer that question. You give your evidence if you want to. Put in an affidavit and we can cross-examine you. Right now you have not given any evidence. You are just counsel.

Are defendants insisting to meet the Imam?

Defendant Nagib Tajdin is often in close proximity but never addresses the Imam. The defendants are not insisting to meet the Imam, they are insisting on getting any authentic direct instruction from the Imam so that they know whether to continue or not.

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N. Tajdin #419 - #428:

Cross-Examination by Mr Gray.

Q. So, it is a privilege to have an audience with the Aga Khan, isn't it?

A. It is a privilege for anyone, but this is not the purpose. I am not looking for an audience for an audience. I have written, in the beginning of January, I need an audience to get instruction.

Q. Have you ever had an audience with the Aga Khan?

A. No. Yes. I have gone to Mehmani.

Q You went to Mehmani?

A. Yes, it was a long time ago.

Q. When was that?

A. 1978.

Q. And at that Mehmani in 1978, did you present the fruit and nuts to him?

A. I think there were more than fruit and nuts. There was a rosary, and there were a few other things.

Q. Right, right, okay. So, you had a Mehmani?

A. I had a Mehmani.

Q. How long did that Mehmani last in 1978?

A. A few seconds.

Q. A few seconds, okay. So, other than that, you haven't had any audience with His Highness?

A. I have never tried to...

Q. No.

A. ...up to January 4th.

Q. Yes, now you have been trying since January 4 to have an audience with him?

A. Yes.

N. Tajdin #516:

Cross-Examination by Mr Gray.

Q. Did you try to bring your books to show to the Aga Khan while he was in Toronto?

A. No. I went to the hotel, but not to try to give him the book.

Q. Did you go to the hotel, and the Royal York, where he was, to try and give him the books?

A. No.

Q. Did you try to meet him at the hotel?

A. I haven't tried to meet him. I was standing there with other Ismailis to see him.

Q. You were in the hotel?

A. And if he would have called me, I would have gone.

Q. But you were in the hotel lobby?

A. I was in the hotel lobby, and I was in the hotel lobby the previous time when he came, the previous of the previous time also.

Q. Did you follow him around the world, trying to see him?

A. I go around the world because I have a website. I take pictures. I take photos. Sometimes he is there for a day, two days. Sometimes we are very close. I could talk to him, but I don't do these things. We have a code of conduct that tells that we cannot approach the Imam unless he accepts.

Q. All right. You follow him around, but you don't speak to him in the...

A. Never. Never.

Sachedina #630-#631:

Cross-Examination by Mr Tajdin.

Q. On paragraph 20, you say: 'Mr. Tajdin responded that he would accept this to be His Highness's wish only if he received instructions directly from His Highness.' Is this correct?

A. That's what you told me.

Q. I agree I told you that. I just want to make sure that it's not changed?

A. Yes. Directly -- from my language, directly is the Imam. Imam of the Time, if he tells you, then you will take instructions from him.

Q. Okay, that's fine.

A. And that's the way you have described to me.

Meeting the Imam: Defendant's Alternatives

Defendants present some alternatives that the Imam had to make them stop their activities without needing to meet them.

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Jiwa #122 - #124:

Cross-Examination by Mr Gray.

Q. Well, is it your evidence that you won't accept...the Aga Khan has not consented that the Aga Khan has not authorized this lawsuit unless you speak with him in person? Is that your evidence?

A. My evidence...you know what? don't need to speak to him in person. I don't need to speak with him in person. He has, despite the evidence to the contrary, he has very simple ways of dealing with these issues. And that leads me to believe that, you know, he is not behind this litigation.

Q. But you don't need to speak to him in person.

A. I don't need to...

Q. And so you would accept something in writing?

A. Writing at this moment is becoming difficult to accept. But I have told you that he has got quite a few...at least two other alternatives to stop this stuff or stop the publication of Farmans and he has chosen not to do

so. That leads me to believe that he is not behind this.

Sachedina #433 - #439:

Cross-Examination by Mr Jiwa.

Q. But the concern is, as I understand, it seems to be that whether they are official or unofficial, he doesn't want them to be outside of jamat khanas distributed either by email, by photocopies, by books?

A. That's something he doesn't wish.

Q. He doesn't you say?

A. Except from the described process.

Q. And yet since 1997 at least, perhaps earlier, as you said, but at least since 1997, he frequently told you that he's concerned about this, would you agree with me that he had an excellent opportunity when he went around the world to make sure that the jamats doesn't engage in this activity. He never did; correct?

A. That's the Imam's decision --

Q. Yes. I understand.

A. -- what the process is. It's up to him.

Q. I'm not asking you why he didn't do.

A. Yes.

Q. Of course you're right, it's his prerogative. What I'm telling you is despite that he went around the world, he never mentioned any farman anywhere to say don't engage in this activity. You are aware, aren't you, that he has, for instance, said, 'I don't want you dealing drugs, I don't want you smoking drugs, I don't want you to grow drugs, I don't want you to transport' -- he said that in jamat khana?

A. But those are in the context of a farman.

Q. I understand. But he said that. So he's able to say in the farman and stop this; would you agree with me?

A. If he wished to do that. That is the prerogative of the Imam to do what he wants to do and say what he wants to say, if he wished to say, whether in his people whether that's something he wants to say to the jamat in public. But this is an institutional issue.

Sachedina#448 - #450:

Cross-Examination by Mr Jiwa. (until reporter appeals)

Q. And it says, the second sentence: 'In order that there is absolute clarity that the legal steps have been undertaken is the sad last resort.' Right? Would you agree with me that this is not a 'sad last resort'?

A. It was from Imam's perspective a 'sad last resort' because he tried in many ways for this not to go to this level.

Q. I just told you that if the Imam has been concerned, if he has been concerned about these activities, and according to you since at least 1997, he has a number of occasions -- for instance, 1998, July, he amended the Constitution and he could have made it abundantly clear that nobody but the Imam can do this. Number 2, and I just explained to you that he could have made the farmans as he went around during Golden Jubilee because this has been a concern for a long time, as you've been saying. So would you agree with me that the sad last resort is not true?

A. Let me tell you and maybe --

Q. Yes or no?

A. It is a --

--- The reporter appeals.

MR. GRAY: Let him answer the --

THE DEPONENT: I have a right to explain. 'Sad last resort' because for the last ten years, since after -- from 1998, after my visit with Nagib, and, in fact, the last publications of Nagib, nothing, as far as I'm aware, there was no publication. This issue only arose because of this publication that was produced.

MR. GRAY: The Golden --

THE DEPONENT: So there was Golden. This is the book that has come out. This is the book in question --

Meeting the Imam: Gray's Alternatives

Gray knows that the Lawsuit will end if the Imam says in person 'Nagib Stop.', yet he tried many times to find alternatives to producing the Imam. None of his alternatives seem to show that he has access to the Imam.

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N. Tajdin #134 - #140:

Cross-Examination by Mr Gray.

Q. So, if it is actually from the Aga Khan, you accept that that, in fact, ends the lawsuit. If it really is from the Aga Khan, you no longer have consent to do what you are doing?

A. If the Aga Khan confirmed directly in person that he has written this letter, there is no lawsuit.

Q. Right. You will stop...you confirm, and it is your view that the Aga Khan has the absolute and unfettered right to withdraw any consent he may have given?

A. The Aga Khan can withdraw any consent to anyone at any time.

Q. Right. And even if he had given any consent previously, or anything he may have said previously...

A. Well, from the time he gives an instruction, it has to be followed.

Q. Right.

A. This is the tenet of our faith.

Q. So, if he has withdrawn his consent now, that is the end of the matter?

A. If he tells me, face to face, 'Nagib, stop', that is the end of the matter.

Q. Right. It doesn't matter what happened in 1992 or 1998, or any time?

A. It doesn't matter. If today, he tells me face to face, 'Nagib, stop', I will stop.

Q. But if the letter is genuine, and he has told you in writing to stop, you would also stop?

A. If the letter is genuine, and he tells me, 'This is a letter which I have composed and signed', I will accept.

N. Tajdin #236 - #239:

Cross-Examination by Mr Gray.

Q. So, a matter of this importance, when you are asserting forgery, you are not going to produce for me to review, or for my expert to review, the original of either this letter, Exhibit 5, or the original of Exhibit 3?

A. No. I will not, because your client is...if it is the Aga Khan, he can tell me, 'I have signed it and the matter is closed'. We do not need expertise.

Q. well, you might...

A. You don't need a counter-expert. I am really surprised. Why do you need to see the original of the forged letter? You ask the Aga Khan. He is your client.

Q. I have asked the Aga Khan.

A. So, let him tell me that the letter is not forged, and I will accept it.

Q. He has told you in writing, the letter is not forged.

A. Well, this...

Q. And you don't accept that. You might expect that he might be a little annoyed that you have accused all of his various...

A. Mr. Brian, by saying that this letter is forged, I am protecting the Aga Khan. Come on, he cannot be angry at me. He should be happy at me that at least, I am trying to protect his interests. In this whole file, I am the only one trying to protect his interests. Come on.

N. Tajdin #248.

Cross-Examination by Mr Gray.

Q. Right. So, is it not the case that he can...the Aga Khan, His Highness, can give you instructions in writing? You accept that he has to be able to give instructions in writing, doesn't he not?

A. I would accept his writing if they are not forged.

Q. Right. Okay. But there are 15 million Ismailis?

A. Yes.

Q. He cannot possibly meet all of them, can he?

A. There is only one lawsuit against a Murid of the Imam in 1400 years. Surely, he can meet five minutes that person and say, 'I have signed', but he is not doing it because he has not signed those letters.

Q. But he cannot meet all 15 million Ismailis. He has to operate by sending things by writing?

A. Yes.

Q. Do you agree with that?

A. This kind of...

Q. He generally has to operate by sending information in writing?

A. Yes. And this problem has never occurred before. It is once in a lifetime, once in 1400 years.

N. Tajdin #267:

Cross-Examination by Mr Gray.

Q. I see. So, because the first one was forged, everything else you received from the Aga Khan's office must be forged?

A. No. Everything that says that the first one has been written by the Aga Khan is forged.

N. Tajdin #398 - #404:

Cross-Examination by Mr Gray.

Q. But you agree with me already that if he gives you a clear indication in writing, which you understand or believe to be from the Aga Khan, you will stop doing it?

A. At this point, anything in writing will be questioned.

Q. You will question anything in writing?

A. Yes, because there are so many forgeries in this file that I will not accept a letter.

Q. You won't accept a single thing that comes from the Aga Khan in writing?

A. Not in contradiction to what the instruction he has given.

Q. So, no matter what it says in writing, you won't accept it? No matter how many times he writes to

you? No matter how many people...

A. If the Aga Khan writes to me, it has to be proven that he is the one, because up to now, in this file, there is not even one that I can see which is in the Aga Khan's style, his real signature. The content is always questionable, and I understand, you are not familiar with the Aga Khan's way, but I have been studying it for 30 years. The Ismaili knows, this kind of letter are never written by the Aga Khan.

Q. If I got 50 people who swore that they saw the Aga Khan sign the thing telling you to stop, you wouldn't accept that?

A. If the Aga Khan tells me, yes, I will stop.

Q. No, I am telling you, if you got in writing, from 50 different people, that they had seen the Aga Khan sign a document saying that he did not consent, you wouldn't accept that?

A. Mr. Gray, you can bring me a million people. Because the Aga Khan has given the instruction to me, he is the only one who can tell me these instructions are no longer valid. No other people can tell me that.

Q. No person, but...yes, I understand that, but what I am suggesting to you is, if the Aga Khan tells you in writing not to do it, you won't accept it, even if a million people confirm that that is the Aga Khan's writing?

A. Even if ten million people, because that is not the point. It is beside the point.

N. Tajdin #415 - #418:

Cross-Examination by Mr Gray.

Q. So, you don't want to examine Mr. Gleason to see if there was somebody who looked like the Aga Khan appeared? You don't want to ask him...

A. There is no need for that. I was not there.

Q. You are not going to show him a photo of the Aga Khan, and say, 'Was the Aga Khan there? Is this the person you saw?'

A. I would not do that, because this would be meaningless. If the Aga Khan has made this lawsuit, let him come and say for one minute, 'Nagib, stop', and I will stop. There is no need for this Gleason and notary, letters, and he would not even need someone to forge his signature if he was behind this.

Q. What if the Aga Khan doesn't want to see you, because you have asserted forgery? Has that ever occurred to you that he might not want to see someone who is asserting forgery against all of his employees, and against his secretariat, and against the secretariat of Prince Amyn? Has that not occurred to you that he might not want to see you for that reason?

A. Mr. Gray, I think he would be very happy to see me, because I am trying to protect his interests, not mine. And there is no accusation against the Aga Khan. I have never insulted him.

Q. And what about the precedent of giving an interview or an audience with somebody who is asserting criminal activities on behalf of his own staff? What about that precedent? Do you think that is a good precedent for him?

A. Well, I would not comment to you. You know, in North America, there are enough cases of corporation where people on the top have been betraying the shareholders, so let's not go into this, please.

N. Tajdin #450 - #451:

Cross-Examination by Mr Gray.

Q. ...and that somehow, now, having received the book, and the lawsuit having occurred, and the announcement by the International Leaders Forum having occurred twice, and two letters having been sent to you purportedly from the Aga Khan, and purporting to have been forged, and you have now

asserted widely that they are forged, it has been widely circulated, and you are telling me that the Aga Khan, His Highness, would not step forward to stop this, if, in fact, he had not authorized it?

A. I would tell you exactly the same thing, if he was behind this case. For sure, he would step in to stop this case. He would tell me, 'Nagib, stop. I don't want you to print, and I will say there is no need for a lawsuit'.

Q. So...

A. I will stop...

N. Tajdin #470 - #476:

Cross-Examination by Mr Gray.

Q. So, you have put this settlement offer on the record in your other motion, haven't you?

A. Mr. Gray, a follower doesn't do settlement with his Imam.

Q. Right.

A. It can't happen.

Q. So, when I offered to have you have a meeting with the Imam after you agreed to settle the matter, the case?

A. You wanted me to sign some

Q. Right.

A. ...which were against my faith.

Q. That is why the meeting didn't take place, because you didn't agree to that, right?

A. That is your point of view.

Q. Right?

A. I don't believe in that.

Q. Yes, you don't believe, because you think I don't represent the Aga Khan?

A. I don't believe that the Imam will refuse a two-minute meeting which can avoid to him a lawsuit.

Jiwa #125:

Cross-Examination by Mr Gray.

Q. But if we got another affidavit from another person that had seen the Aga Khan, would that convince you?

A. Listen, you can do what you want to do. I won't tell you how to conduct your litigation, sir. You don't tell me how to conduct my defence or what evidence I put in or who to cross-examine. I have told you my position. You have given your evidence as you have.

Jiwa #129 - 132:

Cross-Examination by Mr Gray.

Q. And you questioned Mr. Gleason. He has given evidence, hasn't he?

A. Mr. Gray, I have been a keen follower of His Highness Prince Karim Aga Khan and...not only him, Sultan Mohammed Shah right back to...right to the prophets. I have read a lot of history. And for me to make judgments...I mean, if you tell me that, you know, if another affidavit comes in, for me to make judgment, I know my Imam how he works, how he operates. Right now, to me, all of this stuff seems odd. They are inconsistent with the constitution. They are inconsistent with the Farmans that he has made. They are inconsistent with our oral tradition of 1,400 years. So I have a hard time believing and accepting.

Q. I understand you have a hard time believing. I think we understand that.

A. Yes.

Q. But, nevertheless, you would accept...you understand that affidavits are often accepted by lawyers everywhere all over the world?

A. And I think you are aware that false affidavits are being filed here and there. It does happen.

Q. I..

A. Excuse me. Courts also routinely get defrauded by people.

Q. And you are suggesting that is what I am doing.

A. No, I am not suggesting. I am saying I am not satisfied.

Jiwa #138:

Cross-Examination by Mr Jiwa.

Q. Can you give me some indication of a motivation why Mr. Gleason would lie?

A. Lawyers get duped by clients every now and then. I think you can look at cases. You can look up reports. If you just look up the Law Society's fraud website, you will be able to see in Ontario about 30, 40 lawyers have been defrauded, essentially based on false ID. Law Society has changed its rules for even doing real estate transactions based on fraud that has been perpetrated. I don't believe that those lawyers are committing fraud. They are victims of fraud.

Jiwa #308 - #315:

Cross-Examination by Mr Gray.

Q. There is one more question I wanted to ask you. Is it your position that His Highness has the absolute and unfettered right to withdraw his consent to the publication of these materials at any time?

A. Yes, he does.

Q. And so if he, in fact, has withdrawn his consent now or at any time since the lawsuit started, that is the end of the matter, regardless of what might have happened in 1992?

A. Yes. You know what? If His Highness personally desires to stop everything, it just stops. He is the boss.

Q. Right. Whether he gives that to you generally in writing or whether it is in person...

A. Generally, no, as I said earlier...

Q. You don't want to accept it in writing but...

A. No. I would accept in writing. The problem that I have right now is this issue of whether...for me, I have a grave concern that he has been misled. It has happened in the past. To you it might sound, 'Oh, well, this is...' but it has happened in the past. So, I would...I am hesitant to accept it in writing. Your e-mail said that if you don't accept it, he wants to pursue with the litigation. So, he has repeatedly told us that if we have any concerns, we can discuss with him. He has told us this. He says, 'I am here to guide my Jamats'. He says, 'Ninety percent of my time should be spent for the Jamats', so we are entitled to...he is like our father. He is not a CEO of a corporation. He is like our father and we are entitled to...if I put it another way. We are entitled to beg him to allow his Farmans to be distributed to the Jamats because he wants the Jamats to be guided. So I am entitled to make a plea to him as a Pir. He is our current Pir as well as actually I think it might even be in the constitution that he is the current Pir, so I am entitled to take our pleas to him and, you know, he is our spiritual advisor. It is just like Jesus is to Christians.

Q. Right, I understand.

A. So at this moment and this state in time, this litigation is completely contradictory to what he has been telling us all along. This is why I appreciate that you are counsel and I appreciate your comments on that, but I have grave concerns. And so as much as you say I have unfettered...I mean, if he tells me to jump out of this window I won't think think about it. And I hope I can maintain that faith; right? So

if he tells us and if I am satisfied this is him, I will do it.

Q. And even if it is in writing, if he tells you that it is not to be done, you will do it? Whether in writing or in person; as long as you are satisfied...

A. That it is from him.

Q. Right.

A. Absolutely. There is no question about it.

Q. And that vitiates, if you will, or cancels or annuls any prior consents that may have been given in 1992 or at any other time?

A. Mr. Gray, it would make no difference whether there is consent or not. He says no, the matter is over.

Contradiction: April 2010 Announcement - No Consultation?

Brian Gray tries to establish with Nagib that the April Announcement was written in consultation with all the LIF. Sachedina later contradicts this point of view and establishes that in fact the draft of the second announcement was not circulated to anyone in the leadership before it was read out in Jamatkhannas as being from the LIF, Councils, ITREB etc on the same evening that it was written by a couple of persons including Sachedina.

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N. Tajdin #364:

Cross-Examination by Mr Gray.

Q. Can you identify that as an announcement made by the Ismaili Leaders' International Forum to the Jamatkhannas?

A. Yes.

Q. And so this was on or about April 15, 2010, read to all of the prayer halls at Jamatkhannas?

A. Yes, around that date. I think it was read the previous day in Canada, the next day in Nairobi.

Q. So, again, the whole international...the Leaders' International Forum, that is what the LIF is, right? The Leaders' International Forum?

A. Yes.

Q. Those are the leaders of the Ismaili...can I call it religion, Ismaili religion?

A. Yes.

Q. Ismaili religion. They are the leaders of the Ismaili religion, and the National Council. All of them have issued this announcement, in the Jamatkhannas worldwide?

A. I would say it is not all of them. When a corporation gets an announcement out, it is not everybody who is involved. Maybe one person has drawn this, and sends it to be read.

Q. Okay, one person...

A. How can I know?

Q. But circulated it around to the institutions, to go...

A. Yes.

Q. ...through the procedure, right?

A. Yes, circulated all over the place.

Q. Before it was read, it would have been circulated around to the institutional leaders to review.

A. I am not sure. How can I know? I am not part of them, so I don't know what is the procedure there.

Q. Is it conceivable to you that His Highness would not have been aware of the reading of this announcement?

A. Yes, it is conceivable. There are announcements every Friday, every important days...

Q. Does the announcement...

A. ...there are so many of them.

Sachedina #727 - #745:

Cross-Examination by Mr Tajdin.

Q. Okay. How was these four countries affected chosen? In 39 you say: 'As this represented a grave and unprecedented step, His Highness authorized the LIF to issue a second announcement.' Was this done in writing?

A. No. He called me.

Q. He called you?

A. Yes.

Q. So you prepared the announcement?

A. Sorry?

Q. You prepared the announcement?

A. No. He called me. He himself had done a lot of work on the announcement, and he was giving me instructions to say that these are the four countries he wants. Because originally -- normally, announcements of the LIF go global, but in this particular case, it was His Highness's wishes that to keep this announcement in only those four countries.

Q. So you said His Highness had worked quite a lot on this second announcement. Has he shown you a memo or some notes or something which became the base of that second announcement?

A. I'm not privy to Hazar Imam's own work that he does with his staff.

Q. Okay. So announcement, Hazar Imam told you his notes over the phone?

A. No. He himself read out the components to it. It says this is what he wants to say. Because all of these quotations were he -- he wanted those quotations put into the announcement.

Q. So you took some notes during that phone conversation?

A. No, because I was in a car and he was telling me on the phone and I was driving from wherever it was to the airport. So I was being told by -- he was reading it out to me.

Q. So you did not take any note of --

A. No. And he then says that Sherbanoo or somebody will send me the -- whatever the final draft will be.

Q. That's fine. So did Sherbanoo send you the draft?

A. I would presume there must be a draft somewhere, but I haven't got -- I can't tell you that I have definitely got --

Q. Mr. Sachedina, can we have it as an undertaking to provide --

A. It's privileged. As I said to you, what Imam sends me is privileged communication.

Q. It's draft of something which was read -- (inaudible)

A. But I don't know --

Q. Do you agree to it? It's a draft --

MR. GRAY: We don't agree to produce it. We'll take it under advisement though. You want the draft of the announcement of April --

--- UNDER ADVISEMENT

BY MR. TAJDIN:

Q. Yes, I would like to see --

MR. GRAY: April the 15th, I think it is.

BY MR. TAJDIN:

Q. The draft which Mr. Sherbanoo sent to Mr. Sachedina?

A. No. The draft of the final text that Hazar Imam authorized --

Q. So it came from Sherbanoo --

A. Sherbanoo's office, who said this is the text which Hazar Imam has authorized.

Q. Do you remember approximately at what date?

A. It was the day -- the day the announcement happened.

Q. So the same day it was read?

A. I think it was either the same day or the evening. Because I think I was on my way -- it's my recollection, and I want to make it recorded it was my best recollection, and I was in -- and I was going -- and I was travelling to London, and it was on the road that I got this message, and that is when this thing was. And he then says 'I am now authorizing you to release this announcement through the LIF. Talk to Azim, talk to everybody, this is the position.'

Q. Okay. So that announcement was released by the LIF, not by the Council or their institution?

A. No. It came -- as I said to you, it was released through --

Q. By the LIF?

A. LIF.

Contradiction: Did Nagib's letter really reach Aiglemont on Jan 20?

Sachedina, in his affidavit, says that Nagib's letter to the Imam Reached Aiglemont on January 20, 2010. Sachedina's email to Nagib on January 10 said that Aiglemont had no trace of Nagib's letter. Nagib produced a letter from the Kenya Council, as well as a confirmation from DHL that the letter actually reached Aiglemont on January 8th.

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Sachedina #820 - #821:

Cross-Examination by Mr Tajdin.

Q. So D-1 would be a letter purported to be from His Highness Prince Aga Khan, Council for Kenya, dated 5th of July.

MR. GRAY: It appears to be, yes, on its face.

EXHIBIT D-1: Copy of letter dated July 5, 2010, from Nausherwan Parekh, His Highness Prince Aga Khan, Council for Kenya, to Mr. Nagib Tajdin, Nairobi.

BY MR. TAJDIN:

Q. Informing that parcel was sent to Mowlana Hazar Imam on 8th January by courier DHL, and there is a confirmation of the DHL.

MR. GRAY: My understanding is with DHL -- with that number, you would be able to determine when it was delivered to his address.

MR. TAJDIN: Yes. Yes. The DHL delivery sheet, you can see the last entry. It is the same number, the same number as in the Council letter. Last -- second page, last line. And from what I read, they delivered the three parcels to Aiglemont. One was 2-and-a-half kilo from Nairobi to Sherbanoo Moledina.

Sachedina #826:

Cross-Examination by Mr Tajdin.

Q. And DHL is saying that this number of waybill, which is 2-and-a-half kilo, was delivered on 8th of January. We just want to cross-check that this is the information which is in Aiglemont, that this is the date it arrived?

MR. GRAY: We'll take it under advisement.

Sachedina #900 - #916:

Cross-Examination by Mr Tajdin.

Q. Okay. Now, the way it works, you know when you reply to an email, the first email goes below. So the first email is 7 January here, and you are saying. 'Dear Naguib, could you please advise me of the date when you sent the submission to Hazar Imam as his office have no knowledge of this.' Right? You remember that email?

A. On the 7th of January?

Q. Yes.

A. Yes. I checked out and there was no --

Q. And you were right because, as you see, DHL is saying that they came on 8th only.

A. Well, I'm sorry, I didn't -- on that day I --

Q. You are right, it was not there.

MR. GRAY: Just accept that he's saying you're right.

MR. TAJDIN: You always say yes when someone says you are right.

HE DEPONENT: No, but I just wanted to make sure. It's the 7th, right? This is the 7th of January.

BY MR. TAJDIN:

Q. Then on 10th, on 10th, you were looking for it and you had not find it; right? So you sent me another email saying, 'I have no response from you. Please respond or call me asap.' [as read] True?

A. Yes.

Q. So on 10th the envelope was there --

A. I didn't check.

Q. -- you were looking for it but you did not find it?

A. Not for the envelope. Please understand, I'm not looking. The mail manager says that we have not --

Q. There is nothing?

A. Well, I mean this is because -- His Highness said to me you have said that the letter is coming. I have not seen the letter.

Q. Did you check with the Kenya Council if I had given them a letter to send to Aiglemont?

A. That they confirm.

Q. So you told His Highness that my letter is coming?

A. It's on its way but I haven't seen it.

Q. You haven't seen it?

A. It's in the system.

Q. So that day I replied to you the same day, 'The sealed envelope has gone through proper channel a week ago Monday'?

A. Absolutely.

Q. So at that time you knew, on 10th, that the letter was coming, His Highness knew that the letter was coming, you knew that I had given it to the Kenya Council, the Kenya Council had confirmed to you that it's coming; right?

A. Correct.

Q. And before it came, there was already an announcement in jamat khana's, first one?

A. But that was no connection with the letter.

Q. Okay.

A. To me, the letter coming and Hazar Imam's announcement have no relation --

Q. Okay. So Hazar Imam didn't want to know what was in my letter before making the announcement?

A. The announcement issue just came simply because we wanted to make sure that this issue -- because he knew about the publication.

Contradiction: Drafting of the February 18th letter purportedly by the Imam

Mr Sachedina told Mr Jiwa that the Imam showed Mr Sachedina a draft of the second letter before signing it. Mr Sachedina told Mr. Tajdin that the Imam was away travelling when he drafted the second letter.

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Sachedina #505 - #509:

Cross-Examination by Mr Jiwa.

Q. When did you first see this letter?

A. After it was -- I was given a copy of this letter after it was sent to you, to Nagib. But I had seen a draft.

Q. Of the letter?

A. Yes.

Q. And did he send it to you for your in--

A. No. He just wanted me to look at the draft and he was going to sign this. And that's precisely -- the date is 18th of February.

Q. And then you reviewed the draft before he sent it out?

A. I saw the draft.

Q. Before he signed and sent it over?

A. Yes, I saw the draft.

Sachedina #697 - #702:

Cross-Examination by Mr Tajdin.

Q. Do you remember if he was travelling at that time?

A. I believe so.

Q. Okay. So that letter he wrote on 18th was not written from Paris then. From where --

A. Which letter are we talking about, the first or the second letter?

Q. The second.

A. I believe he was not at base at that time.

Q. He was not. Do you know which secretary typed that letter?

A. I understand there's a correspondence from Ann-Valerie.

Q. Did she type that letter?

A. Well, she was a secretary I believe accompanying His Highness, to the best of my knowledge. I believe that she was a secretary travelling with His Highness at the time.

Q. Okay. Is it -- okay. We'll leave it at this.

Did Sachedina convey to Imam that some of the points in the forged letter needed clarification?

Mr Sachedina did not convey to the Imam that Mr Tajdin had responded to the first letter with a request for clarifications.

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Sachedina #570 - #573:

Cross-Examination by Mr Jiwa.

Q. Right. Nagib Tajdin had said to you that -- in his letter that he needed clarification?

A. Yes.

Q. Right? And my question is a narrow question; all right? Did you ever raise the topic with His Highness or did he raise it with you? Did you both discuss what kind of --

A. I wasn't involved. That was between -- I think that was between --

Q. My question is not involved. Did he discuss with you or not on that --

A. No. No.

Q. Did you discuss anything? Did you ask him on that point?

A. No.

Has Imam spoken to LIF, or is there a huge conspiracy against the defendants?

Gray tried to show that if the defendants are to be believed, then it would mean that there is a huge conspiracy of dozens of corrupt leaders, staff, and that this is unbelievable.

Sachedina's cross-examination showed that the misinformation can be pinpointed to very few individuals. Even the LIF Chairman, Lakhani, has not been contacted by the Imam about this issue, the LIF was briefed by Sachedina, and the announcements were written by only a couple of people, not by the whole ismaili leadership as they seem to imply or as Mr Gray seems to think by looking at his questions to Tajdin and Jiwa.

This confirms that all evidence in this case originates from Mr Sachedina.

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N. Tajdin #333:

Cross-Examination by Mr Gray.

Q. And this announcement was made on behalf of all of the Ismaili Leaders' International Forum?

A. It says for Ismaili Leaders' International Forum, Council for Canada and Tariqah and Religious Education Board for Canada.

Q. Right.

A. That is an awful lot of people. institutions; do you see that in the second paragraph?

A. Yes.

Q. Right?

A. In fact, our constitution has separated all these institutions, so it is always surprising to see something like that, that this is an announcement by more than one institution.

Q. So, the whole of all of the institutions?

A. You know it cannot happen...

Q. They all ganged up against you?

A. So many people...obviously, they have not been consulted.

Q. They have ganged up against you, all them?

A. No, this is an announcement which been sent probably by Dr. Sachedina, 'Please read that, in Jamatkhannas'. As simple as that.

Q. He has the authority, on his own, to send an announcement to all the Jamatkhannas, to the whole

world, on his own?

A. If Dr. Sachedina sends an announcement, nobody will question him.

Q. He has the complete authority to send an announcement to the whole of the Jamatkhannas in the whole world on his own. Is that your evidence?

A. He has portrayed to the institution that he is the boss.

Q. I didn't ask you that. I said, does he have the authority, on his own, to send to all of the Jamatkhannas in the world an announcement, on his own, without consulting anyone else?

A. He doesn't, but he does.

Q. He does not have that authority?

A. But he does do it, and people follow him. It is not...I am not the only one to fear him. Everybody fear him. He is quite a strong person who has a lot of influence.

Q. And who appoints the...Shafik Sachedina?

A. The Aga Khan appoints him.

Q. Can the Aga Khan fire him at will?

A. I believe he will.

Jiwa #140 - 141.

Cross-Examination by Mr Gray.

Q. Are you aware how these announcements become approved for circulation in the JamatKhanas?

A. No.

Q. You are not. Do you know how many leaders have to review them before they are circulated to the JamatKhanas in any country or worldwide?

A. No, I don't.

Sachedina #444:

Cross-Examination by Mr Jiwa.

Q. My question was who drafted it?

A. I've told you the process. It is done by the LIF Secretariat with the chairman of the LIF, myself, and the president of the council where the jurisdiction is of the countries involved were consulted.

Sachedina #561 - #562:

Cross-Examination by Mr Jiwa.

Q. I refer to your paragraph 22. You say: 'At this time, the community leaders agreed with His Highness's guidance that the Ismaili community worldwide should be informed that Mr. Tajdin's Farman Book was an unauthorized publication that should not be supported.' Now, when you say 'community leaders,' who do you mean by 'community leaders' here?

A. I explained to you that this announcement was with the -- there was the chairman of the --

Q. Just those? Nobody else?

A. -- community leaders because it's the apex of the body, the head of the body, the chairman, and the head of the Jamati Institution, the president of the councils of countries involved where this issue was from a jamati perspective, they knew he was from Canada and Kenya, Nagib was.

Sachedina #710 - #726

Cross-Examination by Mr Tajdin.

Q. There are a couple of things. Now, it says that His Highness communicated with Mr. Mohamed Manji. Would you know if it was verbal or with a memo or an email?

A. I was told -- I'm given to understand by Mohamed that he spoke to Mohamed.

Q. Okay. So the Imam calls --

A. President.

Q. -- Council presidents --

A. Yes.

Q. -- and important people; right?

A. He does call.

Q. When it is something important, not every day, every moment?

A. No.

Q. And --

A. It's up to the Imam to decide when and for what purpose.

Q. I agree. Now, 38, it says that you informed the LIF. Is it not true that chairman of the LIF is appointed directly by the Imam?

A. Absolutely he's appointed by the Imam.

Q. And the Imam can talk to him directly?

A. Yes. He has absolutely --

Q. Does he do that sometimes, talking directly to the --

A. Yes. He speaks to the LIF chairman.

Q. And the chairman is Mr. Lakhani?

A. Dr. Azim Lakhani.

Q. Dr. Azim Lakhani. Where does he live?

A. He lives in the U.K.

Q. In the U.K. In London?

A. In London.

Q. Okay, that's fine. But the Imam did not call Mr. Lakhani; you informed Mr. Lakhani? When you say you informed the LIF, in number 38, do you mean in the meeting; right?

A. I informed the chairman.

Q. And he called a meeting?

A. First the chairman, and then I asked the chairman, because Hazar Imam spoke to me on the phone, called me and said that, 'I want this conveyed to the members of the LIF.'

Q. And he did not --

A. The first I spoke to chairman --

Q. Mr. Sachedina, he did not call the chairman of the LIF?

A. Because he wanted to discuss other matters with me, and while he was speaking with me, he -- it was he who called me.

Q. It was not important enough for him to confirm directly to Mr. Lakhani that --

A. That was the Imam's prerogative, to decide who he speaks, for what purpose.

Where the Farman Dissemination Policy of March 2010 Comes From

The Farman Dissemination Policy document of March 2010, submitted to court by the Plaintiff party, does not come from the Imam or from Aiglemont, it comes from Mohamed Manji.

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Sachedina #306 - #309:

Cross-Examination by Mr Jiwa.

Q. I'm going to ask you to refer to your Affidavit's Exhibit B in your Affidavit. Now, this says, 'ITREB Canada Farman Dissemination Process.' And you've given this as part of your evidence. And where did you get this from?

A. This is a document that has been the process that they follow in Canada, and I asked them just to make sure -- that the Imam wanted to see what the process was. So that's what they put down, is a process which has been what is in place in Canada.

Q. And so who gave this to you?

A. It came from the National Council president.

Q. From Canadian president?

A. Yes. Because it was through the ITREB Canada to give to the president and it has come. Because it was a process that we just wanted to make sure that what is the process followed, and that's what they have given, that this is the process they followed.

Q. All right.

A. And it was given to me, and I also submitted this to Hazar Imam.

Can anyone else sign for the Imam?

Mr. Sachedina dispels the rumours that someone else is allowed to sign for the Imam.

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Sachedina # 503

Cross-Examination by Mr Jiwa.

Q. Do you know if anybody other than Hazar Imam signed this?

A. No way can anybody sign a letter that's purporting to be from the Imam of the Time.

Can Imam's Farman supercede the Constitution?

This is a simple question, but Mr. Bhaloo, although he has been swearing to protect the constitution for decades, refused to answer the question on the grounds that he is not a constitutional expert.

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Sachedina #141 - #149:

Cross-Examination by Mr Jiwa.

Q. And would you also agree with me, sir, that a farman of the Imam remains valid and binding until it's superceded either by that Imam or a later Imam?

A. By any pronouncement by the Imam.

Q. Yes.

A. By even a letter to somebody or a talika or farman. He can actually any time in the way, the words of the Imam in a way, the present Imam, anything in the Constitution says his words would actually precede -- it's beyond the Constitution from that point of view.

Q. You said 'letter' by the Imam. That's known as a talika, t-a-l-i-k-a?

A. A talika is usually sent -- talika is sent to the jamat.

Q. And they're read in jamat khanas?

A. Yes.

Q. So my previous question was that all Ismailis are obligated to follow the farmans of the Imam. The latest farman supersedes the previous farman?

A. Well, the farmans can be valid according to time and context of the present Imam's farmans. They were given in a particular time, in a particular context, in particular circumstances.

Q. Yes.

A. So they remain valid for that particular jamat, and unless Imam says to them that these are my new farmans to you, then they supersede and he would say that they supersede the --

Q. And he also said that individuals can also be guided by the Imam?

A. Yes.

Q. Right? And if that individual is guided by the Imam, then that is binding on him irrespective of what he might have said in a general farman?

A. That is given to a particular individual in particular circumstances for that particular purpose. It is not applicable to everybody. It's applicable to that one individual who has sought.

Q. Who has sought?

A. Guidance.

Bhaloo #30:

Cross-Examination by Mr Jiwa.

Q. And would you agree with me that after the date of the Constitution, His Highness can make a farman, and if there is an inconsistency with this farman and the Constitution, the farman prevails?

A. I'm not sure about that.

Bhaloo #127- #128:

Cross-Examination by Mr Jiwa.

Q. Can you read that to me, loud voice please?

A. 1.6: 'The Constitution, and in the event of conflict the Constitution...'

Q. From the title. And read it slowly so she can type.

A. Okay. 'These Rules and Regulations shall be read with '(a) the Constitution, and in the event of conflict the Constitution shall prevail; and '(b) any Farman made after the date hereof, and in event of conflict the said Farman shall prevail, and a later Farman shall prevail over an earlier.'

Bhaloo #133:

Cross-Examination by Mr Jiwa.

Q. Okay. You have read the Constitution. We have just read article 1.6. In your understanding, does it say that a farman which is made after the Constitution will supersede any article of the Constitution if there is a conflict?

A. I am not sure about that. I'm not an constitutional expert.

Is there a breach of the Ismaili constitution?

Obviously, if there was a clear breach of the ismaili constitution, then this case would have been in the Arbitration board.

Discussions about the constitution have revolved around the specific clauses about Farmans that were included in previous constitutions but that have been removed from the newer constitution since 1986. Older constitutions distinguished between religious publications and Farmans. The clauses about Farmans were removed by the Imam, but the clauses about the other religious publications remained intact.

Sachedina maintains that the constitution has been breached and that in the case of Farmans, only the Imam can Publish or authorize publication, Not Itreb, not the Council. However, if the [current constitution](#) is to be relied on to prove the breach, then article 14.1c lets the Ismaili Council authorize publications (and this is how Mr Gray seems to understand it), and Article 8.4d gives the ITREB's the responsibility to publish. Neither article reserves the right for the Imam. This leaves us with Farmans to follow which say that Imam makes Farmans FOR Jamats.

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N. Tajdin #580 - #584:

Cross-Examination by Mr Gray.

Q. And I am referring you to Article 14.1(c)?

A. Yes?

Q. And (c) says: '...Without the permission in writing of the National Council obtained through the regional council...' Have you ever requested the permission of the National Council under that article?

A. I didn't have to.

Q. I didn't ask you that. I just asked you, did you ever request the permission in writing of the National Council?

A. No, because I had consent from the Imam.

Q. Okay. And I take it you never asked...just to be specific, you didn't ask the permission in writing of the National Council to print or publish or circulate any material that is on behalf of, in the name of, or relating to Mawlana Hazar Imam, the plaintiff?

A. I don't believe it talks of Hazar Imam.

Q. I didn't ask you that, either. I asked you if you ever asked for the permission in writing...

A. No.

Jiwa #45 - #48:

Cross-Examination by Mr Gray.

Q. Okay. I am showing you a copy of Exhibit 13, which I understand you have a copy still there from this morning.

A. Yes.

Q. And can you identify that as the Constitution of the Shia Imami Ismaili Muslims?

A. This is part of the constitution. Our constitution consists of two parts; the constitution and the rules and regulations for each country.

Q. Right.

A. The 1986 constitution that was distributed in Canada had within that document the constitution as well as rules and regulations. This is just the constitution. The rules and regulations are still embodied in the 1986 constitution.

Q. Okay. And can you produce the rules and regulations for me?

A. I can, yes.

Jiwa #56 - #62:

Cross-Examination by Mr Gray.

Q. And in respect particularly to article 14.1(c), have you ever asked for permission in writing of the National Council obtained through the regional councils to print or publish or circulate any material?

A. I don't need the council's permission.

Q. I didn't ask you that, Mr. Jiwa. I asked you if you ever...

A. No, because you are...

Q. Please answer the question.

A. You are referring to 14.1(c), so if you are going to refer to 14.1(c) then I am going to say I don't need their permission.

Q. Well...

A. So if you want to ask me without referring to the 14.1(c), then you can ask me without referring to that and I have already answered you earlier that I did not.

Q. Right, so...

A. If you are going to ask me pertaining to this, then I don't need consent...

Q. That isn't the question I asked you. I asked you if...

A. You are referring me to 14.1.

Q. I asked you if you ever asked for permission in writing of the National Council obtained through the regional council to print or publish or circulate any material: Yes or no?

A. You already asked me earlier, and I said no.

Sachedina #261 - #269:

Cross-Examination by Mr Jiwa.

Q. I'm going to go back to that. I said to you: Is there any farman or any article in the Constitution that says that farmans cannot be released for distribution to the jamats before the Imam has edited and approved them? That's my question.

A. It is not in the Constitution, but that's a process established by the present Imam.

Q. So what I'm saying to you --

A. Imam is above the Constitution, I explained to you. He transcends the Constitution in a sense that

even if the Constitution is there, Imam has a right to do what he wishes to do. He has the authority to change or to decide or to alter or to do whatever he wishes to do.

Q. I'll come back to that in a second. I just want to focus on the question that I asked you. My question, and I'm going to repeat it again: Is there any article in the Constitution or is there any farman that says before any farman that has been made by the Imam, before it is distributed to the jamats, has to be edited and approved by the Imam? That's my question.

A. Not in the way that you describe.

Q. Now, you said earlier -- as you were just answering this issue, I see your lawyer is pointing you to something?

A. The same --

MR. GRAY: Article 14.1(c).

THE DEPONENT: That's the one that I read. Because you're talking about the issue of editing and the issue about farmans, and this to me is the article. That's why I quoted you that article.

Q. Sir, the article that you are quoting me, the 14.1 that your lawyer also is pointing you to see, show me where does it say that it's the Imam who is going to edit and approve before they are released. On the

contrary, it seems to suggest that National Council can do that decision. You are saying all along that the Imam approves and edits farmans?

A. National Council has no authority to edit farmans.

Q. But you're pointing to this --

A. No, it's not. I'm talking about, very clearly, the provisions in this Constitution that gives unfettered right to the Imam.

Q. Okay. 14.1(c), where does it say the Imam has to approve or it gives him the unfettered right, 14.1(c)?

A. No, but it's Imam you're talking about that there is -- anybody who prints, publishes or circulates any material.

Q. But this is not my question. I mean --

A. The questions you are asking is Imam edits, is it in the Constitution, and I'm saying to you not the way as you've described it in the Constitution. I'm saying there are provisions but not the way about editing

or the way that you describe, it's not that.

Q. Now, I'm suggesting to you that what you are saying is simply your opinion and perhaps Mr. Keshavjee's opinion and perhaps other leaders' opinion. But I say to you that the Constitution nor any farman says that a farman that's been made by the Imam may not be distributed to the jamat before it's edited and authorized by the Imam?

MR. GRAY: You've already indicated these are questions of opinion. The Constitution is here. The interpretation of the Constitution I'm sure you will argue before a judge. We'll read the words of the Constitution, and so far as it's relevant, we'll deal with it as a matter of interpretation.

THE DEPONENT: I take my instructions from His Highness, and that's what His Highness has conveyed to me.

Sachedina #370 - 388:

Cross-Examination by Mr Jiwa.

Q. Now --

A. For the present time, this Imam has authorized the ITREBs to be the body, relevant body for publications or, rather, distributions of all the religious matter, according to the constitution.

Q. There is nothing in the Constitution that says ITREB has been given this power?

A. It is there. If you come back to that ITREB, as I say to you, if you look at the -- all the materials relevant to the Islam and the Ismaili tariqa, that if you look at --

Q. Which clause?

A. 8.4(d). And that is the role. If you look at tariqa and Religious Education Board, if you look at that, it says, '...undertake the publication of books and material on relevant aspects of Islam and the Ismaili Tariqah;'

Q. And he talks of books and materials; right?

A. Yes. On Ismaili tariqa, farmans are part of the tariqa material.

Q. All right. But it doesn't specify farmans, does it?

A. It's included. It's inclusive.

Q. So why --

A. Ismaili tariqa has material, and the tariqa board is responsible, and farmans are part of the Ismaili tariqa, and the doctrine of the Ismailis, sir.

Q. Isn't that contradictory to everything you've been saying to date?

A. What?

Q. You are completely contradictory. You are contradicting yourself, sir, aren't you?

A. What -- the farmans --

Q. You --

A. Release of the farmans, this is the body that actually releases the farmans for the jamat. The process we're talking about, earlier on you said ITREBs, and I said ITREB, yes.

Q. Fine. So if you look at 8.4(b) and if that is your jurisdiction to say ITREB has jurisdiction over farmans, then why do you need Hazar Imam's approval?

MR. GRAY: Look at the beginning of 8.4.

BY MR. JIWA:

Q. Where does it say --

A. It is always done under the behest of the Imam.

Q. Excuse me, sir, where does it say that approval for approval for publication of farmans --

A. If you read 8.4, it says: 'Each Tariqah and Religious Education Board shall under the direction and guidance of Mawlana Hazar Imam.' Not without his directions or guidance. And I want to point out to you it will therefore under Imam's direction undertake the publication of books and materials of relevance to Islam and Ismaili tariqa. The distribution process is part of the responsibility of the tariqa board once given authorization by the Imam of the Time. Does that not make sense to you?

Q. No, it doesn't, because it is one thing to say under the direction and guidance of Mowlana Hazar Imam, and it's another thing to say you need his prior approval. If you look at the Rules and Regulations, if you

look at the Rules and Regulations, function 24, those are the powers that have been granted to each local tariqa board.

A. But that's local tariqa board. You're talking about the national tariqa boards. Because the farmans, I kept on telling you, they come to the national boards, not the local boards.

Q. Right.

A. It's the national board that directs them.

Q. All right. Now -- and this is what you are saying is a breach of the Ismaili Constitution?

A. The article -- in my view, both article 14.1(c) and article 8.4(d) are -- very much work together.

Q. Right. And those are your authority --

A. And I've told you --

Q. Yes?

A. -- there's the Constitution. You have -- the letter from the Imam of the Time telling him not to do that. You have the second letter from the Imam to tell you not to do that. You have an affirmation that says not to do that. And then you also have very clearly the Statement of Claim which was filed by the Mr. Plaintiff, the Imam of the Time saying I don't want you to do that.

Q. Sir --

A. So there are four documents telling you not to do that. Five documents now.

Q. Those documents you know are being disputed by us. But we'll come to that. We'll come to that.

Who Can Print Farmans

It is the Imam's prerogative to decide who can print Farmans, and it can be anyone.

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Sachedina #848 - #849:

Cross-Examination by Mr Jiwa.

Q. Would you say it's the prerogative of the Imam to decide who to tell to print the farman?

A. The ultimate authority when it comes to printing the farmans, publishing the farmans, Hazar Imam will direct. Any institution within his power, constitutional bodies, IIS -- anybody, he will decide who be able to do the printing.

Q. Does he have the right to give it to any other person?

A. Absolutely his complete prerogative.

How long did Defendants know about the Forgery before making it public?

It turns out that in order to protect the trust that Jamati institutions have with the Jamat, the defendants had not publicized their knowledge of forgery until after the Lawsuit was filed when they no longer had the choice.

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N. Tajdin #152 - 158:

Cross-Examination by Mr Gray.

Q. ... You received the letter that is now Exhibit 3, as you said, by e-mail?

A. Yes.

Q. Right.

A. First by e-mail, then I insisted to receive the original...

Q. Right.

A. ...and I received it after quite a long time, maybe three weeks.

Q. Right. And you said...

A. And I had to insist many, many times to get the original.

Q. And you received the original when?

A. Sometime in February, mid-February.

Q. February 13?

A. That is likely.

Q. But in the meantime, you sent the photocopy, didn't you, or the electronic copy you had received, you sent it to two experts for examination?

A. Yes, I did.

N. Tajdin #179:

Cross-Examination by Mr Gray.

Q. Based on that, you are accusing Ms. Parkes of criminal behaviour, are you not?

A. Actually, it is not only because of the expertise. The content of the report...you know, for an Ismaili who will read this letter, it is very evident that His Highness has not written this letter, but the expertise

was needed for people who are not Ismaili, who cannot, from reading the letter, know that this is not written by the Imam.

Q. I asked you a simple question. Based on the...at this point, you received only a photocopy of the letter...

A. Yes.

N. Tajdin #187 - #251:

Cross-Examination by Mr Gray.

Q. Okay. But will you agree with me that...okay, let's deal with the next one. And you circulated this allegation of forgery, did you not, to other people?

A. I sent...yes, I sent to a couple of people.

Q. Who did you send it to?

A. I will not give you names.

Q. Okay.

A. If you want reason, I will give you reason why. Do you need a reason why...

Q. Sure. Why are you not giving me the names of the people you sent it to?

A. In this file, whenever there is a name which goes out, for example, Karim Alibhay, he gets harassed the whole day and night, he gets phone calls, threats, so I am not going to give any names.

Q. All right.

A. It would not be fair for the people, right?

Q. Right. But in any event, you circulated it to people who you knew were going to circulate it to other people?

A. No.

Q. You circulated...

A. No, when I circulated, it was under the understanding that this was to be contained.

Q. But...

A. Even when I received the letter from...one of the original, from the president of the Aga Khan council in Nairobi, I had a small discussion with him, and he told me he didn't want me to talk to anyone about it, and I said, 'No, it has to be contained, because people will lose faith in the leadership if they know these things are happening'.

Q. So, then, you...

A. And it was not...

Q. How many people did you send the...

A. A couple of them.

Q. A couple of them? Two people, you sent the notice...

A. Two or three.

Q. ...you told them...two or three?

A. Yes.

Q. At that point?

A. Yes.

Q. Subsequently, you said you told other...

A. Well, after the lawsuit, it was apparent that everything would come to the light, so...

Q. Even before the lawsuit, you sent it to other people, didn't you?

A. No.

Q. Even before the lawsuit, it was widely known on the Ismaili Heritage website, wasn't it?

A. Before the lawsuit, no, absolutely not. There was nothing on that subject on ismaili.net before the lawsuit.

Jiwa #206 - #253:

Cross-Examination by Mr Gray.

Q. Yes. So, when did Mr. Tajdin tell you about the forgeries of the letters, the alleged forgeries of the letter of January 24 or February 18?

A. I don't recall the exact date, but it was in...when he received the first letter. It may have been the very day or the next few days is when he told me that he had received a letter.

Q. And at that point he told you it was a forgery?

A. I don't think at that point he told me, but I was actually in disbelief when he told me that he has received a letter.

Q. You didn't believe that His Highness would have sent a letter telling you not to do it?

A. Yes. I was in disbelief and I said, 'You know what? I don't believe it'. The funny thing is he didn't send me a copy of the letter.

Q. Who is 'he'?

A. Mr. Tajdin did not give me a copy. He just told me that on the phone. and...

Q. So, you were in a state of disbelief

A. I was, yes. I was.

Q. But did Mr. Tajdin tell you at that time that the letter was a forgery?

A. You know what? I don't think he told me the very first day. I think he told me maybe a few days later.

Q. A few days later.

A. A few days later.

Q. Before he had sent it to an expert. He just knew it was a forgery?

A. Yes, before he sent it.

Q. And...

A. I suggested, I said, you know...actually, Nagib told me his mother told him that from the letters that she has, this is not Imam's signature at all. So I told Nagib, I said, 'Look, when we have a situation like that, we send it to an expert'. So I found the two names and I said, 'Let's send it for them'.

Q. And so you helped him send the two...the letters to an expert?

A. I didn't help him send. He sent it straight, because even after we received the reports, I did not see the letter.

Q. You didn't see the letter. But you saw the reports?

A. I saw the reports.

Q. And did you give the experts any instructions as to what to do?

A. No, I did not communicate with the experts, except for one I paid for. I paid for one of the experts.

Q. Which expert?

A. I would have to look it up. One of the two.

Q. One of the two, Carlson or Petinatti. I'm sorry, Carlson or...

A. Because, you know, Nagib's...

Q. It was not Ospreay, though?

A. Ospreay...the first two experts... one of the two I paid. One of the two I paid. Nagib's credit card was not going through. She was trying to ring it through and it wouldn't be accepted, so Nagib told me if I can pay. So then I paid from here.

Q. So...

A. I don't know. One of the two.

Q. Petinatti or Carlson?

A. Yes.

Q. Right. Okay. And how many other people did Mr. Tajdin tell about the forgeries?

A. In terms of experts?

Q. No, no, just in terms of people. He told you about the forgery; right?

A. I don't know. You know, the person that I buy the books from, I discuss with him.

Q. So he knew about the forgery?

A. Yes.

Q. This is the distributor of the books?

A. This is the distributor, yes.

Q. Or the alleged forgery.

A. The alleged forgery, right.

Q. And who else did Mr. Nagib tell? A. You know, I really don't know. I mean, Mr. Tajdin and I, although I have known him for almost some 20 years, but we have never been, sort of, friends. We have never visited...I have never visited his home or he my home. We essentially met at some seminars that...at first I met him when he organized a seminar on our Khojki...it is known as a Khojki script.

Q. Okay.

A. So, we have never been in a sense friends that I associated with. I mean, my interest from Nagib was just to get the Farmans from him.

Q. So, who else did you tell about the forgeries, then?

A. At the time it happened?

Q. Yes.

A. At the time it happened, I didn't discuss it with anybody.

Q. February, 2010.

A. I don't recall telling others.

Q. And when is the first time you told someone else about the forgery?

A. After the litigation started.

Q. After the litigation.

A. Yes.

Q. After what day?

A. April.

Q. April...

A. Whatever. It was in April. I first told my mom.

Q. Sorry?

A. I first told my mother.

Q. You first told your mother.

A. Of course.

Q. That is sweet.

A. She was at my home...so I did tell her.

Q. But that was after the litigation...

A. Yes.

Q. ...was started.

A. Yes.

Q. Do you remember when you told her about the forgeries?

A. To whom?

Q. When did you tell your mom?

A. I told my mom after the litigation started.

Q. Well, the litigation started in April.

A. Yes. I don't remember the date, but it was in April. I know after the litigation started.

Q. Was it before you filed your Statement of Defence...

A. Yes.

Q. ...alleging the forgeries?

A. Yes.

Q. Okay.

A. After that, I was telling everybody, including my sister. My whole family was in shock, of course.

Q. This was after you filed or when you filed the Statement of Defence?

A. Yes. Because before filing the Statement of Defence, the issue of even the prohibition and stuff was technically not public. And finally it was Mr. Tajdin who sort of...I don't even know all the distributors. I just know...

Q. The distributors all knew, and presumably they were telling people buying the books that...there were people...

A. At that time?

Q. Well, let's put it this way...

A. Before the litigation or after the litigation? There is a big difference between the two. Before the litigation...I am talking about before the litigation at the moment.

Q. Yes. Right.

A. Before the litigation, the only person who knew was Mr. Tajdin. Then he told me. And then there is this one distributor that I buy books from. I discussed with him about this.

What is Mr Sachedina's actual role at Aiglemont

Mr Sachedina's role as head of the department of jamati institutions is not a constitutional position, and the department of Jamati institutions cannot give new directions to institutions. Ismaili Institutions do not report to Mr. Sachedina. He coordinates their work, but ultimately, the institutions are answerable to the Imam.

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Sachedina #206:

Cross-Examination by Mr Jiwa.

Q. Now, would you agree with me that your appointment as the Head of the Department of Jamati Institutions and Head of the Department of Diplomatic Affairs at Aiglemont and a Member of Aga Khan Development Network and a Member of the Board of Governors have not been read in jamat khana by way of talika as other institution appointments?

A. Correct. Because these are all held at the behest of the Imam at the time of his pleasure.

Sachedina #220 - #228:

Cross-Examination by Mr Jiwa.

Q. So when you say 'coordinating,' what do you coordinate?

A. The budgets of the institutions.

Q. Right.

A. The plans we coordinate.

Q. Right.

A. Their activities in terms of what is to be done within the guidance given the Imam of the Time, these institutions are operating within those guidance that he has given.

Q. Do they report to you?

A. Who?

Q. Those institutions?

A. They report -- all of them are appointed by Mowlana Hazar Imam. So first and foremost, all of them are accountable to the Imam of the Time as institutional leaders. Because their appointment is not by me; it is by the Imam of the Time. I am coordinating their activities.

Q. So you cannot direct them what to do?

A. Unless given by the Imam. And I also would be able to look at the directions that the Imam has given that may need to be followed through as guidance for these institutions. So I coordinate that between the Imam and this institution in terms of the functioning of that institution.

Q. So, for example, ITREB Ontario, you say you are also coordinating them?

A. No. Ontario -- first of all, the point of reference is the national ITREB, according to the Constitution. So the national bodies are the ones that we coordinate at the imamat level.

Q. Right.

A. There are regional bodies and there are local bodies. Those are not coordinated in the sense that they are national jurisdiction.

Q. So when you use the word 'coordination,' if I say that your responsibility was just passing messages back and forth the documents that come back to the Imam from the various institutions, you just organize them and send it over to the Imam if necessary?

A. No. If the institutions have a number of issues, their first point of reference in terms of their activities in terms of their what I call 'functional work,' that is the administrative work, the work that they are doing, the point of reference is the Department of Jamati Institutions at Aiglemont through the ITREB coordinator who coordinates, first of all, all the tariqa board activities.

Sachedina #578 - #579:

Cross-Examination by Mr Jiwa.

Q. Mr. Sachedina, as head of the Department of Jamati Institutions, the position that you hold, it's not a position that's recognized by our Ismaili Constitution; it's just appointed by His Highness?

A. It's a position that has been at the behest of the Imam.

Q. Yes, but it's not under the Constitution; it's by his Secretariat?

A. Yes. The Constitutional -- or the position under the Constitution is only the LIF, and I only sit on the LIF on behalf of His Highness as a member of the LIF.

What is the relationship between Defendants and Plaintiff's witnesses?

Both Sachedina and Bhaloo agree that they are not in bad terms with the defendants. In the Case of Alnaz Jiwa, they don't recall ever interacting with him. In the case of Nagib Tajdin, they claim cordial, even warm relations with him, admit that he has never acted unrespectfully against either of them, and that his family was well-respected until the Announcements and the Lawsuit.

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J

N. Tajdin #561:

Cross-Examination by Mr Gray.

Q. ...Mr. Sachedina has no power to consent to the publication of Farmans?

A. I agree.

Q. You agree with that, okay. But you also agree with me that Mr. Sachedina does speak to His Highness from time to time?

A. I am sure he does.

Q. And he does convey messages from His Highness to you? For instance, he conveyed messages about blessings for your family, right?

A. Yes, he did.

Sachedina #328:

Cross-Examination by Mr Jiwa.

Q. In fact, in the plane ride you were going to and coming back from Syria in 2001, you know there were two other individuals with Mr. Tajdin?

A. I'll tell you now I have no recollection of who these individuals are or what they do. I have to tell you that. Because I did not look at them from that view. Because my relationship with Nagib has always been maintained on a real cooperative and in a manner of not adversarial at all.

MR. GRAY: Until now.

Sachedina #580 - #585:

Cross-Examination by Mr Tajdin.

MR. TAJDIN: Okay. Shafik, I have a problem because we have been close and I have been calling you 'Shafik,' and I think I will be calling you 'Mr. Sachedina' so at least there is a consistency. But just for

court, not between us. I hope you don't mind. It's not meant to be disrespect or distance between us.
CROSS-EXAMINATION BY MR. TAJDIN:

Q. Shafik, you know me since quite a few years now, and we bump into each other at many, many places. I think in Syria, in Cairo, recently in Zanzibar at the opening of the Forodhani Park. Even Nairobi you came for the nation's 50 years?

Q. That was the opening that His Highness also came. And you see me sometimes taking pictures, videos. And would you say that I always remain at a respectable distance of the Imam?

A. Absolutely.

Q. I have never tried to overstep. And would you accept that probably this is because we have a code of conduct, that unless the Imam allows, we would not approach within his privacy area or his short distance or -- you agree to that?

A. Yes, you travel all over the world. I know that, and obviously you travel wherever His Highness goes.

Q. Exactly.

A. And you are around and I know that you show yourself there.

Q. And I never tried to overstep and go and talk and bother him with anything? And that code of conduct also says that unless the Imam allows, we should not talk to him or even give a gift. Even to give a gift, we have to get permission. If Imam note or make a sign that we are allowed, then we approach and we always -- even during deedars it's always in submission; right?

--- Off-the-record discussion.

Sachedina #635 - #637

Cross-Examination by Mr Tajdin.

Q. Okay. Mr. Sachedina, you know my family since a long time also. It's not a family which is disputing all the time with the leadership; right? And you know our relation, we are always respectful and I have never raised my voice; right? Is it right?

A. We've always had a civil discussion.

Q. Right. And we have always been taking tea together when we bump into each other in many countries; right? Right? Yes, I --

A. Yes, well, we have not all the time, but when I am there and you have offered me sometime, I've always had a cup of tea with you.

Q. Okay. And vice-versa?

A. Absolutely.

Bhaloo #114 - #121:

Cross-Examination by Mr Tajdin.

Q. Mr. Bhaloo, you know me at least since 20 years, I think?

A. (Deponent nods head up and down).

Q. We have always had very amicable relations?

A. We still have.

Q. And we still. And when you were president, vice-president, I was living in your jurisdiction in Canada. And would you agree that we have never had a fight?

A. I generally don't like to fight.

Q. And I also don't like to fight. So there is no -- and there has never been any fight between us. I've never raised the tone with you. I have always been respectable; you agree to that?

A. (Deponent nods head up and down).

Q. And you would say the same thing of my family?

THE DEPONENT: All right. I know your family.

Q. You know my family and we are all civilized people; right?

A. Right.

Q. I think we also have some family relation from the mother's side or something; right?

A. Generations ago maybe, yes.

Q. Generations to generations. Okay. Would you agree that may family is well respected in the jamat -
- let me rephrase that -- was well respected in the jamat before this announcement and this lawsuit and
-- was it very respected? Yes? No?

A. Yes.

Why is Alnaz Jiwa included in the Lawsuit?

It turns out that Alnaz has no role in the publication and a minimal role in the distribution of the KIZ Farman book series. The reason he was included in the lawsuit seems to be due to a confusion on Mr Sachedina's part.

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Jiwa #145 - #178:

Cross-Examination by Mr Gray.

Q. Now, turning to Exhibit C in your...Mr. Tajdin's original affidavit, this is the Golden Edition that you were involved in?

A. Yes.

Q. And have you been involved in the printing of this book?

A. No, I have not.

Q. Have you been involved in the distribution of the book?

A. Yes.

Q. How many of these books were printed?

A. I don't know.

Q. How many have you distributed?

A. I think I have distributed about 80.

Q. Eighty?

A. Yes.

Q. And you distributed these, I take it, by your LISTSERV?

A. No.

Q. You didn't distribute this by the LISTSERV?

A. No. The copies that I sold...one mailed to Chicago. I received a personal e-mail from a person that I have communicated with in the past.

