AFE BABALOLA & CO.

(Legal Practitioners & Arbitrators)

Emmanuel Chambers... Since 1965

Partners:
AARE AFE BABALOLA, *OFR, SAN, FNIALS, FCIArb, LL.D (Principal Partner)*
ADEBAYO ADENIPEKUN, *SAN, FCIArb. (Managing Partner)*
OLU DARAMOLA, *SAN, FCIArb., FCTI (Deputy Managing Partner)*
KEHINDE OLAMIDE OGUNWUMIJU, *SAN, FCIArb.*
TUNDE BABALOLA, *Esq*
OLUWASINA OGUNGBADE, *Esq*
PETER OLOMOLA, *Esq*

Reply to:
Abuja Office

Thursday, 30th July 2020

"WITHOUT PREJUDICE"

By E-mail

Lords & Temple,
info@lordsandtemple.com, **lordsandtemple2002@yahoo.com,**
294, (2nd Floor) Herbert Macaulay Way,
Sabo-Yaba, Lagos.

Attention: Gboyega Oyewole SAN, ACIArb (UK).

Dear Sir,

RE: FORMAL REQUEST FOR THE PAYMENT OF 5% WHISTLE-BLOWER COMPENSATION FOR INFORMATION FURNISHED IN RESPECT OF CRUDE OIL STOLEN FROM THE FEDERAL REPUBLIC OF NIGERIA

The above subject matter and your letter of 23rd July 2020 refer.

We are solicitors to the Nigerian National Petroleum Corporation (NNPC), **(hereinafter referred to as "our client")** on whose behalf and instructions we write this letter.

We wish to emphatically and unequivocally state for the record that our client vehemently denies your client's claim that it provided any information to NNPC or the Federal Government of Nigeria which information led to the identification and/or recovery of 48 Million Barrels of stolen Nigerian Bonny Light Crude Oil stored in the People's Republic of China.

Accordingly, it is our client's position that your client is not entitled to the payment of five percent (5%) of the value of the allegedly stolen crude or any amount whatsoever as compensation for information it purportedly gave to the Federal Government of Nigeria in respect of the said stolen crude stored in the People's Republic of China. Our client further posits that your client's claims are not only unfounded but frivolous and of no consequence. With utmost respect, your client's claims are a continuation of a gold-digging scheme involving local and cross-border fraudsters aimed at blackmailing and extorting money from our client and the Federal Government of Nigeria.

In Chambers

OLA FARO, *Esq*
ABIMBOLA AROWOSEBE (MRS), *MCIArb.*
ADEBUSOLA SIJUADE IYAMU (MRS), *ACIArb.*
OLAYINKA FADAIRO OGUNDIRAN (MRS)
FATAI OLASHENI LAWAL, *Esq*
IKOBAH HILTON, *Esq*
OPEYEMI MICHAEL BABALOLA
CHUKWUDI MADUKA, *Esq., LLM*
KELLY OGHENERO OGBE, *Esq., LLM, ACIArb*

IHEANYICHUKWU CHUMENKA UWA, *Esq*
SUNDAY OJONUGWA ONUBI, *Esq, MCIArb.*
ADEMOLA ABIMBOLA, *Esq, LLM, MCIArb.*
TOYESE OWOADE, *Esq*
OLAMIDE MOJIGBOTOLUWA ADEKUNLE (MRS), *MCIArb.*
OLAREWAJU OLAKUNLE JAYEOBA, *Esq.*
BRIDGET OMONUKPON EMENGO (MRS)
PARTNER DAVIES, *Esq.*
OLUWABUSAYO R. OYEDEJI (MISS), Msc., Lcs

MAYOWA GBENRO, *Esq*
ABIBAT BANKOLE APENA (MRS), *ACTI*
EMMANUEL BOLU ARANSIOLA, *Esq, LLM*
FRANCES CHINYERE NWOKOLO (MISS)
TUNDE AHMED ADEJUMO, *Esq*
ADEWALE MOSADOMI, *Esq*
ATILOLAOLUWA TAIWO (MISS), ACIArb
OLUWATEMILORUN A. ADENIPEKUN, *LLM, MCIArb.*

