

## **APPENDIX**

**APPENDIX**

**TABLE OF CONTENTS**

Appendix A Summary Order in the United States Court of Appeals for the Second Circuit (August 23, 2018) . . . . . App. 1

Appendix B Memorandum and Order in the United States District Court for the Southern District of New York (August 18, 2017) . . . . . App. 7

Appendix C Judgment in the United States District Court for the Southern District of New York (August 22, 2017) . . . . . App. 43

Appendix D Complaint in the United States District Court for the Southern District of New York (May 25, 2016) . . . . . App. 45

Appendix E First Amended Complaint in the United States District Court for the Southern District of New York (August 10, 2016) . . . . . App. 77

Appendix F Second Amended Complaint in the United States District Court for the Southern District of New York (September 15, 2016) . . . . . App. 115

Appendix G Proposed Third Amended Complaint in the United States District Court for the Southern District of New York (April 19, 2017) . . . . . App. 158

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**APPENDIX A**

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**UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT**

**17-2901-cv**

**[Filed August 23, 2018]**

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York on the 23<sup>rd</sup> day of August, two thousand eighteen.

Present: JON O. NEWMAN,  
ROSEMARY S. POOLER,  
*Circuit Judges.*  
DENISE COTE,<sup>1</sup>  
*District Judge.*

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OUSSAMA EL OMARI, AN INDIVIDUAL )  
AND UNITED STATES CITIZEN RESIDING )  
IN THE STATE OF NORTH CAROLINA, )  
)  
*Plaintiff-Appellant,* )  
)  
v. )  
)  
KREAB (USA) INC., RAS AL KHAIMAH )  
FREE TRADE ZONE AUTHORITY, )  
A CORPORATION ORGANIZED UNDER )

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<sup>1</sup>Judge Denise Cote, United States District Court for the Southern District of New York, sitting by designation.

THE LAWS OF RAS AL KHAIMAH, UNITED )  
ARAB EMIRATES, AKA R.A.K. FREE TRADE )  
ZONE AUTHORITY, AKA RAKFTZA, SHEIKH )  
SAUD BIN SAQR AL QASIMI, THE ARKIN )  
GROUP LLC,<sup>2</sup> )

*Defendants-Appellees.* )

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**SUMMARY ORDER**

**RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT'S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION "SUMMARY ORDER"). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.**

Appearing for Appellant: Scott M. Moore, Moore  
International Law PLLC,  
New York, N.Y.

Appearing for Appellee  
Kreab (USA) Inc.: Claudia G. Cohen, Davis &  
Gilbert LLP (James R.  
Levine, *on the brief*), New  
York, N.Y.

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<sup>2</sup> The Clerk of the Court is directed to amend the caption as above.

App. 3

Appearing for Appellee

The Arkin Group LLP: Mercedes Colwin, Gordon  
Rees Scully Mansukhani,  
LLP (Ryan Sestack, Brian P.  
FitzGerald, *on the brief*),  
New York, N.Y.

Appearing for Appellees

Ras Al Khaimah Free  
Trade Zone Authority and  
Sheikh Saud Bin Saqr  
al Qasimi: Linda C. Goldstein, Dechert  
LLP (Amanda Rios, *on the  
brief*), New York, N.Y.

Appeal from the United States District Court for the  
Southern District of New York (Buchwald, *J.*).

**ON CONSIDERATION WHEREOF, IT IS  
HEREBY ORDERED, ADJUDGED, AND  
DECREED** that the judgment of said District Court be  
and it hereby is **AFFIRMED**.

Oussama El Omari appeals from the August 22,  
2017 judgment of the United States District Court for  
the Southern District of New York (Buchwald, *J.*)  
dismissing his second amended complaint that asserted  
claims arising out of his termination as chief executive  
officer and director general of the Ras Al Khaimah Free  
Trade Zone Authority (“RAKFTZA”). We assume the  
parties’ familiarity with the underlying facts,  
procedural history, and specification of issues for  
review.

We affirm, primarily for the reasons set forth in the  
district court’s thorough and well-reasoned opinions.  
*Omari v. Ras Al Khaimah Free Trade Zone Authority*,

App. 4

2017 WL 2271536 (S.D.N.Y. May 1, 2017); *Omari v. Ras Al Khaimah Free Trade Zone Authority*, 2017 WL 3896399 (S.D.N.Y. Aug. 18, 2017).

The district court was well within its discretion to deny the recusal motion. “Recusal motions are committed to the sound discretion of the district court, and this Court will reverse a decision denying such a motion only for abuse of discretion.” *LoCascio v. United States*, 473 F.3d 493, 495 (2d Cir. 2007). In deciding whether a district court abused its discretion in deciding not to recuse, an appellate court must ask: “Would a reasonable person, knowing all the facts, conclude that the trial judge’s impartiality could reasonably be questioned? Or phrased differently, would an objective, disinterested observer fully informed of the underlying facts, entertain significant doubt that justice would be done absent recusal?” *United States v. Bayless*, 201 F.3d 116, 126 (2d Cir. 2000) (citation omitted). We find the district court did not exceed its discretion in refusing to recuse itself on the basis of a brief ex parte conversation between a law clerk and counsel regarding the proper procedure for how to request a document be sealed.

We also agree that the claim against RAKFTZA was properly dismissed pursuant to the Foreign Sovereign Immunities Act (“FSIA”). FSIA provides that “a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States” unless the litigation falls under a statutory exception. 28 U.S.C. § 1604. At issue here is the exception for commercial activity, which states in relevant part that a foreign state is not immune from suit “in any case—”

App. 5

in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States.

28 U.S.C. § 1605(a)(2). “Commercial activity” is defined as:

[E]ither a regular course of commercial conduct or a particular commercial transaction or act. The commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.

28 U.S.C. § 1603(d). Our decision in *Kato v. Ishihara* controls here. In *Kato* we distinguished promotion of commerce from commerce itself: “[T]he fact that a government instrumentality ... is engaged in *the promotion of commerce* does not mean that the instrumentality is thereby engaged in *commerce*.” *Kato v. Ishihara*, 360 F.3d 106, 112 (2d Cir. 2004). “The promotion abroad of the commerce of domestic firms is a basic—even quintessential—governmental function.” *Id.* The RAKFTZA was created by a decree to manage the Free Trade Zone, and to issue licenses to businesses that operate there. The RAKFTZA is charged with promoting, developing and operating the Free Trade Zone. The fact that the RAKFTZA shares some traits with a private corporation does not transform it into a private entity. The district court correctly determined

App. 6

that “RAKFTZA acted as a creator and regulator of markets rather than as a private player within them, and engaged in the promotion of commerce rather than in direct commerce.” *Omari*, 2017 WL 3896399, at \*9 (S.D.N.Y. 2017) (quotation marks omitted).

We have considered the remainder of El Omari’s arguments and find them to be without merit. Accordingly, the order of the district court hereby is AFFIRMED. Each side to bear its own costs.

FOR THE COURT:  
Catherine O’Hagan Wolfe, Clerk

The image shows a handwritten signature in black ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular seal. The seal is red and white, with the text "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom. There are two small stars on either side of the center text.



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**APPENDIX B**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**16 Civ. 3895 (NRB)**

**[Filed August 18, 2017]**

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OUSSAMA EL OMARI, )  
 )  
Plaintiff, )  
 )  
– against – )  
 )  
RAS AL KHAIMAH FREE TRADE ZONE )  
AUTHORITY, a/k/a R.A.K. FREE TRADE )  
ZONE AUTHORITY, a/k/a RAKFTZA, )  
KREAB (USA) INC., SHEIKH SAUD BIN )  
SAQR AL QASIMI, and THE ARKIN )  
GROUP LLC )  
 )  
Defendants. )  
 )  

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**MEMORANDUM AND ORDER**

**NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE**

Plaintiff Oussama El Omari (“El Omari”) brought this action asserting claims arising out of his termination as CEO and Director General of defendant Ras Al Khaimah Free Trade Zone Authority (“RAKFTZA”), an agency or instrumentality of Ras Al Khaimah (“RAK”), one of the seven emirates composing the United Arab Emirates. Defendants now move to dismiss on various grounds. Defendant The Arkin

## App. 8

Group LLC (“TAG”) also moves for sanctions against El Omari and his counsel. El Omari, in turn, cross moves for sanctions against TAG, its principal (Stanley Arkin), and its counsel. El Omari further requests leave to amend his complaint a third time. For the reasons stated below, defendants’ motions to dismiss are granted, plaintiff’s requests for leave to amend are denied, and the motions for sanctions are denied.

### **BACKGROUND**

The following summary of plaintiff’s allegations is drawn from the Second Amended Complaint (“SAC”).

Plaintiff was hired by RAK in 1997 under the authority of Sheikh Saqr bin Mohammad al Qassimi (“Sheikh Saqr”), then the Ruler of RAK, to head the pre-RAK Free Trade Zone, which later came into existence as the Ras Al Kaimah Free Trade Zone (“RAKFTZ”), in 2000, under the RAK Free Zone Law, by Decree No. 5 of Sheikh Saqr. SAC ¶ 21. During his fifteen-year tenure, Plaintiff helped create, operate, and promote the RAKFTZ. SAC ¶¶ 1, 23.

On November 20, 2009, Davis Hodge (“Hodge”), an employee of defendant Kreab (USA) Inc. (“Kreab”), a strategic communications advisor, emailed El Omari a U.S. Public Relations Business Proposal regarding promotion of the RAKFTZ in the U.S. SAC ¶¶ 24, 27. Hodge copied defendant Andrew Frank (“Frank”), who was then the Managing Partner of Kreab’s New York office, on this email. See SAC ¶¶ 9, 27. This proposal was not accepted. See SAC ¶ 27.

In October 2010, Sheikh Saqr died, and his successor, then Crown Prince, defendant Sheikh Saud

## App. 9

bin Saqr Al Qasimi<sup>1</sup> (“Sheikh Saud”), was appointed Ruler of RAK. “Unknown to El Omari at the time, arising out of a royal family succession conflict, the new Ruler of RAK, [Sheikh] Saud, began taking steps to consolidate power and to remove his brother, [Sheikh Faisal bin Saqr Al Qassimi (“Sheikh Faisal”)], from positions of power in RAK.” SAC ¶ 28.

Amir Handjani (“Handjani”), employed by RAK Petroleum, UAE, “had direct access to Sh. Saud, and on behalf of Sh. Saud, searched for and identified TAG to prepare a smear report on the operation of the RAKFTZ, which by implication would smear the operating authority, RAKFTZA, and its Chairman, Sh. Faisal.” SAC ¶¶ 25, 29. Kreab commissioned TAG to prepare the TAG Report. SAC ¶ 1. El Omari did not commission any review of the RAKFTZ from Kreab, TAG, or any other party, and did not know about any review of RAKFTZ operations until the review was underway. Sheikh Saud approved the review, and El Omari had no choice but to cooperate with the review. SAC ¶ 31.

On October 26, 2010, one day before Sheikh Saqr died, Frank sent an email to Sheikh Faisal, copied to El Omari, Handjani, and another Kreab employee, Jessica Levine, to arrange itinerary plans for a visit to RAK by TAG employee Mark Christopher (“Christopher”). Frank stated that Christopher was “putting together the reports and he will have meetings on his own,” and Frank specified with whom in RAK Christopher would like to meet. Frank stated in this email that he, Frank, would also be traveling to RAK, and Frank would be

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<sup>1</sup> The SAC uses the spelling “Qassimi” at times and “Qasimi” at times. We simply use the SAC’s spelling.

App. 10

joined by Hodge, who would be “meeting” with Christopher. “The positions named in this email, individuals Frank said Christopher would like to meet, far exceeded the scope of a basic review of RAKFTZ operations, as indicated by among other positions, the following persons [sic]: RAK Investment Authority, RAK foreign relations, the relationship between RAK and UAE, and activities of Iranian companies.” SAC ¶ 32.

Around January 2011, Christopher traveled to RAK to conduct field research for approximately three weeks. “Neither TAG nor Kreab disclosed that TAG was in fact hired by Kreab, and not by the RAKFTZA.” SAC ¶ 33.

“In both the draft and final versions of the smear report, styled by TAG as a ‘White Paper’ [(the “White Paper”)], TAG falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations. TAG, in the methodology section in both the draft and final version of the TAG White Paper, stated the TAG factual research was conducted by Internet based research on RAKFTZ operations, but did not disclose sources, and stated that TAG conducted interviews in RAK, but withheld the names, and included negative hearsay statements by the unnamed sources. This secret source based fact research resulted in an unreliable factual basis of the TAG White Paper on its face.” SAC ¶ 34.

“In the analysis section of both the draft and final versions of the TAG White Paper, TAG applied, inter alia, many unspecified legal obligations relating to operation of the RAKFTZ, and unspecified United States and United Nations legal sanctions law against

## App. 11

Iran, without citing many of the laws or legal provisions, and without stating or analyzing what legal obligations, if any, applied to RAKFTZ operations. This resulted in an unreliable legal analysis on the face of the TAG White Paper.” Moreover, the draft and final White Paper “on its face, smeared the RAKFTZ with unreliable, unsubstantiated, and negative legal conclusions, including a heavy emphasis on alleged Iranian businesses operating within the RAKFTZ in suggested violation of United States and United Nations sanctions law.” SAC ¶¶ 35-36.

On March 11, 2011, Frank emailed the Draft TAG White Paper, dated March 10, 2011, to Handjani. That same day, Handjani then forwarded the Draft TAG White Paper received from Frank, to El Omari, Sheikh Faisal, and Sheikh Saud. “As such, Sh. Saud was kept informed of Kreab’s smear progress. This cast the die and locked up the draft TAG White Paper from El Omari’s efforts to correct fact errors and the overall negative thrust of the report.” SAC ¶¶ 37-39.

El Omari and others at the RAKFTZA were alarmed at factual errors and the overall negative thrust of the Draft TAG White Paper. “El Omari and RAKFTZA in-house legal counsel, Johnson M. George (“George”), prepared responses to the draft TAG White Paper which were emailed from Johnson to Frank, which in the end resulted in no substantive change.” SAC ¶ 40.

“El Omari and George traveled to New York to meet with Kreab and express RAKFTZA concerns about the errors and negative Draft TAG White Paper. El Omari and George met with 2 Kreab employees, Frank, and Frank’s supervisor, at the Kreab office in New York.” SAC ¶ 41.

## App. 12

On April 25, 2011, Frank delivered the final TAG White Paper, which was dated April 28, 2011, by email to El Omari. There were no substantive changes from the draft TAG White Paper. SAC ¶ 42.

On May 1, 2011, Frank sent an email to El Omari stating that Frank was planning to meet that day with Sheikh Saud and Handjani. SAC ¶ 43.

After delivery of the final TAG White Paper, Sheikh Saud personally called El Omari and directed El Omari to pay \$35,000 to Kreab for the TAG White Paper, out of RAKFTZA funds, over El Omari's objections, since the RAKFTZA did not commission the TAG White Paper nor found it acceptable. SAC ¶ 44.

On July 7, 2011, Frank, also an employee and/or partner at a company called Strategy XXI Holdings, Inc. (d/b/a Strategy Holdings XXI Partners) ("Strategy XXI"), using a Strategy XXI email account, emailed a public relations business proposal from Strategy XXI to El Omari, with a proposed cost of \$15,000 per month ("the Strategy XXI Proposal"). "The Strategy XXI Proposal used a letterhead with the look and feel of the RAKFTZ logo and letterhead, which it was unauthorized to use. El Omari did not accept the Strategy XXI Proposal. Frank attempted to contact Sh. Saud in person at Sh. Saud's Palace in RAK about the Strategy XXI Proposal, but Sh. Saud was unresponsive and the meeting did not occur." SAC ¶ 45.

On January 30, 2012, Sheikh Saud issued Decree No. 3, appointing his Advisor, Salem Ali Al Sharhan ("Al Sharhan"), to oversee the RAKFTZA, without specifying Al Sharhan's powers or duties. El Omari was still CEO and Director General, and Sheikh Faisal was

App. 13

still Chairman of RAKFTZA. El Omari was directed by Sheikh Saud to not speak with Sheikh Faisal. SAC ¶ 46.

On May 28, 2012, while El Omari was traveling on RAKFTZA business outside the UAE, Sheikh Saud signed and authorized a letter by Al Sharhan, under the same date, requesting authority to terminate El Omari as CEO and Director General. SAC ¶ 47.

On May 28, 2012, Al Sharhan emailed a letter to El Omari terminating El Omari from his positions of CEO and Director General of the RAKFTZA, with one month notice, effective June 30, 2012, for the stated reason of “re-structuring the RAKFTZ” (“the Termination Letter”). The Termination Letter “breached the Agreement by 1) not giving the contracted 2 month notice of termination, and 2) failing to pay the contracted end of service gratuity.” SAC ¶ 48.

“On May 29, 2012, while still outside the UAE on RAKFTZA business, and per instructions from Sh. Faisal, El Omari sent a reply email to Al Sharhan, stating that Al Sharhan’s Termination Letter was ‘disapproved’ by Sheikh Faisal, Chairman of the RAKFTZA, and that El Omari remained in his positions unless instructed otherwise by Sh. Faisal.” SAC ¶ 49.

“On July 10, 2012, El Omari’s UAE residency was terminated and had [sic] 30 days to leave the UAE; El Omari did not sign the residency termination document, which under UAE labor law, is required to be signed by the foreign worker prior to termination of residency. If signed, which it was not, the document

App. 14

also would acknowledge no labor payments were outstanding.” SAC ¶ 50.

On December 1, 2012, Sheikh Faisal was still Chairman of the RAKFTZA and retained the consulting services of El Omari as an advisor, under an agreement between GDS & Investment, a UAE corporation (by El Omari), and the RAKFTZA (by Sheikh Faisal), (“the GDS Agreement”). SAC ¶ 52.

On March 5, 2013, Sheikh Saud issued a decree which removed Sheikh Saud’s brother, Sheikh Faisal, as Chairman and from the board of the RAKFTZA, and appointed in his place their younger brother, Sheikh Ahmed Bin Saqr Al Qasimi (“Sheikh Ahmed”), as Chairman of the RAKFTZA. Sheikh Ahmed continues as Chairman to the present date. “This public removal by Sh. Saud of Sh. Faisal, and replacement by his younger brother, Sh. Ahmed, was a disgrace of Sh. Faisal in front of the tribes of the small emirate of Ras Al Khaimah.” SAC ¶ 53.

“Under a personally signed letter dated March 17, 2013, Sh. Ahmed, the new Chairman of RAKFTZA, terminated the three month old GDS Agreement, effective that date, citing false allegations against El Omari, to wit: ‘GDS proved gross negligence . . . resulting in unjustified financial spending’s [sic] and loss of profit.’ SAC ¶ 54 ([sic] in original). Plaintiff alleges that these were “[f]alse allegations which have never been documented or otherwise proved in any subsequent RAK Rulers Court civil and criminal cases filed against El Omari in retaliation.” Id.

“On October 22, 2015, the RAKFTZA filed Articles of Dissolution of its New York promotion office, the



RAK Dubai Business Centre, under authorization of and personal signature of Sh. Ahmed, the present Chairman of the RAKFTZA, which was filed with the New York Department of State.” SAC ¶ 56.

After his termination, plaintiff consulted UAE attorneys and took recommended steps to pursue remedies under UAE law, but alleges, in essence, that he was denied due process in a way that “made invoking the jurisdiction of the RAK Rulers Court to resolve any contract claims an impossibility.” SAC ¶¶ 55, 58.

Plaintiff alleges that, subsequent to filing the original complaint in this action, on Sunday, July 31, 2016, the day before RAKFTZA filed a pre-motion letter to dismiss the complaint, he was “subjected to an incident on U.S. soil caused by and through Sh. Saud in retaliation for filing the complaint.” Namely, in essence, upon landing at JFK Airport in New York from an international trip, plaintiff was detained by U.S. Customs officials after a Customs official, viewing a computer screen, told El Omari while he was passing through Customs that he “must have serious problems with the UAE,” that “you had better be careful and not go to the UAE,” “they will arrest you and put you in jail,” and “by the way, we do not have any exchange treaties with them, but you be careful.” El Omari was taken to “a separate room involving U.S. Homeland Security,” where additional Customs officers took his passport, consulted a computer, and made two telephone inquiries. Following the second telephone call, a Customs official gave El Omari his passport and stamped [his] paper.” At that point, El Omari left the room with another U.S. Customs officer who checked El

App. 16

Omari's luggage, and El Omari left the airport. El Omari missed his connecting flight home to North Carolina, and stayed overnight in New York, causing him extreme emotional distress. SAC ¶ 60.

Plaintiff asserts five counts. Count I alleges that RAKFTZA breached the Agreement by (1) terminating the Agreement with only 1 month notice with an effective date of June 30, 2012, and (2) failing to pay any end of service gratuity under UAE Labour Law No. 8 of 1980, as amended, "all of which remains due and owing." SAC ¶ 63.

Counts II, III, and V allege that Kreab, Sheikh Saud, and TAG engaged in a fraudulent scheme "composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme." SAC ¶¶ 67 (Kreab), 71 (Sheikh Saud), 77 (TAG). The SAC suggests that these acts and omissions centered around the following:

- Defendants' causing "the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report";

App. 17

- Defendants' causing "the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations";
- The "deliver[y of] the TAG White Paper on April 25, 2011, for which Kreab was paid a US\$35,000 fee"; these defendants' knowledge that "the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA";
- The fact that the White Paper "was otherwise false and misleading in its facts and negative analysis"; and
- The resubmission of the Kreab Proposal "to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month."

See id. Plaintiff claims that he "reasonably relied on Kreab's acts to be truthful" and that "[t]he TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari." Id.

Finally, Count IV asserts a claim for intentional infliction of emotional distress ("IIED") against Skeikh Saud. Plaintiff alleges that Sheikh Saud, "in his individual, and official, capacity, acted unlawfully under the laws of the UAE, and acted unlawfully under the laws of the United States, and in retaliation against El Omari for filing the original Complaint, and with the intent to retaliate, punish, silence, intimidate, and remove El Omari from the U.S., did . . . cause an

illegal, and arbitrary and capricious, communication to U.S. Customs of a request for El Omari to be arrested in New York and sent to and jailed in the UAE.” SAC ¶ 73.

On each claim, plaintiff seeks “\$10,000,000 in compensatory and consequential damages,” including “end of service monies due and owing,” “out of pocket expenses,” “lost earnings,” “emotional distress,” and “damage to reputation,” as well as punitive damages. SAC at 31-33.

After the motions to dismiss were fully briefed, plaintiff filed a pre-motion letter stating his “intent to file a Third Amended Complaint,” which he attached to his letter. Ltr. from S. Moore to Ct., Apr. 19, 2017 (ECF No. 121). The Proposed Third Amended Complaint (“Proposed TAC”) would add three additional counts and two additional defendants.<sup>2</sup> Defendants submitted a letter opposing plaintiff’s request, essentially on the ground that the amendments would be futile. Ltr. from L. Goldstein to Ct., Apr. 25, 2017 (ECF No. 122). In an order dated May 1, 2017, the Court stated that it would defer ruling on plaintiff’s request for leave to amend (and the objections thereto raised by defendants) until the Court decided the pending motions to dismiss.

### **DISCUSSION**

“To survive a motion to dismiss [under Rule 12(b)(6)], a complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that

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<sup>2</sup> This request to amend the SAC was separate from and in addition to plaintiff’s request, in his briefs opposing the motions to dismiss, for leave to amend the SAC to remedy any deficiencies therein.

is plausible on its face.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id. When deciding a motion to dismiss pursuant to Rule 12(b)(6), a court must accept as true all well-pleaded facts alleged in the complaint and draw all reasonable inferences in a plaintiff’s favor. Kassner v. 2nd Ave. Delicatessen Inc., 496 F.3d 229, 237 (2d Cir. 2007). Mere “conclusions of law or unwarranted deductions of fact” need not be accepted as true, however. First Nationwide Bank v. Gelt Funding Corp., 27 F.3d 763, 771 (2d Cir. 1994) (internal quotation marks omitted). “Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.” Ashcroft, 556 U.S. at 678.

Moreover, a plaintiff alleging fraud must “state with particularity the circumstances constituting fraud,” although “[m]alice, intent, knowledge, and other conditions of a person’s mind may be alleged generally.” Fed. R. Civ. P. 9(b). Accordingly, the complaint must “(1) specify the statements the plaintiff contends were fraudulent, (2) identify the speaker, (3) state where and when the statements were made, and (4) explain why the statements were fraudulent.” Rombach v. Chang, 355 F.3d 164, 170 (2d Cir. 2004) (internal quotation marks omitted).

Defendants’ arguments for dismissal are as follows: TAG, Sheikh Saud, and Kreab move to dismiss the fraud claims against them for failure to state a claim. RAKFTZA moves to dismiss the contract claim against

it on the grounds that: (1) the claim is barred under the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1602 et seq.; (2) the forum selection clause in the Agreement requires dismissal; and (3) the claim is time-barred. Sheikh Saud also moves to dismiss the claims against him for lack of personal jurisdiction and further argues that plaintiff fails to state an IIED claim against him. We address the fraud claims first.

### **I. Fraud Claims**

Defendants argue that plaintiff's fraud claims fail to state a claim for multiple reasons, including failure to adequately allege: (1) a misrepresentation or actionable omission; (2) scienter; and (3) reasonable reliance.

At the outset, we note that all parties have assumed that New York law applies to plaintiff's fraud claims. Under the principle that "implied consent to use a forum's law is sufficient to establish choice of law," when the parties' briefs all rely on the law of a certain forum, the Court may apply the law of that forum notwithstanding that that other forum's law otherwise "could apply." Tehran-Berkeley Civil & Envtl. Eng'rs v. Tippetts-Abbett-McCarthy-Stratton, 888 F.2d 239, 242 (2d Cir. 1989). We note further that the SAC indicates that plaintiff's fraud claims have substantial contacts with New York, alleging that Kreab and TAG are both incorporated in New York and have their principal places of business in New York; that the White Paper was drafted by TAG; that plaintiff and others involved communicated with TAG and Kreab personnel who were in New York about the drafting of the White Paper; and that plaintiff traveled to New York to discuss the purported errors in the draft report. Given

these substantial contacts and the parties' implied consent, we will apply New York law.

“Under New York law, to state a claim for fraud a plaintiff must demonstrate: (1) a misrepresentation or omission of material fact; (2) which the defendant knew to be false; (3) which the defendant made with the intention of inducing reliance; (4) upon which the plaintiff reasonably relied; and (5) which caused injury to the plaintiff.” First Hill Partners, LLC v. BlueCrest Capital Mgmt. Ltd., 52 F. Supp. 3d 625, 633 (S.D.N.Y. 2014) (quoting Wynn v. AC Rochester, 273 F.3d 153, 156 (2d Cir. 2001)). We focus on defendants' arguments as to reliance. Because we find that plaintiff fails to plausibly allege reasonable reliance, we do not reach defendants' other arguments even though they raise additional persuasive points.

The SAC is notably missing any clear explanation as to how plaintiff relied on the misrepresentations or omissions allegedly made by Kreab, TAG, and Sheikh Saud (to the extent the SAC even alleges any recognizable misrepresentations or omissions made by them). Rather, the SAC simply rehearses in conclusory fashion that “El Omari and others at the RAKFTZA reasonably relied on Kreab's [or TAG's] acts to be truthful.” SAC ¶¶ 67, 71, 77. A problem is apparent on the face of these allegations, since a claim of fraud requires reliance specifically on “misrepresentations” or “omissions,” not on mere “acts.” Although the SAC attempts to characterize a wide variety of “acts” and “omissions” as “fraudulent,” the only misrepresentations or omissions alleged with any specificity are (1) TAG's statement in the draft and final versions of the White Paper that “TAG was

commissioned by the RAKFTZA to review RAKFTZ operations,” *see, e.g.*, SAC ¶¶ 34, 36, and, relatedly, (2) that “[n]either Kreab nor TAG disclosed that TAG was in fact hired by Kreab, and not by the RAKFTZA,” SAC ¶ 33.<sup>3</sup>

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<sup>3</sup>The SAC also vaguely alleges that the White Paper was “false and misleading in its facts and negative analysis,” *e.g.*, SAC ¶ 67, but does not adequately specify any misstatements therein. Rather, the specifics provided allege only, in essence, that the White Paper contained “unreliable, unsubstantiated, and negative legal conclusions,” such as relating to “alleged Iranian businesses operating within the RAKFTZ in suggested violation of United States and United Nations sanctions law.” SAC ¶ 36; *see also id.* ¶¶ 34-35. Because these allegations do not “specify the statements the plaintiff contends were fraudulent,” they are insufficient under Rule 9(b). *Rombach*, 355 F.3d at 170. Moreover, even if these allegations were deemed to identify misstatements with the required specificity, plaintiff’s suggestion that he somehow reasonably relied on these misstatements in the White Paper is absurd given that he concededly was “alarmed at” the alleged errors at the time and tried to correct them. *See* SAC ¶¶ 40-41.

