

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

| | | |
|----------------------------------|---|-------------------------------------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| v. |) | Criminal No. 1:07CR209 (TSE) |
| |) | |
| WILLIAM J. JEFFERSON, |) | |
| |) | |
| Defendant. |) | |

**MOTION FOR FOREIGN DEPOSITIONS AND FOR ORDER REQUIRING
USE OF MLAT PROCEDURES OR IN THE ALTERNATIVE FOR ISSUANCE
OF LETTER ROGATORY TO OBTAIN CERTAIN OF THE DEPOSITIONS**

Pursuant to Rule 15(a) of the Federal Rules of Criminal Procedure, defendant William J. Jefferson respectfully moves for an order permitting the depositions of Jennifer Douglas Abubakar, Atiku Abubakar and Suleiman Yahyah, to preserve their testimony for trial.

In addition, with respect to Mr. Abubakar and Mr. Yahyah, because these witnesses are located in Nigeria and compulsory process will be necessary to secure their depositions, defendant further moves for an order requiring the government to seek these depositions pursuant to the Mutual Legal Assistance Treaty between the United States and Nigeria, or in the alternative for the issuance of a letter rogatory requesting the judicial assistance of the appropriate authorities in Nigeria to obtain the depositions. Although Mrs. Abubakar is also located in Nigeria, international compulsory process will not be necessary for her deposition, as explained in the memorandum below.

The specific grounds for this motion are set forth more fully in the accompanying memorandum of law.

**MEMORANDUM IN SUPPORT OF
DEFENDANT'S MOTION FOR FOREIGN DEPOSITIONS**

Count 1 of the indictment charges Mr. Jefferson with, *inter alia*, conspiring to violate the Foreign Corrupt Practices Act (“FCPA”) through the payment of bribes to Atiku Abubakar, the Vice President of Nigeria, and other Nigerian officials. The bribes were allegedly to be paid in order to ensure the success of a telecommunications joint venture in Nigeria involving iGate technology. Count 11 charges a substantive FCPA violation based on the alleged bribery of Mr. Abubakar. The indictment claims that Mr. Jefferson was responsible for negotiating, offering and delivering bribes to Mr. Abubakar, and that Nigerian businessman Suleiman Yahyah was responsible for paying bribes to lower ranking Nigerian government officials. Ind., ¶¶ 52, 96. The indictment specifically alleges that Mr. Jefferson communicated with Jennifer Douglas Abubakar, the wife of the Nigerian vice president, about the bribe to be paid to her husband. Ind., ¶ 101. The government has identified Suleiman Yahyah, Jennifer Douglas Abubakar and Atiku Abubakar as co-conspirators with regard to the conspiracy charged in Count 1.

In a letter dated February 7, 2008, the government disclosed to the defense for the first time that “Messrs. Abubakar and Yahyah have made statements either through their lawyers, to the media, or to Nigerian authorities denying any role in paying or accepting bribes in relation to the charges pending in the above-captioned case.” Feb. 7, 2008 letter at 5. The government also disclosed that during her grand jury testimony, Jennifer Douglas Abubakar “denied that [Mr. Jefferson] talked to her about his interest in paying her husband money.” *Id.* at 3. The government admits that these statements are exculpatory. *Id.* at 3, 5.

These minimal disclosures fall far short of satisfying the government’s obligations under *Brady v. Maryland*, 373 U.S. 83 (1963), and the defense has demanded additional information from the government. But now that the defense is on notice of the exculpatory testimony that

would be given by these witnesses, who are unavailable for trial, Mr. Jefferson seeks the opportunity to depose them pursuant to Rule 15 of the Federal Rules of Criminal Procedure. In addition, with respect to Atiku Abubakar and Suleiman Yahyah, Mr. Jefferson further requests that the Court order the government to seek these depositions pursuant to the Mutual Legal Assistance Treaty with Nigeria, or in the alternative that the Court issue a letter rogatory seeking the assistance of the Nigerian authorities in obtaining the depositions of these individuals. The defense has been advised that if the deposition of Jennifer Douglas Abubakar is ordered, she will appear voluntarily, so international compulsory process will not be necessary with respect to her deposition.¹

A. Status of the Witnesses

Jennifer Douglas Abubakar, the wife of Atiku Abubakar, is an American citizen. The defense attempted unsuccessfully to serve a trial subpoena on Mrs. Abubakar in the United States, and has been advised by Mrs. Abubakar's American counsel that the house she owned in the United States is on the market. The defense has further been advised by her counsel that Mrs. Abubakar now lives in Nigeria and is unwilling to voluntarily appear in the United States for trial because the lengthy trip would keep her away from her children and her teaching activities. However, if a deposition is permitted by the Court, Mrs. Abubakar is willing to appear voluntarily for a deposition in Europe, at a location to be determined. Accordingly, no international compulsory process would be necessary for her deposition to be taken.

¹ Defendant's appeal of the denial of his motion to dismiss the bribery-related counts of the indictment because Speech or Debate material was used in the grand jury is currently pending in the Fourth Circuit. Because the foreign discovery requests made in this motion do not relate to the matters on appeal, this Court has jurisdiction to address this motion now. Defendant is filing this motion at this time so that the issues raised can be dealt with prior to any eventual trial, and does not waive his position on appeal.

Atiku Abubakar, a Nigerian citizen, is the former vice president of Nigeria and currently a resident of Nigeria. The defense has been advised by Mr. Abubakar's American counsel that Mr. Abubakar is unwilling to appear voluntarily in the United States for trial and that the lengthy trip would significantly disrupt his activities. The defense has further been advised that Mr. Abubakar is not willing at this time to consent to appear voluntarily for a deposition, but would reconsider his position if a deposition is permitted and compulsory process is ordered.

Suleiman Yahyah is a Nigerian citizen and a resident of Nigeria. The defense has tried to contact Mr. Yahyah, but has been informed by his counsel that Mr. Yahyah is in Nigeria and unavailable to speak to the defense.

B. Mr. Jefferson Is Entitled to Take the Requested Depositions Under Rule 15.

Rule 15 provides:

A party may move that a prospective witness be deposed in order to preserve testimony for trial. The court may grant the motion because of exceptional circumstances and in the interest of justice.

Fed. R. Crim. P. Rule 15(a)(1).

The Advisory Committee Note to Rule 15 states that a court should grant depositions if “(a) the prospective witness will be unable to attend or be prevented from attending the trial, (b) the prospective witness’ testimony is material, and (c) the prospective witness’ testimony is necessary to prevent a failure of justice.” Advisory Committee Note, quoted in *United States v. Rosen*, 240 F.R.D. 204, 208 (E.D.Va. 2007). As this court stated, “if these three criteria are satisfied, the depositions should be ordered, assuming appropriate compulsory process is available.” 240 F.R.D. at 208. *See also United States v. Drogoul*, 1 F.3d 1546, 1552 (11th Cir. 1993)(“When a prospective witness is unlikely to appear at trial and his or her testimony is critical to the case, simple fairness requires permitting the moving party to preserve that

testimony – by deposing the witness – absent significant countervailing factors which would render the taking of the deposition unjust.”). All of the criteria warranting Rule 15 depositions are present in this case.

