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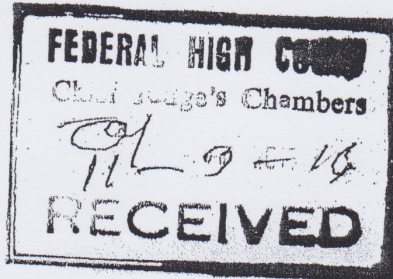
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REF NO: EES/01/11/03/16

11th March, 2016

The Honourable Chief Judge
of the Federal High Court,
Federal High Court Headquarters,
Abuja.



My Noble Lord,

RE: REQUEST FOR TRANSFER OF CHIEF OLISA METUH AND DESTRA INVESTMENTS LIMITED'S CASE IN CHARGE NO FHC/ABJ/CR/5/2016 – FEDERAL REPUBLIC OF NIGERIA V. OLISA METUH AND DESTRA INVESTMENTS LIMITED

We are part of the legal team of the Defendants in the above Case in which Chief Olisa Metuh is the 1st Defendant and his private limited liability Company is the 2nd Defendant. We write on their instructions.

It is the brief of the Defendants that the 1st Defendant (Chief Olisa Metuh) was called to the Nigerian Bar alongside the Honourable Justice O. E Abang, the presiding Judge in the above Charge in 1988 and after their call, they both practised Law in Lagos for many years before he (Chief Metuh) relocated to Abuja where he has since lived and Honourable Justice Abang on his part, took to the bench.

The 1st Defendant further informed us that the last time he met with the Honourable Justice Abang was sometime late last year at Meridien Hotel in Akwa Ibom where they had time to talk on many issues. Chief Metuh informed us that he was baffled at Honourable Justice Abang's views and when eventually the Charge against him was assigned to his Court this January (a few weeks later), he got very worried because he feared that he may not get justice in his Court.

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My Lord, at the point this Case was assigned to Honourable Justice Abang, the 1st Defendant informed us (his lawyers) that he desired to be tried by any other Judge in Nigeria but Honourable Justice Abang but we held the view that his opinion was premature as there were no facts to back it up.

On the 14th day of January, 2015, the above Charge was filed against the Defendants and they were arraigned on the 15th day of January, 2015.

The Charge against the Defendants was amended and filed on 16/2/2016 and it reads as follows:

- (1) That you, Olisa Metuh and Destra Investments Limited on or about the 24th November, 2014 in Abuja within the jurisdiction of this Honourable Court **directly** took possession or control of the sum of **₦400,000,000.00 (Four Hundred Million Naira)** only paid into the account of DESTRA INVESTMENTS LIMITED with DIAMOND BANK PLC, Account No. 0040437573 from the account of the Office of the National Security Adviser with the Central Bank of Nigeria without contract award when you reasonably ought to have known that the said fund formed part of the proceeds of an unlawful activity of Col. Mohammed Sambo Dasuki (Rtd) the then National Security Adviser (To wit: criminal breach of trust and corruption) and thereby committed an offence contrary to Section 15(2), (d) of the Money Laundering (Prohibition) Act, 2011 as amended in 2012 and punishable under Section 15(3) of the same Act.
- (2) That you, Olisa Metuh and Destra Investments Limited on or about the 24th November, 2014 in Abuja within the jurisdiction of this Honourable Court **directly** converted the sum of **₦400,000,000.00 (Four Hundred Million Naira)** only which sum was transferred from the account of the Office of the National Security Adviser, with the Central Bank of Nigeria without contract award, which you claim to have received for political activities of the Peoples Democratic Party when you reasonably ought to have known that the said funds **formed** part of the proceeds of an unlawful activity of Col. Mohammed Sambo Dasuki (Rtd) the then National Security Adviser (To Wit: criminal breach of trust and corruption) and you there by committed an offence contrary to Section 15(2) **(b)** of the Money Laundering (Prohibition) Act, 2011 as amended in 2012 and punishable under Section 15(3) of the same Act.
- (3) That you, Olisa Metuh and Destra Investments Limited on or about the 24th November, 2014 in Abuja within the jurisdiction of this Honourable Court did retain the sum of **₦400,000,000.00 (Four Hundred Million Naira)** only on behalf of the Peoples Democratic Party for its campaign activities by concealing the said sum in your account with Diamond Plc, when you reasonably ought to

have known that such fund **directly represented** the proceeds of an unlawful activity of Col. Mohammed Sambo Dasuki (Rtd), the then National Security Adviser, (to wit: criminal breach of trust and corruption), and you thereby committed an offence contrary to Section 17(b) of the Money Laundering (Prohibition) Act, 2011 as amended in 2012 and punishable under Section 17(b) of the same Act.

