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Our ref: AS/EAF

Date: 6 November 1992

The Rt.Hon. Nicholas Lyell Q.C., M.P.
Attorney General's Chambers
9 Buckingham Gate
London W1

I have just returned from court after today's hearing in the proceedings concerning my client Mr Asil Nadir when to my total amazement Prosecuting Counsel announced that the SFO intended to interview Mr Justice Tucker upon the "*allegation*" made. I simply say that I do not believe the information available would justify interviewing anyone let alone a High Court Judge.

I must confess that it had not occurred to me that the SFO would be considering such a bizarre course of action. It was quite obvious that the Judge was visibly shaken by this suggestion.

It appears from what was said that you were consulted by the Prosecution prior to today's hearing. I do not know whether it was on your advice that the Judge is to be interviewed but I rather gathered that this suggestion may come as much as a surprise to you as it came to the Judge and myself.

Obviously such a step has grave constitutional implications. It means that a Judge who finds against the SFO on some matter (the Judge in this case found that over 40 counts on the indictment were bad in law) would be vulnerable to such an allegation and have to withdraw from trying a case. It seemed to us that Mr Justice Tucker was very conscious of this.

The manner of disclosing this matter to those interested was equally bizarre. Open letters were faxed to our instructing solicitors and quite deliberately the fax was sent to the Judge around 10.00am and the one to the defence was delayed to around 5.00pm. The implication is that either we should be given the shortest possible warning of this or else that, as the Judge remarked, the Defence might contact the Judge!

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Before authorising the step of requiring a High Court Judge of the highest reputation and integrity to be interviewed by the SFO I would ask you to conduct an inquiry into the way the Prosecution in this case has been handled. You may think it fair to allow us to present our side of the matter to you in the same way as apparently the Prosecution have been allowed to do.

I doubt whether aspects of the Prosecution which reflect on the quality of the judgments being exercised have been brought to your attention. I refer only to a few below.

The general nature of the defence has been known to the SFO from the first of Mr Nadir's interviews. It can be put very shortly but you will see it referred to in the Defence Case Statement which has just been sent out to the Prosecution a copy of which I enclose. The gist is that for currency exchange reasons business people in North Cyprus made Turkish Lira available to PPI through Unipac and the equivalent sum was made available to them in sterling. The Turkish Lira were used by PPI subsidiaries in North Cyprus and Turkey.

The initial questioning by the SFO proceeded on the basis that there were no assets in North Cyprus and Turkey at all. As time went on it became obvious that massive assets were held by the subsidiaries in these areas.

Initially under a blaze of publicity Mr Nadir was arrested at Heathrow. Eventually he was allowed bail on conditions which included financial terms which I believe are in the highest sums ever made in this country.

Thereafter whenever applications were made to vary the terms huge figures were mentioned as being the loss - these figures were far more than have ever appeared in the Indictment.

Because the preparation of the case took so long to get to transfer the defence gave the Prosecution a report from Binder Hamlyn which showed from a review of the books of Unipac in North Cyprus that the books of Unipac were in order and supported the Defence Case.

I quite accept that in the time available it was not possible to carry out a full audit but at the very least I would have expected the SFO to go to North Cyprus to examine the books for themselves. At first the SFO said they were going : then for some inexplicable reason they changed their mind:

The whole of the SFO investigation has proceeded without any of the accountancy material in North Cyprus ever having been examined despite repeated requests by the Defence for the SFO to do so. That is still the position subject to the fact that it now appears that when the administrators asked a lawyer from North Cyprus to
continued/.....

help them as soon as he arrived in the U.K. about three weeks ago the SFO served him with a section 2 Notice. Despite the fact that the Judge has indicated that there should be no further additional evidence from the Prosecution two further tranches of further evidence has been served. None of it deals with the point mentioned.

I would add that all accounts were audited by well known firms of accountants. There is no suggestion in the Prosecution papers that any of them acted improperly.

It took from his date of arrest in December 1990 to February 1992 for the SFO to be ready for transfer. At one stage when the Chief Magistrate expressed his annoyance at the time the case was taking and ordered the papers to be ready by a particular date the SFO did not comply with the date and bluntly told the Chief Magistrate that it was for the Director of the SFO to decide when transfer should take place not the Chief Magistrate. I should say that the Chief Magistrate did look kindly upon that suggestion.

