

UNITED STATES DISTRICT COURT
for the
District of Delaware

Fiona Havlish, et al.

Plaintiff

v.

bin Laden, et al.

Defendant

Civil Action No. 15-166

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Wilmington Trust Company

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: The items set forth on Schedule A attached hereto.

Table with 2 columns: Place (Klehr Harrison Harvey Branzburg LLP, 919 Market Street, Suite 1000, Wilmington, DE 19801) and Date and Time (07/08/2015 10:00 am)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The following provisions of Fed. R. Civ. P. 45 are attached - Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: June 26, 2015

CLERK OF COURT

OR

Handwritten signature of Sally E. Veghte

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Plaintiff

David S. Eagle and Sally E. Veghte, Klehr Harrison Harvey Branzburg, LLP, 919 Market St., Ste. 1000, Wilmington, DE 19801;

Telephone: 302-552-5503; Email: deagle@klehr.com and sveghte@klehr.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 15-166

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* Wilmington Trust Company
on *(date)* 06/24/2015.

I served the subpoena by delivering a copy to the named person as follows: Wendy Cook @ 4:22 pm
c/o Wilmington Trust Company, 1100 N. Market Street, Wilmington, DE 19801
on *(date)* 06/24/2015 ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: 06/25/2015



Server's signature

Drake McClendon-Process Server
Printed name and title

230 N. Market Street
Wilmington, DE 19801

Server's address

Additional information regarding attempted service, etc.:

SCHEDULE A TO SUBPOENA

DEFINITIONS

For purposes of this Subpoena, the following terms will have the meaning indicated below:

1. “Affiliate” shall mean any individual or entity that is in any way affiliated or associated with the individual or entity identified in the particular Document Request in which the term “affiliate” is used. The term includes, but is not limited to any agents, subsidiaries, parents, or representatives. In the case of governmental parties, the term also includes any political subdivisions, agencies, instrumentalities, or government-owned commercial enterprises.
2. “Agent” shall mean any agent, employee, officer, director, attorney, independent contractor or any other person acting at the direction of or on behalf of another.
3. “Airbus 82” shall mean the Airbus A320-231 bearing manufacturer’s serial number (MSN) 82 and N-Number N633AW that is referenced on page 10 of the DOC/BIS Modification of Temporary Denial Order.
4. “Airbus 99” shall mean the Airbus A320-231 bearing MSN 99 and N-Number N637AW that is referenced on page 10 of the DOC/BIS Modification of Temporary Denial Order.
5. “Airbus 317” shall mean the Airbus A320-231 bearing MSN 317 and N-Number N644AW referenced in footnote 8 of the DOC/BIS Modification of Temporary Denial Order.
6. “All,” “any,” and “each” shall each be construed as encompassing any and all.
7. “BIS” shall mean the Bureau of Industry Security, a bureau within the DOC.
8. “Communication” shall mean, without limitation, any exchange or transmission of information by oral, written, digital, or by other means, and includes, but is not limited to, writings, letters, memoranda, mail, telephone conversations, face-to-face conversation, electronic

mail or e-mail, SMS or text messages, social media postings or messages, newsletters, telegrams, telexes, advertisements, speeches, conferences, notes, or any form of computer-generated message or transmission.

9. “DOC” shall mean the United States Department of Commerce, including all of its agencies and subdivisions.

10. “DOC/BIS Modification of Temporary Denial Order” shall mean the Modification of Temporary Denial Order to Add Additional Respondents, which was issued by DOC on May 21, 2015 under the signature of DOC Assistant Secretary David W. Mills. A copy of the DOC/BIS Modification of Temporary Denial Order is attached to this Subpoena as Exhibit “A.”

11. “Document” is defined to be synonymous in meaning and equal in scope to the usage of the term “documents or electronically stored information” Rule 34(a)(1)(A) of the Federal Rules of Civil Procedure. The term includes, but is not be limited to, every writing, data recording, audio recording, still image, or video recording of any kind or description that is in your possession, control or custody, regardless of the format or medium in which such writings or recordings are either created or maintained. The term also includes, but is not limited to, email, electronically or digitally stored files or data, paper-based documents, SMS or text messages, social media postings or messages (through websites such as Facebook, Instagram, Twitter, blogs, and the like), databases, spreadsheets, and any other form of recording or archiving information using any media in any format. A draft or non-identical copy of a document is a separate document within the meaning of this term.

12. “Identify” means, when referring to documents, to give, to the extent known, the (i) type of document; (ii) general subject matter; (iii) date of the document; and (iv) author(s), addressee(s) and recipient(s). In the alternative, the responding party may produce the

documents, together with identifying information sufficient to satisfy Rule 33(d) of the Federal Rules of Civil Procedure.

13. “Identify” means, when referring to a person, to give, to the extent known, the person’s full name, present or last known address, and when referring to a natural person, additionally, the present or last known place of employment. Once a person has been identified in accordance with this paragraph, only the name of that person need be listed in response to subsequent discovery requesting the identification of that person.

14. “Including” means “including without limitation.”

15. “Involved Entities” shall mean:

- a.** all of the entities listed in the caption of the DOC/BIS Modification of Temporary Denial Order, including Mahan Airways; Pejman Mahmood Kosarayanifard; Kerman Aviation, Sirjanco Trading LLC; Ali Eslamian; Mahan Air General Trading LLC; Skyco Ltd.; Equipco Ltd.; Mehdi Bahrami; Al Naser Airlines; Ali Abdullah Alhay; and Bahar Safwa General Trading; and
- b.** Issam Shammout; Aer Cap; Sky Blue Bird Aviation; and the International Lease Finance Corporation.

