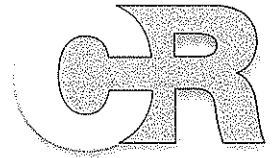


Direct Email : Alasdair.Pepper@carter-ruck.com
Direct Fax : 020 7583 6225

Our Ref : AP/NG/13219.5

Date : 20 October 2008



Carter-Ruck

URGENT
Strictly private and confidential
For the record but not for publication

By Post and Email: sue@newstatesman.co.uk and ben@newstatesman.co.uk

Ms Sue Matthias (Acting Editor) and Ben Davies (Online Editor)
New Statesman
3rd Floor
52 Grosvenor Gardens
London SW1W 0AU

Dear Sirs

Mr Nadhmi Auchi

We represent Mr Nadhmi Auchi and have been instructed in relation to a blog posted on your website by Martin Bright entitled, "Nadhmi Auchi and the New Statesman".¹

This letter is written pursuant to the pre-action protocol on defamation. The purpose of this letter is to notify you of our client's claim. This letter has important legal consequences and we strongly suggest you pass this to your lawyer or insurer for advice on your response.

The blog was posted in prominent terms on 6 October 2008 and remains generally accessible on your website to the world at large and with a readership, according to your website, that "*stretches around the world*".

The blog contains numerous highly defamatory and false allegations about our client, in addition to other false claims about him. In particular:

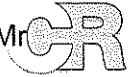
1. Mr Bright notes that our client is appealing the decision of the French courts in 2003. He omits, however, to state that our client flatly and categorically denies any wrong doing in relation to matters that led to his conviction in France. Our client has applied to the European Court of Human Rights for a ruling that the trial resulting in his conviction breached his fundamental right to a fair trial. He is also suing Elf Oil for dragging him unwittingly into the scandal.
2. It is untrue that our client was involved in the purchase of Senator Obama's property. Our client has never conducted any business with Senator Obama of any nature. Indeed, he does not recall ever having met Senator Obama.

It is also inaccurate and misleading to characterise our client as someone who has been attempting "*to stop people writing about him*". Our client has taken steps to prevent people

¹ <http://www.newstatesman.com/blogs/martin-bright/2008/10/auchi-obama-rezko-billionaire>

² <http://www.newstatesman.com/nsabout.htm>

publishing false and defamatory statements about him, which is quite different as both you and Mr Bright are well aware.



In addition to posting these allegations, Mr Bright's posting also contains a hyperlink to the page of the Wikileaks website³ that repeats these allegations. The page entitled 'Eight stories on Obama linked billionaire Nadhmi Auchi censored from the Guardian, Observer, Telegraph and New Statesman' contains the following allegations that are defamatory of our client. In particular, which list is not exhaustive:

1. It is untrue that our client is a fraudster, or has even been engaged in "grossly fraudulent" activities in Iraq, or anywhere else.
2. It is untrue that BNP Paribas is, or was, an "...Auchi controlled bank, BNP Paribas, which was the sole financial institution receiving billions in "Oil-for-Food" program money" Our client was (he is no longer) a passive investor in BNP Paribas and as such played no part in the bank's management. Neither he nor any company that he controls has had any involvement in the Oil-for-Food programme. We refer you to the United Nations document "Report on the Manipulation of the Oil-for-Food Programme" in this respect.
3. It is misleading to state that our client was extradited to France. In fact, he went to France for questioning of his own volition.

The Wikileaks website itself contains a hyperlink to a WinZip file or dossier⁴ containing eight articles (some of which were in fact written by Mr Bright) and three blogs. In the most flagrant and reckless disregard for our client's rights, Mr Bright has caused and is causing the republication and worldwide dissemination of these articles, knowing them to be defamatory, even after the original publishers saw fit to remove them from publication. It should be noted that Guardian News & Media Limited, in particular, accepted that the articles that it published contained "some significant inaccuracies". In addition, it undertook not to republish the allegations and has written to search engines requesting that they no longer publish the article complained of and remove all links and hyperlinks to it on the internet. We enclose a sample copy of one of the letters sent. Guardian News & Media Limited also agreed to pay a substantial sum in relation to our client's costs.