Q. Okay.

A. The rest are all personal within the GT **A.**

Q. Personal in the GTA, so you...friends or relatives or people you know?

A. Yes.

Q. Okay. And what about your LISTSERV, ILM...you have a LISTSERV, ILM?

A. Yes, I do.

Q. ILM...

A. ILM-net, yes. It is out of University of Manitoba.

Q. And is that something that is a website or it is just something you send out a broadcast e-mail?

A. It is just a broadcast e-mail.

Q. And you distribute the books through that?

A. Not this Golden Edition.

Q. Not the Golden Edition?

A. No.

Q. And some of the earlier books that Mr. Tajdin has, you distributed through your LISTSERV?

A. I have never distributed any through the...other than this one book, I never distributed anything...well, I sent a few to my family in Kenya, but other than that, I have not distributed any over the mail.

Q. Okay.

A. All the books that I distributed are strictly personal. Like, personal meetings, one-to-one. I often deliver them myself.

Q. And the selling price for the book?

A. This Golden Edition is \$50.

Q. And the printing price, the cost to you?

A. The cost to me is \$50.

Q. The cost to you is \$50?

A. Yes. Canadian.

Q. You don't know what the printing price is?

A. I don't know.

Q. And when did you start doing this?

A. I think I got the first batch just before Christmas. Because it was during the Christmas holidays that I visited family and I...yes, I have given them out.

Q. And are you still doing it?

A. I have been too busy lately, so I have not done any lately.

Q. So you have stopped, then?

A. I haven't stopped, but, as I told you, mostly I sell them to personal contacts.

Q. When is the last one you distributed, then, or sold?

A. I think I gave two copies to my brother. He came to pick it up from me. It is about a month. Maybe three, four, five weeks ago.

Q. Three or four or five weeks ago.

A. Yes.

Q- And before that, the two copies to your brother; before that, when was the last one you sold or distributed or gave away?

A. Before that, after listening to this, one of my client's family picked up, I think, four books from me.

Q. And when was that?

A. I am not sure, but I think this is around the time Haz Imam was here. Around May.

Q. Around the end of May?

A. Yes. Mostly this time I have been selling only to people that I have known and in contact with. So, I normally even when my clients come in I don't normally tell them to buy this. But if they hear from somebody else, they might come and ask me.

Q. And how about the audio bookmark? Did you have any involvement in the production of that?

A. No. I have nothing to do with production.

Q. Nothing to do with the production.

A. Yes.

Q. And any involvement in the collection of the audio speeches?

A. No.

Q. Why does the book not identify a publisher; do you know?

A. You know, Nagib told me once...this was way before. I actually asked him this, I said, 'You know what? There should be some contact on there', because quite often people would tell me they don't know...when I sent to my cousin, my first cousin in Kenya, and so they ask for it but I say I normally don't ship them. I don't even I have time. So I told him, I said, 'You should put at least one number or something', and he says, 'Look, we are doing this...so we don't...' my understanding is Nagib is also selling to people that he know, that he knows at this time. So, it has never been, sort of, an issue that we are going to be mass distribution sort of.

Q. Right.

A. So that was my understanding. You know, it is just being sold...and my understanding also is the reason that he put it into book form is he normally was giving photocopies of it and that was taking too much time and energy and they were being, sort of, not placed properly at people's homes. Loose copies.

Jiwa #187 - #205:

Cross-Examination by Mr Gray.

Q. Do you pay Mr. Tajdin for the books?

A. I don't pay to Mr. Tajdin. I pick them up from a local distributor here.

Q. Who is the local distributor?

A. I won't name him now.

Q. You won't name him now. And where do you...

A. Mr. Sachedina knows them.

Q. And who do you pay?

A. To him.

Q. If Mr. Sachedina knows them, why wouldn't you tell me?

A. Because most of the stuff that is going on in the affidavits is becoming public on the websites. There is a new website that has opened recently. So, people do get harassed. Even I get harassed. So that is the reason.

Q. I see. Well, you...

A. I haven't paid him yet. I owe him for the 50 books...for the 96, I believe, I picked up. I haven't even collected the monies, because most of them are my family and friends.

Q. I see. So, 96 books, you haven't collected the money. And of the 96, you have distributed 80...

A. About 80 I have distributed.

Q. So you probably have 16 left then?

A. About 16 or so, yes. I mean, I haven't counted but it is in that range. I have collected some money, but not all.

Q. So your evidence is you have not sold the books over the web?

A. No.

Q. So, when I show you this...let's see. Excuse me. I am going to show you Exhibit 14. That is not you selling the book on the web; that is Ismaili.net ?

A. Well, this is Ismaili.net .

Q. Right, so you have not...

A. I have no connection with Ismaili.net .

Q. And you haven't sold them through the ILM-net?

A. Through ILM-net I put this brochure on as advertising, but frankly I don't have enough time and I primarily have been giving it only to family and friends.

Q. So you have put that brochure on the ILM-net?

A. ILM-net, yes.

Q. The ILM-net, you have put that brochure on?

A. Yes.

Q. So you have advertised the book on the 'net?

A. Yes, I have. No, not on the 'net. You can't call it the web. ILM-net is...

Q. Through electronic e-mail distribution, let me put it that way.

A. Let me put it this way: ILM-net is a group of, if I can say, friends or Ismailis that I admit. So you cannot become a member, even if you are an Ismaili, just like this. So it is like me sitting at home with my friends. So it is a restricted ILM-net.

Q. Restricted Internet circulation; would that be fair?

A. Yes. I only admit them if I do; otherwise I don't admit them. So nobody can join in automatically.

Q. Are you involved at all in Ismaili.net?

A. No, I am not.

Q. You are not an editor of it?

A. I have nothing to do with it. don't even have time if I wanted to.

Sachedina #638 - #639:

Cross-Examination by Mr Tajdin.

Q. ...Now, here I read in number 28. This is something which I have always had this question in my mind, that you seem to think that Mr. Jiwa operates a website. And I was surprised to read that. Were you thinking that he's co-operating my website or was it another website?

A. I think -- I didn't know about this. You told me that.

Q. I told you that Mr. Jiwa is operating a website?

A. Yes. Yes. No, you said to me in your email when you were trying to remove the book from the website --

Sachedina #642:

Cross-Examination by Mr Tajdin.

Q. Mr. Sachedina, I never wrote that Mr. Jiwa. Can you bring this --

A. Yes. Am I allowed to --

Sachedina #647-650:

Cross-Examination by Mr Tajdin.

Q. Okay. I'm talking about the fact that you're mentioning Mr. Jiwa's website. Which website --

A. It's your website. I'm talking about your website.

Q. No, but what you are writing here, 'operated by Mr. Tajdin and Alnaz'?

A. Yes, because -- I am trying to explain to you, Nagib Tajdin, that the letter -- the email you sent me -
- first you said to me the book has been removed from the website.

Q. Yes.

A. Your website. And then you said to me -- then I complained to you that the book is still being advertised and there is still a thread there on the website because it's still being advertised. So you said to me, 'Shafik, don't worry,' and 'I have spoken to Alnaz Jiwa, who will ensure that this will be taken

care of.'

Q. Okay, can we have in the undertaking that I need a copy of the email?

MR. GRAY: We'll get you a copy of that email.

--- UNDERTAKING

Sachedina #653 - #663:

Cross-Examination by Mr Tajdin.

Q. Did you not tell me to tell Alnaz not to write these things he was writing about, the farman book and the Constitution and all those things?

A. I -- sorry. Nagib, I am not aware of that conversation --

Q. You don't remember?

A. -- because I don't know Alnaz Jiwa at all. It's the first time today formally that I've actually met Alnaz Jiwa.

Q. Okay. Can we agree then, can we agree, would you agree -- is this the way to ask the question? Would you agree that if in this undertaking you bring the email and it doesn't say that I will ask Mr. Jiwa to remove from his website, there has never been a question of Mr. Jiwa having a website and this conversation which you are saying?

A. I didn't know whether he -- I thought he was connected with the website because if he could do what you gave him instructions from the website, I presumed he's involved with the website. That's the only connection I have.

Q. Is this why his name was put on the lawsuit?

A. He has -- he was part of this, he was involved with this, and I --

Q. Part of the publication?

A. I think that all the people who were involved in the sense that they were known, were people who are engaged with this website. And because Alnaz I think also had posted on the website a thing that he said that I have -- you know, after the announcement was made, he had a very long email saying that --

Q. Okay. So you are referring to his email list?

A. Yes.

Q. What's posted on his email list, not on his website?

A. Well, to me, it's electronic and -- all of this, from my point of view, is a methodology of --

Q. Mr. Sachedina, then on the lawsuit it says the same thing. But the Imam, who is a graduate from Harvard, he knows the difference between an email list and a website. But it says that Mr. Jiwa is operating a website; isn't it true?

A. I don't think I've said to you this website, because it's your website in which he has been associated. So he obviously has connection with the website. So to me he is involved with the website.

Q. So if this email that you will produce as an undertaking doesn't say this, you will accept that it's not there; right?

A. As I said to you, I don't have the words here.

MR. GRAY: If the email doesn't say it, then it doesn't say it. We'll accept that.

BY MR. TAJDIN:

Q. Yes. Because for the moment I am hearing that I have written that Mr. Jiwa had a website?

A. No. No. I didn't say that Mr. Jiwa -- as I said, you said in your email that when I complained to you that the book is still being advertised and there is still a thread there, you said to me -- you sent me an email to say that 'I have asked Alnaz Jiwa, who will actually deal with this matter and make sure that there is no reference to this.' So immediately I realized that and you and Alnaz are involved with this website.

Q. Okay. So let's have the email which will prove conclusively that it is not right, and we can all --

MR. GRAY: Or that it is right, as the case may be.

MR. TAJDIN: Yes. And if it is right, I will make my apologies to Mr. Sachedina. And I hope also --

MR. GRAY: We'll look forward to that.

MR. TAJDIN: And vice-versa, I hope; right?

MR. GRAY: Well, it's --

MR. TAJDIN: I guess this means no.

THE DEPONENT: Well, it's my best recollection. I wish I hadn't got -- but I haven't got the papers here, so.

Are Farmans made Available to Non-Ismailis?

ITREB is manned 100% by ismailis who have taken the ismaili oath of office. The IIS is manned at all levels by many non-ismailis who are not bound by the constitution. Why then, are Farmans asked to be sent to IIS and not ITREB?

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Sachedina #14 -#19:

Cross-Examination by Mr Jiwa.

Q. Now, you said earlier that you did review some materials. Can you elaborate on that? What materials did you review? I heard you say something about the Institute as well, you reviewed some documents?

A. Yes, I have read through the Constitution, which was at the Institute as well. There's copies there. I have looked at all the materials vis-a-vis the farmans as well. Because from my point of view, the documents are also kept at the IIS as well, the final text that we also have there.

Q. So all the final text of farmans are kept at IIS?

A. No. At the Imam level, at the Institute level, so -- and at the Department of Jamati Institution.

Q. So at the Institute, the final copy of the farmans are not kept?

A. We have a copy.

Q. At the Institute?

A. True, because --

--- The reporter appeals.

Q. And, I'm sorry, I'm actually lost. Is there a copy at the Institute or there's no copy at the Institute?

A. No. Farmans, as I said, once they have been approved and authorized by Hazar Imam -- Hazar Imam, which is His Highness.

MR. GRAY: H-a-z-a-r, new word, I-m-a-m.

THE DEPONENT: Once they are released by the Imam, we always have a copy at the Secretariat, at the Imam's office. We also have one at the Institute in our -- for archival purposes.

Q. You said one you have it at the Secretariat as well?

A. The 'Secretariat,' that means the Secretariat of His Highness, and the Department of Jamati Institutions.

Sachedina #208 - #214:

Cross-Examination by Mr Jiwa.

Q. But there are many non-Ismaili members appointed to the Institute?

A. Yes, only as part of the board of governors But the Imam -- the chairman is the Imam of the Time.

Q. I understand. The jamati institutions that we spoke with earlier that announcements are made in talika, those are all hundred per cent Ismaili appointees?

A. Correct. The jamati appointments are constitutional bodies.

Q. And in the Institute there are non-Ismaili who are appointed there, aren't there?

A. Yes, all the directors on the board of governors.

Q. And the employees, there are no non-Ismailis there?

A. There are people. But what I'm saying is this is an institution, and the centrality of its work a tariqa, but also other, Shia Islam and Islamic in general.

Q. But what I'm trying to say, and perhaps if you could just listen, is ITREB is hundred per cent Ismaili men?

A. ITREB is a constitutional body.

Q. Right. And hundred per cent Ismaili men; yes?

A. Correct.

Q. Institute is not hundred per cent Ismaili men. There's a difference between the two, isn't there?

A. But I explained to you the Institute has a board of governors and they have a staff with maybe Ismailis and non-Ismailis, but the Imam is the chair of the Institute.

Q. And those members who are appointed to the Institute don't take this oath of office that we spoke of earlier?

A. No. They are directors.

Q. Even the members who are appointed to Institute, those employees, they did not take an oath of office?

A. No. This is an institution for learning.

Sachedina #928:

Cross-Examination by Mr Tajdin.

Q. And you are -- are you governor of the IIS?

A. I am a governor of the Institute.

Contradiction: Did Sachedina give Nagib's address to Michelle Parkes?

Sachedina started saying that he had nothing to do with Miss Parkes' correspondence with Mr Tajdin. However, he was not able to stick to that story.

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Sachedina #943 - #947:

Cross-Examination by Mr Tajdin.

Q. This is last question. Last question. The first letter dated 24th January was sent to me on 11th of February from Aiglemont. Did you give -- was it you who gave my address to Ms. Parkes, sent it to the DHL --

A. Sorry, to the DHL address?

Q. Yes.

A. No, I had nothing to do.

Q. Okay.

A. It was Ms. Parkes. Ms. Parkes dealt with you directly on this matter.

Q. But Mrs. --

A. I was only informed subsequently.

Q. Okay. So if Mrs. Parkes has never received the address from me, would it mean she has received it from you?

A. She would have asked if I have the address. Because I have the addresses of lots of people, and if she asked me would I have, because they all know that I have been in contact with you and we are in contact with each other, we have been in contact. So it's only natural that she would look to somebody so who is in contact with you.

Contradiction: Imam's criticism of Leaders in London

Mr Sachedina maintains that the Imam's comment about Leaders in London during Golden Jubilee was incomplete. This statement is shown to be false.

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N. Tajdin # 210.

Cross-Examination by Mr Gray.

Q. Okay. We will get back to that, then. Now, have you ever accused the leadership before of forging?

A. Of forging? Never.

N. Tajdin #213:

Cross-Examination by Mr Gray.

Q. You have accused the leadership of misrepresenting His Highness' instructions before, haven't you?

A. Sometimes, it has, and in fact, His Highness has confirmed in London recently that sometimes it tells his leader, and they don't tell his followers. So, the message is not always passed.

Q. What are you referring to?

A. I am referring to a Farmans met by His Highness in London during Golden Jubilee.

Q. And what does that Farmans say?

A. It says, the leader asked me, I tell them but I don't know if they tell you, or something like that. It is not an exact quote.

Sachedina #426:

Cross-Examination by Mr Jiwa.

Q. But I'm going to give you an example, that in Golden Jubilee in London, he said in the jamat khana in the presence of thousands of -- or the whole jamat that his leaders do not convey his message to the jamats, he is not sure of that. You agree with that; right? You were there.

A. I was there, but as I said to you, that it was not completed, the sentence wasn't completed, his chain of thoughts were not completed.

Sachedina #850 - #861:

Cross-Examination by Mr Tajdin.

Q. ...Now, you mention the sentence that the Imam was going to stay in London during Golden Jubilee about the leaders was cut off?

A. No. I said he didn't -- he didn't finish his sentence and there was an interruption. That's all I can remember.

Q. Okay.

A. Because he himself told me afterwards, so that's how I remember.

Q. Can we take that as under -- how do you call it? Undertaking to have his -- I don't want the tape of the farman. I just want that one minute. From the moment he says that the jamat may be wondering why I'm making this farman up to the time people started clapping. That's one minute. Can I have that one minute?

MR. GRAY: Well, if you want to explain something.

THE DEPONENT: Let me tell you, the farmans are privileged communications between the murid and the Imam.

BY MR. TAJDIN:

Q. So I understand that as to be no?

A. I would say to you that this, whatever it is, is in the public domain, and to put any text, my humble view is that --

Q. Mr. Sachedina, partly I would agree with you, because as everybody knows, you have not put the book in the court and I have not done that also, nor has Alnaz done that. So we have all agreed it is remain between Ismailis. We don't dispute that. You have stated that the sentence was cut off. This is why we need that tape, that one minute. Unless you agree that the sentence was not cut off and there is a two-second blank, there is no sound, and then people start applauding to the statement, I would like to have that tape from you. One minute. I don't need the whole farman. That one sentence --

A. On record.

Q. On record plus --

MR. GRAY: On the record here?

THE DEPONENT: Can I share that with you outside this record?

BY MR. TAJDIN:

Q. You know, I'm not a lawyer. Honestly, I have a copy of the tape. So because you have put on record that the sentence was not completed, and having the copy of the tape, I know the sentence was complete. We need to prove it. I don't want it to become a fight between us.

A. No.

Q. But you are saying what I'm saying the opposite. If you produce that one minute, it will prove conclusively that the sentence was completed, there was a two-second gap, and everybody started applauding. Everybody was happy about the statement from the Imam, that the leaders are not necessarily conveying his message?

MR. GRAY: You'd have to put it in evidence now.

MR. TAJDIN: Because you have stated the contrary, that the sentence was not finished. If there is no dispute on that -- and I'm not asking the whole tape.

MR. GRAY: You're giving evidence yourself now. I mean this is --

MR. TAJDIN: Well, because we are talking of --

MR. GRAY: If you wanted to put it in evidence, you could have done so.

MR. TAJDIN: Okay. Mr. Brian, let's take it as an undertaking --

MR. GRAY: No, we will not.

MR. TAJDIN: We need that one minute to prove if, yes or no, you are right.

THE DEPONENT: I'm sorry, but I'm really not getting this at all as to what is the rationale behind this

question. Because I told you that we have -- what Imam has authorized for the release of that farman, Imam has authorized. Which is out to the jamat.

BY MR. TAJDIN:

Q. Mr. Sachedina --

A. By the Imam.

Q. -- the question was -- you would allow me to say it again because you replied to me in that way, that the sentence was not completed about what the Imam said on the leaders --

A. No. I said his chain of thought was not completed. You heard me. He was not able to --

Q. So now, Mr. Sachedina, we need that one-minute recording, not more.

MR. GRAY: No.

--- REFUSAL

BY MR. TAJDIN.

Q. Just that recording. You can give me the last word of the recording up to the moment people start clapping?

MR. GRAY: No.

--- REFUSAL

MR. TAJDIN: Well, we need to prove conclusively that the sentence was completed and there was a silence after that.

MR. GRAY: You have a copy of it. I guess if you felt you should --

MR. TAJDIN: But, you know, I'm asking the question. I'm not replying here. I can't produce it; right? I cannot go home and bring the tape.

MR. GRAY: If you felt you needed to put it into evidence, you should have done so. As you yourself said, we are not anxious to put farmans in --

MR. TAJDIN: Yes, but with all respect due, I was not aware that there will be in this examination a statement which is not representing what the tape is showing.

MR. GRAY: Well --

MR. TAJDIN: If I was aware, obviously I would have brought it into --

MR. GRAY: My current position is no, but I will consider it. I'll reconsider it.

--- UNDER ADVISEMENT

MR. TAJDIN: Thank you. Thank you for considering.

Contradiction: Recall all books or just the Golden Edition?

Would the Imam ask Mr Tajdin to undertake an impossible task?

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Sachedina #453 - #459:

Cross-Examination by Mr Jiwa.

Q. Now, if you go to the first page, the last sentence -- last paragraph, rather, he says in there: 'I believe that this has been explained to you by the institutions on a number of occasions. I, therefore, expect you and the other murids who are working with you immediately to take all necessary measures to recall and to withdraw from your circulation your recent publication.' [as read] Now, would you agree with me that in this letter he's asking Mr. Tajdin to recall? What do you understand by 'recall'?

A. Whatever he has been able to distribute to whoever, he should get them back, if possible.

Q. Do you agree with me that Mr. Tajdin has no legal recourse to withdraw or ask anybody to return the books?

MR. GRAY: Don't answer that.

--- REFUSAL

BY MR. JIWA:

Q. Would you agree with me that this sentence imposes on Mr. Tajdin to do something that it is not possible to do; would you agree with me?

MR. GRAY: Are you asking him a legal question, is it possible to do it or not?

MR. JIWA: No. I'm saying that His Highness is asking here, his letter, telling Mr. Tajdin to recall.

BY MR. JIWA:

Q. Let me give you an example. By this letter if Mr. Tajdin has given me hundred books, tells me, 'send it back to me' and I refuse to do so, what can Mr. Tajdin do?

MR. GRAY: Don't answer that question. You're asking him about a legal question and --

--- REFUSAL

BY MR. JIWA:

Q. Would you agree that he has no legal recourse to come to me?

A. I would not be able to respond on legal matters.

Q. So would you agree with me that what His Highness has written here is practically impossible to achieve?

MR. GRAY: Again, don't answer that question.

THE DEPONENT: Same answer again.

--- REFUSAL

BY MR. JIWA:

Q. Would you also agree with me that his only concern now with this publication, because all he's asking to withdraw is your recent publication; he's no longer concerned about his previous publications; would you agree with me?

A. This publication covers farmans from the previous publication.

Contradiction: Who mentioned Nagib Tajdin's Name?

Sachedina's Affidavit says that the Imam mentioned Nagib Tajdin's activities to Sachedina. His earlier testimony says he knew nothing of Nagib's actions before he started working at Aiglemont. Now, Sachedina says that he is the one who mentioned Nagib's name to the Imam.

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Sachedina #465:

Cross-Examination by Mr Jiwa.

Q. And in those discussions, did His Highness ever tell you who is behind the publications?

A. He asked the question. He has asked the question, and I have told him Nagib because I know of Nagib as the publisher.

Sachedina #468 - #471:

Cross-Examination by Mr Jiwa.

Q. So His Highness did not tell you that it's Mr. Tajdin. He said 'there are some murids who are doing this and I want you' --

A. I did tell him that the one that I know who is at the centre of this was Nagib.

Q. You told him?

A. Yes.

Q. So at that time you told His Highness that you know it's Nagib?

A. Yes.

Q. And did His Highness say that there are other individuals as well?

A. No, I said to His Highness I know of Nagib's publications, and I did say to him that when I will go next to Canada, this issue, I will take it up with Nagib.

In 1998 Did sachedina and Bhaloo take the Farman Book Draft to the Imam?

The Draft that Nagib Gave for the Imam in 1998 is still in Bhaloo's house.

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Bhaloo #136:

Cross-Examination by Mr Tajdin.

Q. Okay. How many of the farman books I have printed you have at your home either in Nairobi or in Toronto?

A. I have one book which is not printed. You gave it to me at the meeting. It is a white book. It's a draft farman. That's the one I have.

Q. It was a white book?

A. Yes. It had a white cover on it, and it said 'draft.'

Q. Okay. Can you take an undertaking -- undertaking of producing it?

MR. GRAY: I'll take that under advisement. I'm not going to undertake to do it, but I will consider it.

MR. TAJDIN: Okay. Can you produce --

MR. GRAY: As you know, this is a cross-examination.

MR. TAJDIN: -- a colour photograph of that draft book?

MR. GRAY: Okay, that's an alternative. We'll consider that, too. As this is a cross-examination, there's no duty to produce anything, but we will consider it. So you would like, as an alternative to producing the whole book, you would like a photograph of --

BY MR. TAJDIN: **Q.** I don't need the book because obviously I know what it is, but I just had a question because it was said it's a white cover, and I don't remember giving you any white-cover book. So just a colour photo will do.

MR. GRAY: So you would like a colour photograph of the cover of this document, this draft book?

MR. TAJDIN: Yes. I would like to see if it is white or it is burgundy. Just a colour photo.

Is the Imam concerned about the website?

Mr Sachedina states that there is a general concern about the contents of ismaili websites, and a review is pending, however, he also says that Mr. Nagib himself had been part of the solution.

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Sachedina #477 - #493:

Cross-Examination by Mr Jiwa.

Q. Now, again, if you go to the second page, it says 'I'm aware' -- the last paragraph: 'I'm aware that you perceive your efforts including the website that you have established and operate.' [as read] Now, I'm not so clear. Are you saying or His Highness saying that the website is also inappropriate?

A. Well, he is aware also of the website.

Q. No, that's not my question.

A. Yes. Inappropriate.

Q. My question is: In your discussions with His Highness --

A. Yes?

Q. -- did he tell you that website is also a problem?

A. Well, he says that there are a number of websites which cause him concern.

Q. So he's concerned about the websites as well?

A. Yes, but this is publication which is his works. The websites do not publish farmans on the thing. The issue I'm talking to you is very simple. This is talking about his works.

Q. My question is --

A. Websites are not his work.

Q. I understand. I understand. I just want to be clear with this. His Highness is concerned with the websites as well, and there are a number of websites, not only Mr. Tajdin?

A. Yes.

Q. And he's expressed that concern to you?

A. Yes, and we are looking into this matter. We have started working through the process with the website people to see how we can work with some of these. And, in fact, Nagib himself was part of the solution in some cases, and his advice was sought on some of the matters, to see how we can solve this problem.

Q. Right. But right now my question is that he disapproves of the various websites as well; correct?

A. Yes. From this letter to you.

Q. Not from the letter. You said earlier he has told you about that as well?

A. Yes.

Q. Yes?

A. I've said to you the websites are also a concern to him.

Q. To him?

A. Yes.

Q. And he has told that to you; right?

A. Yes. But here we're talking about how this particular issue relates to the publication of the farmans that we have got, which you have just -- the matters which are ahead of us in the litigation. We're not talking about the website in the litigation. We're talking about copyright issues of the publications and not the websites.

Q. Now, there are a number of individuals with websites; correct?

MR. GRAY: Are you telling us?

MR. JIWA: I'm asking him.

THE DEPONENT: There are people who have websites, yes, a number of websites.

BY MR. JIWA:

Q. Other than Mr. Tajdin?

A. Absolutely.

Q. And His Highness is concerned about all of them?

A. Well, no. It's a question of what is -- the review of these websites he wants to be carried out so that we know what is in each of these websites. He's concerned about the websites --

Q. So he's asking a review?

A. Of course. Of all of these websites.

Significance of Mehmani

A murid is quite entitled to speak to his Imam during Mehmani. Imam does listen, interact with and guide Murids during Mehmanis. Although reluctant, even Mr Bhaloo came around to this conclusion.

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Sachedina #179 - #183:

Cross-Examination by Mr Jiwa.

Q. All right. And would you agree with me that the purpose here is for the Imam to interact with that murid when he presents the mehmani?

A. If he wishes to do so.

Q. And often he will do so himself?

A. It is up to the Imam.

Q. No, we know it's up to the Imam. But often he does interact with the murid himself even without being asked?

A. Yes, it does happen.

Q. It does happen, right. And there is no restriction on that murid from talking to his Imam?

A. The murid is quite entitled to speak to his Imam if he wishes to do.

Q. And some do?

A. Some do, some don't.

Sachedina #195 - #199:

Cross-Examination by Mr Jiwa.

Q. However, if anybody wished to talk to the Imam, he can talk to the Imam?

A. It's the right of the murids, right.

Q. And to your knowledge, because you have been extensively involved in the jamat, and you were in 1994, which was a lot larger jamat than the Montreal jamat, to your knowledge, when that murid asked the Imam a question, the very purpose for the mehmani is for the Imam to respond and guide that murid?

A. Yes. The Imam, it's at his mercy and pleasure.

Q. And that's the purpose he does these mehmanis --

A. Yes.

Q. -- is to guide? Would you also agree with me that this mehmani is personal and not published? Like, you know, the whole jamat who is sitting there, they don't hear what's happening between the

Imam and the murid.

A. Yes, it is done in the context of closeness with the murid and the murshid. But there are people standing nearby who are also observing, and the jamat observes what's happening. So there are always people who know but they can't listen.

Q. They can't. Because they are just observing?

A. (Deponent nods head up and down).

Bhaloo #67:

Cross-Examination by Mr Jiwa.

Q. ...My question was: Is the murid who presents the mehmani prohibited from asking the question orally to the Imam without giving any memorandum in writing?

A. It's not a generally-done thing.

Bhaloo #96 - #98:

Q. And do you recall during that '78 visit, His Highness a number of times said he wants to listen to specially the mehmanis that are represented so the jamat to remain calm?

A. Yes, I remember.

Q. He said that on a number of occasions?

A. Yes.

Q. And then he specified that he wishes to listen to what his murids tell him, and he wants quiet in the jamat so he can listen; he said that a number of times?

A. Yes.

Significance of Talika

Talikas and Farmans are not regular speeches, they are treated with the greatest respect and special ceremonies as Divine words for the Ismaili community.

[Note: Extracts of Federal Court Transcripts of Cross-Examinations held August 2010 for Summary Judgement Motions in the Aga Khan Copyright Lawsuit

Sections starting with N. Tajdin #... Means Nagib Tajdin is the one answering questions in the next section

Sections starting with Jiwa #... Means Alnaz Jiwa is the one answering questions in the next section

Sections starting with Sachedina #... Means Shafik Sachedina is the one answering questions in the next section

Sections starting with Bhaloo #... Means Aziz Bhaloo is the one answering questions in the next section
]

Bhaloo #142 - #167:

Cross-examination by N. Tajdin

Q. Okay. Mr. Bhaloo, not as a leader, not as a constitutional expert, just as an Ismaili, would you say that a talika and a farman is about the same thing; a talika is a written farman?

A. They're both given by the Imam, yes.

Q. You would accept that the talika is a written farman?

A. Sometimes the talikas are blessings, not farmans.

Q. Oh, blessings are not farmans?

A. I told you that talikas are sometimes blessings given by the Imam to the individuals, but not instructions in farmans.

Q. What about -- let's talk of -- tell me just -- you don't have to reply, just what age are you?

A. Old enough.

Q. Old enough. So in the '60s were you in East Africa?

A. In the 1960s?

Q. Yes.

A. Yes, I was.

Q. Do you remember that period?

A. Parts of it, yes.

Q. Was it Nairobi or Kisumu or someplace around Kenya?

A. Both.

Q. Do you remember at that time when a talika was to be read, it was announced, and Ismailis kotters [ph.] in the street with drums and a person going around saying there is talika tonight?

A. Yes, I believe so.

Q. And the flag was put --

A. I do not think it was the '60s, though. It was the '50s.

Q. It was the '50s. Sorry. I did not think you would remember up to that time. I think you look so young. But, okay, so 50's. And the flag would go up on the jamat khana, and people seeing the flag up would know that there's a talika?

A. Correct.

Q. Now, we both live in Nairobi, so even today when there is a talika, the flag goes up to the jamat khana. Have you noticed that?

A. No, I have not.

Q. You have not noticed?

A. No, I have not.

Q. I would just suggest that it's a good thing to notice.

A. Thank you.

Q. So a talika, when it is read, I just want to go through some of the ceremonies that accompany the talika to show how important it is. Is it true that when a talika is to be read, there is a special ceremony for holy water?

A. Yes.

Q. Is it true that when a person is called to read the talika, usually it's a person of standing, someone very respected?

A. Mr. Gray, these are -- these are really questions dealing with religious matters and --

MR. GRAY: You have to speak up for the --

THE DEPONENT: These are really questions of religious matters, and I don't know whether it's pertinent to the case.

MR. GRAY: It is not pertinent to the case. It's totally irrelevant, in my submission, but I was letting Mr. Tajdin have as much leeway as I thought reasonable. It is really way beyond anything relevant to this case, and so in the interest of --

MR. TAJDIN: Okay, we are trying to define --

MR. GRAY: You're paying for your transcript and so you're paying for my copy of the transcript, so --

MR. TAJDIN: Mr. Gray --

MR. GRAY: Let me finish. You're paying for transcript and I'm paying -- and you're paying for my copy of the transcript. So if you want to go on like this, spending money and time on irrelevant matters, I'm going to let you do that as long as the witness feels comfortable. But when you're exploring these questions of holy water in Nairobi and the talika flag, I think we are getting awfully far afield from the issues in this case. So if you could try. And I really would like to give you as much leeway --

MR. TAJDIN: Mr. Brian --

MR. GRAY: Let me finish.

MR. TAJDIN: This is going just -- like, how long are you going to talk? Because we want to put it brief. You have said what you have to say. So can I continue asking my questions?

MR. GRAY: You interrupted me, but fine, go ahead.

BY MR. TAJDIN:

Q. Okay. Mr. Bhaloo, the book on which you have written an affidavit contains talika and farmans; right?

A. Clarify that?

Q. There is this Affidavit -- you are saying in your Affidavit that you are making this Affidavit in support of the Plaintiff's motion for summary judgment and for no other purpose? The last line. Do you know the subject matter of this lawsuit?

A. Yes, I do.

Q. Okay. Would you agree that it's on a book which contains talika and farmans?

A. Yes. It contains farmans, yes.

Q. Does it contain talikas also?

A. I have not read the Golden Edition book, so I would not know. This is the first time I'm looking at it.
MR. GRAY: The witness is referring to a book sitting on the table here in the examination room.

BY MR. TAJDIN:

Q. You have written an affidavit in support of the motion. Have you read the motion? Did you read the motion?

A. Yes, I did.

Q. So you know it's about farmans and talika book?

A. It is for summary judgment.

Q. It doesn't matter what summary judgment on what subject?

A. Yes, it does.

Q. Okay. Is it on a book which was printed with farmans and talikas?

A. I remember the farman. I don't know about the talikas.

MR. GRAY: If it helps, we'll admit that the book contains farmans and talikas. If that helps you, we'll admit that.

BY MR. TAJDIN:

Q. Yes. And I will not go through the 15 or 12 ceremonies which accompany the reading of a talika. I will just ask you one general question: When a talika is read, there are a lot of religious ceremonies surrounding the reading of the talika; yes or no?

A. Mr. Tajdin, these are matters for those who have been initiated into the faith, and they are not matters for public discussion, and I will not get into that.

Q. Okay. Mr. Bhaloo, I'm not sure what to ask because it looks like you are very much on the defensive and whatever I would ask would not bring me any kind of reply.



Court File No. T-514-10

FEDERAL COURT

AN/am

B E T W E E N:

HIS HIGHNESS PRINCE KARIM AGA KHAN

Plaintiff

- and -

NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO.
and all other persons or entities unknown to the Plaintiff
who are reproducing, publishing, promoting and/or
authorizing the reproduction and promotion of the
Infringing Materials

Defendants

- - - - -

This is the Cross-Examination of NAGIB TAJDIN on his
affidavits sworn the 7th day of May, 2010, 16th day of
June, 2010, and 13th day of July, 2010, taken at the
offices of OGILVY RENAULT, 200 Bay Street, Suite 3800,
Toronto, Ontario, on the 9th day of August, 2010.

- - - - -

APPEARANCES:

BRIAN GRAY
KRISTIN WALL

-- for the Plaintiff

ALSO PRESENT:

Alnaz Jiwa

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1 NAGIB TAJDIN, sworn

2 CROSS-EXAMINATION BY MR. GRAY:

3 1. Q. Mr. Tajdin, you have been sworn?

4 You have to answer yes or no.

5 A. Yes.

6 2. Q. Just for the record, Mr. Jiwa and
7 Mr. Tajdin, I note that you are both present here
8 today, and as you are both witnesses, I have asked
9 each of you to leave the room while the other is
10 being examined. I take it you refuse to do that?

11 MR. JIWA: Yes. I am a party, so I am
12 entitled to stay.

13 3. MR. GRAY: Okay. I have agreed to
14 continue under objection, and I will ask
15 the court to conclude that there is a risk
16 that your evidence may have been tailored
17 because of discussions that are taking
18 place between the two of you. I just
19 wanted that objection noted for the record.

20 And also, I would like to do a
21 couple of housekeeping things. Can we
22 agree that we have two separate motions for
23 summary judgment; one by each of you?

24 MR. JIWA: Yes.

25 4. MR. GRAY: And two separate responding



1 motion records?

2 MR. JIWA: Yes.

3 5. MR. GRAY: And that the responding
4 motion records, and the motion records
5 are...as far as the evidence is concerned,
6 are identical? Both of your motion records
7 and responding motion records are
8 identical, as far as the evidence is
9 concerned?

10 MR. JIWA: Yes, evidence is concerned,
11 yes.

12 6. MR. GRAY: You have different written
13 submissions, but the evidence is the same,
14 exactly.

15 MR. JIWA: Right.

16 7. MR. GRAY: So, insofar as...and can we
17 also agree that the responding motion
18 records of both of you incorporates the
19 affidavit material from the original motion
20 record, plus the responding material?

21 MR. JIWA: Yes.

22 THE DEPONENT: Yes.

23 8. MR. GRAY: So, in effect, if I have the
24 responding motion material of one of either
25 Mr. Tajdin or Mr. Jiwa, I have all of the



evidence that is in this matter at the moment?

MR. JIWA: Yes.

9. MR. GRAY: Do you agree with that?

MR. JIWA: Yes.

THE DEPONENT: Yes.

10. MR. GRAY: Okay.

BY MR. GRAY:

11. Q. So, for the purposes of this examination, and for yours, as well, I am just going to use Mr. Tajdin's motion record, the responding motion record. Is that okay?

A. Yes.

12. Q. That has all of your evidence in the summary judgment proceedings, both as the motion you have brought for summary judgment and the responding motion, that you responded to my motion for summary judgment. Okay?

MR. JIWA: Yes, that is correct.

13. MR. GRAY: And can we also agree that my material, my motion record that serves as the affidavit evidence in my motion for summary judgment, the plaintiff's motion for summary judgment, is the same as the



1 responding material, and so that if I have
2 the plaintiff's motion record, I have all
3 of the affidavit evidence currently in
4 these proceedings?

5 MR. JIWA: Yes.

6 14. MR. GRAY: Okay. So, I am going to use
7 just those two books to avoid confusion.

8 MR. JIWA: Yes.

9 15. MR. GRAY: Just so you understand.

10 MR. JIWA: Sorry, did you just say you
11 are using the plaintiff's motion record,
12 right?

13 16. MR. GRAY: I am using the plaintiff's
14 motion record, and the responding motion
15 record that you have attached to it.

16 MR. JIWA: Okay.

17
18 BY MR. GRAY:

19 17. Q. Now, Mr. Tajdin, Mr. Jiwa, being a
20 lawyer, has responded to that, but do you agree with
21 that, what he has just said?

22 A. Yes, I agree.

23 18. Q. You do?

24 A. Yes.

25 19. Q. Now, finally, can we agree that the



1 cross-examinations today are in respect of the
2 plaintiff's motion for summary judgment, and in
3 respect of responding to your motions for summary
4 judgment.

5 MR. JIWA: Both of them.

6 20. MR. GRAY: Used for both...in both
7 matters.

8 MR. JIWA: Agreed.

9 21. MR. GRAY: Yes?

10 MR. JIWA: Yes.

11 22. MR. GRAY: And just for the record, I
12 have indicated to you, we are going to file
13 another affidavit, or seek leave to file
14 that, and I sent that to you...

15 MR. JIWA: Yes.

16 23. MR. GRAY: ...last night.

17 MR. JIWA: Yes, I saw that.

18 24. MR. GRAY: And I am going to give you
19 now a hard copy of that. It is unsworn.
20 We are going to get the expert to swear
21 it...

22 MR. JIWA: That is fine, yes.

23 25. MR. GRAY: ...okay? And here are the
24 exhibits. I have got two copies; one for
25 each of you.



1 MR. JIWA: You will give it to us after
2 you get it sworn?

3 26. MR. GRAY: Sorry?

4 MR. JIWA: You will give it to us after
5 you get it sworn?

6 27. MR. GRAY: I will give it to you again
7 after it is sworn.

8 MR. JIWA: That is fine.

9 28. MR. GRAY: As there may be a few minor
10 changes...

11 MR. JIWA: Yes.

12 29. MR. GRAY: ...but Mr. Lindblom indicated
13 this was what he was prepared to swear to,
14 before he went on vacation. So, I am
15 confident it will be more or less in that
16 form.

17
18 BY MR. GRAY:

19 30. Q. Now, one other housekeeping matter.
20 Can we agree the plaintiff has many names? Can we
21 sort that out now? The plaintiff's name on the
22 Statement of Claim is his Highness Prince Karim Aga
23 Khan, correct?

24 A. This is what is on the Statement of
25 Claim, yes.



1 31. Q. Right. It says on the Statement of
2 Claim. I understand you are asserting that I don't
3 represent the real plaintiff. We will get to that,
4 but for the purposes of the record, the plaintiff's
5 name is His Highness Prince Karim...

6 A. Yes.

7 32. Q. Can we also agree, though, that his
8 other name is sometimes just the Aga Khan?

9 A. Yes.

10 33. Q. Sometimes, Imam?

11 A. Yes.

12 34. Q. Can we agree with that?

13 A. We can agree with that, with a small
14 restriction. When you say the imam, we are talking
15 of the Aga Khan as Imam.

16 35. Q. Aga Khan as Imam, okay. But that is
17 still the same person, the plaintiff?

18 A. It is the same person.

19 36. Q. Right. And when you say "the imam"
20 Zaman, we are talking about the same person, the
21 plaintiff?

22 A. Yes.

23 37. Q. That means the imam of the time, the
24 current Aga Khan?

25 A. Exactly. Zaman means time.



1 38. Q. And when we talk about Mawlana Imam,
2 we are talking about the same person?

3 A. Yes.

4 39. Q. Right? The plaintiff.

5 A. Yes.

6 40. Q. And we say "Mawlana Hazar Imam", we
7 are also talking about the same person...

8 A. Yes.

9 41. Q. ...the plaintiff, right? And when
10 we say Noor Mawlana Shah Karim Al Hussaini, we are
11 also talking about the same person, the plaintiff,
12 the current Aga Khan?

13 A. We are talking of the person as
14 Imam, because the word "Noor" is there.

15 42. Q. Sorry?

16 A. Because the word "Noor" is there...

17 43. Q. Right.

18 A. ...we are talking about the person
19 as Imam.

20 44. Q. As Imam, but it is still the same
21 human being, the same physical person, the Aga Khan,
22 the plaintiff?

23 A. Well, let's not enter into these
24 theological discussions.

25 45. Q. Okay. But it is the same person?



1 A. Yes.

2 46. Q. Okay. And so, finally, if I
3 referred to him as His Highness, will you understand
4 that I mean all these people?

5 A. I will understand that.

6 47. Q. Okay. I am just going to use His
7 Highness to refer to the plaintiff and all the
8 various other names...

9 A. Okay.

10 48. Q. ...that he has. Is that okay?

11 A. That is okay.

12 49. Q. All right, thank you. Now, I am
13 showing you a letter, which is also an exhibit, I
14 believe, to Mr. Shafik's affidavit, dated January
15 4...

16 A. Yes.

17 50. Q. ...2010. Do you recognize this
18 letter?

19 A. Yes, it is a letter I have written
20 to the Imam.

21 51. MR. GRAY: Okay. Can we mark this as
22 Exhibit 1?

23
24 --- EXHIBIT NO. 1: Letter dated January 4, 2010 from
25 Nagib Tajdin to Aga Khan with



attachment

52. MR. GRAY: And what we will do is...off
the record for a second.

--- DISCUSSION OFF THE RECORD

BY MR. GRAY:

53. Q. So, Exhibit 1, then, as I
understand, Mr. Tajdin, is a letter dated January 4,
2010, which you have written to His Highness?

A. Yes.

54. Q. Okay. It had attached to it the
attachment that is currently on the letter that I
have shown you, Exhibit 1?

A. Yes.

55. Q. That attachment was prepared by you?

A. Yes.

56. Q. And that described your Farmans
projects; is that right?

A. Yes.

57. Q. It described your Farmans project
since you started the Farmans project?

A. It described since I started
printing it, not since I started it.



1 58. Q. Okay. But it is an accurate
2 description of your...

3 A. Yes, it is.

4 59. Q. ...printing of the Farmans projects?

5 A. Yes, it is.

6 60. Q. And was this the first letter you
7 had written to His Highness concerning the Farmans
8 projects?

9 A. For the Farmans, yes.

10 61. Q. This is the first letter you had
11 written to him concerning the Farmans projects?

12 A. Yes.

13 62. Q. And by the Farmans projects, I mean
14 any of your various publishing projects?

15 A. That was the first for publishing.

16 63. Q. The first letter that you wrote to
17 the Imam about the...

18 A. Yes.

19 64. Q. ...the publishing projects?

20 A. Yes.

21 65. Q. All right.

22 A. The other letters I have written was
23 not about the same subject.

24 66. Q. Right, okay. Your family has
25 received letters from His Highness from time to



1 time, haven't they?

2 A. Yes, it has.

3 67. Q. Yes. So, did you write a letter to
4 the Ismaili leadership concerning the Farmans
5 projects?

6 A. No.

7 68. Q. So, other than this letter, this is
8 the first letter you have communicated either to the
9 Imam or the Ismaili leadership concerning your
10 publishing of Farmans?

11 A. It is the first letter.

12 69. Q. Now, how did you send this letter of
13 January 4?

14 A. I gave it to the Aga Khan council in
15 Kenya, in Nairobi.

16 70. Q. And who was that?

17 A. Who is that?

18 71. Q. Yes.

19 A. The person to whom I gave it?

20 72. Q. Yes.

21 A. Well, I don't remember the name, but
22 I will give you a confirmation within a few days.

23 73. Q. Did you give it to him in...that is
24 okay. I don't...

25 A. They gave me a letter of



1 confirmation that they have received from me for
2 transmission.

3 74. Q. Okay. So, you delivered it to the
4 president of the Ismaili Council for Kenya in
5 person?

6 A. No. No, no. I sent it through
7 Noorali Ebrahim, Ebrahim Electronics, and it is just
8 a few blocks from the council, and I would park
9 there. So, we were talking, and I said, "I have to
10 go, and send this". They said, "No, let us send
11 from here, and we will call them to confirm". So,
12 we called the office, and they received it. The
13 letter, I ask for a confirmation in writing.

14 75. Q. Right. So, you sent the letter to
15 the president via this other person, who
16 hand-delivered it to the president of the Council?

17 A. To the secretariat.

18 76. Q. To the secretariat, with the book?

19 A. With the book.

20 77. Q. And the audiotape?

21 A. Which audiotape?

22 78. Q. The audio bookmark.

23 A. The bookmark, yes.

24 79. Q. Yes. So, with the book and the
25 bookmark...



1 A. And the letter, in one parcel.

2 80. Q. Right, okay. And they confirmed
3 that they had received it?

4 A. They have confirmed that they have
5 received it.

6 81. Q. Right. And did you ever ask them if
7 they had transmitted it...

8 A. Yes.

9 82. Q. ...to France, to Aiglemont?

10 A. Yes, they said they have
11 transmitted.

12 83. Q. They said they have transmitted it
13 to His Highness in France?

14 A. Exactly. They sent the transmitter
15 to the secretariat in Aiglemont...

16 84. Q. Okay.

17 A. ...and this is the same thing they
18 told me previously when I sent out the letters.

19 85. Q. So, do you think His Highness
20 received the book that was attached with the letter?

21 A. I don't think so.

22 86. Q. And how did that happen? Somebody
23 at Aiglemont hijacked the book?

24 A. The fact is that you know, Aiglemont
25 is not a small office, like we are here. It is a



1 huge domain, and there is a secretariat, and
2 everybody receive mail at the secretariat. The
3 secretariat is controlled by Dr. Sachedina.

4 87. Q. Dr. Sachedina, does he live in
5 France?

6 A. He may be going from Paris to London
7 several times a week or one time a week. I am not
8 sure how his arrangement...

9 88. Q. He lives in England, doesn't he?

10 A. His official address may be in
11 England...

12 89. Q. He lives in England...

13 A. ...but he told me, he told me that
14 most of his time is spent in Paris, Aiglemont.

15 90. Q. Aiglemont is the...

16 A. That is the domain.

17 91. Q. It is the Aga Khan's residence,
18 isn't it?

19 A. Yes.

20 92. Q. It is his chateau, where he lives?

21 A. Yes.

22 93. Q. And that is where you directed the
23 book?

24 A. Yes.

25 94. Q. So, somewhere in the chateau, the



1 book has been hijacked?

2 A. You can put it as you want. It may
3 not have arrived to the Aga Khan. Whatever facts I
4 have points to this.

5 95. Q. Someone in the secretariat absconded
6 with the book?

7 A. Well, someone...you know, it is very
8 easy. I am not going to enter into details.

9 96. Q. Okay, fine. So, now, you did
10 receive a response to this letter of January 4th,
11 didn't you?

12 A. Are you referring to...

13 97. Q. I am showing it to you right now. I
14 am showing you a letter dated January 24, 2010.

15 A. Yes, the first forged letter, I
16 received that.

17 98. Q. You received this letter, okay, and
18 you have the original of this letter with you?

19 A. Yes, I have.

20 99. Q. Can you produce it for me right now?

21 A. No, I don't have it here.

22 100. Q. You don't have it with you? You
23 didn't bring it with you?

24 A. No.

25 101. Q. And I have asked you to produce it,



1 haven't I?

2 A. When?

3 102. Q. I asked you by e-mail several weeks
4 ago.

5 A. All of the originals?

6 103. Q. Yes.

7 A. Yes, I replied to you.

8 104. Q. You replied that you wouldn't give
9 them to me, because you think I am going to destroy
10 them?

11 A. No, I never said you are going to
12 destroy them. Can you please read me that passage?

13 105. Q. Let's deal with this just
14 temporarily. I am showing you a letter you sent to
15 the administrator of the Federal Court, July 27,
16 2010?

17 A. Yes.

18 106. Q. Do you recognize that letter?

19 A. Yes.

20 107. MR. GRAY: Can we mark that, then, as
21 the next exhibit, 2?

22
23 --- EXHIBIT NO. 2: Letter from Nagib Tajdin to The
24 Administrator of Federal Court of
25 Canada, dated July 27, 2010



1 BY MR. GRAY:

2 108. Q. Can I direct you to the second page
3 of the letter?

4 A. Yes.

5 109. Q. I direct your attention to the
6 sentence:

7 "...As far as giving the originals of the
8 forged letters received by the defendant, I
9 have no doubt that these proofs of criminal
10 activities will find a way to self-destruct
11 as soon as the documents are out of our
12 hands..."

13 A. Yes.

14 110. Q. Correct? Did you write that?

15 A. Yes, I wrote that.

16 111. Q. And how will the documents
17 self-destruct?

18 A. I don't know. One thing I know is
19 that these letters are the only proof I have of
20 forgeries, and the original, I will not part with
21 them for that reason.

22 112. Q. So, you believe that if they were in
23 my hands, they are going to self-destruct?

24 A. I am not sure. You have a big
25 office. I am not sure who comes in, who goes out.



1 Things happen, right?

2 113. Q. Nevertheless, you were saying that
3 if they get into my hands, they will
4 self-destruct...

5 A. I am sorry, I have...

6 114. Q. ...they will disappear?

7 A. You have just told me that I have
8 said that you will destruct them, when this is not
9 what I have written, and I think the letter is
10 self-explanatory.

11 115. Q. All right. I think it is, too. So,
12 let's deal, now, with the response of January 24,
13 which I handed you earlier?

14 A. Yes.

15 116. MR. GRAY: Can we mark that as Exhibit
16 3? This is also produced as an exhibit in
17 somebody else's affidavit.

18
19 --- EXHIBIT NO. 3: Letter dated January 24, 2010 from
20 Aga Khan to Nagib Tajdin
21

22 BY MR. GRAY:

23 117. Q. Now, you did receive this letter?

24 A. Yes.

25 118. Q. And how did you receive it?



1 A. By e-mail.

2 119. Q. From who?

3 A. Michelle Parkes.

4 120. Q. Michelle Parkes at His Highness'
5 secretariat?

6 A. At his agent's secretariat.

7 121. Q. And did the letter have...is this
8 the form in which you received it?

9 A. Yes, the e-mail had an attachment,
10 which is this one.

11 122. Q. Right. And was there anything else
12 attached to the letter?

13 A. Not to my recollection.

14 123. Q. And did the letter come from France,
15 from Aiglemont?

16 A. It came from an e-mail address at
17 Aiglemont.org.

18 124. Q. Okay, right. Now, would you agree
19 with me that this letter says that the Aga Khan does
20 not consent to the publication of your Farmans?

21 A. Yes.

22 125. Q. Okay. And you will agree with me
23 that it says, in fact, if the letter is genuine, it
24 says that you should not be publishing the Golden
25 Edition?



1 A. Yes, and it is completely in
2 contradiction with the instruction we got from the
3 Aga Khan.

4 126. Q. We will deal with that later, but
5 you agree with me that if this letter is genuine, it
6 revokes any consent that the Aga Khan may have given
7 you to publish these documents, these books?

8 A. I would agree that it revokes for
9 the future.

10 127. Q. Revokes for the future?

11 A. M'hmm.

12 128. Q. All right. Would you not agree that
13 it also revokes in terms of current distribution?
14 You must stop anything you have done right now?

15 A. Well, I would assume that if the
16 letter is from the Aga Khan, he would know that the
17 book is already published. It cannot be
18 unpublished.

19 129. Q. But it asks you to stop the
20 distribution of the book, does it not?

21 A. This letter, yes.

22 130. Q. It asks you to do that, does it not?

23 A. Yes, it could ask anything, since
24 the signature has been forged. It doesn't matter.

25 131. Q. We will get to that. I want to just



1 establish what the issue...

2 A. Yes.

3 132. Q. ...the real issue is between us?

4 Because if the letter is accurate, it asks you to
5 stop publishing the book. Doesn't it say that at
6 the bottom:

7 "...Recalls from circulation your recent
8 publication..."

9 Which indicates that the person who wrote the letter
10 understands that the thing has been published, and
11 the accompanied MP3 player device:

12 "...And cease your printing and
13 distribution. I would also like you to
14 deliver all remaining stocks of these
15 material to the Institute of Ismaili
16 Studies in London..."

17 Is that correct?

18 A. Yes.

19 133. Q. So, it is very clear that the person
20 who wrote the letter understands that you published
21 the books, wants them to be stopped from being
22 published, and to return the unused stocks to the
23 Institute of Ismaili Studies. Isn't that clear?

24 A. That is not clear, that the person
25 who wrote that letter suggested these things.



1 134. Q. So, if it is actually from the Aga
2 Khan, you accept that that, in fact, ends the
3 lawsuit. If it really is from the Aga Khan, you no
4 longer have consent to do what you are doing?

5 A. If the Aga Khan confirmed directly
6 in person that he has written this letter, there is
7 no lawsuit.

8 135. Q. Right. You will stop...you confirm,
9 and it is your view that the Aga Khan has the
10 absolute and unfettered right to withdraw any
11 consent he may have given?

12 A. The Aga Khan can withdraw any
13 consent to anyone at any time.

14 136. Q. Right. And even if he had given any
15 consent previously, or anything he may have said
16 previously...

17 A. Well, from the time he gives an
18 instruction, it has to be followed.

19 137. Q. Right.

20 A. This is the tenet of our faith.

21 138. Q. So, if he has withdrawn his consent
22 now, that is the end of the matter?

23 A. If he tells me, face to face,
24 "Nagib, stop", that is the end of the matter.

25 139. Q. Right. It doesn't matter what



1 happened in 1992 or 1998, or any time?

2 A. It doesn't matter. If today, he
3 tells me face to face, "Nagib, stop", I will stop.

4 140. Q. But if the letter is genuine, and he
5 has told you in writing to stop, you would also
6 stop?

7 A. If the letter is genuine, and he
8 tells me, "This is a letter which I have composed
9 and signed", I will accept.

10 141. Q. Right, okay. Your wife's name is
11 Franny?

12 A. Yes.

13 142. Q. Okay. And did she not give a copy
14 of your book, the book in issue, The Golden Edition,
15 to His Highness' son?

16 A. Yes, she did.

17 143. Q. She gave a copy of it to Prince
18 Hussain, right?

19 A. Yes.

20 144. Q. Hussain?

21 A. I am not sure. Check on the
22 website.

23 145. Q. Yes, okay, right. So, she gave that
24 to him in Kenya?

25 A. Yes, she did.



1 146. Q. And she took a picture of the
2 occasion, didn't she?

3 A. Yes, she did.

4 147. Q. And Prince Hussain said he would
5 give the book to His Highness?

6 A. Yes.

7 148. Q. That is true, too, right?

8 A. That is true.

9 149. Q. And are you saying that the book
10 didn't get to His Highness?

11 A. That book probably get to His
12 Highness.

13 150. Q. So, that book did get to His
14 Highness?

15 A. Yes, I am not disputing that His
16 Highness has a copy of the book.

17 151. Q. Okay. So, you say His Highness does
18 have a copy of The Golden Edition now, the book?

19 A. Yes.

20 152. Q. Okay. Now, you got a second letter,
21 did you not, in...sorry, you responded...sorry, hold
22 on a second. You received the letter that is now
23 Exhibit 3, as you said, by e-mail?

24 A. Yes.

25 153. Q. Right.



1 A. First by e-mail, then I insisted to
2 receive the original...

3 154. Q. Right.

4 A. ...and I received it after quite a
5 long time, maybe three weeks.

6 155. Q. Right. And you said...

7 A. And I had to insist many, many times
8 to get the original.

9 156. Q. And you received the original when?

10 A. Sometime in February, mid-February.

11 157. Q. February 13?

12 A. That is likely.

13 158. Q. But in the meantime, you sent the
14 photocopy, didn't you, or the electronic copy you
15 had received, you sent it to two experts for
16 examination?

17 A. Yes, I did.

18 159. Q. And what they had was an electronic
19 photocopy received by e-mail?

20 A. Yes.

21 160. Q. They did not have the original?

22 A. No.

23 161. Q. And to this day, they don't have the
24 original?

25 A. Who, the first two experts?



1 162. Q. The first two experts?

2 A. No.

3 163. Q. They have never received the
4 original of this letter?

5 A. No.

6 164. Q. And yet based on the original, the
7 photocopy of the letter, you accused...let me just
8 show you your letter of...you responded, then, after
9 you received the expert reports, in a letter, I
10 believe, dated around about February the 15th? Is
11 that right?

12 A. To Michelle Parkes? Which one is
13 that?

14 165. Q. I am showing you a copy of your
15 response.

16 A. That is the one.

17 166. MR. GRAY: Okay. So, if we can mark
18 that as Exhibit 4.

19
20 --- EXHIBIT NO. 4: E-mail dated February 15, 2010 from
21 Nagib Tajdin to Michelle Parkes
22

23 BY MR. GRAY:

24 167. Q. I understand it to be an e-mail
25 dated February 15, 2010, from you to Michelle



1 Parkes...

2 A. Yes.

3 168. Q. ...saying that the confirmation
4 letter...suggesting that she read the attached
5 letter and materials, and then there is a letter
6 starting "Chere Madame", undated?

7 A. Yes.

8 169. Q. And that was dated and sent around
9 February 15, with the e-mail?

10 A. Yes.

11 170. Q. And attached with that e-mail, you
12 sent some of the expert reports, did you?

13 A. Yes, I did.

14 171. Q. You sent the reports of the
15 Graziella Pettinati?

16 A. Graziella.

17 172. Q. Graziella?

18 A. Yes.

19 173. Q. Pettinati?

20 A. Pettinati, yes.

21 174. Q. And also the report of...

22 A. I am not sure if I sent both of them
23 or one of the expert report.

24 175. Q. Okay.

25 A. Because there was at least one



1 attached to it.

2 176. Q. The other one, Wendy Carlson?

3 A. Yes.

4 177. Q. You said one or both of those
5 reports?

6 A. Yes.

7 178. Q. So, at this point, you had received
8 simply a photocopy of the letter, the experts had
9 reviewed only a photocopy of the letter?

10 A. Yes.

11 179. Q. Based on that, you are accusing Ms.
12 Parkes of criminal behaviour, are you not?

13 A. Actually, it is not only because of
14 the expertise. The content of the report...you
15 know, for an Ismaili who will read this letter, it
16 is very evident that His Highness has not written
17 this letter, but the expertise was needed for people
18 who are not Ismaili, who cannot, from reading the
19 letter, know that this is not written by the Imam.

20 180. Q. I asked you a simple question.
21 Based on the...at this point, you received only a
22 photocopy of the letter...

23 A. Yes.

24 181. Q. ...and you are accusing Ms. Parkes
25 of criminal forgery? Sent her copies of the



1 criminal code.

2 A. Let's read the letter because it is
3 in French. Can you tell me where you say "criminal
4 forgery"?

5 182. Q. If you say:
6 "...I do not know if you are going to
7 review the Article 452 of the Penal Code,
8 French penal code..."

9 A. Yes.

10 183. Q. "...but if that is the case, I am
11 ready to explain it to you..."

12 So, you are suggesting to her that this is a
13 criminal matter, this forgery?

14 A. Yes, I have informed her that a
15 forgery is criminal, and this is the truth in French
16 law.

17 184. Q. Okay.

18 A. I don't know the law here, if it
19 says the same thing. I hope so.

20 185. Q. Right. And you are saying...did you
21 understand that Ms. Michelle Parkes is a 28-year
22 employee of the secretariat at Aiglemont?

23 A. She might be.

24 186. Q. Right.

25 A. It is irrelevant, as far as the



1 forgery is concerned.

2 187. Q. Okay. But will you agree with me
3 that...okay, let's deal with the next one. And you
4 circulated this allegation of forgery, did you not,
5 to other people?

6 A. I sent...yes, I sent to a couple of
7 people.

8 188. Q. Who did you send it to?

9 A. I will not give you names.

10 189. Q. Okay.

11 A. If you want reason, I will give you
12 reason why. Do you need a reason why...

13 190. Q. Sure. Why are you not giving me the
14 names of the people you sent it to?

15 A. In this file, whenever there is a
16 name which goes out, for example, Karim Alibhay, he
17 gets harassed the whole day and night, he gets phone
18 calls, threats, so I am not going to give any names.

19 191. Q. All right.

20 A. It would not be fair for the people,
21 right?

22 192. Q. Right. But in any event, you
23 circulated it to people who you knew were going to
24 circulate it to other people?

25 A. No.



1 193. Q. You circulated...

2 A. No, when I circulated, it was under
3 the understanding that this was to be contained.

4 194. Q. But...

5 A. Even when I received the letter
6 from...one of the original, from the president of
7 the Aga Khan council in Nairobi, I had a small
8 discussion with him, and he told me he didn't want
9 me to talk to anyone about it, and I said, "No, it
10 has to be contained, because people will lose faith
11 in the leadership if they know these things are
12 happening".

13 195. Q. So, then, you...

14 A. And it was not...

15 196. Q. How many people did you send the...

16 A. A couple of them.

17 197. Q. A couple of them? Two people, you
18 sent the notice...

19 A. Two or three.

20 198. Q. ...you told them...two or three?

21 A. Yes.

22 199. Q. At that point?

23 A. Yes.

24 200. Q. Subsequently, you said you told
25 other...



1 A. Well, after the lawsuit, it was
2 apparent that everything would come to the light,
3 so...

4 201. Q. Even before the lawsuit, you sent it
5 to other people, didn't you?

6 A. No.

7 202. Q. Even before the lawsuit, it was
8 widely known on the Ismaili Heritage website, wasn't
9 it?

10 A. Before the lawsuit, no, absolutely
11 not. There was nothing on that subject on
12 ismailli.net before the lawsuit.

13 203. Q. Can you produce for me, because it
14 seems to me that the historical records of the
15 ismailli.net website have been blocked. Can you
16 produce for me the records of the
17 ismailli.heritage.net website?

18 A. What do you mean by blocked?

19 204. Q. You cannot see the historical
20 material, what was there in the beginning of 2010.
21 So...

