

THE TORTURE AND ARREST OF U.S. CITIZEN ZACK SHAHIN IN DUBAI, UAE

The highly successful career of Zack Shahin, a U.S. citizen working in the Middle East, came to an abrupt end following his arrest and detention by the Dubai Security Department on March 23, 2008. In the span of a few short years, Shahin, former CEO of Deyaar Realty, successfully converted this small cap development business into a multi-billion dollar global competitor in the commercial and residential real estate market. Amid allegations of corruption by Deyaar's Board Chairman and other directors and officers of Deyaar, Shahin has been the only one singled out as having participated in draining the company of substantial equity, as the global market begins to contract due to the uncertainty caused by the current economic crisis.

Zack Shahin has been subjected to torture and been made a target of a politically charged investigation into corruption and other financial wrongdoings. He is informally accused of embezzling \$100,000 from Deyaar, despite the company's Chairman and Board of Directors having approved this transaction as an incentive bonus to Shahin and Ernst & Young's auditing documents having corroborated this payment as an approved bonus. Further, such an allegation flies in the face of reality when one considers Shahin's annual salary was many times the amount of this bonus. To be incarcerated for over 10 months without bail or charges regarding such an amount is incredulous.

As of February 4, 2009, no charges have been filed against Shahin by the government's prosecuting attorney, making Shahin's prolonged detention even more suspect. Shahin has not been afforded any opportunity to post a reasonable bond for his release pending the investigation, a right provided for under the laws of Dubai. Such behavior by the prosecutor's office suggests Shahin has been selected to wear the mantle of a scapegoat for the illegal financial dealings of other UAE, well-connected and politically protected, national citizens.

Extensions of Shahin's continued detention have been automatically granted without any advance review of his case file by the court. There has been no regard given to Shahin's civil rights, even when addressed by the United States Government in four official Diplomatic Notes to the government of the UAE, which to date remained unanswered. The U.S. Ambassador to the UAE has raised concerns through formal channels over Shahin's prolonged detention without bail and without charges. Multiple letters sent to the UAE Ambassador from several members of the U.S. Congress have gone unanswered.

Shahin's arrest was nothing more than a glorified kidnapping with his wife and children watching. He was forcibly detained without an arrest warrant, his home was ransacked, and his personal safebox searched without a warrant. He was held incommunicado from his family and legal counsel from March 23, 2008 until April 8, 2008, and forced to sign documents without an opportunity to read them.

Shahin's health was poor before his imprisonment. His physical condition has worsened steadily as a result of receiving no medical care for over 10 months since his original detention. He suffers from high blood pressure, high cholesterol, a stomach ulcer, a slipped disk in his back, and excruciating knee pain. Recently, he was diagnosed with a severe heart disease requiring him to be transferred to the American Hospital in Dubai where he is bed ridden. His transfer and stay at the American Hospital was based on the request of the American diplomatic mission in Dubai. Shahin is required to pay all his hospital expenses. Shahin is heavily guarded at the hospital with two armed police officers outside his door, twenty-four hours a day.

During Shahin's 16 days of solitary confinement following his arrest, he was:

- Detained in solitary confinement for the first three days and barely given water or allowed to sleep;
- Interrogated for 10-12 hours at a time, with three interrogation teams, lasting 20 hours;

- Denied food for the first 3 days;
- Forced to use a container he found in the garbage can as a toilet;
- Confined to a dark room for 5 days;
- Often blindfolded;
- Forced to sign documents in the Arabic language, based on threats against himself, his wife and children;
- Told his wife would be jailed and his children sent to a shelter if he did not sign documents;
- Seated in an interrogation chair for 18 hours straight with no access to a toilet, water, or food; permitted to move only if he agreed to sign the Arabic language documents; and
- Forced to raise his arms for extended periods of time and threatened with instruments of torture;
- Taken in custody to his home where it was searched and ransacked by security forces. These security forces took Shahin's documents related to Deyaar's audit, as well as his personal papers, checkbooks, passports, credit cards, and other personal items.

During the interrogation by a captain of the security forces, Shahin's statements were manipulated and his final "testimony" fabricated. After five days of captivity, Shahin was allowed to call his wife, but he was told by the security forces what to say and what to answer. Despite Shahin pleading with the prosecutor to release him on the third day of his imprisonment, security officials easily secured the prosecutor's cooperation in detaining Shahin for another seven days, followed by another fourteen days . . . and it has been ten months.

When the security forces transferred Shahin to the Bur Dubai Prison, the prosecutor repeatedly threatened to charge Shahin with money laundering. When asked by Shahin what evidence there was to support the money laundering charge, the prosecutor admitted there was none, but that Shahin's arrest would be extended six months until he could find some.

