

Kuwaiti sheikh videos lead to Geneva law firm raids

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Sheikhs Ahmed al-Sabah and Nasser al-Sabah ((Javid Nikpour/Tamsin News; Diwan))

A feud between rival branches of Kuwait's ruling family has led to raids on the offices of a Geneva disputes boutique amid allegations that its managing partner took part in a fraudulent arbitration.

Gentium Law issued a press release on 12 September denouncing the raids by Geneva prosecutors, who have also targeted the home of managing partner Matthew Parish, a British national, and arrested and interrogated another of the firm's lawyers.

Swiss newspaper *Le Temps* reported last week that Parish and two unnamed lawyers in Geneva are being investigated on suspicion of forgery, along with Parish's client Sheikh Ahmed Al-Sabah – a former oil minister and nephew of the Emir of Kuwait who sits on the International Olympic Committee and the executive council of football's governing body, FIFA.

The lawyers are accused of participating in a sham arbitration that purported to establish the authenticity of faked videos circulated by the sheikh that supposedly implicated two prominent Kuwaitis in corruption, money laundering and a plot to overthrow the 87-year old Emir. The sham award was allegedly submitted to the English courts for enforcement.

The sole arbitrator in the case – which *Le Temps* reports was between the sheikh and a Delaware company called *Trekell* – is one of the lawyers being investigated. His identity has yet to be revealed.

A scandal in Kuwait

The videos, which emerged in 2013 and were widely shared on social media, appeared to show Kuwait's former prime minister Sheikh Nasser Al-Sabah – a cousin of Sheikh Ahmed – and the former speaker of the Kuwaiti national assembly Jassem Al-Kharafi in incriminating conversations with a Swiss banker and Iranian officials. They caused a scandal in Kuwait, with the government temporarily closing newspapers that reported on them.

The two men, who had already resigned their political posts in 2011 because of an earlier scandal over the alleged bribery of politicians, denied that the videos featured their voices.

Sheikh Ahmed submitted the videos to Kuwaiti prosecutors in 2014, saying that he had obtained a Swiss arbitration ruling establishing their authenticity. But the Kuwaiti authorities

found that the videos were fabricated and cleared the two men of wrongdoing in March 2015, leading Sheikh Ahmed to make a public apology on Kuwaiti television acknowledging the videos as fake.

Al-Kharafi died soon after, but his family – together with Sheikh Nasser – lodged a criminal complaint in Geneva in June last year that led to the current investigation.

Contacted by GAR, a spokesman for the public prosecutor's office confirmed that an investigation is in progress against "people suspected of having participated in the establishment of a false arbitration." He declined to name the individuals but confirmed that they are "accused of forgery". He added that they are "presumed innocent".

Political pawns?

Gentium has denied any wrongdoing by the firm or its members. In its press release, the firm says it was engaged by Sheikh Ahmed "to confirm the validity or falsity of the videos [...]" using a number of expert and legal techniques that are now at issue. The conclusion this firm reached was that the videos were genuine. This firm stands by this independent professional opinion to this day."

The firm adds that Sheikh Ahmed's public recantation came as a "complete surprise" and alleges that it was made under duress, at a time when he and his family "were being threatened with immediate and extreme violence by agents of the Kuwaiti state".

Gentium says the Geneva authorities have allowed themselves to become "tools" in a political dispute between the two sheikhs, who are both "presumptive heirs" to the Emir and would represent "very different futures" for the country, with Sheikh Ahmed being a "moderate, reformist" candidate and Sheikh Nasser a traditionalist.

The firm also alleges in the press release that it has been the victim of harassment and intimidation and that the investigation led by senior Geneva prosecutor Stéphane Grodecki has proceeded "with the most extraordinary haste compared with the usual somewhat leisurely standards typical of the Geneva criminal investigation system".

According to Gentium, prosecutors have searched the firm's offices twice and taken away privileged and confidential client documents, including materials unrelated to its work for Sheikh Ahmed.

