

responsible for the murders must be brought to justice. I am a great believer in God and I am now appealing to the American people to help me prove that two innocent people were murdered by evil people controlled by a political regime.

Mohamed Al Fayed's Suit vs. the U.S. Government

On Aug. 31, 2000—the third anniversary of the fatal car crash in Paris, France, that claimed the lives of Princess Diana, Dodi Fayed, and Henri Paul—Mohamed Al Fayed and Punch, Limited, filed a civil suit (Case No 1:00CV02092), under the Freedom of Information Act, against the U.S. Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, the Department of Defense, the Department of Justice, the Department of State, the Federal Bureau of Investigation, the Executive Office of United States Attorneys, and the Immigration and Naturalization Service. The case was filed in the U.S. District Court for the District of Columbia, and was assigned to Judge Colleen Kollar-Kotelly. Here are excerpts from the suit.

This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. §552, as amended, and the Administrative Procedure Act, 5 U.S.C. §702 et seq., for the expedited processing and disclosure of agency records pertaining to the deaths of Princess Diana and Dodi Fayed, and events and individuals associated with the tragedy, that were improperly withheld from plaintiffs Mohamed Al Fayed and Punch Limited by defendants. . . .

The Tragedy

14. On August 31, 1997, at approximately 12:25 a.m. local time, an automobile carrying Diana Francis Spencer, Princess of Wales, and Dodi Al Fayed crashed into the thirteenth pillar in the tunnel under the Place d’Alma in Paris, France. Princess Diana and Dodi Al Fayed were killed along with the automobile’s driver, Henri Paul, a French security officer at the Ritz Hotel. Bodyguard Trevor Rees-Jones was the sole survivor.

The French Investigation

15. Shortly after the tragedy, Premier Juge d’instruction Hervé Stéphan, a French investigating magistrate, instituted an investigation. On or about January 29, 1999, it was announced that the investigation had ended and concluded that the tragedy was caused by drunk driving by Henri Paul, excessive speed and a dangerous stretch of road. Nine photographers and a press motorcyclist were placed under formal investigation—a step immediately before being formally

charged—for manslaughter and failing to render aid to accident victims. On or about September 3, 1999, Judge Stéphan dismissed all charges against the photographers and motorcyclist.

16. The decision to formally end the investigation is presently under appeal by Al Fayed, and judicial proceedings are scheduled for September 2001.

Richard Tomlinson

17. Richard Tomlinson, 37, is a former MI6 (British foreign intelligence service) officer who served from September 1991 through April 1995.

18. On or about August 28, 1998, Tomlinson informed investigating magistrate Hervé Stéphan that Henri Paul, the chauffeur killed in the tragedy, had been on the MI6 payroll for at least three years. He also revealed that the death crash resembled an MI6 plot to kill Yugoslavian President Slobodan Milosevic in Geneva. A copy of the affidavit Tomlinson provided to Judge Stéphan is available at www.alfayed.com/dianaanddodi/tomlinson.html.

19. In or around September 1998, Tomlinson traveled to the United States on board a Swiss Air Flight in order to appear on an NBC television program to discuss his recent revelations. Upon arrival at John F. Kennedy International Airport in New York, Tomlinson was escorted off the plane by United States government officials and detained for several hours. He was never permitted to enter the United States, and instead was placed back on a plane to Europe.

20. Upon information and belief, the United States government prevented Tomlinson from entering the United States at the request of MI6 or other British government officials.

Oswald LeWinter

21. Oswald LeWinter (“LeWinter”), 70, has claimed to be a former United States intelligence operative for more than two decades. He has been linked to several high-profile controversies here in the United States and Europe, all of which involved allegations of intelligence connections and specifically the CIA. These controversies have included LeWinter providing what apparently turned out to be disinformation regarding [the] “October Surprise,” which involved allegations that individuals associated with Ronald Reagan’s Presidential campaign delayed the release of American hostages in Iran in order to defeat President Jimmy Carter; claims by LeWinter that the CIA was involved in the 1986 assassination of former Swedish Prime Minister Olof Palme; his appearance in a 1994 documentary on the bombing of Pan Am Flight 103, entitled “The Maltese Double Cross,” in which LeWinter claimed that the CIA knew that Libya was not responsible for the terrorist attack; and a 1998 attempt, more fully described below, to sell fraudulent CIA documents concerning the deaths of Princess Diana and Dodi Al Fayed.

