

13 May 2009

MACFARLANES NEWSNIGHT STATEMENT

After consulting with our client, Trafigura, and with its agreement and support, Macfarlanes' response is as follows:

We are disappointed that the BBC is seeking to make such serious and unfounded allegations at all, but particularly at what is a crucial stage in the civil proceedings, the trial of which takes place in October 2009.

Macfarlanes strenuously rejects all allegations of impropriety in relation to its handling of this matter. Macfarlanes, our partners and other staff engaged in this matter have acted properly and ethically at all times. Any suggestion to the contrary can only be founded on an incomplete understanding of the facts, the law or both.

At no time has anyone from Macfarlanes or Trafigura's legal team, our client or their agents acted improperly or offered any inducements whatsoever to any witnesses or claimants, including the individual referred to in Newsnight's email to us. To do so would have been obviously wrong and unethical, not to mention unlawful. It would also have been utterly pointless to have offered any inducement to that or any individual, as this would have wholly undermined their evidence when examined in court.

Macfarlanes had valid and exceptional legal reasons for agreeing to meet the individual referred to by Newsnight. There was (and is) evidence that fraudulent and exaggerated claims were being made against our client. We therefore had the right, and indeed duty, to investigate by interviewing the claimants, as their evidence would be likely to have a fundamental bearing on the defence.

Following advice from leading QCs and having informed the client, Macfarlanes arranged to meet the individual in Morocco. Given the extreme sensitivity of any meeting between that individual and Macfarlanes, he specifically requested that the meeting should take place outside the Ivory Coast. Macfarlanes were represented in Morocco by one of our partners, who acted with the full knowledge and support of the firm and the client. This partner and another member of the legal team were present at the meetings in Morocco.

Macfarlanes paid the individual's travel and related expenses in relation to these meetings, but neither made nor offered any other payment or inducement.

Subsequently, Macfarlanes again consulted with leading QCs, who confirmed that everything that was done in relation to the meetings had been done lawfully and properly.

It would be quite wrong for us to comment further at this time, as the disclosure of additional material may directly affect the safety of people living in the Ivory Coast. We understand that the claimants' legal representatives, Leigh Day & Co, agree that this is a real concern.

Together with Trafigura, Macfarlanes have always maintained that the appropriate place for this case to be heard is in court and look forward to demonstrating the strength of their case when the trial commences in the autumn.