

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

THOMAS BURNETT, SR., et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	MSC 04-203 (RBW)
	)	
AL BARAKA INVESTMENT & DEVELOPMENT CORP., et al.,	)	
	)	
Defendants.	)	
	)	

**DECLARATION OF JOHN ASHCROFT**

I, John Ashcroft, declare as follows:

1. I am the Attorney General of the United States and head of the United States Department of Justice ("DOJ"), an Executive Department of the United States. See 28 U.S.C. §§ 501, 503, 509.

2. My statements in this declaration are based on my personal knowledge, on information provided to me in my official capacity, and on my evaluation of that information. In personally considering this matter, I have considered my classified declaration dated October 18, 2002, and submitted in support of my state secrets privilege declaration in Edmonds v. DOJ et al., 02-CV-1448 (RBW). In addition, I have reviewed and considered two classified declarations by Bruce J. Gebhardt, the Deputy Director of the Federal Bureau of Investigation (FBI), one dated October 17, 2002 and submitted in support of my state secrets privilege declaration in Edmonds v. DOJ et al., and the other dated May 12, 2004 and submitted in support of my state secrets privilege assertion in Edmonds v. DOJ et al., as well as in support of this state secrets privilege assertion with respect to the proposed deposition testimony of Sibel Edmonds in

Burnett v. Al Baraka Investment and Development Corp., MSC 04-203 (RBW) (Case Number 03 CV 9849 (RCC), Consolidated in 03 MD 1579 (RCC) (S.D.N.Y.)). (These classified declarations will be provided to the Court for ex parte, in camera review, and set forth in more detail the privileged information described herein, as well as information too sensitive to discuss on the public record.) My purpose in submitting this Declaration is to assert, at the request of the Director of the Federal Bureau of Investigation, and in my capacity as Attorney General and head of the Department of Justice, a formal claim of the state secrets privilege in order to protect the foreign policy and national security interests of the United States.

3. As Attorney General, I possess original classification authority under § 1.4 of Executive Order 12958, dated April 17, 1995. 60 Fed. Reg. 19825. My October 18, 2002 classified declaration submitted in Edmonds v. DOJ et al., as well as the two classified Gebhardt Declarations, on which I rely in this case, are properly classified under § 1.3 of Executive Order 12958 because the public disclosure of the information contained in those declarations could reasonably be expected to cause serious damage to the foreign policy and national security of the United States.

4. I understand that on April 13, 2004, Sibel Edmonds, a former contract linguist with the FBI, was subpoenaed to give deposition testimony in Burnett v. Al Baraka. Ms. Edmonds is also the plaintiff in Edmonds v. DOJ, et al., in which I asserted the state secrets privilege over certain information at the heart of that case.


5. I have reviewed Ms. Edmonds' subpoena in the Burnett case, and based on my personal consideration of the matter, I have concluded that any testimony by Ms. Edmonds with respect to the proposed deposition topics as set forth in Attachment A to the subpoena would

necessitate disclosure of classified information, including identification and discussion of the nature of plaintiff's duties with the FBI, which disclosure reasonably could be expected to cause serious damage to the national security interests of the United States. Any further elaboration on the public record concerning this matter would reveal information that could cause the very harms my assertion of the state secrets privilege is intended to prevent. The classified declarations that I considered in making this privilege assertion provide a more detailed explanation of the information at issue and the harms to national security that would result from its disclosure.

6. Accordingly, I formally invoke the state secrets privilege to prevent the disclosure of the information detailed in the in camera, ex parte declarations.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed this 13<sup>th</sup> day of May, 2004 in Washington, D.C.

  
JOHN ASHCROFT  
Attorney General of the United States