All of this is in the context of a series of bizarre events. I refer to a few:

A few days before his arrest publicity was given in the press to the effect that Mr Nadir had a corrupt relationship with a senior police officer at Scotland Yard Commander Wynn Jones. An Inquiry was conducted and it was revealed that Mr Nadir had never even met the officer concerned.

An initial complaint against our client came from the Stock Exchange and related to the purchase of shares by our client. We have heard nothing of this complaint since. Indeed the SFO embarked on a quite different inquiry without ever bothering to check the position in North Cyprus.

We believe that the current proceedings were initiated as a result of a complaint made by Mr Allcock of the Inland Revenue whose misconduct was recently described in the press. It seems that since the press reports he has unfortunately disappeared from the jurisdiction. I will simply say that the misconduct complained of was deployed against Mr Nadir and as early as 1990 Coopers and Lybrands on behalf of Mr Nadir wrote to the Inland Revenue in the clearest possible terms about Mr Allcock's conduct which they considered to be bordering on the criminal.

The SFO have known from the 25th September 1992 that the Defence were intending to seek leave to apply to vary Mr Nadir's bail to permit him to accompany his solicitor to North Cyprus to enable the Defence to be prepared expeditiously. The application for such variation was listed for hearing on the 2nd October. This "*allegation*" seems to have appeared immediately before that hearing. As you know those proceedings were aborted. Nothing further happened until yesterday the day before the postponed application was to be made when Mr Nadir was arrested and questioned.

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It is noteworthy that he was asked nothing in connection with contact direct or indirect with Mr Justice Tucker - yet apparently it is intended to interview the Judge himself!

I would welcome an opportunity of making representations to you about the judgments made by the SFO officer in charge of this case before you allow a High Court Judge to be interviewed as planned.

ANTHONY SCRIVENER Q.C.

Enc:



Serious Fraud Office

Elm House
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Anthony Scrivener Esq, QC
2-3 Gray's Inn Square
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Our ref:POL01

17 November 1992

Dear Tony

Your letter of 6 November to the Attorney General has been passed to me for reply in respect of the specific matters relating to this office.

I must emphasise at the outset that I do not have charge of the investigations currently being undertaken in relation to which your client was arrested on 5 November last.

The matters to which your complaints relate are in respect of the very issues to be decided in the course of the criminal trial currently before Mr Justice Tucker. I do not think it is appropriate for me to respond in detail to such criticisms at this stage. Subject to that, however, I would reply as follows.

You raise a number of points about what you perceive as this office's failure to visit northern Cyprus. It has been pointed out both to you and to those instructing you many times that the SFO's position stems from the obstructive attitude of the "government" there, and not from any lack of desire or effort on behalf of this office to undertake enquiries there.

Your client was not arrested in a "blaze of publicity". The publicity which followed his arrest was not sought by this office. The bail terms subsequently set were, in fact, set at a level suggested to the Court by the defence. No application has ever been made to vary the financial terms of that bail, and in respect of applications to vary other terms, I am satisfied that amounts mentioned by the prosecution as being involved in the case have been consistently referred to throughout.

Transfer occurred some fourteen months after your client was charged. During that time, evidence to justify a transfer on counts involving thefts of sums in excess of £150 million was brought together. It is a matter of law that transfer is, and can only be, a matter for a designated authority as defined in section 4(2) of the Criminal Justice Act 1987. The Chief Metropolitan Stipendiary Magistrate is not such a designated authority.

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November 17 1992



I have no knowledge of the events surrounding the enquiry into the behaviour of the senior police officer you mention.

The matter as originally reported to this office concerned allegations of improper share dealing. The facts surrounding these allegations are contained in the prosecution case (see for example, pages 18 and 19 of the Case Statement).

The investigation by this office was not initiated as a result of a complaint made by Mr Allcock of the Inland Revenue. If you have evidence which implicates or tends to implicate Mr Allcock, then you should forward it to the Police department which is investigating the matter.

