

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	
RAPHAEL BIGIO, DANIA BIGIO,	:
FERIAL SALMA BIGIO and B. BIGIO & CO.,	:
	:
<i>Plaintiffs,</i>	:
- against -	:
	:
THE COCA-COLA COMPANY and THE	:
COCA-COLA EXPORT CORPORATION,	:
	:
<i>Defendants.</i>	:
	:
-----X	

77 Civ. 2030 (DSJ)

**AFFIRMATION OF
RAPHAEL BIGIO**

RAPHAEL BIGIO hereby affirms to the best of his knowledge and recollection under penalty of perjury:

1. I am a plaintiff in this case and am submitting this Affirmation in support of the Plaintiffs' Motion for Partial Summary Judgment.

2. My grandfather was Raphael Nessim Bigio. He owned and operated a business in Cairo known as "La Fabrique Egyptienne de Produits Chimiques" or as "R.N. Bigio & Co." My father, Josias Raphael Bigio, was his oldest son and became General Manager and Principal Managing Director of R.N. Bigio & Co.

3. In December 1929 my grandfather purchased 726 square meters of land in the "Heliopolis Oasis" from the Cairo Electric Railways and Heliopolis Oasis Companies. The main street of the property was subsequently named Aswan Street. Heliopolis is a suburb of Cairo, Egypt. See Exhibit I to the Amended Complaint.

4. My grandfather purchased an additional 8,303 square meters of land and 1,226 square meters of land on the same street in December 1942 and October 1946, respectively. See



Exhibits 2 and 3 to the Amended Complaint. One square meter equals 10.764 square feet. R.N. Bigio & Co. moved its offices to that property and maintained on the property a warehouse for its products.

5. In 1937, the Bigio family built a factory on a portion of the land in Heliopolis owned by members of the family. The factory initially manufactured shoe polish and floor waxes. The plant subsequently expanded its products to include cans and then serving trays, insecticide spray guns, portable coolers and biscuit boxes. Several floors were added to the original building.

6. In the early 1940's, The Coca-Cola Company established its very first bottling plant in Egypt on our Aswan street property. The land and buildings in Heliopolis were leased from our family. The Coca-Cola Company thus became a tenant of the Bigios, and its bottling plant was adjacent to the headquarters of R.N. Bigio & Co.

7. Shortly thereafter, R.N. Bigio & Co. became Coca-Cola's supplier for advertising and promotional materials, such as serving trays and bottle coolers. R.N. Bigio & Co.'s production of these materials assisted Coca-Cola's introduction to the Egyptian market.

8. From 1942 until the seizure of the Bigio family's properties more than two decades later, the Bigios and the Coca-Cola Company did business together. I recall that as a child I would run with my older sister from the Bigio factory to the Coca-Cola bottling plant to be given, as children of the owners of the property, extra-sweet Coca-Cola lollipops.

A handwritten signature in black ink, appearing to be 'R.N. Bigio', located at the bottom right of the page.

9. My grandfather died in 1952 and my father, Josias Raphael Bigio, along with his mother and siblings, inherited the Heliopolis property. My father continued to manage R.N. Bigio & Co. after his father's death.

10. In 1955, my mother Bahia Bigio built a factory on the portion of the land in Heliopolis owned by my father. That second factory belonging to the Bigio family was owned by B. Bigio & Co., doing business as National Crown Cork Company ("NCC"). It was built to supply the Coca-Cola Company with caps for the bottles containing the beverage.

11. NCC was a company owned by Bahia Bigio, Ferial Salma Bigio, and me, and it was managed by my father, Josias Raphael Bigio. Construction of the factory was funded by my mother from her personal funds. My mother collected a monthly rental of 40 Egyptian pounds from NCC. The factory was located behind the R & N Bigio building, and its entrance was on 3 Warshet Rabat, a street that is perpendicular to Aswan Street.

12. Production of Coca-Cola bottle caps began at NCC after specialized machinery was imported from Italy and from the United States. Coca-Cola signed a licensing agreement with my father, and it renewed that license in 1961. The second licensing agreement was signed by a Coca-Cola Executive Vice-President whose office was in Atlanta, Georgia. See Exhibits 4 and 5 to the Amended Complaint.

