

**FEDERAL COURT**

**BETWEEN:**

**HIS HIGHNESS PRINCE KARIM AGA KHAN**

**Plaintiff**

**and**

**NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO. and all other persons or  
entities unknown to the plaintiff who are reproducing, publishing, promoting and/or  
authorizing the reproduction and promotion of the Infringing Materials**

**Defendants**

**AFFIDAVIT OF NAGIB TAJDIN**

**I, Nagib Tajdin, of the City of Nairobi, Kenya, MAKE OATH AS FOLLOWS:**

- 1. I am the one of the defendants in this action and as such have personal knowledge of the matters to which I hereinafter dispose to, except where otherwise stated to be based on information and belief.**
- 2. I learnt, through mass email circulation, of the copyright lawsuit against me and purported to be from His Highness Prince Karim Aga Khan, (the "Imam") who I believe is the named Plaintiff but not the real Plaintiff.**
- 3. The Imam is my Spiritual father and I have no dispute against him nor do I intend to act, even for one second, against his wish.**
- 4. Since 1992, after the Imam gave us His blessings and instructions that we continue publishing and making available His Farmans (spiritual guidance) to His followers, I have been publishing and distributing His Farmans since the last 20 years to his followers [Jamat].**
- 5. Circulation of Farmans amongst Ismailis by Ismailis is a long established Ismaili tradition.**
- 6. Circulating the Farmans in their unadulterated form is creating a problem for some people close to the Imam who want to edit the Farmans before circulating the Farmans to the Jamat.**

Having a grip on the Farmans gives them a possibility to manipulate the version released to the followers and, therefore, the power to change the tenets of the Ismaili Faith.

7. The statement of claim, as well as the reply, is degrading our Imam by destroying two of the main tenets of Ismailism of which He is the Imam: the first tenet of Ismaili faith is about the Infallibility of the Imam in matters of religion, that Sachedina states that the Imam, when making Farmans, makes mistakes which requires correcting by institutional leaders; and the second one is that the Farmans originates from the Divine Light which is called "Noor" and therefore can not be changed in any way until superseded by a new Farman.
8. I published in December of 2009 a book of Farmans of 1,500 pages called "*Kalam-e Imam-e Zaman Golden Edition Farmans 1957-2009*", which contains general Farmans made by the Imam since His accession to the Throne of Imamate in 1957, the moment that he became Bearer of the Noor.
9. Dr. Shafik Sachedina ("Sachedina"), the personal assistant of the Imam, is one of the people who wants to have a firm grip on the delivery of Farmans to the Jamats, and on the issue of which version is delivered to the Jamats. When he learned of my publication of the Golden Edition, he asked me to recall all copies that I had published, and sought to exercise his clout as personal assistant of the Imam, and even sent me a letter purported to be from the Imam, but which contained a forged signature of the Imam.
10. When I told Sachedina that I had discovered the forgery and would find a way to inform the Imam, he threatened to ruin me and to ruin my reputation in our community. He succeeded in doing just that by issuing this claim and then sending it by way a mass email campaign to all Ismailis, and also proceeded to make announcements in Jamatkhanas [Ismaili places of prayers] of countries in which I am known, but not in Jamatkhanas where I am unknown.
11. All Ismailis have implied consent to receive and read the Farmans made by their Imam, and

to distribute same amongst themselves, and in my case the issue of implied consent is irrelevant because I have explicit instruction from the Imam to "continue" publishing these Farmans.

