

WHAT STATE SECRETS DOES UANI HAVE? HOW DID THEY GET THEM?

In the aftermath of publication of the Pentagon Papers, the Nixon Administration was so incensed that they both broke into and wiretapped the office of Daniel Ellsberg's psychiatrist, Lewis Fielding, in an attempt to get material with which to smear Ellsberg. Ellsberg and his attorneys eventually learned of the illegal wiretap and sued Attorney General John Mitchell. Mitchell and the government were provided some shielding in *Ellsberg v. Mitchell* by the concept of state secrets.

Glenn Greenwald noted that when he was running for office, Barack Obama disparaged the Bush Administration's use of the doctrine of state secrets and the expansion of its use to dismiss entire cases rather than to simply suppress individual pieces of information. And yet, once Obama got into office, Greenwald pointed out that the Obama Administration used the exact same tactic to get dismissal of *Mohamed v. Jeppesen Dataplan*, in which a victim of CIA rendition and torture attempted to sue the company used as a front for arranging rendition flights.

These two cases, along with other highpoints of government malfeasance in using state secrets to hide criminal behavior or simple errors by the government such as *Al-Aulaqi v. Obama* and *Al-Haramain v. Bush* all appear as case law on which the Justice Department rests its arguments in a filing (pdf) in a case in which Greek shipping executive Victor Restis is suing United Against Nuclear Iran (under their legal name of American Coalition Against Nuclear Iran, Inc.) for damages caused by UANI's spreading of information that Restis argues is false and defaming. As I pointed out earlier, this information was spread by UANI as part of their "name and shame" campaign aimed at companies

they felt were helping Iran to avoid sanctions put into place to prevent Iran developing nuclear weapons. The government's argument is fairly straightforward, even though the government is not a named party in the suit:

The United States has reviewed the pleadings and record in this case in order to determine whether discovery and further litigation is likely to risk disclosure of information in which the Government has a specific governmental privilege and whether the claims and defenses in this action can be adjudicated without the need for or risk of disclosure of privileged information.

The Government has concluded that information that would be at risk of disclosure in discovery and further proceedings is properly subject to the state secrets privilege and should be excluded from this case. Further, because information subject to the state secrets privilege is inherently at risk of disclosure in further proceedings, the Government also seeks dismissal of this lawsuit. The reasons for these determinations are set forth in classified declarations submitted in support of the United States' assertion of the state secrets privilege solely for the Court's ex parte, in camera review (the "State Secrets Privilege Declarations").

So just what is this state secrets information that could be exposed in the case? Here (pdf) is how attorneys for Restis describe the basis for UANI's accusations:

Plaintiffs soon learned through a journalist to whom Defendants had spread these false allegations that Defendants were relying on two patently fraudulent documents whose authenticity or credibility Defendants have never

attempted to defend, despite ample opportunity to do so. Nevertheless, in an effort to bolster its false allegations, Defendants repeatedly and publicly claimed that these statements were based on “numerous documents and statements,” “highly credible confidential sources,” as well as “valid research, credible documents, distinguished relationships, and preeminent sourcing.”

Hmmm. Relying on documents that are “patently fraudulent”. That sounds a lot like the forged Iraq yellowcake document to me. And Restis’ team has an idea for how the documents came into UANI’s possession (from the same filing):

Plaintiffs have reason to believe that the documents were forged by Anastasios Pallis, a Greek businessman who had a falling out with Plaintiff Mr. Restis when the latter discovered that the former had stolen millions of Euros from him and then reported Pallis to authorities. Plaintiffs understand that Mr. Pallis provided these documents to UANI through Meir Dagan, a member of UANI’s Advisory Board and former director of Israeli intelligence.

Elsewhere, the Restis team lays out (pdf) some of the evidence for forgery:

The Purported “Cambis Letter” Mischaracterized and Relied Upon By UANI Is a Patently Suspect and Unreliable Source.

This document is patently suspect and unreliable for multiple reasons, including but not limited to, the following readily apparent facts:

□ The letter is written in English and not in Greek, the language Greek businessmen use to communicate with each

other.

□ The signature written in Roman letters does not appear to be authentic.

□ The purported "letter from Cambis" to "Prof Kazantzis" inexplicably and nonsensically refers to each individual in the third person.

□ The purported letter nonsensically says several Iranian officials were arriving in Athens to "initiate and conclude a strategic agreement with FBB" on the same day the letter is dated and purportedly delivered to FBB.

□ The purported letter nonsensically goes on to say that these Iranian officials expected an appointment at FBB the very next morning to "invest in FBB by acquiring a substantial stake in the equity of the Bank."

□ The letterhead on which the purported letter is written demonstrates its lack of authenticity. In fact, the watermark on the purported document has not been used by Athene Consulting House for a number of years, and would not have appeared on genuine company letterhead in 2012.

□ The purported letter refers to the "Iranian Ministry of Oil," a nonexistent entity. A businessman with purportedly long-standing connections to the Iranian Ministry of Petroleum would know the organization and refer to it by its correct name.

So somehow a former associate of Restis has a falling out with him and then creates a couple of fraudulent documents that he gives to the former head of Mossad for use in smearing Restis and his firm. Where do US state secrets come into play here? The most obvious route involves a scenario similar to that with the forged yellowcake document. Just as US intelligence services took advantage of that obviously forged document to build a case for Iraq attempting to develop nuclear weapons, we are left to wonder

about how US intelligence services could have been involved in this forged document being created and then delivered to a group involved in the name and shame campaign. We are essentially forced to pose the questions in this way since it is the government that is arguing state secrets are likely to be exposed in further litigation of the case when it is clear that the Restis team is concentrating its efforts on these forged documents, their origin and their route in getting to UANI.