In arguing that plaintiff has not alleged any misrepresentations, TAG also attaches several documents in support of its motion. One is an August 17, 2010 engagement letter addressed to El Omari from TAG president Jack Levine and purportedly signed by El Omari on behalf of RAKFTZA, authorizing TAG to conduct an investigation into, and produce a report relating to, Iranian business activity in the RAK and another matter. Decl. of Mercedes Colwin in Support of TAG’s Mot. (“Colwin Decl.”), Ex. B. The other is a copy of the final White Paper. Colwin Decl., Ex. A. Defendants argue that these documents demonstrate that TAG was in fact commissioned by RAKFTZA and that the White Paper was not a smear report, but was “balanced, detailed, nuanced, and comprehensive,” overall made a positive finding, and does not mention plaintiff. TAG Opening Br. in Support of Mot., at 9. Plaintiff objects to defendants’ attempts to rely on these documents on this motion. We need not and do not rely on these documents for purposes of our decision.



Plaintiff's own allegations reveal the absurdity of his suggestion that he reasonably relied on this statement and this omission regarding the hiring of TAG and the commissioning of the White Paper. First, plaintiff's entire claim is premised on his allegation that RAKFTZA did not commission the White Paper, a fact he, as RAKFTZA's CEO and Director General, obviously would have known and admittedly knew at the time. See, e.g., SAC ¶¶ 31 ("El Omari did not commission any review of the RAKFTZ from Kreab, TAG or any other party . . . . Sh. Saud approved the review, and El Omari had no choice but to cooperate with the review."), 44 (noting El Omari's "objections" to Sheikh Saud's request to pay Kreab for the White Paper, since the RAKFTZA did not commission the TAG White Paper). For similar reasons, plaintiff cannot plausibly claim that he reasonably relied on any omission by defendants to disclose that TAG was in fact hired by Kreab, and not by the RAKFTZA.<sup>4</sup> Plaintiff's claim of reasonable reliance is further undermined by his acknowledgment that he was "alarmed at factual errors and the overall negative thrust" of the draft White Paper, prepared and sent corrective responses to Kreab, and met with Kreab to "express RAKFTZA concerns about the errors," SAC ¶¶ 40-41, demonstrating that he was perfectly aware of the alleged problems with the White Paper and did not rely at all on these alleged misrepresentations and omissions.

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<sup>4</sup> Reinforcing this conclusion even further is the fact that plaintiff's allegations indicate that he was well aware of Kreab's involvement in the creation of the White Paper. See SAC ¶¶ 32, 33, 40, 41.

In opposition, plaintiff argues that he was “induced . . . into participating in the review” of RAKFTZ operations by “Kreab’s failure to disclose the scheme to Plaintiff.” Pl.’s Br. in Opp. to Kreab’s Mot., at 14. But contradicting this claim is plaintiff’s own acknowledgment that “Sheikh Saud approved the review, and El Omari had no choice but to cooperate with the review.” SAC ¶ 31. This fact alone is fatal to plaintiff’s theory, because “[t]o show reliance, a party ‘must demonstrate that [it] was induced to act or refrain from acting to [its] detriment by virtue of the alleged misrepresentation or omission.’” Ginsburg Dev. Cos. v. Carbone, 134 A.D.3d 890, 892, 22 N.Y.S.3d 485, 488 (App. Div., 2d Dep’t, 2015) (quoting Shea v. Hambros PLC, 244 A.D.2d 39, 46, 673 N.Y.S.2d 369 (App. Div., 1st Dep’t, 1998)); 14 N.Y. Prac., New York Law of Torts § 1:73 (“[P]laintiff must prove that he or she relied on the intentional misrepresentation as an inducement to his or her action or injurious change of position. In other words, in order to be actionable, a representation must be a substantial factor in inducing another to act, and the representation must be the proximate cause of the injurious action.”). Plaintiff’s own allegations show that he was not induced by the alleged misrepresentations and omissions into participating in the review; rather, he had no choice but to participate.

Fundamentally, as Kreab points out, plaintiff appears to be trying to recast as fraud a claim sounding more in defamation.<sup>5</sup> With defamation, the plaintiff

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<sup>5</sup> As defendants observe, a defamation claim would be time-barred under New York’s one-year statute of limitations. See N.Y. C.P.L.R. § 215(3).

does not and cannot rely on the misrepresentation at issue, because he knows it to be untrue all along. So too here. El Omari's own allegations show that he knew all along that TAG (allegedly) was not commissioned by RAKFTZA and that the White Paper (allegedly) included unreliable analysis. Thus, his fraud claims do not resemble a true fraud claim, and must be dismissed against all defendants.

## **II. RAKFTZA**

We now turn to plaintiff's sole claim against RAKFTZA, for breach of contract. RAKFTZA argues the claim is barred under the Foreign Sovereign Immunities Act ("FSIA"), 28 U.S.C. §§ 1602 *et seq.*; that a forum selection clause in the Agreement specifying Ras Al Khaimah as the forum for disputes relating to the Agreement requires dismissal; and that the claim against it is time barred. We turn to the first of these arguments.

The FSIA provides that, in general, "a foreign state shall be immune from the jurisdiction of the courts of the United States and of the States except as provided in sections 1605 to 1607 of this chapter." 28 U.S.C. § 1604. The Supreme Court has explained that the FSIA "establishes a comprehensive framework for determining whether a court in this country, state or federal, may exercise jurisdiction over a foreign state. . . . The FSIA . . . provides the 'sole basis' for obtaining jurisdiction over a foreign sovereign in the United States." Republic of Argentina v. Weltover, Inc., 504 U.S. 607, 610–11 (1992) (quoting Argentine Republic v. Amerada Hess Shipping Corp., 488 U.S. 428, 434–49 (1989)).

The FSIA creates an exception to this immunity, in relevant part, “in any case . . . in which the action is based upon a commercial activity carried on in the United States by the foreign state; or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere; or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act causes a direct effect in the United States.” 28 U.S.C. § 1605(a)(2). The FSIA defines a “commercial activity” as “either a regular course of commercial conduct or a particular commercial transaction or act” and provides that “[t]he commercial character of an activity shall be determined by reference to the nature of the course of conduct or particular transaction or act, rather than by reference to its purpose.” 28 U.S.C. § 1603(d).

“[A] state engages in commercial activity under the . . . theory [of sovereign immunity codified in the FSIA] where it exercises ‘only those powers that can also be exercised by private citizens,’ as distinct from those ‘powers peculiar to sovereigns.’” Kato v. Ishihara, 360 F.3d 106, 111 (2d Cir. 2004) (quoting Saudi Arabia v. Nelson, 507 U.S. 349, 360 (1993)). “Put another way, to identify ‘commercial activity’ for purposes of the ‘commercial activity’ exception to immunity under the FSIA, we must ask whether ‘the particular actions that the foreign state performs . . . are the type of actions by which a private party engages in trade and traffic or commerce.’” Id. (quoting Weltover, 504 U.S. at 614). In Weltover, the Supreme Court stated that “when a foreign government acts, not as regulator of a market, but in the manner of a private player within it, the

foreign sovereign's actions are 'commercial' within the meaning of the FSIA." 504 U.S. at 614.

In Kato, the Second Circuit held that the FSIA barred an employment discrimination lawsuit brought by a Japanese civil servant against the governor of Tokyo and the metropolitan government of Tokyo ("TMG"), which had employed plaintiff in its New York office, where her duties included "promotional activities on behalf of Japanese companies, such as manning booths at trade shows to promote specific products" and "creat[ing] marketing reports of interest to Japanese companies." 360 F.3d at 109. Affirming the grant of defendants' motion to dismiss, the Circuit observed that defendants' activities "were only superficially similar to actions typically undertaken by private parties," and that a private Japanese business "would not typically undertake the promotion of other Japanese businesses, or the promotion of Japanese business interests in general." Id. at 112-13. The court further noted that "the fact that a government instrumentality like TMG is engaged in the promotion of commerce does not mean that the instrumentality is thereby engaged in commerce. The promotion abroad of the commerce of domestic firms is a basic -- even quintessential -- governmental function." Id. at 112. Thus, because "TMG was not involved in a 'commercial activity' under the FSIA when it provided general business development assistance, including product promotion, to Japanese businesses seeking to engage in commerce in the United States," the court "reject[ed] plaintiff's argument that her involvement in such activities on TMG's behalf rendered her employment 'commercial' under the FSIA." Id.

RAKFTZA argues that the FSIA prohibits plaintiff's claim because (1) the claim is not based on a commercial activity and, in the alternative, (2) the alleged commercial activity lacks an adequate nexus to the United States. We address the first argument.

Here, the SAC acknowledges that RAKFTZA was an "agency or instrumentality of the RAK, which is a political subdivision of the UAE, a foreign state, within the meaning of 28 U.S.C. § 1330(b)." SAC ¶ 6. Because the FSIA defines "foreign state" to include an "agency or instrumentality" of a foreign state, 28 U.S.C. § 1603(a), it is undisputed that plaintiff's claim against RAKFTZA is barred unless the FSIA's commercial activity exception applies, see Kato, 360 F.3d at 110.

The SAC and the relevant RAK decrees referenced therein<sup>6</sup> show that RAKFTZA was created by a decree, known as the RAK Free Zone Law, of Sheikh Saqr, then ruler of RAK. SAC ¶ 7; Pl.'s Opp. to RAKFTZA Defs.' Mot., Ex. 5 ("Pl.'s Ex. 5"); Decl. of Moulham Al Chawa in Support of RAK Defs.' Mot. ¶¶ 2-4 ("Al Chawa Decl."), Ex. 1. As the SAC acknowledges, "under Article (12) [of the decree], the Board of Directors report to 'H.H. the Ruler or Crown Prince and Deputy Ruler about the Free Zone operations.'" SAC ¶ 7; Pl.'s Ex. 5; Al Chawa Decl. Ex. 1. Moreover, "[u]nder Article

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<sup>6</sup> Both plaintiff on the one hand and RAKFTZA and Sheikh Saud (together, the "RAK Defendants") on the other submitted English translations of these decrees on this motion. Plaintiff objects to the versions submitted by the RAK Defendants on the grounds that they the translations are "uncertified translations." Pl.'s Opp. to RAK Defs.' Mot., at 11. Plaintiff's objection is immaterial for our purposes since the differences in the translations are immaterial for our purposes; the differing versions equally support our conclusion that the commercial activity exception does not apply.

(6), the objectives of the RAKFTZA are ‘the setting up, promotion, development, management, administration, regulation, operation and construction of the appropriate facilities of the Free Zone.’” SAC ¶ 7; see also Pl.’s Ex. 5; Al Chawa Decl. Ex. 1. Describing the Free Zone, the SAC states, “Under Article (2), three geographical areas were established and created as the ‘Free Zone’. Under Article (3), imports into and exports from, the Free Zone, are exempted from customs and excise taxes, and companies and individuals are exempted from all taxes for operations conducted within the Free Zone.” SAC ¶ 7; see also Pl.’s Ex. 5; Al Chawa Decl. Ex. 1. The decrees submitted further state that RAKFTZA is empowered to issue certain licenses to companies to conduct activities inside and outside the Free Trade Zone, and to create rules and regulations (1) to “manage and organize the Free Trade Zone as well as the companies and individuals operating in it,” and (2) “related to promoting, developing, and operating the Free Trade Zone.” Pl.’s Ex. 5; see also Al Chawa Decl. Ex. 1.

The “setting up, promotion, development, management, administration, regulation, operation and construction” of “facilities” of a geographical free trade zone within a sovereign government’s territory, as established by sovereign decree, are obviously “quintessential” governmental activities that a private party would be powerless to engage in on its own. These materials demonstrate that RAKFTZA acted as a creator and regulator of markets rather than as a “private player within” them, and engaged in “the promotion of commerce” rather than in direct commerce. See Weltover, 504 U.S. at 614; Kato, 360 F.3d at 111. Moreover, plaintiff’s allegations describing

his own activities on behalf of RAKFTZA are consistent with the governmental nature of these activities, as is the RAK decree setting forth the responsibilities of RAKFTZA's Board of Directors, including plaintiff (expressly named in the decree). See SAC ¶ 23 (“During the fifteen year period between 1997 and 2012, El Omari reported directly to, and worked closely with, his direct supervisor, then RAKFTZA Chairman, Sh. Faisal. The period was characterized by successful growth of the RAKFTZ [and] the opening of promotion offices in Cologne, Germany, Istanbul, Turkey, and Mumbai, India, and New York.”); Pl.’s Ex. 6; Al Chawa Decl. Ex. 2. Accordingly, the SAC makes it clear that the FSIA’s commercial activity exception does not apply to plaintiff’s breach of contract claim against RAKFTZA, and that that claim is barred by the FSIA.<sup>7</sup>

### **III. Sheikh Saud IIED claim**

We have already held that the fraud claim against Sheikh Saud fails. Sheikh Saud also argues that both the fraud claim and the IIED claim against him must be dismissed because he is entitled to foreign governmental immunity. We address this argument with respect to the remaining IIED claim.

To assess Sheikh Saud’s claim of immunity we look to the common law rather than the FSIA, which does not govern the immunity claims of foreign government officials. See Samantar v. Yousuf, 560 U.S. 305, 308, 313, 325-26 (2010); Matar v. Dichter, 563 F.3d 9, 14 (2d Cir. 2009). Where, as here, a defendant has not sought

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<sup>7</sup> Thus, we need not address RAKFTZA’s alternative argument that the alleged commercial activity lacks an adequate nexus to the United States, or its other arguments for dismissal.



a “suggestion of immunity” from the State Department, the district court has the “authority to decide for itself whether all the requisites for such immunity exist[.]” Samantar, 560 U.S. at 311, 325-26; In re Terrorist Attacks on Sept. 11, 2001, 122 F. Supp. 3d 181, 186-87 (S.D.N.Y. 2015).

The common law recognizes both a “status-based” immunity, which is absolute and awarded to sitting heads of state, and a “conduct-based” immunity, a more qualified immunity that may be awarded to individuals for acts undertaken in an official capacity on behalf of a government (regardless of current tenure). See Yousuf v. Samantar, 699 F.3d 763, 769 (4th Cir. 2012); In re Terrorist Attacks, 122 F. Supp. 3d at 185–86; Moriah v. Bank of China Ltd., 107 F. Supp. 3d 272, 277 (S.D.N.Y. 2015). Conduct-based foreign official immunity does not apply to acts undertaken in an individual’s private capacity, and also may be held not to apply when the official’s conduct violates peremptory norms of international law, known as jus cogens. See Yousuf, 699 F.3d at 775-78.

Shiekh Saud does not appear to claim head of state immunity, and since RAK is merely a political subdivision of the UAE, such immunity appears inapplicable. Thus, we analyze his claim of immunity as a claim of conduct-based, foreign official immunity.

Courts have looked to a number of factors in determining whether a foreign official is acting in an official capacity such that he may be entitled to foreign official immunity. These include whether “the officer purports to act as an individual and not as an official,” “whether an action against the foreign official is merely a disguised action against the nation that he or she

represents,” and “whether an action against the official would have the effect of interfering with the sovereignty of the foreign state that employs the official.” Park v. Shin, 313 F.3d 1138, 1144 (9th Cir. 2002); see also Heaney v. Gov’t of Spain, 445 F.2d 501, 504 (2d Cir. 1971).

Here, plaintiff acknowledges that he is suing Sheikh Saud, the “Emir and Ruler” of RAK, in part “in his . . . official capacity.” SAC ¶ 10. Plaintiff also claims to sue Sheikh Saud also partly “in his individual . . . capacity,” id., but the SAC makes clear that this is mere conclusory allegation, belied by the substance of the complaint. Plaintiff’s IIED claim is based on an allegation that Sheikh Saud “cause[d],” through “UAE authorities,” a communication to U.S. Customs requesting that El Omari be “arrested” and “sent to and jailed in the UAE.” SAC ¶¶ 60, 73. Plaintiff’s complaint also acknowledges that civil and criminal proceedings were instituted against him, “in absentia,” in the RAK Rulers Court. SAC ¶¶ 19, 54.

Taken as true, these allegations demonstrate that Sheikh Saud’s actions causing El Omari’s detention were undertaken through RAK official channels and on behalf of the RAK, presumptively in furtherance of its enforcement of its laws.<sup>8</sup> Although we recognize that the United States and the United Nations have criticized the UAE for arbitrary arrests, a lack of judicial independence, and other rule of law and human rights problems, see Pl.’s Br. in Opp. to RAK

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<sup>8</sup> The SAC refers vaguely to the Sheikh’s “private business positions and interests,” SAC ¶ 10, but does not allege that the Sheikh’s actions at issue concerned these private positions or interests rather than RAK’s governmental interests.

Defs.' Mot., Exs. 1, 2, those issues do not change our conclusion. Pursuant to well-established common law and international law principles, we must afford considerable deference to a sovereign nation such as the UAE, and the ruler of one of its political subdivisions, in the presumptive enforcement of its laws and administration of government, as the SAC indicates occurred in this instance. To hold otherwise would "interfer[e] with the sovereignty" of the UAE and RAK. Park, 313 F.3d at 1144. Moreover, despite plaintiff's speculative allegation that "had the UAE request been honored by U.S. Customs, in light of the human rights position of the U.S. Department of State on the UAE, it is likely that El Omari would not have been heard of again," SAC ¶ 60, plaintiff has not concretely and plausibly alleged that Sheikh Saud committed anything rising to the level of violation of a jus cogens norm that might vitiate his claim of immunity.

Accordingly, because the SAC indicates that Sheikh Saud's actions were official acts on behalf of the RAK for which he is entitled to immunity, plaintiff's IIED claim against him is dismissed.

#### **IV. Requests for Leave to Amend**

In opposition to defendants' motions to dismiss, plaintiff requests leave to amend pursuant to Rule 15(a)(2) to cure any deficiencies with his allegations. Plaintiff had already been granted leave to amend his complaint twice before defendants filed their motions to dismiss, and had been informed in advance of filing the SAC of RAKFTZA's and Sheikh Saud's grounds for dismissing the claims against them, including failure of the fraud claim for lack of reasonable reliance, see

Ltr. from L. Goldstein to Ct., Aug. 30, 2016 (ECF No. 24). Despite these opportunities, the SAC fails to state a claim or to even come close to stating a claim. Moreover, plaintiff does not even attempt to explain how he would remedy these defects. The only reasonable conclusion from these facts is that amendment would be futile; therefore, this request is denied. See, e.g., Panther Partners Inc. v. Ikanos Communs., Inc., 681 F.3d 114, 119 (2d Cir. 2012).

Plaintiff also requests leave to add new claims. As reflected in his Proposed Third Amended Complaint, these new claims would consist of: a fraud claim against RAKFTZA for allegedly falsifying documents, introduced as exhibits to RAKFTZA's motion to dismiss, stating that plaintiff was paid certain sums upon his termination (Count VI); a claim under the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030, against RAKFTZA for allegedly hacking plaintiff's personal website on March 15, 2014 in violation of 18 U.S.C. § 1030(a)(5)(A), (B), and (C) (Count VII); an aiding and abetting claim under the CFAA against RAKFTZA based on the same alleged hacking (Count VIII); and a claim of fraud against the Strategy XXI entities based on the same allegations underlying the existing fraud claims (Count IX). Even aside from the possibility that plaintiff may have unduly delayed bringing certain of these claims, it is obvious on the face of the Proposed TAC that all of these new counts fail to state a claim.

Count VI, the fraud claim involving the falsification of payment records, fails because plaintiff does not plausibly allege reasonable reliance on the representations in these documents. Indeed, plaintiff

offers not a single allegation (not even a conclusory one) of his reliance on these documents, demonstrating the frivolous nature of this claim.

Counts VII and VIII, based on the CFAA, fail because plaintiff does not allege sufficient factual matter to permit a “reasonable inference,” Iqbal, 556 U.S. at 678, that RAKFTZA -- as opposed to someone else -- was involved in the hacking of plaintiff’s website. See JBCHoldings NY, LLC v. Pakter, 931 F. Supp. 2d 514, 526 (S.D.N.Y. 2013) (dismissing CFAA claim at pleading stage where plaintiff offered only “speculative” allegations that defendants had engaged in unauthorized access of server). In fact, plaintiff offers no allegations to suggest that RAKFTZA was involved in the hacking. Further, the timing of the hacking makes it even more implausible that RAKFTZA was involved. The hacking allegedly occurred almost two years after El Omari received the termination email from Al Sharhan and more than a year after Sheikh Ahmed terminated plaintiff’s subsequent consulting agreement (the GDS Agreement) with RAKFTZA, and two years before plaintiff filed this lawsuit. Plaintiff seems to be simply relying on the inference that, because his allegations indicate that Sheikh Saud and the reconstituted RAKFTZA may have had beef with him, RAKFTZA must have been involved in the hack. This inference is speculative and implausible given the well-known frequency of hacking, including by strangers, and the many hackers out there.

Finally, Count IX fails for the same reasons as plaintiff’s existing fraud claims fail. See supra I.

Accordingly, plaintiff's request to amend to add these claims is denied.

## **V. Sanctions**

We now address TAG's motion for sanctions against El Omari and his counsel, and El Omari's cross motion for sanctions against TAG, its principal (Stanley Arkin), and its counsel (Gordon & Rees, LLP and its attorneys Mercedes Colwin, Ryan Sestack, and Brian P. FitzGerald).

TAG argues that sanctions against plaintiff and/or his counsel are warranted for violating subsections (b)(2) and (b)(3) of Rule 11 by submitting claims that are both factually and legally frivolous. We have not addressed TAG's factual arguments for dismissal and therefore are not in a position to assess its motion for sanctions based thereupon.

However, the Court has considered TAG's argument that plaintiff's claims are legally frivolous. With regard to legal contentions, sanctions may not be imposed unless a particular contention is "patently contrary to existing law." Storey v. Cello Holdings, L.L.C., 347 F.3d 370, 391 (2d Cir. 2003). "[T]he operative question is whether the argument is frivolous, i.e., the legal position has no chance of success, and there is no reasonable argument to extend, modify or reverse the law as it stands." Fishoff v. Coty Inc., 634 F.3d 647, 654 (2d Cir. 2011) (internal quotation marks omitted).

We view the issue of whether plaintiff's counsel violated Rule 11 as a close one. TAG's Rule 11 motion is certainly not frivolous itself, as plaintiff essentially suggests. But given the very high standard governing what is considered a frivolous legal argument under

Rule 11, we conclude that plaintiff's counsel's prosecution of the claim against TAG falls short of a violation.

Plaintiff, in turn, claims (1) that TAG, Arkin, and its counsel violated Rule 11 because they “concocted and executed an entrenched and meritless strategy to counter the Second Amended Complaint using repeated threats and finally filing a Rule 11 motion, without conducting an affirmative duty of inquiry into fraud in violation of Rule 11(b)(4), and ignoring Plaintiff's early Rule 26 document disclosures, and failing to avail itself of hundreds of available pages of documents in Plaintiff's possession”; (2) that certain conduct by Sestack and FitzGerald relating to the Court's sealing of the TAG White Paper violates the New York Rules of Professional Conduct and Rule 11(b)(4); and (3) that defendants' joint memorandum of law in opposition to plaintiff's motion to disqualify this Court from the case must be stricken because the memorandum contained a signature block for Colwin but was not signed by her or any other TAG attorney, in supposed violation of Rule 11(a). We address these grounds in turn and find them unfounded.

First, we find nothing improper in TAG's conduct with respect to investigating and responding to plaintiff's claims and invoking Rule 11. Plaintiff first asserted his claim against TAG on September 15, 2016, when he filed the SAC. TAG's principal, Arkin, filed a letter on October 6, 2016 seeking an extension of time to respond to the SAC and to select defense counsel. On October 26, 2016, TAG's counsel sent plaintiff's counsel a letter setting forth in detail TAG's position that the claim against it was both factually and legally

frivolous, and invoking Rule 11. Plaintiff has failed to support his contention that the 19-day period between Arkin's October 6, 2016 letter and the October 26, 2016 safe harbor letter was not enough time to conduct a reasonable inquiry. Perhaps the best illustration of this is TAG's well-founded motion to dismiss, which fleshes out the very same arguments that TAG presented to plaintiff earlier. Even though we have not relied on the documentary evidence submitted by TAG in dismissing plaintiff's fraud claims, we note for purposes of ruling on plaintiff's motion for sanctions that that evidence appears highly probative and supportive of TAG's alternative, more fact-intensive arguments for dismissal.

Regarding plaintiff's second ground, the Court adheres to its previous ruling (denying plaintiff's disqualification motion) that the communication from Sestack to the Court on December 29, 2016 that is at the bottom of plaintiff's argument was administrative and procedural in nature and did not prejudice El Omari, and was therefore proper. See Mem. and Order (May 1, 2017) (ECF No. 124).<sup>9</sup> Moreover, the Court finds that FitzGerald's representation that the White Paper was accidentally filed without redactions is not contradicted by, but is consistent with, Sestack's later clarification that the RAK Defendants wanted the document filed under seal.

Regarding plaintiff's third basis, the parties have not pointed us to, and we are not aware of any, case

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<sup>9</sup> On April 24, 2017, plaintiff filed a mandamus petition in the Second Circuit requesting an order to disqualify this Court from the case, which the Circuit denied. See In re Oussama El Omari, No. 17-1198 (2d Cir. July 25, 2017).



law addressing whether a joint opposition memorandum of law must be signed by each joining party (or its counsel). We do not find the absence of a signature by Colwin in these circumstances significant, since all of the defendants are active litigants in this case, represented by counsel, and effectively consented to the representation that the brief was a joint one. Even if this were a violation technically, we would not strike the brief with respect to the RAK Defendants, whose counsel signed. The end result would be an exercise in the inconsequential.

Accordingly, plaintiff's cross-motion is denied.

#### **VI. Sealing of the White Paper**

Finally, we take the opportunity to revisit the question of whether the White Paper should remain under seal. We adhere to our prior ruling that the document should remain under seal.

The common law provides for a presumptive right of public access to “judicial documents.” Lugosch v. Pyramid Co. of Onondaga, 435 F.3d 110, 119 (2d Cir. 2006). Before any such right can attach, however, a court must first conclude that the documents at issue are indeed “judicial documents.” Id. “[T]he mere filing of a paper or document with the court is insufficient to render that paper a judicial document subject to the right of public access. In order to be designated a judicial document, the item filed must be relevant to the performance of the judicial function and useful in the judicial process.” Id. (citations and internal quotation marks omitted).

“Once the court has determined that the documents are judicial documents and that therefore a common

law presumption of access attaches, it must determine the weight of that presumption. [T]he weight to be given the presumption of access must be governed by the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts. Generally, the information will fall somewhere on a continuum from matters that directly affect an adjudication to matters that come within a court's purview solely to insure their irrelevance." Lugosch, 435 F.3d at 119 (internal quotation marks omitted). "Finally, after determining the weight of the presumption of access, the court must balance competing considerations against it. Such countervailing factors include but are not limited to the danger of impairing law enforcement or judicial efficiency and the privacy interests of those resisting disclosure." Id. at 120 (citations and internal quotation marks omitted).

The public and the press also have a "qualified First Amendment right to attend judicial proceedings and to access certain judicial documents." Id. Courts use two approaches to determine whether the public should receive First Amendment protection in attempts to access judicial documents. The first approach entails asking whether the documents "have historically been open to the press and general public" and whether "public access plays a significant positive role in the functioning of the particular process in question." Id. The second approach "considers the extent to which the judicial documents are "derived from or [are] a necessary corollary of the capacity to attend the relevant proceedings." Id. Documents otherwise falling within the First Amendment presumptive right of

access may nevertheless “be sealed if specific, on the record findings are made demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve that interest.” Id. Moreover, “[a]s a general rule, there is no constitutional right of access “to traditionally nonpublic government information.” N.Y. Times Co. v. Dep’t of Justice, 806 F.3d 682, 688 (2d Cir. 2015).

Here, the White Paper is a report that, according to plaintiff’s own complaint, was commissioned by Sheikh Saud, the ruler of a political subdivision of a foreign nation. Moreover, the Court’s review of the White Paper makes it clear that it contains highly sensitive, “traditionally nonpublic government information,” in this case of a foreign government. N.Y. Times, 806 F.3d at 688. This fact alone counsels in favor of finding that there is no presumptive public right of access as would exist for a typical “judicial document.” See id. Moreover, this consideration accords with our conclusion that, even assuming the White Paper is a judicial document -- and we are inclined to say that it is even though the Court did not rely on it, since TAG properly introduced it in support of its motion to dismiss, as a document incorporated by reference in plaintiff’s complaint -- and even assuming the existence of a presumptive right of access under the common law and the First Amendment, that presumption is ultimately outweighed in this case because sealing the White Paper is “essential to preserve higher values.” Lugosch, 435 F.3d at 120. This conclusion rests on the following considerations: (1) the White Paper reflects “critical self-analysis” by the RAK and is therefore privileged, see Trezza v. Hartford, Inc., No. 98 CIV. 2205 (MBMKNF), 1999 WL 511673, at \*1–2 (S.D.N.Y.