22 A. Whatever was there is still there.
23 Nothing has been removed.

24 205. Q. So, you are telling me I can say on
25 the ismaili.net website what was there in 2010?



1 A. You can see what was there in 1995.
2 It is still there. Do you want me to file the data
3 to which...

4 206. Q. I would like you to print out for
5 me, then, because we can't get it, what is on the
6 ismailli.net website, was there in February and
7 March...January, February and March of 2010.

8 A. I don't have that information.

9 207. Q. You don't have...

10 A. At the most, I can ask someone
11 to...the information is on the website. It is
12 there; it has not been removed.

13 208. Q. Then...

14 A. To find the date of a particular
15 file, I can ask the technician. Maybe they can find
16 the date the file was put on the net.

17 209. Q. Okay. Well...

18 A. If you give me which file, give me
19 the URL, I will tell you that I have searched for
20 it. If I find the date, I will tell you, this is
21 the date it was put on the net.

22 210. Q. Okay. We will get back to that,
23 then. Now, have you ever accused the leadership
24 before of forging?

25 A. Of forging? Never.



1 211. Q. Have you accused them of
2 misrepresenting His Highness' intentions?

3 A. Misrepresenting happens all the
4 time, with everybody. It is not only leadership. I
5 have also told for other purpose, in business, in
6 other things that I misrepresentation...

7 212. Q. You meaning...

8 A. ...it is not something which is
9 directed, accusing someone. I think it is a word
10 which is very hard.

11 213. Q. You have accused the leadership of
12 misrepresenting His Highness' instructions before,
13 haven't you?

14 A. Sometimes, it has, and in fact, His
15 Highness has confirmed in London recently that
16 sometimes it tells his leader, and they don't tell
17 his followers. So, the message is not always
18 passed.

19 214. Q. What are you referring to?

20 A. I am referring to a Farmans met by
21 His Highness in London during Golden Jubilee.

22 215. Q. And what does that Farmans say?

23 A. It says, the leader asked me, I tell
24 them but I don't know if they tell you, or something
25 like that. It is not an exact quote.



1 216. Q. Right. Now, in response to your
2 allegations of forgery, you received the second
3 letter, didn't you?

4 A. I received the second letter on the
5 18th...

6 217. Q. February 18?

7 A. February...

8 218. Q. 2010?

9 A. Yes.

10 219. MR. GRAY: I am producing that letter to
11 you. Mark that as Exhibit 5.

12 THE DEPONENT: Yes.

13
14 --- EXHIBIT NO. 5: Letter dated February 18, 2010 from
15 Aga Khan to Nagib Tajdin

16
17 BY MR. GRAY:

18 220. Q. Now, how did you receive this
19 letter?

20 A. I received it by e-mail, and while
21 the other letter was sent by Michelle Parkes with
22 follow-up e-mails, this one came from some other
23 secretary. I am not sure if it was Moreaux or
24 something; we can find out.

25 221. Q. It was Moreaux. And you agree with



1 me it is Anne-Valerie Moreaux.

2 A. Yes.

3 222. Q. So, a different secretary in the...

4 A. Yes.

5 223. Q. ...Aiglemont sent you this one?

6 A. Yes. Isn't that interesting?

7 224. Q. Isn't that interesting? She must be
8 in the conspiracy, too, right?

9 A. No.

10 225. Q. Along with Michelle Parkes.

11 A. No, I think Michelle Parkes did not
12 want to go and send another forged letter, and she
13 probably refused.

14 226. Q. I see. So, therefore, they got
15 another person to send a forged letter?

16 A. Yes.

17 227. Q. Who also participated...and that
18 person, you presume, was ignorant of the earlier
19 controversy?

20 A. I have seen how secretariat work.
21 You give a letter, and you say, "Please fax to this
22 person, e-mail to this person". Isn't that how it
23 works?

24 228. Q. Well, the letter was purportedly
25 signed by the Aga Khan, wasn't it?



1 A. Yes, purportedly signed by the Aga
2 Khan.

3 229. Q. So, now we have another person
4 participating in the cover-up?

5 A. It is not for me to judge how much a
6 person will or will not.

7 230. Q. So, you received this letter by
8 e-mail, you said?

9 A. Yes.

10 231. Q. Right. Can you produce the original
11 of this letter?

12 A. The original e-mail?

13 232. Q. The original letter of...did you
14 receive an original of the February 18 letter?

15 A. I received that, yes. I was asked
16 where to send, and I send, "Send it through the
17 president of the Council in Kenya". So, I have
18 received the original through the...

19 233. Q. So, you did receive the original of
20 Exhibit...

21 A. Yes.

22 234. Q. ...5?

23 A. Yes.

24 235. Q. Can you produce that letter?

25 A. It is the same answer as for the



1 other letter.

2 236. Q. So, a matter of this importance,
3 when you are asserting forgery, you are not going to
4 produce for me to review, or for my expert to
5 review, the original of either this letter, Exhibit
6 S, or the original of Exhibit 3?

7 A. No. I will not, because your client
8 is...if it is the Aga Khan, he can tell me, "I have
9 signed it and the matter is closed". We do
10 not need expertise. /R

11 237. Q. Well, you might...

12 A. You don't need a counter-expert. I
13 am really surprised. Why do you need to see the
14 original of the forged letter? You ask the Aga
15 Khan. He is your client.

16 238. Q. I have asked the Aga Khan.

17 A. So, let him tell me that the letter
18 is not forged, and I will accept it.

19 239. Q. He has told you in writing, the
20 letter is not forged.

21 A. Well, this...

22 240. Q. And you don't accept that. You
23 might expect that he might be a little annoyed that
24 you have accused all of his various...

25 A. Mr. Brian, by saying that this



1 letter is forged, I am protecting the Aga Khan.
2 Come on, he cannot be angry at me. He should be
3 happy at me that at least, I am trying to protect
4 his interests. In this whole file, I am the only
5 one trying to protect his interests. Come on.

6 241. Q. You think that by questioning the
7 whole of the administration of the Aga Khan, you are
8 protecting his interests.

9 A. I am not...

10 242. Q. By suggesting that he cannot send a
11 letter to instruct his Murid...you are a Murid, are
12 you not? A follower?

13 A. Mr. Gray, your question, are you
14 saying Murid, is this the word you are trying to
15 say?

16 243. Q. I am trying to say Murid, yes.

17 A. Yes.

18 244. Q. Sorry, I mispronounced it.

19 A. No, it is okay. Those are foreign
20 words, and I am sure we will have to make a list
21 for...

22 245. Q. Yes, I was hoping the reporter
23 may...but you are not a follower of the Aga Khan?

24 A. I am a follower.

25 246. Q. Right.



1 A. I am an unconditional follower of
2 the Aga Khan.

3 247. Q. You have clearly stated that.

4 A. Yes.

5 248. Q. Right. So, is it not the case that
6 he can...the Aga Khan, His Highness, can give you
7 instructions in writing? You accept that he has to
8 be able to give instructions in writing, doesn't he
9 not?

10 A. I would accept his writing if they
11 are not forged.

12 249. Q. Right. Okay. But there are 15
13 million Ismailis?

14 A. Yes.

15 250. Q. He cannot possibly meet all of them,
16 can he?

17 A. There is only one lawsuit against a
18 Murid of the Imam in 1400 years. Surely, he can
19 meet five minutes that person and say, "I have
20 signed", but he is not doing it because he has not
21 signed those letters.

22 251. Q. But he cannot meet all 15 million
23 Ismailis. He has to operate by sending things by
24 writing?

25 A. Yes.



252. Q. Do you agree with that?

A. This kind of...

253. Q. He generally has to operate by sending information in writing?

A. Yes. And this problem has never occurred before. It is once in a lifetime, once in 1400 years.

254. Q. Okay. Did you submit this second letter, Exhibit 5, for examination for forgery?

A. Yes, I did.

255. Q. And when did you do that?

A. That was more recently. That was more recently. In fact, in June, I came here when the Aga Khan was here. Was that beginning of June? End of May, beginning of June.

256. Q. Right. So, between January 24, when you received the letter, or let's say the beginning of February, when you were accusing the someone of forgery, right? You say Shafik or...

A. Yes.

257. Q. ...if it is a forgery, Shafik Sachedina, you are accusing Shafik Sachedina of forgery. You are accusing me of not representing the real Aga Khan. During this period of time until June, you had not had anyone examine the letter of



1 February 18?

2 A. Did I accuse Sachedina of forging
3 the signature?

4 258. Q. Who are you accusing of forging the
5 signature?

6 A. I have not accused anyone. I have
7 said, he has sent me a forged signature.

8 259. Q. I see. Who did it, then?

9 A. It is not to me to find out. This
10 is now a police matter. Let them find out when the
11 time is there.

12 260. Q. You said you had the letter of
13 February 18th, 2010 examined for forgery; is that
14 right?

15 A. Yes.

16 261. Q. And when was that?

17 A. That was the end of May or beginning
18 of June this year.

19 262. Q. Okay. I am showing you a report,
20 dated July 13, 2010?

21 A. Yes.

22 263. MR. GRAY: Mark that as the next
23 exhibit, 6. Exhibit 6 is report under
24 cover of a letter, July 13, 2010.

25 THE DEPONENT: July 13.



1 --- EXHIBIT NO. 6: Report of G.R. Ospreay, under cover
2 letter dated July 13, 2010
3

4 BY MR. GRAY:

5 264. Q. It is a report of G.R. Ospreay. So,
6 is that the report you are referring to?

7 A. Yes.

8 265. Q. So, this is the first and only
9 report you have made of the letter of February 18?

10 A. Yes.

11 266. Q. You asked any other reports about
12 this letter?

13 A. No, I didn't need, because I knew
14 the first one was forged, so any letter saying that
15 the first one is not forged is questionable.

16 267. Q. I see. So, because the first one
17 was forged, everything else you received from the
18 Aga Khan's office must be forged?

19 A. No. Everything that says that the
20 first one has been written by the Aga Khan is
21 forged.

22 268. Q. I see. Okay. And did you tell this
23 Mr. Ospreay the age of the Aga Khan?

24 A. No, I did not.

25 269. Q. Can you produce for me your



1 instructions to Mr. Ospreay?

2 A. It was a verbal instruction.

3 270. Q. You didn't ask him in writing?

4 A. No.

5 271. Q. Did you tell him...you follow what
6 the Aga Khan...his life, don't you?

7 A. I follow it very closely.

8 272. Q. Very closely. And are you aware of
9 the fact that he had a skiing accident in 2008?

10 A. Yes, he has had several of those.

11 273. Q. He had several accidents in 2008?

12 A. Yes.

13 274. Q. And they were in 2008, weren't they?

14 A. Yes. In fact, I met, in 2008, or
15 2009, Dr. Sachedina in Ivory Coast, and he told me
16 that we have fixed completely properly the shoulder
17 of His Highness, and he is like before.

18 275. Q. Right. So, you were aware that the
19 skiing accident hurt his shoulder?

20 A. Yes, I was aware.

21 276. Q. And which shoulder was that?

22 A. Probably the right shoulder.

23 277. Q. Right, and are you also aware that
24 the Aga Khan, His Highness, is right-handed?

25 A. Yes, I am aware.



1 278. Q. Okay. Did you tell Mr. Ospreay that
2 His Highness had had a skiing accident in 2008?

3 A. No, I did not, because he was
4 already back to normal, and that was confirmed to me
5 by Dr. Sachedina in Abidjan during the Golden
6 Jubilee for His Highness.

7 279. Q. Did you tell any of the other
8 experts that you retained about the Aga Khan's age?

9 A. No.

10 280. Q. Did you tell any of the other
11 experts about the skiing accident in 2008?

12 A. No.

13 281. Q. Now, you wrote to Prince Aryn?

14 A. Yes.

15 282. Q. On March 17, 2010, did you not?

16 A. Yes.

17 283. Q. I am showing you another letter.

18 A. Yes.

19 284. Q. Can you identify that?

20 A. Yes.

21 285. MR. GRAY: Let's mark that as the next
22 exhibit...

23 THE DEPONENT: Yes.

24 286. MR. GRAY: Exhibit 7.



1 --- EXHIBIT NO. 7: Letter from Nagib Tajdin to Prince
2 Amyn dated March 17, 2010 and e-mail
3 dated April 2, 2010 from Genevieve
4 Charnet to Nagib Tajdin

5 BY MR. GRAY:

6 287. Q. So, Exhibit 7, then, is a letter
7 dated March 17, 2010, that you sent to Prince Amyn?

8 A. Yes.

9 288. Q. And how did you send this letter?

10 A. I sent it by courier, thinking that
11 his secretariat was separate from the secretariat of
12 the Aga Khan.

13 289. Q. Right. And so you sent it by
14 courier to where?

15 A. To Aiglemont.

16 290. Q. To Aiglemont? Okay. And you
17 received a response, did you not?

18 A. I received an unsigned e-mail from
19 some other people's e-mails. Not from Prince Amyn.

20 291. Q. Right.

21 A. And this is what is attached here.

22 292. Q. The response is attached to Exhibit
23 7?

24 A. Yes.

25 293. Q. I guess we should make sure that



1 Exhibit 7 is identified as a letter dated March 17,
2 2010, by Mr. Tajdin to Prince Aryn, and an e-mail
3 response dated April 2nd, 2010, from Genevieve
4 Charnet to Nagib Tajdin. And you received that
5 e-mail; did you not?

6 A. I received that e-mail, right.

7 294. Q. And that apparently came from
8 Genevieve Charnet of the secretariat of Prince Aryn
9 Aga Khan?

10 A. Apparently, yes.

11 295. Q. And she must be involved, too, in
12 the conspiracy?

13 A. I would not call that Genevieve
14 Charnet is involved. You know a secretary may be
15 transmitting a message from the boss, and if the
16 boss is doing something, the secretary might not
17 know it.

18 296. Q. So, Prince Aryn told the secretary
19 to write a letter, but she didn't get the
20 instructions from Prince Aryn?

21 A. No.

22 297. Q. You are saying she didn't get it
23 from Prince Aryn?

24 A. No, she didn't.

25 298. Q. She must have gotten it from someone



1 else?

2 A. She didn't, because Prince Aryn did
3 not have my e-mail address. That is the first
4 thing. The second, the letter was written in
5 French. The reply is in English.

6 299. Q. But he could have gotten the e-mail
7 address from someone else, couldn't he?

8 A. Yes. I mean, if you search the
9 Internet, you will find my e-mail address. I doubt
10 he did that.

11 300. Q. But you think that the secretary to
12 Prince Aryn wrote a letter purporting to be from
13 Prince Aryn, without instructions from Prince Aryn?

14 A. You can see it is a copy-paste. Do
15 you want me to take you through this letter and...

16 301. Q. Do you have the original of the
17 letter?

18 A. This is an e-mail.

19 302. Q. Right. Is there anything different
20 in the copy you received from this copy?

21 A. There is nothing different, and this
22 is what is interesting.

23 303. Q. That is fine, then I am happy with
24 what you have produced, if there is nothing
25 different. Is it right to say that if this letter



1 is correct, it also confirms the earlier
2 instructions of January 24 and February 18?

3 A. This letter is not correct,
4 because...

5 304. Q. If the letter...

6 A. ...it is not a reply to my letter.
7 You have put my letter here.

8 305. Q. I have asked...

9 A. And in that letter, I am not asking
10 the reply in writing, or by e-mail. I am asking a
11 meeting from him when he comes to Nairobi.

12 306. Q. Right, but nevertheless, if the
13 letter is correct, it confirms the earlier
14 instructions of January 24 and February 18 to stop
15 the publication. It confirms that His Highness does
16 not consent to the publication, does it not? If the
17 letter is correct?

18 A. You know, in French, we say, "Avec
19 des si on mettrait Paris en bouteille". With "if"
20 you can do a lot of things, yes. If it is correct.

21 307. Q. Right, because it says from Prince
22 Amyn that:

23 "...His Highness has confirmed to me,
24 without equivocation, that he wrote these
25 letters to you himself, signed them



1 personally, and asked Mrs. Parkes to send
2 you a scanned copy by e-mail, and the
3 original by courier service..."

4 A. Yes, there is no signature of Prince
5 Aryn.

6 308. Q. Furthermore, he confirms...sorry?

7 A. There is no signature of Prince
8 Aryn. It is not coming from his e-mail address. It
9 is not written the way I wrote my name.

10 309. Q. Whose e-mail address...it came from
11 the secretariat's e-mail address, did it not?

12 A. Yes, it comes...

13 310. Q. Right.

14 A. ...everything comes from the
15 secretariat...

16 311. Q. Right.

17 A. ...and the boss of the secretariat
18 is the same guy.

19 312. Q. And that is normal for the
20 secretariat to send things like that? You don't
21 see...

22 A. The secretariat sends things, yes.

23 313. Q. The President of the United States
24 does not normally send e-mails to people, does he?
25 He has his assistants do it?



1 A. Well, I would object to that
2 question. I don't know how the president works.

3 314. Q. Okay, fine. Fair enough. But now
4 we have another person participating in sending
5 letters to you, saying that the matter should be
6 stopped. It was Genevieve Charnet?

7 A. It all comes from the secretariat,
8 the same source.

9 315. Q. And then in January, there was an
10 announcement to the Jamat. I am showing you a copy
11 of an announcement, and we will mark this as...first
12 of all, do you recognize that?

13 A. Yes, I have read this announcement.

14 316. Q. This is an exhibit to your
15 affidavit?

16 A. Yes.

17 317. Q. You have blocked off, or somebody
18 has blocked off the...

19 A. Actually, no, it was a highlighter,
20 but instead of yellow, someone used a blue one, and
21 when the photocopy was done, it looked like it is
22 blocked, but it is not...you can find the
23 information.

24 318. Q. Do you remember what it said there?

25 A. The date, it was just the date...



1 319. Q. I think it just said the date.

2 A. Yes, and it was read on that date.

3 320. Q. I think we can assume that what is
4 missing there is the date, and as I understand it,
5 it is January 16, 2010?

6 A. Yes.

7 321. MR. GRAY: Okay. So, can we mark this,
8 then, as the next exhibit, 8? And this
9 Exhibit 8 is an announcement by the Ismaili
10 Leaders' International Forum to the Council
11 for Canada that was dated January 16, 2010.

12 THE DEPONENT: Yes.

13
14 --- EXHIBIT NO. 8: Announcement by the Ismaili Leaders'
15 International Forum, the Council for
16 Canada and the Tarioah and Religious
17 Education Board for Canada to be
18 read in all Jamatkhannas

19
20 BY MR. GRAY:

21 322. Q. Do you recognize that?

22 A. Yes.

23 323. Q. And was that announcement actually
24 read out?

25 A. It was read out in Nairobi, where I



1 was.

2 324. Q. Right. And it was read out...is it
3 your understanding that it was read out in Nairobi,
4 Kenya and Canada?

5 A. It was. I believe it was read out
6 in all the countries, but I cannot know that.

7 325. Q. Right. So, who are the Ismaili
8 Leaders' International Forum?

9 A. That is a body of mostly president
10 of council of various countries, the Aga Khan
11 council in various countries.

12 326. Q. Right. And how many of them are
13 there?

14 A. I wouldn't know. Probably two
15 dozen.

16 327. Q. Two dozen. So, 24?

17 A. I wouldn't really know the exact
18 number.

19 328. Q. But it is something, as far as you
20 know, around 24?

21 A. That is probably it, two dozen.

22 329. Q. So, would you agree with me that the
23 Ismaili Leaders' International Forum believes that
24 the publication of the Farmans by you is not
25 authorized?



1 A. I don't believe there was a meeting
2 of the Leaders' International Forum to ask the
3 opinion of all these leaders sitting there.

4 330. Q. I didn't ask you that. I asked you
5 if it is your belief that the International Leaders'
6 Forum had understood that this matter, that these
7 publications were unauthorized?

8 A. You will have to ask them.

9 331. Q. They published an announcement in
10 all the Jamatkhannas...now, can I call them...what
11 should I call them that would be helpful for the
12 reporter? Shall I call them Jamatkhannas?

13 A. Yes.

14 332. Q. So, the announcement was made to all
15 of the Jamatkhannas, right? These are the
16 essentially meeting halls, prayer halls where the
17 Ismailis assemble?

18 A. Yes.

19 333. Q. And this announcement was made on
20 behalf of all of the Ismaili Leaders' International
21 Forum?

22 A. It says for Ismaili Leaders'
23 International Forum, Council for Canada and Tarioah
24 and Religious Education Board for Canada.

25 334. Q. Right.



1 A. That is an awful lot of people.

2 335. Q. Right, there is an awful lot of
3 people there, and on behalf of the national
4 institutions; do you see that in the second
5 paragraph?

6 A. Yes.

7 336. Q. Right?

8 A. In fact, our constitution has
9 separated all these institutions, so it is always
10 surprising to see something like that, that this is
11 an announcement by more than one institution.

12 337. Q. So, the whole of all of the
13 institutions?

14 A. You know it cannot happen...

15 338. Q. They all ganged up against you?

16 A. So many people...obviously, they
17 have not been consulted.

18 339. Q. They have ganged up against you, all
19 of them?

20 A. No, this is an announcement which
21 has been sent probably by Dr. Sachedina, "Please
22 read that, in Jamatkhannas". As simple as that.

23 340. Q. He has the authority, on his own, to
24 send an announcement to all the Jamatkhannas, to the
25 whole world, on his own?



1 A. If Dr. Sachedina sends an
2 announcement, nobody will question him.

3 341. Q. He has the complete authority to
4 send an announcement to the whole of the
5 Jamatkhannas in the whole world on his own. Is that
6 your evidence?

7 A. He has portrayed to the institution
8 that he is the boss.

9 342. Q. I didn't ask you that. I said, does
10 he have the authority, on his own, to send to all of
11 the Jamatkhannas in the world an announcement, on
12 his own, without consulting anyone else?

13 A. He doesn't, but he does.

14 343. Q. He does not have that authority?

15 A. But he does do it, and people follow
16 him. It is not...I am not the only one to fear him.
17 Everybody fear him. He is quite a strong person who
18 has a lot of influence.

19 344. Q. And who appoints the...Shafik
20 Sachedina?

21 A. The Aga Khan appoints him.

22 345. Q. Can the Aga Khan fire him at will?

23 A. I believe he will.

24 346. Q. Yes. The Aga Khan can fire him...he
25 serves, if I can use the expression, at the pleasure



1 of the Aga Khan, His Highness, does he not?

2 A. Like all the Ismailis.

3 347. Q. Like all the Ismailis, they serve at
4 the pleasure of His Highness?

5 A. M'hmm.

6 348. Q. His Highness appoints them. His
7 Highness can remove them whenever he wants?

8 A. True.

9 349. Q. Every one of the institutional
10 leaders...

11 A. True.

12 350. Q. ...the presidents of the national
13 councils...

14 A. True.

15 351. Q. ...Shafik Sachedina...

16 A. Yes.

17 352. Q. ...they serve at the pleasure of His
18 Highness?

19 A. Yes.

20 353. Q. Now, just for clarification, and for
21 the record, in Exhibit 8, the first paragraph says:

22 "...You may be aware that a volume under
23 the name of 'Kalam-e Imam-e Zamam',
24 purporting to contain the texts of the
25 Farmans and Talikas..."



1 A. This is which exhibit?

2 354. Q. Sorry, the Exhibit 8, the
3 announcement?

4 A. Okay.

5 355. Q. We are still on the announcement
6 of...

7 A. Okay.

8 356. Q. ...January 16th.

9 A. Which paragraph?

10 357. Q. The first paragraph.

11 A. Okay.

12 358. Q. I will read it again:

13 "...Jamat may be aware that a volume under
14 the name of 'Kalam-e Imam-e Zamam',
15 purporting to contain the texts of the
16 Farmans and Talikas of our beloved Mawlana
17 Hazar Imam, is presently being advertised
18 for sale by way of the Internet and other
19 media..."

20 Now, is there any doubt that that is referring to
21 your book?

22 A. It is referring to the "Kalam-e
23 Imam-e Zamam", the...

24 359. Q. Right, the so-called Golden Edition?

25 A. Yes.



1 360. Q. The Golden Edition is the same
2 thing?

3 A. Yes.

4 361. Q. The book that you have published?

5 A. That is the Golden Edition.

6 362. Q. Right, okay. Now, I understand that
7 following this, a second announcement was made to
8 the Jamatkhannas. I am showing you a copy of what I
9 understand to be that announcement, dated April
10 15...

11 A. Exhibit 9?

12 363. MR. GRAY: It would be Exhibit 9.

13
14 --- EXHIBIT NO. 9: Second announcement of the Ismaili
15 Leaders' International Forum, dated
16 April 15, 2010

17
18 BY MR. GRAY:

19 364. Q. Can you identify that as an
20 announcement made by the Ismaili Leaders'
21 International Forum to the Jamatkhannas?

22 A. Yes.

23 365. Q. And so this was on or about April
24 15, 2010, read to all of the prayer halls at
25 Jamatkhannas?



1 A. Yes, around that date. I think it
2 was read the previous day in Canada, the next day in
3 Nairobi.

4 366. Q. So, again, the whole
5 international...the Leaders' International Forum,
6 that is what the LIF is, right? The Leaders'
7 International Forum?

8 A. Yes.

9 367. Q. Those are the leaders of the
10 Ismaili...can I call it religion, Ismaili religion?

11 A. Yes.

12 368. Q. Ismaili religion. They are the
13 leaders of the Ismaili religion, and the National
14 Council. All of them have issued this announcement,
15 in the Jamatkhannas worldwide?

16 A. I would say it is not all of them.
17 When a corporation gets an announcement out, it is
18 not everybody who is involved. Maybe one person has
19 drawn this, and sends it to be read.

20 369. Q. Okay, one person...

21 A. How can I know?

22 370. Q. But circulated it around to the
23 institutions, to go...

24 A. Yes.

25 371. Q. ...through the procedure, right?



1 A. Yes, circulated all over the place.

2 372. Q. Before it was read, it would have
3 been circulated around to the institutional leaders
4 to review.

5 A. I am not sure. How can I know? I
6 am not part of them, so I don't know what is the
7 procedure there.

8 373. Q. Is it conceivable to you that His
9 Highness would not have been aware of the reading of
10 this announcement?

11 A. Yes, it is conceivable. There are
12 announcements every Friday, every important days...

13 374. Q. Does the announcement...

14 A. ...there are so many of them.

15 375. Q. Does the announcement not refer to
16 the letter? Let me just read to you...look down on
17 page 1 of Exhibit 9, do you see a quotation there at
18 the bottom?

19 A. Yes.

20 376. Q. Is that not a quotation from the
21 letter of January 24?

22 A. Yes, there are quotations from these
23 forged letters.

24 377. Q. Right. So, there is a quotation
25 there from the so-called forged letter, the letter



1 of January 24th?

2 A. Yes.

3 378. Q. And further down, there is another
4 quote from the letter of February 18?

5 A. Yes.

6 379. Q. Right. And there is a statement
7 further down that the Imam added the words in his
8 own hand at the end of the quotation?

9 A. Yes, which I questioned.

10 380. Q. Right. I understand you questioned
11 it. But the fact is the communication is being sent
12 to the whole Ismaili Jamatkhannas, quoting from
13 those letters, and suggesting that those letters are
14 authentic; is that correct?

15 A. It is correct.

16 381. Q. So, someone has manipulated the
17 whole Ismaili institution to circulate erroneous
18 letters?

19 A. You can see how much damage this
20 letter can do to me, and that was the purpose, and
21 the purpose was fulfilled.

22 382. Q. And that was done by the authority
23 of one person?

24 A. It can be done by the authority...

25 383. Q. One person, right?



1 A. Yes, because the organization is
2 like a pyramid.

3 384. Q. And you expect us to believe that
4 the Aga Khan, His Highness, did not know about these
5 announcements?

6 A. The Aga Khan did not authorize these
7 announcements.

8 385. Q. I didn't ask you that. Does the Aga
9 Khan know about these announcements?

10 A. He may have known sometime down the
11 line. I don't know. How can I know? This is a
12 hypothetical question. How can I know...

13 386. Q. But he may have known about these
14 announcements. You will accept that?

15 A. He may have. He may not have. How
16 can I know? We have to ask him. He is the only one
17 who can say.

18 387. Q. Now, you will agree with me again
19 that if this announcement, Exhibit 9, is genuine,
20 that it also reiterates, again, that you do not have
21 the consent of His Highness to publish the books
22 that you are publishing?

23 A. An announcement cannot bind me.

24 388. Q. Okay.

25 A. A letter, yes. If the letters are



1 authentic, they can...but announcements there are
2 all the time.

3 389. Q. The announcement confirms the
4 letters that also indicate that His Highness has
5 withdrawn his consent?

6 A. It depends how you read the
7 announcement.

8 390. Q. The announcement is quoting from the
9 letters?

10 A. This is what I am saying. If the
11 letters are authentic, then the letters are binding
12 to me.

13 391. Q. Right.

14 A. But not an announcement.

15 392. Q. They just confirmed these letters.
16 That is my submission. I am showing you an
17 affirmation, sworn April 12th, 2010 (sic). Do you
18 recognize that?

19 A. Yes.

20 393. MR. GRAY: Mark this as the next
21 exhibit, 10, sworn May 12, 2010, whenever I
22 say that...so, Exhibit 10 is an affirmation
23 sworn, at least on its face sworn by His
24 Highness Aga Khan on April 12th, 2010
25 (sic).



1 --- EXHIBIT NO. 10: Affirmation sworn by His Highness

2 Aga Khan dated May 12, 2010

3
4 BY MR. GRAY:

5 394. Q. You will agree with me about that?

6 A. This is what it looks like.

7 395. Q. Yes. And this is something that you
8 received from me?

9 A. Yes, I received an e-mail from you
10 with this particular...

11 396. Q. Now, will you agree with me that if
12 this is an accurate affirmation, it clearly
13 expresses the wish of His Highness that your
14 publication cease?

15 A. If the Aga Khan tells me he has
16 signed this paper, I will cease the publication.

17 397. Q. But if it is accurate, whether or
18 not he tells you he signed it, if it is accurate,
19 then that ends the matter, right? He has indicated
20 clearly here that he hasn't consented?

21 A. If he tells me face to face, yes, I
22 will accept.

23 398. Q. But you agree with me already that
24 if he gives you a clear indication in writing, which
25 you understand or believe to be from the Aga Khan,



1 you will stop doing it?

2 A. At this point, anything in writing
3 will be questioned.

4 399. Q. You will question anything in
5 writing?

6 A. Yes, because there are so many
7 forgeries in this file that I will not accept a
8 letter.

9 400. Q. You won't accept a single thing that
10 comes from the Aga Khan in writing?

11 A. Not in contradiction to what the
12 instruction he has given.

13 401. Q. So, no matter what it says in
14 writing, you won't accept it? No matter how many
15 times he writes to you? No matter how many
16 people...

17 A. If the Aga Khan writes to me, it has
18 to be proven that he is the one, because up to now,
19 in this file, there is not even one that I can see
20 which is in the Aga Khan's style, his real
21 signature. The content is always questionable, and
22 I understand, you are not familiar with the Aga
23 Khan's way, but I have been studying it for 30
24 years. The Ismaili knows, this kind of letter are
25 never written by the Aga Khan.



1 402. Q. If I got 50 people who swore that
2 they saw the Aga Khan sign the thing telling you to
3 stop, you wouldn't accept that?

4 A. If the Aga Khan tells me, yes, I
5 will stop.

6 403. Q. No, I am telling you, if you got in
7 writing, from 50 different people, that they had
8 seen the Aga Khan sign a document saying that he did
9 not consent, you wouldn't accept that?

10 A. Mr. Gray, you can bring me a million
11 people. Because the Aga Khan has given the
12 instruction to me, he is the only one who can tell
13 me these instructions are no longer valid. No other
14 people can tell me that.

15 404. Q. No person, but...yes, I understand
16 that, but what I am suggesting to you is, if the Aga
17 Khan tells you in writing not to do it, you won't
18 accept it, even if a million people confirm that
19 that is the Aga Khan's writing?

20 A. Even if ten million people, because
21 that is not the point. It is beside the point.

22 405. Q. And yet you have not...do you see
23 the...you understand that this was sworn in front of
24 a notary in Massachusetts, Jennifer Colman?

25 A. I don't know. I don't think so.



1 406. Q. You don't think so? You see the
2 affidavit of Jennifer Colman filed in these
3 proceedings?

4 A. Yes.

5 407. Q. And you are not cross-examining her.
6 You are not asking to cross-examine her?

7 A. No, because this letter, the content
8 cannot be from the Aga Khan.

9 408. Q. So, you refuse to believe that it is
10 from the Aga Khan, even if a notary public has
11 appeared?

12 A. Even if there was no expert, to me,
13 it is so evident that this is not from the Aga Khan.

14 409. Q. So, you haven't asked him. And what
15 about Mr. Gleason? Are you aware of Mr. Gleason?

16 A. I am aware of him.

17 410. Q. Did you look him up on the Internet?

18 A. I didn't, because I did not need to.

19 411. Q. You didn't look him up? You are not
20 aware of his credentials?

21 A. I am sure he is a very credible
22 person, and he could have sworn the Aga Khan instead
23 of some notary.

24 412. Q. Okay. So, he is a credible person,
25 and he could have...but he was there, wasn't he? He



1 says he was there in his affidavit.

2 A. He says he was there, but today, you
3 know, with the identity theft, so many things can
4 happen.

5 413. Q. Right, but you are not choosing to
6 cross-examine him to find out whether he...

7 A. There is no need. What is important
8 is the signature is not from the Aga Khan. Why
9 would I ever bother wasting my time?

10 414. Q. Well...

11 A. And the content is not from the Aga
12 Khan. He doesn't write like that. Come on.

13 415. Q. So, you don't want to examine Mr.
14 Gleason to see if there was somebody who looked like
15 the Aga Khan appeared? You don't want to ask him...

16 A. There is no need for that. I was
17 not there.

18 416. Q. You are not going to show him a
19 picture of the Aga Khan, and say, "Was the Aga Khan
20 there? Is this the person you saw?"

21 A. I would not do that, because this
22 would be meaningless. If the Aga Khan has made this
23 lawsuit, let him come and say for one minute,
24 "Nagib, stop", and I will stop. There is no need
25 for this Gleason and notary, letters, and he would



1 not even need someone to forge his signature if he
2 was behind this.

3 417. Q. What if the Aga Khan doesn't want to
4 see you, because you have asserted forgery? Has
5 that ever occurred to you that he might not want to
6 see someone who is asserting forgery against all of
7 his employees, and against his secretariat, and
8 against the secretariat of Prince Ayn? Has that
9 not occurred to you that he might not want to see
10 you for that reason?

11 A. Mr. Gray, I think he would be very
12 happy to see me, because I am trying to protect his
13 interests, not mine. And there is no accusation
14 against the Aga Khan. I have never insulted him.

15 418. Q. And what about the precedent of
16 giving an interview or an audience with somebody who
17 is asserting criminal activities on behalf of his
18 own staff? What about that precedent? Do you think
19 that is a good precedent for him?

20 A. Well, I would not comment to you.
21 You know, in North America, there are enough cases
22 of corporation where people on the top have been
23 betraying the shareholders, so let's not go into
24 this, please.

25 419. Q. So, it is a privilege to have an



1 audience with the Aga Khan, isn't it?

2 A. It is a privilege for anyone, but
3 this is not the purpose. I am not looking for an
4 audience for an audience. I have written, in the
5 beginning of January, I need an audience to get
6 instruction.

7 420. Q. Have you ever had an audience with
8 the Aga Khan?

9 A. No. Yes. I have gone to Mehmani.

10 421. Q. You went to Mehmani?

11 A. Yes, it was a long time ago.

12 422. Q. When was that?

13 A. 1978.

14 423. Q. And at that Mehmani in 1978, did you
15 present the fruit and nuts to him?

16 A. I think there were more than fruit
17 and nuts. There was a rosary, and there were a few
18 other things.

19 424. Q. Right, right, okay. So, you had a
20 Mehmani?

21 A. I had a Mehmani.

22 425. Q. How long did that Mehmani last in
23 1978?

24 A. A few seconds.

25 426. Q. A few seconds, okay. So, other than



1 that, you haven't had any audience with His
2 Highness?

3 A. I have never tried to...

4 427. Q. No.

5 A. ...up to January 4th.

6 428. Q. Yes, now you have been trying since
7 January 4 to have an audience with him?

8 A. Yes.

9 429. Q. Yes. So, you didn't check out Mr.
10 Gleason's credentials? You said he was credible?

11 A. I don't know. I have not checked
12 it. I told you I have not checked it.

13 430. Q. And you don't think it is worthwhile
14 to ask him whether the person he met looked like the
15 Aga Khan, to show him a picture of the Aga Khan, to
16 understand the circumstances...

17 A. What purpose can it serve when do I
18 know that this content and the signature is not from
19 the Aga Khan?

20 431. Q. Yes, I guess that is true. If 10
21 million people won't convince you, then...

22 A. Let's not...

23 432. Q. ...what is one mere lawyer
24 convincing you?

25 A. I object to this question.

/R



1 433. Q. So, finally, you were...perhaps not
2 quite in chronological order, you were sued or
3 purportedly sued by His Highness?

4 A. Yes.

5 434. Q. The Aga Khan, is that right?

6 A. Yes, I like your smile, yes.

7 435. Q. Yes. I am showing you a copy of the
8 Statement of Claim. We don't need to mark that as
9 an exhibit. You were sued by a Statement of Claim
10 in the Federal Court T-514-10, dated April 6, 2010?

11 A. Yes.

12 436. Q. And that Statement of Claim purports
13 to be from His Highness?

14 A. Yes, it does.

15 437. Q. And if it is not from His Highness,
16 I have essentially committed a fraud on the court,
17 haven't I?

18 A. I don't know. I am not a lawyer; I
19 am sorry.

20 438. Q. I have produced evidence to you,
21 that you don't believe that I represent His
22 Highness, Aga Khan. If, in fact, I am not
23 representing His Highness, I am committing a fraud
24 on the court, aren't I?

25 A. I am not going to reply to this.



1 439. Q. But you agree with me that if,
2 indeed, the Statement of Claim does come from His
3 Highness, that it also says you are not authorized
4 to publish the materials that you have published?

5 A. If the Statement of Claim comes from
6 the Aga Khan, as you say, it is so degrading to the
7 Aga Khan that these...it doesn't really take hold in
8 my brain.

9 440. Q. Well...

10 A. This is completely against the tenet
11 of faith of Ismailism. It is completely against
12 the...anyway, I don't want to...

13 441. Q. But you were saying that it is
14 degrading to the Aga Khan. That is something, I
15 believe, that to me, sounds awfully defamatory, but
16 nevertheless, that is your words. Nevertheless, if
17 the Statement of Claim comes from the Aga Khan, it
18 also tells you that you are not authorized, and do
19 not have his consent to publish these books?

20 A. If the Aga Khan tells me, I will
21 accept.

22 442. Q. So, in effect, really, there are a
23 lot of people involved who either are duped or
24 confused or in a conspiracy, are there not? Shafik
25 Sachedina, obviously he is the main one in your



1 mind. Michelle Parkes Anne-Valerie Moreaux,
2 Genevieve...

3 A. I will not reply to this question,
4 because this is not what I am saying. /R

5 443. Q. But these people...

6 A. You have made a statement that there
7 are so many people involved in this, and I am saying
8 this is not what I have said.

9 444. Q. But the International Leaders Forum
10 have published an announcement, and all the national
11 institutions...

12 A. I told you, the International
13 Leaders Forum when there is an announcement, it just
14 takes one person.

15 445. Q. And Prince Hussain's secretariat,
16 Prince Hussain himself...

17 A. Prince Aryn.

18 446. Q. ...Prince Aryn and Prince Hussain,
19 or his staff.

20 A. Why Prince Hussain?

21 447. Q. Because...

22 A. You have to explain to me the
23 question.

24 448. Q. Well, Prince Hussain gave the book
25 to the Aga Khan...



1 A. Yes.

2 449. Q. ...and you are telling me that the
3 Aga Khan did get the book...

4 A. Yes.

5 450. Q. ...and that somehow, now, having
6 received the book, and the lawsuit having occurred,
7 and the announcement by the International Leaders
8 Forum having occurred twice, and two letters having
9 been sent to you purportedly from the Aga Khan, and
10 purporting to have been forged, and you have now
11 asserted widely that they are forged, it has been
12 widely circulated, and you are telling me that the
13 Aga Khan, His Highness, would not step forward to
14 stop this, if, in fact, he had not authorized it?

15 A. I would tell you exactly the same
16 thing, if he was behind this case. For sure, he
17 would step in to stop this case. He would tell me,
18 "Nagib, stop. I don't want you to print, and I will
19 say there is no need for a lawsuit".

20 451. Q. So...

21 A. I will stop...

22 452. Q. ...notwithstanding all the
23 circulation, and you know the Aga Khan has your book
24 now, you believe that...

25 A. I am sure he is very happy.



1 453. Q. He is so happy that he is sitting
2 back, and allowing this whole thing to continue,
3 which he knows about, you say he knows about...

4 A. Yes.

5 454. Q. He is letting the whole thing
6 continue, because he just enjoys watching this whole
7 proceeding occur, and he really doesn't want you to
8 stop selling the books?

9 A. Mr. Gray, when two of your child are
10 disputing among themselves, you don't enjoy looking
11 at them. Sometimes, you wait before intervening.
12 You have to understand this relation we have with
13 the Imam, else you cannot understand this lawsuit,
14 these announcements. This is really fundamental.
15 If you don't understand the relation between me and
16 my Imam, it will be very difficult for you to even
17 ask questions.

18 455. Q. It is common for the Imam to give
19 advice in writing to his followers, is it not?

20 A. It happens, yes.

21 456. Q. It happens. He often gives advice
22 in writing to his followers?

23 A. Yes, he does.

24 457. Q. Right, and his followers write to
25 him, and have, in fact, a right to write to him and



1 ask for advice?

2 A. Yes.

3 458. Q. And if, in fact, the Imam could not
4 deal with matters in writing, the whole system would
5 collapse?

6 A. I agree.

7 459. Q. You agree?

8 A. Yes.

9 460. Q. Okay. Now, there came a time when
10 His Highness did visit Toronto recently, right?

11 A. He did, yes.

12 461. Q. And he came to Ottawa, and then he
13 came to Toronto?

14 A. Yes.

15 462. Q. And met with the Prime Minister, and
16 you requested to see him, right?

17 A. Yes. I wrote to you.

18 463. Q. You wrote to me, and you requested
19 to see him, and I agreed, and you put that in
20 evidence that I agreed you could see him, if you
21 agreed to consent to the ending of this lawsuit; is
22 that right?

23 A. This is right; you had
24 preconditions.

25 464. Q. Right, okay.



1 A. Which were completely against what
2 the Imam's instructions were to me.

3 465. Q. Well, can I show you a copy of an
4 e-mail I sent to you on May 24th (sic)?

5 A. I have received this e-mail.

6 466. Q. You received this e-mail?

7 A. Yes.

8 467. Q. Do you recognize that?

9 A. Yes.

10 468. MR. GRAY: So, we will mark that as the
11 next exhibit. We are going to mark it on
12 the back. 11.

13
14 --- EXHIBIT NO. 11: E-mail from Brian Gray to Nagib
15 Tajdin dated May 14, 2010
16

17 469. MR. GRAY: Technically, it is a
18 settlement offer I made, but you have put
19 it in your evidence in your other motion.
20 Off the record for a second.

21
22 --- DISCUSSION OFF THE RECORD
23

24 BY MR. GRAY:

25 470. Q. So, you have put this settlement



1 offer on the record in your other motion, haven't
2 you?

3 A. Mr. Gray, a follower doesn't do
4 settlement with his Imam.

5 471. Q. Right.

6 A. It can't happen.

7 472. Q. So, when I offered to have you have
8 a meeting with the Imam after you agreed to settle
9 the matter, the case?

10 A. You wanted me to sign some
11 precondition...

12 473. Q. Right.

13 A. ...which were against my faith.

14 474. Q. That is why the meeting didn't take
15 place, because you didn't agree to that, right?

16 A. That is your point of view.

17 475. Q. Right?

18 A. I don't believe in that.

19 476. Q. Yes, you don't believe, because you
20 think I don't represent the Aga Khan?

21 A. I don't believe that the Imam will
22 refuse a two-minute meeting which can avoid to him a
23 lawsuit.

24 477. Q. But you have indicated in your
25 response that I don't represent the Aga Khan, and I



1 didn't have access to the Aga Khan; is that right?

2 A. I will not reply to that.

3 478. Q. That is what you have said in
4 your...shall I find the materials where you say
5 that?

6 A. Gray, whatever I have written is
7 there. If you will read me the passage, I will tell
8 you, yes.

9 479. Q. We will find that at the break.

10 A. That is fine.

11 480. Q. And it will show you that you have
12 said that I don't have access to the Aga Khan.

13 A. Yes, I hope with the context.

14 481. Q. I am showing you a picture, a
15 photograph.

16 A. Yes?

17 482. Q. Do you recognize anybody in that
18 photograph?

19 A. Yes.

20 483. Q. Okay. Who do you recognize there?

21 A. The Aga Khan.

22 484. Q. That is the Aga Khan?

23 A. Yes, it is the...

24 485. Q. Who is that next to...do you
25 recognize me there, next to the Aga Khan?



- 1 A. Yes.
- 2 486. Q. Does that look like me?
- 3 A. Yes.
- 4 487. Q. Brian Gray?
- 5 A. Yes.
- 6 488. Q. Do you recognize anybody else in the
- 7 photograph?
- 8 A. I think...is that not the architect
- 9 Maki?
- 10 489. Q. That is the architect, yes.
- 11 A. And I think from the back, I see
- 12 Mohamed Manji.
- 13 490. Q. You see Mohamed Manji behind the Aga
- 14 Khan there?
- 15 A. Yes.
- 16 491. Q. He is the president of the Ismaili
- 17 Council for Canada?
- 18 A. Yes.
- 19 492. Q. And you see the person at the
- 20 bottom?
- 21 A. This is the foundation ceremony of
- 22 the Jamatkhana Museum, right?
- 23 493. Q. Yes.
- 24 A. Yes.
- 25 494. Q. And you see the other person at the



1 left there; do you know who that is?

2 A. Who is the other person on the left?

3 495. Q. The Aga Khan's right, to the left of
4 the photograph.

5 A. Aga Khan's right.

6 496. Q. To the left, next to the architect.

7 A. There is a lady. I am not sure
8 who...

9 497. Q. Yes, I can tell you that is Bev Oda,
10 the Minister of International Cooperation?

11 A. Yes, yes.

12 498. Q. Do you recognize her now?

13 A. Yes, I recognize her.

14 499. Q. Okay. So, I am standing next to the
15 Aga Khan...

16 A. Yes.

17 500. Q. ...at the foundation ceremony; am I
18 not?

19 A. Yes.

20 501. Q. Okay.

21 A. There are so many pictures of so
22 many people like that. I collect them.

23 502. Q. You collect them?

24 A. If you should not mind, I would like
25 to get a copy.



1 503. Q. You can have a copy. I will give
2 you a copy right now.

3 A. Thank you.

4 504. Q. There you go, here is a copy. Now,
5 how do you explain that, if I have not spoken with
6 the Aga Khan, or have access to him?

7 A. Mr. Gray, I can produce you so many
8 people...

9 505. Q. Sorry?

10 A. I can produce so many people who are
11 in photographs with the Aga Khan who have not spoken
12 to him.

13 506. Q. I see.

14 A. It doesn't mean anything. Come on.

15 507. Q. It means nothing?

16 A. On that occasion, so many pictures
17 were taken, probably a couple of thousand.

18 508. Q. Okay.

19 A. So many people wanted to have a
20 photograph with the Aga Khan.

21 509. Q. So, along with the ten million
22 people that won't convince you, a photograph is not
23 going to convince you?

24 A. A photograph where you stand near
25 the Aga Khan, I could have been standing there. So



1 what?

2 510. MR. GRAY: Okay. Can we mark that as
3 the next exhibit? Number 12. It is a
4 photograph of Brian Gray, the Aga Khan, Bev
5 Oda and an unnamed architect.

6 THE DEPONENT: Maki.

7
8 --- EXHIBIT NO. 12: Photograph of Brian Gray, the Aga
9 Khan, Bev Oda, Mr. Maki at the
10 Foundation ceremony of the Aga Khan
11 Museum

12
13 BY MR. GRAY:

14 511. Q. Maki?

15 A. Yes.

16 512. Q. Yes, Mr. Maki, at the foundation
17 ceremony of the Aga Khan...

18 A. Museum, Jamatkhana.

19 513. Q. ...Museum in Toronto.

20 A. He is the architect of the museum.

21 514. Q. Okay. It was taken around May...at
22 the time of the ceremony in May of 2010?

23 A. Yes, end of May.

24 515. Q. End of May?

25 A. Yes.



1 516. Q. Did you try to bring your books to
2 show to the Aga Khan while he was in Toronto?

3 A. No.

4 517. Q. Did you go to the hotel, and the
5 Royal York, where he was, to try and give him the
6 books?

7 A. No. I went to the hotel, but not to
8 try to give him the book.

9 518. Q. Did you try to meet him at the
10 hotel?

11 A. I haven't tried to meet him. I was
12 standing there with other Ismailis to see him.

13 519. Q. You were in the hotel?

14 A. And if he would have called me, I
15 would have gone.

16 520. Q. But you were in the hotel lobby?

17 A. I was in the hotel lobby, and I was
18 in the hotel lobby the previous time when he came,
19 the previous of the previous time also.

20 521. Q. Did you follow him around the world,
21 trying to see him?

22 A. I go around the world because I have
23 a website. I take pictures. I take photos.
24 Sometimes he is there for a day, two days.
25 Sometimes we are very close. I could talk to him,



1 but I don't do these things. We have a code of
2 conduct that tells that we cannot approach the Imam
3 unless he accepts.

4 522. Q. All right. You follow him around,
5 but you don't speak to him in the...

6 A. Never. Never.

7 523. MR. GRAY: Off the record.

8
9 --- DISCUSSION OFF THE RECORD

10
11 BY MR. GRAY:

12 524. Q. So, let's go back to 1992, now, this
13 famous Mehmani occasion?

14 A. Yes.

15 525. Q. So, I take it that you printed the
16 book, and received your first volume of it on August
17 the 14th, 1992; is that right?

18 A. Yes.

19 526. Q. And did you seek guidance in writing
20 from His Highness, before having the books printed?

21 A. No, there was no time for that.

22 527. Q. Okay. And did you seek guidance in
23 writing from His Highness' advisor before it had
24 been printed?

25 A. No. Why would I ask from the



advisors?

528. Q. I am just asking you the question.
Just answer it, please. In fact, the day before you
received one volume of your books, and you gave it
to this Mr. Karim Alibhay?

A. No, I received several cartons.

529. Q. Right, but it was of one volume.

A. It was one volume, yes.

530. Q. Okay. Second volume had not been
printed yet?

A. Yes.

531. Q. So, you gave one copy of it to Mr.
Alibhay?

A. Yes.

532. Q. And did you tell any of His
Highness' advisors, or anyone at the leadership,
that you were going to be presenting at the Mehmani?

A. Not at all.

533. Q. No. So, you didn't tell anyone; you
just put it...you gave it to Mr. Alibhay, and he
sort of snuck it in there?

A. What do you mean "snuck it"?

534. Q. Well, you didn't tell anybody. You
just gave it to him, and...

A. A Mehmani is a personal thing. We



1 don't have to tell anyone.

2 535. Q. It is personal to Mr. Alibhay?

3 A. Mr. Alibhay was part of the group
4 which prepared...

5 536. Q. And it is personal to him. If it is
6 personal to him, then what does it have to do with
7 you?

8 A. Well, it has to do in the sense that
9 when Mehmani's people take for other people, the
10 question of other people, their friend, their
11 family, they take other people's letter, book,
12 everything.

13 537. Q. So, in that sense, it wasn't
14 personal? From your point of view, it was...

15 A. From my point of view, it was
16 personal.

17 538. Q. It was personal to Mr. Alibhay?

18 A. It was personal to me also, because
19 he went for me...he went there to ask questions on
20 my behalf. So, it was personal to me.

21 539. Q. Did he mention you when he was at
22 the Mehmani?

23 A. It was not needed, because the
24 content of the book was the main thing. It was for
25 Imam, and he was part of the group which prepared



1 that book.

2 540. Q. I see. So, he didn't mention you,
3 but he brought the book himself there?

4 A. Yes.

5 541. Q. And he put the book...I take it this
6 plate of fruit and nuts is given by the leadership
7 to each individual person who is going to
8 participate in the Mehmani?

9 A. Yes, most of the time, this is how
10 it occurs.

11 542. Q. Right.

12 A. Sometimes, people bring their own
13 thing.

14 543. Q. Right, but in general, the people...

15 A. In general, they get it there, and
16 then they would put, for example, their wedding ring
17 there, or some rosary or other things on top.

18 544. Q. Right, okay. And so, he brought
19 this thing without telling anybody, except you, I
20 suppose?

21 A. Yes.

22 545. Q. And he put the book on the plate of
23 fruit and nuts, and presented it at the...

24 A. Yes.

25 546. Q. ...ceremony? Did His Highness take



1 the book away to examine it?

2 A. No.

3 547. Q. In fact, right now, he doesn't have
4 the book, because Mr. Alibhay has it as a treasured
5 possession?

6 A. I can tell you he has copies of
7 those books.

8 548. Q. Well, I didn't ask you that. I
9 asked you, right now...

10 A. No, that one is with Mr. Alibhay.

11 549. Q. The book was put on the fruit and
12 nut plate, presented to His Highness...

13 A. You are right; it is with Mr.
14 Alibhay.

15 550. Q. He put his hand on the book, the
16 book went away...

17 A. Yes.

18 551. Q. ...with Mr. Alibhay; that was the
19 events, right?

20 A. And this is how it is supposed to
21 be.

22 552. Q. Right, okay. You didn't open the
23 book?

24 A. The title said, for Imam, volume 1.

25 553. Q. Yes, he just put his hand on it.



1 A. After looking at it, yes.

2 554. Q. So, after the Mehmani, did you write
3 to His Highness confirming what you were doing,
4 pursuant to his...

5 A. No, it would have been an insult.

6 555. Q. It would have been an insult? Okay.
7 So...

8 A. Once you have an instruction, you
9 follow.

10 556. Q. So, you didn't write to him and tell
11 him what you were doing? No?

12 A. It was not needed.

13 557. Q. Okay. You didn't send him
14 personally a copy of the books and say, "Pursuant to
15 the blessing that Mr. Alibhay got in the Mehmani, I
16 am publishing these books, and here is a copy"?

17 A. There was no need for it.

18 558. Q. Okay.

19 A. Once the Imam has said, you
20 continue, we will continue up to the end.

21 559. Q. Okay. But you didn't do it, as a
22 matter of fact?

23 A. What, to write to the Imam? No,
24 send him a book.

25 560. Q. Okay. Now, you agree with me that



1 Mr. Sachedina has no power to consent to the
2 publication of Farmans?

3 A. I agree.

4 561. Q. You agree with that, okay. But you
5 also agree with me that Mr. Sachedina does speak to
6 His Highness from time to time?

7 A. I am sure he does.

8 562. Q. And he does convey messages from His
9 Highness to you? For instance, he conveyed messages
10 about blessings for your family, right?

11 A. Yes, he did.

12 563. Q. So, he does speak to His Highness?

13 A. I am not denying it.

14 564. Q. And fairly often, probably?

15 A. Probably.

16 565. Q. I am showing you a copy of what I
17 understand to be the current constitutional that
18 Shia Imami...

19 A. Imami Ismaili.

20 566. Q. Imami Ismaili Muslims?

21 A. Yes.

22 567. Q. Is that...can you look at that for a
23 minute, and confirm that that is...

24 A. Which year is this one? I don't
25 know. 1998. Okay, yes?



1 568. Q. Is that the current one?

2 A. Yes.

3 569. Q. This is the current constitution?

4 A. Yes.

5 570. MR. GRAY: Yes? Can we mark that as the
6 next exhibit? 13. So, Exhibit 13 is a
7 copy of the Constitution of the Shia Imami
8 Ismaili Muslims.

9
10 --- EXHIBIT NO. 13: Copy of Constitution of Shia Imami
11 Ismaili Muslims (Current Edition)

12
13 BY MR. GRAY:

14 571. Q. Now, it was amended, I take it,
15 in...

16 A. In Lisbon.

17 572. Q. Sorry?

18 A. In Lisbon, Portugal.

19 573. Q. In Lisbon in 1998?

20 A. Yes.

21 574. Q. That is what it is showing right on
22 the first cover?

23 A. Yes, it does.

24 575. Q. But it was substantially amended and
25 primarily in the form that it exists now, after the



1 amendment of 1986 in Geneva?

2 A. There was a small amendment. I am
3 not sure which one. Even the 1998 amendment was
4 just the editing of the...institution.

5 576. Q. Right, the 1998 amendment is a small
6 amendment adding that...the part at the beginning.

7 A. From 1986 to 1998, there were not
8 many major changes.

9 577. Q. Would you take a look at Article 14?

10 A. Yes.

11 578. Q. Has Article 14 changed since 1986?

12 A. No.

13 579. Q. So, that is...the Article 14 is the
14 way it has been since 1986?

15 A. Yes.

16 580. Q. And I am referring you to Article
17 14.1(c)?

18 A. Yes?

19 581. Q. And (c) says:

20 "...Without the permission in writing of
21 the National Council obtained through the
22 regional council..."

23 Have you ever requested the permission of the
24 National Council under that article?

25 A. I didn't have to.



1 582. Q. I didn't ask you that. I just asked
2 you, did you ever request the permission in writing
3 of the National Council?

4 A. No, because I had consent from the
5 Imam.

6 583. Q. Okay. And I take it you never
7 asked...just to be specific, you didn't ask the
8 permission in writing of the National Council to
9 print or publish or circulate any material that is
10 on behalf of, in the name of, or relating to Mawlana
11 Hazar Imam, the plaintiff?

12 A. I don't believe it talks of Hazar
13 Imam.

14 584. Q. I didn't ask you that, either. I
15 asked you if you ever asked for the permission in
16 writing...

17 A. No.

18 585. Q. ...to print or publish any material?

19 A. No, I don't recall.

20 586. Q. Okay. Can we turn, now, to the book
21 in question? And this is the so-called Golden
22 Edition?

23 A. Yes.

24 587. Q. The cover page is Exhibit A to your
25 first affidavit?



1 A. Yes.

2 588. Q. Sorry, I will take it back. The
3 Golden Edition. Sorry, it is Exhibit C to your
4 first affidavit?

5 A. M'hmm.

6 589. Q. This is the book that is the subject
7 of the current lawsuit?

8 A. It is.

9 590. Q. And when was this book first
10 printed?

11 A. On 13 December 2009.

12 591. Q. Okay. And where was it printed?

13 A. In Canada.

14 592. Q. Where in Canada?

15 A. I will not tell you for now.

/R

16 593. Q. You will not tell me, okay. Do you
17 know what province it was printed in? You won't
18 tell me that, either?

19 A. Not now. Maybe later.

/R

20 594. Q. Why is that? Are you ashamed of it?

21 A. Not at all. Not at all. But I have
22 seen so much harassment to all the people related to
23 this book that I will refrain from giving any names.

24 595. Q. Okay. So, how many of these books
25 were printed?



1 A. I think it is irrelevant.

/R

2 596. Q. You think it is irrelevant?

3 A. Yes.

4 597. Q. So, you are not going to tell me?

5 A. Not now.

6 598. Q. Okay.

7 A. I will think about it.

8 599. Q. I see. Okay. And where were they
9 distributed?

10 A. They were distributed primarily in
11 Canada.

12 600. Q. Okay. And how were they
13 distributed?

14 A. Either through people I know.
15 Usually, we were getting some requests by e-mail,
16 and I was directing to the people who I had some
17 stock with them.

18 601. Q. Was it advertised on the Internet?

19 A. It was advertised, yes. It was a
20 pamphlet of one page with a photo of the book.

21 602. Q. I am showing you what I believe to
22 copy from the ismaili.net website?

23 A. Yes.

24 603. Q. Do you recognize that?

25 A. Yes, that is the one.



1 604. MR. GRAY: Right. Can we mark that as
2 the next exhibit, 14?

3
4 --- EXHIBIT NO. 14: Printout from ismaili.net
5 advertisement for The Golden Edition
6 of "Kalam-e Imam-e Zaman"

7 BY MR. GRAY:

8 605. Q. This is an advertisement for The
9 Golden Edition of the "Kalam-e Imam-e Zaman", right?

10 A. Yes.

11 606. Q. And it is advertised on the
12 Internet?

13 A. Yes.

14 607. Q. For sale?

15 A. Well, it is a posting. You can see
16 it is a posting, right?

17 608. Q. And you distributed this to people
18 you know?

19 A. Yes.

20 609. Q. Or who requested it by e-mail?

21 A. I distributed it to people I know,
22 and those were requested by e-mail...

23 610. Q. Right.

24 A. ...most of them, I knew them, and
25 those I did not, I asked the distributor, the people



1 who had some books, if they knew them to check them
2 out...

3 611. Q. Okay.

4 A. ...and give them if they were
5 Ismailis.

6 612. Q. So, the people who printed them
7 would be in a position to know whether they were
8 Ismailis or not?

9 A. The people who printed them did not
10 send them.

11 613. Q. Okay. Who sent them?

12 A. I sent them.

13 614. Q. You sent them?

14 A. Yes.

15 615. Q. What about Mr. Jiwa? Did he send
16 them?

17 A. Well, I sent some to Mr. Jiwa. Not
18 many. And he told me he was distributing to other
19 Ismailis.

20 616. Q. All right. What was the selling
21 price?

22 A. Fifty dollars.

23 617. Q. What was the printing price?

24 A. Are you talking of cost?

25 618. Q. Yes.



1 A. It is not relevant. /R

2 619. Q. Sorry?

3 A. It is not relevant.

4 620. Q. Not relevant, okay.

5 A. Not at this point.

6 621. Q. You are refusing to answer?

7 A. Yes, at this point, we don't have to
8 discuss this.

9 622. Q. All right. Now, the audio bookmark,
10 where did that come from?

11 A. That came from overseas.

12 623. Q. It came from overseas. Where
13 overseas?

14 A. That, I will not tell you for now. /R

15 624. Q. Okay. And who recorded the
16 speeches?

17 A. Who recorded? I don't know. They
18 are circulating in the Ismaili community. There are
19 some of 1957, when I was just born. There are some
20 of...

21 625. Q. Where did you get them from?

22 A. These recordings circulate all the
23 time with all the Ismailis. There is nothing
24 special in that.

25 626. Q. Sort of an underground...



1 A. It is not an underground. All the
2 Ismailis will give Farmans to all the Ismailis.
3 This is why I told you in the beginning: Unless you
4 understand the relation between the Imam and the
5 followers, it is difficult.

6 627. Q. So, why does the book not identify a
7 publisher? You agree with me the book doesn't
8 identify a publisher?

9 A. Yes, I agree with you.

10 628. Q. Okay. Why does it not identify it?

11 A. Because this is the way it should be
12 with Farmans books. Farmans are Farmans of the
13 Imam. It would be presumptuous for me to write my
14 name on a book like that. It would be like I am
15 trying to tell people, "You see this Farmans book?
16 I have done it. I have compiled it". You have to
17 be humble in service.

18 629. Q. But not the editor; I am not talking
19 about the editor. I am talking about the publisher.
20 It doesn't identify who published the book, does it?

21 A. No, it doesn't, and it is...

22 630. Q. Do you understand what I mean by
23 "published", the persons circulating the book?

24 A. I am not sure if publisher means
25 circulating. I have published. That means I have



1 connected with the printer. I have made sure this
2 is the way the book...

3 631. Q. And you distributed copies?

4 A. And I have distributed copies.

5 632. Q. And normally, books identify the
6 publisher?

7 A. In Farmans books, rarely. Farmans
8 books, rarely.

9 633. Q. The only Farmans books there are are
10 the books that you have done?