For the avoidance of doubt, we set out below each of the defamatory articles and their allegations (which list is not exhaustive) that are contained in the dossier file and which are accessible via the hyperlink and for which you and Mr Bright are liable:

Observer article dated 2 February 2003 by Martin Bright and Antony Barnett entitled "Labour blocks extradition of Iraqi tycoon"

1. It is misleading to state that our client refused to go to France for questioning. In fact he asked for questions to be put in writing and offered to meet the Judge in London. Subsequently, he went to France for questioning of his own volition.
2. It is untrue that our client "received £10 million commission on an Italo-French bid to build a pipeline for Saddam in 1986" or that, as far as our client is aware, Italian fraud investigators claimed this.

³

http://wikileaks.org/wiki/Eight_stories_on_Obama_linked_billionaire_Nadhmi_Auchi_censored_from_the_Guardian%2C_Observer%2C_Telegraph_and_New_Statesman

⁴ auchi-dossier-2008.zip

Guardian article dated 2 April 2003 by Mark Hollingsworth entitled "Billionaire linked to Labour arrested in London"



1. It is untrue that our client has "*past links*" with Saddam Hussein's regime, "*was close to Saddam Hussein*" or sheltered funds for him. Our client in fact never met Saddam Hussein nor ever even spoke to him.
2. It is untrue that our client has had any involvement in the sale of Italian warships to the Iraqi regime in 1980 or at any time. He has never been involved in buying or selling arms to Iraq.

Observer article dated 6 April 2003 entitled "So, Norman, any regrets this time?"

1. This article repeats the defamatory allegations above concerning our client's involvement in the sale of Italian warships to the Iraqi regime. He has never been involved in buying or selling arms to Iraq in 1980 or at any time.

Observer article dated 6 April 2003 by Martin Bright, Antony Barnett and Mark Hollingsworth entitled "Tycoon in quiz over ties to Labour"

1. It is untrue that our client "*built his financial empire on peddling his influence with Saddam Hussein's Baathist regime*". Our client never met or spoke to Saddam Hussein and was not involved in any of Saddam Hussein's operations as we have previously made clear.
2. As you know, our client flatly and categorically denies any wrong doing in relation to matters that led to his conviction in France as we have made clear above.
3. It is untrue that our client "*was tried alongside Saddam Hussein for his involvement in a conspiracy to assassinate an Iraqi prime minister in Baghdad in the 1950s*". Our client was not involved in such an attack as alleged or at all.
4. It is untrue that our client used "*money from military contracts in Iraq to establish a business and banking empire in Britain and Luxembourg*".
5. It is untrue that our client was involved in allegations with regard to bribery in Italy.
6. It is untrue that our client was involved in "*an attempted assassination, two of Europe's largest political corruption scandals and a series of multi-million pound oil and arms deals with Saddam Hussein*".
7. It is untrue that our client "*built his fortune on secretive deals with the Iraqi regime*".
8. It is untrue that our client's career "*began in the back streets of Baghdad in a post-war world of coup plots, intrigue and murder*".
9. As stated, it is untrue that our client "*once stood trial with Saddam Hussein for conspiring to assassinate Iraq's Prime Minister Abdul Karim Qasim*". Our client was not involved in such attack, as alleged or at all.
10. It is untrue that our client first established himself in Britain with "*money he had earned from deals carried out for the regime in the pre-sanctions era of Iraq and as a member of Saddam Hussein's Baathist regime*". As stated above, our client was not involved in any of Saddam Hussein's operations.
11. It is untrue that our client used money from military contracts in Iraq as alleged or at all. Our client has had no involvement in military contracts. He was not involved in brokering a deal to sell Italian frigates to the Iraq defence ministry as alleged or at all. Our client has

never owned a Panamanian company called the Dowal Corporation, or any company of a similar name.



12. Our client had no involvement whatsoever in the construction of a pipeline from Iraq to Saudi Arabia and it is untrue that he received any "commission" whatsoever in that regard.
13. It is untrue that our client "used to pay bribes to Iraqi government officials to win the deal for the Italians".

You will also be aware (as Mr Bright is one of the authors) that the above article has already been the subject of legal proceedings that were settled, the terms of which included the publication of a letter on 16 October 2005.