July 20, 1999), (2) the principle of international comity counsels in favor of protecting the document from disclosure, (3) plaintiff already has the White Paper, see Pl.'s Br. in Opp. to TAG's Mot. for Sanctions, at 2, 4, and (4) no other person has sought to unseal the document.

Accordingly, the White Paper should remain under seal.

**CONCLUSION**

For the reasons stated above, defendants' motions to dismiss are granted with prejudice, and plaintiff's requests for leave to amend are denied with prejudice. TAG's motion for sanctions is denied, and plaintiff's cross-motion for sanctions is denied. The Clerk of Court is respectfully requested to terminate the case.

**SO ORDERED.**

Dated: New York, New York  
August 17, 2017

s/ \_\_\_\_\_  
NAOMI REICE BUCHWALD  
UNITED STATES DISTRICT JUDGE

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**APPENDIX C**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**16 CIVIL 3895 (NRB)**

**[Filed August 22, 2017]**

---

OUSSAMA EL OMARI, )  
 )  
Plaintiff, )  
 )  
– against – )  
 )  
RAS AL KHAIMAH FREE TRADE ZONE )  
AUTHORITY, a/k/a R.A.K. FREE TRADE )  
ZONE AUTHORITY, a/k/a RAKFTZA, )  
KREAB (USA) INC., SHEIKH SAUD BIN )  
SAQR AL QASIMI, and THE ARKIN )  
GROUP LLC, )  
 )  
Defendants. )  

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**JUDGMENT**

Defendants having moved to dismiss on various grounds. Defendant The Arkin Group LLC (“TAG”) also moves for sanctions against El Omari and his counsel. El Omari, in turn, cross-moves for sanctions against TAG, its principal (Stanley Arkin), and its counsel. El Omari also requests leave to amend his complaint a third time, and the matter having come before the

Honorable Naomi Reice Buchwald, United States District Judge, and the Court, on August 18, 2017, having rendered its Memorandum and Order granting Defendants' motion to dismiss with prejudice, and denying Plaintiff's request for leave to amend with prejudice; denying TAG's motion for sanctions and denying Plaintiff's cross-motion for sanctions; and directing the Clerk of Court to terminate the case, it is,

**ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Memorandum and Order dated August 18, 2017, Defendants' motions to dismiss are granted with prejudice, and Plaintiff's requests for leave to amend are denied with prejudice. TAG's motion for sanctions is denied, and Plaintiff's cross-motion for sanctions is denied; accordingly, the case is closed.

**Dated:** New York, New York  
August 22, 2017

BY: RUBY J. KRAJICK  
Clerk of Court

s/\_\_\_\_\_  
**Deputy Clerk**

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**APPENDIX D**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Case No.: 1:16-cv-3895**

**Hon.**

**[Filed May 25, 2016]**

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OUSSAMA EL OMARI, an individual )  
and United States Citizen residing in )  
the State of North Carolina, )

Plaintiff, )

- against - )

RAS AL KHIAMAH FREE TRADE )  
ZONE AUTHORITY, a/k/a R.A.K. )  
FREE TRADE ZONE AUTHORITY, )  
a/k/a RAKFTZA, a corporation )  
organized under the laws of Ras Al )  
Khiamah, United Arab Emirates, and )

KREAB (USA) INC., a )  
corporation organized under the )  
laws of the State of New York, )

Defendants. )

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**COMPLAINT**

NOW COMES OUSSAMA EL OMARI, Plaintiff in the above referenced action, by and through counsel, MOORE INTERNATIONAL LAW PLLC, as and for his Complaint, states as follows:

***NATURE OF THE ACTION***

1) This is a suit for damages against the Defendants, jointly and severally, by Plaintiff, Oussama El Omari (“El Omari”), who was employed as a foreign worker for many successful and award winning years by the Ras Al Khiamah Free Trade Zone Authority (“RAKFTZA”), located in Ras Al Khiamah (“RAK”), United Arab Emirates (“UAE”). RAK is one of seven emirates composing the UAE. El Omari was hired initially in 1997 by the RAKFTZA, by and through, Sheikh Faisal bin Saqr Al Qassimi (“Sh. Faisal”), and then a written agreement was entered into the next year on April 1, 1998 (“the Agreement”), hiring El Omari as Project and Marketing Manager to help create, operate, and promote the Ras Al Khiamah Free Trade Zone (“RAKFTZ”). 14 years later, El Omari was terminated on May 28, 2012 (“the Termination Date”), after a smear report on the operation of the RAKFTZ was commissioned from New York based, Defendant, Kreab (USA) Inc. (“Kreab”), by the new Ruler, H.H. Sheikh Saud bin Saqr Al Qasimi (“Sh. Saud”). On the Termination Date, El Omari held the position of CEO and Director General of the RAKFTZA, and had served on the RAKFTZA Board of Directors for 12 years since 2000. Sh. Faisal was replaced as Chairman of the RAKFTZA by Sh. Saud the following year in 2013. At the time of his termination, El Omari’s



App. 47

contracted pay was AED120,000 per month, or expressed in U.S. dollars, was US\$32,688 per month.

2) El Omari contested his termination in RAK, and exhausted his legal remedies in RAK, and was unable to invoke the jurisdiction of the RAK Rulers Court to enforce his contract rights under the terms of the Agreement. After Sh. Faisal was removed as Chairman of the RAKFTZA, El Omari was, and remains today, persecuted in the RAK Rulers Court, *in absentia*, without due process of law.

3) El Omari has suffered, *inter alia*, loss of end of service monies due and owing under the Agreement, out of pocket expenses, lost earnings from an inability to gain similar employment, emotional distress, and damage to his reputation.

4) El Omari was caught in a Royal family conflict and power play beginning on or about October 27, 2010, when then Ruler of RAK, H.H. Sheikh Saqr bin Mohammad al Qassimi (“Sh. Saqr”), died, and his son, Sh. Saud, became Ruler of RAK., who appointed his son, H.H. Sheikh Mohammed bin Saud bin Saqr Al Qasimi (“Sh. Mohammed”), as Crown Prince, rather than Sh. Faisal. Sh. Saud began to take steps to consolidate power, and undermine and remove his brother, Sh. Faisal, from positions of power in RAK, including the Chairmanship of RAKFTZA. As a false pretext for removal of Sh. Faisal, Sh. Saud caused the engagement of a smear report from Kreab on the RAKFTZA operation of the RAKFTZ.

***THE PARTIES***

5) Plaintiff, El Omari, is an individual and citizen of the United States, and is resident of the State of North Carolina, at 2005 Riviera Ct., Raleigh, North Carolina.

6) Defendant, Ras Al Khiamah Free Trade Zone Authority, is an agency or instrumentality of the RAK, which is a political subdivision of the UAE, a foreign state, within the meaning of 28 U.S.C. § (b). RAKFTZA is a separate legal person, corporate or otherwise, and is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and is neither a citizen of a State of the United States, nor created under the laws of any third country.

7) Defendant, Ras Al Khiamah Free Trade Zone Authority, is a corporation created on May 1, 2000, under Article (5) of Decree No. 5 of 2000, known as “The RAK Free Zone Law”, by decree of Sh. Saqr, then Ruler of RAK. Under Article (5), the RAKFTZA is established as an “independent authority” with “its own corporate identity” and “shall enjoy financial and administrative independence in respect of all its affairs and shall have full capacity to act”. Under Article (11), the RAKFTZA is managed by a five (5) member Board of Directors, and, under Article (12), the Board of Directors report to “H.H. the Ruler or Crown Prince and Deputy Ruler about the Free Zone operations”. Under Article (6), the objectives of the RAKFTZA are “the setting up, promotion, development, management, administration, regulation, operation and construction of the appropriate facilities of the Free Zone”. Under

Article (2), three geographical areas were established and created as the “Free Zone”. Under Article (3), imports into and exports from, the Free Zone, are exempted from customs and excise taxes, and companies and individuals are exempted from all taxes for operations conducted within the Free Zone. El Omari, Sh. Faisal, and three other individuals were appointed to the initial Board of Directors by another Decree No. 5 in 2000, issued by Sh. Saqr. El Omari remained on the Board of Directors until the Termination Date. The principal place of business of RAKFTZA is located at P.O. Box 10055, RAK, UAE. The RAKFTZA has promotion offices in other countries, set up by El Omari, in Cologne, Germany, Istanbul, Turkey, Mumbai, India, and until 2015, in New York, for promotion of RAK Free Trade Zone business.

8) The office of RAKFTZA in New York, was New York County based RAK Dubai Business Centre L.L.C., (“RAK Business Centre”), a limited liability company organized on April 7, 2008, under the laws of the State of New York. The RAK Business Centre was owned and controlled by RAKFTZA as the sole member. The RAK Business Centre was the alter ego and agent of RAKFTZA for the purpose of promoting the RAKFTZ in the United States market. Subsequently, Articles of Dissolution under Section 705 of the New York Limited Liability Company Law were filed on October 22, 2015, under the authority and personal signature of Shaikh Ahmad Saqer Mohamed Al Qasemi (“Sh. Ahmad”), the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. Presently, the RAK Business Centre remains a juridical person under Section 703(b) of the New York Limited Liability Company Law,

which provides that “Upon dissolution of a limited liability company, the persons winding up the affairs of the limited liability company’s affairs may ... defend suits ....”

9) Defendant, Kreab (USA) Inc., is a corporation organized under the laws of the State of New York, and its principal place of business is located at 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. On March 7, 2016, Kreab changed its name from Kreab Gavin Anderson (USA) Inc., to its present name, Kreab (USA) Inc. According to the New York State, Department of State, Division of Corporations, the Chief Executive Officer of Kreab (USA) Inc. is P.M Peje Emilsson, located at Kreab AB, Floragatan 13, Stockholm, Sweden, and the Principal Executive Office of Kreab (USA) Inc. is located at Strategy XXI Group Ltd., 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Andrew Frank (“Frank”), was the Managing Partner of Kreab at the New York office, and figured prominently in the fraud and termination of El Omari.

### ***JURISDICTION AND VENUE***

10) This court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The amount in controversy is relief requested by Plaintiff, El Omari, of monetary damages for no less than the amount of Ten Million US Dollars (US\$10,000,000).

11) This court has subject matter jurisdiction over the RAKFTZA pursuant to 28 U.S.C. § 1330(a), under the commercial activity immunity exception, 28 U.S.C. § 1605(a)(2), to the Foreign Sovereign Immunities Act, based upon a commercial activity

App. 51

carried on in the United States by the foreign state, or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere, or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act caused a direct effect in the United States.

12) Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(2) and (f)(1).

13) A company involved in the smear report scheme, The Arkin Group LLC, is a limited liability company organized under the laws of the State of New York, with its principal place of business located at 750 Lexington Avenue, 25<sup>th</sup> Floor, New York, New York, (“TAG”).

14) Another company involved in the smear report scheme is Strategy XXI Holdings, Inc., d/b/a Strategy XXI Partners, a corporation organized under the laws of the State of New York, created during scheme on July 11, 2011, with its principal place of business located at 515 Madison Avenue, 16<sup>th</sup> Floor, New York, New York, (“Strategy XXI”). Frank, the Managing Partner of Kreab at Kreab’s New York office, is also an employee and/or partner at Strategy XXI.

15) Contacts with the United States by Sh. Saud, include but are not limited to:

- (a) Sh. Saud resided in Ann Arbor, Michigan, and received a B.A. in Economics and Political Science from the University of Michigan, Ann Arbor, Michigan, on or about 1982.

- (b) Sh. Saud was arrested for sexual assault of a hotel maid on criminal charges of Criminal Sexual Conduct in the 3<sup>rd</sup> and 4<sup>th</sup> Degrees, in Rochester, Minnesota, on June 10, 2005, during a visit to the Mayo Clinic in Rochester, Minnesota, where his now deceased father, Sh. Saqr, was a patient. The charges were dismissed approximately 6 months later for lack of probable cause. According to the Rochester police report, Sh. Saqr claimed Diplomatic Immunity at the time of his arrest, but the arresting officer reported contacting the U.S. Department of State, and was advised Sh. Saud was not on a list of foreign individuals with Diplomatic Immunity.

16) Contacts by RAKFTZA with New York County, a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, include but are not limited to:

- (a) On behalf of RAKFTZA, in or about 2008, El Omari traveled to New York County to review a suitable New York promotion office location on Madison Avenue.
- (b) On behalf of RAKFTZA, on April 7, 2008, El Omari, by and through New York County counsel, Patton Boggs LLP, 1185 Avenue of the Americas, 30<sup>th</sup> Floor, New York New York, caused the formation of the RAK Dubai Business Centre L.L.C.,

under the laws of the State of New York, with its principal office in New York County, with the RAKFTZA being the sole member. The RAK Dubai Business Centre was formed as a completely owned and controlled company, and was the alter ego, and agent, of RAKFTZA for promotion of the RAKFTZ in the United States market, like RAKFTZA's promotion offices in Germany, Turkey, and India. The RAK Dubai Business Centre L.L.C. was never fully operational due to the U.S. recession. The RAK Dubai Business Centre L.L.C. was dissolved on October 22, 2015, by a dissolution filing with the New York Department of State under the authority and personal signature of Sh. Ahmad, the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. The Articles of Dissolution were filed by New York County counsel, Jones Day, 222 East 41<sup>st</sup> Street, New York, New York.

- (c) On behalf of RAKFTZA, in or about 2008, El Omari opened a RAK Business Centre bank account, at a Bank of America office in New York County. After El Omari's termination in 2012, Sh. Saud's Advisor, Salem Ali Al Sharhan, emailed Bank of America's office in New York County instructing that El Omari's name be removed from signing privileges.

- (d) On behalf of RAKFTZA, in or about 2008, El Omari hired RAK Business Centre skeletal staff in New York County.
- (e) On behalf of RAKFTZA, from 2010 to 2011, El Omari had email exchanges with Kreab's New York County office, regarding the TAG White Paper.
- (f) On behalf of RAKFTZA, in 2011, El Omari traveled with RAKFTZA's in-house UAE legal advisor, Johnson George, to Kreab's New York County office, to complain of factual and other errors in the draft TAG White Paper.

17) The choice of jurisdiction clause under the Agreement is void. Since the Termination Date, El Omari has been denied basic due process of law in RAK to prosecute or defend claims under or related to the Agreement, to Wit: Upon termination of El Omari's employment on May 28, 2012, El Omari's UAE residency was illegally terminated on July 10, 2012, under UAE law applicable to foreign workers, which requires as a prerequisite, a signature by the foreign worker attesting that there are no labor payments outstanding, which El Omari did not sign, and as such, El Omari has been denied the ability to be freely present in the UAE to prosecute or defend claims. El Omari has also been denied the basis due process right of a hearing on his termination and end of services monies due and owing.

- (a) First, El Omari directly requested RAKFTZA pay his contracted end of



service monies due, to which there was no response.

- (b) Second, El Omari's UAE attorneys officially requested a certificate waiving RAKFTZA immunity from suit from the RAK Rulers Court. The Rulers Court first admitted receiving the waiver request and began its procedure, and then later denied even receipt of the waiver request.
- (c) Third, El Omari wrote directly to Sh. Saud asking for his contracted end of service monies due and owing, to which there was no response.
- (d) Fourth, in response to El Omari's contesting the lawfulness of his termination and seeking his contracted end of service monies due and owing, the RAKFTZA, after Sh. Faisal was replaced as Chairman, retaliated against El Omari by later asserting unsubstantiated and meritless allegations of wrongdoing by El Omari, and instituted civil and criminal suits against El Omari, *in absentia*, in the RAK Rulers Court. No proofs have ever been received against El Omari by the Rulers Court in support of any RAK claim or judgment.

***FACTUAL BACKGROUND***

**A. Success of the new RAKFTZ under El Omari beginning in 1997.**

18) El Omari was born in Morocco, educated at international schools in Morocco and France, and the U.S., and holds a B.A. in Chemical Engineering and an M.B.A. At all times relevant to this complaint, El Omari was a U.S. Citizen and had his permanent residence in the State of North Carolina.

19) In March of 1997, El Omari was first hired in RAK, by Sh. Faisal, then Chairman of the RAKFTZA, under letter authority from Sh. Saqr, to head the pre-RAK Free Trade Zone, which later came into existence as the RAKFTZ in 2000, under The RAK Free Zone Law, by Decree No. 5 of Sh. Saqr.

20) The Agreement, dated April 1, 1998, hired El Omari as Project and Marketing Manager, and included a number of contractual rights, including an unlimited period of service (Par. 3), a two month advance notice of termination requirement (Par. 5, Sec. A), and an end of service gratuity, to be calculated under UAE Labour Law No. 8 of 1980, as amended (Par. 10). The two text languages of the Agreement were English and Arabic (Par. 12). The Agreement text governed interpretation, and where silent, UAE Labour Law No. 8, as amended, applied to conditions of service (Par. 13). Contract claims and disputes were to be resolved under jurisdiction of the RAK civil courts (Par. 14). There is no provision in the Agreement that the RAKFTZA was immune from suit. Nor was the RAKFTZA granted immunity from suit under the

RAKFTZA establishment clause, Article (5) of The Free Trade Zone Law.

21) During the fifteen year period between 1997 and 2012, El Omari reported directly to, and worked closely with, his direct supervisor, then RAKFTZA Chairman, Sh. Faisal. The period was characterized by successful growth of the RAKFTZ, the opening of promotion offices in Cologne, Germany, Istanbul, Turkey, and Mumbai, India, and New York, and award winning promotion and performance, with El Omari hosting and speaking at international trade zone conferences held in and out of the UAE. Among other awards, for 3 consecutive years, beginning in 2006, the RAKFTZ was recognized as the “Best Emerging Free Zone” at the Middle East Logistics Awards in Dubai, UAE. El Omari received promotions during his contract period, and on May 1, 2011, El Omari was awarded a new salary increase and promotion package by Sh. Faisal, and by that point in time El Omari held the posts of CEO & Director General of the RAKFTZA, and had sat on the RAKFTZA Board of Directors for 12 years.

**B. Kreab (USA) Inc., New York**

22) Defendant, Kreab (USA) Inc., holds itself out on its website (kreab.com) as a “small representative office in New York, which mainly focuses on financial and corporate communications” and serving corporate clients, not government clients, with a “tainted reputation”:

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**“Our expertise in New York**

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**We have a small representative office in New York, which mainly focuses on financial and corporate communications. Together with our global network of offices and affiliated firms, we offer our clients, from the large multinational to the small local firm, the best specialists for their particular needs.**

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**Corporate Communications**

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**A company or organisation’s reputation is one of the most decisive attributes in terms of how it is perceived by its primary and secondary stakeholders, be it customers, owners, decision makers or employees.**

A company with a tainted reputation and weak relations with influential stakeholders, whatever the reason, will suffer on the bottom line. We help our clients manage and obtain the desired profile and position on the markets in which they operate. This is crucial to ensure that the business is sustainable and profitable over time.

By employing Kreab as a strategic communications advisor, a company or

organisation can continue to focus on its core business.

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### **Financial Communications**

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**The financial market is ultimately a source of capital – the corporate lifeblood. Capital is gained from a range of investors, with whom a company needs to secure solid and good relations. Poor relations with or vague messages to this group of stakeholders may put capital at risk. Increasingly frequently, companies and the financial market have different interpretations which result in unnecessary losses or market fluctuations.**

The financial market is also highly regulated with policy makers constantly monitoring its operations. This adds to the need for appropriate relations with a broad range of stakeholders, beyond just investors. When Kreab advises clients on issues, it brings together financial and public affairs communications, including IPOs, deals requiring authority clearance or investments in publicly funded projects.

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**Public Affairs**

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**Our experts in public affairs communications help clients manage and build relations with decision and policy makers at all levels – local, regional, national and supranational.**

Decision makers are faced with opinions and requests at all times. Those who want to make their voice heard need to target decision makers effectively.

Through our broad network and extensive experience, we identify what is relevant to decision makers, attract their attention and point out how to contribute to their overarching vision and beliefs. Because understanding who decision makers and policy makers answer to is also key to attaining a share of voice, we always conduct a stakeholder analysis for each client and assignment.”

**C. The Arkin Group LLC, New York**

23) The Arkin Group LLC, holds itself out on its website (thearkinggroup.com) with the acronym, “TAG”, and as “an international risk consulting and intelligence firm” with high level U.S. “Central Intelligence Agency” background:

“The Arkin Group (“TAG”) is an international risk consulting and intelligence firm. Our mission is to use strategic intelligence and

## App. 61

prescient analysis to enable our clients to minimize risks and maximize payoffs when making critical business decisions. Founded in May 2000 by New York lawyer Stanley Arkin and Jack Devine, former chief of worldwide operations for the Central Intelligence Agency, the firm has completed hundreds of assignments in every region of the globe.

The Arkin Group is distinguished by our personal approach and tailored services. For each assignment, we create a unique game plan to achieve the client's specific goals. While we rely on a wide variety of investigative, forensic, communications and security tools, the hallmarks of the TAG methodology are sound analysis and well-sourced human intelligence.

The Arkin team of men and women hails from the nation's top universities and graduate programs and possesses experience in key U.S. government offices, international institutions and top consulting firms. We draw on vast domestic and international networks of area and functional experts, including intelligence professionals, law enforcement specialists, diplomats and policy makers, industry, business and finance analysts, leading academics, journalists, and specialized experts in forensic sciences and security."

### **D. Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, New York**

24) Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, holds itself out on its Strategy XXI

Partners website as “strategic communications and public affairs advisor to companies, countries and causes”:

“Protecting, Promoting and Managing Reputations Worldwide

ABOUT:

Strategy XXI Partners is a trusted strategic communications and public affairs advisor to companies, countries and causes.

We help our clients address complex challenges that affect their reputations. They turn to us to promote good news and protect against the fall-out from bad news, foster support for policy agendas and help expand market share.

The staff and senior advisors of Strategy XXI Partners have been counselors to C-suite leaders and heads of state. We have made our mark on Capitol Hill, Madison Avenue, Wall Street and civil society.

Now, combining local expertise with global perspective and transnational

SERVICES:

**Communications and Positioning**

**Corporate Responsibility**

**Alliance and Stakeholder Engagement**

**Governments: Branding, Investment, Tourism, Information**

**Crisis and Issues Management**

**Risk Assessment and Corporate Reputation**

**Sustainability Consulting and Reporting**



experience, we assist clients based overseas that face challenges in the U.S., as well as U.S.-based companies and institutions.”

**E. The 2010 death of Sheikh Saqr, appointment of Sheikh Saud as new Ruler of RAK, and the Commission of a New York Smear Report on the Operations of the RAKFTZ as a Pretext to Remove Sheikh Saud’s brother, RAKFTZA Chairman, Sheikh Faisal.**

25) On November 20, 2009, Kreab’s employee, Davis Hodge (“Hodge”) emailed a U.S. Public Relations Business Proposal (“the Kreab Proposal”), to El Omari, copied to Kreab’s employee, Andrew Frank (“Frank”), regarding promotion of the RAKFTZ in the United States market, without specifying any cost. El Omari operated the RAKFTZA promotion offices outside the UAE without outside public relations help, and, there was no proposed cost in the proposal. The Kreab Proposal was not accepted by El Omari.

26) On October 27, 2010, Sh. Saqr died, and his successor, then Crown Prince, Sh. Saud, was appointed Ruler of RAK. Unknown to El Omari at the time, arising out of a Royal family succession conflict, the new Ruler of RAK, Sh. Saud, began taking steps to consolidate power and to remove his brother, Sh. Faisal, from positions of power in RAK.

27) Amir Handjani (“Handjani”), employed by RAK Petroleum, UAE, had direct access to Sh. Saud, and on behalf of Sh. Saud, searched for and identified, The Arkin Group LLC, as the chosen entity to prepare

a smear report on the operation of the RAKFTZ, which by implication, would smear the operating authority, RAKFTZA, and its Chairman, Sh. Faisal.

28) TAG, the acronym used on its website, claims to have high level background in the U.S. Central Intelligence Agency. Later, Handjani would receive the draft TAG White Paper by email directly from Frank, and Handjani would then forward the draft TAG White Paper by email to Sh. Saud.

29) El Omari did not commission any review of the RAKFTZ from Kreab, TAG or any other party, and did not know about any review of RAKFTZ operations until the review was underway. Sh. Saud approved the review, and El Omari had no choice but to cooperate with the review.

30) On October 26, 2010, one day before Sh. Saqr died, Frank sent an email to Sh. Faisal, copied to El Omari, Handjani, and another Kreab employee, Jessica Levine, to arrange itinerary plans for a visit to RAK by TAG employee, Mark Christopher ("Christopher"). Frank stated Christopher is "putting together the reports and he will have meetings on his own" and Frank specified with whom in RAK, Christopher would like to meet. Frank stated in this email that he, Frank, would also be traveling to RAK, and Frank would be joined by another Kreab employee, Hodge, who would be "meeting" with Christopher. Hodge had earlier submitted the failed Kreab Proposal in 2009. The positions named in this email, individuals Frank said Christopher would like to meet, far exceeded the scope of a basic review of RAKFTZ operations, as indicated by among other positions, the following persons: RAK Investment Authority, RAK foreign relations, the

relationship between RAK and UAE, and activities of Iranian companies.

31) On or about January of 2011, about 2 months after Sh. Saud became Ruler of RAK, Christopher travelled to RAK to conduct field research over a period of approximately 3 weeks. Neither Kreab nor TAG disclosed that TAG was in fact hired by Kreab, and not by the RAKFTZA. Frank pushed through the TAG review and handled all communication with TAG. At the time, El Omari still did not know why the TAG review was being conducted, or the scope of the review.

32) In both the forthcoming draft and final versions of the smear report, styled by TAG as a “White Paper”, (“the TAG White Paper”), TAG falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations. TAG, in the methodology section in both the draft and final version of the TAG White Paper, stated the TAG factual research was conducted by Internet based research on RAKFTZ operations, but did not disclose sources, and stated that TAG conducted interviews in RAK, but withheld the names, and included negative hearsay statements by the unnamed sources. This secret source based fact research resulted in an unreliable factual basis of the TAG White Paper on its face.

33) In the analysis section of both the draft and final versions of the TAG White Paper, TAG applied, *inter alia*, many unspecified legal obligations relating to operation of the RAKFTZ, and unspecified United States and United Nations legal sanctions law against Iran, without citing many of the laws or legal provisions, and without stating or analyzing what legal obligations, if any, applied to RAKFTZ operations. This

resulted in an unreliable legal analysis on the face of the TAG White Paper.

34) The resulting draft and final TAG White Paper falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations, and on its face, smeared the RAKFTZ with unreliable, unsubstantiated, and negative legal conclusions, including a heavy emphasis on alleged Iranian businesses operating within the RAKFTZ in suggested violation of United States and United Nations sanctions law.

35) On March 11, 2011, Frank emailed the Draft TAG White Paper, dated March 10, 2011, to Handjani.

36) Also on March 11, 2011, Handjani then forwarded the Draft TAG White Paper received from Frank, to El Omari, Sh. Faisal, and to Sh. Saud.

37) As such, Sh. Saud was kept informed of Kreab's smear progress by receiving the Draft TAG White Paper from Handjani, who received it from Frank. This cast the die and locked up the draft TAG White Paper from El Omari's efforts to correct fact errors and the overall negative thrust of the report.

38) El Omari and others at the RAKFTZA were alarmed at factual errors and the overall negative thrust of the Draft TAG White Paper. El Omari and RAKFTZA in-house legal counsel, Johnson M. George ("George"), prepared responses to the draft TAG White Paper which were emailed from Johnson to Frank, which in the end resulted in no substantive change.

39) Alarmed, and in an ultimately unsuccessful visit, El Omari and George traveled to New York to

App. 67

meet with Kreab, and express RAKFTZA concerns about the errors and negative Draft TAG White Paper. El Omari and George met with 2 Kreab employees, Frank, and Frank's supervisor, at the Kreab office in New York.

40) On April 25, 2011, Frank delivered the final TAG White Paper by email to El Omari. The date on the delivered TAG White Paper was a future date, 3 days in the future, April 28, 2011. There were no substantive changes from the draft TAG White Paper.

41) On May 1, 2011, Frank sent an email to El Omari stating that Frank was planning to meet that day with Sh. Saud and Handjani.

