

***His Highness Prince Karim Aga Khan v. Nagib Tajdin and Alnaz Jiwa et al.*, Reference Proceeding in Court File No. T-514-10 further to the Judgment of Mr. Justice Harrington dated March 4, 2011**

REVISED PLAINTIFF’S SUMMARY OF QUESTIONS REFUSED OR TAKEN UNDER ADVISEMENT - EXAMINATION FOR DISCOVERY OF ALNAZ JIWA HELD NOVEMBER 8, 2011

<u>Category 1: Conduct E-mail Searches for Relevant Documents</u>			
No.	Page Ref.	Plaintiff’s Question Summary and Defendant Position on Discovery	Defendant’s Responding Position
1.	pp. 22-23 l. 9-9 Q. 78-80	<u>REFUSAL:</u> To search the listserv ilm-net using the search terms “Golden Edition”, “Golden Kiz”, “Farmin”, “Firman”, “book” and “Talika” (as requested in the letter dated September 6, 2011, marked Exhibit No. 2) and produce all correspondence located with these searches?	<p>Refusal maintained with respect to producing all documents located therein.</p> <p>Documents relevant to the issues have been searched, located and produced.</p> <p>The question is too broad, and is in the nature of fishing expedition, and is not relevant.</p> <p>Furthermore, the words Firman, Farmin, book, Talika are common words in the vocabulary of all Ismailis and some discussions undertaken by Jiwa with his family, friends, and others (scholars, etc.) of intimate nature relating to their faith would have these words used, when totally unrelated to the issues at hand.</p> <p>The words Golden Kiz and Golden Edition were searched and relevant documents produced as noted above.</p> <p>Producing these documents as asked whether relevant or not would infringe the privacy interests and rights of Jiwa and of the third party (family and friends) who communicate relating to religious matters (all of these words are religious in nature) and the invasion of privacy is very serious without any meaningful, if at all, probative value, and cannot assist in determining the issues raised herein.</p>

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			<p>This question is improper as well as it is too broad and not restricted to the material period.</p>
2.	p. 55-56 l. 21-12 Q. 210-212	<p>REFUSAL: To produce all e-mails located from the search Mr. Jiwa conducted of alnazjiwa@hotmail.com using the search terms "Golden Edition" and "Golden Kiz".</p>	<p>Searched and relevant documents produced.</p> <p>Same answer as noted above. All emails to be produced is a draconian demand and for ulterior purposes not related to the issue of profits. Counsel has not provided any evidence as to why all of the emails are necessary or reasonable demand.</p> <p>Not relevant. Too broad, invasion of privacy, no probative value at all. Question is the nature of a fishing expedition, pure and simple.</p> <p>Counsel's questioning is not related to determining profits but to seek "information" whether or not related to the issues raised in this reference.</p> <p>Counsel also suggested, when challenged on the propriety of these line of questioning, by saying that he wants these to establish selling prices. Selling price is NOT RELEVANT as it is not an unadmitted fact, on the contrary the claim of the plaintiff expressly pleads that the books were sold for \$50.00.</p> <p>Counsel has not produced any evidence to support his unsubstantiated suggestion that books could have been sold for more than 50.00. In fact, documents produced by counsel for the plaintiff during the motions for summary judgment PROVES that the books were sold for \$50.00, or even less. (See page: 21 of Tab 2(a) of Tajdin's Motion Record returnable</p>

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			<p>on April 24, 2012), which is an email of Mr. Sachedina who has been instrumental in these proceedings.</p> <p>Furthermore, this question is improper as it is not restricted to the material period and seeks ALL documents.</p>
3.	pp. 69-70 l. 17-8 Q. 282-288	REFUSAL: To search all of Mr. Jiwa's e-mail addresses under "Farman", "Firman" and "Talika" and advise whether these searches are unworkable or not.	<p>These searched are workable, but these words are not relevant in determining profits.</p> <p>Not relevant, too broad, not restricted to material time, fishing expedition, privacy concerns, etc.</p> <p>Same grounds for refusals as set out above.</p>

