

**FEDERAL COURT**

BETWEEN:

**HIS HIGHNESS PRINCE KARIM AGA KHAN**

Plaintiff

- and -

**NAGIB TAJDIN, ALNAZ JIWA, JOHN DOE and DOE CO.  
and all other persons or entities unknown to the Plaintiff who are reproducing,  
publishing, promoting and/or authorizing the reproduction and  
promotion of the Infringing Materials**

Defendants

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**REQUISITION**

(Rule 155 (1) of the *Federal Courts Rules*)

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**TO THE ADMINISTRATOR:**

Please bring this requisition to the attention of Prothonotary Martha Milczynski, referee.

The Plaintiff, His Highness Prince Karim Aga Khan (the "Plaintiff"), requests a Reference in these proceedings for the reasons set out below:

1. By Statement of Claim dated April 28, 2010, the Plaintiff commenced this action against the Defendants, Nagib Tajdin and Alnaz Jiwa (collectively, the

“Defendants”) seeking various relief in connection with the Plaintiff’s copyright in “Farmans” (addresses given by the Plaintiff) and “Talikas” (brief written religious messages). The Defendants have reproduced the Plaintiff’s Farmans and Talikas in whole or in part in a book which was published and distributed by them entitled, “Farmans 1957-2009- Golden Edition Kalam-E Imam-E-Zaman” (the “Golden Edition”) and by reproducing the Farmans and Talikas contained therein (the “Infringing Materials”).

- Reasons for Judgment of The Honourable Mr. Justice Harrington dated January 7, 2011 as amended on January 13, 2011 (“Reasons for Judgment”), Appendix “A”, Tab 1
2. Following the close of pleadings, the parties brought cross motions for summary judgment. These motions were heard on December 7 and 8, 2010 before The Honorable Mr. Justice Harrington.
  3. Justice Harrington issued Reasons for Judgment dated January 7, 2011 and amended on January 13, 2011 (the “Reasons for Judgment”), granting the Plaintiff’s motion for summary judgment and dismissing the Defendants’ motions for summary judgment. Justice Harrington issued an interlocutory order on January 7, 2011 enjoining the Defendants, and others working with them, from carrying out the infringing activities.
    - Interlocutory Injunction issued by The Honourable Mr. Justice Harrington dated January 7, 2011, Appendix “A”, Tab 2
  4. Judgment issued on March 4, 2011 (the “Judgment”).
    - Judgment of The Honourable Mr. Justice Harrington dated March 4, 2011 (“Judgment”), Appendix “A”, Tab 3

5. In his Reasons for Judgment and Judgment, Mr. Justice Harrington declared the Plaintiff to be owner of copyright subsisting in the Farmans and Talikas and found that the Defendants had infringed the Plaintiff's copyright. Justice Harrington granted the Plaintiff declaratory relief and a permanent injunction and delivery up. .

- Reasons for Judgment, para. 70, Appendix "A", Tab 1
- Judgment, paras. 1-4, Appendix "A", Tab 3

6. The Plaintiff had also claimed damages for infringement of his copyright and an accounting of all revenues received and profits made by the Defendants from the sale of any and all copies of the Infringing Materials. Justice Harrington ordered the following in respect of that claim:

There shall be a reference to a judge or other person designated by the Chief Justice of the Federal Court for the determination of damages or profits owing to the plaintiff, with any such damage or profits to be payable to the to the Aga Khan Development Network (AKDN) Foundation, or such other non-profit organization or purpose as he may see fit. Directions regarding the conduct of the reference shall be made by the referee designated by the Chief Justice.

- Judgment, para. 7, Appendix "A", Tab 3

7. Justice Harrington also ordered "pre-judgment and post-judgment interest on any amount awarded in the reference for damages or profits shall be paid to the plaintiff as determined in accordance with the reference."

- Judgment, para. 8, Appendix "A", Tab 3

8. Pursuant to the Order of the Chief Justice dated March 16, 2011, Prothonotary Martha Milczynski was designed as referee ( the Referee) for the purpose of

determining the quantum of damages referred to in the order of Justice Harrington

- Order of the Chief Justice Appendix “A” Tab
9. The Plaintiff therefore has a legal right to recover, from the Defendants, either the damages suffered by him, or the profits realized by the Defendants, as a result of the Defendants’ infringing activities.
  10. The Plaintiff hereby elects an accounting of the Defendants’ profits, rather than the Plaintiff’s damages, and now seeks to have the quantum of said profits determined by way of a Reference

As a result of the foregoing, **THE PLAINTIFF REQUESTS THAT:**

11. The Referee schedule a reference to quantify the profits realized by the Defendants as a result of their infringement, pursuant to Rule 153 *et seq.* of the *Federal Courts Rules*, in accordance with the issues identified in the Plaintiff’s Statement of Issues;
12. A timetable be set for the conduct of the Reference, including discovery of the Defendants, pursuant to Rules 3, 153(2), 156 and 157 by the Referee;
13. The Reference be heard in Toronto; and
14. Such further and other direction as counsel may advise and this Honourable Court may permit.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED.**

March 29, 2011

*Ogilvy Renault LLP per BW Gray*  
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**Solicitors for His Highness**  
**Prince Karim Aga Khan**

**TO: THE ADMINISTRATOR**  
**FEDERAL COURT**

**AND TO: NAGIB TAJDIN**  
8462 Mountain Sight  
Montreal, Quebec, H4P 2B9 and  
P.O. Box 38236-00623, Parklands  
Nairobi, Kenya

**AND TO: ALNAZ JIWA**  
Jiwa & Associates  
805 Middlefield Road, Unit 215  
Scarborough, Ontario, M1V 4Z6

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