13. Gamel Abdel Nasser seized control of Egypt in February 1954 and began a systematic program of persecution of Egypt's Jews. Nasser's anti-Jewish program consisted of four components: (1) police detention of Jews, (2) sequestration of Jewish-owned business and property, (3) depriving Jews of their Egyptian citizenship, and (4) expulsion of Jews from Egypt.

A handwritten signature in black ink, appearing to be 'J. Bigio', is located at the bottom right of the page.

Our family, which is Jewish, was victimized by the Egyptian government under Nasser's rule. Our Jewish identity and faith were well-known to everyone who did business with us. Our Jewish identity was not concealed in any manner from Coca-Cola and its officials and employees in Egypt.

14. In 1956 the Egyptian government made a mass arrest of Jews (deporting some heads of households) and sequestered, for the first time, the property of R.N. Bigio & Co. My father was arrested for no reason whatever. He reported later that the Egyptian government official who questioned him placed a gun on the table in front of him. My father was later released.

15. Egyptian Jews, including all but one of my father's brothers, left Egypt under these pressures. My father remained because the new plant had recently been built and arrangements had been made for the importation of machinery to manufacture bottle caps for Coca-Cola.

16. In 1961 and 1962, implementing the anti-Jewish policies of President Gamal Abdel Nasser, the Egyptian government again sequestered our family's property because it was owned by Jews. The sequestration order named my grandfather although he was already deceased. The manufacturing businesses, including both R. N. Bigio & Co. and B. Bigio & Co., were sequestered and then nationalized. See Exhibit 6 to the Amended Complaint. No formal sequestration order was issued at that time against the property of NCC or against property owned by my mother, my sister, or me.



17. An order sequestering NCC's property was issued after the Egyptian authorities learned from following my father that the building behind R.N. Bigio & Co. housed a separate business. On the day that the official Notice of Sequestration of NCC appeared in a Cairo newspaper, the police circled the entire block and armed agents of the Egyptian government denied entrance to my father and to me, and demanded that keys be surrendered. These properties were subsequently occupied by the Coca-Cola Company's subsidiaries and affiliates,

18. Three parcels of our family's real-estate property currently occupied by the Coca-Cola Company were seized in the following manner:

a) The 3,891 square-meter parcel was taken pursuant to a decree of sequestration directed solely at "Raphael Nissim Bigio and family." At the time of the decree, Raphael Nissim Bigio was deceased, and his children were above the age of majority. The Egyptian government acknowledged in 1979 that these seizures were unlawful. See Exhibit 7 to the Amended Complaint.

b) The 1,900 square meter parcel belonging to my mother Bahia Bigio, on which the B. Bigio & Co. bottle cap factory was located, was sequestered without any authorizing legal decree. This was acknowledged by the Egyptian government. See Exhibits 8 and 9 to the Amended Complaint.

c) I learned in 1993 after I visited Egypt that a 1,317 square-meter parcel had been taken by ENBC and turned to its own use.



19. Each of the three parcels of real property was initially administered by the Egyptian Ministry of Finance, Department of Liquidation. They were subsequently turned over to Misr Insurance Company, a business wholly owned by the government of Egypt.

20. R.N. Bigio & Co. and NCC were nationalized and were then merged with the El Nasr Bottling Company ("ENBC").

21. My father was arrested a second time and was released after he surrendered the keys to a vacant luxury apartment on Ramses Street, in Heliopolis that had belonged to my deceased grandmother. Thereafter my father suffered a massive heart attack and was bedridden for three months. At the age of 18 I interrupted my education and took over the management of NCC because of my father's illness. In that capacity I signed a contract with Coca-Cola at the Coca-Cola office in Dokki.

22. Following the sequestration and nationalization of our family's property, Coca-Cola marketed its trademarked products through ENBC, and had a business relationship with ENBC in the period immediately following its formation. Coca-Cola knew that the licenses it had granted to B. Bigio & Co. (Exhibits 4 and 5 to the Amended Complaint) and B. Bigio & Co.'s equipment, building and employees, had been unlawfully taken and occupied by ENBC.

23. My father was retained as general manager of NCC after it was taken by ENBC until his forced retirement on May 28, 1964. His termination letter was written on the letterhead of "El Nasr Bottling Company, Authorized Bottlers of Coca-Cola." Exhibit 10 to the Amended Complaint.