22. In his book *October Surprise* (1991), Professor Gary Sick describes LeWinter as an “intelligence operative,” who

was a “graduate of University of California at Berkeley and had a master’s degree in English literature from San Francisco State.” “He spoke German and English, but he had also acquired a working knowledge of Hebrew, Persian, and French, and some Urdu.” Sick stated [that] LeWinter “had served with U.S. forces in Vietnam and also claimed long experience with various U.S. and Israeli intelligence agencies.”

23. Upon information and belief, LeWinter previously formally maintained a relationship with the CIA, at least to the extent he provided information to the Agency during the 1970s. The CIA presently maintains in its possession records that confirm a relationship, as well as information pertaining to the fraud attempt described below.

The Effort To Defraud Mohamed Al Fayed

24. In late 1997 or early 1998, Keith Fler (“Fler”), a prominent California attorney, George Williamson (“Williamson”), an independent journalist, Pat Macmillan (“Macmillan”), and LeWinter—the latter two are both alleged former CIA agents—participated in an enterprise to sell forged documents purportedly stolen from the CIA that indicated MI6 . . . had plotted to murder Princess Diana and Dodi Al Fayed. Other individuals who are alleged to have played a role in the scheme include Linda Tumulty, who is tied to the late film producer Alan Francovich, and another former CIA operative named Thompson.

25. LeWinter, Macmillan, and other associates apparently forged the documents and planned to misrepresent them as genuine to induce potential buyers to purchase the documents. Along with Williamson, who was also aware that the documents to be sold were not authentic, LeWinter, Macmillan, and their colleagues agreed that a sale of the forged documents to a tabloid newspaper should be arranged. The participants in the scheme anticipated a sale price of over \$1 million.

26. Upon information and belief, at the suggestion of Gaby Leon (phonetic), an individual who allegedly formerly worked for the Argentine Secret Service, Williamson was advised to contact Fler, an entertainment attorney in Los Angeles, for advice on the sale of the documents and to serve as a broker for their sale.

27. In their course of discussions, Fler noted that Al Fayed had offered a reward of up to \$20 million for information concerning the deaths of his son and Princess Diana and he suggested that they should approach Al Fayed in lieu of a tabloid and offer him the information for \$20 million. Fler stated that he knew one of Al Fayed’s attorneys in Washington, D.C. and would make the necessary approaches to him. Upon information and belief, Fler was to receive 5% of any monies obtained through the sale of the alleged CIA documents.

28. On or about March 24, 1998, Fler contacted Douglas Marvin (“Marvin”), Al Fayed’s legal representative in Washington. Marvin, in turn, put Fler in contact with John Macnamara (“Macnamara”), Al Fayed’s chief of security. In a series of telephone conversations over the first two weeks of April

1998, between Fler and Macnamara, Fler stated that he had been approached by reliable individuals with credible information that the deaths of Dodi Al Fayed and Princess Diana were not accidental but in fact were the product of a carefully planned assassination carried out at the behest of British intelligence with the knowledge and acquiescence of Buckingham Palace. Fler indicated that his immediate contact was Williamson, an investigative reporter, and that several “principals” were also involved.

29. According to Fler, Williamson had connections with CIA sources who had been reliable in the past. Those CIA employees, Fler stated, would be prepared to disclose their information concerning the deaths of Dodi Al Fayed and the Princess, provided that Al Fayed would provide them with the financial security and assistance to “take measures to protect themselves”—a price of \$20 million. Fler indicated that, while it was unlikely that the CIA employees would agree to testify in any manner, they could provide authentic and sufficiently detailed CIA documentary evidence to prove the involvement of British intelligence agencies in the assassination plot. Fler also stated that the CIA sources knew that a CIA operative in Europe had been contacted by someone within the British intelligence agency MI6. The British agent indicated that an assassination team was being compiled, and asked for assistance. The CIA employee subsequently cabled for instructions and received in return a telex indicating that the CIA was not to become involved directly but that the agent could give British intelligence the name of a contact with a Mossad-affiliated “K team” operating out of Switzerland.