1. Unavailability. As set forth above, Mrs. Abubakar, Mr. Abubakar and Mr. Yahyah are outside of the United States, are not willing to appear voluntarily at trial, and are not subject to trial subpoenas that could be served by the defendant. At this point, the defendant has no reason to believe that the government will call any of these individuals as witnesses at trial. Accordingly, these witnesses are unavailable for purposes of the Rule 15 analysis. *See United States v. Hajbeh*, 284 F. Supp.2d 380, 382 (E.D. Va. 2003) (first prong of test in Advisory Committee Note satisfied if “the witness will be unavailable to testify at trial”). As the Eleventh Circuit stated in *United States v. Drogoul*,

A potential witness is unavailable for purposes of Rule 15(a) . . . whenever a substantial likelihood exists that the proposed deponent will not testify at trial. In that situation, justice usually will be served by allowing the moving party to take the deposition, thereby preserving the party’s ability to utilize the testimony at trial, if necessary.

1 F.3d at 1553.

2. Materiality. This Court has held that for purposes of Rule 15, materiality has the meaning applied in *Brady* and its progeny: “the evidence or testimony must be exculpatory, and not ‘corroborative or cumulative of other evidence.’” *United States v. Rosen*, 240 F.R.D. at 209. *See also United States v. Hajbeh*, 284 F. Supp.2d 380, 383-85 (E.D.Va. 2003).

The testimony at issue here is, as the government has already admitted, exculpatory – that is, it “tends to negate an element of the crime or to establish a defense.” *Rosen*, 240 F.R.D. at 209. The testimony goes directly to key elements of the conspiracy and FCPA charges against Mr. Jefferson.

The elements of an FCPA violation have been set out as follows:

... [I]n order to obtain a conviction under this portion of the statute, the government must prove beyond a reasonable doubt that the defendant is

1. a domestic concern
2. that made use of a means or instrumentality of interstate commerce
3. corruptly
4. in furtherance of an offer or payment of anything of value to any person
5. while knowing that the money would be offered or given directly or indirectly to any foreign official
6. for purposes of influencing any act or decision of such foreign official in his official capacity.

Stichting v. Saybolt International, 327 F.3d 173, 179-80 (2d Cir. 2003). *See also United States v. Kozeny*, 493 F. Supp.2d 693, 704 (S.D.N.Y. 2007) (criminal violation of FCPA also requires finding that defendant acted “willfully”).

The essential elements of a conspiracy are: (1) an agreement between two or more persons, and (2) an intent to achieve a common objective – either the commission of an unlawful act or the doing of a lawful act through unlawful means. *United States v. McLean*, 166 F.3d 336, 1998 WL 879497, *3 (4th Cir. 1998), citing *United States v. Burgos*, 94 F.3d 849, 860 (4th Cir. 1996) (*en banc*). The “gravamen of the crime of conspiracy is an *agreement*,” *id.* (citing *United States v. Laughman*, 618 F.2d 1067, 1074 (4th Cir. 1980)), and the agreement in question must be with another person who is not a government agent. *United States v. Lewis*, 53 F.3d 29, 33 (4th Cir. 1995); *United States v. Hayes*, 775 F.2d 1279, 1283 (4th Cir. 1985).

According to the indictment, the alleged bribe to the Nigerian vice president was discussed by the defendant directly with Mrs. Abubakar and with Vice President Abubakar. *See* Ind. ¶ 101 (“On or about June 7, 2005, in Washington, D.C., Defendant JEFFERSON met with [Atiku Abubakar]’s Spouse . . . and expressed his willingness to provide things of value to [Atiku Abubakar] in return for [Atiku Abubakar] assisting the Nigerian Joint Venture.”); Ind., ¶

122 (“On or about July 18, 2005, at the residence of [Atiku Abubakar] in Potomac, Maryland, Defendant JEFFERSON met privately with [Atiku Abubakar] and offered to pay a bribe to induce him to use his position to assist in obtaining commitments from NITEL for the benefit of the Nigerian Joint Venture.”). These allegations, which are based on the government’s interpretation of recorded conversations between Mr. Jefferson and a government agent, are not otherwise corroborated; in particular, there are no recorded conversations between Mr. Jefferson and Mr. Yahyah, Mr. Abubakar, Mrs. Abubakar, or anyone else that support these allegations.

Mrs. Abubakar’s denial that Mr. Jefferson ever spoke to her about paying money to her husband rebuts the government’s contention that the alleged conversation occurred. It tends to negate the element of agreement necessary for conspiracy, and also negates the FCPA element that Mr. Jefferson was acting in furtherance of an offer or payment of anything of value to a foreign official. Mr. Abubakar’s denial of any role in accepting bribes similarly contradicts the government’s allegations about the meeting between Mr. Abubakar and Mr. Jefferson and negates these elements of the alleged crimes.

With respect to Mr. Yahyah, the indictment asserts that he “agreed that bribes would be paid, as needed, to various Nigerian government officials if deemed necessary to the success of the Nigerian Joint Venture,” and further that he “was responsible for the payment of bribes to lower ranking Nigerian government officials to ensure the success of the Nigerian Joint Venture.” Ind., ¶ 52. These allegations are similarly based on the government’s interpretation of recorded conversations not involving Mr. Yahyah. Mr. Yahyah’s denial of any role in paying bribes negates the agreement element of the conspiracy charge as well as the critical element of the underlying FCPA violation.

As well as being exculpatory, the testimony is not cumulative of other existing and available evidence. As this court has noted, for purposes of a Rule 15 analysis it is appropriate to assume that the defendant will exercise his right to remain silent. *Rosen*, 240 F.R.D. at 210. The Abubakars and Mr. Yahyah are the persons who allegedly participated directly with the defendant in conspiracy and bribe schemes involving Nigerian officials. Certain of the key meetings alleged in the indictment involved, in addition to the defendant, only Mrs. Abubakar (Ind., ¶ 101), or Mr. Abubakar (Ind., ¶ 122). The defense is aware of no other witnesses who can or will provide testimony that none of these individuals discussed the payment or receipt of bribes with defendant.

3. **Interests of justice.** “The principal consideration guiding whether the absence of a particular witness’s testimony would produce injustice is the materiality of that testimony to the case.” *United States v. Drogoul*, 1 F.3d at 1552. Here, the materiality of the proposed testimony is clearly established. It would plainly be unjust to deny to Mr. Jefferson the opportunity to obtain exculpatory testimony from those individuals who are placed by the government directly at the center of the alleged conspiracy and bribe schemes. Accordingly, Mr. Jefferson has satisfied all of the criteria applicable under Rule 15, and his motion for permission to take depositions of Jennifer Douglas Abubakar, Atiku Abubakar and Sulieman Yahyah should be granted.

C. The Court Should Order the Government to Use the MLAT Process to Obtain the Depositions of Mr. Abubakar and Mr. Yahyah or, in the Alternative, the Court Should Issue a Letter Rogatory to the Nigerian Authorities.