11 A. No, I disagree. There are other
12 Farmans books in circulation. There have always
13 been, in many languages...

14 634. Q. You are talking about the ones from
15 1952?

16 A. Not at all. I am talking of books
17 published last year or the year before, five years
18 ago, ten years ago. So many books are in
19 circulation.

20 635. Q. Would you...there is no evidence of
21 any of that?

22 A. Yes, there is.

23 636. Q. Well...

24 A. Yes, there is. Would you like me to
25 find some for you?



1 637. Q. No, we will consult with our client.

2 A. Okay.

3 638. Q. What about the money that you
4 received; what did you do with it? How much money
5 did you receive?

6 A. I will not tell you that.

/R

7 639. Q. And what happened to the money?

8 A. I will not tell you anything about
9 this aspect. It is not part of the motion.

/R

10 640. Q. I see. You have pleaded that you
11 gave the money away. You are not going to tell me
12 what you did with it?

13 A. No. It is not relevant to the
14 motion.

15 641. Q. You are not going to produce, I
16 guess, an accounting of any money you received?

17 A. Not at this point. It is not
18 needed.

19 642. Q. And how about the receipt of any
20 funds from the distribution; you are not going to
21 tell me that, either?

22 A. That is not something I will tell
23 you now.

/R

24 643. Q. I am showing you a copy of a Whois
25 record. It says ismaili.net Whois Record; do you



1 recognize that?

2 A. Yes, that is a website I have
3 registered.

4 644. Q. Okay. So, this is a record of who
5 is responsible for the website, ismaili.net?

6 A. This is the record of who registered
7 the name.

8 645. MR. GRAY: Let's mark that as the next
9 exhibit, which will be 15.

10 THE DEPONENT: Fifteen.

11
12 --- EXHIBIT NO. 15: Copy of ismaili.net Whois Record
13

14 BY MR. GRAY:

15 646. Q. And so, is that you...that is you
16 who registered ismaili.net?

17 A. Yes, I did.

18 647. Q. And you are still responsible as
19 the administrative contact for that website?

20 A. Yes, I am still the administrative
21 contact.

22 648. Q. And you are actually the editor and
23 publisher of the website, are you not?

24 A. Yes, I am.

25 649. Q. All right.



1 A. Well, I am one of the...

2 650. Q. You are still the editor of the
3 website?

4 A. Yes.

5 651. Q. Right?

6 A. Yes.

7 652. Q. And the things that are published on
8 the website, you review and edit?

9 A. Not always, there are other peoples.
10 Now there are so many members, and they have
11 permission.

12 653. Q. You permit them to be placed on the
13 website as the editor?

14 A. Yes. You know, for 15 years, this
15 has been going on, and rarely, it happens that
16 people put their things which are unwanted, which I
17 remove sometimes.

18 654. Q. Looking at the expert reports that
19 you have produced, the evidence of Ms. Pettinati...I
20 think it is Pettinati, right? Ms. Carlson and Mr.
21 Ospreay?

22 A. Yes.

23 655. Q. Have you asked any of these people
24 to examine whether the January 24 letter and the
25 February 18 letter and the May 12 letter or



1 affirmation were written by the same person?

2 A. That is not a question I have asked.

3 656. Q. You have not asked them?

4 A. No. It was not important.

5 Important was, did the Aga Khan write them or not?

6 657. Q. Right. And you haven't checked to
7 see if they were all written by the same person?

8 A. No, I don't know if they are written
9 all by the same person. I would believe so, but I
10 don't have any proof for now.

11 658. Q. You provided instructions to Ms.
12 Pettinati, which included measurements, according to
13 her?

14 A. Yes.

15 659. Q. Can you produce those?

16 A. I have an e-mail with Pettinati,
17 which I can bring you. I have in a letter here, in
18 Toronto. So, I will print it for you.

19 660. Q. Okay. So, will you produce the
20 instructions you gave to Ms. Pettinati, concerning
21 the measurements you made?

22 A. The e-mail about the measurement?

23 661. Q. Yes.

24 A. I will forward you the e-mail.

U/T

25 662. Q. Okay. And did you give her other



1 instructions about the report?

2 A. What do you mean by that?

3 663. Q. Did you give her instructions as to
4 what you wanted her to do, when she was preparing
5 her report?

6 A. Not at all.

7 664. Q. You didn't. You gave her
8 measurements, but no instructions?

9 A. No. In fact, what happened is that
10 I sent her the letter, and I sent her some authentic
11 signatures, and she said, "I have to make sure", I
12 think, something like that, "of the relative
13 measurement of the height of the letter", or
14 something like that. That is an e-mail I...I will
15 send you the e-mail, and it will be clear for you.

16 665. Q. Yes, and I would like all of the
17 e-mails that you sent to her concerning your
18 instructions to prepare the report. Okay?

19 A. Yes.

U/T

20 666. Q. And the same with respect to Wendy
21 Carlson, any e-mail instructions you have given to
22 her, and the same with respect to Mr. Ospreay, any
23 materials or e-mail...

24 A. No, Mr. Ospreay, I haven't sent him
25 by e-mail. I met him, and I gave him...



1 667. Q. Well, whatever you have, just so the
2 record is clear.

3 A. I don't have an e-mail with Mr.
4 Ospreay.

5 668. Q. All right. And Ms. Carlson, who is
6 in Texas, I presume, you have e-mailed her?

7 A. Yes.

8 669. Q. I would like to see those
9 instructions. And you already refused to produce
10 the things you gave them, and I am asking you again
11 to produce those.

12 A. I will give you the photocopies.

U/T

13 670. Q. I don't want the photocopies. I
14 have already got the photocopies. Okay. You are
15 going to give me the...

16 A. I can't give you the original,
17 because most of the originals have been returned to
18 the people they belong to. I have to get them; it
19 is a long process.

20 671. Q. So, you don't even have the
21 originals now anymore?

22 A. Well, I can get them, but I don't
23 want to give you. These are very precious things.
24 You know, to get them once is a difficult thing. To
25 get them twice is even more difficult, and to get



1 them three times from the same persons...

2 672. MR. GRAY: I will take the photocopies
3 of the complete document, if that is all
4 you are going to give me, but I am still
5 requesting the originals. Can I take a
6 break? I may be finished.

7
8 --- A BRIEF RECESS

9
10 NAGIB TAJDIN, resumed

11 CONTINUED CROSS-EXAMINATION BY MR. GRAY:

12 673. Q. So, I just have one more question,
13 because you referred to the squabble that the Aga
14 Khan was witnessing between his children; do you
15 remember that?

16 A. Yes, I remember.

17 674. Q. Do I understand, then, that it is
18 your information that the Aga Khan is aware of the
19 lawsuit?

20 A. I don't have any information
21 directly from him.

22 675. Q. You think he is aware of the
23 lawsuit?

24 A. I think he should, by this time, be
25 aware of the lawsuit.



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1 676. Q. Yes, right. And you saw the picture
2 of me standing next to the Aga Khan?

3 A. Yes, I saw it.

4 677. Q. And you don't think I discussed the
5 lawsuit with him? I am his lawyer.

6 A. Well, I will not reply to that.

/R

7 678. MR. GRAY: Okay. Subject to the
8 questions you have agreed to answer, and
9 our pursuit of any refusals, we have no
10 further questions.

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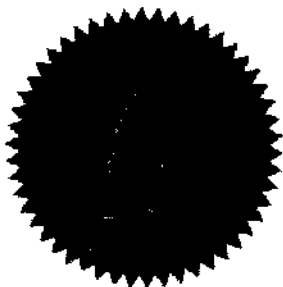
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REPORTER'S NOTE:

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I hereby certify the foregoing to be a true and accurate transcription of the above noted proceedings held before me on the **9TH DAY OF AUGUST, 2010** and taken to the best of my skill, ability and understanding.



Certified Correct:

Anthony Ng
Verbatim Reporter



Court File No: T-514-10

FEDERAL COURT

AN/sr

B E T W E E N:

HIS HIGHNESS PRINCE KARIM AGA KHAN

Plaintiff

- and -

NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO.
and all other persons or entities unknown to the Plaintiff
who are reproducing, publishing, promoting and/or
authorizing the reproduction and promotion of the
Infringing Materials

Defendants

This is the Cross-Examination of ALNAZ JIWA, on his
Affidavits sworn the 16th day of June, 2010 and on the 16th
day of July, 2010, taken at the law offices of OGILVY
RENAULT LLP, Suite 3800, Royal Bank Plaza, South Tower, 200
Bay Street, Toronto-Dominion Centre, Toronto, Ontario, on
the 9th day of August, 2010.

A P P E A R A N C E S:

BRIAN GRAY
KRISTIN WALL

}

-- for the Plaintiff



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1 ALNAZ JIWA, sworn

2 CROSS-EXAMINATION BY MR. GRAY:

3 1. Q. Mr. Jiwa, would you just state your
4 name for the record?

5 A. Alnaz Jiwa. J-I-W-A, first name
6 Alnaz, A-L-N-A-Z.

7 2. Q. And you have sworn two affidavits in
8 this proceeding on June 16th, 2010 and July 16th
9 2010?

10 A. Yes, I have.

11 3. Q. And you were here this morning while
12 Mr. Tajdin was being cross-examined?

13 A. Yes.

14 4. Q. And you heard the...in fact, I think
15 you participated in my discussion about the evidence
16 and the material that has been filed on both your
17 motion for summary judgment and Mr. Tajdin's motion
18 for summary judgment and the plaintiff's motion for
19 summary judgment?

20 A. Yes.

21 5. Q. And you agree with that, the way we
22 will use the evidence?

23 A. Yes, I do.

24 6. Q. All right. And also, you heard the
25 discussion about the names of the plaintiff, His



1 Highness Prince Karim Aga Khan?

2 A. Yes, I did.

3 7. Q. And you agree also with that, that
4 the names that Mr. Tajdin and I referred to are the
5 names representing the plaintiff?

6 A. Yes.

7 8. Q. Now, Mr. Jiwa, have you ever written
8 to His Highness asking for permission to publish the
9 Farmans?

10 A. No, I have not.

11 9. Q. Have you ever written to any of the
12 leadership asking for permission to publish Farmans?

13 A. No, I have not.

14 10. Q. So, are you relying on any consent
15 that you have received, other than the consent
16 referred to by Mr. Tajdin?

17 A. I am relying on implied consent.

18 11. Q. You are relying on the consent from
19 1992?

20 A. That as well, yes. And an implied
21 consent.

22 12. Q. Where is that implied?

23 A. Implied consent is the fact that,
24 according to the Imam's Farmans, he expects us to
25 disseminate knowledge and he has said repeatedly



1 that the Farmans he makes is made for the Jamats.

2 13. Q. So, I take it from your word
3 "implied" that you have no explicit consent?

4 A. Personally, no, I don't.

5 14. Q. And there is no explicit consent
6 contained in the materials?

7 A. Which materials?

8 15. Q. Well, in the so-called the Farmans
9 or in the Farmans or anything else. There is not
10 explicit consent?

11 A. The Imam has said it. I have quoted
12 in my affidavit that he has quoted from my Jamats.

13 16. Q. So, a general...you believe it is a
14 general consent to circulate information?

15 A. Yes.

16 17. Q. That is what you are relying on?

17 A. Yes. Even when he comes to give us
18 audience, he tells us at the end, "Take my blessings
19 to your families, to your Jamats".

20 18. Q. That is what you are relying on?

21 A. And the blessings are the Farmans.

22 19. Q. So, that is the basis you are
23 relying on the...

24 A. That is one of the basis, yes.

25 20. Q. Well, are there any other basis?



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1 You said you didn't ask for consent and you never
2 received explicit consent. And now you have told me
3 about the implied consent. Is there any other
4 basis?

5 A. In terms of the distribution?

6 21. Q. Yes.

7 A. Well, our Ginans, we have got a
8 third category other than Farmans. We have got what
9 is known as Ginans. And Ginans are all the
10 guidances that have been given to us by our Pirs.

11 22. Q. By your who?

12 A. By Pirs. And Pirs also tell us that
13 we have to obey the Farmans. We have to also
14 disseminate knowledge. We have to encourage all of
15 the Ismailis to follow the Farmans.

16 23. Q. Who has written the Pirs?

17 A. They are Pirs. Like our Imam, His
18 Highness, he is an Imam as well as a Pir. So he is
19 holding two positions. He is holding the position
20 of a Pir...

21 24. Q. So, this is the Imam who has issued
22 the Pirs?

23 A. Sorry, Imam right now holds the
24 position of a Pir as well as an Imam. So he has got
25 two positions that he is holding.



1 25. Q. Right.

2 A. Up to the time of Sultan Mohammed
3 Shah there used to be a separate Pir and a separate
4 Imam. And now from the time of Sultan Mohammed
5 Shah's time the Pir and the Imam have merged into
6 one person.

7 26. Q. Okay.

8 A. So, Pirs are also entities that we
9 are expected to follow.

10 27. Q. Right. I don't really want a
11 history. Just answer this question: Are you relying
12 on a written document giving you consent?

13 A. The Ginans are written.

14 28. Q. Can you produce that document, the
15 written document you say gives you consent?

16 A. There are over a million verses of
17 Ginans.

18 29. Q. A million verses. Can you produce
19 ten of those ones that indicate a consent to publish
20 the books that you are publishing?

21 A. No, it is not saying to publish
22 books. It is saying the Farmans that are given by
23 the Imams are for the Jamats and you...like, we are
24 told that we must encourage other fellow Ismailis.
25 In fact, Sultan Mohammed Shah has also told us



1 convert Ismailis into true Ismailis and so they
2 expect us to, sort of, be a missionary. Each
3 Ismaili is expected to tell everybody else to follow
4 the Farmans.

5 30. Q. But the Pirs do not give explicit
6 permission to publish the books. You just said
7 that.

8 A. You know what...

9 31. Q. Yes or no: Do they give explicit
10 permission to publish the books...

11 A. They tell us to disseminate the
12 Farmans. And thus we are really not publishing, but
13 disseminating Farmans.

14 32. Q. They give you permission to print
15 and distribute copies...

16 A. No.

17 33. Q. ...of the Farmans?

18 A. No. They tell us to disseminate
19 Farmans.

20 34. Q. So they don't say that?

21 A. Don't say what?

22 35. Q. They do not give you permission to
23 print and distribute copies?

24 A. They did not tell us how to
25 distribute. They tell us to distribute.



1 36. Q. Okay, well, if you have any explicit
2 consent or permission to publish any of these books,
3 I would like you to produce it.

4 A. I didn't say that they told us to
5 publish books. I said...and I want you to pay
6 attention to what I am saying, because you keep on
7 repeating to publishing books. I am not saying
8 anywhere that the issue is publishing books. What I
9 am saying is we are expected to
10 distribute/disseminate knowledge and part of the
11 knowledge is the Imams' and the Pirs' knowledge that
12 has been given to us, to disseminate that. Now,
13 they have never told us how to disseminate.

14 You know, in the past, people memorize the
15 Farmans, the Koran as well as the Ginans by heart.
16 Today, with our modern life, it is hard for us to
17 memorize them. There were millions of people who
18 actually remember every verse, every word of the
19 Koran and they recite it. Nowadays, we don't do
20 that. So, Pirs have not said how to disseminate.
21 They told us to disseminate.

22 37. Q. Okay. Well, in the absence of you
23 producing anything, I am going to assume it doesn't
24 exist. I have asked you to produce it and I will
25 ask you again to produce it. If you don't have it,



1 I will assume it doesn't exist.

2 A. The question you are asking is
3 whether they said to publish books.

4 38. Q. I want you to produce the specific
5 information you are relying on.

6 A. I am not relying on...I told you,
7 and you keep on repeating back. Your question to me
8 is if there is anything that says publish books.
9 Indeed, in those times books were not even
10 available.

11 39. Q. Sorry, just answer my question. I
12 have asked you to produce the specific paper you are
13 relying on. Either produce it or don't produce it,
14 but that is all I want.

15 A. All right.

16 40. Q. Now, if Mr. Tajdin tells you to
17 stop, I take it you will stop. If Mr. Tajdin is
18 satisfied that the publication should cease, you
19 will stop as well?

20 A. I am obligated to follow my faith as
21 I see fit and as I understand from the Farmans and
22 the Ginans and the Koran that is given to us.
23 Tajdin is a piece of the puzzle. He is not the
24 puzzle. He cannot direct me what to do, what not to
25 do.



41. Q. So, if Mr. Tajdin receives instructions from the Imam to stop, but you don't, you won't stop?

A. If Mr. Tajdin stopped, the problem that would happen is I would not have access to the Farmans to distribute. My access point primarily...

42. Q. Your access is entirely through Mr. Tajdin?

A. I would say 99 percent is Mr. Tajdin. I have got other people who supply Farmans to me as well. But I am more confident in Mr. Tajdin's transcription and accuracy, so...

43. Q. So, as a practical matter, if Mr. Tajdin is told to stop by the Imam and by His Highness and does stop...

A. My source would be dry.

44. Q. ...then your source of supply of Imams dries up?

A. For Farmans would be dried up, yes.

45. Q. Okay. I am showing you a copy of Exhibit 13, which I understand you have a copy still there from this morning.

A. Yes.

46. Q. And can you identify that as the Constitution of the Shia Imami Ismaili Muslims?



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1 A. This is part of the constitution.
2 Our constitution consists of two parts; the
3 constitution and the rules and regulations for each
4 country.

5 47. Q. Right.

6 A. The 1986 constitution that was
7 distributed in Canada had within that document the
8 constitution as well as rules and regulations. This
9 is just the constitution. The rules and regulations
10 are still embodied in the 1986 constitution.

11 48. Q. Okay. And can you produce the rules
12 and regulations for me?

13 A. I can, yes.

U/T

14 49. MR. GRAY: Let's go off the record for a
15 second.

16
17 --- DISCUSSION OFF THE RECORD

18
19 BY MR. GRAY:

20 50. Q. You consent to...you are satisfied
21 to continue to identify this as Exhibit 13 to Mr.
22 Tajdin's cross-examination?

23 A. Yes.

24 51. Q. Aside from the rules and
25 regulations, which are, I presume, made under the



1 constitution?

2 A. Yes.

3 52. Q. And they are presumably required to
4 be consistent with the constitution?

5 A. Yes. Prior to 1986, each country
6 has separate constitution or is sometimes is...but
7 at this time, the constitution has become one, but
8 rules and regulations are for each country based on
9 their own rules.

10 53. Q. And they have to be...just like
11 regulations made under statutes, they have to be
12 consistent with the constitution.

13 A. Yes. Yes.

14 54. Q. And can you confirm, then, you have
15 also heard the discussion this morning the 1986
16 constitution is...and this constitution here,
17 Exhibit 13, is the current form of the constitution?

18 A. I believe this is the current one,
19 yes.

20 55. Q. And in regards to Article 14, that
21 has remained unchanged since 1986?

22 A. Yes.

23 56. Q. And in respect particularly to
24 article 14.1(c), have you ever asked for permission
25 in writing of the National Council obtained through



A. Jiwa - 14

1 the regional councils to print or publish or
2 circulate any material?

3 A. I don't need the council's
4 permission.

5 57. Q. I didn't ask you that, Mr. Jiwa. I
6 asked you if you ever...

7 A. No, because you are...

8 58. Q. Please answer the question.

9 A. You are referring to 14.1(c), so if
10 you are going to refer to 14.1(c) then I am going to
11 say I don't need their permission.

12 59. Q. Well...

13 A. So if you want to ask me without
14 referring to the 14.1(c), then you can ask me
15 without referring to that and I have already
16 answered you earlier that I did not.

17 60. Q. Right, so...

18 A. If you are going to ask me
19 pertaining to this, then I don't need consent...

20 61. Q. That isn't the question I asked you.
21 I asked you if...

22 A. You are referring me to 14.1.

23 62. Q. I asked you if you ever asked for
24 permission in writing of the National Council
25 obtained through the regional council to print or



1 publish or circulate any material: Yes or no?

2 A. You already asked me earlier, and I
3 said no.

4 63. Q. And so the answer is no?

5 A. Yes.

6 64. Q. Now, you heard the cross-examination
7 of Mr. Tajdin this morning; right? You were here.

8 A. Yes.

9 65. Q. Do you have any doubt in your mind
10 that His Highness knows about this lawsuit?

11 A. Well, you know, I suspect that he
12 does know of it now. I suspect that, yes. But
13 whether I know, I cannot say that.

14 66. Q. You think he does know about it now?

15 A. I think he does know.

16 67. Q. And is it your position that His
17 Highness has not authorized this lawsuit?

18 A. My position is that he has not
19 authorized. In the alternative, if he has
20 authorized, he has authorized because he has been
21 misled.

22 68. Q. Well, okay, that is a different
23 matter. He may have been misled, in your view, but
24 he has authorized the lawsuit?

25 A. I don't know. He could have. I



1 have no knowledge of that. I am denying at the
2 moment that he has authorized this.

3 69. Q. Sorry?

4 A. I am denying...

5 70. Q. You are denying at the moment?

6 A. Yes, that he has authorized this.

7 71. Q. You are aware that there is a
8 procedure in the Superior Court for a person, a
9 lawyer, to identify his retainer?

10 A. Yes.

11 72. Q. You are aware of that?

12 A. Yes.

13 73. Q. And you haven't done that, have you?
14 You haven't asked me to identify my retainer?

15 A. No, I haven't.

16 74. Q. Right. And you are aware that...you
17 are a lawyer. How long have you been a lawyer in
18 Ontario now?

19 A. Thirteen years now.

20 75. Q. Thirteen?

21 A. Yes.

22 76. Q. And it is a serious matter to
23 misrepresent to the court you represent somebody you
24 don't represent, isn't it?

25 A. It is a serious matter, yes. Of



1 course.

2 77. Q. It would be, essentially, a fraud on
3 the court for me to actually represent that I have
4 instructions from a plaintiff to start an action on
5 behalf of a plaintiff when I don't have them, isn't
6 it?

7 A. I would assume it would be, yes.

8 78. Q. Yes. And, in fact, the whole court
9 system would ground to a halt if one couldn't rely
10 on lawyers, as officers of the court, to
11 specifically...to represent to the court accurately
12 and truthfully?

13 A. True.

14 79. Q. And I am an officer of the court, am
15 I not?

16 A. True.

17 80. Q. As you are as well.

18 A. Yes.

19 81. Q. And yet you still assert that, in
20 fact, the plaintiff hasn't authorized this lawsuit.

21 A. I am asserting two grounds. One is
22 that he has not authorized. Or if he has done, he
23 has done it on misgiving evidence.

24 82. Q. He has been misinformed by Shafik?

25 A. Yes.



1 83. Q. Sachedina.

2 A. I would assume Shafik...

3 84. Q. Or someone else?

4 A. ...is the primary. I suspect Shafik
5 could be Mohamed Manji...

6 85. Q. That is the real crux of it, isn't
7 it? You both think that the...His Highness has been
8 misinformed and is getting false information. Isn't
9 that your real concern?

10 A. Yes, it is. And I know that he does
11 get misinformed and misled by people.

12 86. Q. But not that he hasn't authorized
13 the lawsuit?

14 A. You know, everything that points to
15 right now seems to be contrary to the 1,400 years of
16 our history. Other Imams in the past have been
17 misled, they have been killed as well by
18 people...his own wives have killed him, his own
19 family have usurped his power. So it is not
20 something that has never happened before. It has
21 happened in the past. I know personally that we
22 have been misled into saying that Imam has said this
23 when he has not said this.

24 87. Q. So he is sitting in an ivory tower
25 surrounded by people who are insulating him from the



1 truth; is that what you are suggesting?

2 A. No.

3 88. Q. No?

4 A. That, as well, I know of at least
5 one incident where a major event took place in our
6 community, although he was informed of it he kept
7 quiet. It was a very serious matter, but he kept
8 quiet. So it doesn't mean that simply because he
9 keeps quiet, it doesn't say that things don't...he
10 doesn't get misled. Even if he knows of it, he
11 often...

12 89. MR. GRAY: Off the record.

13
14 --- DISCUSSION OFF THE RECORD

15
16 BY MR. GRAY:

17 90. Q. I am showing you what was Exhibit 10
18 to Mr. Tajdin's cross-examination. I am giving you
19 the original. You remember that? The affirmation.

20 A. Yes, I do.

21 91. Q. You have seen that before?

22 A. Yes, I have.

23 92. Q. Right. You can keep it for the
24 moment. And do you see that Aga Khan apparently
25 appeared...sorry, this is not what I wanted to show



1 you. You are aware of this affirmation?

2 A. Yes.

3 93. Q. You are aware that Ms. Colman swore
4 it. And you are aware that Mr. Gleason was there at
5 the time?

6 A. Yes, I have seen his affidavit.

7 94. Q. You have seen his affidavit. His
8 affidavit is...his affidavit is contained at tab 5
9 of the Plaintiff's Motion Record.

10 A. Tab 4.

11 95. Q. The affidavit is contained at tab 5
12 of the Motion Record of the Plaintiff for summary
13 judgment.

14 A. Yes.

15 96. MR. GRAY: And maybe just for this
16 record, we can produce that and mark it as
17 an exhibit. We will mark it as Exhibit 1,
18 I suppose, to your cross-examination.

19 THE DEPONENT: Okay.

20
21 --- EXHIBIT NO. 1: Affidavit of Documents of Daniel J.
22 Gleason sworn June 1, 2010

23
24 BY MR. GRAY:

25 97. Q. Now, do you have that affidavit in



1 front of you?

2 A. Yes.

3 98. Q. Do you see that Mr. Gleason, who is
4 a lawyer in the firm of Nutter McClennen, says that
5 he met the Aga Khan in the Mandarin Oriental in
6 Boston?

7 A. I have read his affidavit.

8 99. Q. Okay. And do you see at paragraph 4
9 he says the Aga Khan says he...he assured Mr.
10 Gleason that he had read it and he understood its
11 contents and was prepared to sign?

12 A. That is what he says, yes.

13 100. Q. Do you think he is lying?

14 A. Lying about what?

15 101. Q. Do you think he is lying about what
16 he just said there, that he saw the Aga Khan, His
17 Highness...that the Aga Khan had said to him that he
18 had read the affidavit, he understood its contents
19 and was prepared to sign?

20 A. Actually, I don't read it that way.

21 102. Q. You don't read it that way?

22 A. I don't read it that way. His
23 affidavit is there, so...

24 103. Q. You don't read it that way? He
25 says:



"...We next presented the three copies of the affirmation to His Highness, who assured us, after he had read it, that he understood its contents and was prepared to sign..."

A. His affidavit says what he did.

104. Q. So you think he is lying?

A. Well, he could be mistaken.

105. Q. He is mistaken. He is mistaken that...what is he mistaken about, that His Highness...

A. This is his affidavit. That is your evidence. He give you evidence. I don't need to confirm your evidence.

106. Q. I know you don't. I am just asking you to explain it.

A. I am opposing his evidence. We have given a responding affidavit to this, so...he may be lying, he may be mistaken.

107. Q. You are suggesting he is surrounded by people who are giving him misinformation.

A. Yes.

108. Q. Right? So, it says here that he was...he read the affidavit, understood its contents and was prepared to sign. And do you see paragraph



6:

"...Other than His Highness' personal assistant, who did not participate in the meeting itself, no one else was present..."

Do you see that?

A. Yes. You know what? He says what he says. I don't need to accept what he says.

109. Q. You have to accept that Mr. Sachedina...

A. Listen, I Have told you that he could be mistaken.

110. Q. And in what way is he mistaken?

A. I don't need to answer that. He could be mistaken. You have got his affidavit. You are relying on his affidavit. You make your argument as you want.

111. Q. I know, but I am interested in your understanding. You said he is mistaken and I would like to know how he is mistaken. Is he mistaken because the person that he saw was not the Aga Khan?

A. That could be, yes.

112. Q. Somebody in an Aga Khan mask or something?

A. No.

113. Q. Was he somebody impersonating the



1 Aga Khan?

2 A. It could be somebody with a false
3 passport.

4 114. Q. Somebody with a false passport?

5 A. It is possible, yes.

6 115. Q. You think that is possible?

7 A. It is possible, of course.

8 116. Q. Wouldn't it be reasonable...

9 A. You know what, sir? I think you are
10 well aware that there is a lot of identity fraud
11 that goes on. There are a lot of people, even in my
12 own office...I don't know if you are aware of this
13 or not, but December, 2007, I, along with another 14
14 or 15 lawyers, were subject of...victims of fraud in
15 our office. We were given false IDs and the Law
16 Society since then has been sending reports or
17 warnings to all lawyers across Ontario. It is also
18 happening in B.C. And after that, there have been
19 three more fraud attacks on lawyers with false IDs.
20 So these things do happen.

21 117. Q. Wouldn't it be reasonable to ask Mr.
22 Gleason what he saw? Wouldn't it be reasonable to
23 ask him about the passport?

24 A. Listen, Counsel, you conduct your
25 litigation the way you want. We will conduct the



1 way we want; all right? You have decided you will
2 not cross-examine him. You have given us your
3 evidence. We have given our evidence and we will go
4 and make an argument. You can make an argument. I
5 don't need to confirm this affidavit.

6 118. Q. No, but I understand you were just
7 saying he was mistaken and I want to know in what
8 respect you think he is mistaken.

9 A. I already told you it could be
10 identity fraud.

11 119. Q. A fake person that appeared.

12 A. You said "mask". I didn't say that.
13 That is up to you to say. So you can make your
14 submissions as you want.

15 120. Q. But as a lawyer, you are familiar
16 with affidavits and sworn statements?

17 A. So you don't need to tell me that.

18 121. Q. You are familiar with affidavits and
19 sworn statements?

20 A. Of course I am. I told you I am a
21 13 year lawyer. I know what affidavits are, I know
22 what affirmation is. But I have given you my
23 answer. You can make those submissions in argument
24 to the court as you want. I have already answered
25 my questions.



1 122. Q. Well, is it your evidence that you
2 won't accept...the Aga Khan has not consented that
3 the Aga Khan has not authorized this lawsuit unless
4 you speak with him in person? Is that your
5 evidence?

6 A. My evidence...you know what? I
7 don't need to speak to him in person. I don't need
8 to speak with him in person. He has, despite the
9 evidence to the contrary, he has very simple ways of
10 dealing with these issues. And that leads me to
11 believe that, you know, he is not behind this
12 litigation.

13 123. Q. But you don't need to speak to him
14 in person.

15 A. I don't need to...

16 124. Q. And so you would accept something in
17 writing?

18 A. Writing at this moment is becoming
19 difficult to accept. But I have told you that he
20 has got quite a few...at least two other
21 alternatives to stop this stuff or stop the
22 publication of Farmans and he has chosen not to do
23 so. That leads me to believe that he is not behind
24 this.

25 125. Q. But if we got another affidavit from



1 another person that had seen the Aga Khan, would
2 that convince you?

3 A. Listen, you can do what you want to
4 do. I won't tell you how to conduct your
5 litigation, sir. You don't tell me how to conduct
6 my defence or what evidence I put in or who to
7 cross-examine. I have told you my position. You
8 have given your evidence as you have.

9 126. Q. You saw the photograph of me
10 standing next to the Aga Khan? Did you see that
11 photograph?

12 A. I have seen the photograph.

13 127. Q. You think I did not speak to the Aga
14 Khan?

15 A. You know what? I will not answer
16 that question. You give your evidence if you want
17 to. Put in an affidavit and we can cross-examine
18 you. Right now you have not given any evidence.
19 You are just counsel.

20 128. Q. The whole...if I gave evidence, then
21 you would question that of another lawyer, wouldn't
22 you? A lawyer has given evidence. Mr. Gleason has
23 given evidence.

24 A. Listen, the announcements...

25 129. Q. And you questioned Mr. Gleason. He



1 has given evidence, hasn't he?

2 A. Mr. Gray, I have been a keen
3 follower of His Highness Prince Karim Aga Khan
4 and...not only him, Sultan Mohammed Shah right back
5 to...right to the prophets. I have read a lot of
6 history. And for me to make judgments...I mean, if
7 you tell me that, you know, if another affidavit
8 comes in, for me to make judgment, I know my Imam
9 how he works, how he operates. Right now, to me,
10 all of this stuff seems odd. They are inconsistent
11 with the constitution. They are inconsistent with
12 the Farmans that he has made. They are inconsistent
13 with our oral tradition of 1,400 years. So I have a
14 hard time believing and accepting.

15 130. Q. I understand you have a hard time
16 believing. I think we understand that.

17 A. Yes.

18 131. Q. But, nevertheless, you would
19 accept...you understand that affidavits are often
20 accepted by lawyers everywhere all over the world?

21 A. And I think you are aware that false
22 affidavits are being filed here and there. It does
23 happen.

24 132. Q. I...

25 A. Excuse me. Courts also routinely



1 get defrauded by people.

2 133. Q. And you are suggesting that is what
3 I am doing.

4 A. No, I am not suggesting. I am
5 saying I am not satisfied.

6 134. Q. Now, did you look up Mr. Gleason's
7 biography?

8 A. I did, yes.

9 135. Q. You looked him up on the Internet?

10 A. Yes, I did.

11 136. Q. I am showing you a copy of his
12 Internet biography. Is that the biography that you
13 have seen?

14 A. Yes, I have.

15 137. MR. GRAY: We will mark that as the next
16 exhibit.

17
18 --- EXHIBIT NO. 2: Biography of Daniel J. Gleason

19
20 BY MR. GRAY:

21 138. Q. Can you give me some indication of a
22 motivation why Mr. Gleason would lie?

23 A. Lawyers get duped by clients every
24 now and then. I think you can look at cases. You
25 can look up reports. If you just look up the Law



1 Society's fraud website, you will be able to see in
2 Ontario about 30, 40 lawyers have been defrauded,
3 essentially based on false ID. Law Society has
4 changed its rules for even doing real estate
5 transactions based on fraud that has been
6 perpetrated. I don't believe that those lawyers are
7 committing fraud. They are victims of fraud.

8 139. Q. I am showing you the two
9 announcements that we referred to this morning that
10 were made to the JamatKhanas: Exhibit 8 to the
11 cross-examination of Mr. Tajdin this morning and
12 Exhibit 9.

13 A. Okay.

14 140. Q. Are you aware how these
15 announcements become approved for circulation in the
16 JamatKhanas?

17 A. No.

18 141. Q. You are not. Do you know how many
19 leaders have to review them before they are
20 circulated to the JamatKhanas in any country or
21 worldwide?

22 A. No, I don't.

23 142. Q. And have you personally received
24 these announcements in the Canadian JamatKhanas?

25 A. I may have heard it.



1 143. Q. Have you heard them read in the
2 JamatKhanas in Canada: One on January 16, which is
3 Exhibit 8, and the other one on April 15?

4 A. The one on January 16th, I believe I
5 was in JamatKhanas when I heard that. The April one
6 I was not in JamatKhanas but I subsequently learned
7 of that.

8 144. Q. But you subsequently learned it was
9 read at the JamatKhanas?

10 A. Yes.

11 145. Q. Now, turning to Exhibit C in
12 your...Mr. Tajdin's original affidavit, this is the
13 Golden Edition that you were involved in?

14 A. Yes.

15 146. Q. And have you been involved in the
16 printing of this book?

17 A. No, I have not.

18 147. Q. Have you been involved in the
19 distribution of the book?

20 A. Yes.

21 148. Q. How many of these books were
22 printed?

23 A. I don't know.

24 149. Q. How many have you distributed?

25 A. I think I have distributed about 80.



1 150. Q. Eighty?

2 A. Yes.

3 151. Q. And you distributed these, I take
4 it, by your LISTSERV?

5 A. No.

6 152. Q. You didn't distribute this by the
7 LISTSERV?

8 A. No. The copies that I sold...one I
9 mailed to Chicago. I received a personal e-mail
10 from a person that I have communicated with in the
11 past.

12 153. Q. Okay.

13 A. The rest are all personal within the
14 GTA.

15 154. Q. Personal in the GTA, so
16 you...friends or relatives or people you know?

17 A. Yes.

18 155. Q. Okay. And what about your LISTSERV,
19 ILM...you have a LISTSERV, ILM?

20 A. Yes, I do.

21 156. Q. ILM...

22 A. ILM-net, yes. It is out of
23 University of Manitoba.

24 157. Q. And is that something that is a
25 website or it is just something you send out a



1 broadcast e-mail?

2 A. It is just a broadcast e-mail.

3 158. Q. And you distribute the books through
4 that?

5 A. Not this Golden Edition.

6 159. Q. Not the Golden Edition?

7 A. No.

8 160. Q. And some of the earlier books that
9 Mr. Tajdin has, you distributed through your
10 LISTSERV?

11 A. I have never distributed any through
12 the...other than this one book, I never distributed
13 anything...well, I sent a few to my family in Kenya,
14 but other than that, I have not distributed any over
15 the mail.

16 161. Q. Okay.

17 A. All the books that I distributed are
18 strictly personal. Like, personal meetings, one-to-
19 one. I often deliver them myself.

20 162. Q. And the selling price for the book?

21 A. This Golden Edition is \$50.

22 163. Q. And the printing price, the cost to
23 you?

24 A. The cost to me is \$50.

25 164. Q. The cost to you is \$50?



1 A. Yes. Canadian.

2 165. Q. You don't know what the printing
3 price is?

4 A. I don't know.

5 166. Q. And when did you start doing this?

6 A. I think I got the first batch just
7 before Christmas. Because it was during the
8 Christmas holidays that I visited family and
9 I...yes, I have given them out.

10 167. Q. And are you still doing it?

11 A. I have been too busy lately, so I
12 have not done any lately.

13 168. Q. So you have stopped, then?

14 A. I haven't stopped, but, as I told
15 you, mostly I sell them to personal contacts.

16 169. Q. When is the last one you
17 distributed, then, or sold?

18 A. I think I gave two copies to my
19 brother. He came to pick it up from me. It is
20 about a month. Maybe three, four, five weeks ago.

21 170. Q. Three or four or five weeks ago.

22 A. Yes.

23 171. Q. And before that, the two copies to
24 your brother; before that, when was the last one you
25 sold or distributed or gave away?



1 A. Before that, after listening to
2 this, one of my client's family picked up, I think,
3 four books from me.

4 172. Q. And when was that?

5 A. I am not sure, but I think this is
6 around the time Haz Imam was here. Around May.

7 173. Q. Around the end of May?

8 A. Yes. Mostly this time I have been
9 selling only to people that I have known and in
10 contact with. So, I normally even when my clients
11 come in I don't normally tell them to buy this. But
12 if they hear from somebody else, they might come and
13 ask me.

14 174. Q. And how about the audio bookmark?
15 Did you have any involvement in the production of
16 that?

17 A. No. I have nothing to do with
18 production.

19 175. Q. Nothing to do with the production.

20 A. Yes.

21 176. Q. And any involvement in the
22 collection of the audio speeches?

23 A. No.

24 177. Q. Why does the book not identify a
25 publisher; do you know?



1 A. You know, Nagib told me once...this
2 was way before. I actually asked him this, I said,
3 "You know what? There should be some contact on
4 there", because quite often people would tell me
5 they don't know...when I sent to my cousin, my first
6 cousin in Kenya, and so they ask for it but I say I
7 normally don't ship them. I don't even I have time.
8 So I told him, I said, "You should put at least one
9 number or something", and he says, "Look, we are
10 doing this...so we don't..." my understanding is
11 Nagib is also selling to people that he know, that
12 he knows at this time. So, it has never been, sort
13 of, an issue that we are going to be mass
14 distribution sort of.

15 178. Q. Right.

16 A. So that was my understanding. You
17 know, it is just being sold...and my understanding
18 also is the reason that he put it into book form is
19 he normally was giving photocopies of it and that
20 was taking too much time and energy and they were
21 being, sort of, not placed properly at people's
22 homes. Loose copies.

23 179. Q. And is that why you didn't put the
24 Imam's...there is an Imamat crest, isn't there?

25 A. Yes.



1 180. Q. Right?

2 A. Yes.

3 181. Q. That is authorized...something that
4 comes from the Imam himself, the crest. To show you
5 an example of that, it is on, for instance, Exhibit
6 1. No, sorry, Exhibit 3.

7 A. Yes.

8 182. Q. Exhibit 3. There is an example on
9 Exhibit 3 of his Imamat's crest?

10 A. Yes.

11 183. Q. That indicates it is authorized by
12 the Imam?

13 A. I don't know if...you know, my
14 knowledge is that...when I was in Kenya, a lot of
15 people used to use the crest even in the
16 advertisements. And if I am not mistaken, the
17 consulate once made an announcement we are not to
18 use this anywhere.

19 184. Q. It is in the constitution now you
20 can't use that crest unless authorized by the Imam;
21 right?

22 A. I don't recall, but it may be.
23 Because I know that nobody can use that. Even if
24 the Imam authorizes, it is strictly used by the Imam
25 as his...on his planes and on his correspondence.



1 185. Q. On his correspondence.

2 A. So, even in the books that are
3 authorized and sold in the JamatKhanas by Tariqah
4 Board, they don't put a crest on.

5 186. Q. So even assuming that you have the
6 1992 permission, you wouldn't put the crest on it?

7 A. No, even ITREB, they publish books
8 on behalf of the institution; they don't put a crest
9 on.

10 187. Q. Do you pay Mr. Tajdin for the books?

11 A. I don't pay to Mr. Tajdin. I pick
12 them up from a local distributor here.

13 188. Q. Who is the local distributor?

14 A. I won't name him now.

/R

15 189. Q. You won't name him now. And where
16 do you...

17 A. Mr. Sachedina knows them.

18 190. Q. And who do you pay?

19 A. To him.

20 191. Q. If Mr. Sachedina knows them, why
21 wouldn't you tell me?

22 A. Because most of the stuff that is
23 going on in the affidavits is becoming public on the
24 websites. There is a new website that has opened
25 recently. So, people do get harassed. Even I get



1 harassed. So that is the reason.

2 192. Q. I see. Well, you...

3 A. I haven't paid him yet. I owe him
4 for the 50 books...for the 96, I believe, I picked
5 up. I haven't even collected the monies, because
6 most of them are my family and friends.

7 193. Q. I see. So, 96 books, you haven't
8 collected the money. And of the 96, you have
9 distributed 80...

10 A. About 80 I have distributed.

11 194. Q. So you probably have 16 left then?

12 A. About 16 or so, yes. I mean, I
13 haven't counted but it is in that range. I have
14 collected some money, but not all.

15 195. Q. So your evidence is you have not
16 sold the books over the web?

17 A. No.

18 196. Q. So, when I show you this...let's
19 see. Excuse me. I am going to show you Exhibit 14.
20 That is not you selling the book on the web; that is
21 Ismaili.net?

22 A. Well, this is Ismaili.net.

23 197. Q. Right, so you have not...

24 A. I have no connection with
25 Ismaili.net.



1 198. Q. And you haven't sold them through
2 the ILM-net?

3 A. Through ILM-net I put this pressure
4 on as advertising, but frankly I don't have enough
5 time and I primarily have been giving it only to
6 family and friends.

7 199. Q. So you have put that brochure on the
8 ILM-net?

9 A. ILM-net, yes.

10 200. Q. The ILM-net, you have put that
11 brochure on?

12 A. Yes.

13 201. Q. So you have advertised the book on
14 the 'net?

15 A. Yes, I have. No, not on the 'net.
16 You can't call it the web. ILM-net is...

17 202. Q. Through electronic e-mail
18 distribution, let me put it that way.

19 A. Let me put it this way: ILM-net is a
20 group of, if I can say, friends or Ismailis that I
21 admit. So you cannot become a member, even if you
22 are an Ismaili, just like this. So it is like me
23 sitting at home with my friends. So it is a
24 restricted ILM-net.

25 203. Q. Restricted Internet circulation;



1 would that be fair?

2 A. Yes. I only admit them if I do;
3 otherwise I don't admit them. So nobody can join in
4 automatically.

5 204. Q. Are you involved at all in
6 Ismaili.net?

7 A. No, I am not.

8 205. Q. You are not an editor of it?

9 A. I have nothing to do with it. I
10 don't even have time if I wanted to.

11 206. Q. Yes. So, when did Mr. Tajdin tell
12 you about the forgeries of the letters, the alleged
13 forgeries of the letter of January 24 or February
14 18?

15 A. I don't recall the exact date, but
16 it was in...when he received the first letter. It
17 may have been the very day or the next few days is
18 when he told me that he had received a letter.

19 207. Q. And at that point he told you it was
20 a forgery?

21 A. I don't think at that point he told
22 me, but I was actually in disbelief when he told me
23 that he has received a letter.

24 208. Q. You didn't believe that His Highness
25 would have sent a letter telling you not to do it?



1 A. Yes. I was in disbelief and I said,
2 "You know what? I don't believe it". The funny
3 thing is he didn't send me a copy of the letter.

4 209. Q. Who is "he"?

5 A. Mr. Tajdin did not give me a copy.
6 He just told me that on the phone.

7 210. Q. So, you were in a state of disbelief
8 and...

9 A. I was, yes. I was.

10 211. Q. But did Mr. Tajdin tell you at that
11 time that the letter was a forgery?

12 A. You know what? I don't think he
13 told me the very first day. I think he told me
14 maybe a few days later.

15 212. Q. A few days later.

16 A. A few days later.

17 213. Q. Before he had sent it to an expert.
18 He just knew it was a forgery?

19 A. Yes, before he sent it.

20 214. Q. And...

21 A. I suggested, I said, you
22 know...actually, Nagib told me his mother told him
23 that from the letters that she has, this is not
24 Imam's signature at all. So I told Nagib, I said,
25 "Look, when we have a situation like that, we send



1 it to an expert". So I found the two names and I
2 said, "Let's send it for them".

3 215. Q. And so you helped him send the
4 two...the letters to an expert?

5 A. I didn't help him send. He sent it
6 straight, because even after we received the
7 reports, I did not see the letter.

8 216. Q. You didn't see the letter. But you
9 saw the reports?

10 A. I saw the reports.

11 217. Q. And did you give the experts any
12 instructions as to what to do?

13 A. No, I did not communicate with the
14 experts, except for one I paid for. I paid for one
15 of the experts.

16 218. Q. Which expert?

17 A. I would have to look it up. One of
18 the two.

19 219. Q. One of the two, Carlson or
20 Petinatti. I'm sorry, Carlson or...

21 A. Because, you know, Nagib's...

22 220. Q. It was not Ospreay, though?

23 A. Ospreay...the first two experts...
24 one of the two I paid. One of the two I paid.
25 Nagib's credit card was not going through. She was



1 trying to ring it through and it wouldn't be
2 accepted, so Nagib told me if I can pay. So then I
3 paid from here.

4 221. Q. So...

5 A. I don't know. One of the two.

6 222. Q. Petinatti or Carlson?

7 A. Yes.

8 223. Q. Right. Okay. And how many other
9 people did Mr. Tajdin tell about the forgeries?

10 A. In terms of experts?

11 224. Q. No, no, just in terms of people. He
12 told you about the forgery; right?

13 A. I don't know. You know, the person
14 that I buy the books from, I discuss with him.

15 225. Q. So he knew about the forgery?

16 A. Yes.

17 226. Q. This is the distributor of the
18 books?

19 A. This is the distributor, yes.

20 227. Q. Or the alleged forgery.

21 A. The alleged forgery, right.

22 228. Q. And who else did Mr. Nagib tell?

23 A. You know, I really don't know. I
24 mean, Mr. Tajdin and I, although I have known him
25 for almost some 20 years, but we have never been,



1 sort of, friends. We have never visited...I have
2 never visited his home or he my home. We
3 essentially met at some seminars that...at first I
4 met him when he organized a seminar on our
5 Khojki...it is known as a Khojki script.

6 229. Q. Okay.

7 A. So, we have never been in a sense
8 friends that I associated with. I mean, my interest
9 from Nagib was just to get the Farmans from him.

10 230. Q. So, who else did you tell about the
11 forgeries, then?

12 A. At the time it happened?

13 231. Q. Yes.

14 A. At the time it happened, I didn't
15 discuss it with anybody.

16 232. Q. February, 2010.

17 A. I don't recall telling others.

18 233. Q. And when is the first time you told
19 someone else about the forgery?

20 A. After the litigation started.

21 234. Q. After the litigation.

22 A. Yes.

23 235. Q. After what day?

24 A. April.

25 236. Q. April...



1 A. Whatever. It was in April. I first
2 told my mom.

3 237. Q. Sorry?

4 A. I first told my mother.

5 238. Q. You first told your mother.

6 A. Of course.

7 239. Q. That is sweet.

8 A. She was at my home...so I did tell
9 her.

10 240. Q. But that was after the litigation...

11 A. Yes.

12 241. Q. ...was started.

13 A. Yes.

14 242. Q. Do you remember when you told her
15 about the forgeries?

16 A. To whom?

17 243. Q. When did you tell your mom?

18 A. I told my mom after the litigation
19 started.

20 244. Q. Well, the litigation started in
21 April.

22 A. Yes. I don't remember the date, but
23 it was in April. I know after the litigation
24 started.

25 245. Q. Was it before you filed your



1 Statement of Defence...

2 A. Yes.

3 246. Q. ...alleging the forgeries?

4 A. Yes.

5 247. Q. Okay.

6 A. After that, I was telling everybody,
7 including my sister. My whole family was in shock,
8 of course.

9 248. Q. This was after you filed or when you
10 filed the Statement of Defence?

11 A. Yes. Because before filing the
12 Statement of Defence, the issue of even the
13 prohibition and stuff was technically not public.
14 And finally it was Mr. Tajdin who sort of...I don't
15 even know all the distributors. I just know...

16 249. Q. The distributors all knew, and
17 presumably they were telling people buying the books
18 that...there were people...

19 A. At that time?

20 250. Q. Well, let's put it this way...

21 A. Before the litigation or after the
22 litigation? There is a big difference between the
23 two. Before the litigation...I am talking about
24 before the litigation at the moment.

25 251. Q. Yes. Right.



1 A. Before the litigation, the only
2 person who knew was Mr. Tajdin. Then he told me.
3 And then there is this one distributor that I buy
4 books from. I discussed with him about this.

5 252. Q. The International Leaders Forum
6 issued a caution, I will put it that way, on January
7 16th; right?

8 A. Yes.

9 253. Q. Not to buy these books because they
10 weren't authorized.

11 A. But at that time...I want you to
12 remember one thing. Especially with me, I don't
13 know about Mr. Tajdin, but especially with me...and
14 I believe it is the same with all the distributors.
15 Although we have 15,000,000 members in the
16 community, not everybody cares about this stuff.
17 They don't. I would probably say maybe...I wouldn't
18 be wrong if I said 90 percent of the Jamats don't
19 care. They are not what you would say...I can use
20 the word true believers. And I told you about
21 Sultan Mohammed Shah having made express...I impose
22 a duty on you to convert Ismailis into true
23 Ismailis. He said this to us. And initially when I
24 was studying about this, they expect that some of
25 those who believe in it try to spread the knowledge



1 and say, "Look, you are to believe in it and abide
2 by the Farmans", as an...I will give you an example.
3 My niece goes to university. She tells me 99
4 percent of students drink alcohol.

5 254. Q. Okay, I am sorry to cut you off. It
6 is really not responsive to my question.

7 A. So I am just giving you a story.
8 The books are being sold primarily to those people
9 who are interested and those who have been buying
10 over the past 15 years. So even this Golden
11 Edition, you would not buy it. I don't mean you,
12 but most people won't buy it. It is only those
13 people who have been buying for the past 16 years.
14 So even with me, the issue is only the people that I
15 am selling to I have been selling all over the time.

16 255. Q. That is why you have only sold 80 of
17 them.

18 A. Yes, so most of these people I am
19 selling are in this small range.

20 256. Q. Can I go back to my question?

21 A. Yes.

22 257. Q. There was an announcement to the
23 Jamats in January 16th, 2010.

24 A. Yes.

25 258. Q. In that announcement, you would



1 agree with me that the institutional leaders,
2 however you want to put it, cautioned people against
3 buying this book; right?

4 A. Yes.

5 259. Q. They warned that it wasn't
6 authorized and that it should not be bought; right?

7 A. Yes.

8 260. Q. So, am I right in assuming that
9 people, then, who might have wanted to buy the book
10 might have questioned you about it as to why it is
11 not authorized?

12 A. No. This is not the first
13 announcement.

14 261. Q. Okay.

15 A. This is not the first announcement.
16 They made announcements, I think, over the past 10,
17 15 years.

18 262. Q. Saying these books aren't
19 authorized?

20 A. Not only books. Mr. Tajdin says in
21 1992 he is giving out books. But then once a book
22 is printed, there are Farmans that come out. So
23 there are many people who distribute Farmans. There
24 are literally people who just photocopy hundreds of
25 copies and then distribute it at JamatKhanas.



1 263. Q. Photocopies of them.

2 A. Photocopies or nowadays because of
3 Internet...so, council has been making announcements
4 forever.

5 264. Q. And people just ignore them.

6 A. They just ignore them.

7 265. Q. They ignore them. And so therefore
8 nobody asked you to explain why the book wasn't
9 authorized? Not a single person?

10 A. No. First of all, remember one
11 thing. People don't know who is selling them.

12 266. Q. Okay.

13 A. Like, people don't know who is
14 selling them. So...

15 267. Q. They don't know because you have
16 your names hidden and it is a Golden Wiz or
17 whatever.

18 A. Even before that, people don't know.
19 Primarily it is sold through personal contacts only.

20 268. Q. Right.

21 A. Actually, what happened is when the
22 announcement was made, it created this knowledge
23 that people didn't have. "Oh, there are books
24 available?"

25 269. Q. Right. So then you were happy?



1 A. No. No. People didn't know that I
2 am one of the sellers, so...until then the fraud was
3 never there. Your initial question was whether we
4 are telling people about fraud. Until then the
5 issue of fraud was not there. We started talking
6 about fraud openly after the litigation started.

7 270. Q. Right.

8 A. Now I tell anybody who tells us I
9 believe it is fraudulent.

10 271. Q. Now you tell everybody that it is a
11 forgery.

12 A. Yes, because after the litigation
13 started, even strangers keep on calling me.

14 272. Q. And you keep telling them it is a
15 forgery.

16 A. I tell them, "I don't believe the
17 Imam has signed this stuff".

18 273. Q. And that Brian Gray himself has not
19 authorized that?

20 A. Listen, I have never said Brian Gray
21 is...I say I don't believe the Imam is behind this
22 and, you know, we will have to discover if he is.

23 274. Q. Okay. So, I think we have explored
24 this already. You had no involvement with
25 instructing any of the experts?



1 A. Not the first two.

2 275. Q. Right.

3 A. But I had with Graham. Nagib and I
4 met him together.

5 276. Q. You met him together?

6 A. Yes.

7 277. Q. And did you give him instructions as
8 to what to do?

9 A. We told him we wanted to verify if
10 this signature is blessed by the Aga Khan.

11 278. Q. Did you receive any reports from him
12 other than the ones that...

13 A. Yes, we did.

14 279. Q. You received additional reports?

15 A. No, we got an interim report in the
16 beginning. And at that time, he wanted the original
17 of the...of the affirmation, I believe it was. He
18 wanted the original affirmation and then initially
19 you were not giving us. So I told him, "When we get
20 it, we will show it to you". So then when we
21 received the affirmation, then I give it to him,
22 then he updated his report.

23 280. Q. So, can I see the interim report?

24 A. Perhaps you can ask him when you
25 cross-examine him.



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1 281. Q. Well, he won't give it to me unless
2 you consent to it, I presume. I am asking you.

3 A. I am going to take it under
4 advisement.

U/A

5 282. Q. I take it that you also follow
6 events...I take it you also follow events in His
7 Highness' life?

8 A. I do somewhat, yes. But the
9 accident was publicly known. So even if you are not
10 following, you knew.

11 283. Q. So you knew?

12 A. Yes.

13 284. Q. You knew there was an accident in
14 2008?

15 A. Yes.

16 285. Q. And you knew there was an accident
17 which injured his right shoulder?

18 A. Yes.

19 286. Q. His writing hand.

20 A. Yes.

21 287. Q. Or arm, sorry.

22 A. Yes.

23 288. Q. And did you tell Mr. Osprey that?

24 A. I think I did.

25 289. Q. You think you did?



1 A. I think I did. I told him that he
2 had had an injury.

3 290. Q. Well, we will ask him that.

4 A. Yes.

5 291. Q. He didn't put that in his report,
6 did he?

7 A. I don't think so, but I think I did
8 mention to him.

9 292. Q. You mentioned it but he didn't put
10 it in his report?

11 A. Maybe not. I am not...

12 293. Q. How old is His Highness?

13 A. I think he is about 75, if I am not
14 mistaken.

15 294. Q. Something like that.

16 A. Something like that, yes. I don't
17 follow as keenly as I should.

18 295. Q. And did you tell Mr. Ospreay that
19 His Highness was that age, or at least in his
20 seventies?

21 A. I don't recall if we mentioned that
22 or if I mentioned that. I don't recall that.

23 296. Q. Now, were you involved at all in the
24 Mehmani in 1992?

25 A. No.



1 297. Q. Were you involved in any of the
2 discussions in 1998 with Mr. Sachedina and Mr.
3 Tajdin?

4 A. No.

5 298. Q. I take it you have once been to a
6 Mehmani, have you not?

7 A. Yes. Actually, a number of times.

8 299. Q. You have been more than once?

9 A. Yes.

10 300. Q. So you are luckier than Mr. Tajdin.

11 A. Yes.

12 301. Q. It is a special occasion, I take it?

13 A. Yes, it is.

14 302. Q. Very special?

15 A. It is, yes.

16 303. Q. It is a privilege to attend a
17 Mehmani?

18 A. Of course.

19 304. Q. And generally it is a privilege to
20 meet the Imam, His Highness?

21 A. No, not publicly. But in a Mehmani.

22 305. Q. Not in a group, but privately...if
23 you meet with him privately...

24 A. In a Mehmani. He has said to us
25 that, "When I am outside in the public, don't run



1 after me, don't come and meet me, because it is not
2 the same as coming to see me in Mehmani".

3 306. Q. But in meeting with him privately in
4 a personal audience, would it...

5 A. It is special, of course. It is
6 meant for that.

7 307. MR. GRAY: Yes. Okay. Off the record
8 for a second.

9
10 --- A BRIEF RECESS

11
12 ALNAZ JIWA, resumed

13 CONTINUED CROSS-EXAMINATION BY MR. GRAY:

14 308. Q. There is one more question I wanted
15 to ask you. Is it your position that His Highness
16 has the absolute and unfettered right to withdraw
17 his consent to the publication of these materials at
18 any time?

19 A. Yes, he does.

20 309. Q. And so if he, in fact, has withdrawn
21 his consent now or at any time since the lawsuit
22 started, that is the end of the matter, regardless
23 of what might have happened in 1992?

24 A. Yes. You know what? If His
25 Highness personally desires to stop everything, it



1 just stops. He is the boss.

2 310. Q. Right. Whether he gives that to you
3 generally in writing or whether it is in person...

4 A. Generally, no, as I said earlier...

5 311. Q. You don't want to accept it in
6 writing but...

7 A. No. I would accept in writing. The
8 problem that I have right now is this issue of
9 whether...for me, I have a grave concern that he has
10 been misled. It has happened in the past. To you
11 it might sound, "Oh, well, this is..." but it has
12 happened in the past. So, I would...I am hesitant
13 to accept it in writing. Your e-mail said that if
14 you don't accept it, he wants to pursue with the
15 litigation. So, he has repeatedly told us that if
16 we have any concerns, we can discuss with him. He
17 has told us this. He says, "I am here to guide my
18 Jamats". He says, "Ninety percent of my time should
19 be spent for the Jamats", so we are entitled to...he
20 is like our father. He is not a CEO of a
21 corporation. He is like our father and we are
22 entitled to...if I put it another way.

23 We are entitled to beg him to allow his
24 Farmans to be distributed to the Jamats because he
25 wants the Jamats to be guided. So I am entitled to



1 make a plea to him as a Pir. He is our current Pir
2 as well as actually I think it might even be in the
3 constitution that he is the current Pir, so I am
4 entitled to take our pleas to him and, you know, he
5 is our spiritual advisor. It is just like Jesus is
6 to Christians.

7 312. Q. Right, I understand.

8 A. So at this moment and this state in
9 time, this litigation is completely contradictory to
10 what he has been telling us all along. This is why
11 I appreciate that you are counsel and I appreciate
12 your comments on that, but I have grave concerns.
13 And so as much as you say I have unfettered...I
14 mean, if he tells me to jump out of this window I
15 won't think think about it. And I hope I can
16 maintain that faith; right? So if he tells us and
17 if I am satisfied this is him, I will do it.

18 313. Q. And even if it is in writing, if he
19 tells you that it is not to be done, you will do it?
20 Whether in writing or in person; as long as you are
21 satisfied...

22 A. That it is from him.

23 314. Q. Right.

24 A. Absolutely. There is no question
25 about it.



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1 315. Q. And that vitiates, if you will, or
2 cancels or annuls any prior consents that may have
3 been given in 1992 or at any other time?

4 A. Mr. Gray, it would make no
5 difference whether there is consent or not. He says
6 no, the matter is over.

7 316. MR. GRAY: Right. Okay. Thank you. I
8 have no further questions. Subject to the
9 undertakings and questions that you have
10 agreed to answer later and any refusals I
11 might follow up on, I have no further
12 questions.



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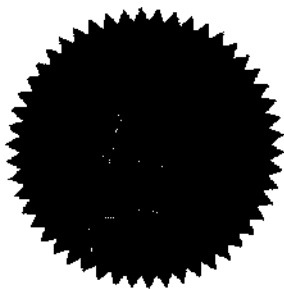
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Please be advised that any undertakings, objections, under advisements and refusals are provided as a service to all counsel, for their guidance only, and do not purport to be legally binding or necessarily accurate and are not binding upon Victory Verbatim Reporting Services Inc.

I hereby certify the foregoing to be a true and accurate transcription of the above noted proceedings held before me on the **9TH DAY OF AUGUST, 2010** and taken to the best of my skill, ability and understanding.



Certified Correct:

Anthony Ng
Verbatim Reporter

FEDERAL COURT

B E T W E E N:

HIS HIGHNESS PRINCE KARIM AGA KHAN

Plaintiff

- and -

NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO.
and all other persons or entities unknown to the
Plaintiff who are reproducing, publishing,
promoting and/or authorizing the reproduction and
promotion of the Infringing Materials

Defendants

--- This is the Cross-Examination of SHAFIK
SACHEDINA, the Deponent herein, on an Affidavit sworn on
June 25, 2010 taken at the offices of Network Reporting &
Mediation, One First Canadian Place, 100 King Street
West, Suite 3600, Toronto, Ontario, M5X 1E3, on
Thursday, the 12th day of August, 2010.

APPEARANCES:

BRIAN W. GRAY]	For the Plaintiff
ALLYSON WHYTE NOWAK]	

ALSO IN ATTENDANCE:

ALNAZ I. JIWA	On his own behalf as a Defendant
NAGIB TAJDIN	On his own behalf as a Defendant

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1 --- UPON COMMENCING AT 10:02 AM.

2 SHAFIK SACHEDINA: Sworn.

3 CROSS-EXAMINATION BY MR. JIWA:

4 1 Q. Mr. Sachedina, you have been sworn this
5 morning?

6 And can you please state your name for the
7 record, please? Spell your name?

8 A. Shafik, S-h-a-f-i-k, last name Sachedina
9 S-a-c-h-e-d-i-n-a.

10 2 Q. And, Mr. Sachedina, where do you reside?

11 A. The United Kingdom.

12 MR. GRAY: Could I stop you, Counsel, just for
13 one second. Mr. Sachedina has a couple of minor
14 corrections he'd like to make to his Affidavit before we
15 start the proceedings.

16 MR. JIWA: Sure.

17 MR. GRAY: Before you really get into your
18 questions.

19 MR. JIWA: Oh, sure, he can do so.

20 MR. GRAY: Yes.

21 THE DEPONENT: Just to be able to correct, one is
22 on my background. There is a position that I hold in the
23 Leaders International Forum that is not there -- I have
24 to declare that -- which has been since 1991.

25 MR. GRAY: I think he's talking about paragraph 1

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1 in his Affidavit.