30. In addition to the telexes from and to the CIA operative, Fler indicated that the CIA sources could and would supply Al Fayed with a relevant intelligence collection report and a medical document indicating that the Princess was pregnant at the time of her death. Fler also indicated that there was a report of the results of an internal CIA investigation into the agency’s involvement with the assassination of Dodi Al Fayed and Princess Diana, but that this document could only be obtained through a “seven figure” cash payment.

31. On or about April 13, 1998, Fler requested that Macnamara arrange for the wire transfer of \$25,000 “expense money” so that Al Fayed’s representatives and the “principals” could meet in a foreign country to arrange for the inspection of the CIA documents and their subsequent sale to Al Fayed.

32. Given that alleged classified information was being offered for sale, on or about April 13, 1998, Al Fayed’s representatives contacted and began cooperating with officials from the FBI and the CIA. From here on, all actions taken by Al Fayed’s representatives were done with the approval and supervision of law enforcement and intelligence officials of the United States government.

33. On or about April 13, 1998, Fler requested that Macnamara send the \$25,000 via wire transfer to the account of Garland and Loman, Inc., a New Mexico company with an affiliate in Juarez, Mexico, at the Western Bank, 201 North

Church Street, Las Cruces, New Mexico 88001. Flee explained in a subsequent call to Macnamara that the Western Bank would contact Williamson when the funds were received. The FBI directed Al Fayed's representatives to wire the money from a bank in the District of Columbia so that criminal jurisdiction would lie with the United States Attorney's Office for the District of Columbia. Macnamara was told that at the very least the transmittal and receipt of the funds would constitute wire fraud, even if nothing else came of the intended transaction to sell the documents.

34. On or about April 14, 1998, with the approval of U.S. law enforcement authorities, Marvin ordered the wire transfer of \$25,000 from a NationsBank branch in Washington, D.C. to the Garland and Loman account. FBI, CIA, and EOUSA [Executive Office of United States Attorneys] officials were all aware of the ongoing events.

35. Upon information and belief, Williamson traveled to the Garland and Loman premises in New Mexico to withdraw the \$25,000 wire transfer with the intent to use those funds to finance and further the sale of the forged documents to Al Fayed. Williamson subsequently traveled to London, England and disbursed some or all of the \$25,000 to his co-conspirators; including, but not limited to, LeWinter.

36. On or about April 14, 1998, following confirmation from Williamson that the \$25,000 wire transfer had been received, Flee informed Macnamara that the meeting to exchange the documents for payment was to take place in Vienna, Austria. Flee stated that in Austria, Al Fayed's representatives would meet with four "principals," who would offer for sale two CIA telexes and a doctor's certificate that Princess Diana was pregnant at the time of her death. Flee emphasized that the internal CIA investigative report on the circumstances of the crash would not, however, be provided at the Vienna meeting because "they" had yet to procure it.

37. With the intent to render the proceeds of the sale difficult or impossible to trace, and in an effort to conceal their source, Flee instructed Macnamara during their conversation on or about April 14, 1998, that he should arrange to have the \$15 million negotiated purchase price (having been reduced from \$20 million) for the documents deposited at the Austrian bank Kredit Anstalt in a Sparbuch, an anonymous, bearer passbook account. Flee stated that the passbook was to be handed over to the "principals" at the Vienna meeting as payment for the documents.

38. On or about April 20, 1998, Macnamara received a telephone call in Austria from Williamson, who stated that he was at the Hilton Hotel, New York City. Williamson confirmed that he dealt regularly with the "principals" supplying the documents and that he served as their go-between. He also stated that the "principals" would be present in Vienna and that at least one of them, whose identity remains unknown, had traveled from the United States to meet with Al Fayed's representatives. At an initial meeting, Al Fayed's representatives would be shown at least one of the CIA telexes dealing

with the assassination of Dodi Fayed and Princess Diana, and that a serving member of the CIA would be on hand to authenticate the document. Additionally, Williamson also stated that the \$25,000 wired by Macnamara had been spent and that "nobody's cheating on you."