Because Atiku Abubakar and Sulieman Yahyah are located outside of the United States, their depositions cannot be compelled by a subpoena issued by an American court, and they have not agreed to appear voluntarily to be deposed.² Accordingly, defendant requests that the Court enter an order to facilitate the taking of their depositions in Nigeria, either by requiring the government to obtain the depositions pursuant to the Mutual Legal Assistance (“MLA”) treaty with Nigeria, or by issuing a letter rogatory to the Nigerian authorities.

1. The MLAT process. The United States and Nigeria are parties to a treaty on Mutual Legal Assistance in Criminal Matters (signed on September 13, 1989; entered into force January 14, 2003). 1989 U.S.T. Lexis 237. The assistance to be provided under the treaty includes “taking the testimony . . . of persons.” Article 1, ¶ 2. Accordingly, under the treaty the U.S. government has the power to request that Nigeria arrange for these witnesses to be deposed. The Sixth Amendment of the U.S. Constitution provides that “[i]n all criminal prosecutions, the accused shall enjoy the right . . . to have compulsory process for obtaining witnesses in his favor.” Mr. Jefferson respectfully submits that the Sixth Amendment requires the government use its rights under the MLA treaty to request that the Nigerian government arrange the depositions.

Mr. Jefferson recognizes that the MLA treaty with Nigeria provides that “The provisions of this treaty shall not give rise to a right on the part of any private party to obtain . . . any evidence.” Art. 1, ¶ 4. Mr. Jefferson also recognizes that in *Rosen*, this court held that, under the

² Because Mrs. Abubakar will appear voluntarily for a deposition, the relief sought in this portion of the memorandum does not apply to her.

language of a similarly-worded MLA treaty with Israel, the defendants could not force the government to request depositions of foreign witnesses. 240 F.R.D. at 213-14. The court further found that denial of the defendants' motion to compel the government to invoke the treaty did not violate the defendants' Sixth Amendment right to compulsory process, because (1) the testimony at issue was not exculpatory or was cumulative, and (2) "the right to compulsory process extends only to forms of process a court can issue of its own power, not to forms of process that require the cooperation of the Executive Branch or foreign courts." 240 F.R.D. at 214.

Here, however, the evidence in question is both exculpatory and non-cumulative. Moreover, Mr. Jefferson respectfully submits that the purpose of the Sixth Amendment's compulsory process clause is to put a defendant on an equal footing with the government in terms of the ability to obtain witnesses. Because of the critical nature of the evidence, Mr. Jefferson further submits that his Fifth Amendment right to due process would be violated if the government did not use its powers under the MLA treaty to obtain the depositions of these two witnesses. Accordingly, the government should be ordered to do so.

2. Letter rogatory. In the alternative, Mr. Jefferson requests that the Court issue a letter rogatory to the appropriate authorities in Nigeria seeking assistance in obtaining the depositions of Mr. Abubakar and Mr. Yahyah. A proposed letter rogatory is attached as Exhibit

1. As this Court has recognized, letters rogatory

are the means by which a court in one country requests the court of another country to assist in the administration of justice by taking depositions Federal courts have both statutory and inherent authority to issue letters rogatory, regardless of whether the case is civil or criminal.

Rosen, 240 F.R.D. at 215. *See also* 28 U.S.C. § 1781. The court further stated,

In general, “[w]here the relevancy or materiality of the testimony sought is doubtful, the court should not grant the application” for letters rogatory. . . . Instead, letters rogatory should be issued only where “necessary and convenient.”

Id. (citations omitted).

In *Rosen*, the court denied the defendants’ request for letters rogatory because it found that the testimony the defendants sought to obtain either was not exculpatory or was cumulative. 240 F.R.D. at 215. The court also noted that the delay attendant to letters rogatory counseled against their issuance. *Id.* But the court also expressly recognized that delay is not always dispositive: “delay would be justified if necessary to ensure a fundamentally fair trial for defendants.” *Id.*

Here, the testimony that Mr. Jefferson seeks to obtain from Mr. Abubakar and Mr. Yahyah is material and, by the government’s own admission, exculpatory. It is also not cumulative. For the reasons set forth above in the discussion of Rule 15, the interests of justice require that the defendant be permitted to obtain the testimony of these key witnesses. Although delay will be involved, the timing of the defendant’s request was determined by the timing of the government’s still-inadequate *Brady* disclosures about these witnesses.³ More importantly, the requested depositions are necessary in this case to ensure a fundamentally fair trial.

³ It is possible that the letters rogatory process will not be necessary with respect to Mr. Abubakar, who, as noted above, is willing to reconsider his position regarding the need for compulsory process after the Court rules on this motion.

Accordingly, Mr. Jefferson respectfully submits that the Court should (1) grant his motion for permission to take the depositions of Jennifer Douglas Abubakar, Atiku Abubakar and Suleiman Yahyah pursuant to Rule 15, and (2) order the government to use the MLAT process to obtain the assistance of the Nigerian government in arranging the depositions of Mr. Abubakar and Mr. Yahyah, or in the alternative issue a letter rogatory seeking these depositions to the appropriate authorities in Nigeria.

Respectfully submitted,

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Certificate of Service

I hereby certify that on this 5th day of May, 2008, I electronically filed the foregoing motion and the accompanying memorandum with the Clerk of Court using the CM/ECF system, which will send a notification of such filing (NEF) to the following:

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| UNITED STATES OF AMERICA, |) | |
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| WILLIAM J. JEFFERSON, |) | |
| |) | |
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**REQUEST FOR INTERNATIONAL JUDICIAL ASSISTANCE
(LETTER ROGATORY)**

The United States District Court for the Eastern District of Virginia, in the United States of America, presents its compliments to the appropriate judicial authority of the Federal Republic of Nigeria and requests international judicial assistance to obtain evidence to be used in a criminal proceeding before this Court in the captioned matter.

This Court requests the assistance described herein as necessary in the interests of justice. The assistance requested is that the appropriate judicial authority of the Federal Republic of Nigeria compel the appearance of the below named individuals to give evidence, under oath, as to their knowledge of the facts that are relevant to the issues in this case.

A. Identity and Addresses of Persons to Be Examined

The names and addresses of those to be examined are:

1. Suleiman Yahyah
c/o Alh. Abdullahi Ibrahim
Abdullahi Ibrahim & Co.
#45, Haile Selassie Street
Garki, Abuja – Nigeria

2. Atiku Abubakar
Abuja, Nigeria

B. Nature and Purpose of the Proceedings and Summary of the Facts

1. The Pending Criminal Proceeding

This Request for International Judicial Assistance relates to a criminal proceeding currently pending against William J. Jefferson in the United States District Court for the Eastern District of Virginia. Mr. Jefferson was indicted on June 4, 2007. The 16-count indictment charges Mr. Jefferson with conspiracy, bribery, wire fraud, violation of the Foreign Corrupt Practices Act (“FCPA”) (15 U.S.C. § 78dd-2(a)), racketeering and other offenses. The charges relate to dealings with an American company called iGate, Inc., a Nigerian company called W2-IBBS, and other companies seeking to do business in Africa.