2 THE DEPONENT: That's in my background. And I
3 have made a point of reference there that I'm a member of
4 the Board of Governors of the Institute of Ismaili
5 Studies in London.

6 BY MR. JIWA:

7 3 Q. Yes?

8 A. It says 1991, but officially I was appointed
9 in 1995.

10 4 Q. 1995. So you are a member of LIF?

11 A. Member.

12 5 Q. Now, I understand that in your duties, as you
13 have just referred to, you spend quite a bit of time in
14 Aiglemont as well?

15 A. Yes.

16 6 Q. And would you be able to say approximately
17 what time frame you spend in Aiglemont.

18 A. As required by my work. Sometimes I go there
19 on a day basis, sometimes I go twice a week, sometimes I
20 don't go at all for two weeks or so. But I go there as
21 and when required and as -- primarily also that when I
22 have specific meetings at Aiglemont, they like me to go
23 there.

24 7 Q. So you don't have a residence in France?

25 A. No, I don't have any residency in France.

1 8 Q. Now, in order to attend today, did you meet
2 with His Highness to prepare yourself for the questioning
3 that you will be doing today?

4 A. No.

5 9 Q. And did you meet with anybody or discuss with
6 anybody with respect to the questions or answers that
7 you'll be giving today?

8 A. The people that I normally work with?

9 10 Q. No. Did you discuss the questions -- the
10 answers that you'll be giving today with anybody else?

11 MR. GRAY: He did discuss the questions with me,
12 his counsel.

13 THE DEPONENT: The counsel is there, and I also
14 have to prepare my own work, read through that, look at
15 the documents, look at the documents everywhere else at
16 the Institute at Aiglemont to check that out. So I had
17 to make sure that I have, as best to my knowledge, the
18 facts, yes.

19 BY MR. JIWA:

20 11 Q. And did you discuss with Mr. Bhaloo with
21 respect to what you will be answering today?

22 A. Bhaloo, I have met. I have met with him a
23 couple of times, and I wanted to make sure that we also
24 -- we have -- as you know, he is the AKDN resident
25 representative.

1 12 Q. Right.

2 A. So we met also on our work, but also he said
3 he would also be cross-examined, so I met with him as
4 well.

5 13 Q. But did you discuss with him what you would
6 be answering today?

7 A. No. He knows my Affidavit -- his Affidavit
8 is there and my Affidavit is there. He has studied my
9 Affidavit, I have studied his Affidavit, but it is purely
10 and simply up to him.

11 14 Q. Now, you said earlier that you did review
12 some materials. Can you elaborate on that? What
13 materials did you review? I heard you say something
14 about the Institute as well, you reviewed some
15 documents?

16 A. Yes, I have read through the Constitution,
17 which was at the Institute as well. There's copies
18 there. I have looked at all the materials vis-a-vis the
19 farmans as well. Because from my point of view, the
20 documents are also kept at the IIS as well, the final
21 text that we also have there.

22 15 Q. So all the final text of farmans are kept at
23 IIS?

24 A. No. At the Imamat level, at the Institute
25 level, so -- and at the Department of Jamati Institution.

1 --- Off-the-record discussion.

2 BY MR. JIWA:

3 16 Q. So at the Institute, the final copy of the
4 farmans are not kept?

5 A. We have a copy.

6 17 Q. At the Institute?

7 A. True, because --

8 --- The reporter appeals.

9 BY MR. JIWA:

10 18 Q. And, I'm sorry, I'm actually lost. Is there
11 a copy at the Institute or there's no copy at the
12 Institute?

13 A. No. Farmans, as I said, once they have been
14 approved and authorized by Hazar Imam -- Hazar Imam,
15 which is His Highness.

16 MR. GRAY: H-a-z-a-r, new word, I-m-a-m.

17 THE DEPONENT: Once they are released by the
18 Imam, we always have a copy at the Secretariat, at the
19 Imam's office. We also have one at the Institute in our
20 -- for archival purposes.

21 BY MR. JIWA:

22 19 Q. You said one you have it at the Secretariat
23 as well?

24 A. The "Secretariat," that means the Secretariat
25 of His Highness, and the Department of Jamati

1 Institutions.

2 20 Q. And so you reviewed the farmans before coming
3 here as well, or in preparation for this litigation?

4 A. No, I not necessarily went through all the
5 farmans, no.

6 21 Q. Because you said that you reviewed the
7 farmans?

8 A. Yes, the text of some of the farmans, but not
9 all of the farmans.

10 22 Q. And you said you also reviewed the
11 Constitution. When did you review the Constitution?

12 A. Well, I've been reading this Constitution for
13 a long time. I have been involved in the sense of the
14 last when the Constitution was reviewed, I was present at
15 the time when it was signed, and I have also --

16 23 Q. When you say "last time," that's in 1998?

17 A. That's the one that happened, yes.

18 24 Q. And that's the last amended Constitution?

19 A. Correct.

20 25 Q. With respect to this litigation, whose
21 decision was it that you and Mr. Bhaloo should be giving
22 evidence?

23 A. The decision for -- whose decision it was?

24 26 Q. Yes.

25 A. I realized that some of the facts require

1 Mr. Bhaloo, who was present at only one of the meetings
2 that I know of, and then he was also present, I believe,
3 at the -- or he was in the leadership at the time of one
4 of the other --

5 27 Q. Right.

6 A. So it was important that he actually was at
7 least aware of this.

8 28 Q. Now, you said you have reviewed Mr. Bhaloo's
9 Affidavit?

10 A. Yes.

11 29 Q. And did you review it when it was drafted
12 right initially, or after it was sworn by him?

13 A. The Affidavit itself?

14 30 Q. Yes.

15 A. I had seen a situation from before, what he
16 was saying in his own Affidavit, and it was actually the
17 counsel who actually sent me the final copy of it.

18 31 Q. After it was signed?

19 A. Yes. Of course I have seen a draft before
20 that, but it actually was signed by -- and I was sent,
21 really, the copy of it.

22 32 Q. Now, your Affidavit as well as Mr. Bhaloo's
23 Affidavit, the draft version, did you review that with
24 His Highness?

25 A. I didn't review it myself. I didn't review

1 it. The counsel had, but I certainly didn't personally
2 give it to His Highness myself.

3 33 Q. And did you discuss with His Highness the
4 contents of your Affidavit or Mr. Bhaloo's Affidavit?

5 A. Not with him personally.

6 34 Q. Did His Highness tell you that a Notice of
7 Examination was served on his counsel?

8 A. His Highness tell me?

9 35 Q. Yes.

10 A. The Notice of Examination?

11 36 Q. Yes, to examine him?

12 A. The Notice of Examination --

13 MR. GRAY: The Notice of Examination for
14 Discovery?

15 THE DEPONENT: Yes.

16 MR. GRAY: He's asking did His Highness tell you
17 about the Notice of Examination for Discovery.

18 THE DEPONENT: Not to me.

19 BY MR. JIWA:

20 37 Q. Not to you. And did he tell you whether he
21 would be attending or not attending at all at any time?

22 A. No, I didn't speak with him. The counsel
23 spoke with His Highness.

24 38 Q. So when you say "counsel" --

25 A. Counsel in the sense that there was -- His

1 Highness -- we've got a legal department at the Imam
2 level.

3 39 Q. Do you know who would be --

4 MR. GRAY: He means counsel, c-o-u-n-s-e-l, not
5 c-i-l.

6 BY MR. JIWA:

7 40 Q. Okay.

8 A. Sorry.

9 41 Q. And do you know which counsel or who at the
10 legal department is responsible for these matters?

11 A. The head of the department.

12 42 Q. What's his name?

13 A. His name is Mr. Henry Carnegie.

14 43 Q. Can you spell the last name?

15 A. Carnegie, C-a-r-n-e-g-i-e.

16 MR. GRAY: C-a-r-n-e-g-i-e. Carnegie like Andrew
17 Carnegie.

18 BY MR. JIWA:

19 44 Q. Now, to your understanding, this litigation
20 is related to this Golden Edition farman book?

21 A. Yes.

22 45 Q. And do I take it that His Highness is not
23 concerned about the previous farman books that have been
24 printed by -- or published and distributed by
25 Mr. Tajdin?

1 A. Very much so. In fact, he was concerned and
2 he had made it known to me. And I actually, as I say, if
3 you look at my Affidavit, I have mentioned that he was
4 concerned.

5 46 Q. And my question is that in this litigation
6 we're only dealing with the Golden Edition?

7 A. Yes, but the Golden Edition also covers the
8 three previous farmans as well because it contains, I
9 believe, a compilation of the first three books.

10 47 Q. When did you first find out about the first
11 three books?

12 A. I found out about the first three books when
13 I was -- I first came to Aiglemont, which was when I
14 started my term at my office. It was -- the coordinator
15 mentioned about this. I mean I hadn't seen them, but I
16 had heard about this book.

17 48 Q. And that would be after you started
18 working?

19 A. '96, '97.

20 49 Q. So before '96, '97 you had no idea about --

21 A. I had not seen any of these books.

22 50 Q. And do you remember that in 1994 one of your
23 school mates, Hossein, he had some books during the
24 Padhramni at London deedar?

25 MR. GRAY: You'd better spell all those words.

1 THE DEPONENT: Okay. Padhramni is
2 P-a-d-h-r-a-m-n-i, padhramni. And deedar is d-e-e-d-a-r.

3 BY MR. JIWA:

4 51 Q. Hossein had some farman books with him at
5 1994 Padhramni when you were the president at that time,
6 do you recall?

7 A. I have no recollection of what he had with
8 him. I know the person because I know the name of this
9 gentleman.

10 52 Q. Did he not advise you that his books were
11 taken away by some of the --

12 A. Not personally. He might have contacted
13 somebody there in the organization, but not me
14 personally.

15 53 Q. Now, when you say that His Highness is
16 concerned, I just want some clarification. Is it concern
17 that they have been put into a book format, the farmans,
18 or is he just concerned that the farmans are not to be
19 distributed?

20 A. Both.

21 54 Q. Both?

22 A. First of all, the issue of the farman book,
23 because there is a compilation, it's a published book.

24 55 Q. Right.

25 A. And the second issue, there's unauthorized

1 farmans circulating.

2 56 Q. So if instead of was a book it was just
3 photocopied and distributed, there would still be a
4 concern; is that what you're saying?

5 A. Yes, because they are unauthorized farmans.

6 57 Q. So it's not technically necessarily the books
7 that you are concerned; it's the content is farmans?

8 A. Because farmans which he himself has not
9 reviewed, and it is his work and he would want to review
10 anything before it's released.

11 58 Q. Right. With respect to the farmans, His
12 Highness became Imam when he was about 20 years old. So
13 anything he said before he was 20 years old, before he
14 became the Imam, would not be considered farmans;
15 correct?

16 A. Of the present Hazar Imam.

17 59 Q. Yes.

18 A. There would have been an Imam, the 48th.

19 60 Q. So whatever he said before he became the Imam
20 would not be considered as farmans?

21 MR. GRAY: I'm not sure what the relevance of
22 this is, but I'll let him answer the question.

23 THE DEPONENT: Farman -- for me farmans are
24 always farmans of the Imam. But the farmans of Hazar
25 Imam, we are talking about the present Imam.

1 BY MR. JIWA:

2 61 Q. So before he became the Imam, what he says
3 are not farmans; correct?

4 A. Because he was not holding the office of the
5 Imam.

6 62 Q. So it's only once an individual becomes an
7 Imam that what he says becomes farmans?

8 A. Farmans are from the Imam, usually.

9 63 Q. And Hazar Imam has said that it's his Noor
10 that gives the farmans; correct?

11 A. Well, I would say that it is the Imam, who is
12 their manifest Imam, who actually makes the farman. When
13 he has the authority, under his authority, these farmans
14 are made.

15 64 Q. And his authority comes from the Noor, when
16 he gets the Noor of Imam?

17 A. He became the Imam on the 11th of July in
18 1957, and that is when he had the authority, from that
19 time, to interpret the faith for the community, both in
20 worldly matters and spiritual matters.

21 65 Q. And the authority is coming from Imam by
22 being a Imam?

23 A. The office that he holds, the authority is
24 vested in the manifest Imam. From the time of the
25 prophet Imam Ali and now with the 49th hereditary Imam.

1 Now the 49th hereditary Imam, His Highness Prince Karim
2 Aga Khan, which is the name of the Plaintiff.

3 MR. GRAY: Noor is N-o-o-r.

4 BY MR. JIWA:

5 66 Q. Now, most of the Ismailis in the western
6 countries such as Europe, Canada, America, they relocated
7 somewhere en masse after Idi Amin threw Ismailis out from
8 Uganda in 1971, is when the most of the Ismailis started
9 relocating to Canada, the States?

10 A. Only you're talking about the western world.
11 Because they are not most of the Ismailis. The Ismailis
12 are a big community of 15 million people all over the
13 world, and there are crises in different parts of the
14 world. East Africa was a case in point.

15 67 Q. And it was after the crisis that people
16 started relocating to the western countries?

17 A. Yes.

18 68 Q. Before, there were some peoples in England
19 but very, very small in number?

20 A. Yes, there have always been people around,
21 all parts of the world. There's Ismailis in almost all
22 parts of the world.

23 69 Q. Now, you mentioned that you read the
24 Constitution, and you said you were involved in this
25 latest amendment. Were you involved in the preparation

1 of the Constitution back in 1986?

2 A. No, I was not. There was a Constitution with
3 the committee that was established by the Imam of the
4 Time.

5 70 Q. At that time. And the Imam said that he
6 spent almost three-and-a-half years reviewing the
7 previous constitutions?

8 A. Yes.

9 71 Q. Have you seen any of the previous
10 constitutions, any of the previous --

11 A. I had seen some copies of it, yes, and they
12 are available in our archives.

13 72 Q. Did you review any of those?

14 A. No.

15 73 Q. I want to show you one such copy. I just
16 want to see if you can recognize this.

17 MR. GRAY: Oh, my goodness. This is antique.

18 THE DEPONENT: Yes.

19 BY MR. JIWA:

20 74 Q. Do you recall seeing that before?

21 MR. GRAY: Do you recognize it?

22 THE DEPONENT: Yes, I have seen this in the sense
23 that this was at the Association, the Ismaili
24 Association. But it's the Constitution of the Ismaili
25 Association for the continent of Africa. This is the

1 40th. Before -- this is the Sultan Mahomed's time, not
2 the time of the present Imam.

3 Sultan Mahomed Shah. This is 1948. That was at
4 the time of the 48th Imam. He was the 48th Imam.

5 BY MR. JIWA:

6 75 Q. And did you see a copy of this?

7 I would like to make this into Exhibit A. It's a
8 copy of the Constitution of Ismailia, I-s-m-a-i-l-i-a,
9 Association for the continent of Africa, 1948.

10 MR. GRAY: Can we have a copy of that?

11 MR. JIWA: Yes.

12 EXHIBIT NO. A: Copy of Constitution of Ismailia
13 Association for the Continent of Africa, 1948.

14 MR. GRAY: Can I see the original, please?

15 MR. JIWA: Sure.

16 MR. GRAY: I see that it's not a complete copy.

17 MR. JIWA: Okay. There's a gujrati version in
18 the back which I have not copied.

19 MR. GRAY: You've given me an English version of
20 the document but not the gujrati.

21 MR. JIWA: Gujrati, g-u-j-r-a-t-i. Gujrati.

22 MR. GRAY: Okay.

23 BY MR. JIWA:

24 76 Q. Now, Mr. Sachedina, did you review any of the
25 constitutions prior to 1986 with respect to the

1 publication or distribution of farmans?

2 A. As far as I'm concerned, there was the
3 previous Constitution. But I was actually only more in
4 the recent times. Because I was in the U.K., and when I
5 came over, that Constitution that I have known of or was
6 aware of is the one that is ordained by this Imam.

7 77 Q. My question is did you review any of the
8 previous constitutions?

9 A. No.

10 78 Q. Such as the one -- if, in fact, I can show
11 you this here. If you go to page 7?

12 A. Yes.

13 79 Q. On the top it says Hazar Imam's farmans and
14 publications?

15 A. Yes.

16 80 Q. "It shall be the duty of the association to
17 record, collect -- and collect farmans of Mowlana
18 Hazar Imam throughout the continent of Africa and
19 to be in charge of all the religious literature,
20 books, publications and school books." [as read]

21 MR. GRAY: Let me stop for a second. Mowlana
22 M-o-w-l-a-n-a, Hazar, H-a-z-a-r, Imam.

23 BY MR. JIWA:

24 81 Q. Would you agree with me that the previous
25 constitutions all had similar articles concerning the

1 publication of farmans?

2 A. This one particularly had, and I presume the
3 ones that might have -- subsequently would have followed
4 from there, yes.

5 82 Q. Now, prior to 1986 when the new Constitution
6 was implemented, would you agree with me that most
7 countries had their own Constitution?

8 A. Correct.

9 83 Q. And Canada was also going by a
10 Constitution?

11 A. Yes.

12 84 Q. And Canada, Europe and America were governed
13 by the same Constitution?

14 A. Yes.

15 85 Q. And all of those were superseded by the 1986
16 Constitution.

17 And your counsel gave us a copy of the
18 Constitution, which you said you made a copy of?

19 A. Yes, I have that.

20 86 Q. Now, that copy that you gave, which was
21 Exhibit 13 of Mr. Tajdin's examination --

22 MR. GRAY: Yes, we have a copy of it here. We
23 have "it" here. We have Exhibit 13 here.

24 BY MR. JIWA:

25 87 Q. And that's the one that you are referring to;

1 right?

2 A. Yes.

3 88 Q. Now, that Constitution does not contain Rules
4 and Regulations; it's simply just the Constitution
5 itself?

6 MR. GRAY: The copy that we marked as Exhibit 13
7 does not contain Rules and Regulations, and you've agreed
8 to provide them to us.

9 MR. JIWA: Yes.

10 BY MR. JIWA:

11 89 Q. I want to also show you -- I'm not going to
12 make the whole exhibit but I brought the Rules and
13 Regulations for you.

14 MR. GRAY: You're showing us an original of the
15 Constitution of the Shia, S-h-i-a, Imami Ismaili Muslims.

16 And you say this original also has the Rules and
17 Regulations?

18 MR. JIWA: Yes. I have made a copy of this, the
19 Rules and Regulations.

20 MR. GRAY: Okay, but this copy of the original
21 you just showed me is an exact copy, is it not, of
22 Exhibit 13?

23 MR. JIWA: This is -- 13, I believe, is the same.
24 And the Rules and Regulations are not in that
25 Constitution, the Exhibit 13 that you gave me.

1 MR. GRAY: Okay.

2 MR. JIWA: So I've just handed you a copy of the
3 Rules and Regulations.

4 MR. GRAY: Fine.

5 THE DEPONENT: The part of the Constitution --
6 the Constitution, there is a main document, and there is
7 the Rules and Regulations that govern for each country.

8 BY MR. JIWA:

9 90 Q. So the Constitution is one for the whole
10 community worldwide?

11 A. Correct.

12 91 Q. And each country has their own Rules and
13 Regulations, and each country is given the Rules and
14 Regulations to govern themselves within that
15 jurisdiction?

16 A. Depending on the type of structure of -- the
17 structure that they have in each country, yes.

18 MR. JIWA: Can we make Exhibit B The Rules and
19 Regulations of the Shia Imami Ismaili Muslims in Canada.

20 MR. GRAY: Are you able to recognize this?

21 THE DEPONENT: I need to get the original copy.
22 Then obviously we get the --

23 MR. GRAY: We'll accept that as an exhibit
24 subject to verification.

25 EXHIBIT NO. B: The Rules and Regulations of the

1 Shia Imami Ismaili Muslims in Canada.

2 --- Off-the-record discussion.

3 BY MR. JIWA:

4 92 Q. Now, would you agree with me that this
5 Constitution and the Rules and Regulations do not contain
6 similar articles as the ones that were in the previous
7 1986 Constitution?

8 A. Absolutely. This Imam decided that he wanted
9 a new Constitution covering the context of the community
10 as it was at the time. And it has changed drastically
11 from the previous Constitution in composition and nature
12 and scale and scope.

13 93 Q. Now, to your knowledge and from your
14 knowledge -- you are president of the United Kingdom --

15 A. Yes.

16 94 Q. -- jamat?

17 A. Yes.

18 MR. GRAY: Well, sorry, he was not president of
19 the United Kingdom.

20 THE DEPONENT: The Jamat. The Council.

21 BY MR. JIWA:

22 95 Q. I mean the jamat, the Council of the Jamat?

23 A. I was the president of the Council for the
24 United Kingdom, his Highness's Council for the United
25 Kingdom. Jamat, J-a-m-a-t, equals community.

1 --- Off-the-record discussion.

2 BY MR. JIWA:

3 96 Q. And you're the president between 1991 and
4 1996?

5 A. Correct.

6 97 Q. Now, during your tenure, do you recall if any
7 farman books were published by either the Council or the
8 ITREB tarika board? T-a-r-i-k-a, tarika board.

9 A. Tariqa is spelled with a "Q."

10 98 Q. With a "Q." Sorry.

11 A. Was I aware of the -- sorry. Can you repeat
12 the question? Because it's --

13 99 Q. Do you recall if any farman books were
14 printed during your tenure as president of the Council of
15 U.K. -- either by the Council or by the tariqa board?

16 A. Published? Not that I'm aware of.

17 100 Q. Now, you mentioned that you were the
18 president between 1991 and 1996, and your appointment was
19 made by way of a talika, t-a-l-i-k-a, that were read in
20 jamat khanas?

21 A. Yes.

22 101 Q. And would you agree with me that most
23 appointments of presidents of tariqa boards, mukhis,
24 m-u-k-h-i-s, they're all made primarily on July 11th
25 of --

1 A. On epochal days. On days which are epochal.
2 That is, there's a calendar in the Ismaili calendar
3 community, there are days of the birthday of the Imam or
4 the day he became the Imam, or Navroz, which is the new
5 year. So --

6 102 Q. On those sort of days when that happens.

7 A. Yes, usually.

8 103 Q. And for all of the local appointees, they are
9 read in their jamat khanas, the talika are read in the
10 jamat khanas with respect to all the appointments made in
11 that jurisdiction?

12 A. The main talika is read everywhere.

13 104 Q. The main talika. But the -- let's say the
14 United Kingdom appointments are not read in Canada?

15 A. That's for the jurisdiction.

16 105 Q. Right.

17 A. The jurisdiction is where those appointments
18 that are actually made by His Highness are read out in
19 the jamat khanas.

20 106 Q. And the terms of office for the Council
21 members are three years?

22 A. Yes. Normally the first -- term of three
23 years.

24 107 Q. If I go back to your paragraph 1 of your
25 Affidavit, now you give various positions that you hold,

1 and you added to that that you are a member of LIF since
2 1991. And since 1991, is this when you became the
3 president of the Council for U.K.?

4 A. Correct.

5 108 Q. And how many members are there in LIF?

6 A. Well, at the moment -- at the time or --

7 109 Q. Today.

8 A. -- at the present time?

9 110 Q. Yes.

10 A. Well, it's been 24, approximately.

11 111 Q. And of this 24, how many are presidents of
12 their respective national council?

13 A. With the exception of three people -- or
14 three to four people, most of them hold the office of the
15 presidency of their respective national council.

16 112 Q. Right.

17 A. And I have not put all the numbers but I
18 can --

19 113 Q. Approximate numbers, that's fine. But three
20 or four are not presidents of the --

21 A. Which are not holding the office of the
22 president.

23 114 Q. And do they have meetings regularly or as
24 they are called?

25 A. The Leaders International Forum, as per the

1 Constitution, can only hold meetings with the approval of
2 the Imam.

3 115 Q. When was the last meeting of the LIF?

4 A. The last meeting was at the time when I --
5 this was -- I'll just tell you exactly when the last
6 meeting took place, which is here.

7 MR. GRAY: It's in your Affidavit.

8 THE DEPONENT: Yes, it's in my Affidavit. On the
9 9th to the 11th of April.

10 MR. GRAY: 2010.

11 THE DEPONENT: 2010.

12 BY MR. JIWA:

13 116 Q. And where are these meetings held?

14 A. They are held at different venues throughout
15 the world, but this last meeting took place at the
16 Ismaili Centre, London.

17 117 Q. And these meetings whenever they are held,
18 they're held formally?

19 A. Depends upon what the agenda is. As I said,
20 I explained to you that the older meetings of the LIF,
21 first of all, whenever they are held are, first of all,
22 cleared and approved by Hazar Imam. So the meetings take
23 place with the chair and all the members concerned.

24 118 Q. And before the meeting is held, is an agenda
25 of the meeting circulated to the members?

1 A. Depending upon what the agenda is. Sometimes
2 it's -- if it has do with a full-session meeting, then
3 there's an agenda. If there are leaders of the jamat
4 meeting together in a country and they want to meet
5 together because they happen to attend an event, then on
6 the behest of Hazar Imam they could actually have an
7 informal meeting taking place.

8 So meetings do take place, but if they are formal
9 meetings -- and there are meetings only, as I say,
10 approved, even the informal sessions are usually approved
11 by the Imam.

12 119 Q. And once the meeting is concluded, are
13 minutes of the meeting made?

14 A. They're sent directly usually if there's --
15 first of all, minutes are prepared by the secretariat.

16 120 Q. Prepared of every meeting?

17 A. Most of the meetings, yes, I would think,
18 although almost all of the meetings have minutes.

19 121 Q. Now --

20 A. Only the informal ones I talked about where
21 there are events when there may not be a formal session,
22 but, again, the minutes for all formal sessions are
23 prepared.

24 122 Q. Now, would you agree with me that -- we
25 referred to earlier about appointments being read in

1 jamat khanas. These appointments are related to all the
2 jamati institutions such as ITREB Council arbitration
3 board as an example -- mukhis, kamadias.

4 A. All the constitutional bodies.

5 123 Q. All the constitutional bodies. Kamadias is
6 k-a-m-a-d-i-a-s.

7 --- Off-the-record discussion.

8 BY MR. JIWA:

9 124 Q. And institutions such as the Ismaili
10 Institute, the AKDN, they are not technically jamati
11 institutions in the sense that the appointments have
12 already been passed?

13 A. No, they are not.

14 125 Q. Now, when these appointments are made -- the
15 institution appointments, they take an oath of office?

16 A. The nature of the --

17 MR. GRAY: I'm not sure what you said myself.

18 BY MR. JIWA:

19 126 Q. When these appointments are made, each member
20 takes an oath of office?

21 A. Yes.

22 127 Q. And you took one as well when you became the
23 president of the Council for U.K.?

24 A. At the time, yes.

25 128 Q. And do you remember what the oath is?

1 A. Yes. It was given to -- it is also part
2 of --

3 129 Q. I just want to see if you remember what it is
4 without reading it.

5 A. I haven't got the words here, but yes, it is
6 basically I swear allegiance to Mowlana Hazar Imam that I
7 will fulfill my duties to the best of my abilities and
8 keep the interests and protect the interests of the Imam,
9 and words -- I mean I don't have the oath of office here,
10 but that's --

11 MR. GRAY: It's in the Constitution.

12 BY MR. JIWA:

13 130 Q. It's Rules and Regulations, which is in
14 Exhibit B.

15 --- Off-the-record discussion.

16 BY MR. JIWA:

17 131 Q. I believe it should be the last page or
18 second-last page. It's in the Rules and Regulations.

19 A. It is this one here. I'll try to find out.
20 It says -- shall I read it out?

21 132 Q. Just read the one, two, three, the preamble
22 is not necessary.

23 A. "Further, I make solemn oath in the name of
24 Allah and say

25 "(1) that I shall protect and defend the Ismaili

1 Constitution and the Rules and Regulations made
2 thereunder;
3 "(2) that I shall perform with absolute honesty,
4 integrity, devotion and diligence and to the best
5 of my ability, all the duties and obligations
6 entrusted to me; and
7 "(3) that I shall not disclose any confidential
8 matters or proceedings pertaining to my said
9 office."

10 133 Q. And this is the oath that all members take as
11 they get appointed?

12 A. Yes.

13 MR. GRAY: But the preamble is relevant, is it
14 not?

15 MR. JIWA: You can read it, sure.

16 THE DEPONENT: The preamble of the oath of office
17 says:

18 "Bismi-Llahi-R-Rahmani-R-Rahim
19 "I, (name) having in accordance with the
20 Constitution of the Shia Imami Ismaili Muslims
21 been appointed (post, namely President..." or
22 whatever it is, the name of the body "do hereby
23 solemnly and sincerely reiterate my absolute
24 faith in, and spiritual allegiance and devotion
25 to Mawlana Hazar Imam Shah Karim al Hussaini His

1 Highness Prince Aga Khan."

2 BY MR. JIWA:

3 134 Q. And do you agree with me that each member is
4 obligated by his oath to defend and protect the
5 Constitution?

6 A. Yes.

7 135 Q. Would you agree with me that the Constitution
8 is a very important document in our jamat?

9 A. Yes.

10 136 Q. And the Imam has made farmans with respect to
11 abiding by the Constitution in letter and in spirit?

12 A. Yes.

13 137 Q. And would you agree with me that Ismailis are
14 obligated by the order of the Imam to follow his
15 farmans?

16 A. By the Imam? Yes, follow his farman.

17 138 Q. He wants us to follow his farmans?

18 A. Yes.

19 139 Q. He wants us to follow his Constitution?

20 A. The Constitution is there for the governance
21 of the community, and people must abide by the
22 Constitution.

23 140 Q. Must abide by, yes. And would you also agree
24 with me that the jamat is also asked to obey and follow
25 what's preached in the Ginans, g-i-n-a-n-s, so long as

1 they are not contradicted by a current Imam?

2 A. Ginans are devotional poetry, and thus as
3 poetry, it is not in a way incumbent for anybody to
4 follow the ginans in the way that you describe. Ginans
5 are, as I say, devotional poetry.

6 141 Q. And would you also agree with me, sir, that a
7 farman of the Imam remains valid and binding until it's
8 superceded either by that Imam or a later Imam?

9 A. By any pronouncement by the Imam.

10 142 Q. Yes.

11 A. By even a letter to somebody or a talika or
12 farman. He can actually any time in the way, the words
13 of the Imam in a way, the present Imam, anything in the
14 Constitution says his words would actually precede --
15 it's beyond the Constitution from that point of view.

16 143 Q. You said "letter" by the Imam. That's known
17 as a talika, t-a-l-i-k-a?

18 A. A talika is usually sent -- talika is sent to
19 the jamat.

20 144 Q. And they're read in jamat khanas?

21 A. Yes.

22 145 Q. So my previous question was that all Ismailis
23 are obligated to follow the farmans of the Imam. The
24 latest farman supersedes the previous farman?

25 A. Well, the farmans can be valid according to

1 time and context of the present Imam's farmans. They
2 were given in a particular time, in a particular context,
3 in particular circumstances.

4 146 Q. Yes.

5 A. So they remain valid for that particular
6 jamat, and unless Imam says to them that these are my new
7 farmans to you, then they supersede and he would say that
8 they supersede the --

9 147 Q. And he also said that individuals can also be
10 guided by the Imam?

11 A. Yes.

12 148 Q. Right? And if that individual is guided by
13 the Imam, then that is binding on him irrespective of
14 what he might have said in a general farman?

15 A. That is given to a particular individual in
16 particular circumstances for that particular purpose. It
17 is not applicable to everybody. It's applicable to that
18 one individual who has sought.

19 149 Q. Who has sought?

20 A. Guidance.

21 150 Q. Without seeking guidance he also guides;
22 no?

23 A. But that guidance is generic to everybody.

24 151 Q. No, I mean to an individual?

25 A. But the individual guidance is applied -- if

1 Imam gives individual guidance to the person, it's
2 specific to that individual's circumstances, to the
3 individual case. That guidance is not applicable to
4 everybody.

5 152 Q. I understand. My question really is not that
6 it's applicable to everybody, but my question is this:
7 For that individual -- let me just give you an example.

8 All Ismailis are supposed to say the duas --
9 d-u-a-s; correct?

10 A. Yes.

11 153 Q. This is a general farman.

12 If the Imam says to one individual, "You don't
13 have to say duas," for him, despite what everybody
14 follows, he does not have to now follow the general
15 farman of saying duas; correct?

16 A. Well, I would find -- as I say, I have not
17 seen any examples of the Imam saying you don't say duas.
18 But whatever it is, if you are saying in a hypothetical
19 case which I don't know of anywhere that the Imam is
20 saying this but you if you say that, then he would have
21 to follow farman of the Imam.

22 154 Q. Now, this action is pertaining to this Golden
23 Edition and the farmans of the Imam, now, would you agree
24 with me that the Copyright Act could not prevent Mr.
25 Tajdin, as an example, from publishing Hassan Ali Shah or

1 Mowlana Ali Shah's farmans?

2 A. Well, I'm not an expert in copyright.

3 Counsel is.

4 MR. GRAY: That's a legal question.

5 BY MR. JIWA:

6 155 Q. Over 60 years -- the Imam passed away 50, 60
7 years ago, and the Copyright Act could not prevent those
8 farmans from being distributed?

9 MR. GRAY: Well, that's what you are saying.
10 That's a legal question and we'll have to have a judge
11 decide that.

12 BY MR. JIWA:

13 156 Q. The Copyright Act, Counsel, provides that
14 when a person has died, after a certain period of time --
15 which you are an expert on -- Copyright Act does not
16 apply any more; isn't that right?

17 MR. GRAY: Well, I'm not here to answer questions
18 and we'll let a judge sort out the law -- with our help.

19 --- Off-the-record discussion.

20 BY MR. JIWA:

21 157 Q. Have you attended a personal mehmani,
22 m-e-h-m-a-n-i?

23 A. M-e-h-m-a-n-i, mehmani.

24 158 Q. Have you attended a personal mehmani with the
25 Imam -- before the Imam?

1 A. Yes.

2 159 Q. How many times would you say you've attended
3 a personal mehmani?

4 A. Maybe approximately -- I can't be absolutely
5 sure about it, but at least three times in my life.

6 160 Q. And mehmanis are nowadays usually two people
7 from a family?

8 A. Well, at the present time, depending upon the
9 circumstances, it is at the present time two people are
10 in a way authorized in a way to go forward for a mehmani
11 on behalf of their family. A mehmani is a personal
12 issue. This is on behalf of their family.

13 161 Q. And can you bring me to any farman, any
14 constitution, that says that only families go for a
15 mehmanis; two friends cannot go for a mehmani?

16 A. Yes, what I'm saying is that if there are two
17 friends or related to a part of a family, then they go.
18 But two people are allowed, but they are presenting a
19 mehmani on behalf of their family.

20 162 Q. So are you --

21 A. Or friends or family.

22 163 Q. So are you suggesting, sir, that an Imam is
23 prevented by some rule or some stuff by not guiding that
24 person for his business partners?

25 A. No. The criteria is as established.

1 164 Q. I understand but what I'm --

2 A. And it's the criteria under which these
3 mehmanis take place in every jurisdiction depending on
4 the circumstances of that particular country.

5 165 Q. You've been highlighting that it's only for
6 the families, and my question to you is this: If I went
7 there on behalf of my 50 partners in a business, are you
8 suggesting to me from what you are saying is my guidance
9 from the Imam cannot relate to my 50 partners?

10 A. Providing you were then submitting to the
11 Imam and telling the Imam that you are submitting this
12 mehmani on behalf of so-and-so or that family or those
13 people. You would have to inform the Imam that you are
14 present there submitting this mehmani on behalf of
15 whom.

16 166 Q. That's your personal opinion, isn't it?

17 A. No. It is exactly what you would tell the
18 Imam. Because, you know, Imam otherwise assumes, which
19 is what he is told, that these are families coming in
20 front of the Imam.

21 167 Q. So --

22 A. Or institutional leaders submit mehmani on
23 behalf of them, and Hazar Imam would say that this is a
24 mehmani on behalf of a particular jamat.

25 168 Q. Now.

1 A. -- the leader of the community.

2 169 Q. Now, would you agree with me that that's
3 between the Imam and the murid, who presents the
4 mehmani?

5 A. The murid will present the mehmani to the
6 Imam.

7 MR. GRAY: M-u-r-i-d.

8 BY MR. JIWA:

9 170 Q. Now, can you bring -- you don't have to read
10 it right now; you can undertake to read it. Can you show
11 me any farman or any article in your possession that says
12 that the mehmani, that you have to disclose everything to
13 Hazar Imam? Is there any farman?

14 A. Imam is being -- when he is doing a mehmani
15 of a jamat, before he does a mehmani of a particular
16 jamat, he is told the profile of the jamat, where this
17 mehmani relates to, which particular country it relates
18 to or region it relates to. He is given a briefing of
19 the people who are coming forward to the Imam of the Time
20 for this mehmani, so he's given a briefing as to who
21 these people are, what this congregation consists of. So
22 that briefing is given to the Imam.

23 So Imam's expectations are the people are coming
24 forward are coming within that context. There are no
25 constitutional matters in this. These are jurisdictional

1 matters in each country where the visits take place and
2 these mehmanis happen.

3 171 Q. So are you suggesting that the Imam is unable
4 to discern the context of that mehmani that's presented
5 by the murid?

6 A. I explained to you a minute ago.

7 172 Q. Yes or no?

8 MR. GRAY: Let him explain. He wants -- if
9 it's --

10 BY MR. JIWA:

11 173 Q. Just listen to my question. Are you saying
12 that the Imam is unable to the discern the context of the
13 mehmani that is presented by the murid unless he's told
14 specifically?

15 A. No. The murids present the mehmani.

16 174 Q. My question to you is this: --

17 MR. GRAY: Are you asking us to --

18 MR. JIWA: No. I'm asking him.

19 MR. GRAY: I know. But let me understand the
20 question because I may object to this question.

21 You're asking us to put ourselves into the mind
22 of the Imam and to tell you exactly what the Imam would
23 or would not think or know about something? We'll refuse
24 to answer that question because that's not something
25 that's within this witness's --

1 MR. JIWA: I understand him, him being the very
2 same thing that you are trying to object to. Because
3 he's saying that the Imam, or his answer seems to be
4 indicating -- or indicating that the Imam cannot discern
5 the context of the mehmani --

6 MR. GRAY: The record will show what he's saying.
7 But I believe you asked him, and what the witness is
8 testifying to, is what the Imam was briefed about.
9 That's a different matter than asking him what the Imam
10 is thinking in his head.

11 We're not going to answer that question and I
12 don't think the witness is qualified to answer that
13 question.

14 --- REFUSAL

15 BY MR. JIWA:

16 175 Q. Would you agree with me, sir, that the
17 mehmani that is being presented to the Imam is a personal
18 interaction between the Imam and his murid?

19 A. Absolutely.

20 176 Q. And the very purpose of having this mehmani
21 ceremony is in order for the Imam to meet personally his
22 murids?

23 A. Absolutely.

24 177 Q. And would you agree with me that when it
25 comes to jamat khanas to give deedar, he generally makes

1 a farman which is applicable to either the jamat or the
2 whole world; he makes a general farman?

3 A. It's a congregation and it's in the context
4 of a wider congregation.

5 178 Q. And --

6 A. But they are done in the context of a
7 murid/murshid relationship. That is between the murid
8 and the Imam. They are not done -- it's in the context
9 of that relationship.

10 179 Q. All right. And would you agree with me that
11 the purpose here is for the Imam to interact with that
12 murid when he presents the mehmani?

13 A. If he wishes to do so.

14 180 Q. And often he will do so himself?

15 A. It is up to the Imam.

16 181 Q. No, we know it's up to the Imam. But often
17 he does interact with the murid himself even without
18 being asked?

19 A. Yes, it does happen.

20 182 Q. It does happen, right. And there is no
21 restriction on that murid from talking to his Imam?

22 A. The murid is quite entitled to speak to his
23 Imam if he wishes to do.

24 183 Q. And some do?

25 A. Some do, some don't.

1 184 Q. And some don't.

2 A. And a lot of times mehmani are presented and
3 people come, present the mehmani, and walk.

4 185 Q. Just to receive the blessing?

5 A. Yes. Because in the sense that -- what I'm
6 trying to say is they come along, they present their
7 mehmanis, Imam is giving the blessings, and they go.
8 There's no words to utter. The Imam would give his
9 blessings.

10 186 Q. Right. So now I'm going to ask you to turn
11 to Bhaloo's Affidavit.

12 MR. GRAY: B-h-a-l-o-o.

13 BY MR. JIWA:

14 187 Q. I want you to read his paragraph 8.

15 A. Just for the record, I was not present at
16 this particular one on August 15, 1992. So I'm only
17 looking at the Affidavit here, I was not present at the
18 time when this event took place.

19 188 Q. And Mr. Bhaloo was not present as well at
20 that mehmani. He says so in his own Affidavit. So will
21 you --

22 MR. GRAY: You can ask him. He says he wasn't
23 present.

24 BY MR. JIWA:

25 189 Q. So would you please read his paragraph 8

1 before I ask you the question?

2 A. Yes.

3 190 Q. Would you agree with me that that depiction
4 shown by Mr. Bhaloo is not accurate?

5 A. I would say to you that -- to me this has
6 definitely a context of what happens in a mehmani,
7 because in some cases it is a few seconds, only duration
8 of few seconds, sometimes it can be longer, so it can be
9 -- mehmanis can happen for few seconds or it could be
10 longer.

11 191 Q. Right.

12 A. But he is describing what normal mehmanis
13 are. They are only for a short time because there are a
14 number of mehmanis particularly for a particular time and
15 location. Normally they have a certain amount of time
16 for a certain number of mehmanis in every country.

17 192 Q. So I agree with you, he's talking in
18 generalities?

19 A. Of course.

20 193 Q. Because many people who present mehmanis
21 simply go for the blessing?

22 A. It could take less --

23 194 Q. Few seconds?

24 A. Yes.

25 195 Q. However, if anybody wished to talk to the

1 Imam, he can talk to the Imam?

2 A. It's the right of the murids, right.

3 196 Q. And to your knowledge, because you have been
4 extensively involved in the jamat, and you were in 1994,
5 which was a lot larger jamat than the Montreal jamat, to
6 your knowledge, when that murid asked the Imam a
7 question, the very purpose for the mehmani is for the
8 Imam to respond and guide that murid?

9 A. Yes. The Imam, it's at his mercy and
10 pleasure.

11 197 Q. And that's the purpose he does these
12 mehmanis --

13 A. Yes.

14 198 Q. -- is to guide?

15 Would you also agree with me that this mehmani is
16 personal and not published? Like, you know, the whole
17 jamat who is sitting there, they don't hear what's
18 happening between the Imam and the murid.

19 A. Yes, it is done in the context of closeness
20 with the murid and the murshid. But there are people
21 standing nearby who are also observing, and the jamat
22 observes what's happening. So there are always people
23 who know but they can't listen.

24 199 Q. They can't. Because they are just
25 observing?

1 A. (Deponent nods head up and down).

2 200 Q. And it's meant for personal intimate relation
3 between the Imam and his murid?

4 Nowadays Imam is too busy so mehmanis don't
5 happen often.

6 A. It's not a question of busyness. Imam, when
7 he decides to grant that mehmani, he will grant.

8 201 Q. When he came in 1992, he did not have enough
9 time, so only 20 per cent of the jamats were accepted for
10 mehmani, and they went alphabetically; correct?

11 A. That's what I'm given to understand.

12 202 Q. And you understand that's what happened in
13 Canada; yes?

14 A. Yes.

15 203 Q. Were you present at any of the mehmanis or
16 any of the deedars in 1992 in Canada?

17 A. No, I was not.

18 204 Q. Now, going back to your paragraph 1, where
19 you indicate the positions that you hold, now, when you
20 were appointed as the president of the Ismaili Council,
21 you said earlier that your appointment was sort of
22 announced in the jamat khana by way of the talika --

23 A. Yes.

24 205 Q. -- when you were appointed as president?

25 A. Yes.

1 206 Q. Now, would you agree with me that your
2 appointment as the Head of the Department of Jamati
3 Institutions and Head of the Department of Diplomatic
4 Affairs at Aiglemont and a Member of Aga Khan Development
5 Network and a Member of the Board of Governors have not
6 been read in jamat khanas by way of talika as other
7 institution appointments?

8 A. Correct. Because these are all held at the
9 behest of the Imam at the time of his pleasure.

10 207 Q. And the purpose is those are, as we said
11 earlier, technically non-jamati institutions because they
12 are sort of outreach organizations?

13 A. No, the Institute isn't an outreach
14 organization. The Institute is very much central to the
15 work of the jamat.

16 208 Q. But there are many non-Ismaili members
17 appointed to the Institute?

18 A. Yes, only as part of the board of governors
19 But the Imam -- the chairman is the Imam of the Time.

20 209 Q. I understand. The jamati institutions that
21 we spoke with earlier that announcements are made in
22 talika, those are all hundred per cent Ismaili
23 appointees?

24 A. Correct. The jamati appointments are
25 constitutional bodies.

1 210 Q. And in the Institute there are non-Ismaili
2 who are appointed there, aren't there?

3 A. Yes, all the directors on the board of
4 governors.

5 211 Q. And the employees, there are no non-Ismailis
6 there?

7 A. There are people. But what I'm saying is
8 this is an institution, and the centrality of its work is
9 a tariqa, but also other, Shia Islam and Islamic in
10 general.

11 212 Q. But what I'm trying to say, and perhaps if
12 you could just listen, is ITREB is hundred per cent
13 Ismaili men?

14 A. ITREB is a constitutional body.

15 213 Q. Right. And hundred per cent Ismaili men;
16 yes?

17 A. Correct.

18 214 Q. Institute is not hundred per cent Ismaili
19 men. There's a difference between the two, isn't there?

20 A. But I explained to you the Institute has a
21 board of governors and they have a staff with maybe
22 Ismailis and non-Ismailis, but the Imam is the chair of
23 the Institute.

24 215 Q. And those members who are appointed to the
25 Institute don't take this oath of office that we spoke of

1 earlier?

2 A. No. They are directors.

3 216 Q. Even the members who are appointed to
4 Institute, those employees, they did not take an oath of
5 office?

6 A. No. This is an institution for learning.

7 217 Q. Now, with respect to your duties and
8 responsibilities as the head of the Department of Jamati
9 Institutions, what would you say are your
10 responsibilities and obligations?

11 A. I think I have very clearly outlined them in
12 the first statement of my background. It's all there.
13 Do you want me to repeat all of that?

14 218 Q. No. I'm asking --

15 A. My positions that I'm holding, you wanted --

16 MR. TAJDIN: I think it's in paragraph 3.

17 THE DEPONENT: And you wanted -- and I've
18 described my background. All of that has been described
19 here on item 1, 2 and 3. Do you wish me to re-read that?

20 BY MR. JIWA:

21 219 Q. No. My question is: As the Head of the
22 Department of Jamati Institutions, what are your duties
23 and responsibilities?

24 A. To oversee on behalf of His Highness the
25 community's social governance institutions: National

1 Councils; Tariqa and Religious Education Boards; Grants
2 and Review Boards; Conciliation and Arbitration Boards.
3 These are the oversight of these bodies that I oversee
4 and the coordination of those bodies. That's what I see.

5 I'm not -- I'm the head of the Jamati
6 Institutions, but there are all of these constitutional
7 bodies that I helped to coordinate, and that's the
8 important thing, coordinating.

9 220 Q. So when you say "coordinating," what do you
10 coordinate?

11 A. The budgets of the institutions.

12 221 Q. Right.

13 A. The plans we coordinate.

14 222 Q. Right.

15 A. Their activities in terms of what is to be
16 done within the guidance given the Imam of the Time,
17 these institutions are operating within those guidance
18 that he has given.

19 223 Q. Do they report to you?

20 A. Who?

21 224 Q. Those institutions?

22 A. They report -- all of them are appointed by
23 Mowlana Hazar Imam. So first and foremost, all of them
24 are accountable to the Imam of the Time as institutional
25 leaders. Because their appointment is not by me; it is

1 by the Imam of the Time. I am coordinating their
2 activities.

3 225 Q. So you cannot direct them what to do?

4 A. Unless given by the Imam. And I also would
5 be able to look at the directions that the Imam has given
6 that may need to be followed through as guidance for
7 these institutions.

8 So I coordinate that between the Imam and this
9 institution in terms of the functioning of that
10 institution.

11 226 Q. So, for example, ITREB Ontario, you say you
12 are also coordinating them?

13 A. No. Ontario -- first of all, the point of
14 reference is the national ITREB, according to the
15 Constitution. So the national bodies are the ones that
16 we coordinate at the imamat level.

17 227 Q. Right.

18 A. There are regional bodies and there are local
19 bodies. Those are not coordinated in the sense that they
20 are national jurisdiction.

21 228 Q. So when you use the word "coordination," if I
22 say that your responsibility was just passing messages
23 back and forth the documents that come back to the Imam
24 from the various institutions, you just organize them and
25 send it over to the Imam if necessary?

1 A. No. If the institutions have a number of
2 issues, their first point of reference in terms of their
3 activities in terms of their what I call "functional
4 work," that is the administrative work, the work that
5 they are doing, the point of reference is the Department
6 of Jamati Institutions at Aiglemont through the ITREB
7 coordinator who coordinates, first of all, all the tariqa
8 board activities.

9 229 Q. Who is the ITREB coordinator?

10 A. Until recently it was Mr. Mohamed Keshavjee.

11 MR. GRAY: You'd better spell that.

12 THE DEPONENT: M-o-h-a-m-e-d, Keshavjee,
13 K-e-s-h-a-v-j-e-e.

14 BY MR. JIWA:

15 230 Q. So when you say "until recently," what do you
16 mean "until recently"?

17 A. Well, he has just retired from the office,
18 but he is now for awhile running as a consultant till a
19 new coordinator is brought in once Hazar Imam authorizes
20 and approves the replacement ITREB coordinator.

21 231 Q. So he's the ITREB coordinator?

22 A. Yes.

23 232 Q. And all the ITREB activities, he coordinates
24 them?

25 A. Correct. He oversees the coordination work

1 of the ITREBs. Under the Department of Jamati
2 Institutions, he coordinates the ITREB activities. Also
3 he coordinates the work relating to the administrative
4 side of the conciliation and arbitration board.

5 233 Q. So he reports to you?

6 A. He reports to me in line. But also he is
7 employed by the Imam, so his direct responsibility in the
8 sense that he is employed by the Imam, Imam appointed
9 him. I didn't appoint him. But to, again, to coordinate
10 the department on a day-to-day basis, he works with me.

11 234 Q. Now, in terms of your responsibilities, all
12 the ITREB coordinators' responsibilities, do you or do
13 they have any rights to supersede the Constitution?

14 A. The ITREB coordinator?

15 235 Q. Yes. Or you?

16 A. Constitutionally, we are all bound by the
17 Constitution.

18 236 Q. And you would agree with me then that all
19 institutional bodies, ITREB Ontario as an example, they
20 are all bound to follow the Constitution?

21 A. Well, because they are part of the
22 constitutional bodies.

23 237 Q. And their duties, what they are supposed to
24 be doing or their jurisdiction is all vested by the
25 Constitution?

1 A. Yes. Under the responsibilities of the
2 ITREBs. They're defined in the Constitution what those
3 are.

4 238 Q. Now, when the Imam visits jamats,
5 occasionally he meets some committees, such as the
6 leaders have a banquet?

7 MR. GRAY: Is this a question or a statement?

8 BY MR. JIWA:

9 239 Q. Yes. Leaders have a banquet and the Imam
10 visits or participates in the banquet, and he guides
11 them. Would you term that as a farman or a speech?

12 A. I'm sorry, could you repeat that question? I
13 don't understand.

14 240 Q. When the Imam visits jamats, occasionally
15 outside of the jamat khana he meets some committees --
16 could be the council committee, could be the leaders
17 dinner, as an example, and he speaks to them?

18 A. Yes.

19 241 Q. Would that be categorized as a speech or a
20 farman?

21 A. No. It is made -- this is a -- the speech
22 made by the Imam at an institutional dinner, this is for
23 the people who are gathered there for the occasion of
24 that particular visit on that particular visit, and they
25 are there, but most of these are institutional leaders

1 from the constitutional bodies, or people who have been
2 either, you know, been invited in the capacities of their
3 offices.

4 242 Q. Now, is that a farman or is it just a
5 speech?

6 A. He makes a speech to those people. A farman
7 is a direction into a jamat khana context. This is not a
8 jamat khana.

9 243 Q. Now, you said earlier that you first found
10 out about these books that were published by Mr. Tajdin
11 after you started working at Aiglemont, and I think you
12 said you started working at Aiglemont in December of
13 1996?

14 A. Around that time.

15 244 Q. I then take it that Mr. Tajdin had never
16 sought any permission from you to publish those books?

17 A. There was never permission given to
18 anybody.

19 245 Q. To your knowledge, did he seek any permission
20 from any other institutional leaders?

21 A. I'm not aware of that. I have not seen any
22 communication from Mr. Tajdin in any of the
23 constitutional bodies to the Imam, which is really the
24 person to whom that communication should have been
25 sent.

1 246 Q. And with respect to -- had he asked you, you
2 have no right to consent? If he asked you and said, "Can
3 I do this, print these farmans?" you have no jurisdiction
4 to --

5 A. I have no authority to grant any permission
6 to anybody to publish farmans of the Imam. They always
7 have to be authorized by the Imam of the Time. The
8 principles --

9 247 Q. According to you, who has the authority to
10 publish farmans?

11 A. It's vested in the Imam, authority to
12 publish.

13 248 Q. So are you saying only the Imam can publish
14 farmans?

15 A. Imam has -- he -- because its his works and
16 it's his moral rights, he is the only one who will direct
17 or give permission for that to be published, or he will
18 give his authority for them to be released under once he
19 has reviewed them and is satisfied that those are the
20 farmans to be released.

21 And I'm saying to you the release of the farmans
22 and the publishing of the farmans, they're two different
23 issues.

24 249 Q. So is anybody today authorized to publish
25 farmans?

1 A. Not till Hazar Imam gives direction for
2 publishing them. I know he has authorized the release of
3 the farmans for the jamat to the tariqa board, or the
4 farmans that are his -- approved by him, reviewed by him
5 first, rather, by himself, and then he's satisfied, and
6 then he releases for the jamat through the constitutional
7 bodies. And in this case it's the tariqa board, the
8 Ismaili Tariqa and Religious Education Board, what we
9 call ITREB, which we have mentioned earlier.

10 250 Q. Now, there are a number of places where there
11 is a well-established process for the publication or
12 distribution of farmans?

13 A. Not the publication. It's the distribution
14 of the farmans of how farmans, when they are released by
15 the Imam, how are they then to be sent and how that
16 process works.

17 251 Q. Now, Mr. Keshavjee, does he have the
18 authority to edit farmans? To edit farmans?

19 A. Farmans are never edited by anybody except
20 Imam will review them.

21 252 Q. And you told Mr. Tajdin that Imam "thinks in
22 French, speaks in English, and makes mistakes, so we edit
23 them, we correct them"?

24 A. That's his words, not mine.

25 253 Q. And you never said that?

1 A. I didn't say about mistakes. What I said
2 was, and I want to really put it on properly, is that
3 Imam himself had told me that when he makes farmans, he
4 makes extempore farmans. And extempore farmans, when he
5 makes them, he thinks in French, and the farmans are made
6 in English.

7 And it is absolutely correct in my view that
8 farmans of any -- from my point of view any Imam from
9 that point of view, the Imam has his right to review
10 those farmans because the spoken word and then text have
11 to be compared and be satisfied that that is what he
12 wished to be released.

13 254 Q. Would you agree with me that that's your
14 opinion?

15 A. No. It is what the Imam has told me
16 personally.

17 255 Q. That he what?

18 A. That he has made -- it's a long tradition
19 absolutely going back through many, many years.

20 256 Q. When you say "many years," so Sultan also had
21 the same policy as well?

22 A. I'm not -- I'm talking about this Imam. I
23 wasn't present with the 48th Imam. I was not working for
24 him. But I can only tell you that Imam reviews this
25 material himself for the last many, many years since I

1 have been working, and he releases it only when he is
2 satisfied with it.

3 257 Q. Now, do you have any, either a farman --
4 right? -- or an article in the Constitution that says
5 that the Imam edits farmans or has to edit farmans or has
6 to approve farmans before they are released for
7 distribution?

8 A. There's a very clear constitutional mandate.
9 If you read article -- the only people that are
10 authorized to do that are constitutional board. If you
11 look at the article, very clearly article 14 of the
12 Constitution, 14.1(c) clearly says that it is only the
13 Imam who -- it's very clear on -- 14.1 article C is
14 absolutely clear.

15 258 Q. Can you read -- you're showing --

16 A. "...without the permission in writing of the
17 National Council obtained through the Regional
18 Council within those (sic) jurisdiction he
19 resides" --

20 MR. GRAY: Within whose.

21 THE DEPONENT: Sorry, "...within whose
22 jurisdiction he resides, prints, publishes, or
23 circulates any material or makes any statement or
24 convenes a meeting or assembly purporting to be
25 on behalf of or in the name of or relating to

1 Mawlana Hazar Imam, the Ismaili Tariqah, the
2 Jamat, any Council or any other Ismaili
3 institution;"

4 So that really says to you --

5 BY MR. JIWA:

6 259 Q. Sorry, my question earlier, I don't know if
7 you --

8 A. Sorry. Maybe you said something different.

9 260 Q. Yes, I think so.

10 A. All right. Let's get it right then.

11 261 Q. I'm going to go back to that. I said to you:
12 Is there any farman or any article in the Constitution
13 that says that farmans cannot be released for
14 distribution to the jamats before the Imam has edited and
15 approved them? That's my question.

16 A. It is not in the Constitution, but that's a
17 process established by the present Imam.

18 262 Q. So what I'm saying to you --

19 A. Imam is above the Constitution, I explained
20 to you. He transcends the Constitution in a sense that
21 even if the Constitution is there, Imam has a right to do
22 what he wishes to do. He has the authority to change or
23 to decide or to alter or to do whatever he wishes to
24 do.

25 263 Q. I'll come back to that in a second. I just

1 want to focus on the question that I asked you. My
2 question, and I'm going to repeat it again: Is there any
3 article in the Constitution or is there any farman that
4 says before any farman that has been made by the Imam,
5 before it is distributed to the jamats, has to be edited
6 and approved by the Imam? That's my question.

7 A. Not in the way that you describe.

8 264 Q. Now, you said earlier -- as you were just
9 answering this issue, I see your lawyer is pointing you
10 to something?

11 A. The same --

12 MR. GRAY: Article 14.1(c).

13 THE DEPONENT: That's the one that I read.
14 Because you're talking about the issue of editing and the
15 issue about farmans, and this to me is the article.
16 That's why I quoted you that article.

17 BY MR. JIWA:

18 265 Q. Sir, the article that you are quoting me, the
19 14.1 that your lawyer also is pointing you to see, show
20 me where does it say that it's the Imam who is going to
21 edit and approve before they are released. On the
22 contrary, it seems to suggest that National Council can
23 do that decision. You are saying all along that the Imam
24 approves and edits farmans?

25 A. National Council has no authority to edit

1 farmans.

2 266 Q. But you're pointing to this --

3 A. No, it's not. I'm talking about, very
4 clearly, the provisions in this Constitution that gives
5 unfettered right to the Imam.

6 267 Q. Okay. 14.1(c), where does it say the Imam
7 has to approve or it gives him the unfettered right,
8 14.1(c)?

9 A. No, but it's Imam you're talking about that
10 there is -- anybody who prints, publishes or circulates
11 any material.

12 268 Q. But this is not my question. I mean --

13 A. The questions you are asking is Imam edits,
14 is it in the Constitution, and I'm saying to you not the
15 way as you've described it in the Constitution. I'm
16 saying there are provisions but not the way about editing
17 or the way that you describe, it's not that.

18 269 Q. Now, I'm suggesting to you that what you are
19 saying is simply your opinion and perhaps Mr. Keshavjee's
20 opinion and perhaps other leaders' opinion. But I say to
21 you that the Constitution nor any farman says that a
22 farman that's been made by the Imam may not be
23 distributed to the jamat before it's edited and
24 authorized by the Imam?

25 MR. GRAY: You've already indicated these are

1 questions of opinion. The Constitution is here. The
2 interpretation of the Constitution I'm sure you will
3 argue before a judge. We'll read the words of the
4 Constitution, and so far as it's relevant, we'll deal
5 with it as a matter of interpretation.

6 THE DEPONENT: I take my instructions from His
7 Highness, and that's what His Highness has conveyed to
8 me.

9 BY MR. JIWA:

10 270 Q. Now, you have said earlier that His Highness
11 expects the jamats and the leaders of the institutions,
12 and indeed the institution has taken oath to defend the
13 Constitution, to follow the Constitution; correct?

14 A. Absolutely.

15 271 Q. Now, when I read your Affidavit, you have
16 said in your Affidavit that soon after or shortly after
17 you started working there, the Imam expressed his
18 concerns to you about this distribution of these farman
19 books.

20 Now, you said "shortly after." Could you be a
21 little more specific? What do you mean "shortly"? You
22 started working there December of 1996; correct?

23 A. Correct.

24 272 Q. And your term as president expired in 1996?

25 A. Yes.

1 273 Q. Now, when you say "shortly after," like is it
2 weeks? Days? Months?

3 A. No. It was later on, after in my term of
4 office, around probably early '98. Because I cannot
5 recollect exactly when it was, but I do know that he had
6 expressed to me his concern about this material.

7 274 Q. Can you try and recall what words he used,
8 how did he tell you, what did he tell you?

9 A. I cannot recall exactly on the words, but I
10 can tell you the thrust of his issues to me.

11 275 Q. And according to you, the thrust is that
12 these farman books distributed by Mr. Tajdin, he
13 disapproves?

14 A. He disapproves there's anybody publishing
15 material without his authority.

16 276 Q. So did he say Mr. Tajdin or he just said
17 anybody?

18 A. No, he says -- he was very clear that he does
19 not approve anybody who is in the -- which are not
20 authorized farmans and not gone through the process to be
21 able to publish this material.

22 277 Q. Did he say that in response to your question
23 or he said it on his own?

24 A. No, he was discussing this. Because every
25 time the farmans were being released, there were people

1 who were recording farmans and releasing farmans before
2 even the Imam had given his authority for the release of
3 the farmans.

4 278 Q. So that's what he was referring to? He was
5 only referring to these farmans books?

6 A. No, but these farmans books were a
7 compilation of all type of farmans, that they were all
8 unauthorized.

9 279 Q. Now, in your conversation with the Imam, and
10 you say it could have been '97 or early '98, not '97?

11 A. Well, I can't -- as I said to you, I cannot
12 recollect exactly the date, but I do know that during the
13 early part of my work, he had -- because it was in the
14 context of, as I said, the releasing of the farmans.
15 Because there were members of the jamat who actually were
16 recording the farmans, and then they were releasing the
17 farmans before the Imam had the opportunity to review the
18 material himself to be able to ensure that those were the
19 farmans he wished to be released.

20 280 Q. So -- I mean you don't recall his words, but
21 you are saying all of this, but you don't recall what
22 words he used. Did he use the word "recording"; people
23 are recording his farmans?

24 A. But he was aware --

25 281 Q. No. The question is: Did he use the words

1 when he told you that people are recording his farmans?

2 A. He knew that there was recording because he
3 knows -- he knew about the fact that people were
4 recording.

5 282 Q. So he knew it at that time?

6 A. Yes.

7 283 Q. And he said --

8 A. And he disapproves of this.

9 284 Q. And he told you he disapproves of that?

10 A. Yes. That is not towards people.

11 Unauthorized recording of the farmans.

12 285 Q. And how often or how many times did he tell
13 you that? How many times did you have the discussion?

14 A. As I said to you, this matter used to come at
15 the time of the visits when this was the time when he was
16 visiting a country, these farmans, when he made the
17 farmans, and then when they were being submitted to Hazar
18 Imam for approval, they were farmans for individuals who
19 were recording the farmans, transcribing it, and
20 releasing it.

21 286 Q. So when you went to the Imam after the Imam
22 had made the farman in 1998 -- do you know where he
23 visited in 1998?

