

NI Group Limited  
M. Mahmood  
Second Statement  
"MM1-9"  
8 December 2011

IN THE MATTER OF THE LEVESON INQUIRY INTO THE CULTURE, PRACTICES AND  
ETHICS OF THE PRESS

---

WITNESS STATEMENT OF  
MAZHER MAHMOOD

---

I, Mazher Mahmood, c/o Times Newspapers Limited (The Sunday Times), News Group Newspapers Limited, 3 Thomas More Square, London E98 1XY, will say as follows:

- 1 I have made one statement dated 14 October 2011 (my "First Statement").
- 2 On 14 November 2011 Counsel for the inquiry stated that he would be seeking evidence on the use of "agent provocateur techniques". Counsel commented that "some would argue that [my] methods are questionable and that there are instances where the ends do not justify the means". I make this statement to supplement my first statement and to assist the Inquiry on the matters raised by Counsel and to respond to criticism which has been made of the way in which I report and in particular on the use of subterfuge and whether or not I act as an agent provocateur.

**The use of subterfuge**

- 3 In my first statement I explained that I use subterfuge, also described as 'going undercover'. The use of subterfuge is necessarily deceptive, as it requires a reporter to disguise his or her true identity. The person or people I am approaching are unaware of the fact that I am a journalist. They are therefore 'off-guard'. This type of journalism is a way of capturing true behaviour which is not altered in the way it might be if the individuals were aware that they were talking to a reporter. It gets to the truth more effectively, in my view, than any other form of journalism.
- 4 I have only used subterfuge when I have already established that there are grounds to investigate. I then seek to capture evidence live, and obtain video footage where possible. I do not go undercover in the hope that I might on the off-chance find information which

can be reported (which would be what is usually known as a 'fishing expedition'). A lead (a piece of information) has to be strong enough to act on before I decide to use subterfuge. I may get that piece of information from a source. In general my sources have been built up over years and often are embedded in the world which I then enter. My style of investigating is not different in that sense from how any undercover journalist works. I would never conduct an investigation if it were simply a fishing expedition.

- 5 The PCC code requires that subterfuge is only used when in the public interest and when the material cannot be obtained by other means. The code takes into account the 'reasonable belief' of the Editor in the public interest. Editors at the News of the World would discuss my stories to see if there was public interest in the subject matter and would consider whether or not the use of subterfuge could be justified. There is a similar, but more formal process at The Sunday Times, which I explain in more detail below. The PCC code lays down the guidelines for when subterfuge can be used and the civil and criminal laws lay down the legal parameters for journalists' conduct when going undercover.
- 6 The PCC was taken very seriously at the News of the World, as it is at The Sunday Times. The Code was always considered in detail by my editors and me prior to and throughout any investigation. Complaints made to the PCC on my stories were responded to in detail as a matter of high importance. Responding to complaints requires a review of the background to the story and would often include producing and reviewing transcripts which would often take days. I was taken off stories on some occasions to prepare material for the PCC in relation to complaints. The Managing Editor and ombudsman would deal with responding to the PCC. Even though the News of the World has closed and cannot face sanctions, I have recently submitted detailed explanations and transcripts to the PCC in relation to outstanding complaints by a prostitute and by a cricketer. This highlights the importance I attach to PCC adjudications.

#### **The 'agent provocateur'**

- 7 I have often been portrayed as an agent provocateur and been accusing of 'entrapping' the subject of my stories. Again, there have been allegations that I have no reasons for going undercover, and I encourage individuals to commit offences which they would not have done had it not been for my concealing my identity and pressing them into committing an offence. I strongly dispute this interpretation of the way I work.
- 8 As stated above, I rely on a credible lead before going undercover. In following the lead, I will establish whether or not an individual is already engaged in crime or wrongdoing, which then becomes the focus of my story. That lead will be tested by my asking further questions from my sources and seeking any corroboration possible. Only when I and my editors are satisfied that the lead is strong enough would I then go in and attempt to gather

evidence of the individual 'live', committing an offence or wrongdoing in circumstances which would be a near to normal environment for them.

- 9 In the prominent story about the former Duchess of York offering to accept money for access to Prince Andrew (May 23, 2010), I had been given information that someone close to her knew she was very keen to raise cash. The article reported the lead that we had received:

*"We began investigating the scandal after a close royal associate blew the whistle and told us Fergie was already cashing in on unknowing Andrew by setting up deals with foreign businessmen."*

My editors and I were satisfied that it was likely that access had already been negotiated for one individual before I went in undercover. Prince Andrew had travelled to Kazakhstan with this individual and met him in the Middle East. It was in the public interest to report such claims, given the Prince's position at the time as the UK Special Representative for Trade and Investment. A copy of the article is attached to this statement as exhibit MM1.