BACKGROUND FACTS

For your information, your client first contacted officials of the Federal Government of Nigeria sometime in 2015. It alleged that it had been approached by an unnamed group in the People's Republic of China to purchase 48 Million Barrels of Nigerian Crude Oil (Bonny Light Grade) which your client believed to have been stolen from Nigeria. According to your client, the stolen crude was shipped out of Nigeria before the inception of the President Buhari-led government in 2015 and stored in various ports and terminals in the People's Republic of China. Your client requested that it be allowed to purchase the stolen crude upon its recovery as compensation for sharing the information with the Federal Government.

From the onset, our client doubted the veracity of your client's claim that there were 48 Million Barrels of stolen Nigerian Crude Oil stored in China as the earlier claims made to the Federal Government by other entities in respect of stolen Nigerian Crude Oil stored in China turned out to be false. Also, based on the operations and state of the international crude oil market in 2015, it was impossible to ship 48 Million Barrels of Crude Oil from Nigeria to China without any record or trace of same. For context, as of 2015, the daily production of crude oil in Nigeria was below 1.6 million barrels. Therefore, 48 million barrels of crude oil would have been the total production capacity of the whole country for a month. It is simply impossible that one-month crude oil production would disappear without any record or trace.

Our client, as the responsible party for crude oil export arrangements in Nigeria, was also aware that the export of Crude Oil from Nigeria to China was exclusively undertaken by four known companies approved by, under the control, ownership and management of the Chinese Government. It would, therefore, have been impossible to transport 48 Million Barrels of Crude Oil from Nigeria to China under any guise without the active involvement of the said companies especially as China is easily one of the most regulated economies in the world. Again, from an economic standpoint, it made little or no sense that anyone would store that volume of Crude Oil (48 Million Barrels), in China for such a considerable period having regard to the attendant significant storage costs. Furthermore, the Chinese Government had in response to the allegation of stolen Nigerian crude oil in China, stated emphatically at different fora at the material time, including at the United Nations General Assembly, that there is NO drop of stolen Nigerian Crude Oil stored in any port, terminal, storage facility or any other place whatsoever in China.

Despite the foregoing and in keeping with the policy thrust of President Buhari's administration, which has always emphasized transparency, accountability, the fight against corruption and the recovery of the country's looted resources as integral components of State policy, the Federal Government set up the Presidential Committee on Recovery of Stolen Nigerian Crude Oil in response to the claims made by several companies including your client that they were in possession of information in respect of stolen Nigerian Crude Oil stored at various locations including in China. Our client designated Mr Mele Kyari, who was then our client's Group General Manager, Crude Oil Marketing

Division, with the responsibility of interfacing with the Committee as well as entities (including your client) who claimed they had information relating to the stolen crude.

The said Presidential Committee requested that your client furnish it with evidence in proof of its allegations to enable it investigate and validate your client's claim. However, your client, while continually maintaining its position as to the existence of the stolen crude oil, refused, failed or neglected to furnish the Committee with any cogent and verifiable evidence in support of its allegations.

Notwithstanding the failure of your client to produce verifiable evidence in support of its allegations, which fact was contained in the Committee's Report, the Government mandated Mr. Rabiu Suleiman and Mr. Mele Kyari to visit China to conduct further investigation of your client's claim.

During this fact-finding trip to China, it was discovered that your client's claim was false and the said 48 Million Barrels of stolen Nigerian Crude Oil or any stolen Nigerian Crude Oil in any port, terminal or storage facility in any part of China never existed. It was also discovered that all the documents presented by your client in support of its claims were not genuine. A full report of these finding was accordingly communicated to Mr. President. Consequently, the Federal Government and our client discontinued all communications with your client as it became apparent that its claim was a hoax.