Category 2: Identify Distributors

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4.	pp. 67-68 l. 24-9 Q. 272	<u>REFUSAL:</u> To provide the names and addresses of the book distributors.	<p>The proceeding herein is the proceeding to calculate profits. Names of distributors are not relevant. It is also in the nature of fishing expedition.</p> <p>Providing names of distributors will not establish how many books were published, nor will it give any probative value for the determination of costs and expenses or income.</p> <p>Mr. Tajdin has confirmed that he is not seeking deductions for free books given away or travel expenses etc., except the 193 books given to ITREB (Plaintiff's institution)</p> <p>The only relevant issues then remain outstanding, are how many books were published, and what is the cost of the printing and of the MP3 devices.</p> <p>Since sale price of \$50 is an admitted fact (pleaded by the plaintiff) it is not relevant to determine the gross revenues except by calculating the total of books published.</p> <p>Furthermore, if Tajdin accounts for ALL books published then whatever Jiwa bought and distributed (at same price of \$50) become immaterial to the calculation of his profits as profits would be accounted for under Tajdin's umbrella.</p> <p>This question, therefore, is not relevant, too broad, asked for ulterior purposes, invasion of privacy of individuals without much probative value in the answer as it would not help determine the issue of</p>

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5.	pp. 24-25 l. 21-13 Q. 123-128 [Jiwa transcript dated Oct. 19/11]	<u>REFUSAL:</u> To provide the names of the book distributors known to Mr. Jiwa.	Same response as noted above.
6.	pp. 28-29 l. 15-3 Q. 150-152 [Jiwa transcript dated Oct. 19/11]	<u>REFUSAL:</u> To identify the person from whom Mr. Jiwa received the 24 boxes of books that he distributed.	<p>Not relevant. Same answer as noted above, other than stating that once all books published are verified, whether or not the names of individuals are released is not material in that it will not assist in determining profits.</p> <p>Jiwa has pleaded this fact and answered this question on various occasions: during the cross-examination for the motions and Jiwa's evidence was NOT refuted or challenged on this point.</p> <p>Despite months since the Statement of Issues were filed, counsel has not produced one bit of evidence contradicting Jiwa's evidence, and on the contrary documentary evidence produced before the litigation was even commenced proves supports Jiwa's evidence.</p> <p>These type of questioning is asked to go behind the Judgement as Golden Edition already distributed and sold by Tajdin and Jiwa were not ordered to be returned.</p>

Category 6: Information on Free Books

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7.	p. 63, 67 l. 3-15 Q. 250-251, 271	<u>REFUSAL:</u> To prepare a list of all persons who received a free copy of the book from Mr. Jiwa.	NOT relevant. Questioning for improper purpose. Judgment does not require the return of these books. Names will not provide any probative value to establishing profits. Counsel has pleaded that serd Pleading in the Claim. Invasion of privacy without any probative value.
8.	p. 67 l. 17-23 Q. 271	<u>REFUSAL:</u> To provide the names and addresses of all those who received a free copy of the book.	Not relevant. Jiwa bought the books at same price as he sold them. Jiwa is not seeking to deduct the value of the free books given away as an expense and has agreed to pay for all books without even deducting 18 books given to ITREB. Invasion of privacy without any probative value of this evidence.
9.	pp. 39-41 l. 3-18 Q. 198-209 [Jiwa transcript dated Oct. 19/11]	<u>REFUSAL:</u> To provide a list of every person to whom Mr. Jiwa can recall that he distributed a book.	Not relevant, abuse of process by counsel. See answers above, specifically invasion of privacy without probative value, books not ordered returned, and will not assist in determining values. Jiwa has agreed that whether or not he received payments for distributing the books, he will pay the full amount of \$4,800.00 for 96 books he bought and distributed, without deducting 18 books given away after Judgment to ITREB, and even if it considered double dipping once Tajdin accounts for all published books.