

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

	:	
BASSAM Y. ALGHANIM,	:	
	:	
Plaintiff,	:	Case No. 09-CIV-8098 (NRB)
	:	
v.	:	
	:	
KUTAYBA Y. ALGHANIM et al.,	:	
	:	
Defendants.	:	
	:	

DECLARATION OF OMAR AL-ESSA

OMAR AL-ESSA, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am an attorney registered to practice before the Kuwaiti Court of Cassation and the Kuwaiti Constitutional Court, a member of the Kuwaiti law firm Al Essa & Partners, and head of the Kuwait Bar Association. I serve as counsel to Kutayba Y. Alghanim (“KYA”) in connection with various legal matters in Kuwait, including negotiations and litigations concerning the agreement dated March 12, 2008, and the Memorandum of Understanding, dated March 27, 2008, entered into by and between Bassam Y. Alghanim (“BYA”) and KYA, which are described in my declaration dated November 18, 2009 (“First Al-Essa Declaration”). I submit this declaration to provide the Court with additional documentary evidence in support of Defendants Kutayba Y. Alghanim and Omar K. Alghanim’s Motion to Dismiss the Amended Complaint or, in the Alternative, Stay this Action Pending Arbitration. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would competently testify thereto.

2. As described in the First Al-Essa Declaration, BYA brought an action against KYA and Yusuf Ahmed Alghanim and Sons W.L.L. (“YAAS”) requesting that the Kuwaiti Court of

First Instance, Commercial Circuit appoint an expert to calculate YAAS's profits for 2007 and 2008 and issue an order requiring KYA and YAAS to pay BYA his share of the profits (the "YAAS Accounting Action"). (First Al-Essa Decl. ¶ 8, Ex. J.) On November 2, 2009, the Court of First Instance issued a ruling dismissing the case against all defendants in favor of arbitration. (Id. ¶ 8, Ex. K.) As described in a second declaration that I submitted in connection with this action, dated January 7, 2010 ("Second Al-Essa Declaration"), the Appellate Court affirmed the Court of First Instance's decision, ordered the case dismissed, and found BYA liable for attorney's fees. (Second Al-Essa Decl. ¶ 2, Ex. 1.) The Kuwaiti Appellate Court had not yet issued a written opinion in the YAAS Accounting Action at the time I submitted the Second Al-Essa Declaration.

3. On December 27, 2009, the Appellate Court issued a written opinion in the YAAS Accounting Action. A true and correct copy, along with a certified translation into English, of the Appellate Court's written opinion in the YAAS Accounting Action, dated December 27, 2009, is annexed hereto as Exhibit 1.

4. As described in the First Al-Essa Declaration, on October 13, 2009, BYA brought an action against KYA and YAAS, among others, whereby he requested that the court confirm his percentage of ownership of fifty percent of YAAS, and that the court order KYA and YAAS to amend YAAS's articles of incorporation so as to ensure that BYA's ownership of YAAS will be fifty percent (the "YAAS 50/50 Action"). (First Al-Essa Decl. ¶ 10, Ex. N.) By written opinion dated February 24, 2010, the Kuwaiti Court of First Instance, Commercial Circuit dismissed the action against all defendants in favor of arbitration, and found BYA liable for attorney's fees. A true and correct copy, along with a certified translation into English, of the Court of First Instance's written opinion in the YAAS 50/50 Action, dated February 24, 2010, is annexed hereto as Exhibit 2.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 4, 2010

A handwritten signature in blue ink, consisting of a long horizontal stroke followed by a loop and a small flourish.

Omar Al-Essa