RESORT TO BLACKMAIL BY YOUR CLIENT

When your client realized that the Federal Government was no longer interested in the non-existent stolen crude, it resorted to blackmail and intimidation of key officials of the Government and our client. Your client, through its Managing Director/CEO, threatened to publicize the fact that the 48 million Barrels of stolen Nigerian Crude Oil in China had been recovered, sold and the proceeds therefrom looted by some officials of state and other personalities including the late Chief of Staff to Mr. President, Mallam Abba Kyari, the former Minister of State for Petroleum Resources Dr. Ibe Kachikwu, the National Security Adviser Major-General Monguno Rtd., the late Group Managing Director of our client Dr. Maikanti Baru and Mr. Mele Kyari even when your client knew this fact to be false. Your client then demanded that it be paid $125,000,000:00 (One Hundred and Twenty-Five Million United States Dollars) by the above-listed officials of State to preclude it from disclosing this information, which it knew to be false, to the public. This demand soon metamorphosed into harassment as your client embarked on repeated mischievous schemes to embarrass the Federal Government of Nigeria and our client on international media platforms and before several international institutions like the Organization of Petroleum Exporting Countries (OPEC).

CRIMINAL INVESTIGATION AND CHARGES AGAINST YOUR CLIENT

As a result of the constant harassment, NNPC (through Mr. Mele Kyari) was constrained to make a formal report to the Department of State Security and Nigerian Police. At the same time, other victims wrote petitions in respect of the same subject to the Honourable Attorney-General of the Federation. These petitions accused Mr Ramirez (your client's

agent), Mr Jose Salazar Tinajero (your client's Managing Director and CEO) and their accomplices of conspiracy, forgery, obtaining money by false pretence, blackmail and extortion. The allegations in the said petitions were investigated by the Nigeria Police who, after considering the facts as well as the confessional statements made by your client's agents, concluded in its report dated 29th April 2019 and signed by DIG Anthony Michael Ogbizi, PSC, FDC of the Force Criminal Investigation Department (FCID) that the allegations of conspiracy, forgery, obtaining money by false pretence, blackmail and extortion contained in the petition were well-founded and that some of the fraudulent activities of Mr Ramirez, Mr Jose Salazar Tinajero and their accomplices constituted a threat to the national security of the Federal Republic of Nigeria.

Our client is aware that following the outcome of the investigation conducted by the Nigeria Police, Mr Ramirez together with his accomplices were charged before the High Court of the Federal Capital Territory, Abuja in **Charge No.: FCT/HC/BU/CR/134/2019 between the Federal Republic of Nigeria v. Marco Antonio Ramirez and 4 Others** for the offences of forgery, criminal conspiracy, extortion, obtaining by false pretence and criminal intimidation arising from the underlying facts of this case. Regrettably, some of the documents for which your client's representative and Managing Director are being charged for forgery form part of the annexures to your letter.

FRAUDULENT ANTECEDENTS OF YOUR CLIENTS

It must be noted that in the course of its criminal investigation, the Nigerian Police discovered that your client is part of a notorious crime syndicate that habitually intimidates, blackmails and defrauds government officials and other high profile persons. The Police investigation also exposed other criminal antecedents of your client. For instance, it was discovered that Mr Ramirez, your client's representative, was indicted by the U.S. District Court in the Southern District of Texas as the mastermind of a scheme leading to the loss of several millions of dollars through various mail and wire frauds between 2010 and 2013. In a bid to avoid standing trial for his criminal activities, Mr Ramirez fled the United States of America. He settled in Nigeria, where he continued his criminal activities in conjunction with your client and its Managing Director. In fact, our client is aware that a warrant has been issued for Mr Ramirez's arrest in the United States and that in September 2019, the United States Department of Justice made a formal request for Mr Ramirez's extradition to the United States to face charges for the crimes he committed in the United States. Our client also became aware of the fact that the Managing Director of your client has been in and out of jail in South America due to the involvement of your client in elaborate smuggling and money laundering scams. Our client is aware that Mr Ramirez is also facing two separate and unconnected criminal charges relating to the United States Visa Lottery scam at the High Court of the Federal Capital Territory, Abuja in Charge No: FCT/HC/CR/147/2016 and the Federal High Court, Lagos in Charge No: ID/2763/2016. Both charges were preferred against Mr Ramirez by the Economic and Financial Crimes Commission (EFCC). A United States Court has since convicted Mr. Ramirez's wife for her involvement in the visa lottery scam.

