

Party: Defendant
Deponent: A. J. Brett
No. of Affidavit: First
Date: 10th June, 1991

B E T W E E N:

ASIL NADIR

Plaintiff

and

TIMES NEWSPAPERS LIMITED

Defendant

A F F I D A V I T

I, ALASTAIR JOHN BRETT, of 1 Pennington Street, London, E1 9XN MAKE OATH and say as follows:

I am a Solicitor of the Supreme Court and I am employed by the abovenamed Defendant. I have the conduct of this action on behalf of the Defendant and I am authorised to make this Affidavit on its behalf. Except where otherwise stated, all matters deposed to herein are within my own knowledge.

2. In August last year I advised editorial executives in connection with a number of articles about Polly Peck International Plc and Mr. Asil Nadir, its Chairman and Chief Executive. These articles by Dominic Prince, a freelance journalist working for The Sunday Times, concerned an Inland Revenue investigation into at least two Swiss "letterbox" companies called Gateway Investments and Riverbridge Investments which had bought and sold substantial amounts of

Polly Peck International Plc shares. I also learnt from Mr. Prince that the International Stock Exchange surveillance department was also looking into a series of Polly Peck International share transactions and that there was a possibility that the Department of Trade and Industry would be called in following the investigations by the Inland Revenue and Stock Exchange. There is now produced and shown to me marked "AJB 1" a bundle of the copy articles by Dominic Prince and others which appeared in The Sunday Times in August of last year. None of these stories is the subject of any libel proceedings or any complaint of which I am aware.

X 3. In September of last year I was approached by Nick Rufford, the head of The Sunday Times Insight team, who said he had met the former Treasurer of Polly Peck, Tim Wood, who had left the company earlier that year. He said that Mr. Wood was willing to disclose to The Sunday Times details of his grave concerns over the lawfulness of the manner in which Polly Peck's operations had been conducted.

4. On Tuesday, 11th September 1990, I met Mr. Wood in my office at Times Newspapers with Mr. Rufford. Mr. Wood provided us with details of the information which subsequently formed the basis of The Sunday Times article of 23rd September. The most serious of the allegations made by Mr. Wood was that millions of pounds of Polly Peck's money had been stolen in order to finance the purchase of the Company's own shares. Mr. Wood specifically mentioned a transaction in June 1989 in which he said a sum of around £7m had been transferred from Polly Peck's account at

National Westminster Bank, 15 Bishopsgate, London, to a bank in Jersey and then to the Industrial Bank of Cyprus (in which the Plaintiff had a substantial stake). He said the money was then distributed to brokers via other banks for the purpose of paying for Polly Peck's own shares. These shares had been bought in order to support the Company's share price. Mr. Wood was in a position to speak of these matters from his own knowledge since at the time he was working at the offices of South Audley Management with Elizabeth Forsyth and Jason Davies. South Audley Management was closely linked to the Nadir family trusts and the Swiss letter box companies operated by Mr. Davies which had been the subject of the Inland Revenue and Stock Exchange investigations which had been mentioned in The Sunday Times articles in August of last year.

5. Mr. Wood was naturally extremely concerned about the use to which Polly Peck's money had been put. We discussed with him the question of whether he should go to the Serious Fraud Office. The Sunday Times agreed that it would pay for him to receive independent legal advice as to his situation. Subsequently Mr. Wood took the advice of Mr. David Kirk of Messrs. Stephenson Harwood. Following that advice I understand from Mr. Wood that on Tuesday, 18th September, he went to see the Serious Fraud Office with details of his allegations.

6. As a direct result of the information provided by Mr. Wood to the Serious Fraud Office on the following day, Wednesday, 19th September, the Serious Fraud Office conducted a search of South Audley Management's offices in

Berkeley Square.

7. On Thursday, 20th September, I understand from newspaper and television reports including an article in the Financial Times, a copy of which is now produced and shown to me marked "AJB 2", that on that date Mr. Nadir went to the Serious Fraud Office's premises by arrangement and once there was served with a notice under section 2 of the Criminal Justice Act 1987 requiring him to answer certain questions. On the same day, the share price of Polly Peck International plunged from 243p to 108p at which point the Stock Exchange intervened, at the Company's request, and suspended dealing in the shares.

8. The following Sunday, 23rd September, The Sunday Times published the article which is the subject of this libel action from information in the main provided by Mr. Wood to Mr. Rufford. On the same day the Observer also published two extensive articles. There is now produced and shown to me marked "AJB 3" copies of the articles which appeared in The Observer plus copies of the articles which appeared in The Sunday Times on Sunday, 23rd September 1990.

9. As a result of the Serious Fraud Office's investigations, on 16th December 1990 Mr. Nadir was charged with 18 different counts of theft and deception. There is now produced and shown to me marked "AJB 4" a list of the charges brought against Mr. Nadir on that date. I believe that certain of the charges relate to the matters in June 1989 mentioned to me and Mr. Rufford by Mr. Wood on 11th September.

10. I understand from Mr. Kirk at Messrs. Stephenson

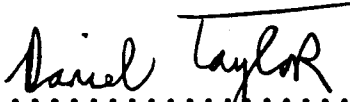
Harwood that he has advised Mr. Wood to make a statement to the Serious Fraud Office under section 9 of the Criminal Justice Act 1967 and not to make a separate statement to Times Newspapers for the purpose of defending this libel action. However, when it has been made, a copy of the section 9 statement will be made available to Times Newspapers. I also understand from Mr. Kirk that he has had a number of conversations with Lorna Harris of the Serious Fraud Office and that she shares Mr. Kirk's view that having a libel action running in parallel to the criminal proceedings could lead to serious prejudice to one or other set of proceedings.

11. Since September of last year, I have been in regular contact with David Kirk to ascertain the state of play over Mr. Wood's statement to the Serious Fraud Office. I now understand that the statement has still not been made. There is now produced and shown to me marked "AJB 5" a copy of a letter that I recently received from Mr. Kirk concerning Mr. Wood's statement.

12. Leading and Junior Counsel have advised that they cannot properly plead justification as a defence in this libel action until they receive a detailed witness statement from Mr. Wood and they cannot simply rely on what Mr. Wood told Mr. Rufford and me. Since Mr. Wood has been independently advised by Mr. Kirk not to give a statement to Times Newspapers, separately from his section 9 Statement to the Serious Fraud Office, that means that for the present the Defendant is prevented from pleading justification as it would wish. It is for this reason and the potential

prejudice to the criminal proceedings as a result of the
paralleled libel proceedings that the Defendant respectfully
submits that this action should be stayed pending the
outcome of the criminal proceedings against Mr. Nadir.

SWORN this Tenth day of June)
1991 at VIRGINIA STREET)
LONDON E1 9BD)
.....)
.....)

Before me 
~~Commissioner for Oaths/Solicitor~~