- 10 I am aware that some people may think it is unethical to use subterfuge and ask whether I am too forceful when I am talking to a subject of an investigation and whether I 'entrap' individuals. However, if I already know that an individual is predisposed to the offence or wrongdoing, then I cannot 'entrap' someone: they are already inclined to commit the offence and I am offering them an opportunity to do so. Because of the nature of a handful of high profile 'celebrity stings' I worked on at the News of the World, the style of the opportunity attracted particular attention, such as being offered cocaine by a model. However, these were opportunities which were not exceptional for the individuals. For example, two models had their dealer on 'speed dial' on their telephones. In another case, an individual was carrying cocaine in his pocket at the time he offered to supply it. In other cases, one of which I refer to below, an individual was able to obtain a false passport, and in other cases firearms. These were offences most people could not commit because they would not know where to begin.

- 11 An early example where I was accused of entrapment was an article about John Shannon (an actor who used the name John Alford) who was convicted for supplying drugs. He took his case to the Strasbourg court on the issue of entrapment but lost. The Court of Appeal upheld the judge's finding that there was insufficient evidence to show that I had incited or instigated the offences that had been committed (*R v Shannon* [2001] 1 WLR 51). A copy of the judgment is attached to this statement as exhibit MM2.

- 12 A further example where I have been accused of entrapment was the story about the Earl of Hardwicke and his colleague, Thwaites. I was accused of entrapment when I recorded the Earl of Hardwicke and Thwaites obtaining and supplying cocaine. The pair were given suspended prison sentences. Judge Timothy Pontius, sitting at Blackfriars Crown Court

has often been quoted as saying, "Were it not for that elaborate sting you would not, I accept, have committed these particular offences". However, I had approached the Earl and his colleague not on a fishing expedition, or to 'set them up', but because I had received a tip that they had supplied cocaine in large quantities in the past. My belief was they were predisposed to committing the offence of obtaining and supplying drugs because I had received a credible tip-off to the effect that they had done so before.

- 13 Judge Pontius took into account my journalistic conduct, including in handling drugs, and found

*"...if I were to conclude that improper, unlawful or morally reprehensible means had been used in order to trap [the] defendants then I should have been obliged to condemn the behaviour. However, I do not reach any such conclusion in this case" and "the conduct of Mr Mahmood and his colleagues were not so unworthy or shameful that it would be an affront to the public conscience to allow the prosecution to proceed. Realistically, any criminal behaviour, if any has been established by these journalists was venial compared to that of the defendants".*

The Court of Appeal said that the Crown Court had evaluated the possibility of "criminal behaviour" on my part, and upheld the conclusions of the judge. A copy of the judgment is attached to this statement as exhibit MM3. The defendant's appeal against conviction failed.

- 14 The jury had also said in that case, "Had we been allowed to take the extreme provocation into account we would undoubtedly have reached a different verdict". However, counsel for the prosecution pointed out that the jury had not seen the entire footage of the undercover operation. My view is that they may not have added that rider had they done so. On video the pair confessed that they had supplied drugs before. The material had been excluded because it was prejudicial (see paragraph 34 of the Court of Appeal judgment).

- 15 In another story, an individual known as Besnik Qema pleaded guilty and was sentenced to four and half years' imprisonment for supplying and possession of drugs and possession of a false passport with intent to supply it. The judge's sentencing remarks at Southwark Crown Court included:

*"I am sure that you had access to drugs, as is shown by the fact that you were easily able to obtain them. I am also quite sure that you had easy access to false passports because, again, you were able to obtain one with the details requested shown on it. There are very, very few people who live honest lives that would have such access".*

Again, the individual's predisposition to committing a crime was in focus. A copy of the story is attached to this statement as exhibit MM4.

- 16 Qema appealed against his conviction after writing to the Criminal Cases Review Commission (the "CCRC"), which referred the matter back to Southwark Crown Court. The CCRC considered that the supply of cocaine and the false passport happened in circumstances which gave rise to the possibility that a Crown Court would interfere to protect the integrity of its own process and that there was a possibility that the court would set aside the guilty plea and stay further proceedings in the light of further evidence and the circumstances in which the offences had been committed. The convictions were quashed.
- 17 Qema now seeks damages from News Group Newspapers Limited ("NGN") for malicious prosecution on the grounds that I set out to encourage him or implicate him in the commission of criminal offences. He has pleaded that the sting was the use of immoral or unlawful means which amounted to inducement to commit a crime. NGN's defence does not accept the conclusions of the CCRC. I believed that Qema was a willing seller of drugs and the story had been brought to me. I did not have in mind a story and then find someone to 'fit' into it, as has been alleged. The claimant had freely volunteered to commit criminal offences and pleaded guilty to having done so. The decision whether to prosecute was left to and made by the police and the CPS.