Indeed, your client's constant harassment, intimidation, blackmail and insistence that it ought to be paid compensation for the false information it supplied to the Federal Government in respect of the existence of 48 Million Barrels of stolen Nigerian Crude Oil in various ports and terminals in China is typical of your client's long-standing and documented criminal proclivities.

INCONSISTENCIES IN YOUR CLIENT'S CLAIM

We have evaluated all the documents annexed to your letter of 23rd July 2020, which we presume were supplied by your client and found that they are forgeries perpetrated as part of your client's continuing determination to fraudulently extort, intimidate and blackmail officials of the Federal Government of Nigeria into paying it compensation for supplying false and worthless information. For example, a cursory perusal of **Annexures A, A1 and A2** which are letters dated 6th July, 2015, 22nd July, 2015 and 6th August, 2015 allegedly written on behalf of our client to the Managing Director/CEO Tonykate Int'l Ltd would reveal that embossed on each of the letter-heads are (i) the logo of NNPC, (ii) the logo of Shell Petroleum Development Company, (iii) the Coat of Arms of the Federal Government of Nigeria and (iv) Bonny Terminal. At the risk of stating the obvious, our client's official letter-head stationery only bears the logo of our client. Our client's official letter-head paper does not bear the emblem or coat of arms of the Federal Government of Nigeria neither does it bear the logo of the Shell Petroleum Development Company. Furthermore, Bonny Terminal, as the name implies, is merely a terminal, and our client has no operational office or staff named Engr. Ekuma G. (the purported signatory to these letters) at the said Terminal. Accordingly, these annexures are false documents as they did not and could not have emanated from our client.

Furthermore, it is obvious from your letter and its annexures that your client first posed as a potential buyer of the stolen crude in August 2015, before it metamorphosed into a company whose sole intention was to expose corruption in November 2015 then eventually claimed to be a whistle-blower in July 2017. Please see the relevant portions of **Annexure H** (your client's correspondence of 18th August 2015 annexed to your letter) wherein your client stated that:

"We humbly approach you, Mr. President, with utmost respect in regards to the prospect purchase of 48 Million Barrels of Bonny Light Crude Oil stored in several ports and terminals in the Republic of China.

...

We are willing, ready, and capable of purchasing all the product in China given the opportunity after the Federal Government of Nigeria verifies the set of product."

Then see the relevant portions of **Annexure J (your client's email of 24th October 2015 annexed to your letter)** wherein your client stated that:

"Samano S.A. DE C.V. nor its affiliates and employees have attempted nor are interested in purchasing crude oil from unknown or illicit origins. It has been brought to my attention

that a document sent to NNPC office was misinterpreted as an interest to buy black market crude from China... ... ...

The submission of the document, for NNPC's review and records, follows the trend of our company reporting all the information concerning the suspect transactions to assist toward your end of exposing and eliminating corruption."

Also, see the relevant portion of **Annexure L (your client's letter of 25th July 2017 annexed to your letter)** wherein your client stated:

"This letter confirms that Marco A Ramirez, a Citizen of United States of America, is authorized to represent Samano S.A. de C.V (Samano) to discuss, negotiate, facilitate and in any other way communicate with the Department of State Security (DSS) in those areas relative to the process of whistle-blower information and compensation."

It is our client's firm belief that this chameleonic posture of your client demonstrates its desperation to defraud and hoodwink the Federal Republic of Nigeria.