12. I have no doubt that the counsel for the Plaintiff has no direct way of contacting the Imam, and I am convinced that the Imam's name has been used in this lawsuit. There are many reasons based on which I have come to this conclusion, but I will mention one point here, when I sought to convince the counsel for Plaintiff to arrange a five minute meeting with the Imam when He visited Canada in may of this year. A five meeting that would have resolved the whole issue, stopped all the proceedings, lawsuit and motions., which would have not only stopped all expenses and troubles for all parties, but would have brought peace to our Jamats who are vern much troubled by the concept that a Spiritual Father and Mother has for the first time in our very long history brought an action against His children.
  13. Furthermore, counsel for the Plaintiff has not even served the plaintiff's affidavit of documents which has been delayed and delayed, and it is my belief that it is delayed as counsel is not in direct contact with the Imam. And there are multiple forgeries in this file which shows that the Imam has not agreed to or has not signed any of these papers. On the contrary, whenever His signature was needed, someone had to forge His signature and documents. The lawsuit also is, understandably, a continuation of Sachedina's threats to ruin me and to spoil my name.
  14. I have attempted to seek direct contact with my Imam, even for a few minutes to verify if He does want me to stop publishing His Farmans or not, but it has been a challenge because of the fact that Dr Sachedina is also the head of the Secretariat of the Imam.
  15. On or around the May 25<sup>th</sup>, I flew to Toronto, all the way from Nairobi, Kenya. My only purpose was to be available to the Imam for a 5 minute meeting, if he so chose. I informed Mr. Gray that I had arrived in Canada and was available for that meeting in case the Imam
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would wish to give me instructions on the way forward, and I added "I have already agreed to abide unconditionally to whatever instructions/guidance the Imam will give me, but I need to hear them directly from the Imam."

16. The Imam came and went without any meeting to give me instructions on the issues at stake. It became clear to me that Mr. Gray was not able to arrange any meeting with the Imam that he was pretending to represent. Attached as Exhibit "A" to this my affidavit is a copy of my e-mail to Mr. Gray dated May 16, 2010, and Mr. Gray's response.
  17. I am talking of a five minute meeting, and I had pre-approved in writing that I would follow whatever the Imam will tell me directly to do and which would have resolved the lawsuit in a moment. The response of Mr. Gray defies common sense, particularly because I have maintained all along the signatures purporting to be of the Imam are not His, and I have never said nor will I ever say that I will defy my Imam, and refuse to follow Him or abide by His directions. Why the refusal to arrange a five-minute meeting, when it would have obtained for the named plaintiff what he is seeking from this litigation, defies logic.
  18. To date all my attempts to have a direct conversation with the named plaintiff have been thwarted by Sachedina, when it would resolve the issues within a few minutes.
  19. All the Plaintiff's evidence, including the various forgeries, is pointing to the fact that the Imam as the named Plaintiff, is not the real Plaintiff in this lawsuit. Furthermore, in bringing the motions for summary judgment, no direct evidence by the Imam has been filed, which again defies logic. For example, the announcement made by Sachedina in our Jamatakhana said that I have refused to obey direct pleas by the Imam and by His brother, making me out to be a villain which has caused death threats to me and risk of safety to my family, and my mother and my extended family is also suffering from the effects of litigation filed against me. Therefore, if I am not willing to obey the Imam, why would He not give His direct affidavit to get me to stop the activities He does not want me to engage in.
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20. This litigation has also caused me immense financial difficulties, both in terms of time being wasted and the time that I have to take off from my business. I own a bakery in Nairobi, Kenya, and I cannot leave the bakery alone to staff as in Kenya robberies and theft is rampant, and to attend for cross-examinations, I have to close my business for the month, as I will need to prepare to cross-examine the plaintiff's witnesses, seek to prepare myself for the cross-examinations, which are scheduled to last for about a week, and our expert is to be cross-examined, and the plaintiff's counsel has been inundating us with motions and letters seeking directions on a regular basis.
  21. I have asked Mr. Gray for discovery of the plaintiff, and Mr. Gray has just ignored my request. The Plaintiff's Counsel is trying to delay the outcome of this lawsuit by unduly harassing me, as he knows that I reside in Kenya and he can, by refusing a 5 minutes meeting with the Plaintiff, put on me the burden of multiple travels, high expenses and impose upon me delays which are ruining my reputation.
  22. Furthermore, ever since the litigation commenced, both Mr. Gray and Sachedina have been making numerous comments to a Salim Jiwa, an Ismaili owner of a web service out of Vancouver, operating under the name of vancourvite.com, through whom the litigation is being fought in public, to intimidate me, and to incite the Jamats to go against me and my family. Reading the posts in these web sites will immediately show the effect this litigation has had in our community. For instance, when Mr. Gray sent us the Imam's Affirmation, he also said that if we did not settle the matter he would make it public, then stated that, in any event he reserved the right to make it public. Their litigation tactics have to intimidate us into submission, and I do not for one moment believe that my Imam would take such a nasty approach in this matter.
  23. I am convinced that the most expeditious and least expensive determination of the proceeding rests on the 5 minute process of discovery of the named Plaintiff. I believe that
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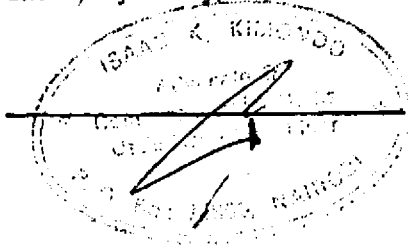
as defendant, it is my right to do whatever is possible to limit my expenses and to have the possibility to meet the Plaintiff directly and that the Imam will, I believe, confirm in the strongest terms that He has NOT initiated this lawsuit and He will confirm that the documents sent to me purported from the Plaintiff, all bear a forged signature as confirmed in all 5 expertises.

