

Your Ref.

Our Ref.

NG/RR12104

26th November 2024

Charles Simpson
Triay Lawyers
28 Irish Town
Gibraltar

By Email and By Hand

Dear Sirs,

Re: Inquiry into the early retirement of Mr Ian McGrail – Letter on behalf of Mr Paul Richardson

This letter has been drafted by and is sent on behalf of those representing Mr Paul Richardson, i.e. Mr Patrick Gibbs KC and Mrs Mariel Irvine.

Thank you for the opportunity to comment on the further submissions document from Hassans, dated 8th October 2024, entitled ‘Supplementary Observations’.

This second dense and lengthy document is designed to the same ends as its forerunner: to make whatever argument it can, whether substantive or procedural, towards things which the Inquiry has been at pains to say that it will not determine, most notably the lawfulness of the warrants.

Like its forerunner this second bite is an extension of Hassans’ earlier tactical decisions:

- (i) not to apply to challenge the warrants by judicial review, for tactical reasons;
- (ii) not to apply in December 2023 for Core Participant status, for tactical reasons;
- (iii) not to apply in March 2024 for Core Participant status, for tactical reasons;
- (iv) not to apply before during or after Mr Levy’s and Mr Baglietto’s evidence for Core Participant status, for tactical reasons; but instead
- (v) to serve further evidence from Mr Mills (3rd May), Mr Baglietto (3rd May) and Mr Moshe Levy (6th May) in support of their answers; followed by

- (vi) 39 pages of legal submissions, delivered just before closing oral submissions, which amount to one side only of a long-out-of-time judicial review challenge which had previously been deliberately avoided, for tactical reasons.

There was and there is a proper way for Hassans to make to the Inquiry the submissions which it now seeks to advance. The proper way was to apply to be a Core Participant and to make submissions and ask questions like everyone else. The proper way now is to respond – in as much detail as it wishes – to whatever *Maxwell* letters either Mr Levy or Mr Baglietto, as non-CP witnesses, may receive from the Inquiry.

As for the explanations now pleaded by ‘supplementary observation’ –

- (a) Is it suggested that Mr Levy and Mr Baglietto and Hassans did not know throughout what they were doing, what they had done, and why it mattered to the Inquiry?
- (b) Were they not themselves senior and experienced lawyers?
- (c) Were they not advised, immediately, and continuously, both internally and externally, by other senior and experienced lawyers?
- (d) Did they not weigh up, throughout, the tactical niceties of the decisions before them?
- (e) Is it really suggested that Hassans was hindered by impecuniosity from making the application that it could have made at the time(s) when it should have made it?
- (f) That Hassans did not foresee the potential advantages and disadvantages of making that application?
- (g) That it had insufficient notice?

Hassans original submissions have been re-heated in these ‘Supplementary Observations’. May we therefore repeat, for the Inquiry’s convenience, the three short observations which we made in July.

1. The timing of this correspondence from Hassans is unusual and irregular.
 - (a) Mr Jaime Levy and/or Mr Baglietto and/or Hassans could have applied for core participant status at any time,
 - (i) before the Inquiry hearings began, when it was plain that RGP’s treatment of Mr Levy and *vice versa* were bound to be of central concern, or
 - (ii) when Mr Levy and Mr Baglietto were asked to provide witness statements, or
 - (iii) on publication of the list of witnesses to be called, or

- (iv) when opening statements were delivered, or
 - (v) when Mr Richardson and then Mr Wyan and then Mr Clarke gave evidence, or
 - (vi) when Mr Llamas and then Mr Rocca and then Mr Devincenzi gave evidence, or
 - (vii) when Mr Levy and then Mr Baglietto gave evidence, or
 - (viii) when Mr Picardo gave evidence, or
 - (ix) at any other time.
- (b) Any such application would have been considered carefully by the Chairman and, if granted, would have given the applicant(s) the rights enjoyed by other CPs, namely to question or suggest questions for witnesses (in accordance with their classification), to make opening and closing submissions about the evidence, and to make submissions to the Chairman about matters of law, fact and procedure.
- (c) Mr Levy and Mr Baglietto will have kept, and been kept, abreast of the Inquiry process and evidence from first to last.
- (d) Expense will not have impeded Hassans between the 12th May 2020 and the 22nd June 2024 from assembling legal advice about what to say and do, and when, and how, first about the warrants and the RGP interview request, then about and throughout the Inquiry process, and now most recently about this correspondence.
- (e) Nothing happened during the Inquiry main hearing which could not reasonably have been anticipated.
- (f) A decision was made initially, and thereafter, at all stages, on behalf of four of the five Hassans witnesses – Mr Picardo was already a core participant – not to apply for CP status.
- (g) Instead, 39 pages of legal submissions were delivered just before the designated core participants were to deliver and the Chairman was to hear closing oral submissions, too late for others to do anything more than skim them and register exasperation.
2. Mr Friedman's Submission is mainly directed towards things which the Inquiry has been at pains to say that it will not determine, most notably the lawfulness of the warrants. Paragraph 44 *[of the 39 page document]* gathers the arguments together into a surprising request.
- (a) On behalf of Mr Richardson, and honouring the Chairman's firm indication, we have expressly avoided being drawn into the strength or detail of the criminal case against the Delhi suspects who were charged.

- (b) Even more so have we avoided being drawn into the strength or detail of the potential evidence against Mr Levy, who although suspected was not even charged, save to the extent that the Chairman has had to understand the material and thinking which led to the RGP warrants application and caution interview plan.
 - (c) On behalf of Mr Richardson, and honouring the Chairman's second firm indication, we have expressly avoided being drawn into the sort of arguments which would have been appropriate had Mr Levy or Hassans challenged the warrants by way of Judicial Review. As we acknowledged in closing, there are plenty of arguments that might have been made on both sides – some were nodded to in paragraph 14 of our closing submissions in writing – but none of them was developed in this Inquiry, at the Inquiry's request.
 - (d) Without disrespect to Mr Friedman's long Submission document – in effect a full contrary narrative and one side of a hypothetical Judicial Review contest that never was and never will be – we do not propose to embark now, after the Inquiry has closed its doors, upon a postscript deconstruction of comprehensive assertions and contentions which the Inquiry has taken such care to avoid.
 - (e) On behalf of Mr Richardson, a full CP, 13 pages of more generously formatted Closing Submissions sufficed to honour what was and what was not to be determined.
 - (f) To the extent that the Submission seeks to exonerate / excuse / explain Mr Picardo and Mr Llamas in their contact with Mr Levy and/or Mr Baglietto – by arguing that that contact was entirely proper on the part of the latter two – may we refer the Chairman instead to the complementary submissions made on behalf of Mr Picardo and Mr Llamas, who were and are CPs.
3. Mr Baglietto's letter and his counsel's 'Submission on behalf of the Hassans witnesses' are correspondence between two witnesses and the solicitor to the Inquiry. They are not evidence, nor are they submissions from designated core participants. They fall outside the categories of documents which an Inquiry will publish on its website. It would be most unfair for such an accusatory narrative to be published in that way, at this time, when no witness can be recalled to address it (even if it were within scope, which all CPs agree it is not). By contrast, if either Mr Levy or Mr Baglietto were to receive *Maxwell* letters from the Inquiry, Mr Richardson would not be able to object to part(s) of the Submission being included in correspondence in response.

Yours faithfully,


Charles Gomez & Co

As agent for Mrs Mariel Irvine for Mr Paul Richardson