- (4) That you, Olisa Metuh and Destra Investments Limited between the 24th November, 2014 and March 2015 in Abuja, within the jurisdiction of this Honourable Court having reason to know that an aggregate sum of **₦400,000,000.00 (Four Hundred Million Naira)** only directly represented the proceeds of an unlawful activity of Col. Mohammed Sambo Dasuki (Rtd), the then National Security Adviser, (to wit: Criminal Breach of Trust and Corruption) in respect of the said amount used the said fund for the campaign activities of the Peoples Democratic Party and other personal purposes and thereby committed an offence contrary to Section 15(2) (d) of the Money Laundering (Prohibition) Act, 2011 as amended in 2012 and punishable under Section 15(3) and (4) of the same Act.
- (5) That you, Olisah Metuh and Destra Investments Limited on or about the 2nd December, 2014 in Abuja within the jurisdiction of this Honourable Court did make a cash payment through your agent one Nneka Nicole Ararume to one Kabiru Ibrahim, a non financial institution to the tune of **\$1,000,000.00 USD (One Million US Dollars)** only and thereby committed an offence contrary to Section 1 of the Money Laundering (Prohibition) Act, 2011 as amended in 2012 and punishable under Section 16(2) **(d)** of the same Act.
- (6) That you, Olisa Metuh and Destra Investments Limited on about the 2nd December, 2014 in Abuja within the jurisdiction of this Honourable Court did make a cash payment through your agent one Nneka Nicole Ararume to one Sie Iyenome of Capital Field Investment, to the tune of **\$1,000,000.00 USD (One Million US Dollars)** only and thereby committed an offence contrary to Section 1 of the Money Laundering (Prohibition) Act, 2011 as amended in 2012 and punishable under Section 16(2) **(d)** of the same Act.
- (7) That you, Olisa Metuh and Destra Investments Limited on or about the 24th December, 2014 in Abuja within the jurisdiction of this Honourable Court did **directly** transfer the sum of **₦21,776,000.00 (Twenty-One Million, Seven Hundred and Seventy-Six Thousand Naira)** only to **Chief Anthony Anenih** being part of the sum of **₦400,000,000.00 (Four Hundred Million Naira)** which **you reasonably ought to have known that the said fund** represented the proceeds of an unlawful activity of Col. Mohammed Sambo Dasuki (Rtd), the then National Security Adviser, (to wit: criminal breach of trust and

corruption) and thereby committed an offence contrary to Section 15(2) (b) of the Money Laundering (Prohibition) Act, 2011 as amended in 2012 and punishable under Section 15(3) of the same Act.

The facts relied upon by the Defendants in requesting that their case be transferred to any other Judge as given by the 1st Defendant to us are as follows:

- (1) Upon granting the 1st Defendant's Application for bail on the 19th day of January, 2016, the learned trial Judge gave very stringent conditions of bail and part of the conditions was that the two Sureties must be properties owners in Maitama Abuja and must submit their Statutory Certificate of Occupancy.
- (2) Due to the above, stringent conditions, he spent another nine days in detention before the terms were varied and he achieved bail.
- (3) Immediately after his plea was taken, Honourable Justice Abang announced that trial will commence on 25/1/2016 and shall be on day to day basis. All attempts made by his Lawyers to urge the Court to give him time to meet the conditions of his bail, come out, get his documents (which he needs for his defence) and properly brief them failed.
- (4) His trial therefore commenced with the Court refusing to avail him the Constitutionally guaranteed right to reasonable time to enable him prepare his Case (Please see with respect, Section 36 (6) (b) of the 1999 Constitution (as amended).
- (5) Throughout the conduct of the case of the Prosecution, the Honourable Justice Abang refused Applications made by his Counsel except where the Prosecution states that it is not opposed to the Application. The issue here is not the fact of refusal or grant of the Applications made, but the insistence of his Lordship that since the Prosecution has opposed same, **the Court lacks discretion**. The Court has said and acted on this severally.
- (6) The implication of the lack of discretion as expressed by his Lordship is that his Lordship's discretion is tied to the Prosecution's disposition in his own criminal trial. This fact portends danger to him.
- (7) On the 27th day of January, 2016 when this Case came up, one of his Counsel informed his Lordship that Dr. Onyechi Ikpeazu SAN, the lead Counsel for the Defendants was engaged at the Supreme Court and the Defendants desire that he personally handles the proceedings that day because of its sensitive nature. The Counsel therefore asked for a stand down or adjournment. The Prosecution having opposed the Application, his Lordship ruled that since Dr. Ikpeazu SAN

did not send a letter, the Case must go on. His Lordship therefore jettisoned the age long tradition of deferring to the Supreme Court in matters of this nature and not minding that this is a Criminal trial where the right of a Defendant to choose his Counsel is paramount (Please also see with respect, Section 36 (6) (c) of the 1999 Constitution (as amended).