A handwritten signature in black ink, appearing to be the name 'John' or similar, written in a cursive style.

24. These actions by the Egyptian government ruined my family. We could not find employment and were forced to leave our apartment and live in a "pension" in downtown Cairo.

25. We left Egypt in 1965 as stateless persons under travel documents issued on August 2, 1965, pursuant to a Convention Relating to the Status of Stateless Persons (New York, September 28, 1954). We then immigrated to Montreal, Canada. My father died in New York in November 1978. My mother, my sister and I are his heirs.

26. The Egyptian government operated the Bigio family factories as a single entity bearing the name El Nasr Bottling Company ("ENBC"). Except for the NCC buildings owned by my mother -- which were never subjected to legal sequestration -- the Bigios' businesses, factories, and equipment were administered by the Egyptian Ministry of Industry and consolidated with other assets to form ENBC. The Egyptian Ministry of Industry and its Administration of Foodstuffs Department nationalized and merged the Bigios' businesses with "their natural partners," designating ENBC as the Coca-Cola bottler for Egypt in light of our family's pre-existing licenses and relationship with Coca-Cola. Although owned by the Misr Insurance Company, a government-owned entity, most or all of the Bigio real estate property continued to be used for the business operations of ENBC.

27. Through its subsidiaries and affiliates, the Coca-Cola Company currently occupies three parcels of land, all located at 14 Aswan Street in Heliopolis. My mother Bahia Bigio is the owner of a 1,900 square meter parcel on which the building of B. Bigio & Co., the former bottle cap manufacturing factory, is located. Through inheritance from my father Josias

A handwritten signature in black ink, appearing to be 'Bahia Bigio', located at the bottom right of the page.

Raphael Bigio the Plaintiffs in this action own 51% interests in two other parcels. One consists of 1,317 square meters and the other of 3,891 square meters.

28. In 1979, I was able to return briefly to Egypt. Though I feared for my life in attempting to visit my own properties, I personally observed that the B. Bigio & Co. factory equipment that had been unlawfully seized in the 1960s was still being used by ENBC, and was being operated by former NCC employees. Some of our equipment had been moved to a location in Dokki, but ENBC continued to occupy our real-estate property.

29. I sought and received decrees from the Egyptian Ministry of Finance, Department of Liquidation, stating that:

a) The property of my mother Bahia Bigio, on which the bottle-cap factory had been built, had never been legally sequestered or nationalized and accordingly remained the property of Bahia Bigio. Exhibits 8 and 9 to the Amended Complaint.

b) The other Bigio real estate property had been sequestered pursuant to an invalid Decree, and must be returned to the heirs of my father Josias Bigio. Exhibit 7 to the Amended Complaint.

30. On July 2, 1980, the Egyptian Ministry of Finance ordered Misr Insurance Co. to return possession of the property to the Bigios. Exhibit 11 to the Amended Complaint. Misr Insurance Co. did not return the properties and did not provide compensation. Our family's decades-long efforts to enforce the Ministry of Finance decree in the Egyptian legal system have been unsuccessful. ENBC remained in possession of our factories and continued to occupy our real estate property. ENBC operated a production line on the Bigio real estate property for many



years after 1979. During this period, ENBC was Coca-Cola's only licensee for the distribution of Coca-Cola in the entire country of Egypt.

31. In 1993, the Egyptian government announced that it would privatize ENBC. I have learned during the pendency of this lawsuit that:

- a) at that time, ENBC had approximately 5,000 employees, annual sales of about \$45,000,000, and controlled 42% of the Egyptian soft-drink market,
- b) Coca-Cola became a bidder for ENBC,
- c) another bidder, MAC Investments S.A.E. (then a Pepsi-Cola bottler), placed a higher bid, which was rejected by the Egyptian government,
- d) after several rounds of bidding, a consortium including two subsidiaries of Coca-Cola -- Soft Drink Services Company ("SDSC") and Atlantic Industries ("AI") -- acquired 40% and 2% interests in ENBC, respectively,
- e) the remaining interests were acquired by two other businesses, MAC Investments (5%) and MAC Beverages Limited (53%), and
- f) MAC Beverages Limited was a joint venture owned by Coca-Cola and MAC Investments, so Coca-Cola's full stake in ENBC may have been as high as 68.5%.