As particularly relevant to this request for assistance, the indictment alleges that Mr. Jefferson conspired to bribe foreign officials in violation of the FCPA and that he agreed or offered to pay a bribe in violation of the FCPA. The indictment alleges that bribes were to be paid to Mr. Atiku Abubakar, then the Vice President of Nigeria, and to unnamed lower ranking Nigerian government officials. The indictment alleges that the purpose of the bribes was to cause the officials to intercede with NITEL so that NITEL would allow a Nigerian joint venture formed by W2-IBBS and Rosecom to provide high speed internet and other telecommunications services over existing telephone lines in Nigeria, using iGate technology. The indictment alleges that Suleiman Yahyah, the president of Rosecom, was a participant in the bribery conspiracy and was to be responsible for paying bribes to lower ranking government officials.

Mr. Jefferson denies the allegations in the indictment and intends to defend against them at trial. The previously-scheduled trial date has been postponed because of a pending interlocutory appeal. No new trial date has been set.

2. Knowledge of Persons to be Examined

In order to defend himself in this case, Mr. Jefferson needs to obtain the testimony of persons who have knowledge of the relevant events, including those that are the basis for the allegations of conspiracy to bribe foreign officials. Because the persons described below have knowledge of these matters, the interests of justice will be furthered if these persons are deposed, under oath, as to their knowledge of the facts.

Atiku Abubakar, the former vice president of Nigeria, was allegedly a direct participant in the bribery conspiracy. The indictment against Mr. Jefferson alleges that Mr. Jefferson and Mr. Abubakar had a private meeting in which Mr. Jefferson offered to pay a bribe to Mr. Abubakar. The prosecutors in the criminal proceeding have disclosed to Mr. Jefferson that Mr. Abubakar has made statements, either through his lawyers, to the media or to Nigerian authorities, denying any role in accepting bribes in relation to the charges in this case.

Suleiman Yahyah was the president of Rosecom, a Nigerian company that was a participant in the joint venture seeking to provide high speed internet and other telecommunications services using iGate technology in Nigeria. Mr. Yahyah has knowledge about Rosecom's role in the joint venture and about the activities of the other participants, including W2-IBBS and Lori Mody. The indictment alleges that Mr. Yahyah participated in discussions about bribing Nigerian officials and that he was to be responsible for bribing unnamed lower ranking Nigerian officials. The prosecutors have disclosed to Mr. Jefferson that Mr. Yahyah has made statements, either through his lawyers, to the media or to Nigerian authorities, denying any role in paying bribes in relation to the charges in this case.

C. Evidence to Be Obtained

The evidence to be obtained consists of testimony for use in the trial of the criminal proceeding against William J. Jefferson. This Court respectfully requests that a Nigerian judicial authority compel the persons identified above to appear and be deposed, under oath, as to their knowledge of the facts that are relevant to the issues in this case.

1. Questions to Be Asked of Suleiman Yahyah

1. Describe the role of Rosecom in the joint venture with W2-IBBS for the provision of high speed internet and other telecommunications services in Nigeria, and describe the activities that Rosecom was to undertake as part of the joint venture.

2. How did you and Rosecom become aware of iGate and the possibility of a joint venture with iGate or W2-IBBS?

3. Describe any conversations or other communications you may have had with William Jefferson regarding obtaining the assistance of Nigerian government officials for the W2-IBBS/Rosecom joint venture.

4. Describe any conversations or other communications you may have had with William Jefferson regarding the payment of money or things of value to Nigerian government officials in exchange for their assistance to the W2-IBBS/Rosecom joint venture.

5. State whether you ever agreed with William Jefferson that you would arrange for the payment of money or things of value to Nigerian government officials in exchange for their use of their influence or positions to obtain commitments from NITEL for the benefit of the W2-IBBS/Rosecom joint venture.

6. State whether you ever agreed with William Jefferson that money or other things of value should be paid to Atiku Abubakar in exchange for his use of his influence or position to obtain commitments from NITEL for the benefit of the W2-IBBS/Rosecom joint venture.

7. State whether you ever paid money or other things of value to any Nigerian government officials in exchange for their providing assistance to the Rosecom/W2-IBBS joint venture.

8. On or about June 9, 2005, you placed a telephone call to Vernon Jackson concerning the negotiations with NITEL and possible communication between Mr. Jefferson and Atiku Abubakar. What if anything did you expect Mr. Jefferson to do? Did you have any direct communication with Mr. Jefferson about the problem?

9. Did you provide a handwritten statement to the Nigerian Economic and Financial Crimes Commission relating to iGate and Mr. Jefferson? Is this document, marked with the identifying numbers MLAT-N01474 through MLAT-N01482 (copy attached as Exhibit A; to be shown to Mr. Yahyah at the deposition) an accurate copy of that statement? Are the matters set forth in this statement true?

2. Questions to Be Asked of Atiku Abubakar

1. Describe any conversations or other communications you may have had with William Jefferson regarding the joint venture between W2-IBBS and Rosecom for the provision of high speed internet and other telecommunications services in Nigeria.

2. Describe any conversations or other communications you may have had with William Jefferson regarding the payment of money or other things of value to you or to someone designated by you in exchange for your assistance to the W2-IBBS/Rosecom joint venture.

3. Describe any conversations or other communications you may have had with any other persons regarding the payment of money or other things of value to you in exchange for your assistance to the W2-IBBS/Rosecom joint venture.

4. State whether William Jefferson ever offered to pay to you, or to some other person or entity of your choosing, money or other things of value in return for your use of your influence or position to obtain commitments from NITEL for the benefit of the W2-IBBS/Rosecom joint venture.

5. State whether William Jefferson ever paid to you, or to some other person or entity of your choosing, money or other things of value in return for your use of your influence or position to obtain commitments from NITEL for the benefit of the W2-IBBS/Rosecom joint venture.

6. Describe in detail the meeting that took place on or about July 18, 2005 between you and Mr. Jefferson at your Potomac, Maryland home, including but not limited to:

- How did the meeting come to be arranged?
- What did you know about the purpose of the meeting before July 18, 2005?
- What did you know about the Nigerian telecommunications venture before July 18, 2005?
- What did Mr. Jefferson tell you when the two of you met privately on July 18, 2005?
- Did Mr. Jefferson request your assistance?
- What if anything did he ask you to do?
- What was your response?
- On July 18, 2005, or at any time before or after, did Mr. Jefferson offer to provide you with anything of value in exchange for your assistance with the telecommunications venture?
- On July 18, 2005, or at any time before or after, did Mr. Jefferson offer to provide

your wife, Jennifer Douglas Abubakar, or any organization with which she was associated, anything of value in exchange for your assistance with the telecommunications venture?

- On July 18, 2005, or at any time before or after, did you agree to receive anything of value in exchange for your assistance with the telecommunications venture?
- On July 18, 2005, or at any time before or after, did you or Mrs. Abubakar receive anything of value from Mr. Jefferson?