I am entirely satisfied with the manner of the investigation carried out by the Serious fraud Office into the matters with which your client has been charged. I am satisfied in addition with the judgement which has been exercised by those officers of the SFO whom you seek to criticise.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'G. Staple'.

George Staple
Director

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Our ref: AS/EAF
Your ref: POLO1
Date: 19 November 1992

Mr George Staple
Director
Serious Fraud Office
Elm House
10-16 Elm Street
London WC1X 0BJ

Thank you for your letter of the 17th November.

I note that you say you do not "*have charge*" of the investigation currently being undertaken relating to our client's arrest on the 5th November. I would be grateful to know exactly what is the relationship of the SFO to that Inquiry.

At least we seem agreed on the importance of evidence from North Cyprus although I was surprised to read that the failure by the SFO to seek to obtain any evidence from that source was "*because of the obstructive attitude of the 'government' there*".

In the light of that observation I have re-read the correspondence which followed the delivery of the Binder Hamlyn report to your office on the 26th June 1991 when the defence solicitors suggested that your offices might find it of value to examine the books of account of Unipac for themselves as well as go to North Cyprus to make their own enquiries.

On the 27th June 1991 Mrs Harris wrote that it would be necessary to have access to "*the originals of all documents*" and on the following day the defence solicitors replied:

"We would hope that upon reflection there would be no difficulty in your going out to Cyprus, if not on Monday, early next week".

On the 28th June 1991 Mrs Harris wrote:

"I acknowledge that you have offered facilities for a team from this office to visit North Cyprus on Monday 1st July in order to undertake an inspection of the original documents and also to speak to witnesses who were seen by Binder Hamlyn. I confirm my initial reaction that Monday is too soon to arrange such an examination. Inevitably a large amount of preparatory work has to be done, both in analysing the report from Binder Hamlyn, and in researching other material available in the UK".

Mrs Harris was then away for a while but by letter dated the 1st July 1991 Mr Coford confirmed that it was not intended to travel to North Cyprus on either of the following two days because of the *"large amount of preparatory work (which) has to be done"*.

The defence solicitors continued to press your office to go to North Cyprus in the correspondence but once again on the 2nd July 1991 the excuse for not going was given as the need to carry out *"preparatory work"* before doing so.

On the 8th July 1991 Mrs Harris wrote asking for all the Unipac books to be shipped to this Country for her to examine here. It is of note that she had at this stage not been in touch with the authorities in North Cyprus. There is a dispute as to whether this could be done as a matter of law. I do not consider the request could be met. I rather doubt that such a request would find much favour here, irrespective of the law, if a similar request were made to a UK company.

The defence solicitors continued to press your office to go to North Cyprus and on the 9th July 1991 Mrs Harris wrote:

"You leave us no alternative but to consider taking up your invitation to examine the documents in Northern Cyprus, although as I have already indicated to you there are considerable practical difficulties in our travelling to Northern Cyprus given that the government is not recognised by Her Majesty's Government."

The defence solicitor wrote on the 12th July 1991 querying the *"practical difficulties"*.

On the 19th July 1991 Mrs Harris wrote confirming the date for the visit and proposing that her *"initial team will comprise 4 members of staff"*.

On the 26th July 1991 Mrs Harris wrote that:

"I have just heard that the Ministry of Foreign Affairs in the Turkish Republic of Northern Cyprus is refusing to allow us access to the banking records of the Individual Bank of Kibris".

It was on this ground alone that Mrs Harris stated that *"we cannot see any purpose at this stage in travelling to North Cyprus"*.

I leave on one side the fact that there were plenty of other matters to investigate in North Cyprus and remind you that on the 26th July 1991 the defence solicitors sent a copy of a letter of the same date from the Ministry of Foreign Affairs and Defence of the Turkish Republic of Northern Cyprus explaining precisely the legal formalities for obtaining the evidence sought. All of the requirements are easily met, indeed they are precisely the same as adopted by the SFO with respect to other countries in the current case but the SFO has not taken any further steps to obtain the evidence.

As far as I am aware this is the extent of "government" obstruction. If there is more evidence of obstruction than this I would be grateful for details. As far as I can see there is no impediment to the SFO going to North Cyprus and I believe police officers from this country have visited their country in connection with other cases without any difficulty.