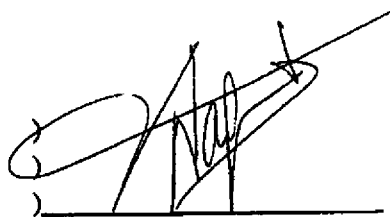
24. On the contrary, *if* Imam confirms as Mr. Gray and Sachedina wishes us to believe that the Imam *is* behind this litigation, then I will know first hand and will immediately cease the activities complained of. Yet, Mr. Gray says that he instructed the named plaintiff NOT to attend for examinations when I have been seeking all along a five-minute meeting whereupon, if I am satisfied that my Imam wants me to stop the activities complained of, I would immediately stop the activities, yet Mr. Gray inexplicable instructed his client not to attend for discoveries.
25. For me, this litigation is very personally painful. I have given my oath of allegiance to my Imam, and all I have: my life, my family, my wealth, my daughter, would be sacrificed in a moments notice for my Imam, and to be called and portrayed as my Imam's enemy is personally very painful, particularly as my whole life's activities are organized in a manner of serving my Imam and His Jamats. I have given enormous personal sacrifice to distribute the Farmans to my fellow Jamats, personal time, personal wealth, sleep, family time, and all of it not only without making a cent in profits, but have invested a lot of my own wealth to pay for the expenses to distribute the Farman books.
26. For example, the Golden Edition is sold by us for \$50.00, and it is hard-cover book, with a hard case, and an mp3 audio. A similar book alone without hardcover and the mp3 audio would cost about \$125.00 to \$200.00, and yet the claim alleges that I am doing this activity for making money. This is completely untrue.
27. I am sacrificing a lot to make these Farmans available to my Jamats because of my immense

love for my Imam and for His Jamats, and all I seek in return is My Imam's blessings.

28. I am, therefore, asking the help of the Court in arranging the discovery of the Plaintiff as soon as possible. I am willing to go to any place of the choice of the Plaintiff at the time and date he will choose. I believe the named Plaintiff will not attend any meeting or examination for the simple reason that He is NOT the real plaintiff. But setting a date for examination will help bring a stop to all the motions and cross-examination and lawsuit saving all parties including the Court, the aggravation, the expense and the waste of time.

SWORN at the City of Nairobi  
Kenya  
this 24 day of July, 2010



  
Nagib Tajdin

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**FEDERAL COURT**

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**BETWEEN:**

**HIS HIGHNESS PRINCE KARIM AGA KHAN**

**Plaintiff**

**and**

**NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO. and all  
other persons or entities unknown to the plaintiff who are reproducing,  
publishing, promoting and/or authorizing the reproduction and promotion  
of the Infringing Materials.**

**Defendants**

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**AFFIDAVIT OF NAGIB TAJDIN**

sworn on July <sup>24</sup> 2010

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