7. On July 31, 2005, or at any time before or after, did you or Mrs. Abubakar receive anything of value from Mr. Jefferson?

8. Describe in detail the meeting that took place in or about August 2003 at your Potomac, Maryland home involving Mr. Jefferson and representatives of Netlink Digital Television, including but not limited to:

- Did you know Mr. Jefferson prior to the meeting?
- What were you told about the telecommunications venture?
- Were you asked to provide any form of assistance to the venture at that time?

D. Special Procedures

This Court respectfully requests the appropriate judicial authority of the Federal Republic of Nigeria to follow the following special procedures.

1. Requirements That the Evidence Be Given on Oath or Affirmation and Specific Form to Be Used.

The examinations of the persons listed above should be taken under oath before (1) a secretary of embassy, consul general, vice-consul or consular agent of the United States of America or any officer authorized to administer oaths under the laws of the United States or of the Federal Republic of Nigeria, or (2) before a person appointed by the court and empowered to administer oaths and take testimony.

This Court further requests that you require that the testimony given during the depositions be given under the following oath: “I, [name of deponent], do swear (or affirm) that the testimony that I am about to give is the truth, the whole truth, and nothing but the truth, so help me God.”

In the event that the law of Nigeria does not permit the swearing of an oath by particular witnesses, the duly appointed officer shall make inquiry of such witness to ensure that he/she understands the gravity of the procedure and affirms that his/her statement will be true and correct in all respects.

2. Other Special Methods or Procedures to be Followed

Except to the extent that such rules are incompatible with the internal laws of the Federal Republic of Nigeria, the examinations shall be taken under the Federal Rules of Civil Procedure, provided, however, that the scope and manner of the examination and cross-examination at the deposition shall be in accordance with the Federal Rules of Evidence as would apply during trial in a United States court.

The examination shall be taken before a commercial stenographer and a verbatim transcript shall be produced.

The Court further requests that counsel for defendant William J. Jefferson and for the United States of America be notified of the date, time and place of each of the depositions and that they be allowed to appear at each of the depositions and to participate by asking questions of the deponents. If the laws of the Federal Republic of Nigeria do not allow foreign attorneys to appear before the appropriate judicial body of the Federal Republic of Nigeria, this Court requests that local counsel in the Federal Republic of Nigeria be allowed to appear at each of the depositions and to participate by asking questions of the deponents.

E. Request for Notification of the Time and Place for Examination of the Witnesses

This Court respectfully requests that the following individuals be notified of the time and place of the examination of the witnesses and supplies the identity and address of the persons to be notified.

Please send notice of the time and place of the examination of the witnesses to:

Honorable T.S. Ellis, III
United States District Judge
United States District Court for the
Eastern District of Virginia
Alexandria Division
401 Courthouse Square
Alexandria, VA 22314
U.S.A.

Robert P. Trout
Trout Cacheris, PLLC
1350 Connecticut Avenue, N.W.
Suite 300
Washington, D.C. 20036
U.S.A.

Mark D. Lytle, AUSA
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, VA 22314
U.S.A.

Please also send the original verbatim transcripts of the depositions to:

Clerk of the Court
United States District Court for the
Eastern District of Virginia
Alexandria Division
401 Courthouse Square
Alexandria, VA 22314
U.S.A.

F. Reciprocity

This Court appreciates the appropriate judicial authority's assistance in obtaining evidence in this matter. This Court is willing to provide similar assistance to judicial authorities in the Federal Republic of Nigeria should a judicial authority in the Federal Republic of Nigeria so require.

G. Reimbursement of Fees and Costs

This Court is willing to reimburse the appropriate judicial authority of the Federal Republic of Nigeria for costs incurred in executing this letter rogatory.

Honorable T.S. Ellis, III
United States District Court for the Eastern
District of Virginia
Alexandria, Virginia, United States of America

Dated: _____, 2008
Alexandria, Virginia

(SEAL OF COURT)

08033112456 - 0805571313

ECONOMIC AND FINANCIAL CRIMES COMMISSION
THE STATEMENT OF WITNESS/ACCUSED



Station EFCC ABUJA
Name SULEIMAN YAHYAH Nationality/Tribe NIGERIAN-FULANI
Age 43 YEARS Occupation ENTREPRENEUR Religion ISLAM
Address NO 21B KAINJI STREET, MATAMA ABUJA

In case of accused person the formal caution will be administered.

I SULEIMAN YAHYAH having been duly cautioned in English language that I am not obliged to say anything unless I wish to do so but what I say will be taken down in writing and may be given in evidence. I freely and voluntarily elect to state as follows:-

Signed
6/7/06

I AM AN INDEGENE OF KATSINA STATE - RESIDENT IN KADUNA - I HAVE A MASTERS DEGREE IN ECONOMICS FROM CAMBRIDGE UNIVERSITY ENGLAND, PRIOR TO THAT I GRADUATED FIRST CLASS IN ECONOMICS FROM BAUCHO UNIVERSITY KANO - I AM A CHARTERED STOCKBROKER/INVESTMENT BANKER AND ENTREPRENEUR - I AM A MEMBER OF THE INVESTMENT AND SECURITIES TRIBUNAL (IST). I WORKED WITH CONTINENTAL MERCHANT BANK (CHASE) BETWEEN 1987 AND 1992. RESIGNED AND SET UP EMPIRE GROUP IN 1992 - RESIGNED IN 1997 AND SET UP ROSEHILL GROUP AND TALA FEN PARTNERS. IN 1999, I ESTABLISHED ROSECOM.NET LTD WHICH I CHAIR. ^{I AM} FORMER BANK DIRECTOR IN FCMB AND NUB - RESIGNED AS A RESULT OF CONSOLIDATION IN NUB AND CONFLICT OF INTEREST AT FCMB. ROSECOM.NET IS AN INTERNET SERVICE PROVIDER. ^{AS} AN ISP WE HAVE A CONTINUING BUSINESS RELATIONSHIP WITH NITEL PLC, WHICH COMMENCED WITH DIAL-UP/EEI SERVICES IN 1999. THE ADSL (ASYMMETRICAL DIGITAL SUBSCRIBER LINE) RELATIONSHIP COMMENCED ON NOVEMBER 5TH 2003 WHEN WE