Observer article dated 16 November 2003 by Nick Cohen entitled "The politics of sleaze"

1. It is untrue that our client had any involvement with Saddam Hussein when Saddam Hussein was "*acquiring his taste in blood*" or at all. As stated, our client never met or even spoke to Saddam Hussein. Our client also was not involved in and, at the time it happened, had no knowledge of the assassination attempt on Abdul Karim Qasim.
2. It is untrue that our client was involved in allegations with regard to bribery in post-war Italy. To his knowledge he was not investigated.
3. It is untrue that our client, or any bank of his, held money stolen by Saddam Hussein and/or Colonel Gadaffi or, as far as he is aware, that a Belgium Ambassador claimed this.
4. It is untrue that our client was involved in making illegal payments in connection with a deal to sell Italian frigates to the Iraqi Defence Ministry. As stated, our client is not and has never been involved in buying or selling arms to Iraq.
5. It is untrue that our client was close to Saddam Hussein and his government, as a result of which he acted as the international intermediary to secure the contract for the construction of a pipeline from Iraq to Saudi Arabia for a Franco-Italian consortium.
6. It is untrue that our client was "*handed*" to France by Britain. He went to France of his own volition, as stated.
7. It is untrue to imply that our client's "*backing*" of Orascom is in some way sinister. He is in fact a passive investor, owning only 2.5% of the company and had no knowledge of the mobile phone contract until it was publicly announced. It follows that he had no involvement in it whatsoever. Our client also plays no part in the management of the company.

Observer article dated 16 November 2003 by Antony Barnett and Mark Bright entitled "MP questions Iraq role of Briton tainted over Elf"

1. It is seriously misleading to claim that our client "*brokered a number of deals with Saddam's regime*". He was involved with contracts with Iraq during the period in which Iraq was considered to be a friend of the West. On sanctions being imposed, our client ceased conducting business with entities in Iraq.

'Accuracy In Media' website posting dated 24 August 2008 by Andrew Walden entitled "Iraqi Billionaire Threatens Reporters Investigating Rezko Affair"

1. It is untrue that there was a "*secret loan*" or indeed any impropriety in our client's property dealings and in particular in his loan of \$3.5 million to Mr Rezko. The loan was part of a commercial transaction with Mr Rezko, made at a commercial rate of interest and secured by the personal pledge of Mr Rezko and specified assets. The payment was made to an

account of Mr Rezko's attorneys. Our client is in no way responsible for Mr Rezko's subsequent detention. Mr Rezko appears to have had his bail revoked because of his failure to properly disclose the loan. This is not, of course, a matter for which our client is in any way responsible.



2. Our client flatly and categorically denies any wrong doing in relation to matters that led to his conviction in France.
3. It is untrue that our client had any involvement with Saddam Hussein as stated.
4. It is untrue that our client was involved in bribing "*fabulously corrupt leaders of post-war Italy*".
5. It is untrue that our client, or any entity of his, held money for Saddam Hussein or Colonel Gadaffi.
6. It is untrue that our client's company was a "*key source of weapons procurement for Iraq*". He is not involved in the arms trade as alleged or at all in any country.
7. It is untrue that our client had any involvement whatsoever in the Oil-for-Food scandal. Our client had a minority shareholding in Paribas when it was bought by BNP. As a result of the acquisition he then became a minority shareholder in BNP Paribas. This was after BNP had entered into the Oil-for-Food contract. Since the merger our client sold his shareholding in the bank. We refer you to the United Nations document "Report on the Manipulation of the Oil-for-Food Food Programme" which contains no mention of our client or any company of his.
8. It is untrue that our client is a "*global arms dealer*". He is not involved in the arms trade as alleged or at all in any country.
9. It is untrue that our client was Saddam Hussein's "*principle international financial manipulator and bag man*". We repeat that, in fact, our client never met nor spoke to Saddam Hussein and was not involved in any of his operations. In an apology to our client, the Mail on Sunday stated "*We are happy to make clear that Mr Auchy is not linked to Saddam Hussein. He left Iraq in 1980 and has never been back.*"
10. It is untrue that our client has engaged in any "*unlawful activities working closely with Iraqi intelligence operatives to bribe foreign governments*".
11. It is untrue that "*Mr Auchy was a leading supplier of arms to Saddam's regime*" or was involved with "*Saddam's intelligence service*". As stated above, our client never met or spoke to Saddam Hussein and was not involved in any of Saddam Hussein's operations.
12. Our client has no recollection of meeting Senator Obama when he visited Michigan and Illinois in April 2004, or at any time. Our client had a business relationship with Mr Rezko.
13. With regard to the claim that our client was "*attempting in 2005 to win a U.S. visa with the help of Mr Rezko and several as-yet-unnamed Illinois political figures*", our client has no knowledge of this. He did not authorise Mr Rezko to contact the US State Department or Illinois government officials to help in this regard.
14. It is untrue that our client is a "*Saddam Hussein crony and Oil-for-Food banker*". As stated above, our client never met or spoke to Saddam Hussein and had no involvement whatsoever in the Oil-for-Food scandal.



