

FILED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2011 OCT 13 P 12:40
CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

GLOBAL HUB LOGISTICS and
MASUD ROSHAN,

Plaintiffs,

vs.

TAMERLANE GLOBAL SERVICES, INC.,

Serve: Dustin H. Devore, Esq.
Kaufman & Canoles PC
4801 Courthouse Street #300
Williamsburg, VA 23188

1:11CV1113
GBL/IDD

JAMES M. O'BRIEN,

Serve: Mr. James M. O'Brien
604 Sea Oats Way
Virginia Beach, VA 23451

JURY TRIAL DEMANDED

and

THOMAS J. WILLIAMS,

Serve: c/o Tamerlane Global Services, Inc.
2697 International Parkway
Parkway 4, Suite 230
Virginia Beach, VA 23452

Defendants.

_____ /

COMPLAINT

COME NOW the Plaintiffs, Global Hub Logistics And Masud Roshan, and through their undersigned attorneys and for their Complaint respectfully state as follows:

1. This is an action for breach of contract, tortious/negligent interference with business relationships, defamation, breach of good faith and fair dealing under Virginia law and unlawful conversion. The gravamen of these claims regards the payment of funds to logistics

suppliers in Afghanistan, the wrongful retention of those funds and efforts to smokescreen such conduct through patently false statements to Plaintiffs' relevant business community in Afghanistan and elsewhere.

2. This case falls within the Court's diversity jurisdiction pursuant to Title 28 of the United States Code, Section 1332 because the amount in controversy exceeds \$75,000.00

3. Venue lies within the Eastern District of Virginia as this cause arises out of the conduct of parties whose business, while consummated outside of the United States, is primarily conducted within this District. All defendants in this matter reside within this District.

4. Plaintiff Global Hub Logistics ("Global") is a corporation organized and existing under the laws of the Islamic Republic of Afghanistan, and is engaged as a sub-contractor for logistics services for the transport of goods and materials from Pakistan to Afghanistan, and vice-versa, under contract to the U.S. Department of Defense for the benefit of U.S. troops and other government personnel serving in the region. Plaintiff Masud Roshan ("Roshan") is the Chief Executive Officer ("CEO") of Global.

5. Defendant Tamerlane Global Logistics ("Tamerlane") is a Virginia Corporation with its registered offices at 1220 King Street, Unit #1, Alexandria, Virginia, 22314. Tamerlane holds itself out as a company involved in global logistics services. Tamerlane contracted to use, and has purported to use, Global to facilitate the shipment of goods and materials from Afghanistan to U.S. troops and other government personnel in Afghanistan. James M. O'Brien ("O'Brien") serves as the President and Chief Executive Officer ("CEO") of Tamerlane. Thomas J. Williams ("Williams") serves as the Executive Vice President and Chief Financial Officer ("CFO") of Tamerlane.

FACTUAL ALLEGATIONS

6. In the Fall of 2010, Tamerlane was hired by prime contractor Liberty Global Logistics/Liberty Maritime LLC (“Liberty”) to facilitate the shipment of goods and materials in and out of Afghanistan on behalf of the government of the United States. On or about October 7, 2010, Tamerlane began using Global for the transport of such goods and materials. As per the agreement of the parties, Tamerlane was to pay Global for the shipments of goods and materials Global handled. Upon presentation by Tamerlane to Liberty of appropriate bills of lading, receipts, etc. to verify that such goods and materials were indeed delivered, Tamerlane was to pay Global.

7. On information and belief, Tamerlane received over \$1.5 million of payments from the United States through Liberty for services rendered through use of Global’s services.

8. Throughout the course of its relationship with Tamerlane, Global successfully completed hundreds of hazardous and difficult movements of goods and materials across the Pakistan-Afghanistan border. However, Global began to experience numerous difficulties with Tamerlane, including misleading statements, miscommunications and, more importantly, payment issues. Despite numerous requests by Global and Roshan to Tamerlane and O’Brien for assistance and cooperation in resolving these issues, neither Tamerlane nor O’Brien cooperated in such matters.

9. Tamerlane initially paid Global for some services that Global provided. Tamerlane was obligated yet failed to pay Global for a significant portion of the services that Global provided and for which Tamerlane was invoiced. Nonetheless, Global continued in good faith to transport goods and materials as if Tamerlane would honor its payment obligations. As is common in the transport and logistics industries, Global worked with local service providers to

arrange for the safe and prompt delivery of the goods and materials required by United States authorities in Afghanistan. Global assured its local trucking contractors that it would pay them once Tamerlane honored its obligations to pay Global. Global justifiably relied on Tamerlane's obligations of good faith and fair dealing in ensuring that payments were promptly made and that shipments of goods and materials continued without interruption.