39. Following additional negotiations concerning the time, place, and format of the Vienna meeting, Macnamara received two telephone calls from an unknown individual on his mobile phone discussing the mechanics of the document exchange and setting a meeting for April 22, 1998, 2:00 p.m. at the Hotel Ambassador, 1010 Vienna, Neuer Markt 5. Macnamara was to sit on the Kärtner Strasse side, where he would be approached by one of the "principals." With the approval of United States and Austrian law enforcement authorities, Macnamara followed the instructions that had been given to him regarding the planned rendezvous.

40. At approximately 2:30 p.m. local time, a man (later identified as LeWinter) approached Macnamara and identified himself as an ex-CIA agent who was in Vienna with six CIA and Mossad agents to deal with "the business." LeWinter spoke to Macnamara for approximately one-half hour, briefing him on the provenance of the CIA documents, and indicated that there had been a meeting in London between an MI6 operative named Spelding and a CIA agent named Harrison, who was attached to the United States Embassy in London. At that meeting, Spelding asked Harrison for the CIA's assistance in assassinating Dodi Al Fayed, who had formed a close relationship with Princess Diana. Harrison allegedly cabled CIA headquarters in Langley, Virginia for instructions and was informed via telex that the CIA would not become involved but could refer the British to the Mossad "K team" in Geneva. LeWinter indicated to Macnamara that these two telexes were for sale, and he also gave a brief description of the CIA investigative report that could be obtained, including a reference in that report to Princess Diana's pregnancy.

41. At the conclusion of their meeting at the Hotel Ambassador, LeWinter provided a telephone number and requested Macnamara to call him there under the name George Mearah at 5:00 p.m. Law enforcement personnel working with Macnamara traced the telephone number to the Hotel Stadt Bamberg, where they confirmed that the hotel had as a guest an American named Oswald LeWinter who matched Mearah's description.

42. By arrangement, and with the approval of United States and Austrian authorities, Macnamara met with LeWinter later that afternoon at the Ambassador Hotel. Following further discussions with Macnamara, LeWinter was taken into custody at the Ambassador Hotel by Austrian law enforcement officials. On information and belief, two associates (one of which has apparently been identified as Thompson) of LeWinter who were nearby evaded capture. In fact, it turns out that one of the individuals who assisted LeWinter during his time in Vienna was Karl Koecher, a Czechoslovakian intelligence operative who had infiltrated the CIA as a

“sleeper” agent during the 1970s. After more than a decade of spying on the United States, Koecher was arrested and ultimately exchanged in a spy trade for Soviet dissident Anatoly Scharansky on February 11, 1986. Upon information and belief, Koecher and LeWinter became acquainted while serving in prison together in New York State.

43. LeWinter told Macnamara and the arresting officers that six other CIA and Mossad agents were in the Kärtner Strasse and would retaliate for his arrest by murdering Macnamara and Al Fayed.

44. Among the papers found in LeWinter’s hotel room were an airmail pouch addressed “U.S. Government Property, Return to Commander USA FAC, Indianapolis IN 46249,” and a multiple-use U.S. government messenger envelope with the last noted addressee “U.K. liaison.” Inside this envelope were two telexes and a Domestic Intelligence Information Report that appeared on their face to originate within the CIA. The documents found in LeWinter’s room were subsequently determined to be forgeries. Also found in LeWinter’s room was an SM Rohner gas pistol with 25 rounds of ammunition and \$10,000 in U.S. currency.

45. On or about October 1, 1998, LeWinter was convicted in an Austrian court of charges of attempted criminal fraud and sentenced to two and a half years imprisonment. On appeal by the Austrian public prosecutor, the Austrian High Court on April 15, 1999, increased LeWinter’s sentence to four years imprisonment, citing the “reprehensible way” LeWinter had sought to prey on Al Fayed.

46. Upon information and belief, the Austrian Justice Ministry sent a request concerning the documents taken from LeWinter’s hotel room to the CIA to ascertain their authenticity, and also requested that a United States government expert be sent to testify under oath at LeWinter’s trial concerning the documents. The United States government delayed its response for three months, and finally simply replied that the documents were “not authentic” and refused to send any expert to testify under oath.

