

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

LAW OFFICES OF ARMAN DABIRI)
& ASSOCIATES P.L.L.C.)
1725 I Street, N.W.)
Suite 300)
Washington, D.C. 20006)

Civil CASE NO. 17-cv-2497

Plaintiff,)

v.)

THE AGRICULTURAL BANK OF SUDAN)
Ministry of Foreign Affairs)
Khartoum, Sudan)

THE MINISTRY OF AGRICULTURE)
AND FORESTS)
Ministry of Foreign Affairs)
Khartoum, Sudan)

CENTRAL BANK OF THE REPUBLIC)
OF THE SUDAN)
Ministry of Foreign Affairs)
Khartoum, Sudan)

SALAH ELDIN HASSAN AHMED)
Ministry of Foreign Affairs)
Khartoum, Sudan)

Defendants)

COMPLAINT

(Breach of Contract and non payment of attorney's Fees)

1. This is an action for breach of contract of a retainer agreement and non-payment of attorney's fees by the Agricultural Bank of Sudan and various Sudanese governmental departments, its official, and agencies to the Law Offices of Arman Dabiri & Associates, P.L.L.C. for representation and legal services.

THE PARTIES

2. Plaintiff Law Offices of Arman Dabiri & Associates, P.L.L.C. is a Professional Limited Liability Company existing under the laws of, and doing business in, the District of Columbia.

3. Defendant Agricultural Bank of Sudan ("ABS") is an agency of the Republic of the Sudan ("Sudan") and as such is a part of the Government of Sudan, as the term is defined in 28 U.S.C. § 1603

4. Defendant Ministry of Agriculture & Forests is a department of Sudan and as such is a part of the Government of Sudan, as the term is defined in 28 U.S.C. § 1603, and is responsible for the agricultural policy, procurement, negotiations and contracts in that sector on behalf of Sudan. The Ministry of Agriculture and Forests maintains control and has jurisdiction over the Agricultural Bank of Sudan. ABS acts as the specifically

designated bank on behalf of the Ministry of Agriculture and Forests.

5. Defendant Central Bank of Sudan is a department of Sudan and as such is a part of the Government of Sudan, as the term is defined in 28 U.S.C. § 1603. The Central Bank acts as the monetary authority on behalf of the Government of Sudan, manages a Sudan's currency, money supply, and is the supplier of hard currency and regulates hard currency availability to other departments within the Government of Sudan.

6. Individual defendant SALAH ELDIN HASSAN AHMED is a citizen of Sudan and the managing director and official of the Agricultural Bank of Sudan. He is responsible for managing the ABS as well as the authorized to enter into contracts on behalf of ABS. Defendant in such capacity is an agent of the Government of Sudan as the term is defined in 28 U.S.C. § 1603.

JURISDICTION AND VENUE

7. The matter in controversy exceeds, exclusive of interest and costs, the sum of seventy-five thousand dollars. Subject-matter jurisdiction is vested in the Court under 28 U.S.C. § 1330.

8. This Court has subject-matter jurisdiction over defendants the Agricultural Bank of Sudan, the Ministry of Agriculture and Forests, the Central Bank of Sudan, and Salah Eldin Hassan Ahmed (acting in his official capacity as managing director for

Agricultural Bank of Sudan) pursuant to the Foreign Sovereign Immunities Act of 1976 (“FSIA”), as amended 28 U.S.C. § 1605(a)(1) and 1605(a)(2), and related statutes.

9. Venue is properly laid in this District under 28 U.S.C. §1391(f)(4).

FACTS OF THE CASE

10. Sudan, pursuant to 50 U.S.C. App. § 2405(j) or 22 U.S.C. § 2371, was designated as a State Sponsor of Terrorism by the Secretary of State on August 12, 1993. Designations under these statutes are made by the Secretary of State for the purposes of regulating, respectively, exports and foreign aid.