32. I reminded Coca-Cola before the acquisition of ENBC that ENBC illegally occupied our family's factories and was wrongfully occupying our real estate. I provided this information in a letter dated February 4, 1994, and in numerous telephonic communications with General Counsel for Coca-Cola and his staff. See Exhibit 12 to the Amended Complaint. Coca-Cola officers agreed to meet with me in May to discuss my family's claims. Without notifying



me in advance, Coca-Cola closed on the transaction on April 20, 1994, before the date of the scheduled meeting with me.

33. The sale of ENBC was consummated on April 20, 1994, for a price of \$96 million. The bidders agreed to invest an additional \$148 million into the newly reorganized company over ten years. ENBC was thereafter renamed the Coca-Cola Bottling Company of Egypt (hereinafter "Coca-Cola Egypt").

34. Coca-Cola's formal interest in Coca-Cola Egypt has fluctuated through sales of stock in ENBC to employees and to other investors, but at all times since 1994 Coca-Cola had an ownership interest in Coca-Cola Egypt and exercised control of its operations. At the end of 1994, Coca-Cola reported an equity ownership of 32% in Coca-Cola Egypt. In 1997, Coca-Cola said it held a 3.5% interest, and in 2002 it reported holding a 42% interest. As of December 31, 2008, Coca-Cola said it held a 42% interest in Coca-Cola Egypt. Coca-Cola Egypt continues at all times to bottle and market Coca-Cola products, through which Coca-Cola earns substantial profits from sales of syrup and licensing agreements. Through its subsidiary Coca-Cola has continuously occupied and profited from our family's properties in Heliopolis and has excluded me and other members of our family from the properties.

35. Coca-Cola has not compensated our family for our interests in the businesses that became ENBC, or for the continuous use and occupation of our real-estate property. Coca-Cola has continued its trespassory occupation and use of our businesses even after I provided additional documentation and explanation of our claims. See Exhibit 12 to the Amended Complaint.

A handwritten signature in black ink, appearing to be "A. J. J.", located at the bottom right of the page.

36. Coca-Cola Egypt/ENBC constructed additional buildings on the property. See Exhibit 14 to the Amended Complaint. Coca-Cola has continued its occupation of and trespass to our real-estate property and businesses to the present day, profiting from its ownership interest of Coca-Cola Egypt, and from its sales of syrup and other products, and licenses to that entity.

37. Although Coca-Cola and its affiliates have always known of the unlawful taking and of our true continued ownership and were explicitly told again in 1994 of our ownership and of the illegality of the taking, the Coca-Cola Company and its subsidiaries and affiliates have occupied much of our real-estate property from 1994 to the present, and have prevented us from making any use whatever of our real-estate property. Coca Cola's dominant presence on the three parcels of land identified above has prevented our family from taking advantage of, and benefiting from, the entirety of the approximately 2 acres in Heliopolis.

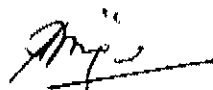
38. The Aswan Street location in Heliopolis has substantially increased in value over the years, and the area is now an expensive and highly desirable neighborhood. The best use of such real estate property is no longer as a manufacturing facility but rather as luxury residences. The parcels surrounding our real estate property have been developed as high-end condominiums.

39. The value of Coca-Cola Egypt has continued to rise. In 1999, Coca-Cola sold a 5% interest in Coca-Cola Egypt for \$24 million. See Exhibit 13 to the Amended Complaint.



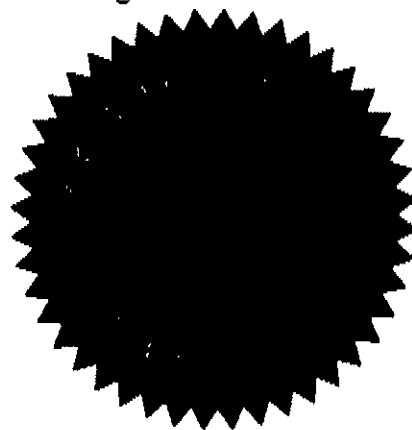
Pursuant to 28 U.S. C. 1746 I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and recollection.


Executed in Montreal, Canada
September 11, 2009.



Ralph (Raphael) Josias Bigio

Solemnly signed and declared before me,
at Montréal, Canada, on the 11th day of September
2009, after having provided proof of
identification.





Pierre Filion, Notary