47. Between April 1998 and the present, Al Fayed’s legal representatives in Washington, D.C., including David Kendall and Terrence O’Donnell of the law firm of Williams and Connolly, have repeatedly met and exchanged communications with high-level United States government law enforcement and intelligence officials—including, but not limited to, Deputy Directors from the CIA and FBI, Robert McNamara, the CIA’s General Counsel, and Wilma Lewis, the U.S. Attorney for the District of Columbia—to secure the prosecution of those involved in the fraud attempt.

48. In order to assist the criminal investigation being conducted by the U.S. Attorney’s Office for the District of Columbia, Al Fayed’s legal representatives provided the prosecuting attorneys with information in their possession including, but not limited to, copies of telephone transcripts between Macnamara and Flear. It was later subsequently discovered that without permission or knowledge of Al Fayed’s representatives, the U.S. Attorney’s Office had provided

Flear, and perhaps the other alleged conspirators, with copies of the evidentiary transcripts for their own personal use. Flear used this information, in part, to defeat a civil lawsuit filed against him by Al Fayed in California on July 19, 1999; a lawsuit that had been deliberately delayed in order to cooperate with the U.S. Attorney’s Office and not interfere with the supposed ongoing criminal investigation.

49. In recent interviews with LeWinter, including one on April 12, 2000, at Wilhelmshöhe Prison, he has suggested that one or more CIA employees participated in the fraud scheme. He has also stated that the forged CIA documents offered to Al Fayed were based, at least in part, upon an e-mail LeWinter received from a “CIA contact in Langley.” According to LeWinter, this information was shared with Macmillan, himself allegedly formerly affiliated with the CIA, who then prepared the documents incorporating the information received from the CIA contact.

50. Although LeWinter is willing to name names, he has requested a grant of immunity from the United States government. Despite this fact being provided to the United States Attorney’s Office for the District of Columbia, the FBI, and the CIA, upon information and belief, LeWinter has never been questioned by representatives of the United States.

51. Upon information and belief, the CIA’s Office of Inspector General was ordered to cease its investigation into the fraud scheme by the CIA’s Office of General Counsel. Additionally, the CIA intentionally delayed providing requested information regarding the case to the prosecutors in the U.S. Attorney’s Office for the District of Columbia.

52. Although the U.S. Attorney’s Office for the District of Columbia has acknowledged that Al Fayed was the victim of criminal conduct, upon information and belief, the office just recently closed the investigation with a recommendation of “no prosecution.” . . .

Intervention by Former Senator George Mitchell

59. On behalf of Al Fayed, former Senator George Mitchell, who recently served as a key negotiator in the Northern Ireland peace process, was retained in 1999, to facilitate the transfer of information held by the CIA and DOD components including, but not limited to, the DIA and NSA.

60. An inquiry for information was submitted by letter dated March 29, 1999, by Senator Mitchell to Secretary of Defense William Cohen. By letter dated April 23, 1999, Secretary Cohen informed Senator Mitchell that neither the DIA or NSA “possesses information that would have any bearing on, or would be at all useful to, the pending French judicial inquiry.”

61. Notwithstanding Secretary Cohen’s response, Robert Tyrer (“Tyrer”), the chief of staff to Secretary of Defense William Cohen, reviewed potentially responsive classified records which are in the possession of the DIA and NSA. Tyrer refused to publicly share his findings, but informed Senator Mitchell by letter dated October 4, 1999, that there

was no information related to Princess Diana's death or that Henri Paul was connected with foreign intelligence services.

62. This latter point directly contradicts what attorney-turned-journalist Gerald Posner was told by his American intelligence sources, as reported in the September 1999 issue of *Talk* magazine. Posner wrote that: "Paul was in regular contact with the Direction Général de la Sécurité Extérieure (DGSE)—the French equivalent of the CIA—an arrangement not unheard of among security staffers at premier international hotels. (Paul also had less formal relations with the Direction de la Surveillance du Territoire and the Renseignements Généraux, both intelligence gathering divisions of the French national police.) In fact, according to an American law enforcement official and an American intelligence agent, Paul spent the last several hours before the crash with a security officer from the DGSE." The DGSE is the French intelligence service. This information is additionally supported by former MI6 officer Tomlinson's allegations that Paul was in the paid employ of MI6.