24 A. Well, I haven't got all the visits, but I can
25 tell you there were many visits after -- during my time

1 of the office. I cannot -- but there were many visits.

2 287 Q. But at that time he didn't tell you that,
3 that he's concerned, in 1994?

4 A. 1994 I was the president of the council.

5 288 Q. And when you are the president, His Highness
6 of course interacted with you; you were the president of
7 the U.K. Council and he was there for about seven days?

8 A. Absolutely. Five days.

9 289 Q. And at that time, he did not tell you his
10 concern about people recording the farman?

11 A. Not with me. When I was in the U.K. at that
12 time, he was there for the visit.

13 290 Q. But during that visit, did he tell you that
14 he is concerned about his farmans being recorded?

15 A. Not to my knowledge.

16 291 Q. And he only told you after you started
17 working for him?

18 A. Because that is my capacity in a different
19 way. I was the national president at the time. Now I
20 was head of the -- at least the Department of Jamati
21 Institutions.

22 292 Q. Now, during the time you were the president,
23 which I see is from 1991 to 1996, during those times,
24 those five, six years, did anybody tell you that the Imam
25 is concerned with the farmans recording and

1 distribution?

2 A. I'd heard there's issues that even though --
3 the coordinator was saying the same thing, that's Mohamed
4 Keshavjee at the time, he was the coordinator. He was
5 the coordinator before and he was there.

6 293 Q. And would you agree with me it was
7 Mr. Keshavjee who had these concerns?

8 A. No. He had indicated as well that this is
9 happening and that was a concern, that the farmans were
10 being released without Mowlana Hazar Imam's approval
11 process.

12 294 Q. Okay, I get it.

13 Now, how many times do you recall that you had
14 this conversation with His Highness after you started
15 working there?

16 A. I cannot respond to that because I cannot
17 tell you how many times. But I do know, as I say, on a
18 number of occasions during the visit -- not every single
19 visit but -- because in some visits we were able to
20 release the farmans and Hazar Imam was able to review the
21 farmans and be able to release the farmans in time very
22 easily, and this issue didn't arise because the farmans
23 were then authorized farmans.

24 But it only happened where there was time that
25 required the Imam, because of his busy work, because

1 after a visit, a lot of work contents to happen, so it is
2 at that time when somebody releases this without him
3 having had the time to review them.

4 295 Q. I'm going to suggest to you, Mr. Sachedina,
5 that what you are saying, there is no corroborating
6 evidence whatsoever; it's just your word, that's it?

7 A. Well, I can tell you that these were the
8 instructions from the Imam of the Time.

9 296 Q. I understand. My question is -- and you
10 repeated that a number of times. My question to you is
11 this: These are simply your opinions or your words which
12 you are relating to His Highness, but there is no
13 corroborating evidence whatsoever anywhere that says it
14 is the Imam who desires this. Would you agree with me?

15 A. I disagree with you.

16 297 Q. Can you point me to any corroborating
17 document, article of the Constitution or any farman that
18 shows that the Imam has this concern?

19 MR. GRAY: You mean any corroborating document
20 such as the documents in this case; is that what
21 you're --

22 BY MR. JIWA:

23 298 Q. Other than this case.

24 A. You have seen, first of all, the
25 Constitution, which says -- for the case you know what is

1 there. It's absolutely clear. The Constitution says
2 that this issue of Imam publication is one thing, but the
3 issue about the fact that the Imam has written to say he
4 does not wish to be published, you have received the
5 letter.

6 299 Q. I'm not --

7 MR. GRAY: Are you talking about things like the
8 affirmation or something?

9 MR. JIWA: No. Other than this action and the
10 documents that have been given, these two or three
11 letters, which I'll come to that in a --

12 MR. GRAY: You have a sworn statement from His
13 Highness. You could call that a corroborating
14 document.

15 MR. JIWA: I'm going to come to that a little
16 later.

17 BY MR. JIWA:

18 300 Q. Prior to this litigation being commenced, are
19 there any documents, any article anywhere, that
20 corroborates what you say?

21 A. Well, I don't need any corroboration because
22 Imam has actually made this as instructions.

23 301 Q. Listen. My question is not whether you need
24 corroboration or not. Would you agree with me, sir, and
25 you said this earlier, that the jamats are obligated to

1 follow the Imam's farmans and the Constitution?

2 A. Just as farmans that he has authorized for
3 release to the jamat. Not any farmans. Absolutely what
4 he had given for the jamat, which he has authorized for
5 the jamat, and once he is the one who approves those
6 farmans.

7 302 Q. Will you agree with me that the Constitution
8 prior to 1986 never said that the Imam's authority is
9 required before distribution by the association?

10 MR. GRAY: Wait a minute. You haven't shown him
11 the prior 1986 Constitution.

12 MR. JIWA: It's in my Affidavit.

13 MR. GRAY: You're asking him to interpret the
14 result of the 1986 Constitution.

15 MR. JIWA: I'm not asking him to interpret. I'm
16 just --

17 MR. GRAY: Yes, you are --

18 MR. JIWA: I'm saying is there a clause that says
19 Imam has to approve any farmans before they are released?

20 MR. GRAY: Well, he's not a constitutional
21 expert. I'm not going to answer that question.

22 --- REFUSAL

23 THE DEPONENT: Well, let me tell you. That is up
24 to -- from my point of view, the matters have a very
25 clear procedure over many, many years that this has been

1 going on. This is not something now. This has been by
2 this Imam for a long period of time.

3 BY MR. JIWA:

4 303 Q. And when you say long -- "many, many years,"
5 what would you say? Five years? Ten years?

6 A. I've told you that since I've been working, I
7 know that that is the case, and I thought it's been going
8 on possibly even before I started work. But I do know
9 that this is the process he follows every time.

10 304 Q. Now --

11 A. Because when you speak, it's generally not
12 understood. And when you put it down in writing, it is
13 then -- you know, you realize what you say and what
14 you've written is what is -- how it's reviewed by the
15 Imam. He has to make sure that it is correct because
16 he's the authority on this matter.

17 305 Q. Would you agree with me that the Imam, if you
18 are so concerned, could have put an article in here
19 telling the jamats not to record, not to copy, not to
20 distribute any farmans by way of photocopies, by way of
21 email, by way of books?

22 A. I believe article 14.1 covers that point
23 absolutely adequately, that nothing should happen. This
24 to me, article, is all-encompassing. That is why in my
25 opinion that this authority is in the article, and it's

1 actually an over-arching article about all matters
2 relating to the tariqa.

3 306 Q. I'm going to ask you to refer to your
4 Affidavit's Exhibit B in your Affidavit. Now, this says,
5 "ITREB Canada Farman Dissemination Process." And you've
6 given this as part of your evidence. And where did you
7 get this from?

8 A. This is a document that has been the process
9 that they follow in Canada, and I asked them just to make
10 sure -- that the Imam wanted to see what the process was.
11 So that's what they put down, is a process which has been
12 what is in place in Canada.

13 307 Q. And so who gave this to you?

14 A. It came from the National Council
15 president.

16 308 Q. From Canadian president?

17 A. Yes. Because it was through the ITREB Canada
18 to give to the president and it has come. Because it was
19 a process that we just wanted to make sure that what is
20 the process followed, and that's what they have given,
21 that this is the process they followed.

22 309 Q. All right.

23 A. And it was given to me, and I also submitted
24 this to Hazar Imam.

25 310 Q. Now, towards the end of number 9, it says:

1 "The above process is followed with Firmans received that
2 have been translated into other languages." ... "Gujarti,
3 Urdu and Farsi."

4 Do you know if there's any process of ensuring
5 the competency of the translators?

6 A. These are -- first of all, we utilize the
7 expertise of the ITREBs in those countries where this
8 expertise lies. Because it is important that the country
9 where these farmans are being translated in the
10 languages, that we consult the ITREBs or people, if we
11 have experts on this, they will translate, and it has to
12 be verified.

13 311 Q. And you would agree with me that this process
14 that you identified does not require the translated
15 versions to be sent back to Hazar Imam for approval?

16 A. No, because the translation, as I say,
17 they're checked a number of times because English was the
18 language.

19 312 Q. I don't see anywhere where it says it's
20 checked a number of times?

21 A. Well, because what happens is there's not
22 just one translation made, and that's really because
23 there are -- in some cases, people are sitting together
24 to make sure that it's translated.

25 There's a process in each ITREB when they're

1 given to translate, they will check that this the final
2 farman's outcome.

3 313 Q. Now, in your visit to Canada in 1998, you
4 came for a fundraising meeting; correct?

5 A. Yes.

6 314 Q. And you visited other places -- Toronto,
7 Vancouver, Calgary -- for those ceremonies?

8 MR. GRAY: You should answer yes or no.

9 THE DEPONENT: Yes.

10 MR. GRAY: If you nod, then the reporter is --

11 THE DEPONENT: I'm sorry about that. My
12 apologies.

13 MR. GRAY: That's okay. I was waiting for Mr.
14 Jiwa to -- it's his cross-examination, but still.

15 BY MR. JIWA:

16 315 Q. I'm going to ask you to turn to tab C of your
17 Affidavit. Now, this is written by Mohamed Keshavjee,
18 the individual you identified earlier --

19 A. Yes.

20 316 Q. -- as the ITREB coordinator?

21 A. Yes.

22 317 Q. And they are giving this as sort of a sample.
23 This is what you would send --

24 A. He would send it to all the chairmen.

25 318 Q. Right. And now would you agree with me that

1 through all this stuff, he keeps on talking about other
2 versions of farmans, unofficial versions of the farmans,
3 that those should not be read to the jamat khanas?

4 A. To what?

5 319 Q. That they should not be read to the jamat
6 khanas? And that according to Mr. Keshavjee, that each
7 ITREB in every province or every country should be very
8 careful that only the farmans that he has sent should be
9 read to the --

10 A. Authorized and released farmans through the
11 process.

12 320 Q. And he was aware that all of these farmans
13 so-called unofficial versions were being distributed?

14 A. As I said to you, we were aware, and so was
15 the ITREB coordinator aware, and so was the Imam aware
16 that that was happening.

17 321 Q. And it was a concern for Mohamed Keshavjee as
18 the ITREB coordinator to make sure that only the official
19 version he sends are read and distributed?

20 And as far as you are concerned, are you aware
21 if, other than Mr. Tajdin, there are other individuals
22 who publish farmans?

23 A. Publish farmans?

24 322 Q. Yes.

25 A. I'm not aware of any publication of the

1 farmans the way I have looked at Nagib Tajdin's
2 farmans.

3 323 Q. By way of books have you ever seen?

4 A. No, I have not.

5 324 Q. Have you spoken with any other presidents to
6 inquire whether if anybody else is publishing farmans?

7 A. Nobody has brought it to my attention.

8 325 Q. And if they were being published, they would
9 be brought to your attention?

10 A. If they were published and I knew about them,
11 if I had seen them, then it would have been brought to my
12 attention, at least I would hope so.

13 326 Q. Now, with this litigation, it has become sort
14 of public knowledge in the jamats concerning these
15 publications, so even after this, nobody has called you
16 to say in their jurisdiction somebody else is selling --

17 A. I am not aware of that.

18 327 Q. With respect to these publications, you know
19 the other individuals who are involved in this
20 distribution and publication of these farman books?

21 A. No, I don't know the people individually. I
22 only know of Nagib from that point of view, and I know
23 that there are other people, because Nagib himself said
24 that there are other people involved in this exercise.

25 328 Q. In fact, in the plane ride you were going to

1 and coming back from Syria in 2001, you know there were
2 two other individuals with Mr. Tajdin?

3 A. I'll tell you now I have no recollection of
4 who these individuals are or what they do. I have to
5 tell you that. Because I did not look at them from that
6 view. Because my relationship with Nagib has always been
7 maintained on a real cooperative and in a manner of not
8 adversarial at all.

9 MR. GRAY: Until now.

10 BY MR. JIWA:

11 329 Q. But in the trip, he had two other individuals
12 that were with him?

13 A. I'm sorry, but I cannot recollect who those
14 individuals were.

15 330 Q. On that trip to Syria?

16 A. Yes, I cannot recollect.

17 331 Q. And you cannot recollect who those
18 individuals are, but I am saying there were other
19 individuals with him on that plane?

20 A. Well, I don't know who are the people that
21 Nagib goes around with all the time. There are many
22 people around Nagib. I don't keep a tab on Nagib, who
23 goes around with him.

24 332 Q. And that trip to Syria was the trip when
25 Mowlana Hazar Imam had visited Syria --

1 A. Yes.

2 333 Q. -- in 2001?

3 A. That's what you are describing in your
4 documents.

5 334 Q. Now, I'm going to ask you to turn to tab E?

6 MR. GRAY: Tab E of --

7 MR. JIWA: Of his Affidavit.

8 BY MR. JIWA:

9 335 Q. Now, this is the announcement that was read
10 or sent to the jamat khanas on January 16, 2010?

11 A. That is correct.

12 336 Q. Do you know who drafted this announcement?

13 A. Sorry?

14 337 Q. Do you know who drafted this announcement?

15 A. That announcement was drafted by the LIF with
16 Secretariat with the input of the chairman of the LIF.

17 338 Q. Who is the chair of the LIF?

18 A. Azim Lakhani and myself at the Department of
19 Jamati Institutions.

20 339 Q. So you are the chair of LIF?

21 A. No, I'm not. I said the chairman of the LIF
22 is Dr. Azim Lakhani, and I, as the DJI, a person who is
23 sitting on the LIF at the behest of the Imam, we -- first
24 of all, this announcement was Hazar Imam's decision that
25 an announcement be made and the draft be prepared.

1 340 Q. So who drafted this?

2 A. As I said to you, the Secretariat of the LIF
3 is involved in this, Azim Lakhani was involved in it, I
4 was in it, and so was I think the national president for
5 Canada.

6 341 Q. So when you say "Secretariat," I mean is
7 there one person in -- I mean --

8 A. The Secretariat, there are people working in
9 the Secretariat of the LIF. The LIF and DJI Secretariat
10 is based at the Institute of Ismaili Studies.

11 342 Q. So all of you, sir, together drafted this --

12 A. Yes. Because the issues were -- you always
13 put down points that you want to cover in the
14 announcement, and then, you know, a working draft is
15 prepared and it's reviewed.

16 343 Q. So it was collective between -- do you know
17 how many people would have been involved, number of
18 people?

19 A. No, only couple, two or three people. As I
20 said to you, there would be the Secretariat of the LIF.

21 344 Q. Who is the Secretariat?

22 A. There is Eqbal Rupani, and there's two other
23 people there. One is Nadia -- I think Nadia Asaria and
24 there's a young man who sits there as well who works at
25 the moment within the --

1 345 Q. What's his name?

2 A. Ali Khan.

3 346 Q. Ali Khan.

4 --- Off-the-record discussion.

5 THE DEPONENT: They are people who are at the LIF
6 Secretariat.

7 BY MR. JIWA:

8 347 Q. So all together, how many individuals are
9 involved in drafting this?

10 A. I told you the key people who were involved
11 was Eqbal Rupani, who was the LIF Secretariat, Azim
12 Lakhani, myself, and I think it was the president of the
13 council for Canada.

14 348 Q. Mohamed Manji.

15 A. Mohamed Manji, M-a-n-j-i.

16 --- Off-the-record discussion.

17 BY MR. JIWA:

18 349 Q. Now, would you agree with me that this
19 announcement does not tell the jamat that it is His
20 Highness who disapproves of the distribution of the
21 farmans?

22 A. Yes, this was -- as I said, it was authorized
23 by Molwana Hazar Imam.

24 350 Q. Right, but I'm just saying that the jamat was
25 not told that His Highness disapproves of

1 the distribution or purchase of this --

2 A. No. It is the Leaders' International
3 Forum --

4 351 Q. Just listen to my question. Yes or no. It
5 doesn't say -- please pay attention to my question. My
6 question is: This announcement -- right? -- does not
7 indicate to the jamat if His Highness is prohibiting or
8 refusing or frowning upon this activity?

9 MR. GRAY: It says what it says. You can read
10 it. We can all read it. You can make your arguments
11 about what it says. Why are you asking him to interpret
12 the documents?

13 MR. JIWA: I'm not asking him to interpret. I'm
14 just confirming that this does not tell the jamat that
15 His Highness does not wish --

16 THE DEPONENT: LIF is the body that reports to
17 the Imam, appointed by the Imam. So if he is making an
18 announcement, there cannot be an announcement which is
19 made by the LIF which has no input of the Imam here.

20 BY MR. JIWA:

21 352 Q. Would you agree with me, sir, that there is
22 no obligation on a jamati member to take the words of LIF
23 over the Constitution or over the farmans of the Imam;
24 yes or no?

25 A. The LIF --

1 353 Q. Me, as an example, when I listen to this
2 announcement --

3 A. But LIF is part of the constitutional body,
4 sir.

5 354 Q. Sir, my question to you is this: LIF
6 supersedes Hazar Imam's farman?

7 A. It doesn't.

8 355 Q. Doesn't. It doesn't have that power?

9 A. Doesn't have authority to supersede the
10 farman.

11 356 Q. Even if LIF says to somebody, "don't do
12 this," they don't have to follow; would you agree with
13 me?

14 A. No, but as I said to you --

15 357 Q. Yes or no?

16 A. As I say, LIF will -- people have to make the
17 judgment of what the announcement says and make their own
18 decisions.

19 358 Q. Sir, listen to my question. I understand
20 what you say and understand that you would like the jamat
21 to follow everything they are told by LIF or by their
22 president, but that's not my question. My question is --
23 and you admitted this earlier -- we are obliged to follow
24 farmans and the Constitution; correct?

25 A. LIF is a constitutional body.

1 359 Q. It is a constitutional body but we are not
2 obliged to follow the constitutional body --

3 A. Because if you're following the
4 constitutional, LIF is a constitutional body, sir.

5 360 Q. You would like --

6 A. No, it is no. It is part of the
7 Constitution. Read the Constitution. LIF is a
8 consultative body. It is part of the Constitution.

9 361 Q. I understand.

10 A. If you read that carefully, it is very clear
11 LIF is part of the Constitution.

12 362 Q. So you expect the jamats to follow the LIF
13 over the Constitution and farmans?

14 A. But they are part -- I'm explaining to you.
15 They are part --

16 363 Q. So being a part of the constitutional body,
17 you expect us to follow them?

18 A. It has authority in the -- it's consultative
19 body to the Imam and has authority because the Imam, as I
20 said to you, directs LIF to make the announcement.
21 Otherwise, the LIF cannot make this type of
22 announcement.

23 364 Q. Listen to my question. My question is simply
24 this: The jamats are obligated to follow the farmans of
25 the Imam; correct?

1 A. But --

2 365 Q. Yes?

3 A. -- (inaudible) -- farmans with that
4 announcement.

5 366 Q. Does this anywhere say this is a farman of
6 the Imam?

7 A. No.

8 367 Q. Doesn't say. Right.

9 Now, let me go to the second paragraph. You say
10 here:

11 "The LIF International Council take this
12 opportunity to recall that Molwana Hazar Imam has
13 entrusted the responsibility for printing and
14 circulating farman texts and other talika and
15 jamati-related matters to relevant jamati
16 institutions." Which jamati institutions are you
17 referring to here?

18 A. ITREB.

19 368 Q. So why did you not just say "ITREB"?

20 A. Because that is -- people know that the
21 farmans are always authorized by the tariqa board.

22 369 Q. Would you agree with me, sir, that ITREB's
23 name only came in the Reply to the Defence of Mr. Tajdin
24 and mine. All along it is relevant jamati institutions.
25 When was ITREB appointed as the authorized body?

1 A. ITREB has always been the authorized body.

2 370 Q. Now --

3 A. For the present time, this Imam has
4 authorized the ITREBs to be the body, relevant body for
5 publications or, rather, distributions of all the
6 religious matter, according to the constitution.

7 371 Q. There is nothing in the Constitution that
8 says ITREB has been given this power?

9 A. It is there. If you come back to that ITREB,
10 as I say to you, if you look at the -- all the materials
11 relevant to the Islam and the Ismaili tariqa, that if you
12 look at --

13 372 Q. Which clause?

14 A. 8.4(d). And that is the role. If you look
15 at tariqa and Religious Education Board, if you look at
16 that, it says, "...undertake the publication of books and
17 material on relevant aspects of Islam and the Ismaili
18 Tariqah;"

19 373 Q. And he talks of books and materials; right?

20 A. Yes. On Ismaili tariqa, farmans are part of
21 the tariqa material.

22 374 Q. All right. But it doesn't specify farmans,
23 does it?

24 A. It's included. It's inclusive.

25 375 Q. So why --

1 A. Ismaili tariqa has material, and the tariqa
2 board is responsible, and farmans are part of the Ismaili
3 tariqa, and the doctrine of the Ismailis, sir.

4 376 Q. Isn't that contradictory to everything you've
5 been saying to date?

6 A. What?

7 377 Q. You are completely contradictory. You are
8 contradicting yourself, sir, aren't you?

9 A. What -- the farmans --

10 378 Q. You --

11 A. Release of the farmans, this is the body that
12 actually releases the farmans for the jamat. The process
13 we're talking about, earlier on you said ITREBs, and I
14 said ITREB, yes.

15 379 Q. Fine. So if you look at 8.4(b) and if that
16 is your jurisdiction to say ITREB has jurisdiction over
17 farmans, then why do you need Hazar Imam's approval?

18 MR. GRAY: Look at the beginning of 8.4.

19 BY MR. JIWA:

20 380 Q. Where does it say --

21 A. It is always done under the behest of the
22 Imam.

23 381 Q. Excuse me, sir, where does it say that
24 approval for approval for publication of farmans --

25 A. If you read 8.4, it says: "Each Tariqah and

1 Religious Education Board shall under the direction and
2 guidance of Mawlana Hazar Imam." Not without his
3 directions or guidance.

4 And I want to point out to you it will therefore
5 under Imam's direction undertake the publication of books
6 and materials of relevance to Islam and Ismaili tariqa.
7 The distribution process is part of the responsibility of
8 the tariqa board once given authorization by the Imam of
9 the Time. Does that not make sense to you?

10 382 Q. No, it doesn't, because it is one thing to
11 say under the direction and guidance of Mowlana Hazar
12 Imam, and it's another thing to say you need his prior
13 approval.

14 If you look at the Rules and Regulations, if you
15 look at the Rules and Regulations, function 24, those are
16 the powers that have been granted to each local tariqa
17 board.

18 A. But that's local tariqa board. You're
19 talking about the national tariqa boards. Because the
20 farmans, I kept on telling you, they come to the national
21 boards, not the local boards.

22 383 Q. Right.

23 A. It's the national board that directs them.

24 384 Q. All right. Now -- and this is what you are
25 saying is a breach of the Ismaili Constitution?

1 A. The article -- in my view, both article
2 14.1(c) and article 8.4(d) are -- very much work
3 together.

4 385 Q. Right. And those are your authority --

5 A. And I've told you --

6 386 Q. Yes?

7 A. -- there's the Constitution. You have -- the
8 letter from the Imam of the Time telling him not to do
9 that. You have the second letter from the Imam to tell
10 you not to do that. You have an affirmation that says
11 not to do that. And then you also have very clearly the
12 Statement of Claim which was filed by the Mr. Plaintiff,
13 the Imam of the Time saying I don't want you to do that.

14 387 Q. Sir --

15 A. So there are four documents telling you not
16 to do that. Five documents now.

17 388 Q. Those documents you know are being disputed
18 by us. But we'll come to that. We'll come to that.

19 Now, if you go down to the last sentence --

20 A. Of which paragraph?

21 389 Q. Of the same.

22 A. Yes?

23 390 Q. "The jamat would pleased to be informed that
24 Molwana Hazar Imam has already approved that the Jamati
25 Institution should formally publish a volume containing

1 the approved text of his farmans." [as read]

2 Do you know when did he formally approve this?

3 A. The principal. This is an approval of the
4 principle to publish. That does not mean you can publish
5 tomorrow. It is the principle that he has agreed. The
6 principle to approve, that he has approved the principle
7 of being able to publish the farmans at his time.

8 He has not made a decision that tomorrow you will
9 publish this. He has given his -- here, as I say to you,
10 "approve the jamat to formally this." So he has given
11 his agreement to publish. Now the process has got to be
12 gone through.

13 391 Q. Okay, so what I'm saying -- my question was:
14 When did he give this approval?

15 A. This was during the -- this discussion has
16 been on the table with Hazar Imam for a number of years.

17 392 Q. No, this --

18 A. Listen to me, please. I have also.

19 MR. GRAY: Let him finish his --

20 THE DEPONENT: I have to be able to give you the
21 context of this. It is my right to give you a context to
22 this.

23 And, therefore during the Jubilee there were a --
24 during the Golden Jubilee of the Imam, there were a
25 number of projects, and one of them was -- there's one to

1 do with the speeches of the Imam, and this one also is
2 the farmans of the Imam. And these were issues that were
3 discussed by -- with Hazar Imam, and he has, as I said,
4 given in principle his agreement to do this.

5 The question is going to be the timing in when
6 this will happen and the process has to -- due process
7 will have to be gone through before they are released to
8 the jamat.

9 BY MR. JIWA:

10 393 Q. So my question is when -- when the final
11 approval was given?

12 A. About the...?

13 394 Q. When you say "has already approved"?

14 A. I told you during the meeting with the
15 leaders -- at the time of the Golden Jubilee, this
16 proposal was --

17 395 Q. No, it would be nice if you would say what
18 month, what year?

19 A. During the Golden Jubilee when we -- leaders
20 of the jamat periodically meet Hazar Imam, and there were
21 meetings with Hazar Imam about what will be the outputs
22 that we will do before the Jubilee, during the Jubilee,
23 and the post-Jubilee.

24 And the farmans would be the compilation also
25 of -- all the farmans of the Golden Jubilee would be

1 included in this. So this was something that came out of
2 the Golden Jubilee.

3 396 Q. So you cannot point to the month that he
4 gave --

5 A. This was done in the context of the principle
6 of -- agreement by approval by Hazar Imam to do certain
7 things. And this was informed to the jamat that that
8 approval has been given by Imam to do this. But, as I
9 say to you, there's a process to follow, which Hazar Imam
10 will have to be -- his guidance will have to be sought.

11 MR. GRAY: Excuse me just for a second.

12 --- Off-the-record discussion.

13 --- Recess taken at 11:59 AM.

14 --- Upon resuming at 12:09 PM.

15 BY MR. JIWA:

16 397 Q. Now, Mr. Sachedina, your announcement --

17 A. Yes.

18 398 Q. You were talking about this already approved
19 and you explained that. Now, to your knowledge has His
20 Highness, prior to his Golden Jubilee approval, has he
21 ever approved prior to that for the publication of the
22 farmans?

23 A. The principle to publish?

24 399 Q. What do you mean "the principle"?

25 A. Because the fact is that, you know, there is

1 no publication at the present time. There is no
2 publication of farmans authorized by any institution
3 actually at the present time which is there. So this
4 will be something that is in the process. It was in the
5 process, principle was agreed with Hazar Imam.

6 400 Q. Right.

7 A. And now it's being looked at. Because I --
8 so that you should be aware, I had raised this matter
9 with Hazar Imam of the Time of my meetings with Nagib at
10 that time about this whole issue, that we will need to
11 make sure that there's a publication available.

12 401 Q. Did he give you an approval at that time?
13 Did you ask him for approval at that time?

14 A. No, he had said that -- we are very, very
15 clear on this matter, that whatever it is you prepare,
16 submit, and then we will make a decision once I have
17 reviewed the material.

18 402 Q. Right. And so he said that in 1998 to you?

19 A. He said the principle about this is something
20 I'm willing to consider and I'm willing to look at.

21 And that's why I was very satisfied that this is
22 where the direction we will end up at some point in time,
23 but only after he has given his authority ###.

24 403 Q. Now, I take you to your tab L. Now, earlier
25 I showed you that Mr. Keshavjee's letter where he's

1 talking about unauthorized or unofficial publications
2 should not be published, should not but read out in jamat
3 khanas.

4 MR. GRAY: You're referring to...?

5 THE DEPONENT: The unauthorized --

6 BY MR. JIWA:

7 404 Q. Unauthorized or --

8 A. Public farmans should not be read in jamat
9 khanas.

10 405 Q. Yes. Now, if you will note -- so this
11 concern, would you agree with me, has been going on for a
12 long time?

13 A. Yes, that's what we have said to you. And I
14 thought that this particular issue, even after my visits
15 here with Nagib in 1998, in my opinion had completely
16 slowed down, from my opinion. That means that there were
17 no -- and I have to say that with working with Nagib at
18 the time, there were no publications at least that I'm
19 aware of which were coming out in a way that were going
20 to compromise integrity of the farmans of the Imam.

21 406 Q. Now, this unofficial, are you suggesting --
22 and I'm going back to your tab C where Mr. Mohamed
23 Keshavjee is speaking about it.

24 Is he following unofficial only to Tajdin's
25 unofficial version according to you?

1 A. As I said to you, we don't know where these
2 unofficial versions come from.

3 407 Q. So there are others as well?

4 A. Maybe.

5 408 Q. So the concern was not only Mr. Tajdin --

6 A. No. I'm just saying that people -- because
7 we don't know who has -- who are the people who are doing
8 the recording.

9 409 Q. Right.

10 A. Because there may be Nagib or his people or
11 others also working. So I don't know that. But we are
12 aware that Nagib has interest and he records these
13 farmans.

14 410 Q. And there are others as well who have
15 interest and who distribute by email or --

16 A. Well, as I said to you, this is something
17 which is impossible in the electronic age to know exactly
18 who distributes to whom. I couldn't tell you. But there
19 may be others also doing that.

20 But what it is, this is very clear that
21 unauthorized, whether it is Nagib's or anybody else's.

22 411 Q. You're saying "may be." I want to be clear
23 on this point. Do you know if anybody else other than
24 Nagib who is also distributing even if not the book, by
25 email or by photocopies --

1 A. Well, I thought when I saw your Affidavit you
2 now say to me that you do this as well.

3 412 Q. Yes.

4 A. I didn't know that.

5 413 Q. But my question is: Other than me and
6 Mr. Tajdin, do you know if anybody else -- like, you are
7 a resident of U.K.?

8 A. Yes.

9 414 Q. Are there local people there who are
10 distributing either by email or through family and
11 friends?

12 A. Well, as I say, this is a possibility.
13 Because electronic mail can come from so many places.
14 Once you give it out, everybody else gets it.

15 415 Q. I just want to know do you know -- I'm not
16 asking if it is possible or not, but do you know if
17 anybody else has been?

18 A. The farmans?

19 416 Q. Yes. Not necessarily in a book, but by
20 email -- you know, as an example --

21 A. Yes, people do send. Because even our
22 farmans that are sent to the tariqa boards, there is a
23 processing and some of them is by electronic mail to the
24 ITREBs locally.

25 417 Q. And those, too, also get --

1 A. No, because the fact is ITREB's may not
2 distribute it, but if individuals from the jamat or a
3 particular person, whoever it may be, we don't know, and
4 there may be others -- I'm talking about now the
5 distinction I'm making.

6 418 Q. Yes.

7 A. That is authorized versus those that are not
8 authorized. I'm talking at the moment distribution of
9 unauthorized. This authorized farmans obviously are
10 distributed through the normal network.

11 419 Q. But what you also say, if I understand
12 correctly, is even the ITREB's farmans that are sent to
13 the jamat khanas, they also get distributed?

14 A. There is a process of distribution. You've
15 seen the policy.

16 420 Q. I mean when a mukhi gets a copy from ITREB --

17 A. Farman?

18 421 Q. -- he could make copies and give to his
19 family and others?

20 A. That may be the case. I can't say to you it
21 happens but it may happen.

22 422 Q. But do you know if it happens?

23 A. I'm not aware of this. But it can happen, of
24 course. I'm not aware of it myself but.

25 423 Q. Now, you said earlier that of course His

1 Highness, according to you, although I don't agree, but
2 according to you that His Highness has had this concern
3 for a very long time, at least, from your admission,
4 1997, and he have may earlier as well?

5 A. Yes.

6 424 Q. Now, would you agree with me that during
7 Golden Jubilee he travelled almost around major centres
8 across the world and practically almost everywhere other
9 than Pakistan he gave deedar to the jamats and guided
10 them and that he made farmans on various topics across.

11 He made farmans; correct? In fact, he also made
12 farmans that the leaders do not convey his message, as an
13 example; correct? During Golden Jubilee?

14 A. I don't want to comment because it's out of
15 context.

16 425 Q. No, I'm not saying that. What I'm saying is
17 he made that farman --

18 A. He made farmans in all parts of the world
19 where he visited during the Golden Jubilee year.

20 426 Q. But I'm going to give you an example, that in
21 Golden Jubilee in London, he said in the jamat khana in
22 the presence of thousands of -- or the whole jamat that
23 his leaders do not convey his message to the jamats, he
24 is not sure of that. You agree with that; right? You
25 were there.

1 A. I was there, but as I said to you, that it
2 was not completed, the sentence wasn't completed, his
3 chain of thoughts were not completed.

4 427 Q. All right. But he said that?

5 A. He said that, you know -- I think, again, I
6 come back to you it's the context. I'm not going to be
7 able to get one particular -- you're quoting out of
8 context the whole farman one line, and I am not going to
9 be able to respond to that.

10 428 Q. Now, will you agree with me that if this was
11 such serious concern by the Imam if I can use unofficial,
12 unauthorized farmans to go around; in fact, from the
13 evidence it seems that he has not given authority to
14 publish anything; right?

15 A. Publishing of -- I want to distinguish. The
16 farmans to disseminate which are authorized the way each
17 farman is through the tariqa board is something which is
18 a process laid out.

19 Publication is a compilation of a lot of farmans
20 in a printed form and being either sold or distributed.
21 And I'm trying to make that distinction to you.

22 429 Q. I understand. If I understand one more step,
23 what I see from all of this stuff is whether official --
24 by "official" I mean the ones that ITREB sends.

25 A. Yes, because they have been.

1 430 Q. Or unofficial that ITREB doesn't send.
2 Either of the two versions, if I understand correctly,
3 His Highness doesn't want them to be distributed. They
4 have access in jamat khanas. Come and listen to him in
5 jamat khanas. This is what I sense from here.

6 A. But the access to these farmans are
7 available --

8 431 Q. In the jamat khanas.

9 A. -- through the jamat khanas and from murids
10 or whoever wishes to go and read them at the tariqa
11 board.

12 432 Q. I understand.

13 A. If they want to go to jamat khana, they can
14 read them, and there is a process for that.

15 433 Q. But the concern is, as I understand, it seems
16 to be that whether they are official or unofficial, he
17 doesn't want them to be outside of jamat khanas
18 distributed either by email, by photocopies, by books?

19 A. That's something he doesn't wish.

20 434 Q. He doesn't you say?

21 A. Except from the described process.

22 435 Q. And yet since 1997 at least, perhaps earlier,
23 as you said, but at least since 1997, he frequently told
24 you that he's concerned about this, would you agree with
25 me that he had an excellent opportunity when he went

1 around the world to make sure that the jamats doesn't
2 engage in this activity. He never did; correct?

3 A. That's the Imam's decision --

4 436 Q. Yes. I understand.

5 A. -- what the process is. It's up to him.

6 437 Q. I'm not asking you why he didn't do.

7 A. Yes.

8 438 Q. Of course you're right, its his prerogative.

9 What I'm telling you is despite that he went around the
10 world, he never mentioned any farman anywhere to say
11 don't engage in this activity.

12 You are aware, aren't you, that he has, for
13 instance, said, "I don't want you dealing drugs, I don't
14 want you smoking drugs, I don't want you to grow drugs, I
15 don't want you to transpoert" -- he said that in jamat
16 khana?

17 A. But those are in the context of a farman.

18 439 Q. I understand. But he said that. So he's
19 able to say in the farman and stop this; would you agree
20 with me?

21 A. If he wished to do that. That is the
22 prerogative of the Imam to do what he wants to do and say
23 what he wants to say, if he wished to say, whether in his
24 people whether that's something he wants to say to the
25 jamat in public. But this is an institutional issue.

1 440 Q. So now I take you to your "L." I take you to
2 your "L." This is again the announcement by the Ismaili
3 Leaders International Forum and this announcement, if I
4 understand correctly, was made after this litigation
5 commenced?

6 MR. GRAY: The announcement was -- we'll give you
7 the date. I think it says in his Affidavit what day it
8 was.

9 MR. JIWA: I believe it's 15th of April.

10 MR. GRAY: The 15th of April sounds right. Let's
11 just check. Usually -- you know, actually it doesn't
12 seem to say.

13 BY MR. JIWA:

14 441 Q. There's a date on the third page on the
15 bottom.

16 MR. GRAY: Right. 15th of April. That's right.

17 THE DEPONENT: That's the one.

18 BY MR. JIWA:

19 442 Q. Now, again, who drafted this announcement?

20 A. Sorry, who drafted...?

21 443 Q. Who drafted this announcement?

22 A. This particular announcement? Let me tell
23 you that the initial draft, which was submitted to Hazar
24 Imam again exactly at his behest, he said, "Can you
25 please" --

1 444 Q. My question was who drafted it?

2 A. I've told you the process. It is done by the
3 LIF Secretariat with the chairman of the LIF, myself, and
4 the president of the council where the jurisdiction is of
5 the countries involved were consulted.

6 445 Q. Do you know --

7 A. But this was then -- the draft was given to
8 Hazar Imam and he literally added almost two-and-a-half
9 pages himself.

10 446 Q. Right.

11 A. So our announcement was actually very short,
12 but it was the Imam who wanted this whole issue to be as
13 it has come out in the announcement. He personally
14 authorized that this be sent to the jamat.

15 447 Q. I will tell you, sir, that most of what you
16 are saying is self-serving. So you can repeat that. I
17 don't accept it. But I wanted to point to you to the
18 second paragraph here.

19 This is a serious and unprecedented development.
20 This is the action of bringing this litigation against --
21 this is what he's referring to, or what the announcement
22 is referring to?

23 A. Right.

24 448 Q. And it says, the second sentence: "In order
25 that there is absolute clarity that the legal steps have

1 been undertaken is the sad last resort." Right?

2 Would you agree with me that this is not a "sad
3 last resort"?

4 A. It was from Imam's perspective a "sad last
5 resort" because he tried in many ways for this not to go
6 to this level.

7 449 Q. I just told you that if the Imam has been
8 concerned, if he has been concerned about these
9 activities, and according to you since at least 1997, he
10 has a number of occasions -- for instance, 1998, July, he
11 amended the Constitution and he could have made it
12 abundantly clear that nobody but the Imam can do this.

13 Number 2, and I just explained to you that he
14 could have made the farmans as he went around during
15 Golden Jubilee because this has been a concern for a long
16 time, as you've been saying.

17 So would you agree with me that the sad last
18 resort is not true?

19 A. Let me tell you and maybe --

20 450 Q. Yes or no?

21 A. It is a --

22 --- The reporter appeals.

23 MR. GRAY: Let him answer the --

24 THE DEPONENT: I have a right to explain.

25 "Sad last resort" because for the last ten years,

1 since after -- from 1998, after my visit with Nagib, and,
2 in fact, the last publications of Nagib, nothing, as far
3 as I'm aware, there was no publication. This issue only
4 arose because of this publication that was produced.

5 MR. GRAY: The Golden --

6 THE DEPONENT: So there was Golden. This is the
7 book that has come out. This is the book in question --

8 BY MR. JIWA:

9 451 Q. You knew --

10 A. -- in this litigation. Until that time, I
11 submit to you respectfully that there has been no
12 publication by anybody in the form that was actually come
13 out the way it has been produced, as a compilation of
14 this.

15 And I have to remind you that the -- it's the
16 Imam who wrote the letter. And if you have any doubt in
17 your mind, I want you to make sure that you do not have
18 that doubt in your mind at all as the murids of the Imam
19 because it was the Imam of the Time whose Constitution
20 you have been quoting me, whose farmans you have been
21 talking about, he is the one who actually wrote a letter.

22 And, in fact, the response from a letter that I
23 had asked Nagib to say please submit something to the
24 Imam and you'll seek his direction, and that was by the
25 Imam of the Time to Nagib in the context of an imam/murid

1 relationship.

2 452 Q. That letter, we disagree that the Imam has
3 written, but that's an issue that a court can decide.
4 However, in that letter -- and I'll refer to a number of
5 points, but since you've raised this right now, in that
6 letter, the first letter, and just for the purpose of
7 questioning, I will say His Highness has written that --
8 I don't accept it but I'm going to assume and ask
9 questions accordingly.

10 In the letter, His Highness says "Recall" --

11 MR. GRAY: Let's --

12 THE DEPONENT: Can I refer to the letter, please.

13 MR. JIWA: Sure.

14 MR. GRAY: We're looking at the letter of --

15 MR. JIWA: "G."

16 MR. GRAY: Letter of January 24?

17 MR. JIWA: Yes.

18 BY MR. JIWA:

19 453 Q. Now, if you go to the first page, the last
20 sentence -- last paragraph, rather, he says in there:

21 "I believe that this has been explained to you by
22 the institutions on a number of occasions. I,
23 therefore, expect you and the other murids who
24 are working with you immediately to take all
25 necessary measures to recall and to withdraw from

1 your circulation your recent publication." [as
2 read]

3 Now, would you agree with me that in this letter
4 he's asking Mr. Tajdin to recall? What do you understand
5 by "recall"?

6 A. Whatever he has been able to distribute to
7 whoever, he should get them back, if possible.

8 454 Q. Do you agree with me that Mr. Tajdin has no
9 legal recourse to withdraw or ask anybody to return the
10 books?

11 MR. GRAY: Don't answer that.

12 --- REFUSAL

13 BY MR. JIWA:

14 455 Q. Would you agree with me that this sentence
15 imposes on Mr. Tajdin to do something that it is not
16 possible to do; would you agree with me?

17 MR. GRAY: Are you asking him a legal question,
18 is it possible to do it or not?

19 MR. JIWA: No. I'm saying that His Highness is
20 asking here, his letter, telling Mr. Tajdin to recall.

21 BY MR. JIWA:

22 456 Q. Let me give you an example. By this letter
23 if Mr. Tajdin has given me hundred books, tells me, "send
24 it back to me" and I refuse to do so, what can Mr. Tajdin
25 do?

1 MR. GRAY: Don't answer that question. You're
2 asking him about a legal question and --

3 --- REFUSAL

4 BY MR. JIWA:

5 457 Q. Would you agree that he has no legal recourse
6 to come to me?

7 A. I would not be able to respond on legal
8 matters.

9 458 Q. So would you agree with me that what His
10 Highness has written here is practically impossible to
11 achieve?

12 MR. GRAY: Again, don't answer that question.

13 THE DEPONENT: Same answer again.

14 --- REFUSAL

15 BY MR. JIWA:

16 459 Q. Would you also agree with me that his only
17 concern now with this publication, because all he's
18 asking to withdraw is your recent publication; he's no
19 longer concerned about his previous publications; would
20 you agree with me?

21 A. This publication covers farmans from the
22 previous publication.

23 460 Q. I understand. I understand. According to
24 this letter, he says "your recent publication"?

25 A. We're talking about the publication in

1 question.

2 461 Q. Yes, the Golden Jubilee previous books that
3 he has done and distribute them; correct?

4 A. I don't necessarily accept that.

5 462 Q. Now, if you go to his paragraph 1, where he
6 says:

7 "Over some time now I have viewed with concern
8 the inappropriate and unauthorized private
9 initiative of some spiritual children who print,
10 publish and circulate." [as read]

11 In your discussions as you said you have had with
12 His Highness, has he indicated to you who is behind these
13 publications?

14 A. His Highness --

15 463 Q. Yes.

16 A. -- indicated who is behind this publication?

17 464 Q. Yes. You said you had a number of
18 discussions with him?

19 A. Yes.

20 465 Q. And in those discussions, did His Highness
21 ever tell you who is behind the publications?

22 A. He asked the question. He has asked the
23 question, and I have told him Nagib because I know of
24 Nagib as the publisher.

25 466 Q. Listen to my question. My question is: When

1 he relayed these concerns to you in 1997, as you said,
2 and you can't recall the exact words, but do you recall
3 him telling you who is behind these publications?

4 A. The murids.

5 467 Q. Or he asked you that there are some murids
6 and inquire who they are?

7 A. Yes, and find out where it is. And I really
8 was clear.

9 468 Q. So His Highness did not tell you that it's
10 Mr. Tajdin. He said "there are some murids who are doing
11 this and I want you" --

12 A. I did tell him that the one that I know who
13 is at the centre of this was Nagib.

14 469 Q. You told him?

15 A. Yes.

16 470 Q. So at that time you told His Highness that
17 you know it's Nagib?

18 A. Yes.

19 471 Q. And did His Highness say that there are other
20 individuals as well?

21 A. No, I said to His Highness I know of Nagib's
22 publications, and I did say to him that when I will go
23 next to Canada, this issue, I will take it up with
24 Nagib.

25 472 Q. Now, if you look at the second paragraph, he

1 says:

2 "As Imam, I have established a process for the
3 publication and circulation of my farmans whereby
4 responsibility has been entrusted to the jamati
5 institutions that I appoint under the provisions
6 of the Ismaili Constitution which I have ordained
7 from my jamats social governance globally." [as
8 read]

9 Correct?

10 A. Yes.

11 473 Q. He has already entrusted this to the jamati
12 institutions?

13 A. Yes. The process is there. This is the
14 process we talked about, of -- dissemination of the
15 farmans, approved farmans, to the jamat. It is there.
16 We went through earlier on.

17 474 Q. For the publication?

18 A. Sorry?

19 475 Q. For the publication?

20 A. First of all, I'm talking about dissemination
21 of the farmans to the jamati that are authorized. I
22 explained to you there has not been a publication so far
23 by the jamati institutions.

24 476 Q. But isn't His Highness contradicting your
25 evidence that you are giving here?

1 A. No.

2 477 Q. Now, again, if you go to the second page, it
3 says "I'm aware" -- the last paragraph: "I'm aware that
4 you perceive your efforts including the website that you
5 have established and operate." [as read]

6 Now, I'm not so clear. Are you saying or His
7 Highness saying that the website is also inappropriate?

8 A. Well, he is aware also of the website.

9 478 Q. No, that's not my question.

10 A. Yes. Inappropriate.

11 479 Q. My question is: In your discussions with His
12 Highness --

13 A. Yes?

14 480 Q. -- did he tell you that website is also a
15 problem?

16 A. Well, he says that there are a number of
17 websites which cause him concern.

18 481 Q. So he's concerned about the websites as well?

19 A. Yes, but this is publication which is his
20 works. The websites do not publish farmans on the thing.

21 The issue I'm talking to you is very simple.

22 This is talking about his works.

23 482 Q. My question is --

24 A. Websites are not his work.

25 483 Q. I understand. I understand. I just want to

1 be clear with this. His Highness is concerned with the
2 websites as well, and there are a number of websites, not
3 only Mr. Tajdin?

4 A. Yes.

5 484 Q. And he's expressed that concern to you?

6 A. Yes, and we are looking into this matter. We
7 have started working through the process with the website
8 people to see how we can work with some of these.

9 And, in fact, Nagib himself was part of the
10 solution in some cases, and his advice was sought on some
11 of the matters, to see how we can solve this problem.

12 485 Q. Right. But right now my question is that he
13 disapproves of the various websites as well; correct?

14 A. Yes. From this letter to you.

15 486 Q. Not from the letter. You said earlier he has
16 told you about that as well?

17 A. Yes.

18 487 Q. Yes?

19 A. I've said to you the websites are also a
20 concern to him.

21 488 Q. To him?

22 A. Yes.

23 489 Q. And he has told that to you; right?

24 A. Yes. But here we're talking about how this
25 particular issue relates to the publication of the

1 farmans that we have got, which you have just -- the
2 matters which are ahead of us in the litigation. We're
3 not talking about the website in the litigation. We're
4 talking about copyright issues of the publications and
5 not the websites.

6 490 Q. Now, there are a number of individuals with
7 websites; correct?

8 MR. GRAY: Are you telling us?

9 MR. JIWA: I'm asking him.

10 THE DEPONENT: There are people who have
11 websites, yes, a number of websites.

12 BY MR. JIWA:

13 491 Q. Other than Mr. Tajdin?

14 A. Absolutely.

15 492 Q. And His Highness is concerned about all of
16 them?

17 A. Well, no. It's a question of what is -- the
18 review of these websites he wants to be carried out so
19 that we know what is in each of these websites. He's
20 concerned about the websites --

21 493 Q. So he's asking a review?

22 A. Of course. Of all of these websites.

23 494 Q. Now, he also says in here in the last
24 paragraph: "I also wish you to understand that wisdom
25 lies in abiding by the procedures and processes that the

1 Imam establishes." And the processes and procedures that
2 he seems to be talking about is these processes that you
3 have produced here?

4 A. Again --

5 495 Q. How the farmans have to be done and so on?

6 A. Constitutional bodies, the way of the
7 farmans' processes are clear, that he reviews them, he
8 authorizes the release of these farmans, and they then
9 come through the institutional processes.

10 496 Q. Would you agree with me that that process and
11 procedures has never been made announcements or
12 publications on that point to the jamat; so the jamat has
13 absolutely no idea of what procedures the Imam has
14 established?

15 A. These process for the dissemination of the
16 authorized farmans?

17 497 Q. Yes.

18 A. The ITREBs are fully aware of this process.
19 The ITREBs have this responsibility. And the jamat is
20 aware that the ITREBs do this. Whatever comes from the
21 ITREB process has gone through this -- from the Imam of
22 the Time, and the jamat is fully aware of that. So they
23 know the distinction between the farmans that have been
24 authorized by the Imam and those that are not authorized
25 by the Imam.

1 498 Q. This last sentence here, or the second-last
2 sentence where he says: "This is a matter that I, like
3 my predecessors, as the Imams of the Time, have and
4 continue with the greatest seriousness." [as read].

5 Is he now, to your understanding, referring to
6 this publication and distribution of farmans as the
7 greatest seriousness that even previous Imams have?

8 A. This is the matter of his concern about any
9 of his privileged communications.

10 499 Q. So according to him, even Mowlana Sultan
11 Mohamed Shah was concerned about this distribution of his
12 farmans?

13 A. Well, I cannot respond to that. I do not
14 know an answer to that. I do not know.

15 500 Q. So this Imam says, if this is his letter --

16 A. This is his letter. So he's saying. But I
17 am not -- I cannot comment on what Mowlana Shah's views
18 were or what the Imam's views are, but it appears that he
19 is referring to --

20 501 Q. Do you know who drafted this letter?

21 A. I told you, I very clearly told you, this
22 letter, the first draft was prepared and Hazar Imam
23 himself authorized this letter, himself. Himself has
24 signed this letter. As I said to you, it's come to you
25 from the Imam of the Time, from his office.

1 502 Q. You did not sign this letter, did you?

2 A. Not at all.

3 503 Q. Do you know if anybody other than Hazar Imam
4 signed this?

5 A. No way can anybody sign a letter that's
6 purporting to be from the Imam of the Time.

7 504 Q. The second letter, 18 February, when did you
8 first see the second letter?

9 MR. GRAY: I think we're talking the same letter
10 still.

11 MR. JIWA: No, the second letter. That's.

12 MR. GRAY: Oh, the announcement.

13 MR. JIWA: Tab J.

14 MR. GRAY: Oh, right. Okay. Sorry. Tab J.

15 THE DEPONENT: Sorry?

16 BY MR. JIWA:

17 505 Q. When did you first see this letter?

18 A. After it was -- I was given a copy of this
19 letter after it was sent to you, to Nagib. But I had
20 seen a draft.

21 506 Q. Of the letter?

22 A. Yes.

23 507 Q. And did he send it to you for your in--

24 A. No. He just wanted me to look at the draft
25 and he was going to sign this. And that's precisely --

1 the date is 18th of February.

2 508 Q. And then you reviewed the draft before he
3 sent it out?

4 A. I saw the draft.

5 509 Q. Before he signed and sent it over?

6 A. Yes, I saw the draft.

7 510 Q. Now, the last paragraph says that "I
8 understand that you spoke a number of times to Shafik
9 Sachedina. Subsequently, you accused Mrs. Michele Parkes
10 of having forged my signature on the letter which I sent
11 to you dated 24 January." [as read]

12 Is that true?

13 A. Absolutely. Because I believe that -- sorry.

14 MR. GRAY: That's all right. He hasn't asked you
15 a question.

16 BY MR. JIWA:

17 511 Q. Now, His Highness, it appears from what you
18 are saying, when he makes his farman, his oral farman, he
19 comes to the jamat khana --

20 A. Extempore.

21 512 Q. Extempore.

22 --- Off-the-record discussion.

23 BY MR. JIWA:

24 513 Q. And you are saying that after he approves and
25 finalizes, then it becomes definitely farman?

1 A. Yes.

2 514 Q. Are jamats expected to follow the farman that
3 he has already made, or do they wait until he has
4 authorized the final version?

5 A. To me, the version that he has authorized
6 become the farmans that are conveyed to the jamat with
7 his authority. So even in my view, and it is my opinion,
8 that even if you had been made aware of a farman to the
9 jamat, the text that he releases after his review are the
10 authorized farmans.

11 Because they have gone the review process by the
12 Imam himself, and he has therefore completed this where
13 there have been -- no, he has reviewed them. If he
14 requires anything, whatever he requires is done, and then
15 in most cases, as I say, he goes through this process and
16 then gets them released. So those are the only ones that
17 are the farmans.

18 515 Q. When did His Highness tell you that he has
19 decided to issue this Statement of Claim?

20 A. When did?

21 516 Q. When did he tell you?

22 A. In fact, he discussed this matter the --
23 after the letter was sent, the second letter was sent, he
24 did speak to me and the president, Mohamed Manji that --

25 517 Q. Together?

1 A. No. He spoke to me and I believe he spoke to
2 Mohamed separately, and then he sent us, you know, from
3 his point of view a message to speak with -- you know, in
4 the sense that there were discussions that we should also
5 discuss amongst ourselves on this matter.

6 518 Q. So who discussed?

7 A. Mohamed and me were only involved, two
8 people, because His Highness wanted to know whether what
9 had happened so far, what are the actions that have
10 happened so far, the fact that these farmans there has
11 been no reaction, that these farmans have not been
12 withdrawn in the sense that these books have not been
13 withdrawn from circulation, so he was concerned.

14 519 Q. By the time that you --

15 A. And he wanted -- sorry. And he wanted to
16 understand whether he continues in this Imam/murid
17 relationship, which is what he wanted to do. And second
18 letter, he felt after the second letter that he had done
19 what is expected of the Imam in his way, and he was
20 rather concerned that there was no action from the other
21 side, from the murids, and he wanted to protect the
22 integrity of his farmans.

23 520 Q. That's a serious concern to him?

24 A. Very much so, and he's expressed that it was
25 a very serious matter for many.

1 521 Q. Now, by the time the first announcement was
2 sent on January 16th, 2010, which you said earlier you
3 all drafted together, you knew then, and Mr. Tajdin told
4 you then, that he is sending a letter to His Highness?

5 A. Yes.

6 522 Q. When did that letter arrive at Aiglemont?

7 A. Well, I believe it might have been a
8 possibility, and I can't be sure, because I don't have
9 anything to do with the mail that comes in. I got the
10 copy of this letter on the 20th, I think around the 20th,
11 is when I got the copy.

12 Now, whether His Highness got it before that
13 date, whether he had reviewed it, whether he had seen it,
14 I think that question will be more of an administrative
15 question exactly when it went through. But I received a
16 copy of this on the 20th. I think it was about the 20th
17 of January.

18 523 Q. So do you know -- I mean I'm going to ask you
19 as precise as you can be in terms of date or day?

20 A. I'll try.

21 524 Q. Is when did he tell you that he has now
22 decided to issue a Statement of Claim?

23 A. I think and I can probably -- this letter was
24 in February. I think indications were that he was
25 seriously now, all the avenues were -- he had exhausted

1 the avenues from his perspective, which were that if an
2 imam writes to a murid and a murid does not respond, or
3 at least then went and accused for forgery, that was a
4 serious matter for him. And he felt that if that was the
5 case, then this was a matter of serious concern to him
6 and that to protect the integrity of his works, his moral
7 rights, he wanted to ensure that this, therefore, would
8 have to go where legal recourse would have to come.

9 Because before that we had said, both Mohamed and
10 me, that we would try and resolve this as Imam -- between
11 the Imam and the murid because that was the relationship
12 between the murid and the Imam, that he wanted in the
13 privileged setting to resolve this matter.

14 525 Q. Now, I was trying to get --

15 A. Yes.

16 526 Q. -- the date?

17 A. I think probably towards the end of March or
18 April that he was thinking about -- towards end of March,
19 I think.

20 527 Q. That he said he wanted to issue the Claim?

21 A. Well, that's the time he said, well, look, I
22 think, you know, he would have to deal with it from a
23 legal perspective.

24 528 Q. As you just said, he was very much concerned
25 about the allegation of forgery; he told you that?

1 A. That was because he had already --

2 529 Q. No, my question is did he tell you that he
3 was concerned about the allegation --

4 A. Yes, that he was -- that, you know, he was
5 very concerned that such accusations are made of his
6 staff.

7 I presume also he speaks to his own staff
8 whatever he wants to know. I don't get involved with
9 that. He's got other people he talks to.

10 530 Q. When you say -- when you use the word
11 "integrity of the farmans," what do you understand by
12 that?

13 A. That here's what he wished to convey to the
14 jamat, and it was that that was conveyed, and his
15 messages are conveyed, and the integrity of that process
16 is maintained, that it is not in any way violated.
17 Because it's a very serious matter because the jamat
18 globally look at the Imam of the Time.

19 531 Q. And that's what you understand by the word
20 "integrity"?

21 A. Yes. Integrity of his works in the farmans
22 that has made. Because it is his work and he makes sure
23 that that integrity of his works is maintained.

24 Because, as I said, that was what was his
25 concern, that there's a risk of this publication causing

1 confusion in the jamat as well.

2 Because I have explained to you that there are
3 farmans which he has authorized that have come and are
4 compiled, and these farmans were not authorized.

5 532 Q. Isn't it true, sir, that the concern is not
6 the Imam's, but the concern is by you, Mr. Keshavjee,
7 Mr. Mohamed Manji, and not by the Imam?

8 A. I strongly refute that.

9 533 Q. Isn't it true, sir, that for instance in 2008
10 in London when he sort of criticized the leadership?

11 A. It's your words, not mine.

12 534 Q. It's in the farman.

13 A. It is your words, not the Imam's words.

14 535 Q. And that Mr. Tajdin's production of his --
15 the words as spoken by the Imam is actually a threat or a
16 concern to you and Keshavjee and others other than the
17 Imam?

18 A. I don't accept that at all.

19 536 Q. Isn't it true that it's you and Mr. Keshavjee
20 who modified the farmans rather than the Imam?

21 A. I totally disagree with that statement.

22 537 Q. And there is no corroborating evidence
23 anywhere, isn't it true, that the Imam needs to read the
24 farmans?

25 A. Well, let me tell you that I have seen Imam

1 physically himself actually working on farmans and really
2 going and reviewing them and working on them and
3 reviewing them till he has authorized. I have seen it
4 happening. He has himself -- he himself does that.

5 Many, many times on my journeys when he has a
6 transcript on the air -- when we are travelling from one
7 place to the other, I have seen him take his pen and
8 review these farmans absolutely the way I say it to you.

9 Because it is important because when you speak,
10 it's generally understood, but when you put it in
11 writing, it is not always clear. And I keep coming back
12 to you.

13 Therefore, he wants to make sure that his works
14 that is released to the jamat are as true as he wished
15 them to be for the jamat. Because of the context,
16 because of the fact that syntax has to be checked,
17 because of the integrity of the farmans, that I discussed
18 with you, and also that these farmans are time- and
19 context-specific.

20 So that if because of the different cultural
21 areas of the jamat. The jamat lives in the north, south,
22 east, west, these farmans go global, and also sensitivity
23 that these farmans could have an impact in another
24 region, just so that he reviews it from that integrity.
25 Because the whole jamat, nearly 15 million people, rely

1 on the Imam's farmans from that perspective. So when
2 they go out and they're released through the jamati
3 structure, that they're as true as he wished them to be,
4 and that is the integrity of the process he wished to
5 maintain.

6 538 Q. Sir, these are simply self-serving statements
7 and evidence, so --

8 A. I disagree. I disagree with you.

9 539 Q. Let me ask you this question: Before
10 Mr. Tajdin started distributing these farmans, there are
11 many, many farmans that were never read in jamat khanas
12 after the Imam had given deedars; would you agree with
13 me?

14 A. That is up to the Imam of the Time to decide
15 when to release, in which form to release, what to
16 release, and not to release. It is not up to you or me
17 or anybody in any institution to decide. That authority
18 rests in the manifest Imam according to Ismaili
19 Constitution. And you know that, and everybody else
20 knows that, and Nagib Tajdin sitting here also knows
21 that. It is the integrity of these farmans.

22 540 Q. So the Imam, what you are saying, is then
23 decides -- as you say, he doesn't want these farmans to
24 be given to the jamat; is that true?

25 A. I did not say that. Authorized published

1 farmans which are public -- authorized farmans which are
2 released through the process that we talked about this
3 morning.

4 541 Q. My question --

5 A. Is the process that has to be maintained
6 because there is no risk of his words to be
7 misunderstood. There is no risk of the integrity of
8 those farmans by somebody adding words or removing words
9 or possibly putting words.

10 Because when the farmans are made by the Imam of
11 the Time, they are transcribed so even in transcription
12 there could be errors of the person transcribing those
13 farmans. And the errors can creep up. You cannot tell
14 me that the transcription is hundred per cent. As a
15 lawyer you know that, as a murid you know that, that that
16 is not always the case. And even Nagib will tell you how
17 many difficulties he has had in the transcription of the
18 farmans. So please don't give me a lecture about this.

19 542 Q. Now, Mr. Sachedina, I'm getting you uptight,
20 but listen. My question to you was -- and I just want
21 you to pay attention to the question. My question to you
22 was that before Mr. Tajdin started distributing these
23 farmans, there were many farmans that were not released
24 by ITREB to the jamat khanas -- to local ITREBs to be
25 read; correct?

1 A. Because Mowlana Hazar Imam had not authorized
2 the release of those farmans through the process.

3 543 Q. So the answer is yes to that?

4 A. Yes. It was not released because he did not
5 authorize the release.

6 544 Q. So you said earlier, if I understand
7 correctly, that the farmans become definite after they
8 are authorized by the Imam?

9 A. Absolutely. That's my understanding.

10 545 Q. And that by His Highness not authorizing, he
11 doesn't want those farmans to be followed; correct?

12 A. Because they are not farmans. Actually,
13 those farmans have not been authorized or released. That
14 means they don't become effective, and, therefore, they
15 are no longer farmans. They are not made as farmans.

16 546 Q. And you knew that Mr. Tajdin, particularly in
17 that Syria trip in 2001, that he continued the
18 activities. Did you tell His Highness?

19 A. I can tell you now that I did not know that
20 Nagib continued. Because my understanding was that Nagib
21 did not publish any farmans after my meeting with him.

22 From 1998, there were many visits, there were
23 many farmans, there was no publication from Nagib Tajdin,
24 and I am not aware that Nagib Tajdin either posted those
25 farmans on the web or whether he was distributing those

1 farmans. He never -- he never sent me a copy of the
2 farmans to say, "Here is a copy of the farmans that I
3 have sent to everybody."

4 547 Q. You have contradicted your own evidence, sir.
5 I'm going to refer you again to tab C. Now, I ask you to
6 go back to your paragraph 13 of your Affidavit before you
7 go back to tab C.

8 You have said in paragraph 13, referring to tab
9 C: "I believe that this letter is a representative
10 example of how authorized Farmans are disseminated by the
11 ITREBs." Correct?

12 A. Authorized farmans.

13 548 Q. If you go to this, this is 26 May of 2008?

14 A. Sample.

15 549 Q. Now, I'm going to ask you to provide me with
16 these letters that have been sent from the time of 1998
17 to 2008.

18 Now, I'm not interested in all of those letters,
19 but perhaps you can give me two or three per year that
20 have been sent.