MLAT-N 01474

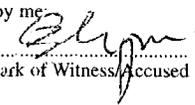
EXHIBIT A

MLAT-N01474

REQUESTED FOR A MEETING TO EXPLORE JOINT VENTURE OPPORTUNITIES ON BROAD BAND INTERNET FOLLOWING THE COLLAPSE OF WIRELESS SERVICE OCCASIONED BY THE FCC RE-REGULATION OF THE MINUTES OF THE MEETING AND SUBSEQUENT MEETINGS ARE AS APPENDIXED - 1 DELIVERED TO YOU. UNFORTUNATELY THE ADSL RELATIONSHIP DID NOT TAKE OFF - WITH THE PENTASCOPE MANAGEMENT SUPERVISOR'S ISSUES OF EQUIPMENTS / FUNDING ETC. HOWEVER THE FRAME WORK AND BASIC PRINCIPLES WERE AT AN ADVANCED STAGE. THE FEDERAL GOVERNMENT TERMINATED PENTASCOPE'S CONTRACT ON FEB. 2, 2005 (SEE THIS DAY). THE NEW MANAGEMENT UNDER ALBERT ALASHI OFFERED THE CONTRACT ON 29-04-2005. AS CONTAINED IN THE AFFIDAVIT S3B. AFTER SIGNING AND ACCEPTING THE CONTRACT ON MAY 11, 2005 - NITEL GAVE US ANOTHER CONTRACT WHICH WAS DIFFERENT FROM THE FIRST ON JUNE 3, 2005. THIS NEW CONTRACT CREATED DISCOMFORT WITH OUR PROPOSED TECHNOLOGY PARTNERS (GATE/WZBBZ), LEADING TO THEIR LETTER TO VICE PRESIDENT ATIKV ET AL - COPY ATTACHED - EVEN THOUGH THERE WERE SERIES OF MEETING AND DISAGREEMENT, ROSECOM PERSISTED ON THE RELATIONSHIP WITH NITEL LEADING TO OUR PIONEERING TAKE-OFF OF THE ADSL - IN DECEMBER 2005. VARIOUS CORRESPONDENCE WITH NITEL ARE ATTACHED. THE RELATIONSHIP WITH GATE COMMENCED SOMETIME IN JUNE 2004. I WAS A MEMBER OF A DELEGATION THAT VISITED THE

Interpreted by me:

Interpreted by me:


Signature/Mark of Witness/Accused

Signed:.....

Date:.....

This statement was taken in..... Language, read over and translated to the Accused/Witness in..... Language in my presence and hearing.

Recorded by: SULEMAN YAHYAH

Date: JULY 6, 2006

Time taking of statement commenced.....

Time taking of statement completed.....

MLAT-N 01475

ECONOMIC AND FINANCIAL CRIMES COMMISSION
THE STATEMENT OF WITNESS/ACCUSED



ABUJA Station
Name SULEMAN YAHYAH Nationality/Tribe NIGERIAN-FULANI
Age 43 YEARS Occupation ENTREPRENEUR Religion ISLAM
Address No 218 KAINJI STREET, MAITAMA ABUJA.

In case of accused person the formal caution will be administered.

UNITED KINGDOM AND THE U.S UNDER THE SPONSORSHIP OF THE INVESTMENT AND SECURITIES TRIBUNAL TO EXPLAIN TO CONGRESSMEN THE US SEC, ATTORNEY GENERAL OFFICE, THE UK FSA, VAT TRIBUNAL ETC - ON THE ESTABLISHMENT OF IST IN NIGERIA TO FAST TRACK-DISTRICT RESOLUTION IN THE CAPITAL MARKET AS A COMPLEMENT TO EFCC AND ICPC - CONGRESSMAN WILLIAM JEFFERSON RECEIVED US IN HIS OFFICE. WE MET THREE OTHER CONGRESSMEN - WE WERE INTRODUCED TO EACH-OTHER AS A NEW EXECUTIVE DIRECTOR OF TRIBUNAL - HE ASKED WHAT I DO, AND I GAVE HIM MY ROSECOM CARD, HE IMMEDIATELY REQUESTED TO MEET ME AFTER THE OFFICIAL COURTESY CALL, ~~IN THE PRESENCE OF THIS REQUEST~~ WAS MADE IN THE PRESENCE OF THE CHAIRMAN OF THE IST AND OTHER MEMBERS OF THE IST DELEGATION. I OBLIGED.

A MEETING WAS HELD NEXT DAY IN DC WHERE HE INFORMED ~~ME~~ ^{OF} THE EXISTENCE OF IGATE-INC - A US COMPANY LOOKING FOR BROADBAND BUSINESS IN NIGERIA AND THAT THEY HAVE HAD UNFRUITFUL DEALINGS WITH OTHER NIGERIAN COMPANIES INTRODUCED TO THEM BY THE PRESIDENT BUT NOTHING CAME UP, SO I AGREED IN PRINCIPLE TO MEET IGATE AND SEE THEIR TECHNICAL PROPOSAL - A PRESENTATION WAS DONE ^{TO ME} AND I REQUESTED MY TECHNICAL PEOPLE TO CONDUCT DUE DILIGENCE AS CONTAINED IN

THE VARIOUS AFFIDAVITS ATTACHED. IGATE ^{AS PER} ~~IS~~ PROPOSED INITIALLY TO SELL ~~ADSL~~ ADSL MODEMS. (FOR) AS THEIR PROPOSALS OF (FOIA) (OED) JUNE 2005. WHEN WE FAXED THEM THE OFFER WE HAD WITH MITEL OF APRIL 2005 - THEY REQUESTED FOR A PARTNERSHIP AGREEMENT THROUGH JVC-

MLAT-N 01476

BASED ON NITEL PROPOSAL OF APRIL 2005. WE CONSULTED IGATE AND THE PROPOSAL WAS ACCEPTED BY ROSECOM - TO NITEL ON MAY 11 2005 NITEL RESPONDED WITH A COUNTER PROPOSAL

OF - REJECTING OUR REQUIREMENT FOR COLLOCATION OF DSLAM AT THEIR VARIOUS EXCHANGES. THE PROPOSAL OF APRIL 29, REQUESTED US TO SPECIFY OUR COLLOCATION REQUIREMENT, WHICH WE DID IN OUR ACCEPTANCE, LETTER DATED MAY 11, 2005. THE COLLOCATION REQUIREMENT IS THE MAIN REASON WHY IGATE WANTED TO ENLARGE THE BUSINESS TO JOINT VENTURE STATUS WITH US, SO ^{THAT} THEIR SO CALLED PATENTED TECHNOLOGY COULD BE REPLOYED AT NITEL'S EXCHANGES ACROSS THE COUNTRY ON THE BACK OF ROSECOM'S LICENCE. WHEN NITEL, PROPOSED AS PER THEIR JUNE, LETTER, IMPLICITLY REJECTING THE COLLOCATION, THE J.V. PROPOSAL WAS ALMOST KILLED. THATS WHEN THE ATIKU LETTER CAME UP - AND THE VARIOUS INVESTIGATIONS ET AL - MEANWHILE WE UNDERSTOOD THAT NITEL HAS OBTAINED DSLAM EQUIPMENT FROM ZTE IN CHINA - THUS FOR US TO BE IN THE GAME, WE ALSO SIGNED AGREEMENT WITH ZTE - AND ORDERED

Interpreted by me: **MOSEMS IMMEDIATELY**
Signature/Mark of Witness/Accused
[Signature]
6/7/06

Signed:.....
Date:.....

This statement was taken in ENGLISH Language, read over and translated to the Accused/Witness in ENGLISH Language in my presence and hearing.

Recorded by: SULEMAN YAHIAH
Date: JULY 16th, 2006
Time taking of statement commenced.....
Time taking of statement completed.....