I should add that the excuse for not visiting North Cyprus given by your office to the defence solicitors and myself ever since was not the reason you gave but has been that such evidence is unnecessary. I am pleased to see that you do not agree with that suggestion.

I note that you state that the investigation by your office was not initiated as a result of a complaint "*made by Mr Allcock of the Inland Revenue*" and I do appreciate that you were not Director at the material time. I would merely indicate that if you study the documents used during the first section 2 interview of our client, you might reach the conclusion that some of the documents emanated from the Inland Revenue. I would be grateful to have your comment on this.

The papers in this case are voluminous. After 9 months most of us have not been able yet to read them all. I can only congratulate you on being able to be satisfied with the manner of investigation after what must have been a matter of a few days.

In view of your satisfaction expressed there is really no purpose of repeating the matters stated in my previous letter. They are a matter of record and can be established in due course.

Thank you for the prompt reply.

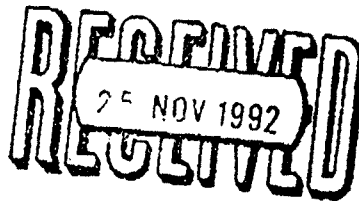
Yours sincerely,

ANTHONY SCRIVENER Q.C.

**Serious Fraud Office**

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Your ref: AS/EAF

Our ref: POL01

24 November 1992

Dear Tony

I refer to your letter of 19 November 1992.

My letter to Pannone and Partners of 19th November will, I think, answer your queries regarding our relationship to the investigation which resulted in your client's arrest on 5 November,

There was extensive correspondence between the SFO and the solicitors formerly instructed by your client on the subject of our going to northern Cyprus. Our position was and remains as stated by Mrs Harris in her letters to Vizards of 30 July and 15 August 1991, both of which letters I am copying to you, so that you may be in no doubt both about our continuing desire to conduct the investigations in question, and what we regard as the obstructive nature of the northern Cypriot "government"'s position.

In addition, I am copying to you a letter from the Foreign and Commonwealth Office clearly setting out the position of Her Majesty's Government in relation to approaches to northern Cyprus. That position, we understand, remains unaltered.

You will note that in Mrs Harris's letter of 30 July reference is made to the possibility of an informal police to police approach. Such an approach was attempted during the autumn of 1991, and again the response from the northern Cypriot authorities was that access would only be granted to the documents in which the police were interested if there were a commission rogatoire. It should be noted that this procedure has never been insisted on in the past when police have made the investigations to which you correctly refer in your letter.

Our attempts to gain access to northern Cyprus did not cease in the autumn of 1991, but have continued to date, with continued lack of success.

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24 November 1992



I should in addition point out that the SFO's position as outlined in the documents referred to above has been made clear to you in the course of remand hearings at Bow Street on a number of occasions. Further, in the course of the interview under caution with your client in September 1991 (at, for example, page 182, of the transcript) the reasons for the SFO's not visiting northern Cyprus were made clear both to your client and those representing him.

You comment again about the Inland Revenue investigation by Mr Allcock. I have already said that it was a report from the Stock Exchange which gave rise to this office's investigation into the affairs of your client. No material from the Inland Revenue was shown to your client at his section 2 interview on 20 September 1990.

Yours sincerely

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Director

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AS.ES.

19th November 1992

The Rt. Hon Nicholas Lyell Q.C.M.P.
Attorney General's Chambers
9 Buckingham Gate
London W.1.

Thank you for your letter of the 13th November. My reason for writing was to seek to persuade you personally to review the "evidence" relating to the allegation before the step was taken of the police interviewing a High Court Judge during a trial. I note that you agree that a Judge should not be deflected from trying a case simply because of an allegation of this kind being made. Since this is the likely consequence if the police go so far as seeking to interview Mr. Justice Tucker I thought I should write to you as it seemed to me to affect the administration of Justice.

The reason why I used the term "bizarre" was because when my client was interviewed there was not one question as to any possible connection with the Judge. If the police did not consider the evidence they had strong enough even to put to my client then it seemed bizarre indeed that it could be thought sufficient to put to the Judge with the result of his having to withdraw from the case.