21 MR. GRAY: Well, what we will provide you, we'll
22 look into it and advise you. I'm not undertaking to
23 provide anything at this point.

24 --- UNDER ADVISEMENT

25 MR. JIWA: So I take it as a refusal?

1 MR. GRAY: You can take it as a refusal. It's an
2 under advisement.

3 MR. JIWA: I'm going to put it down formally that
4 there is this letter here by Mohamed Keshavjee, ITREB
5 coordinator, which is at tab C, which you have said is a
6 representative sample, and I require you to provide me
7 from the years 1999 to the year 2007.

8 MR. GRAY: We have with us here a memorandum from
9 the ITREB Canadian board to the various -- chair of the
10 ITREB B.C., the chair of the various Canadian ITREBs.

11 THE DEPONENT: National.

12 MR. GRAY: National ITREB dated September 4,
13 2007, another one dated September 6, 2007.

14 BY MR. JIWA:

15 550 Q. I want the letters, and I've said this, I
16 want --

17 MR. GRAY: Another letter dated --

18 MR. JIWA: Excuse me, counsel.

19 MR. GRAY: Would you like these letters?

20 MR. JIWA: No, I don't.

21 MR. GRAY: You don't want these? These are --

22 MR. JIWA: I am here to ask questions.

23 MR. GRAY: I thought you just asked for
24 something.

25 MR. JIWA: No, I have not asked for anything that

1 you want to submit, or Mr. Sachedina wants to submit.

2 BY MR. JIWA:

3 551 Q. So listen to my question. My question is:
4 The representative sample that you have given at tab C is
5 dated 26 May of 2008?

6 A. Correct.

7 552 Q. From Mohamed Keshavjee, the ITREB
8 coordinator?

9 A. Yes.

10 553 Q. So I would like the copy from the years 1999
11 to 2007. And this one is addressed to ITREB of Canada,
12 but I would like a sample as well for ITREB to Kenya,
13 ITREB to U.S.A., and ITREB to U.K.?

14 MR. GRAY: And you want a sample of what,
15 exactly?

16 MR. JIWA: I want letters that have been written
17 by Mohamed Keshavjee when he sends these farmans to them,
18 to the various ITREBs in Kenya, U.S.A. and U.K. during
19 the years 1999 to 2007.

20 MR. GRAY: We won't produce all of those, and
21 I'll have to take into consideration what is available,
22 and I'll have to advise you, take it under advisement.

23 --- UNDER ADVISEMENT

24 BY MR. JIWA:

25 554 Q. Would you agree with me, sir, that these

1 letters are sent when he sends the farmans, the
2 authorized farmans?

3 A. Yes, these letters are sent with what is
4 authorized by the Imam.

5 555 Q. Right. So I'm going to ask you to send me
6 all of the letters between 1990 and 2007 to these three
7 countries?

8 MR. GRAY: Kenya, U.S.A., U.K.?

9 By MR. JIWA:

10 556 Q. U.S.A., Kenya and U.K.

11 MR. GRAY: All the letters written by Mohamed
12 Keshavjee?

13 MR. JIWA: Yes.

14 MR. GRAY: Well, I'll take it under advisement.
15 I very much doubt we'll produce all of them, but we may
16 produce samples.

17 --- UNDER ADVISEMENT

18 BY MR. JIWA:

19 557 Q. Now, I want to refer you to paragraph 14 of
20 your Affidavit. Now, you are saying here that before he
21 visited Canada, he had also expressed concern
22 specifically over the authorized publication by the
23 Defendant Nagib Tajdin.

24 So he by that time knew that it is Nagib Tajdin
25 who is publishing these farmans?

1 A. He's known about this -- I think I have gone
2 through this before. I've already made that statement
3 earlier on, that he was aware of those publications.

4 558 Q. And before you started working for him?

5 A. Sorry?

6 559 Q. Before you started working for him?

7 A. As I say, I started only later on. But he
8 was aware of that before.

9 560 Q. Prior to you --

10 A. Yes. That's what my Affidavit says.

11 MR. GRAY: Well, it says...

12 THE DEPONENT: ... working but he had
13 expressed -- this is to me, but before that also there
14 were concerns.

15 BY MR. JIWA:

16 561 Q. I refer to your paragraph 22. You say:
17 "At this time, the community leaders agreed with
18 His Highness's guidance that the Ismaili
19 community worldwide should be informed that Mr.
20 Tajdin's Farman Book was an unauthorized
21 publication that should not be supported."

22 Now, when you say "community leaders," who do you
23 mean by "community leaders" here?

24 A. I explained to you that this announcement was
25 with the -- there was the chairman of the --

1 562 Q. Just those? Nobody else?

2 A. -- community leaders because it's the apex of
3 the body, the head of the body, the chairman, and the
4 head of the Jamati Institution, the president of the
5 councils of countries involved where this issue was from
6 a jamati perspective, they knew he was from Canada and
7 Kenya, Nagib was.

8 563 Q. And you say the communities agreed with His
9 Highness's guidance. Did His Highness ask you to seek
10 agreement?

11 A. No. It's His Highness --

12 564 Q. No, my question is: Did His Highness ask you
13 to seek the agreement?

14 A. You should speak to them.

15 565 Q. You should speak to them?

16 A. Yes.

17 566 Q. No, but that's not my question. Did he tell
18 you to seek their agreement?

19 A. Yes, because he would want to make sure that
20 they were --

21 567 Q. In agreement?

22 A. -- in agreement with this matter.

23 568 Q. Now, as I recall, what Mr. Tajdin had said,
24 that he wanted to seek clarification from His Highness.
25 Do you recall discussing about that with His Highness?

1 A. No, I just -- as I said to you, I had no --
2 the message -- the letter was sent by --

3 569 Q. My question is --

4 MR. GRAY: What time are you talking about?

5 THE DEPONENT: First of all, are you talking
6 about Nagib Tajdin's letter to the Imam?

7 BY MR. JIWA:

8 570 Q. Right. Nagib Tajdin had said to you that --
9 in his letter that he needed clarification?

10 A. Yes.

11 571 Q. Right? And my question is a narrow question;
12 all right? Did you ever raise the topic with His
13 Highness or did he raise it with you? Did you both
14 discuss what kind of --

15 A. I wasn't involved. That was between -- I
16 think that was between --

17 572 Q. My question is not involved. Did he discuss
18 with you or not on that --

19 A. No. No.

20 573 Q. Did you discuss anything? Did you ask him on
21 that point?

22 A. No.

23 574 Q. Now, the second announcement was only made in
24 some countries; correct?

25 A. None of the countries which were related in

1 this particular case; right? Because the books were in
2 Canada, Kenya when Nagib signed it, U.S. because the
3 books were always in the U.S. and I think fourth, one
4 other country.

5 MR. GRAY: U.K.

6 THE DEPONENT: U.K.

7 BY MR. JIWA:

8 575 Q. In the first announcement it was sent to all
9 jamat khanas?

10 A. The First announcement went on a global
11 basis.

12 576 Q. When you say "global," it also went to
13 India?

14 A. Everywhere.

15 577 Q. Okay. We're going to take a break for lunch.
16 I'm almost done. Maybe five, ten more minutes.

17 --- Off-the-record discussion.

18 --- Lunch recess taken at 1:08 PM.

19 --- Upon resuming at 2:13 PM.

20 BY MR. JIWA:

21 578 Q. Mr. Sachedina, as head of the Department of
22 Jamati Institutions, the position that you hold, it's not
23 a position that's recognized by our Ismaili Constitution;
24 it's just appointed by His Highness?

25 A. It's a position that has been at the behest

1 of the Imam.

2 579 Q. Yes, but it's not under the Constitution;
3 it's by his Secretariat?

4 A. Yes. The Constitutional -- or the position
5 under the Constitution is only the LIF, and I only sit on
6 the LIF on behalf of His Highness as a member of the
7 LIF.

8 580 MR. JIWA: All right, those are all my questions,
9 subject to the undertakings and all the refusals that we
10 have.

11 --- Off-the-record discussion.

12 MR. TAJDIN: Okay. Shafik, I have a problem
13 because we have been close and I have been calling you
14 "Shafik," and I think I will be calling you
15 "Mr. Sachedina" so at least there is a consistency. But
16 just for court, not between us. I hope you don't mind.
17 It's not meant to be disrespect or distance between us.

18 CROSS-EXAMINATION BY MR. TAJDIN:

19 581 Q. Shafik, you know me since quite a few years
20 now, and we bump into each other at many, many places. I
21 think in Syria, in Cairo, recently in Zanzibar at the
22 opening of the Forodhani Park. Even Nairobi you came for
23 the nation's 50 years?

24 MR. JIWA: Forodhani Park, F-o-r-o-d-h-a-n-i.

25 BY MR. TAJDIN:

1 582 Q. That was the opening that His Highness also
2 came.

3 And you see me sometimes taking pictures, videos.
4 And would you say that I always remain at a respectable
5 distance of the Imam?

6 A. Absolutely.

7 583 Q. I have never tried to overstep. And would
8 you accept that probably this is because we have a code
9 of conduct, that unless the Imam allows, we would not
10 approach within his privacy area or his short distance or
11 -- you agree to that?

12 A. Yes, you travel all over the world. I know
13 that, and obviously you travel wherever His Highness
14 goes.

15 584 Q. Exactly.

16 A. And you are around and I know that you show
17 yourself there.

18 585 Q. And I never tried to overstep and go and talk
19 and bother him with anything?

20 And that code of conduct also says that unless
21 the Imam allows, we should not talk to him or even give a
22 gift. Even to give a gift, we have to get permission.
23 If Imam note or make a sign that we are allowed, then we
24 approach and we always -- even during deedars it's always
25 in submission; right?

1 --- Off-the-record discussion.

2 BY MR. TAJDIN:

3 586 Q. And the Imam travels extensively; right?

4 A. Yes.

5 587 Q. I would think he travels all the time. I
6 think he mentioned somewhere that he lives in a suitcase
7 or something, or a briefcase. And I remember a very old
8 interview that he sent that he spent so many hours
9 working in a plane, that's why maybe he made this
10 comment.

11 He's also a sportsman; right? He does ski?

12 A. Yes.

13 588 Q. He drives his own car?

14 A. He loves.

15 589 Q. He loves. I have seen his movie with Prince
16 Zahr on a horse. So the horse --

17 A. That is his hobby. I don't get involved with
18 any of this.

19 590 Q. I just want to make sure that we agree that
20 the Imam is in better shape than you and me. If I can
21 refer to that Imam, I was just looking few days ago at
22 the Pamir Mountains and the Imam is climbing the
23 mountain. It looks very fresh. And I think you are 300
24 meters behind the Imam trying also to go up the same
25 mountain.

1 Is that a university that he's building in the
2 Pamirs?

3 A. Yes, there is a University of Central Asia,
4 which is the university in that region, in Kyrgstan,
5 Tajikistan and Kazakhstan. It's --

6 591 Q. It's a three-country --

7 A. Three countries.

8 592 Q. And it's a mountain university?

9 A. Under the treaty of --

10 593 Q. Okay.

11 A. Under the treaty between the Imam and the
12 three presidents of the three countries.

13 594 Q. There is no choice but to climb the mountain.
14 Because that's where the campus are; right?

15 A. In remote areas.

16 595 Q. In remote areas.

17 A. In isolated areas.

18 596 Q. Very good. Now, he is also a graduate from
19 Harvard, so he's not like the average person --

20 MR. GRAY: Please stop here a second. I see the
21 reporter is looking for -- off the record.

22 --- Off-the-record discussion.

23 BY MR. TAJDIN:

24 597 Q. So I guess he probably is using some gadget.
25 I saw you were using a Blackberry. Is the Imam also

1 using a Blackberry?

2 A. I'm not aware of that.

3 598 Q. You are not aware if the Imam --

4 A. Blackberry, I don't know about the
5 Blackberry.

6 599 Q. I will not ask his phone number, promise.

7 But he uses some kind of telephone where you can send
8 messages. I understand he send some messages. So he's
9 quite a modern person in that way?

10 A. He's an Imam of the Time.

11 600 Q. Imam of the Time. That's what it means.

12 I saw that attachment you have put to your
13 Affidavit. I don't think you should really refer to it,
14 but we know it's 15 million Ismailis around the world,
15 and sometimes it's between 12 and 18, but it comes to
16 around.

17 And the Imam Sultan Mahomed Shah said that there
18 are large numbers of people in China. And now we know
19 that there were so many in central Asia which we -- "we,"
20 when I say "we," its we East African -- originally, East
21 African Ismaili were not aware that there were so many
22 Ismailis in central Asia. And after the collapse of the
23 Soviet Union, we discovered the Ismailis.

24 And now we are travelling. We were in Syria and
25 we saw there are Ismailis quite a lot there also. You

1 agree with that?

2 A. Yes.

3 601 Q. Yes. Okay. There are areas where there are
4 no jamat khanas?

5 A. Yes, there are areas where there are no
6 established jamat khanas because of the geopolitical
7 situations in those parts of the world.

8 602 Q. Yes, that was the case of central Asia but
9 now it's starting to change; right?

10 A. I beg to differ. There are many other
11 countries where there are still today difficulties in
12 establishing jamat khanas.

13 603 Q. Okay. I'll agree, so I'll not ask more
14 questions.

15 Now, there are Ismailis in maybe 30, 35
16 countries; yes?

17 A. Yes, approximately.

18 604 Q. Now, there are some countries where there are
19 large numbers, some countries there are a very small
20 number. When we were in Ivory Coast, there were about 35
21 Ismailis. But the jamat khanas was nice; right? I think
22 you came --

23 A. Because these were established jamats at that
24 time of the year where there were large communities where
25 jamat was in a sizeable form when they were establishing

1 in those parts of the world, and today it's not as large
2 in those regions.

3 605 Q. So would you say in areas where there are
4 jamat khanas there are probably a couple of millions of
5 Ismailis living there? I think -- basically, what I
6 know, and you will confirm if I am right or wrong, but
7 there are probably many Ismailis in North America,
8 Europe, East Africa -- mostly Africa, Congo, some
9 Mozambique, some in Angola?

10 A. I wouldn't know, but you're right, there's
11 are Ismailis all over. There's no census. I can't tell
12 you how many there are and there is no way I could say to
13 you what numbers, where they are, and countries. We have
14 an approximate understanding of these figures --

15 606 Q. Now, as the head of Jamati Affairs, you have
16 a list of how many jamat khanas there are which are in
17 contact with the Imamatus?

18 A. Yes.

19 607 Q. Approximately how many?

20 A. Of the number of murids or in the global
21 number of countries?

22 608 Q. No. Jamat khanas.

23 A. Oh, jamat khanas. Well, we have in excess of
24 nearly over 5,000-7,000 jamat khanas.

25 609 Q. 7,000. And some are in remote areas where

1 there are small villages and few people?

2 A. Absolutely.

3 610 Q. So on the average, that would cover about 2,
4 3 million Ismailis?

5 A. Well, yes, possibly. Even more.

6 611 Q. There are jamat khanas where there are a
7 thousand people that can sit, and there are some where
8 there are a hundred people that can sit; am I right?

9 A. There are different size of jamat khanas.

10 612 Q. Okay. So if we have to be very generous that
11 about 2, 3 million people have access to jamat khanas,
12 would you agree that not all the people who have access
13 to jamat khanas go to jamat khanas?

14 A. Access to jamat khanas is out of choice of
15 people being able to go because of their lives, whether
16 they are able to go to the jamat khanas, the proximity of
17 the jamat khanas, the distances people have to travel to
18 jamat khanas.

19 So there are many factors that determine for any
20 member of the community to go to jamat khanas. There
21 could be a jamat khana but they can't get to it because
22 of the distance, whatever it may be. There are many
23 reasons for that.

24 613 Q. Okay. Out of 15 million Ismailis, if you
25 have 2 or 3 million at the most who have access -- let's

1 say they all go to jamat khanas, would you agree that 80
2 per cent of the people do not have access to jamat khanas
3 in our community; they live in regions where there are
4 not yet either a jamat khana or --

5 A. I'm not able to make that judgment to say to
6 you for sure that is the case. But there is a large
7 proportion, and you know that the Imam of the Time has
8 said that there are many places in the world that there
9 are no jamat khanas, which he will at the time -- at the
10 time of the Golden Jubilee it was one of the goals, was
11 to establish jamat khanas in parts of the world where
12 there has been no access to the jamat khanas. And that
13 is his goal.

14 And therefore he -- there are many, many places
15 in that region of the world where there's a large
16 population and they do not have access to jamat khanas.

17 614 Q. Okay. Now, would you agree that people who
18 do not have access to jamat khanas do not have access to
19 farmans?

20 A. Yes, because -- they would not have access
21 simply that there are no structures, even institutional
22 structures, in some of these places.

23 615 Q. True.

24 A. There has been no constitutional bodies in
25 many of these countries. In fact, till today I can tell

1 you most of these countries do not have constitutional
2 bodies.

3 616 Q. Yes. In fact, the Imam mentioned in a farman
4 that there are no constitutional bodies in many, many
5 places where Ismaili --

6 A. In those parts of the world where there are
7 large jamats, there are in some of these countries what I
8 call the jamats that we are mentioning, majority of the
9 jamats do not have jamati institutional structures.

10 You know, I can give you Russia, central Asia,
11 Afghanistan only just started, western China -- all of
12 these places have a large population, but these are areas
13 of the world where jamat khanas have not been established
14 because there are no constitutional bodies or just about
15 beginning to be established.

16 So it's under the constitutional bodies that
17 jamat khanas -- and there are no traditions in some of
18 these places to have jamat khanas.

19 617 Q. Okay, that's fine. I'm referring to tab D
20 of -- 3(d) -- now you have to bear with me. It's the
21 first time that I am doing an examination. And Shafik,
22 honestly, I think in French, I speak in English.

23 A. Yes.

24 618 Q. So sometimes --

25 A. Thank you very much. I am grateful. That is

1 first time on record somebody can say that. I thought I
2 was the only one saying that.

3 MR. GRAY: That's okay. I think probably it's
4 the first time Mr. Sachedina has been examined.

5 MR. TAJDIN: Yes, but I have learned how to do
6 it. But now you can see that the teaching was not enough
7 hours.

8 MR. GRAY: Tell me, just what Affidavit are you
9 referring to? We'll find the tab if could just tell
10 us.

11 MR. TAJDIN: This is of Shafik Sachedina.

12 MR. GRAY: Okay. All right. There is only one
13 of those.

14 MR. TAJDIN: Number 3.

15 MR. GRAY: That's fine. And tab what of that
16 Affidavit?

17 MR. TAJDIN: It's D. "D" as in David.

18 MR. GRAY: Okay. Okay.

19 MR. TAJDIN: That page with the photo.

20 MR. GRAY: You want the page with the photo?

21 MR. TAJDIN: Yes, please.

22 BY MR. TAJDIN:

23 619 Q. Okay. Can I ask you to read this farman
24 which is below the photo. Can you read it?

25 A. It's tab --

1 MR. GRAY: It's at page 134 of our Motion Record.

2 THE DEPONENT: 134 of the document. And it says:

3 "For hundreds of years, my spiritual children
4 have been guided by the rope of Imamatus. You have
5 looked to the Imam of the Age for advice and help
6 in all matters. And through your Imam's immense
7 love and affection for his spiritual children,
8 his Noor has indicated to you where and in which
9 direction you must turn so as to obtain spiritual
10 and worldly satisfaction. Karachi, Pakistan,
11 13th of December, 1964." [as read] --

12 BY MR. TAJDIN:

13 620 Q. His '64 farman has been published in Precious
14 Gem and so many other books by the Ismaili association in
15 the past. Right?

16 A. Yes. It's in the old Constitution.

17 621 Q. Yes. And I think --

18 MR. GRAY: Were you asking him has it been
19 published or are you asking him --

20 MR. TAJDIN: No. I'm asking that it is a book
21 which was there since a long time, probably --

22 THE DEPONENT: No, but that was at the time of
23 the communities starting in East Africa, it was under the
24 old Constitution, and the jamat was just establishing
25 itself. So this goes back a long time.

1 BY MR. TAJDIN:

2 622 Q. It's still read in jamat khanas usually 11th
3 of July, the day of the Imam --

4 A. Yes. That's the farman of the Imam.

5 623 Q. It's a farman which is a recognized farman;
6 right?

7 Can you confirm to me if "Noor" means "the
8 Light"? And there is a surah in the Koran, a chapter in
9 the Koran, about the Noor?

10 A. Yes.

11 624 Q. Is it the same Light?

12 A. The Light, yes.

13 625 Q. The Light. It's the Light of God --

14 A. Yes.

15 626 Q. -- which guides materially and spiritually?

16 A. The Noor of Allah, the Noor of God.

17 627 Q. Which guides materially and --

18 A. Yes.

19 628 Q. And this is guided through the Imam's love
20 that Noor is guiding us. And since we are all from the
21 same religion, we all believe in this; right?

22 A. (Deponent nods head up and down).

23 629 Q. Okay. Let me come back to your Affidavit.

24 MR. GRAY: Now you're referring to Mr.

25 Sachedina's Affidavit?

1 MR. TAJDIN: Yes, sworn on June 25th.

2 MR. GRAY: Okay. Can you give me an indication
3 what paragraph you're reading from?

4 MR. TAJDIN: Yes, I'm sorry, I'm looking for it.
5 You know what, I did my notes --

6 MR. GRAY: I thought if you were reading it, you
7 could tell us what paragraph.

8 MR. TAJDIN: No. I did my note and I realized
9 that Mr. Jiwa has covered quite a lot from it. So I'm
10 not going to ask again the same question.

11 MR. GRAY: Take your time. That's fine. I
12 thought we could help by reading the paragraph at the
13 same time.

14 BY MR. TAJDIN:

15 630 Q. On paragraph 20, you say: "Mr. Tajdin
16 responded that he would accept this to be His Highness's
17 wish only if he received instructions directly from His
18 Highness." Is this correct?

19 A. That's what you told me.

20 631 Q. I agree I told you that. I just want to make
21 sure that it's not changed?

22 A. Yes. Directly -- from my language, directly
23 is the Imam. Imam of the Time, if he tells you, then you
24 will take instructions from him.

25 632 Q. Okay, that's fine.

1 A. And that's the way you have described to
2 me.

3 633 Q. That's fine. So this position is exactly the
4 same as what I wrote to the Imam, that I needed an
5 audience or guidance; right? On January 4th when I --

6 A. You have your submission of -- your Affidavit
7 has your letter in which you have written to Hazar Imam.

8 634 Q. Okay.

9 A. And seeking in that a request for an
10 audience.

11 635 Q. Okay. Mr. Sachedina, you know my family
12 since a long time also. It's not a family which is
13 disputing all the time with the leadership; right? And
14 you know our relation, we are always respectful and I
15 have never raised my voice; right? Is it right?

16 A. We've always had a civil discussion.

17 636 Q. Right. And we have always been taking tea
18 together when we bump into each other in many countries;
19 right? Right? Yes, I --

20 A. Yes, well, we have not all the time, but when
21 I am there and you have offered me sometime, I've always
22 had a cup of tea with you.

23 637 Q. Okay. And vice-versa?

24 A. Absolutely.

25 638 Q. Good. See, I'm already at page 7 and Mr.

1 Jiwa has covered quite a lot, so...

2 Now, here I read in number 28. This is something
3 which I have always had this question in my mind, that
4 you seem to think that Mr. Jiwa operates a website. And
5 I was surprised to read that. Were you thinking that
6 he's co-operating my website or was it another website?

7 A. I think -- I didn't know about this. You
8 told me that.

9 639 Q. I told you that Mr. Jiwa is operating a
10 website?

11 A. Yes. Yes. No, you said to me in your email
12 when you were trying to remove the book from the
13 website --

14 640 Q. Yes?

15 A. -- you have sent me an email in which you
16 said, "I've spoken to Alnaz. He will remove it from the
17 website, the thread from the website." "I have spoken to
18 Alnaz Jiwa."

19 641 Q. Okay.

20 A. So Alnaz Jiwa website, I thought obviously he
21 is also involved in this website. I am not -- I told you
22 who said that to me.

23 642 Q. Mr. Sachedina, I never wrote that Mr. Jiwa.
24 Can you bring this --

25 A. Yes. Am I allowed to --

1 643 Q. Because what I wrote is --

2 MR. GRAY: Do you have --

3 THE DEPONENT: I have to give you. I haven't got
4 it here because I --

5 MR. GRAY: We don't -- it's an email?

6 THE DEPONENT: There's an email that you sent to
7 me.

8 BY MR. TAJDIN:

9 644 Q. I remember.

10 A. After of -- you, actually, removed the book
11 from the website.

12 645 Q. That was my website.

13 A. Yes, from your --

14 646 Q. Not, from Mr. Jiwa.

15 No. Your website. And I'm talking about your
16 website.

17 647 Q. Okay. I'm talking about the fact that you're
18 mentioning Mr. Jiwa's website. Which website --

19 A. It's your website. I'm talking about your
20 website.

21 648 Q. No, but what you are writing here, "operated
22 by Mr. Tajdin and Alnaz"?

23 A. Yes, because -- I am trying to explain to
24 you, Nagib Tajdin, that the letter -- the email you sent
25 me -- first you said to me the book has been removed from

1 the website.

2 649 Q. Yes.

3 A. Your website. And then you said to me --

4 then I complained to you that the book is still being

5 advertised and there is still a thread there on the

6 website because it's still being advertised.

7 So you said to me, "Shafik, don't worry," and "I

8 have spoken to Alnaz Jiwa, who will ensure that this will

9 be taken care of."

10 650 Q. Okay, can we have in the undertaking that I
11 need a copy of the email?

12 MR. GRAY: We'll get you a copy of that email.

13 --- UNDERTAKING

14 BY MR. TAJDIN:

15 651 Q. Okay. Let me refresh a little bit.

16 A. So maybe --

17 652 Q. We had a conversation during that period?

18 MR. GRAY: Sorry. Let me remind you that you are
19 not giving evidence. Your role is asking questions.

20 MR. TAJDIN: Okay. If --

21 MR. GRAY: Please ask questions. You had your
22 chance to give evidence.

23 MR. TAJDIN: Mr. Brian, I'll ask the question.

24 MR. GRAY: All right.

25 MR. TAJDIN: Just because your client will say

1 yes, he remembers.

2 MR. GRAY: Okay, that's fine.

3 BY MR. TAJDIN:

4 653 Q. Did you not tell me to tell Alnaz not to
5 write these things he was writing about, the farman book
6 and the Constitution and all those things?

7 A. I -- sorry. Nagib, I am not aware of that
8 conversation --

9 654 Q. You don't remember?

10 A. -- because I don't know Alnaz Jiwa at all.
11 It's the first time today formally that I've actually met
12 Alnaz Jiwa.

13 655 Q. Okay. Can we agree then, can we agree, would
14 you agree -- is this the way to ask the question? Would
15 you agree that if in this undertaking you bring the email
16 and it doesn't say that I will ask Mr. Jiwa to remove
17 from his website, there has never been a question of Mr.
18 Jiwa having a website and this conversation which you are
19 saying?

20 A. I didn't know whether he -- I thought he was
21 connected with the website because if he could do what
22 you gave him instructions from the website, I presumed
23 he's involved with the website. That's the only
24 connection I have.

25 656 Q. Is this why his name was put on the

1 lawsuit?

2 A. He has -- he was part of this, he was
3 involved with this, and I --

4 657 Q. Part of the publication?

5 A. I think that all the people who were involved
6 in the sense that they were known, were people who are
7 engaged with this website. And because Alnaz I think
8 also had posted on the website a thing that he said that
9 I have -- you know, after the announcement was made, he
10 had a very long email saying that --

11 658 Q. Okay. So you are referring to his email
12 list?

13 A. Yes.

14 659 Q. What's posted on his email list, not on his
15 website?

16 A. Well, to me, it's electronic and -- all of
17 this, from my point of view, is a methodology of --

18 660 Q. Mr. Sachedina, then on the lawsuit it says
19 the same thing. But the Imam, who is a graduate from
20 Harvard, he knows the difference between an email list
21 and a website. But it says that Mr. Jiwa is operating a
22 website; isn't it true?

23 A. I don't think I've said to you this website,
24 because it's your website in which he has been
25 associated. So he obviously has connection with the

1 website. So to me he is involved with the website.

2 661 Q. So if this email that you will produce as an
3 undertaking doesn't say this, you will accept that it's
4 not there; right?

5 A. As I said to you, I don't have the words
6 here.

7 MR. GRAY: If the email doesn't say it, then it
8 doesn't say it. We'll accept that.

9 BY MR. TAJDIN:

10 662 Q. Yes. Because for the moment I am hearing
11 that I have written that Mr. Jiwa had a website?

12 A. No. No. I didn't say that Mr. Jiwa -- as I
13 said, you said in your email that when I complained to
14 you that the book is still being advertised and there is
15 still a thread there, you said to me -- you sent me an
16 email to say that "I have asked Alnaz Jiwa, who will
17 actually deal with this matter and make sure that there
18 is no reference to this." So immediately I realized that
19 and you and Alnaz are involved with this website.

20 663 Q. Okay. So let's have the email which will
21 prove conclusively that it is not right, and we can
22 all --

23 MR. GRAY: Or that it is right, as the case may
24 be.

25 MR. TAJDIN: Yes. And if it is right, I will

1 make my apologies to Mr. Sachedina. And I hope also --

2 MR. GRAY: We'll look forward to that.

3 MR. TAJDIN: And vice-versa, I hope; right?

4 MR. GRAY: Well, it's --

5 MR. TAJDIN: I guess this means no.

6 THE DEPONENT: Well, it's my best recollection.

7 I wish I hadn't got -- but I haven't got the papers here,
8 so.

9 BY MR. TAJDIN:

10 664 Q. Number 30 of your Affidavit --

11 A. Mm-hmm.

12 665 Q. Now, it says -- 30, 3-0.

13 MR. GRAY: Paragraph 30.

14 BY MR. TAJDIN:

15 666 Q. Yes. Now, we are talking of January 26th.

16 When I wrote to Michelle Parkes -- do we say "Parkes" or
17 "Park-es"?

18 A. No. "Parkes."

19 667 Q. Parkes. Michelle Parkes. That I had started
20 implementing but I needed some clarification, and I was
21 prepared to travel to Europe to meet with His Highness
22 for that.

23 Now, did you talk with His Highness -- at that
24 time there was no lawsuit. Does His Highness know that I
25 sought clarification and a meeting with His Highness for

1 this meeting -- for this matter?

2 A. As I said, that was between you and Mrs.
3 Parkes. Mrs. Parkes dealt with it herself. I only got
4 the correspondence afterwards that you had sent to Mrs.
5 Parkes because His Highness had asked that I be sent that
6 correspondence.

7 668 Q. You are referring in number 34, 3-4, on an
8 email sent on 17th of February. Is this email? Can we
9 -- how are we numbering? Are we putting Exhibit 1?

10 MR. JIWA: I have A and B, so you might as well
11 go with C, probably.

12 MR. TAJDIN: So we go with Exhibit C?

13 MR. GRAY: Sure.

14 MR. TAJDIN: Mr. Gray, that's --

15 MR. GRAY: That's fine.

16 MR. TAJDIN: That's fine? We don't have to
17 restart --

18 THE DEPONENT: That's already part of the
19 Affidavit as well; am I right.

20 EXHIBIT C: Tab 34, Copy of Email dated February
21 17th.

22 BY MR. TAJDIN:

23 669 Q. Yes.

24 A. Okay.

25 670 Q. Good. Now, this email says -- if you will

1 turn in your Affidavit that -- "this accusation that I
2 had forged His Highness's letter"; do I read correctly?

3 MR. GRAY: Sorry, are you referring to part of
4 the --

5 MR. TAJDIN: 34. Number 34 --

6 MR. GRAY: "Subsequently, Mr. Tajdin wrote" --
7 sorry.

8 "Mr. Tajdin wrote to me by email on February
9 17th, 2010 repeating his" -- that's
10 Mr. Tajdin's -- "accusation that I had forged His
11 Highness's letter."

12 Is that what you're reading from?

13 MR. TAJDIN: I was reading in 34. It says,
14 "repeating his accusation that I had forged..."

15 THE DEPONENT: His paragraph 34.

16 BY MR. TAJDIN:

17 671 Q. 34 of the Affidavit. Is this what you are
18 reading?

19 A. Yes. This is referring to this email.

20 672 Q. Okay.

21 A. Because he talked to me on the phone; right?

22 673 Q. Okay.

23 A. And this is in the letter afterwards. You
24 followed it up with a letter.

25 674 Q. Okay.

1 A. First you talked to me on the phone and then
2 you sent me this letter.

3 675 Q. Okay. Would you agree that while this email
4 talks of forgery, it doesn't say that you did the
5 forgery?

6 Did it say that you are the one who did it?

7 A. Yes.

8 676 Q. It says, "I had forged."

9 A. No, but that was an accusation you have also
10 made to me first in a phone call.

11 677 Q. Okay.

12 A. And now also -- well, in this email -- yes,
13 "You have colluded." "You have colluded with Michelle
14 Parkes to send me a letter with a forged signature still
15 need clarification." [as read]

16 678 Q. So does it mean that you forged the letter,
17 that you forged the signature?

18 A. That's --

19 679 Q. Or someone else can forge and give it to you
20 and you send it to me?

21 A. Well, you can imply whatever you want to
22 imply in this letter.

23 680 Q. But it doesn't say it.

24 A. Very clearly I think there's an accusation.

25 681 Q. This is the way you understand?

1 A. Accusation of forgery.

2 682 Q. So immediately you told the Imam that I have
3 accused you?

4 A. No. I just sent this email to the Imam. I
5 didn't even speak to Imam. This copy of this email was
6 absolutely sent to the Imam. I didn't speak to the Imam
7 about this email.

8 683 Q. Okay. So the Imam knew from what you sent
9 here, which you are interpreting as you have forged the
10 letter, that I had accused you of forging the letter?

11 A. I didn't say this is what it is. The letter
12 is as is, and that's exactly what I sent to the Imam.

13 684 Q. Okay. You sent it immediately?

14 A. Well, not -- yeah.

15 685 Q. Okay.

16 A. Immediately after the email came to me, I
17 then forwarded. After your phone call, this email came
18 the next day and afterwards I sent.

19 686 Q. I understood that. So what you are saying
20 now is that the Imam has two complaints. One from you,
21 one from Ms. Parkes, that I have accused both of you.
22 This is what it says, "you have colluded with Ms.
23 Michelle Parkes"; right?

24 A. But you had also written separately to Mrs.
25 Parkes.

1 687 Q. That's fine. So it says, "both of you sent
2 me a forged letter." This is what it says?

3 A. Yes.

4 688 Q. Okay. Subsequently, the Imam sent this
5 second letter which we are saying is forged and you are
6 saying the Imam has signed it. That letter, is it 18th
7 of February?

8 MR. GRAY: 18th of February, yes.

9 BY MR. TAJDIN:

10 689 Q. In that letter, it says that I have accused
11 Michelle Parkes, but it doesn't say also Shafik
12 Sachedina?

13 A. Because I believe that the letter -- the Imam
14 had already, from what had happened from Mrs. Parkes, I
15 presume, he must have already worked on that letter or
16 whatever. This came to me on the day, the 17th from my
17 point of view.

18 690 Q. Yes.

19 A. This is 17th that I got it.

20 691 Q. Yes.

21 A. It was late in the afternoon. I just
22 forwarded it to his office. It doesn't mean His Highness
23 gets it at the same minute that I sent it.

24 692 Q. Okay.

25 A. His office will decide that his emails then

1 have got to his Secretariat, his office. And I don't
2 even know whether he was there or he was not there.

3 693 Q. Okay.

4 A. Because the email will only get to the
5 Imam --

6 694 Q. What essentially you are saying is that the
7 Imam did not know about this letter when he wrote this --

8 MR. GRAY: He didn't know about the email, you
9 mean? Or which letter?

10 MR. TAJDIN: Yes.

11 MR. GRAY: Didn't know of the email of Exhibit C?

12 MR. TAJDIN: 17, yes.

13 THE DEPONENT: I don't know what time he got the
14 letter, but what I'm saying to you is submitting a letter
15 doesn't mean that he actually sees it that very minute.

16 BY MR. TAJDIN:

17 695 Q. Okay. So it's not -- "subsequently" doesn't
18 mean "immediately"? It can be like tomorrow he read the
19 letter --

20 A. Yes. Imam can look at a letter at his time.
21 He --

22 696 Q. Okay. He may be travelling and subsequently
23 --

24 A. As I said to you, as far as I'm concerned, at
25 that time this is the case.

1 697 Q. Do you remember if he was travelling at that
2 time?

3 A. I believe so.

4 698 Q. Okay. So that letter he wrote on 18th was
5 not written from Paris then. From where --

6 A. Which letter are we talking about; the first
7 or the second letter?

8 699 Q. The second.

9 A. I believe he was not at base at that time.

10 700 Q. He was not. Do you know which secretary
11 typed that letter?

12 A. I understand there's a correspondence from
13 Ann-Valerie.

14 701 Q. Did she type that letter?

15 A. Well, she was a secretary I believe
16 accompanying His Highness, to the best of my knowledge.
17 I believe that she was a secretary travelling with His
18 Highness at the time.

19 702 Q. Okay. Is it -- okay. We'll leave it at
20 this.

21 When you say that you saw that letter on the
22 Internet subsequently, this email of mine, would you
23 agree that it was after the 8th of May?

24 A. Which letter? Sorry, I just --

25 703 Q. This email --

1 MR. GRAY: Exhibit C, the email of --

2 BY MR. TAJDIN:

3 704 Q. When you saw it on the Internet, it was after
4 the 8th of May, 2010; would you agree to that?

5 A. After the 10th of --

6 705 Q. 8th of May.

7 A. It came on your website sometime.

8 706 Q. After the lawsuit. After we file the
9 defence. It was not there before; right?

10 A. Yes, I think it appeared --

11 707 Q. On 8th of May?

12 A. -- afterwards, yes.

13 708 Q. 8th of May, you know we have a directory near
14 the file. This is how I found. Because I myself also
15 did not remember when it was written, the date. We have
16 a directory and you have the date. That's how I found
17 it.

18 A. It is already on your post what date it was
19 posted.

20 709 Q. That's fine. As far as we agree that it was
21 not posted the next day, and it was after the lawsuit,
22 after the defence.

23 So Ann-Valerie may be the one who typed that
24 letter?

25 A. I believe so. As I say, I'm not certain, but

1 I believe that she was one of the secretaries who were
2 travelling with His Highness at the time.

3 MR. GRAY: Are you talking about -- you switched
4 again. You're now talking about Exhibit --

5 THE DEPONENT: The letter.

6 MR. GRAY: -- the letter of February 18th?

7 THE DEPONENT: The letter of February 18th.

8 MR. TAJDIN: Yes.

9 MR. GRAY: Exhibit J.

10 MR. TAJDIN: Yes. Thank you.

11 Sorry about that. You know I told you that there
12 will be moments like that, because this is my first
13 examination I'm doing.

14 MR. GRAY: That's fine. I just want to make it
15 clear what --

16 MR. TAJDIN: And I'm not a lawyer. I don't have
17 your training.

18 MR. GRAY: Actually, it's your Affidavit
19 paragraph 37. Okay.

20 BY MR. TAJDIN:

21 710 Q. There are a couple of things. Now, it says
22 that His Highness communicated with Mr. Mohamed Manji.
23 Would you know if it was verbal or with a memo or an
24 email?

25 A. I was told -- I'm given to understand by

1 Mohamed that he spoke to Mohamed.

2 711 Q. Okay. So the Imam calls --

3 A. President.

4 712 Q. -- Council presidents --

5 A. Yes.

6 713 Q. -- and important people; right?

7 A. He does call.

8 714 Q. When it is something important, not every

9 day, every moment?

10 A. No.

11 715 Q. And --

12 A. It's up to the Imam to decide when and for

13 what purpose.

14 716 Q. I agree. Now, 38, it says that you informed

15 the LIF. Is it not true that chairman of the LIF is

16 appointed directly by the Imam?

17 A. Absolutely he's appointed by the Imam.

18 717 Q. And the Imam can talk to him directly?

19 A. Yes. He has absolutely --

20 718 Q. Does he do that sometimes, talking directly

21 to the --

22 A. Yes. He speaks to the LIF chairman.

23 719 Q. And the chairman is Mr. Lakhani?

24 A. Dr. Azim Lakhani.

25 720 Q. Dr. Azim Lakhani. Where does he live?

1 A. He lives in the U.K.

2 721 Q. In the U.K. In London?

3 A. In London.

4 722 Q. Okay, that's fine. But the Imam did not call
5 Mr. Lakhani; you informed Mr. Lakhani? When you say you
6 informed the LIF, in number 38, do you mean in the
7 meeting; right?

8 A. I informed the chairman.

9 723 Q. And he called a meeting?

10 A. First the chairman, and then I asked the
11 chairman, because Hazar Imam spoke to me on the phone,
12 called me and said that, "I want this conveyed to the
13 members of the LIF."

14 724 Q. And he did not --

15 A. The first I spoke to chairman --

16 725 Q. Mr. Sachedina, he did not call the chairman
17 of the LIF?

18 A. Because he wanted to discuss other matters
19 with me, and while he was speaking with me, he -- it was
20 he who called me.

21 726 Q. It was not important enough for him to
22 confirm directly to Mr. Lakhani that --

23 A. That was the Imam's prerogative, to decide
24 who he speaks, for what purpose.

25 727 Q. Okay. How was these four countries affected

1 chosen? In 39 you say: "As this represented a grave and
2 unprecedented step, His Highness authorized the LIF to
3 issue a second announcement."

4 Was this done in writing?

5 A. No. He called me.

6 728 Q. He called you?

7 A. Yes.

8 729 Q. So you prepared the announcement?

9 A. Sorry?

10 730 Q. You prepared the announcement?

11 A. No. He called me. He himself had done a lot
12 of work on the announcement, and he was giving me
13 instructions to say that these are the four countries he
14 wants.

15 Because originally -- normally, announcements of
16 the LIF go global, but in this particular case, it was
17 His Highness's wishes that to keep this announcement in
18 only those four countries.

19 731 Q. So you said His Highness had worked quite a
20 lot on this second announcement. Has he shown you a memo
21 or some notes or something which became the base of that
22 second announcement?

23 A. I'm not privy to Hazar Imam's own work that
24 he does with his staff.

25 732 Q. Okay. So announcement, Hazar Imam told you

1 his notes over the phone?

2 A. No. He himself read out the components to
3 it. It says this is what he wants to say.

4 Because all of these quotations were he -- he
5 wanted those quotations put into the announcement.

6 733 Q. So you took some notes during that phone
7 conversation?

8 A. No, because I was in a car and he was telling
9 me on the phone and I was driving from wherever it was to
10 the airport. So I was being told by -- he was reading it
11 out to me.

12 734 Q. So you did not take any note of --

13 A. No. And he then says that Sherbanoo or
14 somebody will send me the -- whatever the final draft
15 will be.

16 735 Q. That's fine. So did Sherbanoo send you the
17 draft?

18 A. I would presume there must be a draft
19 somewhere, but I haven't got -- I can't tell you that I
20 have definitely got --

21 736 Q. Mr. Sachedina, can we have it as an
22 undertaking to provide --

23 A. It's privileged. As I said to you, what Imam
24 sends me is privileged communication.

25 737 Q. It's draft of something which was read --

1 (inaudible)

2 A. But I don't know --

3 738 Q. Do you agree to it? It's a draft --

4 MR. GRAY: We don't agree to produce it. We'll
5 take it under advisement though. You want the draft of
6 the announcement of April --

7 --- UNDER ADVISEMENT

8 BY MR. TAJDIN:

9 739 Q. Yes, I would like to see --

10 MR. GRAY: April the 15th, I think it is.

11 BY MR. TAJDIN:

12 740 Q. The draft which Mr. Sherbanoo sent to Mr.
13 Sachedina?

14 A. No. The draft of the final text that Hazar
15 Imam authorized --

16 741 Q. So it came from Sherbanoo --

17 A. Sherbanoo's office, who said this is the text
18 which Hazar Imam has authorized.

19 742 Q. Do you remember approximately at what date?

20 A. It was the day -- the day the announcement
21 happened.

22 743 Q. So the same day it was read?

23 A. I think it was either the same day or the
24 evening. Because I think I was on my way -- it's my
25 recollection, and I want to make it recorded it was my

1 best recollection, and I was in -- and I was going -- and
2 I was travelling to London, and it was on the road that I
3 got this message, and that is when this thing was.

4 And he then says "I am now authorizing you to
5 release this announcement through the LIF. Talk to Azim,
6 talk to everybody, this is the position."

7 744 Q. Okay. So that announcement was released by
8 the LIF, not by the Council or their institution?

9 A. No. It came -- as I said to you, it was
10 released through --

11 745 Q. By the LIF?

12 A. LIF.

13 746 Q. So it was an LIF announcement?

14 A. Yes. Because Hazar Imam wanted it to be an
15 LIF announcement for these four --

16 747 Q. Okay. So Council and Tariqa board, those
17 were not associated with it; right?

18 A. No, the -- well, the National Council --

19 748 Q. Okay, fine.

20 A. Only the countries that --

21 749 Q. That's fine. That's fine. That's fine.

22 --- Off-the-record discussion.

23 BY MR. TAJDIN:

24 750 Q. Do you know if Mohamed Keshavjee was involved
25 in the writing of this announcement?

1 A. Nothing to do. Nothing at all.

2 751 Q. So now in number 40, you are saying:

3 "...His Highness has maintained direct, constant
4 contact with me, and has shared with me all
5 relevant correspondence and other forms of
6 communication..."

7 Which correspondence are you talking of here?

8 A. I'm talking about all the steps in this whole
9 Affidavit. I'm talking about here "in all of the steps
10 that have been taken as described above," meaning
11 anything that I've described above, meaning all of this
12 work from the moment I start, from the beginning of my
13 Affidavit --

14 752 Q. Mr. Sachedina, let me remind you of the
15 question. You are writing here that His Highness

16 "...has shared with me all relevant
17 correspondence and other forms of communication
18 so that I could assist him in carrying out his
19 direct instructions for resolving this matter."

20 My first question is which relevant
21 correspondence did His Highness share with you?

22 MR. GRAY: Well, he had copies of the --

23 MR. TAJDIN: Can you please let him reply, Brian?

24 MR. GRAY: I'll let him answer.

25 MR. TAJDIN: Thank you.

1 THE DEPONENT: The correspondence, the copies.

2 BY MR. TAJDIN:

3 753 Q. Which copies?

4 A. The facts that you know you -- you have got
5 here the announcement has been made, the letters,
6 everything that has happened up to that time.

7 754 Q. So his announcement was shared by His
8 Highness with you?

9 A. I said to you the LIF, all were approved by
10 Hazar Imam. So all of that, what has gone to Hazar Imam
11 for his review, what came back to review after the -- his
12 input, whatever it is, all of that has been shared with
13 Hazar Imam. And then whatever he has given notes, for
14 example --

15 755 Q. He shared it again with you?

16 A. Of course.

17 756 Q. So you gave him the announcement and he
18 gave you --

19 A. And obviously every time you send something
20 to His Highness, there are other matters also that you're
21 discussing.

22 757 Q. Mr. Sachedina, you are writing here, "...so
23 that I could assist him in carrying out his direct
24 instructions for resolving this matter." So you would
25 agree you were not successful in resolving this matter,

1 as we would not be sitting here?

2 A. No, I was not. I tried very hard because I
3 -- I did all within my capacity to try and see that this
4 matter would not reach this level. And, in fact, I -- as
5 you are yourself aware, I spoke to you on this matter.

6 758 Q. Now, we are sitting here after the 11th of
7 April, if I follow your Affidavit. So this is after --
8 after the lawsuit was --

9 A. After the lawsuit.

10 759 Q. So after the lawsuit, did you ever contact me
11 to try to resolve this matter?

12 A. I was not, you know, authorized.

13 760 Q. Well --

14 A. Once the legal matter started, I was not in a
15 position to speak to anybody on this matter.

16 761 Q. Mr. Sachedina, you are not authorized to
17 speak with me, but His Highness wanted you to carry out
18 his direct instruction for resolving this matter --

19 A. After -- as I said --

20 762 Q. -- after the lawsuit was in the court?

21 A. No. No. It's up -- as I said to you -- I'm
22 saying to you, what happened in the past, it was all
23 there, and that is exactly what it is it says, resolving
24 this matter before it came to the lawsuit.

25 763 Q. So now we are -- so His Highness trusted you

1 that you will be able to resolve the matter, but he was
2 wrong; is that what you are saying?

3 A. No. It's -- the matters --

4 764 Q. You were not successful.

5 A. The matters had gone beyond -- that it had
6 gone in a direction that what he wished to carry out. I
7 was not involved with the lawsuit myself.

8 765 Q. Now, what --

9 A. I've explained that earlier on.

10 766 Q. Mr. Sachedina, the first announcement which
11 we have already talked about was already talking of legal
12 steps?

13 A. I -- at least not from my --

14 767 Q. That was --

15 A. The first announcement, as far as I'm
16 concerned, doesn't talk about any legal steps at all, at
17 least in the --

18 768 Q. Okay, we'll --

19 MR. GRAY: You're talking about the first
20 announcement in January?

21 MR. TAJDIN: 16.

22 MR. GRAY: Of January.

23 THE DEPONENT: Where is... Yes. All steps are --
24 this practice considered in breach of the Ismaili
25 Constitution and the copyright laws of... [as read]

1 (inaudible)

2 MR. GRAY: Read it much slower.

3 THE DEPONENT: All right. I refer to page 154,
4 announcement dated January 16th, 2010. And the paragraph
5 in question, and at least I presume you're referring to,
6 Nagib, is --

7 BY MR. TAJDIN:

8 769 Q. Yes?

9 A. "It is a matter of deep concern that some
10 members of the jamat have taken it upon
11 themselves to publish and sell this private,
12 protected and privileged text of Molwana Hazar
13 Imam." (sic)

14 770 Q. Yes, I can read it.

15 A. This --

16 --- The reporter appeals.

17 BY MR. TAJDIN:

18 771 Q. Okay, I'm just referring to the last sentence
19 where it talks of copyright laws.

20 MR. GRAY: It says --

21 THE DEPONENT: Yes, but this practice constitutes
22 a breach of the Ismaili Constitution as well as copyright
23 laws, and appropriate steps have been taken to ensure
24 that the unauthorized circulation of copies of these
25 unauthorized publication ceases.

1 BY MR. TAJDIN:

2 772 Q. Okay, what was these steps which were taken
3 besides the announcement?

4 A. From this -- letters were sent to you.

5 773 Q. Are you referring to the letter --

6 A. Letter from the Imam --

7 774 Q. Okay.

8 A. -- were sent to you after this
9 announcement.

10 775 Q. Mr. Sachedina, now if you could come back in
11 time, January 1st you called me. You were in Zanzibar at
12 that time?

13 A. Correct.

14 776 Q. You talked to me about the book which I had
15 published. At that time you have not seen the book?

16 A. I hadn't seen the book.

17 777 Q. You told me when you arrive in London,
18 someone has put it on the desk so you will see it when
19 you arrive in London on Monday. Monday was 4th of
20 January, just so that you remember.

21 Now, did I not tell you, "if you pass by Nairobi,
22 why don't you come and we can talk"?

23 A. You said to me. I told you I can't.

24 778 Q. And you said you were in transit?

25 A. I was not going to be because I was -- in

1 fact, I couldn't even be in transit because the flights
2 didn't connect, and I nearly missed my flight. So I
3 couldn't --

4 779 Q. So you never came out of the airport.

5 A. No. I was in town only for an hour or an
6 hour-and-a-half, and the president of the Council just
7 quickly saw me there and he left --

8 780 Q. Okay. So you went to eat at the Stavroze
9 Restaurant?

10 A. Whatever. He -- he took -- I told you I was
11 supposed to be originally spending more time in Nairobi.
12 Instead, Zul came to the airport for a quick bite because
13 he says, "you won't make the flight and you will miss it
14 if you go any further, so this is all you can get."

15 781 Q. Mr. Sachedina, from the airport to city
16 centre in Nairobi, can you tell me how long it takes?
17 Isn't it true it takes at least 45 to 50 minutes to go
18 and 45 to 50 minutes to come back?

19 A. Well --

20 782 Q. When it is not traffic hours. Sorry.
21 Because when it is traffic hour --

22 A. But this was not actually -- this was very
23 quick, as I said to you. I arrived and I was given very
24 good -- obviously, they realized that I was running late
25 for the flight and, in fact, they couldn't take me where

1 they wanted to take me, and I said I don't have the time
2 because I'll miss my flight.

3 So, as I said to you, I was in transit. That's
4 why I couldn't meet you on this matter.

5 783 Q. That's fine. But you went from the airport
6 to the Stavroze restaurant in city centre in Nairobi?

7 A. I went to the --

8 784 Q. Yes or no?

9 A. I went to -- as I said to you, I didn't go to
10 Stavroze, but first I went to -- the Serena people took
11 me somewhere before they took me to --

12 785 Q. And then you went -- from there you went
13 straight --

14 A. Then he realized that where I needed to go
15 and because the president said that's where he is, he
16 can't go too far, that's the only place he could take me
17 nearby and I could have a quick bite.

18 786 Q. Okay. Okay. So you were in the city?

19 A. I was in --

20 787 Q. That's fine. It's just that I thought I
21 heard you saying that --

22 A. I was in transit.

23 788 Q. -- in the beginning that you were --

24 A. I was in transit.

25 MR. GRAY: Please. Wait.

1 --- The reporter appeals.

2 BY MR. TAJDIN:

3 789 Q. So number 40, can I assume right --

4 MR. GRAY: You're speaking now about his
5 Affidavit, paragraph 40?

6 MR. TAJDIN: Yes, his Affidavit. Sorry. I'm
7 jumping from -- oh, in French we say -- (speaks in
8 French.)

9 I'm not going to force you to write it.

10 BY MR. TAJDIN.

11 790 Q. Number 40, so now the Imam asked you to
12 assist him, but you were not really able to resolve the
13 matter. You were not really able to assist. Number
14 40?

15 A. Well, as I say, I did whatever I was expected
16 to do, and I did what I expected to a particular level,
17 and beyond which the Imam had control over this. I had
18 no control over this.

19 791 Q. So you did your best but --

20 A. Yes, it was the Imam who wished to take it
21 the direction he wanted to take.

22 792 Q. So the Imam was not wrong in trusting you
23 over this matter, but he could have asked someone else to
24 do it?

25 A. But that's the Imam's prerogative.

1 793 Q. That's fine.

2 A. I have no --

3 794 Q. That's fine. I'm not disputing that. I'm
4 not disputing that.

5 Now, from the 1st January when we talked, the 4th
6 when you arrived in London, we had few email exchange and
7 you wrote me few time, called me, we had some
8 conversation; am I right?

9 A. Yes. We were --

10 795 Q. Okay. Then you asked me and I told you I
11 have written a letter to the Imam?

12 A. Correct. Because I'd advised you. Earlier
13 on I said to you.

14 796 Q. Now, this letter, you don't know if I wrote
15 it because you advised or if I wanted to or if I had
16 to or if --

17 A. It was my --

18 797 Q. Okay. But you will agree that this letter
19 have not arrived in Aiglemont when the 16th January
20 announcement happened?

21 A. I can't tell you.

22 798 Q. Well, you wrote that it arrived on the
23 20th?

24 A. No. I got it on the 20th. When it arrived,
25 I can't tell you. Because the mail doesn't come to me.

1 I got it on the 20th. Arrived on the 20th from my
2 perspective, Aiglemont. What I mean is my office.

3 799 Q. Okay. So Aiglemont it arrived -- tell me how
4 do these letters go from council in the various countries
5 to Aiglemont? Are they sent by courier?

6 A. I would presume some -- yes, some go by
7 courier, some go by mail.

8 800 Q. Like, you receive reports from Council,
9 people from the community will send letter or --

10 A. They either send it by mail, by courier.

11 801 Q. So, therefore, if it is sent by mail --

12 A. Or by individuals.

13 802 Q. Okay. Is it -- let's say someone gives a
14 letter to a council, any council. Is it sent to
15 Aiglemont to Jamati Affairs?

16 A. No.

17 803 Q. Where does it go exactly?

18 A. The letter, if it is addressed to Hazar Imam,
19 it goes to his Secretariat. All letters addressed to the
20 Imam go to his Secretariat.

21 804 Q. Are there several Secretariat there? Like,
22 for example --

23 A. Yes, there are different people. What
24 happens is -- mail-management system, there's a mail-
25 management system at Imamat level that actually manages

1 all the mail that Imam gets.

2 805 Q. Okay.

3 A. They have to be recorded and all of this. So
4 I, as I said --

5 806 Q. So there is a book there which records
6 anything that comes?

7 A. Whatever time it comes, and then it's
8 recorded, and then it's given and it's put. And it is
9 the Imam then who decides, because if they are
10 confidential envelopes that staff are not allowed to open
11 --

12 807 Q. Yes. So --

13 A. -- that is personal to him, he will keep, and
14 it is when he is able to at his own time that he will
15 decide when to open, what to see, what not to see.

16 And there are some mail that he opens and then
17 therefore acted by -- and immediately --

18 808 Q. I understand. Is it a system like in office
19 where there are pigeon holes and you put this email, or
20 is it going directly to the --

21 A. Nagib, it is not under my direction. That
22 office is His Highness's private Secretariat. You
23 understand? That means nobody --

24 809 Q. Which would be the person that would receive,
25 let's say, a parcel for the Imam sent by a murid through

1 the Council; which would be the person receiving that?

2 A. This is an office. It all goes to His
3 Highness's personal office, and the Secretariat deals
4 with that, different secretaries for
5 different allocation.

6 810 Q. How many secretaries are there?

7 A. I would think there's about at least half a
8 dozen people involved.

9 811 Q. Half a dozen?

10 A. Six to eight.

11 812 Q. How many people are working in Aiglemont,
12 total?

13 A. Anywhere from 150 to 200 people.

14 813 Q. 200 people?

15 A. Approximately. But I'm not -- as I say, I
16 don't know what the total staff is because I don't spend
17 my time at Aiglemont, all the time. As I said, I live in
18 London, I only go when I'm expected to go for meetings,
19 and I --

20 814 Q. But in the last 13 years you have gone quite
21 a lot --

22 A. Of course I go. I go for a day, I go for a
23 week, I go for three days, or I go for one day. But
24 that's not my department.

25 815 Q. So is there a way to trace when my letter

1 arrived at the Secretariat?

2 A. I would presume the date it actually came to
3 the Imam's office.

4 816 Q. It's written in a book?

5 A. There must be -- somewhere there must be a
6 record of it, which day it arrived.

7 817 Q. Can we have a photocopy of that page showing
8 the time and date?

9 A. Well, I, as I said --

10 MR. GRAY: We'll make inquiries and advise you,
11 but I'm certainly not going to -- and if we do produce a
12 photocopy, it would have to be redacted. We're certainly
13 not going to give you --

14 MR. TAJDIN: I just need that one line. You can
15 blank out the whole page. I don't need to know what else
16 is there.

17 MR. GRAY: Okay, we'll take that under
18 advisement, but that may be possible. I don't know how
19 difficult it would be.

20 --- UNDER ADVISEMENT

21 THE DEPONENT: But, as I said, because he could
22 make a note of the request that.

23 --- The reporter appeals.

24 MR. GRAY: He's advising me to take a note. He's
25 afraid I'm going to forget.

1 BY MR. TAJDIN:

2 818 Q. Is it normal for a council --

3 MR. GRAY: You're producing to us something, Mr.

4 --

5 MR. TAJDIN: Yes. Let's put it as exhibit. I'm
6 not sure which number. Is it "D"?

7 BY MR. TAJDIN:

8 819 Q. Usually the Council will give a letter saying
9 that --

10 MR. GRAY: Wait just a second. I don't believe
11 Mr. -- you haven't established that Mr. Sachedina has
12 ever seen this letter.

13 THE DEPONENT: I've never seen that before.

14 MR. TAJDIN: No, I'm introducing it to ask him a
15 question.

16 MR. GRAY: He hasn't been able to verify it in
17 any way, so --

18 MR. TAJDIN: So can we take it --

19 MR. GRAY: You can mark it for identification, if
20 you'd like.

21 MR. TAJDIN: You can verify it. It's okay.

22 MR. GRAY: We'll mark it for identification.

23 MR. TAJDIN: Okay, please mark it for
24 identification.

25 MR. GRAY: And shall we use the same numbering

1 system?

2 MS. NOWAK: D-1?

3 MR. GRAY: D-1, we'll make it as D-1 because it's
4 not identified.

5 BY MR. TAJDIN:

6 820 Q. So D-1 would be a letter purported to be from
7 His Highness Prince Aga Khan, Council for Kenya, dated
8 5th of July.

9 MR. GRAY: It appears to be, yes, on its face.

10 EXHIBIT D-1: Copy of letter dated July 5, 2010,
11 from Nausherwan Parekh, His Highness Prince Aga Khan,
12 Council for Kenya, to Mr. Nagib Tajdin, Nairobi.

13 BY MR. TAJDIN:

14 821 Q. Informing that parcel was sent to Mowlana
15 Hazar Imam on 8th January by courier DHL, and there is a
16 confirmation of the DHL.

17 MR. GRAY: My understanding is with DHL -- with
18 that number, you would be able to determine when it was
19 delivered to his address.

20 MR. TAJDIN: Yes. Yes. The DHL delivery sheet,
21 you can see the last entry. It is the same number, the
22 same number as in the Council letter. Last -- second
23 page, last line. And from what I read, they delivered
24 the three parcels to Aiglemont. One was 2-and-a-half
25 kilo from Nairobi to Sherbanoo Moledina.

1 BY MR. TAJDIN:

2 822 Q. Mr. Sachedina, is Sherbanoo Moledina the
3 secretary that receives usually Council's letter or --

4 A. She is a member of the community, so she
5 would normally get -- normally, Council presidents would
6 probably send an email to her saying that we are sending
7 you something. So is it possible that the president of
8 the Council sent, could have spoken to Sherbanoo? I
9 don't know. I'm not --

10 823 Q. I'm not asking -- I'm just asking that
11 Sherbanoo Moledina works there; right?

12 A. Absolutely.

13 824 Q. And she's in the Secretariat.

14 A. Absolutely.

15 825 Q. That's fine.

16 A. I confirm that.

17 826 Q. And DHL is saying that this number of
18 waybill, which is 2-and-a-half kilo, was delivered on 8th
19 of January. We just want to cross-check that this is the
20 information which is in Aiglemont, that this is the date
21 it arrived?

22 MR. GRAY: We'll take it under advisement.

23 --- UNDER ADVISEMENT

24 BY MR. TAJDIN:

25 827 Q. Do you know if there is any "Leconte" who

1 works there, Ms. Leconte, or Mr. Leconte?

2 A. I would not know all the staff.

3 828 Q. That's fine. Don't worry about it.

4 MR. GRAY: No, but we note that the two above
5 them also appear to be Aiglemont.

6 MR. TAJDIN: Yes, but one is from Calgary, the
7 other is from Geneva. So DHL is bringing them.

8 BY MR. TAJDIN:

9 829 Q. Is DHL coming every day to Aiglemont?

10 A. Again, I don't get involved in the logistics
11 of this issue. Because mail management is a totally
12 different place. I don't -- it's not a --

13 830 Q. Okay. Have you seen Mr. Bhaloo's Affidavit
14 before he signed it?

15 A. Sorry?

16 831 Q. Have you seen Mr. Bhaloo's Affidavit before
17 he signs it?

18 A. Mr. Bhaloo's Affidavit before he signed this?
19 I saw a version of it.

20 832 Q. Okay. A draft?

21 A. Yes, there was a draft that was -- he had
22 prepared, but, as I say, he then himself dealt with it
23 because, as I say --

24 833 Q. That's fine.

25 A. It's not my responsibility. But he did say

1 that he was just making sure that I find my -- as far as
2 I'm concerned, my own visit dates and what you have
3 already said is here, now all is in there.