1. This article repeats the misleading and inaccurate allegation concerning our client’s conviction in France.
2. Our client is not, in any way, responsible for Mr Rezko’s detention. Further, our client has no personal knowledge of Mr Rezko being a fundraiser for Senator Obama and has neither conducted any business with Senator Obama of any nature nor contributed to any campaign fund of his. Indeed, he does not recall ever having met Senator Obama.

The defamatory allegations contained in Mr Bright’s posting dated 22 April 2008 set out above were subsequently repeated in a further posting on ‘Bright’s Blog’ entitled ‘Mr Nadmi Auchi (an update)’ dated 4 June 2008.

“Elf executives are jailed over £210m ‘black box’ fraud” by Philip Delves Broughton – filed 13 November 2003 from telegraph.co.uk

1. This article repeats the misleading and inaccurate allegation concerning our client’s conviction in France.

The Wikileaks website that is linked to Mr Bright’s blog also contains a hyperlink to a further page on the Wikileaks site entitled ‘US Defense Inspector General: Mobile Telecommunications Licenses in Iraq, 2004’⁵ which in turn contains a WinZip file containing a report by the Pentagon.⁶

The page entitled ‘US Defense Inspector General: Mobile Telecommunications Licenses in Iraq, 2004’ contains the following allegations that are defamatory of our client. In particular, which list is not exhaustive:

1. It is untrue that there was any impropriety in our client’s loan of \$3.5 million to Mr Rezko. The implication that our client was involved in the purchase of Senator Obama’s property is entirely false. Our client has never conducted any business with Senator Obama of any nature and nor contributed to any campaign fund of his. Our client had a business relationship with Mr Rezko. It is not a matter for our client if Mr Rezko chose to raise money for Senator Obama or to whom he donated money.
2. This page repeats the misleading and inaccurate allegation concerning our client’s conviction in France.
3. It is untrue that our client is a former “*financial manipulator and bag man*” for Saddam Hussein. Our client never met nor spoke to Saddam Hussein and was not involved in any of his operations.
4. It is untrue that our client was involved in any corruption in relation to cell-phone licenses as claimed or at all.
5. It is untrue that our client “*worked closely with Iraqi intelligence operatives*” or was involved, in any way, in bribery, theft or weapons smuggling.

The allegations deriving from the Pentagon Report (stated to be Preliminary Findings) that you and Mr Bright are also liable for publishing (which as far as we are aware has not been published by the Pentagon itself) are all false. In particular, which list is not exhaustive:

⁵ http://wikileaks.org/wiki/US_Defense_Inspector_General:_Mobile_Telecommunications_Licenses_in_Iraq%2C_2004
⁶ <http://wikileaks.org.uk/leak/iraq-telecoms-license-corruption.pdf>