ECONOMIC AND FINANCIAL CRIMES COMMISSION



①

THE STATEMENT OF WITNESS/ACCUSED

Station EFCC Lagos
 Name SULEIMAN YAHYAH Nationality/Tribe NIGERIAN-FULANI
 Age 43 years Occupation ENTREPRENEUR Religion ISLAM
 Address NO 21B KAINJI STREET, MAITAMA.

In case of accused person the formal caution will be administered.

I, SULEIMAN YAHYAH having been duly cautioned in English language that I am not obliged to say anything unless I wish to do so but whatever I say will be taken down in writing and may be given in evidence, I freely and voluntarily elect to state as follows:-
 Shymony 7/7/06

STILL ON THE FAILED PROPOSAL WITH IGATE/W2. FROM WHAT WE KNOW NOW, IE THE AFFIDAVITS IN US COURTS - (COPIES ATTACHED) THE NEWSPAPER PUBLICATIONS COPIES ATTACHED, IT APPEARS THE IGATE PROPOSAL WAS A PYRAMID-SCHEME. BECAUSE, WHEN THEY PROPOSED TO SELL MODEMS/DUMM TO US IN THE JUNE OFFER, OUR DUE DILIGENCE REVEALED THAT THE SAID EQUIPMENTS/TECHNOLOGY DID NOT OBTAIN THE UNITED STATES FEDERAL COMMUNICATIONS COMMISSION APPROVAL. US FCC. THIS APPROVAL IS REQUIRED HERE IN NIGERIA FOR NCC TYPE APPROVAL. WE COMMUNICATED THIS TO IGATE. THE RESPONSE WAS APPROVAL WAS PENDING. WE THEN SOUGHT FOR REFERENCE/REFERRALS, SAME WAS NOT FORTH COMING. THEN THEY CHANGED THE OFFER TO A JOINT VENTURE PROPOSAL ON THE BASIS OF 60/40 EQUITY IN THEIR FAVOUR WHILE 40% WAS FOR ROSECOM. THIS GAVE US SMALL COMFORT INVESTERS TO CONTINUE NEGOTIATION, SINCE THEY WILL BE CO-INVESTORS. THE PROPOSED JVC WAS VETTED BY OUR LAWYERS IN THE UNITED STATES - JOHN DE MAIO AND THREE NIGERIAN LAWYERS - JB DAUDDI & CO - SAN, BIODUN, AND MASIR. SEPERATELY AND AMENDMENTS WERE MADE - WHEN IT WAS CONSIDERED OK TO SIGN IN MAY 2005, WE SIGNED. THEY FAILED TO SIGN ON THE EFFECTIVE DATE. THUS NULIFYING IT. TERNON JACKSON ~~THE~~ PRESIDENT OF IGATE MAILED US TO PAY APPROX \$350,000 (THREE HUNDRED & FIFTY THOUSAND TO IGATE ACCOUNT AS A PORTION OF OUR INVESTMENT IN THE PROPOSED JOINT VENTURE. WE REFUSED TO PAY BECAUSE

MLAT-N 01478

THEY DID NOT SIGN THE AGREEMENT. SECONDLY THE AGREEMENT ^(COLLAPSED) ~~(CALLED)~~ FOR A JOINT VENTURE ESCROW ACCOUNT FOR JOINT FUNDING - THIS WAS NOT OPENED. THIRDLY, WE COULD NOT PAY ADVANCE MONEY. AS FAR AS ROSECOM IS CONCERNED, WE DO NOT HAVE ANY CONTRACT, OR RELATIONSHIP WITH IGATE - OUTSIDE THE PROPOSED JOINT VENTURE, WHICH COLLAPSED IN MAY 2005. WE HAVE NO ~~RELATIONSHIP~~ RELATIONSHIP WITH ANY PARTY - OUTSIDE THE PROPOSED BUSINESS. (AND) WE NOTICED THAT IGATE/US WAS A WASTE OF TIME AND RESOURCES HAVING EXPENDED ON LEGAL FEES AND TRAVELS FOR ONE YEAR NOTHING WAS FORTHCOMING - SO WE DECIDED TO OPT OUT AND DEAL WITH THE CHINESE COMP.

ZTE. THE ZTE OFFERED US A CHEAPER ALTERNATIVE. WE THEN ORDERED EQUIPMENTS (MODEMS) FROM ZTE AND PROCEEDED TO LAUNCH THE ADSL SERVICE IN DECEMBER 2005 - JOINTLY WITH NITEL. OUR RELATIONSHIP WITH NITEL IS A DIFFICULT ONE BUT IT IS CORDIAL AND TRANSPARENT. THE FBI OFFICER, EDWARD COOPER CALLED ME ON 26/JAN 2006, AND TOLD ME, THAT THEY ARE INVESTIGATING IGATE AND OTHERS. THAT ROSECOM IS NOT A TARGET OF THEIR INVESTIGATION AND THAT IF WE HAVE ANY INFORMATION WE CAN AVAIL THEM. WE PROMISED TO ASSIST THEM, AND WE DID THROUGH OUR LAWYERS IN THE UNITED STATES AND HEREBY HAVE GIVEN FCC ALL DOCUMENTS OVER 400 PAGES TO ASSIST WITH THEIR INVESTIGATION.

ROSECOM OPERATES USING HIGHEST CORPORATE GOVERNANCE AND ETHICS. WE DID NOT HAVE ANYTHING TO DO WITH IGATE OTHER RELATIONSHIPS. THANK YOU.

Signed: [Signature]
Date: 7/7/06
This statement was taken in ENGLISH Language, read over and translated to the Accused/Witness in ENGLISH Language in my presence and hearing.

Recorded by: SULEIMAN YAHYAH
Date: 7/7/06
Time taking of statement commenced.....
Time taking of statement completed.....

ECONOMIC AND FINANCIAL CRIMES COMMISSION
THE STATEMENT OF WITNESS/ACCUSED



3

Station LAGOS
Name SULEIMAN YAHYAH Nationality/Tribe NIGERIAN-FULANI
Age 43 years Occupation Interpreter Religion ISLAM
Address 21-B KAINJI STREET, MAITAMA ABUJA

In case of accused person the formal caution will be administered.