The firm says they have also raided Parish's Geneva residence in a fruitless search for professional files, compelled him via subpoena to appear for a deposition, asked him questions that would require him to violate attorney-client privilege and threatened him with imprisonment if he failed to answer.

Parish has also been made subject to an injunction preventing him from speaking to his client.

The home of another Gentium lawyer – understood to be counsel Vitaliy Kozachenko – was also raided by Grodecki's team and the police, the firm says, and the lawyer was "arrested, stripped naked, and incarcerated for several hours in a cell, and [...] deprived of his spectacles."

He was also forced to provide the password to his personal email and was temporarily enjoined from communicating with Parish except through email, copying the prosecutor.

Gentium says Grodecki has now called its office manager as a witness and suggests that the prosecutor is working his way down the law firm hierarchy "with a view to forcing one of them to crack".

The firm says the conduct of the investigation is "a disgrace" and that the prosecutor is exerting "illegitimate pressure" to try to force lawyers to breach privilege and testify against their own client.

The investigation has attracted the attention of the Government Accountability Project, a US non-profit that supports whistleblowers. The organisation wrote to Grodecki last week expressing concern about the "pressuring" of Gentium attorneys.

The prosecutor's team is also understood to have requested information from Parish's former firm Holman Fenwick Willan, as it appears that the arbitration may have begun while he was still a partner in that firm's Geneva office.

Holman Fenwick Willan is taking counsel from Saverio Lembo, head of Bär & Karrer's white-collar crime practice group. Lembo tells GAR, "My client is fully cooperating with the prosecutor and is clearly not the target of the investigation."

From Cairo to Geneva

During his career, Parish has worked at Denton Wilde Sapte in Cairo, the legal department at ICSID, where he focused on project finance disputes, and the Office of the High Representative of Bosnia and Herzegovina.

Qualified in England and New York, Parish joined the Geneva office of Hogan & Hartson in 2007 and was part of a team that moved to Akin Gump Strauss Hauer & Feld in 2010. He joined Holman Fenwick Willan a year later and spent three years there before leaving to set up Gentium in late 2014.

Recently he has acted for a Qatari-owned company in a US\$130 million LCIA claim against a Jordanian state-owned investment fund. That case, which involved forgery allegations, was dismissed in August last year. He also helped the company's chairman bring a related ICSID claim against Jordan that was discontinued in July. Swiss boutique Lévy Kaufmann-Kohler replaced Gentium on that case earlier this year.

Outside arbitration, he has been acting as a political advisor to Serbia's former foreign minister Vuk Jeremić in his campaign to succeed Ban Ki-Moon as secretary general of the United Nations. Parish has also been advising the Staff Council of the World Intellectual Property Organization in connection with allegations of misconduct against WIPO director general Francis Gurry.

According to Le Temps, Sheikh Ahmed is taking counsel from RVMH Avocats in the investigation. Sheikh Nasser is represented by banking law specialist Jean-Pierre Jacquemoud of Jacquemoud Stanislas and Pascal Maurer of Keppeler & Associés. The al-Kharafi family has meanwhile turned to Catherine Hohl-Chirazi of LHA Avocats. They declined to comment.

Gentium is represented by Charles Poncet of CMS in Geneva, who is pursuing various complaints against the prosecutor's office on the firm's behalf.

Parish said in a statement to GAR: "I really appreciate the support the arbitration community has extended to me during this time".

UPDATE: Gentium published a second press release on 26 September providing more details about the alleged content of the videos, which it says were authenticated by a Swiss police authority and corporate investigations firm K2 Intelligence. Gentium also says it has instructed Arent Fox in Washington, DC, to represent it in complaints to US authorities over the conduct of the Geneva investigation.

Counsel to Ahmad Al-Sabah

- RVMH Avocats
Albert Righini and Patrick Hunziker

Counsel to Nasser al-Sabah

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Jean-Pierre Jacquemoud in Geneva
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Pascal Maurer in Geneva

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