42) After delivery of the final TAG White Paper, Sh. Saud personally called El Omari and directed El Omari to pay US\$35,000 to Kreab for the TAG White Paper, out of RAKFTZA funds, over El Omari's objections, since the RAKFTZA did not commission the TAG White Paper nor found it acceptable.

43) On July 7, 2011, Frank, also an employee and/or partner at Strategy XXI, used a Strategy XXI email account, and emailed a public relations business proposal from Strategy XXI to El Omari, with a proposed cost of US\$15,000 per month ("the Strategy XXI Proposal"). The Strategy XXI Proposal used a letterhead with the look and feel of the RAKFTZ logo and letterhead, which it was unauthorized to use. El Omari did not accept the Strategy XXI Proposal. Frank attempted to contact Sh. Saud in person at Sh. Saud's Palace in RAK about the Strategy XXI Proposal, but Sh. Saud was unresponsive and the meeting did not occur.

**F. The 2012 Termination of El Omari as CEO and Director General of RAKFTZA by an Advisor to Sh. Saud, while Sh. Faisal is still Chairman of RAKFTZA.**

44) On January 30, 2012, Sh. Saud issued Decree No. 3, appointing his Advisor, Salem Ali Al Sharhan (“Al Sharhan”), to oversee the RAKFTZA, without specifying Al Sharhan’s powers or duties. El Omari was still CEO and Director General, and Sh. Faisal was still Chairman of RAKFTZA. El Omari was directed by Sh. Saud to not speak with Sh. Faisal.

45) On May 28, 2012, while El Omari was traveling on RAKFTZA business outside the UAE, Sh. Saud signed and authorized a letter by Al Sharhan, under the same date, requesting authority to terminate El Omari as CEO and Director General.

46) On May 28, 2012, Al Sharhan emailed a letter to El Omari terminating El Omari from his positions of CEO and Director General of the RAKFTZA, with 1 month notice, effective June 30, 2012, for the stated reason of “re-structuring the RAKFTZ” (“the Termination Letter”). The Termination Letter breached the Agreement by 1) not giving the contracted 2 month notice of termination, and 2) failing to pay the contracted end of service gratuity. On the Termination Date, El Omari held the position of CEO and Director General of the RAKFTZA, at a pay rate of 120,000 United Arab Emirates Dirham (AED120,000) per month. The AED has been pegged to the U.S. Dollar since 1997 at an exchange rate of 1 U.S. dollar = 3.671 dirhams (1 dirham = US\$0.2724). On the Termination date, El Omari’s monthly pay in U.S.

App. 69

Dollars, under this exchange rate, was US\$32,688 (120,000 dirham per month  $\times$  0.2724 US\$ per dirham).

47) On May 29, 2012, while still outside the UAE on RAKFTZA business, and per instructions from Sh. Faisal, El Omari sent a reply email back to Al Sharhan, stating that Al Sharhan's Termination Letter was "disapproved" by Sh. Faisal, Chairman of the RAKFTZA, and that El Omari remained in his positions unless instructed otherwise by Sh. Faisal.

48) On July 10, 2012, El Omari's UAE residency was terminated and had 30 days to leave the UAE; El Omari did not sign the residency termination document, which under UAE labor law, is required to be signed by the foreign worker prior to termination of residency. If signed, which it was not, the document also would acknowledge no labor payments were outstanding.

49) On July 18, 2012, Sh. Faisal signed a letter of recommendation for El Omari, stating his employment with the RAKFTZA was from March 1997 to June 30, 2012.

50) On December 1, 2012, Sh. Faisal, was still Chairman of the RAKFTZA, and retained the consulting services of El Omari as an advisor, under an agreement between GDS & Investment, a UAE corporation, (by El Omari) and the RAKFTZA (by Sh. Faisal), ("the GDS Agreement").

**G. The 2013 Removal of Sh. Faisal as Chairman of RAKFTZA by Sh. Saud, and appointment of their younger brother, Sh. Ahmed.**

51) On March 5, 2013, Sh. Saud issued a decree which removed Sh. Saud's brother, Sh. Faisal as Chairman and from the board of the RAKFTZA, and appointed in his place, their younger brother, Sheikh Ahmed Bin Saqr Al Qasimi ("Sh. Ahmed"), as Chairman of the RAKFTZA. Sh. Ahmed continues as Chairman to the present date. This public removal by Sh. Saud of Sh. Faisal, and replacement by his younger brother, Sh. Ahmed, was a disgrace of Sh. Faisal in front of the tribes of the small emirate of Ras Al Khaimah.

52) Under a personally signed letter dated March 17, 2013, Sh. Ahmed, the new Chairman of RAKFTZA, terminated the 3 month old GDS Agreement, effective that date, citing false allegations against El Omari, to Wit: "GDS proved gross negligence ... resulting in unjustified financial spending's [sic] and loss of profit". False allegations which have never been documented or otherwise proved in any subsequent RAK Rulers Court civil and criminal cases filed against El Omari in retaliation.

53) Upon advice of his UAE attorneys, El Omari took three recommended steps to exhaust his remedies under UAE law, to Wit: 1) El Omari wrote to the RAKFTZA asking for payment of his end of services gratuity, to which there was no response, 2) El Omar wrote to Sh. Saud asking for payment of his end of services gratuity, to which there was no response, and 3) On June 24, 2013, El Omari, by and through his UAE attorneys, submitted a request to the RAK Rulers



App. 71

Court for a clearance certificate to sue the RAKFTZA, which was first admitted received by the Rulers Court for processing, and then later the Rulers Court claimed to have never received the filing.

54) On October 22, 2015, the RAKFTZA filed Articles of Dissolution of its New York promotion office, the RAK Dubai Business Centre, under authorization of and personal signature of Sh. Ahmed, the present Chairman of the RAKFTZA, which was filed with the New York Department of State.

55) After the TAG White Paper was delivered and his termination from the RAKFTZA, El Omari has been unable to find similar employment, has suffered out of pocket expenses, emotional distress, loss of earnings, and damage to his reputation.

56) The RAKFTZA, under Sh. Ahmed as Chairman, and the RAK Rulers Court, have denied El Omari due process of law, and have otherwise made invoking the jurisdiction of the RAK Rulers Court to resolve any contract claims an impossibility, and thus the contracted choice of jurisdiction clause in the Agreement is void.

57) El Omari now files the present complaint invoking the jurisdiction of this court.

**CAUSES OF ACTION**

***Count I***

**(As Against Defendant, Ras Al Khaimah Free  
Trade Zone Authority)**

***Breach of Contract***

58) El Omari repeats the previous paragraphs as if fully and completely restated herein.

59) El Omari and the RAKFTZA did enter into the Agreement, dated April 1, 1998, which provided for, *inter alia*, an indefinite period of labor services, a 2 month notice requirement prior to termination, and an end of service gratuity to be calculated under UAE Labour Law No. 8 of 1980, as amended, to be paid upon termination.

60) The RAKFTZA did breach the Agreement on May 28, 2012, by: 1) terminating the Agreement with only 1 month notice with an effective date of June 30, 2012, and 2) failing to pay any end of service gratuity under UAE Labour Law No. 8 of 1980, as amended, all of which remains due and owing.

61) The choice of jurisdiction clause in the Agreement for resolving claims and disputes under the Agreement is void as an impossibility and violates due process.

62) All to the injury of El Omari.

***Count II***

**(As Against Defendant, Kreab (USA) Inc.)**

***Fraud***

63) El Omari repeats the previous paragraphs as if fully and completely restated herein.

App. 73

64) Kreab (USA) Inc.'s fraudulent scheme was composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on Kreab's acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- (a) Kreab, by and through its employee and/or partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.
- (b) Kreab, by and through Andrew Frank, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was

paid a US\$35,000 fee, and Kreab knew the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.

- (c) Kreab, by and through Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.
  - (d) El Omari and others at the RAKFTZA reasonably relied on Kreab's acts to be truthful.
  - (e) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari.
- 65) All to the injury of El Omari.

***PRAYER FOR RELIEF***

**WHEREFORE**, Plaintiff, Oussama El Omari, seeks the following Relief:

***As to Count I***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count II***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,

App. 76

- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

Dated: New York, New York  
May 25, 2016

MOORE INTERNATIONAL LAW PLLC.

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**APPENDIX E**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Case No.: 1:16-cv-3895 (NRB)(SN)**

**[Filed August 10, 2016]**

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OUSSAMA EL OMARI, an individual )  
and United States Citizen residing in )  
the State of North Carolina, )

Plaintiff, )

- against - )

RAS AL KHIAMAH FREE TRADE )  
ZONE AUTHORITY, a/k/a R.A.K. )  
FREE TRADE ZONE AUTHORITY, )  
a/k/a RAKFTZA, a corporation )  
organized under the laws of Ras )  
Al Khiamah, United Arab Emirates, )

KREAB (USA) INC., a corporation )  
organized under the laws of the )  
State of New York, and )

SHEIKH SAUD BIN SAQR AL )  
QASIMI, an individual and United )  
Arab Emirates Citizen, residing in )  
the United Arab Emirates, and )  
Emir of Ras Al Khaimah, United )  
Arab Emirates, sued in his )





and had served on the RAKFTZA Board of Directors for 12 years since 2000. Sh. Faisal was replaced as Chairman of the RAKFTZA by Sh. Saud the following year in 2013. At the time of his termination, El Omari's contracted pay was AED120,000 per month, or expressed in U.S. dollars, was US\$32,688 per month.

2) El Omari contested his termination in RAK, and exhausted his legal remedies in RAK, and was unable to invoke the jurisdiction of the RAK Rulers Court to enforce his contract rights under the terms of the Agreement. After Sh. Faisal was removed as Chairman of the RAKFTZA, El Omari was, and remains today, persecuted in the RAK Rulers Court, *in absentia*, without due process of law.

3) El Omari has suffered, *inter alia*, loss of end of service monies due and owing under the Agreement, out of pocket expenses, lost earnings from an inability to gain similar employment, emotional distress, and damage to his reputation.

4) El Omari was caught in a Royal family conflict and power play beginning on or about October 27, 2010, when then Ruler of RAK, H.H. Sheikh Saqr bin Mohammad al Qassimi ("Sh. Saqr"), died, and his son, Sh. Saud, became Ruler of RAK., who appointed his son, H.H. Sheikh Mohammed bin Saud bin Saqr Al Qasimi ("Sh. Mohammed"), as Crown Prince, rather than Sh. Faisal. Sh. Saud began to take steps to consolidate power, and undermine and remove his brother, Sh. Faisal, from positions of power in RAK, including the Chairmanship of RAKFTZA. As a false pretext for removal of Sh. Faisal, Sh. Saud caused the engagement of a smear report from Kreab on the RAKFTZA operation of the RAKFTZ.

***THE PARTIES***

5) Plaintiff, El Omari, is an individual and citizen of the United States, and is resident of the State of North Carolina, at 2005 Riviera Ct., Raleigh, North Carolina.

6) Defendant, Ras Al Khaimah Free Trade Zone Authority, is an agency or instrumentality of the RAK, which is a political subdivision of the UAE, a foreign state, within the meaning of 28 U.S.C. § 1330(b). RAKFTZA is a separate legal person, corporate or otherwise, and is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and is neither a citizen of a State of the United States, nor created under the laws of any third country.

7) Defendant, Ras Al Khaimah Free Trade Zone Authority, is a corporation created on May 1, 2000, under Article (5) of Decree No. 5 of 2000, known as “The RAK Free Zone Law”, by decree of Sh. Saqr, then Ruler of RAK. Under Article (5), the RAKFTZA is established as an “independent authority” with “its own corporate identity” and “shall enjoy financial and administrative independence in respect of all its affairs and shall have full capacity to act”. Under Article (11), the RAKFTZA is managed by a five (5) member Board of Directors, and, under Article (12), the Board of Directors report to “H.H. the Ruler or Crown Prince and Deputy Ruler about the Free Zone operations”. Under Article (6), the objectives of the RAKFTZA are “the setting up, promotion, development, management, administration, regulation, operation and construction of the appropriate facilities of the Free Zone”. Under

Article (2), three geographical areas were established and created as the “Free Zone”. Under Article (3), imports into and exports from, the Free Zone, are exempted from customs and excise taxes, and companies and individuals are exempted from all taxes for operations conducted within the Free Zone. El Omari, Sh. Faisal, and three other individuals were appointed to the initial Board of Directors by another Decree No. 5 in 2000, issued by Sh. Saqr. El Omari remained on the Board of Directors until the Termination Date. The principal place of business of RAKFTZA is located at P.O. Box 10055, RAK, UAE. The RAKFTZA has promotion offices in other countries, set up by El Omari, in Cologne, Germany, Istanbul, Turkey, Mumbai, India, and until 2015, in New York, for promotion of RAK Free Trade Zone business.

8) The office of RAKFTZA in New York, was New York County based RAK Dubai Business Centre L.L.C., (“RAK Business Centre”), a limited liability company organized on April 7, 2008, under the laws of the State of New York. The RAK Business Centre was owned and controlled by RAKFTZA as the sole member. The RAK Business Centre was the alter ego and agent of RAKFTZA for the purpose of promoting the RAKFTZ in the United States market. Subsequently, Articles of Dissolution under Section 705 of the New York Limited Liability Company Law were filed on October 22, 2015, under the authority and personal signature of Shaikh Ahmad Saqer Mohamed Al Qasemi (“Sh. Ahmad”), the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. Presently, the RAK Business Centre remains a juridical person under Section 703(b) of the New York Limited Liability Company Law,

which provides that “Upon dissolution of a limited liability company, the persons winding up the affairs of the limited liability company’s affairs may ... defend suits ....”

9) Defendant, Kreab (USA) Inc., is a corporation organized under the laws of the State of New York, and its principal place of business is located at 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. On March 7, 2016, Kreab changed its name from Kreab Gavin Anderson (USA) Inc., to its present name, Kreab (USA) Inc. According to the New York State, Department of State, Division of Corporations, the Chief Executive Officer of Kreab (USA) Inc. is P.M Peje Emilsson, located at Kreab AB, Floragatan 13, Stockholm, Sweden, and the Principal Executive Office of Kreab (USA) Inc. is located at Strategy XXI Group Ltd., 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Andrew Frank (“Frank”), was the Managing Partner of Kreab at the New York office, and figured prominently in the fraud and termination of El Omari.

10) Defendant, Sheikh Mohammed bin Saud bin Saqr Al Qasimi, is an individual and Citizen of the United Arab Emirates, residing in Ras Al Khaimah, United Arab Emirates, and is Emir of RAK, UAE, sued in his individual, and official capacity. As is common in the UAE, Sh. Saud is a member of a Royal Family having both government and private business positions and interests. Sh. Saud has been, and is, a private businessman, and simultaneously, has been the Emir and Ruler of the UAE emirate of RAK since 2010.

***JURISDICTION AND VENUE***

11) This court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The amount in controversy is relief requested by Plaintiff, El Omari, of monetary damages for no less than the amount of Ten Million US Dollars (US\$10,000,000).

12) This court has subject matter jurisdiction over the RAKFTZA pursuant to 28 U.S.C. § 1330(a), under the commercial activity immunity exception, 28 U.S.C. § 1605(a)(2), to the Foreign Sovereign Immunities Act, based upon a commercial activity carried on in the United States by the foreign state, or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere, or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act caused a direct effect in the United States.

13) Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(2) and (f)(1).

14) A company involved in the smear report scheme, The Arkin Group LLC, is a limited liability company organized under the laws of the State of New York, with its principal place of business located at 750 Lexington Avenue, 25<sup>th</sup> Floor, New York, New York, (“TAG”).

15) Another company involved in the smear report scheme is Strategy XXI Holdings, Inc., d/b/a Strategy XXI Partners, a corporation organized under the laws of the State of New York, created during scheme on July 11, 2011, with its principal place of business located at 515 Madison Avenue, 16<sup>th</sup> Floor,

New York, New York, (“Strategy XXI”). Frank, the Managing Partner of Kreab at Kreab’s New York office, is also an employee and/or partner at Strategy XXI.

16) Contacts with the United States by Sh. Saud, include but are not limited to:

- (a) Sh. Saud resided in Ann Arbor, Michigan, and received a B.A. in Economics and Political Science from the University of Michigan, Ann Arbor, Michigan, on or about 1982.
- (b) Sh. Saud was arrested for sexual assault of a hotel maid on criminal charges of Criminal Sexual Conduct in the 3<sup>rd</sup> and 4<sup>th</sup> Degrees, in Rochester, Minnesota, on June 10, 2005, during a visit to the Mayo Clinic in Rochester, Minnesota, where his now deceased father, Sh. Saqr, was a patient. The charges were dismissed approximately 6 months later for lack of probable cause. According to the Rochester police report, Sh. Saqr claimed Diplomatic Immunity at the time of his arrest, but the arresting officer reported contacting the U.S. Department of State, and was advised Sh. Saud was not on a list of foreign individuals with Diplomatic Immunity.
- (c) Numerous meetings and exchange of emails with Kreab employees, in furtherance of the fraud, as further described herein.

- (d) On a date after the Complaint was filed on May 25, 2016, but before July 31, 2016, unlawfully, falsely, and without due process of law, caused communication to U.S. Customs requesting the arrest of El Omari in the U.S. and to send El Omari to the UAE.

17) Contacts by RAKFTZA with New York County, a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, include but are not limited to:

- (a) On behalf of RAKFTZA, in or about 2008, El Omari traveled to New York County to review a suitable New York promotion office location on Madison Avenue.
- (b) On behalf of RAKFTZA, on April 7, 2008, El Omari, by and through New York County counsel, Patton Boggs LLP, 1185 Avenue of the Americas, 30<sup>th</sup> Floor, New York New York, caused the formation of the RAK Dubai Business Centre L.L.C., under the laws of the State of New York, with its principal office in New York County, with the RAKFTZA being the sole member. The RAK Dubai Business Centre was formed as a completely owned and controlled company, and was the alter ego, and agent, of RAKFTZA for promotion of the RAKFTZ in the United States market, like RAKFTZA's promotion offices in Germany, Turkey,

and India. The RAK Dubai Business Centre L.L.C. was never fully operational due to the U.S. recession. The RAK Dubai Business Centre L.L.C. was dissolved on October 22, 2015, by a dissolution filing with the New York Department of State under the authority and personal signature of Sh. Ahmad, the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. The Articles of Dissolution were filed by New York County counsel, Jones Day, 222 East 41<sup>st</sup> Street, New York, New York.

- (c) On behalf of RAKFTZA, in or about 2008, El Omari opened a RAK Business Centre bank account, at a Bank of America office in New York County. After El Omari's termination in 2012, Sh. Saud's Advisor, Salem Ali Al Sharhan, emailed Bank of America's office in New York County instructing that El Omari's name be removed from signing privileges.
- (d) On behalf of RAKFTZA, in or about 2008, El Omari hired RAK Business Centre skeletal staff in New York County.
- (e) On behalf of RAKFTZA, from 2010 to 2011, El Omari had email exchanges with Kreab's New York County office, regarding the TAG White Paper.
- (f) On behalf of RAKFTZA, in 2011, El Omari traveled with RAKFTZA's in-house



App. 87

UAE legal advisor, Johnson George, to Kreab's New York County office, to complain of factual and other errors in the draft TAG White Paper.

18) The choice of jurisdiction clause under the Agreement is void. Since the Termination Date, El Omari has been denied basic due process of law in RAK to prosecute or defend claims under or related to the Agreement, to Wit: Upon termination of El Omari's employment on May 28, 2012, El Omari's UAE residency was illegally terminated on July 10, 2012, under UAE law applicable to foreign workers, which requires as a prerequisite, a signature by the foreign worker attesting that there are no labor payments outstanding, which El Omari did not sign, and as such, El Omari has been denied the ability to be freely present in the UAE to prosecute or defend claims. El Omari has also been denied the basis due process right of a hearing on his termination and end of services monies due and owing.

- (a) First, El Omari directly requested RAKFTZA pay his contracted end of service monies due, to which there was no response.
- (b) Second, El Omari's UAE attorneys officially requested a certificate waiving RAKFTZA immunity from suit from the RAK Rulers Court. The Rulers Court first admitted receiving the waiver request and began its procedure, and then later denied even receipt of the waiver request.

- (c) Third, El Omari wrote directly to Sh. Saud asking for his contracted end of service monies due and owing, to which there was no response.
- (d) Fourth, in response to El Omari's contesting the lawfulness of his termination and seeking his contracted end of service monies due and owing, the RAKFTZA, after Sh. Faisal was replaced as Chairman, retaliated against El Omari by later asserting unsubstantiated and meritless allegations of wrongdoing by El Omari, and instituted civil and criminal suits against El Omari, *in absentia*, in the RAK Rulers Court. No proofs have ever been received against El Omari by the Rulers Court in support of any RAK claim or judgment.

### ***FACTUAL BACKGROUND***

#### **A. Success of the new RAKFTZ under El Omari beginning in 1997.**

19) El Omari was born in Morocco, educated at international schools in Morocco and France, and the U.S., and holds a B.A. in Chemical Engineering and an M.B.A. At all times relevant to this complaint, El Omari was a U.S. Citizen and had his permanent residence in the State of North Carolina.

20) In March of 1997, El Omari was first hired in RAK, by Sh. Faisal, then Chairman of the RAKFTZA, under letter authority from Sh. Saqr, to head the pre-RAK Free Trade Zone, which later came into existence

as the RAKFTZ in 2000, under The RAK Free Zone Law, by Decree No. 5 of Sh. Saqr.

21) The Agreement, dated April 1, 1998, hired El Omari as Project and Marketing Manager, and included a number of contractual rights, including an unlimited period of service (Par. 3), a two month advance notice of termination requirement (Par. 5, Sec. A), and an end of service gratuity, to be calculated under UAE Labour Law No. 8 of 1980, as amended (Par. 10). The two text languages of the Agreement were English and Arabic (Par. 12). The Agreement text governed interpretation, and where silent, UAE Labour Law No. 8, as amended, applied to conditions of service (Par. 13). Contract claims and disputes were to be resolved under jurisdiction of the RAK civil courts (Par. 14). There is no provision in the Agreement that the RAKFTZA was immune from suit. Nor was the RAKFTZA granted immunity from suit under the RAKFTZA establishment clause, Article (5) of The Free Trade Zone Law.

22) During the fifteen year period between 1997 and 2012, El Omari reported directly to, and worked closely with, his direct supervisor, then RAKFTZA Chairman, Sh. Faisal. The period was characterized by successful growth of the RAKFTZ, the opening of promotion offices in Cologne, Germany, Istanbul, Turkey, and Mumbai, India, and New York, and award winning promotion and performance, with El Omari hosting and speaking at international trade zone conferences held in and out of the UAE. Among other awards, for 3 consecutive years, beginning in 2006, the RAKFTZ was recognized as the “Best Emerging Free Zone” at the Middle East Logistics Awards in Dubai,

UAE. El Omari received promotions during his contract period, and on May 1, 2011, El Omari was awarded a new salary increase and promotion package by Sh. Faisal, and by that point in time El Omari held the posts of CEO & Director General of the RAKFTZA, and had sat on the RAKFTZA Board of Directors for 12 years.

**B. Kreab (USA) Inc., New York**

23) Defendant, Kreab (USA) Inc., holds itself out on its website (kreab.com) as a “small representative office in New York, which mainly focuses on financial and corporate communications” and serving corporate clients, not government clients, with a “tainted reputation”:

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**“Our expertise in New York**

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**We have a small representative office in New York, which mainly focuses on financial and corporate communications. Together with our global network of offices and affiliated firms, we offer our clients, from the large multinational to the small local firm, the best specialists for their particular needs.**

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**Corporate Communications**

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**A company or organisation’s reputation is one of the most decisive attributes in terms of how it is perceived by its**

**primary and secondary stakeholders, be it customers, owners, decision makers or employees.**

A company with a tainted reputation and weak relations with influential stakeholders, whatever the reason, will suffer on the bottom line. We help our clients manage and obtain the desired profile and position on the markets in which they operate. This is crucial to ensure that the business is sustainable and profitable over time.

By employing Kreab as a strategic communications advisor, a company or organisation can continue to focus on its core business.

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## **Financial Communications**

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**The financial market is ultimately a source of capital - the corporate lifeblood. Capital is gained from a range of investors, with whom a company needs to secure solid and good relations. Poor relations with or vague messages to this group of stakeholders may put capital at risk. Increasingly frequently, companies and the financial market have different interpretations which result in unnecessary losses or market fluctuations.**

The financial market is also highly regulated with policy makers constantly monitoring its

operations. This adds to the need for appropriate relations with a broad range of stakeholders, beyond just investors. When Kreab advises clients on issues, it brings together financial and public affairs communications, including IPOs, deals requiring authority clearance or investments in publicly funded projects.

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### **Public Affairs**

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**Our experts in public affairs communications help clients manage and build relations with decision and policy makers at all levels – local, regional, national and supranational.**

Decision makers are faced with opinions and requests at all times. Those who want to make their voice heard need to target decision makers effectively.

Through our broad network and extensive experience, we identify what is relevant to decision makers, attract their attention and point out how to contribute to their overarching vision and beliefs. Because understanding who decision makers and policy makers answer to is also key to attaining a share of voice, we always conduct a stakeholder analysis for each client and assignment.”

**C. The Arkin Group LLC, New York**

24) The Arkin Group LLC, holds itself out on its website (thearkingroup.com) with the acronym, “TAG”, and as “an international risk consulting and intelligence firm” with high level U.S. “Central Intelligence Agency” background:

“The Arkin Group (“TAG”) is an international risk consulting and intelligence firm. Our mission is to use strategic intelligence and prescient analysis to enable our clients to minimize risks and maximize payoffs when making critical business decisions. Founded in May 2000 by New York lawyer Stanley Arkin and Jack Devine, former chief of worldwide operations for the Central Intelligence Agency, the firm has completed hundreds of assignments in every region of the globe.

The Arkin Group is distinguished by our personal approach and tailored services. For each assignment, we create a unique game plan to achieve the client’s specific goals. While we rely on a wide variety of investigative, forensic, communications and security tools, the hallmarks of the TAG methodology are sound analysis and well-sourced human intelligence.

The Arkin team of men and women hails from the nation’s top universities and graduate programs and possesses experience in key U.S. government offices, international institutions and top consulting firms. We draw on vast domestic and international networks of area and functional experts, including intelligence

professionals, law enforcement specialists, diplomats and policy makers, industry, business and finance analysts, leading academics, journalists, and specialized experts in forensic sciences and security.”

**D. Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, New York**

25) Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, holds itself out on its Strategy XXI Partners website as “strategic communications and public affairs advisor to companies, countries and causes”:

“Protecting, Promoting and Managing Reputations Worldwide

ABOUT:

Strategy XXI Partners is a trusted strategic communications and public affairs advisor to companies, countries and causes.

We help our clients address complex challenges that affect their reputations. They turn to us to promote good news and protect against the fall-out from bad news, foster support for policy agendas and help expand market share.

The staff and senior advisors

SERVICES:

**Communications and Positioning**

**Corporate Responsibility**

**Alliance and Stakeholder Engagement**

**Governments: Branding, Investment, Tourism, Information**

**Crisis and Issues Management**



of Strategy XXI Partners have been counselors to C-suite leaders and heads of state. We have made our mark on Capitol Hill, Madison Avenue, Wall Street and civil society.

**Risk Assessment  
and Corporate  
Reputation**

**Sustainability  
Consulting and  
Reporting**

Now, combining local expertise with global perspective and transnational experience, we assist clients based overseas that face challenges in the U.S., as well as U.S.-based companies and institutions.”

**E. The 2010 death of Sheikh Saqr, appointment of Sheikh Saud as new Ruler of RAK, and the Commission of a New York Smear Report on the Operations of the RAKFTZ as a Pretext to Remove Sheikh Saud’s brother, RAKFTZA Chairman, Sheikh Faisal.**

26) On November 20, 2009, Kreab’s employee, Davis Hodge (“Hodge”) emailed a U.S. Public Relations Business Proposal (“the Kreab Proposal”), to El Omari, copied to Kreab’s employee, Andrew Frank (“Frank”), regarding promotion of the RAKFTZ in the United States market, without specifying any cost. El Omari operated the RAKFTZA promotion offices outside the UAE without outside public relations help, and, there was no proposed cost in the proposal. The Kreab Proposal was not accepted by El Omari.

27) On October 27, 2010, Sh. Saqr died, and his successor, then Crown Prince, Sh. Saud, was appointed Ruler of RAK. Unknown to El Omari at the time, arising out of a Royal family succession conflict, the new Ruler of RAK, Sh. Saud, began taking steps to consolidate power and to remove his brother, Sh. Faisal, from positions of power in RAK.