ON YOUR QUESTION OF THE MEETINGS IN ^{NEW JERSEY} ~~(LAGOS)~~ ^(NEW JERSEY) ~~(LAGOS)~~ IN ~~(DATE)~~ ^(DATE) AUGUST 2004, THE PURPOSE WAS TO INTRODUCE THE PROPOSED JOINT VENTURE PARTNERS IE, IGATE, REPRESENTED BY VERNON JACKSON & LORI MODI - THE IGATE INVESTOR, SULEIMAN YAHYAH ROSECOM CHAIRMAN, BRETT PFEFFER AND WILLIAM JEFFERSON - CONGRESSMAN. THE MEETING WAS HELD AT THE LAW OFFICE JONES WALKER, IN NEW ORLEANS. JAMILA JEFFERSON REPRESENTED IGATE - AS ATTORNEY. OUR ATTORNEY JOHN DE-MAIO FROM NEW YORK - WAS ON TELEPHONE CONFERENCE THROUGH OUT THE MEETING. THE PROPOSED JV WAS REVIEWED IN DETAIL. WE MADE INPUTS - AND OUR LAWYERS AGREED TO PREPARE CLEAN COPY OF THE MEMORANDUM OF UNDERSTANDING FOR SIGNATURE THE FOLLOWING MORNING. THE MOU WAS NOT SIGNED THE NEXT DAY, AS I WAS INFORMED THAT LORI MODI HAD AN EMERGENCY SHE HAD TO ATTEND TO. THUS THE ~~AGREE~~ DRAFT MOU WAS FORWARDED TO US BY DHL COPIES ATTACHED - THE SAME AGREEMENT WAS AGAIN VETTED BY OUR SOLICITORS IN NIGERIA AND COMMENTS WERE AGAIN MADE AND FORWARDED TO THEM FOR A FINAL COPY - THE FINAL COPY WAS TO BE SIGNED EFFECTIVE MAY 20 2005. ROSECOM SIGNED ITS PART, IGATE/W2 NEVER SIGNED. SO THE MOU/DRAFT AGREEMENT FAILED. NOTHING OUTSIDE THE AGREEMENT WAS DISCUSSED AT THE MEETING OF AUGUST 20. IN NEW JERSEY. IN ~~(MAY)~~ ^(MAY) APRIL 2005, I VISITED THE US TO ATTEND THE OIL & GAS CONFERENCE IN HOUSTON TEXAS, WHEN I CALLED IGATE AND INFORMED THEM THAT

MLAT-N 01480

(4)

I WAS AT THE US - THEY INVITED ME TO KENTUCKY TO ATTEND A MEETING AND WATCH THE FAMOUS KENTUCKY DERBY. ON THE 5TH MAY - TO 7TH MAY - I AGREED AND FLEW TO KENTUCKY WHERE I MET WILLIAM JEFFERSON GOVERNOR JACKSON - THE NEED TO SIGN THE DRAFT MOU AND FAST TRACK THE ADSL IMPLEMENTATION WAS DISCUSSED IN DETAIL. I PROMISED TO SIGN AS SOON AS THE LAWYERS FINALISE ^{THE} VETTING AND I INDEED DID SIGN UPON MY RETURN TO NIGERIA ~~IN (2005)~~ MAY. AGAIN THEY DID NOT SIGN - IN EFFECT FURTHER WASTING OUR TIME. ON THE QUESTION OF NITEL'S FIRST AND SECOND PROPOSALS, MY RESPONSE IS - AS FOLLOWS - WHEN WE MET IGATE - THEIR FIRST PROPOSAL WAS TO SIMPLY SELL ~~MODERN~~ ^{FEW} TV RIGHTS TO ROSECOM AT APPROX. \$1-7 MILLION US. ^{9/2} WHEN I RETURNED TO NIGERIA AND FAXED THEM THE NITEL APRIL 29 - PROPOSAL - FOR IP WHOLESALE AND THE QUESTIONS ON TYPE/FCC APPROVAL, THEY JUMPED AT THE PROPOSAL, AND WE JOINTLY AGREED TO ACCEPT THE PROPOSAL - AS IT IS, AND ADD THE REQUIREMENT FOR COLLOCATION OF DSLAM'S AT VARIOUS EXCHANGES TO BE SUPPLIED BY IGATE AS PART OF THE EQUITY CONTRIBUTION. VIDE THEIR EMAIL OF MAY 12, 2005. BASED ON IGATE OUR OUR ACCEPTANCE WE WROTE NITEL IN OUR LETTER OF MAY 11, 2005 ACCEPTING. THEN NITEL RESPONDED OFFERING A DIFFERENT PROPOSAL ON JUNE 3, 2005. THIS PROPOSAL DID NOT INCLUDE DSLAM'S

Interpreted by me:

Interpreted by me:

Signature/Mark of Witness/Accused

Signed:.....

Date:.....

This statement was taken in.....Language, read over and translated to the Accused/Witness in.....Language in my presence and hearing.

Recorded by: SULEIMAN YAHYAH

Date: 7/7/06

Time taking of statement commenced.....

Time taking of statement completed.....

MLAT-N 01481

ECONOMIC AND FINANCIAL CRIMES COMMISSION
THE STATEMENT OF WITNESS/ACCUSED



5

Name: EFCC Station LAGOS EFCC
Name: SUEIMAY YAHYAH Nationality/Tribe: NIGERIAN - FULANI
Age: 43 years Occupation: ENTREPRENEUR Religion: ISLAM
Address: 21 B KAINTI STREET WAIYAMA ABUJA.

In case of accused person the formal caution will be administered.

IT WAS A PROPOSAL FOR ADSL AS OPPOSED TO THE WHOLESALE IP AND THE ARCHITECTURE NOW MAKES ISPs RESSELLERS. IGATE PROTESTED THAT WAS BOUND TO ACCEPT OUR ACCEPTANCE WITHOUT MODIFICATION, OTHERWISE THEY WILL ^{NOT} CONTINUE WITH THE PROPOSED JV. BECAUSE, WITHOUT COLLOCATING DSLAM THE TOTAL INVESTMENT IS TOO SMALL FOR THEIR CONSIDERATION. IGATE WAS FULLY INFORMED AND WAS PARTY TO THE AND PROVIDED INPUTS AS PER THEIR EMAILS IN MOST OF THE CORRESPONDENCE BETWEEN ROSECOM AND NITEL AS REGARDS THE IP WHOLESALE PROPOSAL, OUR RESPONSE/ACCEPTANCE AND ADSL PROPOSAL OF JUNE 2005. ON YOUR QUESTION OF JAMILLA JEFFERSON, SHE INFORMED US THAT SHE WORKS FOR LAW FIRM OF JONES WALKER, AND SIGNED ALL LEGAL CORRESPONDENCE BETWEEN JONES WALKER AND ROSECOM WITH RESPECT TO THE MOU. SHE LIAISED WITH OUR LAWYERS JOHN PE MAIO OF NEW YORK, TO VET THE AGREEMENT. ON THE WILLIAM JEFFERSON LETTER TO VICE PRESIDENT ATIKU, I CALLED VERNON JACKSON SOMETIMES IN MID 2005, AND HE INFORMED THAT CONGRESSMAN WILLIAM JEFFERSON WAS VISITING GHANA AND HE HAS A WRITTEN A LETTER TO THE NDP TO ~~INTERVENE~~ INTERVENE AND RESCUE THE ROSECOM/NITEL PROPOSAL, SO THAT NITEL CAN AGREE TO COLLOCATE DSLAM. I ASKED HIM TO FAX THE LETTER AND HE DID. WHEN I READ THE LETTER I RAISED TWO OBJECTIONS, FIRST WE WERE NOT CONSULTED AND SECONDLY WE WERE REFERRED TO AS A SMALL COMPANY - AND I SAID WE ARE THE LEADING ISP IN ABUJA AND WHEN I VISITED KENTUCKY HE DID NOT SHOW ME HIS OFFICE (IGATE) SO WHY CALL US A SMALL COMPANY.

MLAT-N 01482