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13 BFIGroup Corporation
14 (formerly known as BFIGroup Divino Corporation)

15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

17 In re Application of Rusal Global
18 Management B.V. for Order to Obtain
19 Discovery for Use in a Foreign
20 Proceeding

No. 2:12-cv-08898-PSG-CW

DISCOVERY MATTER –
RESPONDENT BFIGROUP
CORPORATION’S RESPONSE TO
COURT’S REQUEST FOR
UPDATED STATEMENT ON THE
STATUS OF RESPONDENT’S
CASE AGAINST THE
PETITIONER, UC RUSAL

Date: October 17, 2013
Time: 4:00 p.m.
Ct. No.: 640
Magistrate Judge: Hon. Carla Woehrlé
Discovery Cut Off: None set
Pretrial Conference: None set
Trial: None set

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27 Within the Respondent’s Motion to Quash the Petitioner’s Subpoenas

1 (Docket No. 19, pages 21 – 22), it proposed that the purpose behind the
2 Petitioner’s subpoenas was to harass the Respondent and force it to unnecessarily
3 expend resources to deal with this litigation. Now, it is patently clear that the
4 Petitioner actions have justified this proposition.

5 Within the Respondent’s Motion to Quash, the Petitioner was informed
6 that all of the Respondent’s records relating to ALSCON were transferred to
7 Nigeria. (id.) The Respondent further reminded the Petitioner of the previous
8 edicts held by its former counsel that the Federal Republic of Nigeria and its
9 Courts was most appropriate forum for the disputes between the parties, as all
10 relevant evidence and events regarding the matter were located in the country.
11 (id.)

12 So, what does the Petitioner do when they are informed that they must
13 defend themselves in Nigeria against a lawsuit filed by the Respondent, and have
14 the opportunity to gather the records they assert are vital to their proceedings
15 before the LCIA? **NOTHING.**

16 Why has the Petitioner not propounded a single discovery demand upon
17 the Respondent? Why has the Petitioner not sought to have any subpoenas issued
18 for the case before the Federal High Court in Nigeria? Why has the Petitioner’s
19 new counsel, Sidley Austin, refused to inform opposing counsel and this Court
20 why it is necessary to continue the pursuit of the subject subpoenas?

21 It is because the Petitioner has never needed the requested records, or
22 desired to obtain them from the Respondent. The Petitioner sole motivation for
23 these subpoenas is the harassment of the Respondent. Surely, the Petitioner’s
24 counsel has communicated the current status of these cross-motions to its client
25 and to its client’s Nigerian counsel. Yet, despite knowing the above and having
26 the ability to request the desired records, they sit on their hands.

27 Our United States Courts’ should not allow itself to be used as a pawn in a
28 party’s clear efforts to manipulate the Court’s processes for the purpose of

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Re: In re Application of Rusal Global Management B.V. for Order
to Obtain Discovery for Use in a Foreign Proceeding
Court: U.S. District Court, Central District of California
Action No: 2:12-cv-08898-PSG-CW

PROOF OF SERVICE

I declare that I am over the age of 18, not a party to the above-entitled action, and am an employee of Burnham Brown whose business address is 1901 Harrison Street, 14th Floor, Oakland, Alameda County, California 94612 (mailing address: Post Office Box 119, Oakland, California 94604).

On October 14, 2013, I served the following document(s) in the following manner(s):

RESPONDENT BFIGROUP CORPORATION'S RESPONSE TO COURT'S REQUEST FOR UPDATED STATEMENT ON THE STATUS OF RESPONDENT'S CASE AGAINST THE PETITIONER, UC RUSAL

PROOF OF SERVICE

MAIL: By placing the document(s) listed above in a sealed envelope with postage thereon on the date and place shown below following ordinary business practice. I am familiar with this business' practice for collecting and processing documents for mailing. On the same day that documents are placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.


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MANAGEMENT B.V.

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I declare under penalty of perjury under the laws of the United States and of the State of California that the foregoing is true and correct.

DATE: October 14, 2013



Douglas Watson

4849-4178-7158, v. 2