28) Amir Handjani (“Handjani”), employed by RAK Petroleum, UAE, had direct access to Sh. Saud, and on behalf of Sh. Saud, searched for and identified, The Arkin Group LLC, as the chosen entity to prepare a smear report on the operation of the RAKFTZ, which by implication, would smear the operating authority, RAKFTZA, and its Chairman, Sh. Faisal.

29) TAG, the acronym used on its website, claims to have high level background in the U.S. Central Intelligence Agency. Later, Handjani would receive the draft TAG White Paper by email directly from Frank, and Handjani would then forward the draft TAG White Paper by email to Sh. Saud.

30) El Omari did not commission any review of the RAKFTZ from Kreab, TAG or any other party, and did not know about any review of RAKFTZ operations until the review was underway. Sh. Saud approved the review, and El Omari had no choice but to cooperate with the review.

31) On October 26, 2010, one day before Sh. Saqr died, Frank sent an email to Sh. Faisal, copied to El Omari, Handjani, and another Kreab employee, Jessica Levine, to arrange itinerary plans for a visit to RAK by TAG employee, Mark Christopher (“Christopher”). Frank stated Christopher is “putting together the

reports and he will have meetings on his own” and Frank specified with whom in RAK, Christopher would like to meet. Frank stated in this email that he, Frank, would also be traveling to RAK, and Frank would be joined by another Kreab employee, Hodge, who would be “meeting” with Christopher. Hodge had earlier submitted the failed Kreab Proposal in 2009. The positions named in this email, individuals Frank said Christopher would like to meet, far exceeded the scope of a basic review of RAKFTZ operations, as indicated by among other positions, the following persons: RAK Investment Authority, RAK foreign relations, the relationship between RAK and UAE, and activities of Iranian companies.

32) On or about January of 2011, about 2 months after Sh. Saud became Ruler of RAK, Christopher travelled to RAK to conduct field research over a period of approximately 3 weeks. Neither Kreab nor TAG disclosed that TAG was in fact hired by Kreab, and not by the RAKFTZA. Frank pushed through the TAG review and handled all communication with TAG. At the time, El Omari still did not know why the TAG review was being conducted, or the scope of the review.

33) In both the forthcoming draft and final versions of the smear report, styled by TAG as a “White Paper”, (“the TAG White Paper”), TAG falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations. TAG, in the methodology section in both the draft and final version of the TAG White Paper, stated the TAG factual research was conducted by Internet based research on RAKFTZ operations, but did not disclose sources, and stated that TAG conducted interviews in RAK, but withheld the

names, and included negative hearsay statements by the unnamed sources. This secret source based fact research resulted in an unreliable factual basis of the TAG White Paper on its face.

34) In the analysis section of both the draft and final versions of the TAG White Paper, TAG applied, *inter alia*, many unspecified legal obligations relating to operation of the RAKFTZ, and unspecified United States and United Nations legal sanctions law against Iran, without citing many of the laws or legal provisions, and without stating or analyzing what legal obligations, if any, applied to RAKFTZ operations. This resulted in an unreliable legal analysis on the face of the TAG White Paper.

35) The resulting draft and final TAG White Paper falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations, and on its face, smeared the RAKFTZ with unreliable, unsubstantiated, and negative legal conclusions, including a heavy emphasis on alleged Iranian businesses operating within the RAKFTZ in suggested violation of United States and United Nations sanctions law.

36) On March 11, 2011, Frank emailed the Draft TAG White Paper, dated March 10, 2011, to Handjani.

37) Also on March 11, 2011, Handjani then forwarded the Draft TAG White Paper received from Frank, to El Omari, Sh. Faisal, and to Sh. Saud.

38) As such, Sh. Saud was kept informed of Kreab's smear progress by receiving the Draft TAG White Paper from Handjani, who received it from Frank. This cast the die and locked up the draft TAG

App. 99

White Paper from El Omari's efforts to correct fact errors and the overall negative thrust of the report.

39) El Omari and others at the RAKFTZA were alarmed at factual errors and the overall negative thrust of the Draft TAG White Paper. El Omari and RAKFTZA in-house legal counsel, Johnson M. George ("George"), prepared responses to the draft TAG White Paper which were emailed from Johnson to Frank, which in the end resulted in no substantive change.

40) Alarmed, and in an ultimately unsuccessful visit, El Omari and George traveled to New York to meet with Kreab, and express RAKFTZA concerns about the errors and negative Draft TAG White Paper. El Omari and George met with 2 Kreab employees, Frank, and Frank's supervisor, at the Kreab office in New York.

41) On April 25, 2011, Frank delivered the final TAG White Paper by email to El Omari. The date on the delivered TAG White Paper was a future date, 3 days in the future, April 28, 2011. There were no substantive changes from the draft TAG White Paper.

42) On May 1, 2011, Frank sent an email to El Omari stating that Frank was planning to meet that day with Sh. Saud and Handjani.

43) After delivery of the final TAG White Paper, Sh. Saud personally called El Omari and directed El Omari to pay US\$35,000 to Kreab for the TAG White Paper, out of RAKFTZA funds, over El Omari's objections, since the RAKFTZA did not commission the TAG White Paper nor found it acceptable.

44) On July 7, 2011, Frank, also an employee and/or partner at Strategy XXI, used a Strategy XXI email account, and emailed a public relations business proposal from Strategy XXI to El Omari, with a proposed cost of US\$15,000 per month (“the Strategy XXI Proposal”). The Strategy XXI Proposal used a letterhead with the look and feel of the RAKFTZ logo and letterhead, which it was unauthorized to use. El Omari did not accept the Strategy XXI Proposal. Frank attempted to contact Sh. Saud in person at Sh. Saud’s Palace in RAK about the Strategy XXI Proposal, but Sh. Saud was unresponsive and the meeting did not occur.

**F. The 2012 Termination of El Omari as CEO and Director General of RAKFTZA by an Advisor to Sh. Saud, while Sh. Faisal is still Chairman of RAKFTZA.**

45) On January 30, 2012, Sh. Saud issued Decree No. 3, appointing his Advisor, Salem Ali Al Sharhan (“Al Sharhan”), to oversee the RAKFTZA, without specifying Al Sharhan’s powers or duties. El Omari was still CEO and Director General, and Sh. Faisal was still Chairman of RAKFTZA. El Omari was directed by Sh. Saud to not speak with Sh. Faisal.

46) On May 28, 2012, while El Omari was traveling on RAKFTZA business outside the UAE, Sh. Saud signed and authorized a letter by Al Sharhan, under the same date, requesting authority to terminate El Omari as CEO and Director General.

47) On May 28, 2012, Al Sharhan emailed a letter to El Omari terminating El Omari from his positions of CEO and Director General of the

RAKFTZA, with 1 month notice, effective June 30, 2012, for the stated reason of “re-structuring the RAKFTZ” (“the Termination Letter”). The Termination Letter breached the Agreement by 1) not giving the contracted 2 month notice of termination, and 2) failing to pay the contracted end of service gratuity. On the Termination Date, El Omari held the position of CEO and Director General of the RAKFTZA, at a pay rate of 120,000 United Arab Emirates Dirham (AED120,000) per month. The AED has been pegged to the U.S. Dollar since 1997 at an exchange rate of 1 U.S. dollar = 3.671 dirhams (1 dirham = US\$0.2724). On the Termination date, El Omari’s monthly pay in U.S. Dollars, under this exchange rate, was US\$32,688 (120,000 dirham per month × 0.2724 US\$ per dirham).

48) On May 29, 2012, while still outside the UAE on RAKFTZA business, and per instructions from Sh. Faisal, El Omari sent a reply email back to Al Sharhan, stating that Al Sharhan’s Termination Letter was “disapproved” by Sh. Faisal, Chairman of the RAKFTZA, and that El Omari remained in his positions unless instructed otherwise by Sh. Faisal.

49) On July 10, 2012, El Omari’s UAE residency was terminated and had 30 days to leave the UAE; El Omari did not sign the residency termination document, which under UAE labor law, is required to be signed by the foreign worker prior to termination of residency. If signed, which it was not, the document also would acknowledge no labor payments were outstanding.

50) On July 18, 2012, Sh. Faisal signed a letter of recommendation for El Omari, stating his employment

with the RAKFTZA was from March 1997 to June 30, 2012.

51) On December 1, 2012, Sh. Faisal, was still Chairman of the RAKFTZA, and retained the consulting services of El Omari as an advisor, under an agreement between GDS & Investment, a UAE corporation, (by El Omari) and the RAKFTZA (by Sh. Faisal), (“the GDS Agreement”).

**G. The 2013 Removal of Sh. Faisal as Chairman of RAKFTZA by Sh. Saud, and appointment of their younger brother, Sh. Ahmed.**

52) On March 5, 2013, Sh. Saud issued a decree which removed Sh. Saud’s brother, Sh. Faisal as Chairman and from the board of the RAKFTZA, and appointed in his place, their younger brother, Sheikh Ahmed Bin Saqr Al Qasimi (“Sh. Ahmed”), as Chairman of the RAKFTZA. Sh. Ahmed continues as Chairman to the present date. This public removal by Sh. Saud of Sh. Faisal, and replacement by his younger brother, Sh. Ahmed, was a disgrace of Sh. Faisal in front of the tribes of the small emirate of Ras Al Khaimah.

53) Under a personally signed letter dated March 17, 2013, Sh. Ahmed, the new Chairman of RAKFTZA, terminated the 3 month old GDS Agreement, effective that date, citing false allegations against El Omari, to Wit: “GDS proved gross negligence ... resulting in unjustified financial spending’s [sic] and loss of profit”. False allegations which have never been documented or otherwise proved in any subsequent RAK Rulers Court civil and criminal cases filed against El Omari in retaliation.



54) Upon advice of his UAE attorneys, El Omari took three recommended steps to exhaust his remedies under UAE law, to Wit: 1) El Omari wrote to the RAKFTZA asking for payment of his end of services gratuity, to which there was no response, 2) El Omar wrote to Sh. Saud asking for payment of his end of services gratuity, to which there was no response, and 3) On June 24, 2013, El Omari, by and through his UAE attorneys, submitted a request to the RAK Rulers Court for a clearance certificate to sue the RAKFTZA, which was first admitted received by the Rulers Court for processing, and then later the Rulers Court claimed to have never received the filing.

55) On October 22, 2015, the RAKFTZA filed Articles of Dissolution of its New York promotion office, the RAK Dubai Business Centre, under authorization of and personal signature of Sh. Ahmed, the present Chairman of the RAKFTZA, which was filed with the New York Department of State.

56) After the TAG White Paper was delivered and his termination from the RAKFTZA, El Omari has been unable to find similar employment, has suffered out of pocket expenses, emotional distress, loss of earnings, and damage to his reputation.

57) The RAKFTZA, under Sh. Ahmed as Chairman, and the RAK Rulers Court, have denied El Omari due process of law, and have otherwise made invoking the jurisdiction of the RAK Rulers Court to resolve any contract claims an impossibility, and thus the contracted choice of jurisdiction clause in the Agreement is void.

58) El Omari now files the present complaint invoking the jurisdiction of this court.

59) Subsequent to filing the original Complaint, on Sunday, July 31, 2016, the day before RAKFTZA filed a pre-motion letter to dismiss the Complaint, El Omari was subjected to an incident on U.S. soil caused by and through Sh. Saud in retaliation for filing the Complaint, to Wit:

a) Upon landing by commercial flight at 5:55 pm, Sunday, July 31, 2016, at JFK Airport in New York, from an international trip, an unprecedented incident occurred at U.S. Customs. Sh. Saud had caused UAE authorities to request U.S. authorities to arrest El Omari in the U.S., and send El Omari to the UAE, where there is not an independent judiciary and where arbitrary arrests and detentions are well known by the U.S. Department of State. There is no extradition treaty between the UAE and the U.S. El Omari was detained, but not arrested, during this incident, was advised not to travel to the UAE, missed his connecting flight home, and stayed overnight in New York. Had the UAE request been honored by U.S. Customs, in light of the human rights position of the U.S. Department of State on the UAE, it is likely that El Omari would not have been heard of again.

b) More specifically, after arrival and when passing through U.S. Customs at JFK Airport, El Omari, the Customs questions turned to the UAE, and the Customs officer (“Customs officer No. 1”), while looking at a computer screen, stated that El Omari “must have serious

problems with the UAE.” The Customs officer No. 1 further stated that “you had better be careful and not go to the UAE,” “they will arrest you and put you in jail,” “by the way, we do not have any exchange treaties with them, but you be careful.”

c) Customs officer No. 1 then detained El Omari and took El Omari to a separate room involving U.S. Homeland Security. A different Customs officer (“Customs officer No. 2”), took El Omari’s U.S. passport and entered information into a computer, and looked perplexed at what she saw on the screen, causing Customs officer No. 2 to pause and stare at the screen for a while, not knowing what to do. After a few minutes, Customs officer No. 2 picked up a phone and called someone, and kept repeating information about El Omari. Customs officer No. 2 hung up the phone, waited a few minutes, and called again and had a few minutes further conversation. Following this second phone call, Customs officer No. 2 called El Omari’s name to where he was sitting, stamped El Omari’s paper, and handed El Omari his U.S. passport.

d) El Omari left the room with another U.S. Customs officer (“Customs officer No. 3”) who checked El Omari’s luggage, and El Omari left the airport.

e) El Omari missed his connecting flight home to North Carolina, and stayed overnight in New York.

f) All causing extreme emotional distress to El Omari.

**CAUSES OF ACTION**

**Count I**

**(As Against Defendant, Ras Al Khaimah  
Free Trade Zone Authority)  
Breach of Contract**

60) El Omari repeats the previous paragraphs as if fully and completely restated herein.

61) El Omari and the RAKFTZA did enter into the Agreement, dated April 1, 1998, which provided for, *inter alia*, an indefinite period of labor services, a 2 month notice requirement prior to termination, and an end of service gratuity to be calculated under UAE Labour Law No. 8 of 1980, as amended, to be paid upon termination.

62) The RAKFTZA did breach the Agreement on May 28, 2012, by: 1) terminating the Agreement with only 1 month notice with an effective date of June 30, 2012, and 2) failing to pay any end of service gratuity under UAE Labour Law No. 8 of 1980, as amended, all of which remains due and owing.

63) The choice of jurisdiction clause in the Agreement for resolving claims and disputes under the Agreement is void as an impossibility and violates due process.

64) All to the injury of El Omari.

***Count II***  
**(As Against Defendant, Kreab (USA) Inc.)**  
***Fraud***

65) El Omari repeats the previous paragraphs as if fully and completely restated herein.

66) Kreab (USA) Inc.'s fraudulent scheme was composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on Kreab's acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- (a) Kreab, by and through its employee and/or partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.

- (b) Kreab, by and through Andrew Frank, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was paid a US\$35,000 fee, and Kreab knew the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.
  - (c) Kreab, by and through Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.
  - (d) El Omari and others at the RAKFTZA reasonably relied on Kreab's acts to be truthful.
  - (e) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari.
- 67) All to the injury of El Omari.

***Count III***

**(As Against Defendant, Sheikh Saud bin Saqr  
Al Qasimi, in his individual, and official capacity)  
*Fraud***

68) El Omari repeats the previous paragraphs as if fully and completely restated herein.

69) Sheikh Saud bin Saqr Al Qasimi (“Sh. Saud”), in his individual, and official, capacity, acted unlawfully under the labor and other laws of the UAE, and acted unlawfully under the laws of the United States, being a proximate cause of the fraud and the termination of El Omari.

70) Sh. Saud’s acts in furtherance of Kreab (USA) Inc.’s fraudulent scheme were composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on Kreab’s acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- (a) Sh. Saud’s acts in furtherance of Kreab, by and through Kreab’s employee and/or partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ,

to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.

- (b) Sh. Saud's acts in furtherance of Kreab, by and through Andrew Frank, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was paid a US\$35,000 fee, and Kreab knew the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.
- (c) Sh. Saud's acts in furtherance of Kreab, by and through Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.



- (d) El Omari and others at the RAKFTZA reasonably relied on Kreab's acts to be truthful.
  - (e) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, furthered by Sh. Saud, and subsequent injuries to El Omari.
- (69) All to the injury of El Omari.

***Count IV***

**(As Against Defendant, Sheikh Saud bin Saqr Al Qasimi, in his individual, and official capacity)  
*Intentional Infliction of Emotional Distress***

71) El Omari repeats the previous paragraphs as if fully and completely restated herein.

72) Sheikh Saud bin Saqr Al Qasimi ("Sh. Saud"), in his individual, and official, capacity, acted unlawfully under the laws of the UAE, and acted unlawfully under the laws of the United States, and in retaliation against El Omari for filing the original Complaint, and with the intent to retaliate, punish, silence, intimidate, and remove El Omari from the U.S., did, between May 25, 2016 and July 31, 2016, cause an illegal, and arbitrary and capricious, communication to U.S. Customs of a request for El Omari to be arrested in New York and sent to and jailed in the UAE.

73) Sh. Saud's acts in furtherance of this unlawful scheme to retaliate, punish, silence, intimidate, and remove El Omari from the U.S. was extreme and outrageous conduct, had the intent to cause, or disregard of a substantial probability of

causing, severe emotional distress to El Omari, and was a proximate cause of extreme emotional distress to El Omari. Acts so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

74) All to the injury of El Omari.

***PRAYER FOR RELIEF***

**WHEREFORE**, Plaintiff, Oussama El Omari, seeks the following Relief:

***As to Count I***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count II***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count III***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,

- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count IV***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) emotional distress,
  - (b) other and further compensatory and consequential damages,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

Dated: New York, New York  
August 5, 2016

MOORE INTERNATIONAL LAW PLLC.

By:           /s/ Scott M. Moore            
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**APPENDIX F**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Case No.: 1:16-cv-3895 (NRB)(SN)**

**[Filed September 15, 2016]**

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OUSSAMA EL OMARI, an individual )  
and United States Citizen residing in )  
the State of North Carolina, )

Plaintiff, )

- against - )

RAS AL KHIAMAH FREE TRADE )  
ZONE AUTHORITY, a/k/a R.A.K. )  
FREE TRADE ZONE AUTHORITY, )  
a/k/a RAKFTZA, a corporation )  
organized under the laws of Ras )  
Al Khiamah, United Arab Emirates, )

KREAB (USA) INC., a corporation )  
organized under the laws of the )  
State of New York, and )

SHEIKH SAUD BIN SAQR AL )  
QASIMI, an individual and United )  
Arab Emirates Citizen, residing in )  
the United Arab Emirates, and )  
Emir of Ras Al Khaimah, United )  
Arab Emirates, sued in his )

individual, and official capacity, and )  
)  
THE ARKIN GROUP LLC, a limited )  
liability company organized under )  
the laws of the State of New York, )  
)  
Defendants. )  
\_\_\_\_\_ )

**SECOND AMENDED COMPLAINT**

NOW COMES OUSSAMA EL OMARI, Plaintiff in the above referenced action, by and through counsel, MOORE INTERNATIONAL LAW PLLC, as and for his Second Amended Complaint, states as follows:

***NATURE OF THE ACTION***

1) This is a suit for damages against the Defendants, jointly and severally, by Plaintiff, Oussama El Omari (“El Omari”), who was employed as a foreign worker for many successful and award winning years by the Ras Al Khaimah Free Trade Zone Authority (“RAKFTZA”), located in Ras Al Khaimah (“RAK”), United Arab Emirates (“UAE”). RAK is one of seven emirates composing the UAE. El Omari was hired initially in 1997 by the RAKFTZA, by and through, Sheikh Faisal bin Saqr Al Qassimi (“Sh. Faisal”), and then a written agreement was entered into the next year on April 1, 1998 (“the Agreement”), hiring El Omari as Project and Marketing Manager to help create, operate, and promote the Ras Al Khiamah Free Trade Zone (“RAKFTZ”). 14 years later, El Omari was terminated on May 28, 2012 (“the Termination Date”), after a smear report on the operation of the RAKFTZ was commissioned from New York based,

Defendant, Kreab (USA) Inc. (“Kreab”), by the new Ruler, H.H. Sheikh Saud bin Saqr Al Qasimi (“Sh. Saud”). On the Termination Date, El Omari held the position of CEO and Director General of the RAKFTZA, and had served on the RAKFTZA Board of Directors for 12 years since 2000. Sh. Faisal was replaced as Chairman of the RAKFTZA by Sh. Saud the following year in 2013. At the time of his termination, El Omari’s contracted pay was AED120,000 per month, or expressed in U.S. dollars, was US\$32,688 per month.

2) El Omari contested his termination in RAK, and exhausted his legal remedies in RAK, and was unable to invoke the jurisdiction of the RAK Rulers Court to enforce his contract rights under the terms of the Agreement. After Sh. Faisal was removed as Chairman of the RAKFTZA, El Omari was, and remains today, persecuted in the RAK Rulers Court, *in absentia*, without due process of law.

3) El Omari has suffered, *inter alia*, loss of end of service monies due and owing under the Agreement, out of pocket expenses, lost earnings from an inability to gain similar employment, emotional distress, and damage to his reputation.

4) El Omari was caught in a Royal family conflict and power play beginning on or about October 27, 2010, when then Ruler of RAK, H.H. Sheikh Saqr bin Mohammad al Qassimi (“Sh. Saqr”), died, and his son, Sh. Saud, became Ruler of RAK., who appointed his son, H.H. Sheikh Mohammed bin Saud bin Saqr Al Qasimi (“Sh. Mohammed”), as Crown Prince, rather than Sh. Faisal. Sh. Saud began to take steps to consolidate power, and undermine and remove his brother, Sh. Faisal, from positions of power in RAK,

including the Chairmanship of RAKFTZA. As a false pretext for removal of Sh. Faisal, Sh. Saud caused the engagement of a smear report from Kreab on the RAKFTZA operation of the RAKFTZ.

***THE PARTIES***

5) Plaintiff, El Omari, is an individual and citizen of the United States, and is resident of the State of North Carolina, at 2005 Riviera Ct., Raleigh, North Carolina.

6) Defendant, Ras Al Khaimah Free Trade Zone Authority, is an agency or instrumentality of the RAK, which is a political subdivision of the UAE, a foreign state, within the meaning of 28 U.S.C. § 1330(b). RAKFTZA is a separate legal person, corporate or otherwise, and is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and is neither a citizen of a State of the United States, nor created under the laws of any third country.

7) Defendant, Ras Al Khaimah Free Trade Zone Authority, is a corporation created on May 1, 2000, under Article (5) of Decree No. 5 of 2000, known as “The RAK Free Zone Law”, by decree of Sh. Saqr, then Ruler of RAK. Under Article (5), the RAKFTZA is established as an “independent authority” with “its own corporate identity” and “shall enjoy financial and administrative independence in respect of all its affairs and shall have full capacity to act”. Under Article (11), the RAKFTZA is managed by a five (5) member Board of Directors, and, under Article (12), the Board of Directors report to “H.H. the Ruler or Crown Prince



and Deputy Ruler about the Free Zone operations”. Under Article (6), the objectives of the RAKFTZA are “the setting up, promotion, development, management, administration, regulation, operation and construction of the appropriate facilities of the Free Zone”. Under Article (2), three geographical areas were established and created as the “Free Zone”. Under Article (3), imports into and exports from, the Free Zone, are exempted from customs and excise taxes, and companies and individuals are exempted from all taxes for operations conducted within the Free Zone. El Omari, Sh. Faisal, and three other individuals were appointed to the initial Board of Directors by another Decree No. 5 in 2000, issued by Sh. Saqr. El Omari remained on the Board of Directors until the Termination Date. The principal place of business of RAKFTZA is located at P.O. Box 10055, RAK, UAE. The RAKFTZA has promotion offices in other countries, set up by El Omari, in Cologne, Germany, Istanbul, Turkey, Mumbai, India, and until 2015, in New York, for promotion of RAK Free Trade Zone business.

8) The office of RAKFTZA in New York, was New York County based RAK Dubai Business Centre L.L.C., (“RAK Business Centre”), a limited liability company organized on April 7, 2008, under the laws of the State of New York. The RAK Business Centre was owned and controlled by RAKFTZA as the sole member. The RAK Business Centre was the alter ego and agent of RAKFTZA for the purpose of promoting the RAKFTZ in the United States market. Subsequently, Articles of Dissolution under Section 705 of the New York Limited Liability Company Law were filed on October 22, 2015, under the authority and personal signature of Shaikh Ahmad Saqr Mohamed

Al Qasemi (“Sh. Ahmad”), the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. Presently, the RAK Business Centre remains a juridical person under Section 703(b) of the New York Limited Liability Company Law, which provides that “Upon dissolution of a limited liability company, the persons winding up the affairs of the limited liability company’s affairs may ... defend suits ....”

9) Defendant, Kreab (USA) Inc., is a corporation organized under the laws of the State of New York, and its principal place of business is located at 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. On March 7, 2016, Kreab changed its name from Kreab Gavin Anderson (USA) Inc., to its present name, Kreab (USA) Inc. According to the New York State, Department of State, Division of Corporations, the Chief Executive Officer of Kreab (USA) Inc. is P.M Peje Emilsson, located at Kreab AB, Floragatan 13, Stockholm, Sweden, and the Principal Executive Office of Kreab (USA) Inc. is located at Strategy XXI Group Ltd., 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Andrew Frank (“Frank”), was the Managing Partner of Kreab at the New York office, and figured prominently in the fraud and termination of El Omari.

10) Defendant, Sheikh Mohammed bin Saud bin Saqr Al Qasimi, is an individual and Citizen of the United Arab Emirates, residing in Ras Al Khaimah, United Arab Emirates, and is Emir of RAK, UAE, sued in his individual, and official capacity. As is common in the UAE, Sh. Saud is a member of a Royal Family having both government and private business positions

and interests. Sh. Saud has been, and is, a private businessman, and simultaneously, has been the Emir and Ruler of the UAE emirate of RAK since 2010.

11) Defendant, The Arkin Group LLC, is a limited liability company organized under the laws of the State of New York, and its principal place of business is located at 750 Lexington Avenue, 25<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Jessica Levine and Mark Christopher were employees of the Defendant, The Arkin Group LLC, and were based at the said New York office, and the “TAG White Paper” was drafted, edited, and finalized by Mark Christopher using email communications at said New York office.

### ***JURISDICTION AND VENUE***

12) This court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The amount in controversy is relief requested by Plaintiff, El Omari, of monetary damages for no less than the amount of Ten Million US Dollars (US\$10,000,000).

13) This court has subject matter jurisdiction over the RAKFTZA pursuant to 28 U.S.C. § 1330(a), under the commercial activity immunity exception, 28 U.S.C. § 1605(a)(2), to the Foreign Sovereign Immunities Act, based upon a commercial activity carried on in the United States by the foreign state, or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere, or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act caused a direct effect in the United States.

14) Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(2) and (f)(1).

15) Defendant, The Arkin Group LLC, is a limited liability company organized under the laws of the State of New York, with its principal place of business located at 750 Lexington Avenue, 25<sup>th</sup> Floor, New York, New York, (“TAG”).

16) Another company involved in the smear report scheme is Strategy XXI Holdings, Inc., d/b/a Strategy XXI Partners, a corporation organized under the laws of the State of New York, created during scheme on July 11, 2011, with its principal place of business located at 515 Madison Avenue, 16<sup>th</sup> Floor, New York, New York, (“Strategy XXI”). Frank, the Managing Partner of Kreab at Kreab’s New York office, is also an employee and/or partner at Strategy XXI.

17) Contacts with the United States by Sh. Saud, include but are not limited to:

- (a) Sh. Saud resided in Ann Arbor, Michigan, and received a B.A. in Economics and Political Science from the University of Michigan, Ann Arbor, Michigan, on or about 1982.
- (b) Sh. Saud was arrested for sexual assault of a hotel maid on criminal charges of Criminal Sexual Conduct in the 3<sup>rd</sup> and 4<sup>th</sup> Degrees, in Rochester, Minnesota, on June 10, 2005, during a visit to the Mayo Clinic in Rochester, Minnesota, where his now deceased father, Sh. Saqr, was a patient. The charges were dismissed approximately 6 months later for lack of

probable cause. According to the Rochester police report, Sh. Saqr claimed Diplomatic Immunity at the time of his arrest, but the arresting officer reported contacting the U.S. Department of State, and was advised Sh. Saud was not on a list of foreign individuals with Diplomatic Immunity.

- (c) Numerous meetings and exchange of emails with Kreab employees, in furtherance of the fraud, as further described herein.
- (d) On a date after the Complaint was filed on May 25, 2016, but before July 31, 2016, unlawfully, falsely, and without due process of law, caused communication to U.S. Customs requesting the arrest of El Omari in the U.S. and to send El Omari to the UAE.

