

Discovery of a systematic funded campaign to attack the State of Kuwait and the Kuwait Port Authority in the United States of America in order to subvert justice in Kuwait

August 17, 2019—Kuwait: A new public file submitted by the legal adviser of KGL Investment KSCC under the Foreign Agents Registration Act (FARA) of the US Department of Justice has unveiled a cynical public relations strategy deployed by law firm Crowell & Moring LLP, on behalf of former executives of KGL, both of whom have been indicted for embezzlement and misuse of public funds, and who face ongoing criminal prosecution in Kuwait.

In 2007, two Kuwaiti governmental entities, the Kuwait Public Institution for Social Security (PIFSS) and the Kuwait Ports Authority (KPA), previously contributed more than 60% of the total assets of an investment fund managed by KGLI, called The Port Fund. It is the activities of the defendants in managing The Port Fund that are now being investigated by Kuwait's criminal authorities and which are before Kuwait's courts.

The FARA filing confirms that Crowell & Moring LLP hired Marathon Strategies LLC, a public relations firm in the United States, with an explicit mandate to (i) *"raise questions about whether Kuwait is a safe place to invest"* and publicize this in the United States media and elsewhere, as well as to denounce (ii) *"the unjustified State of Kuwait actions, including the Kuwait Ports Authority, against KGL and its executives and / or its shareholders."*

Marathon Strategies was also hired to lobby state officials and draft *"letters to legislators."*

The public relations campaign waged by Crowell & Moring LLP and the other cabal of lobbyists and advisors hired by KGL and its former executives is a blatant attempt to subvert the course of justice in Kuwait, and to help disgraced former executives of KGL, Saeed Dashti and Maria (Marsha) Lazareva, avoid an ongoing criminal investigation and escape from justice in Kuwait in connection with multiple allegations of embezzlement and misappropriation of public funds.

From the beginning of 2019, reports submitted under the US Lobbying Disclosure Act (LDA) confirm that more than US\$3.5 million has been spent in an international lobbying and public relations campaign specifically attacking the independence and impartiality of the Kuwaiti judiciary, judges and Kuwaiti prosecutors.

In pursuit of this campaign another KGL advisor, Omnia Strategy LLP has filed complaints against Kuwait before the United Nations, alleging violations of the International Convention on Civil and Political Rights, and Crowell & Moring has filed a claim before the UNCITRAL (United Nations Commission on International Trade Law) Arbitration Center. These advisors have also attempted to coopt various U.S. politicians—including Senator Roger Wicker and Congress members Madeleine Dean and Steve Chabot—to their cause by maliciously disparaging Kuwait's reputation internationally. As part of this effort, they have bizarrely tried to threaten a number of senior Kuwaiti officials—including Kuwait's Attorney-General, and the Director-General of Kuwait Ports Authority—with sanctions under the US Magnitsky Act.

In response, the Kuwait Ports Authority confirms that it will bring to the notice of the relevant criminal authorities in Kuwait the recent FARA filings made by Marathon Strategies. The combination of the LDA

filings and the FARA filings suggests that the advisors, including Crowell & Moring LLP and Marathon Strategies, are fully knowledgeable that they are utilizing Kuwaiti government funds (derived through Kuwait's investments in The Port Fund) in a highly unethical scheme to attack the Kuwaiti government itself. In Kuwait, these actions could also be tantamount to a further misappropriation of public funds on the part of all of those concerned, as well as a violation of crimes against the State.

The Kuwait Port Authority further warned any advisors engaged by KGL or its former executives—including Crowell & Moring LLP and Marathon Strategies—that, to the extent they claim to be engaged by The Port Fund or have received payments from assets rightfully belonging to The Port Fund, no such engagement was approved by the investors of The Port Fund, and such investors will seek to hold responsible those receiving such monies unlawfully from assets belonging exclusively to The Port Fund.

Despite the heavy lobbying done by Crowell & Moring LLP and Marathon Strategies, there appears to be little success. According to Shaikh Yousef Al-Sabah, Director-General of the Kuwait Ports Authority, *“The international community continues to perceive Kuwait as a fundamentally sound place in which to invest. Last month, Kuwait was upgraded from frontier to emerging market status by MSCI. According to Franklin Templeton, this could result in as much as \$10 billion in additional investments into Kuwait. However, while Kuwait is a safe place in which to invest, it is not a safe place in which to embezzle public funds.”*

Background of the Cases:

The courts of Kuwait have ruled in many judgments, some of which have become final and enforceable, that KGL and its former executives have breached the public trust vested in them insofar as it relates to Kuwaiti public funds. Examples of these court rulings issued in the context of protecting public funds include:

Illegal Usurpation of Public Lands. KGL has illegally usurped and continues to usurp public lands.