There is one other aspect to this case that I want to touch on. When UANI first made their accusations, they were trying to make the claim that Resitis and his shipping company were actually involved in black market shipping of Iranian oil despite the sanctions limiting sales. That was a patently ludicrous claim, since, as we saw recently with tankers full of Kurdish oil, there is very close monitoring of all oil tankers and it would have been immediately obvious if Restis was sending tankers to Iran to break sanctions. As UANI scrambled to defend themselves, they eventually came up with "evidence" of non-tanker ships belonging to Restis' firm being in Iran. However, it turns out that these ships were there legally and they were delivering humanitarian goods from US relief agencies.

In the end, not only did UANI's accusations of sanction-breaking oil shipments turn out to be unfounded, their shaming of Restis' firm likely interfered with legitimate shipments of humanitarian goods. I can't help wondering if this was a desired outcome of the entire operation.

But here is where things start to get really strange. Let's go back to that bit from Restis' attorneys where they say that Anastasios Pallis forged the key documents. It turns out that Pallis is quite the piece of work. In addition to the Restis claim that Pallis embezzled from his FBB bank, Pallis has bigger problems (quoted story is from December, 2013):

The wanted businessman Anastasios Pallis surrendered himself to the police and prosecutor today, accompanied by his lawyer. A warrant for Mr. Pallis' arrest on was issued after a police raid on his property unveiled an arsenal of firearms and scores of Nazi paraphernalia, such as uniforms, banners and sculptures.

The police investigations into Mr. Pallis' property in Voula revealed a wealth of military-grade weapons in a museum he maintained. The police are also investigating the content of 25 shipping containers belonging to him, where assault rifles, ammunition and other weapons are believed to be stored.

Prior to the discovery of the weapons caches and his possible implication with Golden Dawn, a warrant was issued for Mr. Pallis' arrest in connection to a FBB loan scandal, for which he faced charges of embezzlement and money laundering.

Wow. So not only was Pallis a business associate of Restis in shipping and the bank (where Restis accused Pallis of embezzling, setting off much of this), but the two were partners in a newspaper with Golden Dawn associations. Be sure to click through to the first link above for Pallis for a picture of his Nazi museum.

Now on to another character in the charges and counter-charges. Note that the forged letter described above is purported to come from Dimitris Cambis. He turns up in this Reuters article from February, 2013, where he is shown to own several aged ships that were implicated in ship-to-ship transfers of Iranian oil:

Iran is using old tankers, saved from the scrapyards by foreign middlemen, to ship out oil to China in ways that avoid Western sanctions, say officials

involved with sanctions who showed Reuters corroborating documents.

The officials, from states involved in imposing sanctions to pressure Iran to curb its nuclear program, said the tankers – worth little more than scrap value – were a new way for Iran to keep its oil exports flowing by exploiting the legal limitations on Western powers' ability to make sanctions stick worldwide.

Officials showed Reuters shipping documents to support their allegation that eight ships, each of which can carry close to a day's worth of Iran's pre-sanctions exports, have loaded Iranian oil at sea. Publicly available tracking and other data are consistent with those documents and allegations.

"The tankers have been used for Iranian crude," one official said. "They are part of Iran's sanctions-busting strategy."

Dimitris Cambis, the Greek businessman who last year bought the ships – eight very large crude carriers, or VLCCs – to carry Middle East crude to Asia, flatly denied doing any business with Tehran or running clandestine shipments of its oil to China.

Hmm. Notice what happened there? "Officials" showed Reuters "documents" that implicated Cambis. Unlike the similar attempt against Restis, though, in this case it appears that the accusations stuck, and the US even sanctioned Cambis in March of 2013, presumably on the basis of this verifiable information.

So Cambis is exposed in February of 2013 and sanctioned the next month. Note that the UANI accusations against Restis were first made public in May of 2013, so that would fit with a timeline of Cambis presumably being "flipped"

and disclosing incriminating evidence against someone who seems to have been a competitor in the same business, even though it seems pretty clear that the information released to date is fabricated.

What I haven't found is the date on which Restis and Pallis had their falling out. Recall that it is Pallis who is accused of fabricating the Cambis documents. While Pallis' home wasn't raided until October of 2013 and he didn't surrender to authorities until December, there is one other major development on the timeline for these players. In July of 2013, Restis was arrested on charges of embezzling from FBB. He blamed a "former employee" for the accusations against him, who has to be Pallis, when he was arrested. But with Restis' arrest coming in July, that would be consistent with his falling out with Pallis occurring several months earlier, allowing Pallis to fabricate documents for the May, 2013 UANI accusations.

What still remains missing in all of this is just how US state secrets became involved, especially with regard to how they came into UANI's possession and are now at risk of disclosure in the litigation. While I tend to buy the bulk of the allegations against Cambis and Pallis, I still haven't seen anything convincing tying Restis to illicit activity with Iran. (In the US, making a sweetheart deal to prop up his other companies as his bank was going under in the meltdown of the Greek banking sector seems very unlikely to have been prosecuted based on what we saw from our own banking meltdown in 2008.) Recent history in the federal court system, though, says we are very unlikely to ever get those details filled in, as the US is virtually guaranteed success in its effort to get Restis' case against UANI shut down forever. In the end, we won't get to find out if Restis did cooperate with Iran, if he was falsely attacked merely by someone wishing to divert blame from himself, or taken down for some other reason that state secrets won't allow us to know.

Postscript: Marcy provided me with much information about this case, obtained the case documents for me and took part in a number of very helpful discussions in plowing through the information presented here. For all of that, I am quite grateful.