18) Contacts by RAKFTZA with New York County, a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, include but are not limited to:

- (a) On behalf of RAKFTZA, in or about 2008, El Omari traveled to New York County to review a suitable New York promotion office location on Madison Avenue.
- (b) On behalf of RAKFTZA, on April 7, 2008, El Omari, by and through New York County counsel, Patton Boggs LLP, 1185

Avenue of the Americas, 30<sup>th</sup> Floor, New York New York, caused the formation of the RAK Dubai Business Centre L.L.C., under the laws of the State of New York, with its principal office in New York County, with the RAKFTZA being the sole member. The RAK Dubai Business Centre was formed as a completely owned and controlled company, and was the alter ego, and agent, of RAKFTZA for promotion of the RAKFTZ in the United States market, like RAKFTZA's promotion offices in Germany, Turkey, and India. The RAK Dubai Business Centre L.L.C. was never fully operational due to the U.S. recession. The RAK Dubai Business Centre L.L.C. was dissolved on October 22, 2015, by a dissolution filing with the New York Department of State under the authority and personal signature of Sh. Ahmad, the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. The Articles of Dissolution were filed by New York County counsel, Jones Day, 222 East 41<sup>st</sup> Street, New York, New York.

- (c) On behalf of RAKFTZA, in or about 2008, El Omari opened a RAK Business Centre bank account, at a Bank of America office in New York County. After El Omari's termination in 2012, Sh. Saud's Advisor, Salem Ali Al Sharhan, emailed Bank of America's office in New York County

instructing that El Omari's name be removed from signing privileges.

- (d) On behalf of RAKFTZA, in or about 2008, El Omari hired RAK Business Centre skeletal staff in New York County.
- (e) On behalf of RAKFTZA, from 2010 to 2011, El Omari had email exchanges with Kreab's New York County office, regarding the TAG White Paper.
- (f) On behalf of RAKFTZA, in 2011, El Omari traveled with RAKFTZA's in-house UAE legal advisor, Johnson George, to Kreab's New York County office, to complain of factual and other errors in the draft TAG White Paper.

19) The choice of jurisdiction clause under the Agreement is void. Since the Termination Date, El Omari has been denied basic due process of law in RAK to prosecute or defend claims under or related to the Agreement, to Wit: Upon termination of El Omari's employment on May 28, 2012, El Omari's UAE residency was illegally terminated on July 10, 2012, under UAE law applicable to foreign workers, which requires as a prerequisite, a signature by the foreign worker attesting that there are no labor payments outstanding, which El Omari did not sign, and as such, El Omari has been denied the ability to be freely present in the UAE to prosecute or defend claims. El Omari has also been denied the basis due process right of a hearing on his termination and end of services monies due and owing.

- (a) First, El Omari directly requested RAKFTZA pay his contracted end of service monies due, to which there was no response.
- (b) Second, El Omari's UAE attorneys officially requested a certificate waiving RAKFTZA immunity from suit from the RAK Rulers Court. The Rulers Court first admitted receiving the waiver request and began its procedure, and then later denied even receipt of the waiver request.
- (c) Third, El Omari wrote directly to Sh. Saud asking for his contracted end of service monies due and owing, to which there was no response.
- (d) Fourth, in response to El Omari's contesting the lawfulness of his termination and seeking his contracted end of service monies due and owing, the RAKFTZA, after Sh. Faisal was replaced as Chairman, retaliated against El Omari by later asserting unsubstantiated and meritless allegations of wrongdoing by El Omari, and instituted civil and criminal suits against El Omari, *in absentia*, in the RAK Rulers Court. No proofs have ever been received against El Omari by the Rulers Court in support of any RAK claim or judgment.



***FACTUAL BACKGROUND***

**A. Success of the new RAKFTZ under El Omari beginning in 1997.**

20) El Omari was born in Morocco, educated at international schools in Morocco and France, and the U.S., and holds a B.A. in Chemical Engineering and an M.B.A. At all times relevant to this complaint, El Omari was a U.S. Citizen and had his permanent residence in the State of North Carolina.

21) In March of 1997, El Omari was first hired in RAK, by Sh. Faisal, then Chairman of the RAKFTZA, under letter authority from Sh. Saqr, to head the pre-RAK Free Trade Zone, which later came into existence as the RAKFTZ in 2000, under The RAK Free Zone Law, by Decree No. 5 of Sh. Saqr.

22) The Agreement, dated April 1, 1998, hired El Omari as Project and Marketing Manager, and included a number of contractual rights, including an unlimited period of service (Par. 3), a two month advance notice of termination requirement (Par. 5, Sec. A), and an end of service gratuity, to be calculated under UAE Labour Law No. 8 of 1980, as amended (Par. 10). The two text languages of the Agreement were English and Arabic (Par. 12). The Agreement text governed interpretation, and where silent, UAE Labour Law No. 8, as amended, applied to conditions of service (Par. 13). Contract claims and disputes were to be resolved under jurisdiction of the RAK civil courts (Par. 14). There is no provision in the Agreement that the RAKFTZA was immune from suit. Nor was the RAKFTZA granted immunity from suit under the

RAKFTZA establishment clause, Article (5) of The Free Trade Zone Law.

23) During the fifteen year period between 1997 and 2012, El Omari reported directly to, and worked closely with, his direct supervisor, then RAKFTZA Chairman, Sh. Faisal. The period was characterized by successful growth of the RAKFTZ, the opening of promotion offices in Cologne, Germany, Istanbul, Turkey, and Mumbai, India, and New York, and award winning promotion and performance, with El Omari hosting and speaking at international trade zone conferences held in and out of the UAE. Among other awards, for 3 consecutive years, beginning in 2006, the RAKFTZ was recognized as the “Best Emerging Free Zone” at the Middle East Logistics Awards in Dubai, UAE. El Omari received promotions during his contract period, and on May 1, 2011, El Omari was awarded a new salary increase and promotion package by Sh. Faisal, and by that point in time El Omari held the posts of CEO & Director General of the RAKFTZA, and had sat on the RAKFTZA Board of Directors for 12 years.

**B. Kreab (USA) Inc., New York**

24) Defendant, Kreab (USA) Inc., holds itself out on its website (kreab.com) as a “small representative office in New York, which mainly focuses on financial and corporate communications” and serving corporate clients, not government clients, with a “tainted reputation”:

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**“Our expertise in New York**

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**We have a small representative office in New York, which mainly focuses on financial and corporate communications. Together with our global network of offices and affiliated firms, we offer our clients, from the large multinational to the small local firm, the best specialists for their particular needs.**

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**Corporate Communications**

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**A company or organisation’s reputation is one of the most decisive attributes in terms of how it is perceived by its primary and secondary stakeholders, be it customers, owners, decision makers or employees.**

A company with a tainted reputation and weak relations with influential stakeholders, whatever the reason, will suffer on the bottom line. We help our clients manage and obtain the desired profile and position on the markets in which they operate. This is crucial to ensure that the business is sustainable and profitable over time.

By employing Kreab as a strategic communications advisor, a company or

organisation can continue to focus on its core business.

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### **Financial Communications**

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**The financial market is ultimately a source of capital – the corporate lifeblood. Capital is gained from a range of investors, with whom a company needs to secure solid and good relations. Poor relations with or vague messages to this group of stakeholders may put capital at risk. Increasingly frequently, companies and the financial market have different interpretations which result in unnecessary losses or market fluctuations.**

The financial market is also highly regulated with policy makers constantly monitoring its operations. This adds to the need for appropriate relations with a broad range of stakeholders, beyond just investors. When Kreab advises clients on issues, it brings together financial and public affairs communications, including IPOs, deals requiring authority clearance or investments in publicly funded projects.

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**Public Affairs**

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**Our experts in public affairs communications help clients manage and build relations with decision and policy makers at all levels – local, regional, national and supranational.**

Decision makers are faced with opinions and requests at all times. Those who want to make their voice heard need to target decision makers effectively.

Through our broad network and extensive experience, we identify what is relevant to decision makers, attract their attention and point out how to contribute to their overarching vision and beliefs. Because understanding who decision makers and policy makers answer to is also key to attaining a share of voice, we always conduct a stakeholder analysis for each client and assignment.”

**C. The Arkin Group LLC, New York**

25) The Arkin Group LLC, holds itself out on its website (thearkinggroup.com) with the acronym, “TAG”, and as “an international risk consulting and intelligence firm” with high level U.S. “Central Intelligence Agency” background:

“The Arkin Group (“TAG”) is an international risk consulting and intelligence firm. Our mission is to use strategic intelligence and

prescient analysis to enable our clients to minimize risks and maximize payoffs when making critical business decisions. Founded in May 2000 by New York lawyer Stanley Arkin and Jack Devine, former chief of worldwide operations for the Central Intelligence Agency, the firm has completed hundreds of assignments in every region of the globe.

The Arkin Group is distinguished by our personal approach and tailored services. For each assignment, we create a unique game plan to achieve the client's specific goals. While we rely on a wide variety of investigative, forensic, communications and security tools, the hallmarks of the TAG methodology are sound analysis and well-sourced human intelligence.

The Arkin team of men and women hails from the nation's top universities and graduate programs and possesses experience in key U.S. government offices, international institutions and top consulting firms. We draw on vast domestic and international networks of area and functional experts, including intelligence professionals, law enforcement specialists, diplomats and policy makers, industry, business and finance analysts, leading academics, journalists, and specialized experts in forensic sciences and security."

**D. Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, New York**

26) Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, holds itself out on its Strategy XXI

Partners website as “strategic communications and public affairs advisor to companies, countries and causes”:

“Protecting, Promoting and Managing Reputations Worldwide

ABOUT:

Strategy XXI Partners is a trusted strategic communications and public affairs advisor to companies, countries and causes.

We help our clients address complex challenges that affect their reputations. They turn to us to promote good news and protect against the fall-out from bad news, foster support for policy agendas and help expand market share.

The staff and senior advisors of Strategy XXI Partners have been counselors to C-suite leaders and heads of state. We have made our mark on Capitol Hill, Madison Avenue, Wall Street and civil society.

Now, combining local expertise with global perspective and transnational

SERVICES:

**Communications and Positioning**

**Corporate Responsibility**

**Alliance and Stakeholder Engagement**

**Governments: Branding, Investment, Tourism, Information**

**Crisis and Issues Management**

**Risk Assessment and Corporate Reputation**

**Sustainability Consulting and Reporting**

experience, we assist clients based overseas that face challenges in the U.S., as well as U.S.-based companies and institutions.”

**E. The 2010 death of Sheihk Saqr, appointment of Sheihk Saud as new Ruler of RAK, and the Commission of a New York Smear Report on the Operations of the RAKFTZ as a Pretext to Remove Sheihk Saud’s brother, RAKFTZA Chairman, Sheihk Faisal.**

27) On November 20, 2009, Kreab’s employee, Davis Hodge (“Hodge”) emailed a U.S. Public Relations Business Proposal (“the Kreab Proposal”), to El Omari, copied to Kreab’s employee, Andrew Frank (“Frank”), regarding promotion of the RAKFTZ in the United States market, without specifying any cost. El Omari operated the RAKFTZA promotion offices outside the UAE without outside public relations help, and, there was no proposed cost in the proposal. The Kreab Proposal was not accepted by El Omari.

28) On October 27, 2010, Sh. Saqr died, and his successor, then Crown Prince, Sh. Saud, was appointed Ruler of RAK. Unknown to El Omari at the time, arising out of a Royal family succession conflict, the new Ruler of RAK, Sh. Saud, began taking steps to consolidate power and to remove his brother, Sh. Faisal, from positions of power in RAK.

29) Amir Handjani (“Handjani”), employed by RAK Petroleum, UAE, had direct access to Sh. Saud, and on behalf of Sh. Saud, searched for and identified, The Arkin Group LLC, as the chosen entity to prepare



a smear report on the operation of the RAKFTZ, which by implication, would smear the operating authority, RAKFTZA, and its Chairman, Sh. Faisal.

30) TAG, the acronym used on its website, claims to have high level background in the U.S. Central Intelligence Agency. Later, Handjani would receive the draft TAG White Paper by email directly from Frank, and Handjani would then forward the draft TAG White Paper by email to Sh. Saud.

31) El Omari did not commission any review of the RAKFTZ from Kreab, TAG or any other party, and did not know about any review of RAKFTZ operations until the review was underway. Sh. Saud approved the review, and El Omari had no choice but to cooperate with the review.

32) On October 26, 2010, one day before Sh. Saqr died, Frank sent an email to Sh. Faisal, copied to El Omari, Handjani, and another Kreab employee, Jessica Levine, to arrange itinerary plans for a visit to RAK by TAG employee, Mark Christopher ("Christopher"). Frank stated Christopher is "putting together the reports and he will have meetings on his own" and Frank specified with whom in RAK, Christopher would like to meet. Frank stated in this email that he, Frank, would also be traveling to RAK, and Frank would be joined by another Kreab employee, Hodge, who would be "meeting" with Christopher. Hodge had earlier submitted the failed Kreab Proposal in 2009. The positions named in this email, individuals Frank said Christopher would like to meet, far exceeded the scope of a basic review of RAKFTZ operations, as indicated by among other positions, the following persons: RAK Investment Authority, RAK foreign relations, the

relationship between RAK and UAE, and activities of Iranian companies.

33) On or about January of 2011, about 2 months after Sh. Saud became Ruler of RAK, Christopher travelled to RAK to conduct field research over a period of approximately 3 weeks. Neither Kreab nor TAG disclosed that TAG was in fact hired by Kreab, and not by the RAKFTZA. Frank pushed through the TAG review and handled all communication with TAG. At the time, El Omari still did not know why the TAG review was being conducted, or the scope of the review.

34) In both the forthcoming draft and final versions of the smear report, styled by TAG as a “White Paper”, (“the TAG White Paper”), TAG falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations. TAG, in the methodology section in both the draft and final version of the TAG White Paper, stated the TAG factual research was conducted by Internet based research on RAKFTZ operations, but did not disclose sources, and stated that TAG conducted interviews in RAK, but withheld the names, and included negative hearsay statements by the unnamed sources. This secret source based fact research resulted in an unreliable factual basis of the TAG White Paper on its face.

35) In the analysis section of both the draft and final versions of the TAG White Paper, TAG applied, *inter alia*, many unspecified legal obligations relating to operation of the RAKFTZ, and unspecified United States and United Nations legal sanctions law against Iran, without citing many of the laws or legal provisions, and without stating or analyzing what legal obligations, if any, applied to RAKFTZ operations. This

resulted in an unreliable legal analysis on the face of the TAG White Paper.

36) The resulting draft and final TAG White Paper falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations, and on its face, smeared the RAKFTZ with unreliable, unsubstantiated, and negative legal conclusions, including a heavy emphasis on alleged Iranian businesses operating within the RAKFTZ in suggested violation of United States and United Nations sanctions law.

37) On March 11, 2011, Frank emailed the Draft TAG White Paper, dated March 10, 2011, to Handjani.

38) Also on March 11, 2011, Handjani then forwarded the Draft TAG White Paper received from Frank, to El Omari, Sh. Faisal, and to Sh. Saud.

39) As such, Sh. Saud was kept informed of Kreab's smear progress by receiving the Draft TAG White Paper from Handjani, who received it from Frank. This cast the die and locked up the draft TAG White Paper from El Omari's efforts to correct fact errors and the overall negative thrust of the report.

40) El Omari and others at the RAKFTZA were alarmed at factual errors and the overall negative thrust of the Draft TAG White Paper. El Omari and RAKFTZA in-house legal counsel, Johnson M. George ("George"), prepared responses to the draft TAG White Paper which were emailed from Johnson to Frank, which in the end resulted in no substantive change.

41) Alarmed, and in an ultimately unsuccessful visit, El Omari and George traveled to New York to

meet with Kreab, and express RAKFTZA concerns about the errors and negative Draft TAG White Paper. El Omari and George met with 2 Kreab employees, Frank, and Frank's supervisor, at the Kreab office in New York.

42) On April 25, 2011, Frank delivered the final TAG White Paper by email to El Omari. The date on the delivered TAG White Paper was a future date, 3 days in the future, April 28, 2011. There were no substantive changes from the draft TAG White Paper.

43) On May 1, 2011, Frank sent an email to El Omari stating that Frank was planning to meet that day with Sh. Saud and Handjani.

44) After delivery of the final TAG White Paper, Sh. Saud personally called El Omari and directed El Omari to pay US\$35,000 to Kreab for the TAG White Paper, out of RAKFTZA funds, over El Omari's objections, since the RAKFTZA did not commission the TAG White Paper nor found it acceptable.

45) On July 7, 2011, Frank, also an employee and/or partner at Strategy XXI, used a Strategy XXI email account, and emailed a public relations business proposal from Strategy XXI to El Omari, with a proposed cost of US\$15,000 per month ("the Strategy XXI Proposal"). The Strategy XXI Proposal used a letterhead with the look and feel of the RAKFTZ logo and letterhead, which it was unauthorized to use. El Omari did not accept the Strategy XXI Proposal. Frank attempted to contact Sh. Saud in person at Sh. Saud's Palace in RAK about the Strategy XXI Proposal, but Sh. Saud was unresponsive and the meeting did not occur.

**F. The 2012 Termination of El Omari as CEO and Director General of RAKFTZA by an Advisor to Sh. Saud, while Sh. Faisal is still Chairman of RAKFTZA.**

46) On January 30, 2012, Sh. Saud issued Decree No. 3, appointing his Advisor, Salem Ali Al Sharhan (“Al Sharhan”), to oversee the RAKFTZA, without specifying Al Sharhan’s powers or duties. El Omari was still CEO and Director General, and Sh. Faisal was still Chairman of RAKFTZA. El Omari was directed by Sh. Saud to not speak with Sh. Faisal.

47) On May 28, 2012, while El Omari was traveling on RAKFTZA business outside the UAE, Sh. Saud signed and authorized a letter by Al Sharhan, under the same date, requesting authority to terminate El Omari as CEO and Director General.

48) On May 28, 2012, Al Sharhan emailed a letter to El Omari terminating El Omari from his positions of CEO and Director General of the RAKFTZA, with 1 month notice, effective June 30, 2012, for the stated reason of “re-structuring the RAKFTZ” (“the Termination Letter”). The Termination Letter breached the Agreement by 1) not giving the contracted 2 month notice of termination, and 2) failing to pay the contracted end of service gratuity. On the Termination Date, El Omari held the position of CEO and Director General of the RAKFTZA, at a pay rate of 120,000 United Arab Emirates Dirham (AED120,000) per month. The AED has been pegged to the U.S. Dollar since 1997 at an exchange rate of 1 U.S. dollar = 3.671 dirhams (1 dirham = US\$0.2724). On the Termination date, El Omari’s monthly pay in U.S.

Dollars, under this exchange rate, was US\$32,688 (120,000 dirham per month  $\times$  0.2724 US\$ per dirham).

49) On May 29, 2012, while still outside the UAE on RAKFTZA business, and per instructions from Sh. Faisal, El Omari sent a reply email back to Al Sharhan, stating that Al Sharhan's Termination Letter was "disapproved" by Sh. Faisal, Chairman of the RAKFTZA, and that El Omari remained in his positions unless instructed otherwise by Sh. Faisal.

50) On July 10, 2012, El Omari's UAE residency was terminated and had 30 days to leave the UAE; El Omari did not sign the residency termination document, which under UAE labor law, is required to be signed by the foreign worker prior to termination of residency. If signed, which it was not, the document also would acknowledge no labor payments were outstanding.

51) On July 18, 2012, Sh. Faisal signed a letter of recommendation for El Omari, stating his employment with the RAKFTZA was from March 1997 to June 30, 2012.

52) On December 1, 2012, Sh. Faisal, was still Chairman of the RAKFTZA, and retained the consulting services of El Omari as an advisor, under an agreement between GDS & Investment, a UAE corporation, (by El Omari) and the RAKFTZA (by Sh. Faisal), ("the GDS Agreement").

**G. The 2013 Removal of Sh. Faisal as Chairman of RAKFTZA by Sh. Saud, and appointment of their younger brother, Sh. Ahmed.**

53) On March 5, 2013, Sh. Saud issued a decree which removed Sh. Saud's brother, Sh. Faisal as Chairman and from the board of the RAKFTZA, and appointed in his place, their younger brother, Sheikh Ahmed Bin Saqr Al Qasimi ("Sh. Ahmed"), as Chairman of the RAKFTZA. Sh. Ahmed continues as Chairman to the present date. This public removal by Sh. Saud of Sh. Faisal, and replacement by his younger brother, Sh. Ahmed, was a disgrace of Sh. Faisal in front of the tribes of the small emirate of Ras Al Khaimah.

54) Under a personally signed letter dated March 17, 2013, Sh. Ahmed, the new Chairman of RAKFTZA, terminated the 3 month old GDS Agreement, effective that date, citing false allegations against El Omari, to Wit: "GDS proved gross negligence ... resulting in unjustified financial spending's [sic] and loss of profit". False allegations which have never been documented or otherwise proved in any subsequent RAK Rulers Court civil and criminal cases filed against El Omari in retaliation.

55) Upon advice of his UAE attorneys, El Omari took three recommended steps to exhaust his remedies under UAE law, to Wit: 1) El Omari wrote to the RAKFTZA asking for payment of his end of services gratuity, to which there was no response, 2) El Omar wrote to Sh. Saud asking for payment of his end of services gratuity, to which there was no response, and 3) On June 24, 2013, El Omari, by and through his UAE attorneys, submitted a request to the RAK Rulers

Court for a clearance certificate to sue the RAKFTZA, which was first admitted received by the Rulers Court for processing, and then later the Rulers Court claimed to have never received the filing.

56) On October 22, 2015, the RAKFTZA filed Articles of Dissolution of its New York promotion office, the RAK Dubai Business Centre, under authorization of and personal signature of Sh. Ahmed, the present Chairman of the RAKFTZA, which was filed with the New York Department of State.

57) After the TAG White Paper was delivered and his termination from the RAKFTZA, El Omari has been unable to find similar employment, has suffered out of pocket expenses, emotional distress, loss of earnings, and damage to his reputation.

58) The RAKFTZA, under Sh. Ahmed as Chairman, and the RAK Rulers Court, have denied El Omari due process of law, and have otherwise made invoking the jurisdiction of the RAK Rulers Court to resolve any contract claims an impossibility, and thus the contracted choice of jurisdiction clause in the Agreement is void.

59) El Omari now files the present complaint invoking the jurisdiction of this court.

60) Subsequent to filing the original Complaint, on Sunday, July 31, 2016, the day before RAKFTZA filed a pre-motion letter to dismiss the Complaint, El Omari was subjected to an incident on U.S. soil caused by and through Sh. Saud in retaliation for filing the Complaint, to Wit:



a) Upon landing by commercial flight at 5:55 pm, Sunday, July 31, 2016, at JFK Airport in New York, from an international trip, an unprecedented incident occurred at U.S. Customs. Sh. Saud had caused UAE authorities to request U.S. authorities to arrest El Omari in the U.S., and send El Omari to the UAE, where there is not an independent judiciary and where arbitrary arrests and detentions are well known by the U.S. Department of State. There is no extradition treaty between the UAE and the U.S. El Omari was detained, but not arrested, during this incident, was advised not to travel to the UAE, missed his connecting flight home, and stayed overnight in New York. Had the UAE request been honored by U.S. Customs, in light of the human rights position of the U.S. Department of State on the UAE, it is likely that El Omari would not have been heard of again.

b) More specifically, after arrival and when passing through U.S. Customs at JFK Airport, El Omari, the Customs questions turned to the UAE, and the Customs officer (“Customs officer No. 1”), while looking at a computer screen, stated that El Omari “must have serious problems with the UAE.” The Customs officer No. 1 further stated that “you had better be careful and not go to the UAE,” “they will arrest you and put you in jail,” “by the way, we do not have any exchange treaties with them, but you be careful.”

c) Customs officer No. 1 then detained El Omari and took El Omari to a separate room involving

U.S. Homeland Security. A different Customs officer (“Customs officer No. 2”), took El Omari’s U.S. passport and entered information into a computer, and looked perplexed at what she saw on the screen, causing Customs officer No. 2 to pause and stare at the screen for a while, not knowing what to do. After a few minutes, Customs officer No. 2 picked up a phone and called someone, and kept repeating information about El Omari. Customs officer No. 2 hung up the phone, waited a few minutes, and called again and had a few minutes further conversation. Following this second phone call, Customs officer No. 2 called El Omari’s name to where he was sitting, stamped El Omari’s paper, and handed El Omari his U.S. passport.

d) El Omari left the room with another U.S. Customs officer (“Customs officer No. 3”) who checked El Omari’s luggage, and El Omari left the airport.

e) El Omari missed his connecting flight home to North Carolina, and stayed overnight in New York.

f) All causing extreme emotional distress to El Omari.

**CAUSES OF ACTION**

***Count I***

**(As Against Defendant, Ras Al Khaimah Free  
Trade Zone Authority)**

***Breach of Contract***

61) El Omari repeats the previous paragraphs as if fully and completely restated herein.

62) El Omari and the RAKFTZA did enter into the Agreement, dated April 1, 1998, which provided for, *inter alia*, an indefinite period of labor services, a 2 month notice requirement prior to termination, and an end of service gratuity to be calculated under UAE Labour Law No. 8 of 1980, as amended, to be paid upon termination.

63) The RAKFTZA did breach the Agreement on May 28, 2012, by: 1) terminating the Agreement with only 1 month notice with an effective date of June 30, 2012, and 2) failing to pay any end of service gratuity under UAE Labour Law No. 8 of 1980, as amended, all of which remains due and owing.

64) The choice of jurisdiction clause in the Agreement for resolving claims and disputes under the Agreement is void as an impossibility and violates due process.

65) All to the injury of El Omari.

***Count II***

**(As Against Defendant, Kreab (USA) Inc.)**

***Fraud***

66) El Omari repeats the previous paragraphs as if fully and completely restated herein.

67) Kreab (USA) Inc.'s fraudulent scheme was composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on Kreab's acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- (a) Kreab, by and through its employee and/or partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.
- (b) Kreab, by and through Andrew Frank, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was

paid a US\$35,000 fee, and Kreab knew the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.

- (c) Kreab, by and through Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.
- (d) El Omari and others at the RAKFTZA reasonably relied on Kreab's acts to be truthful.
- (e) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari.

68) All to the injury of El Omari.

***Count III***

**(As Against Defendant, Sheikh Saud bin Saqr Al Qasimi, in his individual, and official capacity)**

***Fraud***

69) El Omari repeats the previous paragraphs as if fully and completely restated herein.

70) Sheikh Saud bin Saqr Al Qasimi (“Sh. Saud”), in his individual, and official, capacity, acted unlawfully under the labor and other laws of the UAE, and acted unlawfully under the laws of the United States, being a proximate cause of the fraud and the termination of El Omari.

71) Sh. Saud’s acts in furtherance of Kreab (USA) Inc.’s fraudulent scheme were composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on Kreab’s acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- (a) Sh. Saud’s acts in furtherance of Kreab, by and through Kreab’s employee and/or partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.

- (b) Sh. Saud's acts in furtherance of Kreab, by and through Andrew Frank, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was paid a US\$35,000 fee, and Kreab knew the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.
  - (c) Sh. Saud's acts in furtherance of Kreab, by and through Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.
  - (d) El Omari and others at the RAKFTZA reasonably relied on Kreab's acts to be truthful.
  - (e) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, furthered by Sh. Saud, and subsequent injuries to El Omari.
- (69) All to the injury of El Omari.

***Count IV***

**(As Against Defendant, Sheikh Saud bin Saqr Al Qasimi, in his individual, and official capacity)**  
***Intentional Infliction of Emotional Distress***

72) El Omari repeats the previous paragraphs as if fully and completely restated herein.

73) Sheikh Saud bin Saqr Al Qasimi (“Sh. Saud”), in his individual, and official, capacity, acted unlawfully under the laws of the UAE, and acted unlawfully under the laws of the United States, and in retaliation against El Omari for filing the original Complaint, and with the intent to retaliate, punish, silence, intimidate, and remove El Omari from the U.S., did, between May 25, 2016 and July 31, 2016, cause an illegal, and arbitrary and capricious, communication to U.S. Customs of a request for El Omari to be arrested in New York and sent to and jailed in the UAE.

74) Sh. Saud’s acts in furtherance of this unlawful scheme to retaliate, punish, silence, intimidate, and remove El Omari from the U.S. was extreme and outrageous conduct, had the intent to cause, or disregard of a substantial probability of causing, severe emotional distress to El Omari, and was a proximate cause of extreme emotional distress to El Omari. Acts so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

75) All to the injury of El Omari.



***Count V***  
**(As Against Defendant, The Arkin Group LLC)**  
***Fraud***

76) El Omari repeats the previous paragraphs as if fully and completely restated herein.