#### **Allegations of fabricating stories**

- 18 I have also faced allegations that I have concocted stories, or tried to find information that will fit a story. I deny that I have done this. I am aware that the story about the 'Beckham kidnap' is often mentioned in this context.
- 19 This was a story about a gang's plot to kidnap Victoria Beckham. The police had been informed but the subsequent trial could not proceed.
- 20 The newspaper and I were criticised for pursuing a story which ended in a trial collapsing, which I believe was taken by my critics to mean either that I had fabricated evidence or that the newspaper had pushed the police into an investigation.
- 21 In reality, during the course of an investigation, I had recorded several conversations by a gang who were planning to kidnap Victoria Beckham. The recordings were handed over to the police and the News of the World published the story. The police took their own decision to investigate and only charged the suspects after three months. During the trial, one of my sources was found to be unreliable as he had not revealed that he had been paid by the newspaper.
- 22 In a related libel trial (brought by a member of the gang who had been reported to have been involved in the discussions - the newspaper apologised to him) Eady J. said
- "Mr Mahmood may be hard bitten and cynical, but I found no support for the proposition that he had made the whole thing up".* He also said:

*"There was clearly a plan to kidnap Victoria Beckham, however desultory some of the discussions may have been" and "It is clear that real crimes were regularly discussed... There is no reliable way to determine that the Beckham discussions are to be distinguished from the others as not real" [2005] EWHC 799 (QB).*

I think this answers the criticisms that I had in some may concocted the story, that there was no truth in it, or that I had exaggerated it to persuade the police to investigate so that the newspaper could report it. A copy of the judgment is attached to this statement as exhibit MM5.

- 23** Two of the individuals involved were found guilty of a series of auction house thefts, as a result of the original lead on the Beckham plot story and the information which I had passed to the police.
- 24** The Judge in the criminal trial referred the case to the Attorney General on the matter of payment to a source, and not on the question of my conduct or the decision to refer the matter to the police. That was a matter for the News of the World and its editors. I should add that Eady J. in the libel trial had noted that I had made clear in my testimony in the criminal trial that the source had been paid. The rules on witness payments were tightened by the PCC after this story.
- 25** The News of the World was also criticised for reporting a story about a tip-off I had received about a plot to purchase a 'dirty bomb' (known colloquially as the "Red Mercury" story). I had received a tip-off that individuals were trying to buy the constituent parts of the bomb from a plausible source. I had one meeting with the individuals who I was told wanted to buy the product and then passed the audio recording of my meeting to the anti-terrorist squad. The police then signed me up as participating informant for that one investigation. I gave evidence at the trial but ultimately the jury, which took several days to reach a verdict, acquitted the defendants. The trial did not collapse or end at the direction of the judge, as has been suggested in media reports. Any suggestion that there was insufficient evidence of criminal conduct to justify a prosecution is untrue. A copy of the article published is attached to this statement as exhibit MM6.
- 26** The police determined all my actions when I worked with them. One other undercover police operative worked with me and the police issued a statement confirming it was a proper investigation. The police understood throughout that the newspaper's objective was to publish a story, which it did. The decision to investigate and prosecute was entirely in the hands of the police.
- 27** In my view my responsibility is to report crimes to the police where I have evidence to support a tip-off. It is a matter for the police as to whether they choose to investigate and whether they bring charges or are able to continue with a prosecution. I accept that if I

have knowledge of any information which might affect the police's decisions to fulfil their role, then I also have a responsibility to report that information.

- 28 There is in my view a common misconception that my stories have been put together because I entice individuals to commit wrongdoing by offering lucrative financial deals. This is a misinterpretation of what is actually a much more subtle process. Once a lead has been established, I work to arrange meetings and gain the trust of the individual. Any discussion of an offence only comes up during the course of what can sometimes be a long, drawn-out conversation encompassing several topics. Video footage capturing that conversation is usually carried by the publication online.
- 29 Another story has been criticised. I went undercover after receiving a tip-off from a well-placed source that John Higgins, the snooker player, and his manager were involved in fixing games. Higgins was found to have breached two of the Snooker Association's rules and was fined £75, 000 (and a contribution to the Association's costs of £10,000) and was suspended for 6 months. In the summary of decision of the World Professional Billiards and Snooker Association Disciplinary Board (attached to this statement as exhibit MM7), Mr Ian Mill QC found that his manager, Pat Mooney, had "committed the most egregious betrayals of trust - both in relation to the Association, to which he owed fiduciary obligations as a Director and by reason of his great influence in the world of snooker." Mooney was permanently banned.