63. Posner also confirmed in his article that the NSA had secretly intercepted and recorded telephone conversations involving Princess Diana. This past Spring, an active intelligence asset of the United States government permitted Posner to listen to one of several surveillance tape recordings of Princess Diana in the possession of NSA.

64. Although Senator Mitchell requested that the DOD ensure all responsive records had been located—particularly in light of Posner's statements—upon information and belief, either no such efforts were ever undertaken by the DOD or its components to ensure a complete search had been performed, or information was intentionally withheld. In fact, by letter dated October 13, 1999, Tyrer confirmed that the records he reviewed were retrieved solely through an electronic search of NSA and DIA databases. Upon information and belief, certain record systems are excluded when only electronic searches are conducted.

65. Senator Mitchell also wrote to George Tenet, CIA Director, by letters dated September 2 and 15, 1999, and requested that the CIA initiate a formal inquiry into whether United States intelligence agencies possess information concerning the tragedy. The second letter specifically informed the CIA of Posner's information. The request was denied, although DCI Tenet invited Senator Mitchell to meet with the CIA's General Counsel Robert McNamara.

66. On March 3, 2000, representatives of Al Fayed met with the CIA's Office of General Counsel ("OGC"), and expressed concern that serving officers of the CIA may have played a part in the fraud scheme to sell Al Fayed forged CIA records. A formal inquiry was again requested to investigate these allegations. The OGC subsequently forwarded relevant materials provided by Senator Mitchell to the CIA's Office of Inspector General ("OIG").

67. By letter dated June 16, 2000, Senator Mitchell requested that L. Britt Snider, the CIA's Inspector General, investigate the matter. By letters dated June 16 and 29, 2000,

Snider informed Senator Mitchell that the OIG "found no information that would shed light on the automobile accident or the deaths of Lady Diana and Dodi Fayed. Neither did we find any information that would substantiate the claims made by LeWinter concerning the involvement of CIA employees in fabricating these fraudulent documents." Upon information and belief, the OIG was prevented from fully investigating the allegations by the CIA's Office of General Counsel, despite the fact that current or former CIA personnel may have been involved in an illegal scheme to defraud Al Fayed.

Unanswered Questions

68. As with many controversial high-profile events, oftentimes there exist more unanswered questions than those that appear to have been answered. This lawsuit seeks the release of information to answer at least some of those questions including, but not limited to:

- Do agencies of the United States government possess any information regarding the deaths of Princess Diana, Dodi Al Fayed, and Henri Paul?
- With all of its forensic and criminal expertise, was the United States government ever requested to lend assistance to the French investigation into the August 31, 1997 tragedy?
- Does the United States possess any satellite imagery of the City of Paris from the night of August 31, 1997, that could be used to determine the movement of vehicles in the area of the tragedy?
- Does the United States possess information, as alleged by Gerald Posner, that Henri Paul was employed by MI6 as reported by Richard Tomlinson to the judge, or any other foreign intelligence service?
- Was Henri Paul meeting his French intelligence handler in the three hours before he returned to the Ritz as claimed by Gerald Posner?
- To what extent did the NSA intercept telephonic communications between Princess Diana and others, the existence of which has been confirmed by Gerald Posner?
- What documents did Defense Secretary William Cohen's Chief of Staff, Robert Tyrer, review relating to the tragedy, and were the searches conducted to locate these records intentionally narrow?
- What is or has been the CIA's relationship with Oswald LeWinter, Pat Macmillan, and the other individuals involved with the plot to defraud Al Fayed of \$20 million?
- Although the documents LeWinter alleged were from the CIA are apparently forgeries, does the information within the documents have any accuracy, as claimed by LeWinter?
- To what extent did the CIA ever investigate Oswald LeWinter's allegations?
- Was the criminal investigation into LeWinter and others for the attempt to defraud Al Fayed over the alleged CIA documents deliberately assigned low priority and then closed by the United States government in an effort to shield the actions of current or former CIA employees from scrutiny or [to] avoid adverse publicity? . . .