10. Tamerlane did not pay Global for these services. Instead, Tamerlane willfully and intentionally misled (and in addition, falsely and knowingly defamed) Global for the purpose of avoiding and withholding payment, notwithstanding the fact that Global had unquestionably completed the tasks required of it. Annexed hereto as *Exhibit "1"* are Global's receipts and records of the shipments of goods and materials in connection with its relationship with Tamerlane.

11. In June 2011, Global determined that Tamerlane was not honoring its obligations to either the United States, the government of Afghanistan, or to Global. Global thus notified Tamerlane that, subject to completion of or other safe arrangements regarding pending work orders, it would cease conducting business with Tamerlane. Global did so on July 1, 2011.

12. On behalf of Tamerlane, O'Brien in email messages dated July 29, 2011 and July 31, 2011 to an official of Global (see *Exhibit "2"* annexed hereto) (a) expressly acknowledged receipt of Global's invoices and (b) its obligation to pay Global for its services under Tamerlane's agreement with Liberty. This indisputable evidence of recognition and acceptance (despite a by-then mutual determination to wind down their relationship) of a still-ongoing contractual arrangement, and of the legitimacy of Global's invoices – explicitly assured the officer identified in *Exhibit "2"* that payment from Tamerlane to Global would be forthcoming upon evidence of safe arrival of the outstanding cargo. These assurances proved false. Upon

confirmation of such safe arrival, verifiable by local and U.S. authorities, Tamerlane made no such payment on its acknowledged obligations.

13. Of crucial importance in this matter is the licensure of the parties with the United States Government and the relevant Ministries of the Islamic Republic of Afghanistan needed to lawfully perform the contracts and task orders in this matter. Logistics suppliers such as Tamerlane and Global have to obtain and maintain the necessary governmental and military approvals and documentation to transport goods and materials in the countries of operation. Global had, and continues hold these valuable approvals. Tamerlane did not, does not and, on information and belief, never did with respect to any work performed through Global. As such, Tamerlane could not on its own perform the work that Global performed, as Tamerlane could neither lawfully duplicate nor “piggy back” upon Global’s approvals and documentation to transport goods and materials specifically in Afghanistan, absent Global’s participation.

14. This stark reality was known to Tamerlane, O’Brien and Williams once Global terminated its relationship with Tamerlane. Faced with the prospect of breaching valuable contracts with the United States Government and Liberty, O’Brien and Williams authorized the execution of counterfeit authorizations (“Border Control Memos”) falsely purporting to show that Tamerlane was still conducting business with Global and thus could legally continue to authorize and handle the shipments across the Pakistan-Afghanistan border under Global’s license. A copy of one such counterfeit authorization which identifies Global is annexed hereto as *Exhibit “3.”*

15. Tamerlane’s campaign of misinformation continued with Global’s local trucking suppliers and contacts in Afghanistan as well. Notwithstanding that Tamerlane was paid through Liberty by the United States for the work which Global performed, Tamerlane falsely and

maliciously informed the truckers in Afghanistan that Global withheld payments for services and that Global and Roshan have not acted in good faith. A copy of an email from O'Brien in this regard is annexed hereto as *Exhibit "4,"* which includes baseless and arguably extortionate threats of "court warrants." This campaign of misinformation has had dire consequences in Afghanistan, as the truckers have now ceased performing work and have filed complaints against Tamerlane, Roshan and Liberty with Afghan legal authorities, to the detriment of all parties including the United States Department of Defense.

16. The disposition of funds paid by the United States through Liberty to Tamerlane is unknown. What is known, however, is that Global has not been paid and that the truckers who risked life and limb to transport goods and materials across one of the most dangerous borders in the world have not been paid either.

CAUSES OF ACTION

I. BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING

17. Plaintiffs re-allege and repeat each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

18. Under the laws of the Commonwealth of Virginia, Defendants owed Plaintiffs an absolute duty of good faith and fair dealing in their business relationship.

19. Defendants breached their duties of good faith and fair dealing to Plaintiffs, the breaches of which are the direct and proximate cause of damages in amounts in excess of \$1.25 million.

II. BREACHES OF CONTRACTS

20. Plaintiffs re-allege and repeat each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

21. The express and implied agreements between Tamerlane and Global required Tamerlane to provide complete and full cooperation in the payment of funds to Global and its truckers in Afghanistan, and to do nothing to impair Global's rights under those agreements. Global justifiably relied to its detriment that Tamerlane would act fairly and in good faith in its relationship.