11. In 1996, as part of the comprehensive Antiterrorism and Effective Death Penalty Act (“AEDPA”), Pub.L. No. 104-132, §221(a), 110 Stat. 1214 (Apr. 24, 1996) (1996 Amendment), Congress amended the FSIA to add a new exception to sovereign immunity where money damages were sought against foreign states that have been designated as state sponsors of terrorism by the Secretary of State. Suit could be brought under the 1996 Amendment for *personal injury* or *death* caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources . . . for such an act. 28 U.S.C. § 1605(a)(7). In 2008, the FSIA was amended again and Section 1605(a)(7) was repealed and replaced by 28 U.S.C. § 1605(A). Pub. L. No. 110-181, § 1083, 122 Stat. 3, 338-44 (2008). Section 1083 of the National Defense Authorization Act for Fiscal Year 2008 (NDAA) named "Terrorism exception to the

jurisdictional immunity of a foreign state” expands the category of persons who could bring suits against certain designated foreign sovereign states and creates a private cause of action (amongst other changes). *Id.*

12. On November 3, 1997 President Bill Clinton issue Executive Order 13067 - “Blocking Sudanese Government Property and Prohibiting Transactions With Sudan”. The sanctions against the Sudanese Government were due to Sudan’s “policies and actions..., including continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom...”. *Id.*

13. On October 17, 2006 President G. W. Bush issued Executive Order 13412 - “Blocking Property and Prohibiting Transactions With the Government of Sudan”. The Executive Order further expanded the sanctions and prohibition on exports to Sudan previously authorized in Executive Order 13067. The Executive Order articulated the reasoning as the “continuation of the threat to the national security and foreign policy of the United States created by certain policies and actions of the Government of Sudan that violate human rights, in particular with respect to the conflict on Darfur . . . it is in the interests of the United States to take additional steps with respect to the national emergency declared in Executive Order 13067 of November 3, 1997.” *Id.*

14. On January 13, 2017 President Barak Obama issues Executive Order 13761 - “Recognizing Positive Actions by the Government of Sudan and Providing for the Revocation of

Certain Sudan-Related Sanctions”. Executive Order 13761 provides for the “revocation of the sanctions provisions in E.O.s 13067 and 13412.” *Id.*

15. The Executive Order temporarily lifted and removed certain sanctions imposed by the United States on the Republic of the Sudan in light of Sudan’s “progress towards meeting certain human rights and security requirements by the united States in order to move towards a possible normalization of certain trade relations between the two countries.”

16. The loosening of the sanctions against Sudan were on a probationary basis and the Department of State would within six months of the issuance of the Executive Order No. 13761 issue a “report card” which could lead to a permanent lifting of certain sanctions against the Republic of the Sudan. The report by the Department of State was to be issued on July 12, 2017.

17. On or about March 2017, the Plaintiff was contacted by the Agricultural Bank of Sudan (hereafter “ABS”), through a designated agent, seeking legal representation and legal counsel for the Agricultural Bank of Sudan in the United States.

18. On April 27, 2017, ABS further communicated, in writing by way of letter captioned “Letter of Interest”, seeking legal assistance “in establishing relationships with the USA and US financial institutes [*sic*] in order to facilitate all kids of financial trades and transactions with US companies”. ABS further sough assistance in the pursuance of “completing the removal of [US] sanctions”. ABS requested Plaintiff’s legal fees and

associated expenses for the requested legal services. Plaintiff was further informed that ABS, the agency responsible for the governmental banking needs of the Ministry of Agriculture and Forests was having difficulty in establish banking relationships with private banking institutions within the United States due to the temporary nature of the lifting of the sanctions against the Government of Sudan. United States Banking institutions were also reluctant in engaging various agencies and departments of the Government of Sudan due to its continued presence on the State Sponsor of Terrorism list.

19. On May 5, 2017, ABS executed a Retainer Agreement with Plaintiff for a flat fee lump sum structure for legal services for \$200,000.00 payable 30 from the date of the execution of the Retainer Agreement.

20. Work on both the establishing of a banking relationship between ABS and US financial institutions as well as work towards the continuation of the easing of sanctions against Sudan was undertaken immediately by the plaintiff due to the time sanative nature of the upcoming report by the U.S. Department of State. ABS assured plaintiff that payment pursuant to the retainer agreement would be made shortly.