77) Defendant, The Arkin Group LLC, (“TAG”), individually, and together with Defendant, Kreab (USA) Inc., (“Kreab”), and Defendant, Sheikh Saud bin Saqr Al Qasimi, (“Sh. Saud”), did engage in a fraudulent scheme, composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on TAG’s acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- (a) TAG, by and through its employee, Mark Christopher, individually, and together with Kreab’s employee, Andrew Frank, and Sh. Saud, did engage in a fraudulent scheme, where, TAG did fraudulently obtain a commission, and did draft, prepare, and deliver a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for lucrative government contracts between TAG and the RAK government, related to implementation of TAG’s own recommendations in TAG’s false smear report.

- (b) TAG did not communicate directly with El Omari or the RAKFTZA, or negotiate any contract at arm's length with El Omari or the RAKFTZA, but instead used a deceptive line of communication around and bypassing El Omari and the RAKFTZA, and through the communication channel of Kreab to Sh. Saud, did negotiate with and did cause Sh. Saud to order the commissioning of TAG, without the knowledge or understanding of El Omari and the RAKFTZA, and TAG did prepare and deliver the smear report on RAKFTZ operations.
- (c) TAG, by and through the communication channel with Kreab, did bypass El Omari and the RAKFTZA, and TAG did intentionally fail to communicate directly with El Omari and the RAKFTZA during the commission negotiation, and during the preparation, drafting, review, and delivery of the draft and final TAG White Paper, and did intentionally fail to adopt El Omari's, and RAKFTZA's in-house attorney, Johnson George's, written corrections to falsehoods in the draft TAG White Paper, as to what party engaged TAG, the scope of review, important facts, and other content in the draft TAG White Paper.
- (d) TAG did knowingly deliver the TAG White Paper to Kreab, without correcting

the falsehoods, and Kreab did deliver the TAG White Paper on April 25, 2011, and TAG knew the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.

- (e) The TAG White Paper had the false and deceptive appearance that El Omari and the RAKFTZA had directly and knowingly commissioned TAG at arms-length, defined the scope, and fully and directly participated with TAG in the preparation of TAG's White Paper, when the reality was that the TAG White Paper was a false and deceptive frame up of El Omari and the RAKFTZA.
- (f) El Omari and others at the RAKFTZA reasonably relied on TAG's acts to be truthful.
- (g) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari.

78 All to the injury of El Omari.

***PRAYER FOR RELIEF***

**WHEREFORE**, Plaintiff, Oussama El Omari, seeks the following Relief:

***As to Count I***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count II***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,

- (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count III***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count IV***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) emotional distress,

- (b) other and further compensatory and consequential damages,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count V***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

Dated: New York, New York  
September 9, 2016

App. 157

MOORE INTERNATIONAL LAW PLLC.

By:           /s/ Scott M. Moore            
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**APPENDIX G**

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**Case No.: 1:16-cv-3895 (NRB)(SN)**

**[Filed April 19, 2017]**

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OUSSAMA EL OMARI, an individual )  
and United States Citizen residing in )  
the State of North Carolina, )

Plaintiff, )

- against - )

RAS AL KHIAMAH FREE TRADE )  
ZONE AUTHORITY, a/k/a R.A.K. )  
FREE TRADE ZONE AUTHORITY, )  
a/k/a RAKFTZA, a corporation )  
organized under the laws of Ras )  
Al Khiamah, United Arab Emirates, )  
KREAB (USA) INC., a corporation )  
organized under the laws of the )  
State of New York, )  
SHEIKH SAUD BIN SAQR AL )  
QASIMI, an individual and United )  
Arab Emirates Citizen, residing in )  
the United Arab Emirates, and )  
Emir of Ras Al Khaimah, United )  
Arab Emirates, sued in his )  
individual, and official capacity, )  
THE ARKIN GROUP LLC, a limited )



liability company organized under )  
the laws of the State of New York, )  
STRATEGY XXI HOLDINGS, INC., )  
a corporation organized under the )  
laws of the State of New York, a/k/a )  
STRATEGY XXI PARTNERS, a/k/a )  
STRATEGY XXI, )  
and, )  
STRATEGY XXI GROUP, LLC, )  
a limited liability company organized )  
under the laws of the State of New )  
York, a/k/a STRATEGY XXI )  
PARTNERS, a/k/a STRATEGY XXI, )  
 )  
Defendants. )  
\_\_\_\_\_ )

**THIRD AMENDED COMPLAINT**

NOW COMES OUSSAMA EL OMARI, Plaintiff in the above referenced action, by and through counsel, MOORE INTERNATIONAL LAW PLLC, as and for his Third Amended Complaint, states as follows:

***NATURE OF THE ACTION***

1) This is a suit for damages against the Defendants, jointly and severally, by Plaintiff, Oussama El Omari (“El Omari”), who was employed as a foreign worker for many successful and award winning years by the Ras Al Khaimah Free Trade Zone Authority (“RAKFTZA”), located in Ras Al Khaimah (“RAK”), United Arab Emirates (“UAE”). RAK is one of seven emirates composing the UAE. El Omari was hired initially in 1997 by the RAKFTZA, by and through, Sheikh Faisal bin Saqr Al Qassimi (“Sh.

Faisal”), and then a written agreement was entered into the next year on April 1, 1998 (“the Agreement”), hiring El Omari as Project and Marketing Manager to help create, operate, and promote the Ras Al Khiamah Free Trade Zone (“RAKFTZ”). 14 years later, El Omari was terminated on May 28, 2012 (“the Termination Date”), after a smear report on the operation of the RAKFTZ was commissioned from New York based, Defendant, Kreab (USA) Inc. (“Kreab”), by the new Ruler, H.H. Sheikh Saud bin Saqr Al Qasimi (“Sh. Saud”). On the Termination Date, El Omari held the position of CEO and Director General of the RAKFTZA, and had served on the RAKFTZA Board of Directors for 12 years since 2000. Sh. Faisal was replaced as Chairman of the RAKFTZA by Sh. Saud the following year in 2013. At the time of his termination, El Omari’s contracted pay was AED120,000 per month, or expressed in U.S. dollars, was US\$32,688 per month.

2) El Omari contested his termination in RAK, and exhausted his legal remedies in RAK, and was unable to invoke the jurisdiction of the RAK Rulers Court to enforce his contract rights under the terms of the Agreement. After Sh. Faisal was removed as Chairman of the RAKFTZA, El Omari was, and remains today, persecuted in the RAK Rulers Court, *in absentia*, without due process of law.

3) El Omari has suffered, *inter alia*, loss of end of service monies due and owing under the Agreement, out of pocket expenses, lost earnings from an inability to gain similar employment, emotional distress, and damage to his reputation.

4) El Omari was caught in a Royal family conflict and power play beginning on or about October

27, 2010, when then Ruler of RAK, H.H. Sheikh Saqr bin Mohammad al Qassimi (“Sh. Saqr”), died, and his son, Sh. Saud, became Ruler of RAK., who appointed his son, H.H. Sheikh Mohammed bin Saud bin Saqr Al Qasimi (“Sh. Mohammed”), as Crown Prince, rather than Sh. Faisal. Sh. Saud began to take steps to consolidate power, and undermine and remove his brother, Sh. Faisal, from positions of power in RAK, including the Chairmanship of RAKFTZA. As a false pretext for removal of Sh. Faisal, Sh. Saud caused the engagement of a smear report from Kream on the RAKFTZA operation of the RAKFTZ.

### ***THE PARTIES***

5) Plaintiff, El Omari, is an individual and citizen of the United States, and is resident of the State of North Carolina, at 2005 Riviera Ct., Raleigh, North Carolina.

6) Defendant, Ras Al Khaimah Free Trade Zone Authority, is an agency or instrumentality of the RAK, which is a political subdivision of the UAE, a foreign state, within the meaning of 28 U.S.C. § 1330(b). RAKFTZA is a separate legal person, corporate or otherwise, and is an organ of a foreign state or political subdivision thereof, or a majority of whose shares or other ownership interest is owned by a foreign state or political subdivision thereof, and is neither a citizen of a State of the United States, nor created under the laws of any third country.

7) Defendant, Ras Al Khaimah Free Trade Zone Authority, is a corporation created on May 1, 2000, under Article (5) of Decree No. 5 of 2000, known as “The RAK Free Zone Law”, by decree of Sh. Saqr, then

Ruler of RAK. Under Article (5), the RAKFTZA is established as an “independent authority” with “its own corporate identity” and “shall enjoy financial and administrative independence in respect of all its affairs and shall have full capacity to act”. Under Article (11), the RAKFTZA is managed by a five (5) member Board of Directors, and, under Article (12), the Board of Directors report to “H.H. the Ruler or Crown Prince and Deputy Ruler about the Free Zone operations”. Under Article (6), the objectives of the RAKFTZA are “the setting up, promotion, development, management, administration, regulation, operation and construction of the appropriate facilities of the Free Zone”. Under Article (2), three geographical areas were established and created as the “Free Zone”. Under Article (3), imports into and exports from, the Free Zone, are exempted from customs and excise taxes, and companies and individuals are exempted from all taxes for operations conducted within the Free Zone. El Omari, Sh. Faisal, and three other individuals were appointed to the initial Board of Directors by another Decree No. 5 in 2000, issued by Sh. Saqr. El Omari remained on the Board of Directors until the Termination Date. The principal place of business of RAKFTZA is located at P.O. Box 10055, RAK, UAE. The RAKFTZA has promotion offices in other countries, set up by El Omari, in Cologne, Germany, Istanbul, Turkey, Mumbai, India, and until 2015, in New York, for promotion of RAK Free Trade Zone business.

8) The office of RAKFTZA in New York, was New York County based RAK Dubai Business Centre L.L.C., (“RAK Business Centre”), a limited liability company organized on April 7, 2008, under the laws of the State of New York. The RAK Business Centre was

owned and controlled by RAKFTZA as the sole member. The RAK Business Centre was the alter ego and agent of RAKFTZA for the purpose of promoting the RAKFTZ in the United States market. Subsequently, Articles of Dissolution under Section 705 of the New York Limited Liability Company Law were filed on October 22, 2015, under the authority and personal signature of Shaikh Ahmad Saqer Mohamed Al Qasemi (“Sh. Ahmad”), the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. Presently, the RAK Business Centre remains a juridical person under Section 703(b) of the New York Limited Liability Company Law, which provides that “Upon dissolution of a limited liability company, the persons winding up the affairs of the limited liability company’s affairs may ... defend suits ....”

9) Defendant, Kreab (USA) Inc., is a corporation organized under the laws of the State of New York, and its principal place of business is located at 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. On March 7, 2016, Kreab changed its name from Kreab Gavin Anderson (USA) Inc., to its present name, Kreab (USA) Inc. According to the New York State, Department of State, Division of Corporations, the Chief Executive Officer of Kreab (USA) Inc. is P.M Peje Emilsson, located at Kreab AB, Floragatan 13, Stockholm, Sweden, and the Principal Executive Office of Kreab (USA) Inc. is located at Strategy XXI Group Ltd., 515 Madison Avenue, 34<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Andrew Frank (“Frank”), was the Managing Partner of Kreab at the New York office, and figured prominently in the fraud and termination of El Omari.

10) Defendant, Sheikh Saud bin Saqr Al Qasimi, is an individual and Citizen of the United Arab Emirates, residing in Ras Al Khaimah, United Arab Emirates, and is Emir of RAK, UAE, sued in his individual, and official capacity. As is common in the UAE, Sh. Saud is a member of a Royal Family having both government and private business positions and interests. Sh. Saud has been, and is, a private businessman, and simultaneously, has been the Emir and Ruler of the UAE emirate of RAK since 2010.

11) Defendant, The Arkin Group LLC, is a limited liability company organized under the laws of the State of New York, and its principal place of business is located at 750 Lexington Avenue, 25<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Jessica Levine and Mark Christopher were employees of the Defendant, The Arkin Group LLC, and were based at the said New York office, and the “TAG White Paper” was drafted, edited, and finalized by Mark Christopher using email communications at said New York office.

12) Defendant, Strategy XXI Holdings, Inc., a/k/a Strategy XXI Partners, a/k/a Strategy XXI, is a corporation organized under the laws of the State of New York, created during the scheme on July 11, 2011, with its principal place of business located at 515 Madison Avenue, 16<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Andrew Frank is an employee and managing partner at Kreab, Strategy XXI Group, LLC, and Strategy XXI Holdings, Inc., in New York County.

13) Defendant, Strategy XXI Group, LLC, a/k/a Strategy XXI Partners, a/k/a Strategy XXI, is a limited

liability company organized under the laws of the State of New York, created during the scheme on April 14, 2011, and merged out with Strategy XXI Holdings, Inc. on January 10, 2012, with its principal place of business located at 515 Madison Avenue, 16<sup>th</sup> Floor, New York, New York. At all times relevant to this complaint, Andrew Frank is an employee and managing partner at Kreab, Strategy XXI Group, LLC, and Strategy XXI Holdings, Inc., in New York County. At all times relevant to this complaint, Frank filed registration and related documents under oath with the U.S. Department of Justice, National Security Division, pursuant to the Foreign Agents Registration Act, 22 U.S.C. §§ 611 *et seq.*, on behalf of Kreab (Registration No. 5824) and Strategy XXI Group, LLC (Registration No. 6058), representing foreign agent lobbying services were rendered to the foreign principal, Ras Al Khaimah Investment Authority, UAE. At all times relevant to this complaint, the Chairman of the Ras Al Khaimah Investment Authority was Defendant, Sheikh Saud bin Saqr Al Qasimi.

#### ***JURISDICTION AND VENUE***

14) This court has diversity jurisdiction pursuant to 28 U.S.C. § 1332. The amount in controversy is relief requested by Plaintiff, El Omari, of monetary damages for no less than the amount of Ten Million US Dollars (US\$10,000,000).

15) This court has subject matter jurisdiction over the RAKFTZA pursuant to 28 U.S.C. § 1330(a), under the commercial activity immunity exception, 28 U.S.C. § 1605(a)(2), to the Foreign Sovereign Immunities Act, based upon a commercial activity

carried on in the United States by the foreign state, or upon an act performed in the United States in connection with a commercial activity of the foreign state elsewhere, or upon an act outside the territory of the United States in connection with a commercial activity of the foreign state elsewhere and that act caused a direct effect in the United States.

16) Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(2) and (f)(1).

17) Defendant, The Arkin Group LLC, is a limited liability company organized under the laws of the State of New York, with its principal place of business located at 750 Lexington Avenue, 25<sup>th</sup> Floor, New York, New York, (“TAG”).

18) Another company involved in the smear report scheme is Strategy XXI Holdings, Inc., d/b/a Strategy XXI Partners, a corporation organized under the laws of the State of New York, created during scheme on July 11, 2011, with its principal place of business located at 515 Madison Avenue, 16<sup>th</sup> Floor, New York, New York, (“Strategy XXI”). Frank, the Managing Partner of Kreab at Kreab’s New York office, is also an employee and/or partner at Strategy XXI.

19) Contacts with the United States by Sh. Saud, include but are not limited to:

- a) Sh. Saud resided in Ann Arbor, Michigan, and received a B.A. in Economics and Political Science from the University of Michigan, Ann Arbor, Michigan, on or about 1982.



- b) Sh. Saud was arrested for sexual assault of a hotel maid on criminal charges of Criminal Sexual Conduct in the 3<sup>rd</sup> and 4<sup>th</sup> Degrees, in Rochester, Minnesota, on June 10, 2005, during a visit to the Mayo Clinic in Rochester, Minnesota, where his now deceased father, Sh. Saqr, was a patient. The charges were dismissed approximately 6 months later for lack of probable cause. According to the Rochester police report, Sh. Saqr claimed Diplomatic Immunity at the time of his arrest, but the arresting officer reported contacting the U.S. Department of State, and was advised Sh. Saud was not on a list of foreign individuals with Diplomatic Immunity.
- c) Numerous meetings and exchange of emails with Kreab employees, in furtherance of the fraud, as further described herein.
- d) On a date after the Complaint was filed on May 25, 2016, but before July 31, 2016, unlawfully, falsely, and without due process of law, caused communication to U.S. Customs requesting the arrest of El Omari in the U.S. and to send El Omari to the UAE.

20) Contacts by RAKFTZA with New York County, a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, include but are not limited to:

App. 168

- a) On behalf of RAKFTZA, in or about 2008, El Omari traveled to New York County to review a suitable New York promotion office location on Madison Avenue.
- b) On behalf of RAKFTZA, on April 7, 2008, El Omari, by and through New York County counsel, Patton Boggs LLP, 1185 Avenue of the Americas, 30<sup>th</sup> Floor, New York New York, caused the formation of the RAK Dubai Business Centre L.L.C., under the laws of the State of New York, with its principal office in New York County, with the RAKFTZA being the sole member. The RAK Dubai Business Centre was formed as a completely owned and controlled company, and was the alter ego, and agent, of RAKFTZA for promotion of the RAKFTZ in the United States market, like RAKFTZA's promotion offices in Germany, Turkey, and India. The RAK Dubai Business Centre L.L.C. was never fully operational due to the U.S. recession. The RAK Dubai Business Centre L.L.C. was dissolved on October 22, 2015, by a dissolution filing with the New York Department of State under the authority and personal signature of Sh. Ahmad, the present Chairman of the RAKFTZA, who replaced Sh. Faisal by decree of Sh. Saud on March 5, 2013. The Articles of Dissolution were filed by New York County counsel, Jones Day, 222 East 41<sup>st</sup> Street, New York, New York.

- c) On behalf of RAKFTZA, in or about 2008, El Omari opened a RAK Business Centre bank account, at a Bank of America office in New York County. After El Omari's termination in 2012, Sh. Saud's Advisor, Salem Ali Al Sharhan, emailed Bank of America's office in New York County instructing that El Omari's name be removed from signing privileges.
- d) On behalf of RAKFTZA, in or about 2008, El Omari hired RAK Business Centre skeletal staff in New York County.
- e) On behalf of RAKFTZA, from 2010 to 2011, El Omari had email exchanges with Kreab's New York County office, regarding the TAG White Paper.
- f) On behalf of RAKFTZA, in 2011, El Omari traveled with RAKFTZA's in-house UAE legal advisor, Johnson George, to Kreab's New York County office, to complain of factual and other errors in the draft TAG White Paper.

21) The choice of jurisdiction clause under the Agreement is void. Since the Termination Date, El Omari has been denied basic due process of law in RAK to prosecute or defend claims under or related to the Agreement, to Wit: Upon termination of El Omari's employment on May 28, 2012, El Omari's UAE residency was illegally terminated on July 10, 2012, under UAE law applicable to foreign workers, which requires as a prerequisite, a signature by the foreign worker attesting that there are no labor payments

outstanding, which El Omari did not sign, and as such, El Omari has been denied the ability to be freely present in the UAE to prosecute or defend claims. El Omari has also been denied the basis due process right of a hearing on his termination and end of services monies due and owing.

- a) First, El Omari directly requested RAKFTZA pay his contracted end of service monies due, to which there was no response.
- b) Second, El Omari's UAE attorneys officially requested a certificate waiving RAKFTZA immunity from suit from the RAK Rulers Court. The Rulers Court first admitted receiving the waiver request and began its procedure, and then later denied even receipt of the waiver request.
- c) Third, El Omari wrote directly to Sh. Saud asking for his contracted end of service monies due and owing, to which there was no response.
- d) Fourth, in response to El Omari's contesting the lawfulness of his termination and seeking his contracted end of service monies due and owing, the RAKFTZA, after Sh. Faisal was replaced as Chairman, retaliated against El Omari by later asserting unsubstantiated and meritless allegations of wrongdoing by El Omari, and instituted civil and criminal suits against El Omari, *in absentia*, in the RAK Rulers Court. No proofs have ever been received against El Omari by

the Rulers Court in support of any RAK claim or judgment.

***FACTUAL BACKGROUND***

**A. Success of the new RAKFTZ under El Omari beginning in 1997.**

22) El Omari was born in Morocco, educated at international schools in Morocco and France, and the U.S., and holds a B.A. in Chemical Engineering and an M.B.A. At all times relevant to this complaint, El Omari was a U.S. Citizen and had his permanent residence in the State of North Carolina.

23) In March of 1997, El Omari was first hired in RAK, by Sh. Faisal, then Chairman of the RAKFTZA, under letter authority from Sh. Saqr, to head the pre-RAK Free Trade Zone, which later came into existence as the RAKFTZ in 2000, under The RAK Free Zone Law, by Decree No. 5 of Sh. Saqr.

24) The Agreement, dated April 1, 1998, hired El Omari as Project and Marketing Manager, and included a number of contractual rights, including an unlimited period of service (Par. 3), a two month advance notice of termination requirement (Par. 5, Sec. A), and an end of service gratuity, to be calculated under UAE Labour Law No. 8 of 1980, as amended (Par. 10). The two text languages of the Agreement were English and Arabic (Par. 12). The Agreement text governed interpretation, and where silent, UAE Labour Law No. 8, as amended, applied to conditions of service (Par. 13). Contract claims and disputes were to be resolved under jurisdiction of the RAK civil courts (Par. 14). There is no provision in the Agreement that the RAKFTZA was immune from suit. Nor was the

RAKFTZA granted immunity from suit under the RAKFTZA establishment clause, Article (5) of The Free Trade Zone Law.

25) During the fifteen year period between 1997 and 2012, El Omari reported directly to, and worked closely with, his direct supervisor, then RAKFTZA Chairman, Sh. Faisal. The period was characterized by successful growth of the RAKFTZ, the opening of promotion offices in Cologne, Germany, Istanbul, Turkey, and Mumbai, India, and New York, and award winning promotion and performance, with El Omari hosting and speaking at international trade zone conferences held in and out of the UAE. Among other awards, for 3 consecutive years, beginning in 2006, the RAKFTZ was recognized as the “Best Emerging Free Zone” at the Middle East Logistics Awards in Dubai, UAE. El Omari received promotions during his contract period, and on May 1, 2011, El Omari was awarded a new salary increase and promotion package by Sh. Faisal, and by that point in time El Omari held the posts of CEO & Director General of the RAKFTZA, and had sat on the RAKFTZA Board of Directors for 12 years.

**B. Kreab (USA) Inc., New York**

26) Defendant, Kreab (USA) Inc., holds itself out on its website (kreab.com) as a “small representative office in New York, which mainly focuses on financial and corporate communications” and serving corporate clients, not government clients, with a “tainted reputation”:

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**“Our expertise in New York**

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**We have a small representative office in New York, which mainly focuses on financial and corporate communications. Together with our global network of offices and affiliated firms, we offer our clients, from the large multinational to the small local firm, the best specialists for their particular needs.**

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**Corporate Communications**

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**A company or organisation’s reputation is one of the most decisive attributes in terms of how it is perceived by its primary and secondary stakeholders, be it customers, owners, decision makers or employees.**

A company with a tainted reputation and weak relations with influential stakeholders, whatever the reason, will suffer on the bottom line. We help our clients manage and obtain the desired profile and position on the markets in which they operate. This is crucial to ensure that the business is sustainable and profitable over time.

By employing Kreab as a strategic communications advisor, a company or

organisation can continue to focus on its core business.

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### **Financial Communications**

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**The financial market is ultimately a source of capital – the corporate lifeblood. Capital is gained from a range of investors, with whom a company needs to secure solid and good relations. Poor relations with or vague messages to this group of stakeholders may put capital at risk. Increasingly frequently, companies and the financial market have different interpretations which result in unnecessary losses or market fluctuations.**

The financial market is also highly regulated with policy makers constantly monitoring its operations. This adds to the need for appropriate relations with a broad range of stakeholders, beyond just investors. When Kreab advises clients on issues, it brings together financial and public affairs communications, including IPOs, deals requiring authority clearance or investments in publicly funded projects.



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**Public Affairs**

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**Our experts in public affairs communications help clients manage and build relations with decision and policy makers at all levels – local, regional, national and supranational.**

Decision makers are faced with opinions and requests at all times. Those who want to make their voice heard need to target decision makers effectively.

Through our broad network and extensive experience, we identify what is relevant to decision makers, attract their attention and point out how to contribute to their overarching vision and beliefs. Because understanding who decision makers and policy makers answer to is also key to attaining a share of voice, we always conduct a stakeholder analysis for each client and assignment.”

**C. The Arkin Group LLC, New York**

27) The Arkin Group LLC, holds itself out on its website (thearkinggroup.com) with the acronym, “TAG”, and as “an international risk consulting and intelligence firm” with high level U.S. “Central Intelligence Agency” background:

“The Arkin Group (“TAG”) is an international risk consulting and intelligence firm. Our mission is to use strategic intelligence and

prescient analysis to enable our clients to minimize risks and maximize payoffs when making critical business decisions. Founded in May 2000 by New York lawyer Stanley Arkin and Jack Devine, former chief of worldwide operations for the Central Intelligence Agency, the firm has completed hundreds of assignments in every region of the globe.

The Arkin Group is distinguished by our personal approach and tailored services. For each assignment, we create a unique game plan to achieve the client's specific goals. While we rely on a wide variety of investigative, forensic, communications and security tools, the hallmarks of the TAG methodology are sound analysis and well-sourced human intelligence.

The Arkin team of men and women hails from the nation's top universities and graduate programs and possesses experience in key U.S. government offices, international institutions and top consulting firms. We draw on vast domestic and international networks of area and functional experts, including intelligence professionals, law enforcement specialists, diplomats and policy makers, industry, business and finance analysts, leading academics, journalists, and specialized experts in forensic sciences and security."

**D. Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, New York**

28) Strategy XXI Holdings, Inc. d/b/a Strategy XXI Partners, holds itself out on its Strategy XXI

Partners website as “strategic communications and public affairs advisor to companies, countries and causes”:

“Protecting, Promoting and Managing Reputations Worldwide

ABOUT:

Strategy XXI Partners is a trusted strategic communications and public affairs advisor to companies, countries and causes.

We help our clients address complex challenges that affect their reputations. They turn to us to promote good news and protect against the fall-out from bad news, foster support for policy agendas and help expand market share.

The staff and senior advisors of Strategy XXI Partners have been counselors to C-suite leaders and heads of state. We have made our mark on Capitol Hill, Madison Avenue, Wall Street and civil society.

Now, combining local expertise with global perspective and transnational

SERVICES:

**Communications and Positioning**

**Corporate Responsibility**

**Alliance and Stakeholder Engagement**

**Governments: Branding, Investment, Tourism, Information**

**Crisis and Issues Management**

**Risk Assessment and Corporate Reputation**

**Sustainability Consulting and Reporting**

experience, we assist clients based overseas that face challenges in the U.S., as well as U.S.-based companies and institutions.”

**E. The 2010 death of Sheihk Saqr, appointment of Sheihk Saud as new Ruler of RAK, and the Commission of a New York Smear Report on the Operations of the RAKFTZ as a Pretext to Remove Sheihk Saud’s brother, RAKFTZA Chairman, Sheihk Faisal.**

29) On November 20, 2009, Kreab’s employee, Davis Hodge (“Hodge”) emailed a U.S. Public Relations Business Proposal (“the Kreab Proposal”), to El Omari, copied to Kreab’s employee, Andrew Frank (“Frank”), regarding promotion of the RAKFTZ in the United States market, without specifying any cost. El Omari operated the RAKFTZA promotion offices outside the UAE without outside public relations help, and, there was no proposed cost in the proposal. The Kreab Proposal was not accepted by El Omari.

30) On October 27, 2010, Sh. Saqr died, and his successor, then Crown Prince, Sh. Saud, was appointed Ruler of RAK. Unknown to El Omari at the time, arising out of a Royal family succession conflict, the new Ruler of RAK, Sh. Saud, began taking steps to consolidate power and to remove his brother, Sh. Faisal, from positions of power in RAK.

31) Amir Handjani (“Handjani”), employed by RAK Petroleum, UAE, had direct access to Sh. Saud, and on behalf of Sh. Saud, searched for and identified, The Arkin Group LLC, as the chosen entity to prepare

a smear report on the operation of the RAKFTZ, which by implication, would smear the operating authority, RAKFTZA, and its Chairman, Sh. Faisal.

32) TAG, the acronym used on its website, claims to have high level background in the U.S. Central Intelligence Agency. Later, Handjani would receive the draft TAG White Paper by email directly from Frank, and Handjani would then forward the draft TAG White Paper by email to Sh. Saud.

33) El Omari did not commission any review of the RAKFTZ from Kreab, TAG or any other party, and did not know about any review of RAKFTZ operations until the review was underway. Sh. Saud approved the review, and El Omari had no choice but to cooperate with the review.