4 834 Q. Okay. Since I have gone through your
5 Affidavit, I will just go to my notes. I have some other
6 questions which are not in the same order and so they may
7 not look like connected to each other. But just to tell
8 you we are at the end of the examination. I'm almost
9 finished.

10 So that day we met in Abidjan.

11 835 Q. Yes. That was during the Golden Jubilee;
12 right? Right?

13 A. Yes.

14 836 Q. I guess this is a yes.

15 We talked about the Imam, and you said that his
16 shoulder was completely restored. You remember that
17 conversation?

18 A. You asked me how Hazar Imam was, and I said
19 to you he's fine. And you said is he all right, and I
20 said yes, he's fine.

21 837 Q. Did we talk of his shoulder?

22 A. You talked to me, as I say, about his
23 accident.

24 838 Q. Yes.

25 A. You asked me the question and I responded.

1 839 Q. And you said he was fixed now?

2 A. Right shoulder is a shoulder injury, that's
3 why.

4 840 Q. That's fine. There's no tension. It's a
5 friendly conversation. Don't worry.

6 In jamat khana when a farman is read -- I just
7 want you to tell as it comes. You know, it's not
8 something in your favour or my favour. Do we say,
9 "farman of Noor Mowlana Shah Karim," or do we say "Noor
10 Mowlana Shah Karim" when it is read, or do we say "farman
11 of the Aga Khan"?

12 A. In jamat khana context, usually the name is
13 Mowlana Hazar Imam.

14 841 Q. Okay. Do we say -- you have never heard in
15 your life someone say --

16 A. Yes, there are -- sorry.

17 MR. GRAY: You should wait for him to finish the
18 question before you answer that other question.

19 THE DEPONENT: My difficulty is I can't keep up
20 with the question.

21 MR. TAJDIN: No, I heard the reply. I heard the
22 reply.

23 MR. GRAY: But he hadn't finished and he was
24 still talking. If he's still talking, you have to
25 wait --

1 MR. TAJDIN: Mr. Gray, please, she has to note
2 down what's happening, so give her the time to note down.

3 BY MR. TAJDIN:

4 842 Q. You talked about the Jamati Affairs
5 department. How many people now working there?

6 A. Between 12, 15. You asked me earlier.

7 843 Q. Sorry, I didn't remember.

8 A. You asked me earlier on that question.

9 844 Q. You said Mohamed Keshavjee has retired. Has
10 he been replaced?

11 A. No. He's still at Aiglemont but as
12 consultancy, but till he gets a new replacement because
13 of his retirement. You know, he's retired.

14 845 Q. Are you aware of any farman that Keshavjee
15 would have edited?

16 A. Of any farmans that Keshavjee --

17 846 Q. Would have edited?

18 A. I have to tell you -- and I keep coming back
19 to the same thing.

20 847 Q. "Yes" or "no" would suffice.

21 A. Yes, there is never -- the farmans have only
22 been wrote by the Imam of the Time. I have to tell you
23 this is what the process is.

24 So if Keshavjee has done, I don't know if he has
25 done.

1 848 Q. Would you say it's the prerogative of the
2 Imam to decide who to tell to print the farman?

3 A. The ultimate authority when it comes to
4 printing the farmans, publishing the farmans, Hazar Imam
5 will direct. Any institution within his power,
6 constitutional bodies, IIS -- anybody, he will decide who
7 be able to do the printing.

8 849 Q. Does he have the right to give it to any
9 other person?

10 A. Absolutely his complete prerogative.

11 850 Q. Now -- okay, I will skip that because I don't
12 have his Affidavit.

13 Now, you mention the sentence that the Imam was
14 going to stay in London during Golden Jubilee about the
15 leaders was cut off?

16 A. No. I said he didn't -- he didn't finish his
17 sentence and there was an interruption. That's all I can
18 remember.

19 851 Q. Okay.

20 A. Because he himself told me afterwards, so
21 that's how I remember.

22 852 Q. Can we take that as under -- how do you call
23 it? Undertaking to have his -- I don't want the tape of
24 the farman. I just want that one minute. From the
25 moment he says that the jamat may be wondering why I'm

1 making this farman up to the time people started
2 clapping. That's one minute. Can I have that one
3 minute?

4 MR. GRAY: Well, if you want to explain
5 something.

6 THE DEPONENT: Let me tell you, the farmans are
7 privileged communications between the murid and the Imam.

8 BY MR. TAJDIN:

9 853 Q. So I understand that as to be no?

10 A. I would say to you that this, whatever it is,
11 is in the public domain, and to put any text, my humble
12 view is that --

13 854 Q. Mr. Sachedina, partly I would agree with you,
14 because as everybody knows, you have not put the book in
15 the court and I have not done that also, nor has Alnaz
16 done that. So we have all agreed it is remain between
17 Ismailis. We don't dispute that.

18 You have stated that the sentence was cut off.
19 This is why we need that tape, that one minute. Unless
20 you agree that the sentence was not cut off and there is
21 a two-second blank, there is no sound, and then people
22 start applauding to the statement, I would like to have
23 that tape from you. One minute. I don't need the whole
24 farman. That one sentence --

25 A. On record.

1 855 Q. On record plus --

2 MR. GRAY: On the record here?

3 THE DEPONENT: Can I share that with you outside
4 this record?

5 BY MR. TAJDIN:

6 856 Q. You know, I'm not a lawyer. Honestly, I have
7 a copy of the tape. So because you have put on record
8 that the sentence was not completed, and having the copy
9 of the tape, I know the sentence was complete. We need
10 to prove it.

11 I don't want it to become a fight between us.

12 A. No.

13 857 Q. But you are saying what I'm saying the
14 opposite. If you produce that one minute, it will prove
15 conclusively that the sentence was completed, there was a
16 two-second gap, and everybody started applauding.
17 Everybody was happy about the statement from the Imam,
18 that the leaders are not necessarily conveying his
19 message?

20 MR. GRAY: You'd have to put it in evidence now.

21 MR. TAJDIN: Because you have stated the
22 contrary, that the sentence was not finished. If there
23 is no dispute on that -- and I'm not asking the whole
24 tape.

25 MR. GRAY: You're giving evidence yourself now.

1 I mean this is --

2 MR. TAJDIN: Well, because we are talking of --

3 MR. GRAY: If you wanted to put it in evidence,
4 you could have done so.

5 MR. TAJDIN: Okay. Mr. Brian, let's take it as
6 an undertaking --

7 MR. GRAY: No, we will not.

8 MR. TAJDIN: We need that one minute to prove if,
9 yes or no, you are right.

10 THE DEPONENT: I'm sorry, but I'm really not
11 getting this at all as to what is the rationale behind
12 this question. Because I told you that we have -- what
13 Imam has authorized for the release of that farman, Imam
14 has authorized. Which is out to the jamat.

15 BY MR. TAJDIN:

16 858 Q. Mr. Sachedina --

17 A. By the Imam.

18 859 Q. -- the question was -- you would allow me to
19 say it again because you replied to me in that way, that
20 the sentence was not completed about what the Imam said
21 on the leaders --

22 A. No. I said his chain of thought was not
23 completed. You heard me. He was not able to --

24 860 Q. So now, Mr. Sachedina, we need that
25 one-minute recording, not more.

1 MR. GRAY: No.

2 --- REFUSAL

3 BY MR. TAJDIN.

4 861 Q. Just that recording. You can give me the
5 last word of the recording up to the moment people start
6 clapping?

7 MR. GRAY: No.

8 --- REFUSAL

9 MR. TAJDIN: Well, we need to prove conclusively
10 that the sentence was completed and there was a silence
11 after that.

12 MR. GRAY: You have a copy of it. I guess if you
13 felt you should --

14 MR. TAJDIN: But, you know, I'm asking the
15 question. I'm not replying here. I can't produce it;
16 right? I cannot go home and bring the tape.

17 MR. GRAY: If you felt you needed to put it into
18 evidence, you should have done so. As you yourself said,
19 we are not anxious to put farmans in --

20 MR. TAJDIN: Yes, but with all respect due, I was
21 not aware that there will be in this examination a
22 statement which is not representing what the tape is
23 showing.

24 MR. GRAY: Well --

25 MR. TAJDIN: If I was aware, obviously I would

1 have brought it into --

2 MR. GRAY: My current position is no, but I will
3 consider it. I'll reconsider it.

4 --- UNDER ADVISEMENT

5 MR. TAJDIN: Thank you. Thank you for
6 considering.

7 Okay. Now, I have a few files, and it will be
8 very fast. Very fast. Don't worry, we all want to avoid
9 this traffic at the end of the day. So let's say ten
10 minutes.

11 BY MR. TAJDIN:

12 862 Q. Now, usually, Mr. Sachedina, there are
13 councils in most of the country's where there is some
14 kind of contact with the Imamat. So countries like
15 India, Pakistan, Kenya, Uganda, Tanzania, Mozambique, all
16 these countries have some contact.

17 And you travel frequently in countries where
18 there are Council, and when you don't, they inform you of
19 what's going on. The ITREB coordinator would inform you
20 that such and such farman would have been be published;
21 right?

22 You would be a well-informed person in matters of
23 community; you are the head of the jamat institution?

24 A. Yes, if I am given the information from the
25 field and the people have -- the processes are there,

1 then people will bring it to our attention.

2 863 Q. So would it be reasonable to say that if
3 there were farman books published, someone will come and
4 tell you? If not immediately, after two months, three
5 months, six months, one year, two years?

6 A. It depends upon how wide the publication is.
7 If somebody has produced it and kept it for himself, a
8 book, nobody would know. But the question is whether
9 there is publication to a level where people find out
10 widely that there is a book. Then only you would find
11 out if it is kept in a smaller group. Nobody would
12 know.

13 864 Q. Sir, if it circulates by email in small
14 groups of people, it's not bothering you; you wouldn't
15 know?

16 A. I wouldn't -- as I say, I would not know
17 about this unless somebody brought it to my attention.

18 865 Q. So the level of information you have about
19 what's happening in the jamat is limited?

20 A. We aren't a police force. We don't police
21 the whole system like a police force.

22 866 Q. Okay. Have you seen this book, Golden
23 Jubilee Gem?

24 A. No.

25 867 Q. You have not seen it?

1 A. No.

2 868 Q. It's not published by Institution?

3 A. I have not seen this at all.

4 869 Q. Okay. The fact that there is a crest in the
5 middle doesn't mean that the Institution has published,
6 does it?

7 A. Somebody obviously has used it or --

8 870 Q. Okay.

9 A. That's somebody who has taken --

10 871 Q. Is it true that --

11 A. -- licence to do that.

12 872 Q. -- using the crest of the Imam is forbidden
13 by the Constitution?

14 A. Well, if it was done in the context of the
15 Jubilee itself that was authorized usage of this crest at
16 the time of the Jubilee.

17 873 Q. But this crest has not been authorized
18 because this is not from Institution; right?

19 A. No, I'm just saying that this is the logo of
20 the Golden Jubilee. The crest was part of --

21 874 Q. So we can use --

22 --- The reporter appeals.

23 THE DEPONENT: This logo was -- this book, this
24 particular logo, was for the Golden Jubilee, and it was
25 authorized to be used during the Golden Jubilee

1 celebration.

2 BY MR. TAJDIN:

3 875 Q. So, therefore, any book of farman with Golden
4 Jubilee farmans, it's normal that this logo would end up
5 on it?

6 A. It's at the time of the Golden Jubilee, as I
7 said.

8 MR. GRAY: No, I don't think that's what he
9 said.

10 THE DEPONENT: I'm not saying that.

11 MR. GRAY: He said if it was authorized.

12 THE DEPONENT: Authorized. We have given -- this
13 was authorized by the Imam to be used --

14 MR. GRAY: If it was.

15 THE DEPONENT: -- as the crest, the logo, for our
16 Golden Jubilee year for everything in the jamat, the
17 celebration. This was, as I say, what would be used
18 during the -- you are aware of what way it was used on
19 every single visit.

20 BY MR. TAJDIN:

21 876 Q. I have seen that logo, and what I wanted to
22 point to you was that this is a book of excerpts of
23 farmans of Golden Jubilee and it's circulating quite
24 widely. And you have never seen it?

25 A. I have never seen it.

1 877 Q. Can we put it Exhibit --

2 MR. GRAY: Well, he's never seen it. He hadn't
3 identified it and he doesn't know that anything ever
4 happened about it. But we'll mark it for identification
5 as D-1.

6 MS. NOWAK: D-2.

7 MR. GRAY: D-2.

8 EXHIBIT D-2: Copy of Excerpt of Golden Jubilee
9 Gems.

10 BY MR. TAJDIN:

11 878 Q. What about this book? This is farman of
12 Sultan Muhammad Shah I believe printed in the last few
13 months, maybe a year, maybe 12 months. There is a name
14 of the compiler?

15 A. But these are the Imam -- the printer, the
16 farmans of Imam Sultan Muhammad Shah.

17 879 Q. So is it okay to print --

18 A. I am talking about this copyright action has
19 been taken by the present Imam, the 49th, not the 48th
20 Imam.

21 880 Q. Okay. So, Mr. Sachedina, since you are
22 working closely with the Imam, is it okay to publish the
23 farmans of Sultan Muhammad Shah then?

24 A. No, I'm not saying that it's okay. I'm just
25 saying to you what you are showing me is not the farmans

1 of the present Imam --

2 881 Q. Are you aware of the existence of this
3 book?

4 A. I'm not aware of this.

5 882 Q. You are not aware?

6 A. Because, as I said to you, some of these
7 things may be in limited circulation in a small place.
8 Nobody would know that unless and until somebody brought
9 it to your attention. But this is not -- we're not
10 comparing this with --

11 883 Q. Actually, it's not -- actually, it's in wide
12 circulation because I got one copy by email and one in
13 print. So it has to be --

14 MR. GRAY: Again, you're not giving evidence.
15 Are you asking a question or are you giving evidence?

16 MR. TAJDIN: Okay. That's fine. It's good for
17 you to remind me. I'm not a lawyer, as I told you in the
18 beginning. You have to remind me.

19 BY MR. TAJDIN:

20 884 Q. So you have not seen this book? It has never
21 come to your --

22 MR. GRAY: I think he's said that about three
23 times, he hasn't seen the book.

24 MR. TAJDIN: Yes, if you would allow me to
25 complete my question. If you interrupt my thinking, you

1 know, it will be difficult for me to finish as fast as I
2 want.

3 BY MR. TAJDIN:

4 885 Q. Can I ask you to look at the second page of
5 this. Have you heard of a farman that people refer to as
6 the Usul-e-deen farman --

7 A. Yes.

8 886 Q. In the, not the last paragraph but just
9 before that paragraph, I want to point to this: "My
10 Farmans themselves are the Ginans!" The Usul-e-deen
11 farman is quite widely circulated in our jamat; do you
12 agree with that?

13 A. This is -- again, I keep coming back, these
14 are farmans from Sultan Muhammad Shah, and I always -- as
15 I said to you, it is my position very clear, and it's my
16 believe, that every time we look at, first of all, the
17 farmans of the present Imam, they take precedence over
18 any previous farman. And the Imam of the Time is the
19 one -- the farmans that are, from our point of view, in
20 our tariqa. We look at the present Imam's farmans.

21 887 Q. That's very good. Mr. Sachedina, would you
22 agree that any farman which has not been superseded is
23 still valid?

24 A. By the Imam -- living Imam.

25 888 Q. So let's say on July '57 the living Imam

1 became Shah Karim, the present Imam. So the farman made
2 two weeks ago by the previous Imam are no longer valid;
3 is that what you are saying?

4 A. What I'm saying to you is our -- the farmans
5 of -- Imam is Imam, is the present living Imam, and we,
6 as the jamat Ismaili community, follow always the Imam of
7 the Time. So those farmans are the ones that guide our
8 life because he is the present Imam and he makes the
9 farman. It is his farmans that we follow because we have
10 given the bayat to the Imam of the Time.

11 889 Q. Thank you for this theological discourse.
12 Now, let me tell you -- isn't it true that the Imam, when
13 he became Imam, the present Imam said "follow the farman
14 of my grandfather" who was the previous Imam"; right?
15 Isn't it true that he said that in his very first
16 farmans?

17 A. Well, as I say, I cannot respond to that.

18 890 Q. You don't know about it. Okay.

19 Did I hear you say that ginans were just poems?
20 This morning did you say that?

21 A. I said devotional poetry.

22 891 Q. Okay.

23 A. I didn't say they were poems. There were
24 devotional poetry that is there to evoke -- as I say, you
25 know what the ginans are, similarly like quasidas,

1 similarly like madho -- quasidas, q-u-a-s-i-d-a-s,
2 quasidas, and other forms of devotional poetry.

3 892 Q. Okay. But you agreed that the Usul-e-deen
4 farman, which is very well known in the community, says
5 that farmans and ginans are the same?

6 A. As I said to you, this was by the past Imam,
7 the 48th Imam.

8 893 Q. Is it valid or not?

9 A. As I said to you, my interpretation, and it
10 is my personal interpretation, that I follow the guidance
11 given by the present Imam always.

12 894 Q. Okay. Didn't I make it into exhibit? I'm
13 sorry about that. Let's put a number. Okay. D--

14 MR. GRAY: Again, it's a document that the
15 witness has never seen, doesn't know when it was
16 circulated --

17 BY MR. TAJDIN:

18 895 Q. Okay. Would you undertake to verify, and if
19 it is, then we can make it into an exhibit?

20 MR. GRAY: No, we won't.

21 --- REFUSAL

22 MR. TAJDIN: So D what?

23 MR. GRAY: D-3.

24 EXHIBIT D-3: Copy of excerpt from the 10 Ruhani
25 Farman, Farman Mubarak made by Hazrat Imam Sultan

1 Humammad Shah.

2 MR. TAJDIN: Thank you. Okay, let's make this as
3 Exhibit D-4.

4 MR. GRAY: So you're assuming he has never seen
5 it before?

6 MR. TAJDIN: Well, you can take some time to look
7 at it. These are emails between us.

8 MR. GRAY: Okay. Well, I think this one then he
9 probably has seen, if it's emails.

10 BY MR. TAJDIN:

11 896 Q. Have you seen those emails?

12 A. Yes.

13 897 Q. Okay.

14 MR. GRAY: So that will be Exhibit E, "E" as in
15 Edward.

16 EXHIBIT E: Copies of Emails.

17 BY MR. TAJDIN:

18 898 Q. Let's first start with the last page.

19 A. This last page?

20 899 Q. Yes.

21 A. Yes.

22 900 Q. Okay. Now, the way it works, you know when
23 you reply to an email, the first email goes below. So
24 the first email is 7 January here, and you are saying.

25 "Dear Naguib, could you please advise me of the

1 date when you sent the submission to Hazar Imam
2 as his office have no knowledge of this."

3 Right? You remember that email?

4 A. On the 7th of January?

5 901 Q. Yes.

6 A. Yes. I checked out and there was no --

7 902 Q. And you were right because, as you see, DHL
8 is saying that they came on 8th only.

9 A. Well, I'm sorry, I didn't -- on that day I --

10 903 Q. You are right, it was not there.

11 MR. GRAY: Just accept that he's saying you're
12 right.

13 904 MR. TAJDIN: You always say yes when someone says
14 you are right.

15 THE DEPONENT: No, but I just wanted to make
16 sure. It's the 7th; right? This is the 7th of
17 January.

18 BY MR. TAJDIN:

19 905 Q. Then on 10th, on 10th, you were looking for
20 it and you had not find it; right? So you sent me
21 another email saying, "I have no response from you.
22 Please respond or call me asap." [as read] True?

23 A. Yes.

24 906 Q. So on 10th the envelope was there --

25 A. I didn't check.

1 907 Q. -- you were looking for it but you did not
2 find it?

3 A. Not for the envelope. Please understand, I'm
4 not looking. The mail manager says that we have not --

5 908 Q. There is nothing?

6 A. Well, I mean this is because -- His Highness
7 said to me you have said that the letter is coming. I
8 have not seen the letter.

9 909 Q. Did you check with the Kenya Council if I had
10 given them a letter to send to Aiglemont?

11 A. That they confirm.

12 910 Q. So you told His Highness that my letter is
13 coming?

14 A. It's on its way but I haven't seen it.

15 911 Q. You haven't seen it?

16 A. It's in the system.

17 912 Q. So that day I replied to you the same day,
18 "The sealed envelope has gone through proper channel a
19 week ago Monday"?

20 A. Absolutely.

21 913 Q. So at that time you knew, on 10th, that the
22 letter was coming, His Highness knew that the letter was
23 coming, you knew that I had given it to the Kenya
24 Council, the Kenya Council had confirmed to you that it's
25 coming; right?

1 A. Correct.

2 914 Q. And before it came, there was already an
3 announcement in jamat khanas, first one?

4 A. But that was no connection with the letter.

5 915 Q. Okay.

6 A. To me, the letter coming and Hazar Imam's
7 announcement have no relation --

8 916 Q. Okay. So Hazar Imam didn't want to know what
9 was in my letter before making the announcement?

10 A. The announcement issue just came simply
11 because we wanted to make sure that this issue -- because
12 he knew about the publication.

13 917 Q. Okay. Mr. Sachedina, now these are all
14 emails that you recognize have been correspondence
15 between you and me?

16 A. No. There are more.

17 918 Q. There are more, but these are from between
18 you and me?

19 A. Yes.

20 919 Q. You know this is a question I've been itching
21 to ask: Can you tell me why you write my name Naguib,
22 N-a-g-u-i-b? Because each time I sign Nagib N-a-g-i-b
23 hoping that you will correct the next time.

24 A. Well, it's in my machine, and it's always
25 been N-a-g-u-i-b. There are two Naguibs I have, and both

1 of them are spelled the same way.

2 920 Q. Okay.

3 A. So that's the position.

4 921 Q. So when you write "Dear Naguib," are you
5 typing it or is it from your machine?

6 A. No, because I'm used to saying "Nagib" the
7 way it is.

8 922 Q. Okay. So it's because of the other Naguib?

9 A. Nagib generally is spelled like that. It's
10 very unusual to spell N-a-g-i-b --

11 It's like you have also done the same thing with
12 me, on my name.

13 923 Q. I'm sorry if I have massacrated [sic] your
14 name. Did I write "q-u-e" instead of "k"?

15 A. No, you've done the both. One email is
16 Shafik and the other one you said Shafique,
17 S-h-a-f-i-q-u-e.

18 924 Q. So interesting. So interesting.

19 This book, have you seen it? It's circulating
20 about ten years or eight years.

21 MR. GRAY: That's your evidence, I suppose.

22 BY MR. TAJDIN:

23 925 Q. Okay, let me ask you a question about --
24 because the name is there. The translator is Mohamed and
25 Zeltun Sachedina. Are they related to you?

1 A. No.

2 926 Q. No. So I would not ask you about the
3 content, but you have not seen those books?

4 A. I have not seen those books.

5 927 Q. I will not put some evidence of more books
6 because I think you get the idea.

7 You know Egbal Rupani?

8 A. Yes.

9 928 Q. And you are -- are you governor of the IIS?

10 A. I am a governor of the Institute.

11 929 Q. You know the idea of creating the IIS was in
12 '75 Paris Conference?

13 A. Right.

14 930 Q. Correct. Have you read the Paris Conference
15 minutes which --

16 A. Well, I recall some of it. I don't -- I mean
17 if you ask me, if we're doing a cross-examination on the
18 Paris Conference, I can tell you now that I will not be
19 able to --

20 931 Q. If you recall, you'll tell me yes or no
21 because --

22 A. Yes, if.

23 --- The reporter appeals.

24 THE DEPONENT: You're asking me a question and
25 then you --

1 MR. GRAY: You don't let him answer the question.
2 I know you think I'm interrupting, but you constantly
3 interrupt him before he's finished his question and then
4 you start asking another question --

5 MR. TAJDIN: Brian, I think you are interrupting.
6 If you could let us talk, then it would be one less
7 voice. It would be easier for the transcription.

8 BY MR. TAJDIN:

9 932 Q. Do you recall that the first thing discussed
10 in that conference was about the fundamental beliefs
11 and...

12 A. The conference had a major outcome, as you
13 know and I know.

14 933 Q. Yes.

15 A. So the whole issue of what would be the
16 direction which the community should position itself,
17 Hazar Imam, as far as matters of faith, an institution of
18 education, what would be the long-term --

19 934 Q. Okay, that was '75?

20 A. Yes.

21 935 Q. And that is -- one of the items there was the
22 creation of the IIS, of which you are a governor?

23 A. Yes.

24 936 Q. And there was discussion about the definition
25 of the Imam. Do you remember how it was defined?

1 A. Well, as I said to you, I don't at the
2 moment, but I'm aware --

3 937 Q. You don't remember. That's fine.

4 MR. GRAY: See, again --

5 BY MR. TAJDIN:

6 938 Q. That's fine. If you don't know, there's no
7 point of elaborating on why you don't know.

8 MR. GRAY: But he wants to elaborate, and you
9 should -- you need to allow him to do so.

10 MR. TAJDIN: Mr. Gray, the question is if you
11 know, yes or no. If you tell me yes, it's okay. If you
12 tell me no, it's okay. There is no --

13 MR. GRAY: He's entitled to explain his answer,
14 I'm afraid. I'm sorry if you don't agree with me.

15 MR. TAJDIN: Mr. Gray, sorry, but you know we all
16 would like to finish. We are all tired. So I hope you
17 don't interrupt any more.

18 MR. GRAY: Let him finish his answer and I won't.

19 BY MR. TAJDIN:

20 939 Q. So would you like to add anything about the
21 Paris Conference?

22 A. Well, as I said to you, it was -- from my
23 point of view, you are now getting into the details of
24 everything, but, you know, the principles were agreed at
25 that conference regarding the establishment and the

1 purpose of the establishment of the Institute of Ismaili
2 Studies by the Imam of the Time.

3 And that was really key issue. Whether we
4 discussed matters of the -- what the definition of the
5 Imamat is or not, to me it's not, frankly, from my point
6 of view, for academics to decide what it is. It is not,
7 from my point of view, here to discuss this in this
8 particular case.

9 940 Q. Okay. Is that completing your reply?

10 Do you have a residence here in Toronto? --

11 A. Yes, my family is here.

12 941 Q. Tell me, just for curiosity, you were told
13 that my wife, Frany, gave a copy of the Golden Edition to
14 Prince Hussein?

15 A. I heard about that.

16 942 Q. You heard about that. Did you receive an
17 "sms" from Farid Uddin Hemani when it happened?

18 A. I found out from -- I think it was from --
19 not from -- from the information department, who -- it
20 was not referred to me. I think it was from the
21 information department that I came to know.

22 943 Q. This is last question. Last question. The
23 first letter dated 24th January was sent to me on 11th of
24 February from Aiglemont. Did you give -- was it you who
25 gave my address to Ms. Parkes, sent it to the DHL --

1 A. Sorry, to the DHL address?

2 944 Q. Yes.

3 A. No, I had nothing to do.

4 945 Q. Okay.

5 A. It was Ms. Parkes. Ms. Parkes dealt with you
6 directly on this matter.

7 946 Q. But Mrs. --

8 A. I was only informed subsequently.

9 947 Q. Okay. So if Mrs. Parkes has never received
10 the address from me, would it mean she has received it
11 from you?

12 A. She would have asked if I have the address.
13 Because I have the addresses of lots of people, and if
14 she asked me would I have, because they all know that I
15 have been in contact with you and we are in contact with
16 each other, we have been in contact. So it's only
17 natural that she would look to somebody so who is in
18 contact with you.

19 948 Q. I guess it's too late to make copies, but --
20 so I will not continue with other questions. It's just
21 that I should have brought some copies. Anyway, so --

22 MR. JIWA: If you want, you can show it and then
23 we can do it afterwards.

24 MR. TAJDIN: Can we do that? Okay. I have only
25 one.

1 MR. GRAY: One additional question?

2 MR. TAJDIN: It's about the same question, if you
3 allow me. If it's bother you, I will just stop here.

4 MR. GRAY: I won't hold you to it.

5 MR. TAJDIN: Okay. So this will be Exhibit --

6 MR. GRAY: Well, not necessarily. Can you show
7 us what it is you're --

8 MR. TAJDIN: Can you read it?

9 MR. GRAY: Okay. We've seen it. It's an email
10 from Michelle Parkes, P-a-r-k-e-s, to Nagib Tajdin dated
11 February 11th, 2010, but I'm not sure if this witness has
12 ever seen this before.

13 THE DEPONENT: I have not seen this one.

14 MR. TAJDIN: So we don't want to enter it into --

15 MR. GRAY: If he hasn't seen it, he can't really
16 identify it, can he.

17 MR. TAJDIN: We'll keep it for discoveries
18 then.

19 MR. GRAY: Okay.

20 MR. TAJDIN: Thank you. I wish we would not have
21 to do this, but at least I enjoyed seeing you again.

22 MR. GRAY: Does that mean you're finished?

23 MR. TAJDIN: Yes, yes. I'm finished.

24 MR. GRAY: No re-examination.

25 --- WHEREUPON THE EXAMINATION ADJOURNED AT 3:49 PM.

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I HEREBY CERTIFY THE FOREGOING
to be a true and accurate
transcription of my shorthand notes
taken to the best of my skill and ability.

KATHRINE MCMENEMY, CSR
Computer-Aided Transcription

FEDERAL COURT

B E T W E E N:

HIS HIGHNESS PRINCE KARIM AGA KHAN

Plaintiff

- and -

NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO.
and all other persons or entities unknown to the
Plaintiff who are reproducing, publishing,
promoting and/or authorizing the reproduction and
promotion of the Infringing Materials

Defendants

--- This is the Cross-Examination of AZIZ M.
BHALOO, the Deponent herein, on an Affidavit sworn June
23, 2010, taken at the offices of Network Reporting &
Mediation, One First Canadian Place, 100 King Street
West, Suite 3600, Toronto, Ontario, M5X 1E3, on Friday,
the 13th day of August, 2010.

APPEARANCES:

BRIAN W. GRAY]	For the Plaintiff
ALLYSON WHYTE NOWAK]	

ALSO IN ATTENDANCE:

ALNAZ I. JIWA	On his own behalf as a Defendant
NAGIB TAJDIN	On his own behalf as a Defendant

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NETWORK REPORTING & MEDIATION (416) 359-0305

1 --- UPON COMMENCING AT 9:59 AM.

2 AZIZ M. BHALOO: Sworn.

3 CROSS-EXAMINATION BY MR. JIWA:

4 1 Q. Good morning, Mr. Bhaloo.

5 A. Morning.

6 2 Q. Would you please spell your name for the
7 record?

8 A. Aziz, A-z-i-z, Bhaloo, B-h-a-l-o-o.

9 3 Q. Now, Mr. Bhaloo, you have before you your
10 Affidavit?

11 A. Yes, I do.

12 4 Q. And you swore this on 23rd of June, 2010?

13 A. Yes, I believe so.

14 5 Q. Now, when this Affidavit was drafted, did you
15 discuss the contents of this Affidavit, what should be
16 put in with anybody?

17 A. Actually --

18 6 Q. When this Affidavit was drafted, did you
19 discuss what contents to put in, what to mention, with
20 anybody else?

21 A. No, I did not.

22 7 Q. And you gave this information yourself?

23 A. Yes, I did.

24 8 Q. Currently, you are residing in Kenya?

25 A. Currently, I'm in Kenya.

1 9 Q. Now, you said that you were the president of
2 the Ismaili Council for Canada between 1993 to 1999?

3 A. That's correct.

4 10 Q. And prior to that, you were the
5 vice-president?

6 A. Yes, I was.

7 11 Q. Between 1987 and 1993?

8 A. (Nods head up and down).

9 12 Q. Now, the appointments that you had were made
10 by His Highness?

11 A. Yes.

12 13 Q. And they are normally read in jamat khanas by
13 way of talika?

14 A. Yes.

15 14 Q. Once you get appointed in a constitutional
16 body such as what you were, you take an oath of office?

17 A. Yes, I do.

18 15 Q. Do you recall what is the oath of your
19 office, sir?

20 A. I believe it's in the Constitution. That's
21 the --

22 16 Q. I'm going to refer it, to the page, so.

23 MR. GRAY: This is in the Rules and Regulations?

24 MR. JIWA: Yes.

25 MR. GRAY: I see you have my copy of this. It's

1 marked.

2 MR. JIWA: Is it your copy?

3 MR. GRAY: Yes. I wondered where it was this
4 morning. This was Exhibit B to the cross-examination --

5 MR. JIWA: Yes.

6 BY MR. JIWA:

7 17 Q. So that was marked yesterday as Exhibit B, so
8 I'm not going to mark it as an exhibit today. But is
9 that the oath of office that is taken by appointees?

10 A. Yes, it is.

11 18 Q. And would you agree with me that number 1
12 there it says:

13 "I shall protect and defend the Ismaili
14 Constitution and the Rules and Regulations made
15 thereunder"?

16 A. What about it?

17 19 Q. Number 1?

18 A. Yes.

19 20 Q. I says: "I shall protect and defend the
20 Ismaili Constitution and the Rules and Regulations made
21 thereunder"?

22 A. That's what it says.

23 21 Q. Right. And you took that oath as well?

24 A. Yes, I did.

25 22 Q. And all members who were appointed, other

1 than presidents, all members who are appointed take the
2 same oath?

3 A. What did you say; "other than president"?

4 23 Q. I'm trying to say other members; like, member
5 for youth --

6 A. All members take this oath, yes.

7 24 Q. They all take the oath?

8 A. Yes.

9 25 Q. So essentially all institution members,
10 including president, chairman, members, they all take
11 this --

12 A. I believe so.

13 26 Q. -- oath upon taking office?

14 And it's a requirement of the Constitution that
15 they must take?

16 A. Yes, I believe so.

17 27 Q. And would you agree with me then that each
18 member's responsibility is to protect and defend the
19 Ismaili Constitution?

20 A. Correct.

21 28 Q. And would you agree with me what His Highness
22 has made a number of farmans on this issue that the
23 jamats as well must abide by the Constitution?

24 A. I understand so.

25 29 Q. And the Constitution is sort of binding on

1 all Ismailis worldwide as well as all leaders and
2 institutional members?

3 A. Yes, it's binding on all Ismailis.

4 30 Q. And would you agree with me that after the
5 date of the Constitution, His Highness can make a farman,
6 and if there is an inconsistency with this farman and the
7 Constitution, the farman prevails?

8 A. I'm not sure about that.

9 31 Q. Now, with respect to attending today, did you
10 discuss the evidence you agreed to give with anybody
11 else?

12 A. After I give the evidence or before I give
13 the evidence?

14 32 Q. For preparing for today?

15 A. Yes, I did.

16 33 Q. Who did you discuss it with?

17 A. The evidence as such.

18 34 Q. Yes.

19 A. I discussed it with Brian Gray and Mr. Shafik
20 Sachedina.

21 35 Q. Right. When did you discuss it with Mr.
22 Sachedina?

23 A. Pardon me?

24 36 Q. When did you discuss it with Mr. Sachedina?

25 A. Over the last few days.

1 37 Q. Over the last few days. Did you discuss
2 anything yesterday?

3 A. I met with him yesterday, yes.

4 38 Q. And you discussed the evidence with him
5 yesterday?

6 A. No, I did not discuss his evidence with him
7 yesterday.

8 39 Q. All right. Now, at paragraph 3 of your
9 Affidavit, you said that in October of 1998 you organized
10 and attended a meeting with the Defendant, Nagib Tajdin?

11 A. Correct.

12 40 Q. Now, this is during the time that Focus
13 Canada had fundraising events?

14 A. I'm not sure about that. I know it was late
15 in 1998, and to the best of my recollection it may have
16 been during the Focus event, or it may have been during
17 otherwise.

18 41 Q. Have you read Mohamed Tajdin's Affidavit?

19 A. Yes, I have.

20 42 Q. And there are some photos there. Did you see
21 those notes that are there?

22 A. Those are not from the meeting.

23 43 Q. Those are not from the meeting?

24 A. Not from the meeting.

25 44 Q. No, but there's photos from the Focus?

1 A. They're from an event that took place, which
2 was more a social event than anything else.

3 45 Q. But that the fundraising event, was it?

4 A. But I'm not sure whether the two times were
5 the same time or not. I'm not saying they were not; I'm
6 not saying they were. I'm saying I'm not sure whether
7 they were or not.

8 46 Q. So you have no recollection of that?

9 A. No recollection of that part, yes.

10 47 Q. Fine. Now, if I refer you to paragraph 8 of
11 your Affidavit, now this was concerning the mehmani that
12 was held on August 15, 1992, in Montreal. You say you
13 were vice-president at that time?

14 A. Yes, correct.

15 48 Q. And you were part of the organizing
16 committee?

17 A. I was part of the organizing committee.

18 49 Q. Now, can you please look at your last
19 sentence in there?

20 A. Yes.

21 50 Q. Now, you're saying: "To afford each Ismaili
22 the opportunity to meet His Highness, individual
23 audiences with the Imam were for a duration of only a few
24 seconds."

25 Are you suggesting that every person who went for

1 the mehmani were there only for a few seconds?

2 A. No, I'm not saying that.

3 51 Q. So would you agree with me that the mehmani
4 is a special occasion for Ismailis all over the world?

5 A. Mehmani is very special occasion in every
6 murid's life.

7 52 Q. And the specific purpose of this mehmani is
8 for the Imam and his murid to have an interaction and to
9 receive blessings of the Imam personally?

10 A. This is for the Imam to have an opportunity
11 to meet with individual members of the family, generally
12 two, and it is for them to receive Imam's blessings.

13 53 Q. When you say "family," two friends can attend
14 as well, can't they?

15 A. I'm not sure about that.

16 54 Q. Do you know if there's any rule, any
17 regulation, any announcement in jamat khana that friends
18 cannot --

19 A. Whereas I'm not aware of any rules or
20 regulation, the normal -- the norm has been that it's the
21 family members that go for the mehmani, because it is for
22 the family members.

23 55 Q. Right.

24 A. And generally the families take pride in
25 taking their family members with them.

1 56 Q. But that's a general statement, but what I'm
2 saying to you is two friends can go; correct?

3 A. I'm not sure about that.

4 57 Q. You're not sure about that. Okay. Would you
5 please undertake to confirm?

6 MR. GRAY: I'm waiting for your question.

7 BY MR. JIWA:

8 58 Q. Will you please undertake to confirm with
9 your organizing committee that was helping in organizing
10 during that event to see whether there were any rules
11 prohibiting any friends from attending for the mehmani?

12 MR. GRAY: No, we won't.

13 --- REFUSAL

14 BY MR. JIWA:

15 59 Q. Now, with respect to the mehmani, most people
16 are satisfied with just receiving the Imam's blessings;
17 correct?

18 A. Correct.

19 60 Q. And occasionally the Imam himself might ask
20 of his murids if he wishes to?

21 A. It is his prerogative.

22 61 Q. Yes, if he wishes to. But nobody can stop
23 him if he wanted to speak with somebody?

24 A. It's Imam's prerogative.

25 62 Q. And the purpose of the mehmani is also for

1 the murid, if he so chooses, to seek guidance from his
2 Imam?

3 A. It is. But the manner in which the guidance
4 is sought is generally there's a memorandum written to
5 the Imam, which is then given to the Imam. The Imam puts
6 it aside, or one of the mukhi puts it aside, and it is
7 responded to later on by the Imam.

8 63 Q. That is if the -- if that murid wants to give
9 something in writing, perhaps a medical report as an
10 example; isn't that true?

11 A. It could be anything.

12 64 Q. Are you suggesting or are you saying that
13 murids cannot speak or seek guidance orally from the
14 Imam?

15 A. Well, I said it's the Imam's prerogative to
16 give that guidance.

17 65 Q. No, that's not my question.

18 A. It's the accepted norm that murids do not --

19 66 Q. I'm sorry, that is not my question.

20 MR. GRAY: Let him finish his question.

21 MR. JIWA: No, but that's not my question.

22 MR. GRAY: He's giving you his answer.

23 MR. JIWA: He has misunderstood my question and
24 I'm going to ask the question.

25 BY MR. JIWA:

1 67 Q. And I would like you to respond to the
2 question rather than what you want to say.

3 My question was: Is the murid who presents the
4 mehmani prohibited from asking the question orally to the
5 Imam without giving any memorandum in writing?

6 A. It's not a generally-done thing.

7 68 Q. How many mehmanis have you attended, sir?

8 A. For whom?

9 69 Q. Any mehmanis. At this mehmani you were not
10 present?

11 A. I'm not sure whether I was present or not. I
12 did organize it.

13 70 Q. You are not sure whether you were present or
14 not in Montreal?

15 A. That's right. Because at that time we had
16 organized a 13-day visit across Canada. There were many
17 events I had to organize and, therefore -- this is one of
18 the ones there, and I had other responsibilities as well.
19 So I'm not sure whether I was present in that room or
20 not.

21 71 Q. And you agree with me that normally there are
22 about two members, two Ismailis, who present the
23 mehmani?

24 A. That's correct. Two members of the family.

25 72 Q. Well, you said that again, and I'm going to

1 repeat this again: There's nothing stopping two friends
2 from going; is that right?

3 A. And I answered you before that I'm not sure.

4 73 Q. But there's nothing -- you're not saying --
5 you are saying that you're not sure, but you're not
6 saying that two friends cannot attend; is that true?

7 A. I'm not saying they can.

8 74 Q. How many mehmanis have you done, sir?

9 A. My own? Personally?

10 75 Q. Yes.

11 A. As a murid to the Imam, one particular one,
12 and as the president of the Council, two.

13 76 Q. And how many mehmanis that have been -- not
14 personal mehmanis but mehmani ceremonies organized that
15 you have been present at?

16 A. Quite a few.

17 77 Q. How many about?

18 A. There are five jamats across Canada, so there
19 were a number of days over 13 days, there were probably
20 eight or nine days of mehmanis. So over those nine days,
21 I may have attended three or four.

22 78 Q. Right. You may have attended.

23 A. Right. Because I'm not sure of the exact
24 number.

25 79 Q. In total, not only during the visit in

1 Canada -- were you present in London, 2009, for the
2 Golden Jubilee?

3 A. 2009 Golden Jubilee?

4 80 Q. Yes.

5 A. No, I was not.

6 81 Q. 2008, rather, in London?

7 A. No, I was not.

8 82 Q. During the Golden Jubilee mehmanis were not
9 held?

10 A. Pardon me?

11 83 Q. During the Golden Jubilee visits by His
12 Highness, mehmanis were not organized?

13 A. I believe so, right.

14 84 Q. And not every visit mehmanis are organized?

15 A. That is correct.

16 85 Q. And the last time in Canada the mehmani was
17 organized during this 1992 visit?

18 A. So I believe.

19 86 Q. And before 1992, do you recall when were the
20 mehmani organized in Canada?

21 A. I understand it was 1978.

22 87 Q. And were you present in 1978?

23 A. Yes, I was.

24 88 Q. And how many mehmanis would you say that you
25 have attended yourself, not necessarily as present in

1 your own mehmani, or not necessarily as an organizer, how
2 many mehmani ceremonies have you sort of attended at?

3 A. I answered that question earlier on.

4 89 Q. You answered that with respect to the 1992
5 visit.

6 A. Yes.

7 90 Q. And I'm saying generally.

8 A. Well, in 1978, I was present during the
9 mehmanis, yes.

10 91 Q. And during 1978, His Highness spent a lot of
11 time with the jamats as well?

12 A. Yes, he did.

13 92 Q. And you were in Toronto?

14 A. Yes, I was.

15 93 Q. And you recall that there were many days he
16 spent in Toronto?

17 A. Many?

18 94 Q. Days.

19 A. Many days spent in Toronto. A few days spent
20 in Toronto.

21 95 Q. And, ultimately, on one occasion at about 1
22 o'clock in the morning he had to sort of stop the
23 mehmanis because he couldn't complete them all?

24 A. That is correct.

25 96 Q. And do you recall during that '78 visit, His

1 Highness a number of times said he wants to listen to
2 specially the mehmanis that are represented so the jamat
3 to remain calm?

4 A. Yes, I remember.

5 97 Q. He said that on a number of occasions?

6 A. Yes.

7 98 Q. And then he specified that he wishes to
8 listen to what his murids tell him, and he wants quiet in
9 the jamat so he can listen; he said that a number of
10 times?

11 A. Yes.

12 99 Q. Now, with respect to the Constitution that I
13 mentioned to you earlier, would you agree with me that
14 the last Constitution that was amended was in 1998?

15 MR. GRAY: That's correct.

16 BY MR. JIWA:

17 100 Q. And do you recall when was it amended before
18 that?

19 A. I believe it was promulgated in 1986.

20 101 Q. Right. And after 1986 and between 1986 and
21 1998, do you recall if the Constitution was amended
22 during that period?

23 A. Not that I'm aware of.

24 102 Q. And have you ever read the Constitution prior
25 to 1986?

1 A. No, I have not.

2 103 Q. Have you read this Constitution?

3 A. Yes, I have.

4 104 Q. And do you recall that His Highness had set
5 up a consulting body when he wanted to set up a new
6 Constitution?

7 A. Consenting body?

8 105 Q. A consultation body.

9 A. Yes, I recall that.

10 106 Q. Were you a part of that?

11 A. No, I was not.

12 107 Q. And do you recall His Highness saying that he
13 had spent almost three-and-a-half years reviewing all the
14 various Constitutions before he came up with this
15 Constitution?

16 A. No, I'm not aware of that.

17 108 Q. And you agree that the Constitution is a very
18 important document in our jamat?

19 A. It's a very important document.

20 109 Q. Would you agree with me that if His Highness
21 wishes and desires, indeed he sort of orders the jamats
22 and the leaders to abide by the Constitution, that any
23 changes to the Constitution would be relayed to the
24 jamat?

25 A. Yes, it would be.

1 110 Q. It could be or it would be?

2 A. It could be.

3 111 Q. It could be; right? That's how the jamat
4 would know what to expect and what to do.

5 Now, before you signed this Affidavit and before
6 you drafted it, did you review Mr. Sachedina's Affidavit?

7 A. No, I did not.

8 112 Q. And did you discuss with anybody, Mohamed
9 Manji or anybody else, with respect to the contents of
10 Mr. Sachedina's Affidavit?

11 A. I did not even read Mr. Sachedina's
12 Affidavit, so how could I have discussed it?

13 113 Q. Now, in your Affidavit you have disclosed all
14 of the -- all of the issues that you are -- that you are
15 aware of with respect to these matters?

16 A. Yes, I have.

17 MR. JIWA: Those are all my questions.

18 MR. GRAY: Thank you. Off the record.

19 ---Off-the-record discussion.

20 CROSS-EXAMINATION BY MR. TAJDIN:

21 114 Q. Mr. Bhaloo, you know me at least since 20
22 years, I think?

23 A. (Deponent nods head up and down).

24 115 Q. We have always had very amicable relations?

25 A. We still have.

1 116 Q. And we still. And when you were president,
2 vice-president, I was living in your jurisdiction in
3 Canada. And would you agree that we have never had a
4 fight?

5 A. I generally don't like to fight.

6 117 Q. And I also don't like to fight. So there is
7 no -- and there has never been any fight between us.
8 I've never raised the tone with you. I have always been
9 respectable; you agree to that?

10 A. (Deponent nods head up and down).

11 118 Q. And you would say the same thing of my
12 family?

13 MR. GRAY: Just to help, Mr. Tajdin, it's his
14 cross-examination, but in order for it to be meaningful,
15 you have to say "yes" or "no."

16 THE DEPONENT: All right. I know your family.

17 BY MR. TAJDIN:

18 119 Q. You know my family and we are all civilized
19 people; right?

20 A. Right.

21 120 Q. I think we also have some family relation
22 from the mother's side or something; right?

23 A. Generations ago maybe, yes.

24 121 Q. Generations to generations. Okay.

25 Would you agree that my family is well respected

1 in the jamat -- let me rephrase that -- was well
2 respected in the jamat before this announcement and this
3 lawsuit and -- was it very respected? Yes? No?

4 A. Yes.

5 122 Q. Okay. We talk of the Constitution, and you
6 said that it was an important document. It's important
7 like the farmans are important; right?

8 A. Yes.

9 123 Q. Yes? Yes. And you took an oath on the
10 Constitution even today?

11 A. Yes.

12 124 Q. There was a question which came, and I was
13 thinking that is this something which is in the
14 Constitution about, can a farman supersede the
15 Constitution? Or an article of the Constitution, can it
16 be superseded by a subsequently farman?

17 A. Well, I answered that earlier on by saying
18 I'm not sure.

19 125 Q. Yes.

20 A. I think it would be a decision that would be
21 His Highness's, it would be his instruction that would
22 dict what supersedes what.

23 126 Q. You know when you said you were not sure,
24 actually I was not sure. So I went right away to the
25 Constitution to verify. And if we can refer to the same

1 document, article 1.6?

2 MR. GRAY: Of the Constitution or of the
3 Regulations?

4 MR. JIWA: The Constitution.

5 MR. TAJDIN: The Constitution on page 10.

6 MR. GRAY: Sorry, Mr. Tajdin, but I don't see a
7 1.6.

8 MR. JIWA: It's on page 10.

9 MR. GRAY: Page 10 I see a bunch of
10 definitions.

11 MR. TAJDIN: Oh, sorry, it's Rules and
12 Regulations page 10.

13 MR. GRAY: All right. 1.6, right.

14 BY MR. TAJDIN:

15 127 Q. Can you read that to me, loud voice please?

16 A. 1.6: "The Constitution, and in the event of
17 conflict the Constitution..."

18 128 Q. From the title. And read it slowly so she
19 can type.

20 A. Okay. "These Rules and Regulations shall be
21 read with

22 "(a) the Constitution, and in the event of
23 conflict the Constitution shall prevail; and

24 "(b) any Farman made after the date hereof, and
25 in event of conflict the said Farman shall

1 prevail, and a later Farman shall prevail over an
2 earlier."

3 129 Q. So would this mean that if a farman is made
4 after the Constitution, the farman would be followed?

5 A. This is what the regulation says.

6 130 Q. Okay. Would it mean that the farman is more
7 important than the Constitution, and the Imam can
8 abrogate the Constitution or make any change whenever he
9 wants even after it is printed?

10 MR. GRAY: I'll let the witness answer this to
11 his understanding, but he's not a constitutional
12 expert.

13 BY MR. TAJDIN:

14 131 Q. Yes? No? You have sworn by the --

15 MR. GRAY: If you feel comfortable answering to
16 your own expertise, then fine.

17 THE DEPONENT: No, I don't understand the
18 question.

19 MR. GRAY: Okay. Well, that's a good start.

20 BY MR. TAJDIN:

21 132 Q. Can I rephrase?

22 A. Yes.

23 133 Q. Okay. You have read the Constitution. We
24 have just read article 1.6. In your understanding, does
25 it say that a farman which is made after the Constitution

1 will supersede any article of the Constitution if there
2 is a conflict?

3 A. I am not sure about that. I'm not an
4 constitutional expert.

5 134 Q. Okay. A short question about 1998 or about
6 that period. Did you send any farman books to Sachedina
7 after that meeting, three books or all of the --

8 A. I believe I did not. You gave them some
9 farman books -- gave him some farman books, yes.

10 135 Q. So you have not done it?

11 A. No.

12 136 Q. Okay. How many of the farman books I have
13 printed you have at your home either in Nairobi or in
14 Toronto?

15 A. I have one book which is not printed. You
16 gave it to me at the meeting. It is a white book. It's
17 a draft farman. That's the one I have.

18 137 Q. It was a white book?

19 A. Yes. It had a white cover on it, and it said
20 "draft."

21 138 Q. Okay. Can you take an undertaking --
22 undertaking of producing it?

23 MR. GRAY: I'll take that under advisement. I'm
24 not going to undertake to do it, but I will consider it.
25 --- UNDER ADVISEMENT

1 MR. TAJDIN: Okay. Can you produce --

2 MR. GRAY: As you know, this is a cross-
3 examination.

4 MR. TAJDIN: -- a colour photograph of that draft
5 book?

6 MR. GRAY: Okay, that's an alternative. We'll
7 consider that, too. As this is a cross-examination,
8 there's no duty to produce anything, but we will consider
9 it.

10 So you would like, as an alternative to producing
11 the whole book, you would like a photograph of --

12 BY MR. TAJDIN:

13 139 Q. I don't need the book because obviously I
14 know what it is, but I just had a question because it was
15 said it's a white cover, and I don't remember giving you
16 any white-cover book. So just a colour photo will do.

17 MR. GRAY: So you would like a colour photograph
18 of the cover of this document, this draft book?

19 MR. TAJDIN: Yes. I would like to see if it is
20 white or it is burgundy. Just a colour photo.

21 MR. GRAY: Okay. Well, we'll take that under
22 advisement, but likely -- we don't want to make the
23 farman book and the draft farman book a record any more
24 than you do.

25 MR. TAJDIN: I agree. I agree with you. I said

1 yesterday that we all agree we don't want to put the
2 farmans into exhibits, but a colour photo would do, just
3 a digital colour photo.

4 MR. GRAY: We'll take that under consideration.

5 --- UNDER ADVISEMENT

6 BY MR. TAJDIN:

7 140 Q. Now, we established that farmans are quite
8 important because even it's mentioned in the Constitution
9 and the Rules and Regulations. Would you say talikas and
10 farmans are of the same importance?

11 A. They are both by the Imam, they are both
12 different purposes, and I would not state whether one is
13 more important than the other.

14 141 Q. But the talika would be a kind of a farman,
15 wouldn't it be? A talika is kind of a farman?

16 MR. GRAY: Again, I'm going to let the witness
17 answer within his own knowledge or belief or
18 understanding, recognizing that he's not here as a
19 religious or constitutional or a legal expert. But if
20 the witness feels comfortable answering as to his own
21 understanding --

22 BY MR. TAJDIN:

23 142 Q. Okay. Mr. Bhaloo, not as a leader, not as a
24 constitutional expert, just as an Ismaili, would you say
25 that a talika and a farman is about the same thing; a

1 talika is a written farman?

2 A. They're both given by the Imam, yes.

3 143 Q. You would accept that the talika is a written
4 farman?

5 A. Sometimes the talikas are blessings, not
6 farmans.

7 144 Q. Oh, blessings are not farmans?

8 A. I told you that talikas are sometimes
9 blessings given by the Imam to the individuals, but not
10 instructions in farmans.

11 145 Q. What about -- let's talk of -- tell me
12 just -- you don't have to reply, just what age are you?

13 A. Old enough.

14 146 Q. Old enough. So in the '60s were you in East
15 Africa?

16 A. In the 1960s?

17 147 Q. Yes.

18 A. Yes, I was.

19 148 Q. Do you remember that period?

20 A. Parts of it, yes.

21 149 Q. Was it Nairobi or Kisumu or someplace around
22 Kenya?

23 A. Both.

24 150 Q. Do you remember at that time when a talika
25 was to be read, it was announced, and Ismailis kotters

1 [ph.] in the street with drums and a person going around
2 saying there is talika tonight?

3 A. Yes, I believe so.

4 151 Q. And the flag was put --

5 A. I do not think it was the '60s, though. It
6 was the '50s.

7 152 Q. It was the '50s. Sorry. I did not think you
8 would remember up to that time. I think you look so
9 young.

10 But, okay, so 50's. And the flag would go up on
11 the jamat khana, and people seeing the flag up would know
12 that there's a talika?

13 A. Correct.

14 153 Q. Now, we both live in Nairobi, so even today
15 when there is a talika, the flag goes up to the jamat
16 khana. Have you noticed that?

17 A. No, I have not.

18 154 Q. You have not noticed?

19 A. No, I have not.

20 155 Q. I would just suggest that it's a good thing
21 to notice.

22 A. Thank you.

23 156 Q. So a talika, when it is read, I just want to
24 go through some of the ceremonies that accompany the
25 talika to show how important it is.

1 Is it true that when a talika is to be read,
2 there is a special ceremony for holy water?

3 A. Yes.

4 157 Q. Is it true that when a person is called to
5 read the talika, usually it's a person of standing,
6 someone very respected?

7 A. Mr. Gray, these are -- these are really
8 questions dealing with religious matters and --

9 MR. GRAY: You have to speak up for the --

10 THE DEPONENT: These are really questions of
11 religious matters, and I don't know whether it's
12 pertinent to the case.

13 MR. GRAY: It is not pertinent to the case. It's
14 totally irrelevant, in my submission, but I was letting
15 Mr. Tajdin have as much leeway as I thought reasonable.
16 It is really way beyond anything relevant to this case,
17 and so in the interest of --

18 MR. TAJDIN: Okay, we are trying to define --

19 MR. GRAY: You're paying for your transcript and
20 so you're paying for my copy of the transcript, so --

21 MR. TAJDIN: Mr. Gray --

22 MR. GRAY: Let me finish. You're paying for
23 transcript and I'm paying -- and you're paying for my
24 copy of the transcript. So if you want to go on like
25 this, spending money and time on irrelevant matters, I'm

1 going to let you do that as long as the witness feels
2 comfortable.

3 But when you're exploring these questions of holy
4 water in Nairobi and the talika flag, I think we are
5 getting awfully far afield from the issues in this case.
6 So if you could try. And I really would like to give you
7 as much leeway --

8 MR. TAJDIN: Mr. Brian --

9 MR. GRAY: Let me finish.

10 MR. TAJDIN: This is going just -- like, how long
11 are you going to talk? Because we want to put it brief.
12 You have said what you have to say. So can I continue
13 asking my questions?

14 MR. GRAY: You interrupted me, but fine, go
15 ahead.

16 BY MR. TAJDIN:

17 158 Q. Okay. Mr. Bhaloo, the book on which you have
18 written an affidavit contains talika and farmans;
19 right?

20 A. Clarify that?

21 159 Q. There is this Affidavit -- you are saying in
22 your Affidavit that you are making this Affidavit in
23 support of the Plaintiff's motion for summary judgment
24 and for no other purpose? The last line. Do you know
25 the subject matter of this lawsuit?

1 A. Yes, I do.

2 160 Q. Okay. Would you agree that it's on a book
3 which contains talika and farmans?

4 A. Yes. It contains farmans, yes.

5 161 Q. Does it contain talikas also?

6 A. I have not read the Golden Edition book, so I
7 would no know. This is the first time I'm looking at it.

8 MR. GRAY: The witness is referring to a book
9 sitting on the table here in the examination room.

10 BY MR. TAJDIN:

11 162 Q. You have written an affidavit in support of
12 the motion. Have you read the motion? Did you read the
13 motion?

14 A. Yes, I did.

15 163 Q. So you know it's about farmans and talika
16 book?

17 A. It is for summary judgment.

18 164 Q. It doesn't matter what summary judgment on
19 what subject?

20 A. Yes, it does.

21 165 Q. Okay. Is it on a book which was printed with
22 farmans and talikas?

23 A. I remember the farman. I don't know about
24 the talikas.

25 MR. GRAY: If it helps, we'll admit that the book

1 contains farmans and talikas. If that helps you, we'll
2 admit that.

3 BY MR. TAJDIN:

4 166 Q. Yes. And I will not go through the 15 or 12
5 ceremonies which accompany the reading of a talika. I
6 will just ask you one general question: When a talika is
7 read, there are a lot of religious ceremonies surrounding
8 the reading of the talika; yes or no?

9 A. Mr. Tajdin, these are matters for those who
10 have been initiated into the faith, and they are not
11 matters for public discussion, and I will not get into
12 that.

13 167 Q. Okay. Mr. Bhaloo, I'm not sure what to ask
14 because it looks like you are very much on the defensive
15 and whatever I would ask would not bring me any kind of
16 reply.

17 You organized the 1992 visit of His Highness to
18 Canada?

19 A. Yes, I did.

20 168 Q. And you organized all the deedars?

21 A. Yes, I did.

22 169 Q. Okay.

23 A. And when I say "I" organized, it wasn't me
24 alone. There were other people working with me.

25 170 Q. There are usually committees for transport

1 and committees for logistics -- even for preparing food;
2 right?

3 A. That's correct.

4 171 Q. Okay. Is it true that not all of the
5 families got a mehmani at that time?

6 A. That is correct.

7 172 Q. Is it true that it was only the people whose
8 name was starting with the first letters of the alphabet,
9 A, B, C, D, maybe?

10 A. That is correct.

11 173 Q. So there is no way someone named Tajdin could
12 go into this mehmani?

13 A. Well, they could not.

14 174 Q. They could not. You knew that?

15 A. Yes.

16 175 Q. Now, in your sworn Affidavit number 6, when
17 you said in the last line, "...Mr. Tajdin had a brief
18 audience with His Highness on August 15, 1992," you know
19 that in 1992 someone with the name "T" cannot have had a
20 brief audience?

21 A. That was my recollection at the time. Then
22 after having read Karim Alibhay's affidavit, I realized
23 it was Karim Alibhay who has taken the --

24 176 Q. Okay, so is this something that you are
25 changing in your Affidavit?

1 A. I believe this was the representation you had
2 made. That was the best of my recollection.

3 177 Q. Okay. I guess if I asked you if Imam makes
4 farman as Imam, you would say it's a religious matter, or
5 would you accept that?

6 A. What was the question again?

7 178 Q. If I say that the Imam makes farmans as Imam,
8 as bearer of the Noor, would you say it's a religious
9 matter that you don't want to discuss or would you agree
10 to that?

11 A. If Imam makes the farmans, yes, I agree with
12 that.

13 179 Q. Is he the bearer of the Noor?

14 A. Yes, he's the bearer of the Noor, yes.

15 180 Q. Does "Noor" mean "light"?

16 A. "Noor" means "light."

17 181 Q. It's connected to "Devine Light"?

18 A. Well, it's a matter of individual
19 interpretation. It's a matter of what you believe, and
20 it's a personal search, essentially.

21 182 Q. Do we have that old Constitution which -- we
22 have put an exhibit yesterday that -- exactly. Can we
23 refer to page 7?

24 MR. GRAY: Again, I guess -- you haven't asked
25 the witness whether he's ever seen this Constitution

1 before.

2 MR. TAJDIN: I'll ask that.

3 BY MR. TAJDIN:

4 183 Q. Are you aware that there were other
5 constitutions before '86?

6 A. I believe there was constitutions before
7 1986, and in 1986 when His Highness promulgated the
8 current Constitution, then this is the Constitution in
9 force.

10 184 Q. Okay. Very good. Were you aware that in the
11 previous Constitution there were chapters on publication
12 of farmans and publication of religious literature?

13 A. I had not read the previous Constitution so I
14 couldn't comment on it.

15 185 Q. Okay. Would you agree that in this
16 Constitution there is mentioned, since you have read the
17 Constitution because you had an oath of allegiance on it,
18 that --

19 MR. GRAY: I'm just trying to understand.
20 Which --

21 MR. TAJDIN: Can I finish my question before you
22 object?

23 MR. GRAY: Okay.

24 MR. TAJDIN: Or I think we are going nowhere.
25 Let me just stop this examination because --

1 MR. GRAY: I really just wanted to clarify your
2 question.

3 MR. TAJDIN: Please, Mr. Gray, before even I
4 finish my question you are already raising your hand. I
5 don't know if you are trying to intimidate me, but I
6 don't want to continue this interrogation. I told you I
7 will be brief.

8 MR. GRAY: Well, let me --

9 MR. TAJDIN: So it was just few minutes?

10 MR. GRAY: Well, let me explain for the record
11 what I was trying to stop. I wanted, before the witness
12 answered, to understand when you said "this"
13 Constitution, which Constitution you were referring to.
14 Because you have put before us a 1948 Constitution, you
15 referred to a pre-1986 Constitution, and you were also
16 questioning on the 1986 current Constitution.

17 MR. TAJDIN: Mr. Gray, let's stop here, please.

18 MR. GRAY: That's fine.

19 MR. TAJDIN: Thank you.

20 MR. GRAY: I have no re-examination.

21 --- WHEREUPON THE EXAMINATION ADJOURNED AT 10:36 AM.

22 I HEREBY CERTIFY THE FOREGOING
23 to be a true and accurate
24 transcription of my shorthand notes
25 taken to the best of my skill and ability.

25 _____
 KATHRINE MCMENEMY, CSR
 Computer-Aided Transcription

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