

Kuwaiti Investment Organization

Case ID:

ARW-103

Jurisdiction of Origin of Public Official or Entity Allegedly Involved:

Kuwait

Position of Public Official(s) (yrs in office):

Kuwaiti Investment Organization Management (inclusive 1989-1992)

Jurisdiction of Asset Recovery:

Bahamas

Jurisdiction of Asset Recovery ? Description:

Location of Recovery Effort, Asset Location / Alleged Asset Location

Asset Recovery Start:

2002

Asset Recovery End:

Unknown

UNCAC Offenses Implicated:

Art.17

Art.23

Money laundering Implicated:

Yes

Legal Basis for Asset Recovery:

Private Civil Action

Intl.Cooperation: MLAT/Letter of Request?:

No

Basis for Intl Cooperation:

N/A

Contributing Factors in Asset Recovery:

"The following items were critical to the success of asset recovery in the Kuwaiti case. -The establishment of a dedicated and competent National Team was critical to the success of the initiative. - Political will was secured to ensure the success of asset recovery. - The elimination of pressures helped to achieve breakthrough successes for stolen assets recovery efforts. - Processes were initiated against individuals, rather than institutions, resulting in less resistance and fewer legal battles. - Private law actions, for several reasons, were a well-established route for asset recovery." (Source: Dr. Mohammad A.A. Al Moqatei, "Stolen Asset Recovery: A Case from Kuwait," in Stolen Asset Recovery: A Good Practices Guide for Non-Conviction Based Asset Forfeiture (Stolen Asset Recovery Initiative, 2009).

Status of Asset Recovery :

Completed

Stage in Asset Recovery Chain:

Final Judgment (No Appeal)

Assets Returned (USD) - Description:

Please see United Kingdom entry for worldwide total assets returned amount

Agreement for Returned Assets:

Unknown

Agreement for Returned Assets - Description:

Unspecified

Case Summary:

The United Kingdom's Privy Council wrote that Sheikh Fahad Mohammed Al Sabah, as the former head of the Kuwait Investment Authority in London, had "embarked on a huge programme of investment in Spain through a Spanish company named Grupo Torras SA ("GT"). With the help of co-conspirators the debtor defrauded GT on a very large scale. The misappropriations were effected by four separate fraudulent schemes between 1988 and 1990. After a long civil trial in London the debtor [the Sheikh] was found liable for very large damages (see Grupo Torras SA v Al Sabah [1999] CLC 1, 469). There have subsequently been various proceedings in different parts of the world by which GT, and more recently the [Sheikh's] Bahamian trustee in bankruptcy, have sought to recover funds in order to satisfy the judgment. The Sheikh was a resident of Bahamas, and on 29 June 2001 he was adjudicated bankrupt under the Bahamian Bankruptcy Act 1870. The bankruptcy was deemed to have commenced on 6 February 2001. GT's proof of debt was for a sum of the order of U.S.\$800m. On 30 July 2001 the first meeting of creditors was held and Mr Clifford Culmer, a partner in BDO Mann Judge of Nassau, was appointed as trustee in bankruptcy. The Sheikh was the settlor of two trusts governed by the law of the Cayman Islands. On 14 February 2002 the trustee in bankruptcy made an ex parte application to the Bahamian Grand Court for an order under section 122 of the Bankruptcy Act 1914 of the United Kingdom (or alternatively under the inherent jurisdiction) requesting aid from the Grand Court of the Cayman Islands" which was subsequently granted. (Source: Al Sabah & Anor v. Grupo Torras SA & Anor (Cayman Islands) [2005] UKPC 1 (11 January 2005), at <http://www.bailii.org/uk/cases/UKPC/2005/1.html>)

Disposition of Criminal Case(s):

Unspecified

Jurisdiction of Origin: Investigative Agency:

National Team established by the Kuwaiti Investment Organization

Jurisdiction of Origin: Prosecuting Authority/Civil Attorney(s):

National Team established by the Kuwaiti Investment Organization; Kuwaiti Public Prosecutor

Jurisdiction of Origin: Courts Involved:

Unspecified

Jurisdiction of Asset Recovery: Investigative Agency:

National Team established by the Kuwaiti Investment Organization

Jurisdiction of Asset Recovery: Prosecuting Authority/Civil Attorney(s):

National Team established by the Kuwaiti Investment Organization

Jurisdiction of Asset Recovery: Courts Involved:

Grand Court, Court of Appeals, Supreme Court

Documents:

KIO_Bahamas_Al_Sabah_GT_2005_UKPC_1_Jan_11_2005.rtf

KIO_Meespierson_v_Grupo_Torras_Bahamas_Court_Appeal_1999.pdf

KIO_Meespierson_v_Grupo_Torras_Bahamas_Court_Appeal_1999.pdf

Documents Links:

http://www1.worldbank.org/finance/star_site/documents/arw/KIO_Bahamas_Al...

http://www1.worldbank.org/finance/star_site/documents/arw/KIO_Meespierso...

http://www1.worldbank.org/finance/star_site/documents/arw/KIO_Meespierso...

Other Sources:

Al Sabah & Anor v. Grupo Torras SA & Anor (Cayman Islands) [2005] UKPC 1 (11 January

2005), accessed at <http://www.bailii.org/uk/cases/UKPC/2005/1.html>);

Sheikh Fahad Mohammed Al-Sabah v. George Clifford Culmer (Trustee in Bankruptcy of the Property of Sheikh Fahad Mohammed Al-Sabah), Court of Appeal of the Commonwealth of the Bahamas, Civil Appeal No. 22 of 2003 (Judgment dated April 1, 2004), accessed at <http://www.courtsofappeal.org.bs/download/22of2003sheikhfahad.pdf>;

Grupo Torras SA v Meespierson (Bahamas) Limited et al, Supreme Court of Commonwealth of Bahamas (March 1998) Sawyer CJ Court of Appeal of Commonwealth of Bahamas (April 1999).

Dr. Mohammad A.A. Al Moqatei, "Stolen Asset Recovery: A Case from Kuwait," in Stolen Asset Recovery Initiative's Good Practices Guide for Non-Conviction Based Asset Forfeiture (Stolen Asset Recovery Initiative, 2009.)