34) On October 26, 2010, one day before Sh. Saqr died, Frank sent an email to Sh. Faisal, copied to El Omari, Handjani, and another Kreab employee, Jessica Levine, to arrange itinerary plans for a visit to RAK by TAG employee, Mark Christopher ("Christopher"). Frank stated Christopher is "putting together the reports and he will have meetings on his own" and Frank specified with whom in RAK, Christopher would like to meet. Frank stated in this email that he, Frank, would also be traveling to RAK, and Frank would be joined by another Kreab employee, Hodge, who would be "meeting" with Christopher. Hodge had earlier submitted the failed Kreab Proposal in 2009. The positions named in this email, individuals Frank said Christopher would like to meet, far exceeded the scope of a basic review of RAKFTZ operations, as indicated by among other positions, the following persons: RAK Investment Authority, RAK foreign relations, the

relationship between RAK and UAE, and activities of Iranian companies.

35) On or about January of 2011, about 2 months after Sh. Saud became Ruler of RAK, Christopher travelled to RAK to conduct field research over a period of approximately 3 weeks. Neither Kreab nor TAG disclosed that TAG was in fact hired by Kreab, and not by the RAKFTZA. Frank pushed through the TAG review and handled all communication with TAG. At the time, El Omari still did not know why the TAG review was being conducted, or the scope of the review.

36) In both the forthcoming draft and final versions of the smear report, styled by TAG as a “White Paper”, (“the TAG White Paper”), TAG falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations. TAG, in the methodology section in both the draft and final version of the TAG White Paper, stated the TAG factual research was conducted by Internet based research on RAKFTZ operations, but did not disclose sources, and stated that TAG conducted interviews in RAK, but withheld the names, and included negative hearsay statements by the unnamed sources. This secret source based fact research resulted in an unreliable factual basis of the TAG White Paper on its face.

37) In the analysis section of both the draft and final versions of the TAG White Paper, TAG applied, *inter alia*, many unspecified legal obligations relating to operation of the RAKFTZ, and unspecified United States and United Nations legal sanctions law against Iran, without citing many of the laws or legal provisions, and without stating or analyzing what legal obligations, if any, applied to RAKFTZ operations. This

resulted in an unreliable legal analysis on the face of the TAG White Paper.

38) The resulting draft and final TAG White Paper falsely stated that TAG was commissioned by the RAKFTZA to review RAKFTZ operations, and on its face, smeared the RAKFTZ with unreliable, unsubstantiated, and negative legal conclusions, including a heavy emphasis on alleged Iranian businesses operating within the RAKFTZ in suggested violation of United States and United Nations sanctions law.

39) On March 11, 2011, Frank emailed the Draft TAG White Paper, dated March 10, 2011, to Handjani.

40) Also on March 11, 2011, Handjani then forwarded the Draft TAG White Paper received from Frank, to El Omari, Sh. Faisal, and to Sh. Saud.

41) As such, Sh. Saud was kept informed of Kreab's smear progress by receiving the Draft TAG White Paper from Handjani, who received it from Frank. This cast the die and locked up the draft TAG White Paper from El Omari's efforts to correct fact errors and the overall negative thrust of the report.

42) El Omari and others at the RAKFTZA were alarmed at factual errors and the overall negative thrust of the Draft TAG White Paper. El Omari and RAKFTZA in-house legal counsel, Johnson M. George ("George"), prepared responses to the draft TAG White Paper which were emailed from Johnson to Frank, which in the end resulted in no substantive change.

43) Alarmed, and in an ultimately unsuccessful visit, El Omari and George traveled to New York to

meet with Kreab, and express RAKFTZA concerns about the errors and negative Draft TAG White Paper. El Omari and George met with 2 Kreab employees, Frank, and Frank's supervisor, at the Kreab office in New York.

44) On April 25, 2011, Frank delivered the final TAG White Paper by email to El Omari. The date on the delivered TAG White Paper was a future date, 3 days in the future, April 28, 2011. There were no substantive changes from the draft TAG White Paper.

45) On May 1, 2011, Frank sent an email to El Omari stating that Frank was planning to meet that day with Sh. Saud and Handjani.

46) After delivery of the final TAG White Paper, Sh. Saud personally called El Omari and directed El Omari to pay US\$35,000 to Kreab for the TAG White Paper, out of RAKFTZA funds, over El Omari's objections, since the RAKFTZA did not commission the TAG White Paper nor found it acceptable.

47) On July 7, 2011, Frank, also an employee and/or partner at Strategy XXI, used a Strategy XXI email account, and emailed a public relations business proposal from Strategy XXI to El Omari, with a proposed cost of US\$15,000 per month ("the Strategy XXI Proposal"). The Strategy XXI Proposal used a letterhead with the look and feel of the RAKFTZ logo and letterhead, which it was unauthorized to use. El Omari did not accept the Strategy XXI Proposal. Frank attempted to contact Sh. Saud in person at Sh. Saud's Palace in RAK about the Strategy XXI Proposal, but Sh. Saud was unresponsive and the meeting did not occur.



**F. The 2012 Termination of El Omari as CEO and Director General of RAKFTZA by an Advisor to Sh. Saud, while Sh. Faisal is still Chairman of RAKFTZA.**

48) On January 30, 2012, Sh. Saud issued Decree No. 3, appointing his Advisor, Salem Ali Al Sharhan (“Al Sharhan”), to oversee the RAKFTZA, without specifying Al Sharhan’s powers or duties. El Omari was still CEO and Director General, and Sh. Faisal was still Chairman of RAKFTZA. El Omari was directed by Sh. Saud to not speak with Sh. Faisal.

49) On May 28, 2012, while El Omari was traveling on RAKFTZA business outside the UAE, Sh. Saud signed and authorized a letter by Al Sharhan, under the same date, requesting authority to terminate El Omari as CEO and Director General.

50) On May 28, 2012, Al Sharhan emailed a letter to El Omari terminating El Omari from his positions of CEO and Director General of the RAKFTZA, with 1 month notice, effective June 30, 2012, for the stated reason of “re-structuring the RAKFTZ” (“the Termination Letter”). The Termination Letter breached the Agreement by 1) not giving the contracted 2 month notice of termination, and 2) failing to pay the contracted end of service gratuity. On the Termination Date, El Omari held the position of CEO and Director General of the RAKFTZA, at a pay rate of 120,000 United Arab Emirates Dirham (AED120,000) per month. The AED has been pegged to the U.S. Dollar since 1997 at an exchange rate of 1 U.S. dollar = 3.671 dirhams (1 dirham = US\$0.2724). On the Termination date, El Omari’s monthly pay in U.S.

Dollars, under this exchange rate, was US\$32,688 (120,000 dirham per month  $\times$  0.2724 US\$ per dirham).

51) On May 29, 2012, while still outside the UAE on RAKFTZA business, and per instructions from Sh. Faisal, El Omari sent a reply email back to Al Sharhan, stating that Al Sharhan's Termination Letter was "disapproved" by Sh. Faisal, Chairman of the RAKFTZA, and that El Omari remained in his positions unless instructed otherwise by Sh. Faisal.

52) On July 10, 2012, El Omari's UAE residency was terminated and had 30 days to leave the UAE; El Omari did not sign the residency termination document, which under UAE labor law, is required to be signed by the foreign worker prior to termination of residency. If signed, which it was not, the document also would acknowledge no labor payments were outstanding.

53) On July 18, 2012, Sh. Faisal signed a letter of recommendation for El Omari, stating his employment with the RAKFTZA was from March 1997 to June 30, 2012.

54) On December 1, 2012, Sh. Faisal, was still Chairman of the RAKFTZA, and retained the consulting services of El Omari as an advisor, under an agreement between GDS & Investment, a UAE corporation, (by El Omari) and the RAKFTZA (by Sh. Faisal), ("the GDS Agreement").

**G. The 2013 Removal of Sh. Faisal as Chairman of RAKFTZA by Sh. Saud, and appointment of their younger brother, Sh. Ahmed.**

55) On March 5, 2013, Sh. Saud issued a decree which removed Sh. Saud's brother, Sh. Faisal as Chairman and from the board of the RAKFTZA, and appointed in his place, their younger brother, Sheikh Ahmed Bin Saqr Al Qasimi ("Sh. Ahmed"), as Chairman of the RAKFTZA. Sh. Ahmed continues as Chairman to the present date. This public removal by Sh. Saud of Sh. Faisal, and replacement by his younger brother, Sh. Ahmed, was a disgrace of Sh. Faisal in front of the tribes of the small emirate of Ras Al Khaimah.

56) Under a personally signed letter dated March 17, 2013, Sh. Ahmed, the new Chairman of RAKFTZA, terminated the 3 month old GDS Agreement, effective that date, citing false allegations against El Omari, to Wit: "GDS proved gross negligence ... resulting in unjustified financial spending's [sic] and loss of profit". False allegations which have never been documented or otherwise proved in any subsequent RAK Rulers Court civil and criminal cases filed against El Omari in retaliation.

57) Upon advice of his UAE attorneys, El Omari took three recommended steps to exhaust his remedies under UAE law, to Wit: 1) El Omari wrote to the RAKFTZA asking for payment of his end of services gratuity, to which there was no response, 2) El Omar wrote to Sh. Saud asking for payment of his end of services gratuity, to which there was no response, and 3) On June 24, 2013, El Omari, by and through his UAE attorneys, submitted a request to the RAK Rulers

Court for a clearance certificate to sue the RAKFTZA, which was first admitted received by the Rulers Court for processing, and then later the Rulers Court claimed to have never received the filing.

58) On October 22, 2015, the RAKFTZA filed Articles of Dissolution of its New York promotion office, the RAK Dubai Business Centre, under authorization of and personal signature of Sh. Ahmed, the present Chairman of the RAKFTZA, which was filed with the New York Department of State.

59) After the TAG White Paper was delivered and his termination from the RAKFTZA, El Omari has been unable to find similar employment, has suffered out of pocket expenses, emotional distress, loss of earnings, and damage to his reputation.

60) The RAKFTZA, under Sh. Ahmed as Chairman, and the RAK Rulers Court, have denied El Omari due process of law, and have otherwise made invoking the jurisdiction of the RAK Rulers Court to resolve any contract claims an impossibility, and thus the contracted choice of jurisdiction clause in the Agreement is void.

61) El Omari now files the present complaint invoking the jurisdiction of this court.

62) Subsequent to filing the original Complaint, on Sunday, July 31, 2016, the day before RAKFTZA filed a pre-motion letter to dismiss the Complaint, El Omari was subjected to an incident on U.S. soil caused by and through Sh. Saud in retaliation for filing the Complaint, to Wit:

a) Upon landing by commercial flight at 5:55 pm, Sunday, July 31, 2016, at JFK Airport in New York, from an international trip, an unprecedented incident occurred at U.S. Customs. Sh. Saud had caused UAE authorities to request U.S. authorities to arrest El Omari in the U.S., and send El Omari to the UAE, where there is not an independent judiciary and where arbitrary arrests and detentions are well known by the U.S. Department of State. There is no extradition treaty between the UAE and the U.S. El Omari was detained, but not arrested, during this incident, was advised not to travel to the UAE, missed his connecting flight home, and stayed overnight in New York. Had the UAE request been honored by U.S. Customs, in light of the human rights position of the U.S. Department of State on the UAE, it is likely that El Omari would not have been heard of again.

b) More specifically, after arrival and when passing through U.S. Customs at JFK Airport, El Omari, the Customs questions turned to the UAE, and the Customs officer (“Customs officer No. 1”), while looking at a computer screen, stated that El Omari “must have serious problems with the UAE.” The Customs officer No. 1 further stated that “you had better be careful and not go to the UAE,” “they will arrest you and put you in jail,” “by the way, we do not have any exchange treaties with them, but you be careful.”

c) Customs officer No. 1 then detained El Omari and took El Omari to a separate room involving

U.S. Homeland Security. A different Customs officer (“Customs officer No. 2”), took El Omari’s U.S. passport and entered information into a computer, and looked perplexed at what she saw on the screen, causing Customs officer No. 2 to pause and stare at the screen for a while, not knowing what to do. After a few minutes, Customs officer No. 2 picked up a phone and called someone, and kept repeating information about El Omari. Customs officer No. 2 hung up the phone, waited a few minutes, and called again and had a few minutes further conversation. Following this second phone call, Customs officer No. 2 called El Omari’s name to where he was sitting, stamped El Omari’s paper, and handed El Omari his U.S. passport.

d) El Omari left the room with another U.S. Customs officer (“Customs officer No. 3”) who checked El Omari’s luggage, and El Omari left the airport.

e) El Omari missed his connecting flight home to North Carolina, and stayed overnight in New York.

f) All causing extreme emotional distress to El Omari.

**CAUSES OF ACTION**

***Count I***

**(As Against Defendant, Ras Al Khaimah Free  
Trade Zone Authority)**

***Breach of Contract***

63) El Omari repeats the previous paragraphs as if fully and completely restated herein.

64) El Omari and the RAKFTZA did enter into the Agreement, dated April 1, 1998, which provided for, *inter alia*, an indefinite period of labor services, a 2 month notice requirement prior to termination, and an end of service gratuity to be calculated under UAE Labour Law No. 8 of 1980, as amended, to be paid upon termination.

65) The RAKFTZA did breach the Agreement on May 28, 2012, by: 1) terminating the Agreement with only 1 month notice with an effective date of June 30, 2012, and 2) failing to pay any end of service gratuity under UAE Labour Law No. 8 of 1980, as amended, all of which remains due and owing.

66) The choice of jurisdiction clause in the Agreement for resolving claims and disputes under the Agreement is void as an impossibility and violates due process.

67) All to the injury of El Omari.

***Count II***

**(As Against Defendant, Kreab (USA) Inc.)**

***Fraud***

68) El Omari repeats the previous paragraphs as if fully and completely restated herein.

69) Kreab (USA) Inc.'s fraudulent scheme was composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on Kreab's acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- a) Kreab, by and through its employee and/or partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.
- b) Kreab, by and through Andrew Frank, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was paid a US\$35,000 fee, and Kreab knew the TAG White Paper falsely stated that TAG's services were



commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.

- c) Kreab, by and through Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.
  - d) El Omari and others at the RAKFTZA reasonably relied on Kreab's acts to be truthful.
  - e) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari.
- 70) All to the injury of El Omari.

***Count III***

**(As Against Defendant, Sheikh Saud bin Saqr Al Qasimi, in his individual, and official capacity)**

***Fraud***

71) El Omari repeats the previous paragraphs as if fully and completely restated herein.

72) Sheikh Saud bin Saqr Al Qasimi ("Sh. Saud"), in his individual, and official, capacity, acted unlawfully under the labor and other laws of the UAE,

and acted unlawfully under the laws of the United States, being a proximate cause of the fraud and the termination of El Omari.

73) Sh. Saud's acts in furtherance of Kreab (USA) Inc.'s fraudulent scheme were composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on Kreab's acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- a) Sh. Saud's acts in furtherance of Kreab, by and through Kreab's employee and/or partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.
- b) Sh. Saud's acts in furtherance of Kreab, by and through Andrew Frank, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on

RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was paid a US\$35,000 fee, and Kreab knew the TAG White Paper falsely stated that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.

- c) Sh. Saud's acts in furtherance of Kreab, by and through Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.
  - d) El Omari and others at the RAKFTZA reasonably relied on Kreab's acts to be truthful.
  - e) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, furthered by Sh. Saud, and subsequent injuries to El Omari.
- (74) All to the injury of El Omari.

***Count IV***

**(As Against Defendant, Sheikh Saud bin Saqr Al Qasimi, in his individual, and official capacity)**  
***Intentional Infliction of Emotional Distress***

75) El Omari repeats the previous paragraphs as if fully and completely restated herein.

76) Sheikh Saud bin Saqr Al Qasimi (“Sh. Saud”), in his individual, and official, capacity, acted unlawfully under the laws of the UAE, and acted unlawfully under the laws of the United States, and in retaliation against El Omari for filing the original Complaint, and with the intent to retaliate, punish, silence, intimidate, and remove El Omari from the U.S., did, between May 25, 2016 and July 31, 2016, cause an illegal, and arbitrary and capricious, communication to U.S. Customs of a request for El Omari to be arrested in New York and sent to and jailed in the UAE.

77) Sh. Saud’s acts in furtherance of this unlawful scheme to retaliate, punish, silence, intimidate, and remove El Omari from the U.S. was extreme and outrageous conduct, had the intent to cause, or disregard of a substantial probability of causing, severe emotional distress to El Omari, and was a proximate cause of extreme emotional distress to El Omari. Acts so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.

78) All to the injury of El Omari.

***Count V***  
**(As Against Defendant, The Arkin Group LLC)**  
***Fraud***

79) El Omari repeats the previous paragraphs as if fully and completely restated herein.

80) Defendant, The Arkin Group LLC, (“TAG”), individually, and together with Defendant, Kreab (USA) Inc., (“Kreab”), and Defendant, Sheikh Saud bin Saqr Al Qasimi, (“Sh. Saud”), did engage in a fraudulent scheme, composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on TAG’s acts, being a proximate cause of termination of the Agreement, and injury to El Omari:

- a) TAG, by and through its employee, Mark Christopher, individually, and together with Kreab’s employee, Andrew Frank, and Sh. Saud, did engage in a fraudulent scheme, where, TAG did fraudulently obtain a commission, and did draft, prepare, and deliver a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for lucrative government contracts between TAG and the RAK government, related to implementation of TAG’s own recommendations in TAG’s false smear report.

- b) TAG did not communicate directly with El Omari or the RAKFTZA, or negotiate any contract at arm's length with El Omari or the RAKFTZA, but instead used a deceptive line of communication around and bypassing El Omari and the RAKFTZA, and through the communication channel of Kreab to Sh. Saud, did negotiate with and did cause Sh. Saud to order the commissioning of TAG, without the knowledge or understanding of El Omari and the RAKFTZA, and TAG did prepare and deliver the smear report on RAKFTZ operations.
- c) TAG, by and through the communication channel with Kreab, did bypass El Omari and the RAKFTZA, and TAG did intentionally fail to communicate directly with El Omari and the RAKFTZA during the commission negotiation, and during the preparation, drafting, review, and delivery of the draft and final TAG White Paper, and did intentionally fail to adopt El Omari's, and RAKFTZA's in-house attorney, Johnson George's, written corrections to falsehoods in the draft TAG White Paper, as to what party engaged TAG, the scope of review, important facts, and other content in the draft TAG White Paper.
- d) TAG did knowingly deliver the TAG White Paper to Kreab, without correcting the falsehoods, and Kreab did deliver the TAG White Paper on April 25, 2011, and TAG knew the TAG White Paper falsely stated

that TAG's services were commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.

- e) The TAG White Paper had the false and deceptive appearance that El Omari and the RAKFTZA had directly and knowingly commissioned TAG at arms-length, defined the scope, and fully and directly participated with TAG in the preparation of TAG's White Paper, when the reality was that the TAG White Paper was a false and deceptive frame up of El Omari and the RAKFTZA.
  - f) El Omari and others at the RAKFTZA reasonably relied on TAG's acts to be truthful.
  - g) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari.
- 81) All to the injury of El Omari.

***Count VI***  
**(As Against Defendant, Ras Al Khaimah Free  
Trade Zone Authority)**  
***Fraud***

- 82) El Omari repeats the previous paragraphs as if fully and completely restated herein.

83) RAKFTZA, with intent to defraud, did falsify certain material employment related documents in September, 2012, four months after the termination of El Omar in May, 2012, to make it appear that End of Service monies due and owing were calculated and paid to El Omari, when in truth, El Omari did not authorize, affix his signature, accept, or receive any End of Service payment, to Wit:

- a) An RAKFTZA document titled “End of Service calculations - Mr. Oussama.”
- b) An RAKFTZA document titled “Payment Voucher,” dated September 25, 2012.
- c) A check drawn on Emirates NBD, dated September 25, 2012, naming “RAK Businessmen Centre” as drawer, and naming “Oussama El Omari” as drawee.

**Count VII**

**(As Against Defendant, Ras Al Khaimah Free  
Trade Zone Authority)  
*Violation of Computer Fraud and Abuse Act,  
18 USC §§ 1030, et seq.***

84) El Omari repeats the previous paragraphs as if fully and completely restated herein.

85) RAKFTZA, directly and/or through its agents, knowingly and intentionally caused computers in the United States containing the internal and confidential electronic data of El Omari to be accessed and damaged in violation of the Computer Fraud and Abuse Act, 18 USC § 1030(a)(5)(A), (B), and (C), by, *inter alia*, hacking into those computers for the purpose of



damaging the internal and confidential electronic data of El Omari, to Wit:

- a) A newly obtained document, dated January 25, 2017, from El Omari's computer expert, indicates that on March 15, 2014, El Omari's website, "Oussamaelomari.com", was hacked, and suffered an unusual and unprecedented sabotage which deleted the entire website. El Omari's personal computer was kept at his residence in North Carolina, except when traveling, and the website was, and is, hosted in Canada.
- b) El Omari's computer expert required the use of the expert's computers and El Omari's personal computer to rescue and re-instate said website, at El Omari's personal expense.

86) At the time of the violation, the computers that contained the internal and confidential electronic data of El Omari and that were accessed and damaged were used in, or affected, interstate commerce.

87) El Omari was directly and proximately injured by the violation of 18 USC § 1030(a)(5)(A), (B), and (C), including incurring costs and expenses to identify, investigate, analyze and address the violation. As of the filing hereof, such costs and expenses exceed the minimum \$5,000 requirement set forth in 18 USC § 1030(c)(4)(A)(i)(I).

88) All to the injury of El Omari.

***Count VIII***  
**(As Against Defendant, Ras Al Khaimah Free  
Trade Zone Authority)**  
***Aiding and Abetting a Violation of Computer  
Fraud and Abuse Act, 18 USC §§ 1030, et seq.***

89) El Omari repeats the previous paragraphs as if fully and completely restated herein.

90) RAKFTZA, directly and/or through its agents, knowingly and intentionally aided and abetted a person or persons to access and damage computers in the United States containing the internal and confidential electronic data of El Omari in violation of the Computer Fraud and Abuse Act, 18 USC § 1030(a)(5)(A), (B), and (C), by, *inter alia*, hacking into those computers for the purpose of damaging the internal and confidential electronic data of El Omari, to Wit:

- a) Newly obtained documentation from El Omari's computer expert, dated January 25, 2017, states that on or about March 15, 2014, El Omari's website, "Oussamaelomari.com", was hacked, and suffered an unusual and unprecedented sabotage which deleted the entire website. El Omari's personal computer was kept at his residence in North Carolina, except when traveling, and the website was, and is, hosted in Canada.
- b) El Omari's computer expert required the use of the expert's computers and El Omari's personal computer to rescue and re-instate said website, at El Omari's personal expense.

91) At the time of the violation, the computers that contained the internal and confidential electronic data of El Omari and that were accessed and damaged were used in, or affected, interstate commerce.

92) El Omari was directly and proximately injured by the actions of RAKFTZA and/or its agents in aiding and abetting the violation of 18 USC § 1030(a)(5)(A), (B), and (C), including incurring costs and expenses to identify, investigate, analyze and address the violation. As of the filing hereof, such costs and expenses exceed the minimum \$5,000 requirement set forth in 18 USC § 1030(c)(4)(A)(i)(I).

93) All to the injury of El Omari.

***Count IX***  
**(As Against Defendants, Strategy XXI Holdings, Inc., and Strategy XXI Group, LLC, a/k/a Strategy XXI Partners, a/k/a Strategy XXI)**  
***Fraud***

94) El Omari repeats the previous paragraphs as if fully and completely restated herein.

95) Defendants, Strategy XXI Holdings, Inc., and Strategy XXI Group, LLC, each individually, a/k/a Strategy XXI Partners, and a/k/a Strategy XXI, by and through their employee and managing partner, Andrew Frank, did engage in a fraudulent scheme composed of acts and omissions misrepresenting material facts about the commissioning, preparation, purpose, and payment of a false smear report (the TAG White Paper), knowledge of the falsity of the TAG White Paper on its face and as applied to the facts, knowledge of and engaging in the scheme, the reasonable reliance by El Omari and others on their acts, being a

proximate cause of termination of the Agreement, and injury to El Omari:

- a) In furtherance of the scheme, Strategy XXI Group, LLC, and Strategy XXI Holdings, Inc., were incorporated in April and July of 2011, respectively, near in the time to completion and delivery by Frank of the final version of TAG's White Paper to El Omari on or about April 25, 2011.
- b) In furtherance of the scheme, Frank moved employment from Kreab to Strategy XXI Group, LLC, on or about May 15, 2011, and Strategy XXI Group, LLC, merged out with Strategy XXI Holdings, Inc., on or about January, 2012, each using the name Strategy XXI and Strategy XXI Partners.
- c) Prior in time to completion and delivery of the TAG White Paper on or about April 25, 2011, Frank submitted sworn registration and related documents on behalf of Kreab to the U.S. Department of Justice, National Security Division, ("DOJ"), under the Foreign Agents Registration Act, 22 U.S.C. §§ 611 *et seq.*, ("FARA"), representing that Kreab was employed as a foreign lobbying agent, for and paid by its foreign principal, the Ras Al Khaimah Investment Authority, UAE, ("RAKIA"), and after completion of the TAG White Paper, Frank submitted sworn registration and related documents to the DOJ under FARA on behalf of Strategy XXI Group, LLC, representing that Strategy XXI Group, LLC, was employed as a foreign

lobbying agent, for and paid by its foreign principal RAKIA. Said employment relationships were concealed and not disclosed to El Omari or RAKFTZA. During the period alleged, the Chairman of the foreign principal, RAKIA, who had direct employment authority over Kreab and Strategy XXI Group, LLC, was Defendant, Sh. Saud.

- d) Strategy XXI Group, LLC, and Strategy XXI Holdings, Inc. , by and through their employee and managing partner, Andrew Frank, engaged in a fraudulent scheme after Kreab submitted an unsuccessful public relations proposal to the RAKFTZA for the United States market on November 20, 2009 (the Kreab Proposal), where, Kreab did cause the preparation and delivery of a false smear report on the operations of the RAKFTZ, to fraudulently generate demand for a second and more lucrative public relations proposal for the United States market (the Strategy XXI Proposal), to repair the anticipated tainted reputation of the RAKFTZ to be caused by the false smear report.
- e) Andrew Frank, in his employment capacities, did cause the commission of The Arkin Group LLC (TAG) to prepare and deliver the smear report on RAKFTZ operations, and Frank did deliver the TAG White Paper on April 25, 2011, for which Kreab was paid a US\$35,000 fee, and Frank knew the TAG White Paper falsely stated that TAG's services were

commissioned by the RAKFTZA, a falsity on its face, being a report not commissioned by El Omari, CEO & Director General of the RAKFTZA, and the TAG White Paper was otherwise false and misleading in its facts and negative analysis.

- f) Andrew Frank, after delivering the TAG White Paper to the RAKFTZA on April 25, 2011, did cause the Kreab Proposal to be resubmitted to the RAKFTZA, in the form of the Strategy XXI Proposal on July 7, 2011, for a proposed fee of US\$15,000 per month.
  - g) El Omari and others at the RAKFTZA reasonably relied on Frank's acts to be truthful.
  - h) The TAG White Paper was a proximate cause of El Omari's termination from the RAKFTZA, and subsequent injuries to El Omari.
- 96) All to the injury of El Omari.

***PRAYER FOR RELIEF***

**WHEREFORE**, Plaintiff, Oussama El Omari, seeks the following Relief:

***As to Count I***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,

- (c) lost earnings,
- (d) emotional distress,
- (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count II***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count III***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count IV***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) emotional distress,
  - (b) other and further compensatory and consequential damages,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.



***As to Count V***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count VI***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,

- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

***As to Count VII***

- 1) All statutory and compensatory damages incurred by Plaintiff as a result of the violations of 18 USC §§ 1030, *et seq.*,
- 2) Compensatory damages,
- 3) Punitive damages in an amount no less than Ten Million Dollars (US\$10,000,000),
- 4) Interest,
- 5) Attorney fees and expenses, and court costs, and
- 6) Such further and other relief as the Court deems just and proper.

***As to Count VIII***

- 1) All statutory and compensatory damages incurred by Plaintiff as a result of the violations of 18 USC §§ 1030, *et seq.*,
- 2) Compensatory damages,
- 3) Punitive damages in an amount no less than Ten Million Dollars (\$10,000,000),
- 4) Interest,
- 5) Attorney fees and expenses, and court costs, and
- 6) Such further and other relief as the Court deems just and proper.

***As to Count IX***

- 1) US\$10,000,000 in compensatory and consequential damages:
  - (a) end of service monies due and owing,
  - (b) out of pocket expenses,
  - (c) lost earnings,
  - (d) emotional distress,
  - (e) damage to reputation,
- 2) Punitive damages,
- 3) Interest,
- 4) Attorney fees and expenses, and court costs, and
- 5) Such further and other relief as the Court deems just and proper.

Dated: New York, New York  
April 19, 2017

MOORE INTERNATIONAL LAW PLLC.

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