

1 Jimmie L. Williams, Jr., State Bar No. 144691  
 2 jwilliams@burnhambrown.com  
 3 BURNHAM BROWN  
 4 A Professional Law Corporation  
 5 P.O. Box 119  
 6 Oakland, California 94604  
 7 ---  
 8 1901 Harrison Street, 14th Floor  
 9 Oakland, California 94612  
 10 Telephone: (510) 444-6800  
 11 Facsimile: (510) 835-6666

12 Attorneys for Respondent  
 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 –**  
**DECLARATION OF JIMMIE L.**  
**WILLIAMS IN SUPPORT OF**  
**RESPONDENT BFIGROUP**  
**CORPORATION’S 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 Woehrle  
 Discovery Cut Off: None set  
 Pretrial Conference: None set  
 Trial: None set

21  
 22  
 23  
 24  
 25  
 26  
 27  
 28 I, Jimmie L. Williams, Jr., do declare and state:

1           1.       That I am an attorney at law duly licensed to practice before all of  
2 the Courts in the State of California and in the Central District of California, and  
3 am a partner in the law firm of Burnham Brown, attorneys of record for the  
4 Respondent herein. I have personal knowledge of all of the facts contained  
5 herein, except as to those matters stated on information and belief, am over the  
6 age of 18 years, and, if called upon as a witness, I could and would competently  
7 testify thereto.

8           2.       On October 3, 2013, this Honorable Court issued an order  
9 scheduling a decision date on the cross-motions to quash or compel compliance  
10 with the Petitioner, RGM's, subpoenas. Moreover, within this Order, the Court  
11 requested an updated status on the Petitioner's arbitration action before the  
12 London Court of International Arbitration (LCIA), and the Respondent's civil  
13 litigation against the Petitioner in the Federal High Court in the Federal Republic  
14 of Nigeria.

15           3.       In response to this request, I directed the Respondent's Nigerian  
16 counsel, Wole Olanipekun & Co., to prepare the appropriate response. A true  
17 and correct copy of the responsive letter is attached hereto and marked as Exhibit  
18 "A".

19           4.       In short, as the undersigned counsel reported to the Court on  
20 February 19, 2013 (Docket No. 34, pgs. 10-11 & No. 34-2, Exhibits D and E), the  
21 Respondent initiated its service of the Summons and Complaint of its Nigerian  
22 court action against the Petitioner in January 2013.

23           5.       In June 2013, after the Petitioner's Motion to Dismiss the Complaint  
24 was denied by the Nigerian Court, the Respondent has been actively litigating the  
25 matter before the Nigerian Federal High Court.

26           6.       In contrast, despite their repeated contentions that they are in  
27 desperate need of information to adequately prosecute their case before the  
28 LCIA, despite being told that all of the Respondent's documents relating to

1 ALSCON are located in Nigeria, despite holding the previous position that the  
2 Nigerian Courts were the proper forum for all disputes, as all of the relevant  
3 evidence was located within the country, **the Petitioner has not sought to**  
4 **engage in ANY discovery in the action pending before the Nigerian Federal**  
5 **High Court.**

6 7. As it is safe to assume that the Petitioner’s Nigerian counsel is aware  
7 of the proceedings before the LCIA and this Court, it must be asked why haven’t  
8 they sought to obtain ANY RECORDS in the forum with direct jurisdiction over  
9 both parties? Why is the Petitioner continuing to waste this court’s judicial  
10 resources by continuing to pursue this matter?

11  
12 I declare under penalty of perjury and the laws of the State of California  
13 that the foregoing is true and correct.

14  
15 Executed this 14th day of October, 2013, in Oakland, California.

16  
17  
18 By \_\_\_\_\_/s/  
19 Jimmie L. Williams  
20 Declarant

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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, 14<sup>th</sup> 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):

**DECLARATION OF JIMMIE L. WILLIAMS IN SUPPORT OF RESPONDENT BFIGROUP CORPORATION'S 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.


Ms. Jamie Bartlett  
Mr. Robert Martin, III  
Sidley Austin, LLP  
555 California Street, Suite 2000  
San Francisco, CA 94104  
Telephone: (415) 772-1200  
Facsimile: (415) 772-7400  
Email: [rbmartin@sidley.com](mailto:rbmartin@sidley.com)

Counsel for Petitioner  
RUSAL GLOBAL  
MANAGEMENT B.V.

[jbartlett@sidley.com](mailto:jbartlett@sidley.com)

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

4841-3385-9350, v. 2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

WO/ABJ/Vol. 1/99/2013  
11/10/2013

Mr. Jimmie Williams,  
Burma Brown (A Professional Law Corporation),  
California Office,  
1901, Harrison Street, 14<sup>th</sup> Floor,  
Oakland LCA,  
94612-3501

Dear Sir,

**RE: UPDATED STATEMENT OF THE CURRENT STATUS OF THE NIGERIAN LITIGATION IN SUIT NO: FCT/HC/CV/522/2011 BETWEEN BFI GROUP CORPORATION V. UC RUSAL & OTHERS**

We are Solicitors/Counsel to BFI Group Corporation (BFI Group) in Suit No: **FCT/HC/CV/522/2011 Between BFI Group Corporation v. UC Rusal & others** pending at the Federal Capital Territory High Court, Abuja, Nigeria (the Court).

In compliance with the Order of the Court, the Defendants (**UC Rusal & others**) in the said suit were served with the Plaintiff's (**BFI Group Corporation**) originating processes on **January 31, 2012** via **DHL Express Mail**. Further to the service of the originating processes on the Defendants, the Defendants entered a conditional appearance and thereafter filed a motion praying the Court to strike out the action on various grounds. The Defendants' motion was heard and argued by the Court and on **June 19, 2013**, the Court delivered a considered ruling whereat it refused the Defendants' motion and struck same out. Consequently, the Court adjourned the suit for hearing/trial.

After the refusal of the motion, under the **Federal Capital Territory High Court (Civil Procedure) Rules 2009**, particularly **Order 43 Rules 1-3, 8, 17-18**, the Defendants have the opportunity to submit interrogatories, subpoena or document production and inspection requests upon **BFI Group**. Within these requests, the Defendants could have sought any information

and/or documents that are relevant to the underlying dispute. Despite having the ability to propound the discovery demands stated above, the Defendants have not submitted any discovery request to **BFI Group**.

Hearing/trial was to commence on **October 7, 2013**, however, on **Friday, October 4, 2013**, the Defendants filed an application with the Court requesting that the Federal Government of Nigeria and Bureau of Public Enterprises be joined as Defendants. On the date slated for trial, that is, **October 7, 2013**, **BFI Group** vigorously objected to the application and filed a counter affidavit and a written address in opposition thereto. Consequently, the Defendants sought for time within which to reply to the Plaintiff's counter affidavit and written address. The Court in order to allow the Defendants file their Reply to the Plaintiff's counter affidavit adjourned the suit to **October 30, 2013** for hearing.

Yours faithfully,

**Pp: Wole Olanipekun & Co.**



**Olugbenga Adeyemi**