- (8) In contrast my Lord, his Lordship has always differed to the Prosecution at any time the Prosecution applies for adjournment for reasons bordering on availability of witnesses. The record of Court will bear that the Prosecution has on more than one occasion asked for adjournment for lack of witness and was obliged without hesitation.
- (9) The Defendants are uncomfortable with the Rulings and Decisions of his Lordship in some of the Applications made by them and they decided to apply for the record of proceedings to enable them challenge them at the Court of Appeal by way of interlocutory Appeal. They applied through their Counsel for the record of Proceedings on the 8th day of February, 2016 but till date, his Lordship has not obliged them the record not minding that their case comes up virtually everyday and his Lawyers check on the registry on daily basis to know whether the record is ready. The Learned trial judge on 9/3/2016 personally confirmed to Miss Nancy Okoli, Counsel in our Chambers that the record is not ready as he must read and approve same personally. This was a month after the Application was made.
- (10) The refusal of his Lordship to oblige the Defendants the record for a period over one month and one week (for a trial that has seen only eight (8) witnesses and which record is not voluminous) has fully foreclosed their right of appeal on the decisions that will at the end of the day impact on the judgment in their case. This is a denial of fair hearing.
- (11) The Defendants view the refusal / failure of the Honourable Judge to release the Certified True Copy of the record of proceedings as unhealthy and is a manifestation of his Lordship's determination to frustrate their defence and appeal.
- (12) On the 9th day of March, 2016, his Lordship delivered his Ruling on their NO CASE submission and surprisingly, after warning himself of the need not to go into the substance of the case, went on in the open Court to state with respect to Counts 5 and 6 (which deal with transaction with regard to the sum of **USD2m (Two Million Dollars)** with a non-financial institution) that though the origin or source of the Dollars was not part of the Charge, the Defendants must prove it as that forms the basis of money laundering offence. By so doing, his Lordship introduced a perceived element of the offence that was not in the Counts.

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- (13) The Ruling of my Lord in the NO CASE submission has been appealed against and the mention of the statement made by his Lordship while delivering the Ruling only serves to show the disposition of his Lordship in this trial. The 1st Defendant noted that such statements in the past have resulted in the amendment of Charge or procurement of additional Proof of evidence by the Prosecution.
 - (14) Upon dismissing the NO CASE Application of the Defendants, his Lordship insisted that the Defendants must commence their defence immediately citing his decision on 25/2/2016. It took the Defendants' Counsel's repeated submissions to the effect that the Defendants' witnesses are to be subpoenaed and before that day, the need to apply for subpoena did not arise as they believed their NO CASE Application will succeed for his Lordship to grant a very short adjournment. The Defendants then began to wonder whether the decision for them to begin their defence without preparing for it is in the interest of justice or whether they are being stampeded to jail?
 15. Today, Counsel in our Chambers went for the umpteenth time to collect the long awaited Certified True Copy of the record and the Certified True Copy of the Ruling in the NO CASE submission and to her chargin was informed that his Lordship said the Certified True Copies will be ready on or before Wednesday, 16/3/2016.
 16. Bearing in mind the fact that trial has been adjourned to Thursday, 17/3/2016, his Lordship's decision to release the Certified True Copies on or before Wednesday 16/3/2016 is a grand plan to further frustrate the Defendants and their appeal which Notice of Appeal was served on the Court.

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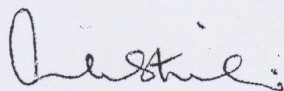
The Defendants believe that having been a part of the trial in this Case and having noticed the disposition of his Lordship in this Case, they ask themselves this pertinent question: **Do we believe that Honourable Justice O. E Abang will do justice in this Case? They went ahead to resolve the question in the negative hence a need for this very urgent and intervening letter.**

The Defendants state that they had resisted causing this letter to be written but have come to the inevitable conclusion that a Judge who denied them the inalienable right of appeal by withholding the record of proceedings amongst others will care less about whether they obtain justice in the same Case or not.

May we therefore appeal to my Lord in the interest of justice to cause the transfer of this Case to be made to any other Judge in the interest of justice.

Thank you Sir for your listening ears and anticipated action.

Highest Regards.



Emeka Etiaba SAN, FCI Arb