#### **Illegality**

- 30 I am aware that there are suggestions in this inquiry that I may have broken the law during the course of my investigations and that it has suggested that I have not been prosecuted only because I work closely with the police.
- 31 I would like to clarify that the reality is that my conduct has been scrutinised by the courts in the cases which have resulted in hearings, as the examples above show. I have never been charged with inciting a crime, because the CPS understand the public interest in the stories I pursue.
- 32 I should address the allegation that I have handled drugs in the pursuit of a story and that I have done so with the consent of News International. I have always taken legal advice on whether paying for drugs supplied by the subjects of my stories would be illegal. I was advised that possessing drugs for the purpose of preventing another from committing a crime or for the purposes of delivering into the hands of the police is a defence under the Misuse of Drugs Act 1971. I have always put the drugs into the hands of the police.

#### **The role of the police**

- 33 I have worked closely with the police on several occasions. Early on in my career at The News of the World, the police expressed their frustration that the newspaper had published

stories without informing the police about the details of the evidence beforehand. It then became good practice to inform them about an investigation prior to publication to prevent the evidence being destroyed by the individuals on publication.

**Public interest reporting**

- 34** My stories while at the News of the World were not limited to celebrity stings. I also pursued stories which were more conventionally considered to be in the public interest, such as stories about paedophilia and people trafficking.
- 35** My stories have led to over twenty lawyers being reprimanded by their regulator or struck off, or being removed from the Office of the Immigration Services Commissioner, including solicitors who have advised me to make a false immigration claim and one who had given advice that concocting an allegation of rape would be a way of securing asylum in this country. On another occasion a legal clerk was jailed after selling me a fake passport from the solicitor's office where he worked. Doctors have also been struck off following General Medical Council hearings as a result of my work.
- 36** Another undercover story led to the jailing of a councillor for fraud. I had met the individual posing as a business colleague of property developers. My footage recorded his demand for £10,000 to help push through a planning application.
- 37** I would like to add that it is natural that those who have been exposed by my work will protest about it and, for example, try to prove their innocence. That results in my work being criticised, but I do not think that criticism is valid if the methods I use are looked at carefully. I have been in several dangerous situations as a result of my work and have received death threats. I continue with my work despite this, because I believe that my form of journalism is important and I believe in the exposure of wrongdoing and crime.

**The Sunday Times**

- 38** My time at the News of the World and my persona the 'Fake Sheikh' made me prominent because the news desk there was interested in this type of journalism uncovering the hypocrisy of a celebrity. This attracted attention. While I consider that this work was in the public interest, as celebrities who were committing wrongdoing would think of themselves as above the law, actually this was only a small proportion of my work, as explained above.
- 39** I am now working for The Sunday Times and the focus of my stories is different. The Sunday Times is not interested in celebrity stings but is interested in public interest reporting on the grounds of exposing wrongdoing, whether criminal or unethical, and will use subterfuge where it considers there are grounds to do so. The editorial and legal teams consider every proposal I make carefully and discuss whether there is public interest in the subject matter and whether the use of subterfuge is justified. Notes are taken including of who is present at the meeting and the factors taken into consideration

and the grounds on which decisions are reached. Copies of some examples of these notes are attached to this statement as exhibit MM8. The emphasis in the stories is different to the emphasis at the News of the World, but I think that both editorial stances are important and the difference shows that you can have public interest in a diversity of stories, depending on the viewpoint of the publication and the Editor.

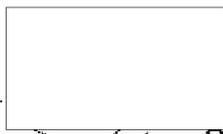
40 Since working with The Sunday Times this year, I have reported on stories including subjects such as medical insurance fraud, a car insurance fraud, and scrap metal dealers who would accept stolen goods. Copies of the articles published are attached to this statement as exhibit MM9.

41 Most crucially, I would state that the manner in which I conduct my investigations is a valuable part of investigative journalism. The ability to go in undercover, on a strong lead, enables readers to obtain a 'snapshot' of the wrongdoing which I seek to uncover and provides an immediacy which is readily accessible to readers and is less dry than reporting matters after the event. There is a genuine public interest in this kind of reporting, which engages readers. The process shines a light from the inside in a way that no other form of journalism can do. It enables law enforcement authorities to collect the evidence and decide whether or not to pursue an investigation, while ensuring that the public are fully informed of the facts.

**Correction to my First Statement**

42 At paragraph 27 of my First Statement, I stated that prior to 2007 on the News of the World, we had been able to make cash payments to informants but that that was stopped by Colin Myler following the phone hacking convictions. That was my understanding at the time, but I have since been informed that whilst the number of cash payments were significantly reduced in 2007, they did not cease altogether at that time.

I believe that the facts stated in this witness statement are true.

Signed  .....  
Dated 9th Dec 2011 .....