- **Mina Abdullah Land.** In its rulings Nos. 11 and 23 of 2017 (Administrative), the Kuwait Court of Appeals has ordered the eviction of KGL from Kuwait Ports Authority lands, as a result of its illegal usurpation of more than 1,000,000 square meters of land in Mina Abdullah, Kuwait. KGL's attempts to appeal the decision have been rejected by the Kuwait Court of Appeals and the Kuwait Court of Cassation. The Kuwait Ports Authority has also filed a criminal complaint (No. 5 of 2016) with the Kuwait Public Prosecution (Public Funds Section) regarding the same unlawful usurpation of Mina Abdullah land and the obstruction of operations of a public facility.
- **Doha Land.** In its ruling No. 1957 of 2015 (Administrative), the Kuwaiti judiciary has ordered the eviction of KGL from an area of 270,000 square meters in a storage area at the port of Doha, Kuwait.
- **Seventh Storage Area.** In its ruling No. 420 of 2017 (Administrative), the Kuwaiti judiciary has ordered the eviction of KGL from the land located in the Seventh Storage Area, and compelled it to pay usufruct fees.
- **Shuaiba Land.** In its ruling No. 2472 of 2018 (Urgent Matters), the Kuwaiti judiciary has permitted the Kuwait Ports Authority to retrieve from KGL a sizeable area in Shuaiba Port.

Debarment. In its judgment No. No. 2512 of 2018 (Administrative), the Kuwaiti judiciary has confirmed the Decision No. 657 of 2017 issued by the Kuwait Port Authority to debar KGL and its affiliates from any further contracting with the KPA or any activities on its lands.

With respect to the ongoing criminal prosecutions of former KGL executives, the KPA notes the following:

Embezzlement of Public Funds. Whilst a judgment had previously been issued in Felony Case No. 1942 of 2015 (Public Prosecution - Public Funds), which found that former KGL executives were guilty of the unlawful appropriation of KD 21 million, this judgment has been overturned by the Kuwait Court of Appeal on procedural grounds. The case has been remanded back to the Kuwait Court of First Instance, and the prosecution remains ongoing. While the KPA does not generally comment on the substance of Kuwaiti court rulings, it does believe that the decision of the Kuwait Court of Appeal demonstrates the independence and neutrality of the Kuwaiti judiciary, despite the allegations made by KGL, Crowell & Moring LLP and their respective advisors.

The Port Fund. In addition to the ongoing embezzlement prosecution, there is also a further felony being prosecuted which is currently before the Criminal Court in Case No. 1496 of 2012 (Public Prosecution - Public Funds section) which relates to the unlawful appropriation by KGL Investment of assets belonging to The Port Fund, in which the Kuwait Port Authority invested approximately US\$85 million. This case remains ongoing.

In connection with the latter complaint, The Kuwait Port Authority has submitted to the Kuwait Public Prosecutor several reports relating to suspected wrongdoing, including:

- **Manipulation of Financial Statements.** Alleged manipulation by the defendants of The Port Fund's financial statements to reflect fictitious investments made by KGL Investment towards the investments by The Port Fund when, in fact, no capital contributions were made by KGL Investments.
- **Unauthorized Asset Transfers.** Unauthorized transfer of ownership of The Port Fund's investments to shell companies owned by one of the defendants, Saeed Dashti, prior to the end of The Port Fund's term in 2014 without the knowledge or approval of the investors in The Port Fund.
- **Unauthorized Related Party Transactions.** The defendants engaged in various related party transactions that were not disclosed to or authorized by the investors of The Port Fund, including:
 - In 2007, one of the defendants, Maria Lazareva, granted a loan of in excess of US\$ 20 million to a subsidiary of KGL, KGL International Ports and Warehousing. In 2014, the loan and all accrued interest was cancelled on the basis of an impairment.
 - Maria Lazareva also granted a bank loan to a Jordanian company named United Company, owned by her co-defendant, Saeed Dashti, for US\$900,000, a which loan was neither disclosed to, nor authorized by, the investors in The Port Fund.

The investigation into the defendants' activities in connection with their management of The Port Fund remains ongoing, and the Kuwait Port Authority reserves the right to bring further instances of wrongdoing to the Kuwait Public Prosecutor.