16. “Iran” refers to the Government of Iran as defined by 31 CFR § 560.304 of the Iranian Transactions Regulations, a definition that includes: (a) the state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof; (b) any entity owned or controlled directly or indirectly by the foregoing; (c) any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the applicable effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and (d) any person or entity designated by the Secretary of the

Treasury as included within paragraphs (a) through (c).

17. “May 21 Aircraft” refers to the nine aircraft that OFAC identified on May 21, 2015, as property in which Mahan Air has or had an interest and therefore were blocked pursuant to Executive Order 13224. These aircraft are described on page 30763 of Federal Register Volume 80, Number 103. They are the following models, bearing the following manufacturer serial numbers: Airbus A340-313X with MSN 164; Airbus A340-642 with MSN 371; Airbus A340-642 with MSN 376; Airbus A340-642 with MSN 383; Airbus A340-642 with MSN 391; Airbus A340-642 with MSN 416; Airbus A340-642 with MSN 449; Airbus A321-131 with MSN 550; and Airbus A340-642 with MSN 615.

18. “OFAC” shall mean the Office of Foreign Asset Control, the office within the United States Department of Treasury that administers and enforces economic sanctions.

19. “Person” or “persons” shall mean any individual, corporation, proprietorship, limited liability company, partnership, professional corporation, joint venture, association, trust, government entity, or any other entity.

20. “Sale or purchase” shall mean the sale, purchase, attempted sale, or attempted purchase of any asset or interest, including real property.

21. “Third party” or “third parties” or “third person” or “third persons” shall mean individuals or entities that are not a party to this action.

22. “Wilmington Trust Company” shall mean the entity at Rodney Square North, 1100 North Market Street, Wilmington, Delaware, upon whom this Subpoena has been served, including all of its officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates.

23. The collectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Subpoena all responses that might otherwise be

construed to be outside of its scope.

24. The singular of a word shall include the plural of the word, and vice versa.

INSTRUCTIONS

1. Production of documents and items requested herein shall be made to David S. Eagle, Esquire and Sally E. Veghte, Esquire, Klehr Harrison Harvey Branzburg LLP, 919 Market Street, Suite 1000, Wilmington, Delaware 19801.
2. This Subpoena requires the production of all responsive documents that are in the possession, custody or control of Wilmington Trust Company (whether in its own name or in its capacity as a trustee, agent, or representative of another party), including present or former agents, representatives, or attorneys of Wilmington Trust Company, and all persons acting on behalf of Wilmington Trust Company. This Subpoena requires the production of all documents that are known to Wilmington Trust Company to exist and/or that can be located or discovered by reasonably diligent efforts.
3. For the purpose of this Subpoena, production of a copy, rather than the original, of a document is acceptable provided that the copy is a complete, accurate, legible and unaltered reproduction of the original and that the original is made available for inspection and photocopying at a time and place mutually agreed upon by the attorneys for the parties.
4. Each request for documents pursuant to this Subpoena seeks production of the document in its entirety, including all attachments.
5. Each request for production of documents in this Subpoena shall be deemed to be a request for all such documents, whether prepared by you or for you or by any other party or any other person, which documents are in your possession, custody or control, or in the possession, custody or control of your attorneys, accountants, consultants, receivers, employees, agents or

anyone acting on your behalf.

6. As to each document you are withholding from production via this Subpoena on the basis of a privilege, you are to provide a privilege log with the following information in order to sufficiently identify the document for any motion practice to compel its production: (a) title or description; (b) date; (c) author; (d) recipient(s); (e) number of pages; (f) subject matter, and (g) specific grounds for withholding the document.

7. Pursuant to Rule 45 of the Federal Rules of Civil Procedure, you are required to produce the documents as they are kept in the ordinary course of business or organized and labeled to correspond with the categories in this request.

8. If a document or other information is stored electronically, the document or other information shall be produced in native format. In conjunction with the production of any electronically stored information, all metadata and other bibliographic or historical data relating to such electronically stored information shall also be produced.

9. These requests should be deemed continuing, and supplemental production should be provided as additional documents become available.

10. Unless otherwise specified, the documents requested herein concern the period from January 1, 2008, to the present date.

DOCUMENT REQUESTS

1. All documents relating to Airbus 82 including:
 - a. all documents reflecting any actual or attempted funds transfers made in connection with Airbus 82;
 - b. all documents relating to the sale or purchase of Airbus 82, including any final or draft purchasing agreements or letters of intent relating to Airbus 82;
 - c. all documents relating to the physical location of Airbus 82;

4. All documents relating to any transactions that (a) involve the sale, purchase, or transfer of aircraft and (b) have been blocked by the DOC or have been subject to a Temporary Denial Order;
5. All documents relating to the Involved Entities, including:
 - a. all documents relating to any interactions between Wilmington Trust Company and any of the Involved Entities; and
 - b. all documents relating to any funds, real property, or assets held by Wilmington Trust Company on behalf of any of the Involved Entities.
6. All documents relating to Wilmington Trust Company's dealings with Iran, including:
 - a. all documents relating to any interactions between Wilmington Trust Company and Iran; and
 - b. all documents relating to any funds, real property, or assets held by Wilmington Trust Company on behalf of Iran.
7. All documents relating to any actions taken by or communications to or from BIS or OFAC with respect to any funds, real property, or other assets in which Wilmington Trust Company has had an interest, either on its own behalf or on behalf of a third-party.
8. All documents relating to the May 21 Aircraft.

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)

(c) Place of Compliance.

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) Appearance Not Required. A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) Objections. A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) When Required. On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) When Permitted. To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) Specifying Conditions as an Alternative. In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) Documents. A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) Form for Producing Electronically Stored Information Not Specified. If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) Electronically Stored Information Produced in Only One Form. The person responding need not produce the same electronically stored information in more than one form.

(D) Inaccessible Electronically Stored Information. The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) Information Withheld. A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) Information Produced. If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.