22. Tamerlane breached its express and implied contracts with Global by failing to cooperate with Global and impairing Global's rights to the payments to be made pursuant to such agreements.

23. Global has been directly and severely prejudiced in its ability to obtain payment from Tamerlane as a direct and proximate result of Tamerlane's conduct in direct contravention of the terms of the acknowledged agreements between it and Global. Further, Tamerlane intended that Global was to be a beneficiary to the contract between Tamerlane and Liberty.

24. As a result of these breaches of contracts by Tamerlane, Global has been injured and is entitled to relief under common law contract and estoppel principles pursuant to the laws of the Commonwealth of Virginia.

III. AIDING AND ABETTING BREACH OF CONTRACT

25. Plaintiffs re-allege and repeat each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

26. O'Brien as CEO of Tamerlane, and Williams as CFO of Tamerlane, purposely and willfully acted in their capacity as corporate officers to facilitate and consummate not only to breach Tamerlane's contract with Global but also, on information and belief, to wrongfully retain funds paid to Tamerlane through Liberty by the United States for purposes other than that of payment to Global. Among other things, O'Brien and Williams authorized or countenanced the

creation of counterfeit Border Control Memos bearing Global's name to unlawfully continue business with Liberty.

27. The conduct of O'Brien and Williams is egregious and separate and apart from their common law duties as corporate officers of Tamerlane. As officers of Tamerlane, the standards of care expected and required of them under the laws of the Commonwealth of Virginia were not demonstrated during the course of their dealings with Global and Roshan.

28. Accordingly, O'Brien and Williams aided and abetted Tamerlane in its breach of contracts with Global, and are liable to Global for damages under the common law of the Commonwealth of Virginia.

IV. CONVERSION

29. Plaintiffs re-allege and repeat each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

30. On information and belief, Tamerlane has retained funds received through Liberty from the United States which were to be paid to Global for all of the services provided for the shipment of goods and materials. Tamerlane is fully aware that a significant portion of the funds it retained that were so received were to be paid to Global. Those funds have not been paid to Global.

31. Given the circumstances in which Tamerlane has retained such funds, it is utterly inequitable for Tamerlane to maintain custody of such funds when they are due and owing to a party that conducted its business relationship in good faith and with reasonable expectations of being treated fairly.

32. Tamerlane has been unjustly enriched by its continued custody of funds that rightfully were to be paid to Global. Under the laws of the Commonwealth of Virginia, Plaintiffs

assert that all funds that are rightfully due and owing to Global now in the custody and control of Tamerlane should to be deemed held in constructive trust for the ultimate benefit of Global.

V. BUSINESS DEFAMATION

33. Plaintiffs reallege and repeat each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

34. O'Brien, through communications in written form, and on information and belief in oral form, has libeled and slandered Plaintiffs through patently false statements of and concerning the respective business conduct, character and repute of Roshan and Global to its contractors, business associates, and the business community and authorities in the United States and Afghanistan.

35. Plaintiffs are thus entitled to special damages for defamation as provided under the law of the Commonwealth of Virginia.

VI. TORTIOUS/INTENTIONAL INTERFERENCE WITH BUSINESS RELATIONSHIPS

36. Plaintiffs re-allege and repeat each and every allegation set forth in the preceding paragraphs as if set forth fully herein.

37. By way of their wrongful conduct and campaign of defamation, O'Brien and Tamerlane have willfully and/or negligently interfered with the valuable business relationships with the truckers with whom Global has worked. As an officer of Tamerlane, Williams aided and abetted this conduct by either approving the use of such tactics and wrongful conduct or failing to act in a manner to cause Tamerlane and O'Brien to cease such conduct. Such conduct is the direct and proximate cause of damages to Plaintiffs.

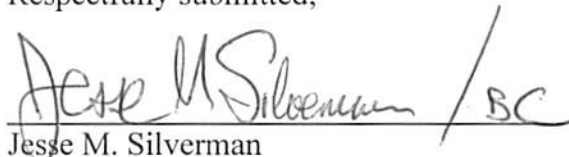
38. Under the common law of the Commonwealth of Virginia, Tamerlane and O'Brien are liable to Plaintiffs for their tortuous and/or negligent conduct, and Williams is liable for his aiding and abetting such conduct.

PRAYER FOR RELIEF

WHEREFORE, premises considered, Plaintiffs pray for an entry of judgment in their favor in an amount of at least \$1.25 million jointly and severally against each Defendant. Plaintiffs further pray for costs, attorneys' fees, interest and such other or further relief that this Court deems equitable and appropriate.

Dated: October 12, 2011

Respectfully submitted,



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