Bur Dubai Prison's conditions are dangerously unhealthy for prisoners. Prisoners are not given a bed to sleep on or a blanket for cover. Shahin shares a common toilet with 400 other

prisoners (murderers, thieves, rapists, drug dealers and other hardcore criminals) and sleeps in the open air, with temperatures often reaching in excess of 90 degrees.

As horrific as the conditions are at the Bur Dubai Prison, prosecutors often threatened Shahin with a far worse fate. Despite knowing about the torture Shahin endured during his initial detention, the prosecutor has repeatedly promised to transfer Shahin back into the custody of the security forces if he dares to speak with the media. Despite a blackout of western media outlets, regional Gulf media continue to misreport facts about Shahin's case and continue to mention Shahin's name in other unrelated UAE fraud cases, while prohibiting Shahin from communicating in his own defense. If Shahin speaks out to challenge these baseless inferences, he faces certain torture at the hands of the security forces.

It has become clear that Shahin is stuck in the middle of a political agenda involving corrupt UAE nationals. These nationals have been given preferred treatment. They have escaped the eye of the public and the pen of the press, and continue to travel freely — all based on their political connections and nationality. In addition to Shahin, other non-UAE citizens find themselves in similar plights, facing their own unrelated investigations, under arrest, in prison without charges, under allegations of financial misconduct, while their UAE counterparts remain unscathed. As Shahin's legal counsel was told by a presiding judge, Public Prosecutor, and the newly appointed Board Chairman to Deyaar (in the presence of Shahin), "this is a big case involving big people and we are getting instructions in the court room."

Early in the proceedings Shahin was granted a \$15,000 bail by one of the many judges that have been assigned his case. The prosecutors sought an extension and took an appeal to a higher court. The appellate court revoked the \$15,000 bond altogether. Two months later, yet another judge set Shahin's bail at \$135,000. Again, the prosecutor sought a 24-hour

continuance. Shahin appeared in court the next morning, prepared to post bail, when the judge on his case was abruptly removed and a new judge appeared. The new judge admitted he had just been handed the file by the prosecutor and had not reviewed it, but he nevertheless raised the bail to \$20 million. When the U.S. Embassy representative (who had been granted special permission to appear in court) inquired of the court what had changed from the day before to warrant such an increase from \$135,000 to \$20 million, the judge responded his decision was based on comments he received from the prosecutor — comments apparently received ex parte.

Recently, Shahin's defense counsel was approached by the prosecutor and told if Shahin could come up with the \$14 million, the prosecutor would consider agreeing to a bail amount for Shahin. One must seriously call into question the real motives and ethics of the prosecutor when he requests \$14 million from Shahin just to consider agreeing to a bail amount. To date, after the prosecutors case was initially thrown out of the court for lack of evidence, the prosecutor maintains he is still searching, some 10 months later, for that evidence.

Shahin has faced nine new judges, appearing before a new one about every 30 days. A new judge would normally receive the case file for his review prior to conducting a hearing on the case. In more than one instance, the judge has extended the hearing, admitting publicly that he only received the file minutes before the hearing. The judges never require the prosecution to demonstrate to the tribunal their grounds for Shahin's continued detention, and no appeal process exists for Shahin to challenge his unlawful detention. On three occasions, Shahin's case was extended another 30 days without Shahin ever being brought to court or being allowed to voice an objection. Shahin's case file is totally inaccessible to Shahin's defense counsel.

UAE's Code of Criminal Procedure, Article 110, provides that “. . . public prosecutors may order detainees to be held up to 21 days without a charge.” Shahin has been held over 300 days without a single charge filed against him.

Article 110 also acknowledges there is no formal system of bail; however, “. . . authorities can temporarily release detainees who deposit money, a passport, or an unsecured personal guarantee statement signed by a third party.” Shahin has always been willing to meet these procedural requirements.

What really is at play here? The Chairman and members of the Board of Directors of Deyaar are all UAE nationals. Documents evidence they were intricately involved in Deyaar's management and approved, in writing, Shahin's \$100,000 bonus. Yet they remain free, travel without restrictions, and vacation outside the UAE. Deyaar's past Board Chairman recently traveled to the U.S. on a diplomatic passport. Why are they never mentioned in the regional press when Shahin's case is discussed? Why have they not been arrested, or their homes ransacked or subjected to torture and physical abuse? Does justice in the UAE depend on your nationality — apparently so. There is obviously one standard for Americans and one standard for UAE nationals.

Having contributed significantly to Dubai's enormous economic and commercial development through his company Deyaar, whatever gratitude the government of Dubai may have once held for Shahin, has been shackled and left to rot with Shahin in one of Dubai's most notorious prisons.