21. Plaintiff undertook an extensive review of all sanctions as well as all litigation against Sudan including cases by U.S. plaintiffs against Sudan under the terrorism exception to the Foreign Sovereign Immunities Act. This work was mandated as preparation for meeting with the United States Department of State as well as other US

Departments and agencies as well as an understanding of all legal issues that could play a role for the removal of US sanctions against Sudan on a more permanent basis.¹ Plaintiff further made preparation for an anticipated trip by various Sudanese officials to Washington, D.C.

22. ABS, for a period of time from May of 2017 to July of 2017 cooperated with plaintiff in providing the necessary documents for establishing financial and a banking relationship with an identified US Bank for purposes of several anticipated contracts with US companies specializing in irrigation and agricultural equipment.

23. ABS indicated that the delays in payment of plaintiff's legal fees pursuant were temporary and due to alleged problems with obtaining hard currency from the Central Bank of Sudan. ABS requested that work by plaintiff continue based on promises and assurances that payment pursuant to the retainer agreement would be forthcoming.

¹ The review of litigation against Sudan was extensive and time consuming. There are large number of suits instituted against Sudan before this Court where default judgements were issued in the for the personal injuries suffered by victims, and family members of the victims, for the al Qaeda embassy bombings in Nairobi, Kenya and in Dar es Salaam, Tanzania. (See Case Nos. 14-5105, 14-5106, 14-5107, 14-7124, 14-7125, 14-7127, 14-7128, 14-7207, 16-7044, 16-7045, 16-7046, 16-7048, 16-7049, 16-7050, 16-7052).

The Court may take judicial notice that in 2016 Sudan made an appearance and took an appeal of all the above referenced cases consolidated before the United States Court of Appeals for the District of Columbia Circuit. On July 28, 2017 the Court of Appeals denied Sudan's appeal. Owens v. Republic of Sudan (D.C. Cir. 2017). The opinion of the Court of Appeals noted that in "2004 Sudan secured counsel and participated in the litigation. Within a year, its communication with and payment of its attorneys ceased but counsel continued to litigate until allowed to withdraw in 2009."

24. On July 7, 2017, a full banking relationship was established between ABS and a US Banking institution including the approval of a SWIFT relationship enabling ABS to engage in international wire transfers between Sudan and the United States.

25. During the period after July 7, 2017 ABS (and its designated agent), commenced providing contradictory information regarding the timing of payment to plaintiff. No payments were made despite the establishment of a banking relationship and SWIFT protocol.

26. ABS was provided several reports and demand letters by plaintiff between July 7 and September 2017. Throughout that time period ABS stopped responding to plaintiff. ABS's designated agent in the matter provided contradictory information relating to the timing of payment as well as requests that were in violation of ethical and legal obligations of plaintiff to ABS. The designated agent, in writing and orally, also informed plaintiff that it did not have any reliable information from ABS.

27. At all times relevant to this suit Plaintiff Dabiri was legal counsel to ABS in Washington, D.C.

28. On September 15, 2017 plaintiff forwarded a demand letter for the outstanding fees pursuant to the retainer agreement to the General Manager of the ABS as well as the newly appointed Minister of Agriculture and Forests in Sudan. Plaintiff, within the same letter, provided notice that in the absence of payment plaintiff would move to file a complaint against ABS and other defendants before this Court. At the time

of this complaint plaintiff has not received an acknowledgment or response to its demand letter of September 15, 2017.

COUNT ONE

BREACH OF RETAINER AGREEMENT

29. Paragraphs 1- 28 hereof are incorporated herein.

WHEREFORE, the Plaintiff demands judgment for breach of retainer agreement against the Defendants for a total of \$200,000.00, together with prejudgment and post judgment interest at the legal rate.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that the Court grants Plaintiff judgment in its favor against Defendants on Count One and further grant Plaintiff:

A. That Defendants pay to the Plaintiff's reasonable costs and expenses of this action, and

B. That Defendants pay to the Plaintiff reasonable attorney's fees to be allowed to the Plaintiff by the Court; and

C. That Plaintiff have such other and further relief as is just.

Dated: Nov. 15, 2017

//s// A. Dabiri
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