1. It is untrue that our client "*played a role in the Iraqi-European arms trade*" or "*persistent role in Iraq weapons purchases*". He is not, and never has been, involved in the arms trade as alleged or at all in any country.
2. It is untrue that our client "*behind the façade of legitimate business, served as Saddam Hussein's principal international financial manipulator and bag man*". Our client never met or spoke to Saddam Hussein. In fact Saddam Hussein was responsible for the murder of one of our client's brothers. Further, our client was not involved in any of Saddam Hussein's operations. In an apology to our client the Mail on Sunday stated "*We are happy to make clear that Mr Auchy is not linked to Saddam Hussein. He left Iraq in 1980 and has never been back.*"
3. It is untrue that our client has engaged in any unlawful activities or worked with Iraqi intelligence operatives as claimed or at all.
4. It is untrue that our client had any involvement whatsoever in the Oil-for-Food scandal. Our client had a minority shareholding in Paribas when it was bought by BNP. As a result of the acquisition he then became a minority shareholder in BNP Paribas. This was after BNP had entered into the Oil-for-Food contract. Since the merger our client sold his shareholding in the bank. We refer you to the United Nations document "Report on the Manipulation of the Oil-for-Food Food Programme" which contains no mention of our client or any company of his.
5. Our client flatly and categorically denies any wrong doing in relation to matters that led to his conviction in France. He has applied to the European Court of Human Rights for a ruling that the trial resulting in his conviction breached his fundamental right to a fair trial. He is also suing Elf Oil for dragging him unwittingly into the scandal.
6. It is untrue that our client was involved in any corruption, rigging or fixing of contracts, bribery or other criminal activity in relation to cell-phone licenses as claimed or at all.
7. It is untrue that our client is a "*global arms dealer*", "*played a significant role in the armament trade*" or has a "*history of illegal international arms traffic*". As stated, our client has never had any involvement in the arms trade whatsoever.
8. It is untrue that our client bribed "*foreign governments and individuals prior to Operation Iraqi Freedom to turn opinion against the American-led mission to remove Saddam Hussein*".
9. It is untrue that our client was a "*personal fixer for Saddam Hussein*". As stated, our client never met or spoke to Saddam Hussein.
10. It is untrue that our client is a "*corrupt supporter of Saddam Hussein's regime who got his money from doing deals, especially illegal arms transfers, for Saddam*". As stated, our client never met or spoke to Saddam Hussein and was not involved in any of Saddam's operations.
11. Our client did not act as Saddam Hussein's "*international finance man*" and did not "*assist [Saddam] with procurements for [his] telecommunications infrastructure*". Our client never met or spoke to Saddam Hussein and was not involved in any of his operations.
12. It is untrue that our client conspired with Saddam Hussein to assassinate Col. Abdul-Karim Qasim in 1959.
13. It is untrue that our client "*brokered weapons deals with Italian and French companies selling arms to Iraq*". Our client has never been involved in the arms trade as alleged or at all.



14. It is untrue that our client "*is one of Saddam's principal financial intermediaries in the West*". Our client never met or spoke to Saddam Hussein.
15. It is untrue that our client "*used money from military contracts in Iraq to establish a business and banking empire in Britain and Luxemburg*".
16. It is untrue that our client "*was employed to pay bribes from Italian companies to win oil contracts in Iraq because of his close links to the regime.*"
17. It is untrue that our client used money from military contracts in Iraq as alleged or at all. Our client has had no involvement in military contracts. He was not involved in brokering a deal to sell Italian frigates to the Iraq defence ministry as alleged or at all. Our client has never owned a Panamanian company called the Dowal Corporation, or any company of a similar name.

Further, the Pentagon Report which you are responsible for publishing in this jurisdiction has been discredited. For example, we refer you to The Los Angeles Times' article "Pentagon Deputy's Probes in Iraq Weren't Authorized, Officials Say" published on 7 July 2004⁷ and to the apologies published to our client in the Financial Times⁸, The Times⁹ and Mail on Sunday (copy attached). In the circumstances, it is extraordinary that you should have chosen to publish the Report.

The above includes very serious allegations. They are false and highly defamatory of our client. Our client reserves the right to rely upon further allegations should he decide that it is necessary. As you are no doubt aware, you and Mr Bright are jointly and severally liable for the publication of the allegations that Mr Bright has written, in addition to the republication of the allegations via the hyperlink.

The publication of these offensive, false and defamatory allegations has caused our client considerable distress and embarrassment. It is a matter of grave concern that you appear to have made no attempt whatsoever to contact our client or any representative of his before publishing the allegations or hyperlink in the blog, despite the fact that both you and Mr Bright are well aware of our client's position from, among other matters, our previous letters of complaint to you dated 20 May and 17 June 2008.