As an adjunct, we are concerned about the convenient convolution of facts regarding the position of the Federal Government's Whistle-blowing Policy and your client's claim. It is common knowledge that the Whistle-blower Policy came into effect sometime in December 2016, as rightly admitted in paragraph 1.1 of your letter. Thus, our client was shocked when you stated that it was sequel to the Federal Government's Whistle Blowing Policy that, in 2015, your client furnished the Federal Government of Nigeria with the necessary information which ultimately led to the recovery of the purported stolen 48 Million Barrels of Nigerian Crude Oil stored in the People's Republic of China. Of course, you are aware that the Whistle-blower Policy, as any of such other law or policy, does not operate retrospectively.

It is our client's position that your client's assertion that it furnished the Federal Government with some information in 2015 sequel to a policy which was non-existent as at 2015 and which only came into effect in 2016 is further proof that your client's claim is false, gold-digging and frivolous.

You will recall that under the Federal Government's Whistle-blower Policy, a whistle-blower is a person who voluntarily discloses to the Federal Government of Nigeria, through the Federal Ministry of Finance, misconduct or violation that has occurred, is ongoing, or is about to occur with specific concerns which are in the public interest. Consequently, your client who allegedly provided the Federal Government of Nigeria and our client with false information relating to the purported stolen 48 Million Barrels of Nigerian Crude Oil from the Federal Government cannot and does not qualify as a whistle-blower under the Federal Government's Whistle-blower Policy.

You will also recall that under the Federal Government's Whistle-blower Policy, a whistle-blower ought to submit the information in its possession through the Federal Ministry of Finance online portal or in writing to the Federal Ministry of Finance or the Presidential Initiative on Continuous Audit Unit. It is our client's contention that your client who never

submitted any information in respect of the purported stolen 48 Million Barrels of Nigerian Crude Oil through the Federal Ministry of Finance online portal or in writing to the Federal Ministry of Finance or the Presidential Initiative on Continuous Audit Unit cannot claim and is not entitled to the payment of any sum as compensation as a whistle-blower under the Federal Government's Whistle-blower Policy.

CONCLUSION

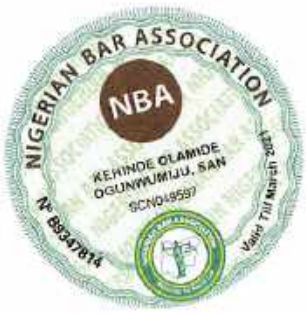
Based on the foregoing, our client is unable to accede to and hereby rejects your client's demand that the NNPC and/or Federal Government pay to it five per cent (5%) of the value of the purported stolen crude or any amount whatsoever as compensation for the false information it gave to the Federal Government in this matter.

While denying your client's claims in its entirety, we have our client's firm instructions to demand that your client issues within seven (7) days of the date of your receipt of thia correspondence, a written unequivocal retraction of these allegations, which your client knows to be false, baseless and unfounded, failing which we would explore all legal remedies to enforce our client's rights and seek redress against your client in both civil and criminal actions arising from its attempts at harassing, intimidating, blackmailing and defrauding our client and its officials. Our client also reserves its right to counterclaim against your client for both exemplary/punitive and general damages should your client proceed with its threat to file an action against our client.

While we hope that wise counsel prevails in the light of the facts now availed you, please accept our profound professional regards.

Thank you.

Yours faithfully,
PP: AFE BABALOLA & CO



KEHINDE OGUNWUMIJU S.A.N., FCIArb. (U.K.)

CC:

HONOURABLE ATTORNEY-GENERAL OF THE FEDERATION
AND MINISTER OF JUSTICE,
FEDERAL MINISTRY OF JUSTICE,
SHEHU SHAGARI WAY,
ABUJA, FCT.

DIRECTOR GENERAL,
STATE SECURITY SERVICE,
ASO DRIVE,
ABUJA, FCT.

THE ACTING CHAIRMAN,

ECONOMIC AND FINANCIAL CRIMES COMMISSION,
EFCC CORPORATE HEADQUARTERS,
PLOT 301/302, INSTITUTE AND RESEARCH CADASTRAL DISTRICT,
ABUJA, FCT.