I am sorry if I misunderstood your position as expressed over the telephone. I thought you were going to look into it. I believe that to make such an allegation concerning a highly respected High Court Judge was a serious matter and that alone may have

caused you to at least see if you agreed that it was appropriate for him to be interviewed by the police. The CPS are there to give advice when required and I mistakenly believed that as the Attorney you would want to take on that function in the extraordinary circumstances which had arisen.

Your answer is clear enough and we shall have to await events but my advice to my client will be to react most strongly if this leads to the Judge withdrawing from the case.

Although I appreciate that you have not had an opportunity to examine any of the documents or evidence relating to the allegation I find difficulty in accepting that those enquires are "quite distinct" I have in mind the search warrant and what was said to my Instructing Solicitors at the interview of our client. I should add that I was particularly interested in this aspect because the powers of the SFO are so ill defined in the Criminal Justice Act 1987

I have drawn your attention to several unusual features of the prosecution by the SFO. I have received a letter dated the 17th November 1992 from the Director of the SFO in which he says he is entirely satisfied with the manner of the investigation carried out by the Serious Fraud Office. It is a remarkably speedy decision in a case involving thousands of pages of witness statements and exhibits. I can do no more. It may be that it is really impossible for anyone senior at the SFO to supervise or review the work of other officers simply because of the size and complexity of the cases involved. but if these cases are not kept constantly under review inevitably problems will arise. Here again we shall have to await events.

Thank you for replying so speedily.

ANTHONY SCRIVENER Q.C.



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RECEIVED
17 NOV 1992

Anthony Scrivener Esq Q.C.
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13th November 1992

Dear Tony,

Thank you for your letter of 6th November 1992 about the quite exceptional circumstances which have arisen in the Polly Peck case creating difficulties for all concerned - not least the Serious Fraud Office. I am particularly anxious that some of your present misconceptions about the role and responsibilities of the SFO should be clarified.

In early October, information and a document were passed to the Metropolitan Police, who drew them to the attention of the SFO, to the effect described in the document served by the SFO on 5th November. The nature of the allegation involving conspiracy to pervert the course of justice is quite distinct from those areas which are the province of the SFO and made it appropriate for these fresh allegations to be investigated by the Metropolitan Police as a separate issue. This is what is happening at present with the Police seeking advice from the Director of Public Prosecutions as appropriate.

Robert Owen was most careful last Friday to spell out that what he said about a possible interview with Mr Justice Tucker was based on information from those responsible for the investigation. The decision whether to seek such an interview is an operational one for the Police. I cannot, however, see that such a course would be bizarre.

The inference contained in the fourth paragraph of your letter is entirely without foundation.

I was also surprised on reading the transcript of Friday's hearing to see it stated by you that I "undertook" to make enquiry. Apart from a generalised expression of astonishment at the circumstances which you said you would or might ask me to look into, I am not aware that you made any substantive request. I did say that it was a difficult and most unusual set of circumstances arising from allegations that your client and those



close to him seemed to be attempting to pervert the course of justice. Such circumstances were relevant to the question of bail and therefore it was proper and necessary pursuant to R v Ward that the defence should be put on notice of the allegations and the Court informed. The question of handling, on which you sought my informal guidance, thereafter became a matter for the judge, and you told me you would play it by ear.

It is quite correct that I considered it proper for the judge personally to receive as much advance warning as possible. I gave no instructions about the specific timing of service on the Defence, although I cannot see they were prejudiced by what occurred.

The Director of Public Prosecutions is asking the Metropolitan Police to take forward their investigation into these allegations as a matter of urgency so as to minimise disruption of the proceedings in relation to your client. It is of course for Mr Justice Tucker himself to decide at what point the proceedings should be resumed and whether he should continue to preside. In so far as you expressed concern that a judge should not lightly be deflected from trying the case by reason of the existence of such an allegation I would agree strongly; but any grounds for anxiety in the present case do not seem to me to relate to any actions of the SFO.

Your letter contained a number of criticisms of other aspects of the SFO handling of this prosecution which are not related to the above allegations. I have therefore passed a copy of your letter to the Director of the SFO so that he may respond to you direct on these other aspects.

Your sincerely

Nick.