Unsurprisingly, our client is concerned about the effect that your publication has had and continues to have upon him both personally and professionally and, accordingly, we invite you to provide the following:

1. Your agreement to remove the defamatory posting and hyperlink from your website immediately.
2. Your agreement to publish an apology retracting the defamatory allegations, with wording and terms of publication to be agreed with us on our client's behalf, in writing. The apology should be no less prominent in space and time than the blog complained of, as directed by the Press Complaints Commission.
3. Your undertaking not to repeat the libels or any similar words defamatory of our client.
4. An explanation as to why the posting was written in addition to a complete explanation about what research and fact checking were carried out by both Mr Bright and the New Statesman itself.

⁷ <http://www.commondreams.org/headlines04/0707-03.htm>

⁸ <http://search.ft.com/ftArticle?queryText=auchi&aje=true&id=080103000363&ct=0>

⁹ <http://www.timesonline.co.uk/tol/news/uk/article694687.ece>

5. Your agreement to join with our client in a Statement in Open Court, apologising for and retracting the libels. For this purpose, it will be necessary to issue an application in the High Court.
6. Your proposals for compensating our client in the form of substantial damages.
7. Your agreement to pay the costs our client has been obliged to incur as a consequence of this most unfortunate matter.



Failure to provide the information and undertakings set out above will leave our client with no alternative redress but to commence proceedings against you. We look forward to receiving your substantive response by return. In the meantime, please confirm:

- a) Whether you will accept service of proceedings or provide details of those that you wish to instruct on your behalf.
- b) That all Mr Bright's cuttings, notes, notebooks and drafts will be retained by you as the Editor or your lawyers as officers of the Court.
- c) That the blog and other derivative versions be spiked on immediate receipt of this letter to avoid any further repetition or republication of the defamatory allegations.
- d) That your archive database will be spiked to ensure any other databases that you supply or syndicate to are not provided with a copy of the blog and are denied access to the blog to avoid secondary publications for which you will be liable.
- e) That you will contact all those publishers, websites and ISPs that you supply or syndicate copy to, to request that they cease and desist from further publication of the blog to avoid republications for which you will also be liable.
- f) That you will contact all search engines that currently list and/or provide access to your story asking them to cease publishing the story and to remove all links or hyperlinks to the story immediately.

In addition, we put you on formal notice that any further or secondary publication caused by you or Mr. Bright will aggravate the damages claim further. We also reserve the right to include reference in any claim to the further defamatory allegations contained in the readers' comments that accompany the blog and which are a natural and reasonably foreseeable consequence of the initial publications.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Carter-Ruck'.

Carter-Ruck

Enc: Guardian News & Media Ltd letter to A9.com Inc dated 17 April 2008

President Bill Stasior
A9.com Inc
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119 Farringdon Road, London EC1R 3ER
Telephone 020 7278 2332
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NOT FOR PUBLICATION

17 April 2008

Dear Sirs

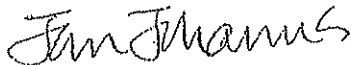
We write to give you notice that we have received a libel claim from Mr Nadhmi Auchl concerning six archived articles. Having considered Mr Auchl's complaint, we accept that the articles contain some significant inaccuracies and have removed the articles from our website.

We write to ask you not to publish the articles complained of and to remove all links and hyperlinks to them. The articles are:

1. the Observer article dated 2 February 2003 entitled "Labour blocks extradition of Iraqi tycoon"
2. the Guardian article dated 2 April 2003 entitled "Billionaire linked to Labour arrested in London"
3. the Observer article dated 6 April 2003 entitled "So, Norman, any regrets this time?"
4. the Observer article dated 6 April 2003 entitled "Tycoon in quiz over ties to Labour"
5. the Observer article dated 16 November 2003 entitled "Politics of sleaze"
6. the Observer article dated 16 November 2003 entitled "MP questions Iraq role of Briton tainted over Elf".

Thank you for your assistance with the above.

Yours faithfully,



Jan Johannes

In-house Lawyer

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Legal Department

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